### RESOLUTION OF THE TOWNSHIP OF SPARTA

Sussex County, New Jersey

No. 25-58

Date of Adoption: 1/28/2025

Title or Subject:

9-5 Resolution for Sparta Township Pursuant to The Amended Fair Housing Act Committing the Township to Round 4 Present and Prospective Need Affordable Housing Obligations

Introduced by: Councilman Blumetti Seconded by: Councilman Scott

WHEREAS, the Township of Township of Sparta (the "Township") has a demonstrated history of voluntary compliance with its "Mount Laurel" affordable housing obligations as evidenced by its substantive certification in the First and Second Round and its Final Judgement of Compliance and Repose in the Third Round; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on or about July 5, 2015, the Township filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter "Fair Share Plan"), to be amended as necessary, satisfies its "fair share" of the regional need for low and moderate income housing pursuant to the "Mount Laurel doctrine;" and

WHEREAS, that culminated in a Court-approved Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes builder's remedy lawsuits until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law an Amendment to the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) (hereinafter the "Amended FHA"); and

WHEREAS, the Amended FHA required the Department of Community Affairs ("DCA") to produce non-binding estimates of municipal fair share obligations on or before October 20, 2024; and

- WHEREAS, the DCA issued a report on October 18, 2024 the ("DCA Report") wherein it reported its estimate of the obligation for all municipalities based upon its interpretation of the standards in the Amended FHA; and
- WHEREAS, the DCA Report calculates the Township's Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 10 units and a Prospective Need or New Construction Obligation of 427 units; and
- WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support lower calculations of Round 4 affordable housing obligations; and
- WHEREAS, pursuant to N.J.S.A. 52:27D-304.3, a municipality's average allocation factor is comprised of the equalized nonresidential factor, income capacity factor, and land capacity factor and shall be averaged to yield the municipality's average allocation factor; and
- WHEREAS, the Amended FHA further provides that all parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by COAH unless those regulations are contradicted by statute, including P.L. 2024, c.2, or binding court decisions" (N.J.S.A. 52:27D-311 (m)); and
- WHEREAS, COAH regulations authorize vacant land adjustments as well as durational adjustments; and
- WHEREAS, the DCA has released a Geographic Information Systems spatial data representation of the Land Capacity Analysis for P.L. 2024, c2 containing the Vacant and Developable land information that serves as the basis for calculating the land capacity factor; and
- WHEREAS, the Township has reviewed the lands identified by the DCA for the land capacity factor with respect to the MOD-IV Property. Tax List data, construction permit data, land use board approvals, configuration, and accessibility to ascertain whether these identified developable lands may accommodate development; and
- WHEREAS, based on the attached report of the Township's Professional Planner, Katherine Sarmad, PP, AICP, Principal of Sarmad Planning Group (Exhibit A), the Township accepts the DCA calculation of the Round 4 Present Need of 10 units, however the Township disputes the accuracy the DCA calculation of the Township's Round 4 Prospective Need and instead has calculated its own Round 4 Prospective Need affordable housing obligation, independently, and commits itself to 311 units of Prospective Need or New Construction obligation for Round 4; and
- WHEREAS, Section 3 of the Amended FHA provides that: "the municipality's determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7" of the Amended FHA; and

WHEREAS, Township's calculation of need is entitled to a "presumption of validity" because it complies with Sections 6 and 7 of the Amended FHA; and

WHEREAS, the Township specifically reserves the right to adjust the aforementioned obligation numbers based on, inter alia, any one or more of the foregoing adjustments: 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sewer or lack of water); and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including, but not limited to the Highlands Regional Master Plan and its build out; and

WHEREAS, in addition to the foregoing, the Township specifically reserves all rights to revoke this Resolution and commitment in the event of a successful challenge to the Amended FHA in the context of the Montvale case (MER-L-1778-24), any other such action challenging the Amended FHA, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of the Amended FHA; and

WHEREAS, in addition to the foregoing, the Township reserves the right to take a position that its Round 4 Present and/or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in addition to the foregoing, nothing in the Amended FHA requires or can require an increase in the Township's Round 4 Present or Prospective Need Obligations based on a successful downward challenge of any other municipality in the region since the plain language and clear intent of the Amended FHA is to establish, among other things, unchallenged numbers by default on or before March 1, 2025; and

WHEREAS, in light of the above, the Mayor and the Township Council find that it is in the best interest of the Township to declare its obligations in accordance with this Resolution and commits to its fair share of 10 units of present need and [328] units of prospective need, subject to any vacant land and/or durational adjustments it may seek as part of the Housing Element and Fair Share Plan it subsequently submits in accordance with the Amended FHA; and

WHEREAS, the Township reserves the right to comply with any additional amendments to the FHA that the Legislature may enact; and

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, the Township seeks a certification of compliance with the FHA and, therefore, directs its Affordable Housing Counsel to file a declaratory judgment action within 48 hours of the adoption of this Resolution in Sussex County;

**NOW, THEREFORE, BE IT RESOLVED** on this 28th day of January, 2025 by the Township Council of the Township of Sparta, as follows:

- 1. All of the above Whereas Clauses are incorporated into the operative clauses of this Resolution.
- 2. The Township hereby commits to a Round 4 Present Need Obligation of 10 units and a Round 4 Prospective Need Obligation of 311 units, as described in this Resolution, subject to all reservations of rights set forth above
- 3. The Township hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in Sussex County within 48 hours after adoption of this Resolution.
- 4. The Township authorizes its Affordable Housing Counsel to attach this Resolution as an exhibit to the declaratory judgment complaint that is filed, and to submit and/or file this Resolution with the Program or any other such entity as may be determined to be appropriate by such counsel.
  - 5. This Resolution shall take effect immediately, according to law.

RECORD VOTE OF COUNCIL ON FINAL PASSAGE									
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
BLUMETTI	X				MURPHY	X			
CHIARIELLO	X				SCOTT	X			
CLARK	X								

I, Roxanne Landy, Municipal Clerk, do hereby certify that the foregoing resolution was adopted at the Regular meeting of the Council held on <u>January 28, 2025.</u>

January 29, 2025

Date

Municipal Clerk

## ASSESSMENT OF 4TH ROUND NUMBER

## TOWNSHIP OF SPARTA

SUSSEX COUNTY, NJ





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On March 20, 2024, Governor Murphy signed P.L.2024, c.2. into law, establishing a new framework for determining and enforcing municipalities' affordable housing obligations under the New Jersey Supreme Court's Mount Laurel doctrine and the State's Fair Housing Act. The law required that the Department of Community Affairs (DCA) perform a calculation of regional need and municipal present and prospective obligations in accordance with the formulas established in the law. These non-binding calculations were published by the DCA on October 18, 2024, with supplemental data releases provided through November 23, 2024, with the publication of the Land Capacity Analysis GIS Composite Layer.

The Township of Sparta is located in Sussex County, which is categorized as Region 1, along with Hudson, Bergen, and Passaic counties. The Regional Prospective Need for Housing Region 1 was calculated at 27,743. The calculation for regional need on a municipal-basis included 3 factors that were averaged - (1) the Equalized Nonresidential Valuation Factor; (2) the Income Capacity Factor; and (3) the Land Capacity Factor.

The purpose of this memorandum is to provide an assessment of these factors and the overall non-binding calculations for Prospective Need Obligation for the Fourth Round of Affordable Housing, published by the NJ Department of Community Affairs for the Township of Sparta.

Under the prepared calculations, the DCA has presented a non-binding prospective need obligation for the Township of Sparta of 427. The following assessment reviews the component data of the DCA calculation methodology with localized data to either confirm or revise the figures presented by DCA.

Additionally, DCA has presented a non-binding present need obligation for the Township of Sparta of 10. This is generally acceptable, but may be reviewed by a window-survey by the Township's code or housing inspector.

The Income Capacity Factor is calculated pursuant to N.J.S.A. 52:27D-304.3.C.3 and is determined by averaging the municipal share of the regional sum of differences between median household income and the same calculation but weighted by number of households within the municipality.

To calculate this value, the DCA used the 2018-2022 5-year Estimates (in 2022 inflation-adjusted dollars) as published by the Census Bureau's American Community Survey program. For the Township of Sparta, this Income Capacity Factor was calculated as 1.80%. Based upon an analysis of the published Census data, the correct numbers were used by the DCA, and there is no impact on number calculated for the Township of Sparta.

The Equalized Nonresidential Valuation Factor is calculated pursuant N.J.S.A. 52:270-304.3.C.2 and is determined by calculated the changes in nonresidential property valuations in the municipality, since the beginning of the gap period in 1999. The change in the municipality's nonresidential valuations is divided by the regional total change in nonresidential valuations to determine the municipality's share of the regional total change, which is the resulting factor.

The data used is from the Division of Local Government Services in the DCA, which aggregates local assessment information from all municipalities.

Under the DCA calculation, the Township of Sparta had an equalized nonresidential valuation growth of \$369,327,567 between 1999 and 2023. This represents 1.13% of all the growth experienced during this period across Region 1.

The numbers utilized by the DCA should be verified by the Township Tax Assessor. However, it is not anticipated that there will be an impact on the Township's Equalized Non-Residential Valuation Factor number.

The Land Capacity Factor is calculated pursuant to N.J.S.A. 52:270-304.3.C.4, and is determined by estimating the area of developable land within the municipality's boundaries, and regional boundaries, which may accommodate development. The DCA conducted the analysis using Land Use/Land Cover data from the NJ DEP, MOD-IV Property Tax Data from the Dept. of Treasury, and construction permit data from the DCA. The DCA calculations of land that may accommodate development exclude lands subject to development limitation, including open space, preserved farmland, category one waterways and wetland buffers, steep slopes, and open waters. DCA preserved all areas that remained that were greater than 2,500 SF in size, presuming a 25 by 100-foot area could be a developable property.

Under the analysis, the DCA estimates that the Township of Sparta presently has 33.214 acres of land that may accommodate development. This represents 1.68% of the amount of developable land across the entire Region 1. The total regional developable land was calculated as 1,979.764.

The DCA published the "Land Capacity Analysis GIS Composite Layer" (the "DCA dataset") on November 22, 2024. The description of this dataset notes that:

"The land areas identified in this dataset are based on an the best available data using publicly available data enumerated in N.J.S.A. 52:27D-304.3c.(4) to estimate the area of developable land, within municipal and regional boundaries, that may accommodate development. It is important to note that the identified areas could be over or under inclusive depending on various conditions and that municipalities are permitted to provide more detailed mappings as part of their participation in the Affordable Housing **Dispute Resolution Program**. The data are not intended to identify specific development sites or sites that may be available for the production of affordable housing. Rather, the identified land areas are intended to identify potential unconstrained developable land capacity, weighted by planning area types set forth in the legislation, for each municipality and as a corresponding percentage of the same for the housing region within which each municipality lies for the purpose of establishing one of three factors used to allocate municipal affordable housing production targets for the period 2025 through 2035."

Based upon an evaluation of the DCA dataset, as downloaded on November 22, 2024, there is local data that should be considered in the calculation of the Township's Land Capacity Factor. To assess the Land Capacity Factor, the DCA dataset was clipped to the municipal extents of Sparta, and then overlaid in the software with the following layers: (1) Township of Sparta parcels; (2) 2020 NJDEP Wetlands and 50-foot riparian buffer; (3) and FEMA National Flood Hazard Layer (NFHL) effective FIRM panels; and (4) Highlands Council LiDAR (Light Detection And Ranging) two-foot contours derived from 2018 LiDAR data. Note that FEMA Mapping is only visible on zoomed maps in Appendix C as the mapping extents for the layer had a minimum scale range.

As noted in the DCA Methodology, Steep slope areas were obtained from the 10 foot digital elevation model LiDAR data compiled by the State Office of GIS (OGIS) were "extremely granular and reflect steep slope areas that are too small and fragmented to be realistically included in a generalized analysis of vacant land" for the purposes of their study. Additionally, while the DCA utilized certain thresholds to both reduce the size of datasets and focus on steep slopes that reflect impactful constraints on development potential, this analysis utilized the Highlands Council publicly available LiDAR 2-foot contours. Also, while the methods document noted that "category 1 waterways and wetlands (and associated buffers based on special resource area restrictions)" were utilized, this analysis found that no associated wetlands buffers were factored into the exclusion of land throughout Sparta Township. Therefore, many of the features included by DCA were reduced by the buffers once they were applied.

Finally, local information related to the status of the parcels were accounted for, such as the presence of encumbrances including: easements for County and State DOT projects, ROSI or Open Space, Farmland Assessment, National or State Historic Register, municipal utility, or 3rd Round Affordable Housing sites.

The DCA dataset included 20 unique feature objects to derive the total developable acreage. Based upon this feature-by-feature review, it is estimated that the entirety of 18 of the 20 unique objects, as well as a portion of 2 of the 20, should not be included in the land capacity factor; for a sum of 24.62 acres of the of the 33.214 acres calculated by DCA.

It should be noted that where portions of features were "cut-off" by way of wetland presence, streams, slopes or other encumbrance identified that caused the remaining portion to be undersized, it was excluded in its entirety. If a portion of a larger feature that remained included in the analysis had a portion that became isolated from the larger feature by way of encumbrances and as a result did not meet the thresholds on its own, that portion of land was also excluded. A summary of the analysis of Land Capacity Analysis GIS Composite Layer in the form of a table is provided under Appendix A, and in the form of a map is provided under Appendix B.

Thus, the estimated amount of developable land within the Township of Sparta should be revised to 8.59 Acres. This would represent a reduction in the Land Capacity Factor from 1.68% to 0.439% within Region 1. This derived number from the updated acreage likewise accounts for a reduction in the same amount to the Region 1 to 1,955.14, and thus the calculation does not account for the land that was removed as part of this analysis.

Based upon this evaluation and the recommended changes to the Land Capacity Factor, the Township's Average Allocation Factor was calculated by the DCA as 1.54%, which drops to 1.12% as a result of the change to the Land Capacity Factor. The Township's Prospective Need is therefore calculated to be 311.

Overall, the Township has calculated a fourth round obligation in accordance with the required formula as adopted by law. This number is based solely upon the required parameters of the formula, and is not any indication that the Township agrees that this number is appropriate or represents development that can be accommodated. The Township reserves its right to any durational adjustment or vacant land adjustment - where land, sewer, or water may be a scarce resource - as part of its Housing Element and Fair Share Plan.

PARAMETER	DCA CALCULATION	PROPOSED	
Equalized Non-Residential Assessment Factor	1.13%	1.13%	
Income Capacity Factor	1.80%	1.80%	
Land Capacity Factor	1.68%	0.439%	
Average Allocation Factor	1.54%	1.12%	
Prospective Need	427	311	

- Appendix A: Assessment of Features in DCA Land Capacity
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  - C.1 Map of DCA Dataset Overlaid with Wetlands, 50 Foot Wetlands Buffer, FEMA NFHL
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APPENDIX A. Assessment of Features in DCA Land Capacity

	APPENDIX A. Assessment of Features III DCA Land Capacity				
Reference Number	Weighted Acres	Proposed	Commentary		
1	0.54278171	0.0	Excluded. Class 15D, Church & Charitable Properties. Feature is on an active Church property.		
2	0.113058623	0.0	Excluded. Most portions of the mapped area are not 25 feet wide. Site the feature is located on is approved for affordable housing set-aside.		
3	0.480841446	0.0	Excluded. Some portions of the mapped area are not 25 feet wide and should not be included. Steep slopes present on a portion of the feature. Remaining area too small.		
4	0.316868206	0.0	Excluded. Some portions of the mapped area are not 25 feet wide and should not be included. Steep slopes present on a portion of the feature. Remaining area too small.		
5	2.990944671	0.0	Excluded. Public Open Space. Portion of property included is in Wetlands and Wetlands Buffer.		
6	4.35684636	0.0	Excluded. Public Open Space. Portion of property included is in Wetlands and Wetlands Buffer.		
7	0.544918397	0.0	Excluded. Public Open Space. Portion of property included is in Wetlands and Wetlands Buffer. Remaining area too small.		
8	0.761872164	0.0	Excluded. Portions of the mapped area are not 25 feet wide. Steep slopes present on a portion of the feature. Remaining area too small.		
9	9 0.612905056		Excluded. 10-15+/-% slopes present throughout feature. Portions of the mapped area are not 25 feet wide. Remaining area too small.		

Reference Number	Weighted Acres	Proposed	Commentary	
10	0.203588501	0.0	Excluded. 10-15+/-% slopes present throughout feature. Portions of the mapped area are not 25 feet wide. Remaining area too small.	
11	0.708601816	0.247	Partially Included. Portion of property is mapped within wetlands and wetlands buffer areas.	
12	17.13377007	8.35	Partially Included. Portion of property is mapped within wetlands and wetlands buffer areas. 15+/-% slopes present on portions of feature.	
13	0.068692293	0.0	Excluded. Mapped area is not 25 feet wide	
14	14 0.649416878		Excluded. Portion of property is mapped within wetlands and wetlands buffer areas.	
15	15 0.277781588		Excluded. Portion of property is mapped within wetlands and wetlands buffer areas.	
16	16 1.040686022		Excluded. Portion of property is mapped within wetlands and wetlands buffer areas.	
17	1.666908392	0.0	Excluded. Portion of property is mapped within wetlands and wetlands buffer areas. Portions of the mapped area are not 25 feet wide. Per Deed Book 3489, Page 487 (Dec. of Covenants and Restrictions) and Deed Book 2018, Page 1484 (Filed Map) show that portion of feature is 1) within JCP&L right-of-way, 2 wetlands on filed subdivision map run through the center of the feature, 3) Southwest portion is 15C Public Property shown as tennis courts and active open space. Also 15+/-% slopes present on portions of feature.	

Reference Number	Weighted Acres	Proposed	Commentary	
18	0.146993873	0.0	Excluded. Portion of property is mapped within wetlands and wetlands buffer areas. Portion of property in FHA.	
19	0.334393378	0.0	Excluded. Per Deed Book 3489, Page 0.0 487, filed Covenants show that portion of feature is 1) within JCP&L right-of-way.	
20	0.261937549	0.0	Excluded. Mapped area is not 25 feet wide	

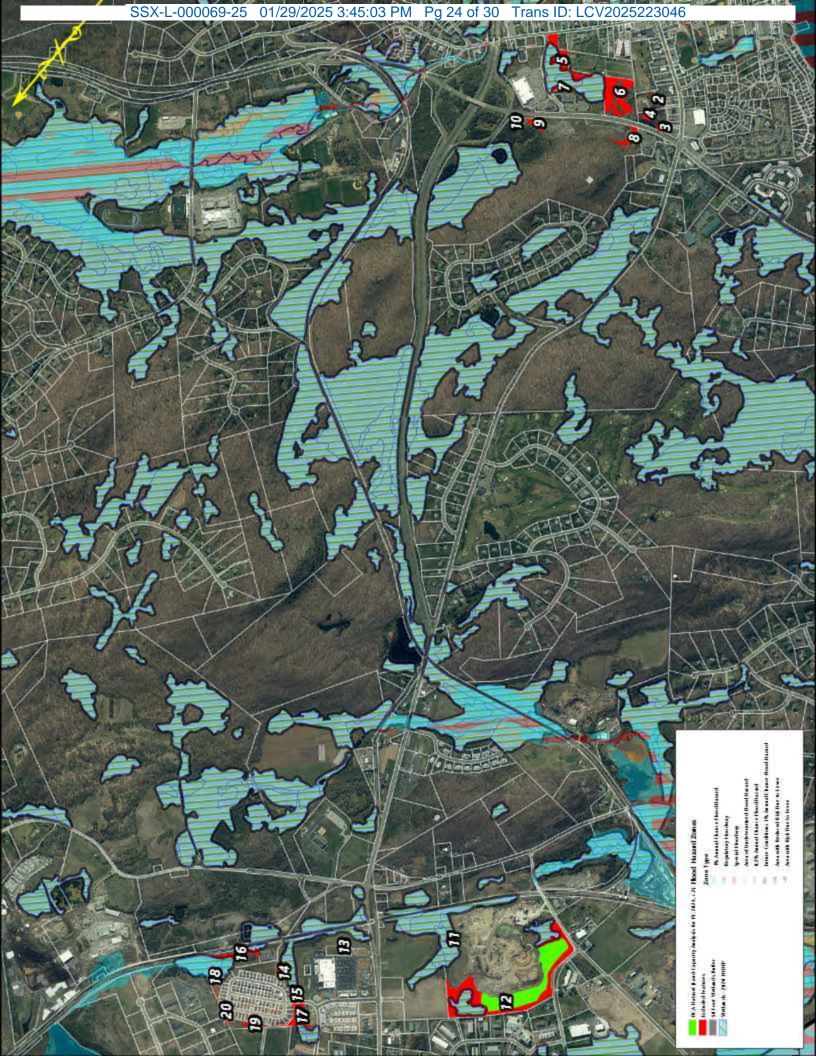
The following provides a breakdown of the calculations utilized to derive the updated Land Capacity Factor, updated Average Allocation Factor, and updated Prospective Need number for Sparta Township.

County	Vacant Land
Sussex	594.365
Bergen	805.545
Hudson	107.854
Passaic	472.000
Total Region 1 Vacant Land	1,979.764

Step 2: Sparta Township Vacant Land Analysis Results				
DCA "Vacant Land Output"	Excluded Land from Municipal-Based Analysis	Updated Vacant Land		
33.214	24.62	8.59		

Step 3: Sp	parta Township - Upda	ted Inputs for Fourth Rou	nd Calculation
Updated Region 1 Vacant Land	Updated Land Capacity Factor Calculation	Updated Average Allocation Factor	Updated Prospective Need
1979.76 - 24.62 = 1,955.14	8.59 / 1,955.14 = .00439	(1.8+0.439+1.13) / 3 = 1.12	0.0112 x 27,743 = 310.7
1,955.14	0.439%	1.12%	311

# APPENDIX C













### Katherine Sarmad, P.P., A.I.C.P

### Founder and Principal of Sarmad Planning Group

### **EDUCATION**

University of Michigan Ann Arbor, Michigan Bachelor of the Arts **History with Biology Minor, 2012** 

Rutgers, the State University of New Jersey, Edward J. Bloustein School New Brunswick, New Jersey Masters in City and Regional Planning, 2015

### LICENSES AND ACCREDITATIONS

Licensed with the American Institute of Certified Planners (AICP) AICP Certification #: 029457

NJ Licensed Professional Planner #33LI00634300

Member of American Planning Association (APA) Katherine is a Licensed Professional Planner and project manager with experience in all aspects of land use planning. As sole owner and principal of Sarmad Planning Group, Katherine is involved in every aspect of project management and responsibility. She has technical expertise in GIS mapping.

### PROJECT EXPERIENCE

Before founding Sarmad Planning Group, Katherine previously held positions at a dynamic land use and engineering firm, as well as the Director of Planning for the Township of Old Bridge. She has prepared Master Plan Reexamination reports, Master Plan Elements – such as Housing Element and Fair Share Plans, Land Use Elements, Open Space and Recreation Elements, and Comprehensive Master Plans.

### AFFORDABLE HOUSING EXPERTISE

Katherine has extensive experience as an Affordable Housing Planner, which includes: testifying as an expert witness at Third Round Fairness and Compliance Hearings, preparing Housing Elements and Fair Share Plans, Spending Plans, monitoring reports, vacant land adjustment reports, and other required manuals and tracking reports; as well as participating and leading mediation with housing developers and the Fair Share Housing Center during the Third Round.

Katherine has worked closely with municipalities in Morris County, including Florham Park Borough and Randolph Township; in Sussex County, including Sparta Township; in Burlington County, including Mt. Laurel Township; and in Middlesex County, including Metuchen Borough. Katherine has been qualified as an expert in Affordable Housing before Superior Courts in multiple vicinages throughout New Jersey, including: Honorable Judge Paula T. Dow in Burlington County; Honorable Judge Stephen C. Hansbury and Honorable Judge Maryann L Nergaard in Morris County; and Honorable Judge Karen M. Cassidy in Union County.



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### Katherine Sarmad, P.P., A.I.C.P

### **GIS AND MAPPING**

Katherine has graduate-level classroom education in ArcGIS mapping software from the Edward J. Bloustein School at Rutgers University, including "Intro to GIS for Planning and Policy" and "Graphical Communication for Planners". She has a decade of experience in mapping, and a strong expertise in utilizing both publicly available data sets and layers and creating unique shapefiles.

### **VOLUNTEER POSITIONS**

Prior to her position as Township Planner in Old Bridge, Katherine also served as a member of the Township of Old Bridge Planning Board for four years as the Mayor's Designee. Katherine is an active member of the American Planning Association and an accredited member of the American Institute of Certified Planners. Katherine has participated in mentorship programs through the APA to mentor new candidates nationwide that are interested in obtaining their credentials.

