

INDEPENDENCE TOWNSHIP  
WARREN COUNTY, NEW JERSEY

RESOLUTION # 25-15

**RESOLUTION REGARDING FAIR SHARE AFFORDABLE HOUSING  
OBLIGATIONS FOR THE FOURTH ROUND**

**WHEREAS**, the New Jersey Supreme Court, through its rulings in Southern Burlington County NAACP v. Mount Laurel, 67 13 N.J. 151 (1975) and Southern Burlington County NAACP 14 v. Mount Laurel, 92 N.J. 158 (1983), has determined that every municipality in New Jersey has a constitutional obligation to provide through its land use regulations a realistic opportunity for its fair share of its region's present and prospective needs for housing for low- and moderate-income families; and

**WHEREAS**, 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 New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 *et al.*); and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(b), each municipality must adopt a binding resolution no later than January 31, 2025 determining its present and prospective fair share obligation for the Fourth Round; and

**WHEREAS**, pursuant to Administrative Directive #14-24 issued by the Administrative Office of the Courts on December 13, 2024, "[a] municipality seeking a certification of compliance with the [Fair Housing Act] shall file an action in the form of a declaratory judgment complaint and Civil Case Information Statement (Civil CIS) in the county in which the municipality is located" within 48 hours of adopting the municipal resolution of fair share obligations; and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(d), the New Jersey Department of Community Affairs issued "a report on the calculations of regional need and municipal obligations for each region of the State" on or about October 18, 2024 (the "DCA Report"); and

**WHEREAS**, on or about November 20, 2024, DCA provided a GIS data set that was used to calculate each municipality's land capability factor in the DCA Report.

**WHEREAS**, the webpage associated with such data set (<https://njdca.maps.arcgis.com/home/item.html?id=12acdf0a5104f8f8a2f604e96063e74>) notes:

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.* (emphasis added).

**WHEREAS**, the DCA Report set the municipal obligation for Independence Township as follows:

Present Need: 6  
Prospective Need: 65

**WHEREAS**, the Township accepts the conclusions set forth in the DCA Report, except those regarding the land capacity allocation factor applicable to Independence; and

**WHEREAS**, pursuant to N.J.S.A. 52:27D-304.1(f)(1)(a), a municipality may determine its present and prospective fair share obligation for affordable housing consistent with the established methodologies; and

**WHEREAS**, DCA maintains that the areas the DCA identified as developable may be “overinclusive;” and

**WHEREAS**, the Township’s Professional Planner, has determined that such data set is “overinclusive” and has prepared a report dated January 20, 2025 stating such, which is attached hereto as Exhibit A; and

**WHEREAS**, the data compiled by DCA to calculate the Township’s “land capacity factor” erroneously included approximately 23.56 acres as vacant and developed land as outlined in the attached report from the Township Planner (**Exhibit A**); and

**WHEREAS**, removing such property from the inventory of vacant land in the Township reduces the total vacant land from 23.56 acres to 0 acres, as outlined in the report attached hereto as **Exhibit A**; and

**WHEREAS**, the correction of the land capacity factor and the average allocation factor reduces the Township’s prospective affordable housing obligation from **65 to 35**, as outlined in the report attached hereto as **Exhibit A**; and

**WHEREAS**, N.J.S.A. 52:27D-304.1(f)(1)(b) 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 P.L. 2024, c. 2...” and

**WHEREAS**, the Township’s calculation of need is entitled to a “presumption of validity” because it complies with Sections 6 and 7 of P.L. 2024, c. 2; and

**WHEREAS**, the Township specifically reserves its rights to:

- a. Adjust the Township’s fair share obligations based on a Vacant Land Adjustment, a lack of public water or sewer infrastructure (i.e. a Durational Adjustment),

Highlands Build Out Analysis, and / or all other applicable adjustments, permitted in accordance with applicable statute, regulations or law;

- b. Revoke or amend this Resolution and the Township's Fourth Round Affordable Housing Obligations to account for decisions of a court of competent jurisdiction or a change in applicable legislation; and
- c. The right to take any contrary position, or adjust its Fourth Round Affordable Housing Obligations, in the event of a third party challenge to the Township's Fourth Round Affordable Housing Obligations.

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Committee of the Township of Independence, Warren County, New Jersey, as follows:

2. Independence Township hereby determines, based on the DCA Report, corrections to the data utilized therein, and advice of the Municipal Planner and Attorney, to adopt the following obligations as its binding Fourth Round Affordable Housing Obligations:

Present Need: 6

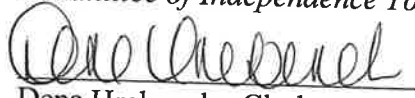
Prospective Need: 35

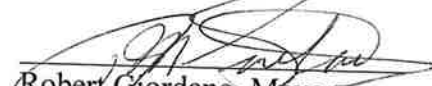
3. The adoption of this Resolution and the aforementioned Fourth Round Affordable Housing Obligations is subject to all reservations of rights, which specifically include, without limitation, the following:
  - a. The right to adjust the Township's fair share obligations based on a Vacant Land Adjustment, a lack of public water or sewer infrastructure (i.e. a Durational Adjustment), Highlands Build Out Analysis, and all other applicable adjustments, permitted in accordance with applicable statute, regulations or law with such adjustments to be adopted as part of the municipality's Fourth Round Housing Element and Fair Share Plan.;
  - b. The right to revoke or amend this Resolution and the Township's Fourth Round Affordable Housing Obligations to account for decisions of a court of competent jurisdiction or a change in applicable legislation; and
  - c. The right to take any contrary position, or adjust its Fourth Round Affordable Housing Obligations, in the event of a third party challenge to the Township's Fourth Round Affordable Housing Obligations.
4. The Municipal Clerk and Municipal Attorney are authorized to take all actions required by N.J.S.A. 52:27D-304.1(f)(1)(b), including:
  - a. Filing a Declaratory Judgment Complaint, along with this Resolution and a Case Information Statement, in the appropriate venue with the Program or any other such entity as may be determined to be appropriate, to initiate an action within 48 hours

of the adoption of this Resolution pursuant to the requirements of P.L.2024, c.2, and AOC Directive #14-24

- b. Publishing this Resolution on the Township's website.
5. The Municipal Attorney, Municipal Planner, and Planning Board are authorized to take all actions to draft documents necessary to comply with all Fourth Round affordable housing obligations, including drafting a Housing Element and Fair Share Plan, an Affordable Housing Trust Fund Spending Plan, and effectuating ordinances and resolutions.
6. This Resolution shall take effect immediately.

*I hereby certify the foregoing to be a true copy of a Resolution adopted by the Mayor and Committee of Independence Township at a meeting held on January 25, 2025.*

  
Dena Hrebenak, Clerk

  
Robert Giordano, Mayor

# Independence Township Warren County

## Report on the Round 4 Land Capacity Factor January 2025

As Identified in the October 2024 Report Entitled  
NJDCFA Fair Share Housing Obligations for  
2025-2035 (Fourth Round)

*DjBanisch*

Prepared by David J. Banisch, PP/AICP

January 20, 2025

Date

## Introduction

The purpose of this report is to identify the results of Independence Township's review and analysis of the Land Capacity Factor that is identified in the report entitled NJDCA Fair Share Housing Obligations for 2025-2035 (Fourth Round), (the "DCA Report", October 2024), particularly with regard to the land identified as developable in the DCA Report. The analysis results in adjustments that warrant a recalculation of the Land Capacity Factor, which in turn indicates a reduction of the Independence Township Prospective Share from the 65 identified in the DCA Report to 35, as described below.

According to P.L. 2024, c. 2, the process for Fourth Round affordable housing compliance and the criteria, methodology and formulas each municipality must rely upon to determine its present and prospective need obligation are set forth within N.J.S.A. 52:27D-304.1 thru -304.3 of the FHA. The March 8, 2018 unpublished decision of the Superior Court, Law Division, Mercer Count, In re Application of Municipality of Princeton ("Jacobson Decision") is also to be referenced as to datasets and methodologies that are not explicitly addressed in N.J.S.A. 52:27D-304.3. The determinations set forth in the October 2024 DCA report, as required in the Fair Housing Act Amendments of 2024, have been reviewed in this report.

On behalf of the Independence Township we have considered the DCA Report, along with the underlying data and data sets relied upon by the DCA in reaching its non-binding calculations for the Township, and have further carefully considered and analyzed the most up-to-date localized data pertaining to the Township, including among other verifiable information, status of land development, land use approvals, environmental constraints (including wetlands, wetland buffers, and steep slopes) and other site specific information that may not have been available to the DCA, construction permits, and MOD-IV data maintained and on file with the Township, conservation easements, other deed restrictions and factors unique to the parcels identified by the DCA. Based upon our analysis of the DCA Report, the data and data sets relied upon by the DCA and our analysis of the Township's up-to-date localized verifiable data, we have determined that the Township's Land Capacity Factor warrants adjustments, based on our analysis and identification of outdated, incorrect or inaccurate data, including geospatial artifacts or anomalies. The analysis in this report addresses only the Land Capacity Factor identified for Independence Township by the NJDCA in the October 2024 report.

Independence Township, Warren County, which is split roughly in half between the Highlands Preservation Area and the Highlands Planning Area. Is actively engaged in determining its buildout with the Highlands Council. That buildout will impact the Townships ultimate obligations pursuant to N.J.S.A. N.J.S.A. 13:20-23a. under Highlands Plan Conformance, which requires the Township to account for the buildout at the time the Housing Plan Element and Fair Share Plan is prepared. As such, that will be addressed in a separate report.

## Land Capacity Factor

The DCA Report included 8 parcels of developable land that provided the Land Capacity Factor for Independence Township. These parcels and polygons are depicted on a map generated by the NJDCA entitled the Land Capacity Analysis GIS Composite Layer published on the NJDCA website: [https://www.nj.gov/dca/dlps/4th\\_Round\\_Numbers.shtml](https://www.nj.gov/dca/dlps/4th_Round_Numbers.shtml).

Each parcel in Independence Township was reviewed to determine the status of each parcel to confirm which parcels are appropriate as the basis for the calculation of the Land Capacity Factor in the DCA Report. The results of Independence Township’s review of each is summarized in Exhibit 2 of this report, entitled Independence Township, Warren County, Round 4, Land Capacity Factor Analysis, and dated January 2025. These parcels are also described below and numerically keyed to Exhibit 1 and Exhibit 2.

**Parcel 1**

This 2.25-acre parcel includes 1.57 acres of developable lands occupied by the Holy Cross Eastern Orthodox Church. The developed status of this parcel and its use as a long-established House of Worship warrants removal from the Land Capacity Factor.



**Parcel 2**



This parcel is occupied by the Hackettstown Baptist Church and parsonage. The developed status of this parcel and its use by a long-standing House of Worship warrants removal from the Land Capacity Factor.

**Parcel 3 and Parcel 4**

These parcels are part of the common open space at Oak Hill at Independence. Their status as part of a fully developed residential parcel with no remaining development potential warrants its removal from the Land Capacity Factor.



**Parcel 5**



This parcel is occupied by the clubhouse at Oak Hill. The developed status of this parcel warrants removal from the Land Capacity Factor.

**Parcel 6**

The fully constructed and occupied affordable development at Woodmont Liberty apartments occupies Parcel 6.

**Parcel 7 and Parcel 8**

These parcels are portions of the common open space at Oak Hill. Their status as part of a fully developed residential parcel with no remaining development potential warrants its removal from the Land Capacity Factor.

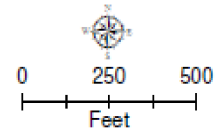
**Conclusion**

Independence Township's review and analysis of developable land identified in the NJDCA Land Capacity Analysis GIS Composite Layer indicate that adjustments are warranted based on the status of each parcel as described above and listed in Exhibit 2. The result is an adjustment from 23.56 acres to 0-acres (zero acres) to calculate the Land Capacity Factor. The October 2024 DCA Report identified a Prospective Share of 65 for Independence Township. When applied to the DCA Report, the recalculated Land Capacity Factor yields a Prospective Share of 35 for Independence Township.

The methodology used to identify the adjustments listed in the analysis contained within this report is consistent with the published DCA Report. The data, data sources, methodology, criteria and formulas relied upon in completing this analysis and arriving at these opinions, including the calculation of the Borough's Prospective Need Obligation, was performed in accordance with sections 6 and 7 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.2 and N.J.S.A. 52:27D-304.3) and the Jacobson Decision. All opinions and conclusions set forth herein are within a reasonable degree of professional planning certainty. We reserve the right to amend and supplement our findings, opinions and conclusions should additional information be made available at a later date, including refinement of the prospective share allocation to Independence Township based on the Highlands Regional Master Plan and its impact on the municipality.



**Exhibit 1:**  
**DCA Vacant Land Output Model Verification**  
**Developable Lands**  
Independence Township  
Warren County, NJ  
January 2025



**Legend**

● DCA developable land area removed after field verification

Data Sources:  
DCA Vacant Land Output 12-2024

**BANISCH**  
ASSOCIATES, INC.  
Planning and Design

## Exhibit 2

## Independence Township

## DCA Vacant Land Output Model Verification of Developable Lands

Map ID	Block / Lot	Tax Class	Location	Owner	DCA Developable Acres	Adjusted Developable Acres	Detail
1	5/7	15D	909 ROUTE 517	HOLY CROSS EASTERN ORTHODOX CC	1.57	0	Developed with Church
2	6.01/3.01	15D	916 ROUTE 517	HACKETTSTOWN BAPTIST CHURCH	7.79	0	Church property (Church, parsonage and churchyard)
3	6.01/341	1	PRINCETON DR	BILBY DEVELOPERS INC	0.90	0	HOA Common Area
4	6.01/655	1	COLBY CT	BILBY DEVELOPERS INC	0.57	0	HOA Common Area
5	6.01/721	1	BRYANT DR	BILBY DEVELOPERS INC	0.10	0	HOA Clubhouse
6	6.02/3	1	922-930 ROUTE 517	WOODMONT INDEPENDENCE LLC	11.37	0	DEVELOPED ROUND 3 INCLUSIONARY MULTIFAMILY HOUSING SITE
7	6.02/193	1	E & S BILBY RD	BILBY DEVELOPERS INC	0.80	0	HOA Common Area
8	6.02/268	1	HARVARD DR & BILBY RD	BILBY DEVELOPERS INC	0.47	0	HOA Common Area
					<b>23.56</b>	<b>0</b>	<b>TOTAL</b>