

HARDYSTON TOWNSHIP

RESOLUTION #16-25

RESOLUTION OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX AND STATE OF NEW JERSEY, ADOPTING THE TOWNSHIP'S AFFORDABLE HOUSING PRESENT AND PROSPECTIVE NEED OBLIGATION FOR THE PERIOD OF JULY 1, 2025 THRU JULY 1, 2035 IN ACCORDANCE WITH P.L. 2024 C.2, AND RESERVING ALL RIGHTS

WHEREAS, the Township of Hardyston (hereinafter "Township") is Highlands Region municipality, where development is governed and restricted by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. ("Highlands Act") and the Highlands "Regional Master Plan"; and

WHEREAS, approximately 12,603 acres of land in the Township is located within the Highlands "Preservation Area", and approximately 8,281 acres of land in the Township is located within the Highlands "Planning Area," as those terms are defined in the Highlands Act; and

WHEREAS, Highlands Region municipalities provide safe drinking water for approximately 70% of the residents of the State; and

WHEREAS, the Highlands Act and the Highlands Regional Master Plan place significant constraints on development throughout the Township, including with respect to affordable housing, for the purpose preserving the State's drinking water; and

WHEREAS, nonetheless, the Township has a demonstrated history of voluntary compliance with the Mount Laurel doctrine and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301, et seq. ("FHA"); and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), in July 2015, the Township filed a Declaratory Judgment Action in the Superior Court, Law Division, Sussex County under Docket No. SSX-L-000431-15 ("2015 Action") seeking, amongst other things, a judicial declaration that the Township's 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, the Township's 2015 Action ultimately culminated in a Court-approved Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, issued by the Honorable Stephan C. Hansbury, P.J.S.C. on September 19, 2016, which entitles the Township to immunity and precludes Mount Laurel lawsuits and exclusionary zoning litigation, including builder's remedy lawsuits and constitutional compliance lawsuits, from being filed against the Township until after July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law, P.L. 2024, c.2, which among other things, amended various provisions of the FHA, abolished the Council on Affordable Housing (“COAH”) and established the Affordable Housing Dispute Resolution Program (“Program”); and

WHEREAS, P.L. 2024, c.2, sets forth that Fourth Round period of affordable housing obligations shall run from July 1, 2025 through June 30, 2035 (“Fourth Round” or “Round Four”); and

WHEREAS, pursuant to P.L. 2024, c.2, the Township is located in Housing Region 1, which is comprised of Bergen, Hudson, Passaic and Sussex Counties; and

WHEREAS, the amendments to the FHA require the Department of Community Affairs (“DCA”) to prepare and publish a report on the calculations of the regional need and each municipality’s present and prospective need affordable housing obligations for the Fourth Round within seven months of March 20, 2024; and

WHEREAS, on October 18, 2024 the DCA published its report on the calculations with respect to Statewide regional need and municipal present and prospective need affordable housing obligations for the Fourth Round (the “DCA Report”); and

WHEREAS, pursuant to P.L. 2024, c.2, the DCA has calculated the total statewide prospective need obligation to be 84,698 units, which equates to a statewide new construction obligation of over 8,400 affordable units per year; and

WHEREAS, the DCA Report calculates the Township’s non-binding Round 4 obligations as follows: 1) a Present Need or Rehabilitation obligation of 22; and 2) a gross Prospective Need or New Construction Obligation of 1,622, before accounting for and/or applying the 1,000-unit cap and 20% cap; and

WHEREAS, pursuant to N.J.S.A. 52:27D-304.1e of the FHA, the calculations in the DCA Report are not binding on municipalities; and

WHEREAS, rather, pursuant to N.J.S.A. 52:27D-304.1 of the FHA, each municipality is required to determine its respective Fourth Round present and prospective need fair share obligations, and adopt a binding resolution describing the basis for the municipality’s determination on or before January 31, 2025; and

WHEREAS, P.L. 2024, c.2, directs that each municipality shall determine its Fourth Round present and prospective need fair share obligations, with consideration of the calculations in the DCA Report, and in accordance with the formulas established in N.J.S.A. 52:27D-304.2 and -304.3 of the FHA using “necessary datasets that are updated to the greatest extent practicable”; and

WHEREAS, section 10 of P.L. 2024, c.2 amends N.J.S.A.13:20-23 of the Highlands Act, and expressly requires that the Highlands Regional Master Plan be taken

into account when determining the allocation of Fourth Round prospective need fair share obligations for Highlands Region municipalities; and

WHEREAS, section 7 of P.L. 2024, c.2 requires that a weighting factor of “0” must be applied to all property within the Highlands Preservation Area and conforming Highlands Planning Areas; and

WHEREAS, N.J.S.A. 52:27D-304.1f(2)(a) of the FHA provides that a municipality may “lower its prospective need obligation to the extent necessary to prevent establishing a prospective need obligation that requires the municipality to provide a realistic opportunity for more than 1,000 housing units, after the application of any excess credits, or to prevent a prospective need obligation that exceeds 20 percent of the total number of households in a municipality according to the most recent federal decennial census, not including any prior round obligation [;]” and

WHEREAS, N.J.S.A. 52:27D-304.1f(2)(a) of the FHA further provides that “[i]f a municipality is subject to both a 1,000 unit cap or 20 percent cap, it may apply whichever cap results in a lower prospective need obligation [;]” and

WHEREAS, both the DCA Report and the DCA’s “Fourth Round Calculation Workbook” which was released by the DCA at the time publication of the DCA Report, confirms that in calculating the Township’s non-binding Fourth Round Prospective Need Obligation, the DCA determined that the Township would be entitled to the benefit of either the 1,000 unit cap or 20 percent cap; and

WHEREAS, the DCA Report and the DCA’s “Fourth Round Calculation Workbook” further indicates that the DCA took into consideration the total number of existing residential households within the Township and determined that according to 2020 Federal Census data, the Township currently has 3,371 total households existing within the Township; and

WHEREAS, based upon above, according to the DCA Report, the DCA determined that the Township was entitled to apply 20% cap on its Fourth Round Prospective Need Obligation, and therefore the DCA determined that the Township is permitted to reduce its Fourth Round Prospective Need Obligation to “674” or 20% of the 3,371 total residential households existing within the Township; and

WHEREAS, assuming the DCA correctly calculated the land capacity, equalized non-residential valuation, income capacity and average allocation factors in arriving at the Township’s Prospective Need Obligation in the DCA Report, the DCA correctly determined that the Township is, at best, entitled to a reduced Fourth Round Prospective Need Obligation of 674, which equates to 20 percent of the 3,371 total existing households within the Township in accordance with N.J.S.A. 52:27D-304.1f(2)(a); and

WHEREAS, pursuant to Mount Laurel case law and COAH's prior round regulations, municipalities are permitted to reduce their Prospective Need Obligation by applying a 20 percent cap under these circumstances based on the recognition that the imposition of a large or onerous municipal housing obligation in a relatively short period of time may well cause a "sudden and radical transformation" of the municipality overnight see Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 158, 280 (1983)("Mount Laurel II"); and

WHEREAS, nonetheless, the Township's Planner, Township Engineer and the Township's attorneys have reviewed 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 also carefully considered and analyzed the most up-to-date localized data pertaining to the Township, including amongst other verifiable data, local land use approvals, prior round sites currently zoned for inclusionary development, existing open space restrictions, environmental constraints and other site specific information, construction permits, and MOD-IV data maintained and on file with the Township with regard to the land capacity and equalized non-residential valuation allocation factors; and

WHEREAS, based upon same, Township is satisfied with the estimate and calculations set forth within the DCA Report with respect to the Township's Present Need Obligation of "22", and accepts same at this time, subject to the completion of a structural conditions survey or similar exterior conditions survey; and

WHEREAS, however, based upon the above analysis, the Township Planner and Township Engineer have further determined that the DCA's non-binding calculation with respect to both the Township's gross Prospective Need Obligation of "1,622" and the reduced Prospective Need Obligation or "674," based on the 20 percent cap, is/are incorrect and erroneous for multiple reasons; and

WHEREAS, in particular, the Township Planner and Township Engineer have confirmed that the DCA arrived at the Township's land capacity factor using incorrect assumptions and inaccurate data to erroneously determine that approximately 325.548 acres of land within the Township is "developable"; and

WHEREAS, using the most up-to-date localized verifiable data and information available to the Township, the Township Planner has determined that only 83.870 acres of land within the Township is "developable" after consideration is given to applicable land uses, preserved land/parkland and open space, existing third-round affordable housing sites currently zoned for inclusionary development, deed restrictions, stormwater control/drainage basins, environmental constraints and restrictions (including wetlands, wetland buffers, forest resource areas, groundwater recharge areas, and steep slopes), local land use approvals, construction permit data, and MOD-IV data, amongst other updated verifiable localized data and information; and

WHEREAS, the Township Planner and Township Engineer have further independently calculated the Township's Fourth Round Prospective Need affordable

housing obligation based on the formulas, criteria, methodology and datasets required by sections 6 and 7 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.2 and -304.3, and have arrived at a Fourth Round Prospective Need Obligation that accurately reflects the most up-to-date pertinent factual data specific to the Township; and

WHEREAS, based upon the calculations and analysis performed by the Township Planner and Township Engineer, the Township has determined that its Fourth Round Prospective Need or New Construction Obligation is 548; and

WHEREAS, the Township Planner and Township Engineer have prepared a report setting forth this analysis, which includes a summary of all relevant factors, considerations and the basis for such conclusions, which is summarily incorporated by reference above and which such report is attached hereto as Exhibit "A"; and

WHEREAS, N.J.S.A. 52:27D-304.1f(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 its Present Need and Prospective Need obligations is/are entitled to a "presumption of validity" because it complies with sections 6 and 7 of P.L. 2024, c.2; and

WHEREAS, the Township, however, specifically reserves the right to adjust its Present Need Obligation and/or Prospective Need Obligations, including for any of the foregoing adjustments: 1) a Structural Conditions Survey or similar exterior survey which accounts for a lower 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 to its Fourth Round affordable housing obligations herein, in the event of: (1) a successful challenge to P.L. 2024, c.2 as a result of the pending litigation entitled: Township of Montvale et al, v. State of New Jersey, et al., Docket No.: MER-L-1778-24; (2) any other successful challenge to P.L. 2024, c.2, or any directive or regulation adopted pursuant thereto; and/or (3) any subsequent legislative or regulatory enactment which alters or changes the deadlines, calculations, methodology and/or other requirements of P.L. 2024, c.2; and

WHEREAS, the Township further specifically reserves the right to take a position that its Fourth Round Present Need and/or Prospective Need Obligation(s) 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, nothing in P.L. 2024, c. 2 requires or can require an increase in the Township's Fourth Round Present Need and/or Prospective Need Obligation(s) based on a successful downward challenge of any other municipality in the Region since the plain language and clear intent of P.L. 2024, c.2, is to establish, for example, unchallenged numbers by default as of March 1, 2025; and

WHEREAS, in light of the above, the Mayor and Township Council of the Township of Hardyston finds that it is in the best interest of the Township to declare its commitment to the above-listed Fourth Round obligations by resolution in accordance with P.L. 2024, c.2.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Township Council of the Township of Hardyston, in the County of Sussex, and State of New Jersey, as follows:

1. All of the Whereas Clauses set forth above are hereby incorporated into the operative clauses of this Resolution by reference.

2. The Township hereby commits to a Fourth Round Present Need Obligation of "22" and a Fourth Round Prospective Need Obligation of "548" as described in this Resolution, and which such commitment to the Township's Fourth Round Affordable Housing Obligations be and is hereby subject to the Township's reservation of all rights it may have, as described in this Resolution or otherwise, to revoke, repeal, suspend, amend or modify this Resolution by further action of the Township, including but not limited to, the following:

- a) The right to adjust, modify, cancel, withdraw or revoke the Township's commitment to its Fourth Round Present Need and/or Prospective Need Obligation(s), and/or to otherwise revoke, repeal, suspend, amend, or modify this Resolution should additional information or evidence become available or discoverable to the Township in the future;
- b) The right to adjust the Township's Present Need Obligation based on the results of a structural conditions survey or similar exterior survey;
- c) The right to adjust the Township's Present Need and/or Prospective Need Obligation(s) based on lack of available vacant and developable land (vacant land adjustment), sewer and/or water (durational adjustment), and/or due to regional planning inputs, formulas or considerations, including, but not limited to the Highlands Regional Master Plan and its build out, or any combination of the above;
- d) The right to further adjust the Township's Present Need and/or Prospective Need Obligation(s), with such adjustment based upon and applied in accordance with applicable statutory "caps" and/or adjustments, as set forth in P.L. 2024, c. 2, Mount Laurel case law,

and/or as codified in COAH's prior round regulations, or any combination thereof;

- e) All rights to revoke this Resolution in the event of a successful legal challenge to P.L. 2024, c.2, a legislative change to P.L. 2024, c. 2, or any successful challenge to any directive or regulation adopted pursuant to P.L. 2024, c.2, or any change or amendment to such directives or regulations;
- f) All rights to take a position that the Township's Fourth Round Present Need and/or Prospective Need Obligation(s) are lower than described herein in the event that a third party challenges the calculations provided for or relied upon in this Resolution or the DCA Report; and/or
- g) All rights to take a position that the Township's Fourth Round Present Need and/or Prospective Need Obligation(s) is/are lower than described herein in the event a third party claims the Township's Fourth Round Present Need and/or Prospective Need Obligation(s) require an increase based on a reallocation or modification of the Regional present need and/or prospective need obligation(s) allegedly due from a successful reduction of the allocated present and prospective need obligations assigned to another municipality in the Region.

3. The Township's calculation of its Fourth Round Present Need and Prospective Need Obligations is/are entitled to a "presumption of validity" because the calculations comply with sections 6 and 7 of P.L. 2024, c.2.

4. In accordance with N.J.S.A. 52:27D-304.1, the Township hereby directs the Township's Land Use Board Attorney to file an action with the Affordable Housing Dispute Resolution Program along with this Resolution and to take all necessary and proper steps to address any challenges to same by any interested parties.

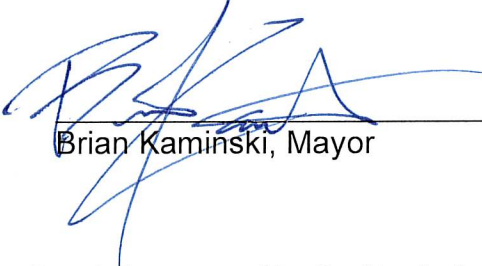
5. The Township further commits to adopt its housing element and fair share plan pursuant to N.J.S.A. 52:27D-304.1f(2) based on the determination of the Township's Fourth Round affordable housing obligations on or before June 30, 2025, and hereby further directs the Township Attorney, Township Land Use Board Attorney, Township Planner and Township Engineer to begin taking steps to prepare same.

6. A copy of this Resolution, along with filing date of the Township's action with the Program, shall be placed on the Township's website.

7. A copy of this Resolution shall remain on file in the Township Clerk's office and available for public inspection.

8. This Resolution shall take effect immediately, according to law.


Jane Bakalarczyk, Township Clerk


Brian Kaminski, Mayor

I hereby certify the above to be a true copy of the Resolution passed by the Hardyston Township Council at a duly convened meeting held on January 22, 2025.



Jane Bakalarczyk, Township Clerk

Exhibit A

Memorandum

To: Township of Hardyston Mayor and Council

Cc: Carrine Piccolo-Kaufer, P.P., Township Manager/Planner
Fred Semrau, Township Attorney
Thomas Molica, Township Land Use Board Attorney
Anne-Marie Wilhelm, Land Use Administrator

From: Michael Vreeland, Township Engineer 

Date: January 22, 2025

Re: Analysis and Response
Fourth Round Affordable Housing Obligations
Hardyston Township
Sussex County
Housing Region 1
VCEA# HDY-1000.001

With the passage of P.L.2024, c.2 on March 20 2024, the Council on Affordable Housing (COAH) was abolished. Each municipality within the State is now responsible for determining its present and prospective need affordable housing obligations. Obligations are to be determined in accordance with formulas established pursuant to 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). Municipalities must also adopt a binding resolution committing the municipality to its Fourth Round affordable housing obligations by January 31, 2025.

P.L. 2024, c. 2 further establishes that the Department of Community Affairs (“DCA”) is responsible to conduct a calculation of the regional and municipal present and prospective need obligations and prepare and publish a report. Each municipality may take into consideration the calculations in the DCA’s report when determining the municipality’s Fourth Round affordable housing obligations. However, P.L. 2024, c. 2 explicitly makes clear that the calculations and determinations set forth in the DCA’s report shall not be binding on each municipality.

OFFICE LOCATIONS

www.vancleefengineering.com

Hillsborough, NJ
908-359-8291

Mt. Arlington, NJ
862-284-1100

Phillipsburg, NJ
908-454-3080

Doylestown, PA
215-345-1876

Pottstown, PA
610-323-4040

Hamilton, NJ
609-689-1100

Toms River, NJ
732-573-0490

Freehold, NJ
732-303-8700

Bethlehem, PA
610-332-1772

In addition to the above, P.L. 2024, c. 2 also establishes the Affordable Housing Dispute Resolution Program (“Program”) and outlines new procedures for municipalities to achieve compliance with the Mount Laurel doctrine and the New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 et seq., (FHA) and obtain a “compliance certification”. Compliance certification entitles the participating municipality to immunity from Mount Laurel compliance suits and exclusionary zoning litigation (including builder’s remedy suits) for each successive 10 year affordable housing round.

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 now 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.

Both the Jacobson Decision and N.J.S.A. 52:27D-304.3a of the FHA explain that the datasets and information must be reliable and updated to the greatest extent practicable. For example, N.J.S.A. 52:27D:304.3a explicitly states: “[t]hese calculations of municipal present and prospective need shall use necessary datasets that are updated to the greatest extent practicable.” Likewise, the Jacobson Decision quotes Judge Serpentelli’s guiding principles in AMG with regarding to the fair share methodology:

Any reasonable methodology must have as its keystone three ingredients: reliable data, as few assumptions as possible, and an internal system of checks and balances. Reliable data refers to the best source available for the information needed and the rejection of data which is suspect. The need to make as few assumptions as possible refers to the desirability of avoiding subjectivity and avoiding any data which requires excessive mathematical extrapolation. An internal system of checks and balances refers to the effort to include all important concepts while not allowing any concept to have a disproportionate impact.

In accordance with the deadlines established in P.L. 2024, c. 2, the DCA prepared and published a report (Affordable Housing Obligations for 2025-2035 (Fourth Round) Methodology and Background) on its calculation for regional needs and municipal obligations on October 18, 2024 (“DCA Report”).

DCA Figures

The following table summarizes Hardyston Township’s non-binding Present and Prospective Need, as sourced from the DCA report:

Present Need	Equalized Non-Residential Valuation Factor	Land Capacity Factor	Income Capacity Factor	Average Allocation Factor	Prospective Need	Capped Prospective Need
22	0.39%	16.44%	0.71%	5.85%	1622	674

DCA Analysis

The DCA Land Capacity Factor was computed by determining the total developable acreage utilizing available land use / land cover (LULC) data from the New Jersey Department of Environmental Protection, available MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and DCA construction permit data. In an effort to identify and remove ineligible parcels, the DCA also manually reviewed approximately 22,000 vacant parcels.

The DCA has published the output from its Land Capacity Analysis and identified 100 parcels totaling ±325.548 acres within Hardyston Township.

Consistent 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), on behalf of the 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 amongst other verifiable information, land use approvals, environmental constraints (including wetlands, wetland buffers, and steep slopes) and other site specific information, construction permits, and MOD-IV data maintained and on file with the Township, and conservation easements and other deed restrictions.

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 DCA arrived at the Township’s land capacity factor using incorrect assumptions and outdated data and/or or incorrect or inaccurate data, including geospatial artifacts or anomalies.

This analysis has led us to conclude that the DCA erroneously included approximately 242 acres of land as part of the above-referenced 325.548 total acres. Accordingly, it is our professional opinion that the Township’s land capacity allocation should be reduced to 83.870 acres.

Supplemental Analysis

As explained in the section immediately above, given characteristics of the source data sets and limitations of the DCA analysis work (which the DCA admits in the DCA Report to have inaccuracies and flaws), pursuant to N.J.S.A. 52:27D-304.3a and the Jacobson Decision, our office along with the Township Manager/Planner have further examined the published DCA Land Capacity Factor dataset based on up-to-date verifiable localized data.

In accordance with same, the following table identifies and summarizes the ineligible parcels included in the DCA’s published Land Capacity Analysis GIS Composite Layer dataset that should not have been determined to be developable, along with the basis for our conclusion:

OBJECTID	Shape_Acres	Location	Characteristics
28798	1.578	182 North Church Rd B. 62, L. 18.16	Flex warehouse facility
28799	1.311	9 Park Drive B. 62, L. 18.05	Flex warehouse facility
28800	0.145	216 North Church Rd B. 62, L. 10	Geospatial artifact, North Church Gravel
28801	20.714	216 North Church Rd B. 62, L. 10	North Church Gravel
28802	0.074	105-137 Wheatsworth Rd B. 62, L. 24.01	Geospatial artifact, Ballyowen Golf Course
28803	1.201	216 North Church Rd B. 62, L. 10	Geospatial artifact, North Church Gravel
28804	0.291	105-137 Wheatsworth Rd B. 62, L. 24.01	Geospatial artifact, Ballyowen Golf Course
28805	97.497	216 North Church Rd B. 62, L. 10	North Church Gravel
28806	0.096	28 Bunn Rd B. 67, L. 2.02	Geospatial artifact
28810	2.437	149 Wheatsworth Rd B. 62, L. 33.04	Geospatial artifact, municipality building

28811	0.062	3437 Rt 94 B. 67, L. 16.03	Geospatial artifact
28812	0.135	3500 Rt 94 B. 63, L. 1.05	Geospatial artifact, SCMUA
28813	0.228	3500 Rt 94 B. 63, L. 1.05	Geospatial artifact, SCMUA
28817	0.094	B. 67.30, L. 1	Geospatial artifact
28825	1.149	20 Old Quarry Rd B. 17, L. 20	Geospatial artifact, conservation easements
28826	0.148	B. 67.29, L. 1	3 rd Rd Housing Element & Fair Share Plan
28827	0.069	B. 67.29, L. 1	3 rd Rd Housing Element & Fair Share Plan
28828	1.317	B. 67.29, L. 1	3 rd Rd Housing Element & Fair Share Plan
28829	1.383	B. 67.29, L. 1	3 rd Rd Housing Element & Fair Share Plan
28830	0.227	B. 67.29, L. 1	3 rd Rd Housing Element & Fair Share Plan
28831	0.444	B. 67.29, L. 1	3 rd Rd Housing Element & Fair Share Plan
28832	0.264	B. 67.29, L. 1	3 rd Rd Housing Element & Fair Share Plan, utilities
28833	1.129	B. 67.30, L. 1	Detention basin, drainage, wetlands
28834	0.655	B. 67.29, L. 1	3 rd Rd Housing Element & Fair Share Plan
28835	0.918	B. 67.30, L. 1	Detention basin, drainage, wetlands
28836	2.016	B. 17.02, L. 67 B. 17.03, L. 1.02	HOA common area
28838	0.273	4511 Rudetown Rd B. 16, L. 1.01	Geospatial artifact
28839	0.075	B. 17.02, L. 67	Geospatial artifact, HOA common area
28840	0.571	3610 Rt 94 B. 16, L. 8.01	Geospatial artifact, 3 rd Rd Housing Element & Fair Share Plan
28841	0.571	3605 Rt 94 B. 14, L. 24.01	Geospatial artifact, 3 rd Rd Housing Element & Fair Share Plan
28842	0.274	3610 Rt 94 B. 16, L. 8.01	Geospatial artifact, 3 rd Rd Housing Element & Fair Share Plan
28845	1.055	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28849	0.059	3610 Rt 94 B. 16, L. 6.01	Geospatial artifact, 3 rd Rd Housing Element & Fair Share Plan
28852	0.074	3610 Rt 94 B. 16, L. 6.01	Geospatial artifact, 3 rd Rd Housing Element & Fair Share Plan

28853	22.234	3610 Rt 94 B. 16, L. 6.01	3 rd Rd Housing Element & Fair Share Plan
28854	0.434	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28855	0.074	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28856	0.076	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28857	0.572	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28858	0.172	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28859	8.783	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28860	0.092	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28861	18.848	3605 Rt 94 B. 14, L. 24.01	Geospatial artifact, 3 rd Rd Housing Element & Fair Share Plan
28862	3.484	3660 Rt 94 B. 16, Lot 3.03	3 rd Rd Housing Element & Fair Share Plan
28863	2.681	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28864	0.113	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28865	0.103	3601 Rt 94 B. 14, L. 22.01	Quarry
28866	0.217	3601 Rt 94 B. 14, L. 22.01	Quarry
28867	0.455	3601 Rt 94 B. 14, L. 22.01	Quarry
28868	0.626	3601 Rt 94 B. 14, L. 22.01	Quarry
28869	0.178	3601 Rt 94 B. 14, L. 22.01	Quarry
28870	1.235	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28871	0.290	3601 Rt 94 B. 14, L. 22.01	Quarry

28872	0.163	3601 Rt 94 B. 14, L. 22.01	Quarry
28873	0.083	3601 Rt 94 B. 14, L. 22.01	Quarry
28874	0.175	3601 Rt 94 B. 14, L. 22.01	Quarry
28875	0.168	3601 Rt 94 B. 14, L. 22.01	Quarry
28876	0.240	3601 Rt 94 B. 14, L. 22.01	Quarry
28877	0.225	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28878	0.176	3601 Rt 94 B. 14, L. 22.01	Quarry
28879	0.114	3601 Rt 94 B. 14, L. 22.01	Quarry
28880	0.067	3601 Rt 94 B. 14, L. 22.01	Quarry
28881	2.935	90 Tarrington Rd B. 16.36, L. 1	Pembridge
28882	0.099	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28883	34.361	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28884	0.100	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28885	0.690	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28886	0.147	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28887	0.129	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28888	0.066	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28889	0.307	3601 Rt 94 B. 14, L. 22.01	Quarry
28890	0.178	3601 Rt 94 B. 14, L. 22.01	Quarry open space

28891	1.058	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28892	0.527	3601 Rt 94 B. 14, L. 22.01	Quarry
28893	0.075	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28894	0.073	3601 Rt 94 B. 14, L. 22.01	Quarry open space
28895	0.136	3601 Rt 94 B. 14, L. 22.01	Quarry
28896	0.185	3601 Rt 94 B. 14, L. 22.01	Quarry
Total	241.678		

Based on these findings, the land capacity acres for Hardyston Township should be reduced from ±325.548 acres to ±83.870 acres.

Using the formulas, criteria, methodology and datasets required by sections 6 and 7 of P.L. 2024, c. 2 (N.J.S.A. 52:27D-304.2 and 304.3), we have further arrived at the Township’s updated land capacity factor, which in turn results in the reduction in the Township’s average allocation factor and ultimately the Township’s Prospective Need Obligation.

The reduction in the Township’s developable acres from 325.548 acres to ±83.870 acres, results in a revision to Region 1’s land capacity from 1,980 acres to 1,738 acres. Taken together, this revises Hardyston Township’s Land Capacity Allocation Factor, as set forth in the DCA Report, from 16.44% to **4.83%**.

Holding the DCA’s calculated Equalized Non-Residential Valuation Factor and Income Capacity Factor consistent, this corrected Land Capacity Factor changes Hardyston Township’s Average Allocation Factor from 5.85%, as set forth in the DCA Report, to $((0.39+4.83+0.71) / 3) = \mathbf{1.97\%}$. This in turn, reduces the Township’s Prospective Need for the Fourth Round from the DCA’s non-binding gross Prospective Need calculation of 1,622 units (before consideration was given by the DCA to application of the 20 percent statutory cap) to **548** units.

This determination is of course subject to further adjustments and reductions as permitted in the FHA and regulations associated therewith, including adjustments for: lack of vacant developable land (“vacant land adjustment”); lack of available sewer or water infrastructure (“durational adjustment”); consideration of the Highlands Regional Master Plan inputs, formulas or its build out; or the application of any applicable statutory “caps” and/or other adjustments set forth in

P.L. 2024, c. 2, Mount Laurel case law, and/or as codified in COAH's prior round regulations, or any combination thereof.

Conclusion and Recommendations

The methodology used to identify and exclude parcel types listed in the analysis is consistent with the published DCA Fourth Round 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 Township'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 and engineering certainty. We reserve the right to amend and supplement our findings, opinions and conclusions should additional information be made available at a later date.

Please contact me should you have any questions.