

RESOLUTION R25-80

**RESOLUTION OF THE BOROUGH OF LINCOLN PARK, COUNTY OF MORRIS, STATE OF
NEW JERSEY COMMITTING TO ROUND 4 PRESENT AND PROSPECTIVE NEED
AFFORDABLE HOUSING OBLIGATIONS**

WHEREAS, the Borough of Lincoln Park, County of Morris, State of New Jersey, (hereinafter, "Lincoln Park") has a demonstrated history of voluntary compliance with its constitutional affordable housing obligations; and

WHEREAS, on March 20, 2024, Governor Phil Murphy signed into law P.L. 2024, c.2, an Amendment to the 1985 Fair Housing Act (hereinafter "Amended FHA" or "Act"); and

WHEREAS, the Amended FHA requires the Department of Community Affairs ("DCA") to provide an estimate of the fair share affordable housing obligations of all municipalities on or before October 20, 2024 based upon the criteria on the Amended FHA; and

WHEREAS, the DCA issued a report on October 18, 2024 ("DCA Report") wherein it reported its estimate of the fair share affordable housing obligation for all municipalities based upon its interpretation of the standards in the Act; and

WHEREAS, the DCA Report calculates Lincoln Park's Round 4 (2025-2035) fair share affordable housing obligations as follows: a Present Need (Rehabilitation) Obligation of 15 and a Prospective Need (New Construction) Obligation of 202; and

WHEREAS, the Amended FHA provides that the DCA Report is non-binding, thereby inviting municipalities to demonstrate that the Amended FHA would support revised calculations of Round 4 fair share affordable housing obligations; and

WHEREAS, the Amended FHA gives municipalities the opportunity to propose a different fair share affordable housing obligation from those reported by the DCA on October 18, 2024 based upon the standards in Sections 6 and 7 of the Act; and

WHEREAS, the Amended FHA further provides that "[a]ll parties shall be entitled to rely upon regulations on municipal credits, adjustments, and compliance mechanisms adopted by the Council on Affordable Housing ("COAH") unless those regulations are contradicted by statute, including the Act, or binding court decisions" (N.J.S.A 52:27D-311 (m)); and

WHEREAS, COAH regulations empower municipalities to secure vacant land adjustments, durational adjustments and other adjustments; and

WHEREAS, Lincoln Park has accepted the Present Need (Rehabilitation) Obligation of 15 as reported by the DCA in its October 18, 2024 Report; and

WHEREAS, Lincoln Park has exercised its right to demonstrate that the data, when correctly applied, supports a lower Round 4 Prospective Need obligation than that reported by

the DCA on October 18, 2024; and

WHEREAS, more specifically, Lincoln Park maintains that its Round 4 prospective need number is 146 based upon its examination of the data used to calculate each of the three (3) allocation factors; and

WHEREAS, as to the Equalized Nonresidential Allocation Factor, Lincoln Park has examined the data the DCA used to establish this factor and concluded that DCA has accurately calculated this Factor; and

WHEREAS, as to the Income Capacity Allocation Factor, Lincoln Park has examined the data the DCA used to establish this factor and concluded that DCA has accurately calculated this Factor; and

WHEREAS, as to the Land Capacity Allocation Factor, Lincoln Park notes that the DCA belatedly provided the data it used to establish this factor, i.e., on or about November 27, 2024 instead of by October 20, 2024; and

WHEREAS, Lincoln Park further notes that the link to the DCA GIS data that the DCA belatedly made available to municipalities includes the following language:

"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); and

WHEREAS, Lincoln Park maintains that the areas the DCA identified as developable are indeed overinclusive and, consequently, its Professional Planner has prepared a report, attached hereto as Exhibit A, showing the lands that Lincoln Park contends should be removed from the inventory of sites used to fashion the Land Capacity Allocation Factor; and

WHEREAS, it is therefore important that Lincoln Park not commit to an incorrect obligation; and

WHEREAS, correcting the allocation factors results in Lincoln Park's Round 4 Prospective Need Obligation being 146 rather than the obligation established by DCA; and

WHEREAS, 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 Act; and

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

WHEREAS, in addition to setting forth its Round 4 fair share affordable housing obligations for the reasons summarized above, substantial activity has occurred and is ongoing that warrants the reservation of certain rights to avoid any claim that it has waived them; and

WHEREAS, for example, the New Jersey Institute of Local Government Attorneys (NJILGA) has expressed its support for proposed legislation (hereinafter "NJILGA Legislation") would reduce Lincoln Park's Round 4 Prospective Need to 35 and would give Lincoln Park "90 days from receipt of revised fair share obligations from the [DCA] to provide amended Housing Element and Fair Share Plans addressing the new number); and

WHEREAS, Lincoln Park supports the NJILGA Legislation and would have the right to reduce its Round 4 obligation in the event that the Legislature enacts the NJILGA Legislation; and

WHEREAS, similarly, a number of municipalities, led by the Borough of Montvale, have filed suit (MER-L-1778-24) (hereinafter "Montvale Litigation") challenging the validity of the Act and other aspects deriving from the Act, including, without limitation, Directive 14-24, issued by the Acting Director of the Administrative Office of the Courts (hereinafter, respectively, "Director" and "AOC"), as further referenced below; and

WHEREAS, the process established by the Amended FHA creates an opportunity to object by interested parties opposing the obligations to which a municipality commits, thereby creating the potential for litigation over the obligations of the municipality; and

WHEREAS, Lincoln Park is entitled to a vacant land adjustment in Round 4 that will be included in the HEFSP it submits by the June 30, 2025 deadline; and

WHEREAS, the Amended FHA requires municipalities to adopt a binding resolution no later than January 31, 2025 as to its obligations; and

WHEREAS, in light of the above, Lincoln Park finds that it is in its best interest to declare its obligations in accordance with this binding resolution in accordance with the Act; and

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

WHEREAS, pursuant to Directive #14-24, a municipality seeking compliance certification with the Act shall file an action in the form of a declaratory judgment complaint within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner; and

WHEREAS, Lincoln Park seeks a compliance certification with the Act and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED on this 21 day of January, 2025 by the Governing Body of the Borough of Lincoln Park, County of Morris, State of New Jersey, as follows:

1. The preamble of this resolution is incorporated into the operative clauses of this resolution as if set forth in full.
2. For the reasons set forth in this resolution and its attachments, Lincoln Park commits to a Round 4 Present Need (Rehabilitation) Obligation of 15 and a Round 4 Prospective Need (New Construction) obligation of 146, as set forth in the Exhibit(s) to this Resolution, subject to all reservations of all rights, which specifically include, without limitation, the following:
 - a) The right to a vacant land adjustment, durational adjustments, and all other applicable adjustments permitted in accordance with the Act and COAH regulations;
 - b) The right to comply with the NJILGA Legislation if enacted, including the right to adjust its fair share obligations;

c) The right to adjust its fair share obligation in the event of any future legislation that adjusts the fair share obligations that the DCA reported on October 18, 2024;

d) The right to adjust its fair share obligations based upon any ruling in the Montvale Litigation or other litigation; and

e) The right to adjust its fair share obligations in the event of a third-party challenge to the fair share obligations and Lincoln Park's response thereto.

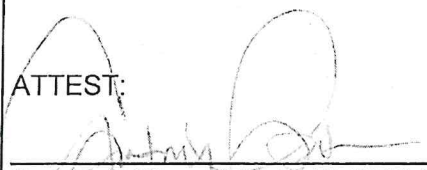
3. Lincoln Park hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint in the appropriate venue within 48 hours after adoption of this resolution attaching this resolution.

4. Lincoln Park hereby authorizes its Affordable Housing Counsel to file this resolution with the Program or any other such entity as may be determined to be appropriate.

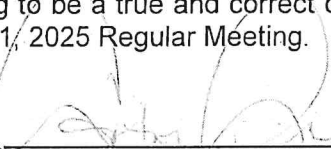
5. This resolution shall take effect immediately, according to law.


Ann Thompson, Council President

ATTEST:


Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

I, Courtney Fitzpatrick, RMC,CMC,MMC,CMR, Borough Clerk of the Borough of Lincoln Park, County of Morris, do hereby Certify the foregoing to be a true and correct copy of a Resolution Adopted by the Governing Body at the January 21, 2025 Regular Meeting.


Courtney Fitzpatrick, RMC,CMC,MMC,CMR
Borough Clerk
Borough of Lincoln Park

Cc: Perry Mayers
Fabiana Mello
Jennifer Postiglione
Ed Buzak
Paul Ricci
Tom Boorady
Keli Gallo
File Copy

MEMORANDUM

CLIENT PRIVILEGED COMMUNICATION

TO: Mayor Runfeldt and Members of the Borough Council

FROM: Paul Ricci, AICP, PP

RE: Analysis of Land Capacity Factor

DATE: January 14, 2025

The New Jersey Department of Community (“DCA”) used three factors to allocate the regional need to each municipality in the region. This report addresses one of those three factors: the Land Capacity Allocation Factor.

The DCA provided the data that was the basis for the Land Capacity Allocation Factor. The link to the DCA GIS data¹, and the description section, includes the following language:

The land areas identified in this dataset are based on an (sic) 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]

In consideration of the above, I have reviewed the 95 developable land areas in Lincoln Park identified in the DCA’s Vacant Land Output Layer, which was used as the basis to determine vacant developable land in Lincoln Park (land capacity factor).

The DCA sought to determine land that is developable in computing the Land Capacity Factor. In contrast, the analysis required for a vacant land adjustment requires an analysis of lands suitable for inclusionary development when determining a land-poor municipality’s realistic development potential (RDP). So, just because a site might be developable does not mean it is suitable for inclusionary development and should contribute to the RDP. Therefore, the findings in this report should in no way be construed as limiting the findings in a vacant land adjustment report that will be submitted in conjunction with the Housing Element and Fair Share Plan that is due by June 30, 2025.

This brief memorandum summarizes the findings of my review.

¹ <https://nidca.maps.arcgis.com/home/item.html?id=12acdfe0a5104f8f8a2f604e96063e74>

Calculation of Adjustment

The areas identified as developable in the DCA's calculation of the Land Capacity factor is indeed overinclusive. More specifically, we believe that only 51.77 acres are developable, not the 95.72 weighted acres that the DCA found to be developable.

Exhibit A-1 identifies the sites that the DCA reported as developable that are not and specifies why each site was removed from the list of developable sites. The following analysis summarizes the basis for removing land treated as developable in the DCA's calculation:

- Each property was analyzed in a geographic information system where environmental constraints layers, lot lines, and aerial photography were viewed. We also relied upon our knowledge of recent developments and the history of properties in Lincoln Park. This also consisted of information provided by the Borough Engineer.
- Slivers of land within already developed sites were reclassified as developed and not available for development.
- Many sites were either developed or previously developed and are currently restricted from future development, resulting from being located in a flood hazard area or pockets of land surrounded by steep slopes.
- The attached mapping in Exhibits A-2 and A-3 shows each site with and without multiple layers, i.e., environmental constraints, etc., which further supports this analysis.

Utilizing the correct identification of developable parcels results in the Borough's Round 4 Prospective Need being 146, not 202. Exhibit B shows that calculation.

Regarding the Borough's Rehabilitation Obligation (Present Need), the Borough found outside of conducting a windshield survey that the requirement of 15 units is reasonable and accepts the 15 unit Present Need requirement.

Exhibit A-1 - Analysis of DCA Vacant Land Output - Borough of Lincoln Park, Morris County, New Jersey

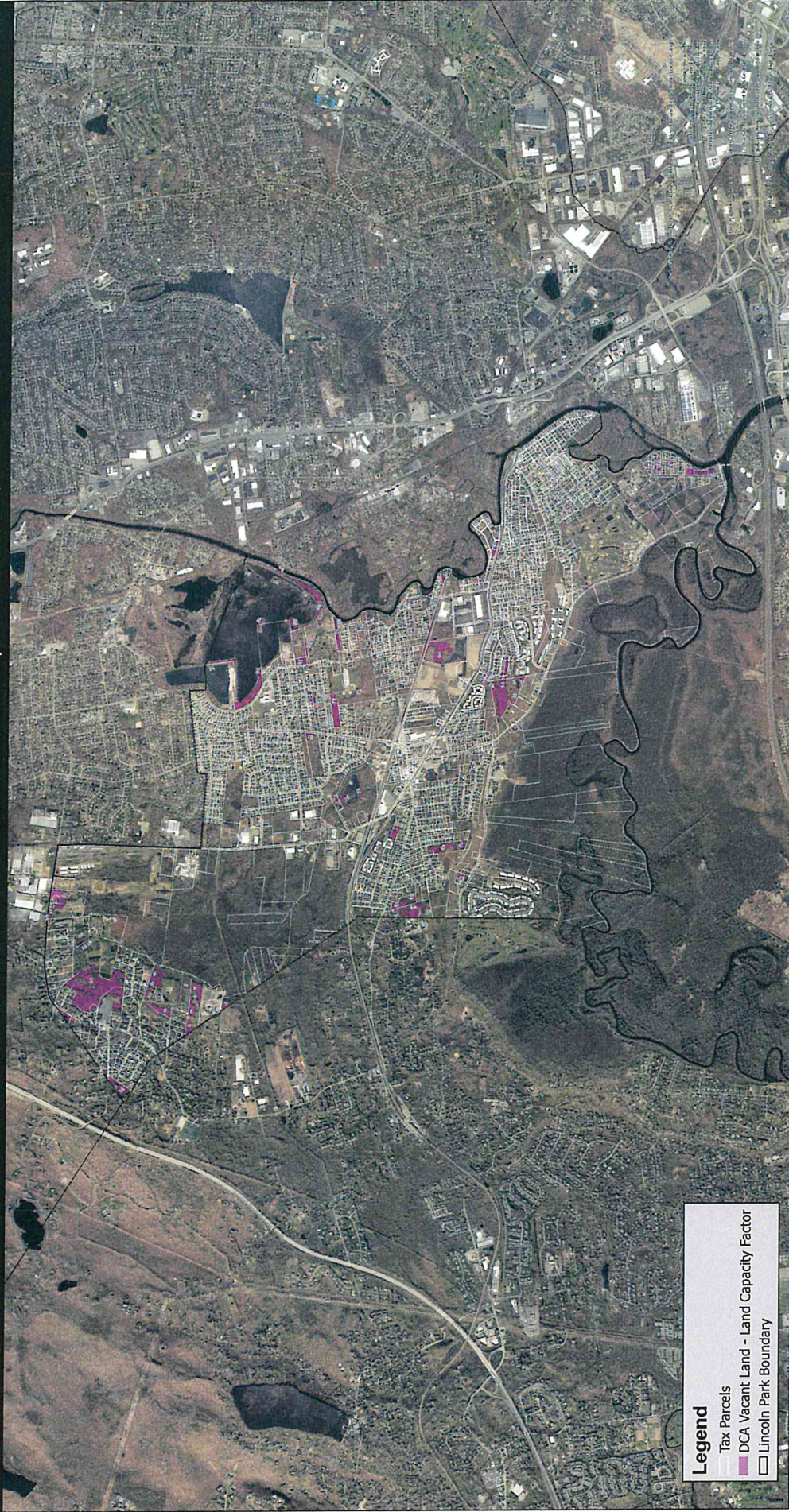
Id#	Weight Factor	Weighted (Acres)	Weighted Buildable (Acres)	Notes	Developable
4	0.5	0.78459		Property is landlocked.	No
5	0.5	0.29432		Property is already developed	No
6	0.5	1.48995		Property is already developed	No
7	0.5	0.13980		Property is already developed	No
8	0.5	1.41807		Property is already developed	No
9	0.5	0.03252		Property is already developed	No
10	0.5	0.46583		Property is already developed	No
12	0.5	0.03575		Property is already developed	No
14	0.5	0.04751		An already developed religious property.	No
18	0.5	0.04728		Surrounded by steep slopes, and within steep slopes. No access. Developed property.	No
19	0.5	0.06425		Surrounded by steep slopes, and within steep slopes. No access. Developed property.	No
20	0.5	0.13639		Surrounded by steep slopes, and within steep slopes. No access. Developed property.	No
24	0.5	0.15954		Site is impacted by floodplain	No
25	1	3.01749		Site is impacted by floodplain	No
26	1	0.20256		Site is impacted by floodplain	No
27	1	0.21713		Site is impacted by floodplain	No
28	1	0.17759		Site is impacted by floodplain	No
29	1	0.82692		Site is impacted by floodplain	No
30	1	0.06574		Site is impacted by floodplain	No
33	1	0.58274		Isolated portion of parcel where access must come through steep sloped area.	No
34	1	0.59011		Isolated portion of parcel where access must come through steep sloped area.	No
35	1	0.41763		Isolated portion of parcel where access must come through steep sloped area.	No
36	1	0.07118		Isolated portion of parcel where access must come through steep sloped area.	No

Id#	Weight Factor	Weighted (Acres)	Weighted Buildable (Acres)	Notes	Developable
37	1	0.09185		Sliver of land surrounded by steep slopes.	No
44	1	1.18962		Site is located within the floodplain has steep slopes and adjoins the Pompton River	No
45	1	0.06859		Site is located within the floodplain has steep slopes and adjoins the Pompton River	No
46	1	0.18612		Site is located within the floodplain has steep slopes and adjoins the Pompton River	No
48	1	0.28439		Site is in the 100 year floodplain on the Pompton River.	No
49	1	0.10774		Site is in the 100 year floodplain on the Pompton River.	No
50	1	0.57864		Isolated area on lot surrounded by steep slopes - no access	No
51	1	0.07123		Isolated area on lot surrounded by steep slopes - no access	No
53	1	0.10704		Isolated area on lot surrounded by steep slopes - no access. Contains steep slopes	No
54	1	0.20984		Isolated area on lot surrounded by steep slopes - no access. Contains steep slopes	No
55	1	0.18917		Isolated area on lot surrounded by steep slopes - no access. In 100 year floodplain	No
56	1	0.25201		Site is in the 100 year floodplain on the Pompton River.	No
58	1	0.19868		Site is in the 100 year floodplain	No
60	1	6.08199		Site is in the 100 year floodplain	No
61	1	0.77083		Site is located near steep slopes and railway, too narrow to build and in floodplain	No
62	1	0.09425		Site is located near steep slopes and railway, too narrow to build and in floodplain	No
66	1	0.27377		Site is located near steep slopes and railway, too narrow to build and in floodplain	No
69	1	0.07636		Morris County Preserved Open Space	No
70	1	0.44369		Sliver of land on a developed property	No
71	1	0.30277		Morris County Preserved Open Space	No
72	1	0.08787		Sliver of land on a developed property	No
73	1	0.69165		Morris County Preserved Open Space	No

Id#	Weight Factor	Weighted (Acres)	Weighted Buildable (Acres)	Notes	Developable
74	1	0.06899		Sliver of land too small to build on in the floodplain	No
75	1	0.07644		In 100 year floodplain	No
76	1	0.82904		Morris County Preserved Open Space	No
77	1	0.09003		In the 100 year floodplain	No
78	1	2.02671		In the 100 year floodplain on Pompton River	No
81	1	0.36419		Landlocked	No
83	1	0.07109		Community lake and floodplain	No
84	1	0.12995		Community lake and floodplain	No
85	1	0.27870		Community lake and floodplain	No
86	1	0.94448		Community lake and floodplain	No
87	1	1.79671		Within 100 year floodplain of Pompton River	No
88	1	0.87456		Community lake and floodplain	No
89	1	3.23741		Community lake and floodplain	No
90	1	0.07655		Community lake and floodplain	No
91	1	0.25511		Community lake and floodplain	No
92	1	0.22046		Community lake and floodplain	No
93	1	4.86920		Community lake and floodplain	No
94	1	1.07228		Community lake and floodplain	No
0	0.5	0.55467	0.55467	Developable	Yes
1	0.5	1.37158	1.37158	Landlocked and isolated area behind steep slopes.	Yes
2	0.5	0.20528	0.20528	Landlocked and isolated area behind steep slopes.	Yes
3	0.5	0.82042	0.82042	Landlocked and isolated area behind steep slopes.	Yes
11	0.5	0.06209	0.06209	Developable	Yes
13	0.5	0.03141	0.03141	A portion of an unpreserved farm - presumably developable under the law.	Yes
15	0.5	0.03871	0.03871	Developable	Yes
16	0.5	1.21231	1.21231	A developed property, but considering this developable	Yes
17	0.5	0.17388	0.17388	Developable	Yes
21	0.5	0.07393	0.07393	Developable	Yes
31	1	0.07770	0.07770	Developable, but adjoins steep slopes and unimproved right-of-way. No current access	Yes
32	1	0.08037	0.08037	Developable, but frontage adjoins steep slopes.	Yes
38	1	0.94855	0.94855	Developable	Yes

Id#	Weight Factor	Weighted (Acres)	Weighted Buildable (Acres)	Notes	Developable
39	1	0.06716	0.06716	Developable	Yes
40	1	0.33437	0.33437	Developable	Yes
41	1	0.41638	0.41638	Developable - adjoins steep slopes	Yes
42	1	7.95661	7.95661	Developable - adjoins steep slopes	Yes
43	1	0.35012	0.35012	Developable - adjoins steep slopes	Yes
47	1	0.52676	0.52676	Developable	Yes
52	1	1.05479	1.05479	Developable	Yes
57	1	3.05894	3.05894	Developable	Yes
59	1	0.23855	0.23855	Developable	Yes
63	1	0.10242	0.10242	Developable	Yes
64	1	4.17444	4.17444	Developable	Yes
65	1	1.32927	1.32927	Developable	Yes
67	1	1.82849	1.82849	Developable	Yes
68	1	1.87540	1.87540	Developable	Yes
79	1	4.51736	4.51736	Developable - Partially in floodplain	Yes
80	1	0.10457	0.10457	Developable - Property is already developed.	Yes
82	1	0.96874	0.96874	Developable	Yes
22	0.5	14.64906	14.64906	Remove 4.17 acres as developable as it is located on an already developed site.	Yes-Partial
23	0.5	0.69036	0.69036	Developable, remove 12,450 sq. ft. associated with an access driveway.	Yes-Partial
95	1	4.90546	1.87902	Site is impacted by floodplain - Partially developable for a total of 81,850 sq. ft.	Yes-Partial
		95.72504	51.77373		

Exhibit A-2
DCA Land Capacity Property Analysis Key Map
Lincoln Park, New Jersey



ricciplanning

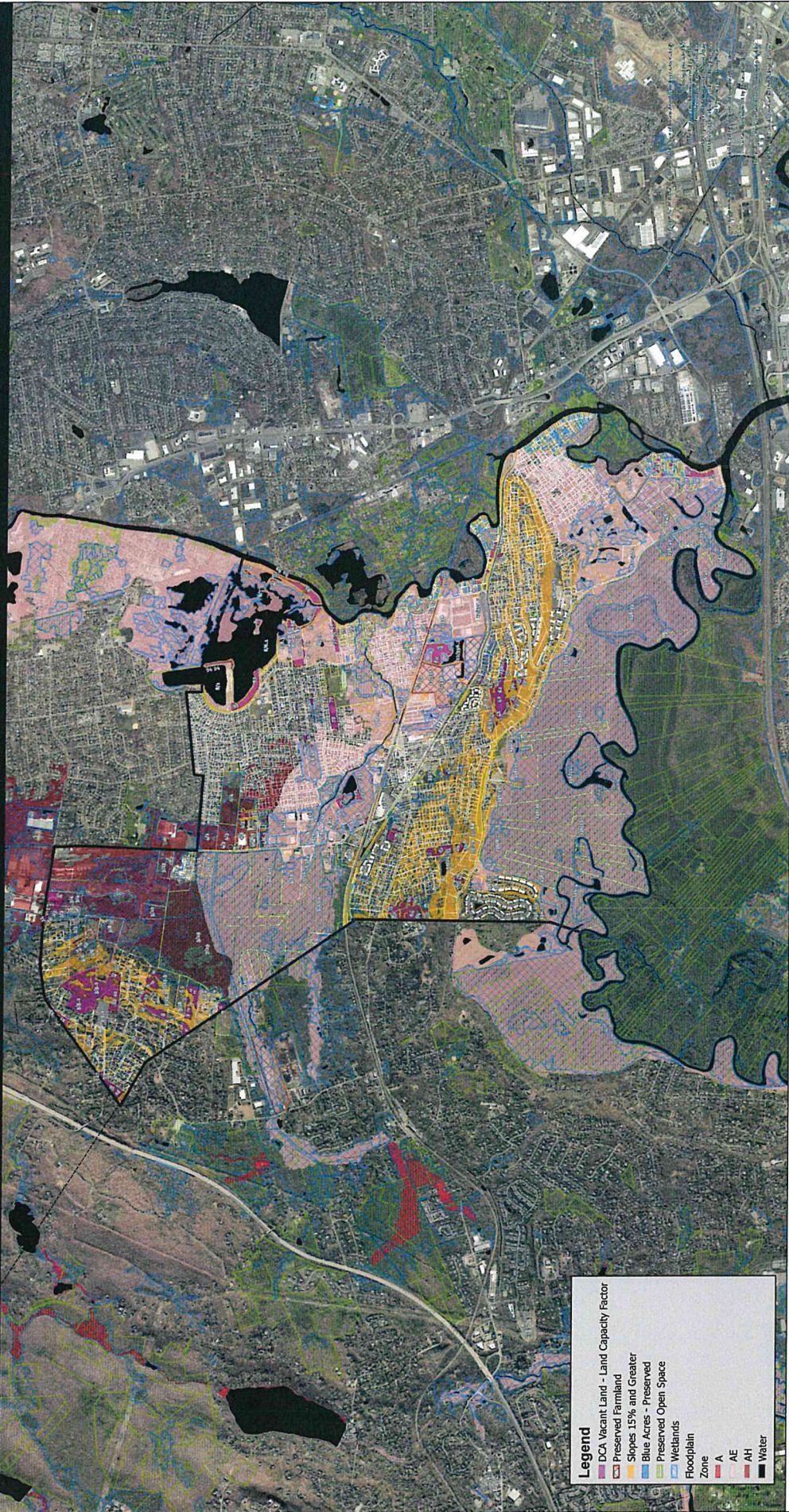
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January 3, 2025

Prepared by Paul Ricci, AICP, PP
Aerial Date: 2020

Exhibit A-3
 DCA Land Capacity Property Analysis Key Map - With Constraints
 Lincoln Park, New Jersey



Legend

- DCA Vacant Land - Land Capacity Factor
- Preserved Farmland
- Slopes 15% and Greater
- Blue Acres - Preserved
- Preserved Open Space
- Wetlands
- Floodplain
- Zone
- A
- AE
- AH
- Water

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January 3, 2025

Prepared by Paul Ricci, AICP, PP
 Aerial Date: 2020

Exhibit B - Adjusted Affordable Housing Obligation

	Equalized Nonresidential Valuation Factor	Land Capacity Factor	Income Capacity Factor	Average Allocation Factor	Total Municipal Vacant Developable Land	Total Regional Vacant Developable Land	Prospective Need	Regional Need
Calculated by NJDCA	0.43%	1.79%	0.74%	0.98%	95.72504	5,358.483394	202	20,506
Adjusted by Ricci Planning	0.43%	0.97%	0.74%	0.71%	51.77373	5,314.53	146	20,506