

**RESOLUTION 97-2019**

**A RESOLUTION OF THE BOROUGH OF WOODBURY HEIGHTS ACCEPTING THE FAIR SHARE HOUSING PLAN AND ADOPTING THE SPENDING PLAN**

**WHEREAS**, the Mount Laurel series of cases recognized that the power to zone carries a constitutional obligation to do so in a manner that creates a realistic opportunity for producing a fair share of the regional present and prospective need for housing low and moderate income families; and

**WHEREAS**, the Legislature enacted the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., which created the Council on Affordable Housing, commonly referred to as COAH and vested primary responsibility for assigning and determining municipal affordable housing obligations in that body; and

**WHEREAS**, the Fair Housing Act also included a process for substantive certification by COAH, which, if granted, would render a municipality's housing element and ordinances presumptively valid in any exclusionary zoning litigation; and

**WHEREAS**, the New Jersey Supreme Court decision In Re Adoption of N.J.A.C. 5:96 and 5:97 decided March 10, 2015, determined that the administrative process established through COAH had become non-functioning, thereby rendering futile the Fair Housing Act's administrative remedy; and

**WHEREAS**, accordingly, the Supreme Court removed the requirement of the Fair Housing Act for the exhaustion of administrative remedies through COAH and permitted direct access to the Courts for exclusionary zoning litigation; and

**WHEREAS**, the Borough of Woodbury Heights has in the past demonstrated its commitment to comply with its affordable housing obligations and received from COAH substantive certification under COAH's Round One, Round Two and Round Three Rules; and

**WHEREAS**, the Borough of Woodbury Heights is a fundamentally inclusionary community and has not used its zoning powers to exclude low and moderate income households as demonstrated by the measures taken to provide opportunities for the provision of affordable housing; and

**WHEREAS**, the Borough of Woodbury Heights has filed a Declaratory Judgment Action in the Superior Court of New Jersey, Gloucester County, in furtherance of the Supreme Court's March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015); and

**WHEREAS**, the Borough of Woodbury Heights filed an action titled In the Matter of the Application of the Borough of Woodbury Heights, Docket Number GLO-L-910-15 on July 7, 2015 seeking a declaration of its compliance with the Mount Laurel Doctrine and the Fair Housing Act of 1965, N.J.S.A. 52:27D-301 in accordance with In re N.J.A.C. 5:96 and 5:9 supra; and

**WHEREAS**, the Borough of Woodbury Heights and the Fair Share Housing Center ("FSHC") agreed to settle the litigation and to present such settlement to the trial court having jurisdiction over the matter; and

**WHEREAS**, on May 22, 2018 a fairness hearing was held and the Court entered an order finding that the Borough's proposed affordable housing strategy is constitutionally compliant and provides a fair and reasonable opportunity for the Borough to meet its obligation under Mount Laurel IV, subject to the Borough's compliance with the following requirements:

- a. The adoption of a Housing Element and Fair Share Plan ("Fair Share Plan") by the Borough's Land Use Board, consistent with the standards set forth in N.J.S.A. 40:55D-1, et seq. and with Mount Laurel IV.
- b. The ratification of the Fair Share Plan by the Borough Council via adoption of the requisite ordinance(s) consistent with Article Eight of the Municipal Land Use Law and such other applicable standards of 40:55D-1 et seq. and with Mount Laurel IV.
- c. Adoption of the requisite amendments to the Borough's Affordable Housing and Zoning Ordinance to implement the terms of the Settlement Agreement between FSHC and the Township.
- d. Implementation of all terms contained in the Settlement Agreement between FSHC and the Borough dated March 28, 2018.
- e. Adoption of the requisite "Spending Plan" as contemplated by *N.J.S.A. 52:27D-329.2 and 329.3*.
- f. Submission to the Court, the Master and FSHC of a Certification by the Borough Planner, Tiffany A. Morrissey, P.P., A.I.C.P., also confirming that the aforesaid measures have been duly completed.

**WHEREAS**, the borough Planner Tiffany A. Morrissey, P.P., A.I.C.P., has prepared a 2019 Amendment to the Master Plan Housing Element and Fair Share Plan and a 2019 Amendment to the Master Plan Spending Plan; and

**WHEREAS**, the 2019 Amended Master Plan Housing Element and Fair Share Plan and the 2019 Amended Master Plan Spending Plan were formally presented to the Planning Board and the public in a duly noticed public hearing held on August 12, 2019 and at such public hearing the Planning Board considered the relevant testimony presented and makes the following findings of fact and conclusions:

- a. The 2019 Amended Master Plan Housing Element and Fair Share Plan has been prepared in accordance with the requirements of N.J.S.A. 40:55D-89 and the requirements of Mount Laurel IV;
- b. The 2019 Amended Master Plan Spending Plan is consistent with N.J.S.A. 52:27D-329.2 and 329.3 and these funds shall be expended appropriately on the affordable housing activities set forth in the Spending Plan;
- c. A public hearing in accordance with the requirements of N.J.S.A. 40:55D-89 has been held by the Planning Board with appropriate public notice; and

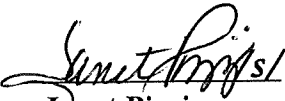
**WHEREAS**, the Land Use Board of the Borough of Woodbury Heights at its meeting of August 12, 2019 adopted Resolution No. 2019-11 memorializing its adoption of the attached 2019 Amended Master Plan Housing Element and Fair Share Plan and endorsing the 2019 Amended Master Plan Spending Plan, both prepared by Borough Planner Tiffany A. Morrissey, P.P., A.I.C.P.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough and by the Mayor and Borough Council for the Borough of Woodbury Heights, County of Gloucester, State of New Jersey that:

1. The Borough accepts the 2019 Amended Master Plan Housing Element and Fair Share Plan and adopts the 2019 Amended Master Plan Spending Plan.
2. The Borough Planner, the Borough Engineer and the Borough Solicitor are authorized and directed to prepare the appropriate ordinances in order to implement the changes in the 2019 Amended Master Plan Housing Element and Fair Share Plan and to implement the Amended Spending Plan and to take such further actions as may be reasonable and necessary.
3. The Borough Solicitor is authorized to submit to the Court for its review and approval the Borough's updated Housing Element and Fair Share Plan, including implementing ordinances, and the Borough's Spending Plan and to take such further actions as may be reasonable and necessary, along with the Borough Planner, and Borough Engineer, to obtain a Judgment of Compliance and Repose.

Certified to be a true copy of a Resolution adopted by the Borough, the Mayor and Council of the Borough of Woodbury Heights, County of Gloucester and State of New Jersey, on the 21<sup>th</sup> day of August, 2019.

**BOROUGH OF WOODBURY HEIGHTS**

  
**Janet Pizzi,**  
**Borough Clerk**

| Recorded Vote: | MOTIONS  | AYE | NAY | ABSTAIN | ABSENT |
|----------------|----------|-----|-----|---------|--------|
| GETSINGER      |          | ✓   |     |         |        |
| MORISON        |          | ✓   |     |         |        |
| PYE            | ✓ (2ND)  | ✓   |     |         |        |
| WITASICK       |          | ✓   |     |         |        |
| CAMBALE        |          | ✓   |     |         |        |
| PITZO          | ✓ (MAIN) | ✓   |     |         |        |
|                |          |     |     |         |        |

**BOROUGH OF WOODBURY HEIGHTS**

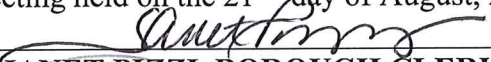
BY:   
**WILLIAM C. PACKER, MAYOR**

**ATTEST:**

  
**JANET PIZZI, BOROUGH CLERK**

**NOTICE**

The foregoing Resolution was duly adopted by the Borough Council of the Borough of Woodbury Heights at the Regular Meeting held on the 21<sup>TH</sup> day of August, 2019.

  
**JANET PIZZI, BOROUGH CLERK**