

COUNCIL OF THE BOROUGH OF FAIR HAVEN  
MONMOUTH COUNTY, NEW JERSEY  
RESOLUTION

**Motion by:** Councilman Rodriguez

**Second by:** Councilwoman Koch

**AFFIRMATIVE:** Councilmembers Chrisner-Keefe, Koch, McCue, Neff and Rodriguez

**NEGATIVE:** None

**ABSTAIN:** None

**ABSENT:** None

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**RESOLUTION NO. 2021-149**

**TITLE: ENDORSEMENT OF THE AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN ADOPTED BY THE FAIR HAVEN PLANNING BOARD**

**WHEREAS**, on or about March 19, 2020, the Borough of Fair Haven (“Borough”) filed a declaratory action (“Action”) with the Superior Court of New Jersey pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (“Mount Laurel IV”), seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan, to be amended as necessary, satisfies its obligation to create the realistic opportunity to meet its “fair share” of the regional need for low- and moderate-income housing pursuant to the “Mount Laurel doctrine” and

**WHEREAS**, the Borough simultaneously pursued, and ultimately secured, a protective order providing Fair Haven immunity from all exclusionary zoning lawsuits while it pursues approval of its Housing Element and Fair Share Plan, which is still in full force and effect; and

**WHEREAS**, the Borough engaged in negotiations with the Fair Share Housing Center (“FSHC”) and executed a settlement agreement with FSHC on February 12, 2020; and

**WHEREAS**, M&M Realty Partners at Fair Haven, LLC (“M&M”) is an interested party in the Borough’s Action and on February 12, 2020 the Borough executed a settlement agreement with M&M; and

**WHEREAS**, a Fairness Hearing was held on June 18, 2018, at which time the settlement agreement was approved, and said approval was later memorialized in an Order dated June 4, 2020; and

**WHEREAS**, in accordance with the terms of the settlement agreements, the Borough’s planner, Heyer, Gruel & Associates, prepared an amended Housing Element and Fair Share Plan; and

**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:44D-13, the Planning Board held a public hearing on the amended Housing Element and Fair Share Plan on May 18, 2021 and adopted the amended Housing Element and Fair Share Plan on the same day; and

**WHEREAS**, a true copy of the resolution of the Planning Board adopting the amended Housing Element and Fair Share Plan is attached hereto as Exhibit A; and

**WHEREAS**, the Governing Body of the Borough of Fair Haven wishes to endorse the amended Housing Element and Fair Share Plan and seeks approval of the amended Housing Element and Fair Share Plan from the Court.

**WHEREAS**, on April 29, 2021 the Court held a Compliance Hearing to evaluate the Housing Element and Fair Share Plan;

**WHEREAS**, at the hearing, the Court found that the Borough's HEFSP creates a realistic opportunity for the construction of the Borough's fair share of the regional affordable housing need and therefore approved the Borough's plan, as amended and as proposed to be adopted by the Borough at a Planning Board hearing.

**WHEREAS**, once the Borough's Amended HEFSP is adopted and other minor outstanding items completed, the Borough will be entitled to a final Judgment of Compliance and Repose, which will insulate the Borough from builder's remedy litigation until July 2025.

**NOW THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Fair Haven, County of Monmouth, State of New Jersey:

1. That it hereby endorses the amended Housing Element and Fair Share Plan, as adopted by the Fair Haven Borough Planning Board on May 18, 2021 via the Planning Board resolution, attached hereto as Exhibit A.
2. That it authorizes and directs its professionals to file with the Court or its Master (i) the Housing Element and Fair Share Plan, (ii) the resolutions of the Planning Board adopting and the Borough Council endorsing the Housing Element and Fair Share Plan, and (iii) any additional documents the professionals deem necessary or desirable.
3. That it authorizes its professionals to seek Court approval of the Amended Housing Element and Fair Share Plan through submission to the Court's Special Master;
4. That it reserves the right to amend the Housing Element and Fair Share Plan, should that be necessary.

I, Allyson M. Cinquegrana, Municipal Clerk of the Borough of Fair Haven in the County of Monmouth and the State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a resolution, adopted by the Mayor and Council of the Borough of Fair Haven in the County of Monmouth in the State of New Jersey at a meeting held on May 24, 2021.



Allyson M. Cinquegrana, RMCCMR  
Municipal Clerk

**BOROUGH OF FAIR HAVEN PLANNING BOARD RESOLUTION**

RESOLUTION OF MEMORIALIZATION OF MASTER PLAN AMENDMENTS  
BOROUGH OF FAIR HAVEN PLANNING BOARD

WHEREAS, the Planning Board of the Borough of Fair Haven has the authority and responsibility, pursuant to *N.J.S.A.* 40:55D-25(a)(1) and *N.J.S.A.* 40:55D-28, to adopt and amend a master plan for the Borough of Fair Haven in order to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare; and

WHEREAS, *N.J.S.A.* 40:55D-28b (2) (b) and (3) authorize the adoption and amendment of the land use and housing plan elements of the master plan; and

WHEREAS, A Housing Element and Fair Share Plan was first adopted by the Fair Haven Planning Board on March 19, 2019 (“2019 HEFSP”). A second HEFSP was subsequently adopted by the Planning Board on September 22, 2020 (“2020 HEFSP”). Since the time of the adoption of the 2020 HEFSP, an amendment to the settlement agreement with M&M Realty Partners at Fair Haven, LLC (“M&M”) was prepared and executed by the Borough and M&M in April 2021. Additionally, a Memorandum of Understanding between the Borough and Habitat for Humanity was executed in December 2020 with an amendment to such MOU being executed by both parties in February 2021. The Fair Share Housing Center also requested specific changes to the 2020 HEFSP to update the circumstances of specific projects as well as to provide water and sewer capacity analysis for the proposed inclusionary development sites (the above WHEREAS clause hereinafter referred to as Changes); and

WHEREAS, The Borough’s Housing Element and Fair Share Plan has been amended again, to incorporate the above referenced changes; and

WHEREAS at a public hearing held on May 18, 2021, the Planning Board considered amendments to the Housing Element and Fair Share Housing Plan, incorporating the Changes; and

WHEREAS, the Planning Board at the conclusion of the public hearing voted to adopt the aforesaid master plan amendments, and now seeks to memorialize that action.

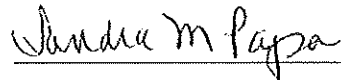
NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Fair Haven on this 18nd day of May 2021 that this Resolution memorializes the adoption of the above-referenced amendments to the Master Plan of the Borough of Fair Haven.

BE IT FURTHER RESOLVED that this Resolution be and herewith is effective on May 18, 2021

The foregoing Resolution was offered by Lehder  
and seconded by Rolff  
and adopted by a roll call vote:  
In favor: Busch, Koch, Newell, Paolo, Rolff, Lehder  
Opposed: None  
Abstained: Nitka, Murray, D'Angelo  
Ineligible: None  
Absent: Bordelon

The undersigned, Secretary of the Planning Board of the Borough of Fair Haven, does hereby certify that the foregoing is a true copy of the Resolution duly adopted by the Board at its meeting held on May 18, 2021.

Dated:



Sandra M. Papa, Board Secretary