

Andrew Bayer

Member of the Firm
abayer@pashmanstein.com
Direct: 732.405.3686



December 14, 2020

Via Email Only

Donna A. Rendeiro, Executive Director
State of New Jersey, Department of State
Business Action Center
Office of Planning Advocacy
P.O. Box 820
Trenton, NJ 08625-0820

**Re: Township of Holmdel Map Amendment
Response to 11/24 20 Plan Implementation Committee Meeting**

Dear Ms. Rendeiro:

This firm represents the Township of Holmdel ("Holmdel") in connection with the above-referenced matter. Please accept this letter and attached report from the Holmdel Township Planner, Paul A. Phillips, P.P. AICP, in furtherance of the Walters Group's Petition for a State Plan Policy Map amendment within Holmdel Township and in objection to Hazlet Township's request to expand the Metropolitan Planning area to all lands north of the Garden State Parkway, which amounts to nearly one-third of Holmdel's land area.

Hazlet Township has submitted objection letters to the State Planning Commission originally objecting to the expansion of the Metropolitan Planning Area (PA-1) to include a 50-unit one hundred percent affordable housing project located at Block 57, Lot 2, adjacent to the Hazlet border, in furtherance of Holmdel's constitutional obligation to provide for its fair share of affordable housing. Alternatively, Hazlet contends that if the Planning Area is going to be expanded, it should be extended to all lands north of the Garden State Parkway. Hazlet's arguments concerning Holmdel's affordable housing decisions are both procedurally and substantively misplaced. And, Hazlet's contentions are also wrong from a planning perspective as well.

Notwithstanding that Holmdel Township historically participated in the COAH process going back to the 1990s, Hazlet does not advise the Commission that it has never participated in Holmdel's affordable housing legal matters until after the Court approved the inclusion of the Middle Road site in its fair share plan earlier this year. Moreover, when Holmdel filed a declaratory judgment action in response to the Supreme Court's decision in Mt. Laurel IV in 2015, it never filed a motion to intervene in that court matter which is still pending today. Since the initiation of its *Mt. Laurel* court action, the Holmdel Township Committee approved three settlement agreements with Fair Share Housing Center between 2017 and 2019, and Hazlet never

Bell Works
101 Crawfords Corner Road
Suite 4202
Holmdel, NJ 07733
Phone: 732.852.2481
Fax: 732.852.2482
www.pashmanstein.com

Court Plaza South
21 Main Street, Suite 200
Hackensack, NJ 07601
Phone: 201.488.8200
Fax: 201.488.5556

appeared or objected to the Township's approvals of these settlement agreements. Moreover, the Township noticed two court scheduled Fairness Hearings to consider approval of the Township's settlement agreements with Fair Share Housing Center, and Hazlet never appeared at these hearings. Because of these Fairness Hearings, one of which lasted for approximately eight hours, the Court entered Orders on May 1, 2019 and April 28, 2020 approving the Settlement Agreements with Fair Share Housing Center. The Court then orally entered a Judgment of Repose and Compliance on August 5, 2020 protecting the Township from builder's remedy litigation through July 2025.

Hazlet's arguments are also contrary to the principles underlying the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) that is the entire *Mt. Laurel* process is a legal advance of local home rule, that is the Legislature intended to empower municipalities to decide how it intended to comply with its fair share obligation and prevent developers or adjoining municipalities from interfering with a municipality's fair share choices and to suppress builder's remedy litigation. See N.J.S.A. 52:27D-303, 309, and 316. Thus, the Fair Housing Act incentivized municipal voluntary compliance by empowering them to determine how to address its fair share. And, if did not voluntarily comply, it would be subject to exclusionary zoning lawsuits and builder's remedy, and a municipality could lose control of its zoning density.

Holmdel chose to rely upon Block 57, Lot 2 as part of its affordable housing strategy as it is entitled to do under the Fair Housing Act and COAH's implementing regulations. Hazlet's assertion that it should and can satisfy its obligation elsewhere in Holmdel Township is simply contrary to the Fair Housing Act, and COAH's implementing regulations. Instead, Hazlet should be more concerned about the manner in which it meets its own constitutional obligation to provide for its fair share of affordable housing.

For the reasons set forth in the Township's planning report dated December 14, 2020, and for the additional reasons already articulated by the Planning Implementation Committee ("PIC"), the PIC should stand by its decision to expand the Metropolitan Planning Area (PA-1) within Holmdel Township to the area recommended by the PIC at its November 24, 2020 meeting.

Very truly yours,
Pashman Stein Walder Hayden, PC

By: /s/ Andrew Bayer
Andrew Bayer

Attachment

cc: Michael Gross, Esq.
James Gorman, Esq.