

**Resolution No. 01-2021**

**RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF CALDWELL  
ADOPTING A HOUSING ELEMENT AND FAIR SHARE PLAN**

**WHEREAS**, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), the Borough of Caldwell (hereinafter “Caldwell” or the “Borough”) filed a Declaratory Judgment Complaint on or about May 27, 2016, in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and 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 Borough simultaneously sought, and ultimately secured, a protective order providing Caldwell immunity from all exclusionary zoning lawsuits while it pursued approval of its Housing Element and Fair Share plan, which is still in full force and effect; and

**WHEREAS**, the Court also appointed Elizabeth McManus, PP, AICP as the Special Court Master (hereinafter the “Court Master”), as is customary in Mount Laurel matters adjudicated in the courts; and

**WHEREAS**, with assistance from the Court Master, the Borough and Fair Share Housing Center (hereinafter “FSHC”) engaged in good faith negotiations, which resulted in a Settlement Agreement between the Borough and FSHC dated July 30, 2020 (hereinafter “FSHC Settlement Agreement”); and

**WHEREAS**, a Fairness Hearing was held on October 25, 2019, during which settlement agreements with Landmark Real Estate Developers, II Inc. (hereinafter “Landmark”), and Thomas Stille (hereinafter “Stille”) were approved, and said approvals were memorialized by an Order entered by the Court on November 14, 2019; and

**WHEREAS**, as per the terms of the July 30, 2020 FSHC Settlement Agreement and the Court’s November 14, 2019 Order as to Landmark and Stille, the Borough’s planner has prepared ad Housing Element and Fair Share Plan, which has been reviewed and modified by the Borough’s affordable housing counsel, and which is attached hereto with Appendices as **Exhibit A**; and

**WHEREAS**, the members of the Planning Board have reviewed the Housing Element and Fair Share Plan, and have determined to adopt same; and

**WHEREAS**, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the Housing Element and Fair Share plan on February 10, 2021; and

**WHEREAS**, the Planning Board had determined that the attached Housing Element and Fair Share Plan is consistent with the goals and objectives of the Borough of Caldwell’s current Master Plan, and that adoption and implementation of the Housing Element and Fair Share Plan

is in the public interest and protects public health and safety and promotes the general welfare;  
and

**WHEREAS**, the Planning Board anticipates that the Appendices to the attached Housing Element and Fair Share Plan may or may not be amended and supplemented subject to the approval of the Borough's professionals, FSHC, the Court Master and the Court.

**NOW THEREFORE BE IT RESOLVED** by the Planning Board of the Borough of Caldwell, County of Essex, State of New Jersey, that the Planning Board hereby adopts the Housing Element and Fair Share Plan, attached hereto as **Exhibit A**.

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Chairman of the Planning Board

I hereby certify that this is a true copy of the resolution adopting the Housing Element and Fair Share Plan of the Borough of Caldwell, County of Essex, on February 10, 2021.

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Planning Board Secretary