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IN THE MATTER OF THE APPLICATION OF THE TOWNSHIP OF SOUTH BRUNSWICK FOR A JUDGMENT OF COMPLIANCE AND REPOSE AND TEMPORARY IMMUNITY FROM <u>MOUNT LAUREL</u> LAWSUITS	SUPERIOR COURT OF NEW JERSEY LAW DIVISION MIDDLESEX COUNTY DOCKET NO.: CIVIL ACTION – <u>MOUNT LAUREL</u>
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BRIEF AND APPENDIX IN SUPPORT OF

THE TOWNSHIP'S MOTION FOR TEMPORARY IMMUNITY

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Of Counsel and on the brief

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PRELIMINARY STATEMENT

The New Jersey Fair Housing Act, N.J.S.A. 52:27D-301 to -329 ("FHA") makes clear that legislative and executive branches firmly believed that the best way to advance affordable housing goals of our state was to *diminish* the role of the "builder's remedy" severely, and to foster the ability of municipalities to comply voluntarily "without litigation." To advance these goals, the Legislature established a series of ways for municipalities to obtain immunity from builder's remedy litigation, and indeed deliberately made it easy for municipalities to obtain such protections.

South Brunswick Township ("Township") has satisfied two of the criteria the Legislature established to obtain immunity. Therefore, it has a statutory right to protection from Mount Laurel lawsuits.

The Supreme Court's recent decision entitled In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015)("In re COAH") provides further support for the Township's application for immunity. In this decision, the Supreme Court emphasized its desire (1) to follow the FHA processes "as closely as possible," and (2) to provide municipalities "like treatment to that which was afforded by the FHA." In re COAH, supra., at 6, 27. Following the FHA processes "as closely as possible" and giving the Township "like treatment to that which was afforded by the FHA," inescapably leads to the conclusion that the Township is entitled to immunity because it satisfies the criteria the Legislature established.

Aside from the Township's satisfaction of the Legislature's criteria, this Court should use its inherent discretion to grant the Township immunity for a number of reasons. First, the Township petitioned COAH for Round 3 substantive certification, and

therefore deserves special treatment according to In re COAH. Second, voluntary compliance is preferable to resolution of Mount Laurel disputes through builder's remedy litigation. Finally, the history and conduct of the Township demonstrate that it is indeed committed to voluntary compliance.

For all of these reasons, detailed below, this Court should grant South Brunswick's motion for immunity.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

In 1975, the Supreme Court issued its decision in So. Burlington County N.A.A.C.P. v. Twp. of Mount Laurel, 67 N.J. 151, appeal dismissed and certiorari denied, 423 U.S. 808, 96 S.Ct. 18, 46 L.Ed.2d 28 (1975) ("Mount Laurel I"). In 1983, eight years after deciding Mount Laurel I, the Supreme Court decided So. Burlington County N.A.A.C.P. v. Mount Laurel Twp., 92 N.J. 158 (1983) ("Mount Laurel II"). In response to its perception of "widespread noncompliance" with Mount Laurel I, the Supreme Court established procedural and substantive requirements designed to implement the doctrine more effectively. Id. at 199. On one hand, it created a fairly soft "builder's remedy" standard to create an incentive for developers to sue non-compliant municipalities. Id. at 279-80. On the other hand, it created a judgment of compliance and "repose" to create an incentive for municipalities to voluntarily comply and secure protection from Mount Laurel suits. Id. at 292. By creating incentives for municipalities to comply, the Supreme Court sought to advance its primary objective – to promote voluntary compliance by municipalities. While Mount Laurel II created a judicial system to implement the Mount Laurel doctrine, the Court emphasized its strong preference for a legislative solution rather than a judicial one. Id. at 352.

Mount Laurel II precipitated a flood of "builder's remedy" lawsuits. This flood of lawsuits created a movement for legislative change to provide an avenue for municipalities to comply voluntarily and thereby diminish "builder's remedy" litigation. Thus, the Legislature enacted and, on July 2, 1985, former Governor Thomas Kean signed into law, the FHA. The express purpose of the FHA was to provide towns with an

administrative process in which to achieve constitutional compliance, free from the costs and burdens of builder's remedy lawsuits:

The Legislature declares that the State's preference for the resolution of existing and future disputes involving exclusionary zoning is the mediation and review process set forth in this act and not litigation, and that it is the intention of this act to provide various alternatives to the use of the builder's remedy as a method of achieving fair share housing. N.J.S.A. 52:27D-303.

Subsequently, 315 municipalities, including South Brunswick, brought themselves under the protective umbrella of the Council on Affordable Housing's ("COAH's") jurisdiction. COAH was charged with responsibilities including defining the State's housing regions, "estimat[ing] the present and prospective need for low and moderate income housing" in each region, and establishing criteria and guidelines so that municipalities could determine their fair share obligations. N.J.S.A. 52:27D-307. Consistent with its charge, COAH adopted regulations for three housing rounds.

On July 14, 1987, the Township adopted a first round (1987-1993) Housing Element and Fair Share Plan, addressing a 669 unit affordable housing obligation (603 new construction/ 66 rehabilitation). The Township received conditional first round substantive certification from COAH on May 20, 1987, and final first round certification on August 3, 1987 (SBa 1- 4)¹. By voluntarily bringing itself under COAH's jurisdiction, the Township insulated itself from exclusionary zoning suits. N.J.S.A. 52:27D-309 and -316.

Subsequently, the Township prepared a second round plan to address its cumulative (1987-1999) affordable housing obligation of 937 units (842 new construction/ 95 rehabilitation) (SBa 5-62). It received interim substantive certification

¹ SBa – Refers to South Brunswick Appendix.

from COAH on October 6, 1993 (SBa 63-64). It received approval of its second round spending plan on July 20, 1994 (SBa 65-66) and second round substantive certification was granted by COAH on February 4, 1998 (SBa 67-84). As the Township's second round certification was valid for six years and COAH had yet to adopt its third round (1987-2014) regulations, the Township received an extension of its second round substantive certification on January 7, 2004 (SBa 85-89).

On December 20, 2004, COAH's first version of the third round rules became effective. N.J.A.C. 5:94-1.1, et seq. The third round rules marked a significant departure from the methodology utilized in COAH's two prior rounds. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. The third round rules implemented a "growth share" approach that linked the production of affordable housing with future residential and nonresidential development. Each municipality was required to project the amount of residential and nonresidential growth that would occur during the period 2004 through 2014. As development occurred, municipalities were required to provide one affordable unit for every eight market rate housing units developed and one affordable unit for every 25 jobs created. Id.

In compliance with COAH's rules, the Township filed a petition for third round substantive certification on December 16, 2005. Included with the petition was a request for approval of the Township's third round spending plan (SBa 90-97). Before COAH could review the Township's petition, however, the Appellate Division overturned portions of COAH's third round regulations and methodology. In the Matter of the Adoption of N.J.A.C. 5:94 and 5:95 by the New Jersey Council on Affordable Housing (and related cases), 390 N.J. Super. 1 (App. Div. 2007). In its decision, the Appellate

Division affirmed in part, reversed in part, and remanded portions of the original third round rules back to COAH for revisions. Significantly, the court invalidated key aspects of COAH's third round rules, including the "growth share" methodology, and ordered COAH to propose and adopt amendments to its rules to address the deficiencies identified by the court. Id.

COAH's revised rules, effective on June 2, 2008, (See 40 N.J.R. 2690(a); 40 N.J.R. 3161(a)), as well as further rule revisions adopted September 22, 2008, and effective on October 20, 2008 (See 40 N.J.R. 5962(a); 40 N.J.R. 5965(a)), provided residential development and job projections for the third round (which was expanded to encompass the years 2004 through 2018). See N.J.A.C. 5:96-1, et seq. and 5:97-1, et seq. Additionally, COAH revised its ratios to require one affordable housing unit for every four market rate housing units developed and one affordable housing unit for every 16 jobs created. Municipalities were required to set forth in their Housing Element and Fair Share Plans how they intended to accommodate the affordable housing obligation generated by COAH's revised third round growth projections. COAH's substantive rules also required that a municipality provide a realistic opportunity for affordable housing in proportion to its actual growth during the third round as expressed in final certificates of occupancy issued for residential and nonresidential development. Id. In addition, the rules required municipalities to prepare a spending plan, submit it to COAH for review and approval before any municipal affordable housing trust funds could be spent. N.J.A.C. 5:97-8.1(d). Under the rules, a municipality was required to spend development fees within four years of COAH's approval of its spending plan. N.J.A.C. 5:97-8.10.

Municipalities were obligated to file amended third round petitions for substantive certification no later than December 31, 2008.

In compliance with its obligations under the amended third round rules, the Township filed an amended petition for third round substantive certification on December 31, 2008. As before, the petition included a request for approval of the Township's amended third round spending plan (SBa 98-108). Once again, it was clear in the petition that the Township fulfilled its affordable housing obligation by way of its own in-house program, using municipal employees to oversee all aspects of the Township's program.

Along with its amended third round petition, the Township also submitted a request for a waiver of the limitation on producing affordable housing opportunities by way of an in-house "market-to-affordable" program (SBa 109-111). Pursuant to N.J.A.C. 5:97-1.4, a "market-to-affordable" program is defined as "a program to pay down the cost of market-rate units and offer them in sound condition, for sale or rent, at affordable prices to low- and moderate-income households to address all or a portion of the fair share obligation." N.J.A.C. 5:97-6.9(b)4 limits a municipality in the number of units it can produce through a market-to-affordable program, "unless the municipality has demonstrated a successful history of a market-to-affordable program." The Township's maximum amount permitted under the rules would have been 94 units. In its amended petition, the Township requested permission to satisfy 15% of its fair share obligation (the equivalent of 146 units) through its market-to-affordable program.

On October 14, 2009, despite objections submitted to the Township's request for a market-to-affordable waiver, after reviewing the matter fully COAH approved the

Township's request for a waiver of the market-to-affordable limitation and authorized the Township's 146 unit in-house market-to-affordable program (SBa 112-115).

On April 6, 2010, COAH issued a lengthy and comprehensive Premediation Report, reviewing all of the objections to the Township's Amended Third Round plan as well as the Township's responses thereto. In order to further the mediation process, COAH requested additional information from the Township (SBa 116-159).

On June 3, 2010, the Township submitted an interim response to the COAH Premediation report, providing a significant amount of the information requested by COAH while requesting a 45 day extension to provide the remaining information (SBa 160-167). In addition, an addendum to the Township's 2008 Draft Spending Plan was prepared and submitted to COAH in July 2010 (SBa 168-169). Due to the nation-wide recession, falling interest rates, the state-imposed moratorium on the municipal collection of affordable housing fees on nonresidential development and Governor Christie's proposed policy to permanently exempt nonresidential development from paying affordable housing development fees, the amount of potential affordable housing development fees had to be revised.

Before the remaining information requested by COAH could be supplied, the Appellate Division struck down portions of the amended third round rules on October 8, 2010. In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 416 N.J. Super. 462 (App. Div. 2008), certif. granted, 205 N.J. 317 (2011). In its decision, the Court again struck down COAH's growth share methodology and other portions of COAH's regulations. The Court directed COAH to

revise its third round methodology and regulations within five months to something similar to COAH's first and second round methodology. Id. at 476.

Upon remand to COAH, the court permitted any municipality under COAH's or the court's jurisdiction to apply for a stay of proceedings pending completion of the remand "to be decided in light of the status of the individual municipality's compliance with its affordable housing obligations and all other relevant circumstances." Id. at 476. In response to several such motions, on December 8, 2010, COAH adopted a resolution indicating the following decisions:

1. COAH staff would continue to engage in mediation, "if so requested."
2. Since "there are no standards to guide COAH due to the court's invalidation of the growth share portion of the third round regulations," COAH would (a) "refrain[] from further review of the third round prospective growth share obligations of any municipal third round plans" and (b) would allow municipalities with third round certification to suspend implementation of the third round component until COAH had new third round regulations.
3. While COAH would not require compliance with third round regulations that had yet to be written, COAH encouraged, but did not require, municipalities to generate affordable housing for the third round: "COAH will make itself available to work with municipalities to plan for and provide additional affordable housing opportunities for future prospective affordable housing needs." (See SBa 170-172).

The December 8, 2010, resolution stated that "municipalities are not required to seek a stay from COAH proceedings concerning [their] third round prospective growth share obligation" and that municipalities under COAH's jurisdiction would "continue to be under the jurisdiction of COAH." Ibid. By stating that these municipalities would remain under its jurisdiction, COAH made clear that these municipalities would continue to be insulated from exclusionary zoning suits in accordance with N.J.S.A. 52:27D-303, 309, and 316.

In order to meet the requirements of N.J.S.A. 52:27D-329.2 and 329.3, on May 8, 2012, the Township Council adopted Resolution 2012-251 wherein it committed to spend in excess of \$9.7 million in municipal affordable housing trust fund money on various programs/projects in order to provide for the creation of low- and moderate-income housing opportunities in South Brunswick (SBa 173-175). By doing so, the Township demonstrated its continuing, firm commitment to comply voluntarily with its obligations to provide for affordable housing. On that same date, the Council also adopted a resolution approving a Second Addendum to its Spending Plan and requesting that COAH review and approve the amended Spending Plan (SBa 176-190).

Although COAH failed to approve the Township's amended Spending Plan, it demanded proof of commitment of trust fund money in compliance with N.J.S.A. 52:27D-329.2 and 329.3. In response, the Township submitted numerous documents to COAH on August 6, 2012, and again on July 24, 2013, showing full compliance with the requirement to "spend or commit to expend" municipal affordable housing trust fund money in accordance with the statutory requirements. After reviewing the Township's submissions, COAH found that the Township was in full compliance with the requirements of N.J.S.A. 52:27D-329.2 and 329.3, and adopted a resolution on August 26, 2014, finding that the Township had properly spent or committed to spend municipal affordable housing trust fund money on third round affordable housing opportunities (SBa 191-204).

On September 26, 2013, the New Jersey Supreme Court issued its opinion in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 215 N.J. 578 (2013), finding that COAH's third round rules, and

especially the Growth Share methodology, are at odds with the FHA. It invalidated the third round rules and directed COAH to propose revised third round rules within five months. Id. In response to a motion for an extension filed by COAH, on March 14, 2014, the Court ordered that COAH adopt third round rules on or before October 22, 2014, for publication in the November 17, 2014, New Jersey Register. The Supreme Court's Order set out interim deadlines leading to final adoption, and then specifically stated:

“IT IS FURTHER ORDERED that in the event that the Council does not adopt Third Round Rules by November 17, 2014, then this Court will entertain applications for relief in the form of a motion in aid of litigants' rights, including, but not limited to, a request to lift the protection provided to municipalities through N.J.S.A. 52:27D-313 and, if such a request is granted, actions may be commenced on a case-by-case basis before the Law Division or in the form of “Builder's Remedy” challenges...” (SBa 205-213).

Although COAH had met the interim deadlines established by the Court's March 14 order in proposing its new iteration of third round rules, more than 3,000 comments were received from municipal officials, affordable housing advocates and residential developers, criticizing the rules for their obvious flaws. In accordance with the Court's order, COAH held a public hearing on July 2, 2014, to receive further comment on the rule proposals. Public comments stressed the flaws permeating these rules.

At its meeting on October 20, 2014, the COAH Board failed to adopt the rules as presented to the Council. On October 31, 2014, the Fair Share Housing Center (“FSHC”) filed a Motion In Aid of Litigant's Rights urging the Supreme Court, among other things, to direct trial judges instead of COAH to establish standards with which municipalities must comply.

On December 23, 2014, the Township adopted Resolution 2014-505, wherein the Township (a) stipulated that, subject to further analysis, it has satisfied its known

affordable housing obligations; and (b) declared its commitment to take action to satisfy not only its current Mount Laurel obligations but also whatever Third Round obligations are ultimately assigned (SBa 214-217).

On March 10, 2015, the Supreme Court granted the motion by FSHC in In re COAH. In its decision, the Court determined that COAH is not capable of functioning as intended by the FHA because there are no Third Round Rules. Accordingly, municipalities must submit to judicial review for a determination of their compliance with the constitutional obligation to provide for opportunities for the development of low and moderate income housing. In this regard, municipalities may file a declaratory judgment action seeking an order of temporary immunity from “builder’s remedy” lawsuits as well as entry of a judgment of compliance and order of repose, protecting it from such suits. Id.

The FHA also requires Mount Laurel funds to be expended or committed for expenditure within four years of collection. N.J.S.A. 52:27D-329.2. Relative to this provision, however, the Legislature directed COAH to promulgate regulations to define when trust funds are properly “committed.” Id. On April 9, 2015, the Appellate Division ruled that COAH violated its statutory duty to adopt such regulations. In re Failure of the Council on Affordable Housing To Adopt Trust Fund Commitment Regulations, 440 N.J. Super 220 (App. Div. 2015) (“In re Affordable Housing Trust Funds”). Since that ruling, COAH has also declined to approve Spending Plans, leaving that task to trial judges who will determine the viability of whatever affordable housing plan evolves out of the judicial process. Consistent with the Supreme Court’s ruling in In re COAH, the Appellate Division also held that “[t]he use and disposition of [affordable housing trust]

funds will hereafter be decided, in the first instance, by Mount Laurel-designated trial judges.” Id.

Throughout the entire history of affordable housing in New Jersey, the Township has been ready, willing and able to provide affordable housing opportunities consistent with its obligation through its in-house program. Indeed, the Township has well proven its commitment to affordable housing through its various petitions for substantive certification, adopted resolutions and proven expenditures of affordable housing trust fund money on affordable housing projects. During a time when many municipalities have chosen to do nothing, the Township has not only fully addressed its prior First and Second round cumulative fair share obligations but has also responded to the need for Third Round affordable housing by actually producing affordable housing units through its in-house program to address its unknown Third Round fair share obligation.

LEGAL ARGUMENT

THE TOWNSHIP'S MOTION FOR TEMPORARY IMMUNITY FROM MOUNT LAUREL LAWSUITS SHOULD BE GRANTED

A. The Township is Entitled to a Grant of Immunity Based Upon the Standards for Immunity Set Forth in the FHA.

The Legislature plainly stated that it enacted the FHA for the express purpose of limiting builder's remedy suits and facilitating the ability of municipalities to comply voluntarily "without litigation." N.J.S.A. 52:27D-303. To diminish the existing and future volume of builder's remedy suits, the Legislature intentionally crafted very easy standards for municipalities to satisfy to immunize themselves from such suits. Two such avenues of immunity are relevant here. First, pursuant to N.J.S.A. 52:27D-309, a municipality could secure immunity merely by adopting a "resolution of participation" within four months of the effective date of the Act. Second, pursuant to N.J.S.A. 52:27D-316, a municipality could obtain immunity by filing an affordable housing plan before the institution of an exclusionary zoning suit in court. As explained below, the Township satisfies both these standards and, therefore, has a clear statutory right to immunity.

Putting aside that the Township received substantive certification for the First and Second rounds, South Brunswick satisfied the "resolution of participation" criterion by adopting Resolution 2014-505 which, once again, stated the Township's commitment to compliance (SBa 214-217). Specifically, the Township "affirm[ed] its commitment to satisfy its affordable housing obligations, however they may ultimately be defined, voluntarily and in the absence of any Mount Laurel lawsuits." Id. This resolution is the functional equivalent of a "resolution of participation" as contemplated in the FHA.

Assuming *arguendo* that Resolution 2014-505 does not qualify as a resolution of participation," surely the filing of the Township's Declaratory Judgment action does. Indeed, a municipality that files a Declaratory Judgment action is not simply promising to participate at some future date and preserving the possibility that it may change its mind in the interim. Rather, this action indeed *fulfills the promise* contemplated by a "resolution of participation" by actually participating. Moreover, such action exposes the municipality to the potential draconian "remedies for non-compliance" from Mount Laurel II if it later chooses to renege on its commitment to comply voluntarily. Mount Laurel II, *supra.*, at 285-86. No such risk or burden attaches to a municipality that merely adopted a resolution of participation. In light of the above, there is no question that South Brunswick satisfied the "resolution of participation" criterion to secure immunity.

The Township also satisfied the second criterion, which requires a town to file an affordable housing plan prior to the filing of a builder's remedy suit. Indeed, long before the filing of this Motion, the Township submitted its approved 2008 Housing Element and Fair Share Plan to COAH on December 31, 2008. Since South Brunswick filed its duly adopted and endorsed Affordable Housing Plan with COAH before a developer instituted a builder's remedy lawsuit in court, the Township satisfied this second statutory criterion to secure immunity. Moreover, by filing an amended plan within the five months allotted by the Supreme Court, the Township will reaffirm its entitlement to immunity based upon the standards the Legislature established.

Since the Township passes both statutory criteria under the FHA for immunity, this Court should fulfill the Legislature's clear intention to immunize municipalities such as the Township from exclusionary zoning litigation.

B. The Township is Entitled to a Grant of Immunity Based Upon the March 10, 2015, Decision of the N.J. Supreme Court

The Supreme Court's recent decision in In re COAH provides further support for the Township's application for immunity. In its decision, the Supreme Court emphasized its desire (1) to follow the FHA processes "as closely as possible," and (2) to provide municipalities "like treatment to that which was afforded by the FHA." In re COAH, supra., at 6, 27. Following the FHA processes "as closely as possible" and giving the Township "like treatment to that which was afforded by the FHA," inescapably leads to the conclusion that the Township is entitled to immunity because it satisfies the criteria the Legislature established, as indicated above.

Moreover, the following passage further demonstrates that the Court appropriately sought to limit the prejudice to municipalities under COAH's jurisdiction by providing these municipalities the opportunity (a) to transfer jurisdiction to the trial courts by filing a Declaratory Action between June 8, 2015 and July 8, 2015; and (b) to simultaneously file a Motion for Temporary Immunity to pursue plan approval without the burdens of exclusionary zoning litigation:

Our goal is to establish an avenue by which towns can demonstrate their constitutional compliance to the courts through submission of a housing plan and use of processes, where appropriate, that are similar to those which would have been available through COAH for the achievement of substantive certification. Those processes include conciliation, mediation, and the use, when necessary, of special masters. The end result of the processes employed by the courts is to achieve adoption of a municipal housing element and implementing ordinances deemed to be presumptively valid if thereafter subjected to challenge by third parties.

Our approach in this transition is to have courts provide a substitute for the substantive certification process that COAH would have provided for towns that had sought its protective jurisdiction. **And as part of the court's review, we also authorize, as more fully set forth hereinafter, a court to provide a town whose plan is under review immunity from subsequently filed challenges during the court's review proceedings, even if supplementation of the plan is required during the proceedings.** Id. at 23-24 (emphasis added).

Granting immunity is the key to (1) avoiding forcing municipalities to pay the price for COAH's egregious conduct; and (2) conferring the same protection on COAH towns that the FHA conferred on court towns through the enactment of the FHA. Accordingly, if this court grants immunity to the Township, it will fulfill the Legislature's desire to curtail "litigation" and use the "alternatives" available to it to fulfill the purpose of the FHA. Those goals remain as viable today as when the Legislature established them in 1985. See N.J.S.A. 52:27D-303.

In addition to the recent decision by the Supreme Court, our courts have consistently emphasized that the grant of temporary immunity to foster voluntary compliance is preferred over builder's remedy suits. In Mount Laurel II, the N.J. Supreme Court encouraged trial courts to be creative in implementing the Mount Laurel doctrine, stating "municipalities and trial courts are encouraged to create other devices and methods for meeting fair share obligations." In J.W. Field Co., Inc., v. Franklin Tp., 204 N.J. Super. 445, 456 (Law Div. 1985), the Honorable Eugene D. Serpentelli, A.J.S.C., one of the three original Mount Laurel trial judges, responded to the Supreme Court's call to creativity by offering immunity from Mount Laurel lawsuits, pending ordinance revision, to all municipalities that seek to voluntarily comply through a declaratory relief procedure announced in that decision. In Hills Development Co. v.

Bernards Tp. in Somerset County, 103 N.J. 1, 65 (1986)("Mount Laurel III"), the Supreme Court praised the Mount Laurel trial judges for "their innovative refinement of techniques for the process of litigation," thereby giving "credibility to the implementation of the Mount Laurel doctrine." Temporary immunity represented an "innovative refinement of techniques for the process of litigation" and the Supreme Court acknowledged this technique in Mount Laurel III.

More recently, in K. Hovnanian Shore Acquisitions, L.L.C. v Berkeley Township, Docket No. A-594-01T1 (App. Div. 2003), found on Westlaw at 2003 WL 23206281, the Appellate Division affirmed the temporary immunity procedure referenced in J.W. Field and specifically applied by Judge Serpentelli in the Berkeley Township case. The court in Berkeley Township also stated that a "builder's remedy" should only be granted as a "last resort" and that voluntary compliance is one of the fundamental goals of the Mount Laurel doctrine.

Accordingly, past judicial precedent, culminating in the Supreme Court's decision in In re COAH, make clear that the grant of immunity to a municipality seeking to voluntarily comply with its constitutional obligations is the preferred method of handling Mount Laurel matters. This court should continue to follow this well-established practice by granting immunity to the Township.

C. The Court Should Use its Inherent Discretion to Grant the Township Immunity

In addition to the statutory basis and judicial precedent that establish the Township's entitlement to a grant of immunity, the actions of the Township warrant that it be granted immunity from builder's remedy suits. Since 1987, the Township has provided affordable housing opportunities consistent with its obligation through its in-

house program. This commitment to affordable housing has been confirmed repeatedly through the Township's various petitions for substantive certification, adopted resolutions and proven expenditure of affordable housing trust fund money on affordable housing projects and through COAH's approval. Almost 700 very-low, low- and moderate-income units (resulting in almost 900 affordable housing credits) are currently monitored or maintained by the Township, representing a significant investment of affordable housing dollars in the lives of people in need.

The Township petitioned for and received first round substantive certification from COAH on August 3, 1987 (SBa 1-4) while second round substantive certification was granted by COAH on February 4, 1998 (SBa 67-84), which was subsequently extended on January 7, 2004 (SBa 85-89). The Township's 1987 - 1999 cumulative Second Round obligation, as determined by COAH per N.J.A.C. 5:93, consisted of a 937-unit pre-credited need (842 new construction/95 rehabilitation). To address its 95-unit rehabilitation share, the Township sought and was granted a waiver by COAH to satisfy its rehabilitation share with new construction pursuant to N.J.A.C. 5:93-5.1. This rehabilitation share, which was based on the 1990 census, was updated by COAH after the 2000 census to a rehabilitation share of 36, giving the Township an 878 unit total obligation. In addition to new construction, the Township also sought to satisfy its rehabilitation share through participation in the Middlesex County Urban Housing Preservation Program, which provides funds to low- and moderate-income households for rehabilitation.

Pursuant to COAH’s Second Round rules at N.J.A.C. 5:93, et seq., the Township is entitled to the following credits/bonuses for affordable units actually built:

<u>Development</u>	<u>Units</u>	
Deans Apartments	40	(prior cycle credits)
Charleston Place I	54	(prior cycle credits)
Regal Point	5	(affordable family sales)
Monmouth Walk	43	(affordable family sales)
Nassau Square	49	(affordable family sales)
Woodhaven	80	(affordable family rentals)
Charleston Place II	30	(affordable senior rentals)
Summerfield	70	(affordable family sales)
Deans Pond Crossing	20	(affordable family sales)
Southridge/Southridge Woods	124	(affordable family rentals)
CIL-Wynwood	7	(alternative living arrangements)
CIL Woods	16	(alternative living arrangements)
Wheeler Rd Group Home	3	(alternative living arrangements)
Major Rd Group Home	3	(alternative living arrangements)
Oak Woods	73	(affordable senior rentals)
Buckingham Place	23	(affordable senior rentals)
ARC of Middlesex County	15	(alternative living arrangements)
Dungarvin/Eclipse	8	(alternative living arrangements)
Community Options	8	(alternative living arrangements)
Triple C Housing	6	(alternative living arrangements)
REACH (Market to Affordable)	18	(affordable family sales)
Rental Bonuses (Prior Round)	<u>187</u>	
TOTAL CREDITS	882	

Accordingly, the Township has completely satisfied its First and Second Round 878-unit obligation, with an additional 4 units credit to be applied toward the Third Round.

In response to the first two iterations of the Third Round rules, the Township petitioned for third round substantive certification on December 16, 2005 and again on December 31, 2008. Those petitions were still pending before COAH when the third round rules were struck down by the courts.

Pursuant to In re COAH, the Township is therefore considered to be a “participating” municipality before COAH. As a “participating” municipality, the

Township is in a special class in that the Supreme Court held in its March 10, 2015 opinion that the trial court should view more favorably a request for immunity where the municipality had devised a Third Round Housing Element and took action toward adopting ordinances and/or producing housing in furtherance of its plan, as long as said municipality files a Declaratory Judgment Action along with a motion for Temporary Immunity between June 8, 2015 and July 8, 2015. Id.

Beyond just filing its petition for Third Round certification (which in and of itself warrants immunity), while its petition for Third Round certification was pending, the Township voluntarily participated in the mediation process before COAH (SBa 116-167). Even as COAH's review process continued to lag, the Township took efforts to provide for quality affordable housing opportunities by adopting a First and then Second Addendum to the 2008 Third Round spending plan, the latter approved by resolution of the Township Council on May 8, 2012, and subsequently submitted to COAH for approval (SBa 176-190). Along with the Second Addendum to the Third Round spending plan, the Township also adopted a resolution committing to spend over \$9.7 million of its affordable housing trust fund monies through its in-house program to satisfy the requirements of N.J.S.A. 52:27D-329.2a, et seq. (SBa 173-175). The Township complied with every requirement needed for approval of its Third Round spending plan, as originally proposed and as amended through May 2012. Moreover, after COAH reviewed its compliance efforts, it approved the Township's commitment of funds, finding the Township in full compliance with N.J.S.A. 52:27D-329.2 and -329.3 (SBa 191-204).

During the last few years of uncertainty of affordable housing in New Jersey, at a time when many municipalities chose to do nothing, the Township has not only fully addressed its cumulative 12-year second round obligation (first and second rounds) but has responded to the need for affordable housing by continuing to actually produce affordable housing units through its in-house program. Despite the fact that COAH never certified the Township’s Third Round Plan, the Township proceeded to take steps to produce affordable housing and is entitled to the following Third Round credits for units that have actually been built and/or approved:

<u>Development</u>	<u>Units</u>
Woodhaven Terr (Deans Apts) (Extension of controls)	40 (affordable family rentals)
Sassman development	1 (affordable family sales)
Menowitz development	8 (affordable senior sales)
Dungarvin/Eclipse	4 (alternative living arrangements)
REACH (Market to Affordable)	128 (affordable family sales/rentals)
Wilson Farm Redevelopment (1.33 credits per 1 unit)	399 (affordable senior and alternative living rentals)
Prior Round Excess credits	<u>4</u>
TOTAL CREDITS	584

As such, the Township has taken significant steps toward satisfying its as yet undetermined Third Round obligation.

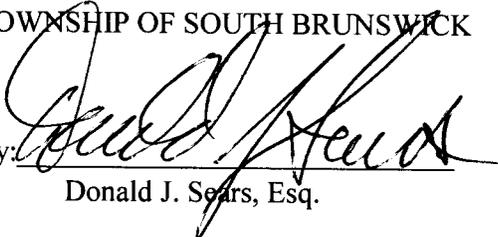
Given the Township’s longstanding history of providing realistic opportunities for low- and moderate-income housing, and the successful in-house program that has operated for 28 years, as well as the Township’s demonstrated commitment to continuing to provide affordable housing in South Brunswick towards its unknown third round fair share obligation, the Township is entitled to an order protecting it from Builder’s Remedy lawsuits.

CONCLUSION

As demonstrated by the history of affordable housing in South Brunswick, the Township has satisfied all of the requirements for an order of protection from Builder's Remedy suits as it has fully addressed its first and second round fair share obligations and has provided numerous affordable housing opportunities to address its as yet unknown third round fair share. For the forgoing reasons, it is respectfully requested that the Township's motion for temporary immunity from Mount Laurel lawsuits be granted.

Respectfully Submitted,

TOWNSHIP OF SOUTH BRUNSWICK

By: 

Donald J. Sears, Esq.

Date: July 1, 2015

RESOLUTION

WHEREAS, on July 13, 1987, the Township of South Brunswick, Middlesex County submitted an adopted housing element and fair share plan dated June 22, 1987 and prepared by the Township Planning Staff to the Council on Affordable Housing (COAH); and

WHEREAS, on January 5, 1987, the Township of South Brunswick petitioned COAH for substantive certification of its housing element and fair share plan, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:91-4.1; and

WHEREAS, by Resolution No. 9 dated May 20, 1987 COAH approved the Township of South Brunswick's grant of substantive certification with the following conditions:

- (1) The housing element must be amended to demonstrate that the low and moderate income units that are to be included in the Whispering Woods project have been transferred to Princeton Walk for a total of 80 units at Princeton Walk. At least 40 of these units will be rental units;
- (2) The housing element is to be amended to provide development timing criteria related to the reconstruction of Route 522;
- (3) In accordance with the mediation agreements dated February 4, 1987 and identified as attachment III, the housing element and fair share plan must provide zoning for 191 low and moderate income units on the Southridge site;
- (4) The development ordinance shall be amended to provide zoning for the proposed 240 bed congregate care facility which shall provide 120 low and moderate income beds with two beds per bedroom. The fair share plan shall reflect that the 120 beds will equal 60 low and moderate income units to be provided in this facility. This facility will be available to the general public, will meet required income qualification standards and will have affordability controls for 60

SBA1

units (120 beds) imposed either through a deed restriction or certificate of need.

- (5) The housing element and fair share plan shall be amended to provide for rental units as a conditional use for the three inclusionary sites.

WHEREAS, pursuant to Resolution No.9, the Township of South Brunswick was required to refile its petition for substantive certification within 60 days of the conditional grant of substantive certification with all conditions satisfied; and

WHEREAS, on July 13, 1987, the Township of South Brunswick refiled its petition for substantive certification with all conditions addressed; and

WHEREAS, COAH has reviewed the Township of South Brunswick's refiled petition for substantive certification including all documentation submitted in support of the refiled petition, and more specifically:

- (1) The units in the Whispering Woods project have been transferred to Princeton Walk.
- (2) Development timing criteria was provided.
- (3) The Housing Element and Fair Share plan was amended to provide zoning for 191 low and moderate income units on the Southridge Site.
- (4) The development ordinance was amended to reflect that the Congregate Care facility will be available to the general public.
- (5) The Housing Element and Fair Share Plan was amended to provide for rental units as a conditional use for the three inclusionary sites.

SBA 2

WHEREAS, COAH has found that the Township of South Brunswick's refiled petition for substantive certification satisfactorily addresses all conditions imposed by Resolution No. 9; and

WHEREAS, after reviewing all documentation supplied by the Township of South Brunswick in support of its refiled petition as well as the COAH report dated April 14, 1987 which is attached hereto as Exhibit A and is incorporated by reference herein, COAH has found that the Township of South Brunswick's fair share plan is consistent with the rules and criteria adopted by COAH and further that the combination of the elimination of unnecessary cost generating features from the municipal land use ordinances and regulations, and the affirmative measures in the housing element and implementation plan make the achievement of the municipality's fair share of low and moderate income housing realistically possible;

NOW THEREFORE BE IT RESOLVED that the Township of South Brunswick is hereby granted substantive certification of its housing element and fair share plan; and

BE IT FURTHER RESOLVED THAT the Township of South Brunswick shall adopt its fair share housing ordinance within 45 days of the date of this grant of substantive certification; and

BE IT FURTHER RESOLVED that the Township of South Brunswick shall provide COAH with a certified copy of the adopted fair share housing ordinance within one week of the adoption; and

BE IT FURTHER RESOLVED that failure of the Township of South Brunswick to adopt its fair share housing ordinance within 45 days of the date of this grant of substantive certification shall render this grant of substantive certification null and void; and

SBA3

BE IT FURTHER RESOLVED that any changes in the facts upon which this certification is based, or any deviations from the terms and conditions of this certification, which affects the Township of South Brunswick's ability to provide for the realistic opportunity for its fair share of low and moderate income housing and which the Township of South Brunswick fails to remedy, may render this certification null and void. Such changes shall include, but are not limited to the discovery of pollutants on a site; the discovery of unmapped wetlands on a site; lack of clear title to a site; or the municipality's failure to obtain necessary anticipated funding.

D0622h

SBa 4

TOWNSHIP OF SOUTH BRUNSWICK
1987-1999 HOUSING ELEMENT AND FAIR SHARE PLAN

FEBRUARY 1995

Submitted to:
New Jersey Council on Affordable Housing
March 6, 1995

Sba5

TOWNSHIP OF SOUTH BRUNSWICK
1987-1999 HOUSING ELEMENT AND FAIR SHARE PLAN

FEBRUARY 1995

- I. Introduction
- II. Housing Stock Inventory
- III. Housing Stock Projection
- IV. Demographic Characteristics
- V. Employment Characteristics
- VI. Present and Prospective Fair Share
- VII. Development Fee Spending Plan
- VIII. Lands and Existing Structures Appropriate for
Low and Moderate Income Housing
- IX. Other Exhibits
 - A. Infrastructure Maps
 - B. Master Plan
 - C. Wetlands Map
 - D. USGS Topographic Map
 - E. Adoption Resolution of Planning Board
 - F. Petition for Substantive Certification
 - G. Notice of Petition

Sba 6

I. Introduction

In 1987, South Brunswick's Housing Element and Fair Share Plan was granted substantive certification by the New Jersey Council on Affordable Housing. A copy of NJCOAH's resolution is attached as Exhibit 1. The Plan was basically comprised of a credit of 94 units (Deans Apartments and a portion of Charleston Place), and new construction of 591 units (Woodhaven, Nassau Square, Monmouth Walk, Regal Point, Charleston Place II, Southridge Hills, Falcongate, Summerfield and the Mindel tract). The entire Plan provided for a total of 685 units, which was 16 units in excess of the NJCOAH allocation in 1987.

On October 6, 1993, South Brunswick's Plan gained interim certification which is valid until March 1995. A copy of NJCOAH's resolution is attached as Exhibit 2.

In 1993, NJCOAH also calculated new estimates of need for South Brunswick Township to be met by the year 1999. The Plan now has to be supplemented to provide for an additional 268 units. NJCOAH also in 1993 established Middlesex County as part of the West Central housing region, along with Somerset and Hunterdon Counties. This region has the highest median income in the state.

At this time, except for the Mindel tract, all of the 1987-designated sites for low and moderate income housing have been completed or are under construction. A status summary of the 1987 Plan is shown in the following table:

Sba 7

SOUTH BRUNSWICK TOWNSHIP

1987 Housing Element & Fair Share Plan

<u>Development Name</u>	<u>Affordable Units Anticipated in Plan</u>	<u>Project Status</u>	<u>Affordable Units Occupied</u>
Charleston Place	84 ¹	Complete	84
Deans Apartments	40	Complete	40
Nassau Square	50	Complete	50
Regal Point	5	Complete	5
Monmouth Walk	44	Under Construction	39
Woodhaven	80	Complete	80
Southridge Hills	72 ²	Under Construction	0
	72 ¹	Approved	0
Falcongate	5	Under Construction	0
Summerfield	60	Approved	0
Mindel Property	<u>126</u>	Zoning in place	0
	638 actual units		
	(685 w/rental bonus credit)		

¹Age restricted

²Rental Bonus Credit Applies

There have been no development proposals regarding the Mindel tract. However, some changes have occurred in several developments.

Sba 8

During the review process of the Southridge Hills project, the New Jersey Freshwater Wetlands Act went into effect and wetlands areas were delineated and permits issued, which all had the effect of reducing the total number of units in the project from 1,274 to 1,088. The number of low and moderate units (before applying the rental credits) was reduced by 28.

The low and moderate income units in the Summerfield project were increased by 10, also during the review and approval process.

In 1989, a large tract of land was rezoned on which the Deans Pond Crossing development was approved, which now includes 20 low and moderate income units.

A non-profit organization, South Brunswick Citizens for Independent Living (SBCIL), has purchased four existing apartments in the Wynwood development and these will be occupied exclusively by lower income, developmentally disabled individuals. SBCIL is also proceeding with another non-profit entity, South Brunswick Community Development Corporation, to develop a Township-owned parcel of land near the Whispering Woods and Stonehenge developments where 87 units are anticipated to be constructed, dependent upon the approval of funding from various federal sources.

Lastly, the five units to be built in the Falcongate project have been transferred to the Southridge project, and although the net effect on the plan is 0, the units will now be rentals instead of purchase units.

SBA 9

II. Inventory of Municipality's Housing Stock

The 1990 Census provides the most current information on housing characteristics. Data regarding type, age, value, and occupancy characteristics is shown on Exhibits 3, 4 and 5.

Information on condition of the housing stock and standard housing capable of being rehabilitated is not readily available. However, the above-referenced Exhibits indicate that the median year built of all units is 1979, and only a small portion, 7.4% of all units were constructed before 1950.

Regarding units affordable to low and moderate income units, the earlier table shows the current status of the Township's affordable housing program.

Sba 10

III. Housing Stock Projection

Between 1980 and 1990, the total number of housing units in South Brunswick Township increased from 5,626 to 9,963, an average of 430 per year.

The projection of units through the year 2000 is expected to be based on a somewhat slower rate of increase. This would result in approximately 3500-4000 new dwellings added after 1990 bringing the total number of units to between 13,500 and 14,000 in the year 2000.

This total includes a variety of types including single-family, townhouse and multi-family (apartments) spread throughout the Township. A copy of the Major Residential Development list is attached as Exhibit 6.

SBall

IV. Demographic Characteristics

Attached as Exhibits 7 - 11 are various tables from the 1990 Census regarding the population of South Brunswick Township.

While the number of persons in the Township had increased at an average rate of 545 per year between 1950 and 1980, the rate increased dramatically to over 860 per year between 1980 and 1990.

The largest population age group is between 25-44 years, which has strong implications for housing, community facilities, parks, and other programs and services. The increase is resultant from in-migration, which is hardly surprising in this growing suburban community.

The racial characteristics are shown in the tables and 84% of the population is white. Between 1980 and 1990, however, larger increases in the black and Asian population are evident.

V. Employment Characteristics

Again, the 1990 Census provides some information regarding employment, and various tables are attached as Exhibits 12 - 14.

The following is a list of the top ten employers located in South Brunswick Township.

<u>Name of Employer</u>	<u>Type of Industry</u>	<u>Number of Employees</u>
Dow Jones & Company	Office/Publishing	1,200
Wyeth-Ayerst	Research/Office	500
McMaster-Carr	Distribution	500
Canon	Office/Warehouse	350
Cosmair, Inc.	Warehouse/Distribution	325
ADP	Office	300
Rhone-Poulenc	Research/Warehouse	250
Int'l. Flavors & Fragrances	Manufacturing/Offices	250
High Grade Beverage	Distribution	250
Sundor Brands	Mfg./Distribution	200

Further, as of June 1994, within the Township there is over 800,000 square feet of new non-residential development under construction and it is projected that 2.6 million more square feet of warehouse, office and commercial development will be ready for occupancy by the year 2000.

VI. Present and Prospective Fair Share

The New Jersey Council on Affordable Housing has provided calculations as to the need for low and moderate income housing through the year 1999. A copy of the Municipal Number Summary for South Brunswick Township is attached as Exhibit 15.

The 1987-1999 Fair Share Plan anticipates reliance upon many projects which were included in the South Brunswick Township Plan certified in 1987. All land use ordinances are in place, as well as the Affordable Housing Authority's rules and regulations. In addition to the inclusionary developments, the Plan utilizes bonuses permitted in the NJCOAH rules and takes credit for several alternative living arrangements which are already in place.

Implementation of this Plan does not depend on use of the South Brunswick Township Affordable Housing Trust Funds, although some of the funds will be used in conjunction with some of the developments by providing money to make units more affordable and by providing seed money for project development. The spending plan included in this document details use of the funds.

SBA14

The new Plan is anticipated to be comprised of the following:

PRECREDITED NEED		- 937
PRIOR CYCLE CREDITS		+ 94
REHABILITATED UNITS		<u>0</u>
		- 843
REDUCTIONS		
UNITS BUILT		
Regal Point	5	
Monmouth Walk	44	
Nassau Square	50	
Woodhaven	80 ¹	
Charleston Place II	30 ²	
	<u>209</u>	+ 209
		- 634
ZONED, APPROVED, UNBUILT UNITS		
Summerfield	70	
Deans Pond Crossing	20	
Southridge	72 ²	
Southridge	52 ¹	
	<u>214</u>	+ 214
		- 420
ZONED, UNBUILT UNITS		
Mindel	<u>126</u>	+ 126
		- 294
RETROACTIVE BONUSES		
Woodhaven	80 ¹	
Southridge	52 ¹	
	<u>132</u>	+ 132
		- 162
NEW PROJECTS		
CIL-Wynwood	7 ¹	
CIL Woods, Inc.	22 ¹	
Group Homes (2)	6 ¹	
SBCDC	72 ²	
	<u>107</u>	+ 107
		- 55
NEW PROJECT BONUSES		
CIL-Wynwood	7 ¹	
CIL Woods, Inc.	22 ¹	
Group Homes (2)	6 ¹	
Chas. Place II,		
Southridge or SBCDC	20 ²	
	<u>55</u>	+ 55
		- 0 -

¹ - Rental Unit

² - Age restriction unit (also rental)

Sba 15

Site data for projects not included in the 1987 Plan is listed below:

Deans Pond Crossing

Location: Georges Road, US Route 130
Block: 30
Lots: 14.02, 16.17

Owner: Bess G. Wiesenfeld
374 New Dover Road
Colonia, NJ 07067

Acreage: 282.14 acres

CIL-Wynwood

Location: Wynwood Drive

Owner: Citizens for Independent Living (CIL)
P.O. Box 600
Kingston, NJ 08528

Description: One 1-bedroom apartment
Three 2-bedroom apartments

CIL Woods, Inc./SBCDC

Location: Route 522 (proposed)
Block: 84
Lot: 42.043

Owner: Township of South Brunswick

Acreage: 12.1 acres

Group Homes (2)

Location: Major Road, Wheeler Road

Owner: Developmental Resources Corporation
1075 Easton Avenue
Somerset, NJ 08873

Description: Two 3-bedroom ranch style detached dwellings.

SBA 16

VII. Development Fee Spending Plan

A copy of the Plan is attached as Exhibit 16, as well as the NJCOAH resolution approving same, as Exhibit 17.

Sba 17

VIII. Lands and Existing Structures Appropriate for Low and Moderate Income Housing

No new sites are proposed in the current plan, but noted below are the criteria utilized for site selection in the 1987 Plan.

As mentioned earlier, the character of the existing housing stock in South Brunswick Township does not appear to provide potential for rehabilitation for low and moderate income housing opportunities. Criteria that should be considered in identifying sites are:

1. Public sewer and water availability.
2. Environmental factors
 - a. Flood hazard areas
 - b. Wetlands
 - c. Steep slopes
 - d. Aquifer recharge areas
 - e. Farmland
 - f. Historic area
3. Conformance with the New Jersey State Development and Redevelopment Plan, (i.e., Planning Areas 1, 2, 3, 4, 5 within centers).
4. Consistency with current Land Use Plan and Housing Plan.
5. Consistency with other Master Plan elements and purposes of Plan.
6. Compatibility with adjacent land uses.

Sba 18

7. Consistency with other Plan, (i.e., Middlesex County Master Plan, State Development Guide Plan).
8. Location in relation to:
 - a. Neighborhood shopping
 - b. Recreational facilities
 - c. Emergency services
 - d. Health care facilities
 - e. Schools/Day Care facilities
9. Access to collector or arterial roadway.
10. Public transportation availability or potential.
11. Size and shape of parcel.
12. Developer interest.
13. Dispersal throughout Township.

Further, additional factors should be considered for suitability of any high density development, such as:

14. Proximity to parks, schools and community facilities.

SBA19

SOUTH BRUNSWICK TOWNSHIP

MIDDLESEX COUNTY, NEW JERSEY

1987-1999 Housing Element
& Fair Share Plan

DATE MAP PREPARED BY ORRILL & LENCING, PROFESSIONAL PLANNERS

SCALE 1" = 100' (SEE MAP FOR GRID)

DATE 02/95

NASSAU SQUARE

DEAN'S APTS

CHARLESTON PLACE

WOODHAVEN

FRANKLIN TOWNSHIP

TOWNSHIP

FRANKLIN TOWNSHIP

FRANKLIN TOWNSHIP

MINDELL

SOUTHEDGE

HORSHAM TOWNSHIP

BRUNSWICK TOWNSHIP

TOWNSHIP

EAST BRUNSWICK TOWNSHIP

BRUNSWICK TOWNSHIP

TOWNSHIP

CIL/SB/CDD

MONMOUTH WALK

REDAIL POINT

DEAN'S POND CROSSING

SUMMERFIELD

TOWNSHIP

MONROE

Sbudo

PRINCETON TOWNSHIP

PLAINSBORO TOWNSHIP

TOWNSHIP

GRAHNSBURG TOWNSHIP

TOWNSHIP

FEBRUARY '95

RESOLUTION

WHEREAS, on July 13, 1987, the Township of South Brunswick, Middlesex County submitted an adopted housing element and fair share plan dated June 22, 1987 and prepared by the Township Planning Staff to the Council on Affordable Housing (COAH); and

WHEREAS, on January 5, 1987, the Township of South Brunswick petitioned COAH for substantive certification of its housing element and fair share plan, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:91-4.1; and

WHEREAS, by Resolution No. 9 dated May 20, 1987 COAH approved the Township of South Brunswick's grant of substantive certification with the following conditions:

- (1) The housing element must be amended to demonstrate that the low and moderate income units that are to be included in the Whispering Woods project have been transferred to Princeton Walk for a total of 80 units at Princeton Walk. At Least 40 of these units will be rental units;
- (2) The housing element is to be amended to provide development timing criteria related to the reconstruction of Route 522;
- (3) In accordance with the mediation agreements dated February 4, 1987 and identified as attachment III, the housing element and fair share plan must provide zoning for 191 low and moderate income units on the Southridge site;
- (4) The development ordinance shall be amended to provide zoning for the proposed 240 bed congregate care facility which shall provide 120 low and moderate income beds with two beds per bedroom. The fair share plan shall reflect that the 120 beds will equal 60 low and moderate income units to be provided in this facility. This facility will be available to the general public, will meet required income qualification standards and will have affordability controls for 60

Sbaal

EXHIBIT 1
2/4
3/6/95

units (120 beds) imposed either through a deed restriction or certificate of need.

- (5) The housing element and fair share plan shall be amended to provide for rental units as a conditional use for the three inclusionary sites.

WHEREAS, pursuant to Resolution No.9, the Township of South Brunswick was required to refile its petition for substantive certification within 60 days of the conditional grant of substantive certification with all conditions satisfied; and

WHEREAS, on July 13, 1987, the Township of South Brunswick refiled its petition for substantive certification with all conditions addressed; and

WHEREAS, COAH has reviewed the Township of South Brunswick's refiled petition for substantive certification including all documentation submitted in support of the refiled petition, and more specifically:

- (1) The units in the Whispering Woods project have been transferred to Princeton Walk.
- (2) Development timing criteria was provided.
- (3) The Housing Element and Fair Share plan was amended to provide zoning for 191 low and moderate income units on the Southridge Site.
- (4) The development ordinance was amended to reflect that the Congregate Care facility will be available to the general public.
- (5) The Housing Element and Fair Share Plan was amended to provide for rental units as a conditional use for the three inclusionary sites.

SBA 22

WHEREAS, COAH has found that the Township of South Brunswick's refiled petition for substantive certification satisfactorily addresses all conditions imposed by Resolution No. 9; and

WHEREAS, after reviewing all documentation supplied by the Township of South Brunswick in support of its refiled petition as well as the COAH report dated April 14, 1987 which is attached hereto as Exhibit A and is incorporated by reference herein, COAH has found that the Township of South Brunswick's fair share plan is consistent with the rules and criteria adopted by COAH and further that the combination of the elimination of unnecessary cost generating features from the municipal land use ordinances and regulations, and the affirmative measures in the housing element and implementation plan make the achievement of the municipality's fair share of low and moderate income housing realistically possible;

NOW THEREFORE BE IT RESOLVED that the Township of South Brunswick is hereby granted substantive certification of its housing element and fair share plan; and

BE IT FURTHER RESOLVED THAT the Township of South Brunswick shall adopt its fair share housing ordinance within 45 days of the date of this grant of substantive certification; and

BE IT FURTHER RESOLVED that the Township of South Brunswick shall provide COAH with a certified copy of the adopted fair share housing ordinance within one week of the adoption; and

BE IT FURTHER RESOLVED that failure of the Township of South Brunswick to adopt its fair share housing ordinance within 45 days of the date of this grant of substantive certification shall render this grant of substantive certification null and void; and

EXHIBIT
4/4

3/6

BE IT FURTHER RESOLVED that any changes in the facts upon which this certification is based, or any deviations from the terms and conditions of this certification, which affects the Township of South Brunswick's ability to provide for the realistic opportunity for its fair share of low and moderate income housing and which the Township of South Brunswick fails to remedy, may render this certification null and void. Such changes shall include, but are not limited to the discovery of pollutants on a site; the discovery of unmapped wetlands on a site; lack of clear title to a site; or the municipality's failure to obtain necessary anticipated funding.

D0622h

SBU 24

RESOLUTION GRANTING INTERIM SUBSTANTIVE CERTIFICATION NO.

WHEREAS, South Brunswick Township, Middlesex County received substantive certification from the Council on Affordable Housing (COAH) on May 20, 1987; and

WHEREAS, N.J.A.C. 5:91-14 permits COAH certified municipalities to request interim substantive certification which extends a municipality's substantive certification for nine (9) months from the effective date of COAH's Substantive Rules, N.J.A.C. 5:93 et. seq.; and

WHEREAS, South Brunswick Township's substantive certification expired on May 20, 1993, which is prior to nine months after the effective date of COAH's Substantive Rules N.J.A.C. 5:93 et. seq.; and

WHEREAS, South Brunswick Township moved for interim substantive certification by motion on September 1, 1993, as per N.J.A.C. 5:91-12; and

WHEREAS, all objectors and litigants that participated in substantive certification have been served with the motion, as per N.J.A.C. 5:91-14.1(a)(2) and COAH received no objections to South Brunswick Township's motion for interim substantive certification; and

WHEREAS, South Brunswick Township's motion and accompanying documentation complies with the requirements set forth in N.J.A.C. 5:91-14.1(a)(3).

NOW THEREFORE BE IT RESOLVED that COAH hereby grants South Brunswick Township, Middlesex County interim substantive certification; and

BE IT FURTHER RESOLVED that this grant of interim substantive certification extends for nine (9) months from the effective date of COAH's Substantive Rules, N.J.A.C. 5:93 et. seq.; and

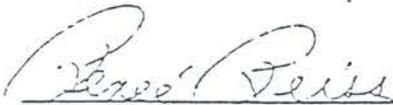
BE IT FURTHER RESOLVED that South Brunswick Township has assured COAH that all ordinances implementing the original substantive certification are in effect and shall remain in effect for the duration of this interim substantive certification; and

SBAD5

EXHIBIT 2
2/2
3/6/91

BE IT FURTHER RESOLVED that South Brunswick Township's interim substantive certification is conditioned on South Brunswick Township's continued implementation of its certified housing element and fair share plan.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on October 6, 1993.



Renee R. Reiss, Secretary
Council on Affordable Housing

1807w/sw

SBA 26

3/6/90

PROFILE 22 - HOUSING: UNITS IN STRUCTURE, VALUE, AND AGE
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey
H20/21/22. Units in Structure by Tenure
(Universe: Housing units)

Units in Structure	Total Units	%	Vacant Units	----- Occupied Units -----					
				Total	Owner	Renter			
1. detached	5,307	53.3%	115	5,192	4,831	361			
2. attached	1,796	18.0%	229	1,567	1,224	343			
3 or 4	146	1.5%	0	146	32	114			
5 to 9	254	2.5%	0	254	47	207			
10 to 19	661	6.6%	63	598	153	445			
20 to 49	1,192	12.0%	134	1,058	239	819			
50 or more	48	0.5%	0	48	5	43			
Mobile home or trailer	0	0.0%	0	0	0	0			
Other	438	4.4%	8	430	423	7			
Total	120	1.2%	5	115	68	47			
Total				9,962	100.0%	554	9,408	7,022	2,386
H25/26/27. Year Structure Built by Tenure (Universe: Housing units)				----- Occupied Units -----					
Year Built	Total Units	%	Vacant Units	Total	Owner	Renter			
1989 to March	447	4.5%	142	305	281	24			
1985 to 1988	2,769	27.8%	240	2,529	1,519	1,010			
1980 to 1984	1,536	15.4%	14	1,522	886	636			
1970 to 1979	1,874	18.8%	32	1,842	1,611	231			
1960 to 1969	1,343	13.5%	31	1,312	1,066	246			
1950 to 1959	1,265	12.7%	51	1,214	1,146	68			
1940 to 1949	195	2.0%	0	195	150	45			
Before 1940	533	5.4%	44	489	363	126			
Median year built				1979					

H28/29. Year Householder Moved Into Unit by Tenure
(Universe: Occupied housing units)

Year Moved Into Unit	Total Units	%	Owner Occupied	Renter Occupied
1989 to March 1990	1,857	19.7%	853	1,004
1985 to 1988	3,658	38.9%	2,590	1,068
1980 to 1984	1,016	10.8%	881	135
1970 to 1979	1,521	16.2%	1,382	139
1960 to 1969	766	8.1%	739	27
Before 1960	590	6.3%	577	13

H61/62. Value
(Universe: Specified owner occupied housing units)

Value	Units	%
Less than \$ 15,000	5	0.1%
\$ 15,000 - 19,999	10	0.2%
\$ 20,000 - 24,999	10	0.2%
\$ 25,000 - 29,999	0	0.0%
\$ 30,000 - 34,999	0	0.0%
\$ 35,000 - 39,999	0	0.0%
\$ 40,000 - 44,999	0	0.0%
\$ 45,000 - 49,999	0	0.0%
\$ 50,000 - 59,999	15	0.3%
\$ 60,000 - 74,999	30	0.5%
\$ 75,000 - 99,999	87	1.5%
\$ 100,000 - 124,999	314	5.4%
\$ 125,000 - 149,999	857	14.7%
\$ 150,000 - 174,999	1,222	21.0%
\$ 175,000 - 199,999	1,030	17.7%
\$ 200,000 - 249,999	1,111	19.1%
\$ 250,000 - 299,999	601	10.3%
\$ 300,000 - 399,999	415	7.1%
\$ 400,000 - 499,999	67	1.2%
\$ 500,000 or more	38	0.7%
Total	5,812	100%
Mean value: Mortgaged	\$205,121	
No mortgage	\$181,799	
All units	\$201,245	
Median value	\$183,600	

Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3, PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

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EXHIBIT 4
3/6/9

PROFILE 23 - HOUSING: UTILITIES AND VEHICLES AVAILABLE
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey

H30. House Heating Fuel
(Universe: Occupied housing units)

Utility gas	7,242
Bottled, tank, or lp gas	169
Electricity	433
Fuel oil, kerosene, etc.	1,480
Coal or coke	8
Wood	49
Solar energy	8
Other fuel	19
No fuel used	0

H23. Source of Water
(Universe: Housing units)

Public system or private company	9,274
Individual well: Drilled	534
Dug	154
Some other source	0

H24. Sewage Disposal
(Universe: Housing units)

Public sewer	8,997
Septic tank or cesspool	955
Other means	10

H42. Kitchen Facilities
(Universe: Housing units)

Complete kitchen facilities	9,962
Lacking complete kitchen facilities	0

H35/36. Telephone in Housing Unit by Tenure, Age of Householder
(Universe: Occupied housing units)

	Total	%	Owner	Renter	15-59	60-64	65-74	75+
With telephone	9,374	99.6%	7,006	2,368	7,661	595	719	399
No telephone	34	0.4%	16	18	19	4	11	0

H37/38. Vehicles Available
(Universe: Occupied housing units)

	Total	%	Owner	Renter
None	343	3.6%	180	163
1	2,634	28.0%	1,702	932
2	4,826	51.3%	3,791	1,035
3	1,151	12.2%	997	154
4	317	3.4%	236	81
5 or more	137	1.5%	116	21
Mean vehicles available	1.9		2.0	1.6

H39/40. Race and Hispanic Origin by Vehicles Available
(Universe: Occupied housing units)

	White	Black	Amer Ind Esk & AI	Asian & Pac Isl	Other Race	Hispanic Origin
None	313	21	0	9	0	13
1 or more	7,873	491	21	611	69	282

H41. Age of Householder by Vehicles Available
(Universe: Occupied housing units)

	15-64 Years	65 + Years
None	143	200
1 or more	8,136	929

Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

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PROFILE 24 - HOUSING: GROSS RENT AND INCOME
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey

H43/44. Gross Rent (Universe: Specified renter-occupied housing units)

With cash rent:	Units	With cash rent:	White	Black	Amer. Ind Esp & AI	Asian & Pac Isl	Other Race	Not of Hispanic Origin	Hispanic Origin
\$ 0 - \$ 99	13	\$ 0 - \$ 199	66	0	0	6	6	72	6
\$ 100 - \$ 149	23	\$ 200 - \$ 299	28	0	0	0	0	28	0
\$ 150 - \$ 199	42	\$ 300 - \$ 499	147	15	0	0	0	158	4
\$ 200 - \$ 249	15	\$ 500 - \$ 749	404	54	0	29	14	477	24
\$ 250 - \$ 299	13	\$ 750 - \$ 999	811	96	6	37	4	923	31
\$ 300 - \$ 349	0	\$1000 or more	444	91	0	23	14	539	33
\$ 350 - \$ 399	15	No cash rent	33	4	0	3	0	40	0
\$ 400 - \$ 449	48								
\$ 450 - \$ 499	99								
\$ 500 - \$ 549	84								
\$ 550 - \$ 599	69								
\$ 600 - \$ 649	60								
\$ 650 - \$ 699	111								
\$ 700 - \$ 749	177								
\$ 750 - \$ 999	954								
\$1000 or more	572								
No cash rent	40								

H34. Bedrooms by Gross Rent (Universe: Specified renter-occupied housing units)

With cash rent:	None	Number of Bedrooms	1	2	3+
\$ 0 - \$ 199	5	55	9	9	9
\$ 200 - \$ 299	7	9	6	6	6
\$ 300 - \$ 499	6	109	31	22	22
\$ 500 - \$ 749	6	365	122	8	8
\$ 750 - \$ 999	7	291	537	119	119
\$1000 or more	0	38	164	370	370
No cash rent	0	6	15	19	19

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H47/48. Meals Included In Rent (Universe: Specified renter-occupied housing units paying cash rent)

Meals Included	Units	Mean Gross Rent
No meals included	2,295	\$850
Meals included	0	

H49. Inclusion of Utilities In Rent (Universe: Specified renter-occupied housing units)

Pay extra for 1 or more utilities	2,292
No extra payment for any utilities	43

H50. Household Income In 1989 by Gross Rent as a Percentage of Household Income (Universe: Specified renter-occupied housing units)

Income	Percentage of Household Income	Not Computed	H51. Age of Householder by Gross Rent as a Percentage of Household Income in 1989 (Universe: Specified renter-occupied housing units)	Age of Householder			
	0-19%	20-24%	25-29%	30-34%	35%+	15-64	65+
<\$10,000	5	0	11	26	82	54	590
\$10,000-19,999	15	0	0	10	98	3	544
\$20,000-34,999	51	97	122	72	160	13	402
\$35,000-49,999	63	220	224	92	45	8	206
\$50,000 +	514	232	70	41	0	7	318
							66
							19

Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

EXHIBIT (3/6/95

TOWNSHIP OF SOUTH BRUNSWICK
 PLANNING DEPARTMENT
 MUNICIPAL BUILDING
 MONMOUTH JUNCTION, NJ 08852

MAJOR RESIDENTIAL DEVELOPMENTS

<u>Project Name/App. #</u>	<u>Developer/Applicant</u>	<u>Description</u>	<u>Status</u>
1A. Princeton Walk at South Brunswick (PBR 462)	Eastern Properties 908-297-7200	170 SF Units 207 TH Units 377 Total Units	Under construction.
1B. Princeton Walk (Center and Middle Villages) (PBR 462H)	K. Hovnanian Cos. 908-297-2600	198 TH Units	Final Approval granted October 1994.
1C. Princeton Walk (Northeast Village) (PBR 462I)	Toll Brothers 215-938-8200	110 SF Units	Final Approval granted October 1994.
2. Monmouth Walk (Case #86-17)	Mon. Walk Dev. Corp. 908-329-2666	246 TH Units *44 TH Units 290 TH Units	Under construction.
3. Princeton Gate (PBR 494)	VAST-N.J. Developments, Inc. 908-329-1533	104 SF Units 234 TH Units 338 Total Units	Under construction.
4. Sand Hill Estates I (Case #86-42)	Robert D'Anton 908-914-9080	10 SF Units	Under construction.
5. *Deans Pond Crossing (SD 1170)	Bess Wiesenfeld 908-846-2424	313 SF Units *20 SF Units 333 Total Units	Preliminary approval granted February 1994. Final approval for Section 1A (44 SF) granted September 1994.
6. Princeton Hills (Case #86-45)	S. & H. Rifai 908-422-1037	19 SF Units	Under construction.

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MAJOR RESIDENTIAL DEVELOPMENTS

<u>Project Name/App. #</u>	<u>Developer/Applicant</u>	<u>Description</u>	<u>Status</u>
7. Beekman Manor (PBR 993B)	Beekman Manor, Inc. 908-821-9220	320 SF Units	Preliminary approval granted April, 1992. Sections I & II (79 lots) under construction
8. The Timbers at Willow Hill II (SD 1021B)	Calton Homes, Inc. 908-329-0600	33 SF Units	Under construction.
9. *Southridge Hills (PRD III)	Southridge Hills, Inc. 908-274-2200	208 TH Units 752 MF Units *128 MF Units <u>1088 Total Units</u>	Section I (208 TH) and IIA (408 MF) under construction.
10. Drinking Brook (SD 1043)	Drinking Brook Associates 908-329-6628	46 SF Units	Sections 1 & 2 (24 lots) under construction. Final approval for Sections 3 & 4 under review.
11. Shallowbrook Estates (SD 1040)	Seven Kay Associates 609-737-3284	12 SF Units	Revised preliminary approval granted November, 1992.
12. Country Mill Estates (SD 1072)	---	6 SF Units	Under construction
13. *Summerfield (PRD IV)	Summerfield Associates 609-275-1224	222 SF Units 208 TH Units 151 MF Units *70 MF Units <u>651 Total Units</u>	Preliminary approval granted October 1992. Final approval for Sections 1, 2, 3, 4, 7, 8 & 10 (112 SF, 136 TH) granted January 1994, under construction.
14. Willow Hill Square (SD 1063B)	Calton Homes 908-329-0600	52 SF Units	Under construction.
15. Wexford II (SD 1054)	---	46 SF Units	Under construction.

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MAJOR RESIDENTIAL DEVELOPMENTS

<u>Project Name/App. #</u>	<u>Developer/Applicant</u>	<u>Description</u>	<u>Status</u>
16. Falcongate (PBR 533A)	Windsor Associates 908-329-2600	52 TH Units	Under construction.
17. Ireland Brook (Case #87-48)	Blythwood Corporation 908-821-5687	46 SF Units	Under construction.
18. *Friendship Village (SD 1103C)	Home Tech Industries 908-274-2921	156 MF Units 413 MF Units *200 Spec. Hous. Units 769 Total Units	Revised final approval granted July 1990. Approval voided July 1992. In litigation.
19. Sand Hills Estates II (SD 1081)	Robert D'Anton 908-914-9080	6 SF Units	Under construction.
20. Nanci Woods (SD 1082A)	Dan Barrie Realty 908-925-5510	15 SF Units	Preliminary approval granted July 1992. Site work under construction. Final application under review.
21. Jct. Village West (SD 1106)	James E. O'Neill 908-297-1539	148 SF Units	Preliminary approval granted June 1989. Site work under construction.
22. Jct. Village East (SD 1107)	James E. O'Neill 908-297-1539	42 SF Units	Preliminary approval granted June 1989. Site work under construction.
23. Independence Sq. (Case #88-42)	Entrepreneur, Inc. 908-297-0054	15 TH Units	Under construction.
24. Hickory Ridge (Case #90-52A)	K. Hovnanian Cos. 908-297-2600	116 TH Units	Under construction.

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MAJOR RESIDENTIAL DEVELOPMENTS

<u>Project Name/App. #</u>	<u>Developer/Applicant</u>	<u>Description</u>	<u>Status</u>
25. Hickory Ridge (Case #90-52B)	J. & E. Gaylord 908-329-2765	40 TH Units	Preliminary and final approvals granted September 1994.
26. ---- (Case #94-09)	Alexander Molnar 908-329-6200	26 SF Units	Use variance approved July 1994.
27. Stadelman Farm (SD 1181)	K. Hovnanian Cos. 908-297-2600	80 SF Units	Concept plan reviewed.
28. ---- (SD 1078)	New Village Associates 908-545-6790	5 SF Units	Preliminary approval granted January 1990.
29. Rank Farm (SD 1183)	Matzel & Mumford Org. 908-888-1112	51 SF Units	Concept plan under review.
30. Gramercy Estates (SD 1184)	Levico Development, Inc. 908-821-0456	16 SF Units	Preliminary plan under review.

Key: MF - Multi-Family
 SF - Single Family
 TH - Townhouse
 * - Includes construction of low and moderate income housing units.

NOTE: THE ABOVE INFORMATION MAY BE SUBJECT TO CHANGE.

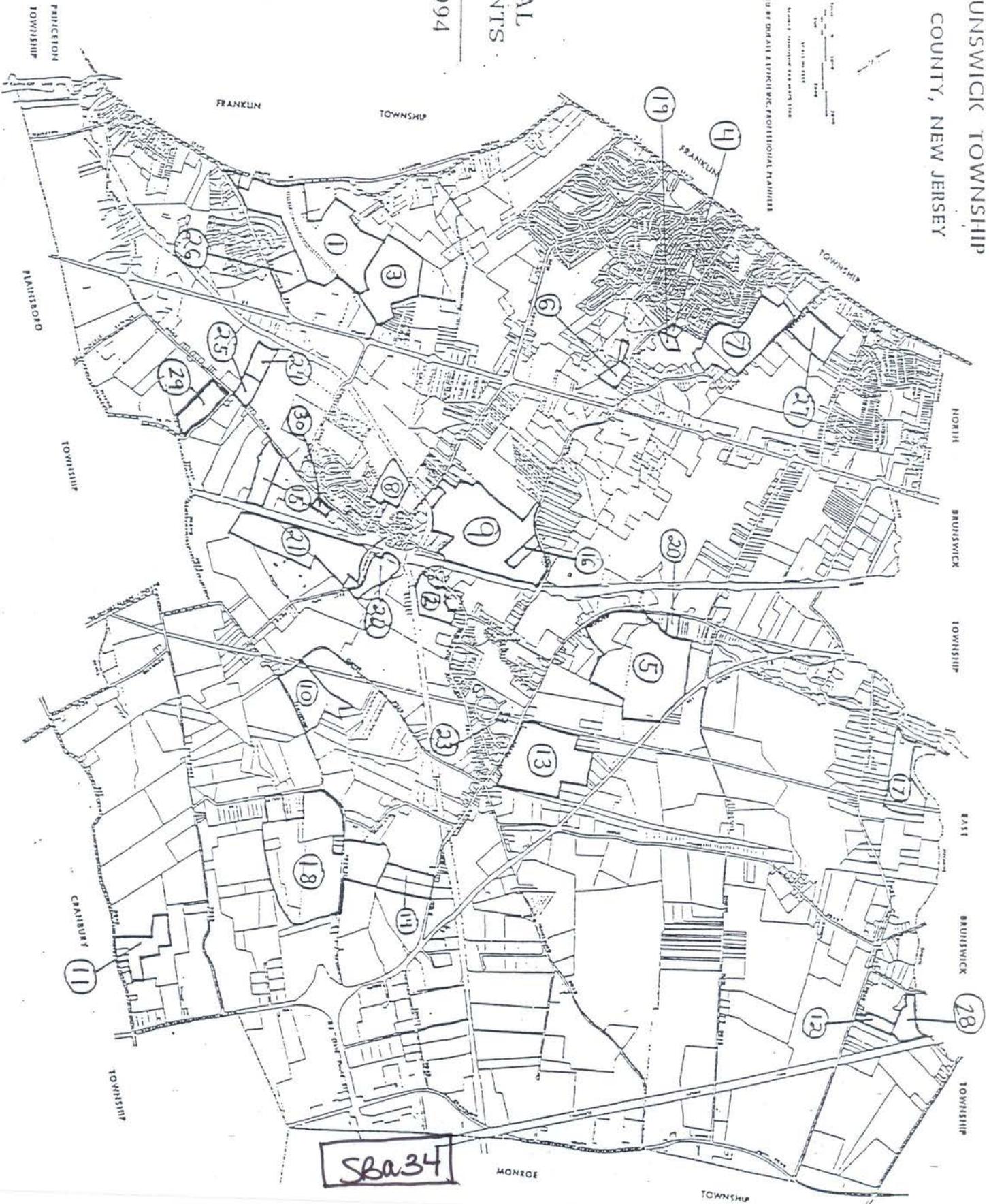
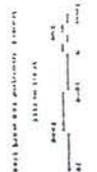
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SOUTH BRUNSWICK TOWNSHIP
MIDDLESEX COUNTY, NEW JERSEY

MAJOR
RESIDENTIAL
DEVELOPMENTS

OCTOBER 1994

BASE MAP PREPARED BY DR. ALE & SPIGEL INC. PROFESSIONAL ENGINEERS



3/6/9.

PROFILE 1 - POPULATION: RACE, HISPANIC ORIGIN, AND VETERAN STATUS
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey
P/2/3/6. Persons
(Universe: Persons)

Total 25,792

Urban 22,081
Percent of total 85.6%
Inside urbanized area 22,081
Outside urbanized area 0

Rural 3,711
Percent of total 14.4%
Rural farm 108
Rural nonfarm 3,603

P8/9. Race
(Universe: Persons)

White	21,696
Black	1,595
American Indian, Eskimo or Aleut	25
American Indian	25
Eskimo	0
Aleut	0
Asian or Pacific Islander	2,279
Chinese	568
Filipino	130
Japanese	26
Asian Indian	1,344
Korean	91
Vietnamese	23
Cambodian	0
Hmong	0
Laotian	0
Thai	10
Other Asian	87
Polynesian:	0
Hawaiian	0
Samoa	0
Tongan	0
Other Polynesian	0
Micronesian:	0
Guamanian	0
Other Micronesian	0
Melanesian	0
Other Pacific Islander	0
Other race	197

P10/11. Persons of Hispanic Origin
(Universe: Persons of Hispanic Origin)

Hispanic Origin	879
Mexican	102
Puerto Rican	424
Cuban	42
Other Hispanic:	13
Dominican	0
Central American:	0
Guatemalan	3
Honduran	16
Nicaraguan	0
Panamanian	0
Salvadoran	99
Other Central American	0
South American:	0
Colombian	29
Ecuadorian	9
Peruvian	11
Other South American	8
Other Hispanic	123

P64. Sex by Age by Veteran Status
(Universe: Persons 16 years and over)

16 - 64 years:	Male	Female
In Armed Forces	17	0
Civilian:		
Veteran	1,948	41
Nonveteran	7,014	9,197
65 + years:		
In Armed Forces	0	0
Civilian:		
Veteran	447	44
Nonveteran	222	935
Total:		
In Armed Forces	17	0
Civilian:		
Veteran	2,395	85
Nonveteran	7,236	10,132

P12. Hispanic Origin by Race
(Universe: Persons)

Not of Hispanic Origin:	
White	21,116
Black	1,526
American Indian, Eskimo, or Aleut	25
Asian or Pacific Islander	2,246
Other race	0
Hispanic Origin:	
White	580
Black	69
American Indian, Eskimo, or Aleut	0
Asian or Pacific Islander	33
Other race	197

P65. Period of Military Service
(Universe: Civilian veterans 16 years and over)

Total	2,480
May 1975 or later only:	
Sept 1980 or later only:	
W/less than 2 years service	3
W/2 years or more service	118
May 1975 - Aug 1980 only	102
Both, May 1975 - Aug 1980 and Sept 1980 or later	36
Vietnam era:	
No Korean nor WW II	654
Korean conflict, no WW II	13
Korean conflict and WW II	0
Feb 1955 to July 1964 only	355
Korean conflict:	
No Vietnam nor WW II	453
With WW II, no Vietnam	57
WW II, no Korean/Vietnam	682
WW I	0
Other service	7

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Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

EXHIBIT B
3/6/9

Municipality: South Brunswick Township
County: Middlesex County, New Jersey
P13/14/15. Race by Sex by Age

PROFILE 2 - POPULATION: AGE, RACE, HISPANIC ORIGIN, AND SEX (PART 1)
1990 CENSUS OF POPULATION AND HOUSING

	Total Persons			White			Black			American Indian Eskimo or Aleut		
	Total	Male	Female	Male	Female	Total	Male	Female	Total	Male	Female	
Under 1	437	204	233	172	197	31	11	20	0	0	0	
1-2	886	524	362	427	325	53	22	31	0	0	0	
3-4	866	415	451	306	398	57	39	18	0	0	0	
5	526	261	265	205	228	24	11	13	0	0	0	
6	401	212	189	188	151	35	13	22	0	0	0	
7-9	1,047	546	501	413	394	86	34	52	0	0	0	
10-11	685	374	311	287	244	62	19	43	0	0	0	
12-13	487	216	271	161	185	43	17	26	0	0	0	
14	313	151	162	128	126	13	8	5	0	0	0	
15	279	154	125	119	104	32	17	15	0	0	0	
16	239	155	84	118	84	20	20	0	0	0	0	
17	400	207	193	166	174	17	17	0	0	0	0	
18	196	81	115	66	94	22	7	15	0	0	0	
19	227	131	96	113	75	16	6	10	0	0	0	
20	240	115	125	85	97	29	22	7	0	0	0	
21	316	184	132	128	93	22	12	10	0	0	0	
22-24	1,009	466	543	426	459	74	30	44	0	0	0	
25-29	2,670	1,205	1,465	1,122	1,252	115	35	80	0	0	0	
30-34	3,049	1,512	1,537	1,320	1,335	137	67	70	4	4	0	
35-39	2,634	1,315	1,319	1,082	1,083	206	98	108	0	0	0	
40-44	2,174	973	1,201	764	995	161	88	73	9	7	2	
45-49	1,728	936	792	814	648	161	29	32	0	0	0	
50-54	1,346	708	638	554	562	107	72	35	0	0	0	
55-59	973	459	514	413	432	107	9	39	0	0	0	
60-61	466	286	180	248	144	18	11	7	0	0	0	
62-64	550	246	304	232	296	9	9	0	0	0	0	
65-69	691	346	345	317	296	42	15	27	0	0	0	
70-74	389	154	235	139	210	21	11	10	0	0	0	
75-79	310	88	222	86	184	0	0	22	0	0	0	
80-84	170	66	104	59	97	0	0	0	0	0	0	
85+	88	15	73	15	61	12	0	12	0	0	0	
Total	25,792	12,705	13,087	10,673	11,023	1,595	749	846	25	19	6	
Median age	32.7	32.5	33.0	32.7	33.1	31.7	32.6	30.9	40.3	31.9	56.3	

Sba 3b

Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

EXHIBIT 9
3/6/92

PROFILE 2 - POPULATION: AGE, RACE, HISPANIC ORIGIN, AND SEX (PART 2)
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey
P13/14/15. Race by Sex by Age

	Asian & Pacific Islander			Other Race			Hispanic Origin		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
Under-1	33	17	16	4	4	0	32	4	28
1-2	73	67	6	8	8	0	23	18	5
3-4	99	64	35	6	6	0	35	21	14
5	61	37	24	0	0	0	23	10	13
6	16	6	10	11	5	6	23	5	18
7-9	150	99	51	4	0	4	19	9	10
10-11	87	63	24	5	5	0	28	16	12
12-13	93	33	60	5	5	0	21	5	16
14	46	15	31	0	0	0	18	14	4
15	20	14	6	4	4	0	14	8	6
16	17	17	0	0	0	0	11	11	0
17	37	18	19	6	6	0	18	6	12
18	14	8	6	0	0	0	1	1	0
19	23	12	11	0	0	0	3	3	0
20	25	4	21	4	4	0	19	19	0
21	67	44	23	6	0	6	19	13	6
22-24	46	6	40	4	4	0	48	29	19
25-29	161	43	118	20	5	15	72	19	53
30-34	209	97	112	44	24	20	124	67	57
35-39	210	109	101	53	26	27	103	52	51
40-44	245	114	131	0	0	0	71	24	47
45-49	192	86	106	13	7	6	55	39	16
50-54	123	82	41	0	0	0	42	30	12
55-59	76	37	39	0	0	0	15	5	10
60-61	56	27	29	0	0	0	5	0	5
62-64	13	5	8	0	0	0	27	18	9
65-69	36	14	22	0	0	0	5	5	0
70-74	19	4	15	0	0	0	0	0	0
75-79	18	2	16	0	0	0	5	0	5
80-84	14	7	7	0	0	0	0	0	0
85+	0	0	0	0	0	0	0	0	0
Total	2,279	1,151	1,128	197	113	84	879	451	428
Median	31.7	30.4	32.8	31.3	30.1	32.8	30.5	31.1	29.8

Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

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3/6/92

PROFILE 6 - POPULATION: HOUSEHOLD TYPE AND RELATIONSHIP BY AGE, RACE, HISPANIC ORIGIN, AND SEX
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey
P5/16. Persons in Household
(Universe: Households)

1 person	1,776
2 persons	2,982
3 persons	1,904
4 persons	1,844
5 persons	727
6 persons	142
7 or more persons	87
Total Households	9,462

P17/18/40. Household Type and Relationship
(Universe: Persons)

In family households:	65+	Total
Householder	552	7,236
Spouse	363	6,152
Child:		
Natural or adopted	NA	7,998
Stepchild	NA	304
Grandchild	NA	194
Other relatives	271	874
Nonrelatives	12	252
In nonfamily households:		
Male householder:		
Living alone	106	713
Not living alone	8	237
Female householder:		
Living alone	336	1,063
Not living alone	0	213
Nonrelatives	0	512

In group quarters:

Institutionalized	0	0
Correctional institu.	NA	0
Nursing homes	NA	0
Mental hospitals	NA	0
Juvenile institutions	NA	0
Other institutions	NA	0
Non-		
Institutionalized	0	44
College dormitories	NA	0
Military quarters	NA	0
Homeless shelters	NA	0
Visible in street	NA	0
Other group quarters	NA	44

P19/20/21. Race/Ethnicity of Householder by Household Type and Presence of Children Under 18 Years (Universe: Households)

	Total	White	Black	Amer In Esk, AI	Asian & Pac Isl	Other Race	Hispanic Origin
Family households:							
Married couple family:							
With own children	3,302	2,746	181	7	330	38	119
No own children	2,961	2,659	141	4	148	9	78
Other family:							
Male householder, no wife present:							
With own children	93	67	9		13	0	0
No own children	206	163	9		29	5	5
Female householder, no husband present:							
With own children	307	291	12		4	0	12
No own children	367	311	35		15	6	24
Nonfamily households	2,226	1,991	174	0	53	8	30

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P41. Group Quarters by Age (Universe: Persons in group quarters)

Institutionalized persons:

0 - 17 years	0
18 - 64 years	0
65 + years	0
Total	0
Other group quarters:	
0 - 17 years	0
18 - 64 years	44
65 + years	0
Total	44

P24. Household Type by Age of Householder (Universe: Households)

	Family Hhlds	Non- Family Hhlds
15 - 24 years	96	155
25 - 34 years	1,973	696
35 - 44 years	2,147	388
45 - 54 years	1,538	263
55 - 64 years	930	274
65 - 74 years	413	230
75 + years	139	220

Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

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PROFILE 15 - POPULATION: GENERAL INCOME
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey

P80/81/107/108/110/111. Household, Family and Nonfamily Income in 1989

	Households	Families	Nonfamily Households
\$ 0 - 4,999	119	77	42
\$ 5,000 - 9,999	215	55	160
\$ 10,000 - 12,499	121	42	79
\$ 12,500 - 14,999	100	52	61
\$ 15,000 - 17,499	171	100	71
\$ 17,500 - 19,999	134	71	63
\$ 20,000 - 22,499	179	113	83
\$ 22,500 - 24,999	157	105	60
\$ 25,000 - 27,499	211	108	112
\$ 27,500 - 29,999	143	88	57
\$ 30,000 - 32,499	312	148	161
\$ 32,500 - 34,999	273	158	115
\$ 35,000 - 37,499	410	279	119
\$ 37,500 - 39,999	208	141	73
\$ 40,000 - 42,499	391	284	116
\$ 42,500 - 44,999	332	257	77
\$ 45,000 - 47,499	407	306	108
\$ 47,500 - 49,999	360	277	77
\$ 50,000 - 54,999	559	426	136
\$ 55,000 - 59,999	711	612	90
\$ 60,000 - 74,999	1,458	1,357	92
\$ 75,000 - 99,999	1,485	1,276	194
\$ 100,000 - 124,999	570	512	43
\$ 125,000 - 149,999	254	222	25
\$ 150,000 or more	182	170	12
Total	9,462	7,236	2,226
Median income	\$54,305	\$59,264	\$36,029
Mean income	\$59,475	\$64,586	\$41,187
Less than \$150,000	\$56,595	\$61,268	\$40,023
\$150,000 or more	\$206,322	\$202,490	\$255,943

P109. Mean Family Income in 1989 by Family Type & Presence of Children Under 18 Years (Universe: Families)

Family Type	Mean Income
Married-couple family: With own children	\$68,864
No own children	\$67,491
Other family: Male householder, no spouse: With own children	\$38,989
No own children	\$52,517
Female householder, no spouse: With own children	\$28,886
No own children	\$45,787

P89 through P105. Households and Mean Household Income in 1989 by Income Source (Universe: Households)

Income Source	Households	Mean Income
With wage or salary income	8,591	\$57,087
No wage or salary income	871	
With nonfarm self-employment income	1,143	\$21,574
No nonfarm self-employment income	8,319	
With farm-employment income	128	\$19,454
No farm-employment income	9,334	
With interest, dividend, or rental income	5,310	\$4,204
No interest, dividend, or rental income	4,152	
With social security income	1,347	\$8,120
No social security income	8,115	
With public assistance income	140	\$4,755
No public assistance income	9,322	
With retirement income	979	\$8,072
No retirement income	8,483	
With other type of income	771	\$4,335
No other type of income	8,691	
With earnings	8,720	
No earnings = (wage & salary + self-employed)	742	

P112/113. Workers in Family and Mean Income in 1989 (Universe: Families)

Workers	Families	Mean Income
None	321	\$24,391
1	1,603	\$51,529
2	4,182	\$67,158
3 or more	1,130	\$85,009

P114/115/116. Per Capita Income in 1989 (Universe: Total persons or persons 15 years and over)

Category	Per Capita Income
Total persons	\$21,881
In households	\$21,899
In group quarters: Institutionalized	\$0
Noninstitutionalized	\$11,617
White	\$22,559
Black	\$20,205
Amer. Ind, Esk, AI	\$23,996
Asian & P I	\$17,351
Other	\$12,932
Hispanic	\$16,986

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Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

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PROFILE 8 - POPULATION: TRANSPORTATION TO AND PLACE OF WORK
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey
P45/46/47/48. Place of Work
(Universe: Workers 16 years and over)

Worked in state of residence: 8,017
Worked in county of residence: 5,221
Worked outside state of residence: 1,655

Living in an MSA/PMSA:

Worked in MSA/PMSA of residence: 1,033
Remainder of this MSA/PMSA: 8,441
Worked outside MSA/PMSA of residence: 2,099
Worked in a different MSA/PMSA: 3,280
Not living in an MSA/PMSA: 40
Worked in an MSA/PMSA: 0
Central city: 0
Remainder of MSA/PMSA: 0
Worked outside of any MSA/PMSA: 0
Not living in an MSA/PMSA: 0

Living in a place: 683
Worked in place of residence: 9,202
Worked outside place of residence: 5,008
Not living in a place: *****

Living in the 9 Northeastern States: 2,801
Worked in the minor civil division of residence: 12,092
Worked outside minor civil division of residence: 0
Not living in the 9 Northeastern States: 0

P49. Means of Transportation to Work
(Universe: Workers 16 years and over)

Car, truck, or van: 14,893
Drove alone: 11,694
Carpooled: 1,588
Public transportation: 361
Bus or trolley bus: 0
Streetcar/trolley car: 15
Subway or elevated: 546
Railroad: 0
Ferryboat: 0
Taxicab: 0
Motorcycle: 41
Bicycle: 198
Walked: 65
Other means: 381
Worked at home: 381

Total workers: 14,893

P53. Private Vehicle Occupancy
(Universe: Workers 16 years and over)

Car, truck, or van: 11,694
Drove alone: 1,262
In 2-person carpool: 100
In 3-person carpool: 25
In 4-person carpool: 17
In 5-person carpool: 15
In 6-person carpool: 169
In 7-or-more carpool: 1,611
Other means: 1,611

P50/51. Travel Time to Work
(Universe: Workers 16 years and over)

Did not work at home: 345
0 - 4 minutes: 1,091
5 - 9 minutes: 2,392
10 - 14 minutes: 2,100
15 - 19 minutes: 2,090
20 - 24 minutes: 775
25 - 29 minutes: 1,770
30 - 34 minutes: 437
35 - 39 minutes: 596
40 - 44 minutes: 1,088
45 - 49 minutes: 596
60 - 89 minutes: 1,220
90 or more minutes: 608
Worked at home: 381

Mean travel time to work: 27.7 minutes

P52. Time Leaving Home to Go to Work
(Universe: Workers 16 years and over)

Did not work at home: 183
12:00 a.m. - 4:59 a.m.: 238
5:00 a.m. - 5:29 a.m.: 340
5:30 a.m. - 5:59 a.m.: 1,254
6:00 a.m. - 6:29 a.m.: 1,493
6:30 a.m. - 6:59 a.m.: 2,409
7:00 a.m. - 7:29 a.m.: 2,423
7:30 a.m. - 7:59 a.m.: 1,382
8:00 a.m. - 8:29 a.m.: 1,196
8:30 a.m. - 8:59 a.m.: 888
9:00 a.m. - 9:59 a.m.: 266
10:00 a.m. - 10:59 a.m.: 52
11:00 a.m. - 11:59 a.m.: 766
12:00 p.m. - 3:59 p.m.: 622
4:00 p.m. - 11:59 p.m.: 381
Worked at home: 381

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PROFILE 10 - POPULATION: EDUCATION AND EMPLOYMENT STATUS BY RACE, HISPANIC ORIGIN
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey
P61/62/63. School Enrollment, Educational Attainment, and Employment Status by Race and Hispanic Origin
(Universe: Persons 16 to 19 years)

	Persons 16 to 19 Years							
	Total	White	Black	Amer. In Esp. AI	Asian & Pac Isl	Other Race	Hispanic Origin	
In Armed Forces:								
Enrolled in school:	0	0	0	0	0	0	0	0
High school graduate	0	0	0	0	0	0	0	0
Not high school graduate	0	0	0	0	0	0	0	0
Not enrolled in school:								
High school graduate	6	6	0	0	0	0	0	0
Not high school graduate	0	0	0	0	0	0	0	0
Civilian:								
Enrolled in school:	429	382	21	0	26	0	6	6
Employed	26	26	0	0	0	0	0	1
Unemployed	443	346	48	0	43	6	6	23
Not in labor force								
Not enrolled in school:								
High school graduate:	99	71	6	0	22	0	0	3
Employed	5	5	0	0	0	0	0	0
Unemployed	0	0	0	0	0	0	0	0
Not in labor force								
Not high school graduate:								
Employed	32	32	0	0	0	0	0	0
Unemployed	7	7	0	0	0	0	0	0
Not in labor force	15	15	0	0	0	0	0	0

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Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

PROFILE 11 - POPULATION: INDUSTRY AND OCCUPATION
1990 CENSUS OF POPULATION AND HOUSING

Municipality: South Brunswick township
County: Middlesex County, New Jersey

P75. Sex by Work Status in 1989
(Universe: Persons 16 years and over)

Male:	
Worked in 1989	8,695
Did not work in 1989	953
Female:	
Worked in 1989	7,701
Did not work in 1989	2,516

P79. Class of Worker
(Universe: Employed persons 16 years and over)

Private for profit wage and salary	11,429
Private not-for-profit wage and salary	1,009
Local government	1,137
State government	546
Federal government	252
Self-employed	703
Unpaid family	31

P77. Industry
(Universe: Employed persons 16 years and over)

Agriculture, forestry, & fisheries	190
Mining	40
Construction	670
Manufacturing: Nonurable goods	1,768
Durable goods	891
Transportation	544
Communications & other public utilities	512
Wholesale trade	1,077
Retail trade	2,069
Finance, insurance, & real estate	1,884
Services:	
Business & repair services	682
Personal services	322
Entertainment & recreation	187
Professional & related services:	
Health services	1,035
Educational services	1,258
Other professional & related services	1,375
Public administration	603

P78. Occupation
(Universe: Employed persons 16 years and over)

Managerial & professional specialty occupations:	
Executive, administrative, & managerial	3,240
Professional specialty	2,865
Technical, sales & administrative support:	
Technicians & related support	945
Sales	1,853
Administrative support, including clerical	2,746
Service occupations:	
Private household	26
Protective service	196
Service, except protective and household	872
Farming, forestry, & fishing occupations	205
Precision production, craft, & repair occupations	1,112
Operators, fabricators, & laborers:	
Machine operators, assemblers & inspectors	338
Transportation & material moving occupations	386
Handlers, equipment cleaners, helpers, & laborers	323

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Source: U.S. Bureau of the Census, 1990 Census of Population and Housing, Summary Tape File 3.
PREPARED BY: NEW JERSEY STATE DATA CENTER, NEW JERSEY DEPARTMENT OF LABOR, MAY 1992.

EXHIBIT 16
3/6/95

NEW JERSEY
COUNCIL ON AFFORDABLE HOUSING 93-99
MUNICIPAL LOW & MODERATE INCOME HOUSING NEED
3-FEB-93

COUNTY	NAME	ACTUAL DETER- MINED UNITS	INDIG- EROUS NEED	REALLOC. PRESENT NEED	PRES 1993	PRO- SPEC- TIVE NEED 93-99	TOTAL NEED 93-99	PRIOR CYCLE PRO- SPEC- TIVE NEED	D E F I C I T Y	F I L L I N G	G O V E R N M E N T	R E S P O N S I B L E	R E D U C E D	C O U N T Y	UNDE R L A N D C A P	201 CAP	CALCU- LATED NEED	V A N D E R B L E
MIDDLESEX	SOUTH BRUNSWICK TWP.	102	102	01	183	512	695	305	11	-59	-8	-7	-575	-94	0	0	268	
	SOUTH PLAINFIELD BOR	44	44	11	77	178	256	171	15	-12	-9	-4	-175	0	0	0	44	
	SOUTH RIVER BORO.	187	92	5	97	28	126	20	0	-44	-22	-2	0	0	0	0	78	
	SPOTSWOOD BORO.	45	45	5	49	26	76	31	3	-14	-2	-2	0	0	0	0	91	
	WODDRIDGE TWP.	409	409	94	503	512	1035	618	39	-264	-63	-13	0	0	0	0	1351	
GROUP SU		3681	3293	751	4044	4396	8441	3551	270	-2029	-659	-112	-3060	-407	0	0	5143	
ROSENSET	HEDMINSTER TWP.	28	28	17	45	99	144	67	3	-30	-3	-4	-177	0	0	0	0	
	HERRARDS TWP.	52	52	51	101	280	381	216	1	-34	-7	-8	-475	0	0	0	77	
	BERNARDSVILLE BORO.	52	45	13	58	76	134	50	7	-14	-5	-4	-112	0	0	0	116	
	BOUND BROOK BORO.	130	67	4	71	21	91	4	5	-37	-19	-1	0	0	0	0	33	
	BRANCHBURG TWP.	12	12	31	43	181	224	93	5	-6	-2	-5	-197	0	0	0	112	
	BRIDGEWATER TWP.	94	94	79	173	466	640	220	3	-45	-11	-10	-493	0	0	0	304	
	FAIR HILLS BORO.	10	5	4	8	21	29	13	2	-2	-1	-2	-20	0	0	0	21	
	FRANKLIN TWP.	63	63	72	134	457	592	362	16	-118	-23	-10	-492	-182	0	0	145	
	GREEN BROOK TWP.	16	16	13	29	76	105	63	3	-3	-1	-2	-154	0	0	0	10	
	HILLSBOROUGH TWP.	29	29	57	87	335	421	116	12	-51	-7	-8	-112	0	0	0	300	
	MANVILLE BORO.	36	36	5	41	25	66	2	2	-18	-26	-1	0	0	0	0	25	
	MILLSTONE BORO.	2	2	3	5	19	24	0	0	-1	0	-1	0	0	0	0	22	
	MONTGOMERY TWP. NORTH	13	13	35	49	205	254	63	15	-9	-2	-5	-115	0	0	0	0	
	PLAINFIELD BOR	198	132	8	140	47	188	35	1	-95	-37	-3	0	-13	0	0	76	

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DEVELOPMENT FEE SPENDING PLAN
SOUTH BRUNSWICK TOWNSHIP

The Township of South Brunswick has a Development Fee ordinance that was approved by the Council on Affordable Housing (COAH) on March 11, 1993. Now, South Brunswick Township is proposing a Development Fee Spending Plan that addresses N.J.A.C. 5:93-5.1(c) and includes:

1. A projection of anticipated revenues from imposing fees on development, based on historical development activity;
2. A description of the administrative mechanism that South Brunswick will use to collect and distribute revenues;
3. A description of the anticipated use of all development fees;
4. A schedule for the creation or rehabilitation of housing units;
5. A statement that South Brunswick does not envision being responsible for public sector or non-profit construction of housing; and
6. The manner through which South Brunswick will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan.

I. Projection of Revenues

South Brunswick Township has two pools of moneys that incorporate its Housing Trust Fund. One pool contains \$1.5 - \$2 million that is currently the focus of litigation. These moneys are not part of this proposed Spending Plan because their fate is currently unknown and the issues surrounding the moneys may not be resolved in the near future. As a result, South Brunswick is only preparing a Spending Plan for moneys that are unencumbered and are available for distribution. This pool of funds currently contains \$200,000 and will be the focus of the proposed Spending Plan.

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The following is a breakdown of anticipated revenues:

1994-1995	\$200,000
1995-1996	\$120,000
1996-1997	\$120,000
1997-1998	\$120,000
1998-1999	\$120,000
1999-2000	\$120,000

The projected \$120,000/year is based on the average amount of development fees of \$10,000/month that are currently being realized. The initial \$200,000 amount was realized over an 18 month period.

II. Administrative Mechanism

South Brunswick has in place an Affordable Housing Authority that meets on a monthly basis. The purpose of this Authority is to discuss and review affordable housing issues within South Brunswick and make recommendations on plan implementation including Spending Plan priorities. Once the Spending Plan priorities are reviewed and finalized on an annual basis, the result will be recommended to the Township Committee. The Township Committee will then review and approve the spending recommendations for the year via a "Resolution of Approval of the Development Fee Spending Plan." Once approved by Resolution, the South Brunswick Director of Community Development has been designated to review all requests for development fees as to eligibility and conformance with approved priorities and to release the funds upon the filing of the necessary requisition by the requesting eligible entity.

Development fees will be paid in part upon issuance of a building permit based on the estimated added value of the project (50 percent of anticipated fee). Upon completion of construction, the Township Tax Assessor will calculate the equalized assessed value and the remaining amount of the development fee which is due upon issuance of a Certificate of Occupancy. No Certificate of Occupancy will be issued until the Tax Assessor has made this calculation and the entire development fee is paid. The Township Construction Official is responsible for vouchering the calculated development fee prior to the issue of a Certificate of Occupancy.

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III. Use of Development Fees

COAH regulations permit the use of revenues collected from a development fee ordinance for any activity approved by COAH that addresses a municipal fair share obligation. Such activities include but are not limited to: rehabilitation, new construction, regional contribution agreements, purchase of land for low and moderate income housing, improvement of land to be used for low and moderate income housing, extension and/or improvements of roads and infrastructure to low and moderate income housing sites, assistance designed to render units more affordable and the administrative costs of housing plan implementation.

The latter two items have specific limitations set by COAH. No more than 20 percent of fee revenues may be expended for administrative costs. At least 30 percent of fee revenues must be used for affordability assistance activities.

Examples of assistance to render units more affordable include, but are not limited to: down payment assistance, low interest loans and rental assistance.

No more than 20 percent of the revenues collected from development fees may be expended on administration. Administrative costs include but are not limited to: salaries and benefits for municipal employees or consultant fees necessary to develop or implement: a rehabilitation program, a new construction program, a regional contribution agreement, a housing element and an affirmative marketing program. Administrative funds may be used for: income qualification of households; monitoring the turnover of sale and rental units and compliance with COAH monitoring requirements. Development fees may not be used to defray the cost of existing staff.

South Brunswick acknowledges and understands that development fees will only be utilized for eligible activities as per N.J.A.C. 5:93-8.15.

South Brunswick proposes the following use of development fees:

30 percent - affordability assistance in the form of closing cost/down payment assistance to home buyers and/or security deposit assistance for renters; providing gap

financing for rental and/or for sale new construction projects so that rent levels and or selling prices may be reduced

- 30 percent - provide seed moneys for professional services, site acquisition, etc., for non-profits involved in new construction activity in the form of gap financing
- 20 percent - emergency fund for special, upon request, projects such as rehabilitation emergency; other eligible activities
- 20 percent - administration

IV. Schedule for 1994-1995 Funds

South Brunswick is allocating \$150,000 of its \$200,000 in available developer fees to be spent during 1994-1995. By budgeting this amount, there would be a contingency fund of \$50,000 remaining in the account for future years. These dollars would be pro rated and added to the annual spending plan each year unless there has been a special eligible request that exhausted the contingency.

The proposed uses of the \$150,000 for 1994-1995 are as follows:

1.	Administration	\$ 30,000
2.	South Brunswick Citizens for Independent Living	\$ 25,000 (grant) \$ 25,000 (loan)
3.	South Brunswick Community Development Corporation - pending review, evaluation and approval	\$ 40,000 (loan or grant)
4.	Affordability Assistance	\$ 30,000
	Total	\$150,000

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The \$30,000 for administration will only be utilized for eligible activities as per N.J.A.C. 5:93-8.15(e).

The South Brunswick Citizens for Independent Living (CIL) is requesting a \$25,000 grant and a \$25,000 loan to assist in the construction of 11 apartments of independent living that will be rented to developmentally disabled occupants. There will be ten apartments, all low income units, and one apartment for a superintendent who will also qualify as low or moderate. All ten of the units will be available to very low income residents. As a result, South Brunswick considers at least \$25,000 or half of the request as meeting its \$45,000 affordability mandate. See attached description of the project.

The South Brunswick Community Development Corporation (SBCDC) is planning to build 72 units of senior citizen rental housing in South Brunswick. To assist with this development, \$40,000 is being requested. All 72 units will be rented to very low income seniors. As a result, the \$40,000 will be used to reduce total development costs or as gap financing so that all rents remain at an affordability level for very low income elderly. The request is currently pending review, evaluation and approval from South Brunswick. Again, South Brunswick considers that at least half of the request or \$20,000 be considered as meeting the 30 percent affordability test for this year.

Finally for 1994-1995, South Brunswick is setting aside \$30,000 for homebuyers and renters for down payment and closing cost assistance and for its revolving security deposit loan fund.

The Housing Officer of South Brunswick Township is responsible for administering the revolving security deposit loan program. Moneys are available to lend the necessary one and one half month security deposit or up to \$800 for income eligible tenants. No interest is charged and the tenant has one year to repay. Approximately six security deposit requests are filed a year.

The Housing Officer also oversees a revolving loan fund for closing cost and down payment assistance to prospective home buyers. Up to \$3,000/unit is available for closing costs and a maximum of seven percent of the purchase price is available for down payment assistance. Awarding of these funds is based on documentation provided and verified. There is a four and one half percent interest rate, compounded annually, and a second mortgage is placed on the property. The lien becomes due upon transfer of title.

V. Public Sector/Non-Profit Housing

At this time, South Brunswick does not intend to be responsible for municipal or non-profit construction. There are no municipal projects proposed for the present certified plan. Initial discussions on the content of the 1993-1999 Housing Element do not include municipal construction. Developer fees will be available to assist non-profits in constructing affordable units but the moneys will be in the form of gap financing either as a loan or as a grant.

VI. Expected/Unexpected Shortfall

South Brunswick will not commit funds that it does not have in its Affordable Housing Trust Fund. Only available funds will be disbursed. Therefore, there will be no expected or unexpected shortfall. For years 1995-2000, South Brunswick is reserving a total of \$50,000 from its existing \$200,000 to be utilized on an as needed basis or as its contingency. This averages \$10,000/year over the remaining five year period.

SBA 4A

PROJECT DESCRIPTION

A grant from the Section 811 Supportive Housing for Persons With Disabilities program of the U.S. Department of Housing and Urban Development (HUD) has been reserved for South Brunswick Citizens for Independent Living, Inc. (CIL). The funds are to be used to build an independent living facility consisting of 11 apartments, plus attached community room, office and laundry room. These will be rented to developmentally disabled (mentally retarded) occupants.

The project involves a single structure, containing 11 attached rental apartments plus community facilities. A two-story building is anticipated. The proposed mix of apartment sizes is five 2 BR units and six 1 BR units, housing a total of 16 residents with disabilities.

The proposed community spaces include a community room with kitchenette, a laundry room and a small office, plus interior corridor and other pedestrian circulation space. The community room is intended to fill the function of similar facilities in apartment or condominium developments. It will provide a gathering and recreation place for residents to socialize, relax, entertain guests, watch television, hold meetings or other special events, etc.

The office will serve as a headquarters for CIL's administrative and housing management activities, and may occasionally be used for on-site case conferences or other support service activities. The laundry room will provide automatic washers and dryers, as the individual apartments will be too small to accommodate these appliances.

The site is located in Block 84, Lot 42.043, South Brunswick Township, Middlesex County, New Jersey. The site consists of just under 12.1 acres of vacant land. The proposed project will be constructed on a subdivision of approximately 2+ acres, delineated so as to best accommodate the housing units and related infrastructure.

CIL has legally binding site control, as evidenced by ordinance #40-93, adopted by the South Brunswick Township Committee on July 7, 1993, and the concomitant option agreement. The option allows CIL to purchase a subdivision of the site from the township for a fee of \$1.

The basic support services needed by housing occupants include case management (intake, referral, service coordination, individual counseling and formulation of a comprehensive individual service plan); transportation; job maintenance support; independent living skills training and recreation and socialization opportunities.

Sba50

JUN - 8 1994

SOUTH BRUNSWICK TOWNSHIP
PLANNING DEPT

CIL will be responsible for coordination of support services and for direct provision of the case management and recreation programs. CIL has been filling the role since its formation in 1985.

CIL's mission to enable developmentally disabled adults to live as independently as possible and to be integrated into community life necessitated that the organization become an active participant in the development of affordable housing for this population.

There is a shortage of affordable supportive housing for the developmentally disabled that is particularly acute in the high-cost areas of northern and central New Jersey, such as southern Middlesex and Somerset Counties, which constitute the primary service area of CIL. Affordability is a key impediment to the ability of CIL consumers to live independently, as most hold minimum-wage jobs in a geographic area (Middlesex/Somerset/Hunterdon PMSA) where the median family income is \$61,800, and the Fair Market Rent for a 1 BR apartment is \$726 monthly, according to the most recent figures provided by the U.S. Department of Housing and Urban Development.

In response to this need, CIL has developed an eight-member CIL Housing Advisory Board composed of volunteers from the community with expertise in various aspects of housing development and finance as well as a Committee on Residential Life, composed of prospective residents of housing developed by CIL which advises the board on housing-related issues.

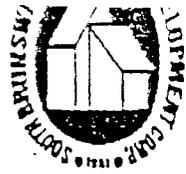
CIL is certified as a Community Housing Development Organization (CHDO) by the New Jersey Department of Community Affairs. CIL enlists the services of Charles C. Nathanson and Associates, P.A., professional consultants in planning and housing development to assist in all housing-related issues.

Within the past two years, CIL has assembled \$333,500 in funds to buy four condominium units located within a single market-rate residential development in South Brunswick Township, for rental to developmentally disabled adults. The sources of acquisition funds include DCA's Balanced Housing program, the Federal Home Loan Bank of New York's Affordable Housing program, The Middlesex County HOME program, several local banks and CIL. The organization has worked with a housing consultant in devising and financing its acquisition project.

CIL purchased a 1-BR and three 2-BR units, which houses a total of seven service consumers, all of whom hold Section 8 rental subsidy certificates or vouchers. CIL owns and manages the units.

SBw51

South Brunswick Community Development Corp.



PO Box 328
Dayton, NJ 08810
908-329-0414

June 18, 1994

Affordable Housing Committee
South Brunswick Township,
Municipal Building, Ridge Road,
Monmouth Junction, New Jersey 08852

Dear Members of the Affordable Housing Committee

South Brunswick Community Development Corporation (S.B.C.D.C.) is a non profit 501-C-3 organization originally formed in 1977 for the purpose of providing affordable housing for the elderly. Through the efforts of the Board of Directors of the Corporation, (who were all local residents dedicated to assisting the elderly to remain in the area that they had lived all of their lives in), the Charleston Place, an elderly apartment complex of 84 units, was built. As a result of their endeavors, 103 elderly and handicapped individuals are living in pleasant, safe and secure surroundings. The 84 units aided South Brunswick Township in fulfilling their COAH obligation.

SBCDC has applied for certification as a Community Housing Development Organization (CHDO) to the New Jersey Department of Community Affairs. SBCDC is governed by a 15 member Board of Trustees, composed of volunteers from the South Brunswick Township area, and who are diversified in all aspects of housing production and financial matters. The Advisory Panel to the Board of Trustees are the 103 residents of The Charleston Place Community. Two rotating members of that Advisory Panel attend all Board of Trustee meetings to offer suggestions, comments and insight on the needs and requirements for elderly living. The entire Advisory Panel has been consulted with regard to the need for additional housing for the elderly in South Brunswick, and their suggestions have been incorporated into the preliminary discussions and plans for a new 72 unit elderly project, known as Oak Woods. These units will add 144 units to the affordable housing rental credits for the Township.

South Brunswick Township has donated SBCDC vacant land owned by the Township for the purpose of constructing these units. Our funding sources will be the AFL/CIO Pension Fund Loan Program, which is involved in a joint venture with U. S. Housing & Urban Development. This application will be submitted for the funding appropriation in September, 1994. We will be applying for funds from N.J. Department of Community Affairs for Balanced Housing funds, if available. In addition, we are applying for HOME

SBCDC

The Fair Housing Act prohibits discrimination in the sale, rental or financing of housing on the basis of race, color, religion sex, handicap, familial status or national origin.

funds. We are also completing and plan to submit within two weeks, our application for Federal Low Income Housing Tax Credits with New Jersey Housing & Mortgage Finance Company.

In order to apply to these various funding sources, it is necessary that some preliminary work be accomplished, such as wetlands delineation, preparation of a subdivision plan and preparation of a site plan. We require legal counsel for obtaining Planning Board approval and other approvals. We have engaged an environmentalist and Soil Expert, Carl Eby and an Engineering firm, William Doran & Sons, to begin preliminary testing on the proposed site. We have contracted with the consulting firm, PBM Associates, whose chief consultant, Doris G. Dempster, has been involved in the planning of many other similar elderly projects in New Jersey and elsewhere. Ms. Dempster is a Certified Assisted Housing Specialist, and holds many other Housing Certifications. Four other members of her staff are also Certified Assisted Housing Managers. PBM Associates, in addition to offering Loan Packaging Services, are also the housing managers of over 300 Farmers Home Administration and U. S. Housing & Urban Development Apartment units.

SBCDC is requesting the South Brunswick Affordable Housing Committee for your support in recommending to the Township Committee a funding request granting SBCDC a \$40,000 non-secured, interest free pre-development loan, repayable through our other funding sources. If possible, a portion of this amount would be welcome as a grant, in order to cover some of the costs not covered by our other funding applications. SBCDC is prohibited from expending any of the funds from the operation of The Charleston Place, (FHA mortgaged, with Section 8 Assistance) towards another project, and our charter prohibits our solicitation of funds from the general public. Thus, the need for this funding is most essential to the development of the project, due to the various requirements that must be met and which must accompany each funding application being prepared.

We thank you for your assistance and consideration in joining us in our mutual efforts to aide South Brunswick Township to further their goal of providing affordable housing for those persons who are so desperate in their need.

Very truly yours,

Robert D. Latimer

Robert Latimer,
President

cc: L. Goetting

SBa53

RESOLUTION APPROVING DEVELOPMENT FEE SPENDING PLAN

WHEREAS, South Brunswick Township, Middlesex County received substantive certification from the Council on Affordable Housing (COAH) on May 20, 1987; and

WHEREAS, South Brunswick Township received interim substantive certification from COAH on October 6, 1993; and

WHEREAS, COAH may approve development fees and spending plans submitted by municipalities which have petitioned for substantive certification, as per N.J.A.C. 5:93-8.2; and

WHEREAS, South Brunswick Township collected fees under a development fee ordinance prior to the promulgation of N.J.A.C. 5:93-8 et. seq.; and

WHEREAS, South Brunswick Township requested that COAH permit the Township to retain the fees collected under the Township's previous development fee ordinance, as per N.J.A.C. 5:93-8(a)(9); and

WHEREAS, COAH has not completed the review of South Brunswick Township's request for retention of development fees; and

WHEREAS, South Brunswick Township received approval from COAH for its development fee ordinance on March 11, 1993; and

WHEREAS, South Brunswick Township submitted a Development Fee Spending Plan (Spending Plan) to COAH on June 28, 1994; and

WHEREAS, the method for estimating the development fees to be collected as set forth in the Spending Plan is in conformance with N.J.A.C. 5:93-8.10 and 8.11; and

Sba54

EXHIBIT 17
2/2
3/6/95

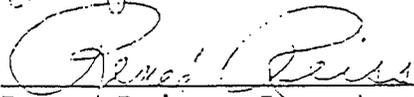
WHEREAS, the activities listed and described in the Spending Plan for which development fees are proposed to be disbursed are consistent with N.J.A.C. 5:93-8.15.

NOW THEREFORE BE IT RESOLVED that the South Brunswick Township Development Fee Spending Plan is hereby approved; and

BE IT FURTHER RESOLVED that South Brunswick Township shall not expend any funds collected under the Township's previous development fee ordinance until COAH approves or denies the Township's request for retention of fees; and

BE IT FURTHER RESOLVED that if South Brunswick Township fails to file a housing element/fair share plan and petition for substantive certification on or before March 6, 1995, this approval shall expire and South Brunswick Township no longer shall be authorized to collect or spend development fees.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on July 20, 1994.



Renee Reiss, Secretary
Council on Affordable Housing

d2590w

SPa55

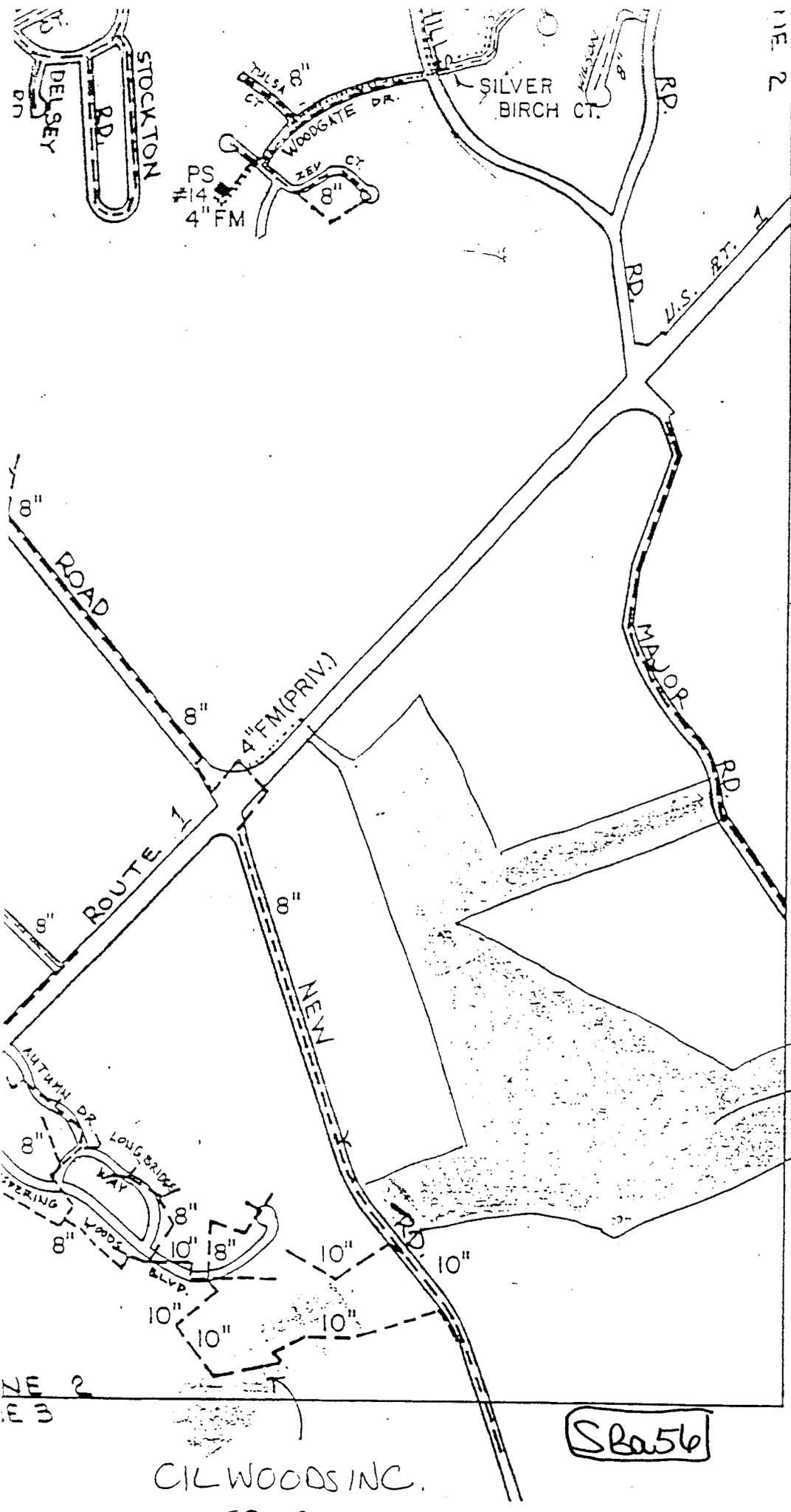


EXHIBIT 18A
3/6/95

Eugene Amron
EUGENE AMRON
P.E. & L.S. 8357

MINDEL
TRACT

Sba56

CILWOODS INC.

33

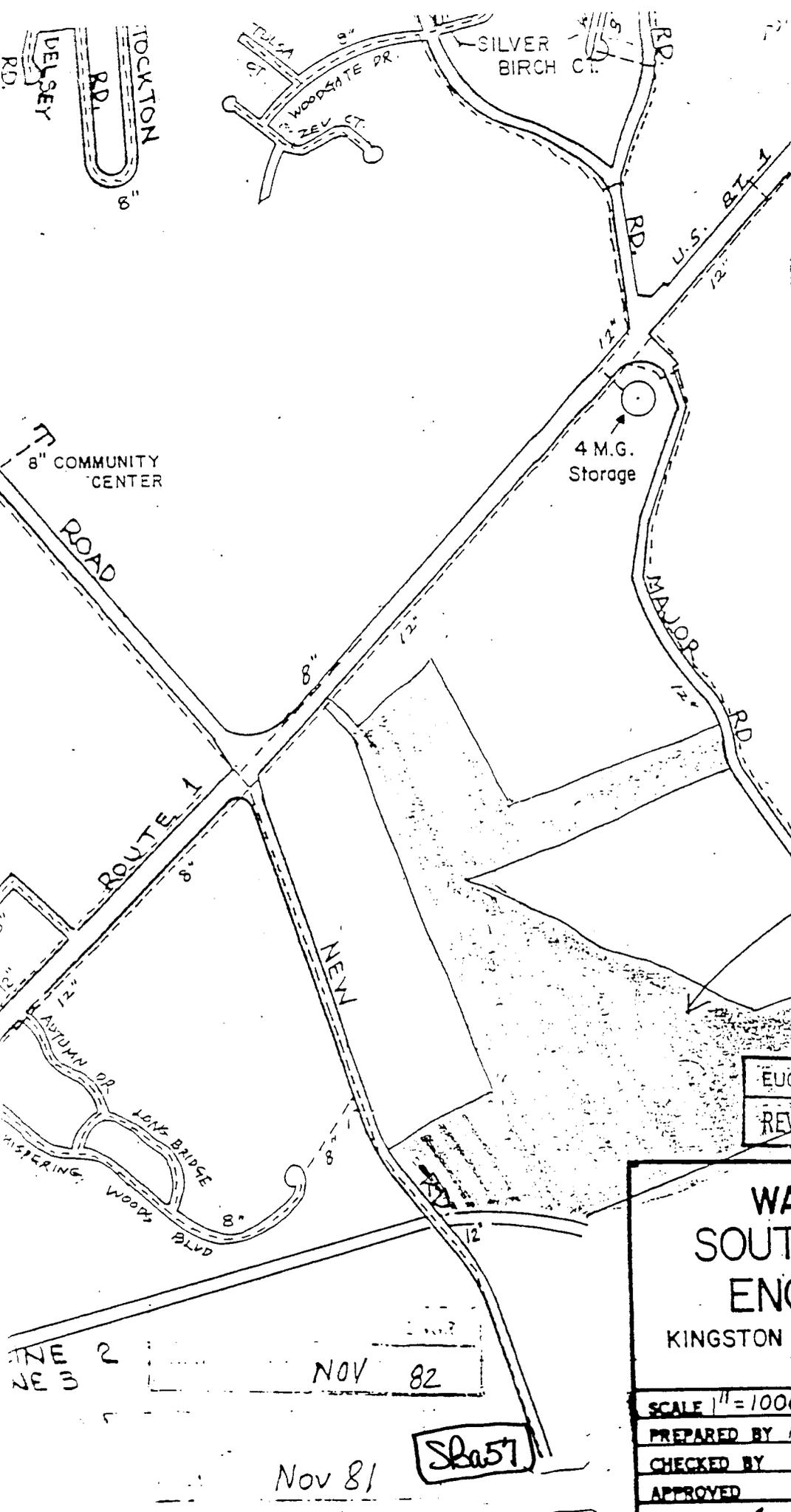


EXHIBIT 18B
3/6/95

I HEREBY CERTIFY THAT THIS MAP HAS BEEN MADE UNDER MY IMMEDIATE SUPERVISION AND COMPLIES WITH THE LAWS OF THE STATE OF NEW JERSEY.

Eugene Amron
EUGENE AMRON
P.E. & L.S. 8357

MINDEL TRACT

EUGENE AMRON, TWP. ENGR.
REVISED TO: JAN 85

WATER SYSTEMS
SOUTH BRUNSWICK TW
ENGINEERING DEPT.

KINGSTON LANE, MONMOUTH JUNCTION, N
08852

SCALE 1" = 1000'	DRAWN BY ED
PREPARED BY KM	
CHECKED BY	
APPROVED	
SHEET NO 2 OF 4 SHEETS	

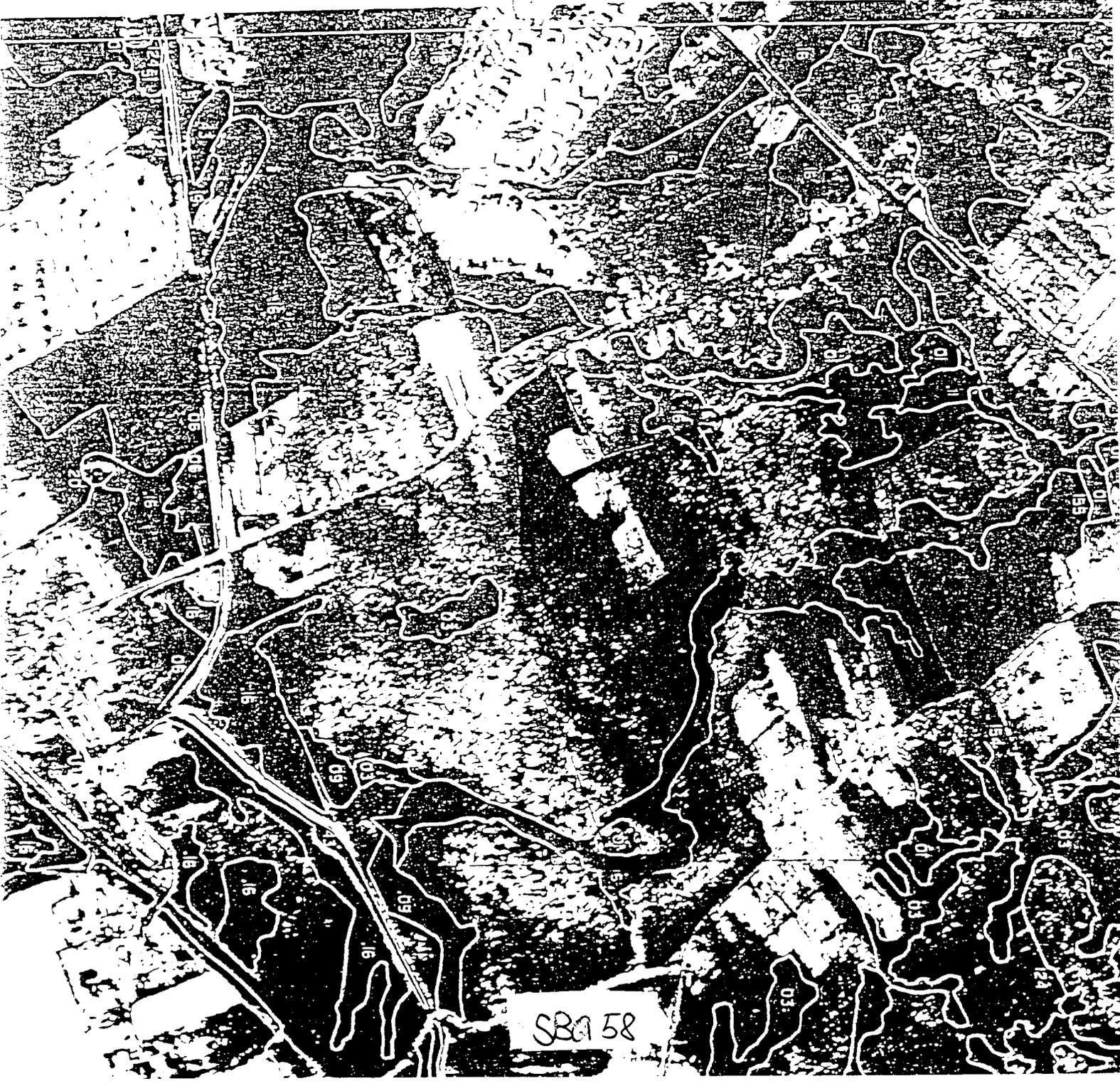
LINE 2
LINE 3
NOV 82
Nov 81
Sla57

EXHIBIT 20

3/6/95

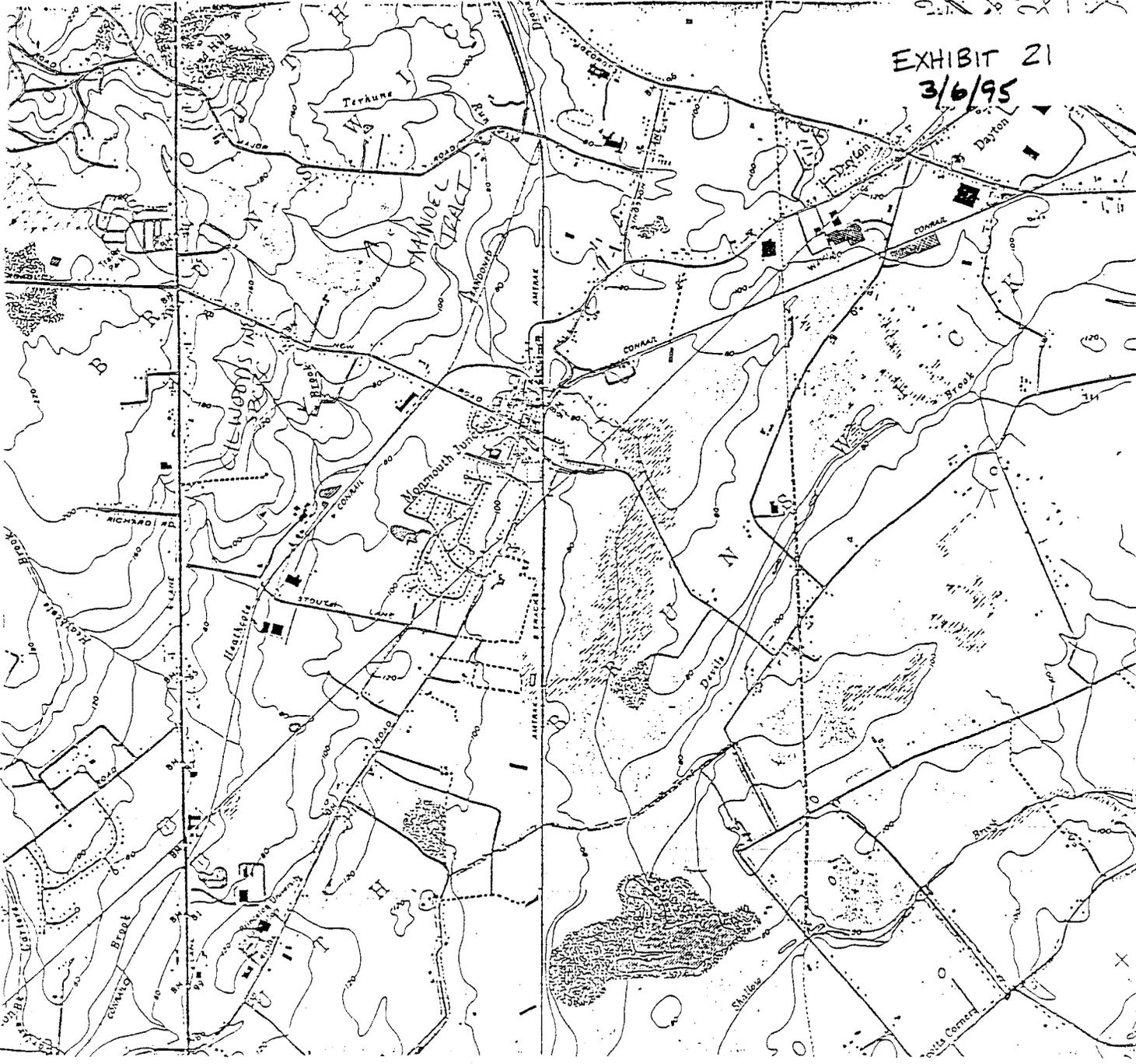
CIL WOODS, INC
SBCDC

MIDDEL
TRACT



SBA 58

EXHIBIT 21
3/6/95



Sba59

EXHIBIT 22
3/6/95

RESOLUTION

WHEREAS, the Planning Board of the Township of South Brunswick, County of Middlesex, State of New Jersey, did on July 27, 1994 adopt a Master Plan Reexamination Report pursuant to N.J.S.A. 40:55D-89 and did on December 14, 1994, adopt a Master Plan amendment pursuant to N.J.S.A. 40:55D-28.

WHEREAS, pursuant to N.J.S.A. 40:55D-28(b)(3) a housing element is an essential part of said Master Plan; and

WHEREAS, the Planning Board has, on February 15, 1995, held a public hearing on the said housing element and fair share plan, for which hearing notice was duly provided pursuant to N.J.S.A. 40:55D-13; and

WHEREAS, the Planning Board has determined that the said housing element and fair share plan are consistent with the goals and objectives of the Township 1994 Master Plan update and that adoption and implementation of same is in the public interest and which protects public health and safety and promotes the general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of South Brunswick, County of Middlesex, State of New Jersey, as follows:

The Board hereby adopts the said housing element and fair share plan.

This is to certify that the foregoing is a true copy of a Resolution adopted by the Planning Board of the Township of South Brunswick at its meeting held on the 15th of February, 1995.


Dorothy Fee
Planning Board Secretary

Sba 60

3/6/95

A RESOLUTION PETITIONING THE COUNCIL ON
AFFORDABLE HOUSING FOR SUBSTANTIVE CERTIFICATION
OF THE HOUSING ELEMENT AND FAIR SHARE PLAN OF THE
SOUTH BRUNSWICK MASTER PLAN

WHEREAS, the South Brunswick Planning Board has considered the housing element and fair share plan at a meeting of the Planning Board held on February 15, 1995, and did adopt said "Housing Element and Fair Share Plan" as part of the Master Plan of the Township of South Brunswick; and

WHEREAS, the Township of South Brunswick desires to petition the Council on Affordable Housing ("COAH") for substantive certification of this plan;

NOW, THEREFORE, BE IT RESOLVED on this 21st day of February, 1995 that:

1. The Housing Element of the Township of South Brunswick, as adopted by the Planning Board of the Township of South Brunswick as part of the Master Plan thereof, be submitted to COAH together with the Fair Share Plan and that this Resolution be considered by COAH as a petition for substantive certification by the Township of South Brunswick.

2. The Director of Community Development of the Township of South Brunswick is authorized and directed to publish notice of the petition for substantive certification in The Home News.

3. A copy of this Resolution, the adopted Housing Element, the proposed Fair Share Plan, and supporting documentation shall be available for public inspection at the Township Clerk's Office, Municipal Building, 540 Ridge Road, Monmouth Junction, New Jersey, during regular business hours, Monday through Friday, for a period of at least forty-five (45) days following the date of publication of said legal notice.

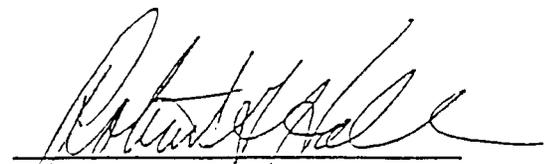
S. Balci

Scottie D. Torrey
Township Clerk

EXHIBIT 24
3/6/95

NOTICE OF PETITION FOR
SUBSTANTIVE CERTIFICATION

NOTICE is hereby given that the Township of South Brunswick has petitioned the New Jersey Council on Affordable Housing (COAH) for substantive certification of its housing element and fair share plan, pursuant to N.J.S.A. 52:27D-301 et. seq. and N.J.A.C. 5:91-3.1 et. seq. Copies of said adopted housing element and supporting documentation are available for public inspection at the Planning Department, South Brunswick Township Municipal Building, 540 Ridge Road, Monmouth Junction, NJ 08852, during regular business hours, Monday through Friday, 8:30 a.m. to 4:30 p.m. Objections, if any, to said petition for substantive certification must be filed with the New Jersey Council on Affordable Housing, 101 South Broad Street, CN 813, Trenton, NJ 08625-0813, and with the municipal clerk within 45 days of publication of this notice.



Robert G. Hall
Director of Planning

SB 62

RESOLUTION GRANTING INTERIM SUBSTANTIVE CERTIFICATION NO.

WHEREAS, South Brunswick Township, Middlesex County received substantive certification from the Council on Affordable Housing (COAH) on May 20, 1987; and

WHEREAS, N.J.A.C. 5:91-14 permits COAH certified municipalities to request interim substantive certification which extends a municipality's substantive certification for nine (9) months from the effective date of COAH's Substantive Rules, N.J.A.C. 5:93 et. seq.; and

WHEREAS, South Brunswick Township's substantive certification expired on May 20, 1993, which is prior to nine months after the effective date of COAH's Substantive Rules N.J.A.C. 5:93 et. seq.; and

WHEREAS, South Brunswick Township moved for interim substantive certification by motion on September 1, 1993, as per N.J.A.C. 5:91-12; and

WHEREAS, all objectors and litigants that participated in substantive certification have been served with the motion, as per N.J.A.C. 5:91-14.1(a)(2) and COAH received no objections to South Brunswick Township's motion for interim substantive certification; and

WHEREAS, South Brunswick Township's motion and accompanying documentation complies with the requirements set forth in N.J.A.C. 5:91-14.1(a)(3).

NOW THEREFORE BE IT RESOLVED that COAH hereby grants South Brunswick Township, Middlesex County interim substantive certification; and

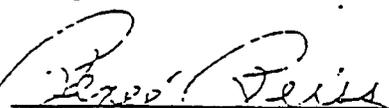
BE IT FURTHER RESOLVED that this grant of interim substantive certification extends for nine (9) months from the effective date of COAH's Substantive Rules, N.J.A.C. 5:93 et. seq.; and

BE IT FURTHER RESOLVED that South Brunswick Township has assured COAH that all ordinances implementing the original substantive certification are in effect and shall remain in effect for the duration of this interim substantive certification; and

SBak3

BE IT FURTHER RESOLVED that South Brunswick Township's interim substantive certification is conditioned on South Brunswick Township's continued implementation of its certified housing element and fair share plan.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on *October 6, 1993*.



Renee R. Reiss, Secretary
Council on Affordable Housing

1807w/sw

SBa 64

RESOLUTION APPROVING DEVELOPMENT FEE SPENDING PLAN

WHEREAS, South Brunswick Township, Middlesex County received substantive certification from the Council on Affordable Housing (COAH) on May 20, 1987; and

WHEREAS, South Brunswick Township received interim substantive certification from COAH on October 6, 1993; and

WHEREAS, COAH may approve development fees and spending plans submitted by municipalities which have petitioned for substantive certification, as per N.J.A.C. 5:93-8.2; and

WHEREAS, South Brunswick Township collected fees under a development fee ordinance prior to the promulgation of N.J.A.C. 5:93-8 et. seq.; and

WHEREAS, South Brunswick Township requested that COAH permit the Township to retain the fees collected under the Township's previous development fee ordinance, as per N.J.A.C. 5:93-8(a)(9); and

WHEREAS, COAH has not completed the review of South Brunswick Township's request for retention of development fees; and

WHEREAS, South Brunswick Township received approval from COAH for its development fee ordinance on March 11, 1993; and

WHEREAS, South Brunswick Township submitted a Development Fee Spending Plan (Spending Plan) to COAH on June 28, 1994; and

WHEREAS, the method for estimating the development fees to be collected as set forth in the Spending Plan is in conformance with N.J.A.C. 5:93-8.10 and 8.11; and

Sbalas

WHEREAS, the activities listed and described in the Spending Plan for which development fees are proposed to be disbursed are consistent with N.J.A.C. 5:93-8.15.

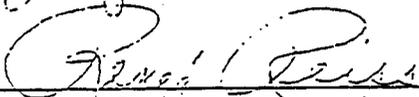
NOW THEREFORE BE IT RESOLVED that the South Brunswick Township Development Fee Spending Plan is hereby approved; and

BE IT FURTHER RESOLVED that South Brunswick Township shall not expend any funds collected under the Township's previous development fee ordinance until COAH approves or denies the Township's request for retention of fees; and

BE IT FURTHER RESOLVED that if South Brunswick Township fails to file a housing element/fair share plan and petition for substantive certification on or before March 6, 1995, this approval shall expire and South Brunswick Township no longer shall be authorized to collect or spend development fees.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on

July 20, 1994.



Renee Reiss, Secretary
Council on Affordable Housing

d2590w

S. B. Bate



6h

CHRISTINE TODD WHITMAN
Governor

State of New Jersey
COUNCIL ON AFFORDABLE HOUSING
PO Box 813
TRENTON NJ 08625-0813
609-292-3000
FAX: 609-633-6056
TDD#: (609) 278-0175

JANE M. KENNY
Chairman
SHIRLEY M. BISHOP, P.P.
Executive Director

February 4, 1998

Honorable Edmund Luciano
Township of South Brunswick
Monmouth Junction Road
Monmouth Junction, NJ 08852

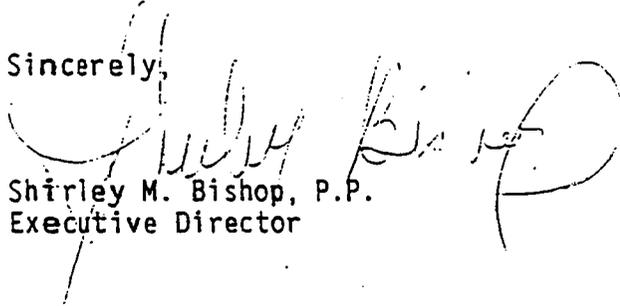
Dear Mayor Luciano:

Congratulations!

Enclosed is a copy of the resolution approved by the Council on Affordable Housing (COAH) at the February 4, 1998 meeting that granted your municipality substantive certification. Please take note that all implementing ordinances including applicable zoning must be adopted no later than 45-days from the grant of substantive certification.

If you have any questions or need further information, please call Mary Beth Lonergan, COAH planner, at (609)984-4584.

Sincerely,


Shirley M. Bishop, P.P.
Executive Director

encl.

cc: attached service list
Mary Beth Lonergan, COAH planner

d3741w/18

SBA 67



South Brunswick/Middlesex County Service List 1/12/98

The Honorable Edmund Luciano
Township of South Brunswick
Monmouth Junction Road
Monmouth Junction, NJ 08852

Donato Nieman, Administrator
Township of South Brunswick
Monmouth Junction Road
Monmouth Junction, NJ 08852

Robert G. Hall
Director
Planning & Development
Township of South Brunswick
Municipal Building
Monmouth Junction Road
Monmouth Junction, NJ 08852

Arlyne DeSena
Affordable Housing Officer
Township of South Brunswick
Municipal Building
Monmouth Junction Road
Monmouth Junction, NJ 08852

Kathleen A. Thorpe
Municipal Clerk
Township of South Brunswick
Monmouth Junction Road
Monmouth Junction, NJ 08852

Bertram Busch, Esq.
Busch & Busch
215 N. Center Drive
North Brunswick, NJ 08902

d3784w/80

SBA 68

South Brunswick/Middlesex County Service List 1/12/98
property owners

Bess G. Wiesenfeld
374 New Dover Road
Colonia, NJ 07067

Citizens for Independent Living
PO BOX 600
Kingston, NJ 08528

Southridge Hills, Inc.
820 Morris Turnpike, Suite 301
Short Hills, NJ 07078

Developmental Resources Corp.
1130 Route 202 South
Raritan, NJ 08869

Edith Mindel
5 Elm Row
New Brunswick, NJ 08901

South Brunswick Community
Development Corp.
Charleston Place Senior Citizen Hsg
3424 Route 27
Kendall Park, NJ 08824

d3784w/81

SBa 69



CHRISTINE TODD WHITMAN
Governor

State of New Jersey
COUNCIL ON AFFORDABLE HOUSING
PO Box 813
TRENTON NJ 08625-0813
609-292-3000
FAX: 609-633-6056
TDD#: (609) 278-0175

JANE M. KENNY
Chairman
SHIRLEY M. BISHOP, P.P.
Executive Director

COAH SUMMARY FACT SHEET 1987-1999

- 1. Municipality - **South Brunswick Township**
- County - **Middlesex**
- Region - **3**
- Planning Areas - **2, 4, 4B, 5**
- 2. Dates of:
 - Petition for Certification - **3/6/95**
 - COAH Reviews - **2/14/96 and 1/20/98**
 - COAH Certification - **3/4/98**
- 3. Staff Reviewer- **Mary Beth Lonergan, AICP, PP**
- 4. **1987-1999 Cumulative Obligation -**
 - Precredited Need - **937**
 - New Construction Component - **842**
 - Rehabilitation Component - **95**
 - Prior Cycle Credits - **- 94**
 - Credits (units built) - **- 222**
 - Approved Sites - **- 214**
 - Zoned Site - **- 130**
 - Rental Bonus Credits- **- 160**
- 5. **Fair Share Obligation - 117**
- 6. **Fair Share Plan* -**
 - Approved Sites - **95**
 - Rental Bonus Credit - **22**

RECOMMENDATION - Grant Substantive Certification

* The township chose to address its entire obligation, including rehabilitation, through new construction.

Sba 70



EXECUTIVE SUMMARY
SOUTH BRUNSWICK TOWNSHIP, MIDDLESEX COUNTY
REGION 3

January 26, 1998

Prepared by Mary Beth Lonergan, Principal Planner

The Planning Board of South Brunswick Township, Middlesex County, adopted a housing element and fair share plan on February 15, 1995, which addresses its 12-year cumulative obligation. The township's 1987-1999 obligation is 937 units, including a rehabilitation component of 95 units and a new construction component of 842 units. There were no objections to the township's plan.

South Brunswick Township is eligible to receive a total of 820 credits, reductions and bonuses which include 94 prior cycle credits, 222 built units, 214 units on approved sites, 130 units on zoned land (Mindel) and 160 rental bonus credits. The township proposes to address its entire calculated need of 117 units (95 rehabilitation and 22 new construction) through 95 units on two approved sites and 22 rental bonus credits.

A waiver is requested by the township regarding N.J.A.C. 5:93-5.15(d)3 to permit the township to receive additional rental bonus credits up to a revised rental obligation of 211. Under COAH's existing rules, the township may receive 174 non age-restricted and age-restricted rental bonus credits based on its rental obligation of 187. Under the waiver request, South Brunswick's rental obligation would be 211 and the township may receive 182 rental bonus credits. COAH staff recommends approval of the waiver request as the township has proposed to meet its entire 937-unit precredited need obligation through new construction units of which 342 will be rentals.

COAH staff recommends that COAH grant South Brunswick Township substantive certification.

<u>Site</u>	<u>Planning Area</u>	<u>Total Units</u>	<u>Low/Moderate</u>
Mindel	2	367	130

SBa 71

RESOLUTION GRANTING SUBSTANTIVE CERTIFICATION

WHEREAS, South Brunswick Township, Middlesex County, received substantive certification from the Council on Affordable Housing (COAH) on August 3, 1987, for a fair share plan addressing its first round obligation of 669 units; and

WHEREAS, South Brunswick Township petitioned COAH on March 6, 1995 for substantive certification of its cumulative 1987-1999 housing element and fair share plan; and

WHEREAS, South Brunswick Township published notice on March 3, 1995 in The Home News; and

WHEREAS, no objections to the township's plan were submitted to COAH; and

WHEREAS, COAH established a 1987-1999 precredited need for South Brunswick Township of 937 units, including a rehabilitation component of 95 units and a new construction component of 842 units; and

WHEREAS, COAH reviewed South Brunswick Township's plan in a letter dated February 14, 1996 requesting additional information; and

WHEREAS, South Brunswick Township submitted the required additional documentation; and

WHEREAS, South Brunswick Township requested a waiver of N.J.A.C. 5:93-5.15(d)3 in that the rehabilitation component not be subtracted from the precredited need so as to permit the township to receive additional rental bonus credits up to a revised rental obligation of 211; and

WHEREAS, without the requested waiver of N.J.A.C. 5:93-5.15(d)3, South Brunswick Township would receive 174 non age-restricted and age-restricted rental bonus credits based on its rental obligation of 187; and

WHEREAS, South Brunswick Township's fair share plan proposes 342 eligible rental units which far exceeds its rental obligation; and

WHEREAS, with the requested waiver, South Brunswick Township's rental obligation would be 211 and the township may receive 182 rental bonus credits; and

WHEREAS, COAH staff recommends approval of the waiver request as the township has proposed to meet its 937-unit precredited need obligation exclusively through the construction of new housing units, of which 342 will be rental units; and

WHEREAS, with the granted waiver, South Brunswick Township is eligible to receive 820 credits, reductions and bonuses which include 94 prior cycle credits, 222 built units, 214 units on approved sites, 130 units on zoned land and 160 rental bonus credits; and

WHEREAS, South Brunswick Township's plan addresses its calculated need of 117 units (95 rehabilitation and 22 new construction) through 95 units on two approved sites and 22 rental bonus credits; and

WHEREAS, there were no comments as the result of the 14-day comment period to the COAH Compliance Report, dated January 16, 1998 (Exhibit A).

NOW THEREFORE BE IT RESOLVED that COAH grants the waiver requested by South Brunswick Township regarding N.J.A.C. 5:93-5.15(d)3 as the township has proposed to meet its 937-unit precredited need obligation exclusively through the construction of new housing units, of which 342 will be rentals which is in excess of its rental obligation of 211 units; and

BE IT FURTHER RESOLVED that COAH finds that the housing element and fair share plan submitted by South Brunswick Township comply with the standards set forth at N.J.S.A. 52:27D-314 and, with the waiver noted above, are consistent with the rules and criteria adopted by COAH; and

BE IT FURTHER RESOLVED that the combination of the elimination of unnecessary housing cost-generating features from South Brunswick Township's land use ordinances and regulations and the affirmative measures in the housing element and fair share plan make the achievement of the township's fair share of low and moderate income housing realistically possible; and

BE IT FURTHER RESOLVED that after having reviewed and considered all of the above, COAH hereby grants South Brunswick Township substantive certification of its housing element and fair share plan addressing the township's 1987-1999 cumulative obligation; and

BE IT FURTHER RESOLVED that the certification shall be for a period of six years from this date; and

BE IT FURTHER RESOLVED that South Brunswick Township shall adopt the ordinances necessary to implement its housing element and fair share plan within 45 days of the granting of substantive certification; and

BE IT FURTHER RESOLVED that South Brunswick Township shall submit a copy of the adopted ordinances to COAH within seven days of such adoption; and

BE IT FURTHER RESOLVED that any change in the facts upon which this certification is based or any deviation from the terms and conditions of this certification, which affect South Brunswick Township's ability to provide for the realistic opportunity of its fair share of low and moderate income housing and which South Brunswick Township fails to remedy, shall render this certification null and void.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing on 2/4/98


Renee Reiss, Secretary
Council on Affordable Housing

EXHIBIT A

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**COAH COMPLIANCE REPORT
HOUSING ELEMENT/ FAIR SHARE PLAN
SOUTH BRUNSWICK TOWNSHIP, MIDDLESEX COUNTY**

January 16, 1998

Prepared by Mary Beth Lonergan, Principal Planner

I. BACKGROUND

South Brunswick Township, Middlesex County, received substantive certification from the Council on Affordable Housing (COAH) on August 3, 1987, which was amended on June 13, 1990. The township's first round obligation was 669 units with a new construction component of 603 and a rehabilitation component of 66. COAH granted interim substantive certification to the township on October 6, 1993.

South Brunswick Township's 12-year cumulative 1987-1999 affordable housing obligation is 937 units, consisting of a rehabilitation component of 95 and a new construction component of 842. The township adopted a housing element and fair share plan addressing its 12-year 1987-1999 obligation on February 15, 1995 and petitioned COAH for substantive certification on March 6, 1995. The township published notice in The Home News on March 3, 1995, initiating a 45-day objector period. No objections to the plan were submitted to COAH. COAH reviewed the township's housing element and fair share plan and prepared a letter, dated February 14, 1996, requesting additional information.

II. HOUSING STOCK INVENTORY/ PROJECTION/ ANALYSIS

In reviewing South Brunswick Township's housing element dated February 1995, sufficient information was submitted regarding housing stock, demographic characteristics, employment characteristics and population trends.

The township had a total population of 25,792 persons, according to 1990 census data, with a median household income of \$54,305. South Brunswick Township had a total of 9,962 housing units in 1990, representing a 91 percent increase in housing units in the township since 1980. The 1990 median value of owner-occupied housing units in South Brunswick Township was \$183,600 and the 1990 median gross rent was \$849.

III. REDUCTIONS, CREDITS AND BONUSES

The township's plan seeks to reduce its precertified need of 937 units by 820 credits, reductions and bonuses, resulting in a calculated need of 117. COAH staff visited the sites in South Brunswick's plan with the township's planning director, Robert Hall, and the township's housing officer, Arlyne DeSena. A description of the credits, reductions and bonuses is as follows:

South Brunswick Township
January 16, 1998

Prior cycle credits

- Prior cycle credits for new construction (affordable units completed between April 1, 1980 and December 15, 1986) include the following:

- * Charleston Place I, a 54-unit, age-restricted rental complex. [54 credits]

- * Deans Apartments, a 40-unit, age-restricted rental complex. [40 credits]

[Note: Prior cycle credits are not eligible for rental bonus credits pursuant to N.J.A.C. 5:93-5.15(d).]

Reduction for Constructed Units

The township has provided sufficient information to certify that the following affordable units have been constructed, are occupied by low or moderate income households and have appropriate affordability controls. South Brunswick requests reduction for the following units:

- Reduction for 30 affordable rental units built as phase II of the Charleston Place complex (see Rental Bonus below.) [30 total age-restricted rental units]
- Reduction for Woodhaven, a residential development with 80 affordable rental units completed (see Rental Bonus below.) [80 total non age-restricted rental units]
- Reduction for 50 affordable units constructed as part of the Nassau Square development. [50 total units]
- Reduction for 44 affordable units built in the Monmouth Walk development. [44 total units]
- Reduction for Regal Point, a residential development with five affordable units completed. [5 total units]
- Reduction for two group homes, located on Wheeler Road and on Major Road, sponsored by the Developmental Resources Corporation. The group homes, occupied after December 15, 1986, have three bedrooms each, totaling six bedrooms. The homes were financed through the Community Residential Facility Funding Program of the Division of Mental Retardation of the New Jersey Department of Human Services and have 20-year controls on affordability. The group homes qualify for rental bonus credits (see Rental Bonus below.) [6 total non age-restricted rental units]

South Brunswick Township
January 16, 1998

- Reduction for an alternative living arrangement (CIL-Wynwood) which consists of four condominium units in the Wynwood development, an otherwise total market-rate development. The units are for developmentally disabled individuals and are managed by the nonprofit agency, South Brunswick Citizens for Independent Living, Inc. (CIL). The four units, purchased and occupied in 1993 and 1994, have a total of seven bedrooms, 30-year controls on affordability and are eligible for rental bonus credits (see Rental Bonus below.)
[7 total non age-restricted rental units]

Reductions for Approved Sites

- South Brunswick Township has requested a reduction for 70 approved affordable units in the Summerfield development. As of this date, eight of the 70 affordable units have been constructed, although not yet occupied. During Summerfield's approval process, the affordable units were increased to 70 units, 10 units more than what had been certified for this site in the first round plan. **[70 total units]**
- South Brunswick has requested a reduction for 20 approved affordable units in the Deans Pond Crossing development. Construction has begun on the market housing units; however, no affordable units have yet been built. **[20 total units]**
- The township has requested a reduction for a total of 124 approved affordable rental units in the Southridge development. The total of 124 units includes 72 age-restricted rental units and 52 non age-restricted rental units. A total of 52 of the 124 affordable units have been constructed, 46 of which are occupied. As a note, the township transferred five units from the previously approved Falcongate project to the Southridge development, requiring the units to be rentals. **[72 age-restricted rental units plus 52 non age-restricted rental units, totaling 124 rental units]**

Reductions for Undeveloped, Unapproved Sites

- The township has requested a reduction for a total of 130 affordable units on the Mindel tract which was previously certified by COAH as part of the township's first round plan. A site visit was conducted to determine if the Mindel site remains available, approvable, suitable and developable as per N.J.A.C. 5:93-1.3 and meets COAH criteria. The site is designated in the State Development and Redevelopment Plan (SDRP) as PA 2, has access to public water and sanitary sewer infrastructure and is zoned as part of the AH Affordable Housing District which requires an inclusionary development at a gross density of six units to the acre with an affordable housing setaside of 15 percent. Although not yet developed, the site appears to be available, approvable, suitable and developable

In the township's first round plan, certified in 1987, a total of 126 affordable units were

**South Brunswick Township
January 16, 1998**

anticipated from the Mindel site which represented only 5.25 units per acre with a 15 percent setback although the 160-acre tract was zoned for 6.0 units per acre with a 15 percent setback. In 1998, the township analyzed the site with more detailed environmental mappings and has determined that the site may reasonably be developed with a total of 130 affordable units which still represents only 5.4 units per acre with a 15 percent setback instead of 144 affordable units that would be realized at a gross density of 6.0 units per acre with a 15 percent setback. [130 total units]

Rental Bonus

Rental bonus credits may be requested for rental units not exceeding the rental obligation. For rental units available to the general public, the rental bonus equals one; and for age-restricted rental units, the rental bonus equals 0.33. In addition, no more than half of the rental obligation may receive a bonus for age-restricted units. As discussed in Section V. below, a waiver has been requested concerning N.J.A.C. 5:93-5.15(d)3. Under COAH's existing rules, the township would be eligible to receive 174 rental bonus credits based on the rental component of 187. Under the waiver request, South Brunswick has requested a revised rental obligation of 211 to reflect that its entire plan, including the 95-unit rehabilitation component, is met through new construction units, therefore, allowing the township to receive 182 rental bonus credits.

As the staff has recommended that COAH grant the waiver, South Brunswick Township may receive rental bonus credits for eligible rental units up to a revised 211-unit rental obligation. The following 189 rental units may receive rental bonus credits: 10 rental bonus credits for the 30 age-restricted rental units at Charleston Place II, 80 rental bonus credits for the 80 non age-restricted rental units at Woodhaven, seven rental bonus credits for the seven bedrooms in the CIL-Wynwood development, six rental bonus credits for the six bedrooms in the two group homes on Wheeler Road and on Major Road, 52 rental bonus credits for the 52 non age-restricted rental units at Southridge and five rental bonus credits for 14 of the 72 age-restricted rental units at Southridge. (As non age-restricted rental units receive a greater rental bonus than age-restricted units, the remaining 22-unit rental obligation is saved for the proposed CIL-Woods development which is discussed in Section IV.) [160 total rental bonus credits]

In summary, South Brunswick Township has requested 820 reductions, credits and bonuses. South Brunswick Township's precredited 1987-1999 need of 937 is reduced to a calculated need of 117.

South Brunswick Township
January 16, 1998

Credits, Reductions and Bonuses

	Requested by South Brunswick Township	Permitted by COAH
Prior Cycle Credits -		
Charleston Place I	54	54
Deans Apartments	40	40
Constructed Units -		
Charleston Place II	30 senior rentals	30 senior rentals
Woodhaven	80 rentals	80 rentals
Nassua Square	50	50
Monmouth Walk	44	44
Regal Point	5	5
Group Homes (2)	6 rentals	6 rentals
CIL-Wynwood	7 rentals	7 rentals
Approved Sites -		
Summerfield	70	70
Deans Pond Crossing	20	20
Southridge	72 senior and 52 family rentals	72 senior and 52 family rentals
Zoned Site -		
Mindel	130	130
Rental Bonuses -		
Charleston Place II	10	10
Group Homes (2)	6	6
Woodhaven	80	80
CIL-Wynwood	7	7
Southridge (family)	52	52
Southridge (seniors)	5	5
Total	820	820

IV. HOUSING ELEMENT

South Brunswick Township's cumulative 12-year calculated need is 117 units: 95 rehabilitation and 22 new construction.

Rehabilitation

The township proposes to meet its remaining 95-unit rehabilitation component through new construction activities as noted below.

New Construction

The township proposes an alternative living arrangement, a 22-bedroom development (CIL-Woods) sponsored by the South Brunswick Citizens for Independent Living, Inc., and a municipal construction project, a 73-bedroom age-restricted development (SBCDC-Oak Woods) sponsored by the South Brunswick Community Development Corporation.

- **CIL-Woods**- The South Brunswick Citizens for Independent Living, Inc. (CIL) has received planning board approvals to construct 15 non age-restricted rental units for developmentally disabled individuals as noted in a resolution from South Brunswick Township's Planning Board dated May 3, 1995. The 15 rental units comprise 22 bedrooms. CIL has received a Housing and Urban Development (HUD) Section 811 grant to partially fund 11 units (16 bedrooms) and a community center. However, all 15 units and the corresponding 22 units have approvals. In addition, the township has donated the tract of land along Route 522 to CIL (for a fee of \$1) and will also use \$50,000 of its collected development fees to reduce the development's overall costs. [22 total rental units]
- **SBCDC-Oak Woods** - The South Brunswick Community Development Corporation (SBCDC) has received a HUD Section 202 funding reservation of almost \$6 million to construct 73 affordable age-restricted rental units (plus one unit for an on-site manager). The HUD funding reservation was received on December 16, 1996. Also, South Brunswick Township's Planning Board granted SBCDC-Oak Woods site plan approval on November 24, 1997. The township has donated the tract of land along Route 522 to SBCDC (for a fee of \$1) and will use \$40,000 of its collected development fees to reduce the development's infrastructure costs. SBCDC-Oak Woods is not eligible for rental bonus credits as the township has exceeded the maximum number of rental units that may be granted a rental bonus. [73 total age-restricted rental units]

South Brunswick Township
January 16, 1998

Rental Bonus

As noted in Section III., the township previously received rental bonus credits for 189 of its 211-unit rental obligation, thus only the 22-unit CIL-Woods development remains eligible for rental bonus credits. CIL-Woods consists of non age-restricted rental units, therefore the township may receive 22 rental bonus credits. [22 rental bonus credits]

Summary

In summary, South Brunswick Township's housing element and fair share plan has proposed to address its calculated need of 117 units through the approval and future construction of an alternative living arrangements, CIL-Woods (which may receive rental bonus credits) and a municipal construction project, SBCDC-Oak Woods.

	Calculated Need
	117
Approved Sites	
CIL-Woods	- 22
SBCDC-Oak Woods	- 73
Rental Bonus	<u>- 22</u>
Unmet Obligation	0

V. RENTAL COMPONENT

Pursuant to N.J.A.C. 5:93-5.15, every municipality has a rental obligation. Under COAH's rules, the township's rental obligation is calculated as 187 units utilizing the following formula: 25 percent of precredited need, minus prior cycle credits, minus the impact of the 20 percent cap, minus the impact of the 1,000 unit limitation and minus the rehabilitation component, equaling 187 or [.25 (937-94-0-0-95) = 187]. The fair share plan proposes 342 eligible rental units (80 non age-restricted rental units at Woodhaven, 30 age-restricted rental units at Charleston Place II, 52 non age-restricted rental units and 72 age-restricted rental units at Southridge, seven non age-restricted rental units at CIL-Wynwood, 22 non age-restricted rental units at CIL-Woods, six non age-restricted rental units at the two group homes sponsored by Developmental Resources Corporation and 73 age-restricted rental units at Oak Woods), thus far exceeding its rental obligation.

Sba82

South Brunswick Township
January 16, 1998

South Brunswick is eligible to receive rental bonus credits up to its rental obligation of 187. However, the township has requested a waiver concerning N.J.A.C. 5:93-5.15(d)3 to permit the township to receive additional rental bonus credits up to a revised rental obligation of 211. South Brunswick Township requests that in calculating the rental obligation, the rehabilitation component not be subtracted from the precredited need to reflect that its entire 937-unit obligation consists of new construction units and, more specifically, 342 rental units.

Therefore, the township has requested that its rental obligation be calculated as follows: 25 percent of precredited need, minus prior cycle credits, minus the impact of the 20 percent cap and minus the impact of the 1,000 unit limitation, equaling 211 or $[\.25 (937-94-0-0) = 211]$. With the 211-unit rental obligation, the township may receive 182 rental bonus credits, instead of 174 rental bonus credits if the waiver were not granted.

COAH staff recommends approval of the waiver request as the township has proposed to meet its entire 937-unit precredited need obligation through new construction of which 342 units will be rentals. As seen in the policy of offering rental bonus credits, COAH's methodology encourages affordable rental housing which has been approved and constructed in South Brunswick Township.

VI. AGE-RESTRICTED UNITS

As per N.J.A.C. 5:93-5.14, a municipality may address up to 25 percent of its fair share obligation with age-restricted units. South Brunswick Township could receive credit for age-restricted units which equal no more than 25 percent of its precredited need, minus prior cycle credits, minus rehabilitation credits, minus the impact of the 20 percent cap, minus the impact of the 1,000 unit limitation, or $[\.25 (937-94-0-0-0) = 211]$. Based on this calculation, the township may age-restrict no more than 211 units and still receive COAH credit. As discussed within this report, the township has proposed 175 age-restricted units and is thus eligible to receive credit for all of them.

VII. DEVELOPMENT FEES and SPENDING PLAN

COAH approved the township's development fee ordinance on March 11, 1993, approved South Brunswick Township's spending plan on July 20, 1994 and approved the township's development fee retention on December 7, 1994. As of December 31, 1996, the township had collected approximately \$1,755,500 and had expended approximately \$182,455.

VIII. AFFORDABLE HOUSING ORDINANCES

The township's current affordable housing ordinances address the requirements of N.J.A.C. 5:93 et seq.

South Brunswick Township
January 16, 1998

IX. RECOMMENDATION

Pursuant to N.J.A.C. 5:93 et seq., South Brunswick Township's housing element and fair share plan are in compliance with the standards for substantive certification. The township has addressed its 12-year cumulative fair share obligation with prior cycle credits, new construction, alternative living arrangements, rental bonus credits and zoned land.

A waiver is requested by the township regarding N.J.A.C. 5:93-5.15(d)3 to permit the township to receive additional rental bonus credits up to a revised rental obligation of 211. South Brunswick Township requests that in calculating the rental obligation, the rehabilitation component not be subtracted from the precertified need to reflect that its entire 937-unit obligation consists of new construction units and, more specifically, 342 rental units. Under COAH's existing rules, the township may receive 174 rental bonus credits based on its rental obligation of 187, under the waiver request, South Brunswick's rental obligation would be 211 and the township may receive 182 rental bonus credits. COAH staff recommends approval of the waiver request as the township has proposed to meet its entire 937-unit precertified need obligation through new construction units of which 342 will be rentals.

COAH staff recommends that South Brunswick Township be granted substantive certification.



State of New Jersey

Council on Affordable Housing

101 SOUTH BROAD STREET

PO Box 813

TRENTON NJ 08625-0813

(609) 292-3000

SUSAN BASS LEVIN
Commissioner

LUCY VOORHOEVE
Executive Director

JAMES E. MCGREEVEY
Governor

January 7, 2004

The Honorable Frank Gambatese
Mayor, South Brunswick Township
P O Box 190
Monmouth Junction, NJ 08852

RE: SOUTH BRUNSWICK TOWNSHIP/MIDDLESEX COUNTY
EXTENDED SECOND ROUND SUBSTANTIVE CERTIFICATION

Dear Mayor Gambatese:

Enclosed is a copy of the Council on Affordable Housing's (COAH) resolution granting your municipality an extension of substantive certification at its January 7, 2004 meeting. The extended substantive certification is valid for up to one year after the effective date of COAH's third round regulations. COAH proposed the third round regulations on October 6, 2003, but they have not yet been adopted.

If COAH does not receive an adopted housing element and fair share plan addressing your municipality's third round obligation on or before the date that your extended substantive certification expires, your municipality may become vulnerable to exclusionary zoning lawsuits.

If you have any questions, please contact Kate Butler, COAH Planner, at (609) 292-4338.

Sincerely,

Lucy Voorhoeve
Executive Director

c: Attached Service List
Keith Henderson
Kate Butler

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South Brunswick Township /Middlesex County

The Honorable Frank Gambatese
Mayor, South Brunswick Township
P.O. Box 190
Monmouth Junction, NJ 08852

Betram Busch, Esq.
215 N. Center Drive
P.O. Box 7448
North Brunswick, NJ 08902

Barbara Sachs
Manager, South Brunswick Township
P.O. Box 190
Monmouth Junction, NJ 08852

Barbara Gut
Clerk, South Brunswick Township
P.O. Box 190
Monmouth Junction, NJ 08852

SBa 86

RESOLUTION EXTENDING SECOND ROUND SUBSTANTIVE CERTIFICATION NO. 83-04

WHEREAS, South Brunswick Township/Middlesex County received substantive certification from the Council on Affordable Housing (COAH) on February 4, 1998; and

WHEREAS, N.J.A.C. 5:91-14.3 permits COAH certified municipalities to request an extension of substantive certification which extends a municipality's substantive certification up to one year from the effective date of COAH's third round regulations; and

WHEREAS, South Brunswick Township's substantive certification will expire on February 4, 2004, which will be prior to one year after the effective date of COAH's third round substantive rules; and

WHEREAS, South Brunswick Township requested an extension of substantive certification by resolution of the governing body filed with COAH on December 9, 2003, as per N.J.A.C. 5:91-14.3; and

WHEREAS, South Brunswick Township in its resolution has committed to continuing to implement its second round plan; and

WHEREAS, South Brunswick Township in its resolution has also committed to complying with its third round obligation by filing a newly adopted housing element and fair share plan and/or petitioning within one year after the effective date of COAH's third round methodology and rules; and

WHEREAS, South Brunswick's resolution complies with the requirements set forth in N.J.A.C. 5:91-14.3.

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NOW THEREFORE BE IT RESOLVED that COAH hereby grants South Brunswick Township, Middlesex County an extension of substantive certification for up to one year after the effective date of the adoption of COAH's third round regulations; and

BE IT FURTHER RESOLVED that South Brunswick Township shall continue to implement its second round certified plan; and

BE IT FURTHER RESOLVED that South Brunswick Township shall either file a newly adopted housing element and fair share plan addressing its third round obligation with COAH or petition for a third round substantive certification prior to the expiration of this extended substantive certification; and

BE IT FURTHER RESOLVED that South Brunswick Township's extended substantive certification is conditioned on South Brunswick's continued implementation of its certified housing element and fair share plan.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its meeting on *January 7, 2004.*


Renee Reiss
Council Secretary

SB 88

A RESOLUTION TO EXTEND SECOND ROUND SUBSTANTIVE CERTIFICATION

WHEREAS, the Township of South Brunswick received substantive certification from the New Jersey Council on Affordable Housing (COAH) on February 4, 1998, for a period of six years, and this substantive certification will expire on February 4, 2004; and

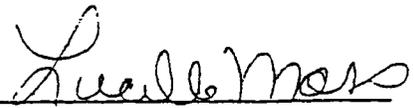
WHEREAS, COAH has adopted a rule permitting a municipality to extend its second round substantive certification for up to one year after the effective date of the adoption of COAH's third round methodology and rules if a municipality requests an extension, commits to addressing its third round obligation with a newly adopted housing element and fair share plan; and

WHEREAS, the Township of South Brunswick must commit to either filing a newly adopted housing element and fair share plan addressing the third round obligation with COAH or petition for a third round substantive certification prior to the expiration of the extended second round substantive certification;

NOW THEREFORE BE IT RESOLVED on this 9th day of December, 2003, by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

1. The Township of South Brunswick requests COAH, under its procedure at N.J.A.C. 5:91-14.3, to extend substantive certification for up to one year after the effective date of the adoption of COAH's third round methodology and rules.
2. The Township of South Brunswick hereby commits to continue to implement its certified second round plan.
3. The Township of South Brunswick hereby commits to address its third round fair share obligation with a newly adopted housing element and fair share plan within one year after the effective date of COAH's third round methodology and rules.
4. The Township of South Brunswick shall either file the newly adopted housing element and fair share plan addressing the third round obligation with COAH or petition for a third round substantive certification prior to the expiration of this extended second round substantive certification.

I do hereby certify that the foregoing is a true copy of a resolution passed by the Township Council of the Township of South Brunswick at a meeting duly held on the 9th day of December, 2003.


Deputy Township Clerk

Prepared By Lisa Piersanti
COAHSecondRoundSubstantiveCertification.1209

SBa89

SPENDING PLAN SOUTH BRUNSWICK TOWNSHIP, MIDDLESEX COUNTY

Adopted – November 2, 2005

INTRODUCTION

South Brunswick Township has a development fee ordinance that was approved by the Council on Affordable Housing (COAH) on March 11, 1993. This spending plan is prepared in accordance with *NJAC* 5:94-6.2(c) and 6.5 and includes the following:

1. Projection of revenues anticipated from imposing fees on development, based on actual, proposed and approved developments and historic rate of development activity.
2. A description of the administrative mechanism that the municipality uses to collect and distribute revenues.
3. A description of the anticipated use of all development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls pursuant to *NJAC* 5:94-6.12, repayment of loans for rehabilitation or affordability assistance, and voluntary contributions.
4. A schedule for the creation and/or rehabilitation of housing units.
5. If the municipality is including a municipally sponsored or 100 percent affordable program, a new construction alternative living arrangement or an affordable housing partnership program, a pro-forma statement of the anticipated costs and revenues associated with the development.
6. The manner in which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan.

To date, South Brunswick Township has a balance of approximately \$5.5 million in collected development fees. All development fees collected and interest generated by the

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fees are deposited in a separate interest-bearing account in Commerce Bank for the purposes of affordable housing.

I. PROJECTION OF REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated between November 2005 and the expiration of substantive certification in December 2015, South Brunswick Township considered the following:

- (a) Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals are anticipated to provide \$1,000,000 in development fees at issuance of building permits and/or certificates of occupancy during the period of substantive certification.
- (b) All projects currently before the planning and zoning boards for development approvals and development projected to begin construction based on historic rates of development that may apply for building permits and certificates of occupancy are anticipated to provide \$2,100,000 in development fees during the period of substantive certification.
- (c) Payments in lieu of construction from developers pursuant to *NJAC* 5:94-4.4(b-e) are anticipated to provide \$4 million in in-lieu payments during the period of substantive certification.
- (e) Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of loans for rehabilitation or affordability assistance, and voluntary contributions are anticipated to provide \$0 in fees during the period of substantive certification.
- (f) Interest on the projected revenue in the housing trust fund at the current average interest rate is anticipated to provide \$100,000 to accrue to the affordable housing trust fund during the period of substantive certification.

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South Brunswick Township projects a total of \$7,200,000 in revenue to be collected between November 2005 and the expiration of substantive certification (plus interest). When the total revenue projected of \$7,200,000 is added to the balance of the amount collected to date of \$5,500,000, a total of \$12,700,000 will be collected prior to the expiration of substantive certification. All development fees, payments in lieu of construction and other funds listed above will be deposited in a separate interest-bearing account in Commerce Bank and all interest earned on the account will accrue to the account to be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues is followed by South Brunswick Township:

(a) Collection of development fee revenues:

The Planning Board Secretary notifies the Construction Official whenever preliminary, final or other applicable approval is granted for a development which is subject to a development fee.

When a request is made for a building permit, the Construction Official determines if the project is subject to the imposition of a mandatory development fee. If so, the Construction Official notifies the Township Tax Assessor to calculate the approximate value of the project and set the fee based on equalized assessed value for both residential and non-residential development.

The developer pays up to 50 percent of the estimated development fee to Construction Official at the time the building permit is issued. The funds are then forwarded to the CFO and deposited in the affordable housing trust fund. The balance of the development fee is paid by the developer to the Construction Official at the issuance of the certificate of occupancy. The funds are then forwarded to the CFO and deposited in the affordable housing trust fund.

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(b) Distribution of development fee revenues:

The governing body adopts a resolution for the expenditure of development fee revenues as set forth in this spending plan.

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved spending plan. Once a request is approved by resolution, the CFO releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

3. DESCRIPTION OF ANTICIPATED USE OF DEVELOPMENT FEES

- (a) Depending on the amount of outside funding received, South Brunswick Township may dedicate approximately \$12,150,000 to the Deans Apartments extension of controls, Municipally-Sponsored Construction programs (Stover and Menowitz sites), the proposed Rental Acquisition program, the proposed REACH program (purchase assistance) and the proposed Dungarvin group homes which are exempt from the affordability assistance requirement.

New Construction project(s): \$12,150,000

South Brunswick Township proposes to help extend the controls of 40 affordable household rentals (including nine (9) very low income units) at Deans Apartments, provide Municipally-Sponsored Construction programs (Stover - 304 senior rental units - and Menowitz - 45 to 60 supportive housing units - sites), the proposed Rental Acquisition program for 50 household rentals, the proposed REACH program (purchase assistance) for 40 household sales and the proposed Dungarvin group homes (see various attached pro forma statements).

- (b) At this time, South Brunswick Township anticipates expending most if not all of the collected revenue on the New Construction Programs listed above. If those programs are fully funded, the Township will dedicate 30% of the balance of funds from the

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affordable housing trust fund to render affordable units more affordable, including 1/3 of the 30% amount to render the 9 very low income units developed by VOA more affordable to households earning 30 percent or less of median income by region for security deposit assistance and rental assistance. The Township currently administers an affordability assistance program which includes loans and grants for down-payment assistance and security deposit assistance. The Township will continue to administer a Third Round affordability assistance program if there are funds remaining from funding the New Construction Programs noted above.

- (c) South Brunswick Township will dedicate up to 20% of development fees, in-lieu payments and interest collected on an annual basis for administrative purposes. It is unknown at this time how much the Township will expend on administrative purposes as the Township must fully fund the New Construction Programs if there is a shortfall in outside funding sources for the affordable housing. If the Township chooses to fund the implementation of its Third Round Affordable Housing Plans, the fees may be utilized for administrative purposes such as salaries and benefits for municipal employees or consultant fees necessary to develop or implement municipal housing programs such as new construction, housing elements and/or affirmative marketing programs. Administrative funds may be used to income qualify households and monitor implementation. Development fees may be used to defray the costs of staff or consultants that are preparing or implementing a fair share plan.

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SPENDING PLAN CALCULATION SUMMARY	
Existing Balance	\$5,500,000
Pending fees due upon issuance of building permit and/or CO	+ \$1,000,000
Projects awaiting approval and projection based on historic development activity	+ \$2,100,000
Payments in lieu of construction	+ \$4,000,000
Projected Interest	+ \$100,000
Other	+ \$0
TOTAL PROJECTED REVENUE	= \$12,700,000
Funds used for New Construction (not including administration of such programs)	- \$12,150,000
TOTAL SUBJECT TO AFFORDABILITY ASSISTANCE REQUIREMENT	= \$550,000
Affordability Assistance (minimum of 30% of above total)	- \$165,000
Affordability Assistance to Very Low Income Households (minimum of 1/3 of above allotment)	\$54,450
Administration (maximum of 20% of total projected revenue)	- \$unknow
Potential Deficit	= 0

PROGRAM	NUMBER OF UNITS	FUNDS REQUIRED (by year in millions)									
		2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1. Deans Apts. - Extension/Rehab	40		\$1.125								
2. Stover Site Acquisition	304	\$1.5 approx.									
3. SBCDC- Stover	same as above	\$0.5									
4. REACH - sales	40	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5		
5. Rental Acquisition	50	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5	
6. Dungarvin	9-12		\$0.15	\$0.15	\$0.15						
7. Menowitz	45-60										

4. MUNICIPALLY SPONSORED/ 100 PERCENT AFFORDABLE PROGRAMS

See the Township's Plan for a description of the various New Construction Projects in the Township. Pro forma statements (including sources of financing) and construction schedules are attached to the Plan.

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5. UNEXPECTED SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of South Brunswick Township has adopted a resolution agreeing to fund any shortfall of funds required for implementing the Affordable Housing Programs. In the event that a shortfall of anticipated revenues occurs, South Brunswick Township will fund the shortfall out of general revenue or will bond for the funds. A copy of the adopted resolution is attached.

SUMMARY

South Brunswick Township intends to spend development fee revenues pursuant to N.J.A.C. 5:94-6.12 and in conjunction with the housing programs outlined in the housing element and fair share plan dated October 2005.

South Brunswick Township has a balance of collected fees in the amount of \$5,500,000 and anticipates an additional \$7,200,000 in revenues and interest before the expiration of substantive certification for a total of \$12,700,000. Depending on the amount of outside funding sources, the municipality will dedicate \$12,150,000 towards New Construction Programs, \$165,000 to render units more affordable, and an unknown amount of revenue for administrative costs. Any shortfall of funds will be offset by general revenue or bonding.

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RESOLUTION OF GOVERNING BODY OF INTENT TO BOND FOR SHORTFALL

WHEREAS, South Brunswick Township, Middlesex County, has petitioned the New Jersey Council on Affordable Housing (COAH) for substantive certification of its adopted Third Round housing element and fair share plan; and

WHEREAS, COAH has determined that South Brunswick Township must allocate funds for the Deans Apartments extension of controls, municipally-sponsored construction of affordable housing, a proposed rental acquisition program, a proposed REACH (purchase assistance) program, the proposed Dungarvin alternative living arrangements; and

WHEREAS, South Brunswick Township anticipates that funding will come from the following sources to satisfy said obligation: sources including, but not limited to, the Township's affordable housing trust fund - development fees and in-lieu payments; and governmental sources such as the Federal Low Income Housing Tax Credits, New Jersey Balanced Housing funds, HUD funding, Federal Home Loan Bank Board financing, HMFA bond financing, Middlesex County Home funds, etc.; and

WHEREAS, in the event that the above funding sources prove inadequate to meet South Brunswick Township's funding obligation, South Brunswick Township shall provide sufficient funding to address any shortfalls;

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of South Brunswick Township, Middlesex County, State of New Jersey, that the governing body does hereby agree to fund any shortfalls in its affordable housing program that may arise whether due to inadequate funding from other sources or for any other reason; and

BE IT FURTHER RESOLVED that said shortfall shall be funded by bonding if there are no other resources.

I do hereby certify that the foregoing is a true copy of a resolution passed by the Township Council of the Township of South Brunswick at a meeting duly held on the 9th day of November, 2005.



Township Clerk

SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN

Clarke Eaton Hintz

Introduction

South Brunswick Township has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH March 11, 1993. The ordinance establishes South Brunswick Township's affordable housing trust fund for which this spending plan is prepared.

As of July 17, 2008, South Brunswick Township has collected \$12,945,882 and expended \$4,617,756 resulting in a balance of \$8,328,126. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in TD Bank and Capital One Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

South Brunswick Township first received substantive certification from COAH on August 3, 1987, petitioned COAH for second round substantive certification on March 6, 1995, and received second round certification on February 4, 1998. The Township received prior approval to maintain an affordable housing trust fund on March 11, 1993. As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$5,433,761. From January 1, 2005 through July 17, 2008, South Brunswick Township collected an additional \$5,278,891 in development fees, payments in lieu of construction, other funds, and/or interest. From January 1, 2005 through July 17, 2008, South Brunswick Township expended funds on the affordable housing activities detailed in section 4 of this spending plan.

Revenues for Certification Period

To calculate a projection of revenue anticipated during the period of third round substantive certification, South Brunswick Township considered the following:

- (a) Development fees:
 - 1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;

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SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN

Clarke Eaton

2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Payment in lieu (PIL):

Actual and committed payments in lieu (PIL) of construction from developers as follows:

No payments-in-lieu have been collected or assessed.

(c) Other funding sources: \$0

South Brunswick Township is not anticipating collecting money from other funding sources at this time. Funds from other sources, include, but are not limited to the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, and proceeds from the sale of affordable units. All monies in the Affordable Housing Trust fund are anticipated to come from development fees, payments in lieu of construction and interest.

(d) Projected interest:

Based on the current average interest rate, South Brunswick Township anticipates collecting \$1,175,000 in interest through 2018.

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SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN

Clarke Caton Hintz

Source of Funds – Housing Trust Fund 2008 through 2018 (Thousands)

Source of Funds	7/18/08 through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Development fees: Approved/Pending/ Projected Development	\$1,896	\$2,714	\$4,404	\$4,404	\$605	\$587	\$587	\$587	\$587	\$587	\$587	\$17,545
Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Funds (Specify source(s))	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest	\$175	\$190	\$170	\$150	\$130	\$110	\$90	\$70	\$50	\$30	\$10	\$1,175
Total	\$2,071	\$2,904	\$4,210	\$4,749	\$735	\$697	\$677	\$657	\$637	\$617	\$597	\$18,720

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SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN

Clarke Caton Hintz

South Brunswick Township projects a total of \$18,720,000 in revenue to be collected between July 18, 2008 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

Administrative Mechanism to Collect and Distribute Funds

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by South Brunswick Township:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with South Brunswick Township's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

The Planning Board adopts and forwards a resolution to the governing body recommending the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

Description of Anticipated Use of Affordable Housing Funds

(a) Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)

South Brunswick Township will dedicate all of its projected (over \$27 million) and collected development fees to rehabilitation, municipally sponsored new construction, and market to affordable programs (see detailed descriptions in Fair Share Plan) as follows:

Rehabilitation program: 36 Units at \$10,000 = \$360,000

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Municipally-Sponsored New construction project(s):

1. Stover (184 Units): \$4.6 million (if shortfall from full anticipated outside funding sources)
2. Menowitz (60 Units): \$1.5 million (if shortfall from full anticipated outside funding sources)
3. Future 100% Family Rentals (176 Units): \$12,320,000 (if shortfall from full anticipated outside funding sources)

Special Needs Housing:

1. Dungarvin (18 bedrooms): \$630,000
2. Proposed Future Group Homes (30 bedrooms) \$750,000

Market to Affordable Program: (146 Units) \$10,220,000 (if shortfall from full anticipated outside funding sources)

(b) Affordability Assistance (N.J.A.C. 5:97-8.8)

Per COAH's current rules, South Brunswick Township is required to spend a minimum of 30 percent of development fee revenue to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income). The actual affordability assistance minimums are calculated on an ongoing basis in the CTM system based on actual revenues.

SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN

COAH projected affordability assistance requirement

Actual development fees through 7/17/2008		\$10,921,255
Actual interest earned through 7/17/2008	+	\$1,934,403
Development fees projected* 2008-2018	+	\$17,545,000
Interest projected* 2008-2018	+	\$1,175,000
Less housing activity expenditures through 6/2/2008	-	\$3,486,975
<i>Total</i>	=	\$28,088,683
30 percent requirement	x 0.30 =	\$8,426,605
Less Affordability assistance expenditures through 12/31/2004	-	\$12,223
<i>PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018</i>	=	\$8,414,382
<i>PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018</i>	÷ 3 =	\$2,804,794

* Note: The 2008 portion of this projection reflects 2008 subsequent to July 17 as the remainder of 2008 is included in the actual figure reported above.

If sufficient funds remain after funding its affordable housing compliance mechanisms, South Brunswick Township may dedicate \$8,414,382 from the affordable housing trust fund to render units more affordable, including \$2,804,794 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

- Down-payment assistance;
- Rental assistance;
- Security deposit assistance
- Low interest loans
- Assistance with homeowners association or condominium fees and special assessments; and/or
- Converting low-income units to very-low-income units, etc.

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SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN

Clarke Caton Hintz

- (c) Administrative Expenses (N.J.A.C. 5:97-8.9)
 South Brunswick Township may use affordable housing trust fund revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis in the CTM system based on actual revenues.

Projected Administrative Expenses

Actual development fees through 7/17/2008		\$10,921,255
Actual interest earned through 7/17/2008	+	\$1,934,403
Development fees projected* 2008-2018	+	\$17,545,000
Interest projected* 2008-2018	+	\$1,175,000
Less housing activity expenditures through 6/2/2008	-	\$3,486,975
Total	=	\$28,088,683
20 percent maximum permitted administrative expenses	x 0.20 =	\$5,617,737
Less administrative expenditures through 12/31/2004	-	\$826,177
Projected allowed administrative expenditures	=	\$4,791,560

* - Note: The 2008 portion of this projection reflects 2008 after July 17 as the first portion of 2008 is included in the actual figure reported above.

South Brunswick Township projects that \$4,791,560 may be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Township Attorney, Engineer, and Planner fees related to obtaining substantive certification and implementing plan;
- Rehabilitation administration fees
- Administration fees related to the Market to Affordable program
- Administration fees related to the Municipally-Sponsored New Construction Programs

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Expenditure Schedule

South Brunswick Township intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

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SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN

Clarke Caton Hintz

Past and Projected Expenditure Schedule 2005 Through 2018

Program	Number of Units Projected	Funds Expended and/or Dedicated (thousands)											Total			
		2005 through 7/18/08	7/18/08 through 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017		2018		
Rehabilitation Program	36	\$0	\$0	\$0	\$60	\$60	\$60	\$60	\$60	\$60	\$0	\$0	\$0	\$0	\$0	\$360
New Construction	420	\$2,920	\$0	\$0	\$0	\$2,300	\$0	\$6,160	\$2,300	\$6,160	\$1,500	\$0	\$0	\$0	\$0	\$21,340
Market to Affordable	146	\$0	\$0	\$2,030	\$2,030	\$2,030	\$2,030	\$2,100	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,220
Special Needs Housing	48	\$0	\$0	\$210	\$210	\$210	\$150	\$150	\$150	\$150	\$150	\$0	\$0	\$0	\$0	\$1,380
Total Programs	650	\$2,920	\$0	\$2,240	\$2,300	\$4,600	\$2,240	\$6,370	\$2,310	\$6,310	\$1,500	\$0	\$0	\$0	\$0	\$33,300
Affordability Assistance		\$40	\$5	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Administration		\$422	\$50	\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$1,222
Total	650	\$3,382	\$55	\$2,315	\$2,375	\$4,675	\$2,315	\$6,445	\$2,385	\$6,385	\$1,575	\$0	\$0	\$0	\$0	\$34,567

SBe 106

Excess or Shortfall of Funds

Pursuant to the Housing Element and Fair Share Plan, the governing body of South Brunswick Township has adopted a resolution agreeing to fund any shortfall of funds required for implementing the rehabilitation or any of the new construction, special needs, or market to affordable programs. In the event that a shortfall of anticipated revenues occurs, South Brunswick Township will bond to satisfy the gap in funding. A copy of the adopted resolution is attached.

Barrier Free Escrow

Collection and distribution of barrier free funds shall be consistent with South Brunswick Township's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

Summary

South Brunswick Township intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan dated December 2008.

South Brunswick Township has a balance of \$8,328,126 as of July 17, 2008 and anticipates an additional \$18,720,000 in revenues before the expiration of substantive certification for a total of \$27,048,126. The municipality will dedicate all of its collected revenue to support affordable housing programs and will also seek outside funding sources for all of the programs. Although the Township's affordable housing plan may cost over \$31 million for rehabilitation, municipally sponsored new construction, special needs housing, and market to affordable programs, the vast majority of this cost is anticipated to come from projected development fees and outside funding sources such as the states new funding program - the New Jersey Affordable Housing Trust Fund, Low Income Housing Tax Credits, DCA Balanced Housing funds, Middlesex County HOME funds, Federal Home Loan Bank funds, etc. Funds may be dedicated to render units more affordable, and may be dedicated to administrative costs. Any shortfall of funds may be offset by bonding.



SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN

Clarke Caton Hintz

Spending Plan Summary

Revenues	
Balance as of July 17, 2008	\$8,328,126
Projected Revenue from July 18, 2008 through 2018	
1. Development fees	+ \$17,545,000
2. Payments in lieu of construction	+ \$0
3. Other funds	+ \$0
Interest	+ \$1,175,000
<i>Total Projected Revenue</i>	= \$27,048,126
Expenditures	
Funds used for Rehabilitation	- \$360,000
Funds used for New Construction	
1. Municipally Sponsored New Construction	- \$18,420,000
2. Special Needs Group Housing	- \$1,380,000
3. Market to Affordable Program	- \$10,220,000
Affordability Assistance	- if remaining balance
Administration	- \$800,000
Excess Funds for Additional Housing Activity	= \$0
1. Rehabilitation, if applicable	- \$
<i>Total Projected Expenditures</i>	= \$31,180,000
POTENTIAL SHORTFALL	= - \$4,131,874

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at least 10 units being affordable to very low income households at 30% of the median income.

- ✓ Bedroom Distribution – The units will be exempt from the bedroom distribution requirements of COAH's rules pursuant to *NJAC* 5:97-6.9(c)1.

Waiver Request - Market to Affordable Program – Exceeding Initial 94-unit Limit

As noted above, the Township requests a waiver from COAH's initial 94-unit market to affordable program limit for a 146-unit program (although COAH has no ultimate limit on the number and specifically states that a municipality may address its entire fair share through this program) per *NJAC* 5:96-15.1. COAH's rules state that "the Council (COAH) may grant waivers from specific provisions of its rules if the person demonstrates that the strict application of the rule would create an unnecessary financial, environmental or other hardship; or granting the waiver fosters the production of affordable housing, granting the waiver fosters the intent of, if not the letter of, the Council's rules; and the Housing Element and Fair Share Plan provide a mix of housing options."

Specifically, the waiver is to exceed the COAH initial programmatic limit established at *NJAC* 5:97-6.9(b)4, which initially caps the program at 10% of the Township's fair share obligation or 94 units in the case of South Brunswick. To put it in perspective, an initial 146-unit program represents only 15% of the Township's 948-unit third round fair share obligation, thereby meeting the intent of, if not the letter of COAH's rule.



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In September 2005, the Township presented a preliminary waiver request to COAH staff to exceed the initial program limitations. Although COAH staff was preliminarily favorable to the concept, it was understood by the parties that the Township would make a formal waiver request as part of its third round housing element and fair share plan.

South Brunswick Township has a highly respected affordable housing department – directed by Arlyne DeSena – that will administer the 146-unit market to affordable sale and rental program. South Brunswick currently administers 187 existing affordable sale units and has the staff and ability to administer an additional 66 affordable sale units. In addition, the Township aids various rental property owners in the administration of over 450 affordable rental units, thus, the Township has the capacity to administer an additional 80 affordable rental units. In the past, COAH staff has relied on South Brunswick's Affordable Housing Department to teach and educate other affordable housing providers. Ms. DeSena is a Board member of the Affordable Housing Professionals of New Jersey ("AHPNJ").

The Township's proposal to create 80 new affordable household rental units and to create 66 new affordable household sale units would most assuredly foster the production of affordable housing. The Township has approximately \$10 million currently in its affordable housing trust account that will enable the immediate establishment of these affordable units.

COAH's rules place an initial 94-unit limitation "unless the municipality has demonstrated a successful history of a market to affordable program." COAH added the market to affordable program (initially just for sale units) in its 2004 third round regulations and the Township included such a program in its initial third round plan from November 2005. If COAH had not been forbidden to continue to

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review and approve third round plans by the 2007 Appellate Division decision, then the Township would have already shown success with this program. As soon as COAH approves the program and grants substantive certification, South Brunswick Township will implement the market to affordable program thereby fostering the production of affordable housing and meeting the intent of, if not the letter of, COAH's rules.

The Township's existing affordable housing stock and proposed amended third round plan contains a mix of housing options that serve the needs of the region's low and moderate income households. When combining the prior round and amended third round plans, South Brunswick Township will have a total of 1,179 actual affordable units broken down into the following categories: 420 affordable family rental units, 147 supportive and special needs housing, 364 affordable senior rentals and 248 affordable family sale units. Almost 80% of the 1,179 affordable units are rentals, far in excess of COAH's 25% rental requirement, thus, overwhelmingly addressing an underserved housing need in the region.

For all the reasons stated above, South Brunswick Township respectfully requests that COAH grant a waiver, pursuant to *NJAC 5:96-15.1(a)*, to exceed the initial 94-unit limit for the proposed Township market to affordable rental and sales program.

Extensions of Controls

Woodhaven Terrace (formerly Deans Apartments) is an existing 40-unit 100% affordable housing complex serving low income households. Woodhaven Terrace is located at 154 Black Horse Lane (Block 90, Lot 54.01). Woodhaven Terrace was initially established in 1986 through funding from the old Farmer's

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RESOLUTION APPROVING SOUTH BRUNSWICK TOWNSHIP, MIDDLESEX COUNTY

WAIVER FROM N.J.A.C. 5:97-6.9(b)4

WHEREAS, on August 3, 1987, South Brunswick Township received a first round judgment of compliance; and

WHEREAS, on February 4, 1998, South Brunswick received second round substantive certification from the Council on Affordable Housing (COAH); and

WHEREAS, on February 5, 2005, South Brunswick received extended substantive certification from COAH; and

WHEREAS, on December 31, 2008, South Brunswick petitioned COAH with its third round Housing Element and Fair Share Plan; and

WHEREAS, at the conclusion of its 45-day objection period South Brunswick Township had received five objections to its Housing Element and Fair Share Plan; and

WHEREAS, South Brunswick's fair share obligation consists of a 841-unit prior round obligation, a 36-unit rehabilitation share and a 948 -unit projected growth share obligation; and

WHEREAS, as part of its December 31, 2008 petition, South Brunswick proposed a market to affordable program as a mechanism to address its projected growth share obligation; and

WHEREAS, South Brunswick Township has proposed completing 146 Market to Affordable units to receive 146 credits, which represents 15 percent of South Brunswick's projected growth share obligation; and

WHEREAS, N.J.A.C. 5:97-6.9(b)4 permits a municipality to satisfy 10 percent of its fair share obligation through a Market to Affordable Program; and

WHEREAS, South Brunswick seeks a waiver from this provision in the Township's third round fair share plan; and

WHEREAS, South Brunswick has submitted a recent Multiple Listing Service list demonstrating that there are 905 for-sale market-rate condominium and townhouse units in four developments; and

WHEREAS, the Township proposes to acquire 146 units in these four developments, representing a 16 percent set-aside; and

WHEREAS, the Township has an experienced Administrative Agent that has administered municipal housing programs for rental units and sale units; and

WHEREAS, the South Brunswick Affordable Housing Department currently administers 187 existing affordable sale units and aids various rental property owners in the administration of over 450 affordable rental units; and

WHEREAS, South Brunswick has had a Market to Affordable program since 2005; and

WHEREAS, South Brunswick has the administrative capacity to administer 146 additional rental or for-sale units; and

WHEREAS, pursuant to N.J.A.C. 5:96-15.2, COAH's review of a waiver request shall consider whether the strict application of the rule would create an unnecessary hardship; or that such a waiver fosters the production of affordable housing, fosters the intent, if not the letter, of COAH's rules, and that the Housing Element and Fair Share Plan provide a mix of housing options; and

WHEREAS, the waiver request fosters the production of affordable housing as much needed family rental and ownership units will be made available to income eligible households in a timely manner; and

WHEREAS, the waiver request fosters the intent of, if not the letter of, the Council's rules because all the units will have 30 year deed restrictions, be affirmatively marketed and will be occupied by income eligible households; and

WHEREAS, the Township's plan includes a mix of housing types; and

WHEREAS, the Township will acquire 29 units per year for five years, beginning in 2009; and

WHEREAS, South Brunswick will complete 80 rental units and 66 ownership units; and

WHEREAS, South Brunswick has committed to completing at least 20 percent of the Market to Affordable units with 3-bedroom units; and

WHEREAS, South Brunswick has in place, occupied for sale family units, family rental units, age-restricted sale units and age-restricted rental units; and

WHEREAS, South Brunswick is proposing new age-restricted rentals, new group homes and family rental units; and

WHEREAS, COAH received five objections to the Township's Housing Element and Fair Share Plan four of which were opposed to the Township's waiver request; and

WHEREAS, objections were received from Kevin Walsh, Esq. on behalf of Fair Share Housing Center, David Kinsey, Ph.D. on behalf of Matrix Development Group, Art Bernard on behalf of South Brunswick Center, and Stephen Barcan, Esq. on behalf of Providence Corporation; and

WHEREAS, the objectors from Matrix Development Group, South Brunswick Center and Providence Corporation each argue that COAH should deny the waiver and South Brunswick should provide the ensuing shortfall through their developments; and

WHEREAS, the objection from Fair Share Housing Center is regarding the number of bedrooms in each Market to Affordable unit; and

WHEREAS, the Market to Affordable Program is exempt from N.J.A.C. 5:80-26.3(b) and (c) regarding bedroom distribution; and

WHEREAS, the objections do not impact the Township's request for the Market to Affordable waiver; and

WHEREAS, the Township has prepared a Fair Share Plan that addresses its entire Fair Share Obligation; and

WHEREAS, the Township has provided information that supports its request for a waiver from the 10 percent maximum requirement for a Market to Affordable Program; and

WHEREAS, a COAH task force met on September 30, 2009 to review South Brunswick's waiver request; and

WHEREAS, the task force recommends approving the Township's waiver request from N.J.A.C. 5:97-6.9(b)4 to exceed the maximums established in the Market to Affordable Program, because this waiver request meets the waiver standards at N.J.A.C. 5:96-15.2(a) as set forth above.

NOW THEREFORE BE IT RESOLVED that the Council finds that South Brunswick Township has met the criteria for a waiver of COAH regulations as set forth at N.J.A.C. 5:96-15.2(a); and

BE IT FURTHER RESOLVED that South Brunswick will complete at least 20 percent of the Township's Market to Affordable units with 3-bedroom units; and

BE IT FURTHER RESOLVED that for the reasons set forth above, the Council hereby approves South Brunswick's request for a waiver of N.J.A.C. 5:97-6.9(b)4.

I hereby certify that this Resolution
was duly adopted by the Council on
Affordable Housing at its meeting on October 14, 2009



Renee Reiss
Council Secretary



State of New Jersey
Council on Affordable Housing

101 SOUTH BROAD STREET
PO Box 813
TRENTON, NJ 08625-0813
(609) 292-3000
(609) 633-6056 (FAX)

S CHRIST
UADAGN

LORI GRIFA
Acting Commissioner
SEAN THOMPSON
Acting Executive Director

April 6, 2010

The Honorable Frank Gambatese
South Brunswick Township
PO Box 190
Monmouth Junction, NJ 08852

Dear Mayor Gambatese:

Enclosed please find a COAH Premediation Report Requesting Additional Information regarding your municipality's petition for substantive certification.

The enclosed report is a review of your Housing Element and Fair Share Plan and indicates the information that must be forwarded to the Council on Affordable Housing (COAH) within 60 days of issuance of this report which is June 5, 2010.

Mediation will be scheduled while South Brunswick Township compiles the requested information.

If you have any questions or need further information, please call Pamela Weintraub, COAH Planner, at (609) 633-2133.

If you would like to be contacted via email regarding the future information/correspondence for South Brunswick Township, please provide COAH with your email address.

Sincerely,

Sean Thompson
Acting Executive Director

Encls
cc: Attached Service List

SBa116

RFPa0000223

Pamela Weintraub, COAH planner
Dennis Funaro, COAH supervisor
Kathy McGlinchy, COAH monitor
Gina Fischetti, COAH Chief Counsel

SBa117

1221 - SOUTH BRUNSWICK TWP - MIDDLESEX

Full Service List Labels

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Ste 5500
Iselin, New Jersey 08830

Marchese, Mindel and Springberg
5 Elm Row
New Brunswick, New Jersey 08901

The Estate of Edith Mendel, M. Marchese,
L. Mindel & S. Springberg
5 Elm Row
New Brunswick, New Jersey 08901

The Chimes
4815 Seton Drive
Baltimore, Maryland 21215

G & J Spilatore, LLC
191 Old Beekman Rd
Monmouth Junction, New Jersey 08852

South Brunswick Community Development
3424 Rte 27
Kendall Park, New Jersey 08824

Deans Apartments, Ltd.
c/o TM Associates
15825 Shady Grove Road, Suite 25
Rockville, Maryland 20850

Middlesex County Planning Board
40 Livingston Ave
New Brunswick, New Jersey 08901

Buckingham Place at South Brunswick
155 Raymond Rd
Princeton, New Jersey 08540

New Village Associates
5 Elm Row
New Brunswick, New Jersey 08901

Community Options, Inc.
16 Farber Road
Princeton, New Jersey 08540

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Princeton, New Jersey 08540-9611

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1221 - SOUTH BRUNSWICK TWP - MIDDLESEX

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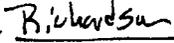
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President/CEO
Triad Associates
1301 W Forest Grove Rd
Vineland, New Jersey 08360

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Council on Affordable Housing
Pre-Mediation Report Requesting Information
April 5, 2010



Municipality: *South Brunswick Township*
County: *Middlesex County*

COAH Region: *3*
Planning Area: *2, 4, 5 and 8*
Special Resource Area: *n/a*

Housing Element and Fair Share Plan Adopted: *December 10, 2008*
Petition for 3rd Round Substantive Certification: *December 31, 2008*
Completeness Determination: *February 18, 2009*
Date of Publication: *February 24, 2009*

Objections Received: *Yes*
Fresh Ponds LLC and Fresh Ponds Village LP
Providence Corporation
South Brunswick Center
PPF Industrial – Route 130 / Exit 8A, LLC
Fair Share Housing Center

Petition Includes:
VLA: *No*
GPA: *No*
Waiver: *Yes* **Section:** *N.J.A.C.-5:97-6.9(b)4*

Date of Site Visit: *November 30, 2009*

History of Approvals:

	COAH	JOC	N/A
First Round:	<i>8/3/1987</i>		
Second Round:	<i>2/4/1998</i>		
Extended Certification:	<i>2/9/2005</i>		

Plan Preparer: *Kathleen Grady, PP, AICP*

Municipal Housing Liaison: *Arlyne DeSena*

SBa/20

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	36
Prior Round Obligation	841
Projected Growth Share Obligation	948

ACTUAL GROWTH and GROWTH SHARE through September 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
637	127 units	9,564	598 units	725 units

FAIR SHARE SUMMARY - AS SUBMITTED

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 36 units				
Programs	County/Municipal		36	36
Rehabilitation Subtotal				36
NEW CONSTRUCTION:				
Prior Round: 841 units				
Credits	Prior Cycle	94		94
	Post-1986	552		552
Proposed Mechanism	100% Affordable / Municipally Sponsored		8	8
Prior Round Bonuses	Rental	187		187
Prior Round Subtotal				841

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

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Growth Share: 948 units				
Credits	Post-1986	44		44
Proposed Mechanisms	Inclusionary Zoning		61	61
	Supportive/Special Needs Housing		112	112
	100% / Municipally Sponsored		352	352
	Market to Affordable		146	146
Growth Share Bonuses	Compliance		61	61
	Rental		176	176
Growth Share Subtotal				952
Surplus				4

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. South Brunswick's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52 :27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's affordable housing fair share obligation, which is the sum of the rehabilitation share, the prior round obligation and the growth share.

SBa122

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, South Brunswick has a rehabilitation share of 36 units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. South Brunswick has a prior round obligation of 841 units.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, South Brunswick has a residential projection of 3,120 units and a non-residential projection of 5,178 jobs, which results in an initial projected growth share obligation of 948 affordable units. South Brunswick's total projected growth share for the period 1999-2018 is 948 affordable units consisting of a 624-unit projected residential growth share and a 324-unit projected non-residential growth share.²

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	36
Prior Round Obligation	841
Projected Growth Share Obligation	948

² Pursuant to N.J.A.C. 5:97-2.2(d), South Brunswick's residential projection of 3,120 is divided by 5 to yield 624 units and the non-residential projection of 5,178 jobs is divided by 16 to yield 323.63 units. South Brunswick's total projected growth share is therefore 948 units (624 + 324).

SBa123

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

South Brunswick's Fair Share Plan, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

South Brunswick's Housing Element and Fair Share Plan does not include a request for rehabilitation credit.

Proposed Rehabilitation Program

South Brunswick Rehabilitation Program

South Brunswick Township will begin the South Brunswick Rehabilitation Program to address its 36 unit rehabilitation obligation. The Township has contracted with Triad Associates to administer the Township's rehabilitation program. Triad Associates is an experienced administrator having completed similar programs for other municipalities. The Township must demonstrate that the program provides for the rehabilitation of rental units in accordance with N.J.A.C. 5:97-6.2(b)6. The Township also plans to utilize the Middlesex County – Housing Preservation Program. The Middlesex County program receives funding from the Community Development Block Grant program. South Brunswick must submit a letter from the Middlesex County – Housing Preservation Program demonstrating that the Township participates in the program. Also the Township should provide the anticipated number of units to be rehabilitated by each program. The Township will ensure that all units undergoing rehabilitation will have a minimum average cost of \$10,000, will have all safety code violations repaired or replaced and will have the controls on affordability in place. The Township anticipates having 18 of the units

SBald24

completed by 2014. While the Township did submit a Resolution of Intent to Bond, the resolution did not include the municipal rehabilitation obligation or provide an alternate, stable source of funding for the rehabilitation program. The Township must revise the resolution to include the rehabilitation program or provide an alternate, stable source of funding for the rehabilitation program. In addition, the Township must submit an operating manual for the municipal rehabilitation program and contract with Triad Associates. The operating manual should include procedures for the Township's rental rehabilitation program as well as owner-occupied program.

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Proposed Rehabilitation Program

Rehabilitation Program	# Units
South Brunswick Rehab Program / Middlesex County – Housing Preservation Program	36
TOTAL	36

B. Plan to Address Prior Round Obligation

Prior Round Obligation Credits

South Brunswick is addressing a portion of the prior round obligation with 94 prior cycle credits and 739 post-1986 credits. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Prior Cycle Credits

Project/Development Name	Year Built	Type of Affordable Unit	# Units/Bedrooms
Woodhaven Terrace	1986	family rental	40
Charleston Place I	*	age-restricted rental	54
TOTALS			94

SBA 125

Post-1986 Credits

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1

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Regal Point	1996	family, sale	5	-	0	5
Monmouth Walk	1997	family, sale	43	-	0	43
Nassau Square	1997	family, sale	49	-	0	49
Summerfield	2002	family, sale	70	-	0	70
Deans Pond Crossing	1997	family, sale	20	-	0	20
Southridge Woods	1992	family, rental	124	rental	124	248
Woodhaven	2001	family, rental	80	rental	63	143
CIL Woods	*	supportive housing	22	-	0	22
CIL Wynwood	1994	supportive housing	7	-	0	7
Developmental Resources Corp - Wheeler Road	*	group home	3 br	-	0	3
Developmental Resources Corp - Major Road	*	group home	3 br	-	0	3
Charleston Place II	1987	age-restricted rental	30	-	0	30
Oak Woods	2001	age-restricted rental	73	-	0	73
Buckingham Place	2002	assisted living	23	-	0	23
TOTALS			552		187	739

* Completion dates were not included in the 2008 Housing Element and Fair Share Plan, any previous Fair Share Plans or on the COAH Tracking and Monitoring system. The Township must provide the dates of these developments.

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Proposed Affordable Housing Mechanisms

South Brunswick proposes to address the remaining 8-unit prior round obligation through the following mechanisms:

Stover - 100% Municipally Sponsored Project

South Brunswick will address 8 units of its prior round obligation with a municipally sponsored project on a Township owned parcel known as the Stover site. The site is located at 362-370 Ridge Road, known as Block 31, Lots 35.071 and 35.811, and consists of 6.971 acres. The site is located in PA2 and has access to public water and sewer. A GIS analysis was conducted by COAH staff and there is a small area of wetlands located on the site. The wetlands are confined to the southeast corner of the property. The Township intends to acquire a Letter of Interpretation from the NJ Department of Environmental Protection for this site. It does not appear that the wetlands will impact development of the site. The site is currently zoned R-4, a zone which will accommodate the proposed project.

The 184 age-restricted rental units will be developed by the South Brunswick Community Development Corporation. The Township submitted a pro forma with its petition that shows funding being sought from HMFA, NJ Balanced Housing, the Federal Loan Home Bank and LIHTC. The site will be transferred to the South Brunswick Community Development Corporation to be developed into age-restricted rental housing.

The project will have a total of 184 affordable units. Eight of the units will be used to address the Township's prior round obligation; the remaining units will be used to address the Township's projected growth share obligation. In addition, the Township will deed restrict 24 of the units to be affordable to very-low income households. South Brunswick submitted a construction schedule and the Township anticipates the first phase will begin construction in 2010. (The Township must submit a status report for this project, as mentioned in the response given to the Richardson objection summarized below.)

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing,

pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, South Brunswick must submit the required items pursuant to N.J.A.C. 5:97-6.4(k).

Proposed Prior Round Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Stover	age-restricted rental	8	-	0	8
TOTALS		8		0	8

Prior Round Obligation Parameters

South Brunswick has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:³ 187 Units

Development/Project Name	Type of Affordable Unit	# Units
Southridge Woods	family	124
Woodhaven	family	80
TOTAL		204

³ Rental Obligation: Rental Requirement = 25 percent (Prior Round Obligation – Prior Cycle Credits) = .25 (841-94) = 187 N.J.A.C. 5:97-3.10(b)1

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Prior Round Age-Restricted Maximum⁴: 195 Units

Development/Project Name	Type of Affordable Unit	# Units
Charleston Place II	rental	30
Oak Woods	rental	73
Buckingham Place	rental	23
Stover	rental	8
TOTAL		134

Prior Round Rental Bonus Maximum⁵: 187 Units

Development/Project Name	Type of Bonus	# Bonuses
Southridge Woods	family	124
Woodhaven	family	63
TOTAL		187

C. Plan to Address Projected Growth Share

Growth Share Obligation Credits

South Brunswick is addressing 44 units of the projected growth share obligation with 44 units of credit. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

⁴ Age-Restricted Maximum: Age-Restricted Maximum = 25 percent (Prior Round Obligation + Rehabilitation Share - Prior Cycle Credits - Rehabilitation Credits) = .25(841 + 36 - 94 - 0) = 195 N.J.A.C. 5:97-3.10(c)1

⁵ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation N.J.A.C. 5:97-3.5

SBal29

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Dungarvin Group Home		group home	4 br	-	0	4
Woodhaven Terrace (extension of controls)	2006	family, rental	40	-	0	40
TOTALS			44		0	44

Proposed Affordable Housing Mechanisms

South Brunswick proposes to address the remaining 904-unit growth share obligation with the mechanisms detailed in this section. It should be noted that South Brunswick intends to phase several of the proposed developments. South Brunswick has an actual growth share obligation of 725 affordable units, based on certificates of occupancy that have been issued. South Brunswick must revise its implementation schedule for one or more mechanisms included in the adopted Housing Element and Fair Share and submit the necessary documentation for the mechanisms to address the growth share obligation up to the first biennial review must be submitted at the time of petition in accordance with to N.J.A.C. 5:97-3.2(a)4i.

Baker – Oventions – Inclusionary Development

South Brunswick will utilize the Baker-Oventions inclusionary development to address 34 units of its projected growth share obligation. Baker-Oventions is located on Major Road in PA2. The site consists of 26.55 acres on block 86, lots 63, 65, 67, 68, 69, 70 and 71. The development received final planning board approval on April 2, 2008 for a 170-unit age-restricted for-sale development. A copy of the approval was submitted with the petition. Pursuant to N.J.A.C. 5:97 - 3.17 the development is eligible to receive compliance bonuses that the Township has requested, because a previous petition for substantive certification included a Growth Share Ordinance, which was adopted on August 9, 2005.

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The Baker-Ovations development is located in PA2 and has access to water and sewer. A GIS analysis was conducted by COAH staff and there are no environmental impediments to developing the site. South Brunswick must provide a status report on its progress with its implementation of this mechanism.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) with regard to controls on affordability, affirmative marketing, pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, South Brunswick must submit the required items pursuant to N.J.A.C. 5:97-6.6(f).

The units will be administered by the South Brunswick Township Affordable Housing Department. There will be 17 units restricted to low-income households and 17 units restricted to moderate-income households. All units will be affirmatively marketed to the housing region. **[34 age-restricted units and 34 compliance bonuses]**

Matzel & Mumford – Heritage – Inclusionary Development

The Matzel & Mumford – Heritage development is an inclusionary, for-sale development that will produce 106 market-rate units and 27 affordable units. The Heritage development received final planning board approval on May 1, 2008. The Township is seeking compliance bonuses for this development; pursuant to N.J.A.C. 5:97 - 3.17 the development is eligible to receive compliance bonuses because a previous petition for substantive certification included a Growth Share Ordinance, which was adopted on August 9, 2005.

The Matzel & Mumford – Heritage site is located in PA2 and has access to public water and sewer. The proposed development is situated on block 84, lots 4.01, 6 and 24, consisting of 45.21 acres. The property has access from County Route 522 and State Highway 1. GIS analysis was completed by COAH staff and there are wetlands located on the southeastern side and the northern edge of the property. These environmental constraints would not hinder the project's development and would result in 35 developable acres.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80- 26.1 et seq.) with regard to controls on affordability, affirmative

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marketing, pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, South Brunswick must submit the required items pursuant to N.J.A.C. 5:97-6.6(f).

The units will be administered by the South Brunswick Township Affordable Housing Department. There will be 14 units restricted to low-income households and 13 units restricted to moderate-income households. All units will be affirmatively marketed to the housing region.

South Brunswick must provide a status report on its progress with its implementation of this mechanism. [27 family, sale units and 27 compliance bonuses]

Dungarvin Group Homes – Supportive and Special Needs Housing

Dungarvin New Jersey, Inc. is an experienced provider of supportive and special needs housing. The Township's plan states that Dungarvin will establish six new three-bedroom group homes within South Brunswick Township before 2018. The Township will assist Dungarvin in acquiring the six new group homes. Dungarvin anticipates receiving operational and capital funding from the NJ Department of Human Services, Division of Developmental Disabilities.

In the draft agreement that was submitted with the Township's petition it is proposed that Dungarvin will establish a minimum of three group homes with a maximum of four bedrooms in each group home, for a total of 12 group home bedrooms. The developer will receive a per bedroom payment from the Township's affordable housing trust fund in the amount of \$35,000 per unit, the total not to exceed \$420,000 for 12 bedrooms. The number of bedrooms described in the Township's Fair Share Plan, 18 units, differs from the number of bedrooms outlined in the draft agreement. In light of the Township's response to the SBC objection, the Township must provide a status report for this mechanism. Based on the latest information, South Brunswick must adjust its Fair Share Plan and/or submit a revised agreement with Dungarvin. The Township must revise the resolution to include the Dungarvin projects, or provide an alternate, stable source of funding.

South Brunswick submitted an implementation schedule for the year of creation for the group home bedrooms. Six units were to be completed per year in 2009, 2010 and 2011. An updated implementation schedule and status report for this mechanism must be provided. The

SBa 132

Township must submit the supporting documentation that is required two years before the creation of the units. [18 group home bedrooms, pending receipt of requested documentation]

Menowitz – Supportive Housing

The Menowitz site is located on County Route 522, block 84, lot 4.03. The Township proposes to provide 60 permanent supportive rental housing units on the site.

The Menowitz site is in PA2 and has access to public water and sewer. The Township included a site map for the 8.723 acres. A GIS analysis by COAH staff was completed and there is a small area, less than one-half acre, of wetlands on the southwestern border of the site. This environmental constraint should not affect the development of the Menowitz site. The existing zoning and any proposed zoning for the site was not provided. The Township must submit a draft or adopted zoning ordinance for COAH's review.

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Although the Township intends to phase this site, South Brunswick must provide documentation verifying the suitability of the site in accordance with N.J.A.C. 5:97-6.5(c). N.J.A.C. 5:97-3.13(a) requires that sites designated to produce affordable housing shall be available, approvable, developable and suitable, according to the following criteria:

1. The site has a clear title and is free of encumbrances which preclude development of affordable housing;
2. The site is adjacent to compatible land uses and has access to appropriate streets;
3. Adequate sewer and water capacity, as defined under N.J.A.C. 5:97-1.4, shall be available to the site or the site is subject to a durational adjustment pursuant to N.J.A.C. 5:97-5.4; and
4. The site can be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable. Deviations from those standards are to be done in accordance with N.J.A.C. 5:21-3

An implementation schedule for this site was included with the petition. The Township plans to acquire the site from the Menowitz developer in 2015. A nonprofit developer will be selected by the Township through an RFP process in late 2015 and the units would be completed and occupied in the fall of 2017. South Brunswick has indicated that eight of these units will be

Sba133

South Brunswick Township
Middlesex County
April 5, 2010

deed restricted for very-low income households. The Township must revise the Resolution of Intent to Bond to include the Menowitz project or provide an alternate, stable source of funding.

To determine if this proposal provides a realistic opportunity for affordable housing, the Township must provide documentation indicating why it is expected that the site will remain undeveloped and available five (5) years from now. The response to the request for zoning information will assist with this review. In the alternative, South Brunswick must submit a copy of an agreement with the developer regarding the planned transfer of property.

South Brunswick must provide a status report on its progress with its implementation of this mechanism. **[60 supportive housing, rental units]**

Group Homes

South Brunswick will rely on 30 bedrooms in ten group homes to address 30 units of its projected growth share obligation. The Township states that it will contract with an experienced group home provider to create and manage the licensed group homes, in a similar fashion to what was discussed above in the Dungarvin proposal. South Brunswick is phasing these group homes and will submit all required documentation as the units are being planned and put into service.

South Brunswick's spending plan appears to include funding for the bedrooms discussed in the Dungarvin proposal between 2009 and 2011 (\$210,000 per year or \$630,000 for 18 bedrooms at \$35,000 each). Between 2012 and 2016, \$150,000 is projected to be spent each year for a total of \$750,000 for the 30 units in this mechanism. The Township must provide additional information regarding the availability of land and/or structures for this program and additional information regarding the funding of the full 48 bedroom plan. The Township must submit a mechanism checklist for the group homes. The spending plan must be revised to actually reflect the cost of constructing 48 group home bedrooms. The Township must revise the Resolution of Intent to Bond to include the proposed group homes or provide an alternate, stable source of funding for the proposed group homes. **[30 group home bedrooms]**

Sba 134

Market to Affordable – Family Rentals and Sales

South Brunswick Township will rely on the Market to Affordable program to address 146 units of its projected growth share obligation. The Township is planning to complete 66 family sale units and 80 family rental units in its Market to Affordable program.

With its petition, the Township requested a waiver from N.J.A.C. 5:97-6.0(b)4 which caps the Market to Affordable program at ten percent of the affordable housing obligation, or 95 units in the case of South Brunswick. The Council considered and approved the waiver request at its October 14, 2009 meeting. It was determined that the Township had met the criteria that would allow an increase over the ten percent cap. South Brunswick agreed to deed restrict two- and three-bedroom units as part of its Market to Affordable program.

The Township has an experienced administrative agent on staff, Arlene DeSena, who will be responsible for the units. In July, as part of the municipal response, the Township submitted a current MLS listing as documentation that there is sufficient housing stock that is priced to meet the affordability standards in UHAC. The Township has allocated \$14.6 million from its development fees for the Market to Affordable program for an average of \$100,000.00 per unit. The Township anticipates creating 29 units per year from 2009 - 2013. The Township must revise the resolution to include the market to affordable program or provide an alternate, stable source of funding for the market to affordable program.

South Brunswick must provide a status report on its progress with its implementation of this mechanism [66 family sale units and 80 family rental units]

Municipally Sponsored 100% Affordable Project – Family Rentals

South Brunswick will develop two 100 percent affordable family developments to address 176 units of its projected growth share obligation. The two developments will be family rental developments. The Township intends to deed restrict 28 of these units to be affordable to very-low income households.

SBok35

South Brunswick is requesting 176 rental bonuses for this site. However, pursuant to N.J.A.C. 5:97-3.6(a)3, South Brunswick must demonstrate that a firm commitment to construct the rental units has been made in order to qualify for the rental bonuses.

Although the Township intends to phase this site, South Brunswick must provide documentation verifying the suitability of the site in accordance with N.J.A.C. 5:97-6.5(c). The Township is investigating infill sites in existing residential districts and sites west of Route 130 for the two developments. N.J.A.C. 5:97-3.13(a) requires that sites designated to produce affordable housing shall be available, approvable, developable and suitable, according to the following criteria:

1. The site has a clear title and is free of encumbrances which preclude development of affordable housing;
2. The site is adjacent to compatible land uses and has access to appropriate streets;
3. Adequate sewer and water capacity, as defined under N.J.A.C. 5:97-1.4, shall be available to the site or the site is subject to a durational adjustment pursuant to N.J.A.C. 5:97-5.4; and
4. The site can be developed consistent with the Residential Site Improvement Standards, N.J.A.C. 5:21, where applicable. Deviations from those standards are to be done in accordance with N.J.A.C. 5:21-3

The Township plans to complete one of these developments in 2014 and the other in 2016. However, because the Township has an actual growth share obligation of 725 units, South Brunswick must amend the implementation schedule by completing one of the developments within two years of certification and completing the second development two years later. Sources of funding must also be submitted before construction begins. South Brunswick must provide a status report on its progress with implementing this mechanism and an updated implementation schedule. [176 family rental units and 0 rental bonuses, pending receipt of additional information] ,

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Stover Site

The Stover Site is located at 362-370 Ridge Road. The site, located on block 31, lots 35.071 and 35.811, consists of 6.97 acres. The site is described further in the Plan to Address Prior Round Obligation - Proposed Affordable Housing Mechanisms section of this report. The

SBA 136

Stover Site will provide 176 affordable units toward the Township's growth share obligation.
[176 age-restricted rental units]

Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Baker – Ovarions	age-restricted, for-sale	34	-	0	34
Matzel & Mumford - Heritage	age-restricted, for-sale	27	-	0	27
Dungarvin Group Home #1 (proposed)	group home	3br	-	0	3
Dungarvin Group Home #2 (proposed)	group home	3br	-	0	3
Dungarvin Group Home #3 (proposed)	group home	3br	-	0	3
Dungarvin Group Home #4 (proposed)	group home	3br	-	0	3
Dungarvin Group Home #5 (proposed)	group home	3br	-	0	3
Dungarvin Group Home #6 (proposed)	group home	3br	-	0	3
Menowitz Supportive Rentals	special needs	60	-	0	60
Group Homes (proposed)	group home	30 br	-	0	30
Market to Affordable	family, rental	80	-	0	80
Market to Affordable	family, sale	66	-	0	66
Municipally Sponsored	family, rental	176	-	0	176

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Family Projects					
Stover	age-restricted, rentals	176	-	0	176
TOTALS		667		0	667

Growth Share Parameters

South Brunswick has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:⁶ 237 Units

Development/Project Name	Type of Affordable Unit	# Units
Woodhaven Terrace	extension of controls	40
Dungarvin Group Home Cranston	group home	4
Dungarvin Group Home #1 (proposed)	group home	3
Dungarvin Group Home #2 (proposed)	group home	3
Dungarvin Group Home #3 (proposed)	group home	3
Dungarvin Group Home #4 (proposed)	group home	3
Dungarvin Group Home #5 (proposed)	group home	3
Dungarvin Group Home #6 (proposed)	group home	3
Menowitz Supportive Rentals	special needs housing	60
Group Homes (proposed)	group home	30

⁶ Projected Growth Share Rental Obligation: $.25(\text{Projected Growth Share}) \text{ or } .25(948) = 237 \text{ units}$ N.J.A.C. 5:97-3.10(b)3

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Market to Affordable	family rental	80
Municipally Sponsored Family Projects	family rental	176
TOTAL		342

Growth Share Family Rental Requirement⁷: 119 Units

Development/Project Name	Type of Affordable Unit	# Units
Woodhaven Terrace*	extension of controls	40
Market to Affordable*	family rental	80
Municipally Sponsored Family Projects	family rental	176
TOTAL		296

*In accordance with N.J.A.C. 5:97-3.6(a)4, these units are addressing the minimum family rental requirement and are therefore not eligible to receive rental bonuses.

Growth Share Minimum Family Requirement⁸: 356 Units

Development/Project Name	Type of Affordable Unit	# Units
Woodhaven Terrace	extension of controls	40
Market to Affordable	family rental	80
Market to Affordable	family sale	66
Municipally Sponsored Family Project	family rental	176
TOTAL		362

⁷ Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(237)= 119 units N.J.A.C. 5:97-3.4(b)

⁸ Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(711)= 356 units N.J.A.C. 5:97-3.9

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Very Low Income Minimum Requirement⁹ : 92 Units

Development/Project Name	Type of Affordable Unit	# Units
Dungarvin Group Home	special needs	14
Stover Site	age-restricted	24
Menowitz Site	supportive housing	8
Woodhaven Terrace	family	9
Market to Affordable	family	10
Municipally Sponsored Family	family	28
TOTAL		93

Age-Restricted Maximum¹⁰ : 237 Units

Development/Project Name	Type of Affordable Unit	# Units
Baker Ovations	inclusionary	34
Matzel & Mumford - Heritage	inclusionary	27
Stover Site	100% affordable	176
TOTAL		237

⁹ Growth Share Very Low Income Requirement: .13(Units Addressing Growth Share Obligation) or .13(711)= 92 units pursuant to P.L.2008, c.46
¹⁰ Projected Growth Share Age Restricted Maximum: .25(Projected Growth Share) or .25(948)=237 units N.J.A.C. 5:97-3.10(c)2

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Bonus Maximum¹¹: 237 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
Baker Ovations	compliance	34
Matzel & Mumford - Heritage	compliance	27
TOTAL		61

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, South Brunswick issued certificates of occupancy for 637 housing units and for the non-residential square footage equivalent of 9,564 jobs, yielding an actual growth share obligation through September 30, 2008, of 725 affordable units.¹²

¹¹ Projected Bonus Maximum: $.25(\text{Projected Growth Share})$ or $.25(948) = 237$ units N.J.A.C. 5:97-3.20

¹² The number of residential COs (609) is initially divided by 5 to yield 127 units and the number of jobs (9,564) is initially divided by 16 to yield 598 units. South Brunswick's total actual growth share is therefore 725 units (127+ 598). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

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D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY
Rehabilitation Share: 36 Units

Program Name	# Units
South Brunswick Township Rehabilitation Program / Middlesex County - Housing Preservation Program	36
TOTAL	36

PRIOR ROUND SUMMARY
Prior Round Obligation: 841 Units

	Name of Mechanism	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Prior Cycle Credits	Woodhaven Terrace	40			40
	Charleston Place I	54			54
Post-1986 Credits	Regal Point	5	-	0	5
	Monmouth Walk	43	-	0	43
	Nassau Square	49	-	0	49
	Summerfield	70	-	0	70
	Deans Pond Crossing	20	-	0	20
	Southridge Woods	124	rental	124	248
	Woodhaven	80	rental	63	143
	CIL Woods	22	-	0	22

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	CIL Wynwood	7	-	0	7
	Developmental Resources Corp – Wheeler Road	3	-	0	3
	Developmental Resources Corp – Major Road	3	-	0	3
	Charleston Place II	30	-	0	30
	Oak Woods	73	-	0	73
	Buckingham Place	23	-	0	23
	Subtotal	646		187	833
Proposed Mechanisms	Stover	8	-	0	8
	Subtotal	8		0	8
TOTAL					841
Surplus/Shortfall					0

GROWTH SHARE SUMMARY
Projected Growth Share Obligation: 948 Units

	Name of Mechanism	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	Dungarvin Group Home - Cranston	4br	-	0	4
	Woodhaven Terrace (extension of controls)	40	-	0	40
	Subtotal	44		0	44
Proposed	Baker – Ovarions	34	compliance	34	68

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Mechanisms	Matzel & Mumford Heritage	27	compliance	27	54
	Dungarvin Group Home #1 (proposed)	3br	-	0	3
	Dungarvin Group Home #2 (proposed)	3br	-	0	3
	Dungarvin Group Home #3 (proposed)	3br	-	0	3
	Dungarvin Group Home #4 (proposed)	3br	-	0	3
	Dungarvin Group Home #5 (proposed)	3br	-	0	3
	Dungarvin Group Home #6 (proposed)	3br	-	0	3
	Menowitz Supportive Rentals	60	-	0	60
	Group Homes (proposed)	30 br	-	0	30
	Market to Affordable	80	-	0	80
	Market to Affordable	66	-	0	66
	Municipally Sponsored Family Project	176	-	0	176
	Stover	176	-	0	176
	Subtotal	667		61	728

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TOTAL	772
Deficit	(176)

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

South Brunswick's certified plan included a development fee ordinance that was approved by COAH on March 11, 1993, and adopted by the Township on May 19, 1993. South Brunswick submitted a draft amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance was approved by COAH on September 23, 2009 and adopted by South Brunswick on November 24, 2009.

B. Third Round Spending Plan

South Brunswick's prior round spending plan was approved by COAH on July 20, 1994. A third round spending plan was submitted by South Brunswick with the Township's third round petition for COAH's review and approval. While the spending plan will be fully reviewed by COAH in a separate report, the Township should recognize that the Spending Plan may have to be revised based on the responses to this report. In addition, the plan will have to be revised to reflect only those expenditures that can be supported by trust fund revenues. Discussion of the need to utilize other sources of funds can be included in the section of the report entitled Excess or Shortfall of Funds. Also, affordability assistance must be shown as an expenditure item in the amount calculated in the Plan. The Township may wish to consider a waiver of COAH's rules if it wishes to spend less than the 30% of the trust fund dollars, as projected in the Spending Plan.

C. Affordable Housing Ordinance/Affordable Housing Administration

South Brunswick has an adopted affordable housing ordinance for its prior round obligation. The Township has submitted a revised affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-

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IV. SUMMARY OF OBJECTIONS AND MUNICIPAL RESPONSE

Summary of Objections

Five objections have been filed pertaining to the Township of South Brunswick's Housing Element and Fair Share Plan (HEFSP). Objections have been filed by Fresh Ponds LLC and Fresh Ponds Village LP (Richardson), Providence Corporation (Providence), South Brunswick Center, LLC (SBC), PPF Industrial-Route 130/Exit 8A, L.L.C., an affiliate of Matrix Development Group (Matrix) and Fair Share Housing Center (FSHC). A response as to all objections has been filed by the Township.

Objection Filed by Richardson

Henry L. Kent-Smith Esq. of the law firm Buchanan Ingersoll & Rooney PC and John T. Chadwick IV, PP filed the objection on behalf of Richardson. Richardson is the owner of several sites in the Township. Richardson maintains that the HEFSP discriminates against families with children by addressing the non-age restricted growth share obligation with a variety of housing options that fail to provide any housing opportunities for families. Richardson asserts that the proposed market to affordable program provided in the HEFSP is contrary to the concept of growth share. Richardson contends that the acquisition and conversion of existing housing stock to satisfy growth share obligations is in direct violation of the fundamental premise of growth share. Richardson further asserts the Township does not provide realistic funding or a housing inventory analysis to substantiate the viability of any municipal acquisition program. Richardson maintains that the \$25,000 per unit minimum housing subsidy for the market to affordable program is inadequate. Richardson contends that the Housing Element demonstrates that the acquisition of units would be far more expensive. Richardson submits that the rental subsidy and unit acquisition costs for the market to affordable program for existing units in Fresh Pond Village are \$110,000 per unit. This figure is far in excess of the budget per unit amount in the HEFSP. Richardson states that the HEFSP does not contain any market survey as to the willingness of present owners to sell and/or agree to a subsidy to permit the Township to acquire, deed restrict and re-market units as affordable units. Richardson notes that the HEFSP states that the Township will commit to the acquisition of 29 units every five years commencing in 2009 as

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part of the market to affordable program. Richardson maintains that the funding necessary for such an ambitious plan is grossly understated. Richardson notes that South Brunswick also seeks a waiver of the 10% cap on market to affordable units as part of the growth share obligation. Richardson asserts that until the Township can demonstrate that it can acquire and subsidize a market to affordable program, COAH should not allow any credits for this program in excess of the 94-unit limit permitted under COAH regulations. For these reasons Richardson maintains that the market to affordable program does not present a realistic opportunity for the creation of affordable housing.

Richardson maintains that the proposed development of senior housing in the Stover Parcel is problematic and likely impossible to achieve by 2011. Richardson asserts that the HEFSP fails to provide adequate information on the municipally sponsored projects. Richardson states that the HEFSP does not include a site plan describing the proposed Stover project and whether it meets the zoning requirements for the development of that parcel. Richardson asserts that the HEFSP does not provide information with regard to costs and revenues associated with the municipally sponsored construction of Stover Parcel. Richardson also maintains that the HEFSP fails to show how the Township will satisfy its rental obligation. Richardson asserts that the HEFSP does not contain a realistic opportunity for the proposed municipally constructed low and moderate income rental housing.

Richardson advises that it is ready willing and able to develop inclusionary housing developments on properties it owns. Richardson submits that a proposed development of its properties will create an opportunity for the creation of approximately 110 family affordable housing units. Richardson also submits that the senior affordable housing proposed to be built on the Stover Parcel should be relocated onto an equivalent parcel in the Fresh Pond tract. The Richardson parcels may be developed in a manner that will be in harmony with environmental constraints and within the sewer service capacity of the Township. All of the Richardson properties are located in Planning Area 2.

Richardson maintains that the HEFSP must include the Richardson Fresh Pond site in order to address the Township's affordable housing obligation as calculated by COAH. Richardson asserts that pursuant to COAH's calculations South Brunswick has a growth share of 948 units.

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Richardson asserts that the development of the Stover site is not a realistic opportunity for the creation of affordable housing. Richardson notes that the Stover site proposal is for the construction of 184 age restricted units. The site is near the Summerfield site and Richardson's Fresh Ponds Village site. Richardson maintains that the proposed density for the Stover site, 30 units per acre is far greater than the density on the Summerfield and Fresh Pond sites. Richardson contends that the Stover site is irregular in shape and constrained by wetlands. Richardson also asserts that the property may be contaminated as a result of pesticides used in conjunction with prior orchard use on the site. Richardson contends that the Stover site, being used by the Township to address its prior round shortfall and a major portion of its rental obligation, is not a realistic opportunity for the creation of affordable housing.

Township Response to Richardson

South Brunswick maintains that its HEFSP includes the opportunity to create or develop 322 new family affordable housing units. The Township contends that this mechanism meets or exceeds COAH's requirements for family affordable housing. In reference to Richardson's objection to the Township's market to affordable program, the Township will reply upon its response below as to FSHC and Matrix. In addition, however, South Brunswick notes that the HEFSP projects the per unit housing subsidy figure will be closer to \$100,000, not \$25,000 as suggested by Richardson. The Township notes that it responds fully as to the issue of adequate funding in its response below to SBC. South Brunswick states that the submission of information regarding municipally sponsored construction sites is provided pursuant to COAH regulations over the course of the implementation plan. In reference to the Stover site, South Brunswick states, it is anticipated that the South Brunswick Community Development Corporation (SBCDC) will initially prepare concept drawings within two months of COAH's approval of the HEFSP which includes the Stover site. Thereafter, the Township advises that it will request SBCDC to prepare an updated construction schedule and cost pro forma. These documents will be submitted to COAH and the service list within the 60-day time period for additional information that has yet to be established.

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South Brunswick maintains that the HEFSP does address the Township's rental obligation. The Township states that its 237 unit third round rental obligation has been satisfied with 176 senior units at the Stover site, 52 group home bedrooms, 60 units of permanent supportive housing at the Menowitz site, 40 units at Woodhaven Terrace, an 80 unit market to affordable rental program and 176 units at the future 100% affordable housing family rental sites. South Brunswick points out that all of the for sale affordable housing units in the HEFSP are open for families. The Township advises that none of these units are age-restricted. The Township also notes that the HEFSP addresses COAH's new third round requirement that at least 50% of the third round units be available for families. South Brunswick notes that the 356-unit family obligation has been satisfied with 40 units from extensions of affordability controls at the Woodhaven Terrace, a 146-unit market to affordable program and 176 units at the future 100% affordable housing family rental sites. South Brunswick maintains that its HEFSP does not reduce its family housing requirement by subtracting claimed rental bonuses. Pursuant to COAH regulations, the Township, in calculating housing units, subtracted rental and compliance bonuses to calculate the remaining number of units addressing the third round. The Township also relies on its response to SBC and Matrix below pertaining to the certainty that rental units will in fact be built and that the Township has created a realistic opportunity for a municipally sponsored supportive housing program.

South Brunswick believes that it has adopted and petitioned COAH with a fully compliant third round HEFSP which does not include the Richardson Fresh Ponds site for inclusionary zoning.

Objection Filed by Providence

Stephen E. Barcan Esq. of the law firm Wilentz Goldman & Spitzer P. A. and Elizabeth C. McKenzie, PP filed the objection on behalf of Providence. Providence advises that it is the owner of two separate potential inclusionary development project sites in the Township. The first tract is 45 acres and fronts on Perrine Road. The second tract is approximately 75 acres and fronts on Ridge Road.

Providence maintains that the HEFSP fails to consider land that is appropriate for affordable housing. This includes lands where developers have expressed a commitment to provide

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affordable housing. Inclusion of such sites in the HEFSP, submits Providence, is a requirement under COAH regulations. Providence asserts that the HEFSP fails to provide an analysis of the sites that are appropriate for affordable housing.

Providence maintains that South Brunswick is attempting to address a substantial portion of its third round obligation on a new and untested program, market to affordable housing. Providence maintains that the Township is even seeking a waiver of the 10% cap on the grounds that the Township is an experienced administrator of affordable housing. Providence notes that the HEFSP is basing success with the market to affordable program based on the contention that there are, at this time, in the Township's view, a sufficient number of condominium units available for sale within the Township at prices below \$300,000. Providence opposes the waiver. Providence contends that the Township previously proposed a market to affordable program in the 2005 HEFSP, but has never undertaken the actual program and therefore has no track record of success. Providence contends that one of the reasons that COAH imposes a limit upon the number of credits a municipality can claim for an untested program, is to see how well the Township fares with a limited program before it is permitted to expand. Providence notes that market to affordable programs are exempt from bedroom distribution requirements which are otherwise applicable to inclusionary developments. Therefore, asserts Providence, another reason to deny waiver at this time is to give COAH an opportunity to review the types and sizes of affordable housing units being created through all mechanisms in the Township before approving an increase in the number of affordable units generated by a market to affordable program that may skew toward smaller units.

Providence maintains that the HEFSP relies exclusively on programs that either make use of existing housing units or require Township funds or other forms of funding to create 100% affordable housing developments. Providence maintains that South Brunswick is making the point that it does not want any additional market priced residential units to be constructed within its boundaries. Providence maintains that the Township has many tracts of land that are zoned for non-residential purposes yet remain vacant. Providence contends that a substantial number of new affordable housing units as part of inclusionary residential development could be created, if rezoned. Providence asserts that South Brunswick has chosen to maintain the non-residential

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zoning of these parcels in an effort to discourage additional residential development, inclusionary or otherwise. Providence maintains that the HEFSP does not adequately demonstrate that the Township's zoning provides a realistic opportunity for the construction of the projected 3,120 new residential units noted in the Plan.

Providence's Perrine Road site is surrounded by a mixed pattern of land uses. Providence maintains that these existing uses would be perfectly compatible with a higher density inclusionary residential development. Providence maintains that the site at 45 acres is large enough to accommodate at least 270 dwelling units based on the presumptive minimum density of 6 units per acre in Planning Area Two. Providence notes that with a 20 percent set aside, at least 54 affordable housing units could be generated by the development of this site for inclusionary residential purposes. Providence notes that to date the Township has steadfastly retained the OR Office Research designation for this site.

Providence maintains that their Ridge Road site is also surrounded by a mixed pattern of land uses. Providence maintains that an inclusionary residential development on this site would be entirely compatible with the adjacent uses. Providence advises that the developable portion of the site is at least 15 acres and may be as large as 25 acres. Providence maintains that the upland portion of the site could accommodate between 90 and 150 dwellings units based on the presumptive minimum density of 6 units per acre for Planning Area Two. Providence notes that with a 20% set aside this development could provide 18 to 30 affordable housing units toward South Brunswick's fair share obligation. However, notes Providence, to date, the Township steadfastly retains the existing non-residential zoning designation for this site.

Township Response to Providence

South Brunswick maintains that its affordable housing subcommittee analyzed over two dozen potential sites for affordable housing purposes, including sites offered by developers for inclusionary development. In addition, notes the Township, the subcommittee developed the component parts of its fair share plan utilizing ten different eligible compliance mechanisms set

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program may be taking away housing from moderate income households. SBC notes the shortage for moderate income housing is so serious that the legislature has proposed programs to create work force housing directed at moderate income households. SBC maintains that South Brunswick has not demonstrated through the multiple listing service that a market to affordable program is viable in the Township.

SBC maintains that the proposed implementation schedule delays the production of housing until the back end of the third round. For example, notes SBC, the Menowitz supportive living facility is not scheduled to commence occupancy until 2017. SBC further notes that the Township is seeking State funding for numerous projects. SBC points out that several of these subsidy programs, notably the tax credit program, require site plan approval as a pre-requisite for receiving funding. SBC asserts that the longer the Township delays identifying sites, selecting a contractor and granting site plan approval, the less likely it is to receive State financing. SBC maintains that the Township is not entitled to rental bonuses on the proposed creation of 176 affordable housing rental units planned on sites yet to be identified. SBC maintains that the Township has not created a realistic opportunity for family rental housing and should not receive the rental bonus in advance of construction. SBC maintains that every mechanism in the HEFSP requires funding by South Brunswick or some other public entity, except for the two age-restricted development projects. SBC provides a chart estimating construction and administration costs for these mechanisms at \$79,201,260. This figure is twice the amount noted in the HEFSP. SBC notes that South Brunswick is not alone in seeking State aid for its market to affordable and supportive living facilities projects. SBC asserts that funding for these projects will be difficult. The Township is required to bond for the majority of its shortfall or provide other means to provide a realistic opportunity for low and moderate income housing.

SBC maintains that its site is a well known tract in the Township. SBC states that it has made known over the last several years its willingness to construct residential development which could include a substantial set aside of affordable housing. SBC maintains that 172 acres of the 480-acre site are developable uplands property. SBC suggests that the site could be designed for a mixed use development including retail uses along Route 1 frontage and a mix of residential

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uses on the interior of the site. SBC maintains that the residential component can include a substantial affordable housing set aside.

Township Response to SBC

South Brunswick states that it expects to meet COAH's projections for housing and job growth during the third round. The Township states that this was based on an analysis of actual growth which occurred after January 1, 2004, including development applications approvals and pending applications as well as potential future growth. Based on this review, the Township advises that it concluded that it expects to meet COAH's projections as stated in the HEFSP.

South Brunswick maintains that both the Baker and Matzel & Mumford approved inclusionary sites were the result of the Township's adopted Growth Share Ordinance which was submitted to COAH as part of the Township's 2005 HEFSP. The Township asserts that the objection is challenging COAH's third round regulations that provide municipal credit for approving an inclusionary development. The Township maintains that this objection should be deemed outside the scope of COAH's mediation.

South Brunswick notes that in the HEFSP, the Township included an initial contract with the developer Dunganvin that will result in up to 12 credits. Since then, states the Township, it has obtained new contracts with other group home providers including Triple C Housing that will result in 7 credits and Community Options that will result in 3 credits. South Brunswick also notes that the Township will help to fund the providers for each of the proposed supportive and special needs housing opportunities. South Brunswick also maintains that it has provided implementation schedules regarding the Menowitz site and future family rental sites. The Township advises that it will issue a RFP for the development of future proposed family rental sites at such time as required under the implementation schedule. In reference to the market to affordable program, the Township states that it has submitted to COAH a listing of 140 homes from June 2008 that are on the market at under \$350,000. The Township's market to affordable program will not force a condominium association to subsidize lower priced units. The Township asserts that the objector's request for income information of current residents of market to

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affordable housing is a thinly veiled challenge to COAH's regulations which permit market to affordable programs.

South Brunswick maintains that the HEFSP contains an appropriate implementation schedule which will not delay the production of affordable housing. In fact, notes the Township, the 176 family rental units proposed on future sites in the HEFSP are in excess of the Township's minimum third round rental obligation and are therefore eligible for 176 third round rental bonuses. The Township states that the proposed spending plan sets forth reasonable costs either that the Township may be required to fund or that the Township will fund through outside sources to provide affordable housing subsidies as listed in DCA's Guide to Affordable Housing Funding.

South Brunswick maintains that it has crafted its third round affordable housing plan with various COAH eligible compliance mechanisms and did not include the SBC site for inclusionary zoning.

Objection Filed by Matrix

Glenn S. Pantel Esq. of the law firm Drinker Biddle & Reath and David N. Kinsey, Ph. D., FAICP, PP of the planning firm Kinsey & Hand filed the objection on behalf of Matrix. Matrix, through an affiliate, owns an approximately 106.9-acre property located on the south side of Friendship Road, near the intersection with Route 130. Matrix explains that the site is three large farm fields and more than half the site is wooded. Development of the site would require regulatory approvals from the NJDEP.

Matrix maintains that the HEFSP claims premature third round rental bonuses from its proposed two phased, 176-unit municipally sponsored and 100% affordable projects. Matrix asserts that the HEFSP does not provide a firm commitment in the form of an executed agreement with the developer of the two phase municipally sponsored and 100% affordable projects. Matrix maintains that neither phase has the commitment that is required under COAH rules in order for a municipality to claim the rental bonuses upfront.

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Matrix maintains that the HEFSP request for a waiver from the 10% cap on a municipal market to affordable program does not meet the criteria in COAH's rules. Matrix submits that the HEFSP states that the proposed plan is 15% of the 948-unit third round obligation. Matrix asserts that COAH rules limit the number of units in a market to affordable program pending demonstration that such a municipal initiative is viable. Matrix notes that the 10% cap limits the amount of affordable housing that will be produced because markets to affordable programs are exempt from bedroom distribution requirements that protect the creation of family housing. Matrix also asserts that the market to affordable housing program fails to foster the production of affordable housing. South Brunswick, maintains Matrix, fails to show how application of the 10% limitation on market to affordable housing undermines the creation of a realistic opportunity for the creation of affordable housing.

Matrix maintains that the HEFSP seeks rental bonuses that are contrary to the intent of COAH's rules. Matrix notes that South Brunswick seeks 187 prior round rental bonuses based on the Southbridge Woods inclusionary development that has 124 affordable housing rental units and the 80-unit 100% affordable housing family Woodhaven development. Matrix contends that the rental bonuses claimed by the Township for the 100% affordable housing compliance mechanisms, without any market rate units, are contrary to the intent of COAH's rules. Matrix maintains that the 176 claimed rental bonuses are a significant 18.5% dilution of South Brunswick's third round obligation.

Township Response to Matrix

The Township maintains that it has provided a firm commitment for the provision of almost 600 affordable rental units in the HEFSP. The Township notes that it has adopted a resolution to fund any shortfall in funding to implement this Plan. The Township maintains that since it has provided a firm commitment for the rental housing it is entitled under COAH's rules to receive upfront rental bonuses. South Brunswick also notes that it is aware that under COAH rules it may lose the rental bonuses if the Township has not constructed the rental units within the time period established as a condition of substantive certification.

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for, at most, 596 credits towards the third round obligation and proposes an implementation schedule which does not identify a future family site until 2014.

FSHC maintains that South Brunswick has not adequately demonstrated the need for a waiver for its market to affordable program. FSHC states that it does not dispute that South Brunswick has an excellent and widely noted track record of administering affordable housing. However, FSHC is concerned with a focus on one and two bedroom units for the market to affordable housing program. FSHC notes that a focus on one and two bedroom units with a program of this scale is disturbing in its exclusion of families and is an important consideration in COAH's waiver requirements. FSHC asserts that COAH should not grant South Brunswick the waiver until it can demonstrate that its market to affordable program can feasibly serve a broader range of households.

FSHC maintains that South Brunswick has not justified the removal of the Mindel site from the HEFSP. FSHC notes that the Mindel site was part of the Township's previously approved HEFSP. FSHC notes the Mindel site is being removed from the HEFSP and the developer will pay a development fee instead of having inclusionary zoning on the site. FSHC maintains that inclusionary zoning should remain on this site, especially given that the Township has not identified sites to meet actual growth share that has already occurred.

Township Response to FSHC

South Brunswick maintains that FSHC's calculation of what it considers to be the true growth share should be rejected as unsupported and an inappropriate basis for the third round obligation. The DCA Construction Reporter documents both permanent and temporary certificates of occupancy and certificates of approval for the reoccupancy of existing structures. The Township maintains that FSHC's calculation of the Township's actual growth share is not reliable and is premature. Once the Township receives substantive certification, COAH will conduct biennial evaluations of the HEFSP. The Township asserts that offsets, exclusions, corrections and other adjustments could potentially lead to revisions of the actual growth share.

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South Brunswick advises that there are over 1,000 applicants in the Township database waiting for affordable housing. The Township maintains that it will purchase housing units, including three bedroom units to address the needs of the applicants on the Township's affirmatively marketed waiting list. The Township states that 12% on that list are waiting for 2/3 bedroom units. South Brunswick also maintains that it revised its third round HEFSP without the need of the Mindel site, which is a former inclusionary zoned property which had not been developed from the first round.

V. MONITORING

South Brunswick must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for credit, COAH will notify South Brunswick in writing and the Township may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of South Brunswick's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in South Brunswick and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a prorated production shortage of 10 percent or greater or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

SBa157,

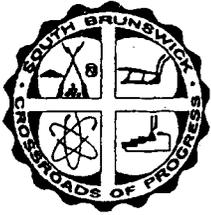
VI. ADDITIONAL INFORMATION REQUESTED

Pursuant to N.J.A.C. 5:96-3.4(a), a municipality shall re-petition when the revisions to its plan include a change in site, substantial change in density, a change in any other zoning requirement that results in a change of housing type on a specific site or a fundamental change in approach to its fair share obligation. However, if the revision alters the plan to address the municipality's fair share obligation by ten percent or less, it may be considered a minor revision pursuant to N.J.A.C. 5:96-3.4(b). Minor revisions may be sought by motion pursuant to N.J.A.C. 5:96-14.3. Pursuant to N.J.A.C. 5:96-7.2(b), South Brunswick must provide the following information within 60 days from the date of this report. In the interim, mediation will be scheduled:

1. A revised operating manual that includes the rental rehabilitation program for the administration of the rehabilitation program;
2. A revised Resolution of Intent to Bond which includes the Rehabilitation Program or provide an alternate, stable source of funding ;
3. Letter of Commitment to rehabilitate units in South Brunswick from the Middlesex County – Housing Preservation Program;
4. An executed contract with TRIAD Associates for the administration of the Rehabilitation Program;
5. Certificate of occupancy dates for the projects listed on page 6 and 7 of this report;
6. A status report for Baker – Ovations detailing events since December 2008;
7. A status report for Matzel & Mumford – Heritage detailing events since December 2008;
8. A revised agreement with Dungarvin for 18 group home bedrooms;
9. A revised Resolution of Intent to Bond which includes the Dungarvin projects or provide an alternate, stable source of funding ;
10. The supporting documentation for the Dungarvin group homes that were to be created in 2009 and 2010;

SB0158

11. A status report for the Dungarvin group homes detailing events since December 2008;
12. A developer's agreement for the Menowitz site that demonstrates the transfer of the property;
13. A revised Resolution of Intent to Bond which includes the Menowitz project; or provide an alternate, stable source of funding
14. A status report for the Menowitz site detailing events since December 2008;
15. A developer's agreement for the municipally sponsored family rental developments in order to receive rental bonuses;
16. A pro forma for the municipally sponsored family rental developments in order to receive rental bonuses;
17. Amended implementation schedule for the municipally sponsored family rental developments in order to meet actual growth;
18. A status report for the municipally sponsored family rental developments detailing events since December 2008;
19. An amended draft spending plan including, but not limited to, new information regarding funding of updated projects;
20. Additional affordable units to meet 159-unit deficit resulting from the loss of rental bonuses for the municipally sponsored family rental developments.



TOWNSHIP OF SOUTH BRUNSWICK

Municipal Building • P.O. Box 190 • Monmouth Junction, NJ 08852-0190

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June 3, 2010

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Trenton, NJ 08625-0813

Pamela Weintraub
COAH Planner
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Re: South Brunswick Township Pre-Mediation Report

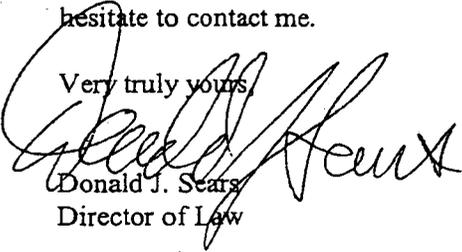
Dear Mr. Thompson:

Enclosed please find an Interim Response to the COAH Pre-Mediation Report Requesting Additional Information regarding the Township's petition for Third Round Substantive Certification. The deadline for providing responses is June 5, 2010. Although much of the documentation and/or information is being forwarded to you today, I am still accumulating the remainder.

The Township has requested a forty-five day extension within which to provide a full response under separate cover. Please advise if this extension request has been granted.

Thank you for your considerations in this matter. If you have any questions or comments, please do not hesitate to contact me.

Very truly yours,


Donald J. Sears
Director of Law

DJS/lw

Cc: All parties on attached service list

SBa1160

RFPa0000274

1221 - SOUTH BRUNSWICK TWP - MIDDLESEX

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SBall

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South Brunswick Community Development
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1221 - SOUTH BRUNSWICK TWP - MIDDLESEX

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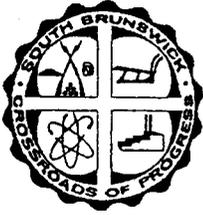
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SBA164



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INTERIM RESPONSE TO COAH PRE-MEDIATION REPORT REQUESTING ADDITIONAL INFORMATION DATED APRIL 6, 2010

Pursuant to the request dated April 6, 2010 and N.J.A.C. 5:96-7.2 (b), the Township of South Brunswick hereby provides the following information as an interim response to the Pre-Mediation Report Requesting Additional Information:

1. Triad Associates, an experienced rehabilitation program administrator, will provide a revised operating manual that includes a rental rehabilitation program.
2. A revised resolution of intent to bond will be provided.
3. See copy of the letter confirming the Township's participation with Middlesex County Housing Preservation Program to rehabilitate units in South Brunswick.
4. An executed contract with Triad Associates will be provided.
5. See copies of Certificates of Occupancy and/or recorded Deeds for Charleston Place I, CIL Woods, 38 Wheeler Road and 186 Major Road.
6. As reflected in the Plan, Baker-Ovations received final Planning Board approval on April 2, 2008 for a 170 unit senior housing development, of which 34 are designated as affordable housing senior units. Due to the unprecedented economic downturn that began in October 2008, no construction has yet begun. Pursuant to N.J.S.A. 40:55D-52 (a), zoning requirements for the property cannot be changed for a period of two years after the date of the resolution of final approval is adopted. This can be further extended for an additional three years. As such, although no construction has yet begun because of the downturn in the economy, the right to develop the property is fully vested and cannot be changed at this time.
7. As reflected in the Plan, Matzel & Mumford-Heritage received final Planning Board approval on May 1, 2008 for a 133 unit housing development, of which 27 are designated as affordable housing units. Due to the unprecedented economic downturn that began in October 2008, no construction has yet begun. Pursuant to N.J.S.A. 40:55D-52 (a), zoning requirements for the property cannot be changed for a period of two years after the date of the resolution of final approval is adopted. This can be further extended for an additional three years. As such, although no construction has yet begun because of the downturn in the economy, the right to develop the property is fully vested and cannot be changed at this time.
8. A copy of the final agreement with Eclipse Investments, the investment arm of Dunganvin, is enclosed.
9. A revised resolution of intent to bond will be provided.
10. See enclosed documentation for Eclipse Investments regarding the purchase and development of 19 Berwick Road, Kendall Park, NJ 08824.
11. See enclosed copy of agreement with Eclipse Investments, detailing the obligation of Eclipse to provide additional group homes.
12. None is available. See response to Item #14.
13. A revised resolution of intent to bond will be provided.

SBa/65

RFPa0000279

14. As reflected in the plan, development of the Menowitz site for supportive rental housing is tied to the donation/acquisition of the property from the owner when the surrounding land is developed as a Planned Age-restricted Residential Community in the future. Due to the unprecedented economic downturn that began in October 2008, no development application has been submitted. Nevertheless, the property remains zoned PARC and is capable of being developed as affordable housing pursuant to the plan.
15. The Township continues to believe that its plan currently provides a firm commitment to provide municipally sponsored family rental developments in accordance with COAH's regulations in order to receive upfront third round rental bonuses. South Brunswick Township does not believe it should have to expedite the development of the future family rental sites. If COAH remains unwilling to acknowledge upfront rental bonuses based on the Township's previously adopted and endorsed housing element and fair share plan, then the Township will temporarily place on hold its request for upfront third round rental bonuses and will instead increase the potential family rental units to be produced in the future. As the Township's actual growth share/implementation schedule triggers the future family rental units and the family rental units are developed, the Township will then be eligible for third round rental bonuses. At that time, the total unit count proposed will be reduced to reflect the eligible third round rental bonuses.
16. A pro forma will be provided by the Township when required by the Township's implementation schedule. Also see Township response to #15.
17. COAH has certified countless other municipalities with the understanding that COAH's regulations require the first municipal growth share evaluation to take place two years after COAH's grant of substantive certification. South Brunswick Township should not be held to a different standard. The Township disputes that it has an actual growth share obligation of 725 units at this time. As previously discussed as part of the Township's response to objections, dated July 24, 2009, COAH's reliance on DCA's calculation of the Township's growth share should be rejected as unsupported at this time. As COAH is aware, the DCA Construction Reporter documents more than the issuance of permanent certificates of occupancy. It also reports the issuance of temporary certificates of occupancy and certificates of approval for the reoccupancy of existing structures. Pursuant to *N.J.A.C. 5:97-2.5(a)* and (b)1, actual growth share is based only on permanent certificates of occupancy. Also, the Construction Reporter contains erroneous data. In addition, under COAH's regulations, municipalities will be allowed to claim a growth share calculation offset for non-residential demolitions. COAH's adopted comment and response document permits municipalities to submit for a waiver to utilize actual job counts for warehousing instead of using COAH's Appendix D non-residential ratios to determine job generation. Once the Township's plan receives substantive certification, COAH will then conduct biennial evaluations of the plan and all of these potential offsets, exclusions, corrections and other adjustments could potentially lead to revisions to a municipality's actual growth share.
18. Additional information on municipally sponsored family rental developments will be provided in response to the Township's implementation schedule.
19. An amended draft spending plan will be provided.
20. The Township will initially increase the number of family rental units to be provided on future municipally sponsored family rental sites. Also, see Township's response to #15.

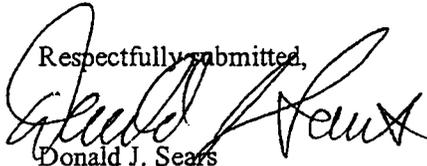
In addition, enclosed please find the following:

S Ballb

1. A summary spreadsheet and supporting deeds/contracts showing activity in the Township's Market-to-Affordable program. As you can see, to date nine market-rate units have been purchased, deed-restricted and sold to qualified purchasers.
2. Documentation for Community Options, Inc. regarding the purchase and development of 2 Aldrich Road, Kendall Park, NJ 08824.
3. Agreement with Triple C Housing, Inc., detailing the obligation of Triple C to provide two group homes at 61 and 63 Major Road, Monmouth Junction, NJ 08852.

Thank you for your considerations in this matter.

Respectfully submitted,



Donald J. Sears
Director of Law

(ATTACHMENTS EXCLUDED BUT AVAILABLE FOR INSPECTION)

SBall 6/7

**South Brunswick Township, Middlesex County
Addendum to 2008 Draft Spending Plan - July 2010**

As a result of COAH's Report Requesting Additional Information, dated April 6, 2010, this addendum was prepared as a supplement to South Brunswick Township's 2008 Draft Spending Plan. As noted in the 2008 draft, the Township had a balance of \$8.3 million in its affordable housing trust account and had projected collecting over \$18 million in future development fees and account interest. However, by virtue of the continuing nation-wide recession, falling interest rates, the state-imposed moratorium on the municipal collection of affordable housing fees on non-residential development and Governor Christie's proposed policy to permanently de-link commercial development from the provision of affordable housing development fees, the amount of potential affordable housing development fees has been revised. This addendum will serve to summarize the revisions to the projected development fees and projected expenditure of those fees.

Revenues for Certification Period

From June 2008 to June 2010, the Township collected \$1,867,721.75 in development fees (as compared to almost \$7 million projected in the 2008 draft for the same time period.) The Township's trust account had a balance of \$8,490,360.21 on June 30, 2010. Regarding, the Township's interest payments, the Township had earned approximately \$74,000 in interest in 2009 as compared to a projection of \$190,000 in interest for 2009. Also, the Township reviewed the potential residential developments that may pay a development fee (instead of building on-site affordable units such as the approved Baker and Matzel & Mumford residential developments) and the potential non-residential developments that may pay a development fee with the possible short-term reinstatement of non-residential development fees after July 1, 2010. Thus, South Brunswick has reduced its overall development fee and interest projections through 2018 to \$6 million.

Description of Anticipated Use of Affordable Housing Funds

With almost \$8.5 million in its account and the future projection of \$6 million, the Township will plan to expend a total of \$14.5 million through 2018 in this spending plan addendum. The Township commits all of its collected and projected development fees to the programs in its adopted 2008 Housing Element and Fair Share Plan including:

▪ Rehabilitation Program: 36 units at \$10,000 each =	\$360,000
▪ Municipally-sponsored New Construction Projects =	\$8,835,500
✓ Stover (184 units)	
✓ Menowitz (60 units)	
✓ Future 100% Family Rental Sites (176 units)	
▪ Special Needs Housing	
✓ Dungarvin/Eclipse: 18 (bal of 14 br's) =	\$490,000
✓ Future group homes: 30 (bal of 27 br's) =	\$695,000
▪ REACH (Market-to-Affordable): 146 units (9 completed) =	\$2,844,500
▪ Affordability Assistance =	\$600,000
Based on 30% of \$1.8 million collected as of June 2, 2008 (\$200,000 will be used for very low income assistance)	
▪ Administration =	<u>\$675,000</u>
Total =	\$14,500,000

Expenditure Schedule – 2010 to 2018

Program	Number of Units Projected	Funds Expended and/or Dedicated (thousands)									
		2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Rehabilitation Program	36	\$0	\$60	\$60	\$60	\$60	\$60	\$60	\$0	\$0	\$360
New Construction	420	\$0	\$1,935	\$0	\$0	\$1,851	\$1,935	\$1,851	\$1,262	\$0	\$8,835
Market to Affordable	146 (137 bal.)	\$500	\$500	\$500	\$500	\$500	\$319	\$0	\$0	\$0	\$2,844
Special Needs Housing	48 (41 bal.)	\$210	\$210	\$150	\$150	\$150	\$150	\$165	\$0	\$0	\$1,185
Total Programs	650	\$710	\$2,705	\$710	\$710	\$2,561	\$2,464	\$2,076	\$1,262	\$0	\$13,198
Affordability Assistance		\$66	\$66	\$66	\$67	\$67	\$67	\$67	\$67	\$67	\$600
Administration		\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$75	\$675
Total	650	\$851	\$2,846	\$851	\$852	\$2,703	\$2,606	\$2,218	\$1,404	\$142	\$14,500

Excess or Shortfall of Funds

Pursuant to adopted Township Resolution 2010-281, the Township determined that there is adequate funding for all of the compliance mechanisms set forth in its adopted plan.

Such funding consists of the Township's affordable housing trust account and funding from governmental grants and/or other sources as set forth in the publication entitled "Guide to Affordable Housing Funding Sources" dated October 28, 2008 and posted by COAH on its web page. In the event these funding sources are not sufficient, the Township will rely on Resolution 2010-281 Concerning the Township of South Brunswick's Commitment to Fund its Affordable Housing Program.

**RESOLUTION GRANTING MOTIONS FOR STAYS RECEIVED BY THE COUNCIL
ON AFFORDABLE HOUSING (COAH) IN RESPONSE TO THE OCTOBER 8, 2010
APPELLATE DIVISION DECISION IN THE MATTER OF THE ADOPTION OF
N.J.A.C. 5:96 AND 5:97 BY THE NEW JERSEY COUNCIL ON AFFORDABLE
HOUSING**

COAH DOCKET #10-2265, 10-2264, 10-2257, 10-2263, 10-2261

WHEREAS, on October 8, 2010, the Appellate Division issued its decision in the appeals of COAH's revised third round rules at N.J.A.C. 5:96 and 5:97; and

WHEREAS, in its decision, the court reversed and remanded portions of COAH's third round rules, including the use of the growth share methodology for determining third round prospective affordable housing obligations; and

WHEREAS, the court upheld COAH's determination of municipal present need and prior round affordable housing obligations in its revised third round rules; and

WHEREAS, the court did not issue a "blanket stay" of proceedings before COAH or the courts and instead, left it to COAH, or in the case of a court town, the court, to determine whether to issue a stay of proceedings reviewing a municipality's affordable housing plan; and

WHEREAS, the court stated that a municipality or interested party may apply to COAH or the appropriate court, as the case may be, for a stay of proceedings and such application "should be decided in light of the status of the individual municipality's compliance with its affordable housing obligations and all other relevant circumstances"; and

WHEREAS, COAH will determine, on a case-by-case basis by way of a motion for a stay submitted by the municipality, whether to proceed with the review of the portions of affordable housing plans addressing present need and prior round affordable housing obligations and objections to those portions of municipal affordable housing plans; and

WHEREAS, COAH received motions requesting a stay of COAH proceedings concerning the prospective need for the following municipalities that have petitioned COAH for substantive certification:

SBW70

Montgomery Township/Somerset County
Bridgewater Township/Somerset County
Lafayette Township/Sussex County
Colts Neck Township/Monmouth County; and

WHEREAS, COAH received motions requesting a stay of COAH proceedings for the following municipalities that received third round substantive certification from COAH:

South Orange Village Township/Essex County
Middletown Township/Monmouth County; and

WHEREAS, COAH staff has reviewed the status and compliance of the municipalities listed above, in regard to their present need and prior round obligations (Attached Summary); and

WHEREAS, these municipalities have addressed and/or have a plan in place that complies with applicable COAH regulations to address their municipal present need and prior round affordable housing obligations; and

WHEREAS, in light of the Appellate Division decision, COAH is refraining from further review of the third round prospective growth share obligations of any municipal third round plans because there are no standards to guide COAH due to the court's invalidation of the growth share portion of the third round regulations; and

WHEREAS, municipalities that have received third round substantive certification or have petitioned COAH pursuant to N.J.A.C. 5:96 and 5:97 continue to be under the jurisdiction of COAH; and

WHEREAS, COAH staff presented the above stay motions to a COAH Task Force on December 1, 2010; and

WHEREAS, the COAH Task Force recommends a finding that that these municipal motions for a stay of COAH proceedings regarding the third round prospective obligation be granted based on the facts presented by COAH staff; and

WHEREAS, COAH encourages municipalities to continue their pursuit of realistic affordable housing opportunities and is available to assist municipalities with the implementation of affordable housing mechanisms, including expending monies from municipal affordable housing trust fund accounts for affordable housing activities.

SBa 171

NOW THEREFORE BE IT RESOLVED that the Council hereby determines that the stay motions submitted concerning COAH proceedings involving the third round prospective obligations are granted in light of the Appellate Division's invalidation of the third round growth share methodology; and

BE IT FURTHER RESOLVED that going forward municipalities are not required to seek a stay from COAH proceedings concerning third round prospective growth share obligation; and

BE IT FURTHER RESOLVED that the municipalities listed above are currently in compliance with their present need and prior round affordable housing obligations; and

BE IT FURTHER RESOLVED that municipalities that have received third round substantive certification or have petitioned COAH pursuant to N.J.A.C. 5:96 and 5:97 continue to be under the jurisdiction of COAH; and

BE IT FURTHER RESOLVED that COAH will make itself available to work with municipalities to plan for and provide additional affordable housing opportunities for future prospective affordable housing needs and that the Council and Council staff will provide any assistance or facilitation to municipalities towards providing additional affordable housing, including conducting mediation if so requested.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on December 8, 2010



René Reiss, Secretary
Council on Affordable Housing

SBA 172



Resolution

of Commitment to Spend Affordable Housing Trust Funds Pursuant to the May 2012 Addendum to the Spending Plan of the Adopted Housing Element and Fair Share Plan of the Township of South Brunswick

WHEREAS, the Planning Board of South Brunswick Township, Middlesex County, State of New Jersey, adopted an Amended Housing Element of the Master Plan and Fair Share Plan on December 10, 2008, pursuant to N.J.S.A. 40:55D-28; and

WHEREAS, the Township Council endorsed the Amended Housing Element and Fair Share Plan on December 16, 2008; and

WHEREAS, the Township Council petitioned the Council on Affordable Housing (COAH) for substantive certification of the Amended Housing Element and Fair Share Plan on December 31, 2008; and

WHEREAS, as part of its December 31, 2008, petition for substantive certification, the Township sought a waiver of the Market to Affordable Housing percentage limitations pursuant to N.J.A.C. 5:97-6.9(b)4, which waiver was granted by COAH on October 14, 2009, permitting the Township to include 146 Market to Affordable units in its Third Round plan; and

WHEREAS, the Township received initial approval of its Development Fee ordinance from COAH on March 11, 1993, which was last amended, reviewed and approved by COAH on September 23, 2009; and

WHEREAS, the approved Development Fee ordinance establishes an Affordable Housing Trust Fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, and proceeds from the sale of affordable units; and

WHEREAS, the Township prepared a Spending Plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46, and pursuant to N.J.A.C. 5:97-8.1(d), has requested approval of the Spending Plan, including a request for approval of the First and Second Addenda to the Spending Plan, however it is unclear whether Spending Plans are being reviewed and/or approved by COAH and/or the Department of Community Affairs (DCA); and

WHEREAS, as a result of the requirements of P.L. 2008, c. 46 (N.J.S.A. 52:27D-329.2a, et seq.), the Township is required to “spend or commit to spend” its Affordable Housing Trust Fund monies that were collected on or prior to July 17, 2008, by July 17, 2012; and

WHEREAS, although the Township has spent over \$4.7 million to create and/or maintain affordable housing opportunities in South Brunswick since July 2008, there remain additional

pre-July 17, 2008, funds in the Affordable Housing Trust Fund that are intended to be used to create and/or maintain additional affordable housing opportunities in South Brunswick both now and in the future in accordance with the Amended Housing Element and Fair Share Plan and May 2012 Second Addendum to the Spending Plan; and

WHEREAS, pursuant to P.L. 2008, c. 46 (N.J.S.A. 52:27D-329.2a, et seq.), if the Township does not “spend or commit to spend” its pre-July 17, 2008, Affordable Housing Trust Fund monies prior to July 17, 2012, the State of New Jersey will require that the Township transfer the remaining unspent balance to the "New Jersey Affordable Housing Trust Fund," established pursuant to section 20 of P.L.1985, c.222 (N.J.S.A. 52:27D-320), as amended by P.L. 2008, c.46 (N.J.S.A. 52:27D-329.1 et al.), to be used by the State not in the Township of South Brunswick but rather anywhere in Middlesex, Hunterdon or Somerset Counties with no apparent affordable housing credit to South Brunswick Township; and

WHEREAS, it is in the best interest of the residents of the Township of South Brunswick for the Township Council to adopt a resolution, formally committing Affordable Housing Trust Fund monies to specific affordable housing projects/programs so that the money is not transferred to the New Jersey Affordable Housing Trust Fund, ensuring that the Township’s projects/programs can continue to provide affordable housing opportunities in South Brunswick Township in order to permit the Township to address its fair share obligation; and

WHEREAS, the DCA prepared a report entitled “Affordable Housing Trust Funds Collected and Expended Through 7/17/2008 Adjusted For All Expenditures to Date (As Reported by NJ Municipalities Through 04/04/2012)” which was posted on the DCA web site at http://www.nj.gov/dca/services/lps/hss/transinfo/reports/ahtf_2008_unspent.pdf. Pursuant to the DCA report, South Brunswick Township must spend or commit to spend a total of \$3,535,207 by July 17, 2012. The Township hereby desires to commit a minimum of \$3,535,207 by the July 17, 2012, statutory deadline and in addition commit all of its collected trust funds, totaling \$7,974,918 as listed in another DCA report entitled “Affordable Housing Trust Fund Monitoring (As reported by municipalities through April 4, 2012) posted on the DCA web site at <http://www.nj.gov/dca/services/lps/hss/transinfo/reports/ahtfmuni.pdf>”, as well as certain anticipated funds not yet collected;

NOW THEREFORE BE IT RESOLVED on this 8th day of May, 2012, by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

1. The Township Council hereby commits to spend the following amounts from its Affordable Housing Trust Fund pursuant to the May 2012 Second Addendum to the Affordable Housing Spending Plan of the Adopted Housing Element and Fair Share Plan:
 - Rehabilitation Program: 36 units at \$15,000 each = \$ 540,000
 - REACH (Market-to-Affordable): 146 units (15 completed) = \$ 6,225,000
 - Affordability Assistance to subsidize the creation of Very Low Income Special Needs Housing

✓ Dungarvin/Eclipse: 16 units (12 completed) =	\$ 140,000
✓ ARC of Middlesex County: 16 units (0 completed) =	\$ 1,000,000
• Administration allowance =	<u>\$ 1,800,000</u>
	Total = \$ 9,705,000

2. The Township Council hereby directs the Chief Finance Officer and Township Treasurer to create specific trust accounts for each project/program referred to in the preceding paragraph, funding the appropriate amount for each out of the Affordable Housing Trust Fund.
3. Despite the Township’s best efforts at spending and committing to spend its trust funds for eligible affordable housing programs, in the event that the State demands that the Township forfeit any or all of its Affordable Housing Trust funds, the Township is entitled to prior written notice and shall request a hearing before COAH pursuant to the provisions of N.J.A.C. 5:97-8.13(b); and/or paragraph 4 of an Escrow Agreement between the Township and COAH dated December 19, 2003; and/or paragraph 4 of the Tri-Party Escrow Agreement between the Township, COAH and Commerce Bank (now TD Bank) dated September 29, 2006; and/or paragraph 4 of the Tri-Party Escrow Agreement between the Township, COAH and North Bank dated September 29, 2006; and/or paragraph 4 of the Tri-Party Escrow Agreement between the Township, COAH and Sun Bank dated October 2009, before any trust funds may be released by any banks from any of the Township’s Affordable Housing Trust Fund accounts.
4. A certified copy of this resolution be served upon Governor Chris Christie; the Council on Affordable Housing; Sean Thompson, Acting Director of Local Planning Services, Department of Community Affairs; Sun Bank; TD Bank (formerly Commerce Bank); North Bank and the New Jersey State League of Municipalities.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chris Killmurray, Councilman
SECONDER:	John G O'Sullivan, Councilman
AYES:	Camarota, Carley, Killmurray, O'Sullivan, Gambatese

This is to certify that the foregoing is a true copy of a resolution adopted at the South Brunswick Township Council meeting held on May 8, 2012.


 Barbara Nyitrai, Township Clerk

SBa 175



Resolution

Requesting Review and Approval of the May 2012 Second Addendum to the Affordable Housing Trust Fund Spending Plan of the Adopted Housing Element and Fair Share Plan of the Township of South Brunswick

WHEREAS, the Planning Board of South Brunswick Township, Middlesex County, State of New Jersey, adopted the Housing Element of the Master Plan and Fair Share Plan on November 2, 2005, pursuant to N.J.S.A. 40:55D-28; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element and Fair Share Plan was previously submitted to the Council on Affordable Housing (COAH) pursuant to N.J.A.C. 5:95-2.2(a)2; and

WHEREAS, the Township Council endorsed the Housing Element and Fair Share Plan on November 9, 2005; and

WHEREAS, the Township Council petitioned COAH for substantive certification on December 16, 2005; and

WHEREAS, the Township had not yet received substantive certification from COAH when portions of the initial Third Round rules were struck down by the New Jersey Superior Court, Appellate Division, on January 25, 2007, necessitating an amendment to the Third Round petition; and

WHEREAS, the Planning Board of South Brunswick Township, Middlesex County, State of New Jersey, adopted an Amended Housing Element of the Master Plan and Fair Share Plan on December 10, 2008, pursuant to N.J.S.A. 40:55D-28; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Amended Housing Element and Fair Share Plan was previously submitted to COAH pursuant to N.J.A.C. 5:96-2.2(a)2; and

WHEREAS, the Township Council endorsed the Amended Housing Element and Fair Share Plan on December 16, 2008; and

WHEREAS, the Township Council repetitioned COAH for substantive certification of the Amended Housing Element and Fair Share Plan on December 31, 2008; and

WHEREAS, the Township received initial approval of its Development Fee ordinance from COAH on March 11, 1993, which was last amended, reviewed and approved by COAH on

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September 23, 2009; and

WHEREAS, as part of its December 31, 2008, petition for substantive certification, the Township sought a waiver of the Market to Affordable Housing percentage limitations pursuant to N.J.A.C. 5:97-6.9(b)4, which waiver was granted by COAH on October 14, 2009, permitting the Township to include 146 Market to Affordable units in its Third Round plan; and

WHEREAS, the Township had not yet received substantive certification from COAH when, pursuant to the Executive Reorganization Act of 1969, P.L. 1969, c. 203 (N.J.S.A. 52:14C-1 et seq.), the Governor abolished COAH and transferred all functions, powers, and duties to the Commissioner of the Department of Community Affairs (DCA), effective August 29, 2011; and

WHEREAS, COAH's 2008 revised Third Round rules were again challenged and on October 8, 2010, the Appellate Division invalidated COAH's Third Round Growth Share methodology and portions of COAH's regulations, directing COAH to revise its Third Round methodology to something substantially similar to COAH's First and Second Round methodology. The decision also upheld those portions of COAH's Third Round rules which assessed municipal present and prior round need. COAH has not revised its 2008 Third Round methodology and regulations as it received a stay from the New Jersey Supreme Court on January 18, 2011, concerning the Appellate Court's October 2010 decision. As of the date of this resolution, the New Jersey Supreme Court had not yet scheduled a hearing on the challenges to the October 8, 2010 Appellate Division decision; and

WHEREAS, as a result of the Reorganization Plan, No. 001-2011, the review formerly to be conducted by COAH was to be conducted by the DCA, Local Planning Services unit; and

WHEREAS, the New Jersey Superior Court, Appellate Division, struck down the Governor's Reorganization Plan No. 001-2011 on March 8, 2012, indicating that the Governor was without authority to abolish COAH, which effectively reinstated COAH; and

WHEREAS, it is the Township's understanding that the Governor's office has filed an appeal and requested a stay of the March 8, 2012, Appellate Division decision; and

WHEREAS, as a result it remains unclear whether COAH or the DCA is currently exercising the authority to approve Spending Plans or any Addenda submitted thereto; and

WHEREAS, the approved Development Fee ordinance establishes an Affordable Housing Trust Fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, and proceeds from the sale of affordable units; and

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an Affordable Housing Trust Fund to receive approval of a Spending Plan from COAH and/or the DCA prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a Spending Plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds, provided that the trust fund balance as of July 17, 2008 is committed for expenditure within four years of that date and that all development fees and any payments in lieu of construction are committed for expenditure within four years from the date of collection;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
9. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Township prepared a Spending Plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46, submitting same with its repetition to COAH for substantive certification of the Amended Housing Element and Fair Share Plan on December 31, 2008; and

WHEREAS, as a result of COAH's Report Requesting Additional Information dated April 6, 2010, an Addendum to the 2008 Draft Spending Plan dated July 2010 was submitted to COAH

on July 19, 2010; and

WHEREAS, as a result of continuing challenges in the local, state and national economy and the uncertainty of the affordable housing landscape in New Jersey, a May 2012 Second Addendum to the Spending Plan was prepared as a supplement to South Brunswick Township's 2008 Draft Spending Plan. The May 2012 Second Addendum was also prepared to satisfy the requirements of P.L. 2008, c. 46 (N.J.S.A. 52:27D-329.2a, et seq.), which requires municipalities to spend or commit to spend Affordable Housing Trust Fund monies that were collected on or prior to July 17, 2008, by July 17, 2012; and

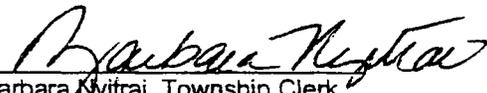
WHEREAS, the Township has complied with every requirement needed for approval of its Spending Plan as originally proposed and as amended through May 2012;

NOW THEREFORE BE IT RESOLVED on this 8th day of May, 2012, by the Township Council of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

1. The Township Council hereby approves the May 2012 Second Addendum to the Affordable Housing Spending Plan of the Adopted Housing Element and Fair Share Plan.
2. The Township Council submits this May 2012 Second Addendum to the Affordable Housing Spending Plan of the Adopted Housing Element and Fair Share Plan to COAH and/or the DCA for review and approval.
3. The Township Council hereby requests that COAH and/or the DCA review and approve the May 2012 Second Addendum to the Affordable Housing Spending Plan of the Adopted Housing Element and Fair Share Plan for the Township of South Brunswick.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chris Killmurray, Councilman
SECONDER:	John G O'Sullivan, Councilman
AYES:	Camarota, Carley, Killmurray, O'Sullivan, Gambatese

This is to certify that the foregoing is a true copy of a resolution adopted at the South Brunswick Township Council meeting held on May 8, 2012.


 Barbara Myitrai, Township Clerk

SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN Updated May 2012

Marke Caton Hintz

Introduction

South Brunswick Township has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH on March 11, 1993, which was last amended, reviewed and approved by COAH on September 23, 2009. The ordinance establishes South Brunswick Township's affordable housing trust fund for which this spending plan is prepared.

As of December 31, 2011, South Brunswick Township had collected \$17,542,212.31 and expended \$9,567,294.55 resulting in a balance of \$7,974,917.76. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units in the REACH program or with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund account for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

South Brunswick Township first received substantive certification from COAH on August 3, 1987, petitioned COAH for second round substantive certification on March 6, 1995, and received second round certification on February 4, 1998. The Township received prior approval to maintain an affordable housing trust fund on March 11, 1993. As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$5,433,761. From January 1, 2005 through December 31, 2011, South Brunswick Township collected an additional \$10,704,005.09 in development fees, payments in lieu of construction, other funds, and/or interest. From January 1, 2005 through December 31, 2011, South Brunswick Township expended funds on the affordable housing activities detailed in section 4 of this spending plan and in COAH's CTM system.

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SOUTH BRUNSWICK TOWNSHIP | SPENDING PLAN Updated May 2012

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As a result of continuing challenges in the local, state and national economy and the uncertainty of the affordable housing landscape in New Jersey, this Spending Plan Amendment was prepared as a supplement to South Brunswick Township's 2008 Draft Spending Plan. This Spending Plan Amendment is also prepared to satisfy the requirements of Public Law 2008, c. 46 (N.J.S.A. 52:27D-329.2a, et seq.), which requires municipalities to spend or commit to spend Affordable Housing Trust Fund monies that were collected on or prior to July 17, 2008, by July 17, 2012.

As noted in the Township's 2008 Draft Spending Plan, the Township had a balance of \$8,331,594 in its affordable housing trust account as of July 17, 2008, and had projected collecting over \$18 million in future development fees and account interest. However, by virtue of the nation-wide recession, falling interest rates, the state-imposed moratorium on the municipal collection of affordable housing fees on non-residential development and Governor Christie's proposed policy to permanently de-link commercial development from the provision of affordable housing development fees, the amount of potential affordable housing development fees was revised in July 2010 by way of a First Addendum to the 2008 Draft Spending Plan (First Addendum) submitted to COAH.

In the First Addendum, the Township summarized the revisions to the projected development fees and projected expenditure of those fees as of July 2010. Since that time, the economy has continued to falter, COAH was abolished and its responsibilities transferred to the Department of Community Affairs (DCA) by Executive Order of the Governor, which Order was then overturned by the courts, the Growth Share methodology for calculating need has been struck down by the Appellate Division and is awaiting a determination by the New Jersey Supreme Court, and the moratorium on the municipal collection of affordable housing fees on non-residential development has been extended to at least July 1, 2013. This Second Amended Spending Plan will serve to summarize the further revisions to the projected development fees and projected expenditures of those fees in light of these events.

Revenues for Certification Period

To calculate a projection of revenue anticipated during the period of third round substantive certification, South Brunswick Township considered the following:

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- (a) Development fees:
1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
 2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
 3. Future development that is likely to occur based on historical rates of development.
- (b) Payment in lieu (PIL):
- Actual and committed payments in lieu (PIL) of construction from developers as follows:
- No payments-in-lieu have been collected or assessed.
- (c) Other funding sources:
- South Brunswick Township collects money from other funding sources such as REACH program affordable unit sales and loan repayments, etc. Funds from other sources may include, but are not limited to the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, and proceeds from the sale of affordable units.
- (d) Projected interest:
- Interest on the projected revenue in the Township's affordable housing trust fund at the current average interest rate.

From July 2008 to April 15, 2012, the Township collected \$4,695,808.61 in development fees, as compared to almost \$7 million projected in the 2008 draft for the same time period. Regarding the Township's interest income, the Township earned \$259,702.61 in interest from July 2008 through April 15, 2012, as compared to a projection of approximately \$685,000.00 in interest for the same time period. Also, the Township reviewed the potential residential developments that may pay a development fee (instead of building on-site affordable units such as the approved Baker and Matzel &

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Mumford residential developments). The Township has also considered the likely termination of any non-residential development fees since the moratorium was first put into place on July 27, 2009. Thus, South Brunswick has reduced its overall development fee and interest projections through 2018 to \$5,580,082.

Source of Funds - Housing Trust Fund 2012 through 2018 (Thousands)

Source of Funds	2012	2013	2014	2015	2016	2017	2018	Total
Development fees: Approved/Pending/Proj. Development	\$400	\$400	\$400	\$400	\$400	\$400	\$400	\$2,800
Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Other Funds (REACH sales, loan repayments)	\$374	\$374	\$374	\$374	\$374	\$374	\$374	\$2,600
Interest	\$30	\$30	\$30	\$20	\$20	\$20	\$10	\$180
Total	\$804	\$804	\$804	\$794	\$794	\$794	\$784	\$5,580

South Brunswick Township projects a total of \$5,580,082 in revenue to be collected between January 1, 2012 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

Administrative Mechanism to Collect and Distribute Funds

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by South Brunswick Township:

- (a) Collection of development fee revenues:

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Collection of development fee revenues shall be consistent with South Brunswick Township's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution

Description of Anticipated Use of Affordable Housing Funds

(a) Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)

South Brunswick Township will dedicate projected and collected development fees to rehabilitation, municipally sponsored new construction, special needs and supportive housing and market to affordable programs (REACH Program) (see detailed descriptions in Fair Share Plan) as follows:

Rehabilitation program: 36 Units at \$15,000 = \$540,000

Municipally-Sponsored New construction project(s): \$2,331,221

1. SBCDC Senior Housing (102 Units)
2. Menowitz (60 Units)

Affordability Assistance to Subsidize the Creation of Very Low Income Housing and Special Needs Housing:

1. Stover/ Home's Now/Dottie's House: \$350,000
2. Dungarvin (16 - 12 completed bedrooms): \$140,000

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- 3. ARC of Middlesex County (16 – 0 completed bedrooms):
\$1,000,000
- 4. Community Options (8 – 8 completed bedrooms)
- 5. Triple C Housing (6 – 6 completed bedrooms)

REACH (Market to Affordable Program): (146 units – 15 completed)
\$4,682,526

(b) Affordability Assistance (N.J.A.C. 5:97-8.8)

Per COAH's current rules, South Brunswick Township is required to spend a minimum of 30 percent of development fee revenue to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income). The actual affordability assistance minimums are calculated on an ongoing basis in the CTM system based on actual revenues.

Projected Affordability Assistance Requirement

Actual development fees through 12/31/11		\$13,223,345.91
Actual interest earned through 12/31/11	+	\$2,182,614.46
Development fees projected 2012-2018	+	\$2,800,000
Interest projected 2012-2018	+	\$180,083
Less housing activity expenditures through 6/2/2008	-	\$3,486,975
Total	=	\$14,899,068.37
30 percent requirement	x 0.30 =	\$4,469,720.51
Less Affordability assistance expend. through 12/31/2011	-	\$119,381.21
PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2012 through 12/31/2018	=	\$4,350,339.30

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PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2012 through 12/31/2018	÷ 3 =	\$1,450,113.10
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South Brunswick Township will dedicate \$4,350,339.30 from the affordable housing trust fund to render units more affordable, including \$1,450,113.10 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

- a. Down-payment assistance
 - b. Rental assistance
 - c. Security deposit assistance
 - d. Low interest loans
 - e. Assistance with homeowners association or condominium fees and special assessment;
 - f. Converting low-income units to very-low income units, etc.;
 - g. Providing a subsidy to developers of 100 percent affordable developments to make them affordable to very low income households and/or,
 - h. Emergency repairs.
- (c) Administrative Expenses (N.J.A.C. 5:97-8.9)

South Brunswick Township may use affordable housing trust fund revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and affordability assistance expenditures. The actual administrative expense maximum is calculated on an ongoing basis in the CTM system based on actual revenues.

Projected Administrative Expenses

Actual development fees through 12/31/2011		\$13,223,345.91
Actual interest earned through 12/31/2011	+	\$2,182,614.46
Development fees projected 2012-2018	+	\$2,800,000.00
Interest projected 2012-2018	+	\$180,083.00
Other funds through July 17, 2008	+	\$244,910.48

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Less RCA expenditures through 6/2/2008	-	\$0.00
Total	=	\$18,630,954.00
20 percent maximum permitted administrative expenses	x 0.20 =	\$3,726,190.80
Less administrative expenditures through 12/31/2011	-	\$2,075,276.32
Projected allowed administrative expenditures	=	\$1,650,914.48

South Brunswick Township projects that \$1,650,914.48 may be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Township Attorney, Engineer, and Planner fees related to obtaining substantive certification and implementing plan;
- Rehabilitation administration fees
- Administration fees related to the REACH (Market to Affordable) program
- Administration fees related to the Municipally-Sponsored New Construction Programs

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Expenditure Schedule

South Brunswick Township intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

Projected Expenditure Schedule 2012 Through 2018

Program	Funds Expended and/or Dedicated (thousands)							
	2012	2013	2014	2015	2016	2017	2018	Total
Rehabilitation Program	\$310	\$80	\$50	\$50	\$50	\$0	\$0	\$540
New Construction	\$0	\$777	\$777	\$777	\$0	\$0	\$0	\$2,331
Creation of Very Low Income Units (shown below)	see below	see below	see below	see below	see below	see below	see below	see below
REACH (Market to Affordable)	\$2,990	\$338	\$338	\$338	\$338	\$338	\$0	\$4,682
Total Programs	\$3,300	\$1,195	\$1,165	\$1,165	\$388	\$338	\$0	\$7,553
Affordability Assistance, inc. creating very low income special needs units	\$850	\$850	\$850	\$850	\$850	\$50	\$50	\$4,350
Administration	\$236	\$236	\$236	\$236	\$236	\$236	\$236	\$1,650
Total	\$4,386	\$2,281	\$2,251	\$2,251	\$1,474	\$624	\$286	\$13,555

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Excess or Shortfall of Funds

Pursuant to adopted Township Resolution 2010-281, the Township determined that there is adequate funding for all of the compliance mechanisms set forth in its adopted plan.

Such funding consists of the Township's affordable housing trust account and funding from governmental grants and/or other sources as set forth in the publication entitled "Guide to Affordable Housing Funding Sources" dated October 28, 2008 and posted by COAH on its web page. In the event these funding sources are not sufficient, the Township will rely on Resolution 2010-281 Concerning the Township of South Brunswick's Commitment to Fund its Affordable Housing Program.

Barrier Free Escrow

Collection and distribution of barrier free funds shall be consistent with South Brunswick Township's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

Summary

South Brunswick Township intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan dated December 2008.

South Brunswick Township has a balance of \$7,974,917.76 as of December 31, 2011 and anticipates an additional \$5,580,082 in revenues before the expiration of substantive certification for a total of \$13,555,000. The municipality will dedicate all of its collected revenue to support affordable housing programs and will also seek outside funding sources for all of the programs.

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Spending Plan Summary

Revenues	
Balance as of December 31, 2011	\$7,974,917
Projected Revenue from 1/1/2012 through 2018	
1. Development fees	+ \$2,800,000
2. Payments in lieu of construction	+ \$0
3. Other funds	+ \$2,600,000
Interest	+ \$180,083
Total Projected Revenue	= \$13,555,000
Expenditures	
Funds used for Rehabilitation	- \$540,000
Funds used for New Construction	
1. Municipally Sponsored New Construction: Stover, SBCDC senior housing	- \$2,331,221
2. REACH (Market to Affordable Program)	- \$4,682,526
Affordability Assistance (including \$1,140,000 for very low income group home bedrooms and \$350,000 for Stover/Homes Now/Dotties House	- 4,350,339
Administration	- \$1,650,914
Excess Funds for Additional Housing Activity	= \$0
Total Projected Expenditures	= \$13,555,000

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State of New Jersey
COUNCIL ON AFFORDABLE HOUSING

101 SOUTH BROAD STREET
PO Box 813
TRENTON, NJ 08625-0813

(609) 292-3000
(609) 633-6056 (FAX)

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

RICHARD E CONSTABLE, III
Commissioner

SEAN THOMPSON
Acting Executive Director

September 8, 2014

The Honorable Frank Gambatese
Mayor
Township of South Brunswick
540 Ridge Road
P.O. Box 190
Monmouth Junction, NJ 08852

**RE: APPROVAL OF ACTING EXECUTIVE DIRECTOR'S RECOMMENDATION
REGARDING MUNICIPAL COMPLIANCE WITH N.J.S.A. 52:27D-329.2 AND
N.J.S.A. 52:27D-329.3.**

Dear Mayor Gambatese:

Enclosed is a copy of a Resolution approved by the Council on Affordable Housing (COAH), on August 26, 2014, approving Acting Executive Director's Recommendation Regarding Municipal Compliance with N.J.S.A. 52:27D-329.2 and N.J.S.A. 52:27D-329.3.

If you have any questions, please contact me at (609) 292-3000.

Sincerely,

Pamela Weintraub
Council Secretary

enclosure
cc: attached service list



SBa 191

The Honorable Frank Gambatese**
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SBA 194

2014-02

**RESOLUTION REGARDING MUNICIPAL EXPENDITURE AND COMMITMENT OF
MUNICIPAL AFFORDABLE HOUSING TRUST FUNDS IN ACCORDANCE WITH
N.J.S.A. 52:27D-329.2 AND N.J.S.A. 52:27D-329.3**

WHEREAS, effective July 17, 2008, the Legislature amended the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., with the adoption of P.L.2008, c.46, codified at N.J.S.A. 52:27D-329.2 and 329.3, to require that all development fees and payments in lieu collected by a municipality must be committed for expenditure by the municipality within four years from the date of collection; and that funds not committed shall be transferred at the end of the four year period to the New Jersey Affordable Housing Trust Fund; and

WHEREAS, pursuant to an Order of the Superior Court, Appellate Division, dated July 13, 2012, the Court determined that a municipality could establish that funds had been committed to fund an affordable housing project "by way of a legally enforceable agreement with a third party, or by such other means that show a firm and binding obligation to spend such funds in a manner consistent with the municipality's affordable housing obligations;" and

WHEREAS, in its July 13, 2012 Order, the Court further provided that, before any transfer of funds, the Council on Affordable Housing (COAH) must provide a municipality with an opportunity to contest before COAH such transfer, and that COAH must provide a municipality written notice describing the exact amount of funds intended for transfer and how that amount was calculated; and

WHEREAS, in accordance with the statutory obligation and consistent with the Court's Order, COAH's Acting Executive Director sent a letter dated July 24, 2012 to municipalities with affordable housing trust funds advising those municipalities of the amount of funds in their accounts as of July 17, 2008, and the amount that had been spent as of July 17, 2012, as well as the remaining balance that was to have been committed by July 17, 2012; and

WHEREAS, the July 24, 2012 letter further advised the municipalities that if they asserted that any portion of the balance of funds had been committed, as this term was defined in the Appellate Division's July 13, 2012 Order, that they could submit documentation to COAH accordingly for its consideration; and

WHEREAS, on May 1, 2013, COAH adopted Resolution No. 2013-1, captioned "Resolution Concerning Expenditure and Commitment of Municipal Affordable Housing Trust Funds in Accordance with N.J.S.A. 52:27D-329.2 and N.J.S.A. 52:27D-329.3;" and

WHEREAS, in that Resolution, COAH ratified the Acting Director's authority to administratively enforce the aforementioned statutory requirements, affirmed and validated the Acting Director's actions, and affirmed and validated all letters sent to municipalities dated June 24, 2012 concerning the status of municipal affordable housing trust funds; and

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WHEREAS, pursuant to Resolution 2013-1, COAH authorized the Acting Executive Director to provide municipalities with a further opportunity to submit supplemental documentation demonstrating commitment of municipal affordable housing trust funds for use towards affordable housing project(s) included in an approved spending plan, by way of a legally enforceable agreement with a third party or by such other means that demonstrates a firm and binding obligation to spend such funds in a manner consistent with the municipality's respective affordable housing obligation; and

WHEREAS, pursuant to Resolution 2013-1, COAH further authorized the Acting Executive Director to advise municipalities that, in addition to submitting any further documentation, the municipalities should submit any argument in support of their contention that they have committed to expend trust fund monies in accordance with the relevant statutory and regulatory provisions; and

WHEREAS, pursuant to Resolution 2013-1, COAH further gave municipalities that did not respond to the July 24, 2012 letter, or that requested that COAH return its response, an opportunity to submit information demonstrating commitment; and

WHEREAS, pursuant to Resolution 2013-1, COAH authorized the Acting Executive Director to advise municipalities, for funds collected between July 18, 2008 and March 31, 2009, based upon records submitted by the municipalities, of the exact amount of funds intended for transfer and how such amount was calculated; and

WHEREAS, pursuant to Resolution 2013-1, COAH further provided that a municipality should have an opportunity to submit a certification and information demonstrating that the municipality had spent or committed to expend funds collected between July 18, 2008 and March 31, 2009, to fund an affordable housing project(s) by way of a legally enforceable agreement with a third party or such other means that showed a firm and binding obligation, within four years of the date of commitment; and that, the municipality should also include documentation that demonstrated that the commitments were consistent with its adopted housing element and fair share plan and approved spending plan and in accordance with the relevant statutory and regulatory provisions; and

WHEREAS, in an Order dated June 6, 2013, the Superior Court, Appellate Division set forth a procedure to be followed for COAH review of submissions by municipalities on the issue of commitment of funds; and further provided that the municipality and parties on the service list would have 30 days to respond to COAH's determination on the amount of funds subject to transfer, and further, that the COAH Executive Director should then consider any evidence or information submitted and should respond in writing, setting forth a decision and the basis for such decision and the reasons for rejecting or accepting the information submitted; and

WHEREAS, the Order further provided that COAH would then consider the Executive Director's decision at a public meeting, to be held with at least 15 days' notice to affected parties; and

WHEREAS, in accordance with Resolution 2013-1 and the Appellate Division's Orders, the Acting Executive Director sent each municipality with municipal affordable housing trust

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fund accounts a letter dated June 25, 2013 describing the exact amount of funds intended for transfer and how such amount was calculated, and provided the respective municipality an opportunity to contest before COAH the proposed transfer by demonstrating that funds subject to transfer have been committed to fund an affordable housing project by way of a legally enforceable agreement with a third party, or by such other means that show a firm and binding obligation to spend such funds in a manner consistent with the municipality's affordable housing obligations; and

WHEREAS, the Acting Executive Director also sent the June 25, 2013 letter to the full service list of affected parties referenced in N.J.A.C. 5:97-8.13(b); and

WHEREAS, the "amount of funds" indicated in the letter was based upon records submitted by the municipality for funds collected by the municipality by July 18, 2008, and the balance to have been expended by July 17, 2012; and further for funds collected between July 18, 2012 and March 31, 2009, and the balance to have been expended within four years of collection; and

WHEREAS, the letter required each municipality to submit a certification and information demonstrating that it has spent or committed to expend the moneys to fund an affordable housing project(s) by way of a legally enforceable agreement with a third party or such other means that show a firm and binding obligation, within the relevant statutory time period; and

WHEREAS, municipalities and all parties on the service list were to respond to the June 25, 2013 letter by August 2, 2013; and

WHEREAS, the COAH Acting Executive Director and staff have completed the review of the responses, including documentation, submitted by the municipalities listed below, and by other parties on the service list for these municipalities, in response to the COAH letter of June 25, 2013:

Florence Township, Burlington County

Gloucester Township, Camden County

Lawrence Township, Mercer County

Mendham Borough, Morris County

North Caldwell Borough, Essex County

Randolph Township, Morris County

South Brunswick Township, Middlesex County

Summit City, Union County

Tinton Falls Borough, Monmouth County

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WHEREAS the COAH Acting Executive Director and staff have evaluated all information, documentation and responses submitted by each municipality listed above and all affected parties based on the standards enunciated in the Council's Resolution of May 1, 2013 and the Appellate Division's Orders, namely, that the municipality must demonstrate that the municipality has committed the funds by way of a legally enforceable agreement with a third-party or by such other means that demonstrate a firm and binding obligation to spend such funds in a manner consistent with the municipality's affordable housing obligation; and

WHEREAS, after due consideration, the COAH Acting Executive Director issued a written recommendation for each municipality listed above, called "Report Reviewing Proposed Expenditures on Affordable Housing Activities and Documentation Demonstrating Compliance with N.J.S.A. 52:27D-329.2 and 329.3" (the Reports) which explain in detail the Acting Executive Director's recommendations and the basis for accepting or rejecting the information and responses submitted by each of the municipalities and other affected parties; and

WHEREAS, the COAH Acting Executive Director and staff presented these written recommendations to a COAH Task Force; and

WHEREAS, on August 11, 2014, the COAH Acting Executive Director issued the Reports to each of the aforementioned municipalities, as well as to the full service list of affected parties for each municipality; and

WHEREAS, each municipality and the full service list were provided ten days to comment on the COAH Acting Executive Director's decision and recommendation regarding funds subject to transfer pursuant to N.J.S.A. 52:27D-329.2 and -329.3; and

WHEREAS, COAH received no responses as to the municipalities listed above; and

WHEREAS, COAH has complied with all of the mandates imposed by the Appellate Division in its Orders dated July 13, 2012 and June 6, 2013.

NOW THEREFORE BE IT RESOLVED that the municipalities listed above submitted responses, including documentation, demonstrating a commitment consistent with N.J.S.A. 52:27D-329.2 and 329.3, the Appellate Division Orders and COAH's Resolution of 2013-1, because the submissions substantiate a legally enforceable agreement with a third party, or by such other means that show a firm and binding obligation to spend such funds in a manner consistent with the municipality's affordable housing obligation as set forth in each respective Report; and

BE IT FURTHER RESOLVED that after having reviewed and considered the municipal and affected party information, documentation and responses, and for the reasons set forth in the Reports, which are incorporated herein, COAH accepts the recommendations set forth in the Reports and finds that the above listed municipalities have expended or committed to expend the funds at issue; and

BE IT FURTHER RESOLVED that each municipality listed above may spend the funds COAH has deemed to be committed.

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I hereby certify that this resolution was
Duly adopted by the Council on Affordable
Housing at its public meeting on August 26, 2014.

Pamela Weintraub

Pamela Weintraub, Secretary
Council on Affordable Housing

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REPORT REVIEWING
PROPOSED EXPENDITURES ON AFFORDABLE HOUSING ACTIVITIES AND
DOCUMENTATION DEMONSTRATING
COMPLIANCE WITH N.J.S.A. 52:27D-329.2 AND 329.3.

TOWNSHIP OF SOUTH BRUNSWICK / MIDDLESEX COUNTY

Prepared By: Pamela Weintraub

I. ISSUE

To determine whether the “commitment” documentation submitted in response to the letter of June 25, 2013 meets the standards set forth at N.J.S.A. 52:27D-329.2 and 329.3, the July 13, 2012 and June 7, 2013 Orders issued by the Appellate Division, and COAH’s May 1, 2013 Resolution and to make a recommendation for formal action to the Council on Affordable Housing (COAH).

II. INTRODUCTION

On May 1, 2013, the Council on Affordable Housing (COAH) adopted Resolution 2013-1. Among other things, the Resolution ratified the Acting Executive Director’s authority to administratively enforce the statutory requirements of N.J.S.A. 52:27D-329.2 and N.J.S.A. 52:27D-329.3. Those statutes authorize municipalities to impose and collect development fees, and authorize COAH to regulate the establishment, administration, and enforcement of the expenditure of the development fees by the municipalities. In order to encourage municipalities to spend rather than stockpile their development fees, the statute requires that all fees be committed for expenditure within four years of the date of collection. The statute further instructs COAH to require any municipality that fails to commit to spend the balance within four years of the date of collection to transfer the unspent and uncommitted balance to the New Jersey Affordable Housing Trust Fund.

The Council’s May 1, 2013 Resolution incorporated the legal standard for commitment established by the Appellate Division. As set forth in the resolution, a municipality can establish commitment two ways: first, by a legally enforceable agreement with a third party; and, second,

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by demonstrating a firm and binding obligation to spend such funds in a manner consistent with the municipality's affordable housing obligation.

To that end, and consistent with the July 13, 2012 and June 7, 2013 Orders issued by the Appellate Division, the Acting Executive Director sent South Brunswick a letter dated June 25, 2013. That letter set forth the exact amount of funds intended for transfer to the New Jersey Affordable Housing Trust Fund and how such amount was calculated. In addition, the letter outlined a procedure for submitting documentation to COAH if South Brunswick asserts that any portion of the funds indicated in the June 25, 2013 letter has been spent or committed for expenditure within four years of the date of collection. The letter requested that South Brunswick submit such documentation to meet its burden of substantiating that it had entered into a timely and legally enforceable agreement with a third party or to otherwise demonstrate a firm and binding obligation to spend trust fund monies in a manner consistent with the municipality's affordable housing obligation.

The subject of this report is the review of the documentation/information submitted by South Brunswick in response to COAH's June 25, 2013 letter and a recommendation to the Council by COAH staff whether the "commitment" documentation submitted is in accordance with N.J.S.A. 52:27D-329.2 and 329.3, the July 13, 2012 and June 7, 2013 Orders issued by the Appellate Division, and COAH's May 1, 2013 resolution.

III. RESPONSE FROM THE TOWNSHIP OF SOUTH BRUNSWICK

In response to COAH's June 25, 2013 letter, Frank Gambatese, Mayor of South Brunswick, submitted correspondence on July 24, 2013, stating that the Township would rely on enclosed documentation and the documentation submitted to COAH by letter dated August 6, 2012. The August 2012 and July 2013 certifications were signed by Frank Gambatese, Mayor of South Brunswick. The municipal certification and COAH's CTM (COAH Tracking and Monitoring) records for South Brunswick indicate the following:

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Category	June 25, 2013 Letter*	August 14, 2013 CTM Balance*	July 24, 2013 Certification*
(1) July 17, 2008 Balance	\$8,331,593.89	\$8,331,593.89	\$8,331,593.89
(2) Spent between July 18, 2008 and July 17, 2012	\$5,624,498.17	\$5,947,009.21	\$5,946,089.21
(3) Balance to have been committed or expended by July 17, 2012 ((1)-(2))	\$2,707,095.72	\$2,384,584.68	\$2,385,504.68
(4) Collected between July 18, 2008 and March 31, 2009	\$1,665,476.83	\$1,665,476.83	\$1,665,476.83
(5) Spent between July 18, 2012 and March 31, 2013	\$2,091,154.95	\$2,091,154.95	\$2,091,154.95
(6) Balance of funds collected between July 18, 2008 and March 31, 2009 to have been committed or expended by March 31, 2013 ((4)-(5))	\$0 (\$425,678.12)	\$0 (\$425,678.12)	\$0 (\$425,678.12)
(7) Balance to have been committed or expended by March 31, 2013 ((3)+(6))	\$2,281,417.60	\$1,958,906.56	\$1,959,826.56
* Differences between the figures used in COAH's June 25 letter and CTM balances as of August 14, 2013 are due to additional CTM entries made by municipalities subsequent to the dates on which COAH extracted figures for use in the June 25, 2013 letter.			

The CTM system is based upon reporting and entries by the municipality and in all cases reflects un-reconciled figures beyond December 31, 2012. Where a municipality submitted the certification included with the June 25, 2013 letter, COAH staff relies upon that certification, and CTM figures are included above for reference only.

COAH's records indicate that the municipality has not completed monitoring of its trust fund account since December 31, 2011. As a result, the Township's Affordable Housing Trust Fund has not been reconciled against 2012 bank statements. Full monitoring must be complete in accordance with COAH requirements to determine the validity of data entries made by South Brunswick in the CTM system. Should an accurate completion of monitoring indicate that affordable housing trust fund balances differ from those noted in the South Brunswick response to COAH's June 25, 2013 letter or that trust funds were expended for purposes other than

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eligible affordable housing activities, South Brunswick will be required to reimburse its trust fund of such expenditures, and such funds may be subject to forfeiture and/or transfer.

IV. ANALYSIS

In support of the Township's submission, South Brunswick submitted documentation demonstrating the commitment of affordable housing trust fund expenditures for the following projects and/or programs. Staff's recommendations with respect to commitment follow each item:

- 1) **The Rose House and New Bridge Services - \$3,000,000.00**
 - a. **Purchase and Sale Agreement – Foxchase Development and South Brunswick Township**
 - i. Dated January 2, 2013
 - ii. Conveys vacant parcel of 17.74 acres located on Route 27 to South Brunswick Township
 - iii. Purchase price of \$3,000,000.00
 - iv. Restrictive covenant in place for 75 years

RECOMMENDATION: Submitted documentation is sufficient to demonstrate a commitment consistent with N.J.S.A. 52:27D-329.2 and 329.3, the Appellate Division's Orders and COAH's Resolution, because the above documents substantiate a legally enforceable agreement entered into by South Brunswick with a third party to spend trust monies in a manner consistent with the municipality's affordable housing obligation.

V. CONCLUDING RECOMMENDATION

South Brunswick has complied with the June 25, 2013 letter requirement to submit a certification concerning its trust fund balances.

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COAH staff has reviewed and evaluated all materials submitted by the municipality. No third parties submitted materials concerning the Township's affordable housing trust funds. Staff has evaluated the materials based on the standards enunciated in the Council's Resolution of May 1, 2013, namely, that the municipality bears the burden of demonstrating commitment by way of a legally enforceable agreement with a third-party or by such other means that demonstrate a firm and binding obligation to spend such funds in a manner consistent with the municipality's affordable housing obligation.

Based on the materials submitted by the municipality and for the reasons discussed above, COAH staff recommends that the Council conclude that South Brunswick has demonstrated the commitment of \$3,000,000 for projects consistent with recommendations above, which exceeds the total amount required to be committed by March 31, 2013. Funds reported by the municipality as expended within the four year time period will be subject to further review during routine annual monitoring.

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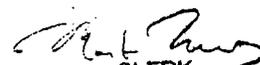
SUPREME COURT OF NEW JERSEY
M-847/848 September Term 2013
067126

IN THE MATTER OF THE ADOPTION OF N.J.A.C.
5:96 AND 5:97 BY THE NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING

FILED

MAR 14 2014

O R D E R


CLERK

This matter having come before the Court on motion by the Council on Affordable Housing (Council) seeking an extension of time (M-847-13) from the five-month period for the promulgation of Third Round Rules that this Court directed as part of its holding in In re Adoption of N.J.A.C. 5:96 and 5:97, 215 N.J. 578 (2013); and

The Council having submitted the sworn certification of its Chairman, the Commissioner of Community Affairs, Richard E. Constable, III, see N.J.S.A. 52:27D-305; and

The Chairman, having informed this Court that work has progressed on the development of new Third Round Rules so that he has certified, based on personal knowledge, that a proposed set of Third Round Rules will be approved by the Council by May 1, 2014, or earlier, for publication in the New Jersey Register, as prescribed in the Administrative Procedure Act (APA), N.J.S.A. 52:14B-1 to -15; and

This Court having accepted the representation of the Council, certified by its Chairman, that the Council requires

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additional time to complete its preparation and formal approval of new proposed Third Round Rules for publication; and

The Court further having accepted the representation of the Council, certified by its Chairman, that the Council will complete its preparation of a Third Round Rules proposal and will approve for publication the proposed new Third Round Rules by May 1, 2014; and

The Court having also received and considered the answers submitted by the other parties in response to the Council's motion for an extension of time as well as the moving papers and answers filed in connection with the Council's motion for stay (M-848-13);

Therefore, it is ORDERED that the motion for an extension of time is granted, subject to the following conditions:

The Council shall, by May 1, 2014, complete its actions preparing and formally approving the proposed Third Round Rules as required by this Court's decision in In re Adoption of N.J.A.C. 5:96 and 5:97;

The Council shall promptly forward the proposed rules to the Office of Administrative Law (OAL), in accordance with the OAL's Rule Publication Schedule, available at <http://www.state.nj.us/oal/rules/schedule/>, so that the proposed rules are published in the June 2, 2014, edition of the New Jersey Register;

The publication of the proposed rules shall commence the following schedule, pursuant to which the Council shall complete the adoption process:

The comment period shall extend to August 1, 2014, during which time the Council shall conduct a public hearing, if such a request is made to the Council within thirty (30) days following publication of the proposed Third Round Rules in the New Jersey Register; and

The Council shall adopt the proposed Third Round Rules on or before October 22, 2014, and transmit the adopted Third Round Rules to the OAL to permit publication of the adoption notice in the November 17, 2014, edition of the New Jersey Register. The adopted Third Round Rules transmitted to the OAL shall be accompanied by a report prepared by the Council listing all parties offering written or oral comments concerning the proposed Third Round Rules, summarizing the content of all comments and submissions, and providing the Council's response to the data, views, and argument contained in the submissions as required by N.J.S.A. 52:14B-4(a)(4).

It is further ORDERED that in the event that the Council does not adopt Third Round Rules by November 17, 2014, then this

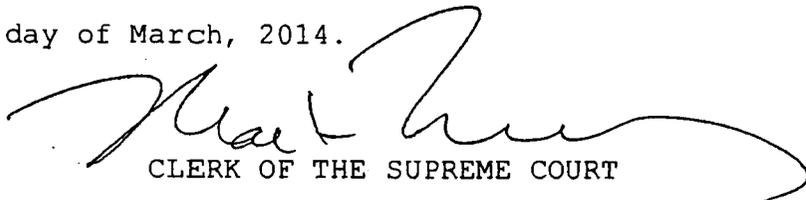
Court will entertain applications for relief in the form of a motion in aid of litigants' rights, including but not limited to a request to lift the protection provided to municipalities through N.J.S.A. 52:27D-313 and, if such a request is granted, actions may be commenced on a case-by-case basis before the Law Division or in the form of "builders remedy" challenges; and

It is further ORDERED that the Appellate Division Order filed March 7, 2014, is vacated in its entirety; and

It is further ORDERED that from this date the Court is retaining jurisdiction for the sole purpose of entertaining any and all future applications to enforce the judgment of this Court requiring the adoption of new Third Round Rules as prescribed in our decision in In re Adoption of N.J.A.C. 5:96 and 5:97 and the terms of this Order; and

It is further ORDERED that the motion by the Council for a stay (M-848-13) of the March 7, 2014, Order of the Appellate Division, is dismissed as moot.

WITNESS, the Honorable Jaynee LaVecchia, Presiding Justice, at Trenton, this 14th day of March, 2014.



CLERK OF THE SUPREME COURT

JUSTICES LaVECCHIA, PATTERSON, and FERNANDEZ-VINA, and JUDGES RODRÍGUEZ and CUFF (both temporarily assigned) join in this Order. JUSTICE ALBIN filed a dissent. CHIEF JUSTICE RABNER did not participate.



JUSTICE ALBIN, dissenting.

The Court's order further postpones the building of affordable housing for the poor, housing that is required by our constitutional jurisprudence and the Fair Housing Act. For more than ten years, the Council on Affordable Housing (COAH or Council) has failed to promulgate lawful Third Round Rules to ensure that every municipality bears its fair share of providing affordable housing. This decade-long delay represents an abysmal failure of process, and the judiciary must accept its share of blame for not demanding timely compliance.

I write this dissent because the Court has failed to make the most basic inquiries to assure that the State has filed the request for an extension of time in good faith. I would have agreed to the extension request if the State had presented an adequate explanation, rather than amorphous excuses without meaningful details, for not abiding by this Court's September 26, 2013 directive. It is impossible to tell from the certification of Richard E. Constable, III, Commissioner of the Department of Community Affairs, whether any real effort was made to comply with the Court's order. The Court's granting of the State's eleventh-hour extension request on so paltry a record -- and its failure to demand answers that would explain the most recent delay -- will be disheartening to many.

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History does not give me confidence that we will see compliance with the Fair Housing Act anytime soon.

On September 26, 2013, this Court insisted that rules to govern allocating fair share obligations among municipalities "cannot wait A remedy must be put in place to eliminate the limbo in which municipalities, New Jersey citizens, developers, and affordable housing interest groups have lived for too long." In re Adoption of N.J.A.C. 5:96 & 5:97, 215 N.J. 578, 620 (2013). "[W]e endorse[d] the Appellate Division's quick deadline for reimposing third-round obligations," ibid., and thus "remanded for the promulgation of a new set of rules within five months," id. at 595. The Appellate Division's order, which we affirmed, had been entered three years earlier on October 8, 2010. In re Adoption of N.J.A.C. 5:96 & 5:97, 416 N.J. Super. 462, 511 (App. Div. 2010). That order directed COAH to adopt Third Round Rules within five months using recently available data and a methodology similar to the ones promulgated in the first two rounds. Ibid.

Significantly, when we heard oral argument on November 14, 2012 in this case, COAH's counsel represented to the Court that revised Third Round Rules would not be "incredibly difficult" to prepare because "a lot of the basics are done" and the regulations could be completed within months.

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So what steps did COAH take to comply with this Court's order that required promulgation of new rules by February 26, 2014? Not once in those five months did Commissioner Constable -- who by statute is the chairman of COAH -- convene a meeting of the Council. Indeed, by all appearances, the Commissioner proceeded as a one-man COAH. It bears mentioning that in June 2011, the Governor unilaterally -- without legislative authorization -- abolished COAH, an independent agency, and transferred its responsibilities to the Department of Community Affairs. In re Plan for the Abolition of the Council on Affordable Hous., 214 N.J. 444, 448 (2013). In July 2013, however, this Court ruled that the Governor had overstepped his authority and did not have the power to eliminate COAH. Ibid. Since that ruling, COAH has never met as a body. COAH member Tim Doherty is reported to have requested, after our ruling, that Commissioner Constable convene a meeting; but Mr. Doherty never received a response. See Salvador Rizzo, "NJ Court Orders Affordable Housing Agency to Get Back to Work," Star-Ledger, Mar. 7, 2014, available at http://www.nj.com/politics/index.ssf/2014/03/nj_court_orders_affordable_housing_agency_to_get_back_to_work.html.

We have received no explanation how COAH could have met the deadline set by this Court if the Council never convened as a body. When the Fair Share Housing Center sought information

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from COAH about its progress in meeting the deadline, no one deigned to respond. If COAH was unable to promulgate the regulations within a five-month period, Commissioner Constable presumably knew so early in the process. That is because adoption of the regulations requires a number of steps, beginning with the proposal of regulations, a public comment period, and final adoption by COAH. See N.J.S.A. 52:14B-4(a).

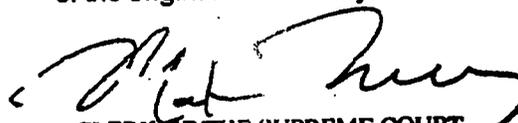
Based on the present inadequate record, it appears that Commissioner Constable permitted the clock to run out, and not until the day the regulations should have been adopted did he request an extension of the deadline. The certification submitted by Commissioner Constable offers precious little about whether COAH made good-faith efforts to comply with this Court's order. The Commissioner states that "recent, available, and reliable data has been reviewed . . . and evaluated to develop a third round methodology," but he does not say by whom. Nor does he indicate what resources were devoted to this project, why the Council that he chairs has not been convened, why counsel for COAH represented to the Court that the entire task could be completed within months, why the time goals set by the Court were unattainable, and why he waited until the day the regulations were expected to go into effect to ask for an extension that will postpone the promulgation of regulations for another eight months.

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With satisfactory answers to these questions, I could join the Court's grant of an extension of the deadline. But I do not believe that this Court has done its due diligence. Instead, it has uncritically accepted Commissioner Constable's certification that tells us almost nothing. This Court deserves answers, and so does the public. The delay the Court endorses today -- without any meaningful inquiry -- is another sad chapter in the continuing saga to provide affordable housing to low- and moderate-income residents.

Because I cannot join the Court's order on the inadequate record before us, I must dissent.

The foregoing is a true copy
of the original on file in my office.


CLERK OF THE SUPREME COURT
OF NEW JERSEY

SBad13



Resolution

Of the Township of South Brunswick Declaring Its Intent to Fully Comply with Its Current and Future Mount Laurel Obligations and to Serve as the "Catalyst for Change" to Render Any Mount Laurel Lawsuits as "Unnecessary Litigation"

WHEREAS, in So. Burlington County N.A.A.C.P. v. Tp. of Mount Laurel, 92 N.J. 158, 279-80 (1983) ("Mount Laurel II"), the New Jersey Supreme Court ruled, subject to several other limitations, that in order for a plaintiff to be entitled to a builder's remedy, it must "succeed in litigation;" and

WHEREAS, in Toll Bros. Inc. v. Tp. of W. Windsor, 173 N.J. 502, 507 (2002), the Supreme Court ruled that in order for a developer to succeed in litigation, it must not only prove that the municipality failed to create a realistic opportunity to satisfy its affordable housing obligation, but also must be the "catalyst for change;" and

WHEREAS, on September 26, 2013, the Supreme Court released In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 215 N.J. 578 (2013) which completely invalidated the Round 3 regulations adopted in 2008 by the New Jersey Council on Affordable Housing ("COAH"); and

WHEREAS, on March 14, 2014, the Supreme Court issued an order directing COAH to propose new Round 3 regulations on or before May 1, 2014, and to adopt them by October 22, 2014; and

WHEREAS, the March 14, 2014, Order further provided that, if COAH failed to meet these deadlines, the Court would entertain a Motion in Aid of Litigant's Rights which could include an application for the right, on a case-by-case basis, to file a builder's remedy suit against a municipality under COAH's jurisdiction, such as the Township of South Brunswick; and

WHEREAS, on April 30, 2014, in accordance with the March 14, 2014 Order, COAH proposed Round 3 regulations and published them in the New Jersey Register on June 2, 2014; and

WHEREAS, COAH accepted public comments on the proposed Round 3 regulations until August 1, 2014, and indeed received roughly 3,000 comments; and

WHEREAS, on October 20, 2014, the COAH board met to consider adopting the proposed regulations; and

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WHEREAS, the COAH board reached a 3-3 deadlock and therefore did not adopt the proposed regulations; and

WHEREAS, COAH therefore failed to meet the Supreme Court's October 22, 2014 deadline; and

WHEREAS, COAH's failure to adopt the proposed regulations has left the Township of South Brunswick in a continuing state of limbo despite its commitment to satisfying its obligations voluntarily and without the need for litigation; and

WHEREAS, on October 31, 2014, Fair Share Housing Center ("FSHC") filed a Motion In Aid of Litigant's Rights urging the Supreme Court, among other things, to direct trial judges instead of COAH to establish standards with which municipalities must comply; and

WHEREAS, FSHC's motion included an alternative fair share calculation for each municipality, further highlighting the uncertainty of the framework with which municipalities must ultimately comply; and

WHEREAS, as a result of future regulations, litigation, and/or legislation, it is entirely possible that the Township of South Brunswick's obligation may indeed differ from those proposed by COAH or advocated by FSHC; and

WHEREAS, indeed, new laws may reduce the obligations of the Township of South Brunswick under COAH's prior round regulations; and

WHEREAS, regardless of whatever obligation is ultimately assigned, the Township of South Brunswick remains committed to comply voluntarily with its obligations; and

WHEREAS, the Township of South Brunswick voluntarily brought itself under COAH's jurisdiction because all three branches of government preferred COAH's administrative process to resolve disputes over affordable housing matters rather than litigation; and

WHEREAS, the Township of South Brunswick has fully satisfied its cumulative first and second round COAH fair share obligations having received first round substantive certification from COAH on August 3, 1987 and second round certification from COAH on February 4, 1998 with a COAH-approved second round extension on February 9, 2005 and having petitioned COAH on December 31, 2008 for third round certification and as the Township has existing affordable housing credits and proposed affordable housing mechanisms to address any unknown third round fair share obligation; and

WHEREAS, the Township of South Brunswick previously adopted Resolution 2012-251 on May 8, 2012, wherein it committed to spend in excess of \$9.7 million in municipal affordable housing trust fund money on various programs/projects in order to provide for the creation of low- and moderate-income housing opportunities in South Brunswick, thereby demonstrating its

continuing firm commitment to comply voluntarily with its obligations to provide for affordable housing; and

WHEREAS, in response to COAH's request for proof of commitment of trust fund money in compliance with N.J.S.A. 52:27D-329.2 and 329.3, the Township of South Brunswick submitted numerous documents to COAH on August 6, 2012, and July 24, 2013, showing full compliance with the requirement to "spend or commit to expend" municipal affordable housing trust fund money in accordance with the statutory requirements; and

WHEREAS, after reviewing the Township of South Brunswick's submissions, COAH found that the Township of South Brunswick was in full compliance with the requirements of N.J.S.A. 52:27D-329.2 and 329.3, and adopted a resolution on August 26, 2014, finding that the Township of South Brunswick had properly spent or committed to spend municipal affordable housing trust fund money on third round affordable housing opportunities; and

WHEREAS, the Township of South Brunswick wishes to be in a position to complete its efforts to comply voluntarily once its obligations are defined by regulation, order of a court of competent jurisdiction or legislation; and

WHEREAS, accordingly, the Township of South Brunswick wishes to be in a position to seek immunity from a trial judge if the Court should rule that trial judges should perform COAH's functions so that the Township of South Brunswick can complete its efforts to comply voluntarily with whatever standards the trial judge may determine are appropriate; and

WHEREAS, the Township of South Brunswick herein intends to make its intentions inescapably clear to the public and all concerned;

NOW, THEREFORE, BE IT RESOLVED on this 23rd day of December, 2014, by the Township of South Brunswick, County of Middlesex, State of New Jersey, as follows:

1. The Township of South Brunswick hereby reaffirms its commitment to satisfy its affordable housing obligations, however they may ultimately be defined, voluntarily and in the absence of any Mount Laurel lawsuits.
2. Once its affordable housing obligations are defined, the Township of South Brunswick directs its legal and planning professionals to take all reasonable and necessary action to enable it and its Planning Board to satisfy those obligations expeditiously.
3. The Township of South Brunswick Clerk is hereby directed to place this Resolution on file in the Township of South Brunswick Municipal Building to put the public and all interested parties on notice of the formal commitments herein.
4. The Township of South Brunswick hereby authorizes its attorney(s) to use this resolution as necessary to maintain the current immunity from all exclusionary zoning suits.

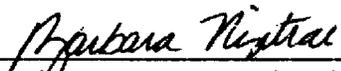
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5. In the unlikely event that a court should determine that the Township of South Brunswick is not entitled to immunity from exclusionary zoning suits prior to the adoption of this resolution, this resolution should firmly establish the Township's intent and thus provide immunity from any exclusionary zoning suits filed after the date of adoption of this resolution.

6. This Resolution shall take effect immediately.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chris Killmurray, Deputy Mayor
SECONDER:	Josephine "Jo" Hochman, Councilwoman
AYES:	Josephine "Jo" Hochman, Chris Killmurray, Frank Gambatese
ABSENT:	Joseph Camarota, Charlie Carley

This is to certify that the foregoing is a true copy of a resolution adopted at the South Brunswick Township Council meeting held on December 23, 2014.



Barbara Nyitrai, Township Clerk

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