

U.L. v. Carteret

(?) 1986

S. Brunswick

South Brunswick Township Ordinance

No. A6

Exhibit B

Pgs 21

CACCC579T

SOUTH BRUNSWICK TOWNSHIP ORDINANCE NO. -86

AN ORDINANCE AMENDING AND SUPPLEMENTING THE LAND USE MAP OF THE TOWNSHIP OF SOUTH BRUNSWICK AND THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF SOUTH BRUNSWICK, 1975, SPECIFICALLY CHAPTER XVI, LAND USE

BE IT ORDAINED by the Township Committee of the Township of South Brunswick, County of Middlesex, State of New Jersey, that the Land Use Zone Map of the Township of South Brunswick be and is hereby amended and supplemented as follows:

1. The following tracts be and are hereby rezoned to the Manufactured Housing Zone (MH) permitting mobile/manufactured housing at a gross density of five and one-half (5.5) units per acre:

a. An approximate 165 acre portion of Block 30, Lot 16.17, located south of Deans/Rhode Hall Road and west of U.S. Route 130, more particularly described as that portion of the lot lying to the north and northeast of the Spring Brook, as shown on the current Tax Map of the Township of South Brunswick.

b. Block 30, Lot 23.04 and 24.01, located at the southwest corner of the intersection of Deans/Rhode Hall Road and U.S. Route 130, consisting of 23.7 acres.

c. Block 37, Lot 2 and Block 38, Lot 3, located on the southerly side of Culver Road and consisting of 47.5 acres.

d. An approximate 95 acre area, consisting of Block 40, Lot 9 and portions of Block 40, Lots 8 and 10, located on the northerly side of Culver Road and more particularly described as being bounded by Culver Road on the south, by a Public Service Electric and Gas Company property (Block 263, Lot 5) to the east, by the property lines of Block 40, Lots 7, 11, 18 and 19 to the west, and by a line drawn parallel to and approximately nine hundred fifteen (915) feet from the southerly property line of Block 262, Lot 1.01 to the north.

2. The following tracts be and are hereby rezoned to the Planned Residential Development VII Zone (PRD VII) permitting a gross density of seven (7) dwelling units per acre and permitting multi-family development:

a. Block 93, Lots 1.08, 3, 4 and 41, located north of Beekman Road and east of Route 27, consisting of approximately 35 acres.

b. Block 41, Lots 9.07, 14.01, 14.02 and 16 and Block 259.01, Lot 1, located south of Monmouth Junction Road, consisting of approximately 92 acres.

c. Block 31, Lots 10.01, 12, 14, 25.16, 30 and 37, located north of Georges Road, consisting of approximately 224 acres.

d. Block 85, Lots 2.11, 2.19, 2.102, 4.06, 4.13, 4.14, 4.16, 10, 11, 12, 13, 14, 15.16, 16, 17, 18.01, 18.02, 19, 20, 21, 22.01, 24, 26, 32, 33, 34, 35.10, 37.03, 38 and 39, consisting of approximately 472 acres located generally between Major Road, New Road, U.S. Route 1 and the Amtrak Railroad line.

e. An 8.5 acre portion of Block 87, Lot 12.14, located near the southwest corner of the intersection of Georges Road and Kingston Lane, more particularly described as that portion of the lot located to the west and southwest of a line drawn parallel to the northwesterly edge of Kingston Lane, from a point 443.29 feet from the intersection.

3. The following tract be and is hereby rezoned to General Industrial-3 (I-3):

An approximate 43.5 acre area, consisting of portions of Block 40, Lots 8 and 10, more particularly described as being bounded by the property line of Block 40, Lot 7 on the west, by the southerly property line of Block 262, Lot 1.01 on the north, by the Public Service Electric and Gas Company property (Block 263, Lot 5) on the east and by a line drawn parallel to and approximately nine hundred fifteen (915)

feet from the southerly property line of Block 262, Lot 1.01.

A copy of the map showing the proposed changes will be published prior to adoption of the ordinance and is on file and available for inspection at the office of the Township Clerk during normal business hours.

BE IT FURTHER ORDAINED that the Revised General Ordinances of the Township of South Brunswick, 1975, specifically Chapter XVI, Land Use, be and are hereby amended and supplemented as follows:

§16-2.1 Purpose. be and is hereby amended and supplemented by the addition of the following as 16-2.1q:

"q. To satisfy the Township's obligation to provide for its fair share of the regional need for lower income housing."

§16-3 Definitions. be and is hereby amended and supplemented by the deletion of the existing 16-3.29A, 16-3.67, 16-3.68 and 16-3.69, and the addition of the following:

- "16-3.2A Affordable Housing Agency. Affordable Housing Agency shall mean the Agency referred to in Section 16-62.13i, or its designee.
- 16-3.25A Doublewide Unit. Doublewide unit shall mean a mobile home consisting of two (2) modules containing a width of between twenty-two feet (22') and twenty-eight feet (28').
- 16-3.46A Income Ceiling. Income ceiling shall mean eighty percent (80%) of the regional median income for moderate income households, seventy percent (70%) of the regional median income for intermediate moderate income households, and fifty percent (50%) of the regional median income for low income households.
- 16-3.47A Intermediate Moderate Income Household. Intermediate moderate income household shall mean a household whose income is greater than fifty percent (50%) but does not exceed seventy percent (70%) of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.47B Intermediate Moderate Income Unit. Intermediate moderate income unit shall mean a dwelling unit that is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge affordable by intermediate moderate income households.
- 16-3.61A Low Income Household. Low income household shall mean a household whose income does not exceed fifty percent (50%) of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.61B Low Income Unit. Low income unit shall mean a dwelling unit which is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by low income households.
- 16-3.61C Lower Income Housing. Lower income housing shall mean the sum of all categories of housing subject to the price and occupancy requirements of Section 16-62.13, including low income, moderate income and intermediate moderate income units.
- 16-3.63A Manufactured Housing. Manufactured housing is intended to be generic and shall mean housing which is mass-produced in a factory; designed and constructed for transportation to a site for installation and use when connected to required utilities; and comprised of an independent, individual building or modules combined with other elements to form a building on the site. Manufactured housing includes any housing customarily known as modular housing.
- 16-3.63B Manufactured Housing Development. Manufactured housing development shall mean a development designed and intended for the sale of lots with, or for the placement of manufactured housing and/or mobile homes for fee simple residential occupancy.

- 16-3.67 Mobile Home. Mobile home shall mean a unit of housing which: consists of one or more transportable sections that are built on a permanent chassis; is designed to be used, when connected to utilities, as a dwelling; and is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Act and the standards promulgated by the Commissioner pursuant to P.L. 1975, c.217 (N.J.S.A. 52:27D-119, et seq.).
- 16-3.68 Mobile Home Park. Mobile home park shall mean any plot of land which is equipped for the installation of two or more mobile homes and is under common ownership and control, other than a cooperative, for the purpose of leasing mobile home units and/or leasing mobile home sites to owners of mobile homes for the installation of such units.
- 16-3.69 Mobile Home Site. Mobile home site shall mean a parcel of land designed to accommodate a mobile home and shall include the mobile home stand and the mobile home yard.
- 16-3.69A Mobile Home Stand. Mobile home stand shall mean that part of a mobile home site which has been reserved exclusively for the placement of a mobile home.
- 16-3.69B Mobile Home Yard. Mobile home yard shall mean that part of a mobile home site excluding the mobile home stand.
- 16-3.69C Moderate Income Household. Moderate income household shall mean a household whose income is greater than fifty percent (50%), but does not exceed eighty percent (80%), of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.69D Moderate Income Unit. Moderate income unit shall mean a dwelling unit which is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by moderate income households.
- 16-3.102A Regional Median Income. Regional median income shall mean the median income for the present housing need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984. For ease of calculation, regional median income shall be deemed to mean ninety-four percent (94%) of the median income for the Primary Metropolitan Statistical Area (PMSA) in which Middlesex County is located.
- 16-3.113A Singlewide Unit. Singlewide unit shall mean a mobile home which consists of one (1) module containing a width of twenty-two feet (22') or less.

§16-42.1f be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"16-42.1f Traffic; Circulation Impact Statement. Applicants for development of tracts identified in the master plan as potentially having or creating traffic problems shall submit a statement of the traffic and circulation impact of the development based on a traffic and circulation impact study."

§16-42.1g be and is hereby deleted in its entirety.

§16-42.1h be and is hereby amended and supplemented by the deletion of the existing section, the substitution of the following in its place, and the redesignation of the following as 16-42.1g:

"16-42.1g Environmental Impact Statement. Applicants for development of tracts identified in the master plan as environmentally sensitive shall submit a statement of the impact on the environment by the development based on an environmental impact study."

§16-42.1i and j. be and are hereby redesignated as 16-42.1h and 16-42.1i.

§16-57.4c7 be and is hereby amended and supplemented by the deletion of the words "eight (8)" and the substitution of the words "twelve (12)" in their place.

§16-57.6a be and is hereby amended by the deletion of the words "PRD III" in the table.

§16-62.2 Use Regulations. be and is hereby amended and supplemented by the deletion of the existing section entitled "MH Manufactured Housing/Cluster Option" from the Schedule of District Regulations and the substitution of the following in its place:

"MH Manufactured Housing

Purpose.

1. The intent of the MH Zone District is to permit development of manufactured housing developments of low cost manufactured housing, as a permitted use, in order to satisfy in part the Township's obligation to provide a realistic opportunity for the development of its fair share of the regional need for lower income housing.

2. Since the intent of the provisions is to encourage the production of housing affordable to low and moderate income households and the designation of mobile home and manufactured housing as the principal use is a means of achieving that goal, other housing types compatible with the principal permitted uses shall be permitted as well, as

long as there is full compliance with the lower income housing requirements set forth in this ordinance.

Uses Permitted

1. Manufactured housing developments containing any combination of the following housing types:

a. Single family detached mobile homes or manufactured housing units;

b. Semi-detached single family or two family mobile homes or manufactured housing units;

c. Attached manufactured housing units, forming townhouse or apartment configurations.

2. Conventionally constructed single family houses, semi-detached or two family houses, townhouses, or garden apartments which conform to the area, yard, density and other requirements for such housing types in the PRD VII Zone, except that such PRD VII development must meet the set-aside and percentage distribution of low, intermediate moderate and moderate income units otherwise required for manufactured housing in the MH Zone.

Accessory Uses Permitted

1. Community buildings, clubs and activities of a quasi-public social or fraternal character which directly benefit the residents of a manufactured housing development.

2. Public buildings, including schools and township facilities; and quasi-public buildings, including places of worship; but not including cemeteries.

3. Parks, playgrounds, and other public recreation and open space.

4. Private garages.

5. Private residential swimming pools in rear yard areas of single family dwelling lots, or accessory to a public recreational facility.

6. Home occupation and home professional offices, in manufactured housing developments, as defined and regulated in the provisions of this Chapter.

7. Signs, as regulated in this Chapter.

8. Fences, as regulated in this Chapter.

Use, Area, Yard and Density Requirements

1. Public potable water and sewer must be provided for all manufactured housing developments.

2. The minimum tract size for a manufactured housing development shall be fifty (50) contiguous acres. Block 30, Lot 23.04 shall be exempt from this provision.

3. The maximum gross residential density for a manufactured housing development shall be five and one

half (5.5) units per acre. The maximum net residential density for a manufactured housing development shall be eight (8) units per acre. For purposes of the ordinance, gross acreage shall include all lands within the exterior boundaries of the tract without regard to the purpose for which the land is to be used, or any dedication of land within those boundaries. Approval by the Township of South Brunswick of subdivision and site plan applications for the Deans/Rhode Hall Road site, described as the approximate 165 acre portion of Block 30, Lot 16.17, located south of Deans/Rhode Hall Road and west of U.S. Route 130, more particularly described as that portion of the lot lying to the north and northeast of the Spring Brook, as shown on the current tax maps, shall be conditioned upon the developer dedicating an eighty foot (80') right of way and building a two-lane roadway through the site connecting U.S. Route 130 to Georges Road. Approval by the Township of South Brunswick of subdivision and site plan applications for either of the Culver Road sites, described as Block 37, Lot 2 and Block 38, Lot 3, located on the southerly side of Culver Road and consisting of 47.5 acres, and the approximate 95 acre area, consisting of Block 40, Lot 9 and portions of Block 40, Lots 8 and 10, located on the northerly side of Culver Road and more particularly described as being bounded by Culver Road on the south, by a Public Service Electric and Gas Company property (Block 263, Lot 5) to the east, by the property lines of Block 40, Lots 7, 11, 18 and 19 to the west and by a line drawn parallel to and approximately nine hundred and fifteen (915) feet from the southerly property line of Block 262, Lot 1.01 to the north, shall be conditioned upon the developer or developers or the sites being solely responsible for construction of or their providing a pro rata contribution to a connecting road from Culver Road to Monmouth Junction Road, but development of the 95 acre site or joint development of both sites may be conditioned upon actual construction of such a road.

4. A minimum of twelve percent (12%) of the total tract area of each manufactured housing development shall be reserved as open space, to be devoted to passive or active recreational uses, and highway buffering. Recreation facilities appropriate and suitable to the needs of the residents of the development shall be provided. Each development shall contain a minimum of at least one usable active recreational area of at least 30,000 square feet for the first twenty (20) acres of the tract and an additional usable active recreational area of 10,000 square feet for each additional twenty (20) acres of the tract. Each development shall additionally contain an area or areas suitable for active recreational use at least 30,000 square feet in size for the first twenty (20) acres of the tract and 10,000 square feet for each additional twenty (20) acres of the tract which shall be designated as suitable for active recreational use on the final subdivision plan and dedicated to the Township at time of final subdivision approval. Swimming pools or community buildings may not be required by the Planning Board to satisfy the active recreation obligation set forth herein.

5. At least thirty-five percent (35%) of all detached (single family) mobile homes in a manufactured housing development shall be doublewide units.

6. The minimum lot size for singlewide mobile homes shall be 2800 square feet, or three (3) times the floor area of the mobile home unit, whichever is less. The minimum lot size for doublewide mobile homes shall be 4500 square feet or three (3) times the floor area of the mobile home unit, whichever is less.

7. The minimum setbacks for manufactured housing units or mobile homes shall be as follows:

front yard	15 feet
rear yard	10 feet
principal side yard (side with entrance)	12 feet
principal side yard (with driveway)	18 feet
secondary side yard (side without entrance)	5 feet
accessory structures	5 feet

8. Where semi-detached (two family) mobile homes are provided with each unit having a single side yard, the minimum width of that yard shall be fifteen (15) feet.

9. At no point shall the sides of any manufactured housing unit or mobile home be closer than ten (10) feet from any other unit (excluding steps, awnings, patios, decks, porches and any other appurtenances), provided that the average distance between the sides of any such units shall not be less than seventeen (17) feet.

10. At no point shall the ends of any manufactured housing unit or mobile home be closer than twenty (20) feet from the end of any other such unit.

11. A distance of not less than ten (10) feet shall be maintained between any manufactured housing unit or mobile home and its appurtenances, and any other such unit and its appurtenances. This requirement shall apply to awnings, patios, decks, steps and porches.

12. All storage sheds, metal sheds and other accessory type storage structures shall not be located in the front yard and shall be located a minimum of ten (10) feet from any adjoining manufactured housing unit or mobile home.

13. Storage type accessory structures shall be constructed on a ground support slab, with a positive grade away from such slab, in accordance with the provisions and standards set forth in this Chapter.

14. The Planning Board shall not unreasonably deny any requests from a developer to modify any of the development standards set forth in this Section where the developer establishes that such modification is necessary to permit development of the lower income units, except where such modification will adversely affect the health, safety or welfare of the residents of the Township.

Parking and Circulation

1. Parking spaces shall average two (2) spaces per unit in the MH development.

2. Parking meeting the above requirements may be provided through any combination of the following approaches:

- a. Garages, individual or community;
- b. Surface parking areas (parking lots or bays);
- c. Individual unit driveways;
- d. Parking areas along one side of any internal one way street with a minimum paved width of twenty-four feet (24') or along one side of any internal two way street with a minimum paved width of thirty feet (30').

3. a. Internal one way streets shall be provided with a minimum right of way of forty (40) feet, and a minimum paved width of twenty-four (24) feet where parking is provided as set forth above.

b. Internal two way streets shall be provided with a minimum right of way of fifty (50) feet and a minimum paved width of thirty (30) feet where parking is provided as set forth above.

c. The Township will accept dedication of streets in MH developments which have a minimum of twenty-four (24) feet paved width and a minimum forty (40) feet right of way.

4. Appropriate means of pedestrian circulation throughout the development will be provided, to ensure that residents of the development have access (1) to community and recreational facilities within the development; and (2) to convenience shopping and public transportation, if any, adjacent to the development. Walkways shall be at least three (3) feet in width, and shall be four (4) feet in width in those areas in which substantial pedestrian traffic can reasonably be expected.

Landscaping

1. A landscaped buffer strip shall be maintained along any property line of a manufactured housing development which abuts adjacent off-tract residential areas, and shall be of adequate width to ensure that no structure in the development will be less than fifty (50) feet from said property line and one hundred (100) feet from dual highways.

2. Landscaping to be provided in a manufactured housing development shall be shown on the site plan. Wooded areas shall be preserved wherever possible without causing interference with the general plans, specifications and other requirements pertaining to the site. No manufactured housing unit or mobile home shall be constructed or installed within fifty (50) feet of streams, rivers or lakes.

Lower Income Housing

Any development in the MH Zone shall be subject to the lower income housing requirements set forth in the Affordable

Housing section of this ordinance (16-62.13), as well as the following standard applicable to the MH Zone. At least twenty-five percent (25%) of the units in all manufactured housing developments in the MH Zone (assuming full development at the maximum density allowed by right in the zone) shall be lower income housing units subject to the terms and requirements of Section 16-62.13 of the ordinance. At least one third (1/3) of the total number of lower income units shall be low income units and at least one third (1/3) of the total number of lower income units shall be intermediate moderate income units. Any approval of a development application subject to this section shall require that the construction of the lower income units be phased in with the balance of the development in accordance with the following standard:

<u>Number of market units completed as a % of the total number of market units approved</u>	<u>Number of lower income units completed as a % of the total number of lower income units approved</u>
Not more than 25%	At least 25%
50%	60%
75%	85%
90%	100%

To implement this requirement, certificates of occupancy shall not be issued for more than twenty-five percent (25%) of the total number of market units until certificates of occupancy have been issued for at least twenty-five percent (25%) of the total number of lower income units; certificates of occupancy shall not be issued for more than fifty percent (50%) of the total number of market units until certificates of occupancy have been issued for at least sixty percent (60%) of the total number of lower income units; certificates of occupancy shall not be issued for more than seventy-five percent (75%) of the total number of market units until certificates of occupancy have been issued for at least eighty-five percent (85%) of the total number of lower income units; and certificates of occupancy shall not be issued for more than ninety percent (90%) of the total number of market units until certificates of occupancy have been issued for one hundred percent (100%) of the lower income units. Where construction of lower income housing is being phased in with the balance of a development, each phase shall include a mixture of low, moderate and intermediate moderate income units reasonably consistent with the percentage distribution of each category within the development as a whole."

§16-62.2 Use Regulations. The section of the Schedule of District Regulations entitled "PRD III Town Center Development" be and is hereby amended and supplemented as follows:

1. By the retitling of "PRD III Town Center Development" to "PRD VII".
2. "Purpose." be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"Purpose. The intent of the PRD VII Zone District is to initiate planned unit development, as permitted by the New Jersey Planned Unit Development Act, which promotes the efficient delivery of municipal services, the construction of affordable types of housing, the utilization of mass transit and the preservation of active and passive open space. It is more specifically intended that the PRD VII Zone District permit the development of minimum percentages of low income, intermediate moderate and moderate income units in order to satisfy the township's obligation to provide a fair share of affordable housing for low, intermediate moderate and moderate income households."

3. "Area, Yard and Density Requirements (subject to critical area adjustment factors, where applicable, as set forth in this chapter)." be and is hereby amended and supplemented by:

a. Subparagraph 1: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"1. The minimum tract size for a PRD VII development shall be forty (40) contiguous acres. Block 93, Lots 3, 4 and 41, Block 85, Lot 18.01, and Block 87, Lot 12.14 shall be exempted from this provision."

b. Subparagraph 2: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"2. The maximum gross residential density shall be seven (7) units to the acre. The maximum net residential density shall be twelve (12) units to the acre. For purposes of determining gross density, the total tract shall be considered, to include any portions not developed for residential use pursuant to subsections 7 and 8 below and notwithstanding the provisions of Section 16-62.29. Approval by the Township of South Brunswick of subdivision and site plan applications for the Georges Road site, described as Block 31, Lot 10.01, 12, 14, 25.16 and 37, and Block 30, Lot 30, located north of Georges Road, consisting of 224 acres, shall be conditioned upon firm construction commitments for that part of proposed Route 522 which will connect Georges Road to U.S. Route 130. No certificates of occupancy shall be issued by the Township of South Brunswick for development of any parcel within the Town Center site, described as Block 85, Lots 2.11, 2.19, 2.102, 4.06, 4.13, 4.14, 4.16, 10, 11, 12, 13, 14, 15.16, 16, 17, 18.01, 18.02, 19, 20, 21, 22.01, 24, 26, 32, 33, 34, 35.10, 37.03, 38 and 39, commonly known as the "Town Center", consisting of approximately 472 acres located generally between Major Road, New Road, U.S. Route 1 and the Amtrak Railroad Line, until construction of that portion of proposed Route 522 that connects New Road to Kingston Lane and no more than fifty percent (50%) of the authorized certificates of occupancy shall be issued for any development within the Town Center until completion of Route 522 to Route 1. These conditions shall not apply to development of Block 85, Lot 18.01. In addition, it shall be a condition of development of Block 85, Lots 4.06, 4.13, 4.14, 4.16, 2.11, 2.19, 2.102 and 15.16, that no certificates of occupancy shall issue until completion of an internal

access road to Route 522. An additional condition of that portion of the Town Center site described as Block 85, Lots 2.11, 2.19, 2.102, 15.16, 4.06, 4.14, 4.16 and 4.13 shall be construction by the developers thereof of a Major Road trunk sewer line from the existing twelve inch (12") Town Center sewer main within Block 85, Lot 17 on Major Road to and along Major Road to and abutting Block 85, Lot 8.05 on U.S. Route 1."

c. Subparagraph 7: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"7. A minimum of twenty-five percent (25%) of the total tract area must be reserved as open space to be devoted to passive or active recreational use, environmentally critical areas and buffer zones. The municipal agency may not require that more than seven percent (7%) of the total tract be devoted to active recreational use. The municipal agency may require that an additional five percent (5%) of the total tract shall be suitable for active recreational use, which shall be designated as suitable for active recreational use on the final subdivision plan and dedicated to the township at time of final approval. Swimming pools and community buildings may not be required by the Planning Board to satisfy the active recreation obligation set forth herein."

d. Subparagraph 8: The deletion of the first sentence of the existing subparagraph and the substitution of the following in its place:

"8. In a PRD VII development consisting of at least 150 contiguous acres up to twenty percent (20%) of a tract area can be used for commercial and office development. Where any portion of a tract is used for commercial or office development under this provision, the Planning Board shall not unreasonably deny a request to increase net densities for residential development where necessary to permit development at the maximum gross residential density. Use of any portion of the tract for commercial and office development pursuant to this subparagraph does not diminish the requirement, set forth in Paragraph 2 under Other Requirements Applicable to PRD VII, that each approved development contain twenty percent (20%) of the total number of units that may be developed assuming full development of the maximum density of seven (7) units per acre provided by right in each zone over the entire tract for which application is made."

e. Subparagraph 9: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"9. The Planning Board shall not unreasonably deny any requests from a developer to modify any of the development standards set forth in this Section where the developer establishes that such modification is necessary to permit development of the lower income units, except where such modification will adversely affect the health, safety or welfare of the residents of the Township."

4. By the addition of the following as "Other Requirements Applicable to PRD VII":

"Other Requirements Applicable to PRD VII

1. Each application for development subject to this section shall clearly state the number of low, intermediate moderate and moderate income housing units, as defined in Section 16-62.13, and the number of such units subject to age restrictions that are proposed for inclusion within the development, and each resolution of approval shall clearly state the number of low, intermediate moderate and moderate income units and the number of such units subject to age restrictions that are approved as part of the development.

2. Each approved development shall contain lower income units, as defined in Section 16-62.13, in a minimum proportion of twenty percent (20%) of the total number of units that may be developed, assuming full development at the maximum density of seven (7) units per acre provided by right in each zone over the entire tract for which application is made.

3. No more than thirty percent (30%) of the total number of low, moderate and intermediate moderate income units that may be developed in any development subject to this section may have occupancy restrictions based on the age of household members. No developer of lower income housing may impose occupancy restrictions with respect to any lower income housing that requires a minimum age of 59 years or less. The township may not require a developer of lower income housing to impose any age-based occupancy restrictions with respect to such housing as a condition of approval, waiver or assistance.

4. Any approval of a development application subject to this section shall require that the construction of the lower income units be phased in with the balance of the development in accordance with the following standard:

<u>Number of market units completed as a % of the total number of market units approved</u>	<u>Number of lower income units completed as a % of the total number of lower income units approved</u>
Not more than 25%	At least 25%
50%	60%
75%	85%
90%	100%

To implement this requirement, certificates of occupancy shall not be issued for more than twenty-five percent (25%) of the total number of market units until certificates of occupancy have been issued for at least twenty-five percent (25%) of the total number of lower income units; certificates of occupancy shall not be issued for more than fifty percent (50%) of the total number of market units until certificates of occupancy have been issued for at least sixty percent (60%) of the total number of lower income units; certificates of occupancy shall not be issued for more than seventy-five percent (75%) of the total number of market units until certificates of occupancy have been issued for at least eighty-five percent (85%) of the total number of lower income units; and certificates of occupancy shall not be issued for more than ninety percent (90%) of the total number of market units until certificates of occupancy have been issued for one hundred percent (100%) of the lower income units. Where construction of lower income housing is being phased in with the balance of a development, each

phase shall include a mixture of low, moderate, and intermediate moderate income units reasonably consistent with the percentage distribution of each category within the development as a whole.

5. In any development approved pursuant to this section, no less than one-fourth of the total number of lower income units shall be affordable by low income households as defined in Section 16-62.13, and no less than one-fourth of the total number of lower income units shall be affordable by intermediate moderate income households as defined in Section 16-62.13. No more than fifty percent (50%) of the lower income units in any development subject to this section shall be one (1) bedroom or efficiency units. In developments containing one hundred (100) or more lower income units, at least twenty percent (20%) of these units shall be three (3) bedroom units or larger.

6. No tracts other than those rezoned as part of this ordinance revision, which was adopted in accordance with a consent order dated _____, 1986, in the matter entitled Urban League of Greater New Brunswick, et al. vs. The Mayor and Council of the Borough of Carteret, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-4122-73, may be zoned at gross densities greater than four (4) units per acre unless those zones are subject to a mandatory set-aside provision, reasonably proportionate to those contained herein, requiring that at least fifteen percent (15%) of the total number of units that may be developed shall be set aside as lower income units. Any tracts, other than those rezoned as part of this ordinance revision, which are zoned at gross densities of seven (7) or more units per acre shall be subject to a minimum requirement of twenty percent (20%) set aside for lower income housing development."

§16-62.13 be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"16-62.13 Affordable Housing.

a. Purpose. The purpose of this section is to (1) promote the general welfare by providing for a variety of housing choices within the township; (2) satisfy the township's constitutional obligation under Mt. Laurel II to provide a realistic opportunity for the development of its fair share of the regional need for lower income housing; and (3) comply with the consent order dated 1986, in the matter entitled Urban League of Greater New Brunswick, et al. vs. The Mayor and Council of the Borough of Carteret, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-4122-73, by establishing a mechanism for assuring that housing units designated for occupancy by low, moderate and intermediate moderate income households remain affordable to, and occupied by, such households.

b. General Provisions.

1. Wherever reference is made to lower income housing, or low, moderate or intermediate moderate

income units in the Land Use Ordinance, the standards, definitions and procedures set forth in the section shall apply.

2. Except as otherwise expressly provided herein, no low, moderate or intermediate moderate income unit shall be offered for sale or rental except at prices that are affordable by low, moderate or intermediate moderate income households respectively.

3. Except as otherwise expressly provided herein, no low, moderate or intermediate moderate income unit shall be sold, resold, rented or re-rented except to a household that has been qualified as a low, moderate or intermediate moderate income household, respectively. However, nothing contained in this Chapter, or in the rules and regulations of the Affordable Housing Agency, shall restrict or preclude any household which was classified by the Agency as a low, moderate or intermediate moderate income household at the time it purchased or leased a low, moderate or intermediate moderate income unit from continuing to own or lease said unit after its income exceeds the income ceilings established by this Chapter.

4. A covenant embodying these restrictions shall be recorded with the deed for all sales of property subject to the provisions of this section.

5. Final site plan approval of developments containing Affordable Housing units shall be conditioned upon payment by the developer to the Urban (now Civic) League of Greater New Brunswick the sum of \$30 per lower income unit (equal to \$5 per unit for each of the six years covered by the consent order) for each of the lower income units authorized by that approval; provided, however, that such payment shall not be required for units in developments that have already received preliminary site plan approval or use variance as of January 14, 1986 or for any wholly subsidized units.

6. Developments containing Affordable Housing units shall physically disperse the lower income units to the maximum extent possible through the entire development, but in any case shall be subject to the following minimum requirements:

(a) Definitions.

A building - is any continuously enclosed structure containing one or more separate dwelling units.

A cluster - is any grouping of buildings in close physical proximity to each other, usually arranged around a common feature such as a court yard or parking area.

A section - is any building or grouping of buildings, or any cluster or grouping of clusters set apart by natural features, landscaping or buffers from other parts of the development so as to constitute an identifiably separate portion of the development. A separately named building or grouping as defined herein is presumptively a section.

(b) Standards for Dispersal of Lower Income Units.

i. No more than twenty-four (24) lower income units may be located in any single building. No building, cluster or section shall be required to contain any lower income units. In any cluster or section that contains lower income units, no more than one-third (1/3) of the total number of units may be lower income units.

ii. The restrictions contained in subparagraph (b)(i) above shall not apply to any building, cluster or section when necessary to finance the development of the building, cluster or section through public or tax exempt funding, but in no event shall any one building, cluster or section developed pursuant to this paragraph contain more than one hundred fifty (150) lower income units.

iii. Lower income units must be located so as to afford comparable access to transportation, community shopping, recreation, and other amenities as is provided to other residents of the development.

iv. The landscaping and buffers used around buildings and within clusters or sections containing lower income units shall not be different from those used in other portions of the development and the landscaping and buffers used to separate such buildings, clusters and sections shall be the same as is used to separate other portions of the development.

c. Qualification of Low, Moderate and Intermediate Moderate Income Households. A prospective purchaser or renter of a low, moderate or intermediate moderate income unit must be qualified as a low, moderate or intermediate moderate income household by the Affordable Housing Agency prior to the purchase or rental of such unit. In making this determination, the Affordable Housing Agency shall apply the standards set forth in the definitions of low, moderate and intermediate moderate income household in Section 16-3 of the Revised General Ordinances of the Township of South Brunswick. The Affordable Housing Agency shall periodically recalculate the regional median income and the adjustments for household size based on changes in the official estimates of the median income for the Primary Metropolitan Statistical Area (PMSA) in which the township is located.

d. Determination of Maximum Sales Prices and Rental Charges. Prior to the sale, resale, rental, or re-rental of a low, moderate or intermediate moderate income unit, the Affordable Housing Agency shall determine the maximum sales price or rental charge that may be charged for that size unit in each income category.

1. Maximum Sales Price. The following procedure shall apply to determine maximum sales prices:

(a) A base price shall be calculated such that the sum of the monthly payments for principal, interest,

taxes, fire, theft and liability insurance, and homeowner association fees, if any, shall not exceed twenty-eight percent (28%) of the low, moderate or intermediate moderate income ceiling determined in accordance with Subsection c. above. A ten percent (10%) down payment requirement and a thirty (30) year mortgage term shall be assumed in making this calculation.

In calculating the monthly interest payment, the Affordable Housing Agency shall apply the interest rate which it determines to be reasonably available locally to low, moderate and intermediate moderate income households, and shall review any documentation provided by the developer regarding financing which it contends is available to such households. If the developer or any other entity offers to buy down the prevailing interest rate and the terms of the buydown provide that the increase in interest rate charged does not exceed one half of one percent (0.5%) per year during the period of the buydown, the interest rate for the first year of the buydown period shall be used in the above calculation to determine the monthly interest payment. If the increase in the interest rate exceeds one half of one percent (0.5%) per year, the average interest rate for the period of the buydown shall be used.

If the developer proposes that an adjustable rate mortgage (ARM) be used to calculate the monthly interest payment and the Affordable Housing Agency determines that such ARMs are reasonably available locally to lower income homebuyers, the initial interest rate of that mortgage shall be used only if the maximum annual average increase does not exceed one half of one percent (0.5%). Otherwise, a rate which is the average of the initial interest rate and the highest possible rate in effect after three years or one and one half (1½) points less than the best available fixed mortgage rate, whichever is greater, shall be used.

(b) In order to assure that low, moderate and intermediate moderate income units are affordable by households whose income is less than the low, moderate or intermediate moderate income ceiling, the maximum sales price that may be offered for each such unit shall be determined as a percentage of the base price for that size unit in each income category as follows:

(1) For each of the following income categories for which a development has fewer than one hundred (100) units, the following percentages shall be used in determining the maximum sales price:

- (i) Low income - 90% of the base price
- (ii) Intermediate moderate income - 85% of the base price
- (iii) Moderate income - 90% of the base price

(2) For each of the following income categories for which a development has one hundred (100) or more units, the following percentages shall be used in determining the maximum sales price:

- (i) Low income - 95% of the base price for one-half of the units, and 85% of the base price for one-half of the units
- (ii) Intermediate moderate income - 90% of the base price for one-half of the units, and 80% of the base price for one-half of the units
- (iii) Moderate income - 95% of the base price for one-half of the units and 85% of the base price for one-half of the units

A unit offered at eighty-five percent (85%) of the base price shall not be offered for sale to any household whose income is greater than ninety-five percent (95%) of the low, moderate or intermediate moderate income ceiling, whichever is applicable.

(c) Prior to final approval of any development subject to this section, the Affordable Housing Agency shall determine the maximum sales prices by unit size for the low, moderate and intermediate moderate income units in the development and shall so notify the developer. These prices shall remain in effect for a period of one (1) year or until all of the low, moderate or intermediate moderate income units have been sold, whichever occurs first. The developer may request a modification of the maximum sales price at any time by applying to the Affordable Housing Agency for recalculation of these prices based on changes in any of the factors used to calculate the prices.

(d) Prior to the resale of any low, moderate or intermediate moderate income unit, the Affordable Housing Agency shall determine the maximum sales price for that unit in accordance with a formula developed by the Agency which takes into account increases in a generally accepted price or income index, reasonable improvements to the property as determined by the Agency, and reasonable out-of-pocket costs of the sale as determined by the Agency, and which, to the extent feasible, ensures that resale prices will be consistent with the affordability standards set forth in Subsections d.1. (a) and (b) above.

2. Maximum Rental Charges. The following procedure shall apply to determine maximum rental charges:

(a) A base rent shall be calculated such that the sum of the monthly rental payment, including utilities, does not exceed thirty percent (30%) of the low, moderate or intermediate moderate income ceiling determined in accordance with Subsection c. above.

(b) In order to assure that low, moderate and intermediate moderate income units are affordable by a range of households whose income is less than the low, moderate or intermediate moderate income ceiling, the maximum gross rent that may be charged for each unit shall be such that the average of the gross rents charged for that size unit in each income category does not exceed the following percentage of the base price for that size unit in each of the following income categories:

- (i) Low income - 90% of the base price
- (ii) Intermediate moderate income - 80% of the base price
- (iii) Moderate income - 90% of the base price

In order to assure affordability by a wider range of lower income households, the Affordable Housing Agency shall encourage landlords to set individualized rents, not to exceed thirty percent (30%) of the tenant's actual income, provided that the average of such rents for each size unit not exceed ninety percent (90%) of the base rent for that size unit in each income category.

(c) If the cost of all utilities, including heat, hot water, cooking fuel, and electricity, is not included in the monthly rental charge, an estimated monthly charge for those utilities not included in the rent shall be calculated for each unit size. This estimated charge shall be subtracted from the maximum gross rent to determine the maximum rental charge that may be charged for each low, moderate or intermediate moderate income unit.

(d) Once the maximum rental charges have been determined for the low, moderate and intermediate moderate income units, such charges shall not be increased without the prior written approval of the Affordable Housing Agency. The Agency shall establish appropriate criteria and procedures for allowing periodic rental charge increases consistent with the affordability standards set forth in Subsections d.2. (a), (b) and (c) above. No more than one (1) rental charge increase shall be allowed for any unit or group of units within any twelve (12) month period.

(e) Market units and lower income units in a development subject to the affordable housing requirements of Section 16-62.13 of this ordinance shall be exempted from municipal rent control.

(f) Nothing contained in this Chapter shall prevent the Township Committee from adopting rules and regulations for the Affordable Housing Agency not inconsistent with this Chapter. Rules and regulations for the Affordable Housing Agency may be adopted which increase or decrease rents for units subject to the regulations of this Chapter based upon increases or decreases in the income level of the occupant or occupants as same shall be from time to time determined by the Affordable Housing Agency.

3. Relationship Between Household Size and Unit Size. For the purpose of determining maximum sales prices and rental charges pursuant to Subsections d.1. and 2. above, the ceiling incomes of the following household sizes shall be used to determine the maximum prices for each of the following unit sizes:

Efficiency	1 person
1 bedroom	2 persons
2 bedroom	3 persons
3 bedroom	5 persons
4 bedroom	7 persons

4. Maximum Affordable Price Tables. The Affordable Housing Agency shall prepare and maintain tables of maximum affordable prices for low, moderate and intermediate moderate income households by unit size as a guide for determining maximum sales prices and rental charges for low, moderate and intermediate moderate income units.

e. Expiration of Restrictions.

1. Restrictions on the resale of low, moderate or intermediate moderate income units shall expire thirty (30) years from the date of the initial sale of the property.

2. Low, moderate or intermediate moderate income rental units shall remain subject to the requirements of this section indefinitely, except that the limitations set forth in Subsections e.1. above and f. below shall apply if such rental units are converted into condominiums, co-operatives, or some other form of ownership property.

f. Limitations on Restrictions in Event of Foreclosure.

1. Notwithstanding the restriction on resale of low, moderate or intermediate moderate income units set forth in this section, there shall be no such restriction in the event of foreclosure and resale by a lender after foreclosure.

2. In the event of foreclosure, the Affordable Housing Agency shall attempt to identify qualified low, moderate and intermediate moderate income purchasers and shall give notice to the lender of their identity. The Affordable Housing Agency shall undertake other efforts to ensure that lower income housing will not be made unavailable to low, moderate or intermediate moderate income families by virtue of foreclosure. Toward this end, the Affordable Housing Agency shall work with developers of lower income housing to incorporate into deeds or covenants appropriate language providing the Agency with limited rights to intervene prior to foreclosure in order to maintain the property as a low, moderate or intermediate moderate income unit. In the event of foreclosure, the difference, if any, between the sales price and the lender's recovery of principal, interest and costs under its mortgage shall be paid to the Affordable Housing Agency for use in increasing other affordable housing opportunities. The Agency shall have and record a second lien on all lower income properties to insure payment of such a difference in case of foreclosure.

g. Affirmative Marketing. Developers of lower income housing shall affirmatively market such housing to all segments of the lower income population within the Mount Laurel housing region in which the township is located and to all qualified low, moderate or intermediate moderate income households irrespective of race, color, religion, sex or national origin. Toward that end, the developer shall formulate and submit an affirmative marketing plan acceptable to the Affordable Housing Agency, which plan shall be incorporated into any approval of the development application. At a minimum, the plan shall provide for advertisement in newspapers with general circulation in the following urban core areas: Jersey City, Newark, Elizabeth, Paterson, New Brunswick and Perth Amboy. The plan shall also require the developer to notify the following agencies on a regular basis of the availability of any low, moderate or intermediate moderate income units: the Civic League of Greater New Brunswick, the Housing Coalition of Middlesex County, the Middlesex County Office of Community Development, and other fair housing centers, housing referral organizations, and government social service and

public welfare departments located in the eleven-county present need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984.

h. Income Ceiling Exceptions. Where a developer has diligently attempted to market a lower income housing unit and that unit has not been sold within six (6) months after issuance of the certificate of occupancy for that unit, the developer may seek relief under this subparagraph by submitting to the Affordable Housing Agency documentation of all efforts made to sell the unit and the hardship suffered by the continued vacancy. If the Agency finds that the developer has made reasonably diligent efforts and has suffered hardship, and that it is not realistic to expect sale to a qualified household within a reasonable time if sales efforts were to continue, the Agency, in its sole discretion, may provide relief to the developer by permitting the unit to be offered for sale to a purchaser whose income level is up to fifty percent (50%) higher than the income ceiling fixed for the income category for which the unit was originally offered for sale. The unit shall, nevertheless, be sold at the maximum affordable price originally determined by the Affordable Housing Agency and a covenant embodying the restrictions of Section 16-62.13b(1-3) shall be recorded with the deed for the sale of the property subject to the restrictions of this Chapter."

§16-62.29 be and is hereby amended and supplemented by the addition of the following as subsection f.:

"f. The provisions in the section for exception to area requirements based upon critical areas shall not be applicable to sites within the PRD VII and MH zones, which are deemed suitable for development at the densities stated. In the event, however, that there are critical areas within the sites in those zones, site planning shall be performed in a manner to avoid substantial adverse impact on those areas."

The above ordinance was introduced and passed on first reading at a regular meeting of the Township Committee of the Township of South Brunswick held on _____, 1986, and will be considered on second reading and second and final passage at a regular meeting of the Township Committee of the Township of South Brunswick to be held at the Municipal Building, Monmouth Junction, South Brunswick Township, New Jersey, at 8:00 P.M. on _____, 1986, at which time and place any person having an interest therein will be given an opportunity to be heard.

KATHLEEN A. THORPE, TOWNSHIP CLERK