

U. L. v. Carteret

2/7

7 July 1987

Piscataway

Letter from Mallaek to Louie w/ comments on plan
attached

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Alan Mallach, AICP
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July 7, 1987

Louie Nikolaidis, Esq.
22 Langley Place
New Brunswick, N.J. 08901

RE: Resubmitted Housing Element
Piscataway Township

Dear Louie:

I have enclosed my comments on the revised and resubmitted Piscataway Township housing element and fair share plan. As I indicated to you on the phone earlier today, it is pretty dreadful. One thing that I did not include in my comments, but which struck me as much as the inadequate substance of the plan, was the almost unbelievable sloppiness with which the document has been put together, the extent to which COAH instructions were not followed (misunderstood or ignored), the absence of documentation, even when they probably could have come up with it, and so on and so forth.

I believe that the likelihood that these matters will be resolved through mediation is very slim, but we must try. Let me have your reactions after you've reviewed this, and we can discuss where we go from here.

Sincerely,

Alan Mallach

AM:ms

enc

cc: C. Roy Epps

✓ Barbara Stark, Esq.

PISCATAWAY TOWNSHIP

COMMENTS ON REVISED HOUSING ELEMENT AND FAIR SHARE PLAN SUBMITTED
TO COUNCIL ON AFFORDABLE HOUSING MAY 19, 1987

Alan Mallach, PP/AICP

Piscataway Township has submitted a revised housing element and fair share plan to the Council on Affordable Housing, which continues to fail to represent a legitimate and realistic effort to meet the township's low and moderate income housing obligation under the Fair Housing Act. The township has indeed withdrawn two of the numerous unacceptable elements of its earlier plan; i.e., the proposal to meet a part of its obligation through the provision of what were clearly institutional facilities, and the effort to obtain credit for use of Section 8 existing housing certificates.

The Township fair share plan proposes to meet its obligation of 911 low and moderate income housing units/1 in the following manner:

1. Society Hill (credit)	109
2. Canterbury	171
3. Ethel Road	60
4. Rutgers University	96
5. Rivendell	42
6. Ridgedale	8
7. Senior citizens housing	150
+ bonus credit	41
8. Rehabilitation	179
9. Harris Steel	55
	<hr/>
	911

Based on the information presented by the township in its housing element, the only elements of this plan which fully meet COAH standards are (1) and (6) for a grand total of 117 units. The comments below will summarize the reasons why the other components of the plan are not shown to represent a realistic housing opportunity. In some cases, further documentation may establish that they are indeed realistic; in others, however, it is unlikely that such documentation can be provided.

1. Canterbury: While there is no question that this site is suitably zoned to provide the number of units proposed, and that it is owned by a willing developer, it has been established that there are extensive wetlands on the property, which may at a mini-

1/It should be stressed that that figure includes a substantial deduction for filtering; my comments of 1/18/87 on the earlier housing element document that in actuality the relevant housing stock in the township is filtering upwards, and that it is inappropriate to make any filtering deduction in this case.

may interfere with the proposed site development, and may indeed result in a substantial loss of units from that number proposed. This is clear from the letter (attached to the housing element) from Mr. Cattaneo of NJDEP dated February 4, 1986. No more recent information which might suggest that this issue has been resolved has been provided, indicating that the issue in all probability remains unresolved.

In the absence of explicit documentation establishing that wetlands boundaries have been agreed upon between the developer and the relevant Federal and state agencies, and establishing a number of units that can be constructed on the site without infringing on wetlands areas (or buffer areas, as required by the new act), no credit should be given for this project.

2. Ethel Road: This site is owned in large part, but not entirely, by the township. The site has been suitably zoned for many years. Within the site boundaries, however, are 32 separate parcels in private ownership, under 23 different owners. No development activity has taken place; the site is clearly undevelopable in the absence of a municipal effort, utilizing the redevelopment law, to assemble the necessary properties. Piscataway Township has made representations that it would do so for three years or more, but no activity whatsoever is documented in the housing element. Given the amount of time that will be required to carry out all of the steps needed to render this site developable, action must begin immediately if there is to be any realistic prospect that housing will be provided within this fair share period.

In the absence of a detailed redevelopment scheme for the Ethel Road parcel, this element should not be included in the plan. The redevelopment scheme must set forth (a) a detailed timetable for actions, including creation of a Redevelopment Agency, blight hearings and declaration, appraisals, acquisition, etc.; (b) a source of funds for property acquisition and site preparation; and (c) procedures and guidelines for property disposition.

3. Rutgers University: No evidence is provided that Rutgers University, which owns this parcel, is willing either to develop it or convey it to a developer for the proposed housing to be built. The Hovnanian objection states that the university has both indicated that it is uninterested in development and rebuffed proposals from private developers.

Unless credible documentation can be provided that this site will be available for development within a realistic time frame (a time frame that will permit the construction of over 400 units on the site during the fair share period), this site should not be included in the fair share plan.

4. Rivendell: This site has been zoned for a lower income setaside at 10 units/acre for many years without any development activity taking place. The site is highly irregular in shape, and contains serious physical constraints. Much of it is located in

immediate proximity to an extremely heavily travelled arterial road. The township now proposes to increase the density on this site to a gross density of 12 units/acre.

The township provides no evidence that there are any plans for development of this site, or that its owners are either willing to develop or sell for development/2. In the absence of documentation with respect to (a) the availability of the site for development; and (b) the physical suitability of the site to accomodate the number of units proposed, this site should not be included in the fair share plan.

5. Senior Citizens Housing: We earlier objected to inclusion of this project because of the lack of certainty in terms of funding, feasibility, development activity, etc. Since the initial housing element, the only apparent change is that the then-proposed nonprofit developer of the project has bowed out. While the housing element states "final details of funding have not been determined at this point in time" (pages 10-11), the record suggests that no aspects of the funding have actually been determined. Indeed, the housing element further indicates that this project has been under discussion since the late 1970's (8 to 10 years) without evident achievement or progress.

Furthermore, the township is not only requesting credit for the 150 units they claim to be processing, but for an additional 41 bonus credits, and are seeking a waiver of COAH Rule N.J.S.A. 5:92-14.4(d) which bars such credits from being granted until the units are actually provided. In view of the extreme nebulousness of this project, such a request is utterly unwarranted/3.

No credit whatsoever should be given this project until or unless the township provides a firm timetable for production and a financial commitment that makes the construction of this housing realistic and feasible.

2/There is a glancing reference in the housing element to "a developer from Edison" with respect to this site (page 18). It is possible that the township considers that to be documentation.

3/Although it is a minor point, it would appear that the maximum rental bonus for which the township is potentially entitled is 39 units rather than 41, as follows:

Total fair share	911
less indigenous need	-194
less credits (109+24)	-133
Net	<u>584</u>
	x .2
Bonus credits	<u>117 / 3 = 39</u>

6. Rehabilitation: This has also been previously objected to. The bases for the objection are numerous:

a. The township provides no documentation that there actually are 179 units (within or beyond its indigenous need) that meet the criteria of the county program; i.e., are owner occupied single family units that are both substandard and suitable for rehabilitation. Given that indigenous need encompasses both owner and renter units, as well as units that are overcrowded rather than substandard, and substandard units not suitable for rehabilitation, this is not an assumption that can be accepted without documentation. No documentation is provided.

b. The maximum rehabilitation grant under the proposed program is \$7500. This is not only inconsistent on its face with COAH rules, N.J.A.C. 5:92-11.5(b), but makes it likely that a substantial number of the rehabilitation grants will go to modest cosmetic rehabilitation. This has been the case up to now in many Middlesex County municipalities.

c. No evidence with respect to resale and continued affordability controls is provided.

d. No evidence is provided that there will be enough money available from the County to carry out 30 rehabilitation projects per year in the township. In addition, the housing element indicates that only 24 rehabs have been done in the township since 1980, for an average of roughly 3-4 per year.

e. With respect to the proposed rehabilitation credits, no documentation is provided that would be even remotely adequate to serve as a basis for determining whether credit should be provided. 9 of the units have not been rehabilitated yet, and are characterized as "pending". These should not be given credit under any circumstances. With respect to the remaining 24, no documentation of the extent of work done, the dollar amount of the rehab, whether the unit is now up to full code standard, whether the beneficiary still lives in the unit, etc. is provided.

In the absence of full documentation no credit should be given for past rehabilitation efforts; future rehabilitation programs should not be included unless there is a credible source of funding large enough to support the program, and credible administrative machinery capable of administering a program of the magnitude proposed.

7. Harris Steel: While there is nothing intrinsically inappropriate about an inclusionary requirement being imposed on an industrial development, as proposed here, it must be approached with great care to ensure that the siting of the lower income units is not negatively impacted by the surrounding industrial uses, and that it does not become an isolated residential enclave. Furthermore, in view of the greater uncertainties of industrial

vs. residential development, carefully drafted timing provisions must be provided if the units are to be considered a realistic prospect during the fair share period/4.

In the absence of (a) evidence that the owner of the site is going to proceed with development; (b) a plan for subdivision of the site that ensures that the problems noted above will not take place; and (c) timing provisions to ensure production of the units, this is not an appropriate element of the fair share plan.

The above points address the specific elements through which the township proposes to achieve its fair share goals. In addition to the sites and programs, the township has proposed an ordinance (inappropriately dubbed the "fair share plan") which contains numerous deficiencies:

a. None of the land use provisions (setbacks, height, site plan standards, etc., etc.) governing development on the proposed sites are set forth in any part of the housing element. It is essential that this be available for review, as it may contain potential cost-generating elements.

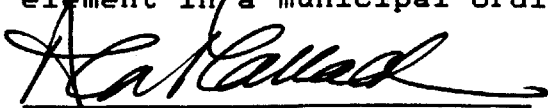
b. The "fair share plan" itself is poorly drafted, and is apparently in large part copied from COAH rules; as a result, it is in large part hard to comprehend, and unclear in its enforcement or implementation.

c. Sec. 1(c) is apparently written under the impression that Piscataway is an Urban Aid municipality (or else was poorly copied from COAH rules). Piscataway may not limit affordability controls to 10 years, as proposed here.

d. Sec. 2-4 are apparently copied verbatim from the COAH rules with no indication of implementation or enforcement.

e. Sec. 5 dealing with affirmative marketing is in many places vague and ambiguous. Administrative responsibility for marketing and screening is unclear. Paragraph 4 of this section provides for pooling households with resident/worker priority still unserved after the first 50 percent of the units have been sold or rented with the non-priority households for purposes of establishing the marketing pool for the second 50 percent, which is inconsistent with the apparent meaning of the relevant COAH rule.

f. Sec. 6, which appears also to have been copied from COAH rules in some fashion, is completely incomprehensible as an element in a municipal ordinance.



Alan Mallach
July 7, 1987