

CA - South Brunswick

3/21/76

Letter to Searing from Mallach re: South Brunswick zoning  
Ordinance revisions

3 pages

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ALAN MALLACH/ASSOCIATES

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TO: Dan Searing

FROM: Alan Mallach *AM*

RE: South Brunswick zoning ordinance revisions

The following is a preliminary discussion, in response to your request, of the major changes that would be required in the South Brunswick Township zoning ordinance in order for that ordinance to be cleansed, as it were, of exclusionary features. I have not made an effort to be exhaustive about every matter of detail, since I understand that at this point there is not yet any agreement about overall principles or major issues. I should stress, however, that if a zoning revision is undertaken in light of the principles and goals provided here, it must include dealing with matters of detail far beyond those specified in this memorandum.

In essence, the South Brunswick ordinance provides extensively for single family dwellings, generally in zones incorporating large lot & frontage standards, provides extensively for industrial development, and makes limited provision for multifamily housing through a Planned Residential Development (PRD) feature. Substantial changes in both ordinance provisions, and in the distribution of vacant & developable land in the Township will be required.

The following are specific recommendations made with regard to South Brunswick Township, and represent the broad changes that must take place for the ordinance to be considered non-exclusionary:

(1) Reasonable provision must be made for dwelling units of a modest single family nature. A substantial part of the land designated for single family housing should provide for (a) lot sizes under 10,000 square feet (preferably in the 6,000-8,000 square foot range), and (b) interior floor space requirements in the area of  $\pm$ 800 square feet. If the Township wants to validate its assertion that it does not restrict mobile homes from single family zones, the floor area minimum should not be greater than 720 square feet.

(2) consistent with the first point, since the township apparently is undertaking to extend sewer and water lines into areas planned for residential development, and makes a distinction (not unreasonably) between standads for development with and without sewer & water, the township must committ itself to a program of extensions that will benefit those areas designated for modest and high-density single family development. It is unclear from the materials provided whether or not the Township has indeed committed itself to a specific timetable for infrastructure extension in keeping with its apparent development timing goals (this point is discussed in more detail below).

(3) There is no provision for multifamily development outside the PRD zones, which contain a relatively small share of the Township's vacant

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land area (roughly 3%). To provide for a balanced housing mix, and to make the opportunity for development of low and moderate income housing a realistic likelihood, one or both of the following are desirable:

(a) general zoning for multifamily development in the appropriate locations within the township. There should be ample acreage in which apartments (garden-type or mid-rise) as well as townhouses can be developed, on the basis of reasonable standards specified in the ordinance; e.g., 15-20 dwelling units per acre, etc.

(b) provision for multifamily housing developed under State or Federal subsidy programs, and meeting the standards of those programs, as a conditional use in all parts of the township where this is appropriate (special exception for the moment, conditional use under the new law effective August 1). The ordinance should further specify that permits shall be granted to all developments meeting the explicit standards set down in the ordinance

In the latter case, in the event that a fair share plan is adopted, with goals framed in terms of number of units to be constructed within X years, it would be legitimate for the municipality to limit the special exception or conditional use provisions to the ceiling set down in the fair share plan. In any case, provision should be made for modest multifamily housing development, with particular emphasis on low and moderate income housing, over and above what is likely to result from the PRD provisions.

(4) With regard to both points (1) and (3) above, we believe that there should be differential standards, tantamount to incentives, for multifamily and single family housing constructed under Federal and state housing programs. The standards for such housing could be included in the ordinance (e.g., maximum density of 15 DU/acre for conventional multifamily vs. 20 DU/acre for housing building under subsidy programs), or the ordinance could specify that its standards would be waived in favor of the applicable Federal or State guidelines.

(5) The ordinance, in a number of places, in itself and in conjunction with other official documents of the Township enunciates a series of social and developmental goals which are admirable (possibly), but have not been framed in explicit terms, or translated into operational provisions. Certain of these must be made explicit, or revised, if they are to be accepted as a basis for land use regulation. Since many of these form the underpinning of the purportedly non-exclusionary character of the ordinance, this is a relevant consideration here. Some of the most important of these are:

(a) The amount of land to be available for PRD development. The present allocation is only 3% of the vacant land in the Township; the master plan, however, indicates that this is the first phase of PRD development under a staging program, and that another

1,656 acres are set aside for future PRD development (when?). If the township is going to engage in development staging a la Ramapo, which we do not necessarily object to, they must make it explicit; namely (a) frame binding commitments regarding PRD and other rezoning in the future; (b) frame as binding an infrastructure extension program as is realistically feasible, and (c) demonstrate clearly the manner in which low and moderate-income housing needs will be responded to during the course of the development staging process.

(b) the report entitled "Green Village Study" states, more or less explicitly, first, that the standards of the PRD make it difficult if not impossible to build under HUD Section 8 standards, and second, that the Township should modify such standards as well as provide other assistance (e.g., tax abatement) to overcome this problem. The PRD provisions of the ordinance do not reflect either point. Clearly, if the Township is acting in good faith in this matter, all actions and modifications that the Township plans to carry out (or is willing to do so upon reasonable findings that they are needed) must be made explicit and binding upon the Township.

(c) as discussed above, the distinction made by the ordinance between development with and without sewer & water, although reasonable in itself, places on the Township the obligation to make explicit when it will provide sewer and water services to what parts of the Township. Such a plan should be adopted, which should make explicit provision for those areas specified for modest single family as well as multifamily dwellings, and should provide for priority for developments to be constructed under low- and moderate-income housing programs.

Generally speaking, it would appear that the Township is attempting to have its metaphorical cake and eat it too; they seek the benefits from the development staging approach, without incurring the responsibilities that are equally part of the concept.

(6) The distribution of vacant land is badly askew; under the current ordinance and map there are 8,332 acres of vacant land zoned for industry and related uses. Including the PRD zone, there are 3,345 acres of land zoned for residential uses of under 1 acre lots or multifamily. (The development potential of the A-5, A-3 and R-1 zones, for purposes of all but a small number of extremely expensive units, is largely nonexistent). 11,708 acres are in those three zones, which amount to an extensive 'holding zone'. Any effort to clean up, as it were, this ordinance, must (a) substantially redress the balance between residential and non-residential land availability; and (b) provide as discussed above, for more modest residential land uses than are provided in this ordinance.

There are many points of detail (examples: required garage for all SF dwellings) that can be dealt with subsequently, if the broad direction of ordinance revisions, as described above, is mutually agreed to. I hope you find this useful.