CA - South River 5/11/76

letter re: proposed ordinance revisions of twp. by Mallach

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Alan Mallach/Associates

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TO: Daniel A. Searing, Esq. DATE: May 11, 1976

FROM: Alan Mallach

RE: Proposed ordinance revisions of Borough of South River

At your request, I have reviewed the proposed ordinance revisions submitted by the Borough of South River, and forwarded to my attention by your office. I believe that there are certain elements in these revisions which continue to be either exclusionary in an explicit sense, or capable of such an interpretation. Specifically, I find the following sections or phrases problematical:

(1) the phrases 'poor arrangement' and 'destruction of neighborhood character' in section 2(a) are subjective, easily open to widely variable interpretation, and of doubtful planning value. Although it is not clear that there is a body called upon explicitly to make such a judgement about garden apartment or multifamily applications, it is not unreasonable to assume that the Planning Board would make such determinations. Such obviously subjective elements should not be allowed to be part of the approval process, and should be stricken.

(2) the three acre requirement in section 2(b) is high. It is my impression that a standard of two acres has been implicitly allowed, although I would still maintain that that is too high for a relatively built up town such as South River. In any case, it should be no more than two acres.

(3) section 2(i) is utterly unacceptable. This is patently a means of restricting bedrooms without saying so in explicit terms. This is not a matter of degree, but clearly outrageous.

(4) Section 5 (subsection F) is equally unacceptable, for two reasons:

(a) a minimum floor area requirement of 1,000 feet^2 is too high; an appropriate standard (if they insist on having one) should certainly be no more than 900 feet^2 and preferably no more than 800 feet^2.
(b) the requirement that units have basements (in two story buildings, under the entire building; in splitlevels and ranches, under 30% or 40% of the building, as the case may be) is unacceptable. It is a cost increasing factor of an exclusionary nature with no clear basis in health, safety, etc.

In addition, it is unclear whether this provision applies to multifamily and garden apartment structures (it does read "every new residential building..."). If that is the case, that is clearly unacceptable.

One further point. It is my understanding that the testimony at the trial indicated that South River was substantially overzoned, with regard to vacant land, for industrial uses. There is no evidence here that additional vacant land has been made available for residential use, including multi-family uses, by the Borough.