

CA - O+Y v. Twp Old Bridge

5/8/84

letter directed by court on behalf of Twp
of Old Bridge w/ respect to acceptability
of Master's fair share estimate
+ supporting attachments

P 6

CA 002332L

NORMAN AND KINGSBURY

ATTORNEYS AT LAW
JACKSON COMMONS
SUITE A-2
30 JACKSON ROAD
MEDFORD, NEW JERSEY 08055

May 8, 1984

THOMAS NORMAN
ROBERT E. KINGSBURY

(609)654-5220
(609)654-1778

Honorable Eugene Serpentelli
Superior Court of New Jersey
Ocean County Court House
Toms River, New Jersey 08753

Re: O & Y vs. Township of Old Bridge
Docket No. L-009837-84
Urban League vs. Carteret
No. C-4122-73

Dear Judge Serpentelli:

I am submitting this letter, as directed by the Court, on behalf of the Township of Old Bridge with respect to the acceptability of the Master's fair share estimate of 2,782 dwelling units by the year 1990. Carl Hintz has been retained for the purpose of analyzing this number as well as the present land development regulations and land use approvals of the Township of Old Bridge. Based on an extensive preliminary review, Mr. Hintz has indicated that the proposed "total need" of 2,782 units is excessive. This conclusion is based on the premise that the total number of acres in the municipal growth area is overstated. Preliminary calculations indicate that approximately 6000 acres or approximately one quarter of the total acreage in the municipal growth area is in public and quasi-public use only, in Old Bridge Township. In this regard please see Attachment A, Table 2.

Carl Hintz has indicated that evaluation of vacant land contained within the regional commutershed growth area must also be calculated in order to compare vacant, developable land in the Township of Old Bridge to similar areas in the commutershed growth area of the region. Mr. Hintz indicates that this task can be accomplished within 4 weeks given his firm's present computer capability. Therefore, the Planning Board respectfully requests an additional 4 weeks in order to permit Mr. Hintz to make these calculations.

I wish to point out to the Court that of the four factors set out in the "prospective need" calculations of Carla Lerman, the Court Master, only land contained within the municipal growth area is being challenged. Additional time to review this factor in detail will allow the municipality to make a rational decision regarding the "total need" number by the year 1990.

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Additionally, I would like to draw the attention of the Court to several other significant factors concerning Old Bridge Township, all of which I believe disclose a municipality which has not embarked upon a course of development exclusion. In this regard, I wish to direct the Court's attention to Table 1 of Attachment A, which identifies the amount of vacant land contained within Planned Development zones. More than 3,500 acres with a maximum permitted gross density of 4 dwelling units per acre or 14000 dwelling units are permitted within the Planned Development zones. Assuming a mandatory set aside of 20% for low and moderate income units, an additional 2800 units for low and moderate income families is possible. I would also point out to the Court that pursuant to Table 3, since 1980 the Township has utilized Community Development Block Grant funds to rehabilitate 115 existing units and has used Section 8 monies for 99 rental assistance units.

The Township is considering the recommendations contained in the memorandum of Carl Hintz, dated May 1, 1984 included herewith as Attachment B. The Court's attention is directed to the second paragraph which sets forth significant development applications which have been granted preliminary development approval by the Planning Board. The list includes approximately 1800 units of preliminarily approved dwelling units. While it is not clear thus far, the Planning Board believes that it has the authority to mandate a 20% inclusionary set aside as a condition of final approval in accordance with the recommendations suggested by Carl Hintz in Paragraph 1. This would add an additional 360 units of low and moderate income housing units. In this context, the Planning Board is studying an ordinance amendment to mandate 20% low and moderate income housing set asides for all developments.

During the year of 1980, the Old Bridge Township Rotary Club constructed an apartment complex consisting of 209 rental units for Senior Citizens pursuant to a program of the New Jersey Housing Finance Agency. We believe the entire complex qualifies for credit since renters must be qualified by income in line with Mt. Laurel II guidelines. Additionally, a PUD application for approximately 5500 units of housing and known as Woodhaven Village may be filed shortly with the Planning Board or with Your Honor. This development is located directly adjacent to the O & Y development site. As the Court is aware, the O & Y development contains approximately 10,260 units of housing. Together, these two developments represent an additional 15,700 units of housing and an additional 3000 units of low and moderate income housing based upon a 20% inclusionary set aside.

Lastly, two projects have special significance in light of Court Orders and include the Oakwood at Madison approved planned development consisting of 1200 units and the Oaks-at-Glenwood development consisting of 1,124 garden apartment units. The former development was

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approved on the basis of the decision of the New Jersey Supreme Court in Oakwood at Madison, Inc., v. Township of Madison, 72 NJ 481 (1977). The latter development was approved in Brunetti v. Madison Twp., 130 N.J. Super. 164 (LawDiv.1974).

It is the Planning Board's understanding that low and moderate development requirements established by Mt. Laurel II, can be made to apply with respect to these two projects.

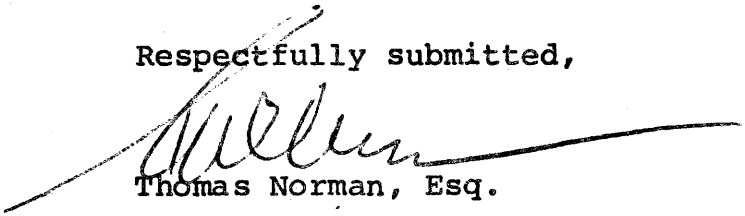
In sum, it is the tentative conclusion of Carl Hintz as contained in the last paragraph of his report (Attachment B) that Old Bridge Township may be able to obtain a repose for the next 15 years up through the year 2000.

I believe the information contained above is highly relevant and reflects favorably upon the Township's general approach to development. In this context, I would also point out that municipal employment is extremely low and is actually less than 1% of the entire commutershed. Old Bridge is clearly accepting its fair share of development but is not enjoying its fair share of new employment opportunities.

The Planning Board is prepared to present by formal Motion the request contained herein if that is determined appropriate by the Court.

I have reviewed this letter with the Township Attorney, Jerome Convery and I can indicate to the Court that the Township joins in the request made herein based upon the representations contained in the letter.

Respectfully submitted,



Thomas Norman, Esq.

TN:mk

Encl.

CC: Carl Hintz
Russell Azzarellò, Mayor
Joan George, Planning Board Chairperson
Jerome Convery, Esq.
Henry Hill, Esq.
Eric Neisser, Esq.

OLD BRIDGE TOWNSHIPTABLE 1

<u>ZONE</u>	<u>VACANT LAND *</u>	<u>TOTAL UNITS</u>	<u>NUMBER OF POTENTIAL LOW AND MODERATE INCOME UNITS</u>
PD	3,170.61 acres (4 units per acre)	12,682	2,536
PD/SD3	98.71 acres " " " "	394	78
PD/SD3	317.3 acres " " " "	1,269	253
PD/SDS	17.6 acres " " " "	70	14

* Source: Planmetering by Hintz/Nelessen Associates

TABLE 1

Cheesequake State Park	1342 acres	
Township Beach	117 acres	
Township Parks	351 acres	
Roads, including Garden State Parkway	1394 acres	
Schools	277 acres	
Perty Amboy Water Company	1335 acres	
Duhernal Water Company	809 acres	
	<u>5977 acres</u>	- This acreage does not include all vacant, undevelopable land, but public and quasi-public uses only

Source: Courtney Powell, Township Tax Assessor

TABLE 3

Units of Low and Moderate Income (existing rehabs and assistance since 1980)

#UNB

115 Rehabilitated existing units - Community Development Block Grant funds (\$447,000)

99 Rental assistance - U.S. A.U.D. Section 8 Program

Source: Township of Old Bridge, May 1984

240 Nassau Street, Box 1241, Princeton, N.J. 08542 609-924-9153 201-873-3084

TO: Thomas Norman, Esq.
FROM: Carl E. Hintz, PP, AICP, ASLA
DATE: May 1, 1984
RE: Old Bridge Township Litigation

Per our meeting, I think the following strategy should be pursued. Our analysis of the current or pending approvals, master plan and zoning was used in determining these recommendations.

1. Current approvals should be mapped, with the potential number of low and moderate income units, for presentation in court. A report analyzing these should accompany the map.

The township should consider a mandatory set-aside ordinance for all applications pending preliminary approval, as well as future ones.

2. The township should establish meetings with several developers who have preliminary approvals, and discuss their options of keeping the same gross density but providing a moderate income set-aside. The "carrot" to these developers would be provision of higher net densities, without increasing gross density, by allowing townhouses or condominiums in order to accomplish moderate income housing. The only developments where this potential for negotiation lies is with:

- Hovnanian (Society Hill II)
- Winston Associates a.k.a. Cedar Ridge
- Charlton Village a.k.a. Canyon Woods
- Matchaponix Hills
- Foxborough Village
- F. Caggiano
- Cedar View Estates

3. A steering committee to meet with these developers, as well as discuss other zoning and planning options should be set up. I would recommend the following as members:

- Mayor
- Planning Board Chairman
- Zoning Board Chairman
- One member of Council

HINTZ/NELESSEN ASSOCIATES

Planning — Urban Design — Environmental Analysis — Landscape Architecture

- Planning Board Attorney
- Township Attorney
- Planner (C. Hintz)

While other members could participate, it is best to keep the group small so meetings can be easily arranged, yet the decision makers are present.

4. The township should consider establishing a non-profit housing corporation, or expanding the industrial/commercial agency, with the township council establishing itself as a redevelopment agency. The latter would have powers to condemn land needed for housing, while the former could act as a sponsor to produce low and moderate income housing. I would suggest trying to "round-out" or infill the Olympia-York holdings through condemnation and constructing manufactured single-family detached units. These would result in a one-for-one in terms of the low/moderate income units, instead of the accepted ratio of 5 units zoned to produce one unit of low and moderate income.
5. Rehabilitation of existing units for low and moderate income, will be credited towards the township's fair share. The rehabs for the past four years (to 1980) should be itemized, by lot and block and type of work performed. Additional rehabs could be accomplished by the township through the use of the township's non-profit corporation (once established) or a township's department and be used to credit towards the town's fair share.
6. We will plot the holding capacity of all current planned development (PD) zoning. It is anticipated, with a mandatory set-aside, the production of low/moderate income units could be substantial.

My analysis to-date is that the township has overzoned for accomplishing the "Mt. Laurel" objective, can meet not only the 1990 prospective and present need, but the 2000 year need. This should allow the township to reduce the current PD zoning to a downzoned "holding zone," and forestall future lawsuits for the next 6 years, if not, 15 years.


Carl E. Hintz

/pat