

South Brunswick 1986

Consent Order

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January 14, 1986

Joseph Benedict, Esq.
247 Livingston Avenue
New Brunswick, NJ 08902

Re: Urban League v. Carteret (South Brunswick)

Dear Joe:

Enclosed please find the original of the Consent Order revised in accordance with our conversation of today and the originals of Exhibits A and C. The only change on Exhibit A is a revision of the date on the bottom right-hand corner. I am also forwarding copies of this material to Ms. Lerman at this time in order to expedite her review and completion of the matter.

I look forward to receiving a copy of the ordinance revisions later this week.

Sincerely yours,



Eric Neisser

encls

cc/Carla Lerman

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ATTORNEYS FOR URBAN LEAGUE PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX/OCEAN COUNTY

URBAN LEAGUE OF GREATER]
NEW BRUNSWICK, et al.,]
Plaintiffs,]
v.]
THE MAYOR AND COUNCIL OF]
THE BOROUGH OF CARTERET,]
et al.,]
Defendants.]

Docket No. C-4122-73
(Mount Laurel)

CONSENT ORDER
(South Brunswick)

This matter having been opened to the Court by the undersigned attorneys for the plaintiffs and having been remanded for trial by the Supreme Court on the issue of fair share allocation of the regional need for low and moderate income housing and on whether the Township of South Brunswick has complied with the mandate to satisfy its fair share allocation by providing a realistic opportunity for the development of such housing and it being represented to the Court that the parties agree to the following:

Whereas, the Township of South Brunswick made major revisions to its zoning, land use and subdivision ordinances

which streamlined land development review procedures, rezoned more than 2600 acres which previously had been zoned industrial to residential, and rezoned 2495 acres from single family residential to higher density mixed residential housing types; and

Whereas, the Township of South Brunswick granted a use variance to Xebec Corporation to construct 40 rental units for low income families on a five-acre parcel on Blackhorse Lane; and

Whereas, the Township of South Brunswick required rent controls on 516 one bedroom and 220 two bedroom apartments in the Royal Oaks development, now under construction, so that the initial rents will be \$440 for one bedroom units and \$550 for two bedroom units; and

Whereas, the Township of South Brunswick required price controls on 57 one bedroom condominiums in the Whispering Woods development, now under construction, so that initial sales prices will be set at \$47,000; and

Whereas, the Township of South Brunswick required price controls on 64 senior citizen condominium units in the Dayton Center development so that initial sales prices will be set at \$44,999; and

Whereas, the Township of South Brunswick assisted in the acquisition of federal subsidies for 54 low and moderate income senior citizen rental units in the Charleston Place development constructed in 1979 and for an additional 30 similar units soon to be developed; and

Whereas, the Township of South Brunswick utilized Community Development Block Grant funds to provide home rehabilitation loans to numerous low and moderate income persons which assisted in the rehabilitation of their homes; and

Whereas, the parties desire that the Township of South Brunswick provide a realistic opportunity for the development of a sufficient number of housing units to satisfy the Township's fair share of low and moderate housing need.

Now, therefore, it is this _____ day of _____, 1986,

ORDERED and ADJUDGED:

1. The Township of South Brunswick's fair share of low and moderate income housing need through 1990 is 1919 housing units.

2. The Township's fair share shall be met by new development of 1865 units -- including 1765 units for which specific sites have been determined and are presented herein and an additional 100 units which shall be encouraged by the Township as provided in Paragraph 14 below -- and credit for the 54 low and moderate income subsidized senior citizen units at Charleston Place which were placed into occupancy after April, 1980 and are occupied by low and moderate income persons. The units constituting the fair share are identified in the schedule attached hereto and made a part hereof as Exhibit A.

3. Forthwith, but not later than forty-five (45) days after the entry of this Consent Order, the Township of South Brunswick shall rezone the following tracts to the Manufactured Mobile Home

Zone (MH) permitting mobile/manufactured housing at a gross density of five and one-half (5.5) dwelling 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 maps.
- 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 and fifteen (915) feet from the southerly property line of Block 262, Lot 1.01 to the north.

These zoning amendments shall further provide that 25% of the units in the MH zones shall be lower income housing and, of those units, at least 33% shall be low income housing and 33% shall be intermediate moderate income housing. These ordinance amendments and revised zoning map are attached hereto as part of Exhibit B and made a part hereof.

4. Forthwith, but not later than forty-five (45) days after the entry of this Consent Order, the Township of South Brunswick shall rezone the following tracts to Planned Residential Development VII (PRD VII) zoning permitting a gross density of seven 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, Lot 10.01, 12, 14, 25.16, and 37, and Block 30, Lot 30, located north of Georges Road, consisting of 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, 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.

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 443.9 feet from the intersection.

These zoning amendments are attached hereto as part of Exhibit B and made a part hereof.

5. (a) Approval by the Township of South Brunswick of subdivision and site plan applications for the Deans/Rhode Hall Road site described in Paragraph 3(a) above, shall be conditioned upon the developer dedicating an 80 foot right of way and building a two-lane roadway through the site connecting U.S. Route 130 to Georges Road; provided, however, that should this condition require acquisition of, or other action affecting, property outside of the re-zoned site, the Township shall take all steps necessary to assure completion of the road to Georges Road.

(b) Approval by the Township of South Brunswick of subdivision and site plan applications for either of the Culver

Road sites, described in Paragraphs 3(c) and (d) above, shall be conditioned upon the developer or developers of the sites described in Paragraphs 3(c) and (d) 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 site described in Paragraph 3(d) or joint development of both sites may be conditioned upon actual construction of such a road; provided, however, that the Township shall take all steps necessary to assure completion of the road to Monmouth Junction Road through acquisition or other action with regard to property outside the rezoned sites.

(c) Approval by the Township of South Brunswick of subdivision and site plan applications for the Georges Road site, described in Paragraph 4(c) above, shall be conditioned upon firm construction commitments for that part of proposed Route 522 which will connect Georges Road to U.S. Route 130.

(d) No certificates of occupancy shall be issued by the Township of South Brunswick for development of any parcel within the Town Center site described in Paragraph 4(d) above until construction of that portion of proposed Route 522 that connects New Road to Kingston Lane and no more than 50 percent 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.

(e) The Township of South Brunswick shall cooperate with the State of New Jersey, the County of Middlesex and the affected developers and take all action necessary to expedite construction of proposed Route 522. Attached hereto as Exhibit C is a letter dated September 30, 1985, from the New Jersey Department of Transportation setting forth the State's current intentions as to the construction of Route 522.

6. Forthwith, but not later than forty-five (45) days after the entry of the Consent Order, the Township of South Brunswick shall rezone the following tract to General Industrial-3 (I-3):

- a) 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 and fifteen (915) feet from the southerly property line of Block 262, Lot 1.01.

7. Forthwith, but not later than forty-five (45) days after the entry of this Consent Order, the Township of South Brunswick shall enact a mandatory set aside ordinance which shall provide for a mandatory set aside for lower income units of 20% of the total number of units that may be developed assuming full development at the gross density of seven units per acre provided by right in each zone for all developments in the PRD VII zones. The Township, through its Planning Board or Board of Adjustment, may not approve an application for development within the PRD VII and MH zones at less than the densities permitted as of right by this Order and the attached zoning ordinance amendments, unless the applicant is obligated either: (a) to construct the number of lower income units equal to 20 percent of the total number that may be developed at the maximum of-right density on the entire acreage covered by the application, or (b) to make an appropriate in-lieu cash contribution that will be sufficient to subsidize construction elsewhere of any units not constructed on the site which is the subject of the application, provided, however, that in any case all applicants must construct on their site at least the number of lower income units equal to 20 percent of the total number of residential units actually

constructed. In-lieu cash contributions may only be approved by the Township after express written agreement of the plaintiffs and approval by the Court; such cash contributions shall be used to further development of lower income housing opportunities, through subsidization of rent or construction of new units, rehabilitation of existing substandard units, or for a regional contribution agreement as specified in Paragraph 8. No other sites in the Township may be zoned or approved at densities greater than 4 units per acre unless they are subject to a mandatory set aside provision reasonably proportionate to those contained herein, but in no event less than 15% of the total number of units to be developed. Any additional sites, other than those specified herein, zoned or approved at gross densities of seven units per acre or greater shall be subject to a minimum requirement of a 20% set aside for low and moderate income development.

The mandatory set aside provisions shall require that a minimum of 1/4 of the lower income units be low income and a minimum of 1/4 be intermediate moderate income, as defined in paragraph 9 below.

The zoning amendments required by this Paragraph are attached hereto as part of Exhibit B and made a part hereof.

8. The Township of South Brunswick may enter into regional contribution agreements, pursuant to P.L. 1985, c. 222, Section 12, to satisfy some portion of its fair share obligation,

provided that any such agreement is approved in accordance with the Fair Housing Act and agreed to by the plaintiffs in writing.

9. Forthwith, but not later than forty-five (45) days after the entry of this Consent Order, the Township of South Brunswick shall adopt an affordable housing ordinance which shall provide that units designated as low, intermediate moderate, or moderate income units shall be sold or rented only to families who qualify as low, intermediate moderate, or moderate income families. The ordinance shall further provide that such units shall be re-rented or re-sold only to qualifying families and that such units are affordable to low, intermediate moderate, or moderate income families. To be affordable, the monthly expenses of a sales unit shall not exceed 28% of family income while the monthly rental charge, including utilities, shall not exceed 30% of family income. Low income shall be defined as less than 50% of median regional income with adjustments for family size, intermediate moderate income shall be defined as between 60% and 70% of median regional income with adjustments for family size, and moderate income shall be defined as between 50% and 80% of median regional income, with adjustments for family size. For the purposes of this section, the region for determining median income shall be the 11 county region set forth in the AMG v. Warren Township decision. Restrictions on resale will expire 30 years from the date of the initial sale of the premises. The ordinance shall, however, provide exceptions from the resale restrictions in the

case of foreclosure and resale by a lender after foreclosure. The ordinance shall provide for enforcement of the provisions contained herein by either establishing a municipal agency or contracting with a non-profit organization or other public agency which has the capacity of administering the requirements set forth herein. The Township of South Brunswick may condition final site plan approval of any development subject to this Order upon payment by the developer to the Township of the reasonable costs of administering or contracting to administer the affordable housing ordinance provisions with regard to the lower income units within that particular development. In addition, the Township of South Brunswick shall condition final site plan approval of any development covered by this Order upon payment by the developer to the Urban (now Civic) League of Greater New Brunswick of the sum of \$30 per lower income unit (equal to \$5 per unit for each of the six years covered by this Order) for each of the lower income units authorized by that approval, said funds to be used to monitor compliance with this Order; 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 subsidized units in Sections II and III of Exhibit A. The provisions of the affordable housing ordinance required by this Paragraph are attached hereto as part of Exhibit B and made a part hereof.

10. Forthwith, but not later than forty-five (45) days after entry of this Consent Order the Township of South Brunswick shall amend its zoning ordinance to provide that in all developments within the PRD VII and MH zones provided by this Consent Order, no more than 50 percent of the low income, intermediate moderate income or moderate income units shall be efficiency and one bedroom units, no less than 30 percent shall be two bedroom units, and no less than 20 percent shall be three bedroom or larger units. In addition, low income, intermediate moderate income, and moderate income units developed in accordance with this Order shall not be smaller than the following minimum standards:

Efficiency units	500 square feet
One bedroom units	600 square feet
Two bedroom units	800 square feet
Three bedroom units	1000 square feet

Furthermore, developments governed by this Order 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 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 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 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.

The zoning amendments required by this Paragraph are attached hereto as part of Exhibit B and made a part hereof.

11. Forthwith, but not later than forty-five (45) days after the entry of this Consent Order, the Township of South Brunswick shall rezone a tract of at least six acres located off Route 27 to permit a subsidized 40 unit Farmers Home Administration development.

12. Forthwith, but not later than forty-five (45) days after the entry of this Consent Order, the Township of South Brunswick shall rezone a tract of at least six acres on Route 522, which are part of the Whispering Woods development, to permit the construction of 39 subsidized units.

13. The Township of South Brunswick agrees that it will continue to take all acts necessary to acquire federal subsidies and to construct an additional 30 low and moderate senior citizen rental units in the Charleston Place development. If federal subsidies cannot be obtained and/or construction has not commenced within two years of the entry of this Consent Order, the Township of South Brunswick shall inform the Urban League in its quarterly report and rezone sufficient additional land within the Township to enable 30 low and moderate units to be constructed.

14. Forthwith, but not later than forty-five (45) days after the entry of this Consent Order, the Township of South Brunswick shall adopt a Resolution committing the Township to apply for available state and federal housing subsidy programs and to encourage and assist private developers to so apply. That resolution is attached hereto and made a part hereof as Exhibit D. The Township shall encourage the development of a minimum of 200 subsidized units by December 31, 1990. The Township shall rezone, if necessary, suitable sites for the development of these subsidized units. A number representing one-half of the subsidized units developed by December 31, 1990, other than those identified in Exhibit A, Section II, shall be credited toward the Township's staged present need obligation for the period from 1990 to 1996.

15. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its land use and zoning ordinances to provide that the minimum tract requirements for the PRD VII Zones and MH Zones subject to this Consent Order shall be no greater than 40 acres but the following parcels of less than 40 acres shall be exempted from such provision:

- a) Block 93, Lots 3, 4, and 41
- b) Block 85, Lot 18.01
- c) Block 87, Lot 12.14.

The zoning amendments required by this Paragraph are attached hereto as part of Exhibit B and made a part hereof.

16. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its zoning ordinance pertaining to the PRD VII Zones so that multi-family development is permitted by right and the open space requirements are reduced to 25% of tract area.

17. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its zoning ordinance so that the minimum lot size for townhouse development is reduced to 2000 square feet and the net density for the PRD VII Zone is increased to 12 units per acre.

18. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its zoning ordinance so that the minimum mandatory reservation of 5% of tract area for commercial and office development in the PRD VII Zones is eliminated.

19. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its zoning ordinance to eliminate the restrictions on the proportion of each housing type that may be included in the PRD VII Zones.

20. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its zoning ordinance to eliminate the requirements for a Traffic Circulation Impact Statement and Environmental Impact Statement except for tracts located in areas that have

been determined in the Master Plan to have potential traffic problems or which have been determined to be environmentally sensitive.

21. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its zoning ordinance to eliminate the requirement for a School Impact Statement.

22. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its zoning ordinances to exempt the sites within the PRD VII and MH zones from the critical area requirements of Section 16-62.29 of the existing ordinance. In the event that there are critical areas within the sites specified in this Order, which sites the parties hereby agree are generally suitable for the development permitted by the zoning specified herein, site planning shall be performed in a manner to avoid substantial adverse impact on those areas.

23. Forthwith, but not later than forty-five (45) days after entry of this Consent Order, the Township of South Brunswick shall amend its zoning ordinances so that developers of low and moderate income units in the PRD VII and MH Zones are required to affirmatively market those units to persons of low and moderate income, irrespective of race, color, sex, or national origin. Such affirmative marketing shall include advertisement in newspapers with general circulation in the urban core areas

located in the 11 county present need region identified in AMG. The Township shall also require the developer to advertise the low and moderate income units with local fair housing centers, housing advocacy organizations, Urban Leagues, and governmental or private housing referral agencies located within the 11 county region.

The zoning amendments required by Paragraphs 15-23 of this Order are attached hereto as part of Exhibit B and made a part hereof.

24. The Township of South Brunswick shall report in writing to the Court and to Plaintiff, Civic League or its designee, within forty-five (45) days of the entry of this Consent Order or when all ordinance amendments and resolutions have been duly enacted by the Council and Mayor of the Township, whichever first occurs, certifying that all ordinance amendments and resolutions have been enacted or providing an explanation as to why they have not been enacted. Upon certification that all required amendments and resolutions have been enacted the Court will enter an Order of Compliance which will be valid and binding for six years from July 2, 1985. If all ordinance amendments and resolutions required herein have not been enacted, the Court shall set this case for trial.

25. The Township of South Brunswick shall report quarterly in writing to Plaintiff, Civic League or its designee, commencing with March 31, 1986, providing the following information:

(a) itemization of all proposed developments for which applications have been filed with the Township's Planning Board, including the location of the proposed site, the number, type, size and estimated cost or rental price of lower income units, the name of the developer and the developer's attorney, and the dates and nature of any action that Planning Board has taken or anticipates taking, and

(b) a copy of the affirmative marketing plans provided for each development together with copies of advertisements and a list of newspapers and community or governmental organizations or agencies which received the advertisements.

EUGENE D. SERPENTELLI, A.J.S.C.

We hereby consent to the form, substance, and entry of this Consent Order.

Date: 1/29/86

Date: _____

Eric Neisser

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