

South Brunswick 1986

Consent order

Attch: cover letter to Lerman  
Cover letter to Benedict  
Cover letter to Benedict

pgs: 25 (Consent Order) & 48 (Exhibits) → <sup>73</sup>~~70~~ pgs

\* Not included exhibits A, C or D

ML0003190

THE STATE UNIVERSITY OF NEW JERSEY  
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January 14, 1986

Ms. Carla Lerman  
413 West Englewood Avenue  
Teaneck, NJ 07666

Re: Urban League v. Carteret (South Brunswick)

Dear Ms. Lerman:

Enclosed please find a copy of the Consent Order and Exhibits A and C to that order which the Township of South Brunswick and the Urban League have now agreed to. Exhibit B, which is not enclosed, includes the zoning and affordable housing revisions. Mr. Benedict is now making final revisions on that exhibit and will forward you a copy as soon as it is completed. The Township Committee will be meeting Tuesday, January 21, to adopt a resolution authorizing Mr. Benedict to sign the Consent Order. The matter will then be forwarded to the Judge with a request for your review and the setting of a compliance hearing date. In order to minimize delay, Mr. Benedict agreed that I could send you these materials at this time.

Please let me know if you have any questions.

Very truly yours,



Eric Neisser

encls

cc/Joseph Benedict, Esq.

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January 28, 1986

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

Re: Urban League v. Carteret, et al., No. C 4122-73

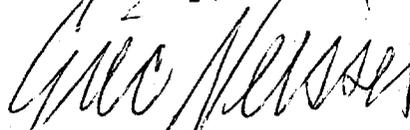
Dear Joe:

Enclosed please find the signed original of the Consent Order and the originals of Exhibits A, B, and C. Exhibit D is to be the resolution concerning subsidies that you were going to draft.

With regard to the ordinance, Exhibit B, I noted only five minor errors. First, the designation of the Georges Road site in paragraph 2(c) at the top of page 2 is incorrect in that Lot 30 should be in Block 30 not Block 31. Second, paragraph 2 on the bottom of page 6 should refer to Lot 24.01 as well as 23.04. I should note that both of these changes were made in the Consent Order at your request. Third, there is a typographical error on the sixth line from the end of paragraph 3 on page 7, the second word should be "of" not "or". Fourth, the long paragraph on lower income housing, on page 10 does not include the 50-30-20 percent breakdown of the bedroom mix which is found in paragraph 5 on page 14. The Consent Order expressly applies that breakdown to both the MH and PRD VII zones. Fifth, the third line from the bottom of paragraph 8 on page 12, should read "assuming full development at ...". Obviously these changes need not be made before next Tuesday's submission to the Township Committee, but can be incorporated before final adoption.

To facilitate matters, I am sending copies of these papers to Ms. Lerman today and we can notify her next Wednesday as to the Committee's vote.

Sincerely,



Eric Neisser

encls  
cc/Ms. Carla Lerman

Changes:

Page 2 ¶2c Block 30, Lot 30

Page 6 ¶2 includes Lot 24.01

Page 7 sixth line from end of ¶3, second word "of"

Page 10 top paragraph - includes bedroom breakdown and restriction as to senior citizen units

Page 12 ¶8 "assuming at"

Page 14 ¶15 adds senior citizen unit restriction on bedroom percentage

Page 20 bottom - last few words

Page 20 top - first few words

oh wait all  
but not mentioned  
by Eric Neisser

question - mfr. vs. mobile homes  
mfr units not permitted in PRD VII zone -  
can this be prohibited if meet all design &  
codes standards

Min Apt sizes should include reference to HUD  
standards, please

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February 4, 1986

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

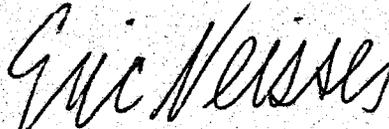
Re: Urban League v. Carteret, et al., No. C 4122-73

Dear Joe:

Enclosed please find the signed original of the revised Consent Order with the changes in Paragraphs 7, 8 and 10 which we agreed upon yesterday. My signature is contingent on the understanding that the only changes being made by your typist in the ordinance, which is Exhibit B, are the five noted in my January 28, 1986 letter to you, plus the change from "social service and public welfare" to "housing and community development" at the bottom of page 20 and top of page 21 on the last draft of the ordinance, which we discussed on the phone yesterday.

Please give me a call after receipt if you have any questions and in any case please call me on Wednesday morning.

Sincerely yours,



Eric Neisser  
Urban League Counsel

encls

cc/Carla Lerman

VIA HAND DELIVERY



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. Plaintiffs shall respond within thirty (30) days to Township requests for such agreement and consent shall not be unreasonably withheld. 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. Plaintiffs shall respond within thirty (30) days to Township requests for such agreement and consent shall not be unreasonably withheld.

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, and, in developments containing 100 or more lower income units, no less than 20 percent shall be three bedroom or larger units. The foregoing provision for three bedroom units shall not apply to lower income units restricted to senior citizens. 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	470 <sup>sq</sup>
One bedroom units	600 square feet	HUD 540 <sup>sq</sup>
Two bedroom units	800 square feet	
Three bedroom units	1000 square feet	

Furthermore, lower income units in developments governed by this Order shall be reasonably well dispersed throughout 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, or to any building with lower income units restricted to senior citizens, 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

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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

*gross density is 7/acre*

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.

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

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

Date: 2/4/86

Date: \_\_\_\_\_

Eric Neisser

ERIC NEISSER, ESQ.  
JOHN M. PAYNE, ESQ.  
Constitutional Litigation  
Clinic  
Rutgers Law School  
15 Washington Street  
Newark, New Jersey 07102

COUNSEL FOR PLAINTIFFS

JOSEPH BENEDICT, ESQ.  
Benedict & Altman  
247 Livingston Avenue  
New Brunswick, New Jersey 08902

COUNSEL FOR DEFENDANTS  
TOWNSHIP COMMITTEE AND MAYOR  
OF THE TOWNSHIP OF  
SOUTH BRUNSWICK

DESIGNATED SITES FOR PROVISION OF LOW-MODERATE INCOME HOUSING

	<u>Acres/Zone</u>	<u>Total Potential Units</u>	<u>Low Income</u>	<u>Intermediate Income Units</u>	<u>Moderate Income Units</u>	<u>Total Low/Mod.</u>	<u>%Low/Mod. Income Units of Total</u>
<b>A. TRACTS SUBJECT TO MANDATORY SET ASIDE</b>							
St. Augustine's	35/PRD VII	245	12	13	24	49	20%
Town Center	472/PRD VII	3304	165	165	330	660	20%
Municipal Complex	92/PRD VII	644	32	32	64	128	20%
Georges Road	224/PRD VII	1568	78	78	157	313	20%
St. Cecilia's	8.5/PRD VII	60	3	3	6	12	20%
	<u>Sub-Totals</u>	<u>5821</u>	<u>290</u>	<u>291</u>	<u>581</u>	<u>1162</u>	
<b>B. SUBSIDIZED HOUSING PROJECTS</b>							
Charleston Place	5/MF	30	14	-0-	16	30	100%
Eastern Prop./Rt. 27	6/MF	40	40	-0-	-0-	40	100%
Xebec/Black Horse Lane	6/--	40	40	-0-	-0-	40	100%
Whispering Woods/ Route 522	<u>6/--</u>	<u>39</u>	<u>13</u>	<u>13</u>	<u>13</u>	<u>39</u>	<u>100%</u>
	<u>Sub-Totals</u>	<u>149</u>	<u>107</u>	<u>13</u>	<u>29</u>	<u>149</u>	
<b>C. ADDITIONAL SUBSIDIZED UNITS</b>							
		<u>100</u>				<u>100</u>	<u>100%</u>
	<u>Sub-Totals</u>	<u>100</u>				<u>100</u>	

	<u>Acres/Zone</u>	<u>Total Potential Units</u>	<u>Low Income</u>	<u>Intermediate Income Units</u>	<u>Moderate Income Units</u>	<u>Total Low/Mod.</u>	<u>%Low/Mod. Income Units of Total</u>
<b>D. MOBILE/MANUFACTURED HOUSING</b>							
Deans/Rhode Hall Rd./ Route 130 (Weisenfeld)	165/MH	908	75	76	76	227	25%
Deans/Rhode Hall Rd./ Route 130 (Eckert)	23.2/MH	128	10	10	11	31	25%
Culver Road	142.5/MH	784	65	65	66	196	25%
	Sub-Totals	1820	150	151	153	454	
<b>E. CREDIT FOR PREVIOUSLY BUILT UNITS</b>							
Charleston Place		54	26	-0-	28	54	100%
	Sub-Totals	54	26	-0-	28	54	
<hr/>							
GRAND TOTAL		7944	573	455	791	1919	
			1819				



IN REPLY PLEASE REFER TO

State of New Jersey  
DEPARTMENT OF TRANSPORTATION

1035 PARKWAY AVENUE  
CN 600  
TRENTON, NEW JERSEY 08625

County Route 522  
South Brunswick Township  
Middlesex County

Roger A. Bodman  
COMMISSIONER

September 30, 1985

Joseph J. Benedict, Esq.  
247 Livingston Avenue  
New Brunswick, New Jersey 08901

Dear Mr. Benedict:

This is to advise you that Section III, County Route 522, has a top priority within the Department of Transportation. The Department of Transportation is desirous of obtaining funds to construct Section III from New Road to Kingston Lane in September, 1986. Section IV from Route 1 to New Road and Sections 1 and 2 from Kingston Lane to Route 130 would be advertised as separate construction contracts subject to the availability of funds in the latter part of 1986 or early 1987.

Very truly yours,

Seth S. Barton  
District III Engineer  
Traffic and Local Road Design

SSB/mji

EXHIBIT C

AN ORDINANCE AMENDING AND SUPPLEMENTING THE  
LAND USE MAP OF THE TOWNSHIP OF SOUTH BRUNSWICK  
AND THE REVISED GENERAL ORDINANCES OF THE TOWN-  
SHIP OF SOUTH BRUNSWICK, 1975, SPECIFICALLY  
CHAPTER XVI, LAND USE

BE IT ORDAINED by the Township Committee of the Town-  
ship of South Brunswick, County of Middlesex, State of New Jersey,  
that the Land Use Zone Map of the Township of South Brunswick be  
and is hereby amended and supplemented as follows:

1. The following tracts be and are hereby rezoned to the  
Manufactured Housing Zone (MH) permitting mobile/manufactured  
housing at a gross density of five and one-half (5.5) 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 Map of the Township of South Brunswick.
- b. Block 30, Lot 23.04 and 24.01, located at the south-west 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 fifteen (915) feet from the southerly property line of Block 262, Lot 1.01 to the north.

2. The following tracts be and are hereby rezoned to the  
Planned Residential Development VII Zone (PRD VII) permitting a  
gross density of seven (7) 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, Lots 10.01, 12, 14, 25.16, 30 and 37, <sup>Block 30 Lot</sup> located north of Georges Road, consisting of approximately 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, 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 443.29 feet from the intersection.

3. The following tract be and is hereby rezoned to General Industrial-3 (I-3):

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 fifteen (915)

feet from the southerly property line of Block 262, Lot 1.01.

A copy of the map showing the proposed changes will be published prior to adoption of the ordinance and is on file and available for inspection at the office of the Township Clerk during normal business hours.

BE IT FURTHER ORDAINED that the Revised General Ordinances of the Township of South Brunswick, 1975, specifically Chapter XVI, Land Use, be and are hereby amended and supplemented as follows:

§16-2.1 Purpose. be and is hereby amended and supplemented by the addition of the following as 16-2.1q:

"q. To satisfy the Township's obligation to provide for its fair share of the regional need for lower income housing."

§16-3 Definitions. be and is hereby amended and supplemented by the deletion of the existing 16-3.29A, 16-3.67, 16-3.68 and 16-3.69, and the addition of the following:

- "16-3.2A Affordable Housing Agency. Affordable Housing Agency shall mean the Agency referred to in Section 16-62.13i, or its designee.
- 16-3.25A Doublewide Unit. Doublewide unit shall mean a mobile home consisting of two (2) modules containing a width of between twenty-two feet (22') and twenty-eight feet (28').
- 16-3.46A Income Ceiling. Income ceiling shall mean eighty percent (80%) of the regional median income for moderate income households, seventy percent (70%) of the regional median income for intermediate moderate income households, and fifty percent (50%) of the regional median income for low income households.
- 16-3.47A Intermediate Moderate Income Household. Intermediate moderate income household shall mean a household whose income is greater than fifty percent (50%) but does not exceed seventy percent (70%) of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.47B Intermediate Moderate Income Unit. Intermediate moderate income unit shall mean a dwelling unit that is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge affordable by intermediate moderate income households.
- 16-3.61A Low Income Household. Low income household shall mean a household whose income does not exceed fifty percent (50%) of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.61B Low Income Unit. Low income unit shall mean a dwelling unit which is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by low income households.
- 16-3.61C Lower Income Housing. Lower income housing shall mean the sum of all categories of housing subject to the price and occupancy requirements of Section 16-62.13, including low income, moderate income and intermediate moderate income units.
- 16-3.63A Manufactured Housing. Manufactured housing is intended to be generic and shall mean housing which is mass-produced in a factory; designed and constructed for transportation to a site for installation and use when connected to required utilities; and comprised of an independent, individual building or modules combined with other elements to form a building on the site. Manufactured housing includes any housing customarily known as modular housing.
- 16-3.63B Manufactured Housing Development. Manufactured housing development shall mean a development designed and intended for the sale of lots with, or for the placement of manufactured housing and/or mobile homes for fee simple residential occupancy.

- 16-3.67 Mobile Home. Mobile home shall mean a unit of housing which: consists of one or more transportable sections that are built on a permanent chassis; is designed to be used, when connected to utilities, as a dwelling; and is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Act and the standards promulgated by the Commissioner pursuant to P.L. 1975, c.217 (N.J.S.A. 52:27D-119, et seq.).
- 16-3.68 Mobile Home Park. Mobile home park shall mean any plot of land which is equipped for the installation of two or more mobile homes and is under common ownership and control, other than a cooperative, for the purpose of leasing mobile home units and/or leasing mobile home sites to owners of mobile homes for the installation of such units.
- 16-3.69 Mobile Home Site. Mobile home site shall mean a parcel of land designed to accommodate a mobile home and shall include the mobile home stand and the mobile home yard.
- 16-3.69A Mobile Home Stand. Mobile home stand shall mean that part of a mobile home site which has been reserved exclusively for the placement of a mobile home.
- 16-3.69B Mobile Home Yard. Mobile home yard shall mean that part of a mobile home site excluding the mobile home stand.
- 16-3.69C Moderate Income Household. Moderate income household shall mean a household whose income is greater than fifty percent (50%), but does not exceed eighty percent (80%), of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.69D Moderate Income Unit. Moderate income unit shall mean a dwelling unit which is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by moderate income households.
- 16-3.102A Regional Median Income. Regional median income shall mean the median income for the present housing need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984. For ease of calculation, regional median income shall be deemed to mean ninety-four percent (94%) of the median income for the Primary Metropolitan Statistical Area (PMSA) in which Middlesex County is located.
- 16-3.113A Singlewide Unit. Singlewide unit shall mean a mobile home which consists of one (1) module containing a width of twenty-two feet (22') or less.

§16-42.1f be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"16-42.1f Traffic; Circulation Impact Statement. Applicants for development of tracts identified in the master plan as potentially having or creating traffic problems shall submit a statement of the traffic and circulation impact of the development based on a traffic and circulation impact study."

§16-42.1g be and is hereby deleted in its entirety.

§16-42.1h be and is hereby amended and supplemented by the deletion of the existing section, the substitution of the following in its place, and the redesignation of the following as 16-42.1g:

"16-42.1g Environmental Impact Statement. Applicants for development of tracts identified in the master plan as environmentally sensitive shall submit a statement of the impact on the environment by the development based on an environmental impact study."

§16-42.1i and j. be and are hereby redesignated as 16-42.1h and 16-42.1i.

§16-57.4c7 be and is hereby amended and supplemented by the deletion of the words "eight (8)" and the substitution of the words "twelve (12)" in their place.

§16-57.6a be and is hereby amended by the deletion of the words "PRD III" in the table.

§16-62.2 Use Regulations. be and is hereby amended and supplemented by the deletion of the existing section entitled "MH Manufactured Housing/Cluster Option" from the Schedule of District Regulations and the substitution of the following in its place:

"MH Manufactured Housing

Purpose.

1. The intent of the MH Zone District is to permit development of manufactured housing developments of low cost manufactured housing, as a permitted use, in order to satisfy in part the Township's obligation to provide a realistic opportunity for the development of its fair share of the regional need for lower income housing.

2. Since the intent of the provisions is to encourage the production of housing affordable to low and moderate income households and the designation of mobile home and manufactured housing as the principal use is a means of achieving that goal, other housing types compatible with the principal permitted uses shall be permitted as well, as

long as there is full compliance with the lower income housing requirements set forth in this ordinance.

#### Uses Permitted

1. Manufactured housing developments containing any combination of the following housing types:

- a. Single family detached mobile homes or manufactured housing units;
- b. Semi-detached single family or two family mobile homes or manufactured housing units;
- c. Attached manufactured housing units, forming townhouse or apartment configurations.

2. Conventionally constructed single family houses, semi-detached or two family houses, townhouses, or garden apartments which conform to the area, yard, density and other requirements for such housing types in the PRD VII Zone, except that such PRD VII development must meet the set-aside and percentage distribution of low, intermediate moderate and moderate income units otherwise required for manufactured housing in the MH Zone.

#### Accessory Uses Permitted

1. Community buildings, clubs and activities of a quasi-public social or fraternal character which directly benefit the residents of a manufactured housing development.

2. Public buildings, including schools and township facilities; and quasi-public buildings, including places of worship; but not including cemeteries.

3. Parks, playgrounds, and other public recreation and open space.

4. Private garages.

5. Private residential swimming pools in rear yard areas of single family dwelling lots, or accessory to a public recreational facility.

6. Home occupation and home professional offices, in manufactured housing developments, as defined and regulated in the provisions of this Chapter.

7. Signs, as regulated in this Chapter.

8. Fences, as regulated in this Chapter.

#### Use, Area, Yard and Density Requirements

1. Public potable water and sewer must be provided for all manufactured housing developments.

2. The minimum tract size for a manufactured housing development shall be fifty (50) contiguous acres. Block 30, Lot 23.04 shall be exempt from this provision.

3. The maximum gross residential density for a manufactured housing development shall be five and one

half (5.5) units per acre. The maximum net residential density for a manufactured housing development shall be eight (8) units per acre. For purposes of the ordinance, gross acreage shall include all lands within the exterior boundaries of the tract without regard to the purpose for which the land is to be used, or any dedication of land within those boundaries. Approval by the Township of South Brunswick of subdivision and site plan applications for the Deans/Rhode Hall Road site, described as the 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, shall be conditioned upon the developer dedicating an eighty foot (80') right of way and building a two-lane roadway through the site connecting U.S. Route 130 to Georges Road. Approval by the Township of South Brunswick of subdivision and site plan applications for either of the Culver Road sites, described as Block 37, Lot 2 and Block 38, Lot 3, located on the southerly side of Culver Road and consisting of 47.5 acres, and the 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, shall be conditioned upon the developer or developers or the sites 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 95 acre site or joint development of both sites may be conditioned upon actual construction of such a road.

4. A minimum of twelve percent (12%) of the total tract area of each manufactured housing development shall be reserved as open space, to be devoted to passive or active recreational uses, and highway buffering. Recreation facilities appropriate and suitable to the needs of the residents of the development shall be provided. Each development shall contain a minimum of at least one usable active recreational area of at least 30,000 square feet for the first twenty (20) acres of the tract and an additional usable active recreational area of 10,000 square feet for each additional twenty (20) acres of the tract. Each development shall additionally contain an area or areas suitable for active recreational use at least 30,000 square feet in size for the first twenty (20) acres of the tract and 10,000 square feet for each additional twenty (20) acres of the tract which shall be designated as suitable for active recreational use on the final subdivision plan and dedicated to the Township at time of final subdivision approval. Swimming pools or community buildings may not be required by the Planning Board to satisfy the active recreation obligation set forth herein.

5. At least thirty-five percent (35%) of all detached (single family) mobile homes in a manufactured housing development shall be doublewide units.

6. The minimum lot size for singlewide mobile homes shall be 2800 square feet, or three (3) times the floor area of the mobile home unit, whichever is less. The minimum lot size for doublewide mobile homes shall be 4500 square feet or three (3) times the floor area of the mobile home unit, whichever is less.

7. The minimum setbacks for manufactured housing units or mobile homes shall be as follows:

front yard	15 feet
rear yard	10 feet
principal side yard (side with entrance)	12 feet
principal side yard (with driveway)	18 feet
secondary side yard (side without entrance)	5 feet
accessory structures	5 feet

8. Where semi-detached (two family) mobile homes are provided with each unit having a single side yard, the minimum width of that yard shall be fifteen (15) feet.

9. At no point shall the sides of any manufactured housing unit or mobile home be closer than ten (10) feet from any other unit (excluding steps, awnings, patios, decks, porches and any other appurtenances), provided that the average distance between the sides of any such units shall not be less than seventeen (17) feet.

10. At no point shall the ends of any manufactured housing unit or mobile home be closer than twenty (20) feet from the end of any other such unit.

11. A distance of not less than ten (10) feet shall be maintained between any manufactured housing unit or mobile home and its appurtenances, and any other such unit and its appurtenances. This requirement shall apply to awnings, patios, decks, steps and porches.

12. All storage sheds, metal sheds and other accessory type storage structures shall not be located in the front yard and shall be located a minimum of ten (10) feet from any adjoining manufactured housing unit or mobile home.

13. Storage type accessory structures shall be constructed on a ground support slab, with a positive grade away from such slab, in accordance with the provisions and standards set forth in this Chapter.

14. The Planning Board shall not unreasonably deny any requests from a developer to modify any of the development standards set forth in this Section where the developer establishes that such modification is necessary to permit development of the lower income units, except where such modification will adversely affect the health, safety or welfare of the residents of the Township.

#### Parking and Circulation

1. Parking spaces shall average two (2) spaces per unit in the MH development.

2. Parking meeting the above requirements may be provided through any combination of the following approaches:

- a. Garages, individual or community;
- b. Surface parking areas (parking lots or bays);
- c. Individual unit driveways;
- d. Parking areas along one side of any internal one way street with a minimum paved width of twenty-four feet (24') or along one side of any internal two way street with a minimum paved width of thirty feet (30').

3. a. Internal one way streets shall be provided with a minimum right of way of forty (40) feet, and a minimum paved width of twenty-four (24) feet where parking is provided as set forth above.

b. Internal two way streets shall be provided with a minimum right of way of fifty (50) feet and a minimum paved width of thirty (30) feet where parking is provided as set forth above.

c. The Township will accept dedication of streets in MH developments which have a minimum of twenty-four (24) feet paved width and a minimum forty (40) feet right of way.

4. Appropriate means of pedestrian circulation throughout the development will be provided, to ensure that residents of the development have access (1) to community and recreational facilities within the development; and (2) to convenience shopping and public transportation, if any, adjacent to the development. Walkways shall be at least three (3) feet in width, and shall be four (4) feet in width in those areas in which substantial pedestrian traffic can reasonably be expected.

#### Landscaping

1. A landscaped buffer strip shall be maintained along any property line of a manufactured housing development which abuts adjacent off-tract residential areas, and shall be of adequate width to ensure that no structure in the development will be less than fifty (50) feet from said property line and one hundred (100) feet from dual highways.

2. Landscaping to be provided in a manufactured housing development shall be shown on the site plan. Wooded areas shall be preserved wherever possible without causing interference with the general plans, specifications and other requirements pertaining to the site. No manufactured housing unit or mobile home shall be constructed or installed within fifty (50) feet of streams, rivers or lakes.

#### Lower Income Housing

Any development in the MH Zone shall be subject to the lower income housing requirements set forth in the Affordable

Housing section of this ordinance (16-62.13), as well as the following standard applicable to the MH Zone. At least twenty-five percent (25%) of the units in all manufactured housing developments in the MH Zone (assuming full development at the maximum density allowed by right in the zone) shall be lower income housing units subject to the terms and requirements of Section 16-62.13 of the ordinance. At least one third (1/3) of the total number of lower income units shall be low income units and at least one third (1/3) of the total number of lower income units shall be intermediate moderate income units. Any approval of a development application subject to this section shall require that the construction of the lower income units be phased in with the balance of the development in accordance with the following standard:

<u>Number of market units completed as a % of the total number of market units approved</u>	<u>Number of lower income units completed as a % of the total number of lower income units approved</u>
Not more than 25%	At least 25%
50%	60%
75%	85%
90%	100%

To implement this requirement, certificates of occupancy shall not be issued for more than twenty-five percent (25%) of the total number of market units until certificates of occupancy have been issued for at least twenty-five percent (25%) of the total number of lower income units; certificates of occupancy shall not be issued for more than fifty percent (50%) of the total number of market units until certificates of occupancy have been issued for at least sixty percent (60%) of the total number of lower income units; certificates of occupancy shall not be issued for more than seventy-five percent (75%) of the total number of market units until certificates of occupancy have been issued for at least eighty-five percent (85%) of the total number of lower income units; and certificates of occupancy shall not be issued for more than ninety percent (90%) of the total number of market units until certificates of occupancy have been issued for one hundred percent (100%) of the lower income units. Where construction of lower income housing is being phased in with the balance of a development, each phase shall include a mixture of low, moderate and intermediate moderate income units reasonably consistent with the percentage distribution of each category within the development as a whole."

§16-62.2 Use Regulations. The section of the Schedule of District Regulations entitled "PRD III Town Center Development" be and is hereby amended and supplemented as follows:

1. By the retitling of "PRD III Town Center Development" to "PRD VII".

2. "Purpose." be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"Purpose. The intent of the PRD VII Zone District is to initiate planned unit development, as permitted by the New Jersey Planned Unit Development Act, which promotes the efficient delivery of municipal services, the construction of affordable types of housing, the utilization of mass transit and the preservation of active and passive open space. It is more specifically intended that the PRD VII Zone District permit the development of minimum percentages of low income, intermediate moderate and moderate income units in order to satisfy the township's obligation to provide a fair share of affordable housing for low, intermediate moderate and moderate income households."

3. "Area, Yard and Density Requirements (subject to critical area adjustment factors, where applicable, as set forth in this chapter)." be and is hereby amended and supplemented by:

a. Subparagraph 1: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"1. The minimum tract size for a PRD VII development shall be forty (40) contiguous acres. Block 93, Lots 3, 4 and 41, Block 85, Lot 18.01, and Block 87, Lot 12.14 shall be exempted from this provision."

b. Subparagraph 2: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"2. The maximum gross residential density shall be seven (7) units to the acre. The maximum net residential density shall be twelve (12) units to the acre. For purposes of determining gross density, the total tract shall be considered, to include any portions not developed for residential use pursuant to subsections 7 and 8 below and notwithstanding the provisions of Section 16-62.29. Approval by the Township of South Brunswick of subdivision and site plan applications for the Georges Road site, described as 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, shall be conditioned upon firm construction commitments for that part of proposed Route 522 which will connect Georges Road to U.S. Route 130. No certificates of occupancy shall be issued by the Township of South Brunswick for development of any parcel within the Town Center site, described as 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, until construction of that portion of proposed Route 522 that connects New Road to Kingston Lane and no more than fifty percent (50%) 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."

c. Subparagraph 7: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"7. A minimum of twenty-five percent (25%) of the total tract area must be reserved as open space to be devoted to passive or active recreational use, environmentally critical areas and buffer zones. The municipal agency may not require that more than seven percent (7%) of the total tract be devoted to active recreational use. The municipal agency may require that an additional five percent (5%) of the total tract shall be suitable for active recreational use, which shall be designated as suitable for active recreational use on the final subdivision plan and dedicated to the township at time of final approval. Swimming pools and community buildings may not be required by the Planning Board to satisfy the active recreation obligation set forth herein."

d. Subparagraph 8: The deletion of the first sentence of the existing subparagraph and the substitution of the following in its place:

"8. In a PRD VII development consisting of at least 150 contiguous acres up to twenty percent (20%) of a tract area can be used for commercial and office development. Where any portion of a tract is used for commercial or office development under this provision, the Planning Board shall not unreasonably deny a request to increase net densities for residential development where necessary to permit development at the maximum gross residential density. Use of any portion of the tract for commercial and office development pursuant to this subparagraph does not diminish the requirement, set forth in Paragraph 2 under Other Requirements Applicable to PRD VII, that each approved development contain twenty percent (20%) of the total number of units that may be developed assuming full development of the maximum density of seven (7) units per acre provided by right in each zone over the entire tract for which application is made."

e. Subparagraph 9: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"9. The Planning Board shall not unreasonably deny any requests from a developer to modify any of the development standards set forth in this Section where the developer establishes that such modification is necessary to permit development of the lower income units, except where such modification will adversely affect the health, safety or welfare of the residents of the Township."

4. By the addition of the following as "Other Requirements Applicable to PRD VII":

"Other Requirements Applicable to PRD VII

1. Each application for development subject to this section shall clearly state the number of low, intermediate moderate and moderate income housing units, as defined in Section 16-62.13, and the number of such units subject to age restrictions that are proposed for inclusion within the development, and each resolution of approval shall clearly state the number of low, intermediate moderate and moderate income units and the number of such units subject to age restrictions that are approved as part of the development.

2. Each approved development shall contain lower income units, as defined in Section 16-62.13, in a minimum proportion of twenty percent (20%) of the total number of units that may be developed, assuming full development at the maximum density of seven (7) units per acre provided by right in each zone over the entire tract for which application is made.

3. No more than thirty percent (30%) of the total number of low, moderate and intermediate moderate income units that may be developed in any development subject to this section may have occupancy restrictions based on the age of household members. No developer of lower income housing may impose occupancy restrictions with respect to any lower income housing that requires a minimum age of 59 years or less. The township may not require a developer of lower income housing to impose any age-based occupancy restrictions with respect to such housing as a condition of approval, waiver or assistance.

4. Any approval of a development application subject to this section shall require that the construction of the lower income units be phased in with the balance of the development in accordance with the following standard:

<u>Number of market units completed as a % of the total number of market units approved</u>	<u>Number of lower income units completed as a % of the total number of lower income units approved</u>
Not more than 25%	At least 25%
50%	60%
75%	85%
90%	100%

To implement this requirement, certificates of occupancy shall not be issued for more than twenty-five percent (25%) of the total number of market units until certificates of occupancy have been issued for at least twenty-five percent (25%) of the total number of lower income units; certificates of occupancy shall not be issued for more than fifty percent (50%) of the total number of market units until certificates of occupancy have been issued for at least sixty percent (60%) of the total number of lower income units; certificates of occupancy shall not be issued for more than seventy-five percent (75%) of the total number of market units until certificates of occupancy have been issued for at least eighty-five percent (85%) of the total number of lower income units; and certificates of occupancy shall not be issued for more than ninety percent (90%) of the total number of market units until certificates of occupancy have been issued for one hundred percent (100%) of the lower income units. Where construction of lower income housing is being phased in with the balance of a development, each

phase shall include a mixture of low, moderate, and intermediate moderate income units reasonably consistent with the percentage distribution of each category within the development as a whole.

5. In any development approved pursuant to this section, no less than one-fourth of the total number of lower income units shall be affordable by low income households as defined in Section 16-62.13, and no less than one-fourth of the total number of lower income units shall be affordable by intermediate moderate income households as defined in Section 16-62.13. No more than fifty percent (50%) of the lower income units in any development subject to this section shall be one (1) bedroom or efficiency units. In developments containing one hundred (100) or more lower income units, at least twenty percent (20%) of these units shall be three (3) bedroom units or larger.

6. No tracts other than those rezoned as part of this ordinance revision, which was adopted in accordance with a consent order dated \_\_\_\_\_, 1986, in the matter entitled Urban League of Greater New Brunswick, et al. vs. The Mayor and Council of the Borough of Carteret, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-4122-73, may be zoned at gross densities greater than four (4) units per acre unless those zones are subject to a mandatory set-aside provision, reasonably proportionate to those contained herein, requiring that at least fifteen percent (15%) of the total number of units that may be developed shall be set aside as lower income units. Any tracts, other than those rezoned as part of this ordinance revision, which are zoned at gross densities of seven (7) or more units per acre shall be subject to a minimum requirement of twenty percent (20%) set aside for lower income housing development."

§16-62.13 be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"16-62.13 Affordable Housing.

a. Purpose. The purpose of this section is to (1) promote the general welfare by providing for a variety of housing choices within the township; (2) satisfy the township's constitutional obligation under Mt. Laurel II to provide a realistic opportunity for the development of its fair share of the regional need for lower income housing; and (3) comply with the consent order dated 1986, in the matter entitled Urban League of Greater New Brunswick, et al. vs. The Mayor and Council of the Borough of Carteret, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-4122-73, by establishing a mechanism for assuring that housing units designated for occupancy by low, moderate and intermediate moderate income households remain affordable to, and occupied by, such households.

b. General Provisions.

1. Wherever reference is made to lower income housing, or low, moderate or intermediate moderate

income units in the Land Use Ordinance, the standards, definitions and procedures set forth in the section shall apply.

2. Except as otherwise expressly provided herein, no low, moderate or intermediate moderate income unit shall be offered for sale or rental except at prices that are affordable by low, moderate or intermediate moderate income households respectively.

3. Except as otherwise expressly provided herein, no low, moderate or intermediate moderate income unit shall be sold, resold, rented or re-rented except to a household that has been qualified as a low, moderate or intermediate moderate income household, respectively. However, nothing contained in this Chapter, or in the rules and regulations of the Affordable Housing Agency, shall restrict or preclude any household which was classified by the Agency as a low, moderate or intermediate moderate income household at the time it purchased or leased a low, moderate or intermediate moderate income unit from continuing to own or lease said unit after its income exceeds the income ceilings established by this Chapter.

4. A covenant embodying these restrictions shall be recorded with the deed for all sales of property subject to the provisions of this section.

5. Final site plan approval of developments containing Affordable Housing units shall be conditioned upon payment by the developer to the Urban (now Civic) League of Greater New Brunswick the sum of \$30 per lower income unit (equal to \$5 per unit for each of the six years covered by the consent order) for each of the lower income units authorized by that approval; 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 wholly subsidized units.

6. Developments containing Affordable Housing units 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 twenty-four (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 (1/3) 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 one hundred fifty (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.

c. Qualification of Low, Moderate and Intermediate Moderate Income Households. A prospective purchaser or renter of a low, moderate or intermediate moderate income unit must be qualified as a low, moderate or intermediate moderate income household by the Affordable Housing Agency prior to the purchase or rental of such unit. In making this determination, the Affordable Housing Agency shall apply the standards set forth in the definitions of low, moderate and intermediate moderate income household in Section 16-3 of the Revised General Ordinances of the Township of South Brunswick. The Affordable Housing Agency shall periodically recalculate the regional median income and the adjustments for household size based on changes in the official estimates of the median income for the Primary Metropolitan Statistical Area (PMSA) in which the township is located.

d. Determination of Maximum Sales Prices and Rental Charges. Prior to the sale, resale, rental, or re-rental of a low, moderate or intermediate moderate income unit, the Affordable Housing Agency shall determine the maximum sales price or rental charge that may be charged for that size unit in each income category.

1. Maximum Sales Price. The following procedure shall apply to determine maximum sales prices:

(a) A base price shall be calculated such that the sum of the monthly payments for principal, interest,

taxes, fire, theft and liability insurance, and homeowner association fees, if any, shall not exceed twenty-eight percent (28%) of the low, moderate or intermediate moderate income ceiling determined in accordance with Subsection c. above. A ten percent (10%) down payment requirement and a thirty (30) year mortgage term shall be assumed in making this calculation.

In calculating the monthly interest payment, the Affordable Housing Agency shall apply the interest rate which it determines to be reasonably available locally to low, moderate and intermediate moderate income households, and shall review any documentation provided by the developer regarding financing which it contends is available to such households. If the developer or any other entity offers to buy down the prevailing interest rate and the terms of the buydown provide that the increase in interest rate charged does not exceed one half of one percent (0.5%) per year during the period of the buydown, the interest rate for the first year of the buydown period shall be used in the above calculation to determine the monthly interest payment. If the increase in the interest rate exceeds one half of one percent (0.5%) per year, the average interest rate for the period of the buydown shall be used.

If the developer proposes that an adjustable rate mortgage (ARM) be used to calculate the monthly interest payment and the Affordable Housing Agency determines that such ARMs are reasonably available locally to lower income homebuyers, the initial interest rate of that mortgage shall be used only if the maximum annual average increase does not exceed one half of one percent (0.5%). Otherwise, a rate which is the average of the initial interest rate and the highest possible rate in effect after three years or one and one half (1½) points less than the best available fixed mortgage rate, whichever is greater, shall be used.

(b) In order to assure that low, moderate and intermediate moderate income units are affordable by households whose income is less than the low, moderate or intermediate moderate income ceiling, the maximum sales price that may be offered for each such unit shall be determined as a percentage of the base price for that size unit in each income category as follows:

(1) For each of the following income categories for which a development has fewer than one hundred (100) units, the following percentages shall be used in determining the maximum sales price:

- (i) Low income - 90% of the base price
- (ii) Intermediate moderate income - 85% of the base price
- (iii) Moderate income - 90% of the base price

(2) For each of the following income categories for which a development has one hundred (100) or more units, the following percentages shall be used in determining the maximum sales price:

- (i) Low income - 95% of the base price for one-half of the units, and 85% of the base price for one-half of the units
- (ii) Intermediate moderate income - 90% of the base price for one-half of the units, and 80% of the base price for one-half of the units
- (iii) Moderate income - 95% of the base price for one-half of the units and 85% of the base price for one-half of the units

A unit offered at eighty-five percent (85%) of the base price shall not be offered for sale to any household whose income is greater than ninety-five percent (95%) of the low, moderate or intermediate moderate income ceiling, whichever is applicable.

(c) Prior to final approval of any development subject to this section, the Affordable Housing Agency shall determine the maximum sales prices by unit size for the low, moderate and intermediate moderate income units in the development and shall so notify the developer. These prices shall remain in effect for a period of one (1) year or until all of the low, moderate or intermediate moderate income units have been sold, whichever occurs first. The developer may request a modification of the maximum sales price at any time by applying to the Affordable Housing Agency for recalculation of these prices based on changes in any of the factors used to calculate the prices.

(d) Prior to the resale of any low, moderate or intermediate moderate income unit, the Affordable Housing Agency shall determine the maximum sales price for that unit in accordance with a formula developed by the Agency which takes into account increases in a generally accepted price or income index, reasonable improvements to the property as determined by the Agency, and reasonable out-of-pocket costs of the sale as determined by the Agency, and which, to the extent feasible, ensures that resale prices will be consistent with the affordability standards set forth in Subsections d.1.(a) and (b) above.

2. Maximum Rental Charges. The following procedure shall apply to determine maximum rental charges:

(a) A base rent shall be calculated such that the sum of the monthly rental payment, including utilities, does not exceed thirty percent (30%) of the low, moderate or intermediate moderate income ceiling determined in accordance with Subsection c. above.

(b) In order to assure that low, moderate and intermediate moderate income units are affordable by a range of households whose income is less than the low, moderate or intermediate moderate income ceiling, the maximum gross rent that may be charged for each unit shall be such that the average of the gross rents charged for that size unit in each income category does not exceed the following percentage of the base price for that size unit in each of the following income categories:

- (i) Low income - 90% of the base price
- (ii) Intermediate moderate income - 80% of the base price
- (iii) Moderate income - 90% of the base price

In order to assure affordability by a wider range of lower income households, the Affordable Housing Agency shall encourage landlords to set individualized rents, not to exceed thirty percent (30%) of the tenant's actual income, provided that the average of such rents for each size unit not exceed ninety percent (90%) of the base rent for that size unit in each income category.

(c) If the cost of all utilities, including heat, hot water, cooking fuel, and electricity, is not included in the monthly rental charge, an estimated monthly charge for those utilities not included in the rent shall be calculated for each unit size. This estimated charge shall be subtracted from the maximum gross rent to determine the maximum rental charge that may be charged for each low, moderate or intermediate moderate income unit.

(d) Once the maximum rental charges have been determined for the low, moderate and intermediate moderate income units, such charges shall not be increased without the prior written approval of the Affordable Housing Agency. The Agency shall establish appropriate criteria and procedures for allowing periodic rental charge increases consistent with the affordability standards set forth in Subsections d.2. (a), (b) and (c) above. No more than one (1) rental charge increase shall be allowed for any unit or group of units within any twelve (12) month period.

(e) Market units and lower income units in a development subject to the affordable housing requirements of Section 16-62.13 of this ordinance shall be exempted from municipal rent control.

(f) Nothing contained in this Chapter shall prevent the Township Committee from adopting rules and regulations for the Affordable Housing Agency not inconsistent with this Chapter. Rules and regulations for the Affordable Housing Agency may be adopted which increase or decrease rents for units subject to the regulations of this Chapter based upon increases or decreases in the income level of the occupant or occupants as same shall be from time to time determined by the Affordable Housing Agency.

3. Relationship Between Household Size and Unit Size. For the purpose of determining maximum sales prices and rental charges pursuant to Subsections d.1. and 2. above, the ceiling incomes of the following household sizes shall be used to determine the maximum prices for each of the following unit sizes:

Efficiency	1 person
1 bedroom	2 persons
2 bedroom	3 persons
3 bedroom	5 persons
4 bedroom	7 persons

4. Maximum Affordable Price Tables. The Affordable Housing Agency shall prepare and maintain tables of maximum affordable prices for low, moderate and intermediate moderate income households by unit size as a guide for determining maximum sales prices and rental charges for low, moderate and intermediate moderate income units.

e. Expiration of Restrictions.

1. Restrictions on the resale of low, moderate or intermediate moderate income units shall expire thirty (30) years from the date of the initial sale of the property.

2. Low, moderate or intermediate moderate income rental units shall remain subject to the requirements of this section indefinitely, except that the limitations set forth in Subsections e.1. above and f. below shall apply if such rental units are converted into condominiums, co-operatives, or some other form of ownership property.

f. Limitations on Restrictions in Event of Foreclosure.

1. Notwithstanding the restriction on resale of low, moderate or intermediate moderate income units set forth in this section, there shall be no such restriction in the event of foreclosure and resale by a lender after foreclosure.

2. In the event of foreclosure, the Affordable Housing Agency shall attempt to identify qualified low, moderate and intermediate moderate income purchasers and shall give notice to the lender of their identity. The Affordable Housing Agency shall undertake other efforts to ensure that lower income housing will not be made unavailable to low, moderate or intermediate moderate income families by virtue of foreclosure. Toward this end, the Affordable Housing Agency shall work with developers of lower income housing to incorporate into deeds or covenants appropriate language providing the Agency with limited rights to intervene prior to foreclosure in order to maintain the property as a low, moderate or intermediate moderate income unit. In the event of foreclosure, the difference, if any, between the sales price and the lender's recovery of principal, interest and costs under its mortgage shall be paid to the Affordable Housing Agency for use in increasing other affordable housing opportunities. The Agency shall have and record a second lien on all lower income properties to insure payment of such a difference in case of foreclosure.

g. Affirmative Marketing. Developers of lower income housing shall affirmatively market such housing to all segments of the lower income population within the Mount Laurel housing region in which the township is located and to all qualified low, moderate or intermediate moderate income households irrespective of race, color, religion, sex or national origin. Toward that end, the developer shall formulate and submit an affirmative marketing plan acceptable to the Affordable Housing Agency, which plan shall be incorporated into any approval of the development application. At a minimum, the plan shall provide for advertisement in newspapers with general circulation in the following urban core areas: Jersey City, Newark, Elizabeth, Paterson, New Brunswick and Perth Amboy. The plan shall also require the developer to notify the following agencies on a regular basis of the availability of any low, moderate or intermediate moderate income units: the Civic League of Greater New Brunswick, the Housing Coalition of Middlesex County, the Middlesex County Office of Community Development, and other fair housing centers, housing referral organizations, and government social service and

public welfare departments located in the eleven-county present need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984.

h. Income Ceiling Exceptions. Where a developer has diligently attempted to market a lower income housing unit and that unit has not been sold within six (6) months after issuance of the certificate of occupancy for that unit, the developer may seek relief under this subparagraph by submitting to the Affordable Housing Agency documentation of all efforts made to sell the unit and the hardship suffered by the continued vacancy. If the Agency finds that the developer has made reasonably diligent efforts and has suffered hardship, and that it is not realistic to expect sale to a qualified household within a reasonable time if sales efforts were to continue, the Agency, in its sole discretion, may provide relief to the developer by permitting the unit to be offered for sale to a purchaser whose income level is up to fifty percent (50%) higher than the income ceiling fixed for the income category for which the unit was originally offered for sale. The unit shall, nevertheless, be sold at the maximum affordable price originally determined by the Affordable Housing Agency and a covenant embodying the restrictions of Section 16-62.13b(1-3) shall be recorded with the deed for the sale of the property subject to the restrictions of this Chapter."

§16-62.29 be and is hereby amended and supplemented by the addition of the following as subsection f.:

"f. The provisions in the section for exception to area requirements based upon critical areas shall not be applicable to sites within the PRD VII and MH zones, which are deemed suitable for development at the densities stated. In the event, however, that there are critical areas within the sites in those zones, site planning shall be performed in a manner to avoid substantial adverse impact on those areas."

The above ordinance was introduced and passed on first reading at a regular meeting of the Township Committee of the Township of South Brunswick held on \_\_\_\_\_, 1986, and will be considered on second reading and second and final passage at a regular meeting of the Township Committee of the Township of South Brunswick to be held at the Municipal Building, Monmouth Junction, South Brunswick Township, New Jersey, at 8:00 P.M. on \_\_\_\_\_, 1986, at which time and place any person having an interest therein will be given an opportunity to be heard.

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KATHLEEN A. THORPE, TOWNSHIP CLERK

~~Bob Hall~~  
Bob Hall - So. Bruns. planner  
201-329-4000  
Joe Benedict  
201-745-9000

Questions

mfr. unit permitted in PRD VII zone - not mobile home - can you say "no mfr unit" when they are completely within design & code standards

SOUTH BRUNSWICK TOWNSHIP ORDINANCE NO. -86

AN ORDINANCE AMENDING AND SUPPLEMENTING THE LAND USE MAP OF THE TOWNSHIP OF SOUTH BRUNSWICK AND THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF SOUTH BRUNSWICK, 1975, SPECIFICALLY CHAPTER XVI, LAND USE

BE IT ORDAINED by the Township Committee of the Township of South Brunswick, County of Middlesex, State of New Jersey, that the Land Use Zone Map of the Township of South Brunswick be and is hereby amended and supplemented as follows:

1. The following tracts be and are hereby rezoned to the Manufactured Housing Zone (MH) permitting mobile/manufactured housing at a gross density of five and one-half (5.5) 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 Map of the Township of South Brunswick.
- 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 fifteen (915) feet from the southerly property line of Block 262, Lot 1.01 to the north.

2. The following tracts be and are hereby rezoned to the Planned Residential Development VII Zone (PRD VII) permitting a gross density of seven (7) 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.

Exhibit B

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, Lots 10.01, 12, 14, 25.16 and 37, and Block 30, Lot 30, located north of Georges Road, consisting of approximately 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, 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 443.29 feet from the intersection.

3. The following tract be and is hereby rezoned to General Industrial-3 (I-3):

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 fifteen (915) feet from the southerly property line of Block 212, Lot 1.01

A copy of the map showing the proposed changes will be published prior to adoption of the ordinance and is on file and available for inspection at the office of the Township Clerk during normal business hours.

BE IT FURTHER ORDAINED that the Revised General Ordinances of the Township of South Brunswick, 1975, specifically Chapter XVI, Land Use, be and are hereby amended and supplemented as follows:

§16-2.1 Purpose. be and is hereby amended and supplemented by the addition of the following as 16-2.1q:

"q. To satisfy the Township's obligation to provide for its fair share of the regional need for lower income housing."

§16-3 Definitions. be and is hereby amended and supplemented by the deletion of the existing 16-3.29A, 16-3.67, 16-3.68 and 16-3.69, and the addition of the following:

- "16-3.2A Affordable Housing Agency. Affordable Housing Agency shall mean the Agency referred to in Section 16-62.13i, or its designee.
- 16-3.25A Doublewide Unit. Doublewide unit shall mean a mobile home consisting of two (2) modules containing a width of between twenty-two feet (22') and twenty-eight feet (28').
- 16-3.46A Income Ceiling. Income ceiling shall mean eighty percent (80%) of the regional median income for moderate income households, seventy percent (70%) of the regional median income for intermediate moderate income households, and fifty percent (50%) of the regional median income for low income households.
- 16-3.47A Intermediate Moderate Income Household. Intermediate moderate income household shall mean a household whose income is greater than fifty percent (50%) but does not exceed seventy percent (70%) of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.47B Intermediate Moderate Income Unit. Intermediate moderate income unit shall mean a dwelling unit that is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge affordable by intermediate moderate income households.
- 16-3.61A Low Income Household. Low income household shall mean a household whose income does not exceed fifty percent (50%) of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.61B Low Income Unit. Low income unit shall mean a dwelling unit which is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by low income households.
- 16-3.61C Lower Income Housing. Lower income housing shall mean the sum of all categories of housing subject to the price and occupancy requirements of Section 16-62.13, including low income, moderate income and intermediate moderate income units.
- 16-3.63A Manufactured Housing. Manufactured housing is intended to be generic and shall mean housing which is mass-produced in a factory; designed and constructed for transportation to a site for installation and use when connected to required utilities; and comprised of an independent, individual building or modules combined with other elements to form a building on the site. Manufactured housing includes any housing customarily known as modular housing.
- 16-3.63B Manufactured Housing Development. Manufactured housing development shall mean a development designed and intended for the sale of lots with, or for the placement of manufactured housing and/or mobile homes for fee simple residential occupancy.

- 16-3.67 Mobile Home. Mobile home shall mean a unit of housing which: consists of one or more transportable sections that are built on a permanent chassis; is designed to be used, when connected to utilities, as a dwelling; and is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Act and the standards promulgated by the Commissioner pursuant to P.L. 1975, c.217 (N.J.S.A. 52:27D-119, et seq.).
- 16-3.68 Mobile Home Park. Mobile home park shall mean any plot of land which is equipped for the installation of two or more mobile homes and is under common ownership and control, other than a cooperative, for the purpose of leasing mobile home units and/or leasing mobile home sites to owners of mobile homes for the installation of such units.
- 16-3.69 Mobile Home Site. Mobile home site shall mean a parcel of land designed to accommodate a mobile home and shall include the mobile home stand and the mobile home yard.
- 16-3.69A Mobile Home Stand. Mobile home stand shall mean that part of a mobile home site which has been reserved exclusively for the placement of a mobile home.
- 16-3.69B Mobile Home Yard. Mobile home yard shall mean that part of a mobile home site excluding the mobile home stand.
- 16-3.69C Moderate Income Household. Moderate income household shall mean a household whose income is greater than fifty percent (50%), but does not exceed eighty percent (80%), of the regional median income, with adjustments for household size, as determined by the Affordable Housing Agency.
- 16-3.69D Moderate Income Unit. Moderate income unit shall mean a dwelling unit which is subject to the price and occupancy requirements of Section 16-62.13 and whose sales price or rental charge does not exceed the maximum price or charge that is affordable by moderate income households.
- 16-3.102A Regional Median Income. Regional median income shall mean the median income for the present housing need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984. For ease of calculation, regional median income shall be deemed to mean ninety-four percent (94%) of the median income for the Primary Metropolitan Statistical Area (PMSA) in which Middlesex County is located.
- 16-3.113A Singlewide Unit. Singlewide unit shall mean a mobile home which consists of one (1) module containing a width of twenty-two feet (22') or less.

§16-42.1f be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"16-42.1f Traffic; Circulation Impact Statement. Applicants for development of tracts identified in the master plan as potentially having or creating traffic problems shall submit a statement of the traffic and circulation impact of the development based on a traffic and circulation impact study."

§16-42.1g be and is hereby deleted in its entirety.

§16-42.1h be and is hereby amended and supplemented by the deletion of the existing section, the substitution of the following in its place, and the redesignation of the following as 16-42.1g:

"16-42.1g Environmental Impact Statement. Applicants for development of tracts identified in the master plan as environmentally sensitive shall submit a statement of the impact on the environment by the development based on an environmental impact study."

§16-42.1i and j. be and are hereby redesignated as 16-42.1h and 16-42.1i.

§16-57.4c7 be and is hereby amended and supplemented by the deletion of the words "eight (8)" and the substitution of the words "twelve (12)" in their place.

§16-57.6a be and is hereby amended by the deletion of the words "PRD III" in the table.

§16-62.2 Use Regulations. be and is hereby amended and supplemented by the deletion of the existing section entitled "MH Manufactured Housing/Cluster Option" from the Schedule of District Regulations and the substitution of the following in its place:

"MH Manufactured Housing

Purpose.

1. The intent of the MH Zone District is to permit development of manufactured housing developments of low cost manufactured housing, as a permitted use, in order to satisfy in part the Township's obligation to provide a realistic opportunity for the development of its fair share of the regional need for lower income housing.

2. Since the intent of the provisions is to encourage the production of housing affordable to low and moderate income households and the designation of mobile home and manufactured housing as the principal use is a means of achieving that goal, other housing types compatible with the principal permitted uses shall be permitted as well, as

long as there is full compliance with the lower income housing requirements set forth in this ordinance.

#### Uses Permitted

1. Manufactured housing developments containing any combination of the following housing types:

a. Single family detached mobile homes or manufactured housing units.

b. Semi-detached single family or two family mobile homes or manufactured housing units.

c. Attached manufactured housing units, forming townhouse or apartment configurations.

2. Conventionally constructed single family houses, semi-detached or two family houses, townhouses, or garden apartments which conform to the area, yard, density and other requirements for such housing types in the PRD VII Zone, except that such PRD VII Development must meet the set-aside and percentage distribution of low, intermediate moderate and moderate income units otherwise required for manufactured housing in the MH Zone.

#### Accessory Uses Permitted

1. Community buildings, clubs and activities of a quasi-public social or fraternal character which directly benefit the residents of a manufactured housing development.

2. Public buildings, including schools and township facilities; and quasi-public buildings, including places of worship; but not including cemeteries.

3. Parks, playgrounds, and other public recreation and open space.

4. Private garages.

5. Private residential swimming pools in rear yard areas of single family dwelling lots, or accessory to a public recreational facility.

6. Home occupation and home professional offices, in manufactured housing developments, as defined and regulated in the provisions of this Chapter.

7. Signs, as regulated in this Chapter.

8. Fences, as regulated in this Chapter.

#### Use, Area, Yard and Density Requirements

1. Public potable water and sewer must be provided for all manufactured housing developments.

2. The minimum tract size for a manufactured housing development shall be fifty (50) contiguous acres. Block 30, Lots 23.04 and 24.01 shall be exempt from this provision.

3. The maximum gross residential density for a manufactured housing development shall be five and one

half (5.5) units per acre. The maximum net residential density for a manufactured housing development shall be eight (8) units per acre. For purposes of the ordinance, gross acreage shall include all lands within the exterior boundaries of the tract without regard to the purpose for which the land is to be used, or any dedication of land within those boundaries. Approval by the Township of South Brunswick of subdivision and site plan applications for the Deans/Rhode Hall site, described as the 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, shall be conditioned upon the developer dedicating an eighty foot (80') right of way and building a two-lane roadway through the site connecting U.S. Route 130 to Georges Road. Approval by the Township of South Brunswick of subdivision and site plan applications for either of the Culver Road sites, described as Block 37, Lot 2 and Block 38, Lot 3, located on the southerly side of Culver Road and consisting of 47.5 acres, and the 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, shall be conditioned upon the developer or developers of the sites 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 95 acre site or joint development of both sites may be conditioned upon actual construction of such a road.

4. A minimum of twelve percent (12%) of the total tract area of each manufactured housing development shall be reserved as open space, to be devoted to passive or active recreational uses, and highway buffering. Recreation facilities appropriate and suitable to the needs of the residents of the development shall be provided. Each development shall contain a minimum of at least one usable active recreational area of at least 30,000 square feet for the first twenty (20) acres of the tract and an additional usable active recreational area of 10,000 square feet for each additional twenty (20) acres of the tract. Each development shall additionally contain an area or areas suitable for active recreational use at least 30,000 square feet in size for the first twenty (20) acres of the tract and 10,000 square feet for each additional twenty (20) acres of the tract which shall be designated as suitable for active recreational use on the final subdivision plan and dedicated to the Township at time of final subdivision approval. Swimming pools or community buildings may not be required by the Planning Board to satisfy the active recreation obligation set forth herein.

5. At least thirty-five percent (35%) of all detached (single family) mobile homes in a manufactured housing development shall be doublewide units.

6. The minimum lot size for singlewide mobile homes shall be 2800 square feet, or three (3) times the floor area of the mobile home unit, whichever is less. The minimum lot size for doublewide mobile homes shall be 4500 square feet or three (3) times the floor area of the mobile home unit, whichever is less.

7. The minimum setbacks for manufactured housing units or mobile homes shall be as follows:

front yard	15 feet
rear yard	10 feet
principal side yard (side with entrance)	12 feet
principal side yard (with driveway)	18 feet
secondary side yard (side without entrance)	5 feet
accessory structures	5 feet

8. Where semi-detached (two family) mobile homes are provided with each unit having a single side yard, the minimum width of that yard shall be fifteen (15) feet.

9. At no point shall the sides of any manufactured housing unit or mobile home be closer than ten (10) feet from any other unit (excluding steps, awnings, patios, decks, porches and any other appurtenances), provided that the average distance between the sides of any such units shall not be less than seventeen (17) feet.

10. At no point shall the ends of any manufactured housing unit or mobile home be closer than twenty (20) feet from the end of any other such unit.

11. A distance of not less than ten (10) feet shall be maintained between any manufactured housing unit or mobile home and its appurtenances, and any other such unit and its appurtenances. This requirement shall apply to awnings, patios, decks, steps and porches.

12. All storage sheds, metal sheds and other accessory type storage structures shall not be located in the front yard and shall be located a minimum of ten (10) feet from any adjoining manufactured housing unit or mobile home.

13. Storage type accessory structures shall be constructed on a ground support slab, with a positive grade away from such slab, in accordance with the provisions and standards set forth in this Chapter.

14. The Planning Board shall not unreasonably deny any requests from a developer to modify any of the development standards set forth in this Section where the developer establishes that such modification is necessary to permit development of the lower income units, except where such modification will adversely affect the health, safety or welfare of the residents of the Township.

#### Parking and Circulation

1. Parking spaces shall average two (2) spaces per unit in the MH development.

2. Parking meeting the above requirements may be provided through any combination of the following approaches:

- a. Garages, individual or community;
- b. Surface parking areas (parking lots or bays);
- c. Individual unit driveways;
- d. Parking areas along one side of any internal one way street with a minimum paved width of twenty-four feet (24') or along one side of any internal two way street with a minimum paved width of thirty feet (30').

3. a. Internal one way streets shall be provided with a minimum right of way of forty (40) feet, and a minimum paved width of twenty-four (24) feet where parking is provided as set forth above.

b. Internal two way streets shall be provided with a minimum right of way of fifty (50) feet and a minimum paved width of thirty (30) feet where parking is provided as set forth above.

c. The Township will accept dedication of streets in MH developments which have a minimum of twenty-four (24) feet paved width and a minimum forty (40) feet right of way.

4. Appropriate means of pedestrian circulation throughout the development will be provided, to ensure that residents of the development have access (1) to community and recreational facilities within the development; and (2) to convenience shopping and public transportation, if any, adjacent to the development. Walkways shall be at least three (3) feet in width, and shall be four (4) feet in width in those areas in which substantial pedestrian traffic can reasonably be expected.

#### Landscaping

1. A landscaped buffer strip shall be maintained along any property line of a manufactured housing development which abuts adjacent off-tract residential areas, and shall be of adequate width to ensure that no structure in the development will be less than fifty (50) feet from said property line and one hundred (100) feet from dual highways.

2. Landscaping to be provided in a manufactured housing development shall be shown on the site plan. Wooded areas shall be preserved wherever possible without causing interference with the general plans, specifications and other requirements pertaining to the site. No manufactured housing unit or mobile home shall be constructed or installed within fifty (50) feet of streams, rivers or lakes.

#### Lower Income Housing

Any development in the MH Zone shall be subject to the lower income housing requirements set forth in the Affordable

Housing section of this ordinance (16-62.13), as well as the following standard applicable to the MH Zone. At least twenty-five percent (25%) of the units in all manufactured housing developments in the MH Zone (assuming full development at the maximum density allowed by right in the zone) shall be lower income housing units subject to the terms and requirements of Section 16-62.13 of the ordinance. At least one third (1/3) of the total number of lower income units shall be low income units and at least one third (1/3) of the total number of lower income units shall be intermediate moderate income units. No more than fifty percent (50%) of the lower income units in any development subject to this section shall be one (1) bedroom or efficiency units. In developments containing one hundred (100) or more lower income units, at least twenty percent (20%) of these units shall be three (3) bedroom units or larger. The foregoing provision for three (3) bedroom units shall not apply to lower income units restricted to senior citizens. Any approval of a development application subject to this section shall require that the construction of the lower income units be phased in with the balance of the development in accordance with the following standard:

<u>Number of market units completed as a % of the total number of market units approved</u>	<u>Number of lower income units completed as a % of the total number of lower income units approved</u>
Not more than 25%	At least 25%
50%	60%
75%	85%
90%	100%

To implement this requirement, certificates of occupancy shall not be issued for more than twenty-five percent (25%) of the total number of market units until certificates of occupancy have been issued for at least twenty-five percent (25%) of the total number of lower income units; certificates of occupancy shall not be issued for more than fifty percent (50%) of the total number of market units until certificates of occupancy have been issued for at least sixty percent (60%) of the total number of lower income units; certificates of occupancy shall not be issued for more than seventy-five percent (75%) of the total number of market units until certificates of occupancy have been issued for at least eighty-five percent (85%) of the total number of lower income units; and certificates of occupancy shall not be issued for more than ninety percent (90%) of the total number of market units until certificates of occupancy have been issued for one hundred percent (100%) of the lower income units. Where construction of lower income housing is being phased in with the balance of a development, each phase shall include a mixture of low, moderate and intermediate moderate income units reasonably consistent with the percentage distribution of each category within the development as a whole."

§16-62.2 Use Regulation. The section of the Schedule of District Regulations entitled "PRD III Town Center Development" be and is hereby amended and supplemented as follows:

1. By the retitling of "PRD III Town Center Development" to "PRD VII".
2. "Purpose." be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"Purpose. The intent of the PRD VII Zone District is to initiate planned unit development, as permitted by the New Jersey Planned Unit Development Act, which promotes the efficient delivery of municipal services, the construction of affordable types of housing, the utilization of mass transit and the preservation of active and passive open space. It is more specifically intended that the PRD VII Zone District permit the development of minimum percentages of low income, intermediate moderate and moderate income units in order to satisfy the township's obligation to provide a fair share of affordable housing for low, intermediate moderate and moderate income households."

3. "Area, Yard and Density Requirements (subject to critical area adjustment factors, where applicable, as set forth in this chapter)." be and is hereby amended and supplemented by:

a. Subparagraph 1: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"1. The minimum tract size for a PRD VII development shall be forty (40) contiguous acres. Block 93, Lots 3, 4 and 41, Block 85, Lot 18.01, and Block 87, Lot 12.14 shall be exempted from this provision."

b. Subparagraph 2: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"2. The maximum gross residential density shall be seven (7) units to the acre. The maximum net residential density shall be twelve (12) units to the acre. For purposes of determining gross density, the total tract shall be considered, to include any portions not developed for residential use pursuant to subsections 7 and 8 below and notwithstanding the provisions of Section 16-62.29. Approval by the Township of South Brunswick of subdivision and site plan applications for the Georges Road site, described as 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, shall be conditioned upon firm construction commitments for that part of proposed Route 522 which will connect Georges Road to U.S. Route 130. No certificates of occupancy shall be issued by the Township of South Brunswick for development of any parcel within the Town Center site, described as 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, until construction of that portion of proposed Route 522 that connects New Road to Kingston Lane and no more than fifty percent (50%) 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."

c. Subparagraph 7: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"7. A minimum of twenty-five percent (25%) of the total tract area must be reserved as open space to be devoted to passive or active recreational use, environmentally critical areas and buffer zones. The municipal agency may not require that more than seven percent (7%) of the total tract be devoted to active recreational use. The municipal agency may require that an additional five percent (5%) of the total tract shall be suitable for active recreational use, which shall be designated as suitable for active recreational use on the final subdivision plan and dedicated to the Township at time of final approval. Swimming pools and community buildings may not be required by the Planning Board to satisfy the active recreation obligation set forth herein."

d. Subparagraph 8: The deletion of the first sentence of the existing subparagraph and the substitution of the following in its place:

"8. In a PRD VII development consisting of at least 150 contiguous acres up to twenty percent (20%) of a tract area can be used for commercial and office development. Where any portion of a tract is used for commercial or office development under this provision, the Planning Board shall not unreasonably deny a request to increase net densities for residential development where necessary to permit development at the maximum gross residential density. Use of any portion of the tract for commercial and office development pursuant to this subparagraph does not diminish the requirement, set forth in Paragraph 2 under Other Requirements Applicable to PRD VII, that each approved development contain twenty percent (20%) of the total number of units that may be developed assuming full development at the maximum density of seven (7) units per acre provided by right in each zone over the entire tract for which application is made."

e. Subparagraph 9: The deletion of the existing subparagraph in its entirety and the substitution of the following in its place:

"9. The Planning Board shall not unreasonably deny any requests from a developer to modify any of the development standards set forth in this Section where the developer establishes that such modification is necessary to permit development of the lower income units, except where such modification will adversely affect the health, safety or welfare of the residents of the Township."

4. By the addition of the following as "Other Requirements Applicable to PRD VII":

"Other Requirements Applicable to PRD VII

1. Each application for development subject to this section shall clearly state the number of low, intermediate moderate and moderate income housing units, as defined in Section 16-62.13, and the number of such units subject to age restrictions that are proposed for inclusion within the development, and each resolution of approval shall clearly state the number of low, intermediate moderate and moderate income units and the number of such units subject to age restrictions that are approved as part of the development.

2. Each approved development shall contain lower income units, as defined in Section 16-62.13, in a minimum proportion of twenty percent (20%) of the total number of units that may be developed, assuming full development at the maximum density of seven (7) units per acre provided by right in each zone over the entire tract for which application is made.

3. No more than thirty percent (30%) of the total number of low, moderate and intermediate moderate income units that may be developed in any development subject to this section may have occupancy restrictions based on the age of household members. No developer of lower income housing may impose occupancy restrictions with respect to any lower income housing that requires a minimum age of 59 years or less. The township may not require a developer of lower income housing to impose any age-based occupancy restrictions with respect to such housing as a condition of approval, waiver or assistance.

4. Any approval of a development application subject to this section shall require that the construction of the lower income units be phased in with the balance of the development in accordance with the following standard:

<u>Number of market units completed as a % of the total number of market units approved</u>	<u>Number of lower income units completed as a % of the total number of lower income units approved</u>
Not more than 25%	At least 25%
50%	60%
75%	85%
90%	100%

To implement this requirement, certificates of occupancy shall not be issued for more than twenty-five percent (25%) of the total number of market units until certificates of occupancy have been issued for at least twenty-five percent (25%) of the total number of lower income units; certificates of occupancy shall not be issued for more than fifty percent (50%) of the total number of market units until certificates of occupancy have been issued for at least sixty percent (60%) of the total number of lower income units; certificates of occupancy shall not be issued for more than seventy-five percent (75%) of the total number of market units until certificates of occupancy have been issued for at least eighty-five percent (85%) of the total number of lower income units; and certificates of occupancy shall not be issued for more than ninety percent (90%) of the total number of market units until certificates of occupancy have been issued for one hundred percent (100%) of the lower income units. Where construction of lower income housing is being phased in with the balance of a development, each

phase shall include a mixture of low, moderate, and intermediate moderate income units reasonably consistent with the percentage distribution of each category within the development as a whole.

5. In any development approved pursuant to this section, no less than one-fourth (1/4) of the total number of lower income units shall be affordable by low income households as defined in Section 16-62.13, and no less than one-fourth (1/4) of the total number of lower income units shall be affordable by intermediate moderate income households as defined by Section 16-62.13. No more than fifty percent (50%) of the lower income units in any development subject to this section shall be one (1) bedroom or efficiency units. In developments containing one hundred (100) or more lower income units, at least twenty percent (20%) of these units shall be three (3) bedroom units or larger. The foregoing provision for three (3) bedroom units shall not apply to lower income units restricted to senior citizens.

6. No tracts other than those rezoned as part of this ordinance revision, which was adopted in accordance with a consent order dated \_\_\_\_\_, 1986, in the matter entitled Urban League of Greater New Brunswick, et al. v. The Mayor and Council of the Borough of Carteret, et al. Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-4122-73, may be zoned at gross densities greater than four (4) units per acre unless those zones are subject to a mandatory set-aside provision, reasonably proportionate to those contained herein, requiring that at least fifteen percent (15%) of the total number of units that may be developed shall be set aside as lower income units. Any tracts, other than those rezoned as part of this ordinance revision, which are zoned at gross densities of seven (7) or more units per acre shall be subject to a minimum requirement of twenty percent (20%) set aside for lower income housing development."

§16-62.13 be and is hereby amended and supplemented by the deletion of the existing section and the substitution of the following in its place:

"16-62.13 Affordable Housing.

a. Purpose. The purpose of this section is to (1) promote the general welfare by providing for a variety of housing choices within the township; (2) satisfy the township's constitutional obligation under Mt. Laurel II to provide a realistic opportunity for the development of its fair share of the regional need for lower income housing; and (3) comply with the consent order dated 1986, in the matter entitled Urban League of Greater New Brunswick, et al. v. The Mayor and Council of the Borough of Carteret, et al., Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. C-4122-73, by establishing a mechanism for assuring that housing units designated for occupancy by low, moderate and intermediate moderate income households remain affordable to, and occupied by, such households.

b. General Provisions.

1. Wherever reference is made to lower income housing, or low, moderate or intermediate moderate

income units in the Land Use Ordinance, the standards, definitions and procedures set forth in the section shall apply.

2. Except as otherwise expressly provided herein, no low, moderate or intermediate moderate income unit shall be offered for sale or rental except at prices that are affordable by low, moderate or intermediate moderate income households respectively.

3. Except as otherwise expressly provided herein, no low, moderate or intermediate moderate income unit shall be sold, resold, rented or re-rented except to a household that has been qualified as a low, moderate or intermediate moderate income household, respectively. However, nothing contained in this Chapter, or in the rules and regulations of the Affordable Housing Agency, shall restrict or preclude any household which was classified by the Agency as a low, moderate or intermediate moderate income household at the time it purchased or leased a low, moderate or intermediate moderate income unit from continuing to own or lease said unit after its income exceeds the income ceilings established by this Chapter.

4. A covenant embodying these restrictions shall be recorded with the deed for all sales of property subject to the provisions of this section.

5. Final site plan approval of developments containing Affordable Housing units shall be conditioned upon payment by the developer to the Urban (now Civic) League of Greater New Brunswick the sum of \$30 per lower income unit (equal to \$5 per unit for each of the six years covered by the consent order) for each of the lower income units authorized by that approval; 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 wholly subsidized units.

6. Developments containing Affordable Housing units 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 twenty-four (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 (1/3) 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 one hundred fifty (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.

c. Qualification of Low, Moderate and Intermediate Moderate Income Households. A prospective purchaser or renter of a low, moderate or intermediate moderate income unit must be qualified as a low, moderate or intermediate moderate income household by the Affordable Housing Agency prior to the purchase or rental of such unit. In making this determination, the Affordable Housing Agency shall apply the standards set forth in the definitions of low, moderate and intermediate moderate income household in Section 16-3 of the Revised General Ordinances of the Township of South Brunswick. The Affordable Housing Agency shall periodically recalculate the regional median income and the adjustments for household size based on changes in the official estimates of the median income for the Primary Metropolitan Statistical Area (PMSA) in which the township is located.

d. Determination of Maximum Sales Prices and Rental Charges. Prior to the sale, resale, rental, or re-rental of a low, moderate or intermediate moderate income unit, the Affordable Housing Agency shall determine the maximum sales price or rental charge that may be charged for that size unit in each income category.

1. Maximum Sales Price. The following procedure shall apply to determine maximum sales prices:

(a) A base price shall be calculated such that the sum of the monthly payments for principal, interest,

taxes, fire, theft and liability insurance, and homeowner association fees, if any, shall not exceed twenty-eight percent (28%) of the low, moderate or intermediate moderate income ceiling determined in accordance with Subsection c. above. A ten percent (10%) down payment requirement and a thirty (30) year mortgage term shall be assumed in making this calculation.

In calculating the monthly interest payment, the Affordable Housing Agency shall apply the interest rate which it determines to be reasonably available locally to low, moderate and intermediate moderate income households, and shall review any documentation provided by the developer regarding financing which it contends is available to such households. If the developer or any other entity offers to buy down the prevailing interest rate and the terms of the buydown provide that the increase in interest rate charged does not exceed one half of one percent (0.5%) per year during the period of the buydown, the interest rate for the first year of the buydown period shall be used in the above calculation to determine the monthly interest payment. If the increase in the interest rate exceeds one half of one percent (0.5%) per year, the average interest rate for the period of the buydown shall be used.

If the developer proposes that an adjustable rate mortgage (ARM) be used to calculate the monthly interest payment and the Affordable Housing Agency determines that such ARMs are reasonably available locally to lower income homebuyers, the initial interest rate of that mortgage shall be used only if the maximum annual average increase does not exceed one half of one percent (0.5%). Otherwise, a rate which is the average of the initial interest rate and the highest possible rate in effect after three years or one and one half (1½) points less than the best available fixed mortgage rate, whichever is greater, shall be used.

(b) In order to assure that low, moderate and intermediate moderate income units are affordable by households whose income is less than the low, moderate or intermediate moderate income ceiling, the maximum sales price that may be offered for each such unit shall be determined as a percentage of the base price for that size unit in each income category as follows:

(1) For each of the following income categories for which a development has fewer than one hundred (100) units, the following percentages shall be used in determining the maximum sales price:

- (i) Low income - 90% of the base price
- (ii) Intermediate moderate income - 85% of the base price
- (iii) Moderate income - 90% of the base price

(2) For each of the following income categories for which a development has one hundred (100) or more units, the following percentages shall be used in determining the maximum sales price:

- (i) Low income - 95% of the base price for one-half of the units, and 85% of the base price for one-half of the units
- (ii) Intermediate moderate income - 90% of the base price for one-half of the units, and 80% of the base price for one-half of the units
- (iii) Moderate income - 95% of the base price for one-half of the units and 85% of the base price for one-half of the units

A unit offered at eighty-five percent (85%) of the base price shall not be offered for sale to any household whose income is greater than ninety-five percent (95%) of the low, moderate or intermediate moderate income ceiling, whichever is applicable.

(c) Prior to final approval of any development subject to this section, the Affordable Housing Agency shall determine the maximum sales prices by unit size for the low, moderate and intermediate moderate income units in the development and shall so notify the developer. These prices shall remain in effect for a period of one (1) year or until all of the low, moderate or intermediate moderate income units have been sold, whichever occurs first. The developer may request a modification of the maximum sales price at any time by applying to the Affordable Housing Agency for recalculation of these prices based on changes in any of the factors used to calculate the prices.

(d) Prior to the resale of any low, moderate or intermediate moderate income unit, the Affordable Housing Agency shall determine the maximum sales price for that unit in accordance with a formula developed by the Agency which takes into account increases in a generally accepted price or income index, reasonable improvements to the property as determined by the Agency, and reasonable out-of-pocket costs of the sale as determined by the Agency, and which, to the extent feasible, ensures that resale prices will be consistent with the affordability standards set forth in Subsections d.1.(a) and (b) above.

2. Maximum Rental Charges. The following procedure shall apply to determine maximum rental charges:

(a) A base rent shall be calculated such that the sum of the monthly rental payment, including utilities, does not exceed thirty percent (30%) of the low, moderate or intermediate moderate income ceiling determined in accordance with Subsection c. above.

(b) In order to assure that low, moderate and intermediate moderate income units are affordable by a range of households whose income is less than the low, moderate or intermediate moderate income ceiling, the maximum gross rent that may be charged for each unit shall be such that the average of the gross rents charged for that size unit in each income category does not exceed the following percentage of the base price for that size unit in each of the following income categories:

- (i) Low income - 90% of the base price
- (ii) Intermediate moderate income - 80% of the base price
- (iii) Moderate income - 90% of the base price

In order to assure affordability by a wider range of lower income households, the Affordable Housing Agency shall encourage landlords to set individualized rents, not to exceed thirty percent (30%) of the tenant's actual income, provided that the average of such rents for each size unit not exceed ninety percent (90%) of the base rent for that size unit in each income category.

(c) If the cost of all utilities, including heat, hot water, cooking fuel, and electricity, is not included in the monthly rental charge, an estimated monthly charge for those utilities not included in the rent shall be calculated for each unit size. This estimated charge shall be subtracted from the maximum gross rent to determine the maximum rental charge that may be charged for each low, moderate or intermediate moderate income unit.

(d) Once the maximum rental charges have been determined for the low, moderate and intermediate moderate income units, such charges shall not be increased without the prior written approval of the Affordable Housing Agency. The Agency shall establish appropriate criteria and procedures for allowing periodic rental charge increases consistent with the affordability standards set forth in Subsections d.2. (a), (b) and (c) above. No more than one (1) rental charge increase shall be allowed for any unit or group of units within any twelve (12) month period.

(e) Market units and lower income units in a development subject to the affordable housing requirements of Section 16-62.13 of this ordinance shall be exempted from municipal rent control.

(f) Nothing contained in this Chapter shall prevent the Township Committee from adopting rules and regulations for the Affordable Housing Agency not inconsistent with this Chapter. Rules and regulations for the Affordable Housing Agency may be adopted which increase or decrease rents for units subject to the regulations of this Chapter based upon increases or decreases in the income level of the occupant or occupants as same shall be from time to time determined by the Affordable Housing Agency.

3. Relationship Between Household Size and Unit Size. For the purpose of determining maximum sales prices and rental charges pursuant to Subsections d.1. and 2. above, the ceiling incomes of the following household sizes shall be used to determine the maximum prices for each of the following unit sizes:

Efficiency	1 person
1 bedroom	2 persons
2 bedroom	3 persons
3 bedroom	5 persons
4 bedroom	7 persons

4. Maximum Affordable Price Tables. The Affordable Housing Agency shall prepare and maintain tables of maximum affordable prices for low, moderate and intermediate moderate income households by unit size as a guide for determining maximum sales prices and rental charges for low, moderate and intermediate moderate income units.

e. Expiration of Restrictions.

1. Restrictions on the resale of low, moderate or intermediate moderate income units shall expire thirty (30) years from the date of the initial sale of the property.

2. Low, moderate or intermediate moderate income rental units shall remain subject to the requirements of this section indefinitely, except that the limitations set forth in Subsections e.1 above and f. below shall apply if such rental units are converted into condominiums, co-operatives, or some other form of ownership property.

f. Limitations on Restrictions in Event of Foreclosure.

1. Notwithstanding the restriction on resale of low, moderate or intermediate moderate income units set forth in this section, there shall be no such restriction in the event of foreclosure and resale by a lender after foreclosure.

2. In the event of foreclosure, the Affordable Housing Agency shall attempt to identify qualified low, moderate and intermediate moderate income purchasers and shall give notice to the lender of their identity. The Affordable Housing Agency shall undertake other efforts to ensure that lower income housing will not be made unavailable to low, moderate or intermediate moderate income households by virtue of foreclosure. Toward this end, the Affordable Housing agency shall work with developers of lower income housing to incorporate into deeds or covenants appropriate language providing the Agency with limited rights to intervene prior to foreclosure in order to maintain the property as a low, moderate or intermediate moderate income unit. In the event of foreclosure, the difference, if any, between the sales price and the lender's recovery of principal, interest and costs under its mortgage shall be paid to the Affordable Housing Agency for use in increasing other affordable housing opportunities. The Agency shall have and record a second lien on all lower income properties to insure payment of such a difference in case of foreclosure.

g. Affirmative Marketing. Developers of lower income housing shall affirmatively market such housing to all segments of the lower income population within the Mount Laurel housing region in which the township is located and to all qualified low, moderate or intermediate moderate income households irrespective of race, color, religion, sex or national origin. Toward that end, the developer shall formulate and submit an affirmative marketing plan acceptable to the Affordable Housing Agency, which plan shall be incorporated into any approval of the development application. At a minimum, the plan shall provide for advertisement in newspapers with general circulation in the following urban core areas: Jersey City, Newark, Elizabeth, Paterson, New Brunswick and Perth Amboy. The plan shall also require the developer to notify the following agencies on a regular basis of the availability of any low, moderate or intermediate moderate income units: the Civic League of Greater New Brunswick, the Housing Coalition of Middlesex County, the Middlesex County Office of Community Development, and other fair housing centers, housing referral organizations, and government housing and community

development agencies located in the eleven-county present need region identified in the opinion of the Superior Court in AMG Realty Company v. Township of Warren, dated July 16, 1984.

h. Income Ceiling Exceptions. Where a developer has diligently attempted to market a lower income housing unit and that unit has not been sold within six (6) months after issuance of the certificate of occupancy for that unit, the developer may seek relief under this subparagraph by submitting to the Affordable Housing Agency documentation of all efforts made to sell the unit and the hardship suffered by the continued vacancy. If the Agency finds that the developer has made reasonably diligent efforts and has suffered hardship, and that it is not realistic to expect sale to a qualified household within a reasonable time if sales efforts were to continue, the Agency, in its sole discretion, may provide relief to the developer by permitting the unit to be offered for sale to a purchaser whose income level is up to fifty percent (50%) higher than the income ceiling fixed for the income category for which the unit was originally offered for sale. The unit shall, nevertheless, be sold at the maximum affordable price originally determined by the Affordable Housing Agency and a covenant embodying the restrictions of Section 16-62.13b(1-3) shall be recorded with the deed for the sale of the property subject to the restrictions of this Chapter."

§16-62.29 be and is hereby amended and supplemented by the addition of the following as subsection f.:

"f. The provisions in the section for exception to area requirements based upon critical areas shall not be applicable to sites within the PRD VII and MH zones, which are deemed suitable for development at the densities stated. In the event, however, that there are critical areas within the sites in those zones, site planning shall be performed in a manner to avoid substantial adverse impact on those areas."

The above ordinance was introduced and passed on first reading at a regular meeting of the Township Committee of the Township of South Brunswick held on February 4, 1986, and will be considered on second reading and second and final passage at a regular meeting of the Township Committee of the Township of South Brunswick to be held at the Municipal Building, Monmouth Junction, South Brunswick Township, New Jersey, at 8:00 P.M. on March 4, 1986, at which time and place any person having an interest therein will be given an opportunity to be heard.

KATHLEEN A. THORPE, TOWNSHIP CLERK

ORDINANCE NO. 3-86

AN ORDINANCE AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF SOUTH BRUNSWICK, 1975, SPECIFICALLY, CHAPTER XVI, LAND USE, §16-62.13

BE IT ORDAINED by the Township Committee of the Township of South Brunswick, County of Middlesex, State of New Jersey, that the Revised General Ordinances of the Township of South Brunswick, 1975, specifically Chapter XVI, Land Use, §16-62.13, be and are hereby amended and supplemented as follows:

1. The existing §16-62.13 be and is hereby delted in its entirety.

2. §16-62.13 Subsections a through h are reserved.

3. The following is added as §16-62.13i Affordable Housing Agency:

i. Affordable Housing Agency.

1. Creation. There is hereby created an Affordable Housing Agency ("Agency") of the Township of South Brunswick.

2. Composition. The Agency shall consist of five (5) members, all of whom shall be appointed by the Township Committee. The membership of the Agency shall consist of the following:

(a) One member shall be a member of the Township Committee.

(b) The remaining four members shall be residents of the Township.

3. Terms of Office.

(a) The Township Committee member shall serve for a term of one year.

(b) The initial terms of office of the remaining Agency members shall be one (1) for one year, one (1) for two years, and two (2) for three years, to be designated by the Township Committee in making the appointment. Their terms shall thereafter be three (3) years.

4. Chairperson. The Mayor shall designate one member, other than the Township Committee member, to serve as

Exhibit D ?

chairperson for a term of two (2) years.

5. Quorum. Attendance by three (3) members shall constitute a quorum. Passage of any motion requires an affirmative vote by a majority of members present.

6. Ex Officio Members; Executive Director.

(a) The Administrator or his designee and a person recommended by the Civic League and appointed by the Township Committee shall serve as ex officio members of the Agency.

(b) The Planning Director or his designee shall serve as Executive Director of the Agency and shall be responsible for its administrative functioning.

7. Vacancies; Removal for Cause. The Township Committee may remove any member of the Agency for cause. Written charges served upon the member shall be followed by a hearing thereon, at which time the member shall be entitled to be heard either in person or by counsel. A vacancy in the membership of the Agency occurring otherwise than by expiration of the term shall be filled for the unexpired term in the same manner as an original appointment.

8. Powers and Duties.

(a) To prepare and forward to the Township Committee such rules and regulations as may be necessary to implement the policies and goals of this Section; specifically, to ensure that housing units designated as low, moderate or intermediate moderate income units, once constructed, shall remain affordable to, and occupied by, low, moderate or intermediate moderate income households. Such rules shall be subject to review and modification by the Township Committee and must be adopted by the Township Committee to be effective.

(b) To determine maximum sale, resale and rental charges for low, moderate or intermediate moderate income units, and to provide the Planning Board and developers with such calculations.

(c) To pre-qualify prospective owners and renters based upon income and family size, and to issue a certificate as to income eligibility status.

(d) To require that a covenant be recorded with each deed restricting the resale of low, moderate or intermediate moderate income units to low, moderate or intermediate moderate income households.

(e) To develop a formula for use in calculating

the maximum resale price of low, moderate and intermediate moderate income units consistent with the provisions of Section 16-62.13 d.l.(d) of this ordinance.

(f) To determine whether the cost or value of the installation of improvements or amenities within or as a part of a low, moderate or intermediate moderate income unit should be included in the calculation of the resale price or rental charge of such unit, and to establish a procedure whereby homeowners can obtain a determination in this regard prior to installing the improvement or amenity.

(g) To review and to approve or disapprove the Affirmative Marketing Plan required of all developers of low, moderate and intermediate moderate income housing.

(h) To require developers to submit proofs of publication in accordance with approved affirmative marketing plans, and to monitor the marketing practices of developers of low, moderate and intermediate moderate income units to ensure that they comply with the affirmative marketing requirements of this Chapter.

(i) To report quarterly to the Township Committee on the status of low, moderate and intermediate moderate income units.

9. Appropriation and Accountability. The Township Committee shall appropriate adequate monies for the operation of the Agency. The Agency may employ or contract for professional services required to carry out its duties and responsibilities, subject to the amount appropriated by the Township Committee for its use. The Agency shall report to the Township Committee through the Township Administrator.

The above ordinance was introduced and passed on first reading at a regular meeting of the Township Committee of the Township of South Brunswick held on January 21, 1986, and will be considered on second and final reading and final passage at a regular meeting of the Township Committee of the Township of South Brunswick to be held at the Municipal Building, Monmouth Junction, South Brunswick, New Jersey, at 8:00 P.M. on February 18, 1986, at which time and place any person having an interest therein will be given an opportunity to be heard.

KATHLEEN A. THORPE, TOWNSHIP CLERK