

South Brunswick 1986

South Brunswick Ordinance 3-86

Resolution concerning development fee

Attch: Cover letter to expert

pgs. 6

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THE STATE UNIVERSITY OF NEW JERSEY
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February 28, 1986

Ms. Carla Lerman
413 West Englewood Avenue
Teaneck, NJ 07555

Dear Ms. Lerman:

Enclosed please find a copy of South Brunswick Ordinance No. 3-86, which was adopted on second reading on February 18, and a resolution concerning a development fee adopted by the South Brunswick Township Committee the same day. As I have communicated to Joe Benedict, the Urban League is very much in favor of an ordinance applying a development fee to all non-Mount Laurel developers. However, we have serious questions about the legality and fairness of applying such a fee to those developers already providing a substantial contribution through a 20 percent setaside, which is what this resolution also seeks to do.

Mr. Benedict will inform us and the Court on Wednesday of next week as to the outcome of the Committee's Tuesday night deliberations concerning the already signed Consent Order, which you so graciously reviewed with great speed.

Sincerely yours,



Eric Neisser

encls

cc/Joseph Benedict, Esq.
Mr. Alan Mallach

*Final
Adoption
2/18/86*

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

chairperson for a term of two (2) years.

5. Quorum. Attendance by three (3) members shall constitute a quorum. Passage of any motion requires and 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.1.(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 approve 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

passed
2/18/86

A RESOLUTION REQUESTING THE PLANNING BOARD TO
REQUIRE CONTRIBUTIONS TO THE AFFORDABLE HOUSING
TRUST FUND AS A CONDITION OF DEVELOPMENT APPROVAL

WHEREAS, the Township of South Brunswick has recently entered into a consent order with the Urban League of Greater New Brunswick, which order, by its terms, will allow the Township of South Brunswick to meet its constitutional obligation to zone for affordable housing in accordance with the Supreme Court decision in *Mt. Laurel II*; and

WHEREAS, provisions in said consent order allow for the Township to negotiate regional transfer development agreements or to rehabilitate existing substandard housing or to otherwise subsidize affordable housing units; and

WHEREAS, the Township may receive credit, on the receipt of the written consent of the Urban League of Greater New Brunswick, for the affordable housing units required under the consent order by virtue of such agreements, rehabilitation and subsidy; and

WHEREAS, the Township believes that the constitutional obligation to provide affordable housing should apply not merely to those owners of tracts identified in the consent order, but rather to the developers of other residential, commercial or industrial property within the Township as well; and

WHEREAS, the Township is in the process of investigating the terms and the legal viability of an ordinance which would require other developers of residential, commercial and industrial property to contribute to an Affordable Housing Trust Fund for the purpose of generating money for transfer agreements, rehabilita-

tion and subsidy as aforesaid; and

WHEREAS, the Township is desirous of requiring that all applications pending before the Planning Board and unapproved as of February 10, 1986, be subject to such contribution;

NOW, THEREFORE, BE IT RESOLVED on this 18th day of February, 1986, by the Township Committee of the Township of South Brunswick, County of Middlesex, State of New Jersey, that:

The Township Committee requests that the Planning Board make as a condition of approval for all residential, commercial and industrial developments pending final subdivision or final site plan before the Planning Board as of February 10, 1986, and thereafter as such applications are made, that a contribution be made to the South Brunswick Township Affordable Housing Trust Fund, which contribution shall be calculated on the basis of \$.50/gross square foot of building space approved; and

BE IT FURTHER RESOLVED that one half such amount shall be due upon the issuance of building permits and the balance shall be due upon the issuance of certificates of approval; and

BE IT FURTHER RESOLVED that if, upon adoption of the Affordable Housing Trust Fund Ordinance as contemplated aforesaid, it is determined that the contribution required of a developer hereunder exceeds that required under the ordinance, then the developer shall be refunded the difference between that due under the condition of approval and that due under the ordinance.

I do hereby certify that the foregoing is a true copy of a Resolution passed by the Township Committee of South Brunswick at a meeting duly held on the 18th day of February, 1986.
