

South Plainfield 1985

letter to judge re: rescheduling

Attch: Judgment as to S. Plainfield
zoning map

pgs. 12 + 1 map

ML0003400

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS
Campus at Newark

School of Law-Newark • Constitutional Litigation Clinic
S.I. Newhouse Center For Law and Justice
15 Washington Street • Newark • New Jersey 07102-3192 • 201/648-5687

September 5, 1985

The Honorable Eugene D. Serpentelli
Assignment Judge, Superior Court
Ocean County Court House
Toms River, New Jersey 08754

Urban League vs. Carteret, et al., # C 4122-73
(South Plainfield)

Dear Judge Serpentelli:

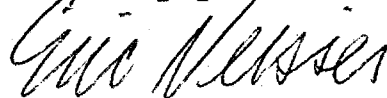
Your clerk has informed me that South Plainfield's transfer motion, originally returnable September 6, has now been adjourned for three weeks to September 27. Although we fully understand the reasons for this re-scheduling, we are concerned about any delay because of the existing stay of the new ordinances' effectiveness pending decision of the transfer motion. For this reason, we would request that the Master be directed to report on whether the zoning and affordable housing ordinances of South Plainfield adopted on August 7, 1985 comply with the Judgment of May 22, 1984, by Monday, September 23. This would permit the parties time for receipt and review of her report prior to the September 27 return date and allow the Court to vacate the stay immediately if the transfer motion is denied on that date.

I understand that the Court has already sent Ms. Lerman copies of the ordinances. I herewith enclose for her a copy of the zoning map we received and the Judgment. As previously stated to the Court and counsel, the Urban League plaintiffs consider Ordinances No. 1009 and 1010 as adopted by the South Plainfield Council on August 7, 1985 to comply with the Judgment, except for the zoning ordinance's failure to specify the block and lot numbers of the land within the new zones. Although we recognize that specification of block and lot numbers in zoning ordinances is not typical, we believe it essential given the few sites involved, the inevitable generality of any map boundary, and the unfortunate conduct of the Borough and its Planning Board in the past year in granting approvals or taking other inconsistent action concerning affected land. We are, of course, agreeable to having the Master consult by telephone or otherwise with our consultant, Alan Mallach, or with any town official or planning consultant, in order to expedite her review.

In order to insure completion of the few remaining matters necessary before South Plainfield receives a final judgment and repose, I have gone over in detail with Mr. Santoro the documentation still required and confirmed this by the enclosed letter. As explained there, I am not now requesting a formal court order for these materials in reliance upon Mr. Santoro's express commitment today to provide them to me in advance of the return date.

Thank you for your consideration of this matter.

Sincerely yours,



Eric Neisser
Counsel for Urban League
Plaintiffs

encls

cc: Carla Lerman, Master
South Plainfield Service List

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FILED 5-22-84
E. D. SERPENTELLI, J.S.C.

BRUCE S. GELBER, ESQ.
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National Committee Against
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733 Fifteenth St., NW, Suite 1026
Washington, D.C. 20005
202/783-3150

ATTORNEYS FOR PLAINTIFFS

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al.,

Plaintiffs,

vs.

THE MAYOR AND COUNCIL OF
THE BOROUGH OF CARTERET,
et al.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MIDDLESEX
COUNTY

Docket No. C 4122-73

Civil Action

JUDGMENT AS TO SOUTH PLAINFIELD

Plaintiffs having moved for summary judgment based upon the stipulation between plaintiffs and the Borough of South Plainfield, and the Court having reviewed the stipulation and referred it to the Court-appointed expert to report whether the terms of the stipulation, including the fair share allocation, the designation of sites for multi-family development, and the procedures for insuring appropriate marketing and affordability controls are reasonable, and having heard counsel for both parties,

It is, therefore, this 22 day of May, 1984,

ORDERED and ADJUDGED:

1. The Borough of South Plainfield's fair share of the regional low and moderate income housing need through 1990 is 900 housing units, allocated as 280 units of present need and 620 units of prospective need.

2. The Borough of South Plainfield's existing zoning ordinance is not in compliance with the constitutional obligation set forth in Southern Burlington County NAACP v. Township of Mount Laurel, 92 N.J. 153 (1983) (Mount Laurel II), and the Borough is not entitled to any credit towards its fair share for any housing built since 1980.

3. Forthwith, but not later than 120 days after the entry of this Judgment, the Borough of South Plainfield shall amend its zoning ordinance to incorporate the following provisions:

A. The Borough shall rezone the 84.8 acre Harris Steel site on New Brunswick Avenue, designated as Block 459 Lot 1, Block 460 Lot 1, Block 461 Lots 1-3, Block 462 Lot 2, Block 465 Lot 1, Block 466 Lot 1, Block 467 Lots 1, 3, 4, 5 and 21, exclusively for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units.

B. The Borough shall rezone the 27 acre site on New Durham Road, known as the Coppola farm and designated as Block 528 Lot 43, exclusively for multi-family development at a density of 12 units

per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units.

C. The Borough shall rezone the municipally owned site of approximately 25 acres at the northern tip of Kennedy Road, known as the Pomponio Avenue site and designated as Block 448 Lots 2.01 and 4.01 and Block 427 Lot 1.01, exclusively for multi-family development at a density of 15 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units, except that the rezoning may provide for a commercial development buffer no more than 200 feet deep on the westernmost portion of the site facing Clinton Avenue.

D. The Borough shall rezone the Universal Avenue site, designated as Block 255 Lots 14, 33 and 34, exclusively for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units.

E. The Borough shall rezone the municipally owned site of approximately 8 acres and the adjoining privately owned parcels totalling approximately 4½ acres on either side of Frederick Avenue to the north of Sylvania Place, known as the Frederick Avenue site and designated as Block 303 Lot 34, Block 310 Lots 1.01, 4.01, 5-7, 9, 11, 13-15, 17 and 18, and Block 311 Lots 16-36, exclusively for multi-family development at a density of 12 units per acre with a mandatory set aside of 10 percent low income and 10 percent moderate income units.

F. The Borough shall rezone the municipally owned site of 6.15 acres on Morris Avenue, known as the Morris Avenue site and designated as Block 111 Lots 1-4, Block 112 Lots 1, 2.01, Block 113 Lots 1.01, 2, 4, 5.01 and Block 115 Lots 1, 2, 2.01 and 3, exclusively for development as a senior citizens housing project with a total of 100-150 units of which at least 50 percent will be affordable by low income households with the balance affordable by moderate income households. See ¶ 4 infra.

G. The Borough shall rezone the 7½ acre site south of Tompkins Avenue designated as Block 12 Lots 9, 16 and 17, and currently owned by the Archdiocese of Metuchen for multi-family development at a density of 12 units per acre with a mandatory set-aside of 10 percent low income and 10 percent moderate income units. To the extent that the existing land use ordinance may permit use of the site for cemetery purposes, such ordinance provision may continue in effect for a period of two years from the date of the entry of the Order of Compliance for South Plainfield in this action but shall thereafter expire automatically.

H. The Borough shall rezone the 1.46 acre site on Hamilton Boulevard, known as the Elderlodge site and designated as Block 259 Lots 5, 6.01, 6.02, 7, and 12, which is the property at issue in Elderlodge, Inc. v. South Plainfield Board of Adjustment, No. L-56349-8 (Law Div., Middlesex County), exclusively for a 100-unit multi-family development, with a mandatory set-aside of 10 percent low income and 10 percent moderate income units, subject to reasonable

conditions to be imposed by the Board of Adjustment.

I. The Borough shall expressly provide in its zoning ordinance that modular or manufactured housing meeting state building code requirements and other appropriate zoning ordinance requirements shall be permitted in residential zones throughout the Borough.

J. The Borough shall permit, as a conditional use on any site of 3 acres or more in any residential zone, where appropriate multi-family development at a higher density than otherwise permitted by the applicable zoning with a mandatory set-aside of 10 percent low income and 10 percent moderate income housing, subject to such additional appropriate conditions as the Borough may wish to incorporate in the zoning ordinance. Through 1990 the Borough shall not permit on a site 3 acres or larger any use substantially similar to that permitted under this section unless it is subject to the same mandatory set-aside.

K. The Borough shall adopt appropriate provisions to require that the low and moderate income housing units to be constructed pursuant to any mandatory set-aside provision shall be phased in proportionately during the construction of the entire project so that certificates of occupancy for more than 25 percent of the market units shall not be granted until 25 percent of the low and moderate income units are completed, certificates of occupancy for more than 50 percent of the market units shall not be granted until 50 percent of the low and moderate income units are completed, and certificates of

occupancy for more than 85 percent of the market units shall not be granted until 85 percent of the low and moderate income units are completed.

L. The Borough shall adopt appropriate provisions to require that all multi-family developments provided for herein shall contain a bedroom mix reflecting the distribution of housing needs by household size in the 11-county region set forth in the Report of the Court-appointed expert in this action dated April 2, 1984 and to limit the granting of construction permits, pursuant to the formula set forth in subparagraph 3(K) above, to insure that each segment of a project contains an appropriate bedroom mix, unless the size of the project makes this infeasible.

4. In order to facilitate development of the Morris Avenue site, after rezoning as set forth in ¶ 3(F) supra, the Borough of South Plainfield shall contribute the land at that site and shall provide the necessary financial support for the project, including necessary seed money and tax abatements.

5. Forthwith, but not later than 120 days after the entry of this Judgment, the Borough of South Plainfield shall adopt an Affordable Housing Ordinance which shall provide that units designated as low or moderate income units shall be sold or rented only to families who qualify as low 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 or moderate income families. To be affordable,

the monthly expenses of a sales unit for principal, interest, taxes, insurance, and condominium fees 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, 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 Court-appointed expert's Report dated April 2, 1984, in this case. The average price of moderate income units in any development provided for herein shall not exceed the level affordable by households earning 90 percent of the ceiling income for moderate income households, and the average price of low income units in any development provided for herein shall not exceed the level affordable by households earning 90 percent of the ceiling income for low income households. Restrictions on resale will expire 30 years from the date of the initial sale of the premises. The ordinance shall provide a mechanism to assure that only qualifying families own or rent such units and to administer otherwise these provisions. For this purpose, the Borough may establish a municipal agency or may contract with a suitable non-profit organization or other public agency for the purpose of administering the requirements set forth herein.

6. Forthwith, but no later than 120 days after the entry of this Judgment, the Borough of South Plainfield shall adopt a

resolution committing the Borough to apply for all federal, state and county funds that become available between the present and 1990 for rehabilitation of existing deficient housing units and for all such funding that becomes available between the present and 1990 for subsidization of the construction or rent of new housing units, and to encourage and assist private developers to so apply.

7. Forthwith, but not later than 120 days after entry of this Judgment, the Borough of South Plainfield shall amend its zoning ordinances so that all developers of low and moderate income units 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 the Court-appointed expert's Report dated April 2, 1984. The Borough 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 social service and welfare departments located within the 11-county region. The Borough shall also require that all marketing practices comply with applicable federal and state laws against discrimination.

8. The Borough of South Plainfield shall report in writing to the Court and to plaintiff Urban League or its designee, within 120 days of the entry of this Consent Order or when all ordinance amendments and resolutions have been duly enacted by the Borough

Council, 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 the date of receipt of said certification. If all ordinance amendments and resolutions required herein have not been enacted, the Court shall set this case for trial.

9. The Borough of South Plainfield shall report quarterly in writing to plaintiff Urban League or its designee, commencing with September 30, 1984, providing the following information:

(a) itemization of all proposed developments covered by this Judgment for which applications have been filed with the Borough's Planning Board, and for which preliminary or final approval has been given by the Planning Board; including the location of the proposed site, number of low and moderate income units, name of developer, and dates that Planning Board actions were taken or are anticipated to be taken;

(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; and

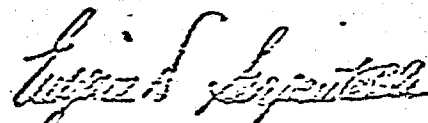
(c) applications for government funds for low and moderate income housing and the result thereof.

10. Failure on the part of the Borough to comply with this

Judgment subsequent to entry of the Order of Compliance, by rezoning in contravention hereof or by failing to enforce the other provisions hereof, may constitute contempt of Court enforceable, upon motion of the plaintiffs or of the Court sua sponte, by appropriate remedies as provided by law.

11. The Court-appointed expert shall report to the Court no later than June 1, 1984. This Judgment shall become final and the time for taking the actions set forth in this Judgment shall begin to run five days after the Court-appointed expert shall report to the Court.

12. The time periods set forth in this Judgment may be extended by mutual written consent of parties or upon written application to the Court.

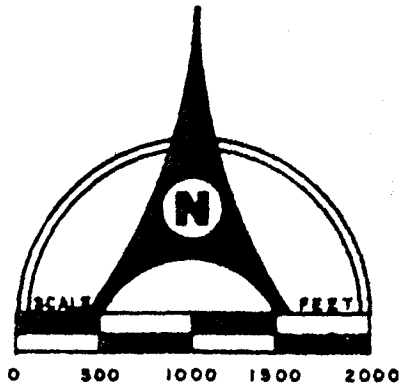


EUGENE D. SERPENTE, J.S.C.

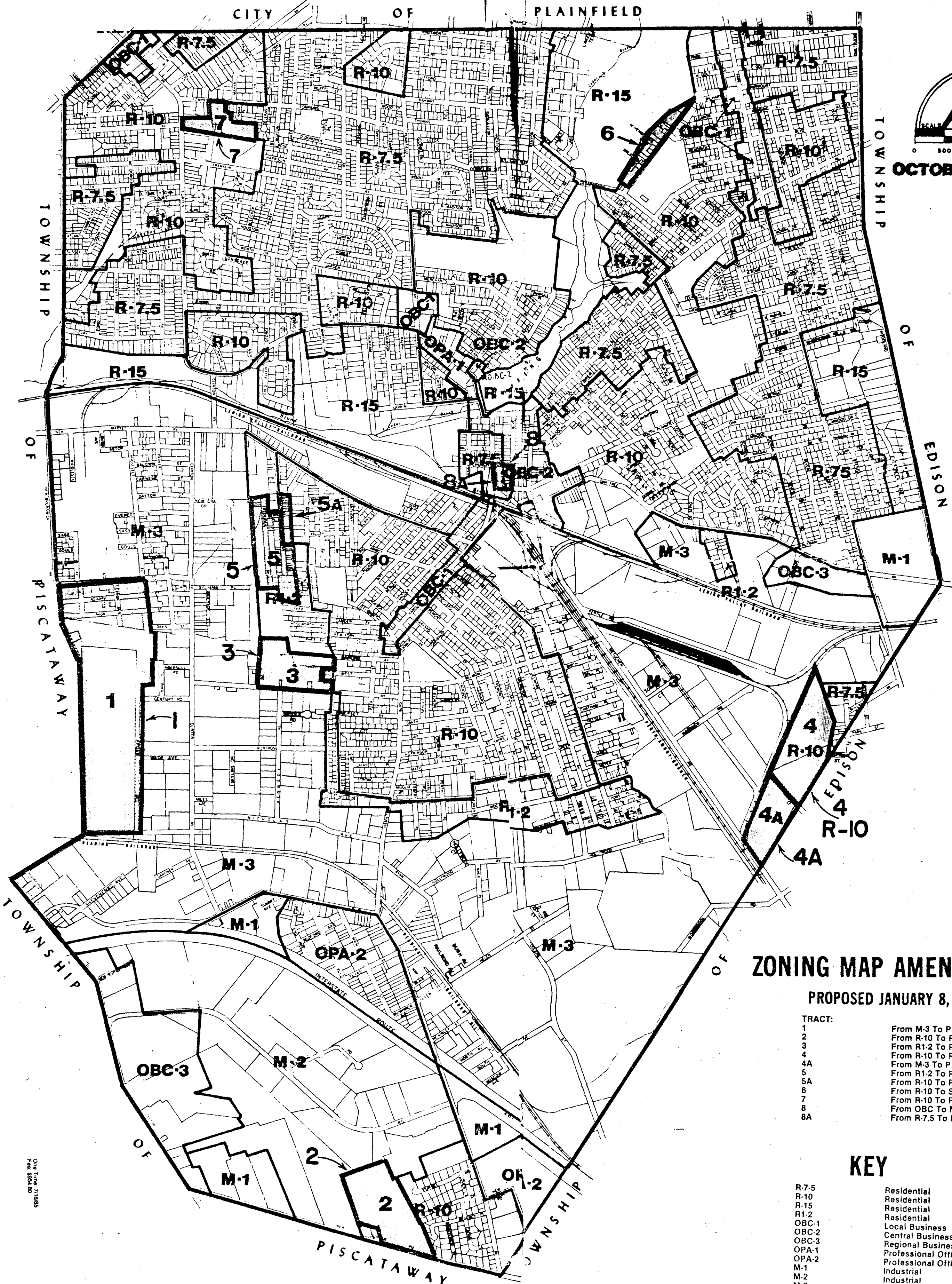
OFFICIAL ZONING MAP

BOROUGH OF SOUTH PLAINFIELD - MIDDLESEX COUNTY, NEW JERSEY

CITY OF PLAINFIELD



OCTOBER 15, 1977



ZONING MAP AMENDMENTS

PROPOSED JANUARY 8, 1985

TRACT:	
1	From M-3 To PRD-1
2	From R-10 To PRD-1
3	From R-12 To PRD-2
4	From R-10 To PRD-1
4A	From M-3 To PRD-1
5	From R-12 To PRD-1
5A	From R-10 To PRD-1
6	From R-10 To PRD-1
7	From R-10 To PRD-1
8	From OBC To MF-1
8A	From R-7.5 To MF-1

KEY

R-7.5	Residential
R-10	Residential
R-15	Residential
R1-2	Residential
OBC-1	Local Business
OBC-2	Central Business
OBC-3	Regional Business
OPA-1	Professional Office
OPA-2	Professional Office & Research
M-1	Industrial
M-2	Industrial
M-3	Industrial

One Time 718865
Fee \$354.00

JULY 18, 1985, TIME REPORTER