

Hillsborough Lit.

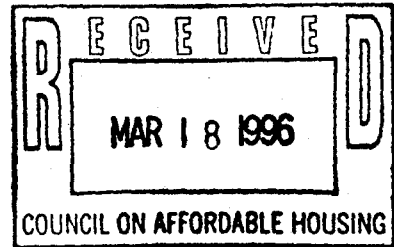
3-15-96

- CL no. enclosure
- W/ Comments of NJ Futon on Turf's  
COAH Compliance

pgs. 9

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**ATTACHMENT 3**



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Barbara L. Lawrence  
*Executive Director*  
Samuel M. Hamill, Jr.  
*Senior Consultant*

March 15, 1996

Ms. Shirley Bishop, Executive Director  
Council on Affordable Housing  
CN-813  
Trenton, NJ 08625-0813

Dear Ms. Bishop:

Enclosed please find New Jersey Future's comments on COAH's compliance report outlining COAH's review of Hillsborough's petition for substantive certification.

In addition to submitting these written comments, we would like to request the opportunity to make a statement regarding COAH's proposed certification of Hillsborough's housing element and fair share plan at your April 3rd meeting.

Thank you for considering our comments. If you have any questions, please contact me at (201) 222-6800.

Sincerely,

A handwritten signature in cursive script that reads "Barbara L. Lawrence".

Barbara L. Lawrence  
Executive Director



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**Comments of New Jersey Future on the  
COAH Compliance Report for Hillsborough Township (PAC/HCF Site)**

**Submitted by:**  
**Janet Lussenhop, Associate Director**  
**Barbara Lawrence, Executive Director**

**Of Counsel - John Payne, Esq.**

**March 15, 1996**

*Working for a Sustainable Economy, Environment and Society*

New Jersey Future believes that the State Development and Redevelopment Plan is the most important public tool New Jersey has to provide for a safe, healthy and equitable quality of life for future generations. As Governor Whitman told the State Planning Commission this month, "the more we champion these policies, the more we can help cities and suburbs and farms to prosper... the more we can ensure that development occurs where it makes the most sense... and the more we provide a high quality of life for ourselves and our children."

But because state agencies are only now learning to use the State Plan, each case in which it is used in development decision-making processes provides a critical test. The COAH decision on the Hillsborough housing element and fair share plan provides such a test. It is unfortunate that this test involves affordable housing because wise planning can and should be supportive of affordable housing.

In this case, we believe that COAH's present decision to provide substantive certification to Hillsborough for its housing element and fair share plan is premature. We request COAH to defer its decision on this plan until three major issues involving two other state agencies -- the State Planning Commission and the New Jersey Department of Environmental Protection (DEP) -- have been resolved. The issues are:

1. Whether the State Planning Commission would approve a Planning Area map amendment incorporating the PAC/HCF site completely into Planning Area 2. Since 95% of the site is designated in Planning Areas 4 and 5 (rural planning and environmentally sensitive areas), as defined in the State Plan cross-acceptance process by Hillsborough and Somerset County, and is not a designated center, we question whether COAH has the authority to apply the criteria for Planning Area 2 in support of certification.
2. Whether the DEP would approve Somerset County's request to amend its wastewater management plan to include the PAC/HCF tract. The tract is neither sewered, nor does it have approval for sewers. We maintain, therefore, that certification with a waiver of center designation is not appropriate.

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3. Whether the State Planning Commission would provide center designation for the PAC/HCF tract. The proposed project does not, in our opinion, meet center designation criteria.

COAH's proposed certification assumes a decision by another state agency on each issue. In addition, each of these state agency decisions would incorporate public input; this input has been effectively negated by COAH's proposed decision. We request postponement of this decision until these three issues are resolved.

We feel strongly that the proposed project in Hillsborough violates the principles of the State Planning Act. We oppose COAH certification of this proposed project with regret, however, for the State Plan supports the development of affordable housing and so, too, does New Jersey Future, as our actions these past 10 years demonstrate. We commend COAH for trying to address and balance State Plan priorities. We understand the real difficulties in siting affordable housing. However, we believe there is adequate room for development of affordable housing in Hillsborough where infrastructure is in place.

The State Plan is relatively new and state agencies and local governments are just learning how to implement it. The Hillsborough process illustrates the hard choices that still have to be made. Using the Plan as our guide for development of every sort, we will create consistency in our land use decisions and we will be able to make real the vision of our future developed laboriously in the cross-acceptance process.

The State Plan, a document developed in the most democratic consensus-based process this state has experienced, reflects an agreement among New Jerseyans about where development should and should not occur in this state to meet legislated goals. As Governor Whitman said in a recent speech to the State Planning Commission, "New Jerseyans support planning. They know that without it, we surrender our future to little more than the random will of those who stand to reap short-term benefits at the expense of New Jersey's long-term well being."

The following discussion provides more detail on our position:

First, 95% of the site is in Planning Areas 4 and 5, that is, the areas least appropriate for development. Second, the site is not sewered, nor is it in an NJDEP-approved sewer service area. Third, the site, although identified as a center in the State Plan, has not been designated as such by the State Planning Commission, and we believe it is unlikely to be so designated, given the age-restricted nature of the proposed project, among other factors.

#### Planning Area 2 Criteria Do Not Apply

First, the COAH report states (p. 6) "The parties acknowledge that substantive certification by COAH, and any obligation of the developer to proceed is premised upon the fact that sewers shall be made available to this site by reason of the site:... (c) Having been reviewed by the Office of State Planning (OSP) and the assurance given to COAH by OSP that during the 1996 cross-acceptance process for the State Development Plan that the PAC site in Planning Area 4 will be recommended for inclusion in Planning Area 2. This inclusion would not prohibit the approval of sewers by NJDEP, but rather encourages such infrastructure."

Our objection to this is both philosophical and technical. The resource planning and management process (including Planning Areas) was developed under intense scrutiny and over a lengthy period of time by thousands of New Jerseyans. The COAH language here implies that any project in multiple planning areas would be affected only by the criteria in the lower numbered planning area. This would allow the Plan to be circumvented on a case by case basis. We view this as a recipe for sprawl.

Sprawl is costly. It is possible to achieve significant reduction in land consumption without halting development and hindering economic growth. We can lower the infrastructure costs and other government spending by billions of dollars, simply by changing the shape of new development. We can lower housing costs as well. This was clearly spelled out in the Rutgers University impact assessment of the New Jersey State Development and Redevelopment Plan. These findings have been borne out by other studies in other locations. But to achieve these savings, we need to limit our development

in rural and environmentally sensitive areas, and to cluster development in and around existing infrastructure and existing and new centers.

Our technical objection to this part of COAH's proposed decision is that the State Planning Commission, not OSP, approves or disapproves a map amendment; in addition, it is premature for OSP to support a map amendment without having studied the issue carefully and gone through the appropriate map amendment processes. Nor would NJDEP be able to make a decision on the appropriateness of sewerage the site without the State Planning Commission decision.

#### The PAC/HCF Site is Not Sewered

Our second objection to the COAH compliance report is that, in order to support the center designation waiver request, COAH must assume that the site will be sewerage, and therefore that NJDEP will approve Somerset County's request to amend its wastewater management plan. This approval, if it comes, and which itself would violate the principles of the State Plan, is some months away, and it is premature for COAH to act ahead of time. We understand that NJDEP has typically approved such amendments, and we understand COAH's desire to move its own process forward. But we believe that, because we now have a State Plan, these decisions must be based on Planning Areas in the future and amendments such as those for the PAC/HCF site will not be approved. COAH should not make DEP's decision for them.

#### The Site is Not a Center and Is Unlikely to be Designated As Such

Our third objection has to do with centers and center designation waivers. First, while COAH's own criteria for waiving the center designation may be appropriate, the fact that the site is not in an NJDEP-approved sewer service area means that it fails one of the most significant criterion for a waiver. Therefore, COAH should not waive the center designation.

Second, the compliance report notes on page 7 that "since the site is within Planning Areas 2 and 4 and since the policy objectives and criteria of Planning Area 2 are relevant, a site in Planning Area 2 need not be located in a designated center." We disagree that



the criteria of Planning Area 2 apply in this case. The State Plan policy that applies the lower numerical value to sites in more than one planning area applies only to designated centers. This site is not a designated center. In addition, as COAH points out on page 7 of the compliance report, it is not likely to be designated as a center because of the age restricted nature of the proposed project. The Plan language described above should be clarified in the upcoming Plan revision process; if interpreted as COAH has done, it would render the Plan meaningless.

Last, COAH Site Review Procedures for Planning Areas 4 and 5 require that COAH examine a municipality for sites with infrastructure in centers or other planning areas, if a municipality petitions for a site in Planning Areas 4 or 5. It is not clear from the compliance report that COAH encouraged the municipality to look for alternative sites in lower-numbered planning areas or centers that are more appropriate for development.

In conclusion, the decision by COAH to certify the Hillsborough plan does not address the State Planning Act as called for in the Fair Housing Act. In circumventing or bypassing infrastructure and planning area criteria, this certification fails to take into account the long-term and regional impacts of land use decisions. These are exactly the impacts that the State Plan was designed to address on behalf of the citizens of the state.

Governor Whitman understands that how the land is used affects virtually everything that happens in a state as densely populated as ours. Last fall she asked her Cabinet members to provide annual progress reports on the State Plan and she recently noted in her State Planning Commission speech that "Evolution without planning has created nightmares..." These nightmares need not happen, if there is proper coordination among state agencies under the umbrella of the State Plan. The PAC/HCF proposed project in Hillsborough clearly does not meet the criteria set out in the Plan. New Jersey Future's opposition to this improperly-sited development will not end with the submission of these comments. We urge COAH, the SPC and other agencies to take the first step by demonstrating a coordinated planning approach to this specific case, rather than responding to the needs of a single agency.

We submit these comments because we are convinced that COAH approval of the Hillsborough site is a test case for the implementation of the State Plan. We are fortunate to have this chance to understand how the Plan provides direction and what needs to be done, if anything, to strengthen or clarify its usefulness and relevance as we engage in the Plan revision process.