

Letter brief on behalf of Hillsborough in response to CoAtt's orders to show cause and Exhibits

50 pages

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March 13, 1998

Shirley M. Bishop, PP
Executive Director
Council on Affordable Housing
State of New Jersey
101 South Broad Street
CN-813
Trenton, New Jersey 08625-0813

Re: I/M/O Petition for Substantive Certification of the
Housing Element and Fair Share Plan of the Township of
Hillsborough Township, Somerset County
Substantive Certification -31-99

Dear Ms. Bishop:

Please accept this letter brief in lieu of a more formal
brief on behalf of the Township of Hillsborough, in response to the
Council on Affordable Housing's ("COAH") Order to Show Cause dated
February 5, 1998, returnable April 1, 1998 before COAH.

STATEMENT OF FACTS

Hillsborough petitioned for Substantive Certification of its
Housing Element and Fair Share Plan on February 27, 1995. COAH
granted Conditional Substantive Certification by Resolution dated
April 3, 1996. New Jersey Future, Inc. ("Future") filed a Notice
of Appeal with the Superior Court Appellate Division on May 20,
1996.

COAH filed a Motion for Remand with the Appellate Division on

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July 21, 1997 so that it could "consider the effects on Hillsborough's Certified Fair Share Plan of Hillsborough's June 24, 1997 decision." ¹ The Appellate Division denied the Motion for remand.

On September 19, 1997, the Hillsborough Alliance for Adult Living ("HAAL") filed an Emergent Motion with COAH seeking an Order forcing Hillsborough to support inclusion of the PAC site in the County's Waste Water Management Plan; it further requested COAH to enjoin Hillsborough from adopting an ordinance repealing Section 77-91.1 of the Code of the Township of Hillsborough; Section 77-91.1 contains the PAC/HCF regulations. Hillsborough had introduced an ordinance to repeal Section 77-91.1 which at the time of HAAL's Motion was scheduled for second reading on October 14, 1997. Second reading was ultimately adjourned until October 28, 1997, when the Repealer Ordinance was adopted.

After arguments on HAAL's Emergent Motion on October 1, 1997, COAH denied HAAL's Motion.

COAH, on October 10, 1997, filed a Motion with the Appellate Division for supplementation of the record on appeal to include

¹ Hillsborough had decided to not actively support the inclusion of the PAC/HCF site in the Somerset County Water Quality Management Plan Amendment and to overrule the Planning Board's support of the inclusion of the PAC/HCF site in the County Plan. Township Administrator John Middleton sent a letter to Shirley Bishop dated June 27, 1997 notifying COAH that on June 24, 1997 the Township Committee had voted to overrule a Planning Board 4/3/97 Resolution requesting the entire PAC/HCF tract be included in the County's Waste Water Management Plan (i) so that the New Jersey Department of Environmental Protection ("DEP") could consider the developer's petition for inclusion of its lands in that Plan and (ii) so that the Township Planning Board could consider the developer's application(s) pending before it. ✓

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HAAL's emergent application and the brief filed by Hillsborough in opposition to that emergent motion. Future also filed a Motion to supplement the record. The Motions to supplement the record were granted. The January 7, 1998 Order granting Future's Motion to supplement the record also remanded the case back to COAH to consider the supplemented materials along with other facts COAH deems relevant. The Order states "among other things, COAH shall consider whether, in view of recent actions by Hillsborough Township, the grant of Substantive Certification remains valid and whether any new issues requiring COAH resolution have been presented. COAH should address the issue of whether the proposed development is governed by N.J.A.C. 5:93-5.4(d) or N.J.A.C. 5:93-5.4(c)." The Appellate Division retained jurisdiction.

COAH then issued the Order to Show Cause on February 5, 1998, which orders Hillsborough to show cause "whether the grant of Substantive Certification by the Council dated April 3, 1996 to the Housing Element and Fair Share Plan of Hillsborough remains valid as a consequence of actions by Hillsborough subsequent to the grant of certification with regard to the planned adult community ("PAC") site, as those actions have been documented in the briefs and appendices, as supplemented, filed in In The Matter of the Petition for Substantive Certification of the Housing Element and Fair Share Plan of the Township of Hillsborough, Somerset County, Superior Court of New Jersey, Appellate Division, Docket No. A-005349-95T3, which matter has been remanded temporarily to COAH by Order dated

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January 7, 1998, attached."

THE SUBSTANTIVE CERTIFICATION REMAINS VALID

Although the Township has clearly changed its position with respect to the overall project contemplated by Greenbriar, it has done nothing at this juncture to undermine the Substantive Certification nor the Development Agreement executed with HAAL on February 27, 1996.

Hillsborough adopted Ordinance No. 97-28 entitled "An Ordinance Repealing Chapter 77 (Development Regulations) Section 91.1 (PAC-Planned Adult Community) of the Municipal Code of the Township of Hillsborough, County of Somerset, State of New Jersey" on October 28, 1997. Prior to adoption HAAL filed Emergent Application seeking an order from COAH blocking the passage of the ordinance. Hillsborough opposed that Emergent Application. Hillsborough's opposition, in part, has become the basis for the belief that Hillsborough no longer supports Substantive Certification. Ironically, HAAL argued before COAH, and continues to argue in other legal proceedings, which are pending, that the repealer ordinance does not effect its Substantive Certification. N.J.S.A. 40:55D-45.1 provides in part:

...
The planned development shall be developed in accordance with the general development plan approved by the planning board notwithstanding any provision of P.L. 1975, c.291 (C.40:55D-1 et seq.), or an ordinance or regulation adopted pursuant thereto after the effective

*HAAL doesn't
have sub cont
Hills does*

date of the approval.

b. The term of the effect of the general development plan approval shall be determined by the planning board using the guidelines set forth in subsection c of this section, except that the term of the effect of the approval shall not exceed 20 years from the date upon which the developer receives final approval of the first section of the planned development pursuant to P.L. 1975, c.291 (C.40:55D-1 et seq.).

...

Cox, New Jersey Zoning and Land Use Administration (Gann 1977) Section 15-2, at page 287, interprets the above-cited statutory provision to mean "approval of such plans insulate the developer from certain subsequent changes in law for a period potentially much longer than would be achieved by preliminary and final site plan and subdivision approval alone. Compare N.J.S.A. 40:55D-45.1 and N.J.S.A. 40:55D-49.1".

For this proceeding before COAH, however, COAH should look at the documents of the municipality resulting in the adoption of the repealer ordinance. First, the Planning Board through a letter from the Planning Board attorney to the Township Attorney dated June 16, 1997 recommended the ^(repeal)(appeal) of the PAC/HCF zone with the understanding that the Planning Board would create alternatives to address senior citizen needs of the Township. See Shirley Alberts Yannich Certification, Exhibit A attached hereto. The letter from Planning Board Attorney, William Sutphen, goes on to say:

2. The existing PAC/HCF zone would still be applicable to the Greenbriar at the Village (formerly Hillsborough Alliance for Adult

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Living) application which has received general development approval and has filed an application for preliminary major site plan approval.

Attendant to the letter from the Planning Board Attorney, was a letter written from the Planning Board to the Township Committee which stated in part:

At their public meeting on June 5, 1997, they [Planning Board] unanimously passed a motion to recommend the repeal of the existing ordinance and the writing of a new ordinance providing for senior citizen housing. It is the Planning Board's position that the existing ordinance, through its various amendments, no longer is valid.

The Master Plan provides for senior citizen housing and the land use and housing elements. It is not the Board's intention to amend the Master Plan and change their goals and objectives regarding senior citizen housing, but rather to create an ordinance that would include alternatives in senior housing; such as assisted living facilities.

See Yannich Certification, Exhibit B.

Prior to adoption of Ordinance No.97-28, the Township Attorney wrote to the Township Committee on October 24, 1997. A portion of his memorandum reads:

It is my view both from viewing the Planning Board memorandum of June 16, 1997 to you and your own actions, that it is not your intent to take action inconsistent with the Land Use Plan Element and the Housing Plan Element of the Master Plan as it pertains to senior citizens. Rather, it is your intention to replace what you believe to be an ordinance with problems with a superior ordinance. Nevertheless, some may view the PAC/HCF repealer as being inconsistent with the Master

Plan. If this be the case, you may still adopt the ordinance, but three affirmative votes are necessary as is the attached resolution.

See Gregory J. Bonin (Township Clerk) Certification, Exhibit A, attached hereto.

The Resolution referred to in Mr. Halpern's letter to the Township Committee is also attached to Mr. Bonin's Certification as Exhibit B. A portion of what the Township Committee resolved therein is:

2. It believes, that its action repealing the PAC/HCF ordinance is consistent and not inconsistent with the Master Plan and designed to effectuate the Land Use Plan Element and the Housing Plan Element of the Master Plan.

3. It reaches this conclusion because, like the Planning Board, its intention to enact an ordinance which will replace the PAC/HCF ordinance and address the issue of senior citizen housing in a more meaningful way, more responsive to engineering, planning and design standards. ✓

4. While the repealer ordinance may, at first glance, appear inconsistent with the Master Plan, it is in reality consistent with the Master Plan because of the intention of the Planning Board and Township Committee to develop a new ordinance on the subject.

5. It declares that even if the ordinance repealer is viewed as inconsistent with the Master Plan, it may be passed by a majority of the membership of the governing body with the reasons set forth in this resolution.

6. The reasons for adopting the PAC/HCF ordinance repealer include, not by way of limitation: (a) the experience gained with the ordinance will allow planning and engineering staff to develop more precise and

comprehensive planning, engineering and design standards which will be incorporated into a new ordinance. (b) the Township Committee's intent with the Planning Board assistance and recommendation is to adopt another ordinance which will address the goal of senior citizen housing in a more precise manner that meets the needs of senior citizens, imposes appropriate requirements upon developers and protects the interest of the Township as a whole. (c) the replacement of one or (sic) with a superior ordinance, both of which meet the Land Use Plan Element and the Housing Plan Element of the Master Plan, as it pertains to senior citizens, is a legitimate municipal goal. (d) the new ordinance will develop a menu of methods by which the need for senior citizen housing and health care facilities may be addressed.

7. It therefore concludes that this ordinance repealer is not inconsistent with the Land the (sic) Plan Element and the Housing Plan Element of the Master Plan, but that if (sic) be viewed as such, the ordinance repealer is justified for the reasons set forth in this resolution and lawfully adopted pursuant to the requirements of N.J.S.A. 40:55D-62.

The only appropriate inference from the activities of both the Planning Board and the Township Committee is that the municipality intended to repeal the PAC/HCF ordinance with regard to all properties in the Township, excepting the Greenbriar property, and then develop an alternative regulatory scheme for the provision of senior citizen housing in the municipality. There was a valid legislative purpose, which from its inception was unrelated to the Greenbriar project, and in no manner should that be construed as a breach of the Substantive Certification. The PAC/HCF zone is an overlay zone encompassing many residential districts throughout

Says Greenbriar not affected by repealer

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Hillsborough and affecting a great deal of property. Even without the PAC/HCF district, Hillsborough provides for affordable housing in all residential districts. The purpose of residential districts in MZ, AG, RA, RS, R, R1, CR, AH, RCA, TC, and PD include the following:

The standards are intended to offer maximum flexibility and site design in the selection of dwelling unit types in order to offer a balanced housing pattern attractive to all incoming age segments of the community as part of the Township's fair share of meeting of the regions low- and moderate- income needs. Section 77-91.

See Bonin Certification, Exhibit C.

Even without the PAC/HCF zone, Hillsborough continues to provide for affordable housing in all its residential districts.

**HILLSBOROUGH HAS NOT CHANGED ITS POSITION WITH
REGARD TO SEWERS SINCE SUBSTANTIVE
CERTIFICATION**

The Council on Affordable Housing granted Substantive Certification on April 3, 1996. The Developers Agreement was signed on February 27, 1996. As early as the summer of 1995, the Township Committee had adopted a resolution withdrawing its Waste Water Management Plan Amendment. That withdrawal was done by letter dated August 23, 1995 from Van Cleef Engineering to the Office of Environmental Planning (Bonin Certification, Exhibit D). The Township Resolution of August 22, 1995 authorizing the Van Cleef letter stated in pertinent part:

It leaves the individual property owners to either continue to pursue their independently filed request for plan amendments or to allow such plan amendments to proceed to NJDEPE for review in accordance with the Somerset County/Upper Raritan Watershed Wastewater Management Plan dated November 1994 of which the respective amendments are a part.

See Bonin Certification, Exhibit E.

Also instructive as to what happened in 1995 is a Van Cleef letter to the Bureau of Water Planning dated August 10, 1995 (see Bonin Certification, Exhibit I). It requests a portion of the Wastewater Management Plan Amendment dealing with the PAC/HCF be deleted. That letter was copied to the developer.

The purpose for the Resolution in August of 1995, was expressed in the preamble where the Township Committee noted, "Whereas the Township Committee does not believe it to be appropriate to sponsor a wastewater management plan amendment involving individual property owners where objections have been filed since such issues essentially involve disputes between the objector and the developer." Hillsborough simply maintained that position from August of 1995 to the present and on June 11, 1997, the developer independently petitioned the New Jersey Department of Environmental Protection for inclusion of their lands in the Somerset County/Upper Raritan Watershed Wastewater Management Plan. See Bonin Certification, Exhibit F. On the heels of that filing, the Township Committee passed a Resolution on June 24, 1997 (Bonin Certification, Exhibit G) which read in part:

Whereas both the Hillsborough Township Planning Board and the New Jersey Department of Environmental Protection have clearly defined public processes for reaching their decisions; and

Whereas the Hillsborough Township Committee believes both processes should be allowed to proceed to conclusion.

ie want to see what is in the submittal cert

The position taken by the Township Committee in June of 1997 is the one which it continues to hold. Hillsborough conveyed that position to the Council on Affordable Housing by letter dated June 27, 1997 (see Bonin Certification, Exhibit H).

So there should have no surprise to the developer or COAH when the Township Administrator wrote in April of 1997 (See Bonin Certification, Exhibit J) and then again in June of 1997 (See Bonin Certification, Exhibit H), saying that they were going to allow the DEP process to go forward without being prejudged by the Township Committee.

COAH SHOULD HOLD THIS MATTER IN ABEYANCE

The issue of (whether Hillsborough supports) ~~the Substantive Certification granted to it by COAH should be held in abeyance pending determination by DEP regarding the developer's application before it for inclusion in the County' Wastewater Management Plan;~~ and conclusion of the Planning Board review of the developer's application(s) before it. The developer has filed an application for 25 lots before the Planning Board; the Planning Board indicated early on in the process that it wanted to see the larger development and could not rule on just the isolated application for

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25 lots. Greenbriar is in the process of preparing that full plan and as a consequence has granted extensions to the Planning Board, the most recent of which was granted on January 19, 1998 extending the time for Planning Board decision from February 1, 1998 to August 1, 1998. See Yannich Certification, Exhibit C. The Planning Board anticipates receiving plans showing the full development in the near future. The Township Committee takes the position that it cannot determine whether it should support Substantive Certification or not until it is able to review the full project. As stated in New Jersey Land Use by Sydney V. Stoldt, Jr., Section 5.02[9] (1998):

Under the GDP Process, fully engineered drawings and exact locations of buildings, drainage, roads and other infrastructural items are not required.

All Hillsborough has reviewed is Greenbriar's GDP. The Township Committee wants to know what the fully engineered drawings will look like before (lending additional support) to the Substantive Certification.

COAH must recognize certain facts in rendering a decision on its Order to Show Cause. The goal of the Council is to obtain accessible affordable housing. That too is the goal of the Township. The other parties are interested in other matters, whether it be the preservation of the environment (Future); sale of property with a favorable sale price (HAAL); or development of property to generate profits (U.S. Homes). It is only COAH and

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Hillsborough that have the provision of affordable housing as the primary concern. Hillsborough has demonstrated its good faith with regard to providing affordable housing. COAH's own compliance report, dated March 4, 1996, notes Hillsborough's substantial compliance from the first round:

Substantial Compliance Calculation

Hillsborough has requested a reduction for substantial compliance. The 1987 certified plan proposes 91 units to be constructed within the Township. At the time that Hillsborough petitioned on February 28, 1995, building permits have been issued for all 91 units. The construction had begun. N.J.A.C. 5:93-2.6 provides that a municipality may receive substantial compliance reductions based on the percentage of completed units proposed within the municipality. Hillsborough Township has 100% compliance and is eligible for a 20% reduction on its new construction component.

Further, Hillsborough's filing on this round on February 28, 1995 demonstrates its continued intention to provide affordable housing within the Township. The March 4, 1996 COAH compliance report noted at p.7 that "Hillsborough did not want two years but petitioned promptly." (Hillsborough should not be penalized because it may be having second thoughts about exactly how affordable housing might be provided in the second round.) COAH should grant the municipal fathers the necessary time to make their own informed decisions as to what is best for the Township and its residents. The Township Committee is the body that is elected to make those decisions. COAH should allow for the governing body to formulate its own position, even if it takes some additional time as long as

✓
leads
more
time
!

the Township represents that ultimately, and within a reasonable period of time, it will provide its required fair share. ✓

Lawsuits filed regarding the Greenbriar project, including Future's appeal have helped crystallize certain issues for the Township Committee.) Additionally, the Township does not deny that there have been political pressures as citizen groups have formed in opposition to the Greenbriar project. All of that is part of a political process, a political process which is healthy for representative government; that process should be allowed to develop and run its course since history shows that government acts best after oft'times belabored discussions with substantial public input. The Township Committee needs to see the locations of buildings, drainage, roads and other infrastructural items. It needs to know the answer to other questions raised by either the local environmental commission or the County Planning Board with respect to preserving the land and affording necessary services to the future residents (specifically senior citizens) of the development. Only when all the information has been gleaned, will the Township Committee be able to review a more formulated plan and weigh the impacts of the development on traffic; on municipal services; on the environment; and on the municipality's available resources. ✓

It is for the above reasons that Hillsborough requests that COAH (hold the matter in abeyance) pending a decision by DEP on the developer's application for inclusion in the County's Wastewater

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Management Plan and the availability of more detailed plans for the overall development before the Planning Board as well as the Planning Board's responses to those plans. It is estimated by the Township Committee that the information requested will be available by September of 1998 and it asks COAH to pend this matter until that time. In the interim, Hillsborough is creating alternative plans in the event that it finally concludes that it cannot support the Development Agreement or Substantive Certification; in that manner Hillsborough will be prepared to provide the required round two fair share housing.

If COAH cannot see its way to (stop the clock) on its Order to Show Cause, it should minimally retain jurisdiction to permit Hillsborough to file an amended application for Substantive Certification. Greenbriar should not be allowed to request a builder's remedy in court, a remedy which a complaint filed by HAAL in Superior Court seeks, until COAH and Hillsborough have had the opportunity consider opportunities for providing Hillsborough's fair share housing which are acceptable to COAH and the Township.

N.J.A.C. 5:93-5.4(C) AND (D) APPLY TO THE GREENBRIAR PROJECT

N.J.A.C. 5:93-5.4 was a part of COAH's substantive rules since it became effective June 6, 1994. These regulations were existing when Hillsborough filed its Housing Element with COAH and filed its application for Substantial Certification.

Much has been made of the fact that the GDP was approved by

the Hillsborough Planning Board in December of 1991 while the State Development and Redevelopment Plan (SDRP) was not adopted until June, 1992. The argument implies that no one could reasonably have anticipated the SDRP and it just mysteriously fell from the sky that June. Reality is quite different. N.J.S.A. 52:18A-196 et seq. (State Planning Commission Act) was P.L. 1985 c.398 effective January 2, 1986 - almost six years before the GDP was adopted. The State Planning Commission Act required the State Planning Commission to prepare and adopt a SDRP by January 2, 1989. According to the SDRP preface, the cross-acceptance process "commenced in January 1989 upon release of the Preliminary State Development and Redevelopment Plan."

COAH granted a waiver from its rules pursuant to N.J.A.C. 5:93-15.1(b) by citing the language of that regulation without any substantive support for its findings. N.J.A.C. 5:93-15.1(b) which says COAH in granting a waiver must determine "That such a waiver fosters the production of low and moderate income housing" is a bootstrap provision. Would COAH grant a waiver that hindered production of fair housing? N.J.A.C. 5:93-15(b) 2 and 3 read:

2. That such a waiver fosters the intent of, if not the letter of, its rules; or
3. Where the strict application would create an unnecessary hardship.

The intent of the regulation is to follow the SDRP; to require all inclusionary development to be located in centers; to prevent

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sprawl. There are no findings of COAH, that granting the waiver will even address, no less meet, the salient goals of the regulation.

Other than an economic hardship (i.e., loss of profits) for U.S. Homes there is also no tangible hardship demonstrated. Hillsborough does not believe U.S. Homes' possible economic hardship is the type of hardship intended by the waiver regulation. If that were sufficient hardship, then virtually every waiver request would be entitled to approval.

COAH and Hillsborough must together develop the findings of fact and conclusions to support the waiver or alternatively Hillsborough can seek the Center designation. Either alternative would require COAH to reserve decision on its Order To Show Cause to allow time for other governmental processes to proceed. Hillsborough needs and requests additional time.

Very truly yours,

DeCOTIIS, FITZPATRICK & GLUCK

By: 

James A. Farber

JAF/kg
enclosures

cc: William Malloy, DAG
Daniel Reynolds, DAG
Peter A. Buchsbaum, Esq.
Stephen Eisdorfer, Esq.
John Payne, Esq.
Ronald Schimanowitz, Esq.
John Middleton, Borough Administrator
VIA FEDERAL EXPRESS

IN THE MATTER OF THE PETITION	}	NEW JERSEY COUNCIL ON
FOR SUBSTANTIVE CERTIFICATION	}	AFFORDABLE HOUSING
OF THE HOUSING ELEMENT AND FAIR	}	
SHARE PLAN OF THE TOWNSHIP OF	}	CERTIFICATION OF
HILLSBOROUGH, SOMERSET COUNTY	}	GREGORY J. BONIN

I, Gregory J. Bonin, of full age, certify as follows:

1. I am the Township Clerk of the Township of Hillsborough and by law am the custodian of records of the Township Committee.

2. Attached as Exhibit A is a letter from Edward Halpern, Township Attorney, to the Township Committee, dated October 24, 1997, regarding adoption of the repealer ordinance.

3. Attached as Exhibit B is a copy of a Resolution passed by the Township Committee on October 28, 1997.

4. Attached as Exhibit C is a page from the Development Regulations, Chapter 77 of the Township of Hillsborough Code.

5. Attached as Exhibit D is a letter dated August 23, 1995 from Van Cleef Engineering Associates to the Office of Environmental Planning withdrawing Hillsborough's proposed amendment to the Wastewater Management Plan.

6. Attached as Exhibit E is a copy of a Resolution passed by the Township Committee on August 22, 1995.

7. Attached as Exhibit F is a June 11, 1997 letter from Greenbriar's attorney to DEP.

8. Attached as Exhibit G is a copy of a Resolution passed by the Township Committee on June 24, 1997.

9. Attached as Exhibit H is a letter dated June 27, 1997 from Township Administrator John Middleton to Shirley Bishop of COAH.

10. Attached as Exhibit I is a letter dated August 10, 1995 from Van Cleef Engineering Associates to the Bureau of Water Planning.

11. Attached as Exhibit J. is a copy of the letter dated April 8, 1997 from John Middleton to Shirley Bishop of COAH.

I certify that the foregoing statements by me are true. I further certify that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated:

3/11/98



GREGORY J. MONIN

A

**LAW OFFICE
EDWARD A. HALPERN
908-359-4333**

**- OFFICE ADDRESS -
PROFESSIONAL CENTER AT HILLSBOROUGH
503 OMNI DRIVE AT RT. 206
SOMERVILLE, NJ 08876**

**- MAILING ADDRESS -
P.O. BOX 361
NESHANIC STATION, NJ 08853**

MEMORANDUM

TO: TOWNSHIP COMMITTEE

FROM: EDWARD A. HALPERN, ESQUIRE

DATE: October 24, 1997

RE: PAC/HCH ORDINANCE REPEALER

Attached hereto please find a form of resolution which should be adopted by the Governing Body just prior to any adoption of the PAC/HCF Repealer Ordinance. You may of course modify the resolution in any way you deem appropriate at the October 28, 1997 meeting before its adoption by you. The reasons for this resolution are explained below and in the resolution itself.

N.J.S.A. 40:55D-62 declares that where the Governing Body adopts a zoning ordinance which is substantially inconsistent with the Land Use Plan Element and the Housing Plan Element of the Master Plan, it must adopt the ordinance only by an affirmative vote of a majority of the full authorized membership of the Governing Body (3) with the reasons of the Governing Body for so acting set forth in a resolution.

It is my view both from reviewing the Planning Board Memorandum of June 16, 1997 to you and your own actions, that it is not your intent to take action inconsistent with the Land Use Plan Element and the Housing Plan Element of the Master Plan as it pertains to senior citizens. Rather, it is your intention to replace what you believe to be an ordinance with problems with a superior ordinance. Nevertheless, some may view the PAC/HCF repealer as being inconsistent with the Master Plan. If this be the case, you

may still adopt the ordinance, but three affirmative votes are necessary as is the attached resolution.

In order to protect your adoption of this ordinance from attack, I believe the best approach is to adopt this resolution so that whether your action be considered consistent or inconsistent with the Master Plan, it would still remain a valid action

cc: John Middleton, Township Administrator
Greg Bonin, Township Clerk
Frank Scarantino, Township Engineer
William Sutphen, Esq , Planning Board Attorney

B



Township of Hillsborough

COUNTY OF SOMERSET
MUNICIPAL BUILDING
555 AMWELL ROAD
NESHANIC, NEW JERSEY 08853

TELEPHONE
(908) 369-4313

RESOLUTION

WHEREAS, Ordinance 97-28 is an ordinance repealing Chapter 77, Section 91.1 of the Township Municipal Code (PAC/HCF Ordinance); and

WHEREAS, said ordinance was introduced on August 26, 1997 and amended on September 23, 1997 with a public hearing continued and held on October 28, 1997; and

WHEREAS, such PAC/HCF ordinance repealer might be viewed as being inconsistent with the Land Use Plan Element and the Housing Plan Element of the Master Plan or not designed to effectuate such Plan elements; and

WHEREAS, the Township Planning Board filed a report on June 16, 1997 with the Township Committee clarifying that the repealer was not intended to be contrary to the Land Use Plan Element and the Housing Plan Element of the Master Plan which provides for senior citizen housing, but was intended to be replaced by a superior ordinance; and

WHEREAS, the Township Committee is in accord with that goal, namely, developing another senior citizen ordinance intended to meet senior citizen housing goals articulated in the Township Master Plan; and

WHEREAS, N.J.S.A. 40:55D-62(a) declares that a Governing Body may adopt a zoning ordinance or amendment thereto which in whole or part is inconsistent with or not designed to effectuate the Land Use Plan Element and the Housing Plan Element, but only by affirmative vote of a majority of the full authorized membership of the Governing Body with the reasons of the Governing Body for so acting set forth in a resolution and recorded in its minutes when adopting such a zoning ordinance; and

WHEREAS, the goals of the Planning Board and Township Committee on this issue are consistent with the Master Plan in that future enabling Legislation is anticipated, but such ordinance (97-28) might be viewed as being inconsistent with the Master Plan.

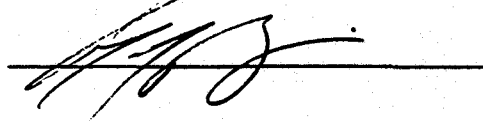
NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey as follows;

1. It embraces and is in accord with the Planning Board Memorandum of June 16, 1997 to the Township Committee attached hereto.
2. It believes, that its action in repealing the PAC/HCF Ordinance is consistent and not inconsistent with the Master Plan and designed to effectuate the Land Use Plan Element and the Housing Plan Element of the Master Plan.
3. It reaches this conclusion because, like the Planning Board, it is its intention to enact an ordinance which will replace the PAC/HCF Ordinance and address the issue of senior citizen housing in a more meaningful way more responsive to engineering, planning and design standards.

4. While the repealer ordinance may, at first glance, appear inconsistent with the Master Plan, it is in reality consistent with the Master Plan because of the intention of the Planning Board and Township Committee to develop a new ordinance on the subject.
5. It declares that even if the ordinance repealer is viewed as inconsistent with the Master Plan, it may be passed by a majority of the membership of the Governing Body with the reasons set forth in this Resolution.
6. The reasons for adopting the PAC/HCF ordinance repealer include, not by way of limitation:
 - a) The experience gained with the ordinance will allow planning and engineering staff to develop more precise and comprehensive planning, engineering and design standards which will be incorporated into a new ordinance.
 - b) The Township Committee's intent with the Planning Board assistance and recommendation is to adopt another ordinance which will address the goal of senior citizen housing in a more precise manner that meets the needs of senior citizens, imposes appropriate requirements upon developers and protects the interest of the Township as a whole.
 - c) The replacement of one or with a superior ordinance, both of which meet the Land Use Plan Element and the Housing Plan Element of the Master Plan, as it pertains to senior citizens, is a legitimate municipal goal.
 - d) The new ordinance will develop a menu of methods by which the need for senior citizen housing and health care facilities may be addressed.
7. It therefore concludes that this ordinance repealer is not inconsistent with the Land the Plan Element and the Housing Plan Element of the Master Plan, but that if be viewed as such, the ordinance repealer is justified for the reasons set forth in this Resolution and lawfully adopted pursuant to the requirements of N.J.S.A. 40:55D-62.

I, Gregory J. Bonin, Hillsborough Township Clerk, hereby certify that the above resolution is a true and correct copy of a resolution adopted by the Township Committee of the Township of Hillsborough at a regular and duly convened meeting held on October 28, 1997.

In witness thereof I have set my hand and affixed the seal of the Township of Hillsborough this 29th day of October 1997.



C

C. Without limiting the foregoing sections, or being limited thereby, the following uses are specifically prohibited:

(1) Motor freight terminals, motor and truck transfer stations, motor and truck depots, motor and truck storage sites, truck stops and truck repair facilities.

(2) Storage, manufacturing, purifying, packaging, repackaging, selling or supplying of toxic or highly flammable chemicals or gases, as a primary use, regardless of quantities involved.

(3) Aboveground tank farms or storage of gasoline, fuel oils, gases or chemicals or other flammable, corrosive or toxic substances as a primary use or in total on-site quantities exceeding thirty thousand (30,000) liquid gallons or equivalent.

(4) Adult bookstores, businesses showing X-rated movies or live acts, massage parlors and other businesses dealing primarily with indecent or obscene materials, acts or paraphernalia.

§ 77-91. **MZ, AG, RA, RS, R, R1, CR, AH, RCA, TC and PD Residential Districts. [Amended 6-12-79 by Ord. No. 79-1; 9-25-80 by Ord. No. 80-14; 7-14-81 by Ord. No. 81-11; 11-24-81 by Ord. No. 81-20; 10-12-82 by Ord. No. 82-13; 9-24-85 by Ord. No. 85-14; 6-28-88 by Ord. No. 88-10]**

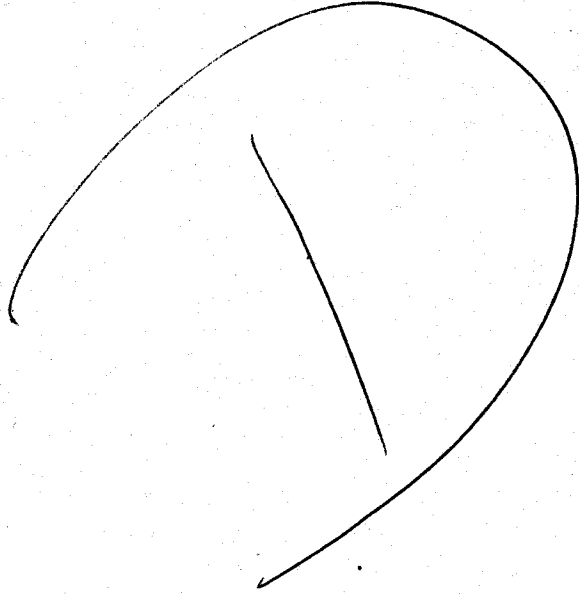
A. Purpose. The purpose of the MZ, AG, RA, RS, R, R1, CR, AH, RCA, TC and PD Residential Districts is to establish a distribution of population density throughout the township in relation to existing and prospective facilities, a convenient street system, employment areas and reasonable predictability of population growth. The standards are intended to offer maximum flexibility in site design and the selection of dwelling unit types in order to offer a balanced housing pattern attractive to all income and age segments of the community as part of the township's fair share of meeting the region's low- and moderate-income housing need. In each of these districts, development design may follow either standard subdivision of lots or cluster zoning or, in the R, R1, CR, AH, RCA, TC and PD Districts, utilize the planned development provisions of this chapter.

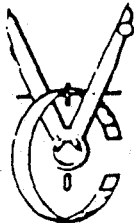
B. Permitted principal uses.

(1) Dwellings, in accordance with the schedule at the end of this chapter.

(2) Libraries, parks and playgrounds, cemeteries, community center (noncommercial) and golf courses.

(3) Neighborhood convenience center in conjunction with planned developments containing more than three hundred (300) dwelling units. The center shall contain not less than four (4) and not more than eight (8) retail outlets and/or offices. The center shall be located in relation to the entire development and a convenient street network and shall also be served by a comprehensive pedestrian and bikeway system serving the entire project. The lot area shall not be less than two (2) acres nor more than six (6) acres, with minimum





VAN CLEEF ENGINEERING ASSOCIATES

CONSULTING CIVIL, ENVIRONMENTAL & MUNICIPAL ENGINEERING • LAND SURVEYING
PROFESSIONAL PLANNING • LANDSCAPE ARCHITECTURE

August 23, 1995

NEIL I. VAN CLEEF, N.J. P.E., L.S. & P.P.
ROBERT J. CLERICO, N.J. P.E. & P.P.
ROBERT B. HEIBELL, N.J. P.E., L.S. & P.P.
DANIEL A. NAGY, N.J. L.S. & P.P.
PAUL E. POGORZELSKI, N.J. P.E. & P.P.

Certified Mail
Return Receipt Requested

Martin A. Bierbaum, Ph.D., Administrator
Office of Environmental Planning
CN418
401 East State Street
Trenton, New Jersey 08625

RE: Proposed Amendment to the Hillsborough Township
Wastewater Management Plan (WMP)
Upper Raritan Water Quality Management Plan

AUG 28 1995
SOMERSET COUNTY
PLANNING BOARD

Dear Dr. Bierbaum:

On behalf of Hillsborough Township, and in accordance with the attached resolution dated August 22, 1995 from the Hillsborough Township Committee, this is to hereby withdraw from consideration by NJDEP the entire proposed Amendment to the Hillsborough Township Wastewater Management Plan.

Thank you for your consideration in this matter.

Sincerely,

Robert B. Heibell

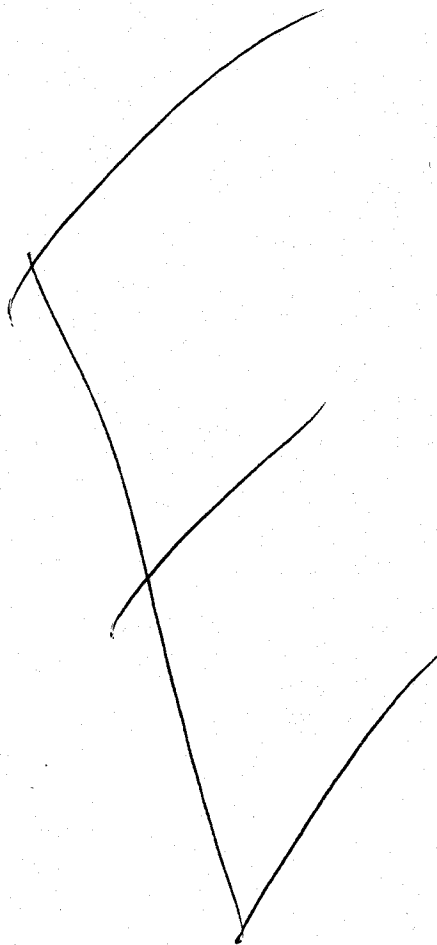
Robert B. Heibell, P.E. & L.S.

RBH/sw
Enclosures

cc: Harry Smith, PAC/HCF
Thomas N. D'Altrui, The Paddocks at Blackwell's Mill
Diana Fainberg, Vice President,
Belle Mead Development Corp/Royce Brook Golf Club
Ken Scherer, Mayor, Hillsborough Township
Christopher Bateman, Assemblyman, Sixteenth District
Glen D. Petrauski, Executive Director, SRVSA
Alan R. Oliver, HTMUA
Frank S. Scarantino, Hillsborough Township Engineer
Anthony V. McCracken, Sr., Somerset County Planning Board

Please Reply To:

SOMERSET COUNTY OFFICE • P.O. Box 275 • 339 Amwell Road • Belle Mead, N.J. 08502 • (908) 359-8291 • FAX # (908) 359-1580
 HUNTERDON COUNTY OFFICE • 1128 Route 31 • Lebanon, New Jersey 08833 • (908) 735-9500 • FAX # (908) 735-6364
 MORRIS COUNTY OFFICE • 2345 Route 33 • Robbinsville, New Jersey 08691 • (609) 259-3263 • FAX # 259-0278



**Hillsborough Township Committee Resolution
Pertaining to the Hillsborough Township
Wastewater Management Plan Amendment**

WHEREAS, pursuant to the New Jersey Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.), Hillsborough Township had previously prepared a Wastewater Management Plan; and further

WHEREAS, pursuant to the Water Quality Planning Act and Implementation Process Regulations (N.J.A.C. 7:15-3.4 et seq.), Hillsborough Township had previously prepared a Wastewater Management Plan; and

WHEREAS, certain individual property owners had independently filed requests to NJDEPE for amendments to the Wastewater Management Plan; and

WHEREAS, in October 1994 NJDEPE requested the individual property owners to combine their proposed amendments and further recommend that Hillsborough Township sponsor and submit the combined amendment proposal in order to efficiently process for NJDEPE the proposed amendments to the Wastewater Management Plan; and

WHEREAS, on December 13, 1994 the Hillsborough Township Committee adopted a resolution engaging the services of Van Cleef Engineering Associates to prepare the combined amendment to the Wastewater Management Plan as requested by NJDEPE; and

WHEREAS, all of the proposed amendments to the Wastewater Management Plan are consistent with the Somerset County/Upper Raritan Watershed Wastewater Management Plan, dated November 1994, and as filed with NJDEPE in November 1994; and

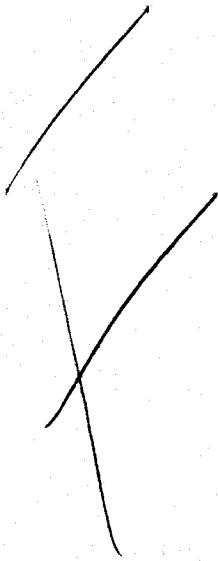
WHEREAS, objections have now been filed with NJDEPE by concerned parties in regards to the proposed amendments to the Wastewater Management Plan; and

WHEREAS, the Township Committee does not believe it to be appropriate to sponsor a Wastewater Management Plan Amendment involving individual property owners where objections have been filed since such issues essentially involve disputes between the objector and the developer; and

WHEREAS, the Township Committee believes that, under such circumstances, such plan amendments should proceed before NJDEPE based on the independently filed requests of such property owners and/or the Somerset County/Upper Raritan Watershed Wastewater Management Plan dated November 1994 presently pending before NJDEPE, of which these development requests for amendments to the Wastewater Management Plan are a part.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey as follows;

4

A handwritten mark consisting of two intersecting curved lines, resembling a stylized 'X' or a signature. The lines are black and have a slightly irregular, hand-drawn appearance. One line starts at the top left and curves downwards to the right, while the other starts at the top right and curves downwards to the left, meeting at a central point.

SENT BY:GIORDANO HALLERAN

: 6-11-97 : 11:41 :

GIORDANO HALLERAN-

9083696034: 1

cc: T.C.
JIM FARGER

GIORDANO, HALLERAN & CIESLA

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

125 HALF MILE ROAD

POST OFFICE BOX 190

MIDDLETOWN, NEW JERSEY 07748

(908) 741-3900

FAX: (908) 824-8500

441 EAST STATE STREET
TRENTON, NEW JERSEY 08628
(908) 695-3900

PLEASE REPLY TO: MIDDLETOWN

DIRECT DIAL NUMBER:

June 11, 1997

FEDERAL EXPRESS

JOHN E. GIORDANO, JR.
JOHN B. HALLERAN
FRANK S. CIESLA
STEWART J. BERRY JR.
THOMAS A. LISKIN
JOHN A. PIELKE
MICHAEL J. BRUSS
RICHARD L. FROSTMAN II
GEORGE J. TYLER
JOHN P. GUNCO
HOWARD S. HOBBS DR.
EDWARD S. HABELY
STEVEN M. BEBLIN D.
EMERSON A. HUNT
WILLIAM S. FROSTMAN
TODD E. BRATT
MICHAEL J. EARNING D.
PAUL M. SCHMIDT
M. DEEY TASHLY
MICHAEL A. QUERQUEZ
DAVID P. GIBBISAN D.
EDWARD C. SCRYMOUR, JR.
ALFRED S. HOBBS
MICHAEL A. BRUSS
MARGARET S. EARMELT
JUST E. ANDERSON
PAUL T. COLELLA
STEVEN J. BRODRAN
SUSAN S. DAVIS

COUNSEL:
ELIZABETH SMULSTON
ROBERT S. LISKIN

OF COUNSEL:
S. THOMAS CASLIANO

JOHN E. GIORDANO
1987-1990

LAURA S. ANDERSON
JOANNE S. BRAY
PAUL Y. FERRICOLA
JAY S. BAKER
J. ANDREW AMESY
TIMOTHY S. LYONS
LAWRENCE J. SHANN
SEAN C. DEGAN
MADE S. MILLER
DEBRA J. RUBENSTEIN
GERALD P. LALLY
CATHERINE P. HEAGAN
J. DEEY ANDERSON
ERIK S. VIBIL
JOSEPH G. GAPPUCIO
CHARLES A. CERUSI
GIORDANA SILVERSTEIN
MICHAEL J. VITELLO
ERIC S. SCHAEER
DAVID A. SCHMIDT
ANITA L. SHAPPELLINE
ADAM S. SOARS
LYNETTE J. GARNAT
PATRICK S. GOUVERT

REGISTERED ENV. TRIAL ATTORNEY
A CERTIFIED GENERAL TRIAL ATTORNEY

FILE NO.

4328/052

Ms. Deborah A. Bechtel
Principal Environmental Specialist
Water Planning Group
State of New Jersey
Department of Environmental Protection
Office of Environmental Planning
401 E. State Street, Floor 2
CN 418
Trenton, New Jersey 08625

Re: Petition of U.S. Home Corporation and Hillsborough Alliance For Assisted Living, L.P. (collectively, the "Petitioners") for inclusion of Lots 1, 6, 10A, 13, 27, 28, 34, 44 and 44A in Block 11, and Lots 26, 27, 28, 29A, 33, 44, 45 and 47 in Block 12, as shown on the Official Tax Map of the Township of Hillsborough, Somerset County ("Petitioners' Lands"), comprised of 760+ acres to be developed as "Greenbriar at The Village" (the "Project") in the pending proposed Somerset County/Upper Raritan Watershed Wastewater Management Plan.

Dear Ms. Bechtel:

Please be advised that this office is counsel to Hillsborough Alliance For Assisted Living, Inc. as the owner, and U.S. Home Corporation as the contract purchaser, of the Petitioners' Lands above described and intended to be developed by U.S. Home Corporation as a Planned Adult Community/Health Care Facility known as "Greenbriar at The Village". On behalf of the Petitioners, on April 28th, 1997, I filed with your office seven (7) copies of their Petition For Inclusion of Petitioners' Lands within the proposed Somerset County/Upper Raritan Watershed

G

**RESOLUTION REGARDING THE STATUS OF THE PAC/HCF OVERLAY ZONE IN
THE MILL LANE AREA IN THE HILLSBOROUGH TOWNSHIP WASTEWATER
MANAGEMENT PLAN**

WHEREAS, on April 3, 1997, the Hillsborough Township Planning Board adopted a resolution recommending changes to the Hillsborough Township portion of the Somerset County/Upper Raritan Watershed Wastewater Management Plan; and

WHEREAS, by resolution of April 22, 1997 the Hillsborough Township Committee requested that the Somerset County Planning Board defer any action on the Hillsborough Township Planning Board resolution of April 3, 1997 until such time as the Hillsborough Township Committee has a chance to review and endorse it; and

WHEREAS, as part of that resolution, the Hillsborough Township Planning Board recommended including the PAC/HCF overlay zone in the Mill Lane area in the Hillsborough Township Wastewater Management Plan; and

WHEREAS, U. S. Homes and the Hillsborough Alliance for Assisted Living have applied for preliminary approval of a major subdivision in the Mill Lane area to be known as Greenbriar at the Village; and

WHEREAS, on June 11, 1997, the developer petitioned the New Jersey Department of Environmental Protection for inclusion of their lands in the Somerset County/Upper Raritan Watershed Wastewater Management Plan; and

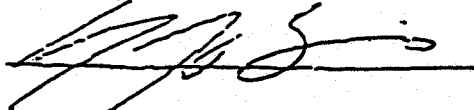
WHEREAS, both the Hillsborough Township Planning Board and the New Jersey Department of Environmental Protection have clearly defined public processes for reaching their decisions; and

WHEREAS, the Hillsborough Township Committee believes both processes should be allowed to proceed to conclusion.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey, that the changes recommended by the Hillsborough Township Planning Board relative to the PAC/HCF zone are overruled and the PAC/HCF zone should not be included in the Hillsborough Township portion of the Somerset County/Upper Raritan Watershed Wastewater Management Plan.

I, Gregory J. Bonin, Hillsborough Township Clerk, hereby certify that the above resolution is a true and correct copy of a resolution adopted by the Township Committee of the Township of Hillsborough at a regular and duly convened meeting held on June 24, 1997.

In witness thereof I have set my hand and affixed the seal of the Township of Hillsborough this 25th day of June 1997.



X

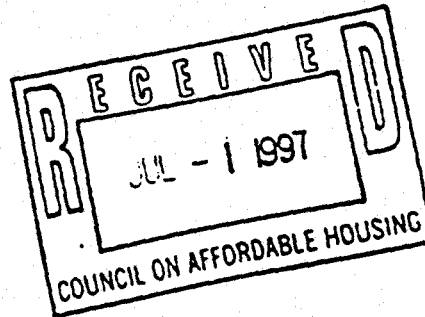


Township of Hillsborough



COUNTY OF SOMERSET
MUNICIPAL BUILDING
AMWELL ROAD
NESHANIC, NEW JERSEY 08853

(908) 369-4313



June 27, 1997

Ms. Shirley M. Bishop, P. P.
Executive Director
Council on Affordable Housing
CN 813
Trenton, N. J. 08625-0813

Dear Ms. Bishop,

As I indicated to you in my April, 8, 1997 status report, the Hillsborough Township Planning Board, at its April 3, 1997 meeting, passed a resolution requesting that the entire PAC/HCF tract be included in the Somerset County/Upper Raritan Watershed Wastewater Management Plan (WWMP). At their meeting of April 22, 1997, the Hillsborough Township Committee reserved the right to endorse or not endorse the Planning Board's recommendation. On June 11, 1997, the developer of the Greenbriar at the Village independently petitioned NJDEP for inclusion of their lands in the WWMP.

Since the developer has requested inclusion in the WWMP and has an application for preliminary subdivision approval before the Planning Board, the Hillsborough Township Committee saw no reason to request the County to include the Mill Lane area in the WWMP; therefore, at their meeting on June 24, 1997, they voted to overrule the Planning Board's recommendation. They believe the public processes followed by NJDEP and the Hillsborough Township Planning Board should be allowed to proceed to conclusion without being prejudged. When those processes are finished, the Hillsborough Township Committee will be required to take action, under NJDEP regulations, and they will.

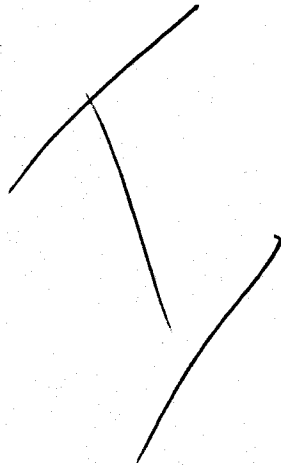
If you need more information on this matter, please let me know.

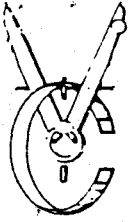
Sincerely,

John D. Middleton
Township Administrator

Encl.

cc: Hillsborough Township Committee
Ed Halpern, Township Attorney, w/encl
Frank Yurasko, Township Litigation Attorney, w/encl
James A. Farber, Special Litigation Counsel





VAN CLEEF ENGINEERING ASSOCIATES

CONSULTING CIVIL, ENVIRONMENTAL & MUNICIPAL ENGINEERING • LAND SURVEYING
PROFESSIONAL PLANNING • LANDSCAPE ARCHITECTURE

NEIL I. VAN CLEEF, N.J. P.E., L.S. & P.P.
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ROBERT B. HEIBELL, N.J. P.E., L.S. & P.P.
DANIEL A. NAGY, N.J. L.S. & P.P.
PAUL E. POGORZELSKI, N.J. P.E. & P.P.

August 10, 1995

Certified Mail and Faxed

Sandra Remboske
NJDEP
Bureau of Water Planning
CN418
Trenton, New Jersey 08625-0418

RE: Proposed Amendment to the Hillsborough Township
Wastewater Management Plan (WMP)
Upper Raritan Water Quality Management Plan

Dear Mrs. Remboske:

Pursuant to our telephone conversation of August 9, 1995 regarding the Hillsborough Township Wastewater Management Plan Amendment, this is to hereby request that the portion of the Amendment which involves the Planned Adult Community/Health Care Facility (PAC/HCF) and the lots adjacent to the PAC/HCF be deleted from the Amendment request. This request for the deletion is a result of a meeting held on August 9, 1995 with Hillsborough Township officials.

The remaining 2 areas within the Amendment, namely the Paddocks at Blackwell's Mill and the Royce Brook Golf Club, would remain within the formal Amendment. I would therefore ask that you review this request for the deletion of the PAC/HCF and inform me of the procedure in order to formalize the deletion. Also please note, that to date no objections have been filed for either the Paddocks at Blackwell's Mill or the Royce Brook Golf Club. Therefore, should there be no objections filed on these portions of the Amendment during the remainder of the public comment, we would request that neither the public comment period be extended or that a public hearing be scheduled.

Please Reply To:

- SOMERSET COUNTY OFFICE • P.O. Box 275 • 339 Amwell Road • Belle Mead, N.J. 08502 • (908) 359-8291 • FAX # (908) 359-1580
 HUNTERDON COUNTY OFFICE • 1128 Route 31 • Lebanon, New Jersey 08833 • (908) 735-9500 • FAX # (908) 735-6364
 MERCER COUNTY OFFICE • 2115 Rte. 13 • Trenton, NJ 08611 • (609) 392-2222 • FAX # (609) 392-2222

Sandra Remboske
August 10, 1995
Page 2

RE: Proposed Amendment to the Hillsborough Township
Wastewater Management Plan (WMP)
Upper Raritan Water Quality Management Plan

Thank you for your cooperation in this matter.

Sincerely,

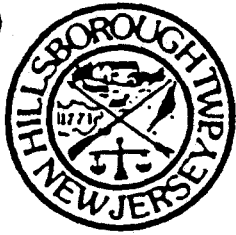
Robert B. Heibell

Robert B. Heibell, P.E. & L.S.

RBH/sw

cc: Martin A. Bierbaum, Phd. Administrator, OLWP
Susan Michiniewski, OLWP
Harry Smith, PAC/HCF
Thomas N. D'Altrui, The Paddocks at Blackwell's Mill
Diana Fainberg, Vice President,
Belle Mead Development Corp/Royce Brook Golf Club
Ken Scherer, Mayor, Hillsborough Township
Christopher Bateman, Assemblyman, Sixteenth District
Glen D. Petrauski, Executive Director, HTMUA
Alan R. Oliyer, HTMUA
Frank S. Scarantino, Hillsborough Township Engineer
Anthony V. McCracken, Sr., Somerset County Planning Board
David N. Kinsey, Kinsey and Hand

J



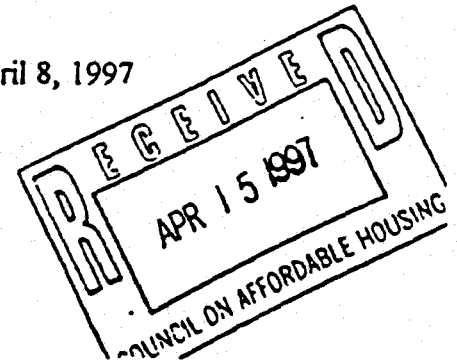
Township of Hillsborough

COUNTY OF SOMERSET
MUNICIPAL BUILDING
AMWELL ROAD
NESHANIC, NEW JERSEY 08853

TELEPHONE
(908) 369-4313

April 8, 1997

Ms. Shirley M. Bishop, P. P.
Executive Director
Council on Affordable Housing
CN 813
Trenton, N. J. 08625-0813



Re: Twelve month Status Report on Hillsborough Township's Substantive Certification

Dear Ms. Bishop,

As you are aware, satisfaction of Hillsborough Township's Fair Share Plan is dependent on DEP approval of the Somerset County/Upper Raritan Watershed Wastewater Management Plan, which includes the extension of the sewer area to the PAC/HCF tract. In November, 1996, the Township Committee requested that County and DEP review of the WWMP be deferred six months so that the Planning Board could review it and possibly modify it. That review has been completed and the Planning Board, at its April 3, 1996 meeting, passed a resolution requesting that the entire PAC/HCF tract be included in the WWMP.

In July, 1996, a developer, U. S. Homes Corporation, submitted an application for preliminary subdivision approval to the Hillsborough Township Planning Board. That application included the construction of the elements of our Fair Share Plan. In August, 1996, the application was withdrawn. In December, 1996, the application was resubmitted and is now being considered by the Planning Board.

If you need more information on this matter, please let me know.

Sincerely,

John D. Middleton
Township Administrator

cc: Hillsborough Township Committee
Ed Halpern, Township Attorney
Frank Scarantino, Township Engineer

IN THE MATTER OF THE PETITION
FOR SUBSTANTIVE CERTIFICATION
OF THE HOUSING ELEMENT AND FAIR
SHARE PLAN OF THE TOWNSHIP OF
HILLSBOROUGH, SOMERSET COUNTY

} NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING
}
CERTIFICATION OF
} SHIRLEY ALBERTS YANNICH

I, Shirley Alberts Yannich, of full age, certify as follows:

1. I am the Township Planner for the Township of Hillsborough in Somerset County, New Jersey and as such I am fully familiar with the operations of the Hillsborough Township Planning Board.

2. Attached hereto as Exhibit A is a letter dated June 16, 1997 written by William R. Sutphen, III, the Hillsborough Township Planning Board Attorney, to Edward A. Halpern, Esq., the Township Attorney.

3. Attached hereto as Exhibit B is Memorandum dated June 16, 1997 from the Township Planning Board to the Township Committee regarding a motion passed by the Planning Board on June 5, 1997.

4. Attached hereto as Exhibit C is a letter dated January 14, 1998 from John R. Halleran to me consenting to extension of time of decision by the Planning Board from February 1, 1998 to August 1, 1998.

I certify that the foregoing statements by me are true. I further certify that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



SHIRLEY ALBERTS YANNICH

Dated: March 10, 1998

A

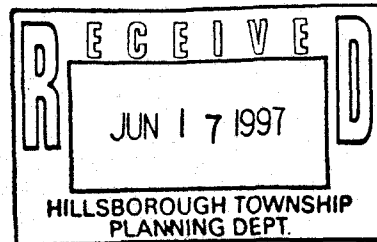
Woolson Sutphen Anderson & Nergaard

A Professional Corporation • Attorneys at Law

11 EAST CLIFF STREET • SOMERVILLE, NEW JERSEY 08876

TELEPHONE (908) 526-4050 • FACSIMILE (908) 526-4408 • INTERNET mail@wsan-d1.ids.net

WILLIAM R. SUTPHEN, III
MARK S. ANDERSON
MARYANN L. NERGAARD



CYT
PB
41

JOSEPH N. GUTERL
DIANE W. McCONNELL
of Counsel
O. STANLEY WOOLSON
Retired

June 16, 1997

Edward A. Halpern, Esq.
Post Office Box 361
Neshanic, NJ 08853

RE: PAC/HCF Zone
Our file: 7505sms

Dear Mr. Halpern:

At the regular meeting of the Hillsborough Township Planning Board on Thursday, June 5, 1997, a resolution was adopted to repeal the PAC/HCF Zone in the Hillsborough Township Development Ordinance. This resolution contained two points:

1. It was recommended that the Township Committee repeal the present PAC/HCF Zone. In the future, the Planning Board will review and recommend alternate proposals which would adequately meet the current requirements of the Township.
2. The existing PAC/HCF Zone would still be applicable to the Greenbriar at the Village (formerly Hillsborough Alliance for Adult Living) application which has received general development approval and has filed an application for preliminary major site plan approval.

In the event you require any additional information, kindly contact me at your convenience. Thank you very much.

Very truly yours,



William R. Sutphen, III

WRS:ltw

cc: Shirley Yannich, Township Planner

B



Township of Hillsborough

COUNTY OF SOMERSET
MUNICIPAL BUILDING
AMWELL ROAD
NESHANIC, NEW JERSEY 08853

(908) 369-4313



MEMORANDUM

DATE: June 16, 1997

TO: Township Committee

FROM: Planning Board

RE: PAC/HCF Ordinance

The Planning Board reviewed the existing PAC/HCF Ordinance through a subcommittee and full Board participation. At their public meeting on June 5, 1997 they unanimously passed a motion to recommend the repeal of the existing ordinance and the writing of a new ordinance providing for senior citizen housing. It is the Planning Board's position that the existing ordinance, through its various amendments, no longer is valid.

The Master Plan provides for senior citizen housing in the Land Use and Housing Elements. It is not the Board's intention to amend the Master Plan and change their goals and objectives regarding senior citizen housing, but rather to create an ordinance that would include alternatives in senior housing; such as Assisted Living facilities.

cc: Eddie Halpern, Esq.
John Middleton, Township Administrator
Frank Scarantino, Director
Greg Bonin, Township Clerk

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GIORDANO, HALLERAN & CIESLA

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

125 HALF MILE ROAD

POST OFFICE BOX 190

MIDDLETOWN, NEW JERSEY 07748

(732) 741-3900

FAX: (732) 224-6599

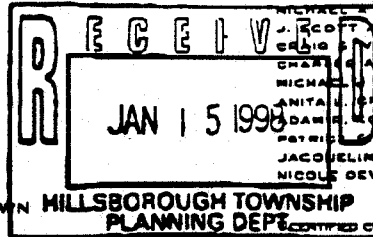
441 EAST STATE STREET
TRENTON, NEW JERSEY 08625
16081 695-3900

PLEASE REPLY TO: MIDDLETOWN

DIRECT DIAL NUMBER:

January 14 1998
BY FED EX

NICHOLAS P. KAPUR
LAURA H. ANDERSON
JOANNE R. GRAY
PAUL V. FERNICOLA O
JAY S. BECKER
J. ANDREW KINSEY
TIMOTHY D. LYONS
LAWRENCE J. SHARON
SEAN E. REGAN
DEBRA J. RUBENSTEIN
GERALD P. LALLY
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CHRISTOPHER CERUSO
MICHAEL ANTEILLO
ANITA M. BELLAINE
DANIEL M. MAS
PATRICK J. CONVERY
JACQUELINE DECARLO
NICOLE DEVA NET



FILE NO.

4328/052

JOHN C. GIORDANO, JR.
JOHN R. HALLERAN
FRANK R. CIESLA
BERNARD J. BERRY JR.
THOMAS A. FLORIN
JOHN A. AIELLO
MICHAEL J. BROSS
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MICHAEL J. CANNING O
PAUL W. SCHNEIDER
M. SCOTT TASHLY
MICHELE A. QUERQUES
DAVID P. CORRIGAN O
EDWARD C. BERTUCIO, JR. A
ANDREW B. ROBINS
MICHAEL A. BRUNO
MARGARET S. CARMELI
KURT C. ANDERSON
PAUL Y. COLLELLA
STEVEN J. BRODMAN

COUNSEL:
ELIZABETH CHRISTIAN
ROBERT C. LINKIN

OF COUNSEL:
S. THOMAS GAULIANO

JOHN C. GIORDANO
1921-1998

Planning Board of the Township of Hillsborough
Municipal Building
Amwell Road
Neshanic, New Jersey 08853

Attention: Shirley Alberts Yannich, Township Planner

Re: Application of U.S. Home Corporation ("Applicant") for
Greenbriar at the Village - Phase I - Block 11, Lots 27
and 34 - App. No. 96-PB-40-MJ/PUD (the "Application").

Dear Mrs. Yannich:

Pursuant to our telephone conversation earlier this week, as
counsel to the Applicant in the above Application, I enclose
herewith the Consent To Extension Of Time Of Decision extending
that period from February 1 to August 1, 1998, which I have
executed on behalf of the Applicant.

Respectfully submitted,

~~JOHN R. HALLERAN~~

CC:

- Mr. Harry Smith - Via Fax: (908) 369-4303
- Thomas C. Miller, Esq. - Via Fax: (908) 722-7737
- Mr. Robert Heibell - Via Fax: (908) 359-1580
- Mr. Gregory Snyder - Via Fax: 780-7752
- Peter A. Buchsbaum, Esq. - Via Fax: 549-1881

Township of Hillsborough



COUNTY OF SOMERSET
 MUNICIPAL BUILDING
 AMWELL ROAD
 MIDDLETOWN, NEW JERSEY 08853

R E C E I V E D

JAN 15 1998

HILLSBOROUGH TOWNSHIP
 PLANNING DEPT.

RECEIVED

JAN 13 1998

GIORDANO, HALLERAN & CIESLA, P.C.
JRH

Attention: Secretary of the Board

Re: Consent to Extension of Time of Decision

Application Name: Greenbriar at the Village

File Number: 96-PB-40- MJ/PUD

Block 11	1,6,10A,13,27,28,34,4
Block <u>block 12</u>	Lot 26,27,28,29A
	33,44,45,47

I hereby request a continuation of the hearing and proceedings with respect to the above application. Pursuant to the New Jersey Statutes Annotated, I consent to extend the time within which the Board must act for ~~threexix~~ six (6) calendar months from the date of last scheduled meeting.

Please schedule this matter for hearing at the Planning Board / Board of Adjustment at such time that I notify the Board of my willingness to proceed.

If a quorum of the Board is not present, said matter shall be further continued to the next succeeding regularly scheduled meeting.



 (Applicant or Attorney)

JOHN R. HALLERAN, ESQ.
 GIORDANO, HALLERAN & CIESLA, P.C.
 125 HALF MILE ROAD
 (P.O. BOX #190)
 MIDDLETOWN, NEW JERSEY 07748

Dated: 01/14/98

extend from February 1, 1998 to August 1, 1998

EXTNDTIM.DOC

- P. 4 Trip has clearly changed its position re HAAC
- P. 7 desire of Trip to adopt new SRCat ord - present one is unsatisfactory
 intent to adopt - hasn't done so, tho
- P. 8 describes a better ordinance
- P. 9 Update WWM plan in 1995, before 1996 subcat
- P. 10 i.e., CoAlt supply was unless board trips willing to cooperate
 (of CoAlt language in subcat?)
- P. 11 The issue of whether HBoo "supports" subcat ...
- P. 12 Whether to or not to support subcat
- P. 13 2d thoughts about subcat
- P. 14 Some unspecified future compliance
 crystallized issues
 political opposition
 review a more formulated plan
- P. 15 is preparing alt plan in case ...
 "stop the clock"
 Alt → file amended subcat NoPR
- P. 16-17 Seem to say that waiver was appropriately granted
 (i.e. it is positive re HAAC voting sent

Admits it has repudiated 1st subcat
 Asks to file amended (we agree)
 Agrees should be in center (if in PA 4/5)