



TOWNSHIP OF SOUTH BRUNSWICK

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Via Email, Hand Delivery and/or Regular Mail

February 11, 2016

Honorable Douglas K. Wolfson, J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
56 Paterson Street
P.O. Box 964
New Brunswick, NJ 08903-0964

Re: In the Matter of the Application of the Township of South Brunswick
Docket No. MID-L-3878-15
Our File No. L1347

Dear Judge Wolfson:

Pursuant to the prior Case Management Order, enclosed please find the following items:

I. The Township's Amended Draft Preliminary Third Round Plan. Since filing the initial Draft Preliminary Third Round Plan dated November 9, 2015, the Township's Plan has undergone several changes. Revised drafts were prepared and submitted to the court in December and January, pursuant to the ongoing discussions with various objectors/intervenors as well as in compliance with directives of the court.

The Enclosed amended version differs from the November 9, 2015 Plan in the methodology used to calculate the Township's obligation. As the court will recall, the original Draft Preliminary Third Round Plan submitted in November used COAH's unadopted rules set forth at N.J.A.C. 5:99, et seq., to calculate the Township's obligation. This latest version of the Township's Plan departs from reliance upon COAH's unadopted rules and makes use of the two methodologies currently before the court: (1) Econsult methodology, and (2) Kinsey methodology. Both begin with recognition of the Township's Prior Round Obligation, which was previously established as 842 units. The enclosed Plan demonstrates that the Township has completely satisfied its Prior Round Obligation.

As to the Township's Third Round obligation, two alternative Plans are submitted for consideration:

Alternative #1 is based upon the Econsult methodology/obligation calculated for South Brunswick for the period 2015-2025. Econsult determined a 215-unit obligation for South Brunswick. The enclosed Plan shows a total of 379 units/bonuses due to the Township. Note

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that alternative living arrangement units that would have previously been applied to the Unanswered Prior Obligation pursuant to COAH's unadopted rules have now been carried forward and applied to the Third Round obligation since the Township has not used the unadopted rules and the methodology set forth therein for this latest version of its Draft Preliminary Third Round Plan.

In the event that the court finds that the Township's actual obligation, even using the Econsult methodology, is more or less than what is reflected in the enclosed Alternative #1 Plan, the Township reserves the right to add or eliminate sites from the Plan so that the Township satisfies its actual obligation.

In the event the court rejects the Econsult methodology and calculations, the Township has proposed an Alternative #2 Plan, contingent upon a final determination of the actual obligation for South Brunswick as determined by the court. Alternative #2 utilizes the Kinsey methodology and the obligations calculated for South Brunswick using that methodology. Pursuant to the Kinsey calculations, the Township's obligation is capped at 1,000 units. The Alternative #2 Plan demonstrates that the Township is entitled to 1,000 units/bonus credits with the use of the projects included in the Alternative #2 Plan.

The various sites and/or projects included in this Alternative #2 Plan have been proposed only because the Township's actual obligation has yet to be determined by the court. In the event the Township's actual obligation is determined to be more or less than what is reflected in the Alternative #2 Plan, the Township reserves the right to add or eliminate one or more sites from the Alternative #2 Plan so that it satisfies the actual obligation finally determined for South Brunswick.

For those projects that were revised and/or newly added to the Plan, explanatory notes are included with the Plan.

II. Demonstration of the Reasonableness of the Township's Development Proposal for South Brunswick Center.

The Court requested that the Township demonstrate the reasonableness of its development proposal for the South Brunswick Center property. In order to do so, the Township retained the services of Nassau Capital Advisors, LLC, to perform an economic feasibility analysis of the proposal. Enclosed are the results of that analysis, which demonstrates that the Township's proposal results in a net profit to South Brunswick Center of \$19.4 million.

III. Order to Show Cause

Finally, I also enclose the Township's Brief, Appendix and Certification in support of its application for an extension of immunity, to be considered by the court on February 19, 2016, the return date of the Order to Show Cause why the Township's immunity should not be removed.

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Thank you for your considerations in this matter. If you have any questions or comments, please do not hesitate to contact me.

Respectfully yours,

Donald J. Sears
Director of Law

DJS/lw

Cc: Christine Nazzaro-Cofone, PP, Special Master
Robert A. Kasuba, Esq., attorney for AVB
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Kevin J. Moore, Esq., attorney for SG
Kevin Walsh, Esq., and Adam Gordon, Esq., attorneys for FSHC
Brett Tanzman, Esq., attorney for Windsor
Benjamin Bucca, Jr., Esq., attorney for SB Planning Board
On notice to all interested parties