

COUNCIL ON AFFORDABLE HOUSING

IN RE PETITION FOR SUBSTANTIVE)
CERTIFICATION FILED BY THE)
TOWNSHIP OF DENVILLE)

OPINION

COAH granted Denville Township, Morris County substantive certification on August 15, 1988. The Public Advocate appealed the grant of substantive certification to the Appellate Division and on March 26, 1991 the Appellate Division issued an opinion which in general affirmed COAH's action, but remanded to the Council an issue concerning the suitability of a site that was to accommodate a large, exclusively low and moderate income housing, project, the McGreevy site. The Appellate Division directed COAH to determine:

...suitability of the proposed site in the context of sound planning concepts. COAH should make the threshold determination as to whether an evidentiary hearing before the Office of Administrative Law is mandated.

All parties to this matter agree that an evidentiary hearing before the Office of Administrative Law is not necessary. While most of the disputed matters between Denville and the Public Advocate with regard to the suitability of the McGreevy site have been amicably resolved, the parties are unable to agree on the design of an access road which was necessary to link the site with the rest of the Township. Therefore, this sole issue was presented to the Council at its meeting of April 1, 1992. Stephen Eisdorfer, Esq., represented the Public Advocate at the April 1 meeting, while Stephen G. Hansbury, Esq., represented the Township.

Prior to the presentation of both parties James Bell, principle planner with the Council gave an introduction and history of the matter. Mr. Bell explained that originally the McGreevy site was designed to accommodate 201 units of affordable housing. However, because a regional contribution agreement between Denville and Boonton was cancelled by the mutual consent of

the parties, the McGreevy site had to be redesigned to accommodate an additional 38 units. Initially this design was of concern to the Public Advocate with regard to both site suitability and financial feasibility. However, Mr. Bell explained that after negotiation both the Township and the Public Advocate agreed to a site plan for the buildings that was suitable and also agreed as to the financial feasibility of the project. However, Mr. Bell stated that the one area of disagreement between the parties remains whether the project should be located on a cul-de-sac exiting out onto Route 10 or should be placed on a through street extending from Route 10 through the housing project onto Smith Road. The Township advocated for the cul-de-sac and the Public Advocate desired to have the project placed on the through road. Mr. Bell demonstrated to the Council through maps the specific proposals of each party.

Mr. Hansbury presented Denville's arguments for the cul-de-sac. Both Ellen Sandman, the Township Administrator of Denville and Stephen M. Lydon, the Township Planner, spoke to Council. It was the position of the Township that the site is well located to take advantage of nearby recreational opportunities such as Zeek Road Park, Dan Brook Park and Beacon Hill Park. The Lakeview School, the Church of the Nazarene and Saint Claires Riverside Medical Center are within convenient access to the site. The Union Hill Fire House is located within 1.5 miles of the site and numerous shopping opportunities, professional offices, and employment centers are located along Route 10, which is directly adjacent to the site. Further, Denville has a Senior Citizens Dial-A-Ride bus service which will be made available to the McGreevy tract residents. Denville stated that these residents will be provided with transportation service. Moreover, the McGreevy project will contain a public meeting room that will be available not only to the McGreevy residents but also to outside organizations that will be able to come onto the property and utilize the meeting room.

Denville stated that the access road between the McGreevy site and Smith Road that the Public Advocate wishes them to use for a through street will be paved in order that the McGreevy tract residents can use it as a

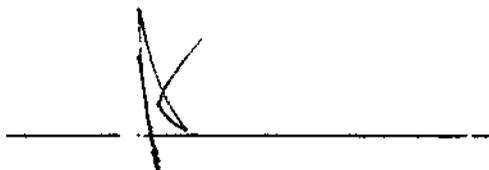
pedestrian thoroughfare. Also, that paved path will provide emergency access for ambulances and fire engines to the project. The Township did not wish to build the project on a through street for safety reasons. It feared that commuters would use the through street as an access to Route 10 and that the residents of the McGreevy site homes would be exposed to greater safety risks by the traffic.

Stephen Eisdorfer, Assistant Public Advocate, presented the position of the Public Advocate. The Public Advocate believed that to place the McGreevy units on a cul-de-sac that would only let out onto Route 10 would create by design a ghetto like atmosphere that would stigmatize the residents of the project and isolate them from the surrounding community of Denville. Placing the project on a through street would help the residents to more easily assimilate into the community and reach the services that are offered in Denville.

It is the opinion of this Council that the McGreevy site is suitable for low and moderate income housing if placed on a cul-de-sac, as desired by Denville. This site provides the McGreevy residents adequate access to services and to job opportunities. Denville has stated that a bus service will be available to the residents of the McGreevy site and it is clear from the presentation by Denville that churches, schools, a hospital and a fire house are within a reasonable distance from the McGreevy tract. Further, the Council finds that the cul-de-sac design will in all likelihood be a safer one for the residents of the McGreevy tract, since commuter traffic on the through street between Smith Road and Route 10, could be dangerous. Making the road a cul-de-sac, therefore, would eliminate commuter traffic on the street and the danger to the residents created by that traffic. At the same time, by paving the access road between the McGreevy side and Smith Road for pedestrians and emerging traffic, the town does not block access by the residents of the McGreevy tract to that area of the Township. Therefore, the Council believes that the through road option is a poor design and creates a safety problem. The cul-de-sac design provides sufficient access to the Township through Route 10 for the McGreevy residents and does not

create a safety hazard.

The Council holds that the McGreevy site design as advocated by Denville is a suitable one within the meaning of the Fair Housing Act.

A handwritten signature, possibly 'K', is written over a horizontal line.

DATED: *June 4, 1992*
D0343W