

IN THE MATTER OF )  
PARKSIDE REALTY )  
ASSOCIATES, L.P. )

COUNCIL ON AFFORDABLE HOUSING  
DOCKET NO. 95-709

OPINION

Parkside Realty Associates, L.P., (Parkside) is the owner and developer of Countryside at Somerset, a site zoned for inclusionary development in the Township of Franklin (Franklin) in Somerset County. The development is included in the township's certified fair share plan and includes 48 affordable rental units to be credited towards the township's fair share obligation. Parkside filed a motion requesting that COAH grant the development a waiver from N.J.A.C. 5:93-5.6(d), which sets forth the schedule for phasing affordable housing units in relation to the construction of the market units within an inclusionary development.

Parkside received final site plan approval for its project from the township planning board. The development consists of a total of 317 units, including 77 single family detached dwellings, 96 market-rate townhouses, and 144 apartment units, of which 48 were to be reserved for low and moderate income households. The 77 single family detached units are currently under construction. Development of the multi-family portion of the project has not yet begun.

N.J.A.C. 5:93-5.6(d), requires that the affordable units be constructed in accordance with the following schedule:

Market Housing units Completed (percent)	Low and Moderate Income Units Completed (minimum percent)
25	0
25 + 1 Unit	10
50	50
75	75
90	100
100	

Pursuant to this schedule, Parkside would be required to complete 10 percent of the affordable units (five units) by the time the 68th single family detached unit was constructed. In its motion Parkside contended that it could not meet the schedule required by N.J.A.C. 5:93-5.6(d) due to the terms of its financing for the single family portion of the project and requested that COAH grant a waiver that would allow it to complete the 77 single family units and then apply the phasing schedule to only the multi-family portion of the site. Therefore, in place of COAH's requirement that 10 percent of the affordable units be constructed by the time 25 percent of the market units are constructed, the schedule proposed by Parkside provides that 10 percent of the affordable units would be completed by the time that 126 units, or 47 percent, of the 269 market units in the project have been constructed. Franklin opposed the motion, contending that if the waiver were granted there was no assurance that the low and moderate

units would be built, since Parkside only had financing for the single family phase of its project.

At oral argument on June 7, 1995 Parkside represented to the Council that it was very close to receiving new financing for the entire project, including the low and moderate units, but that it needed the Council's waiver of N.J.A.C. 5:93-5.6(d) to insure that the mortgage commitment for the entire project was forthcoming. Franklin, based upon Parkside's representation, did not oppose the waiver.

The waiver provision of the Council's rules, N.J.A.C. 5:93-15.1(b), provides inter alia that a waiver may be granted if "such a waiver fosters the production of low and moderate income housing." Parkside's requested waiver from the requirements of N.J.A.C. 5:93-5.6(d) does foster the production of affordable housing, as long as Parkside does in fact have a financing commitment for its entire project, including the affordable units. Therefore, the Council holds that the requested waiver from the schedule of N.J.S.A. 5:93-5.6(d) is granted, subject to Parkside receiving a firm commitment for its entire project, including the multi-family section that will contain the affordable units.

  
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Council Secretary

Date: August 2, 1995.

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The Council has received a letter from Parkside dated June 21, 1995 stating that it has received a mortgage commitment from United Jersey Bank for the entire project.