

ORDER TO SHOW CAUSE WHY THE COUNCIL ON AFFORDABLE HOUSING (COAH) SHOULD NOT REVOKE WANAQUE BOROUGH/PASSAIC COUNTY'S SUBSTANTIVE CERTIFICATION

WHEREAS, Wanaque Borough petitioned COAH for second round substantive certification on December 16, 1996; and

WHEREAS, Wanaque's cumulative 1987-1999 fair share obligation was 369 units comprised of a new construction obligation of 332 units and a rehabilitation obligation of 37 units; and

WHEREAS, Wanaque requested an adjustment of its cumulative fair share due to a lack of developable vacant land; and

WHEREAS, a Report Requesting Additional Information (RRAI) dated January 8, 2001, in response to Wanaque's request, determined Wanaque's realistic development potential (RDP) to be 275 units; and

WHEREAS, on April 4, 2001 COAH conditionally denied Wanaque's petition, and named six conditions that the Borough had to meet in order to receive substantive certification pursuant to N.J.S.A. 52:27D-314(b); and

WHEREAS, Wanaque Borough/Passaic County addressed COAH's conditions, and COAH passed a resolution on October 3, 2001 granting Wanaque substantive certification with conditions; and

WHEREAS, by way of motion dated October 26, 2005, RSK Development, owner of Site 36, located in the Highlands Preservation Area, sought a scarce resource restraint and other relief from COAH; and

WHEREAS, on April 12, 2006, COAH voted to deny the relief requested by RSK, but ordered Wanaque to provide a status update by May 15, 2006 setting forth how

the Borough's certified plan continues to provide a realistic opportunity for the creation of affordable housing, how Wanaque intends to support the RSK development as a component of its certified plan and further ordered Wanaque to collaboratively work with RSK toward a solution within the confines of applicable statutes and regulations; and

WHEREAS, on June 7, 2006, Wanaque submitted the status update, indicating the following:

1. Site 39 was sold to a garden center after COAH staff's site visit but prior to COAH's grant of substantive certification, and the center continues to operate.
2. Wanaque has committed to support RSK's applications for water and sewer service, but this commitment precedes COAH's order, and no additional steps have been taken by Wanaque to support the RSK development.
3. Wanaque permitted Pulte to develop 10 units on site, finance a 30-unit RCA without an identified receiver and finance 20 rehabilitation units.
4. Site 53/54 in Wanaque's Housing Element and Fair Share Plan is undeveloped, and although Wanaque surmised that the reason was due to steep slopes, Wanaque noted a developer has recently shown interest in building on the site; and

WHEREAS, at COAH's June 14, 2006 meeting, COAH staff noted several deficiencies in Wanaque's certified plan, including:

1. Site 39 no longer appears to present a realistic opportunity for the development of affordable housing due to its continuing operation as a garden center.
2. Wanaque is not working proactively with RSK toward the development of Site 36, in direct violation of COAH's April 12, 2006 order.

3. Without amending its Housing Element and Fair Share Plan, Wanaque substituted rehabilitation units for new construction units in the RDP calculation, which is not permissible under COAH rules.
4. If Site 53/54 continues to present a realistic opportunity for affordable housing, Wanaque must work collaboratively with the interested developer and eliminate any cost generative mechanisms.

NOW, THEREFORE BE IT RESOLVED that Wanaque Borough is ORDERED to appear before COAH on August 9, 2006 to show cause why COAH should not revoke its substantive certification.



Renee Reiss
Council Secretary

DATED: *July 14, 2006*
(June 14, 2006)