

IN RE PRINCETON TOWNSHIP,	)	NEW JERSEY COUNCIL ON
MERCER COUNTY, MOTION SEEKING	)	AFFORDABLE HOUSING
WAIVER FROM THIRD ROUND	)	
GROWTH SHARE OBLIGATION	)	DOCKET NO. 06-1800
	)	
	)	OPINION

On, January 6, 2006, Princeton Township, Mercer County, filed a motion with the New Jersey Council on Affordable Housing (the "Council" or "COAH") seeking a waiver and adjustment of Princeton Township's third round growth share obligation pursuant to N.J.A.C. 5:95-14.1.

### PROCEDURAL HISTORY

Princeton Township, Mercer County, received a consent order for final judgment of compliance and repose which expired on June 19, 1995. The Township adopted a housing element and fair share plan addressing its second round 12-year cumulative obligation (1987-1999) on April 20, 1995, and petitioned COAH for substantive certification on May 8, 1995. During the 45-day objection period, which ended on July 14, 1995, no objections were received.

The second round affordable housing obligation for Princeton Township was 381 units, consisting of 331 new construction units and 50 rehabilitation units. Pursuant to N.J.A.C. 5:93-3.6, Princeton Township's new construction obligation was adjusted by COAH as a result of a substantial compliance reduction, resulting in a net new construction obligation of 325 units.

Princeton Township received second round substantive certification on October 2, 1996. The plan certified by COAH included a total of 253 credits and bonus credits that included: 1) 118 units (48 for-sale and 70 family rental) and 70 bonuses in Phase I, II, and III of Griggs Farm; 2) 60 for-sale units in the "Washington Oaks at Princeton" development; 3) two alternative living arrangement bedrooms and two bonuses in The Center for Innovative Family Achievements Group

Home; and 4) one gut-rehabilitated unit that was sold through a lottery to a moderate income purchaser. This left Princeton Township with a remaining obligation of 122 units, consisting of a 72-unit new construction obligation and a 50-unit rehabilitation obligation.

Princeton Township petitioned COAH for third round substantive certification on December 20, 2005. Its third round Housing Element and Fair Share Plan is currently under review by COAH staff. One objection was received during the 45-day comment period, submitted by Preservation Lands, LLC, dated February 9, 2006.

#### PRINCETON TOWNSHIP'S MOTION

On, January 6, 2006, Princeton Township filed a motion with the Council, pursuant to N.J.A.C. 5:95-14.1, seeking a waiver and adjustment of the Township's third round growth share obligation. The Township seeks an adjustment by COAH of the Appendix E "UCC Use Groups for Projecting and Implementing Non-residential Components of Growth Share." The Township specifically seeks a waiver of the "A3" Use Group designation as applied to Princeton University and instead requests that COAH apply the "E" Use Group to the University, asserting that the University structures do not conform to the A3 Use Group, given the number of jobs that are actually created by University buildings that are constructed. The Township also seeks a waiver of COAH's regulations, requesting that the University's construction of "affordable housing" for faculty, staff and graduate students should not trigger an additional affordable housing obligation for the Township. No responses were received to Princeton Township's motion.

#### DISCUSSION

In support of its motion, the Township relies upon the certification of Pamela J. Hersh, Director of Community Affairs at Princeton University. Hersh states that Princeton University has

provided affordable housing to members of the University community despite the fact that these units are not eligible for COAH credit, and has contributed an estimated \$1.5 million in cash and land to the affirmatively marketed affordable housing programs of Princeton Township and Princeton Borough.

Hersh asserts that the growth share obligation of Princeton Township that is created by new construction by the University would be more fairly calculated if its buildings were considered as academic facilities fulfilling an academic use rather than as commercial office buildings, which provide the basis of the COAH formula being used to determine the University's obligation.

The University and the Township request that COAH adjust the Appendix E UCC Use Groups, asserting that the University's experience has shown a different relationship between academic construction and employment growth as compared to the relationship that COAH utilizes in making its projections. The University states that COAH's methodology results in overstated projections of employment growth when applied to academic facilities, due in part to the fact that most academic construction is not intended to increase staffing. Rather, it is intended to provide better facilities for students, faculty and staff, to accommodate modern technology, and to ensure that buildings meet evolving standards and expectations to keep pace with increasing knowledge. Hersh asserts that Appendix E requires treating University projected growth as "office buildings," creating a growth share obligation of 43 units for the Township from new construction at Princeton University.

Included with Hersh's certification is a projection of the University's construction projects for the third round delivery period 2004 – 2014. Based upon this projection, the University

asserts that the Township's growth share obligation from University new construction should be 17 units of affordable housing rather than the 43 units projected using the **A3** Use Group from Appendix E of N.J.A.C 5:94. The University asserts that 17 units of projected affordable housing is based upon a more accurate representation of the actual jobs created by the projected University construction. This projection relies on applying the **E** Use Group instead of the **A3** Use Group for the University buildings to be constructed. The **E** Use Group is described as "Schools K-12" and projects 1 job per 1,000 square feet of non-residential development, as opposed to 3 jobs per 1,000 square feet in the **A3** Use Group.

In addition to the request for application of the **E** Use Group, the University states that its graduate student and staff housing falls within the affordable housing income guidelines, even though it does not qualify as affordable housing because it does not meet COAH's regulations requiring affordable housing to be affirmatively marketed. The University's construction of graduate student and staff housing creates a growth share obligation pursuant to COAH's third round rules. The University asserts that the Princeton Regional Planning Board has for a number of years requested that the University provide housing for its students so that they do not compete with Township and Borough residents for affordable units. As a result, the University states that it provides affordable housing for approximately 75 percent of its graduate students. The University also argues that COAH's affirmative marketing policy acts as a disincentive to the University to build affordable housing, and that this conflicts with good housing, transportation and environmental policy that advocates housing people near their place of work or study. The University recommends that as a solution, COAH exempt affordable housing provided to graduate students and university staff from the Township's growth share obligation.

On May 2, 2006, COAH staff requested additional information from Princeton Township regarding the total square footage constructed by the University from 1996-2005, the total number of jobs created from this construction, the total number of people currently employed by the University, the total square footage of all existing university-owned properties excluding non-dormitory graduate student housing, and a table showing the total number of people employed by the University each year for the previous 20 years.

In response to COAH's May 2, 2006 request, Princeton University provided additional information on its employment and new construction statistics for the past decade. The information provided indicates that the University occupies 9,889,550 square feet (excluding graduate student housing) of space and provides 5,413 jobs for an overall average of one job per 1,827 square feet or approximately 0.55 jobs per 1,000 square feet. During the past decade, the University has added 302,706 square feet of space and increased its full time employees by 154, for an average of just over 0.5 jobs per 1,000 square feet.

#### DECISION

While new construction at Princeton University appears to provide a jobs-to-square footage ratio that is consistent with historic patterns at the University, this ratio is inconsistent with the Use Group ratio in Appendix E of the third round rules, as applied by COAH, to new construction at the University. The ratios used in Appendix E of COAH's rules represent a composite of data derived from the job ratios assigned to each use group as defined by the Uniform Construction Code (UCC). Job ratios were derived from the best data available including the Institute of Transportation Engineers' (ITE) Parking Generation Manual, 2nd edition; permit data from the New Jersey DCA Division of Codes and Standards; Industrial Land Supply and Demand in

the Central Puget Sound Region; ITE Trip Generation Manual; Urban Land Institute's Development Handbook and Dollars and Cents of Shopping Centers; Building Owners and Managers Association (BOMA) reports; Industrial Employment Densities, presented to the American Real Estate Society; and the International Facility Management Association (IFMA)'s Project Management Benchmarks.

While every attempt was made by COAH to isolate specific uses for the purpose of allocating commensurate job generation, the only readily identifiable standard in New Jersey is UCC use groups. These designations represent the construction code criteria that must be adhered to during construction but do not reflect ultimate "uses" as the term use group implies. Consequently, the uniform application of UCC use groups may not reflect anomalous situations raised by specific "uses." Research universities such as Princeton University incorporate a wide variety of UCC defined Use Groups into a campus type of development generally constructed for the single purpose of higher education. The scale of such multi-use development in a large complex, under single ownership, gives rise to economies of scale that may result in lower staffing needs for certain aspects of the development, as well as planned duplication of space needs.

Princeton University represents an example of multiple UCC use groups that are oriented around the central use of higher education. However, it is difficult to determine from the information limited to Princeton University whether the construction-to-jobs-created ratio is specific to Princeton or generally applicable to all institutions of higher education. Consequently, it is necessary that the matter be analyzed further to determine if any modification to COAH's rules and the conversion ratios in Appendix E may be warranted. As a result, the Council directs staff to undertake the appropriate collection of data from the appropriate colleges and universities in New

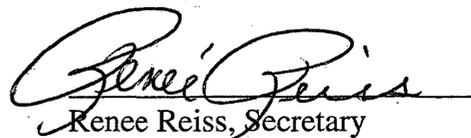
Jersey to determine what, if any, amendment is necessary to the ratio of jobs to non-residential construction Use Groups in Appendix E as applied to universities and colleges in the State.

Staff is also directed to present the Council with any recommendations as to any amendment to the Use Groups provided in Appendix E to N.J.A.C. 5:94. This analysis could be applied to all 58 colleges and universities in the State or a smaller category that might be reflective of larger colleges and universities that are more likely to be impacted by the economies of scale referenced above.

While the Township's motion does not specifically reference the request that University housing provided to graduate students, faculty and staff be exempted from the Township's growth share obligation, the Council will treat this request as if it was formally part of the Township's waiver request. As noted in the University's addendum to the Township's Notice of Motion, the courts have clearly ruled that preferential treatment of affordable housing is impermissible for any units that seek to receive credit as part of a municipality's affordable housing obligation. Even accepting the representation of the University that its housing provided to graduate students, faculty and staff would meet the income requirements to qualify as affordable units, the failure to deed restrict and affirmatively market such housing prohibits these units to be exempted as affordable housing units in calculating the Township's growth share obligation. Neither does the Council find basis in Appendix E of N.J.A.C. 5:94 to permit graduate student housing to be exempt from growth share requirements. The only exemptions permitted in Appendix E of N.J.A.C. 5:94 are for the Use Groups A5 and houses of worship in Use Group A3. Further the request does not meet the waiver standard of promoting the production of affordable housing or of creating an unnecessary

financial, environmental or other hardship. Therefore, the waiver request that the construction of such housing not count as part of the Township's residential growth share obligation must be denied.

Based upon all of the above, Princeton Township's motion request to reduce its third round affordable housing growth share obligation is hereby denied without prejudice. Further, the request that graduate student, faculty and staff housing provided by Princeton University be exempted from the growth share obligation of Princeton Township is hereby denied.



Renee Reiss, Secretary  
New Jersey Council on  
Affordable Housing

Dated: August 9, 2006