

**RESOLUTION GRANTING WALDWICK BOROUGH, BERGEN COUNTY, A WAIVER OF
N.J.A.C. 5:97- 8.1(d) AND N.J.A.C. 5:97-8.7(a), PERMITTING WALDWICK TO USE
DEVELOPMENT FEES ON AN EMERGENT AFFORDABLE HOUSING OPPORTUNITY
COAH DOCKET #08-2014**

WHEREAS, on September 2, 2008, Waldwick Borough, Bergen County, (“Waldwick” or “Borough”) submitted to COAH a motion in the form of a letter requesting a waiver from the requirements of N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a), in order to permit the municipality to utilize affordable housing trust funds for the purchase of a two-unit dwelling in foreclosure, which is to be renovated and administered by Habitat for Humanity, Bergen County; and

WHEREAS, Waldwick received substantive certification for its second round Housing Element and Fair Share Plan on September 6, 2000, which addressed the Borough’s 91-unit obligation, including a rehabilitation obligation of 10 units and a new construction obligation of 81 units; and

WHEREAS, Waldwick’s certified plan included a vacant land adjustment of 49 units, seven rehabilitation credits, a three-unit rehabilitation program, seven family for-sale units, a four-bedroom alternative living arrangement and four accompanying rental bonuses, a four-unit regional contribution agreement (RCA) with the City of Bayonne, Hudson County, and zoning on four additional sites within the Borough that provided a realistic opportunity for the creation of 20 units and this plan resulted in a seven-unit surplus; and

WHEREAS, on August 26, 1998 Waldwick received COAH approval of its development fee ordinance and on June 6, 2006, the Borough received approval of an amendment to this ordinance; and

WHEREAS, Waldwick received COAH approval of its development fee spending plan on September 28, 2000, that called for the Borough to use development fees on COAH approved housing activities; and

WHEREAS, on February 7, 2001, Waldwick was granted a minor technical amendment to its certified plan in order to increase the number of units transferred to Bayonne through an RCA from four to six; and

WHEREAS, based on COAH monitoring records the Borough's Affordable Housing Trust Fund contained a balance of \$243,850.93 as of December 31, 2007; and

WHEREAS, on September 2, 2008, Gary Kratz, Waldwick Borough Administrator, submitted a request for a waiver from the requirements of COAH's regulations at N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a); and

WHEREAS, N.J.A.C. 5:97-8.1(d) mandates that a municipality may not spend development fees until such time as the municipality obtains approval of its spending plan from COAH and N.J.A.C. 5:97-8.7(a) provides that funds generated by the collection of development fees may only be applied toward housing activity identified in a COAH approved spending plan; and

WHEREAS, Waldwick proposes to spend development fees on an emergent affordable housing opportunity that is not included in the Borough's previously submitted third round Housing Element and Fair Share Plan, nor in its COAH approved spending plan; and

WHEREAS, Waldwick seeks approval from COAH to spend previously collected development fees, and fees to be collected in the future, toward the purchase of a two-family detached housing unit at 101 Wyckoff Avenue for which the Borough's conditional bid has been accepted by the lending institution handling the units' foreclosure; and

WHEREAS, the pending contract of sale is to be conditioned on the Borough's receipt of COAH's approval of Waldwick's expenditure of \$249,900, in collected and anticipated development fees, within 60 days of August 28, 2008; and

WHEREAS, Waldwick proposes to deed the property to Habitat for Humanity of Bergen County in return for two COAH creditable affordable for-sale units which will be deed restricted for 100 years, and

WHEREAS, representatives of Habitat and Waldwick met recently and Habitat's representatives expressed willingness to commit to this endeavor and to financing any rehabilitation or rebuilding costs; all particulars have been addressed in a commitment document from Habitat, attached as Appendix 1 to the accompanying report by COAH staff, (which is attached to this resolution as Exhibit A); and

WHEREAS, specifically, Waldwick proposes to utilize \$158,868.93 toward the purchase of these units on Wyckoff Avenue and to reimburse the Borough with future development fees, in the amount of \$101,131.07 and Waldwick intends to pass a bond ordinance for the full amount of the purchase costs; and

WHEREAS, currently pending development fee payments total \$19,000; and

WHEREAS, historically, Waldwick has collected between \$7,500 and \$20,000 per year; and

WHEREAS, Waldwick's representatives state that this is an opportunity to create two COAH units at a per-unit cost that is less than the average per-unit cost of land alone in northwestern Bergen County; and

WHEREAS, pursuant to N.J.A.C. 5:96-15.2, COAH shall grant a waiver from specific provisions of its rules if it determines that: 1) strict application of the rules would impose an unnecessary hardship; 2) the waiver would foster the production of affordable housing; 3) the

waiver would foster the intent of COAH's rules; and 4) the Housing Element and Fair Share Plan provides a mix of housing options; and

WHEREAS, granting the requested waiver would foster the production of affordable housing and would serve the intent of the COAH rules to ensure that municipalities address their fair share obligation through the creation of family for-sale units; and

WHEREAS, strict application of COAH's rules would impose an undue hardship on the Borough by preventing it from taking steps toward meeting its affordable housing obligations, as development project opportunities at this per-unit cost are rare and the project presents a realistic opportunity to create affordable housing units and denial of the waiver request would prevent the municipality from realizing this opportunity; and

WHEREAS, no replies in opposition to the waiver request were received; and

WHEREAS, a COAH task force met on September 12, 2008 and recommended that the full Board grant a waiver; and

NOW THEREFORE BE IT RESOLVED that the Council approves Waldwick's request for a waiver from the requirements of N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a); and

BE IT FURTHER RESOLVED that these waivers are conditioned on Waldwick's inclusion of this site in a revised third round fair share plan and spending plan, to be submitted by December 31, 2008.

DATED: *September 22, 2008.*


Renee Reiss
Council Secretary