

RESOLUTION GRANTING WHIPPANY VILLAGE L.L.C.
A WAIVER OF THE NOVEMBER 12, 2008 SCARCE RESOURCE RESTRAINT
ON HIGHLANDS MUNICIPALITIES
COAH DOCKET # 09-2106

WHEREAS, on November 12, 2008, the Council on Affordable Housing (COAH) passed a "Resolution Granting Extension of Time to File Third Round Petition for Substantive Certification and Imposing Scarce Resources Restraint" (Resolution); and

WHEREAS, pursuant to the Resolution, Hanover Township (Hanover or Township), submitted to COAH a Notice of Intent to Petition in accordance with the Highlands Council's Plan Conformance Guidelines and a duly adopted resolution notifying COAH of its intent to petition COAH for substantive certification of Hanover's housing element and fair share plan no later than December 8, 2009; and

WHEREAS, as a result of submitting the required documents, Hanover received an extension from COAH of the December 31, 2008 third round petition deadline; and

WHEREAS, pursuant to the Resolution, Hanover Township became subject to a scarce resource restraint that applies to any and all municipal actions associated with development approvals, water allocation and wastewater allocation so that scarce land, water, and sewer resources are reserved for the production of affordable housing; and

WHEREAS, COAH issued correspondence on December 17, 2008 clarifying the scope of the Scarce Resource Restraint (Restraint), setting forth a list of 36 exemptions; and

WHEREAS, Whippany Village LLC submitted a motion requesting a waiver of the Restraint on February 20, 2009; and

WHEREAS, Whippany Village seeks to develop a CVS pharmacy (CVS) on Block 7402, Lot 2 in Hanover Township, fronting on Route 10 and Troy Hills Road; and

WHEREAS, a hearing was scheduled before the Township of Hanover Planning Board (Planning Board) for February 24, 2009 but has been postponed; and

WHEREAS, Whippany Village states that the approval will be conditioned on its receipt of a waiver from the Scarce Resource Restraint; and

WHEREAS, Whippany Village states that it has received correspondence from the Executive Director of the Hanover Sewerage Authority stating that the approximate capacity available to new projects, after allowing for the projected COAH obligation, is

1.6 million gallons per day (gpd) and that as a result there is adequate capacity for the proposed CVS Pharmacy at Whippany Village, which has an anticipated flow of 1,414 gpd and is in the Authority's sewer service area; and

WHEREAS, Whippany Village requests a waiver pursuant to N.J.A.C. 5:96-15.2(a), stating that not receiving a waiver would result in unnecessary financial hardship to Whippany Village based on the following facts:

- The CVS will have a footprint of 12,900 square feet and will be located on an approximately 1.3 acre lot. The property is located in the "B" Business district zone.
- The property is designated in the SDRP as a Metropolitan Planning Area 1 (as is most of Hanover Township). Whippany Village states that the project is consistent with the goals and characteristics of a PA1.
- The Hanover Sewerage Authority ("HSA") has stated that the "rated capacity of the [HSA] treatment plant is 4.61 mgd" and that the committed flow, including "unused contracted capacity and TWA's issued is approximately 2.95 mgd on an annual basis." Further, HSA states that "the approximate capacity available to new projects, after allowing for the projected COAH obligation" is 1.6 mgd, leaving adequate capacity for the proposed CVS at Whippany Village with a flow of 1,414 gpd."
- HSA has committed 62,000 gpd for the Township's 310-unit COAH obligation, leaving 1.6mgd of uncommitted flow.
- The construction of storm water management facilities as part of the Project will address any storm water issues that may arise.

WHEREAS, no opposition was received; and

WHEREAS, a task force convened on April 2, 2009 to discuss Whippany Village's waiver request; and

WHEREAS, the task force recommended that the waiver request be granted, finding that Whippany Village meets the waiver criteria set forth in COAH's rules and finding that the development of the CVS will not negatively affect Hanover's ability to provide for its fair share of affordable housing.

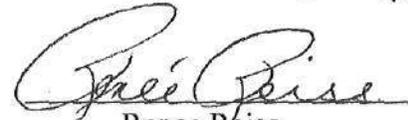
NOW THEREFORE BE IT RESOLVED that that the Council finds that Whippany Village has met the waiver criteria set forth at N.J.A.C. 5:96-15.2(a); and

BE IT FURTHER RESOLVED that the Whippany Village will suffer unnecessary financial hardship as a result of COAH's Restraint in Hanover Township; and

BE IT FURTHER RESOLVED that the CVS will be paying a non-residential development fee to Hanover that will be used towards the production of affordable units; and

BE IT FURTHER RESOLVED based on the above, the Council hereby grants Whippany Village a waiver of the November 12, 2008 Scarce Resource Restraint.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on 4/8/09.



Renee Reiss
Council Secretary