

RESOLUTION CLARIFYING THE COUNCIL'S APRIL 21, 2010 RESOLUTION GRANTING PRINCETON TOWNSHIP'S WAIVER REQUEST FROM THE PROVISIONS OF N.J.A.C. 5:97-2.5(e) FOR SITES LOCATED ON PRINCETON UNIVERSITY'S CAMPUS, PRINCETON TOWNSHIP, MERCER COUNTY

COAH DOCKET #09-2183

WHEREAS, on December 30, 2008 Princeton Township petitioned the Council on Affordable Housing (COAH) for third round substantive certification; and

WHEREAS, Princeton Township's third round Fair Share Obligation includes a rehabilitation obligation of 47 units, a prior round obligation of 330 units and a projected growth share obligation of 168 units; and

WHEREAS, the third round projected growth share obligation is comprised of a residential obligation of 112 units and a non-residential obligation of 56 units; and

WHEREAS, Princeton Township seeks a waiver from N.J.A.C. 5:97-2.5(e), which states, "If the actual growth share obligation...is less than the growth share obligation projected under N.J.A.C. 5:97-2.4, the municipality shall continue to provide a realistic opportunity for affordable housing to address the projected growth share, through inclusionary zoning or any of the mechanisms permitted by N.J.A.C. 5:97-6," regarding the determination of Princeton Township's non-residential growth share obligation stemming from construction on the Princeton University campus within the Township; and

WHEREAS, the waiver seeks relief from the non-residential growth share obligation for two undergraduate dormitories, Whitman College and Bloomberg Hall, an adaptive re-use project located at 200 Elm Drive and a chilled water energy plant; and

WHEREAS, Princeton Township and Princeton University maintain that COAH's waiver process may be used to submit actual job data in cases where the actual number of jobs created and the job growth estimated under COAH's Appendix D differ by at least ten percent; and

WHEREAS, pursuant to the October 20, 2008 New Jersey Register comments and responses (40 N.J.R. 6036), "Princeton University may submit data about actual jobs by submitting a waiver to the Council pursuant to waiver criteria enumerated at N.J.A.C. 5:96-15. For example, if a municipality seeks to submit actual jobs, they may submit documentation used to obtain financing for operations, that is, business plan or like documentation. This can be submitted in the form of a certification from the developer or business owner if one exists. The municipality may submit this data at petition if they are submitting actual jobs to date. Otherwise, the municipality may submit actual data at annual monitoring if the actual growth that occurs from non-residential from the non-

residential development if there is a 10 percent difference in the number of jobs determined through the Appendix D jobs to square footage ratio.” 40 N.J.R. 6036; and

WHEREAS, Princeton University’s Office of Design and Construction (ODC) submitted an analysis of actual number of jobs created and the job growth estimated under Appendix D for the four sites in question, Whitman College, Bloomberg Hall, 200 Elm Drive and the chilled water energy plant; and

WHEREAS, Princeton Township maintains that based on ODC’s analysis the actual number of jobs generated at these four sites, including jobs both directly and indirectly created as a result of their construction, demonstrate a difference of more than ten percent; and

WHEREAS, Princeton Township maintains that it will be subject to an undue financial hardship as a result of a strict application of N.J.A.C. 5:97-2.5(e), because the Appendix D formulas would require Princeton Township to accommodate affordable housing development at a rate that is five to twenty-five times greater than the actual impact of the non-residential projects; and

WHEREAS, this motion for waiver under N.J.A.C. 5:97-2.5(e) is opposed by Lanwin Development Corporation and Preservation Lands, LLC (Lanwin) ; and

WHEREAS, a COAH task force met on March 30, 2010 and reviewed and considered the waiver request as well as the opposition filed by Lanwin; and

WHEREAS, the task force notes that while Princeton is requesting a waiver from N.J.A.C. 5:97-2.5(e), the Township’s request for relief is related to its actual growth share obligation rather than its projected obligation; and

WHEREAS, the COAH task force recommends that a waiver from the use of “UCC Use Groups for Projecting and Implementing Non-Residential Components of Growth Share” in Appendix D of N.J.A.C. 5:97 be granted, finding that a waiver under N.J.A.C. 5:96-15.2(a), where “the Council may grant waivers from specific provisions of its rules if the person demonstrates that strict application of the rule would create an unnecessary financial, environmental or other hardship,” is warranted as Princeton Township will incur financial hardship incurred as a result of the Appendix D of N.J.A.C. 5:97, which are more than 10% greater than the actual jobs created as a result of non-residential growth; and

WHEREAS, the task force further recommends that based on the response provided to comments at 40 N.J.R. 6036, that Princeton’s waiver request be granted, and that COAH use the information provided by the University at the time of biennial monitoring to determine the actual non-residential job growth and that the actual number of jobs submitted by the University will be used to calculate the Township’s actual growth share obligation at the time of biennial monitoring as the comment and response

document clearly states that the University may submit a waiver based on the number of actual jobs, which it has done.

NOW THEREFORE BE IT RESOLVED that the Council finds that Princeton Township, Mercer County, has demonstrated that requiring the Township to use Appendix D rather than actual jobs created for the four Princeton University campus sites noted above will cause the Township to incur an unnecessary financial hardship; and

BE IT FURTHER RESOLVED that COAH will use the actual jobs created information provided for Whitman College, Bloomberg Hall, the adaptive re-use project located at 200 Elm Drive and the chilled water energy plant in determining Princeton Township's actual growth share obligation pursuant to N.J.A.C. 5:97-2.5 (b); and

BE IT FURTHER RESOLVED that Princeton Township's Housing Element and Fair Share Plan must address the Township's entire non-residential growth share projection pursuant to N.J.A.C. 5:97-2.2 (d) as the projection is not changed as a result of the granting of this waiver.

I hereby certify that this Resolution was
Duly adopted by the Council on Affordable
Housing at its meeting on May 13, 2010.

A handwritten signature in black ink that reads "Renee Reiss". The signature is written in a cursive style with a large, looping initial "R".

Renee Reiss
Council Secretary