

TOWNSHIP OF HOWELL PLANNING BOARD

RESOLUTION OF MEMORIALIZATION

Approved: December 18, 1997
Memorialized: December 18, 1997

**IN THE MATTER OF AMENDED
HOUSING ELEMENT AND FAIR
SHARE PLAN OF TOWNSHIP OF
HOWELL, MONMOUTH COUNTY**

WHEREAS, the Planning Board of the Township of Howell (hereinafter known as the "Planning Board") has authorized its planners, Heyer, Gruel and Talley, to prepare an Amended Housing Element and Fair Share Plan, and

WHEREAS, the purpose of said authorization is to assure that the Township's obligation for low and moderate income housing is met in a fair and appropriate way, and

WHEREAS, the planning office of Heyer, Gruel and Talley, with its principal Fred Heyer has drafted an Amended Housing Element and Fair Share Plan which provides for a realistic opportunity in accordance with the rules and regulations of the Council on Affordable Housing (COAH) and in accordance with the Fair Housing Act to create 1109 low and moderate income units, and

WHEREAS, the Planning Board caused a public hearing in accordance with the Municipal Land Use Law to be noticed and conducted said hearing on the 13th of November, 1997 with an opportunity for the public to be heard, and

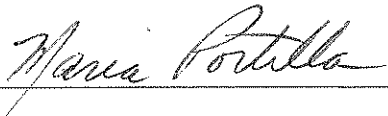
WHEREAS, the Planning Board became aware of a technical defect in the notice and caused re-notice to occur with a new hearing to be conducted on the 18th of December with the right of the public to be heard, and

WHEREAS, taking into account the testimony at each of the meetings, the Planning Board finds that the Amended Housing Element and Fair Share Plan does provide a realistic opportunity for the creation of low and moderate income housing in the Township of Howell in

accordance with its obligation and that said plan meets all of the rules, regulations and guidelines for COAH and is in accordance with the Fair Housing Act.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby adopt the Amended Housing Element and Fair Share Plan prepared by Heyer, Gruel and Talley dated November, 1997, and

FURTHER authorizes its distribution in accordance with statute.



MOTION: Mr. Mastrola

SECOND: Mr. Weeks

ROLL CALL: Messers. Forman, Marciniak, Mastrola, Weeks,
Mrs. Smith, Mrs. Henderson, Mrs. Portilla

Absent: Mrs. West
RWT 12/4/97

DRAFT

**AMENDED
HOUSING ELEMENT
AND
FAIR SHARE PLAN**

Township of Howell
Monmouth County, New Jersey

Prepared by

Heyer, Gruel & Talley, PA
Community Planning Consultants

November 1997

AMENDED HOUSING ELEMENT and FAIR SHARE PLAN

Township of Howell, Monmouth County, New Jersey

November, 1997

Prepared by

Heyer, Gruel & Talley, PA
Community Planning Consultants
63 Church Street, 2nd Floor
New Brunswick, New Jersey 08901
732-828-2200

The original of this report was signed and
sealed in accordance with N.J.S.A. 45:14A-12.

Fred Heyer, P.P. #3581

1997 HOWELL TOWNSHIP PLANNING BOARD

Chairwoman, Maria Portilla

Vice Chairman, Perry Mastrola

Timothy Konopka, Mayor

Ted Betz, Deputy Mayor

John Forman

Stanley Marciniak

Pauline Smith

William Weeks

Marlene West

Myrna Henderson, Alt.

Harriet Stanley, Alt.

INTRODUCTION

This document represents a revision to Howell Township's Housing Plan Element and Fair Share Plan.

The Township of Howell was granted final substantive certification of its Housing Element and Fair Share by the Council on Affordable Housing on October 30, 1989. The Plan addressed the Township's 1987 through 1993 fair share obligation of 837 units of low and moderate income housing.

The Township of Howell petitioned the Council on Affordable Housing (COAH) on March 3, 1994, to amend the certified Housing Plan and Fair Share Plan to address a 221 unit accessory apartment shortfall in the Plan. On October 31, 1994, the Township of Howell adopted a Resolution withdrawing the petition and amendment request and agreed to address its total 12 year cumulative obligation of 1,109 units. The request was approved by COAH by Resolution dated December 7, 1994.

On February 23, 1995, the Planning Board adopted a Housing Plan Element of the Master Plan addressing the Township's 1987 through 1999 obligation. The Council on February 27, 1995 adopted a Fair Share Plan implementing the Housing Element. The Township petitioned the Council on Affordable Housing for substantive certification on February 27, 1995 and filed its Housing Element and Fair Share Plan on March 3, 1995. The Council on Affordable Housing issued a report entitled "COAH Report Reviewing Housing Element/Fair Share Plan and Requesting Additional Information", prepared by Mary Beth Lonergan, Senior Planner, dated June 2, 1995. The review report necessitated the revision of the Township's Housing Element and Fair Share Plan.

On December 7, 1995, the Howell Township Planning Board adopted an amended Housing Element which addressed the comments of the June 2, 1995 COAH review report.

The "Amended Housing Element of the Howell Township Master Plan" dated November 1995, and adopted by the Howell Township Planning Board on December 7, 1995, served as the basis for the revised Fair Share Plan adopted by the Howell Township Council by Resolution dated December 18, 1995.

This document shall constitute Howell Township's revised Housing Plan Element and Fair Share Plan. It details the affirmative actions already taken and proposed by the Township to satisfy its obligation to create a realistic opportunity to meet its fair share of low and moderate income housing within its region. The demographic and employment characteristics, housing inventory and projections and appendices of the November 1995 Housing Plan Element remain unamended.

FAIR SHARE OBLIGATION

The Council on Affordable Housing has determine Howell Township's pre-credited need to be 1,109 low and moderate income housing units for the 12 year period from 1987 through 1999, as follows:

Table 1
FAIR SHARE OBLIGATION: 1987-1999
Howell Township

Indigenous Need	160	units
Reallocated Present Need	<u>45</u>	units
Total Present Need (1993)	205	units
Perspective Need (1993-1999)	<u>491</u>	units
Total Need (1993-1999)	696	units
Prior Cycle Perspective Need (1987-1993)	427	units
Demolitions	24	units
Filtering	-27	units
Conversions	-5	units
Spontaneous Rehabilitation	<u>-6</u>	units
Total Pre-Credited Need	1,109	units
Rehabilitation Component		
Indigenous Need	160	units
Spontaneous Rehabilitation	<u>-6</u>	units
Total	154	units
Inclusionary Component	<u>955</u>	units
Total Units	1,109	units

FAIR SHARE COMPLIANCE PLAN

The Township's Plan to satisfy its assigned 12 year fair share obligation of 1,109 units includes a variety of measures, all of which are consistent with COAH regulations, with the exception of a minor waiver approved by COAH for three additional senior units beyond the 82 unit maximum pursuant to the COAH rules. Substantial progress in the provision of low and moderate income housing within the Township has been made during the last six years. This Compliance Plan for the utilization of Regional Contribution Agreements and rental bonus credits to which the Township is entitled as a result of their past efforts does not require the creation of any additional inclusionary sites.

This revised Plan includes the sites previously identified as Site #1 (Hovbilt/HMG) and Site #3 (Weiner/Shwahla) which were previously proposed for deletion in the prior Plan. Although neither site is necessary for satisfying the Township's 12 year affordable housing obligation, both remain as contributory sites in the Township's Fair Share Plan.

Compliance Plan

Table 2 summarizes Howell Township's 1987 to 1999 Fair Share Compliance Plan. As noted, the Plan consists of eight basic elements as follows:

1. Completed Projects
2. Proposed Inclusionary Projects
3. Regional Contribution Agreements
4. Buy Down Programs
5. Rehabilitation Programs
6. Rental Bonus Credits
7. Prior Cycle Credits
8. Contributory Projects
9. Credits Without Controls

The nine components are discussed in detail below:

1. Completed Projects

A total of 314 low and moderate income housing units have been constructed within the Township during the first certification period. Two hundred and ninety-one (291) of these units are eligible for credit; 35 units within the Oak Hill Mobile Park (Site #4) are yet to be properly controlled.

The units created were from three separate inclusionary projects. In addition to the low and moderate income units within the three sites, a total "12 alternative living arrangement" units have been created within the Township since 1984 for which the Township should receive credit. These completed projects and units are discussed in more detail below.

a. Friendship Gardens

Under the Township's prior certification, the Township was granted a 99 unit credit for the construction of this 99 unit low income senior citizen rental project. The project is located on Block 79, Lot 25.03 of the tax maps of Howell Township and is identified on the Affordable Housing Sites Map.

b. Countryside Place (Site #5)

The Countryside Place (RSL Investment Corp.) project was completed in 1992 during the prior certification period. The project is located on Block 138, Lot 42 of the tax maps of Howell Township and is shown on the Affordable Housing Sites Map. The project consists of 180 units of non-age restricted, family rental units restricted to low and moderate income households.

c. Oak Hill Mobile Home Park (Site #4)

Under the Township's previously certified Housing Plan, Oak Hill Mobile Home Park was required to set aside 35 of the 300 home pads for low and moderate income

households (18 low, 17 moderate). This site is known as Block 138, Lots 40, 41 and 45 on the tax maps of Howell Township. Thirty-five pad sites should be reserved for low and moderate income households.

The Township has not yet secured proper documentation of affordability controls for the 35 pad sites. The Township does reserve its right to credit these units against the Township's obligation when the requisite documentation is produced.

d. Alternative Living Arrangements

The Township is requesting 12 units of credit in accordance with N.J.A.C. 5:93-3.1(e) and 3.2 as a result of the construction of two group homes within the Township during 1994. These two group homes are discussed in detail below.

Group Home #3 is located on Block 26, Lot 7.03 on the east side of Maxim Southard Road (opposite Affordable Housing Site #7). The location of Group Home #3 is shown on the Affordable Housing Site Map.

Group Home #4 is located on Block 84.08, Lot 740.01 on the west side of Hilltop Road. The location of Group Home #4 is shown on the accompany map.

Both group homes #3 and #4 contain six bedrooms with a maximum occupancy of six adult residents. Group Homes #3 and #4 are sponsored by the Easter Seal Society in a joint venture partnership with the Permanency and Advocacy Support System (PASS). These facilities are licensed as "community residences" by the New Jersey Division of Mental Health and Hospitals and are deed restricted for a period not less than 40 years. These facilities meet Federal low income guidelines and are administered under the auspices of the U. S. Department of Housing and Urban Development.

Documentation in compliance with N.J.A.C. 5:93-5.8 (Alternative Living Arrangements) has been previously submitted to the Council on Affordable Housing. Per report titled "COAH Report on Amendment Request, Howell Township/Monmouth County, Region 4", prepared by Sean Thompson, Senior Planner, dated October 26, 1994, the Council staff recommended the crediting of the two group homes as alternative living arrangements for a total crediting of 12 units.

Table 2
SUMMARY
Howell Township, Monmouth County
1987 through 1999 Fair Share Compliance Plan

1.	Completed Projects:		291 (326)
	a. Friendship Gardens (Age Restricted)	99 units	
	b. Countryside Place (Site #5)	180 units	
	c. Group Homes (Sites #3 and #4)	12 units	
	d. Oak Hill Mobile Home Park (Site #4)	(35)*	
2.	Proposed Inclusionary Projects		
	a. Strickland Road Senior Project (Site #11, Age-Restricted)	85 units**	164 units
	b. Weiner (Site #7)	79 units	
3.	Regional Contribution Agreements	Maximum Total	270 units
		Minimum Total	218 units
	a. Borough of Freehold		
	Minimum RCA	132 units	
	Maximum RCA	184 units***	
	b. Borough of Belmar	86 units	
4.	Buy-down Program		10 units
5.	Rehabilitation Component		
	a. Rehabilitation Credits	15 units	

Table 2
SUMMARY
Howell Township, Monmouth County
1987 through 1999 Fair Share Compliance Plan

b	Rehabilitation Program	139 units
6.	Rental Bonus Credits	
a.	Countryside Place	180 units
b.	Group Homes	12 units
c.	Friendship Gardens	15 units
7.	Prior Cycle Credits	13 units
8.	Contributory Projects	
a.	Gikas (Site #6)	\$800,000.
b.	Shwahla (Site #3)	\$1,464,000 (183 bonus units at \$80,000 per unit)
c.	Columbia Land (Site #9)	\$552,000 (69 bonus units at \$8,000 per unit)
d.	Hovbilt (Site #1) - Contributory site 1/4 of 1 percent contribution	

*Subject to imposition of controls on affordability in accordance with COAH rules.

**Calculated maximum senior component is 82 units; however, COAH has granted a waiver allowing for all 85 units of this project to be counted toward satisfying the Township's obligation.

***The exact RCA number will be contingent upon the effectiveness of the credits without controls program.

2. Proposed Inclusionary Projects

The Township's Compliance Plan provides for a total of 181 units of low and moderate income housing to be constructed in three inclusionary projects. These sites have been identified as Sites #11, #6 and #7 as shown on the Township's Affordable Housing Site Map. All sites are "available, suitable, developable and approvable" per N.J.A.C. 5:93-1. The sites are reviewed below:

a. Strickland Road Senior Citizen Rental Project (Site #11)

Project Description - The proposed Strickland Road Senior Citizen Rental Project is a municipally sponsored construction project in cooperation with The Presbyterian Homes of New Jersey Foundation, Inc., a non-profit corporation.

Howell Township and The Presbyterian Homes of New Jersey have executed an agreement designating Presbyterian Homes as the entity to construct and manage the project. To date, the project has received a Section 202 HUD "fund reservation" and the Township has purchased the property.

The project will include the construction of an 86 unit, three story, senior citizen apartment building. The proposed building is to contain 85 one-bedroom apartments and a two-bedroom unit for the "resident manager". Eighty-five units will be affordable to low income senior citizens. All are rental units. Howell anticipates a waiver from COAH's cap of 82 units of senior housing and seeks credit for all 85 senior units.

b. Weiner Homes "Wyndham at Howell" (Site #7)

Project Description - The Weiner Site #7 was included in the Township's original certified Housing Plan Element and Fair Share Plan. The construction of the property has not commenced; however, the site still presents a realistic opportunity for development.

The proposed project is to include a total of 392 dwelling units with a 20 percent setaside of 79 low and moderate income units. Of the 79 affordable units, a minimum of 50 percent (40) will be affordable to low income households with the remainder affordable to moderate income households. The number of sales and/or rental units are not known at this time.

The project will include a total of 33 buildings with 7 specifically set aside for low and moderate income units. The maximum number of under per building is 12 units. The project will include recreational facilities such as a recreation building, a pool, tennis courts, two tot lots and wood chipped walking path.

3. **Regional Contribution Agreements**

Pursuant to N.J.A.C. 5:93-6.1 a municipality may transfer up to 50 percent of its housing obligation to a receiving municipality. The Township intends to transfer a minimum of 218 units and a maximum of 270 units to the Boroughs of Freehold and Belmar in Monmouth County, located within Howell's housing region. These agreements are described below:

a. Borough of Freehold Regional Contribution Agreement

Howell Township and the Borough of Freehold have entered into a Regional Contribution Agreement. The Agreement calls for the transfer of 132 units of Howell Township's obligation to the Borough of Freehold to continue its scattered site rehabilitation program. The terms of the Agreement provide that a minimum of 50 percent of the rehabilitated units are to be occupied by low income households. The Agreement specifies the amount of \$20,000 per unit as the cost of the Regional Contribution Agreement. The Township proposes to transfer up to 52 additional RCA units to Freehold Borough for a total of up to 184 units depending upon the success of the Township's credit without controls program.

b. Borough of Belmar Regional Contribution Agreement

Howell Township and the Borough of Belmar have entered into a Regional Contribution Agreement. The Agreement calls for the transfer of 86 units of Howell Township's obligation to the Borough of Belmar to initiate a scattered site rehabilitation program. The terms of the Agreement provide that a minimum of 50 percent of the rehabilitated

units are to be occupied by low income households. The Agreement specifies the amount of \$20,000 per unit as the cost of the Regional Contribution Agreement. The Regional Contribution Agreement and the Project Plan developed by the Borough of Belmar have been submitted and approved by the New Jersey Housing Mortgage Finance Agency.

The Regional Contribution Agreement and Project Plan have been submitted to the Monmouth County Planning Board and a copy of the same was previously forwarded to COAH.

4. Buy-down Program

The Township intends to expand its opportunities for affordable home ownership to low and moderate income residents by offering a first time homebuyer program. This program will provided \$20,000 per unit to subsidize the purchase of pre-owned fee simple residential units in the municipality.

The Township proposes to find ten affordable units under this Buy-down program. Each purchase will be subject to all affordability controls, including a 30 year deed restriction and mortgage lien per COAH guidelines.

Prospective buyers will be required a provide a five percent downpayment toward the purchase price of the home. Total monthly costs, including insurance, taxes, water/sewer fees, and applicable fees for condominiums, shall not exceed 28 percent of a buyer's gross monthly income. Buyers will receive pre and post-purchase home ownership counseling.

The Buy-down program requires a commitment of \$200,000 (10 units x \$20,000 per unit) plus administrative costs of approximately \$40,000. Funding for this program will be generated from local development fees, contributory project fees or municipal bonding. The Township has annexed a mandatory fee ordinance effective July 11, 1994 to assist in funding

various housing programs, including the Township's Regional Contribution Agreement and Rehabilitation Component of this Fair Share Plan. The Township's Housing Compliance Plan also contains provisions for developer contributory projects. The Township has adopted a Resolution of Intent to fund any shortfall in the Township Housing Trust fund necessary to fund these programs at their projected annual levels. The Buy-down program will be administered in conjunction with the Rehabilitation Component of the Fair Share Plan. The Township has recently retained the services of a private consultant to administer the Rehabilitation Component.

5. Rehabilitation Component

The Council on Affordable Housing has determined Howell's rehabilitation component to be a total of 154 units. Residents of Howell Township have participated in the Monmouth County Community Development Block Grant Program Rehabilitation Program. Based upon information supply by the Monmouth County Housing Improvement Program, a total of 15 units have been completed within Howell Township since April 1, 1990, which qualify for crediting against the 154 unit rehabilitation component figure.

The Township intends to satisfy its rehabilitation component of 139 units by continued participation in the Monmouth County Community Development Block Grant Program and to initiate a local rehabilitation program. The Township has retained the services of Steven J. Weinberg of Community Action Services to administer the rehabilitation program. The municipal program would be aimed at rehabilitation of owner-occupied and rental units within the Township. The program is intended to rehabilitate approximately 23 units per year for six years at an average cost of at least \$8,000 per unit in hard costs. The Township has enacted a Mandatory Development Fee Ordinance effective July 11, 1994 to assist in the funding of the rehabilitation program and the Township's Regional Contribution Agreements. The Township's Housing Compliance Plan also contains provisions for developer contributions. The Township has adopted a Resolution of Intent to fund any shortfall in the

Township Housing Trust Fund necessary to fund any of the se programs at their projected annual levels.

The Township has recent contracted with a private consultant to manage and administer the entire rehabilitation program.

6. Rental Bonus Credits

Pursuant to N.J.A.C. 5:93-5.13, every municipality has an obligation to create a realistic opportunity to construct rental units. Under the Township's 1987 through 1999 Housing Compliance Plan, it is anticipated that a total of 364 units of rental housing will be constructed. Of this total, 291 units have already been constructed within two projects and the two group homes previously described. The addition 85 rental units contained in the Township's Housing Compliance Plan are to be constructed within the Strickland Road Senior Citizen Project (Site #11).

Pursuant to N.J.A.C. 5:93-5.14(a), the Township's rental obligation would be 236 units. N.J.A.C. 5:93-5.14(d) provides that the Council on Affordable Housing shall grant a rental bonus for rental units subject to a ceiling on the number of rental bonuses at the level of the Township's rental obligation, that is, 236 units. The Council is determined that each municipality may receive two credits for each rental unit available to the general public, and one and one-third units credit for each rental unit restricted to senior citizens.

Based upon the formula above, the Council has determined that the Township is entitled to receive a rental bonus of 207 units.

The rental bonus credits are broken down as follows:

	<u>Units of Credit</u>
Countryside Place 180 units of family rental	180
Group Homes (2 sites) 12 bedrooms	12
Friendship Gardens	15

7. **Prior Cycle Credits**

The COAH staff has determined Group Homes #1 and #2 had to be constructed prior to the Township's petition for substantive certification and therefore, while eligible for 13 units of crediting as "alternative living arrangements" are to be considered "prior cycle credits". The Township is to receive 13 prior cycle credits for Group Homes #1 and #2. Prior cycle credits are not eligible for rental bonus crediting.

8. **Contributory Projects**

Howell Township's Housing Compliance Plan includes projects which have been identified as "contributory projects". The projects are discussed below:

a. Columbia Land Partnership, Columbia Pines" (Site #9)

The Columbia Pines site is known as Block 3, Lot 15 on the tax maps of Howell Township. The site encompasses 35 acres and is located at the southwest corner of the intersection of Lakewood-Allenwood Road and Newton's Corner Road in the Ramtown area of the Township. The site is shown on the Township's Affordability Housing Site Map.

On March 20, 1989, the Township of Howell and Columbia Land Partnership entered into a "Stipulation Resolving Objections and Developers Agreement." The terms of the Agreement require a contribution of \$8,000 per unit over and above the former zoning.

This amounts to a total of 69 bonus units. Therefore, the total contribution to the Howell Township Housing Trust Fund is to be \$552,000. The contribution is to be made at a rate of \$4,00 per unit for each building permit issued over 34 and another \$4,000 per bonus unit upon issuance of a certificate of occupancy.

b. Gikas "County Squire" (Site #6)

Project Description - The Gikas site was included in the Township's previous Housing Element and Fair Share Plan. The total project includes 100 townhouse units and received preliminary and final approval from the Howell Township Planning Board by Resolution dated August 16, 1990. The approved site plan has a density of 10 units per acre. The project includes a total of 16 buildings, with 14 six-unit buildings and 2 eight-unit buildings. The project also includes recreational facilities such as tot lots, a play court, a pool and a recreation building. Access to the site is provided via Squankum Yellow Brook Road.

The project includes provisions for an \$800,000 contribution. No affordable units will be constructed on site.

c. Weiner Homes, Incorporated/Shwahla (Site #3)

The Weiner Home Site #3 is known as Block 138, Lots 32, 32.01 and 32.02 per the tax maps of Howell Township. This site encompasses 95 acres and is located on Foot Plains Road in the northwestern portion of the Township.

On May 30, 1989 the Township of Howell and Weiner Homes, Incorporated, the contract purchaser of the site, entered into a "Stipulation Resolving Objections and Developers Agreement". The Agreement calls for the contribution of \$8,000 per unit which was 183 units in excess of the allowable yield under the former zoning. Therefore, at \$8,000 per bonus unit, a total of \$1,464,000 is to be contributed to the Township's Housing Trust Fund upon completion of the project. The Agreement calls for \$4,000 per unit for each unit above 31 to be deposited in the Township's Housing Trust Fund, at the time of the issuance of a building permit and an additional \$4,000 per bonus unit above 31, upon the issuance of a certificate of occupancy. The Howell Township Planning Board, on June 22, 1989, granted preliminary and major subdivision approval for the project entitled "Woodlands at Howell". On July 9, 1992, the Planning Board extended the preliminary subdivision approval.

d. Hovbilt "HMG" (Site #1)

The Hovbilt site was included in the Township's prior Housing Element and Fair Share Plan. The Plan previously included the Hovbilt site as an inclusionary one with a total of 372 units and 31 buildings to be constructed. The project was to include a 20 percent setaside, including 75 age-restricted low and moderate income units.

The Township no longer requires the Hovbilt site for the purpose of inclusionary development, and as such, revised zoning was negotiated with the developer to produce a total of 208 units of market housing on the site and a minimum contribution of one-quarter of one percent per unit was to be provided.

The Township is currently considering acquisition of the site and is negotiating with the developer.

9. Senior Component

N.J.A.C. 5:93-5.12 establishes the limit of crediting a municipality may receive for age-restricted (senior citizen) housing. The Township's number of maximum allowable age-restricted units would be 25 percent of the Township's pre-credited need, minus crediting for the rehabilitation component, minus prior cycle credits, minus proposed RCA units. Based upon this calculation, the maximum of age-restricted units to be credited under this cycle would be 181.

Under the Compliance Plan outlined above, the Township will have a total of 184 age-restricted units, broken down as follows:

Existing Friendship Gardens Project	99 units
Proposed Strickland Road/Route 9 Project	<u>85</u> units
Total Units	184 units

Based upon COAH rules, the Township may only claim 181 units of crediting under the cycle period. The Township requests a waiver to allow for full crediting of the 184 units.

10. Credits Without Controls

The Township wishes to pursue the use of credits without controls pursuant to N.J.A.C. 5:93-3.2(b). Howell reserves the right to reduce the number of RCA units anticipated in this plan on a one-for-one basis for each unit credited by COAH. In no event would the number of RCA units be reduced below the minimum specified in the compliance schedule. The Township petitions COAH to allow for a time period of at least 90 days for executing the requisite survey.

APPENDIX

MEDIATION REPORT

**HOWELL TOWNSHIP/MONMOUTH COUNTY
SHWAHLA-HORIZON 2000/GIKAS OBJECTORS
ROY CUNEO, AICP
COAH MEDIATOR
MAY 19, 1997**

INTRODUCTION

Howell Township, Monmouth County, adopted a housing element and fair share plan addressing its 12-year cumulative obligation on February 23, 1995 and petitioned for substantive certification on February 27, 1995. The 45-day objector period produced one objector. As a result of mediation, the objection was withdrawn. After the COAH staff review of June 2, 1995 which, among other deficiencies, noted a shortfall of 87 units of affordable housing, Howell adopted a new housing element and fair share plan on December 7, 1995 and repitioned for substantive certification.

On December 1, 1995, Hovbilt, Inc., filed a motion for emergent relief and mediation was ordered by COAH at its December 6, 1995 meeting. On July 29, 1996, the Howell Township Council authorized Mayor Harvey Morrell to sign a mediated agreement with Hovilt, Inc. The agreement was signed on August 2, 1996 by both parties and the Hovbilt, Inc., motion was withdrawn.

On January 16, 1996, Alexander Levchuk, Esq., attorney for Mary Shwahla, the owner of Site #3, submitted to COAH, a motion for emergent relief, accelerated denial and a builder's remedy for his client. On February 20, 1996, Ann M. Dougherty, Esq., attorney for Horizon 2000 (contract purchaser of Site #3-Shwahla), wrote to Joseph Foster, Esq., attorney for Howell Township, consenting to the adjournment of the motion and requesting that the matter be treated as an objection to the amended plan subject to COAH's mediation process.

BACKGROUND

The December 7, 1995 amended plan eliminates the affordable housing setaside on

Site #3 (Shwahla/Horizon 2000) and the implementing inclusionary zoning provisions substituting a contribution of \$8,000 per market unit to be built on three-acre minimum lots. The amended plan also seeks to change Site #6 (Gikas) from a contributory site to an inclusionary site.

I. Shwahla/Horizon 2000 (SH2)

On May 30, 1989, Howell Township and Weiner Homes, Inc., entered into a Stipulation Resolving Objections and Developer's Agreement for Site #3. (The agreement indicates that Weiner Homes, Inc., was the owner of the property at that time.) The township agreed to rezone Site #3 to permit a maximum of 217 dwelling units (zone R-3) and in return, Weiner agreed to pay the township a voluntary contribution of \$8,000 per bonus unit permitted over the existing zoning. According to an affidavit, dated January 16, 1996, from Shwahla, preliminary subdivision approval was obtained for Site #3 and such approval was protected by the Permit Extension Act (N.J.S.A. 40:55D-130) through December 31, 1996.

The agreement also states that the agreement remains in effect for a period of six years from the date of final substantive certification, "...and any extensions until the time for all appeals has been exhausted, except that this period shall be extended for a time equal to time in which developer is unable to proceed with its development due to external circumstances, such as, by way of example, unavailability of water or sewerage treatment." The terms of the agreement also transfer to the parties, their assignees and successors. COAH granted final substantive certification on October 30, 1989 to a plan that included this agreement.

Ms. Dougherty claims that, "Howell is prevented from excluding Site #3 from its fair share housing plan and from rezoning by the Permit Extension Act and by N.J.A.C. 5:93-5.12 (b) (1) and (2)."

II. Gikas (GK)

On July 2, 1996, Stephen Eisdorfer, Esq., attorney for GK, wrote to COAH requesting objector status for GK as the owner of property designated for low/moderate income housing. He also stated:

"Under the terms of a mediation agreement signed by Ms. Gikas and her late husband in 1989, this property is zoned for multi-family

development at 10 units per acre, with a contribution of \$8,000 per unit to Howell's housing trust fund. This zoning was an element of the housing element and fair share plan for which the Council on Affordable Housing granted substantive certification. Ms. Gikas subsequently applied for and received site plan approval for development under that zoning. Under N.J.A.C. 5:93-5.12, Howell cannot unilaterally alter the zoning of this property without the express written consent of Ms. Gikas. It does not now have such consent."

MEDIATION

Mediation opened on July 17, 1996. The township was represented by Frank Edwards, township manager; John Maczuga, P.P.; Mr. Foster; and Jeffrey Surenian, Esq., special counsel. SH2 was represented by John Abene, Edwin Hale and Ms. Dougherty. GK was represented by Pauline Gikas, Mr. Eisdorfer, Dana Kelly and Grace Montgomery. Additional sessions were held on August 6 and December 4, 1996. Telephone caucuses and mediation sessions were also held between the two dates. Mediation was extended by COAH Executive Director Shirley Bishop for an additional 60 days beyond the scheduled October 17, 1996 termination.

Shwahla/Horizon 2000 (SH2)

Howell representatives and SH2 drafted a mediated agreement which was presented to the township council for approval. It was Howell's position that it would not take action on the agreement until after the newly elected council persons were seated after January 1, 1997. On November 15, 1996, the mediator held a telephone caucus with SH2 and its attorney and the Howell mediation team. SH2 indicated that the refusal of Howell to act on the agreement created serious problems.

The mediator scheduled a final session for December 4, 1996 and invited three members of the township council to attend as observers. No members of the Howell council chose to attend. However, the mediation team agreed to again raise the issue with the township council at its next meeting. The Howell council did not change its determination. Mediation ended on December 16, 1996.

On December 19, 1996, Ms. Dougherty wrote to COAH restating SH2's original objections and raising questions about the developability of Site #7 due to environmental and ownership constraints. This site, known as Wyndham at

Howell/Weiner, is an inclusionary site designated in Howell's fair share plan to provide 79 low/moderate income housing units.

In regard to her concern about the impact of the Permit Extension Act on her client, Ms. Dougherty also states,

"In that Horizon 2000's proposal to provide affordable housing while significantly reducing the density on Site 3 was not accepted by the Township, it is now Horizon 2000's proposal to build the project as approved -- once the changes necessitated by the jurisdiction of the State of New Jersey under the Freshwater Wetlands Act and the LOI issued for this site thereunder have been implemented. But for the protracted mediation in which my client participated in good faith, my client could have had its amended approval with the period covered by the Permit Extension Act."

Gikas (GK)

On July 15, 1996, Howell Township adopted Resolution R-96-175 which authorizes the filing of an amendment to the township's December 7, 1995 petition for substantive certification. The amendment retains the "contributory" designation and removes the "inclusionary" designation from the Gikas site. (See Attachment A) The resolution leaves GK in the same position as it was as a result of the April 17, 1989 mediated agreement. The Howell petition will be reviewed based on the retention of the "contributory" designation for the GK site.

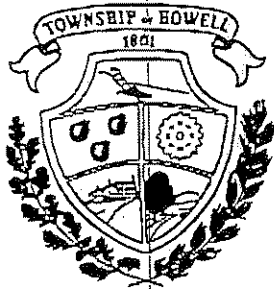
CONCLUSION

On March 4, 1997, Roger Thomas, Esq., the newly appointed attorney for Howell Township, met with Shirley Bishop, COAH Executive Director, and Mary Beth Lonergan, COAH planner, and with members of the Howell Township Council to discuss possible changes in the Howell petition and plan. At that time, Howell indicated that it intended to pursue N.J.A.C. 5:93-3.2 (b) as a component of Howell's housing plan. The changes relative to this mediation will include the Horizon 2000 (Shwahla) and Gikas parcels as contributory sites as per the original mediated agreement. The original zoning that implements the previously mediated agreement will remain in place.

On May 9, 1997, Mr. Thomas conveyed a recorded telephone message to Ms. Bishop confirming this understanding. The contemplated changes were discussed with Ms. Dougherty and Mr. Eisdorfer who indicated satisfaction provided the changes were assured.

On May 14, 1997, the mediator wrote Mr. Thomas (copy attached) requesting the appropriate assurances and indicating that the mediation report would reflect the changes.

There are no contested issues of fact warranting referral to the Office of Administrative Law.



TOWNSHIP of HOWELL

251 Preventorium Road
Post Office Box 580
Howell, New Jersey 07731-0580

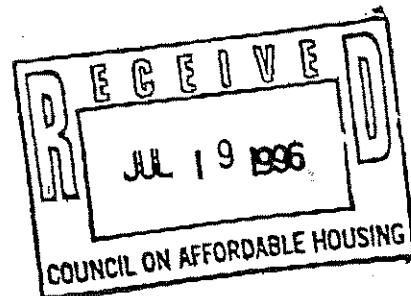
(908) 938-4500
FAX (908) 938-4818

July 17, 1996

Council on Affordable Housing
Shirley Bishop, Executive Director
CN 813
Trenton, NJ 08625-0813

Re: Site #6 Howell Township
Fair Shae Housing Plan (Gikas)

Dear Director Bishop:



Attached please find a Resolution adopted by the Township Council of the Township of Howell July 15, 1996.

The Township Council authorizes the filing of an amendment to the Township's pending Petition and Amended Petition for Substantive Certification which shall propose that Site 6 remain as a contributory site in accordance with the terms and conditions of the Stipulation aforesaid entered into between the Township and Ernest J. and Pauline S. Gikas dated April 1989 and withdrawing the proposal that Site No. 6 be converted to an inclusionary site.

Very truly yours,

Bruce Davis, RMC/CMC
Municipal Clerk

BD/kb

enc:

cc: Township Council
Thomas Gannon, Township Attorney
Frank Edwards, Township Manager
John Maczuga, Township Planner
Joseph L. Foster, Esq.
Howell Planning Board

