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COMMENTS REGARDING COAH's PROPOSED NEW THIRD ROUND SUBSTANTIVE RULES

SUBMITTED TO COAH
BY THE TOWNSHIP OF MONTGOMERY
SOMERSET COUNTY, NEW JERSEY
March 21, 2008

Lucy Voorhoeve, Executive Director
NJ Council on Affordable Housing
101 South Broad Street
Trenton, NJ 08625-0813

Dear Ms. Voorhoeve:

This letter contains Montgomery Township's comments regarding COAH's currently proposed "Third Round Substantive Rules". The comments were prepared by Coppola & Coppola Associates in consultation with the officials and staff of the Township.

At the outset, on February 19, 2008 Montgomery Township's legal counsel submitted a records request made pursuant to the Open Public Records Act ("OPRA") for specific records purportedly relied upon by COAH in drafting the proposed rules. A copy of the OPRA request is attached to this letter.

Yesterday, on March 19, 2008, Montgomery Township received a response to the OPRA request. Clearly, COAH has not afforded the Township adequate time to review the submitted information and the Township reserves its right to analyze the information and possibly indicate to COAH in greater detail why the methodology is flawed.

No rules should be adopted by COAH until reasonable time is provided to Montgomery Township and other interested parties with outstanding OPRA requests to analyze the information and provide additional comments.

Our comments at this time start with a summary of Montgomery Township's actions over the years, from 1975 to the present, in its efforts to more than satisfy its affordable housing obligations by providing a diversity of affordable housing opportunities, all within the Township.

The comments continue with an assessment of significant shortcomings in the proposed new rules including the following:

- The population and job projections are unsubstantiated;
- The rules are incompatible with the State Plan;
- The rules are not coordinated with NJDEP regulations;
- The rules discourage municipal alliances with private developers; and
- The rules are incompatible with the "Fair Housing Act".

The comments conclude with the provision of corrected data generated by the Township which demonstrate the inadequacies of the COAH methodology determining the vacant unconstrained developable land in Montgomery Township.

Summarily, Montgomery Township concludes that the rules, including certain specific provisions of the rules, but most definitely when all of the provisions of the rules are assessed in aggregate: 1) are impractical; 2) are punitive to municipalities and private land developers alike; 3) will negatively impact the State's economy; 4) are arbitrary and capricious since they are premised upon faulty and unverifiable data; and 5) will result in substantial increases in the real property tax burden in direct contravention of the "Fair Housing Act" which prohibits COAH from forcing municipalities "to raise or expend municipal revenues in order to provide low and moderate income housing." (*N.J.S.A*. 52:27D-311 d.)

MONTGOMERY IS A MUNICIPAL MODEL OF COMPLIANCE

Montgomery Township has been a model of compliance by providing affordable housing in accordance with the so-called "Mt. Laurel Doctrine".[1]

During 1975, subsequent to the "Mt. Laurel I" Supreme Court Decision, Montgomery Township was the first municipality to be sued in Superior Court[1] with a claim that it was not satisfying its "fair share" affordable housing obligation. In an unreported opinion filed July 29, 1975, the Court held that the Zoning Ordinance of Montgomery Township complied with the standards of the "Mount Laurel I" New Jersey State Supreme Court Decision by providing its "fair share" of the regional housing need for "low" and "moderate" income housing, as then determined.

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[1] The "Mt. Laurel Doctrine" refers to the overall findings of the New Jersey State Supreme Court in its "Mt. Laurel I" Decision (South Burlington County NAACP v. Mount Laurel Township, 67 N.J. 151 [1975], app. dism. and cert. den. 423 U.S. 808 [1975]) and in its "Mt. Laurel II" Decision (South Burlington County NAACP v. Mount Laurel Township, 92 N.J. 158 [1983]).

[2] Taberna Corp. et al v. Township of Montgomery et al., Docket No. L-699-73, P.W.

During 1977, Montgomery Township again was sued[2], this time with the claim that it was not providing a variety of locations for affordable housing. The Superior Court held that Montgomery Township's Zoning Ordinance was valid since it provided for its "fair share" of the regional housing needs of "low" and "moderate" income families, even though only a single area of the Township (the "APT/TH" Apartment/Townhouse District) was zoned at that time for the required affordable housing.

Subsequent to the January 20, 1983 "Mt. Laurel II" Supreme Court Decision, Montgomery Township *voluntarily* petitioned Judge Serpentelli's Superior Court during March 1985 for a review of its "Mt. Laurel II" fair share housing obligation, as well as for approval of the zone plan of the Township proposed to satisfy the obligation. The petition was filed prior to the operation of COAH.

On July 31, 1985, the Court entered a "Judgement of Compliance" which found that Montgomery Township's fair share housing obligation was 325 affordable units and that the Township's zoning provisions provided a reasonable opportunity for the construction of the required 325 affordable units.

As a result of the "Judgement of Compliance", Montgomery Township became the *first municipality in the State of New Jersey* deemed to be in compliance with its "Mt. Laurel II" housing obligations through *voluntary* measures.

Since that time, Montgomery Township has continued to provide affordable housing in accordance with the "Substantive Rules" adopted by COAH. All of the affordable housing units required of the Township have been constructed and are occupied within the Township; Montgomery Township has not entered into any Regional Contribution Agreement (RCA).

In fact, as a result of its proactive actions, COAH's currently proposed "Third Round Substantive Rules" show a surplus of 75 affordable housing units to be credited against Montgomery Township's third round housing obligation.

UNSUBSTANTIATED POPULATION & JOB PROJECTIONS

The January 25, 2007 decision of the Appellate Division of the Superior Court, in In re Adoption of N.J.A.C. 5:94, 390 N.J.Super. 1, ("2007 Appellate Division decision") concluded that the population and job projections in COAH's prior rules were unsubstantiated and, further, that municipalities should not be allowed to rely on their own projections.

Montgomery Township understands that it has a responsibility to provide its "fair share" of the projected regional affordable housing obligation. Montgomery Township also understands that municipalities should not be permitted to manipulate the projections in a manner that enables them to avoid their "fair share" affordable housing obligations.

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[3] Montgomery Associates v. Montgomery Township, 149 N.J. Super. 536 (Law Div. 1977 aff'd 160 N.J. Super. 219 (App. Div. 1978)

However, the currently proposed rules rely on unsubstantiated population and job projections to determine a municipality's minimum "growth share" affordable housing obligation. If COAH's rules are to rely on population and job projections at the municipal level in determining a municipality's "fair share" housing obligation of a municipality, shouldn't the projections be as accurate as possible?

The currently proposed methodology ignores the accuracy of the projections in allocating the initial "growth share" obligation to a municipality and yet indicates that "the actual growth obligation shall be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed, re-occupied and expanded non-residential development" over the compliance period from January 1, 2004 through December 31, 2017.

The very troubling result of this backward approach is that municipalities must initially adopt a "Housing Plan Element & Fair Share Plan" for an unsubstantiated number of affordable units and then repeatedly amend those plans during the compliance period to reflect a more accurate "growth share" obligation.

The proposed rules acknowledge that the population and/or job growth projections may be wrong by stating that "a municipality may utilize its own growth projections to calculate the growth share." However, illogically, the rules then go on to contain the proviso that the projections can only be adjusted upward. If possible errors in the projections are acknowledged, clearly municipalities should have the ability to provide *bona fide* data at the time their "Housing Plan Element & Fair Share Plans are initially prepared.

Moreover, since the determination of the actual number of affordable units obligated to a municipality will be in a state of flux over the approximately 10 year compliance period, debate and possible litigation regarding the actual obligation undoubtedly will occur. Protracted debate and litigation generate excessive costs and delay the actual building of affordable housing units.

Finally, given the 2007 Appellate Division decision's reliance upon Judge Serpentelli's holdings in AMG Realty Co. v. Township of Warren, 207 N.J.Super. 388 (Law Div. 1984), COAH's currently proposed methodology is legally flawed since the information COAH has used is not reliable and does not include appropriate checks and balances.

More specifically, Judge Serpentelli wrote the following:

> Any reasonable methodology must have as its keystone three ingredients: reliable data, as few assumptions as possible, and an internal system of checks and balances. Reliable date refers to the best source available for the information needed and the rejection of data which is suspect. The need to make as few assumptions as possible refers to the desirability of avoiding subjectivity and avoiding any data which requires excessive mathematical extrapolation. An internal system of checks and balances refers to the effort to include all important concepts while not allowing any concept to have a disproportionate impact. [Id. at 453.]

COAH's current methodology *assumes* that the projections calculated by its consultants are accurate, even though no base data in support thereof is provided so that municipalities can verify the calculations, and provides no checks and balances such as COAH's consideration of more accurate municipal data and projections. Accordingly, the methodology is unreliable and legally flawed.

As previously noted, on February 19, 2008, Montgomery Township's legal counsel submitted a records request made pursuant to the Open Public Records Act ("OPRA") for specific records purportedly relied upon by COAH in drafting the proposed rules.

Yesterday, on March 19, 2008, Montgomery Township received a response to the OPRA request. Clearly, COAH has not afforded the Township adequate time to review the submitted information and the Township reserves its right to analyze the information and possibly indicate to COAH in greater detail why the methodology is flawed.

INCOMPATIBILITY WITH THE STATE PLAN

The proposed rules were not formulated in consideration of the recommendations of the State Development And Redevelopment Plan and, as a result, COAH's proposed rules and the State Plan are incompatible.

As written on page 79 of the currently adopted State Plan, the "strategy" for providing adequate housing in New Jersey at a reasonable cost is as follows:

> Provide adequate housing at a reasonable cost through public/private partnerships that create and maintain a broad choice of attractive, affordable, ecologically designed housing, particularly for those most in need. Create and maintain housing in the Metropolitan and Suburban Planning Areas and in Centers in the Fringe, Rural and Environmentally Sensitive Planning Areas, at densities which support transit and reduce commuting time and costs, and at locations easily accessible, preferably on foot, to employment, retail, services, cultural, civic and recreational opportunities…

The Metropolitan Planning Area (PA-1) and the Suburban Planning Area (PA-2) are the "growth" areas designated on the State Plan. The predecessor State planning document, the "State Development Guide Plan" (SDGP), was used by the Supreme Court in its "Mt. Laurel II" decision, S. Burlington County NAACP v. Twp. of Mount Laurel, 92 N.J. 158 (1983) ("Mt. Laurel II"). Regarding the maps in the SDGP, which divided the State into six (6) basic areas including growth, limited growth, agriculture, conservation, pinelands and coastal zones, the Court wrote:

> By clearly setting forth the state's policy as to where growth should be encouraged and discouraged, these maps effectively serve as a blueprint for the implementation of the *Mount Laurel* doctrine. [Id. at 226.]

The current State Plan directs growth to Planning Areas 1 & 2 and away from Planning Areas 3, 4 & 5 unless the growth occurs within designated "centers." COAH's proposed rules did not consider this long established State policy, first expressed in the original State Plan adopted on June 12, 1992.

Instead, COAH's new rules identified developable lands throughout the State without regard for their planning area designation by the State Plan, so that "developable" lands in the Environmentally Sensitive (PA-5), the Rural/Environmentally Sensitive (PA-4B), the Rural (PA-4) and the Fringe (PA-3) planning areas were given the same weight as developable lands in the Metropolitan (PA-1) and Suburban (PA-2) planning areas.

As a result of this failure, the minimum number of required affordable housing units generated for a given municipality from the population and job projections contained in "Appendix F" was not cross-tabulated against the amount of developable lands in the planning area locations promoted for development by the State Plan.

Accordingly, municipalities that do not have sufficient lands within Planning Areas 1 & 2 to locate the required affordable housing units will be forced to utilize lands in Planning Areas 3, 4 & 5.

While some small-scale affordable housing projects could be accommodated on lands within Planning Areas 3, 4 & 5 in concert with the recommendations of the State Plan via "Supportive & Special Needs Housing" and/or small-scale municipally sponsored developments of 10 or so units, such small numbers of affordable units oftentimes will not satisfy the very high number of affordable units mandated by the proposed rules.

The single remaining option for a municipality is to designate a "center" which, as stated on Page 230 of the State Plan, is the "preferred vehicle for accommodating growth." However, the State Plan also recognizes that specific locations for centers may not be appropriate for additional growth; therefore, COAH's rules should not assume that the designation of a center will be appropriate from a land use planning viewpoint in all municipalities.

Most relevant to COAH's new rules creating the need for a municipality to designate a center primarily or solely to provide areas for affordable housing is the following passage on page 234 of the State Plan, which forcefully argues against the creation of centers for the purpose of satisfying a single interest, such as the provision of affordable housing:

> The challenge in developing Center guidelines is to achieve a balance between the diverse and often competing interests of a Center's many uses and stakeholders. Centers --- and Center design --- should strive to promote the interest of the community as a whole and optimize State Plan Goals, rather than seeking to maximize any of them. If any single interest (whether affordable housing, or wetlands protection or economic development), no matter how deserving on its own, achieves primacy at the expense of all the others, this most delicate balance is lost and the community as a whole stands to lose.

COAH's proposal creating the need for a municipality to establish a "center" to accommodate affordable housing development to meet its COAH mandated affordable housing obligation also is inappropriate in that the new development in the center will create yet an additional need for affordable housing units, so that, in practice, the establishment of the center may not help the municipality satisfy its currently projected affordable housing obligation.

More specifically, COAH's proposed new rules require a municipality to provide one (1) affordable housing unit for every four (4) new market-rate units and/or for every sixteen (16) newly created jobs. Therefore, the new residential and non-residential development in a newly created center, which development has not been factored by COAH into the projections within "Appendix F" of the proposed new rules, will merely add to the municipality's "growth share" obligation beyond the current population and job growth projections.

The end result will be the promotion of excessive development in many likely inappropriate locations in Planning Areas 3, 4 & 5.

The Fair Housing Act and the State Planning Act were companion bills designed to complement each other and advance important statewide objectives. COAH's proposed rules represent a profound and untenable disconnect from the State Plan. It is imperative that COAH adopt rules that are fully compatible with the recommendations and policies set forth in the State Plan. COAH's rules must not require municipalities to take actions and adopt "Housing Plan Elements & Fair Share Plans" that are contrary to the State Plan and undermine its fundamental principles and objectives.

LACK OF COORDINATION WITH NJDEP REGULATIONS

While a relatively small number of affordable units could be accommodated on lands not served by sewage treatment plant facilities in Planning Areas 3, 4 & 5 via "Supportive & Special Needs Housing" and/or small-scale municipally sponsored developments of 10 or so units, many municipalities will not be able to accommodate the very high minimum affordable housing obligations mandated by COAH's proposed new rules without sewage treatment plants in Planning Areas 3, 4 and/or 5.

Currently NJDEP, in coordination with the recommendations of the State Plan, does not permit new sewage treatment plants within Planning Areas 3, 4 or 5, except within designated "centers".

As previously discussed, and in accordance with the recommendations of the State Plan, "centers" are not appropriate for every municipality. Therefore, how can municipalities needing to locate substantial affordable housing units on lands in Planning Areas 3, 4 or 5 without center designation realistically be expected to comply with the affordable housing obligations mandated by COAH's proposed new rules?

What is needed is for an exception from NJDEP to allow a limited number of new sewage treatment plants in Planning Areas 3, 4 & 5 without the necessity for a change in planning area designation or center designation. The exception should be limited to new package treatment plants serving only relatively small developments (i.e., no more than 50 units) of 100% affordable housing units, and with a further restriction that no more than four (4) such treatment plants be permitted.

Without such an exception from NJDEP rules, and given that center designation is not appropriate for all municipalities, many municipalities will not be able to create a reasonable opportunity for the construction of the affordable housing units required by COAH's proposal.

Another inconsistency between COAH's proposed rules and NJDEP regulations arises with the upcoming adoption (May 2008) of the "Water Management Planning" (WQMP) rules that will expand regulations to protect water quality and provide for more realistic projections of wastewater and water supply needs. The disconnect between COAH's proposed rules, on the one hand, and water supply, wastewater treatment policy, capacity and service areas on the other, must be resolved in a manner that protects water supply and water quality, and takes advantage of existing sewage treatment infrastructure in Planning Areas 1 & 2.

During recent years there has been a lot of talk at the State level of government promising that the various State departments and agencies will have their rules coordinated so that all affected parties, including municipalities and developers, would not face conflicting rules when attempting to effectuate State mandates and policy objectives.

COAH's proposed new rules, compared to the recommendations of the State Plan and NJDEP rules, are the latest and most evident reminder that the State’s promises of coordinated rules and policies among the State departments and agencies have been nothing more than rhetoric.

COAH should not adopt new rules until it coordinates the rules with the State Planning Commission and NJDEP to assure that the required affordable housing units can be appropriately, practically and reasonably be provided by municipalities without violating other state rules and policies.

DISCOURAGEMENT OF MUNICIPAL ALLIANCES WITH PRIVATE DEVELOPERS

In its "Mt. Laurel II" decision, the Supreme Court observed that there were two (2) basic ways municipalities could provide the opportunity for the construction of affordable housing: government subsidies and "inclusionary" housing developments.

More particularly, the Court declared:

> There are two basic types of affirmative measures that a municipality can use to make the opportunity for lower income housing realistic: (1) encouraging or requiring the use of available state and federal housing subsidies, and (2) providing incentives for or requiring private developers to set aside a portion of their developments for lower income housing. [Mt. Laurel II, supra at 260.]

Regarding inclusionary development, the Court observed:

> The most commonly used inclusionary zoning techniques are incentive zoning and mandatory set-asides. The former involves offering economic incentives to a developer through the relaxation of various restrictions of an ordinance (typically density limits) in exchange for the construction of certain amounts of low and moderate income units. The latter, a mandatory set-aside, is basically a requirement that developers include a minimum amount of lower income housing in their projects. [Mt. Laurel II, supra at 265.]

Prior to the adoption of COAH's first "Substantive Rules" in 1986, "inclusionary" developments were the basic method used by municipalities, in cooperation with developers, to provide affordable housing units. COAH's proposed rules will effectively discourage these municipal alliances with private developers to provide affordable housing.

The reason private land developers will not be sought by municipalities to help them satisfy their "fair share" housing obligations is a combination of two (2) provisions of COAH's proposed rules: (1) the "growth share" methodology which computes a municipality's "fair share" affordable housing obligation to the construction of market-rate residential units and the creation of new jobs; and (2) the high number of affordable housing units obligated to a municipality when market-rate units and/or new jobs are created.

COAH's proposed rules require one (1) affordable unit for every four (4) market-rate units or sixteen (16) new jobs. The number of required affordable units resulting from the creation of new jobs is compounded by the high number of jobs per square foot of non-residential development stipulated in "Appendix D" of the proposed new rules.

Nevertheless, any development within a municipality will generate a "growth share" need for affordable housing. Therefore, if a municipality encourages an amount of development which is above the population and job growth projections contained in "Appendix F" of COAH's proposed rules, the municipality will be increasing its affordable housing obligation above the initially mandated number of required affordable units.

Most problematic is the fact that even if the subject development (*i.e.*, above the population and job growth projections contained in "Appendix F") is an "inclusionary" development with a set-aside of affordable units, the municipality can practically do nothing more than require the developer to provided affordable units only equivalent to the number of units generated by the development itself.

Assuming an entirely residential development, the 4:1 ratio of market-rate units to affordable units requires that 20% of the units be affordable in order just to satisfy the affordable housing obligation created by the development itself. And the density of the development is irrelevant to this conclusion.

Therefore, the only way a municipality could provide more affordable units in the development would be to require a set-aside of affordable units above 20%. However, as noted in the following passage from the 2007 Appellate Division decision:

> Experience had shown the Mount Laurel judges that twenty percent was the maximum set-aside that would induce builders to participate in the construction of affordable housing.

Therefore, municipalities cannot reasonably ask developers to set aside more than 20% of the units within an "inclusionary" residential development for occupancy by "low" and "moderate" income households. Conversely, developers will find it financially difficult to provide more than a 20% set-aside.

The end result is that COAH's proposed rules will discourage municipal alliances with private developers in a municipality's effort to satisfy its affordable housing obligation.

Therefore, COAH should consider the following changes to the proposed rules:

1) Exempt from the "growth share" calculations all of the market-rate residential units and the jobs created from non-residential uses within any new "inclusionary" development.

2) Specifically exempt from the "growth share" calculations all market-rate residential units and the jobs created from non-residential uses within any "inclusionary" development approved by a municipality under COAH's prior rules.

3) Modify the jobs per square foot of non-residential development stipulated in "Appendix D" of the proposed rules; as currently proposed, if a municipality requires a payment in lieu from the developer, the caps ranging from $145,903 to $182,859 for a single affordable unit will result in a substantial increase to the construction cost of the development.

For the reasons noted, COAH's proposed rules will have a chilling affect on new residential and non-residential development throughout New Jersey since the rules provide no incentive for municipalities to encourage new development and the developers will be financially stretched to the limit just to provide the affordable units generated by their developments.

INCOMPATIBILITY WITH THE "FAIR HOUSING ACT"

As previously noted, COAH's proposed rules provide no incentive for municipalities to encourage new development and the developers will be financially stretched to the limit just to provide the affordable units generated by their developments. The alternatives available to municipalities to satisfy their mandated affordable housing obligation are limited and, more often than not, will require the expenditure of public funds.

One option is to provide "Supportive & Special Needs Housing", including "group homes". Another is for the municipality to sponsor "100% affordable housing developments." Both options will require a municipality to acquire lands for the location of the affordable housing, and the dollar amount necessary to acquire the lands may be substantial depending upon the amount of acreage and the number of sites needed to accommodate the required units.

A third option in COAH's proposed rules is for a municipality to enter into a "Regional Contribution Agreement" (RCA) with a "receiving municipality" in its housing region for the transfer of up to 50% of its prior round and/or "growth share" obligations.

Depending upon the housing region within which the municipality is located, the minimum cost for each unit transferred via an RCA will range between $67,000 and $80,000. Therefore, even if a relatively small number of 25 units were the subject of an RCA, the municipality would have to expend at least $1,675,000 to $2,000,000. At the same time, administration policies are reducing State aid to municipalities and imposing caps on both the appropriation and levy sides of municipal budgets.

The high "fair share" affordable housing obligations mandated by COAH's proposed rules, the rule's discouragement of municipal alliances with private developers, and the lack of other compliance options that will practically result in a large number of affordable housing units, severely limit the options for a municipality to satisfy its affordable housing obligation.

Buying land for "Supportive & Special Needs Housing" and/or "100% affordable housing developments" and a "Regional Contribution Agreement" are the options that ordinarily will have to be included in a municipal "Housing Plan Element & Fair Share Plan" in order for the municipality to satisfy its mandated affordable housing obligation.

These options are expensive and will require many municipalities to bond for the cost and raise property taxes in order to pay off the debt.

In this regard, N.J.S.A. 52:27D-302 h. of the "Fair Housing Act" states:

> The Supreme Court of New Jersey in its Mount Laurel decisions demands that municipal land use regulations affirmatively afford a reasonable opportunity for a variety and choice of housing, including low and moderate income housing, to meet the needs of people desiring to live there. While the provision for the actual construction of that housing by municipalities is not required, they are encouraged but not mandated to expend their own resources to help provide low and moderate income housing.

For reasons previously noted, COAH's proposed new rules effectively mandate that municipalities "expend their own resources to help provide low and moderate income housing." And given the costs that often will be necessary, the expenditure will not be limited to existing financial resources, but often will necessitate the raising of property taxes to pay for the costs incurred and the ongoing debt of bond financing.

This result of COAH's proposed new rules is in direct contradiction to N.J.S.A. *52:27D-311 d. of the "Fair Housing Act" which states that "nothing in P.L. 1985, c.222 shall require a municipality to raise or expend municipal revenue in order to provide low and moderate income housing."*

MONTGOMERY TOWNSHIP'S ANALYSIS OF DEVELOPABLE LANDS

The Montgomery Township Department of Geospatial Information Technology was asked to review the report entitled "Analysis of Vacant Land in New Jersey and Its Capacity to Support Future Growth", dated December 31, 2007, prepared by Henry J. Mayer, Ph.D., National Center for Neighborhood & Brownfields Redevelopment, Bloustein School of Planning & Public Policy, Rutgers University on behalf of the Council On Affordable Housing (COAH).

At the outset, the methodology that was used by Rutgers to identify the amount of vacant developable land does not fully identify all of the constrained or developed lands within Montgomery Township, or even other sections of the New Jersey. In fact, COAH has relied on data that is at least 5 years old and, in some cases, at least 12 years old.

Since Montgomery Township maintains current datasets, the COAH (Rutgers) analysis was recreated to ascertain the amount of developable land under the Rutgers model and Montgomery's model. The attached memorandum summarizes the geoprocessing steps involved with recreating the Rutgers model and notes those areas in which the data that was used by Rutgers did not accurately reflect the existing conditions and constraints that impact development potential in Montgomery Township.

When recreating the model using the local dataset, Montgomery Township has determined that there is significantly less "Undeveloped" and "Unconstrained" vacant land within Montgomery Township then was concluded by COAH (Rutgers).

More specifically, when the model was recreated using the Rutgers datasets, it concluded there were 4,434 acres of total developable land, but when it was recreated using Montgomery Township datasets it concluded there were 2,774 acres of total developable land. This reflects a 38% decrease and a difference of 1,664 acres.

The differences are reflected on maps in the attachment entitled "COAH Methodology Determining Vacant Unconstrained Developable Land" and "Montgomery Methodology Determining Vacant Unconstrained Developable Land".

Very truly yours,

Cecilia Xie Birge, Mayor
Township of Montgomery

cc: The Honorable Joseph Doria, DCA Commissioner
Robert P. Bzik, Somerset County Planning Director
William G. Dressel, Jr., League of Municipalities Executive Director