

ML - Green Village v. Chatham

Feb. 25, 1986

Final Judgment of Compliance as to Chatham Township

pgs 28

notes: some double-sided pages

MLC006800

FILED

ML0006800

FEB 25 1986

STEPHEN SKILLMAN, J.S.C.

BRENER, WALLACK & HILL
2-4 Chambers Street
Princeton, New Jersey 08540
(609) 924-0808
Attorneys for Affected Property Owners

Plaintiff	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
GREEN VILLAGE 139 CORP.,	:	MIDDLESEX COUNTY
GERALD WEIR and JOSEPH	:	
GIOVANNOLI	:	Docket No. L-29276-78
	:	
vs.	:	
	:	CIVIL ACTION
Defendant	:	
	:	FINAL JUDGMENT OF
THE TOWNSHIP OF CHATHAM,	:	COMPLIANCE AS TO
THE TOWNSHIP COMMITTEE OF	:	CHATHAM TOWNSHIP
CHATHAM AND THE PLANNING	:	
BOARD OF THE TOWNSHIP OF	:	
CHATHAM	:	

This matter having come before the Court on a Mt. Laurel compliance hearing for the entry of a Final Judgment of Compliance as to Chatham Township; the plaintiffs being represented by the firm of Goldman, Carlet, Garrison, Bertoni & Klein, Norman Klein, Esq. appearing; the defendants being represented by the firm of Bernstein, Hoffman & Clark, P.A., Daniel S. Bernstein, Esq. appearing; and property owners with interests being affected also present, the Prudential Insurance Company of America being represented by the firm of Brener, Wallack & Hill, Thomas J. Hall, Esq. appearing; and Baker-Firestone being represented by the firm of Crummy, Del Deo, Dolan, Griffinger & Vecchione, Barry A. Osmun, Esq. appearing; and the plaintiffs and defendants having agreed in an Order dated August 3, 1984 that

the Chatham Township obligation of low and moderate income dwelling units was 200; and the Court having subsequently appointed George Raymond as the master, and thereafter, the Township Committee of the Township of Chatham having enacted ordinances 10-85, 28-85, and 29-85, said ordinances being attached hereto as Schedule A, the ordinances providing 198 new dwelling units for Chatham Glen with 75 new low and moderate income units (three of which may be new superintendent apartments, providing the occupants meet the income requirements), on property owned by Baker-Firestone and 125 low and moderate income dwelling units on property owned by the Prudential Insurance Company, with none of said low and moderate income housing being proposed on the properties owned by the plaintiffs, and the Prudential Insurance Company and Baker-Firestone, through counsel, having expressed their support of the Judgment of Compliance and their willingness to construct low and moderate income housing on their sites, in accordance with the applicable ordinances as modified by this Judgment, the Prudential Insurance Company and the Township of Chatham having reached an agreement which is incorporated in this Judgment and attached hereto as Schedule B, and Baker-Firestone and the Township of Chatham having agreed to the waiver of certain municipal fees for the low and moderate income housing units which are specified in a letter of the municipal attorney which is incorporated in this Judgment and attached hereto as Schedule C, and the Court having ascertained that the two issues to be decided are the builder's remedy and the approval of Chatham Township ordinances from a Mt. Laurel perspective.

It is the Final Judgment of this Court on this 25th day of February 1986:

With respect to builder's remedy and other relief sought in the complaint:

1. The Plaintiff's request for a builder's remedy is denied.
2. Judgment is awarded in favor of the defendants and against the plaintiffs on all claims in the complaint.

With respect to the Judgment of Compliance:

3. Ordinances 10-85, 28-85, and 29-85 which are attached hereto as Schedule A are fair, adequate and reasonable and provide a sufficient amount of low and moderate income dwelling units. With the modifications listed in paragraphs four and five of this judgment, the ordinances comply with the constitutional obligation to provide an realistic opportunity for the creation of sufficient safe and decent housing affordable to low and moderate income households to meet Chatham Township's indigenous need and fair share obligation.

4. The ordinances affecting the lands of the Prudential Insurance Company, namely 28-85 and 29-85, shall be amended in the following respects:

A. Sections 702.11(h)3 shall provide that no more than twenty-five percent of all low and moderate income dwelling units shall be efficiency units.

B. Sections 708.3(a)2 dealing with rehabilitated units and 702.11(k) dealing with the transfer of low and moderate income dwelling units shall require the approval by this Court for rehabilitation or transfer of low and moderate income units in order for Chatham Township to obtain credit for these units.

5. The fee schedule for the low and moderate income dwelling units shall be modified by a proposed Ordinance, drafted as Ordinance 7-86, in accordance with the letter which is attached hereto as Schedule C.

6. No sanitary sewer system presently serves the Prudential property. It has been estimated that a sewer solution may be ascertained within three years. The representatives of the Prudential Insurance Company and Chatham Township shall advise the Court of the progress toward a sewer solution. If a sewer solution is not ascertained within three years, then either the Prudential Insurance Company, the Township of Chatham, or the Court on its own motion may seek to modify this Judgment by requiring the Township of Chatham to seek an alternate site or sites for

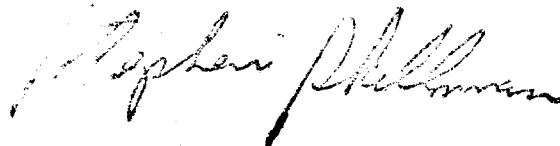
the 125 units of Mt. Laurel II housing which would have been constructed on the Prudential Insurance Company property. Ascertaining a sewer solution does not include the preparation of final plans, the approval of plans by the appropriate authorities, or the commencement of construction.

7. Mr. George Raymond, A.L.C.P., P.P., is retained as Standing Master to assist in the implementation of the compliance package. Mr. Raymond shall supply a report to the Court at least annually as to progress made on constructing lower income housing, and shall advise the Court, from time to time, as to progress made, and problems, if any, which occur in the implementation of the Chatham Township compliance package. Costs for said monitoring and reports shall be allocated equally among Chatham Township, the Prudential Insurance Company of America and Baker-Firestone, Inc.

Mr. Raymond shall also be available to assist Baker-Firestone, the Prudential Insurance Company of America and Chatham Township with respect to any problems which may arise with the construction of low and moderate income dwelling units, and shall also be available to Prudential Insurance Company and the Township to monitor the overall development of the Prudential property, including assisting in the development of a solution to the sewer problem. Prudential shall be responsible for all fees of the Master relating to his assistance as to the development of the Prudential property, including, in particular, the solution of the sewer problem. In the event Mr. Raymond's mediation efforts are required, his fees shall be split evenly between the Township and the affected developer.

8. This Judgment of Compliance grants a six year repose from the date of this Judgment in accordance with that part of the Mt. Laurel II opinion found at 92 N.J. 291, 292 during which time no litigation or proceedings may be brought against the Township of Chatham, or any of its employees, officials, officers, boards, board members, elected and appointed, alleging non-compliance with Mt. Laurel I, and Mt.

Laurel II, alleging exclusionary zoning and planning with respect to residential zoning, alleging that Chatham Township does not provide adequate and sufficient low and moderate income housing to meet its indigenous housing needs and/or alleging inadequate housing to satisfy its fair share obligation, alleging that the Chatham Township Zoning Ordinance and/or other Land Use Ordinances and regulations do not allow sufficient housing to satisfy Chatham Township's indigenous need and/or regional obligation for low and moderate income housing.

A handwritten signature in cursive script, appearing to read "Stephen Skillman", written in dark ink.

Stephen Skillman, J.S.C.

EX

BERNSTEIN, HOFFMAN & CLARK
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

HARRY E. BERNSTEIN
DANIEL S. BERNSTEIN
BARRY M. HOFFMAN
ROWAND H. CLARK
CERTIFIED CIVIL AND
CRIMINAL TRIAL ATTORNEY

FRANKLIN STATE BANK BUILDING
336 PARK AVENUE
SCOTCH PLAINS, N.J. 07076
201-322-2300

December 20, 1985

Honorable Stephen Skillman
Superior Court of New Jersey
Middlesex County Courthouse
New Brunswick, New Jersey 08903

RE: Green Village 139 Corp. v. Chatham Township, et als
Docket No. L-29276-78

Dear Judge Skillman:

Enclosed please find certified copies of the ordinances
which you have requested in the above matter. They are
as follows: ordinance 10-85, ordinance 28-85 and
ordinance 29-85.

Respectfully submitted,

BERNSTEIN, HOFFMAN & CLARK

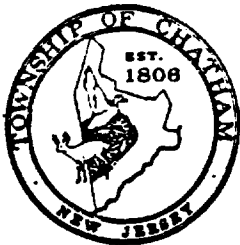
Daniel S. Bernstein

Daniel S. Bernstein

STB/blh

Enclosure

cc: Thomas Hall, Esquire
Barry Osmun, Esquire
Norman Klein, Esquire



TOWNSHIP OF CHATHAM

Township Hall
24 Southern Boulevard
Chatham, New Jersey 07928
635-4600

December 18, 1985

Please reply to:

Office of the
Township Clerk

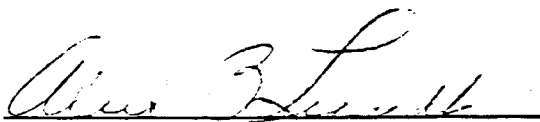
TO WHOM IT MAY CONCERN:

I, Alice B. Lundt, Township Clerk of the Township of Chatham in the County of Morris, New Jersey, do hereby certify that the following ordinances which are attached hereto are full and complete ordinances adopted by the Township Committee:

ORDINANCE 10-85 - "AN ORDINANCE TO AMEND ORDINANCE 2-79 ENTITLED "AN ORDINANCE RELATING TO MUNICIPAL ZONING AND PLANNING AND REGULATING LAND USE AND DEVELOPMENT IN THE TOWNSHIP OF CHATHAM, NEW JERSEY" adopted March 14, 1985

ORDINANCE 28-85 - "AN ORDINANCE TO AMEND ORDINANCE 2-79 ENTITLED "AN ORDINANCE RELATING TO MUNICIPAL ZONING AND PLANNING AND REGULATING LAND USE AND DEVELOPMENT IN THE TOWNSHIP OF CHATHAM, NEW JERSEY" adopted October 1, 1985

ORDINANCE 29-85 - "AN ORDINANCE TO AMEND ORDINANCE 2-79 ENTITLED "AN ORDINANCE RELATING TO MUNICIPAL ZONING AND PLANNING AND REGULATING LAND USE AND DEVELOPMENT IN THE TOWNSHIP OF CHATHAM, NEW JERSEY" adopted October 23, 1985


Alice B. Lundt

February 15, 1985

ORDINANCE 10 -85

AN ORDINANCE TO AMEND ORDINANCE 2-79 ENTITLED "AN ORDINANCE RELATING TO MUNICIPAL ZONING AND PLANNING AND REGULATING LAND USE AND DEVELOPMENT IN THE TOWNSHIP OF CHATHAM, NEW JERSEY"

BE IT ORDAINED by the Township Committee of the Township of Chatham in the County of Morris, New Jersey, as follows:

Ordinance 2-79 entitled "An Ordinance Relating to Municipal Zoning and Planning and Regulating Land Use and Development in the Township of Chatham, New Jersey", adopted January 30, 1979, as amended and supplemented, and known as the "Land Use Ordinance of the Township of Chatham" is hereby amended as follows:

SECTION 1. Section 311.1(a) of Ordinance 2-79 is hereby amended by adding thereto a new subsection (10) which shall read as follows:

(10) Master development plan for multi-family housing development - \$200.00.

SECTION 2. Section 311.1(b) of Ordinance 2-79 is hereby amended by adding thereto a new subsection (10) which shall read as follows:

(10) Master development plan for multi-family housing development - one-third (1/3) of the technical review fee required for a preliminary site plan for multi-family use.

SECTION 3. The time schedule for action by the Planning Board in Section 602.1(b) of Ordinance 2-79 is hereby amended by adding thereto the following:

Master development plan for multi-family housing development - 95 days.

SECTION 4. Section 602.6 of Ordinance 2-79 is hereby amended to read as follows:

602.6. OPTIONAL STAGED PRELIMINARY DEVELOPMENT PLAN. In order to provide flexibility in the review of large, multi-family housing developments of at least fifty (50) acres in size, an applicant may, at his option, seek preliminary approval in sections or stages, provided that he first seeks and receives approval of a master development plan of the entire tract. The procedure for filing, review and approval of a master development plan shall be the same as procedures prescribed for a preliminary site plan, including the submission of Checklists A and E as required by Section 305.2 for all preliminary site plan applications. Those items of data and information set forth in Checklist E which are not required by Section 603.6 for a Master Development Plan shall be marked "Not Applicable" or "N.A." by the applicant. Approval of a master development plan of such a development shall confer upon the applicant the rights described below for the period of time determined by the Planning Board in accordance with Section 602.5(d)(2).

(a) That the plan shall not be changed with reference to the total number of dwelling units within the development and the distribution of dwelling units by type, i.e. townhouse and manor house, within each residential area.

(b) That the location and specifications for proposed roads shall not be changed except as justified by sound engineering practices as approved by the Township Engineer.

(c) The application for preliminary approval of the entire development or of a section or stage of the development may be submitted for review and approval in accordance with Section 602.3. An application for preliminary approval of the first section or stage may be filed concurrently with the Master Development Plan, provided that the plan for the section or stage shall not be approved until the Master Development Plan has been approved.

SECTION 5. Ordinance 2-79 is hereby amended by adding thereto a new Section 603.6 which shall read as follows:

603.6. MASTER DEVELOPMENT PLAN FOR MULTI-FAMILY HOUSING DEVELOPMENT. A master development plan under optional procedures for a large, multi-family housing development as provided in Section 602.6 shall consist of one (1) or more maps drawn at a scale of not more than fifty (50) feet to the inch, or other appropriate scale acceptable to the Township Engineer, and shall include such details as may be necessary to determine compliance with this Ordinance and permit the Planning Board to make an informed decision on the application. Said master plan shall be drawn by such New Jersey licensed professional person or persons, depending upon the nature of the information to be provided, in accordance with the latest adopted rules and regulations of the state professional boards.

(a) As a minimum, the following information shall be shown on a master development plan:

(1) All maps shall contain the date, name and location of the site, names of the owner and applicant, graphic scale and reference meridian.

(2) Area of the tract and tract boundary line dimensions.

(3) All existing natural and man-made features, including the following:

(3.1) Watercourses, flood hazard areas, wooded areas, swamps, wetlands, rock outcrops, easements, streets and rights-of-way.

(3.2) Existing contours at two-foot intervals.

(3.3) Environmental data in accordance with Section 603.4(e).

(4) A plan showing the location and arrangement of existing buildings and the

tentative location and arrangement of proposed buildings, the approximate location of nonresidential buildings, streets, including their widths, off-street parking areas with capacities, the number and type of dwelling units by location, drawings and/or other information indicating the general appearance of proposed buildings, areas designated for nonresidential use and development and areas to be devoted to open space and common open space, including a description of improvements intended for those areas.

(5) Typical road cross sections, tentative profiles of all major roads and proposed traffic control improvements, including traffic signals, on or adjoining the site.

(6) A utility service plan or plans showing the proposed location of all primary water and sanitary sewer lines, pump stations, wells, treatment plants and other appurtenant improvements, as well as connection to electric and gas utilities. The applicant shall also submit evidence of commitment by utilities to serve the development.

(7) A generalized storm water management plan indicating the tentative methods for controlling drainage, including the approximate location of storm drains, proposed detention and retention facilities, supporting drainage calculations and any other information found necessary to make an informed decision.

(8) A staging plan indicating the tentative sections for which preliminary approval will be sought, the area of each section, the number and type of dwelling units and the amount of nonresidential floor space in each section, the infrastructure or improvements located beyond each section but which must be provided to support that section and the staging of on- and off-tract improvements.

(9) An environmental impact statement.

(b) The total number of multi-family housing units shown on a development plan which receives master development plan approval pursuant to Section 603.6 shall constitute the maximum number of units permitted to be constructed upon the lands forming a part of such development and shall have the effect of a restrictive covenant running with the title to the lands, which maximum number shall be binding upon the present property owner and all successor property owners, their heirs, successors and assigns. There shall be specified a maximum number of units for each section or stage of the multi-family development which is delineated on a master development plan. This maximum number specified for a particular section or stage of the development shall constitute a restrictive covenant running with the title to the lands forming a part of each such section or stage of the development.

(1) These restrictions with respect to the maximum number of units which are permitted to be constructed upon the lands forming a part of a development receiving master development plan approval shall be appropriately documented in the Morris County Clerk's office by the recording of a development agreement between the owner receiving master development plan approval and the Township of Chatham, and, where subdivision approval (as well as site plan approval) is granted, by also filing an approved final subdivision map, which agreement and map shall state in a clear and concise manner that the maximum number of units specified for this development and each section or stage thereof constitute restrictive covenants running with the title to the lands forming a part of the multi-family housing development granted master development plan approval.

(2) Final site plan approval shall not be granted to any section or stage of such a multi-family housing development until a fully executed development agreement and, where

appropriate, an approved final subdivision map have been recorded and/or filed in the Morris County Clerk's office in accordance with the requirements of Section 603.6(b)(1).

SECTION 6. Ordinance 2-79 is hereby amended by amending Section 702.1(e) in its entirety to read as follows:

(e) Townhouses and manor houses in the R-2A District as regulated in Sections 702.9 and 702.10.

SECTION 7. Ordinance 2-79 is hereby amended by adding thereto a new Section 702.10 which shall read as follows:

702.10. SPECIAL PROVISIONS FOR TOWNHOUSES AND MANOR HOUSES IN A PORTION OF THE R-2A DISTRICT.

(a) Subject Portion of R-2A District. The portion of the R-2A District to which the regulations set forth in this Section 702.10 apply is that portion of the R-2A District which lies south of Mt. Vernon Avenue and comprises Lots 5, 6, 7 and 8.01 in Block 64 on the tax map of the Township of Chatham. The provisions of Section 702.9 are not applicable to the foregoing portion of the R-2A District.

(b) Permitted Principal Uses. Properties in the portion of the R-2A District to which the regulations set forth in this Section 702.10 apply may be developed for townhouses, manor houses or a combination of townhouses and manor houses.

(c) Area and Density Requirements.

(1) Minimum Area. Each development shall have a minimum area of 50 acres. Public or private roads, easements or rights-of-way shall not be deemed to divide acreage of a development.

(2) Maximum Density. There shall be no more than 7.9 dwelling units per acre nor more than a total of 593 dwelling units in this entire portion of the R-2A District. The gross area of land shall include easement areas

previously established of record and devoted to storm water management and sanitary sewerage facilities to serve lands in the R-2A District.

(d) Affordable Units. At least 12.65 percent of the total number of dwelling units permitted in this entire portion of the R-2A District, but not less than 75 dwelling units, shall be made affordable to and sold or rented to low and moderate income households and at least fifty percent (50%) of those affordable units shall be made available to and sold or rented only to low income households.

(1) For purposes of this subsection (d), a low income household is one having a total income which is not more than fifty percent (50%) of the median household income adjusted for household size in the Standard Metropolitan Statistical Area (SMSA), Newark, New Jersey Housing Region, as established by the United States Department of Housing and Urban Development (HUD) for the purpose of administering the Federal Housing Assistance Payments Program (Section 8) or by other generally accepted Federal or New Jersey data base. The aforesaid percentage may be amended from time to time as provided in subsection (p).

(2) For purposes of this subsection (d), a moderate income household is one having a total income which is not less than fifty percent (50%) nor more than eighty percent (80%) of the median household income adjusted for household size in the Standard Metropolitan Statistical Area (SMSA), Newark, New Jersey Housing Region, as established by the United States Department of Housing and Urban Development (HUD) for the purposes of administering the Federal Housing Assistance Payments Program (Section 8) or by other generally accepted Federal or New Jersey data base. The aforesaid percentages may be amended from time to time as provided in subsection (p).

(3) Prior to the rental or sale of any unit affordable to a low income household or a moderate income household, as the case may be, upon application by the developer the Planning Board, or designated regulatory agency, shall determine and establish the maximum rental or sales price for the particular unit in accordance with subsection (i)(2) below.

(e) Maximum Coverage. The total ground floor area of all buildings shall not exceed fifteen (15) percent of the lot area of the development. The total area of all impervious surfaces, including buildings, shall not exceed thirty (30) percent of the lot area of the development.

(f) Setback Requirements.

(1) No principal building shall be located within one hundred (100) feet of a public street or exterior property line of the development nor within twenty-five (25) feet of any internal roadway.

(2) No townhouse structure shall have more than four (4) continuous attached dwelling units with the same front building line, and variations in the building line shall be at least four (4) feet.

(g) Distance between Buildings. Minimum distances as specified below shall be maintained between principal buildings according to the length of building wall overlap.

<u>Positions of Building Walls</u>	<u>Minimum Distance between Buildings at Any Point</u>	<u>Minimum Average Distance between Buildings *</u>
Front facing front	40'	40' plus 1/2' per foot of building wall overlap in excess of 30'
Front facing rear	40'	40' plus 1/2' per foot of building wall overlap in excess of 30'
Front facing side	40'	40' plus 1/4' per foot of building wall overlap in excess of 30'
Rear facing rear	40'	40' plus 1/4' per foot of building wall overlap in excess of 30'
Rear facing side	20'	20' plus 1/2' per foot of building wall overlap in excess of 30'
Side facing side	20'	20' plus 1/2' per foot of building wall overlap in excess of 30'

* Required additional distance shall be reduced by 50 percent when a one-story building faces a two-story building. No additional distance shall be required when a one-story building faces a one-story building.

(h) Building Requirements.

(1) Buildings may contain either townhouse units, manor house units or both.

(2) Height. No townhouse dwelling structure shall exceed a height of two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is the lesser. No manor house shall exceed a height of thirty-five (35) feet nor two and one-half (2-1/2) stories at the front of the building and three and one-half

(3-1/2) stories at the rear of the building.

(3) Units Per Building. Townhouse buildings shall contain no less than two (2) nor more than eight (8) dwelling units. Manor houses and manor units shall meet the following requirements:

(3.1) The average number of manor units per manor house shall not exceed sixteen (16).

(3.2) The maximum number of manor units per manor house shall not exceed twenty (20).

(3.3) Not more than twenty (20) percent of the manor houses shall contain more than eighteen (18) manor units.

(3.4) The maximum number of manor units per floor shall be ten (10).

(i) Dwelling Unit Requirements.

(1) Except for low and moderate income housing units, each dwelling unit shall contain as a minimum a separate living room, a separate bedroom, a separate bath, and a kitchen, which kitchen facility shall be located separate and apart from other rooms in the unit with the exception of the dining room. Low and moderate income housing units shall meet these same requirements, provided, however, that not more than twenty-five (25) percent of said units may be efficiency units wherein the living room and bedroom may be combined and wherein kitchen facilities need not be separated from the combined living room/bedroom. In addition, the following mix of low and moderate income unit types shall be provided:

1 bedroom or efficiency units - maximum of 50%
3 or more bedroom units - minimum of 10%

The unit type mix among low income and

moderate income units shall be substantially the same.

(2) For purposes of assuring affordability of housing units to low and moderate income households of varying sizes, it shall be assumed that housing units of different sizes will be occupied by households of different sizes as follows:

0 Bedroom	1 person
1 Bedroom	2 persons
2 Bedrooms	3 persons
3 Bedrooms	5 persons

(2.1) In the case of low and moderate income units offered for sale, each unit shall be affordable to a household earning no more than ninety (90) percent of the ceiling income for that household, by household size and income category, spending not more than twenty-eight (28) percent of its gross household income for the sum of the following: (i) principal and interest on a mortgage, based on a ten (10) percent down payment and realistically available mortgage interest rates; (ii) property taxes as currently levied in Chatham Township; (iii) insurance; and (iv) homeowner's association fees, if any. The proposed prices of low and moderate income units to be offered for sale, and the calculations by which those prices have been determined, shall be submitted for approval by the applicant as a part of the application for preliminary site plan approval.

(2.2) In the case of low and moderate income units offered for rent, they shall be rented for no more than thirty (30) percent of the gross household income of the low or moderate income household based upon ninety (90) percent of the ceiling income for that household said rental to

be inclusive of all services and maintenance including utilities. In the event that any other charges are paid directly by the tenant, the maximum rental of thirty (30) percent shall represent the sum of the contract rent and all such other charges. Rents shall be set individually for each tenant on the basis of individually verified household income.

(3) No room within a dwelling unit intended for human habitation shall be located in a basement or attic except that a basement may contain a family room or recreation room, provided, however, that manor houses may contain manor units in a basement level if at least seventy (70) percent of the volume of any such manor unit is located above the adjoining grade and further provided that each manor unit has its own private outside entrance at that floor level or that a common outside entrance at that floor level is provided for each two manor units.

(4) Each townhouse shall have at least two (2) private outside entrances. Not more than twelve (12) manor units nor more than six (6) manor units per floor shall be served by a common entry.

(5) Each townhouse shall contain its own heating plant and system and shall constitute a separate, independent unit for metering and all other purposes with respect to all required utilities and similar conveniences. Except in buildings containing low and moderate income housing units, no central or common laundry or similar facilities intended for two or more townhouses or manor units shall be permitted.

(6) Each townhouse, other than a low or moderate income townhouse, shall have a least one (1) individual private yard area, open patio or court adjoining the unit and having a width of at least fifteen (15) feet and an area of at least one hundred fifty (150) square

feet. Each manor unit, other than a low or moderate income manor unit, shall have at least one (1) individual private yard area, open patio, court or deck adjoining the unit and having an area of at least seventy-two (72) square feet. Each private yard area, open patio, court or deck shall be effectively screened in order to provide a reasonable degree of privacy.

(7) Buildings containing low and moderate income housing units shall be aesthetically congruous with the surrounding area as approved by the Planning Board with the exteriors harmonizing architecturally with and being constructed of materials of a like character to those used for other buildings in the development. All buildings shall be constructed in accordance with the State Uniform Construction Code and shall comply with other applicable state and municipal requirements.

(8) In addition to the above requirements, a storage space with separate access containing a minimum of seventy (70) square feet of floor area and a minimum volume of 500 cubic feet shall be provided for each dwelling unit in a basement of the building in which the unit is located, in a garage serving the unit, attached to the unit, or in another accessory building. Storage space located in a garage shall not usurp a minimum area of 10' x 20' for the parking of a motor vehicle. For dwelling units intended for low and moderate income persons, the storage space need not exceed forty (40) square feet of floor area nor 300 cubic feet of volume.

(j) Other Requirements. All requirements of Sections 702.6(f), (g), (h), (i) and (j) shall be complied with, except that minimum requirements for off-street parking spaces shall be as follows for low and moderate income housing units:

- 1 bedroom or efficiency unit - 1.75 parking spaces
- 2 bedroom unit - 2.0 parking spaces
- 3 or more bedroom unit - 2.5 parking spaces

Only fifty (50) percent of the foregoing required number of off-street parking spaces for low and moderate income housing units may be in a garage or carport..

(k) Phasing of Low and Moderate Income Housing Units. A developer shall submit to the Planning Board as part of a preliminary development application and a master development plan, if there be one, a phasing schedule covering this entire portion of the R-2A District for the construction of low and moderate income housing units. The developer may construct the first ten (10) percent of the units in the development without constructing any low or moderate income units. By the time that twenty (20) percent of the units in the development are constructed, at least forty (40) percent of the low and moderate income housing units shall be constructed and occupied. By the time that fifty (50) percent of the units in the development are constructed, at least one-hundred (100) percent of the low and moderate income housing units shall be constructed and occupied. No certificate of occupancy shall be issued for units other than units affordable to low and moderate income households until all low and moderate income housing units in the previous phase have been completed and issued certificates of occupancy.

(l) Eligibility. Sale or rental of low and moderate income dwelling units shall be on the basis of income and residency of applying eligible households.

(1) Upon the initial sale or rental of low and moderate income housing units, preference shall be given to qualifying households which include persons residing within the Township of Chatham or employed within the Township of Chatham.

(2) Where the number of applicants exceed the number of low and moderate income units available, the sale or rental of such units shall be in accordance with the date of application submitted, with earlier applicants being given preference over later applicants. The distribution of available units shall be consistent with the proportion of income categories as provided in subsection 702.10(d). Notwithstanding anything to the contrary contained herein, indigenous low or moderate income household applicants within the respective low and moderate income categories shall be given preference at all times over non-indigenous low or moderate income household applicants within the same category.

(3) All applicants for the purchase or rental of low and moderate income units shall meet the income qualifications established in this Section at the time the application is filed and shall be qualified at the time of taking title or occupancy.

(4) In a multi-family development under management of a single landlord, all tenants of rented low and moderate income units shall be required to give proof of continued income qualification on the first and each subsequent anniversary date of taking occupancy. Any tenant household not remaining so qualified on the first or subsequent anniversary date of taking occupancy shall be required to vacate the rented unit upon ninety (90) days written notice if there is a qualified applicant available for such unit; provided, however, that a household that ceases to meet the qualifications as a low income household, but does meet the qualifications as a moderate income household, may continue to occupy the unit, and the next unit to become available which is owned by the same owner as the unit changing from low to moderate income occupancy shall be rented to a low income household. Upon loss of eligibility due to household

income, the limitation of rental charges as set forth in this Section shall not apply.

(m) Any developer submitting an application for development which includes low and moderate income units shall submit a plan for resale or rental controls to insure that the low and moderate income units remain affordable to low and moderate income households for at least thirty (30) years. Such plan shall contain all of those provisions set forth in this subsection, as well as conform to any regulations or guidelines adopted by the Township or any governmental agency or nonprofit entity delegated this authority by the Township of Chatham.

(1) Any plan for controlling the resale of low and moderate income units shall permit the owner of such units, upon resale, to sell that unit for:

(i) The original sales price plus the original sales price multiplied by seventy-five (75) percent of the percentage increase in the Consumer Price Index between the date of initial purchase and the date of resale;

(ii) Reimbursement for documented monetary outlays made for reasonable property improvements; and

(iii) Reasonable costs incurred in selling the unit.

(2) Any such plan shall provide that the low income units upon resale may be sold only to low income households, and the moderate income units to either low or moderate income purchasers; provided, however, that the administering agency may establish reasonable provisions for waiver of this condition on a case by case basis in the event it finds that a particular unit may not feasibly be sold subject to this condition. In the event that the administering agency grants such a waiver, it may provide that the unit be sold at the

formula price, and that the resale controls remain in effect for any subsequent sales of the unit.

(3) The Township may administer these controls directly, or may enter into an agreement with a nonprofit corporation or other governmental entity, or may permit the developer to administer these controls, either directly or through a nonprofit entity established by the developer, but in no event may the Township require the developer to administer these controls as a condition of approval, nor may the resale controls be administered merely by the existence of a deed restriction on the property.

(4) Resale controls shall be embodied in a deed restriction on the property that shall be submitted by the developer at the time of preliminary site plan approval, and shall be subject to approval by the Township attorney and the administering agency. All deed restrictions shall be consistent with all of the provisions of this Section, and with any regulations or guidelines adopted by the administering agency.

(5) Where units are offered as rental units, they shall continue to be offered as rental units for as long as the unit owner desires. During the first thirty (30) years the unit owner may sell low income units at prices affordable to low income households and moderate income units at prices affordable to moderate income households in accordance with the previously established guidelines.

(6) The administering agency, subject to review by the Township at the option of the governing body, shall adopt such regulations and guidelines as may be necessary to carry out the provisions of this subsection 702.10(m).

(n) To assure that the entire portion of the R-2A District which is the subject of this Section 702.10 is developed as a single multi-family housing project in accordance with a Master Development Plan submitted and approved in accordance with Sections 602.6 and 603.6, no certificate of occupancy for any dwelling unit located in the last two buildings to be constructed (and for which construction permits have been issued and construction commenced) on the northwesterly side of the 125' wide Jersey Central Power & Light Company tower line easement shall be issued until construction permits have been issued for the first two buildings containing dwelling units located on the southeasterly side of said tower line easement. Said 125' wide tower line easement crosses thru the middle (approximately) of this portion of the R-2A District entering at Mt. Vernon Avenue on the northeast and leaving the subject tract at the Passaic River on the southwest.

(o) Administration. Except as to the provisions of subsection (m), the administration and enforcement of the provisions of this Section as they pertain to low and moderate income units shall be undertaken and performed by the Township Administrator, unless the Township Committee shall by ordinance designate a governmental agency or nonprofit entity to undertake and perform such responsibilities.

(p) Periodic Review for Modification of Standards. The standards established in this Section for qualification as a low income household or a moderate income household and the sales prices and rental allowed to be charged for occupancy of low and moderate income units shall be reviewed annually by the Township Committee which shall, from time to time, adopt such amendments to this Section as are required to assure that such standards conform to the applicable decisional and statutory law of New Jersey. In the event that the standards established by this Section are so amended hereafter, such amended standards shall apply to any low and moderate income units which have been constructed pursuant to this Section and which are

in existence at the time that such standards are so amended.

SECTION 8. This Ordinance shall take effect as provided by law.

Adopted: *March 14, 1985*

TOWNSHIP OF CHATHAM IN THE
COUNTY OF MORRIS

Attest:

Ann B. Lunde
Clerk

By *[Signature]* Mayor

ORDINANCE 28-85

AN ORDINANCE TO AMEND ORDINANCE 2-79 ENTITLED "AN ORDINANCE RELATING TO MUNICIPAL ZONING AND PLANNING AND REGULATING LAND USE AND DEVELOPMENT IN THE TOWNSHIP OF CHATHAM, NEW JERSEY"

BE IT ORDAINED by the Township Committee of the Township of Chatham in the County of Morris, New Jersey, as follows:

Ordinance 2-79 entitled "An Ordinance Relating to Municipal Zoning and Planning and Regulating Land Use and Development in the Township of Chatham, New Jersey", adopted January 30, 1979, as amended and supplemented, and known as the "Land Use Ordinance of the Township of Chatham" is hereby amended as follows:

SECTION 1. Article 2, Definitions, of Ordinance 2-79 is hereby amended by deleting therefrom the definition of the term "Research Laboratory", by deleting the second sentence from the definition of the term "Office Building" and by deleting the second sentence from the definition of the term "Story".

SECTION 2. Article 2, Definitions, of Ordinance 2-79 is hereby amended by adding thereto a definition of the term "Executive Inn" which shall read as follows:

EXECUTIVE INN. A facility providing overnight sleeping accommodations, and which may include dining, recreation, conference and other related facilities, all of which facilities are primarily intended to serve the needs of executive personnel in the nearby area.

SECTION 3. Section 605.2(m)(1) of Ordinance 2-79 is hereby amended so that the parking requirements for office buildings shall be as follows:

Office Buildings -
Less than 50,000 sq.ft.
of floor area.

1 for each 200 sq.ft.
of floor area.

Office Buildings -
50,000 sq.ft. or more
of floor area.

3 for each 1,000 sq.ft.
of floor area.

SECTION 4. The schedule of parking requirements in Section 605.2(m)(1) is hereby amended by deleting therefrom the following:

<u>USES</u>	<u>REQUIRED PARKING SPACES</u>
Research Laboratories, including buildings in a research laboratory complex used exclusively for offices.	1 for each employee in the maximum shift.

SECTION 5. Section 605.2(m)(1) of Ordinance 2-79 is hereby amended by adding thereto parking requirements for an Executive Inn as follows:

Executive Inn	1 for each sleeping unit plus additional parking for other facilities available to persons other than overnight guests as follows: Restaurant-As specified elsewhere in this schedule. Conference/Banquet/Ballroom Facilities 1 for each 100 square feet of floor area. Health Spa/Recreation Facilities- 1 for each 200 square feet of floor area.
---------------	--

SECTION 6. Sections 702.3(d) and (e) of Ordinance 2-79 are hereby replaced with the following Sections 702.3 (d), (e) and (f) which shall read as follows:

(d) Office buildings in the R-1A District, but only in that area lying north of Woodland Road and east of Treadwell Avenue, and subject to the provision for low and moderate income housing as hereinafter provided in Sections 702.11 and 708.6.

(e) Not more than one (1) executive inn in the R-1A District, but only in that area lying north of Woodland Road and east of Treadwell Avenue, and subject to the provision for low and moderate income housing as hereinafter provided in Sections 702.11 and 708.6.

shall be 15 percent. In addition, the total floor area of all floors of all buildings within the area which is the subject of these regulations shall not exceed 1 million square feet.

(5) No principal or accessory buildings shall be located closer to any other building on the same lot than the height of the taller building.

(6) All off-street parking areas shall be located at least 10 feet from buildings, except for parking located within a building or extending between the interior and exterior of a building, 100 feet from property lines and Dodge Drive, and 200 feet from public streets.

(7) All portions of the property not covered by buildings, pavement and other improvements shall be attractively landscaped with grass lawns, trees and shrubs as provided in Section 604.3(h) and as approved by the Planning Board. Where appropriate, existing vegetation shall be utilized. Particular attention shall be given to the establishment of the screening of buildings and parking areas to minimize the visual impact on adjacent properties. Fencing shall be provided as required by the Planning Board.

(8) All material and equipment shall be stored in completely enclosed structures.

(9) No activity shall be carried on that will create any of the following conditions beyond the limits of the property which will be perceptible to the human senses: any smoke or other particulate matter, fumes, objectionable odors, noise, glare or vibration. All facilities, activities and processes shall comply with all applicable, federal, state and municipal ordinances, laws, rules and regulations.

(10) All principal buildings shall be designed and constructed in accordance with the most advanced technology for fire prevention using fire-resistive materials. All such buildings shall be equipped with automatic sprinklers and other fire control devices required by the Planning Board. The Planning Board shall refer each site plan application to the Fire Departments serving the Township for review and comment.

(11) The owner or tenant of every building shall provide security personnel or devices in order to eliminate the need for routine Township Police Department building security checks.

(12) The owner or tenant of every building shall make provisions for emergency evacuation of all employees.

(13) Every building having plumbing facilities shall be connected to a public sanitary sewer system if such connection is available. If the Planning Board finds that such connection is not available, a private waste treatment and disposal system shall be provided.

(14) An application for a permit for a conditional use shall be accompanied by an environmental impact statement (E.I.S.) meeting the requirements of Section 608.

(15) Failure to properly operate and maintain a private waste treatment and disposal system, failure to furnish monitoring and other required reports, or failure to adhere to a comprehensive plan for waste disposal incorporated in a conditional use approval or failure to comply with applicable laws, ordinances, rules or regulations shall constitute a violation of this Ordinance.

(16) Terms and conditions established by the Planning Board upon the grant of conditional use approval shall be considered to be rules and regulations applicable to the specific use.

(e) The schedule for the phasing of construction or rehabilitation of low and moderate income housing units shall be as follows:

(1) At such time as an application for site plan approval is filed for any office building or an executive inn, the developer shall file with the Planning Board a housing plan indicating the manner in which the developer intends to provide low and moderate income housing units in accordance with this ordinance.

(2) Upon Planning Board approval of the housing plan, the developer shall be permitted to build

twenty-five percent (25%) of all non-residential floor area contemplated to be constructed under the provisions of the housing plan prior to the construction or rehabilitation of any low or moderate income housing units required by this ordinance, provided that prior to the issuance of any construction permits for any additional non-residential construction beyond such first twenty-five percent (25%) the developer shall have constructed or rehabilitated 62 low or moderate income housing units.

(3) In any event the developer shall complete construction or rehabilitation of 62 low and moderate income housing units within three (3) years after the date of issuance of a construction permit or permits for the initial 250,000 square feet of non-residential floor area.

(4) Following the completion or rehabilitation of the first 62 low and moderate income housing units the developer may apply for and receive certificates of occupancy for up to fifty percent (50%) of all non-residential floor area referenced within the housing plan.

(5) Following the completion or rehabilitation of the first 62 low and moderate income housing units the developer may apply for construction permits for the next twenty-five percent (25%) of non-residential floor area. Before certificates of occupancy are issued for more than fifty percent (50%) of the non-residential floor area construction or rehabilitation work on 63 additional low and moderate income housing units shall be commenced.

(6) No construction permits shall be issued for the final twenty-five percent (25%) of non-residential floor area until certificates of occupancy have been issued for all 125 low and moderate income housing units constructed or rehabilitated as required by the provisions of this section.

(7) In any event the developer shall complete construction or rehabilitation of all 125 low and moderate income housing units within three (3) years after the date of issuance of construction permits for a total of 700,000 square feet of non-residential floor area.

This ordinance shall take effect as of the date when all of the following have occurred: notice of final adoption of the ordinance has been published; a certified copy of the ordinance has been filed with the Morris County Planning Board; and a Judgment of Compliance has been entered by the Superior Court of the State of New Jersey determining that the Township of Chatham has met its obligation to provide its fair share of affordable housing for low and moderate income households.

Adopted: October 1, 1985

TOWNSHIP OF CHATHAM IN THE
COUNTY OF MORRIS, NEW JERSEY

Attest:

Alvin B. Lunt
Clerk

By [Signature] Mayor

I.

WHEREAS, the Township of Chatham ("Chatham") and the Prudential Insurance Company (PIC) both recognize that it is necessary to arrange for adequate sanitary sewage treatment and disposal facilities (sewers) prior to the development of PIC's property in Chatham Township; and

WHEREAS, Chatham will cooperate with PIC with respect to PIC's obtaining sewers, with both parties exercising due diligence and good faith efforts to reach an effective solution to the problem, it being understood that the cost of sewers, including all engineering costs, shall be borne solely by PIC; and

WHEREAS, a suitable solution to the sewer problem may take considerable time;

II.

1. Chatham shall exercise good faith efforts to assist PIC in obtaining adequate sewers for both the 125 low and moderate income dwelling units and the Executive Inn and office/corporate headquarters development, taking planning and engineering considerations into account, and

2. Chatham and PIC shall work together to accomplish the following:

- a. As soon as feasible, engineering reports prepared by PIC's consultants outlining feasible options shall be provided to Chatham, which thereafter shall have

its sanitary sewer engineering consultants and sewer department personnel review the reports and work cooperatively with PIC to prepare reports to Chatham, PIC and the Court-appointed Master. Procedures for the reimbursement of Chatham's costs shall be the subject of an agreement between Chatham and PIC.

b. Chatham and PIC shall thereafter mutually explore feasible approaches to the solution of the sewer problem, with both parties exercising due diligence and good faith efforts to reach an effective solution to the problem, taking engineering and planning considerations into account.

A proposed solution involving the use of sewers of a third party shall not be considered feasible until such third party evidences an interest in participating in such proposed solution.

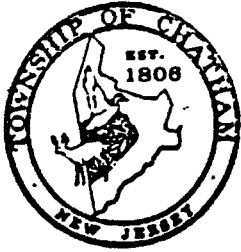
c. PIC and Chatham shall report to the Master on a regular basis as determined by the Master, as to progress on a solution of the sewer problem. The Master's fee shall be borne equally between Chatham and PIC.

3. PIC may concurrently prepare development plans for consideration by the Chatham Township Planning Board, which shall

include plans for low and moderate income housing as well as plans for other development contemplated by PIC within Chatham.

4. Three years from the date of the compliance judgment, the parties shall advise the Court as to progress made in resolving the method of providing sewers. Any party, or the Court on its own motion, may move to reopen the judgment if the sewer problem remains unresolved and no site plan including low and moderate income housing has been submitted by PIC to the Chatham Township Planning Board.

5. PIC and Chatham acknowledge that PIC is obligated to provide lower income housing as a concomitant of the rezoning, and Chatham Township shall condition any grant of approval for any construction or other development approval on the timely completion of the lower income housing within the compliance period. (Lower income housing means low and moderate income housing.)



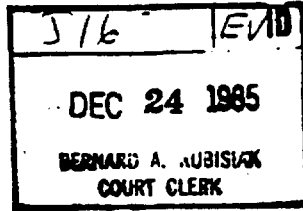
TOWNSHIP OF CHATHAM

Township Hall
24 Southern Boulevard
Chatham, New Jersey 07928
635-4600

Please reply to:

Township Attorney
P. O. Box 72
Green Village, New Jersey 07935

December 21, 1985



Honorable Stephen Skillman
Judge of the Superior Court
Middlesex County Court House
New Brunswick, New Jersey 08903

Green Village 139 Corp., et al.
v. Township of Chatham, et al.
Docket No. L-29276-78 P.W.

Dear Judge Skillman:


In order to reduce the cost of the low and moderate income housing units in the Village of Vernon Grove in the Chatham Glen condominium project, Baker-Firestone, Inc. has requested that the Township of Chatham consent to the waiver of certain municipal fees otherwise required for site approval and construction. It appears that a precedent for such a request may be found in other Mt. Laurel II settlements.

I have been authorized by the governing body of the Township to advise you that the municipality is willing to waive the following fees with respect to the low and moderate income units in the Village of Vernon Grove:

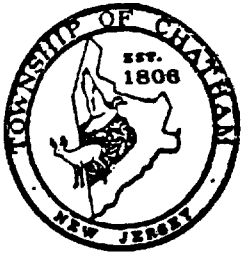
- (1) Site plan application filing fees;
- (2) Fees for construction permits, except those portions required to be paid to the State... and to the third party electrical inspection agency; and
- (3) Fees for certificates of occupancy.

Technical review and site improvement inspection fees are not the subject of waiver inasmuch as the services covered by such fees are not rendered by regular Township employees.

Respectfully submitted,

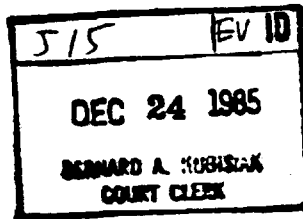

John R. Miller
Chatham Township Attorney

cc Daniel S. Bernstein, Esq. ✓
Barry A. Osmun, Esq.



TOWNSHIP OF CHATHAM

Township Hall
24 Southern Boulevard
Chatham, New Jersey 07928
635-4600



Please reply to:

459 Southern Boulevard
Chatham, N. J. 07928
Planning Board
822-1648

December 20, 1985

Honorable Stephen Skillman
Judge of the Superior Court
Middlesex County Court House
New Brunswick, New Jersey 08903

Green Village 139 Corp., et al.
v. Township of Chatham, et al.,
Superior Court of New Jersey,
Law Division, Morris County,
Docket No. L-29276-78 P.W.

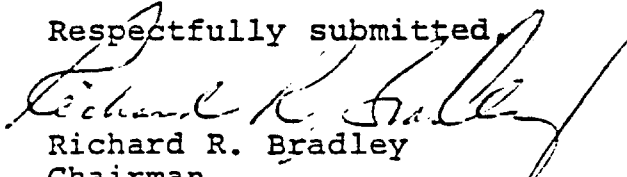
Dear Judge Skillman:

This letter is written in my capacity as Chairman of the Planning Board of the Township of Chatham in regard to a proposal by Barry A. Osmun, Esq., attorney for Baker-Firestone, Inc., that Mr. George M. Raymond continue as Advisory Master with respect to any differences which may arise between the Planning Board and Baker-Firestone, Inc. in connection with the application for site plan approval or the development of the 72 low and moderate income housing units in the Village of Vernon Grove at the Chatham Glen project.

Mr. Osmun has indicated that Baker-Firestone, Inc. would be willing to bear all of the compensation to be paid to Mr. Raymond for his services.

This proposal is satisfactory to the Planning Board, it being understood that Mr. Raymond's services would be of an advisory nature and would relate solely to the 72 low and moderate income housing units constituting the Village of Vernon Grove.

Respectfully submitted,


Richard R. Bradley
Chairman

cc Daniel S. Bernstein, Esq. ✓
Barry A. Osmun, Esq.

(f) Community residences for more than six developmentally disabled persons and/or community shelters for more than six victims of domestic violence.

SECTION 7. Section 702.10 (k) of Ordinance 2-79 is hereby amended to read as follows:

(k) Phasing of Low and Moderate Income Housing Units. A developer shall submit to the Planning Board as part of a preliminary development application and a master development plan, if there be one, a phasing schedule covering this entire portion of the R-2A District for the construction of low and moderate income housing units. The developer may construct the first ten (10) percent of the total market rate units in the development without constructing any low or moderate income units. By the time that twenty (20) percent of such units in the development are constructed, at least forty (40) percent of the low and moderate income housing units shall be constructed and occupied. By the time that fifty (50) percent of the market rate units in the development are constructed, at least one-hundred (100) percent of the low and moderate income housing units shall be constructed and occupied. No certificate of occupancy shall be issued for market rate units until all low and moderate income housing units in the previous phase have been completed and issued certificates of occupancy. In addition, construction of all low and moderate income housing units shall have been completed prior to the issuance of building permits for more than 259 market rate units.

SECTION 8. Paragraph (4) of Section 702.10 (1) of Ordinance 2-79 is hereby amended to read as follows:

(4) In a multi-family development under management of a single landlord, all tenants of rented low and moderate income units shall be required to give proof of continued income qualification the first and each subsequent anniversary date of taking occupancy. A tenant shall cease to remain qualified if total household income exceeds 125 percent of the moderate income limit. Any tenant household not remaining so qualified on the first or subsequent anniversary date of taking occupancy shall be required to vacate the rented unit upon nine (9) months written notice if there is a qualified applicant available for such unit; provided, however, that a household that ceases to meet the qualifications as a low income household, but does meet the qualifications as a moderate income household, may

continue to occupy the unit, and the next unit to become available which is owned by the same owner as the unit changing from low to moderate income occupancy shall be rented to a low income household. Upon the issuance of the written notice to vacate, the limitation of rental charges as set forth in this chapter shall cease to apply and until the subject unit is vacated the owner shall be entitled to an increase in rent, provided that the increase does not exceed thirty percent (30%) of the amount by which the tenant's income exceeds the current maximum income limitation for a moderate income household. In the implementation of this paragraph (4), income limitations shall be as adjusted for household size.

SECTION 9. Ordinance 2-79 is hereby amended by adding thereto a new Section 702.11 which shall read as follows:

702.11 HOUSING UNITS AFFORDABLE TO LOW AND MODERATE INCOME HOUSEHOLDS AS A CONDITION FOR APPROVAL OF A DEVELOPMENT PURSUANT TO SECTION 708.6.

(a) Where Permitted. Housing units affordable to low and moderate income households when required in connection with an office building development as provided in Sections 702.3(d) and (e) along with such market multi-family housing units as may be permitted pursuant to Section 702.11 (k) may be located only in that portion of the R-1A District bounded on the north and east by the Borough of Madison, on the south by Loantaka Way, on the southwest by the Morris County Park and on the west by Treadwell Avenue, but excluding therefrom Lots 7, 9.01, 9.02 and 9.03 in Block 141 as shown on the Tax Map of the Township of Chatham.

(b) Types of Dwelling Units Permitted. Dwellings may consist of townhouses, apartments or both townhouses and apartments.

(c) Maximum Density. There shall be no more than five and one-half (5-1/2) dwelling units per acre.

(d) Maximum Coverage. The total ground floor area of all buildings shall not exceed fifteen (15) percent of the lot area of the development. The total area of all impervious surfaces, including buildings, shall not exceed thirty (30) percent of the lot area of the development.

(e) Setback Requirements.

(1) No principal building shall be located within one hundred (100) feet of an exterior property line of the development nor within twenty-five (25) feet of any internal roadway; provided, however, that no building need be located more than 40 feet from a property line which is common to a public park or more than 40 feet from a municipal boundary where adjoining land in the adjoining municipality is zoned for multi-family housing development.

(2) No townhouse structure shall have more than four (4) continuous attached dwelling units with the same front building line, and variations in the building line shall be at least four (4) feet.

(f) Distance Between Buildings. Minimum distances as specified below shall be maintained between principal buildings according to the length of building wall overlap.

<u>Positions of Building Walls</u>	<u>Minimum Distance between Buildings at Any Point</u>	<u>Minimum Average Distance between Buildings *</u>
Front facing front	40'	40' plus 1/2' per foot of building wall over- lap in excess of 30'
Front facing rear	40'	40' plus 1/2' per foot of building wall over- lap in excess of 30'
Front facing side	40'	40' plus 1/4' per foot of building wall over- lap in excess of 30'
Rear facing rear	40'	40' plus 1/4' per foot of building wall over- lap in excess of 30'
Rear facing side	20'	20' plus 1/2' per foot of building wall over- lap in excess of 30'
Side facing side	20'	20' plus 1/2' per foot of building wall over- lap in excess of 30'

* Required additional distance shall be reduced by 50 percent when a one-story building faces a two-story building. No additional distance shall be required when a one-story building faces a one-story building.

(g) Building Requirements.

(1) Buildings may contain either townhouse units, apartment units or both.

(2) Height. No townhouse dwelling structure shall exceed a height of two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is the lesser. No apartment building shall exceed a height of thirty-five (35) feet nor two and one-half (2-1/2) stories at the high elevation of the building and three and one-half (3-1/2) stories at the low elevation of the building.

(3) Units Per Building. Townhouse buildings shall contain no less than two (2) nor more than eight (8) dwelling units. Apartments shall meet the following requirements:

(3.1) The average number of apartment units per building shall not exceed sixteen (16).

(3.2) The maximum number of apartment units per building shall not exceed twenty (20).

(3.3) Not more than twenty (20) percent of the apartment buildings shall contain more than eighteen (18) apartment units.

(3.4) The maximum number of apartment units per floor shall be ten (10).

(h) Dwelling Unit Requirements.

(1) At least fifty (50) percent of the total number of housing units affordable to low and moderate income households shall be made affordable to and sold or rented to low income households. The remaining portion of such housing units shall be made affordable to and sold or rented to moderate income households.

(1.1) For purposes of this subsection, a low income household is one having a total income

which is not more than fifty percent (50%) of the median household income adjusted for household size in the Standard Metropolitan Statistical Area (SMSA), Newark, New Jersey Housing Region, as established by the United States Department of Housing and Urban Development (HUD) for the purpose of administering the Federal Housing Assistance Payments Program (Section 8) or by other generally accepted Federal or New Jersey data base. The aforesaid percentage may be amended from time to time as provided in Section 702.10(p).

(1.2) For purposes of this subsection, a moderate income household is one having a total income which is not less than fifty percent (50%) nor more than eighty percent (80%) of the median household income adjusted for household size in the Standard Metropolitan Statistical Area (SMSA), Newark, New Jersey Housing Region, as established by the United States Department of Housing and Urban Development (HUD) for the purposes of administering the Federal Housing Assistance Payments Program (Section 8) or by other generally accepted Federal or New Jersey data base. The aforesaid percentages may be amended from time to time as provided in Section 702.10(p).

(2) Minimum floor area requirements for low and moderate income housing units shall be as follows:

<u>Unit Type</u>	<u>Minimum Floor Area</u>
0 Bedroom (studio) Unit	375 sq. ft.
1 Bedroom Unit	550 sq. ft.
2 Bedroom Unit	660 sq. ft.
3 or more Bedroom Unit	850 sq. ft. plus 150 sq. ft. for each bedroom in excess of 3 bedrooms.

(3) Not more than fifty (50) percent of the total number of housing units affordable to low and moderate income households shall be 1-bedroom or efficiency units and at least ten (10) percent of the total number of such dwelling units shall contain three (3) or more bedrooms.

(4) Prior to the rental or sale of any housing units affordable to low and moderate income households, upon application by the developer the Township Committee, or designated regulatory agency, shall determine and establish the maximum rental or sales price for the particular unit in accordance with Subsection 702.11(g)(5).

(5) For purposes of assuring affordability of housing units to low and moderate income households of varying sizes, it shall be assumed that housing units of different sizes will be occupied by households of different minimum sizes as follows:

0 Bedroom	1 person
1 Bedroom	2 persons
2 Bedrooms	3 persons
3 Bedrooms	5 persons

(5.1) In the case of low and moderate income units offered for sale, each unit shall be affordable to a household earning no more than ninety (90) percent of the ceiling income for that household, by household size and income category, spending not more than twenty-eight (28) percent of its gross household income for the sum of the following: (i) principal and interest on a mortgage, based on a ten (10) percent down payment and realistically available mortgage interest rates; (ii) property taxes as currently levied in Chatham Township; (iii) insurance; and (iv) homeowner's association fees, if any. The proposed prices of low and moderate income units to be offered for sale, and the calculations by which those prices have been determined, shall be submitted for approval by the applicant as a part of the application for preliminary site plan approval.

(5.2) In the case of low and moderate income units offered for rent, they shall be rented for no more than thirty (30) percent of the gross household income of the low or moderate income household based upon ninety (90) percent of the ceiling income for that household said rental to be inclusive of all services and maintenance including utilities. In the event that any other charges are paid directly by the tenant, the maximum rental of

thirty (30) percent shall represent the sum of the contract rent and all such other charges. Rents shall be set individually for each tenant on the basis of individually verified household income.

(6) No room within a dwelling unit intended for human habitation shall be located in a basement or attic except that a basement may contain a family room or recreation room, provided, however, that apartments may be located in a basement level if at least seventy (70) percent of the volume of any such apartment is located above the adjoining grade and further provided that each apartment has its own private outside entrance at that floor level or that a common outside entrance at that floor level is provided for each two apartments. No such entrance shall be located below grade.

(7) Each townhouse shall have at least two (2) private outside entrances. Not more than twelve (12) apartments or more than six (6) apartments per floor shall be served by a common entry.

(8) Each townhouse shall contain its own heating plant and system and shall constitute a separate, independent unit for metering and all other purposes with respect to all required utilities and similar conveniences.

(9) In addition to the above requirements, a storage space with separate access containing a minimum of forty (40) square feet of floor area and a minimum volume of 300 cubic feet shall be provided for each dwelling unit in the unit itself, in a basement of the building in which the unit is located, in a garage serving the unit, attached to the unit, or in another accessory building. Storage space located in a garage shall not usurp a minimum area of 10' x 20' for the parking of a motor vehicle. For dwelling units intended for low and moderate income persons, the storage space need not exceed forty (40) square feet of floor area nor 300 cubic feet of volume.

(i) Other Requirements. All requirements of Sections 702.6(f), (g), (h), (i) and (j) shall be complied with, except that minimum requirements for off-street parking spaces shall be as follows for low and moderate income housing units:

Efficiency unit - 1.25 parking spaces
1 bedroom unit - 1.5 parking spaces
2 or more bedroom unit - 2.0 parking spaces

Only fifty (50) percent of the foregoing required number of off-street parking spaces for low and moderate income housing units may be in a garage or carport.

In addition to the above requirements, low and moderate income housing units shall be served by the same waste treatment and disposal system as the office building development, the approval of which is conditioned upon the construction of such housing units.

(j) All provisions of Sections 702.10(1), (m), (o) and (p) shall be complied with.

(k) Any of the required low and moderate income housing units may be located outside the limits of the Township but only upon such mutual agreement between the Township and the municipality to which the units may be transferred and with any other necessary approvals as will assure that the Township receives credit towards its fair share housing obligation for all such units transferred outside the Township. Transferred housing units may be replaced by market multi-family housing units, provided that all of the following conditions shall be met:

- (1) The total number of moderate income housing units transferred to a location or locations outside the Township shall not exceed the total number of low income housing units transferred to a location or locations outside the Township.
- (2) Lands of the developer lying in the Borough of Madison immediately adjacent to the lands of the developer described in subsection 702.11(a) shall have been zoned for market multi-family housing units.
- (3) Not more than one (1) market multi-family housing unit shall be constructed in the Township for each low or moderate income unit transferred to a location outside the Township, provided, however, the total floor area of all market multi-family housing units constructed in the Township shall not exceed the total floor area of all low and moderate income housing units transferred to a location or locations outside the Township.

- (4) Market multi-family housing units constructed in the Township shall be subject to the Township parking requirements for market multi-family housing units as provided in subsection 605.2(m) (1).
- (5) Site plan approval which includes any market multi-family housing unit to be located in the Township shall not be granted until site plan approval has been granted for any low or moderate income housing unit to be located outside the Township.
- (6) Construction permits for market multi-family housing units in the Township shall not be issued until certificates of occupancy have been issued for the maximum number of low and moderate income housing units that would be required to be constructed or rehabilitated by the developer upon the full development of the lands in the R-1A District lying north of Woodland Road and east of Treadwell Avenue, whether such low and moderate income housing may be located within or outside the Township. Furthermore, construction permits for market multi-family housing units in the Township shall be not issued until certificates of occupancy have been issued for all market multi-family housing units subject of site plan approval for the full development of lands of the developer located in the Borough of Madison immediately adjacent to the lands of the developer described in subsection 702.11(a).

SECTION 10. Section 708.6 of Ordinance 2-79 is hereby amended to read as follows:

708.6 OFFICE BUILDINGS AUTHORIZED BY SECTION 702.3(d) AND/OR AN EXECUTIVE INN AUTHORIZED BY SECTION 702.3(e).

(a) Any non-residential use shall require any combination of the following:

(1) Construction of housing units affordable to low and moderate income households, in accordance with the requirements and regulations set forth in Section 702.11.

(2) Rehabilitation of existing dwelling units within the Township of Chatham which are both occupied by low and moderate income households and physically deficient by way of inadequate heating systems (lacking central heat or room heaters with flue) and/or complete plumbing facilities for exclusive use of the occupants.

(3) If permitted by law, or judicial decision, construction of or rehabilitation of housing units of the nature described above in another municipality or other municipalities through arrangement with such municipalities or with an agency or agencies authorized to construct or rehabilitate such housing in those municipalities.

(4) The phasing of construction for the required low and moderate income housing units shall be in accordance with the provisions of subsection 708.6(e).

(b) Permitted uses shall be limited to office buildings and/or not more than one (1) executive inn as defined in Article 2. Said executive inn shall contain no more than 150 guest rooms and, in addition, the following limitations shall apply:

(1) The floor area devoted to conference, banquet and ballroom facilities shall not exceed 25 square feet for each sleeping unit.

(2) The floor area devoted to restaurant facilities shall not exceed 15 square feet for each sleeping unit.

(c) Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with Section 605.2 and as hereinafter regulated.

(2) Signs in accordance with Section 707.

(3) Other accessory uses customarily incident to the principal use, but not including helicopter landing pads.

(d) The following conditions shall be complied with:

(1) There shall be a minimum lot area of 20 acres measured within 1,200 feet of the front street right-of-way. The lot on which an executive inn is located shall not exceed an area of 25 acres. No lot shall have direct access from either Treadwell Avenue or Woodland Road. On a tract of land containing at least 100 acres which is to be subdivided into at least four (4) but not more than six (6) individual lots, the following provisions shall apply:

(1.1) No lot shall contain less than 15 acres within which area it shall be possible to draw a circle having a diameter of at least 600 feet.

(1.2) An individual lot need not front on a public street, but shall be served by a private driveway or road which may be shared with other lots by means of easement or common ownership arrangement documented by appropriate legal instruments.

(2) No building shall exceed a height of 75 feet nor shall the height of any building including penthouse structures exceed 85 feet. In addition, no building located within 500 feet of Treadwell Avenue shall exceed a height of 55 feet, or 65 feet including penthouse structures, above the average elevation of the centerline of Treadwell Avenue between projections perpendicular to said centerline from the extreme ends of the building. Furthermore, no building located within 500 feet of Treadwell Avenue shall exceed a height of four (4) stories. Penthouse structures shall not extend to a height of more than 15 feet above the roof surface, shall be used solely for the purpose of enclosing mechanical equipment and shall not cover more than 20 percent of the roof surface. Any appurtenance located upon a roof shall be recessed at least 20 feet from the edge of the roof along any building wall that faces a public street and the appurtenance shall be concealed or designed in such manner as to be architecturally complementary to the building.

(3) Building setbacks shall be as follows:

(3.1) No building shall be located within 300 feet of Treadwell Avenue nor within 200 feet of any other public street or Dodge Drive.

(3.2) No building shall be located within 100 feet of any other property line.

(3.3) No improvement whatsoever shall be constructed within 200 feet of Treadwell Avenue.

(4) The maximum coverage of any lot by buildings shall be 10 percent. The maximum coverage of any lot by buildings and impervious surface improvements

ORDINANCE 29-85

AN ORDINANCE TO AMEND ORDINANCE 2-79 ENTITLED "AN ORDINANCE RELATING TO MUNICIPAL ZONING AND PLANNING AND REGULATING LAND USE AND DEVELOPMENT IN THE TOWNSHIP OF CHATHAM, NEW JERSEY"

BE IT ORDAINED by the Township Committee of the Township of Chatham in the County of Morris, New Jersey, as follows:

Ordinance 2-79 entitled "An Ordinance Relating to Municipal Zoning and Planning and Regulating Land Use and Development in the Township of Chatham, New Jersey", adopted January 30, 1979, as amended and supplemented, and known as the "Land Use Ordinance of the Township of Chatham" is hereby amended as follows:

SECTION 1. Subsection 702.11(a) of Ordinance 2-79, as amended and supplemented, is hereby amended to read as follows:

- (a) Where Permitted. Housing units affordable to low and moderate income households when required in connection with an office building development as provided in Sections 702.3(d) and (e) may be located only in that portion of the R-1A District bounded on the north and east by the Borough of Madison, on the south by Loantaka Way, on the southwest by the Morris County Park and on the west by Treadwell Avenue, but excluding therefrom Lots 7, 9.01, 9.02 and 9.03 in Block 141 as shown on the Tax Map of the Township of Chatham.

SECTION 2. Subsection 702.11(k) of Ordinance 2-79, as amended and supplemented, is hereby amended to read in its entirety as follows:

- (k) Any of the required low and moderate income housing units may be located outside the limits of the Township but only upon such mutual agreement between the Township and the municipality to which the units may be transferred and with any other necessary approvals as will assure that the Township receives credit towards its fair share housing obligation for all such units transferred outside the Township, provided that the total number of moderate income housing units transferred to a location or locations outside the Town-

ship shall not exceed the total number of low income housing units transferred to a location or locations outside the Township.

This ordinance shall take effect as of the date when all of the following have occurred: notice of final adoption of the ordinance has been published; a certified copy of the ordinance has been filed with the Morris County Planning Board; and a Judgment of Compliance has been entered by the Superior Court of the State of New Jersey determining that the Township of Chatham has met its obligation to provide its fair share of affordable housing for low and moderate income households.

Adopted: *October 23, 1985*

TOWNSHIP OF CHATHAM IN THE
COUNTY OF MORRIS

Attest:

Allen B. Lunde
Clerk

By *[Signature]* Mayor