

ML- Haberman v. Hampton

Jan. 7, 1985

Judgment

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notes: double-sided pages

ML 0007020

FILED

JAN 7 1985

STEPHEN SKILLMAN, J.S.C.

VOGEL AND CHAIT

A PROFESSIONAL CORPORATION
 MAPLE AVENUE AT MILLER ROAD
 MORRISTOWN, NEW JERSEY 07960
 (201) 538-3800
 ATTORNEYS FOR Plaintiff

Plaintiff

JACOB HABERMAN

vs.

Defendant

THE BOROUGH OF HAMPTON, THE PLANNING
 BOARD OF THE BOROUGH OF HAMPTON, THE
 BOROUGH COUNCIL OF THE BOROUGH OF
 HAMPTON, and HUGH FARLEY, the MAYOR
 OF HAMPTON.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION
 HUNTERDON/MIDDLESEX COUNTY

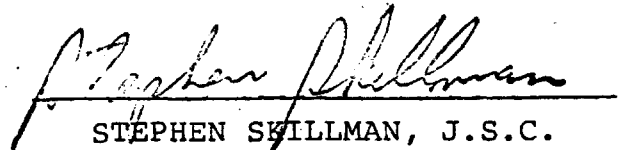
*Docket No. L 6527-81***CIVIL ACTION****JUDGMENT**

The Court having heard testimony on November 8, 9 and 14 and oral agrument on the issue of the compliance of the revised ordinance of the Borough of Hampton with the requirements of Mt. Laurel II and the Courts previous Order dated June 11, 1984, and the Court having read the briefs of the parties and for the reasons set forth in the Court's oral opinion and colloquy with Counsel on November 14, 1984 and for good cause shown;

IT IS on this 7th day of January 198⁵~~4~~, ORDERED that:

1. The Revised Zoning Ordinance of the Borough of Hampton is invalid because it fails to provide an adequate opportunity for the construction of 27 low and moderate income housing units for the reasons set forth in the oral opinion of this Court of November 14, 1984.

2. The Borough of Hampton is hereby ordered to adopt within 30 days hereof the attached ordinance entitled "An Ordinance of the Borough of Hampton Amending Article II entitled 'General Provisions' and Article V entitled 'Zoning' of the Land Development Ordinance of the Borough of Hampton" which ordinance is incorporated herein by reference.


STEPHEN SKILLMAN, J.S.C.

AN ORDINANCE OF THE BOROUGH OF HAMPTON
AMENDING ARTICLE II ENTITLED "GENERAL
PROVISIONS" AND ARTICLE V ENTITLED
"ZONING" OF THE LAND DEVELOPMENT ORDINANCE
OF THE BOROUGH OF HAMPTON

SECTION I. Article II entitled "General Provisions" of the Land Development Ordinance of the Borough of Hampton is hereby amended by deletion of the definition of "duplex" and the inclusion of the following:

DWELLING, DUPLEX - one of the two dwelling units built one over the other in a two-family dwelling. Each dwelling has separate access to the outdoors.

DWELLING, TWIN - One of the two dwelling units built side by side in a two-family dwelling. Each dwelling has separate access to the outdoors.

DWELLING, MULTI-FAMILY - A rental, cooperative or condominium type building containing more than two dwelling units.

SECTION II. Article V entitled "Zoning" is hereby amended as follows:

A. Subsection A entitled "Purpose" is amended to add the following sentence at the end of the paragraph:

"Any provisions of this or any ordinance in conflict with this Article V and which imposes restrictions or limitations not required for health and safety shall be inapplicable".

B. Paragraph 3 of Subsection B entitled "Application Procedure" is amended to delete the number "100" and to add the number "50" in its stead.

B. Subparagraph b of Paragraph 1 entitled "Permitted Principal uses of Subsection C entitled "Use Regulations" is amended in its entirety to state as follows:

"b. Planned Residential Development at a maximum net density of 10 du/acre provided that:

1. The maximum gross density does not exceed 2.5 du/acre;
2. The minimum tract is 50 acres;
3. At least 20% of the dwelling units shall be affordable to low income and moderate income households. A minimum of fifteen (15) percent of all such lower income units shall be three bedroom units, of which one half will be available to low income households. No more than fifty (50%) percent of the low income units shall be one bedroom units and no more than fifty (50%) percent of the moderate income units will be one bedroom units.

C. Subsection ^DC entitled "Schedule of Area, Density and Setback requirements" is amended by deletion of the existing schedule in its entirety and by adding the following schedule in its stead:

D. Schedule of Area, Density and Setback Requirements for the AH Zone

Type of Use	Min. Lot Area/DU	Max.Net Density (DU/AC)	Max. Gr. Density (DU/AC)	Min.Tract Area (AC)	Min.Lot Width (FT.)	Min.Lands F/S/R(FT.)	Max Height (Ft.)
S.F. Detached	5 acres	-	-	-	300'	100/40/40	30
S.F. Cluster	50,000 sq.ft.	-	0.40	22	100	75/20/40	30
Planned Residential Development			1.02	50			
S.F. Detached	10,000 sq.ft.	4.0	-	-	75	20/10/20	35
S.F. Attached							
1) Twin	3,000 sq.ft.	10.0	-	-	30	20/1 at/20	35
2) Duplex	2,500 sq.ft.	10.0	-	-	20 50	20/10/20	35
3) Townhouse	1,200 sq.ft.	10.0	-	-	16		
Multi-Family	-	10.0	-	-	-	-	35
All other uses	5 acres	-	-	-	300	100/40/40	30

D. Subsection E entitled "Additional Requirements for Planned Residential Development" is amended by the deletion of subparagraphs 4,5, and 6 and the inclusion of the following after subparagraph 3.

"4. Maximum number of dwellings per structure. The number of units in any one structure shall not exceed 16.

5. Maximum length of residential structure. No residential structure shall exceed a length of 140 feet.

6. Exteriors. All low and moderate cost units shall have similar exteriors and landscaping similar to those of market units and the low and moderate cost units shall be made an integral part of the development and they shall be mixed with the market units to the extent reasonably possible.

The front plane of any structure exceeding a length of 80 feet shall be broken by at least one offset with a depth of 2 or more feet".

E. Paragraph 2 entitled "Distribution of Low and Moderate Cost Units" of Subsection F entitled "Low and Moderate Income Units" is amended to delete the number "19%" and add "20%" in its stead.

F. Subparagraph 3(c) of Subsection F entitled "Low and Moderate Income Housing Units" is hereby amended to read in its entirety as follows:

"In the event no low or moderate income purchaser or tenant is found within 90 days after the low or moderate unit is listed for sale or rent with a realtor and the Borough is notified in writing of such listing, the low income unit may be sold or rented to a moderate income purchaser or tenant or, if none is available, either unit may be sold or rented to any interested purchaser or tenant. Proof of the attempt to sell or rent shall be submitted to and shall be satisfactory to the Borough. Resale contracts shall remain in effect for any subsequent resales for 30 years after the issuance of the initial certificate of occupancy.

G. Subparagraph 3(f) of Subsection F entitled "Low and Moderate Income Housing Units" is hereby amended in its entirety to state as follows:

"f. Sales prices and rents may be increased in accordance with the annual Metropolitan New York Regional Consumer Price Index for Housing of the Department of Labor Plus reimbursements for documented monetary outlays for reasonable improvements and reasonable costs incurred in selling or renting the unit. After 30 years, all units may be sold or rented without restrictions."

H. Subparagraph 3(g) of Subsection F entitled "Low and Moderate Income Housing Units" is amended to delete the phrase "after 15 years".

I. Paragraph 1 of Subsection G entitled "Phasing of Low and Moderate Cost Housing" is amended to read in its entirety as follows:

"G. Phasing of Low and Moderate Cost Housing.

1. Low and moderate cost housing shall be phased in accordance with the following schedule:

<u>Percentage of Total Dwelling Units</u>	<u>Minimum Percentage of Low and Moderate Cost Dwelling Units</u>
25	0
50	25
75	75
100	100

The developer may construct the first 25% of the market housing units without constructing low and moderate cost housing units. No Certificates of Occupancy shall be issued for the next 25% of market housing units until 25% of the low and moderate cost housing units (of which half must be low income) have been issued Certificates of Occupancy. No Certificates of Occupancy shall be issued for the next 25% of market housing units until at least 75% of the low and moderate cost housing units (of which half must be low income) have been issued Certificates of Occupancy. The remaining required low and moderate cost housing units shall be completed and Certificates of Occupancy issued, before Certificates of Occupancy are issued for the remaining 25% of the market housing units."

J. Subsection H entitled "Waiver of Fees" is amended to add the following at the end of the subsection:

"7. Water connection fees"

K. Subparagraph 1(b) of Subsection J entitled "Engineering and Construction Design" is amended to add the following sentence after the first sentence:

"However, the storm water system need not be designed to accommodate storm water which originates beyond the lot boundaries if said storm water will be flowing over a portion of the lot which is to remain undeveloped."

F. Subparagraph 3(c) of Subsection F entitled "Low and Moderate Income Housing Units" is hereby amended to read in its entirety as follows:

"In the event no low or moderate income purchaser or tenant is found within 90 days after the low or moderate unit is listed for sale or rent with a realtor and the Borough is notified in writing of such listing, the low income unit may be sold or rented to a moderate income purchaser or tenant or, if none is available, either unit may be sold or rented to any interested purchaser or tenant. Proof of the attempt to sell or rent shall be submitted to and shall be satisfactory to the Borough. Resale contracts shall remain in effect for any subsequent resales for 30 years after the issuance of the initial certificate of occupancy.

G. Subparagraph 3(f) of Subsection F entitled "Low and Moderate Income Housing Units" is hereby amended in its entirety to state as follows:

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H. Subparagraph 3(g) of Subsection F entitled "Low and Moderate Income Housing Units" is amended to delete the phrase "after 15 years".

I. Paragraph 1 of Subsection G entitled "Phasing of Low and Moderate Cost Housing" is amended to read in its entirety as follows:

"G. Phasing of Low and Moderate Cost Housing.

1. Low and moderate cost housing shall be phased in accordance with the following schedule:

<u>Percentage of Total Dwelling Units</u>	<u>Minimum Percentage of Low and Moderate Cost Dwelling Units</u>
25	0
50	25
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100	100

The developer may construct the first 25% of the market housing units without constructing low and moderate cost housing units. No Certificates of Occupancy shall be issued for the next 25% of market housing units until 25% of the low and moderate cost housing units (of which half must be low income) have been issued Certificates of Occupancy. No Certificates of Occupancy shall be issued for the next 25% of market housing units until at least 75% of the low and moderate cost housing units (of which half must be low income) have been issued Certificates of Occupancy. The remaining required low and moderate cost housing units shall be completed and Certificates of Occupancy issued, before Certificates of Occupancy are issued for the remaining 25% of the market housing units."

J. Subsection H entitled "Waiver of Fees" is amended to add the following at the end of the subsection:

"7. Water connection fees"

K. Subparagraph 1(b) of Subsection J entitled "Engineering and Construction Design" is amended to add the following sentence after the first sentence:

"However, the storm water system need not be designed to accommodate storm water which originates beyond the lot boundaries if said storm water will be flowing over a portion of the lot which is to remain undeveloped."

Off-street parking in
accordance with Land Development
Ordinance

Street Light See note (5) See note (5) See note 5"
O. Note (1) of Subparagraph (4)(b) entitled "Local Street

Design Criteria" of Subsection J is amended by the addition of the
following sentence at the end of the paragraph:

"In a Planned Residential Development in the
AH Zone the internal cul-de-sacs or access
roads to clusters of housing units with the
exception of any roads directly connected to
Valley Road may be reduced to 24 feet in width."

P. Subparagraph 4(b) entitled "Local Street Design
Criteria" of Subsection J is amended to add an additional note (6)
which shall read as follows:

"(6) In a Planned Residential Development in the AH
Zone, the internal cul-de-sacs or access roads to
clusters of housing units, with the exception of any
roads directly connected to Valley Road may have a
minimum centerline radius of 150 feet."

Q. Subsection M entitled "Maximum Number of Units" is
hereby amended in its entirety to read:

"Ordinances relating to the AH Zone may not be adopted
without leave of the Superior Court until such date as
the 27 low and moderate income housing units have
actually been constructed in the AH Zone."

SECTION III. The Zoning Map of the Borough of Hampton is
hereby amended to designate Lot 2 Block 24 within the AH Zoning
District of the Borough.

SECTION IV. This ordinance shall take effect as provided by
law.

CLERK

MAYOR