

RULS - AD - 1986 - 150

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Progress Report Letter

Pgs 5

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April 14, 1986

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FEDERAL EXPRESS

JUDGE SERPENTELLI'S CHAMBERS

The Honorable Eugene D. Serpentelli, A.J.S.C.
Ocean County Court House
CN-2191
Toms River, New Jersey 08754

Re: Hills Development Company - Bedminster Township

Dear Judge Serpentelli:

The purpose of this letter is to inform you of the progress which has been undertaken to date in Bedminster Township to comply with your orders in Allan Deane v. Bedminster, handed down in May, 1985, and to request your permission to seek a waiver from the strict requirements of the Bedminster Municipal Ordinance as they affect the timing of lower income housing construction.

First, you will be pleased to know that a number of the properties referred to in your decision as appropriate sites for lower income housing are in active development at the present time.

In addition to work underway at the Hills Development Company's project, the Bedminster Township Planning Board has been actively considering a project which will lead to the development of a Senior Citizens project, as contemplated in the Court Order, and there should be a positive report from the Township to the Court before the end of the year with respect to this project.

Enclosed herewith is a reproduction of the relevant portion of the map of Bedminster Township, taken from Mr. Coppola's report to the Court entitled "Bedminster Township, Somerset County, New Jersey Meeting Its Mount Laurel Housing Obligations" and dated June, 1984.

Site A, which was the original Hills PUD, has proceeded through all approvals for the residential uses of the project. The commercial portion is under active design now, and is expected to be presented to the Bedminster

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Township Planning Board in 1986. That site, in total, has generated 260 low and moderate income housing units, which have been constructed and are now either fully occupied or in the process of final closing as of this writing.

Hills has also acquired Site C, and has received planning board approval for 172 units of housing to be placed on that site. The 35 units of lower income housing which are generated by the construction of the market units are proposed to be transferred to Site B.

Site B (the Highlands) is proceeding through the planning board process at the present time. Hills has received preliminary and final approval for a portion of the housing to be built on Site B (single-family detached lots), and currently has an application pending before the planning board for approval of the next stage of the residential construction, including 216 units of lower income housing, which includes the 35 units allocated to Site C.

The decision to transfer the lower income units from Site C to Site B was taken in consultation with Township of Bedminster Planning Board. It was perceived by both Hills and the Township that the interests of the parties, including the prospective lower income housing residents, would be better served by having larger aggregations of lower income units built, rather than having each small subdivision with its own lower income housing component. It has been our experience that marketing is not a difficult problem under these circumstances, and the administrative aspect of the resale controls are more conveniently handled when one has an aggregation of 200 or so units, as opposed to an aggregation of less than 50.

The exigencies of the construction process, however, force us to seek a waiver of the strict application of the Bedminster Township Land Development Ordinance; and the Township is unwilling to grant a waiver without permission from Your Honor.

Simply stated, the Hills has now received the right to construct the maximum permissible numbers of market units without proceeding through construction of the lower income units. The proposed lower income housing units (216 total) are in the package of applications currently pending before the planning board, and it is Hills' intention to construct them all at once, as soon as all infrastructure is on site. However, Hills construction plans dictate that the remaining portion of the single-family units, and a portion of the multi-family units be completed before the construction of the lower income units.

However, Section 13-805(3)(j), of the current Bedminster Township Land Development Ordinance (copy enclosed) has specific timing limits, which provide that the developer may construct and occupy up to 25% of the total number of market units prior to constructing any low or moderate income units; but thereafter, may not construct and occupy any additional market units until a staged percentage of the lower income units are constructed and have received Certificates of Occupancy. Hills fully intends that prior to the completion of the residential market units within the site plans currently under consideration by the planning board, all 216 lower income units will have been constructed; but both Hills and the Board are quite properly concerned about the strict application of this portion of the ordinance.

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The Township Planning Board recognizes the exigencies of the construction process, and, after consultation with the Township Planning Board attorney, who has had the opportunity to review and comment on a draft of this letter, I believe that the Board would be prepared to grant a waiver of the strict application of this portion of the Bedminster Township Ordinance, and provide conditions of the approval which would more properly reflect the actual construction process. However, the Board is unwilling to do so without Your Honor's permission.

The Hills is prepared to commit itself to construct all 216 units of lower income housing, which are generated by the construction of market housing in Sites C and B, and will begin that construction process in 1986 (assuming that the planning board grants timely approval of the applications currently pending before it). It would agree that all 216 units of lower income housing would be constructed prior to the issuance of the final 10% of the Certificates of Occupancy for the market housing which is currently pending before the Bedminster Township Planning Board. Neither the planning board attorney nor I believe that a formal Order would be required in this case, and think that a letter from Your Honor, which would authorize the planning board to waive the strict application of the Bedminster Township Land Development Ordinance and substitute therefor a realistic staging schedule based on actual construction conditions, would be sufficient.

On behalf of Hills Development Company, I thank Your Honor for your attention to this matter.

Sincerely,



Thomas J. Hall

TJH/ss

- i. If the Board, after consideration and discussion of the final plat or plan, disapproves the submission, a notation to that effect shall be made by the Chairman of the Board on the plat or plan. The Secretary of the Board, within ten (10) days of such adoption, shall notify the applicant of such disapproval and forward the applicant a copy of the adopted resolution setting forth the reasons for the disapproval.
- j. In the case of "MF", "PRD" and "PUD" developments only, final approval shall not be granted for any section of the development unless the following phasing plan for the construction and occupancy of required 'low' and 'moderate' income units to market dwelling units have been adhered to (see Subsection 13-606.3.i):
 1. The developer may construct and occupy up to twenty-five percent (25%) of the total number of market units within the development prior to constructing any 'low' or 'moderate' income units.
 2. The developer may thereafter construct and occupy an additional twenty-five percent (25%) of the market units within the development, provided that at least twenty-five percent (25%) of the 'low' and 'moderate' income units are constructed and have received Certificates of Occupancy.
 3. The developer may thereafter construct and occupy an additional twenty-five percent (25%) of the market units within the development, provided that an additional fifty percent (50%) of the 'low' and 'moderate' income units are constructed and have received Certificates of Occupancy.
 4. The developer may thereafter construct and occupy the remaining twenty-five percent (25%) of the market units within the development, provided that the remaining twenty-five percent (25%) of the 'low' and 'moderate' income units are under construction and, provided further, that the same percentage of 'low' and 'moderate' income units versus market units shall have received certificates of occupancy at any time.

13-805.4 Effect of Final Approval

- a. Final approval of a subdivision or site plan shall confer upon the applicant the following rights for a period of two (2) years from the date of final approval:
 1. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer, whether conditionally or otherwise, shall not be changed.



Site F - Acquired by Hills 1985-1986. Under design.

Site B - Partially under construction now; major portions subject to current site plan approval, will contain 216 units of lower income housing.

Site C - Acquired by Hills. 35 low and moderate units transferred to Site B.

Site A - The original PUD - all 1287 residential units approved and either constructed or under construction. 260 units of low and moderate income housing constructed and occupied. Commercial portion under design; will be submitted to Planning Board for approval 1986.

Bedminster Township
Somerset County-New Jersey

BASE MAP PREPARED BY:
Richard Thomas Coppola, P.P. - License No. 1378
Bordentown Township, New Jersey - April, 1981