

cc: Mayor and Council

RESOLUTION

OLD TAPPAN PLANNING BOARD

WHEREAS, the Old Tappan Planning Board hereby states the following by way of preface:

1. By Resolutions of various dates, the Old Tappan Planning Board has granted planned residential development, conditional use approval and site plan approval to a development commonly referred to as The Village (previously referred to as Woods Edge) on property shown as Block 303, Lot 8; Block 602, Lot 9; and Block 603, Lots 1 and 2 on the Old Tappan Tax Map.

2. By Resolution dated April 24, 1996, the Old Tappan Planning Board approved the assignment and transfer of the developer's rights and obligations with respect to this project from The Village, Inc. to The Village at Old Tappan, LLC, on certain terms and conditions.

3. The Village at Old Tappan, LLC as applicant, has applied to the Planning Board for amended PRD conditional use approval and amended preliminary site plan and final site plan approval in connection with its proposal to seek credit for five units of low and moderate income housing which were acquired pursuant to a transaction with Lakeview at Old Tappan.

4. The application, plans and supporting documents have been reviewed by the Planning Board and the Board's professionals, including the Borough Engineer and Borough Planner, from whom the

Planning Board has received reports.

5. At the Planning Board's request, the Board Attorney has rendered a legal opinion to the Board dated August 30, 1996 tracing the chronology of this application and analyzing the legality of the application as submitted.

6. The Planning Board has conducted a public hearing on the application with proper notice in accordance with law.

7. The Planning Board has received and reviewed the documents introduced into evidence by the developer relating to its proposal to seek credit for said additional five affordable housing units, by virtue of its purchase of credits from Lakeview at Old Tappan.

8. The Planning Board has reviewed and considered the plans, reports and documents submitted by the applicant, the evidence, both testimonial and documentary, presented by the applicant, the reports of the Board's consultants, the evidence, questions, arguments and objections, if any, presented at the public hearings by members of the public, as well as the pertinent ordinances of the Borough.

NOW THEREFORE, BE IT RESOLVED by the Old Tappan Planning Board, that based upon the evidence and information presented at the public hearing, it hereby makes the following findings of fact:

1. In July of 1991, Lakeview at Old Tappan obtained Planning Board, Borough and Council on Affordable Housing (COAH) approval for the development of its townhouse project on Old Tappan Road, a component of which subsequently related to credit for 29

units of low and moderate income housing as a result of the development of the senior citizen housing project on Russell Avenue in the Borough.

2. While the mandatory set aside for the Lakeview project was 24 affordable housing units, as a result of additional credits for rental housing, the total number of low and moderate income units credited to Lakeview as developer and to the Borough by the Council on Affordable Housing was 29 units. Since its obligation in connection with its development was 24 units, there was an excess of five low and moderate income or Mt. Laurel units credited to the Lakeview project.

3. As noted, in December of 1993 the Old Tappan Planning Board granted PRD conditional use approval and preliminary site plan approval to the within project, then known as Woods Edge and which has now come to be known as The Village at Old Tappan. That approval included approval for 28 low and moderate income housing units. This project subsequently came before the Board again in September of 1994, at which time the developer sought and obtained approval for the transfer of 14 of its total 28 low and moderate income housing units pursuant to a regional contribution agreement.

4. On March 21, 1994, the Council on Affordable Housing advised counsel for Lake Tappan Associates that, subject to the Borough's approval, COAH had no objection to the proposal by Lake Tappan Associates to "transfer credit to another site for the five (5) units in excess of that required by the zoning and development

of the Lakeview at Old Tappan site."

5. On April 11, 1994, Borough Attorney Gregory C. Hart, Esq. further advised Lakeview's counsel that, in his opinion, Lake Tappan Associates could transfer these five units at any time without further action of the Borough.

6. On July 29, 1994, in response to an inquiry dated May 25, 1994 by counsel for Woods Edge, the Borough Attorney advised said counsel that, in his opinion, the developer would be able to transfer up to 14 units via housing trust fund contribution [RCA] and also purchase the additional 5 credits for an intra-municipal transfer as offered by Lake Tappan Associates.

7. Then, on October 20, 1994, Lake Tappan Associates sold to The Village, Inc. the 5 unit Mt. Laurel credit which Lake Tappan Associates had received and which was referred to in its developer's agreement with the Borough, the Bergen County Housing Authority and the Housing Development Corporation dated January 9, 1991 as subsequently modified.

8. At the public hearing on the within application, the developer presented documentary proof with regard to the above stated chronology. The developer also presented its proposal for the build out of its proposed total 9 Mt. Laurel units throughout its development, including 4 units in phase 1 and 5 units in phase 2. All locations of the reduced number of affordable housing units as shown had previously been approved by the Planning Board. However, due to the proposed intra-municipal transfer of 5 affordable housing credits, buildings 4 and 6 were to be without

Mt. Laurel units.

9. The Planning Board Attorney has advised the Planning Board, consistent with the opinion of the Borough Attorney, that The Village at Old Tappan, LLC (formerly Woods Edge), has the right to replace a total of 19 of its originally proposed Mt. Laurel units with marketplace units by virtue of the transfer of 14 units under the regional contribution agreement together with the credit of 5 units received from Lakeview. In the Planning Board Attorney's opinion these two credits are cumulative and not mutually exclusive.

10. In reliance upon the aforementioned chronology and opinions stated therein, the within applicant has acquired 5 affordable housing credits from Lakeview at a cost of \$300,000.00.

NOW THEREFORE, BE IT FURTHER RESOLVED by the Old Tappan Planning Board, that based upon the foregoing findings of fact, the Old Tappan Planning Board hereby makes the following conclusions.

1. By virtue of its purchase of Lakeview's credit for 5 affordable housing units, the within applicant is permitted, by application of the credit of said 5 units, to reduce the remaining 14 on-site Mt. Laurel units to 9 units. Accordingly, the applicant is permitted to replace said 5 Mt. Laurel units for which it has received a transfer of credits with marketplace units. This aspect of the amended application as proposed complies in all respects with the current provisions of the Old Tappan Zoning Ordinance and the regulations of COAH as interpreted by its officials, and said amendment is approved subject to the conditions hereinafter set

forth.

BE IT FURTHER RESOLVED by the Old Tappan Planning Board, that based upon the findings, determinations and conclusions contained herein it hereby grants approval to the amended PRD conditional use and amended preliminary and final site plan applications filed by the applicant as previously referred to and as shown on the plats specifically described herein:

"Site Plan, The Village, Borough of Old Tappan, Bergen County, N.J." prepared by Harper & Palmieri Consulting Engineers and Land Surveyors, P.A., dated September 29, 1992 and revised to August 12, 1996

subject however to the following conditions:

1. Continued compliance with any and all conditions set forth in the Board's prior Resolutions of approval. All such conditions are expressly incorporated herein by reference.
2. Amended approval, if required, by the Bergen County Planning Board, of the site plan aspects of the application with respect to all areas as to which the BCPB has jurisdiction.
3. Amended approval, if required, by the New Jersey Department of Environmental Protection, of any and all matters within its jurisdiction.
4. Continued compliance by the developer with the provisions of law requiring the approval of soil conservation and sediment control authorities.
5. The developer shall post additional deposits for all planning, engineering and legal expenses of the Borough incurred in connection with this amended application, including but not limited

to those with respect to the satisfaction of all conditions set forth herein.

6. Amendment of the Developer's Agreement, Master Deed, condominium documents and by-laws and any and all other documentation with respect to the project as may be necessary and appropriate to reflect any aspects of the amended plan, which amendments shall meet the approval of the Board Attorney and Borough Attorney. By virtue of the developer's plan to replace 5 affordable housing units with marketplace units, the phasing schedule and plan for distribution of dwelling units on-site, as originally approved, must also be modified.

BE IT FURTHER RESOLVED that the Board Secretary shall publish notice of this action in the manner provided by law, and that copies hereof shall be forwarded to the Mayor and Council, the Borough Construction Code Official, the Borough Attorney and the applicant's attorneys, Mark Bellin, Esq.

ADOPTED: October 16, 1996 on a roll call vote as follows:

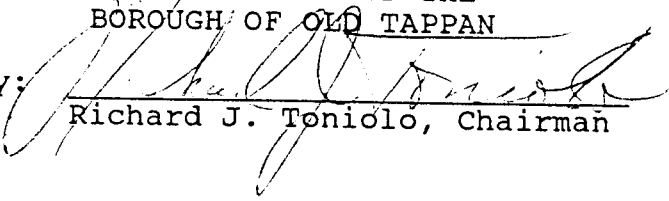
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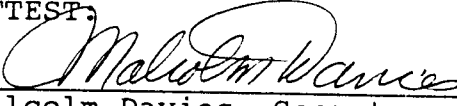
APPROVED:

PLANNING BOARD OF THE
BOROUGH OF OLD TAPPAN

By:


Richard J. Toniolo, Chairman

ATTEST:


Malcolm Davies, Secretary