

NEW JERSEY COUNCIL ON
AFFORDABLE HOUSING
DOCKET NO. COAH 87-11

MEADOWVIEW AT MILLINGTON, INC.,)

Plaintiff,)

Civil Action

v.)

SECOND AMENDED ORDER IMPOSING
RESTRAINTS

TOWNSHIP OF PASSAIC,)

Defendant.)

This matter having come before the Council on Affordable Housing by application of Plaintiff, Meadowview at Millington for an Order granting discovery consisting of written interrogatories and depositions relating to sewer capacity and vacant developable land in the Township of Passaic and for an Order to impose restraints on the granting of any development approvals for vacant land in the Township of Passaic with Joseph E. Murray, Esquire, appearing on behalf of plaintiff and John R. Pidgeon, Esquire, appearing on behalf of defendant; and

The Council having issued an Opinion and Order dated February 2, 1987 and the Council further having entered an Amended Order Imposing Restraints on May 4, 1987 and all interested parties having had an opportunity to be heard and the Council having considered all papers submitted by the various parties. The Council having determined that the Amended Order entered on May 4, 1987 should be amended for the sole purpose of clarifying the terms of the Amended Order;

IT IS on this 8th day of June 1987,

ORDERED that the Township of Passaic, the Township of Passaic Planning Board, the Township of Passaic Board of Adjustment and any and all employees, agents or officers of any of the aforementioned offices and any and all employees, agents or officers of any other Passaic Township office which may grant any type of development approval, are hereby restrained from receiving and/or processing applications for any type of development approvals, including but not limited to conditional approvals, for the development of any parcel of vacant land in excess of two acres in size; and it is further

ORDERED that the entities named in this Order may receive and/or process applications for development approvals if the Township of Passaic Planning Board or any other Board which may grant development approvals provides the Council with an adopted resolution stating that it will process the applications only and will not grant any type of development approvals, consistent with the terms of this Amended Order, including but not limited to conditional approvals; and it is further

ORDERED that any action of the Planning Board or any other official body, agency, officer or employee of Passaic Township, in processing an application shall not create any vested rights or uses or zoning rights or claims of reliance in or by the applicant; and it is further

ORDERED that the failure of any entity or person named in this Amended Order to act upon a complete application for development within the time periods prescribed in the Municipal Land Use

Law, N.J.S.A. 40:55D-1 et seq., by virtue of this Amended Order, shall not be deemed to constitute a decision favorable to the applicant; and it is further

ORDERED that a copy of this Amended Order shall be served upon any party who seeks to submit an application for development approvals; it is further

ORDERED that the following properties shall not be included within the terms of this Amended Order:

1. Those properties which have received preliminary or final site plan approval before February 2, 1987;

2. Those properties which have received preliminary or final subdivision approval before February 2, 1987 provided that they do not additionally require preliminary or final site plan approval which has not been obtained before February 2, 1987;

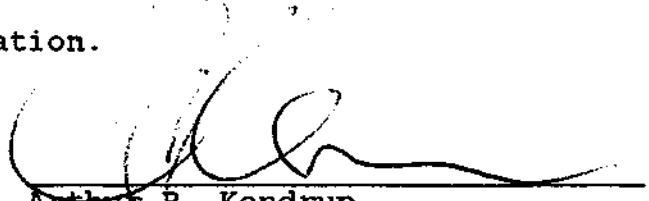
3. Those properties where an owner seeks to add to, alter or otherwise change an already existing structure as such properties are not vacant land within the contemplation of this Order; and it further

ORDERED that plaintiff's motion for discovery is hereby denied; and it is further

ORDERED that this Second Amended Order shall hereby supersede all previously entered orders and any letters of clarification issued prior to the date of this Second Amended Order; and it is further

ORDERED that this Amended Order shall remain in full force and effect, unless otherwise modified by the council, until

such time as the council either grants or denies Passaic Township's petition for substantive certification.



Arthur R. Kondrup
Chairman