

HOLLAND TOWNSHIP, HUNTERDON COUNTY
RESOLUTION DENYING, WITHOUT PREJUDICE, THE MOTION OF
HUNTINGTON KNOLLS, LLC, SEEKING RELIEF
COAH #07-1925

WHEREAS, Holland Township, Hunterdon County ("Holland"), received first round substantive certification from the New Jersey Council on Affordable Housing ("COAH") on July 1, 1992, addressing the Township's affordable housing obligation of 28 rehabilitation units; and

WHEREAS, on June 23, 1998, Holland filed a Housing Element and Fair Share Plan, without requesting COAH review and certification and thereafter, the Township petitioned COAH for second round substantive certification on May 31, 2000; and

WHEREAS, during the 45-day objection period, COAH received an objection to the plan from the Association for Retarded Citizens (ARC) of Hunterdon County and subsequently, Holland's Planning Board adopted a revised Housing Element and Fair Share Plan on February 18, 2004, and re-petitioned COAH on April 21, 2004, and no objections to the plan were received by COAH; and

WHEREAS, Holland has a 12-year cumulative fair share obligation of 47 units, made up of a rehabilitation obligation of 31 units and a new construction obligation of 16 units; and

WHEREAS, Holland is addressing its second round affordable housing obligation with 26 rehabilitation credits, a five-unit rehabilitation program, a four unit RCA with the City of Lambertville (funded by a four-unit payment in lieu of at \$25,000 per unit by Huntington Knolls, LLC), a 10-unit accessory apartment program, and a proposed inclusionary development, which will contain four affordable age-restricted units and the plan produces a two-unit surplus that may be carried forward into the third round provided the units are actually built; and

WHEREAS, Holland received second round certification on December 15, 2004, and thereafter, pursuant to N.J.A.C. 5:95-15.3, Holland petitioned COAH with a Housing Element and Fair Share Plan on May 15, 2007, and during the 45-day objection period which ended on August 27, 2007, objections to the plan were received from Kenneth R. Grisewood, Friends of Holland Highlands, and from Bella Keady; and

WHEREAS, on July 12, 2007, COAH received a motion from Huntington Knolls requesting the following relief from the Council:

1. An Order compelling the Township of Holland to revise or otherwise amend its current Section 208 application before the New Jersey Department of Environmental Protection ("DEP") so as to remove the Galloway Farm property from that application;

2. An Order compelling Holland to allow the developer/sponsor to amend the resolution regarding Huntington Knolls planned real estate development and its own Master Plan to:

-Grant subdivision to the various parcels of land encompassing the planned real estate development to give flexibility to the developer to recoup financial losses caused by the actions or omissions on the part of Holland;

-Remove the requirement for construction of age restricted units or grant additional residential market rate units to recoup financial loss; and

-Compel Holland to grant preliminary and final subdivision approval for the Huntington Knolls site.

3. An Order compelling Holland to refrain from placing any burdensome requirements on the developer with regard to the approval and construction of any and all phases of the condominium development;

4. An Order enjoining Holland from making any changes or alterations or adding any new conditions for construction of any and all phases of the development and compelling the Township to extend or assist in the extension of any and all resolutions, permits, authorizations or other prerequisites for construction for a period of five years from the date of the disposition of this motion;

5. An Order mandating that if any of the previously ordered remedies are not strictly complied with, then upon application of the developer to COAH, there shall be a revocation of Holland's second round substantive certification;

6. An Order preventing Holland from replacing or substituting Huntington Knolls from the Township's affordable housing plan with any other affordable housing project; and

7. An Order that no application by Holland for third round certification may be considered by COAH until all terms of any of the order(s) regarding Huntington Knolls development are complied with by the Township; and

WHEREAS, Huntington Knolls states that its predecessors in interest purchased the property located at Block 24, Lots 3 and 13 in 1985, and states that from 1985 until 1998 Huntington Knolls and its predecessor worked to develop the property according to the then existing land use ordinances; and

WHEREAS, Huntington Knolls states that in or about 1997, the Township planner, Elizabeth McKenzie advised the Planning Board of Holland Township ("Planning Board") that a Wastewater Management Plan had been started but never

completed and that the Township Committee should consider the Wastewater Management plan as part of its amendment of its Master Plan; and

WHEREAS, in or about 1999 the Borough of Milford ("Milford") advised the NJDEP that it was unable to obtain information from Holland regarding the Wastewater Management Plan ("WWP"), and in or about 1998, Holland contacted Huntington Knolls for the purposes of promoting the creation of a planned real estate development containing age restricted units to fulfill Holland's second round obligation, and in 1998, Holland filed a Housing Element and Fair Share Plan with COAH that contained the Huntington Knolls site and thereafter, Holland petitioned COAH with that plan in 2000; and

WHEREAS, in August 2003, Holland adopted a resolution allocating sewer resources to Huntington Knolls's project but did not modify and expand the Section 208 sewer coverage area until June 2005, when an application for a sewer extension permit was authorized by the Township Engineer; and

WHEREAS, on November 9, 2005, DEP issued a letter of denial of the application, noting that the application did not comply with the Township's Section 208 plan and Huntington Knolls became aware of this problem when the developer's application before DEP was denied because the project was not consistent with Holland's WWP since the Section 208 plan had not been amended to allow sanitary sewer in the project area and thereafter, Holland filed a WWP/Section 208 application with DEP in February 2006; and

WHEREAS, Huntington Knolls alleges that Holland intentionally included Block 6, Lot 61 ("Galloway Farm"), a parcel unrelated to Huntington Knolls' site, in the 2006 WWP/Section 208 application with the intention that DEP environmental concerns over the parcel would result in a long term delay of approval of the application and prevent Huntington Knolls' site from being developed; and

WHEREAS, on June 14, 2006, Holland granted conditional final approval to Phase I of Huntington Knolls' project, with the requirement that Phase I contain COAH units as opposed to those units being built as part of Phases II and III as was the original plan for the project; and

WHEREAS, on March 5, 2007, Huntington Knolls sent correspondence to Holland requesting voluntary omission of the Galloway Farm parcel from the DEP application so that DEP could approve the application without further delay, and the Township refused; and

WHEREAS, on May 15, 2007, Holland petitioned COAH for third round certification relying on the Galloway Farms parcel to satisfy its third round obligation, and Huntington Knolls states that it is now faced with the mandated construction of age-restricted units in a market that is currently over saturated with such units ; and

WHEREAS, Holland and the Township Planning Board state that the Huntington Knolls project is an 87-acre planned development and is zoned PCD/PSV-Planned Commercial Development/Planned Senior Village District, a zoning district created by ordinance in 2000 and the preliminary Phase I approval granted to Huntington Knolls is for 100 quadriplex units of age restricted housing, a 50-bed assisted living facility an 80-seat restaurant, 16,400 feet of office space, recreational facilities and a clubhouse, and the affordable housing contribution of the project is a three-acre lot which Huntington Knolls plans to develop with two group homes of six bedrooms each; and

WHEREAS, Huntington Knolls expressed a desire to modify the affordable housing component of the preliminary approval, changing the site from three acres to one acre on which a group home would be constructed and increasing the number of age restricted units from 150 to 158 units, with the additional units being affordable, or with four of the eight units being affordable and an in lieu payment of \$25,000 per unit for the other four units; and

WHEREAS, Holland states that the Galloway Farm project would provide 12 new units in addition to the already existing units in an existing farm house and six of the 12 units would be age-restricted and the other six would be non-age restricted family affordable units; and

WHEREAS, Holland argues that there are no contracts or mediated agreements that Holland has failed to meet, and counters Huntington Knolls's assertions that the Township has worked to delay Huntington Knolls's project, stating that the Planning Board has made numerous accommodations for Huntington Knolls and that the Planning Board agreed to revise its second round Housing Element and Fair Share Plan to include a one-acre site for a group home rather than the originally proposed three-acre site; and

WHEREAS, Holland states that Huntington Knolls submitted its application for preliminary approval in January 2003, its application for final site plan approval in May 2005, and that the Planning Board held a special meeting to grant final approval for Phase I on March 20, 2006; and

WHEREAS, Holland further argues that Huntington Knolls submitted its application for sewer extension (also called an application for Treatment Works Approval for TWA) in the summer of 2005, and that thereafter Holland scheduled a pre-application meeting with DEP regarding the submission of Holland's WMP to DEP, and that shortly before this meeting, DEP announced that all but 13 out of 193 required WMPs in the State were unfiled or not current and that sewer extension permits would not be given in municipalities that did not have compliant and current WMPs with exceptions given for certain kinds of projects; and

WHEREAS, at the October 27, 2005 meeting between DEP and Holland, Holland was told that Huntington Knolls' project would be given an exception and DEP stated at that meeting that Huntington Knolls could obtain its sewer extension permit if it filed with DEP an application for a site specific amendment to the Upper Delaware Water

Quality Management Plan and if Holland agreed to submit its WMP to DEP within six months; and

WHEREAS, Holland submitted its WMP four months later, but Holland states that Huntington Knolls never submitted the amendment to DEP; and

WHEREAS, Holland filed its third round Housing Element and Fair Share Plan with COAH on May 15, 2007, and that plan included both Huntington Knolls's site and the Galloway Farm site; and

WHEREAS, opposition to Huntington Knolls' motion was received by COAH from Billie Gardner, a resident of Holland Township and a local builder who has been advocating for the adoption of a Transit Village Residential Zone to encompass the Galloway Farm property for at least three years, and Mr. Gardner's plan provides for six units of affordable housing and six market rate age-restricted homes on the Galloway property; and

WHEREAS, Mr. Gardner states the entire Huntington Knolls project will not provide as much affordable housing as the Galloway Farm site will under his proposal and he further asserts that Huntington Knolls' statements that inclusion of the Galloway Farms site in Holland's Section 208 application to DEP is a method to delay Huntington Knolls' affordable housing project is untrue and states that removal of his site from the application will only serve to limit the construction of affordable housing in Holland Township; and

WHEREAS, Holland sent correspondence to COAH dated October 22, 2007, stating that Huntington Knolls submitted an application to amend the Upper Delaware Water Quality Management Plan to DEP in June 2007, and that DEP determined the application to be administratively complete and it was published in the September 4, 2007 NJ Register for public comment; and

WHEREAS, the Council heard Huntington Knolls' motion at the Council's November 2007 meeting and recommended the matter to a task force; and

WHEREAS, a task force met and recommends that the motion of Huntington Knolls be denied without prejudice, subject to a determination by DEP concerning the pending Section 208 application.

NOW, THEREFORE, BE IT RESOLVED THAT COAH denies, without prejudice, the motion of Huntington Knolls, subject to a determination by the DEP as to the pending Section 208 application for the Hunting Knolls site; and

BE IT FURTHER RESOLVED THAT the Council orders that Holland refrain from placing any requirements upon the Huntington Knolls development that are inconsistent with the Township's second round substantive certification; and

BE IT FURTHER RESOLVED THAT consistent with N.J.A.C. 5:94-4.17, that the Huntington Knolls site shall be retained within Holland Township's Fair Share Plan and petition seeking third round substantive certification.

I hereby certify that this resolution was duly adopted by the Council on Affordable Housing at its meeting on *February 13, 2008.*

A handwritten signature in cursive script, appearing to read "Renee Reiss", written over a horizontal line.

Renee Reiss, Secretary
Council on Affordable Housing