

Letter Sent to Local Residents

July 12, 2005

RE: Settlement of Litigation with Villas at West Caldwell, L.L.C.

Dear Resident:

Since December of 2000, the Township of West Caldwell has been defending a lawsuit brought by a real estate developer against the Township. This suit concerns the property located at 475-521 Passaic Avenue, where the current farm stand is located. The property consists of twenty-eight acres, most of which is wetlands. The developer, known as the Villas at West Caldwell, L.L.C., originally sought to construct 331 units in two six-story buildings with underground parking. The suit was brought under the Mt. Laurel doctrine with the developer indicating it was seeking to construct 20% of the units as low and moderate income housing.

It should be noted that in the early 1980's, the Township settled a case with the then owners of the parcel, wherein the owners were permitted to build 100 units of condominium type housing on what was then considered to be ten (10) "dry" acres of the total 28 acre parcel.

The Villas entity is made up of two experienced developers. When these developers first met with Township officials, the Township was told that Villas would win its case, and that the Township did not have enough money or litigation experience to fight Villas. Rather than discourage us, it only strengthened our resolve to bring all of our experience and resources to the fight to protect our residents and the character and integrity of our Master Plan.

As the case progressed through the Court system, Villas presented plans for a 149 unit building in April 2002. It presented a plan for a 79-unit building in November 2002. It presented a plan for a 72-unit building in December 2002.

The litigation as well as the mediation process before a Court appointed Professional Planner ("the Master"), was essentially stalled for almost two (2) years, while the Township and Villas engaged in appeals from an initial ruling which determined that Villas, in fact, had four "dry" acres on which to build its project. The Township of West Caldwell insisted that the original review by the New Jersey Department of Environmental Protection (NJDEP) did not adequately consider the value of the wetlands nor did it adequately address the habitat for endangered species. As a result of our persistence before the NJDEP, it was finally determined in May 2004, that Villas had only 1.5 dry acres on which to build its project. This result was reached when the DEP supported our position that the Villas would have to maintain a 150-foot buffer area from the wetlands, since the wetlands were determined to be of "exceptional resource value". This was because of the presence of the habitat, or potential habitat, for the barred owl. After the final determination by the NJDEP, which was not appealed by Villas, the mediation process before the Master resumed.

In September 2004, Villas proposed a 40-unit development. In January 2005, a 34-unit project was proposed. Finally, in the early spring of this year, an agreement was reached between the parties for a 30-unit fair market age-restricted condominium project. As part of the settlement, Villas will pay \$210,000 to the Township to support our State mandated affordable housing obligations.

It should be noted the Township was insistent, throughout the 4-1/2 years of proceedings, that the building to be constructed be no higher than 35 feet. There is no building in West Caldwell permitted higher than 35 feet. As part of the settlement, the building will be less than 35 feet, consisting of two-stories of living space over one story of indoor parking.

We are attaching to this letter an architectural rendering which depicts the condominium complex which will be constructed on the site, as well as a site plan which shows the layout of the building on the property. The letter and sketches will also be posted on our web site, www.westcaldwell.com.

A meeting has been scheduled for Tuesday, August 9, 2005, 7:30 PM at the Municipal Building, 30 Clinton Road, West Caldwell, New Jersey, in order to answer any questions you may have with regard to this matter.

The Township has fought long and hard for the result outlined above, and is of the opinion that the 30-unit fair market age restricted building will be a first class addition to West Caldwell, and satisfy the needs of residents of the West Essex area, while maintaining the integrity of our zoning and insistence on the highest levels of environmental protection.

Very truly yours,

Mayor Joseph Tempesta, Jr.

Council President Dominick J. Aiello
Councilman William E. Payne
Councilman Richard C. Norgard
Councilman Joseph A. Fischer
Councilwoman Rosemarie M. Sutherlin

RLP:lfr

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