

# **Bond Case Briefs**

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## **ZONING - NEW JERSEY**

### **Northgate Condominium Ass'n, Inc. v. Borough of Hillsdale Planning Bd.**

**Supreme Court of New Jersey - May 13, 2013 - A.3d - 2013 WL 1943204**

Corporation that managed and operated a previously-existing condominium community filed complaint in lieu of prerogative writs in which it challenged planning board's granted conditional use permit to developer and owner of adjacent parcel.

The Supreme Court of New Jersey held that:

- Conditional use approval notice that contained erroneous tax lot designation complied with MLUL requirements, but
- Board was not permitted to round down dwelling units per acre calculation when determining RSIS compliance.

Despite containing an erroneous tax lot designation, conditional use approval published by developer complied with section of Municipal Land Use Law (MLUL) that set forth requirements governing the manner in which the property to be developed was required to be identified. The notice, although utilizing lot numbers that were not included on the official tax map, did not thereby misidentify the lot to be developed, as the block number used in the notice was correct. Developer only used lot numbers that it included in notice in reliance on previous directions from tax assessor. Notice identified property by using commonly-known name for parcel, and there was no confusion about location for proposed development.

Planning board was not permitted to round down dwelling units per acre calculation when determining whether developer's project design for age-restricted housing development complied with requirements of Residential Site Improvement Standards (RSIS) for internal roadway widths and improvement so as to warrant grant of conditional use permit. Regulation relating to intensity of roadways made it plain that the drafters did not intend that "rounding" techniques could be utilized to alter its standards. On the contrary, the regulation defined a low intensity development as one that contained "less than or equal to 4" dwelling units per gross acre.