

Old Bridge (1987)

Expert Report Unit Count Calculation

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~~Yellow~~ PI # 3117

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School of Law-Newark • Constitutional Litigation Clinic
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June 3, 1987

Mr. C. Roy Epps, President
Civic League of Greater New Brunswick
47-49 Throop Avenue
New Brunswick, NJ 08901

Dear Roy:

Enclosed please find copy of "O&Y Unit Count
Calculations."

Very truly yours,

encls

cc/Neisser, Payne (w/encls)

O & Y Old Bridge Development Corp.

UNIT COUNT CALCULATIONS

The overall concept plan for the O & Y development (Plate A of the Settlement Agreement) already existed when the provisions of the Settlement Agreement were being negotiated, consequently, the Agreement did not address the basic qualifying criteria that would be generally applicable to any overall concept plan for any large-scale PD. Since the impact of the Federal wetlands clearly necessitates a major revision to the concept plan of the Settlement Agreement and the Agreement is devoid of standards against which the acceptability of the revised concept plan can be measured, it is apparent that, from the Township's perspective, the only available standard for such an evaluation is the Township of Old Bridge Land Development Ordinance.

Notwithstanding that slightly more than half of the O & Y lands have been designated as Federal wetlands necessitating a major reduction in the size of the project, O & Y believes that it still has a significant development and this down-scaled project would be essentially consistent with the current standards of the Township Land Development Ordinance that are applicable to a PD of this size.

Taylor Wiseman & Taylor, land surveyors, have determined that the total area of the O & Y tract, after deducting the area of the site for the senior citizens project, is 2,599.54 acres. Of this, they state, 1,458.92 acres have been delineated as wetland area.

Under the provisions of the Township Ordinance, the WS zone (Wetlands and Watershed Protection Zone) is not fixed but is subject to establishment by;

"independent hydrological studies in accordance with the criteria of the New Jersey Department of Environmental Protection." (NJDEP)

Because the Federal Government has not yet delegated the jurisdictional responsibility for Section 404 of the Clean Water Act to the State of New Jersey, the Army Corps of Engineers continues to be the regulatory authority with respect to delineation of wetland areas in New Jersey; accordingly, the Corps' determination also automatically constitutes NJDEP determination of wetland areas.

By virtue of the criteria in the definition of the WS zone in the Township Ordinance, all wetlands on the O & Y site take on the status of WS zoned lands; consequently, the 1,459.92 acres of wetlands on the O & Y property become WS zoned lands, leaving 1,140.62 acres zoned as PD.

Under the provisions of Section 9-3:1, the Gross Project Area of a PD is the area of all the land area contained within the outbounds of the applicant's lands;

"except that WS zoned land that is in excess of 10% of the PD zoned lands shall be excluded".

Ten percent of the PD zoned lands would be 10% of 1,140.62 acres or 114.06 acres; therefore, the Gross Project Area would be 1,140.62 + 114.06 acres or 1,254.68 acres.

Under the provisions of Section 9-3:1b of the Ordinance,

"Gross Project Density (DU/AC) in the Class II PD shall be the quotient of total dwelling units (DU's) divided by the Gross Project Area."

Section 9.5 of the Ordinance permits a Gross Project Density of 4.0 Dwelling Units per acre.

Applying this criteria to determine the number of dwelling units permitted;

$$4 \text{ d.u./ac.} = \frac{\text{Total No. of Dwelling Units}}{\text{Gross Project Area}}$$

OR

$$4 \text{ d.u./ac.} \times \text{Gross Project Area} = \text{Total No. of Dwelling Units}$$

AND

$$\text{Total No. of Dwelling Units} = 4 \text{ d.u./ac.} \times 1,254.68 \text{ acres} = \underline{\underline{5,018 \text{ dwelling units}}}$$

O & Y intends to apply to the Corps for a 404 permit to fill certain of its wetland areas. If the permit is granted, it would allow O & Y to proceed with an office park at Highways 9 & 18 and result in a net increase to the PD lands of about 90 acres. Upon issuance of a Corps permit to convert these wetland areas to buildable lands, O & Y would expect any overall increase to the present PD acreage to be added to the Gross Project Area as provided in section V-B.2 of the Settlement Agreement. If this conversion of wetlands transpires, the Gross Project Area will increase to about 1,352 acres and the total number of dwelling units will increase to approximately 5,412 dwelling units which, unless additional lands are acquired under section V-B.2, would be the approximate maximum number of dwelling units to be anticipated in the O & Y development.

Recognizing the Township's persistent objection to intense residential development and its desire to maintain woodland open space, it would appear that both of these objectives have now been satisfied, even if somewhat bilaterally, by the end result of the Federal wetland regulation. The O & Y plan, as now proposed, offers an overall project density of slightly less than 2 dwelling units per acre with over half of its total area (about 56%) in permanent open space, most of which will be natural wooded areas. The plan would not only satisfy the basic criteria of the Township's Land Development Ordinance for a development of this type, but would also provide over five* times more Open Space than required by the Ordinance. The Township should now view O & Y's current proposal for development of its property as being exemplary of the Township's overall planning objectives.

O & Y Old Bridge Development Corp.

May 26, 1987.

* Section 9-8:1, Required Open Space, Township of Old Bridge Land Development Ordinance.