

CA - Piscataway

6/24/86

Certification of Lester Nebenzahl  
+ attached exhibits

pg 15

CA 002501V

**ABRAMS, DALTO, GRAN, HENDRICKS & REINA**

A PROFESSIONAL CORPORATION

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ATTORNEYS FOR Intervenor, Lackland Brothers, Inc.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY/OCEAN COUNTY  
DOCKET NO. C-4122-73

URBAN LEAGUE OF GREATER NEW BRUNSWICK,  
et al

Plaintiffs

vs.

THE MAYOR AND COUNCIL OF THE BOROUGH OF  
CARTERET, et al,

Defendants

CERTIFICATION OF  
LESTER NEBENZAHL

1. I am a professional planner and a principal in the firm of The Hudson Partnership, Inc., with offices at 40 Brunswick Woods Drive, East Brunswick, N. J.

2. I am the former Planner for Piscataway Township and as such I am thoroughly familiar with the Mt. Laurel litigation and the lot in question which has been designated as a portion of Site 76 in said litigation and in the various inventories of land referred to in the case (Exhibit A-portion of Ierman report) (Exhibit B - Township inventory sheet).

3. At the request of Lackland Bros., Inc., I conducted a study to determine the feasibility of constructing a multi-family residential development on site. I visited the site on several occasions, reviewed existing development

in the area, reviewed the Lackland subdivisions plot (Exhibit C ), the resolution of the Board of Adjustment (Exhibit D ) and Ms. Lerman's report and recommendations.

4. The property is located in the western portion of the Township and comprises 3.18 acres with frontage along Hillside Avenue, Long Street, Bay Street and Avon Street. Long Street and Avon Street are presently unimproved "paper streets". The site is physically separated by existing single family dwellings on Bay Street and by the two paper streets noted above. It appears that Avon Street could be vacated by the Township since the properties on both sides are in Lackland's ownership and access could be provided along Hillside Avenue. Long Street could not be vacated unless Lots 16 and 17 were purchased by Lackland since all access to these lots exists via this right of way. It is my understanding that Lackland has unsuccessfully attempted to purchase Lot 16 and the owner is not interested in selling this property.

The property could be assembled with the vacation of Avon Street to provide for three distinct sites. The largest developable site would contain 225 feet of frontage along Hillside Avenue with a depth of 344 feet. The area of this site would be approximately 1.89 acres. The remaining two parcels would comprise a lot 223 feet by 100 feet for an area of 0.51 acres and another lot with 200 feet of frontage along Hillside Avenue, 250 feet on Long Street and 150 feet along Bay Street for an area of 0.92 acres.

5. The preliminary plat indicates that the property is located within a single family detached residential neighborhood. Single family homes are located adjacent to the property on Hillside Avenue and Bay Street. Single family homes are located on the southerly side of Hillside as well. Single family dwellings are also located adjacent to the northern property lines with access and frontage on Runyon Avenue.

6. The court appointed expert, Ms. Carla Lerman, has recommended that the density per gross acre of residential development not exceed six dwelling units for the property of which this site is a part due to the nature of the existing housing in the vicinity. My prior testimony was that the property in question was not suitable for high density housing due to the character of the surrounding development and non-contiguous ownership of the undeveloped parcels.

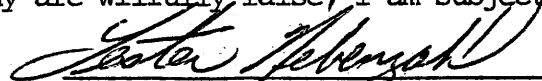
Proposed development would enable the construction of fifteen single family homes on 3.32 acres of land for a gross density of 4.5 units per acre. The recommended density of 6 units per acre would yield no more than 20 units even if multi-family development was practical.

7. My analysis of surrounding land use, topographic conditions, and the preliminary plat conditionally approved by the Piscataway Zoning Board of Adjustment indicates that high density multi-family development is not practical for the subject property. The size, shape and non-contiguous nature of the site prohibit the inclusion of low or moderate income housing without substantial subsidy even if the court appointed expert's recommended density of 6 units per acre could be achieved.

8. The decision of the New Jersey Supreme Court and the subsequent action of the Fair Housing Council reducing Piscataway's fair share obligation to 911 units in no way alters my findings or conclusion. In fact, I feel even more strongly than before, that there is no necessity for retaining these lots in the inventory subject to restraint.

With the recent approval of an additional 171 affordable housing units in the Canterbury Development, I see little likelihood that this portion of Site 76 will ever be needed or utilized for Mt. Laurel housing.

I, therefore, have no hesitancy in recommending that the restraints against the subject lot be dissolved. I certify that the foregoing statements made by me are true and am aware if any are wilfully false, I am subject to punishment.

  
Lester Nebenzahl

DATED: June 24, 1986

Special Site Constraints: Most of this neighborhood consists of soil in the Minas-villa series which offers "moderate" limitations for development. The area zoned for senior citizen housing is comprised of soil of the Reaville series which presents "severe" limitations in residential development due to seasonal high water and potential frost action. As this zone is appropriate for a five story building it will be important to consider these problems when planning construction and site layout.

Expressed interest in development: The municipality has expressed interest in having senior citizen housing available as a housing type. Actual developer interest is unknown.

Recommendation: The available sites in this neighborhood range in size from single house lots to six acres. The neighborhood is one of relatively small lots and houses. It would be appropriate to develop these sites in small scale developments: duplex, triplex, quadplex or patio homes, using a density of five units per gross acre as a standard. The site zoned for senior citizen housing should be developed with at least 30 units per acre if the building is to be five stories in height. The entire site would not be developed simultaneously, but could be staged in two buildings, over five or six years. Based on 100 acres of vacant land in this neighborhood, and assuming provision of some for park use or other public use, it would be possible over a six to ten year period to provide the opportunity for 300-400 housing units, using primarily municipally owned land.

Site #57 - River Road, at Piscataway-Highland Park border  
Block 872 2, 3 (part)

Area: 40 acres

Existing Zoning: R20A - FRD

Present Land Use: vacant

This site is owned by Rutgers University and is proposed for multi-family residential development. In conjunction with this Rutgers proposal the Township has zoned the site for FRD at a maximum of 10 units per acre. As this site has been studied and this density is appropriate, no further analysis is necessary.

It is recommended that this site be designated for 10 units per acre for a Planned Residential Development.

Site #75 and 76 - Hillside Avenue, between River Road and Scott Street  
Block 500 Lot 5A, Bl. 561 Lots 8A-22, 25-36, 39, 40  
Block 564 Lots 18-37

Area: 10.5 acres

Physical Description: flat, primarily open, scattered growth.

Existing zoning: R-10

Master Plan Proposal: Single family

Present Land Use: vacant

Adjacent Land Uses: single family residential

General Neighborhood Characteristics: residential neighborhood; houses on moderate size lots, all relatively close in development age; well defined by industrial area to north and east, and by park and Raritan River to the west. This is part of neighborhood discussed in Sites 51-60

Environmental Conditions affecting development: This area is located in Flood zone C, offering minimal risk of flooding, but it is adjacent to Flood zone A along the Raritan River.

Road Access: Hillside Avenue, River Road

Traffic Conditions/Impact: River Road provides easy access to I-287. This site is small and is not expected to generate sufficient traffic to have a negative impact on River Road.

Special Site Constraints: This entire area is Klinesville soil series which presents "moderate" limitations to development which would not be significant in a small area such as this.

Expressed interest in development: unknown

Recommendations: This area would be appropriate to be developed at a fairly low density in keeping with the nature of the existing housing. The paper streets could be vacated so as to provide freedom of site design. The density per gross acre should not exceed six dwelling units.

Site #77 - Metlar's and Suttons Lanes, northeast corner.  
Block 647 Lot 67A

Area: 6.45 acres

Physical Description: open, light woods and brush, relatively flat corner property.

Existing Zoning: R20

Master Plan Proposal: single family residential

Present Land Use: vacant

Adjacent Land Uses: New single family residential has been completed or is under construction on all sides of this intersection; existing single family residential is located on Metlar's Lane to the east.

General Neighborhood Characteristics: This is a neighborhood in transition from an agricultural area to a developed area. The new development is all residential and it will be further strengthened by the conversion of the farms in the area to higher density residential use, as suggested in this vacant land analysis.

68	35-51,5	10.70	R-75	FLOODPLAIN
116	1			
188	1, 1A, 2	125.10	LI-5	15 ACRES IN FLOODPLAIN ADJACENT TO STEEL PLANT
228	134	24.90	SC	
229A	2 (PART)	10.00	LI-5	ADJ. TO HEAVY INDUSTRY
229A	1A, 1B	40.00	R-75	SEVERE ENVIRON. CONSTRAINTS
317	6A, 8, 9, 9A, 9B, 9C, 11A 11B, 11C			
319	1A	55.62	R-20	TRAFFIC, RAILROAD
389, 390, OTHERS		88.00	R-10A	PRD
408, 409 OTHERS		35.60	LI-1	
502	1, 2 (PART)	55.00	R-10	
502	2 (PART)			
502A	2 (PART), 6	34.00	R-15	PROPOSED PARK 8 ACRES
421	5 (PART), 6, 8	26.70	BP-1	ADJ. TO CHEMICAL PLANT
502	2 (PART)	34.00	R-20	
421; 442B	7A (PART); 1B	26.00	LI-5	ADJ. TO CHEMICAL PLANT
503	1	66.25	R-20	ADJ. TO INTERSTATE
452	8A, 56B	6.50	R-10	FLOOD PLAIN
456; 457A	1; 1	14.29	M-5	ADJ. TO RAILROAD, INDUSTRY
457B	1, 2, 3A	17.21	M-5	ADJ. TO IND., FLOODPLAIN
457A	7A	7.83	M-5	ADJ. TO INDUSTRY
457B	14A	7.79	M-5	ADJ. TO INDUSTRY
457B	7, 8, 9	25.00	M-5	ADJ. TO INDUSTRY
461	3A	14.54	M-5	ADJ. TO INDUSTRY
503E	2B	5.00	LI-5	ADJ. TO INDUSTRY
457C	8C	28.79	LI-5	ADJ. TO INDUSTRY, FLOODPLAIN
462	4A	10.74	LI-5	ADJ. TO INDUSTRY, INTERSTATE
462	5	8.00	LI-5	
495	1, 4C, 10, 11, 11A, 11B	40.98	LI-5	NOT CONTIGUOUS
497A	6B, 9B, 10A	31.00	LI-5	INDUSTRIAL PARK, FLOODPLAIN
499	2A	6.35	R-15	PARTIAL FLOOD PLAIN
499	4	1.09	R-15	FLOODPLAIN.
497	3	50.58	LI-5	
497	4	10.90	R-20	
496	1A	43.62	LI-5	POWERLINE EASEMENT (2.75APPROX)
496	2, 11	63.85	R-20	(3.70APPROX)
496	12	14.30	R-20	(1.32APPROX)
495	46	74.65	R-20	
495; 661A	17, 72A, 73A	2.17	BP-II	PIPELINE EASEMENT, NOT CONTIGUOUS
676	27E	7.82	R-10, 6B	
710, 712, OTHERS		48.00	R-10A	PRD
730	8 (PART)	7.80	GE	
734	44L	29.18	SC	POWER LINES
734	45, 46, 49, 54A, 55, 59C			
734A	44, 44G, 44F, OTHERS	55.96	LI-1	INDUSTRIAL PARK
735E	27A, 28A	32.40	R-20	HISTORICAL FARM
647B	21	14.70	R-20	
745	3, 4, 4C, 4E	20.00	R-15A	PRD
744	2A	40.94	R-20	
744	2	53.64	R-20A	PRD
743	1	9.40	R-20	
737	8-11	6.16	R-20	
845	1A, 2, 9B, 10	17.29	R-20	TWO TRACTS
593	24	2.88	R-15	
829	10			
834C	1-3	4.30	BP-1	NON-CONTIGUOUS
829	1, 2, 6, 11, 12			
834C	4, 19-24, 28, 29	12.77	R-15	NON-CONTIGUOUS
760, 761, 762, 763	ALL	9.40	SCH	SR. CITIZEN HOUSING
797	1	6.20	R-15	
835	10, 2 (PART)	105.90	E-R	RUTGERS UNIVERSITY
835	2 (PART)	16.00	HC	RUTGERS UNIVERSITY
872	2, 3 (PART)	40.00	R-20A	PRD
495	11D	0.62	G-B	ADJ. COMMERCIAL, INDUSTRY
498	1, 2Q	29.27	LI-5	BISECTED BY CENTENNIAL, ADJ. TO IN
SEE MAP BLOWUP	MUNICIPAL PRIVATE BD. OF ED	49.70 18.69 13.29	VARIOUS	SEE MAP BLOWUP
735A	24	10.42	R-20	DEDICATED OPEN SPACE
736	49	6.63	R-20	DEDICATED OPEN SPACE
737	4, 5	2.85	R-20	MUNICIPAL
39	1, 2	1.65	M-1	ADJ. TO IND., RAILROAD
145	6	4.80	M-1	FLOODPLAIN
146	4	3.50	R-75	SUBDIVISION, FLOODPLAIN
115	29A	3.40	R-75	FLOODPLAIN
228	21-32	2.81	R-75	
417	1-127, 132-144	6.53	LI-1	VARIOUS OWNERS, ADJ. FIRE TRAINING
458	2	9.10	M-5	RAILROAD, HEAVY IND.
460B	8	5.00	LI-5	ADJ. TO INDUSTRY
460D	6	5.10	LI-5	ADJ. TO INDUSTRY
497A	1	6.99	LI-5	FLOODPLAIN, ADJ. TO IND.
500	9	3.80	BP-1	ADJ. TO INDUSTRY
560	5A	4.00	R-10	
561	8A-22, 25-36, 39, 40			
564	18-37	6.54	R-10	NON-CONTIGUOUS, VARIOUS OWNERSHIP
547	67A	6.45	R-20	
598	16	2.99	R-10	SUBDIVIDED

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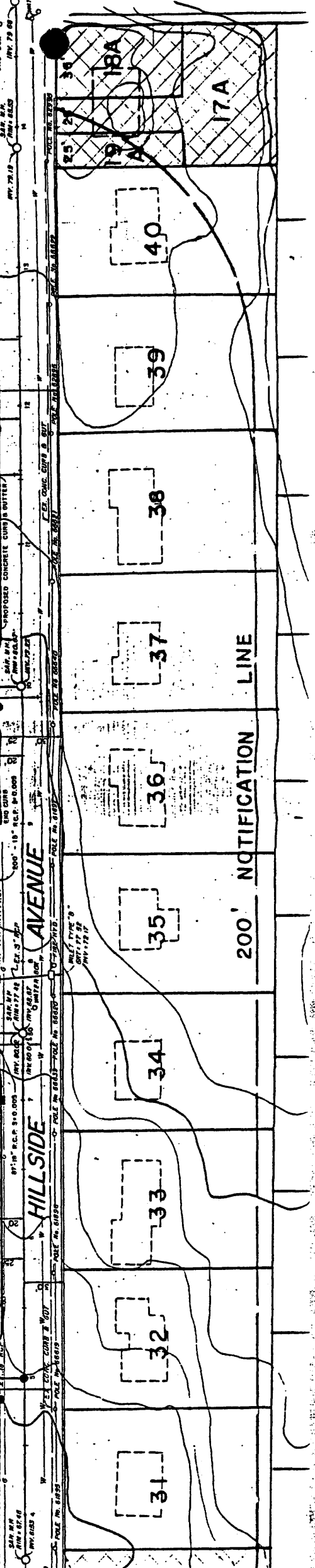
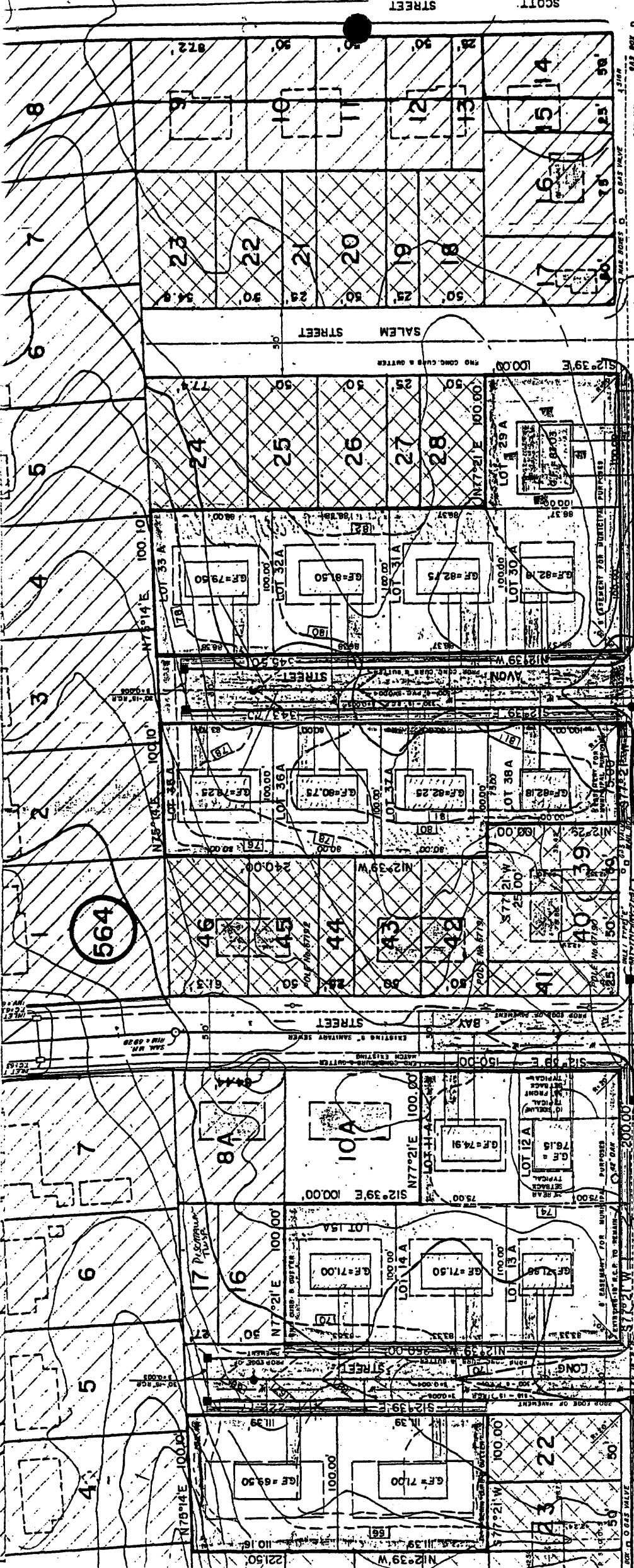
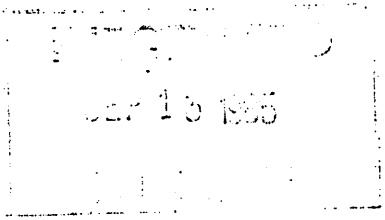


Exhibit C



Application Nos. 85-ZB-11;  
85-ZB-12-A; 85-ZB-12-B;  
85-ZB-12-C; 85-ZB-12-D;  
85-ZB-12-E; 85-ZB-12-F;  
85-ZB-12-G; 85-ZB-12-H;  
85-ZB-12-I; 85-ZB-12-J;  
85-ZB-12-K; 85-AB-12-L;  
85-ZB-12-M; 85-ZB-12-N;  
85-ZB-12-O; 85-ZB-12-P;

RESOLUTION OF FINDINGS AND CONCLUSIONS

WHEREAS, Lackland Brothers, Inc. has applied to the Zoning Board of Adjustment of the Township of Piscataway for permission to construct one family dwellings on seventeen (17) lots, sixteen (16) of which require variances, in violation of Chapter 21, Section 21-501 of the Piscataway Township Zoning Ordinance and further seeking classification and preliminary major subdivision approval pursuant to Township Ordinances. The properties in question are known as Lots 11A, 12A, 13A, 14A, 15A, 19A, 20A, 21A in Block 561 and Lots 30A, 31A, 32A, 33A, 35A, 36A, 37A, and 38A in Block 564, on the Tax Map of Piscataway Township and located on Hillside Avenue in Piscataway Township in Zone R-10; and

WHEREAS, hearings were held before the Board on April 24, 1985, May 21, 1985 and May 29, 1985 at which hearings evidence was presented on behalf of the applicant as well as other interested parties; and

WHEREAS, the Board has after carefully considering the evidence presented at the above mentioned hearing, has made the following factual findings:

1. Applicant is the owner of seventeen (17) lots, sixteen (16) of which require variances. The lots are located on 4 streets and are not contiguous.

2. The applicant proposes to complete all the streets and to install improvements in accordance to Township standards.
3. The property is on the inventory of Mount Laurel housing for the Honorable Eugene D. Serpentelli in connection with the litigation brought by the Urban League against the Township of Piscataway.
4. Applicant proposes to construct a variety of single family homes including Cape Cod homes and Bi-levels, similar to the Birch Run development. Each home will be approximately 12,000 to 14,000 square feet in size.
5. Applicant's planner testified that the configuration of the property results in only 12 lots being subdivided without variances, thereby requiring a density variance under the July 1, 1984 statutory amendments.
6. The neighborhood is compatible with the proposed development of single family detached homes. Numerous lots within the area are non-conforming and vary in frontage from 70 to 85 feet in width. There are also several non-conforming properties on Hillside Avenue.
7. The properties are further burdened by the extensive improvement costs required to construct streets, curbs and sidewalks.
8. If the applicant were to comply with the lot size

requirements, because of the location of the lots, there would be 130 feet frontage, far in excess of the lot size requirements.

9. Applicant attempted to acquire lot 16, adjacent to one of the undersized parcels but without success.
10. The subdivision committee recommended classification as a major subdivision, and recommended a series of changes, which are incorporated within this resolution as conditions. In addition, the variances were recommended for approval, except that a total of sixteen (16) lots was recommended, requiring the merger of lots 19A, 20A and 21A.
11. Applicant agreed to install improvements and a storm water run-off system, if necessary, to eliminate impact, on adjacent properties.

WHEREAS, the Board has concluded based upon facts determined that:

1. The mixture of dwellings and the type of units proposed are in keeping with the general area and will provide for a general upgrading of the neighborhood. The cost of single family homes, particularly the improvement costs, require the variance relief granted.
2. The proposed variances can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan.

3. The property is best suited for single family residential development which is compatible with the surrounding area and will not cause disruption.
4. Preliminary subdivision approval should be granted in that the applicant has complied with, or has agreed to comply with, provisions of the Township subdivision ordinance.
5. The application can be granted only if the applicant obtains the permission of the court to remove the restraints contained in the court order dated December 11, 1984.

WHEREFORE, the application of Lackland Brothers, Inc. for variances, and for preliminary major subdivision approval is granted on the following conditions:

1. That applicant apply to the Superior Court of New Jersey in the Urban League of Greater New Brunswick vs. Piscataway Township litigation to lift the restraints contained in the Court order dated December 11, 1984. Until such time as the Court has entered an order permitting development of the properties in question in accordance with this conditional approval, no further action will be taken by the Zoning Board or Township staff in connection with this application.
2. That applicant pave all streets in accordance with all Township specifications and the approval of the Township Engineer.
3. That applicant install sidewalks and curbs along

Hillside Avenue from Salem Street to Long Street, along Bay Street to Hillside Avenue and along Long Street and Salem Street and Avon Street for one hundred (100) feet.

4. That applicant eliminate the impact of storm water run-off by installing such devices as may be required by the Township Engineer.
5. That applicant install all utilities, including a storm water system and fire hydrants, in accordance with recommendations of the Township Engineer.
6. That applicant preserve as many mature trees as possible.
7. That applicant install shade trees in accordance with the recommendations of the Township Landscape Architect.
8. That applicant obtain a soil erosion and sedimentation control permit.
9. That applicant obtain County site plan approval required.
10. That applicant obtain final subdivision approval.
11. That applicant combine lots 19A, 20A and 21A in Block 561 into 2 lots with 111 foot frontage each.
12. That applicant comply with all other State and/or applicable requirements.

The above is a memorialization of a motion duly made and seconded on May 29, 1985 on the following vote:

Those in Favor: Dubrow, Zuber, Rosky, Bukowski, Szesko,

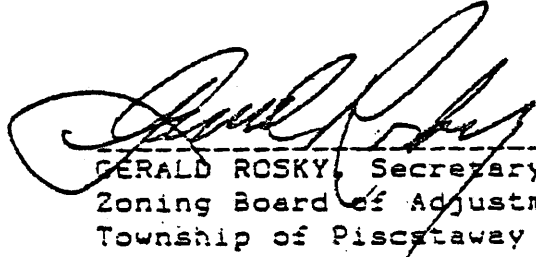
Carlton and Cahill

Opposed:

None

Applicant must publish a legal notice in the P.D. Review within twenty (20) days from the memorialization of the written resolution. An affidavit of publication is to be submitted to the Board.

The undersigned, Secretary of Piscataway Township Zoning Board of Adjustment, hereby certifies that the above is a true copy of a Resolution memorialized by said Board on the 26th day of June 1985.

  
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GERALD ROSKY, Secretary  
Zoning Board of Adjustment  
Township of Piscataway