

CA - Cranbury

1/20/84

Memorandum on analysis of zoning
for Brick Yard Road Area in
Cranbury Twp

P 25

CA002597 ~~ED~~

ELIZABETH C. MCKENZIE, P.P.
COMMUNITY PLANNING AND DEVELOPMENT
24 FEATHERBED LANE
FLEMINGTON, NEW JERSEY 08822

(201) 782-5564

TO: Lawrence B. Litwin, Esq.
FROM: Elizabeth C. McKenzie, P.P.
RE: Analysis of Zoning, Brick Yard Road Area,
Cranbury Township, Middlesex County
DATE: January 20, 1984

INTRODUCTION

The purpose of this memorandum is to evaluate the zoning applicable to a portion of Cranbury Township located south of Brick Yard Road between Route 130 and the railroad tracks. Exhibit 1 shows the study area encircled in a thick black line. The Zoning Ordinance, adopted in 1983, divided the study area into three zones. These zones are delineated on Exhibit 2. Those properties fronting on Route 130 and on Hightstown Road were placed in a Highway Commercial zone, along with one vacant tract fronting only on Brick Yard Road but surrounded on three sides by Highway Commercial zoning. The bulk of the study area was zoned Residential-Light Impact (3 acre lots or cluster development on 1-1/2 acre lots at a density of one dwelling unit for every 3 acres). The R-LI zoning extends to the rear lot lines of four properties which front on the Hightstown-Cranbury Station Road. These properties are all developed with industrial uses which involve considerable outdoor storage and were placed in the Industrial-Light Impact zone which encompasses the entire area east of the railroad tracks to the Monroe Township municipal boundary.

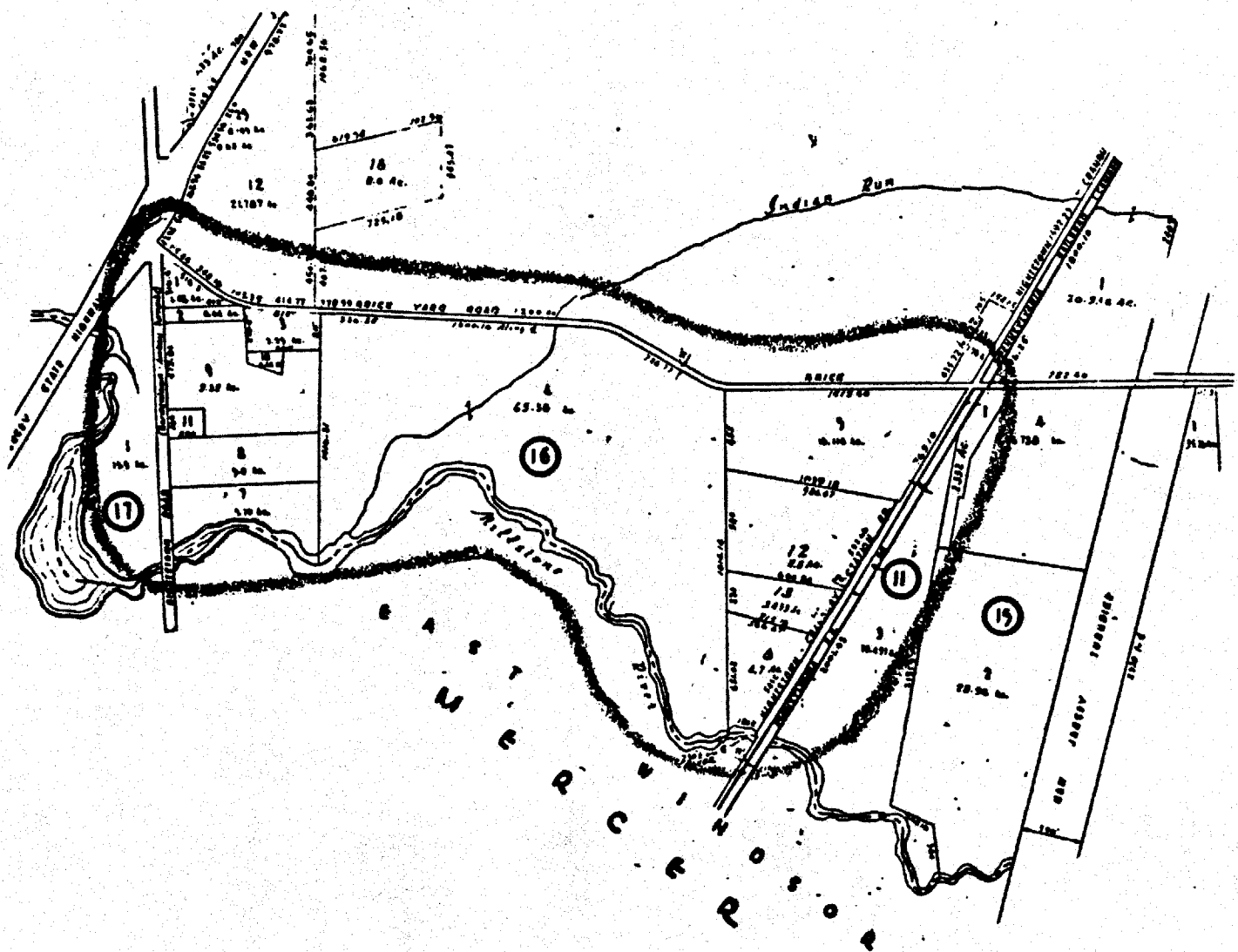


EXHIBIT 1
STUDY AREA

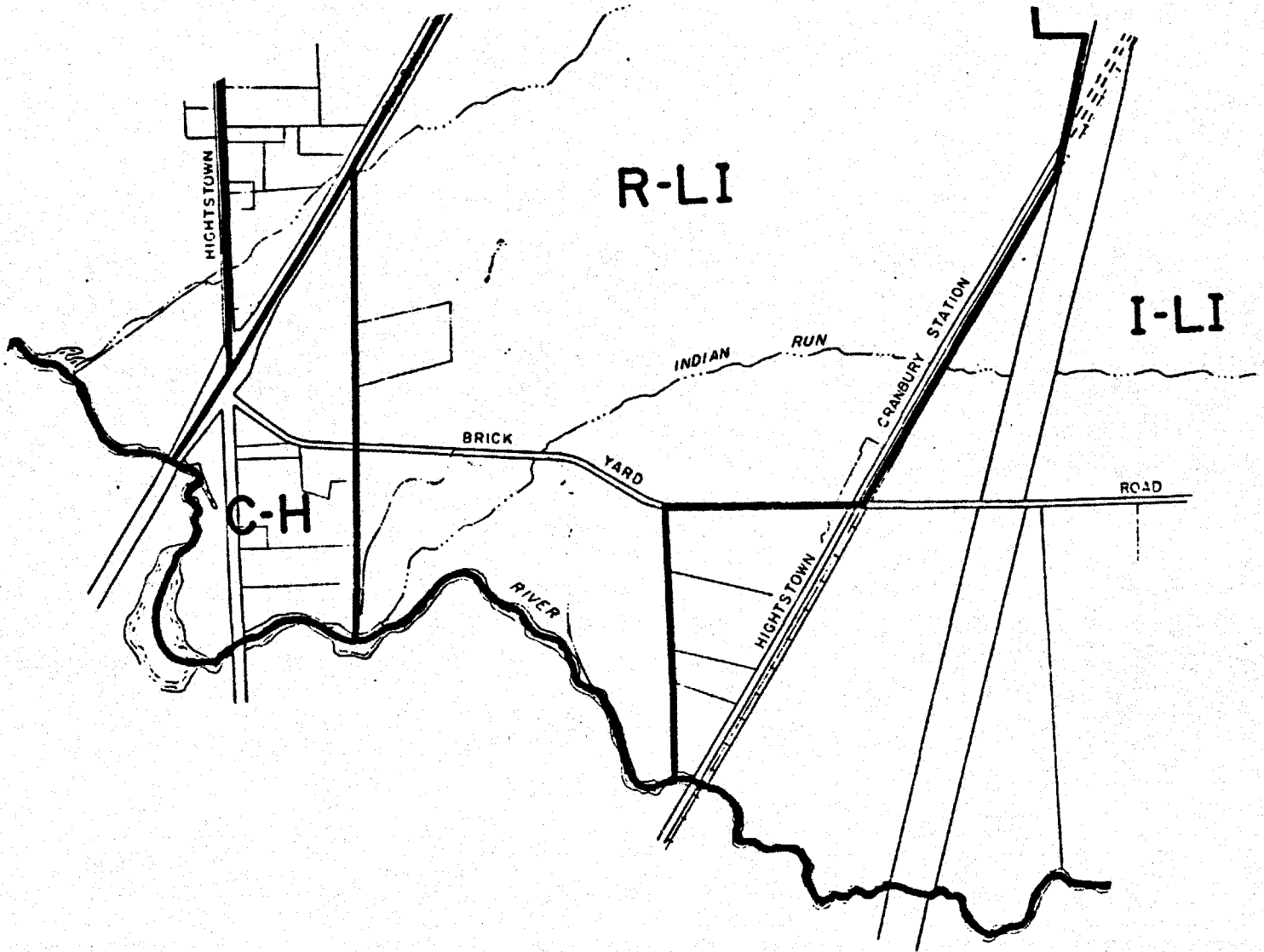


EXHIBIT 2
CURRENT (1983)
ZONING OF THE
STUDY AREA

In evaluating the zoning applicable to this area, I investigated the Township's Land Use Plan and Agricultural Conservation Element, prepared by the firm of Raymond, Parish, Pine and Weiner, Inc. and adopted by the Planning Board on September 9, 1982; the Township's 1983 Zoning Ordinance and Map; the criteria for zoning established by the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), which enables municipalities to zone; and the State Development Guide Plan. Based on this evaluation, I have determined that the low density residential zoning applicable to the largest portion of the study area is arbitrary and unreasonable, ignores important planning considerations and does not meet the statutory criteria for zoning.

STATUTORY CRITERIA

In 1975, the Municipal Land Use Law was passed, replacing the old Planning Enabling and Zoning Enabling Acts which had previously authorized municipalities to plan and zone. The Municipal Land Use Law formalized the relationship between a municipality's zoning ordinance and its master plan by providing that the zoning ordinance could only be adopted after the planning board of the municipality had adopted the land use plan element of its master plan. The provisions of the zoning ordinance are required by the statute to be either "substantially consistent" with the land use plan element or designed to effectuate it, unless the majority of the full authorized membership of the governing body decides otherwise and gives its reasons on the record. Thus, there cannot be zoning without planning in New Jersey.

The Municipal Land Use Law also delineates very explicitly the contents of a municipal master plan and each of the ten elements

which may be appropriate to include within it. The land use plan element, upon which zoning depends, is described as:

- a) taking into account the other master plan elements and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands;
- b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes, and
- c) including a statement of the standards of population density and development intensity recommended for the municipality.

Thus, a municipality's zoning, by implication, must not only provide appropriate locations for a variety of uses and establish appropriate densities for such uses, but must also consider the other master plan elements and natural conditions. Finally, the master plan of the municipality is required to include a specific policy statement indicating

the relationship of the proposed development of the municipality as developed in the master plan to 1) the master plans of contiguous municipalities, 2) the master plan of the county in which the municipality is located, and 3) any comprehensive guide plan pursuant to section 15 of P.L. 1961, c.47 (C.13:1B-15.52).

This last is the only explicit requirement set forth in the statute regarding local master plans, unless the municipality desires to enact a zoning ordinance, in which case an adopted land use plan element is also required. Because of the relationship between the municipal master plan and the zoning ordinance established by the Statute, a municipality's zoning must recognize the policies of other governmental agencies.

Finally, zoning ordinances are specifically required by the Statute to be "drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land".

In three respects, the Zoning Ordinance of Cranbury Township fails to meet these statutory requirements: the Zoning Ordinance does not give reasonable consideration to the character of the study area, nor does it encourage the most appropriate use of land; the Land Use Plan does not sufficiently consider natural conditions in its treatment of the study area; and, finally, the Land Use Plan policies and the resultant zoning affecting the study area are not aligned with the policies of the State Development Guide Plan with respect to this area.

CHARACTER OF THE AREA

The portion of the study area which is designated Highway Commercial includes a commercial use and an industrial use as well as residential uses and vacant land. The vacant land in the Highway Commercial district abuts the Residential-Light Impact district on the west side. The portion of the Residential-Light Impact district encompassed within the study area contains a single residence with out-buildings and agricultural land. It is bounded on the south by the Millstone River and on the east by the Industrial-Light Impact zone, from which it is separated by a strip of deciduous trees. The tree line fails to form an effective visual barrier from the land uses to the east. The portion of the Industrial-Light Impact zone lying within the study area contains four properties which are already developed with industrial uses. Photographs of each of these uses are included in the Appendix to this memorandum. The character of the study area,

except for the area along Hightstown Road and Route 130, is decidedly agricultural and industrial. It appears that the Residential-Light Impact zoning was imposed on the middle portion of the study area without consideration of the existing land uses in the Industrial-Light Impact zone and without consideration of future development in the Highway Commercial zone. Had there been a substantial number of existing residential uses in the area that warranted protection from the effects of further non-residential development, the residential zoning might have been appropriate, but that is not the case here. The only residence in the vicinity of the study area, other than the one located within it, is located on Hightstown-Cranbury Station Road. It is also zoned Residential-Light Impact. However, that residence is completely isolated from and not affected by the portion of the study area zoned R-LI.

There is no requirement in the Zoning Ordinance that in the Residential-Light Impact zone a buffer must be created between incompatible land uses. Non-residential uses are required to provide a buffer; however, where non-residential uses exist and no buffer is provided, there is limited probability of obtaining one.

The placement of a Residential-Light Impact zone and an Industrial-Light Impact zone immediately adjacent to one another has an on-paper appearance of sound planning and zoning. Examples of such mixed uses include Squibb, Western Electric, ETS and Mobil in the Hopewell-Lawrenceville-Princeton area. However, in this instance, the Industrial-Light Impact zone is already developed with uses which are clearly incompatible with new residential development.

NATURAL CONDITIONS

The bulk of the Residential-Light Impact zone in the study area is encumbered by the flood plains of the Millstone River and Indian Run, which flows to the Millstone. Exhibit 3 illustrates the flood plain boundaries. The effect of the location of the flood plain is to push any future development in the Residential-Light Impact zone up against the Highway Commercial zone to the west and the industrial uses to the east. The effect of the combination of the character of the study area (existing development) and the environmental constraints (the flood plain) is likely to discourage residential development in the Residential-Light Impact zone. These factors were not sufficiently considered in the Township's zoning of this area.

STATE DEVELOPMENT GUIDE PLAN

The revised draft of the State Development Guide Plan was issued in May of 1980 by the New Jersey Department of Community Affairs. The document was authorized by the Legislature in 1961 at the time that the Division of Planning of the New Jersey Department of Community Affairs was established. The revised draft of the Guide Plan builds upon a preliminary draft prepared in 1977 and distributed to various State, regional and county planning agencies, municipalities, and public libraries, as well as to members of the general public upon request. Three thousand (3,000) full copies of the preliminary draft were printed and distributed as were numerous brochures outlining its major elements. The Division of Planning participated in over 80 presentations and discussions with civic and interest groups and public agencies throughout

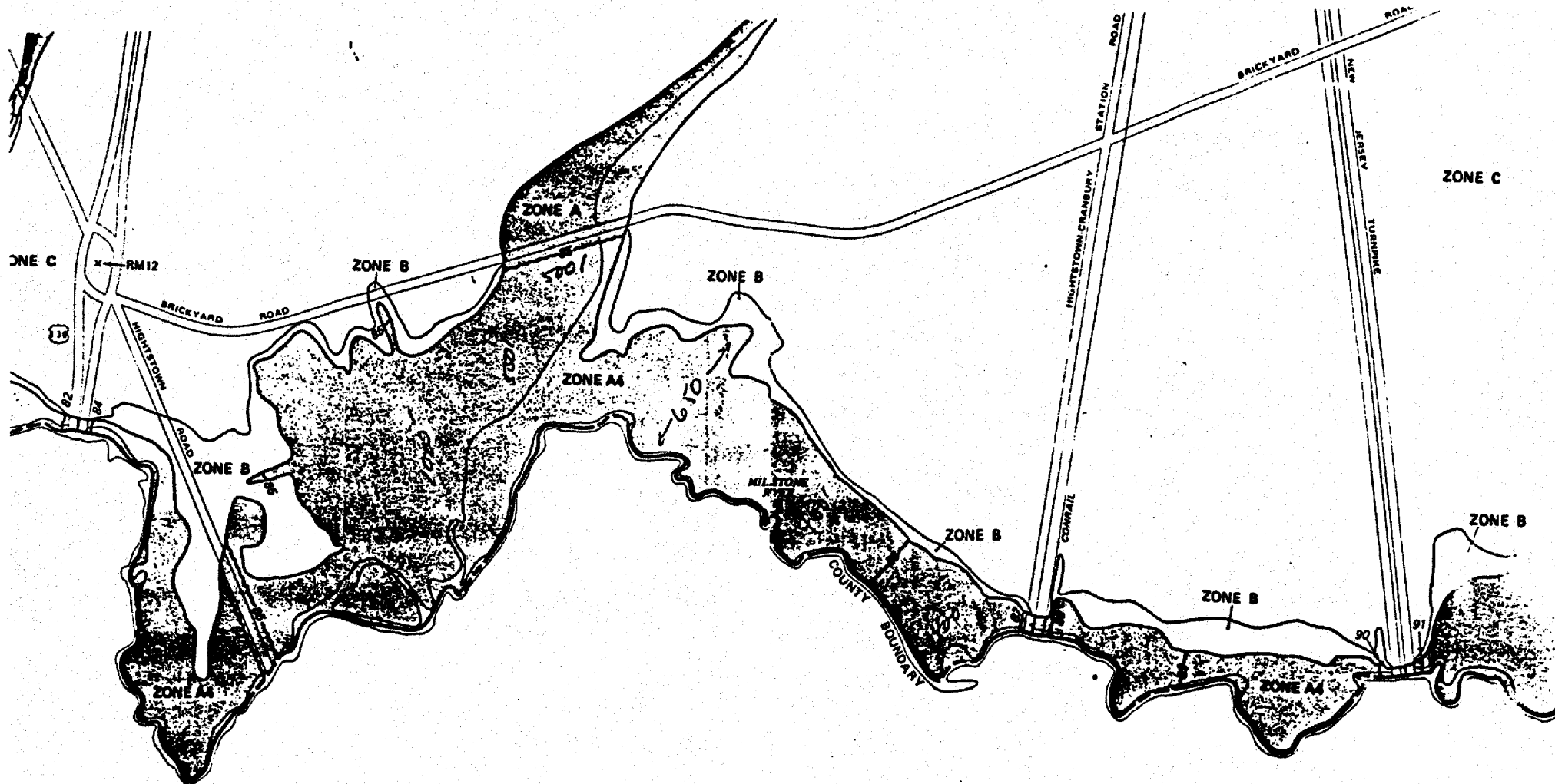


EXHIBIT 3

A PORTION OF THE MAY 17, 1982
 FLOOD INSURANCE RATE MAP
 SHOWING THE FLOOD PLAIN OF
 THE MILLSTONE RIVER AND
 INDIAN RUN IN THE VICINITY
 OF THE STUDY AREA

the State of New Jersey and surveyed various State agencies having land use responsibilities. The revised draft thus represents the thinking of the State's Division of Planning as modified in response to the input of these various groups and agencies. Moreover, the New Jersey Supreme Court has recently given the State Development Guide Plan additional status by using it to determine a municipality's obligation to provide a fair share of its region's low and moderate income housing need.

The State Development Guide Plan recommends where future development and conservation efforts in New Jersey should be concentrated. It is physically oriented and advocates the preservation of the State's physical resources, both natural and manmade, by recommending where growth inducing investments should and should not be made so that these resources are used efficiently. The Guide Plan recommendations are based on four premises: older urban areas should be revitalized; land should be developed efficiently, so that public investments are made economically and energy use is minimized; critical natural resources should be protected; and agriculture should be retained as an active economic use.

The State Development Guide Plan shows most of Cranbury Township to be located in a Growth Area. As Exhibit 4 indicates, the line between the Growth Area and the rest of the municipality, which is designated as Limited Growth, places between two-thirds and three-quarters of the municipality in the Growth Area, including approximately half of the portion of the municipality which lies to the west of Route 130, and everything to the east of Route 130, including the study area.

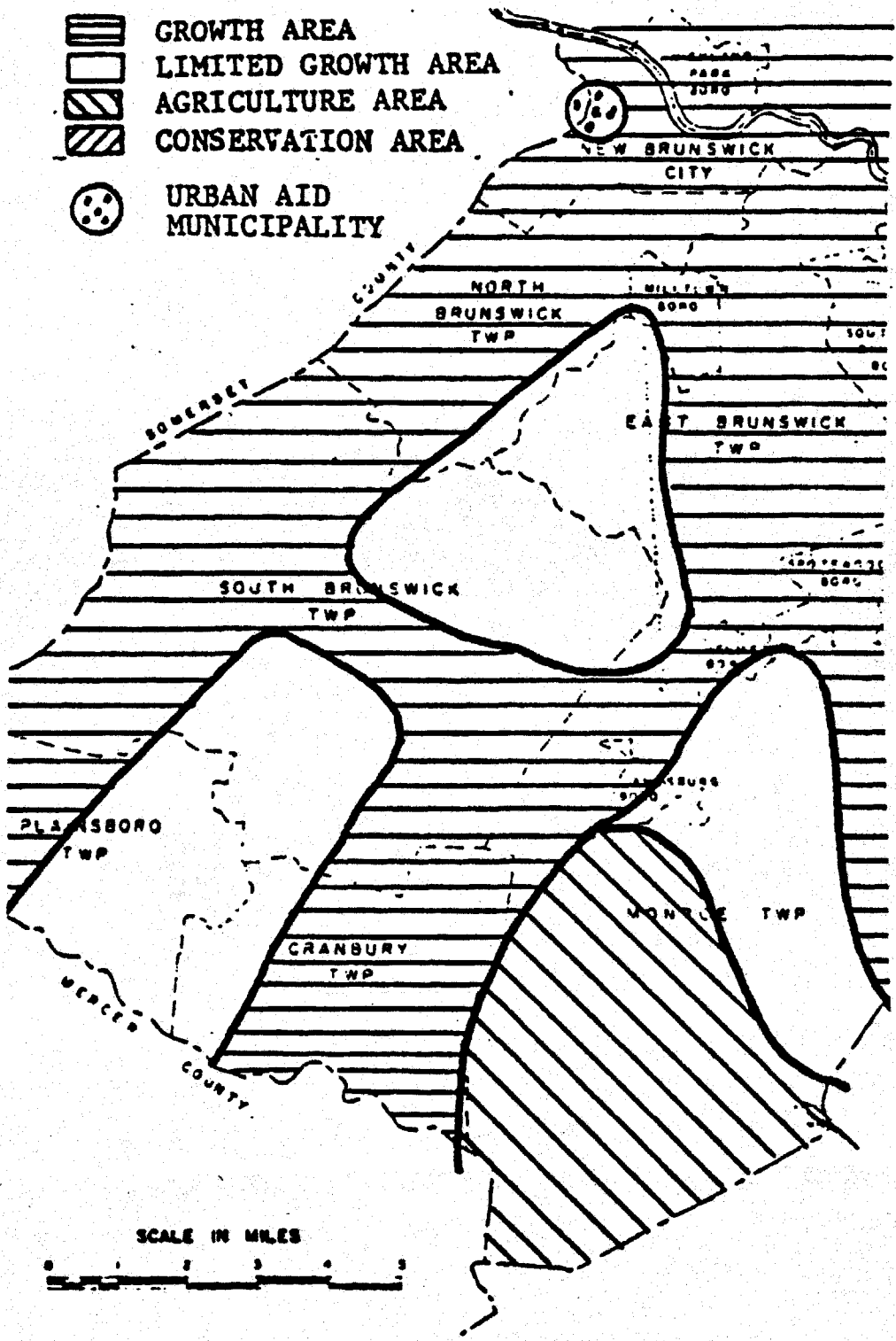


EXHIBIT 4

ENLARGEMENT OF A PORTION OF
THE MIDDLESEX COUNTY PLAN,
STATE DEVELOPMENT GUIDE PLAN

The boundaries of the Growth Area were drawn to avoid areas of excessive environmental constraints to development. However, this does not imply that the development of environmentally sensitive lands is encouraged, even in the Growth Area. The Guide Plan advocates local controls protecting flood plains, and other critical areas within the Growth Area. Nevertheless, the Growth Area is expected to receive development. Low density residential development immediately adjacent to highway commercial uses and industrial uses with considerable outdoor activity effectively zones the property into inutility and discourages growth. The inhibition of growth within the Growth Area is directly contrary to the principles of the State Development Guide Plan.

A reading of Cranbury Township's Land Use Plan indicates that discouraging growth was precisely the intent of the municipality in imposing low density residential zoning on the central part of the study area and elsewhere within the Growth Area. Throughout the Land Use Plan, considerable reference is made to the desire to avoid the increased housing obligations which would accompany new employment opportunities. This concern has, in my opinion, caused the municipality to overlook other important planning considerations in dealing with the zoning of the study area and, perhaps, other portions of the Township.

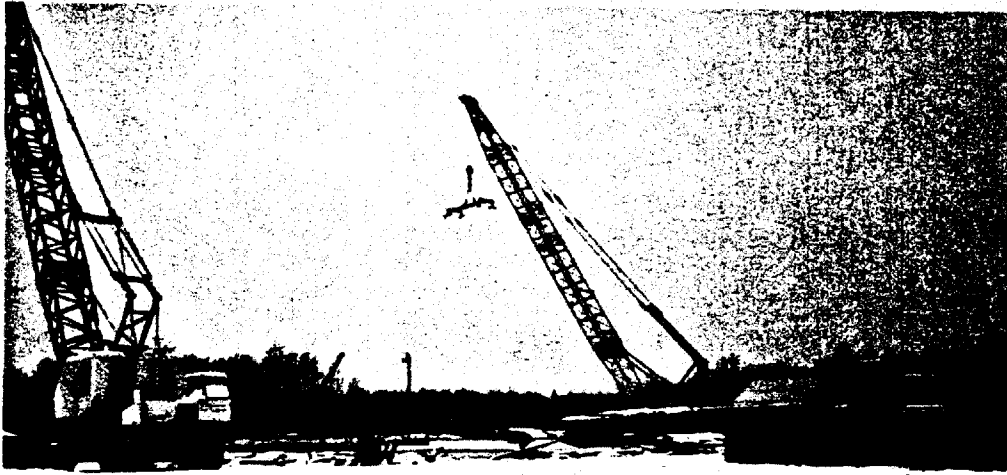
A more responsible approach to the zoning of the study area would have provided for low intensity non-residential uses which could coexist adjacent to the four existing industrial uses on parcels large enough to preserve the flood plain area from development. Much of the Land Use Plan addresses the goal of agricultural land retention. The study area might appropriately be zoned for agri-business uses which generally involve outdoor storage and can be unsightly, but would support

the planning goals of the municipality while recognizing the problems associated with the study area. The rest of the Residential-Light Impact zone, lying to the north of Brick Yard Road, could be zoned for planned unit development which would permit business uses along Brick Yard Road and high density residential uses to the north. This approach would be consistent with the Growth Area designation in the State Development Guide Plan. Three (3) acre residential zoning is clearly not.

SUMMARY

In conclusion, the zoning of the study area is clearly invalid. It does not reflect the existing character of the area; it does not deal adequately with the natural features of the area; and it is not compatible with the State Development Guide Plan's designation of the area as a Growth Area. Effectively, the Residential-Light Impact portion of the study area has been zoned into inutility.

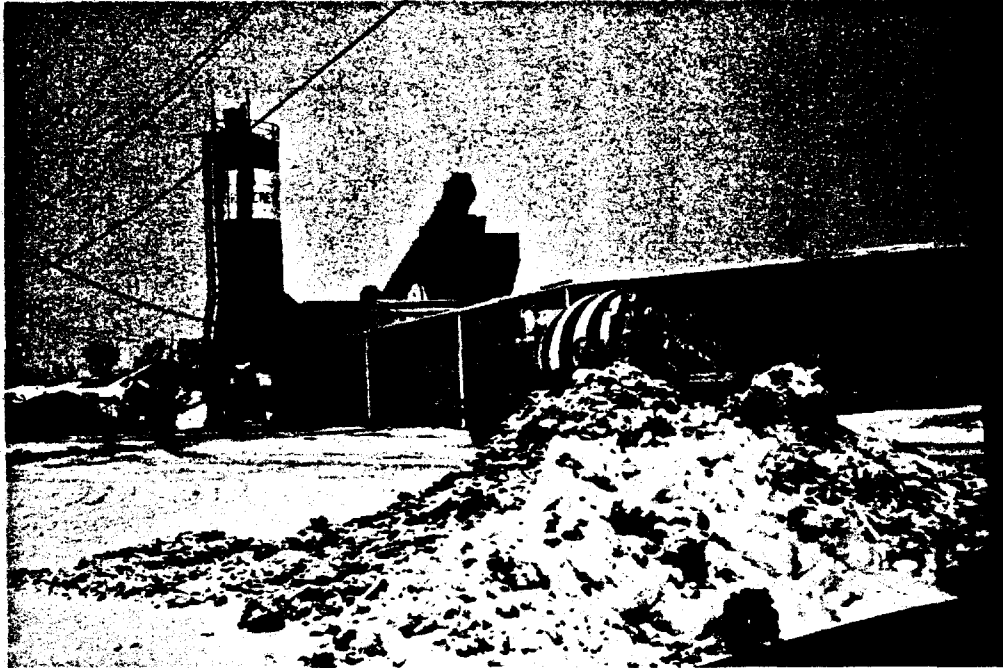
APPENDIX



MID-STATE FILIGREE COMPANY, INC.



PLANT FOOD CHEMICAL COMPANY, INC.



RICHCRETE CONCRETE COMPANY



BROWNING FERRIS INDUSTRIES OF
SOUTH JERSEY

PROFESSIONAL CREDENTIALS

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CURRICULUM VITAE

SERVICES

Professional planning consultant with expertise in all phases of land use planning, including the preparation of master plans and master plan elements, development ordinances, special studies and reports for public and private clients, testimony before planning boards, zoning boards of adjustment and in court, and subdivision and site plan design and review.

Experienced in over eighty-five (85) municipalities in the State of New Jersey.

Visiting Lecturer, School of Urban Planning and Policy Development, Rutgers, the State University, teaching a course in Planning for Engineers.

Licensed as a professional planner in the State of New Jersey (#2294).

PROFESSIONAL EXPERIENCE

Elizabeth C. McKenzie, P.P., since February, 1980. Sole proprietor of community planning and development consulting firm.

Alvin E. Gershen Associates (formerly Gershen and Coppola Associates), 1978-1980. Responsible for all phases of community planning, including preparation of master plans and master plan elements, development ordinances, capital improvement programs, site plan and subdivision reviews and special studies for over a dozen municipal clients. In addition, prepared special planning studies and designed development proposals for private clients.

East Brunswick Township, New Jersey, 1977-1978, first as an intern and later as assistant planner. Responsibilities included designing and implementing a comprehensive retail market analysis as well as a survey of major industrial sectors; developing, administering and evaluating the results of a consumer questionnaire; evaluating demographic data; analyzing environmental constraints, zoning and impacts of development proposals.

ELIZABETH C. MCKENZIE, P.P.

EDUCATION

- M.C.R.P. Rutgers University, New Brunswick, New Jersey. The Graduate School, Department of Urban Planning and Policy Development. Awarded January, 1978.
- B.A. Briarcliff College, Briarcliff Manor, New York. Major: English Literature. Awarded August, 1968.

AWARDS AND HONORS

Fellow, Eagleton Institute of Politics, 1976-1977.

OTHER

Raritan Township Planning Board, member and vice-chairman, 1976-1978. Chaired site plan and subdivision review committee, technical coordinating committee, and master plan committee. Collaborated in preparation of numerous ordinances and ordinance amendments, including soil erosion and sediment control and flood plain and stormwater management.

Raritan Township Environmental Commission, member and liaison with Planning Board, 1975-1978.

New Jersey Federation of Planning Officials, served on Local Response Committee, 1976-1978. Collaborated in preparation of several special reports, including housing needs of the elderly, hiring a professional consultant, the Municipal Land Use Law.

South Branch Watershed Association, trustee, 1973-1978; inactive trustee 1978-present. Environmental action group.

Citizens' Housing Corporation, Raritan Township, New Jersey, trustee and officer, 1976-1978. Non-profit housing sponsor.

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PARTIAL LIST OF CLIENTS

RECENT OR CURRENT MUNICIPAL CLIENTS

The Township of Alexandria, Hunterdon County

The Township of Springfield, Union County

The Township of Bernards, Somerset County

The Borough of Chatham, Morris County

The Township of Lopatcong, Warren County

The Township of Pohatcong, Warren County

With Frost Associates:

Borough of Metuchen, Middlesex County
Township of Bernards, Somerset County

With C. Douglas Cherry and Associates:

Township of Mansfield, Warren County

With Charles C. Nathanson and Associates:

Township of Ewing, Mercer County

ELIZABETH C. MCKENZIE, P.P.

RECENT APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY

BERGEN COUNTY

City of Hackensack
Borough of Hillsdale
Borough of Little Ferry
Borough of Oakland
Borough of Tenafly

ESSEX COUNTY

Township of Livingston
Township of Millburn

HUNTERDON COUNTY

Borough of Bloomsbury
Township of Clinton
Township of Delaware
Borough of Flemington
Borough of Frenchtown
Borough of Hampton
Township of Lebanon
Township of Raritan
Township of Readington
Township of Union

MERCER COUNTY

Township of Ewing
Township of Hamilton
Township of Hopewell
Township of Lawrence
Borough of Princeton
Township of Princeton

MIDDLESEX COUNTY

Township of Edison
Borough of Highland Park
Township of Old Bridge
Township of Plainsboro
Township of South Brunswick

ELIZABETH C. MCKENZIE, P.P.

RECENT APPEARANCES OR SPECIAL PROJECTS
ON BEHALF OF PRIVATE CLIENTS, BY MUNICIPALITY
(Continued)

MONMOUTH COUNTY

Borough of Rumson

MORRIS COUNTY

Township of Boonton
Borough of Butler
Township of Chatham
Township of Chester
Township of Hanover
Township of Jefferson
Borough of Madison
Township of Morris
Borough of Morris Plains
Town of Morristown
Township of Parsippany-Troy Hills
Township of Passaic
Township of Rockaway
Township of Roxbury

PASSAIC COUNTY

Township of Little Falls

SOMERSET COUNTY

Borough of Bernardsville
Township of Bridgewater
Township of Franklin
Township of Montgomery

UNION COUNTY

Township of Berkeley Heights
City of Linden
Borough of Mountainside
Borough of New Providence
Township of Scotch Plains
City of Summit
Township of Union

WARREN COUNTY

Township of Blairstown
Township of Oxford
Township of White

ELIZABETH C. MCKENZIE, P.P.

MASTER PLANS, MASTER PLAN ELEMENTS, AND PERIODIC REEXAMINATION REPORTS
PREVIOUSLY COMPLETED

Borough of Chatham, Morris County
for Gershen and Coppola Associates

Township of Lower, Cape May County
for Gershen and Coppola Associates

Township of Washington, Mercer County
for Gershen and Coppola Associates

Township of Springfield, Union County
for Gershen and Coppola Associates

Township of Oldmans, Salem County
for Gershen and Coppola Associates

Borough of Spring Lake, Monmouth County
for Richard Thomas Coppola, P.P.

Township of Mantua, Gloucester County
for Richard Thomas Coppola, P.P.

Township of Lopatcong, Warren County

Township of Bernards, Somerset County
with Frost Associates

Borough of Metuchen, Middlesex County
with Frost Associates

Township of Alexandria, Hunterdon County

COURT APPEARANCES

Somerset County Superior Court (Hampton Borough -
Mount Laurel II)

Union County Superior Court (Springfield Township)

Camden County Superior Court (Haddon Township)

Mercer County Superior Court (Washington Township)

Essex County Superior Court (Livingston Township)