

U.L. v. ~~Robert~~ Piscataway

Feb. 8, 1984

Piscataway

Letter from Paley to Judge w/ Fair share Housing
Study attached (1983)

Pgs 48

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Honorable Eugene D. Serpentelli
Judge, Superior Court of New Jersey
118 Washington Street
Toms River, New Jersey 08753

Re: Urban League vs. Township of Piscataway

My dear Judge Serpentelli:

Herewith please find Fair Share Housing Study prepared by the Township of Piscataway during May, 1983. This copy is being forwarded to you based on my conversation with your law clerk, indicating that you had not received the Study upon which the Township intends to rely.

According to our file, a copy of this Study, and all other documents, were forwarded to you several months ago, when we initially forwarded copies of those documents to Plaintiff's counsel, in the hope that a settlement could be effected. However, given the voluminous documents relating to this proceeding, it is not surprising that another copy is required at this time.

RECEIVED

FEB 9 1984

JUDGE SERPENTELLI'S CHAMBERS

ML000244E

Honorable Eugene D. Serpentelli

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Should the Court have any questions, please feel
free to call me, at the Court's convenience.

Very truly yours,



PHILLIP LEWIS PALEY

PLP:pmm

Enclosure

FAIR SHARE HOUSING STUDY:

PISCATAWAY TOWNSHIP,

NEW JERSEY

MAY, 1983

PREPARED BY:

PISCATAWAY TOWNSHIP

DIVISION OF PLANNING AND DEVELOPMENT

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INTRODUCTION

The recent "Mount Laurel II" decision by the New Jersey State Supreme Court has highlighted the importance of the need for municipalities to provide low and moderate income housing. Piscataway Township has been involved in litigation with this issue since 1974 when the Urban League of Greater New Brunswick brought suit against the zoning policies of twenty-three municipalities in Middlesex County.

The purpose of this report is to address the issue of fair share housing as it relates to the Township of Piscataway. The issues which concern fair share housing will be discussed, in addition to examining the judicial background of the fair share housing obligation. This report will provide a detailed analysis of Piscataway Township from a fair share perspective including an examination of past and present conditions in the township, and a review of the recent State Supreme Court decision. Finally, based upon the review of current fair share issues, this report will present a strategy for providing fair share housing in Piscataway for low and moderate income persons.

FAIR SHARE HOUSING

Judicial Background

As addressed by the courts, a municipality's fair share housing obligation is based upon constitutional grounds and fundamentals of planning theory. A major goal of the planning process in New Jersey is to provide for the orderly growth of a municipality within a region. While this has generally been the thrust behind planning in the State of New Jersey since the enabling legislation, socioeconomic conditions in the State have resulted in a severe imbalance between developed urban areas and "sprawling" suburban areas. Inasmuch as economic conditions and subsequent development patterns have resulted in a general shift of the population and economy from urban to suburban areas, this shift has not taken place among all sectors of the population. A great measure of this imbalance has resulted from exclusionary zoning techniques employed by many suburban municipalities. These exclusionary techniques have had the result of preventing minorities and low and moderate income persons from moving from central cities to suburban areas which is where the majority of employment and housing opportunities have developed. Based on constitutional grounds, these exclusionary zoning techniques have been held invalid since such zoning ordinances fail to provide for the housing needs of all the residents of the state, and therefore, violate equal protection and due process of law.¹

MT. LAUREL I

The New Jersey State Supreme Court, in its decision regarding Mt. Laurel I (South Burlington Co., NAACP v. Mount Laurel), held that zoning ordinances which exclude low

¹ Rose, Jerome G., Legal Foundations of Land Use Planning, Center for Urban Policy Research, New Brunswick, N.J., 1979, p. 33.

or moderate income families through various zoning regulations (i.e. lot size, prohibition of certain housing unit types, etc.) are invalid. The court ruled that "developing" municipalities in the State must provide for a fair share of the regional housing need. However, the court did not specify any implicit formula by which a municipal fair share is to be determined. The court held that the local fair share obligation, if any, would vary according to the delineated housing allocation region and the various socioeconomic conditions of that region. The court also held that municipalities could satisfy their constitutional obligation by implementing affirmative measures that would provide the "realistic opportunity" for the construction of the fair share of the present and prospective regional housing need.

The complexity of the housing problem was reflected in the Mount Laurel I decision. Issues such as determination of an appropriate region, the definition of a developing municipality, and determination of regional need and local fair share were not defined.

OAKWOOD AT MADISON v. TOWNSHIP OF MADISON

In 1977, the New Jersey Supreme Court decided Oakwood at Madison, Inc. v. Township of Madison, 72 N.J. 481 (1977). In this case, the court was again confronted with the issue of determining the fair share obligation of a developing municipality. With respect to regional determination for calculating fair share, the majority of the court agreed with the trial courts determination of region as the "area from which, in the view of available employment and transportation, the population of the township would be drawn, absent invalidly exclusionary zoning."² While the

² Oakwood at Madison, Inc. v. Township of Madison. 128 N.J. Super. 438, 441 (Law Division, 1974), Id. at 537.

trial court in Madison did not provide for a specific numerical quota for low and moderate income housing need in Madison Township, the court did estimate this need into the 1980's.

As in Mt. Laurel I, the State Supreme Court reaffirmed in Madison that municipalities must provide "realistic opportunities" for their fair share of low and moderate income housing. The court suggested that density bonuses be provided for the construction of these types of housing.³

Recognizing that some municipalities might not be able to provide the realistic opportunity for the development of low income housing, the court provided the concept of "least cost" housing. This term, as applied by the courts, refers to housing which is built at the least cost possible while meeting minimum safety requirements. As held by the court, least cost housing could be used by municipalities to meet the housing needs of lower income groups without subsidies or affirmative devices (density bonuses, etc.).⁴

Finally, the court issued a builder's remedy to the plaintiff-developer. The court asserted that the plaintiff had ". . . borne the stress and expense of this public interest litigation . . ." and that "There is a respectable point of view that in such circumstances a successful litigant like the corporate plaintiffs should be awarded specific relief".⁵ This remedy was provided by the courts with the condition that 20 percent of the housing units be provided for low and moderate income housing.⁶

URBAN LEAGUE OF GREATER NEW BRUNSWICK V. CARTERET, ET AL.

In 1974, the Urban League of Greater New Brunswick and third party defendants challenged the zoning ordinances of 23 of the 25 municipalities in Middlesex County, including

³ 72 N.J. 481, Id. at 517-18.

⁴ I.D. at 512-13.

⁵ I.D. at 549-50.

⁶ I.D. at 550.

Piscataway Township.⁷ The plaintiffs (Urban League of Greater New Brunswick, et al.) contended that the zoning ordinances of these defendant municipalities were exclusionary and discriminatory in that the municipalities were not providing for their fair share of the regional housing need according to the Mount Laurel Doctrine. During the trial court proceeding, twelve municipalities were dismissed, either through the revision of their zoning ordinances to comply with the trial court's directives, or, through the trial courts determination that no Mt. Laurel obligation existed. As a result, the trial court addressed the issue of fair share housing and whether the remaining eleven municipalities, including Piscataway Township, were in violation of the Mt. Laurel Doctrine.*

The trial court addressed the need of low and moderate income housing in the State and Middlesex County. Upon determining that there was a "critical" need for this type of housing in Middlesex County, the court proceeded to examine the existing zoning regulations of the eleven defendant municipalities. The court noted that a review of the existing zoning regulations for these municipalities revealed a disproportionately low percentage of zoning for low and moderate income housing types (Multi-family, small lot single family, etc. . .) even though the need for such housing in the County was substantial. Based upon this "critical" need and the lack of municipal zoning regulations to provide the realistic opportunity for the development of such housing types, the court held that the zoning ordinances of the eleven defendant municipalities, including Piscataway, were exclusionary and therefore invalid.

⁷ Urban League of Greater New Brunswick v. Carteret, al.
142 N.J. Super. 11, (1976).

*The eleven municipalities included Cranbury, East Brunswick, Edison, Monroe, North Brunswick, Old Bridge, Piscataway, Plainsboro, Sayreville, South Brunswick and South Plainfield.

Upon ruling that the defendant municipalities were in violation of the Mt. Laurel Doctrine, the court proceeded to determine the present and prospective regional low and moderate income housing need and the allocation of that need among the eleven defendant municipalities. For remedial purposes, the trial court established Middlesex County as the region for the following reasons:

1. Middlesex County is part of the New York Metropolitan area.
2. The County displays both urban and suburban characteristics and was experiencing tremendous development pressure.
3. The County is a Standard Metropolitan Statistical Area, and as such, was integrated both socially and economically.
4. Transportation facilities yielded considerable access throughout the County.

The court, having established the allocation region, then proceeded to determine the present and prospective low and moderate income housing need to 1985. Utilizing County-wide data prepared by the Middlesex County Planning Board, the court formulated an overall low and moderate income housing need of 18,697 units by 1985. In an effort to correct the existing imbalance of low and moderate income housing, the court calculated the total number of units needed to bring each of the eleven municipalities to the existing proportion of County-wide low and moderate income households (15% - low, 19% - moderate) as follows:

Cranbury	18
East Brunswick	1,316
Edison	1,292
Monroe	23
North Brunswick	180
Old Bridge	301
Piscataway	0
Plainsboro	0
Sayreville	328
South Brunswick	156
South Plainfield	<u>416</u>
	4,030

It is important to note the court determined that Piscataway Township had already provided for its then present fair share of low and moderate income housing units.

Upon determining the number of low and moderate income housing units needed to alleviate the existing need, the trail court proceeded to distribute the remaining 14,667 units equally among the eleven defendant municipalities. This resulted in an additional 1,333 housing units to be allocated to each municipality to meet the prospective low and moderate income housing need to 1985.

Upon completion of the trial court proceedings, seven municipalities, including Piscataway Township, appealed the trail courts ruling at the appellate division level. The appellate division reversed the trail courts decision and dismissed the plaintiffs claim ruling that the trail court had failed to determine an appropriate housing region and therefore, could not establish that the defendant municipalities zoning ordinances were impermissibly exclusionary.⁸

⁸ 170 N.J. Super. 461 (1979) I.D. at 476-77. Mount Laurel II

MOUNT LAUREL II

In January, 1983, the New Jersey State Supreme Court again addressed the issue of fair share housing and the application of the Mount Laurel Doctrine. Chief Justice Wilentz, writing for the court, reaffirmed the obligation for municipalities to provide their fair share of the present and prospective low and moderate income housing need. Specifically, the court addressed the following issues:

1. What type of municipalities have a Mount Laurel obligation;
2. Determination of the housing allocation region;
3. Determination of the prospective regional low and moderate income housing need;
4. Municipal fair share of the prospective regional low and moderate income housing need;
5. Existing municipal low and moderate income housing need;
6. How to meet the Mount Laurel obligation; and
7. Judicial remedies.

In addition, the State Supreme Court ruling addressed several cases concerning the fair share issue in the State. Included among these cases was the Urban League challenge of exclusionary zoning in certain municipalities of Middlesex County, including Piscataway Township.

With regard to the determination of which municipalities have a Mount Laurel obligation, the Supreme Court ruled that the use of the State Development Guide Plan (SDGP), prepared by the New Jersey Department of Community Affairs, will determine whether a municipality has an obligation to provide for its fair share of the regional housing need. This plan, dated May, 1980, provides a detailed study of the growth characteristics in the State and outlines

areas for continued development or conservation. In summary, the plan proposes that continued development should occur where there has already been substantial development to some degree in most cases. The overall objective of the plan is the maximum utilization of existing resources and utilities and therefore, concentration of development and minimization of urban "sprawl".

The SDGP also provides "concept" maps of all the counties in the State. These maps provide the delineation of areas for development or conservation. According to Mount Laurel II, these maps provide the basis for determining whether a municipality has a fair share obligation. As stated by the courts, "these maps effectively serve as a blueprint for the implementation of the Mount Laurel Doctrine."⁹

The SDGP provides six land use designations on these concept maps. These include: growth, limited growth, agriculture, conservation, pine lands and coastal zones. As held by the court, the Mount Laurel obligation should be consistent with the State's plan for future development, and therefore, the obligation should apply only to areas designated as "growth areas".¹⁰

While the Supreme Court did not state a specific definition for the determination of the region, or regional housing need, the court provided that the generally accepted definitions and methods for determining the region, regional need and fair share, shall continue to be used.¹¹ As previously stated, the Supreme Court in Madison showed general approval for the following definition of a region:

"That general area which constitutes, more or less, the housing market area of which the subject municipality is a part, and from which the

⁹ Mt. Laurel II, N.J. Supreme Court, January, 1983;

¹⁰ ID. at 45.

¹¹ ID. at 45.

ID. at 92.

prospective population of the municipality would substantially be drawn in the absence of exclusionary zoning."¹²

In Mount Laurel II, the Supreme Court also addressed the issues of the determination of the prospective regional housing need, municipal fair share of the prospective regional low and moderate income housing need and the existing municipal low and moderate income need. The court held that these issues, while addressed in the Mount Laurel Doctrine, are not within the scope of the judiciary, and therefore, these issues are best addressed by experts in the field. The courts however, did provide the following guidance:

"Formulas that accord substantial weight to employment opportunities in the municipality, especially new employment accompanied by substantial ratables, shall be favored; formulas that have the effect of tying prospective lower income housing needs to the present proportion of lower income residents to the total population of a municipality shall be disfavored; formulas that have the effect of unreasonably diminishing the share because of a municipality's successful exclusion of lower income housing in the past shall be disfavored."¹³

As previously stated, all municipalities which have a Mount Laurel obligation must provide the realistic opportunity for the development of lower and moderate income housing units. As stated in Mount Laurel II: "(Municipalities) must remove all municipally created barriers to the construction of their fair

¹² ID. at 92.

¹³ ID. at 93.

share of low income housing need."¹⁴ While the court notes that the removal of these barriers does not guarantee the development of low income housing at an affordable cost to such families, the court mentions other measures municipalities may take to provide a realistic opportunity for the development of such housing at an affordable cost.

The Supreme Court ruled that the realistic opportunity for the development of lower income housing could be provided by using "Affirmative Measures". While removal of restrictive barriers does not ensure the development of low income housing, the application of affirmative measures would provide builders and developers with the incentive to construct such units. One such measure would be in the form of government subsidies. While this may result in financial obligations on the part of the municipality, the court noted that the Mount Laurel obligation imposes many financial obligations, some of which are substantial.¹⁵ However, as noted by the court, an alternative such as tax abatement programs for low and moderate income housing projects would not impose a substantial financial burden on a municipality.¹⁶ A second method which would provide the realistic opportunity for the development of lower income housing would be the incorporation of "Inclusionary Zoning Devices" in municipal land development regulations. Two such devices are "Incentive Zoning" and "Mandatory Set-Asides". Incentive Zoning provides a developer with a density bonus if a specified proportion of the development is for low income housing units. The court; however, does note in that particular cases, the "sole reliance" of such incentives may not provide the realistic opportunity for low

¹⁴ ID. at 97.

¹⁵ ID. at 107.

¹⁶ ID. at 107.

income housing development.¹⁷ The court states that mandatory set-asides are more effective and may have to be incorporated if no other method produces low income housing. This device calls for a mandatory set-aside of a certain proportion of proposed housing units to be constructed for low and moderate income housing.¹⁸ This requirement may vary from zone to zone and may be limited to certain zones.

Mount Laurel II also provides that mobile homes may be utilized to meet a municipal fair share obligation. While municipalities are not required to allow for mobile home construction to meet their fair share obligation, mobile homes may not be prohibited, unless valid planning reasons exist. Noting that mobile homes are a viable housing alternative for low and moderate income groups, the court ruled that "municipalities that cannot otherwise meet their fair share obligations must provide zoning for low cost mobile homes as an affirmative device in their zoning ordinances".¹⁹

The final issue addressed in Mount Laurel II concerning how a municipality can meet its Mount Laurel obligation is the provision for "Least Cost" housing. The Supreme Court defines least cost housing as follows: ". . . the least expensive housing that builders can provide after removal by a municipality of all excessive restrictions and exactions and after thorough use by a municipality of all affirmative devices that might lower costs."²⁰ The court also notes that while this housing is unaffordable by lower income families, this type of housing could provide

¹⁷ Id. at 109-110.

¹⁸ Id. at 111.

¹⁹ Id. at 122.

²⁰ Id. at 125.

shelter for families who could not afford housing in the conventional suburban housing market.²¹

In addition, the Mount Laurel II decision addressed the six outstanding cases which were before the court. Inclusive of these cases was the Urban League challenge against Piscataway Township and six other Middlesex County municipalities. The Supreme court reversed the appellate division's judgement and remanded the case for a full fair share hearing.

²¹ ID. at 125-6.

MUNICIPAL RESPONSE

In 1958, Piscataway Township adopted its first comprehensive Master Plan. In 1968, the Township found it necessary to revise the 1958 Master Plan inasmuch as the opening of Interstate Route 287 through the center of the Township had led to substantial residential and industrial development. Subsequent to this revised plan, the Township formulated and adopted Land Use Regulations which would implement the 1968 Master Plan objectives and proposals. This section of the report will provide a summary of the Land Use Regulation prior to, and after the Urban League suit against Piscataway, as well as provide a review of past and present housing statistics of the Township.

Piscataway Land Development Regulations:
Prior to the Urban League Suit

Prior to the acceptance of the Mount Laurel Doctrine by the New Jersey State Supreme Court, Piscataway Land Development Regulations largely encouraged single family detached residential development. In fact, the trial court in Urban League noted that the majority of vacant developable residentially zoned land was designated for low density residential development.²² The following list provides the minimum lot size requirements for residential zones as were in effect prior to and during the Urban League suit:

	ZONE	MINIMUM AREA (SQ. FT.)	% OF RESIDENTIAL LAND AREA
Single Family	R-75	7,500	17.0
	R-10	10,000	20.5
	R-15	15,000	14.4
	R-20	20,000	33.5
	RR-1	43,000	11.1
Multifamily	R-M	5 (ACRES)	3.4

²² 142 N.J. Super. 11 (1976)

As demonstrated above, low density residential development was the predominant residential land use type encouraged in Piscataway. While the Township had a substantial amount of existing multifamily development in three separate areas, minimal land was available for further multifamily development. In addition, the trial court noted that excessive restrictions in the R-M Zone resulted in further limiting the future development of multi-family housing since construction costs were forced up.²³

During the Urban League proceedings against the Township, Piscataway began to conduct studies to revise the 1968 Master Plan. The following section will address this revised Master Plan and subsequent revised Land Development Regulations as they relate to Fair Share Housing.

Piscataway Land Development: 1978 Revised Master Plan and Land Development Regulations

In March, 1978, the Piscataway Township Planning Board adopted a revised Master Plan. This revised Master Plan contained a Housing Needs Analysis Report which studied the past and present housing and socioeconomic conditions in the Township and provided the basis upon which the Township could plan for future housing development with regard to fair share housing. While still allowing for low density residential development, the revised Land Use Plan provided additional areas for cluster single family development and established areas for "Planned Residential Development" (PRD). The PRD allows for a variety of housing types including low and moderate income housing, in addition to allowing for professional and commercial uses, primarily to serve PRD residents.

Subsequent to the adoption of the 1978 Master Plan, the Township undertook a complete revision of the Township Zoning Ordinance to effectuate the various goals and objectives

²³ ID.

of the 1978 revised Master Plan. This revision included the reduction of the amount of land zoned for large lot residential use (RR-1, R-20), increasing land area available for cluster residential development, and the establishment of three separate areas for planned residential development. Overall, an area of 164 acres was zoned PRD.

The PRD Ordinance, adopted in July, 1978, contains various provisions which were intended for a variety of housing types at higher densities and the provision for the development of low and moderate income housing. Specific provisions regarding housing development in PRD's are provided as follows:

- A maximum permitted gross density of six (6) units per gross acre.
- In the event the Federal Government or any authorized State Agency provides housing subsidies for a minimum of fifteen percent of the total number of dwelling units for low and/or moderate income families, the Planning Board shall grant to any eligible planned residential development, a bonus of two units per acre. The definition of low and moderate income families is to be based on current State and Federal guidelines.
- A variety of housing types are permitted within the planned residential development. These include single family detached and attached units, townhouses, multifamily detached units (two to six family units per building), and senior citizen housing units.²⁴

In summary, the various revisions to Piscataway's Land Development Regulations were formulated and adopted in response to the fair share housing concept provided by the Mount Laurel Doctrine.

²⁴ Planned Residential Development Ordinance, No. 78-28; Adopted July 1978.

Statistical Review

While Piscataway's residential development continues to predominantly comprise low density single family detached housing, as provided in the Township's revised 1978 Master Plan, a variety of housing types has and is being provided to meet the housing needs of all sectors of the Township's population. This section of the report will provide an update of the Township's housing stock and various housing statistics as they relate to fair share housing. It should be noted, and as will be demonstrated subsequently in this report, that a Tri-County Region has been established as the 'Housing Allocation Region' for the determination of Piscataway's fair share housing obligation. These counties include Middlesex, Somerset, and Union.

Plate 1 provides an update of the current housing stock from April, 1976 to April, 1983. As shown, Piscataway Township has experienced considerable development of various housing types since 1976. The total housing stock has increased by 1,414 units or 12.2 percent since 1976. Single family dwellings accounted for 934 units or an increase of 11.0 percent. Multifamily development provided 360 units or an increase of 11.6 percent since 1976. This multifamily development consisted entirely of garden apartments. In addition, townhouse development, a housing type which was not in existence in 1976, accounted for 120 housing units in 1983. Of the total housing unit increase for this time period, single family development accounted for 66 percent of the increase, multifamily accounted for 25.5 percent of the increase, with the remaining 8.5 percent accounted for by townhouse development. The development of these various housing types follows the goals and objectives of the Land Use Plan Element which calls for the provision of continued low density residential development while providing the opportunity for a variety of housing types.

In addition, Rutgers University also provides student housing on the Busch and Livingston College campuses. The

PLATE 1

Housing Units by Type, Piscataway Township

April, 1976 vs. April, 1983

(Occupied & Vacant)

	<u>APRIL , 1976</u>		<u>APRIL , 1983</u>		<u>APRIL,1976 vs. APRIL, 1983</u>		
	(#)	(%)	(#)	(%)	(#)	(%)	% of Growth
TOTAL UNITS	11,577	100.0	12,991	100.0	+ 1,414	+ 12.2	100.0
Single Family	8,463	73.1	9,397	72.3	+ 934	+ 11.0	66.0
Multi-Family*	3,114	26.9	3,474	26.7	+ 360	+ 11.6	25.5
Townhouse**	0	--	120	.9	+ 120	--	8.5

* Includes Garden Apartments.

** Includes Townhouse Duplex Units.

note: Percentage may not add due to rounding.

source: Township Building Permits, April, 1976 to April, 1983.

total number of housing units on these campuses is 2,486 units.²⁵ These units consist of 1,732 occupancy rooms and 754 apartments for married and single students. Married students are housed in 350 of these apartments. Overall, the 1980 census indicated a total of 4,840 persons residing on Rutgers Campus in Piscataway Township.

Plate 2 shows the average gross rent and average contract rent for Piscataway Township and the Tri-County Region. As shown, the average contract rent for the region was 266 dollars per month while the average contract rent for Piscataway was 285 dollars. With regard to average gross rent, the regional gross rent for 1980 was 312 dollars while as shown, 314 dollars was the average monthly gross rent for Piscataway in 1980. These statistics indicate that Piscataway's average rental costs are comparable to the regions average rental costs.

Plate 3 provides the number of renter-occupied housing units and the number of units paying 25 percent and 30 percent of annual household income for gross rent. As shown, the percentage of Piscataway households paying either 25 or 30 percent of annual income for gross rent is lower than that of the Tri-County Region. It should be noted that while the widely accepted guideline of 25 percent for rent cost has been accepted in the past, current economic conditions indicate that a 30 percent guideline is more appropriate.

Plate 4 provides the General Housing Characteristics for Piscataway Township for 1970 and 1980. This Plate provides occupancy status, housing availability status and vacancy rates for rental and for sale units.

In conclusion, Piscataway Township revised it's Land Development Plans and Regulations in 1978 to provide for it's fair share of low and moderate income housing need. As the statistics provided above indicate, the Township has

²⁵ Rutgers University; Division of Housing, June, 1982.

PLATE 2

AVERAGE MONTHLY GROSS AND CONTRACT RENT,

PISCATAWAY & TRI-COUNTY REGION

1980

PLACE	MEAN GROSS RENT ^a (Renter-Occupied)	MEAN CONTRACT RENT (Renter-Occupied)
Piscataway Township	\$314	\$285
Middlesex County	\$308	\$265
* Somerset County	\$340	\$289
Union County	\$289	\$244

* TRI- COUNTY REGION	\$312	\$266

^a Gross rent is equal to the sum of the contract rent and utility costs.

source: U.S. Census, 1980.

provided for a variety of housing construction in the past seven years and in terms of rental variables, is consistent with the Tri-County Region established in this study. It should be noted that in an effort to further provide for low and moderate income housing, Piscataway has obtained federal subsidies for the rehabilitation of rental units housing low and moderate income families, and furthermore, participates in the Middlesex County Section 8 Program for funding rental housing of low income families with rent subsidies through the county-wide Housing and Community Development Committee.

PLATE 3

22

NUMBER OF RENTER-OCCUPIED HOUSING UNITS BY GROSS RENT AS PERCENTAGE OF INCOME

1979

PLACE	TOTAL RENTER-OCCUPIED UNITS (#)	HOUSING UNITS; 25% or more of annual income for rent (#) (%)		HOUSING UNITS; 30% or more of annual income for rent* (#) (%)	
PISCATAWAY TWP.	4,177	1,608	38.5	1,306	31.3
TRI-COUNTY REGION (includes Middlesex, Somerset and Union)	150,564	63,825	42.4	51,701	34.3

* Interpolated

source: U.S. Census, 1980.

P L A T E 4GENERAL HOUSING CHARACTERISTICS,1970 and 1980PISCATAWAY TOWNSHIP

<u>CHARACTERISTIC</u>	<u>1970</u>	<u>1980</u>
Total Housing Units	10,449	12,683
Vacant/ Seasonal	2	0
Total Year Round Housing Units	10,447	12,683
Total Occupied	10,269	12,299
Owner-Occupied	6,513	8,122
(%)	(63.4)	(66.0)
Renter-Occupied	3,756	4,177
(%)	(36.6)	(34.0)
Total Vacant (year round)	178	384
For Sale Only	34	61
For Rent Only	42	119
For Sale/Rent	76	180
Total Available	76	180
Other	102	204
Vacancy Rate (%)	(.7)	(1.4)
Sales (%)	(.3)	(.5)
Rentals (%)	(.4)	(.9)

Source: U.S. Census

FAIR SHARE ALLOCATION

Methodology

For the purpose of this report, a Fair Share Plan is defined as a plan which determines where housing, especially low and moderate income units, should be built within a region according to such criteria as placing housing where it will expand housing opportunity, where it is most needed, and where it is most suitable.²⁶

The determination of Piscataway Township's housing region is based on resident journey-to-work trips. The U.S. Census shows the mean travel time to work for Piscataway residents to be 22.8 minutes. For the purpose of providing the most equitable share possible, this number was increased to the U.S. Census journey-to-work trip for Middlesex County which is 24.5 minutes. Assuming that Piscataway is the center of the region, it was possible to determine the regional boundaries by calculating at the speed of 55 mph on major highways and 45 mph on arterial roadways for a 24.5 minute period of travel time. Using the regional network of roadways and previously mentioned calculations, a three county region was established including Somerset, Union and Middlesex Counties (See Appendix A). According to the 1980 census data, this Tri-County Region included a labor force of 670,989 and a total population of 1,303,116 persons. The established region consists of 67 municipalities.

Once the region has been established, it is then possible to determine the prospective regional housing demand. Traditional fair share allocation studies for future housing need and distribution have relied on such factors as residential land availability, percentage of land zoned for industrial and commercial use, existing socio-economic composition, population and employment projections and weighted

²⁶ Listokin, David, Fair Share Housing Allocation,
CUPR, 1976 p.1

averaging of all the above factors. In the recent State Supreme Court decision regarding Mount Laurel II, Judge Wilentz writing for the court, states in the section addressing the calculation of fair share that "Formulas that accord substantial weight to employment opportunities in the municipality, especially new employment accompanied by substantial ratables, shall be favored;...". It is felt that the employment projection techniques used in this methodology incorporate all of the above variables since the employment projection methodology is itself based upon these same variables. It is important to note that weighting of the above factors varies according to the specific type of employment projection methodology.

The methodology to be utilized includes an analysis of the Townships prospective low and moderate income housing need for the year 1990. The total regional new housing need is based upon employment projections for 1990 as provided by Michael R. Greenberg and Connie O. Michaelson.²⁷ Greenberg provides three separate models for projecting future employment. The first and second models as provided by Greenberg utilize a 'Constant Share' model and a 'Shift Component' model, respectively. The third model provided by Greenberg is entitled the "OBERS" model. As stated by Greenberg:

"The OBERS model modifies the assumption of the constant share model via the shift component. This component measures the difference between the proportional growth accounted for by the constant share term and the attained level of economic activity. In other words, an area is assumed to grow faster or slower than the rest of its region with respect to the industry in question because of differences in the area's relative attractiveness to economic activity."²⁸

²⁷ Greenberg, Michael R., and Michaelson, Connie O., New Jersey Toward the Year 2000: Employment Projections; C.U.P.R., New Brunswick, N.J.: 1978.

²⁸ IBID., p. 27.

The methodology contained in this report utilizes the 'OBERS' model to project total prospective housing need for the region to 1990. An outline of the methodology used for calculating Piscataway's Fair Share of low and moderate income housing need for this total regional housing need is provided as follows: ²⁹

1. Determine the Housing Allocation region by analyzing where people who live in the municipality work.
2. Calculate total housing units for the region for the year 1990.
 - A. Determine future jobs for the region. (1990)
 - B. Determine total number of households resulting from projected jobs.
3. Calculate total new housing need for region to 1990. (Projected 1990 households minus existing 1980 households).
4. Calculate local fair share of regional new housing need by comparing percentage of 1980 local employment vs. total regional employment. (Assumed to remain constant to 1990)
5. Calculate percentage of families in the region with an annual income below that needed to purchase average valued single family home in the municipality.
 - A. Determine average value of single family home in municipality. (U.S. Census)

²⁹ The Methodology shown for calculating Fair Share is based upon a suggested methodology by Carl Lindbloom and Harvey Moskowitz, in After Mount Laurel: The New Suburban Zoning. Edited by Jerome G. Rose and Robert E. Rothman, CUPR, New Brunswick, N.J.: 1977.

- B. Determine minimum family income necessary to purchase single family dwelling.
6. Determine prospective low and moderate income housing need for the municipality by multiplying the percentage derived in Step 5 to the local fair share of the total regional housing need derived in Step 4.

The calculations for the fair share methodology described above are provided in Appendix 'B' of this report. As shown, this methodology allocates Piscataway's fair share of the regional low and moderate income housing need to be between 715 and 949 units. In conclusion, it should again be noted that this is an employment based projection for prospective housing demand. The following section will address the present low and moderate income housing need for Piscataway Township.

Piscataway Township: Existing Low and Moderate Income Housing Needs

The Township of Piscataway contains 3,474 multi-family dwelling units located within garden apartment complexes, 2,136 units of group quarter housing for Rutgers University students, 350 married student housing units for Rutgers University students, and 120 townhouses and duplexes located within a Planned Residential Development,³⁰ with more presently under construction. In the trial court decision in the Urban League suit (Urban league of Greater New Brunswick, et al. v. Carteret, et al. 142 N.J. Super. 11, (Chancery Division, 1976)), Judge Furman recognized the existence of the large number of multi-family rental units within the Township borders by determining that Piscataway had already met its then existing low and moderate income housing need.

³⁰ Township Building Permits, 1983; and Rutgers University, Division of Housing; June, 1982.

As noted previously in this report, Piscataway Township has already taken steps to comply with the Mount Laurel Doctrine. Traditionally, existing housing need incorporates such variables as the number of overcrowded units, dilapidated units, and units lacking plumbing or heating facilities.

According to 1980 census data for Piscataway Township, the following housing statistics identify substandard housing units in Piscataway:

<u>HOUSING UNIT TYPE</u>	<u># UNITS</u>
- Overcrowded (more than 1.00 persons/rooms)	393
- Units lacking complete plumbing facilities	69
- Units lacking heating facilities	15
Sub Total	477
(overlap)*-	4
TOTAL	473

As shown above, 473 housing units, or 3.73 percent of the Township's total housing stock was substandard in 1980. However, in order for a realistic statistical picture to be presented, 'underutilized' units and other variables should be incorporated.

A further review of the 1980 census data on housing reveals that a substantial amount of the Township's total housing stock is currently 'underutilized'. As reported in the 1980 census, the average number of persons per household in Piscataway was 3.04 persons while the average number of rooms per year-round housing unit was 5.9 rooms. This data indicates that nearly one-half of the Township's housing stock is currently underutilized (less than one person per room). Furthermore, as noted in the Urban League challenge against Piscataway Township, Superior Court Judge Furman recognized that Piscataway Township had already provided for its fair share of the then existing low and moderate

* Units lacking complete plumbing facilities and exhibiting overcrowded conditions.

income housing need in the region (Middlesex County) and that Piscataway already has a disproportionately high percentage of renter-occupied housing units. Currently, 4,177 housing units, or approximately 34 percent of the Township's total housing stock is renter-occupied. For these reasons noted above, and the Township response to providing for its fair share of the regional low and moderate income housing need as noted in the previous section of this report (See Municipal Response), Piscataway Township's existing low and moderate income housing need is determined to be zero.

IMPLEMENTATION

The fair share housing allocation described in this report relies on a number of assumptions. These include reliance upon existing trends carrying into the future such as household size as it relates to employment, percentage of employment within the municipality remaining constant in relation to employment in the region, and the percentages of family income distribution remaining constant.

Planning projections for such variables as employment, population, household size, family or household income distribution, and the cost of new housing construction and resale values are based upon reasonable forecasts of the future when compared to previous trends. A housing allocation methodology must necessarily depend upon forecasting as well. The analysis presented in this study allocates a housing need in Piscataway Township of between 715 and 949 low and moderate income dwelling units to the year 1990.

As noted previously, Piscataway Township has taken steps to provide for low and moderate income housing, such as the provision for Planned Residential Developments (PRD) with density bonuses and multi-family garden apartments. It should be noted that moderate income housing has been and is presently being constructed within the PRD area located on Suttons Lane. This is noteworthy since the density bonus provision was not utilized. In fact, moderate income townhouses are being constructed in this development and are available at a market sale price of approximately (62,000) dollars.

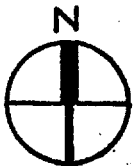
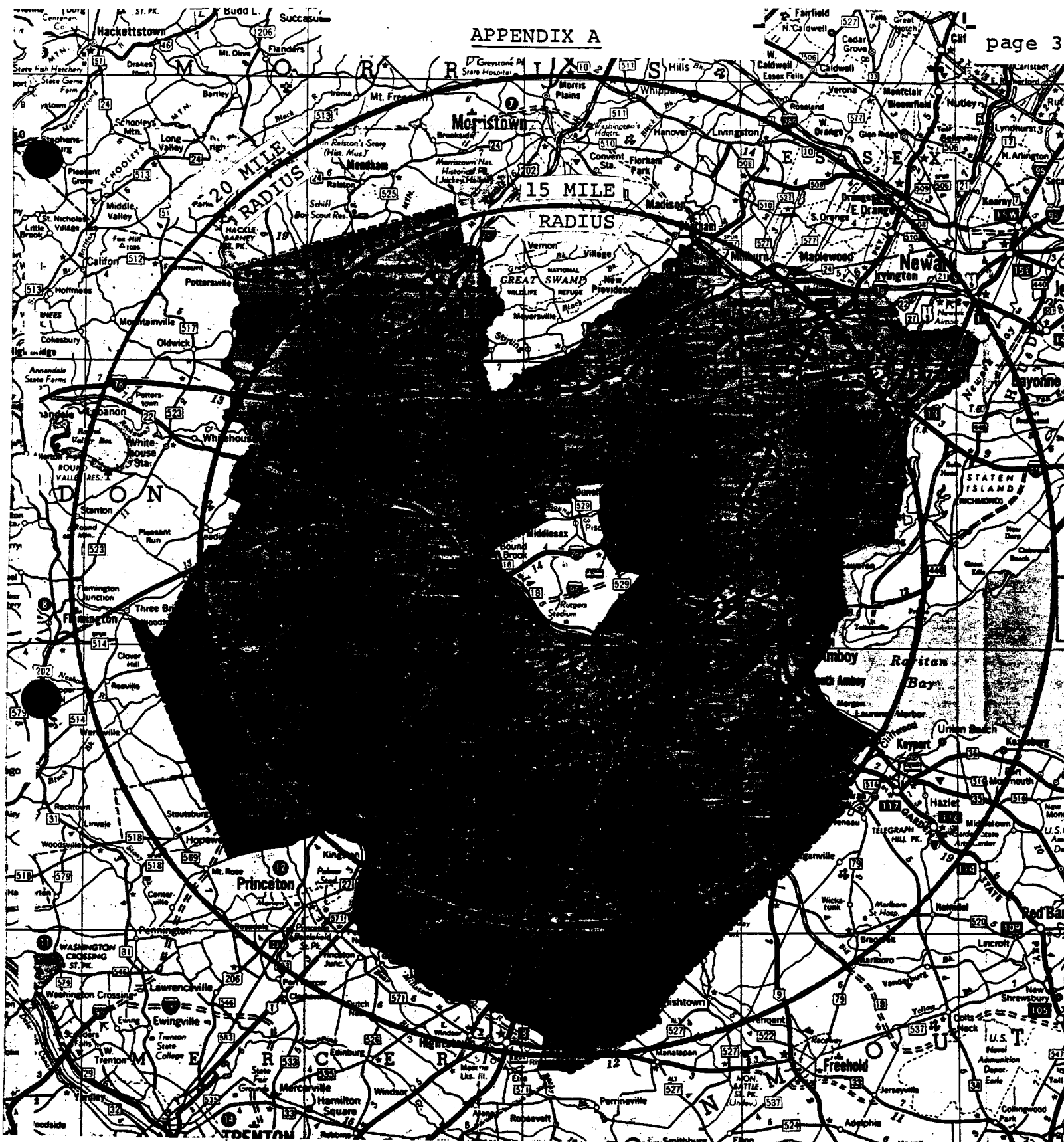
The advantages of attached and clustered housing are numerous from various perspectives including energy, environmental and economic. It is therefore recommended that the Land Use Plan be further revised to allow for additional area to be

designated as Planned Residential Development at a density of between six and eight units per acre. Approximately 145 developable acres are presently zoned for this type of land use. A total of 275 developable acres would provide for the construction of 1,650 moderate income units with a density bonus provision enabling the construction of an additional 550 units under certain conditions. The density bonus should be granted only for the provision of low income households which will provide for over one-half of the total low and moderate municipal projected need.

In summary it is recommended that the land use plan be revised to incorporate a minimum of an additional 130 acres within the PRD designation with mandatory set-asides for low income households if density bonus provisions are utilized.

APPENDIX

- A) TRI-COUNTY HOUSING ALLOCATION REGION
(MIDDLESEX, SOMERSET AND UNION)
- B) FAIR SHARE METHODOLOGY CALCULATIONS
- C) STATE DEVELOPMENT GUIDE PLAN CONCEPT
MAP - MIDDLESEX COUNTY
- D) STATE DEVELOPMENT GUIDE PLAN CONCEPT MAP
SOMERSET COUNTY
- E) STATE DEVELOPMENT GUIDE PLAN CONCEPT
MAP - UNION COUNTY



TRI-COUNTY
HOUSING ALLOCATION REGION
(Middlesex, Somerset & Union)

scale: 1" = 5.2 miles

APPENDIX B

- STEP 1 - Determine the housing allocation region by analyzing where people who live in the municipality work.

The region has been established as a Tri-County area including Middlesex, Somerset and Union Counties. The region is based upon journey to work data for Middlesex County residents according to 1980 U.S. Census (See Appendix A).

- STEP 2 - Calculate total housing units for the region for the year 1990.
- A) Determine future jobs for the region (1990).
- B) Determine number of households resulting from new jobs.

- A) Future jobs for the region.*

Union - 261,800

Middlesex - 341,100

Somerset - 97,200

700,100 - Total Projected Employment, 1990

- B) Total number of households resulting from new jobs.

Regional 1980 Jobs**

Union - 242,073

Middlesex - 290,566

Somerset - 102,313

Regional - 634,952
Jobs

Regional 1980 Households**

Union - 167,808

Middlesex - 196,969

Somerset - 67,383

432,160 Regional
Households

$432,160 \text{ Households} \div 634,952 \text{ Jobs}$
=.68 Households Per Job Ratio.

* Source: Greenberg, Michael R., and Connie O. Michaelson. New Jersey Towards the Year 2000: Employment Projections. New Brunswick, New Jersey: The Center for Urban Policy Research, 1974.

** Source: 1980 U.S. Census.

- STEP 2 - B) Total number of households resulting from new jobs.
(Continued)

Total Number of Households 1990:

(Total Projected Employment) X (Household/Jobs Ratio)

700,100 X .68 = 476,068 Total Households 1990

- STEP 3 - Calculate total new housing need for the region to 1990.

(Projected 1990 households) - (Existing 1980 households)

476,068 - 432,160 = 43,908 Total Regional
New Housing 1990

- STEP 4 - Calculate local fair share of Regional new housing need by
comparing percentage of 1980 local employment vs. total
regional employment. (Assumed to remain constant to 1990)

Regional Private Sector Covered Employment 1980*

Union - 229,614

Middlesex - 236,560

Somerset - 79,324

545,498

Municipal Private Sector Covered Employment 1980*

Piscataway - 23,942

(Private Sector Local Covered Employment) 23,942 = .0438

(Private Sector Regional Covered Employment) 545,498

Local Percentage of Regional Employment, 1980 equals .0438
or 4.4%

Local fair share of total regional new housing need to 1990:

$\left(\begin{array}{l} \text{Total Regional new} \\ \text{housing need to 1990} \end{array} \right) \times \left(\begin{array}{l} \text{Local percentage} \\ \text{of Regional employment} \end{array} \right)$

43,908 X 4.4% = 1,932 Total Units

* Source: N.J. Covered Employment Trends 1980.

N.J. Dept. of Labor - Division of Planning & Research
Nov. 1981.

STEP 5 - Calculate percentage of families in the region with an annual income below that needed to purchase median valued single family home in the municipality.

- A) Determine median value of single family home in municipality.
- B) Determine minimum family income necessary to purchase single family house.

A) Average value single family home.*

\$64,200.00

B) Minimum family income necessary to purchase median value single family home. For purposes of providing a more realistic range of projecting low and moderate income housing need to 1990, this methodology will provide two separate projections based upon the following criteria:

- Affordable housing equals 2½ times annual family income.
- Affordable housing equals 3 times annual family income.

* * * * *

2½ to 1

Annual income necessary to afford medium value priced house. (\$64,200) using 2½ to 1 guideline.

$$\frac{\$64,200}{2\frac{1}{2}} = \$25,680$$

3 to 1

Annual income necessary to afford medium value priced house. (\$64,200) using 3 to 1 guidelines.

$$\frac{\$64,200}{3} = \$21,400$$

* Source: U.S. Census STF-1 1980. (Specified owneroccupied - noncondominium housing unit value.)

STEP 5 -

Calculate percentage of families in the region with an annual income below that needed to purchase average valued single family home in the municipality. (Continued)

Percentage of families in region unable to afford median value home (income level \$25,680 or less).

Number of families with*
income under \$25,680
Number of families within region =

$$\frac{169,525}{345,297} = .49095$$

.49095 or 49.1% of Regional families unable to afford average value home, utilizing $2\frac{1}{2}$ to 1 ratio for affordable housing.

* Source: Based on 1980 Census

Percentage of families in region unable to afford median value home (income level \$21,400 or less).

Number of families with income*
under \$21,400
Number of families within region =

$$\frac{127,852}{345,297} = .3702$$

.3702 or 37.0% of Regional families unable to afford average value home, utilizing 3 to 1 ratio for affordable housing.

* Source: Based on 1980 Census.

STEP 6 -

Determine prospective low and moderate income housing need for the municipality by multiplying the percentage derived in Step 5 to the local fair share of the total Regional housing need derived in Step 4.

$2\frac{1}{2}$ to 1
(Local new housing need,
1990 (Step 4))

X

[Percentage of Regional families unable to afford average value single family home. (Step 5)]

3 to 1
(Local new housing need, 1990
(Step 4))

X

[Percentage of Regional families unable to afford average value single family home. (Step 5)]

STEP 6 - Determine prospective low and moderate income housing need for the municipality by multiplying the percentage derived in Step 5 to the local fair share of the total Regional housing need derived in Step 4. (Continued)

$1,932 \times .49095$
= 948.5 units

Local fair share of Regional
low and moderate income
housing need equals;

949 units

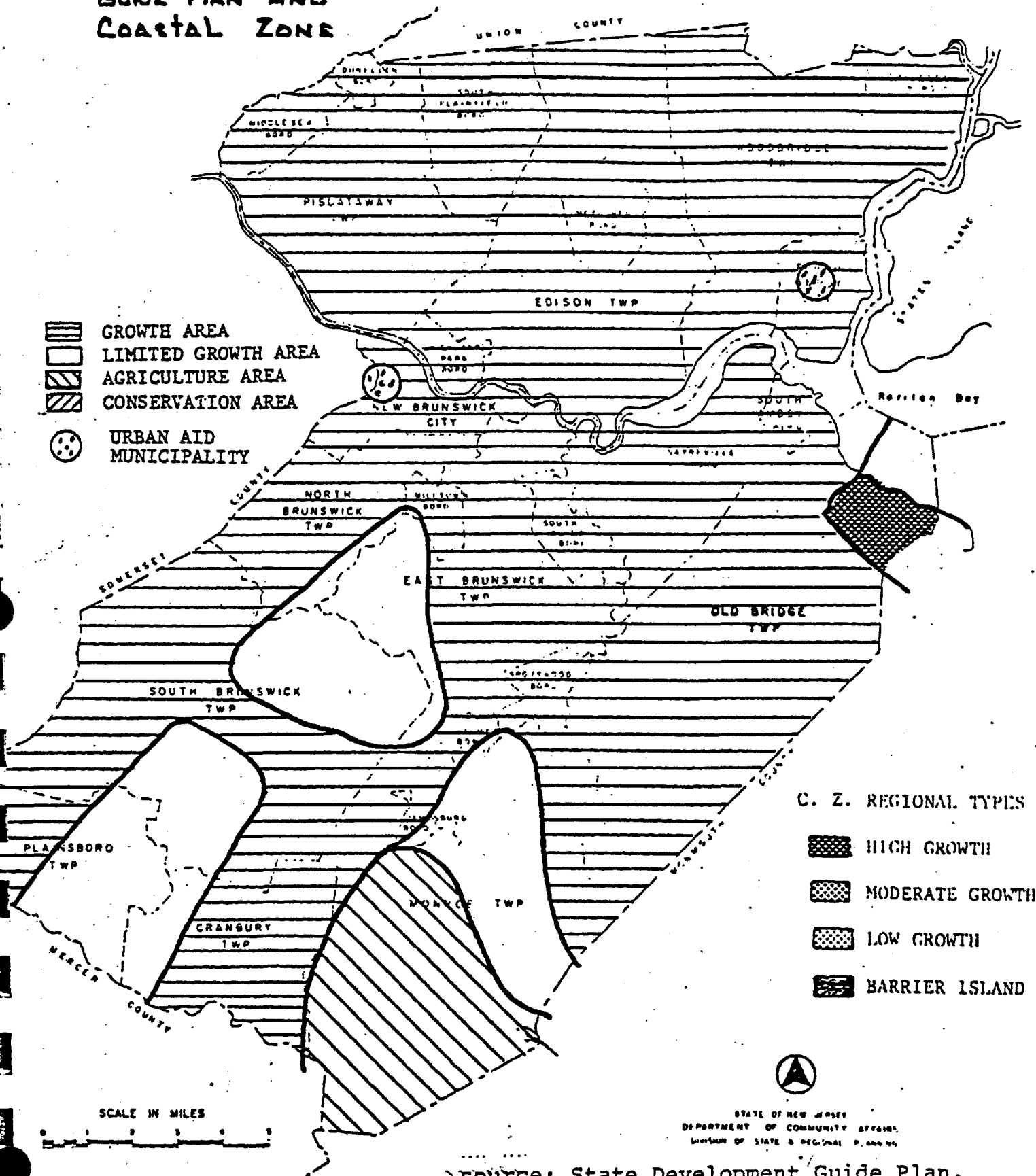
$1,932 \times .3702$
= 715.2 units

Local fair share of Regional low
and moderate income housing need
equals;

715 units

MIDDLESEX COUNTY

STATE DEVELOPMENT GUIDE PLAN AND COASTAL ZONE



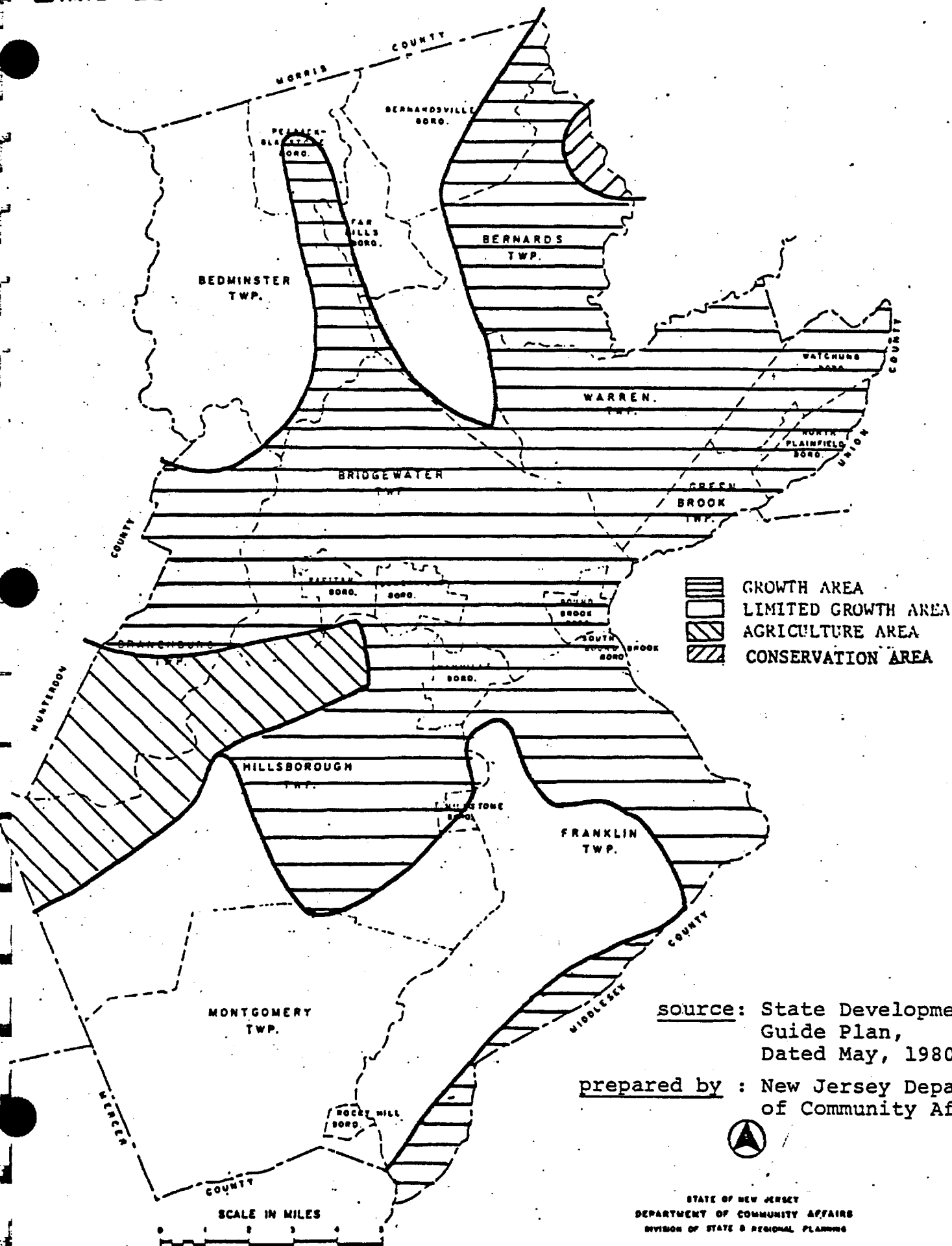
source: State Development Guide Plan,
Dated May, 1980; Prepared by
New Jersey Dept. of Community Affairs

SOMERSET COUNTY

APPENDIX D

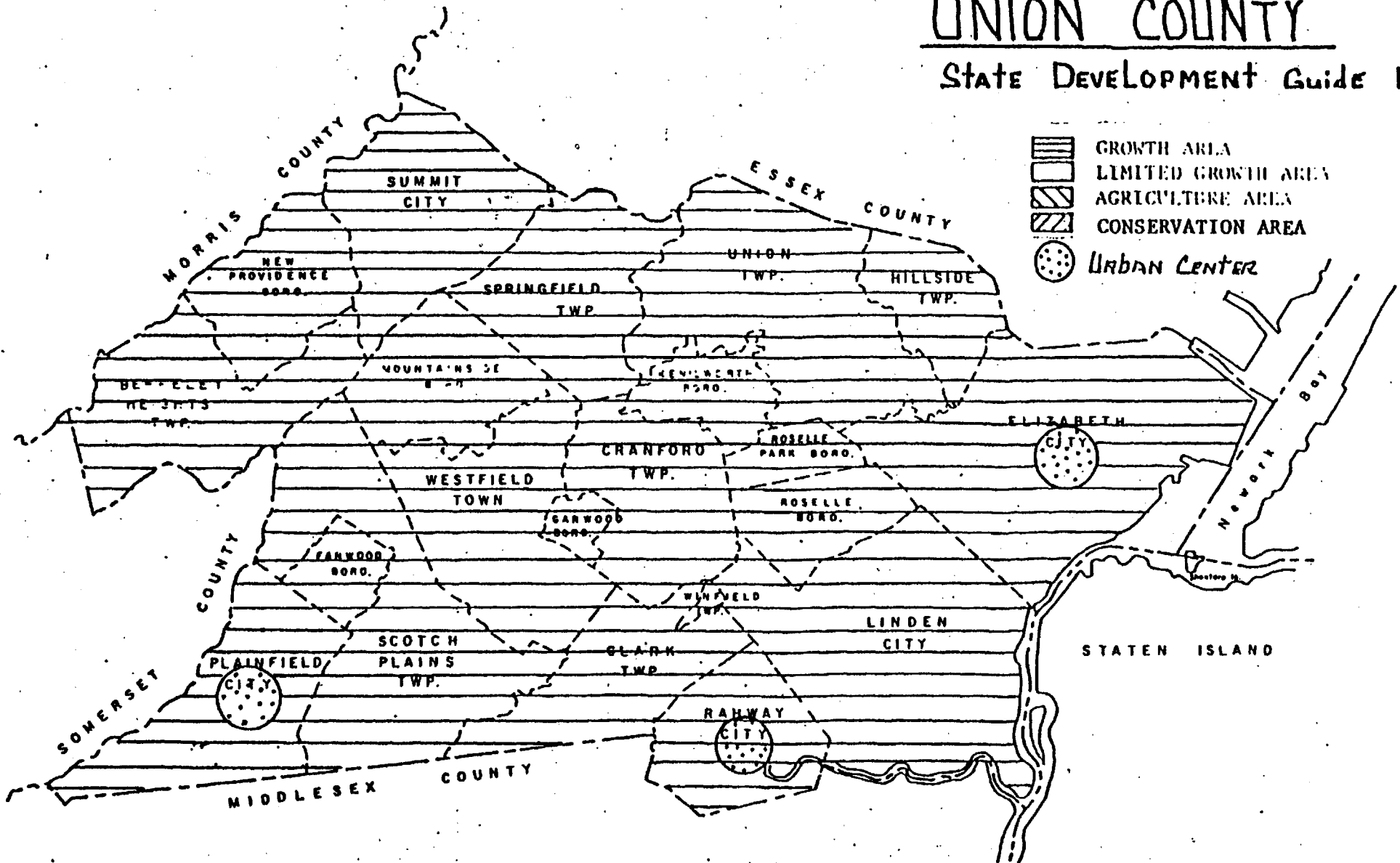
State Development Guide Plan

40



UNION COUNTY

State Development Guide Plan



source: State Development Guide Plan,
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SCALE IN MILES



STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF STATE & REGIONAL PLANNING

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Carteret (Defendants - Respondents). Sat Below: Furman,
J.S.C., on the Brief: Thomas Norman, Esquire.

Brief on behalf of the Defendant-Respondent, Township of
Piscataway. Urban League of Greater New Brunswick
(Plaintiffs) vs. The Mayor and Council of the Borough of
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JJ.A.D., on the Brief: Daniel S. Bernstein.

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Decided January 20, 1983.