

South Plainfield

(1984)

Analysis of the Fair Share Housing
Obligations of South Plainfield
as related to the zoning application
of Elder Lodge, Inc.

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An Analysis of the
FAIR SHARE HOUSING OBLIGATIONS
of the
BOROUGH OF SOUTH PLAINFIELD
Middlesex County, New Jersey

as related to the
zoning application of

ELDERLODGE, INCORPORATED

prepared by
ROBERT STRONG AND ASSOCIATES
13 North Union Street
Lambertville, New Jersey 08530

Original signed and sealed by
Robert G. Strong
New Jersey Professional Planner
License No. 400
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INTRODUCTION

This report has been prepared pursuant to an order of Honorable Eugene D. Serpentelli, Judge of the Superior Court, dated December 23, 1983 in the matter of Elderlodge, Incorporated vs. South Plainfield Board of Adjustment, by its Majority Members, etc., et als., Docket No. L-56349-81.

This Order, in part, reads as follows.

The Court on its motion, and without objection from any of the parties, either plaintiff or defendants, in this matter, does O R D E R that the above entitled matter be remanded to the Board of Adjustment of the Borough of South Plainfield in order to amplify and supplement the record pursuant to the principles and rules applicable under Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983) (Mount Laurel II). The Board of Adjustment of the Borough of South Plainfield shall conduct all hearings and render its decision in this matter within ninety (90) days from the date said hearings shall be commenced.

The New Jersey Supreme Court decision cited in Judge Serpentelli's order was handed down on January 23, 1983 and is commonly known as the "Mount Laurel II" decision.

This opinion of the Supreme Court establishes the constitutional obligation of every municipality in the State to provide opportunities for affordable housing for all income groups.

The Court further distinguishes between the nature of this obligation in "growth areas" and "non-growth areas" of the State, as delineated in the "State Development Guide Plan," prepared by the Division of State and Regional Planning, dated May, 1980. This document identifies such areas throughout the State on a graphic series of maps along with areas designated "conservation" and agricultural" and reflects the plans prepared by the independent State agencies regulating development in the "Pinelands area" and "coastal areas" of the State.

With respect to the utilization of the State Development Plan Guide (SDGP) for this purpose, the Supreme Court had the following commentary:

The use of the SDGP for this purpose is consistent with the statute authorizing its preparation and with its actual use by the Legislature, counties, municipalities, the Federal government and the Division of State and Regional Planning within the Department of Community Affairs. The administrators who carried out the legislative require-

ment to prepare such a plan "...for the future improvement and development of the State," N.J.S.A. 13:1B-15.52a.(2), interpreted the statute to require a plan that would guide and influence the location of future development, including residential development. Channeling the development impetus of the Mount Laurel doctrine into "growth areas" is precisely the kind of use of the plan that was intended by those who prepared it. (slip opinion p. 46)

and in the following:

This legislatively mandated use of the SDGP is found in the Municipal Land Use Law, L. 1975, c. 291, N.J.S.A. 40:55D-1 to -92, in which the Legislature explicitly recognized the importance of regional planning and the need to integrate each municipality's development with the development of the state as a whole. Among the purposes of the Act are the following: "to encourage municipal action to guide the appropriate use or development of all lands in this State," to ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole, "to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions...", "to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens," and "to promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land." N.J.S.A. 40:55D-2.

Among the many devices found in the law to achieve these purposes is the municipal master plan. That plan, which must relate to the SDGP, is to "guide the use of lands within the municipality." Thus, it is essentially a plan to help determine, control, and provide locations for the municipality's future growth. N.J.S.A. 40:55D-28(a). Among other things, master plans require "(a) land use plan element... 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... including a statement of the standards of population density and development intensity recommended for the municipality." N.J.S.A. 45:55D-28b(2). (slip opinion p. 49 - 50)

The Court did acknowledge and authorize certain exceptions to the use of the SDGP as an absolute determinate of Mount Laurel II obligations as follows:

.... we have decided not to make the SDGP the absolute determinant of the locus of the Mount Laurel obligation. Our reluctance to give it conclusive effect is based on the fact that while it has the legitimacy of legislative authorization, the Legislature has neither explicitly authorized its use for Mount Laurel purposes nor mandated that the actual use of land, as permitted in zoning ordinances, conform to the SDGP. Given these circumstances, we deem it prudent to allow parties to attempt to persuade the trial court, in a particular case, that the SDGP should not determine whether the Mount Laurel doctrine applies to the particular municipality involved in the case. While we believe important policy considerations are involved in our decision not to make the SDGP conclusive, we think it even more important to point out that it will be the unusual case that concludes the locus of the Mount Laurel obligation is different from that found in the SDGP. Subject to those cases, we hold that henceforth, only those municipalities containing "growth areas" as shown on the concept map of the SDGP (or any official revision thereof) shall be subject to the Mount Laurel prospective need obligation.

Any party in Mount Laurel litigation seeking a ruling that varies the locus of the Mount Laurel obligation from the SDGP growth areas will have to prove one of the following: (1) accepting the premises of the SDGP, the conclusion that the municipality includes any growth area, or as much growth area as is shown on the concept map, is arbitrary and capricious, or, alternately, the conclusion that the municipality does not contain any growth area whatsoever is arbitrary and capricious; (2) since the preparation of the concept map (or any revision thereof) the municipality has undergone a significant transformation that renders the SDGP's characterization of it inappropriate, admitting that at the time of the preparation of the SDGP and the concept map (or any revision thereof) the classification of the municipality was correct; or (3) (and this exception shall apply only if the concept map is not revised before January 1, 1985) subsequent to the date of this decision the municipality, containing no "growth area," encourages or allows commercial, residential or industrial development or, if it contains some "growth area," encourages or allows development outside of that area.

The foregoing exceptions will allow a party to have the court impose a Mount Laurel obligation on a municipality that has no growth area as shown on the concept map, or to impose a greater Mount Laurel

obligation by, in effect, proving that the growth area should be enlarged, or, conversely, to relieve a municipality from any Mount Laurel obligation even though the concept map shows it as including a "growth area," or to diminish the obligation by proving that the "growth area" shown on the concept map should be cut down. (slip opinion p. 65 - 67)

With respect to future revisions of the SDGP, the Court said:

In order for it to remain a viable remedial standard, we believe that the SDGP should be revised no later than January 1, 1985 (and, in the absence of proof of a more appropriate period, every three years thereafter). If it is not, then courts shall have considerable discretion to vary the locus of the Mount Laurel obligation from that shown on the present SDGP concept map. For instance, after the date of this decision, a municipality containing no growth area allows the construction of a significant industrial use creating significant employment opportunities, that would be sufficient to justify a court in imposing a Mount Laurel remedy on that municipality as if a portion of it had been characterized as "growth area"; the same conclusion would follow if such a municipality, after the date of this decision, encourages or allows the construction of a residential subdivision, or if, though unsuccessful, it attempts to attract development of either kind or of a commercial nature. Such relative ease of variance from the SDGP shall cease, however, when the SDGP is thereafter brought up to date by a future revision. (Slip opinion p. 70 - 71)

The Supreme Court went on to discuss the means by which each municipalities obligation under "Mount Laurel II" would be defined. It dismissed the prior doctrine of "bona fide efforts" by municipalities and established an objective criteria to determine if a municipality has in fact provided a realistic opportunity for...its fair share of low and moderate income housing". To this determination it stated the following:

Further, whether the opportunity is "realistic" will depend on whether there is in fact a likelihood--to the extent economic conditions allow--that the lower income housing will actually be constructed. Plaintiff's case will ordinarily include proof of the municipality's fair share of the regional needs and defendant's proof of its satisfaction. Good or bad faith, at least on this issue, will be irrelevant. The numberless approach encouraged in Madison, where neither plaintiffs nor defendants are required to prove a fair share number, is no longer acceptable. (Slip opinion p. 36 - 38)

It will be one of the objectives of this report to present evidence and testimony at the "fair share obligation of South Plainfield for low and moderate income housing...in terms of the specific number of units.

In subsequent trial court hearings and related activities, Judge Serpentelli has reviewed testimony from numerous planning experts, particularly in the Urban League of New Brunswick v. Borough of Carteret matter. In this litigation, a "consensus report" representing the collective opinion of a group of expert planners representing both plaintiffs and defendants was prepared which established a method of fair share allocation for any municipality in the State.

Subsequently, Judge Serpentelli heard the matter of AMG Realty, et als v. Township of Warren (Docket No. L23277-80 PW) and Timber Properties v. Township of Warren (Docket No. L-67820-80 PW), starting on March 15, 1984. In this trial, Judge Serpentelli was able to test the methods of the "consensus report" in the Urban League case. In Judge Serpentelli's opinion in the consolidated Warren Township cases, handed down July 16, 1984, he states the following:

The three remaining planners in the Warren matter had participated in the Urban League advisory group. When the trial in the Warren case recommenced, plaintiff's planners modified their original approach and espoused the methodology developed in the Urban League case. More specifically, Timber Properties' expert completely embraced the Urban League plan and AMG Realty's expert did so with one minor reservation. Defendants (hereinafter referred to collectively as defendant) used two experts who accepted some of the fundamental assumptions of the Urban League blueprint, but disagreed with others. Therefore, the court was able to test, in a truly adversarial setting, the value of the accord reached in Urban League. In fact, the case was tried as a test of that approach since defendant sought to modify it, rather than setting forth a separate analysis of its own. (slip opinion, p. 9)

In this opinion, Judge Serpentelli, described in precise detail an analytical method for determining a municipality's "fair share obligation." In doing so, he feels that subsequent litigation will be simplified and expedited. In this regard, Judge Serpentelli had the following comments.

The Mount Laurel II Court determined that to eliminate exclusionary zoning, voluntary compliance with the constitutional obligation must be encouraged, litigation to enforce the obligation must be simplified and judicial remedies must be made more effective. (at 214) The development of a reasonable fair share methodology is, perhaps, the most important step in fulfilling these three purposes. First, the fair share methodology adopted in this opinion will promote voluntary compliance because each municipality now has the ability to calculate its fair share and thereafter design its land use regulations to satisfy its responsibility. Second, the methodology will simplify litigation because the fair share number can be identified with ease,

thereby limiting the remaining issues primarily to compliance and builder's remedy. Third, the methodology promotes the effectiveness of the judicial remedies which consist of three aspects: the grant of a builder's remedy, the appointment of a master, and the court imposed rezoning if the municipality fails in its effort to create a compliant ordinance. (slip opinion, p. 10 - 11)

This report will therefore direct its immediate attention to the presentation of an analysis of the "fair share obligations" of the Borough of South Plainfield in complete accordance with the methodology outlined by Judge Serpentelli in the Warren Township opinion.

At the same time, the writer of this report was not involved as a professional planner in either the Warren Township case nor the Urban League case, and consequently, I am not committed in any way to agreement or acceptance of this methodology. As a Professional Planner, I have a number of disagreements with certain assumptions and methodologies. Some of these do not result in a significant difference in the ultimate conclusion as to South Plainfield's obligation, others may have a more significant bearing, either to increase or decrease the initial result.

This report will therefore initially present an analysis of the South Plainfield obligation as specifically outlined by Judge Serpentelli. Subsequently, I will cite those portions of this analysis with which I do not fully agree, setting forth where practical, the adjustments in the numbers applicable to South Plainfield. Finally, the other remaining questions relative to the application of Elderlodge, Inc. will be discussed.

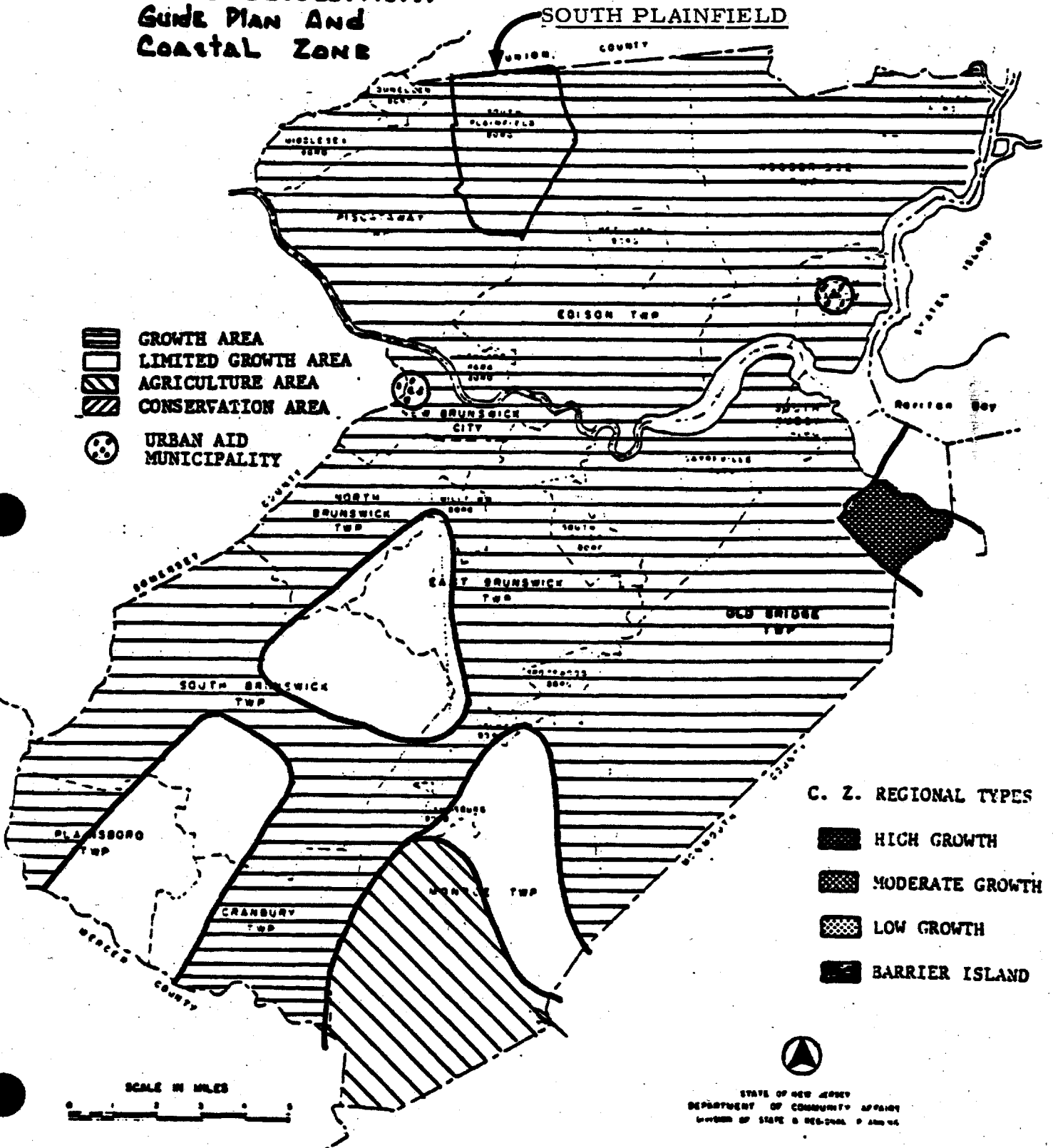
APPLICATION OF THE WARREN TOWNSHIP FAIR SHARE METHODOLOGY TO SOUTH PLAINFIELD

Initially, it should be established (if there is any doubt) that South Plainfield is included as a "growth area" municipality pursuant to the SDGP. Exhibit I provides a copy of the Middlesex County map included in the SDGP which reflects that South Plainfield, along with virtually the entire County is so designated. Only portions of East Brunswick, South Brunswick, Monroe, Plainsboro and Cranbury are depicted as "limited growth" and a portion of Monroe as "agricultural." None of these areas sufficiently encompass the municipality as to exclude it from a "fair share obligation".

A municipality's obligation is composed of two components: present need and prospective need, each of which is compiled individually. "Present Need consists of the indigenous need of a municipality and its fair share of the re-allocated excess need of the municipality's present need region." (slip opinion, p. 14)

EXHIBIT I

MIDDLESEX COUNTY
State Development
Guide Plan And
Coastal Zone



"Prospective Need refers to household formation expected to occur between 1980 and 1990." (slip opinion, p. 16)

Present Housing Need

As noted above, the present housing need of South Plainfield consists of two components:

- (1) The Borough's own present indigenous need as determined by existing substandard housing (as of the 1980 Census).
- (2) The Borough's fair share of a reallocated present need derived from the need of other municipalities within its region which have an amount of substandard housing in excess of the regional average.

Initially, substandard housing is defined as follows:

A housing unit will be considered to fall into the indigenous need category if it has any one of the following characteristics:

1. Overcrowded units - defined as dwelling units occupied by more than 1.01 persons per room.
2. Units lacking complete plumbing facilities for the exclusive use of the occupants.
3. Units lacking adequate heating.

(slip opinion, p. 15)

These units, without significant overlapping statistics can be identified from various 1980 Census documents pertinent to South Plainfield, particularly the STF-1 and STF-3 municipal tabulations.

The Warren Township Opinion provides a tabulation of these units for every municipality in New Jersey in its Appendix "C". For convenience of the reader of this report, the applicable statistics for South Plainfield are provided in Exhibit II.

This shows a total of 183 such substandard units in South Plainfield as of the 1980 Census. This must be reduced by the estimated portion of this total which are occupied by low and moderate income households. This allocation, based upon a 1978 study of the Tri-State Regional Planning Commission, is deemed to be 82 percent.

EXHIBIT II

INDIGENOUS HOUSING NEEDS (1980 CENSUS)

Borough of South Plainfield
Fair Share Housing Analysis

Overcrowded Units (1.01 persons or more per room)	114
Units lacking complete plumbing less units also overcrowded	24 <u>(2)</u>
total	22
Units lacking central heat, with complete plumbing, not overcrowded	153
Units with room heaters with flue	116
Total units without central heat	167
Percent units without central heat with inadequate heat	30.54
Net units lacking adequate heat, not overcrowded, with complete plumbing (.3054 x 153)	47 <hr/>
Total Indigenous Need	183
Assumed to be low and moderate income households (82 percent)	150

Consequently, the present indigenous housing need of South Plainfield is deemed to be 150 units. This amounts to 2.41 percent of the total (1980) occupied housing units in the Borough.

With respect to the reallocation of present housing needs of other municipalities, the Court has determined that a fixed region encompassing the 11 northerly counties in New Jersey shall be the appropriate region for all municipalities included therein. This Region is depicted on Exhibit III.

The total of defined substandard housing units in this region is 104,038 (adjusted to Mount Laurel households), 6.4 percent of the total housing in the region. Therefore, under the suggested methodology, any municipality with more than 6.4 percent of its occupied housing units classified as substandard will have the excess reallocated to other municipalities in the region no so encumbered. The total of such excess units to be reallocated in the region is 35,014. The objective of this reallocation is to reduce the percentage of substandard housing units in any municipality to the regional average of 6.4 percent.

Reallocation of these units is to be among the remaining municipalities in the region which are included in growth areas, but also excluding those municipalities in the region which are designated "urban aid municipalities" for the 1984 - 85 funding year, if they have one of the following characteristics .

1. The municipal substandard housing percentage exceeds the regional substandard housing percentage; or
2. The population density of the municipality exceeds 10,000 people per square mile; or
3. The population density of the municipality falls between 6,000 and 10,000 people per square mile, and the "Revised Statewide Housing Allocation Report for New Jersey", dated May, 1978 assigns a value of zero to the municipality's vacant developable land.

(slip opinion, p. 20)

Exhibit IV lists the municipalities in the 11 county region which are excluded from, by one of the definitions described above, or included in the subsequent computations to reallocate present need.

Allocation of the excess present need of 35,014 units is accomplished by application of a formula which utilizes three factors about each municipality. Namely:

EXHIBIT III

PRESENT HOUSING NEED REGIONS

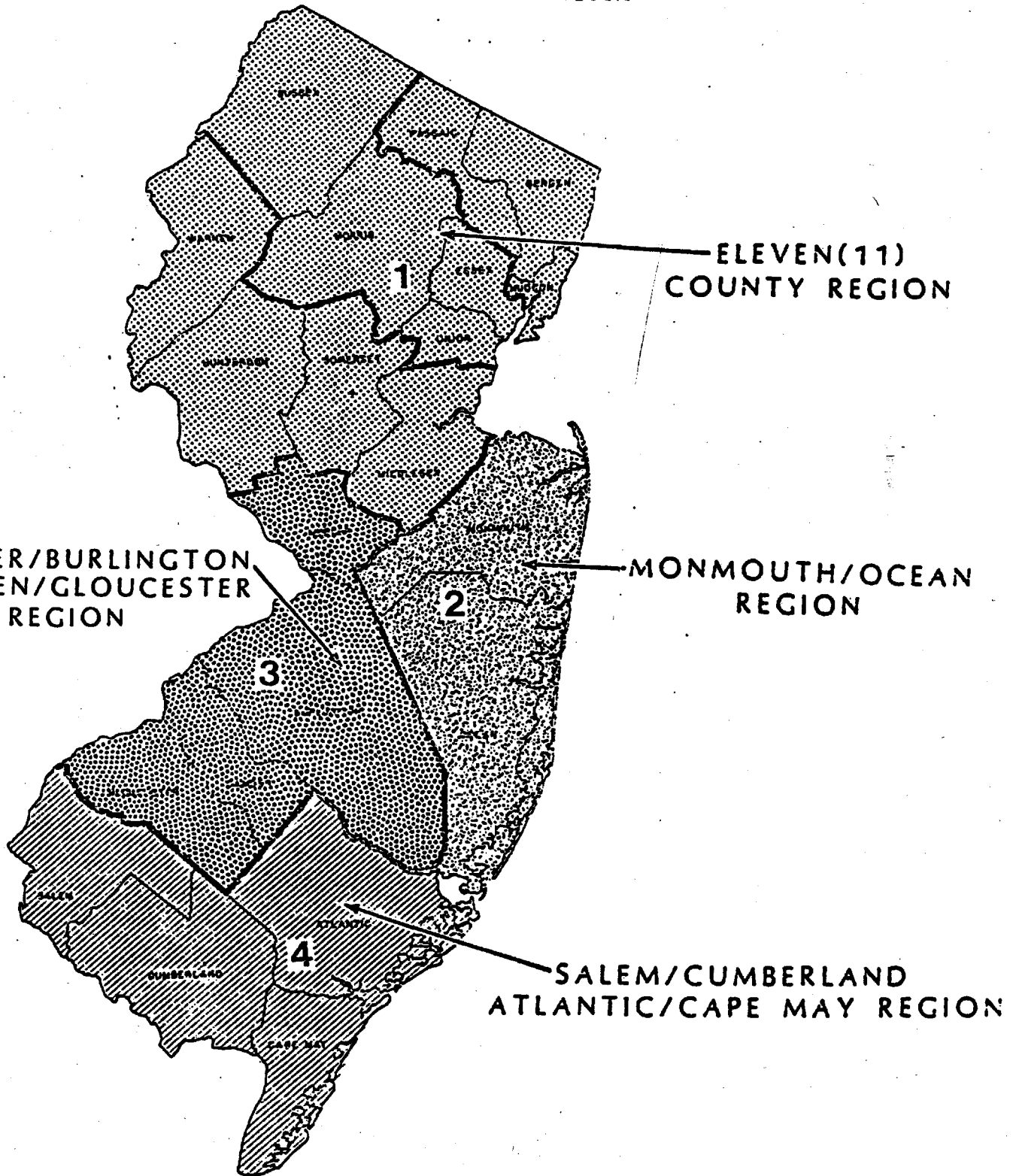


EXHIBIT IV

**MUNICIPAL CLASSIFICATIONS IN ELEVEN COUNTY REGION
FOR REALLOCATION OF EXCESS PRESENT HOUSING NEED**

<u>County</u>	<u>Included</u>	<u>Excluded</u>	
	<u>Growth Municipalities</u>	<u>Limited Growth Municipalities</u>	<u>Urban Aid Municipalities</u>
<u>Bergen</u>	all others	Carlstadt (pt) East Rutherford(pt) Lyndhurst (pt) Mahwah (pt) North Arlington(pt) Oakland (pt) Rutherford (pt)	Garfield Lodi
<u>Essex</u>	Caldwell Cedar Grove Essex Fells GlenRidge Livingston Maplewood Millburn North Caldwell Nutley South Orange Verona West Orange	Fairfield (pt) Roseland (pt) West Caldwell (pt)	Belleville Bloomfield East Orange Irvington Montclair Newark Orange
<u>Hudson</u>	East Newark Guttenberg Harrison Kearny	Secaucus (pt)	Bayonne Hoboken Jersey City North Bergen Union City Weehawken West New York
<u>Hunterdon</u>	Clinton Clinton Twp. Flemington High Bridge Lebanon Raritan (pt) Readington (pt)	all others	none

EXHIBIT IV
(continued)

**MUNICIPAL CLASSIFICATIONS IN ELEVEN COUNTY REGION
FOR REALLOCATION OF EXCESS PRESENT HOUSING NEED**

<u>County</u>	<u>Included</u>	<u>Excluded</u>	
	<u>Growth Municipalities</u>	<u>Limited Growth Municipalities</u>	<u>Urban Aid Municipalities</u>
<u>Middlesex</u>	all others	Cranbury (pt) East Brunswick(pt) Monroe (pt) Plainsboro (pt) South Brunswick(pt)	New Brunswick Perth Amboy
<u>Morris</u>	Boonton Town Butler Chatham Boro Denville Dover Florham Park Hanover Madison Mine Hill Morris Plains Morristown Mountain Lakes Netcong Riverdale Rockaway Boro Victory Gardens Wharton	Boonton Twp. (pt) Chatham Twp. (pt) Chester Boro Chester Twp. East Hanover (pt) Harding (pt) Jefferson Kinnelon (pt) Lincoln Park (pt) Mendham Boro Mendham Twp. Montville (pt) Morris (pt) Mount Arlington (pt) Mount Olive (pt) Parsippany Troy Hills (pt) Passaic Pequannock (pt) Randolph (pt) Rockaway (pt) Washington	none
<u>Passaic</u>	all others	Bloomingtondale (pt) Ringwood Wanaque (pt) West Milford	Passaic Paterson

EXHIBIT IV

(continued)

MUNICIPAL CLASSIFICATIONS IN ELEVEN COUNTY REGION
FOR REALLOCATION OF EXCESS PRESENT HOUSING NEED

<u>County</u>	<u>Included</u>	<u>Excluded</u>	
	<u>Growth Municipalities</u>	<u>Limited Growth Municipalities</u>	<u>Urban Aid Municipalities</u>
<u>Somerset</u>	Bound Brood Bridgewater Green Brook Manville North Plainfield Raritan Somerville South Bound Brook Warren Watchung	Bedminster (pt) Bernards (pt) Bernardsville (pt) Branchburg (pt) Far Hills (pt) Franklin (pt) Hillsborough (pt) Millstone (pt) Montgomery Peapack-Gladstone (pt) Rocky Hill	none
<u>Sussex</u>	Andover Twp. Fredon Twp. Hampton Twp. Newton Boro	all others	none
<u>Union</u>	all others	none	Elizabeth Hillside Plainfield
<u>Warren</u>	Alpha Greenwich (pt) Hackettstown Harmony Lopatcong (pt) Phillipsburg Pohatcong (pt) Washington Boro Washington Twp. (pt)	all others	none

1. Growth Area (GA). The percentage of the total growth area of all municipalities in the region included in the municipality in question.
2. Present Employment (PE). The percentage of the total employment in the growth area municipalities represented by employment in the subject municipality. For this purpose, the local employment data produced by the N. J. Department of Labor, Division of Employment Security relative to unemployment compensation programs shall be utilized.
3. Median Income (MI). The ratio of municipal median income to the composite median income of all of the growth area municipalities.

Application of these factors to a municipality is accomplished by means of a weighted formula in which the median income ratio is adjusted to a percentage by application of the average of the first two percentages. The formula can be expressed as follows:

$$\frac{GA + PE + MI \left(\frac{GA + PE}{2} \right)}{3} = \text{Allocation Percentage}$$

The application of these factors to South Plainfield is as follows:

Growth Area. The entirety of South Plainfield's 5,248 acres is included as growth area in the SDGP. The 11 county region includes 703,029 acres. This is derived from statistics included in the SDGP, reproduced here as Exhibit V. The total for the 11 county region must be decreased by 79,513 acres included in the Urban Aid Municipalities. Consequently, South Plainfield's share of the regional growth area is 0.747 percent.

Present Employment. As of the September 1982 tabulation period, South Plainfield provided 14,605 jobs. The total in the 11 county region (excluding non-growth and urban aid municipalities) was 1,298,605. It should be noted that 1983 data is now available, but the Warren Opinion does not give any direction to the utilization of more current data in the formula. In fact, it appears that the 1983 data was available to, but not utilized in the Warren Opinion. For informational purposes, the comparable 1983 statistics are 14,919 and 1,238,028, respectively, a percentage of 1.205. For 1982, the applicable percentage is 1.125.

EXHIBIT V

**GROWTH AREAS
CURRENT LAND CLASSIFICATIONS
(in acres)**

<u>County</u>	<u>Total Land Area</u>	<u>Developed Lands</u>	<u>Public Lands</u>	<u>Potable Watersheds</u>	<u>Wetlands</u>	<u>Slopes</u>	<u>Open Developable Land</u>
Atlantic	29,235	14,035	198	377	672	0	13,953
Bergen	135,699	106,768	7,502	3,221	6,408	2,330	9,470
Burlington	103,041	33,888	2,071	0	3,572	1,638	61,872
Camden	84,917	51,878	3,232	0	550	1,088	28,169
Cape May							
Cumberland	46,749	12,371	858	576	1,484	0	31,460
Essex	77,469	61,359	5,910	3,458	1,941	2,560	2,241
Gloucester	77,447	25,888	1,248	0	13,408	1,824	35,079
Hudson	27,661	20,161	2,214	0	4,128	448	710
Hunterdon	26,759	3,046	852	13	0	1,376	21,472
Mercer	105,086	26,347	8,306	107	1,022	593	68,711
Middlesex	154,110	67,258	5,431	1,715	10,752	5,523	63,431
Monmouth	156,624	70,643	6,726	0	5,919	1,959	71,377
Morris	116,769	36,402	4,285	2,230	4,116	12,429	57,307
Ocean	116,187	32,650	1,357	0	9,387	192	72,601
Passaic	48,280	29,477	3,362	608	704	8,375	5,754
Salem	19,072	5,830	2,400	0	2,662	0	8,180
Somerset	100,455	28,831	2,153	427	307	6,335	62,402
Sussex	6,418	928	0	0	307	1,619	3,564
Union	65,875	55,373	4,858	339	1,683	1,996	1,626
Warren	23,047	4,762	234	0	0	2,585	15,466
: State	1,520,900	687,895	63,197	13,071	69,022	52,870	634,845

Median Income. Median income (for 1979) pursuant to the 1980 Census, in South Plainfield was \$25,384. The regional median income must be calculated as follows: the median income for each county is multiplied by the number of households in that County, producing an aggregate total. Similar computations are made for each non-growth and urban aid municipality, the total of which is deducted from the County figure. These totals are aggregated for the 11 counties and this total divided by the applicable household total. These calculations produce a regional median income of \$24,079. The resultant ratio applicable to South Plainfield is 1.054.

Application of these factors to the formula previously described results in the following computation:

$$\frac{0.747 + 1.125 + 1.054 \left(\frac{0.747 + 1.125}{2} \right)}{3} = 0.953 \text{ percent}$$

Consequently, South Plainfield's fair share of the reallocation units is 334 units. This total is permitted to be allocated in one-third increments, each to be provided in a period of six years, making the current obligation 111 units.

Further adjustment must be made to this total by the addition of 20 percent to allow for those municipalities which because of inadequate vacant land or other justifiable reasons, are unable to provide their respective fair share. This increases South Plainfield's obligation to 133 units.

Finally, an allowance for needed vacancies must be added, at three percent of the last total, making the final total applicable to South Plainfield, 137 units.

These computations are summarized in Exhibit VI.

Prospective Housing Need

Computation of prospective housing need obligations involves definition of a different region from the eleven county fixed region defined for present need.

In this case, the Warren Township Opinion establishes that a "commutershed" based upon a thirty minute driving time from the functional center of the subject municipality. Consequently, the prospective need region will differ for every municipality in the State and individual computations must be made.

In determining the "functional center" of a municipality, the Court established a three-tiered definition, as follows:

EXHIBIT VI

REGIONAL (11 COUNTY) PRESENT NEED ALLOCATION

Borough of South Plainfield
Fair Share Housing Analysis

Growth Area

South Plainfield	5,248 acres		
Region	703,029 acres	=	0.747 percent

Present Employment (1982)

South Plainfield	14,605 persons		
Region	1,298,605 persons	=	1.125 percent

Median Income Ratio (1979)

South Plainfield	\$ 25,384		
Region	\$ 24,079		
Ratio =	1.054		

Percentage = 1.054 $\left(\frac{0.747 + 1.125}{2} \right) = 0.987$ percent

Weighted Average Percentage = 0.953 percent

Applicable South Plainfield Fair Share

35,014 total regional units x 0.953	=	334 units
One-third initial phase allocation	=	111 units
Additional allocation (+ 20%)	=	133 units
Vacancy allowance (+ 3%)	=	137 units

1. The recognized commercial-residential core of the community (downtown area); or in the absence of this;
2. the municipal building, or in the absence of one;
3. The major cross-roads within the municipality.

The thirty minute driving time is to be measured utilizing the following average speeds on available roads:

1. 30 m. p. h. on local and county roads.
2. 40 m. p. h. on state and federal highways.
3. 50 m. p. h. on interstate highways, the Garden State Parkway and New Jersey Turnpike.

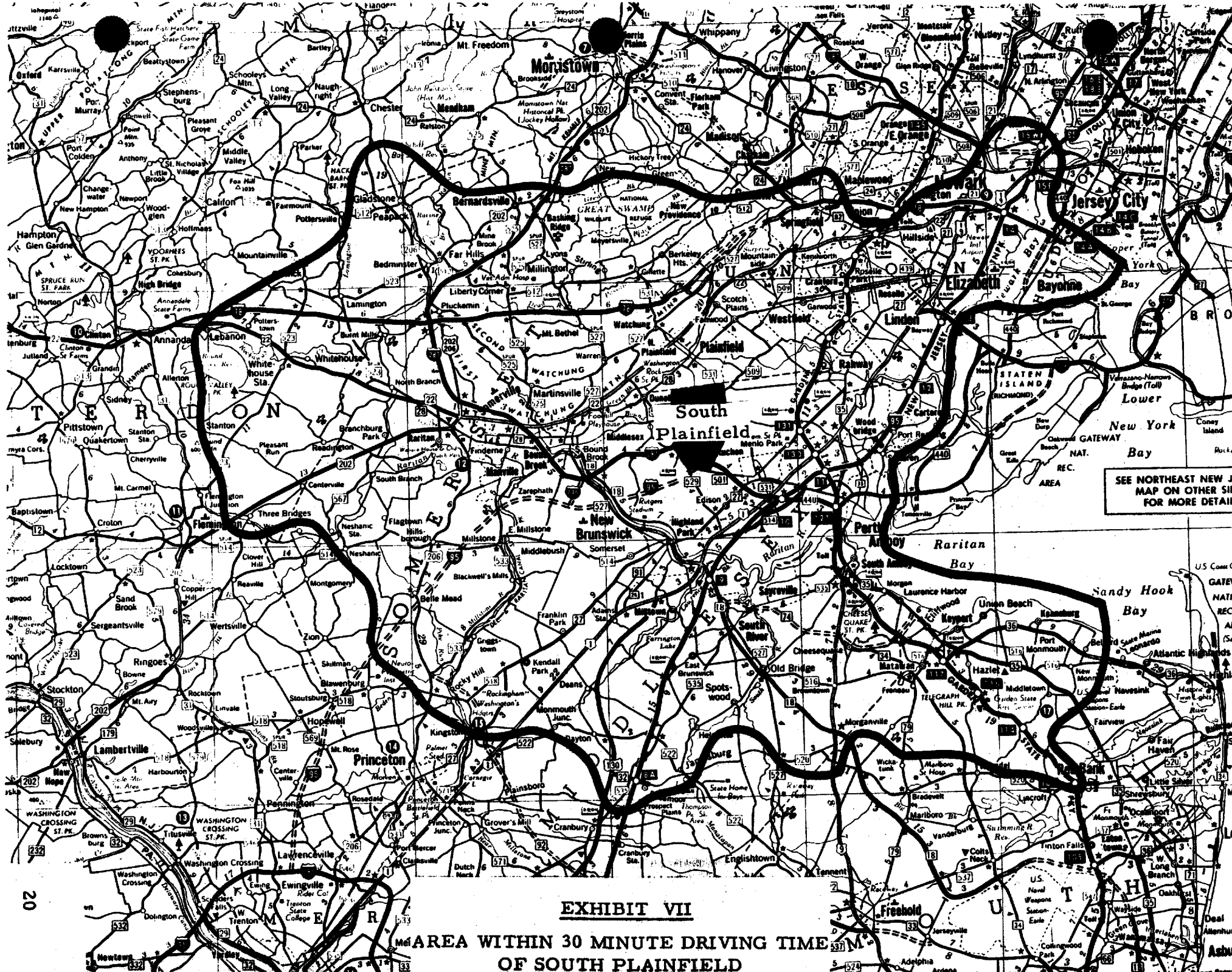
Additionally, if the thirty minute driving time enters any portion of a county, the entire county is to be included in the "commutershed".

The analysis prepared for this report deviates from this methodology in one respect. The measurement of the thirty minute was started at the municipal boundary of South Plainfield on each applicable roadway, rather than at the functional center of the municipality, presumably in the case of South Plainfield, at the municipal building.

While this difference will obviously extend the thirty minute driving area, the subsequent addition of entire counties eliminates any real difference between the two methods. In other words, each county included by this method is sufficiently penetrated to also have been included in the slightly tighter area which would have resulted if the municipal building had been the starting point.

Exhibit VII depicts, on a road map, the extent of the computed thirty minute driving time. Exhibit VIII illustrates the municipalities and the 8 counties included in the "commutershed" to be utilized to compute prospective housing need obligations. This includes Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Somerset and Union Counties.

Required Housing Units. The computation of the needed housing units for this region is to be based upon the new households expected to be formed between 1980 and 1990. This projection is to be based upon the average of two population projection models prepared by the New Jersey Department of Labor, Office of Demographic and Economic Analysis. One is the ODEA Economic/Demographic Model 1 and the other is the ODEA Demographic Model 2. Both provide projections of population for each county by age

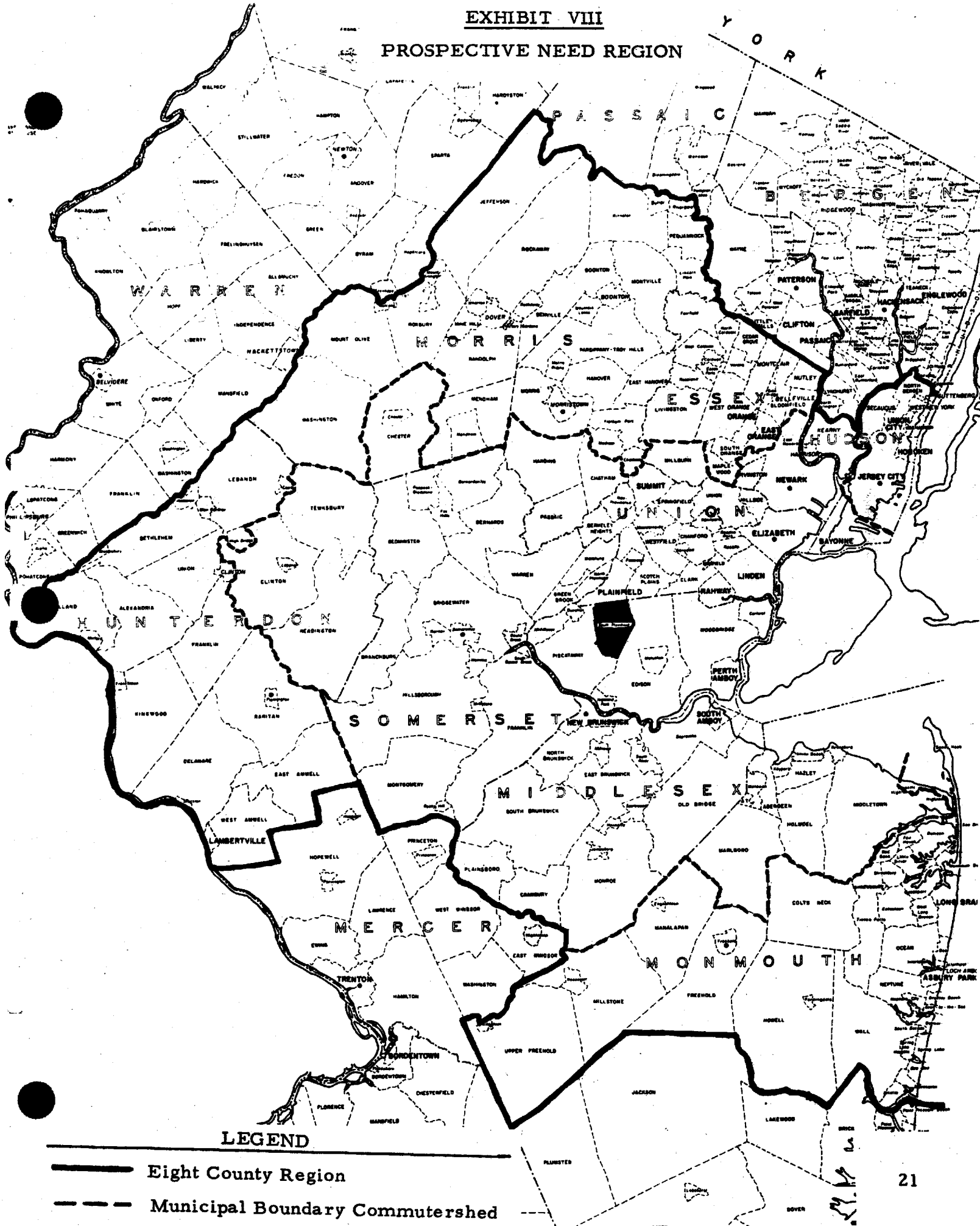


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EXHIBIT VII

**AREA WITHIN 30 MINUTE DRIVING TIME
OF SOUTH PLAINFIELD**

EXHIBIT VIII
PROSPECTIVE NEED REGION



LEGEND

-  Eight County Region
-  Municipal Boundary Commutershed

groups (cohorts). The average of these two estimates is then converted into households through the application of "headship rates" or the percentage of the persons on each age group which can be expected to be "heads of households". The headship rates to be utilized are those developed by the Center for Urban Policy Research of Rutgers University in its report "Mount Laurel II, Challenge and Delivery of Low-Cost Housing".

The Warren Township Opinion in its Appendix F further simplifies this process by providing the necessary computations which produce the estimates of projected household formation. Tabulation of these projections for the eight counties included in the Prospective Need Region total 155,578 new households. This tabulation is detailed in Exhibit IX.

One additional calculation is needed to reduce the total number of households tabulated to those expected to be of low and moderate income households. This factor, set forth in the Mount Laurel II Opinion is 39.4 percent. Application of this percentage to the total anticipation of new households in the Region yields a projected total of 61,298 new low and moderate income households, and hence, housing units.

Allocation of this regional need for prospective low and moderate income housing to the regions municipalities is accomplished by a similar formula to that utilized for present need allocation.

The allocation is among the growth area municipalities in the region, excluding urban and municipalities, in accordance with a formula which relates four factors in the subject municipality to the total factor for the region. The factors are as follows:

Growth Area (GA). Computed in the same manner as for present need except that the eight county region is the base.

Present Employment (PE). Computed in the same manner as for present need except that the eight county region is the base.

Employment Growth (EG). The percentage relationship between the average annual covered employment growth in the municipality and that of the eight county region between 1972 and 1982. In making this calculation, employment in urban aid and non-growth municipalities is excluded as is any employment in municipalities which experienced a decline in employment during the 1972 - 1982 period. In addition, the computation of the annual average should be based upon a linear regression analysis of trend lines rather than a simple arithmetic average.

Median Income (MI). Computed in the same manner as for present need except that the eight county region is the base.

EXHIBIT IX

PROJECTED REGIONAL HOUSING NEEDS
BY COUNTY, 1990

<u>County</u>	<u>1980 Households</u>	<u>Projected 1990 Households</u>	<u>Difference</u>
Essex	300,303	287,009	(13,294)
Hudson	207,857	194,964	(12,893)
Hunterdon	28,515	37,857	9,342
Middlesex	196,708	245,989	49,281
Monmouth	170,130	214,573	44,443
Morris	131,820	171,692	39,872
Somerset	67,368	89,681	22,313
Union	177,973	194,487	16,514
Totals	<u>1,280,674</u>	<u>1,436,252</u>	<u>155,578</u>

Application of these factors to a municipality is accomplished by means of a weighted formula similar to that described for present need, which can be expressed as follows:

$$\frac{GA + PE + EG + MI}{4} \left(\frac{GA + PE + EG}{3} \right) = \text{Allocation Percent}$$

The application of this formula to South Plainfield is as follows:

Growth Area. South Plainfield's acreage remains 5,248 acres. The growth area included in the eight county region (excluding urban aid municipalities) is 651,599 acres. South Plainfield therefor provides 0.805 percent of the regional growth area.

Present Employment. South Plainfield's employment is 14,605 persons in 1982. The eight county region (excluding urban aid and non-growth municipalities) is 894,332. South Plainfield provides 1.633 percent of this total.

Employment Growth. The average annual increase in employment in South Plainfield from 1972 to 1982 was 712 jobs. The comparable average for the region was 28,732 jobs. South Plainfield provided 2.478 percent of this average growth.

Median Income. South Plainfield's median income is \$25,384. The calculated median income for the eight county region is \$23,911. The ratio is 1.062.

Application of these factors to the formula previously described results in the following:

$$\frac{0.805 + 1.633 + 2.478 + 1.062}{4} \left(\frac{0.805 + 1.633 + 2.478}{3} \right) = 1.664 \text{ percent}$$

Consequently, South Plainfield's fair share of the prospective regional housing need of 61,298 units is 1,020 units. This total is again adjusted upward by 20 percent to allow for unfulfilled obligations and by an additional 3 percent to allow for normal vacancies. This produces a total obligation for 1,261 units of the regional prospective need.

Addition of this to the present need of 287 units creates a total "fair share utilization" for 1,548 units.

These computations are summarized in Exhibit X.

EXHIBIT X

REGIONAL (8 COUNTY) PROSPECTIVE NEED ALLOCATION

Borough of South Plainfield
Fair Share Housing Analysis

Growth Area

South Plainfield	5,248 acres	=	
Region	651,599 acres	=	0.805 percent

Present Employment (1982)

South Plainfield	14,605 persons	=	
Region	894,332 persons	=	1.633 percent

Employment Growth (1972 - 1982 Average)

South Plainfield	712 persons	=	
Region	28,732 persons	=	2.478 percent

Median Income (1979)

South Plainfield	\$ 25,384
Region	\$ 23,911
Ratio =	1.062

Percentage = $\frac{0.805 + 1.633 + 2.478}{3}$ = 1.740 percent

Weighted Average Percentage

1.664 percent

Applicable South Plainfield Fair Share

61,298 total regional units x 1.664 %	=	1,020 units
Additional allocation (+ 20%)	=	1,224 units
Vacancy allowance (=3%)	=	1,261 units

ALTERNATE METHODOLOGIES

The preceding portion of this report described an analysis of the "Fair Share Housing Obligations" of the Borough of South Plainfield in accordance with the methodology prescribed in the Warren Township Opinion of Judge Serpentelli.

As I suggested previously, despite the fact that I am aware that this method was the result of the input of numerous professional planners in the course of discussions and testimony concerning several matters in litigation, there are a number of aspects of the methodology which I cannot concur with as a professional.

As a consequence, this portion of the report will briefly describe these differences and at the same time, where practical, indicate the adjustment which would be made in the prior analysis relative to South Plainfield.

Region

The prescribed method of two distinctly different regions to deal with present need and prospective need seems contradictory.

In Judge Serpentelli's opinion he cites (slip opinion, p. 29) the opinion of Judge Pashman in the Mount Laurel I Opinion relative to the considerations relevant to a regional determination as follows:

Justice Pashman cited the following relevant considerations which must be evaluated in fashioning regions:

1. the area included in the interdependent residential housing market;
2. the area encompassed by significant patterns of commutation;
3. the area served by major public services and facilities, and
4. the area in which the housing problem can be solved.

(Mount Laurel I at 215 n. 16)

The utilization of a large fixed region essentially ignores the first three considerations and may significantly overstate the fourth. For example, is it valid to solve some of the housing problems of Bergen and Hudson Counties in Warren, Sussex and Hunterdon Counties. I think not. Nor, do I think it will, in fact, occur.

I believe that commutation patterns are the primary determinant factor. They, in fact, strongly influence housing markets which in turn influence the areas served by public facilities and services.

In South Plainfield, for example, 68 percent of the employed residents commute less than 30 minutes and 86 percent less than 45 minutes. The mean travel time to work is 22.8 minutes. The 1980 Census also reported that over 76 percent of Middlesex County's employed residents worked in Essex, Middlesex, Somerset and Union Counties. Less than one percent worked in Bergen County. Similarly, less than one percent of Bergen's employed residents worked in Middlesex.

As a consequence, I believe that identical regions, based upon a reasonable commuting time, should be utilized for both present and prospective housing need.

A second aspect of the regional delineation is the inclusion of an entire county even though the calculated thirty minute driving time extends to only a small portion of the county. This appears to be primarily the product of convenience in handling subsequent statistical analysis on a county-wide basis rather than a municipal basis. At the same time, it can significantly distort the analysis by bringing into the statistical computation areas far beyond a reasonable commuting distance for employment.

In the instant case of South Plainfield, the thirty minute driving area extends into Morris County only in the extreme southern communities: Chester, Harding and Chatham. Yet, areas as far north as Jefferson and Rockaway, perhaps an additional 20 to 30 minutes away, are included. Similarly, in Hunterdon County, areas such as Frenchtown and Lambertville are included even though the driving time would be in the vicinity of one hour.

Consequently, I believe that the regional delineation should be limited to entire municipalities which are penetrated by a thirty minute drive line.

Present Housing Need

The definition of present housing need is limited to a computation of existing units which are deemed inadequate by virtue of the deficiencies described

previously. It does not attempt to measure the degree to which the cost of the present housing stock, in terms of rental costs or mortgage costs, compares to the quantities of low and moderate income households. In other words, the relationship between the availability of lower cost housing and lower income households.

Measurement of this shortfall would require an entire new area of computation which is beyond the scope intended in this portion of the report. Consequently, it will be dismissed with nothing more than the exception noted. However, analysis of Census statistics for South Plainfield alone indicate that a total of 2,053 households qualify as low and moderate income and only 966 housing units have cost factors deemed affordable by these households-- indicating a shortfall of 1,087 units of affordable housing in the Borough. This contrasts sharply with the 150 units measured as present need under the "inadequate" standard.

Present Employment and Employment Growth

The only criticism of the current employment factor is the date at which it is based--1982. All of the remaining analysis is aimed at the year 1980, i. e. Present need is that existing in 1980; prospective need is that projected from 1980 to 1990.

In this context, it would seem more logical to base the employment analysis on the 1980 employment total, and the employment growth analysis on the 1980 - 1990 projected increase, based upon a 1972 - 1980 trend line analysis.

Additionally, in the projection of employment growth, the deletion of municipalities which experienced a net loss of employment during the decade produces a misleading measure of true employment growth. First of all, many of the losses which are shown by the data are not true losses, but the result of the inaccurate reporting of municipalities existing in the early 1970's. Most, if not all, of this inaccuracy has now been corrected but the resulting re-distribution gives the appearance of employment losses in some municipalities.

More important, the prospective need for new housing is directly related to total available employment, not just positive increases. If one segment of a region gains 1,000 jobs and another segment loses 1,000 jobs, there is no increase in the housing demand generated by the regional employment.

Consequently, I believe that the employment growth factor should be related to the net employment increase in the region.

Median Income

The utilization of this factor represents perhaps the most significant deficiency in the methodology. Initially, a median income is a statistical index of the point at which an equal number of households in the group have smaller incomes and larger incomes. It cannot, within the bounds of proper statistical procedure, be further manipulated by multiplication or any other factoring.

Consequently, the use of County Median Incomes, multiplied by households to produce an aggregate income total is improper. Any such aggregation must utilize the mean or average household income which is derived by dividing the aggregate income of the area by its household total.

The manipulation suggested in the Warren Township methodology does not produce a regional median income. This can only be derived by reverting to the original census data and constructing a hierarchy of household incomes from top to bottom for the entire region, to identify the mid-point household.

In addition, the subsequent calculation of a ratio of municipal median income to regional median income is not a valid measure of the wealth of an area and its ability to sustain development of lower income housing. This is because there is no factor introduced to account for the number of households in the municipality relative to the total in the region.

Consequently, I believe mean household income should be the factor utilized to produce an economic factor in the equation. This should be converted to an aggregate household income for the municipality and related to the aggregate regional household income. This would produce a percentage factor which would eliminate the suggested manipulation of the median ratio to produce a percentage.

Application to South Plainfield Fair Share Obligation

The modifications which the suggested methodology would have on a calculation of the Fair Share Obligation of South Plainfield are briefly outlined in the following sections.

One last note concerning the determination of Regional present need for the Commutershed Region. The compilation of prospective housing needs provided in the Warren Township Opinion was limited to entire counties. In applying these to the portion of each county included in the Commutershed, a percentage relationship was determined between the growth area within the Commutershed and the growth area in the entire county, in each case excluding the selected urban aid municipalities. This percentage was then applied to the projected 1990 additional "Mount Laurel" households projected for that County.

Present Need (Eight County Commutershed Region)

Growth Area

South Plainfield	5,248 Ac.	
Region	406,905 Ac.	
	=	1.290 percent

Present Employment (1980)

South Plainfield	15,408	
Region	514,123	
	=	2.997 percent

Aggregate Household Income

South Plainfield \$	167,904,800	
Region	\$12,219,847,100	
	=	1.374 percent

Weighted Average Percentage

=	1.887 percent
---	---------------

Applicable Fair Share

Regional Excess Present Need	=	16,346
South Plainfield Share @ 1.887%	=	308
One-third Initial Allocation	=	103
Additional Allocation (+20%)	=	123
Vacancy Allowance (+30%)	=	127

Prospective Need (Eight County Commutershed Region)

<u>Growth Area</u>	=	1.290 percent
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<u>Present Employment</u>	=	2.997 percent
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Employment Growth (1972 - 1980)

South Plainfield	979	
Region	11,882	
	=	8.239 percent

Aggregate Household Income

=	1.374 percent
---	---------------

Weighted Average Percentage

=	3.475 percent
---	---------------

Applicable Fair Share

Regional Prospective Need	=	41,405 units
South Plainfield Fair Share @ 3.475%	=	1,439 units
Additional Allocation (+20%)	=	1,727 units
Vacancy Allowance (+3%)	-	1,779 units

This revised methodology causes a slight decline in the fair share of the present need (137 to 127 units) and a significant increase in the fair share of prospective need (1,261 to 1,779 units). Overall, South Plainfield's Fair Share of Regional Housing Need would increase from 1,548 units to 2,056 units.

For comparison purposes, a third methodology was employed by Carla L. Lerman, Court appointed expert in the Urban League case, and is described in some detail in the so-called "consensus report" prepared for the Court, dated March 23, 1984. The application of this methodology to South Plainfield was presented in Table 19 of that report, which is reproduced here as Exhibit XI.

This method suggests a fair share obligation for South Plainfield composed of 274 units of present need units and 1,436 units of prospective need to 1990, a total of 1,710 units. Thus the three methodologies currently available for South Plainfield provide a range of 1,548 units to 2,056.

THE ELDERLODGE APPLICATION CONSIDERATIONS

The application of Elderlodge, Inc. now before the Board of Adjustment remains in the identical form of proposal which was considered by the Board of Adjustment in the early portion of 1982. Testimony presented at that time by this writer concerning the planning and zoning considerations implicit in the application remain unchanged. This is as presented in a report titled, "An Analysis of Planning and Zoning Considerations Related to Elderlodge," prepared by Robert Strong and Associates, dated February 2, 1982.

There are two conditions in the immediate vicinity which developed in the intervening two years which have a bearing on the peculiar suitability of this site for senior citizen housing.

The first is the rehabilitation of the former vacant supermarket building located between Lakeview Avenue and Hamilton Boulevard has completed and it is now occupied by 8 small retail and service establishments. In addition several new commercial facilities have been established on South Plainfield Avenue. All of these new facilities are within one block of the housing and serve to further enhance its convenience to prospective senior residents.

In addition, the construction of Silver Lake Park is well underway and appears to be nearing completion. This facility, located only two blocks from the site is now a reality and no longer a future benefit as previously described. It will clearly serve the passive recreation needs of the residents of this site to great advantage.

Economic and Social Characteristics of Senior Citizens

Since the original application, data has become available through special tabulations of 1980 Census data providing additional insight into the social and economic characteristics of senior citizen residents in South Plainfield.

EXHIBIT XI

FAIR SHARE HOUSING OBLIGATION ANALYSIS
 CARLA L. LERMAN, P.P., MARCH 23, 1984
 BOROUGH OF SOUTH PLAINFIELD

Table 19

SOUTH PLAINFIELD: Commutershed - Essex, Mercer, Middlesex,
 Monmouth, Morris, Somerset, Union
 New Mt. Laurel Households, 1990 = Prospective Need = 71,706

<u>1982 Municipal Employment</u>	<u>Commutershed Employment, 1982</u>	<u>Percent</u>
14,605	927,581	1.583
<u>Municipal Growth Area</u>	<u>Commutershed Growth Area</u>	<u>Percent</u>
5,248	743,287	0.706
<u>Municipal Employment Growth</u>	<u>Commutershed Employment Growth</u>	<u>Percent</u>
<u>1972-82 (average annual)</u>	<u>1972-82 (average annual)</u>	<u>Percent</u>
712	28,002	2.57

$$\frac{1.583 + 0.706 + 2.57}{3} = 1.62\% \times 71,706 = 1,162$$

$$1,162 \times 1.2 = 1,394 \text{ Prospective Need}$$

$$1,394 \times 1.03 = 1,436 \text{ (includes vacancies)}$$

$$\text{TOTAL PROSPECTIVE NEED} = \underline{1,436}$$

$$\text{TOTAL PRESENT NEED} = \underline{274}$$

(139 indigenous + 131 reallocated excess to 1990
 + 3% vacancies)

$$\text{TOTAL PRESENT AND PROSPECTIVE, 1990} = \underline{1,710}$$

Data was obtained concerning household composition and presence or lack of children in the household. Unfortunately, this could only be segregated for households with the head of household age 45 and over. Despite this deficiency, it still provides some additional insight concerning the senior households in South Plainfield.

This data is as follows.

Married Couple Families	
with children	809
without children	1,801
Male Head, No Wife	
with children	29
without children	92
Female Head, No Husband	
with children	52
without children	250

The dominance of single person households and childless couples is evident. Of the 3,033 households with the head age 45 or over, 2,143, over 70 percent are without children and over 11 percent are living as single person households. These percentages would obviously be significantly higher if limited to age 55 and over.

Pertinent to this is the following data. The total of family households with the head age 60 and over is 1,063. The total of single person households age 60 and over is 264. Thus, of the 342 single person households first enumerated, 264 are persons over age 60.

Family income data was also obtained for the 1,062 family households age 60 and over and also for the 775 family households age 55 - 59. This is as follows.

<u>Income Group</u>	<u>55-59</u>	<u>60-64</u>	<u>65+</u>	<u>Total</u>
0 - 12,499	71	50	209	320
12,500 - 19,999	99	127	169	395
20,000 - 39,999	450	207	199	856
40,000 and above	155	66	36	257
Total	755	450	613	1,828

The income level of under \$12,500 is roughly equal to the low income category and that from \$12,500 to \$19,999 equates to the moderate income level.

The 715 households in these income categories are obvious potential occupants of the low and moderate income units to be included in the Elderlodge site. The 1,113 families with incomes over \$20,000 are potential occupants of the remaining units.

In addition, there are approximately 300 single person households age 55 and over for which income data was not available.

Required Variances

The variances required for Elderlodge, Inc. are identical to those required in 1982; namely, use, building height and off-street parking.

In his Judgement Order as to South Plainfield in the Urban League litigation in June, 1984 Judge Serpentelli, amongst other things, ordered as follows:

H. The Borough shall rezone the 1.46 acre site on Hamilton Boulevard, known as the Elderlodge site and designated as Block 259 Lots 5, 6.01, 6.02, 7 and 12, which is the property at issue in Elderlodge, Inc. v. South Plainfield Board of Adjustment, No. L56349-81 (Law Div., Middlesex County), exclusively for a 100-unit multi-family development, with a mandatory set-aside of 10 percent low income and 10 percent moderate income units, subject to reasonable conditions to be imposed by the Board of Adjustment.

This Order essentially renders any further testimony concerning the "use variance" moot.

The remaining two variances required as to height of building and required off-street parking are also substantially fixed by this Order.

Inspection of the site plan indicates that these two variances are totally inter-related. If the building height is to be reduced, the building coverage to include 100 units would increase and the off-street parking would have to be further diminished.

If the parking is to be increased, it can only be accomplished (beyond the additional 10 spaces which could be provided by reducing green area) by reducing the building coverage and increasing the building height.

I believe that the proposed relationship is a proper one. The 56 foot building height is not out of context with the nature of the site and several other nearby buildings. The proposed 50 off-street parking spaces should be more than adequate for the needs of the senior citizens to be housed. Extensive testimony on both of these issues was provided at the original hearings.

CONCLUSIONS

Considering all of the evidence presented in this report and testimony, as well as the evidence presented in the 1982 hearings concerning this application, I believe that the two remaining variances required can and should be granted in keeping with the Order of Honorable Eugene D. Serpentelli, J.S.C., dated December 23, 1983.

Should, however, the Borough Council decide to follow the specific directive of Judge Serpentelli in June 1984, in the Urban League litigation, and re-zone the tract for a 100 unit multi-family development, we feel that this can best be accomplished by creating a new zone district applicable only to senior citizen housing.

An applicable set on zoning standards, consistent with those now included in the South Plainfield Zoning Ordinance is included as Exhibit XII.

EXHIBIT XII

RECOMMENDED ZONING STANDARDS
FOR SENIOR CITIZEN HOUSING DEVELOPMENT

Permitted Uses.

1. Housing units specifically designed for persons aged 55 years and older.
2. Customary accessory uses which are clearly incidental to the permitted principal use, including all forms of service and recreational facilities.

Zone Requirements.

Minimum Lot Area	One acre (43,560 sq. ft.)
Minimum Lot Width	200 feet
Minimum Lot Depth	200 feet
Minimum Front Yard	30 feet
Minimum Rear Yard	30 feet
Minimum Side Yards	30 feet
Maximum Lot Coverage	25 percent
Maximum Density	75 units per acre
Required Off-street Parking Spaces	1 for each 2 dwelling units

