

ML - Cranbury

30~~th~~ - Oct - 84

- Response to the Suitability Evaluation Analysis for Low Cost Housing by Rieder Land Technology, Inc.
- Toll Brothers Response

pg. ~~22~~

ML000462E

file copy

ML000462E

RIEDER LAND TECHNOLOGY, INC.

Builders • Developers

GEORGES ROAD • P.O. BOX 28
MONMOUTH JUNCTION, N.J. 08852
(201) 329-6886

RESPONSE TO THE SUITABILITY EVALUATION ANALYSIS FOR LOW COST
HOUSING PREPARED BY RAYMOND, PARISH, PINE & WEINER, INC.
OCTOBER 25, 1984

Prepared by



David H. Enge Jr., P.P., AICP
Director of Planning and Development
October 30, 1984

INTRODUCTION

This report is a response paper to the October 25, 1984 Cranbury Township study, "Suitability Evaluation Analysis For Low Cost Housing: Mount Laurel II", prepared by Raymond, Parish, Pine & Weiner, Inc. The township analysis evaluated nine (9) tracts of land as it related to ten (10) planning criteria to determine which areas of the municipality are best suited to accomodate "Mount Laurel" generating residential development. The following information is designed to supplement and react to the Cranbury study for all ten (10) planning areas reviewed by the municipal planning consultant.

STATE DEVELOPMENT GUIDE PLAN

One of the principal objectives of the 1982 Cranbury Township Master Plan is to channel development into the area located east of Route 130 consistent with the 1980 State Development Guide Plan (SDGP) "growth area ". Rezoning the Cranbury Development Corporation property complies with the SDGP since the entire 394.5 acre parcel is located east of Route 130 and is entirely within the SDGP "growth area" and is not located in transitional "fringe" sections of the township. Further, the development of the Cranbury Development property would not jeopardize the integrity of preserving farmland in Cranbury since the property is not under cultivation nor do any related agricultural industries occupy the subject tract. The October, 1984 Cranbury report indicates that the property in question is "located next to existing and potential employment centers" and "development of site 4 (PQ) would result in no direct loss of farmland".

It should be pointed out that the high intensity residential development of sites 1-3, adjacent to Half Acre Road, even though in the "growth area", would generate its east/west traffic through the agricultural and historic preservation areas along Plainsboro and Dey Roads both of which traverse rural retention zones. The upgrading of Dey Road would not only put growth pressure on rural areas of Cranbury, but would also adversely affect the master plan and zoning objectives of South Brunswick Township.

HISTORIC PRESERVATION

The recent township study indicates that "traffic flow, visual impact, and physical proximity of new residential development should not threaten the Cranbury Village National and State Historic District or the significant cluster of 18th and 19th Century houses and barns grouped along Cranbury Neck Road in the agricultural zone." The October, 1984 municipal planning

consultant study further indicates that, "development of Site 4 (PQ) will have the least adverse impact on the mapped Historic District and scattered individual sites along Cranbury Neck Road..." In addition, "traffic flow north/south from Site 4 (PQ) can completely avoid the Village by using Route 130 and the New Jersey Turnpike (Exits 8 and 8A) while east-west travelers would be able to utilize Princeton-Hightstown Road in East Windsor Township."

The township Mount Laurel study also is concerned that development adjacent to the village would impose commercial development pressures in the heart of the historic district due to the purchasing power of future residents. The rezoning and residential development of the Cranbury Development Corporation parcel would not have this negative impact since the developer of this property has proposed to construct a retail shopping center, along Route 130, relieving any commercial pressures on the "village" and the subject parcel is located within a five (5) minute drive of intensive existing commercial development in Hightstown and along Route 130 in East Windsor. Further, the property in question is located adjacent to a commercially designated node adjacent to the Cranbury Circle along Route 130.

FARMLAND PRESERVATION

The recent Cranbury planning study indicates that, "Property which is under farmland assessment and has either good agricultural soils, farm production, or an existing farmstead should be protected, if possible, from intense residential development pressure." As stated previously, the Cranbury Development Corporation parcel is not actively cultivated, is not occupied by an agriculturally related industry, nor is it in or near the designated agricultural preservation zone. In fact, the township planning consultant concluded that, " development on site 4 (PQ) would probably have the least detrimental impact on farming in Cranbury..."

Conversely, the three (3) sites under consideration along Half Acre Road, as well as site 5 contain prime agricultural soils, is presently being farmed and are under farmland assessment. The Cranbury Development parcel does not exhibit any of these favorable farmland preservation characteristics.

MIDDLESEX COUNTY LAND USE PLAN

Cranbury Township seeks conformity with the draft 1979 Middlesex County Year 2000 Land Use Plan. The rezoning of the Cranbury Development Corporation parcel is consistent with the general regional objectives of the unofficial county plan. (Note: the Middlesex County Year 2000 Land Use Plan has never been accepted or adopted by the Middlesex County Planning Board.) The property in question has approximately 1,860 feet of frontage along Route 130 which is identified by the proposed county plan as a major spur of development in southern Middlesex County. Further, the Cranbury Development site is not directly contiguous

to the flood plain nor to environmentally sensitive corridor of the Millstone River.

According to the Cranbury planning consultant's report, the county plan shows the property in question as "undeveloped". First, as stated previously, there is no formal policy position by the county relative to the Cranbury Development Corporation property. Secondly, the draft county land use plan is designed to address regional-macro planning objectives and does not evaluate specific properties. Lastly, and most important, the proposed 1979 plan was a direct reflection of municipal input. The county staff expanded its "undeveloped" classification of lands in the southeasterly portion of the township to comply with municipal "cross-acceptance". There has never been a county staff evaluation of the developability of the Cranbury Development Corporation property.

In conclusion, the rezoning proposal submitted on behalf of the Cranbury Development Corporation is consistent with the general objectives of the draft Middlesex County Year 2000 Land Use Plan since it fronts on the easterly side of Route 130, is consistent with the SDGP, does not encroach on the Millstone River corridor, and is incorporated in the Route 130 development area.

TOWNSHIP LAND USE PLAN AND ZONING ORDINANCE MAP

The rezoning of the Cranbury Development Corporation property to allow residential planned unit development, as formally proposed, is consistent with the overall objectives of the township land use plan and zoning ordinance. As stated previously, the subject property is located in the "growth area" on the easterly side of Route 130 and development of the 395 acre parcel will have no adverse impacts on the preservation of the historic village or on active farming in the community.

The 1982 municipal land use plan designates most of the Cranbury Development property as light-impact residential only permitting single-family homes on three (3) acre minimum lots. The township master plan justified this zoning on the basis that the property was characterized by environmentally sensitive features including wetlands, flood plains and mature woodlands. In various professional technical reports submitted by the developer in pending legal action against the township, for which the developer contends is arbitrary, capricious and unreasonable zoning of the subject property, evidence has been submitted indicating that the municipal master plan exaggerated the environmental sensitivities of the property in question on the basis of exclusionary zoning. A detailed development master plan has been prepared by the Martin Group in Philadelphia demonstrating that the stream corridors and the treed areas on the property in question can be preserved with clustered residential development of this property. The developer of the Cranbury Development Corporation property has requested time before the Cranbury Township Committee and Planning Board to

demonstrate the developability of the property in question. However, the township has denied the Rieder request to make a presentation even though other developers have made presentations before the municipal governing body. Following in this report, the alleged environmental sensitive issues will be addressed in detail.

Lastly, the Cranbury Township Committee has already demonstrated that the light-impact residential zoning of the Cranbury Development property is inappropriate since it has rezoned approximately 76 acres of the subject parcel to industrial to accomodate objections to the 1982 municipal zone plan by other adjacent property owners. This rezoning is contradictory to sound planning and community development principles since industrial development allows the least flexibility in dealing with environmental site constraints.

ADJACENT LAND USE PATTERNS

The rezoning of the Cranbury Development property to allow seven unit per acre residential and support shopping facilities is compatible with existing or proposed adjacent land use patterns, density and character and will not adversely impact existing residential neighborhoods. As the October, 1984 township planning consultant has indicated, "present zoning around Site 4 (PQ) is compatible with high density residential development given the fact that natural buffers exist on-site to separate dwelling units from existing and/or proposed industrial uses and the New Jersey Turnpike". The aforementioned township report further mentions that the area just south of the property in question is occupied by high intensity residential including the 172 unit condominium development, Georgetowne; the 566 unit garden apartment complexes, Hampton Arms and Windsor Arms; the Twin Rivers PUD; and 110 senior citizen units being built along North Main Street adjacent to the Millstone River.

In previous reports submitted to the court and township, it has been pointed out that high intensity residential development of the Cranbury Development Corporation parcel compliments the future development of the area since it is directly adjacent to the high employment generating office-research and industrial zones in Cranbury providing residential opportunities for the people who will be working in the township.

PROXIMITY TO COMMUNITY FACILITIES AND SERVICES

Any future large scale residential development in Cranbury will create the need for new infrastructure and community facilities in the municipality. The township planning consultant has concluded that, "any major new residential development next to the Village would probably overwhelm the present scale and require more facilities and services to satisfy the present scale and require more facilities and services to satisfy increased demand at the expense of quiet tree-lined streets, historic structures, and a small town atmosphere". As was mentioned

previously, the recent planning report by the township consultant concluded that the development of the subject parcel will have the "least" adverse impacts on the existing village. Further, Rieder Land Technology is prepared to offer the community a park and ride, active recreational amenities and a retail and service shopping center to support the residential development of the Cranbury Development parcel. Also, as the township planner points out, directly south of the property in question along Route 130 are major commercial amenities including the East Windsor Associates and Jamesway shopping centers totalling over "230,000" square feet,. Lastly, the Cranbury Development parcel is directly contiguous to the highway commercial zoned area at the Cranbury Circle.

ACCESSIBILITY

The high intensity development of the Cranbury Development property will have no adverse impact on local roads and can be predominately served by Route 130 due to over 1,860 feet of frontage on that state highway. Further, east/west traffic generated from the site will be oriented to Rt. 571, Princeton-Hightstown Road rather than Plainsboro or Dey Roads which traverse both the historic district and the rural retention areas of the township. As was dicussed in this office's October 5, 1984 report submitted to Philip Caton, Michael Mueller and the Township Committee, the proposed on-site park and ride, and Route 92 will even improve already excellent accessibility to the property in question. Lastly, east/west circulation from the proerty in question will be enhanced further with the completion of the Old Trenton Road extension which will intersect Rt. 130 in an area adjacent to the subject parcel.

ENVIRONMENTAL SUITABILITY

The Cranbury Development Corporation tract is located in the Inner Coastal Plain physiographic province and is covered by Coastal Sandy Loams. The only poorly drained area exhibiting severe development constraints are adjacent to two stream corridors which traverse portions of the subject property.

Over seventy percent of the tract is covered by soil types which do not significantly inhibit planned community development. The most predominate soil types found the the property in question, Woodstown soils, have been already successfully developed in other portions of the township including substantial portions of Cranbury village and the IBM Biomedical facility on Brick Yard Road. The stream corridors can be protected and preserved utilizing proper cluster-development techniques. In fact, the October, 1984 township planning study concludes that, "many of the site limitations noted above (e.g. high water table, poorly drained soils, and construction limitations) can be successfully overcome by preserving the 100 year floodplain and adjacent treed areas, spending more developer dollars during construction to overcome poor soil conditions, and sensitively clustering homes while increasing net residential densities on

good developable land". Further, other areas of the township favored for high intensity residential zoning, sites 1-3, have a major treed area and floodplain corridor for which the township planner as indicated, "these areas can be permanently protected from development encroaching during the site plan review process". The same criteria should be applied to the Cranbury Development parcel.

The submitted Rieder Land Technology site master plan proposes to retain 72 acres representing over eighteen (18) percent of the site as open space, protect the stream corridors and establish the least intensive development, single-family homes, in the major treed sections of the property to preserve site woodlands.

On April 11, 1984, the consulting engineering firm of French and Parrello conducted soil borings during the seasonal high water table period to determine site soil conditions. This study concluded that, "poorly drained areas on the site can be improved by ordinary surface and subsurface drainage systems designed to intercept and lower seasonal high water levels". Further, the technical site engineering report indicates that the techniques used to lower the water table on portions of the property "are routinely employed on most construction sites, are similar to those employed on their sites presently under development in the area, and would not be extraordinary in our opinion".

In conclusion, on-site investigations both conducted by planners and soils engineers have concluded that the property in question can successfully be developed without posing adverse impacts on the environment and that all township concerns regarding the preservation of physical features e.g. stream corridors and treed areas, can be fully addressed. The submitted development master plan for the Cranbury Development Corporation property employes "state of the art" clustering and environmental preservation techniques which transform the existing treed areas and stream corridors into major site amenities. Development will be concentrated on upland portions of the property, lower density building will take place in wooded areas to retain trees, and all stream corridors will be left as open space integrating with pathways and passive recreational areas.

SITE ASSEMBLAGE, SHAPE, AND SIZE

The Cranbury Development parcel is of optimal size, shape, and location when considering residential development and providing a substantial amount of low/moderate income housing. The Cranbury October, 1984 township planning consultant report establishes that, " Site 4 (PQ) best satisfies the above criteria (site Assemblage, shape, and size) because it has the largest single development area--over 300 acres of open land located between Route 130, Brick Yard Road/Indian Run Creek, the Hightstown-Cranbury Station Road, and Block 10 Lots 1 and 19 to the north. Site 4 is owned entirely by the Cranbury Development Corporation." Other sites in the "growth area", east of Route

130 do not have as large a tract under common ownership with an active developer with the locational characteristics of the property in question.

CONCLUSION

After reviewing the submitted development plan by Rieder Land Technology Inc. and the criteria set forth in the report submitted by the Cranbury planning consultant dated October 25, 1984, the rezoning of the Cranbury Development Corporation property to planned residential development will have the least adverse impacts on planning and zoning objectives of the township, will not generate traffic into rural areas such as Dey Road and will not take active farmland out of active cultivation. The Cranbury Development Corporation property is the only assembled tract, almost 400 contiguous acres, in the "growth area", east of Route 130 with an active developer willing to participate in the construction of low and moderate income housing.

file copy

BRENER, WALLACK & HILL

ATTORNEYS AT LAW

2-4 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540

(309) 9S4-0808

CABLE "PRINLAW PRINCETON"
TELECOPIER: (609) 924-6339
TELEX: S37652

HARRY BRENER
HENRY A. HILL
MICHAEL D. MASANOFF**
ALAN M. WALLACK*

GULIET D. HIRSCH
GERARD H. HANSON
J. CHARLES SHEAK**
EDWARD O. PENN*
ROBERT W. BACSO, JR.*
MARILYN S. SILVIA
THOMAS J. HALL
SUZANNE M. LAROBARDIER*
ROCKY L. PETERSON
VICKI JAN ISLER
MICHAEL J. FEEHAN
MARY JANE NIELSEN* +
E. GINA CHASE^
THOMAS F. CARROLL
JANE S. KELSEY

* MEMBER OF N.J. & O.C. BAR
** MEMBER OF N.J. & PA. BAR
* MEMBER OF N.J. & N.V. BAR
** MEMBER OF N.J. & GA. BAR
^ MEMBER OF PA. BAR ONLY

October 30, 1984

FILE NO.

The Township Committee
and Planning Board of the
Township of Cranbury
23-8 North Main Street
Cranbury, New Jersey 08512

Re: Urban League v. Carteret - Special Meetings
of the Township Committee and Planning Board

Dear Township Committee and Planning Board Members:

Please accept this letter on behalf of Toll Brothers, Inc. in response to the draft report prepared by Raymond, Parish, Pine & Weiner, Inc. entitled "Suitability Evaluation Analysis for Low Cost Housing: Mount Laurel II".

GENERAL COMMENTS

For ease of reference, I am listing our comments numerically below:

1. The major problem with the Suitability Evaluation Analysis Report ("Report") is its failure to focus on the primary issue in this 90-day revision process: whether the projects proposed by plaintiffs* are "so clearly contrary to sound land use planning" that any builder's remedy should be denied. 92 N.J. 279-80. The Supreme Court emphasized that a builder's remedy was not to be denied "solely because the municipality prefers some other location for lower income housing, even if it is in fact a better site." 92 N.J. 280.

The level of environmental/planning concerns which should be given substantial weight is illustrated by the facts of the Caputo v. Chester case. Although one portion of Chester Township was considered developable, the balance consisted of rugged terrain, steep slopes and a stream valley. Additionally, the head waters of streams which feed the Raritan River, an

¹ Plaintiffs' sites include Site #1 (Garfield), Site #6 (Zirinsky), Site #7 (Toll Brothers) and Site #9 (Cranbury Land Co).

important potable water source, are located in Chester Township and there are substantial aquifers throughout the Township. The Court found that the Caputo tract was "strategically located" and that its development would contribute to the pollution of surface water and underground water supply and would cause erosion of steep slopes and further stream pollution during and after construction.

The Report's analysis fails to focus on the details of the various plaintiffs' projects, including densities and unit types proposed, impacts on infrastructure, etc. The Report does, however, indicate that all of plaintiffs' sites are environmentally suitable.

2. Many of the criteria for evaluating site suitability have been rejected as a matter of law. For example, the 1981 State Development Guide Plan Map was rejected in the following language from the July 27, 1984 Letter Opinion of Judge Serpentelli: "...the process never progressed beyond mere general discussion and, in fact, Mr. Ginman did not recall any specific discussion of a change affecting Cranbury with the Cabinet Committee. Second, and more importantly, our Supreme Court has adopted the May 1980 S.D.G.P. - not the subsequent alleged amendments."

The Report also penalizes sites which are not located totally within a growth area on the 1980 SDGP. Since both the drafters of the State Development Guide Plan and the New Jersey Supreme Court have recognized that the Guide Plan Map was never intended to designate specific pieces of property, Cranbury Township should not give the growth area designation greater weight than its drafters intended. This criteria also fails to recognize the holding in Orgo Farms v. Colts Neck Tp., 192 N.J. Super 599 (Law Div. 1984) that properties which are totally out of the growth area are eligible for builder's remedies.

3. Some of the criteria are inconsistent with each other. For example, Criteria No. 3, Farmland Preservation, recommends that sites with good agricultural soils (sassafras) be maintained in agricultural use; Criteria No. 9, Environmental Suitability, would encourage residential development of sites with sassafras soils because they are very suitable for residential development.

A similar conflict exists between the goal of preserving the Historic Village (Criteria No. 2) and the goal of locating residential development close to community facilities (Criteria No. 7). As the Report recognizes, the center of activity and location for community facilities and services in the Township is within the Historic Village; on the other hand, the Report assumes that residential development adjacent or proximate to the Village would be detrimental to it.

SPECIFIC COMMENTS REGARDING EVALUATION OF TOLL
BROTHERS SITE

1. Criteria No. 1-1980 State Development Guide Plan Map.

Although we would not dispute the fact that the Toll Brothers Property is not located entirely in a growth area, we do dispute the location of the growth area line as depicted in Figure 1 of the Suitability Evaluation Analysis. It is our understanding that the line as shown in Figure 1 was revised at trial to bring it into compliance with the 1980 State Development Guide Plan, and that the line was moved westerly so that at least 50% of the Toll Brothers property was shown in the growth area.

As previously discussed, the so-called 1981 map which was never adopted by the Department of Community Affairs or the New Jersey Supreme Court, should be given no weight in the suitability analysis.

2. Criteria No. 2 - Preservation of the Cranbury Historic Village.

The Report concludes that development of the Toll Brothers site will impose negative traffic and visual impacts.

We question the traffic impact conclusion because it assumes that most traffic to and from the site will proceed easterly to Route 130. This assumption is incorrect in light of the Report's recognition that many people who will live in Cranbury will work in "the primary office and research node" along Route 1 from South Brunswick to West Windsor. (See p. 47 of Report). Clearly, traffic from the Toll Brothers site would proceed westerly (away from Cranbury Village) to reach the Route 1 employment corridor.

With respect to visual impacts, since the Toll Brothers site is approximately one half mile from the Historic Village boundary, it is obvious that the authors of the Report must have assumed that development of the Toll Brothers site would add a cumulative impact to development of the Zirinsky site (Site No. 6) on Cranbury Village. Given the half mile separation between the Toll Brothers site and the Historic Village and given the Report's recognition that "designing architecturally compatible developments and/buffering them from the Village would mitigate visual impact" we think the evaluation of the Toll Brothers site on criteria No. 2 is incorrect.

3. Criteria No. 3 - Farmland Preservation.

We have attached a copy of the MSM mapping which is referred to as "figure 4" in the Report. The MSM map shows that all sites except sites 4 and 5 are located in two districts recommended for agricultural preservation by MSM. The MSM report indicates the following concerning the Toll Brothers property:

- a. Like virtually all the evaluated sites, it is under farmland assessment;
- b. Like virtually all of the evaluated sites it contains some prime agricultural soils;
- c. The Toll Brothers site was shown in 1979 as "developer-owned";
- d. To the west of the Toll Brothers site in Plainsboro Township is a substantial amount of developed land and developer-owned farmland; and
- e. The Toll Brothers site is owned by an absentee-owner.

We think the Report rates the significance of preserving agricultural soils on the Toll Brothers site much too highly given the above facts referenced in the MSM report.

4. Criteria No. 4 - Middlesex County Master Plan.

The "Proposed Land Use Plan - 2000" was prepared for regional water quality planning purposes (208 plans) prior to the decision in Mt. Laurel II. Since it does not recommend high-density residential uses anywhere in the County or Cranbury, we do not see how any site can be ranked on this criteria.

5. Criteria No. 5 - Cranbury Township Master/Plan and Zoning Ordinance.

Given the stipulation of the Township that its zoning ordinance was not in compliance with Mt. Laurel II, it is inappropriate to use that ordinance to determine which sites should be rezoned for high density housing developments including low income housing.

6. Criteria No. 6 - Adjacent Zoning and Development.

Given the extensive tree buffer along Cedar Brook to the north of the Toll Brothers' property, we take issue with the Report's conclusion that the residential development of this site would have a negative impact on the land which is as much as two thousand feet away in South Brunswick or much further from the site in Plainsboro Township. We are not certain why this criteria is being utilized for sites which are not adjacent to municipal boundaries.

7. Criteria No. 7 - Community Facilities.

As recognized in the Report, the Toll Brothers site is located in the vicinity of Cranbury Village, which Village contains vital community facilities such as shops, recreation facilities, places of worship, banks, restaurants, the

library and post office, etc. The Toll Brothers site should therefore be given a high score on this criteria.

8. Criteria No. 8 - Accessibility.

We think it is appropriate for the Township to evaluate whether the proposed developments have sufficient access to surrounding roadways. Unfortunately, the criteria have been framed with reference to close proximity to the New Jersey Turnpike and thus predetermine the result; thus, only the lands in the eastern section of the Township achieve a high rating.

We take issue with the Township argument that development of the eastern section of Township along Half Acre Rd. (a local road) would have sufficient access while development in the western section, located along arterial roads, is not appropriate. Since the Toll Brothers property is located on a minor arterial road, it should have been rated much higher on this criteria.

9. Criteria No. 9 - Environmental Suitability.

The authors of this Report did not review the report submitted by Toll Brothers prior to considering the environmental limitations of the site. If they had reviewed the Toll Brothers report, they would have been aware that the soil borings show that 80% of the site is composed of sassafras soils. The Toll Brothers site should therefore be rated as second among nine sites on this criteria, behind site eight which contains 82% sassafras soils.

10. Criteria No. 10 - Assemblage and Size.

Given the size and shape of the Toll Brothers site, we believe that it should be ranked higher.

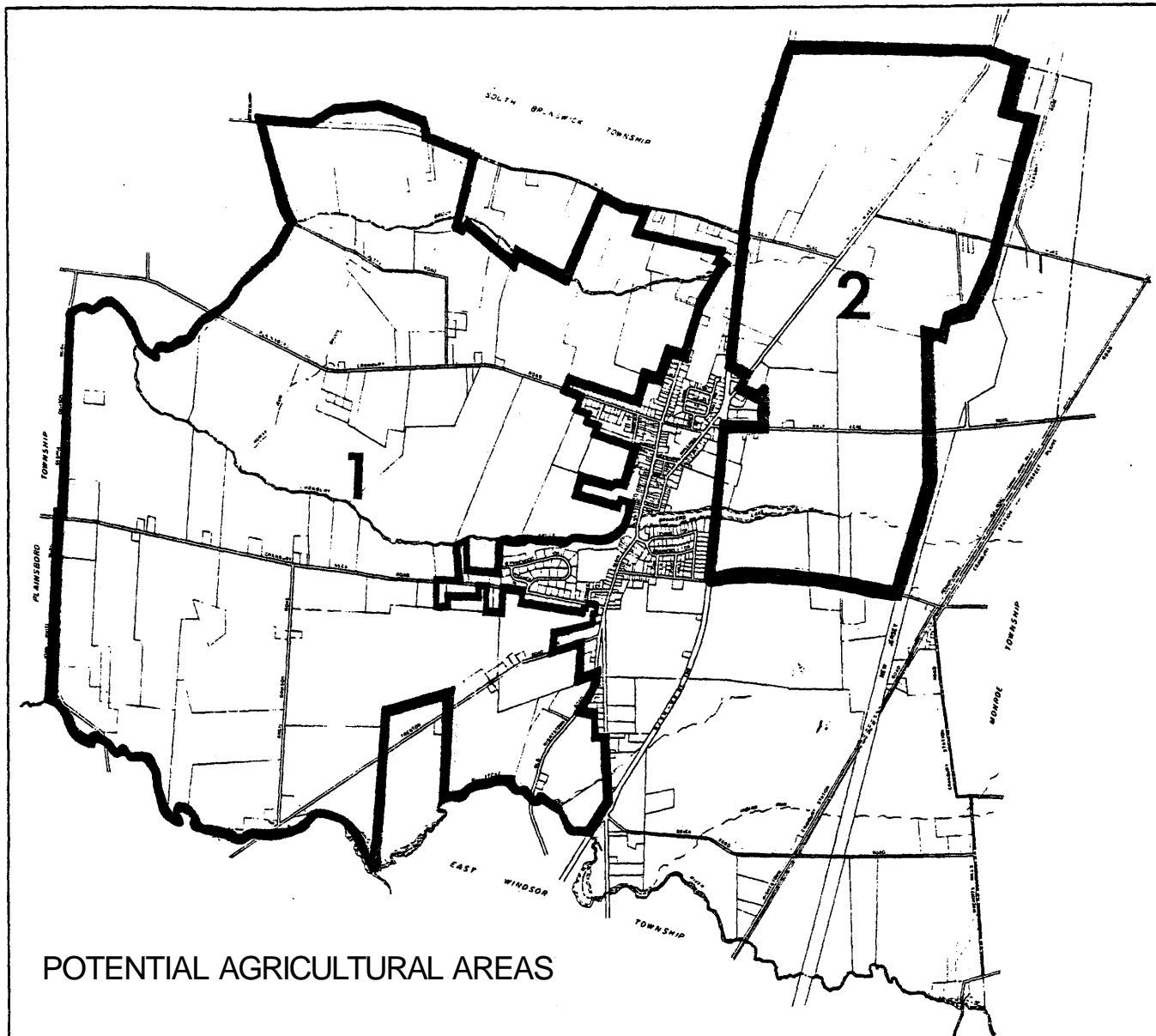
We are available to discuss our comments.

Very truly yours,


Guliet D. Hirsch

GDH/sp

cc: Philip Caton
Michael Mueller
Louise Krinsky
Michael Herbert
Carl Bisgaier
William Warren
William Moran
John Payne
Georgia von Lutcken



POTENTIAL AGRICULTURAL AREAS

Prepared By : MSM Regional Study Council, Inc. February, 1983.

CRINBURY TOWNSHIP Middlesex County, New Jersey

Raymond P. M. H. M. A. Wilmf, Inc. Princeton, N. J. Trenton, N. J.

Figure 11

