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May 1984

Fair Share Housing Analysis Planning Report

pg. 43

Notes: Fair Share Report
double-sided pages

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MOUNT LAUREL II
FAIR SHARE HOUSING ANALYSIS
PLANNING REPORT
FRANKLIN TOWNSHIP
SOMERSET COUNTY, N.J.

EXHIBIT
PWC-1
SEP 12 1984
ID EVD
DAVID G. VORSTEG, C.S.R.

MOUNT LAUREL II
FAIR SHARE HOUSING ANALYSIS
PLANNING REPORT
FRANKLIN TOWNSHIP
SOMERSET COUNTY, N.J.

PREPARED FOR :
WHITESTONE CONSTRUCTION, INC.

MAY, 1984

malcolm kasler & associates, p.a.

INTRODUCTION

On January 20, 1983 the New Jersey Supreme Court published a landmark decision regarding planning and zoning. This decision, known as Mount Laurel II, establishes a new set of criteria affecting housing in New Jersey.

The Court held that the State Development Guide Plan (SDGP), prepared by the Division of State and Regional Planning, is to be utilized to determine a municipality's obligation to accommodate its fair share of its regional housing need. The Court specifically indicated that municipalities designated as "growth areas" were the only areas in New Jersey to have a regional obligation to provide for their share of low and moderate income housing. The Court also noted that every municipality has an obligation to provide a realistic housing opportunity for its own indigenous poor.

The purpose of this report is three-fold. The report presents a planning analysis and conclusions regarding Franklin Township's housing obligation. The community's SDGP designation is also examined relative to the Mount Laurel II decision. The report also examines Franklin's land use ordinances to determine the municipality's provision for "realistic housing opportunities" for low and moderate income households. Finally, this report reviews a comparable study prepared by E. Eugene Oross Associates, Professional Planners representing Franklin Township and makes findings of fact and conclusions concerning the efforts made by the community relative to Mount Laurel II.

The following documents and reports have been reviewed in order to facilitate this study :

1. Franklin Township Zoning and Subdivision Ordinance;
2. Franklin Township Master Plan, prepared by Dresdner Associates, dated 1983;
3. New Jersey State Development Guide Plan, prepared by the New Jersey Department of Community Affairs;
4. Somerset County Land Use Plan prepared by the Somerset County Planning Board, dated 1971;
5. So. Burlington N.A.A.C.P. et al. v. Tp. of Mount Laurel (A35/36/172)
Urban League of Greater New Brunswick, et al. v. Carteret, et al. (A-1)
Joseph Caputo, et. al. v. Tp. of Chester, et al. (A-7/21)
Glenview Development Co. v. Franklin Tp. et al. (A-8)
Urban League of Essex County, et al. v. Tp. of Mahwah, et al. (A-18)
Round Valley, Inc. v. Tp. of Clinton, et al. (A-37)

6. Mount Laurel II : Challenge and Delivery of Low Cost Housing by Robert Burchell, W. Patrick Beaton and David Listoken, Center For Policy Research , Rutgers University, 1983;
7. Soil Survey of Somerset County, New Jersey, prepared by U.S. Department of Agriculture, Soil Conservation Service, 1976;
8. Environmental Impact Assessment for White Hall Manor Lot 3 Block 37, Franklin Township, prepared by Goodman, Allgair and Scott, dated November 17, 1983;
9. United States Bureau of the Census publications entitled "Characteristics of Housing, Income and Employment "; "Characteristics of Persons, Households and Families", and "Housing Units"; STF-2 , 1980.
10. Field Survey by Malcolm Kasler and Associates, P.A.
11. Franklin Township Housing Allocation Study and Conformance Report, prepared by E. Eugene Oross Associates, May, 1984.

FRANKLIN TOWNSHIP LOW AND MODERATE INCOME HOUSING OBLIGATION

Pursuant to the Court directive, we have utilized the so-called "Concensus Formula" or "Lerman Formula" in determining Franklin Township's housing obligation for low and moderate income housing.

Our report indicates that Franklin Township's obligation for present and prospective housing need for the year 1990 is 3,095 low and moderate income housing units using the above captioned methodology. We have utilized this methodology as required by the Court. We have, however, serious reservations concerning portions of the methodology and reserve the right to supplement or modify this document in the future.

The methodology and calculations utilized in determining Franklin Township's fair share housing obligation follow.

Present Housing Need

According to the "Concensus Formula", present housing need consists of a determination of the indigenous need of the municipality plus the reallocated housing from other municipalities which have been determined to exceed their ability to provide for said housing or have otherwise been exempted from specific requirements.

The calculations for Franklin's present housing need is noted in Table 1. The methodology utilized is based upon the report Fair Share Methodology and Allocation for Urban League of Greater New Brunswick vs. Carteret et al. prepared by Carla L. Lerman, et al., a portion of which has been reproduced and incorporated in the Appendix to this report.

In order to analyze the present housing requirements, the following data sources were utilized :

1. Municipal Employment - New Jersey Department of Labor
- ② "Growth Area" Calculations - Malcolm Kasler and Associates, P.A. and Lerman report.
3. Median Income Data - U.S. Census of Population and Lerman report.
4. Reallocation Housing Need - Lerman report
5. 20 Percent Allowance - Lerman report
6. 3 Percent Vacancy - Lerman report
7. Six-Year Staging - Lerman report
8. Indigenous Housing Need
Elements - U.S. Census of Housing (included herein)
9. 82 Percent Factor - Lerman report

TABLE 1

TOWNSHIP OF FRANKLIN , SOMERSET COUNTY - FAIR SHARE ALLOCATION : PRESENT NEED

1982 MUNICIPAL EMPLOYMENT	1982 11-COUNTY EMPLOYMENT	PERCENT
11,653	1,244,632	0.936
MUNICIPAL GROWTH AREA (SDGP IN ACRES)	11-COUNTY GROWTH AREA (IN ACRES)	PERCENT
14,815	699,163	2.119
MUNICIPAL MEDIAN HOUSEHOLD INCOME (1979)	11-COUNTY MEDIAN HOUSEHOLD INCOME (1979)	RATIO
\$25,912	\$ 24,117	1.072

REALLOCATED EXCESS NEED IN 11 COUNTY REGION = 35,014 Units

ALLOWANCE FOR FUTURE REALLOCATION = 1.2 x SHARE OF EXCESS NEED.

ALLOWANCE FOR ADEQUATE VACANCIES = 3% OF PRESENT NEED SHARE.

STAGING OVER THREE SIX YEAR PERIODS = PRESENT NEED ÷ 3.

$$\frac{0.936 + 2.119}{2} = 1.577 \times 1.072 = 1.691$$

$$\frac{0.936 + 2.119 + 1.691}{3} = 1.582 \times 35,014 = 554 \times 1.2 = \frac{665}{3} = 222$$

222 x 1.03 = 229 UNITS PRESENT NEED BY 1990.

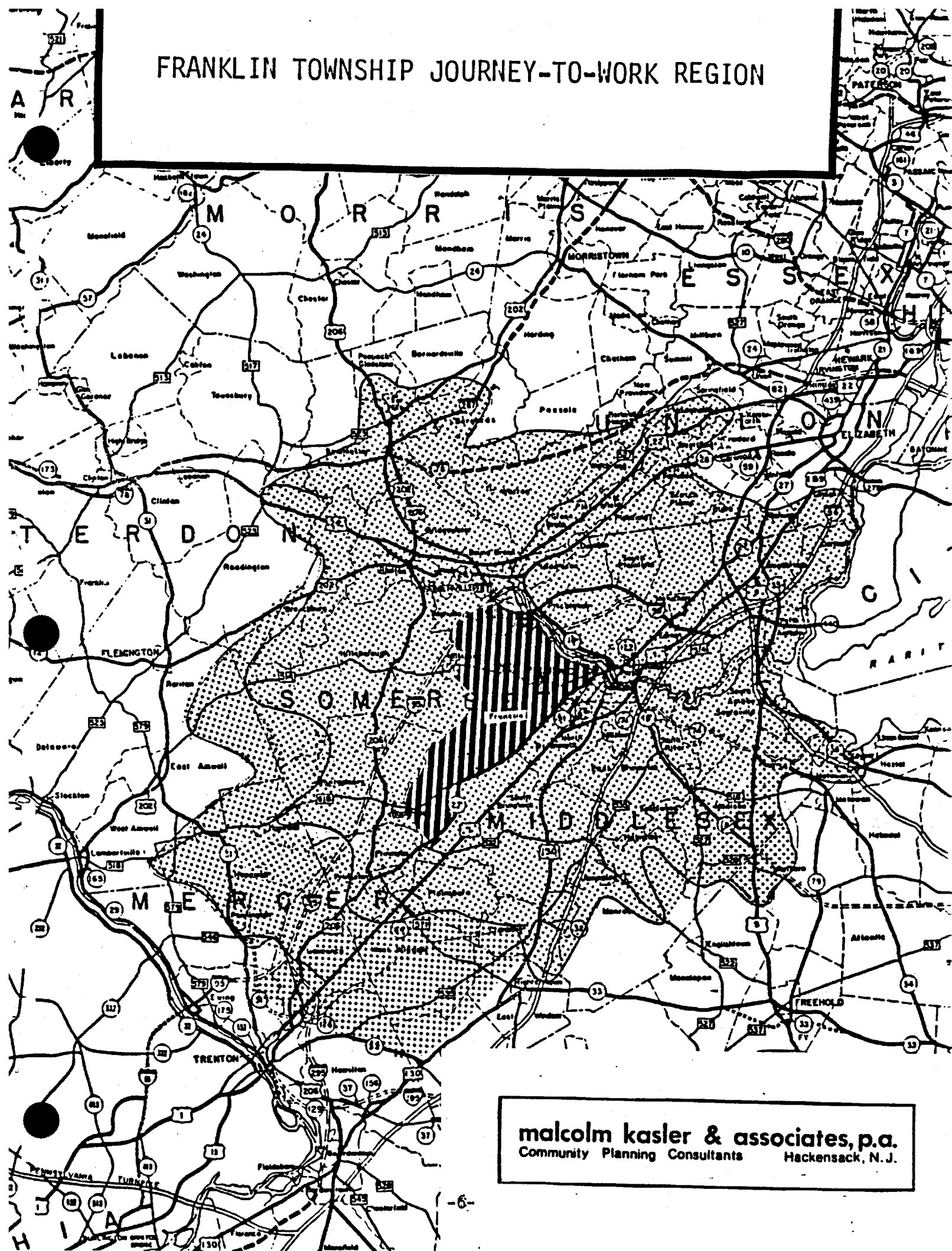
INDIGENOUS NEED (UNITS LACKING PLUMBING AND ADEQUATE HEATING, AND
OVERCROWDED)

OVERCROWDED HOUSING UNITS	265
INADEQUATE PLUMBING	61
INADEQUATE HEATING	105
OVERLAP FACTOR FOR PLUMBING	<u>1</u>
SUB-TOTAL	<u>430</u>
ADJUSTMENT FACTOR (82 PERCENT)	353
INDIGENOUS HOUSING NEED	<u>353</u>

TOTAL PRESENT HOUSING NEED = INDIGENOUS HOUSING + REALLOCATED HOUSING

$$TOTAL PRESENT HOUSING NEED = 353 + 229 = 582$$

FRANKLIN TOWNSHIP JOURNEY-TO-WORK REGION



malcolm kasler & associates, p.a.
Community Planning Consultants Hackensack, N. J.

The calculation for indigenous housing need for Franklin is 353 units. A total of 229 units is added to that number which is the amount of the proportional share of reallocated housing for Franklin Township. The Concensus formula, therefore, requires a total of 582 units of present housing need for Franklin Township.

Prospective Housing Need

The prospective housing need is predicated upon a journey-to-work region. We have calculated this region to incorporate portions of six counties - Somerset, Middlesex, Hunterdon, Mercer, Union and Monmouth Counties. According to Table 8, in the Lerman report, there is a projected total of Mount Laurel households in the six counties totaling 61,096 households.

Franklin's proportion of its so-called commutershed or journey-to-work region is based upon its employment, growth area, annual growth rate in employment and median household income proportions of the region.

These allocations are increased by 20 percent to account for reallocation needs and 3 percent to allow for adequate vacancies in the system. The total prospective need, so calculated, totals 2,513 low and moderate income housing units by 1990.

Added to the present housing need results in a total need of 3,095 housing units of present and prospective need.

TABLE 2

TOWNSHIP OF FRANKLIN - FAIR SHARE ALLOCATION : PROSPECTIVE NEED

COMMUTERSHED : Somerset, Hunterdon, Mercer, Middlesex, Union and Monmouth

NEW MOUNT LAUREL HOUSEHOLDS : 1990 = PROSPECTIVE NEED = 61,096

1982 MUNICIPAL EMPLOYMENT	COMMUTERSHED EMPLOYMENT 1982	PERCENT
11,653	663,463	1.756
MUNICIPAL GROWTH AREA (SDGP IN ACRES)	COMMUTERSHED GROWTH AREA	PERCENT
14,815	579,795	2.555
MUNICIPAL EMPLOYMENT GROWTH, 1972-82, AV. ANNUAL	COMMUTERSHED EMPLOYMENT GROWTH 1972-82 , AV. ANNUAL INCREASE	PERCENT
805.2	14,843	5.423
MUNICIPAL MEDIAN HOUSEHOLD INCOME - 1979	COMMUTERSHED MEDIAN HOUSEHOLD INCOME - 1979	RATIO
\$25,912	\$ 23,558	1.100

FUTURE REALLOCATION ALLOWANCE = 1.2 x PROSPECTIVE HOUSEHOLDS

ADEQUATE VACANCY ALLOWANCE = 1.03 x PROSPECTIVE NEED

$$\frac{1.756 + 2.555 + 5.423}{3} = \frac{9.734}{3} = 3.245 \times 1.1 = 3.570$$

$$\frac{1.756 + 2.555 + 5.423 + 3.570}{4} = 3.328 \times 61,096 = 2,033$$

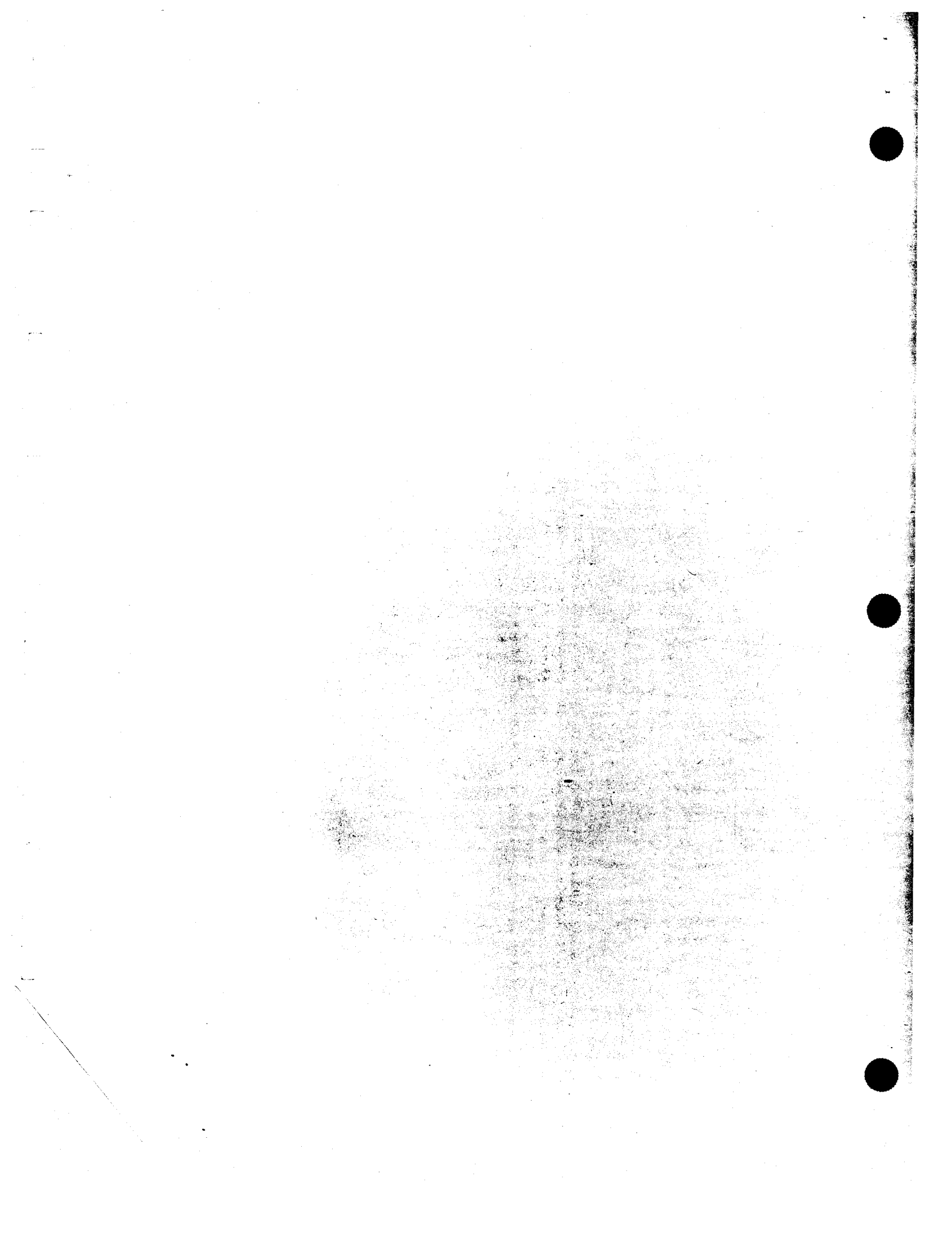
$$2,033 \times 1.2 = 2,440$$

$$2,440 \times 1.03 = 2,513$$

TOTAL PROSPECTIVE NEED = 2,513 housing units

TOTAL PRESENT NEED = 582 housing units

TOTAL NEED BY 1990 = 3,095 housing units



DESCRIPTION OF THE PROPERTY

Site Size and Dimensions

The property which is the subject of this litigation is located in the southeastern portion of Franklin Township. Located at the northwesterly corner of Route 27 and Cortelyous Lane, the parcel occupies an area of 82.9 acres and is rectangular in shape. Its dimensions include 980 feet of frontage on Route 27 and 2,930 feet on Cortelyous Lane. A 1.15 out-acre is located in the center portion of the site along Route 27. The "out" parcel has 200 x 250 foot dimensions and bisects the site's frontage along Route 27.

Topography

The site is characterized by a relatively level topography. Elevations range from 124 feet in the southerly portion of the site to 90 feet in the northernmost portion of the property. The site's elevation does not present an impediment to development except in the most northerly portion adjacent to the streambed.

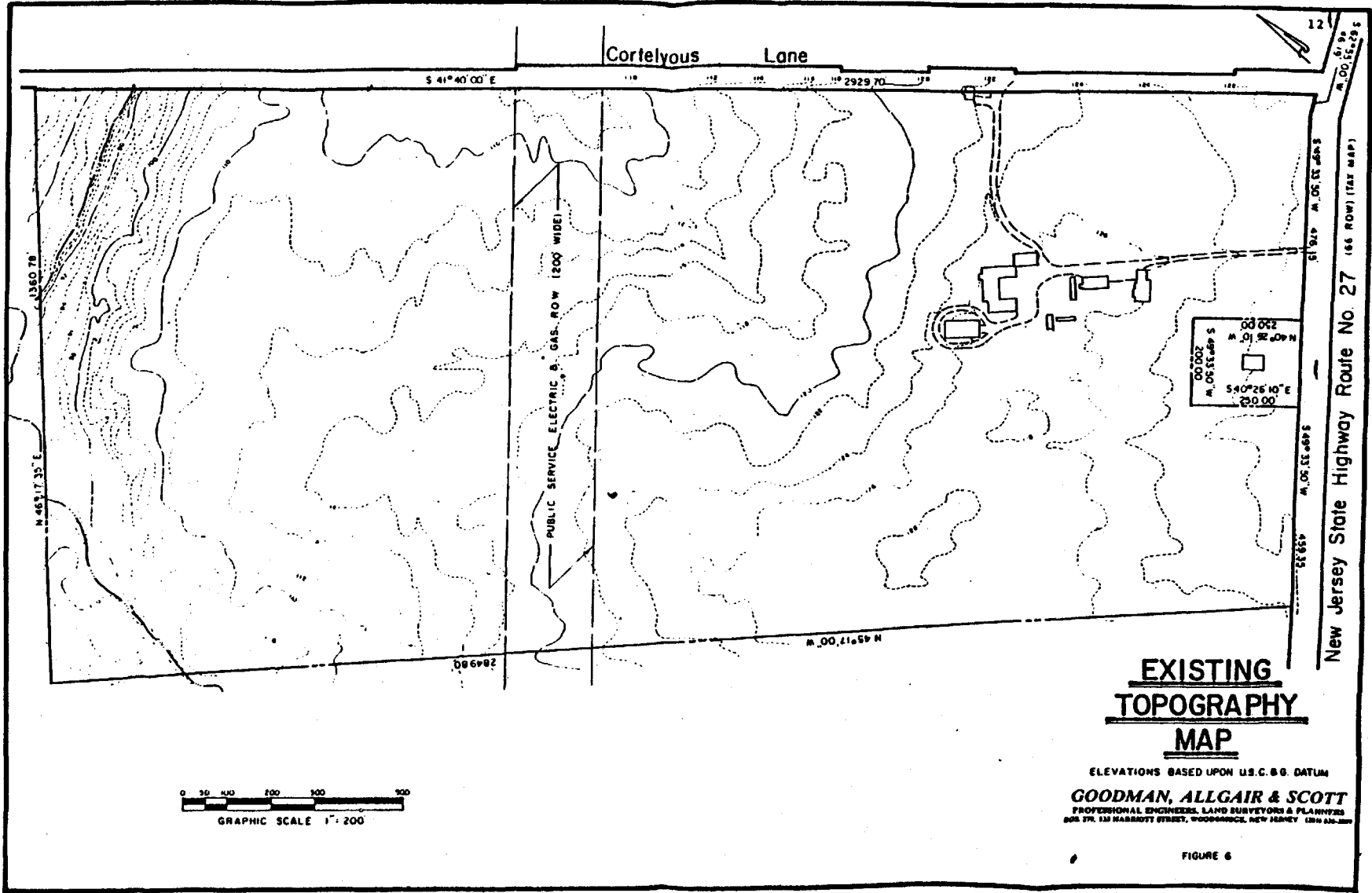
Soils

The U.S. Soil Conservation Service Soil Survey of Somerset County indicates there are five soil series found on the site. The majority of the site is underlain with two soil types : Royce Silt Loam (RyB) and Lansdowne Silt Loam (LbA). The following is a brief analysis of the five soil types.

1. Royce Silt Loam (RyB) 2-6% Slope. This soil is found in the central and northerly portions of the site. It accounts for approximately 43.4 percent of the 82.9 acre parcel. The Soil Conservation Survey reports describe the Royce Series as follows :

"The Royce series consists of deep, well-drained soils. These gently sloping soils are on high positions in the landscape on undulating and rolling uplands. They formed in a thin mantle of mixed marine sediment and in the underlying material weathered from red shale, siltstone, or fine sandstone."

The SCS report notes that RyB soils are characterized by slow runoff and slight erosion hazard potential. This soil is potentially the best and most developable soil on the property.



**EXISTING
TOPOGRAPHY
MAP**

ELEVATIONS BASED UPON U.S.C. & G. DATUM

GOODMAN, ALLGAIR & SCOTT
PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS
608 7TH, 120 HARBOTT STREET, WOODBRIDGE, NEW JERSEY 07095

FIGURE 6

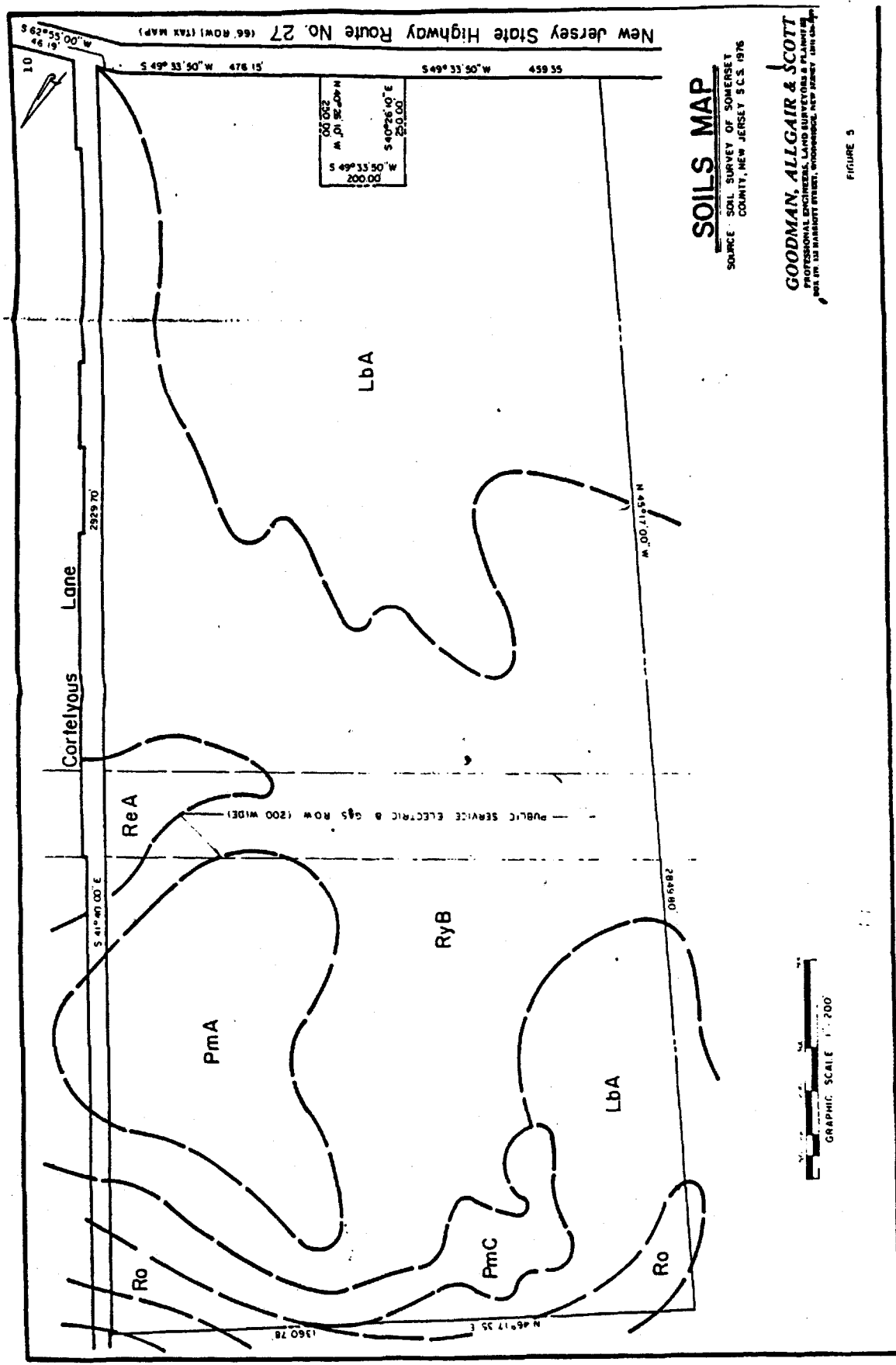


FIGURE 3

2. Penn Silt Loam (PmA) 0-2% Slope and (PmC) 6-12% Slope. The site contains two Penn soils. This is described as "moderately deep, well-drained soils. These nearly level to strongly sloping soils are on undulating and rolling uplands. They formed in material weathered from shale, siltstone, and fine-grained sandstone. Permeability and the available water capacity are moderate. The effective rooting depth is limited by the shale bedrock."

The PmA soils account for 13.5 percent of the subject site, and are located in the northeasterly portion of the property. The SCS report indicates that runoff in this soil is slow and the hazard of erosion is slight. The PmC soils, on the other hand, are characterized by medium runoff, and the hazard of erosion is moderate. This soil is found in the northwestern portion of the site and is moderately developable.

3. Lansdowne Soil (LbA) 0-2% Slope. This soil encompasses 39 percent of the site. It is primarily found in the northerly and northwest corner of the property. The soil series is described as follows:

"The Lansdowne series consists of deep, moderate well drained to somewhat poorly drained soils. These soils are nearly level to gently sloping. They are on broad uplands on low-lying flats, in depressions, and along drainageways. They formed in a mantle of old red glacial till over red shale, siltstone, or fine-grained sandstone. Permeability is moderate in the surface layer and slow in the subsoil, and the available water capacity is moderate. The soils have a perched seasonal high water table at a depth of 1 foot to 2½ feet late in fall, in winter, and early in spring. The effective rooting depth of some plants is restricted by seasonal high water table."

Due to the high water table, this type of soil is not readily conducive to development according to the SCS.

4. Reaville Silt Loam (ReA) 0-2% Slope. This soil is located in the east-central portion of the site and encompasses a very small portion of the site, 1.7 percent. This series "consists of moderately deep, moderately well drained and somewhat poorly drained soils. These nearly level and gently sloping soils are on upland flats, in depressions, and on concave lower slopes at the heads of drainageways. They formed in material weathered from red sandstone, siltstone, or shale. Shale bedrock is at a depth of 27 inches. Permeability is moderate in the surface layer and moderately slow in the subsoil. These soils have a seasonal high water table at a depth of ½ foot to 3 feet late in fall, in winter, and early in spring."

The ReA soils is described as a "nearly level soil (found) in low lying areas and intermediate positions on broad upland

flats... Runoff is very slow and the hazard of erosion is slight."

Development of these areas is severe due to the seasonal high water table.

5. Rowland Silt Loam (R0). This soil is located in the northernmost portion of the site and accounts for a very small portion of the site, 2.4 percent. This soil " is generally nearly level, but there are minor hummocky areas and slopes of more than 2 percent. The soil is on flood plains along major streams. Runoff is slow, and the hazard of erosion is slight. During flooding, however, rapidly flowing water gouges the soil in some places and deposits material in other places. Development potential of these soils is severe due to hazards of frequent stream overflow.

Physical Features and Site Development

A tributary to the Six Mile Run passes through a portion of the site's northerly boundary line.

The site presently consists of cultivated fields. Farm buildings and an associated farmhouse are located on the property. These structures are situated in the easterly portion of the site.

Public Service Electric and Gas Company maintains a 200 foot wide right-of-way which bisects the site containing overhead transmission lines. This right-of-way is parallel to and approximately 1,200 feet north of Route 27.

TABLE 3
DEGREE AND KIND OF LIMITATIONS OF SOILS FOR COMMUNITY DEVELOPMENT

SOIL SERIES	FOUNDATIONS FOR DWELLINGS		SEPTIC TANK ABSORPTION FIELDS	LOCAL ROADS/STREETS	LAWNS, LANDSCAPING AND GOLF FAIRWAYS	PICNIC/PLAY AREAS	PATHS AND TRAILS
	WITH BASEMENTS	WITHOUT BASEMENTS					
Royce : RyB	Slight:rippable bedrock at a depth of 3½ ft.	Moderate:frost-action potential.	Moderate:bedrock at a depth of 3½ ft. to 6 ft.; moderately slow permeability in subsoil.	Moderate: moderate potential for frost action.	Slight	Slight	Slight
Lansdowne : LbA	Severe:seasonal high water table at a depth of 1 ft. to 2½ ft.	Severe:seasonal high water table at depth of 1 ft. to 2½ ft.	Severe:seasonal high water table at depth of 1 ft. to 2½ ft.	Severe:seasonal high watertable of 1 ft. to 2½ ft.; high potential frost action.	Moderate:season- al high water table at a depth of 1 ft. to 2½ ft.	Slight	Slight
Penn : PmA; PmC	Moderate:rippable bedrock at a depth of 1½ to 3½ ft.	Moderate:frost action potential.	Severe:rippable bedrock at a depth of 1½ to 3½ ft.	Moderate:moderate potential frost action.	Moderate:bedrock at depth of 1½ to 3½ ft..	Slight	Slight
Reaville: ReA	Severe:seasonal high water table at a depth of ½ ft. to 3 ft.	Severe:high frost action potential.	Severe:seasonal high water table at depth of ½ ft. to 3 ft.;bedrock at a depth of 1½ to 3½ ft.	Severe:seasonal high water table at depth of ½ ft. to 3 ft.;high potential frost action.	Moderate:seasonal high water table at depth of ½ ft. to 3 ft.	Slight:Water table below a depth of 20 inches during season of use.	Moderate: water table below depth of 20 inches during season of use.
Rowland : Ro	Severe:hazard of frequent stream overflow.	Severe:hazard of frequent stream overflow.	Severe:hazard of frequent stream overflow.	Severe:hazard of frequent stream overflow.	Severe:hazard of frequent stream overflow.	Severe:hazard of frequent stream overflow.	Severe:hazard of frequent stream over- flow.

SOURCE : U.S. Soil Conservation Service

STATE DEVELOPMENT GUIDE PLAN

The State Development Guide Plan was designed to provide a comprehensive growth management strategy encompassing all land in New Jersey. The Plan enumerates four generalized land use categories including Growth, Limited Growth, Agriculture and Conservation areas.

Franklin Township contains two SDGP designations: A Growth Area designation encompasses the easterly portion of the community in the vicinity of Route 27 as well as the northerly portion of the Township. Approximately fifty percent of the Township is in the Growth Area designation as set forth in the Guide Plan. A Limited Growth designation encompasses the remainder of the township. This is shown on the accompanying SDGP Map for Somerset County.

The subject site is located in a designated Growth Area. Growth Areas are described as :

"... those regions of New Jersey where development has already occurred to an extensive degree, as well as partially suburbanized areas with accessibility to employment. Several existing rural centers in the more peripheral regions have also been designated as locations where continuing development would be appropriate.

"The Growth Areas were delineated by applying the following criteria :

- o location within or adjacent to major population and employment centers;
- o location within or in proximity to existing major water supply and sewer services areas;
- o location within or in proximity to areas served by major highway and commuter rail facilities;
- o absence of large blocks of public open space or environmentally sensitive lands."

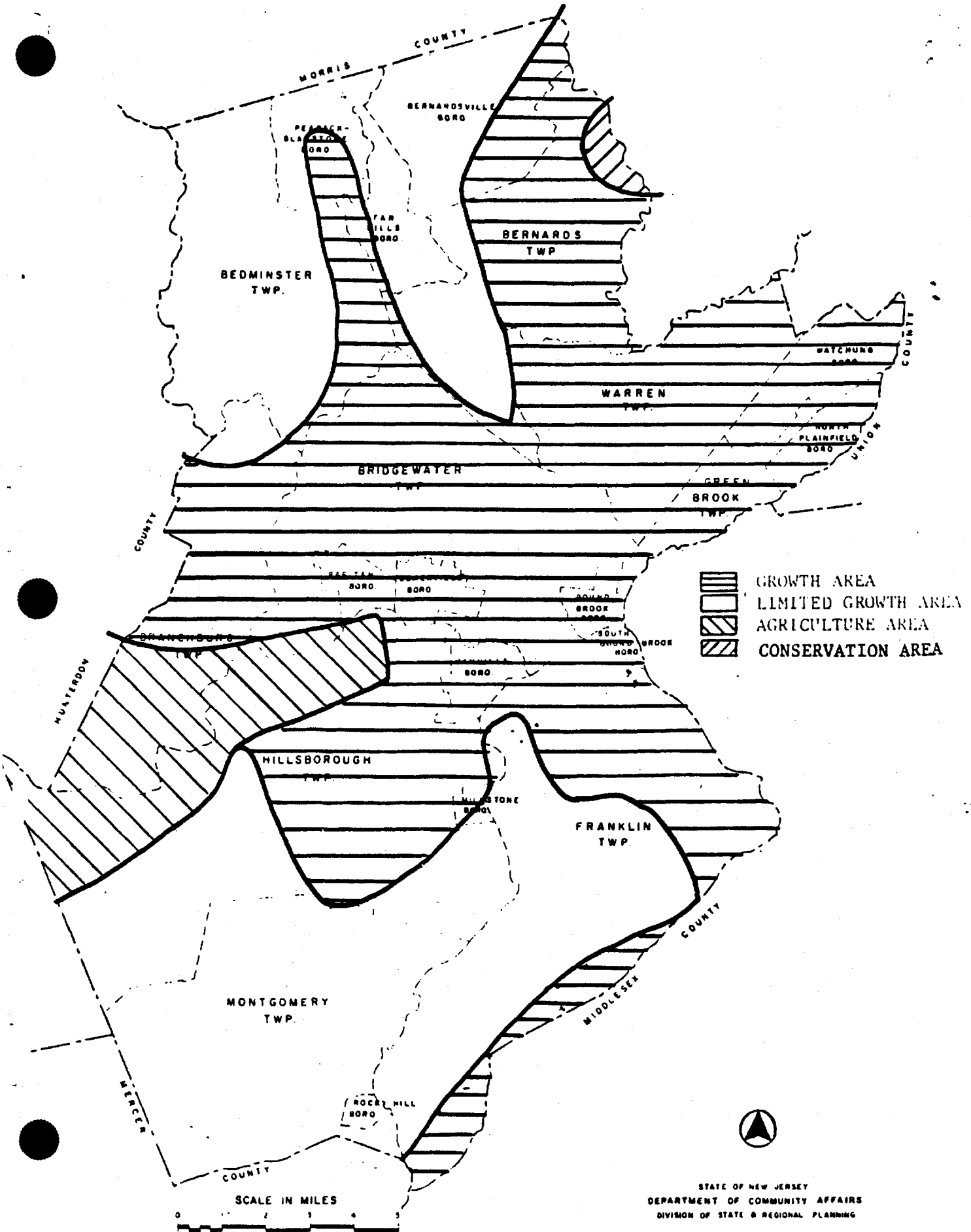
The Guide Plan suggests that these growth areas have developed due to a variety of factors, including their proximity to New York and Philadelphia, the availability of major transportation facilities and energy sources, and the provision of public facilities and services. The Plan also noted that "other portions of the State have developed, in part, as a result of indigenous economic growth, continuing metropolitan expansion and, in the case of the coastal area, natural features ..."

The Guide Plan indicates that substantial amounts of vacant land remain within these suburban areas and around rural centers. It notes that, in many instances, there are water, sewer and other infrastructure facilities available in close proximity to this vacant acreage. The Plan concludes that development should be channeled to these areas " to allow these facilities to be more efficiently utilized. If properly channeled, this growth could result in more

amenable and energy efficient patterns of development that would occur with continued low density sprawl or scattered residential concentrations in semi-rural areas."

SOMERSET COUNTY

State Development Guide PLAN



SOMERSET COUNTY LAND USE PLAN

The Somerset County Planning Board prepared its Master Plan on Land Use in 1971. This plan is the most current plan. The Plan is being updated, but has not been completed as of the writing of this report. The 1971 report recommends a "residential neighborhood" designation for the subject site. This designation calls for a density of approximately one dwelling unit per acre.

A "community development" designation is recommended for the properties fronting Route 27 west of the subject site to Bunker Hill Road. This category is described as follows :

"Each of the proposed eleven areas of Community Development will of course evolve with different characteristics, dependent on the private market and upon municipal land use policy. Probably the most characteristic feature will be the tendency toward residential development at higher densities. It is expected that the Community sizes will vary from five to fifty thousand persons and in overall densities varying from five to fifteen families per acre and that this concentration of development will take place on approximately six per cent of the County's land area. While very few high rise apartments are anticipated, there should be considerable low rise and garden apartments. The greater utilization of townhouses, or attached single family houses also appears to be a promising form of development. It is doubtful whether a major expansion of small lot single family houses would constitute the best utilization of land in these communities."

An "open space" designation encompassing the Six Mile Run Reservoir includes some frontage on Route 27 immediately to the east of the subject site. An "economic development" classification encompasses Route 27 frontage east of the reservoir to Somerset. This designation identifies those areas recommended for exclusive non-residential use.

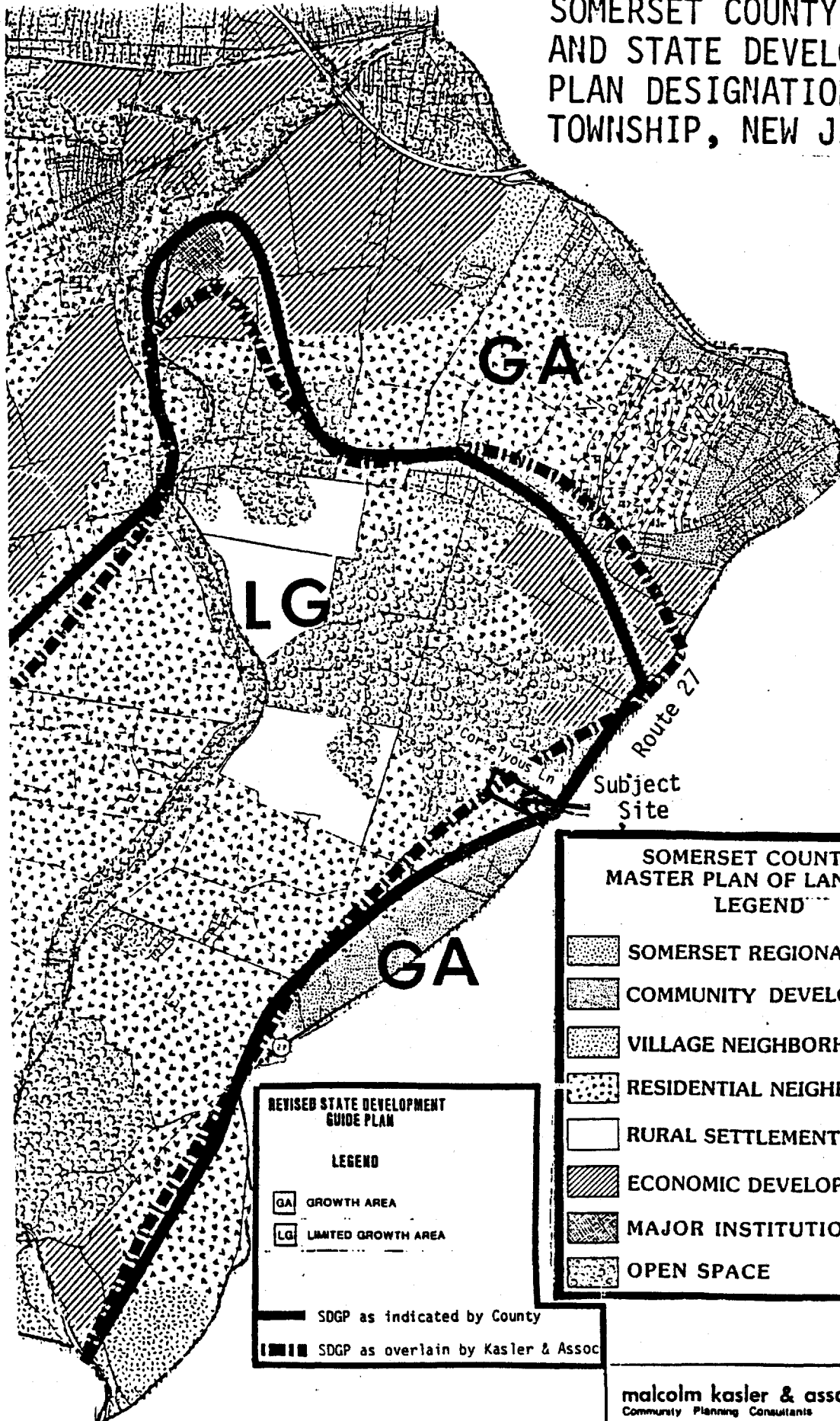
In summary, the County Plan indicates that the subject site, abutting westerly parcel and the lot located at the northeast corner of Route 27 and Cortelyous Lane are the parcels designated for low density residential use with frontage on Route 27 between Somerset and Bunker Hill Road. The Plan does not indicate the basis for this separate and restrictive classification.

The County Plan Map has been modified by overlaying the State Development Guide Plan designation areas. The subject property is designated in the limited growth area.

We have undertaken an independent evaluation concerning the issue of the site's location within the growth area. We have enlarged the SDGP map to the scale of the County Guide Plan and have determined that the designation on the County Plan is incorrect. We believe the Somerset County planning staff erred in providing the SDGP on its land use plan element.

It is apparent from the accompanying exhibit that the subject property is wholly within the growth area category. It may be that the township planners in drafting the master plan, may have erroneously relied upon this information in preparation of its plan.

SOMERSET COUNTY MASTER PLAN AND STATE DEVELOPMENT GUIDE PLAN DESIGNATIONS, FRANKLIN TOWNSHIP, NEW JERSEY



**SOMERSET COUNTY
MASTER PLAN OF LAND USE
LEGEND**

- SOMERSET REGIONAL CENTER
- COMMUNITY DEVELOPMENT
- VILLAGE NEIGHBORHOOD
- RESIDENTIAL NEIGHBORHOOD
- RURAL SETTLEMENT
- ECONOMIC DEVELOPMENT
- MAJOR INSTITUTION
- OPEN SPACE

**REVISED STATE DEVELOPMENT
GUIDE PLAN
LEGEND**

- GROWTH AREA
- LIMITED GROWTH AREA
- SDGP as indicated by County
- SDGP as overlain by Kasler & Assoc

malcolm kasler & associates, p.a.
Community Planning Consultants Hackensack, N.J.

ZONING

The Franklin Township zoning ordinance and map, dated June 14, 1979 divides the community into 16 districts including seven residential zones, three business zones, two office districts, three manufacturing zones and a mixed-use residential-commercial zone.

The subject property is located wholly within the H-D Highway Development Zone. The H-D Zone permits both commercial and residential uses.

Table 4 which follows is an analysis of the 16 zone districts and their respective acreage in the community.

TABLE 4
ZONE DISTRICT ACREAGE
FRANKLIN TOWNSHIP, N.J.

<u>DISTRICT</u>	<u>MINIMUM LOT AREA (ACRES)</u>	<u>ACRES COVERED</u>	<u>PERCENT OF TOWNSHIP</u>
R-R	2.29	3,041	10.2
R-A	1.15	12,277	41.3
R-40	0.92	3,815	12.8
R-20	0.46	2,288	7.7
R-15	0.34	383	1.3
R-10	0.23	661	2.2
R-7	0.17	596	2.0
B-1	5.00	198	0.7
B-2	0.46	128	0.4
B-3	0.23	163	0.5
HD	5.00	1,152	3.9
M-1	5.00	2,248	7.6
M-2	1.00	998	3.4
M-3	1.00	436	1.5
ROL	3.00	410	1.4
OPT	0.23	162	0.5
PUD	----	740	2.5
TOTAL		29,696	100.0

SOURCE : Franklin Township Zoning Map, June , 1979.
CALCULATIONS : Malcolm Kasler and Associates, P.A.

TOWNSHIP OF FRANKLIN

SOMERSET COUNTY

NEW JERSEY

ZONE LOCATION MAP

(NOT OFFICIAL)

THE OFFICIAL ZONING BOUNDARIES ARE DETAILED ON SEPARATE SHEETS IN THE "Official Zoning and Codes", MAINTAINED IN THE OFFICE OF THE Township Engineer. Individual sheets may be purchased there.

HILLSBOROUGH TOWNSHIP

BORO OF MILLSTONE

HILLSBOROUGH TOWNSHIP

MONTGOMERY TOWNSHIP

BORO OF ROCKY HILL

MONTGOMERY TOWNSHIP

PRINCETON TOWNSHIP

BRIDGEWATER TOWNSHIP

Subject Site

REVISED:

DEC. 16, 1976 (2)
 MAR. 3, 1977 (3)
 OCT. 27, 1977
 JAN. 26, 1978 (ORD. NO. 694)
 APR. 2, 1978 (ORD. NO. 917)
 SEP. 28, 1978 (ORD. NO. 921)
 DEC. 11, 1978 (ORD. NO. 927)
 APR. 14, 1979 (ORD. NO. 961)

PREPARED FOR:
 THE TOWNSHIP PLANNING BOARD

PREPARED BY:
E. EUGENE CROSS ASSOCIATES
 CONSULTANTS IN CITY PLANNING & URBAN REVENUE

LEGEND

- R-R RESIDENTIAL - RURAL
- R-A RESIDENTIAL - AGRICULTURAL
- R-40 RESIDENTIAL - P.U.D. OPTION AND R-40
- R-20 RESIDENTIAL
- R-15 RESIDENTIAL
- R-10 RESIDENTIAL
- R-7 RESIDENTIAL
- B-1 REGIONAL BUSINESS
- B-2 GENERAL BUSINESS
- B-3 NEIGHBORHOOD BUSINESS
- H-D HIGHWAY DEVELOPMENT - P.U.D. OPTION
- M-1 LIGHT MANUFACTURING
- M-2 LIGHT MANUFACTURING
- M-3 MINING AND MANUFACTURING
- ROL RESEARCH - OFFICE - LABORATORY
- O.P.T. OFFICE - PROFESSIONAL - TRANSITIONAL

• Tentative approval granted.
 •• Revised tentative approval granted.

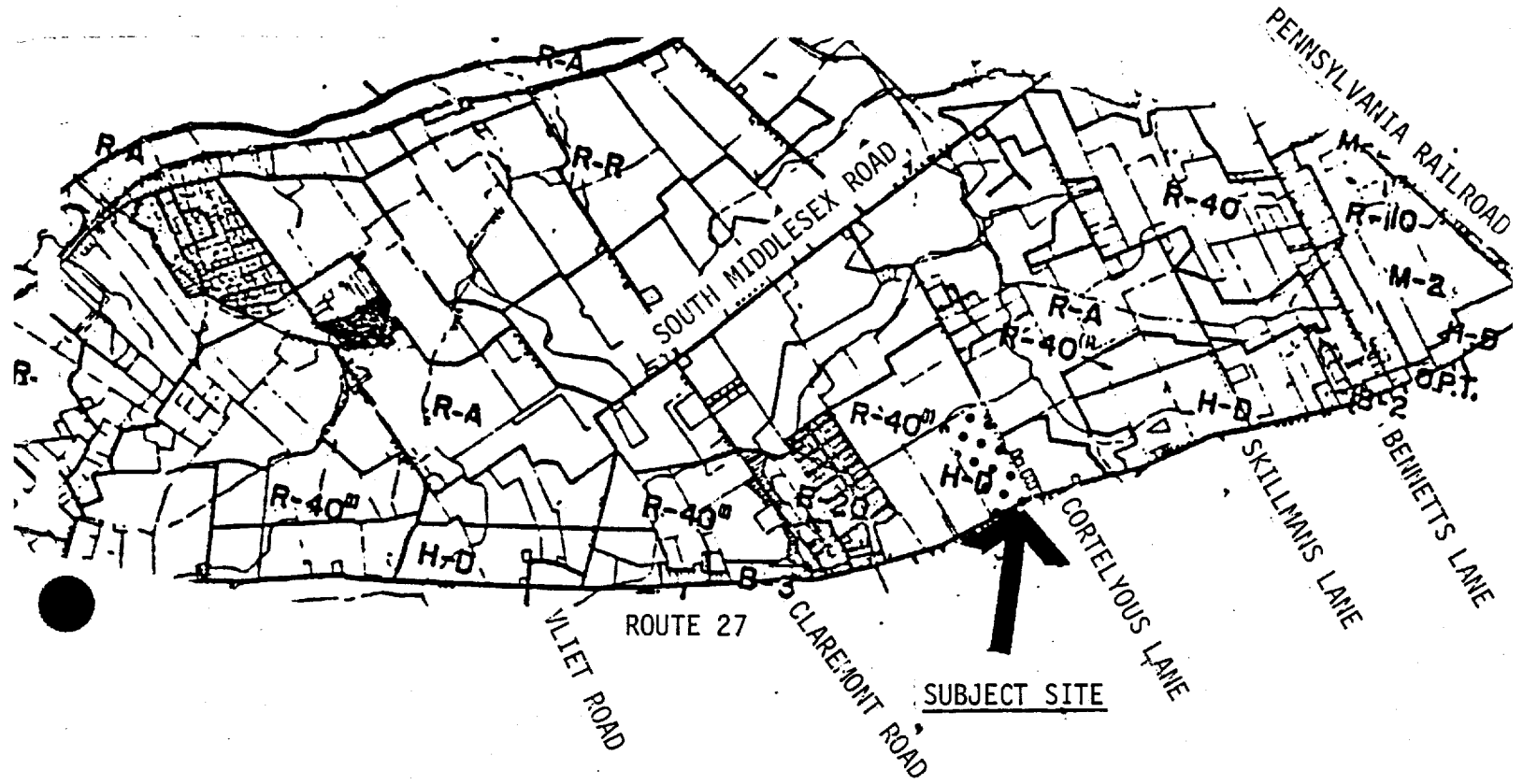
• 1020 P.U.D. 1020 ASSOCIATES P.U.D. Jan. 10, 1975
 •• 1020 P.U.D. 1020 ASSOCIATES P.U.D. June 23, 1975

TOWNSHIP OF FRANKLIN

SOMERSET COUNTY

NEW JERSEY

ZONE LOCATION MAP



ROUTE 27 CORRIDOR

The seven residential districts in the community account for approximately 78 percent of the 46.9 square mile area in the Township. A brief description of each of the zones follows :

1. The R-R Residential-Rural Zone is a single-family residential zone requiring a minimum lot area of 100,000 square feet (2.29 acres). This represents a density of 0.44 dwelling units per acre. Farm operators, places of worship, nursery and private schools, golf courses and stables are also permitted uses in this zone.
2. The R-A Residential-Agricultural Zone is a single-family district requiring a minimum lot area of 50,000 square feet, a residential density of 0.88 dwelling units per acre. Uses permitted in the R-R Zone are also permitted in this zone as well as agricultural research and laboratory uses.
3. The R-40 Residential Zone is a single-family district permitting the same uses allowed in the R-R Zone. A minimum lot area of 40,000 square feet is required for a single-family dwelling or a density of 1.09 dwelling units per acre.

The ordinance also permits Planned Unit Development, at a maximum density of 3.5 dwelling units per acre on a minimum 300 acre site.

4. The R-20 Residential Zone is a single-family residential district permitting single-family residences, places of worship and private schools. The ordinance requires a minimum lot area of 20,000 square feet or a density of 2.18 units per acre.
5. The R-15 Residential Zone only permits single-family dwellings on 15,000 square foot lots or a density of 2.90 units per acre.
6. The R-10 Residential Zone also is restricted to single-family dwellings. A minimum lot area of 10,000 square feet is required. This constitutes a density of 4.36 units per acre.
7. The R-7 Residential Zone permits single and two-family residences. Single-family dwellings require a minimum lot area of 7,000 square feet and two-family residences requires 10,000 square feet. Single-family development constitutes a density of 6.22 units per acre, and two-family housing 8.72 units per acre.

The six single-family residential districts account for approximately three-quarters of all the land in the municipality. The R-7 Zone, permitting single and two-family dwellings, accounts for an additional 2 percent of the total acreage.

Additionally, the B-1 Regional Business Zone permits garden apartments as a permitted use at a maximum density of eight units per acre, the B-2 General Business Zone permits garden apartments as a conditional use with a density of eight units per acre, and the O-P-T Office-Professional-Transitional Zone permits one and two-family dwellings. The H-D highway development zone also permits housing which is more fully described herein :

The HD Highway Development Zone - The H-D Zone permits a variety of residential and commercial uses, as follows:

- a. Retail goods and services;
- b. General and professional office buildings;
- c. Scientific research or engineering laboratories;
- d. Data processing and communication business;
- e. Restaurants, motels and department stores;
- f. Indoor theatres and bowling alleys;
- g. Funeral homes;
- h. Nursing homes;
- i. Quasi-public or private club;
- j. Indoor and outdoor tennis courts;
- k. Planned Unit Development

The applicable area and bulk requirements for conventional uses in the H-D Zone are set forth in the accompanying table.

TABLE 5
AREA AND BULK REQUIREMENTS
H-D ZONE

Minimum Lot Area (acres)	5
Minimum Frontage (feet)	450
Minimum Front Yard (ft.)	100
Minimum Side Yard, One (ft.)	40
Minimum Side Yards,Both (ft.)	100
Minimum Rear Yard (ft.)	75
Maximum Lot Coverage (%)	40
Maximum Building Height(st/ft.)	3/45
Minimum Floor Area (sq.ft.)	10,000

The Zoning Ordinance sets forth a number of regulations affecting Planned Unit Development, which is permitted in the R-40 as well as H-D Zone. The recently amended Development Schedule affecting H-D development is set forth in the accompanying table.

TABLE 6
PUD REQUIREMENTS
H-D ZONE

<u>REQUIREMENT</u>	<u>H-D ZONE</u>
Minimum Acres	300
Development Standards Maximum % of Residential Land Use	80
Maximum Density of Dwelling Units per Gross Acre (units/acre)	3.5
Minimum Single-family Lot Size (square feet)	15,000
Single-family Detached Units Minimum %/Maximum % of Total Units	10/25
Town Houses ;Minimum %/Maximum % of Total of Units	25/50
Garden Apartments,Minimum %/Maximum % of Total of Units	25/50
Commercial-Industrial;Minimum %/Maximum (%)	5/25
Minimum Required Open Space and Public Areas(%)	25
Minimum Require Frontage On Route 27 (ft.)	500
Minimum Required Low Income Units (%)	5
Minimum Required Moderate Income Units(%)	15

The PUD requirements in Table 6 reflect recent amendments to the Township Zoning Ordinance which reduced the permitted density from 7 to 3.5 units per acre. In February, 1984 the Township also amended the ordinance to increase the minimum percentage of required low and moderate income dwellings from a total of 15 percent (5 percent low; 10 percent moderate) to 20 percent (5 percent low and 15 percent moderate). The Township had previously increased the minimum lot area required for a PUD from 100 to 300 acres.

FRANKLIN TOWNSHIP MASTER PLAN

The Franklin Township Master Plan, prepared by Dresdner Associates, was adopted by the Planning Board in 1983. This Plan represents a comprehensive update of previous master plans and includes a land use plan element as well as circulation, community facilities, recreation, housing, utility, conservation and energy conservation plan elements.

The Plan sets forth a series of goals and objectives which are described as "general aims intended to achieve a desirable residential, economic and social community ... The Master Plan builds upon certain assumptions. A major assumption relates to Franklin Township's role in its region. It is assumed that the Township will continue to be a major attraction to housing and industry in the region, and there will be continued pressure to develop agricultural lands in order to accommodate suburban expansion. Existing and planned regional highways which pass through the Township further emphasizes Franklin's central position as a developing community in the Somerset-Middlesex County area."

The Plan identifies a number of goals and objectives which constitute the basis for the master plan recommendations including, amongst others the following :

- "1. Maintain diversity in the type and character of development and particularly to promote opportunity for varied residential environments and variety in the type and cost of housing :
 - ... By providing a variety of housing choices in new developments within overall density standards as expressed in the Land Use Plan Element;
 - ... By providing housing for varying age groups, family sizes and income levels;
 - ... By protecting sound residential areas and upgrading those that are in declining condition.
- "2. Create a sense of Township identity and unity without undermining the old "village" areas.
- "3. Conserve rural characteristics, areas of natural beauty, sensitive environmental areas, productive agricultural areas and important historic places.
- "4. Expand the employment base and tax base , focusing on areas with regional accessibility:
 - ... By relating major employment areas to existing and proposed major highways;
 - ... By locating major employment areas to the periphery of the Township to limit non-local traffic through residential neighborhoods.

- " 5. Provide a reasonable balance between housing and job opportunities.
- " 6. Emphasize convenience and neighborhood commercial centers and limit major commercial development to nodes with regional access.
- " 7. Direct more intensive development to areas that are services with utilities and use utility systems as a means of shaping the development patterns in order to achieve optimum utilization of utility systems and overall development policies."

The Franklin Master Plan presents a two-tier plan to guide the community's growth. A Concept Plan presents a generalized plan identifying the desired development pattern over a 20-25 year period. A more detailed 5-10 year plan is also presented which is designed to "bridge the gap between the detailed zoning map and the long range plan."

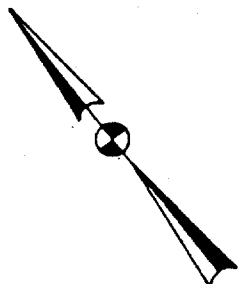
The Concept Plan recommends a rural designation for the subject site and abutting property. This category calls for a maximum density of one dwelling unit per acre. The Plan indicates that the subject site, the abutting westerly property and the parcel to the east across Cortelyous Lane are the only large properties fronting Route 27 between Old State Road and Somerset which are recommended for rural and residential use. All other residentially designated property are recommended for suburban (1 to 4 units per acre) and urban (more than 4 units per acre) residential use.







The detailed 5 to 10 year plan is set forth in a series of ten "planning sectors" maps which cover the entire municipality. The subject site is shown in Sector 8, bounded by Route 27, Cortelyous Lane, South Middlesex Road and Vliet Road. The map indicates that the subject site and abutting westerly parcel are designated for "rural residential" use at a maximum density of one unit per acre. An "urban residential" designation (more than 4 units per acre) and commercial designation encompasses all other property fronting Route 7 westbound for a distance of 1.5 miles.

The Plan also recommends a rural residential designation for the parcel located at the northwest corner of Route 27 and Cortelyous Lane. All other property fronting Route 27, eastward 1.6 miles to the railroad line, which is designated for development is recommended for urban residential or commercial use.

The Plan indicates that , within a three mile section along Route 27, a rural residential designation is recommended for only three properties including the subject site. All other residentially designated property in this area are recommended for "urban residential" use. The Plan does not indicate the basis for this separate classification. We note that the site is not characterized by any environmental or unique physical condition warranting a separate and distinct low density use classification, different from that of adjoining uses.

FRANKLIN TOWNSHIP LAND USE PLAN
SECTORS 6&8, ROUTE 27 BETWEEN
VLIET ROAD AND RAIL LINE



-  RURAL RESIDENTIAL-
1 DU/ACRE OR LESS
-  SUBURBAN RESIDENTIAL-
1 TO 4 DU'S/ACRE
-  URBAN RESIDENTIAL-
> THAN 4 DU'S/ACRE
-  COMMERCIAL
-  INDUSTRIAL
-  PUBLIC, RECREATION
AND OPEN SPACE

Subject Site

The Comprehensive Plan also contains a number of other plan elements. The recommendations set forth in those elements as they affect the subject site are as follows:

1. Circulation Plan - The Circulation Plan identified Route 27 as an arterial or major roadway. The Plan indicates that Route 27 serves as "the principal north-south arterial road. It connects with the regional centers of New Brunswick and Princeton."

The Plan recommends an 80 to 100 foot wide right-of-way with a 40 to 50 foot paved width. Route 27 presently has a 66 foot right-of-way width in the vicinity of the subject site. The Plan classifies Cortelyous Lane as a local street with a recommended 50 to 60 foot right-of-way and 28 to 36 foot paved width.

The Circulation Plan also recommends a bikeway path meandering through the central and southerly portions the Township. This bikeway path bisects the northeasterly portion of the subject site.

2. Community Facilities Plan - This Plan indicates that the Franklin School and Franklin Fire Station are both located two miles west of the subject site and readily accessible via Route 27.

Six Mile Run Reservoir is located immediately east of the subject site. The Master Plan indicates that this 2,869 acre undeveloped site throughout the central portion of the Township includes frontage on Cortelyous Lane opposite a portion of the subject site. This is shown on the accompanying Community Facilities Plan Map. The Plan notes that "the State formally designated this site as a water resource facility designed to provide a potable water supply to the central New Jersey area. Of the total land area planned for aquisition for the reservoir site, roughly two-thirds will not be inundated. Obviously, a vast potential for conservation and natural wildlife preservation areas exists and is associated with the site. Further, because of the available public land, the potential for passive as well as active recreational facilities at this site exists. At the present time, however, the State does not propose to claim any intent for the development of land areas for recreational use at the Six Mile Run Reservoir facility. It is recommended that an athletic field center be developed on surplus Six Mile Run Reservoir lands along South Middlebush Road."

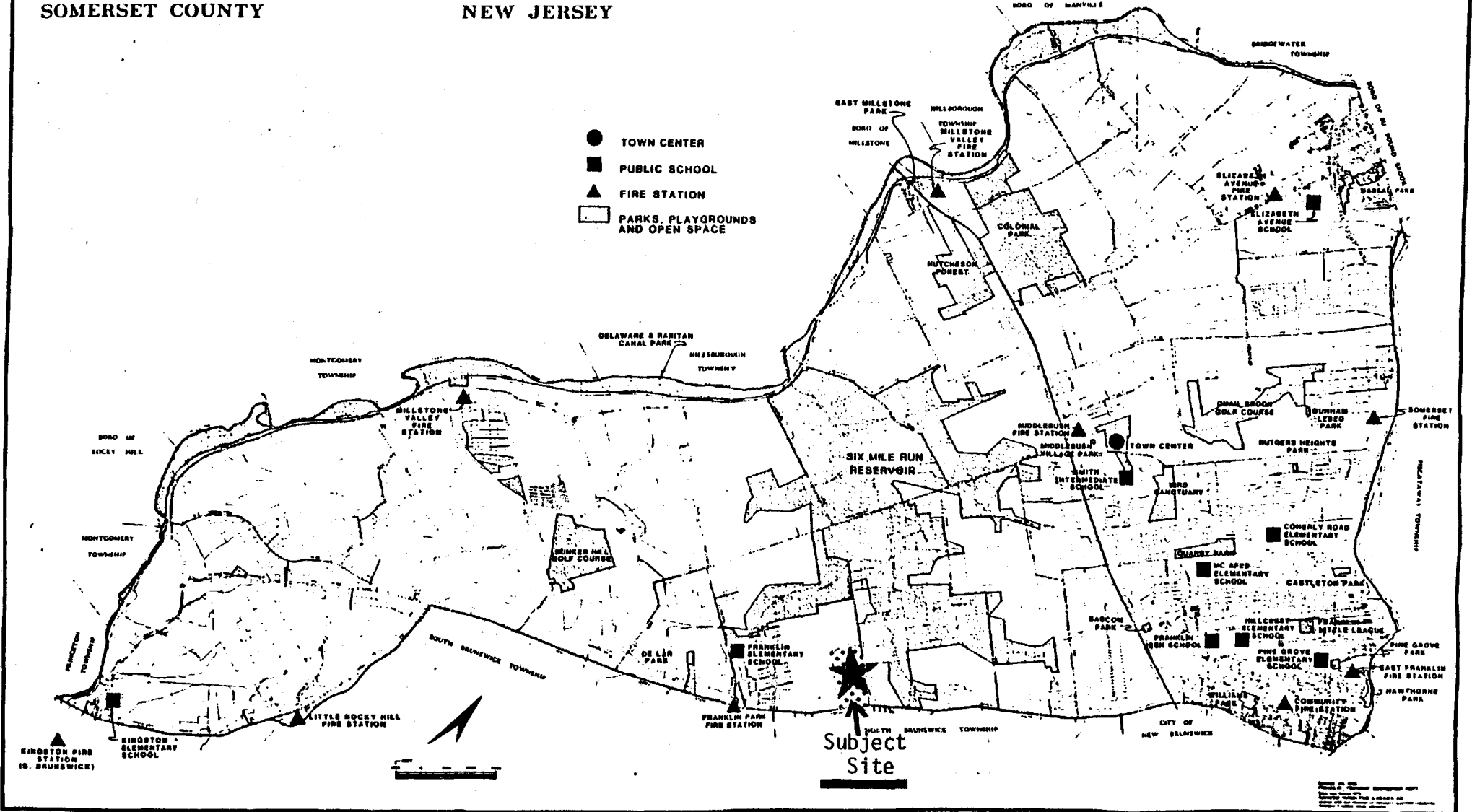
3. Housing Plan - The Housing Plan element indicates that there is an insufficient number of housing units available in Franklin Township for low and moderate income families. The Plan notes the following :

TOWNSHIP OF FRANKLIN

SOMERSET COUNTY NEW JERSEY

COMMUNITY FACILITIES PLAN

- TOWN CENTER
- PUBLIC SCHOOL
- ▲ FIRE STATION
- PARKS, PLAYGROUNDS AND OPEN SPACE



"For those of more moderate income, the private real estate market does not normally provide decent, safe and sanitary housing at affordable rents. Although there are varying estimates of need, there is consensus that the need exists. The New Jersey Department of Community Affairs in its report entitled "Low and Moderate Income Housing Need in New Jersey" defined housing need in Franklin in terms of the number of low and moderate income families living in physically inadequate housing (physical housing need) and those low and moderate income persons paying over 25% of their income for shelter (financial housing need). The Township's resident need was estimated to be about 850 to 900 units.

"The Township's Housing Assistance Plan, developed as part of the application for Community Development funds, identifies households in need of assistance. This figure is approximately 1,000 households as of 1980. Thus, both the State and the Township estimate resident need to be 900 to 1,000 units."

The Plan also sets forth an estimate of future housing need, determining "there could be a need for about 3,000 least cost and/or subsidized housing units by the time the Plan is fully implemented." This determination is based on the Concept Plan, "reflecting a 20 year horizon, has a capacity for nearly 20,000 jobs, including existing jobs."

"It is unclear how many of these potential employees would desire housing in the Township as compared with locations elsewhere; nevertheless, it is reasonable to assume that (i) a percentage of this labor force (perhaps 50% or 10,000 employees) would desire housing in Franklin, and (ii) of these 10,000 potential employees, up to 20% or 2,000 would be in the low and moderate income range. Thus, there could be a need for about 3,000 least cost and/or subsidized housing units by the time the Plan is fully implemented."

The Housing Plan sets forth a number of recommendations to meet this need. These include the following :

- "a. In proper locations, zone sufficient amounts of vacant land for densities and types of development which would be favorable for affordable housing. The gross density should range from eight to fifteen units per acre depending on housing type. The location should be in proximity of existing private and public services.
- "b. Two-to four-family houses should be encouraged as in-fill and rehabilitation in the area between Hamilton Street and Somerset Street. Large-scale housing development in this area should be avoided because of its potential for disruption of community cohesion and for overloading

community facilities.

- "c. Local housing agencies should actively pursue financing resources for public or subsidized housing, both as new and as rehabilitated units. Such resources would include use of Federal rent assistance program, additional public and subsidized housing, encouragement and assistance to non-profit organizations to provide housing, assistance to low and moderate income persons to rehabilitate housing and requirements that portions of all planned developments be made affordable to low or moderate income families.
- "d. Identify specific sites for publicly-assisted low and moderate income housing. Although Federal and State subsidies are currently very scarce and highly competitive, land banking should be undertaken in anticipation of new programs."

The extent of the low and moderate housing need as expressed in the Township Master Plan is similar to the total need as determined by Malcolm Kasler and Associates, P.A. utilizing the so-called "concensus" or "Lerman" Formula. A significant difference, however, as noted relative to the time period in which the housing need is implemented. The Lerman Formula and Kasler approach identify the need relative to the next six year period, whereas the Township Master Plan does not indicate the basis for its projected implementation period, which minimally is 20 years into the future.

PROPOSED ZONING

Franklin Township is in the process of reviewing a proposed Development Ordinance prepared by Candeub Fleissig and Associates. The subject site is located in a proposed RR - Rural Residential Zone. This zone is described as follows: "This district is intended to permit relatively low density single-family residential development due to the long-term inability of soils to accept large amounts of sewage via septic tank disposal methods and the practical unavailability of sewers". The ordinance would impose a minimum lot area requirement of 100,000 square feet and a minimum street frontage of 400 feet.

The proposed zoning for the subject site and surrounding area is shown on the accompanying map. There are only five parcels zoned R-R with frontage on Route 27. All other parcels fronting Route 27 are in the C-R Cluster Residential Zone or in business zones.

The ordinance does not permit any multi-family uses as a principal use. Multi-family uses are permitted as a conditional use in the C-R Zone and General Business Zone. Similar standards regulating multi-family uses are applicable to both zones.

The CR Zone is described in the ordinance as follows: "The purpose of the "CR" District is to accomodate single-family, two-family and multi-family residences while fostering the preservation of open space, recreational areas, flood plains and wooded tracts and provide low and moderate income housing." This zone permits single and two-family dwellings as principal uses (20,000 and 24,000 square feet respectively) and multi-family uses on 10 acre lots as a conditional use.

The multi-family regulations include the following :

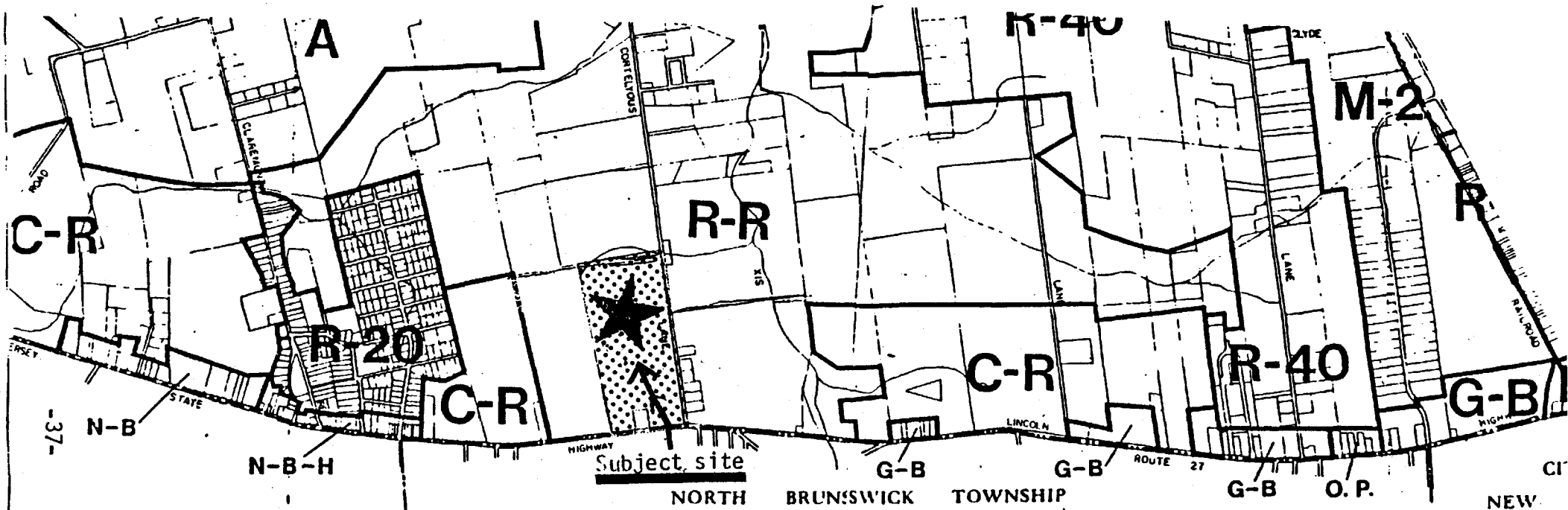
- a. A maximum density of 6 units per acre;
- b. A minimum of 750 square feet of floor area for a 0 or 1 bedroom garden apartment and 950 square feet for 2+ bedroom units;
- c. A maximum 16 units per garden apartment building;
- d. A required building off-set where there are more than four adjoining garden apartments.
- e. A maximum 200 foot length for garden apartment buildings;
- f. A maximum of 20 percent lot coverage.

The ordinance contains a mandatory 15 percent set aside for lower income housing. A density bonus of 2 units per gross residential acre is to be given where a developer provides a 20 percent set aside. The mandatory set aside is applicable to all multi-family developments. This includes a proposed conventional cluster zoning provision applicable to RR, R-40 and R-20 Zone where the maximum densities range from 0.75 to 3 units per acre.

This proposed ordinance has not been adopted and consequently has no legal standing. However, because it represents an intent on the part of the Township, we offer the following initial comments, reserving the right to provide a detail analysis if and when these provisions are formally adopted. :

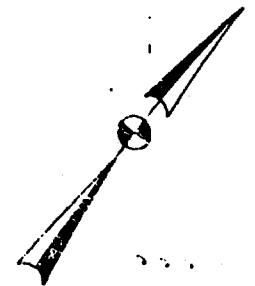
1. The basis for the rural residential (RR) zoning of the subject site relates to the site's soil conditions and unavailability of sewers. We note that the U.S. Soil Conservation Soil Survey indicates that a substantial portion of this site is not characterized by adverse soil conditions affecting development.
2. The RR zoning is not consistent with the recommendations for higher density residential and business use for other properties fronting Route 27.
3. The proposed densities and mandatory set asides are insufficient to accommodate lower income housing. The proposed densities contemplated by Franklin Township are significantly less than those provided elsewhere in the State to facilitate the Mount Laurel II mandate.
4. The provision of multi-family units only as a conditional use impedes the provision of such development and the construction of lower income housing. An inability to meet any one of the conditions set forth in the ordinance would make the application a use variance proceeding. It would require the submission to be placed before the local Board of Adjustment, which has a more restrictive voting procedure. Therefore, this restriction to a conditional use has a detrimental affect on the provision of lower income housing.
5. The ordinance contain a number of potentially cost-generative standards, which is inconsistent with Mount Laurel II. These include the requirements for minimum floor space for garden apartments, the restriction on the number of units per structure, 20% lot coverage restrictions, and the requirements for off-sets in building walls.

PROPOSED ZONING MAP, ROUTE 27-CORTELYOUS LANE VICINITY
FRANKLIN TOWNSHIP, NEW JERSEY. DRAFT DATED 2/9/84



LEGEND

A	AGRICULTURAL	O. P.	OFFICE - PROFESSIONAL
R-R	RURAL RESIDENTIAL	N-B	NEIGHBORHOOD BUSINESS
R-40	RESIDENTIAL	G-B	GENERAL BUSINESS
R-20	RESIDENTIAL	C-B	CORPORATE BUSINESS
R-15	RESIDENTIAL	R-O-L	RESEARCH - OFFICE - LABORATORY
R-10	RESIDENTIAL	M-1	LIGHT MANUFACTURING
R-7	RESIDENTIAL	M-2	LIGHT MANUFACTURING
C-R	CLUSTER RESIDENTIAL		



REASONABLENESS OF ZONING ORDINANCE TO PROVIDE REALISTIC OPPORTUNITIES FOR
LOW AND MODERATE INCOME HOUSING

Mount Laurel II requires that all communities provide a realistic opportunity in their land use regulations for low and moderate income housing. This provision in the decision would indicate a basic reliance on zoning and related land use ordinances.

The Court notes the municipal obligation to accommodate its fair share of the housing need as follows:

"The municipal obligation to provide a realistic opportunity for the construction of its fair share of low and moderate income housing may require more than the elimination of unnecessary cost-producing requirements and restrictions. Affirmative governmental devices should be used to make that opportunity realistic, including lower-income density bonuses and mandatory set asides. Furthermore the municipality should cooperate with the developer's attempts to obtain federal subsidies. For instance, where federal subsidies depend on the municipality providing certain municipal tax treatment allowed by state statutes for lower income housing, the municipality should make a good faith effort to provide it. Mobile homes may not be prohibited, unless there is solid proof that sound planning in a particular municipality requires such prohibition."¹

The Court notes two basic affirmative measures which can be adopted relative to Mount Laurel II issues. It states :

"There are two basic types of affirmative measures that a municipality can use to make the opportunity for lower income housing realistic : (1) encouraging or requiring the use of available state or federal housing subsidies, and (2) providing incentives for or requiring private developers to set aside a portion of their developments for lower income housing. Which, if either of these devices will be necessary in any particular municipality to assure compliance with the constitutional mandate will be initially up to the municipality itself."²

The Court also notes several inclusionary zoning devices including incentive zoning and mandatory set asides, as well as "such other affirmative devices as zoning substantial areas for mobile homes and for other types of low cost

¹Mount Laurel II, pg. 30

²Op. Cit., pg.102.

housing and establishing maximum square footage zone, i.e., zones where developers cannot build units with more than a certain footage or build anything other than lower income housing or housing that includes a specified portion of lower income housing. In some cases, a realistic opportunity to provide the municipality's fair share may require over-zoning, i.e., zoning to allow for more than the fair share if it is likely, as it usually is, that not all of the property made available for lower income housing will actually result in such housing."³

The Franklin Zoning Ordinance does not bear a reasonable relationship to the Court mandate requiring a "realistic opportunity" for low and moderate income housing construction. This determination is based on the following :

1. The density provisions set forth in the ordinance are insufficient to realistically accommodate low and moderate income housing. The maximum multiple-family residential density applicable to approximately 17 percent of the municipality (i.e. the PUD option on the R-40 and HD Zones) is 3.5 units per acre. This density permits the equivalent number of units as a single-family residential zone requiring 12,500 square feet per lot.
2. Only 1 percent of the Township's acreage is zoned B-1 and B-2 permitting multiple dwellings at 8 units per acre.
3. The imposition of a mandatory set aside is inefficient where it is not related to higher densities than set forth on the Township Ordinance. We also notes that the ordinance requiring a 5% low/15% moderate income housing set aside is inconsistent with the dictates of the Court decision.
4. The Ordinance requiring all proposed developments, including areas zoned solely for detached single-family dwellings, to include a 20 percent set aside is unrealistic without a suitable higher density provision. Consequently, while the ordinance superficially appears to accommodate Mount Laurel II with its mandatory set asides, the provision may not be realistically implemented due to excessive zoning controls affecting nearly 80 percent of the residentially zoned acreage.

We note the ordinance imposes excessive area and bulk requirements in most areas zoned for detached single-family uses. These minimum requirements, set forth in the accompanying Schedule, are

³Mount Laurel II, pgs. 114-115

not modified or waived with the imposition of the mandatory set aside. This indicates the ordinance requires large lot zoning (for example ½ acre to 2.2 acres in certain zones) for lower income housing units. Other provisions include minimum floor area requirements ranging from 850 to 1,800 square feet depending on the zone which we believe is unconstitutional zoning, excessive frontage and other dimensional requirements. These provisions effectively preclude the construction of lower income housing in large portions of the community in which the ordinance "mandates" such construction.

5. The municipality does not make any provision for mobile homes or other affirmative devices as noted in the Mount Laurel II decision.
6. The ordinance provision affecting Planned Unit Development(PUD) mandates a mix in the type and amount of detached housing, garden apartments and townhouses. This could represent a restriction on a developer's ability to respond to market conditions and consequently affects the provision of lower income units. This is especially critical to a developer who may be required to provide the mandatory set aside without benefit of federal subsidies. The ability of the developer to provide the lower income housing component under these circumstances will be dependent on the success of the fair-market housing, and therefore the municipality should provide sufficient flexibility to enable the developer to respond to market conditions.
7. The PUD regulations are not consistent with each other. For example, although the ordinance specifies that up to 80 percent of the PUD site can be devoted to residential use, the ordinance requires a minimum of 25 percent of the gross area to be devoted to open space use and 5+ percent minimally devoted to commercial-industrial use. Therefore, residential development could not be provided on more than 70 percent of the PUD land area.
8. The Ordinance sets forth a number of standards regulating multiple-family dwellings which could result in higher construction costs, contrary to the Mount Laurel II mandate. These potentially cost-generative provisions include the following :
 - a. Townhouse Regulations - Regulations for townhouse development include a minimum 800 square feet of floor area per dwelling, which is excessive and does not relate to HUD minimum requirements for a habitable dwelling. The ordinance also requires a minimum 25 foot wide unit whereas a narrower unit could be constructed which is more cost-effective. The ordinance also prohibits more than 8 units per structure and imposes a 30 foot height limitation. The height restriction, in particular, could be cost generative.

b. Garden Apartment Regulations - These regulations include a minimum floor area of 750 square feet per unit which is excessive relative to HUD minimum requirements. Other requirements which may affect construction costs include a prohibition of more than 8 units per acre and 16 units per structure, and a 30 foot height limitation. A required 4 foot setback per four dwelling units appears to be an aesthetic requirement which has no relationship to public health and safety and which may result in higher construction costs due to the building wall offsets and the associated increase on exterior wall area, insulation, etc.

REVIEW OF E. EUGENE GROSS ASSOCIATES

E. Eugene Gross Associates, professional planning consultants, recently prepared a report entitled "Franklin Township Housing Allocation Study and Conformance Report for the Franklin Township Mayor and Council", dated May, 1984.

The conclusions in this report differ from those noted in the Malcolm Kasler and Associates, P.A. report on housing obligation. This difference is due to Kasler's reliance on the "Lerman Report and Formula", as directed by the Court, whereas Gross departs from the Lerman Formula in a number of critical areas. The differences in the Gross methodology are noted as follows:

1. Indigenous Need. The Gross report asserts that the Lerman Formula would generate a local indigenous housing need of 344 units. However, Gross departs from that formula and concludes there is an indigenous need "for zoning purposes" of only 133 units in Franklin.

This determination is based on their conclusion that physically deficient units "should be addressed by Code enforcement and housing rehabilitation programs and not through zoning policies. He asserts that the housing obligation to be addressed through zoning policies is solely attributable to that portion of the 265 overcrowded units identified in the census which are occupied by lower income households. He concludes that " a maximum of 50% of the total number of overcrowded units are occupied by low and moderate income households". This amounts to 133 units which are to be addressed through zoning policies".

No data is presented in the report to support the contention regarding the percentage of lower income households in overcrowded units. We note that Gross indicates "a maximum of 50%" may be lower income households.

We note that the distinction between an allocation of indigenous need relative to zoning policies and rehabilitation programs as propounded in the Gross study is irrelevant relative to the total number of indigenous units needed in Franklin. This distinction is also inconsistent with the Lerman report.

Our calculations of indigenous need utilizing the Lerman Formula is 353 units, or 9 units more than presented in the Gross report. This discrepancy in the two calculations is indicated in the accompanying table .

TABLE 7
INDIGENOUS HOUSING NEED
UTILIZING THE LERMAN FORMULA
FRANKLIN TOWNSHIP

	<u>KASLER</u>	<u>GROSS</u>
Overcrowded Housing Units	265	265
Inadequate Plumbing	61	60
Inadequate Heating	105	95
Overlap Factor for Plumbing	- 1	---
SUB-TOTAL	<u>430</u>	<u>420</u>
ADJUSTMENT FACTOR (82 PERCENT)	353	344
INDIGENOUS HOUSING NEED	<u>353</u>	<u>344</u>

The discrepancy regards the number of units identified as having "inadequate heating". A review of Census data indicates there are 105 such units.

2. Reallocated Present Need - Gross determines that the reallocated present need of Franklin Township generated from the 11 county region as described in the Lerman report to be 154 dwelling units. Gross calculation includes a number of significant modifications to the Lerman Formula which reduces Franklin's reallocated need by 75 units (Kasler has determined a reallocated present need of 229 units utilizing the Lerman Formula as presented in the report).

The modifications in the Gross report to the Lerman Formula include the following:

- a. The Lerman Formula computed the total reallocated need for the 11 county region to be 35,014 units. Gross asserts that this figure is excessive, noting " the dynamics of the 11 county region has resulted in a significant improvement of the physical conditions of housing within the ... region over the past four year period." He, therefore, adjusts the total reallocation by 6,000 units to 29,000 units.

Gross does not provide a detailed data base to enable a review and make a determination regarding his approach to this issue. Their report references the "clear and undeniable revitalization process "underway in Hudson County, but does not include support data "owing to the scope of such research". They surmise that "the rate of rehabilitation ...exceeds the rate of deterioration" in the 11 county region. However, the limited statistics presented in the report indicate that, in a 3 year period, a total of 13,400 units were demolished in 12 (unnamed) municipalities versus 4,600 rehabilitated units in Jersey City.

This data does not appear sufficient to enable a conclusion that calls for a 6,000 unit reduction in the Lerman Formula regarding reallocation units.

- b. Oross modifies the reallocation formula in terms of the proportionality of the individual components. He proposes that the employment factor for the redistribution of present need as compared to the one-third weight in the Lerman Report. This modification is based on "opinion that employment must be given a major position within the formula pursuant to Mount Laurel II." However, it is inconsistent with the Court determination that it be based on the Lerman Formula, and serves to reduce the extent of the local housing obligation relative to that formula. We do not necessarily disagree with this concept but suggest that a total review of the Lerman Formula be permitted by the Court and not a piecemeal basis as advanced by Oross.
3. Prospective Housing Need - The Oross report indicates that Franklin's prospective housing need is 1,151 dwelling units. This is substantially less than the prospective need calculated by Kasler utilizing the Lerman methodology. As noted in a previous section of this report, a prospective housing need of 2,513 units was calculated by Kasler utilizing the Lerman Formula.

The Oross report endorses the Lerman philosophy of the commutershed region, and utilizes a seven county commutershed region. However, Oross departs from the methodology of the prospective housing allocation computation in a number of significant areas, including the following :

- o Employment and employment growth of the Township as a percent of the region is given a two-thirds weighting factor compared to the Lerman Formula;
- o The growth factor has been computed as an annual average and not in accordance with a regression formula as described in the Lerman report;
- o A computation of absolute job growth is computed instead of net job growth.

The report does not set forth the basis for all of these modifications. The Oross report also takes issue with the projection of housing resulting from the averaging of two projection models made by the New Jersey Department of Labor and Industry and utilized by Lerman. The report, therefore, contains a qualification, noting that the projected allocation is a "preliminary estimate" subject to modification based on further examination of housing prediction trends.

The differences in the methodology are summarized in Table 8.

TABLE 8
CALCULATION FACTORS USED
TO DETERMINE PROSPECTIVE HOUSING NEED

<u>COMPONENT</u>	<u>OROSS</u> ¹	<u>KASLER</u> ²
Job growth, Township ³	8,052	8,052
Job growth, Region	270,363	148,430
Component Factor	2.98	5.42
Jobs, Township	N.I.	11,653
Jobs, Region	N.I.	663,463
Component Factor	1.19	1.76
Growth Area, Township	12,800	14,815
Growth Area, Region	696,564	574,795
Component Factor	1.84	2.55
Economic Factor Component	2.00	---

N.I. Not Indicated

¹Oross utilizes a seven county commutershed.

²Kasler utilizes a six county commutershed.

³Job growth, 10 year period , 1972-82.

PLANNING FINDINGS AND CONCLUSIONS

1. The Supreme Court of the State of New Jersey has determined that all communities designated as "growth area" municipalities in the State Development Guide Plan have an obligation to provide for their fair share of the region's low and moderate income housing need. The Court also stated that every municipality has an obligation to provide a realistic opportunity for the indigenous poor of the community.
2. Franklin Township is designated as a "growth area" community by the SDGP . Approximately one-half of the municipality, including the subject site, is in the "growth area". Franklin Township therefore has an obligation to provide for its fair share of the region's low and moderate income housing need as well as housing for its indigenous poor.
3. We have calculated Franklin's housing need in accordance with the Lerman methodology as directed by the Court. We have determined there is an indigenous need of 582 units and a prospective need of 2,513 units, or a total need by 1990 of 3,095 units.
4. E. Eugene Oross Associates has estimated a total Mount Laurel housing need of 1,438 units by 1990. We disagree with the methodology and projections as provided by the Oross formula. In view of the very recent submission of the Oross report, we would reserve the right to further analyze their study and to supplement our report.
5. The present Zoning Ordinance of Franklin Township does not bear a reasonable relationship to the Court mandate requiring a realistic opportunity for low and moderate income housing. We have reached this conclusion based on the following :
 - a. the density provisions set forth in the ordinance which includes a maximum 3.5 units per acre for a Planned Unit Development are insufficient to accomodate lower income housing;
 - b. the imposition of a mandatory set aside is ineffective where it is not related to higher residential densities than set forth in the Ordinance;
 - c. the Ordinance contains a number of potentially cost-generative standards which are inconsistent with the Mount Laurel II decision and which may affect a developer's ability to provide housing at a price commensurate with lower income needs. These standards include minimum floor area requirements, required building wall offsets, restrictive height and coverage provisions, etc. which may generate additional costs for a development;

- d. the imposition of a required mix of residential building types in a Planned Unit Development could represent a restriction on a developer's ability to respond to market conditions and consequently affect the provision of lower income units;
 - e. the ordinance does not make any provision for mobile homes or other affirmative devices as noted in the Mount Laurel II decision.
6. The 1983 Franklin Township Comprehensive Plan improperly designates the subject site for rural residential use. Such designation does not take into consideration the site's location on Route 27, a major roadway serving the municipality and region, the proximity of the site to other recommended multi-family developments on Route 27 and to community facilities, and the recommendation calling for an 'urban residential' designation affecting other similarly located properties in the immediate vicinity of the subject site and along Route 27.
7. The subject site is suitable and appropriate to accommodate higher density residential use including lower income housing units. The site is located on a major arterial roadway and is in close proximity to other multi-family developments and community facilities. The provision of higher density development within a cluster arrangement will enable a site design which takes full advantage of the site's physical characteristics and constraints.

The site can be serviced by central water and sewer facilities and has similar environmental constraints as other areas designated for higher density usage.

8. The State Development Guide Plan designation of "growth" and "limited growth" was improperly transferred to the County land use plan. The error in drafting the designation line improperly placed the subject property in a "limited growth" rather than a "growth category".

The improper designation may have affected the judgement of the master planners of the community and ultimately the zoning code as well.

FAIR SHARE METHODOLOGY AND ALLOCATION FOR URBAN LEAGUE

OF GREATER NEW BRUNSWICK V. CARTERET ET AL.

Prepared by Carla L. Lerman, et al.¹

Determining Region

Two distinct approaches to region have been noted to date in fair share reports: the use of a large metropolitan region, consisting of 8, 9 or 13 counties, and the use of smaller "commutershed" regions which relate to a specific municipality. The use of these two types of regions is supported in different sections of the opinion. For example, Oakwood v. Madison indicated that a region should be "that general area which constitutes, more or less, the housing market of which subject municipality is a part, and from which the prospective population of the municipality would be drawn, in the absence of exclusionary zoning." 92 NJ 158 at 256

The court further states in Mt. Laurel II that Justice Pashman's opinion, in Mt. Laurel I, should be considered in determining a definition for region: 92 NJ 158 at 256

- the area included in the interdependent residential housing market;
- the area encompassed by significant patterns of commutation;
- the areas served by major public services and facilities; and,

¹A list of all planners involved in the preparation of this report is included at the back of this report.

-- the area in which the housing problem can be solved.

These two definitions of region, expressed by Judge Furman and Justice Pashman, indicate a strong connection in the court's opinion between the housing market and commuting patterns. On the other hand, however, the court made it clear that the region which is defined must include both areas of significant need and area of sufficient resources to meet that need.

A significant part of Justice Pashman's regional definition, for purposes of determining the nature of the region, is the last phrase -- the area in which the housing problem can be solved. An effort had been made in all previous Fair Share reports to reconcile the concepts of region which would meet Judge Furman's definition, and comply with all of the variables set forth by Justice Pashman. Many of the planning experts had recognized the need to define a broad region representing need and resources, at the same time as recognizing the relevance of a region reflecting a housing market. In a memo prepared for Judge Eugene D. Serpentelli in January, 1984, in reference to a case involving Warren Township, John Chadwick, Richard Coppola and Harvey Moskowitz suggested the use of two distinct regions: a large metropolitan region for the purpose of determining Present Need, and a commutershed region for determining Prospective Need. This concept can readily be supported when one considers that "the housing problem" to which Justice Pashman referred was actually a composite of several problems.

Substandard housing which must be replaced or rehabilitated is one aspect of the housing problem; housing that is too expensive to be affordable to lower income families is another aspect, as is the shortage of decent housing units available to lower income households. These aspects all relate to existing housing conditions for families and individuals presently in need of housing.

A completely different aspect of the problem is presented when one considers the future. For this consideration, the significant factors are not existing conditions, but future location, availability and cost. The problem in decades to come will be the determination of where housing will be built for lower income households, who will those households be, and where will they work. Therefore, "the area in which the housing problem can be solved" can change significantly depending on which aspect of the problem one is examining.

As a result, there is a practical difficulty in formulating one region which reflects all of the stated objectives for any given municipality. A region formulated to satisfy the court's criteria regarding place of employment and place of residence, i.e., a housing market, will not necessarily include a broad range of urban and suburban areas which include the full extent of the regional need for housing, as well as the resources to meet that need.

In order to insure a fair measurement of present need, it will be essential to base that measurement on a region which includes the older urban areas as well as the intermediate areas and the less developed exurban areas. The direction pointed by the court, therefore, in determining the region for the purposes of measuring and allocating present housing needs most clearly is toward a large metropolitan region. The region, however, for purposes of determining the need for housing for lower income households in the future, which should by definition relate location of job to location of housing, is most appropriately defined in terms of the housing market for a specific municipality. Although the court did suggest that it was expected that a regional pattern would develop for the entire state, which would then be consistent for all Mt. Laurel cases, it is felt that the unique population, employment, and transportation structure of the northern half of the state leads to the establishment of two regional definitions: present need region based on a large metropolitan area, fully reflecting the high levels of need in the older urban core areas and the resources to meet that need in the less dense and newer suburban areas; and a prospective need region which reflects a reasonable assumption of commuting time from any given municipality, but which is large enough to account for special commuting attractions or employment concentrations.

Further support of this concept can be found in the Mt. Laurel II decision, wherein the court indicates its concern

that past patterns of concentration of the poor be addressed by the allocation of present need for standard housing throughout an entire region.

...All municipalities' land use regulations will be required to provide a realistic opportunity for the construction of their fair share of the region's present lower income housing generated by present dilapidated or overcrowded lower income units, including their own. Municipalities located in "growth areas" may, of course, have an obligation to meet the present need of the region that goes far beyond that generated in the municipality itself; there may be some municipalities, however, in growth areas where the portion of the region's present need generated by that municipality far exceeds the municipality's fair share. The portion of the region's present need that must be addressed by municipalities in growth areas will depend, then, on conventional fair share analysis, some municipalities' fair share being more than the present need generated within the municipality and in some cases less. 92 NJ 158 at 243

Clearly, the provision of housing for lower income households in the future need not be tied to that concept of allocation of need, as it will more closely reflect the growth of population and provision of jobs in any particular area.

The proposed present need region for the northern half of the state includes the following counties: Bergen, Passaic, Sussex, Morris, Essex, Hudson, Warren, Hunterdon, Somerset, Union and Middlesex. These 11 counties form the northern metropolitan area of the state. The remainder of the state has very different demographic and development patterns. It is proposed that the Rutgers study² regions 4, 5, and 6 could be used for the present

²Rutgers University Center for Urban Policy Research, Mt.

Laurel II: Challenge and Delivery of Low Cost Housing, p. 123.

need in the remainder of the State. The three regions are as follows:

- Monmouth and Ocean counties;
- Mercer, Burlington, Camden and Gloucester counties; and
- Atlantic, Cumberland, Cape May and Salem counties.

The prospective need region for any subject municipality will be based on a commutershed region, measured from the approximate center of the municipality, based on a 30-minute driving time. The 30-minute drive will be measured by the following speeds:

- 30 miles per hour on local and county roads;
- 40 miles per hour on state and federal highways; and
- 50 miles per hour on interstates, the Garden State Parkway, and New Jersey Turnpike.

The entire area of a county will be considered within the commutershed when the 30-minute drive time enters into that county at any point. This method will not only ensure a prospective need region of a realistic size based on the special attraction of certain employment centers, but will provide maximum availability of current data which may be compiled on a county basis. Additionally, it should minimize the disputes over the precise point at which a 30-minute drive time ends.

The commutersheds for the 7 Middlesex municipalities in the case of the Urban League of Greater New Brunswick v. Carteret are as follows:

Cranbury:	Middlesex, Mercer, Burlington, Monmouth, Somerset, Ocean
East Brunswick:	Middlesex, Somerset, Mercer, Monmouth
Monroe:	Middlesex, Somerset, Mercer, Monmouth, Burlington, Ocean
Piscataway:	Middlesex, Somerset, Morris, Union, Essex, Hunterdon, Mercer, Monmouth
Plainsboro:	Middlesex, Somerset, Mercer, Monmouth, Burlington
South Brunswick:	Middlesex, Somerset, Mercer, Monmouth
South Plainfield:	Middlesex, Somerset, Union, Morris, Essex, Hunterdon, Monmouth, Mercer

Regional Need: Present

Indigenous Need Determination

Indigenous need is defined as the substandard housing currently existing in any municipality. Each municipality, regardless of its characterization in the State Development Guide Plan as Growth Area, Limited Growth Area, Agriculture, or Conservation, is responsible for meeting its own indigenous housing need. The only exceptions to this are municipalities which have indigenous housing needs in excess of the overall standard of housing deficiencies for the region. Municipalities which have a history of providing housing for lower income households will not be expected to continue to provide a disproportionate share of such housing. Therefore, when the total indigenous need for the region is computed, and a standard

percentage for the entire region ascertained, any municipality whose indigenous need is in excess of that amount will not be expected to provide housing for that entire need; instead, the excess of deficient units over the regional percentage of deficiencies will be reallocated to all other municipalities with any Growth Area in the region, excluding selected Urban Aid cities.

The indigenous need in the region will be based on three factors: overcrowding (more than 1.01 persons per room), units lacking complete plumbing facilities for the exclusive use of the occupants, and units lacking adequate heating. Each of these factors can be obtained in an unduplicated count from the 1980 Census. Summing the number of units with each deficiency will result in the total number of units which will be defined as substandard. A study by Tri-State Regional Planning Commission, People, Dwellings, Neighborhoods (1978) showed that 82 percent of housing units with physical deficiencies of this nature are occupied by low and moderate income households. Therefore the regional total of these substandard units, multiplied by 0.82, will be used to determine what will be the maximum percentage of indigenous need in any single municipality.

Reallocated Need

The excess of deficient units in any municipality, over the regional percentage established as the maximum standard, will be reallocated to other Growth Area municipalities. The formula

for this reallocation will combine the percentage of regional Growth Area in the municipality and the percentage of regional current (1982) employment in the municipality. These two factors represent existing conditions, in contrast to factors designed to reflect projected conditions. The excess of deficient units reflects present conditions and therefore is best reallocated by a formula which reflects present concentrations of employment.

In A Revised Statewide Housing Allocation Report for New Jersey, May 1978, municipalities were evaluated to determine if they had adequate vacant land to absorb the assigned housing allocation. If their "development limit" was exceeded with the unadjusted allocation, then the excess units were reallocated to other municipalities which had sufficient vacant land. Analysis of all municipalities in New Jersey resulted in reallocation of 23 percent of the housing units. As existing comparable data is not available for vacant developable land in each municipality in the State, an assumption has been made that the need for reallocation would be of approximately the same magnitude in 1984. Therefore, an additional 20 percent has been added to each present need allocation. This method will preclude the upward adjustment of any municipality's allocation based solely on the unavailability of vacant land in another municipality.

The total present need, therefore, is the sum of the indigenous need and the reallocated excess need, plus 20 percent of the reallocated excess need.

The Mt. Laurel II decision made it clear that all municipalities must take responsibility for their own indigenous need, except where that indigenous need exceeds the municipality's fair share. When establishing a formula for reallocation of excess present need, therefore, it is important to exclude from reallocation responsibility municipalities which currently exceed the regional percentage of present need. —

Those municipalities which qualify for Urban Aid in New Jersey might be a category considered for automatic exemption from any excess need reallocation. Indeed, certain of these municipalities are appropriate for exemption from housing allocations, both for present need reallocation and Prospective Need allocations.

There are several reasons, however, for not automatically excluding all designated urban aid municipalities from reallocation of excess present need, or allocation of prospective need.

The standards for Urban Aid designation have been broadened in 1984-85, so that a number of municipalities are now able to be included as "Urban Aid municipalities" that neither fit the traditional image of "urban" nor of cities in need of special aid. In 1984, 49 municipalities have qualified for urban aid, yet only 18 out of the 31 of these in the 11-county region have housing deficiencies as high as the region. Municipalities that are essentially rural in character can still meet the urban

aid criteria, and may include extensive areas of undeveloped land appropriate for future development. Examples of this might be Hamilton Township in Mercer County, Jackson Township in Ocean County, and Old Bridge in Middlesex County. All three of these are designated Urban Aid this year.

There are some Urban Aid towns that do not exceed the regional level of housing deficiencies, but which are of sufficiently high population density to justify relieving them of responsibility beyond their own indigenous need. For this reason any Urban Aid town with a population density of 10,000 per square mile or more, regardless of housing deficiencies, will be deducted from the reallocation pool and the prospective need allocation.

The Housing Allocation Report indicated the availability of vacant developable land as a criterion for determining the extent of housing allocation. There have been significant criticisms of the accuracy of the land measurements in the Housing Allocation Report, to the extent that depending upon that as the sole criterion might be inadvisable. In combination with another variable, however, it could serve as a support. Therefore, the designation in the Housing Allocation Report of "0" vacant developable land combined with a population density in the upper half of the range of population densities for the urban aid cities (i.e., 6,000-10,000 population per square mile) would be reasonable criteria for exemption of a town from responsibility beyond its own indigenous need.

The criteria for determining the Urban Aid municipalities to be exempt from any needs beyond the indigenous need can be summarized as follows:

1. Must be one of the actual municipalities that have been designated "urban aid" by the State for funding year 1985.

In addition, must meet one of the following:

2. level of existing housing deficiencies, according to the Fair Share formula, that exceeds the regional standard of the relevant Present Need region;
3. population density of 10,000 per square mile or greater;
4. population density of 6,000-10,000 per square mile PLUS designation in A Revised Statewide Housing Allocation Report for New Jersey as having "0" vacant developable land.

These four criteria for exemption result in the designation of all of the cities which are the traditional "core" cities, as well as the cities which would be unlikely to attract development which would be appropriate for inclusionary models.

The cities selected as Urban Aid municipalities to be deducted from the fair share formula for reallocation of excess need and for prospective need allocation are as follows:

<u>County</u>	<u>Municipality</u>	<u>County</u>	<u>Municipality</u>
Bergen	Garfield Lodi	Mercer	Trenton
Essex	Belleville Bloomfield East Orange Irvington Montclair Newark Orange	Middlesex	New Brunswick Perth Amboy
		Monmouth	Asbury Park Keansberg Long Branch
		Ocean	Lakewood
Hudson	Bayonne Hoboken Jersey City North Bergen Union City Weehawken West New York	Passaic	Passaic Paterson
		Union	Elizabeth Hillside Plainfield

Staging the Present Need

Although the Mt. Laurel II decision indicates that phasing of present need should only be permitted sparingly (92 NJ at 218), that would appear to be reasonably applied to indigenous present need. This methodology proposes that indigenous present need be an immediate responsibility, to be met by 1990.

The reallocated excess of housing need from the older core areas in the region and from the selected Urban Aid municipalities results in over 34,000 housing units of Present Need being reallocated to municipalities with lower percentages of need. The majority of these units are located in the older industrialized areas where substandard housing has a long history. The need for new housing units to replace those substandard units is real, but it is a need which cannot be met

in a few years, and indeed, if it were met outside the urban centers entirely, could have a very destructive effect on the urban centers. The realistic accomplishment of replacement or rehabilitation of 34,000 housing units in urban centers cannot be anticipated in a matter of a few years. Therefore, the present need which is not indigenous, but which is a reallocation from older urban areas, is to be staged in three six-year periods, to coincide with the particular Master Plan update schedule of each municipality.

Financial Need

It is not assumed that the three factors described above include all of the housing need in the region. The 1980 Census does not define dilapidation, nor does it include a count of units which have all plumbing and heating facilities, but which are in need of major repair. In addition, financial need in housing, i.e., the necessity of a household to pay a disproportionate percent of its income for housing costs, is not included in this measurement of present need. There are two reasons why this decision has been made: (1) There appears to be a considerable "mismatch" between rental units that are actually affordable at their reported rents to low and moderate income families and low and moderate income families who are paying considerably in excess of an affordable rent; therefore there may be actually sufficient numbers of affordable units, particularly for moderate income households, but those units are not being

occupied by the households with the greatest need; and (2) The financial needs of lower income households cannot as clearly be met through Mt. Laurel solutions, since many of the units being occupied by lower income households may be physically standard and not in need of replacement. It can reasonably be argued, therefore, that the problem of excessive cost of housing is one more appropriately solved either through an income maintenance program or an extended rent supplement program. Finally, the extent of financial need is so great in the metropolitan area, that to include those figures as part of the present need makes the possibility of meeting the present need in the foreseeable future extremely unrealistic. While the figures for physical present need average out for the region at 6.4 percent, the financial need far exceeds that; in the 11 counties in the metropolitan region from 16 to 35 percent of lower income households pay in excess of 30 percent of income for housing. As it is not possible to be certain how much of the financial need should be corrected through Mt. Laurel type solutions rather than other income and rent supplement programs, to include that many units in the category of present need would inappropriately inflate the figure.

Regional Need: Prospective

The court has clearly stated in Mt. Laurel II that in projecting the prospective need for low and moderate income housing, and the fair allocation of that housing among municipal-

ities, the projection of need should not be based on the probable future population of a single municipality:

While it would be simpler in these cases to calculate a municipality's fair share by determining its own probable future population (or some variant thereof), such a method would not be consistent with the constitutional obligation... 92 NJ 158 at 257

Population and Household Projection

Projection of population growth is subject to many variables and most demographers give ranges that are based on the possible occurrence of events or trends that together or separately could be expected to have an impact on future population. Fortunately, the court recognized the problems inherent in projecting growth:

We recognize that the tools for calculating present and prospective need and its allocation are imprecise... What is required is the precision of a specific area and specific numbers. They are required not because we think scientific accuracy is possible but because we believe the requirement is most likely to achieve the goals of Mt. Laurel. 92 NJ 158 at 257

Prospective need is being projected to 1990. Although that is less than 10 years, which is generally considered reasonable period for forecast, most of the currently available data is from the 1980 Census. In 1990, the next decennial census will provide new data which will be more appropriate for an evaluation of the impact of the Mt. Laurel doctrine and for further projections to the year 2000.

The base to be used for projecting population to 1990 will be a combination of the ODEA Economic/Demographic (1) and ODEA Demographic Cohort (2) Models prepared by the New Jersey Office of Demographic and Economic Analysis.

The essential difference between the two models is in the way migration of persons under age 65 is projected. In Model 1 (economic model) the migration is based on projected labor market conditions, whereas in Model 2 (demographic) the migration is projected based on the patterns which occurred in the 1970's. In Model 2, the migration patterns of people under and over 65 years of age are projected in the same way. The projected labor market conditions used in Model 1 are based on national labor force projections produced by the U.S. Bureau of Labor Statistics. If the labor demand is higher than the supply, then in-migration is projected to match the demand. If there is an excess of labor over demand, the out-migration rates would be projected to increase.

The two Models are considered to project a range of population change in the future. Therefore, a combination of the two methods and bases for projections might avoid extreme projections in either direction. The Economic/Demographic Model and the Demographic Cohort Model were averaged, by age cohort, and each age cohort was multiplied by the headship rate for the State of New Jersey, as projected for 1990.³ The headship rate

³Rutgers University Center for Urban Policy Research, Mt. Laurel II: Challenge and Delivery of Low Cost Housing, p. 123.

is the expected percentage of individuals in any age cohort who will be heads of household. The application of the headship rate to the projected 1990 age cohort population in each county will result in the projected number of households in 1990, by county. This methodology will be used to provide the base number of households for the counties in each commutershed as computed by driving time.

The projected number of those households who will be lower income will be based on the percentage in New Jersey as prescribed in Footnote 8 in the court's opinion. Assuming consistency with the State figure, 39.4 percent of the projected 1990 households will be assumed to be lower income households.

Prospective Need Allocation Formula

For each commutershed, an allocation formula will be applied to provide the basis for allocation of the prospective number of lower income households among the municipalities in that commutershed. Factors to be used for this allocation are as follows:

- Municipal employment growth, 1972-82, as a percentage of commutershed employment growth in the same period;
- Municipal current employment as a percentage of commutershed current employment (1982);
- Municipal land in growth area as a percentage of growth area in commutershed.

These three factors were selected to reflect the directives in the Mt. Laurel II decision regarding where the

Mt. Laurel obligation should apply and on what should the allocation formula be appropriately based. The decision gives extensive review to the State Development Guide Plan and makes it explicit that, as a reflection of public policy, this Plan should be seen as the guide for the judiciary.

Consequently, the obligation should apply in these "growth" areas and only in these areas...
(slip op. at 45)

The decision goes on to mention certain exceptions to this policy, based on proof of uses in non-growth areas which would lead to change in their designation. In reference to the basis for developing a "fair share," the allocation formula is clearly to be directed to the potential for economic benefit to be found in employment and employment growth.

Formulas that accord substantial weight to employment opportunities in the municipality, especially new employment accompanied by substantial ratables, shall be favored;...
(92 NJ 158 at 256)

For the first two of the three allocation factors, the employment of municipalities entirely within Non-growth Areas will be deducted prior to developing the allocation percentage. Similarly, the employment and growth area in selected Urban Aid cities will be deducted before computing the allocation.

The averaging of the three factors listed above will result in the allocation percentage, which will be applied to the projected number of households in that commutershed for 1990.

Added to the prospective need for each municipality will be a 20 percent factor for anticipated reallocation from municipalities which do not have sufficient vacant land for accommodating their fair share of prospective need, reflecting the same concept as that discussed under present need.

No allocation of prospective need will be given to municipalities entirely within the Non-growth Area; nor will any prospective need allocation be given to those Urban Aid cities which have the characteristics of older core area cities. It is not assumed that there will be no growth in any of the older Urban Aid municipalities; indeed, through economic development and rehabilitation of the existing housing stock, it is hoped that the older urban areas can experience a revitalization in the next few decades. The Mt. Laurel II decision will not have accomplished its goals, if an unintended consequence is the deterioration of the cities at a more rapid rate. Rather it is hoped that the provision of housing alternatives for lower income households will provide a stimulus to increased investment in the cities for a lower income housing market that has greater mobility, and hopefully a middle and upper income market which is indicating renewed interest in the older cities..

However, there are telling reasons to exclude the older, Urban Aid municipalities from any prospective need allocation.

- 1) These cities do have the responsibility for correcting their indigenous need up to the level of the regional percentage. For some of the larger cities such as Newark, Jersey City and Paterson, this indigenous need adds up to many thousands of housing units.

- 2) Inclusionary zoning model which works to provide lower income housing in suburban areas, is not economically feasible in most, if not all, older Urban Aid cities.
- 3) Historically, the older Urban Aid cities have aggressively sought housing subsidies through a variety of programs, regardless of the existence of a fair share allocation concept.

In speaking of Urban Aid municipalities which have the characteristics of core area cities, we are speaking of municipalities whose indigenous need is in excess of the regional standard, and which have relatively high densities of population per square mile, indicating relatively little area for extensive new development.

Provision for Adequate Vacancies

After the computation of the total present need and the prospective need for the subject municipality, an additional 3 percent of the number of needed new units will be added to provide for sufficient vacancies to facilitate mobility and housing choice. The conventional vacancy rate that is considered adequate for choice and mobility is 5 percent for rental housing and 1.5 percent for sales housing. As the trend to build sales housing, even within the context of Mt. Laurel II requirements, seems to be increasing, and since few developers appear to be interested in the construction of rental housing, it was felt that a vacancy rate that was lower than the usual rental vacancy rate would be more appropriate. In combining the two housing

types, it was determined that a 3 percent vacancy rate would provide adequate mobility and ultimately housing choice.

Median Income to be Used for Lower Income Households

The median income for the 11-county region will be utilized for both present need determinations and prospective need determinations. This will insure the broadest possible participation in any new housing development. For example, if the prospective need commuted region had a higher median income than the median income for the 11-county region, some families who wish to change residency and employment might be excluded from housing on the basis of affordability because it was geared to a higher median income standard.

In order to use consistent and updated data on income, it was decided that the HUD median family income data would be used. HUD updates a median income by SMSA for a family of four, on an annual basis. This figure is then adjusted for household size, ranging from one-person households up to eight-person households.

In order to compute the regional median family income, the median family income for each county was weighted by the number of families in that county, and the totals were aggregated for regional median income. HUD publishes the median incomes by Standard Metropolitan Statistical Areas (SMSA's), which are single or grouped counties used by the U.S. Census for statistical purposes. Occasionally, the SMSA's cross state

boundaries, particularly where a major urban center is involved. The one methodological problem that occurs in the procedure used here is that presented by those counties which are included in SMSA's in other states, i.e., Bergen County in the New York SMSA, and Warren County in the Allentown, Pennsylvania SMSA. In order to provide the increase (1980-1983) in median income for the Mt. Laurel region that is relevant to the HUD increases in income for New Jersey SMSA's, in those counties which were part of an out-of-state SMSA, the increase in income was assumed to be at the same rate as similar New Jersey counties adjacent to the county in question, for the same period of time.

The weighted aggregated county medians resulted in a regional median for the 11 counties for 1983 of \$30,735. Moderate income families, for the purpose of Mt. Laurel II, will be those families making between 50 and 80 percent of the median income, which is between \$15,368 and \$24,588. Low income families, for the purposes of Mt. Laurel II, will be families earning below \$15,368 per year. The HUD adjusted income levels for low and moderate income families for each specific size of household will be used to determine that Mt. Laurel households are being served. The maximum Mt. Laurel household income levels will be as follows:

- Zero bedroom units: HUD's maximum income for a one-person household
- One bedroom units: HUD's maximum income for a two-person household
- Two bedroom units: HUD's maximum income for a three-person household

Three bedroom units: HUD's maximum income for a five-person household

Four bedroom units: HUD's maximum income for a seven-person household

It is important that the maximums listed here will not be affordable to those lower income families who are below the maximum income in their category, i.e., a low income family may earn 30 percent or 40 percent of the median, as opposed to 50 percent. Similarly, a moderate income family may earn 60 percent or 70 percent of median, and not be able to afford rents or sales prices geared only to the "80 percent of median" market. Evaluation of adequate housing opportunities must take into account a broader group of households than only those at the "maximums."

Affordability

The Court, in its Mt. Laurel II decision, used 25 percent of income as the standard of affordability for lower income households. However, in 1981 the Congress passed a law to increase the percent of income that would be charged tenants in HUD-assisted housing from 25 percent to 30 percent. That percent refers to a total housing cost, including utilities. As it would be counter-productive to the development of housing for lower income households to determine that HUD-assisted housing units did not meet the Mt. Laurel obligation, it has been decided that 30 percent of household income shall be the highest level of

affordability for rental housing. This will refer to gross rent, which includes the cost of utilities.

For sales housing, in order to reflect common mortgage lending practice, and in recognition of the greater expense experienced by homeowners responsible for maintenance, 28 percent of household income spent on housing costs will be the maximum for affordability. These housing costs will include principal, interest, taxes, insurance, and condominium fees.

Determining Low and Moderate Income Distribution

The usual distribution between low income and moderate income Mt. Laurel households is considered to range from 65 to 72 percent low and 28 to 35 percent moderate. In order to produce housing for the low income Mt. Laurel households, some form of external subsidy is usually necessary. Although limited amounts of housing to serve that market can be provided in the private market, the reality of housing production in a period when there is little external subsidy available would suggest that a more realistic distribution between low and moderate income households, for the purpose of achieving some of the housing goals that are described in the Mt. Laurel II decision, would be 50 percent low income and 50 percent moderate income. Therefore, for the purpose of determining a municipality's present and prospective need, this will be the division between the two groups of Mt. Laurel households.

The methodology described in principle in this report, is attached as Appendix A to this report, and includes the data base for the fair share allocations for the seven Middlesex County towns. These fair share allocations are also attached.

APPENDIX A

FAIR SHARE METHODOLOGY

Urban League of
Greater New Brunswick
vs. Carteret
C.L. Lerman

A. REGIONAL PRESENT NEED

- (1) Substandard housing units, based on overcrowding, lack of plumbing, and lack of adequate heating, by county, for 11-county present need region. Table 1.
- (2) Determination of regional "standard of deficiency" for 11-county region, for Mt. Laurel households. Table 1.
- (3) Evaluation of municipalities which exceed regional standard of housing deficiencies, and measurement of number of units in region which are "excess," and therefore must be reallocated, adjusted for Mt. Laurel households. Table 2.
- (4) Evaluation of seven Middlesex municipalities to determine their standard of housing deficiencies, and thereby their legitimate inclusion in reallocation assignment pool, and their indigenous need. Table 3.
- (5) Determination of formula for measuring "fair share" of any municipality in region:

Municipal 1982 Employment + as % of Region's	Municipal Growth Area as % of Region's	Growth Area and Employment in Non- Growth Municipali- ties and Selected Urban Aid Cities
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Multiplied by regional excess of deficient housing units, X 1.2 for additional reallocation = Fair Share of regional excess, plus municipal indigenous need = Municipal Present Need. Tables 4, 5 and 6.

- (6) Establish three phase staging schedule of the "reallocated excess" portion of present need, by municipality. Table 7.

B. PROSPECTIVE NEED

- (1) Projection of population, by county, to 1990, based on average of ODEA Models 1 and 2, times N.J. headship rates (as computed in Mt. Laurel II: Challenge and Delivery of Low Cost Housing, Rutgers University) to determine estimated number of households, by county, in 1990. Determination of number of lower income (39.4%) (Mt. Laurel) households to be added to each county by 1990, and division between low and moderate (50% - 50%). Table 8.

- (2) Determination of prospective need regions for seven Middlesex municipalities based on 30-minute driving time from approximate functional center of subject municipality, at the following speeds:

30 mph local and county roads
 40 mph state and federal highways
 50 mph interstates, Garden State Parkway, and N.J. Turnpike

Prospective need regions, or commutersheds, will include the entirety of any county entered by this method. Table 9.

- (3) Determination of fair share formula for allocation of prospective additional Mt. Laurel households in 1990:

Municipal Employment Growth 1972-82, by average annual increase (decrease) as % of commutershed employment growth	(Less)	Deduction for employment growth in non-growth municipalities and selected urban aid municipalities
1982 municipal employment as % of commutershed 1982 employment	(Less)	Deduction for 1982 employment in non-growth and urban aid municipalities
Municipal land area in growth area as % of commutershed land in growth area	(Less)	Growth area in urban aid municipalities

These three factors averaged, applied as a percentage to number of projected Mt. Laurel households in subject commutershed. Tables 10, 11, 12.

- (4) Application of above prospective need fair share formula to each subject municipality, with additional 3% vacancy factor added to all new housing units allocated. Tables 13-19.
- (5) Determination of median income to be used for evaluating Mt. Laurel population income levels and affordability levels, based on use of HUD median family income, by SMSA, updated to 1983. County median incomes were multiplied by county population for a weighted median. Affordability will be determined based on HUD adjustments for family size, from one person household to eight person household. Maximum Mt. Laurel household income levels will be based on average number of persons permitted in various size units, and the HUD maximum income for that size household. Tables 20A, 20B, and 20C.