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Critique of Bedminster Township Master Plan
(Report NO. 1)

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Note: Expert Report

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REPORT NO. 1

CRITIQUE OF BEDMINSTER

TOWNSHIP MASTER PLAN

PREPARED BY
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The Bedminster Township Master Plan, including revisions to 6/12/78, clearly shows an exclusionary intent. This conclusion is necessitated by an analysis of points contained in the Plan's component statements of objections and principles. The township's orientation to development is predicated on gross socio-economic changes in the Northeastern region and deference to environmental considerations. The nature of the response to these issues, however, shows a parochial self-interest that is inimical to regional concerns, and ignores the township's responsibilities for its the fair share of burdens of regional growth. In this regard, the Master Plan does not comply with the intent of nor the substantive provisions for equitable land development and control practices contained in the New Jersey State Municipal Land Use Law. An adopted land use plan element of a Master Plan is a prerequisite condition and acts as guidelines for the development standards outlined in a zoning ordinance. Substantial consistency with this plan element, as required in N.J.S.A. 40:55D-62 (pp. 56-57), leads to a similar exclusionary intent and impact in specific development controls in the zoning of land (the exclusionary character of the proposed zoning ordinance is addressed in Report Number 2). The assessment of the general tenor of the proposed Master Plan as exclusionary and its non-compliance with the general welfare criteria and specific points of enabling legislation is illustrated in the analysis following.

1. THE TOWNSHIPS RESPONSE TO REGIONAL DEMOGRAPHIC AND ECONOMIC TRENDS INAPPROPRIATELY AND INEQUITABLY RESTRICTS LOCAL OPPORTUNITIES FOR GROWTH.

While it is true that population and jobs have been shifting outside the Northeastern region of the United States this general statement in the Master Plan misrepresents the complex nature of the changes occurring, for it is also true that significant forces of growth are still present. The socio-economic changes found in the Northeastern United States are not the result of a uniform one-way flow; in-migration is still an important activity pattern with significant impact. In-migration, whether people or industry, most often locate in or adjacent to the urban fringe. (See Sternlieb & Hughes, Metropolitan Decline & Inter-Regional Job Shifts, Center for Urban Policy Research, New Brunswick, N.J., 1975, pp. 5, 8, 30, and 198; Alcaly and Mermelstein, eds., The Fiscal Crisis of American Cities, Vintage Books, N.Y., N.Y. 1977, p. 148).

The net result of these employment and population migrations is the declining intensities within urban cores stated in the Master Plan. Contributing to this leveling of density is a constant centrifugal movement of people and activities to the periphery of urban regions. These two trends, in-migration and dispersion from the center, represent forces that Bedminster Township, as well as the rest of the generally rural area in which

It is found, must contend with. Evidence of this can be seen from the recent location of the A. T. & T. offices in Bedminster. Even with varying levels of public policy directed to consolidating new development in rehabilitated urban cores, Bedminster Township must provide opportunity potential for that growth that has and will occur.

To this point, the Master Plan clearly violates the statement of purpose of the Municipal Land Use Law. Section 40:55D-2 g. states as one intent: "(t)o provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens (emphasis added)" (p.5). The language of the purpose contained in the Master Plan is identical except that the word industry is excluded. Section B.3.(a) of the Land Use Plan excludes "any enterprises which export products, services, or administration beyond the local residential trading areas..." The language of the proposed zoning ordinance excludes in business districts corporate administrative offices and business and professional office's employing more than 10 employees (sec. 5.2.2). Excluded from the Research-Office district is warehousing activities (sec. 6.1). One might suspect that this is a reaction to the A. T. & T. office complex. This, however, does not excuse Bedminster from compliance with the Municipal Land Use Law.

As criterion for its planned development clusters, the township has carefully chosen as statutory referent the planned unit residential development (N.J.S.A. 40:55 D-6). This definition includes as a permissible enabling action appropriate commercial, or public or quasi-public uses all primarily for the benefit of the residential development..." The proposed zoning code fails to include commercial activities as a permitted activity in any of the planned development clusters. This action is contradictory to the general principle of providing "small scale neighborhood services" (Article III, Master Plan) but consistent with the overall treatment of commercial functions. The cumulative effect of these exclusions is to assume that avoidance of any activity with potentially burdensome impacts, to the detriment of adjacent communities and to the region as a whole. The general welfare "needs of all New Jersey citizens" is not enhanced by these exclusionary tactics and reflects an absolute no-growth position that clearly denies the township's regional responsibilities and obligations and is contrary to N.J.S.A. 40:55 D-2d. Heavy manufacturing may be an inappropriate activity for Bedminster Township and it is acknowledged that Bedminster has provided for a major office use, nevertheless, a current blanket prohibition of all large-scale non-residential development is not supported by concerns for public health, safety and welfare. Balanced growth of jobs and residences "will contribute to the well-being of persons, neighborhoods, communities and regions and preserva-

tion of the environment..." (N.J.S.A. 40:55D-2e., p. 5). The township's orientation to growth of the residential sector is critically examined in Report Number 2.

2. THE TOWNSHIP'S RELIANCE UPON ENVIRONMENTAL CONSIDERATIONS FOR RESTRICTIVE DEVELOPMENT CONTROLS IS SUSPECT, A SEVERE OVER-REACTION AND REPRESENTS A TAKING WITHOUT COMPENSATION.

The Master Plan's goal of preventing "degradation of the environment through improper use of land" does not warrant the restrictive controls outlined in the various objectives and principles of the Master Plan and implemented in the zoning, subdivision and other applicable ordinances of the township. The Natural Resources Inventory of the Township is referenced as the environmental source document for "continuation of environmentally-based zoning...(and) use of appropriate measures to establish and preserve open spaces..." (Article II, section A.1(a) and (d)).

This contention of environmentally-oriented planning is questionable for the following reasons:

- A. The Natural Resources Inventory is not available for confirmation and assessment of environmental concerns as required in N.J.S.A. 40:55D-28 . The criteria for adjusting land use patterns on "poor quality soils" are not provided. The designation of zoning districts is without reference to environmental standards which assure their "peculiar suitability for particular uses" (N.J.S.A. 40:55D-62, pp. 56-57).

- B. The area boundaries for steep slopes incorporated in the Critical Area District cannot be confirmed. Their reservation in the Master Plan for forestry and nature walks (Article VII) represents a reservation of public areas as defined by N.J.S.A. 40:55D-44 and requires just compensations for "deprivation of use."
- C. The proposed Master Plan's intention of "promoting the conservation of open space and valuable natural resources" (Article I) and the zoning ordinance's recognition of "the need for protection of aquifers... by the encouragement of clustering of structures on the portions of large tracts most suitable for building and by leaving open those portions of tracts which should not be disturbed." (Section 4.1.4) are contradicted by the measures provided for designating open space.

In terms of open space, the Master Plan calls for 5 acres of flat, useable land for each 150 residential cluster units. This is contradictory to preserving critical environmental areas, reduces the amount of land most suitable for development and is an excessive standard for open space development (Planning Design Criteria, de Chiara and Koppelman, 1969, recommends $3\frac{1}{2}$ acres per 1000 population for neighborhood park and playground.) The zoning ordinance requires 5 acres of

"useable" land for the Village Neighborhood and this requirement is subject to the same criticism as above. The open space cluster requires 5 acres of "common open space" which is defined as an area preserving "natural slopes, flood plains or water courses." These have already been prescriptively restricted in the Critical Area District. There is no reference to including in open space those areas with, for example, soils with drainage problems, sensitive ecological habitats or unique vegetative cover.

The Township's approach to environmental consideration shows an insufficient and improper treatment of development control measures derived from detailed attention to natural resources. A limited but negative attitude prevails in the land planning practices adopted. A development performance and flexible management orientation is ignored for the facile and simplistic technique of restrictive controls. The development restrictions explicitly found in the Critical Areas District and implicit in the open space requirements of planned developments result in more costly housing across the income spectrum. Least cost housing for the low end of the spectrum is priced out of their market range.

The joint impact of environmental restrictions and economic activity exclusions, in conjunction with the cost-generating provisions of the zoning ordinance (see Report No. 2), is record of blatantly exclusionary practices in violation of the general public welfare.