

RULES - AD - 1976 - 250

12/1/1976

- P's 1st* request for admissions (15)
 - w/ copy of complaint (9)
 - w/ copy of answer (3)
 - w/ stat sheet (1)
 - w/ copy of D's answer to admissions (11)
 - w/ copy of request for admissions (10)
 - + 51 pages of misc. attachments

pages - 100

MASON, GRIFFIN & PIERSON
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ATTORNEYS FOR Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY
DOCKET NO. L-25645-75 P.W.

THE ALLAN-DEANE CORPORATION,)
A Delaware corporation, qualified:)
to do business in the State of)
New Jersey, :

Plaintiff,)

vs.)

THE TOWNSHIP OF BERNARDS, IN)
THE COUNTY OF SOMERSET, a)
municipal corporation of the)
State of New Jersey, et al.,)

Defendants.)

Civil Action

PLAINTIFF'S FIRST REQUEST
FOR ADMISSIONS

TO: McCARTER & ENGLISH
Attorneys for Defendants
550 Broad Street
Newark, New Jersey 07102

SIRS:

Plaintiff herewith requests Defendants to admit, within
30 days of service hereof upon you, in accordance with Rule
4:22, the following:

EXHIBIT A

1. Exhibit "A", attached hereto and made a part hereof, is a genuine copy of a Complaint filed on September 16, 1976, in an action entitled "American Insurance Company vs. Township of Bernards, et als., " Docket No. L-2191-76.

2. Exhibit "B", attached hereto and made a part hereof, is a genuine copy of the Answer filed by the Township of Bernards and the Bernards Township Planning Board to the Complaint referred to in number 1 above and attached hereto as Exhibit "A".

3. The STATISTICAL COMPARISON attached hereto and made a part hereof as Exhibit "C" are accurate.

4. One of the reasons that Defendant, the Township Committee of the Township of Bernards, adopted Ordinance #388 on August 3, 1976, was to attempt to lower Bernards Township's "fair share" obligation under Southern Burlington County N.A.A.C.P. vs. Township of Mount Laurel, 67 N.J. 151 (1975) to make realistically possible through its land use regulation, an appropriate variety and choice of housing.

5. Exhibit "D" attached hereto and made a part hereof is a genuine copy of the answers to Plaintiff's Requests For Admissions filed by Defendants in Theodore Z. Lorenc vs. The Township of Bernards, et al., Docket No. L-6237-74 P.W.

6. Exhibit "E" attached hereto and made a part hereof is a genuine copy of Plaintiff's Requests For Admissions in

Theodore Z. Lorenc vs. The Township of Bernards, et al.,

Docket No. L-6237-74 P.W.

7. The Township of Bernards is located in the County of Somerset, and is a sprawling rural-suburban community in the north-central portion of the County.

8. The Township of Bernards has a land area of 24.95 square miles, an amount equal to 8.2 per cent of Somerset County's land area of 305.6 square miles.

9. At the time of the 1970 Census, Bernards Township contained a household population of 11,531 persons, an amount equal to approximately 5.9 per cent of Somerset County's household population (excluding Lyons Hospital).

10. At the time of the 1970 Census, residential density in Bernards Township amounted to 462 persons per square mile (excluding Lyons Hospital).

11. At the time of the 1970 Census, residential density in Somerset County amounted to 635 persons per square mile.

12. At the time of the 1970 Census, residential density in the State of New Jersey amounted to 938 persons per square mile.

13. At the time of the 1970 Census, the median family income of Somerset County was \$13,433.

14. At the time of the 1970 Census, the median family income of Bergen County was \$13,597.

15. At the time of the 1970 Census, the median family income of Morris County was \$13,421.

16. At the time of the 1970 Census only Somerset, Bergen, and Morris Counties, in the State of New Jersey had a median family income of \$13,000 or greater.

17. At the time of the 1970 Census, the median family income of Bernards Township was \$17,852; the average (mean) family income was \$19,243. (excluding Lyons Hospital).

18. The median and mean family incomes cited in the preceding Request for Admission placed Bernards Township 33 per cent above the County and 57 per cent above the New Jersey median.

19. Of New Jersey's 567 municipalities, Bernards Township ranks 35th in family income, a ranking that places it in the 94th percentile in the State.

20. The 531 municipalities in New Jersey with income levels below that of Bernards Township contain 95.69 per cent of New Jersey's population.

21. Because of its sizeable land area, proximity to major new interstate highways and other factors, Bernards Township would, but for its exclusionary land use practices, experience a great population increase.

22. Bernards Township is in the process, due to its own land use decisions, and its location with respect to major new interstate highways, of shedding its rural characteristics.

23. Bernards Township is a "developing municipality" as defined by the New Jersey Supreme Court in Southern Burlington County N.A.A.C.P. vs. Township of Mount Laurel, 67, N.J. 151 (1975).

24. Only 10 developing municipalities in New Jersey had 1970 Census median family income levels above that of Bernards Township.

25. Racially, Bernards Township is, 98.14 per cent white.

26. Racially, Somerset County is, 98.85 per cent white.

27. Racially, New Jersey is 88.76 per cent white.

28. Educationally, the median years of school completed by Bernards Township residents (excluding inmate population at Lyons Hospital) is 13.5 years, while the median years of school completed by Somerset County residents is 12.4 years.

29. Educationally, the median years of school completed by New Jersey residents is 12.1 years.

30. The median age of Bernards Township's residents is 34.0 years.

31. The median age of Somerset County residents is 29.4 years.

32. The median age of New Jersey residents is 30.1 years.

33. At the time of the 1970 U.S. Census of Housing, 97.2 per cent of Bernards Township housing units were one-family structures.

34. At the time of the 1970 U.S. Census of Housing, 73.6 per cent of the Somerset County housing units were one-family structures.

35. At the time of the 1970 U.S. Census of Housing, 57.9 per cent of New Jersey Housing Units were one-family structures.

36. Of the occupied housing units in Bernards Township, 90.1 per cent were owned or occupied units at the time of the 1970 U.S. Census of Housing:

37. Of the occupied housing units in Somerset County, 73.1 per cent were owned or occupied units at the time of the 1970 U.S. Census of Housing.

38. Of the occupied housing units in the State of New Jersey, 60.9 per cent were owned or occupied units at the time of the 1970 U.S. Census of Housing.

39. The median number of rooms per housing unit was 7.2 rooms in Bernards Township at the time of the 1970 U.S. Census of Housing.

40. The median number of rooms per housing unit was 5.9 rooms in Somerset County at the time of the 1970 U.S. Census of Housing.

41. The median number of rooms per housing unit was 5.2 rooms in the State of New Jersey at the time of 1970 U.S. Census of Housing.

42. The median housing value of owner-occupied housing units in Bernards Township in 1970 was \$40,000.

43. The median housing value of owner-occupied housing units in Somerset County in 1970 was \$29,700.

44. The median housing value of owner-occupied housing units in the State of New Jersey for 1970 was \$12,400.

45. The median housing value for units for sale in Bernards Township as of the 1970 Census were beyond the Census takers scale and were simply reported to be \$50,000-plus.

46. Housing values in Bernards Township (according to assessed valuation) increased to \$60,355 in 1974.

47. The Township Committee of the Township of Bernards reported an average value of housing in Bernards Township of \$60,854 as of August, 1975.

48. New construction in Bernards Township of owned or occupied housing presently ranges from \$80,000 upward.

49. The per capita real estate tax in Bernards Township was \$118 in 1960, \$324 in 1970; amounts equal to 96.7 per cent and 126.1% of the respective New Jersey.

50. In 1973, Bernards Township residents had a equalized property tax burden which ranked 226th (60 percentile) in

the State of New Jersey.

51. In 1975, Bernards Township residents had a equalized property tax burden which ranked 354th (below the 40th percentile) in the State of New Jersey.

52. The equalized tax rate in Bernards Township has decreased since 1970 from \$3.93 per \$100 in 1971, to \$3.72 per \$100 in 1972, to \$3.53 per \$100 in 1973, to \$3.27 per \$100 in 1974, to \$2.86 per \$100 in 1975.

53. The principal reason for the recent decrease in the tax rate in Bernards is the presence of the American Telephone and Telegraph Company (hereinafter referred to as "A.T. & T.") Worldwide Headquarters in the Basking Ridge section of the Township. This A.T.&T. facility will be valued at between \$100 and \$110 million (1975 dollars) when completed. At current assessment rates, this A.T.&T. ratable would yield revenues of \$3.5 million when completed, an amount equal to 47.3 per cent of the Township's total tax levy of \$7.4 million during 1975.

54. The new A.T.&T. facility referred to in Request for Admission #53, although only partially completed, was assessed at \$34.5 million during 1975 and yielded revenues of \$1.3 million that year. Approximately \$1.8 million in revenues from A.t.&T. are anticipated by the Township during 1976, and revenues of \$3.5 million between 1978 and 1980 from A.T.&T. are anticipated.

55. Bernards Township will be able, when the A.T.&T facility is completed, if the land costs of government and education do not increase, to lower its present equalized tax rate at least \$1.00 to \$1.86 per \$100 in assessed evaluation.

56. Bernards Township is intersected by two major Federal Interstate Highways which, when they are completed, will place it within 35 minutes of Newark, New Jersey's largest city, and 45 minutes of New York City.

57. Plaintiff, The Allen-Deane Corporation (hereinafter referred to as "Allan-Deane") is the owner of 1,071 acres of land located in Bernards Township, more particularly known as Lots 1, 4, 6, 6-2, 6-3, 6-4, 21-2, 22-2, 23, 24, 28-1, 32-1, and 35 in Block 171, and Lot 1 in Block 158, on the tax map of Bernards Township.

58. The Allan-Deane property located in Bernards Township is contiguous on the west to an additional 461 acres of undeveloped land owned by Plaintiff in the adjoining Township of Bedminister.

59. Plaintiff's property is all undeveloped and is located northeast of the intersection of Federal Interstate Highway No. 78 and Federal Interstate Highway No. 287.

60. Allan-Deane's land is all located, in residential 3A district as set out pursuant to Chapter XII of the Revised General Ordinance of the Township of Bernards

(hereinafter referred to as "Bernards Township Zoning Ordinance"). Under the use regulations applicable to such district, the only uses therein permitted are single-family detached dwellings on three (3) acre lots.

61. On November 1, 1971, Allan-Deane formally applied to Defendant, The Planning Board of the Township of Bernards (hereinafter referred to as the "Board"), for a zoning change after several informal meetings with the Board.

62. By letter dated November 11, 1971, the Board acknowledged receipt of the application referred to in request for admission number 26, together with a proposed amendment to the Bernards Township Zoning Ordinance, and informed Allan-Deane that it agreed that some corrections of the existing zoning were necessary and it was considering rezoning, not only at the Plaintiff's property, but the entire Township. The Board requested Allan-Deane to be patient in view of the magnitude of their concept to allow the Board to educate the public concerning this concept and to test their reaction to it.

63. Allan-Deane gave the Board the time it had requested to study the application referred to in Request for Admission number 61 in the context of overall master plan revisions.

64. On December 18, 1975, the Board formally adopted a new master plan on which the Allan-Deane property was

designated for sparse residential development.

65. On February 10, 1976, Allan-Deane submitted a revised plan for the development of the property to the Board and again requested the Board to recommend the rezoning of this property to the Committee.

66. The development of the Allan-Deane property in accordance with the submitted plan would substantially relieve the existing housing shortage in the Bernards Township Housing Region and enable persons who cannot presently afford to buy or rent housing in Bernards Township to live there.

67. Because of the size of the Allan-Deane land holdings and the economies of scale, housing could be constructed on the Allan-Deane property in an environmentally responsible manner and at a price range affordable to all categories of people who might desire to live there, including those of low and moderate income, if Bernards Township, by its land use regulations, made such development reasonably possible.

68. Allan-Deane has offered to work with the Township of Bernards or some other sponsoring agency to assure that a substantial portion of the multi-family homes constructed on the property would be eligible for rent subsidies in order to help Bernards Township to provide fully for its fair share of the regional housing need at all income levels.

69. The Bernards Township Housing Ordinance by its very terms and provisions restricts housing uses in Bernards Township to persons who can afford to live in single-family dwellings located in valuable lots of considerable size. The effect of the design and structure of the zoning ordinance is to increase housing costs.

70. The PRN zones in the Bernards Township Master Plan have substantial areas in the flood plain.

71. The entire PRN-8 zone and two-thirds of the PRN-6 zone in the new Bernards Township Master Plan are proposed as open space in the County Master Plan; United States Corps of Engineers has proposed that much of this area be a flood control reservoir; and the upper Passaic River Environmental Counsel has recommended that 110 acres be preserved in open space.

72. Much of the remaining land in the PRN zone in the Bernards Township Master Plan is an institutional use and is not reasonably available for development.

73. Because of the physical constraints, the low net density requirement and other exclusionary land use requirements, the actual housing unit yield from the PRN zones should be considerably less than one unit per acre.

74. Bernards Township Zoning Ordinance prohibits mobile homes in the entire Township.

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of Forest
Am. Complaint

75. The Board drafted and the Committee enacted on May 18, 1976, an Ordinance (Ordinance No. 385 of the Bernards Township Zoning Ordinance) which provides on its face for 354 units of low and moderate income housing, but contains the following provisions:

(a) The Ordinance requires that proof be provided by the applicant that the required rental or purchase subsidies are guaranteed as a condition precedent to approval (while all Federal and State subsidy programs require total local land use approvals prior to considering subsidy application;

(b) The Ordinance requires proof as a condition precedent to approval that the "adequate rental or purchase subsidies are adequately guaranteed for a minimum of forty years" (which requirement effectively precludes all subsidies under any program of the Farmers Home Administration, Department of Housing and Urban Development, the New Jersey Mortgage Finance Agency, the New Jersey Housing Finance Agency, or the Housing Grant Program of the State of New Jersey).

76. The only method under which financing for a term of forty years might be provided would require the "piggy-backing" of a HUD, Housing Assistance Payments Program on top of a proposal financed by the New Jersey Housing

Finance Agency, and would require the approval of both agencies.

77. The Bernards Township Land Subdivision Ordinance, by its very terms and provisions, increases housing and development costs.

78. Bernards Township presently has over 7,000 acres of vacant residentially zoned land which is physically and economically available for development.

79. There is a critical housing shortage in New Jersey generally and in the Bernards Township Housing region specifically.

80. The housing need in the Bernards Township housing region has been added to and increased by the actions of the Committee which rezoned an area at the request of the American Telephone and Telegraph Company in order to permit it to build a world headquarters in Bernards Township.

81. The A.T.&T. complex in Bernards Township will employ, when it is completed, an estimated 3,500 people.

82. A.T.&T.'s Long Lines Division is in the process of constructing their headquarters just north of the Allen-Deane property in neighboring Bedminster Township. That facility will employ an estimated additional 3,500 people who will require an additional 2,850 homes.

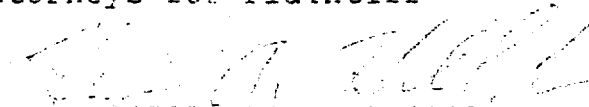
83. The majority of the workers from the A.T.&T. facilities will be excluded, because of their financial resources from Bernards Township and the suburban municipalities which surround it, and will have to commute by automobile to their jobs.

84. According to Charles K. Agle, the Bernards Township Planner, the direct effect of Bernards Township rezoning in order to permit the A.T.&T. facility in Basking Ridge was to increase the anticipated population in the Bernards housing region by 27,125 people. (See p. 14 lines 15-20 Agle Deposition of June 7, 1976)

85. The direct effect, according to Charles K. Agle, of Bedminster Township's rezoning in order to permit the construction of A.T.&T. Long Lines facility was to increase the anticipated population for the Bedminster region by 27,125. (See p. 14, lines 21-25 Agle Deposition of June 7, 1976)

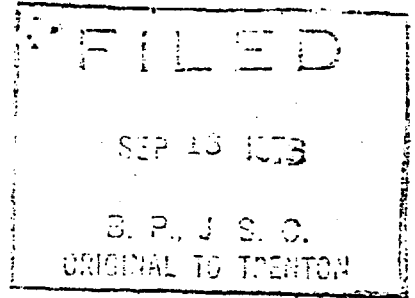
86. Charles K. Agle, the Bernards Township Planner, has admitted that the relocation of the two large A.T.&T. facilities to Bernards and Bedminster Townships substantially increased both municipalities obligation to provide housing. (See p. 15, lines 1-6 Agle Deposition of June 7, 1976)

MASON, GRIFFIN & PIERSON
Attorneys for Plaintiff

By: 
Henry A. Hill, Jr.

Dated: December 1, 1976

SCHENCK, PRICE, SMITH & KING
10 Washington Street
Morristown, New Jersey 07960
(201) 539-1011
Attorneys for Plaintiff



AMERICAN INSURANCE COMPANY

Plaintiff,

v.

TOWNSHIP OF BERNARDS IN THE
COUNTY OF SOMERSET, a municipi-
pal corporation and BERNARDS
TOWNSHIP PLANNING BOARD

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY

DOCKET NO.

CIVIL ACTION

COMPLAINT

Plaintiff American Insurance Company, a New Jersey corporation with a place of business at 1637 State Highway No. 10 Township of Parsippany, County of Morris and State of New Jersey complaining of defendants says:

FIRST COUNT

1. Plaintiff American Insurance Company, a New Jersey corporation, is the owner of approximately 67 acres of land on Mt. Airy Road in Bernards Township known and designated as Lot 12 Block 101 on the Official Tax Map of the Township of Bernards. Plaintiff is a taxpayer of the Township of Bernards.

2. On December 22, 1937 the Township of Bernards (hereinafter "Township") adopted its first zoning ordinance. The entire Township was restricted to residential use with the exception of small business zones in the villages of Basking Ridge, Liberty Corners and Lyons. A preexisting quarry constituted the only Industrial Zone District.

EXHIBIT "A"

3. In 1954 the Township enacted a major revision to the Zoning Ordinance. The Township residential zones were divided into three acres, two acres and smaller residential district.

4. The first Master Plan was adopted in 1959 and revised in 1961. A new Master Plan was adopted in 1966 by the Township. The Plan noted the proposed alignment of Federal Interstate 287 through the westerly portion of the Township and Federal Interstate 78 through the southern portion. It recommended the creation of an Office and Laboratory zone on the subject premises west of the Route 287-Mt. Airy Road Interchange.

5. The Master Plan in referring to Office and Research Laboratories stated:

"This type of land use and the economic activity which it generates, when developed, can have a highly desirable impact on the municipal finances of the community. The reasons for this are several. New residences will come to Bernards Township regardless of any other factors, such as the presence or absence of these economic generators, because of the Interstate highways. It is well to remember that a young family with one or two school age children living in a detached residence never pays enough taxes locally to compensate for all public services that it receives: schools, fire and police protection, roads, snow removal, recreation, etc. An establishment such as a research and development laboratory, on the other hand, require only minimal public services, but pays relatively high taxes because of its large investment. These uses also generate auxiliary services and facilities which contribute to the economic well-being of the municipality." Bernards Township Master Plan 1966, page 61.

6. In 1969 the Master Plan was revised to recommend the creation of the O&L1 zone on North Maple Avenue and the enlargement of the O&L2 zone at the Mt. Airy Road Interchange to approximately 180 acres. The Planning Board amended the Master Plan to make the following specific findings:

"It is the finding of the Board that office and laboratory uses, if properly located and controlled, can fulfill the objectives of the Master Plan, "To improve the Economic Base of Bernards Township" by:

1. Providing for a more appropriate use of land that might be more difficult to develop for other uses because of the proximity of an Interstate Highway or because of topographic conditions and the possibility of periodic flooding.
2. Providing sites for good tax ratables that require little municipal expenditures.
3. Providing sources of nearby employment for more of the Township residents.

It is also the finding of the Board that proper limitation of uses, setbacks and screening can be required to adequately protect surrounding residential areas from such uses. In terms of traffic impact, the location of these facilities with good access to an Interstate Highway will minimize their impact on the local street system." Bernards Township Master Plan Revision 1969,
P. 2,3.

7. In 1970 the Revised Zoning Ordinance adopted in 1968 was amended by the Township. An Office and Laboratory One Zone and an Office Building Zone were created in the area of the North Maple Avenue interchange with Route 287. American Telephone

& Telegraph Company has constructed its main executive offices in the O&L1 zone. An Office and Laboratory Two Zone (hereinafter "O&L2") was created in the area to the west of the interchange with Mt. Airy Road as more particularly shown on the revised zoning map.

8. The Zoning Ordinance for the O&L2 zone adopted in 1970 provides in part:

"12-6.18 Office Laboratory Zone.

a. Primary Intended Use. This zone is designed for office buildings for administrative, business, executive or professional purposes and for scientific or research laboratories but excluding therefrom pilot plants or any fabrication, processing or manufacture of materials. Within any Office Laboratory Two Zone as shown on the zoning map of the Township, as amended, the following uses shall be and are hereby permitted:

1. Administrative, business and executive office buildings.
2. Professional office building, including but not limited to use by accountants, architects, city planners, engineers, insurance agents, land surveyors, lawyers or real estate brokers.
3. Hospital, medical clinic or office building for the medical profession, including but not limited to doctors, physicians, surgeons, dentists or osteopaths.
4. Scientific or research laboratory.
5. Telephone exchange or public utility office buildings or substations servicing the immediate area."

The Ordinance contains detailed area, height and set back requirements and performance standards. In addition, the Township has adopted an Environmental Impact Ordinance.

9. On August 16, 1972 American Insurance Co. purchased a portion of the subject property, known as Block 101, Lot 12 consisting of approximately 67 acres for the purpose of locating the Eastern Regional Headquarters for the Fireman's Fund-American Insurance Group thereon in reliance on said Master Plan and Zoning Ordinance. A site plan application accompanied by an Environmental Impact Study was being processed by the Planning Board when the application was withdrawn by the American for corporate policy reasons on August 8, 1974.

10. On December 30, 1974 the Bernards Township Committee adopted a "Moratorium" on all building permits, site plan approvals, zoning variances, special exception permits or preliminary or final subdivision approvals submitted after December 3, 1974 until October 1, 1975 and thereafter extended to December 31, 1975.

11. In December 1975 a Master Plan Study was completed by the Township. That report, referring to the lands of the plaintiff, stated in part:

"Although the topographical constraints that are evident in the southwest corner of the existing non-residential zone on the west side of Mt. Airy Road dictate a realignment of that zone, the remaining open land from that point north to the Somerset Hills and Holy Name Cemeteries is suitable for the same uses, both existing and prospective, as at the North Maple Avenue interchange: research and administrative offices, transient accommodations, and professional and recreational services for the region."

12. On August 3, 1976 the Township Committee of the Township of Bernards adopted Ordinance No. 388 a copy of which is attached hereto as Exhibit A. The Ordinance inter alia rezoned the southwest 26 acres of plaintiff's 67 acre tract from Office & Research Laboratory 2 Zone district to 3 Acre Residential use.

13. In fact there are not topographical restraints affecting plaintiff's property which would render it unsuitable for use and development for the purposes permitted in the O&L2 Zone district and the action of the Township in rezoning plaintiff's lands is arbitrary, unreasonable and capricious.

WHEREFORE, plaintiff American Insurance Company demands judgment declaring that the portion of Ordinance No. 388 which rezones part of plaintiff's lands, from O&L2 to 3 Acre Residential is null and void.

SECOND COUNT

1. Plaintiff repeats the allegations of paragraphs 1. thru 12 the First Count and makes the same a part hereof.

2. Defendant Township in fact adopted Ordinance No. 388 as part of a plan to decrease the number of places of employment in the Township of Bernards and to thereby unlawfully prevent or restrict the influx of persons seeking low and moderate income housing in Bernards Township.

3. Said plan and all ordinances adopted pursuant thereto are unlawful in that

(a) they infringe upon the constitutional right of all persons to move freely from state to state, to reside in any municipality

they chose, and to have housing constructed at prices which they can afford to pay without unreasonable and artificial restrictions and restraints imposed by defendant Township under the guise of zoning and planning purposes.

(b) the Township adopted said ordinance to unlawfully avoid its stated obligation to provide its fair share of the need for low and moderate income housing of the region of which it is a part and to prevent low and moderate income persons from seeking to live in Bernards Township.

4. The action of defendant Township in rezoning plaintiff's land is arbitrary, unreasonable and capricious.

WHEREFORE, plaintiff American Insurance Company demands judgment declaring that the portion of Ordinance No. 388 which rezones part of plaintiff's lands from O&L2 to 3 Acre Residential is null and void.

THIRD COUNT

1. Plaintiff repeats the allegations of paragraphs 1 thru 12 of the First and Second Counts of the Complaint and makes the same a part hereof.

2. The provisions in the Bernards Township Zoning Ordinance restricting the construction of a single family residence to a three acre tract of land has no valid relationship to any zoning purpose and said provisions are arbitrary, unreasonable and capricious.

WHEREFORE, plaintiff American Insurance Company demands judgment declaring that the portion of Ordinance No. 388 which rezones part of plaintiff's lands from O&L2 to 3 Acre Residential is null and void.

FOURTH COUNT

1. Plaintiff repeats the allegations of paragraphs 1 thru 1 the First, Second and Third Counts of the Complaint and makes the same a part hereof.

2. Plaintiff's lands are bounded by the Township dump on the west, a cemetery on the north, office buildings and a Federal Interstate Highway Interchange with Mt. Airy Road, a county road on the east and is not suitable for single family residence. The effect of rezoning the rear portion of plaintiff's lands is to render it landlocked and deprive it of all road access which it formerly had and to deprive said land of its economic value for no valid purpose.

3. The action of defendant Township in rezoning plaintiff's land is arbitrary, unreasonable and capricious.

WHEREFORE, plaintiff American Insurance Company demands judgment declaring that the portion of Ordinance No. 388 which rezones part of plaintiff's lands from O&L2 to 3 Acre Residential is null and void.

FIFTH COUNT

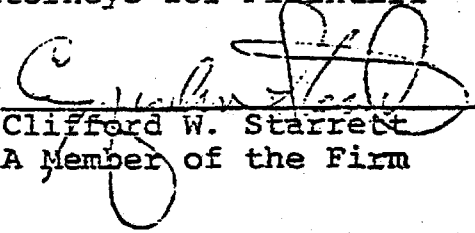
1. Plaintiff repeats the allegations of paragraphs 1 thru of the First, Second, Third and Fourth Counts of the Complaint and makes the same a part hereof.

2. The aforesaid Ordinance No. 388 amended the dimensional limitations specified for the portion of its property located in the O&L2 Zone thereby imposing arbitrary and unreasonable limitations on the floor area ratio, maximum lot coverage,

minimum setback from street lines and lot lines and adjacent residential districts thereby unduly restricting the right of plaintiff to develop its property without any valid zoning purposes.

WHEREFORE, plaintiff American Insurance Company demands judgment declaring that the maximum floor area ratio, maximum lot coverage and minimum setback from a street line and residential districts is null and void.

SCHENCK, PRICE, SMITH & KING
Attorneys for Plaintiff

by 
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A Member of the Firm

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Attorney for Defendants
Township of Bernards and
Bernards Township Planning Board

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY
Docket No. L-2191-76

AMERICAN INSURANCE COMPANY

Plaintiffs,

v.

TOWNSHIP OF BERNARDS and
BERNARDS TOWNSHIP PLANNING BOARD

Defendants.

ANSWER

Defendants, Township of Bernards and Bernards Township Planning Board, with offices at the Municipal Building, Collyer Lane, Basking Ridge, New Jersey 07920 by way of answer say:

First Count

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. Admitted.

First Count (Cont'd.)

12. Admitted except that portion rezoned was the northwest portion of plaintiffs land.
13. Denied.

Second Count

1. Admitted or denied as in the first count.
2. Admitted that one of the reasons for the adoption of Ordinance No. 388 was to restrict the number and type of places of employment in the Township thereby affecting, among other things, the Township's housing obligations under So. Burlington Co. N.A.A.C.P vs. Township of Mt. Laurel, 67N.J.151 (1975), but it is denied that this motivation is unlawful.
3. Denied.
4. Denied.

Third Count

1. Admitted or denied as in previous counts.
2. Denied.

Fourth Count

1. Admitted or denied as in previous counts.
2. The uses bounding plaintiffs lands are admitted but these allegations are otherwise denied.
3. Denied.

Fifth Count

1. Admitted or denied as in previous counts.
2. Admitted that Ordinance No. 388 amended dimensional limitations but these allegations are otherwise denied.

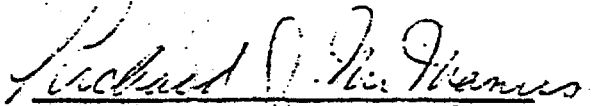
First Separate Defense

Ordinance No. 388 is in accord with the statutory purposes of zoning and applicable judicial decisions regarding land use.

Second Separate Defense

Plaintiff's property can be utilized as rezoned.

I hereby certify that this responsive pleading was served within the time period allowed by R.4:6.


Richard J. McManus
Richard J. McManus, Esq.
Township Attorney

STATISTICAL COMPARISON

Bernards and Mount Laurel Townships

<u>Area</u>	<u>Bernards Township</u>	<u>Mount Laurel Township</u>
Square Miles	24.95	22.15
<u>Population (1970 Census)</u>		
Total Population	13,305	11,221
In Households	11,531	11,008
In Group Quarters	1,774	213
Density (Residential) (pop. sq. mile)	462	497
Racial (% White)	98.14	96.32
<u>Income (1969)</u>		
Median Family	\$17,852	\$13,985
Mean Family	\$19,243	\$15,077
Mean Household	\$18,882	\$14,592
Median Years School	13.5	12.5
<u>Housing</u>		
Total Units (year-round)	3,171	2,920
One-Unit Structures	3,085	2,817
% One-Unit	97.2	96.5
Owner-Occupied	2,805	2,628
% Owner-Occupied	90.9	92.4
Median No. Rooms	7.2	6.9
Median Value (Owner)	\$40,000	\$25,600
Median Value (For Sale)	\$50,000 +	\$13,800
<u>Taxes</u>		
Effective Tax Rate - 1975 (\$ per \$100 valuation)	2.86	3.34

Source: U. S. Census Data for New Jersey Townships, Table 27, pg 32-6, 32-7, Table 29, pg 32-29, 32-33, Table 18 pg 32-6, 32-10, Table 20 pg 32-20, 32-24; New Jersey Population Report; Annual Report, N. J. Department of the Treasury, Fiscal Year 1975.

Wharton, Stewart & Davis
50 West Main Street
Somerville, NJ 08876
(201) 725-1030
Attorneys for Defendant,
Township of Bernards

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY
DOCKET NO. L-6237-74 P.W.

THEODORE Z. LORENCO, et al. :
Plaintiffs :
-vs- :
THE TOWNSHIP OF BERNARDS, :
et al. :
Defendants :

Civil Action
Defendants' Answer to Plaintiffs
Request for Admissions

Defendants herewith make the following response to the
request for admissions served by plaintiffs:

1. Defendants admit that the Township of Bernards in the
County of Somerset (hereinafter referred to as "Bernards Township")
is a community in the northcentral portion of Somerset County.
Defendants admit that Bernards Township has a land area of
approximately 34.95 square miles, and that such land area equals
approximately 8.23 of Somerset County's total land area of 385.6

EXHIBIT "D"

square miles. Defendants admit that the document entitled "1970 United States Census" indicates that Bernards Township contained a household population of 11,531 persons and that such household population equals approximately 5.9% of Somerset County's total household population as of that date. Defendants admit that the residential density in Bernards Township amounted to 462 persons per square mile as of the 1970 Census and that the comparable figures for Somerset County and the State of New Jersey are 635 persons per square mile and 933 persons per square mile respectively. With respect to the data contained in the 1970 Census in the matter of which an admission is requested, defendants admit such data to the extent that it fully represents the entirety of such document. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation, computation or extrapolation contained in the matter of which an admission is requested.

2. Defendants admit that Somerset County, in which Bernards Township is located, is a county located in the State of New Jersey. With respect to the data contained in the 1970 Census in the matter of which an admission is requested, defendants admit such data to the extent that it fully represents the entirety of such document. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested, and further deny any characterization, interpretation or extrapolation contained in the matter of which an admission is requested.

3. With respect to the data contained in the 1970 Census in the matter of which an admission is requested, defendant admits such data to the extent that it fully represents the entirety of such document. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation or extrapolation contained in the matter of which an admission is requested.

4. Defendants admit that the defendant Bernards Township is a municipality. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation or extrapolation contained in the matter of which an admission is requested.

5. Defendants are unable either to admit or to deny the matter of which an admission is requested as plaintiffs do not identify or specifically set forth the means by which the definition of "developing municipality" has been arrived at and without such definition defendants cannot determine how many "developing municipalities" exist or how many of such municipalities may have median family income levels above or below that of Bernards Township according to the 1970 Census, or whether Bernards Township is a "developing municipality" within the meaning of such definition.

6. With respect to the racial data contained in the 1970 Census in the matter of which an admission is requested, defendants admit such data to the extent that it fully represents the entirety of such document. With respect to the educational

data in the matter of which an admission is requested, defendants admit that the median years in public school completed in Somerset County is 12.4 years and in New Jersey is 12.1 years respectively, but deny that the median years of school completed by Bernards Township residents is 13.5 years according to the 1970 Census, but rather that the median years of school completed by Bernards Township residents according to the 1970 Census actually equals 12.8 years, which figure is above the median of Somerset County. With respect to the median age data contained in the 1970 Census in the matter of which an admission is requested, defendants admit such data to the extent that it fully represents the entirety of such document. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation or extrapolation contained in the matter of which an admission is requested.

7. Defendants deny the matter of which an admission is requested because the cited figures do not include housing units represented by Lyons Hospital and other institutional uses within Bernards Township and do not reflect the entirety of the document referred to in Paragraph 7 of the Request for Admissions.

8. With respect to the data contained in the 1970 Census of Housing in the matter of which an admission is requested, defendants admit such data to the extent that it fully represents the entirety of such document, specifically the median value of owner-occupied housing units in New Jersey as \$23,400.00, the comparable figure for Somerset County is \$29,700.00, which value is 26.9% above the median value in New Jersey, the median value

reported for Bernards Township as \$40,000.00 which value is 70.93 above the New Jersey median value and 34.61 above the Somerset County median value and that the median housing values for units for sale within Bernards Township as of the 1970 Census were described as \$50,000.00 - plus. Defendants are unable to admit or deny portions of the matter of which an admission is requested because plaintiffs have failed to provide defendants with the 1971 survey of sample median value of existing and new homes in Somerset County and, accordingly, defendants can make no comment about its accuracy. Plaintiffs have further failed to provide defendants with, or otherwise sufficiently identified, the Report of the Township Committee of Bernards Township referred to therein and, after reasonable inquiry defendants have no knowledge or information regarding such Report. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation, computation or extrapolation contained in the matter in which an admission is requested.

9. With respect to the data regarding the comparative property tax burden of property owners in Bernards Township with the burden of other municipalities of the State of New Jersey, defendants admit that in 1975, Bernards Township ranked 354 from the highest property tax rate burden, or approximately in the 40th percentile, and that in 1973, Bernards Township ranked 226 from the highest property tax rate burden, or approximately in the 60th percentile. Defendants admit that the per capita real estate tax in Bernards Township was \$113 in 1960 and \$324 in 1970, but defendants are unable truthfully to admit or deny the percentage

figures relative to the per capita real estate tax in the State of New Jersey and set forth as reasons the fact that after reasonable inquiry and upon information known or readily available to defendants, defendants have been unable to ascertain where the matter of which an admission has been requested has been derived. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation, computation or extrapolation contained in the matter of which an admission is requested.

10. Defendants admit that the equalized tax rate has decreased from \$3.92 (not \$3.93 as stated in the matter of which an admission is requested) per \$100.00 in 1971, to \$3.72 per \$100.00 in 1972, to \$3.53 per \$100.00 in 1973, to \$3.27 per \$100.00 in 1974, and \$2.86 per \$100.00 in 1975. With respect to the final sentence of the matter of which an admission is requested defendants cannot truthfully admit or deny the matter and set forth as reasons the fact that after reasonable inquiry and upon information known or readily obtainable by defendants, their knowledge is insufficient to enable admission or denial since defendants know of no digest wherein the tax rates of localities are compiled and moreover, while the first portion of the matter of which an admission is requested sets forth specifically figures related to an equalized tax rate, which defendants have admitted as decreasing in Bernards Township between 1971 and 1975, the final sentence does not refer to equalized tax rates but local tax rates which tax rates Bernards Township has not admitted as having decreased since 1970. Except

as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation, or extrapolation contained in the matter of which an admission is requested.

11. Defendants cannot truthfully admit or deny the matter of which an admission is requested since plaintiff does not define the meaning of "recent decrease of the tax rate" in Bernards Township. Plaintiff does not indicate whether this is an equalized tax rate or a actual tax rate. In the event that the "recent decrease" refers to the equalized tax rate, and the years specified in the preceding request for admission, defendants deny that the presence of a facility owned by American Telephone and Telegraph Company (hereinafter referred to as "A. T. & T.") (which defendants after reasonable inquiry are unable to admit or deny whether the denomination by such company of its facility within Bernards Township are designated as "World Wide Headquarters") has been the principal reason for the decrease of the equalized tax rate during the years 1971, 1972, 1973, 1974 and 1975, since construction did not commence on such facility until the end of 1973 and, therefore no impact, significant or otherwise, would have been reflected in the equalized tax rate until 1974. After reasonable inquiry defendants lack information or knowledge sufficient to admit or deny the matter of which an admission is requested with respect to the estimated valuation of the A. T. & T. facility when completed as this calls for an anticipated valuation at some point in the future. With respect

278-272
278-272

to the anticipated valuation of the A. T. & T. facility or the amount of revenues which would be yielded if some future valuation of an as yet unfinished facility were hypothetically applied to the present total tax levy of Bernards Township during 1975, defendants lack information or knowledge after a reasonable inquiry has been made either to admit or deny the same. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation, method of computation or extrapolation contained in the matter of which an admission is requested, including the hypothesis that a significant increase in the valuation of any present or future facility would have no effect the tax rate or tax levy of a township.

12. Defendants admit that the tax revenues which the new A. T. & T. facility in Bernards Township yielded during 1975 approximated 1.3 million dollars and that tax revenues from the A. T. & T. facility within Bernards Township for 1976 are anticipated to amount to approximately 1.3 million dollars. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested.

13. Defendants deny that Bernards Township was able to lower its tax rate for 1976, and admit, that in fact, the actual tax rate in 1975 equalled \$3.92 per \$100.00 in 1975 and increased to \$4.12 for 1976. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation or extrapolation contained in the matter of which an admission is requested.

14. Defendants admit that there are two federal interstate highways which pass through Bernards Township, but deny that those highways intersect within Bernards Township. Defendants admit that Newark is the largest city in the State of New Jersey by population. With respect to the remaining matters of which admissions are requested set forth within this request for admission, defendants are unable to admit or deny whether the federal interstate highways, when completed, will place Bernards Township within 35 minutes of Newark, or 45 minutes of New York City, since plaintiff does not indicate the time of day, route or speed at which a vehicle would be traveling on such highways or what portion of the Township such vehicle would originate the trip. Except as herein specifically admitted defendants deny the remainder of the matter of which an admission is requested.

15. Defendants admit that upon information known or readily available, the A. T. & T. facility in Bernards Township is expected to be completed in 1978. Except as herein specifically admitted, defendants deny the remainder of the matter of which an admission is requested and further deny any characterization, interpretation, computation or extrapolation contained in the matter of which an admission is requested.

16. Defendants admit the matter of which an admission is requested in paragraph 16 of the Request for Admission.

17. Defendants deny that Exhibit B attached to the Request for Admission is a genuine copy of an ordinance of Bernards Township, but that such Exhibit was a genuine copy of one of many preliminary working versions of such ordinance submitted to

the governing bodies of Bernards Township by various individuals prior to the adoption of "An Ordinance to Amend and Supplement the Zoning Ordinance of Bernards Township."

18. Defendants admit the matter of which an admission is requested in paragraph 18 of the Request for Admission.

19. After reasonable inquiry defendants admit that Exhibit D attached to the Request for Admission is a copy of one page, entitled "Housing and Employment-Somerset County", of a document entitled "Housing and Jobs-Somerset County, New Jersey" (prepared by the Office of Economic Opportunity and the County Planning Board of Somerset County, February, 1970). By this admission, defendants do not adopt or authenticate the report in its entirety or this portion of it, or the method or data upon which this schedule was prepared.

20. Defendants object to paragraph 20 of the Request for Admission on the ground that the copy of Exhibit E as attached is partly illegible.

21. Defendants admit the matter of which an admission is requested in paragraph 21 of the Request for Admission.

22. Defendants object to paragraph 22 of the Request for Admission on the ground that the authorship, source and location of Exhibit G have not been stated, so as to permit verification of the document and of the facts stated therein.

23. Defendants admit that Exhibit H is a tentative draft of a memorandum "For Internal Discussion Only" prepared for the Bedminster Planning Board by Charles K. Agle, dated 24 August 1970 and entitled "Considerations in Economic Development".

24. Defendants admit that Exhibit J attached to the Request for Admissions is a genuine copy of a confidential letter from Richard H. Herold, Township Attorney, to the Mayor and Township Committee of Bernards Township, dated May 1, 1974.

25. Defendants admit the matter of which an admission is requested in Paragraph 25 of the Request for Admissions.

26. Defendants admit the matter of which an admission is requested in Paragraph 26 of the Request for Admissions.

WHARTON, STEWART & DAVIS
Attorneys for Defendants

By

Richard H. Herold
A Member of the Firm

Service of a copy of the within Answer to Plaintiffs' Requests for Admissions is hereby acknowledged this 23rd day of April 1976.

LANIGAN & O'CONNELL
Attorneys for Plaintiffs

By

Frank R. Hubers
A Member of the Firm

LAW OFFICES OF
LANIGAN AND O'CONNELL
A PROFESSIONAL CORPORATION
59 SOUTH FINLEY AVENUE
BASKING RIDGE, NEW JERSEY 07920
(201) 766-5270
ATTORNEY FOR Plaintiffs

THEODORE Z. LORENC, et als,

Plaintiffs,

vs.

THE TOWNSHIP OF BERNARDS,
et als,

Defendants.

TO: Richard H. Herold, Esq.
Attorney for Defendants
Wharton, Stewart & Davis
25 Claremont Road
Bernardsville, New Jersey 07924

SIR:

Plaintiffs hereby request the Defendants admit,
in accordance with Rule 4:22, that each of the following facts
is true. Each of the following matters will be deemed admitted
unless a denial, in accordance with Rule 4:22, is served and
filed within 30 days after service hereof upon you:

EXHIBIT "E"

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY
Docket Nos. 6237-74,
S-11203 P.W.

Civil Action

REQUEST FOR ADMISSIONS

1. Defendant, THE TOWNSHIP OF BERNARDS, IN THE COUNTY OF SOMERSET (hereinafter referred to as "BERNARDS TOWNSHIP") is a sprawling rural-suburban community in the north-central portion of Somerset County, with a land area of 24.95 square miles, an amount equal to 8.2 per cent of Somerset County's land area of 305.6 square miles. At the time of the 1970 Census, BERNARDS TOWNSHIP contained a household population of 11,531 persons, or approximately 5.9 per cent of Somerset County's household population. Residential density in BERNARDS TOWNSHIP amounted to 462 persons per square mile as of the 1970 Census, a density substantially below the comparable figures of 635 persons per square mile in Somerset County and 938 persons per square mile in New Jersey.

2. Somerset County, in which BERNARDS TOWNSHIP is located, is the second wealthiest county in New Jersey, with a 1970 Census median family income of \$13,433, a level exceeded only by Bergen County with a median family income of \$13,597. Morris County, on the northern boundary of Somerset County, ranks third in wealth in New Jersey with a median family income of \$13,421, and was the only other county with a 1970 Census median family income over \$13,000.

3. Bernards Township is one of the wealthiest municipalities in New Jersey. As of the 1970 Census (1969 income), BERNARDS TOWNSHIP was reported to have a median family income of \$17,852, and an average (mean) family income of \$19,243--income levels of 33 per cent above the County and 57 per cent above the New Jersey median. Of New Jersey's 567 municipalities, BERNARDS TOWNSHIP ranks 36th in family income, a ranking that places it in the 94th percentile in the State. The 531 municipalities in New Jersey with income levels below that of BERNARDS TOWNSHIP contained 95.69 per cent of New Jersey's population.

4. BERNARDS TOWNSHIP is a "developing municipality" as defined by the New Jersey Supreme Court in Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975).

5. Only 10 developing municipalities in New Jersey had 1970 Census median family income levels above that of BERNARDS TOWNSHIP.

6. Racially, BERNARDS TOWNSHIP is, according to the 1970 Census, 98.14 per cent white, a percentage well above the parallel statistics of 95.85 per cent white in Somerset County and 88.76 per cent white in New Jersey as a whole. Educationally, the median years of school completed by BERNARDS TOWNSHIP residents of 13.5 years is significantly above Somerset County's median of 12.4 years and New Jersey's median of 12.1 years. The median age of the TOWNSHIP'S residents is 34.0 years compared with 29.4 years in Somerset County and 30.1 years in New Jersey, reflecting the necessity of an established income to be able to afford the purchase of housing in BERNARDS TOWNSHIP.

7. According to the U. S. Census of Housing, 97.2 per cent of the BERNARDS TOWNSHIP'S housing units were one-family structures as compared with a State percentage of 57.9 per cent and a Somerset County percentage of 73.6 per cent. Of the occupied housing units in BERNARDS TOWNSHIP, 90.1 per cent were owner-occupied units as compared with a State percentage of 60.9 per cent and a Somerset County percentage of 73.1 per cent. The median number of rooms per housing unit was 7.2 rooms in BERNARDS TOWNSHIP while the New Jersey median was 5.2 rooms and the Somerset County median was 5.9 rooms.

8. The 1970 Census of housing reported that the median value of owner-occupied housing units in New Jersey was \$23,400. The comparable figure for Somerset County was \$29,700, a value 26.9 per cent above the New Jersey median. The median housing value reported for BERNARDS TOWNSHIP in 1970 was \$40,000, a level 70.9 per cent above the New Jersey median and 34.6 per cent above the Somerset County value. The median housing values for units for sale in BERNARDS TOWNSHIP as of the 1970 Census were beyond the Census takers scale and were simply reported to be \$50,000-plus. Since the 1970 Census, housing values have increased markedly throughout New Jersey, and one survey reported a 1971 sample median value of existing and new homes of \$62,000 for Somerset County. Were this value relationship applied to BERNARDS TOWNSHIP, a 1971 median value of \$84,125 would be derived (Bernards = 1.346 x Somerset County). Even by conservative standards (assessed valuation) the average housing value in BERNARDS TOWNSHIP had increased to \$60,355 by 1974, a figure similar to the average value of \$60,854 reported by the Township Committee for all housing units as of August, 1975. New construction in the TOWNSHIP is considerably more expensive, ranging from \$80,000 upwards.

9. Although BERNARDS TOWNSHIP'S residents rank among the most affluent in New Jersey, their property tax burden ranked the TOWNSHIP 226th (60 percentile) in the State in 1973. By 1975, BERNARD TOWNSHIP'S rank relative to

property tax rate was 354th from the highest (below the 40th percentile). Similarly, the per capita real estate tax in BERNARDS was \$118 in 1960 and \$324 in 1970--amounts equal to 96.7 per cent and 126.1 per cent of the respective New Jersey averages. Thus, while income in BERNARDS TOWNSHIP was 57 per cent above the New Jersey median in 1970, the real estate burden was only 26.1 per cent above the State's average cost. Relative to income, BERNARDS TOWNSHIP residents have been paying a substantially lower per cent in property taxes than their New Jersey counterparts.

10. Since 1970, BERNARDS TOWNSHIP residents have enjoyed a particularly favorable tax climate, with the equalized tax rate decreasing--from \$3.93 per \$100 in 1971 to \$3.72 per \$100 in 1972 to \$3.53 per \$100 in 1973 to \$3.27 per \$100 in 1974 and \$2.86 per \$100 in 1975. Thus, while local tax rates in New Jersey have generally increased, BERNARDS TOWNSHIP'S tax rates have decreased.

11. The principal reason for the recent decrease of the tax rate in BERNARDS TOWNSHIP is the presence of the American Telephone and Telegraph Company (hereinafter referred to as "A.T.&T.") Worldwide Headquarters in the Basking Ridge section of the TOWNSHIP. This A.T.&T. facil-

ity will be valued at \$100 to \$110 million (1975 dollars) when completed. At current assessment rates, this A.T.&T. ratable could yield revenues of \$3.5 million when completed, an amount equal to 47.3 per cent of the TOWNSHIP'S total tax levy of \$7.4 million during 1975.

12. The new A.T.&T. facility, although only partially completed, was assessed at \$34.5 million during 1975 and yielded revenues of \$1.3 million last year. Approximately \$1.8 million in revenues from A.T. & T. are anticipated by the TOWNSHIP during 1976.

13. During 1975 and 1976, the revenues derived from A.T.&T. have enabled BERNARDS TOWNSHIP to lower its tax rate significantly while other municipalities throughout New Jersey are raising general levies by 10 to 20 per cent in order to obtain minimum funds to finance local education.

14. BERNARDS TOWNSHIP is intersected by two major Federal Interstate Highways which, when they are completed, will place it within 35 minutes of Newark, New Jersey's largest city, and 45 minutes of New York City.

15. The A.T.&T. office complex in BERNARDS TOWNSHIP will, when it is completed in 1978, pay annual property taxes to BERNARDS TOWNSHIP of approximately three and one-half million dollars. These property taxes will constitute almost one-half of BERNARD TOWNSHIP'S total tax receipts.

16. Plaintiffs hereby request that Defendants admit that Exhibit A attached hereto is a genuine copy of Memo to Bernards Township Planning Board from C. K. Agle - 8 Mar 72, entitled "Floor Area Ratio Zoning."

17. Plaintiffs hereby request that Defendants admit that Exhibit B attached hereto is a genuine copy of An Ordinance to Amend and Supplement the Zoning Ordinance of Bernards Township - Agle 20 Mar 72.

18. Plaintiffs hereby request that Defendants admit that Exhibit C attached hereto is a genuine copy of "The Planned Residential Neighborhood" by Charles K. Agle, F.A.I.A., A.I.P., Second Printing - December 1972.

19. Plaintiffs hereby request that Defendants admit that Exhibit D attached hereto is a genuine copy of sheet entitled "Housing and Employment - Somerset County" - source-Somerset County Planning Board.

20. Plaintiffs hereby request that Defendants admit that Exhibit E attached hereto is a genuine copy of sheet entitled "Estimated Net Total Housing - Somerset County (Occupied and Vacant)" prepared by Somerset County Planning Board, Revised March 1973.

21. Plaintiffs hereby request that Defendants admit that Exhibit F attached hereto is a genuine copy of sheet entitled "Gross Floor Area at Various % Ratios & Lot Areas."

22. Plaintiffs hereby request that Defendants admit that Exhibit G attached hereto is a genuine copy of sheet entitled "Multi-Family Units Per Acre in Planned Residential Neighborhoods."

23. Plaintiffs hereby request that Defendants admit that Exhibit H attached hereto is a genuine copy of Memo to Bedminster Planning Board from Charles K. Agie dated 24 Aug 70, entitled "Considerations in Economic Development."

24. Plaintiffs hereby request that Defendants admit that Exhibit J attached hereto is a genuine copy of letter from Richard H. Harold, Township Attorney, to Honorable Mayor and Township Committee, dated May 1, 1974.

25. Plaintiffs hereby request that Defendants admit that Exhibit K attached hereto is a genuine copy of letter of William E. Roach, Jr., to Mrs. Patricia Q. Sheehan, Commissioner, New Jersey Department of Community Affairs, dated November 6, 1975.

26. Plaintiffs hereby request that Defendants admit that Exhibit L attached hereto is a genuine copy of letter of Patricia Q. Sheehan to William E. Roach, Jr., Planning Director, Somerset County Planning Board, dated November 17, 1975.

LAW OFFICES OF
LANIGAN AND O'CONNELL, P.A.

By: _____
William W. Lanigan,
Attorney for Plaintiffs

*1-11-72
-2-VC of ETC Review Board*

*P.O. Box 1279 R
Bernards Township, N.J.*

Memo to Bernards Township Planning Board from C. K. Agle - 8 Mar 72

FLOOR AREA RATIO ZONING

As requested by your Chairman, I suggest the attached schedule for preliminary consideration in the rezoning of your residential districts.

You will note that your present zoning pattern has certain weaknesses and follows an older technique. While many still do, it is my belief that the Floor Area Ratio concept will eventually be followed everywhere.

Specifically, your area and lot width provisions can be improved. E.g., in the 3-Acre district you provide for lots 200 x 650, whereas I suggest 275 x 475. Also, with only yard and height controls, you allow a structure of 225,000 sq.ft., whereas my control suggests a maximum of 9,148 sq.ft., including parking. I am not against people building castles, but if they do, I think they should have more land.

I also feel that the measure of density in terms of single "dwelling units" is obsolete, and if we look hard enough, I would expect to find the usual violations of garage apartments, servants' quarters, and guest and pool houses with full living facilities. Occupancy is a matter both difficult and futile to police, and my principle concern is that rooms and "dwelling units" have enough space for permanent and stable livability.

The Bedminster Ordinance provides:

"Minimum Dwelling Area Related to Sleeping Space

"The total minimum habitable floor area required in a dwelling unit shall depend upon the number of bedrooms therein, in accordance with the following table:

<u>No. of Bedrooms</u>	<u>Minimum Habitable Floor Area</u>
0 (efficiency apt.)	340 sq.ft.
1	600 sq.ft.
2	900 sq.ft.
3	1,200 sq.ft.
4	1,600 sq.ft.
5	2,000 sq.ft.

"In all dwelling units except efficiency apartments, there shall be at least one bedroom containing at least 150 square feet of habitable floor area. Other full bedrooms shall contain at least 130 square feet of habitable floor area.

"There shall also be required additional floor area in the amount of 25% of the total amount required as hereinabove set forth for such purposes as (but not limited to) dead storage, utilities, service, recreation, or other, except parking. This related space must be located either in direct relation to habitable floor areas or in basements, attics, and accessory buildings adequately equipped for the intended purpose, and within 500 feet of the dwelling unit served."

Some schedule such as this should be combined to provide flexibility in all districts.

Depending on your reaction to these proposals, I will make a more detailed survey of the Township with respect to achieving a balance of land use capacities and analyze any changes in zoning district boundaries which may be desirable.

x x x

	130,680	87,120	43,560	32,670	21,780
District	3 A	2 A	1 A (40)	3/4 A (30)	1/2 A (20)

~~Suggestions~~

Size (Min.)*	275	225	150	125	100
Depth ±	475	390	290	260	215
FAR (Max. %)	27%	8%	10%	12%	15% ←
Sq. ft. in FAR	→ 9,148	6,970	4,356	4,336	3,267
Yards - Front/Other	50/30	40/20	30/20	30/15	25/10

~~7000 6000 4000 3000 2500~~

Present Provisions

Lot Width	200	200	150	150	100
Lot Depth	650	436	266	240	200
Height	35	35	35	35	35
Front Yard	75	75	75	50	40
Side Yard	25	25	25	20	15
Rear Yard	75	75	75	50	40
Permitted building area - sq. ft.	225,000	128,700	34,800	46,200	25,200

5.35 6.88 9.18 / 9.18 / 11.47

5% 6 8 10 12
x 34 x 24 x 40 x 30 x 20

= 6500 = 5227 = 3200 = 3000 = 2400

5% 10%

* For the purposes of this Ordinance, the "Size" is the diameter of the largest circle which may be inscribed within the lot dimensions.

AN ORDINANCE TO AMEND AND SUPPLEMENT
TITLE 4, CHAPTER 1 OF THE "COMPILED
AND REVISED ORDINANCES OF THE BOROUGH
OF LITTLE SILVER (REVISION OF 1964)"

BE IT ORDAINED by the Mayor and Council of the
~~Township of~~ Borough of Little Silver, in the County of Monmouth and State
of New Jersey:

1. That ~~Chapter 1 of Title 4 of the "Compiled and~~
~~Revised Ordinances of the Borough of Little Silver (Revision~~
~~of 1964)" be and the same is hereby amended and supplemented~~
by the addition thereto of Section 41A, reading as follows:

"SECTION 41A. PLANNED RESIDENTIAL NEIGHBORHOODS.

Purpose

Where tracts exist without permanent nearby
playgrounds and open space, and in tracts adjacent to
all watercourses, or to open spaces shown on the Master
Plan, it is desirable to provide permanent open space
as an integral component of the tract development. This
may be done by allowing a slight reduction in the size of
the lots, more efficient street planning, and the collec-
tion of the land so saved into common recreation or
conservation space. Such space may be privately held by
a neighborhood association formed for the purpose, or may
be dedicated to the municipality, as determined by the
Mayor and Council after considering the Planning Board's
recommendation.

Such special developments shall be worked out
by the owner with the informal collaboration of the
Planning Board and subject to the final approval of the
Mayor and Council, following the standard procedure es-
tablished for major subdivisions, and subject to
additional provisions set forth below.

In the R-1 Zoning District,

- a) The minimum lot size (for the purposes of this Section, "minimum lot size" is defined as the diameter of the largest circle which can be inscribed within its boundaries) shall not be less than the frontage specified (160 ft.); but,
- b) The minimum lot area may be reduced to 1 acre (43,560 sq. ft.) in lieu of the 60,000 sq. ft. otherwise required;
- c) The number of lots permitted in the Planned Residential Neighborhood shall normally not exceed 110

Handwritten notes on the left margin: "Handwritten up", "Back slope"

Handwritten letter "A" in a circle

Handwritten note: "Consistent"

Handwritten note: "District 100", "if yellow (boundary)"

Handwritten notes on the right margin: "The Borough", "Council", "Reserve"

Handwritten note: "Consistent"

Handwritten note: "and with", "planning", "board"

EXHIBIT A (Page 5)

trial subdivision sketch of the tract in question following all present provisions of Ordinances;

d) In the interest of reducing the area of street paving, lot frontage may be reduced to 50 ft. on an approved street and the paved width of such street may be reduced to ~~27~~ ^{10 ft.} ft. *or flood plain*

e) Unless along a watercourse, or part of a previously planned open space, the area of the parcel to be set aside for Common Recreation Space shall normally not be less than 5 acres, nor its minimum lot size less than 350 ft.

In the R-2 Zoning District,

- a) The minimum lot size shall be 100 ft.;
- b) The minimum lot area shall be 15,000 sq. ft.;
- c) Other provisions set forth for R-1 above shall apply.

In the R-3 Zoning District,

- a) The minimum lot size shall be 85 ft.;
- b) The minimum lot area shall be 14,520 sq. ft. (1/3 acre);
- c) Other provisions of R-1 set forth above shall apply.

Findings for Planned Residential Neighborhoods

Prior to approval of such Planned Residential Neighborhoods, the Planning Board shall find the following facts and conclusions:

1) That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to purposes set forth in the Zoning Ordinance;

2) The reliability of the proposals for maintenance and conservation of the common open space, and the adequacy of the amount, location and purpose of the common open space;

3) The adequacy of provision through the physical design of the proposed development of public services, control over vehicular traffic, and the amenities of light and air, recreation and visual enjoyment;

4) In the case of a proposed development which proposes construction over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents and owners of the proposed development in the total

Standards for the Establishment of Open Space
Organization

As recommended by the Planning Board and approved by the Mayor and Council, the Common Open Space may (a) be dedicated to the municipality in fee simple in perpetuity; (b) be subject to a permanent easement allowing public access and prohibiting the private construction of any structures such as buildings, bulkheads, or piers, or (c) be held in perpetuity by a neighborhood association, provided:

a) The developer provide for an organization for the ownership and maintenance of any open space for the benefit of residents of the development. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the municipality wherein the land is located. The developer shall be responsible for the maintenance of any such open space until such time as the organization for its ownership and maintenance shall be formed and functioning and shall be required to furnish a performance guarantee in an amount to be fixed by the Borough Engineer for such maintenance for a period of two years after the date of acceptance of all public streets in the development.

b) In the event that the organization shall fail to maintain the open space in reasonable order and condition, the Mayor and Council may serve written notice upon such organization or upon the residents and owners of the development setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 15 days of the notice. At such hearing, the Mayor and Council may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said 30 days or any extension thereof, the municipality, in order to preserve the open space and maintain the same for a period of one year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the Mayor and Council shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon 15 days' notice to such organization or to the residents and owners of the development, to be held by the Mayor and Council, at which hearing such organization or the residents and owners of the development shall show cause

Committee

why such maintenance by the municipality shall not, at the election of the municipality, continue for a succeeding year. If the Mayor and Council shall determine that such organization is ready and able to maintain such open space in reasonable condition, the municipality shall cease to maintain said open space at the end of said year. If the Mayor and Council shall determine such organization is not ready and able to maintain said open space in a reasonable condition, the municipality may, in its discretion, continue to maintain said open space during the next succeeding year, subject to a similar hearing and determination, in each year thereafter. The decision of the Mayor and Council in any such case shall constitute a final administrative decision subject to judicial review.

Committee

Committee

c) The cost of such maintenance by the municipality shall be assessed ratably against the properties within the development that have a right of enjoyment of the open space, and shall become a tax lien on said properties. The municipality, at the time of entering upon said open space for the purpose of maintenance shall file a notice of such lien in the office of the County Clerk upon the properties affected by such lien within the development and the same shall be discharged by the municipality upon payment as with other liens.

Committee

d) All other provisions of all ordinances shall be strictly adhered to. All documents pertaining to any neighborhood or open space shall be subject to review of the Borough Attorney, shall be countersigned by the Chairman of the Planning Board and the Mayor, and recorded as a covenant running with the land when the final plat is recorded by the County Clerk."

2. This Ordinance shall take effect upon its passage and publication according to law.

Introduced: Aug 2, 1971

Passed : Sept 7, 1971

Approved : Sept 7, 1971

I hereby approve of the passing of this Ordinance.

Thomas B. Judge
Mayor

Attest:

Stephen B. Greenwood
Borough Clerk

26

2. Bernard's Hillia Bernard
West 20th St

AN ORDINANCE TO AMEND AND SUPPLEMENT THE ZONING ORDINANCE OF BERNARDS TOWNSHIP

BE IT ORDAINED by the Mayor and Committee of the Township of Bernards, in the County of Somerset and State of New Jersey:

1. That the Zoning Ordinance is hereby amended and supplemented by the addition thereto of Section , reading as follows:

SECTION . PLANNED RESIDENTIAL NEIGHBORHOODS

Purpose

A

Where tracts exist without permanent nearby playgrounds and open space, and in tracts adjacent to all watercourses, flood plains and steep slopes, or to open spaces shown on the Master Plan, or any flood plain studies, it is desirable to provide permanent open space as an integral component of the tract development. This may be done by allowing a reduction in the size of the lots, allowing a variety of different types of dwelling units, including town houses and apartments, to provide a housing balance in better harmony with distribution of family sizes, more efficient street planning, and the collection of the land so saved into common recreation or conservation space. Such space may be privately held by a neighborhood association formed for the purpose, or may be dedicated to the municipality, as determined by the Mayor and Committee after considering the Planning Board's recommendation.

Such special developments shall be worked out by the owner with the informal collaboration of the Planning Board and subject to the final approval of the Mayor and Committee, following the standard procedure established for major subdivisions and site plan review, and subject to additional provisions set forth below *

*in the Township
Committee*
30?

In the PRN-2A and the PRN 20 districts, either the provisions of the 2A and R-20 districts may be followed or, at the discretion of the Planning Board, with the approval of the Township Committee after public hearing, a special conditional use may be allowed an owner applicant to serve the foregoing purposes, subject to the following provisions.

*NOTE: A separate amendment is suggested for Lot Size and F.A.R. in all present districts as follows:

District	3 A	2 A	1 A (40)	3/4 A (30)	1/2 A (20)
Size (Min.)**	275	225	150	125	100
Depth ±	475	390	290	260	215
F.A.R. (Max. %)	5%	6%	8%	10%	12%
Sq.ft. in F.A.R.	6,534	5,227	3,200	3,000	2,400
Yards - Front/Other	50/30	40/20	30/20	30/15	25/10

** For the purposes of this Ordinance, lot "Size" is the diameter of the largest circle which can be inscribed within its boundaries.

1. The aggregate floor area permitted on the total tract may be condensed on portions of the total area in order to provide permanent unoccupied open space on the balance of the area of the tract.

2. At the discretion of the Planning Board and Township Committee, such floor area may be used in a variety of types of dwelling units, including twin houses, town houses, and apartments.

3. The F.A.R. on such portions of the tract improved with housing facilities may not exceed 125% of the F.A.R. applying to the total area of the tract.

4. The area of usable Common Open Space(s) shall be at least 5 acres in a cohesive parcel having a size of at least 350 feet. This area must be suitable for open air sports, e.g. playgrounds, ball fields, tennis courts, golf, and the like, and may not entail slopes over 20% in grade or chronically wet marsh land of ecological value. Five acres shall be provided for each 500 people, counting 2 people per bedroom for this purpose.

5. On tracts where unusable open space (defined as slopes in excess of a 20% grade or chronically wet marsh land of ecological value) exists, the F.A.R. on the improved portions of the site may be increased to 135% of that allowed for the total tract, provided the unimproved portions of the site are kept permanently open.

6. In the design of housing structures, the Planning Board may impose any additional conditions it finds justified by peculiar characteristics of the proposed site, but shall require compliance with at least the following standards and criteria:

(1) To protect privacy, no window shall be visible from another at a distance of less than 60 feet.

(2) Light and air shall be furnished to windows in living and bedrooms by "sky exposure" set forth in the attached diagram and description.

(3) Room and dwelling unit sizes shall comply with the following schedule.

Minimum Dwelling Area Related to Sleeping Space

The total minimum habitable floor area required in a dwelling unit shall depend upon the number of bedrooms therein, in accordance with the following table:

<u>No. of Bedrooms</u>	<u>Minimum Habitable Floor Area</u>
0 (efficiency apt.)	340 sq. ft.
1	600 sq. ft.
2	900 sq. ft.
3	1,200 sq. ft.
4	1,600 sq. ft.
5	2,000 sq. ft.

In all dwelling units except efficiency apartments, there shall be at least one bedroom containing at least 150 square feet of habitable floor area. Other full bedrooms shall contain at least 130 square feet of habitable floor area.

There shall also be required additional floor area in the amount of 25% of the total amount required as hereinabove set forth for such purposes as (but not limited to) dead storage, utilities, service, recreation,

or other, except parking. This related space must be located either in direct relation to habitable floor areas or in basements, attics, and accessory buildings adequately equipped for the intended purpose, and within 500 feet of the dwelling unit served.

(4) Privacy within structures shall be protected by the following provisions concerning larger units apt to have children (for these purposes, 3 bedrooms and larger):

(a) Every unit must have direct access to the ground without sharing a hallway, stairway, elevator, or fire escape with another unit.

(b) No unit or portion thereof may be placed above another unit or portion thereof.

(c) Lateral sound protection between units shall be provided by 12" masonry walls, double studded partitions with independent framing, or equivalent.

(5) One parking space, 10' x 20', shall be provided for each bedroom, and included as 200 sq.ft. each in F.A.R. computations.

(6) No building shall be higher than 60 feet.

(7) All collective parking lots shall be concealed from view by permanent opaque structures such as masonry garden walls or landscaped earth berms at least 7 feet higher than adjacent or nearby public streets and walks.

(8) Landscaping shall be provided satisfactory to the Planning Board and maintenance guaranteed consistent with the character existing elsewhere in the Township.

(9) Connections must be made to public sewer and water supply.

Findings for Planned Residential Neighborhoods

Prior to approval of such Planned Residential Neighborhoods, the Planning Board shall find the following facts and conclusions:

1. That departures by the proposed development from zoning regulations otherwise applicable to the subject property conform to purposes set forth in the Zoning Ordinance.

2. The reliability of the proposals for maintenance and conservation of the common open space, and the adequacy of the amount, location and purpose of the common open space.

3. The adequacy of provision through the physical design of the proposed development of public services, control over vehicular traffic, and the amenities of light and air, recreation and visual enjoyment.

4. In the case of a proposed development which proposes construction over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public and of the residents and owners of the proposed development in the total completion of the development.

Standards for the Establishment of Open Space Organization

As recommended by the Planning Board and approved by the Mayor and Committee, the Common Open Space may (a) be dedicated to the municipality in fee simple in perpetuity; (b) be subject to a permanent easement allowing public access and prohibiting the private construction of any structures such as buildings, bulkheads, retaining walls or filling of land in flood plains; or (c) be held in perpetuity by a neighborhood association, provided:

(a) The developer provide for an organization for the ownership and maintenance of any open space for the benefit of residents of the development. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the municipality wherein the land is located. The developer shall be responsible for the maintenance of any such open space until such time as the organization for its ownership and maintenance shall be formed and functioning and shall be required to furnish a performance guarantee in an amount to be fixed by the Township Engineer for such maintenance for a period of two years after the date of acceptance of all public streets in the development.

(b) In the event that the organization shall fail to maintain the open space in reasonable order and condition, the Mayor and Committee may serve written notice upon such organization or upon the residents and owners of the development setting forth the manner

in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 15 days of the notice. At such hearing, the Mayor and Committee may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said 30 days or any extension thereof, the municipality, in order to preserve the open space and maintain the same for a period of one year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the Mayor and Committee shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon 15 days' notice to such organization or to the residents and owners of the development, to be held by the Mayor and Committee, at which hearing such organization or the residents and owners of the development shall show cause why such maintenance by the municipality shall not, at the election of the municipality, continue for a succeeding year. If the Mayor and Committee shall determine that such organization is ready and able to maintain such open space in reasonable condition, the municipality shall cease to maintain said open space at the end of said year. If the Mayor and Committee shall determine such organization is not ready and able to maintain said open space in a reasonable condition, the municipality may, in its discretion, continue to maintain said open space during

the next succeeding year, subject to a similar hearing and determination, in each year thereafter. The decision of the Mayor and Committee in any such case shall constitute a final administrative decision subject to judicial review.

(c) The cost of such maintenance by the municipality shall be assessed ratably against the properties within the development that have a right of enjoyment of the open space, and shall become a tax lien on said properties. The municipality, at the time of entering upon said open space for the purpose of maintenance, shall file a notice of such lien in the office of the County Clerk upon the properties affected by such lien within the development and the same shall be discharged by the municipality upon payment as with other liens.

(d) All other provisions of all ordinances shall be strictly adhered to. All documents pertaining to any neighborhood or open space shall be subject to review of the Township Attorney, shall be countersigned by the Chairman of the Planning Board and the Mayor, and recorded as a covenant running with the land when the final plat is recorded by the County Clerk.

2. This Ordinance shall take effect upon its passage and publication according to law.

MINIMUM SKY EXPOSURE, LIGHT AND AIR:

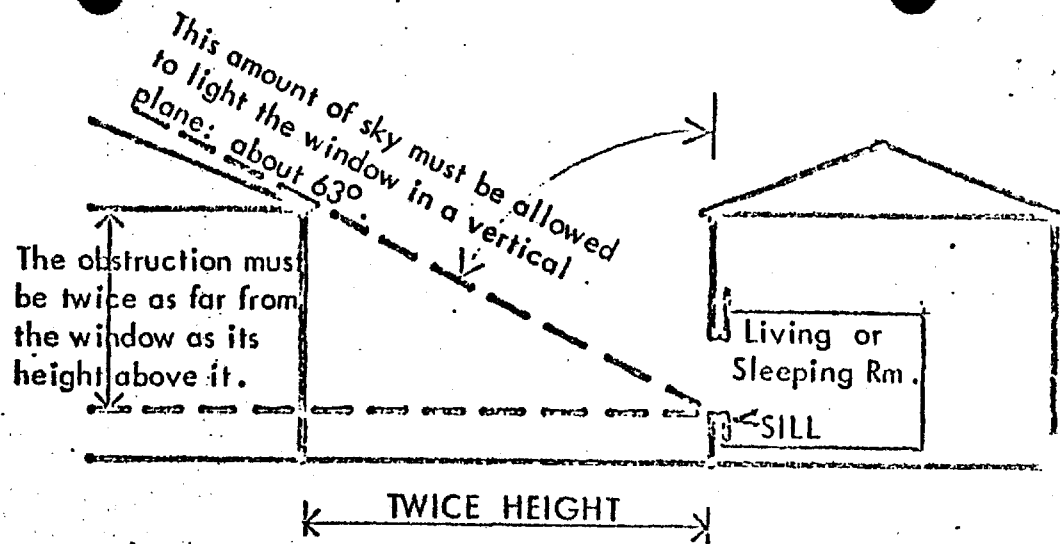
PRIVACY

When buildings are too close to each other, or too high, or when a wing of the same building is too close to a window, the amount of light and natural ventilation is curtailed. Windows of different units which look into each other across short distances also lack privacy of sight and sound. The following provisions and diagrams shall therefore be followed with respect to the interrelation of such obstructions and windows which are required in all living rooms and bedrooms.

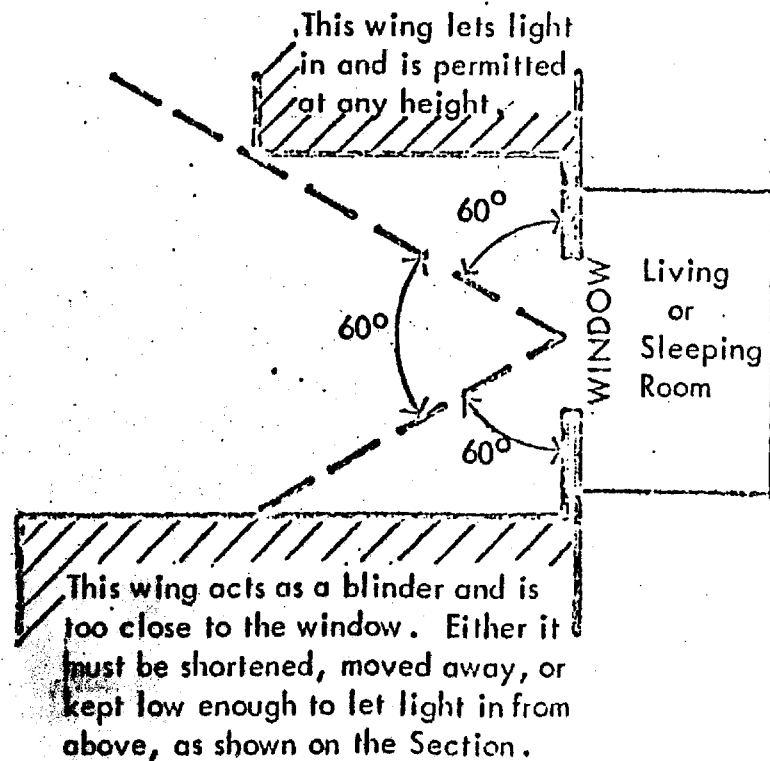
Minimum window area shall be required in every living or sleeping room equal to at least 10% of the floor area of such room. Each such window shall be provided with natural light and ventilation as follows: Consider the center of the window sill as the center of a 180° arc swung horizontally outward from the plane face of the wall; within the middle 60° of this 180° arc, no obstruction* may be higher above the window sill at any point than one-half its horizontal distance from the window sill.

These provisions do not apply to overhanging eaves or canopies on the same wall as the window. They also do not apply to second windows in a room, nor to the excess area of windows beyond the minimum required 10% of the floor area.

*The "obstruction" may be a facing building or part thereof, or a wing or court wall of the same building.



SECTION



PLAN

New Jersey Federation of Planners

THE PLANNED RESIDENTIAL NEIGHBORHOOD

by

Charles K. Agle, F.A.I.A., A.I.P.

PLANNED
RESIDENTIAL
NEIGHBORHOOD
DEVELOPMENT

Vol.

SUMMER

Price

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Dedicated to Better Planning in New Jersey

ABOUT THIS REPORT

Planned Unit Development has, as a new tool in planning, had good effect in New Jersey where it is being cautiously experimented with. As a whole, P. U. D. can include everything from industries, through commercial and service organizations to residential types of many kinds. It can also be used for more restricted purposes such as for residential uses alone.

There is a tendency, when zoning one's community, to zone "Residential" as confined to a single type of construction --- one-family homes or two-family housing or as apartments. Services for such Residential Zones are usually set up -- stores and theaters and other requisites of municipal life -- on a separate basis, although they usually abut the Residential Zone for which they are intended.

The "Residential" zone, however, may profitably be considered as a form of P. U. D.

In discussing this matter, the author suggests a planned residential neighborhood of mixed dwelling types, planning from the beginning for necessary open space, and creating a viable and interesting "neighborhood" feeling. The population of the neighborhood can be balanced by economic types of housing, degrees of privacy and an invitation to a variety of kinds of families to be resident. It can be socially self-sustaining and also an important part of the whole community.

ABOUT THE AUTHOR

CHARLES K. AGLE has, since 1953, been active as an architect and planning consultant, headquartered in Princeton. Previously, for seven years, he was Director of Planning for Harrison, Ballard & Allen. He was Planning Director for the Federal Public Housing Authority from 1935 to 1944. Mr. Agle's degrees are from Princeton University and its Graduate School and he attended the American School in Fontainebleau, France.

Mr. Agle was elected Fellow of the American Institute of Architects in 1969 and is a member of the American Institute of Planners. In public service, he is Chairman of the Advisory Committee of the Assistant Secretary of the Department of Housing and Urban Development on Environmental Quality and he is Continuing Consultant to the Institute of Public Administration.

He received the H. U. D. National Merit Award for the Princeton Housing Authority Project for the Elderly, and he is particularly pleased with the pedestrian mall, covered walkway and appurtenances designed for the City of Norfolk, Virginia. In both architecture and planning, he has been involved in housing, redevelopment projects and consultations in more than a hundred and twenty-five cities. He has been responsible for more than a score of thoughtful papers, including "Community Appearance - Why and How to Care for our Home Town" in this service of Federation Planning Information Reports.

Additional copies of this Report may be obtained for one dollar postpaid from the Executive Secretary, New Jersey Federation of Planning Officials, 1308 Wood Valley Road, Mountainside, N. J. 07092.

THE PLANNED RESIDENTIAL NEIGHBORHOOD

by

Charles K. Agle, F.A.I.A., A.I.P.

THE PROBLEM

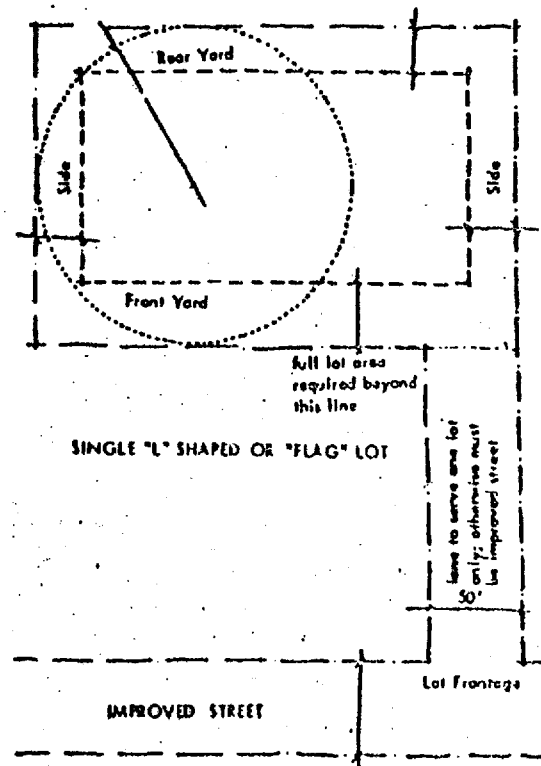
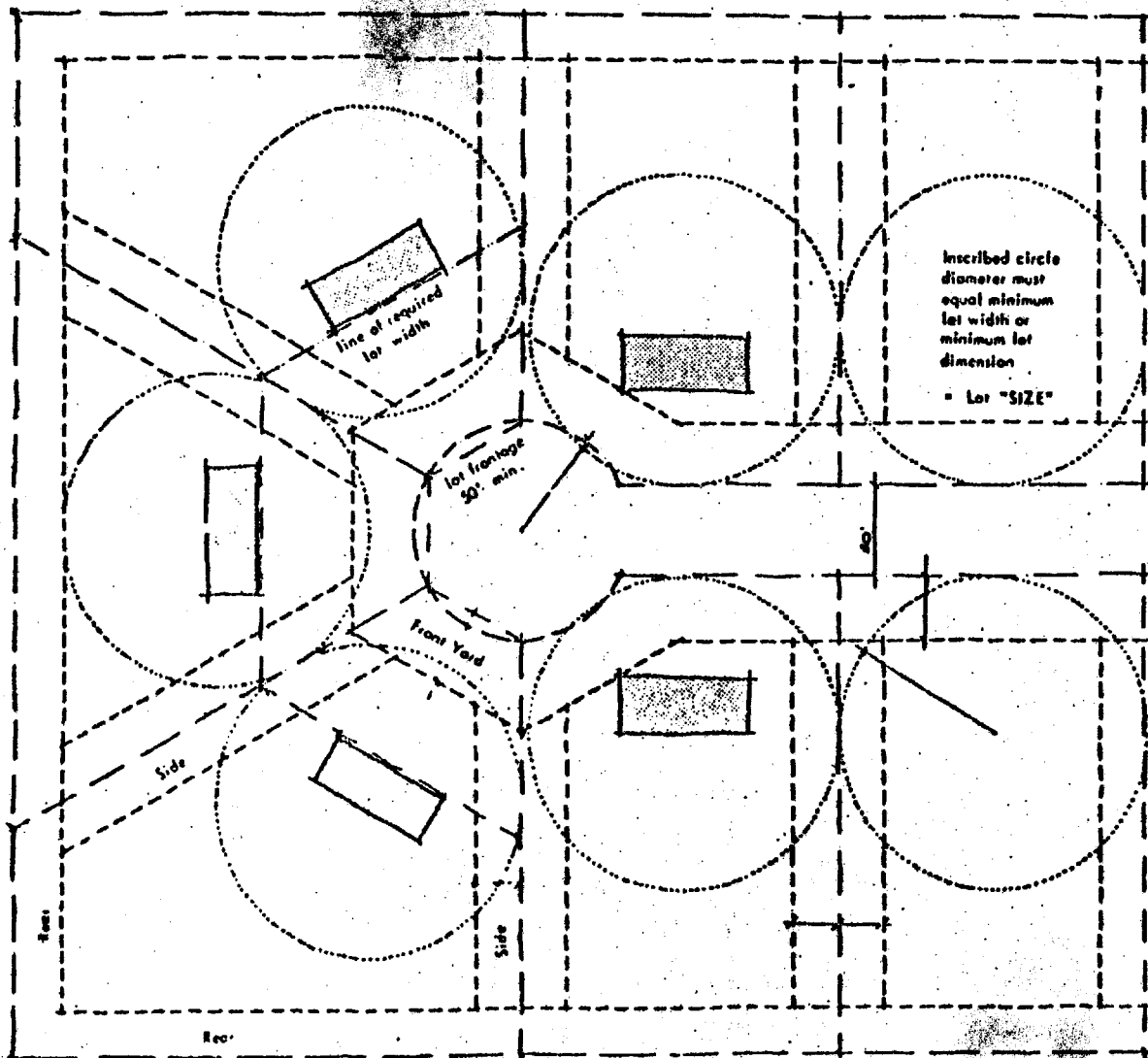
The planned residential neighborhood is an antidote for the customary wall-to-wall, subdivision-on-subdivision practice of placing single-family lots adjacent to single-family lots, ad infinitum. Apart from cost, this practice has two shortcomings now apparent:

- . A freestanding, single-family house on a sizeable lot is needed only by mature families approaching, or in, middle age, with children at home. It is generally unsuitable for single people of any age and newlyweds, and is not needed by childless couples in middle age and later, or by the elderly. These groups comprise at least 30 percent of the population, and are growing.
- . Such consumption of land exclusively for lots and streets leaves no room for many necessities of a good life in a stable neighborhood; parks, playgrounds, and other recreation and open space, and a variety of landscape and architectural treatments. These necessities are forced progressively farther away from home and work, exaggerating traffic and safety problems.

Because older residents of a community cannot afford -- or be persuaded -- to purchase open space they do not need in advance of the arrival of newcomers who will need it, and because the newcomers in turn will worsen the fiscal condition of the community instead of help it, municipalities seldom make even meager provision for open space. Older residents have already paid for their streets and schools and have raised their children; newcomers flooding in need more of everything. But the cost of the added facilities is levied against the older residents as well as the new. Accordingly, advance acquisition of open space has two strikes against it: it is not needed by the oldtimers, and it would be a fiscal gratuity for the people who haven't yet arrived.

WHAT IS A PLANNED RESIDENTIAL NEIGHBORHOOD?

In its simplest form, the planned residential neighborhood concept involves the gathering together of useless or surplus space on the standard lot (such as



- BUILDING LINE
- - - PROPERTY LINE
- - - REQUIRED YARD LINES
- REQUIRED INSCRIBED CIRCLE LINE

ILLUSTRATIVE DIAGRAMS OF CORNER OR IRREGULAR LOT TREATMENT

Since in the planned residential neighborhood, the land usually wasted on a lot collected in a single parcel for collective open space, the individual lots needing vehicular access and utilities are smaller. This compounds the efficiency of cul-de-sac planning. This approach is attractive to a developer, who can reduce the wasted site investment costs, and is equally attractive to the general municipal taxpayer, who does not have to maintain the excess improvement. It is even more attractive to the resident owner, who does not want to pay the developer the capital for the excess improvement at the outset, or pay for its maintenance in taxes, or drown in a sea of asphalt, or lose privacy by living on a through street -- and to the ecologist, who doesn't want to see the excess rainwater runoff rush in a torrent down the drain instead of staying home and recharging the water table.

Density

Before designing, or zoning, for a planned residential neighborhood, a density appropriate to that locality must be recognized. In buildable areas in metropolitan areas, the choice of density must be influenced by factors other than cost. Among these is the home-to-work distance, with the areas closest to work denser than those farther out -- on the theory that the agony and expense of commuting deserves the compensation of greater open space and quality once the commuter gets home. We also must consider the overloading of transit facilities, pollution, and the exaggeration of fire, police, health and social problems by overcrowding. Contrary to the pleas of developers, to the greed of landowners, and to the hopes of those humanitarians misled to believe that high density will produce cheap housing available to the lower income groups, there is no justification for the prostitution of liveability by overcrowding.

Two examples illustrate the extremes possible in choice of density. In the "Old Law Tenements" in New York, a typical structure has 24 apartments of two bedrooms each on a piece of land 25 x 100 ft. Per net acre, this amounts to 17 buildings containing 417 apartments and a design occupancy of about 1,600 people! A research project financed by HUD in 1967 proved conclusively (although HUD never admitted it) that the tenements cost more to rehabilitate than to build new, that the end product was just as unliveable as it was in the 19th century, and that the City Fathers were right in outlawing the tenements in 1901. At the other end of the scale, the responsibility entailed in a 10-acre lot for one family is desired only by a few people, but is defensible in remote, offside, or topographically difficult locations where it can contribute little and is not important to the economic growth or social balance of the country.

Both extremes are to be avoided. For example: 6.80 dwelling units per residential acre (including parks) can house as many as 40 people when the children are all home. This means accommodations for 25,248 people per residential sq. mi., even with the area of streets included in that mile. While this density is considered relatively sparse by the FHA, the State of New Jersey could, in its 7,509.4 sq. mi., house 189,587,232 people (almost the total nation), in place of its current 7,089,997. Even if we leave half for agriculture and the usual 5 percent each for business and industry, this figure is astronomically higher than the "Horizon Plan" of 20,000,000. Yet 189 million people could not possibly be supported by the water and sewer resources of so small an area. And think of the traffic jams!

Balance of Population

In years gone by, parents conveniently died off and vacated their houses about the time children were getting married and looking for a place to live. (In 1910, life expectancy at birth was 42 years.) Now, things are quite different. Children are more independent and leave home at an earlier age. Lonely middle age is prolonged by the current 70-year life expectancy, a gain of two-thirds of the life span. This gain, accomplished by medical science in the last 50 years, points to more such breakthroughs.

Because our communities once needed only single-family houses, because of the increasingly evident horror of superdense life in big-city apartments, and because of the cost of educating an immigrant child, smaller towns and metropolitan satellites still cling to and zone exclusively for freestanding houses -- the sparser and larger the better. Thus, there are enormous numbers of "strangers" in our midst: single people living alone and two-person families at both ends of the life span. There is no housing in our communities suitable for our newly married children, and nothing suitable for us after they leave home. This produces unrest and instability; we are both forced to depart.

A good case can be made for about 50 percent of all dwelling units in a community being of a relatively small size, with one or two bedrooms. Only with some such a planning concept in every community -- no matter of what size or tradition -- can we have the choice of continuing contact with our children and friends.

BALANCE OF BUILDING TYPES:

The Tower Apartment, Town House, Duplex and Single-Family Lot

Our balanced populations in each community should be accommodated by a corresponding balance of different building types.

Tower Apartment

It is sensible, all things considered, to encourage the housing of 30 percent of the population -- the independent prechildren young and the late middleaged and elderly just mentioned -- in six-story towers. Those without children do not need private playgrounds and lots of grass and garden to look after. Studio (efficiency) and one-bedroom units cannot be built in a freestanding house without wasting all outdoors, and are extravagant in a town house. In a two-story frame structure, the so-called "garden" apartment units must be superimposed. They are noisy and lack privacy because of the expense and difficulty of installing floor-to-ceiling and through-wall noise insulation. In a low structure, there is less natural light and air than afforded by the expanded outlook which is implicit in a higher building. A one-story apartment building is also wasteful and expensive. In conservative communities not wishing to invade the skyline, a six-story height limit is suggested, since this is natural tree height.

Except in city centers, little is gained by going over six stories. The land area required is a function of the sum of the parking lot and the area of the first floor of the building, with an added area necessary for grass and trees, both for appearance and to keep buildings from masking each other's outlook, light, or air.

The bulk of the horizontal area depends on the number of people and cars involved, rather than on type of architecture. Accordingly, in going from a six- to a twelve-story building, we gain only half of the land covered by the building, which is a trivial amount of the total land requirements -- about 5 percent (see diagram 2).

There are two exceptions to this observation, with only minor application: (1) a nursing home for the elderly, who can no longer drive and only need visitors' parking, and (2) a building in any of the prosperous centers of our older large cities. A parking garage costs about \$10 per square foot to build and something to maintain. There is no economic justification for building one if land, cheaper per square foot, is available within a short walking distance. Therefore, until land costs more than \$10 per square foot in the general area (i.e. \$435,600 per acre), there is no justification in planning other than at-grade parking.

Town House and Duplex

The newly rediscovered town house and side-by-side twin house or duplex can provide excellent living facilities for small and medium-sized families, particularly when neighborhood open and playground space is immediately at hand. Indeed, these units are superior to small lots of $\frac{1}{2}$ acre (75-ft. width) or less. They must not, however, be confused with the obsolete "row" house of Philadelphia and Baltimore with tin garages, trash, and an alley in the rear. In this discussion, a "town" house can resemble a 45-ft.-wide "split level," with a garage or parking space on the front and a private garden in the rear, lacking only the standard useless side yard. The most illustrious (and expensive) historic example of this concept is the Georgetown section of Washington, D. C.

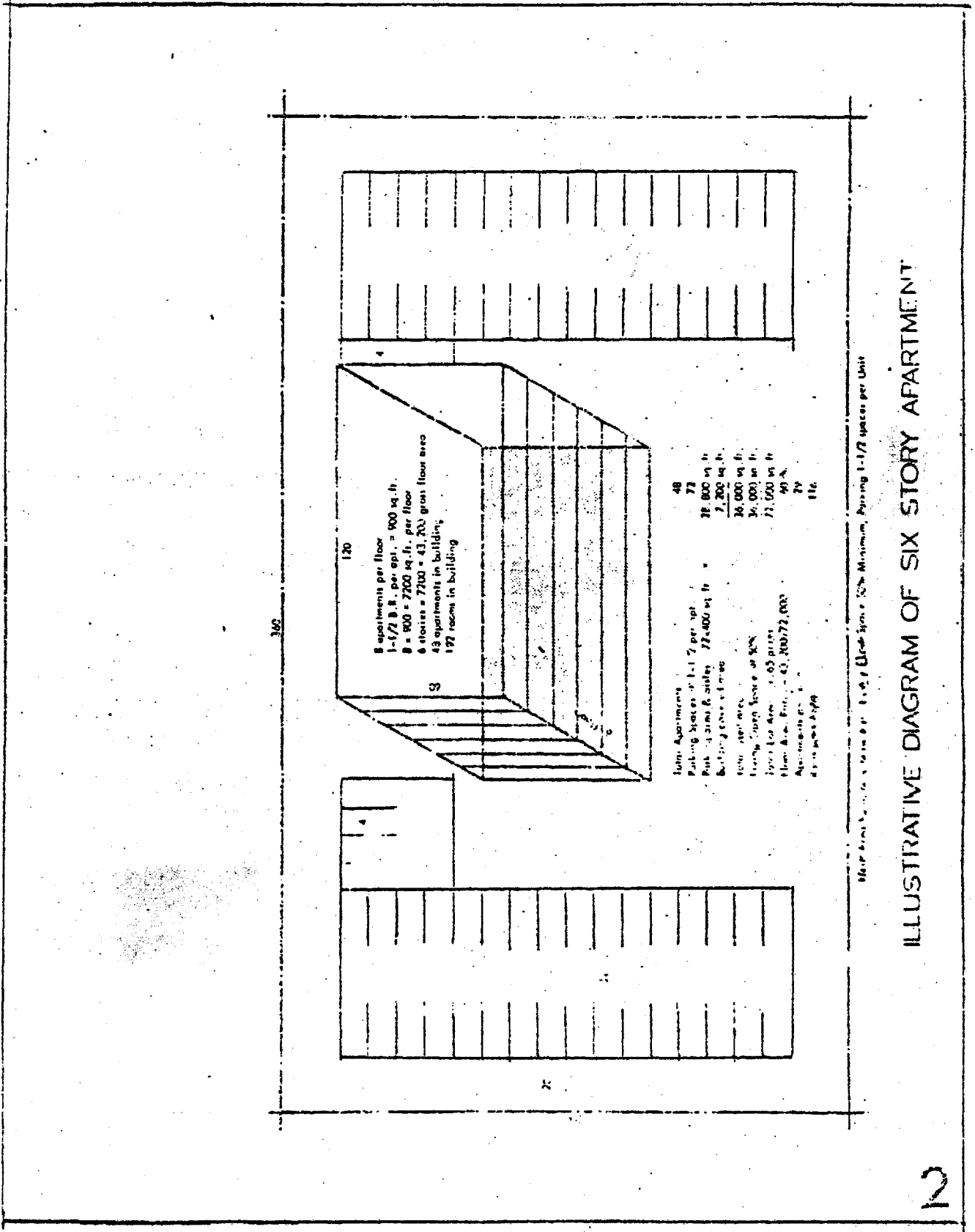
A solid masonry wall 8 or 12 in. thick is a better sound and sight insulator than a narrow side yard. With small lots (less than $\frac{1}{2}$ acre), a party wall should be used on one or both side yards. With one side yard it may be possible, on a lot as narrow as 60 ft., to separate neighbors' side windows enough for privacy. But on lots of 50 ft. or less, lateral privacy is hopeless.

Therefore, side-by-side duplexes and town houses are superior to freestanding houses and should be encouraged, or even required, where:

- . A municipality has or permits $\frac{1}{2}$ -acre lots, with widths of 75 ft. or less.
- . Common open space is desired as an integral feature of a compact development.
- . Mature couples or families do not desire the obligation of extensive grounds maintenance, and cannot afford either the travel time necessary to get to a cheap 3- to 5-acre lot or the expense of a well-located parcel of a size adequate for natural growth.
- . A better architectural effect is desired, in which the size and mass of a group of modest dwelling units can be designed to be equivalent to a single larger house or mansion.

Single-Family Lot

Something must be said about the necessary larger lots with freestanding houses, of prime usefulness for larger families. Very large lots (i.e., 3 acres or over) can achieve a peaceful rural character essential to the happiness of many people, and most of the grounds maintenance can be left to nature. Medium-to large-



ILLUSTRATIVE DIAGRAM OF SIX STORY APARTMENT

sized lots (1 to 3 acres) seem to require the same "display" maintenance that owners feel necessary on smaller lots, and therefore are expensive and troublesome to keep up. Lots in the ½- to 1-acre size are still large enough to afford some privacy from the sight and sound of neighbors, but are susceptible to personal maintenance, with an unjustifiable amount of effort. Lots of less than ½ acre or 75 ft. in width are, and should be, frowned on for freestanding house use because of the loss of privacy between houses and the uselessness of narrow side yards, either for access or planting.

OPEN SPACE: WHAT IS IT, AND HOW MUCH IS NEEDED?

There are four kinds of open space needed for a stable residential community:

1. Open space adjacent to a building to provide light and air to windows required in all habitable rooms. The usual zoning ordinance is completely unintelligible in its "court" provisions, mixing "inner" and "outer" courts and stumbling over itself in ratios of court width to court depth, and setback ratios of each of those in proportion to the height of the building. The proof of the pudding is how much of the sky we see from the windows of our living rooms and bedrooms. Some ordinances refer to this as "sky exposure." The better ones set forth provisions in terms of the angular height of obstructions facing windows and construction of side wings, whether these obstructions be in the same or nearby buildings. This open space may be private, on the same lot as a window, or public, as on a street or river.

2. Private yard open space for landscaping, gardening, and outdoor sitting. This is associated with each building and its immediate function, including a pleasant vista from each living and bedroom window for all family age groups, lawns and gardens, and play space for smallest children, who need immediate parental supervision. Parking and driveways should not be considered as open space because of their danger, the noise and visual confusion of cars, the heat of the asphalt, and their sterile appearance. Again, exposure to a park or river, though not useful for sitting or gardening, are effective for outlook, and are a major factor in real estate values.

3. Working open space for sports and passive recreation, and for schools. This is divided into two groups: that for specialized playgrounds, play fields and stadia attached to schools, and of such programmed and intensive use that it is not freely available to the public; and that for the use of the public as a park program available to all age groups at all times for a varied range of sporting and social activities. Sports in this category, including tennis, swimming, golf and now bicycling, have shown remarkable stability over the last century, and are not "fads." Moreover, since the correlation of public health and exercise is now established, recreation facilities should be available in every neighborhood as a public necessity, and not the sometime plaything formerly reserved for the privileged few.

4. Reservations (a better term would be "preservations") for the conservation of natural resources and wildlife. These are of only occasional direct use to the public, and usually are wooded mountain, stream, river, and lake areas, in regions of unusual topography. The only "preservation" essential to a potentially buildable

local community would be respect for flood plains and wetlands -- again dependent on topography.

Some of these types of open space should be built into neighborhoods, while others lie beyond the scope of a "development." Space necessary to provide light to windows (1) and private yard space (2) must be provided on the lot, or in immediate juxtaposition to every building, and the working open space for recreation must be within reach (3).

Location

Levels of quality of environment have, and probably always will, vary with the distance from home to work (which influences land value); with the personal sacrifices accepted in the time, expense, and annoyance of commuting; and with the affluence of the head of the family. At one extreme we can commute by helicopter from Manhattan to the lonely tip of Long Island. At the other, where the square-foot value of land exceeds the square-foot cost of a parking garage, we can rationalize super-highrise apartments, devoid of most amenities except being "on the scene," because of economic necessity.

The urbanized area of the U.S. is about 2 percent of the total land area; 98 percent remains to be developed. The older cities are losing population because of their inherently poor level of quality. The automobile, while contributing to this low level of environmental quality, has at the same time made it possible for all of us to spread out in fairer residential fields. Numerically, the rehabilitation of the densest older centers will not even be significant because of their small area, and because of the necessity of rebuilding at a lower density in order to compete with the freer and superior quality of satellite lands.

Accordingly, this discussion is addressed to development of new land within humane distance of places of employment. We are concerned with the technique of neighborhood development, ranging from the minimum quality necessary for stability (for the next 100 years) to the upper quality of collective large lots. (We need not be concerned with estates large enough to be independent of neighborhood influence.)

Size and Design

As already noted, open space of less than 5 acres is not worth bothering about because of the expense of scattered maintenance it entails, and its ineffectiveness for group sports or parks. How many people can this minimum of 5 acres serve in a public development? Or, from the other side of the coin, how many people are needed to support use of the 5 acres in a private development?

An earlier standard long ago recommended by the National Recreation Association is 1 acre of working open space for 100 people. This standard, seldom observed in our poor old cities, has proven sound in smaller areas with a pattern of development worth emulating, and it is suggested as a minimum standard for satellite neighborhoods everywhere. Accordingly, where small $\frac{1}{2}$ -acre lots, town houses, and apartments (garden or tower) are considered, a ratio of 500 people for a minimum of 5 acres in one contiguous, useable parcel should be established. If this cannot be

achieved, the development should be left in standard lots according to whatever zoning requirement -- upwards of 1/4 acre -- prevails.

Where more than 500 people, and large lots, are involved, the collective open space should be in a finger-park or golf-course-fairway pattern, and not in one lump. There are two reasons for this: (1) as many lots as possible should be exposed to the beneficial influence of the park area or beautiful greensward of a golf fairway; and (2) golf courses in one parcel have a very poor chance of survival in areas of mounting economic and tax pressures. If permanent open space for a golf course area is desired, it should not be put in a pattern susceptible to later subdivision and use for any other purpose. These considerations suggest, for crude diagrammatic illustration, the alternation of access streets with finger parks or fairways which may be in the form of easements across the back yards of individual lots.

Administration of Open Space

Unless the municipal community, made up of several or many neighborhoods, is new, and developed according to a firm overall plan, a private neighborhood association is preferred as the permanent owner and guardian of the open space, rather than the municipality. Otherwise, inequity and political dissatisfaction is likely to result from the drain on all taxpayers to develop and maintain open space geographically more available to few families than to the whole.

TECHNICAL ASPECTS

This discussion has presented a case for two objectives: (1) the introduction of common working open space in all residential neighborhoods, including those in which only single-family houses are desired; and (2) balancing building types to respond to a balanced population composition, without overbuilding.

In theory, the first objective can be accomplished by pooling small areas subtracted from each lot, or saved in better street layout, into a common open parcel. This will allow about the same number of houses on a given tract, on somewhat smaller lots but with integral recreation space.

The second objective would be accomplished by allowing the same amount of building on a tract (in terms of maximum sq. ft. of floor space), but permitting its distribution into different building types. For example: substituting two one-bedroom apartments (about 750 sq. ft. apiece) for one single-family house of three or four bedrooms (about 1,500 sq. ft.), while at the same time saving enough lot area for collective open space. General technical principles in applying these concepts to local communities are outlined below.

The Components of Density

The dictionary defines "density" as being "the quantity of anything per unit of volume or area; as the density of population ... per square mile." There is universal agreement that this means people, and even the zoning statute standard in most states sets forth one of the objectives of zoning as avoiding "undue concentration of population." Agreement ends at this point.

In order to control something, we first have to measure it. How to measure people in terms of building, or vice versa, is a very sticky business. So far, no one has been able to legislate that the birth of a child changes a legal conforming use to an illegal nonconforming use. A variety of measurements are listed:

- . The term most commonly used is so many dwelling units per acre (or families). This has long admittedly been defective, since it equates a 0-bedroom unit (a studio or efficiency apartment for one person) with a 5-bedroom house (with space for 10 people).
- . Years ago, the writer plugged for bedrooms per acre as a better measure of population capacity design, but in the New York City Zoning Resolution this turned out to be rooms per acre in apartment districts, since rooms are easier to count than beds.
- . This has not yet gained universal acceptance in suburbs or open areas, which still prefer lot size per house (or dwelling unit).
- . The Federal Government and all up-to-date local zoning ordinances now hang their hats on the floor area ratio (FAR) as the basic measure. This is the ratio between the aggregate number of sq. ft. of floor space (counting all floors) against the sq. ft. area of the specific piece of land, or lot, on which the building sits.
- . Other essential and recognized controls include yard set-backs; height; sky exposure, the off-street parking spaces, commonly in terms of so many per dwelling unit (although the writer prefers one per bedroom); the living open space ratio on the same lot as the dwelling structure, being the ratio between the area not invaded by the building or vehicles against the total lot area; and now the common recreation space available to more than one family, and not privately attached to a single dwelling unit (house or apartment).

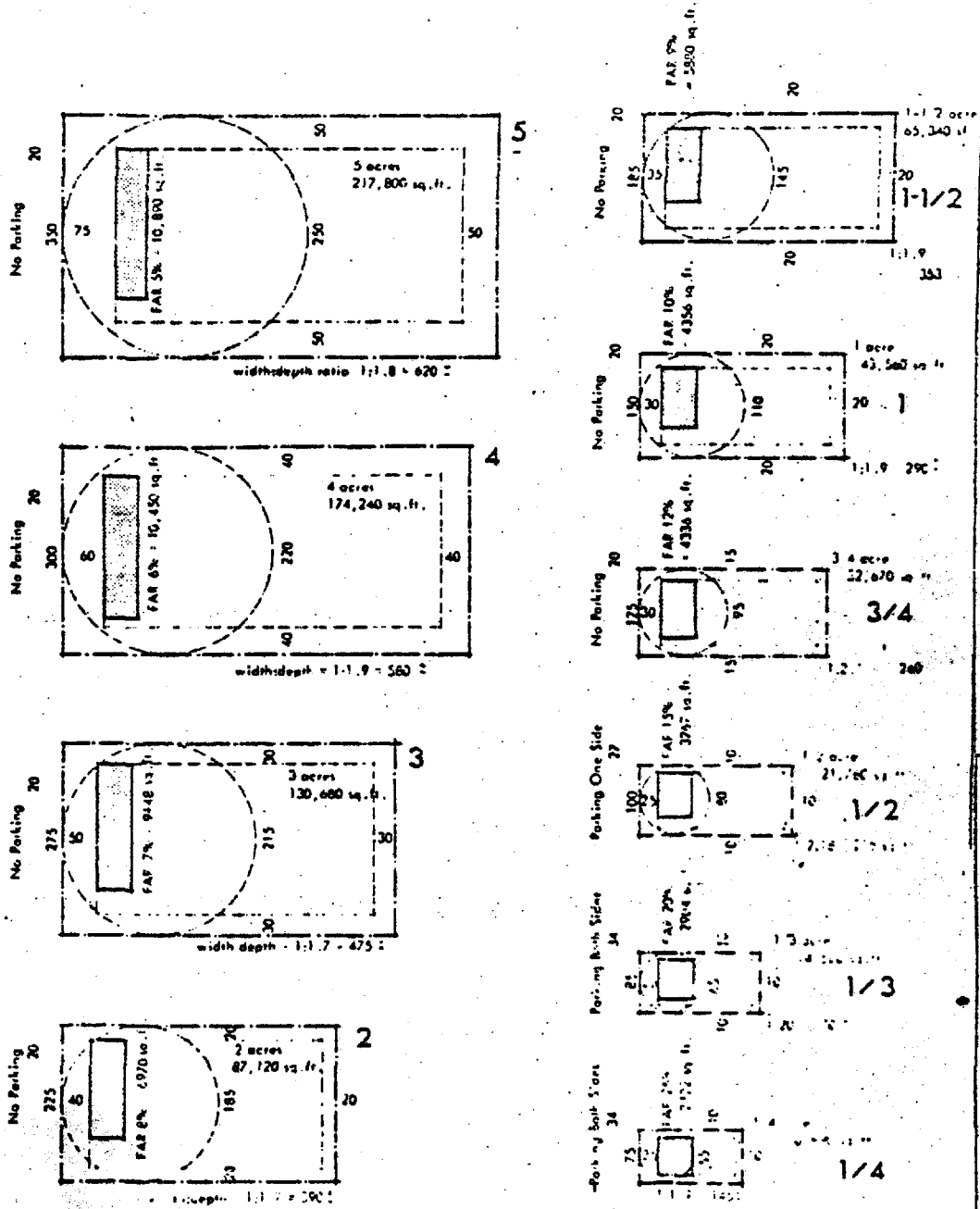
APPLYING CONCEPTS OF DENSITY IN PLANNED RESIDENTIAL NEIGHBORHOODS

SMALLER LOTS WITH SAVINGS IN COMMON SPACE

The first -- and simpler -- method of density planning applies to zoning districts of single-family houses, where only single-family houses are desired.

With respect to a specific tract of land, the process would be about as follows: A trial sketch with approximate, but acceptably accurate, dimensions should first be made to establish the number of houses which could be allowed on the tract under the terms of the zoning ordinance. Next, the planning board or governing body would determine how much it is willing to reduce lot sizes in that area of the community, in return for establishing a desired amount of permanent common recreation space. The owner of the tract would then be asked to prepare a plan for the approval of the board, showing the same number of lots, at a smaller size, with the savings pooled in a common area.

Other complications could follow which must be anticipated. For instance, there might be a 1/2-acre district in the municipality. It would be unlikely that either the municipality or the owner would want to make such a drastic change in an area that a puddle of 1/2-acre lots, with a correspondingly closer spacing of houses, would be introduced in an area of 1-acre lots with a more generous spacing of houses. Further, it would be unnecessary to have a full half of the land devoted to common space.



LOT SIZES, AREAS, SETBACKS, AND FAR (FOR FREE-STANDING HOUSES)

Something in between would be appropriate -- say, 3/4-acre lots. But, since there would be no predetermined requirements in the ordinance for the 3/4-acre lot size, endless haggling could arise, and every case would be "special." In order to simplify this, a predetermined graduated "rainbow" scale of provisions should be established at the outset (see diagram 3). Then everyone knows where he is: the designer would simply step one rung down the rainbow scale, i.e., from "X" 1-acre lots to "X" 3/4-acre lots, with at least "X" times the 1/4-acre saved in each lot transferred to the common recreation space. Each new 3/4-acre lot would follow the size, area, setback and floor area ratio provisions set forth on the rainbow chart, even though there had been no previous 3/4-acre district mapped in the municipality. If a 7/8-acre lot were desired, provisions would simply be interpolated.

It would take 20 1/4-acre savings from each lot to accumulate the desired 5-acre piece mentioned earlier; in the example discussed here, a tract of 20 net acres (i.e., after streets are deducted) would be needed to start with.

DIFFERENT LOT AND HOUSE SIZES WITHIN SAME FLOOR AREA RATIO

A more sophisticated second method of density planning is based on allowing the same amount of building on a tract, but giving the designer a freer hand in distributing his total permitted floor area.

If the principle of the floor area ratio (FAR) as the yardstick of intensity of private development is kept in mind while we reach for non-private or common recreation space, things begin to fall in place. The technical way of measuring and encouraging the aggregation of bits of private land into a parcel useable for collective recreation would be to retain the same gross FAR over a large tract, while permitting an increase in the net FAR applying to private individual parcels to compensate for the zero FAR in the common parcel.

As before, a trial sketch layout would be made to establish the capacity of a given tract of land, but this time it would be done in terms of allowable floor area in lieu of numbers of lots. For example, let us assume that the tract is in a 1/2-acre district, and that the trial diagram demonstrates that 200 1/2-acre lots can be planned in a net area of 100 acres. On our diagram 3, the FAR permitted is 15 percent. The 100 net acres is 4,356,000 sq. ft. If 15 percent of this can be floor area, the designer would have a total of 652,400 sq. ft. to spend.

If this were all spent in single-family houses on 1/3-acre lots, for which a FAR of 20 percent (2,904 sq. ft.) is reserved (see diagram 3), there could be 652,400 sq. ft./2,904 sq. ft., or 224 lots of 1/3-acre each. These lots would only require 75 acres out of the original tract of 100 acres, leaving a 25-acre saving for common recreation space, even with 24 more lots. In this way, without increasing the square-foot amount of building permitted, people can pool the land saved by using slightly smaller lots. They can also enjoy better quality by having at hand useable open space for joint recreation. At the same time, a slight increase in the number of lots acts as an incentive to the tract owner.

BALANCED BUILDING TYPES WITHIN SAME FLOOR AREA RATIO

Or, if the same 652,400 sq. ft. in the last example were divided into single-family lots, lots for town houses, and lots for apartments, still greater savings

would accrue, even though more families would be permitted in smaller dwelling units.

In order to establish some pattern for such procedure beyond the caprices of individual negotiation, a series of housing density categories should be established. This is shown in the diagrams. The categories progress from a freestanding house on a 5-acre lot through a 12-story apartment building. (Diagram 3 covers freestanding houses on lots from 5 acres to 1/4 acre; lots of town houses are shown on diagram 4; 6-story apartments on diagram 2; and 12-story apartments on diagram 5.)

Zoning districts should be established by permitted floor area ratios (FARs) as the basic density control, in lieu of the standard lot-size or dwelling-units-per-acre criteria now prevalent. However, if this is too great a jump for popular acceptance in the first amendment, the lot-size technique can be continued on the map, such as lots ranging from 5 to 1/4 acres for freestanding house districts, but with the maximum FAR still established for each.

This method would leave the owner and planning board still greater freedom in the development of a balanced neighborhood, and it is recommended for ultimate use. A mixture of freestanding houses, town houses, and apartments for a balanced neighborhood, with all of the saved land devoted to permanent common recreation or preservation purposes, would provide the most agreeable and stable community.

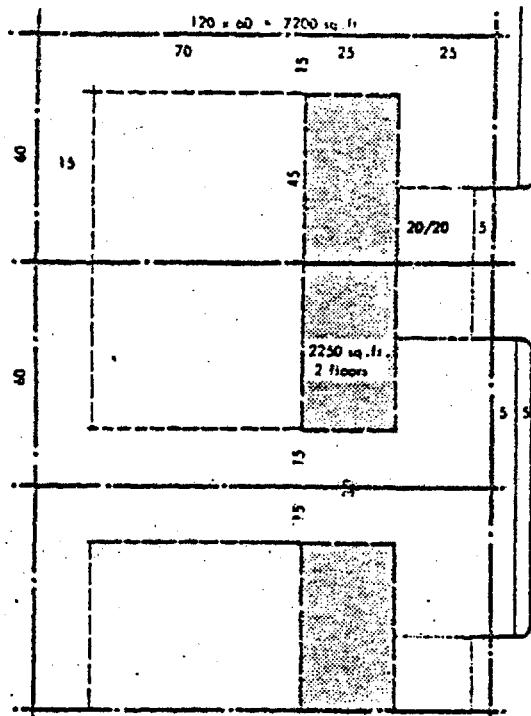
A moderate and controlled increase in numbers of dwelling units would not bring a corresponding increase in population, since the smaller units would naturally be occupied by smaller families, some without schoolchildren. If a family of six lived in the house on the 1-acre lot- and a family of two in the town house, the population would be a standoff in the 100 acres (600 in 1-acre houses vs. 290 x 2, or 580, in the town houses). But the school population in the town houses would be nil and the number of children in the 1-acre houses considerable.

Major advantages in all other respects would, however, be beyond doubt. The community would be stabilized because of the balance of building types appropriate for all age groups. The neighborhood would be stabilized because of the built-in, integral open space, guaranteeing the permanent quality of the environment. The homeowner and his children would be happy to have recreation facilities within walking distance -- not at the end of a bus line or a weekend traffic jam. The advantage to the landowner or developer, of course, would be the privilege of building a few more units on his land, although of smaller size, which would permit him to enjoy a moderate increase in profits. The real estate tax would also enjoy a proportionate increase, since smaller units would both cost more per square foot and pay more tax per square foot than larger ones.

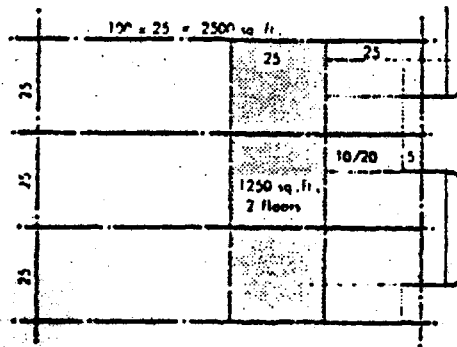
TAX IMPLICATIONS

The case for the balanced residential neighborhood includes inherent tax advantages. The assessed valuation of a building is roughly proportional to its square feet of floor space, which is also the most accepted architectural index of the cost of a new building. From a municipal assessment point of view, it doesn't matter whether the same house is on a large or small lot, since the assessed value of the building would be the same in either case. As a portion of the total investment, the land would be 10 or 15 percent of the total investment, and due to the vagaries of the real estate market, the cost does not vary with the size. A 1/2-acre lot does not cost half as much as a 1-acre lot, but is almost the same price -- maybe 80 percent. If 20 percent is saved in land, the saving in total investment would only be 2 or 3 percent of the total, or maybe up to 5 percent.

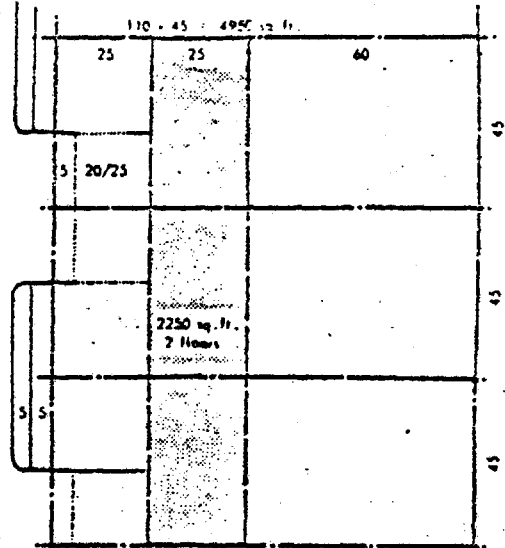
There is a much greater, though not fully recognized, difference in the cost



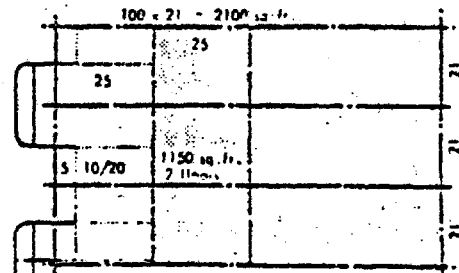
SIDE BY SIDE DUPLEX
(can be split level with cars in basement)



MEDIUM TOWN HOUSE



WIDE TOWN HOUSE
(can be split level)



MINIMUM TOWN HOUSE

LOTS FOR TOWN HOUSES



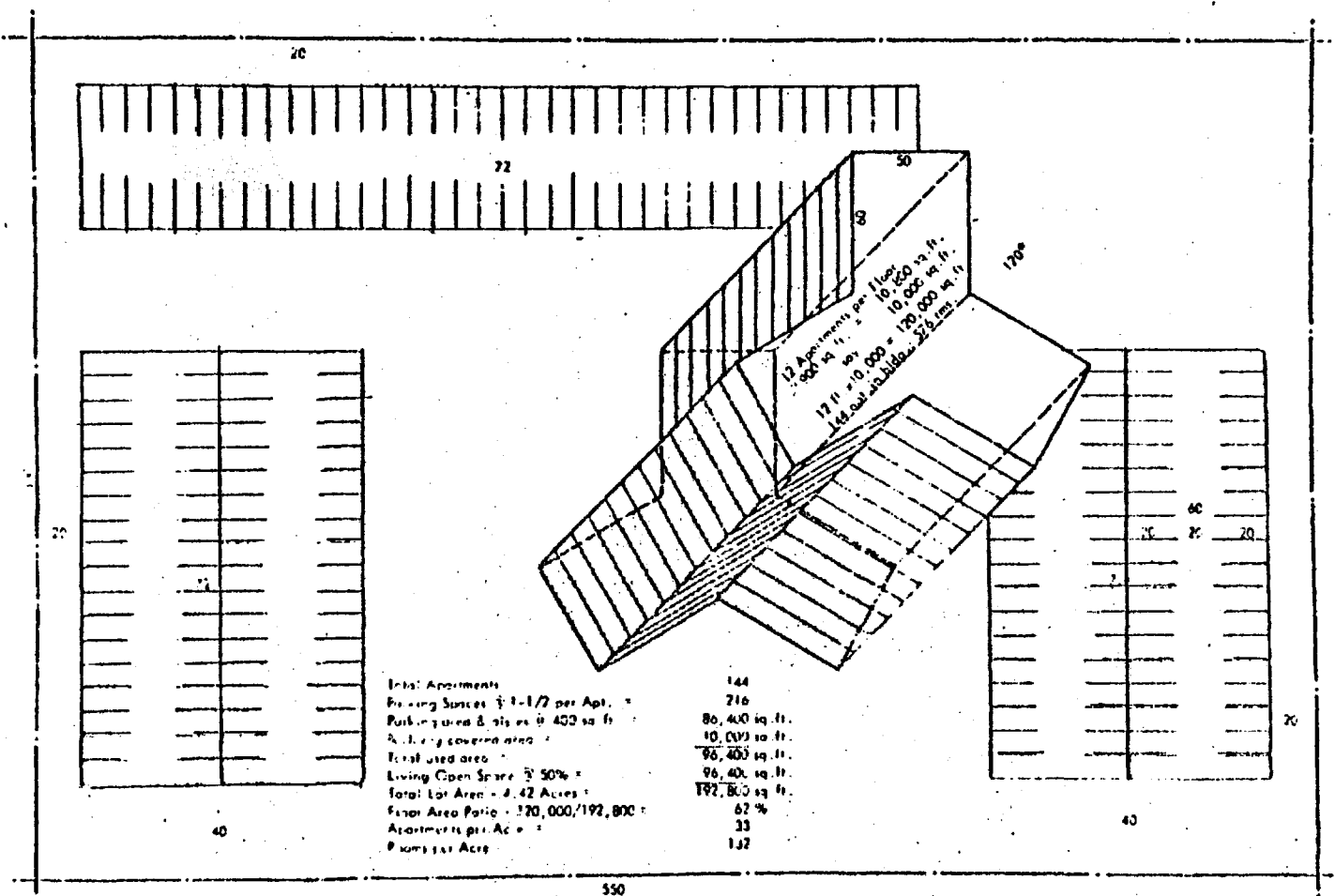


Fig. 4 Area Ratio 62%, Living Open Space 50%, Parking 1-1/2 Spaces per Unit.

ILLUSTRATIVE DIAGRAM OF TWELVE STORY APARTMENT

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of municipal service to dwelling units of different sizes. The 2,000 sq. ft. of floor space in one dwelling unit would be enough for four large bedrooms and six schoolchildren. At the other extreme, the same 2,000 sq. ft. divided into five efficiency apartments of 400 sq. ft. each would have five adults and no children. But, because of the higher degree of mechanization in the apartments (five baths and five sets of kitchen equipment in the 2,000 sq. ft.) against the lower extent of equipemnt in the house (two baths and one kitchen in the 2,000 sq. ft.), the cost -- and assessed value -- per square foot would be even higher.

The cost of shelter per person housed is not cheaper in apartments than in houses, and the liveability of an apartment for a family with children is much less than a freestanding unit on the ground. The only form, or hope, of less expensive housing is the mobile home or trailer, which costs about \$10 per sq. ft. compared with the minimum of \$20 per sq. ft. in a conventional house, on up to \$25 in a still modest apartment. The plea for cracking zoning, in order to provide apartments as cheaper housing for the purpose of decanting low-income city dwellers, is nonsense. There is a good case for using an admixture of small apartments to stabilize a balanced population, but the use of apartments to reach the low-income groups is a red herring only benefitting venal land speculators and development builders.

INDUSTRY AND COMMERCE

This discussion has covered only residential neighborhoods, as essential components of a larger urban whole. These, of course, will cover most (about 90 percent) of the land to be built on in the future.

Industrial and commercial uses are essential for the creation and distribution and the Gross National Product and, along with lesser activities in agriculture and mining, are essential to the support of the nation and all its individuals. They must, accordingly, be respected and aided in planning.

However, neither industry nor commerce should be directly mixed up with residential use. Even when all present pollution and nuisance factors are overcome, the essential transportation and traffic component of industry and heavy traffic of commerce will remain. Materials must be brought in and products shipped out, usually by truck, or there is no industry. Products must be shipped in and the public served, or there is no commerce. Even though this traffic may originate in a marble palace on the other side of the hill, it cannot traverse residential roads without damaging that residential property.

As much as 5 percent of the urbanized land may be needed by industry, and another 5 percent by commerce. These areas should be located specifically with respect to plans for major highways, and not casually placed in other areas, remote from major highways. They are acceptable, even ideally, within a 20-minute drive of home -- up to 15 miles without hardship on a free-flowing road, and any "balance" of use (i.e., residence, business, industry) on a tract of less than 20,000 acres is sheer illusion.

For these reasons, these other uses have little or nothing to do with residential neighborhoods, and any package promoting a tie-in between the two, particularly where no Federal or State road is in place or committed, should be viewed with careful skepticism.

IMPLICATIONS FOR NEW JERSEY

The application of density planning to New Jersey, 7,509.4 square miles, makes an interesting postscript. Starting with a unit of a planned residential neighborhood, a trial computation for a balanced population on 100 net residential acres could be as follows:

Example of Planned Residential Neighborhood on 100 Net Acre Tract
(in 1/3-acre district with FAR of 20%)

	<u>Freestanding House</u>	<u>Town House</u>	<u>1-1/2 Bedroom Apartment</u>
Percent Distribution of each type	50%	25%	25%
Lot Size (feet)	85 x 170	45 x 110	-
Land Area per unit (sq. ft.)	14,520	4,950	1,500
Units per net acre	3	8.8	29
Units on 100-acre tract	<u>195</u>	<u>97</u>	<u>97</u>
Total Units		389	
Private Lot or building area		79.2 Acres	
Common Recreation Space		20.8 Acres	

Note that this would produce 389 dwelling units on the 100 acres, consuming 79.2 acres of land and leaving 20.8 open for common recreation space, or, roughly, 5 acres for each 100 dwelling units.

With respect to total population, figures would behave about as follows: If dwellings average 3.5 persons, there would be 1,361 persons on the 100 acres, including the areas reserved for recreation. But allowing 20 percent for streets brings the population down to 1,089 per 100 gross acres, or 6,970 per gross residential square mile. (If there were four bedrooms in the average freestanding house, 3.5 in the town house, and 1.5 in the apartment, there would be almost exactly the same total number of bedrooms on the 100 acres -- 1,264 to 1,200 -- even if the units were increased from 300 to 389. Since half the units are smaller, there would, however, be fewer children in the 100-acre balance than if it were devoted to 300 freestanding houses.)

If half of the state is left empty for woods and swamps, and a generous (double that used in existing urban areas) 10 percent allowed for industry, a generous 10 percent for commerce, and another 5 percent for public facilities, we have 19,631,720 people. (By sheer coincidence, these completely independent computations correspond exactly to the 20,000,000 figure computed in the State Horizon Plan by three other methods.) This is three times what we have now, and more than we can serve with utilities and transportation.

CONCLUSION

Nothing has been said here about sociology, economics, psychoses, neuroses, aesthetics, computer mathematics or other imponderables. The use of simple arithmetic applied to simple high school geometry in space layout shows, once and for all, that if we fail in our physical planning to set a stage conducive to psychic peace and social happiness, we should have our heads examined.

HOUSING AND EMPLOYMENT - SOMERSET COUNTY

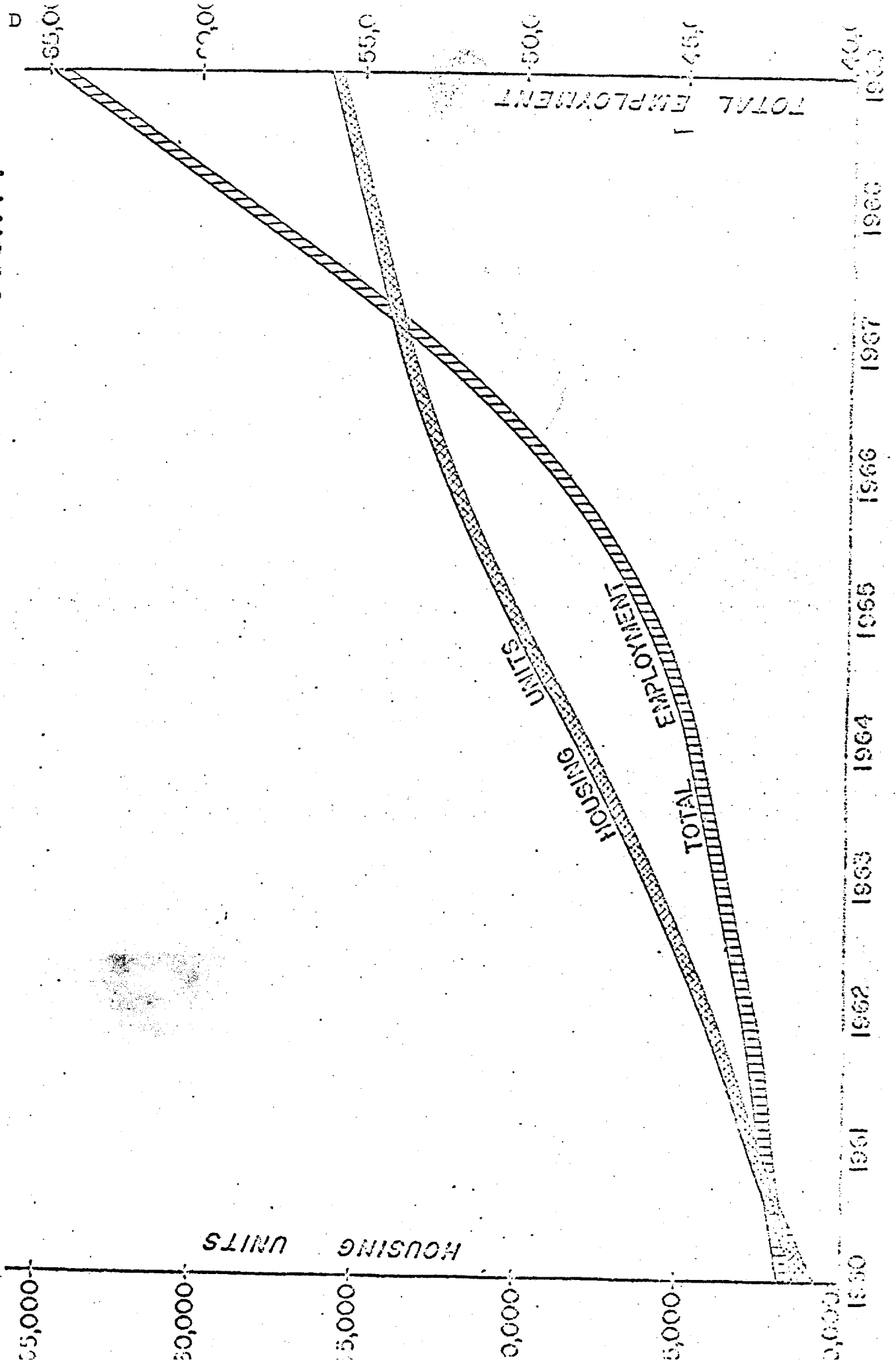


EXHIBIT E

ESTIMATED NET TOTAL HOUSING - FERRIS COUNTY
(Occupied and Vacant)

Municipality	Census Total Housing Units 1970	Net Housing Units Added		Net Housing Units Added		Total Housing Units				
		1970 Multiples	1970 Singles	1971 Multiples	1971 Singles	1972 Multiples	1972 Singles			
Chandler	840	0	17	0	4	0	10	252	511	
Harrah	3,214	0	77	0	61	0	66	3,406	3,413	
Harwood	2,263	0	19	0	23	0	7	2,001	2,111	
Northbrook	3,492	0	5	3	11	0	10	779	2,740	
Perkins	1,870	0	62	0	70	0	76	6	1,872	
Wagonwheel	8,015	0	137	0	150	0	122	491	7,933	
W. Hills	249	0	6	0	1	0	0	4	252	
Wagonwheel	8,576	187	40	0	96	0	109	1,551	7,457	
Wagonwheel	1,195	0	9	0	31	0	45	10	1,273	
Wagonwheel	2,961	0	46	0	95	0	97	124	3,075	
Wagonwheel	3,815	0	19	0	13	0	23	199	3,671	
Wagonwheel	177	0	0	0	0	0	0	7	170	
Wagonwheel	1,445	0	44	0	41	0	77	46	1,561	
Wagonwheel	7,683	0	-9	-5	-3	-5	-11	2,270	5,382	
Wagonwheel	596	4	8	0	7	0	17	21	611	
Wagonwheel	2,171	0	6	0	5	0	6	221	1,907	
Wagonwheel	268	0	1	0	0	0	0	10	271	
Wagonwheel	4,628	-10	-59	4	0	-38	6	311	3,602	
Wagonwheel	1,421	0	11	116	16	6	15	22	1,573	
Wagonwheel	2,469	0	59	0	67	0	40	2,034	2,474	
Wagonwheel	1,301	0	22	0	15	0	17	10	1,413	
TOTAL	28,310	154	520	116	712	-31	772	7,141	53,413	50,114

Note: The above tabulations intensive census totals and net housing units provided by the Municipal Building Inspector, since the periods available, the calendar years cannot be related with census data. Housing units 1967-1970 included 66 multiples and 19 multiples during 1971, 25 multiples and 6 multiples during 1972, 25 singles and 12 multiples, and 25 which were selected from the totals. It should be noted that single units also cover two-family dwellings and the multiple category is those of more units per structure.

EXHIBIT F

ZE (ft.)	75	85	100	125	150	185	225	275	300	350
CRES if square	0.13	0.17	0.23	0.36	0.52	0.79	1.16	1.74	2.07	2.81
CRES if rectangle	1/4	1/3	1/2	3/4	1	1-1/2	2	3	4	5
SQUARE FEET	10,890	14,520	21,780	32,670	43,560	65,340	87,120	130,680	174,240	217,800
1%	109	145	218	327	436	653	871	1,307	1,742	2,178
2%	218	290	436	653	871	1,307	1,742	2,614	3,485	4,356
3%	327	436	653	980	1,307	1,960	2,614	3,920	5,227	6,534
4%	436	581	871	1,307	1,742	2,614	3,485	5,227	6,970	8,712
5%	545	726	1,089	1,634	2,178	3,267	4,356	6,534	8,712	10,890
6%	653	871	1,307	1,960	2,614	3,920	5,227	7,841	10,454	13,068
7%	762	1,016	1,525	2,287	3,049	4,574	6,098	9,148	12,197	15,246
8%	871	1,162	1,742	2,614	3,485	5,227	6,970	10,454	13,939	17,424
9%	980	1,307	1,960	2,940	3,920	5,881	7,841	11,761	15,682	19,602
10%	1,089	1,452	2,178	3,267	4,356	6,534	8,712	13,068	17,424	21,780
12%	1,307	1,742	2,614	3,920	5,227	7,841	10,454	15,682	20,909	26,136
15%	1,634	2,178	3,267	4,901	6,534	9,801	13,068	19,602	26,136	32,670
20%	2,178	2,904	4,356	6,534	8,712	13,068	17,424	26,136	34,848	43,560
25%	2,723	3,630	5,445	8,168	10,890	16,335	21,780	32,670	43,560	54,450

Note: Including parking spaces,
 a 2-bedroom apt. approximates 1,400 sq. ft.,
 a medium house 2,500 sq. ft.,
 a large house 3,500 sq. ft.

BRIDGE FLOOR AREA

PC-28

PC-29
EXHIBIT G

MULTI-FAMILY UNITS PER ACRE
IN
PLANNED RESIDENTIAL NEIGHBORHOODS

	Studio	1 Bdrm	2 Bdrm	3 Bdrm	4 Bdrm	5 Bdrm
R-3 3% FAR	2.27	1.51	.94	.67	.50	.40
R-6 6% FAR	4.5	3.0	1.88	1.3	1.0	.81
R-8 8% FAR	6.06	4.04	2.5	1.8	1.35	1.08

EXHIBIT H

PC-
37
PC-
54

Memo to BEDMINSTER Planning Board from Charles K. Agle - 24 Aug 70

CONSIDERATIONS IN ECONOMIC DEVELOPMENT

Whether it be from Western Electric or some other series of corporations, the Somerset Hills area now must face questions of development and reexamine its policies and consequences.

Who works in the Plants?

It is very tempting to welcome a big name corporation because of the glamour of the name alone. Behind the glamour, however, we have people who individually are about the same as anyone else. They must make a living, raise a family, have a place to live, drink water, flush toilets, generate traffic, educate their children and have community service. The economic distinction between white collar workers and blue collar workers has long since disappeared and cultural distinctions are doubtful. If anything, it takes more personal skill and judgment to tune an automobile engine than it does to punch an invoice into an IBM card. All unions have done a good job of stratifying and homogenizing wage levels, and it is doubted if there are significant differences in the profile of employee income groups between one enterprise and another, whether it call itself "Research," "Development," "Office," or "Production Factory."

Objectionable Characteristics: Traffic

In the Somerset Hills area there is not enough water or sewerage potential to support a "heavy" industry like a steel plant, a paper mill, or chemical factory. Accordingly, all employing enterprises can be equally quiet, devoid of smoke or smell, and have equivalent applied architectural facades. Indeed, on a sizeable rolling piece of ground, there is usually enough hill to hide them completely, and on a flat piece of ground it is as easy to screen them from view by a hedge as it is to provide a background for a tennis court. Since trees are about 60 feet high, even the skyline is susceptible to protection.

The one characteristic which cannot be hidden is vehicular traffic -- whether car or truck. In the Hills area there is no thought of mass transit because of sparse population. It therefore is entirely

04a

immaterial whether an enterprise buys 10 acres, 100, or 1,000. What affects the community is how many cars and trucks go through the gate, wherever it is, and what routes they will follow to get home or to markets.

Where can workers live?

Some years ago the State found that there was six times as much land zoned for industry as could be consumed by the year 2000, and since then industrial zoning has increased still more rapidly. Because of the archaic dependence on local real estate taxes and trivial State income and aid to localities (at last check, New Jersey was the 48th most backward out of 50 states), the local fiscal horror of horrors is an educable child. Under prevailing conditions there is an automatic barrier in every municipality in the State against new housing, and every municipality is at the throat of every other municipality for a "rateable." The ideal, of course, is a bank of automatic IBM computers fed from New York and guarded by one beautiful blonde who lives in the next town and comes to work on a bicycle.

It is therefore suggested that, whenever a major enterprise proposes a new building, it prepare and make available to the locality an exact income profile of its employees, and a specific housing program matching that profile. If the industry is carefully administered, it will already have this done, but it is only through provision of exact information and open discussion that a locality can appraise the effect on its local roads, planning policies, schools and fiscal stability.

Implications of Intense Development

There is, so far, no evidence that the future will be different from the past. Even if this Consultant were privileged to design a new Utopia with an exact balance of employment, housing, education, shopping, recreation and transportation, the result would be better than before but not cheaper. Historic precedent is clear and seems inescapable: the more people there are per square mile, the more service there is required, the more expensive it becomes per capita and the poorer the quality of life. Amateur government, sensitive to the wishes of the people, of course becomes impossible. The prime example, of course, is New York, which has become both a fiscal and qualitative shambles. The municipalities of Hudson, Essex, and Union Counties are not far behind, although that is where the lion's

share of the manufacturing rateables in the State is located. Even in Princeton, your Consultant no longer can keep his window open because traffic noise drowns out telephone reception.

Other things being equal, your Consultant cannot advise you that there are any advantages to intense development beyond the possible shorter home-to-work journey on the part of the few new people who can afford to build new houses in the locality.

Morals and/or Consequences

New development must take place somewhere because of population expansion, plus increasing prosperity, which enables people to reach for a better life under less crowded conditions. This means that people who wish to spread thinner must also spread farther. It is also clear that the automobile has made this possible, but with progressively exaggerated hazard of sudden death (56,000 annually and increasing), possible slow death through air pollution, and degradation of the quality of land abutting highways through noise pollution.

Given these facts, it only seems moral for a municipality which accepts a major "rateable" to accept also the housing of those specific people, and all other urban trappings made essential by that increased intensity of development. The contrary prevailing practice, of reaching for the rateable, but shrugging off the population as a "mobile" work force is a municipal immorality, although currently legal. If for no other reason than traffic aggravation and air pollution, this is irresponsible. The geometry of future land requirements is such that this will soon kill home rule and force the consequence of State intervention making such immorality also illegal.

Where to go?

With State and County planning powers almost nil, because of home rule, and every municipality jealously squabbling with every other in reaching for a "rateable," the development of the State is left to natural gravitation to most desirable areas, to what pressures a developer cares to exert on a municipality, and to what land is held in weak or impatient hands.

Some years ago the Division of State and Regional Planning prepared a study called the "Horizon Plan," in which a population

of 20,000,000 people (an increase of 13,000,000 over 7,000,000 existing) was disposed throughout the State in several alternate ways, and one of the alternates was tentatively indicated as the most likely. It is roughly consistent with the later generalized forecasts of the Regional Plan Association, and seems plausible to this Consultant. In these two studies the principal corridor of development is the New York - Philadelphia area, served by the greatest transportation facilities and population pattern in the world: main line of the Penn Central, Jersey Turnpike, US 130, US 1, and now I-95. Second weight is given to the coastal development starting with Raritan Bay. Weaker development is expected to appear south of Camden in the Atlantic City direction, and in the Somerville area.

Development patterns throughout the years appear largely influenced by the gravitational pull of large metropolitan areas where both a varied labor pool and large numbers of consumers are present, and where easily buildable land can be found. New York is the largest and Philadelphia the fourth largest metropolitan areas in the country. As in an electronic circuit, transportation and population centers have a regenerative effect: the greater the population, the greater the need for transportation; the provision of more transportation encourages more employment and population. In short memory of your Consultant, the Lincoln Highway (Rt. 27) was the only New York - Philadelphia road, and has been reinforced by the building of US 1 (enlarged three times), US 130, the Jersey Turnpike (enlarged twice) and now I-95. Any technical breakthrough in mass transit (e.g. a vacuum tube succeeding the Metroliner) will probably first appear between New York and Philadelphia.

The Somerset Hills area is less fortunate, or threatened (depending on the point of view). Just as the Watchung Mountains were an earlier dam for population development, so are the foothills starting west of Bedminster and Appalachia to the west, officially declared a depressed area and suggested as a 10,000 square mile preserve by the Regional Plan Association. Not much will happen locally to the near west, and I-78 will serve principally for long-haul trucking to Pittsburgh, the Lakes, and Chicago. It is true that the Somerset Hills, plus Tewksbury and Readington, have the attractive glamour of a beautiful rolling rural countryside, but it is not true that they have sewer, water, or a situation (except for Somerville) in which they can ever become substantial centers surrounded by population on all sides.

There are more logical places available than the "Hills," both for employment and more compact residential use. These areas are ample for all expansion foreseeable for more than the next fifty years, as shown by two authoritative general plans. There, therefore, is no moral obligation for the Hills area to destroy its present character since dense development is not needed here for the economic welfare either of the State, Nation, or, for that matter, the localities. The contrary is true -- if it does become a prostitute and sells out its character to large employers, it should accept the consequences. The legislature and courts are not always predictable or logical, but if this Consultant were sitting on the bench when the case comes up, he would so rule. Conversely, since there is not enough employment and housing foreseeable to fill up the State in the next hundred years, some areas will remain sparse and should be so planned. Since the Hills area is not in the center of things, and never will be because of its offside location in the foothills, it should be afforded the privilege of choosing its own destiny and defending its course.

* * *

Herein lies the dilemma: The beauty of the countryside attracts the upper-income corporate building committee which may or may not have personal housing plans or aspirations. Acceptance of the rateable should bring with it housing development of one sort or another for all workers, which will substantially change the peaceful countryside and low tax rates. If the rateable is accepted and the working population refused, this will invite the just wrath of the State, the Courts, and organizations interested in equitable social welfare, and expose the area to whatever corrective or punitive measures may result from political pressure.

This could well include the jet port.

* * *

With respect to the specific matter at hand -- i.e., a concentration of working population on Rattlesnake Bridge Road, some distance south of I-78, this Consultant takes a dim geographic view in addition to the general questions raised above. The only incentive he would see for breaking the zoning would be if some

unusually beneficial by-product were offered. This might be the insulation of residential property from the noise of I-78 by a landscaped corporate buffer along I-78, provided access roads were built and the Township rezoned for such protective strips on both sides of I-78 all the way across from one boundary to the other. As proposed, this protection is not offered, much traffic will be dumped on a secondary road remote from any commercial area of use to the working population, and the Township would by this permission be exposed to pressure for additional spot rezoning anywhere.

Since neighboring municipalities may be equally exposed to pressure, the exploration of a consensus is suggested.

x x x

May 1, 1974

Confidential

Honorable Mayor and Township Committee
Township of Bernards
15 W. Oak Street
Basking Ridge, New Jersey 07920

Gentlemen:

While I think it would be undesirable to set forth at length some of the reasoning that went into the decisions made on April 29 at our meeting, it might be helpful if I summarized our conclusions, which I understand to be the following:

1. An appeal will be taken from Judge Leahy's decision in the Hansen case. I am to advise Mr. Lanigan in the interim that discussions as to possible rezoning are not now appropriate during the pendency of the time in which appeal may be taken.


2. The PRM zoning will be established as quickly as possible.

3. Any questions as to the existing PRM draft should be reduced to writing and submitted for consideration to Messrs. Agle and Herold before our next meeting on May 6 at 7:30 p.m.

Sincerely,

RHH:jrn

cc: Godfrey K. Preiser, Jr., Esq.
Mrs. George R. Fox
Mr. Charles K. Agle



SOMERSET COUNTY PLANNING BOARD
 COUNTY ADMINISTRATION BUILDING
 SOMERVILLE, N. J. 08876

AREA CODE 201
738-4700

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WILLIAM E. ROACH, JR., PLANNING DIRECTOR

November 6, 1975

Mrs. Patricia Q. Sheehan, Commissioner
 New Jersey Department of Community Affairs
 P. O. Box 2768
 Trenton, New Jersey 08625

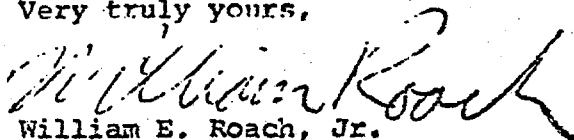
Dear Commissioner Sheehan:

You will recall that at the recent meeting which you convened to discuss the role of the Tri-State Regional Planning Commission, I strongly urged that the Commission consider supporting Bedminster Township if they decided to appeal the recent order handed down by Judge B. Thomas Leahy. Judge Leahy's original decision, as you will note in his order, took full recognition of the statutory planning requirements indicated by Congress and gave recognition to all levels of regional planning; the State, Tri-State and the Somerset County Master Plan of Land Use.

It is further interesting and significant that former Environmental Commissioner Richard Sullivan, filed a brief in the original case urging the court to take into account environmental matters. I would also note that in your communication supporting the PATH-to-Plainfield Project, that you indicated that State Planning was interested in preserving open, low-density areas in this general area of the State. If this is the position of your Department, it would also seem in order that your Department might support Bedminster Township should they decide to appeal Judge Leahy's order.

I will be most interested in having your response to this suggestion as well as a response of the Tri-State Regional Planning Commission. For your information, enclosed find a copy of Judge Leahy's order which countermanded his earlier decision. We will be anxiously awaiting your reply.

Very truly yours,



William E. Roach, Jr.
 Planning Director

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enc.

- cc: Dr. D. J. Carroll, Jr. Tri-State
 Sidney Willis, Deputy Commissioner, Dept. of Community Affairs
 R. Gidman, Director Division of Community Planning
 M. Anderson, Regional Planning Association
 D. Standsfield, State Division of Planning
 E. Bowlby, Bedminster Township Attorney



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS

PATRICIA Q. SHEEHAN
COMMISSIONER

363 WEST STATE STREET
POST OFFICE BOX 2768
TRENTON, N.J. 08625

November 17, 1975

William E. Roach, Jr.
Planning Director
Somerset County Planning Board
Somerville, New Jersey 08876

Dear Mr. Roach:

This is in response to your letter of November 6, 1975.

Certain areas, truly rural in character, such as in the Tocks Island region and the Pinelands region, should be preserved in an open, low-density state. Conversely, developed areas should be maintained and expanded as areas of economic vitality. However, there is a band of municipalities running through the State in which there has been some development, large investments in infra-structure, as well as major commercial, industrial or office uses. These are the municipalities which fall under the Mount Laurel decision, which provides the strongest policy direction so far on a State level for these areas.

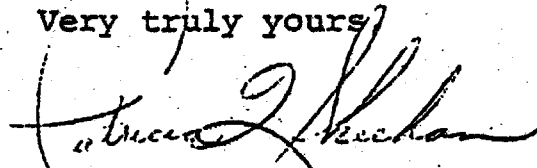
We were much concerned at first by some of the apparent policy implications of Judge Leahy's vacation of his first order in the Bedminster case. However, after conferring with various attorneys in state government on this matter, we have concluded that the change in the decision is not as serious in its implications for comprehensive state, regional and county planning as was first assumed. Although the Mount Laurel decision does not make as tight a connection between the comprehensive planning of higher levels of government and municipal zoning, the State Supreme Court did indicate the relevance of county and state planning in dealing with housing and zoning issues. Furthermore, the decision also indicated that environmental considerations are not to be ignored.



November 17, 1975

Consequently, we do not deem it necessary for the Department of Community Affairs to intervene in the Bedminster case. Judge Leahy is following the procedures and parameters laid down by the Mount Laurel decision which were somewhat different from those which he followed before he had this guidance from the State Supreme Court. This, however, does not lead us to assume that the ultimate resolution of the case will follow a pattern grossly different from the original one.

Very truly yours,



Patricia Q. Sheehan

cc: Sidney L. Willis, Ass't Commissioner
Dr. D.J. Carroll, Jr., Tri-State
M. Anderson, Regional Plan Association