

RULS-AD-1980-70

1 Feb. 1980

Letter to Hill from Ferguson w/ summary of
discussions & arguments

Pgs 8

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RUTS - AD - 1980 - 70

Henry A. Hill, Jr., Esq.
Mason, Griffin & Pierson
201 Nassau Street
P. O. Box 391
Princeton, New Jersey 08540

Re: Allan-Deane v. Bernards

Dear Mr. Hill:

The following is our understanding of a summary of the discussions and agreements which have taken place between yourself and other representatives of Allan-Deane Corp. and myself and other representatives of Bernards Township. The summary is organized under the following general titles:

1. Recent Land Use Planning Concepts of Bernards Township.
2. The Application of New Land Use Concepts to Lands of Allan-Deane Corp.
3. Specific Items of Understanding between Allan-Deane Corp. and Bernards Township.
4. Procedures Agreed to by Bernards Township and Allan-Deane Corp. for Implementing Agreement.
5. Authority of the Representatives.
 1. Recent Land Use Planning Concepts of Bernards Township.

1.1 Bernards Township planning officials remain convinced of the perspective of the Township's 1975 Master Plan that Bernards Township is a metropolitan outer ring community and, as such, should be essentially developed at a low density.

This perspective is confirmed in the Somerset County Master Plan and is greatly emphasized in the recent Regional Development Guide of the Tri-State Regional Planning Commission.

1.2 Sound planning and regional responsibility make it clear that, in spite of the appropriateness generally of low density zoning in the Bernards Township land use plan, that plan must provide for a variety of housing types which are designed to be realistically possible for a variety of income levels.

1.3 The Township's plan achieves the balance between general low density and appropriate variety by relating density to infrastructure, and most particularly to sewer capacity. This is consistent with the Tri-State Regional Planning Commission's guidelines of a density of 2 - 7 dwelling units to the acre where public infrastructure is provided and a maximum density of .5 dwelling units to the acre where infrastructure is not provided.

Variety is further achieved by permitting flexibility in the clustering of the low density development to not more than .5 dwelling units to the acre. This permitted clustering has the following advantages:

- Low density of land is achieved without imposition of arbitrary lot size requirements.
- The clustering makes possible low density housing at minimum public improvement costs and thus removes the cost-generating features normally associated with low density.
- By being able to cluster on their best land, developers have an economic incentive not to attempt development of land least suitable for development.
- The opportunity for extensive amounts of open public space is provided, thus preserving most of the natural landscape.

1.4 Generally speaking, the area in Bernards Township which either has been or is planned to have sewers and other infrastructure is near the older, more developed village centers. As you move further from these centers, particularly to the west, the land is more open, and less infrastructure is available or planned. In that area, the

land use plan therefore provides for less dense development of not more than .5 dwelling units per acre.

2. Application of New Land Use Concepts to Lands of Allan-Deane Corp.

2.1 Allan-Deane Corp. owns approximately 1046 acres in Bernards Township. This land is in the southwestern portion of the Township and thus generally in the area for which the low density is prescribed.

2.2 Historically, this low density has been prescribed in Bernards Township by a requirement of a 3-acre lot for each dwelling unit.

2.3 The Township is now prepared to rezone that area of the Township in the following way:

- The density shall be not more than .5 dwelling units per acre instead of 3 acres per dwelling unit.
- The density is expressed as .5 dwelling units instead of 2 acres per dwelling unit to signify that not only has density changed, but also the development concept. The .5 dwelling unit density need not be achieved by any particular lot sizes.
- Although no lot sizes are specified, it is expected that some variety of development type will be achieved, particularly in large scale development plans.
- The upper limit of .5 dwelling units per acre is specifically from the Tri-State Regional Development Guide and, therefore, requires development that can be achieved with on-site sewer disposal and not sewer lines or sewer plants.

2.4 Of the 1,046 acres owned by Allan-Deane Corp. in Bernards Township, approximately 501 acres are in the Raritan Watershed and on the border of Bedminster Township. It is anticipated that this section of Bedminster will have a sewer treatment plant and be developed at densities greater than the .5 per acre designated for Bernards Township's open or rural area.

Although much of the land of Allan Deane Corp. is in the outlying low density area of Bernards Township, this 501 acres is beyond that area and can easily receive infrastructure (sewer) from the more dense area of Bedminster. It is therefore appropriate that this area be zoned at a gross of 2 dwelling units per acre, which is again consistent with the Tri-State guidelines.

2.5 The permitted development of Allan-Deane Corp.'s 1,046 acres in Bernards Township shall be:

501 acres in Raritan Watershed	
x 2 DU/acre	= 1002
545 acres in Passaic Watershed	
x .5 DU/acre	= 273
Total Development	1275

3. Specific Items of Understanding between Allan-Deane Corp. and Bernards Township

3.1 Allan-Deane Corp. will be permitted to construct 1,275 housing units on its property in Bernards Township.

3.2 The 273 units to be constructed on the 545 acres in the Passaic Basin will be served by on-site sewerage disposal systems.

3.3 The health ordinances shall be amended by the Board of Health in order to permit in the Township all systems approved by the state. In addition, the Township shall support alternative on-site sewerage disposal technologies as urged in the New Jersey State Sanitary Code.

3.4 The 1002 housing units to be constructed on 501 acres in the Raritan Basin shall be served by a sewer plant to be located in Bedminster. The Township considers this an appropriate location to provide sewer service for this section of the Raritan Basin and further considers it appropriate that this section of the Raritan Basin in Bernards Township be served by that plant.

3.5 There shall be no floor area ratio requirements or coverage requirements in the portions of the Township's ordinances for this land relating to residential development, nor shall the development be regulated by maximum net densities or lot areas.

3.6 Other design standards shall be written to provide maximum flexibility of development.

3.7 The open space requirement shall be not less than 25% of total property (but see ¶ 3.12).

3.8 To provide for variety, not less than 35% of the total units shall be single-family or two-family units detached.

3.9 The development criteria in the Township's land use ordinance shall be designed to insure roads and public facilities of durable quality at minimum cost.

3.10 Public roads shall have a maximum grade of 8% and shall generally have a pavement width of 30 feet for collector roads and 24 feet for other public roads. Private roads shall also be allowed.

3.11 Adequate drainage shall be required. The Township ordinances shall provide development criteria for this drainage, but alternative methods of drainage such as swales and natural drainage courses will be permitted, provided they meet the objectives of the development criteria.

3.12 Allan-Deane Corp. will deed to Bernards Township upon final approval of a site plan or plans allowing Allan-Deane the development set forth in this letter, a park site of approximately 100 acres as shown on Exhibit A to be attached hereto. The precise boundaries will be determined during site plan application. Allan-Deane will provide the Township with a school site of approximately 20 acres. None of the above acreages to be deeded to the Township shall be at the expense of the Township, nor shall they reduce the number of units or development permitted to Allan-Deane elsewhere in this letter. Such donated acreage may be included in the computation of open space as set forth in ¶ 3.7.

3.13 There shall be in the Raritan section of the Allan-Deane property a commercial area of not less than 50,000 square feet of floor area.

4. Procedures for Implementing Agreement

4.1 Promptly after agreement between the parties on the contents of this letter and ratification by the appropriate Boards of the parties, attorneys for both

Bernards Township and Allan-Deane Corp. will seek a conference with the appropriate judicial authorities to inform them of this understanding and seek a postponement of the February 19, 1980, trial date to March 20, 1980.

4.2 Early in February a news release will be issued by Bernards Township explaining

- new zoning concepts contained in this letter,
- Allan-Deane's agreement with these concepts,
- other new zoning concepts,

and establishing a prompt date for a master plan conceptual hearing to explain these proposals to the public.

4.3 Subsequent to public endorsement of these concepts by the Bernards Township Planning Board, the Bernards Township Committee would authorize its attorneys to represent to the court on March 15, 1980, that they are prepared to enact ordinances including the development of the Allan-Deane property as described in this letter and request a judgment in which Allan-Deane's rights hereunder will become vested, through the adoption of a revised Master Plan, Zoning Ordinance, and other Land Use Regulations which are now in the process of preparation. Bernards and Allan-Deane will consent, upon the entry of a judgment requiring the rezoning of the Allan-Deane property into two "planned development" zones at the densities herein agreed and the adoption of reasonable and objective ordinances which would encourage and promote flexibility and economy in the layout and design of the Allan-Deane development, as herein agreed, to a dismissal of the present action.

4.4 Planning experts representing both Allan-Deane and Bernards Township have already advised their respective clients that the proposed zoning changes of Bernards Township:

- are sound planning
- make the Township land use plan sound
- make continuation of litigation captioned The Allan-Deane Corporation vs. the Township of Bernards, March 11, 1976, unnecessary.

The Township and Allan-Deane will request these planning experts to so testify before the appropriate judicial forum.

4.5 Subsequent to the judge's ruling, the Township will promptly and expeditiously implement necessary ordinances. The target date shall be June 1, 1980. The work on the ordinances by Township planning and engineering experts will be carried out in open dialogue with representatives of Allan-Deane properties to the end of establishing objective criteria.

4.6 Subsequent to adoption of said ordinances by the Bernards Township Committee, any development of the Allan-Deane property in Bernards Township will be preceded by full site plan process as provided in the New Jersey Land Use Law and Bernards Township Site Plan Ordinance.

4.7 It is understood that any development proposed by Allan-Deane Corp.

- in the Passaic Watershed will have to be consistent with the New Jersey State Sanitary Code
- in the Raritan Watershed is contingent upon the approval of the New Jersey Department of Environmental Protection for sewerage treatment for such development.

5. Authority of the Representatives.

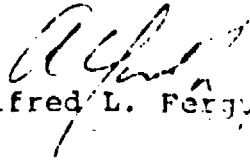
This agreement is reached in good faith by representatives of Bernards Township and Allan-Deane Corp. The representatives have been authorized by Allan-Deane and Bernards Township to carry out these discussions and the understanding that has been reached by the representatives has been reviewed by and concurred in by the Bernards Township Committee and the Board of Directors of Allan-Deane Corp. The agreement, however, is conditioned upon specific approval of the terms and conditions of this letter by the Bernards Township Planning Board, the Bernards Township Committee and the Bernards Township Board of Health as well as the Board of Directors of Allan-Deane Corp.

If this letter accurately sets forth the terms and conditions of this understanding of settlement,

Henry A. Hill, Jr., Esq.
vs. Allan-beane v. Bernards

As understood and approved by your clients, please enclose
the enclosed copy of this letter, in the space provided
below and return it to me.

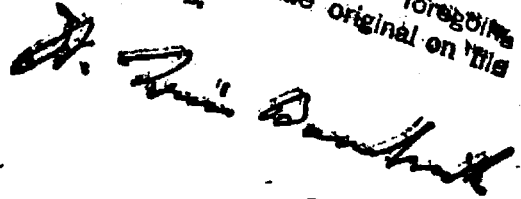
Very truly yours,


Alfred L. Ferguson

ALH/tap
encl.

This letter accurately sets forth
the terms and conditions of the
understanding which is the basis
of the settlement, as understood
and approved by my clients.

I hereby certify that the foregoing
is a true copy of the original on file
in my office.



By:


Henry A. Hill, Jr., Esq.