

RULES-AD - 1984-150

4/11/84

- Master's report on Compliance w/MT. Laurel II
mandate for Bedminster

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Report on
Compliance with the Mount Laurel II Mandate
by
Bedminster Township, New Jersey

Prepared for
Honorable Eugene J. Serpentelli, J.S.C.
Superior Court of New Jersey
Ocean County Court House
Toms River, New Jersey 08753

April 11, 1984

by
George M. Raymond, AICP, AIA, P.P.
Chairman
Raymond, Parish, Pine & Weiner, Inc.

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I. Bedminster's "Fair Share"

Using the "consensus" methodology developed in Urban League vs. Carteret, the Township's planning consultant computed Bedminster's 1990 "fair share" of present and prospective regional housing needs to be 782 units and its indigenous housing need to consist of 37 units.¹

In a previous communication to the Court² I questioned the use of the "growth area" factor in the consensus methodology for purposes of deriving municipal "fair shares" and indicated my concern with the vast amount of over zoning which results from use of the 20 percent mandatory zoning set-aside as the sole method for implementing the Mount Laurel II mandate. Based on the modified methodology shaped by these concerns, Bedminster's Mount Laurel obligation would be as follows:

¹ Fair Share Housing Analysis, Richard Thomas Coppola, P.P., March 21, 1984.

² See Appendix A.

(a)	Indigenous need		37 units
(b)	Prospective need =		
	$\frac{\text{Job growth factor} + \text{Jobs} + \text{Wealth}}{3}$ x Mt. Laurel Household Growth =		
	$\frac{2.295 + 0.541 + 1.360}{3}$ x 49,014 = 1.399 x 49,014 =	685	
	Allowance for re-allocation (20%)	<u>137</u>	
		822	
	Allowance for vacancies (3%)	<u>25</u>	
			847 units
(c)	Surplus present need =		
	$\frac{\text{Jobs} + \text{Wealth}}{2}$ x Surplus Present Need		
	$\frac{0.319 + 0.447}{2}$ x 35,014 = 0.383 x 35,014 =	134	
	Allowance for re-allocation (20%)	<u>27</u>	
		161	
	Allowance for vacancies (3%)	<u>5</u>	
			166 units

So computed, Bedminster's "fair share" amounts to 37 indigenous and 1,013 units representing the sum of the prospective and reallocated present housing needs.

The realistically achievable number of units through the 20% zoning set-aside based on the very housing market forecast for the entire region which served as the basis for determining the Township's prospective need is as follows:

Total household growth in the region, 1980-1990	124,401
Less Required Mt. Laurel units (39.4%)	<u>-49,014</u>
Required market rate units	75,387

Allowing for the market rate units that have been built between 1980 and 1984 and for the fact that not all market rate units between now and 1990 will be built in a Mt. Laurel context, I suggest that 55,000 units represents a very liberal estimate of the unsatisfied 1984-1990 number of market rate units that can be expected to be built in developments subject to a 20% set aside. This number of market rate units can thus support only 13,750 Mt. Laurel units. Applying a most liberal 50% "overzoning" factor to provide a reasonable certainty that all the units for which a market is present will be capable of being built results in the need for properly zoned land capable of accommodating 22,625 Mt. Laurel units.

Bedminster's 1990 "fair share" of the number of Mt. Laurel units that is realistically achievable by 1990 (computed using the same methodology as above) is as follows:

Prospective need = 1.299 x 22,625 =	317
Allowance for re-allocation (20%)	<u>63</u>
	410
Allowance for vacancies (3%)	<u>12</u>
Total	422

The production of the units required to satisfy the obligation generated by the reallocation of surplus present need will also depend upon the concomittant production of market rate units. Since the 422-unit quantity was derived through a methodology which, on the regional level, exhausts the market for unsubsidized units, any additional Mt. Laurel motivated zoning would merely increase the "overzoning" factor without resulting in the production of additional housing of any type.

Recommendation

Based on the above, I recommend as follows:

- (a) Indigenous Need. Much of the 37-unit indigenous need may be capable of being satisfied through rehabilitation or the use of newly-constructed subsidized units for Mt. Laurel households that now occupy standard units that are too small for their needs. Given the small number of units involved, I recommend that the Township be directed to determine the actual existing conditions by means of a thorough house-to-house field survey and that it mount a program specifically tailored to help solve the problem thus brought to light. I believe that a report on the survey findings and on the Township's proposed program to address its

indigenous need can be easily completed within six months.

(b) Prospective and Reallocated Present Need

Based on the analysis set forth above, I recommend that the 782 new Mt. Laurel units which the Township has offered to make provision for be accepted as representing much more than its "fair share" of the units likely to be actually provided in the region between now and 1990. Any mandate that this number be increased would increase the imbalance between the quantity of housing (including Mt. Laurel units) which will be built by 1990 in Bedminster as compared with that provided in other municipalities which is already built into the fact that Bedminster is one of the first communities to move into the Mount Laurel implementation stage.

Mt. Laurel units, respectively. In my previous report to the Court,⁴ I questioned the likelihood that Site C, which consists of several parcels in separate ownerships, will be available before 1990. This doubt could be resolved if the several owners were to indicate their willingness to aggregate their holdings for sale as a single parcel. It is conceivable, therefore, that the total number of units to be provided for in Bedminster's zoning plan would increase to 926 which would exceed the required 782 by 144, or 18.4 percent.

The above plan of compliance was formulated by the Bedminster planning board. As directed by Mount Laurel II, before examining any other alternatives, I have considered it as my first priority to determine whether this plan provides that realistic opportunity for the construction of the needed lower income housing which it is the Township's obligation to provide.⁵

⁴Report on Housing Allocation, Fair Share and Compliance with Mount Laurel II for Bedminster Township, January 1984.

⁵"The trial court (and the master, if one is appointed) should make sure that the municipal planning board is closely involved in the formulation of the builder's remedy. This does not mean that the planning board should be permitted to delay or hinder the project or to reduce the amount of lower income housing required. However, with this caveat, the trial court and master should make as much use as they can of the planning board's expertise and experience so that the proposed project is suitable for the municipality." (92 N.J. 280-emphasis supplied.)

2. Timing

Of the sites proposed by the Township, only those in Group I, above, totaling 440 Mt. Laurel units, are immediately sewerable within the existing capacity of the Environmental Disposal Corporation's (EDC) sewage treatment plant. Sites in Group II are within its sewer franchise area. The sewerage of Site H would require an expansion of the EDC franchise area or alternative means of sewage treatment. Sites C and D are within the service area of the Bedminster sewage treatment plant but beyond its capacity to serve.

3. The "Phase-in" Concept

"The Mount Laurel obligation to meet the prospective lower income housing need of the region is, by definition, one that is met year after year in the future, throughout the years of the particular projection used in calculating prospective need. In this sense, the affirmative obligation to provide a realistic opportunity to construct a fair share of lower income housing is met by a "phase-in" over those years; it need not be provided immediately." (92 N.J. 219)

As is, and will continue to be, the case with most municipalities on the fringes of urbanization, the actual useability of sites zoned for higher density housing will be contingent upon the availability of sewers. By definition, the provision of sewers takes time. In a Mount Laurel context, the issue is the

assurance that such facilities will in fact be provided and how much time will be needed for them to become operational.

Attached hereto as Appendix B is a report by Mr. Neil V. Callahan, an expert in Environmental Science who is currently serving as President of the Environmental Disposal Corporation (EDC). Based on this report and on, supplementary information, I believe the situation to be as follows:

(a) Group II Sites

The EDC plant, which is now serving the Hills PUD and which has reserve capacity for future developments in the Pluckemin area and in the Bernards Township portion of the Upper Raritan watershed, will have to be expanded anyway to serve all the properties in its franchise area.⁶ The construction of the expanded plant (to double its present capacity for which, I have been informed, there is

⁶In addition, I have been informed that Hills is in process of arriving at a settlement with Bernards Township under which a thousand or more units in excess of the previously assumed number will be constructed in the area tributary to the EDC plant.

sufficient room on the site) can be completed in a period of 18 months.

The time required for the securing of the necessary approvals is a function of the vagaries of bureaucracy at the local, county and state levels. In that regard, past experience is frequently a poor guide to the future. As one example, the 208 Areawide Wastewater Management Planning Program was originally instituted for the purpose of rationalizing the allocation of federal assistance for the construction of sewage facilities. As part of that program, the federal Environmental Protection Administration assigned a total population growth projection to each state and required the states to allocate it among their sub-state areas. With the recent elimination of the federal assistance programs which justified this approach, and given the obvious need for revision of local population projections because of the Mount Laurel growth allocation factor, it can reasonably be expected that the long time required for amending the 208

population growth allocations in the past could be materially reduced.

Similarly, much of the time consumed by the processing of applications by the NJ DEP is a function of the degree to which the developer and the municipality are in agreement. Faced with an adversary position, the state agency invariably exercises a great deal of caution. This both extends the processing time and results in more stringent requirements. As one example, I understand that the requirement for testing the performance of the EDC plant was inserted at the request of Bedminster Township rather than on the initiative of DEP.

In his report (Appendix B), Mr. Callahan estimates that the EDC plant expansion project can be completed in 43 months. Based on the reasoning set forth above, I find this estimate to be within the realm of feasibility.

Furthermore, I have been informed by Messrs. John Kerwin, President of the Hills

Development Corporation and Henry A. Hill, Esq., its attorney, that, at the point in time when all approvals are in hand and the Hills Development Corporation becomes "in command" of the construction of the plant, Hills will be prepared to allocate some of the reserve capacity in the existing plant to sites which are not currently part of its contracted service obligations. This means that sewerage capacity for additional sites may become available in as little as 25 months. If so, additional sewer capacity will become available following completion of the first 260 Mt. Laurel units in the Hills PUD approximately at the time when the last of the 180 Mt. Laurel units on the "top of the hill" will be under construction. This should both contribute to an orderly phase-in of the Mt. Laurel units into the Township from a socio-economic point of view as well as provide sufficient incentive at an early date for other developers to commence whatever actions may be required to result in project approvals two or three years hence.

Approval by NJDEP of a significant expansion of the EDC plant (to a capacity of some 1.6-1.7 million gals/day) may be contingent upon assurances that, during dry weather when river flow volume is low, a portion of the effluent could be discharged to ground water. The Township's attorney, Alfred L. Ferguson, Esq. has informed me that some five years ago, apparently long before Mr. Dobbs publicly expressed any interest in what is now commonly referred to as the "Dobbs tract," the Township had commissioned a study of the feasibility of using the said tract for spray irrigation purposes should the EDC plant be found to excessively degrade the waters of the North Branch of the Raritan River. From what I have been able to determine, this tract is perhaps the most suitable for the purpose. As Mr. Callahan writes in his report (on page 3), "The downhill proximity from the treatment plant, the potentially suitable soils, and the proposed use of this land as open space are significant advantages of this site at this time."

The expansion of the EDC plant would make available the sites in Group II, aggregating 356-384 Mt. Laurel units. (Included in this number is a 150-unit senior citizen project which is discussed separately below.)

(b) Sites C and D

The availability of Sites C and D (with a planned capacity of 40 Mt. Laurel units) is contingent upon the adequacy of the Bedminster sewage treatment plant. At present, that plant is being used to capacity or nearly so. As set forth in Mr. Ferguson's April 6, 1984 letter (Appendix C), the capacity of the plant to accommodate additional loads can be expanded in two ways:

- (1) Correction of infiltration problems in the Borough of Far Hills which cause that Borough to contribute considerably more volume to the plant than the 35,000 gals/day which the plant is supposed to accommodate pursuant to its contract with Bedminster Township dated January 26, 1979. It appears that Far Hills has contracted to have this problem

corrected and that results are expected by the end of summer, 1984.

- (2) Expansion of the plant. A 1983 study by Kupper Associates⁷ has shown that expansion of the plant to double its present capacity is feasible since the river can absorb significant additional discharges with no adverse consequences. The Township has indicated its willingness to pursue this proposal subject to the resolution of the remaining issues in the Allan Deane litigation. Pending overall expansion of the plant, the Township has already approved the funds for expansion of the equalization tanks that would increase its capacity by 50,000 gallons/day.

It appears, therefore, that the necessary sewer capacity can be achieved well within a reasonable "phase-in" period. I believe, therefore, that Sites C and D

⁷ Previously submitted to the court and all counsel of record by Mr. Ferguson.

should be considered available for the purpose of contributing to the satisfaction of Bedminster's "fair share" obligation subject to the Township's securing the prompt agreement of the several owners of the parcels comprising Site C to make their holdings available on a reasonable basis.

(c) Site H

Site H, which lies outside the EDC franchise area, presents a special two-faceted problem, according to Mr. Callahan. The most important negative aspect of expanding the franchise area is the possibility that the discharge volume from the treatment plant will exceed the river's absorptive capacity. A second problem is the need for EDC to finance the capital costs of the extra 100,000 gallons/day plant capacity required to serve this site in advance of a firm development commitment accompanied by a sharing of costs by a developer.

Mr. Callahan has informed me, however, that in his opinion the capacity of the Bedminster

plant can be expanded sufficiently to serve the needs of both the Bedminster Village area (including Sites C and D which were discussed above) and Site H. He suggested that an expansion of the plant by more than an additional 200,000 gallons/day may be needed since Far Hills may also have to impose Mt. Laurel-dictated demands upon its capacity.

While an expansion of up to ±200,000 gallons/day seems to be feasible by reliance strictly on effluent discharges to the river, it is conceivable that a greater plant capacity might be acceptable to NJ DEP only if a portion of the effluent could be discharged to ground water during dry weather and consequent low river flows. The availability of the Dobbs tract for occasional spray irrigation may thus also be essential to assure the necessary sewer capacity for the future needs of both Bedminster and Far Hills. That tract lies downstream of the Bedminster sewage treatment plant at approximately the same distance therefrom as that between it and the EDC plant.

Senior Citizen Project. As part of its compliance, Bedminster has offered to pursue the realization of a federally-subsidized 150-unit Section 202 Senior Citizen Project. The Township has offered to establish forthwith a non-profit corporation to seek approval of the necessary funding.⁸

At the present time, the availability of funding for Section 202 units is very limited. In the field of subsidized housing, however, conditions are subject to sudden changes. Three years ago, just prior to the advent of the Reagan Administration, funds for 202 projects were relatively plentiful. This is an election year, so that the possibility exists of a change of administration in Washington. In any event, even with the limited supply of units that might be available with no change in conditions, I believe that Bedminster's claim in whole or in substantial part, would be given a high priority due to the Mt. Laurel connection. In part, I base this opinion on the actual experience of the Hills Development Corporation with the NJMFA with respect to the 260-unit project in its PUD.

⁸ See letter from Mr. Ferguson dated March 19, 1984, p.2 (Appendix D).

Recommendation

Based on the above, I recommend as follows:

1. That the sites in Group II be accepted as providing a realistic opportunity for the construction of 356-384 Mt. Laurel units subject to the following conditions:
 - (a) That Hills agree to initiate forthwith an application for the necessary expansion of the EDC plant and commit itself to reserve the capacity needed for those sites.
 - (b) That the Township support the Hills application; and
 - (c) That a non-profit senior citizen housing corporation be formed immediately and that an application for federal approval of a 150-unit project be initiated promptly thereafter.

2. That Site H and Sites C and D be accepted as providing a realistic opportunity for the construction of 130 Mount Laurel units subject to the following conditions:
 - (a) That the Township commit itself to the prompt initiation and sustained implementation of an

expansion of its sewage treatment plant to a capacity of not less than 400,000 gallons/day.

- (b) That the Township secure the agreement of the several owners of parcels comprising Site C to market their properties jointly.

In the aggregate the above would bring the total number of units offered by Bedminster in satisfaction of its "fair share" obligation to 926-954.

III. The Dobbs Issue

Dobbs has contested the probability that the sewers needed to effectuate the above-outlined program will be available in time to satisfy the Mount Laurel II mandate. Mr. Callahan has suggested that the needed approvals and construction of a system relying upon the discharge of effluent to ground water for an 800-unit development (including 160 Mount Laurel units) on the Dobbs tract may take as long as 50 months. Mr. Callahan also suggested that the capacity of the soils on that tract to absorb 200,000 gallons of effluent per day should not be assumed without more proof than exists at this time.⁹

As I stated earlier, however, I considered that my first responsibility is not to determine which of the two solutions is "better,"¹⁰ but whether the Township's proposed compliance package can be implemented in a reasonable time frame. While neither I nor anyone else can offer to the Court iron-clad assurances that the time table anticipated by Mr. Callahan and the Township will actually unfold, I

⁹ Callahan Report, Table following p. 4; also p. 3. (Appendix B).

¹⁰ It should be noted that the Dobbs proposal only deals with 160 units. Even if that proposal were to be implemented, there would still be a need for the expanding of the EDC and possibly also the Bedminster sewage treatment plants to serve the remainder of the sites needed to satisfy Bedminster's "fair share."

believe that the "phase-in" clause of Mount Laurel II demands that, in the first instance, the Township be given every opportunity to implement its own plan.

Recommendation

To make sure that the municipality's decision will not "be permitted to delay or hinder the project or to reduce the amount of lower income housing required,"¹¹ I recommend that

- (1) The Township be required to file with the Court a status report every six months. This will permit the Court to assess the Township's progress toward the realization of its own goals;
- (2) The Township commence forthwith condemnation proceedings regarding the Dobbs tract;¹² and
- (3) The Dobbs tract remain available for the possible satisfaction of Mt. Laurel obligations until the

¹¹ See footnote 5, supra.

¹² My information suggests that NJDEP approval of the needed expansion of sewer capacity in Bedminster may well not be achievable in the absence of open land which could be used for spray irrigation when needed.

Court is satisfied that the Township's plan is workable.¹³

¹³ I mentioned this suggestion to Mr. Ferguson. While seeing nothing wrong with it in principle, Mr. Ferguson thought that its acceptance by the Court might have some undesirable side effects which he will bring to the attention of the Court at the forthcoming Case Management Conference.

APPENDIX A



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March 7, 1984

The Honorable Eugene J. Serpentelli, J.S.C.
Superior Court of New Jersey
Ocean County Court House
Toms River, New Jersey 08753

My dear Judge Serpentelli:

Please be advised that, while I am in general agreement with the "consensus" formula regarding determination of prospective and present need regions, the basis for determining regional need, and--with one exception which is discussed below--the fair share allocation criteria and their use, I feel that an uncritical application of the results may have serious side effects if the compliance mechanism will rely entirely on the 20% mandatory set aside technique of achieving Mt. Laurel-type housing.

The following hypothetical example will illustrate the reasons for my concern:

1. Assume that prospective total 10-year household growth for the region, determined on the basis of an acceptable population projection for the region = 200,000, requiring an equal total number of housing units.
2. The resulting percentage of Mt. Laurel households = 40%, or 80,000, requiring an equal number of Mt. Laurel-type housing units.
3. Total market rate units for which there will be a market during the 10-year period = $200,000 - 80,000 = 120,000$.
4. To produce 80,000 Mt. Laurel units by means of a 20% set-aside technique, the required rezoning would have to make available land for 400,000 units, 320,000 of which would be market rate units.

5. Since the actual 10-year market absorption forecast is for only 120,000 units, the amount of land zoned for market rate units would not be fully utilized for some 26 years ahead (assuming a level population growth in the region over that period). This would also mean that the provision of the Mt. Laurel units needed over a ten-year period would be spread out over a $2\frac{1}{2}$ times longer period.

My reading of the Mt. Laurel decision suggests that, in the absence of any alternative method of achieving its fair share, a municipality would be compelled to rezone far more land than needed to satisfy the market demand and far in advance of actual utilization. Such excessive rezoning would have the added disadvantage of probable disproportionate skewing of the units that will actually be provided to only some communities to the limits of their zoned capacity, thus inadvertently relieving other communities of their responsibility under Mt. Laurel II. The tendency would be for developers to select first the communities of the highest quality because their profit margin on comparable market rate units can be higher there than in communities characterized by lower dwelling sales prices.

To avoid the possible negative effects of wholesale rezoning set forth above, it would be desirable to fashion a compliance mechanism which would tend to rely on rezoning to an extent that reflects the market realities as closely as possible. One such mechanism that suggests itself to me would consist of the following (using the above example):

1. Accepting the household growth projection of 200,000, add 25% to fulfill the Supreme Court's directive that there be some "over-zoning" in order to increase the probability of actual availability for use of the requisite amount of land. This would establish as a target for the mandatory immediate rezoning portion of the overall compliance mechanism the municipality's fair share of the 250,000 units which can be reasonably expected to be marketable (and, therefore, buildable) in its region over a 10-year period.
2. Assuming the local fair share of the total 10-year regional need of 80,000 Mt. Laurel-type units to be 1,000 units and its fair share of the 10-year realistically achievable number, computed at 20% of the total, to be 650 would leave a deficit of 350 units. The second part of the compliance mechanism might give the municipality the option of fashioning a program using other than zoning incentives to provide this

balance of 350 units. These incentives could include the donation of surplus lands owned by the municipality, provision of infrastructure, tax abatements, the use of philanthropic contributions, etc. Since developing such a program is a complex task, particularly for municipalities without experience in such matters, it might be desirable to allow them one year in which to formulate such a program. In later phases of the Mt. Laurel implementation process, this period might be shortened.

During the first year it might also be desirable for, perhaps, the Office of the Public Advocate to develop a legislative package to enable municipalities to do whatever they may wish to do along the lines outlined above.

3. Failure on the part of a municipality to fashion such a program would probably leave the Court no alternative than to ask for the rezoning of additional land for 1,750 units so as to make reasonably possible the provision of the additional 350 Mt. Laurel-type units. The same would be true immediately if the municipality chose not to avail itself of the option of finding other means of satisfying its fair share obligation.

Acceptance of such a staged compliance mechanism would increase the production of Mt. Laurel units since it would substitute incentives directed specifically at the production of 100% Mt. Laurel-type projects for the theoretical, but unattainable, units which would be built if the market demand could absorb all of the units provided for through rezoning. Also, the amount of land which would have to be devoted to mandated housing could be drastically reduced.

* * *

I mentioned earlier that I have some reservations regarding one of the criteria used in the "concensus" fair share allocation formula. My reasons are set forth below:

1. Based on the obvious probability that some municipalities will lack the vacant land on which to satisfy all or a portion of their fair share obligation, the formula adds 20% to each municipality's fair share number. By doing so, the formula assures a priori the availability somewhere in the region of sufficient vacant land to satisfy the aggregate fair

share allocation, irrespective of its initial geographic distribution.

2. The growth area factor (growth area in the municipality as a percentage of the region's total land located in growth areas) was included only as a surrogate due to the unreliability of available data regarding vacant developable land. The growth area factor, in itself, is not a sensitive measure of any characteristic of a municipality in terms of Mt. Laurel. Two municipalities might have the same amount of growth area within their boundaries, but such land in one of them may be totally developed while in the other it may be 90% vacant.
3. Since the vacant land factor is already satisfactorily incorporated into the formula via the 20% addition to the municipality's fair share number, I submit that the potentially highly distorting growth area factor should be dispensed with altogether.
4. If this recommendation is implemented, the fair share formula would be a factor of recent job growth (a reliable indicator of need for housing) and of existing jobs in the municipality (an equally reliable indicator of the relative breadth of existing employment opportunities). Any community's claim of a need to shift its responsibility onto others by reason of unavailability of land in its growth area should be carefully scrutinized. If that need, determined on the basis of employment trends and opportunities, is great, so probably is the fiscal benefit which that community derives from the ratables within its borders. Before agreeing that compliance is not possible, every opportunity should be examined of the possible reasonableness of mandating higher density zoning on such land as may be available.

* * *

I hope the above will help in the development of an acceptable methodology for implementing Mount Laurel II.

Respectfully submitted,

George M. Raymond, AICP, AIA
Chairman

APPENDIX B

Environmental Disposal Corporation

P.O. BOX 509
PLUCKEMIN, N.J. 07978
201-234-0677

To: George Raymond, Special Master to Judge
Eugene D. Serpentelli in Allen-Deane v. Bedminster

From: Neil V. Callahan, President, Environmental Disposal Corporation. *MUC*

Re: Sewage Alternatives: Mount Laurel II Housing, Bedminster Township

Date: April 6, 1984

INTRODUCTION

In order to facilitate the zoning proposals currently before the court there is little doubt that sewage treatment utilities will have to be expanded in all areas. The existing Bedminster-Far Hills (BFH) plant will not, in all probability, be allowed to treat the 48,000 gpd from proposed housing within its present service area. The Environmental Disposal Corporation (EDC) plant cannot service The Hills Development and all of the possible proposed housing within its present service area. Finally, no treatment is available at either facility for the proposed Dobbs Development. The questions that present themselves are, then: what are the sewage treatment alternatives, what is the relative viability of each alternative, and how long will it take to implement any of the alternatives. This report will address these questions summarily.

THE SEWAGE TREATMENT ALTERNATIVES

The Township's indicated position for servicing growth areas in Bedminster Village (sites C&D) is that existing capacity is available. The assumptions used to support this position in terms of a regulatory agency's position, would be unacceptable. (See appendix A). This leaves two readily identifiable options. Option one would be to identify the long term (20 year) sewerage needs of the entire service area, develop, and then implement this program. Option two would be to develop and implement an interim program to make available 50,000 gpd of sewage treatment capacity within the Mount Laurel II time frame. The first of these options would take several years to develop and the presently available financing mechanisms would undoubtedly place a hardship on the sewage utility and its customers. The second option, however, is readily implementable. Improvement of the performance of the BFH facility, may, as an interim action, resolve an enforcement preceeding by NJDEP against the sewage utility and would most probably cause the facility's NJPDES permit to be finally renewed. This alternative, without detailed analysis, appears very cost effective.

Dobb's position for servicing the various development proposals which have been offered to date is for the developer to build a new sewage treatment facility consisting of primary and secondary treatment, with effluent discharge to ground water on 16-18 acres of Birdsboro soils. At the conceptual level this option is possible but it is very capital intensive, and there are identifiable technical problems that would have to be adequately answered.

Environmental Disposal Corporation

EDC's position for servicing all the projected needs of its existing Board of Public Utilities approved franchise area would be to expand the treatment capacity by constructing similar treatment units adjacent to the existing facilities, in a replication of existing processes.

SEWAGE TREATMENT OPTION VIABILITY

Given the litigation framework in which this issue has arisen, any question of political viability will be ignored. It must be clearly recognized at the outset that without affirmative and constructive action by all parties, it will be impossible to expand these facilities within the time available. In an adversarial context, the permit review process becomes exhaustive and time requirements expand dramatically. The financial viability of the options will also have to be assumed for the sake of discussion. This leaves technical, institutional, and physical constraints to implementation.

PHYSICAL CONSTRAINTS

The physical constraints to implementation of any of these sewage treatment options is simply the time constraint of actual physical construction. As indicated in item #21 of the enclosed table, it is estimated to take 18 months for construction of the Dobbs treatment facility and the second phase of the EDC facility, and 4 months for the interim program of the township.

INSTITUTIONAL CONSTRAINTS

The institutional constraints to implementation of any of these sewage treatment options include acquiring the necessary approvals and producing the documentation, plans, designs, etc. for same. The enclosed table: (1) itemizes the range of necessary actions, approval, etc. (2) indicates who will be required to take each step, (3) estimates how long it will take each party to accomplish each step, and (4) estimates project time based on the required chronological order for the acquisition of the various permits which must be acquired. For example, the data acquisition, and the writing of an Environmental Impact Statement (EIS) must precede the EIS public hearing, which is required prior to the issuance of a Discharge Allocation Certificate (DAC), or treatment works approval, and so forth, and so on. This table is meant to be used as an illustrative guide as to what is required and the approximate time involved. It is not intended to be absolute and there are inherent assumptions that could be argued ad infinitum. There are several major areas of difference worth noting.

A. There are in existence various studies, Storet data, USGS data, and on going water quality monitoring programs which provide a significant data base for surface water quality impact analysis. **There is little field data available for subsoil or land disposal of effluents.** The site evaluations required will take a longer period of time to develop.

B. The Dobbs proposal would require a site plan approval for the development as well as the treatment plant site.

Environmental Disposal Corporation

C. The time differential for modification of the 201 plan between Dobbs and EDC is a reflection of the fact that the EDC plant is recognized in the plan, and in the case of EDC there is no enlargement of existing (or creation of new) franchise or service area.

D. The differentials in time between either the Dobbs proposal and the EDC proposal, and the Township's proposal reflects the fact that Township's "decision by committee" moves slower than decision-making in private ventures.

TECHNICAL CONSTRAINTS

BFH:

There are only minor technical constraints on the implementation of an interim program by the Township. There remains however significant technical issues that the Township will have to address if it attempts to deal with the long term sewage needs of its service area. The issues are centered on the assimilative capacity of the river with respect to several pollutants. The maintenance of available land area for land application of effluents, if required, is consistent with post 1990 growth in Bedminster.

DOBBS:

The identifiable technical constraint on the Dobbs sewage proposal is that there are only superficial evaluations of site conditions in this area. There are some reports that indicate this site has shallow soils and seasonal high ground water in the area of the proposed disposal fields. It would take extensive site evaluation to determine if in fact this site is suitable for continuous year round subsurface disposal of several hundred thousand gallons of sewage effluent.

EDC:

The technical constraints on expansion of the EDC facility are the same as will be faced by the Township with meeting its long range sewer needs, namely, the assimilative capacity of the North Branch of the Raritan River. It is the position of EDC that the use of "Best Available Technology" (BAT) is clearly a necessity. The processes employed by the existing EDC plant represents BAT. If it can be demonstrated that under critical design conditions, it is necessary to meet water quality requirements which call for treatment levels higher than BAT, then EDC might well look to a limited land based effluent disposal/water quality management program. The essence of this program would be to discharge a portion of the effluent to ground water during identified low flow periods of the river, thus recharging ground water during dry weather (low ground water) conditions. A site which would receive major consideration for this low frequency land-based disposal system would be the same site as is under consideration by the Dobbs group. The downhill proximity from the treatment plant, the potentially suitable soils, and the proposed use of this land as open space are significant advantages of this site at this time. If this site is found suitable for EDC's land based effluent disposal needs EDC would be prepared to contract with the owner for use of a portion of this land if this option is needed.

Environmental Disposal Corporation

SUMMARY

In technical terms, the Township can, if it is willing, provide service for site C and D easily within six years. It is essentially a question of putting up the money. If the Township addresses the long term growth (post 1990) and plans for the resultant sewerage needs, i.e. a sewerage master plan, the importance of maintaining proximate open space for land based effluent discharge areas should be obvious. The Dobbs proposal, considered in isolation, may be technically feasible. It does not provide a high degree of flexibility for the future sewerage needs of the northern growth corridor in Bedminster. It may very well prove to be in competition for the same land and water quality resources as EDC. This competition for acceptable disposal areas could reduce EDC's ability to expand and provide service to all the other developable tracts in its service area.

The EDC proposal has the ability to provide the greatest potential for Mount Laurel II housing over the long run.

The issue of timing, in the short run, has been raised. The Hills Development Company has a firm contract with EDC for the treatment of 800,000 gpd, and if The Hills proceeds with construction of housing in the areas served by EDC in a rapid fashion, it is unlikely that they would be able to release any of the capacity which they own. However, if there were favorable action on the part of the Township, the Court, and all of the affected parties, it would be possible to accelerate the expansion of the EDC plant so as to provide additional sewage capacity within the current six-year planning horizon outlined in the Mount Laurel II litigation. EDC cannot speak for Hills Development, but it is most unlikely that any customer of a utility would be willing to release contracted treatment prior to the existence of replacement capacity.

The issue of extension of sewage to serve Tract H:

Tract H was not included in EDC's franchise at the direction of the Township. Geographically, Tract H is uphill from the BFH plant, and downhill from the EDC plant. The BFH plant currently services the AT&T building on the parcel of land adjacent to Tract H. These two areas are separated by Interstate 287 but there is no documented reason which presents an insurmountable barrier for sewers. The practical reason that EDC does not want to service this tract is that the more EDC is required to treat and discharge the less likely it is to receive any permit for expansion. It does not make sense to concentrate all the discharge at one point, since the impacts are intensified, and the likelihood of getting any expansion proposal approved is reduced. With the discharges spread more equally there is a reduced impact on any given site, and a greater likelihood of an expansion proposal being approved.

It should also be noted that the financial risks of premature extension of collection lines and carrying the debt service for same without a firm commitment of a developer to build housing units on Site H would be imprudent for any utility.

	DOBBS			EDC			BFH		
	Required	Time	Cummulative Proj. Time	Required	Time	Cummulative Proj. Time	Required	Time	Cummulative Proj. Time
1. Conceptual Design	yes	-0-		yes	-0-		yes	1 mo.	1 mo.
2. Impact Investigations -Total	yes	8 mo.	8 mo.	yes	2 mo.	2 mo.	yes	3 mo.	4 mo.
A. River Analysis and Models				x	2 mo.		x	3 mo.	
B. Justificaiton for land disposal	x	8 mo.							
C. Detailed subsoil investigations	x	8 mo.							
D. Detailed water table investigations	x	8 mo.							
E. Well constructions and water analysis	x	8 mo.							
3. Environmental Impact Statement (EIS)	yes	1 mo.	9 mo.	yes	1 mo.	3 mo.	yes	2 mo.	6 mo.
4. EIS Public Hearings (local/DEP).....	yes	2 mo. min.	11 mo.	yes	2 mo. min.	5 mo.	N/A	-0-	
5. Site Plan Approvals	yes	6 mo.	17 mo.	yes	2 mo.	7 mo.	N/A	-0-	
6. Municipal Consent	yes	1 mo. min.		N/A	-0-		N/A	-0-	
7. Sewerage Utility Incorporated	yes	1 mo. min.		N/A	-0-		N/A	-0-	
8. Board of Public Utilities Approval	yes	1 mo. min.	18 mo.	N/A	-0-		N/A	-0-	
9. 201 Plan Modification (Somerset Co.)	yes	6 mo.	24 mo.	yes	3 mo.	10 mo.	N/A	-0-	
10. 208 Plan Approval.....	yes	2 mo.		yes	2 mo.		N/A	-0-	
11. Discharge Allocation Certificate (DAC) Issuance	N/A	-0-		yes	4 mo.	14 mo.	yes	6 mo.	12 mo.
12. Detailed Treatment Works Design	yes	4 mo.		yes	3 mo.	17 mo.	yes	1 mo.	13 mo.
13. Municipal Endorsement.....	yes	1 mo.	25 mo.	N/A	-0-		N/A	-0-	
14. Sewerage Authority Endorsement	yes	1 mo.		N/A	-0-		N/A	-0-	
15. Treatment Works Approval DEP	yes	2 mo.	27 mo.	yes	2 mo.	19 mo.	yes	2 mo.	15 mo.
16. Land Acquisitions	yes	?		yes	6 mo.		N/A	-0-	
17. Draft NJPDES Permit	yes			yes	1 mo.	20 mo.	yes	1 mo.	16 mo.
18. Public Hearing Draft Permit	yes	2 mo. min.	29 mo.	yes	2 mo. min.	22 mo.	yes	2 mo. min.	18 mo.
19. Bonding/Financing	yes	-0-		yes	-0-		yes	2 mo.	20 mo.
20. Bidding	yes	1 mo.	30 mo.	yes	1 mo.	23 mo.	yes	2 mo.	22 mo.
21. Construction	yes	18 mo.	48 mo.	yes	18 mo.	41 mo.	yes	4 mo.	26 mo.
22. Final NJPDES Permit	yes	2 mo.	50 mo.	yes	2 mo.	43 mo.	yes	2 mo.	28 mo.
23. Permit to Operate	yes	2 mo.	50 mo.	yes	2 mo.	43 mo.	yes	2 mo.	28 mo.

Environmental Disposal Corporation

APPENDIX A

Environmental Disposal Corporation

BEDMINSTER FAR HILLS (BFH) PLANT

The Bedminster Far Hills S.T.P, is a 203,750 GPD facility. The design capacity for this plant was based on the following analysis:

<u>Wastewater Source</u>	<u>Design Basis</u>	<u>Design Flow</u>
AT&T Long Lines:	Square footage, Vistors Meals Chiller and AVAC blowdown	98,750 GPD
Far Hills Borough:	100 SFR* x 3.5 per/du x 100 gpcpd	35,000 GPD
Bedminster Village	200 SFR x 3.5 per/du x 100 gpcpd	70,000 GPD
	Total	<u>203,750 GPD</u>

*SFR = Single Family Residential Units.

Following the policy of The New Jersey Department of Environmental Protection (NJDEP), the agency regulating design and operation of New Jersey's wastewater treatment plants, the amount of this plant that is "allocated" is the number of existing connections multiplied times the NJDEP accepted design basis for that connection. This bears no direct relationship to actual observed flow at the treatment plant. The reason for this is that this policy is based on the concept that once a "structure" is served one must reserve a treatment capacity for the maximum potential use of the structure.

Based upon this approach the allocated capacity of the BFH plant can be calculated as shown in the following analysis:

<u>Wastewater Source</u>	<u>Allocation Basis</u>	<u>Allocated Flow</u>
AT&T Long Lines:	Square footage, Visitors Meals Chiller and HVAC blowdown	98,750 GPD
Far Hills Borough	110 ¹ SFP x 3.5 per/du x 100 GPCPD	38,500 GPD
Bedminster Village	170 ¹ SFR x 3.5 per/du x 100 GPCPD	59,500 GPD
	Total	<u>196,750 GPD</u>
Net unallocated capacity		203,750 GPD <u>-196,750 GPD</u> 7,000 GPD

Environmental Disposal Corporation

There is little or no possibility that this allocated capacity can be relinquished or reduced. The unit type, persons per dwelling unit, per capita gallonage, etc. are conventions of sanitary engineering practices approved by the NJDEP. As long as these structures exist and are serviced by the treatment plant there is no tenable rationale for reallocating this capacity. The existence of infiltration problems only makes reallocation less likely.

The sewer service required to meet the needs of any site identified with a Mount Laurel II housing obligation in the Bedminster Village area would require an expansion of the treatment plant. If Bedminster wants to implement a economically feasible solution which may create an additional 50,000 GPD of capacity then the following scenerio should be explored:

1. Expand the equalization zone to include the 65,000 GPD chemical sludge holding zone.
2.
 - a) Move the chlorine application point to the inlet of the denitrification wet well
 - b) induce greater Cl₂/ effluent mixing in the wet well
3.
 - a) Place programmed electricly activated valves on the Aqua jet desludge lines.
4. Redesign/reconstruct filters to handle 350,000 GPD

A creative engineer, a willing township, and judicial approval might make this palatable to NJDEP. It is possible for these modifications, given the appropriate circumstances, to be constructed in a cost effective fashion in a period of time in compliance with the 1990 time frame of current interest.

NEIL V. CALLAHAN

1007 Chambers Court
Bridgewater, New Jersey 08807

Telephone: (201) 526-7613

Education: Rutgers University, Cook College; Phd. Candidate Environmental Science
Rutgers University, Cook College; M.S. Environmental Science; 1982
Middlesex College, Environmental Science; 1977
Rutgers University, Cook College; B.S. Environmental Science; 1976

Professional Experience: Employer: Environmental Disposal Corporation
1982

to Present Position: President

Present

Job Description:

President and Chief Executive Officer of a privately owned wastewater treatment utility. Utilities Operator of Record. Utilities Policy, Permit and Function administrator, and technical policy advisor. Utilities liason with consulting engineers, and council. Project Manager for treatment plant construction.

Responsibilities:

Policy Administrator /Advisor;

Serving as an advisor to the Board of Directors on matters involving Operations and Process Technology; Planning and directing the implementation of policies established by the Board of Directors.

Function Administrator;

Designing, planning and directing the overall programs of treatment plant: (1) Operation and Maintenance (2) Process control (3) Laboratory operations (4) Employee training (5) Emergency management systems development (6) Manual preparation (7) Purchasing

Permit Administrator:

Developing and directing procedures to meet discharge requirements; Interfacing with regulatory agencies for assured compliance with operational standards.

Liasion Duties:

In-house management of consulting engineering projects, and legal activities.

Project Manager:

Project responsibilities for the construction of a tertiary wastewater treatment plant; Lead permit identification, permit application development and submittal, and permit tracking; Project cost control; design debugging.

NEIL V. CALLAHAN

1007 Chambers Court
Bridgewater, New Jersey 08807

Telephone (201) 526-7613

1978
to
1982

Employer: Bedminster Sewage Treatment Works
Position: Plant Manager/Operator

Job Description:

Plant manager of a municipally owned, advanced wastewater treatment utility. Operator of record with direct responsible charge for all aspects of operation and maintenance. Authorized agent for administration of N.J.D.E.P. and U.S.E.P.A. permits. Utility representative for public hearings and municipal meetings. Utility liaison with consultant engineering firms, council, and auditors.

Responsibilities:

Budget development; State and Federal reporting requirements; Review of proposed regulations; Bid specifications; Development and implementation of preventative maintenance program; Process control; Laboratory management; Report preparation and presentation; Pilot studies design for process optimization; Project manager of upgrading and expansion projects.

1976
to
1978

Employer: R.H. Schindelar & Associates
Position: Engineering Technician

Job Description:

Supervisor of operation and maintenance of three activated sludge wastewater treatment plants, and collection systems; Field technician for optimization/upgrading studies of industrial and public wastewater treatment facilities; Supervisor for water/wastewater analysis laboratory, industrial waste sampling surveys, and industrial waste treatability studies.

Professional
Organizations: New Jersey Water Pollution Control Association
New Jersey Public Works Association
National Association of Environmental Professionals

Licenses: Licensed (S-1) N.J. Sewage Treatment Plant Operator
Licensed (First Grade) N.J. Sanitary Inspector
Certified Laboratory Manager N.J.D.E.P.

NEIL V. CALLAHAN

1007 Chambers Court
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Qualifications Brief

The following is a representative sample of the undertakings that I have been responsible for in the positions I have held. These experiences are to illustrate the scope of my professional qualifications:

- Directed the punch listing, started-up, and debugging of two tertiary wastewater treatment plants
- Established process operations systems
- Developed maintenance and operating logs, and permit compliances reporting systems
- Set up preventative maintenance programs
- Established contract maintenance schedules
- Established vendor accounts for parts and supplies
- Set up Laboratory procedures for certified NPDES lab
- Developed Emergency Management Plans

- Served as Project manager for a three million dollar pollution control project
- Optimized activated sludge process to minimize sludge production
- Proposed land application system for sludge disposal
- Developed alternate process for phosphorus removal, reducing costs 50 plus percent
- Selected alternative equipment to minimize or eliminate problematic operational areas and/or equipment downtime
- Developed an energy efficient aeration system

- Negotiated intermunicipal service agreements
- Negotiated technology based tertiary effluent standards with N.J. D.E.P.
- Submitted changes to draft environmental regulations that have been incorporated in the final regulations
- Tracked Environmental permits through the permitting processes

- Authored or co-authored two technical reviews of advanced wastewater treatment plants for testimonial proceedings
- Trouble shot dozens of public and industrial water and wastewater systems

APPENDIX C

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PETER J. LYNCH

April 6, 1984

George M. Raymond, AICP, AIA
Raymond Parish, Pine & Weiner, Inc.
555 White Plains Road
Tarrytown, New York 10591

Dear Mr. Raymond:

This letter will supplement our oral responses to your questions in which I reported to you the position of Bedminster Township with respect to the issues involving sewer capacity availability in the Township.

EDC Expansion

Bedminster Township will support the application of Environmental Disposal Corporation to increase its capacity at its plant in Bedminster Township.

The assumption of this offer is, of course, that the capacity so generated and made available will be adequate

to support the lower income set-aside units provided in the revised development regulations of Bedminster Township, to be put into effect as the result of the proceedings before Judge Serpentelli. The Township believes this is a far better alternative for making lower income units realistically possible than rezoning the property on which Mr. Dobbs has an option, which the municipality wants to acquire for park and other municipal purposes.

When the EDC plant was initially proposed and designed, the Township reviewed the plans to make sure that the plant could be expanded, if necessary. Additionally, the Township insisted that the franchise area include all of Pluckemin. The Township has from the beginning taken a consistent position that the Hills/EDC is the appropriate mechanism to provide sewerage capacity.

Bedminster Plant

The application for the permit listed the following:

AT&T	98,750 gal
Far Hills	35,000
Bedminster	<u>70,000</u>
	<u>203,750 gal</u>

This is the "rated capacity" of the plant.

We understand the "allocated capacity" to be the following:

AT&T	98,750
Far Hills	38,500
Bed. Village	<u>59,500</u>
	<u>196,750</u>

Accordingly, the unallocated capacity is:

Design:	203,750
Allocated:	<u>196,750</u>
	<u>7,000</u>

The Malcolm Pirnie \$201 report, which has been accepted by Somerset County, lists the Bedminster Plant as "not to exceed 255,000 gal/day," for purposes of applying for federal funds. As you know, the exact status and force of \$201 planning is uncertain: in any event, we do not believe it is being used to limit any construction or discharges.

The Far Hills infiltration problem is two-fold:

- (1) Some storm sewers were found to be flowing directly into the sewer collector system.
- (2) Infiltration of ground water is occurring directly into the collection system.

Far Hills has contracted to have the storm sewer problem corrected. This should be complete by the end of the summer. The contract between the Township and Far Hills provides for only 35,000 gal/day. This can and will be enforced.

The Township has already begun the formal studies necessary to apply for and expand the capacity of its treatment plant, if necessary for Mt. Laurel compliance: Kupper Associates in late 1983 found the river can absorb significant additional discharges with no adverse consequences, and concluded that an expansion at the Bedminster plant of +200,000 gal/day is very feasible.

The Township intends to pursue this proposal, once the uncertainties of the litigation are resolved.

The Township has already taken some steps to implement an upgrading/expansion program. The Township has approved funds for the expansion of the equalization tanks. This, plus some additional steps, could generate an additional 50,000 gal/day at relatively small cost. The Town will shortly consider other elements of a three year capital expenditure plan for the plant. The great uncertainty now is of course the litigation and the conflicting claims of the parties.

Dobbs' Site as a Spray Disposal Field

The Township wants to purchase (and will use condemnation, if necessary) some or all of the Dobbs site. Because of the very dense development that will occur in the Corridor, park land and open space is needed.

Many studies have shown that the Dobbs' site contains

good soils for spray application. Accordingly, the Township will undertake to make available whatever portion of the Dobbs' tract is necessary for a spray field to accept any excess effluent from the EDC plant or the Township plant which cannot be discharged to the North Branch of the Raritan River because of environmental or administrative limitations.

* * *

For your information, we enclose copies of:

- (1) Contract, AT&T/Bedminster, May 19, 1975, regarding Bedminster Plant.
- (2) Contract, Far Hills/Bedminster, January 26, 1979, regarding allocation of 35,000 gal/day to Far Hills.
- (3) Report, CFM, Inc., regarding Infiltration, Far Hills, June 8, 1983.
- (4) Letter (1/5/84) and Reoprt (12/28/83) Yannoccone, Murphy & Hollows, Inc., regarding Far Hills Infiltration.
- (5) Letter (11/10/83) and Report (October 1983) of Kupper Associates regarding Biological Survey of North Branch.

Sincerely yours,


Alfred L. Ferguson

ALF/nw Encs.

cc: Honorable Eugene D. Serpentelli
All Counsel of Record
Richard T. Coppola

APPENDIX D

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March 19, 1984

Re: Allan-Deane v. Bedminster Township
Docket Nos. L-36896-70 P.W.
L-28061-71 P.W.

The Honorable Eugene D. Serpentelli
Superior Court of New Jersey
Ocean County Court House
Toms River, New Jersey 08753

My dear Judge Serpentelli:

This letter sets forth the position of Bedminster Township with respect to the issues to be discussed at the March 22, 1984 conference.

Fair Share Number

Richard Coppola has recalculated Bedminster Township's fair share number using the consensus methodology which has recently been developed in the Urban League case. Mr. Coppola has orally advised us that the resultant 1990 fair share number is 772* without any adjustment for wealth. With the wealth adjustment, we estimate ±820 [to be verified].

* 37 indigenous, 685 prospective, and 50 (1/3 x 151 by 1990) present.

We object to, and do not agree to, the wealth adjustment. A report on these calculations will be prepared by Mr. Coppola in time for the conference scheduled for March 22, 1984. His report could not be submitted sooner, since the Urban League consensus methodology was, as you know, developed only very recently, and in addition, Mr. Coppola has been on vacation last week.

"Top of Mountain" Rezoning

The Township has agreed to rezone the "Top of the Mountain" which is owned by Hills Development, to the PRD-8 zone, subject to the limitation that the total number of units developed on that parcel not exceed 900. We believe that 900 units is a good estimate of the number of units that would be permitted under the PRD-8 zoning provisions. Because of the unknown nature of the slopes, detailed site analysis might produce anomalous results. The Township firmly believes that a cap of 900 units is necessary and appropriate in view of the location of this property. This area is subject to the 20% set-aside, for 180 lower income units. All lower income units would be on site on the top of the mountain.

Other Zoning for Mt. Laurel Compliance

Other zoning for Mt. Laurel compliance will include the present PUD zone, containing sites H, I, J and K, subject to a 20% set-aside requirement. The present MF zone for site L will also be retained, subject to a 20% set-aside requirement. Site D will be retained PRD-6, and site C will be retained as MF, both subject to the 20% set-aside. Finally, the Township will assist in the establishment of a nonprofit corporation for the purpose of funding a senior citizens' housing project. Prior discussion concerning a possible senior citizens' housing project focused upon Site E. However, the Township has concluded that any senior citizen housing should be located in Pluckemin Village. Accordingly, sites L and N will be designated for senior citizen housing as an alternative use in Pluckemin Village. We estimate that a senior citizen housing project of at least 125 units could be accommodated on these sites.

In summary, Bedminster Township's proposed compliance strategy to meet the estimated 772/820 number is as follows:

<u>SITES</u>	<u>TOTAL UNITS</u>	<u>"MT. LAUREL" UNITS</u>
C	165	33
D	36	7
H	449	90
I	257	51
J	599	120
K	1,287	260
L	177	35
M	900	180
N	125*	125*
TOTALS:	3,995	891

* Assumes senior citizen housing at 100% credit 76'

In view of the reduced fair share number calculated by Mr. Coppola pursuant to the Urban League consensus methodology and the proposed rezoning of the Top of the Mountain, Bedminster Township proposes to delete certain sites presently designated for multi-family housing and Mt. Laurel compliance. These are sites A, B, E, F and G. The Township is presently considering what contribution to Mt. Laurel compliance, if any, these sites should make, if they are developed in anything other than low density single-family units.

The basic compliance strategy which the Township proposes focuses Mt. Laurel compliance in the vicinity of Pluckemin Village. This area is at present the most appropriate for multi-family zoning, since it is within the sewer franchise area of the Environmental Disposal Corporation. This facility presently has unused capacity, and this capacity could also be increased. In contrast, the various sites in the vicinity of Bedminster Village, which were previously included in the proposed compliance strategy, would have to be served by the Bedminster treatment facility. This facility would have to be expanded in order to accommodate substantial additional development within its service area. Bedminster Township recognizes the possible need for an expansion of this plant. The Township, however, believes that an expansion of that facility should not be undertaken precipitously; rather it should only result from careful study and planning.

The Dobbs' Property

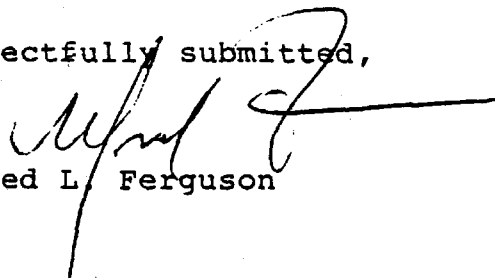
Bedminster Township rejects the suggestion that the Dobbs property be rezoned for multi-family housing or

mixed use for Mt. Laurel compliance. Not only is such a rezoning unnecessary in order for Bedminster Township to satisfy its Mt. Laurel obligation, but, more importantly, it would be completely contrary to the Township's long-standing proposal to acquire this property, or a portion thereof, for open space and municipal purposes. The Township has concluded that the acquisition of all or a portion of the Dobbs property for open space and municipal purposes is now imperative in view of the tremendous amount of development which will occur as a result of the Township's zoning for Mt. Laurel compliance. As discussed above, this high density zoning will be concentrated at present in the Pluckemin Village area, and it is likely that high density zoning will ultimately be put in place in the Bedminster Village in the near future. The Dobbs property is located between these two village centers; thus it is a particularly appropriate area for municipal facilities and open space purposes. It would serve to separate these two areas, and it would be accessible to residents of both areas. In addition, portions of the property contain flood plains and other environmentally sensitive lands which should be preserved in any event. The Township therefore is initiating steps to acquire the Dobbs property and the power of eminent domain will be utilized if necessary.

* * *

We are convinced that the compliance strategy developed by Bedminster Township represents a reasonable and logical approach to the solution of its many land use problems and opportunities. The high density housing for Mt. Laurel compliance is placed in the area most suitable and available for development, and sewers will be available. Although the Dobbs property is excluded from this compliance strategy, there are sound planning and policy reasons for that decision. Most importantly, we must emphasize that the decisions with respect to the location of sites to be zoned for Mt. Laurel compliance are in the first instance a matter for the discretion and judgment of municipal officials. That decision is subject to judicial review only to insure that the selected sites do in fact provide a realistic opportunity for the satisfaction of the fair share obligation. Once that test has been met, however, the Court should not substitute its judgment for that of the municipal officials. This is particularly important in a case, such as the present one, where the Township has fully cooperated in an effort to comply with its Mt. Laurel obligation and settle the litigation.

Respectfully submitted,


Alfred L. Ferguson

ALF/nw

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