

RULS-AD-1984-300

- Appendix to memo in support of
Dobb's right to builder's remedy

Pgs. 433

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY

-----x
 ALLAN-DEANE CORPORATION, :
 et al. :
 Plaintiffs, :
 v. :
 TOWNSHIP OF BEDMINSTER, :
 et al. :
 Defendants. :
 -----x

Docket Nos. L-36896-70 P.W.
L-28061-71 P.W.

CIVIL ACTION

APPENDIX TO MEMORANDUM OF LAW IN SUPPORT OF
LEONARD DOBBS' RIGHT TO A BUILDER'S REMEDY

WINNE, BANTA, RIZZI,
HETHERINGTON & BASRALIAN
25 East Salem Street
Hackensack, New Jersey 07601
(201) 487-3800
Attorneys for Leonard Dobbs

Of Counsel:

Joseph L. Basralian

On the Brief:

Donald A. Klein

TABLE OF CONTENTS

Exhibit

- A Dobbs' Complaint dated November 5, 1980
- B Stay Order of July 17, 1981
- C Dobbs' August 16, 1982 Submission
- D Township's February 24, 1983 Green Acres Application
- E Dobbs' Memorandum of Formal Objections to the Township's Green Acres Application
- F Dobbs' June 14, 1983 Submission
- G Proposed Amended and Supplemental Complaint in Lieu of Prerogative Writ
- H Letter dated September 22, 1983 from the Township to Green Acres
- I Case Management Order of November 3, 1983
- J Relevant Excerpts from August 1983 Document Entitled "Master Plan Program, Part III, Housing Element"
- K Letter dated November 17, 1983 from Peter J. O'Connor to the Court
- L Relevant Excerpts from Dr. Wallace's Report of December 5, 1983
- M Relevant Excerpts from George Raymond's Draft Report of December 23, 1983
- N Letter dated December 29, 1983 from Peter J. O'Connor to George Raymond
- O Relevant Excerpts from Dobbs' January 3, 1984 Submission
- P Relevant Excerpts from George Raymond's Final Report of January 10, 1984
- Q Dr. Hordon's January 13, 1984 Report
- R Dr. Wallace's Submission of January 13, 1984
- S Dr. Wallace's January 20, 1984 Critique of the Final Raymond Report

Exhibit

- T Memorandum of The Honorable Eugene D. Serpentelli dated January 30, 1984
- U Dr. Wallace's Report of February 7, 1984
- V Dr. Hordon's Report of February 7, 1984
- W Letter dated February 7, 1984 from Joseph L. Basralian to the Court
- X Letter dated March 19, 1984 from Alfred Ferguson to the Court
- Y Relevant Portions from Richard Coppola's Fair Share Housing Analysis
- Z Dr. Wallace's Report of March 30, 1984
- AA Dr. Hordon's Report of March 27, 1984
- BB George Raymond's April 11, 1984 "Compliance Report"
- CC Letter dated April 11, 1983 from Joseph L. Basralian to the Court
- DD Certification of Leonard Dobbs in Support of Motion to Intervene Dated May 10, 1984
- EE Complaint in Lieu of Prerogative Writ dated May 10, 1984
- FF Transcript of the May 25, 1984 Proceeding
- GG Case Management Order of June 11, 1984
- HH Proposed Compliance Agreement Between the Township and the Public Advocate
- II Report of Richard Coppola Entitled Bedminster Township Meeting its "Mt. Laurel II" Housing Obligations
- JJ Letter dated July 17, 1984 from Joseph L. Basralian to the Court
- KK Letter dated August 3, 1984 from The Honorable Eugene D. Serpentelli

WINNE, BANTA, RIZZI & HARRINGTON
25 EAST SALEM STREET
HACKENSACK, NEW JERSEY 07602
(201) 487-3800
ATTORNEYS FOR Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY

LEONARD DOBBS,

Plaintiff,

vs.

TOWNSHIP OF BEDMINSTER,
a Municipal Corporation,

Defendant.

Docket No.

CIVIL ACTION

COMPLAINT IN LIEU
OF PREROGATIVE WRIT

Plaintiff LEONARD DOBBS, residing at 111 Central Avenue, Lawrence, New York, by way of Complaint against the defendant, says:

FIRST COUNT

1. Plaintiff Dobbs is the contract purchaser of a tract of land consisting of approximately 200 acres located on River Road in the defendant TOWNSHIP OF BEDMINSTER, which tract is located to the immediate west of the junction of River Road and Routes Nos. 202-206 in said township.

2. Defendant township is a municipal corporation organized and existing under the laws of the State of New Jersey and is a developing municipality within the meaning of the decisional law of the State of New Jersey.

3. Pursuant to an Order of the Superior Court of New Jersey, Law Division, Somerset County, in the action bearing Docket Nos. L-36896-70 P.W. and L-28061-71 P.W., entitled "Allan-Deane Corporation, et al. v. The Township of Bedminster, et al.", defendant township has recently undertaken to formulate and adopt a revised zoning and land use ordinance, entitled "THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF BEDMINSTER" [hereinafter "zoning ordinance"] for the purported purpose of regulating and limiting the use and development of land within its boundaries and to effect certain rezoning of the lands consisting of the so-called corridor of land to the immediate east of Routes Nos. 202-206 within the defendant township so as to provide for an appropriate variety and choice of low and moderate income housing as required by said Order of the Court.

4. As the result of the aforesaid rezoning and the increased residential development to be permitted by it, the total population of defendant township will necessarily undergo an increase in the immediate future.

5. The area occupied by defendant township contains a number of major arteries of traffic, including interstate and state highways, which not only will result in an increase in the

population of defendant township but also will significantly affect the character, orientation and economic perspective of defendant township.

6. The true developing corridor of land within the defendant township consists of the areas both to the east and west of Route Nos. 202-206 and has been designated as such in the Somerset County Master Plan and the New York Regional Plan, and there is evidence of a further developing corridor of land on both sides of Interstate-78 both to the east and west of Interstate-287.

7. The increased employment and economic growth which will result from development of the aforesaid corridors must be responded to by the defendant township by provision for increased services.

8. Plaintiff has requested that the defendant township give consideration to the provision for a regional retail and commercial development district or districts within said township said district or districts to be located in the area of the tract of land for which plaintiff is the contract purchaser, because such land, by virtue of its proximity to the aforesaid major arteries of traffic, is ideally situated above all other tracts within the defendant township for such uses.

9. Defendant has failed to respond in any manner to such request by plaintiff, has not rezoned the tract of land for which plaintiff is the contract purchaser and has left said tract in a R-3 Residential zone.

10. Further attempts by plaintiff to effect a rezoning of the tract of land in question through resort to administrative remedies would be futile in light of the opposition which defendant has made known to the particular uses and zoning changes proposed by plaintiff.

11. The uses and zoning changes proposed by plaintiff as aforesaid are designed to meet not only the current needs of nearby areas in and about defendant township which have been developed, but also the future needs of other nearby areas within defendant township which will be developed pursuant to the zoning ordinance adopted by defendant.

12. The increase in population caused by the development authorized by defendant township in its zoning ordinance and by the presence of the major arteries of traffic described hereinabove will further result in a commensurate increase and expansion in the needs of such population for ancillary uses and services such as those proposed by plaintiff.

13. The uses and zoning changes proposed by plaintiff as aforesaid would be for the public benefit and would serve the general welfare of the defendant township.

14. The zoning ordinance recently adopted by defendant township fails to enact a comprehensive zoning scheme, as it rezones only a small percentage of the total area of the defendant township, and fails to provide for the variety of retail, commercial and other uses which are necessary to serve the uses mandated by the rezoning effected by defendant.

15. Defendant township cannot rely upon the possible development of retail and commercial uses in neighboring municipalities within its region as a purported justification for its failure to provide for such uses in the zoning ordinance adopted by it.

16. Said zoning ordinance fails to adequately fulfill the needs and requirements of the general welfare, and is arbitrary, capricious and unreasonable.

WHEREFORE, plaintiff demands judgment against defendant:

A) Declaring the zoning ordinance adopted by defendant township invalid;

B) Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a regional retail and commercial development district;

C) Awarding the plaintiff his costs of suit and attorneys' fees herein;

D) Granting the plaintiff such further relief as the Court deems just and proper.

SECOND COUNT

1. Plaintiff repeats and realleges all of the allegations contained in the First Count and incorporates same herein by reference.

2. By virtue of its failure to adopt a comprehensive zoning scheme, defendant has failed to plan and zone in a

manner which will promote the public health, safety, morals and general welfare, as mandated by the Municipal Land Use Law, N.J.S.A. 40:55D-2(a).

3. Subsection B of the Land Use Plan contained in the master plan adopted by defendant township states that it is the planning objective of said township:

to contain business activities substantially within their present boundaries."

Said master plan recognizes various purported principles with regard to business and commercial development, which principles are inconsistent with the requirements of the Municipal Land Use Law:

"1. Bedminster's business districts are designed for neighborhood commercial uses only -- small retail and service establishments designed to serve residents of the Township.

"2. Strip commercial development along major highways is hazardous and results in the deterioration of surrounding areas. Provision for roadside restaurants, stores and facilities catering to transient traffic...has been considered and found incompatible with the development philosophies of Bedminster Township and is specifically excluded by this Plan."

Said master plan further recommends, in contravention to the requirements of the Municipal Land Use Law, the following action to implement those and other related principles which are intended to limit retail and commercial development:

"(a) Confining business activities to the provision of retail goods and personal services essential to support nearby residential facilities; and the exclusion of any enterprises which export product, services, or administration beyond the local residential trading areas."

4. Section 405(A) of the zoning ordinance adopted by defendant township, in applying the aforesaid principles by permitting retail and service activities of only a local nature in districts designated as Village Neighborhood districts (which districts occupy only a small area within defendant township), also contravenes the requirements of the Municipal Land Use Law.

5. The master plan and zoning ordinance adopted by defendant township have failed to ensure that land development within defendant township will not conflict with the development and general welfare of neighboring municipalities, the county within which defendant township is located, and the State as a whole, as mandated by the Municipal Land Use Law, N.J.S.A. 40:55D-2(d).

6. The master plan and zoning ordinance adopted by defendant township have further failed to provide sufficient space in appropriate locations for a variety of, among other things, commercial and retail districts in order to meet the needs of defendant's present and prospective population, of the residents of the region in which defendant township is located, and of the citizens of the State as a whole, as mandated by the Municipal Land Use Law, N.J.S.A. 40:55D-2(g).

7. The master plan and zoning ordinance adopted by defendant township have further failed to encourage the proper coordination of various public and private activities and the efficient use of land, as mandated by the Municipal Land Use Law, N.J.S.A. 40:55D-2(m).

8. The master plan and zoning ordinance adopted by defendant township are, in other material respects, inconsistent with and in violation of the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

9. By seeking to contain business and commercial activities within their present territorial boundaries, the master plan and zoning ordinance of the defendant township constitute an illegal and improper zoning scheme.

10. As the result of the foregoing deficiencies and shortcomings, the master plan and zoning ordinance of the defendant township are inconsistent with and contrary to the purposes and intent of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

11. Also, as a result of the foregoing, the master plan and zoning ordinance of the defendant township are inconsistent with and contrary to the purposes and intent of the Master Plan of the County of Somerset.

WHEREFORE, plaintiff demands judgment against defendant:

A) Declaring the master plan and zoning ordinance of the defendant township invalid;

B) Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a regional retail and commercial development district;

C) Awarding the plaintiff his costs of suit and attorneys' fees herein;

D) Granting the plaintiff such further relief as the Court deems just and proper.

THIRD COUNT

1. Plaintiff repeats and realleges all of the allegations contained in the First and Second Counts and incorporates same herein by reference.

2. As a developing municipality, defendant township has the obligation not only to make possible an appropriate variety and choice of housing, but also to make possible, within its boundaries, an adequate and broad variety of facilities which would serve the needs of defendant's present and prospective population and that of its immediate region.

3. The zoning ordinance adopted by defendant township fails to comply with the foregoing obligation and is, as a result, invalid.

WHEREFORE, plaintiff demands judgment against defendant:

A) Declaring the zoning ordinance adopted by defendant township invalid;

B) Compelling a rezoning of the tract of land for

which plaintiff is a contract purchaser to a regional retail and commercial development district;

C) Awarding the plaintiff his costs of suit and attorneys' fees herein;

D) Granting the plaintiff such further relief as the Court deems just and proper.

FOURTH COUNT

1. Plaintiff repeats and realleges all of the allegations contained in the First, Second and Third Counts and incorporates same herein by reference.

2. Under the provisions of the zoning ordinance adopted by defendant township, the tract of land for which plaintiff is a contract purchaser is zoned exclusively for residential purposes.

3. Said tract lies in the immediate vicinity of major traffic arteries and public thoroughfares, and its highest and best suited use is for regional retail and commercial purposes.

4. The present classification of plaintiff's property, prohibiting its use for regional, retail and commercial purposes is arbitrary and unreasonable in that it bears no reasonable relation to the public health, safety and welfare of the defendant township and its inhabitants.

5. For the reasons set forth hereinabove, said zoning ordinance, as applied to plaintiff's property, constitutes an improper and unlawful exercise of the police power delegated to

the defendant township, depriving plaintiff of his property without just compensation or due process of law, and the said zoning ordinance is unconstitutional, null and void.

WHEREFORE, plaintiff demands judgment against defendant:

A) Declaring the zoning ordinance adopted by defendant invalid;

B) Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a regional retail and commercial development district;

C) Awarding the plaintiff his costs of suit and attorneys' fees herein;

D) Granting the plaintiff such further relief as the Court deems just and proper.

FIFTH COUNT

1. Plaintiff repeats and realleges all of the allegation contained in the First, Second, Third and Fourth Counts and incorporates same herein by reference.

2. The proximity of plaintiff's property to major traffic arteries and public thoroughfares renders it impossible to utilize said property for residential purposes as said property is presently zoned, because residential development near such traffic arteries and public thoroughfares is economically impractical, especially given the lot area required by the

zoning ordinance adopted by defendant for the district in which plaintiff's property is located.

3. Such residential development is rendered further impracticable by virtue of the fact that soil conditions on plaintiff's property would require either the use of off-site sewerage treatment, which type of treatment is not possible for the residential development which would be required under the present zoning of plaintiff's property, or economically impractical on-site sewerage disposal systems.

4. As a direct result, the operation of a zoning ordinance adopted by defendant has so restricted the use of plaintiff's property and reduced its value so as to render said property unsuitable for any economically beneficial purpose, which constitutes a de facto confiscation of said property.

5. For the reasons set forth hereinabove, said zoning ordinance is unconstitutional, null and void in that it deprives plaintiff of the lawful use of his property without just compensation or due process of law.

WHEREFORE, plaintiff demands judgment against defendant:

A) Declaring the zoning ordinance adopted by defendant invalid;

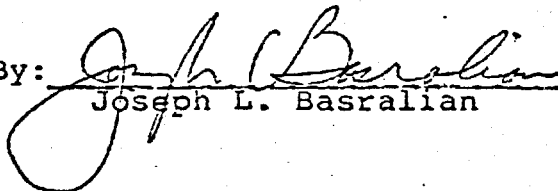
B) Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a regional retail and commercial development district;

C) Awarding the plaintiff his costs of suit and attorneys' fees herein;

D) Granting the plaintiff such further relief as
the Court deems just and proper.

WINNE, BANTA, RIZZI & HARRINGTON
Attorneys for Plaintiff

By:


Joseph L. Basralian

Dated: November 3, 1980

BRENER, WALLACK & HILL

15 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540
(609) 924-0808
ATTORNEYS FOR

Plaintiff

LEONARD DORBS

vs.

Defendant

TOWNSHIP OF BEDMINSTER
THE HILLS DEVELOPMENT COMPANY, Intervenor -
Appellant

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
SOMERSET COUNTY

Docket No. L-12502-80

CIVIL ACTION
ORDER

This matter having been opened to the Court by Brener, Wallack & Hill, attorneys for Intervenor-Appellant Hills Development Company on application for an Order staying the proceedings pending resolution in the appeal of Hills Development Company from the Order entered on March 2, 1981 by the Honorable Wilfred P. Diana, and the application having been submitted for ruling on the papers pursuant to Rule 1:6-2 and this Court having considered the papers submitted in support of the Motion, and it appearing to the Court that this appeal should be decided before any further proceedings in this case occur, and good cause having been shown;

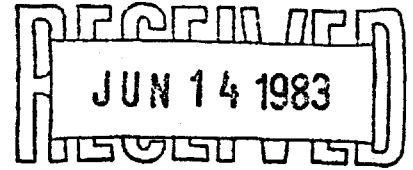
It is on this 17th day of July, 1981

RRS

ORDERED that further proceedings in this case be stayed until the Superior Court, Appellate Division, rules upon the appeal of the Hills Development Company, except for motions scheduled for July 31, 1981

Robert E. Gaynor
ROBERT E. GAYNOR, J.S.C.

Leonard Dobbs
111 Central Avenue
Lawrence, New York
11559



August 16, 1982

Planning Board of the Township of Bedminster
J. William Scher, Chairman
Administrative and Executive Offices
Hillside Avenue
Bedminster, New Jersey 07921

Dear Mr. Scher and Board Members:

Thank you for allowing Dr. Wallace and me the time on Wednesday evening, July 28, 1982, to submit to you an alternative proposal for the development of my property in your community. At that time we left certain documents with you illustrating corridor definitions as made by various planning agencies and a proposed concept plan in diagrammatic form. A copy of the concept plan is enclosed for your reference. That submission is in addition to the eight reports delivered to the Master Plan Subcommittee, February 12, 1982, outlining the work of the consultants who have reviewed various aspects concerning the physical development of the Site. These reports, a list of which is attached, are a matter of record within the Township.

The purpose of this letter is to summarize our presentation and my proposal in a concise manner in an effort to assist you in your deliberations.

The Corridor

It is clear from the reading of your Part I — Background Studies, dated April 1982, the Court's concept of the corridor was that it would "straddle" Routes 202-206. It in fact does so except on the Site. The Tri-State Regional Planning Commission, the State Development Guidelines and the Somerset County Master Plan each include all or most of the Site within the "developing corridor." Judge Leahy stated with regard to the corridor ". . .the Zoning within the Corridor. . .is not easily justified. . . the County Master Plan anticipates Village Neighborhood development on both sides of Routes 202-206. . .unless in specific areas and for specific reasons such densities would constitute improper land use development." The Judge then exempted the Site from the Corridor reportedly ". . .based on the proofs submitted to us as to the ecological sensitivity of the area. . .this Court accepts the decision of the municipal officials (emphasis added) as to the provisions, locations, and extent of the R-3 zone."

This decision was based on misinformation presumably derived from the gross data used by the Township. On a "site-specific" basis more detailed information shows that the Site has little limitation for development other than for those uses that require on-site septic systems. Moreover our studies have shown that all negative environmental impacts that may be anticipated in connection with the development of the Site as proposed can be adequately dealt with by appropriate mitigating actions.

212-327-2400

EXHIBIT C

The Proposal

The proposed uses for the Site are as follows:

Use	Acres
Commercial	112
Hotel/Conference Center	20
Residential	30
Municipal Facilities	20
Open Space	29
Total	211

The Commercial Area would be utilized for a retail center of 850,000 to 950,000 square feet. If the appropriate major retailers are not forthcoming for the retail center, it would be my intention as part of this alternative to develop the commercial area as a Corporate Office Park.

A 250 to 300-room "campus-style" Hotel/Conference Center would be built on the 20-acre portion of the Site furthest north. Efforts will be made to have the tennis courts, swimming pool and other physical fitness facilities attendant to this use open to the community on an appropriate basis.

Three hundred townhouses or other appropriate low-rise dwelling units would be built on the western portion of the Site. This housing would not be built for at least ten years and the parcel would be available during that period for a mutually agreeable Township use.

Twenty acres at the southwestern corner of the Site (with 900-foot-approximate frontage on River Road) would be donated to the Township for a Municipal Facilities Center.

Approximately twenty-nine acres (all the land from River Road south to the North Branch of the Raritan River) would be dedicated as open space for passive recreation purposes. This area will be in addition to the "green acres" easement along the Route 202-206 boundary of the Site.

I propose that the Planning Board and the Township zone the entire 211-acre Site Planned Unit Development (PUD) in a manner to allow the above to take place. With the Site zoned PUD the Planning Board, together with all other appropriate commissions or authorities, will be able to participate in every step of the Site's development—a process that my consultants and I would anticipate and welcome.

The use of the Site as proposed in this alternative locates various centers of activity near traffic access points of high quality, i.e., the Interstate system and the non-residential, undeveloped portions of Routes 202-206. The planning principle is to put relatively intensive development on property where traffic capacity already

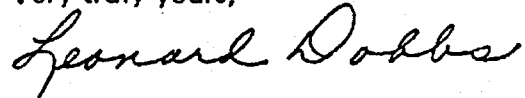
exists rather than string out development along a highway where other major changes in the road network become necessary. There are, of course, certain traffic modifications required to provide a high level of service for the Site. They are feasible and their cost will be borne by me.

Concentrating commercial use on the Site absorbs and tends to preclude the pressure for strip commercial development. The proposed use of the Site reduces the threat of sprawl. The opportunity to plan the use of a large tract of land assures the community the ability to deal with environmental concerns in a coordinated, highly-skilled and sensitive manner.

As I have demonstrated, a project of this scale can afford to contribute in ways, other than taxes, to the long-term benefit of the community and I am prepared to cooperate with you in that pursuit.

My consultants and I welcome any comments you may have with regard to this proposal and stand ready to respond to any question concerning the material that has been submitted.

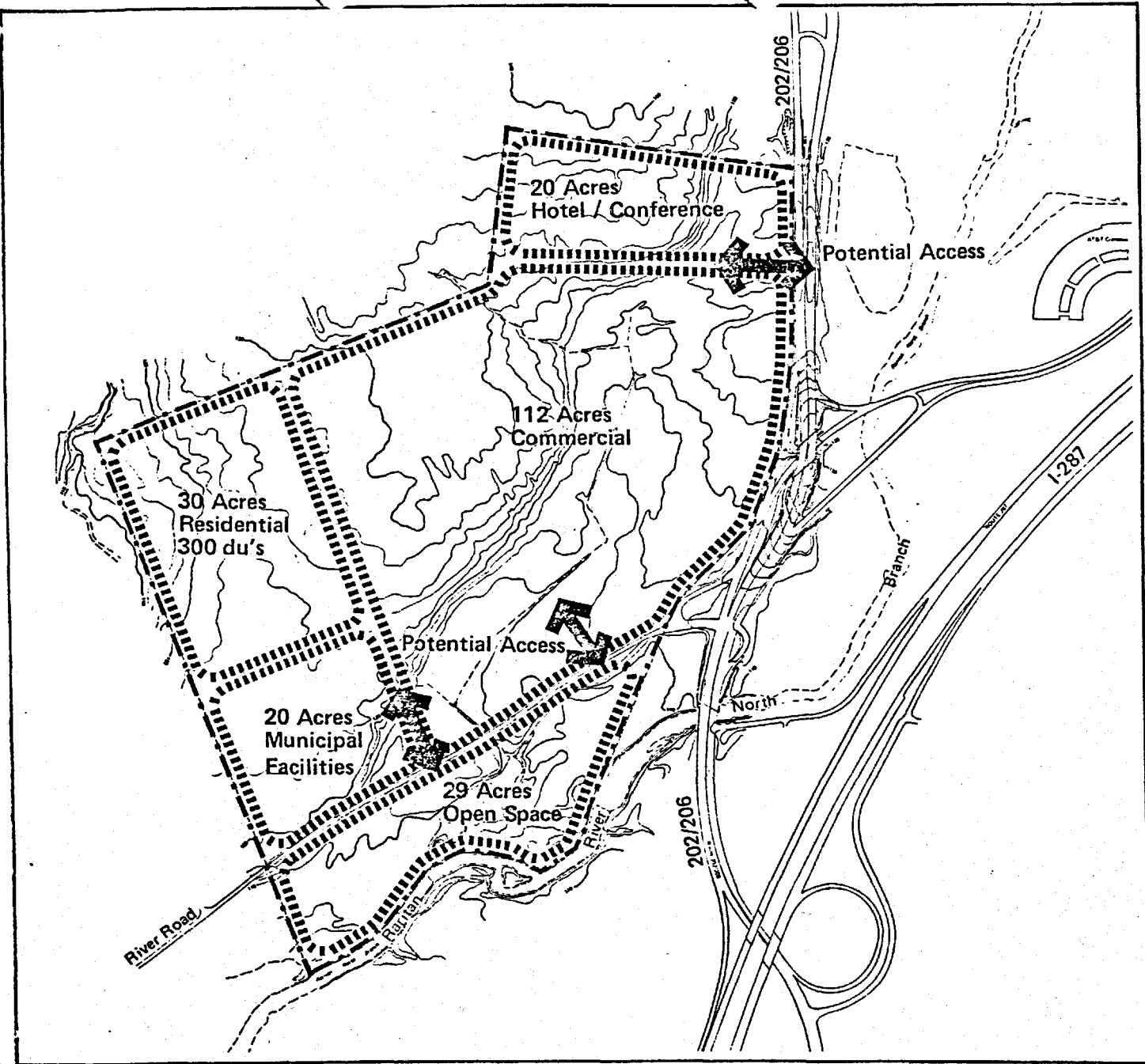
Very truly yours,



Leonard Dobbs

LD:md

Enclosure



Proposed PUD

July 1982

BEDMINSTER CENTER

SOMERSET COUNTY
NEW JERSEY

WRT
Waters, Roberts and Todd



For DEP Use
Date Received _____
App. No. _____

Application for local financial assistance pursuant to the Green Acres and Recreational Opportunities Program and in conformance with Rules and Regulations adopted under the Administrative Procedures Act.

ACQUISITION APPLICATION

Complete in full and submit two copies including all attachments to:

The Green Acres Local Assistance Program
Department of Environmental Protection
P.O. Box 1390
Trenton, New Jersey 08625

1. Project Title: River Road Park

2. County Somerset 3. a. State Legislative District that site is located in: 16th

b. Congressional District: 12th

4. Applicant's Federal Identification Number as assigned by Internal Revenue Service: 182-1644

5. Applicant

Name Township of Bedminster

Address Hillside Avenue

Bedminster, New Jersey 07921

Attention: Mr. John Schoenberg, Township Administrator

Area Code 201 Telephone Number 234-0333

Chief Executive Officer Mr. Paul F. Gavin, Mayor

6. Type of Acquisition Application: Acquisition in fee simple
 Acquisition of less than fee (Easements)
 Both

7. Location of site:

Street and other physical features northwest corner River Rd. and Rtes. 202/206

8. Size of Site: 227 ± acres

9. Estimated cost of project: \$ 3,000,000.00 Total

\$ 1,500,000.00 Green Acres Assistance Request

WINNE, BANTA & RIZZI, ESQS.
25 East Salem Street
Hackensack, NJ 07602
Attorneys for Leonard Dobbs - Objector
to Bedminster Township's Application

-----x
:
In the Matter of the Application of :
the TOWNSHIP OF BEDMINSTER for :
local financial assistance pursuant :
to the Green Acres and Recreational :
Opportunities Program :
:
-----x

PRELIMINARY STATEMENT

This memorandum is submitted on behalf of Leonard Dobbs in opposition to the application by the Township of Bedminster ("Bedminster" or the "Town"), dated February 24, 1983, for local financial assistance pursuant to the Green Acres and Recreational Opportunities Program and in conformance with Rules and Regulations adopted under the Administrative Program Act. This memorandum supplements our letters dated March 21, 1983 and April 15, 1983, addressed to Ms. Lisa S. Lubow, Grant Administrator.

The undersigned attorneys have requested and do hereby request that there be a hearing or conference with respect to the issues raised by the Application and the opposition thereto, at which hearing they will be able to present the relevant evidence and legal points supplementing this memorandum.

THE LAND AND ITS OWNERSHIP

The land which is the subject of the application is described in the application as located at the "northwest corner of River Rd. and Rtes. 202/206", and contains 227+ acres. Annexed hereto as Exhibit A is a map showing the actual location of the land and the surrounding area. Of the 227 acres, 211 acres (the Land), the bounds of which are indicated on Exhibit A, are owned by KENNETH B. SCHLEY, JR. and RALPH K. SMITH, JR., as Trustees under an agreement dated July 26, 1971, f/b/o Jeannie Byers Rhinelander (now Jeannine Schoeffler) and Serena Schley Rhinelander, (now Serena Bruno) KENNETH B. SCHLEY, JR., ANNE C. STRADLING, RALPH K. SMITH, JR., as nominee under an Agreement dated December 21, 1972 among YALE UNIVERSITY, ST. PAUL'S SCHOOL, MEMORIAL HOSPITAL FOR CANCER AND ALLIED DISEASES AND THE NEW YORK ASSOCIATION FOR THE BLIND and EVANDER D. SCHLEY ("the Owners"). Leonard Dobbs is the grantee of a purchase option extended by the Owners. The Land is due West, across Rtes. 202/206, and directly opposite the world headquarters of the American Telephone and Telegraph Long Lines Division. The said headquarters consists of more than 700,000 square feet of office and commercial space. Between the site of the American Telephone and Telegraph headquarters and the eastern side of Routes 202/206 is 68 acres of parkland, which was given to the Town for dedication as a park. The said parkland has not been developed at all by the Town and contains no facilities. It serves primarily as a water retention

area for the American Telephone and Telegraph headquarters.

As appears from Exhibit A, the Land fronts on Routes 202/206, for a distance of approximately 2800 feet but it is in close proximity to the Junction of I-287 and Route 202/206. The Junction is served by interchanges providing for traffic in every direction to and from the two major highways. The property is also within one mile from the Junction of I-78 and 287, which is also served by a complete interchange system.

The Land is level and fully capable of development for major commercial and residential facilities. It has been so designated by the Somerset County Master Plan, the New Jersey State Development Guidelines, and the Tri-State Regional Planning Commission Development Guide. Contrary to the Township's allegations concerning the property in its application, the Land is not environmentally sensitive in any respect which would inhibit the development of a major commercial and residential project. For a fuller description of the property, reference is hereby made to the planning study, described below, heretofore prepared for Leonard Dobbs by Wallace, Roberts & Todd, Planning Consultants, a copy of which is attached hereto and made a part hereof.

THE MASTER PLAN, ZONING AND RELATED PROCEEDINGS

The zoning of the Land and the adjacent and nearby lands appears on the existing Land Use Plan of the Town, a copy of

which is annexed hereto as Exhibit B. The existing zoning of the Land is "R-3%", "Rural Residence". Its development is restricted to residential uses on lots consisting of a minimum of three acres.

The Town's zoning and its Land Use Plan, particularly as it pertains to The Land and an area in close proximity to it across Routes 202/206 owned by HILLS DEVELOPMENT COMPANY ("HDC") have been the subject of intensive court litigation and other proceedings for many years. More particularly, the lands owned by HDC have been the subject of court litigation in the Superior Court, entitled Allan - Deane Corporation v. Township of Bedminster, which culminated in an opinion by the Supreme Court which is reported at 63 N.J. 591 (1973). That opinion and developments subsequent to it are described further below.

The Dobbs Land is the subject of litigation now pending in the Superior Court, entitled Leonard Dobbs, v. Township of Bedminster which litigation was instituted in November 1980. In that case there are presently pending and have not as yet been determined, certain appeals and cross appeals with respect to the issue of intervention by third parties and the the scope of permissible discovery. With respect to intervention, in essence, the trial court denied motions to intervene filed by all parties, including HDC, whose lands were beyond 200 feet from the Dobbs' Land and granted intervention to all parties whose lands were within 200 feet.

In Dobbs v. Township of Bedminster case, Dobbs seeks, in essence, to rezone the Dobbs Land for commercial development. The litigation was instituted as a result of denials by the Town of applications by Dobbs to include the Dobbs' Land in the re-zoning of lands of the Town pursuant to the judgment rendered in the Allan - Deane Corporation case. The Dobbs application was denied by the Town despite the fact that the Dobbs' Land had been designated as part of the developing area within the community. The applications by Dobbs were first made in 1980. In November, 1980, upon the denial of the said applications, Dobbs instituted the lawsuit described above.

Following the institution of the lawsuit Town officials, Dobbs and his attorneys entered into discussions with respect to the rezoning of the Dobbs Lands. In March, 1981 the Town Planning Board agreed to conduct three special hearings with respect to the rezoning of the Dobbs' Lands. In anticipation of those hearings, Dobbs and his consultants of each major discipline in land use development prepared detailed presentations of the plans for development of the Dobbs Land. The agreement to hold the special hearings was not implemented, due to the fact that the Town cancelled the hearings. Attached hereto and made a part hereof as Exhibit C is a list of the experts reports submitted to the Township.

In June of 1981 the Town advised Dobbs and his attorneys that a new Master Plan would be prepared in September 1981 and that Dobbs would be given an opportunity to make a full and

detailed presentation, to the Master Plan Review Committee re-plans for development of the Dobbs Lands.

The proposed September 1981 meeting of the Committee was postponed repeatedly until the Spring of 1982 when the meeting was finally held. Severe time constraints were placed upon Dobbs, his consultants and attorneys which, among other things, precluded the presentation by the Dobbs consultants of their opinions and findings with respect to the several aspects of the development plan. Subsequent hearings on the proposed revised Master Plan by the full Planning Board also severely limited the scope of the presentation which Dobbs was allowed to make as to his plans for development.

On August 16, 1982, in response to the broader community concerns expressed at a large number of Planning Board and other community meetings held in the Town and attended by Dobbs, he submitted an alternative proposal to the Planning Board. Under that alternative proposal, 79 acres of the Dobbs Lands, which the Town now seeks to acquire and for which the Town has as immediate foreseeable use, would have been made available by Dobbs to the Town for a park and other public purposes. 49 of the said 79 acres were to be dedicated to the Town and 30 acres would have been leased to it for a period of ten years, until the Town and Dobbs had developed an alternate use for it.

During the period of the discussions and negotiations

with the Town described above, and at the request of the Town, Dobbs' attorneys were instructed by him to forebear from further prosecution of the lawsuit.

No formal response has been received from the Town to the said alternative proposal. Town officials have, however, informally advised Dobbs that his proposal has been rejected. In early March, 1983, Dobbs learned of the existing application by the Town for the Green Acres funding.

THE INVALIDITY OF THE GREEN ACRES APPLICATION

It is respectfully submitted that the present application by the Town is essentially an effort by the Town to avoid its duties and responsibilities, under the laws of New Jersey, as declared and construed by the Courts of New Jersey in various court decisions, including Mt. Laurel II. We believe that the Green Acres application is part of a series of dilatory tactics adopted by the Town in an effort to avoid its affirmative obligation to permit responsible and orderly development of the Dobbs Land.

The instant application is purportedly made under the New Jersey Green Acres Land Acquisition and Recreation Opportunities Act ("the Green Acres Act"), N.J.S. 13:8A-1 et. seq. Section 5 of the Green Acres Act, N.J.S. 13:8A-5, sets forth the "Considerations to guide commissioner" in acquisition and development

of lands and in grants to assist local units. The first of the said considerations, stated in subsection a., directs the Commissioner of Environmental Protection to:

"a. Seek to achieve a reasonable balance among all areas of the State in consideration of the relative adequacy of area recreation and conservation facilities at the time and relative anticipated future needs for additional recreation and conservation facilities."

The granting of the instant application would directly contravene the purposes of achieving the "reasonable balance" described above. Achievement of a "reasonable Balance" necessarily requires consideration of:

- a. The relative economic means of the different communities in the State of New Jersey seeking such grants;
- b. The nature of the lands and existing land uses within the several communities seeking such grants; and
- c. The density of the population within such communities seeking such grants.

Upon information and belief, Bedminster is among the wealthiest communities in the State of New Jersey. The mean family income of Bedminster as of 1980, was in excess of \$59,000 annually. The basic information and statistics to document this fact and other related facts have been furnished to Dobbs and his attorneys by Dr. George Sternlieb of the Rutgers University Center for Urban Planning and Research. Fuller and further details can and will be furnished as requested, in written statements or

through oral testimony by Dr. Sternlieb.

With respect to the nature of the land and existing land uses, Bedminster is essentially rural. More than 80% of the land within the Township is either farmland or vacant. The geographical area of Bedminster is approximately 27 square miles and has a population of approximately 800 families.

Subsection b. of Section 5 of the Green Acres Act provides that the Commissioner shall:

"b. Insofar as practicable, limit acquisition to predominantly open and natural land and minimize the cost of acquisition and the subsequent expense necessary to develop such land for recreation and conservation purposes."

While it is true that the lands which the Town seeks to acquire are "open and natural lands", they are "open and natural primarily because of their zoning as Rural Residential, with minimum lots of three acres, while adjoining a major commercial area and within a short distance of the junction of two major interstate highways. Appropriate funds for the acquisition of such lands would disserve the purpose of "minimizing the cost of acquisition. . .". The Owners of the Dobbs Land have no interest whatsoever in selling the Dobbs Land, or any portion thereof to the Town for parkland purposes. They and their attorneys, affirm and, join in the points made in this memorandum. Upon information and belief, the fair value of the Dobbs Land is in excess of \$15,000,000, based upon studies of recently completed sales of

comparable lands in the Town, and other nearby parcels. Further facts with respect to the fair value of the Dobbs Land can and will be presented by Dobbs and his attorneys at any conference or hearing on this application, through the sworn testimony or other submissions of qualified experts.

Subsection c. of Section 5 of the Green Acres Act provides that the Commissioner shall:

"c. Wherever possible, select land for acquisition which is suitable for multiple recreation and conservation purposes."

The Dobbs Lands is not "suitable for multiple recreation and conservation purposes". The Land directly adjoins a commercial road with heavy vehicular traffic and are within a few hundred yards of the junction of two of the principal interstate highways of the State of New Jersey. It is difficult to conceive of any lands within the Town of Bedminster or any other lands in the State of New Jersey which are less suitable for "multiple recreation and conservation purposes" and more suitable for commercial development.

The Town, which seeks the Dobbs Land purportedly for conservation purposes to protect the upper watershed of the Raritan River, has been in violation since 1982 of the discharge standards of the Department of Environmental Protection for its own sewage plant, which is currently under decrees from the State to modernize and install suitable pollution control equipment.

The Town claims that it does not have sufficient resources to upgrade its own sewage plant in order to comply with the law yet at the same time seeks a 1.5 million dollar grant for the acquisition of the Dobbs' Land to which grant the Town must contribute from its own funds the sum of 1.5 million dollars. It is inconsistent on the part of the Town to fail to install pollution control equipment to protect the watershed of the Raritan River while at the same time seeking to acquire the Dobbs Land, a part of which is adjacent to the very river The Town is polluting with its own sewage discharge. In addition thereto, the Town recently made application to enable it to build a public works garage and maintenance facility with the attendant storage facilities for salt and bituminous mix and other road repair materials, upon Lands formerly described as floodplain for the Raritan River, and which designation was changed upon application by the Township despite the objections of its own Environmental Commission.

Subsection d. of Section 5 of the Green Acres Act provides that the Commissioner shall:

"d. Give due consideration to coordination with the plans of other departments of State Government with respect to land use or acquisition."

The undersigned submit that, "the plans of other Departments of State Government with respect to land use "include the policies and laws implemented by and implemented under the court decisions in Mt. Laurel I, II and the Hills case, as well

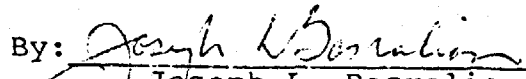
as State Development Guidelines, Somerset County Master Plan, and the plans of the Tri-State Regional Planning Commission, all of which would be subserved by the use of the Green Acres monies for the acquisition by the Town of the Dobbs Lands. The undersigned can and will make a fuller presentation of the provisions of each of the State laws and guidelines and the application thereof to the existing application, at any conference or hearing held in connection with the application, and by expert testimony or other submissions.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Green Acres application by the Town should be denied and dismissed. In the alternative, the undersigned respectfully requests that they be furnished the opportunity to make a fuller presentation of the relevant evidence and legal points at a conference or a hearing, scheduled at reasonable notice to the undersigned and other parties in interest.

Respectfully submitted,

WINNE, BANTA & RIZZI

By: 
Joseph L. Basralian



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

GREEN ACRES PROGRAM

CN 404
TRENTON, N.J. 08624

June 13, 1983

RECEIVED

JUN 16 1983

WINNE & BANTA

Mr. Joseph L. Basralian
Winne, Banta & Rizza
25 East Salem Street
P. O. Box 647
Hackensack, NJ 07602

SUBJECT: Township of Bedminster
Application #1801-11-141

Dear Mr. Basralian:

We have reviewed the information transmitted with your June 9, 1983 letter.

We will be happy to arrange a departmental meeting with DEP officials or other interested parties.

Please contact me at (609) 292-2455 to arrange for a mutually acceptable meeting date.

Sincerely,

Lisa S. Lubow

Lisa S. Lubow
Green Acres Program

LSL:bm

WINNE, BANTA & RIZZI

COUNSELLORS AT LAW

25 EAST SALEM STREET

P. O. Box 647

HACKENSACK, NEW JERSEY 07602

(201) 487-3800

BRUCE F. BANTA
PETER G. BANTA
JOSEPH A. RIZZI
ROBERT A. HETHERINGTON, III
JOSEPH L. BASRALIAN
EDWARD H. MILLER, JR.
JOHN P. PAXTON
DONALD A. KLEIN
ROBERT M. JACOBS
T. THOMAS VAN DAM
ANDREW P. NAPOLITANO
RAYMOND R. WISS
V. ANNE GLYNN MACKOUL
KEVIN P. COOKE
RANDAL W. HABEEB
CYNTHIA D. SANTOMAURO

HORACE F. BANTA
OF COUNSEL

WALTER G. WINNE
1889-1972

NEWFOUNDLAND, N.J. OFFICE
(201) 697-4020

HACKENSACK, N.J. OFFICE
TELECOPIER (201) 487-8529

June 27, 1983

Ms. Lisa S. Lubow
Green Acres Program
Department of Environmental
Protection
CN 404
Trenton, New Jersey 08625

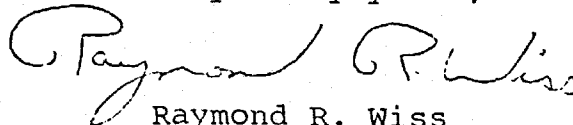
Re: Township of Bedminster
Application #1801-11-141

Dear Ms. Lubow:

We are in receipt of your June 13, 1983 letter affording us an opportunity to meet with you and other representatives of the Green Acres Program to discuss the above-referenced application. Since we have been advised that the Township of Bedminster intends to revise its Green Acres application, we believe it more productive to meet with you after such revision has been filed. Therefore we would ask your indulgence in scheduling such meeting after filing of the revised application. We may, however, wish to renew our request for an earlier meeting in the event the revised application is not submitted within a reasonable period.

I trust that this procedure is satisfactory to you.

Very truly yours,


Raymond R. Wiss

RRW/pc

LEONARD DOBBS
111 Central Avenue
Lawrence, New York 11559

June 14, 1983

Honorable Mayor and Township Committee Members
Township of Bedminster
Hillside Avenue
Bedminster, New Jersey 07921

Members of the Planning Board of the Township of Bedminster
Hillside Avenue
Bedminster, New Jersey 07921

Re: Bedminster Regional Center

Dear Mayor and Township Committee and Planning Board Members:

As you know, several years ago I requested that the 211 acre tract of which I am the purchaser, known as the Old Schley Polo Field (Block 41, Lot 34), be rezoned from R-3 residential. After no action was taken with respect to this request, I ultimately commenced litigation against the Township in November 1980.

Since such time, and during the stay of the litigation imposed by the Court, I have endeavored to work with you on a proposal which would be satisfactory to the Township. After extensive discussions and my attendance at countless Township Committee and Planning Board meetings, I submitted in August 1982 a refinement of my original proposal, which incorporated concepts contained in the PUD recommendations of the Planning Board in the Master Plan Program. More particularly, such proposal provided for 112 acres of commercial development; 20 acres for a hotel/conference center; 30 acres for residential development; 29 acres for passive recreation; and 20 acres for municipal facilities. I am enclosing a copy of my August 16, 1982 submission to the Planning Board, which was subsequently presented to the Township Committee as well.

EXHIBIT B

EXHIBIT F

Unfortunately, despite the passage of nearly a year, no official action has been taken with respect to the August 1982 proposal either, although one can assume from various actions of the municipality, including the filing of a Green Acres application, that the Township has implicitly denied my request for rezoning.

During the extended period since this proposal incorporating PUD concepts was made, the New Jersey Supreme Court in the Mt. Laurel II decision addressed the obligations of municipalities throughout the State with respect to the provision of low and moderate income housing. Accordingly, this letter application amends the residential component of my August 1982 proposal as follows:

Forty acres will be utilized for the development of high density multi-family housing. A substantial percentage of the housing units in this section will be for low and moderate income persons, as defined in the Mt. Laurel II decision. The exact amount is to be determined by mutual agreement, when the Township's fair share housing allocation has been determined. The units for low and moderate income persons will be subsidized by the commercial and other housing sections of the total development in order to reduce: (a) land cost; (b) site improvement cost, including, but not limited to, water and sewer systems, roadways, curbs and lighting; (c) professional fees, including, but not limited to, legal, planning and engineering; (d) municipal fees; and (e) the capital cost of construction and financing related thereto.

In all other respects (except for the reduction of the municipal facilities acreage from 20 acres to 10 acres and the consolidation of the hotel conference and commercial development acreage), the proposal as described in my August 16, 1982 submission remains unchanged.

As I have noted in the past and as I have argued in the pending litigation, the above-referenced property was improperly excluded from the development corridor straddling Routes 202-206. The State Development Guidelines Plan, along with the Tri-State Regional Planning Commission and Somerset County Master Plan, all include the site in their definition of the corridor and in their maps of the "Growth Area." While Judge

Leahy exempted the site from his corridor definition, his conclusion was based on misinformation supplied to him by the municipality as to the environmental sensitivity of the site. I have clearly demonstrated in the specific environmental proofs in the detailed studies submitted to you in February 1982 that there is no basis for this conclusion. The site is certainly capable of development in accordance with this application.

Sewage treatment for a development of this size can be handled in several ways: by expanding the Hills Development plant, by connecting to an enlarged Bedminster Township Treatment Plant, or by utilizing innovative treatment methods that have been approved by the New Jersey Department of Environmental Protection. Further, our detailed studies, submitted to you in February 1982, demonstrate that all utilities are available to the site and that traffic ingress and egress, storm water management, air quality, and noise will not create any negative environmental impact as a result of the development.

In sum, the planned unit development which I have proposed, with its combination of commercial and housing components, will not only provide for zoning which is appropriate for the property but will also enable the municipality to assist in satisfying its "fair share" obligation under Mt. Laurel II and the ancillary obligations which it will have as a result of population increases in the future. Also, since the anticipated housing development throughout the township will result in a negative tax impact, the tax revenues afforded by the development contained in this application will assist the municipality enormously in offsetting the costs of future municipal services.

Sincerely,

Leonard Dobbs

WINNE, BANTA & RIZZI
25 East Salem Street
Hackensack, New Jersey 07603
(201) 487-3800
Attorneys for Plaintiff
Leonard Dobbs

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY

-----X
LEONARD DOBBS,

Plaintiff.

v.

TOWNSHIP OF BEDMINSTER,

Defendant.

THE HILLS DEVELOPMENT COMPANY,
ROBERT R. HENDERSON, DIANE M.
HENDERSON, HENRY E. ENGELBRECHT,
and ATTILIO PILLON,

Intervenors/Defendants.
-----X

DOCKET NO. L-12502-80

CIVIL ACTION

AMENDED AND SUPPLEMENTAL
COMPLAINT IN LIEU OF
PREROGATIVE WRIT

Plaintiff Leonard Dobbs, residing at 111 Central Avenue,
Lawrence, New York, by way of Amended and Supplemental Complaint
against defendants, says:

FIRST COUNT

1. Plaintiff Dobbs is the contract purchaser of a tract of
land consisting of approximately 200 acres located on River Road

EXHIBIT G

in the Township of Bedminster, which tract is located to the immediate west of the junction of River Road and Routes Nos. 202-206 in said township.

2. Defendant township is a municipal corporation organized and existing under the laws of the State of New Jersey and is a developing municipality within the meaning of the decisional law of the State of New Jersey and the State Development Guideline Plan.

3. Pursuant to an Order of the Superior Court of New Jersey, Law Division, Somerset County, in the action bearing Docket Nos. L-36896-70 P.W. and L-28061-71 P.W., entitled "Allan-Deane Corporation, et al. v. The Township of Bedminster, et al.", defendant township formulated and adopted a revised zoning and land use ordinance, entitled "THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF BEDMINSTER" [hereinafter "zoning ordinance"] for the purported purpose of regulating and limiting the use and development of land within its boundaries and to effect certain rezoning of the lands consisting of the so-called corridor of land to the immediate east and west of Routes Nos. 202-206 within the defendant township, except for the plaintiff's property which is contiguous to Routes 202-206, so as to provide for an appropriate variety and choice of low and moderate income housing as required by said Order of the Court.

4. As a result of the aforesaid rezoning and the increased residential development to be permitted by it, the total population of defendant township will necessarily undergo an increase in the immediate future.

5. The area occupied by defendant township contains a number of major arteries of traffic, including interstate and state highways, which not only will result in an increase in the population of defendant township but will also significantly affect the character, orientation and economic perspective of defendant township.

6. The true developing corridor of land within the defendant township consists of the areas both to the east and west of Route Nos. 202-206 and has been designated as such in the Somerset County Master Plan, the State Development Guide Plan, and the Regional Development Guide for the Tri-State Region, and there is evidence of a further developing corridor of land on both sides of Interstate-78 both to the east and west of Interstate-287. The corridor definition referred to paragraph 3 hereof excluded the plaintiff's property on the basis of erroneous broad scale information at a time when defendant township knew of plaintiff's intention to develop such property.

7. The increased employment and economic growth which will result from development of the aforesaid corridors must be responded to by the defendant township by provision for increased services.

8. Plaintiff requested that the defendant township give consideration to providing for a regional retail and commercial development district or districts within said township, said district or districts to be located in the area of the tract of land for which plaintiff is the contract purchaser, because such land, by virtue of its proximity to the aforesaid major arteries of traffic and location within the developing corridor is ideally situated above all other tracts within the defendant township for such uses and repeatedly requested as a major property owner in defendant township the opportunity to be heard with respect to such proposal.

9. Defendant failed to respond in any manner to such requests by plaintiff, did not rezone the tract of land for which plaintiff is the contract purchaser, and left said tract in a R-3 Residential zone.

10. As a consequence of the foregoing, plaintiff commenced the within litigation against defendant township in November 1980.

11. Pending decision on appeals from intervention Orders entered by the trial court, this matter has been stayed since July 17, 1981.

12. During the pendency of such stay, plaintiff repeatedly sought an opportunity to fairly present to defendant township and

the Planning Board of defendant Township, in detail, plaintiff's development proposal and request for zoning change and to have plaintiff's experts make presentations to defendant township with respect to same.

13. Despite such requests, defendant township has essentially failed, neglected, and refused such opportunity.

14. Also, during the pendency of such stay, plaintiff has submitted to defendant township extensive reports of plaintiff's experts in conjunction with plaintiff's development proposal and request for zoning change, including a site specific soil survey demonstrating the site's unsuitability for septic tank disposal systems.

15. Defendant township has failed to make any response to such submissions by plaintiff.

16. The master plan of defendant township provides for planned unit development (PUD)(i.e., mixed residential and commercial uses).

17. Notwithstanding such provision in the master plan of defendant township, defendant township has rezoned no properties within the township for planned unit development except for a portion of Hills and the property immediately adjacent and another parcel overlooking I-287 characterized by steep slopes and poor access which parcel is not suitable for development.

18. In August 1982, plaintiff revised his development proposal to provide for planned unit development, as called for in the Master Plan of defendant township.

19. Defendant township has failed, neglected, and refused to act on such submission.

20. Defendant township has demonstrated its refusal to consider plaintiff's submission and its effort to frustrate the development proposal contained in such submission by, among other things, the filing in February, 1983 of an application for Green Acres Program funds with respect to the property in question.

21. On June 17, 1983, plaintiff, in a submission to defendant township, detailed and defined the residential component of plaintiff's planned unit development, which submission provides a low and moderate income housing component and enhances the reasonableness of the plaintiff's overall proposal by addressing part of the township's Mt. Laurel II obligation.

To date the defendant township has refused to voluntarily provide housing opportunities for low and moderate income persons and has only rezoned to purportedly provide such opportunities after being ordered to do so by the courts. However, the housing opportunities provided by the township in response to the court fall far short of the township's fair share housing obligation; thus, making the low and moderate

10. Have there been previous grants related to this project?

Yes No

If yes please indicate: Acquisition of 200' easement along frontage of one parcel

Green Acres Application Number L-374 (Oct. 28, 1969)

B.O.R. Application Number _____

H.U.D. Application Number NJ-OSA-109

Other _____

11. Has this project been submitted previously: Yes No

If yes, Former Application Number: _____

12. Source of Non-Green Acres Matching Funds local appropriations and bonding

13. Area to be served: Check where applicable

Neighborhood Community/town

Metropolitan/region Statewide

Other, explain _____

14. Community Profile 19 81 Population 2,469

Population per square mile 92.47 Per capita income \$10,123.00

19 82 Total taxes collected \$2,946,566 (Mun) Per capita tax levy \$1,193.00 (municipal)

19 82 Total recreation expenditures \$7,000 (approx) Per capita recreation expenditures \$2.38

15. Age Group/Population served: Check where applicable and indicate by asterisk (*) any facilities to be lighted for night use.

	Existing Recreational Facilities In Local Unit	Existing Recreational Facilities On Site	Recreational Facilities To Be Provided By This Application
Pre-school	<u>minimal</u>	<u>none</u>	This acquisition will provide land upon which future plans for development will be bas Development plans do no exist at this time, how ever activities of inte to all groups are antic pated.
Elementary School-aged	<u>X</u>	_____	
Teenage	<u>X</u>	_____	
Adults	_____	_____	
Senior Citizens	_____	_____	
Handicapped	_____	_____	
16. Means of Access: <u>Check where applicable.</u>			
<input checked="" type="checkbox"/> Walk to	<input checked="" type="checkbox"/> Bicycle		
<input checked="" type="checkbox"/> Car	_____ Bus		
_____ Train	_____ Jitney		
_____ Other (Specify) _____			

17. Does the applicant plan to provide public transportation?

Yes No If yes please specify _____

18. Estimated yearly operating expenses \$ \$600.00 prior to development

19. Existing use of the site and type of land three single family residences tenant occupied burned out house, partially wooded, partially farmed by lessee.

20. Land Use adjacent to the site Residential, vacant, and farmland

21. Other major open space in area Pond site (across Routes 202/206)

22. Relationship of project to adopted community and/or county master plans Conforming. This site will greatly satisfy the need for publicly owned recreation land in Bedminster Township.

23. Comment on "Free Use Periods" at facilities which operate with a user fee:

N/A - no user fees are anticipated at this time

24. Describe rental, reservation, membership or similar system now or to be in effect. none

25. Comment on the coordination with other public agencies regarding the preparation of this application.

Coordination with Somerset County and Township Planning Board

26. Name, title, address and telephone number of person having day to day responsibilities for this project.

Name John Schoenberg

Title Township Administrator

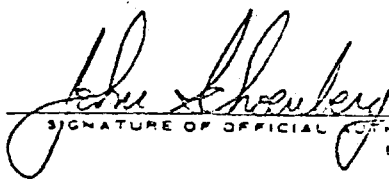
Address Municipal Offices

Hillside Avenue, Bedminster, N.J. 07921

Telephone Number 201-234-0333

27. Signature

24 Feb. 83
DATE


SIGNATURE OF OFFICIAL AUTHORIZED TO SUBMIT APPLICATION AS PER ATTACHED
ENABLING RESOLUTION

File



TOWNSHIP OF BEDMINSTER
ADMINISTRATIVE & EXECUTIVE OFFICES
HILLSIDE AVENUE, BEDMINSTER, N. J. 07921

(201) 234-0333

ESTIMATE OF OPERATING EXPENSES, RIVER ROAD PARK

The operating expenses for this park, while it remains undeveloped, are projected to be \$600.00 per annum.

These costs are developed from estimates of time and materials needed for the requisite maintenance of the vacant land such as roadside grass cutting, litter control, weed and pest control (when necessary), and other incidentals.

70 man hours @ \$7.00 per hour = \$500.00 (rounded)

Materials = \$100.00

Cost estimates for the developed park cannot be made until development plans are completed. Development plan will be developed after acquisition, as an independent project.



716

TOWNSHIP OF BEDMINSTER
ADMINISTRATIVE & EXECUTIVE OFFICES
HILLSIDE AVENUE, BEDMINSTER, N. J. 07521

(201) 234-0333

NARRATIVE DESCRIPTION

RIVER ROAD TRACT

This acquisition project, located along Routes 202/206 between River Road and Thosmor Drive, will fill a great need in Bedminster Township for publicly owned land available for active recreation uses. Currently the Township owns one baseball/multi-purpose field. Other facilities owned by the local school board and neighboring towns are currently being used cooperatively to their capacity.

Due to the court-ordered rezoning of a large portion of the Township of Bedminster (generally, the area of Routes 202/206 and Route 287), the new housing densities, portions of which are already under construction, will potentially nearly triple the population of the Township of Bedminster, and place extraordinary demands upon currently stressed recreation facilities.

Except for approximately 1.5 acres, the three (3) parcels under consideration in this application are not the area in which the court ordered higher density housing, therefore this application does not affect the housing densities in the court order.

The parcels are largely vacant with the exception of two dwellings, and a small garage on the northern parcels and on

the larger southern parcel, a historic house, (the Jacobus Vanderveer House) and a vacant, burned out frame house. (see attached photo and historical resources section of the Master Plan).

The Township of Bedminster proposes to acquire all structures. The anticipated use of the Jacobus-Vanderveer House is for a historical society museum and office. No final decision has been made about the uses of the other structures, however Senior Citizen uses and Recreation offices are probable uses.

The Township of Bedminster is quite willing to address the reasonable needs of the current tenants of the houses so that re-location should not present a problem. Income from rental uses will be dedicated to recreation uses.

Some of the innovative aspects of this project include:

- A. The multiple use proposed for the parcels. As is noted in the application, the Township of Bedminster is "reserving" a 10 acre portion of the southerly tract for future use as a site for municipal offices. Green Acre funds are not requested for these portions, however, they do relate to the over-all multi-function aspects of this tract.
- B. The purchase of this parcel would further protect an environmentally sensitive area of the Township. This acquisition would add to an existing 200' Green Acres easement or beautification strip along the frontage of the southern parcel, and is separated only by Route 202/206 from an existing Green Acres

Park area fronting on the North Branch of the Raritan River. The acquisition of this land will provide a park area which will extend from the Bedminster Village area through to Pluckemin, connecting these two major population centers, the Township school grounds, and the future site for a municipal building. The southern area of the tract includes approximately 1600 feet of river frontage along the North Branch of the Raritan and the associated wetlands, and flood plain. The Raritan River is a popular trout stream along this area and these environmentally sensitive areas are a significant aspect of this acquisition.

An additional consideration is the potential impact of normal development on this property. Soil and water table data show that septic systems may not be suitable here, and that run-off would impact the North Branch. The extension of Green Acres protection to this segment of the Raritan will clearly protect the environment in and along the Raritan River, a major source of drinking water.

As is indicated on the maps submitted, a large portion of the southerly tract is currently being leased as farmland. Recognizing the concern of the DEP and the Department of Agriculture in preserving farmland, the Township of Bedminster will encourage the continued farming of this land until development as an active park becomes imperative. Indeed the normal course of events would not lead to this park being developed all at once, but rather in many phases. The remaining portion of the

land would be farmed as an additional multi-use of the site.

Currently, program operations have not been prepared in sufficient detail to allow any representation of future operating costs. This acquisition is simply the initial step in making certain the Township of Bedminster will have a reasonable amount of publicly owned property for its future. Nevertheless, this site is ideal for programs for Senior Citizens, youth, families and clubs due to its proximity to the population center of the town, and the size and composition of the tract.

In summary, the two parcels for which this application is being submitted, less the "reserved" portions, will provide a much needed bulk of publicly owned land for future active park development. The park's relationship to existing neighborhoods; future neighborhoods; environmentally sensitive features; existing smaller, separated publicly owned parcels; the dove-tailing with other future public needs; and the fact that this is one of the few remaining undeveloped tracts of land in the densely populated area of the Township makes it a valuable and timely acquisition.

7/2

TOWNSHIP OF BEDMINSTER
ADMINISTRATIVE & EXECUTIVE OFFICES
HILLSIDE AVENUE, BEDMINSTER, N. J. 07821

(201) 234-0233

LOCAL MASTER PLAN AND ZONING ORDINANCE

The relationship of the lands to be acquired under this application to the Local Master Plan and Zoning Ordinance as well as overall development of the Township of Bedminster is one of the most significant aspects of this proposal, and should weigh heavily in favor of funding this project.

The project is located contiguous to what is commonly known as the "202/206 corridor". This term properly implies a difference as compared with the rest of the Township of Bedminster. The major difference is the high densities of housing which are permitted in the corridor. The potential is in the magnitude of 8,000 additional dwelling units. This court ordered zoning will nearly triple the existing population when the land in the "corridor" is developed.

The need for additional recreation facilities is obvious, and becomes critical when one considers the dearth of publicly owned active recreation sites in the Township of Bedminster, including those under other jurisdictions such as the Board of Education, County and State.

The Master Plan specifically recognizes the need for additional active recreation space, along with a number of other municipal needs resulting from increased population.¹

The zoning ordinance, in concert with the court order, indicates that of the approximate 227 acres under consideration in the acquisition, 225 acres is zoned for "R-3%" development which commonly translates into 3 acre zoning. The remaining 1

to 2 acres is zoned "R-1" or 1 acre.²

Significantly, the parcels that are the subject of this acquisition application are directly adjacent to the "corridor" and therefore provide a unique opportunity for ease of access and proximity to the current and future population center of the Township, and for providing a significant park area, both active and passive which will connect the two current population centers of the Township, the Township school, and a future municipal complex.

In conclusion this acquisition project will provide a large Green Acres Park area connecting the Township school, and other future municipal facilities as well as provide the land area needed to provide recreation of all types to all ages and groups of people in the area, in harmony with the most current Master Plan, Zoning Ordinance, and court orders in the Township of Bedminster.

References:

- | | |
|-----------------------------------|---------------------------------------|
| ¹ Master Plan, Part I; | Community Facility Section and Plates |
| Master Plan, Part II; | Preface |
| | Land Use Plan Element and Plates |
| ² Zoning Ordinance | pp. 1327 et seq |

RECREATION AND OPEN SPACE INVENTORY

Local Unit: Bedminster Township County: Somerset

NOTE:

Using this format, indicate all recreation and open space land held by your local unit. Please total (acres and facilities) after last entry. Attach additional sheets if necessary.

Developed Park and Recreation Areas

<u>Municipality in which the site is located</u>	<u>Block</u>	<u>Lot</u>	<u>Park Name</u>	<u>Acres</u>	<u>Recreation Facilities (numbers & kinds)</u>
1. Bedminster Township	71	4	Pluckemin Municipal Building Field	2	One (1) Baseball Field
2.					
3.					
4.					
5.					
6.					
Total					One Facility - 2 acres

Undeveloped Lands owned by Local Unit and Designated for Open Space, Recreation or Conservation Purposes.

<u>Municipality</u>	<u>Block</u>	<u>Lot</u>	<u>Park Name</u>	<u>Acres</u>
a. Bedminster Township	42 & 36	1-1 19 & 20	"The Pond"	68
b. Bedminster Township	53	1 B	Unnamed	6 ⁺
c. Bedminster Township	38 A	3-1	Unnamed	7 ⁺
d.				
e.				
f.				
Total				3 Undeveloped parcels, approximately 81 acres total

INVENTORY MUST BE KEYED TO A MAP OF LOCAL UNIT



Jacobus Van Derveer house, built 1754.
General Henry Knox resided here when commander of
the Artillery Corps located at Pluckemin 1778-79.

ENABLING RESOLUTION AUTHORIZING THE FILING OF A
PROGRAM PARTICIPATION INTEREST FORM FOR GREEN ACRES FUNDS
BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BEDMINSTER

WHEREAS, the New Jersey Green Acres and Recreation Opportunities Act provides for the making of grants by the Commissioner of Environmental Protection to local units of government for assistance in the acquisition and development of lands for outdoor recreation/conservation purposes; and

WHEREAS, the Commissioner of Environmental Protection has solicited program participation information from the Township of Bedminster in accordance with section 7:36-1.4(c) of the Green Acres Rules and Regulations of the New Jersey Administrative Code;

WHEREAS, the Commissioner of Environmental Protection requires that advance notice of program participation interest be submitted prior to March 31, 1983; and

WHEREAS, the Commissioner of Environmental Protection will prepare an annual statewide Program of Action for the disbursement of grant funding from the local responses submitted; and

WHEREAS, the Township of Bedminster desires to acquire open space lands

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP OF BEDMINSTER AS FOLLOWS

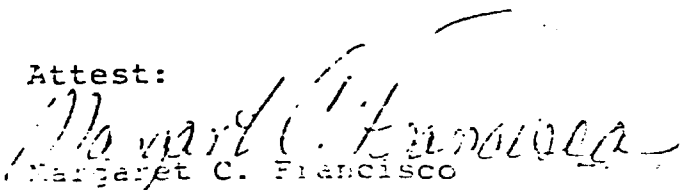
- (1) That the 1983 program participation interests be submitted to the Commissioner of Environmental Protection.
- (2) That the Township Administrator is hereby authorized and directed to:
 - (a) Execute and file such interest form with the Commissioner of Environmental Protection
 - (b) Provide additional application information
 - (c) Furnish such documents as may be required
 - (d) Act as the authorized correspondent of the Township of Bedminster

#83-10



Paul F. Gavin, Mayor


Attest:



Margaret C. Francisco
Township Clerk

C E R T I F I C A T I O N

Margaret C. Francisco, Township Clerk of the Township of Bedminster in the County of Somerset, New Jersey do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Township Committee of the Township of Bedminster at a Regular Meeting of said Township Committee held on January 17, 1983



Margaret C. Francisco
Township Clerk

PROGRAM PARTICIPATION INTEREST FORM

Local Unit: Name Township of Bedminster County Somerset

The above noted local unit is y is not interested in participating in the Green Acres Local Matching Assistance Program. Interests include:

as of	Current Year 1983	Second Year 19__	Third Year 19__	Fourth Year 19__	Fifth Year & Beyond 19__
-------	----------------------	---------------------	--------------------	---------------------	-----------------------------

Acquisition Program: Estimate acreage and total purchase cost amounts.
Estimated Grant Requests should represent 50% of the total purchase cost.

Total Purchase Cost	<u>\$2,500,000.00</u>				
Grant Request	<u>\$1,250,000.00</u>				
Acres	<u>180</u>				
Number of Sites	<u>1</u>				

Development Program: Estimate total development cost amounts.
Estimated Grant Requests should represent 50% of the total development cost.

Total Cost of Development	<u>NONE</u>				
Grant Request					
Number of Sites					

* On separate sheet please list information on individual sites including breakdown of estimated individual project grant request, acreage and type of proposed use or development.

Date: January 14, 1983 Contact Person: John Schoenberg
 Title: Township Administrator
 Address: Municipal Building, Hillside Ave
Bedminster, New Jersey 07921
 Telephone: 201-234-0333
 Signature: _____

WINNE, BANTA & RIZZI

COUNSELLORS AT LAW

25 EAST SALEM STREET

P. O. Box 647

HACKENSACK, NEW JERSEY 07602

(201) 487-3800

BRUCE F. BANTA
PETER G. BANTA
JOSEPH A. RIZZI
ROBERT A. HETHERINGTON, III
JOSEPH L. BASRALIAN
EDWARD H. MILLER, JR.
JOHN P. PAXTON
DONALD A. KLEIN
ROBERT M. JACOBS
T. THOMAS VAN DAM
ANDREW P. NAPOLITANO
RAYMOND R. WISS
V. ANNE GLYNN MACKOUL
KEVIN P. COOKE
RANDAL W. HABEEB
CYNTHIA D. SANTOMAURO

MORACE F. BANTA
OF COUNSEL

WALTER G. WINNE
1889-1972

NEWFOUNDLAND, N.J. OFFICE
(201) 697-4020

HACKENSACK, N.J. OFFICE
TELECOPIER (201) 487-8529

June 9, 1983

Ms. Lisa S. Lubow
Grant Administrator
Green Acres Program
Department of Environmental
Protection
CN 404
Trenton, NJ 08625

Re: Dobbs/Bedminster Green Acres Application

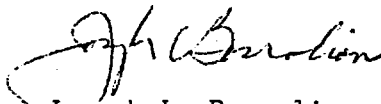
Dear Ms. Lubow:

In connection with the above captioned matter, we are enclosing our Memorandum of Law in opposition to the application of the Township of Bedminster for a Green Acres grant.

Although I have received your communications that the Department does not hold hearings with respect to the application, we feel that in this case a meeting or hearing is necessary. It is our understanding that Township Committeewoman Merck recently met with Helen Fenske, Assistant Commissioner for Natural Resources and Robert Perry, Green Acres Grant Program Administrator to discuss the Township's application. We are prepared to undertake strenuous opposition to the Township's application, and feel that it is most important for the Department to be aware of all of the pertinent facts surrounding the property.

Your prompt attention and response to this matter would be greatly appreciated.

Very truly yours,


Joseph L. Basralian

JLB/ddm
enc.

cc: Leonard Dobbs
Helen Fenske (w/Memorandum)
Robert Perry (w/Memorandum)

EXHIBIT E

income housing component of the plaintiff's proposal even more reasonable and essential to satisfying the township's fair share housing obligation.

22. Further attempts by plaintiff to effect a rezoning of the tract of land in question through resort to administrative remedies would be futile in light of the opposition which defendant has made known to the particular uses and zoning changes proposed by plaintiff.

23. The uses and zoning changes proposed by plaintiff as aforesaid are designed to meet not only the current needs of the residents of defendant township and surrounding areas, but also the future needs of the township and nearby areas which will be developed pursuant to the adopted zoning.

24. The increase in population caused by the development authorized by defendant township in its zoning ordinance, by the presence of the major arteries of traffic described hereinabove, and by mandates of present New Jersey law will further result in a commensurate increase and expansion in the needs of such population for ancillary uses and services such as those proposed by plaintiff.

25. The uses and zoning changes proposed by plaintiff as aforesaid would be for the public benefit and would serve the general welfare of the defendant township, adjacent areas within

the corridor, and other developing municipalities within the region.

26. The rezoning in accordance with the zoning ordinance adopted by defendant township fails to enact a comprehensive zoning map as it rezones only a small percentage of the total area of the defendant township, and fails to provide for the variety and quantity of low and moderate income housing, retail, commercial and other uses which are necessary to serve the uses mandated by the rezoning effected by defendant and by mandates of present New Jersey law.

27. Defendant township has, notwithstanding changes in its zoning ordinances to permit such uses, frustrated efforts by various property owners to develop property in defendant township for such uses.

28. Additionally, it is evident that various areas rezoned by defendant township for such uses have very little or no likelihood of being developed for such uses.

29. Defendant township cannot rely upon the possible development of residential, retail and commercial uses in neighboring municipalities within its region as a purported justification for its failure to provide for such uses in the zoning ordinance adopted by it.

30. Said zoning enactments fail to adequately fulfill the needs and requirements of the general welfare, and is arbitrary, capricious and unreasonable.

WHEREFORE, plaintiff demands judgment against defendant:

A. Declaring the zoning adopted by defendant townshi for the subject property invalid;

B. Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a planned unit develop ment district;

C. Awarding the plaintiff his costs of suit and attorneys fees herein;

D. Granting the plaintiff such further relief as the Court deems just and proper.

SECOND COUNT

1. Plaintiff repeats and reiterates each of the allega tions set forth in the First Count of the Complaint and incorporates same herein by reference.

2. By virtue of its failure to adopt a comprehensive zoning map, defendant has failed to plan and zone in a manner which will promote the public health, safety, morals and general welfare, as mandated by the Municipal Land Use Law, N.J.S.A.

40:55D-2(a).

3. The Master Plan of defendant township contains the following objective:

"Retail shopping facilities should be provided within the Court defined Route 202-206 corridor to serve the needs of the existing and anticipated residential population of the Township, and such shopping facilities should be provided as an integral part of the large scale residential development in order to avoid the proliferation of vehicular shopping trips and to prevent the evolution of 'strip' commercial development."

The commercial zoning adopted by defendant township fails to meet the requirements of the Master Plan and the mandates of New Jersey law in that, inter alia:

(i) VN (Village Neighborhood) zones adopted by defendant township constitute 'strip' commercial development as they straddle Lamington Road and Route 202-206 with inadequate land area for on-site circulation.

(ii) PUD (Planned Unit Development) zones adopted by defendant township in its zoning ordinance limit commercial land use to 20% of tract acreage and limit building square footage (so as to prevent the development of regional facilities and other than the property of Hills (Hills being the successor to Allan Deane), such zones have limited access and slope problems, making development difficult. Further, Hills has since sold the commercial portion of its PUD zoned property to a developer intending to develop such portion almost entirely for office buildings.

(iii) Plaintiff's property should properly be included in the 202-206 corridor as it is adjacent to said routes, and was excluded based on broad based, as opposed to site specific information.

4. The New Jersey Municipal Land Use Law includes in its section on purpose and intent the following objective:

"To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private according to their respective environmental requirements in order to meet the needs of all New Jersey citizens."

Further, the Master Plan of defendant township contains the following objective:

"The Development Plan should strive to prevent the homogenous spread of suburban development throughout the municipality. The Court defined Route 202-206 corridor should continue to be designated for specific types of relatively dense residential uses offering a variety of housing opportunities, as well as relatively intense non-residential development, a sufficient component of which is to serve local needs. (Emphasis added.)

Plaintiff's proposed development (which is appropriately located in terms of regional and local access and serves both local and regional needs), satisfies both of these objectives and yet has been rejected by defendant township.

5. Another objective of the Bedminster Master Plan reads as follows:

"To encourage planned unit developments which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site."

Defendant township has not encouraged Planned Unit Development, as evidenced by their selections which lack development potential and, by the failure of defendant township to adopt the PUD recommendation of the Master Plan which does not limit the percentage of commercial development.

6. Section 405.1 c, d, e, and f, of the zoning ordinance adopted by defendant township, specify permitted uses in the VN (Village Neighborhood) Zone. The permitted uses are, however, all local and retail and service type uses, precluding within this zone commercial uses which serve a larger constituency.

7. The Master Plan and zoning map of defendant township have failed to take into account the massive amount of industrial and office development in the region, the access provided by existing and soon to be completed highways (I-78) and the attendant existing and future needs of the accompanying residences.

8. The Master Plan and zoning map of defendant township have further failed to provide sufficient space in appropriate locations for a variety of, among other things, residential, commercial, and retail districts in order to meet the needs of defendant's present and prospective population, of

the residents of the region in which defendant township is located and of the citizens of the State as a whole, as mandated by the Municipal Land Use Law, N.J.S.A. 40:55D-2(g), and by present New Jersey law.

9. The Master Plan and zoning map of defendant township have further failed to encourage the proper coordination of various public and private activities and the efficient use of land, as mandated by the Municipal Land Use Law, N.J.S.A. 40:55D-2(m).

10. The Master Plan and zoning map of defendant township are, in other material respects, inconsistent with and in violation of the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and of the mandates of the present New Jersey law.

11. By seeking to contain business and commercial activities within the rezoned Hills property and property directly north which has poor access and slopes, the Master Plan and zoning ordinance of the defendant township constitute an illegal and improper zoning scheme.

12. As the result of the foregoing deficiencies and shortcomings, the master plan and zoning map of the defendant township are inconsistent with and contrary to the purposes and intent of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the mandates of the present New Jersey law.

WHEREFORE, plaintiff demands judgment against defendant:

A. Declaring the master plan and zoning adopted by defendant township for the subject property invalid;

B. Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a planned unit development district;

C. Awarding the plaintiff his costs of suit and attorneys' fees herein;

D. Granting the plaintiff such further relief as the Court deems just and proper.

THIRD COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth in the First and Second Counts and incorporates same herein by reference.

2. As a developing municipality, defendant township is obligated not only to make possible an appropriate variety and choice of housing, but also to make possible, within its boundaries, an adequate and broad variety of facilities which would serve the needs of defendant's present and prospective population and that of its immediate region.

3. The zoning map adopted by defendant township fails to comply with the foregoing obligations and is, as a result, invalid.

WHEREFORE, plaintiff demands judgment against defendant:

- A. Declaring the zoning map adopted by defendant township for the subject property invalid;
- B. Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a planned unit development district;
- C. Awarding the plaintiff his costs of suit and attorneys fees herein;
- D. Granting the plaintiff such further relief as the Court deems just and proper.

FOURTH COUNT

1. Plaintiff repeats and reiterates each of the allegations set forth in the First, Second and Third Counts of the Complaint and incorporates same herein by reference.

2. Under the provisions of the zoning ordinance adopted by defendant township, the tract of land for which plaintiff is a contract purchaser is zoned exclusively for R-3½ residential purposes.

3. Said tract lies in the immediate vicinity of major traffic arteries and public thoroughfares, and its highest and best suited use is for regional retail and commercial purposes in a planned unit development district.

4. The present classification of plaintiff's property, prohibiting its use for planned unit development, is arbitrary and unreasonable in that it bears no reasonable relation to the public health, safety and welfare of the defendant township and its inhabitants and other inhabitants of the developing corridor.

5. For the reasons set forth hereinabove, said zoning map, as applied to plaintiff's property, constitutes an improper and unlawful exercise of the police power delegated to the defendant township, depriving plaintiff of his property without just compensation or due process of law, and the said zoning ordinance is unconstitutional, null and void.

WHEREFORE, plaintiff demands judgment against defendant:

- A. Declaring the zoning adopted by defendant township for the subject property invalid;
- B. Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a planned unit development district;
- C. Awarding the plaintiff his costs of suit and attorneys' fees herein;
- D. Granting the plaintiff such further relief as the Court deems just and proper.

FIFTH COUNT

1. Plaintiff repeats and reiterates each of the allega-

tions contained in the First, Second, Third and Fourth Counts of the Complaint and incorporates same herein by reference.

2. The proximity of plaintiff's property to major traffic arteries and public thoroughfares renders it impossible to utilize said property for residential purposes as said property is presently zoned (R-3%), because such residential development near such traffic arteries and public thoroughfares is economically impractical, especially given the lot area required by the zoning ordinance adopted by defendant for the district in which plaintiff's property is located.

3. Such residential development is rendered further impracticable by virtue of the fact that soil conditions on plaintiff's property would require either the use of off-site or on-site sewerage treatment, which type of treatment is not economically practical for the residential development which would be required under the present zoning of plaintiff's property.

4. As a direct result, the operation of the zoning ordinance adopted by defendant has so restricted the use of plaintiff's property and reduced its value so as to render said property unsuitable for any economically beneficial purpose, which constitutes a de facto confiscation of said property.

5. For the reasons set forth hereinabove, said zoning

map is unconstitutional, null and void in that it deprives plaintiff of the lawful use of his property without just compensation or due process of law.

WHEREFORE, plaintiff demands judgment against defendant:

- A. Declaring the zoning adopted by defendant township for the subject property invalid;
- B. Compelling a rezoning of the tract of land for which plaintiff is a contract purchaser to a planned unit development district;
- C. Awarding the plaintiff his costs of suit and attorneys' fees herein;
- D. Granting the plaintiff such further relief as the Court deems just and proper.

WINNE, BANTA & RIZZI
Attorneys for Plaintiff
Leonard Dobbs

Dated: August , 1983

By: _____
Joseph L. Basralian

TOWNSHIP OF BEDMINSTER
ADMINISTRATIVE & EXECUTIVE OFFICES
HILLSIDE AVENUE, BEDMINSTER, N. J. 07921

(201) 234-0333

September 22, 1983

Ms. Lisa Lubow, Grant Administrator
Green Acres Program
New Jersey D.E.P.
CN 404
Trenton, New Jersey 08625

Re: Application # 1801-11-141

Dear Ms. Lubow:

As we discussed on the telephone earlier this week, the Township Committee of the Township of Bedminster has decided that because of financial and legal reasons the application submitted earlier this year will need to remain in a "pending" status most likely through the end of the year.

It is understood that while Bedminster Township will not now be able to take advantage of the \$250,000.00 currently earmarked for our project, the Township will continue to have the full amount for which it may be eligible "earmarked" from either the new bond issue proceeds or from funds currently reserved for use in 1984-1985.

Regarding the completeness of our application, my records indicate that our application is currently complete and upon its re-emergence from "pending status" the next step would be Green Acres issuing a Pre-Approval Application Statement (PAAS) and our proceeding with a Fair Market Value Certification (F.M.V.C.).

Please let me know if this is not your understanding. Thanks for your assistance.

Sincerely,

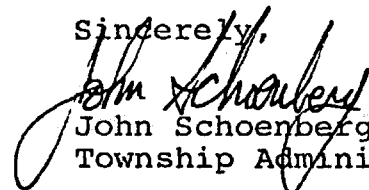

John Schoenberg
Township Administrator

EXHIBIT H

1983

McCarter & English
550 Broad Street
Newark, New Jersey 07102
(201) 622-4444
Attorneys for Defendant,
Bedminster Township

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNT
DOCKET NOS. L-36896-70 P.W.
L-28061-71 P.W.

THE ALLAN-DEANE CORPORATION,	:	
et al.,	:	Civil Action
	:	
Plaintiffs,	:	CASE MANAGEMENT ORDER
	:	
vs.	:	
	:	
TOWNSHIP OF BEDMINSTER, et al.,	:	
	:	
Defendants.	:	
.....	:	

The Court and counsel for all parties having met pursuant to the court-requested status conference on October 6, 1983;

The Court and all counsel having considered the status of this proceeding after remand from the Appellate Division in light of Mt. Laurel II, 92 N.J. 561 (1983); and

The Court, after consultation with all counsel, believing that the provisions of this order are appropriate for the governance of all further proceedings herein; and good cause appearing

IT IS on this day of , 1983

ORDERED:

A. George M. Raymond, appointed as a master and court expert pursuant to order of this Court dated February 22, 1980, be, and he hereby is, authorized and directed to continue to function as a court-appointed expert, pursuant to the terms of the said order dated February 22, 1980, the terms of which remain in full force and effect, as amended by order of this Court dated March 6, 1980 and March 20, 1981 and as supplemented by this Order. Mr. Raymond is hereafter referred to as "the Master".

B. The Master shall immediately proceed to review the application of the Allan-Deane Corporation/Hills Development Company, recently submitted to the Planning Board of the Township of Bedminster, which application proposes provisions with respect to the provision of low and moderate income housing units as a Mt. Laurel II compliance mechanism and report the results of his examination to this Court within 20 days from the date of this order. The Court wishes the Master to report on the question of whether the proposal by Allan-Deane Corporation/Hills Development Company complies with all the requirements placed upon a developer receiving the builders remedy and specific corporate relief under Mt. Laurel II. ~~and the requirements of Mt. Laurel II which ought to be placed upon a developer (including Allan-Deane) by an ordinance which complies with Mt. Laurel II~~

The Master is free to initiate contact with and confer with the parties, their counsel and experts in this litigation and may be necessary to enable him to adequately and fully review the said proposal, inform himself of the position of the parties with respect thereto, and expeditiously prepare his report.

C. Concurrently with the assignment set forth in paragraph B, the Master shall review the fairshare studies of the Township and the materials submitted to him by the parties (see paragraph D. below), the planning facts and circumstances relevant to Bedminster Township, the planning requirements of Mt. Laurel II, prior Court orders in this action entered after February 22, 1980, and such other information and material as he deems relevant, and shall report to the Court with respect to the definition of the appropriate region, the quantification of the regional need (prospective and present, as those terms are defined in Mt. Laurel II) for the region which the Master finds appropriate and relevant for Bedminster Township, and the fair share of that regional need which is appropriate to allocate to Bedminster Township, all in accordance with the dictates of Mt. Laurel II. The Master shall also determine whether the land development regulations of Bedminster Township, with the recent amendments proposed by the Township, make realistically possible Bedminster's fair share of low and moderate income housing as determined by the Master above and in general, whether the planned development regulations of

Bedminster Township, as existing and proposed, comply with the requirements of Mt. Laurel II. The Master shall complete his review and report to the Court within 60 days of this order.

D. All parties to this action, and all parties to the action entitled "Dobbs v. Bedminster Township, Law Division, Somerset County, Docket No. L-12502-80," shall have the right to forward such written information and documents as they deem appropriate to the Master with respect to the Master's investigation and report requested in paragraph C above, with copies to all other counsel. The Master is free to initiate written, in person or telephone contacts with counsel for and experts retained by the parties to this action and the parties to the Dobbs litigation in order to clarify written information submitted, ascertain positions on various factual determinations and issues, or ask whatever questions the Master deems relevant to his investigation and report requested in paragraph C hereof. Except as may be initiated by the Master as set forth above, the parties, their attorneys, and their experts shall initiate no telephone or in person contact with the Master without receiving prior approval (by telephone or in writing) from this Court. Copies of all correspondence and information submitted to the Master shall be furnished to all other parties (except for voluminous planning documents or transcripts, if any, as to which arrangements shall be made for prompt availability for inspection if they are not otherwise readily available).

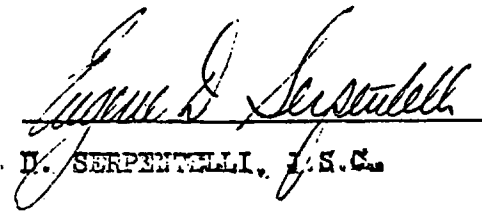
Allan-Deane/Hills Development

E. With respect to the ~~development~~ applications now pending before the Planning Board of the Township of Bedminster the Planning Board shall have the option of either:

- (a) Proceeding to review the applications for Mayfield sections 8 and 9, ^{Fieldstone II,} and Stone Run II, under the limitation that not more than 50% of the market units for the Allan-Deane/Hills Development project (for which conceptual approval was received on April 15, 1981,) shall receive approval before the commencement of construction of the full appropriate set-aside share of the units designated to be low and moderate income units designed to comply with the requirements of Mt. Laurel II. For the purposes of this sub-paragraph, the Court is temporarily suspending the requirements of §13-805.3h of the Township Land Development Ordinance. This order shall not be construed as a waiver or release of the obligation of plaintiff Allen-Deane Corp. to construct low and moderate income housing as the result of ~~such~~ prior orders in this litigation,

the decision in Mt. Laurel II, or future order of this Court in this case; or

(b) at its option, the Planning Board shall advise this Court and Allan-Deane Corporation/Hills Development Company immediately (and no later than October 13) that alternative (a) above is not feasible or cannot be implemented, and shall specify the reasons why.



E. D. SERPENTIELLI, J.S.C.

J.S.C.

Township of Bedminster

Somerset County · New Jersey

Master
Plan
Program

August 1983

Part III
Housing Element

PREPARED BY: Richard Thomas Coppola
and Associates
Princeton Junction N.J
License No. 1378

Plate 8 tabulates the fair share allocation of surplus present housing need to Bedminster Township and indicates the range of obligation to be between 65 and 73 dwelling units.

TOTAL "MT. LAUREL" HOUSING OBLIGATION FOR BEDMINSTER TOWNSHIP

Under the stipulations of the State Supreme Court's Mt. Laurel II Decision, the Township's total lower cost housing obligation consists of combining the indigenous need component, the regional prospective need component, and the surplus present need component.

Indigenous Housing Need: 39 units

Regional Propsective Housing Need:

Minimum: 666 units

Maximum: 741 units

Surplus Present Need:

Minimum: 65 units

Maximum: 73 units

Therefore, the total housing obligation for Bedminster Township is within the following range:

- ° BETWEEN 770 (indigenous plus minimum prospective regional plus minimum share of surplus present need)
- and
- 853 (indigenous plus maximum prospective regional plus maximum share of surplus present need)

BEDMINSTER TOWNSHIP: MEETING ITS HOUSING OBLIGATION

Bedminster Township's current zone plan was divised under the perview of the Superior Court which required that Bedminster Township satisfy its regional housing obligations. Specifically, a March 1980 Court Order listed a number of directives regarding the rezoning process of the Township. Four (4) of the directives are particularly relevant to the Master Plan process of the Township:

1. The Order mandated that the revised ordinance provide for the following types of development within the specified "Corridor" area:
 - a. Some moderate sized and many very small lots for detached one family dwelling units;
 - b. Two-family units on small lots; and
 - c. A planned development zone (PUD or PRD overlay mechanism as provided by N.J.S.A.40:44D-45 et seq.).

PLATE 8

Fair Share Allocation of Surplus Present Housing Need
To Bedminster Township

	<u>Weighted Fair Share Allocation</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Total Regional Surplus Physical Housing Need	3,889	3,889	3,889	3,889
Weighted Fair Share	1.74%	1.68%	1.68%	1.87%
Fair Share Allocation Of Surplus Present Housing Need To Bedminster Township	68	65	65	73

2. In accordance with the "Village Neighborhood" concept of the Somerset County Master Plan, the Order stipulated that the revised ordinance regulations permit an ultimate density of between five (5) and fifteen (15) dwelling units per gross acre throughout the "Corridor", unless in specific areas and for particular reasons such densities would constitute improper land use development.
3. The Order provided for the appointment of a planning expert as a Master to serve as a witness and consultant in order to aid the Court and the parties in the revisions of the ordinance regulations.
4. The Order specified an exact definition of the "Corridor" area, thereby indicating that portion of Bedminster Township to be rezoned for high density residential and high intensity non-residential uses versus those lands to remain zoned for low density residential development.

With the directives of the March 1980 Court Order in hand, Bedminster Township formulated appropriate Ordinance provisions satisfactory to the Township, the plaintiff, and the Court appointed Master. The Ordinance provisions include densities for multiple-family residential development appropriate from a planning and development viewpoint to achieve the construction of the affordable housing units; therefore, the Ordinance provisions implicitly contain the so-called "density bonuses" referred to in the "Mt. Laurel II" Decision. The Land Development Ordinance of the Township of Bedminster was approved by the Somerset County Superior Court, was adopted by the Township Committee on September 2, 1980, and was amended on October 6, 1980, incorporating minor modifications and refinements.

The Township designated lands within the Bedminster and Pluckemin Village Route 202/206 corridor for the high density residential development, as required by the Court and in accordance with sound planning criteria. As specifically documented in the "Regional Analysis" Background Study of the Township Master Plan, a total of 4,902 multiple family dwelling units can be developed in Bedminster Township under the prevailing Ordinance provisions. Considering only the "MF" Multiple Family District, the "PRD" Planned Residential Development areas, and the "PUD" Planned Unit Development areas, and excluding the Residential Cluster Option within both the "R- $\frac{1}{4}$ " and the "R- $\frac{1}{2}$ " Residential Districts, a total of 4,415 multiple family dwelling units can be constructed within Bedminster Township at this time.

The adopted Land Development Ordinance of Bedminster Township stipulates inclusionary language applicable to the Planned Residential Development and the Planned Unit Development areas. Specifically, a minimum of twenty percent (20%) of the total number of residential units within a planned development must be subsidized and/or least cost housing, in accordance with the specific provisions included within Sections 13-606.4j. and 13-606.3i. of the Ordinance. The end result is that the prevailing Ordinance provisions require the construction of 730 subsidized and/or least cost housing units as part of the development of the designated Planned Residential Development and Planned Unit Development areas.

The prevailing inclusionary zoning provisions within the Bedminster Township Land Development Ordinance were reviewed and commented upon by the participating parties in the litigation including the Township, the plaintiff and the Public Advocate's office as well as the Court appointed Master. However, since the formulation of the Ordinance predated the "Mt. Laurel II" Supreme Court Decision, the provisions are not in full accord with the current constitutional obligations of municipalities within the State of New Jersey. As a result, the Township is considering the adoption of revised Ordinance provisions (see Appendix F) so that the Township will be in full compliance with the directives of the Court.

In addition to other modifications and refinements, the Ordinance amendment being considered by the Township requires a mandatory set-aside of affordable housing units within the "MF" Multiple Family District as well as within the Planned Residential Development and Planned Unit Development areas. The end result is that a total of 998 low and moderate income housing units must be constructed as part of the development of the designated "MF", "PRD" and "PUD" areas; which favorably compares to the Township's total "Mt. Laurel" housing obligation of between 770 and 853 dwelling units.

Nevertheless, even though the Township may have affirmatively zoned for 998 low and moderate income housing units, there is always the possibility that the Township may be required to provide more low and moderate income units than its "fair share" analysis concluded or, alternatively, the areas currently zoned for multiple family development may be discounted. While these possibilities are not likely, it nevertheless behooves the Township to make certain that its planning and zoning actions remain consistent with its housing obligations; the Township should plan ahead in order to make certain that it has the necessary capacity for the construction of the low and moderate income housing that it may be required to provide.

One particular concern during the formulation of the current Ordinance provisions was that there should be a balance between housing opportunities and employment opportunities within the Township. As noted by the Court appointed Master in his report to Hon. B. Thomas Leahy dated May 27, 1980:

"The Township was apprehensive that zoning this much property for job generating uses might upset the residential-job balance established in its rezoning of the Corridor. It is my opinion that this fear is unjustified inasmuch as the total residential capacity of the Corridor is designed to accommodate a very considerable number of residential units."

The "Mt. Laurel II" Decision emphasizes the need for a balance between housing opportunities and employment opportunities, both within a region and within an individual municipality. Moreover, it appears that if a municipality increases its employment base, it commensurately may be required to increase its housing opportunities. Therefore, even though the currently zoned non-residential development within Bedminster Township received specific sanction from the Court appointed Master and the Superior Court itself, the Township should consider changing some of the currently zoned non-residential areas to a relatively high density residential district designation. As a first step, it is recommended that the Township review its currently zoned non-residential land areas in the context of changed circumstances since the adoption of its Master Plan in 1982 and provide the opportunity for additional housing construction within the Corridor.

The parcels of land south of Interstate-78 and east and west of Route 202/206 (known as Lot 1, Block 71A and Lot 1, Block 72A) are particularly appropriate for residential development. The two (2) lots total approximately 29.5 acres and are located next to a 167-acre tract of land in Bridgewater Township which has recently been rezoned to allow the construction of approximately 1.6-million square feet of office space. Moreover, the 29.5 acres are located at the centerpoint of the Route 202/206 corridor extending between I-287 in Bridgewater Township to the south and I-287 in Bedminster Township to the north; a stretch of land that is earmarked for intense physical development.

It is therefore suggested that the Zoning Map of Bedminster Township be changed to include Lot 1 of Block 71A and Lot 1 of Block 72A in the "R- $\frac{1}{4}$ " District designation with the Residential Cluster Option. If, in the future, Bedminster Township is required to provide more low and moderate income housing units, then it is suggested that such housing be provided on these land parcels. Clearly, it is not possible to make any specific recommendations until the Township knows what its additional housing responsibilities might be. However, until and if such modifications to the Ordinance provisions of the Township are deemed necessary, the "R- $\frac{1}{4}$ " District designation is appropriate from a comprehensive planning viewpoint.

August 29, 1983

TO: Bedminster Township

FROM: Richard Thomas Coppola, P. P.

SUBJECT: Suggested "Mt. Laurel II" Amendments to
"The Land Development Ordinance of the Township of Bedminster".

The following amendments to the Land Development Ordinance of Bedminster Township are suggested in order for Bedminster to comply with the mandates of "Mt. Laurel II". The proposed language has been formulated in consideration of the comments received from Messrs. Ferguson and Thomas following their review of previously issued Memorandum 5-83.

I. Change Section 13-606.4j. in its entirety to read:

j. Low and moderate income housing requirements.

At least 20 percent of the total number of residential dwellings within a planned unit development shall be subsidized or otherwise made affordable to low and moderate income households as discussed and defined in the "Mt. Laurel II" Supreme Court Decision (So. Burlington Cty. N.A.A.C.P. v. Mt. Laurel Tp., 92 N.J.158 [1983]). It shall be the responsibility of the applicant to propose the scheme to be used in order to insure that the required number of affordable dwelling units are rented or sold only to low and moderate income households and that the units will continue to be occupied by said households over time. Every affordable unit shall be rented or sold at a cost not exceeding 25% of the earning limits calculated for low income households and moderate income households. For purposes of this Ordinance, "low income households" are those earning less than 50% of the median income figure published for Somerset County and "moderate income households" are those earning between 50% and 80% of said published median income figure.

1. At least 25 percent of the required 20 percent shall be subsidized senior citizen housing units in accordance with subsection 13-601.2 of this chapter. The applicant shall diligently apply to the Federal Department of Housing and Urban Development and the New Jersey Housing Finance Agency for subsidies; if no subsidies are available, this fact shall be certified to the Planning Board and the required percentage of low and moderate income housing in the planned unit development shall be provided in accordance with subsections 13-606.4j.2. and 13-606-4j.3. hereinbelow. The height, parking and other provisions specified for subsidized senior citizen housing units in subsection 13-601.2 of this chapter shall not be applied to any other housing within the planned unit development.

2. At least 35 percent of the required 20 percent shall be rental units subsidized in accordance with available subsidy programs authorized and regulated by the Federal Department of Housing and Urban Development or the New Jersey Housing Finance Agency. If no subsidy programs are available, this fact shall be certified to the Planning Board, and the rental units shall be restricted in size to be no larger than 15 percent greater in area than the minimum net habitable floor area as specified in this chapter. In any case, 50% of said rental units shall be provided for low income households and 50% for moderate income households. Moreover, not less than 5 percent of the units shall have four (4) bedrooms and not less than an additional 20 percent of the units shall have three (3) bedrooms.
3. At least 20 percent of the required 20 percent, and such additional units as may be required to achieve the low and moderate income housing requirements within the planned unit development, shall be dwellings for sale. 50% of said sale units shall be provided for low income households and 50% for moderate income households. Moreover, not less than 5 percent of the units shall have four (4) bedrooms and not less than an additional 20 percent shall have three (3) bedrooms.

II. Change Section 13-606.3i. in its entirety to read:

i. Low and moderate income housing requirements.

At least 20 percent of the total number of residential dwellings within a planned residential development shall be subsidized or otherwise made affordable to low and moderate income households as discussed and defined in the "Mt. Laurel II" Supreme Court Decision (So. Burlington Cty. N.A.A.C.P. v. Mt. Laurel Tp., 92 N.J.158 [1983]). It shall be the responsibility of the applicant to propose the scheme to be used in order to insure that the required number of affordable dwelling units are rented or sold only to low and moderate income households and that the units will continue to be occupied by said households over time. Every affordable unit shall be rented or sold at a cost not exceeding 25% of the earning limits calculated for low income households and moderate income households. For purposes of this Ordinance, "low income households" are those earning less than 50% of the median income figure published for Somerset County and "moderate income households" are those earning between 50% and 80% of said published median income figure.

1. At least 35 percent of the required 20 percent shall be rental units subsidized in accordance with available subsidy programs authorized and regulated by the Federal Department of Housing and Urban Development or the New Jersey Housing Finance Agency. If no subsidy programs are available, this fact shall be certified to the Planning Board, and the rental units shall be restricted in size to be no larger than 15 percent greater in area than the minimum net habitable floor area as specified in this chapter. In any case, 50% of said rental units shall be provided for low income households and 50% for moderate income households. Moreover, not less than 5 percent of the units shall have four (4) bedrooms and not less than an additional 20 percent of the units shall have three (3) bedrooms.
2. At least 20 percent of the required 20 percent, and such additional units as may be required to achieve the low and moderate income housing requirements within the planned residential development, shall be dwellings for sale. 50% of said sale units shall be provided for low income households and 50% for moderate income households. Moreover, not less than 5 percent of the units shall have four (4) bedrooms and not less than an additional 20 percent shall have three (3) bedrooms.

III. Add a new Section 13-404.7 to read:

13-404.7. Low And Moderate Income Housing Requirements. At least 35 percent of the total number of residential dwellings within an "MF" High Density Multiple Family Development shall be subsidized or otherwise made affordable to low and moderate income households as discussed and defined in the "Mt. Laurel II" Supreme Court Decision (So. Burlington Cty. N.A.A.C.P. v. Mt. Laurel Tp., 92 N.J.158 [1983]). It shall be the responsibility of the applicant to propose the scheme to be used in order to insure that the required number of affordable dwelling units are rented or sold only to low and moderate income households and that the units will continue to be occupied by said households over time. Every affordable unit shall be rented or sold at a cost not exceeding 25% of the earning limits calculated for low income households and moderate income households. For purposes of this Ordinance, "low income households" are those earning less than 50% of the median income figure published for Somerset County and "moderate income households" are those earning between 50% and 80% of said published median income figure.

-
- a. At least 25 percent of the required 35 percent shall be rental units subsidized in accordance with available subsidy programs authorized and regulated by the Federal Department of Housing and Urban Development or the New Jersey Housing Finance Agency. If no subsidy programs are available, this fact shall be certified to the Planning Board, and the rental units shall be restricted in size to be no larger than 15 percent greater in area than the minimum net habitable floor area as specified in this chapter. In any case, 50% of said rental units shall be provided for low income households and 50% for moderate income households. Moreover, not less than 5 percent of the units shall have four (4) bedrooms and not less than an additional 20 percent of the units shall have three (3) bedrooms.

 - b. At least 25 percent of the required 35 percent, and such additional units as may be required to achieve the low and moderate income housing requirements within the "MF" Multiple Family Development, shall be dwellings for sale. 50% of said units shall be provided for low income households and 50% for moderate income households. Moreover, not less than 5 percent of the units shall have four (4) bedrooms and not less than an additional 20 percent shall have three (3) bedrooms.

Peter J. O'Connor, Esquire

November 17, 1983

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

RE: ALLAN-DEANE CORPORATION vs.
TOWNSHIP OF BEDMINSTER
DOCKET NO. L-36896-70P.W.
L-2801-71P.W.

Dear Judge Serpentelli:

The purpose of this letter is to set forth the objections and concerns of my client, Leonard Dobbs, regarding The Hills Development Company proposal for low and moderate income housing dated November 9, 1983. The proposal, as presently framed, does not satisfy Mount Laurel II decision. The proposal does not provide housing for low and moderate income families which is affordable with 25% of their income. Furthermore, the proposal does not meet the 50 and 80% of median income criteria and does not provide a range of housing affordable by persons of low and moderate means whose income is below the maximum 50% and 80% ceilings.

This is the first case in the State of New Jersey after Mount Laurel II to address the standard of affordability required by the New Jersey Supreme Court. The ruling in The Hills Development Company matter will establish a standard of statewide importance for future cases. My client is personally committed to providing affordable low and moderate income housing in his development and had directed me to object to The Hills proposal in order to achieve necessary modifications which will provide a standard with integrity and meaningful opportunities for low and moderate income families.

My role in this matter is as Special Counsel for Mr. Dobbs because of my background in the Mount Laurel issues.. I have served as counsel for the plaintiffs in the Mount Laurel case since 1970 (along with Ken Meiser, Public Advocate, and Carl Bisgaier, formerly Public Advocate). I have spent 13 years in developing the Mount Laurel doctrine. During this time I have also served as Deputy Director of a five County legal services program specializing in the rights of the poor, especially housing, and have served during the last eight years as Executive Director of the Fair Share Housing Center, Cherry Hill, New Jersey, a non-profit tax-exempt group whose goal is to implement the Mount Laurel I and Mount Laurel II decisions. In addition, I am the Housing Administrator of several non-profit corporations which have developed and managed almost 500 units of low and moderate income housing and are presently in the process of developing an additional 123 units.

510 Park Boulevard, Cherry Hill, New Jersey 08034 609-663 3400

EXHIBIT K

November 17, 1983

Page 2

This letter is not meant to obstruct the development of a satisfactory proposal by The Hills Development Company nor is it intended to impede the November 21, 1983 Bedminster Township Planning Board schedule and the December 2, 1983 New Jersey Mortgage Finance Agency meeting to review The Hills application for tax-exempt mortgage financing. Both of these events can be accomplished, along with a satisfactory resolution of needed modifications to The Hills proposal in order to make it one that provides affordable housing for low and moderate income families under the Mount Laurel II decision.

We recommend that the Court direct Bedminster Township Planning Board to consider and provide final approval to the Hills proposal on the condition that the Court subsequently approve the Hills proposal as affordable housing under Mount Laurel II. The necessary ordinance waivers can be provided in this context without delaying the matter. We further submit that the issues to be raised below regarding the Hills proposal can be resolved with the Master, the parties and the Court prior to the NJMFA meeting.

CRITICISM OF THE HILLS DEVELOPMENT COMPANY PROPOSAL

I. DEVELOPER: The proposal requests approval of 1287 residential units, along with certain office and commercial space. The Developer proposes 260 units of low and moderate income sales housing. The proposal for the low and moderate income units, contrary to the comments of the Master, will not be affordable to families with income of 42.5% of median and 68% of median.

Specific deficiencies which need to be remedied before this proposal can be approved are as follows:

(1) Low and moderate income families will not be able to afford the downpayment requirements set forth on page 2-12 and 2-13 of the proposal. These range from \$2650. to \$3350. for low income families and \$4850. to \$5550. for moderate income families. The downpayment requirement not only forces the families to pay an excessive amount of their income, but is unrealistic for families who can barely live in today's economic climate much less save sufficient funds to meet these downpayment requirements. If the families are required to borrow the downpayment, in most cases they will not have sufficient credit and asset support for such loans and further the requirement will force additional income to be devoted for shelter over and above the Mount Laurel II requirements.

The Developer has recognized the truth of this criticism by agreeing to provide a fund of \$139,000. to provide grants for 44 of the low income families. If this is needed to make this aspect of the proposal affordable, how can the remaining 216 units be deemed affordable without such downpayment assistance?

(2) The tables on pages 2-12 and 2-13 use 28% of income but use a 9% interest rate for initial affordability determinations. However, the proposal intends to increase the interest rate one-half of a percent over three years until this rate returns to the NJMFA rate of 10.5%. The initial proposal and the determination on affordability should be calculated at 10.5% unless the interest reduction is long term and not a one year subsidy with incremental increases which return it to the higher 10.5%. The 1.5% difference in the interest should be calculated initially in determining the feasibility of this proposal.

(3) Footnote 8 of the Mount Laurel II decision, 92 N.J. 221 refers to shelter costs at 25% of income and in some cases 30% of income; however, these percentages include all shelter costs, especially utilities and a reserve for repair and replacement. The Hills proposal does not include within the 25% or 28% calculation the cost of utilities and repair and replacement reserve. The Developer should present information on a projected cost of utilities and interior maintenance and these costs should be added to the shelter costs before the affordability determination is made; otherwise, the addition of these items will undermine the 25-28% of income for shelter and require the families to pay substantial additional amounts. These calculations can easily be provided by submitting specifications to the appropriate utility company which can provide current costs and projections for utilities. The repair and replacement projections can be developed from HUD and New Jersey Housing Finance Agency standards. Without this latter element, the low and moderate income families will be faced with additional expenditures for capital repairs which will require a disproportionate amount of their income to be devoted to shelter.

(4) The pro forma on page 2-6 of the Hills proposal, although it is for only 172 units and needs to be revised for 260 units, includes all of the Developer "contributions" except land in the financing package. The Developer, if this total Hills proposal is approved, will receive unencumbered return on the 1027 market units and will finance the balance of the project; namely, the low and moderate income proportion through NJMFA and receive, based on the Developer's construction costs, \$46.73 per square foot, for example, for the 567 square foot single family unit. Under current market conditions, this appears to provide sufficient funds, without land costs, to cover Developer costs, including the items listed in the pro forma on page 2-6. In other words, the contribution of the Developer to the low and moderate income package needs to be specified before the Court deems that the units can not be

provided for a lesser cost to low and moderate income families. We are not suggesting that the Court scrutinize the Developer's books because that could prove to be a disincentive to the private developer market which is needed to assist any implementation of Mount Laurel II; however, the Court should not accept the present proposal in which the Developer has set forth certain figures without understanding, based on those figures and Developer representations, the scope of the Developer's contribution to this package. We submit that such scrutiny will indicate that the units can be provided at a lower cost to the low and moderate income families.

II. BEDMINSTER TOWNSHIP: The Township of Bedminster, under the proposal before the Court, is providing Court-ordered zoning, nothing more. If the Hills matter is going to result in a Mount Laurel II standard of affordability, the issues of affirmative action by the Township must be included in the Court's review on the issue of affordability.

There are certain actions, referred to in the Mount Laurel II decision, which must be part of this proposal and whose inclusion will contribute to reducing the cost of the units to the low and moderate income families. These actions include the following:

(1) Tax abatement with a payment to the Township in lieu of taxes for certain municipal services. There is no tax reduction proposed herein.

(2) The Township should be required to apply for federal Community Development Block Grant funds which can be used to reduce the Developer's cost of site improvements, water and sewer hook-up fees, professional fees, administrative and interest costs. The Township should be required to make a multi year application for these funds and devote them to reducing the cost of the Hills units to low and moderate income families. Note, footnote 27 in Mount Laurel II opinion, 92 N.J. 264.

(3) The Hills proposal does not address municipal support in the areas of garbage and trash collection, street maintenance and utility installation costs for lighting, all of which may reduce the condominium fee requirement. These should be reviewed.

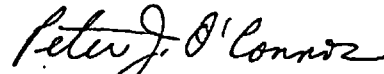
In conclusion, the above matters if specified, reviewed and included in the determination on affordability will reduce the overall cost of the housing to the low and moderate income families

November 17, 1983

Page 5

and make the units affordable by persons with income no greater than 50 and 80% of median, including a reasonable range below those ceilings. We respectfully request that the overall project go forward at the Planning Board as indicated above, and that a schedule of meetings be established to resolve the above matters with the Master prior to the NJMFA meeting and certainly before final determination of affordability is given by this Court.

Very truly yours,



PETER J. O'CONNOR

PJOC:g

cc: All parties and Master

Submission

to

George Raymond

re

Allan-Deane v. Bedminster Township

by

Leonard Dobbs

Prepared by:

Wallace Roberts & Todd
Ernest Erber

EXHIBIT L

Executive Summary

The purpose of the Dobbs submission is to respond to the Court's inquiry as to what Dobbs' interest is in the Allan-Deane case, specifically as to 1) the definition of region, 2) Bedminster's Fair Share, 3) whether Bedminster's proposal for the provision of Fair Share housing solely through its zoning ordinance and zoning map meets Mt. Laurel II standards, and 4) the need for a municipal plan of supporting municipal actions.

Bedminster Township, in the Allan-Deane litigation, is seeking court approval for a six-year moratorium as set forth in the Mt. Laurel II decision. Dobbs' concern is that his development proposal, which includes Fair Share housing under Mt. Laurel II, not be precluded by the Allan-Deane decision and granting of a six-year moratorium. Dobbs contends that the Township submission on definition of region, Fair Share, and development sites and absence of a municipal plan of affirmative action falls short of the Mt. Laurel II standard for granting court approval of a moratorium.

Key Factors

- (1) Leonard Dobbs (hereafter called Dobbs) is a contract purchaser who owns 211 acres in Bedminster Township adjacent to Routes 202-206, across from the AT&T Long Lines World Headquarters.

- (2) All of the development parcels defined by Coppola in the Background Report, except for the Hills site, require off site sewage treatment to develop at the proposed densities.
- (3) Several properties located within the State Development Guide Plan Growth Area were excluded from Bedminster's court ordered growth corridor. The Dobbs property is among those rejected from the corridor, based on erroneous information as to environmental sensitivity provided by the Township that caused the Judge to exclude the Dobbs site from the Developing Corridor designation; and by the Township's Master Plan Committee, Planning Board and Township Board as an inappropriate land use outside Judge Leahy's Developing Corridor.
- (4) Sites designated for development to include Fair Share housing by the Township's Background Report (Part I, Master Plan Program), dated August 1982, are inadequate to provide even the amount of housing calculated by the Township as its allocation of regional Fair Share housing, much less meet the Township's Fair Share as proposed by the Public Advocate (1240 units) and the Dobbs Study (2008 units) (see Part II).

(5) Strong affirmative action on the part of the Township in the form not only of rezoning but also in providing sewage treatment, other utilities, tax abatement and Township applications for State and Federal assistance will be necessary if Bedminster is in fact to meet its Fair Share obligations. To date, Bedminster Township has not submitted any evidence of its desire or intent to provide supportive affirmative actions as set forth in the Mt. Laurel II decision.

This Document is in three parts. The first addresses the Developing Corridor and Growth Area and the evidence indicating that additional properties should be included. This part also contradicts the Township's contention that the site is environmentally sensitive. Further, it is shown that employment data used in the State Development Guide Plan in designating Growth Areas are obsolete. In fact, employment in Somerset and Morris Counties has far outstripped the provision of housing and services of all kinds.

The second part considers the region's Fair Share housing requirements and allocates to Bedminster Township its Fair Share.

The third part evaluates the sites considered as appropriate by the Township for Fair Share housing in the Background Report.

The Dobbs Property Is Not Environmentally Sensitive

In the Mt. Laurel II decision, the opinion places heavy emphasis on the State Development Guide Plan to ensure that Fair Share housing needs are not met at the expense of environmental values. This is an important consideration of the Court in determining if the Dobbs and other properties are inappropriate for Fair Share housing even though within the Growth Area.

The testimony submitted to Judge Leahy was limited by the interpretation of very general information that the Township had at the time about the Dobbs property. It was clear that the crucial decision was to deny the Dobbs property development rights.

Detailed studies by Dobbs, supported by documents submitted to the Township and available for Court examination, indicate the following:

On Sewerage, three options are available: connection to an improved Township Plant; connection to an enlarged Hills Sewage Treatment Plant; connection to a nearby sewer extended from Bridgewater, a short distance to the south.

On Soils, the principal soils on the Dobbs property have severe limitations for septic systems. This precludes on-site disposal necessary under the current zoning. The

soils information from the County Soils Survey also shows that the property has "severe limitations for building foundations and a high water table," a generalized statement made about much of the Township's soils. However, site-specific subsurface investigation by borings indicate excellent foundation and bearing conditions assuming care is taken for the relatively high water table.¹ Therefore soils are not a constraint.

On Public Water Supply, the hydrologist's report indicates immediate and full availability of water from the water main contiguous to the property.

On Traffic Accessibility, the Dobbs property has excellent access right now, contiguous as it is to U.S. Routes 202-206 and to I-287 and 78. Its development as contrasted to other property zoned commercial/office in the Township Plan will minimize negative traffic impact on the Township.

On Existing Land Uses, the OR (Office Research) zoning across U.S. 202-206 immediately to the east (AT&T Long Lines World Headquarters) is compatible with a higher intensity use. To the west the existing single family houses on 3-5 acre lots (R-3% zone) need a buffer between them and higher intensity uses, and the advantage

¹Site Engineers, Inc., Preliminary Soil and Foundation Investigation, Bedminster Regional Shopping Center, September 23, 1980.

of a property as large as the Dobbs property is that the moderate and low income housing can act as an effective buffer and transition to minimize negative impact on these residences.

On Existing Site Uses, the Dobbs property was known as the old polo field, and is partly in intermittent agricultural use and partly allowed to go to second growth woodland. An historic building is to be preserved.

PART III

ANALYSIS OF DEVELOPMENT PARCELS

Part III

The purpose of Part III of this report is to present findings on the capacity for low and moderate income housing of the 13 sites designated by Bedminster Township for development.¹

Summary of Findings

Bedminster will fall far short of meeting even its own calculated Fair Share housing obligation (which has been shown to be underestimated) with the 13 sites and current zoning. The addition of other land, including the Dobbs site, will help the Township provide a reasonable opportunity for low and moderate income housing.

- The most critical factor for all of the development parcels is the provision of off-site sewage treatment. The Hills property (site 11) has its own sewage treatment plant to serve its development. According to Bedminster's Background Report (Utility Plate 1), the Hills plant would also serve the Pluckemin area and sites 9 and 10. The exact nature of any contractual agreement to serve these sites is unknown to us at this time. It is our understanding, based on information from Hills, that the plant would be used to capacity by their development (including the portion in Bernards township).

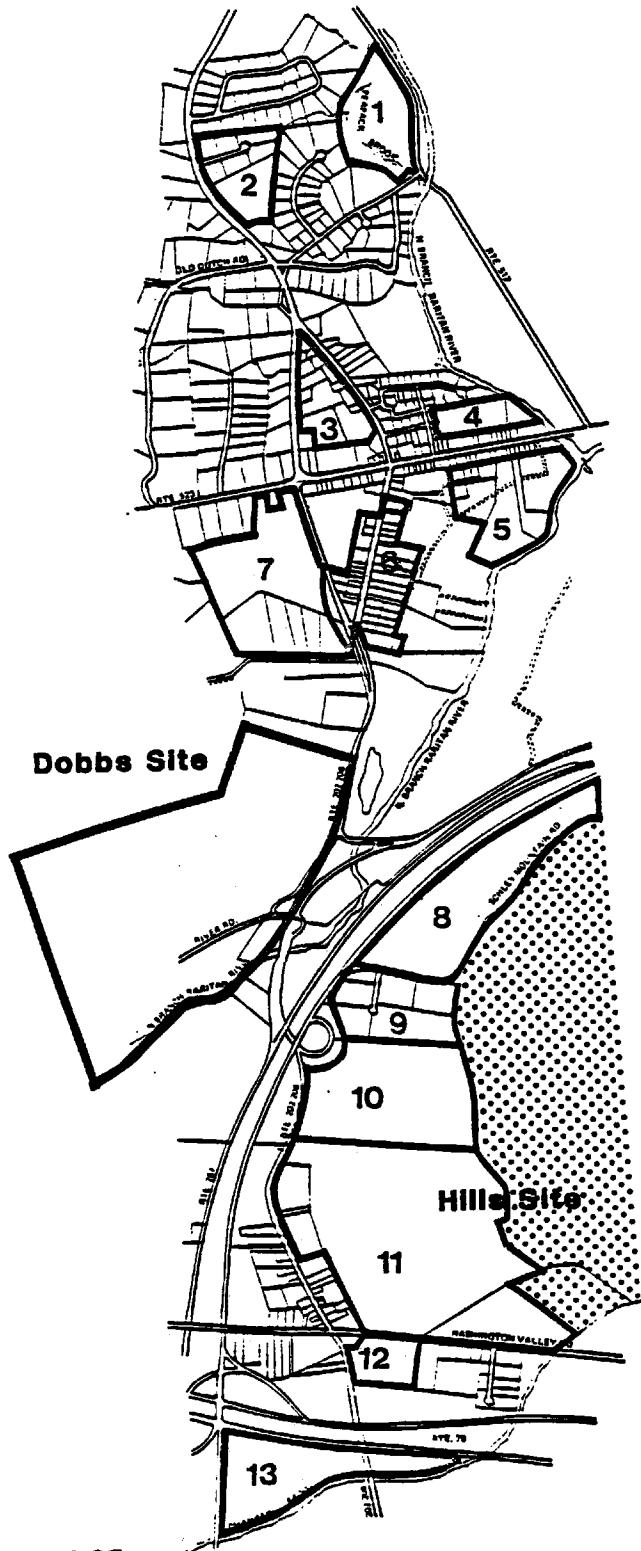
¹Richard Thomas Coppola, Bedminster Part I Background Studies, August 1982

All other sites are undevelopable as zoned unless they can be connected to an off site sewage treatment plant.

The Bedminster plant is at capacity now, so unless it is expanded higher density development, even within the service area, could not be served.

- At maximum development according to Coppola, the 13 sites within the Growth Corridor would only produce 729.704 units. Bedminster's own Fair Share calculation is from 770 to 853 dwelling units, the Public Advocate's estimate is 1240 units, and this study's estimate is 2008 units.
- The sites cannot be developed at Coppola's estimated capacity, and will more likely produce only 501 low and moderate income units due to the following combination of factors:
 1. existing development on the sites
 2. lack of off site sewage treatment
 3. multiple ownership, therefore difficult and costly land assembly.
 4. owner resistance

¹ Department of Community Affairs, Housing Allocation Report allocated 1,346 units to Bedminster, page A-31



Hills site zoned R4

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

Source:
Bedminster Master Plan
Background Report
August 1982

Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners

1737 Chestnut St.
Phila., Pa. 19103
215/564-2811

Date: October 1983



Summary of Site Findings

SITE 1

- Coppola housing capacity: 200.4 DU
- Low and moderate: 40 DU
- WRT housing capacity: 134 DU*
- Low and moderate: 26 DU

WRT Analysis

- Estimated 1/3 of site has 25% slope
- Peapack Brook crosses site
- Severe limitations for septic systems
- No sewer

*WRT has rounded dwelling unit figures to nearest whole number.

SITE 2

- Coppola housing capacity: 151.29 DU
- Low and moderate: 30.258 DU
- WRT housing capacity: 79 DU
- Low and moderate: 16 DU

WRT Analysis

- 12.014 acres under construction in single family units
- Remaining land unsuitable for septic systems and wooded
- No sewer

SITE 3

- Coppola housing capacity: 236.552
- Low and moderate: None required in MF zone at this time
- WRT housing capacity: 67 DU
- Low and moderate: None required

WRT Analysis

- 19.19 acres in existing development, 5.57 acres potentially developable
- A portion of the site is served by the Bedminster sewage treatment facility. The developable portion is just adjacent to the sewer area.

SITE 4

- Coppola housing capacity: 81.492 DU
- Low and moderate units: 16.298 DU
- WRT housing capacity: 81 DU
- Low and moderate units: 16 DU

WRT Analysis

- Limited access
- Within sewer service area, soil unsuitable for septic systems

SITE 5

- Coppola housing capacity: 146.128 DU
- Low and moderate: None required

- WRT housing capacity: 146 DU
- Low and moderate: None required

WRT Analysis

- 2/3 of site within floodplain
- Limited access
- Outside sewer area, sewage line crosses site

SITE 6

- Coppola housing capacity: 205.61 DU
- Low and moderate: None required
- WRT housing capacity: 0
- Low and moderate: None required

WRT Analysis

- Existing development on entire site
- Multiple parcels therefore difficult land assembly
- Served by sewer

SITE 7

- Coppola housing capacity: 517.240 DU
- Low and moderate: 103.448 DU
- WRT housing capacity: 517 DU
- Low and moderate: 103 DU

WRT Analysis

- Development has been proposed and is in litigation
- No sewer

SITE 8

- Coppola housing capacity: 414.17 DU
- Low and moderate: 82.83 DU

- WRT housing capacity: 414 DU
- Low and moderate: 83 DU

WRT Analysis

- Site is owned by AT&T, an unlikely housing developer
- Not served by sewer, soils severely restrict septic systems
- Severe access limitation. Adjacent to interstate.

SITE 9

- Coppola housing capacity: 254.33 DU
- Low and moderate: 50.86 DU
- WRT housing capacity: 0
- Low and moderate: 0

WRT Analysis

- Site is developed with single family homes
- Within Hill' sewage treatment area- contract?

SITE 10

- Coppola housing capacity: 586 DU
- Low and moderate: 117.20 DU
- WRT housing capacity: 0
- Low and moderate: 0

WRT Analysis

- Existing low density estate development, unavailable for further development at this time. However, this site a prime candidate due to sewer service.

SITE 11

- Coppola housing capacity: 1444.06 DU
- Low and moderate: 288.81 DU
- WRT housing capacity: 1287 DU, approved by township
- Low and moderate: 257 DU

WRT Analysis

- Hills has had 1287 DU approved and will exercise commercial option.
- Built own sewer

SITE 12

- Coppola housing capacity: 177.60 DU
- Low and moderate: None required
- WRT housing capacity: 178 DU
- Low and moderate: None required

WRT Analysis

- Next to cemetery, intersection improvements required.
- Served by Hills' sewage treatment plant, according to Background Report.

OPTIONAL SITE 13

- Coppola housing capacity: 118 DU
- Low and moderate: None required
- WRT housing capacity: 118 DU
- Low and moderate: None required

WRT Analysis

- No low and moderate requirement in Residential Cluster zone only in PUD, PRD and proposed for MF, although Coppola offers this specifically as a site for low and moderate income housing.
- No sewer

INTRODUCTION TO DETAILED SITE ANALYSIS

The Township of Bedminster is predicating its position that it can provide a realistic opportunity for low cost housing on the zoning of several sites. It is our position that the capacity and likelihood that these sites will be developed has been overstated. WRT has analyzed the capacity of each site based on Bedminster's own Master Plan Background Studies (Part I, August 1982) and site visits.

Each site is evaluated in terms of the following factors: zoning, access (traffic and circulation), utilities (water and gas), sewer and septic tank suitability, natural resources (topography, soils, depth to water table, depth to bedrock, flood hazards, and wooded areas), historic resources, and land ownership pattern.

These factors were selected for their impact on development. While any combination of factors may not prohibit development each factor will affect the cost of development.

The Sites

Bedminster's Master Plan Background Report records parcels within the court ordered corridor which are "more likely" to develop on Plate REG.-6. Our evaluation covers eight of these parcels - of the remaining five, two are zoned R-1/4 (4 du/ac) which was considered for the purposes of this evaluation to be too low a density to support low and moderate income units and three sites are zoned for Office Research or Village Neighborhood.

Plate REG.-8 of the Background Report illustrates additional parcels which are considered to be "less likely" to be developed because of existing development and/or severe environmental constraint. Our analysis includes an evaluation of all these sites except for the parcel which is zoned R-1/2 - 2 du/ac, again considered to be too low a density for low and moderate income units. Plates 6 and 8 are included in the appendix.

The thirteen sites in our analysis are shown on Map 6.

There are four sites in our analysis which are zoned for multi-family development, three sites zoned for planned residential development (PRD) at 6 dwelling units per acre, one site zoned PRD at 8 dwelling units per acre, and four sites zones for planned unit developments at 10 dwelling units per acre. Richard Coppola, Bedminster's planning consultant, has suggested in the Housing Element of the Master Plan (Part III, August 1983) that an additional site be rezoned for residential use if additional capacity is

needed. The site, south of Interstate 78, is currently zoned for Office Research and is proposed to be R1/4 with the Residential Cluster Option which allows a maximum of four (4) dwelling units per acre on non-critical land (land less than 15% slope and not within a floodplain).

Table 1 shows the comparison of Richard Coppola's housing calculations and WRT's. The sites, analyzed are those within the township's growth corridor which are zoned for higher densities. Not included are those parcels zoned for office research, village neighborhood, or low density residential - 2 to 4 du/ac as this density is considered too low to enable internal subsidies of low and moderate income units.

The total acres information is from Bedminster's Background Report, Plate REG.-7 and 9. Coppola's housing calculations are from the same source. These figures represent maximum development and his estimation of the proportion of critical (15% or greater slope or land within a floodplain) to non-critical land. Coppola's housing calculations reflect zoning and critical area limitations. These figures represent gross density calculations - without counting the amount of land required for on site circulation, or site constraints such as water courses or wooded areas. The Low and Moderate income unit figures are based on applying the current 20% requirement to the planned developments. At this point multi-family zones are not required to include any low and moderate income units. Mr. Coppola proposes in his 6-83 memorandum to the township that 35% of the dwelling units in MF zones be low and moderate units. The total number of possible low and moderate income units is calculated both with and without this requirement.

The last 3 columns represent WRT's calculation of available acres, buildable capacity and low and moderate units. The Acres Available for Development Column represents our estimation of what is realistically likely to be built. Parcels which have already been developed or are under construction are not included, Site 1 is reduced by the estimated area of the brook running through the site.

The Buildable Capacity Calculation is based on the available acres and the zoned density. In the case of the Hills Development (Site #11) the number of approved units (1287 du) is used. Low and moderate income units are calculated again on the basis of the currently required 20% in Planned Development districts.

The results of these calculations are as follows: Total acres 616.597, Coppola's total housing units: 4,532.875, and Coppola's total Low and Moderate unit figure is 729.704 du. This is below the 770 - 853 du Fair Share requirement Coppola calculates in his Housing Element of the Master Plan (Part III), August 1983 (page 16). If the proposed Multi-Family

HOUSING DEVELOPMENT POTENTIAL IN GROWTH CORRIDOR – BEDMINSTER, NEW JERSEY

Table 2

Site	Zoning	Dist.	Density	Total Acres	Coppola Housing Capacity	Coppola Low Moderate Housing	WRT Acres	WRT Housing Capacity	WRT Low & Moderate Housing	Notes
1	R-1	PRD	6 DU/AC	33.40 AC	6(33.40)= 200.4 DU	200.4(.20)= 40 DU	22 AC Non-Crit. 11 AC Crit.	6(22)= 132 DU 1/5(11)=2 DU 134 DU	134(.20)= 27 DU	1/3 of Site Eliminated Due to Peapack Brook
2	R-1	PRD	6 DU/AC	25.215 AC	6(25.215)= 151.29 DU	151.29(.20)= 30.258	13.201 AC	6(13.201)= 79 DU	79(.20)= 16 DU	12.014 AC Under Con- struction
3 S	MF		12 DU/AC Non-Crit. 1/5 DU/AC Crit.	24.76 AC	12(19.627)= 235.524 DU 1/5(5.142)= 1,028 DU 236.552 DU	0	5.57 AC	12(5.57)= 67 DU	0	19.19 AC Existing Development
4 S	R1/4	PRD	6 DU/AC	13.58 AC	6(13.58)= 81.492 DU	81.492(.20)= 16.298 DU	13.58 AC	6(13.58)= 81 DU	81(.20)= 16 DU	Water Course Bisects Site- Additional Cost
5 S	MF		12 DU/AC Non-Crit. 1/5 DU/AC Crit.	43.239 AC	12(11.651)= 139.812 DU 1/5(31.58)= 6.316 DU 146.128 DU	0	43.239 AC	12(11.651)= 139.812 DU 1/5(31.58)= 6 DU 146 DU	0	
6 S	MF		12 DU/AC Non-Crit. 1/5 DU/AC Crit.	30.137 AC	12(16.914)= 202.968 DU 1/5(13.223)= 2.645 205.613 DU	0	0	0	0	Existing Development
7	R-1	PRD	8 DU/AC	64.655 AC	8(64.655)= 517.240 DU	517.24(.20)= 103.448 DU	64.655 AC	8(64.655)= 517 DU	517(.20)= 103 DU	In Litigation Development Denied

NOTE: S = Site within existing sewer service area.

Site	Zoning	Dist.	Density	Total Acres	Coppola Housing Capacity	Coppola Low Moderate Housing	WRT Acres	WRT Housing Capacity	WRT Low & Moderate Housing	Notes
8	R1/4	PUD	10 DU/AC 20% Comm. Option	51.764 AC	51.764(.20)= 10.35 AC Comm. 10(41.417)= 414.17 DU	414.17(.20)= 82.83 DU	41.417 AC	10(41.417)= 414 DU	414(.20)= 83 DU	Owned By AT&T
9 S	R-3%	PRD	10 DU/AC 20% Comm. Option	31.791 AC	31.791(.20)= 6.358 AC Comm. 10(25.43)= 254.33 DU	254.33(.20)= 50.86 DU	0	0	0	Existing Development
10 S	R1/4	PUD	10 DU/AC 20% Comm. Option	73.250 AC	73.250(.20)= 14.65 AC Comm. 10(58.6)= 586 DU	586(.20)= 117.20 DU	0	0	0	Existing Development
11 S	R1/4	PUD	10 DU/AC 20% Comm. Option	180.506 AC	180.506(.20)= 36.10 AC Comm. 10(144.406)= 1444.06 DU	1444.06 x (.20)= 288.81 DU	144.406 AC	1287 DU Approved	1287(.20)= 257 DU	The Hills Development
12 S	MF		12 DU/AC	14.800	12(14.80)= 177.60 DU	0	14.80 AC	12(14.80)= 178 DU	0	
SUB-TOTAL				587.097 AC	4414.875 DU	729.704 DU	373.868 AC	2,903 DU	501 DU	
Option 13	R1/4	RC	4 DU/AC	29.5 AC	4(29.5)= 118 DU	0	29.5 AC	4(29.5)= 118 DU	0	
TOTAL				616.597 AC	4,532.875 DU	729.704 DU	403.368 AC	3,021 DU	501 DU	

NOTE: S = Site within existing sewer service area.

HOUSING CAPACITY ALTERNATIVE ASSUMPTIONS

	Coppola Low and Moderate Housing	WRT Housing Capacity	WRT Low and Moderate Housing
ALTERNATIVE 1: 35% Low and Moderate Units Required in Multi-Family Zoned Sites: 3, 5, 6, and 12	$\begin{array}{r} 729.704 \text{ DU} \\ + 268.057 \text{ DU} \\ \hline 997.761 \text{ DU} \end{array}$		$\begin{array}{r} 501 \text{ DU} \\ + 268 \text{ DU} \\ \hline 769 \text{ DU} \end{array}$
ALTERNATIVE 2: Vacant, Sewered Sites Developed and 35% Requirement Passed (Sites 3, 4, 5, 11, and 12)		1,759 DU	409 DU
ALTERNATIVE 3: All Sewered Sites Developed and 35% Requirement Passed (Sites: 3, 4, 5, 6, 9, 10, 11, and 12)		2,805 DU	649 DU

Low and Moderate requirement of 35% were imposed, the additional 268.057du would bring the total to 997.761du.

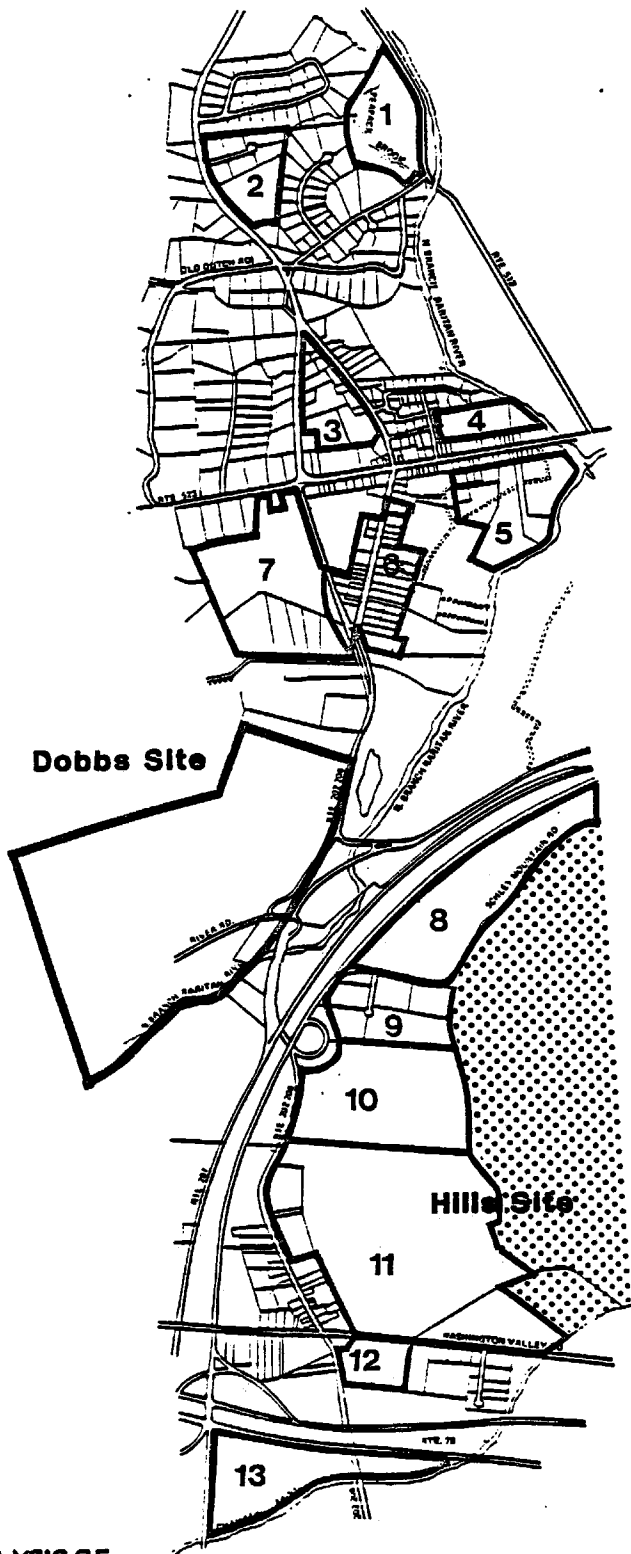
These calculations assume maximum development of vacant land and redevelopment at maximum zoning of existing single family areas. To get more likely development figures, WRT assumed existing development would remain, and the Hills Development would construct the total number of units already approved. The buildable area of Site 1 is reduced by the estimated area of the brook crossing the site. Smaller water courses were considered to be constraints which could be designed around and not prohibit construction. Coppola's calculations of critical and non-critical land were used where they apply. The resulting total acres are: 403.368 , Buildable capacity: 3,021 DU and Low and Moderate Units: 501 du - far below Coppola's estimated Fair Share figure.

The availability of sewer service is a crucial element in deciding the development potential of land in Bedminster as most of the soil is unsuitable for septic systems. Higher density development would especially be constrained by this condition. The township plant is currently operating at capacity and no expansion is planned according to the plant director (June 17, 1983 phone conversation). The Hills plant was designed to handle the anticipated demands from that development only. If only the sites within the growth corridor that are currently in sewer service areas and are vacant were developed, there would be a total of only 1,759 du and 409 du of low and moderate units (this assumes adoption of the 35% Multi-Family requirement). If the sites currently developed were added, this would bring the total up to 2,805 du and 649 du low and moderate - both figures well below Coppola's Fair Share estimate.

From these calculations it is clear that Bedminster has not created a realistic opportunity for low and moderate income housing units within the court ordered corridor. While the gross calculations of housing capacity come close to Coppola's Fair Share requirement, these figures are inflated by the inclusion of the Hills property which by maximum development would yield 2,235.9 du but has been approved at 1,287 du - 948.9 fewer units.

Maps showing detail of the Natural Resources for all sites follow along with detailed site analysis.

¹Calculation: Refer to Background Report, page REG.-16b.
Area No. 8 180.506 ac. x 10 du/ac = 1805.06 du
Area No. 9 305.252 ac. 97.313 non-critical x 4 du/ac =
389.252 du
207.939 ac. critical x 1/5 du/ac = 41.588 du
1805.06 du + 430.84 du = 2235.9 du - 1287 du =
948.9 du.



Hills site zoned R $\frac{1}{2}$

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

Source:
Bedminster Master Plan
Background Report
August 1982

Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners

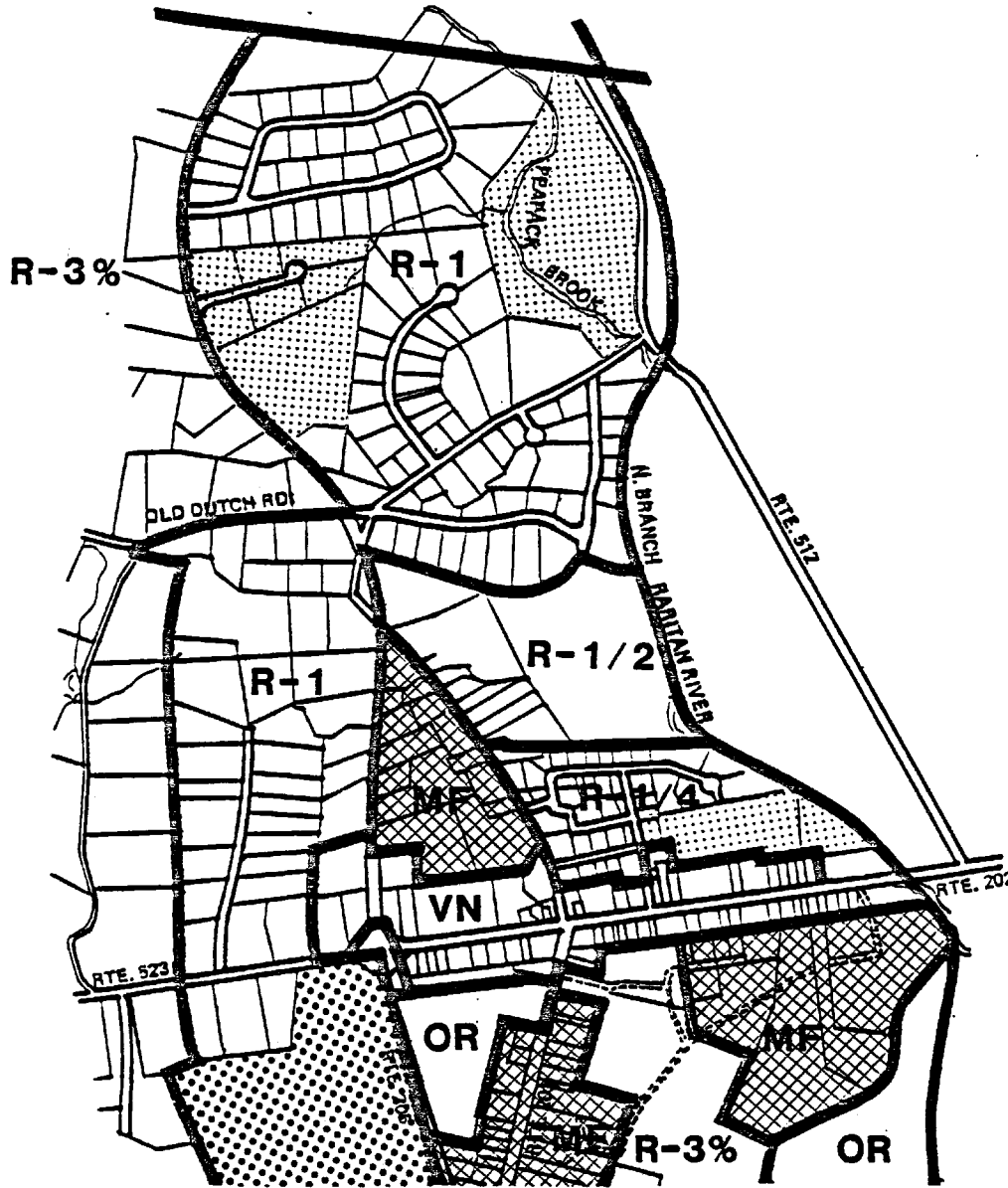
1737 Chestnut St.
Phila, Pa. 19103
215/564-2811

Date: October 1983



Map 7






March, 1982 Zoning



- R-3% Rural Residential
- R-1 Low Density Residential
- R-1/2 Medium Density Residential
- R-1/4 Medium Density Residential
- MF Multiple Family Residential
- VN Village Neighborhood
- OR Office Research

Development Alternatives

R-1/4 and R-1/2 Districts: Residential

-  PRD - 6 DU/AC
-  PRD - 8 DU/AC
-  PUD - 10 DU/AC
-  RC - 4 DU/AC
-  MF - 12 DU/AC

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

Source:
Bedminster Master Plan
Background Report
August 1982

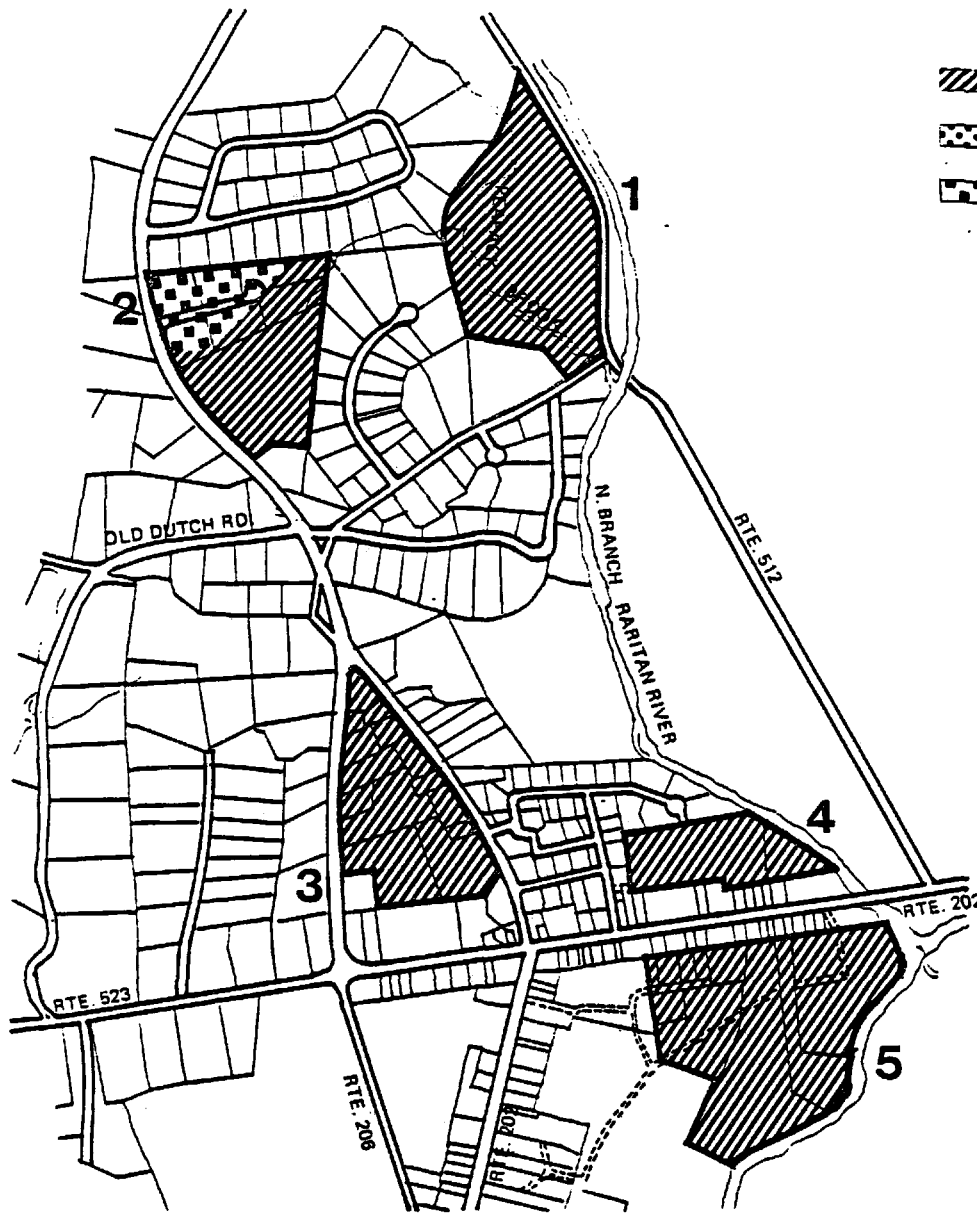
Wallace Roberts & Todd




Architects
Landscape Architects
Urban and
Ecological Planners

1737 Chestnut St.
Phila. Pa. 19103
215/564-2811

Date: October 1983





-  Unsuitable for Septic Systems
-  Suitable for Alternative Septic Systems
-  Suitable for Conventional Septic Systems

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Septic System Suitability**

Wallace Roberts & Todd

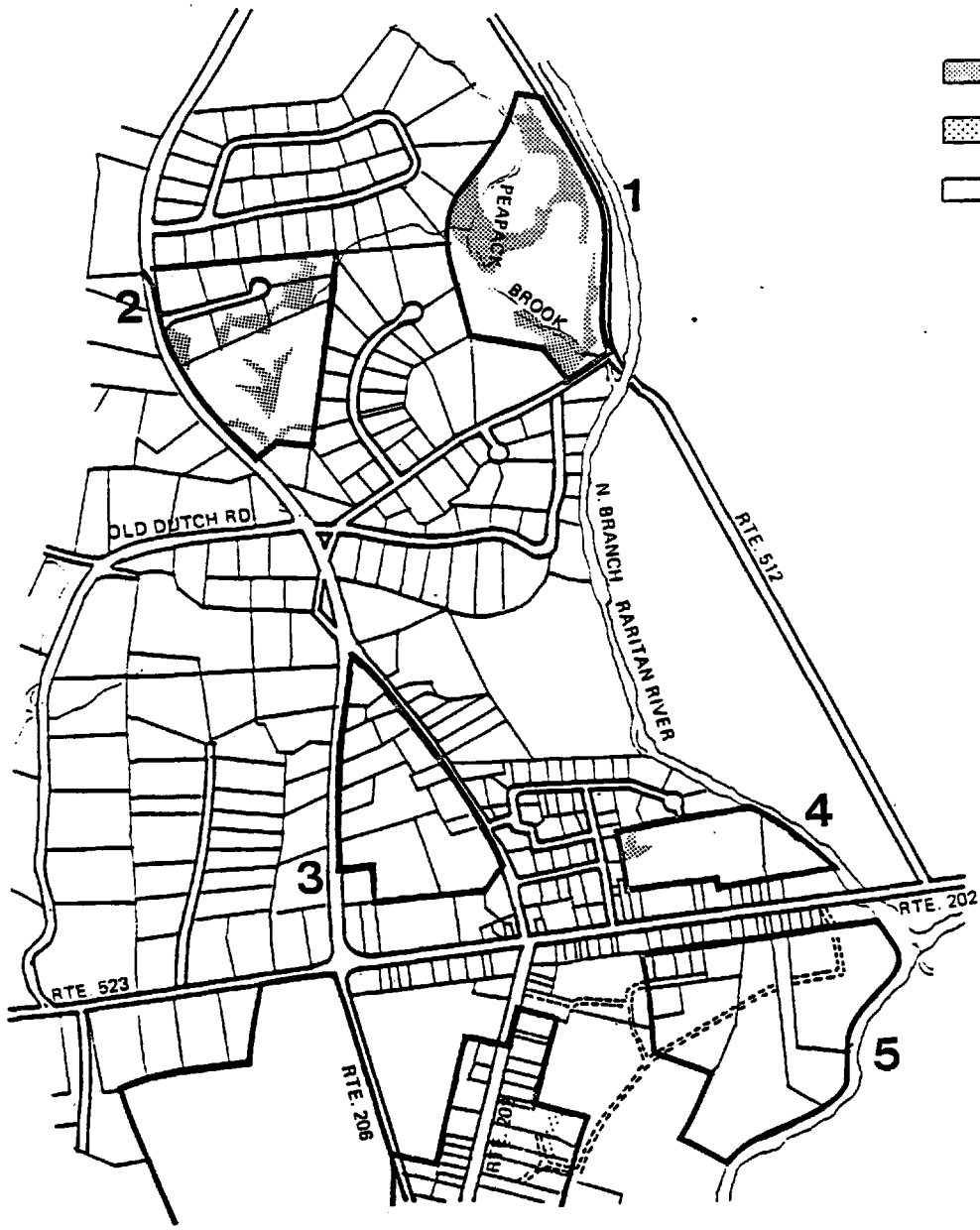
Architects
Landscape Architects
Urban and
Ecological Planners




1737 Chestnut St.
Phila., Pa. 19103
215/564-2611

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983





-  25% or Greater
-  15% - 25%
-  Less than 15%

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

Natural Resources
Topographic Slope

Wallace Roberts & Todd

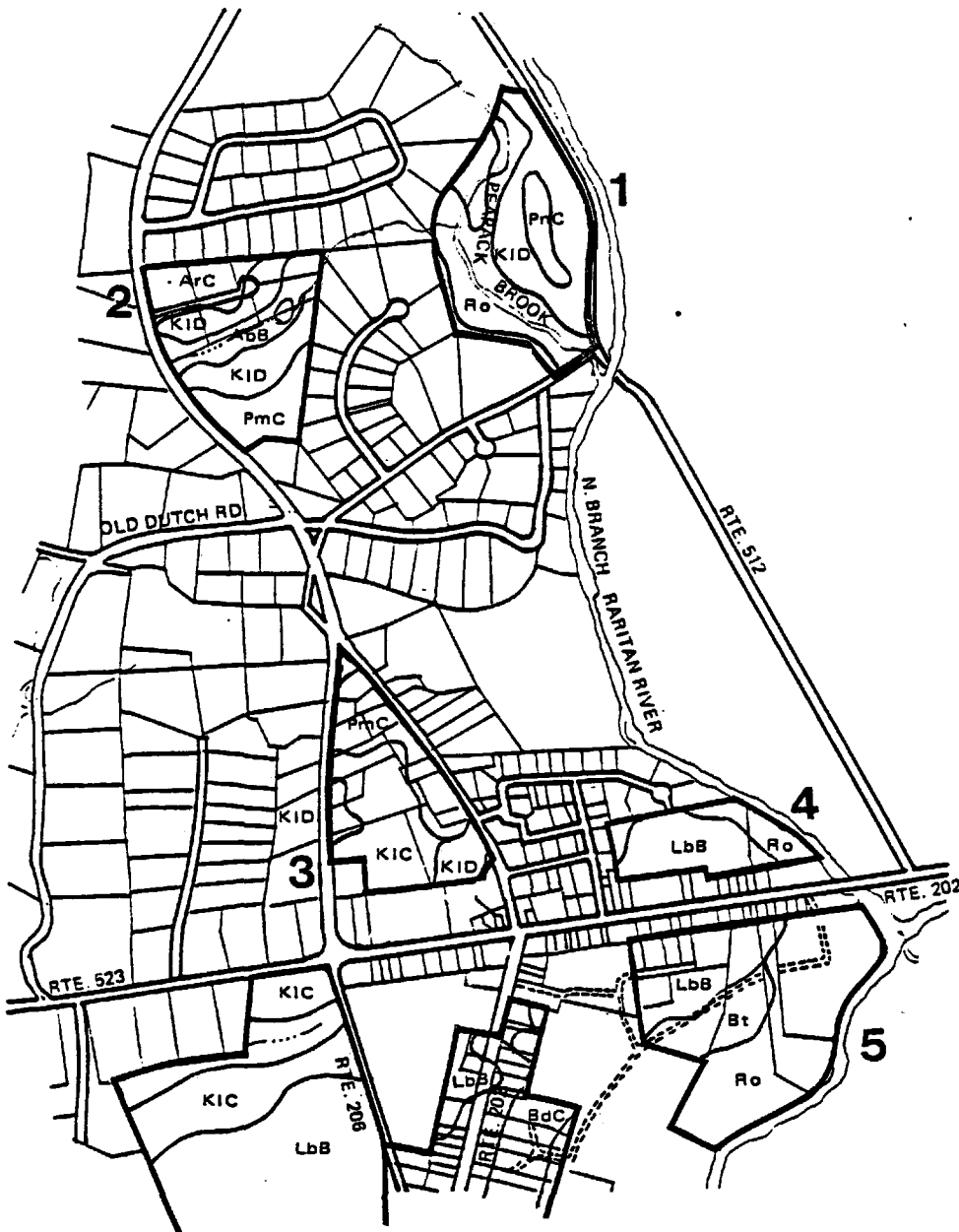
Architects
Landscape Architects
Urban and
Ecological Planners

1737 Chestnut St.
Phila., Pa. 19103
215/584-2611

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983





- Abbotstown
AbB
- Amwell
AmB, AnB
- AnC
- Arendtsville
ArC
- Bowmansville
Bt
- Birdsboro
BdC
- Klinesville
KIC, KID
- Lansdowne
LbB
- Mount Lucas
MuB
- Neshaminy
NkD
- Norton
NoB
- Penn
PmC, PnC
- Raritan
RbA
- Reaville
ReB
- Rowland
Ro
- Watchung
Wc

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Soils**

Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners




1737 Chestnut St.
Phila. Pa. 19103
215/564-2611

Sources:
Soil Survey of
Somerset County, New Jersey
December 1978

Date: October 1983





-  Water Table 0-3 ft.
-  Bedrock 0-3 ft.
-  Bedrock 3-5 ft.

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

Natural Resources
Depth to Bedrock/High Water Table

Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners

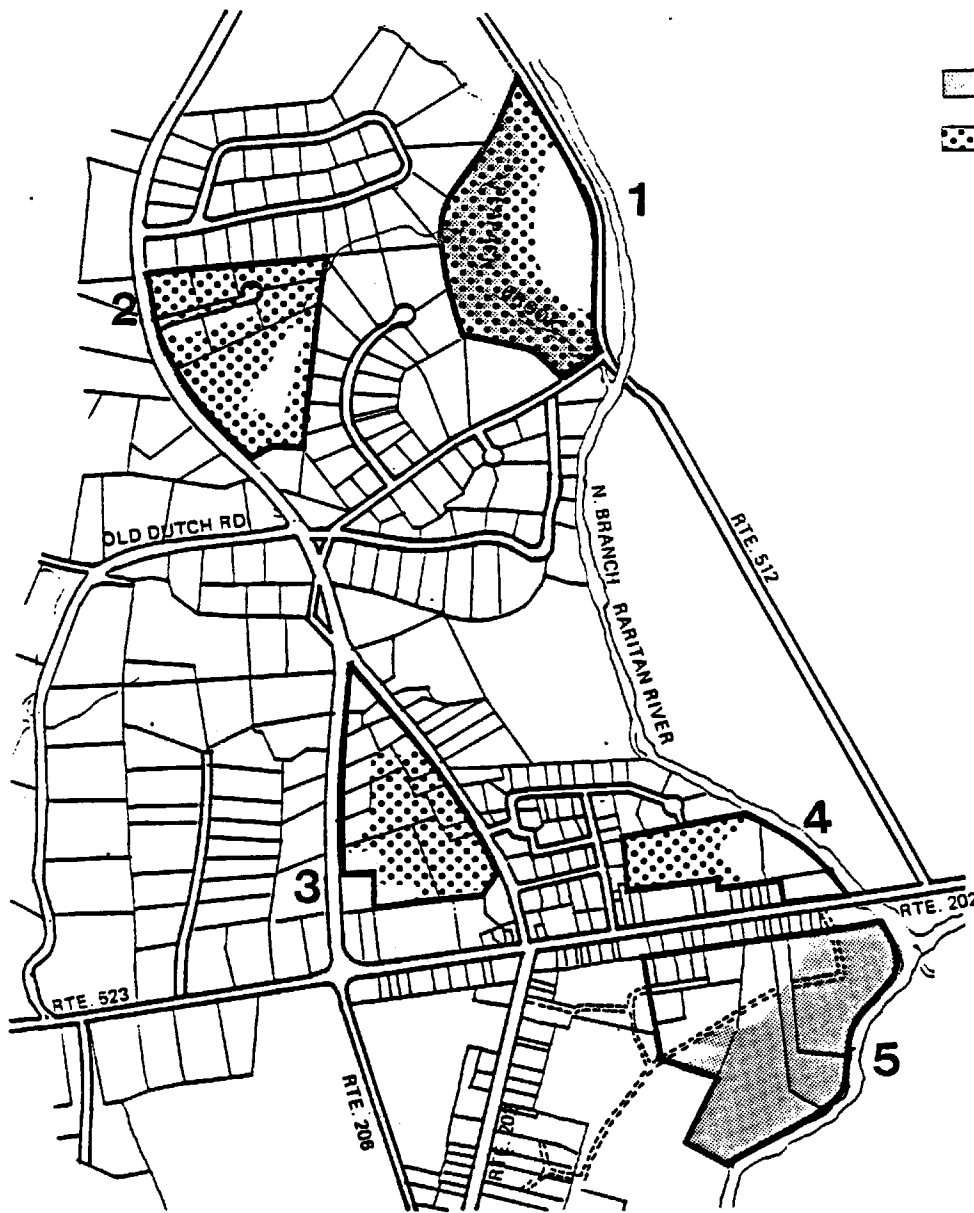
1737 Chestnut St.
Phila. Pa. 19103
215/564-2811

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983



Map 12



 500 Year Flood Boundary
 Wooded Areas

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Flood Hazard & Wooded Areas**

Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners

1737 Chestnut St.
Phila. Pa. 19103
215/564-2611

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983



SITE 1

Zoning: R-1
District: PRD
Density: 6 DU/AC
Total Acreage: 33.40¹
Max. Capacity: 33.40 x 6 DU/AC = 200.40 DU
Low & Moderate: 20% 40 DU

Available Acreage: 22²
Buildable Capacity: 22 AC x 6 DU/AC = 132 DU, 11 AC(1/5)=2DU:134DU
Low and Moderate: 26 DU
Number of Lots: 1

Site Notes

The manager of the property indicated it is not for sale.

Access, Traffic and Circulation

The site is bounded by Old Dutch Road to the south and Rt. 512 to the east. The western boundary of the site is bordered by single family development. Because the Peapack Creek bisects the narrow neck of land at the southern boundary, the main access available would be from Rt. 512, with Old Dutch Road providing the connection between Rt. 202/206 and Rt. 512. Old Dutch Road and Rt. 512 have 30-35' R.O.W.'s.

Utilities³

- . There is an existing 8" water line along Route 512 on the east boundary of the site and a 6" line cutting across the southeast corner
- . No gas lines

Sewer and Septic Suitability

- . The area is not in an existing or projected sewer service area
- . Soils are unsuitable for septic systems

Natural Resources⁴

Topography - An estimates 1/3 of the site has slopes 25% or greater with the remaining area less than 15%.

Soils

Klinesville	moderate limitations for building foundations - bedrock at 1-1/2 ft. severe limitations for septic systems due to pervious bedrock severe limitations for local roads due to shallow depth to bedrock and steep slopes
Penn	moderate limitations for building foundations - bedrock at 1-1/2 - 3-1/2 ft. severe limitations for septic systems due to shallow depth to bedrock moderate limitations for local roads due to frost action potential, shallow depth to bedrock, and slopes
Rowland	severe limitations for building foundation due to stream overflow hazard severe limitations for septic systems due to stream overflow hazard severe limitations for roads stream overflow hazard

Plate 5 of Bedminster's Master Plan Background Report defines soil limitations as follows, based on the Soil Conservation Service Soil Survey of Somerset County, New Jersey:

- A Slight ratings mean little or no limitation or limitations easily corrected by the use of normal equipment and design techniques.
- B Moderate ratings mean presence of some limitation which normally can be overcome by careful design and management at somewhat greater costs. Kinds of limitations are listed.
- C Severe limitations are those which normally cannot be overcome without exceptional, complex or costly measures. Kinds of limitations are listed.

Water Table - more than 1/2 of the site has a water table 0'-3'

Bedrock - 1/2 site has bedrock 0'-3'
1/2 site has bedrock 3'-5'

Flood Hazard - Peapack Creek crosses the site and roughly 1/3 of the site is within the 500 year flood boundary. A dividing line between two major watersheds also traverses the site.

Wooded Areas - 2/3 of the site is wooded

Historic Resources

Elm Cottage, Schomp's Mill and House; The Hogback and Hunt's Folly

Summary

This site is inappropriate for full coverage by high density development. The portion of the site which is over a 15% slope and the floodplain portion is considered a "critical area" by Bedminster's zoning code (Section 13-201, pg. 1308). Section 13-605.4 (pg. 1376) defines what is permitted in steep slope areas. Detached dwellings may be built if each lot is 5 acres, has direct access to a street, a floor area ratio of 1.5%, lot coverage of 2.5% or less and no construction whatsoever on slopes above 30%.

The soils on this site create moderate to severe limitations on building foundations and in all three soil types there are severe limitations for septic systems.

Section 13-506 of the zoning code (pg. 1351) covers natural features. Sub-section 'a' states "natural features such as trees, hilltops and views, natural terrain, open waters and natural drainage ridge lines shall be preserved wherever possible in designing any development containing such features." Sub-section 'c' requires "a conscious effort shall be made to preserve the existing vegetation on the site. Thus the fact that so much of the site is wooded will also limit its development capacity.

¹The total acreage for this and all other sites is that given in Plate REG.-7 "Development Potential", Bedminster Master Plan Background Report I, and for Additional Development Parcels, Plate REG.-9.

²The 'available acreage' is an estimate of the land which is actually buildable based on the evaluation of environmental and land use constraints. Where there is a designation of critical and non-critical areas by Mr. Coppola, these acreages were used.

³ Township of Bedminster, Master Plan Program, Part I
Background Studies, August 1982.
Richard Coppola and Associates
Water Facilities - Plate Utility - 3
Existing Gas Lines - Plate Utility - 4
Wastewater Treatment Facilities and Sewer Needs Evaluation
Areas - Utility Plate - 1

⁴ Op.Cit.
Topographic Slope - N.R.I. Plate 1
Soils - N.R.I. Plate 4
Areas of High Water Table - N.R.I. Plate 6
Depth to Bedrock - N.R.I. Plate 7
Septic System Suitability Plate: N.R.I. - 8
Watersheds and Flood Hazard Areas N.R.I. - Plate 10
Wooded Areas N.R.I. Plate 11

SITE 2

Zoning: R-1
District: Planned Residential District
Density: 6 DU/AC
Total Acreage: 25.215 AC
Max. Capacity: 25.215 AC x 6 DU/AC = 151.29 DU
Low and Moderate: 151.29 XU x 20% = 30.26

Available Acres: 13.201
Buildable Capacity: 13.201 x 6 DU/AC = 79 DU
Low and Moderate: 79.20 DU x 20% = 16 DU
Number of Lots: 7

Site Notes

As of October 10, 1983 construction and site preparation on six 2 acre parcels was underway.

Access, Traffic and Circulation

The site is only accessible from the west border at Route 202/206. The north, south and east boundaries are developed single family residential areas. High density development will cause further congestion on US 206 at the point between two current (1980-1981) accident zones.

Utilities

- . There is a small section of storm drain across the north edge of property and a swale emptying into a branch of the Peapack Creek
- . A 6" water line runs parallel to Berkshire Court in the north end of the property serving the six existing single family lots under construction
- . One fire hydrant in the north property edge
- . Southern portion of the site has no utilities

Sewer and Septic Suitability

- . The site is not served by existing wastewater treatment plants nor is it within the area proposed to be served
- . Only the northern portion of the site - 5 of the 6 lots currently under construction have soils which are suitable for conventional septic systems

- . The remaining undeveloped portion of the site has soils unsuitable for septic systems

Natural Resources

Topography - majority of the site is less than 15% slope. A small portion in the northeast corner of the site has slopes 25% or greater.

Soils

Arendtsville	northern portion of site - 5 of 6 lots under construction slight limitations to building foundations with basements moderate limitations to building foundations without basements due to potential frost action slight limitation to septic system due to ground water pollution hazard moderate limitation to local roads due to frost action potential
Abbottstown	severe limitation to building foundations septic systems and local roads due to high water table, frost action potential, slow permeability, and shallow depth to bedrock
Klinesville	moderate limitation to building foundations severe limitation to septic systems severe limitation to local roads due to shallow depth to bedrock, hazard of ground water pollution
Penn	moderate limitation to building foundations severe limitations to septic systems and moderate limitations to local roads due to shallow depth to bedrock, hazard of ground water pollution, steep slopes

Water Table - narrow area in north of site 0'-3' depth to water table

Depth to Bedrock - entire southern portion of site 0'-3'
depth to bedrock

Wooded - entire site is heavily wooded except Bershire
Court Road in the north

Historic Resources

None

Summary

Only 13.201 acres of this site are still available for development. The most developable portion of the site in terms of septic suitability is the portion under construction. The remaining portion of the site, has several limitations: soils which are unsuitable for septic systems and which moderately or severely limit the construction of building foundations. As with Site 1, this site is heavily wooded and the zoning code discourages clearance for development. The additional turning movements onto and off of Route 206 which would attend high density development will increase the likelihood of accidents on that State highway.

SITE 3

Zoning: MF - Multi-Family
Density: 12 DU/AC Garden Apartments or Townhouses
Total Acreage: 24.76
Maximum Capacity:
19.627 AC non-critical x 12 DU/AC = 235.524 DU
5.142 AC critical x 1/5 DU/AC = 1.028 DU
Total = 236.552 DU
Low and Moderate: none required¹

Available Acres: 5.57
Buildable Capacity: 5.57 AC x 12 DU/AC = 67 DU
Low and Moderate: 0
Number of Lots: 33

Site Notes

Only a portion of one parcel (5.57 acres) is available for development. The rest of the site is developed with single family homes.

Access, Traffic and Circulation

The 5.57 acres available for development are located just north of the intersection of Rt. 202/206 and Lamington Road. Access to the site would be from Rt. 206 on the west border. This section of Rt. 206 has one of the highest accident rates in Bedminster Township.

Utilities

- . The existing 12" and 15" storm drain lines run down a portion of Hillside Avenue (east site boundary)
- . 3" and 6" water lines down Hillside Avenue
- . Fire hydrant on Hillside Avenue

Sewer and Septic Suitability

- . The site is not currently served by any wastewater treatment facilities
- . The site is projected to be served according to Figure 7-3 of the Upper Raritan Watershed Wastewater Facilities Plan (Malcolm Pirnie Inc., June 1981 Revision)
- . Soils on the site are unsuitable for septic systems

Natural Resources

Topography - slopes less than 15%

Soils

Penn moderate limitation to building
foundation
severe septic system limitation
moderate limitate to roads due to
frost action potential, shallow
depth to bedrock

Klinesville moderate limitation to building
foundation
severe limitation to septic system
severe limitation to local roads due
to shallow depth to bedrock

Bedrock - entire site 0'-3' depth to bedrock

Wooded - 3/4 of site is wooded

Historic Sites

None

Summary

Seventy-seven (77) percent of this site has already been developed with single family homes, thus its capacity is greatly reduced. At twelve units per acre, the 5.57 acres remaining could contain 66.84 dwellings. As with the previous two sites, the soils on this site place a severe limitation on septic systems. Due to the proximity to the existing developed areas of Bedminster, this site is projected to have sewer service. Should this service become available, the site would only be constrained by the fact that it is heavily wooded, thus development is discouraged.

¹Bedminster's Land Development Ordinance No. 8/18/80 (including January 19, 1981 amendments) does not require low and moderate and/or least cost units in the Multi-Family zone. Memorandum 6-83 from Richard Coppola to the township, dated August 29, 1983 recommends that multi-family zones be required to have 35% low and moderate income units.

SITE 4

Zoning: R1/4
District: Planned Residential District
Density: 6 DU/AC
Total Acreage: 13.582 AC
Max. Capacity: 13.582 AC x 6 DU/AC = 81.492 DU
Low and Moderate: 20% = 16.298 DU
Number of Lots: 1

Available Acres: 13.582 AC
Buildable Capacity: 13.82 AC x 6 DU/AC = 81 DU
Low and Moderate: 20% = 16 DU

Site Notes

The site is located behind the row of houses facing Route 206 and is bounded by Peapack Brook on the east and single family homes on the other three sides.

Access, Traffic and Circulation

- . Access to the site is limited to Riverwood Avenue and Tuttle Avenue to the north and east. Both residential roads currently serve small single family developments.

Utilities

- . The site has no gas lines
- . Water lines exist adjacent to the site in the single family residential areas

Sewer and Septic Suitability

- . The site is within the service area for Bedminster's Wastewater Treatment facility
- . Soils on the site severely limit septic suitability

Natural Resources

Topography - slopes less than 15%

Soils

Klinesville	moderate limitation to building foundation severe limitation to septic system severe limitation to local road due to shallow depth to bedrock
Lansdowne	severe limitation to building foundation severe limitation to septic system severe limitation to local road due to high water table, frost action potential
Rowland	severe limitation to building foundation severe limitation to septic system severe limitation to local road due to stream overflow hazard

Water Table - 1/2 of the site has 0'-3' water table

Bedrock - 1/2 site 0'-3' depth to bedrock, 1/2 site 3'-5'

Flood Hazard

- . The site is bounded on the east by Peapack Brook. The 500 year flood boundary of the brook affects a very small percentage of the site and would not affect development
- . A water course bisects the site from northeast to southwest

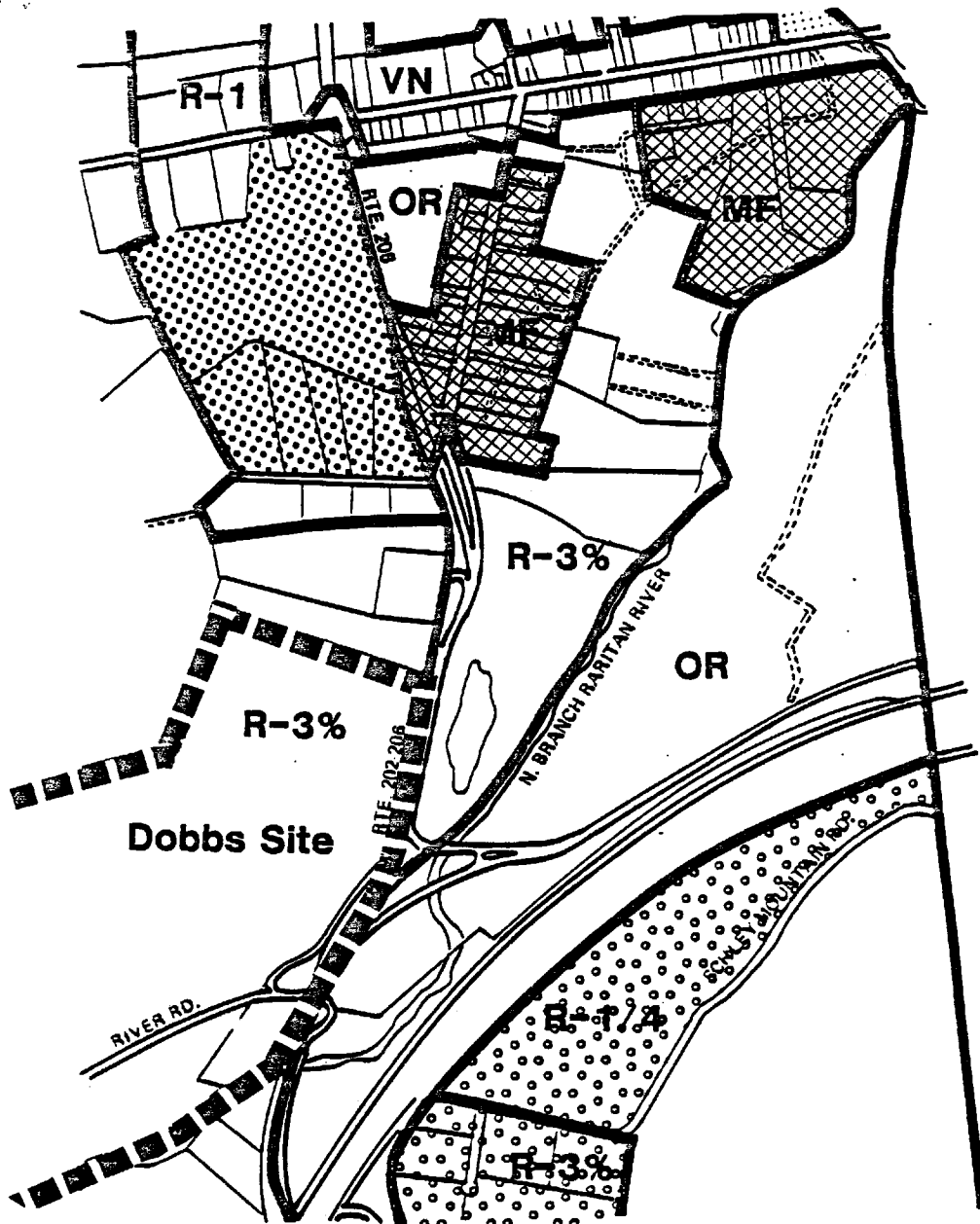
Wooded

- . 1/2 of the site is wooded

Summary

This site, like Site 3, is adjacent to the developed portion of Bedminster. The constraints on development are the soil limitations for septic systems and building foundations, the water course bisecting the site¹, the limitations of half of the site being wooded. Because this is one of the few areas which is served by Bedminster's wastewater facility, it is more likely to develop than the other sites. The water course would have to be channelized, covered or designed around which would increase development costs.

¹The water course is mapped in the Bedminster Master Plan Background Report Plate Utility 2.



March, 1982 Zoning

- R-3% Rural Residential
- R-1 Low Density Residential
- R-1/2 Medium Density Residential
- R-1/4 Medium Density Residential
- R-1/4 Medium Density Residential
- MF Multiple Family Residential
- VN Village Neighborhood
- OR Office Research

Development Alternatives

R-1/4 and R-1/2 Districts: Residential

- PRD - 6 DU/AC
- PRD - 8 DU/AC
- PUD - 10 DU/AC
- RC - 4 DU/AC
- MF - 12 DU/AC

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

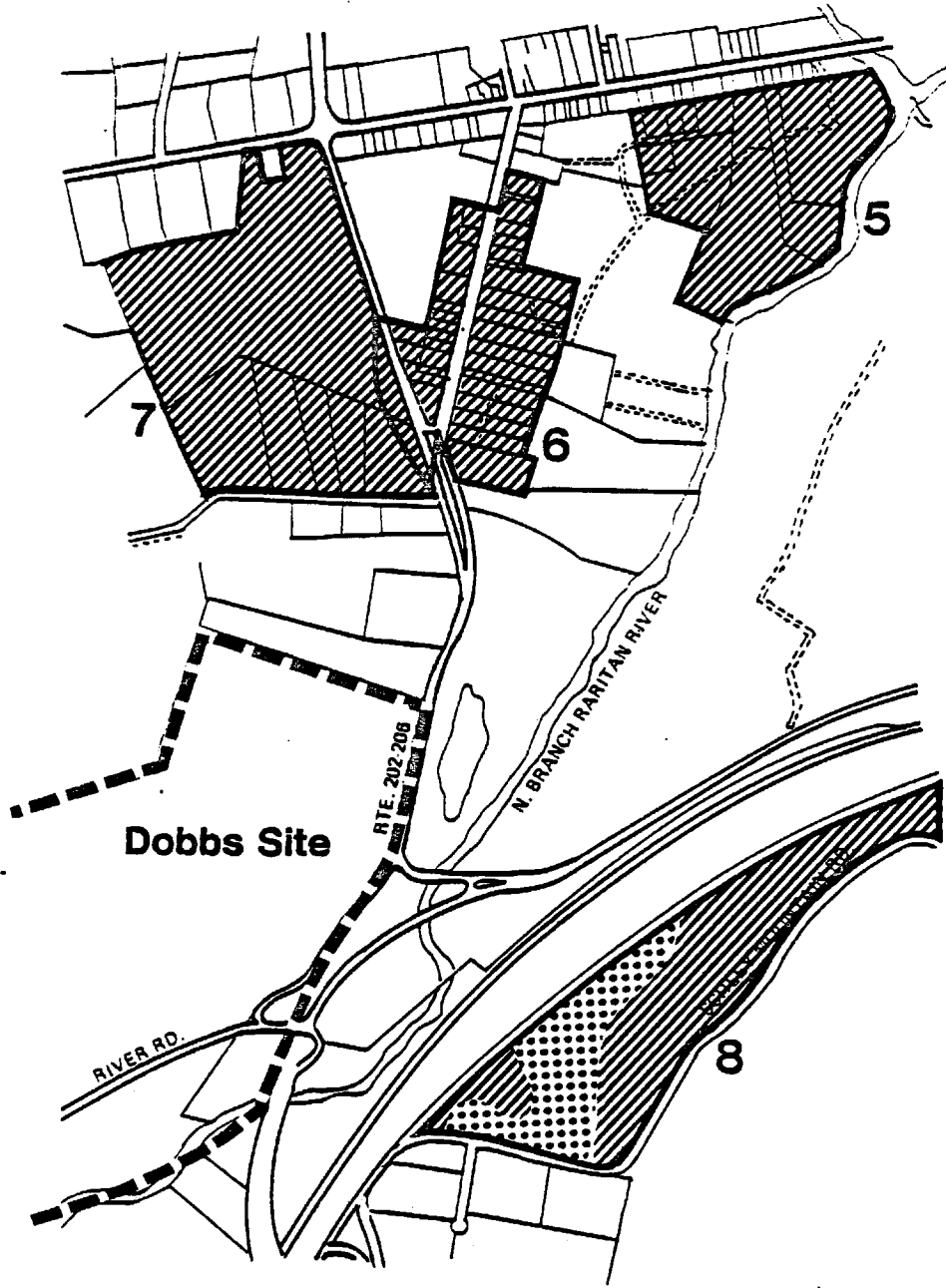
Source:
Bedminster Master Plan
Background Report
August 1982




Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners
1737 Chestnut St.
Phila. Pa. 19103
215/554-2811

Date: October 1983





-  Unsuitable for Septic Systems
-  Suitable for Alternative Septic Systems
-  Suitable for Conventional Septic Systems

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Septic System Suitability**

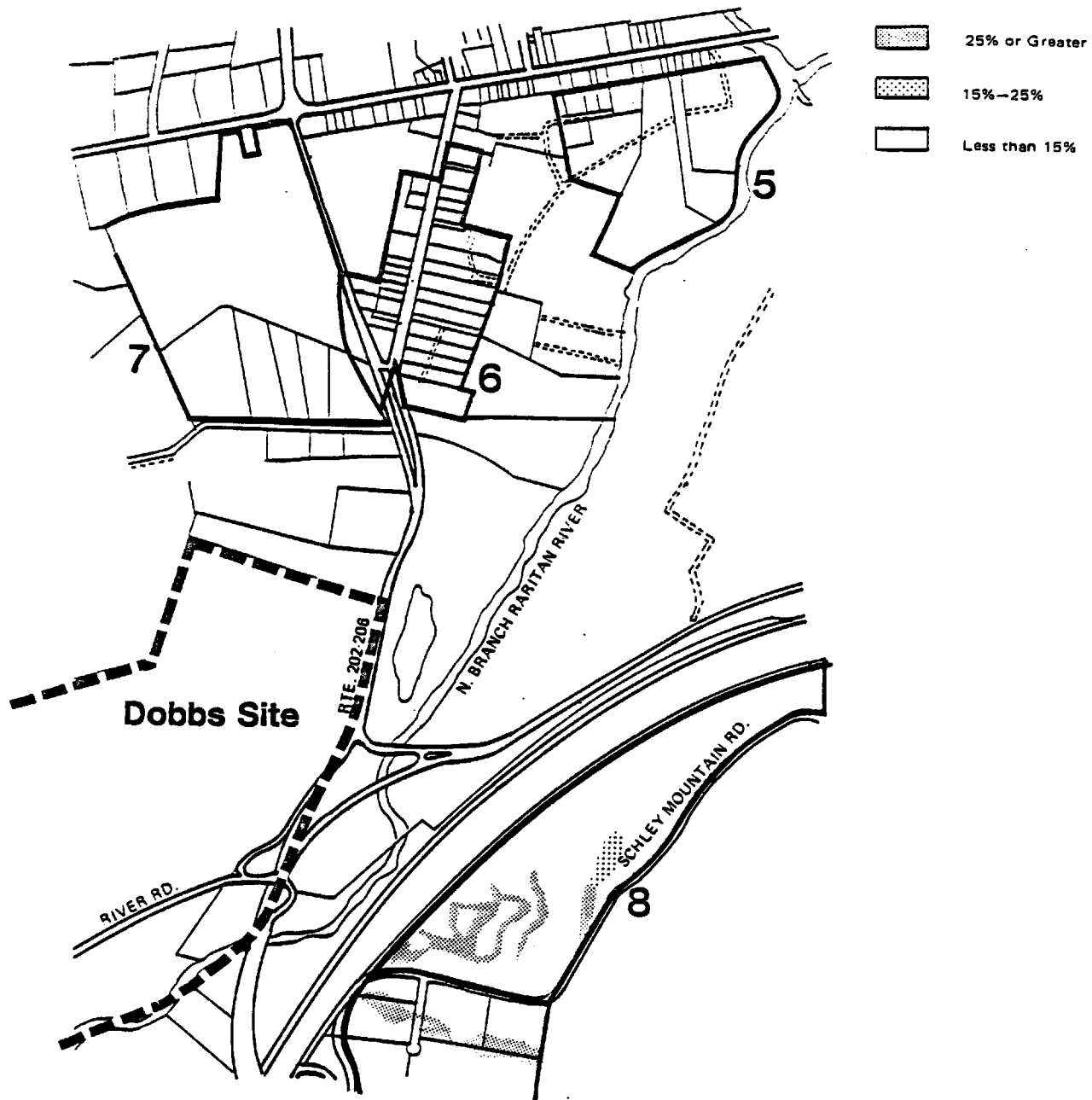
Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners
1737 Chestnut St.
Phila., Pa. 19103
215/564-2811

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983





**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Topographic Slope**

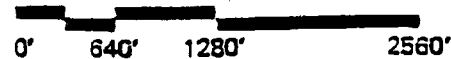
Wallace Roberts & Todd

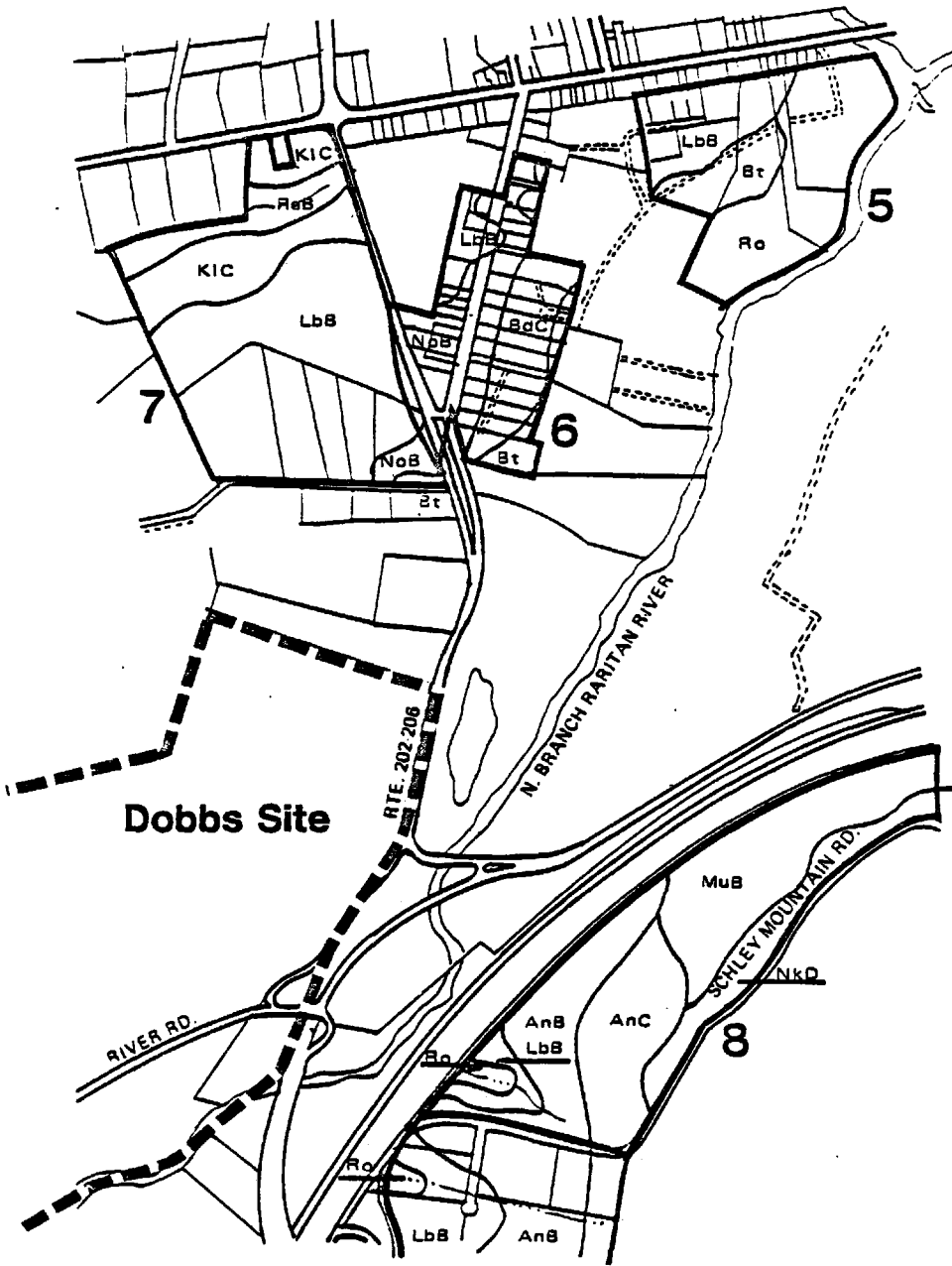
Architects
Landscape Architects
Urban and
Ecological Planners

1737 Chestnut St.
Phila. Pa. 19103
215/564-2611

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983





- Abbottstown
AbB
- Amwell
AmB, AnB
- AnC
- Arendtsville
ArC
- Bowmansville
Bt
- Birdsboro
BdC
- Klinesville
KIC, KID
- Lansdowne
LbB
- Mount Lucas
MuB
- Neshaminy
NkD
- Norton
NoB
- Penn
PmC, PnC
- Raritan
RbA
- Reaville
ReA, ReB
- Rowland
Ro
- Watchung
Wc

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Soils**

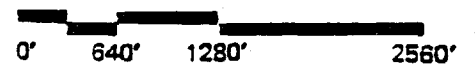
Source:
Soil Survey of
Somerset County, New Jersey
December 1978

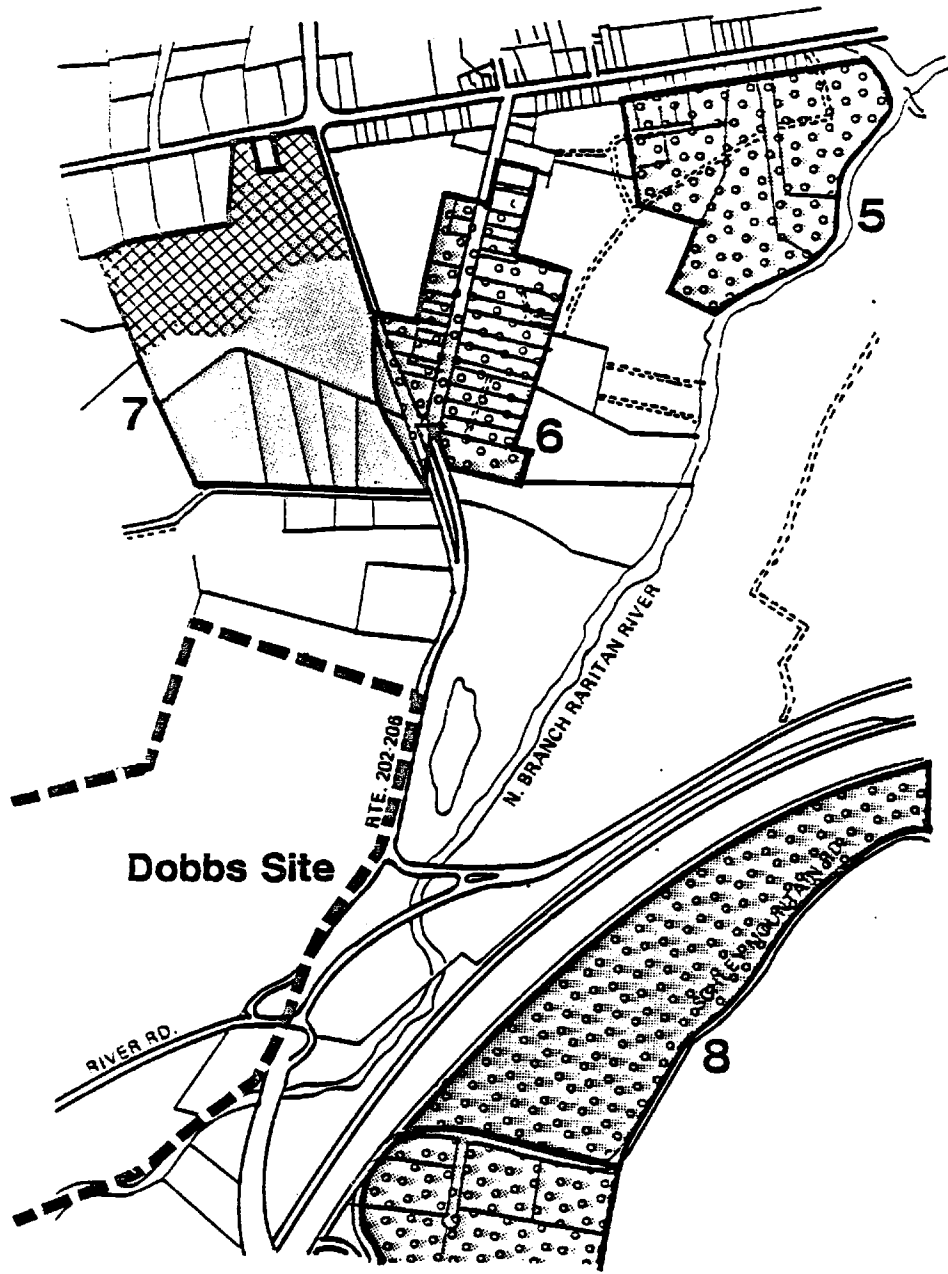
Wallace Roberts & Todd




Architects
Landscape Architects
Urban and
Ecological Planners

1737 Chestnut St.
Phila., Pa. 19103
215/564-2611

Date: October 1983





-  Water Table 0-3 ft.
-  Bedrock 0-3 ft.
-  Bedrock 3-5 ft.

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

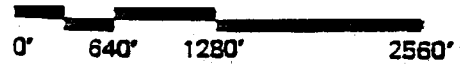
Natural Resources
Depth to Bedrock/High Water Table

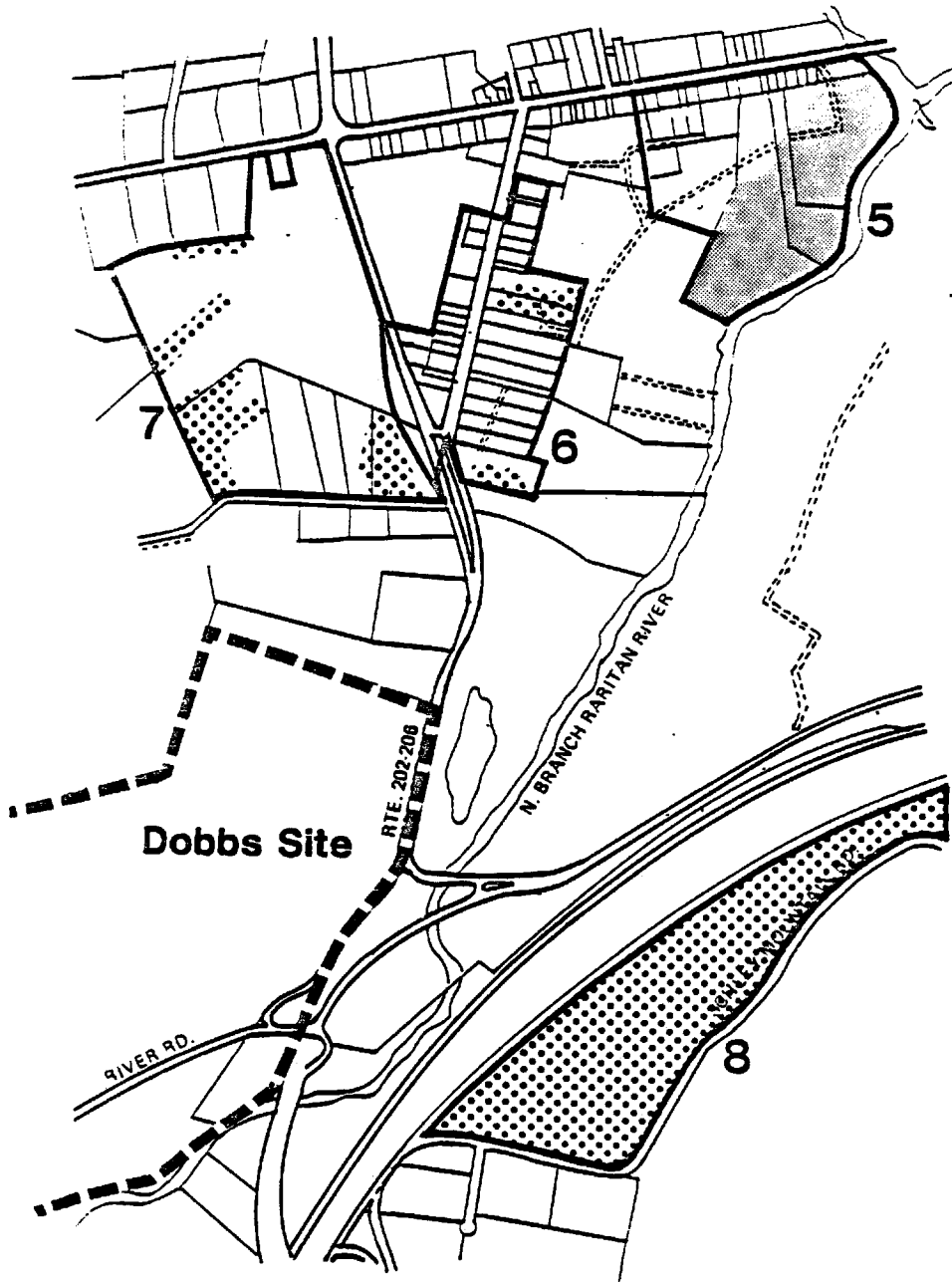
Wallace Roberts & Todd



Architects
Landscape Architects
Urban and
Ecological Planners
1737 Chestnut St.
Phila., Pa. 19103
215/564-2611

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983





-  500 Year Flood Boundary
-  Wooded Areas

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Flood Hazard & Wooded Areas**

Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners

1737 Chestnut St.
Phila. Pa. 19103
215/564-2611

Sources:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983



SITE 5

Zoning: MF - Multi-Family
Density: 12 DU/AC
Total Acreage: 43.23 AC
Max. Capacity: 11.65 AC non-critical (12) = 139.81 DU
31.58 AC critical (1/5) = 6.32 DU = 146.13 DU
Low and Moderate = 0

Available Acreage: 11.65 AC non-critical, 31.58 AC critical
Buildable Capacity: 11.65 AC non-critical x 12 DU/AC =
140 DU
31.58 AC critical x 1/5 DU/AC =
6 DU
Total DU/site = 146 DU

Low and Moderate: 0
Number of Lots: 9

Site Notes

This site is located behind the row of homes and businesses on Route 202/Lamington Road bounded on the east by the North Branch of Raritan River. The site is adjacent to the Bedminster Elementary School.

Access, Traffic and Circulation

The only current access to this site is off Field Road, a very small residential street reached from Elm Street which serves the adjacent Bedminster Elementary School. The elementary school property borders the west side boundary. Elm Street is located off Lamington Road just east of the intersection with 202/206, which has a high accident rate.

Utilities

- . There are no gas or water lines on the site. The nearest water line is along Route 202 - Lamington Road.
- . Several water courses (open drainage) exist along the western portion of the site.

Sewer and Septic Suitability

- . A 14" sewer line bisects the site thus presumably sewer service could be easily provided although Utility Plate 1 of Bedminster's Master Plan I Background Report does not show the site within the area served by the Bedminster Municipal plant.

. Soils on the site are not suitable for septic systems.

Natural Resources

Topography - slopes less than 15%

Soils

Bowmansville

severe limitations to building foundations
severe limitations to septic systems
severe limitations to local roads due to high water table, stream overflow hazard

Lansdowne

severe limitations to building foundations
severe limitations to septic system
severe limitations to road due to high water table, frost action potential

Rowland

severe limitations to building foundations
severe limitations to septic systems
severe limitations to local roads due to stream overflow hazard

Water Table - 0'-3' depth to water table

Bedrock - 3'-5' depth to bedrock

Flood Hazard - 2/3 of site is within the floodplain area of North Branch of the Raritan River.

Wooded - site consists of open fields

Summary

The majority of this site (73% by Coppola's calculations) lies within the floodplain of the North Branch of the Raritan River. Permitted uses in floodways (according to Section 13-605.2 pg. 1375-6) include structures if built in conjunction with stream improvements with the approval of the State Department of Environmental Protection, Somerset County Planning Board and Township Planning Board, and farming or recreational uses. In flood fringe areas detached dwellings are permitted if the lowest habitable floor is one foot above the flood hazard design elevation, each lot is five acres minimum, has direct street access, a floor area ratio of less

than 1.5% and lot coverage not to exceed 2.5%. Given these restrictions, only the portion of the site outside the floodplain can be developed at a multi-family density. The remainder of the site would be limited to low density development.

SITE 6

Zoning: MF - Multi-Family

Density: 12 DU/AC

Total Acreage: 30.137 acres

Available Acreage: Non-critical 16.914 AC, critical 13.223
AC

Capacity: 12 DU/AC x 16.914 AC = 202.968, 1/5 DU/AC x 13.223
AC = 2.645 DU, 205.613 DU total

Low and Moderate: 0

Available Acres: 0 site already developed

Buildable Capacity: 0

Low and Moderate: 0

Number of Lots: 31

Site Notes

This site is already developed with single family homes.

Access, Traffic and Circulation

The site straddles State Route 202 as it divides from 206 and turns north. At this point 202 is a 66' right-of-way. Access is easy, however additional turning movements onto and off of the State highway will increase the potential for accidents.

Utilities

- . One fire hydrant in the southern corner of the site
- . 4" water line along Route 202

Sewer and Septic Suitability

- . This site is served by the Bedminster Municipal Treatment plant which is located just east of the site

Natural Resources

Topography - less than 15% slopes

Soils

Birdsboro	moderate limitations for building foundations due to steep slopes moderate limitations for septic systems due to slopes and potential ground water pollution moderate limitations for local roads due to potential frost action depth to seasonal high water table greater than 4 ft.
Lansdowne	severe limitations for building foundations severe limitations for septic systems severe limitations for local roads due to high water table, and potential frost action
Norton	slight limitations for building foundation with basements moderate limitations for building without basements due to potential frost action severe limitations for septic systems due to slow permeability moderate limitations for local roads due to frost action potential

Water Table - 1/3 of site has 0'-3' depth to water table

Bedrock - majority of site has 3'-5' depth to bedrock

Wooded - site is open

Historic Resources

Nevius Homestead, Wekkoff Homestead, and Beekman House

Summary

As this site is already developed with single family homes, it is extremely unlikely that it would be redeveloped into multi-family housing. The cost of assembling and clearing the many parcels on this site would make it prohibitively expensive for low and moderate cost housing.

SITE 7

Zoning: R-1
District: Planned Residential Development
Density: 8 DU/AC
Total Acreage: 64.65
Max. Capacity: $64.65 \times 8 \text{ DU/AC} = 517.240 \text{ DU}$
Low and Moderate: $20\% \times 517.240 \text{ DU} = 103.448 \text{ DU}$

Available Acreage: 64.65 AC
Buildable Capacity: 517 DU
Low and Moderate: 103 DU
Number of Lots: 7

Site Notes

The site is located west of Route 206 between Thosmor Road and Lamington Road. It is currently undeveloped except for the Clarence Dillon Library on Lamington Road. Development of high density housing (401 townhouses) has been proposed and denied. The township is in litigation over this site as well.

Access, Traffic and Circulation

Parcel's frontage (east boundary) along US 206 is severely restricted in terms of entrance and egress and access from Lamington Road (north boundary) is too close to the intersection with US 206 for State arterial standards.

Utilities

- . 16" water line along Route 206
- . 3 fire hydrants across 206 and Lamington Road

Sewer and Septic Suitability

- . The site is not served by sewer, however is shown in a projected service area in the Upper Raritan Watershed Wastewater Facilities Plan (Figure 7-3).
- . The soils on the site are unsuitable for development.

Natural Resources

Topography - less than 15% slopes

Soils

Klinesville	moderate limitations to building foundation severe limitations to septic system severe limitations to local roads due to shallow depth to bedrock
Lansdowne	severe limitations to building foundation severe limitations to septic system severe limitations to local roads due to high water table
Reaville	severe limitations to building foundations severe limitations to septic system severe limitations to local roads due to high water table frost action potential shallow depth to bedrock

Water Table - majority of the site has 0'-3' depth to water table

Depth to Bedrock - 1/2 site has 0'-3' depth to bedrock
1/2 site has 3'-5' depth to bedrock

Wooded - site is open

Summary

Development of high density housing has been proposed on this site and has been denied based on the lack of sewer service despite the developers offer to contribute to the expansion of the Bedminster plant.¹

¹Based on personal communication with Leonard Dobbs.

SITE 8

Zoning: R1/4
District: Planned Unit Development
Density: 10 DU/AC
Total Acreage: 51.76
Max. Capacity: 517.6 DU if developed as residential only
Low and Moderate: 103.52

Available Acres: 517.6
Buildable Capacity: 20% commercial 10.35 AC, 41.417 AC x 10
DU/AC = 414.17 DU
Low and Moderate: 82.834 DU
Number of Lots: 1

Site Notes

AT&T Company owns this site.

Access, Traffic and Circulation

The site is bounded by Route 287, a limited access interstate, and on the east and south by Schley Mountain Road, a small local road (30-35 ft. right-of-way). High density development on this site would require upgrading of Schley Mountain Road.

Utilities

None shown

Sewer and Septic Suitability

- . The site is not currently served by any treatment plant, and is not projected to be served according to the Upper Raritan Watershed Wastewater Facilities Plan.
- . Soils on the site severely restrict septic systems.

Natural Resources

Topography - majority of site less than 15%
small portions 25% or greater

Soils

Amwell

severe limitations for building foundations due to high water table
severe limitations for septic systems due to high water table, slow permeability and shallow depth to bedrock

severe limitations for local roads due to high water table, and frost action potential

Mount Lucas

severe limitations for building foundations due to high water table, shallow depth to bedrock and high stone content

severe limitations for septic systems due to high water table and shallow depth to bedrock

severe limitations for local roads due to high water table

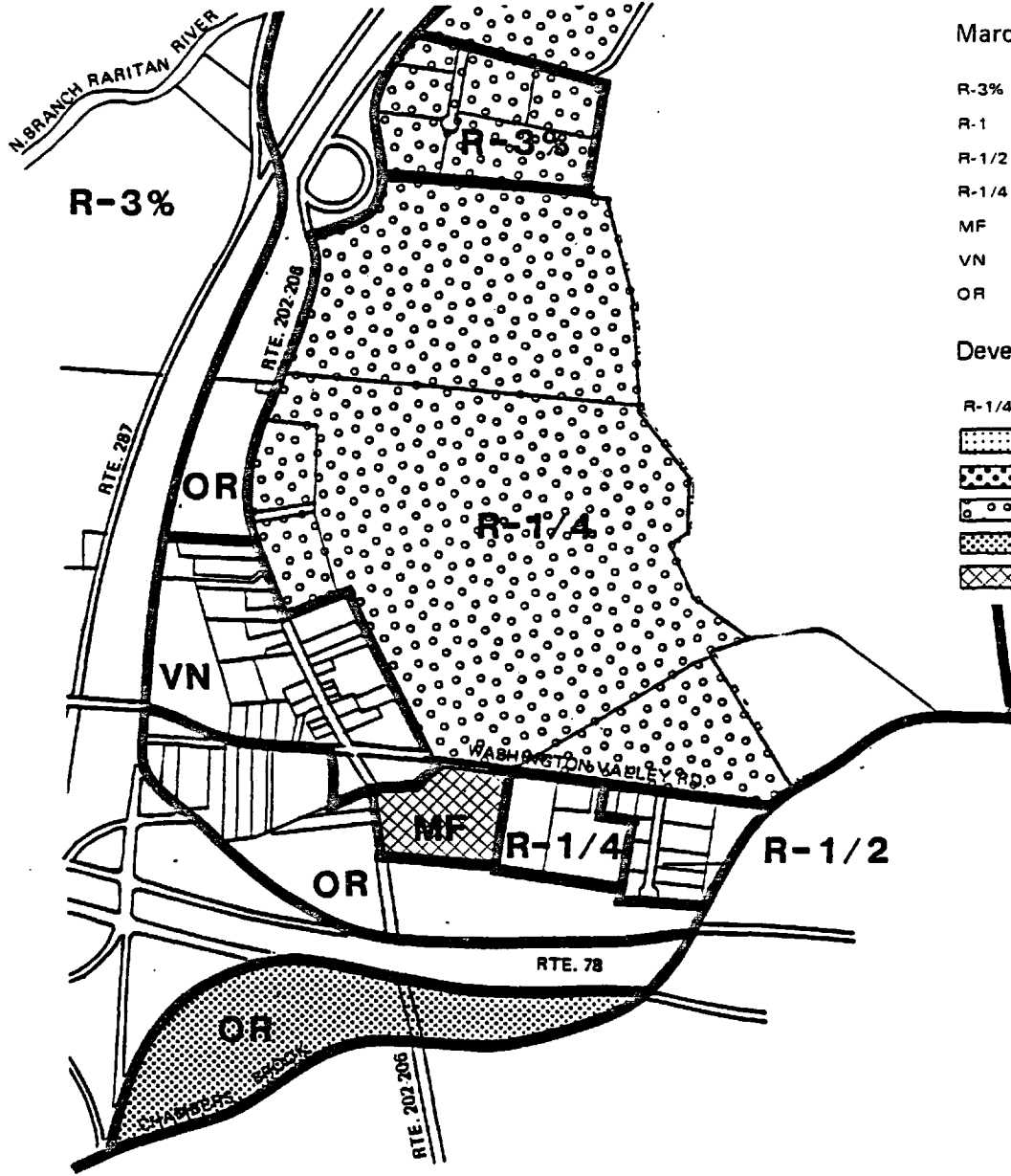
Water Table - the entire site has a 0'-3' depth to water table

Bedrock - entire site 3'-5' depth to bedrock

Wooded - the entire site is heavily wooded

Summary

Access and sewer availability are the major constraints to development of this site along with the fact it is heavily wooded.



March, 1982 Zoning

- R-3% Rural Residential
- R-1 Low Density Residential
- R-1/2 Medium Density Residential
- R-1/4 Medium Density Residential
- MF Multiple Family Residential
- VN Village Neighborhood
- OR Office Research

Development Alternatives

R-1/4 and R-1/2 Districts: Residential

- PRD - 6 DU/AC
- PRD - 8 DU/AC
- PUD - 10 DU/AC
- RC - 4 DU/AC
- MF - 12 DU/AC

ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY

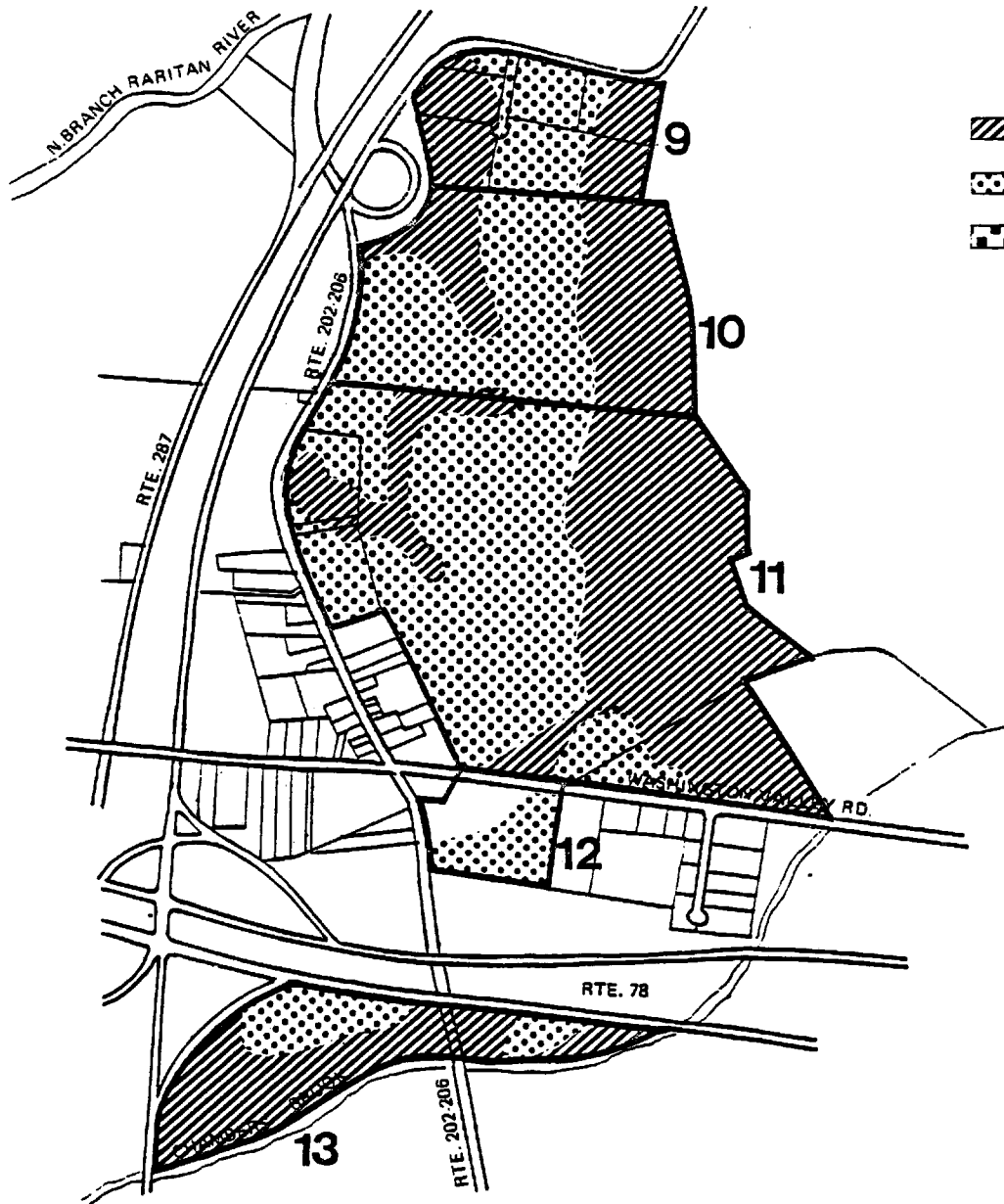
Source:
Bedminster Master Plan
Background Report
August 1982




Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners
1737 Chestnut St.
Phila, Pa. 19103
215/564-2611

Date: October 1983





-  Unsuitable for Septic Systems
-  Suitable for Alternative Septic S
-  Suitable for Conventional Septic

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Septic System Suitability**

Wallace Roberts & Todd

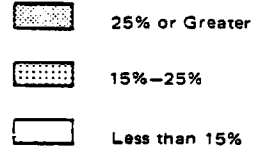
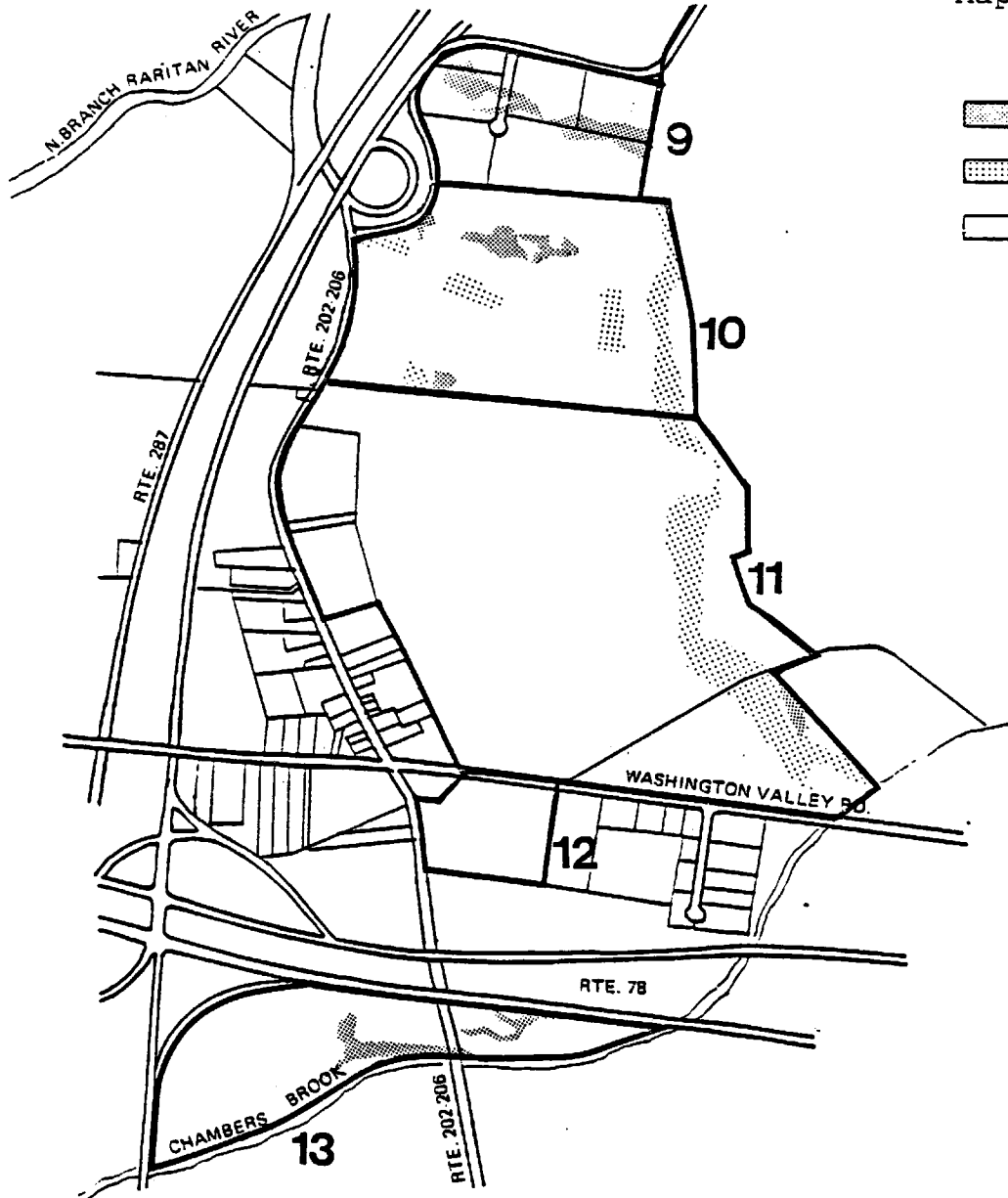
Architects 1737 Chestnut St.
Landscape Architects Phila. Pa. 19103
Urban and Ecological Planners 215/564-2611

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983



Map 21



**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Topographic Slope**

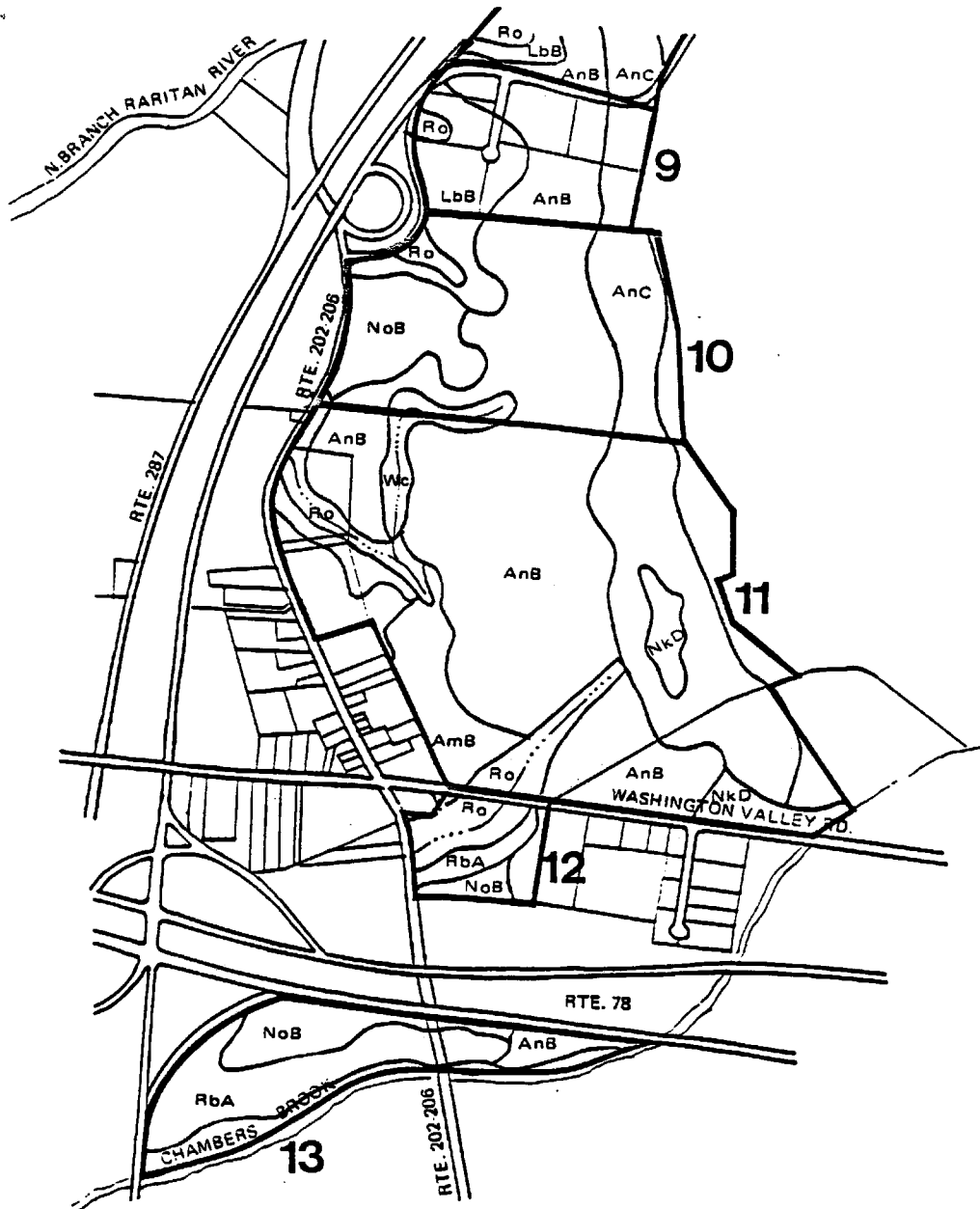
Wallace Roberts & Todd

Architects 1737 Chestnut St.
Landscape Architects Phila., Pa. 19103
Urban and 215/564-2811
Ecological Planners

Source:
Bedminster Master Plan
Background Report
August 1982

Date: October 1983





- Abbottstown
AbB
- Amwell
AmB, AnB
- AnC
- Arendtsville
ArC
- Bowmansville
Bt
- Birdsboro
BdC
- Klinesville
KIC, KID
- Lansdowne
LbB
- Mount Lucas
MuB
- Neshaminy
NkD
- Norton
NoB
- Penn
PmC, PnC
- Raritan
RbA
- Reaville
ReB
- Rowland
Ro
- Watchung
Wc

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

**Natural Resources
Soils**

Source:
Soil Survey of
Somerset County, New Jersey
December 1976

Wallace Roberts & Todd

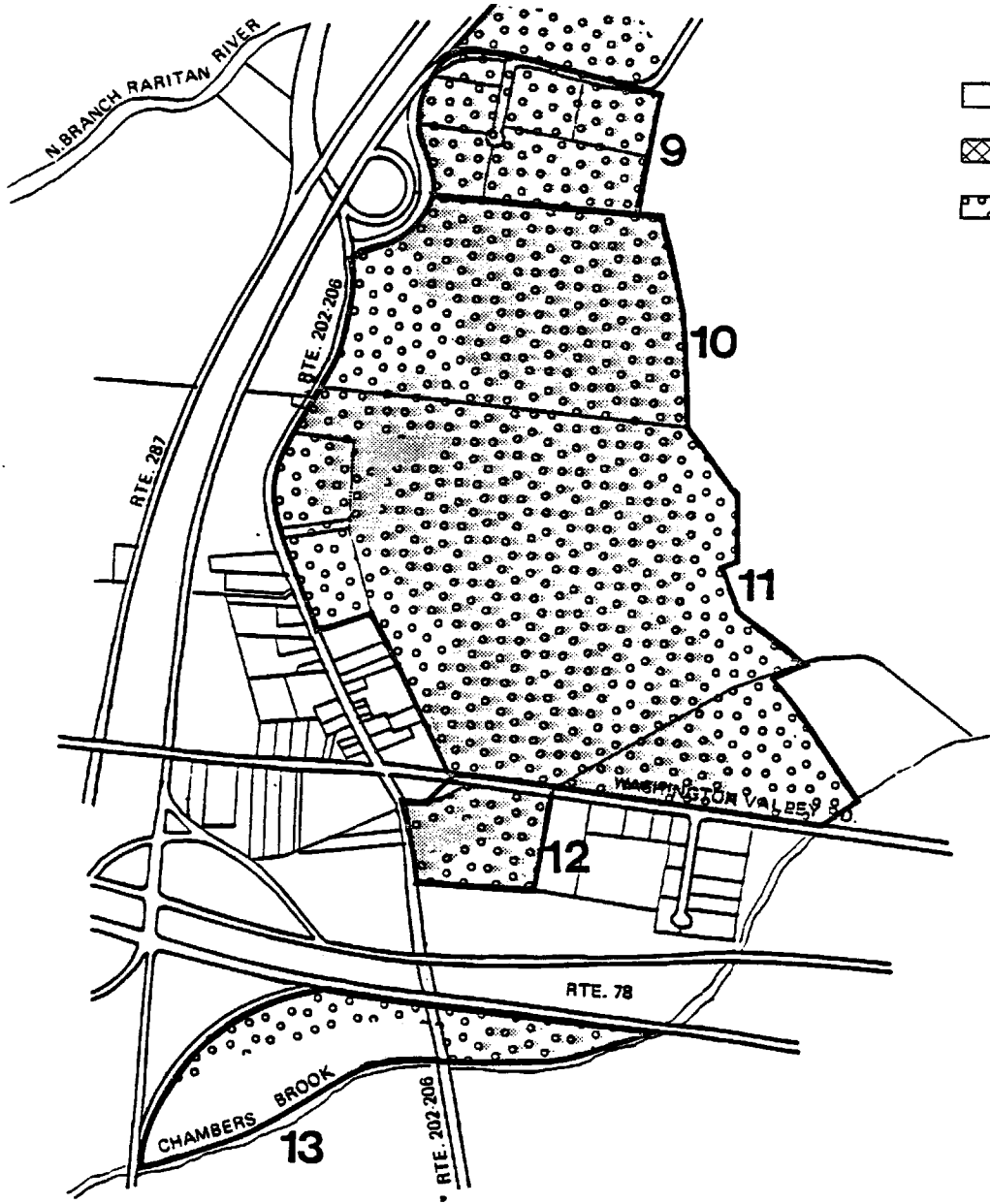
Architects
Landscape Architects
Urban and
Ecological Planners




1737 Chestnut St.
Phila. Pa. 19103
215/564-2611

Date: October 1983



Map 23



-  Water Table 0-3 ft.
-  Bedrock 0-3 ft.
-  Bedrock 3-5 ft.

**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

Source:
Bedminster Master Plan
Background Report
August 1982

Natural Resources
Depth to Bedrock/High Water Table

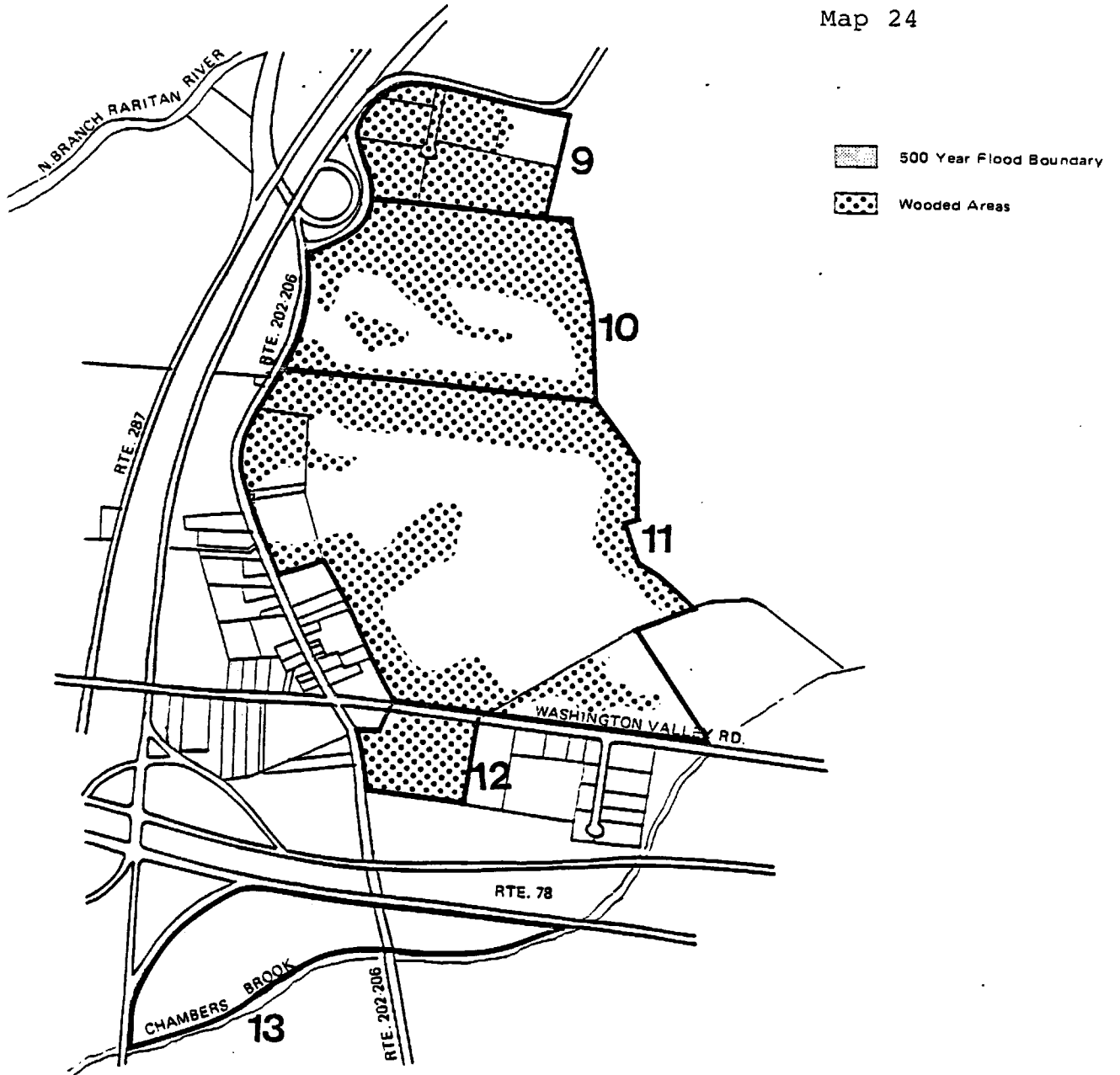
Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners

1737 Chestnut St.
Phila. Pa. 19103
215/584-2611

Date: October 1983





**ANALYSIS OF
DEVELOPMENT PARCELS
BEDMINSTER, NEW JERSEY**

Source:
Bedminster Master Plan
Background Report
August 1982

**Natural Resources
Flood Hazard & Wooded Areas**

Wallace Roberts & Todd

Architects
Landscape Architects
Urban and
Ecological Planners
1737 Chestnut St.
Phila., Pa. 19103
215/564-2611

Date: October 1983



SITE 9

Zoning: R3
District: Planned Residential District
Density: 10 DU/AC
Total Acreage: 31.79
Max. Capacity: 317.9 DU if developed all residential
31.79 AC (.20) = 6.358 AC commercial
10 DU/AC (25.43) = 254.32 DU
Low and Moderate: 254.32 DU (.20) = 50.86 DU

Available Acreage: 0
Building Capacity: 0
Low and Moderate: 0
Number of Lots: 6

Site Notes

This site is located just north of the cloverleaf of 202/206 and I-287 and is subdivided into six lots with single family homes.

Access, Traffic and Circulation

The access to the site is provided by a cul-de-sac off Schley Mountain Road which serves the existing homes.

Utilities

None shown

Sewer and Septic Suitability

- . The site is currently served by the Environmental Disposal Corporation Treatment plant, which was built to serve the Hills development.
- . Half of the site is unsuitable for septic systems and half is suitable for alternative septic systems (unspecified in the Background Report).

Natural Resources

Topography - majority of the site is less than 15% drainage swale has slopes 25% or more

Soils

Amwell

severe building foundation limitations due to high water table
severe septic system limitations due to seasonal high water table, slow permeability and shallow depth to bedrock
severe local road limitations due to high water table, frost action potential, slow permeability, shallow depth to bedrock

Lansdowne

severe building foundation, septic system and local road limitations due to high water table

Rowland

severe building foundation, septic system, and local road limitations due to stream overflow hazard

Water Table - entire site 0'-3' depth to water table

Bedrock - entire site 3'-5' depth to bedrock

Wooded - 3/4 of the site is wooded

Summary

This site is currently developed with single family homes thus is not available for higher density development. As with site #8, Schley Mountain Road would have to be upgraded if it were to serve higher density development.

SITE 10

Zoning: R1/4
District: Planned Unit Development
Density: 10 DU/AC
Total Acres: 73.25 AC
Max. Capacity: 732.5 DU if developed all residential
73.25 AC (.20) = 14.65 AC commercial
10 DU/AC (58.6) = 586 DU
Low and Moderate: 732.5 DU x 20% = 146.5 DU

Available Acres: 0 developed
Building Capacity: 0
Low and Moderate: 0
Number of Lots: 1

Site Notes

This site is located south and east of the Route 202/206 interchange with Route 287 with 202/206 forming its western boundary. The owner is Duncan Ellsworth.

Access, Traffic and Circulation

The only access to this site is from Route 202/206. The proximity of this site to the underpass of 202/206 under Route 287 would create a traffic hazard.

Utilities

- . A 16" Commonwealth Water Company line runs along Route 202/206.
- . The existing 8" gas line along Route 202/206 is not in use.

Sewer and Septic Suitability

- . The Environmental Disposal Corporation (Hills wastewater treatment plant) serves this site.
- . Half of the site is unsuitable for septic systems, half is suitable for alternative systems.

Natural Resources

Topography - Approximately 1/3 of the site has slopes 15% or greater. The remaining 2/3 of the site less than a 15% slope.

Soils

Amwell

severe limitations for building foundations due to high water table
severe limitations for septic systems due to high water table, slow permeability and shallow depth to bedrock
severe limitations for local roads due to high water table, and frost action potential

Lansdowne

severe limitations for building foundations due to seasonal high water table
severe septic system limitation due to seasonal high water table
severe limitations to local roads due to frost action potential

Neshaminy

severe limitations for building foundations due to slopes and seasonal high water
severe limitations for septic systems due to slopes
severe limitations for local roads due to slopes

Norton

slight limitations for building foundations with basements
moderate limitations for building foundations without basements due to frost action potential
severe limitations for septic systems due to slow permeability
moderate limitations for local roads due to potential frost action

Rowland

severe limitations to building foundations, septic systems and local roads due to hazards from frequent stream overflow and a seasonal high water table of 1-3 feet

Watchung

severe limitations for building foundations, septic tank systems, and local roads due to seasonal high water table of 0-1 foot

Water Table - 3/4 of site has 0'-3' depth to water table

Bedrock - entire site 3'-5' depth to bedrock

Wooded - 3/4 of site is wooded

Historic Resources

Higgins House - circa 1930

Summary

This site is already developed, albeit at a low density. While it is immediately adjacent to Interstate 287 and Routes 202/206, the access would have to be controlled due to the potential traffic hazards created by additional turning movements. Slopes on the site limit the ease with which it can be developed. The fact that it is within a sewer service area expands its development potential.

SITE 11

Zoning: R-1/4
District: PUD - Planned Unit Development
Density: 10 DU/AC
Total Acreage: 180.50 acres
Max. Capacity: 1805 DU if developed all residential
Low and Moderate: 1805 DU x 20% = 361 DU

Available Acres: Currently under construction, 144.406AC Res.
Buildable Capacity: 1287 DU approved
Low and Moderate: Yet to be established, 257DU = 20%
Number of Lots: 7 lots

Site Notes

The site is owned by the Hills Development Company and currently under construction.

Access, Traffic and Circulation

The Somerset County Comprehensive Transportation System plan of 1978, as shown in Bedminster's Master Plan Background Report, shows Route 202/206 realigned east of Knox Avenue through a portion of this site. The state has rejected this alignment according to the Transportation office of Somerset County Planning, however the town of Pluckemin still wants to divert traffic around the historic village.

Utilities

- . New water line and pump station proposed on site
- . New 8" gas line proposed through site

Natural Resources

Topography - approximately 90% of the site has less than a 15% slope. The eastern 10% of the site has slopes 15% and greater.

Soils

Amwell

severe limitations for building foundations, septic systems and for local roads due to high water table, frost action potential, slow permeability, and shallow depth to bedrock

Neshaminy	severe limitations for building foundations, septic systems and local roads due to high water table
Rowland	severe limitations for building foundations, septic systems and local roads due to hazard of frequent stream overflows
Norton	slight to moderate limitations on building foundations due to potential frost action. Severe septic system limitation due to slow permeability in subsoil, and moderate limitations on local roads
Watchung	severe limitations on building foundations, septic systems and local roads due to a seasonal high water table of 0 - 1 feet

Water Table - majority of site has 0'-3' depth to water table

Bedrock - entire site has 3'-5' depth to bedrock

Wooded - site is mostly open fields

Summary

This site is currently under construction as part of The Hills, a major development in both Bedminster and Bernards Townships.

¹Personal communication, Richard Cod, Transportation Department, Somerset County Planning Board, 11/1/83.

SITE 12

Zoning: MF Multi-Family
Density: 12 DU/AC
Total Acreage: 14.80
Max. Capacity: 14.80 AC x 12 DU/AC = 177.6 DU
Low and Moderate: None currently required

Available Acres: 14.80
Buildable Capacity: 178 DU
Low and Moderate: None currently required
Number of Lots: 1

Site Notes

This site is located on Route 202/206 just north of Interstate 78 and just south of Washington Valley Road. It is currently wooded and undeveloped.

Access, Traffic and Circulation

This site is located very near the intersection of Route 202/206 and Washington Valley Road, one of the highest traffic accident locations in the township. The Master Plan Background Report (page 9 of Traffic and Circulation section) states 12 accidents occurred at this intersection in 1980-81. Contributing causes are lack of sight distance, numerous driveway access points near intersection, relatively narrow cartway widths and lack of signalization.

Utilities

16" Commonwealth water line along Route 202

Sewer and Septic Suitability

- . This site is served by the Environmental Disposal Corporation (Hills) treatment plant
- . Soils on this site severely limit septic systems

Natural Resources

Topography - less than 15% slopes

Soils

Amwell	severe limitations to building foundations, septic systems, and local roads due to high water table, frost action potential, slow permeability, shallow depth to bedrock
Rowland	severe limitations to building foundations, septic systems, and local roads due to hazard of frequent stream overflow
Raritan	severe limitations to building foundations, septic systems, and local roads due to seasonal high water table (1/2 - 3 feet) and hazard of stream overflow on low terraces
Norton	slight to moderate limitations on building foundations. Moderate limitation due to potential frost action. Severe limitation to septic systems due to slow permeability in the subsoil. Moderate limitations to local roads.

Water Table - 3/4 of site has 0'-3' depth to water table

Bedrock - majority of site has 3'-5' depth to bedrock

Wooded - site is entirely wooded

Summary

This site, if developed at a high density, would require improvements to the Route 202/206 and Washington Valley Road intersection. Any development would require clearing of the woods covering this site which is discouraged in the zoning code. The fact that this site is in a sewer service area increases its development potential.

SITE 13

Zoning: Currently Office Research - proposed rezoning to R-1/4 with a Residential Cluster Option
District: Proposed - Residential Cluster
Density: 4 DU/AC on non-critical land
Total Acreage: 29.5
Max. Capacity: 29.5AC x 4 DU/AC = 118 DU
Low and Moderate: 0

Available Acres: 29.5
Buildable Capacity: 118 DU
Low and Moderate: 0
Number of Lots: 2

Site Notes

This site was selected by Richard Coppola, township Planning Consultant as an optional location for additional low and moderate cost housing should it be required. The proposed Residential Cluster zoning does not currently require a low and moderate percentage of units.

Access, Traffic and Circulation

The site is located immediately adjacent to the intersection of Interstate 78 and 287, and is bisected by Route 202/206. While physically close to these roadways, access to them is limited due to the location of the existing on and off ramps.

Utilities

- . A 16" water line and an 8" gas line are located on Route 202/206

Sewer and Septic Suitability

- . The site is not within the service area of any sewage treatment facility, however it is adjacent to the service area for the Environmental Disposal Corporation plant. The site is shown as an area projected to be served according to the Upper Raritan Watershed Wastewater Facilities Plan.
- . Roughly one-third of the site is suitable for alternative septic systems, the remainder being unsuitable for septic systems.

Natural Resources

Topography - The site primarily has slopes under 15% with approximately 10% of the area sloping 15% or more.

Soils

Raritan	severe limitations to building foundations, septic systems and local roads due to a high water table, stream overflow hazard, and frost action potential
Norton	slight and moderate limitations to building foundations (moderate limitations on buildings without basements, slight limits on those with basements), severe limitations on septic systems and moderate limits on local roads due to frost action potential and slow permeability
Rowland	severe limitations to building foundations, septic tanks and local roads due to frequent stream overflow hazard

Water Table - The eastern portion of this site has a shallow water table of 0'-3'

Depth to Bedrock - Roughly half the site has bedrock at the 3'-5' level

Flood Hazard - The southern boundary of this site is Chambers Brook which feeds into the Raritan River. A narrow strip of land adjacent to the Brook is within the floodplain.

Wooded - The entire site is wooded

Summary

Immediately south of this site, in Bridgewater Township, a 1.6 million square foot office complex is proposed on the Pfizer tract. The zoning has been changed to accommodate this development and the site plan for the first building is under review. This development will be served by the Somerset-Raritan Valley Sewerage Authority plant.

The noise generated by the interstate intersection will have a negative impact on residential development which would have to be carefully designed and screened from this nuisance.

APPENDIX

BOROUGH OF PEAPACK
AND GLADSTONE

Bedminster and Pluckemin Village Corridor

Principal Parcels
Available for Development

Multiple Family - Retail Commercial - Offices
March 1982 Zoning

See Plate Reg-7 For Descriptions and Tabulations

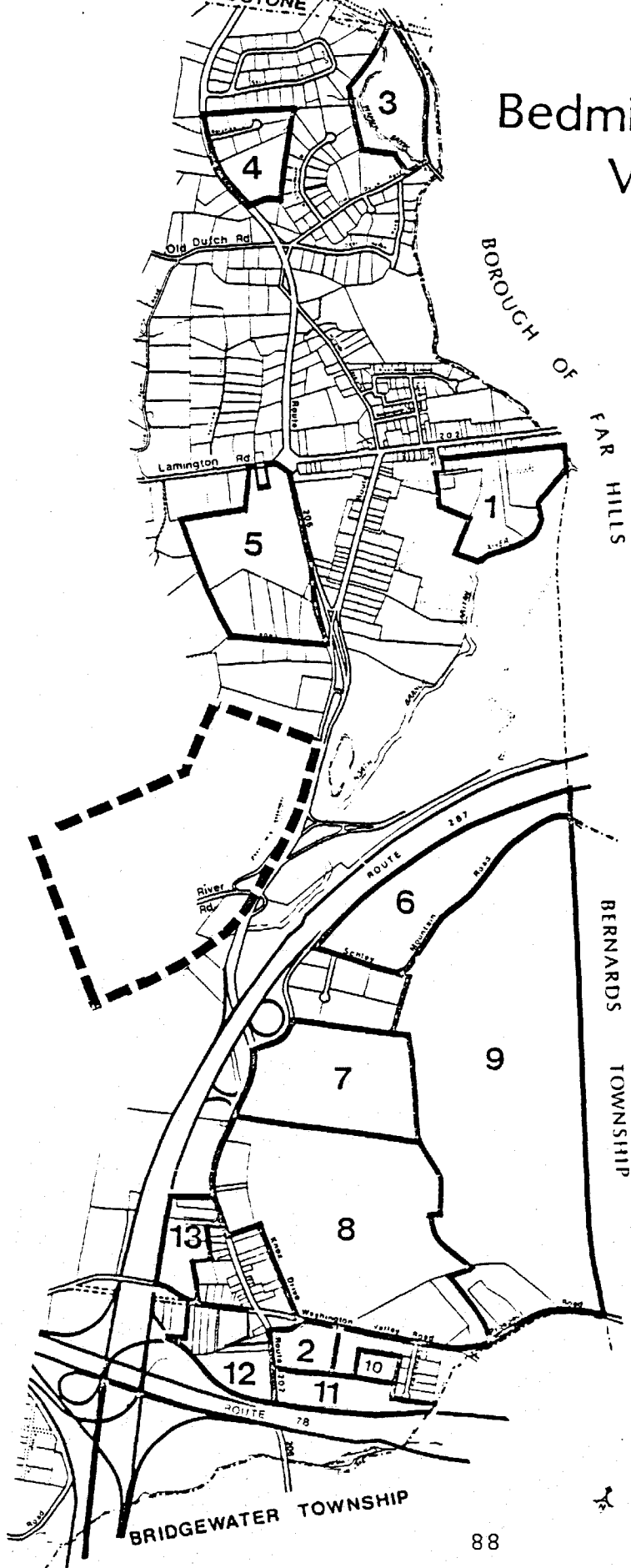


PLATE REG.-6

A Portion of
Bedminster Township
Somerset County - New Jersey

BASE MAP PREPARED BY:
Richard Thomas Coppola P.P. License No. 1378
Bordentown Township, New Jersey Dec., 1981

BOROUGH OF PEAPACK
AND GLADSTONE

Bedminster and Pluckemin Village Corridor

Additional Parcels
Zoned for Development

Multiple Family - Retail Commercial - Offices
March 1982 Zoning

See Plate REG.-9
For Descriptions and Tabulations

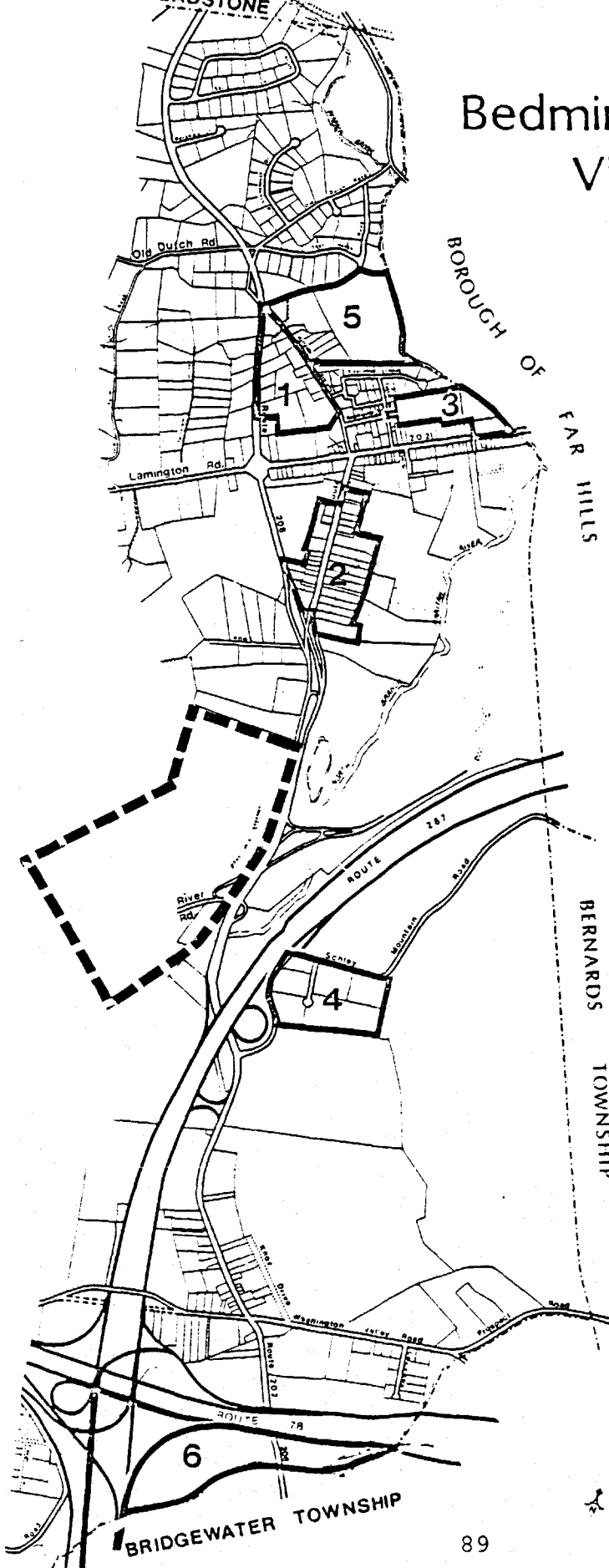


PLATE REG.-8

A Portion of
Bedminster Township
Somerset County - New Jersey

MAP PREPARED BY
Richard Thomas Coppola, P.P. - License No. 1378
Bordentown, New Jersey, Dec., 1981

RPPW

Raymond, Parish, Pine & Weiner, Inc. 555 White Plains Road, Tarrytown, NY 10591 914/631-9003 212/365-2666

RECEIVED

Memorandum

December 23, 1983

WINNE & BANTA

TO: All Parties-Bedminster v. Allan Deane

FROM: George M. Raymond

Enclosed please find a draft of my report to Judge Serpentelli regarding Bedminster's Housing Region, Fair Shares, and Compliance. A subsequent draft will deal with the inclusionary provisions of the Township's Land Development Regulations.

I have promised to provide Judge Serpentelli with a final draft on or before January 6, 1984. Since I will need two or three days to review your input and produce the report, I expect to have all responses to this draft by the close of business on January 3rd. Your cooperation will be gratefully appreciated.

P.S. Please overlook typographical errors--there was no time to proof properly.

Alfred L. Ferguson, Esq.
Henry A. Hill, Esq.
Kenneth E. Meiser, Esq.
Joseph L. Basralian, Esq.
Herbert A. Vogel, Esq.
Roger W. Thomas, Esq.
Peter J. O'Connor, Esq.
Richard T. Coppola, P.P.

EXHIBIT M

transformed by a deluge of low and moderate income developments."²¹ When added to the existing 39⁻⁴³ units representing the Township's "indigenous need" the 417 redistributive lower income units allocated to Bedminster by Dobbs would bring the total of such units to 33.6 percent of the Township's resulting occupied housing units!

5. Summation of Bedminster's Recommended Fair Shares

The Township's total allocation of the present and prospective need for low- and moderate-income housing recommended in this report thus amounts to the following:

<u>Present Need</u>		
Indigenous	36	
Re-allocated Surplus	<u>6</u>	
Sub-Total		42
<u>Prospective Need</u>		908
Total		<u>950</u>

6. Bedminster's Response to the Mount Laurel II Mandate

Bedminster's response to its obligation under Mount Laurel II has taken two forms:

- a. It has rezoned certain portions of the "growth" corridor delineated in the SDGP that were defined in Allan Deane V. Township of Bedminster, and sanctioned in a prior Court order in this action.

²¹ 92 N.J. 219.

b. It has modified its land development regulations by creating new zoning districts, some of which included mandatory set-asides for subsidized or least-cost housing. The Court found that these provisions satisfied the mandate of Mount Laurel I. Following Mount Laurel II, the Township introduced an amendment to its Land Development Regulations, action on which was stayed pending a determination of Bedminster's housing region and fair shares under the revised mandate and a review of the amendment itself as to its compliance with Mount Laurel II.

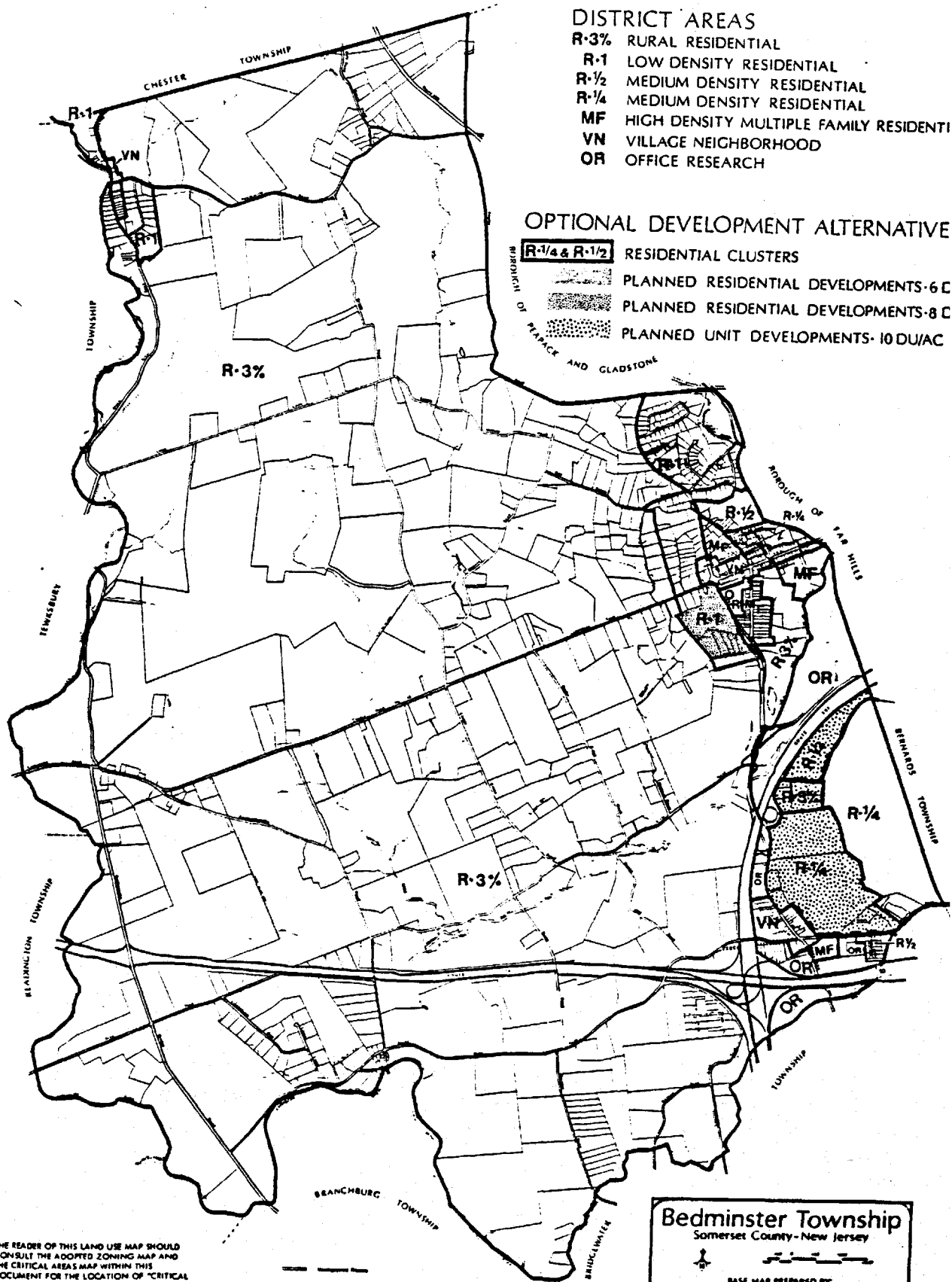
a. Bedminster's Rezoning

The new zoning map is enclosed in this report (see Land Use Plan). Only 12 sites in the modified "growth" corridor were zoned specifically in response to the court mandate to provide for low- and moderate-income units. These sites are shown on the map entitled Identification of MF, PRD and PUD Land Areas.

The total capacity of each site and the number of low- and moderate-income units that could be produced on each was analyzed by both Bedminster and Dobbs. Since publication of its August 1982 Master Plan Housing Element which was relied upon by Dobbs for his site analysis, Bedminster has revised

Land Use Plan

APRIL, 1982



- R-3% RURAL RESIDENTIAL
- R-1 LOW DENSITY RESIDENTIAL
- R-1/2 MEDIUM DENSITY RESIDENTIAL
- R-1/4 MEDIUM DENSITY RESIDENTIAL
- MF HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL
- VN VILLAGE NEIGHBORHOOD
- OR OFFICE RESEARCH

OPTIONAL DEVELOPMENT ALTERNATIVE

- R-1/4 & R-1/2** RESIDENTIAL CLUSTERS
- PLANNED RESIDENTIAL DEVELOPMENTS-6 C
- PLANNED RESIDENTIAL DEVELOPMENTS-8 C
- PLANNED UNIT DEVELOPMENTS-10 DU/AC

NOTE: THE READER OF THIS LAND USE MAP SHOULD CONSULT THE ADOPTED ZONING MAP AND THE CRITICAL AREAS MAP WITHIN THIS DOCUMENT FOR THE LOCATION OF "CRITICAL AREAS" AS DEFINED AND CONTROLLED BY SECTION 13-4B OF THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF BEDMINSTER.

Bedminster Township
Somerset County - New Jersey

BASE MAP PREPARED BY:
Richard Thomas Coppola, P.P. License No. 1378
Bedminster Township, New Jersey - April, 1982

its capacity study on the basis of more accurate recent information regarding the extent of "critical" areas.²² Shown in Table 1 are the 12 sites and their total development capacity as determined by Bedminster and Dobbs.

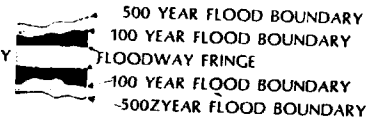
(Bedminster identifies the sites by means of letters--A to L--whereas Dobbs uses the numbers 1 to 12.) The capacity of each site is expressed in dwelling unit within the limits set by the applicable land development regulations including the effect of any portion of the site being characterized as "critical" (i.e. being susceptible to flooding or having a slope in excess of 15 percent.

²²Flood Insurance Rate Maps and Floodway Boundary-Floodway Maps prepared by the Federal Emergency Management Agency and dated September 30, 1982.

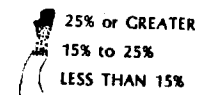
Identification of "MF", "PRD", and "PUD" land areas.

Critical Areas

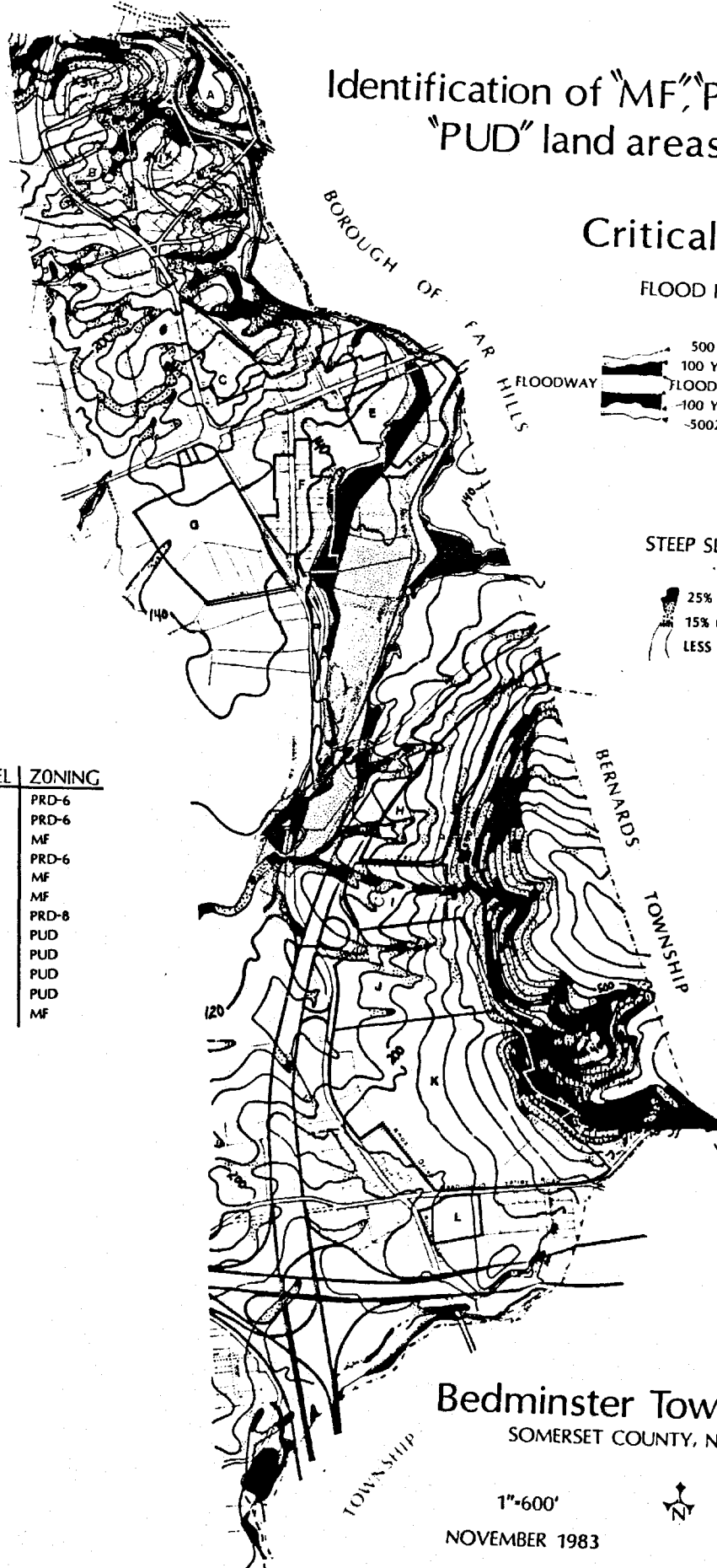
FLOOD PLAINS



STEEP SLOPES



PARCEL	ZONING
A	PRD-6
B	PRD-6
C	MF
D	PRD-6
E	MF
F	MF
G	PRD-8
H	PUD
I	PUD
J	PUD
K	PUD
L	MF



Bedminster Township
SOMERSET COUNTY, N. J.

1"=600'



NOVEMBER 1983

Table 1

SITES ZONED MF, PRD, AND PUD
Bedminster Township

<u>Site Identification</u>		<u>Capacity in Dwelling Units</u>	
<u>Bedminster</u>	<u>Dobbs</u>	<u>Bedminster</u>	<u>Dobbs</u>
A	1	66	134
B	2	80	79
C	3	290	67
D	4	36	81
E	5	199	146
F	6	306	0
G	7	514	517
H	8	449	414
I	9	257	0
J	10	599	0
K	11	1,287	1,287
L	12	<u>177</u>	<u>178</u>
Total		4,260	2,903

Upon review of these sites and with the benefit of the more recent topographic and hydrological data used by Bedminster, I have determined that the 12 sites have the capacities set forth below. The reasons for the difference between these determinations and those offered by either Bedminster or Dobbs are supplied in the explanatory notes which follow the table. Minor differences were overlooked.

<u>Site Identification</u>		
<u>Bedminster</u>	<u>Dobbs</u>	<u>Capacity</u>
A	1	66
B	2	80
C	3	165
D	4	36
E	5	199
F	6	0
G	7	514
H	8	414
I	9	257
J	10	599
K	11	1,287
L	12	177
Total		3,794

Site A (No. 1) Dobbs assumed that only 11 acres of this 23-acre site are critical. In fact, the proportions are reversed.

Site C (No. 3) The total area of this site amounts to 24.77 acres. It is zoned MF (a classification which permits 12 dwelling units per acre). Dobbs' analysis found only one vacant developable parcel containing 5.57 acres. In fact, despite the presence of single family houses, three others, with a combined area of 8.22 acres, can be assumed to be available. I base this opinion on the probability that the higher value of the land for multi-family development will lead its owners to dispose of their oversized

lots. The total area available for development is thus increased to 13.78 acres with a resulting yield of 165 units.

Site D (No. 4) Dobbs assumed that the entire 13.8 acres are "non-critical." Based on the update of environmental factors mentioned above, Bedminster has revised its evaluation of this site by showing 7.8 acres as "critical" and 5.8 acres as suitable for development at the permitted density of 6 units per acre.

Site E (No. 5) The difference between the 199-unit capacity of this site claimed by Bedminster and the 146-unit credited to it by Dobbs is derived from a difference in the measurement of the "critical" area. Dobbs characterized 31.58 of the total of 43.24 acres as "critical" whereas Bedminster found that only 27.1 acres were so affected. Since Bedminster had the advantage of updated information I concur with its determination.

Site F (No. 6) This site, which is zoned MF permitting multi-family development at a density of 12 units per acre, consists of a strip straddling Route 206 between its point of separation from Route 202 and a point south of Lamington Road. With one or two exceptions, the frontages along both sides of the road are developed with one family houses. Eleven lots containing 18.5 acres of the site's total of 30.14 acres, all have a depth of some 600 feet. Taking into account that 4 of the 18.5 acres are "critical," the capacity of the site is 174 units.

Dobbs assigned zero capacity to this site because of the difficulty and cost of site assembly. In the short run, he is probably correct. In the long run, market pressures can be expected to cause the assembly of at least the rear portions of these lots with one or two points of access to Route 206. For purposes of this study, however, I have concurred with Dobbs' evaluation.

Site H (No. 8) Dobbs assumes that 20% of this 51.76-acre site will be developed for commercial uses, as permitted under the Township's applicable Planned Unit Development District regulations. Even though, as Dobbs also notes, the access to this site is difficult--which to me suggests that the optional use of 20% of the site for commercial uses will be foregone--I have accepted Dobbs' evaluation.

Site I (No. 9) This site encompasses 31.79 acres, of which 6.2 are "critical." It contains 4 single family houses on lots which average 7.95 acres. The zoning permits 10 dwellings per acre. The total value of the entire tract for such development can be conservatively estimated at close to \$4 million (using the generally accepted premise that developers are prepared to pay around \$15,000 per unimproved acre of readily useable land zoned for townhouse development). For these reasons, I rejected Dobbs'

assumption that the existing houses render this land unavailable for development.

Site J (No. 10) Bedminster and Dobbs agree on the capacity of the site, but Dobbs alleges that the presence of a single house on this eminently developable 73.25-acre site makes it unavailable for development. The site adjoins The Hills and the approved site plan of the Hills development provides access to this site. Its development capacity of nearly 600 units under its 10 units per acre PUD classification makes it worth perhaps as much as \$9 million or more. Under the circumstances, I cannot support Dobbs' claim that this site should not be counted.

- b. Does the Bedminster Zoning Provide a Reasonable Opportunity for the Provision of Low- and Moderate Income Housing?

The answer to the question in the above title is a function of the probable number of affordable units that would be provided under the applicable regulations

on each of the sites zoned to permit housing at higher densities (6 to 12 units per acre).

The analysis which follows deals with the several sites in the order of the immediacy of their availability for development and assumes that the "affordability" aspects of the Land Development Regulations will be adjusted to comply fully with Mount Laurel II.

(1) Sites Available for Early Development

Site K (11) The Hills development will produce 260 units approved as affordable by the Court.

Sites I (9) and J (10) These two sites, which are zoned for 10 units per acre with a mandatory 20 percent affordable housing set-aside, have access to adequate sewer capacity and can thus be assumed to provide a reasonable opportunity for the construction of 171 units of affordable housing (one-fifth of their aggregate capacity of 856 units).

Site L (12) This site, which is zoned MF and which has a capacity of 177 units, also has access to available sewer capacity. The current regulations do not impose a mandatory set-aside in MF Districts. The Township's proposed amendment, however, would impose a 35% minimum affordable housing requirement. As I will discuss at greater length in the analysis of those Bedminster Land Development Regulations that are related to affordable housing, the economic feasibility of a 35% requirement is doubtful. For this reason, I am crediting this site with only 20% of its total capacity, or 35 units.

Site E (5) This site, which is also zoned MF, has a total capacity of 199 units, including 40 affordable units (at 20% of the total). The availability of this site is a function of the successful resolution of two problems which diminish the ability of the

existing Bedminster-Far Hills sewage treatment plant to accept additional loads. Part of the existing capacity of the plant is being held in reserve for AT&T in addition to its current usage. AT&T may be willing to relinquish this excess. The capacity of the plant is also affected by storm water infiltration which may be curable.

The Township will attempt to work out these problems in the near future. Since the Mount Laurel II mandate allows the Township up to six years for the development of the needed sites, I believe that this site should be credited with at least 20% of its capacity at this time. If the Township's efforts fail to resolve the s sewerage capacity problem within the next year or two, other sites would have to be substituted.

One alternate possibility is using the entire site for subsidized senior citizen housing, in which case its entire 199-unit capacity would be devoted to affordable housing. I deem this to be a realistic alternative inasmuch as the federal Section 202 Senior Citizen Housing program is still available and the location of the site, immediately adjoining the Bedminster Village Center, makes it eminently suitable for such housing.

Funding commitments for Section 202 projects are awarded exclusively to non-governmental non-profit sponsors on a competitive basis, so that the Township's interest, desire and success in encouraging the establishment of an eligible sponsor organization in the next two or three years will be a major determinant of whether the site will be credited with 40 or 199 units towards compliance with Mount Laurel II.

Altogether the sites which can be classified as providing the required "reasonable opportunity" thus have the capacity for 506 to 665 units of affordable housing. Site L (12), which is also located near shopping in the Pluckemin Village area, was not credited with the possibility of its being used for Section 202 housing in its entirety because, without a substantial change in federal housing policies, Bedminster would be unlikely to gain approval of two sites within a two to three year period.

(2) Sites Available for Later Development

Sites A (1) and D (4) zoned PRD at 6 units per acre, together have a capacity of 102 units and could thus provide 20 units of affordable housing. Site G (7), zoned PRD at 8 units per acre, has a capacity of 514 units, or 103 affordable units. Site H (8) has a capacity of 414 units, including 83 affordable units, under its PUD, 10-unit per acre zoning. All four sites will only be useable following expansion of sewer services which will require time.

The availability within the next six years of Sites B (2) and C (3), with their aggregate

capacity of 245 units (including 49 affordable units) is conjectural since it would depend upon site assembly, redevelopment, or willingness of individual owners to proceed with relatively small developments on their own.

The 255-unit affordable housing capacity of the six sites discussed above, though real, is thus not credited against Bedminster's current mandate under Mount Laurel II.

To summarize:

	<u>Site Nos.</u>	<u>Affordable Units</u>
<u>Available for Immediate Development:</u>	I (9) & J (10)	171
	K (11)	260
	L (12)	<u>45</u>
Sub-Total		466
<u>Probably Available Within Three Years:</u>	E (5)	<u>40-199</u>
Total Affordable Units Reasonably Provided For:		506-665
<u>Other Affordable Units Which May Be Constructed on Rezoned Sites after 1990</u>	A(1), B(2), C(3), D(4), G(7), H(8)	<u>255</u>
<u>Total Zoned Capacity</u>		761-920

* * *

In its decision, the Supreme Court was aware of the possibly deleterious effect of a wave of

development too sudden and large to be absorbed in an orderly fashion by small rural or suburban municipalities:

"...any changes brought about by this opinion need not be drastic or destructive. Our scenic and rural areas will remain essentially scenic and rural, and our suburban communities will retain their basic suburban character..."²³

In a communication to me dated December 19, 1983, Mr. Richard Coppola, Bedminster's planning consultant, stated in part as follows:

"...the current (1980) population of the Township is 2,469 people who are housed in 938 total housing units. With the development of The Hills PUD only, the population of the Township will have increased by a factor of 2.3 to 5,670 people. When currently sewerred Sites I, J and L also are developed, the population of the Township will have increased to 8,180 people, which is more than three (3) times the current population. At that time, and assuming no other residential development in the municipality has occurred, the total number of dwelling units in the municipality will have increased three and one-half (3.5) times.

The impact on the school systems serving the Township is even more dramatic. By the time The Hills PUD is developed, the Township may have to expand its lone elementary school since the rated functional capacity of the school will have been exceeded. Additionally, Bedminster Township will have doubled the number of students it currently sends to the regional high school located in Bernards

²³ 92 N.J. 220.

Township. At the time that Sites I, J and L are developed, the Township will need additional elementary school space equal, almost, to that which currently exists (709 elementary age students vs 404 rated functional capacity)."

The impact described above would result from development that would produce 506 certain affordable units and possibly as many as 665.²⁴ The Township's "fair share" allocation recommended in this report amounts to 950 units of such housing. The difference between the 950 required affordable housing units and the 506-665 units provided for thus amounts to 285-444 units. If these additional units were provided through a 20 percent mandatory set-aside, the total additional development would amount to 1,425-2,220 units. This would add approximately 3,500 to 5,450 persons to Bedminster's already projected 1990 population of 8,180 inhabitants. The total increase above the Township's 1980 population of 2,469 would amount to between 9,200 and 11,150 persons, while the rate of increase would be 475 to 550 percent. This increase would occur not in ten, but in six years, since the population of the Township has

²⁴ Although the impact may be reduced slightly if Site E(5) is developed with senior citizen housing.

remained relatively stable between 1980 and the end of 1983.

I believe that such a rate of growth would be excessive. It would destroy many of the intangible values which invest Bedminster with its present quality. On the other hand, providing 506-665 units of Mount Laurel II-type housing within six years will definitely cause it to lose that negative quality--exclusionary zoning--which the Mount Laurel II decision intends to eradicate.

My opinion is based also on the possibility that, if the methodology recommended in the CUPR Study is accepted in the near future, Bedminster's allocation may be lowered to approximately the level provided for in its current zoning.

Any continuing imbalance that may result from acceptance of this level of compliance at this time would be subject to review and adjustment at the end of the six year repose period.

c. Recommendation

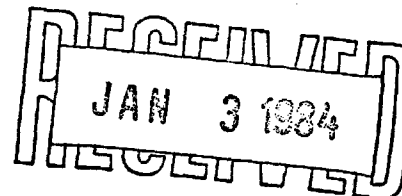
Based on the above, I recommend that the Township's current zoning, modified so as to require a mandatory

set-aside of not less than 20 percent of affordable units in all MF Districts, be found to comply with the Mount Laurel II mandate that, by 1990, Bedminster provide a reasonable opportunity for the construction of its fair share of the present and prospective low- and moderate-income housing need in its housing region.

Peter J. O'Connor, Esquire

December 29, 1983

George Raymond, Master
Raymond, Parish, Pine & Weiner, Inc.
555 White Plains Road
Tarrytown, New York 10591-5179



Dear Mr. Raymond:

We are in receipt of your Memorandum dated December 23, 1983 regarding Region, Fair Share and Mount Laurel II compliance in Bedminster v. Allan-Deane. The purpose of this letter is to request certain information which I have discussed with you by telephone and to raise certain questions regarding the sewer issue in Bedminster Township as it affects the housing sites proposed by Bedminster Township. This latter issue was discussed with you by telephone prior to the drafting of your December 23, 1983 report and at the time you felt it was premature to discuss the sewer issue.

(1) Please forward to my office and to Joseph L. Basralian, Esquire, the following documents which were sent to you by Bedminster Township without copies being forwarded by the Township to all parties as required by the Court. Without this information, we are not in a position to fully respond to your report.

(a) December 19, 1983 letter from Richard Coppola, Bedminster Township Planning Consultant, referred to on page 46 of your December 23, 1983 report.

(b) Correspondence and report(s) containing revised Township housing figures, referred to on page 34 of your report under the heading "Bedminster", said figures and information being forwarded to you by Mr. Coppola.

(2) Sewer Issue: In the December 5, 1983 Dobbs submission to you, our critique of the proposed housing sites maintained the position that the "zoning opportunities" could not be implemented on these sites without sewer service. In your December 23, 1983 report you have conditioned the feasibility of development on certain sites on whether sewer service is provided. You have either specifically or impliedly referred to three factors which affect the provision of sewer service on the sites. The three factors are: (1) the existing capacity being held in reserve for AT&T and the possibility that AT&T may be willing to relinquish this excess; (2) utilization of sewer capacity from the Hills Development Company Treatment Plant; and, (3) Township efforts to cure current deficiencies in its treatment system and expand its sewer service system.

510 Park Boulevard, Cherry Hill, New Jersey 08034 609-663 3400

EXHIBIT N

George Raymond
December 29, 1983
Page 2

Your report is silent on whether you had before you Township and/or Sewer Authority plans, specifications and financial schedules and support for curing current sewer system deficiencies and expanding sewer service to the subject sites. Your report was also silent on the existence of a Township/Sewer Authority-AT&T agreement to reserve excess capacity for AT&T and also any agreement by AT&T to forego said capacity or pledge it for housing development on the subject sites. Your draft report is also silent on the existence of any agreement(s) for the use of sewer capacity from the Hills Development Company Plant on adjacent sites.

In order that we may understand the basis for your comments regarding the likelihood of the provision of sewer service to the subject sites from the above three sources, we request that you submit to us all Township information which was given to you and served as a basis for your report. We make this request because no information was submitted to us by the Township which should have been the case if information was given to you, and also because of the lack of citations by you in your report regarding the source of sewer service. In addition, we specifically request information on the following:

- (1) Agreement between the Township/Sewer Authority and AT&T to reserve capacity for AT&T.

- (2) Any agreement between AT&T and the Township/Sewer Authority whereby AT&T would forego the use of said excess capacity and permit it to be used to support housing development on the subject sites.

- (3) Any agreement between the Township/Sewer Authority and Hills Development Company whereby capacity from the Hills Development Company Plant would be used to service development on adjacent sites.

Finally, on the sewer issue, we would like to know whether the Township has presented you with information that would advise you of the following. If this information has been presented to you, we would appreciate a copy of said information in order that we may comment more fully on the feasibility of sewer service on the subject sites.

- (1) What is the present capacity of the Township/Sewer Authority sewer system in Bedminster Township?

- (2) How much of said capacity is in use and how much is available for development of the subject sites?

George Raymond
December 29, 1983
Page 3

(3) How many units of housing can be serviced by the portion of the sewer capacity which is available for said housing development? (Please indicate whether your definition of "currently available capacity" includes outstanding development commitments which have not yet been utilized).

(4) What are the Township/Sewer Authority's plans to up-grade its present treatment system to cure problems which have been brought to their attention by NJDEP? Has the Township committed financing to address these treatment problems? If so, what is the schedule for curing said problems and what is the financing plan?

(5) Does the Township currently have plans and supportive financing to expand its current sewer system? If so, what are the plans and is there documentation which would indicate financial support by the Township/Sewer Authority to enable said plans to be implemented? What is the time schedule for said implementation and how does said time schedule comport with and support development on the site selected by the Township for Mount Laurel II opportunities?

Mr. Dobbs takes the position that the provision of sewer service to the selected sites is essential for their development. If the above information is not within your knowledge, we submit that this information should be requested by you from the Township before making your final recommendations on the likelihood and feasibility of Mount Laurel II development on the selected sites.

Thank you.

Very truly yours,

Peter J. O'Connor
PETER J. O'CONNOR

PJOC:g
cc: All parties

WINNE, BANTA & RIZZI

COUNSELLORS AT LAW

25 EAST SALEM STREET

P. O. Box 647

HACKENSACK, NEW JERSEY 07602

TELECOPIER (201) 487-8529

(201) 487-3800

BRUCE F. BANTA (1932-1983)

JOSEPH A. RIZZI**

PETER G. BANTA*

ROBERT A. HETHERINGTON, III

JOSEPH L. BASRALIAN

EDWARD H. MILLER, JR.

JOHN P. PAXTON

DONALD A. KLEIN

ROBERT M. JACOBS

T. THOMAS VAN DAM

ANDREW P. NAPOLITANO

RAYMOND R. WISS+

V. ANNE GLYNN MACKOUL+

THOMAS B. HANRAHAN

KEVIN P. COOKE

RANDAL W. HABEEB

CYNTHIA D. SANTOMAURO

ADOLPH A. ROMEI

HORACE F. BANTA
OF COUNSEL

WALTER G. WINNE
(1889-1972)

NEWFOUNDLAND, N. J. OFFICE
(201) 697-4020

NEW YORK OFFICE
2 VETERANS PARKWAY
PEARL RIVER, NEW YORK 10965
(914) 735-2115

* MANAGING PARTNER
+ MEMBER NEW YORK BAR

TO: George M. Raymond and All Parties - Bedminster ads.
Allan-Deane

FROM: Joseph L. Basralian, Esq. and Peter J. O'Connor, Esq.,
representing Leonard Dobbs

SUBJECT: Leonard Dobbs' Response to December 23, 1983 Draft
The Bedminster Housing Region and Fair Shares by George
M. Raymond

DATE: January 3, 1984

Enclosed find Dobbs' response to the above-mentioned draft for your information. The response is intended to advise you of our rejection of your analysis and conclusions.

The draft report was received late Tuesday, December 27, 1983. This response is submitted to comply with the deadline you have established. However, we have not had time to completely respond and we have not yet been sent all the base data provided by the Township to you (which were not submitted to Dobbs). We request the opportunity to supplement this response after we have received these data.

cc: Alfred L. Ferguson, Esq.
Henry A. Hill, Esq.
Kenneth E. Meiser, Esq.
Herbert A. Vogel, Esq.
Roger W. Thomas, Esq.
Richard T. Coppola, P.P.

On stressing housing as a criterion, the Raymond Report relies on the CUPR argument that present need is predominantly a function of the number of low and moderate income families poorly housed, unrelated to other variables such as lack of access to jobs opening in the intermediate ring of counties as an exclusionary factor along with the high cost of housing.

There would appear to be no methodological or other reason in the Raymond Report or that of the Public Advocate to invalidate the Dobbs/Erber (p. 12) present need allocation of 648 units.

The allegation by Raymond (p. 30), that allocating the region's Fair Share first to each county and thence to each municipality in effect changes the regional definition, is clearly invalid.

(6) On Bedminster's Total Fair Share

Dobbs rejects the Raymond Report's Recommended Fair Share of 944 units.

B. Bedminster's Response to the Mount Laurel II Mandate

In summary, Bedminster Township's two forms of response to its impending obligation under Mount Laurel II -- rezoning certain portions of the "growth" corridor, and modifying its land development regulations -- are necessary steps but completely inadequate in and of themselves to provide constructive and affirmative performance.

The key (although not the only element) to Mount Laurel II implementation lies in the Township's providing access to off-site sewage treatment. This is true for every site rezoned.

(1) On Rezoning

Raymond's Report examines 12 sites rezoned by Bedminster and lists Dobbs', Bedminster's and his own calculations of capacity in dwelling units for each site.

Bedminster's estimate of capacity is new, varies from that shown by Coppola in the Master Plan Program¹ and referenced in Dobbs/Erber Table 2, and was not submitted to Dobbs² as per Court instructions.

These new Bedminster capacity figures are based on the September 30, 1982 Flood Insurance Rate Maps that, contrary to the Raymond Report, were available to Dobbs, and cannot be classed as new data. Further, the Dobbs site analysis did not rely on the August 1982 Master Plan Housing Element as alleged. Rather Dobbs' examination of each site included detailed field surveys as well as analysis of the mapped secondary source (soils, etc.) site phenomena indicated in Dobbs (pp. 31-89).

1 Coppola, Richard Thomas and Associates, Township of Bedminster, Somerset County, New Jersey, Master Plan Program, Part 1 - Background Studies, August 1982, REG-16-16c.

2 This information, not provided to Dobbs until noon on December 30, 1983, and then only at the specific request of Dobbs, is not responded to herein but will be responded to in short order.

Bedminster Township made its information available to Raymond but not to Dobbs and therefore the following site-by-site comments cannot directly address the difference in estimated capacity until the Township information, belatedly provided to Dobbs, is analyzed. Comments will, therefore, be directed solely at the analysis reported by Raymond.

Site A (No. 1)

This site must be connected to off-site sewage treatment for either Dobbs (134) or Bedminster/Raymond (66) figures to be relevant.

Response - Use 66 units.

Site B (No. 2)

While there appears little disagreement on capacity, this site cannot be developed as zoned unless it is sewered.

Response - Use 79 units.

Site C (No. 3)

Bedminster shows 290 units, Dobbs, 67 units, and Raymond, 165 units, albeit after 1990 because the entire area is already developed with homes on large lots except for one vacant parcel.

The availability of this site is a guessing game and Raymond's figures are rejected. None can be developed until sewered.

Response - Use 67 units.

Site D (No. 4)

This site must be sewerred to be developed. In the absence of Bedminster's data, Dobbs will use Raymond's figure.

Response - Use 36 units.

Site E (No. 5)

This site is adjacent to the Bedminster sewage treatment plant. The Utility Plate, 1, Bedminster Master Plan I - Background, does not show the site within the area served by the Bedminster municipal plant although a 14" sewer line bisects it.

Response - Use 146 units.

Site F (No. 6)

The inclusion of this site as available should be rejected out of hand as even the Raymond Report states it would depend on "site assembly, redevelopment, or willingness of individual owners to proceed with relatively small developments of their own" (p. 45).

Unlikely, perhaps not beyond the realm of possibility, however, the Raymond reasoning would not appear to warrant acceptance as constructive action.

Response - Use 0 units.

Site G (No. 7)

This site is not included in Raymond's analysis and he

substantially agrees with Dobbs. Reportedly a developer proposed its development to the Township and was turned down for lack of sewerage capacity even though he was said to have been willing to pay for the improvements. Upon information and belief, this matter is now in litigation. Raymond included Site G in his affordable unit capacity to be constructed after 1990 (p. 45), which appears to be an inconsistency.

Response - Use 514 units.

Site H (No. 8)

The Raymond Report concurs with Dobbs. Of course, it must be sewered to be developable at all.

Response - Use 414 units.

Site I (No. 9)

The existing four houses on this already-developed tract are very expensive, and their parcels elaborately landscaped. The same reasoning regarding Site F (No. 6) obtains.

Response - Use 0 units.

Site J (No. 10)

Since this site has but one owner-resident, and he or his heirs could decide to develop, its development is contingent on access to sewerage.

Response - Use 599 units.

Site K (No. 11)

This is the Hills Development.

Response - Use 1287 units.

Site L (No. 12)

Raymond concurs with Dobbs on this site and it is developable subject to sewer capacity.

Response - Use 177 units.

Site X (No. 13)

This site, south of I-78, east of I-287, next to Chambers Brook, was listed by Bedminster (Master Plan, Part III Housing Element, August 1983, p. HOUS-20) as an additional "back-up" site but was not reviewed by Raymond for some reason. It is adjacent to the Township boundary and next to a major office development now underway in Bridgewater Township. Since this site was not considered by Raymond, it is not commented on.

In summary, Dobbs recognizes 3385 units as the capacity of the above sites, all subject to off-site sewerage availability. This compares with 4260 (Bedminster) and 3794 (Raymond). At 20 percent for low and moderate income housing on each site, 3385 overall units would provide for 677 low and moderate income housing units, half the fair share required by the Public Advocate's Report, less than one-third allocated by Dobbs/Erber, and even considerably less than

the fair share recommended by Raymond. This is a completely inadequate response to the Mt. Laurel II requirement of "overzoning" to allow for realistic opportunity for Mt. Laurel II development.

(2) On the Issue of Whether Reasonable Opportunity for Moderate and Low Income House Is Provided by Bedminster

If nothing is done regarding the availability of sewage treatment for all the above except Hill (Site K, No. 11), the answer to the title question is NO. The Dobbs response to the question is to outline conditions that would have to obtain in order for construction and affirmative performance.

(1) The Township must make sewerage available as per letter from Peter J. O'Connor to George M. Raymond, December 29, 1983.

(2) The Township must provide additional assistance in the form of tax abatement, CDBG funds for capital and other eligible subsidies and State aids if the low and moderate income housing is to reach below the upper limits of low and moderate income persons. Hills' "low and moderate income" housing, objected to by Dobbs, does not have the aforesaid assistance and does not reach the low and moderate income levels, as required by Mount Laurel II.

In conclusion, the "controlled growth" arguments put forward by Raymond (pp. 45-48) seem strikingly similar

to those raised for exclusionary zoning. The rate of change has already been dramatic (albeit selectively approved developments which do not include low and moderate income housing with the possible "exception" of the court-ordered Hills project) and will continue, and efforts to slow growth down and thereby low and moderate income housing performance are in essential conflict with Mount Laurel II.

(3) On the Raymond Report Recommendation

Raymond's recommendation that the Township's current rezoning with a mandatory set-aside of not less than 20 percent of affordable units be found by the Court to comply with the Mt. Laurel II requirement is not warranted by the Report's own findings, much less by any others. Dobbs recommends that the Township "overzone" sufficient land to permit a realistic opportunity for compliance with Mt. Laurel II goals, make sewage treatment available to all units so zoned, and offer tax abatement, other incentives, and cooperative measures to developers as above.

Dobbs hereby renews his request to respond to the Raymond Report once the Township and/or Raymond state their position and provide their base data on the sewer issues raised in Peter J. O'Connor's letter to Master Raymond, dated December 29, 1983.

RPPW

Raymond, Parish, Pine & Weiner, Inc. 555 White Plains Road, Tarrytown, NY 10591-5179 914/631-9003 212/365-266

GEORGE M. RAYMOND, A.I.C.P., A.I.A.
NATHANIEL J. PARISH, P.E., A.I.C.P.
SAMUEL W. PINE, A.I.C.P.
MICHAEL WEINER, A.I.C.P.

BERNARD J. BULLER, P.E., A.I.C.P.
EDWARD J. RYBCZYK

ROBERT GENESLAW, A.I.C.P.
RICHARD HARRALL
GERALD C. LEMAZ, A.I.C.P., A.I.A.
EDITH LANDAU LITT, A.I.C.P.
PHILIP W. MICHALOWSKI, A.I.C.P.
JOHN JOSEPH SACCARDI
STUART I. TURNER, A.I.C.P.

DAVID B. SCHIFF, A.I.C.P.
NOEL SHAW, JR.
CSABA TEGLAS, A.I.C.P., C.I.P.

January 10, 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:

Attached hereto please find my report regarding Bedminster's Housing Region, Allocation of Fair Shares and Compliance with the Mount Laurel II mandate. My evaluation of Bedminster's compliance in this report is based on the assumption that the inclusionary provisions of the Township's Land Development Regulations will be adjusted as recommended herein, or in some other way to the degree necessary to gain Court approval.

All portions of this report except for Section 5.b. were submitted in draft form to all parties in Allan-Deane v. Township of Bedminster who are copied on this letter and thus have had the benefit of everyone's reaction.

I feel that the following brief explanation of the perhaps less self-evident reasoning underlying my approach to the task assigned to me by you may be helpful to your evaluation of the results:

1. Determination of Bedminster's Housing Region

The 8-County Northeastern Region has been conventionally accepted as an "established" region for some time. Given its size and variety of component municipalities, it can be safely assumed that this region is one, but not necessarily the only one, that makes possible the sharing of both the region's housing needs and vacant land resources which must be present if those needs are to be satisfied.

I have been unable to find persuasive evidence of the necessity to incorporate counties that are as far apart as Somerset and Bergen into the same "region." The recently released Rutgers study advances a seemingly convincing case

EXHIBIT P

adopted. Almost without exception, they have not experienced job growth and are therefore free of any "prospective need" allocations.

In the case of Bedminster, disqualifying the "vacant developable land" criterion tends to produce figures for the 8-County and the 4-County regions that are not too far apart (see table, above). This seems to me to confirm the reasonableness of my recommendation.

Unless proven otherwise, I believe that the validity of the Rutgers methodology for determining the regional need is independent of the validity of its recommended regional boundaries. In my calculations I have therefore used an average allocation to Bedminster of Rutgers' "prospective need" as determined for the 4-County and the 8-County region.

3. Bedminster's Compliance

The Mount Laurel II mandate is that the Township satisfy that portion of its obligation which can be reasonably expected of it within six years. Housing on any site can be produced within 18 months or less following final approval of plans. I found it therefore proper to credit Bedminster with the development potential of certain sites which, while now they cannot be reasonably expected to be useable within that period by reason of certain impediments to development, may become so if the Township succeeds in its efforts to eliminate them. Under the circumstances it would seem to me appropriate to require that the Township report to the Court within, say, two years the results of its efforts and to be prepared to offer readily developable alternative sites if it should prove unable to resolve all difficulties in the way of development of those sites the use of which is required for its compliance with Mount Laurel II.

Should you find that my recommendations fall short of the amount of low- and moderate-income housing which Bedminster should provide in the next six years, I will be glad to

* For the 8-County region I had to use a conservative approximation by ignoring the prospective need generated by Hunterdon, Warren, and Sussex Counties for which data is not available.

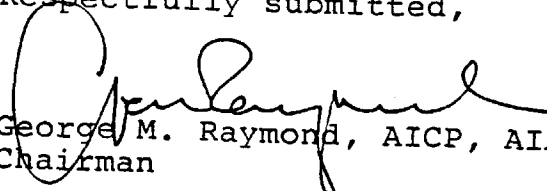
Honorable Eugene J. Serpentelli, J.S.C.

January 10, 1984

Page 3

continue to work with all parties to enable the Township to comply with your determination.

Respectfully submitted,


George M. Raymond, AICP, AIA, P.P.
Chairman

cc:rv

Alfred L. Ferguson, Esq.
Henry A. Hill, Esq.
Kenneth E. Meiser, Esq.
Joseph L. Basralian, Esq.
Herbert A. Vogel, Esq.
Roger W. Thomas, Esq.
Peter J. O'Connor, Esq.
Mr. Richard T. Coppola, P.P.

4. Summation of Bedminster's Recommended Fair Shares

The Township's total allocation of the present and prospective need for low- and moderate-income housing recommended in this report thus amounts to the following:

<u>Present Need</u>		
Indigenous	30	
Re-allocated Surplus	<u>6</u>	
Sub-Total		36
<u>Prospective Need</u>		<u>908</u>
Total		944

5. Bedminster's Response to the Mount Laurel II Mandate

Bedminster's response to its obligation under Mount Laurel II has taken two forms:

- a. The Township has rezoned certain portions of the "growth" corridor delineated in the SDGP that were defined in Allan Deane V. Township of Bedminster, and sanctioned in a prior Court order in this action.
- b. It has modified its land development regulations by creating new zoning districts, some of which included mandatory set-asides for subsidized or least-cost housing. The Court found that these provisions satisfied the mandate of Mount Laurel I. Following Mount Laurel II, the Township introduced an amendment to its Land Development Regulations, action on which was stayed pending a determination of Bedminster's housing region and fair shares under the revised mandate and a review of the amendment itself as to its compliance with Mount Laurel II.

a. Bedminster's Zoning Map

The new zoning map is enclosed in this report (see Land Use Plan). Only 12 sites in the modified "growth" corridor were

Land Use Plan

APRIL, 1982



DISTRICT AREAS

- R-3% RURAL RESIDENTIAL
- R-1 LOW DENSITY RESIDENTIAL
- R-1/2 MEDIUM DENSITY RESIDENTIAL
- R-1/4 MEDIUM DENSITY RESIDENTIAL
- MF HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL
- VN VILLAGE NEIGHBORHOOD
- OR OFFICE RESEARCH

OPTIONAL DEVELOPMENT ALTERNATIVES

- R-1/4 & R-1/2 RESIDENTIAL CLUSTERS
- PLANNED RESIDENTIAL DEVELOPMENTS-6 DU
- PLANNED RESIDENTIAL DEVELOPMENTS-8 DU
- PLANNED UNIT DEVELOPMENTS-10 DU/AC

NOTE: THE READER OF THIS LAND USE MAP SHOULD CONSULT THE ADOPTED ZONING MAP AND THE CRITICAL AREAS MAP WITHIN THIS DOCUMENT FOR THE LOCATION OF "CRITICAL AREAS" AS DEFINED AND CONTROLLED BY SECTION 13-605 OF THE LAND DEVELOPMENT

Bedminster Township
Somerset County - New Jersey

BASE MAP PREPARED BY:
 Richard Thomas Coppola, P.P. - License No. 1378
 Bordentown Township, New Jersey - April, 1981

zoned specifically in response to the court mandate to provide for low- and moderate-income units. These sites are shown on the map entitled Identification of MF, PRD and PUD Land Areas.

The total capacity of each site and the number of low- and moderate-income units that could be produced on each was analyzed by both Bedminster and Dobbs. Since publication of its August 1982 Master Plan Housing Element which was addressed by Dobbs in his analysis, Bedminster has revised its capacity study on the basis of more accurate recent information regarding the extent of "critical" areas.²⁵ Shown in Table 1 are the 12 sites and their total development capacity as determined by Bedminster and Dobbs. (Bedminster identifies the sites by means of letters--A to L--whereas Dobbs uses the numbers 1 to 12.) The capacity of each site is expressed in dwelling units within the limits set by the applicable land development regulations including the effect of any portion of the site being characterized as "critical" (i.e. being susceptible to flooding or having a slope in excess of 15 percent.

²⁵ Flood Insurance Rate Maps and Floodway Boundary-Floodway Maps prepared by the Federal Emergency Management Agency and dated September 30, 1982.

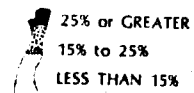
Identification of "MF", "PRD", and "PUD" land areas.

Critical Areas

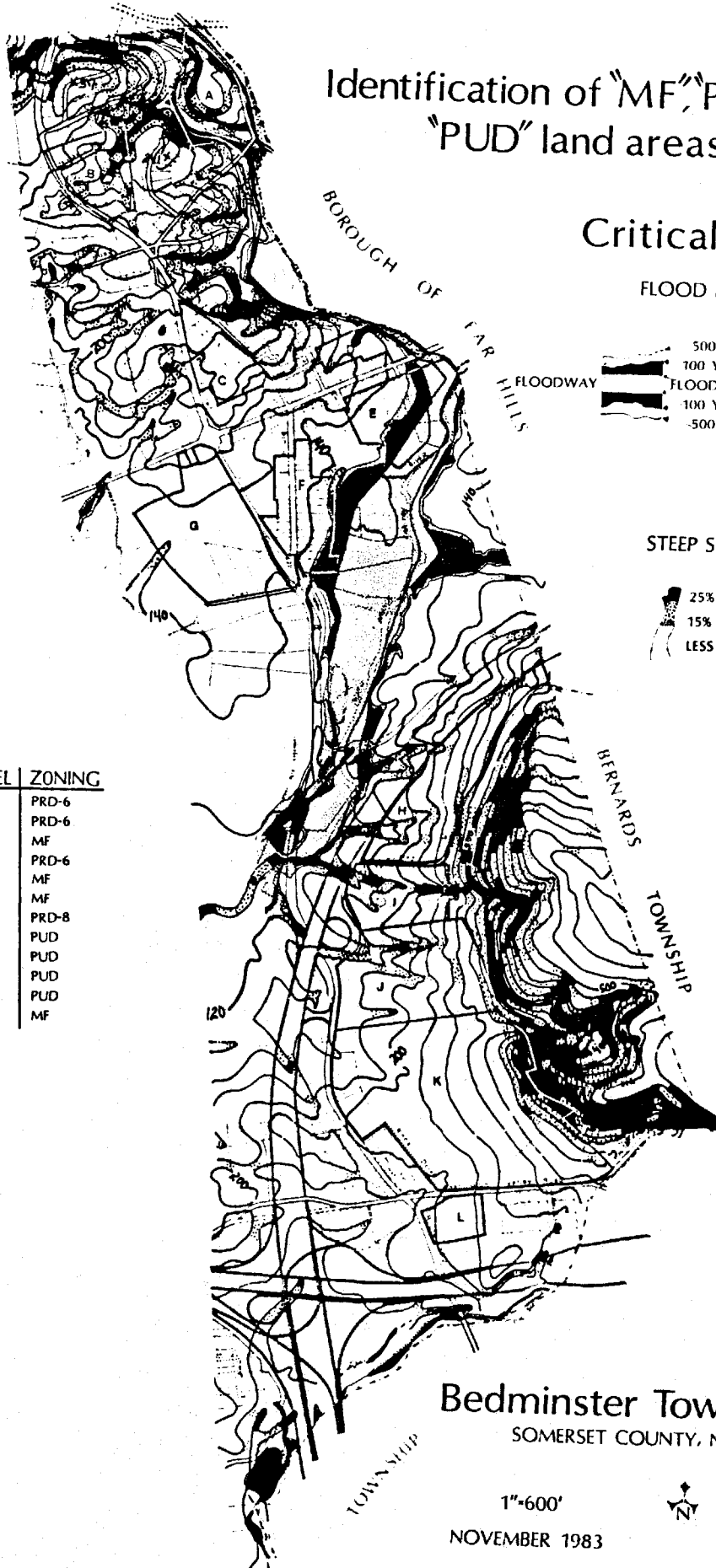
FLOOD PLAINS



STEEP SLOPES



PARCEL	ZONING
A	PRD-6
B	PRD-6
C	MF
D	PRD-6
E	MF
F	MF
G	PRD-8
H	PUD
I	PUD
J	PUD
K	PUD
L	MF



Bedminster Township
SOMERSET COUNTY, N. J.

1"=600'
NOVEMBER 1983



Table 1

SITES ZONED MF, PRD, AND PUD
Bedminster Township

Site Identification		Capacity in Dwelling Units	
<u>Bedminster</u>	<u>Dobbs</u>	<u>Bedminster</u>	<u>Dobbs</u>
A	1	66	134
B	2	80	79
C	3	290	67
D	4	36	81
E	5	199	146
F	6	306	0
G	7	514	517
H	8	449	414
I	9	257	0
J	10	599	0
K	11	1,287	1,287
L	12	<u>177</u>	<u>178</u>
Total		4,260	2,903

Upon review of these sites and with the benefit of the more recent topographic and hydrological data used by Bedminster, I have determined that the 12 sites have the capacities set forth in Table 2, below. The reasons for the difference between these determinations and those offered by either Bedminster or Dobbs are supplied in the explanatory notes which follow the table. Minor differences were overlooked.

Table 2

SITE CAPACITY

<u>Site Identification</u>		
<u>Bedminster</u>	<u>Dobbs</u>	<u>Capacity</u>
A	1	66
B	2	80
C	3	165
D	4	36
E	5	199
F	6	0
G	7	514
H	8	414
I	9	257
J	10	599
K	11	1,287
L	12	177
Total		3,794

Site A (No. 1) Dobbs assumed that only 11 acres of this 23-acre site are critical. In fact, the proportions are reversed.

Site C (No. 3) The total area of this site amounts to 24.77 acres. It is zoned MF (a classification which permits 12 dwelling units per acre). Dobbs' analysis found only one vacant developable parcel containing 5.57 acres. In fact, despite the presence of single family houses, three others, with a combined area of 8.22 acres, can be assumed to be available. I base this opinion on the probability that the higher value of the land for multi-family development will lead its owners to dispose of their oversized

lots. The total area available for development is thus increased to 13.78 acres with a resulting yield of 165 units.

Site D (No. 4) Dobbs assumed that the entire 13.8 acres are "non-critical." Based on the update of environmental factors mentioned above, Bedminster has revised its evaluation of this site by showing 7.8 acres as "critical" and 5.8 acres as suitable for development at the permitted density of 6 units per acre.

Site E (No. 5) The difference between the 199-unit capacity of this site claimed by Bedminster and the 146-unit credited to it by Dobbs is derived from a difference in the measurement of the "critical" area. Dobbs characterized 31.58 of the total of 43.24 acres as "critical" whereas Bedminster found that only 27.1 acres were so affected. Since Bedminster had the advantage of updated information I concur with its determination.

Site F (No. 6) This site, which is zoned MF permitting multi-family development at a density of 12 units per acre, consists of a strip straddling Route 206 between its point of separation from Route 202 and a point south of Lamington Road. With one or two exceptions, the frontages along both sides of the road are developed with one family houses. Eleven lots containing 18.5 acres of the site's total of 30.14 acres, all have a depth of some 600 feet. Taking into account that 4 of the 18.5 acres are "critical," the capacity of the site is 174 units.

Dobbs assigned zero capacity to this site because of the difficulty and cost of site assembly. In the short run, he is probably correct. In the long run, market pressures can be expected to cause the assembly of at least the rear portions of these lots with one or two points of access to Route 206. For purposes of this study, however, I have concurred with Dobbs' evaluation.

Site H (No. 8) Dobbs assumes that 20% of this 51.76-acre site will be developed for commercial uses, as permitted under the Township's applicable Planned Unit Development District regulations. Even though, as Dobbs also notes, the access to this site is difficult--which to me suggests that the optional use of 20% of the site for commercial uses will be foregone--I have accepted Dobbs' evaluation.

Site I (No. 9) This site encompasses 31.79 acres, of which 6.2 are "critical." It contains 4 single family houses on lots which average 7.95 acres. The zoning permits 10 dwellings per acre. The total value of the entire tract for such development can be conservatively estimated at close to \$4 million (using the generally accepted premise that developers are prepared to pay around \$15,000 per unimproved acre of readily useable land zoned for townhouse development). For these reasons, I rejected Dobbs'

assumption that the existing houses render this land unavailable for development.

Site J (No. 10)

Bedminster and Dobbs agree on the capacity of the site, but Dobbs alleges that the presence of a single house on this eminently developable 73.25-acre site makes it unavailable for development. The site adjoins The Hills and the approved site plan of the Hills development provides access to this site. Its development capacity of nearly 600 units under its 10 units per acre PUD classification makes it worth perhaps as much as \$9 million or more. Under the circumstances, I cannot support Dobbs' claim that this site should not be counted.

b. Bedminster's Land Development Regulations

1. Several requirements in the existing Bedminster Land Development Regulations should be eliminated since they cannot be implemented without subsidies which are not currently available. These include the requirement that 25 percent of the units

affordable to low- and moderate-income households (hereinafter referred to as "affordable units") be provided in the form of senior citizen housing; that 35 percent of the said units be provided in the form of rental housing; and that 5 percent of the rental or sales units have at least four bedrooms.

2. To achieve a balanced distribution of units, by size, to correspond with the currently prevailing sizes of households, the bedroom mix should be revised so as to require that, of the affordable units intended for each income class (low and moderate) not more than 50 percent consist of units with one bedroom or less and not less than 20 percent have three bedrooms.
3. The regulations governing developments in "MF" High Density Multiple Family Districts should be revised to require a 20 percent affordable unit set-aside, similar in all respects to that which will apply to the Planned Residential Developments and Planned Unit Developments.
4. The ability of developers to comply with the affordability-related requirements of the land

development ordinance will be affected by changing conditions such as interest rates, availability and nature of housing subsidy programs, building costs, required off-tract improvements, allocation of the cost of infrastructure improvements between the developer and the Township, etc. The normal variance procedure through the Zoning Board of Adjustment is not applicable, particularly since, as a matter of policy which only the Township Committee can decide, the Township can--and, under Mount Laurel II, may have to--assume direct responsibility for actions, including changes in the applicable zoning regulations, that may be required to enable it to comply with its mandate.

It is also important to avoid wherever possible the need to litigate disagreements as to the respective responsibilities of the developer and the Township.

In discussions with the Office of the Public Advocate, a suggestion emerged which seems to have a great deal of merit. First, a developer would be required to prove to the Township that he cannot comply with the affordability-related provisions of the local regulations.

If the Township does not feel the need to provide some form of relief, at the developer's expense, the parties would each select a mediator and the two mediators would mutually agree on a third. The product of the mediators' work would be a recommended, rather than binding, solution. If, despite the mutuality of interest of the two parties in the realization of a development meeting Mount Laurel criteria on the pre-zoned site, the mediators' recommendations are not accepted, the matter would end up in court. The fact that the cost of this process would be paid by the developer would tend to limit the number of frivolous and baseless attempts to increase the yield of the property in the absence of basic impediments to full compliance with the regulations.

5. I have given considerations to the possibility that a developer of market rate housing may have no interest in the provision of affordable units as part of his development and that the regulations might permit him to meet that requirement by making a contribution to a developer specializing in such housing for use on some other site. This method seems to have been successfully used in

Orange County, California. I have serious reservations regarding the applicability of this method to Bedminster for two principal reasons: first, it would tend to result in the segregation of the affordable units rather than their being provided as an integral part of market rate developments, as apparently it is possible to achieve under the proposed regulations; and, second, the difficulty of phasing in the construction of the required affordable units with that of the market rate units, as required under Section 13-805.3.h of the Bedminster Land Development Ordinance.

6. I believe that the modifications suggested above would bring the Township's Land Development Regulations in compliance with Mount Laurel II. I have requested the Township's Planning Consultant to comment on these proposals. His reaction, which is presented in Appendix A to this report, includes comments regarding some provisions which I had under considerations but which I decided against making a part of my recommendations. (The letter from Kenneth E. Meiser, Esq., Deputy Director, Division of Public Interest Advocacy, Department of the Public Advocate, which is

referred to in Mr. Coppola's letter in Appendix A is inserted immediately following).

c. Does the Bedminster Zoning Provide a Reasonable Opportunity for the Provision of Low- and Moderate Income Housing?

The answer to the question in the above title is a function of the probable number of affordable units that would be provided under the applicable regulations on each of the sites zoned to permit housing at higher densities (6 to 12 units per acre).

The analysis which follows deals with the several sites in the order of the immediacy of their availability for development and assumes that the "affordability" aspects of the Land Development Regulations will be adjusted to comply fully with Mount Laurel II.

(1) Sites Available for Early Development

Site K (11) The Hills development will produce 260 units approved as affordable by the Court.

Sites I (9) and J (10) These two sites, which are zoned for 10 units per acre with a mandatory 20 percent affordable

housing set-aside, have access to adequate sewer capacity and can thus be assumed to provide a reasonable opportunity for the construction of 171 units of affordable housing (one-fifth of their aggregate capacity of 856 units).²⁶

Site L (12) This site, which is zoned MF and which has a capacity of 177 units, also has access to available sewer capacity. The current regulations do not impose a mandatory set-aside in MF Districts. The Township's proposed amendment, however, would impose a 35% minimum affordable housing requirement. As discussed in the analysis of those Bedminster Land Development Regulations that are related to affordable housing in the previous section of this report, the economic feasibility of a 35% requirement is doubtful. For this

²⁶ See letter from Richard Thomas Coppola, Planning Consultant to Bedminster Township in Appendix B.

reason, I am crediting this site with only 20% of its total capacity, or 35 units.²⁷

Site E (5)

This site, which is also zoned MF, has a total capacity of 199 units, including 40 affordable units (at 20% of the total). The availability of this site is a function of the successful resolution of two problems which diminish the ability of the existing Bedminster-Far Hills sewage treatment plant to accept additional loads. Part of the existing capacity of the plant is being held in reserve for AT&T in addition to its current usage. AT&T may be willing to relinquish this excess. The capacity of the plant is also affected by storm water infiltration which may be curable.²⁸

²⁷ Ibid.

²⁸ Ibid.

The Township will attempt to work out these problems in the near future. Since the Mount Laurel II mandate allows the Township up to six years for the development of the needed sites, I believe that this site should be credited with at least 20% of its capacity at this time. If the Township's efforts fail to resolve the sewerage capacity problem within the next year or two, other sites would have to be substituted.

One alternate possibility is using the entire site for subsidized senior citizen housing, in which case its entire 199-unit capacity would be devoted to affordable housing. I deem this to be a realistic alternative inasmuch as the federal Section 202 Senior Citizen Housing program is still available and the location of the site, immediately adjoining the Bedminster Village Center, makes it eminently suitable for such housing.

Funding commitments for Section 202 projects are awarded exclusively to non-governmental non-profit sponsors on a competitive basis, so that the Township's interest, desire and success in encouraging the establishment of, or the assumption of responsibility by an eligible sponsor organization in the next two or three years will be a major determinant of whether the site will be credited with 40 or 199 units towards its compliance with Mount Laurel II.²⁹

Altogether the sites which can be classified as providing the required "reasonable opportunity" thus have the capacity for 506 to 665 units of affordable housing.

(2) Sites Available for Later Development

Sites A (1) and D (4) zoned PRD at 6 units per acre, together have a capacity of 102 units and

²⁹ Site L (12), which is also located near shopping in the Pluckemin Village area, was not credited with the possibility of its being used for Section 202 housing in its entirety because, without a substantial change in federal housing policies, Bedminster would be unlikely to gain approval of two sites within a two to three year period.

could thus provide 20 units of affordable housing. Site G (7), zoned PRD at 8 units per acre, has a capacity of 514 units, or 103 affordable units. Site H (8) has a capacity of 414 units, including 83 affordable units, under its PUD, 10-unit per acre zoning. All four sites will only be useable following expansion of sewer services which will require time.

The availability within the next six years of Sites B (2) and C (3), with their aggregate capacity of 245 units (including 49 affordable units) is conjectural since it would depend upon site assembly, redevelopment, or willingness of individual owners to proceed with relatively small developments on their own.

The 255-unit affordable housing capacity of the six sites discussed above, though real, is thus not credited against Bedminster's current mandate under Mount Laurel II.

To summarize:

	<u>Site Nos.</u>	<u>Affordable Units</u>
<u>Available for Immediate Development:</u>	I (9) & J (10)	171
	K (11)	260
	L (12)	<u>45</u>
Sub-Total		466
<u>Probably Available Within Three Years:</u>	E (5)	<u>40-199</u>
Total Affordable Units Reasonably Provided For:		506-665
<u>Other Affordable Units Which May Be Constructed on Rezoned Sites after 1990</u>	A(1), B(2), C(3), D(4), G(7), H(8)	<u>255</u>
<u>Total Zoned Capacity</u>		761-920

* * *

Phasing. In its decision, the Supreme Court was aware of the possibly deleterious effect of a wave of development too sudden and large to be absorbed in an orderly fashion by small rural or suburban municipalities:

"...any changes brought about by this opinion need not be drastic or destructive. Our scenic and rural areas will remain essentially scenic and rural, and our suburban communities will retain their basic suburban character..."³⁰

In a communication to me dated December 19, 1983, Mr. Richard Coppola, Bedminster's planning consultant, stated in part as follows:

³⁰ 92 N.J. 220.

"...the current (1980) population of the Township is 2,469 people who are housed in 938 total housing units. With the development of The Hills PUD only, the population of the Township will have increased by a factor of 2.3 to 5,670 people. When currently sewerred Sites I, J and L also are developed, the population of the Township will have increased to 8,180 people, which is more than three (3) times the current population. At that time, and assuming no other residential development in the municipality has occurred, the total number of dwelling units in the municipality will have increased three and one-half (3.5) times.

The impact on the school systems serving the Township is even more dramatic. By the time The Hills PUD is developed, the Township may have to expand its lone elementary school since the rated functional capacity of the school will have been exceeded. Additionally, Bedminster Township will have doubled the number of students it currently sends to the regional high school located in Bernards Township. At the time that Sites I, J and L are developed, the Township will need additional elementary school space equal, almost, to that which currently exists (709 elementary age students vs 404 rated functional capacity)."

The impact described above would result from development that would produce 506 certain affordable units and possibly as many as 665.³¹ The Township's "fair share" allocation recommended in this report amounts to 944 units of such housing. The difference between the 944 required affordable housing units and the 506-665 units provided for thus amounts to 279-438 units. If these additional units were

³¹ Although the impact may be reduced slightly if Site E(5) is developed with senior citizen housing.

provided through a 20 percent mandatory set-aside, the total required additional development would amount to 1,395-2,190 units. This would add approximately 3,400 to 5,350 persons to Bedminster's already projected 1990 population of 8,180 inhabitants. The total increase above the Township's 1980 population of 2,469 would thus amount to between 9,100 and 11,050 persons, while the rate of increase would be 465 to 545 percent! This increase would occur not in ten, but in six years, since the population of the Township has remained relatively stable between 1980 and the end of 1983.

I believe that such a rate of growth would be excessive. It would destroy many of the intangible values which invest Bedminster with its present quality. On the other hand, providing 506-665 units of Mount Laurel II-type housing within six years will definitely cause it to lose that negative quality--exclusionary zoning--which the Mount Laurel II decision intends to eradicate.

My opinion is based also on the possibility that, if the methodology recommended in the CUPR Study is accepted in the near future, Bedminster's allocation may be lowered to approximately the level provided for in its current zoning.

Any continuing imbalance that may result from acceptance of this level of compliance at this time would be subject to

review and adjustment at the end of the six year repose period.

d. Recommendation

Based on the above, I recommend that the Township's current zoning, modified (1) so as to require a mandatory set-aside of not less than 20 percent of affordable units in all MF Districts, and (2) adjusted so as to bring all its other "affordability"-related requirements into compliance with Mount Laurel II mandate, be found to comply with the Mount Laurel II requirement that, by 1990, Bedminster provide a reasonable opportunity for the construction of its fair share of the present and prospective low- and moderate-income housing need in its housing region.

January 8, 1984

George M. Raymond, P. P.
Raymond, Parish, Pine & Wiener, Inc.
555 White Plains Road
Tarrytown, New York 10591

Re: Bedminster Township's Zone Plan:
Meeting Its "Mt. Laurel II" Obligations.

Dear Mr. Raymond:

As you requested, and pursuant to questions raised by Peter O'Conner, Esq. in response to my December 19, 1983 report, I have confirmed the following information with Messrs. Cilo and Ferguson regarding the Environmental Disposal Corporation and the Bedminster/Far Hills sewerage treatment plants:

Environmental Disposal Corporation (EDC) Plant

- The Environmental Disposal Corporation has been granted a private franchise by the Public Utilities Commission to provide sewerage treatment capabilities to a specified land area in Bedminster Township.
- The franchise area generally includes the lands bounded by Routes I-287 and I-78 in Bedminster Township, including the Village of Pluckemin, and specifically encompasses Parcels I, J, K & L as identified in my December 19, 1983 report (2,320 units, including approximately 475 low and moderate income units).
- The EDC plant is designed to accommodate 1,250,000 gpd, but due to receiving water limitations, the approved operating capacity is expected to be approximately 850,000 gpd.
- Sewerage treatment needs for the franchise area is estimated by EDC to be 858,488 gpd when full development is achieved, including 256,050 gpd earmarked to serve a portion of "The Hills" development in Bernards Township.

Bedminster/Far Hills (BFH) Plant

- The Bedminster/Far Hills plant has a design capacity (as limited by the N.J.D.E.P.) of 200,000 gpd. The existing average daily flow to the plant is 145,000 gpd; therefore, 55,000 gpd or approximately 229 additional dwelling units (@ 240 gpd/unit) could come "on line" before the present plant has to be expanded, assuming that A.T.&T. relinquishes or defers its allocated capacity and the infiltration problems experienced by the plant are brought under reasonable control.

January 8, 1984
page two.

George M. Raymond, P.P.

- ° There is no formal written agreement between Bedminster Township and A.T.&T. regarding its allocated capacity; instead, it was a consideration at the time of site plan approval, based upon the then unknown specific capacity need of the proposed A.T.&T. facility and the possibility that A.T.&T. might expand the facility. However, since that time, the capacity needs of A.T.&T. have been documented and there are no plans to expand the facility.
- ° Clearly, with the capacity for multiple family residential development in the EDC plant, Bedminster Township has the time to work out the ultimate resolution of the capacity of the BFH plant without detriment to its obligations under "Mt. Laurel II".

Truly yours,



Richard Thomas Coppola

RTC

cc:

Mayor Paul F. Gavin

J. William Scher, Planning Board Chairman

Alfred L. Ferguson, Esq., Special Counsel

ROBERT M. HORDON, Ph.D.

Water Resources Consultant

8 DOV PLACE
KENDALL PARK, NJ 08824

January 13, 1984

Joseph L. Basralian, Esq.
Winne, Banta & Rizzi
25 East Salem Street
Hackensack, New Jersey 07602

Dear Mr. Basralian:

I was retained in 1981 as a consultant on water resources issues that pertain to the development of the Dobbs' site in Bedminster Township and the Township's proposed compliance with the Mt. Laurel II opinion, more specifically as described in the report of G.M. Raymond to the Court, dated January 10, 1984. My specific areas of concern are water supply, wastewater disposal, and stormwater management. The comments contained herein are based on information obtained from review of official state reports on wastewater facilities for the Upper Raritan, personal interviews, telephone calls and on-site investigations.

My review included the January 8, 1984 letter from R. T. Coppola to G. M. Raymond re: Bedminster Township's Zone Plan: Meeting its "Mt. Laurel II" Obligations and my analysis indicates a number of discrepancies, as follows:

1. The EDC plant is designed to treat 850,000 gpd. Any expansion to 1,250,000 gpd will necessitate construction of an additional facility contiguous to the present site. Mr. Coppola incorrectly states in his letter that "The EDC plant is designed to accommodate 1,250,000 gpd***." In fact the plant is designed to treat 850,000 gpd and any expansion thereof will require, at a minimum, construction of additional facilities contiguous to the present plant which can only take place after the receipt of numerous approvals from various governmental agencies.

2. The current allocation of the EDC plant is as follows:

Hills Development:	800,000 gpd
Pluckemin Village:	27,500 gpd
City Federal :	<u>22,500 gpd</u>
	850,000 gpd

3. The actual needs for the Hills' development will probably be higher than the aforementioned 800,000 gpd. For example, if we assume 240 gpd/DU, the expected effluent generation at build-out would be as follows:

Bedminster:	1287 DU at 240 gpd/DU =	308,880 gpd
Bernards:	1913 DU at 240 gpd/DU =	459,120 gpd
Commercial:	350,000 ft. ² at 0.125 gpd/ft. ² =	<u>43,750 gpd</u>
	Total	811,750 gpd

Note that the effluent generation value for Bernards is on the low side if the type of housing is expected to be single family. The usual estimator for single family is 360 gpd/DU. In any case, the estimated effluent generation of 811,750 gpd from the Hills' development is clearly in excess of 800,000 gpd.

4. It is unclear in the Coppola letter of January 8, 1984 how the sewerage treatment needs for the EDC franchise area is expected to be 858,488 gpd, especially when one includes sites I, J, and L within the franchise area in addition to the Hills site on site K. It is worth noting that no attempt was made to disaggregate the 858,488 gpd estimate in the Coppola letter.

5. The 27,500 gpd residual reserved for Pluckemin is already earmarked for existing residential and commercial units within the Pluckemin area. Accordingly, the expectation of sewerage Site L to provide 177 housing units is unrealistic as these units alone would require 42,500 gpd.

6. The Bedminster/Far Hills (BFH) plant had an average flow of 155,000 gpd in 1983 which reflects the essentially zero flows of AT&T on the weekend. Using this average in itself is misleading since the average 5-day average flow to the BFH plant is 190,000 gpd. Therefore, the presumed "surplus" of 55,000 gpd in the Coppola letter of January 8, 1984 is really only 10,000 gpd. However, the 30-day average flow to the plant was 199,700 and 204,400 gpd in March and April of 1983, respectively. These high 30-day average flows reflect infiltration/inflow problems in the Far Hills system.

The 5-day average flow from AT&T varies from 70,000 to 110,000 gpd. Therefore, it is unrealistic to expect that AT&T can release its "excess capacity" as such excess capacity does not exist.

7. a) In conclusion, it is apparent that the Bedminster plant is at or near its design capacity of 200,000 gpd. Any additional flow coming into the plant would necessitate expansion.

b) It is unclear how the EDC plant can accept additional effluent beyond the current allocation of 850,000 gpd for Hills, Pluckemin and City Federal without the construction of additional facilities on land contiguous to the present site.

c) In my opinion, there is inadequate capacity within the BHF and EDC plants to accommodate the wastewater from any further development beyond that which is already allocated.

Very truly yours,

Robert M. Hordon

Robert M. Hordon

January 13, 1984

The Honorable Eugene D. Serpentelli
Ocean County Courthouse, CN 2191
Toms River, New Jersey 08753

Re: Bedminster Regional Center as it Relates to Allen-Deane vs.
Bedminster Township and Dobbs vs. Bedminster Township

Dear Judge Serpentelli:

This letter is to put forward to the Court in more detail the Proposal of our client, Leonard Dobbs, contract purchaser of a 211.6 acre property in Bedminster Township. Mr. Dobbs' property is almost entirely within the "growth area" of the State Development Guide Plan (see maps attached as Exhibits A and B)* and is eminently suitable for development of low and moderate income housing, subject to certain conditions.

The Proposal is to build up to 264 units of low and moderate income housing as part of a regional retail or office center. The Proposal is consistent with and elaborates previous submissions to the Township Planning Board and Township Committee. To date neither the Board nor the Committee has formally responded to Mr. Dobbs' Proposal.

This submission includes a description of the proposed land uses,

* Attached as Exhibits C and D are maps showing the Dobbs site in the context of the Somerset County Master Plan and the corridor definition made by Judge Leahy.

David A. Wallace, FAIA, AICP
William H. Roberts, ASLA
Thomas A. Todd, FAIA, AICP

David C. Hamme
Richard W. Huffman, AIA
Charles B. Tomlinson, Jr., AIA

Richard W. Bartholomew, AIA
John E. Clark, CPA
John E. Fernsler, AIA
Antoinette F. Seymour, AICP
Jack Sidener, AIA, AICP

John Beckman
Henry F. Bishop, ASLA
Ignacio F. Bunster-Ossa, ASLA
Elizabeth B. Clarke, AICP
Richard Collier, Jr.

Michael D. Garz, AIA
Timothy Korbelak, AIA
C. Alyn Pruett, AIA
Gilbert A. Rosenthal, AIA

an outline of the proposed low and moderate income unit component, evaluation of the benefits of the regional retail center as a generator of the low and moderate income housing, and a summary of site suitability.

OUTLINE OF THE DEVELOPMENT PROPOSAL

The proposed uses for the site are as follows:

<u>Use</u>	<u>Acres</u>
Residential	40
Municipal	10
Open Space	31.8
Commercial	<u>129.8</u>
	211.6 acres

The site is proposed to be rezoned to a PUD category. This category recommended by the Bedminster Township Master Plan, Part II Development Plan, August 1982, pp. 7-8 (but not yet adopted), would allow a regional retail center, or equivalent office use, residential and related uses. The Master Plan reads:

"Planned Unit Developments are recommended on tracts of land at least ten (10) acres in area where indicated on the Land Use Plan map. Both residential and commercial uses are permitted, and it is specifically intended that sufficient retail and office development be provided to satisfy the needs of the intended population within the PUD as well as the nearby population in neighboring municipalities. Single family detached dwellings (6000 sq. ft. lots); semi-detached dwelling units (3750 sq. ft. lots); townhouses and

garden apartments are to be permitted, provided that the total number of dwelling units is no more than ten times (10X) the number of total acres within the tract, excluding those acres devoted to the permitted commercial activities."

The site is currently zoned R-3%.

Residential Component

The 40 acres of residential land is proposed to be developed at 22 units of low and moderate income units per 100,000 square feet of leased commercial area. This would result in 264 units phased in accordance with the commercial development. Of these units, 245 would be applicable to the Township's Fair Share obligation and 19 would satisfy the internal requirement.*

- 3 -

-
- * The commercial portion of the site when developed as a regional retail center will require its own contribution to Fair Share housing, the calculation of which follows. When fully developed, the regional retail center will contain 1.2 million sq. ft. of retail space. Using a standard 400 sq. ft. per employee ratio (2.5 employees per 1,000 sq. ft.), there will be 3,000 employees. The majority (roughly 70%) of the employees surveyed for the Ocean County Mall in a recent study were secondary rather than primary wage earners, thus most employees would be existing area residents. The critical number is the number of employees who move into the area to take retail jobs. According to the same survey, only 3.7% people moved to the area to take a job at the mall. Applying this percentage to the anticipated number of full time jobs (50% or 1,500 employees) would yield 56 jobs for which housing would be needed. Based on a report by Abeles Schwartz Assoc., commissioned by Kenneth Meiser, the Public Advocate (Abeles Schwartz, Memo to Kenneth Meiser, November 21, 1983, forwarded to George Raymond, November 28, 1983), 39.6% of all households in the State earned 80% or less of the median income. Of this total, 61% were low income, 39% were moderate income. Applying these percentages to the potential housing demand of 56 units (this assumes a 1 to 1 job to house ratio) would yield 13 low income units and 6 moderate income units, for a total of 19 units.

The internal subsidy from the regional commercial center would be composed of the following:

- provision of land at no cost to housing component
- provision of all off-site improvements and utilities to the site
- financial subsidy of \$10,000/year/100,000 square feet of occupied space aggregating to \$120,000 per year when the commercial space is completed and leased

This internal subsidy, together with Township assistance, should enable the housing units to be available to persons below the upper limits of income eligibility for low and moderate income persons, thus providing a realistic housing opportunity for such group.*

The Township assistance with regard to the housing component should take the form of abatement of taxes, the waiver or reduction of construction permit, inspection, and review fees, an application by the Township for Federal Community Development Block Grant funds to be used to assist the Dobbs housing project, and the creation of a Township-wide entity to administer the housing (screen applicants, insure resale to other qualified residents, etc.). The current Township requirements for 20-25% low and moderate income units on small, scattered sites requires each developer

- 4 -

* George M. Raymond, the Court Master, and Alfred Ferguson made a public statement reported in The Courier News 4/29/83 to the effect that commercial developers could be charged a fee to support low and moderate income housing.

to market and administer the housing units, which procedure is inefficient on small, scattered sites and will inhibit performance by developers under Mt. Laurel II.

Municipal

New Municipal facilities will soon be needed to accommodate the Township's requirements to be generated as a result of its anticipated growth. Ten (10) acres in a suitable location would be donated to the Township for municipal purposes.

Open Space

The 31.8 acres south of River Road will be kept as open space in perpetuity for passive recreation.

Commercial Component

The commercial portion of the site will be utilized as a regional retail or commercial center which when fully developed will contain approximately 1.2 million square feet of retail or equivalent office space. The scale of the Dobbs development will be directly comparable to Hills development in Bedminster in terms of scale of development related to the number of low and moderate income housing units produced.

BENEFITS OF PROPOSAL

Adoption of this Proposal will enable the Township to make a substantial contribution to its Fair Share of low and moderate income housing without the normally high service costs of large residential developments. The regional center will provide

several benefits:

1. Minimized impact of population change: The commercial retail center can provide 264 low and moderate income housing units without the attendant population change which would occur if the 264 low and moderate income housing units were a 20% set aside from a larger residential development (264 being 20% of 1320 units).
2. Tax revenue in excess of internal service demand and high enough to offset the service demand of the Hills development: Dr. George Sternlieb et al., in their report Alternative Fiscal Futures, Bedminister Township, NJ, (March 1981, Center for Urban Policy Research), have calculated that the Hills development will generate a \$2.53 million dollar municipal deficit annually and would require a doubling of the 1980 tax rate (p. 167, 192). The regional center, assuming valuation at \$120,000,000 when completed (p. 194), would provide \$1,389,600 per year in property tax for the Township and the schools at the 1983 rate of \$1.158.
3. Reduced municipal service demand compared to an equivalent residential development: The commercial retail center and 264 low and moderate income housing units will require far fewer municipal services than any residential development that would generate the same number of Fair Share units. The specific services most heavily impacted for the equivalent

housing units would be sewer, school capacity and fire and police service.

4. Practical realistic opportunity to meet Bedminister's Fair Share obligations: Dobbs is a willing developer prepared to move forward immediately and provide substantial subsidy for both construction costs and subsequent operating expenses.

As outlined herein, the proposed development would be a benefit to the community as a whole and is appropriate to the site.

SITE SUITABILITY

Wallace Roberts & Todd and a team of consultant specialists that include civil, soils, and transportation engineers, noise and air quality analysts, water resources specialists (water and sewer) and market analysts have evaluated all aspects of this site and its suitability for this development. The following is a summary of the suitability findings:

Existing Site Uses

The Dobbs property is vacant and has been allowed to go to second growth woodland. The only building is a house of reputed historic value and will be preserved.

Adjacent Land Uses

The proposed use for the site is compatible with the office research zoning across U.S. 202-206 immediately to the east, owned and occupied by the AT&T Long Lines World Headquarters. To the

North is a kennel, a cemetery and the former municipal garage. To the south lies the North Branch of the Raritan River and the proposed open space of 31.8 acres to be used as a passive recreational area. To the west are five existing single family houses on 3-5 acre lots (R-3% zone) which will be buffered from the regional center by the 40 acre residential development as a transitional use.

Access, Traffic Circulation*

The Commercial Center is located where the highway system has available capacity. The planning principle is to put relatively intensive development on a property where traffic capacity already exists or can easily be supplied, rather than where major changes in the road network are necessary.

Access to the Tract from U.S. 202-206 would entail the following improvements to be made at Dobbs' expense:

One, a two-lane inbound ramp over U.S. 202/206 coming from the south going north into the north part of the Tract.

Two, an additional northbound lane widening U.S. 202/206, including a bridge-widening between the North Branch of the Raritan River and the northern boundary of the Tract.

Third, a reconstruction of the "jug handle" intersection

* Gorove/Slade Associates Inc., Traffic Analysis For A Proposed Regional Retail Center in Bedminster, NJ, July 1981.

connecting U.S. 202/206 to River Road to increase its storage capacity.

Fourth, a widening of River Road from its intersection with U.S. 202/206 to the western boundary of the Tract. Measures will be taken to protect the rural nature of River Road to the west beyond the Tract itself.

Fifth, construction of a free-flow southbound right-turn lane from River Road to U.S. 202/206.

Sixth, installation of a traffic signal at the intersection of the southbound I-287 off-ramp and U.S. 202/206.

Noise and Air Quality

The special studies of noise* and air quality** resulted in conclusive findings that there was no negative impact as a result of the proposed commercial development.

Water, Gas and Electricity

Water, gas and electricity are immediately available.

Sewer Availability***

- 9 -

-
- * Gorove/Slade Associates, Inc., Bedminster Center, Preliminary Noise Impact Analysis, July, 1981.
 - ** Berger, Louis and Associates Inc., Air Quality Report, Bedminster Regional Center.
 - *** Greenberg, Michael and Hordon, Robert Water Resource Issues In the Development of the Proposed Bedminster Center: Initial Findings, July 1, 1981.

The site is not currently served by any treatment plants, but is within a short distance of both the Bedminister/FH plant and the EDC plant.

The effluent generation for the Dobbs site is estimated as follows:

Commercial:	1,200,000 square feet (0.125 gpd/square foot)	=	150,000 gpd
Residential:	264 DU @ 240 gpd/DU	=	<u>63,360</u>
			213,360

Note that the assumption of 240 gpd/DU is the same as the value used by G. Raymond in his January 10, 1984 report to the Court.

The estimated effluent of approximately 213,000 gpd can be accommodated by an appropriate expansion of the Bedminister/FH plant, the EDC plant, and by existing new technology or combinations thereof.

Soils and Subsurface Characteristics*

Site-specific subsurface investigation by borings indicates excellent foundation and bearing conditions assuming care is taken for the relatively high water table. Therefore, soils are not a constraint for foundations. On site storm water management measures will insure no downstreams impact from either quality or quantity of storm water runoff.

* Site Engineering Inc., Consulting Engineers, Preliminary Soil and Foundation Investigation Bedminister Regional Shopping Center, Bedminister, NJ, September 23, 1980.

Critical Areas

There are no steep slopes on the site. 21.4 acres of the 179.8 acre parcel north of River Road are within the Department of Environmental Protection 500 Year Flood Boundary. The 31.8 acres below River Road is all within the Flood Hazard Area and will remain in open space. The configuration of the development is such that no structure will be within the 500 year Flood Boundary.

CONCLUSION

The Dobbs site is well suited for high density development. The fact that the land is not divided into multiple parcels is a key factor in its development potential. An equally compelling factor is that Mr. Dobbs is willing and able to develop 264 low and moderate income housing units.

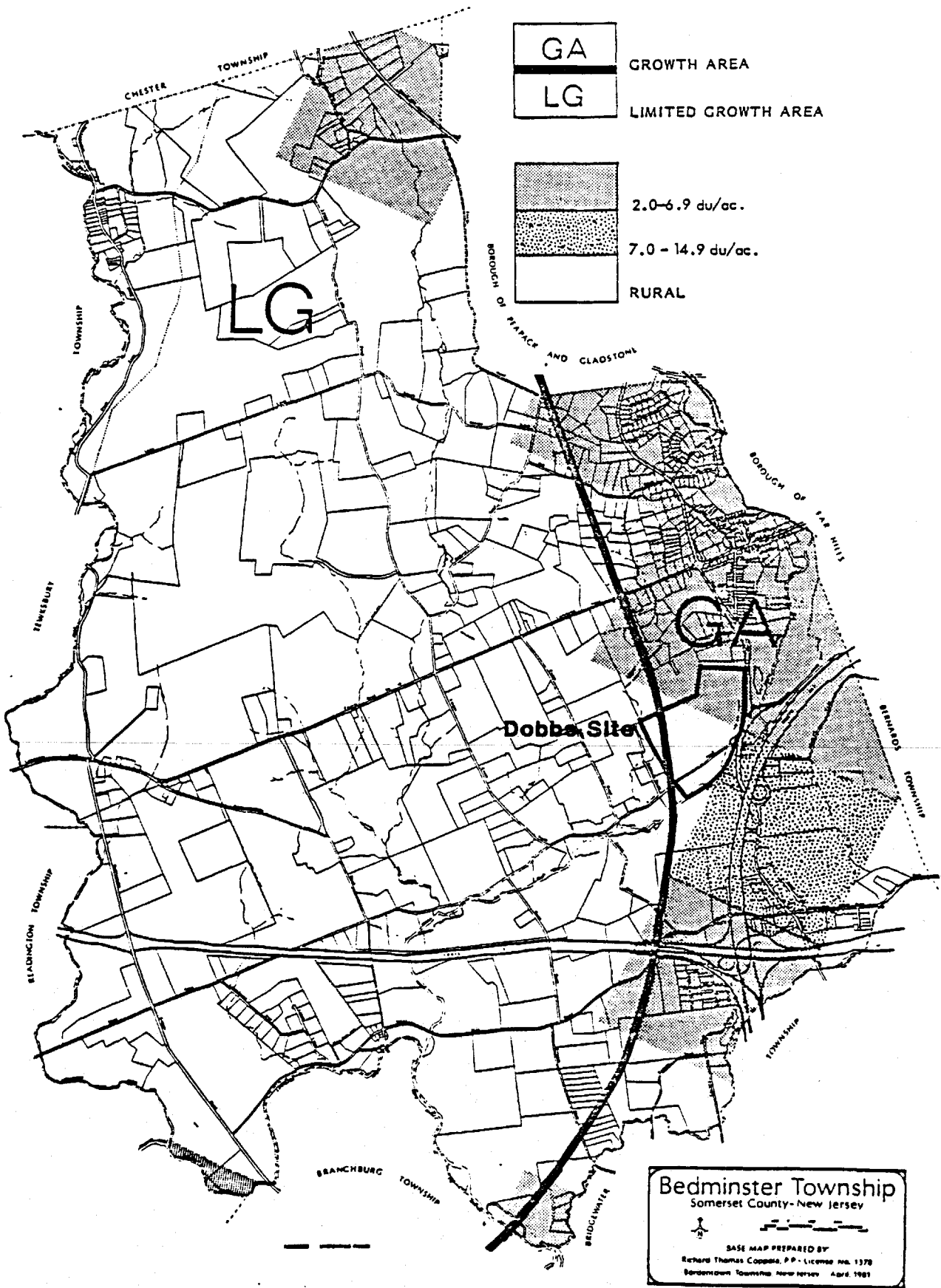
The Dobbs site offers Bedminister a practical and realistic opportunity for meeting a substantial amount of its Fair Share housing obligation and offers the potential of an internal subsidy for the low and moderate income housing units.

Respectfully submitted,

David A. Wallace

DAVID A. WALLACE, FAIA, AICP, PP

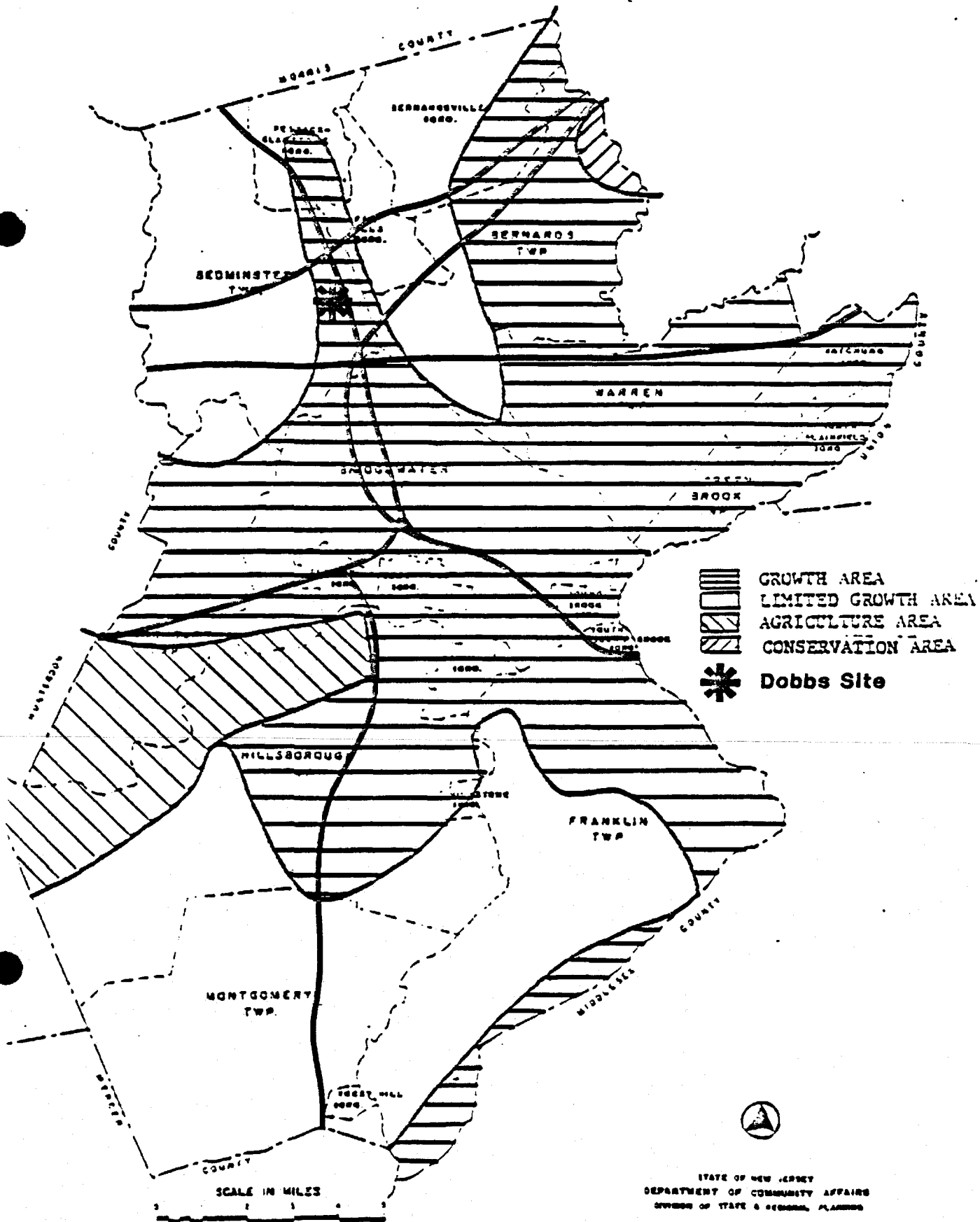
Tri-State & State Development Guide Plan · January, 1982



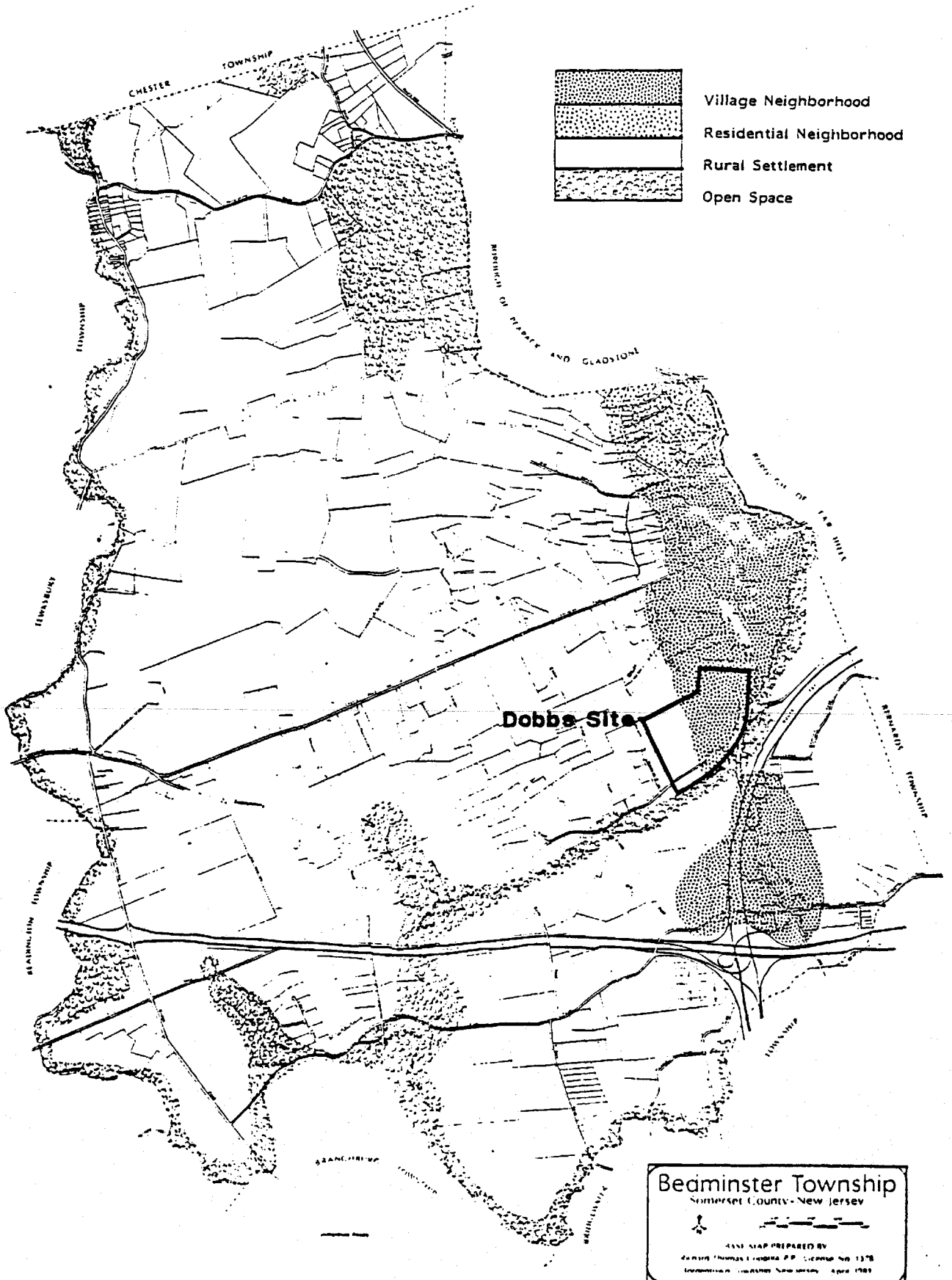
SOURCE: Tri-State Regional Development Guide, dated August 14, 1979 and Revised State Development Guide Plan dated May 1980.

SOMERSET COUNTY

State Development Guide PLAN



Somerset County Master Plan of Land Use



SOURCE: Master Plan of Land Use, adopted November 24, 1970 by the Somerset County Planning Board.

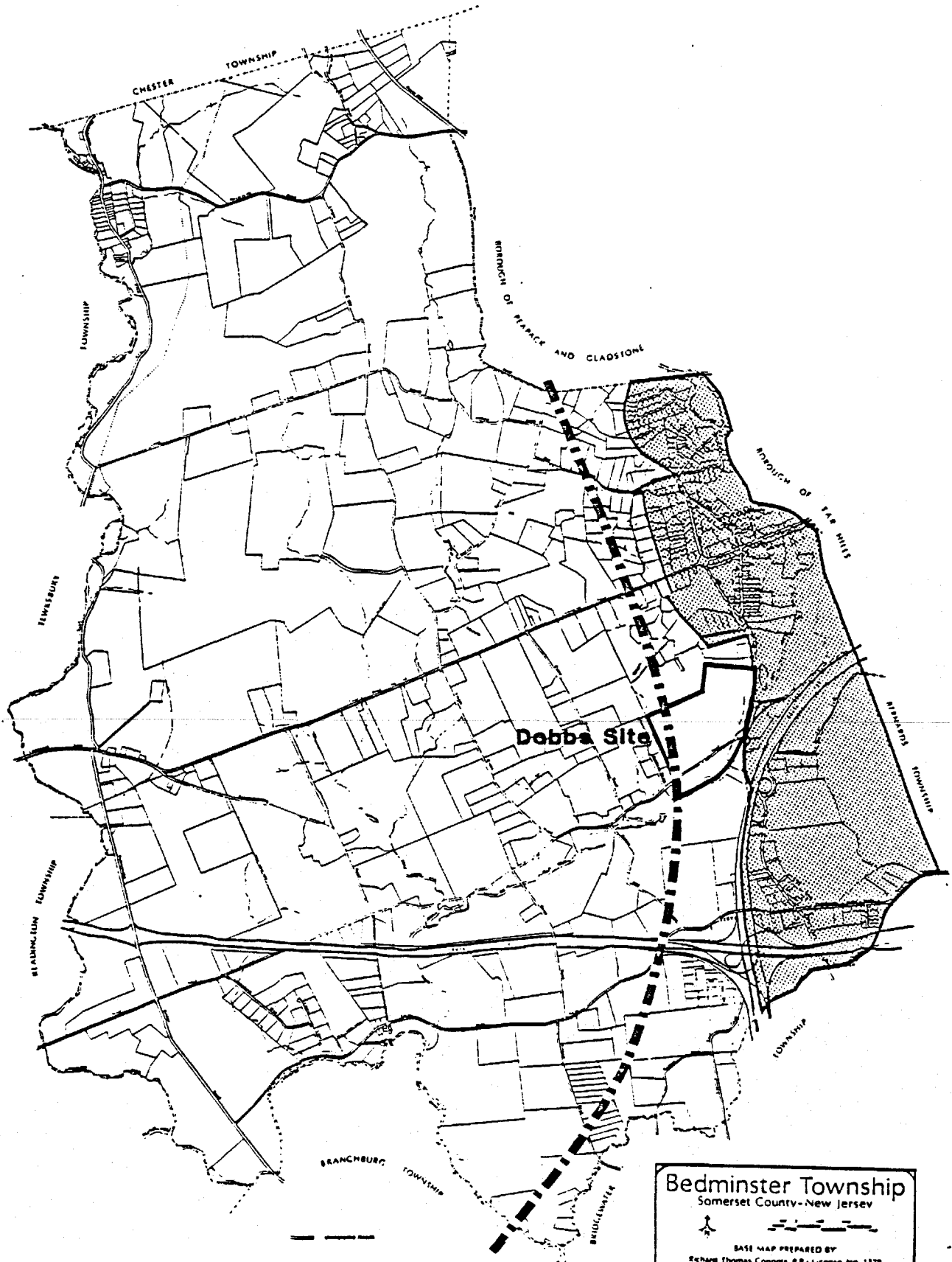
Beaminster Township
Somerset County - New Jersey

THIS MAP PREPARED BY
Zachary Thomas & Rogers, P.P., License No. 1378
Somerset County, New Jersey, April 1981

PLATE REG. 1

Court Defined Corridor Area

State Development Guide Plan Growth Area



Bedminster Township
Somerset County - New Jersey

BASE MAP PREPARED BY
Richard Thomas Coppola, P.P. License No. 1378
Bedminster Township, New Jersey, April 1981

SOURCE: Order For Remedy, March 1980;
Superior Court of New Jersey, Somerset County, N. J.,
re: The Allan-Deane Corporation et al., vs. The Township
of Bedminster, et al. Judge B. Thomas Leahy, presiding.

M E M O R A N D U M

TO: Judge Serpentelli, George Raymond, and All Concerned Parties

FROM: Wallace Roberts & Todd

RE: Final Raymond Report, January 10, 1984

DATE: January 20, 1984

Mr. Raymond's final report (January 10, 1984) assesses Bedminster's Fair Share at 944 units. We reject this figure as too low, and based on WRT's calculation, the Township's Fair Share is 2,008 units. We wish to focus this memo on Bedminster's capability of reaching any amount of low and moderate income housing above the 260 units to be built by the Hills Development Corp.

SITE CAPABILITY

Table 1 summarizes the capacity calculations of the sites selected by Bedminster to meet their Fair Share obligation. By Mr. Raymond's own calculations, the sites will not accommodate enough low and moderate income housing to satisfy his Fair Share estimate; by 1990 he estimates only 506-665 units could be built. Mr. Raymond explains that the additional 279-438 units required to achieve the 944 unit obligation would result in "excessive growth."¹ By our calculation, only 260 units (Hills) will be built without expanded sewer treatment capability as below.

Sewer Capacity

One of the crucial factors upon which any future development in Bedminster lies is sewer capacity (see Table 2). Using Mr. Coppola's assumed output of 240 gallons per unit per

MAXIMUM CAPACITY COMPARISON OF SITES
ASSUMING SEWER AND SITE AVAILABILITY

Table 1

Site	Coppola ¹		Raymond ¹		Dobbs ²		Notes
	Total	L&M	Total	L&M	Total	L&M	
1(A)	66	13	66	13	66	13	Needs sewer
2(B)	80	16	80	16	79	16	Needs sewer
3(C)	290	58	165	33	67	13	Most of site developed in single family dwellings; needs sewer
4(D)	36	7	36	7	36	7	Needs sewer
5(E)	199	40	199	40	146	30	Needs sewer
6(F)	306	61	0	0	0	0	Site already developed--single family dwellings
7(G)	514	103	514	103	514	103	Site and developer available, previous proposal in litigation; needs sewer
8(H)	449	90	414	83	414	83	Needs sewer
9(I)	257	51	257	51	0	0	Most of site developed with existing homes on large lots
10(J)	599	120	599	120	599	120	Sewer capacity in question
11(K)	1287	260	1287	260	1287	260	Hills, approved
12(L)	<u>177</u>	<u>35</u>	<u>177</u>	<u>35</u>	<u>177</u>	<u>35</u>	Needs sewer
Total Units	4260	854*	3794	761*	3385	680*	

Realistic opportunity without sewerage 260

¹George M. Raymond, Housing Allocation Fair Share and Compliance with Mount Laurel II for Bedminster Township, NJ, January 1984, pg. 39 and 40.

²Wallace Roberts & Todd, Response to Draft of The Bedminster Housing Region and Fair Shares, January 3, 1984

*Notes: These totals are slightly higher than the 20% requirement for low and moderate units due to Hills providing slightly more units and rounding individual figures.

day (gpd),² the 4,720 market rate units required to support the allocated 944 low and moderate income units would require 1,132,800 gpd of sewage treatment capacity. Aside from Hills' 1287 units, the remaining demand is for 823,920 gpd.

Mr. Coppola erroneously states that the Environmental Disposal Corporation (EDC) plant can serve sites I, J, K and L.³ Hills has reserved 800,000 of the 850,000 gallon total built capacity for itself.⁴ According to information available to WRT at this time, the Hills development will need all of its allocated capacity (and more) for its own development.⁵

Unless Hills will or can be required to release some of its capacity allocation, reduce the number or type of units in Bernards Township, or build additional capacity requiring more land, additional permits and construction, there is no excess capacity for sites I or J, or any others.

Mr. Coppola presumably includes Site L in the 28,000 gpd reserved for Pluckemin Village. The figures again do not substantiate the claim that this site can be sewered as part of the Pluckemin Village allocation. The 177 units which could be built on Site L would require (at 240 gpd) 42,480 gpd or 1.5 times the total Pluckemin allocation for that site alone.

Clearly then, if any of the sites included in even the "immediate" category (except Hills' 260 units) are to be built, additional sewer capacity is required.

SEWAGE TREATMENT CAPACITY NEEDS

Table 2

"Immediate" Sites* (Excluding Hills 1287 units which have sewer capacity)

Total Units (Raymond)

I (9)	257
J(10)	599
L(12)	<u>177</u>

1033 units x 240 gpd/un. = 247,920 gpd

"Probably Available Within 3 Years"

E(5) 199** units x 240 gpd/un = 47,760 gpd

"After 1990"

A(1), B(2), C(3), D(4), G(7), H(8)	<u>1275</u> units x 240 gpd/un = <u>306,000</u> gpd
--	---

Total Units 2507 units

Total Sewage Capacity Needed 601,680 gpd

Capacity Available 0

*All figures and phasing from Raymond, Housing Allocation..., pages 40 and 55.

**Maximum figure, Raymond suggests this site for 100% low and moderate development.

FOOTNOTES

¹ Raymond, George, Report on Housing Allocation Fair Share and Compliance with Mount Laurel II for Bedminster Township, New Jersey, January 1984, pg. 57.

² Letter of January 8, 1984 to George Raymond, attached as Appendix B to Raymond Report, op cit; see also footnote 5.

³ Op cit, pg. 1.

⁴ All of the 850,000 gallon capacity has been allocated. 800,000 gallons is reserved for the Hills Development, 27,500 gallons for the existing development in Pluckemin Village, and 22,500 gallons for the City Federal development, according to the plant operator.

⁵ 1,287 units in Bedminster x 240 gal/un = 308,880 gal/day
(includes 260 low and moderate income units)

350,000 sq ft commercial x 0.125 gpd/sq ft = 43,750 gal/day

1,913 units in Bernards x 240 gal/un = 459,120 gal/day

811,750 gal/day

1,913 unit figure from Hills Sales Office representative Cheryl Pickell, 6/83, Fact Sheet 9/28/82 states all Bernards units will be single family dwellings.

According to Dr. Robert Hordon, Water Resources Consultant, the statewide standard for single family dwellings is 100 gallons per capita per day. Multiplying this by the number of people per unit yields the gallons/unit rate. The Center for Urban Policy Research has established the following population per bedroom figures for single family dwellings (rounded to one decimal place): 2 bedroom - 2.5, 3 bedroom - 3.4, 4 bedroom - 4.3, 5 bedroom - 4.9, on this basis the range for single family dwellings is 250-490 gpd per unit. Mr. Coppola's figure of 240 gpd per unit is used here for consistency. However the higher, more accurate single family dwelling rate would yield an even higher figure than the above.



CHAMBERS OF
JUDGE EUGENE D. SERPENTELLI

RECEIVED

Superior Court of New Jersey

WILKINSON & BANTA
OCEAN COUNTY COURT HOUSE
C. N. 2191
TOMS RIVER, N. J. 08753

January 30, 1984

MEMORANDUM

TO: Kenneth E. Meiser, Esq.
Henry A. Hill, Esq.
Alfred L. Ferguson, Esq.
Joseph Basralian, Esq.
Herbert Vogel, Esq.
Mr. George Raymond

FROM: Judge Serpentelli

RE: Allan-Deane et als v. Bedminister

This will briefly summarize the major items to be resolved regarding all of the litigation concerning Bedminister:

1. Hills and Dobbs will provide details of their proposed development to Bedminister not later than February 3, 1984.
2. The Township will review and respond to those proposals including the preparation of any revised zoning map on or before February 13, 1984.
3. Copies of the submissions by Hills and Dobbs and the response from the Township will be provided to all parties, the Court and Mr. Raymond.
4. Mr. Raymond will review the above referenced material and advise the Court of his intentions as soon as possible after receipt of the above material.
5. Allan Mallach will be commissioned to review proposed method of adjusting median income figures and specifically to advise whether some method other than the use of consumer price index could be utilized. This should be accomplished no later than February 3.
6. Ken Meiser will prepare a proposal for mediation of issues involving possible waiver or deviation from the Township's Mount Laurel II requirements and submit that proposal by February 3.
7. Ken Meiser shall also submit by February 3 a proposal concerning

Re: Allan-Deane et als v. Bedminister

January 30, 1984

the use of any excess funds remaining in the nonprofit corporation, if it is necessary to dissolve it.

8. Henry Hill shall take responsibility for resolving all "builder's remedy" issues left outstanding including such questions as the 30 year limitation, foreclosure matters, down payment fund, etc. on or before February 10.

9. Al Ferguson shall prepare the first draft of the judgment memorializing all of the matters agreed upon in the last two days of conferencing so that we do not lose track of those matters which have been resolved. That draft should be circulated in 10 days along with a letter setting forth the unresolved issues which will have to be included in the redraft of the judgment.

I ask that there be strict compliance with the time deadlines so that Hills may meet its obligation with the New Jersey Mortgage Finance Agency and also because it is important that we determine to what extent this case has been resolved. I intend to hold an additional case management conference, on short notice, in February and thereafter set a trial date as to any unresolved matters, if necessary.

EDS:RDH

February 7, 1984

Honorable Eugene D. Serpentelli
Ocean County Courthouse, CN 2191
Toms River, New Jersey 08753

Re: Dobbs Property Development as it Relates
to Allen-Deane vs. Bedminster Township
and Dobbs v. Bedminster Township

Dear Judge Serpentelli:

At Your Honor's conference with the interested parties on Thursday, January 26, 1984, Your Honor and George Raymond, the Court's Master, made a proposal to my client, Leonard Dobbs, for consideration and response. In summary, the proposal for consideration was for development of 120 acres of the Dobbs' 211.6 acre property for housing under the PRD-8 zoning category, or at 8 dwelling units per gross acre.

Your Honor's particular interest in this was based on two factors. The first is that Mr. Dobbs is "a willing developer," willing and able to build moderate and low income housing as part of his development. The second is the speed at which the Fair Share housing can become available. On the advice of our water resources consultant, Dr. Robert M. Hordon, we propose a tertiary sewage treatment plant (STP) with an on-site subsurface sewage disposal field. This method of disposal dramatically shortens the public approval time because it does not require discharge into the North Branch of the Raritan River. It is a tested and stable system with good back-up and thus the Dobbs' development can proceed independent of the capacity limitations of the Township's sewage treatment plant. Dr. Hordon's description of the system's characteristics is appended to this letter.

EXHIBIT U

David A. Wallace, FAIA, AICP
William H. Roberts, ASLA
Thomas A. Todd, FAIA, AICP

David C. Hamme
Richard W. Huffman, AIA
Charles B. Tomlinson, Jr., AIA

Richard W. Bartholomew, AIA
John E. Clark, CPA
John E. Fernsler, AIA
Antoinette F. Seymour, AICP
Jack Sidener, AIA, AICP

John Beckman
Henry F. Bishop, ASLA
Ignacio F. Bunster-Ossa, ASLA
Elizabeth B. Clarke, AICP
Richard Collier, Jr.

Michael D. Garz, AIA
Timothy Korbelak, AIA
C. Alyn Pruett, AIA
Gilbert A. Rosenthal, AIA

Honorable Eugene D. Serpentelli
February 7, 1984
Page 2

In responding to Mr. Dobbs' request for evaluation of the proposal, we have generated two additional proposals for Your Honor's consideration as follows. Land use concept plans and descriptions of uses are attached.

Plan A

Plan A is a direct translation to land use of Your Honor's suggestion. 120 acres of the site will be developed at 8 dwelling units to the acre for a total of 960 dwelling units. Of these, 192 units will be for low and moderate income families. The detailed breakdown of these will need to be worked out, but the proposal of Hills Development Company can serve as a good model.

In this land use concept 120 acres are developed. None of the floodplain or the 200 foot easement are built on and a major additional set-back is provided along U.S. 202-206. Landscaped buffer strips will be provided along all property lines to the west and north. A homeowners association club facility will be provided, with both active and passive recreation uses put in the open space.

The sewage treatment plant will be located in the southeast corner of the property and the disposal field will be approximately 12 to 18 acres of land with Birdsboro soils that can accommodate it. The plant will be disguised as a house, and the disposal field will be usable open space.

I have advised Leonard Dobbs that this is a feasible way to develop the property. However, the economics do not give much leeway for error in costs or sales absorption rates and therefore I have strongly urged Mr. Dobbs to press for Plan B among the two residential alternatives.

It is our assumption that the Court will order the Township to expand its plant to accommodate additional development. Assuming this step is taken, with capacity ultimately available prior to Dobbs' full development, he should have the option to connect his second or third stages to the Township's plant.

Plan B

Plan B was generated to explore the full residential potential of the Dobbs' property. There are 145 developable

Honorable Eugene D. Serpentelli
February 7, 1984
Page 3

acres not in floodplain or green acres easement. At 8 dwelling units per acre, 1160 units are created, of which 232 will be low and moderate income units. All of the additional features in Plan A above will obtain.

I have advised Mr. Dobbs that this is also a feasible proposal and Dr. Hordon says he has no problem with the additional sewage or storm drainage generated.

Plan C

Plan C has been generated to give Your Honor and the Township a mixed-use alternative to the all-residential proposals. In this proposal, the Township would be given a 10-acre site at the southwest corner of the property for a municipal facility. Both this 10 acres and the 25 acres to its north will be reserved in R-3% zoning as a buffer strip adjacent to the properties to the west. The 25 acres will be reserved for 250 dwelling units of future low and moderate income housing at 10 dwellings per gross acre to be developed if needed for the Township to meet its Fair Share requirement.

On the north side of the site another 25 acres will be developed at the earliest possible time (subject to completion of the STP) with 250 dwelling units, all moderate and low income housing.

The central 85 acres will be developed as a top quality office park with up to 1.2 million gross square feet of space in combinations of 3-story structures, with adequate amounts of parking. The Floor Area Ratio (FAR) of this development would be a low .324 of office area to each square foot of land. The same 66.6 acres of open space as in Plan B would be supplemented by additional open landscape features incorporated within the office development.

Off-site traffic improvements to permit this level of development would approximate those envisioned in our earlier proposal. These were outlined to Your Honor in my letter of January 13, 1984.

I have advised Mr. Dobbs that Plan C is also feasible and may be preferable to Bedminster Township because of its more positive fiscal impact (taxes, etc.) but also because the 250 units of low and moderate income housing can be developed at a

Honorable Eugene D. Serpentelli
February 7, 1984
Page 4

very early stage and need not be geared to the slower absorption rate of the all-residential development concepts. The additional 250 units of low and moderate income housing are an option for the Township should they need them to meet their requirements.

I want to thank you for the opportunity to be involved in this process and to make these proposals.

Respectfully submitted,

WALLACE ROBERTS & TODD

David A. Wallace / pme

David A. Wallace, FAIA, AICP, PP
Partner

Attachments

ROBERT M. HORDON, Ph.D.
Water Resources Consultant

8 DOV PLACE
KENDALL PARK, NJ 08824

ADDENDUM

Introduction

Wastewater disposal on the Dobbs' site for residential and/or commercial use can be accommodated by an onsite tertiary sewage treatment plant (STP) with subsurface disposal. This method, which has already been approved for a 440-unit townhouse development in Passaic County, does not involve any point source discharge into the North Branch Raritan River. Instead, wastewater effluent flows into the STP where it receives advanced waste treatment prior to being pumped into disposal fields located on the most appropriate soils on the site.

The major advantages of this system are as follows:

1. The treated effluent recharges the ground water and is therefore available for further use within the watershed.
2. A ground water discharge permit from NJDEP would be required. It is estimated, based on the previous approval, to take only 6-12 months compared to several years for a surface water discharge permit.
3. All mechanical components of the STP can be housed in an architecturally compatible structure.
4. The disposal field can be landscaped and does not require any fencing. The homeowners would see only a grassy area with trees and therefore residential units can be located nearby.
5. There is no odor generated either at the plant or in the disposal field area.

Other New Jersey Experience

The Rotating Biological Disk System has been successfully used in several installations in New Jersey for the past ten years. The most similar system is one in Passaic County where NJDEP has approved the construction of an onsite tertiary STP and subsurface disposal field for a 440-unit townhouse development. The major features of the STP and disposal field are as follows:

Estimated Flow: 100,000 gallons per day (gpd)

Disposal field size: 2 tracts of 3 acres each for a total of 6 acres

Treatment plant: primary, secondary (rotating biological disks), and tertiary (denitrification)

Building for STP: less than 1 acre

Total size of Development: 97 acres

The same developer in Passaic County has acquired land for another 300-350 unit townhouse development which will have the same features as the first STP and disposal field. Since DEP has already approved the first design, it is anticipated that approval will be even quicker the second time around.

Other plants using the Rotating Biological Disk System include:

1. A 10,000,000 gallon per day (mgd) plant in Hudson County.
2. An 8 mgd plant in Mercer County.
3. A .5 mgd plant in Morris County.
4. A several hundred thousand gpd plant in Camden County.

Soil Conditions on the Dobbs Site

Subsurface disposal requires soils to be sufficiently permeable so that the effluent will be able to percolate through the soil column to the underlying aquifer without any ponding or sog-giness at the surface. The best soils on the Dobbs site are the Birdsboro (BdB) soils which are indicated on the WRT maps included with this submission. Based on the effluent loadings associated

with Plans A, B, and C, it is estimated that the disposal field size would be of the order of 12-18 acres. This amount of land is available without encroaching on any part of the 500 year flood fringe area.

Additional acreage for the disposal field could also be accommodated on the Birdsboro (BdB) soils on the site.

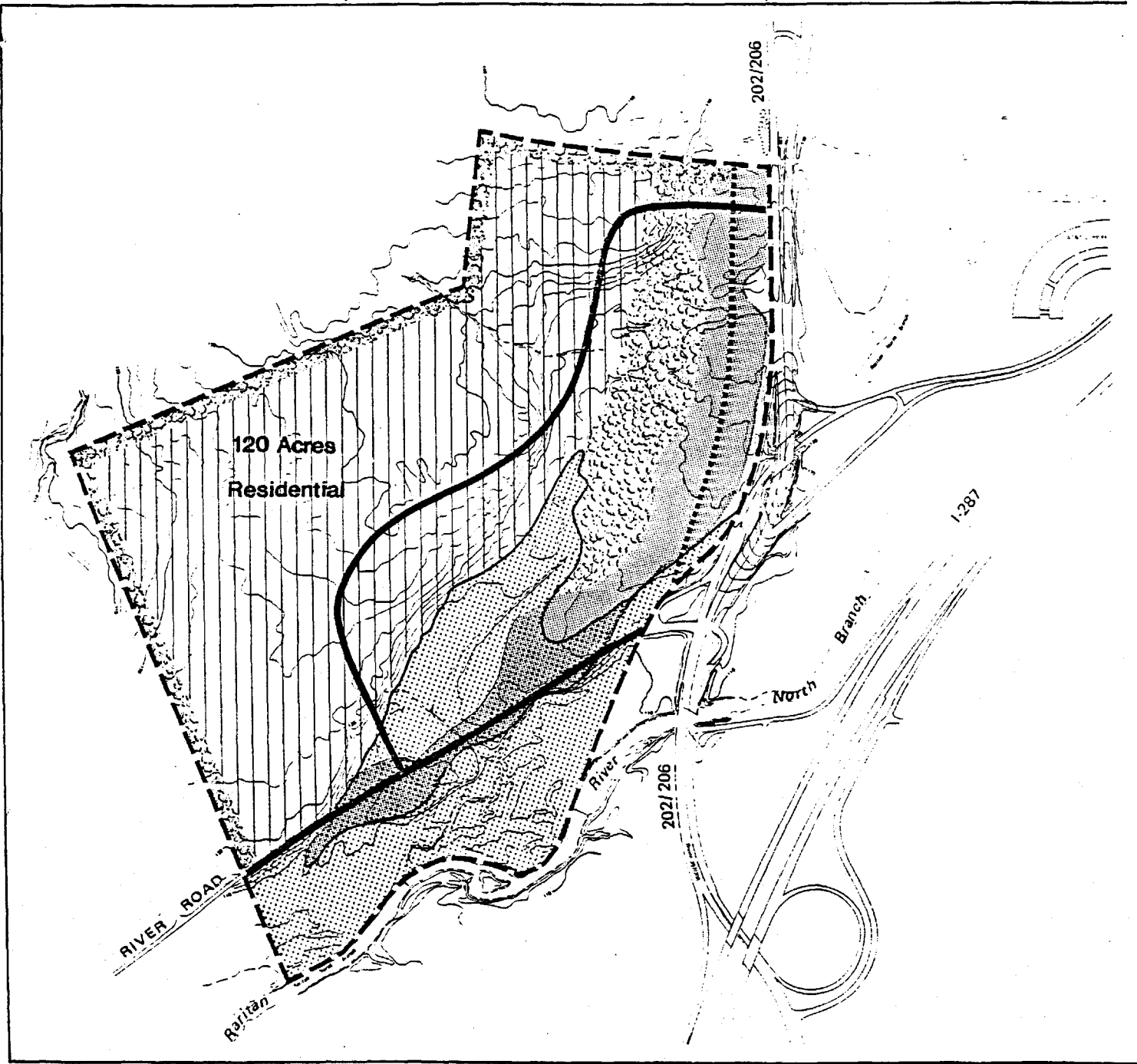
Conclusions

1. Wastewater disposal on the Dobbs site can be handled effectively by an onsite tertiary treatment plant with sub-surface land disposal.

2. There are sufficient soils of requisite permeability on the site to handle the anticipated effluent loads from either Plan A, B, or C.

3. A ground water discharge permit can be obtained more readily than a surface water discharge permit since the former need not go through the 201/208 review process.

4. Subsurface disposal of treated effluent is considered an environmentally accepted procedure in many states and has a track record of reliability and effectiveness.



PLAN A



500 Year Flood Plain

960 Total Units



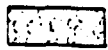
Birdsboro Soil

192 Low and Moderate Income Units

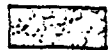


200 ft. Setback

768 Market Units



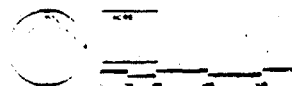
Landscaped Buffer

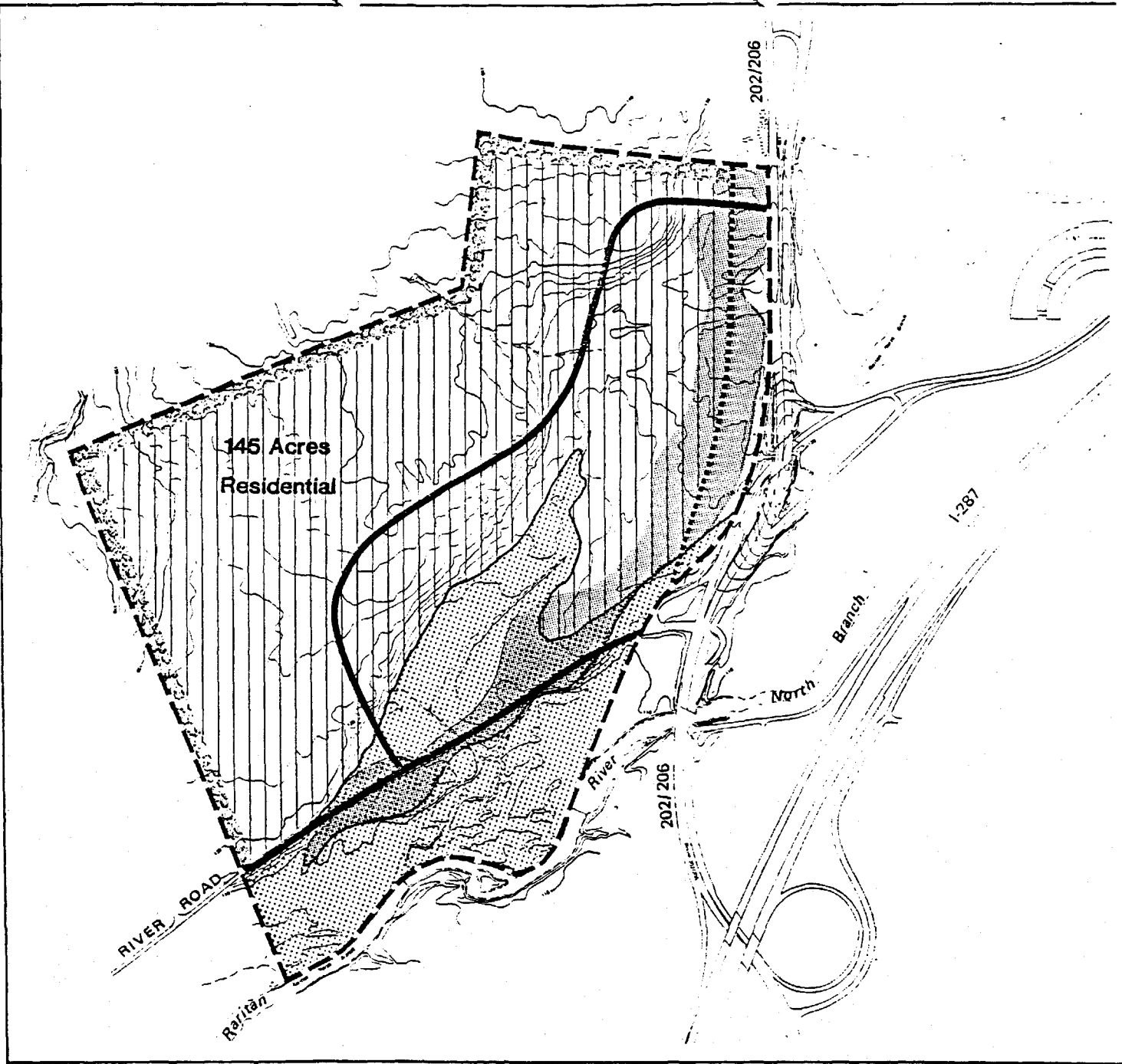


Open Space Setback

**BEDMINSTEI
CENTER**
SOMERSET COUNTY
NEW JERSEY

WRT
WILLIAM ROBERTS AND TODE





PLAN B



500 year Flood Plain

1160 Total Units



Birdsboro Soil

232 Low and Moderate Income Units



200 ft. Setback

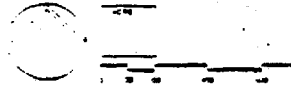
928 Market Units

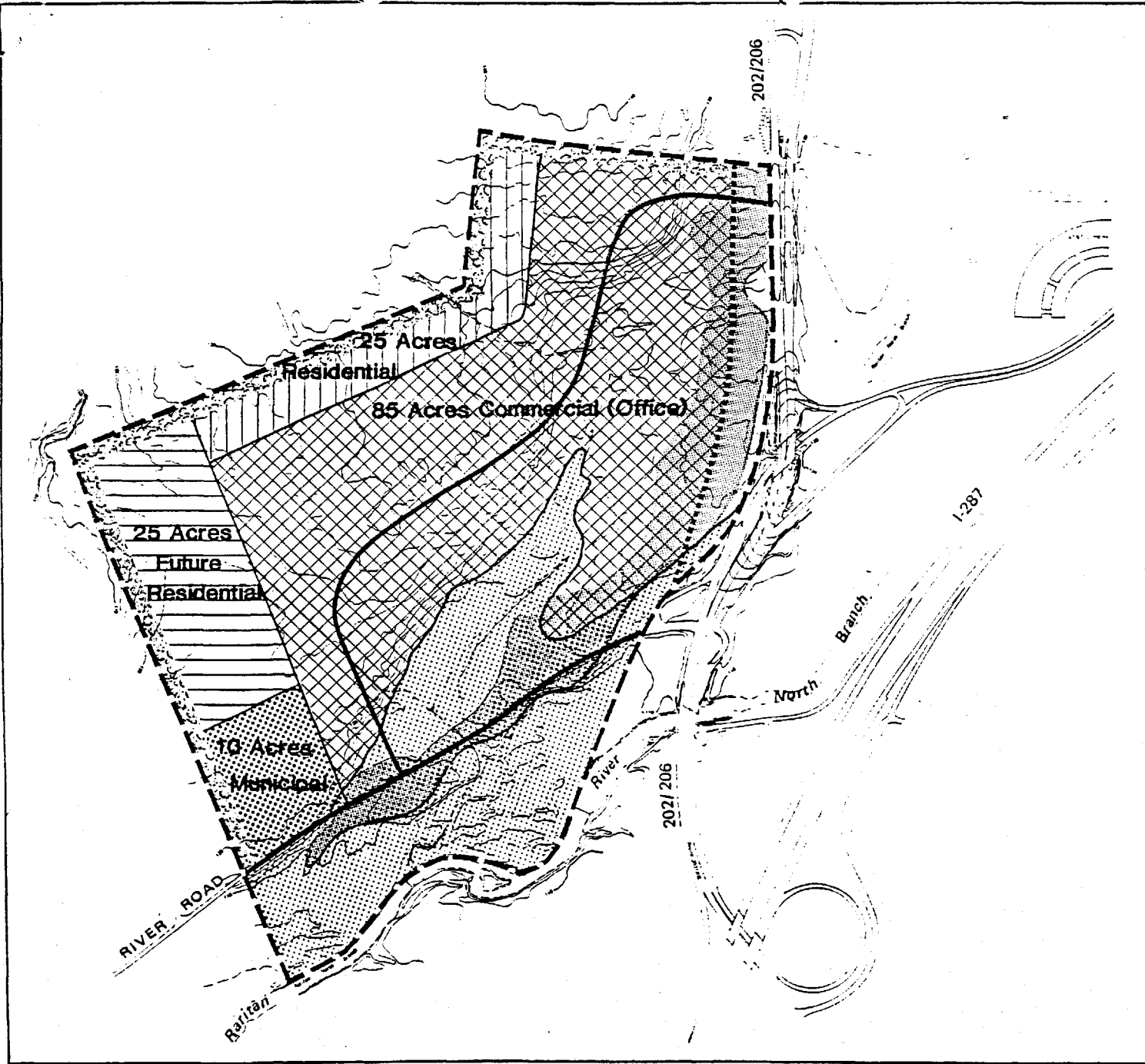


Landscaped Buffer





**BEDMINSTE
CENTER**
SOMERSET COUNTY
NEW JERSEY

WRT
Urban Architects and Planners





PLAN C

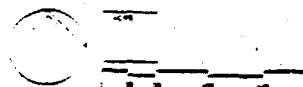
-  500 Year Flood Plain
-  Birdsboro Soil
-  200ft. Setback
-  Landscaped Buffer

250 Total Units All Low and Moderate Income Units

1.2 Million Sq. Ft. Office

BEDMINSTER CENTER
SOMERSET COUNTY
NEW JERSEY

WRT
Working Partners and Tools



WINNE, BANTA & RIZZI
COUNSELLORS AT LAW
25 EAST SALEM STREET
P. O. BOX 647
HACKENSACK, NEW JERSEY 07602

TELECOPIER (201) 487-8529
(201) 487-3800

BRUCE F. BANTA (1932-1983)
JOSEPH A. RIZZI*+
PETER G. BANTA*
ROBERT A. HETHERINGTON, III
JOSEPH L. BASRALIAN
EDWARD H. MILLER, JR.
JOHN P. PAXTON
DONALD A. KLEIN
ROBERT H. JACOBS
T. THOMAS VAN DAM
ANDREW P. NAPOLITANO
RAYMOND R. WISS+

V. ANNE GLYNN MACKOUL*
THOMAS B. HANRAHAN
KEVIN P. COOKE
RANDAL W. HABEEB
CYNTHIA D. SANTOMAURO
ADOLPH A. ROMEI

HORACE F. BANTA
OF COUNSEL

WALTER G. WINNE
(1889-1972)

NEWFOUNDLAND, N. J. OFFICE
(201) 697-4020

NEW YORK OFFICE
2 VETERANS PARKWAY
PEARL RIVER, NEW YORK 10965
(914) 735-2115

* MANAGING PARTNER
+ MEMBER NEW YORK BAR

February 7, 1984

Honorable Eugene D. Serpentelli
Ocean County Courthouse
Toms River, New Jersey 08754

Re: Bedminster/Hills/Dobbs

Dear Judge Serpentelli:

We are forwarding herewith a copy of a report prepared by David A. Wallace, FAIA, AICP on behalf of Leonard Dobbs with respect to the residential development suggestion discussed at the Case Management Conference on January 26, 1984.

Plan A referred to in the report reflects the suggestions discussed at the conference. Dr. Wallace's analysis of such suggested proposal is that it is feasible but marginally so given the economics and practical realities of developing only 120 acres of 211 acres of land. Plan B discussed in Dr. Wallace's report, utilizing 145 acres for residential development, is Dr. Wallace's and our client's preferred plan for total residential use in that it makes better use of the land and takes better account of the economic and practical considerations in developing a total project. Plan C, a mixed use alternative, has been put forward in the belief by our client that it represents better long term advantages to Bedminster in view of the positive tax consequences and the effect on rapid growth in the community.

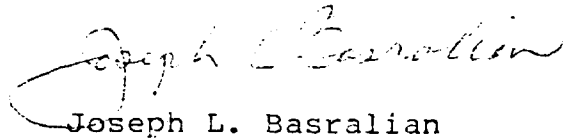
EXHIBIT W

WINNE, BANTA & RIZZI

While Mr. Dobbs is prepared to go ahead on all plans, we would urge the Court to give strong consideration to the plan (Plan B) which takes into account the realities of developing this property.

We appreciate Your Honor's and the Township's consideration of the alternative proposals suggested in the report enclosed herewith.

Respectfully submitted,


Joseph L. Basralian

JLB/pmc

Enclosures

cc: Mr. George M. Raymond
Mr. Richard T. Coppola
Alfred L. Ferguson, Esq.
Henry A. Hill, Jr., Esq.
Herbert A. Vogel, Esq.
Kenneth E. Meiser, Esq.

bcc: Mr. Leonard Dobbs
David A. Wallace, FAIA, AICP
Peter O'Connor, Esq.
Robert M. Hordon, Ph.D.

MCCARTER & ENGLISH

ATTORNEYS AT LAW

550 BROAD STREET

NEWARK, N.J.

07102

(201) 622-4444

DOMESTIC TELEEX 642929
INTERNATIONAL TRT 178018
TELECOPIER (201) 622-0012
CABLE "MCCARTER" NEWARK

THE COMMERCE CENTER
1810 CHAPEL AVENUE WEST
CHERRY HILL, NEW JERSEY 08002

(609) 662-8444

TELECOPIER (609) 662-6203

ONE WORLD TRADE CENTER
SUITE 2665

NEW YORK, NEW YORK 10048
(212) 466-9018

150 E. PALMETTO PARK ROAD
SUITE 505

BOCA RATON, FLORIDA 33432
(305) 368-6500

JOHN R. DROSDICK
ROSLYN S. HARRISON
ROBERT S. SCAVONE
GITA F. ROTHSCHILD
RONALD J. HEDGES
DAVID R. KOTT
LOIS M. VAN DEUSEN
MICHAEL A. GUARIGLIA
ROSS J. HOLDEN
LANNY S. KURZWEIL
DEBORAH L. GREENE
DAVID A. LUDGIN
SARA B. GOODMAN
JOHN F. BRENNER
JOSEPH FALGIANI
JOSEPH E. BOURY
KATHLEEN M. MIKO
GORDON M. CHAPMAN
FRANK E. FERRUCCIA
RUSSELL M. FINESTEIN
CHERYL L. HARATZ
JAMES A. KOSCH
KEITH E. LYNOTT
MICHAEL A. TANENBAUM
CHARLES J. BENJAMIN
RICHARD K. FORTUNATI
ROSALIE BURROWS
RICHARD P. O'LEARY
STEVEN A. BECKELMAN
WILLIAM M. RUSSELL
BETH YINGLING
ROBERT H. BERNSTEIN
CHRISTINE M. GRANT
GARY T. HALL
THEODORE D. MOSKOW
SCOTT A. KOBLER
DALE A. DIAMOND
PETER J. LYNCH

FRANCIS E. P. MCCARTER
ARTHUR C. HENSLER, JR.
EUGENE M. HARING
JULIUS B. POPPINGA
GEORGE C. WITTE, JR.
STEVEN B. HOSKINS
RODNEY N. HOUGHTON
THOMAS F. DALY
ALFRED L. FERGUSON
CHARLES R. MERRILL
ANDREW T. BERRY
JOSEPH E. IRENAS
JOHN L. MCGOLDRICK
RICHARD C. COOPER
PETER C. ASLANIDES
WILLIAM H. HORTON
JAMES F. HAMMILL
FREDERICK B. LEHLBACH
MARY L. PARELL
RICHARD M. EITREIM
JOHN E. FLAHERTY
STEVEN G. SIEGEL
WILLIAM T. REILLY
HAYDEN SMITH, JR.
JOHN B. BRESCHER, JR.
TODD M. POLAND
JOHN J. SCALLY, JR.
GEORGE W. C. MCCARTER
DANIEL L. RABINOWITZ
THOMAS V. SICILIANO

WOODRUFF J. ENGLISH
NICHOLAS CONOVER ENGLISH
JAMES R. E. OZIAS
OF COUNSEL

March 19, 1984

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

RECEIVED
MAR 21 1984

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	<u>125*</u>	<u>125*</u>
TOTALS:	3,995	891

* Assumes senior citizen housing at 100% credit

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

cc: Joseph L. Basralian, Esq.
Mr. John Kerwin
George Raymond, PP
Peter J. O'Connor, Esq.
Kenneth E. Meiser, Esq.
Henry A. Hill, Esq.

March 21, 1984

Hon. Eugene D. Serpentelli, J.S.C.
Ocean County District Court
Court House
Toms River, New Jersey 08753

Re: Bedminster Township ads. Allan-Deane

Dear Judge Serpentelli:

On behalf of Bedminster Township, attached herewith please find the Township's response to the suggestions offered by the Court appointed Master, George M. Raymond, during the recent proceedings in your Court regarding the above captioned litigation. Specifically, attached are the following two (2) items:

- A revised "Fair Share Housing Analysis" for Bedminster Township, based upon the consensus methodology formulated by the planners involved in the Urban League/Middlesex County consolidated cases.

As noted within the report, Bedminster's 'fair share' housing obligation to the year 1990 is 782 dwelling units without incorporating the "median income" wealth factor, and 819 dwelling units with the incorporation of the income factor.

- A chart listing the land parcels proposed for rezoning and/or proposed for maintenance in their current zoning designation.

Each of the parcels "A" through "N" are indicated on the Display Board which accompanies this communication. Parcels "A" through "L" are the identical parcels previously identified by this office as part of prior communications to your Court. Parcel "M" is the land area owned by The Hills Development Company on the top of Schley Mountain, and parcel "N" (commonly referred to as the "Johnson Tract") is situated directly within Pluckemin Village, west of Route 202/206, behind the Presbyterian Church and the other residential, office and commercial uses currently existing within the Village.

As noted, including a one hundred fifty (150) subsidized Senior Citizen development on parcel "N", the zone plan includes a total of 4,020 multiple-family dwelling units, 926 of which will be specifically provided for low and moderate income households. On the other hand, assuming parcel "L" is chosen for the

EXHIBIT Y

Planning • Zoning • Site Design • Ecology

March 21, 1984
page two.

Honorable Eugene D. Serpentelli, J.S.C.

development of subsidized senior citizen housing and site "N" does not develop for such housing, then a total of 3,870 multiple-family dwelling units can be constructed, including 918 dwelling units for low and moderate income households. Both the 926 and 918 number of low and moderate income dwelling units exceed the maximum 819 low and moderate income dwelling units derived for Bedminster Township from the consensus 'fair share' methodology.

It also should be noted that with the exception of sites "C", "D", and "I", each of the proposed parcels is within the franchise area served by the currently constructed plant of the Environmental Disposal Corporation (858,000 gpd capacity). Moreover, parcels "C" and "D" can be accommodated within the existing Bedminster-Far Hills sewage treatment plant when the infiltration problems are solved. Finally, parcel "I", though currently outside of the franchise area of the Environmental Disposal Corporation, is in close proximity to the plant and adjacent to other tracts which will be developed for multiple family housing.

Truly yours,



Richard Thomas Coppola, P. P.

RTC:e

cc: All Participating Parties.

TOTAL "MT. LAUREL" HOUSING OBLIGATION FOR BEDMINSTER TOWNSHIP

Under the stipulations of the State Supreme Court's "Mt. Laurel II" Decision, the Township's total lower cost housing obligation consists of combining the indigenous need component, the regional prospective need component, and the 'surplus' present need component:

<u>Indigenous Housing Need:</u>	37 units
<u>Regional Propsective Housing Need:</u>	725 units
<u>Surplus Present Need:</u>	<u>170</u> units
Total:	932 units

Therefore, the total "Mt. Laurel II" housing obligation for Bedminster Township is 932 units. However, the Court has agreed that the surplus present need may be met over three (3) six-year periods; only one-third (1/3) of the total present need must be provided by 1990. The current Mt. Laurel housing obligation for Bedminster Township, therefore, is:

Indigenous Housing Need:	37 units
Regional Propsective Housing Need:	725 units
Surplus Present Need:	<u>57</u>
Total:	819 units

PROPOSED REZONING
BEDMINSTER TOWNSHIP, NEW JERSEY

March 1984

(see accompanying Display Board for parcel identification)

Parcel	Existing Zoning	Proposed Zoning	Proposed Total Units Multi-Family	Proposed "Mt. Laurel" Units at 20% except Senior Citizen
	R-1/PRD-6	R-1	none	none
	R-1/PRD-6	R-1	none	none
	MF	MF	165	33
	R- $\frac{1}{4}$ /PRD-6	R- $\frac{1}{4}$ /PRD-6	36	7
	MF	R-3%	none	none
	MF	R- $\frac{1}{2}$	none	none
	R-1/PRD-8	OR and SF Cluster*	none	none
	R $\frac{1}{2}$ /PUD	R $\frac{1}{2}$ /PUD	449	90
	R-3%/PUD	R-3%/PUD	257	51
	R $\frac{1}{4}$ /PUD	R $\frac{1}{4}$ /PUD	599	120
The Hills	R $\frac{1}{4}$ /PUD	R $\frac{1}{4}$ /PUD	1,287	260
	MF	MF (Sr. Cit. Option)	177	35 or 177
Hills, Top	R $\frac{1}{4}$ /Cluster	R $\frac{1}{4}$ /PRD-8 (max. 900du)	900	180
	VN	VN (Sr. Cit. Option)	none or 150 est. 4,020 or 3,870 **	none or 150 est. 926 or 918 ***

* OR (Office/Research & Clustering of Single Family Dwellings @ 2 DU/ACRE)

** 3,870 assumes no Sr. Citizen Subsidized Housing on Parcel "N"

*** 926 assumes Parcel "L" developed entirely without Sr. Citizen Housing and Parcel "N" with Sr. Citizen Housing; and 918 assumes Site "L" developed entirely with Sr. Citizen Housing and Parcel "N" without Sr. Citizen Housing.

WRT Wallace Roberts & Todd

Architects • Landscape Architects • Urban and Environmental Planners • 1737 Chestnut Street • Philadelphia, Pennsylvania 19103 • 215/564-2611

MEMO TO: George Raymond
Raymond, Parish, Pine & Weiner

FROM: David A. Wallace

SUBJECT: Allan-Deane (Hills) v. Bedminster Township

DATE: March 30, 1984

The purpose of this report is to provide you with information for your assessment of the selection and capability of the sites identified by Mr. Coppola to meet Bedminster's Fair Share obligation. We include herein: a) a report from Dr. Robert Hordon regarding sewer capacity, and b) our assessment of site suitability.

150 S.E. 2nd Avenue • Suite 1111 • Miami, FL 33131 • 305/371-3822 • Ferry Building • The Embarcadero • San Francisco, CA 94111 • 415/956-4444

Partners:

David A. Wallace, FAIA, AICP
William H. Roberts, ASLA
Thomas A. Todd, FAIA, AICP
David C. Hamme

Richard W. Huffman, AIA
Charles B. Tomlinson, Jr., AIA
Senior Associates:
Richard W. Bartholomew, AIA
John E. Clark, CPA

John E. Fernster, AIA
Antoinette F. Seymour, AICP
Jack Sidener, AIA, AICP
Associates:
John Beckman

Henry F. Bishop, ASLA
Ignacio F. Bunster-Ossa, ASLA
Elizabeth B. Clarke, AICP
Richard Coiter, Jr.
Michael D. Garz, AIA

Timothy Korbelak, AIA
C. Alyn Pruett, AIA
Gilbert A. Roseninai, AIA
Rodney D. Robinson, ASL

EXHIBIT Z

Site Assessment

Mr. Coppola states that the Fair Share obligation be met on the following sites:

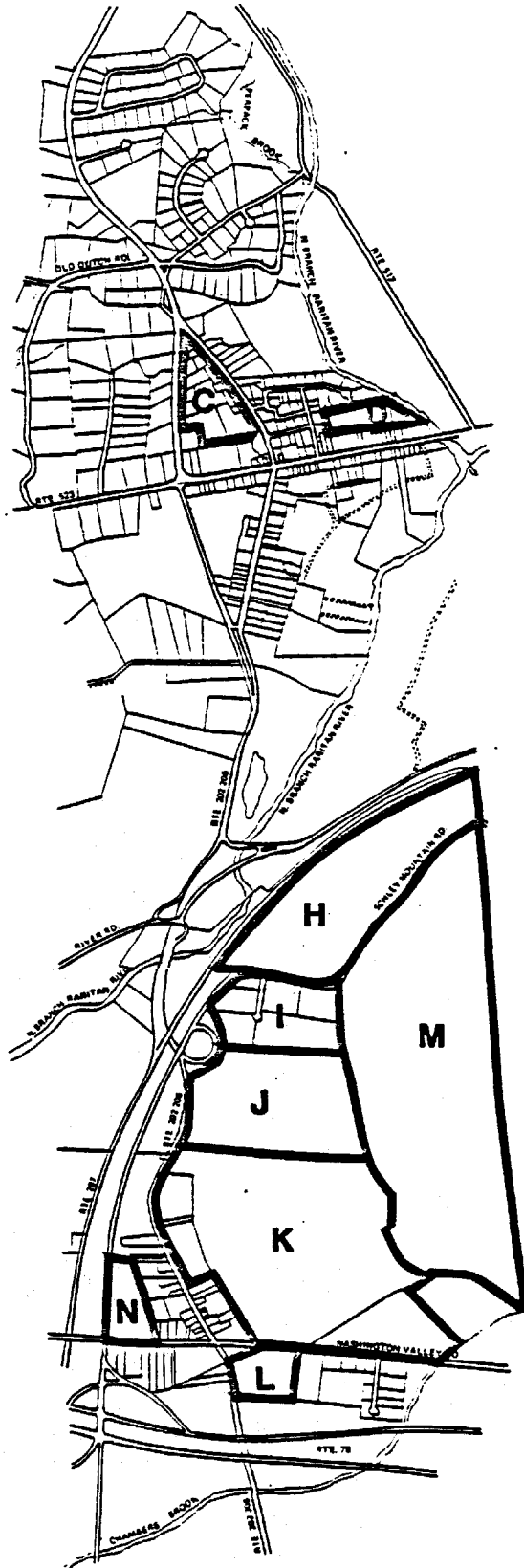
<u>Site</u>	<u>Total DU</u>	<u>L & M</u>
C	165	33
D	36	7
H	449	90
I	257	51
J	599	120
K	1287	260
L	177	35/177
M	900	180
N	0/150	0/150
	3870-4020*du	918-926*du

*Range depends on whether site L or N is developed at 100% senior housing.

Overall Comments

1. There is inadequate sewer capacity even with correction of the infiltration problem at the Bedminster-Far Hills plant for sites C and D.
2. There is inadequate sewer capacity for the remaining sites even with complete reallocation of the EDC plant capacity to eliminate Bernards Township and the 350,000 square feet of commercial in the Hills PUD.
3. The proposed sites will all have to be developed at their highest capacity in order to meet the Fair Share obligation. The lack of overzoning inflates the price and reduces the likelihood of building low and moderate income units.
4. Several of the sites (H, I, N) are immediately adjacent to Route 287 thus subject to high noise levels.
5. The sites (except C and D) are all clustered in one part of Bedminster, creating higher densities than are necessary.
6. The reliance on the EDC, a private utility, to sewer all of the sites except C and D puts them in a position of dictating connection and service fees which could easily inflate costs for other sites.

PROPOSED LOW AND MODERATE INCOME HOUSING SITES



7. The assembly of parcels required for sites I, N and C will delay their development.
8. Site H is outside the EDC service area, thus could not be served until the franchise area is expanded, which expansion would require a lengthy approval process.

Site C

Site C as assessed in your report of 1/10/84 would be available for development after 1990. This reflects the reality that acquisition of several parcels would be required to assemble a site large enough for economic development of multi-family housing.

Mr. Coppola states this site could be sewered by the Bedminster plant once the infiltration problems are solved. This is not supported by the capacity information discussed in Dr. Hordon's report above.

Site D

As with Site C, you have previously stated this site would be more likely to develop after 1990.

Recalculation of the critical area on this site has reduced the total number of units to 36 du. The only access to the site would require the extension of existing small residential roads.

Sewer capacity, again according to Mr. Coppola, is available from the Bedminster-Far Hills plant which we dispute.

Site H

This site is owned by AT&T and has access, noise and sewer problems. In your 1/10/84 report it was included in the group of sites to be developed after 1990. Due to the limited access, you questioned the likelihood that 20% of the site would be developed commercially, however accepted our figure of 414 total du. Mr. Coppola, by using 449 du, presumably is eliminating the right to develop 20% of the site for commercial use, as per the PUD zoning.

According to the Upper Raritan Watershed Wastewater Facilities Plan (June 1981, Figure 7-3 Projected Service Areas) this site is outside the Environmental Disposal Corporation's projected service area.

Site I

There are six lots on this site, ranging from 2 to 10 acres, four of which are developed with single family homes.

According to your previous analysis, this site would develop immediately based on the higher land value from the higher density zoning. No matter what the price, the acquisition procedure will delay development. Further, it is our understanding that a portion of this site is owned by a township Board of Health official.

The 257 du Mr. Coppola states could be accommodated on this site would require roadway and access improvements.

This site, like H, is adjacent to Route 287 and thus has noise as a nuisance.

Site J

This site is owned by Mr. Duncan Ellsworth who is the secretary of the Board of Adjustment and President of Elizabethtown Gas Company. It is our understanding that this property is not for sale based on refusal of a previous offer. The Hills Development Corp. at the 1/26/84 court conference stated they had a Right of First Refusal option on the land. Thus, presumably until 1990, unless the site is offered to, and purchased by Hills, it will not be developed.

Site K

The Hills site is probably the only site we all agree on, 1287 du and 260 du low and moderate du will be built.

Site L

Mr. Coppola suggests that 100% of the capacity of this site be developed in Senior Citizen housing. The only senior citizen housing building subsidy program in New Jersey is severely over subscribed, thus Bedminster is unlikely to be able to count on state funds.

Sewer capacity is inadequate. The current internal allocation of sewage capacity from the EDC plant is for the existing development in Pluckemin Village, not new development. Even with a court ordered reallocation, there would not be adequate capacity for this and all other sites.

Site M

The additional density on this site will be served by the EDC plant and has severe access problems.

Site N

This site is immediately adjacent to Route 287 and is immediately south of the New Jersey Department of Transportation maintenance

facility, and thus is inappropriate for residential use. As noted, this site will also require assembly.

Summary

The sites identified will not enable Bedminster to reach its Fair Share housing obligation. There is inadequate sewer capacity, as detailed in the previous section, and parcel assembly required for several sites which will delay their development. In contrast, Dobbs is ready, willing, and able to provide low and moderate income housing which can be sewerer on-site without degradation of the North Branch of the Raritan River. Development of the Dobbs site avoids the delays inherent in the township's plan.

The other critical issue is the reliance upon the Hills Development Corporation to develop up to 440 low and moderate income units (assuming sites K and M) and sewer all of the sites except C and D. While Hills is moving ahead on its current property, it is unreasonable to assume that a monopoly on sewer capacity and reliance on one developer for such a large percentage of the obligation will result in timely Mt. Laurel II compliance.

Robert M. Hordon, Ph.D.

Water Resources Consultant

8 Dov Place

Kendall Park, N. J. 08824

(201) 297-8899

A PRELIMINARY REPORT ON SEWER CAPACITIES
IN BEDMISTER TOWNSHIP, NEW JERSEY

March 27, 1984

EXHIBIT AA

A PRELIMINARY REPORT ON SEWER CAPACITIES
IN BEDMINSTER TOWNSHIP, NEW JERSEY

March 27, 1984

A. Introduction

In his cover letter of March 21, 1984 to Judge E. D. Serpentelli, R. T. Coppola made the following statements with regard to treatment plant capacity in Bedminster:

- 1) that parcels "H-N" (except for "I") are within the franchise area of the Environmental Disposal Corporation treatment plant and by implication, can be accommodated within the design capacity of the plant;
- 2) that parcels "C and D" can be accommodated within the existing Bedminster plant when the infiltration problems are solved.

These statements are erroneous and are not supported by the facts which will be introduced in this report.

B. Environmental Disposal Corporation

1. The Environmental Disposal Corporation (EDC) built a treatment plant to primarily serve the development in Bedminster now known as the Hills. The EDC plant has a design capacity of 850,000 gallons/day (gpd) (NJ PDES No. 0033995), not 858,000 gpd as stated in the Coppola letter of 3/21/84.

The internal allocation of the effluent coming into the plant is not on file with NJDEP in Trenton as they are more concerned with the total discharge going into the receiving watercourse

(North Branch Raritan in this case). In the absence of specific reports on this matter, the following internal allocations are believed to best represent the estimated effluent generation within the franchise area:

	<u>gpd</u>
a) Hills Development (includes residential units in both Bedminster and Bernards)	756,250
b) Hills Development: commercial (350,000 sq. ft. at 0.125 gpd/sq. ft.)	43,750
Subtotal Hills	<u>800,000</u>
c) Pluckemin Village (existing units)	27,500
d) City Federal	22,500
Total	<u>850,000</u>

2. In his 3/21/84 Report entitled "Fair Share Housing Analysis, Bedminster Township, N.J.," R. T. Coppola proposed the following rezoning for parcels "H-N":

<u>Parcel</u>	<u>Proposed Total Units Multi-Family</u>
H	449
I	257
J (Ellsworth tract)	599
K (Hills)	1,287
L	177
M (Hills-top)	900
	<u>Subtotal 3,669</u>
N	150
	<u>Total 3,819</u>

Coppola has previously used an estimated effluent generation value of 240 gpd/unit. This estimate presumably averages out the range of effluent flows from 1, 2 and 3 bedroom multi-family units. NJDEP guidelines on this matter only indicate that the estimated effluent flows are 75 gals/person/day (gpcd) from multi-family and 100 gpcd from single family homes. Therefore, in order to be consistent with previous work, the Coppola estimate of 240 gpd/unit will be employed as follows:

$$3669 \text{ units (240 gpd/unit)} = 880,560 \text{ gpd}$$

$$3819 \text{ units (240 gpd/unit)} = 916,560 \text{ gpd}$$

In either case, the flows of 880,560 gpd and 916,560 gpd are clearly in excess of the design capacity of the EDC plant. Furthermore, Coppola makes no mention of what would happen to the proposed Hills residential units in Bernards and the commercial sector in Bedminster. Note that Hills plans to build over 1,000 units in Bernards alone.

3. Coppola states in his cover letter of 3/21/84 that parcel "I" is not in the franchise area of the EDC but could be included since it is in the general area. Parcel "H" is even further away from the EDC plant and is included in the franchise area by Coppola.

Examination of Figure 7-3 in the 201 Upper Raritan Wastewater Report by Malcolm Pirnie indicates that Parcel "H" may not be in the service area. However, the scale of the map is 1" = 2

miles which is at too small a scale to clearly delineate which parcels are included within the service area. At any rate, any change in the boundaries of a service area means that the 201 wastewater facilities plan for the upper Raritan, which has already been approved by local, state and federal officials, would have to be modified. This procedure requires public hearings and a new round of approvals at various governmental levels.

4. Any expansion of the design capacity of the EDC plant would require approval by NJDEP, in addition to the previously mentioned approval process requirements for 201 revision. Furthermore, the EDC plant is using state of the art technology in nutrient (nitrates and phosphates) removal by biological means (Carrousel-Bardenpro process). Discussions with NJDEP suggest that the efficacy of this new process would have to be established before plant expansions could even be considered. Since plant efficacy cannot even be evaluated until there is sufficient flow coming into the plant, the entire process will take years. What this means is that plant expansion, which appears to be required in the Coppola proposal, is not something that is likely in the near future.

To be more specific, evaluation of the treatment capabilities of the EDC plant would require an effluent flow of about one-third of the design capacity of the plant, or about 280,000 gpd. The current flow into the plant is only 8,000 gpd. At least 1,000 units would have to be built and occupied in order to provide

enough flow to test the plant. Although the exact date when enough flow would be generated is difficult to predict, it is safe to assume that it would take several years at the earliest.

Assuming that NJDEP is satisfied with the operation of the existing plant and that effluent limitations are being met, the next step in expanding the plant would be the preparation of a fully documented water quality impact assessment report that would be part of an application for a new permit. Since the North Branch Raritan River is upstream of the proposed Confluence Reservoir, the State would be particularly concerned with treatment plant discharges and nutrient loads. Another period of time, estimated to be from 1-2 years, would be required to obtain all of the necessary approvals at the various levels of government.

Assuming that a new permit is obtained, design and construction of a plant expansion would take at least another 2-4 years. Therefore, expanding the EDC plant is an involved process which could take the better part of a decade.

C. Bedminster Treatment Plant

1. The Bedminster treatment plant has a design capacity of 203,750 gpd (NJPDES No. 0028495). In a similar manner with the EDC plant, there is no internal allocation report on file with NJDEP in Trenton. However, the 201 Report on the upper Raritan by Malcolm Pirnie states that Far Hills and AT&T have service

agreements with Bedminster to handle 35,000 and 100,000 gpd, respectively. This would leave 68,750 gpd for Bedminster as follows:

	<u>gpd</u>
AT&T	100,000
Far Hills	35,000
Bedminster	68,750
	<hr/>
TOTAL	203,750

2. It should be noted at the outset that the use of average flow values for the Bedminster plant can be misleading. For example, AT&T accounts for about one-half of the entire flow coming into the plant (See Table 1). At first glance, the monthly average for the 60-month period from 3/79-2/84 of 72,500 gpd appears to be well below the 100,000 gpd service agreement. However, this is a statistical artifact inasmuch as the flow from AT&T is essentially zero on weekends and holidays since the office operates on a standard 5-day workweek. The weekday flow averages from AT&T would be higher than the monthly average which is based on all of the days in the month. This downward bias in the "average" figures for AT&T must be recognized when plant capacity is being considered.

Thus, the average flow for the Bedminster plant is actually higher than the 146,000 gpd value shown in Table 1 if weekday values were selected.

TABLE 1
 AVERAGE FLOWS FOR THE BEDMINSTER TREATMENT PLANT (GPD)

	Far Hills	A T & T	Bedminster	Total Flow
Maximum Monthly Average *	67,000 (1/82)	115,000 (1/80)	**	204,000 (4/83)
Minimum Monthly Average *	17,500 (12/79)	40,000 (11/81)	**	108,000 (12/79)
Monthly Average *	38,500	72,500	34,000	146,000
Percent of Total Flow	26	50	24	100
Service Agreement	35,000	100,000	--	--

Notes: * based on monthly flow records for the period 3/79 - 2/84.

** breakdown not available on a monthly basis.

All flow values rounded to the nearest 500 gallons.

3. The estimated average flow for Bedminster itself is 34,000 gpd. This would indicate that some modest increase in effluent flow could come in from development in Bedminster Township, but not of the magnitude proposed by Coppola. When one considers the special characteristics of the AT&T flow in terms of time, then the plant is actually close to its design capacity.

4. The infiltration problems with the Far Hills collection system were recognized in the 201 Report by Malcolm Pirnie. No estimate was given in the 201 Report regarding the anticipated decrease in flow if the infiltration problems were resolved, nor was an estimate provided of time necessary to perform such repairs. When corrections are made to the Far Hills collection system, the flow would diminish by some amount, but the exact quantity is not now known.

5. Coppola proposes 201 new units for Parcels "C and D" which will generate an additional effluent flow of 48,240 gpd (201×240 gpd/unit = 48,240). This amount could not be accommodated in the existing Bedminster plant unless the facilities were expanded.

D. Onsite Treatment for the Dobbs Tract

As discussed in a previous submission, wastewater disposal on the Dobbs' site for residential and/ or commercial use can be accommodated by an onsite tertiary sewage treatment plant (STP) with subsurface disposal. This method, which has already been

with subsurface disposal. This method, which has already been approved for a 440-unit townhouse development in Passaic County, does not involve any point source discharge into the North Branch Raritan River. Instead, wastewater effluent flows into the STP where it receives advanced waste treatment prior to being pumped into disposal fields located on the most appropriate soils on the site.

The major advantages of this system are as follows:

1. The treated effluent recharges the ground water and is therefore available for further use within the watershed.
2. A ground water discharge permit from NJDEP would be required. It is estimated, based on the previous approval, to take only 6-12 months compared to several years for a surface water discharge permit.
3. All mechanical components of the STP can be housed in an architecturally compatible structure.
4. The disposal field can be landscaped and does not require any fencing. The homeowners would see only a grassy area with trees and therefore residential units can be located nearby.
5. There is no odor generated either at the plant or in the disposal field area.

E. Conclusions

1. The 3,669 or 3,819 new units proposed by Coppola for Parcels "H-N" will generate an estimated effluent flow of 880,560 or 916,560 gpd, respectively. Either value will be in excess of the design capacity of 850,000 gpd for the EDC plant.
2. Coppola makes no mention of what will happen to the effluent generated by the Hills development in Bernards or the 350,000 sq. ft. of commercial development in Bedminster which is part of the Hills proposal.
3. The 201 new units proposed by Coppola for Parcels "C and D" will generate an estimated effluent flow of 48,240 gpd. Without expansion, this anticipated flow could not be accommodated in the existing Bedminster plant which is close to its design capacity.

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.

EXHIBIT BB

Table of Contents

	<u>Page No.</u>
I. Bedminster's "Fair Share"	1
<u>Recommendation</u>	4
II. Bedminster's Compliance	
1. Proposed Rezoning	6
2. Timing	8
3. The "Phase-in" Concept	8
(a) Group II Sites	9
(b) Sites C and D	14
(c) Site H	16
Senior Citizen Project	18
<u>Recommendation</u>	19
III. <u>The Dobbs Issue</u>	
<u>Recommendation</u>	21
Appendices	
Appendix A - Letter (March 7, 1984) from George M. Raymond to Hon. Eugene J. Serpentelli, J.S.C.	
Appendix B - Sewage Alternatives: <u>Mount Laurel II Housing</u> Bedminster Township, by Neil V. Callahan (including Mr. Callahan's biographical outline)	
Appendix C - Letter (April 6, 1984) from Alfred L. Ferguson, Esq. to George M. Raymond	
Appendix D - Letter (March 19, 1984) from Alfred L. Ferguson, Esq. to Hon. Eugene J. Serpentelli, J.S.C.	

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 = $1.299 \times 22,625 =$	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.

II. Bedminster's Compliance

1. Proposed Rezoning

To provide a realistic opportunity for the provision of the 782 Mt. Laurel units Bedminster has offered the following:³

<u>Group I</u>	<u>No. Mt. Laurel Units</u>
Hills PUD	260
Hills "top of the hill"	180
	<u>440</u>
 <u>Group II</u>	
Site I	51
Site J	120
Site L	35 = 177 (1)
Site N	150 (1)
	<u>384-356</u>
 <u>Group III</u>	
Site H	90

(1) One senior citizen project is proposed to be built on either Site L or Site N. If Site N will be used, Site L will be devoted to a conventional 20% set-aside project. If Site L will be used, Site N will be devoted to non-residential uses.

The total maximum number of Mt. Laurel units thus provided for is 886. This number exceeds Bedminster's 782-unit obligation by 104 units, or 13.3 percent.

The Township has also offered Sites C and D, in the Bedminster Village area, with a capacity of 33 and 7

³All site identifications are the same as those used in the Coppola report, supra.

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

⁶ In 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 $\pm 200,000$ 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 principal, Mr. Ferguson felt 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.

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 principal, Mr. Ferguson felt 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



Raymond, Parish, Pine & Weiner, Inc. 555 White Plains Road, Tarrytown, NY 10591-5179 914/631-9003 212/365-2666

GEORGE M. RAYMOND, A.I.C.P., A.I.A.
NATHANIEL J. PARISH, P.E., A.I.C.P.
SAMUEL W. PINE, A.I.C.P.
MICHAEL WEINER, A.I.C.P.

BERNARD J. BULLER, P.E., A.I.C.P.
EDWARD J. RYBCZYK

ROBERT GENESLAW, A.I.C.P.
RICHARD HARRALL
BERNARD C. LENAZ, A.I.C.P., A.I.A.
LEITH LANDAU LITT, A.I.C.P.
PHILIP W. MICHALOWSKI, A.I.C.P.
JOHN JOSEPH SACCARDI
STUART I. TURNER, A.I.C.P.

DAVID B. SCHIFF, A.I.C.P.
MICHAEL SHAW, JR.
SCABA TEGLAS, A.I.C.P., C.I.P.

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 "concensus" 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 2½ 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


GMR:kfv

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. 

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-	
0. 208 Plan Approval	yes	2 mo.		yes	2 mo.		N/A	-0-	
1. Discharge Allocation Certificate (DAC) Issuance	N/A	-0-		yes	4 mo.	14 mo.	yes	6 mo.	12 mo.
2. Detailed Treatment Works Design	yes	4 mo.		yes	3 mo.	17 mo.	yes	1 mo.	13 mo.
3. Municipal Endorsement	yes	1 mo.	25 mo.	N/A	-0-		N/A	-0-	
4. Sewerage Authority Endorsement	yes	1 mo.		N/A	-0-		N/A	-0-	
5. Treatment Works Approval DEP	yes	2 mo.	27 mo.	yes	2 mo.	19 mo.	yes	2 mo.	15 mo.
6. Land Acquisitions	yes	?		yes	6 mo.		N/A	-0-	
7. Draft NJPDES Permit	yes			yes	1 mo.	20 mo.	yes	1 mo.	16 mo.
8. Public Hearing Draft Permit	yes	2 mo. min.	29 mo.	yes	2 mo. min.	22 mo.	yes	2 mo. min.	18 mo.
9. Bonding/Financing	yes	-0-		yes	-0-		yes	2 mo.	20 mo.
0. Bidding	yes	1 mo.	30 mo.	yes	1 mo.	23 mo.	yes	2 mo.	22 mo.
1. Construction	yes	18 mo.	48 mo.	yes	18 mo.	41 mo.	yes	4 mo.	26 mo.
2. Final NJPDES Permit	yes	2 mo.	50 mo.	yes	2 mo.	43 mo.	yes	2 mo.	28 mo.
3. 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	<u>59,500 GPD</u>
Total		196,750 GPD
Net unallocated capacity		203,750 GPD -196,750 GPD <u>7,000 GPD</u>

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

7 Chambers Court
Edgewater, 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

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.

Liason 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) 526-761

1978

Employer: Bedminster Sewage Treatment Works

to

1982

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

Employer: R.H. Schindelar & Associates

to

1978

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
Bridgewater, New Jersey 08807

Telephone (201) 526-7613

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 Mangement 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

MCCARTER & ENGLISH

ATTORNEYS AT LAW

550 BROAD STREET

NEWARK, N.J.

07102

(201) 622-4444

DOMESTIC TELEX 642929
INTERNATIONAL TRT 178016
TELECOPIER (201) 622-0012
CABLE "MCCARTER" NEWARK

THE COMMERCE CENTER
1810 CHAPEL AVENUE WEST
CHERRY HILL, NEW JERSEY 08002

(609) 662-8444

TELECOPIER (609) 662-6203

ONE WORLD TRADE CENTER
SUITE 2665
NEW YORK, NEW YORK 10048
(212) 466-9018

150 E. PALMETTO PARK ROAD
SUITE 505
BOCA RATON, FLORIDA 33432
(305) 368-6500

FRANCIS E. P. MCCARTER
ARTHUR C. HENSLER, JR.
EUGENE M. HARING
JULIUS B. POPPINGA
GEORGE C. WITTE, JR.
STEVEN B. HOSKINS
RODNEY N. HOUGHTON
THOMAS F. DALY
ALFRED L. FERGUSON
CHARLES R. MERRILL
ANDREW T. BERRY
JOSEPH E. IRENAS
JOHN L. MCGOLDRICK
RICHARD C. COOPER
PETER C. ASLANIDES
WILLIAM H. HORTON
JAMES F. HAMMILL
FREDERICK B. LEHLBACH
MARY L. PARELL
RICHARD M. EITTREIM
JOHN E. FLAHERTY
STEVEN G. SIEGEL
WILLIAM T. REILLY
HAYDEN SMITH, JR.
JOHN B. BRESCHER, JR.
TODD M. POLAND
JOHN J. SCALLY, JR.
GEORGE W. C. MCCARTER
DANIEL L. RABINOWITZ
THOMAS V. SICILIANO

WOODRUFF J. ENGLISH
NICHOLAS CONOVER ENGLISH
JAMES R. E. OZIAS
OF COUNSEL

JOHN R. DROSDICK
ROSLYN S. HARRISON
ROBERT S. SCAVONE
GITA F. ROTHSCHILD
RONALD J. HEDGES
DAVID R. KOTT
LOIS M. VAN DEUSEN
MICHAEL A. GUARIGLIA
ROSS J. HOLDEN
LANNY S. KURZWEIL
DEBORAH L. GREENE
DAVID A. LUDGIN
SARA B. GOODMAN
JOHN F. BRENNER
JOSEPH FALGIANI
JOSEPH E. SOURY
KATHLEEN M. MIKO
GORDON M. CHAPMAN
FRANK E. FERRUGIA
RUSSELL M. FINESTEIN
CHERYL L. HARATZ
JAMES A. KOSCH
KEITH E. LYNOTT
MICHAEL A. TANENBAUM
CHARLES J. BENJAMIN
RICHARD K. FORTUNATO
ROSALIE BURROWS
RICHARD P. O'LEARY
STEVEN A. BECKELMAN
WILLIAM M. RUSSELL
BETH YINGLING
ROBERT H. BERNSTEIN
CHRISTINE M. GRANT
GARY T. HALL
THEODORE D. MOSKOWITZ
SCOTT A. KOBLER
DALE A. DIAMOND
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

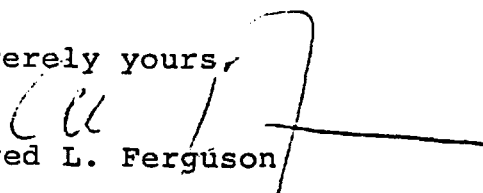
good soils for spray application. Accordingly, the Township will undertake to make available whatever portion of the Dobbs' tract is necessary for a spray field to accept any excess effluent from the EDC plant or the Township plant which cannot be discharged to the North Branch of the Raritan River because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

APPENDIX D

FRANCIS E. P. McCARTER
ARTHUR C. HENSLER, JR.
EUGENE M. HARING
JULIUS B. POPPINGA
GEORGE C. WITTE, JR.
STEVEN B. HOSKINS
RODNEY N. HOUGHTON
THOMAS F. DALY
ALFRED L. FERGUSON
CHARLES R. MERRILL
ANDREW T. BERRY
JOSEPH E. IRENAS
JOHN L. MCGOLORICK
RICHARD C. COOPER
PETER C. ASLANIDES
WILLIAM H. HORTON
JAMES F. HAMMILL
FREDERICK B. LEHLBACH
MARY L. PARELL
RICHARD M. EITTREIM
JOHN E. FLAHERTY
STEVEN G. SIEGEL
WILLIAM T. REILLY
HAYDEN SMITH, JR.
JOHN B. BRESCHER, JR.
TODD M. POLAND
JOHN J. SCALLY, JR.
GEORGE W. C. McCARTER
DANIEL L. RABINOWITZ
THOMAS V. SICILIANO

WOODRUFF J. ENGLISH
NICHOLAS CONOVER ENGLISH
JAMES R. E. OZIAS
OF COUNSEL

MCCARTER & ENGLISH
ATTORNEYS AT LAW
550 BROAD STREET
NEWARK, N.J.

07102

(201) 622-4444

DOMESTIC TELEX 642929
INTERNATIONAL TRT 178018
TELECOPIER (201) 622-0012
CABLE "MCCARTER" NEWARK

THE COMMERCE CENTER
1810 CHAPEL AVENUE WEST
CHERRY HILL, NEW JERSEY 08002
(609) 662-8444
TELECOPIER (609) 662-6203

ONE WORLD TRADE CENTER
SUITE 2665
NEW YORK, NEW YORK 10048
(212) 466-9018

150 E. PALMETTO PARK ROAD
SUITE 505
BOCA RATON, FLORIDA 33432
(305) 368-6500

JOHN R. DROSDICK
ROSLYN S. HARRISON
ROBERT S. SCAVONE
GITA F. ROTHSCHILD
RONALD J. HEDGES
DAVID R. KOTT
LOIS M. VAN DEUSEN
MICHAEL A. GUARIGLI
ROSS J. HOLDEN
LANNY S. KURZWEIL
DEBORAH L. GREENE
DAVID A. LUGGIN
SARA B. GOODMAN
JOHN F. BRENNER
JOSEPH FALGIANI
JOSEPH E. BOURY
KATHLEEN M. MIKO
GORDON M. CHAPMAN
FRANK E. FERRUGGIA
RUSSELL M. FINESTEI
CHERYL L. HARATZ
JAMES A. KOSCH
KEITH E. LYNOTT
MICHAEL A. TANENBAI
CHARLES J. BENJAMI
RICHARD K. FORTUNA
ROSALIE BURROWS
RICHARD P. O'LEARY
STEVEN A. BECKELMA
WILLIAM M. RUSSELL
BETH YINGLING
ROBERT H. BERNSTEIN
CHRISTINE M. GRANT
GARY T. HALL
THEODORE D. MOSKOV
SCOTT A. KOBLER
DALE A. DIAMOND
PETER J. LYNCH

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

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

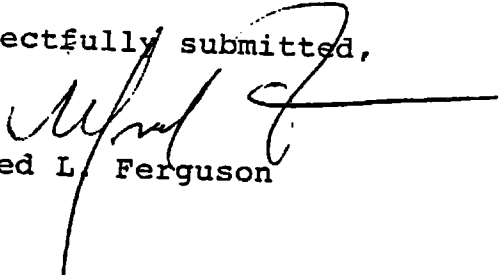
Bedminster Township rejects the suggestion that the Dobbs property be rezoned for multi-family housing or

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

cc: Joseph L. Basralian, Esq.
Mr. John Kerwin
George Raymond, PP
Peter J. O'Connor, Esq.
Kenneth E. Meiser, Esq.
Henry A. Hill, Esq.

WINNE, BANTA, RIZZI, HETHERINGTON & BASRALIAN
COUNSELLORS AT LAW
25 EAST SALEM STREET
P.O. Box 647
HACKENSACK, NEW JERSEY 07602

BRUCE F. BANTA (1932-1983)
JOSEPH A. RIZZI**
PETER G. BANTA*
ROBERT A. HETHERINGTON, III
JOSEPH L. BASRALIAN
EDWARD H. MILLER, JR.
JOHN P. PAXTON
DONALD A. KLEIN
ROBERT M. JACOBS
T. THOMAS VAN DAM
ANDREW P. NAPOLITANO
RAYMOND R. WISS*

V. ANNE GLYNN MACKOUL*
THOMAS B. HANRAHAN
KEVIN P. COOKE
CYNTHIA D. SANTOMAURO
ADOLPH A. ROMEI

TELECOPIER (201) 487-8529
(201) 487-3800

HORACE F. BANTA
OF COUNSEL

WALTER G. WINNE
(1889-1972)

NEWFOUNDLAND, N.J. OFFICE
(201) 697-4020

NEW YORK OFFICE
2 VETERANS PARKWAY
PEARL RIVER, NEW YORK 10965
(914) 735-2115

*MANAGING PARTNER
*MEMBER NEW YORK BAR

April 11, 1984

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

Re: Bedminster/Allan-Deane/Dobbs

Dear Judge Serpentelli:

We received today a copy of Mr. Raymond's "Compliance Report." On behalf of Leonard Dobbs, we take strong exception to many of the conclusions reached by Mr. Raymond and many of the factual assumptions made by Mr. Raymond. As Your Honor is aware, Mr. Dobbs' experts, nationally recognized in their respective fields, have presented extensive data and opinions which, for the most part, Mr. Raymond has either ignored or rejected in favor essentially of a report submitted to him within the last several days by Mr. Callahan, the President of EDC. Many of the material facts and opinions supporting Mr. Raymond's ultimate conclusions are sharply disputed and should be tested, through deposition and cross-examination, in connection with a compliance hearing.

EXHIBIT CC

Honorable Eugene D. Serpentelli
April 11, 1984
Page 2

At the outset, we wish to reiterate our concern that Your Honor's directives continue to be ignored. It had been our understanding, based on the instructions made by Your Honor at the last Case Management Conference and by telephone to the Newark meeting, that by Friday, April 6, 1984, the parties were to make submissions as to sewerage capacity (with copies to all interested parties) and that Hills and Bedminster were to advise Mr. Raymond whether they had reached agreement on the "top of the hill" project. If no firm agreement was reached between Hills and Bedminster on this project, Your Honor ordered Mr. Raymond to review the Dobbs proposal and to provide the Court with his assessment and recommendations for utilizing the Dobbs property toward Bedminster's Mt. Laurel II compliance. We never received a response from Hills or Bedminster indicating that agreement had been reached and confirmed today that Hills and Bedminster are still at odds on the issue. Yet, Mr. Raymond has proceeded to recommend that Bedminster has essentially complied and has, in the process, recommended condemnation of the Dobbs property rather than evaluate it for low and moderate income housing development. Moreover, the Callahan sewerage report, relied on by Mr. Raymond, was, notwithstanding Your Honor's directives, not furnished to us on Friday, as required, but only contained in Mr. Raymond's Report received by us today.

Honorable Eugene D. Serpentelli
April 11, 1984
Page 3

In light of Mr. Raymond's conclusions, we believe that the Court should address at the Case Management Conference on Friday the issue of the compliance hearing to be conducted. Also, at the last Case Management Conference, Your Honor suggested that Leonard Dobbs may well be entitled to a builders remedy. As we indicated at such conference, it is our position that he is clearly so entitled.

As should be manifest from the Case Management Conferences to date and from the input provided by the various interested parties, Mr. Dobbs has been the only true adversary of Bedminster Township, since the initial Case Management Conference, on the issues of fair share, region, and realistic opportunity for the development of low and moderate income housing. The input from Dobbs' experts has been extensive and informative and will, we believe, be critical to the Court in its future consideration of Mr. Raymond's recommendations. More particularly, were it not for the input from such experts, Bedminster would not even have begun to address the sewage capacity problems and the realistic opportunity for development problems which have been pointed out by Dobbs' experts. Although Bedminster has, since the initial Case Management Conference, modified its "compliance plan" several times, none of the proposals, we believe, reflect true Mt. Laurel II compliance.

Honorable Eugene D. Serpentelli
April 11, 1984
Page 4

As Your Honor is well aware, Mr. Dobbs, pursuant to Your Honor's request, submitted a Mt. Laurel II residential proposal -- Plan B in his February 7, 1984 submission. Given the stay of Mr. Dobbs' earlier litigation and given the unique posture of the present case, this submission was made by way of letter memorandum rather than by way of complaint, but, we believe, clearly should have the same effect, especially in light of the attendant circumstances, for the purpose of determining whether Mr. Dobbs is entitled to a builders remedy. Pending before Your Honor is Mr. Dobbs' motion to amend and supplement his complaint to reflect the mixed commercial/residential proposal which he had made during the pendency of the stay of his earlier litigation. Since, as we have advised since February, the Plan B residential proposal supplants such submission, we have revised the proposed and amended supplemental complaint to make reference to such residential proposal and to also take into account the significant developments of the last several months. We would ask the Court to consider such complaint, a copy of which is enclosed, as the subject of Mr. Dobbs' motion to amend and supplement.

We also believe the Court should address on Friday the question of Mr. Dobbs' status in the Allan-Deane case. In light of developments in this matter, we believe that, especially

Honorable Eugene D. Serpentelli
April 11, 1984
Page 5

with respect to the compliance hearing and with respect to Mr. Dobbs' entitlement to a builders remedy, that he should be treated as a party to these proceedings. Indeed Mr. Raymond has, in his Report, recommended that Bedminster condemn the Dobbs property. If formal intervention is required, then we can submit the appropriate papers. In any case, we believe that Mr. Dobbs should have the same rights to discovery and cross-examination in the future proceedings as would any other party in the Allan-Deane case. No other party is disposed to test the assumptions and conclusions of Mr. Raymond.

As we have indicated, Mr. Dobbs is a ready, willing and able developer who is capable of realistically providing low and moderate income housing without the delays which would attend development of most of the properties rezoned by Bedminster. Mr. Dobbs' property is suitable for low and moderate income housing, and his proposed sewerage treatment plant provides a unique and preferable way of enabling Bedminster to meet its present fair share obligation.

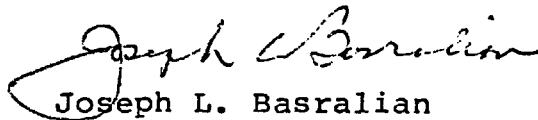
Mr. Dobbs has, in the context of the present proceedings, expended monies and effort equal to, if not greater than, that which would attend most litigations. Such effort has been essential, we believe, to the Court's receipt of balanced infor-

Honorable Eugene D. Serpentelli
April 11, 1984
Page 6

mation relevant to the determinations which Your Honor must ultimately make and necessary for a fair and objective judgment.

We expect that the foregoing matters will be on the agenda for Friday's Case Management Conference and we will be prepared to further discuss these matters at such time.

Very respectfully,


Joseph L. Basralian

cc: Mr. George M. Raymond, P.P.
Alfred L. Ferguson, Esq.
Richard F. Coppola, P.P.
Henry A. Hill, Jr., Esq.
Kenneth E. Meiser, Esq.
Herbert A. Vogel, Esq.

WINNE, BANTA, RIZZI,
HETHERINGTON & BASRALIAN
25 East Salem Street
Hackensack, New Jersey 07602
(201) 487-3800
Attorneys for Movant Leonard Dobbs

-----X
ALLAN DEANE CORPORATION, : SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: SOMERSET COUNTY
: Plaintiff, and :
: LYNN CEISWICK, APRIL DIGGS, :
W. MILTON KENT, GERALD : DOCKET NOS. L-36896-70 P.W.
ROBERTSON, JOSEPHINE : L-28061-71 P.W.
ROBERTSON, and JAMES RONE, :
: Plaintiff-Intervenors, :
: v. :
: TOWNSHIP OF BEDMINSTER and :
the TOWNSHIP OF BEDMINSTER :
PLANNING BD., :
: Defendants. :
-----X

CIVIL ACTION
LYNN CEISWICK, APRIL DIGGS, :
W. MILTON KENT, GERALD :
ROBERTSON, JOSEPHINE :
ROBERTSON, and JAMES RONE, :
: Plaintiffs, :
: v. :
: TOWNSHIP OF BEDMINSTER, :
THE TOWNSHIP COMMITTEE :
OF THE TOWNSHIP OF : CERTIFICATION OF LEONARD DOBB
BEDMINSTER, and the ALLAN DEANE : IN SUPPORT OF MOTION
CORPORATION, : TO INTERVENE
: Defendants. :
-----X

LEONARD DOBBS hereby certifies as follows:

1. I have, since August 29, 1979, without interruption been the optionee of a tract of land (hereinafter "the Dobbs tract") consisting of approximately 200 acres located on River Road in the Township of Bedminster, to the immediate west of the junction of River Road and Routes 202-206 in said Township. The Option Agreement is being submitted under separate cover to the Court pursuant to the terms of a Protective Order previously entered by Judge Meredith.

2. The Dobbs tract is located almost entirely within a "growth area" in the Township of Bedminster as shown on the State Development and Guideline Plan.

3. The Dobbs tract is zoned for three percent residential development (a minimum of 3 acres per unit). Notwithstanding the arbitrariness and unreasonableness of this zoning, which renders development of this property economically unfeasible, the Township of Bedminster has not given consideration to any appropriate rezoning of this property, despite my repeated and continued requests.

4. Originally, I proposed that defendant township rezone the property to permit commercial development and any other such uses which defendant township and I would mutually consider appropriate. Defendant township's refusal to consider this alternative resulted in a litigation filed in the Superior

Court of New Jersey, Law Division, Somerset County (Docket No. L-12502-80), which is presently stayed. In August 1982 I submitted a plan to defendant township which incorporated mixed use elements for the site, including commercial, residential, municipal, and open space recreational. After the New Jersey Supreme Court decision in So. Burlington Cty. N.A.A.C.P. v. Mt. Laurel Tp., 92 N.J. 158 (1983) (hereinafter "Mt. Laurel II") I modified my development proposal in June 1983 so that while substantially the same as the August 1982 proposal, the housing element included provision for a substantial amount of low and moderate income housing in accordance with Mt. Laurel II. Defendant township reportedly rejected these proposals, although no formal responses were made.

5. Since October 6, 1983, I have been permitted to participate in the above-captioned matter and to contribute my input and that of my counsel and technical experts with respect to fair share, region, and whether the defendant township has, in its proposed rezoning and affirmative efforts, realistically provided for low and moderate income housing. The input which I and my counsel and technical experts have provided has, I believe, been and will continue to be helpful to the Court and necessary to its ultimate determinations on the foregoing issues. Had it not been for such input, it is conceivable that defendant township's rezoning would have met Mt. Laurel II standards on paper only. Among other things, we have demonstrated and will demonstrate that, for the various reasons described in the

Complaint filed herewith, defendant township's proposed rezoning does not provide a realistic opportunity for low and moderate income housing sufficient to meet Mt. Laurel II standards. Of particular significance has been the contribution made with respect to the sewer question, particular deficiencies with defendant township's proposed sites, and the affordability range of the proposed housing, all of which I do not believe would have been adequately addressed absent our input.

6. In response to this Court's request, I submitted a residential proposal (Plan B in my February 7, 1984 submission) I have, since such time, been ready, willing, and able to proceed with such proposal, including pro rata contribution to the non-profit monitoring corporation, and I am still prepared to do so. Defendant township's response to the proposal was to threaten condemnation of the property in question and to purportedly "revive" a dormant application for Green Acres funds to pay for it.

7. One of my principal concerns over the past six months has been that the repose sought by defendant township in connection with the above-captioned litigation would effectively preclude development of the Dobbs tract for low and moderate income housing, a development which can provide the most immediate and practicable contribution toward defendant township's fair share obligation. In my proposed Complaint, in order to implement my development plan, I am seeking a Mt. Laurel II builder's remedy.

8. As my experts will demonstrate, the Dobbs tract is particularly appropriate for expeditious development of a substantial number of low and moderate income houses and, especially because of the on-site sewage treatment plant and disposal field which I have proposed, is vastly preferable to the various other sites which defendant township has chosen to rezone, most, if not all, of which are not realistically developable for housing at densities proposed, including low and moderate income housing

9. Since October 1983, with the Court's permission and the knowledge of all parties, I have actively participated in this matter in accordance with the Case Management Conference Orders and the procedures and schedules set forth by the Court. Said schedule required all parties, including myself, to first address the issues related to the 1287 unit Hills project and then subsequently, after further conferences, to address compliance issues, including the appropriate zoning of the Dobbs tract. On April 13, 1984, at a Case Management Conference, the Court established a schedule for the filing of a formal intervention motion, which I have complied with.

10. I have reviewed the proposed Complaint filed herewith and the allegations set forth therein, and they are true of my own personal knowledge.

11. For the reasons referred to above and particularly the repose order sought by defendant township, I believe that I clearly have a protectable interest in the above-captioned

matter, which is not being adequately represented by existing parties and which will be significantly impaired and impeded if I am not permitted to intervene in this action.

12. I respectfully request that the Court grant my motion to intervene and permit me to file the Complaint submitted herewith.



Leonard Dobbs

Dated: May 10, 1984

WINNE, BANTA, RIZZI,
HETHERINGTON & BASRALIAN
25 East Salem Street
Hackensack, New Jersey 07602
(201) 487-3800
Attorneys for Plaintiff Leonard Dobbs

-----X SUPERIOR COURT OF NEW JERSEY
ALLAN DEANE CORPORATION, : LAW DIVISION: SOMERSET COUNTY

Plaintiff, and

LYNN CEISWICK, APRIL DIGGS, :
W. MILTON KENT, GERALD : DOCKET NOS. L-36896-70 P.W.
ROBERTSON, JOSEPHINE : L-28061-71 P.W.
ROBERTSON, and JAMES RONE, :

Plaintiff-Intervenors, :

v. :

TOWNSHIP OF BEDMINSTER and :
the TOWNSHIP OF BEDMINSTER :
PLANNING BD., :

Defendants. :

-----X CIVIL ACTION

LYNN CEISWICK, APRIL DIGGS, :
W. MILTON KENT, GERALD :
ROBERTSON, JOSEPHINE :
ROBERTSON, and JAMES RONE, :

Plaintiffs, :

v. :

TOWNSHIP OF BEDMINSTER, :
THE TOWNSHIP COMMITTEE :
OF THE TOWNSHIP OF :
BEDMINSTER, and the ALLAN DEANE :
CORPORATION, :

COMPLAINT IN LIEU OF
PREROGATIVE WRIT

Defendants. :
-----X

EXHIBIT A

EXHIBIT EE

-----X
 LEONARD DOBBS, :
 : Plaintiff, :
 v. :
 TOWNSHIP OF BEDMINSTER, :
 : Defendant. :
 -----X

Plaintiff Leonard Dobbs, residing at 111 Central Avenue, Lawrence, New York, by way of Complaint against defendants, says:

FIRST COUNT

1. Plaintiff Dobbs is the optionee of a tract of land (hereinafter "the Dobbs tract"), consisting of approximately 200 acres, located on River Road in the Township of Bedminster, to the immediate west of the junction of River Road and Routes 202-206 in said township.

2. Defendant township is a municipal corporation organized and existing under the laws of the State of New Jersey and contains within its borders a "growth area" as shown on the State Development Guideline Plan (hereinafter "the SDGP").

3. The Dobbs tract is located almost entirely within the "growth area" as shown on the SDGP.

4. Pursuant to an Order of the Superior Court of New Jersey Law Division, Somerset County, in the action bearing Docket Nos. L-36896-70 P.W. and L-28061-71 P.W., entitled "Allan-Deane Corporation, et al. v. The Township of Bedminster, et al." (herein-

after the "Allan-Deane litigation"), defendant township formulate and adopted a revised zoning and land use ordinance, entitled "THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF BEDMINSTER" (hereinafter "zoning ordinance") for the purpose of regulating and limiting the use and development of land within its boundaries and, inter alia, effecting rezoning of certain lands to the immediate east and west of Routes 202-206 within defendant township, purportedly to provide for an appropriate variety and choice of low and moderate income housing as required by said Order of the Court.

5. Notwithstanding the fact that the Dobbs tract is located within the SDGP defined "growth area" and is contiguous to Routes 202-206, defendant township excluded the Dobbs tract from its recommended corridor definition accepted by Judge Leahy.

6. The corridor definition recommended by defendant township, at a time when defendant township knew of plaintiff's intention to develop the Dobbs tract, excluded the Dobbs tract on the basis of broad scale information related to environmental sensitivity, proved erroneous by more detailed site-specific information.

7. The true developing corridor of land within defendant township consists of the areas both to the east and west of Route 202-206 which have been designated as a "growth area" on the SDGP and which have been similarly designated in the Somerset County Master Plan and the Regional Development Guide of the Tri-State Regional Planning Commission.

8. To date, defendant township has refused to voluntarily provide housing opportunities for low and moderate income persons and has only rezoned to purportedly provide such opportunities after being ordered to do so by the courts.

9. The housing opportunities for low and moderate income persons so provided by defendant township are insufficient to meet defendant township's fair share housing obligation.

10. Moreover, defendant township has not, in its rezoning, provided a realistic opportunity for low and moderate income housing, as sites rezoned by defendant township for low and moderate income housing, inter alia, lack off-site sewage treatment capacity, are presently developed, are difficult and costly to assemble (if indeed assembly is possible at all), have access and noise problems, and/or are not likely to be developed for low and moderate income housing by present owners. In addition, defendant township's regulations and procedures relating to such housing do not encourage such development and defendant township had failed to take necessary affirmative steps to make their plan for low and moderate income housing realistic.

11. Furthermore, in rezoning a minimum of sites so as to require 100% development of such sites in order for defendant township to meet its fair share obligation, defendant township has, contrary to the requirements of New Jersey law and of reasonable planning practice, failed to "overzone" and provide a cushion of additional sites which could be developed to meet defendant township's fair share obligation.

12. The zoning ordinance of defendant township and rezoning by defendant township are in violation of the requirement that zoning further and promote the general welfare, are arbitrary and unreasonable, and violate the substantive due process and equal protection requirements of the New Jersey and United States Constitutions, the provisions of N.J.S.A. 40:55D-1 et seq., and the mandates of the New Jersey Supreme Court in So. Burlington Cty. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) (hereinafter "Mt. Laurel II").

SECOND COUNT

1. Plaintiff repeats and reiterates the allegations set forth in the First Count of the Complaint and incorporates same by reference herein.

2. Plaintiff commenced the within litigation against defendant township in November 1980, challenging, as arbitrary and unreasonable, the three-percent residential zoning of the Dobbs tract and defendant township's refusal to rezone the Dobbs tract or to afford plaintiff an opportunity to fairly present to defendant township his development proposal.

3. Prior to commencement of the within litigation, plaintiff requested that defendant township give consideration to rezoning a portion of the Dobbs tract for regional commercial and office development (with the remainder to be zoned for such

uses as would provide a balanced development plan), since such tract by virtue of its proximity to the major arteries of traffic and its location within the developing corridor and "growth area", is well-suited for development which will enable defendant township to meet its obligation to provide necessary ancillary services and uses for its increasing population and that of the surrounding region.

4. Defendant failed to respond in any manner to such request by plaintiff or to the extensive expert reports submitted by plaintiff and refused plaintiff and his experts an opportunity to fairly present to defendant township, in detail, plaintiff's development proposal.

5. In August 1982, while the within litigation was stayed, plaintiff revised his development proposal to provide for planned unit development with commercial, residential, and other uses, as called for in revisions to the Master Plan of defendant township, defendant township having steadfastly refused to respond to plaintiff's proposed commercial and office development.

6. Again, defendant township failed to respond to such proposal and refused plaintiff the opportunity to fairly present his revised proposal.

7. Defendant township further demonstrated its refusal to consider plaintiff's development proposal and its effort to frustrate any development proposal by plaintiff by, among other things, the filing in February 1983 of an application for Green

Acres Program funds with respect to the Dobbs tract.

8. In June 1983, plaintiff detailed and defined the residential component of his planned unit development, providing for a low and moderate income housing component, which further enhanced the reasonableness of plaintiff's development proposal by addressing part of defendant township's Mt. Laurel II obligation.

9. In November 1983, plaintiff was granted leave, in connection with the Allan-Deane litigation, to participate in determinations to be made by the Court-appointed Master and by the Court concerning the definition of region and regional need for low and moderate income housing, the determination of defendant township's fair share obligation as to such regional need, and the decision as to whether defendant township's zoning ordinance, as revised, provides a realistic opportunity for low and moderate income housing.

10. In response to the Court's request, plaintiff submitted a revised development proposal, reflected as Plan B in a letter dated February 7, 1984, providing solely for residential development and, more particularly, providing for 232 low and moderate income units.

11. Plaintiff's proposed residential development is consistent with sound land use planning.

12. Absent plaintiff's proposed residential development, defendant township has not made realistic provision for low and moderate income housing sufficient to meet its fair share obligation.

13. Defendant township has not formally considered plaintiff's residential development proposal but rather has informally rejected it without affording plaintiff or the public any opportunity to be heard.

14. Notwithstanding the fact that defendant township permitted its earlier Green Acres application to remain dormant, defendant township, in response to plaintiff's residential development proposal, "revived" such application as a means of attempting to thwart consideration by the Court-appointed Master and the Court of plaintiff's development proposal.

15. Unlike virtually all of the owners of property rezoned by defendant township for low and moderate income housing, plaintiff is a ready, willing, and able developer, prepared to assist defendant township in meeting its fair share obligation for low and moderate income housing under Mt. Laurel II.

16. Unlike virtually all of the other properties rezoned by defendant township for low and moderate income housing, the Dobbs tract, by virtue of its size and potential development density, can be serviced expeditiously by on-site sewerage treatment with

subsurface discharge, thereby avoiding pollution of the North Branch of the Raritan River.

17. Plaintiff has significantly contributed to this Court's efforts to assure that defendant township will realistically meet its fair share obligation. Absent plaintiff's objections, for example, defendant township would likely meet its fair share obligation on paper only -- by rezoning sites which, because of the lack of off-site sewage treatment and the other factors referred to in paragraph 10 of the First Count hereof, are not realistically developable for low and moderate income housing.

18. Defendant township's failure to give consideration to rezoning of the Dobbs tract and yet its apparent willingness to entertain rezoning elsewhere on tracts less suitable than Dobbs have resulted in substantial detriment and monetary loss to plaintiff.

19. In light of all of the foregoing, plaintiff seeks a builder's remedy to provide a substantial amount of low and moderate income housing within defendant township as part of the development reflected in Plan B set forth in plaintiff's February 7, 1984 submission.

THIRD COUNT

1. Plaintiff repeats and reiterates the allegations set forth in the First and Second Counts of the Complaint and incorporates same by reference herein.

2. Defendant township has failed to utilize office/commercial development, with a low and moderate income housing component, as a realistic means of providing Mt. Laurel II housing.

3. Such mechanisms are appropriate to meet the Mt. Laurel II affordability standards and to make housing available to a broader range of eligible low and moderate income persons as required by Mt. Laurel II.

4. Such mechanisms enable Mt. Laurel II housing to be developed without the fiscal, market absorption, and population impacts necessitated by reliance solely on residential developments with 20% Mt. Laurel set asides.

5. Dobbs has, in the alternative, proposed a mixed office/commercial and residential development (Plan C in his February 7, 1984 submission).

6. Defendant township has arbitrarily rejected such alternative proposal.

7. Plaintiff, in the alternative, seeks a builder's remedy for office/commercial development, including a fair share housing component equivalent to or greater than that set forth in Count II.

FOURTH COUNT

1. Plaintiff repeats and reiterates the allegations set

forth in the First, Second, and Third Counts of the Complaint and incorporates same by reference herein.

2. The present classification of the Dobbs tract (R 3%), prohibiting, for example, its use for office/commercial development or denser residential development, is arbitrary and unreasonable and bears no reasonable relation to the public health, safety, and welfare of defendant township and its inhabitants and other inhabitants of the developing corridor.

3. Under the provisions of the zoning ordinance adopted by defendant township, the Dobbs tract is zoned exclusively for R-3% residential purposes.

4. The Dobbs tract lies in the immediate vicinity of major traffic arteries and public thoroughfares and was improperly excluded by defendant township from its definition of the developing corridor.

5. The low density zoning of the Dobbs tract makes the Dobbs tract undevelopable, since construction of an on-site sewage treatment facility is economically unfeasible at such low density and the soils on such tract are not suitable for septic systems, which would be required at such low density.

6. The zoning, zoning map and Master Plan adopted by defendant township, especially as applied to the Dobbs tract, constitute an improper and unlawful exercise of the police power, depriving plaintiff of his property without just compensation or due process of law, and are unconstitutional, null, and void.

FIFTH COUNT

1. Plaintiff repeats and reiterates the allegations set forth in the First, Second, Third, and Fourth Counts of the Complaint and incorporates same by reference herein.

2. R-3% residential development on the Dobbs tract is economically unfeasible by virtue of the fact that soil conditions would require the use of a sewerage treatment plant, which type of treatment is not economically viable for the residential development which would be required under the present zoning of the Dobbs tract.

3. R-3% residential development on the Dobbs tract is economically unfeasible.

4. As a direct result, the operation of the zoning ordinance and zoning map of defendant township has so restricted the use of the Dobbs tract and reduced its value so as to render said property unsuitable for any economically beneficial purpose, thereby constituting a de facto confiscation of said property.

5. For the foregoing reasons, the zoning ordinance and zoning map of defendant township are unconstitutional, null, and void in that they deprive plaintiff of the lawful use of his property without just compensation or due process of law.

WHEREFORE, plaintiff demands judgment against defendant township:

- A. Determining and adjudging defendant township's fair share of the present and prospective regional low and moderate income housing need;
- B. Determining and adjudging that defendant township has not provided a realistic opportunity for low and moderate income housing;
- C. Ordering defendant township to provide a builder's remedy to plaintiff for residential development in accordance with Count II hereof;
- D. Alternatively, ordering defendant township to provide a builder's remedy to plaintiff for office/commercial/residential development in accordance with Count III hereof;
- E. Declaring the zoning ordinance, zoning map and Master Plan of defendant township invalid as applied to the Dobbs tract;
- F. Compelling a rezoning of the Dobbs tract;
- G. Enjoining any action by defendant township to condemn the Dobbs tract or any portion thereof;
- H. Awarding plaintiff his costs of suit and attorneys' fees; and
- I. Granting plaintiff such further relief as the Court

deems just and proper.

WINNE, BANTA, RIZZI,
HETHERINGTON & BASRALIAN
Attorneys for Plaintiff
Leonard Dobbs

By: 
Joseph L. Basralian

Dated: May 10, 1984

Of Counsel:

Peter J. O'Connor, Esq.
510 Park Boulevard
Cherry Hill, New Jersey 08034

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - OCEAN COUNTY
DOCKET NO. L-28061-71PW and
L-36896-70PW

LYNN CEISWICK,
Plaintiff,
vs.
TWP. OF BEDMINISTER,
Defendant.

TRANSCRIPT OF PROCEEDINGS
JUDGE'S DECISION

OCEAN COUNTY COURTHOUSE
TOMS RIVER, NEW JERSEY
MAY 25, 1984

D E F O R E:

HONCRABLE EUGENE D. SERPENTELLI, J.S.C.

APPEARANCES:

RAYMOND R. TROMBADORE, ESQUIRE,
Attorney for Timber

KENNETH E. WEISER, ESQUIRE,
Attorney for Ceiswick

HENRY A. HILL, ESQUIRE,
Attorney for Hills and Deane

JOSEPH L. BASRALIAN, ESQUIRE,

-and-

PETER J. O'CONNOR, ESQUIRE,
DONALD A. KLEIN, ESQUIRE,
Attorneys for Dobbs

ALFRED FERGUSON, ESQUIRE

-and-

DANIEL F. O'CONNELL, ESQUIRE,
ROGER W. THOMAS, ESQUIRE
GARY HALL, ESQUIRE,
Attorneys for Bedminster

Reported by:
GLORIA HATHEY, C.S.R

1 THE COURT: All right. First let me say
2 that my ruling on the motion continues to be, and
3 what I consider to be, the unique posture of this
4 case. As counsel are aware, the order that has
5 been many times redrafted in this case has, at my
6 request, contained language in the last paragraph,
7 or maybe it's the next to last paragraph, but at
8 the end of the order, which indicates that the
9 order should not in any way be deemed as
10 precedential or as creating any inference that it
11 establishes policy with regard to other Mount
12 Laurel litigation, and what I'm about to say with
13 respect to the ruling on these motions is within
14 the same context.

15 I look at this case as being quite unique
16 and, along with the Urban League litigation that is
17 pending before me, as kind of in a different
18 category itself, and I would second caution that no
19 one infer too much from the order which I am going
20 to enter beyond what I say.

21 I'm going to give the Public Advocate and
22 the Township of Bedminster a period of thirty days
23 to present to the Court a settlement of the entire
24 litigation; that being inclusive of the Township's
25 fair share and a complete compliance package.

1 I would permit the compliance package to be
2 conditioned, and the settlement to be conditioned,
3 on one of two things: First, a ruling by the Court
4 that there is no right of builders remedy in either
5 Timber Properties or Dobbs, or a ruling by the
6 Court that there is a right to condemn as to Dobbs
7 and no right of builders remedy in Timber.

8 The ordinance revision must include adequate
9 over-zoning. It must not provide for phasing by
10 site availability, which I have previously found to
11 be unacceptable notwithstanding the recommendations
12 of the Master, and it must consider the
13 availability of sites most readily developable at
14 this time, including Dobbs and Timber.

15 Now, what I mean by the second condition,
16 that is, that it must not provide for phasing by
17 site availability, is that I deem it improper to
18 provide as a compliance package sites which are not
19 readily available if other sites are readily
20 available and usable for implementation of Mount
21 Laurel purposes.

22 As you'll recall, Mr. Raymond recommended
23 acceptance of a compliance package which included
24 sites that would not be usable for Mount Laurel
25 purposes into the 1990's. If those are the only

1 sites available in Bedminster, then that's the way
2 it has to be. But it's been represented to this
3 Court that there are other sites much more readily
4 available, and in my view that is a very
5 significant element in the selection of sites. I
6 don't preclude the possibility that there might be
7 one site more available and implemental at this
8 time than another which should be rejected because
9 of some sound planning or environmental purpose,
10 but the municipality would have to have the burden
11 of demonstrating that clearly to me before it could
12 be passed over in preference to a site for which
13 Mount Laurel housing would have to wait much
14 longer.

15 Now, if the Court finds that either a right
16 to condemn exists or there is no right to builders
17 remedy, a hearing will be held with notice to
18 Dobbs, Timber, and the public, why the settlement
19 should not be approved. At this time I will not
20 indicate the scope of that hearing. I will only do
21 that in the event we reach that point.

22 If the Court finds that there is either no
23 right to condemn and a right to a builders remedy
24 that is, if Bedminster may not condemn against
25 Dobbs, or there is a right of builders remedy in

1 Dobbs that may not be cut off by condemnation, or
2 that Timber has a right of a builders remedy, then
3 the application for intervention will be
4 reconsidered at that time.

5 Now, if no settlement is presented to the
6 Court within thirty days, I will then consider
7 granting Dobbs' motion to intervene and also
8 consider granting Timber's motion to intervene.

9 I want it to be clear that I am not now
10 deciding the appropriateness of a class action
11 concept or what procedures as it relates to Dobbs
12 or Timber would be appropriate if a settlement is
13 reached. I will decide that if, in fact, a
14 settlement is reached.

15 All right. Any questions as to the order
16 which I'm going to have Mr. Meiser prepare? Hoping
17 through the use of the Public Advocate to cut down
18 on some objections.

19 Yes, Mr. Hill.

20 MR. HILL: Your Honor, one question. There
21 have been references to a down-zoning of Timber.
22 Will the order carry anything either by implication
23 or directly as to the right of any property owner
24 within Bedminster who may be down-zoned as a result
25 of -- from their present zoning as a result of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

actions taken by Bedminster allegedly in compliance?

THE COURT: No. I think that's premature. Aside from Timber, assuming that one were to get to the issue of acceptance of a proposed settlement, there is going to have to be a general public notice and there may be others who are down-zoned, if we can put it in that posture. I don't want to rule in a vacuum as to the appropriateness of that.

Let me say that - somebody indicated, and I let it go only because I didn't want to interrupt that the Supreme Court has given the town carte blanche to do anything it wants once it meets its Mount Laurel obligation. I don't think that the Court intended to repeal by implication existing case law of the State of New Jersey with respect to the reasonableness of municipal conduct in its zoning powers. I concede that it did talk about the right of a town under proper circumstances to maintain large-lot zoning. I do not believe that it has indicated that once Mount Laurel is satisfied, that anything else it does is okay. And I can say only to that extent, in terms of guidance, that a town can't proceed to be totally arbitrary with respect to the rest of its zoning if

1 purposes only.

2 MR. TROMBADORE: Thank you, your Honor.

3 MR. BASRALIAN: Thank you, your Honor.

4 MR. FERGUSON: Just so there's no
5 misunderstanding, we don't intend to include Mr.
6 Dobbs or Timber in negotiations themselves.

7 THE COURT: I'm not suggesting you have to.

8 MR. FERGUSON: There is prior language in
9 the Court order that when we worked with the Master
10 and the parties, we must give notice to and include
11 Dobbs. For purposes of this hearing, I take it
12 that is inoperative.

13 THE COURT: Yes. I'm saying now is the time
14 to find out whether in fact the town wants to
15 settle its litigation. Let's find out what their
16 posture is specifically and then we'll go from
17 there. And I'm giving you the ability to go ahead
18 and propose your settlement.

19 MR. HILL: Your Honor, it's our
20 understanding that these negotiations are between
21 Ceiswick and the municipality. Allan Deane need
22 not participate.

23 THE COURT: Allan Deane cannot participate,
24 any more than the other two may not participate,
25 but Allan Deane will also be informed of any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

proposed settlement.

MR. HILL: That's Allan Deane, Hills, et
cetera.

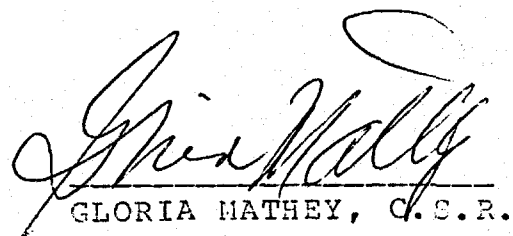
THE COURT: Yes. You used Allan Deane.
Anyone in their corporate representative
capacities.

All right. Thank you.

* * * * *

C E R T I F I C A T E

I, GLORIA MATHEY, a Certified Shorthand Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes.


GLORIA MATHEY, C.S.R.

FILED JUN 11 1984
E. D. SERPENTELLI, J.S.C.

JOSEPH H. RODRIGUEZ, PUBLIC ADVOCATE
DEPARTMENT OF THE PUBLIC ADVOCATE
BY: KENNETH E. MEISER, DEPUTY DIRECTOR
DIVISION OF PUBLIC INTEREST ADVOCACY
CN 850
TRENTON, NEW JERSEY 08625
(609) 292-1692

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SOMERSET COUNTY
DOCKET NOS. L-36896-70 P.W.
L-28061-71 P.W.

ALLAN DEANE CORPORATION, :
Plaintiff, :
and :

LYNN CEISWICK, APRIL DIGGS, :
W. MILTON KENT, GERALD :
ROBERTSON, JOSEPHINE ROBERTSON :
and JAMES RONE, :

Plaintiff-Intervenors, :
vs. :

TOWNSHIP OF BEDMINSTER and the :
TOWNSHIP OF BEDMINSTER PLANNING :
BOARD, :

Defendants. :

CIVIL ACTION

LYNN CEISWICK, APRIL DIGGS, :
W. MILTON KENT, GERALD :
ROBERTSON, JOSEPHINE ROBERTSON :
and JAMES RONE, :

ORDER

Plaintiffs, :
vs. :

TOWNSHIP OF BEDMINSTER, THE :
TOWNSHIP COMMITTEE OF THE :
TOWNSHIP OF BEDMINSTER and the :
ALLAN DEANE CORPORATION, :

Defendants. :

RECEIVED
JUN 15 1984

This matter having been brought before the Court on May 25, 1984, on the motion of Timber Properties and Leonard Dobbs to intervene, and upon the motion of Bedminster Township to compel the production of Leonard Dobbs' option agreement;

And Alfred Ferguson of McCarter and English and Daniel O'Connell of Lanigan, O'Connell & Chazin, appearing for Bedminster Township; and Roger Thomas appearing for the Bedminster Township Planning Board; and Henry Hill of Brener, Hill and Wallach appearing for Hills Development Co., and Kenneth E. Meiser, Deputy Director, Division of Public Interest Advocacy, Department of the Public Advocate appearing for Lynn Ceiswick, et al.; and Joseph Basralian and Donald Klein, both of Winne, Banta, Rizzi, Hetherington and Basralian, and Peter J. O'Connor appearing for Leonard Dobbs; and Raymond Trombadore of Trombadore and Trombadore appearing for Timber Properties;

And no good cause having been shown for the production of Leonard Dobbs' option agreement;

And good cause having been shown for the temporary denial of the motions to intervene and all objections to the entry of this order having been considered:

IT IS on this 11 day of June , 1984, ORDERED that:

1. The motion for the production of Leonard Dobbs' option agreement by Bedminster Township is denied;
2. Leonard Dobbs shall immediately submit an option agreement signed by both parties to the court;
3. Bedminster Township shall have the right to have a real estate expert appointed by the court at the expense of Bedminster

Township to review the option agreement and report whether it gives Leonard Dobbs a valid property interest.

4. The Ceiswick plaintiffs and Bedminster shall have thirty days to attempt to present to the court a settlement of the remaining issues in this case, including fair share and a compliance package. The settlement may be conditioned by Bedminster Township upon the court's determination that Timber and Dobbs have no right to a builder's remedy, or that Dobbs' property may be condemned and Timber has no right to a developer's remedy.

5. Any settlement must provide for adequate overzoning, and must consider the sites most readily available for development now unless good reasons for rejecting a readily available site are shown.

6. The motions of Dobbs and Timber to intervene are denied without prejudice; if there is no settlement within thirty days of the May 25, 1984 hearing, then the court may reconsider the intervention motions.

7. Dobbs, Timber and Hills shall be given copies of any written settlement proposal prepared by the Ceiswick plaintiffs or by Bedminster.

8. This order is based on the unique posture of this case and is not to be considered as having any precedential value; nor is this court making any final determination on the power of the parties to settle Mt. Laurel II litigation or passing upon the appropriateness of class action settlement precedents in Mt. Laurel II litigation.


EUGENE SERFENTELLI, J.S.C.

Mt. Laurel II Compliance Agreement

WHEREAS, this litigation was initiated by the filing of a Complaint by the Cieswick plaintiffs in 1971, followed by the consolidation with other litigation in 1973; and

WHEREAS these cases have been vigorously litigated by the parties; and

WHEREAS, Bedminster Township revised its zoning ordinance in 1980 with the assistance of the court-appointed Planning Master, George Raymond, after which an Order for Final Judgment on Issue of Defendant's Zoning Obligation and Order for Specific Corporate Relief was entered by the Honorable Thomas Leahy on March 20, 1981; and

WHEREAS, an appeal was taken from said order by the Cieswick plaintiffs, and the Appellate Division, by decision dated August 3, 1983, remanded the consolidated cases to the Honorable Eugene Serpentelli, specially-assigned Mt. Laurel judge, for consideration of all issues in light of the opinion of the New Jersey Supreme Court in Southern Burlington County N.A.A.C.P. v. Township of Mt. Laurel, 92 N.J. 158 (1983) ("Mt. Laurel II"); and

WHEREAS, Bedminster Township on its own initiative introduced proposed amendments to the zoning ordinance in September 1983 which would replace the "least cost housing" requirements with "affordable housing" requirements for purposes of

complying with the new standards created by the Mt. Laurel II decision; and

WHEREAS, Bedminster Township subsequently tabled action on the proposed amendments at the request of the Cieswick plaintiffs and agreed to enter into discussions with respect to the proposed amendments in order to voluntarily and amicably resolve all issues with respect to Bedminster Township's obligations under Mt. Laurel II; and

WHEREAS, the trial court entered a Case Management Order on November 3, 1983, which authorized and directed George Raymond to continue to function as the court-appointed Master and to (1) review the development application of Hills Development Corporation, successor in title to plaintiff Allan-Deane Corporation, and report to the Court whether the development proposal contained in said application complies with the requirements placed upon a developer receiving a builder's remedy under Mt. Laurel II, (2) review the fair share studies of Bedminster Township, materials submitted by the parties and the relevant planning facts of Bedminster Township and report to the Court on Bedminster Township's appropriate region, regional need, and fair share; and (3) review Bedminster Township's land development regulations, including recently proposed amendments, and report to the Court on whether said regulations make realistically possible the satisfaction of Bedminster Township's fair share; and

WHEREAS, the parties subsequently engaged in extensive settlement discussions, many of which included the participation of the Master; and

WHEREAS, the trial court entered an Order dated May 25, 1984, approving the builder's remedy for Hills Development Company, successor in interest to the Allan-Deane Corporation, and pursuant to said Order construction has already started on two-hundred-sixty (260) lower income housing units; and

WHEREAS, the Court by Order dated May 25, 1984, gave the Ceiswick plaintiffs and Bedminster Township thirty (30) days (subsequently extended for an additional two weeks) to attempt to resolve the remaining issues in the case; and

WHEREAS, the parties subsequently engaged in further settlement discussions with respect to all remaining issues; and

WHEREAS, the "consensus" Lerman methodology produces a fair share number for Bedminster Township of eight hundred nineteen (819); and

WHEREAS, Bedminster Township vigorously asserts that the consensus methodology is flawed in many respects and that its fair share number is substantially less; and that because of the special circumstances of Bedminster Township it should be permitted to phase in its fair share over a longer period than six (6) years; and

WHEREAS, resolution of this litigation will permit the

construction of lower income housing, while prolonged litigation would probably delay such construction and also consume considerable time and resources of the parties and the trial court; and

WHEREAS, the parties have agreed in order to settle this litigation to accept as Bedminster's fair share number six hundred fifty-six (656), which is eighty (80%) percent of eight hundred nineteen (819), and which the parties conclude is reasonable in light of the positions of the parties asserted in this litigation and the risks, uncertainties and delays of litigation; and

WHEREAS, Bedminster Township has proposed further amendments to its land development regulations and zoning map so as to make realistically possible the satisfaction of Bedminster Township's fair share obligation under Mt. Laurel II; and

WHEREAS, Bedminster Township has agreed to enact said amendments into law in accordance with the terms and conditions of this Agreement, upon court approval as set forth in this Agreement; and

WHEREAS, any strategy to meet the fair share number of Bedminster Township will require affirmative action by the New Jersey Department of Environmental Protection ("DEP") through expansion of either the Bedminster-Far Hills plant or the Environmental Disposal Corporation ("EDC") plant, or through approval of one or more new on-site treatment facilities, such as the one proposed by Leonard Dobbs; and

WHEREAS, the Dobbs' site is not readily available for development now because no construction could begin unless DEP granted approval of Dobbs' on-site treatment proposal and there is no indication that said approval could be readily obtained; and

WHEREAS, the Timber Properties' site is not readily available for development now because no construction could begin unless DEP granted approval for a plan for expansion of the Bedminster-Far Hills plant; and

WHEREAS, expeditious approval by DEP of any new project is most likely if there is a concerted effort by all parties to get a single proposal approved by DEP, rather than piecemeal efforts for DEP approval of three separate projects; and

WHEREAS, Bedminster Township has legitimate planning reasons for seeking to channel its future growth into the EDC franchise area; and

WHEREAS, Bedminster Township and EDC are in the process of entering into an agreement providing for cooperation with respect to an expeditious application by EDC to obtain approval for the expansion of the EDC treatment plant and franchise area; and

WHEREAS, all parties have agreed that a concerted cooperative effort by all parties to have DEP approve the expansion of the EDC plant offers the best strategy for most quickly providing sewer capacity to accommodate the construction of Bedminster

Township's entire fair share of low and moderate income housing;
and

WHEREAS, the areas chosen by Bedminster Township for lower income housing are consistent with principles of sound land use planning; and

WHEREAS, Bedminster's prior proposal, which is substantially similar to the proposal set forth in this Agreement, was approved by the master, George Raymond, and this Compliance Agreement provides an even stronger likelihood that the fair share will be achieved; and

WHEREAS, this Agreement provides the realistic opportunity for the construction of 900 lower income housing units, which constitutes an overzoning of more than 37% in excess of the agreed upon fair share number;

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions hereinafter provided, it is agreed by and between the Township and the Cieswick plaintiffs as follows:

1. This agreement is reached after due deliberation by all parties and upon the considered judgment of all parties based upon the advice of counsel and professional planning consultants that it is in the best interest of the public good and welfare to settle the aforesaid litigation upon the terms and conditions contained herein so as to meet the fair share obligation of the Township.

2. The Township agrees to enact into law, in accordance with the provisions of the Municipal Land Use Law, the amendments to the zoning ordinance and zoning map of the Township as set forth in Exhibit "A" attached hereto and made a part hereof, subject to the conditions set forth in paragraph 10 herein.

3. The zoning amendments provided for by this Agreement include senior citizen housing as a conditional use for certain designated areas, subject to the requirement that all units be affordable to lower income housing. In order to encourage and facilitate the construction of such housing, Bedminster Township agrees to cause or cause to be formed a nonprofit corporation whose purpose would be to seek funding from federal, state, charitable and other sources for the construction of one or more projects totalling at least 125 lower income housing units for senior citizens.

4. The parties agree that six hundred fifty-six (656) units represents the Township's fair share through the year 1990 and that the settlement permits the construction of nine hundred (900) units of low and moderate income housing.

5. On or before July 1, 1990, the Township shall, through its normal planning process, re-assess its housing needs to determine whether an opportunity for additional low and moderate income units is required pursuant to the then-applicable

statutory and case law and, if so, to take appropriate action in response thereto.

6. In the event that housing affordable to low or moderate income households in excess of the Township's fair share of 656 is constructed in the Township on or before July 1, 1990, or otherwise is added to or identified as a part of the Township's housing stock, the Township shall receive credit for each such additional unit towards satisfaction of any subsequent fair share or other housing obligation.

7. Commencing on September 15, 1984, or the date on which all the conditions set forth in paragraph 10 hereof shall have been satisfied, whichever is later (the "effective date"), and subject to an express determination by the trial court that the Township may lawfully do so, the Township agrees to enact ordinance provisions for the waiver of the following fees for the low and moderate income units in affordable housing developments:

(a) Subdivision and site plan application fees on a pro rata basis based upon the percentage of low and moderate income housing in the development.

(b) Building permit fees, except state fees.

(c) Certificate of Occupancy fees.

(d) Engineering fees on a pro rata basis based upon the percentage of low and moderate income housing in the development.

Provided, however, that the foregoing waiver shall not apply with respect to any fees which have been paid to the Township prior to the effective date or which are due and payable to the Township by any developer or applicant as of the effective date.

8. The Township agrees to require developers to utilize or establish mechanisms and procedures to ensure that units are marketed to and remain affordable by eligible lower income households.

9. The Township agrees to require applicants to provide written notice to the Department of The Public Advocate of any applications for conceptual, preliminary, or final approval by developers in the affordable housing zones, and of any preliminary or final approvals or denials, whether conditional or unconditional.

10. This Compliance Agreement is conditioned upon, and shall not be effective until (1) the approval by the trial court of the within agreement, including an express determination that neither Leonard Dobbs nor Timber Properties (or their successors in interest) is entitled to a builder's remedy or otherwise entitled to zoning for lower income housing; and (2) the entry by the trial court of a final judgment of Mt. Laurel II compliance including a six-year period of repose from Mt. Laurel litigation as provided for by the New Jersey Supreme Court in Southern

Burlington County N.A.A.C.P. v. Mt. Laurel Twp., 92 N.J. 158, 291-2 (1983).

11. Upon the construction and occupancy of sufficient units affordable to low and moderate income households under the ordinance provisions set forth as Exhibit A to satisfy the municipality's fair share of 656 and upon written notice to the Department of The Public Advocate, the Township may repeal or amend the ordinance provisions set forth in Exhibit A.

12. The municipality shall not zone, rezone, grant variances, or grant any preliminary or final site plan approval for townhouses, garden apartments or residential uses at gross densities higher than four (4) units per acre unless:

(a) the development is subject to a mandatory set-aside for units affordable to lower and moderate income households analogous to that contained in Exhibit A, or

(b) the municipality has met its fair share obligation as set forth in this Agreement.

13. Upon enactment into law, the low and moderate income housing provisions as set forth in Exhibit A shall not be repealed, amended or modified without prior notice to the Department of the Public Advocate, except as provided in paragraph 11 above. The Township agrees to submit any proposed amendments to the Public Advocate for review. If no written objections are received within ten (10) days thereafter, then the Township may

proceed with the adoption of the proposed amendments. If written objections are received within said time period, then the parties agree to attempt to amicably resolve any differences. If agreement cannot be achieved and the Public Advocate believes the proposed amendment will adversely affect the ordinance's compliance with the requirements of law, then the Public Advocate may by motion submit the issue to the trial court.

14. The parties hereto acknowledge and agree that this Compliance Agreement shall in no way be construed by any party in any other case as a model, guide or precedent, since this case reflects unique circumstances and was uniquely positioned as a matter which included many issues which were thoroughly litigated and largely decided prior to Mt. Laurel.

Date:

JOSEPH H. RODRIGUEZ,
Public Advocate
Attorneys for Plaintiffs

Attest:

Township of Bedminster

Date:

By: _____

BRENER, WALLACK & HILL

ATTORNEYS AT LAW

2-4 CHAMBERS STREET
PRINCETON, NEW JERSEY 08540

(609) 924-0808

CABLE "PRINLAW" PRINCETON
TELECOPIER: (609) 924-6236
TELEX: 837652

HARRY BRENER
HENRY A. HILL
MICHAEL D. MASANOFF**
ALAN H. WALLACK*

GULIET D. HIRSCH
GERARD H. HANSON
J. CHARLES SHEAK**
EDWARD D. PENN*
NATHAN M. EDELSTEIN*
THOMAS L. HOFSTETTER**
ROBERT W. BACSO, JR.*
EDWARD M. BERNSTEIN*
MARILYN S. SILVIA
THOMAS J. HALL
SUZANNE M. LAROBARDIER
ROCKY L. PETERSON
VICKI JAN ISLER
MICHAEL J. FECHAN

* MEMBER OF N.J. & D.C. BAR
** MEMBER OF N.J. & PA BAR
* MEMBER OF N.J. & N.Y. BAR
* MEMBER OF N.J. & FLA. BAR

July 5, 1984

FILE NO.

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

RE: Allan-Deane v. Bedminster settlement

Dear Judge Serpentelli:

On July 2, 1984 we received from Bedminster Township a copy of a proposed Agreement to be entered into between Bedminster Township and Environmental Disposal Corporation, regarding a proposed expansion of Environmental Disposal Corporation's franchise area and plant. The Agreement also contained provisions which would require Environmental Disposal Corporation to grant priority in allocating sewer capacity to low and moderate income housing developments. Today we received a copy of a Compliance Agreement between Bedminster Township and the Public Advocate. It is clear from a cursory review of both documents that a key part of the compliance package is Environmental Disposal Corporation's agreement to sewer certain areas to be rezoned.

Environmental Disposal Corporation is a public utility which happens to be wholly owned by The Hills Development Company, but which must operate under the rules and regulations of the Board of Public Utilities. They have a number of outstanding agreements relating to their financing and some other properties and we are in the process of reviewing those agreements to see what they can agree to. Environmental Disposal Corporation is not and never has been a party to this suit and, therefore, is not under this court's jurisdiction.

Your court should also note that there is presently pending before the Honorable Virginia Long of the Supreme Court of New Jersey a law suit brought by a developer against Environmental Disposal Corporation seeking sewerage so that they can construct an office building in the Pluckemin corridor in Bedminster. See Pluckemin Plaza, Inc. v. Environmental Disposal Corporation and The Hills Development Company, Docket No: C-1911-84.

This office is in the process of reviewing the existing litigation and commitments of Environmental Disposal Corporation, and the underlying Bureau of Public Utilities regulations and law in order to see whether we can construct an

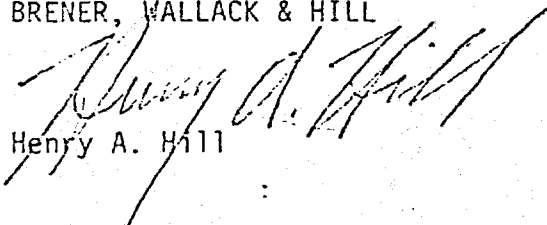
agreement under which The Hills Development Company, the existing contracts of Environmental Disposal Corporation and the rights, if any, of the litigants would be protected, and which would have some chance of being approved by the Board of Public Utilities. We have told Bedminster that we cannot get back to them with a counter proposal prior to Wednesday of next week, but that we are hopeful that their concern and the concern of others with regard to the sewerage, should additional properties to be rezoned, can be worked out satisfactorily with The Hills Development Company and consistently with Environmental Disposal Corporation's legal obligations.

The purpose of this letter is to advise the court that The Hills Development Company recommends an additional two week adjournment of the date set to bring this settlement package to the court. We also wish to put all parties on notice that any agreement between Environmental Disposal Corporation and Bedminster must be approved by the Bureau of Public Utilities and that to that extent any agreement must be conditional. You should also know that the draft agreement proposed by Bedminster is unsatisfactory and will not be entered into although we believe that it is possible to draft some agreement which will enable the municipality to apply for a judgment of compliance based on Environmental Disposal Corporation's agreement to sewer the rezoned areas and the application for plant expansion being approved. We may be able, however, within two weeks to have an agreement acceptable to Bedminster reviewed informally by the BPU staff although it is doubtful that we can obtain a formal approval from them within that period of time.

Although The Hills Development Company is not a formal party to the settlement being worked out between Bedminster and the Public Advocate, it appears that we are necessary to any proposed resolution by virtue of our ownership of Environmental Disposal Corporation. This office is working at top speed on these issues and can assure the court that we think this adjournment is necessary because of the technical nature of some of the issues which we have just been presented with. We, therefore, request an additional two weeks delay.

Respectfully yours,

BRENER, WALLACK & HILL


Henry A. Hill

HAA:k1p

CC: Al Ferguson, Esq.
Ken Meiser, Esq.
Raymond R. Trombadore, Esq.
Joseph L. Basralian, Esq.

BEDMINSTER TOWNSHIP
Somerset County · N. J.



MEETING ITS
"MT. LAUREL II"
HOUSING OBLIGATIONS

June 1984

PREPARED BY: Richard Thomas Coppola and Associates,
17 Candlewood Drive , P.O. Box 99
Princeton Junction, N.J. 08550
License #: 1378

EXHIBIT II

BEDMINSTER TOWNSHIP
SOMERSET COUNTY, NEW JERSEY

MEETING ITS "MT. LAUREL II" HOUSING OBLIGATIONS

TABLE OF CONTENTS

- SECTION 1: INTRODUCTION AND SUMMARY
- SECTION 2: SITE IDENTIFICATION MAP AND DEVELOPMENT POTENTIAL
- SECTION 3: PROPOSED ORDINANCE AMENDMENTS

Honorable Eugene D. Serpentelli
April 11, 1984
Page 5

with respect to the compliance hearing and with respect to Mr. Dobbs' entitlement to a builders remedy, that he should be treated as a party to these proceedings. Indeed Mr. Raymond has, in his Report, recommended that Bedminster condemn the Dobbs property. If formal intervention is required, then we can submit the appropriate papers. In any case, we believe that Mr. Dobbs should have the same rights to discovery and cross-examination in the future proceedings as would any other party in the Allan-Deane case. No other party is disposed to test the assumptions and conclusions of Mr. Raymond.

As we have indicated, Mr. Dobbs is a ready, willing and able developer who is capable of realistically providing low and moderate income housing without the delays which would attend development of most of the properties rezoned by Bedminster. Mr. Dobbs' property is suitable for low and moderate income housing, and his proposed sewerage treatment plant provides a unique and preferable way of enabling Bedminster to meet its present fair share obligation.

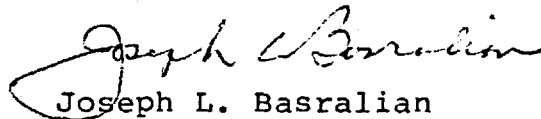
Mr. Dobbs has, in the context of the present proceedings, expended monies and effort equal to, if not greater than, that which would attend most litigations. Such effort has been essential, we believe, to the Court's receipt of balanced infor-

Honorable Eugene D. Serpentelli
April 11, 1984
Page 6

mation relevant to the determinations which Your Honor must ultimately make and necessary for a fair and objective judgment.

We expect that the foregoing matters will be on the agenda for Friday's Case Management Conference and we will be prepared to further discuss these matters at such time.

Very respectfully,


Joseph L. Basralian

cc: Mr. George M. Raymond, P.P.
Alfred L. Ferguson, Esq.
Richard F. Coppola, P.P.
Henry A. Hill, Jr., Esq.
Kenneth E. Meiser, Esq.
Herbert A. Vogel, Esq.

WINNE, BANTA, RIZZI,
HETHERINGTON & BASRALIAN
25 East Salem Street
Hackensack, New Jersey 07602
(201) 487-3800
Attorneys for Movant Leonard Dobbs

-----X SUPERIOR COURT OF NEW JERSEY
ALLAN DEANE CORPORATION, : LAW DIVISION: SOMERSET COUNTY
:

Plaintiff, and
:

LYNN CEISWICK, APRIL DIGGS,
W. MILTON KENT, GERALD
ROBERTSON, JOSEPHINE
ROBERTSON, and JAMES RONE,
:

DOCKET NOS. L-36896-70 P.W.
L-28061-71 P.W.

Plaintiff-Intervenors,
:

v.
:

TOWNSHIP OF BEDMINSTER and
the TOWNSHIP OF BEDMINSTER
PLANNING BD.,
:

Defendants.
:

CIVIL ACTION

-----X
LYNN CEISWICK, APRIL DIGGS,
W. MILTON KENT, GERALD
ROBERTSON, JOSEPHINE
ROBERTSON, and JAMES RONE,
:

Plaintiffs,
:

v.
:

TOWNSHIP OF BEDMINSTER,
THE TOWNSHIP COMMITTEE
OF THE TOWNSHIP OF
BEDMINSTER, and the ALLAN DEANE
CORPORATION,
:

CERTIFICATION OF LEONARD DOBBS
IN SUPPORT OF MOTION
TO INTERVENE

Defendants.
-----X

LEONARD DOBBS hereby certifies as follows:

1. I have, since August 29, 1979, without interruption, been the optionee of a tract of land (hereinafter "the Dobbs tract") consisting of approximately 200 acres located on River Road in the Township of Bedminster, to the immediate west of the junction of River Road and Routes 202-206 in said Township. The Option Agreement is being submitted under separate cover to the Court pursuant to the terms of a Protective Order previously entered by Judge Meredith.

2. The Dobbs tract is located almost entirely within a "growth area" in the Township of Bedminster as shown on the State Development and Guideline Plan.

3. The Dobbs tract is zoned for three percent residential development (a minimum of 3 acres per unit). Notwithstanding the arbitrariness and unreasonableness of this zoning, which renders development of this property economically unfeasible, the Township of Bedminster has not given consideration to any appropriate rezoning of this property, despite my repeated and continued requests.

4. Originally, I proposed that defendant township rezone the property to permit commercial development and any other such uses which defendant township and I would mutually consider appropriate. Defendant township's refusal to consider this alternative resulted in a litigation filed in the Superior

Court of New Jersey, Law Division, Somerset County (Docket No. L-12502-80), which is presently stayed. In August 1982 I submitted a plan to defendant township which incorporated mixed use elements for the site, including commercial, residential, municipal, and open space recreational. After the New Jersey Supreme Court decision in So. Burlington Cty. N.A.A.C.P. v. Mt. Laurel Tp., 92 N.J. 158 (1983) (hereinafter "Mt. Laurel II"), I modified my development proposal in June 1983 so that while substantially the same as the August 1982 proposal, the housing element included provision for a substantial amount of low and moderate income housing in accordance with Mt. Laurel II. Defendant township reportedly rejected these proposals, although no formal responses were made.

5. Since October 6, 1983, I have been permitted to participate in the above-captioned matter and to contribute my input and that of my counsel and technical experts with respect to fair share, region, and whether the defendant township has, in its proposed rezoning and affirmative efforts, realistically provided for low and moderate income housing. The input which I and my counsel and technical experts have provided has, I believe, been and will continue to be helpful to the Court and necessary to its ultimate determinations on the foregoing issues. Had it not been for such input, it is conceivable that defendant township's rezoning would have met Mt. Laurel II standards on paper only. Among other things, we have demonstrated and will demonstrate that, for the various reasons described in the

Complaint filed herewith, defendant township's proposed rezoning does not provide a realistic opportunity for low and moderate income housing sufficient to meet Mt. Laurel II standards. Of particular significance has been the contribution made with respect to the sewer question, particular deficiencies with defendant township's proposed sites, and the affordability ranges of the proposed housing, all of which I do not believe would have been adequately addressed absent our input.

6. In response to this Court's request, I submitted a residential proposal (Plan B in my February 7, 1984 submission). I have, since such time, been ready, willing, and able to proceed with such proposal, including pro rata contribution to the non-profit monitoring corporation, and I am still prepared to do so. Defendant township's response to the proposal was to threaten condemnation of the property in question and to purportedly "revive" a dormant application for Green Acres funds to pay for it.

7. One of my principal concerns over the past six months has been that the repose sought by defendant township in connection with the above-captioned litigation would effectively preclude development of the Dobbs tract for low and moderate income housing, a development which can provide the most immediate and practicable contribution toward defendant township's fair share obligation. In my proposed Complaint, in order to implement my development plan, I am seeking a Mt. Laurel II builder's remedy.

8. As my experts will demonstrate, the Dobbs tract is particularly appropriate for expeditious development of a substantial number of low and moderate income houses and, especially because of the on-site sewage treatment plant and disposal field which I have proposed, is vastly preferable to the various other sites which defendant township has chosen to rezone, most, if not all, of which are not realistically developable for housing at densities proposed, including low and moderate income housing.

9. Since October 1983, with the Court's permission and the knowledge of all parties, I have actively participated in this matter in accordance with the Case Management Conference Orders and the procedures and schedules set forth by the Court. Said schedule required all parties, including myself, to first address the issues related to the 1287 unit Hills project and then subsequently, after further conferences, to address compliance issues, including the appropriate zoning of the Dobbs tract. On April 13, 1984, at a Case Management Conference, the Court established a schedule for the filing of a formal intervention motion, which I have complied with.

10. I have reviewed the proposed Complaint filed herewith and the allegations set forth therein, and they are true of my own personal knowledge.

11. For the reasons referred to above and particularly the repose order sought by defendant township, I believe that I clearly have a protectable interest in the above-captioned

matter, which is not being adequately represented by existing parties and which will be significantly impaired and impeded if I am not permitted to intervene in this action.

12. I respectfully request that the Court grant my motion to intervene and permit me to file the Complaint submitted herewith.

Leonard Dobbs

Leonard Dobbs

Dated: May 10, 1984

WINNE, BANTA, RIZZI,
HETHERINGTON & BASRALIAN
25 East Salem Street
Hackensack, New Jersey 07602
(201) 487-3800
Attorneys for Plaintiff Leonard Dobbs

-----X
ALLAN DEANE CORPORATION, : SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: SOMERSET COUNTY
: Plaintiff, and :
: :
LYNN CEISWICK, APRIL DIGGS, :
W. MILTON KENT, GERALD : DOCKET NOS. L-36896-70 P.W.
ROBERTSON, JOSEPHINE : L-28061-71 P.W.
ROBERTSON, and JAMES RONE, :
: Plaintiff-Intervenors, :
: :
v. :
: :
TOWNSHIP OF BEDMINSTER and :
the TOWNSHIP OF BEDMINSTER :
PLANNING BD., :
: Defendants. :
-----X
LYNN CEISWICK, APRIL DIGGS, : CIVIL ACTION
W. MILTON KENT, GERALD :
ROBERTSON, JOSEPHINE :
ROBERTSON, and JAMES RONE, :
: Plaintiffs, :
: :
v. :
: :
TOWNSHIP OF BEDMINSTER, :
THE TOWNSHIP COMMITTEE : COMPLAINT IN LIEU OF
OF THE TOWNSHIP OF : PREROGATIVE WRIT
BEDMINSTER, and the ALLAN DEANE :
CORPORATION, :
: Defendants. :
-----X

EXHIBIT A

EXHIBIT EE

-----X
LEONARD DOBBS, :
:
Plaintiff, :
:
v. :
:
TOWNSHIP OF BEDMINSTER, :
:
Defendant. :
-----X

Plaintiff Leonard Dobbs, residing at 111 Central Avenue, Lawrence, New York, by way of Complaint against defendants, says:

FIRST COUNT

1. Plaintiff Dobbs is the optionee of a tract of land (hereinafter "the Dobbs tract"), consisting of approximately 200 acres, located on River Road in the Township of Bedminster, to the immediate west of the junction of River Road and Routes 202-206 in said township.

2. Defendant township is a municipal corporation organized and existing under the laws of the State of New Jersey and contains within its borders a "growth area" as shown on the State Development Guideline Plan (hereinafter "the SDGP").

3. The Dobbs tract is located almost entirely within the "growth area" as shown on the SDGP.

4. Pursuant to an Order of the Superior Court of New Jersey Law Division, Somerset County, in the action bearing Docket Nos. L-36896-70 P.W. and L-28061-71 P.W., entitled "Allan-Deane Corporation, et al. v. The Township of Bedminster, et al." (herein-

after the "Allan-Deane litigation"), defendant township formulated and adopted a revised zoning and land use ordinance, entitled "THE LAND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF BEDMINSTER" (hereinafter "zoning ordinance") for the purpose of regulating and limiting the use and development of land within its boundaries and, inter alia, effecting rezoning of certain lands to the immediate east and west of Routes 202-206 within defendant township, purportedly to provide for an appropriate variety and choice of low and moderate income housing as required by said Order of the Court.

5. Notwithstanding the fact that the Dobbs tract is located within the SDGP defined "growth area" and is contiguous to Routes 202-206, defendant township excluded the Dobbs tract from its recommended corridor definition accepted by Judge Leahy.

6. The corridor definition recommended by defendant township, at a time when defendant township knew of plaintiff's intention to develop the Dobbs tract, excluded the Dobbs tract on the basis of broad scale information related to environmental sensitivity, proved erroneous by more detailed site-specific information.

7. The true developing corridor of land within defendant township consists of the areas both to the east and west of Routes 202-206 which have been designated as a "growth area" on the SDGP and which have been similarly designated in the Somerset County Master Plan and the Regional Development Guide of the Tri-State Regional Planning Commission.

8. To date, defendant township has refused to voluntarily provide housing opportunities for low and moderate income persons and has only rezoned to purportedly provide such opportunities after being ordered to do so by the courts.

9. The housing opportunities for low and moderate income persons so provided by defendant township are insufficient to meet defendant township's fair share housing obligation.

10. Moreover, defendant township has not, in its rezoning, provided a realistic opportunity for low and moderate income housing, as sites rezoned by defendant township for low and moderate income housing, inter alia, lack off-site sewage treatment capacity, are presently developed, are difficult and costly to assemble (if indeed assembly is possible at all), have access and noise problems, and/or are not likely to be developed for low and moderate income housing by present owners. In addition, defendant township's regulations and procedures relating to such housing do not encourage such development and defendant township had failed to take necessary affirmative steps to make their plan for low and moderate income housing realistic.

11. Furthermore, in rezoning a minimum of sites so as to require 100% development of such sites in order for defendant township to meet its fair share obligation, defendant township has, contrary to the requirements of New Jersey law and of reasonable planning practice, failed to "overzone" and provide a cushion of additional sites which could be developed to meet defendant township's fair share obligation.

12. The zoning ordinance of defendant township and rezoning by defendant township are in violation of the requirement that zoning further and promote the general welfare, are arbitrary and unreasonable, and violate the substantive due process and equal protection requirements of the New Jersey and United States Constitutions, the provisions of N.J.S.A. 40:55D-1 et seq., and the mandates of the New Jersey Supreme Court in So. Burlington Cty. N.A.A.C.P. v. Mount Laurel Tp., 92 N.J. 158 (1983) (hereinafter "Mt. Laurel II").

SECOND COUNT

1. Plaintiff repeats and reiterates the allegations set forth in the First Count of the Complaint and incorporates same by reference herein.

2. Plaintiff commenced the within litigation against defendant township in November 1980, challenging, as arbitrary and unreasonable, the three-percent residential zoning of the Dobbs tract and defendant township's refusal to rezone the Dobbs tract or to afford plaintiff an opportunity to fairly present to defendant township his development proposal.

3. Prior to commencement of the within litigation, plaintiff requested that defendant township give consideration to rezoning a portion of the Dobbs tract for regional commercial and office development (with the remainder to be zoned for such

uses as would provide a balanced development plan), since such tract, by virtue of its proximity to the major arteries of traffic and its location within the developing corridor and "growth area", is well-suited for development which will enable defendant township to meet its obligation to provide necessary ancillary services and uses for its increasing population and that of the surrounding region.

4. Defendant failed to respond in any manner to such request by plaintiff or to the extensive expert reports submitted by plaintiff and refused plaintiff and his experts an opportunity to fairly present to defendant township, in detail, plaintiff's development proposal.

5. In August 1982, while the within litigation was stayed, plaintiff revised his development proposal to provide for planned unit development with commercial, residential, and other uses, as called for in revisions to the Master Plan of defendant township, defendant township having steadfastly refused to respond to plaintiff's proposed commercial and office development.

6. Again, defendant township failed to respond to such proposal and refused plaintiff the opportunity to fairly present his revised proposal.

7. Defendant township further demonstrated its refusal to consider plaintiff's development proposal and its effort to frustrate any development proposal by plaintiff by, among other things, the filing in February 1983 of an application for Green

Acres Program funds with respect to the Dobbs tract.

8. In June 1983, plaintiff detailed and defined the residential component of his planned unit development, providing for a low and moderate income housing component, which further enhanced the reasonableness of plaintiff's development proposal by addressing part of defendant township's Mt. Laurel II obligation.

9. In November 1983, plaintiff was granted leave, in connection with the Allan-Deane litigation, to participate in determinations to be made by the Court-appointed Master and by the Court concerning the definition of region and regional need for low and moderate income housing, the determination of defendant township's fair share obligation as to such regional need, and the decision as to whether defendant township's zoning ordinance, as revised, provides a realistic opportunity for low and moderate income housing.

10. In response to the Court's request, plaintiff submitted a revised development proposal, reflected as Plan B in a letter dated February 7, 1984, providing solely for residential development and, more particularly, providing for 232 low and moderate income units.

11. Plaintiff's proposed residential development is consistent with sound land use planning.

12. Absent plaintiff's proposed residential development, defendant township has not made realistic provision for low and moderate income housing sufficient to meet its fair share obligation.

13. Defendant township has not formally considered plaintiff's residential development proposal but rather has informally rejected it without affording plaintiff or the public any opportunity to be heard.

14. Notwithstanding the fact that defendant township permitted its earlier Green Acres application to remain dormant, defendant township, in response to plaintiff's residential development proposal, "revived" such application as a means of attempting to thwart consideration by the Court-appointed Master and the Court of plaintiff's development proposal.

15. Unlike virtually all of the owners of property rezoned by defendant township for low and moderate income housing, plaintiff is a ready, willing, and able developer, prepared to assist defendant township in meeting its fair share obligation for low and moderate income housing under Mt. Laurel II.

16. Unlike virtually all of the other properties rezoned by defendant township for low and moderate income housing, the Dobbs tract, by virtue of its size and potential development density, can be serviced expeditiously by on-site sewerage treatment with

subsurface discharge, thereby avoiding pollution of the North Branch of the Raritan River.

17. Plaintiff has significantly contributed to this Court's efforts to assure that defendant township will realistically meet its fair share obligation. Absent plaintiff's objections, for example, defendant township would likely meet its fair share obligation on paper only -- by rezoning sites which, because of the lack of off-site sewage treatment and the other factors referred to in paragraph 10 of the First Count hereof, are not realistically developable for low and moderate income housing.

18. Defendant township's failure to give consideration to rezoning of the Dobbs tract and yet its apparent willingness to entertain rezoning elsewhere on tracts less suitable than Dobbs have resulted in substantial detriment and monetary loss to plaintiff.

19. In light of all of the foregoing, plaintiff seeks a builder's remedy to provide a substantial amount of low and moderate income housing within defendant township as part of the development reflected in Plan B set forth in plaintiff's February 7, 1984 submission.

THIRD COUNT

1. Plaintiff repeats and reiterates the allegations set forth in the First and Second Counts of the Complaint and incorporates same by reference herein.

2. Defendant township has failed to utilize office/commercial development, with a low and moderate income housing component, as a realistic means of providing Mt. Laurel II housing.

3. Such mechanisms are appropriate to meet the Mt. Laurel II affordability standards and to make housing available to a broader range of eligible low and moderate income persons as required by Mt. Laurel II.

4. Such mechanisms enable Mt. Laurel II housing to be developed without the fiscal, market absorption, and population impacts necessitated by reliance solely on residential developments with 20% Mt. Laurel set asides.

5. Dobbs has, in the alternative, proposed a mixed office/commercial and residential development (Plan C in his February 7, 1984 submission).

6. Defendant township has arbitrarily rejected such alternative proposal.

7. Plaintiff, in the alternative, seeks a builder's remedy for office/commercial development, including a fair share housing component equivalent to or greater than that set forth in Count II.

FOURTH COUNT

1. Plaintiff repeats and reiterates the allegations set

forth in the First, Second, and Third Counts of the Complaint and incorporates same by reference herein.

2. The present classification of the Dobbs tract (R 3%), prohibiting, for example, its use for office/commercial development or denser residential development, is arbitrary and unreasonable and bears no reasonable relation to the public health, safety, and welfare of defendant township and its inhabitants and other inhabitants of the developing corridor.

3. Under the provisions of the zoning ordinance adopted by defendant township, the Dobbs tract is zoned exclusively for R-3% residential purposes.

4. The Dobbs tract lies in the immediate vicinity of major traffic arteries and public thoroughfares and was improperly excluded by defendant township from its definition of the developing corridor.

5. The low density zoning of the Dobbs tract makes the Dobbs tract undevelopable, since construction of an on-site sewage treatment facility is economically unfeasible at such low density and the soils on such tract are not suitable for septic systems, which would be required at such low density.

6. The zoning, zoning map and Master Plan adopted by defendant township, especially as applied to the Dobbs tract, constitute an improper and unlawful exercise of the police power, depriving plaintiff of his property without just compensation or due process of law, and are unconstitutional, null, and void.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

it's satisfied its Mount Laurel obligation.

Any other -- yes, Mr. Ferguson.

MR. FERGUSON: Yes. At what point in time will the Court determine whether there is or is not a builders remedy for the two -- the developers who seek intervention or as to the right of condemnation?

THE COURT: All right. I will only address that issue if I get a settlement package in thirty days, and then I will set a date for further proceedings in this matter. It might be that we'll have to have an initial hearing as to what proceedings or how we're going to proceed, and then set specific dates as to the determination of that issue.

I expect that the town will move promptly on its condemnation intentions, and if it doesn't do so, I will treat that as an abandonment of the condemnation and just deal with the builders remedy. I will just go ahead with the decision on intervention, and I'm going to bar condemnation at a certain point unless the town moves. I'm not going to set that date now, but I'm telling you up front that if you're serious about it, you've got to move.

1 MR. FERGUSON: The chain has started and we
2 will take each step along the way as soon as we
3 can.

4 THE COURT: You can accomplish that in a
5 thirty-day period. That's why I chose thirty days.
6 The statute sets as a minimum a fourteen-day period
7 for negotiations, requiring a notice and
8 negotiations, and you can accomplish all of that.
9 And it's been represented on the record it's going
10 to be fruitless as to Dobbs, and I believe that
11 before the return date of any further proceedings
12 here, it will either be clear -- it will be clear
13 that condemnation will be fruitless or you would
14 have resolved your lawsuit with Dobbs and the owner
15 of the property, one of the two.

16 MR. O'CONNELL: Your Honor, only one point.
17 The ordinance was introduced Monday night; public
18 hearing on June 18th. We can't legally negotiate
19 with anybody to offer them money that isn't yet in
20 place. That will not go into place until the
21 ordinance is adopted on the 18th, published, and
22 twenty days past a bond ordinance. So we have no
23 money.

24 THE COURT: Publication. The publication is
25 just a ministerial act. You publish it the next

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

day.

MR. O'CONNELL: But the statute says it is not effective. A bond ordinance is not effective until twenty days after that publication.

THE COURT: Make your offer anyhow, subject to the bond ordinance being unchallenged within that twenty-day period.

MR. O'CONNELL: We will do what ...

THE COURT: Mr. O'Connor, Mr. Meiser.

MR. MEISER: Just one question. I understand that you're really talking about a signed agreement between the Ceiswick plaintiffs and the Township, not merely some rezoning on their part, that's what you mean by a settlement. I just want it for drafting purposes. I want to be clear I understood that.

THE COURT: I'm talking about there being an agreement by the Public Advocate that it's willing to accept a fair-share number; that it accepts the compliance package proposed by the Township, and the Township in turn saying that it accepts the fair-share number and proposes the compliance package.

All right, Mr. O'Connor.

MR. O'CONNOR: Yes. The order that's before

1 you right now, we don't have a copy of, but it's my
2 understanding that is only on the 250, and all the
3 references to the 180 have been deleted?

4 THE COURT: Well, you're right, that it
5 settles the 250. There are references to the 180
6 and you're welcome to see the order. We're going
7 to continue -- I gather we're going to talk about
8 it after we finish this motion, and it essentially
9 says that the 180 will be given if the town gets
10 repose and, I guess by inference, if Dobbs and
11 Timber are out of the picture. In other words, if
12 the town has a Court-approved compliance package
13 satisfactory to the town, the matter could be
14 settled today if you weren't here, and I think
15 that's a fair characterization of the order. I
16 don't hear Mr. Ferguson objecting to that. May be
17 a little bit blunt, but that's what it says.
18 You're welcome to see the order.

19 Anything else?

20 All right. Thank you. And within the
21 thirty-day period we will notify Dobbs -- or,
22 after the thirty-day period we will notify Dobbs
23 and Timber. In the interim, any proposed
24 settlement, written proposed settlement, must be
25 presented to Timber and Dobbs for informational

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

it's satisfied its Mount Laurel obligation.

Any other -- yes, Mr. Ferguson.

MR. FERGUSON: Yes. At what point in time will the Court determine whether there is or is not a builders remedy for the two -- the developers who seek intervention or as to the right of condemnation?

THE COURT: All right. I will only address that issue if I get a settlement package in thirty days, and then I will set a date for further proceedings in this matter. It might be that we'll have to have an initial hearing as to what proceedings or how we're going to proceed, and then set specific dates as to the determination of that issue.

I expect that the town will move promptly on its condemnation intentions, and if it doesn't do so, I will treat that as an abandonment of the condemnation and just deal with the builders remedy. I will just go ahead with the decision on intervention, and I'm going to bar condemnation at a certain point unless the town moves. I'm not going to set that date now, but I'm telling you up front that if you're serious about it, you've got to move.

1 MR. FERGUSON: The chain has started and we
2 will take each step along the way as soon as we
3 can.

4 THE COURT: You can accomplish that in a
5 thirty-day period. That's why I chose thirty days.
6 The statute sets as a minimum a fourteen-day period
7 for negotiations, requiring a notice and
8 negotiations, and you can accomplish all of that.
9 And it's been represented on the record it's going
10 to be fruitless as to Dobbs, and I believe that
11 before the return date of any further proceedings
12 here, it will either be clear -- it will be clear
13 that condemnation will be fruitless or you would
14 have resolved your lawsuit with Dobbs and the owner
15 of the property, one of the two.

16 MR. O'CONNELL: Your Honor, only one point.
17 The ordinance was introduced Monday night; public
18 hearing on June 18th. We can't legally negotiate
19 with anybody to offer them money that isn't yet in
20 place. That will not go into place until the
21 ordinance is adopted on the 18th, published, and
22 twenty days past a bond ordinance. So we have no
23 money.

24 THE COURT: Publication. The publication is
25 just a ministerial act. You publish it the next

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

day.

MR. O'CONNELL: But the statute says it is not effective. A bond ordinance is not effective until twenty days after that publication.

THE COURT: Make your offer anyhow, subject to the bond ordinance being unchallenged within that twenty-day period.

MR. O'CONNELL: We will do what ...

THE COURT: Mr. O'Connor, Mr. Meiser.

MR. MEISER: Just one question. I understand that you're really talking about a signed agreement between the Ceiswick plaintiffs and the Township, not merely some rezoning on their part, that's what you mean by a settlement. I just want it for drafting purposes. I want to be clear I understood that.

THE COURT: I'm talking about there being an agreement by the Public Advocate that it's willing to accept a fair-share number; that it accepts the compliance package proposed by the Township, and the Township in turn saying that it accepts the fair-share number and proposes the compliance package.

All right, Mr. O'Connor.

MR. O'CONNOR: Yes. The order that's before

1 you right now, we don't have a copy of, but it's my
2 understanding that is only on the 250, and all the
3 references to the 180 have been deleted?

4 THE COURT: Well, you're right, that it
5 settles the 250. There are references to the 180
6 and you're welcome to see the order. We're going
7 to continue -- I gather we're going to talk about
8 it after we finish this motion, and it essentially
9 says that the 180 will be given if the town gets
10 repose and, I guess by inference, if Dobbs and
11 Timber are out of the picture. In other words, if
12 the town has a Court-approved compliance package
13 satisfactory to the town, the matter could be
14 settled today if you weren't here, and I think
15 that's a fair characterization of the order. I
16 don't hear Mr. Ferguson objecting to that. May be
17 a little bit blunt, but that's what it says.
18 You're welcome to see the order.

19 Anything else?

20 All right. Thank you. And within the
21 thirty-day period we will notify Dobbs -- or,
22 after the thirty-day period we will notify Dobbs
23 and Timber. In the interim, any proposed
24 settlement, written proposed settlement, must be
25 presented to Timber and Dobbs for informational

Introduction and Summary

INTRODUCTION AND SUMMARY

At the direction of Bedminster Township and in consultation with the Township professional staff and the Public Advocate's office, the material within this document has been prepared in support of the position that Bedminster Township has identified and addressed its "Mt. Laurel II" housing obligations and has formulated a compliance package of Ordinance amendments to fulfill its obligations.

Bedminster Township and the Public Advocate have agreed that, for purposes of finally settling this lengthy litigation, six hundred fifty-six (656) "low" and "moderate" income dwelling units represents a reasonable 'fair share' number for Bedminster Township; being eighty percent (80%) of the 'fair share' number which results from the "consensus" methodology developed in other litigation. Moreover, this number is a reasonable compromise in light of Bedminster Township's opposition to certain aspects of the "consensus" methodology and Bedminster Township's position that its 'fair share' number should be significantly lower. However, rather than litigating these issues, the parties have agreed to the compromise 'fair share' number which is reasonable, workable and achievable from a planning viewpoint. Additionally, Bedminster Township agrees to immediately enact zoning provisions to accommodate the entire 'fair share' number, including a substantial overzoning in order to make realistically possible the construction of six hundred fifty-six (656) "low" and "moderate" income dwelling units.

SITE IDENTIFICATION and DEVELOPMENT POTENTIAL

The map included in this section of the document identifies those thirteen (13) land parcels relevant to Bedminster Township's "Mt. Laurel II" compliance package. An accompanying chart calculates the development potential of the subject properties. The calculations were prepared utilizing tax map information as well as planimetered measurements of "critical areas", as that term is specifically defined in the Land Development Ordinance of Bedminster Township. The chart indicates the total acreage of each identified parcel; its "critical" acreage; and its "non-critical" acreage. Thereafter, the total number of "Mt. Laurel" affordable dwelling units required under the terms of the proposed compliance package are tabulated.

PROPOSED COMPLIANCE PACKAGE and ORDINANCE AMENDMENTS

The final section of this document summarizes in tabulated form the "Mt. Laurel" multiple-family units which will result via the implementation of the proposed compliance package. As noted, parcels A, B, C, D, E, F, and G yield 770 "Mt. Laurel" dwelling units and, the development of any one of the four (4) possible Senior Citizen sites will yield an additional 90 units; generating a total of at least 860 "Mt. Laurel" dwelling units. Parcels H and I will yield an additional 40 "Mt. Laurel" dwelling units; generating a total of at least 900 "Mt. Laurel" dwelling units. The 770 total is 117% of the 656 'fair share' number; 860 is 131% of that number; and the 900 total is 137% of the 'fair share' number.

Certain additional aspects of the compliance package deserve emphasis. First, the Township agrees to cause the creation of a non-profit sponsor for the construction of subsidized senior citizen housing and has identified four (4) potential sites for the construction of the subsidized senior citizen housing; two in Pluckemin Village and two in Bedminster Village. From a planning viewpoint, the preferred site is within the "VN" District in Pluckemin Village. However, recognizing that the cost for land acquisition may be a significant stumbling block, the proposed Ordinance provisions provide a Floor Area Ratio intensity bonus within the "CR" District located at the southwest corner of the Lamington Road/Route 206 intersection. The end result of the F.A.R. bonus will be the dedication of approximately six (6) acres of land area to the Township, which acreage could be used for the location of a subsidized senior citizen housing development.

ADDITIONAL PROPOSED ORDINANCE CHANGES

The variable lot size "single family clusters" on a portion of the so-called 'Timbers' property and a portion of the so-called 'Dobbs' property are the outcome of discussions at the Planning Board level which began during the formulation of the "Part II: Development Plan" portion of the Master Plan, dated August 1982. As indicated on page 8 of the Plan, "modification to the cluster options currently permitted within the "R-3%" District" was recognized as an item for further study. The specific provisions included in the proposed Ordinance amendments provide for a gross residential density of one (1) dwelling unit per acre, with the reduction in individual lot sizes to one third to three quarter ($1/3$ - $3/4$) acres in area, with an average lot size of one-half ($1/2$) acre.

It also should be understood, as the minutes of the Master Plan Subcommittee of the Planning Board indicate, that the so-called 'Dobbs' property has been under consideration as the location of a municipal complex since 1982. The advantage of this site for a municipal complex and municipally owned open space and recreational lands is its proximity to the relatively intense and dense residential and non-residential development occurring and expected to occur within Pluckemin Village, coupled with its visual and traffic access separation from the State highway.

SITE IDENTIFICATION MAP · June 1984

Lands Relevant to Bedminster Township's "Mt. Laurel II" Compliance Package



DEVELOPMENT POTENTIAL OF "MT. LAUREL II" COMPLIANCE PACKAGE LAND AREAS
BEDMINSTER TOWNSHIP, SOMERSET COUNTY, NEW JERSEY

Parcel	Total Acreage	(at 1/5 du/acre)		Acreage: Non-Critical (at max. permitted density)	Total Units	No. of 'Affordable' Units
		Slope 15% or greater	Flood Hazard (500 year)			
<u>A</u> PUD-10					1,287 du	260 du
			T H E H I L L S P U D*			
<u>B</u> PRD-8					max. 928 du	180 du
			T H E H I L L S P R D*			
<u>C</u> PUD-10	17.180	0	0	17.180 17.180 x 10 = 171.80 du	172 du	34 du
<u>D**</u> MF-12	14.800	0	0	14.800 14.800 x 12 = 177.60 du	177 du	35 du
<u>E</u> PUD-10	73.250	13.552 13.552/5 = 2.71 du	0	59.698 59.698 x 10 = 596.98 du	599 du	120 du
<u>F</u> PUD-10	31.791	6.198 6.198/5 = 1.24 du	0	25.593 25.593 x 10 = 255.93 du	257 du	51 du
<u>G</u> PUD-10	51.767	6.941 6.941/5 = 1.39 du	0	44.826 44.826 x 10 = 448.26 du	449 du	90 du
<u>H</u> PRD-6	13.582	4.958 7.767/5 = 1.55 du	2.809	5.815 5.815 x 6 = 34.89 du	36 du	7 du
<u>I**</u> MF-12	24.769	0.578 0.578/5 = 0.12 du	0	24.191 24.191 x 12 = 290.29 du	290 du (165 prob-able)***	58 du (33 prob-able)***

* See May 25, 1984 Order entered by the Honorable Eugene D. Serpentelli, J.C.S.

** Subsidized Senior Citizen Housing allowed @ 15du/ac.

*** The "probable" numbers are used for purposes of all 'fair share' calculations, based upon discussions with the Public Advocate's Office and reports by the Court Appointed Master.

(continued)

DEVELOPMENT POTENTIAL OF "MT. LAUREL II" COMPLIANCE PACKAGE LAND AREAS
BEDMINSTER TOWNSHIP, SOMERSET COUNTY, NEW JERSEY

<u>Parcel</u>	<u>Total Acreage</u>	<u>Development Potential</u>	<u>Total Units</u>	<u>No. of 'Affordable' Units</u>
<u>J</u> <u>OR</u>	approx. 23.5	179,000 sq. ft. * office/research space (0.175 F.A.R.)	*	*
<u>K**</u> Single Family Cluster	approx. 41.2	41 single family detached dwellings in clustered format	41 du	-
<u>L</u> Single Family Cluster	approx. 137.5 (37.5 critical and 100.0 non- critical)	108 single family detached dwellings in clustered format	108 du	-
<u>M**</u> <u>VN</u>	9.8 acres	retail and service commercial and mixed residential	varies	-

* In an effort to generate land area for the development of subsidized senior citizen housing, the developer of Parcel J may increase the square footage of the office/research space on the 23.5 acre parcel, provided that for every additional 7,623 square feet of space, an acre of land within Parcel K be dedicated to the Township for 'public purpose uses' and, provided further, that no less than four (4) such acres nor more than six (6) such acres be dedicated in this manner. If the full six acres were dedicated, the total square footage of office/research space permitted on the 23.5 acres would be approximately 225,000 square feet (0.220 F.A.R.).

** Subsidized Senior Citizen Housing allowed @ 15du/ac.

PROPOSED REZONING OF
IDENTIFIED LAND AREAS

BEDMINSTER TOWNSHIP, NEW JERSEY
JUNE 1984

<u>PARCEL</u>	<u>EXISTING ZONING</u>	<u>PROPOSED ZONING</u>	<u>PROPOSED TOTAL UNITS MULTI-FAMILY</u>	<u>PROPOSED "MT. LAUREL" MULTI-FAMILY</u>
A	R $\frac{1}{2}$ /PUD	R $\frac{1}{2}$ /PUD	1,287 du	260 du
B	R $\frac{1}{2}$ /Cluster	R $\frac{1}{2}$ /PRD-8 (max 928 du)	@ 928 du	180 du
C	R $\frac{1}{2}$ /PUD	R $\frac{1}{2}$ /PUD	172 du	34 du
D	MF	MF (Senior Cit. Option)	177 du (or 125 Senior Cit. + 78 du)	35 du (or 141 du)
E	R $\frac{1}{2}$ /PUD	R $\frac{1}{2}$ /PUD	599 du	120 du
F	R-3%/PUD	R-3%/PUD	257 du	51 du
G	R $\frac{1}{2}$ /PUD	R $\frac{1}{2}$ /PUD	449 du	90 du
H	R $\frac{1}{2}$ /PRD-6	R $\frac{1}{2}$ /PRD-6	36 du	7 du
I	MF	MF (Senior Cit. Option)	165 du (or 125 Senior Cit. + 65)	33 du (or 138 du)
J	R-1/PRD-8	CR	0	0*
K	R-1/PRD-8	R-1/SF Cluster (and possible Senior Cit. site)	0	0 (or 90 du)
L	R-3%	R-1/SF Cluster	0	0
M	VN	VN (Senior Cit. Option)	0 (or 125 Senior Cit.)	0 (or 125 du)

* Up to six (6) acres of land in Parcel K may be dedicated for a Subsidized Senior Citizen Housing site as a result of the development of Parcel J.

Therefore, Parcels A, B, C, D, E, F, and G yield 770 "Mt. Laurel" dwelling units and the development of any one of the four (4) possible Senior Citizen sites will yield an additional 90 units; generating a total of at least 860 "Mt. Laurel" dwelling units. Parcels H and I will yield an additional 40 "Mt. Laurel" dwelling units; generating a total of at least 900 "Mt. Laurel" dwelling units. The 770 total is 117% of the 656 "fair share" number; 860 is 131% of that number; and the 900 total is 137% of the "fair share" number.

Proposed Ordinance Amendments

PROPOSED ORDINANCE AMENDMENTS
BEDMINSTER TOWNSHIP, NEW JERSEY

1. Add new Subsections 13-404.1 h. and 13-405.1 h.

"h. Senior Citizen Housing as a conditional use under N.J.S.A. 40:55D-67 (see Section 13.601 for standards).

2. Change 13-601.2 in its entirety to read:

13-601.2 Senior Citizen Housing.

- a. No site shall contain less than four acres.
- b. The maximum residential density shall not exceed fifteen dwelling units per gross acre.
- c. No dwelling unit shall contain more than two bedrooms except that a dwelling unit for a resident manager of the building may contain more than two bedrooms.
- d. Individual dwelling units shall meet the minimum design requirements specified by the New Jersey Housing Finance Agency.
- e. The maximum building height shall not exceed 35 feet and three (3) stories.
- f. A minimum 1.0 parking spaces shall be provided for each dwelling unit except that a lesser number, as determined by the subsidizing governmental authority, can be paved.
- g. A land area or areas equal in aggregate to at least 250 square feet per dwelling unit shall be designated on the site plan for the recreational use of the residents of the project; except that where a project is located within 300 feet of any existing or previously approved park or recreational area, the Planning Board may waive this requirement at the time of site plan review.
- h. Prior to any Township site plan approval, the following prerequisites shall have been accomplished:
 1. Verification that there are or will be adequate utility services and support facilities for the project, including transportation facilities and commercial establishments serving everyday needs, within a one mile walking distance of the proposed site.
 2. Assurance that the occupancy of such housing will be limited to households, the single member of which, or the husband and/or wife of which, or any of a number of siblings or unrelated individuals of which, or a parent of children of which, is/are 62 years of age or older, or as otherwise defined by the Social Security Act, as amended, except that this provision shall not apply to any resident manager and family resident on the premises.

3. Verification of conceptual approval of the project by any State or Federal agency which finances or assists the financing or operation of such housing.

4. A bona fide non-profit or limited dividend sponsor shall have been established and approved by the subsidizing governmental authority to develop the project.

5. Assurance that all dwelling units are rented or sold only to low and moderate income households and that such units will continue to be occupied by low and moderate income households for a period not less than 30 years.

3. Add new Subsection 13-606.1 e. to read:

"e. Single-family clusters are permitted on tracts of land at least fifty acres in area where indicated on the zoning map."

4. Add new Section 134-606.6 to read:

"13-606.6 Single Family Clusters.

a. Principal permitted uses on the land and in buildings.

1. Detached dwelling units.

2. Public playgrounds, conservation areas, parks and public purpose uses.

3. Public utility uses as conditional uses under N.J.S.A. 40:55D-67 (see Section 13-601 for standards).

b. Accessory uses permitted.

1. Private residential swimming pools in rear yard areas only (see Section 13-514).

2. Private residential tool sheds not to exceed 15 feet in height.

3. Boats on trailers and campers to be parked or stored and located in rear or side yards only. Their dimensions shall not be counted in determining total building coverage, and they shall not be used for temporary or permanent living quarters while situated on a lot.

4. Usual recreational facilities.

5. Off-street parking and private garages (see Section 13-508).

6. Fences and walls not exceeding six feet in height in rear and side yard areas and three feet in height in front yard areas (see Section 13-503).

- 7. Signs (see Section 13-512).
- 8. Residential agriculture (see Section 13-201 for definition).
- 9. Home office occupations (see Section 13-201 for definition).
- c. Maximum building height. No detached dwelling shall exceed 35 feet and two and one-half stories in height.
- d. Maximum number of dwelling units permitted. The number of dwelling units permitted within a single-family cluster is equal to one dwelling unit per acre of non-critical land on the tract plus a transfer of an additional one-fifth dwelling unit per acre from the critical lands within the tract to the non-critical areas.
- e. Area and yard requirements.

Principal Building

Minimum

Lot area	14,500 sq. ft. minimum and 33,000 sq. ft. maximum, with an average lot size no less than 22,000 sq. ft.
Lot frontage	100'
Lot width	100'
Lot depth	125'
Side yard (each)	20', except 10' for an attached garage
Front yard	40'
Rear yard	30'

Accessory Building

Minimum

Distance to side line	10'
Distance to rear line	15'
Distance to other buildings	10'

Maximum

Building coverage of principal building	10%
Building coverage of accessory building(s)	2%

f. Minimum off-street parking.

- 1. Each detached dwelling unit shall be provided with no less than two off-street parking spaces and no parking space or driveway shall be located within six feet of any property line.
- 2. See Section 13-508 for additional standards.

g. Permitted signs.

1. Detached dwelling: Information and direction signs as defined in subsection 13-512.1e.
2. See Section 13-512 for additional standards.

h. Open space requirements. See subsection 13-606.5 hereinabove.

5. Change Subsection 13-606.3.i. in its entirety to read:

- i. Low and moderate income housing requirements. At least twenty percent (20%) of the total number of residential dwellings within a development shall be subsidized or otherwise made affordable to low and moderate income households as discussed and defined in the "Mt. Laurel II" Supreme Court Decision (So. Burlington Cty. N.A.A.C.P. v. Mt. Laurel Tp., 92 N. J. 158 (1983). The applicant shall submit, with the application for development, a narrative description of the mechanism to be used to insure that the required affordable dwelling units are rented or sold only to low and moderate income households and that such units will continue to be occupied by low and moderate income households for a period not less than 30 years. In addition to such description, actual samples of language to be included in the nature of covenants shall be submitted. The submitted description shall detail the entity or entities responsible for monitoring the occupancy of the low and moderate income units and shall provide a detailed discussion concerning resales, permitted increases in price, pre-qualification of occupants, etc. Every affordable unit shall be sold at a monthly carrying cost (including mortgage, taxes, owners association fees and insurance, but excluding utilities) not exceeding 28% of the earning limits calculated for low and moderate income households or rented at a monthly carrying cost (including utilities) not exceeding 30% of those earning limits; provided that the sales prices and rent levels shall be set so that units shall be affordable not only by households at the ceiling income for low income households and moderate income households, respectively, but by a reasonable cross-section of households within each category. For purposes of this Ordinance, "low income households" are those earning less than 50% of the median income calculated for the 11 northern New Jersey counties, utilizing HUD median family income data weighted by the number of families in each county, exclusive of any area outside of New Jersey, and adjusted for household size. "Moderate income households" are those earning between 50% and 80% of the calculated median income figure.

1. At least 25 percent of the required 20 percent shall be rental units subsidized in accordance with available subsidy programs authorized and regulated by the Federal Department of Housing and Urban Development or the New Jersey Housing Finance Agency. If no subsidy programs are available, this fact shall be certified to the Planning Board, and the rental

units shall be restricted in size to be no larger than 15 percent greater in area than the minimum net habitable floor area as specified by H.U.D. as a minimum for a particular unit. In any case, the developer shall insure that 50% of said rental units shall be provided for low income households and 50% for moderate income households. Moreover, not less than 20 percent of the units shall have three (3) bedrooms.

2. At least 25 percent of the required 20 percent, and such additional units as may be required to achieve the low and moderate income housing requirements within the development, shall be dwellings for sale. The developer shall insure that 50% of said sale units shall be provided for low income households and 50% for moderate income households. Moreover, not less than 20% of the units shall have three (3) bedrooms.
3. If the Planning Board determines, upon proofs submitted by the applicant, that low and moderate income housing units are more likely to be produced by the waiver of the mix requirements set forth in subsections 13-606.3i.1. and 13-606.3i.2. hereinabove, the Planning Board may, subject to such appropriate conditions as it may impose, permit the applicant to provide only rental or only sale units; provided, however, that if only sale units are proposed, the applicant shall be responsible for eliminating the necessity of down payments to be made on at least twenty-five percent (25%) of the affordable units.
4. A developer may request the Planning Board and/or the Township to waive or modify requirements of the land development Ordinance (except with respect to permitted densities), or to take other actions authorized by law, if the developer believes that such actions are necessary to provide the twenty percent (20%) 'low' and 'moderate' income housing. If such relief is sought, a developer must choose one of three impartial housing experts from a list prepared by the Planning Board and have the expert make recommendations, at the expense of the developer, on the necessity for the proposed waivers, modifications or other actions. The designated housing expert may, if necessary, utilize the services of an accountant, housing economist or similar professional, also at the expense of the developer. The developer shall provide the Township, Planning Board and the expert, and any persons assisting the expert, Township or Planning Board, with copies of, and full access to, all the developer's information and records, including, but not limited to, all financial records, actual costs and projections concerning the proposed development. The expert shall conduct an investigation and make findings with respect to the following:
 - a. The financial feasibility of the proposed development without any modifications of the applicable regulations or other municipal action.

- b. The potential for cost savings through modifications to the proposed development plan which would not require the waiver or modification of applicable regulations or other municipal action.
- c. The potential for cost savings through the waiver or modification of any applicable regulations to the extent not necessary to protect public health or safety or through other municipal actions permitted by law.
- d. The relationship, under the circumstances, between sound principles of land use planning and any potential modifications of the development plan and/or the applicable regulations.

The expert shall prepare a preliminary report setting forth the preceding findings and recommending any modifications of the development plan or the applicable regulations or any other actions deemed necessary in order to provide the twenty percent (20%) lower income housing units. Said recommendations shall give preference to any actions or modifications by the developer before recommending any municipal waivers or actions. The developer, Planning Board and Township may review and comment upon the preliminary report, and the expert may revise the report and recommendations or conduct further studies in response to any comments or criticisms received. In the event that the expert determines that, even after any recommended actions, it is not economically feasible for the developer to provide the full amount of affordable 'low' and 'moderate' income units, the expert may recommend that the developer provide twelve percent (12%) moderate income and eight percent (8%) low income units. Such a modification in the 'low' and 'moderate' income obligation shall not be approved unless the Planning Board, Township and developer have substantially complied with the recommendations to reduce costs. The recommendations shall not be binding upon the Township or Planning Board, but in the event that the Planning Board or Township declines to accept one or more recommendations of the expert, it shall detail its reasons in writing. All the costs and expenses of the housing expert and consultant(s) employed by the expert shall be paid by the applicant.

- 6. Change subsection 13-606.4j. in its entirety to read:

j. Low and moderate income housing requirements. See Subsection 13-606.3 i. for requirements.

- 7. Add a new subsection 13-404.7 to read:

13-404.7. Low And Moderate Income Housing Requirements. See Subsection 13-606.3 i. for requirements.

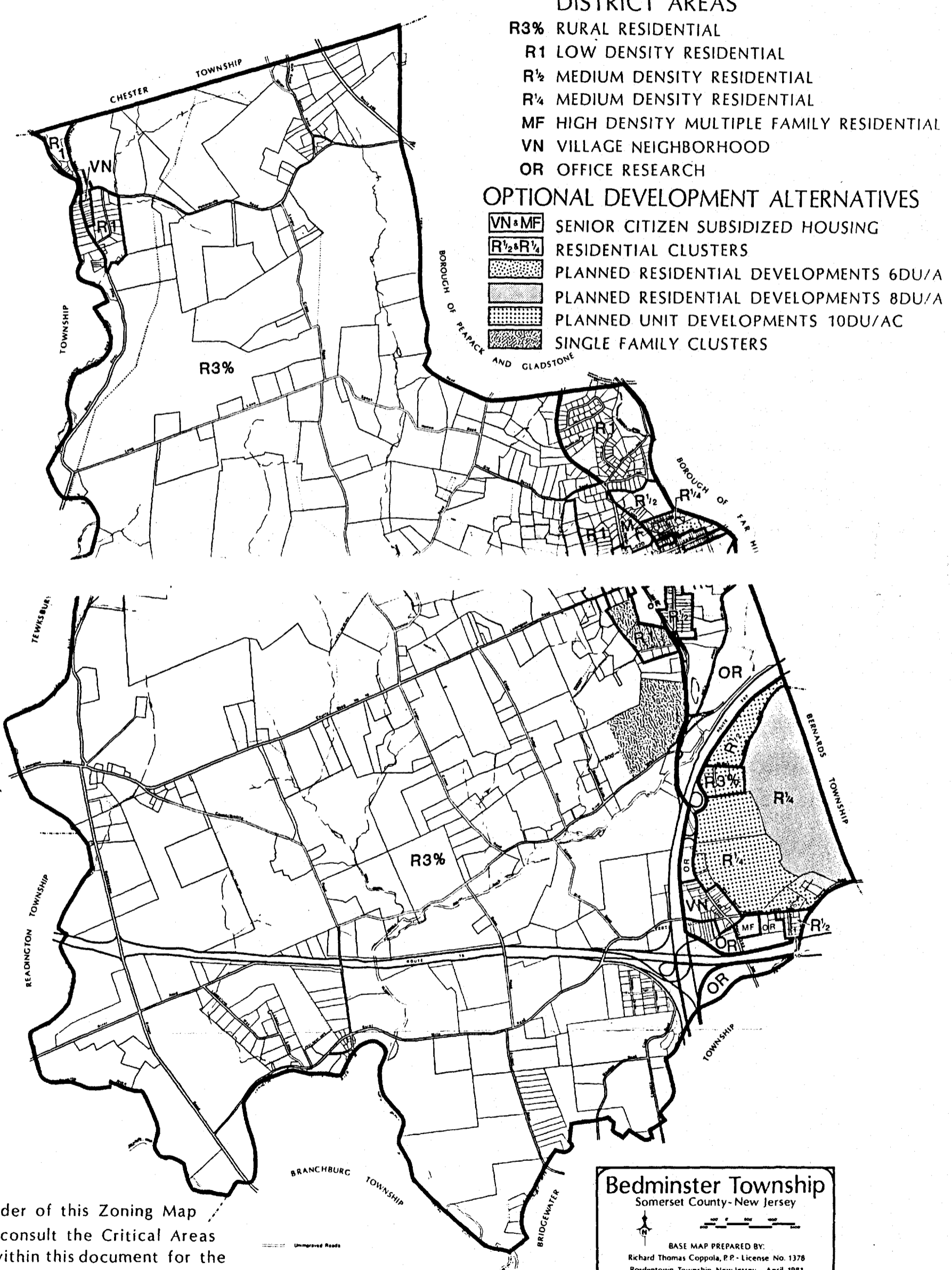
8. Add a new footnote "(4)" to the "Floor area ratio" portion of the chart within Section 13-406.4, Area and Yard Requirements for the 'CR' District, to read as follows, and change the existing footnote "(4)" to become footnote "(5)":

"(4) A developer may increase the square footage of the office/research space on any tract in excess of twenty (20) acres in size zoned "CR", provided that for every additional 7,623 square feet (0.175 F.A.R. X's 43,560 sq. ft. [1 ac.]) of space, an acre of land adjacent to the subject "CR" tract is dedicated to the Township for "public purpose uses" and, provided further, that no less four (4) such acres, nor more than six (6) such acres, be dedicated in this manner.

9. The Zoning Map is changed as attached herewith and dated June 1984.

ZONING MAP

JUNE 1984



DISTRICT AREAS

- R3% RURAL RESIDENTIAL
- R1 LOW DENSITY RESIDENTIAL
- R $\frac{1}{2}$ MEDIUM DENSITY RESIDENTIAL
- R $\frac{1}{4}$ MEDIUM DENSITY RESIDENTIAL
- MF HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL
- VN VILLAGE NEIGHBORHOOD
- OR OFFICE RESEARCH

OPTIONAL DEVELOPMENT ALTERNATIVES

- VN+MF** SENIOR CITIZEN SUBSIDIZED HOUSING
- R $\frac{1}{2}$ +R $\frac{1}{4}$** RESIDENTIAL CLUSTERS
- [Pattern]** PLANNED RESIDENTIAL DEVELOPMENTS 6DU/A
- [Pattern]** PLANNED RESIDENTIAL DEVELOPMENTS 8DU/A
- [Pattern]** PLANNED UNIT DEVELOPMENTS 10DU/AC
- [Pattern]** SINGLE FAMILY CLUSTERS

NOTE: The reader of this Zoning Map should consult the Critical Areas Maps within this document for the location of "critical areas" as defined and controlled by Section 13-605 of the Land Development Ordinance of the Township of Bedminster.

Bedminster Township
Somerset County - New Jersey

BASE MAP PREPARED BY:
Richard Thomas Coppola, P.P. - License No. 1378
Bordentown Township, New Jersey - April, 1981

WINNE, BANTA, RIZZI, HETHERINGTON & BASRALIAN
COUNSELLORS AT LAW

25 EAST SALEM STREET

P.O. Box 647

HACKENSACK, NEW JERSEY 07602

BRUCE F. BANTA (1932-1983)
JOSEPH A. RIZZI**
PETER G. BANTA*
ROBERT A. HETHERINGTON, III
JOSEPH L. BASRALIAN
EDWARD H. MILLER, JR.
JOHN P. PAXTON
DONALD A. KLEIN
ROBERT M. JACOBS
T. THOMAS VAN DAM
ANDREW P. NAPOLITANO
RAYMOND R. WISS+

V. ANNE GLYNN MACKOUL+
THOMAS B. HANRAHAN
KEVIN P. COOKE
CYNTHIA D. SANTOMAURO
ADOLPH A. ROMEI

TELECOPIER (201) 487-8529
(201) 487-3800

HORACE F. BANTA
OF COUNSEL

WALTER G. WINNE
(1889-1972)

NEWFOUNDLAND, N.J. OFFICE
(201) 697-4020

NEW YORK OFFICE
2 VETERANS PARKWAY
PEARL RIVER, NEW YORK 10965
(914) 735-2115

*MANAGING PARTNER
+MEMBER NEW YORK BAR

July 17, 1984

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

Re: Bedminster ads. Allan-Deane

Dear Judge Serpentelli:

We have recently received and reviewed the proposed settlement agreement between the Township of Bedminster and the Public Advocate which has been submitted to Your Honor. For the reasons outlined herein, we hereby request, on behalf of Leonard Dobbs, that the Court conduct a status conference for the purpose of setting a hearing date and a briefing and submissions schedule on the issues of Dobbs' right to a builder's remedy and the Township's right to condemn the Dobbs property (per Your Honor's May 25, 1984 decision, at 4, 7). We also hereby renew Dobbs' motion to intervene.

Although we intend to present more detailed argument with respect to Dobbs' right to a builder's remedy, we would note that Dobbs is entitled to a builder's remedy on two related but alternative grounds: (1) that but for Dobbs' participation in this matter, the Township and Public Advocate would not have included certain positive features in the compliance package submitted by the Township, and (2) that the Township's compliance package is inadequate and development of the Dobbs' site is necessary in order for the Township to meet its obligation to provide a realistic opportunity for low and moderate income housing development in accordance with the Township's fair share requirement under Mt. Laurel II.

EXHIBIT JJ

Honorable Eugene D. Serpentelli
July 17, 1984
Page 2

In his recent May 25, 1984 Opinion in the Morris County case, Judge Skillman has held that a developer may seek to demonstrate that he played "a substantial part in bringing about the rezoning" of the township embodied in the proposed settlement and "that consequently approval of the settlement would be inconsistent with the Court's 'decision to expand builder's remedies,' in order to 'maintain a significant level of Mount Laurel litigation,' 'to compensate developers who have invested substantial time and resources in pursuing such litigation' and to ensure that 'lower income housing is actually built.'" Opinion (Morris County Fair Housing Council et al. v. Boonton Township et al.; Charles Development Corp. v. Township of Morris et al. (Docket No. L-6001-78 P.W., L-54599-83 P.W.)), at 14 (n. 3). There is no question that Dobbs has been instrumental in pushing Bedminster Township to abandon compliance packages which were specious and nothing more than "paper" compliance with the Township's Mt. Laurel II requirements and move toward the Township's present compliance package (which, although apparently more credible, is still markedly deficient). The Court need only look to the Township's compliance package proffered at the time Dobbs' participation in this matter commenced to the revision after revision made by the Township to meet the objections made by Dobbs and his experts -- on such issues as sewer capacity, site capability, affordability, etc. -- and to avoid zoning for a developer, like Dobbs, who is ready, willing, and able to develop low and moderate income housing.

Alternatively, Dobbs is entitled to a builder's remedy because of his above-mentioned efforts and the failure of the Township to submit a compliance package which meets the Township's Mt. Laurel II obligations absent development of the Dobbs site. The deficiencies of the proposed compliance package will be addressed in more detail but the following deficiencies are especially noteworthy:

1. While the Court perhaps need not define the Township's fair share with absolute precision, the fair share number upon which compliance is based must have a reasonable relationship to the Township's obligations. There is no justification for the 20% reduction in the consensus methodology as applied to the Township other than the Township's threat of prolonged litigation and its desire to make it appear as though the Township has overzoned, as required by Your Honor's May 25, 1984 Opinion (at 3). Not only did the Township's planner participate in the consensus methodology but the figures being given serious consideration by the Master, by the Township, and by the Public Advocate during the Case

Honorable Eugene D. Serpentelli
July 17, 1984
Page 3

Management Conferences were well in excess of the 656 "compromise" figure and of even the 819 consensus figure. The proposed compliance package plays a numbers game with the fair share figure to avoid overzoning -- a procedure which is totally inappropriate where developers stand ready, willing, and able to build low and moderate income housing in the Township.

2. The proposed compliance package makes no effort to address the willingness of the owners of the property rezoned for low and moderate income housing to develop their properties for such purpose. Given the fact that Dobbs is ready, willing and able to proceed with such development immediately, the proposed compliance package fails to meet this Court's requirement that sites which are not readily available should not be included in the compliance package if other sites are readily available and usable for implementation of Mt. Laurel II purposes. (May 25, 1984 Opinion, at 3.)

3. Although the proposed compliance package contemplates that the sites rezoned by the Township are as readily available or more readily available from a sewage standpoint as the Dobbs site, Dobbs strongly contests this assumption, and fundamental factual issues have to be resolved on this point.

4. In contrast to the Dobbs site, which has excellent access and on-site sewage capability, various of the sites rezoned by the Township are not readily available because they are difficult and costly to assemble, are presently developed, have access and noise problems, lack sewage capacity (because they are outside of the EDC franchise), etc.

5. The Court should not give credit for units which do not meet low and moderate income affordability standards under Mt. Laurel II. This creates a factual issue as to the 260 Hills units and the proposed units, especially in light of Dobbs' objections at the time the Court first considered the Hills 260 units and the Township's affordability standards set forth in the Township's proposed revised ordinance, on page 4.

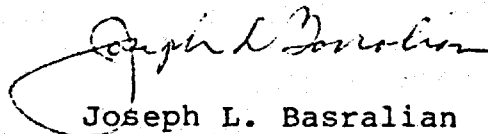
6. The proposed compliance package fails to include a plan of sufficient affirmative support by the Township to meet Mt. Laurel II requirements, while, at the same time, the Township has exercised its municipal powers in an affirmative manner to foreclose low and moderate income development by a ready, willing, and able developer on the Dobbs site, through the use of \$4.15 million in public funds.

Honorable Eugene D. Serpentelli
July 17, 1984
Page 4

Contrary to this Court's directive (May 25, 1984 Opinion, at 7-9), the Township has not proceeded expeditiously with its condemnation action. It appears that the Township's condemnation threat is contingent not only upon Green Acres funding but also upon the outcome of the compliance proceedings.

In light of the foregoing, Dobbs renews his application to intervene. It should be noted parenthetically that the Township's proposed compliance package includes Dobbs at one acre zoning but not more than 108 units, without any provision for low and moderate income housing on the Dobbs site, apparently in an effort to preclude litigation of Dobbs' non-Mt. Laurel II claims (further supporting Dobbs' motion to intervene). We would ask that the status conference requested herein be scheduled before the end of July in order to establish a schedule for future proceedings while the Court and all interested parties are available.

Very respectfully,


Joseph L. Basralian

JLB/pmc

cc: Henry A. Hill, Jr., Esq.
Kenneth E. Meiser, Esq.
Herbert A. Vogel, Esq.
George M. Raymond, AICP, AIA
Richard T. Coppola, PP
Peter J. O'Connor, Esq.
Raymond R. Trombadore, Esq.
Daniel F. O'Connell, Esq.



Superior Court of New Jersey

CHAMBERS OF
JUDGE EUGENE D. SERPENTELLI

OCEAN COUNTY COURT HOUSE
C. N. 2191
TOMS RIVER, N. J. 08753

August 3, 1984

Kenneth E. Meiser, Esq.
Office of Public Advocate
Hughes Justice Complex CN-850
Trenton, N. J. 08625

Herbert Vogel, Esq.
Vogel and Chait, Esqs.
Maple Avenue at Miller Rd.
Morristown, N. J. 07960

Henry A. Hill, Esq.
Brener, Wallack and Hill, Esqs.
2-4 Chambers Street
Princeton, N. J. 08540

Roger W. Thomas, Esq.
93 Spring Street
Newton, N. J. 07860

Alfred L. Ferguson, Esq.
McCarter and English, Esqs.
550 Broad Street
Newark, N. J. 07102

Peter J. O'Connor, Jr.
510 Park Blvd.
Cherry Hill, N. J. 08034

Joseph Basralian, Esq.
Winne, Banta & Rizzi, Esqs.
25 E. Salem Street
Hackensack, N. J. 07603

Re: Allan Deane Corp. et al v. Twp. of Bedminister

Gentlemen:

This shall confirm the results of the case management conference on Thursday, August 2, 1984. It was agreed as follows:


1. The township shall set forth in writing within a period of 30 days from the date of this letter, its position with respect to the equities which justify a reduction in the fair share number as proposed by the court appointed expert and provide a copy of that statement to all parties involved.

2. Dobbs and Timber shall, in the same 30 day period, set forth in writing their position with respect to the issue of whether the proposed ordinance complies with Mount Laurel, whether the parcels zoned are suitable, why their parcels are more suitable, and why they are entitled to a builder's remedy. This statement shall also be provided to all parties.

3. Within 30 days of the date of this letter, the defendants Dobbs and Timber shall exchange reports concerning sewerage disposal and thereafter have 20 days to reply to their respective reports.

4. Counsel should be prepared to proceed with a compliance hearing on any date after September 30, 1984. At the present time, I am fully calendared through November, but it is highly likely that one or more of the matters presently scheduled will not be moved. I am reserving the date of Monday, December 10, for the compliance hearing. However, I am hopeful that we will be able to move the matter much before that date. As soon as a firm date is established, I will ask the Public Advocate to publish notice of the hearing. The hearing will focus on Bedminister's claim to a reduction, ordinance compliance (including suitability) and the claim of Dobbs and Timber to a builder's remedy, in that order. If necessary, a pretrial conference will be held to facilitate the trial of the matter.

Very truly yours,


Eugene D. Serpentelli, JSC

EDS:RDH

