

RULS-AD-1984-470

10/25/84

Letter to Judge in support of builder's remedy memorandum  
(Dobb's)

- WRT: chronology - Dobbs' challenge to Bedminster  
Township's Proposed Mt. Laurel II Compliance

Pg. 12

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JUDGE SERPENTELLI'S CHAMBERS

October 25, 1984

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Honorable Eugene D. Serpentelli  
Superior Court of New Jersey  
Court House, CN-2191  
Toms River, New Jersey 08754

Re: Allan-Deane Corporation, et al. v.  
Township of Bedminster, et al.

Dear Judge Serpentelli:

In our September 1, 1984 builder's remedy Memorandum, we argued that Leonard Dobbs is entitled to a builder's remedy not only because of the failure of the Township's present compliance package to meet Mt. Laurel II requirements (at 24, 32-33) but also, and alternatively, because of Dobbs' substantial role in bringing about such package (at 23-24, 29-32). Dobbs' right to a builder's remedy based on this latter, alternative ground presents an issue ripe and proper for determination prior to the compliance hearing, and the Court, we believe, should bifurcate the scheduled hearing accordingly.

Practical considerations and considerations of judicial economy strongly militate in favor of bifurcation and this order of proceeding. The Township has specifically conditioned its compliance package on the Court's rejection of Dobbs' right to a builder's remedy. Presumably, if Dobbs is afforded a builder's remedy, the Township will seek to withdraw or modify its compliance package. If the compliance hearing is held prior to the hearing on and disposition of Dobbs' right to a builder's remedy, any determination would have to be conditional and still subject

Honorable Eugene D. Serpentelli  
October 25, 1984  
Page 2

to a claim for full determination of Dobbs' right to a builder's remedy. While there may be some overlap in the two hearings, it will be relatively minor, especially in contrast to the practical problems inherent in proceeding without bifurcation.

As should be evident from Mr. Raymond's September 14, 1984 letter to the Court, there is a fundamental dispute as to this threshold issue of the entitlement by Dobbs to a builder's remedy. While Mr. Raymond in his letter claims full credit and responsibility for bringing about the Township's present compliance package, the record clearly belies his claim. The Court need only look to (i) the fact that Mr. Raymond rejected various sites proposed by the Township only after they had been specifically challenged by Dobbs' experts; (ii) the fact that Mr. Raymond was ready to rely on misleading information provided by the Township with respect to the critical issue of sewage capacity until such information was specifically and repeatedly refuted by Dobbs' experts; (iii) the fact that Mr. Raymond had, with the Township, been a proponent of phasing (an approach challenged by Dobbs and rejected by the Court); (iv) the fact that Dobbs' February 7, 1984 232 low and moderate income housing proposal provided the basic impetus for the Township's abandonment of past "paper compliance" efforts; and (v) the fact that Mr. Raymond has incorrectly concluded that Hills I meets Mt. Laurel II affordability requirements and has otherwise assumed that the Township would ultimately meet the affordability requirements of Mt. Laurel II, rather than specifically critique the Township's efforts (as Dobbs has done) and demonstrate, through figures, that both the threshold 50% and 80% of median could be met along with a deeper range of eligibility in each category. It should be noted that the Township's proposed ordinance now requires a deeper range and the Public Advocate, despite its silence in this case, has required a deeper range in a case presently pending before Judge Skillman.

Mr. Raymond's suggestion, moreover, that the Township's present compliance package is substantially the same as that proposed by the Township one year ago is simply not true. In order to demonstrate graphically the significant changes which have taken place during Dobbs' participation in this matter and the specific effect of Dobbs' input and presence, we are enclosing two charts which have been prepared by Dobbs' planning experts. One addresses in detail the numerous site changes which have taken place since Dobbs' participation in this matter and reflects Dobbs' input with respect to same. The other addresses the related issues of sewage capacity, phasing, and

Honorable Eugene D. Serpentelli  
October 25, 1984  
Page 3

affordability, and how Dobbs' input and presence have contributed to the changes in the Township's compliance efforts.

Mr. Raymond's statement in his September 14, 1984 letter that the Hills II proposal resulted from the reduction in aggregate site capacity due to his findings is flatly wrong; it resulted from Dobbs' objection to and Your Honor's rejection of the phasing recommendation proffered by Mr. Raymond at the January 25, 1984 Case Management Conference. The Township's subsequent consideration of the Hills II proposal and the Township's additional modifications to its then existing compliance package were brought about by the presence of Dobbs' February 7, 1984 proposal for 232 low and moderate income housing units, the latter resulting from Your Honor's directive made on January 25, 1984. The Township's motivation for change was not, as Mr. Raymond suggests, inherent in the Mt. Laurel II mandate; it was to avoid the substantial and realistic low and moderate income housing proposal made by Dobbs.

Dobbs has expended very substantial time and resources in specifically challenging the Township's compliance package. His entitlement to a builder's remedy is mandated by essential principles of fairness. As noted in our Memorandum, if a municipality could exclude a developer who had expended such substantial time and effort in successfully challenging the municipality's zoning simply by subsequently rezoning other sites, then the builder's remedy would be a meaningless and hollow remedy. The Supreme Court clearly did not contemplate in Mt. Laurel II that a municipality could, in the face of a specific and valid challenge by a developer, undertake change after change in its zoning and supportive measures until it ultimately proposed a compliance package which met Mt. Laurel II standards and thereby deprive the developer of his established right to a builder's remedy. Dobbs successfully challenged the Township's zoning and supportive measures. The fact that the Township subsequently revised them in an effort to remedy the defects noted by Dobbs does not detract from his entitlement to a builder's remedy.

A review of the sewage capacity issue is particularly demonstrative of the value and effect of Dobbs' input. Mr. Raymond in his January 10, 1984 report to Your Honor recommended a compliance package which utterly failed to address the essential issue of sewage capacity and accepted erroneous information provided by the Township. Mr. Raymond's recommendation and assumption as to sewage capacity were not challenged by anyone except Dobbs, and it was Dobbs' experts who demonstrated specifically

Honorable Eugene D. Serpentelli  
October 25, 1984  
Page 4

the erroneousness of this assumption. Only after Dobbs' input did the Township begin to seriously and specifically address the important issue of sewage capacity.

Moreover, it is worth noting that notwithstanding this Court's ruling on May 25, 1984 that highly significant on the compliance issue is the fact that a site is more readily available than another, Mr. Raymond continues to reiterate the Township's contrary position. Mr. Raymond is forced to this view because of the delays that necessarily attend the Township's sewage proposal (in contrast to Dobbs' sewage proposal).

Rather than be an impartial and incisive critic of the Township's compliance efforts, Mr. Raymond has, for the most part, gone along with each of the Township's compliance proposals. Only after they were challenged by Dobbs were modifications to such proposals made. Had Dobbs not made the challenges which he did, the Township's compliance package, which would have been endorsed by Mr. Raymond, would have been essentially the paper compliance package proposed by the Township many months ago.

In sum, the threshold issue of whether Dobbs is entitled to a builder's remedy because of his substantial role in bringing about the Township's compliance package should be heard and resolved prior to the compliance hearing. Dobbs is prepared, at this bifurcated hearing on builder's remedy, to demonstrate, through expert testimony, his substantial role in bringing about the Township's present compliance package.

We hereby request that the Court conduct a Case Management Conference next week so that procedural issues can be addressed and so that the parties can stipulate, to the extent possible, as to documents which comprise the record herein, this in an effort to facilitate the conduct of the hearings. In this regard, we have noted various documents in the enclosed charts, upon which we will be relying. We would hereby request other parties to identify any additional documents on which they intend to rely, especially any documents which have not been previously furnished to Dobbs.

Also, we have reviewed the memorandum submitted by Mr. Coppola seeking to justify the Township's proposed 20% reduction in the Township's consensus methodology fair share (the fair share stipulated earlier in this proceeding by the Township). Since the memorandum merely reiterates the arguments made by

Honorable Eugene D. Serpentelli  
October 25, 1984  
Page 5

the Township representatives at the last Case Management Conference, which arguments were rejected by Your Honor at such time, we will not address them herein but rather would request that Your Honor summarily dismiss the Township's argument prior to the compliance hearing.

Very respectfully,

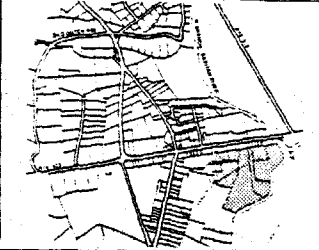
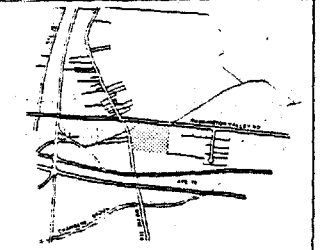


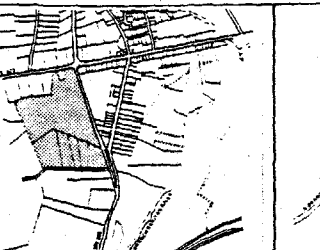
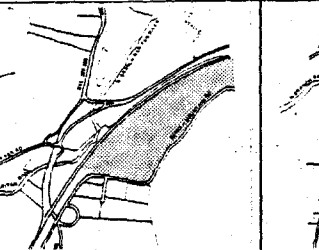
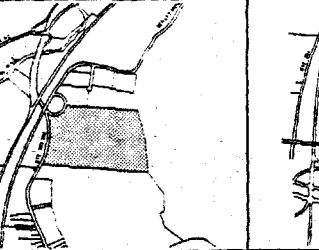
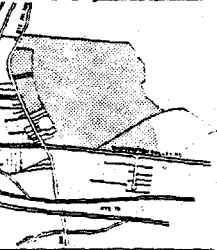
  
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CHRONOLOGY - DOBBS'S CHALLENGE TO BEDMINSTER TOWNSHIP'S PROPOSED MT. LAUREL II COMPLIANCE

Documents/ Case Confs.	Low & Moderate Housing Sites	Phasing	Sewer Capacity	Affordability Test	Affirmative Measures	Miscellaneous
June 14, 1983 Dobbs Submission to Twp.	Substantial low and moderate income housing units (L&M) proposed.					
August 1982 Master Plan Background Report/ August 1983 Master Plan Housing Element	Number of sites: 19 Capacity: 4,902 dwelling units (du), L&M not specified.	Sites distinguished as being "more" or "less" likely to develop.	Additional capacity needs of L&M units not addressed.	Not addressed.	None beyond zoning.	
October 6, 1983 Case Management Conference/ November 3, 1983 Case Management Order						Court directs Raymond to review Hills' proposal and Bedminster compliance. Dobbs permitted to participate on region, fair share, and realistic opportunity for L&M development.
November 17, 1983 P. O'Connor Letter to Court				Hills' L&M units do not meet affordability rules.	No affirmative measures offered.	
December 5, 1983 Dobbs Critique	Development constraints of Township sites identified. Six low density or non-residential sites not reviewed.	Compliance not possible within Mt. Laurel II time limits.	Sewer needs of each site questioned. Bedminster (BFH) plant at capacity, based on information from plant director.	Development costs identified.	Industrial and commercial L&M set aside, overzoning, tax abatement, sewage treatment, utilities, and application for government assistance recommended.	
December 19, 1983 Coppola Report to Raymond	Number of sites: 12 Deleted: 7 Capacity: 4,260 du; 904 L&M du	4 Stages proposed: I- Site K (Hills); II- Sites I, J & L; III- Sites A, D, E, G, & H; IV- Sites B, C, & F.	Site E can be served by BFH plant if infiltration solved and AT&T relinquishes or defers "reserved" capacity. EDC plant can serve 475 L&M du (I, J&L).	Not addressed.	None beyond zoning.	
December 23, 1983 Draft Raymond Report	Number of sites: 12 Capacity: 3,794 du; 506-665 L&M du; additional 255 du after 1990. Concurs with Dobbs on no capacity in F and lower capacity in H.	Rate of growth required to meet fair share too high. Lower fair share and phasing recommended: I, J, K, & L immediate, E within 3 years, A, B, C, D, G, & H after 1990.	I, J & L have sewer capacity (EDC plant). BHF plant just resolve infiltration problems and AT&T must relinquish reserve capacity to serve Site E. Sites A, D, G & H require BFH plant expansion.	"Assumes" affordability aspects of ordinance will be adjusted to comply with Mt. Laurel II. 35% set aside for MF not economically feasible. No analysis or specific recommendations of affordability.	None beyond zoning.	
December 29, 1983 P. O'Connor Letter			Sewer questions raised: 1. Present capacity? 2. Amount available for development sites? 3. Housing units buildable with capacity? 4. Plans to upgrade, financing committed, schedule? 5. Plans, financing, schedule to expand?			
January 3, 1984 Dobbs Critique of Raymond Draft		Phasing past 1990 does not meet Mt. Laurel II.	No "reasonable opportunity" without sewer availability. Hills only assured site. Sewer capacity of each site assessed.	No supporting documentation on affordability.	Tax abatement and government subsidies recommended.	
January 8, 1984 Coppola Letter to Raymond			EDC: Franchise area needs are 858,488 gpd, including 256,050 gpd for Bernards Twp. portion of Hills. BFH: 55,000 gpd for 229 du available if AT&T relinquishes or defers its allocated capacity and if infiltration problems are solved.			
January 10, 1984 Final Raymond Report	Number of sites: 12 Capacity: 3,794 du; 506-665 L&M du; additional 255 L&M du after 1990.	Phasing recommended (466 du immediate, 40-199 du within 3 years, 255 du after 1990). Compliance should be based on "capacity to absorb", not "size of obligation."	Raymond relies on Jan. 8, 1984 Coppola letter accepting conclusion of sufficient EDC capacity to permit Mt. Laurel II compliance with possible expansion of BFH plant.	No analysis or specific findings on affordability. No response to 11/17/83 O'Connor letter.	None beyond zoning.	
January 13, 1984 Hordon Report			Inadequate capacity within EDC and BFH plants for further development. BFH plant at or near capacity; average flows misleading due to AT&T use fluctuation. EDC: Entire capacity allocated; actual Hills needs higher than present allocation (811,750 gpd v. 800,000 gpd).			

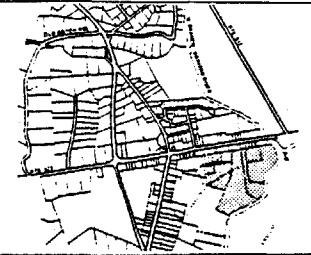
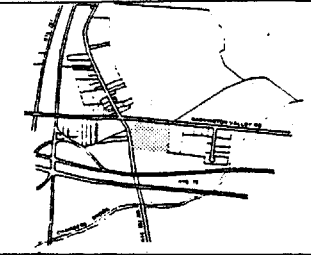


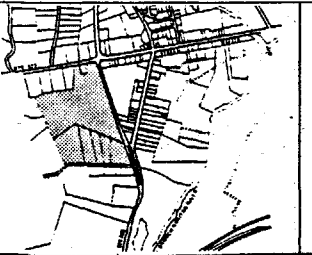
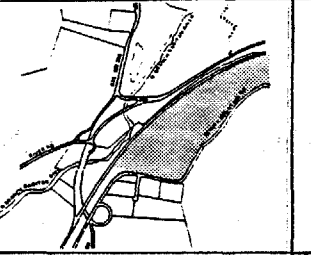
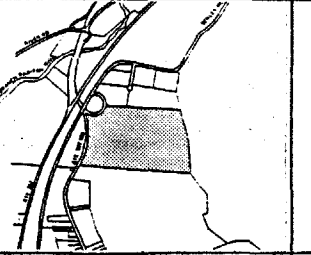
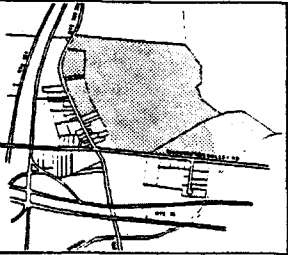
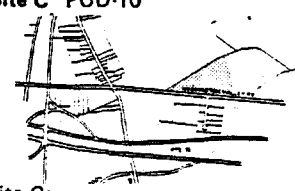
LOW AND MODERATE INCOME HOUSING SITE EVOLUTION

								
	Site 1 * (School Site)	Site 2 (Ray)	Site 3 (Peapack Brook)	Site 4	Site 5	Site 6 (AT&T)	Site 7 (Ellsworth)	Site 8 (The Hills I)
<b>August 1982 Master Plan Background Report/ August 1983 Housing Element</b>	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."
<b>Zoning</b>	MF (12 du/acre)	MF (12 du/acre)	R-1 / PRD-6	R-1 / PRD-6	PRD-8	R-1/4 / PUD-10	R-1/4 / PUD-10	R1/4 / PUD-10
<b>Total Units</b>	146.128 du	177.6 du	200.4 du	151.29 du	517.240 du	414.17 du	586 du	1444.06 du
<b>Low and Moderate Income Units</b>	None required; 35% set aside proposed in draft ordinance.	None required; 35% set aside proposed in draft ordinance.						
<b>December 5, 1983 Dobbs Critique of Housing Element</b>	Site 5	Site 12	Site 1	Site 2	Site 7	Site 8	Site 10	Site 11
	Limited access. Outside sewer service area. Multiple owners. Critical acres restricts development.	Adjacent to highest traffic accident location. Wooded site. 35% set aside challenged; 20% recommended.	1/3 of site in flood plain. No sewer.	12.014 ac. single family units under construction. No sewer.	Development proposed. Currently in litigation. No sewer.	Outside EDC franchise area. Access limited. Noise from interstate. Development constrained due to slopes and wooded site.	Estate type development. Unlikely to develop.	Approved at 1287 and 260 du Commercial option exercised
<b>December 19, 1983 Coppola Report</b>	Site E	Site L	Site A	Site B	Site G	Site H	Site J	Site K
	Available for "near future construction" (Stage III). Revised critical acres to 27.1ac.	Available for "immediate construction" (Stage II). Sewer capacity available.	Vacant site available for "near future construction" (Stage III).	Available for "future construction" (Stage IV). Requires redevelopment.	Available for "future construction" (Stage III).	Vacant site available for "future construction" (Stage II). Sewer not addressed.	Available for "immediate construction" (Stage II).	Approved for construction (Stage I).
<b>Total Units</b>	199 du	177 du	66 du	80 du	514 du	449 du	599 du	1287 du
<b>L&amp;M Units</b>	50 du (25% L&M set aside).	44 du (25% L&M set aside).	13 du	16 du	103 du	90 du	120 du	260 du
<b>December 23, 1983 Draft Raymond Report</b>	Site E	Site L	Site A	Site B	Site G	Site H	Site J	Site K
	"Probably available within 3 years." Availability contingent on solving infiltration and capacity problems at BFH plant. Suggests senior housing.	Available for immediate development. Not credited for senior housing due to unlikelihood of two senior housing projects in Bedminster being approved.	May be constructed after 1990.	May be constructed after 1990. Site assembly required.	May be constructed after 1990.	Concurs with Dobbs. Commercial option reduces units. May be built after 1990.	Higher density will motivate development. Immediate development.	Immediate development.
<b>Total Units</b>	199 du	177 du	66 du	80 du	514 du	414 du	599 du	1287 du
<b>L&amp;M Units</b>	40 du (20% L&M set aside).	35 du (20% L&M set aside).	13 du	16 du	103 du	83 du	120 du	260 du
<b>January 3, 1984 Dobbs Critique of Draft Raymond Report</b>	Site E	Site L	Site A	Site B	Site G	Site H	Site J	Site K
	Outside sewer service area.	Development contingent upon sewer capacity.	Needs sewer.	Needs sewer.	Proposed development in litigation.	Needs sewer.	Development contingent on owner willingness and sewer.	Approved development.
<b>January 10, 1984 Final Raymond Report</b>	Site E	Site L	Site A	Site B	Site G	Site H	Site J	Site K
	Same as draft.	Same as draft.	Same as draft.	Same as draft.	Same as draft.	Same as draft.	Development contingent on owner willingness and sewer.	Approved development.
<b>January 20, 1984 Dobbs Critique of Final Raymond Report</b>	Site E	Site L	Site A	Site B	Site G	Site H	Site J	Site K
	Proposed 199 units would require 47,760 gpd sewer capacity. Capacity not available.	Proposed 177 du would require 42,480 gpd. Capacity not available given existing EDC capacity commitments.	Needs sewer.	Needs sewer.	Needs sewer. Proposed development in litigation.	Needs sewer.	Sewer capacity in question.	Approved development.

\* READ DOWN to follow each site chronologically. The designation changes reflected below correspond to the designation changes made by the parties, eg. Site 1 was also referred to as Site 5 and Site E.

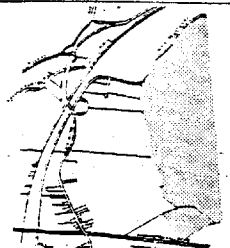
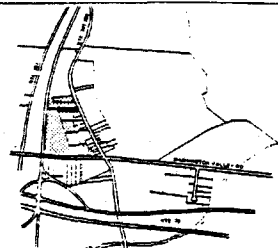
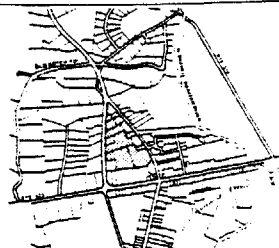

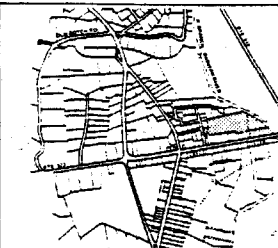
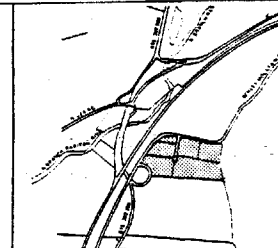
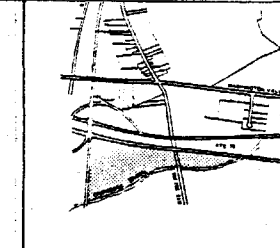



Documents/ Case Confs.	Low & Moderate Housing Sites	Phasing	Sewer Capacity	Affordability Test	Affirmative Measures	Miscellaneous
April 11, 1984 Raymond Report	Number of sites: 9 Capacity: 3,870-4,020 du; 886 L&M du	Recommends 3 stage phasing. (Group I- Hills I&II, Group II- Sites I,J,L&N, Group III- Site H). Recommends Twp. secure agreement of Site C owners to market property together.	Group II requires EDC expansion (43 months). When expansion approved, existing capacity will be released. Dobbs site suggested for spray irrigation.  As to Group III Sites C,D,&H, BFH plant expansion to 400,000 gpd recommended ( H outside EDC service area). Spray irrigation may also be required.		Recommends non-profit senior citizen housing corporation be formed to apply for housing funds.	Senior housing funds lin Possibly more funds due election. "Bedminster's would be given a high p to Mt. Laurel."
May 25, 1984 Court Rulings	Overzoning required.	Phasing unacceptable. "Must consider availability of sites most readily develop- able at this time, including Dobbs & Timber." Cannot credit if other sites are more readily available.				Right to builder's remed considered in the future
June 1984 Coppola Report	Number of sites: 13 Capacity: 4,219 du; 900 L&M du Hills divided to get site C. Timber divided to get site J/K. Site L- Dobbs rezoned to SF Cluster					Twp. agrees to "cause cr non-profit sponsor for si housing. Proposed ordir to development cost.
July 6, 1984 Twp. Proposed Compliance Agreement	Number of sites: 13 Capacity: 656 du proposed as fair share. 900 L&M du maximum possible with proposed zoning.			Developers must assure afford- ability.	Twp. agrees to "cause" non-profit sponsor for senior housing. Waiver of subdivision and site plan appli- cation fees for L&M building per- mit fees, C.O. fees, engineering fees for L&M. All conditioned on no L&M housing on Dobbs or Timber property, and 6 year repose.	
August 3, 1984 Court Directive	Court rejects "compromise" fair share of 656 du, and requires 819 L&M du stipulated earlier.	Court rejects phasing.				
August 31, 1984 Hordon Report			Detailed proposal for Dobbs on-site tertiary treatment plant with sub-surface discharge.			
September 1, 1984 Dobbs Critique	Development constraints of L&M sites identified.		EDC expansion necessary as A,B,C,D,E,F&M require 842,000 gpd capacity and G (AT&T) outside service area. BFH expansion required as Sites H&I require 78,240 gpd. Sites J&K (49,725 gpd) outside either service area.	Developers' assurance of afford- ability is inefficient, adds to cost, and is disincentive to development.		Cost additive elements c detailed (no compact pa senior housing building reduced, developers req minister L&M housing f set percentage of unit si process at developers ex
September 5, 1984 Coppola Report	Number of sites: 13 Capacity: 4,219 du; 656 fair share; 900 L&M du	Phasing recommended: growth re- quired to meet L&M obligation is excessive; hence moderation of construction necessary.				
September 1984 Ferrara Report			Long term stream monitoring required to evaluate projections of water quality impact of EDC expansion. System must be redesigned for higher flows. Total Dissolved Solids (TDS) and Phosphorus (TP) will exceed water quality standards. EDC plant expansion requires "detailed design and re-evaluation." 10-12 year build out assumed.			
September 11, 1984 Callahan Report			No change of 43 month expansion time estimate despite Ferrara report. Expansion of EDC needed to serve 4,100 du, 950,000 sq.ft. commercial, including AT&T.			
October 3, 1984 Hordon Report			Dobbs plant can be installed faster than EDC plant and is environmentally preferable. Additional testing required re EDC as TDS and TP will exceed limit.			

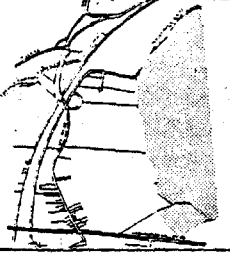
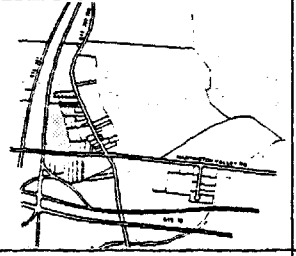
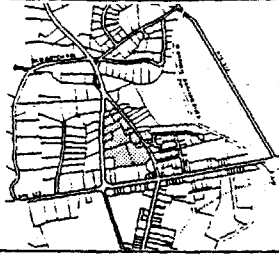

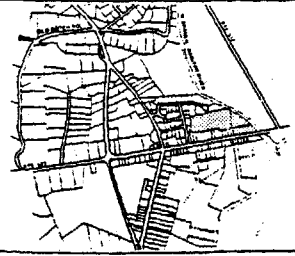
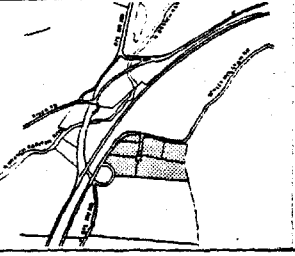
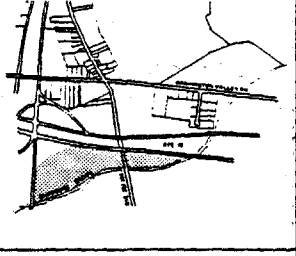
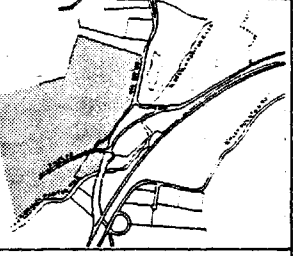
								
	Site E	Site L	Site A	Site B	Site G	Site H	Site J	Site K
<p><b>March 21, 1984</b> Coppola Report</p> <p>Zoning Total Units L&amp;M Units</p>	<p>Deleted. R-3% proposed.</p> <p>16 du 0 du</p>	<p>Senior housing option site. Sewage issue not addressed.</p> <p>MF - Senior Housing Option 177 du 35-177 du</p>	<p>Deleted. R-1 zoning proposed.</p>	<p>Deleted. R-1 zoning proposed.</p>	<p>OR / SF Cluster zoning proposed. No L&amp;M required.</p>	<p>Sewer issue not addressed.</p> <p>449 du 90 du</p>	<p>599 du 120 du</p>	<p>1287 du 260 du</p>
<p><b>March 30, 1984</b> Dobbs Critique of Coppola Report</p>	---	<p>Site L</p> <p>State funding unlikely for senior housing. Sewer capacity inadequate for proposed sites even with EDC reallocation.</p>	---	---	---	<p>Site H</p> <p>Access, noise and sewer problems noted. Outside EDC service area.</p>	<p>Site J</p> <p>Owner is Township official. Previous offer to purchase refused.</p>	<p>Site K</p> <p>Approved development.</p>
<p><b>April 11, 1984</b> Raymond Report</p>	---	<p>Site L</p> <p>Group II. EDC expansion required.</p>	---	---	---	<p>Site H</p> <p>Group III. Requires EDC capacity and service area expansion. Callahan suggests BFH plant serve Site H.</p>	<p>Site J</p> <p>Group II. EDC must expand to serve franchise area.</p>	<p>Site K</p> <p>Group I</p>
<p><b>July 6, 1984</b> Coppola Report (June 1984)</p> <p>Total Units L&amp;M Units</p>	---	<p>Site D</p> <p>Open space requirements would have to be relaxed. Senior housing option. Sewage issue not addressed.</p> <p>177 du 35 du; 125 du if developed as senior housing.</p>	---	---	<p>Site J/K</p> <p>OR / Cluster proposed. Density bonus in exchange for 4-6 ac. for senior housing, otherwise no L&amp;M.</p>	<p>Site G</p> <p>Sewer issue not addressed. Effect of commercial option on housing capacity (reduction of units) not considered.</p> <p>449 du 90 du</p>	<p>Site E</p> <p>Effect of commercial option on housing capacity not considered.</p> <p>599 du 120 du</p>	<p>Site A/C</p> <p>Site K divided into Sites A&amp;C Site A: Total Units 1287 du L&amp;M Units 260 du Site C PUD-10</p>  <p>Site C: Total Units 172 du L&amp;M Units 34 du</p>
<p><b>September 1, 1984</b> Dobbs Critique of Coppola Report</p>	---	<p>Site D</p> <p>Development capacity of remainder of site questioned. Highest accident intersection. Access to interstates restricted by jughandle.</p>	---	---	<p>Site J/K</p> <p>Needs sewer. Outside either service area.</p>	<p>Site G</p> <p>Effect of commercial option on L&amp;M housing capacity not considered. Needs sewer and access improvements. Access to interstates restricted by jughandle.</p>	<p>Site E</p> <p>Effect of commercial option on L&amp;M housing capacity not considered. Interstate access restricted by jughandle. Potential traffic problems with I-287 on-ramp.</p>	<p>Site A:</p> <p>Mt. Laurel II credit for Site A subject to affordability test. Interstate access restricted by jughandle.</p> <p>Site C: Effect of commercial option on L&amp;M housing capacity not considered.</p>
<p><b>September 5, 1984</b> Coppola Report</p>	---	<p>Site D</p> <p>Coppola addresses development capacity of remainder of site. 35 du L&amp;M, 90 du if developed as senior housing. Open space requirements would have to be relaxed. EDC has capacity.</p>	---	---	<p>Site J/K</p> <p>Same comments as July report.</p>	<p>Site G</p> <p>Road improvements required. Needs EDC service area expansion.</p>	<p>Site E</p> <p>EDC has capacity to serve. Access via Hills.</p>	<p>Site A/C</p> <p>Site C would ease access to Site A.</p>

Documents/ Case Confs.	Low & Moderate Housing Sites	Phasing	Sewer Capacity	Affordability Test	Affirmative Measures	Miscellaneous
January 13, 1984 Dobbs proposal	264 L&M du					
January 20, 1984 Dobbs Critique of Final Raymond Report	Development constraints of Township sites identified. Additionally, only 260 L&M du buildable due to lack of sewer capacity for other sites.		Total sewer need: 601,681 gpd. Capacity available: 0. I,J&L need 247,920 gpd. E-47,760 gpd. A,B,C,D, G&H need 306,000 gpd.			
January 25-26, 1984 Case Management Conference/ January 30, 1984 Memo from Court		Raymond recommends phasing. Dobbs challenges phasing. Court rejects phasing.	Sewer capacity and reallocation discussed in response to Dobbs challenge.	Allan Mallach commissioned to review affordability. Dobbs continues affordability challenge.		Court requests Dobbs L&M proposal and additional Hills L&M proposal.
February 7, 1984 Dobbs Submission/ Hordon Addendum	Dobbs submits 3 alternative L&M plans. Plan B (1,160 du, 232-L&M du) proposed.		On-site treatment plant feasible per Hordon Addendum.			
March 7, 1984 Raymond Letter to Court		Recommends phasing to reduce impact.			Recommends 1 year deferral by Township for formulation of incentives.	
March 19, 1984 Ferguson Letter	Number of sites: 9 Deleted: 5 Added: 2 Capacity: 3,995 du; 891 L&M du Use Changes: Hills II rezoned PRD-8 (900 du max).		BFH plant will have to expand, but this "should not be undertaken precipitously." EDC has unused capacity and can be increased.			
March 21, 1984 Coppola Report	Number of sites: 9 Deleted: 5 (A,B,E,F&G) Added: 2 Capacity: 3,870-4,020 du; 918-926 L&M du Use Changes: Site A(R-1), B(R-1), E(R-3%), F(R1/2), G(OR/SF Cluster).		H,J,K,L,M,&N in EDC service area (858,000 gpd capacity). C,D can be served by BFH plant when infiltration problems solved. Site I is outside EDC service area			
March 22, 1984 Case Management Conference/ March 28, 1984 Case Management Conference			Dobbs argues sewer problems still not resolved. Court requests further capacity analysis.			Court notes that Dobbs may be entitled to builder's remedy.
March 30, 1984 Dobbs Critique of Coppola Report	Development constraints of Township sites identified, (eg. I,N,C require site assembly, H outside EDC service area). Development constraints dictate delay.		As per WRT, Hordon reports: Inadequate EDC capacity for proposed sites H-N (916,560 gpd v. 850,000 gpd). Sites H&I outside EDC service area. Sites C&D (48,240 gpd) require expansion of BFH plant.			
April 5, 1984 Dobbs Letter to Raymond		Phasing to meet existing need in-appropriate.				
April 6, 1984 Ferguson Letter to Raymond			Twp. will support expansion application for EDC plant. BFH has 7,000 gpd unallocated capacity. Twp. proposes to use Dobbs site for EDC and BFH excess effluent which "cannot be discharged into the N. Branch of the Raritan River because of environmental or administrative limitations," contra to Kupper 1983 report.			
April 6, 1984 Callahan Report to Raymond			EDC cannot serve Hills I and all proposed housing in service area. EDC does not want to sewer Site H (AT&T). EDC expansion estimated at 43 months (compared to 50 months for Dobbs, 28 months for BFH). BFH will "probably" not be allowed to treat additional demand from proposed housing within its service area.			

LOW AND MODERATE INCOME HOUSING SITE EVOLUTION

								
	Site 9 (The Hills II)	Site 13 * (Johnson)	Site 1	Site 2	Site 3	Site 4 (Washington Court)	Site 6	Dobbs Site
<b>August 1982 Master Plan Background Report/ August 1983 Housing Element</b>	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Principal development parcel, "more likely to develop than others...currently non-developed and non-severe environmental constraints."	Additional development parcel, "less likely to be developed...because of existing development...or severe environmental constraints."	Additional development parcel, "less likely to be developed...because of existing development...or severe environmental constraints."	Additional development parcel, "less likely to be developed...because of existing development...or severe environmental constraints."	Additional development parcel, "less likely to be developed...because of existing development...or severe environmental constraints."	Additional development parcel, "less likely to be developed...because of existing development...or severe environmental constraints."	
<b>Zoning</b>	R1/4 / Residential Cluster	VN	MF	MF (12 du/acre)	R 1/4 / PRD-6	R-3 / PUD-10	OR/ Residential Cluster	
<b>Total Units</b>	430.84 du	279,109 sq. ft. commercial	236.552 du	205.613 du	81.492 du	254.33 du	118 du	
<b>L&amp;M Units</b>			Not specified.	Not specified.	Not specified.	Not specified.	Not specified.	
<b>December 5, 1983 Dobbs Critique of Housing Element</b>	Not addressed. R1/4 density too low to support L&M housing.	Not addressed. No residential option.	Site 3 Existing development on majority of the site. Only part of site in BFH sewer area. Site assembly required.	Site 6 Existing development of entire site. Assembly required.	Site 4 Limited access.	Site 9 Developed with single family homes.	Site 13 Noise from interstates. No sewer.	Dobbs Site Substantial L&M housing in June 1983 proposal. Site erroneously excluded from growth corridor. Ready and willing developer.
<b>December 19, 1983 Coppola Report</b>	Not included.	Not included.	Site C Available for "future construction" (Stage IV). Requires redevelopment.	Site F Available for "future construction" (Stage IV). Requires redevelopment.	Site D Vacant. Available for "future construction" (Stage III). Sewage issue not addressed.	Site I Available for "immediate construction" (Stage II).	Deleted.	Dobbs Site Lists substantial portion of Dobbs tract within SDGP Growth Area.
<b>Total Units</b>			290 du	306 du	36 du	257 du		
<b>L&amp;M Units</b>			73 du (25% L&M set aside).	77 du (25% L&M set aside).	7 du	51 du		
<b>December 23, 1983 Draft Raymond Report</b>	Not addressed.	Not addressed.	Site C 8.22 ac. vacant; 13.78 ac. developable based on higher density. Development after 1990.	Site F Concurs with Dobbs. Site assembly cost and time inhibits development. Deleted.	Site D 7.8 ac. critical, 5.8 ac. non-critical. Development after 1990.	Site I 4 single family dwellings. Higher density zoning will motivate development. Immediate development.		Dobbs Site Not addressed.
<b>Total Units</b>			165 du	0 du	36 du	257 du		
<b>L&amp;M Units</b>			33 du	0 du	7 du	51 du		
<b>January 3, 1984 Dobbs Critique of Draft Raymond Report</b>	Not addressed.	Not addressed.	Site C Requires sewer and assembly.	Site F Requires site assembly and sewer.	Site D Needs sewer.	Site I Existing development precludes development.		Dobbs Site Twp. sites inadequate to meet fair share. Dobbs site needed.
<b>January 10, 1984 Final Raymond Report</b>	Not addressed.	Not addressed.	Site C Same as draft.	Site F Same as draft.	Site D Same as draft.	Site I Same as draft.		Dobbs Site Not addressed.
<b>January 20, 1984 Dobbs Critique of Final Raymond Report</b>	Not addressed.	Not addressed.	Site C Existing development Needs sewer.	Site F Existing development precludes development.	Site D Needs sewer.	Site I Existing development inhibits development.		Dobbs Site Twp. sites inadequate due to sewer, site assembly. Dobbs site needed.

\* Sites 10-12 were not considered L&M sites due to low density zoning or non-residential zoning.

								
<p><b>March 21, 1984</b> Coppola Report</p> <p>Zoning Total Units L&amp;M Units</p>	<p><b>Site M</b> Proposed rezoning from R1/4 / Cluster to R1/4 / PRD-8 (900 du maximum).</p> <p>900 du 180 du</p>	<p><b>Site N</b> VN / Senior option proposed.</p> <p>0 du 150 du senior</p>	<p><b>Site C</b> 165 du 33 du</p>	<p><b>Site F</b> Deleted. Rezoning from MF to R1/2 proposed.</p>	<p><b>Site D</b> Sewage issue not addressed.</p> <p>36 du 7 du</p>	<p><b>Site I</b> 257 du 51 du</p>	<p><b>Site 13</b></p>	<p><b>Dobbs Site</b> Not included. Dobbs proposal for 232 L&amp;M units rejected.</p>
<p><b>March 30, 1984</b> Dobbs Critique of Coppola Report</p>	<p><b>Site M</b> Severe access problems.</p>	<p><b>Site N</b> Adjacent to NJDOT maintenance yard. Assembly required.</p>	<p><b>Site C</b> Sewer capacity questioned.</p>	<p>---</p>	<p><b>Site D</b> Sewer and access problems.</p>	<p><b>Site I</b> Site assembly precludes immediate development. Access and noise problems.</p>	<p>---</p>	<p><b>Dobbs Site</b> Dobbs is ready, willing and able developer. Twp. sites inadequate.</p>
<p><b>April 11, 1984</b> Raymond Report</p>	<p><b>Site M</b> Group I.</p>	<p><b>Site N</b> Group II. EDC must expand to serve franchise area.</p>	<p><b>Site C</b> May develop after 1990, due to required site assembly.</p>	<p>---</p>	<p><b>Site D</b> May develop after 1990.</p>	<p><b>Site I</b> Group II. EDC plant must expand to serve franchise area.</p>	<p>---</p>	<p><b>Dobbs Site</b> Recommends keeping site in reserve for Mt. Laurel II compliance.</p>
<p><b>July 6, 1984</b> Coppola Report (June 1984)</p> <p>Total Units L&amp;M Units</p>	<p><b>Site B</b> Maximum du increased.</p> <p>928 du 180 du</p>	<p><b>Site M</b> Preferred senior housing site.</p> <p>0 du 90 du if senior</p>	<p><b>Site I</b> Senior housing site.</p> <p>165 du 33 du; 90 du if developed as senior housing</p>	<p>---</p>	<p><b>Site H</b> Sewage issue not addressed.</p> <p>36 du 7 du</p>	<p><b>Site F</b> Sewage issue not addressed.</p> <p>257 du 51 du</p>	<p>---</p>	<p><b>Dobbs Site</b> Proposes rezoning R-3% to SF Cluster. No L&amp;M requirement. 108 du total.</p>
<p><b>September 1, 1984</b> Dobbs Critique of Coppola Report</p>	<p><b>Site B</b> Slopes restrict access. Needs utilities. Access to interstates restricted by jughandle capacity.</p>	<p><b>Site M</b> Undesirable housing site due to adjacent maintenance yard and I-287. Access to interstates restricted by jughandle.</p>	<p><b>Site I</b> Requires site assembly and 39,600 gpd sewer capacity for 165 du.</p>	<p>---</p>	<p><b>Site H</b> Requires 8,640 gpd for 36 du. BFH sewer expansion required.</p>	<p><b>Site F</b> Effect of commercial option on L&amp;M housing capacity not considered. Site assembly and road improvements required.</p>	<p>---</p>	<p><b>Dobbs Site</b> Willing developer. Direct interstate access. On-site sewage treatment faster and less environmentally damaging than EDC.</p>
<p><b>September 5, 1984</b> Coppola Report</p>	<p><b>Site B</b> Immediate sewer and utility access.</p>	<p><b>Site M</b> Excellent senior housing location.</p>	<p><b>Site I</b> Requires site assembly. BFH expansion "possibly" required.</p>	<p>---</p>	<p><b>Site H</b> BFH infiltration and capacity problems must be resolved.</p>	<p><b>Site F</b> 4 of 6 lots have single family dwellings. Higher density zoning will motivate development.</p>	<p>---</p>	<p><b>Dobbs Site</b> Incorrect assumptions re developability made.</p>