

RULS-AD-1985-70

2/8/85

Memorandum to Judge re Fair Share Obligation
Number

pgs- 41

MEMORANDUM

February 8, 1985

TO: Hon. Eugene D. Serpentelli,
Superior Court of New Jersey, Toms River, New Jersey

FROM: Richard Thomas Coppola, P. P.

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

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JUDGE SERPENTELLI'S CHAMBERS

RUIS - AD - 1985 - 70

On behalf of Bedminster Township, and in my capacity as Professional Planning Consultant to the Township since 1979, I offer the following information relative to the contention by Leonard Dobbs that his involvement in the pending litigation entitles him to a "builder's remedy". My comments are organized under four (4) headings, including: "Fair Share" Housing Obligation Number; "Mt. Laurel II" Ordinance Formulation; Dobbs' Development Proposals; and "Mt. Laurel II" Site Selection.

"Fair Share" Housing Obligation Number

1. During the early months of 1983, after the "Mt. Laurel II" Supreme Court Decision was rendered, I formulated a "Housing Analysis" for Bedminster Township. The report was issued during June 1983 and has already been made part of the record of the pending litigation.
2. During August 1983, at the instruction of Bedminster Township, I drafted a "Housing Element" of the Township of Bedminster Master Plan which incorporated the June 1983 "Housing Analysis". Additionally, the "Housing Element" contained suggested amendments to the Land Development Ordinance of the Township of Bedminster. The "Housing Element" of the Township of Bedminster Master Plan was adopted by the Planning Board on September 23, 1983. A copy of the "Part III: Housing Element, Township of Bedminster Master Plan" document has already been made part of the record of the pending litigation.
3. During November 1983, "A Critique of the Fair Share Determination of Bedminster Township, N. J. and Recommended Alternatives for Housing and Planning" was prepared on behalf of Leonard Dobbs by Ernest Erber, a Professional Planner from Columbia, Maryland. Mr. Erber calculated that Bedminster Township's "fair share" was 2,008 affordable units; far in excess of any other number generated by any other expert involved in the pending litigation. Summarily, the Erber report had absolutely no influence on my thoughts regarding the most appropriate methodology for the calculation of a municipality's "fair share" housing obligation, since by

the time the report was submitted, all of the items of contention addressed by Mr. Erber had already been addressed and discussed by most of the professional planners within New Jersey, as evidenced by the various "fair share" reports which had already been submitted to the Court and which had been the subject of review by myself and other professionals throughout the State. Indeed, Mr. Erber's report was only briefly discussed during the Case Management meetings convened by the Court and Mr. Erber did not even testify in the Hearing recently completed by the Court regarding the sufficiency and adequacy of Bedminster Township's proposed "Mt. Laurel II" compliance package.

2. Finally, on March 21, 1984, I issued a revised "Fair Share Housing Analysis" for Bedminster Township, based upon the so-called 'consensus methodology' formulated by the planners involved in the Urban League/Middlesex County consolidated cases. The 'consensus methodology' was later endorsed by your Court in the "A.M.G. v. Warren Township" Decision and was the "fair share" calculation methodology utilized by Bedminster Township as a basis for the proposed "Mt. Laurel II" compliance package.

"Mt. Laurel II" Ordinance Formulation

1. Simultaneous with the initial efforts during the early part of 1983 to formulate a "fair share" obligation number, Bedminster Township instructed me to formulate appropriate amendments to the Ordinance provisions of the Township in order to ensure that "Mt. Laurel II" housing units would be constructed in sufficient numbers and with sufficient controls to assure their conformity with the "Mt. Laurel II" Supreme Court Decision. Evidence of this Ordinance formulation process are indicated in my letters to Mayor Gavin and Planning Board Chairman Scher dated May 13, 1983 and July 26, 1983, copies of which are attached herewith in the Addendum to this Memorandum Report.
2. It must be remembered that Bedminster Township, during 1980, had adopted Ordinance provisions requiring the set-aside of "least cost" housing units as part of relatively dense multiple-family residential construction in the Township. These inclusionary Ordinance provisions were the result of the Township's compliance with the March 1980 Superior Court Order of Judge Leahy. The adopted inclusionary Ordinance provisions were judged to be in total accord with the mandates of the Supreme Court operative at that time.
3. It must be remembered that during the early months of 1983 The Hills Development Company did not acknowledge its responsibility to build "Mt. Laurel II" set-aside units as opposed to the "least cost" set-aside units specified in the Bedminster Township Land Development Ordinance in response to Judge Leahy's March 1980 Order. Nevertheless, Bedminster Township proceeded to formulate such Ordinance provisions as evidenced in the aforementioned May 13, 1983 and July 26, 1983 letters. Moreover, a letter dated

June 14, 1983 was sent by me to John Kerwin of The Hills Development Company requesting more information on The Hills Development Company's proposal for affordable housing within the PUD. The letter continued to encourage The Hills Development Company to proceed with a cooperative process of Ordinance formulation and, indeed, "The Hills" later ascedeed to its responsibility to provide "Mt. Laurel II" set-aside housing and generated very substantial work regarding the affordability and eligibility issues as well as the establishment of a mechanism to monitor affordability and eligibility over time. Bedminster Township authorized its professional staff to work with The Hills Development Company in this endeavor.

4. As indicated above, the "Part III: Housing Element of the Township of Bedminster Township Master Plan", dated August 1983, contained proposed Ordinance amendments in order to implement the municipality's compliance with "Mt. Laurel II". While the Ordinance provisions proposed by the Township in my September 5, 1984 submission to the Court include modifications and refinements to the initial draft, the refinements and modifications reflect the work accomplished by the Court, Bedminster Township, and the Office of the Public Advocate, as well as other municipalities and professionals in the State during the interim time period; no changes to the Ordinance resulted from input by Dobbs. Moreover, the refinements and modifications to the Ordinance provisions do not in any way change the ongoing intent of Bedminster Township to comply with "Mt. Laurel II" and receive a "Certificate of Compliance". Indeed, the goal of receiving a "Certificate of Compliance" was indicated in my May 13, 1983 letter to Mayor Gavin and Planning Board Chairman Scher as one of four (4) enumerated goals as follows:

- "1. The existing Ordinance provisions governing the development of 'affordable housing' within Bedminster Township be appropriately modified in order to satisfy the municipality's housing obligations under the "Mt. Laurel II" Decision.
2. The Hills Development Company be required to provide its individual share of the determined housing need within the PUD currently being reviewed by the Bedminster Township Planning Board.
3. The Court defined 'corridor' be held constant as currently planned and zoned under the March 19, 1980 Court Order of Judge Leahy which mandated the "set aside" provisions already incorporated within the Township's Ordinance provisions governing the development of affordable housing.
4. A "Certificate of Compliance", or similarly meaningful finding by the Court, be confirmed upon Bedminster Township, declaring that the Township has adopted appropriate Ordinance provisions which comply with its obligations under the "Mt. Laurel II" Decision and that the Township be protected from any further Mt. Laurel type litigation for a period of at least six (6) years."

Dobbs' Regional Shopping Center Proposal

1. My files indicate the following chronological history of proposals made by Leonard Dobbs and his consultants:

- a. April 18, 1980 Letter from Joseph Basralian, Esq. to Mayor and Council and Planning Board.

Regional shopping center proposed with no mention of any other development component. October 1980 report followed entitled "Bedminster Regional Center: A Planning Study For Development of A Regional Mall in Bedminster Township, New Jersey", prepared by Wallace, Roberts and Todd. A total of 1.2 million square feet of commercial space was proposed.

- b. August 1982 Proposal

This proposal sets forth in writing Dobbs' representations to the Planning Board which had been offered at a July 28, 1982 meeting of the Board. The August 1982 proposal included the following:

- Shopping Center - 112 acres
- Conference Center - 20 acres
- Residential Development - 30 acres
- (300 Townhouses, not for ten (10) years) - 0 "Mt. Laurel" set-aside
- Municipal Facilities - 20 acres
- Open Space - 29 acres (including those lands in the floodway which are undevelopable south of River Rd.)

It should be noted that all of the components other than the shopping center were the direct response of Mr. Dobbs to discussions heard by him at meetings of the Planning Board in their consideration of the need to acquire land for a municipal complex and park, and a proposal by The Hills Development Company for a conference center within their PUD. The only unique proposal ever offered by Dobbs has been the regional shopping center.

- c. February 4, 1983 Statement of Leonard Dobbs to the Township Committee

This statement of Mr. Dobbs continues his on-going inuendo that Bedminster Township did not respond to his request for rezoning in order to construct a shopping center as well as the numerous other "perks" Mr. Dobbs included in his proposal as a result of hearing

discussions at the Planning Board level. In fact, I read the few written submissions presented to the Township by Mr. Dobbs and his consultants and his shopping center proposal was considered by me and the Township and was rejected. It appears that Mr. Dobbs confuses a rejection of his proposal as a 'non-response' to his proposal. Mr. Dobbs' February 4, 1983 statement ends with a not too veiled threat of changing his regional shopping center proposal to become a "Mt. Laurel II" housing proposal if he is not given his way regarding the shopping center.

d. June 14, 1983 Letter from Leonard Dobbs to Mayor, Township Committee and Planning Board labelled "Bedminster Regional Center"

In his June 14, 1983 letter, attached herewith to the Addendum of this Memorandum Report, Mr. Dobbs reiterates his proposal for a regional shopping center but modifies it by increasing the amount of land devoted to residential development from thirty to forty (30 - 40) acres and commensurately decreasing the amount of lands to be set aside for municipal facilities from twenty (20) acres to ten (10) acres. It is noted that there is no specific number of total units or set-aside units discussed within the letter communication.

e. On February 7, 1984, a revised proposal was submitted which included the following three (3) alternatives:

1. Plan A:

One hundred twenty (120) acres at eight dwelling units per acre (8du/ac) with a "Mt. Laurel II" set-aside of twenty percent (20%);

2. Plan B:

One hundred forty five (145) acres at eight dwelling units per acre (8du/ac) with a "Mt. Laurel II" set-aside of twenty percent (20%);

3. Plan C:

Eighty-five (85) acres of office commercial development at an F.A.R. of 0.324 which yields 1.2-million square feet; the identical square footage first proposed for the regional shopping center.

Twenty-five (25) acres of housing at ten dwelling units per acre (10du/ac) with a "Mt. Laurel II" set-aside when the sewer plant was finished.

Ten (10) acres for the municipal complex.

f. September 1, 1984 Submission Prepared by Wallace, Roberts & Todd

1. The September 1, 1984 submission included only Plan B of the aforementioned February 7, 1984 report and was the first time a total "Mt. Laurel II" housing proposal was offered.

2. As indicated by the Dobbs proposal, Dobbs has rightfully not been considered a potential developer of "Mt. Laurel II" housing in Bedminster Township. Indeed, the first serious mention of residential construction of "Mt. Laurel II" housing units was in February 1984 and, even then, the preferred plan was "Plan C" as described above. Moreover, there was no indication that the housing would be built prior to 1990.
3. On October 30, 1984, I forwarded a summary of Mr. Dobbs' representations and appearances before the Township Committee and Planning Board of Bedminster Township between April 18, 1980 and February 4, 1983, when the apparent 'threat' of "Mt. Laurel II" was made. This summary is attached herewith in the Addendum to this Memorandum Report.

"Mt. Laurel II" Site Selection

1. On December 19, 1983, I communicated to George Raymond, Court appointed Master, regarding the then proposed 'compliance package' of Bedminster Township to meet its "Mt. Laurel II" housing obligations. The compliance package at that time included the identical sites endorsed by Judge Leahy in response to Bedminster Township's housing obligations as understood and defined prior to the "Mt. Laurel II" Superior Court Decision and subsequent consideration by the Superior Court.
2. Within the December 19, 1983 report, there was mention of two (2) other relevant considerations: (1) the need for a phased-in approach of the required units in Bedminster Township because of the severe impact the approximately 4,000 multiple-family dwelling units would have upon the prevailing developmental character of the Township; and (2) an addressment of the ability to sewer the various sites included within the suggested compliance package.
3. It should be noted that the December 19, 1983 report followed a series of discussions with Mr. Raymond, reappointed during October 1983 as Master, and the information regarding phasing and sewers was in direct response to his inquiries.
4. It was during the early months of 1984 that the so-called 'consensus' methodology was formulated with reports by Carla Lerman issued to the Court during March and April respectively. The import of this fact is that until that time the importance of 1990 as the date before which a municipality's calculated "Mt. Laurel II" housing obligations would have to be met was not established. It was at the time of formulation of the 'consensus' methodology that it became clear to all concerned that a satisfactory "Mt. Laurel II" compliance package must address the probability that the identified "Mt. Laurel II" units could be constructed and occupied prior to the year 1990.

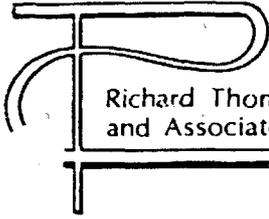
5. The 1990 "deadline" served to bring Mr. Raymond's inquiries regarding phasing and sewerage into greater focus. Indeed, the Court itself raised the issue during the January 25-26, 1984 Case Management conferences when the Court questioned whether certain sites would probably be provided the necessary sewage treatment facilities prior to 1990. It was at that time and shortly thereafter that: (1) the Court suggested that the Township was not tied to the prior Zoning Ordinance provisions under Judge Leahy's Order which designated a number of particular parcels for multiple-family housing; and, (2) that The Hills Development Company offered to include, for the first time, a "Mt. Laurel II" set-aside within the multiple-family development at the 'top of the hill' if the density was increased.
6. Regarding the provision of sewage treatment facilities servicing the designated "Mt. Laurel II" sites, there has never been a question other than the timing. Specifically, it has consistently been assumed that approximately 50,000 gpd. could be generated from the Bedminster/Far Hills existing sewer plant with relatively minor updating and upgrading as well as rectification of the existing infiltration problems within Far Hills Borough. Bedminster Township always has recognized and acknowledged the necessity for major expansion of the existing BFH plant or the construction of a new sewer plant in order to provide sewage treatment capabilities in excess of the aforementioned 50,000 gpd. The questions raised by the Court were (1) whether the major expansion could probably be accomplished within the next three or four years and, (2) whether alternative sites existed which could more probably provide sewage capabilities within that time frame.

The EDC sewer plant was approved to answer the sewerage needs of the Pluckemin Village portion of Bedminster Township in late 1980, when the Township diligently pursued compliance with Judge Leahy's March 1980 Court Order. The 850,000 gpd capacity constructed in 1982, and the additional capacity to be available when the plant is expanded, were always viewed by the Township to be first and foremost earmarked for those developments which would help satisfy the Township's obligation to provide affordable housing. Bedminster Township always has adopted the legal position, relied upon in the process of planning, that notwithstanding the position of "The Hills" to the contrary, any capacity of the plant cannot be "reserved", but, instead, is available to "Mt. Laurel" developments on a first approved, first served basis. Indeed, the EDC plant is a "privatization" plant which owes its very existence to "Mt. Laurel" litigation and its capacity should be allocated with that purpose in mind.

7. Summarily, Bedminster Township modified its "compliance package" to be as set forth in my September 5, 1984 communication to the Court given the following facts:
 - o The fact that The Hills volunteered to set-aside "Mt. Laurel II" units on the 'top of the hill' with an increase in density;

- The fact that the 'top of the hill' already was zoned for approximately 450 multiple-family dwelling units with no "Mt. Laurel II" set-aside and the proposed increase to approximately 900 units with 180 set-aside "Mt. Laurel II" units was equivalent to a forty percent (40%) set-aside, thereby modestly reducing the total number of multiple-family units required to be constructed in the Township;
- The fact that the Environmental Corporation Sewage Treatment Plant is a high-standard operation that was always intended to be expanded;
- The fact that an opportunity existed to enter an agreement with the Environmental Disposal Corporation to probably assure that sufficient sewage treatment capacity would be available to the designated "Mt. Laurel II" sites in their franchise area as proposed to be expanded; and,
- The fact that the non-profit corporation established to monitor the "affordability" and "eligibility" requirements of the "Mt. Laurel II" units within "The Hills" could be utilized to similarly monitor other "Mt. Laurel II" housing units within the EDC franchise area and is uniquely qualified to do so.

ATTACHMENTS



May 13, 1983

Paul F. Gavin, Mayor
Bedminster Township
Union Grove Road
Gladstone, New Jersey

J. William Scher, Chairman
Bedminster Township Planning Board
Bunn Road
Far Hills, New Jersey

Re: Potential Amendments to Land Development
Ordinance Provisions Governing Affordable
Housing in Bedminster Township.

Gentlemen:

As directed by the municipal officials, I am coordinating discussions among the Court appointed Master, the Public Advocate's office, and the Hills Development Company in our effort to accomplish the following objectives:

1. The existing Ordinance provisions governing the development of 'affordable housing' within Bedminster Township be appropriately modified in order to satisfy the municipality's housing obligations under the "Mt. Laurel II" Decision.
2. The Hills Development Company be required to provide its individual share of the determined housing need within the PUD currently being reviewed by the Bedminster Township Planning Board.
3. The Court defined 'corridor' be held constant as currently planned and zoned under the March 19, 1980 Court Order of Judge Leahy which mandated the "set aside" provisions already incorporated within the Township's Ordinance provisions governing the development of affordable housing.
4. A "Certificate of Compliance", or a similarly meaningful finding by the Court, be confirmed upon Bedminster Township declaring that the Township has adopted appropriate Ordinance provisions which comply with its obligations under the "Mt. Laurel II" Decision and that the Township be protected from any further Mt. Laurel type litigation for a period of at least six (6) years.

May 13, 1983
page two.

Paul F. Gavin, Mayor
J. William Scher, Planning Board Chairman

Subsequent to the municipal meeting held Thursday evening, April 28, 1983, a meeting was held in the offices of Ed Bowlby on Friday, May 6, 1983 attended by the following individuals:

- George Raymond, Court Appointed Master, and Gerry Lenaz from his offices;
- John Kerwin, Henry Hill, Guliet Hirsch and Alan Mallach, representing The Hills Development Company; and
- myself and Scarlet Doyle representing Bedminster Township.

During the meeting, The Hills Development Company distributed two (2) items; one explaining their anticipated program for providing affordable housing within the PUD, and the other suggesting revisions to the current Ordinance provisions governing the construction of affordable housing within Bedminster Township. Copies of the distributed material are enclosed herewith.

George Raymond led the discussion and took the position that The Hills Development Company must formulate a reasonable program for the construction of affordable housing on the PUD lands in accordance with the March 1980 Court Order and the modifications to the Constitutional Law of the State caused by the "Mt. Laurel II" Decision. George Raymond indicated his feeling that Judge Leahy (if the case is remanded to him as expected and apparently agreed upon among the parties involved) will hold that The Hills Development Company has such a responsibility under the current litigation. It should be noted, however, that The Hills' position is that they only agreed to provide "least cost housing" and are not bound by the requirements mandated in the "Mt. Laurel II" Decision. This question is a legal one which must be dealt with by Mr. Ferguson.

In terms of the four (4) general goals enumerated above, George Raymond expressed concurrence with my position. Moreover, Mr. Raymond's position was that he has no basic problem with the general approach outlined by The Hills Development Company, provided there is reasonable documentation that it is a bona fide effort to meet the "Mt. Laurel II" objectives. However, it was mentioned a number of times during the meeting that endorsement by the Public Advocate's office of any proposed program and accompanying Ordinance provisions will be extremely important in order for the four (4) general goals enumerated above to be accomplished.

Mr. Meiser of the Public Advocate's office was not in attendance at the Friday morning meeting, although I specifically invited him to attend. Nevertheless, Mr. Meiser and I have discussed the objectives of the Township and there appears, at this time, to be no threshold issues of disagreement.

At the termination of the meeting, Mr. Raymond suggested that The Hills Development Company submit a formal communication to the Township, through my offices, with copies to the participating parties, detailing the proposed program for the construction of the required housing on the Hills PUD site. This material is anticipated to be received by my offices on or about Wednesday, May 18, 1983.

May 13, 1983
page three.

Paul F. Gavin, Mayor
J. William Scher, Planning Board Chairman

After receipt of the material, a second meeting will be held among the parties during the first week in June upon Mr. Raymond's return from vacation. I intend to have formulated suggested Ordinance provisions for municipal review and discussion on or about June 15, 1983.

While this communication and the attached material is primarily offered for informational purposes as an update to the municipal officials, I would appreciate any reactions to the contents of this letter and the accompanying material as an input into my continued efforts to serve the Township in this very important matter.

Truly yours,

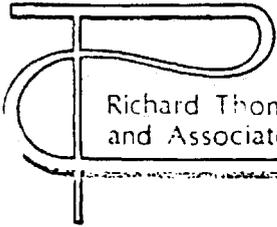


Richard Thomas Coppola, P. P.

RTC:e

cc:

Ralph E. Blakeslee, Jr., Township Committee Member
Robert G. Lloyd, Township Committee Member
Elizabeth M. Merck, Township Committee Member
Anne O'Brien, Township Committee Member
John Schoenberg, Township Administrator
Edward D. Bowlby, Esq., Township Attorney
Roger W. Thomas, Esq., Planning Board Attorney
Alfred L. Ferguson, Esq., Special Counsel
John Cilo, Jr., Administrative Officer



Richard Thomas Coppola
and Associates

609-799-5050

17 Candlewood Drive • P.O. Box 99 • Princeton Junction • New Jersey 08550

July 26, 1983

Paul F. Gavin, Mayor
Bedminster Township
Union Grove Road
Gladstone, New Jersey 07934

J. William Scher, Chairman
Bedminster Township Planning Board
Bunn Road
Far Hills, New Jersey 07931

Re: Potential Amendments to Land Development Ordinance Provisions
Governing Affordable Housing in Bedminster Township.

Gentlemen:

This letter is intended to update the municipal officials regarding the on-going discussions among the Court Appointed Master, the Public Advocate's Office, The Hills Development Company and myself as representative of Bedminster Township; all in an effort to accomplish the four (4) objectives enumerated in my previously issued May 13, 1983 letter.

The third and most recent meeting held convened at 10:00 a.m. on July 1, 1983 in Ed Bowlby's office. Individuals attending included:

- George Raymond, Court Appointed Master
- John Kerwin, Henry Hill, Alan Mallach,
representing The Hills Development Company;
- Ken Meiser, representing the Public Advocate's Office; and
- Myself representing Bedminster Township.

During the meeting, The Hills Development Company explained two (2) written communications which had been distributed prior to the meeting: the first, a June 16, 1983 letter to Messrs. Raymond and myself from Alan Mallach setting forth the conceptual approach whereby The Hills Development Company proposes to satisfy its Court mandated housing obligations; and, the second, a June 1983 communication prepared by Alan Mallach which analyzes the affordability levels for low and moderate income households in Bedminster Township.

While the written communications (copies of which are attached herewith) are comprehensive and provide an explanation of the intentions put forth by The Hills Development Company, certain aspects of the material deserve particular highlighting:

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page two.

Paul F. Gavin, Mayor
J. William Scher, Planning Board Chairman

1. While the June 16, 1983 communication indicates 288 proposed units, The Hills Development Company's obligation is actually 257 units and Mr. Kerwin indicated that possibly no more than the 257 units would be provided as part of the internal subsidy program.
2. Regardless of the total number of units, approximately 2/3 of the total number of units would be condominium units for sale and approximately 1/3 of the units would be rental units. There will be no appreciable difference between the units constructed for sale versus those for rent.
3. Fifty percent (50%) of the total number of units constructed will be sold or rented to low income households and fifty percent (50%) to moderate income households.
4. The condominium sales units will comprise four (4) different types and sizes of units including a one-bedroom unit, a loft two-bedroom unit, a conventional two-bedroom unit, and a three-bedroom unit. While approximately twenty-five percent (25%) of each type of unit will be constructed, the one-bedroom and loft two-bedroom units will be utilized to satisfy low income household needs and the conventional two-bedroom and three-bedroom units will be used to satisfy moderate income household needs.
5. The rental units will comprise the same mix of units noted above for condominium sales, although the precise mix remains undefined at this time.
6. The one-bedroom sales unit is expected to sell between \$25-30,000; the loft two-bedroom between \$35-40,000; the conventional two-bedroom between \$42-45,000; and the conventional three-bedroom unit in the \$50,000 range.
7. The cost reducing factors regarding the condominium sales units is a skewing of the internal mortgage rates among the housing units to be constructed such that the average interest rate for the total household count will be approximately 10.5% while the average long-term interest rate for the low income households will be 8 3/4% and the average long-term interest rate for the moderate income households will be 11 1/4%. Actually, The Hills proposes an initial interest rate of 7 1/4% for the low income households and 9 3/4% for the moderate income households; with annual increases of 1/2 percentage point per year over a three year period. While the buy-down for the three year time period will add approximately \$600 to the cost of an average unit, the buy-down also will increase the number of households which will be eligible to satisfy the "Mt. Laurel II" income/housing-cost ratio limitations.
8. All unit prices are based on a zero (0) land cost; however, Hills proposes to begin charging for the land at the fourth year into the thirty-year mortgage life. Specifically, The Hills proposes a \$75/month land/lease charge to increase by a factor of seven percent (7%) per year over the twenty-seven year time period.

July 26, 1983
page three.

Paul F. Gavin, Mayor
J. William Scher, Planning Board Chairman

It should be noted that both Mr. Raymond and Mr. Meiser raised significant questions regarding the necessity, advisability, appropriateness and reasonableness of the land/lease mechanism. It is the position of The Hills that they should have some way of recouping the land cost from those individuals who purchase one of the low or moderate income homes and, thereafter, receive higher salaries. However, the wisdom of this approach was questioned given the fact that many households would not increase in income in proportion to the \$75+ per month assessment and, further, that those households judged able to afford the monthly assessment might be kept at a minimum income level relative to their ability to spend money on other items including, possibly, necessary expenditures to maintain their individual dwelling units.

However, The Hills indicated that they had no intention of charging those who could not afford to pay and that there would be some sort of annual income re-assessment in order to monitor the ability of a household to pay for the land/lease and still be able to maintain the property.

The Hills suggested that a 'Housing Committee' be organized, comprised of representatives of the Township, the Public Advocate's Office, and the developer.

It became clear that the question of the land/lease mechanism is subject to further discussion and refinement.

9. Regarding the proposed rental units, there would be no land/lease mechanism, although there would be the conversion of the rental units to sales units at the end of a ten (10) year time period.

The proposed conversion mechanism must be viewed in the context of the "Mt. Laurel II" housing obligations on the part of the Township and, as with the land/lease noted above for the sales units, questions remain to be addressed by The Hills and considered by the parties involved.

As noted in George Raymond's letter to Judge Leahy dated July 5, 1983, a copy of which is attached herewith, the next step is the submission of a formal proposal by The Hills, refining the material presented at the July 1 meeting and addressing some of the outstanding questions raised by George Raymond and Kenneth Meiser. To date, no additional information has been received by my office.

The municipal officials should also be cognizant of the apparent intention of The Hills to submit a site plan application on or about August 22nd for preliminary and final approval for the remainder of the inner loop area. Although I did not speak for the Township, it was my recommendation to The Hills that all aspects of the housing program be finalized and approved by the participating parties prior to the August 22nd date, since the filing will trigger the affordable housing provisions currently in the Township Land Development Ordinance.

July 26, 1983
page four.

Paul F. Gavin, Mayor
J. William Scher, Planning Board Chairman

It should also be noted that The Hills hopes to have the entire review completed by the end of October 1983. In that regard, I indicated to The Hills that the Township would move as quickly as possible in its review of the material and that, given the detailed site plan work accomplished during the review of Fieldstone, the timetable did not appear to be impossible to accomplish assuming (1) a complete and detailed initial submission, and (2) the finalization of the housing program prior to the submission of the application.

Should the municipal officials desire, it may be appropriate to convene a joint meeting of the Planning Board and Township Committee to review, in more detail, the housing program proposed by The Hills. However, since more work must yet be accomplished by The Hills to firm out the proposed program, it may be more efficient to await the more detailed and formal submission of the housing program by The Hills.

Truly yours,



Richard Thomas Coppola, P. P.

cc: w/enc.

Ralph E. Blakeslee, Jr., Township Committee Member
Robert G. Lloyd, Township Committee Member
Elizabeth M. Merck, Township Committee Member
Anne O'Brien, Township Committee Member
John Schoenberg, Township Administrator
Edward D. Bowlby, Esq., Township Attorney
Roger W. Thomas, Esq., Planning Board Attorney
Alfred L. Ferguson, Esq., Special Counsel
John Cilo, Jr., Administrative Officer

cc:

George Raymond, Court Appointed Master
Kenneth E. Meiser, Deputy Public Advocate
John Kerwin, The Hills Development Company
Henry A. Hill, Jr., Esq., Attorney for The Hills
Alan Mallach, for The Hills

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

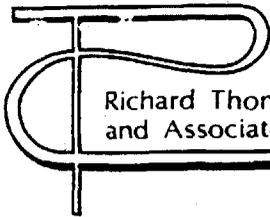
Leahy exempted the site from his corridor definition, his conclusion was based on misinformation supplied to him by the municipality as to the environmental sensitivity of the site. I have clearly demonstrated in the specific environmental proofs in the detailed studies submitted to you in February 1982 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



Richard Thomas Coppola
and Associates

609-799-5050

17 Candlewood Drive · P.O. Box 99 · Princeton Junction · New Jersey 08550

October 30, 1984

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McCarter & English
550 Broad Street
Newark, New Jersey 07102

Daniel F. O'Connell, Esq.
150 N. Finley Avenue
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RE: Dobbs Regional Shopping Center Proposal

Gentlemen:

Pursuant to your request, I have reviewed the meeting minutes of the Township Committee, the Planning Board, and the Master Plan Review Committee since April 18, 1980. As you know, it was on April 18, 1980 that a letter from Mr. Basralian was forwarded to the Township Council and Planning Board advising of Mr. Dobbs' desire to construct a regional shopping center on the River Road property. Specifically, as noted on p.3 of the April 18, 1980 letter, a copy of which is attached herewith, the intention of Mr. Dobbs was to construct a "regional retail development" on lands which have "features to render it ideal for regional retail development zoning."

Subsequent to receipt of the letter, the Township Committee, the Planning Board, and the Master Plan Review Committee met on a number of occasions and gave Mr. Dobbs the opportunity to participate. Segments of the various meetings are included herewith. Clearly, Mr. Dobbs' intention always has been to construct a regional shopping center. Indeed, while Mr. Dobbs determined it to be more saleable to the Township to include other development components, including monetary contributions for a by-pass of Pluckemin Village; a Conference Center to be on his site as opposed to a location within The Hills PUD which was being considered; a contribution of land for the location of a municipal complex which was represented to be anywhere between twenty and eighty (20 - 80) acres; and, finally, a representation to build some low and moderate income housing - - all of these ancillary proposals were contingent upon Township approval of a regional shopping center.

° Township Committee Meeting - October 2, 1981

"Mr. Dobbs addressed Mayor Gavin and stated that in the event his Regional Shopping Center comes to pass, he would like to sit down and deliberate about Municipal Facilities. He believes that building here and there for short term use is not sensible. He added that he was not ashamed to discuss this at the appropriate time and that he has done this with others in the past."

Alfred L. Ferguson, Esq.

Daniel F. O'Connell, Esq.

◦ Master Plan Review Committee - March 3, 1982

Mr. Leonard Dobbs introduced himself and described the work he does, including the fact that he was involved with the Short Hills Shopping Mall. He came here tonight to talk about the regional shopping center he proposes for Bedminster, and explained why he chose this particular area. ...Mr. Dobbs then suggested that the Township could use some help in the areas of a municipal building and another school; ..."

Herbert Vogel, Esq., representing three residents of Bedminster, ... discussed the reasons why these residents chose to live on Matthews Drive in Bedminster. He feels very strongly that a shopping center adjacent to their properties would create an extremely adverse impact upon the area. His comments were focused on the presentation made by Mr. Dobbs and his people, stating among other things, that this piece of property that is proposed for a regional shopping center is not within the Court-defined corridor. He added that the present zoning ordinance of this community provides for 800,000 square feet of shopping, which he feels more than adequately meets the needs of Bedminster Township and its expanding population..."

◦ Township Committee Meeting - April 30, 1982

"Mr. Dobbs requested to make some comments. Mayor Gavin gave Mr. Dobbs the floor. Some of his comments were that he was disappointed that no changes have been made to the Master Plan. He was in hopes the community would be acceptable to his project. ...Regarding City Federal, he feels it is speculative. Mr. Dobbs stated that he could help financially with the by pass and has also offered Municipal Facilities..."

◦ Master Plan Review Committee - June 6, 1982

" Mr. Dobbs said "I have just a few observations today that might help the deliberations with regard to school population. Today the House of Representatives passed, by unanimous vote, the Housing Subsidies Bill, it has already been approved by the Senate, which will underwrite the cost of first new home mortgages with the provision that there be a family income of not more than \$30,000. a year, or \$60,000. a year in high-cost areas. This is a high cost area. So anybody making \$60,000. a year family income would be entitled to get a Federal subsidy to bring the cost of their mortgage down to 11%. This has already passed both Houses. Number 2, the Rutgers Council for Urban Policy for Urban Planning have prepared on behalf of the Township of Bedminster some projections based upon what the Township anticipates what its population to be with the Hills Development and I think it would be..." Mr.

Alfred L. Ferguson, Esq.

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Coppola interrupted by asking when the Township had hired Dr. Sternlieb. Mr. Dobbs replied that he had paid the bill for Dr. Sternlieb to do the work for the Township. Mr. Coppola replied that in other words he was not working for the Township, he was doing a study at Rutgers among his students which he normally does and it's very misleading to say the Township hired him. It was ascertained that Dr. Sternlieb worked for Mr. Dobbs with the condition that Mr. Dobbs would have no voice in what he had to produce.

Mr. Dobbs continued "That study is made available to every member of this Committee...I have for an appropriate use of my property, offered the community 20 acres of land to be used for any purpose that they consider". Mr. Coppola stated that he wanted to make sure the School Board is aware of the facts in the offering. The proposal is to build a million and a half square foot regional shopping center. Mr. Coppola asked if Mr. Dobbs was saying he is willing to give 20 acres to the Town now. Mr. Dobbs reply was "If I had appropriate commercial use on my property I would".

"The following statements are made for the record. Mr. Dobbs: "In view of the fact that this Master Plan Committee at its June 3rd meeting voted approval of a 5-story, 350-room conference center, it was voted 3 to 1..."

Mr. Coppola: "Since this is for the record, the vote was to recommend favorably that this item be discussed at the full Board level."

Mr. Dobbs: "I would like to ask this Committee's consideration, and do what you will with it, for a campus-style conference center on my property, of not more than 300 rooms, with the height restrictions that are already established by your zoning ordinance".

° Planning Board Meeting - June 23, 1982

"Mr. Scher asked if any of the 4 residents who approached the Committee had any additional comments to make. Mr. Dobbs was the only person present, and he had some comments to make. The following is verbatim.

"...You've painted yourself up on the fact that you have a million square feet of commercial development, within the corridor, that has been defined by the Judge. That million square feet of commercial development, to the best of my knowledge lies in 4 separate parcels. This Committee has seen what you have to go through in dealing with one parcel. The City Federal plot, in terms of its traffic access and egress problems. The development of the other 4, or whatever number it may be, will each provide its own problems, will each further compound,

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aggravate the problem and I would predict --- I'm not an expert but as a highly educated person in this field --- that you will have horrendous problems in this so-called Court-appointed corridor, realizing the development of these 4 separate parcels of commercial area. Not to be too dramatic, I think you will need a gas-mask to drive through Pluckemin, if you are able to solve the problems.

My alternative is to place a commercial development someplace with the traffic solution that operates at a high level of service, that does not impact the local streets, and I'm a developer that gets on board and ready to move forward. The other people are not on board and ready to move forward with difficulty. In today's market and with what has happened to the price of land in the village of Pluckemin, in recent sales I believe it was \$200,000. an acre, and you think you're going to satisfy your retail needs out of end prices that are going for \$200,000. an acre you are grossly mistaken. There is not a retail organization, a supermarket, which is what you're dealing with in a \$200,000. block per, not a supermarket, drug store, or any other type of convenience retail facility that can afford to pay those prices for land consumption, and operate, and so what you have is a pie-in-the-sky, same as we have in a million square feet, 4 separate parcels which means potentially 4 discount centers to satisfy a retail and commercial need, and you'll have 4 additional problems similar to what you've had at City Federal, and there'll be 4 additional office-commercial type of uses being proposed, not immediately, but maybe some time in the far future all of which will put traffic on the street the same as 1200 family units in Hills Development, coming to and from work. You will have compounded, rather than taken this opportunity to ease and alleviate your future development property.

In addition, thereto, my proposal has been exaggerated and blown out of proportion. It's alarming for me to hear representatives of your community in terms of your consultants constantly talk about a 1,500,000 square foot shopping center. This has never appeared in any of my documentation. If anybody took the time to read it, it would show that for production purposes in order to determine the impact, we assumed 1,200,000 square feet and no greater, and that would be the greatest possible impact. In my proposal to the community which I was naturally restricted, I said I wanted 400,000 square feet of small tenant space and an appropriate number of additional department stores. I cannot determine the size of department stores, they determine their size, they will examine this market, and certain department stores will probably be 200,000 square feet, another department store will determine to be 100,000 square feet.

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So the ultimate size of my development will be governed for the most part by the number of department stores and the size that they elect to build. And, again, I assure you that I don't make a penny on a department store. They are coming to this community as only a benefit to this community. The department stores will own their own land, will build their own building, most often they will own their own land on a subsidized basis though they will be given the land by me for nothing. And in some cases they will be paid by me to come to this community...

In addition thereto, today with the reality of the taxes in this community going up $2\frac{1}{2}$ times on a very conservative basis as a result of this 1200 units of housing, I think that members of the Planning Board, and I am a member of the Planning Board in my community, this is a significant thing that you have to face up to. You have to weigh this against pie-in-the-sky, proposed commercial development in 4 places, and all their separate traffic problems, bringing you perhaps another million square feet. I hope that somebody here is ready to move forward with very distinct benefits to the community.

I don't think it's a secret that I propose \$1,000,000. toward the attainment of your bypass and over a period of time which would be \$2,400,000. spread out over 20 years. Plus another \$1,000,000. or \$2,400,000. spread out over 20 years, if I were allowed to add a conference center on my property at a size that is smaller than what has been proposed by HDC; the size that is within the height restriction of your community, that is, nothing over 3 stories in height and a campus type of arrangement, all with recreational facilities and the other facilities which would be available to members of the community where they are not being used by the attendees at the conference center. My proposal was made at a meeting of your Master Plan Committee (and) was not even presented here tonight. It was not even judged.

In addition thereto, this community has a desperate need for facilities. You have Police facilities that you are going to require, you have First Aid facilities that you're going to require, there may be a need for additional school facilities, there will certainly be a need for an expanded municipal building. The general consensus of the Committee is that all of these facilities should be located if possible in one place. The recommendation has been, and I don't think the recommendation is final as yet, to locate most of them in the flood-plain area near the sewer plant. I have proposed as part of the acceptance of my project because I was welcomed (tape inaudible). A centrally focal place to go shop, do your community business, sort of a focal point. And I offered to donate 20 acres to the community for this purpose. At current value for commercial property \$200,000. an acre would be better

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than in Pluckemin for sale, other than offers that are being bandied in this area. That's \$4,000,000. in value in terms of land. In addition too, not any of this has off-set against the taxes that my facility will be paying which will be \$1,200,000. a year. And let me tell you, you're going to need the money.

But aside from that item, a lot of people who live in New Jersey particularly say "well, we don't like shopping centers". And "if I lived in New Jersey and looked at all the shopping centers that exist in this state that you'd...". But I'm not - I haven't come here offering a facility that's going to waste the land. I have on my team Dr. Horden, who is the leading expert in water resources in the State, Mike Greenberg, the leading expert in air quality in this State, David Wallace the leading environmental land use planner and landscape architectural expert in the State. Experts in every field who will never, I will not ask them to, jeopardize their integrity, to do a project that would be anything other than what you would be proud of, and what I can be proud of.

But yet everybody is moving along with an apparent drive to get this over with, live with what the Judge has put upon us, and suddenly after all this conversation, how terrible this thing was, you do in fact have an opportunity to make your own decisions. To turn around and say that this thing is beautiful. In the last analysis what has been imposed upon us is beautiful - it's perfect. This is after you've had the opportunity to make your own decisions. I'm not saying that the things I propose to do can be done overnight. I'm saying that it cannot be saved. I'm saying that I'm willing to sit down and discuss how this would come about. How we can balance development so that you (tape inaudible) your growth, try to keep some semblance of tax-rate structure stability in this community, and I remind you the community's taken a hard-nosed policy in the past and has suffered for it. Well you may not suffer, you suffered from what you had to take from Hills.

And who knows, you may prevail, although I don't think you will, but you may prevail in litigation with me. And what would you be sitting on - taxes would become higher and Pluckemin, with a group of new residents that will sit back and say "hey what happened here. Why do I have so much problems getting to and from my home, while these people on the other side of town are scott free and I'm paying for snow removal, snow cleaning and plowing, and paying to pave my streets through my neighborhood association and Fred here is chipping brush on the west side of town and he's chipping brush out of general tax revenues and I'm paying. I'm a lower income person and I'm paying to have my snow removed (tape inaudible)". You're setting up bounds here to create a future war. I've seen it happen on the Island and you have to show some sensitivity to people who are coming in and some sensitivity to

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reach the balance of people living in your community. I think it's unfair to ask the balance of your community to pay 3 times more taxes than what they're currently paying so that you can keep to some kind of planning corridor that's been set forth by a Judge. Your planner. You have an opportunity to alter that. I guess I'm through now...

You've got a potential of 5,000 new families coming here. They're going to need a place to shop. At \$200,000. an acre, nobody's going to build. And if there's a need for retail space in New Jersey (tape inaudible) there are certainly vacant discount stores but that's the kind of problem that you don't want. It will be a long time in coming and I'm asking you to avoid paying for the expense and coming to some conclusion that at some subsequent time when the offers that I have on the table will be withdrawn. I'm asking you now for an opportunity to sit down and discuss, in a serious way, how I can be helpful to you and be helpful to myself at the same time. You're doing planning for the community that recognizes it's long term needs. I'm sorry I didn't have my consultants here to have given you all the planning reasons and what have you, but thank you for your indulgence".

◦ Master Plan Committee Meeting - July 13, 1982

"In a very informal manner, the Rodenbach land, adjacent to the public library, was discussed as the best place for a municipal complex for many reasons. Other locations were also discussed. Mr. Dobbs commented that if the Township were to use his property for a municipal complex, it would have exceptional access without using River Road. Mr. Coppola does not recommend a municipal facility next to a shopping center. Mr. Dobbs offered to investigate and advise the Committee of locations where this type of complex exists.

Mr. Blakeslee stated that the Committee is waiting for comments from the Fire Companies and the School Board. He asked Mr. Coppola to review the thinking of the past few months with respect to the Community Facilities. He added that there is agreement that the Committee would like the municipal facility to be centralized; it is unfortunate that the land the Township owns is in the flood plain, and would present some problems".

◦ Planning Board Meeting - July 28, 1982

"Dr. Wallace discussed site specific details regarding Mr. Dobbs' property, demonstrating why he thinks the corridor should be redefined by the Township. He thinks this site should be considered as one of the possible sites for a recreational center. Because of all the investigation by Mr. Dobbs, it appears viable. He thinks the general area is appropriate for this kind of recreational center..."

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"Mr. Dobbs presented an alternative to the development plan previously submitted. He proposes to develop 112 acres as the commercial retail center of approximately 850,000 to 950,000 square feet, the size depending upon the particular size of the department stores. Another 20 acres will be a hotel/conference center, to be between 250 and 300 rooms in a campus-style arrangement, with recreational facilities. 20 acres will be reserved for municipal facilities, including fire and first aid. On the 4th parcel he proposes 30 acres for residential, which in all probability will not be developed for at least 10 years. The balance of 20 acres he dedicates to open space, passive recreation. He plans 3 access points which will have a level of service C."

° Township Committee Meeting - November 12, 1983

"Mr. Dobbs noted for the record that within his property 20 acres would be set aside for Community facilities and 30 acres for Recreation, assuming no legal action was necessary regarding the use of his property for a shopping center".

° Township Committee Meeting - December 30, 1982

"Mayor Gavin requested public comments. Mr. Leonard Dobbs again reiterated his position concerning approval of his proposed shopping center/hotel-motel conference center. His proposition would consist of a 250-300 room center that would be wholly owned by him, built in accordance with existing local ordinances and would have a physical fitness center. Mr. Dobbs mentioned that he has done hotel transactions in the past with Hyatt Corporation and the Ford property. Mr. Dobbs went on to discuss his concerns in reference to the Hills Development proposed hotel/motel conference center..."

° Township Committee Meeting - April 29, 1983

"Mr. Leonard Dobbs asked to speak to the Committee and he remarked that of the 211 acres in question for Green Acres, 29 of them were in flood plain and that he offered free to the Township 79 acres for recreation but that the Township had elected to protect the west side of the Township from development and so decided to pursue a Green Acres acquisition. Mr. Dobbs inquired why this is so when 80% of the property is farmland and that the property is owned by Yale University, Sloan Kettering Institute, St. Paul's school and the Schley family. Mr. Dobbs further remarked that his lawyers were preparing letters to Green Acres saying that they were not interested in the Green Acres project, that he felt it was a ridiculous waste of taxpayers money and of the State, Federal and Bedminster money, when the Township can have 79 acres of his property for nothing.

Alfred L. Ferguson, Esq.

Daniel F. O'Connell, Esq.

Mayor Gavin inquired of Mr. Dobbs whether he had anything else he planned to build on the property. Mr. Dobbs replied, a shopping center maybe, and that he could help with the Township's fair share of housing because of Sudler and Beneficial. Mr. Dobbs further commented that the Township would be turning down approximately \$1,200,000 worth of tax money without his shopping center and when he and the Township meet in court and he wins then the Township will receive none of his offers of recreational property".

° Planning Board Meeting - September 23, 1983

"Mr. Dobbs stated that the Township is going too fast in its adoption of these amendments and that his consultants did not receive a copy of the Master Plan until Tuesday, September 20, 1983 and said a more detailed analysis will be forthcoming. Mr. Dobbs said the commercial zone properties proposed will meet a numerical obligation, but not a realistic obligation of housing in the Township. He said that Community Development gave a figure of 1300 low and moderate income housing for Bedminster and he feels that this is a more realistic figure rather than the Township's figures".

° Planning Board Meeting - September 27, 1984

"Mr. Coppola reiterated some of the history of the current ordinance and the Mt. Laurel II decision and gave an overview of how he arrived at the analysis of the Township's obligation and the drafting of an ordinance to address it. Mr. Coppola commented that he considered the proposed amendment as a refinement and clarification of the Township's existing ordinance providing for low and moderate incomes. With the exception of the 35% requirement, the draft ordinance was entirely in concert with his draft in the Housing Element."

"Mr. Leonard Dobbs commented that adoption of this ordinance was unrealistic on the part of the Township and put an unfair burden on developers other than Hills Development".

It is the "Statement of Leonard Dobbs", attached herewith, and read by Mr. Dobbs at the Township Committee Agenda Session of February 4, 1983, which represents the first written evidence that Dobbs intended to file for "Mt. Laurel" housing on the subject site if he did not get his way with the proposed regional shopping center. It appears to me, from a planning viewpoint, that the "Mt. Laurel II" Decision was used by Dobbs as a threat to the Township; i.e. either give me the regional shopping center or I will sue you under "Mt. Laurel II". The last two paragraphs of the February 4, 1983 statement read as follows:

"My attorneys and I have examined in careful detail all that has transpired in connection with my actions and the Township's actions to

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Alfred L. Ferguson, Esq.

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date. I believe that we have made every effort possible to resolve together with the community the problem of the use and development of my property. After 3-1/2 years, however, it does not seem to me that we are close to a satisfactory resolution. I am accordingly exploring with my attorneys a number of options in the event the property is not presently rezoned for appropriate use.

One of the options is, of course, resumption of litigation, in the light of your new Master Plan and the most current legal developments in the State. You and I have until now regarded litigation as the wrong means of resolution of the future development of the property and I have requested my attorneys to make one more effort, in which I would join with them, to achieve early settlement. I request that you join me now in that effort".

The term "most current legal developments in the State" clearly refers to the "Mt. Laurel II" Decision of the State Supreme Court which was rendered during January, 1983.

I trust this information is helpful. The copies of the minutes from which these excerpts were taken are in my files and can be reproduced at your request. Additionally, all of the Township Committee and Planning Board meetings and most, if not all, of the Master Plan Committee meetings were taped with said tapes on file at the municipal building.

Truly yours,



Richard Thomas Coppola, P. P.

RTC:e

att.

cc: w/att.

Mayor Paul Gavin

J. William Scher, Planning Board Chairman

Anne O'Brien, Committeewoman

Roger W. Thomas, Esq.

John Schoenberg, Township Administrator

WINNE, BANTA, RIZZI & HARRINGTON

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ROBERT M. JACOBS
JERROLD R. MCDOWELL
T. THOMAS VAN DAM
SCOTT A. WEINER
PHILIP SCALO
JAMES A. RUSSO

April 18, 1980

Mayor Paul F. Gavin
and Township Council
Township of Bedminster
Hillside Avenue
Bedminster, New Jersey 07921

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

Gentlemen:

We represent Leonard Dobbs, contract purchaser of a tract of land of approximately 200 acres on River Road just west of the junction of River Road and Route 202-206, opposite and across that highway from the facilities of the Long Lines Department Building of American Telephone and Telegraph Co.

We understand that:

1. Pursuant to the judgment 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.", and applicable provisions of the New Jersey Land Use Law, you are now engaged in studies looking toward revisions of the Township's Master Plan and Zoning Ordinance.

2. In connection with such studies you have engaged as consultants, Richard Coppola, and the planning firm of Raymond, Parish, Pine & Weiner.

3. You are considering and studying at this time rezoning of the lands of the Allan-Deane Corporation consisting of a tract of approximately 450 acres located on the east side of the Route 202-206 corridor to permit multi-family housing and non-residential uses, including shopping center facilities.

The Municipal Land Use Law of New Jersey (Chapter 291, Laws of N.J. 1975), which is the source of the power of the Township to adopt and amend zoning ordinances, requires, among other things, that:

1. The "ordinance shall be adopted after the planning board has adopted the land use plan element of a master plan and all of the provisions of such zoning ordinance or any amendment or revision thereto shall either be substantially consistent with the land use plan element of the master plan or designed to effectuate such plan element; provided that the governing body may adopt a zoning ordinance or amendment or revision thereto which in whole or part is inconsistent with or not designed to effectuate the land use plan element, but only by affirmative vote of a majority of the full authorized membership of the governing body with the reasons of the governing body for so acting recorded in its minutes when adopting such a zoning ordinance;"

2. "The zoning ordinance shall be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land."

3. "The regulations in the zoning ordinance shall be uniform throughout each district for each class or kind of buildings or other structures or uses of land, including planned unit development, planned unit residential development and residential cluster' but the regulations in one district may differ from those in other districts."

It is our opinion, and we respectfully submit, that:

1. The character of the "district" consisting of the Township of Bedminster, has so changed and been so modified by regional and other developments within recent years, particularly the construction of Routes I-78 and I-287, that consideration must be given at this time to providing for a regional retail development district or districts within the Township;

2. The tract of land of which our client, Leonard Dobbs, is the contract purchaser is ideally situated because of its location and has other features which render it ideal for regional retail development zoning.

3. The studies now going on with respect to the revisions of the Township's master plan and zoning ordinance, precipitated by the court in the litigation described above, should include studies of provision for a regional retail

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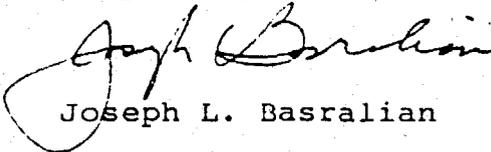
development district in the Township at the location of the lands which our client has contracted to purchase.

4. Zoning the Allan-Deane Corporation tract for multi-family housing and shopping center development and maintaining the west side of the same transportation corridor for large lot single family housing would be inconsistent with the Municipal Land Use Law mandate of "uniform[ity] throughout each district for each class or kind of buildings or other structures or uses of land..." and would pose serious constitutional problems.

5. Arrangements should be made forthwith for the participation of our client and his consultants and attorneys now proceeding with respect to the Allan-Deane Corporation tract, including the participation in meetings and access to all of the relevant documents and background materials. In the course of such meetings, our client and his consultants can make known to you the status of his plans for the property.

We would appreciate early word from you concerning the points made above.

Very truly yours,



Joseph L. Basralian

JLB/kam

cc: Honorable B. Thomas Leahy
Edward D. Bowlby, Esq.
Dean A. Gaver, Esq.
Henry Hill, Esq.
Richard Coppola
Raymond, Parish, Pine & Weiner

REGULAR AGENDA MEETING

FEBRUARY 4, 1983

*Read by Mr Dabbs At
the Township Committee
Agenda Session of
2/4/83*

STATEMENT OF LEONARD DOBBS

I am here tonight to read a statement which has been prepared by me with the assistance and advice of counsel. This statement is as follows:

In December 1979, five months after I entered into the contract to purchase my property in Bedminster, I met with Mayor Gavin and Robert Graff to discuss some appropriate commercial use for this land. Coincidentally this was the day after Judge Leahy's decision was issued concerning the Allan-Deane Hills Development litigation. Prior to the implementation of Judge Leahy's Order, my attorneys and planner met with the Chairman of the Planning Board and suggested that this was now an appropriate time to consider the use of my property to satisfy retail commercial needs of the increasing population within the Township of Bedminster and the surrounding region.

We pointed out that our property met the criteria of regional planning agencies in terms of its suitability for more intensive development. These plans include the Somerset County Master Plan, the State Development Guideline and the Tri-State Regional Plan. Notwithstanding this information and with full knowledge of our request, certain municipal officials persuaded Judge Leahy to exclude my property from rezoning because of its purported environmental sensitivity. Although this suggested corridor delineation which excluded my property was questioned

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by the Judge, he acceded to the representations of municipal officials as to its environmental sensitivity. As a result, my property remains as the only parcel within the Township on Rt. 202-206 from Pluckemin to Old Dutch Road that continues to be burdened by 3% residential zoning. This issue of environmental sensitivity, however, has been proven to have been based upon misinformation or no information. Seven detailed reports prepared by my consultants affirm the suitability of the property for large scale development. This is supported also by the Background Studies prepared by the Township's experts for the Township's newly adopted Master Plan.

My attorneys and I attended many Planning Board and Township meeting, including sub-committee meetings, during this early period requesting that consideration be given to the appropriate use of my property. We were denied access to your planning consultant who was not authorized to meet with my consultants to discuss planning issues, despite my offer to reimburse the Township for the fees it would incur in permitting its planner to speak with us. As a property owner of 211 acres in the Township, I believe that this was an abrogation of my rights. Upon the appointment of the Planning Master, we again requested an opportunity to meet and discuss appropriate uses for my property. This request too was denied.

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We were told that the Township was under pressure to complete its rezoning in order to comply with the court order and that due consideration would be given to our property upon completion of this process. We could not, however, see how this planning process could be comprehensive without the input of a major landowner in the Corridor. Accordingly, we commenced litigation in November 1980, nearly one year after we had requested to be heard.

In March 1981, the Planning Board agreed to conduct special hearings to consider the use of my property. In anticipation of those hearings, we prepared detailed reports addressing every major discipline affecting proper land use development. This agreement to hold special hearings was not implemented and the hearings were cancelled. In June we were advised that a new Master Plan would be prepared in September 1981 and that we would be given an opportunity to make a full and detailed presentation to the Master Plan Review Committee at that time. Not only were we not provided an opportunity to make our presentation until the Spring of 1982, but when we came forth to make this presentation severe time constraints were placed upon us and we were not able to have each of our consultants fully set forth and explain his findings. Subsequent hearings on the Master Plan by the full Planning Board

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also limited the scope of the presentation we were allowed to make.

It is disconcerting to me that during this entire period there never has been a question raised by any governmental body concerning the nature and content of the detailed consultant reports which we presented to the Planning Board and the Township Committee. This leads me to two possible conclusions: (1) that these reports were so comprehensive and correct in every respect that they were not subject to question; or (2) that they were never read.

Over the past number of years I have made every attempt to exhaust the due process procedures available to me which would result in rezoning to permit appropriate use of my property. In addition thereto I have attended a number of community meetings in order to personally assess and evaluate legitimate community concerns. In response to broader community concerns, I submitted an alternative proposal to the Planning Board dated August 16, 1982, which was also made a part of a proposal by me to the Township Committee. Again, I have received no comment concerning this alternative.

As you know, my property is zoned 3% residential, the only property in the Corridor which has not undergone some form

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of rezoning of a less restrictive nature than 3% residential. The property, as we have proved, is developable in a more intensive zoning mode and will ultimately be developed.

In the course of my proposals, I have offered to dedicate approximately 50 acres for various forms of municipal use and I hold in reserve approximately 30 additional acres for some use subsequently to be determined by the Township and myself. I have further offered under certain circumstances to contribute \$2,000,000.00 for offsite improvement for the construction of a by-pass for the preservation of the historic Village of Pluckemin, this in addition to paying for all road improvements that would be attendant to the use of my property. My reasons for offering to contribute both money and land to the municipality are twofold: Firstly, as a major property owner within the community, I share a long-term sense of responsibility to the Township; and secondly, because of my investment in the Township, I share with you the desire to maintain the continued viability of the Township to meet its growing needs. Needless to say, none of these proposed contributions can be made without the ability to move forward with the economic benefits to me by means of my development plan.

The trustees of the institutions which currently own the property are most anxious to press forward towards the

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necessary rezoning. Considering the fact that the property has been under contract to me for three and one-half years, this request is not unreasonable.

My attorneys and I have examined in careful detail all that has transpired in connection with my actions and the Township's actions to date. I believe that we have made every effort possible to resolve together with the community the problem of the use and development of my property. After 3-1/2 years, however, it does not seem to me that we are close to a satisfactory resolution. I am accordingly exploring with my attorneys a number of options in the event the property is not presently rezoned for appropriate use.

One of the options is, of course, resumption of litigation, in the light of your new Master Plan and the most current legal developments in the State. You and I have until now regarded litigation as the wrong means of resolution of the future development of the property and I have requested my attorneys to make one more effort, in which I would join with them, to achieve early settlement. I request that you join now in that effort.)

Mayor Gavin inquired of Mr. Dobbs what it was he wanted the Committee to do. Mr. Dobbs replied that he wanted a Closed Session meeting with the Committee to discuss use of his property. Mayor Gavin replied that he would be in touch with the Township Attorney and would get back to him. Mayor Gavin further stated he did not know what the status of the lawsuit was between Mr. Dobbs and the Township or the lawsuit of the people on Mathews Drive. Mayor Gavin further replied that he had heard Mr. Dobbs's presentation 3 times and he thought the present zoning the Township has which is monitored by the Courts and the Planning Master is correct. Mayor Gavin went on to state that as a regional shopping center is the basis of his development, it just won't fly.

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Mr. Dobbs replied that he had offered 50 acres of his property to the Township, 20 acres for a municipal use and 30 acres for recreational use. He reiterated his past comments that the property should be for dense development and that there was a need for a regional shopping center. Mr. Dobbs went on to state that his proposal was different than Hills Development's Hotel/Motel Conference Center in that his conference center would be for people who were re-locating in the area and needed a place to stay. Mr. Dobbs again requested that he have a Closed Session meeting with the Township Committee and Mayor Gavin responded by giving him a tentative date of March 7, 1983 but that in the meantime he would be checking with the Township Attorney as to the appropriateness of such a meeting.

Other new business of the evening included the following Resolutions.

On a motion by Committeeman Lloyd, seconded by Committeeman Blakelee and a unanimous roll call vote, the following Resolution was approved.

R E S O L U T I O N

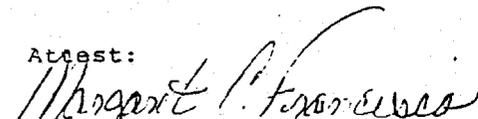
WHEREAS, the Township of Bedminster Recreation Committee wishes to establish fees for certain recreational programs provided by the Township of Bedminster Recreation Committee,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the Township Committee of the Township of Bedminster that the following fees be and are hereby established for 1983, effective January 1, 1983:

ADULT FITNESS PROGRAM \$10.00 per person
per session


Paul F. Gavin, Mayor

Attest:


Margaret C. Francisco
Township Clerk

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

I, 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 February 4, 1983.

RW

MCCARTER & ENGLISH

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*NEW YORK BAR ONLY
*FLORIDA BAR ONLY

February 6, 1985

Re: Bedminster ads Allan-Deane
Docket Nos. L-38696-70 PW
L-28061-71 PW

The Honorable Eugene D. Serpentelli
Superior Court of New Jersey
Ocean County Court House
CN 2191
Toms River, New Jersey 08753

My dear Judge Serpentelli:

Confirming the various telephone conversations with your chambers last week and this week, we understand that Mr. Coppola's troublesome computer and his flu-stricken staff plans to have his report in final form by the end of this week. We have withheld filing our brief, which relies in part upon that report, so that our brief and the documents on which it relies can all be sent to the Court at the same time.

We trust this procedure meets with the Court's approval, and we thank you for your consideration.

I agreed with Mr. Wiss that to the extent that our papers are delayed in filing, he will have an extension of time for his papers in reply to our papers, and I assume this is satisfactory to the Court as well.

Respectfully yours,

Alfred L. Ferguson
Alfred L. Ferguson

ALF/nw

cc: Raymond R. Wiss, Esq.; Kenneth E. Meiser, Esq.
Thomas Hall, Esq; Daniel F. O'Connell, Esq;