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AMG

Response to questions raised by the
Court in Warren Twp Case
with App. A

Pgs. 35

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TO: The Hon. Eugene D. Serpentelli, Justice of the Superior Court

RE: Response to Questions Raised by the Court in Warren Township Case

DATE: January 23, 1984

The Court has raised some questions with respect to certain elements in the Warren Township settlement. These include family versus household income, percentage of income to be used for housing, percent low and moderate, tenant selection, definition of housing costs, and standards of development. This memorandum attempts to address each of the issues.

1. Family vs. Household Income. The difference between a family and a household, as defined in the Census, is that a household is one or more persons living together as a single housekeeping unit, and a family is two or more persons related by blood or marriage living together as a single housekeeping unit. Invariably, family income is higher than household income, although in certain rare situations the reverse is true. If median family income is used as the benchmark, the result is that the definition of lower income housing is higher. I would recommend that the household income figure be used. The reason is because many lower income families, particularly the low income, are single householders or elderly living on limited incomes.¹ Consequently, this segment of the population is an important one whose housing needs have to be addressed.

¹The Census notes that of the 19 million Americans who live alone, more than half are aged 55 or older. Of the 19 million,

2. Percentage of Family Income for Housing. The decision in Footnote 8 of the decision clearly suggests that 25 percent be used as the maximum percentage of family income for housing costs. It is my opinion that this is grossly unrealistic and that a figure of 30 percent is more appropriate. In fact, the general rule of thumb in the mortgage industry is now to permit up to 28 percent of gross income for housing costs. There is another reason to consider 30 percent as the guidepost; the federal government, in all its housing programs including public housing and Section 8 assistance, permits 30 percent of a family's income to be used for housing. It would be illogical to suggest that a community which decided to meet its Mt. Laurel obligation by applying for and receiving federal public housing would then be declared as not having met that obligation because it allows a family to spend up to 30 percent of the family income for rent, in accordance with federal regulations.

Furthermore, 30 percent recognizes that many people, by choice, would prefer to spend more money for housing. This may be particularly true in households where children are grown.

3. Percentage of Low and Moderate. The big controversy, of course, is what percentage of the prospective share should be affordable to moderate income families (between 50 and 80 percent

61 percent, or about 11,600,000, are women and 6,000,000 aged 65 or older live alone. The statistics for New Jersey are probably similar.

of the region's median household income) and what percentage to meet lower income needs (50 percent or below of median household income).

This need figure can be computed by analyzing the existing breakdown of moderate income and lower income families in the commutershed. Some of the previous studies (Caton and Lerman, for example) suggest that the need figure is probably one-third moderate and two-thirds low. Given the suggestion that household (rather than family) income be used (see #1), we would suggest that adhering to the one-third moderate and two-thirds low would produce a situation in which lower income housing probably could not be constructed or rented because of the rather low resulting figures. For example, in Somerset County the median household income is \$26,235. For low income families (50 percent or lower of median household income) and assuming 30 percent of that figure for housing, the monthly amount available for rental or purchase would be approximately \$238 per month. To require that two-thirds of the prospective housing be available for low income is probably impossible from a practical point of view. Moderate income limits would be \$525 per month, a much more realistic figure. Consequently, it is our opinion that the figure should be reversed; that two-thirds of the housing should be affordable for moderate income and one-third for low income. We might add that probably the bulk of the low income units will have to be smaller units by necessity and obviously oriented

toward one or possibly two-person households which, as we pointed out in the footnote on the preceding page, probably constitutes the bulk of the low income families.

4. Tenant Selection. Tenant selection can be a problem. The easiest answer, obviously, is to establish a housing authority, but many communities simply do not want to get into the housing business. In those counties where the counties have housing authorities (for example, Morris County), the communities should be able to contract with the housing authority to undertake tenant selection and to assure that the subsequent tenants also meet low or moderate income guidelines. The control is relatively easy with respect to rental units if such a device is used. For "for sale units" which are designated for low or moderate income, a clause can be written into the deed to assure subsequent resale is with lower income guidelines. (See attached model ordinance for specific controls.)

5. Housing Cost Component. The housing cost component should be as follows (this is based on discussion with the Public Advocate):

Rental units-	gross rent
Sales units -	principal
	interest
	insurance
	taxes
	condo or homeowners fees

6. Standards of Development. Attached to this memo is a model ordinance which is a variation of one which was adopted in

Morris Township, Morris County, in December 1983 to meet the Mt.
Laurel II mandate.

SUGGESTED AMENDMENT TO LAND DEVELOPMENT ORDINANCE
FOR MT. LAUREL II COMPLIANCE

I. Purpose

The purpose of this amendment is to establish procedures, standards, and regulations for a new _____ zoning district which is designed to implement the provisions of Mt. Laurel II. This amendment shall be interpreted to assure the construction of lower income housing which meets the standards and guidelines set forth in Mt. Laurel II. Any provisions of any other ordinances in conflict with this amendment and which impose restrictions or limitations not related to health and safety shall be inapplicable.

II. Procedures Applicable to _____ Zone

A. Application Procedure

1. Applicant shall submit required plans and documents to the Planning Board for review and approval. The Planning Board shall distribute the plans to those agencies required by law to review and/or approve development plans and to municipal agencies which normally review development plans.

2. The Planning Board shall hold a public hearing in accordance with N.J.S.A. 40:55D-46.1 on the application. The hearing shall be held not less than thirty (30) days nor more than forty-five (45) days from the date of submission of a complete application.

3. Applicants with 10 or more acres may elect to submit a General Development Plan (GDP) as part of a planned development application in any _____ zone. In the alternative, applicant may follow procedures for subdivision and site plan approval set forth elsewhere in this ordinance. Once a GDP is approved, applicant shall proceed as provided in this ordinance for subdivision and/or site plan approval.

B. Details Required

The following details shall be submitted as part of the GDP. If the GDP option is not selected, the information required in this ordinance for subdivision and/or site plan approval shall be submitted.

1. Title Sheet. A title sheet shall be submitted containing the following information:

- a. Name of the project, municipality, and county.
- b. Existing lot and block numbers of the application.
- c. Name and address of the owner, if different from the applicant.
- d. Name and address of the applicant.
- e. Key map showing the entire tract and its relationship to the surrounding area, at a scale of one (1) inch equals 2,000 feet.
- f. Date of original submission and each subsequent revision thereof.
- g. Total tract area.

h. Approval signatures for:

- (1) Chairman;
- (2) Secretary; and
- (3) municipal engineer.

i. Name, address and telephone number of the professional(s) preparing the submission.

2. Land Use Plan. Prepared at a scale of not smaller than one (1) inch equals 200 feet, the Land Use Plan shall contain the overall tract and illustrate:

- a. Total number of dwelling units.
- b. The specific land areas to be devoted to the specific land uses.
- c. The acreage of each land use area.
- d. The net density range of each residential land use area.
- e. The type(s) of proposed dwelling units for each residential land use area.
- f. The area designated for lower income housing.

3. Traffic and Circulation Plan. Prepared at a scale of not smaller than one (1) inch equals 200 feet, the traffic and circulation plan shall show:

- a. The general location of all existing and proposed collector streets.
- b. Typical road cross section.
- c. The general location of non-vehicular pathways.

4. Utility Plan. Prepared at a scale of not smaller than one (1) inch equals 200 feet, the Utility Plan shall show:

a. The general location and extent of existing and proposed sewer and water lines.

b. The general location of pump stations, if required.

5. Drainage Plan. Prepared at a scale of not smaller than one (1) inch equals 200 feet, the drainage plan shall contain:

a. The location of drainage areas and direction of run-off flow.

b. The size in acres of the drainage areas.

c. The general location and size of detention and/or retention basins.

6. Open Space Plan. Prepared at a scale of not smaller than one (1) inch equals 200 feet, the open space plan shall indicate:

a. The location and size of open space areas.

b. The proposed use of open space areas as it relates to open space, conservation or recreation purposes.

C. Action by the Municipality .

The Board shall take action upon a GDP application as provided for under the time requirements for preliminary plans.

D. Findings of Fact

In the case of a GDP application, the Board shall make findings of fact in conformance with the requirements of N.J.S.A.

40:55D-45.

E. Effect of GDP Approval

A GDP approval shall confer upon the applicant the following rights for a period of time determined by the Board in accordance with N.J.S.A. 40:55D-49.

1. The submitted land use plan shall not be changed with regard to the total number of dwelling units and the size, location, density, ranges and use of the various land use areas.

2. The general location and specifications for the approved collector roads shall not be changed.

3. Sections may be subdivided from property receiving GDP approval without regard to setback, side yard, area or other applicable standards for the purpose of selling to a builder, homeowners association, or utility.

4. If construction and engineering plans for site improvements have been submitted and approved as part of the GDP application, construction of the approved improvements may commence.

III. Use Regulations

A. Permitted Uses

1. Dwelling, One-Family
2. Townhouse
3. Dwelling, Two-Family
4. Dwelling, Multi-Family
5. Public parks, playgrounds, conservation areas, and municipal facilities
6. Common Open Space
7. Planned Development

B. Accessory Uses

1. Personal recreational facilities
2. Accessory buildings
3. Off-street parking and garages
4. Fences
5. Signs

C. Conditional Uses

1. Essential Services
2. Nursery schools
3. Private recreation uses with lights

IV. Minimum Tract Size and Gross Density

1. Minimum Tract Size. The minimum tract size for other than single or two-family development in the _____ zone shall be 5 acres.

2. The maximum number of dwelling units shall be as follows:

___ X total tract area in acres

The Planning Board may increase the number of total dwelling units by 10 percent if such increase is needed to achieve the purposes set forth in Article I. above and further provided that the increase would not adversely affect health, safety, and encroach on environmentally sensitive land.

V. Minimum Tract Setback

All development shall maintain a 50-foot minimum buffer to all exterior property lines. Said buffer shall be bermed or landscaped and remain unoccupied except for entrance roads or utilities. Buffers may include minimum yard requirements for single-family, two-family and townhouse development.

VI. Schedule of Area, Bulk and Yard Requirements

Permitted Uses	Maximum Net Density (du/acre)	Minimum Lot Area (sq.ft.)	Minimum Lot Width	Minimum Yards			Maximum Building Coverage	Maximum Height
				Front	Side one/both	Rear		
Dwelling, One-Family	N/A	5,000	50'	25'	10'/15'	25'	20%	35'
Townhouse	10	1,200	16'	20'	N/A	20'	60%	35'
Dwelling, Two-Family (horizontally separated)	N/A	6,000	60'	25'	10'/15'	25'	20%	35'
Dwelling, Two-Family (vertically separated)	N/A	3,000/unit	30'	25'	0/10'	25'	40%	35'
Dwelling, Multi-Family								
Lower Income	25	5 acres	100'	N/A	N/A	N/A	35%	55'
Market Housing	12	5 acres	100'	N/A	N/A	N/A	35%	55'

VII. Distance Between Buildings

The minimum distance between townhouses and multi-family buildings shall be as follows:

- | | |
|---|---------|
| A. End wall to end wall (no windows) | 20 feet |
| B. Window wall to end wall | 30 " |
| C. Window wall to window wall | |
| Front to front | 75 " |
| Rear to rear | 50 " |
| End to end | 30 " |
| D. Any building face to public street right-of-way or private street curb or edge of pavement | 20 " |

- | | |
|---|------|
| E. Any building face to collector street curb | 40 " |
| F. Any building face to arterial street curb | 50 " |
| G. Any building face to common parking area | 12 " |

The Planning Board may reduce the above distances by not more than one-third if there is an angle of 20 degrees or more between buildings and if extensive landscaping or buffers are placed between buildings.

VIII. Minimum Off-Street Parking Requirements

1. Each dwelling unit shall provide off-street parking in the following manner:

- | | |
|--|--------------------|
| a. Dwelling units with not more than one (1) bedroom: | 1.5 spaces |
| b. Dwelling units with two (2) bedrooms or more: | 2.0 spaces |
| c. Housing designed, constructed & reserved for senior citizens: | 0.5 spaces/bedroom |

2. All common off-street parking shall be located within 300 feet of the dwelling unit served.

3. Parking may be permitted in all required minimum yard areas except where the minimum yard is part of the required buffer area.

4. On streets with road widths less than 30 feet, and parking restricted on one or both sides, visitor off-street parking shall be provided at the rate of 0.25 spaces per dwelling unit.

IX. Minimum Floor Area for Dwelling Units

1 bedroom:	550 square feet
2 bedroom:	660 square feet
3 bedroom:	850 square feet

X. Lower Income Housing Requirements

A. Number of Lower Income Dwelling Units Required

All developments in the _____ zone shall be required to provide twenty (20) percent of all dwelling units to be affordable for lower income households. The minimum number of lower income units required for each development shall be as follows:

___ X area of tract in acres X 0.20

B. Eligibility Standard

1. One-third of all lower income units shall meet HUD Section 8 eligibility requirements for very low income; two-thirds shall meet HUD eligibility requirements for lower income.

2. Applicant may substitute alternate standards (other than HUD) where appropriate and to the satisfaction of the Planning Board.

C. Housing Cost Component

In computing eligibility, not more than 25 percent of the family income may be used for housing, as follows:

Rental Units: Gross Rent

Sales Units: Principal and Interest

Insurance

Taxes

Condominium or homeowners association fees

D. Subsidies

Government subsidies may be used at the discretion of the applicant to fulfill the requirements of the section. The lack of said subsidies shall in no way alter or diminish the lower income requirements of this ordinance.

E. Resale and Rental of Lower Income Housing

1. All lower income dwelling units within the _____ zone shall be required to have covenants running with the land to control the resale price of for-sale units or to employ other legal mechanisms which may be approved by the municipal attorney and will, in his opinion, ensure that such housing will remain affordable to persons of lower income.

2. The owner of all rental units shall provide legal documentation to be approved by the municipal attorney to assure that rental units will remain affordable to persons of lower income.

3. The municipality and the applicant may develop reasonable qualifications for occupants of lower income housing and may arrange for third party administration of tenant selection.

4. Sales prices and rents may be increased in accordance with the annual Metropolitan New York Regional Consumer Price Index for Housing of the Department of Labor. After 15 years, all such units may be sold or rented without restrictions.

5. Developers of multi-family projects with lower income housing may arrange to purchase, sell, swap or make such other arrangements satisfactory to the municipality with respect to such lower income housing so as to increase the percentage of lower income units in one project by decreasing the percentage in another by a like amount.

F. Phasing of Lower Income Housing

Lower income housing shall be phased in accordance with the following schedule:

<u>Percentage of Total Dwelling Units</u>	<u>Minimum Percentage of Lower Income Dwelling Units</u>
25	0
50	25
75	50
100	100

The above percentages shall refer to the percentage of total dwelling units having final site plan or subdivision approval and the percentage of lower income dwelling units completed and certificates of occupancy issued.

G. Waiver of Fees

Notwithstanding any ordinance requirement of the municipality, the applicable approving agency shall waive the

following fees for every unit designated as lower income housing:

- a. Subdivision and site plan application fees;
- b. Building permit fees, except State and third party fees;
- c. Certificate of occupancy fees;
- d. Sewer and water tap-in, connection and application fees;
- e. Engineering fees applicable to lower income housing;

If any of the above fees are not within the jurisdiction of the municipality to waive, the municipality shall endorse and support any application or waiver before the appropriate agency.

XI. Common Open Space Requirements

- A. A minimum of twenty (20) percent of the land area of any development other than single or two-family housing and which may include environmentally restricted land, shall be designated for conservation, open space, recreation and/or other common open space.
- B. All property owners and tenants of the development shall have the right to use the common open space.
- C. Common open space may be deeded to the municipality if accepted by the Governing Body, or to an open space organization or trust, or to a private non-profit organization charged with the provision of recreation activities for the residents of the development.

D. All common open space deeded to an open space organization, trust, or private organization, shall be owned and maintained as provided for in N.J.S.A. 40:55D-43.

XII. Engineering and Construction Design

A. Drainage

1. Where non-structural means of controlling surface runoff, such as swales, is feasible and adequate such non-structural means shall be preferred.

2. The system shall be adequate to carry off the storm water and natural drainage water which originates not only within the lot or tract boundaries but also that which originates beyond the lot or tract boundaries in their current state of development. No storm water runoff or natural drainage water shall be so diverted as to overload existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public lands without proper and approved provisions being made for taking care of these conditions.

3. Techniques for computing water runoff shall be as follows:

a. Collection Systems; Rational Method.

b. Detention Systems: "U.S.D.A. Soil Conservation Service, Technical Release #55." Determination of the "R" factors shall be as contained in the ACE Manual #37, latest edition.

4. Storm sewers, open channels, bridges and culverts shall be designed from minimum flow capacities as follows:

	<u>Design Capacity - Frequency of Storm</u>
Collection Systems	15 years
Culverts	25 years
Detention Systems	25 years
Emergency Spillway System from Detention System	100 years

5. All materials used in the construction of storm sewers, bridges and other drainage structures shall be in accordance with the specifications of the "Standard Specifications for Road and Bridge Construction of the New Jersey Highway Department," current edition, and any supplements, addenda and modifications thereof unless otherwise specified by the reviewing municipal agency. Lesser specifications may be approved by the reviewing authority.

6. Lots and buildings shall be graded to secure proper drainage away from buildings. Additionally, drainage shall be provided in a manner which will prevent the collection of storm water in pools or other unauthorized concentrations of flow.

7. Detention or retention basins shall be required to hold storm water runoff such that discharge will not exceed pre-development rates. A waiver of this provision may be granted by the Planning Board only when the applicant shows that the additional runoff resulting from the proposed development will

not exceed four (4) cubic feet per second. Where detention or retention basins are required, they shall be designed in accordance with the "U.S.D.A. Soil Conservation Service, Technical Release #55," using the routing procedure, and where feasible, the outlet from the detention facility must require that 90 percent of the runoff from one and one-fourth inches of rainfall, falling in two hours, be retained, so that not over 90 percent will be evacuated prior to 36 hours. The following exceptions to this provision will be acceptable in any case:

a. Retention will not be required to an extent which would reduce the outlet size to a diameter less than three inches;

b. Dry basins serving residential projects may allow evacuation of 90 percent in 18 hours.

8. Approval of drainage structures shall be obtained from the appropriate municipal, county, State and Federal agencies and offices.

9. Where required by the municipality and as indicated on an improved development plan, a drainage right-of-way easement shall be provided to the municipality where a tract or lot is traversed by a system, channel or stream. The drainage right-of-way easement shall conform substantially with the lines of such watercourse and, in any event, shall meet any minimum widths and locations as shown on any official map and/or master plan.

B. Lighting

1. Street lighting shall be provided for all street intersections and along all collector and local streets, parking areas and anywhere else deemed necessary for safety reasons.

2. Any outdoor lighting such as building and sidewalk illumination, driveways with no adjacent parking, the lighting of signs, and ornamental lighting, shall be shown on the lighting plan in sufficient detail to allow a determination of the effects upon adjacent properties, roads, and traffic safety from glare, reflection, and overhead sky glow in order to recommend steps needed to minimize these impacts.

3. Specific lighting requirements:

a. The maximum intensity of lighting permitted on roadways shall be as follows:

Average Maintained Horizontal Illumination
for Residential Areas

Collector	0.6 footcandles
Local	0.4 footcandles

C. Sanitary Sewers

Where required and where a public or private treatment and collection system is provided, the developer shall design and construct such facilities in accordance with the N.J.D.E.P. permit requirements and in such a manner as to make adequate sewage treatment available to each lot and structure within the development from said treatment and collection system. If a public or private treatment and collection system is included as

part of a development application, the developer shall install sewers, including connections to each home to be constructed.

D. Streets

1. All developments shall be served by paved streets in accordance with the approved subdivision and/or site plan, all such streets shall have adequate drainage.

2. Local streets shall be planned so as to discourage through traffic.

3. The minimum public street right-of-way and cartway and the minimum private street cartway shall be in accordance with the following schedule:

	R.O.W.	Cartway
a. <u>Collector Street</u>	50'	26'
b. <u>Local Street</u> with on-street parking on both sides	40'	30'
c. <u>Local Street</u> with no parking on one side	40'	22'*
d. <u>Local Street</u> with no on-street parking	40'	20'*

*Where perpendicular parking is proposed adjacent to the cartway, the minimum cartway width shall be 24 feet.

4. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 80 degrees. Approaches to all intersections shall follow a straight line for at least 100 feet or a curve with a radius of not less than 600 feet. No more than two streets shall meet or intersect at any

point and the centerlines of both intersecting streets shall pass through a common point.

5. A tangent of at least 100 feet shall be provided between reverse curves on collector streets.

6. Cul-de-sacs shall be no more than 1,250 feet in length and shall provide access to no more than 80 dwelling units. A turnaround shall be provided at the end of the cul-de-sac with a paved turning radius of 40 feet and a R.O.W. in the case of public streets of 100 feet.

7. The pavement standard for all roads shall be a base course of four (4) inches of Bituminous Stabilized Base, Stone Mix No. 1 placed on a compacted, unyielding subgrade, with a surface course of two (2) inches of Bituminous Concrete, type F.A.B.C. - 1, Mix #5 applied in accordance with State highway specifications.

8. Curbs shall be required only in those locations where necessary to control drainage, around corners, or where needed for safety reasons.

E. Water Supply

Where public water is available, water mains shall be constructed in such a manner as to make adequate water service available to each lot or building within the development. The system shall be designed and constructed in accordance with the requirements and standards of the agency or authority having water supply jurisdiction.

XIII. Waivers

Notwithstanding any provisions set forth elsewhere in this ordinance, the Planning Board may waive any engineering and construction design requirements contained in this ordinance, in order to achieve the objectives of the _____ zone, provided that the Planning Board shall be satisfied that such a waiver does not jeopardize the public health and safety.

XIV. Definitions

Designated Residential Land Use Parcel: The land area surrounding housing which shall include the housing, common open space reasonably contiguous to and part of the residential housing, minor recreation facilities, local and private roads, and parking used by tenants, owners and their guests of the residential housing.

Gross Density: The total number of dwelling units on the tract divided by the total area of the tract, including environmentally sensitive or restricted areas. The result is expressed as dwelling units per acre (du/ac).

Net Density: The total number of dwelling units within a designated residential land use parcel divided by the total land area of the designated residential land use parcel less major recreational facilities, collector streets and public facilities within the parcel. The result is expressed as dwelling units per acre (du/ac).

Lower Income Household: The income eligibility limits for a household designated as low and very low contained in H.U.D. Section 8 Rental Assistant Program Income by Family Size for the appropriate housing region for various size households, or other generally accepted state or federal agency standards.

Lower Income Housing: Those dwelling units which are affordable to purchase or rent by a lower income household using not more than 25 percent of the family income.

Planned Residential Development: An area with a specified minimum contiguous acreage of ten (10) acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include public or quasi-public uses, all primarily for the benefits of the residential development. Several proximate non-contiguous tracts may be included in a planned residential development, provided a single General Development Plan application is filed for all the tracts and further provided that all such non-contiguous parcels are connected by municipal, county or other public land available for use by the residents of the development.

Reviewing Body: The Planning Board, except where otherwise required by the N.J.S.A. 40:55 D-1 et seq.

Tract: An area of land composed of one or more lots having sufficient dimension and area to make one development meeting the

21. - 1/3/84

requirements of this ordinance for the use(s) intended. It may include environmentally sensitive lands.

APPENDIX A

AFFORDABILITY STANDARDS FOR LOW AND MODERATE
INCOME HOUSING UNDER MT. LAUREL II

In order to determine what is meant by affordability of housing for low and moderate income households, it is necessary to determine, first, appropriate income levels for those categories; second, a percentage of income which can be anticipated such households can reasonably be expected to spend for shelter; and third, the price of houses for which the cost does not exceed that reasonable percentage.

(1) Definition of Low and Moderate Income

The New Jersey Supreme Court, in Mt. Laurel II, defined the target population as follows:

"Moderate income families" are those whose incomes are not greater than 80% and not less than 50% of the median income of the area, with adjustments for smaller and larger families. "Low income families" are those whose incomes do not exceed 50% of the median income of the area, with adjustments for smaller and larger families.

The decision further recommends that one rely on those median income figures and household size adjustments for the appropriate SMSA issued by the United States Department of Housing & Urban Development, in this case the New

Brunswick-Perth Amboy-Sayreville SMSA. 1/ The most recent figures, adopted on March 1, 1983 are given on the following page. These numbers are based on an estimated median household income in this SMSA, equivalent to Middlesex County, in 1983 of \$32,700:

LOW AND MODERATE INCOME CEILINGS FOR MIDDLESEX COUNTY BY FAMILY SIZE

	LOW	MODERATE
1 person	\$11,450	\$18,200
2 person	13,100	20,800
3 person	14,700	23,400
4 person	16,350	26,000
5 person	17,650	27,600
6 person	18,950	29,250
7 person	20,250	30,850

SOURCE: Newark Area Office, U.S. Department of Housing & Urban Development (3/1/83)

In the body of the analysis below, only the household incomes for households containing 1 through 5 persons will be used; the number of larger households in the population is so small that it is unrealistic to anticipate that more than an occasional unit will be occupied by a household with more than five members.

1/ The Bureau of the Census has relocated Middlesex County to a new area, to be made up of Middlesex, Somerset and Hunterdon Counties. At some point it is likely that HUD figures will be adjusted to reflect this change; the above figures will hold, however, for the indefinite future. It should be noted that both the present and future income figures for Middlesex County are, in all probability, higher than that which would apply to the fair share region as a whole. An argument can be made for an adjustment to reflect this disparity.

(2) Percentage of Income for Shelter

The standard proposed is that shelter costs (defined as the sum of mortgage payments, property taxes, insurance, and homeowners association fees) should not exceed 28 percent of gross household income. This is the standard utilized by the New Jersey Mortgage Finance Agency, the only source of tax-exempt bond mortgage financing in New Jersey, as well as major conventional lenders active in the region, such as Security Savings & Loan Association and City Federal Savings & Loan Association.

While it is recognized that some conventional lenders allow higher shares of income to be used for shelter, there are a number of arguments to justify this figure:

- a. Since the mortgage interest rate is crucial to ensuring affordability to low and moderate income buyers, and since tax-exempt bond mortgage financing generates the lowest rates, it is important to design the project so that it will conform to the standards set by such financing;
- b. Since the buyers are lower income households, many will not have the income flexibility, in terms of excess disposable income, to spend the amount on housing that a more affluent household may be willing to spend;
- c. A lower standard for general applicability does not preclude individual households from qualifying, if their financing source is agreeable, at a higher standard, at the time the units are eventually marketed.

For these reasons, the analysis will utilize the standard that 28 percent of income will be utilized for shelter costs.

(3) Determining Sales Price

Since affordability is defined in terms of the

percentage of annual income being utilized to pay shelter costs, one arrives at the price a household can pay for a unit by working backward from the annual costs associated with that price. That price will vary significantly with the mortgage interest rate on the basis of which a family qualifies to buy the unit.

Price, annual carrying cost, and annual income, can be related through a simple algebraic procedure. Since annual carrying cost is anticipated to be not in excess of 28 percent of gross income ($C = (.28)I$), if it can be determined what percentage of the sales price of the unit is represented by the annual carrying cost, it is a simple matter to determine the relationship between income and sales price for any income level. To do so, in turn, requires that one make a series of working assumptions about the level of each component of carrying cost. For purposes of this analysis, the following assumptions were made:

- a. Households would obtain a 90% mortgage (10% down payment) for a 30 year term. As is shown below, the effect of mortgage interest rates from 7% to 14% was investigated.
- b. Property taxes would be, for example, at 1.75% of equalized market value (2.64% at 66.44% of market value)^{2/}; this would vary, of course, from community to community.
- c. Insurance was estimated at \$40 per \$10,000 house value; e.g., a \$40,000 house would cost \$160 per year for fire, theft and liability insurance;

^{2/} This is the current property tax rate in Cranbury. It is lower than that in most of the other defendant municipalities.

- d. Homeowners' association fees were estimated to be \$150 per \$10,000 house value; e.g., the annual fees on a \$40,000 unit would be \$600, or \$50 per month.

On the basis of these assumptions, the table on the following page was derived, which relates each component of carrying cost, and the total carrying cost, to the sales price of the unit. It should be noted that the percentage of sales price shown under the column headed "mortgage payment" represents 90% of the annual mortgage constant for the interest rate shown in the left hand column of this table, as a result of the down payment assumption used for this analysis.

 ANNUAL CARRYING COST VARIED BY INTEREST RATE PRESENTED AS A PERCENTAGE OF TOTAL HOUSE SALES PRICE

INTEREST RATE	MORTGAGE PAYMENT	PROPERTY TAXES	INSURANCE	ASSOCIATION FEES	TOTAL
7%	.07186	.01754	.004	.015	.10840
8%	.07925	.01754	.004	.015	.11579
9%	.08960	.01754	.004	.015	.12614
10%	.09478	.01754	.004	.015	.13132
11%	.10285	.01754	.004	.015	.13939
12%	.11109	.01754	.004	.015	.14763
13%	.11947	.01754	.004	.015	.15601
14%	.12797	.01754	.004	.015	.16451

SOURCE: Analysis by Alan Mallach

 Interpreting the table, one finds that, for example, if the mortgage interest rate is 11%, the annual shelter cost is 13.939%, or roughly 14% of the price of the unit. Given the relationship previously established (with P = price, and I = income) we find, using these assumptions that

$$(.13939)P = (.28)I$$

So that, if one applies, for example, the ceiling income for

a low income household of 4 (\$16,350) to the hypothetical house, still based on a mortgage of 11%, one obtains:

$$\frac{(.28)\$16,350}{.13939} = P = \$32,840$$

.13939

Therefore, a family earning the ceiling income for a low income family of four (as defined by Mt. Laurel II), and obtaining a mortgage at 11%, can afford a house selling for no more than \$32,840.

The table on the following page presents the ceiling price for each household size, for low and moderate income households, by interest rate from 7% to 14%. It should be readily apparent from that table that, without manipulating interest rates below current conventional levels, development of low income units is arguably not feasible without substantial subsidy.

One important point should be made. It is not adequate to develop units and mortgage financing plans at a price where they are affordable only to a household earning the maximum income for the category. If the minimum qualifying income, and the maximum income eligibility are the same, or are too close, the pool of prospective buyers will be too small. In order to create a pool of reasonable size, the price of the units must be set a substantial distance below the ceiling price, given the income ceiling and mortgage interest rate. In practice, the selling price should be no more than 75% to 85% of the ceiling price if a pool of buyers is to be created, and marketability of the low and

MAXIMUM PRICE OF UNIT, BY MORTGAGE INTEREST RATE, AFFORDABLE TO LOW AND MODERATE INCOME HOUSEHOLDS BY FAMILY SIZE

INTEREST RATE	HOUSEHOLD SIZE				
	1	2	3	4	5
<u>LOW INCOME 50% OF MEDIAN ADJUSTED FOR FAMILY SIZE)</u>					
7%	\$29,580	\$33,840	\$37,970	\$42,230	\$45,600
8%	27,690	31,680	35,550	39,540	42,680
9%	25,970	29,710	33,340	37,090	40,040
10%	24,410	27,930	31,340	34,860	37,630
11%	23,000	26,310	29,530	32,840	35,450
12%	21,720	24,850	27,880	31,010	33,480
13%	20,550	23,510	26,380	29,340	31,680
14%	19,490	22,300	25,020	27,830	30,040
<u>MODERATE INCOME (80% OF MEDIAN ADJUSTED FOR FAMILY SIZE)</u>					
7%	\$47,010	\$53,730	\$56,750	\$67,160	\$71,300
8%	44,010	50,300	53,130	62,870	66,740
9%	41,280	47,180	49,840	58,980	62,610
10%	38,810	44,350	46,850	55,440	58,850
11%	36,560	41,780	44,140	52,230	55,440
12%	34,520	39,450	41,670	49,310	52,350
13%	32,660	37,330	39,430	46,660	49,540
14%	30,980	35,400	37,400	44,250	46,980

NOTE: all numbers rounded to nearest \$10. Based on Cranbury property tax rate, and must be adjusted for each different municipality.

SOURCE: Analysis by Alan Mallach

moderate income units ensured. ^{3/}

Given the limited assets of many lower income households, it is important to structure programs so that in developments of sales housing for lower income occupancy the opportunity is provided for a reasonable percentage of buyers to purchase units with downpayments of 5% or, through various special programs, even less.

(4) Establishing Appropriate Rent Levels

The analysis to this point has dealt exclusively with units offered for sale. Since, however, a sound low and moderate income housing program must include rental units a discussion of appropriate rent levels is dictated. The

MAXIMUM AND PROPOSED RENT LEVELS BY INCOME AND FAMILY SIZE

	HOUSEHOLD SIZE				
	1	2	3	4	5
<u>LOW INCOME</u>					
No. Bedrooms	1	1	2	2	3
Maximum Gross Rent	286.25	327.50	367.50	408.75	441.25
Utility Allowance	(50.00)	(50.00)	(70.00)	(70.00)	(90.00)
Maximum Net Rent	236.25	277.50	297.50	338.75	351.25
Average Rent @ 85% Maximum (rounded)	\$201	\$236	\$253	\$288	\$299
<u>MODERATE INCOME</u>					
Maximum Gross Rent	455.00	520.00	585.00	650.00	690.00
Utility Allowance	(50.00)	(50.00)	(70.00)	(70.00)	(90.00)
Maximum Net Rent	405.00	470.00	515.00	580.00	600.00
Average Rent @ 85% Maximum	\$344	\$400	\$438	\$493	\$510

^{3/} This will result in the unit being affordable to households at or near the ceiling of each income range at or below the 25% of income standard set in Mount Laurel II.

basic standard for rental housing can reasonably be adopted from the U.S. Department of Housing & Urban Development; specifically, that rent, including utilities, not exceed 30 percent of household income. 4/ Since customary practice, today is to rent apartments without utilities, the effective net rent becomes the maximum of ceiling rent established as above, less a suitable allowance for utilities.

As discussed above, the actual rents (or the average rents, if they are to be adjusted to individual incomes) must be set well below the ceiling or maximum rents after adjustment for utility allowance. In the table above, a reasonable average rent level, at 85% of the ceiling rent, has been illustrated. This would assume that all or the great majority of tenants will have incomes between 70% and 100% of the ceiling income, for the applicable income and household size category.

4/ It will be recalled that in the Mt. Laurel II decision, the court defines "affordable" to mean affordable by a family spending no more than 25 percent of gross income for shelter (slip opinion at 37). The court does, however, note further that other standards are widely in use. It appears reasonable, in the context of this analysis, to use those standards that are most generally accepted at present within the industry, rather than adhere to a 25 percent standard. We strongly support, as a minimum target, that the pricing be such that a household at the ceiling of the income range can afford a unit on the basis of 25% of income for shelter.