



Master Plan Reexamination Report



Borough of Montvale, New Jersey

Prepared for the Montvale Planning Board

PHILLIPS PREISS GRYGIEL LLC
Planning & Real Estate Consultants

Adopted June 1, 2010

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I. INTRODUCTION

Under the Municipal Land Use Law (NJSA 40:55 89), every six years a general reexamination of a municipality's master plan and development regulations by the Planning Board is required. The reexamination report is required to state the following:

- a. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- b. The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
- c. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.
- d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.
- e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," P.L. 1992, c. 79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

The Borough of Montvale last adopted a full Master Plan on April 1, 2008 entitled **Master Plan for the Borough of Montvale, Bergen County, New Jersey**, prepared by Phillips Preiss Shapiro Associates, Inc. This is a reexamination of that master plan. Note that since the Borough of Montvale has no newly-designated "areas in need of redevelopment," the latter element (i.e., "e" above) is excluded in this reexamination. The reexamination which is provided in the following four chapters follows the state-mandated format above.

II. MAJOR PROBLEMS AND OBJECTIVES OF THE 2008 MASTER PLAN

A. OBJECTIVES

The following were the goals and objectives of the 2008 Borough of Montvale's Master Plan.

Goal 1. Increase Borough's ratable base

To expand opportunities for nonresidential development, in both the office and retail sectors, to shift the property tax burden away from the residential sector, and to encourage residential uses which produce few schoolchildren, resulting in a positive fiscal impact on the Borough.

Goal 2. Revitalize downtown Montvale

To transform Montvale's downtown into a pedestrian-friendly, attractive "main street" environment with diverse high-quality retail stores at the ground level, particularly along the streetfront, that is accessible to residents by car, on foot or by bicycle. In addition, to provide both convenience and specialty goods and services of interest to the community, and encourage uses which promote week-night and weekend use, such as outdoor restaurants, coffee shops and other entertainment-related uses, and by bringing a residential presence back to the downtown on upper-level floors.

Goal 3. Protect character of existing neighborhoods

To protect the character and scale of housing within established neighborhoods, through discouraging McMansions, and by encouraging designs which are harmonious with those which exist in the immediate vicinity.

Goal 4. Preserving the natural environment and providing access to it for use as passive open space

To protect wetlands, floodplains and stream corridors by adopting measures which:

- stabilize stream bank erosion
- relieve flooding adjacent to streams, particularly on the properties of private landowners
- preserve and supplement the existing vegetation throughout the Borough, especially trees, and prevent their unnecessary removal
- provide access to environmentally constrained areas so they can be enjoyed as passive open space.

Goal 5. Increase regional accessibility and reduce traffic congestion

To work with the County and State to obtain an access ramp to the northbound Garden State Parkway, and to work with the same agencies and adjacent communities in implementing the recommendations of the Tri-Boro Traffic Study to accommodate increased regional traffic, reduce congestion and delays at busy intersections, and increase traffic safety and convenience. Also to establish a more comprehensive sidewalk/walkway and possibly bikeway or bikeroute system to encourage walking and biking as an alternative means of travel, and to allow children to walk to school safely.

Goal 6. Provide community facilities and services of the highest quality

To continue to provide the highest-quality facilities and services to meet the needs of residents and employees in Montvale.

Goal 7. Preserve remnants of farming in Montvale

To explore ways in which the few remaining parcels devoted to the production of agricultural products, and the sale of same, could be preserved well into the future.

Goal 8. Crossing of rail line

To explore ways in which the flow of traffic in the downtown, especially on Grand Avenue, going east-west, could be interrupted less when trains are stopped at the Montvale train station. This is especially important in light of the need for emergency vehicles to access both sides of the rail tracks during emergencies.

Goal 9. Illegal Conversions of single-family homes

To find better ways of enforcing the zoning code and preventing single-family homes from being illegally converted to two-family homes, or illegally accommodating accessory apartments, which may be substandard and hazardous to the health of tenants.

Goal 10. Encourage historic preservation

To step up efforts to preserve the Borough's historic resources, by designating eligible properties as historic landmarks, and as appropriate, having the Historic Commission identify other buildings and sites that may be eligible for such a designation.

Goal 11. Engender higher-quality design

To add design guidelines and requirements to the land use regulations to maintain consistency in the scale and character of residential and retail development, and to make the built environment as attractive as possible.

Goal 12. Update regulations relating to land use and traffic generation

To comprehensively revise and update the Borough's zoning regulations, not only to make them consistent with the Master Plan, but also to rid them of loopholes, ambiguities and unnecessary regulations.

Goal 13. Promote sustainability

To investigate ways in which the Borough's capital facilities and operations can be built, maintained and operated in a way that saves energy, reduces costs and carbon emissions, reduces dependency on fossil fuels, and incorporates greener building/design technologies.

Goal 14. Diversify the housing stock

To provide further opportunities to diversify the housing stock in Montvale, especially to allow seniors to remain in the community, and to accommodate young families who wish to make Montvale their home.

Goal 15 Implement mandates of the State Plan

To support the principles of smart growth and sustainability in the State Plan and compliance with the requirements of the Fair Housing Act.

B. MAJOR PROBLEMS

The major problems relating to development in the Borough of Montvale in the prior Master Plan can be summarized as follows:

1. Stagnating Office Sector

Despite Montvale's best efforts to become a more business-friendly community, and the approval of a number of office renovations, persistent vacancies and a continuing decline in the maintenance, utility and appearance of some buildings in the OR and SED zones continued.

2. Retail Revitalization

Again, not through lack of effort and proactive steps in attempting to revitalize Montvale's downtown and outlying retail areas—North Kinderkamack Road and the Chestnut Ridge Road retail corridor—many stores retained their poor visual image, lack of pedestrian-oriented focus and did not provide for a variety of goods and services.

3. Traffic Issues

High dependency on the private automobile for nearly all 16,000 of Montvale's employment population has led to traffic congestion on Montvale's major gateways, arterial roadways and even on local streets. Lack of a northbound Garden State Parkway on-ramp and southbound off-ramp hampered regional traffic accessibility. The blocking by trains stopped at the Montvale train station of traffic at the intersection of Grand Avenue and Kinderkamack Road led to significant delays of traffic, particularly in an east-west direction. The lack of sidewalks made walking to school and downtown from residential neighborhoods difficult.

4. Community Services and Recreation

The lack of day care facilities was problematic, especially for working parents and employees in Montvale's office sector. The DPW's lack of storage space inhibited their ability to serve the community. The absence of small parks in residential areas, passive open space in the Borough and parks on the east side of the community, and the absence of a community center or indoor recreational facility made recreational pursuits inaccessible or unavailable to some residents.

5. Environmental Preservation

The lack of a tree preservation regulation led to an excessive amount of vegetation—especially mature trees—being removed on private property in the Borough. Despite the adoption of new storm-water regulations, localized flooding and stream-bank erosion continued to be problematic.

6. Outdated Zoning

The Borough's outdated zoning regulations, especially the lack of design guidelines, made the Borough vulnerable to poorly designed projects and uses which might be inappropriate in certain locations. Knockdowns and the building of bulky houses threaten to undermine the character of established residential neighborhoods.

7. Senior Housing

Despite Montvale's best efforts, no senior or age-restricted housing, either market-rate or affordable, were being provided to meet the needs of Montvale's aging population.

8. Historic Preservation

No additional historic homes which were deemed worthy of historic designation were designated for preservation.

III. EXTENT TO WHICH PROBLEMS OR OBJECTIVES FROM THE LAST MASTER PLAN HAVE BEEN REDUCED OR INCREASED

A. Ratable Base/Stagnating Office Sector

Nationally and regionally, office vacancies have increased over the past few years, rents have been lowered, and new development is almost at a standstill—same for medical/health care sector. Despite this, Montvale has seen some major renovation and leasing of large spaces. Applications for improvements and/or expansion since the Master Plan was adopted include:

- (1) The renovation and expansion of the Butler International Building on Summit Avenue.
- (2) The renovation and upgrading of a portion of the building and parking area for the Mercedes Glenview Road building, on Glenview Road and Grand Avenue.
- (3) Approval of the expansion of the KPMG complex to include a new training center and data center at their complex at Chestnut Ridge Road, including the renovation of the Benjamin Moore building to the north.
- (4) The renovation and refurbishment of the building and parking lot at 85 Chestnut Ridge Road to accommodate the Boasteel Corporation.
- (5) Completion of the renovation and expansion of the former Toys-R-Us building at 225 Summit Avenue for Barr Pharmaceutical Corporation, (now Merck-Medco).
- (6) An approval of the expansion of the Reckitt Benkiser building on Phillips Parkway to accommodate a new testing facility.
- (7) Approval of the new celltower on the site of the municipal complex at 12 Mercedes Drive for Wireless Edge, and for future co-location of cellular antennas for wireless service provision.

Substantial expansions have not occurred however, in part due to the discouragement of having to provide a substantial affordable housing component associated with the new third-round COAH rules by developers and/or the Borough itself. A study which would have facilitated the construction of a parking garage on certain large office properties to allow for increases in the floor area of such complexes up to the maximum permitted Floor Area Ratio (FAR) in these zones was discontinued when the economic consequences of the new COAH rules were factored into the equation.

B. Downtown Revitalization

A number of renovations, again with small expansions in footprints and/or parking, occurred in downtown Montvale, helping to improve their physical appearance and economic utility. Included were the following:

- (1) Completion of the renovation and expansion of the CVS Shopping Center at 20 Kinderkamack Road close to the Park Ridge border, including improvements in parking, landscaping, lighting and signage.
- (2) Approval of plans to significantly renovate the site and buildings of the Apple Tree Shopping Center on north Kinderkamack Road.
- (3) Approval of a storage and repair facility on the De Piero Farm property on Craig Road to accommodate the Montvale Landscaping Company.
- (4) The renovation of the drive-thru and building of the Taco Bell facility on Kinderkamack Road in the downtown.
- (5) The construction of a new spectacular 7-Eleven building at the corner of Grand Avenue and Kinderkamack Road on the site of the former derelict Town Texaco gas station.
- (6) The approval of a renovation of a former furniture store and office space at 22 Railroad Avenue as a retail center with office space above the ground floor and the provision of a new expanded parking lot on the adjacent lot, providing a much more visually attractive and functional gateway into downtown Montvale traveling south on Kinderkamack Road.
- (7) The renovation and reorganization of the parking lot, access aisles and the provision of outdoor dining space on the site of Davy's Irish Pub, along with the former TD Bank drive-thru facility located to its north at 7 & 8 Park Avenue in downtown Montvale.

There are also 2 further applications that have been proposed: the renovation of the Shell gas station on north Kinderkamack Road and the renovation of a portion of the Chestnut Ridge Shopping Center in order to accommodate a Fresh Market store. The above developments have helped to improve the image and to strengthen the core of the downtown and the outlying retail areas of Montvale.

C. Neighborhood Character

The recent downturn in the real estate market has slowed the impetus for knockdowns and the building of bulky houses in Montvale which could have a deleterious impact on neighborhood character. A few more subdivisions such as at 19 Hartel Lane and the Wirth home (Lots 9 and 10 of Block

1102) have also occurred, but they will not have a substantial impact on neighborhood character. However, measures for controlling such development as suggested by the prior Master Plan have not yet been adopted.

D. Environmental Preservation

The adoption of new stormwater regulations and stream buffer standards have had an impact on development along stream corridors and also on the extent to which projects must control stormwater runoff from newly paved surfaces. However, localized flooding is still a concern of many residents in Montvale. Further, no controls over tree and vegetation removal have led to a number of properties being cleared of vegetation, much to the chagrin of neighbors and the community alike.

E. Traffic Congestion

While the Borough has been part of the Tri-Boro Traffic Study, and helped to initiate a traffic program that would have provided greater access to bus and train service for employees in Montvale, Park Ridge and Woodcliff Lake, little has been accomplished with respect to actual traffic improvements or programs to deal with congestion. Lack of funding from State and County sources has hampered implementation of improvements or public transit initiatives.

F. Community Facilities

A new day care facility was approved, construction is now completed and it is set to open shortly, at 295 West Grand Avenue (opposite the Grand Avenue/Mercedes Drive intersection). A new cell-tower providing for improved wireless telecommunications service was approved at the municipal complex. An 8-acre passive open space parcel is to be dedicated to Montvale as a result of the approval of the 20-unit cluster single-family development on Woodland Road by Bear Ban builders. A new Rockland and Orange Electrical substation facility has been approved at 110 Summit Avenue to replace the current substation on the corner of Grand Avenue and Craig Road, which will provide upgraded, more reliable electrical power to Montvale's residential and commercial customers alike. A new United Water pump station adjacent to the water tank on Hickory Hill Road was recently approved by the Montvale Zoning Board of Adjustment, after a denial, appeal and remand from the Superior Court of New Jersey. The pump station is to provide more reliable service to certain existing residential customers in PD 95, located in northwest Montvale.

G. Farmland Preservation

No progress has been made toward the purchase of development rights or otherwise ensuring the remaining farmland in Montvale will be preserved. As indicated above, a new barn/storage facility, to be used jointly by the DePiero farm operations as well as by Montvale Landscaping, was approved on the 7-acre parcel located on the corner of Craig Road and Summit Avenue.

H. Railroad Line Crossing

New Jersey Transit's Pascack Valley trains have been persuaded to stop their trains north of the intersection of Grand Avenue and Kinderkamack Road, thus allowing the gates to be lifted after the train has crossed Grand Avenue. This has alleviated the traffic backup along Grand Avenue to some extent.

I. Illegal Conversions of Single-Family Homes

No further conversions appear to have occurred in Montvale. However, no changes to the zoning code have been adopted to control or discourage such conversions in the future.

J. Historic Preservation

No additional homes or sites listed as worthy of being designated as historic have been formally designated by the Montvale Borough Council since the prior Master Plan was adopted.

K. Higher-Quality Design

Mainly because applications for site plan approval are encouraged to appear before the Montvale Site Plan Committee prior to formally filing an application, the intended layout and design of proposed buildings and sites are reviewed and suggestions for improvements are made. This review process has led to significant improvements in the design of certain approved applications in the past 2 years, including the CVS Shopping Center, 22 Railroad Avenue, the Apple Tree Shopping Center and most particularly the 7-Eleven store on the corner of Kinderkamack Road and Grand Avenue, as well as the Trailing Ridge and Bear Ban Builders developments which received final approvals in the past two years. However, the Borough still lacks specific design guidelines for retail, office and residential development.

L. Land Development Regulations Update

A portion of the 2010 budget has been set aside for tackling the most egregious problems or loopholes in Montvale's regulations, but a comprehensive update has not occurred. An amendment to control public utility facilities and conduit lines was adopted in 2009, which has a positive impact on both the United Water pump station and Rockland and Orange Electric substation applications. An ordinance was adopted to control the outdoor display of merchandise for retail stores.

M. Sustainability

Aside from spearheading the transit initiative for the tri-borough employment sector, Montvale has not undertaken any other specific sustainability actions.

N. Diversify Housing Stock

Approval of a number of multi-family housing projects in the past 10 years has led to the diversification of the Borough's housing stock. Unfortunately, two age-restricted or senior projects, both of which had been approved, are not moving forward. After being shelved for two years, leaving the site bare with stockpiles of soil and little else, the Four Seasons project on the former Rink property is underway again. The Montvale Senior Project has not moved forward despite the best efforts of the Borough to push the developer to start construction.

O. State Planning Mandates

Generally the Borough's 2008 Master Plan exemplified and incorporated many aspects of "smart growth" that underlie the State Development and Redevelopment Plan. Development in accordance with the Master Plan therefore has advanced the goals of the State Plan. One aspect of the state mandate, however, has had a deleterious impact on Montvale—an overburdening of the Borough with affordable housing obligations beyond what is reasonable from an economic viewpoint. The lack of land resources and the high cost of building such housing—in proportion to market rate developments—which are unreasonable and infeasible, have had a chilling effect on development, and caused the Borough to expend huge amounts of time, money and administrative focus for little gain. Supportive of the general concept of providing this reasonable fair share of affordable housing in the State, Montvale is supportive of the new governor's and the legislature's effort to reign in the obligations, and make them both reasonable and achievable.

IV. SIGNIFICANT CHANGES IN ASSUMPTIONS, POLICIES AND OBJECTIVES

Changes in assumptions, policies and objectives which are significant in comparison to the April 1, 2008 Master Plan for the Borough of Montvale are set forth with respect to the prior master plan's goals and objectives, and its recommendations.

A. Changes to Montvale's 2008 Master Plan Objectives

The following goals remain unchanged: (1) increase the Borough's ratable base; (2) revitalize downtown Montvale; (3) protect the character of existing neighborhoods; (5) increase regional accessibility and reduce traffic congestion; (6) provide community facilities and services of the highest quality; (7) preserve the remnants of farming in Montvale; (9) prevent illegal conversions of single-family homes; (10) encourage historic preservation; (11) engender high-quality design; (12) update regulations relating to land use and traffic generation; (13) promote sustainability; and (15) implement mandates of the State Plan.

Some changes to goals 4, 8 and 14 have occurred, as follows:

Goal 4 Preserving the Natural Environment

Recent applications for development have pointed to ever-increasing concerns of residents as to the deleterious impacts resulting from development which are: (1) located on steep slopes, (2) located along stream corridors, (3) which have resulted in downstream flooding and erosion as a result of grade changes and increased impervious coverage, and (4) resulted in significant amount of vegetation being removed, especially mature trees. All of these have had a detrimental impact on the quality of life of residents, with increased visual exposure of adjacent higher-density developments, exposure to noise, flooding of yards and basements, loss of privacy and a diminished character of residential neighborhoods. It is clear that more stringent enforcement of existing steep slope and stormwater regulations are necessary, along with adherence to state environmental regulations, and also passage of new local legislation to limit vegetation removal.

Goal 8 Crossing of Rail Line

This goal has been achieved.

Goal 14 Diversify Housing Stock

This goal has been achieved, and policies in light of this need to be changed. The large majority of recent residential development in Montvale has been multi-family developments—both apartment (Four Seasons) as well as townhouse developments (Trailing Ridge, Enclave) and with some future projects planned, including the Montvale senior project, conversion of the old

library to apartments and the planned mixed-use rezoning on the site of the Apple Tree Shopping Center and Sock Company sites, which includes apartments above retail development. This multi-family residential development has occurred on top of the already significant presence of multi-family development in the community—the large Rolling Ridge and expanded Nottingham Manor garden apartment projects; the Katy, Alayna and Williamsburg townhouse projects on the east side of the Borough, the Summit Ridge, Bear Brook, Valley View and Demarest Lane townhouse projects on the west side and Charlestown Court project adjacent to the downtown. In comparison to other suburban municipalities in the Pascack Valley, Montvale has the most diversified housing stock. There is no significant need for multi-family development in the Borough. On the contrary, some new moderate- or small-sized single-family developments would rebalance the housing stock of the community by providing housing for younger families, not just young and older empty-nesters.

B. Changes to Montvale’s 2008 Master Plan Assumptions and Policies

The following assumptions and policies as embodied in the recommendations of the 2008 Montvale Master Plan (Chapter 12) remain unchanged.

With respect to **general recommendations**, the following are still valid: (1) transforming the downtown into a pedestrian-friendly, “main street” environment; (2) revitalizing retail areas outside of the downtown; (3) encouraging the expansion of the office sector; (4) pursuing Garden State Parkway ramps, intersection improvements and bus service at the train station, (5) developing a comprehensive pedestrian and bikeway system; (6) incorporating environmentally-constrained land into the Borough’s passive open space inventory¹; (7) continuing to implement the open space and recreation plan; (9) preserving remnants of Montvale’s agricultural past; (10) limiting the impact of knock-downs and McMansions; (11) pursuing certain utility improvements; and (12) implementing certain other, more minor recommendations (see pp. 153-54 of the 2008 Master Plan). Only recommendation 8, diversifying housing stock, as will be described below, has already been met, and as such is no longer a major goal of the Borough.

All of the **zoning recommendations** from the prior master plan remain valid and should be undertaken, including updating and supplementing the Zoning Ordinance as a whole, the smaller specific amendments recommended in the 2008 Master Plan and the miscellaneous roadway-related ordinance amendments.

The following changes should be noted with respect to item 4, **Circulation**:

¹ Note that since the prior master plan, an 8-acre environmentally-constrained portion of the Bear Ban Builder’s Woodland Road property, and two parcels subdivided as a result of the Rockland and Orange Electrical substation approval (0.98 and 1.52 acres respectively), are to be added to the Borough’s open space inventory.

- (a) Certain improvements (re-striping mostly) of the intersection of Spring Valley Road and Summit Avenue has helped to alleviate some backup but the intersection is still in need of substantial widening and improvement to decrease delays and congestion (by the County)
- (b) The County has indicated that they have no plans to improve the intersection of Summit and Grand Avenues despite Montvale's exhortations to undertake them.
- (c) Montvale transit initiative—instituting bus service from the train station to the office parks in Montvale, Woodcliff Lake and Park Ridge—has received support from all sectors and most importantly from the County, with additional studies being undertaken. However, no firm commitment, details nor dates have been forthcoming.

C. Additional Changes in Assumptions, Policies and Objectives

Beyond what was recommended or set forth as a goal or recommendation in the 2008 Master Plan, the following changes in policy should be noted.

1. Tax Ratables

The global and national recession and the decrease in real estate values has had a particularly significant impact on Montvale—a lowering of the existing tax base and little added investment to add to it. This, along with significant budget cuts at all levels of government, has had an adverse impact on residents, employees and the municipal government. The need to provide incentives for reinvestment in the retail and especially office sector of the community has become even more urgent. Besides economic factors, the unreasonably high affordable housing obligation attached to new non-residential development has created such a heavy economic burden, that all hope of new development was extinguished. Efforts by the governor and the legislature to reform the New Jersey affordable housing regulations—including uncoupling non-residential growth with affordable housing—ought to have a positive impact in coming years.

2. Environmental Safeguards

The need for reconsideration of some of Montvale's steep slope regulations, tree removal regulations and control of development that cause flooding and erosion is required to protect residents from such adverse impacts of development.

3. Neighborhood Character

The impact on neighborhood character—visual, traffic and diminution of open space and vegetation—from oversized single-family homes and large multi-family projects needs to be reexamined. Also the impact of large accessory structures on single-family lots, such as decks, patios, sports courts and the like on adjacent property owners has become a concern. Careful regulation that bal-

ances the need and desire of residents to use and enjoy their property and the quality of life for adjacent residents may be needed.

4. Suitability of the Del Ben Site for an Inclusionary Multi-Family Housing Development

Owing to environmental legislation subsequent to the rezoning of the Reno Del Ben site (the subject of a site plan application on a portion of the property by K. Hovnanian—an imposition of a 300-foot SWRPA buffer per new DEP regulations, and the position of K. Hovnanian that not one unit less than a total of 100 stacked townhouse units on the ±10-acre upland portion in the northeast corner of the site is needed to make the development economically feasible—no longer makes the site a suitable inclusionary multi-family development site. As will be described in greater detail in Chapter 5, **Recommended Changes to the Master Plan and Zoning**, it is the intention of the Borough to rezone the Del Ben property to smaller-lot, single-family residential development. Since the Borough believes that it will meet its future fair share obligation without generating any units from this site, such a zoning will not impact Montvale's ability to meet its full fair share obligation.

V. RECOMMENDED CHANGES TO THE MASTER PLAN AND ZONING

A. Rezoning of the Reno Del Ben Site

The Reno Del Ben property is designated as Lots 1 and 2 of Block 302 and Lot 7 of Block 1002 on the official tax map of the Borough of Montvale. The tract is 45.64 acres in total and bounded by the Garden State Parkway to the west, Summit Avenue to the south, Upper Saddle River Road to the north and single-family and townhouse development to the east and to the north on the other side of Upper Saddle River Road. A majority of the property, 33.86 acres, falls within the AH-6 Affordable Housing zone, while the remaining 11.63 acres is located in the R-40 Single-Family Residence zone. The subject property is substantially environmentally constrained by steep slopes and by virtue of a designated C-1 stream, a tributary of the Mill Brook, which runs north-south through it.

The parcel has been the subject of an application for approval of a preliminary and final site plan, along with a request for variances, preliminary and final subdivision approval, a soil movement application and an Environmental Impact Statement. Hearings on the application by the Planning Board were initiated in September 2009 and are continuing up to the present time. Essentially, the application is to subdivide the northern and northeastern portion of the AH-6 zone for the development of a 100-unit stacked townhouse development.

The original AH-6 rezoning of the property was intended to provide for the development of a 195-unit townhouse project on the site, inclusive of 39 affordable units, predicated upon the fact that only ± 7 acres of constrained land existed on the 45-acre property at the time, and thus allowing for a net density of approximately 8 units per acre. At that time, the tributary of the Mill Brook had wetlands associated with it, which accounted for much of the 7-acre constrained portion. However, a 300-foot SWRPA buffer on both sides of the stream was imposed on the property in 2006, 12 years after the property was rezoned. Concept plans for development of the property, both at the time of its rezoning and subsequently up through 2007 showed a single comprehensive townhouse development, and with development on either side of the stream, linked by a bridge and roadway across the stream so as to allow vehicular access only onto Summit Avenue to the south—and none to Upper Saddle River Road to the north.

Because of the imposition of the DEP SWRPA buffer, only ± 15 acres of upland exists on the AH-6 zoned portion—about 9-10 acres to the northeast and 4-5 acres to the southwest, to accommodate development. The contract purchaser, K. Hovnanian, has filed an application to subdivide the northern and northeast upland portion within the AH-6 zone from the remainder, and is proposing to build 100 stacked townhouse units with vehicular access solely out to Upper Saddle River Road. In connection with the application, the following are the respective positions of the developer and the Borough with regard to the proposed development:

1. Subdivision. The developer is insisting upon subdividing the northern AH-6 zoned portion of the site from the remainder and to develop the ± 10 -acre upland portion, with another ± 6 acres

of constrained land added to it, to permit an overall gross density of 5.93 units per acre as permitted by the AH-6 regulations. They have indicated that they have no plans at the present time to develop the southern portion of the AH-6 zone. The Borough has always envisioned and anticipated a single comprehensive development of the parcel, including development of the ±4-5 acre upland southwestern portion with additional units.

2. Access. The developer is proposing access to Upper Saddle River Road only, with no bridge to the southern portion or the ability to access Summit Avenue now or even at some point in the future. The Borough takes the position that access to Upper Saddle River Road was never intended, nor is appropriate for the magnitude of development on this parcel, and that vehicular access for this development and any future development on the southwestern portion should be provided to Summit Avenue only.
3. Crossing SWRPA Buffer. The developer has taken the position that an application to the NJDEP for a crossing of the SWRPA buffer to link both upland portions and to provide vehicular access to Summit Avenue is neither permissible (i.e., there is no chance that such a permit would be granted), or economically feasible. The Borough has had on at least 2 occasions, discussions with representatives at the NJDEP who have indicated that such a crossing may in fact be permissible, but K. Hovnanian has refused to even consider meeting with the DEP to discuss this issue any further.
4. Number and Size of Units. The developer has taken the position that a reduction in the number of units to less than 100 units (not even 99), and that any reduction in the size of units would make this project economically infeasible. The Borough has taken the position that consideration of a reduction in either or both the number and size of units on the northeast portion might reduce the significant deleterious impacts associated with it to a point which would make the project approvable.
5. Variances. The developer has altered the configuration and location of the development only very slightly to eliminate one of the required side yard setback variances, but has not, nor will not either reduce the scale of the project or redesign it so as to eliminate the numerous bulk variances associated with site plan, including variances for front yard setback, setback of buildings to internal streets, buffer width, maximum building height (number of stories), maximum number of units per structure and infringement on steep slopes. The Borough has indicated a willingness to provide relief for the steep slopes, but can see that slight reductions in scale and/or changes in layout could eliminate virtually all of the other variances, the impact of which would be to reduce the negative impacts associated with the project.

The conclusion the Borough has reached in light of two factors: (1) the imposition of the 300-foot SWRPA buffer many years after the property was rezoned AH-6 for inclusionary multi-family development which has cut the amount of developable land by more than half, and (2) the refusal of the developer to undertake any one of the following:

- (1) develop the parcel as a single entity;
- (2) file a formal application to the DEP to cross the SWRPA so as to link the northern and southern upland portions and provide access to Summit Avenue;
- (3) build a bridge across the tributary of the Mill Brook to link the two sides and provide vehicular access to Summit Avenue only;
- (4) reduce the number of units to less than 100;
- (5) reduce the size of the units proposed; and
- (6) reduce the extent of the variances (save for the steep slope variance, which the Borough acknowledges is an unavoidable hardship),

would result in substantial negative impacts associated with the development of the parcel as proposed, and is therefore unacceptable. The significant detrimental impacts are as follows:

- (1) The high net density—at ± 12 units per acre—and large size of the units, were never intended or recognized as being suitable on this parcel.
- (2) The need to cram all 100 units onto the steeply sloped upland portion of the northeastern corner of the site, and to provide it with vehicular access, parking and stormwater detention, has created the need for building retaining walls in excess of 17 feet high. This, together with a change in grade of approximately 10 feet between the subject property and the adjacent single-family residential development on Serrell Drive, coupled with a 3-story development (versus 2-story permitted) of 35 feet in height, located 50 feet from the property boundary, will create a towering presence of a huge wall of multi-family units looming 50 to 60 feet above such adjacent development, which was never anticipated, and which will have significant deleterious visual impact, loss of privacy and diminution of neighborhood character.
- (3) The introduction of a significant amount of traffic onto Upper Saddle River Road, a quiet, somewhat substandard, local access street, was never anticipated, and which will have deleterious impacts on the quality of life of the adjacent residents on Upper Saddle River Road and Serrell Drive.
- (4) The need to accommodate all 100 units in one compact ± 9 -acre portion of the site (9 acres accommodates the 100 units—the remaining upland is used for stormwater detention) requires removal of all vegetation, significant changes to the natural grade, building of very tall retaining walls, and intrusion into required buffer areas that protect adjacent residents. Such significant alteration of the natural environment, coupled with the high-density development within a small area, will create negative impacts on the quality of life of the neighboring residential areas.

All of these unacceptable detrimental impacts point to the fact that the Del Ben site is no longer suitable for an inclusionary multi-family residential development. As a result, the Borough believes the property should be rezoned.

The question that arises as to what type of development is suitable on the property and what it should be rezoned to. Certainly there is no reason to rezone the ±11-acre R-40 zoned portion of the Del Ben site, which was intended to provide open space and/or a buffer between the proposed AH-6 portion and the single-family development on Morgan Court. Moreover, the R-40 zoned portion is severely constrained and it is doubtful whether any development is actually possible or even accessible in this portion of the site.

The ±33-acre AH-6 portion of the site was also originally zoned R-40—essentially single-family residential development on lots of a minimum of 40,000 square feet. However, reverting the AH-6 zoning to R-40 would not be appropriate in light of the changes to the land uses which have occurred adjacent to the Del Ben property, and in light of the environmental constraints which exist. Whereas the whole area was R-40 prior to the first COAH cycle (i.e., in the 1980s), property directly to the west has been developed as a townhouse development at a density of 4.6 units per acre (Summit Ridge); property to the east has been developed for smaller-lot, single-family development with a range of 4 single-family units per acre (on Serrell Drive), and to 3 single-family units per acre on Old Woods Lane. Therefore, while the subject parcel is appropriate for single-family residential development as beforehand, as a transitional parcel, it would be appropriate to increase the density of such development or to lower the minimum lot size, so as to be more in keeping with the surrounding area, as well as to provide a reasonable level of development in light of (1) its environmental constraints; (2) economic feasibility; and (3) the need for smaller-lot, single-family homes in Montvale after significant increases in the inventory of apartments and townhouses in the last 10 to 15 years.

The highest density, non-inclusionary single-family residential zone in Montvale is the R-10 zone, which allows single-family homes on lots of a minimum of 10,000 square feet. Gross densities of development are in the range of 3 to 3.5 units per acre. Such a density on the subject site would be harmonious with the adjacent single-family development and produce between 40 to 50 single-family homes on the upland portions of the property—30 to 35 in the northeast portion and 15 to 20 on the southwest upland portion. Single-family development at the proposed density would also obviate the need for such wholesale clearance, vegetation removal and disturbance to steep slopes, would provide for lower-profile, smaller structures with less impact on the viewshed of adjacent development. It would also decrease the levels of traffic generated onto Upper Saddle River Road. At this level of density, there would not be as great a need to develop the property as a single entity, or to connect the two upland portions with a bridge and have access onto Summit Avenue only; it would not require permits to cross the SWRPA buffer.

One of the impacts of the rezoning would be the loss of 20 units of affordable housing within the Borough, since the rezoning would relieve the developer from having to build any affordable housing

units. (They would be required to pay the affordable housing fees associated with residential development—1½% of equalized assessed value.) However, in spite of the reduction, the Borough would still have sufficient affordable housing units to meet its full fair share obligation.

First, such a change would not impact the ability of the Borough to meet its rehabilitation obligation of 5 units. With respect to the prior-round affordable housing obligation, COAH provided substantive certification to Montvale in the second round with a 188-unit Realistic Development Potential and with a 32-unit unmet need obligation. Utilizing Table 16 on page 17 of the Third-Round Housing Element and Fair Share Plan adopted by Montvale in December 2008, which was sent to COAH with a petition for substantive certification, a total yield of 254 credits of affordable housing is indicated, inclusive of Del Ben's 20 affordable housing units.

In response to COAH's consideration of the 2008 Fair Share Plan, Montvale has agreed to undertake the following additional actions.

- (1) Increase the number of senior affordable units on the Montvale senior housing site from 24 to 32 units, thereby adding 8 additional units and an additional rental bonus credit.
- (2) Rezone the Apple Tree Shopping Center/Sock Company site to provide for a mixed-use development with retail on the first level and residential apartments on the two upper floors to yield 10 family affordable rental units.
- (3) Adaptively reuse and expand the former library property at 11 E. Grand Avenue to produce 13 senior affordable housing units.

Briefly, 214 credits would be available to satisfy the second-round RDP of 188 units (without counting any units from the Del Ben site), yielding a 26-unit surplus. (The 32-unit unmet need would be satisfied by the 32 units to be developed on the DePiero site.)

COAH recalculated the Borough's adjusted growth share obligation as 39 units. The 26-unit surplus from Round 2 and the gain of 31 affordable units (8 from Montvale seniors, 10 from Apple Tree and 13 from the former library) result in a total credit in the third round of 57 units. This would exceed the third-round adjusted growth share obligation of 39 units by 18 units. Therefore, the rezoning of the Del Ben site would not impact Montvale's ability to satisfy its full fair share obligation. It would continue to satisfy the Borough's obligation from the prior round, as well as the adjusted growth share obligation from the third round.