

Richard Brummel
Planet-in-Peril.org
(201) 749-7065
rxbrummel@gmail.com

Environmentalism Rips Proposed 'Fair Housing' Settlements Of Wayne Township (NJ) Ahead of March 23rd 'Fairness Hearing'

Pompton Lakes, March 17, 2021 -- An independent environmental activist and litigator currently living in Pompton Lakes has again taken aim at what he says is blatant environmental misconduct by the nearby Township of Wayne, this time over its Mt. Laurel development plans.

Activist Richard Brummel on Monday, 3/15/21, filed a multi-point critique of five proposed “Mt. Laurel” 'affordable housing' settlements scheduled to be presented in a “Fairness Hearing” in N.J. Superior Court, Paterson, on March 23, 2021 at 10 AM, before Judge Thomas F. Brogan, the presiding judge of the civil division for Passaic County.

LINK TO MOUNT LAUREL INFO AT WAYNE TWP.
<https://waynetownship.com/affordable-housing-mt-laurel.html>

Almost exactly a year ago, in March, 2020, Brummel organized citizens to demand Wayne Township's Council save a three-acre woodland owned by a church on Preakness Ave., and failing that, by himself filed a lawsuit alleging deliberate systemic failures of the Township in protecting natural open-space, in violation of its own laws.

(That case (Superior Court Docket No. PAS-L-1001-20) was dismissed last May by same judge on technical grounds of “standing” and “frivolousness”, and is now on appeal , (Appellate Division Docket No. A-003892-19T2).)

Town Wants To 'Exempt' Developers From Rules

Brummel's current criticisms (see attached 13-page Statement) focus on provisions of each proposed Mt. Laurel settlement that would exempt the developers from provisions of the Township's land-use law designed to preserve existing trees over 18-inches in diameter at new subdivisions, along with existing landscapes, and requiring replacement of all removed trees over eight-inches in diameter, or payment in lieu of replacement. (*Statement*, pp. 5-12)

Brummel alleged that the Court and the public are unable to properly evaluate the impact of the exemptions from the tree laws because neither the Township nor the developers performed any analysis of the results of the give-aways on woodlands or wildlife.

Brummel also analyzed the settlements and project sketches to estimate that the proposed developments would destroy over half the approximately 158 acres encompassed by the four proposed projects covering natural open space (excepting the fifth project, the Preakness project covering mostly paved area)., and he told the Court the lack of documentation on the overall destruction of the projects was a fatal flaw in the proposals. (*Statement*, p. 10, p. 12).

Brummel also alleged that for one developer, of the GAF site, the Township appears to have deceptively snuck in language stripping away all tree protections (*Statement*, p. 8, p. 9). (See below.)

Brummel urged the Court to remand the settlements to the Township for further work. (*Statement*, p. 13)

Tells Court 'Overdevelopment' Has Swamped Wayne

He described to the Court the problem of overdevelopment in Wayne:

“Wayne Township has been blanketed by overdevelopment to the dismay of many of its residents. Repeatedly one reads in The Record of neighbors futilely opposing new local scale developments like a WaWA, or a jug-handle on Hamburg Tpk., or the destruction of a church-owned forest, or massive re-developments like Toys 'R Us.

Yet it is clear the citizens are outgunned and outmaneuvered by the developers and their allies in construction, banking, and the political class.

It seems clear from the constant churn of new bulldozing and building, and statements by the Mayor and other officials reflect, the Township prizes development far more than preservation, the environment – and the preferences of many residents -- be damned.” (*Statement*, p. 12)

Current Officials 'Subvert' Earlier Legislation

Addressing the press Brummel said:

“Obviously at some earlier point forward-looking Wayne officials wrote beautiful environmental laws intended emphatically to protect woodlands (Wayne Ordinance Section 134-90.1), trees, and landscapes (Wayne Ordinance Section 134-85.3(b) and

134-91.4 “Tree Removal”), but the current officials just ignore, subvert, and relinquish those laws to permit rampant, unchecked development that residents just don't want,” Brummel told the press.

“Unfortunately, groups like the Sierra Club are absent from this debate, and citizen groups without good legal representation are really helpless before the power of real-estate, construction, and banking interests and the political crowd who obviously embraces them -- to the detriment of the environment and residents who prefer preservation,” Brummel added to the press.

Claims Court 'Must' Evaluate Environment In 'Mt. Laurel' Process

In his statement, Brummel claimed that the Court was duty-bound to make an environmental inquiry into the settlements – aside from their impact of affordable housing – because the New Jersey Supreme Court ruled in an earlier case that fair housing policy should not cause environmental degradation. He quoted from the case:

“...[A] builder's remedy will be granted...provided further that it is located and designed in accordance with sound zoning and planning concepts, including its environmental impact.”

So. Burlington Cty. NAACP v. Mount Laurel Tp., 92 N.J. 158, 218 (1983) (emphasis added)

Furthermore:

“...Mount Laurel is not designed to sweep away all land use restrictions or leave our open spaces and natural resources prey to speculators.”

(*id.*, at 219, emphasis added)

83-99 Acres Of Woods Destroyed For Only 234 Units

The developments under consideration by Judge Brogan on March 23rd are AvalonBay (Valley Bank, 1455 Valley Rd. at Hamburg Tpk., (etc.)); Rockledge Farms/Hovnanian (1673 Hamburg Tpk. at Van Riper Rd.); Preakness shopping center; WayneBridge (1528-1560 Hamburg Tpk. at Geoffrey Way); and the GAF property (1361 Alps Rd.), according to the Court's order of February 16, 2021 (<https://waynetownship.com/affordable-housing-mt-laurel.html> [3-14-21]).

Brummel observed to the Court that the developments as outlined in the settlements will

destroy an estimated 83 to 99 acres of wooded lands, but the numbers are nowhere to be found in the data presented to the Court. (*Statement* pp. 10-12)

Brummel estimated the clearance using sketches of the developments presented by the developers and the Township, and satellite analysis of the development sites using free internet software, particularly acreage analysis tools at daftlogic.com.

Only 234 'Affordable Units Out of 1,369

The overall settlements are proposed to produce a meager 234 units of so-called affordable housing among a total of 1,369 units of housing estimated to be produced, according to an analysis of the five settlements by Brummel that was not contained in the *Statement* to the Court.

Brummel told the Court the Township was no more interested in affordable housing than in environmental protection, since one development, AvalonBay (Valley Bank) does not even offer any studio or one-bedroom affordable units:

Wayne Is The 'Fox Guarding Chicken-Coop'

“It is naïve and contrary to the evidence to presume the Township is upholding its laws and negotiating with developers with an eye to protecting the environment. It is more like the proverbial fox is guarding the chicken-coop. Wayne embraces development, and the Mt. Laurel settlement process is simply a charade when it comes to environmental protection.

Indeed, when one notices that zero 'one-bedroom' (or studio) affordable units are included in the proposed 473-unit Avalon Bay (Valley Bank) project, one can also feel the process is a charade even with respect to affordable housing (see, settlement agreement of 1/6/2021, p. 3).” (*Statement*, p. 12)”

Brummel claimed to find one instance where the Township and/or developer of the GAF property appear to have deceptively added wording in an otherwise 'boilerplate' provision shared by almost all the settlements, in order to give the developer a complete exemption from tree-replacement, or payment in lieu of replacement. Brummel noted the added wording made the overall provision meaningless, suggesting it was “engineered” to deceive. (*Statement*, p. 9).

Brummel acknowledged to the Court in the *Statement* that he missed a deadline of March 1 to file objections per the Court's order of February 16th (<https://waynetownship.com/affordable-housing-mt-laurel.html> [3-14-21]), but Brummel asked the

Court to use its discretion because the comments are unique, important, and their consideration is in the public interest.

However the Court later advised Brummel the public will have an opportunity to address the Court at the hearing on March 23rd. In reply, Brummel asked that his Statement be incorporated at that time, but did not receive an answer at this date.

Attached: Brummel *Statement* to Wayne Tp. Mt. Laurel Court of 3/15/21

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