

Piscataway 1985

1/21

- Notice of Motion to exclude testimony of Piscataway Township's
Expert witness for failure to serve Timely Responses to Discovery

- Affidavit of Bruce S. Gelber

Attch: Exhibits A, B, + C.

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P.n. 3155

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ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION-MIDDLESEX
 COUNTY

URBAN LEAGUE OF GREATER)
 NEW BRUNSWICK, et. al.,)

Plaintiffs,)

vs.)

THE MAYOR AND COUNCIL OF)
 THE BOROUGH OF CARTERET,)
 et. al.,)

Defendants.)

Docket No. C 4122-73

Civil Action

NOTICE OF MOTION TO EXCLUDE TESTIMONY OF
 PISCATAWAY TOWNSHIP'S EXPERT WITNESS FOR FAILURE
 TO SERVE TIMELY RESPONSES TO DISCOVERY

PLEASE TAKE NOTICE that on January 28, 1985, at 10:00
 A.M., or as soon thereafter as counsel may be heard,
 plaintiffs in the above entitled matter will move,
 pursuant to Rule 4:23-5, for an Order excluding the
 testimony of the defendant Township of Piscataway's Township
 Engineer on the grounds that the township failed to serve
 timely and complete answers to interrogatories and an expert
 report. In support thereof, plaintiff submit the attached
 affidavit of counsel.

Respectfully submitted

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cc: All counsel on Piscataway
Township Service list

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Civil Action

AFFIDAVIT OF BRUCE S. GELBER

1. I am one of the attorneys for the plaintiffs in the above captioned case.

2. To secure full disclosure of the defendant's contentions and supporting documentation, plaintiffs propounded interrogatories and a request for production of documents upon the defendant Township of Piscataway on November 3, 1983.

3. Among other things, this request for discovery included the following relevant interrogatories and responses, as more fully set forth in Exhibit A, attached

hereto:

(a) Interrogatories 27(i) and (j) asked the township to identify all specific lots which are vacant but cannot be used for residential development because of environmental constraints, such as water and wetlands. In response, the township produced a chart which listed 13 sites, or portions thereof, as containing wetlands, stream areas, flood plain, or contaminated soil. Of these, five sites -- sites #2, 3, 40, 45, and 46 -- have been deemed to be suitable for residential development by the Court-appointed Expert.

(b) Interrogatories 27(k) and (l) asked the Township to identify specific lots which are vacant but are subject to physical conditions that render residential development difficult or more costly. In addition to incorporating the response to interrogatories 27(i) and (j), the township produced another chart which indicated that between 1½ and 4 acres of sites 32, 33, 34 and 35 are subject to constraints due to power line and gas line easements and 1 acre of site 42 is an historic site. No other information was provided in response to these interrogatories.

(c) Interrogatories 27(m) and (n) asked for the amount of acres and specific lots which are vacant, but would require the construction, provision or extension of any municipal services or infrastructure to permit residential development. To both questions, the Township responded "None."

(d) Interrogatories 27(o) and (p) asked for the number of acres and specific sites which are vacant but are not available for residential development for any other reason, to which the Township responded, "None."

(e) Interrogatory 44 sought information about the treatment capacity, location and unutilized capacity of the sewer system serving Piscataway Township. In response, defendant stated, "Entire township served, no capacity problems." See also interrogatories 45-47.

4. Pursuant to Rule 4:17-7 interrogatories are deemed to be continuing in nature, requiring supplementation of answers within 20 days prior to trial if it appears that the initial answers are incomplete or inaccurate. No supplemental answers were filed in response to plaintiffs' interrogatories in this case.

5. On March 21 and 23, 1984, plaintiffs took the deposition of the Township Planner, Lester Nebenzahl. During the deposition, Mr. Nebenzahl was asked to describe, for each site which he had identified as being vacant, all the reasons for which the site might not be suitable for higher density residential development. Mr. Nebenzahl did not identify any site as being unsuitable for such development because of problems relating to sanitary sewers or storm drainage. Nor did he mention numerous additional concerns raised in the township's submission of January 21, 1985, as summarized below.

6. On May 29, 1984, Mr. Nebenzahl filed an affidavit on behalf of the Township in response to plaintiffs'

application for certain temporary restraints. Mr. Nebenzahl's affidavit summarized the township's contentions regarding the suitability for higher density residential development of each vacant site in the township. The affidavit failed to identify as serious constraints on development, problems relating to sanitary sewers, storm drainage and other concerns raised in the township's most recent submission.

7. On June 26, 1984, this Court entered an Order appointing Carla Lerman as the Court's expert for the limited purpose of preparing a report on the amount of available acres and specific sites in Piscataway Township which are suitable for development of Mount Laurel housing, and the appropriate densities for the development of each site. The Court further ordered that either party could, within 10 days after receipt of Ms. Lerman's report, submit written objections to the report, and that the matter would then be set down for further hearing, if deemed necessary.

8. Ms. Lerman submitted a preliminary report on July 12, 1984 and a final report on November 10, 1984. Plaintiffs filed written objections to the preliminary report on August 3, 1984. Defendant did not file any written objections to either of Mr. Lerman's reports.

9. At a status conference on December 17, 1984, this Court ordered that all interrogatories and other discovery relating to Ms. Lerman's reports be propounded by December 20, 1984, and that all responses thereto and expert reports be served by January 7, 1985. The Court thereafter

scheduled a hearing for January 16, 1985.

10. On December 20, 1984, plaintiffs propounded a second set of interrogatories and request for production of documents upon defendant Township of Piscataway and others. See Exhibit B. These interrogatories asked the defendant, not only to state its position and contentions regarding Ms. Lerman's conclusions, but also to state with specificity the bases for its positions, describe in detail all facts and documents on which it relies in support of its positions and attach a copy of all such reports, studies, maps or documents. In addition, the interrogatories sought detailed information about the background and experience of each expert witness which the party intended to call, and asked that a copy of his or her resume be attached.

11. Following a request for an adjournment by counsel for the defendant, the Court rescheduled the hearing for January 28, 1985. In conversations between the attorneys for the parties, counsel for the township agreed to serve late answers to plaintiffs' interrogatories by January 23, 1985, and counsel for plaintiffs agreed to accept them.

12. Although the answers were sent Express Mail on January 22, 1985, counsel for the plaintiffs did not receive them until the afternoon of January 24.

13. Defendant's answer to plaintiffs' interrogatories is in the form of a letter from counsel summarizing the proposed testimony of the Township's Director of Public Works and Township Engineer, whom the township plans to call as an expert witness. See correspondence dated January 21,

1985, attached hereto as Exhibit C. Plaintiffs submit that this is an insufficient and untimely response to discovery for two reasons.

(a) First, the township's January 21 letter raises a substantial number of contentions regarding the suitability for development of specific sites which it repeatedly failed to raise in response to prior discovery. Among others contentions, these include alleged constraints on development or problems relating to sanitary sewers (sites 1, 2, 3, 6, 9, 10, 12, 13, 31-35, 42-45, 47, 49, 51, 52), storm drainage (sites 1, 2, 6, 8, 9, 10, 12, 13, 32-35, 37, 38, 42-45, 47, 49, 75, 77, 78), traffic patterns (sites 3, 37, 42, 48, 49, 63, 77, 78), and wetlands, railroad crossings and alleged radioactivity (site 8). None of these contentions were raised at any time in initial or supplemental answers to plaintiffs' first set of interrogatories, in Mr. Nebenzahl's affidavit or deposition, or in written objections to Ms. Lerman's reports.

(b) Second, with respect to virtually all of the township's contentions, the January 21 submission does not provide sufficient responses to plaintiffs' second set of interrogatories. In most instances, the defendant's answers are comprised of impressionistic or conclusory statements devoid of any supporting documentation or data. For example, the document is replete with statements that certain roads, sanitary sewer or storm drainage systems are "inferior," "inadequate" or "at capacity," without any further explanation. Moreover, although the document

contains vague references to certain plans, studies or presentations (see, e.g., pages 8, 9, 14 and 18 of Exhibit C), no such documentation is provided in answer to interrogatory 1(d). Finally, neither a resume nor any other information is provided in answer to interrogatories 2(a) and (b), which ask for information about the expert's background and qualifications.

14. The prejudice to plaintiffs resulting from the defendant's failure to submit timely and complete responses to discovery is manifest. The township first raised the issue of lack of sufficient, suitable land at least as early as February of last year. In addition, the township has known for at least seven months -- since this Court's Order of June 26, 1984 -- that there would be a hearing on the suitability for Mt. Laurel development of specific sites shortly after receipt of Ms. Lerman's final report. Nevertheless, on January 24, less than four days prior to the hearing in this matter, the defendant served answers which raise contentions that are inconsistent with prior responses to discovery, and are wholly devoid of specific factual support and documentation. Plaintiffs have the right to rely on the completeness and accuracy of prior responses to discovery and to timely receipt of expert reports. Receipt of the township's January 21 submission just four days prior to the hearing is clearly prejudicial to plaintiffs' ability to represent their interests.

BRUCE S. GELBER

SWORN TO and SUBSCRIBED
before me this day
of January, 1985.

Attorney at Law, State of New Jersey

27. For each zone in defendant's current zoning ordinances, state or identify: See attached chart. (27A, B, C)

(a) The name of the zone.

See attached chart (27A, B, C)

(b) The total number of acres in the zone.

See attached chart (27A, B, C)

(c) The total number of vacant acres in the zone.

See attached chart (27A, B, C)

(d) The specific lots of vacant land in the zone.

See attached chart (27A, B, C)

(e) The number of acres which are vacant but already subject to an approved site plan or pending site plan application.

See attached Chart (27E, F)

EXHIBIT-A

(f) The specific lots which are vacant but already subject to an approved site plan or pending site plan application.
See attached chart (27E, F)

(g) The number of acres which are vacant but are farmland.
See attached chart (27 G, H)

(h) The specific lots which are vacant but are farmland.
See attached chart (27G, H)

NOTE: In answering subparts (i) through (n) do not consider as a reason why vacant land is unavailable for residential development, the fact that the land is currently zoned by the municipality for non-residential uses.

(i) The number of acres which are vacant but cannot be used for residential development because of environmental constraints, such as, water and wetlands, and list the constraints.

See attached chart (27I, J)

(j) The specific lots which are vacant but cannot be used for residential development because of environmental constraints, such as, water or wetlands, and identify the constraint[s] applicable to each lot.

See above: (271)

(k) The number of acres which are vacant but subject to physical conditions that render residential development difficult or more costly, including, but not limited to, the following, and in each case specify the point at which the condition is considered by defendant to be a constraint on residential development (e.g., bedrock within four feet of surface):

(1) Bedrock close to surface.

NONE

(2) Steep ground slopes.

none

(3) Watertable close to ground surface.

See answer to Interrogatory 271, J)

(4) Location within a flood hazard zone.

same as above

(5) Soil content (use soil classification of U.S. Department of Agriculture Soil Conservation Service in specifying types of soil content).

none

(6) Other physical conditions affecting development (specify). See attached chart 27 K, L

(l) The specific lots which are vacant but subject to the physical conditions listed in (k) above, and identify the condition[s] in each lot.

See attached Chart 27K, L

(m) The number of acres which are vacant but would

MODERATE (26,000) ⇒ SALES RANGE : \$52,000 - \$65,000

quire for residential development construction, provision, or extension of any municipal service or necessary infrastructure, including, but not limited to, sewer or water service.

NONE

(n) The specific lots which are vacant but would require for residential development, construction, provision or extension of any municipal services or infrastructure and identify the service[s] or infrastructure needed for each lot.

NONE

(o) The number of acres which are vacant but not available for residential development for reasons other than those described in questions 27(e) through (n) and describe each reason.

NONE

(p) The specific lots which are vacant but not available for residential development for reasons other than those described in questions 27(e) through (n) but listed in 27(o), and identify the reason[s] applicable to each lot.

NONE

44. (a) State the presently available treatment capacity of the sewer system serving the defendant municipality and attach a map showing the distribution of interceptors.

Entire Township served no capacity problems.

(b) State the presently available unutilized treatment capacity of the sewer system serving the defendant municipality.

see above .

45. State if there is any plan under consideration, approved, or being implemented to increase capacity for public sewers in the municipality, whether by constructing or extending a collection system, constructing or enlarging a municipal or regional sewage treatment facility, linking into the sewage treatment facility of any other municipality, or any other action.

not applicable

46. If the answer to question 45 is in the affirmative:

(a) Describe with specificity the changes that would be

not applicable

EXHIBIT-A

made under the plan.

(b) State the increase in capacity in terms of the number of additional gallons that could be treated daily.

not applicable

(c) Describe the additional geographic availability of public sewage service.

not applicable

(d) State what portion, if any, of this increase in capacity or geographic availability is committed to remedy existing public health or safety hazards.

not applicable

(e) State the estimated cost per new hookup for addi-

not applicable

tional residential hookups under the plan.

(f) Describe the present status of the plan and its timetable for implementation.

not applicable

(g) State who formulated the plan and what agencies have reviewed or approved it.

not applicable

(h) State the cost of implementing the plan and the anticipated source for funding.

not applicable

(i) Attach copies of all documents pertaining in whole or in part to the plan, its approval, or its implementation.

not applicable

47. State whether there are any privately operated sewage treatment facilities (package treatment plants) serving more than one residence or any commercial or industrial facility.

NONE

48. If the answer to question 47 is in the affirmative, for each such facility,

(a) State its location and the name and address of its operator.

NOT APPLICABLE

(b) State how long it has been in operation.

NOT APPLICABLE

(c) State the number of residences the facility serves

NOT APPLICABLE

if it serves commercial or industrial facilities, the names and addresses of the commercial and industrial facilities.

NOT APPLICABLE

(d) State the total capacity in gallons per day.

NOT APPLICABLE

(e) Describe any failures of the system and any public health or safety problems created by the systems.

NOT APPLICABLE

49. State if there is any plan under consideration, approved, or being implemented to increase public water service in the municipality, whether by constructing or extending water lines, drilling municipal wells, constructing or enlarging a municipal, regional, or state reservoir, linking into the public water supply system or another municipality or regional agency, or any other action.

All large tracts served by Elizabethtown Water Company

M. (176,000) ⇒ SALES RANGE: \$52,000 - \$65.00

50. If the answer to question 49 is in the affirmative:

(a) Describe, with specificity, the changes that would be made under the plan.

NOT APPLICABLE

(b) State the increase in supply in terms of number of additional gallons per day.

NOT APPLICABLE

(c) Describe the additional geographic availability of public water service.

NOT APPLICABLE

(d) State what portion, if any, of the increase in supply or geographic availability is committed to remedy existing public health or safety hazards.

NOT APPLICABLE

(e) State the estimated cost per new hookup for additional residential hookups under the plan.

NOT APPLICABLE

(f) Describe the present status of the plan and its timetable for implementation.

NOT APPLICABLE

(g) State who formulated the plan and what agencies have reviewed or approved it.

NOT APPLICABLE

(h) State the cost of implementing the plan and the anticipated source for funding.

NOT APPLICABLE

(i) Attach copies of all documents pertaining in whole

NOT APPLICABLE

#27; I, J.

VACANT LAND W/ ENVIRONMENTAL CONSTRAINTS

BLOCK	LOT	AREA (AC.)	ZONE	DESCRIPTION
229 A	1A, 1B	40.00	R-7.5	CONTAMINATED SOIL
452	8A-Q, 5GB	5.00	R-10	FLOOD PLAIN
499	4Q	1.09	R-15	FLOOD PLAIN
744	2A	10.00	R-20	WETLANDS
744	2-Q	5.00	R-20A	WETLANDS; STREAM AREA
228	134	5.00	SC	WETLANDS; STREAM CORRIDOR
734	44L	7.00	" "	STREAM CORRIDOR
116	1Q	6.00	LI-5	FLOOD PLAIN; STREAM.
188	1, 1A, 2	6.00	" "	" "
421	7A	8.00	" "	" "
457c	8c	8.00	" "	" "
499	1-Q, 2-Q	8.00	" "	" "
457B	1	3.00	M-5	FLOOD PLAIN
TOTAL ACRES =>		112.09		

27 K, L

ZONE	BLOCK	LOT	APPROXIMATE ACREAGE	CONSTRAINT
LI-5	496	1A	3.0	POWER LINE EASEMENT
R-20	496	2,11	4.0	POWER LINE EASEMENT
" "	496	12	1.25	GAS PIPE LINE & POWER LINE EASEMENT
" "	495	4G	1.5	GAS PIPELINE EASEMENT
" "	735E	27A	1.0	HISTORIC SITE

TOTAL ⇒ 10.75 ACRES

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION/MIDDLESEX
AND OCEAN COUNTIES

URBAN LEAGUE OF GREATER]
NEW BRUNSWICK, et al.,]

Plaintiffs,]

vs.]

THE MAYOR AND COUNCIL OF]
THE BOROUGH OF CARTERET,]
et al.,]

Defendants.]

Docket No. C 4122-73

Civil Action

PLAINTIFFS' INTERROGATORIES
AND REQUEST FOR PRODUCTION
OF DOCUMENTS PERTAINING TO
THE SUITABILITY FOR DEVELOP-
MENT OF MOUNT LAUREL HOUSING
OF VACANT SITES IN
PISCATAWAY TOWNSHIP

Pursuant to Rule 4:17 and 4:18 of the Rules Governing Civil Practice and the Court's Order confirming the status conference held on December 17, 1984, the Urban League plaintiffs hereby request that the defendant Township of Piscataway and all landowners, option-holders or other interested parties who will offer testimony and/or arguments at the hearing on the Court-appointed expert's reports of July 12, 1984 and November 10, 1984, now scheduled for January 16, 1985, answer the following questions in writing, under oath, and, where requested, provide accurate and complete copies of specified documents.

EXHIBIT-B

The answers to these questions shall be served in hand upon all parties by January 7, 1985.

Where addressed to a company, corporation, or business or governmental entity, these questions shall be answered by an appropriate officer or agent of the corporation or entity who shall furnish all information available to the corporation or entity and its agents, employees or attorneys.

The person answering these questions shall designate which information is not within his or her personal knowledge and, as to that information, shall state the name and address of every person from whom it was received, or, if the source is documentary, a full description of the document.

Whenever a full and complete answer to any question or subpart thereof is contained in a document or documents, such document or documents, appropriately identified as answering a specific numbered question or subpart, may be supplied in lieu of the written answer.

Whenever information is requested which was previously furnished in answer to another question, such information need not be restated, and it will suffice to identify the previous answer containing the information requested.

These interrogatories shall be deemed to be continuing so as to require supplemental answers between the date the interrogatories are answered and the time of hearing.

INTERROGATORIES

1. Pursuant to the Court's Order dated June 26, 1984, Ms. Carla Lerman, P.P., issued a preliminary and final report dated July 12, 1984 and November 10, 1984, respectively, which reviewed the characteristics of vacant sites in Piscataway Township pertaining to their suitability for development of Mount Laurel housing and their recommended densities for such residential development. With respect to each and every site identified in Ms. Lerman's reports on which you will offer testimony or arguments at the hearing on those reports, scheduled to commence on January 16, 1985:

a) State whether you agree or disagree with Ms. Lerman's findings and conclusions.

b) To the extent you disagree with Ms. Lerman's findings or conclusions, state your position, contentions and conclusions regarding the suitability of the site, or any portion thereof, for development of Mount Laurel housing and the appropriate density, if any, for such residential development.

c) State with specificity the basis for the positions, contentions, and conclusions provided in answer to question 1(b) above, and describe in detail all facts and opinions on which you rely in support of each such position, contention and conclusion, and all facts and opinions of which you are aware which are inconsistent with each such position, contention and conclusion.

d) Attach a copy of all reports, studies, surveys, correspondence, memoranda, maps, drawings and other documents upon which you will rely in support of the positions, contentions and conclusions provided in answer to question 1(b) above.

2. State the name and address of each expert witness who will testify on your behalf at the hearing on Ms. Lerman's expert reports, scheduled to commence on January 16, 1985.

For each person listed above:

a) State with specificity his or her area or areas of expertise.

b) State the basis upon which you contend this person is qualified to testify as an expert, including, but not limited to, his or her professional experience, past and present employment, educational background, consulting experience (including any consultations with municipal or other public entities), publications, and judicial or other testimony; and attach a copy of his or her resume.

c) State with specificity the substance of his or her testimony, and identify or attach all reports, studies, surveys correspondence, memoranda, maps, drawings and other documents upon which he or she will rely in support of his or her testimony.

d) If he or she has prepared any reports, memoranda, correspondence maps, drawings or other written materials relating to any of the matters described in answer to question 1(b) above, please attach a copy.

3. State the name, address, title and profession of each witness not identified in any to question 2 above, who will testify on your behalf at the hearing on Ms. Lerman's expert reports, scheduled to commence on January 16, 1985.

For each person listed above:

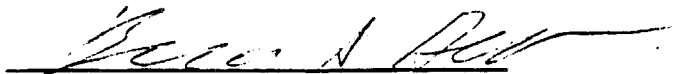
a) State with specificity the substance of his or her testimony.

b) Identify or attach all reports, studies, surveys, correspondence, memoranda, maps, drawings or other documents upon which he or she will rely in support of his or her testimony.

c) If he or she has prepared any reports, studies, memoranda, correspondence, maps, drawings or other materials relating to any of the matters described in answer to question #1(b) above, please attach a copy.

CERTIFICATION

I hereby certify that a copy of the foregoing
Plaintiffs' Interrogatories And Request for Production of
Documents Pertaining to the Suitability for Development of
Mount Laurel Housing of Vacant Sites in Piscataway Township
has been served by first-class mail, this 20th day of
December, 1984, on all counsel named on the attached service
list.



Bruce S. Gelber

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January 21, 1985

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**MEMBER D.C. BAR

Bruce Gelber, Esq.
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in Housing
733 15th Street, N.W.
Suite 102B
Washington, D. C. 20005

Re: Urban League of Greater New Brunswick,
et al. vs. The Mayor and Council of
the Borough of Carteret, et al.

Dear Bruce:

Herewith, as we discussed, a detailed summary of the testimony to be offered at Trial with respect to each of the sites deemed satisfactory for Mount Laurel development by Carla Lerman in her November 10, 1984 report. The following analysis represents that testimony to be offered by Henry A. Zanetti, Director of Public Works and Township Engineer for the Township of Piscataway. But for Site 60, the sites are arranged in numerical order; Site 60 will be treated last because of its unique character.

A. Site 1: Site 1 consists of approximately ten acres adjacent to New Brunswick Avenue. While Ms. Lerman's report is

EXHIBIT C

correct insofar as it alleges that Piscataway's master plan views New Brunswick Avenue as ultimately be widened to 104 feet, that width is unrealistic for several reasons. First, the South Plainfield master plan prescribes a width of only 66 feet for the road; the eastern half of the roadway is located in that municipality. Second, the existing residential development in Piscataway and South Plainfield extends well into the proposed 104-foot right-of-way; therefore, in order to effect the widening to that dimension, homes would have to be condemned. Quite frankly, it was only upon preparing this material that I learned that that roadway is proposed for widening to 104 feet. I do not believe that that is practical. Even if widened to 66 feet, New Brunswick Avenue will be an insufficient traffic corridor for the proposed additional traffic produced by the recommendations (if adopted) contained within Ms. Lerman's report.

With respect to sanitary sewers, there is no sanitary sewer along New Brunswick Avenue. An extension of an existing sanitary sewer would be required from a point 200 feet north of the site. In addition, during the past year, the Township sought to construct a sanitary sewer in an adjacent neighborhood to the west, in connection with a project known as the Arbor

Storm Drainage Project. At that time the Township learned that subsurface soil conditions in that adjacent neighborhood present a condition known as "running sand", which makes the installation of sanitary sewerage extraordinarily difficult and costly. The same is true for any underground installation, including storm drainage.

B. Site 2: Site 2 is a tract owned by Harris Steel Company consisting of approximately 125 acres. The northerly portion, approximating 15 acres, is inappropriate for any construction, lying within flood plain.

With respect to roadway conditions, the same analysis of New Brunswick Avenue as described for Site 1 pertains to this property. If New Brunswick Avenue is to be widened at all, all widening must take place on the Piscataway side, because of the existence of the owner's steel fabricating plant located several hundred feet to the south in South Plainfield. As with Site 1, existing residential developments (Samptown Estates and homes appurtenant to Lakeview Avenue) would limit the extent to which the roadway can be widened. The property to the east of New Brunswick Avenue is also owned by Harris Steel, lying within South Plainfield. To the best of my knowledge

and belief, this property was one of those sites targeted for Mount Laurel development as a part of the settlement reached between South Plainfield and the Urban League. The effect of Mount Laurel development on that Site will add to an already difficult traffic problem.

With respect to sanitary sewers, the closest sanitary sewer lies across the railroad tracks to the north of the subject property, and is physically separated from the site by the railroad tracks, flood plain and New Market Pond. The line to which sanitary sewerage for Site 2 would be connected is already at capacity and could not assume any additional burden.

With respect to storm drainage, an extensive internal storm drainage system would be required to develop this site for high density residential use. The site is tributary to an existing brook which is at capacity, sometimes flooding, and which has been improved by a culvert near Lakeview Avenue which is presently insufficient for storm drainage purposes.

C. Site 3: Site 3 (together with Site 68, a small appurtenant tract) approximates 28 acres in area. Site 3 itself has been zoned for shopping center development for years. Indeed, a prospective developer of a shopping center has submitted detailed

plans to the Township and has proposed extensive drainage system servicing the planned shopping center, which is absolutely essential for any development within this Site.

With respect to traffic, the surrounding roads are typically neighborhood residential roads of narrow width. This area being the most densely populated within the Township, the existing road network is unsatisfactory for the present demand, and the development of high density residential units would add to what is rapidly becoming an impossible burden.

With respect to sanitary sewerage, the Site is served by two trunk-lines, one coming from an adjacent apartment development of approximately 3,000 units, the second lying generally to the east. There have been considerable problems during the past few years with lack of capacity for this Site as to sanitary sewerage, because the sewers were installed to service a projected density in the area of four units to the acre, in accordance with standard engineering specifications and plans at the time. We have had numerous complaints of the sanitary sewerage from this particular area boiling up in people's cellars.

In addition, it should be pointed out that a fuel transmission line runs through the property, requiring that any development be structured so as not to interfere with the transmission

easements. The proposal for shopping center development does take the existence of this transmission line into account.

D. Site 6: Site 6 is a 55-acre tract adjacent to Old New Brunswick Road. Ms. Lerman has proposed that high density residential development on this property include consideration of the widening of the overpass constituting part of Old New Brunswick Road and extending across Route 287, several tenths of a mile to the southwest. This proposal was examined and evaluated by the Township within the past three years and was discarded because of the estimated \$5,000,000 cost of the anticipated construction. The master plan of Piscataway calls for a collector road through the Site, generally appurtenant to the railroad tracks at the southerly portion of the Site, connecting the intersection of Old New Brunswick Road and North Randolphville Road to the intersection of Stelton Road and Cumberland Avenue, parallel to the railroad tracks. In addition, directly adjacent to the railroad tracks is a 30-foot pipeline easement; consideration of both the pipeline easement and the proposed collector road would limit the available acreage for any development. Presently, the traffic on Old New Brunswick Road and Stelton

Road in the vicinity of this Site can only be characterized as terrible. Both roads serve as feeders to the industrial park to the south and west of the Site; it is not uncommon for individuals to wait considerable periods of time before exiting from roadways leading out of the apartment developments directly across the street. Indeed, the area directly in front of this Site is supervised by traffic patrolmen every weekday morning and evening.

As to sanitary sewers, those adjacent to the Site are presently at capacity. A trunk-line would have to be installed to connect the Site with existing sewer lines to the south of the railroad tracks; this would require a line perpendicular to and underneath the railroad tracks.

With respect to storm drainage, the Township reviewed a proposal several years ago for single family residential development on a portion of this Site. At the time of that review, the existing storm drainage pipes were insufficient for dwelling proposed to be constructed at four to the acre. The closest storm drainage piping is southwest of the Site under the railroad tracks, but it is inferior in size to meet high density. Besides the fuel oil pipeline, there also exists on the Site towers for high-tension wires, which strongly impacts upon the appropriateness

of the Site for dense development.

Sites 7 and 8: These Sites consist of approximately 125 acres, 88 acres of which (Site 7) have been previously zoned for high density residential development. Site 8 is appurtenant to an existing industrial development (Rheo Metrics, Inc.), and any residential development on that Site will require adequate buffering from that facility.

With respect to traffic problems, Grandview Avenue, generally appurtenant to this Site, is 36 feet wide, and all other connector streets are 30 feet wide. These narrow roadways suggest that density should be strongly limited.

With respect to storm drainage, any residential development on Site 8 will require extensive interior storm drainage work, together with offsite drainage improvements connecting to the Ambrose Brook. To the best of my knowledge, a portion of the combined Sites has been designated "wetlands" by the Department of Environmental Protection of the State of New Jersey, and I understand that plans seeking approval of development related to the wetlands designation are either being prepared or have already been submitted to the DEP with respect to Site 7.

I further wish to point out that adjacent to this

Site is a railroad which bears an insufficient crossing; indeed, the crossing requires motorists to pass over five tracks. Piscataway has had considerable difficulty during the past years with various railroad crossings, which have proven to be dangerous and sometimes fatal. Furthermore, various Government agencies have conducted extensive studies as to the residual radio-activity in the vicinity of the Ambrose Brook and its bed, based upon the former location of a green base in Middlesex, New Jersey, near to the Site, used during and after World War II for the processing of uranium. Silt carried from that location had been used in the past as a source of fill, and studies have been virtually continual as to the effect of this situation. Till such studies are completed, prudence would dictate limited development in this area.

E. Sites 9, 10, 12 and 13: This parcel consists of 150 acres and has been generally used for agricultural purposes historically. I believe it appropriate to treat all these parcels as one, particularly in light of Ms. Lerman's recommendation that any development on these Sites be coordinated.

These Sites are appurtenant to River Road, a County roadway, which, as long ago as 1967, was filled to

capacity. The master plan has proposed that River Road in this area be widened to four or five lanes, which will require extensive improvements. It is not feasible to use the existing connector roadways as routes leading to and from proposed high density development; the Wynnewood Residential Development has roads only 24 feet wide, of inferior structure and inadequate pavement. The roads in the Possumtown area to the east of these tracts are similarly inadequate.

With respect to sanitary sewers, an existing sewer is available along Maplehurst Lane, but the adequacy of that piping is strongly in question considering the proposed density of any development on these Sites. As earlier indicated, those sanitary sewers were installed at a time when no one anticipated proposals for high density development in the area and are designed for minimal density (four units to the acre) at most.

With respect to storm drainage, the drainage system in Possumtown, to the east, is inferior. Although a drainage system does exist to the west, it is separated from the Site by private property, and easements and other property rights would have to be obtained.

In addition, these tracts lie directly to the south of heavy manufacturing industrial uses, including a plant which is currently manufacturing phenol through a cumene-based process. To the best of my understanding, the Township has instituted litigation against the owners of that plant, alleging that the manufacture of such chemical compounds at that location constitutes a violation of air-pollution legislation, the law of Common Nuisance, and Piscataway's municipal ordinances. The existence of that facility may have a considerable effect upon the extent to which residential development should be permitted on that Site at any density.

In addition, eight to ten acres of this Site are planned for municipal recreational use.

F. Site 31: Site 31 consists of approximately eleven acres. Along the southerly edge of the tract is a 50-foot easement permitting access to the Randolphville Elementary School located to the east of the Site.

With respect to sanitary sewerage, a connection to the trunk-line along the Ambrose Brook would be required which would entail the installation of offsite improvements and the obtaining of offsite easements, which may prove time-consuming and costly.

G. Sites 32, 33 and 34: These Sites consist of approximately 120 acres and are located to the west of South Washington Avenue generally in the central portion of the Township. South Washington Avenue constitutes the only feasible access to these Sites; at the present time, it is a 50-foot wide roadway planned to be expanded to 66 feet wide, containing four undivided lanes. There is no possible connection that can be made to Centennial Avenue, owing to the existence of Green Acres property and the cost entailed in the crossing of the Ambrose Brook in the vicinity. No connection to Woodland Avenue and other small roadways is feasible because of the inferior nature of the existing roads servicing the Lake Nelson residential area to the south, the average width of each roadway being between 15 feet and 20 feet. These roadways cannot service new residences built to the recommended density.

With respect to sanitary sewerage, the topography of the Site is characterized by a crest bisecting the tract running in an east to west direction. The northerly portion of these Sites is tributary to the proposed expanded trunk-line running parallel to the Doty's Brook; the closest existing

trunk-line requires a 2400-foot connection in a northwesterly direction and across a brook, at considerable cost. The portion of these Sites southerly to the crest is tributary to an existing trunk-line on Lakeside Drive North, which requires an extension and connection some 400 feet from the southern portion of these Sites, also not inconsiderable as to cost.

With respect to storm drainage, the same general tributary system as described above applies, except that with respect to the northerly portion of the tract, a storm drainage system exists several hundred feet to the north. In connection with this, Doty's Brook should be studied as to its carrying capacity and the necessity for down-stream improvements or retention basins in connection with any development tributary to that Brook. With respect to the southerly portion of the Site, offsite drainage will be required into Lake Nelson, a widened portion of the Ambrose Brook created by the installation of, some fifty or sixty years ago, an earthen dam, with concrete spillway. Severe flooding may be implicated by the proposed high density residential development. Even now, the flooding area for a 100-year storm covers the earthen dam, and the area of such flooding will increase following the installation of high density residential development.

In addition, it should be noted that the Department of Environmental Protection has concluded that the dam is inadequate and should be repaired. It should also be pointed out that the dam and the lake itself are owned by an association of private homeowners adjoining the lake and is not municipal property.

The Sites are transversed by the Susquehanna Pipeline and by three high-pressure gas pipelines owned by the Texas Eastern Transmission Company containing vaporous gas and requiring 75-foot clearance at a minimum, for any proposed development. In addition, I respectfully submit that some portion of this Site should be utilized to add to limited park and recreational facilities existing in this portion of the Township.

H. Site 35: Site 35 is an existing dairy farm approximating 75 acres, abutting South Washington Avenue to the east. Several residences and farm buildings, including stables, barns, and the like, are located on the Site. The Site falls in the intersection of South Washington Avenue and Metlars, both heavily travelled roadways. While some improvements are projected for both roadways, those improvements will not service additional residents until they are in fact constructed. One of the improvements referred to

in Ms. Lerman's report has already been completed, that being the installation of a traffic signal at that intersection, and modest widening of the intersection.

With respect to the sanitary sewerage, a connection would be required to a trunk-line 4800 feet to the north of this property. A trunk-line does exist to the south of this property, but that trunk-line has insufficient capacity for any high density development, and like the other sewer lines in Piscataway, was constructed in anticipation of much lower densities.

With respect to storm drainage, a storm drainage system does exist appurtenant to Metlars Lane, but that drainage system is dramatically inferior and cannot be expected to service any high density development. The storm drainage improvements required would be substantial and would have to lead into Lake Nelson, in the same manner as the analysis for the Site immediately above.

As earlier pointed out, in connection with the interior road system to be developed on Site to Centennial Avenue is not feasible because of the existence of County Green Acres parklands directly to the north of the Site.

I. Site 37: Site 37 is between seven and eight acres adjacent to Haines Avenue, just west of Stelton Road.

Traffic along Stelton Road in the vicinity of this proposed development is fierce. The implicit suggestion that alternate traffic servicing could be had along Brookside Road is absolutely inappropriate, that road having inadequate pavement and of a very narrow width.

With respect to storm drainage, an existing drainage system does exist on the southwest corner of the Site in the vicinity of Poplar; this system can only be described as extremely inferior and is inadequate now, and unable to assume any additional burden.

This Site is generally appurtenant to a municipal park and was planned for expansion of that recreational facility, at least in part. While it is true that a site of less than eight acres should not be expected to increase traffic substantially, it should also be pointed out that a fire house exists directly across Haines Avenue from this Site, and the narrowness of Haines Avenue causes the Fire Commissioners and Volunteer Fire Personnel of the Township to be extremely concerned about preserving their ability to exit the fire house and to get quickly to Stelton Road, several

hundred feet to the east. Indeed, not five years ago, a proposed commercial development on the corner of Stelton Road and Haines Avenue was resisted strongly by the Fire Commissioners because of the additional traffic to be generated by that development (it was a car wash) which would prevent the fire fighting vehicles from rapid egress from their driveway. The same constraint should prevail with respect to residential development.

I. Site 38: Site 38 is an area approximately 30 acres adjacent to Ethel Road West. This property has been zoned for high density residential development by our Municipal Zoning Ordinance, but several comments are appropriate in analyzing development of this property.

With respect to traffic, the Stelton Road traffic is substantial, and the interior paper streets and other appurtenant existing residential streets are inadequate for very high density development. Ethel Road itself is a local road, substantially narrower than the 66-foot right-of-way to which it should be expanded. Any development on this Site must be characterized by exceptional interior circulation, and the widening of Ethel Road to permit potential connection through Ethel Road to New Durham Road and ultimately Route 287, in Edison Township.

With respect to storm drainage, there are two brooks, one to the north and one to the south which are inferior to take on additional burdens, a fact of substantial concern to the public. To the east of the bulk of this Site is a small triangular parcel appurtenant to an existing development of high density in Edison Township. When the developer of that Site proposed the development before the Edison Planning Board, substantial numbers of Piscataway citizens appeared before the Edison Township Planning Board in order to comment on the proposed drainage impact; indeed, the Chairperson of the Piscataway Environmental Advisory Commission made a presentation to the Edison Planning Board requesting that the proposed density of that development be reduced, because of drainage problems. The potential impact of excess drainage and possible flooding are such that substantial off-site improvements will be required to provide adequate drainage.

J. Site 42: Site 42 is a 32-acre working farm which has been operated by the same owner for many years. The owner has communicated with the Township to indicate her intent that a procedure be developed whereby the farm can be preserved as a working farm in perpetuity; I am unaware of the specific

implementation of this request, if any.

With respect to traffic, this Site is in a rapidly developing area of the Township and is appurtenant to an intersection scheduled for substantial improvement (that being the Suttons Lane-Metlars Lane intersection). Presumably, traffic from this Site would proceed along Metlars Lane, which now is a heavily traveled County roadway with numerous curves and bends in the vicinity of this Site.

With respect to sanitary sewerage, off-tract improvements would be required to connect with an existing trunk-line approximating 500 feet in existence from the Site.

With respect to storm drainage, similar extensive off-tract improvements would be required in order to connect to an existing storm drainage system adjacent to the University Heights development, approximately 1,000 feet from the Site.

K. Site 43: This is an approximately 14-acre tract located across Morris Avenue from Site 45 (Gerichont Farm No. 2), which is the subject of litigation instituted against the Township. Any development on this Site must take into account the Hovnanian development on Gerichont Farm No. 1, diagonally across Morris Avenue from this Site. Morris Avenue is now

24-feet wide and can best be described as a narrow-country lane; although Morris Avenue is proposed for widening to 66 feet, until such widening takes place, Morris Avenue is insufficient for the traffic resulting from the more than 1,000 additional residential units proposed for development in its central portion.

With respect to storm drainage, no development should take place without the installation of a box cover across Morris Avenue, and without imposing upon the developer the responsibility for substantial down-stream cleaning of those brooks which service this Site and the other Sites off Morris Avenue, generally adjacent thereto.

With respect to sanitary sewerage, a sanitary sewer main does exist along the portion of Morris Avenue, and connections will be required to be installed from this Site, at a distance approximating several hundred feet. The same caveat with respect to sanitary sewers exists for this Site (and the other Morris Avenue Sites) as was previously discussed, concerning the original design of the sanitary sewer system and its inability to service numbers of developments of high density.

L. Site 44: Site 44 is a tract consisting of somewhat less than 28 acres located between two cemeteries. A developer originally proposed the construction of low-density townhouse development on this Site and has submitted a plan for such development to the appropriate municipal agencies. The same developmental constraints, as are applicable to Site 43, apply to this Site as well.

M. Site 45: Site 45 (Gerickont Farm No. 2) consists of approximately 40 acres on the southerly side of Morris Avenue, adjacent to the Hovnanian development on Gerickont Farm No. 1. The same constraints addressed with respect to Site 43 apply to this Site as well.

O. Site 46: This Site consists of 55 acres and has been zoned by the Township of Piscataway for high density residential development; all required approvals have been received for the construction of approximately 550 dwelling units by Hovnanian. The same general constraints exist with respect to this tract. It should be noted that as part of the approvals obtained, the developer is required to construct a 36-foot wide road through its Site, connecting Morris Avenue to the proposed Hoes Lane, and the developer was required to use heavier pavement than he had originally proposed, because of the anticipated traffic flow.

over that Site. Pavement of similar character should be installed, where appropriate, on the other Morris Avenue Sites.

P. Site 47: Site 47 is a nine-acre site appurtenant to Site 46, which is to abut the new section of Hoes Lane planned for construction between 1985 and 1986. This Site will be burdened by the 36-foot wide access road extending through Site 46, which will divide this Site roughly $3/4-1/4$, so that the 250 linear feet of length will be isolated for development purposes from the balance. The access roadway will consist of 36 feet of pavement with a 60 foot right-of-way. The same general constraints, as were discussed in connection with the other Morris Avenue Sites, apply here with respect to drainage and sewerage.

Q. Site 48 (with Site 63): Site 48 approximates six acres in area; Site 63, which is municipally owned, approximates 2.85 acres. These two Sites are non-contiguous. Appurtenant roadways are substandard; Wickley is between 15 feet and 20 feet in width, and Zirkel is only slightly wider. Both properties are characterized by drainage problems, with extensive flooding on Site 63, mostly due to a brook running through the Site which is tributary to the Ambrose Brook. In addition, flooding is caused by substantial congestion within the stream bed,

which would require downstream clearing to ameliorate.

The streams in the vicinity of both parcels, and the consequent flooding and drainage problems, will be affected by future Rutgers development on the Livingston campus, which is upstream of the Sites and which may have a substantial impact on the development of this property. The potential drainage difficulty coupled with the lack of recreational amenities servicing the citizenry in this area of the Township compel the conclusion that the most appropriate use for these parcels is as either as open space or active recreational development, rather than for residential use.

R. Site 49: Site 49 is an area consisting of 17 acres in the vicinity of Davidson Road and Metlars Lane, generally described as directly abutting Rutgers University campus. Substantial traffic problems will be produced by high-density residential development on this Site; indeed, it should be pointed out that this Site is neither contiguous or owned by the same person or persons, but features multiple ownership. The proposed extension of Hoes Lane to Metlars Lane will abut this property; while access to that proposed roadway can be had through this property, it would be required to be limited,

because the new Hoes Lane will not have island breaks, being a divided highway, which will limit access to the Site. It should also be pointed out that the configuration of this Site means that any access to Metlars Lane must be within 100 feet of a major intersection (Hoes Lane), which is not appropriate traffic engineering.

With respect to sanitary sewerage, the closest available trunk-line is located in Orris Avenue, which will require a connection approximately 450 feet in distance. That extension will be difficult to install because of the geology appurtenant to the Site; the trunk-line must be installed through heavy shale which will add substantially to the cost thereof.

With respect to storm drainage, the substantial offtrack improvements are needed because of insufficient capacity of storm drainage facilities serving this Site. A connection should be made with the brook running along Metlars Lane on the other side of Davidson Road, which is not a public roadway but part of the University road system (although the public presently has access to that roadway).

With respect to Davidson Road, it should be pointed out that Rutgers University has apparently elected to acquire

all property fronting on Davidson Road and eventually to limit access to the public. Davidson Road goes through a portion of the Busch Campus, and the University Administration Building, the Busch Students Center, and a group of dormitories and single and family student family units are located appurtenant to Davidson Road. It is likely, from recent acquisitions by Rutgers, that public access to Davidson Road will be limited at some point in the future.

S. Sites 51 and 52: These Sites are extremely small and are appurtenant to Site 60. As to these Sites, one will bear a jughandle for traffic from Hoes Lane to Morris Avenue, so that the southern and eastern portions of these Sites will be completely subsumed by that traffic development.

With respect to sanitary sewerage, any improvement of these Sites will require that the trunk-line on Old Hoes Lane and Mitchell Avenue be reached. This will require the acquisition of easements and extensive off-site construction, and the limited acreage involved on these two Sites strongly militates against high-density development considering the cost of the requisite sanitary sewer improvements. With respect to improvements, generally the same constraints apply.

A fifty-foot easement through the Sites is owned by the main connection cable for AT&T Long Lines, which will add a further constraint to the development because of the appurtenant limitations as to excavations in the area. The existence of the cable line, furthermore, entails a continuity of any utilities to be installed on the Site.

T. Site 53: This is a nine-acre site zoned for senior citizens housing. It is adjacent to the Senior Citizens Center, the Municipal Library, the Municipal Arboretum, and other municipal facilities. It is nearby banks, the Municipal Building, and other emergency services.

U. Site 54: Site 54 approximates six acres and is currently in private ownership as a functioning landscape nursery. It is appurtenant to River Road, which has been earlier described as an overburdened roadway. Although this may have been considered a vacant site based on an analysis of air photos, the use to which this Site is presently dedicated might cause the Site to appear vacant, but as that use continues to function, development of this property for high-density residential uses does not appear practical.

V. Site 57: This Site has been zoned for high-density residential development for its entire 40-acre area, the intent

being to coordinate this development with that in Highland Park, to which this area abuts River Road, which has been historically overburdened, and which requires considerable ingenuity in planning of appropriate ingress and egress to maximize safety and minimize full traffic impact.

W. Site 77: This is a six-acre parcel adjacent to the intersection of Metlars Lane and Suttons Lane. The same traffic constraints applicable to other Sites in the area of Metlars Lane and Suttons Lane and South Randolphville Road apply here. Because of the immediate proximity of this parcel to the intersection of South Randolphville Road and Metlars Lane, an intersection improved with traffic control devices, which has several islands and several modes of access from Metlars Lane, ingress and egress to this Site should be from Metlars Lane at a distance far enough from the intersection to avoid a potential traffic difficulty.

Offtract sewer drainage improvements will be required in order to connect with the closest sewer drainage system, across Metlars Lane from the subject Site.

X. Sites 75 and 76: Sites 75 and 76 are located along Hillside Avenue in the vicinity of River Road. It should

be noted that Hillside Avenue is proposed to be widened to a collector road with pavement at 46 feet and right-of-way at 66 feet in accordance with the master plan of the Township. Access to residential development along the Site should be limited to Hillside Avenue, because of the enormous traffic congestion along River Road. With respect to Site 75, particularly, there are substantial drainage constraints caused by a brook which is located at the bottom of the ravine on part of that Site. The brook is connected to a small pipe inadequate for extensively expanded usage which crosses River Road and will require substantial offtract drainage improvement to that parcel.

Y. Site 78: Site 78 is a three-acre tract located at the corner of School and Water Streets, in the southeasterly portion of the Township. While the traffic impact from this Site is small because of its limited area, it should be noted that the road network in this area is inadequate for any substantial high density development, consisting of roadways of narrow width. Of particular concern with respect to this Site is a very severe drainage problem; this Site accepts drainage and run-off from Stelton Road through a series of

antiquated ditches. Extensive off-site drainage work will be required between Stelton Road and this Site which will require condemnation and the obtaining of easements. As vacant land, the Site is inadequately drained presently, and any improvement should be subject to these considerations.

Z. Site 60: This Site is the most difficult Site to analyze, because it incorporates a number of separate and diverse land uses. I understand that this entire area was given one Site identification, because it was much too difficult to break down the Site into its component elements. Development of high density residential housing on this Site is impacted by a proposed expansion of Kroeger Park, a municipal recreational facility, and other municipal recreational sites throughout the parcel. Site 60 also includes substantial vacant lands owned by the Board of Education of the Township of Piscataway and presumably proposed for education use. No development of any magnitude on Site 60 can take place without substantial offtract road improvements; many of the roadways reflected by the sketch previously submitted in evidence in this proceeding are paper streets and have not been developed to any extent whatsoever. Such development must incorporate consideration of the need for substantial and extensive traffic control devices for the

entire area; this is particularly important because of the developing traffic along River Road, which as noted earlier, has been at capacity since the late 1960's. Consumption of the vacant land in this area will prevent the expansion of the Senior Citizen Center, the expansion of the Municipal Library, expansion of parking facilities to service these and other municipal functions, and other planned municipal purposes.

With respect to infra-structure, this section of town consists of older dwellings, and features few large subdivisions approved in recent years. The effect of this is that the sanitary sewer systems are limited in their capacity to absorb sewage from high density residential dwellings. Similarly, while in some areas storm drainage pipes have only recently been installed, the area as a whole lacks the infra-structure to support substantial numbers of high density dwellings.

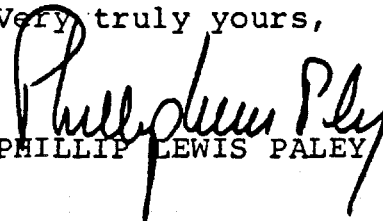
The above represents a summary of testimony to be offered by Henry A. Zanetti, as previously indicated; the within correspondence may be accepted as certified answers to Plaintiff's Interrogatories previously served upon this Defendant. Simultaneously, copies of the within correspondence

are being forwarded to all counsel of record, including Barbara Williams, Esq., Co-Counsel for the Plaintiff.

The Township of Piscataway respectfully reserves the right to supplement this report by additional information relating to any Sites to be considered appropriate for Mount Laurel development by Carla Lerman in any supplemental report, in accordance with our conversation of several days prior.

If you have any questions, please feel free to call the undersigned at your earliest convenience.

Very truly yours,



PHILLIP LEWIS PALEY

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