

CA

Piscataway

3-21-84

Transcript of Deposition by  
Lester Nebenzahl, Tax Planner for  
Piscataway  
(Parts 1 & 2)

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SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION - MIDDLESEX COUNTY  
DOCKET NO. C-4122-73

URBAN LEAGUE OF	:	
GREATER NEW BRUNSWICK,	:	
et al.,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	DEPOSITION OF:
	:	
THE MAYOR AND COUNCIL	:	LESTER NEBENZAHL
OF THE BOROUGH OF	:	
CARTERET, et al.,	:	
	:	
Defendants.	:	
	:	

TRANSCRIPT of deposition taken by and before MARY LUKENSOW, a Certified Shorthand Reporter, and Notary Public of the State of New Jersey, at the offices of PISCATAWAY MUNICIPAL BUILDING, 455 HOES LANE, PISCATAWAY, NEW JERSEY, on WEDNESDAY, MARCH 21, 1984, commencing at 9:30 a.m.

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
LESTER NEBENZAHL				
By: Mr. Gelber	3			

E X H I B I T S

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1           L E S T E R   N E B E N Z A H L, having  
2 offices at the Municipal Complex of Piscataway, New  
3 Jersey, being first duly sworn by the Notary according  
4 to law testified as follows:

5  
6 DIRECT EXAMINATION BY MR. GELBER:

7           Q.    Les, how long have you been Township Planner  
8 for Piscataway?

9           A.    Approximately six years.

10          Q.    You started in --

11          A.    1977, I believe, October, full time. Before  
12 that, I was a consultant for two years.

13          Q.    So you worked with the Township in some  
14 capacity since 1975?

15          A.    Either the end of '75 or the beginning of '76,  
16 yes.

17          Q.    And have you been Township Planner  
18 continuously since '77?

19          A.    Yes.

20          Q.    Have you had an opportunity to review the  
21 consensus report that was prepared by Carl A. Lerman?

22          A.    Yes.

23          Q.    Did you participate in those meetings  
24 concerning that report?

25          A.    Most of them. Two meetings, I believe.



1           Q.    Do you agree with the approach taken by the,  
2 that consensus report and the terms of region,  
3 definition of region?

4           A.    No, I do not.

5           Q.    In what respects do you disagree with the  
6 report?

7           A.    For the definition of region with regard to  
8 the determination of present meet, I believe that that  
9 region is not realistic, especially insofar as the  
10 allocation of excess need is distributed from all  
11 portions of that region, all of the urban aid  
12 municipalities, for instance, which I would say a  
13 greater proportion of substandard, that's substandard  
14 in quotes, housing and how that excess is reallocated  
15 to municipalities in the growth area regardless of  
16 their location within that same region. I believe the  
17 region is too large and doesn't really reflect the  
18 journey to work, from one portion of the region to  
19 another.

20          Q.    Do you believe it's appropriate to consider  
21 journey to work in terms of reallocating present --

22          A.    Yes, I do.

23          Q.    Why?

24          A.    Because I believe that's the most realistic  
25 indicator of a true housing market. I don't believe

1 that a low or moderate income family, which is living  
2 in a substandard housing unit in Newark, for instance,  
3 would actually desire to live in Piscataway, simply  
4 because a housing unit would be available that was,  
5 quote, standard in Piscataway.

6 Q. If jobs were available in Piscataway for  
7 that family living in Newark, isn't it conceivable  
8 that that family could and would move?

9 A. Yes, and -- but I believe similarly, it's  
10 conceivable that by the same token, any family from  
11 any part of the United States, if they had a job  
12 opportunity in Piscataway, would certainly want to  
13 locate near that job.

14 Q. Isn't it also true that a large portion of  
15 the unallocated present need in that larger 11  
16 county region is located outside of Newark, is located  
17 closer into Piscataway?

18 A. That may be, I am not sure. I don't know  
19 the answer to that.

20 Q. Do you have any data or other information  
21 which you are relying for your opinion about the  
22 present need region?

23 A. My reading of the Rutgers study indicates to  
24 me that the center firm policy research did a very  
25 thorough analysis, they went into annual census

1 reports through taping procedures and to me, it makes  
2 a lot more sense to use the Rutgers region because  
3 they have actually gone and done that homework.

4 Q. Is there any portion in the report in  
5 particular or any data in the report in particular on  
6 which you are relying, particular chart or other  
7 information?

8 A. I couldn't pull it out for you right now, no.

9 Q. A statement was made in the pre-trial  
10 statement for Piscataway, indicating that  
11 modifications might be made to the present need region  
12 containing the consensus report that would be  
13 acceptable to the Township. Could you tell me what  
14 those modifications are? Do you know what I am  
15 referring to?

16 A. No.

17 Q. Why don't you just take a look at page, they  
18 aren't numbered. Take a look at that page relating to  
19 the present need region?

20 A. Could you repeat the question?

21 Q. Sure.

22 A. What would the changes be?

23 Q. That's right.

24 A. That we would agree to? I believe if the  
25 Township of Piscataway is given credit, either through

1 the allocation process itself or even after the  
2 allocation, for existing units, dwelling units in  
3 Piscataway, which are capable of housing low and  
4 moderate income households, then the Township of  
5 Piscataway, and I for one, would have no problem with  
6 the allocation process, insofar as how it would affect  
7 Piscataway Township.

8 Q. How would that address the problem you have  
9 raised about the size of the region though?

10 A. In what respect? I still, I would still  
11 have problems theoretically with the size of this  
12 region, for present need.

13 Q. I see.

14 A. Just that limited issue.

15 Q. So what you are saying is that this  
16 modification would then make the entire procedure  
17 acceptable, maybe not conceptually but acceptable so  
18 the modification you are referring to doesn't relate  
19 to particularly to, you are concerned about the size  
20 of the region, as it relates to the whole. Is that  
21 correct?

22 A. Yes, I would say so.

23 Q. Which region, what is your position with  
24 respect to the present need region, in particular,  
25 what is the appropriate region for Piscataway?

1           A.    Well, I believe that the region should be  
2 the same for both present need and any allocation for  
3 future need. I don't see any rational basis for  
4 different, so that if the quote commuter shed region  
5 is being used for allocation of future need, I think  
6 it should also be used for present need. I think it  
7 makes a lot more sense.

8           Q.    And what is that region?

9           A.    For Piscataway, that comprises Middlesex  
10 County, Somerset County, Union County, Morris County,  
11 did I say Hunterdon County?

12          Q.    No.

13          A.    And Hunterdon County, I believe.

14          Q.    So it is a five county region?

15          A.    That is listed in the latest Plaintiffs'  
16 consensus report. It was based on certain assumptions  
17 concerning travel time, and for purposes of data  
18 availability when using those assumptions, one can  
19 travel into an out lying county, one would include the  
20 entire county for purposes of the analysis.

21                   MR. PALEY: Off the record.

22                   (Discussion off the record.)

23          Q.    Just to clarify, do you agree with the  
24 consensus in terms of its approach to prospective need  
25 region?

1           A.    Yes.

2           Q.    But you would apply that same region for  
3 both prospective and present need.  Is that correct?

4           A.    I would do that, yes, although I think I --  
5 even there I have to qualify it.  When we prepared our  
6 fair share housing report, our region became much  
7 smaller than that, and that was because realistically,  
8 I believe and based on the information contained in  
9 the 1980 census, people don't travel that far.  I  
10 don't think they want to travel that far, and an ideal  
11 situation for a housing market would be in the  
12 neighborhood of a half hour trip to work.  The region  
13 we just mentioned is larger, so that theoretically, I  
14 would prefer a smaller region, although realizing the  
15 goals I believe that the Supreme Court had in mind,  
16 that a larger region is somewhat necessary to take  
17 advantage of the resources of a larger region to house  
18 presently ill-housed people, for instance, that I  
19 could go along with that, I could agree through the  
20 advantages of that larger region.

21          Q.    And that larger region is the one that is  
22 identified on page seven of Carl A. Lerman's report,  
23 which shows an eight county region of Piscataway.  Is  
24 that right?  Here it is.

25          A.    Yes.

1 Q. And it is your position that that is a  
2 reasonable approach?

3 A. Reasonable, yes.

4 Q. Is it no longer your position that the  
5 region defined in your May 1983 fair share housing  
6 study is the appropriate approach to Piscataway?

7 A. I think it's the ideal approach for every  
8 municipality, and if I were only concerned with  
9 Piscataway and Piscataway's fair share, I would still  
10 say that the ideal region would be the one we  
11 identified in our fair share housing report. I think  
12 it's the most realistic, in terms of actual trips to  
13 work, in terms of the travel time, and the most  
14 realistic in terms of what people wish to travel.

15 Q. Do you have any data on which you rely,  
16 other than the data you cite in the fair share housing  
17 study, concerning commute to work time for Piscataway  
18 residents?

19 A. The data is contained in the 1980 census, I  
20 believe it's the average or the median travel time to  
21 work for Piscataway resident was in the neighborhood  
22 of 26 minutes and similarly for Middlesex County  
23 residents as a whole.

24 Q. What about for the State of New Jersey, do  
25 you know?

1           A.    Offhand, I don't know. I believe it's in  
2 the neighborhood of that same area.

3           Q.    Do you agree that under the State  
4 Development Guide Plan, that is Piscataway is  
5 classified entirely as growth area?

6           A.    Yes.

7           Q.    Do you have any disagreement with the  
8 appropriateness of the classification?

9           A.    No, I don't.

10          Q.    Do you agree with the consensus, the method  
11 taken by the consensus for determining present need,  
12 this is for determining the need, not allocating the  
13 need?

14                   MR. PALEY: Do you mean the manner in  
15 which they arrived at the number, which is allocable  
16 throughout the entire region?

17                   MR. GELBER: No, I mean identifying and  
18 defining present need for purposes of Mount Laurel.

19          Q.    Let me ask you this, doesn't the consensus  
20 essentially take the same or similar approach to that  
21 taken by you in your fair share housing study, they  
22 look at the number of over crowding units, units  
23 without, that lack plumbing, all or some plumbing and  
24 units that lack heating, based on the 1980 census?

25          A.    Only to a certain extent.



1 Q. You are familiar --

2 A. Because the planner's consensus report, and  
3 I have no way of again getting to this, does not take  
4 into account when allocating that need what is to be  
5 credited to a municipality, and in essence, what --  
6 without that credit factor, what bothers me about the  
7 planner's consensus report, in terms of determining  
8 that need is that a municipality that has, for  
9 instance, numerous garden apartments which are  
10 typically smaller, no rear bedrooms than single family  
11 houses, detached, gets penalized because of the over  
12 crowding issue. It would be those units which would  
13 be over crowded. The municipality which had no garden  
14 apartments or multi-family dwellings, for instance,  
15 would typically have very few over crowded units. A  
16 municipality such as Piscataway, where there are some  
17 4,000 garden apartments in the town, would almost by  
18 definition have more over crowded units and without a  
19 deduction, with that in mind, I have a problem with  
20 even the determination of the present need. I agree  
21 that factor such as over crowding, units lacking  
22 complete plumbing and the concept of the -- all the  
23 factors, including the factor of units without central  
24 heating, are all items which should be included in  
25 determining present need in the region.

1 Q. So are you saying, do you agree that an over  
2 crowded unit is an indication of present need, present  
3 housing --

4 A. Insofar as yes, I don't believe people  
5 should have to live with more than one person per room,  
6 yes.

7 Q. And do you agree that it should be  
8 considered in determining present need for purposes of  
9 Mount Laurel?

10 A. Yes.

11 Q. So your disagreement is then how that is,  
12 how the final fair share figure is calculated and what  
13 you determine the indication of present need. Is that  
14 right?

15 A. Yes.

16 Q. Do you have any disagreement with the  
17 figures, figures for indigenous need for Piscataway  
18 that are defined in the consensus report?

19 A. If that figure was somewhere near 300 or 400  
20 units --

21 Q. I believe it's 401?

22 A. I have no -- using the methodology that the  
23 consensus report determined, I have no problem with  
24 that. That's from the census and that's the best data  
25 we have.

1 Q. It's actually lower than the indigenous need  
2 that you defined in your May 1983 report, I believe?

3 A. I am not sure, I think it's in the same  
4 neighborhood.

5 Q. Okay. Just so I understand, you have no  
6 disagreement then in the original calculation of  
7 present need, the method that they used to define the  
8 number of units that indicate a present housing need?

9 A. Indigenous need for Piscataway?

10 Q. Present need for the entire region,  
11 irrespective of how it's calculated or dealt with, you  
12 have no problem with the actual determination of the  
13 present need in the consensus report. Is that correct?

14 A. I suppose not, although, to be -- there is a  
15 concept which we mention in the fair share housing  
16 report which is relatively new and that I haven't seen  
17 it used in any of the literature in the past, and that  
18 is there is no consideration for those units which may  
19 exist, which are under utilized, and by that I mean in  
20 a municipality or in a region, there maybe X number of  
21 units over crowded and there maybe a situation though  
22 where there are many, many units which are under  
23 utilized and it maybe that the construction of a new  
24 unit is not necessarily required to free up a unit for  
25 that over crowded situation.

1 Q. How would you free up that unit without  
2 constructing a new unit?

3 A. I am not sure. I don't know.

4 Q. Do you agree that Piscataway is responsible  
5 for providing housing to and for its indigenous need?

6 A. Yes.

7 MR. PALEY: I object to the question,  
8 because I believe that the question asks for an  
9 ultimate determination, which is part of the entire  
10 proceeding that we have in court and it's up to the  
11 Court to resolve that.

12 Having filed that objection, you may  
13 answer the question.

14 A. I believe I did, I said yes.

15 Q. Do you believe that the approach taken by  
16 the consensus for determining the amount of excess  
17 present need in the region to be reallocated to towns  
18 in the region is a reasonable approach?

19 A. In and of itself, yes.

20 Q. So that basing it on a region wide average  
21 of percent in the housing stock need -- percent need  
22 to the housing stock and then taking the excess over  
23 the average to identify a pool to be reallocated is a  
24 reasonable approach?

25 A. I would agree with the concept, if there

1 were some mechanism for deduction.

2 Q. Now, could you please explain what  
3 mechanisms you would propose and why?

4 A. I think a municipality, we'll have to  
5 digress a little bit.

6 Q. Sure.

7 A. Which has complied with what the Mount  
8 Laurel obligation is all about should not be penalized  
9 for providing for low and moderate income housing in  
10 the past. If we are going to look at a municipality  
11 which has married student apartments, for instance,  
12 which has 4,000 garden apartments, which has at least  
13 half of its housing stock meeting Mount Laurel  
14 guidelines for low and moderate income, any allocation  
15 of regional totals should take that kind of  
16 information into consideration. It maybe that  
17 Piscataway shouldn't be responsible for the excess  
18 need in Newark, for instance, simply because it is  
19 defined as a growth municipality, and there maybe some  
20 indicators which could be used to deduct from those  
21 totals and it maybe that they could be built into the  
22 allocation formula.

23 Q. Doesn't the inclusion of an income factor to  
24 some extent, isn't that intended to address that  
25 concern?

1           A.    I think it maybe intended to address that  
2 concern.  I don't believe the way it was done at all  
3 did in fact address the concern, and for instance, I  
4 can tell you that Piscataway's median income in 1980,  
5 was reported by the census was below the county  
6 average, Middlesex, and because of the scope of the  
7 region defined, however, our allocation actually has  
8 increased.  It makes no sense to me at all.  I don't  
9 believe the income factor was given enough weight, the  
10 way it was utilized.

11                       MR. PALEY:  Just for the record, when  
12 you refer to the use of the income factor, you are  
13 referring to Mr. Lerman's recent report of four pages,  
14 which was distributed to Counsel at the pre-trial  
15 conference last week?

16                       MR. GELBER:  That's correct.

17                       In fact, why don't we have you identify that?  
18 Les, are you familiar with a memo prepared by Mr.  
19 Lerman dated March 13, 1983 --

20                       MR. PALEY:  We'll stipulate to the  
21 identification of it.

22           A.    Yes.

23           Q.    Let me make sure I understand.  If what you  
24 would propose is to give more weight to that factor  
25 than in fact was given by the approach taken in this

1 memo. Is that correct?

2 A. Yes.

3 Q. And you would also use a county wide average  
4 as opposed to an 11 county region average?

5 A. No.

6 Q. What approach would you take?

7 A. I would take the commuter shed region. I  
8 would look at the variables such as per capita rate  
9 variables, not only family income. I believe the  
10 reason given in the memorandum that accompanied the  
11 numbers for not using per capita rate was that some  
12 municipalities, the numbers were affected or impacted  
13 too much. I don't believe that's a valid reason for  
14 not using a figure.

15 Q. I believe the position taken in the  
16 memorandum was that the valuation per capita was  
17 likely to shift, provide a higher fair share to  
18 municipalities that were substantially developed and  
19 therefore, unable to accept, to accommodate the  
20 additional need. Isn't that correct?

21 A. I am not sure.

22 Q. Why don't you take a look at it, these third  
23 and fourth paragraphs on the March 13th memo, and let  
24 me know if you disagree with what is stated there and  
25 in what respect.

1 A. I am not sure I agree with the statements.

2 Q. Could you tell me in what respect you  
3 disagree?

4 A. I would have to read the numbers, so to  
5 speak. I don't have the data in front of me, it was  
6 never given to us, so --

7 Q. So you think the concern expressed may not  
8 be borne out by the figures, is that what you are  
9 saying?

10 A. It may or may not, yes, and what I read in  
11 here is it may, says additionally, the variants that  
12 contribute to valuation might be expected to give rise  
13 to considerable disagreement regarding the validity of  
14 assigning, et cetera, and I don't believe anything  
15 giving rise to disagreement should be used to justify  
16 not using the variable.

17 Q. Isn't the point though in that paragraph  
18 that the higher per capita valuation doesn't  
19 necessarily indicate a fiscal capability, capability  
20 of absorbing Mount Laurel housing?

21 A. It may or may not, but given the methodology  
22 that the planner's consensus came up with, I think  
23 it's quite obvious that in total, the methodology  
24 itself is not giving weight in Piscataway Township's  
25 case, as to what is reasonably realistic for the



1 absorption of the number of units in the first place.

2 Q. In Piscataway, would the valuation per  
3 capita be higher or lower than your region wide  
4 average?

5 A. We ran the numbers just for Middlesex County,  
6 I believe, and what that variable does is bring  
7 Piscataway into an average situation. Piscataway  
8 valuation per capita, according to our rough analysis,  
9 was almost near the median, and if that were given  
10 equal weight to the other variables used in the  
11 allocation process, that would significantly reduce  
12 the numbers for Piscataway because the other variables  
13 used, which are almost based solely on employment, the  
14 ones that make sense in my view anyway, for Piscataway  
15 are so much higher than any of the other variables.

16 Q. Do you believe financial need should be  
17 considered in determining present need for purposes of  
18 Mount Laurel?

19 MR. PALEY: Financial need of whom,  
20 prospective homeowners or municipalities?

21 Q. Of homeowners?

22 A. Do I believe the financial need, the  
23 financial ability of future homeowners?

24 Q. Let me put it another way.

25 Do you believe that households that weigh a

1 certain greater than a certain percentage of their  
2 income for housing costs should be included in  
3 defining present need for purposes of Mount Laurel?

4 A. That's a tough one. My first inclination is  
5 to say no because many households, regardless of their  
6 income, choose to spend more than the rule of thumb  
7 figures for their housing costs. I think there are  
8 choices made where the household doesn't necessarily  
9 have to spend as much for housing costs as they do, in  
10 some instances, and if there were a rational way to  
11 incorporate that into a rational allocation, I would --  
12 I might be able to change my mind on that, but I  
13 haven't seen anything yet that or read anything yet  
14 that makes me believe that that would be a valid  
15 variable.

16 Q. So you are sayin within that pool of people  
17 paying over a certain percantage of their income, some  
18 may represent need but somedo not?

19 A. Yes.

20 Q. And so far as you:now, no one has  
21 determined a way of calculatng that to incorporate  
22 that into need?

23 A. Yes.

24 Q. Wouldn't that lead ou to believe that the  
25 approach taken in the consenss for determining

1 present need is to some extent an under estimate?

2 A. No.

3 Q. Why not?

4 A. For one, the variable I mentioned before,  
5 which is under utilized units not being considered at  
6 all in the process. Number two, the fact that nine  
7 out of ten low and moderate income families are  
8 adequately housed.

9 Q. Nine out of ten?

10 A. Mm-hmm.

11 Q. On what do you base that?

12 A. I base that on the Rutgers study, and I  
13 couldn't pull that out for you now, it's based on  
14 discussions that the author or one of the authors of  
15 that study had with a group of his students at a  
16 seminar at Rutgers University about a month ago, Dr.  
17 Burchell.

18 Q. And was that based on an analysis of  
19 available data?

20 A. I believe that Dr. Burchell stated that that  
21 was based on an analysis of the annual housing survey.

22 Q. I am sorry, I am not sure I follow this. Is  
23 this something that Dr. Burchell said at a seminar or  
24 something contained in the Stern --

25 A. He said it at the seminar for sure and it's

1 probably in the book, I couldn't tell you where. I  
2 might add to that another variable as well, it's not  
3 really taking into consideration, many of the Mount  
4 Laurel, the quote Mount Laurel households are not  
5 comprised of income earning, presently income earning  
6 families, and by that I mean senior citizens or those  
7 households who maybe retired, who don't actually  
8 produce income after they retire but who may have the  
9 resources from their prior income earning years to be  
10 housed more than adequately and who in fact may own,  
11 for instance, a single family dwelling which has no  
12 mortgage left on it but who do not any longer work.  
13 Those types of households are not incorporated into  
14 present need either.

15 Q. But that would address, that might reduce  
16 present need, if you considered the ability of the  
17 household to pay, it doesn't address problems relating  
18 to the house, substandard conditions of the house  
19 itself. Is that right?

20 A. I agree with you. I think it's -- I think  
21 it's more pertinent to future need.

22 Q. I gather you do not agree with the consensus  
23 in terms of its approach to prospective need, defining  
24 prospective need. Is that right?

25 A. That's correct.

1           Q.    I believe in the pre-trial, the statement  
2 was made that the population projections used by the  
3 consensus were fraud.

4           A.    In my view, they are unrealistic in that  
5 they are too high.

6           Q.    Could you tell me on what you base that  
7 conclusion?

8           A.    The actual figures thus far available from  
9 the United States census in their annual population  
10 counts for the states and the United States census  
11 population projections for the states, to 1990.

12          Q.    Where do I find those figures? Do you have  
13 them with you?

14          A.    Yeah. By the way, they are available, they  
15 are published.

16          Q.    The last, what I am interested in is just  
17 finding out the source of material from which you  
18 relied, so just sort of the name --

19          A.    United States Department of Commerce, Bureau  
20 of the Census, current population reports, population  
21 estimates and projections. Do you want me to get more  
22 specific?

23          Q.    Sure. Which date?

24          A.    We have got series P-25, issued May '82 and  
25 that's it.

1 Q. Now, do these contain a summary of actual  
2 population growth for certain periods. Is that right?

3 A. They contain projections.

4 Q. From when to when?

5 A. They rely on the most recent estimates on a  
6 yearly basis. The population projections are for 1990  
7 and 2000.

8 Q. So what this report gives us is a projection  
9 to those years, based on the first -- our experience  
10 with the first few years in the decade. Is that  
11 correct?

12 A. Yes, and for example in the publication  
13 which I just referred to, the population for the State  
14 of New Jersey estimated by the United States census  
15 for July 1, 1982, is shown as seven million 438,300,  
16 which represents an average annual percent change of  
17 point 44, zero point 44 for 1980 to 1982. The  
18 projection for July 1, 1990 becomes seven million  
19 513,100, and that would represent an even lower  
20 average annual percent change, zero point two zero.  
21 The figures being used by the consensus are very, are  
22 much higher and are based on an average of two sets of  
23 projections done by the State Department of Labor and  
24 Industry.

25 I might point out to you that traditionally,

1 if one relies on the governmental agency that is  
2 projecting population data, if one is projecting for  
3 itself that governmental agency, the figures will be  
4 higher and, for example, the typically, a municipality  
5 planning division would project the population higher  
6 than what would be shown by county projections for the  
7 municipality or state projections for the municipality  
8 and that holds true as you take into consideration  
9 each governmental unit. The State of New Jersey  
10 official population projections would typically be  
11 higher than what the federal government would project  
12 for New Jersey.

13 Q. Why is that?

14 A. I don't know why. I know that traditionally  
15 that is the case. I don't have a study to show you  
16 that. The planning term for that is local boosterism.

17 Q. Is that a term of art? Do you have any  
18 specific disagreement with the methodologies employed  
19 in the two O.D.E.A. models that were employed by the  
20 consensus?

21 A. The state labor and industry? Specific  
22 objections, no, I haven't studied their methodologies  
23 in detail.

24 Q. Okay. In support of your contention that  
25 the population projections used by the concensus are

1 too large, do you rely on anything else other than  
2 what we have already talked about?

3 A. No.

4 Q. Could I get a copy of the, of those  
5 population reports?

6 Les, in the pre-trial statement, there is  
7 also a statement made that the population models used  
8 by the consensus report include group quarters for  
9 students. Do you agree with that statement?

10 A. Yes, I do.

11 Q. On what do you base that conclusion?

12 A. Because there is no indication that any  
13 population in group quarters is discounted.

14 Q. Do these models rely on the U.S. Bureau of  
15 Census data, do you know?

16 A. I don't know which model.

17 Q. But --

18 A. Offhand right now, I don't know.

19 Q. But as far as you know, they do include  
20 group quarters for students, dormitories, things like  
21 that?

22 A. As far as I know, there is no discounting or  
23 mention, so I assume that any growth, for instance, at  
24 Rutgers University, if the population projection were  
25 incorporating all the population growth in the state,



1 would necessarily have to include that population.

2 Q. Doesn't the use of head shifts take care of  
3 any increase that would be attributable to that?

4 A. I don't think so. I don't know, because for  
5 group quarters, you have a very unique situation.  
6 There are four students living in a student dorm room,  
7 for instance, or three students comprise one household.  
8 I don't know.

9 Q. Isn't it true in the census that they do not,  
10 they are not counted as households?

11 A. They are counted as persons in group  
12 quarters.

13 Q. And are persons in group quarters counted in  
14 the household calculations?

15 A. Shed shift rate --

16 Q. No, I am now just talking about a census  
17 information by household.

18 A. No, not the dorms, the married student  
19 apartments are.

20 Q. Do you know how they distinguish between the  
21 two, what is considered a group quarter and what is  
22 considered married student housing, is there a  
23 technical definition or distinction?

24 A. I am sure there is a definition somewhere in  
25 the census volumes. I don't have it with me, I am not

1 sure what it is.

2 MR. GELBER: Okay. Just for the record,  
3 why don't we have this marked as Plaintiffs'  
4 deposition Exhibit No. One?

5 (Exhibit P-1 marked for identification).

6 MR. GELBER: It's the Estimates of the  
7 Population of States, the census data that Les was  
8 referring to earlier.

9 Q. With respect to the allocation formula that  
10 was adopted by the consensus, a statement was made in  
11 Piscataway's pre-trial statement that the formula is  
12 unfair because it relies almost exclusively on  
13 employment data. Do you agree with that statement?

14 A. Yes.

15 Q. Isn't it true that in terms of the  
16 allocation formula, only one of the three factors used  
17 for reallocating present need relates to employment  
18 data?

19 A. Existing -- let me pull out my report.

20 Q. Let me withdraw that. Why don't we go right  
21 to the heart of it. Do you think it's appropriate to  
22 consider existing employment as a factor in the  
23 allocation formula?

24 A. For present need, yes.

25 Q. And what about for prospective need?

1           A.    Well, I feel that if you are going to use it  
2 for present need, that perhaps you use, you would be  
3 preferable to use a projection of employment for  
4 future need, not using present need both times, and  
5 even though that may hurt Piscataway in the process, I  
6 can't see where it makes sense to use present  
7 employment in both allocations. If you are going to  
8 be allocating based on the future population  
9 projections, for household projections, I think you  
10 should be using the employment projection variable for  
11 that projection, for that allocation process.

12           Q.    But don't the employment projection figures  
13 and existing employment measure two very different  
14 things?

15           A.    Yes.

16           Q.    Isn't it appropriate to consider both,  
17 existing employment which is a reflection that the  
18 base of employment, how large compared to the region  
19 and employment growth indicating some, whether or not  
20 things are improving or not in the municipality  
21 relative to the region?

22           A.    Well, I think you are doing that if you use  
23 existing employment in allocating present need and  
24 employment projection for future need.

25           Q.    But aren't they two entirely different pools

1 of need?

2 A. Well, the projection should be based  
3 somewhat on existing employment. That certainly has  
4 to be taken into consideration in the projection  
5 itself, so I think it is in fact being used, if you do  
6 that. Aside from the fact that it would raise  
7 Piscataway's allocation.

8 Q. Well, what would you propose, you would  
9 propose using --

10 A. You know, I have no --

11 MR. PALEY: Les, before you answer the  
12 question, Mr. Gelber, is your question of Mr.  
13 Nebenzahl what he proposes, what modifications he  
14 would propose to the entire allocation formula? Or is  
15 your question what would he propose limited to  
16 employment?

17 MR. GELBER: Right now, let's confine  
18 the question to employment. I ultimately am going to  
19 ask the question, asking Les to summarize the entire  
20 allocation procedure that he would propose.

21 MR. PALEY: Okay. Limit it to  
22 employment.

23 Q. Which allocation factors would you propose  
24 with respect to consideration of employment?

25 A. I am not sure I understand the question.

1 Which allocation factors with respect to employment?

2 Q. Let's withdraw that.

3 You disagree with the allocation formula  
4 adopted by the consensus. Is that right?

5 A. I have to until I see the compliance issue  
6 addressed.

7 Q. What alternative would you propose with  
8 respect to an allocation formula?

9 A. Insofar as vacant land is concerned, I would  
10 certainly not rely on the total area of a municipality  
11 in the growth area. I realize the problems with the  
12 availability of accurate data and the out-datedness of  
13 the state development guide plans data or the state's  
14 housing allocation report, but it makes absolutely no  
15 sense to me to use the total area of a municipality in  
16 the growth area when only a portion of that land maybe  
17 developable. That variable, I don't believe has any  
18 merit at all, the way it's being used by the consensus  
19 report.

20 Q. What would you propose in lieu of that, to  
21 consider vacant land?

22 A. I would propose that each municipality which  
23 is either preparing a fair share report or any  
24 municipality in litigation, to be able to set forth  
25 their vacant developable land and have that percentage

1 vacant, developable land used in the allocation  
2 process.

3 Q. But for an allocation formula, don't you  
4 need data for every single municipality located within  
5 the appropriate region?

6 A. And that data would have to be gathered and  
7 collected in some form in order to adequately address  
8 the problem, I think.

9 Q. I don't think there is any disagreement on  
10 that point. Do you know if it is, if anyone has done  
11 that or if it's -- if it's at all possible to do that  
12 within the next several weeks?

13 A. I don't think it's -- well, given enough  
14 resources, I think it's possible. Every municipality  
15 is required, I believe, to keep accurate tax records,  
16 I believe the tax records indicate how the land is  
17 used. It would not necessarily incorporate  
18 environmental constraints of the land. Obviously it  
19 can be done. The state did it in the past, the  
20 problem is now the data is outdated. I don't know,  
21 you know, I couldn't do it in the next couple of weeks  
22 myself, given enough resources.

23 Q. Is it your opinion -- let me ask you, would  
24 it be preferable to use the admittedly outdated data  
25 gathered by the Department of Community Affairs or

1 would you prefer the approach taken by the consensus,  
2 using the S.G.D.P. growth area with 20 percent add on?

3 A. I wouldn't use either.

4 Q. But you would include in your allocation  
5 formula consideration of vacant land, vacant  
6 developable land. Is that right?

7 A. Yes.

8 Q. What other factors -- one other question on  
9 that before we go on. Do you believe it is a  
10 reasonable approach to consider the amount of growth  
11 area, increase the need by 20 percent to account for  
12 any need that is not accommodated because of lack of  
13 vacant land and deal with the lack of vacant land  
14 question in terms of each individual municipality  
15 based on data about that municipality?

16 A. Well, when you say deal with each  
17 municipality, that's where -- that's where I have a  
18 real problem because I don't know what that means.  
19 The 20 percent figure comes right out of the sky, as  
20 far as I am concerned. Realistically, I don't believe  
21 even given a total lack of any development regulations,  
22 whether some of the numbers that we are talking about,  
23 the units could actually be constructed, just given a  
24 free market place, so I don't know. I guess the  
25 answer to that is no.

1 Q. What other factors would you include in your  
2 allocation formula?

3 A. I would include an employment projection for  
4 allocating future need, future fair share.

5 Q. Okay.

6 A. And I don't believe that any municipality in  
7 the growth area should be entitled to be immune from  
8 given a fair share.

9 Q. You would not exclude towns that have no  
10 vacant land?

11 A. Oh, no, that's not what I meant. I would  
12 not exclude an urban aid municipality, for instance,  
13 which had a tremendous employment base, if all the  
14 other municipalities are going to be allocated a fair  
15 share based on that same variable.

16 Q. Are there -- I am sorry.

17 A. I would include, I believe the question was  
18 what variables would I include. Is that correct?

19 Q. Yes.

20 A. Future employment projections, I would, I  
21 would suppose I would include an accurate, somewhat  
22 realistic picture of vacant developable land, and I  
23 believe a financial component should also be included.

24 Q. Of what type?

25 A. Would probably be a combination. Our fair



1 shair study did not include that component, I don't  
2 believe. The answer is I am not sure.

3 Q. I believe earlier we were talking about at  
4 least two types, one related to median income and I  
5 believe your testimony was that you would adjust the  
6 approach taken by the consensus in terms of the size  
7 of the region and the weight given to the fact. Is  
8 that right?

9 A. I believe so, yes.

10 Q. And then there was also discussion of  
11 valuation per capita. Is it your position you would  
12 include both?

13 A. Yes, I would probably include some indicator  
14 of both components.

15 Q. So we have identified four factors. Are  
16 there any others that you would include as appropriate  
17 in an allocation formula?

18 A. I feel it's absolutely necessary to address  
19 the existing housing stock within a municipality.  
20 Whether that be done in the allocation formula itself  
21 or whether it be done after these magic numbers are  
22 produced, I am not sure until I know what could be  
23 done after, if that's the approach taken.

24 Q. Okay.

25 A. I think it would be beneficial if that could

1 be incorporated somehow into the allocation process  
2 itself in a realistic way. I don't know that that way  
3 is available to us though.

4 Q. So at this point, you have, you yourself  
5 have not developed a formula for considering that  
6 factor, existing housing stock. Is that right?

7 A. That's correct.

8 Q. Do you know if anyone has, that you know of?

9 A. No. I know there are some formulas that  
10 include subsidized units, for instance. My reference  
11 to existing low, moderate income units goes well  
12 beyond subsidized housing.

13 Q. One thing I am confused about is you did  
14 testify that you would include a factor relating to  
15 future employment projections. Would you include that,  
16 would you apply the same list of factors for  
17 reallocating the present need and prospective need?

18 A. No, for present need, I would rely on --

19 Q. Existent --

20 A. Present employment.

21 Q. So those two factors would be substitutes  
22 for one another, the other factors would remain the  
23 same in each formula. Is that --

24 A. I am not sure I understand you.

25 Q. Okay. You would apply, tell me if I am

1 correct, you would apply a vacant land factor for both  
2 present and prospective. Is that correct?

3 A. Yes.

4 Q. You would apply a financial component factor  
5 for both vacant and prospective?

6 MR. PALEY: Present prospective? I  
7 believe you said vacant.

8 Q. Present and prospective?

9 A. Yes.

10 Q. And I believe you testified that you would  
11 include both consideration of median income and per  
12 capita evaluation?

13 A. Yes.

14 Q. And you would apply a factor relating to  
15 existing employment for present need and a factor for  
16 future employment projections for prospective need?

17 A. Yes.

18 Q. Now, earlier you testified that you believe  
19 no municipality should be excluded from the  
20 reallocation of any need, but then you qualified that.  
21 I want to make sure I understand what you would  
22 include, what you would not include. Would you  
23 exclude towns that have no growth area?

24 A. Not for indigenous need.

25 Q. How about --

1           A.     Not necessarily for reallocation of present  
2 need either, because I think if all municipalities  
3 were to include that component, the growth  
4 municipalities as well as non-growth, that the impact  
5 would be significantly reduced for all municipalities  
6 so that the impact on the non-growth municipalities  
7 would be --

8           Q.     What about towns without any vacant land or  
9 let's say less than a certain amount of acreage?

10          A.     I don't think they can be excluded. I think  
11 some factor would have to be stipulated, as the  
12 planner's consensus group does with the 20 percent  
13 figure, take that into account, but I think somewhere  
14 along the line, the ideal situation we would have some  
15 provision for rehabilitation of existing housing stock  
16 and the like. Just because a town has no developable  
17 land, I don't feel that there will be absolutely no  
18 growth or no ability to --

19          Q.     No fair share? Can you think of any  
20 circumstance in which you would, you would want to  
21 exclude an urban aid community, municipality, from the  
22 allocation process?

23          A.     Completely excluding it from the allocation  
24 process? No. I could not think of any circumstances.

25          Q.     Have you actually run the figures with this

1 type of an approach?

2 A. No.

3 Q. Do you have any present plans to do so?

4 A. No.

5 Q. The approach you have described today is  
6 somewhat different from the approach taken in the May  
7 1983 study. To the extent that they differ, is it now  
8 your testimony that you rely, you will be relying on  
9 what you have testified to today and not the earlier  
10 study. Is that correct?

11 A. No, that's not correct.

12 Q. Please explain.

13 A. I think what I have been describing today  
14 would be those factors and that type of methodology  
15 which I would employ if I had the ideal situation  
16 which would allow me tremendous resources, in terms of  
17 man power and time, including for instance the ability  
18 to go through or collect tax assessing records for all  
19 municipalities in the region and the like. It is  
20 something that the Division of Planning in Piscataway  
21 Township certainly could not do by itself. I think it  
22 represents an ideal situation which we really can't  
23 accomplish here. The fair share housing report which  
24 was prepared in the summer of '83.

25 Q. May of 19 --



1 the number.

2 A. I think an ideal number for Piscataway would  
3 be that which is being provided for realistically in  
4 the Township's recently adopted master plan and  
5 development regulations. If a mandatory set aside of  
6 two units per acre were included in our ordinances or  
7 our P.R.D.S. and I would, I would also just like to  
8 say that the township or there will be moderate income  
9 housing produced, I believe, within those P.R.D.s,  
10 even without the mandatory census.

11 Q. And the total number of acres, now  
12 incorporated vacant developable acres, incorporated in  
13 those P.R.D.s is what?

14 A. It has been provided, I know, in the Answers  
15 to Interrogatories, and I would like -- what I'll do  
16 is supplement that now because there has actually been  
17 an increase.

18 Q. Les, I am looking at the answers to 27, A,  
19 B, C.

20 A. What I have referred to as the P.R.D. areas  
21 would include the permitted development as a  
22 conditional use within our R-10A and R-20A zones, and  
23 the answer given in the Interrogatory as 118 total  
24 vacant acres in the R-10A area should be increased by  
25 the 18 acres because the estimate of 70 acres for one

1 of those tracts, we have found yesterday to be  
2 actually 88 acres so there would be --

3 Q. 136?

4 A. 118 plus 18 plus 96.

5 Q. And the 96 is in the --

6 A. R-20A.

7 Q. 232?

8 A. 232 acres.

9 Q. So is it your position then that the fair  
10 share obligation for Piscataway is 464 units?

11 A. No.

12 Q. Please explain.

13 A. I think a realistic number would be in the  
14 neighborhood of approximately 900 units, and I believe  
15 that those units, if for instance we assume be a 50  
16 percent split, we would end up with about 450 units  
17 each, would be provided without mandatory when some of  
18 the P.R.D.s are developed. I believe when the senior  
19 citizen housing area, which is zoned for a density of  
20 20 units per acre, is developed, I think we will be  
21 providing some low income housing there, the potential  
22 of 180 units even.

23 Q. Do you have any present intention to revise  
24 the May 1983 fair share housing study or prepare  
25 another report for purposes of trial?



1 A. No.

2 Q. Other than what we have already talked about  
3 today, is the 900 number, the number of 900 fair share  
4 obligation that you have just given me, is that based  
5 on any other calculations or methodology other than  
6 that which we have talked about today?

7 A. No. I believe it's what can be provided  
8 realistically, and based on the numbers produced in  
9 the fair share report.

10 Q. When you said split 50-50, were you  
11 referring to a split between low income and moderate  
12 income?

13 A. Yes.

14 Q. Do you agree with the approach taken by the  
15 consensus to determining median income and housing  
16 affordability?

17 A. Yes.

18 Q. Do you agree with the median income figures  
19 that were relied on in the consensus report?

20 A. Yes, although I think I have to qualify that  
21 as well.

22 Q. Sure.

23 A. I believe the consensus report derives,  
24 suggested the derivation of the regional income  
25 figures for the 11 county region. I am not sure that

1 it significantly impacts the whole process, but I am a  
2 little concerned that since in fact the income, the  
3 median income varies by county, we know by county  
4 because that's the way the data is produced, for  
5 instance, that we should be actually incorporated the  
6 entire regional total. I am not sure that we  
7 shouldn't be county specifying -- in other words, the  
8 figure -- I am not sure whether it's higher or lower  
9 in Middlesex County, is for the region as a whole, but  
10 if the median income in Middlesex County is X dollars,  
11 I think it maybe, it maybe more appropriate to use  
12 that figure for municipalities in Middlesex County.  
13 We are talking about meeting affordability and  
14 actually providing the housing.

15 Q. Wouldn't it be your position that you should  
16 use the median income for the commuter shed region  
17 that you favor as opposed to, for example, the 11  
18 county region used in the concensus?

19 A. In order for me to adequately answer that, I  
20 would really have to do some research and find out  
21 where those differences lie. I don't know, I don't  
22 know.

23 Q. Okay.

24 A. At this stage, but when HUD sets the  
25 guidelines for instance for section eight rental

1 subsidies and establishes fair market rents for  
2 eligibility of rental costs, they are site specific,  
3 they say that in Piscataway, for instance, "Here is  
4 your median income figure, here is your rental guide  
5 line, if a unit comes in at X number of dollars, the  
6 unit is eligible for section eight subsidy." It  
7 doesn't use this larger regional figure, I think it  
8 relies more on a local, more local figure.

9 Q. But once you derive the appropriate median  
10 income, you have no disagreement with the approach  
11 taken by the consensus to determine affordable housing?

12 A. No, I think it's in full compliance with the  
13 decision.

14 Q. I gather from your testimony that you are  
15 going to continue to rely on the May 1983 study, fair  
16 share housing study, to some extent?

17 A. To some extent.

18 Q. On page 26, there is a discussion of two  
19 steps in your allocation formula, steps five and six,  
20 and I would like to ask you if you will continue to  
21 rely on that part of the formula and if so, I would  
22 like you to explain it for me.

23 A. What page are you on?

24 Q. 26.

25 A. When you say rely on, can I ask you what you

1 mean there?

2 Q. Well, is it your -- still your position that  
3 that is an appropriate approach to determining fair  
4 share?

5 A. It's one of many appropriate approaches, I  
6 would say.

7 Q. Is it one on which you will rely?

8 A. I am not sure. I don't know.

9 Q. What is the significance of determining the  
10 income that is needed to afford an average priced  
11 house as opposed to doing the reverse, which is  
12 determining the price that would be affordable to low  
13 and moderate income households?

14 A. I think they are almost one and the same.

15 Q. Okay.

16 A. I have no argument for the most part with --  
17 you have -- I have no argument with the consensus  
18 approach to determining what the market value should  
19 be for housing to meet the guidelines.

20 Q. Okay. Let's see, one or two more questions.

21 A. Although, I have to qualify that, although  
22 when you are on the border line, I don't think you can  
23 simply say, you know, if a unit came in at a hundred  
24 dollars over that value, I don't think you can say  
25 that the unit couldn't qualify. I think there should

1 be ranges of figures and no one has really discussed,  
2 I don't think, other than our report is the only one I  
3 have seen, we talk about ranges of figures as opposed  
4 to absolutely putting the dollar on it and saying "If  
5 you are below this guideline, you if you are below,  
6 you don't fall within the range."

7 Q. Isn't it also true that the range has got to  
8 go not only possibly somewhat above --

9 A. Right.

10 Q. -- the guideline, but also somewhat below so  
11 that you have a pool of people who could afford the  
12 housing?

13 A. I think so.

14 Q. In other words, it can't be right at -- you  
15 can't have a strict limit because you essentially cut  
16 out your pool, there are very few people who would be  
17 qualified and able to afford the house at precisely  
18 that, so you need a range?

19 A. Exactly.

20 Q. Okay. On page 19 of the fair share study,  
21 there is a reference to the fact that Piscataway's  
22 average rental costs are comparable to those in the  
23 region. What is the significance of that, for  
24 purposes of determining fair share? This is the first  
25 full paragraph.

1           A.    What is the significance in determining the  
2 fair share?

3           Q.    Yes.

4           A.    Well, if my contention that one should  
5 consider such things as existing garden apartments in  
6 a municipality holds true, obviously one would not  
7 necessarily consider luxury apartments but I think one  
8 would consider garden apartments where contract rates  
9 were comparable with a region, for instance. I am not  
10 sure why that particular paragraph is where it is in  
11 our fair share report. I think what it does show  
12 though is that the contract rents in 1980, by the way,  
13 we have done a survey which brings that more up to  
14 date, but the contract rates in 1980 are very near  
15 those for the county. I think that's all that  
16 paragraph shows.

17          Q.    Okay. But you would consider, would you  
18 consider those existing garden apartments as relevant  
19 to fair share, even if the rents were not affordable  
20 to low and moderate income households?

21          A.    If they were, if they were totally not  
22 consistent with the guidelines, then I don't see how  
23 we would be able to consider. I believe the fact is  
24 that in Piscataway, they are consistent.

25          Q.    In the Township's Answers to Interrogatories,

1 there were a number of references to measures taken by  
2 the Township since ordinances enacted or resolutions  
3 passed since 1976, which were meant to address the  
4 Mount Laurel obligation, and I would just like to run  
5 through a couple of those with you to learn a little  
6 bit more about them. You have copies of the answers?

7 A. Yes.

8 Q. Okay. The answer to question 12A refers to  
9 a resolution of need, I believe you have provided me  
10 with a copy of that.

11 A. Yes.

12 Q. I would like to ask you, was that resolution  
13 enacted in response to any particular program or  
14 project, do you know?

15 A. If I recall, it was initiated through the  
16 request for senior citizen housing, by non-profit  
17 incorporation.

18 Q. And is that the same proposed project that  
19 is referred to in item number two, in answer to 12A?

20 A. More or less. I don't know that that non-profit  
21 corporation is still a viable group. We have shown in  
22 the master plan a particular parcel of land which was  
23 approved by our zoning board of adjustment for the use,  
24 for that housing, regardless of the entity, at this  
25 point.

1 Q. By the non-profit group, are you referring  
2 to the group that originally asked for the resolution  
3 of need in 1975 or are you referring to the group that  
4 asked for the resolution granting the variance in 1979?

5 A. I believe they are the same group. I maybe  
6 mistaken.

7 Q. And you are not sure they are continued  
8 viability at this point?

9 A. Right.

10 Q. Has any housing been built or resulted in  
11 anyway from either of the items described in 12A?

12 A. What page are you on?

13 Q. I am on page eight and just on the item,  
14 just 12A.

15 A. No.

16 Q. Is there any -- what is the likelihood that  
17 this housing will be built, if you know?

18 A. I think the housing will definitely be built.  
19 I think it's a question of time. I can tell you that  
20 my division is one of those responsible for working  
21 with the state. We have had initial conferences with  
22 people from the Department of Community Affairs to see  
23 what we can do to get that senior citizen housing  
24 constructed. My time and resources and our staff's  
25 time and resources have been very geared to the Mount



1 Laurel decision in this case for the last few months  
2 and we have not been able to devote time to projects  
3 such as that. I know that the add -- the current  
4 administration of Piscataway, what is committed to  
5 seeing that senior citizen housing constructed and I  
6 am sure we will be working towards that end,  
7 regardless of --

8 Q. Is there any assurance or guarantee that any  
9 housing produced as a result of this variance will  
10 include low and moderate income units?

11 A. At this point, no, at this point. Although

12 Q. The regulation --

13 A. I am sorry, although, I believe, that the  
14 officials of Piscataway recognize the need for that  
15 type of housing and we will be working to accomplish  
16 that senior citizen housing for those most in need.

17 Q. Now, the area that we are talking about now  
18 is currently zoned as senior citizen housing. Correct?

19 A. Correct.

20 Q. And that zone is not subject to the density  
21 bonus that applies to the P.R.D. Is that right?

22 A. Right.

23 Q. On 12B, the next item, you have a reference  
24 to the Middlesex County Housing Community Development  
25 Committee, and a reference to the fact that Piscataway

1 is an active member. Could you tell me something  
2 about that committee, what does it do and why does  
3 your membership in the committee represent a step to  
4 facilitate construction of public housing or --

5 A. Well, for instance, it is through that  
6 county organization that our existing section eight  
7 rental subsidies are processed and in effect, attained  
8 by the federal government. Any municipality which is  
9 a member of this consortium of municipalities is  
10 obligated to prepare or to be subject to the  
11 preparation of the housing, federal housing assistance  
12 plan, for the county, is bound through the acceptance  
13 of funds to assist low and moderate income households  
14 and families, even insofar as the eligibility of the  
15 projects themselves, even without considering housing,  
16 for instance. In addition, some of the funding which  
17 is allocated to municipalities is ear marked to the  
18 housing component of the committee and those funds are  
19 utilized for housing rehab, for low and moderate  
20 families.

21 Q. This is funding that Piscataway would  
22 otherwise receive, is then turned back into activities  
23 for the committee, is that --

24 A. Yes.

25 Q. How many units of low and moderate income

1 subsidized housing have resulted from these activities?

2 A. I don't know how many have resulted totally,  
3 because we understand from the county that there is an  
4 annual allocation in the section eight rentals. Our  
5 latest figures are that only 31 units are subsidized,  
6 although there are many, many more applications to the  
7 county or actually to HUD through the county for those  
8 subsidies.

9 Q. So there are 31 units in Piscataway. Is  
10 that right?

11 A. Presently subsidized.

12 Q. In Piscataway, under the section eight  
13 existing housing program?

14 A. Yes, and I have got that information.

15 Q. Okay. I believe we asked for those in the  
16 Interrogatories, and it was indicated that it would be  
17 provided to us, so that's -- off the record.

18 (Discussion off the record.)

19 (Recess taken.)

20 Q. Les, let me ask you this. Is there a public  
21 housing authority in Middlesex County or is the -- or  
22 does the County Housing Community Development  
23 Committee serve that function?

24 A. I believe the County Community Development  
25 Committee serves that function.

1 Q. So they administer HUD section eight  
2 existing housing program?

3 A. Yes.

4 Q. There is no other independent public housing  
5 authority?

6 A. I don't believe so.

7 Q. Does Piscataway have an independent public  
8 housing authority?

9 A. No.

10 Q. Now, you have referred to section eight  
11 existing units. Has any other housing, low and  
12 moderate income or subsidized housing, resulted from  
13 or been developed as a result of your participation in  
14 the community development committee?

15 A. In Piscataway?

16 Q. In Piscataway?

17 A. I don't think so.

18 Q. In answer to Interrogatory 12B, there is  
19 also a reference to -- in answer to Interrogatory 12B,  
20 there is a reference to the execution of a cooperation  
21 agreement, with other Middlesex County municipalities.  
22 What does that refer to?

23 A. That's the agreement which every  
24 municipality must enter into in order to become part  
25 of the consortium.

1 Q. So that's the corporation agreement you  
2 enter into with the county itself. Is that right, to  
3 receive block grant money?

4 A. I think both with the county and the other  
5 municipalities, which are members.

6 Q. Has any section eight, new construction or  
7 substantial rehabilitation housing, been built in  
8 Piscataway?

9 A. There maybe a few rehab units, but nothing  
10 substantial, I don't think. I am not aware.

11 Q. Do you know if the Township, since you have  
12 been Township Planner, do you know if the Township has  
13 been asked to comment on a proposed, any proposed HUD  
14 subsidized housing under the section 213 process?

15 A. Not to my knowledge.

16 Q. That would include section eight, new  
17 construction and section eight rehabilitation, section  
18 202 elderly?

19 A. The elderly, I believe the non-profit  
20 organization we mentioned before with senior citizen  
21 housing, filed an application for section 202 funding.  
22 Given the very limited availability of funds, I don't  
23 think they were successful in attaining, I believe the  
24 town, I am sure if the town was requested to make any  
25 indication to either HUD or any governmental agency,

1 it would have been a favorable recommendation to them.

2 Q. On the senior citizen project?

3 A. Yes, that's the only one that I know, I know  
4 of.

5 Q. Has any low income public housing been  
6 proposed for or developed in Piscataway, that you are  
7 aware of?

8 A. No.

9 Q. What about housing under the section 236 or  
10 rent supplement program?

11 A. Not to my knowledge.

12 Q. In answer to Interrogatory 12C, there is a  
13 reference to incentive zoning. Is that right?  
14 Incentive zoning has been included in Piscataway  
15 zoning ordinances since 1978.

16 A. Correct.

17 Q. That reference is to the two unit breaker  
18 density bonus for development of low or moderate  
19 income housing?

20 A. Correct.

21 Q. And I believe earlier you said that I think  
22 232 acres have been zoned subject to that. Is that  
23 right? Subject to that bonus?

24 A. Well, not -- that wouldn't be since '76  
25 though, because we recently included additional

1 acreage. All of our P.R.D. areas where those now are  
2 the R-20 and R-20A areas, contain the density bonus  
3 provision.

4 Q. Has any low or moderate income housing been  
5 developed as a result of the density bonus?

6 A. Not yet developed.

7 Q. Are any of them subject to preliminary  
8 approvals for site plans?

9 A. No, although an application -- an informal  
10 hearing was held before the planning board, notice was  
11 given to surrounding property owners for a 55 acre  
12 tract, supposed to be developed, incorporating the  
13 density bonus provisions.

14 Q. Okay. Do you know when you anticipate a  
15 preliminary application?

16 A. Soon as the engineering is done on the  
17 project. That's the indication from the developer.

18 Q. Do you know what the timing is on that?

19 A. Within a few months. He expects, by the way,  
20 to construct approximately 550 units, within a year  
21 and a half.

22 Q. Do you know what number of those will be low  
23 income and what number will be moderate?

24 A. Will be one unit per acre low and one unit  
25 per acre moderate.

1 Q. So that's --

2 A. At our request. He has indicated, "he"  
3 meaning the developer, have indicated that they will  
4 attempt to comply with that request.

5 Q. Is there any assurance that they will comply  
6 with that request?

7 A. Well, there certainly will be, in terms of  
8 the density that is proposed for the tract. In other  
9 words, they can not build at the density, unless they  
10 comply. The ordinance itself calls for written plan  
11 assuring the occupancy or continued occupancy of those  
12 units by the appropriate households.

13 Q. What is the name for this project, do you  
14 know?

15 A. I don't know that they have given it a name  
16 yet. The name of the developer is Hovnanian.

17 Q. Is this a condominium project or --

18 A. Condominium.

19 Q. Do you know what the proposed sales prices  
20 are for the low units and for moderate income units?

21 A. They have indicated they will comply with  
22 the guidelines thus far set forth by the planner's  
23 consensus group.

24 Q. Which was based on a median income for the  
25 11 county regions. Is that right?



1 A. Yes.

2 Q. And in answer to 12E, you have a reference  
3 to rezoning of 70 acres. Just for the record, what I  
4 would like to do is just identify the location of the  
5 each of the rezonings in Answers to Interrogatories.

6 A. That is the tract, by the way, which is now,  
7 which is really 88 acres.

8 Q. Okay. Let's clarify that.

9 Let's have this marked as deposition exhibit  
10 number two.

11 (Exhibit D-2 marked for identification.)

12 Q. Could you identify the 70 acres that were  
13 referred to in answer to 12E one, that I believe you  
14 said is actually how many acres now?

15 A. 88.

16 Q. Put an A by that and give, I am giving you a  
17 red pen so it will show up clearly.

18 And that is, I am sorry, 88 acres?

19 A. Yes.

20 Q. Has any housing been developed as a result  
21 of that rezoning?

22 A. Yes and no. The zoning incorporated more  
23 than the R-10A area has shown on the map, it also  
24 incorporated acreage that was previously zoned for  
25 industrial purposes and rezoned to single family

1 detached 10,000 square foot minimum lot sizes. That  
2 portion of the property has been in the developing  
3 stages for the last three or four years and is now  
4 nearing completion.

5 Q. Is that the Birch Run project?

6 A. Yes, it is.

7 Q. Are there any low or moderate income units  
8 in that project?

9 A. No, not to my knowledge.

10 Q. Have any low and/or moderate income units  
11 yet been developed in the portion indicated as R-10A?

12 A. No, although yesterday morning, preliminary  
13 sketch was shown to me by the owner or developer that,  
14 of that tract, is calling the project Canterbury, and  
15 we had preliminary discussions based on that sketch  
16 which we normally do with any major project. He has  
17 indicated that he is getting very near the point where  
18 he would like to submit an application.

19 Q. Do you have any sense of when you anticipate  
20 receiving a preliminary application?

21 A. Based on what I indicated to him, I have a  
22 feeling that it will be very near after the time of  
23 the litigation.

24 Q. Do the preliminary plans include any plans  
25 to build low and moderate income housing?

1           A.    At this stage, they do not. I indicated to  
2 him that he should redo the plans and incorporate one  
3 unit per acre low and one unit per acre moderate.

4           Q.    Is Canterbury, the Canterbury project being  
5 built by the same developer that is building Bertron?

6           A.    Yes.

7           Q.    That is Lackland brothers. Is that right?

8           A.    Yes.

9           Q.    In answer to 12E three, there is a reference  
10 to 40 acres that were rezoned in 1983 from E.R. to  
11 P.R.D. Could you put, identify that on the map, where  
12 they are going to be?

13                   And who presently owns that?

14           A.    Rutgers University.

15           Q.    Has any housing been built, any low and  
16 moderate housing been built as a result of that  
17 rezoning?

18           A.    No.

19           Q.    Do you anticipate that any housing, low and  
20 moderate housing, will be built as a result of the  
21 rezoning?

22           A.    Yes.

23           Q.    On what basis?

24                   MR. PALEY: What was the question, on  
25 what basis?

1 Q. Do you anticipate that low and moderate  
2 housing will be built?

3 A. Based on the zoning that's in place, based  
4 on the incentive bonus provision and based on my  
5 experience as to the normal development process in  
6 this municipality, that is to say when the developer  
7 approaches municipality, it will strongly be suggested  
8 given our existing ordinance that we will wish to see  
9 one unit per acre low and one unit per acre moderate.

10 Q. Have preliminary applications been filed for  
11 that site?

12 A. No.

13 Q. When do you anticipate it, if at all, that  
14 they will be filed?

15 A. I have not had any personal contact with the  
16 university officials on that piece, so I really don't  
17 know.

18 Q. Do you know if there is presently a  
19 developer interested in developing that tract?

20 A. Only by rumor. I would have to say no.

21 Q. No personal contact?

22 A. No.

23 Q. In answer to Interrogatory 15, which is on  
24 page 13, let's just run through those. I believe  
25 there are four references to rezoning. Let's identify

1 those on deposition exhibit two.

2 A. Okay. This relates to 1976. Right?

3 Q. Actions taken since 1976.

4 A. Oh, okay. Fine.

5 Q. The first one, first reference is to a  
6 rezoning in 1978 of 45 acres from R-10 to P.R.D. If  
7 you would put a C by that tract.

8 A. It is the Ethel Road tract.

9 Q. Has any housing, any low and moderate  
10 housing been developed as a result of that?

11 A. No.

12 Q. Do you anticipate that any low and moderate  
13 income housing will be developed?

14 A. Yes, but again I think that is going to  
15 require some time.

16 Q. That tract, is that tract entirely owned by  
17 the Township?

18 A. Not entirely. There are some, what we refer  
19 to as out parcels, within the tract. They are rather  
20 small. I have had preliminary discussions with the  
21 mayor and other Township officials as to how we may,  
22 as a municipality, begin to fund the acquisition of  
23 those out parcels and to make that site attractive for  
24 construction of low and moderate income housing.

25 Q. As a planner, do you believe that is a

1 suitable site for development of low and moderate  
2 income housing?

3 A. Yes.

4 Q. What would be involved to facilitate  
5 development of that for low and moderate income  
6 housing?

7 A. I am not sure I understand.

8 Q. Okay. Let me withdraw that.

9 Has the Township undertaken any actions  
10 other than the rezoning at this point?

11 A. No formal actions.

12 Q. With respect to developing that tract?

13 A. No formal action yet.

14 Q. Okay.

15 A. Although I believe the Township has plans  
16 for construction of a sewer line, a sanitary sewer in  
17 Ethel Road in the very near future.

18 Q. Do you have funding for that?

19 A. Yes, I believe that is being funded by the  
20 municipality itself.

21 Q. What is your opinion as to the feasibility  
22 of developing that for low and moderate income housing,  
23 that site?

24 A. Absolutely feasible.

25 Q. Let's identify the next item, which was a

1 rezoning in 1978, from I guess RR-1 and R-15 to RM.  
2 That is 25 acres and it's item B in answer to that  
3 Interrogatory.

4 A. A portion of this site -- what kind of mark  
5 would you like on this one?

6 Q. Let's make that D.

7 A. Your letters are not referring to these  
8 letters here?

9 Q. No.

10 A. Okay. D?

11 Q. Yes.

12 A. And a portion of this zone.

13 Q. So the 25 acres referred to in answer to the  
14 Interrogatories is not a contiguous site?

15 A. Correct.

16 Q. Why don't we put, put D-1 on the 12 acres  
17 that were rezoned from RR-1. Does it divide up that  
18 way?

19 A. We have got this marked for question 27D,  
20 let me refer to that.

21 Q. Sure.

22 MR. PALEY: Off the record.

23 (Discussion off the record.)

24 Q. You are putting D-1 to identify the site  
25 that was the rezoning from RR-1 to RM?

1 A. Correct.

2 Q. And D-2 on the parcel that was rezoned from  
3 R-15 to RM?

4 A. Correct, and again, this is a portion of --  
5 this is not --

6 Q. Only a portion of those two tracts were  
7 rezoned in 1978?

8 A. Exactly.

9 Q. Okay. Was low and moderate income housing  
10 developed as a result of either of those rezonings?

11 A. Yes, all of the units, the rentals are  
12 coming in at moderate income rental levels.

13 Q. For which tract?

14 A. Both.

15 Q. Let's talk about D-1 first. What is the  
16 name of the project that was developed as a result of  
17 the rezoning?

18 A. Birchview Gardens.

19 Q. And when was that developed? Do you know  
20 when it was first occupied?

21 A. It maybe being occupied now even.

22 Q. It is still under development?

23 A. Unless they are finished. It has been in  
24 the last few years, been continuously under  
25 construction.



1                   MR. PALEY: Just so you understand,  
2 there was an existing apartment -- garden apartment  
3 developing called Birchview Gardens, I believe there  
4 has been an addition to Birchview, which is what Mr.  
5 Nebenzahl is just referring to.

6           Q.     Okay. Do you know how many units in the  
7 addition were developed and available for occupancy  
8 after 1980?

9           A.     After 1980, well, I can tell you that there  
10 are in the addition, 116 -- off the record for a  
11 second.

12                                 (Discussion off the record.)

13           A.     170 units.

14           Q.     Were all these developed and made available  
15 for occupancy after 1980?

16           A.     I believe so.

17           Q.     Do you have certificates of occupancy on all  
18 those units?

19           A.     I would assume so. I don't have them, our  
20 instruction code official would.

21           Q.     Could you tell me what -- are these all  
22 rental units?

23           A.     Yes.

24           Q.     Could you tell me what the rents are, the  
25 rental breakdown is for size of unit for the 170 units

1 developed since 1980?

2 A. 96 -- 96 one-bedroom units at \$520.

3 Q. Does that include utilities, do you know?

4 Off the record just a second.

5 (Discussion off the record.)

6 Q. I believe you said there were 96 one-  
7 bedroom units at a rental of 520 and the question was  
8 does that include utilities or no?

9 A. We don't know for this particular project.  
10 In addition, there are 14 two-bedroom units at 585,  
11 28 two-bedroom units at 550 and 32 two-bedroom units  
12 at 530.

13 Q. And you are not sure about the utilities on  
14 any of them?

15 A. No, not for that.

16 Q. Do you know what the density is in that  
17 tract?

18 A. 15 units per acre.

19 Q. The 116 units that existed prior to the  
20 rezoning were developed prior to 1980. Is that right?

21 A. Yes. Their rentals are much lower, by the  
22 way.

23 Q. Do you have information concerning their  
24 rentals?

25 A. Yes.

1 Q. On the chart that you are referring to?

2 A. Yes.

3 Q. Could I have a copy of that?

4 MR. PALEY: Sure.

5 Off the record.

6 (Discussin off the record.)

7 Q. The prices that you have given me, are those  
8 prices as of a certain date on the rentals?

9 A. Yes, January '84.

10 Q. Do you have information as to the prices,  
11 the rental prices, on initial occupancy?

12 A. No.

13 Q. Do you have information on the current  
14 vacancy rate in the project?

15 A. No.

16 Q. Do you have information on the income levels  
17 of the individuals who are now renting units in that  
18 project?

19 A. No.

20 Q. Do you have intention of securing that  
21 information?

22 A. No.

23 Q. Now, we were referring to the tract  
24 identified as D-1. If you could go to the tract  
25 identified as D-2, which was -- has any housing been

1 developed as a result of that rezoning?

2 A. Yes.

3 Q. What is the name of that project?

4 A. Ridgedale Gardens.

5 Q. And --

6 A. Let me qualify that answer. I am not sure  
7 that the housing was constructed as a result of the  
8 rezoning or whether we rezoned it since it was under  
9 construction. At any rate, I believe that, that was  
10 an application for a use variance before the Board of  
11 Adjustment, the Board of Adjustment granted the  
12 variance, so in effect, the units I believe are  
13 already approved when we rezoned.

14 Q. Can you tell me when, when construction  
15 began on that project?

16 A. No, I could only estimate it. I really  
17 couldn't even estimate.

18 Q. What year?

19 A. Probably around 1977, '78.

20 Q. Prior to 1977, '78, were there any housing  
21 in the tract identified as D-2?

22 A. Well, no, I don't -- no. I believe the area --

23 MR. PALEY: Don't forget, Mr. Gelber,  
24 D-2 shown there refers to a portion of that entire  
25 area. Okay? If your question is was there housing

1 within the portion, then maybe Mr. --

2 A. Only the portion that we spoke of and  
3 designated as the --

4 Q. Could you identify which portion with the  
5 red pen, just roughly?

6 A. I can roughly do it.

7 Q. That's fine.

8 A. Something like this. Both sides of the road.

9 Q. Now, prior to -- all the housing that  
10 existed outside of the portion that you have just  
11 identified was constructed prior to 1977?

12 A. Yes.

13 Q. Now, do you have any information on the  
14 number of units and the rental range for those units  
15 for the housing located in D-2?

16 A. Yes, that's known as Ridgedale Gardens, it  
17 is a total of 192 units, 92 one-bedroom units at 490  
18 and 100 two-bedroom units at 575.

19 Q. Do you know when certificates of occupancy  
20 were issued on those units, roughly?

21 A. That was through a period of years, probably  
22 around, beginning probably in 1980 through 1982 or  
23 three.

24 Q. Do you have any -- what is the density in  
25 that, in that zone?

1           A.    192 units and we gave the acreage at 12 or  
2 13 acres. It should be probably, it is going to be 15  
3 units per acre.

4           Q.    Okay. And do you have any information on  
5 the income levels of the individuals renting units  
6 there?

7           A.    No.

8           Q.    Do you have any intention of securing the  
9 information?

10          A.    No.

11          Q.    Do you know what the rental levels were on  
12 initial occupancy?

13          A.    No.

14          Q.    The rental levels you have given me are from  
15 January of '84?

16          A.    Yes.

17          Q.    Has any other housing been developed in D-2,  
18 other than what you have referred to?

19                   MR. PALEY: Since 1980 or --

20          Q.    Since 1980? Well, at any time, in the  
21 portion identified as D-2?

22          A.    No.

23          Q.    Let's go back to the answer, to page, answer  
24 to Interrogatory 15, I think there were one or two  
25 other items on that.

1           There is a reference to a rezoning in 1979  
2 of 18 acres, zoned from R-20 to P.R.D. Could you  
3 identify that with the letter E?

4           In a letter from your Township attorney to  
5 me dated March 12, '84, there is a reference at the  
6 bottom of the first page to a rezoning of 18 acres,  
7 from R-20 to P.R.D. in 1978. Is that referring to the  
8 same tract?

9           A.    Yes.

10          Q.    It is. So the intent of the letter was just  
11 to clarify that it occurred in 1978 rather than 1979.  
12 Is that accurate?

13          A.    I don't know what the intent of the letter  
14 was.

15          Q.    But it does refer to the same tract?

16          A.    Yes.

17          Q.    Can you tell me if any housing has been  
18 developed, low and moderate income housing has been  
19 developed in that tract?

20          A.    I believe so.

21          Q.    What is the name of the project?

22          A.    University Heights.

23          Q.    Can you give me the information about the  
24 number of units, the rental charges and persons per  
25 unit?

1           A.     They are fee simple, for sale units. There  
2 is 104 two units in total on the 18 acre tract. I  
3 happen to live there, so I know that I paid \$69,990  
4 for a four-bedroom duplex, and if we utilize the  
5 guidelines for family size, we may be approaching  
6 moderate income. Given my salary in Piscataway, I  
7 assure you --

8                         MR. PALEY: I object.

9           A.     Although maybe I spent more than 25 percent  
10 of my income. There are two streets in the  
11 development, one of the streets is comprised of  
12 duplexes, the other street is comprised of what we are  
13 calling townhouses. They are attached in groups of  
14 six and eight units. The majority of the units are  
15 the townhouse units, and they are less expensive, so  
16 that on initial, at initial sale, I believe and of  
17 course it depended upon whether an enclosed garage was  
18 incorporated with the unit, whether an additional  
19 bathroom was added to the unit, whether a fireplace  
20 was included, those smaller units though were selling  
21 for approximately \$60,000, I believe, and they at the  
22 time had a minimum of I believe three bedrooms.

23           Q.     Was the housing developed as a result of the  
24 rezoning?

25           A.     No. Again, a use variance --



1                   MR. PALEY: If you want, I don't think  
2 it's necessary to go into the legal history, but there  
3 had been an application before the zoning board and  
4 there was an appeal from a denial of that application,  
5 I believe the Superior Court directed that, I believe  
6 144 units of the constructed, subsequently in informal  
7 discussions between the developer and the township  
8 administration, it was reduced to 142, and there were  
9 some modifications in streets.

10            Q.     So the construction was as a result of the  
11 litigation. Is that correct?

12                   Did the litigation involve any Mount Laurel  
13 claims or allegations?

14                   MR. PALEY: I'll respond to that, if  
15 you don't mind, Mr. Gelber. My response is I do not  
16 recall. I am sure that the developer cited the then  
17 extant decision of Mount Laurel to justify his  
18 position, I don't know whether that's fully responsive  
19 to your question.

20                   MR. GELBER: Do either of you know the  
21 name of the caption?

22            A.     I am sorry, of th what?

23            Q.     Caption of the liigation?

24                   MR. PALEY: I could make an informed  
25 guess, it would be Castle --

1 THE WITNESS: No, because they  
2 purchased it from the people --

3 MR. GELBER: Off the record.

4 (Discussion off the record.)

5 Q. Do you recall when the decision came down  
6 from the Superior Court, approximately?

7 A. I think I was a consultant at the time, so I  
8 think it was before '77. I think it was about 1976.

9 Q. Do you recall if it was after Judge  
10 Fuhrman's decision in this case?

11 A. I do not recall.

12 Q. I believe you said that 142 units were  
13 developed on that tract. Is that right?

14 A. It is still under construction.

15 Q. Do you have specific information about the  
16 sales prices on individual units and the dates on  
17 which they were available for purchase?

18 A. Only from my own unit and my recollection is --

19 Q. There is no information contained in the  
20 chart that you are looking at?

21 A. No.

22 Q. What is the name of the developer again?

23 A. Castle Group.

24 Q. And they are still units under construction.  
25 Is that right?

1 A. Yes.

2 Q. Do you know how many units have been  
3 completed and sold?

4 A. I could give you an estimate. It would only  
5 be an estimate. I would say probably about a hundred  
6 units completed and sold.

7 Q. When were the first units completed and sold?

8 A. About 1980.

9 Q. And again to the extent that you know, what  
10 were the arrange -- what were the price ranges on the  
11 duplexes?

12 A. The first section comprised large,  
13 relatively large houses, meaning four-bedroom units,  
14 1600 square feet of living space and a full basement,  
15 and those units sold for approximately \$70,000.

16 Q. Do you know what they sell for today?

17 A. They have increased in value. I don't know  
18 how much. On a resale, you mean?

19 Q. On a resale?

20 A. I really don't know.

21 Q. Are all of the duplexes completed and sold  
22 at this point?

23 A. I believe so.

24 Q. And roughly how many duplexes are there in  
25 the whole project?

1           A.    I would guess maybe 50, that's a guess.

2           Q.    Are there any smaller duplexes, more modest?

3           A.    Yes, than the first section. After the  
4 first section was constructed, the second section of  
5 duplexes, the housing was reduced in size to the size  
6 of the townhouses that were being constructed in the  
7 first section so that in effect, even though the units  
8 were attached in only twos, then the unit was the same  
9 size as the smaller units, and similarly, the smaller  
10 units were reduced in size to become smaller, the  
11 townhouse units.

12          Q.    Okay. What was the bedroom, number of  
13 bedrooms on the units in this section, second section?

14          A.    Of duplexes?

15          Q.    Of duplexes?

16          A.    I believe three bedrooms.

17          Q.    And do you know what they were sold at,  
18 roughly?

19          A.    I believe they were sold at the same price  
20 that the originally four-bedroom units sold, and they  
21 don't have basements in them.

22          Q.    And how many units are included in that  
23 second section roughly?

24          A.    Roughly half of the total number of duplexes.

25          Q.    I see, the 50 is the total, so --

1 A. Duplexes.

2 Q. So there are 25 in each section, roughly?

3 A. Yeah, and that's only an approximation.

4 Q. Okay.

5 A. I would suggest you give the developer a  
6 call, he would be very cooperative with you, I am sure.

7 Q. Is the developer located in Piscataway?

8 A. Yes, he is. His name is Mr. Tony Ross.

9 Their offices are at the complex.

10 Q. Just to complete this, on the townhouse  
11 units, I gather there are roughly 90 or so townhouses  
12 or those are proposed, so there are roughly 50  
13 townhouses now constructed and occupied? Is that  
14 about right?

15 A. I suppose. There maybe more, there may only  
16 be about 30 still under construction.

17 Q. Do you know what the townhouses were sold  
18 for, approximately?

19 A. The original townhouses in section one, is  
20 this?

21 Q. That's right.

22 A. I believe approximately \$60,000.

23 Q. And those were mostly two-bedroom?

24 A. I think originally they were three bedrooms.

25 Q. Okay. And then there was another section

1 built with smaller --

2 A. Yes, and they are two bedrooms.

3 Q. Do you know what those were sold for?

4 A. I would only guess that they are probably  
5 selling for the \$60,000.

6 Q. Okay. Do you have any information about the  
7 income other than your own income, of course, the  
8 income levels of the individuals occupying the units?

9 A. As a matter of fact, I do. There was a  
10 study done by a Rutgers University student, and I have  
11 that in my office. I am not sure whether it would  
12 come as part of that survey.

13 Q. Do you intend to rely on that study?

14 A. No.

15 Q. Other than the information you have given me  
16 today, do you intend to secure any additional  
17 information about the prices and the dates of  
18 occupancy on these units?

19 A. No.

20 Q. There was one last item provided in answer  
21 to Interrogatory 15, which was in 1983, rezoning of 55  
22 acres from R-20 to R-20A, if we could label that F.

23 A. 55 acres to R-20A. Right? That's right.

24 Q. Now, is that the site that you referred to  
25 earlier that is now being proposed for development by

1 Hovnanian?

2 A. Yes.

3 Q. Are there any other rezonings that have been  
4 rezonings or site approvals or any other kind of  
5 action by the Township since 1976 that were designed  
6 to promote development of low and moderate income  
7 housing other than those that we talked about?

8 A. You haven't marked the senior citizen.

9 Q. Let's mark that G.

10 And that is the site involved in the  
11 variance, that is referred to in answer to 12A.  
12 Anything else?

13 A. There was a rezoning of a tract which was  
14 zoned for industrial purposes, zoned to R-75, which  
15 was a single family detached lot size of 7500 square  
16 feet, and it's my feeling and I think it was the  
17 planning board's feeling at the time that obviously  
18 that would permit the construction of lower cost  
19 housing and the majority of the vacant land,  
20 residentially zoned vacant land at the time. At that  
21 time, we were, I think really dealing with least cost  
22 housing and --

23 Q. Do you remember what year that was?

24 A. I believe -- I believe that was rezoned  
25 along with the other changes we mentioned, it was

1 accomplished in 1978.

2 Q. And it was rezoned from what to what?

3 A. I believe it was zoned industrially before,  
4 I think M-1.

5 Q. Okay. To R-75?

6 A. Right.

7 Q. Now, why don't you mark that with an H?

8 A. I would like to point out to you that since  
9 that rezoning, an application was brought before the  
10 board for the construction of that housing through the  
11 approval process, it was found that the soil, for the  
12 most part at that location was contaminated by a  
13 chemical manufacturer, which had, which buildings had  
14 burned many years ago. I believe that area is now in  
15 the list, super fund list, and no housing is suggested  
16 for that property until that situation is cleared up.

17 Q. Is it your opinion that the contamination  
18 makes development unlikely on any portion of the site?

19 A. That's questionable, because I understand  
20 that there have been some preliminary discussions with  
21 the owner of that property, which comprises sort of a  
22 proposal that the northern portion of the property be  
23 developed for residential purposes, that that  
24 development would help off set the costs incurred to  
25 clean up the rest of the site, but I am not -- I am



1 not sure of the extent of the contamination and I  
2 would certainly not recommend any residential  
3 development in that vicinity until we know more about  
4 how, what and when it is going to be taken care of.

5 Q. Okay. This preliminary proposal that you  
6 referred to, does that include any low and moderate  
7 income housing?

8 A. I really don't know. The proposal wasn't  
9 even made to me.

10 Q. Other than the rezonings and the projects we  
11 have referred to, is there any other measure,  
12 resolution or any step taken by the Township since  
13 1976, that was designed to produce the development of  
14 low and moderate income housing, that you can recall?

15 A. Not at the moment.

16 Q. Do you want to clarify that?

17 A. Yeah. Again, I don't think we, at the time  
18 we were dealing with low and moderate income housing,  
19 with the same understanding that we are today, so that  
20 when we thought of least cost housing, for instance,  
21 about the specific guidelines, there were other  
22 changes made in zoning, for instance, from R-20  
23 residential, which required half acre lots to R-10  
24 residential and R-15 residential. There were changes  
25 that we mentioned previously to the area from M-1 to

1 R-10, now adjacent to it, what we call the Canterbury,  
2 P.R.D.

3 Q. Why don't we, why don't we mark those I. In  
4 the answer to your question, as an answer to my  
5 question as it was phrased concerning low and moderate  
6 income housing, is that there were no others that you  
7 can recall at this time. Is that right, as to low and  
8 moderate housing?

9 A. I think if we are speaking of intent, the  
10 answer would be yes, there were other changes. If we  
11 were talking about in fact, then the answer would be  
12 no.

13 Q. Now, on steps taken to facilitate  
14 development of affordable housing, you were about to  
15 identify some sites where there was rezoning from low  
16 density to higher density residential. Is that right?

17 A. Yes.

18 Q. Limiting to those actions taken since 1976,  
19 could you just identify those tracts with letters?

20 A. What letter are we?

21 Q. I.

22 A. Okay.

23 Q. Actually, why don't we put a number?

24 A. A number?

25 Q. Let's put one.

1           What would it include?

2           A.    The R-10 portion, the R-15 portion.

3           Q.    What were they rezoned from?

4           A.    I believe that entire area was zoned R-20,  
5 half acre, so that the R-10 would in effect double for  
6 that portion of the site allowable density. The R-15  
7 would provide for 15,000 square foot lots.

8           Q.    Was any housing developed?

9           A.    No. That is an active farm.

10          Q.    Okay.

11                    Any others? I believe you referred to  
12 something near Birch --

13          A.    Yeah, that would be the Birch Run property  
14 at the time before '78, it was zoned M-1, it was then  
15 rezoned to permit R-10, single --

16          Q.    Why don't we identify that with a two?

17                    This is from AM-1 to an R-10, and housing  
18 has been developed as a result of that rezoning?

19          A.    Housing has been developed, yes.

20          Q.    Do you know what the price -- is this sales  
21 housing?

22          A.    Yes.

23          Q.    Do you know what the price range is for that  
24 housing?

25          A.    No, I don't.

1 Q. Do you have any in text at this point to  
2 secure that information?

3 A. No. There is another tract adjacent to the  
4 apartment area we labeled D-2 that had previously been  
5 zoned LI-1, which was incorporated into the R-10  
6 residential area. I'll approximate it for you.

7 Q. Is that actually part of Birch Run as well?

8 A. No. No, this is what we call the Pasaro  
9 property.

10 Q. Why don't we put a three by that?

11 A. That had been, has been zoned R-10 as well.

12 Q. Has housing been developed in that tract  
13 since the zoning?

14 A. Yes.

15 Q. Do you know what the price range is?

16 A. I believe it's near \$70,000, although that's  
17 a guess, as a matter of fact. I am not sure.

18 Q. Is that sales housing?

19 A. Yes.

20 Q. Do you know roughly the sizes of those units?

21 A. No, I don't.

22 Q. Any other rezonings since 1976?

23 A. I don't recall any properties, although I do  
24 recall, I should mention the clustering provisions  
25 that we allowed in our, R-20, R-15. There is the

1 clustering allows for the same density for a given  
2 piece of property, but the individual lots can be much  
3 smaller than would otherwise be permitted, that allows  
4 for a decrease in the construction costs of the  
5 housing, due in large measure for, to a need for less  
6 infrastructure, less expansion of roads and utilities.

7 Q. Does it allow townhouses or houses that are  
8 actually joined?

9 A. No.

10 Q. They are just smaller lots?

11 A. Yes.

12 Q. So the savings is in mostly in utilities and  
13 ground work?

14 A. Yes.

15 Q. In the current P.R.D. zone, does that permit  
16 garden apartments?

17 A. That is not current any more, that is the  
18 old P.R.D.

19 Q. I am sorry, you are right, I had the wrong  
20 one.

21 MR. GELBER: Off the record.

22 (Discussion off the record.)

23 A. We have recently introduced, "we" meaning  
24 the governing body, a proposed amendment to the  
25 ordinance which would allow for garden apartments, as

1 we typically know them. They are not called garden  
2 apartments, they are called townhouses, but the  
3 definition allows, for instance, for the construction  
4 of condominiums, three units on top of each other in  
5 the same building, same already to what you may know  
6 as Hovnanian's condominium apartments.

7 MR. PALEY: For the record, that  
8 ordinance was adopted on first reading Thursday, March  
9 15, 1984. The second reading will be held subject to  
10 public hearing, of course, I believe late April,  
11 because there must be a 30 day period between first  
12 reading and second reading, presumably.

13 Q. At present, there are currently no zones  
14 that permit mobile homes or mobile home parks. Is  
15 that correct?

16 A. Correct.

17 Q. Are there any zones that permit manufactured  
18 or modular housing?

19 A. All of our residential zones, as I  
20 understand our ordinances, permit prefabricated  
21 housing. Any single family housing, for instance,  
22 that would comply with the BOCA code.

23 MR. GELBER: Off the record.

24 (Discussion off the record.)

25 (Lunch recess.)

1           Q.    Are there any other rezonings that have  
2 occurred since 1976 that we haven't talked about that  
3 would be relevant in terms of development of low  
4 moderate housing or have we covered them?

5           A.    I think we have covered them all.

6           Q.    Now, in the Interrogatories, we asked for,  
7 asked the Township to identify all measures or  
8 ordinance changes, zoning changes, development  
9 proposals that concern low and moderate income housing  
10 or high density residential, which were considered but  
11 not adopted, and the answer in the Interrogatories  
12 throughout was either none or not applicable, but I  
13 would like to go back through those and make sure  
14 there aren't any that we just missed, so let me ask,  
15 were there any requests to change for -- to higher  
16 density residential or changes that would permit  
17 development of low and moderate income housing that  
18 were denied by the Township?

19          A.    In what regard? Are you referring to the  
20 hearings before the governing body or planning board  
21 or specific development applications?

22          Q.    All three.

23          A.    I don't think there have been any specific  
24 development applications filed for multi-family  
25 housing, which have been denied.

1 Q. That's since 1976?

2 A. Correct.

3 Q. Okay. What about requests for rezoning?

4 A. Yes. I recall two sites where the property  
5 owners requested the planning board to consider multi-  
6 family housing for their tracts.

7 Q. Why don't you identify those for me? Let's  
8 put, how about a Roman numeral one on the first one?

9 A. Roman numeral one would be an additional 55  
10 acre tract, which I refer to as the other Gerickont  
11 farm, that lies adjacent to the Gerickont farm which  
12 was rezoned.

13 Q. When was that request made to the planning  
14 board?

15 A. During the master plan. As a matter of fact,  
16 I am not sure if it was made to the planning board. I  
17 think it was during the master plan hearings, and I  
18 know it was before the governing body, during their  
19 hearings on the zoning ordinance.

20 MR. PALEY: When?

21 THE WITNESS: 1983.

22 Q. And who made the request?

23 A. I believe an attorney for the property owner.  
24 No, wait a minute. May have been a contract purchaser.  
25 I believe it was a contract purchaser of the property.



1           Q.    Was the contract purchaser a housing  
2 development?

3           A.    Yes.

4           Q.    Which company?

5           A.    K & K Construction, I think it was, was the  
6 letter.

7           Q.    Are they related to Karnell, the Karnell  
8 group?

9           A.    Yes, it is, that's correct.

10          Q.    And what was the result of the request, what  
11 did the Township do?

12          A.    The Township denied the request.

13          Q.    And on what grounds?

14          A.    In view of the planning board and/or the  
15 governing body, whichever or both, the objectives of  
16 the master plan were implemented by the properties  
17 that you now see before you and any additional multi-  
18 family housing would be contrary to those goals and  
19 objectives and create burdens in terms of traffic  
20 situations, drainage and overall density compared to  
21 surrounding areas.

22          Q.    Were any studies undertaken by the Township  
23 concerning the potential impact of developing that  
24 site?

25          A.    That particular site?

1 Q. Yes.

2 A. At what stage? I can tell you that during  
3 the master plan process, all the vacant tracts were  
4 studied and that the ones that you see before you are  
5 the ones recommended by the planning board as the most  
6 suitable for multi-family.

7 Q. Now, the Karnell tract is immediately  
8 adjacent to the east of the tract now being developed  
9 by Hovnanian. Is that correct?

10 A. Correct.

11 Q. Was it the Township's position that the  
12 Hovnanian tract was more suitable for high density  
13 residential than the Karnell tract?

14 A. Yes.

15 Q. And on what basis?

16 A. Direct access to what will be Hoes Lane  
17 section four, which is the preferred alignment for  
18 Route 18.

19 Q. Can you indicate where that is on the map?

20 A. This will be Hoes Lane section four, and I  
21 am indicating that in a dashed red line, and when you  
22 look at the circulation plan element, the master plan,  
23 there is a collector road shown through Gerickont  
24 tract, which was rezoned, and that collector road is  
25 shown connecting to Hoes Lane section four, and I am

1 designating that collector road in a solid red line.

2 Q. Now, from the Hovnanian tract, there will be  
3 access then both to the, what is it, Route 18  
4 extension?

5 A. Yes. You can refer to it that way, it's  
6 actually referred to as Hoes Lane section four.

7 Q. Okay. There is also access to Morris Avenue.  
8 Is that correct?

9 A. Correct.

10 Q. Or there will be access?

11 A. Correct.

12 Q. Couldn't similar access have been provided  
13 for the Karnell tract?

14 A. Not without going into adjacent properties.

15 Q. So it would be, although you could have  
16 access to the Hoes Lane section four, it would not be  
17 direct?

18 A. Correct. In addition, I'll point out for  
19 you, the streets shown at the southeast corner are all  
20 shown to be unconnected local residential streets, in  
21 effect being cul-de-sacs, so that no access would be  
22 permitted to or to those streets. The only access  
23 available would be to Morris Avenue.

24 Q. Isn't there a more serious drainage problem  
25 on the Hovnanian tract identified as F than on the

1 Karnell tract?

2 A. I see no serious drainage problem at all  
3 with the Hovnanian tract.

4 Q. What about Karnell?

5 A. If that tract were designed as the Hovnanian  
6 tracts were, I don't see serious drainage problems  
7 there either because of the ability to provide for  
8 detention facilities.

9 Q. Is the Karnell tract suitable for  
10 residential development?

11 A. I believe so. It's more suitable for  
12 farming, which is what it's being used for now.

13 Q. Is the Hovnanian tract still being used for  
14 farming?

15 A. I am not sure that they have continued,  
16 continued the farming operation. I believe they have  
17 ceased the farming operation very recently.

18 Q. The two tracts were originally part of the  
19 same farm. Is that right?

20 A. I don't know.

21 Q. Isn't it true that by allowing higher  
22 density P.R.D. development in the Hovnanian tract,  
23 that it makes the continued viability of the farming  
24 use in the Karnell tract more difficult?

25 A. I don't think so.

1 Q. Why not?

2 A. I don't see any reason why it would.

3 Q. That they are consistent, that would be a  
4 consistent use?

5 A. We have four or five active farming uses in  
6 close proximity now to residential uses. There is  
7 obvious problems associated with the nuisances that  
8 could be attached with farming operations, upon  
9 residential uses, but obviously that situation has  
10 existed for many years. It exists in any growing  
11 municipality where farming exists, and I don't see it  
12 as prohibiting residential development and I don't see  
13 the residential development prohibiting farming.

14 Q. Do you have an opinion about the amount of  
15 acres that would be necessary for a viable farm, of  
16 the type that now is in existence in the Karnell tract?

17 A. No.

18 Q. Assuming that the traffic situation could be  
19 corrected, is there any other reason why the Karnell  
20 tract could not be developed as P.R.D. residential?

21 A. Well, taken by itself, many of the vacant  
22 properties in Piscataway could be developed  
23 residentially in P.R.D., but I think the proper  
24 planning dictates that you look at the whole picture  
25 and there would come a point where the character of

1 the municipality drastically changes, and I believe  
2 that's one reason why there is such a thing as a  
3 master plan process, so in and of itself, which -- the  
4 tract could be developed. I think when you look at  
5 the cumulative effects, there has got to be a point at  
6 which there starts to become some detrimental impacts  
7 associated with increased density, especially when  
8 it's located adjacent to very different densities.

9 Q. Is there any other reason other than the  
10 access to the Hoes Lane extension that led the  
11 Township to rezone the Hovnanian tract and not rezone  
12 the Karnell tract?

13 A. I don't recall if there were any other  
14 reasons expressed.

15 Q. Now, there is at the south west corner of,  
16 what is that, Morris Avenue and is that --

17 A. South Randolphville Road.

18 Q. That is currently being developed. Is that  
19 correct?

20 A. That's correct.

21 Q. What is being developed there?

22 A. Single family homes and a clustered  
23 subdivision.

24 Q. Will that be the low and moderate income  
25 housing?

1 A. No.

2 Q. Do you know what the density is, roughly?

3 A. Roughly two units per acre, two point or one  
4 point 96.

5 Q. There is a tract identified as it's zoned  
6 for R-20, due north of Morris, it's actually the  
7 northwest corner of Morris and South Randolphville  
8 Road. Was a request ever made, either informal or  
9 formal, to rezone that to P.R.D.?

10 A. I don't recall any requests.

11 Q. Do you know if the Karnell group had an  
12 option to purchase that tract as well?

13 A. No, I don't.

14 Q. Is that tract suitable for residential  
15 development?

16 A. I think so.

17 Q. Is it suitable for P.R.D. residential  
18 development, higher density development?

19 A. In and of itself, yes. But again, when you  
20 look at the whole picture, there has to come a point  
21 where the answer would be no, and I think given all  
22 the other areas zoned for multi-family, my answer  
23 would have to be no.

24 MR. PALEY: Off the record.

25 (Discussion off the record.)

1 Q. We were talking about the tract that is  
2 northwest side of the corner of Morris and South  
3 Randolphville Road. I believe half of that,  
4 approximately half of that is already developed. Is  
5 that right?

6 A. Correct.

7 Q. And that's the eastern half. Is that right?

8 A. Correct.

9 Q. And it's developed as single family  
10 residential?

11 A. Correct.

12 Q. The western half of that tract though is  
13 currently vacant?

14 A. I believe it's an active farm.

15 Q. And is that portion, it is your testimony  
16 that portion is suitable for high density residential  
17 development, in and of itself?

18 A. Yes.

19 Q. And your opinion as to the unsuitability of  
20 that tract and of the Karnell tract is based on the  
21 overall density that would result from developing the  
22 Hovnanian piece and some other ones in the area. Is  
23 that correct?

24 A. That's basically a rephrasing of what I have  
25 said, yes.



1 Q. Is there anything else on which you rely for  
2 that conclusion other than I believe you referred to  
3 the master plan, other than that, is there any study,  
4 report, data on which you relied in that conclusion?

5 A. I rely on the entire process that was  
6 undertaken by the planning board in accordance with  
7 state statute and the governing body in rezoning in  
8 1983.

9 Q. Is there any study or data specific to this  
10 area that we are talking about, on which you relied  
11 for that conclusion?

12 A. What type of data are you speaking? We did  
13 a complete study, a housing allocation study, various  
14 studies, reexamination of report, all the data  
15 contained in those reports, comprise our master plan.

16 Q. Is there a rule of thumb that you as a  
17 planner use to determine sort of maximum suitable  
18 density for areas such as that?

19 A. No.

20 Q. I believe there is a Roman numeral two, a  
21 second tract that was involved in a rezoning request.  
22 Up here, that is north of the railroad?

23 A. Okay.

24 Q. Could you tell me about that site? When was  
25 the request made?

1           A.    It was a request before both the planning  
2 board during master plan hearings and before the  
3 governing body during zoning hearings, in 1983.

4           Q.    1983?

5           A.    Right.

6           Q.    Who owns that tract?

7           A.    It's referred to as the Lange Westergard  
8 property.

9           Q.    And the owner made a request to rezone that  
10 to P.R.D. Is that correct?

11          A.    I believe the request was for specifically  
12 senior citizen multi-family housing construction, if I  
13 recall.

14          Q.    Did the --

15          A.    At a similar density.

16          Q.    Similar to --

17          A.    P.R.D.

18          Q.    Did the request involve any proposals to  
19 build low and moderate income housing?

20          A.    I don't recall. I don't think so.

21          Q.    And what happened to that request?

22          A.    It was considered and denied.

23          Q.    And on what basis was it denied?

24          A.    On the same basis as the other requests,  
25 that the Township had provided for its fair share

1 already and that the goals and objectives of the  
2 master plan were being met based on what have been --  
3 there is one portion of our study showed existing high  
4 density housing, including our garden apartments. One  
5 of the goals and objectives of the element was to  
6 distribute that density along with other high traffic  
7 generating uses. Rezoning of that tract would be in  
8 contravention of that specific --

9 Q. And by -- you referred to that study. Is  
10 that your reexamination report?

11 A. That's --

12 Q. Or is that the 1983 master plan?

13 A. Revision of the master plan.

14 Q. Do you have copies of that?

15 A. Yes, we made you a copy.

16 Q. Thank you.

17 A. Of the text, the maps and the graphics are  
18 not yet available.

19 Q. Okay. Is the tract in and of itself  
20 suitable for residential development?

21 A. I think so.

22 Q. Was there a request, either informal or  
23 formal request, to rezone a 40 acre shopping center  
24 tract near Washington Avenue?

25 A. Yes, there was.

1 Q. Can we identify that on the map?

2 A. With a Roman numeral three.

3 Q. Yes.

4 When was that request made?

5 A. I believe that was made before the planning  
6 board during public hearings, of the master plan  
7 revision.

8 Q. So again that was in --

9 A. 1983.

10 Q. Fall of '83?

11 A. Right.

12 Q. And was that request denied?

13 A. Yes.

14 Q. On what basis?

15 A. Same basis as I mentioned for the other two.

16 Q. That the Township had provided for its fair  
17 share?

18 A. And contravention of specific goals  
19 contained within the land use plan.

20 Q. Is it your opinion that that tract in and of  
21 itself is suitable for residential development?

22 A. Yes.

23 Q. Was there ever a request made, either formal  
24 or informal, concerning rezoning of a 120 acre tract  
25 off of River Road, I think north of 287?

1           A.    120 acres?

2           Q.    Yes, or thereabouts?

3           A.    I wouldn't be -- not during the 1983 or '84  
4 master plan, not to residential uses. It was a  
5 request that a portion of that tract be rezoned for  
6 business professional use, office park. There is a  
7 request that a tract immediately adjacent to Route 287,  
8 66 acre tract, also be rezoned from residential to  
9 business professional use, both of those requests were  
10 denied.

11          Q.    Have there been any requests concerning  
12 either of those tracts, to rezone to higher density  
13 residential since 1976?

14          A.    Yes, and they were complied with and the  
15 rezoning is noted.

16          Q.    I see. How about any further requests to  
17 rezone to higher density than it currently exists?

18          A.    Not to my knowledge.

19          Q.    Okay. Other than the ones we have talked  
20 about, can you recall if there were any other requests  
21 for a higher density residential?

22          A.    I don't think --

23          Q.    Ever considered but not adopted?

24          A.    I don't think there were any.

25          Q.    Do you know approximately how much money the

1 Township receives in block grant funding, roughly?

2 A. Yeah.

3 Q. How much is that?

4 A. This year's allocation is projected at  
5 \$120,000, but the last three years prior to this  
6 year's allocation, we received in the neighborhood of  
7 520.

8 Q. A year?

9 A. No, for the three year period.

10 Q. Okay.

11 A. And that allocation has been ear marked for  
12 construction of a storm sewer project in what was then  
13 an area depicted by housing and urban development as  
14 an eligible income area, meaning that the project  
15 would benefit those of low and moderate income.

16 Q. In particular, what area is that?

17 A. That would be the Arbor area of Piscataway.

18 Q. How long has the Township been receiving  
19 block grant monies, has it participated since the  
20 inception of the program?

21 A. I assume so. I think that started before my  
22 presence.

23 Q. But it has been receiving block grant monies  
24 since you have been Township Planner?

25 A. Yes.

1           Q.    Has any of the block grant money been  
2 expended on site assemblage, land clearance, on or off  
3 site improvements relating to the construction of  
4 specific low and moderate income housing projects?

5           A.    No.

6           Q.    Going back to the Interrogatories, your  
7 chart, just so I understand, we don't need to go  
8 through this, it is pretty comprehensive but I just  
9 want to make sure I understand what is covered. It is  
10 my understanding that if you took the vacant land  
11 identified in answer to 27D, so it's on your chart,  
12 27D and you add the vacant land that is identified on  
13 33 in answer to Interrogatory 33A, B and C, you will  
14 have a complete list of all vacant land in the  
15 Township?

16          A.    Correct.

17          Q.    Turning to 27E and F, you have identified  
18 vacant lots that are now subject to an approved site  
19 plan. If you could just identify for me the location  
20 of the one identified as BP-1, BP-1 zone, where that  
21 is on the map and what Roman numeral are we up to?

22          Four.

23                    Actually let me withdraw the question for a  
24 second and maybe we'll save some time.

25                    The two block and lot numbers in answer to

1 27E and F, is that one tract, in one project? They  
2 seem to be --

3 A. I believe it is. I would have to check it  
4 though, to make sure.

5 Q. Do you know approximately when it was  
6 approved, what year?

7 A. 1983, I believe.

8 Q. Do you know if that site, is there any  
9 reason why that site could not have been developed for  
10 P.R.D. residential?

11 A. Well, I am not sure I understand the  
12 question. It was zoned for business profession. The  
13 property owner is a rather large developer of  
14 commercial and industrial real estate and he requested  
15 the Township planning board a site plan approval for  
16 the use for which it was zoned. I don't know if that  
17 answers the question.

18 Q. You are still trying to locate where that is.

19 A. Yeah, that is the lots across the street.

20 Q. If we could just roughly identify?

21 A. What number are we?

22 Q. Let's call it four.

23 A. There is two specific lots.

24 Q. Okay.

25 A. One is on the eastern, easterly side of Hoes



1 Lane. Where are we, what letter?

2 Q. Four.

3 A. And the other large lot is across the street,  
4 somewhere to the south.

5 Q. Okay. Are they adjacent to residential?

6 A. Residential use or residential --

7 Q. Current residential use?

8 A. I believe the large lot, which we have shown  
9 as lot five is not. I believe it's surrounded by  
10 existing business professional use, the AT&T Long  
11 Lines complex.

12 Q. Is behind it?

13 A. Yes.

14 Q. Okay.

15 A. I think that lot looks like this, something  
16 like that.

17 Q. Okay.

18 A. And the lot across the street is bordered by  
19 the high school on the north, on the east by park  
20 lands.

21 Q. Is the land itself, in your opinion, the  
22 land itself suitable for residential development?

23 MR. PALEY: When you ask that question,  
24 Mr. Gelber, do you mean from a topographic point of  
25 view?

1 MR. GELBER: Yes, environmental,  
2 physical, topographical point of view.

3 A. Well, I would suggest to you that if the  
4 land is capable of handling office use, that it's  
5 certainly capable of handling residential use.

6 Q. Okay.

7 A. In terms of its environmental --

8 Q. Okay. Now, in answer to 27E and F, you have  
9 a second project identified. What is the nature of  
10 that project?

11 A. That is one of the lots in the midst of an  
12 industrial park, which has been under construction for  
13 approximately 10 years.

14 Q. Have there been any, since 1976 -- strike  
15 that.

16 Since January of 1983, have there been any  
17 rezonings from residential to non-residential use?

18 A. Since January of '83? One comes to mind,  
19 the Miele farm.

20 Q. Why don't we identify that with a Roman  
21 numeral six?

22 A. Something like that.

23 Q. How large a tract is that?

24 A. Approximately 50 acres.

25 Q. Is it still being used as a farm?

1           A.    To this day, I think it is, although  
2 applications were filed in our offices last week.

3           Q.    What is the status of the application?

4           A.    I have yet to review it for determination as  
5 to completeness. Application has been made for  
6 preliminary -- classification and preliminary  
7 subdivision approval.

8           Q.    When do you anticipate that that, the  
9 application will go before the planning board?

10          A.    April or May of this year.

11          Q.    And what does the application call for, just  
12 general --

13          A.    I haven't reviewed it yet. I have only seen --

14          Q.    Just --

15          A.    The cover form itself. I haven't even  
16 looked at the map. I am sure it's going to encompass  
17 lots for the construction of large office --  
18 industrial park type of atmosphere.

19          Q.    When was the rezoning approved, roughly  
20 speaking?

21          A.    1984. Along with the other --

22          Q.    Was that part of the December '83 --

23          A.    I am sorry, December '83, along with the  
24 other zoning.

25          Q.    Was consideration given to developing this

1 site for higher density residential?

2 A. I don't believe serious consideration was  
3 given to that. There was a request by the contract  
4 purchaser for rezoning to what it is now zoned.

5 Q. And who is the contract purchaser?

6 A. Sudler Construction.

7 Q. From a physical, environmental and  
8 topographical standpoint, is that tract suitable for  
9 high density residential?

10 A. Yes.

11 Q. What about from a planning standpoint?

12 A. Could be done.

13 Q. Any other rezonings from residential to non-  
14 residential use since January of '83?

15 A. Residential to -- none come to mind.

16 Q. Are there any other rezonings from  
17 residential use to non-residential use involving a  
18 vacant parcel since 1976, that you can recall?

19 A. Residential to non -- I don't recall of any.

20 Q. How about any down zonings, by that I mean  
21 rezoning from a higher density residential to a lower  
22 density residential on a vacant parcel, since 1976?

23 A. I think I referred to that previously. From  
24 a what to what? You are using the reverse -- reverse  
25 term is residence in an area where --

1 Q. That's right.

2 A. From a higher to a lower density?

3 Q. That's right.

4 A. None, none that I can --

5 Q. Okay. Again going back to the answers to  
6 Interrogatories, if you look at the answers to 27I and  
7 J, the answers to 27A and L and the answer to 33A, B  
8 and C, would that give us all the vacant parcels that  
9 are subject to environmental or physical constraints?

10 A. Yes.

11 Q. Are there any other vacant parcels that  
12 aren't identified in those three Answers to  
13 Interrogatories, that you'll be testifying about at  
14 trial, that are subject to environmental or physical  
15 constraints that would make it difficult to build  
16 residential development?

17 A. Other than those listed?

18 Q. That's right.

19 A. I don't think so.

20 Q. If you look at 33, answer to 33, it's a long  
21 list of municipally owned vacant land. Do you know,  
22 other than the tract that is identified as, I guess  
23 that's C, in the southeast corner of the Township.

24 A. Right.

25 Q. Other than that tract, are there any other

1 contiguous tracts that comprise let's say five or more  
2 acres that are on the list? What I am trying to get  
3 at his some sizable tract, rather than parcels or  
4 easements or rights of way?

5 A. What was the question?

6 MR. PALEY: Off the record.

7 (Discussion off the record.)

8 A. Block 352, I am sorry, block 358.

9 Q. Okay.

10 A. Lots 49 and 53 comprise 6.33 acres. That  
11 land was dedicated to the municipality as open space  
12 pursuant to the approval of the subdivision and our  
13 custom provisions, so I don't feel that it's feasible  
14 that that land can be developed.

15 Q. Okay. Let me ask you, which subdivision was  
16 that, do you recall?

17 A. I don't recall.

18 Q. Let's go on.

19 A. I see the same situation for block 502K, lot  
20 eight, 5.48 acres.

21 Q. Now, would that be -- that's the same  
22 situation, that it's dedicated to open land in  
23 connection with a subdivision approval?

24 A. Right. I see the same with block 655G, lot  
25 eight, 8.8 acres. Typically those lands will have

1 some environmental constraints as well.

2 Q. Okay.

3 A. Block 655B, lot 10, as a five acre parcel.

4 It is noted that it's in the flood plain.

5 Q. I am sorry, which one? Got it, okay.

6 A. Block 710, various lots 35, 46, 40, 42, 44,  
7 45, 48 and 50. I think --

8 Q. Is that the Ethel Road?

9 A. Yeah, that's a portion of Ethel Road.

10 Q. Okay.

11 A. Similarly with 735A, lot 24.

12 Q. I am sorry, what is the story with 735A?

13 A. Dedicated open space, as part of a clustered  
14 development again. Similarly with block 736, lot 49,  
15 again with block seven -- I am sorry, 776, three, four  
16 and five.

17 (Discussion off the record.)

18 Q. What I am trying to do is identify any  
19 sizable portions zoned by the Township, and you are  
20 answering the question I have next which is whether or  
21 not they'd be suitable and available for residential  
22 development.

23 A. If out parcels were purchased and if streets  
24 were vacated, it seems that blocks 766, lot three,  
25 four and five --

1 MR. PALEY: 776.

2 A. That block 777, lot one combined can, in  
3 addition to block 778, lots nine and eleven, could  
4 feasibly form a seven or eight acre piece of property  
5 where residential development could occur.

6 Q. Would the lots indicated on block 780, 81,  
7 83, 84, 85, all be in the same general vicinity and  
8 possibly available if out parcels were purchased or is  
9 that going too far afield?

10 A. I think you are going --

11 MR. PALEY: Off the record.

12 (Discussion off the record.)

13 Q. So for the blocks, I think 776, 777, 778,  
14 779, you thought it is possible to combine that but --

15 A. What about 779? Yes, for other than 779.

16 Q. Okay. But the subsequent ones on your chart,  
17 for your chart 33A, B and C, they really aren't  
18 sufficiently large or contiguous to provide --

19 A. Correct.

20 Q. Okay. If you could, just locate for me the  
21 general area of that, those parcels, just roughly, on  
22 the deposition exhibit two, what portion of town are  
23 we looking in. Just give me the right side of town.

24 A. It is in here somewhere.

25 Q. Why don't we put a Roman numeral seven.



1           Are there any other sizable parcels owned by  
2 the Township other than the ones you have talked about  
3 that in your opinion would be available for  
4 residential development?

5           A.     None come to mind.

6           Q.     Referring to your Answers to Interrogatories  
7 41A and 42A, do you have a list in your possession of  
8 all the units that are contained on the first half of  
9 that, in that answer, the ones listed under single  
10 family detached multi-family and student family  
11 apartments?

12                   MR. PALEY: Are you asking, Mr. Gelber,  
13 how Mr. Nebenzahl arrived at the numbers and what his,  
14 what data he has at his disposal to reach a number of  
15 435 for low income single family detached townhouse?

16                   MR. GELBER: Not precisely, but yeah,  
17 let's have him answer that.

18           A.     My answer to your question is yes, there is  
19 one list.

20           Q.     Okay.

21           A.     And the answer to the next question is as  
22 follows. For single family detached dwellings and  
23 townhouses, we requested and received from the office  
24 of our tax assessor, through that office, a computer  
25 listing of all of those individual lots assessed at

1 \$37,500 and less, and that magic number comes about by  
2 applying the state equalization ratio for Piscataway  
3 Township, which is point 5767 -- 57.67 percent. When  
4 we applied that equalization ratio, we arrived at a  
5 figure of \$65,000 as a market value for the land and  
6 the dwelling. We then counted all of those lots and  
7 came up with a combined total of 3,371 low and  
8 moderate. The items considered low for that range was  
9 all those items assessed at \$23,600 and less.

10 MR. PALEY: Off the record.

11 (Discussion off the record.)

12 A. We then made a separate count --

13 Q. Before you go on, what you have from the  
14 computer list are the assessed valuations?

15 A. That's correct.

16 Q. And by applying the equalization ratio, you  
17 bring them up to an estimate of current market value?

18 A. We only have on our list those single family  
19 residential properties assessed at less than \$37,501.

20 Q. Now, why did you select the 375 hundred as a  
21 cutoff?

22 A. As we illustrated in our fair share report  
23 and in answer to question number 10A, the way we  
24 derived a value of a single family dwelling fitting  
25 into low and moderate income categories, we assumed

1 that single family dwellings would all have a minimum  
2 of two or three bedrooms so that the assumption is  
3 that there is a family size of four, and based on the  
4 information we derived in four, and using a gross  
5 annual income figure for that family, multiplying that  
6 by two and one-half times, we established what the  
7 market value of the house could be. We also ran,  
8 assuming that the affordable housing price was only  
9 two times annual income as well, and the figure is  
10 reduced to 1,022 total, \$900 would fit at moderate,  
11 meaning the market value would be \$52,000, in 122  
12 would fit within low, 327, \$32,700, so we have in  
13 effect looked at the range of two and two and a half  
14 times the family income for four sales units. That  
15 range is very consistent with the literature and is  
16 consistent with an analysis which we asked to have  
17 done for us by the Middlesex County Planning Board  
18 staff, which shows that based on certain assumptions  
19 as to interest rates, given the family size that I  
20 mentioned previously, based on assumptions for  
21 insurance payments and downpayment availability, that  
22 the income figures we utilized were very much in the  
23 ballpark, so to speak, in terms of analysis.

24 Q. Do you have a copy of that analysis?

25 A. Yes.

1 Q. Could I have that?

2 A. Certainly, if I can find it.

3 Q. If you are going to rely on it at trial, I  
4 do need a copy.

5 Does that analysis that was performed by the  
6 county -- which county department was that?

7 A. Middlesex County Planning Board.

8 Q. Does that analysis conclude that -- does  
9 that analysis provide you with the figures of 52,327?

10 A. No, that analysis, in and of itself, does  
11 not. What is prevalent in the literature, I know it's  
12 available in the Mount Laurel study, prepared by  
13 Rutgers, for instance, is the suggestion that for --  
14 for sales units, the rule of thumb is between two and  
15 two and a half times family income, can be spent for  
16 housing costs, meaning principal, interest, mortgage,  
17 taxes. The range meaning that the two times is at the  
18 low end of the scale and the two and a half times  
19 would be at the upper end of the scale.

20 Q. You say it is supported in the literature.  
21 You referred to the Stern report?

22 A. Yes.

23 Q. Are there any others that you are relying on,  
24 for --

25 A. Not at the moment, I think it's a general

1 rule of thumb, I don't think anyone would argue with  
2 it.

3 Q. Now, getting back to the computer list --  
4 well, rather than have me explain it, let you complete  
5 your explanation as to how you derived the numbers  
6 listed under single family --

7 A. I thought I just did explain it.

8 Q. I am sorry, if I didn't understand it. Let  
9 me see if I do understand it. What you have is in the  
10 computer list, is a list of all single family detached  
11 homes and townhouses. Is that correct?

12 A. Yes, because the existing townhouses are fee  
13 simple and they are assessed the same way as a single  
14 family detached home.

15 Q. And this list includes all existing property  
16 as of the date that the computer --

17 A. That's correct.

18 Q. -- was run, which was what date?

19 A. January 18, 1984.

20 Q. So it includes properties built prior to  
21 1980 as well as those built since 1980?

22 A. That's correct.

23 Q. From the list, can you distinguish between  
24 those properties built before and after 1980?

25 A. No.

1 Q. And what the list provides is a list of all  
2 properties that have the assessed value at 375 or less?

3 A. Correct.

4 Q. Now, I am sorry if I am repeating, but tell  
5 me once again how you picked the 375 as the cut off?

6 A. Okay. We started with the income guidelines,  
7 based on the median family income, established for  
8 Middlesex County by the Department of Housing and  
9 Urban Development, and that income figure at the time  
10 was for a family of four -- what we have to do is go  
11 to question 10A.

12 Q. Okay.

13 A. 10B.

14 Q. Well, 80 percent of that figure would be  
15 26,000. Is that right?

16 A. That's correct.

17 Q. Okay.

18 A. For -- we used \$26,000, I believe, for the  
19 cut off as the 80 percent figure.

20 Q. Okay. Now, how did you get from the 26,000  
21 to the cut off --

22 A. Two and one-half times 26,000 is 65,000.

23 Q. Got it. Okay.

24 A. Two times equals 52,000.

25 Q. And how do you get from the 60,000 and

1 52,000 to the cut off applied to the list?

2 A. Okay. It goes back to the rule of thumb I  
3 mentioned, that two, between two and two and one-half  
4 times a family income can be spent for principal,  
5 interest, mortgage, and taxes. I am sorry, that  
6 should be the value -- there is two rules of thumb.  
7 One deals with rental, one deals with --

8 Q. Let's just stick with for sales for a second.

9 A. Okay. The rule of thumb is that two times  
10 family income, between two and two and a half times of  
11 family income represents the purchase price or the  
12 market value of the home, which a family can afford.

13 Q. Got it.

14 A. And if you go through the analysis, such as  
15 the county planning board did, it falls in line with  
16 banking institutions and mortgage lending institutions  
17 and whether or not they would qualify that income for  
18 a mortgage.

19 Q. Okay.

20 A. Because when you break down the costs for  
21 principal, interest, mortgage, that's what the  
22 financial institutions -- that's what their cut offs  
23 are.

24 Q. If you come up with what you consider to be  
25 the upper limit of median income could afford a house

1 today at \$60,000?

2 A. The very utmost figure we used was \$65,000  
3 as the upper limit for the moderate.

4 Q. Now, once you have that upper limit, what  
5 you are trying to determine is in this list, or in the  
6 entire list for the entire Township, how many of those  
7 houses, if they were put on the market today, and sold  
8 at current market value, would be under the 65,000 and  
9 then you divide again to see how many of those would  
10 be under the low income limit, whatever that is. Is  
11 that correct?

12 A. Yes.

13 Q. And to get that figure, you take the  
14 assessed valuation and multiply it by the equalization  
15 rate?

16 A. Correct.

17 Q. Does that mean someone went through there  
18 and multiplied every one of those by --

19 A. No.

20 Q. -- 57.6?

21 A. No, all of the assessments, line items, are  
22 on a computer.

23 Q. Right.

24 A. And all we asked for was a printout that  
25 showed those line items for residential properties



1 assessed at 375 or below. We went through the list  
2 and counted up those that were less than 236, in the  
3 one case and 327, just to differentiate between low  
4 and moderate.

5 Q. And the same process was, and you came up  
6 with a total of 3,000 and how many units?

7 A. 3,371 single family and townhouse units fall  
8 below the 375 figure. 1,022 units fall below the  
9 \$52,000 figure.

10 Q. And the 435 that you show under low income?

11 A. Yes.

12 Q. On the chart, obviously that's not  
13 duplicated in the items under moderate income?

14 A. No.

15 Q. What you did is factored out those that  
16 would be even lower?

17 A. Right.

18 Q. Based on a two to two and a half times,  
19 actually a two and a half times the low income, 50  
20 percent of the median income. Did you do the same  
21 process for those?

22 A. At two and a half, at two and a half, the  
23 total number is 3371. Of that 3371, 435 would fall  
24 within the low range. 2,936 or the remainder, would  
25 fall within the moderate.

1 Q. Okay.

2 A. If you use the other end of the range, the  
3 two times income figure, those numbers change  
4 significantly. They would total, total low and  
5 moderate would be 1,022, with the low being 122, and  
6 the moderate at 900.

7 Q. Now, how did you determine the figure with  
8 respect to garden apartments?

9 A. We conducted a survey and determined what  
10 the contract rents were for the existing garden  
11 apartments within the Township.

12 Q. Is that the paper you were referring to  
13 earlier?

14 A. Yes.

15 Q. So I could look at that and add it up and  
16 come up with the figure that you have given?

17 A. Yes.

18 Q. And the income criteria that you used to  
19 determine moderate income?

20 A. Yes.

21 Q. Is contained in answer to question 10?

22 A. Yes.

23 Q. Okay. If I can just get a copy of that.

24 I do have it.

25 What about student family apartments?

1           A.     Okay.  They are a separate item of -- there  
2 are 348 of those.  That information was obtained by a  
3 phone call to Rutgers University, Division of Housing.

4           Q.     They are not included then in the survey of  
5 the rental apartments?

6           A.     No, they would fall within low income  
7 guidelines.  I believe the rentals are all below \$300,  
8 and all the units I believe are a minimum of two  
9 bedrooms.

10          Q.     Do you have any information on the number of  
11 people occupying any of these units identified on the  
12 first half of this chart as to their income level, in  
13 other words, whether or not they are in fact low or  
14 moderate income?

15          A.     What we have is the latest areas marked by  
16 HUD which show those areas consensus block group or  
17 neighborhood statistic data published by the census,  
18 which show where more than 50 percent of the  
19 households earn less than the median income.

20          Q.     Do you actually have that calculated?

21          A.     That's been prepared by the Middlesex County  
22 Housing and Community Development Office.  It is  
23 prepared to show the municipalities which are members  
24 of the committee, which areas in their municipalities --  
25 which areas in the municipality are eligible now for

1 funding, which projects in those particular areas.

2 Q. And these are areas where more than 50  
3 percent?

4 A. More than 50 percent of the households.

5 Q. Are below 50 percent of median income?

6 A. Correct.

7 Q. Do you know if that's a family figure or a  
8 household figure, more than 50 percent of households  
9 or more than 50 percent of families?

10 A. If you wait one minute, I am going to give  
11 you that for sure.

12 (Discussion off the record.)

13 (Recess taken.)

14 Q. On the garden apartment list, do you know  
15 which of these projects went into occupancy after 1980,  
16 do you have --

17 MR. PALEY: Mr. Gelber, might I request  
18 that if you are going to refer to that list, that we  
19 mark it?

20 MR. GELBER: Let's mark this deposition  
21 exhibit three.

22 (Exhibit D-3 marked for identification.)

23 Q. Do you need the question repeated?

24 A. No. That section of Birchview Gardens, 170  
25 units, would have been occupied after 1980 and

1 Ridgedale Gardens, portion of that development, I am  
2 sure was occupied after 1980.

3 Q. Do you know approximately how many?

4 A. No.

5 Q. When you have monthly rental costs, do you  
6 know if those include or exclude utilities?

7 A. In most cases, they include all utilities,  
8 they include, include all utilities, except electric.

9 Q. You said in most cases?

10 A. Yeah, we don't have the information for two  
11 of the complexes, Birchview and Ridgedale.

12 Q. So for all those except Birchview and  
13 Ridgedale, those prices include all utilities but  
14 electric?

15 A. Yes.

16 Q. And on Birchview and Ridgedale, you just  
17 don't know?

18 A. Correct. By the way, I started to answer a  
19 question before we took a break, and I would like to  
20 give you that information. We were talking about  
21 whether or not I knew the income of the residents of  
22 any of the garden apartments. You'll see on two maps,  
23 areas that are outlined on my copy in red and in your  
24 copy in heavy black lines. You'll see the titling on  
25 the top of those maps block groups with greater than

1 50 percent low to moderate income, and you'll see that  
2 for instance on the second sheet, it is noted as  
3 exhibit three, neighborhood labeled as east, part of  
4 census tract zero or neighborhood 003, the entire  
5 Pleasant View Gardens complex is incorporated within  
6 that. Similarly, Busch Campus, census block group  
7 number one and census tract number 5.02, and what  
8 amounts to all of Rutgers University.

9 Q. None of the apartment complexes identified  
10 on deposition exhibit three though are contained in  
11 the Busch Campus area?

12 A. No, but within the list that we were  
13 referring to previously.

14 Q. Are these student family apartments?

15 A. Student family apartments.

16 Q. Do you know the exact number of the units  
17 identified other than the census data you have now  
18 given me, do you know the exact number or proportion  
19 of the people occupying the apartment complexes on  
20 deposition, listed on deposition exhibit three, do you  
21 know their incomes, what proportion of low or moderate?

22 A. No.

23 Q. Do you have any intention of securing that  
24 information from the managers of these apartments?

25 A. I am not sure at this point.

1                   MR. GELBER: Let's have that exhibit  
2 that you were just referring to marked as deposition  
3 exhibit four.

4                   (Exhibit D-4 marked for identification.)

5           Q.     In Piscataway's pre-trial statement, there  
6 is a claim that 50 percent of the housing stock is low  
7 moderate income. Did you derive that figure by taking  
8 the information that's listed at the top of 41A and  
9 42A and determining what percentage that is of the  
10 total housing stock?

11           A.     Yes.

12           Q.     There is also a statement in the pre-trial  
13 statement to the effect that the overwhelming majority  
14 of students on the Livingston and Busch campuses of  
15 Rutgers University fall into the categories of low and  
16 moderate income?

17           A.     Correct.

18           Q.     On what do you base that statement?

19           A.     The document that we just marked as --

20           Q.     Deposition exhibit four?

21           A.     Four, as well as common knowledge that full  
22 time university students usually don't earn anywhere  
23 near median income of that area.

24           Q.     Do you know what proportion of those  
25 students contained on those campuses continue to be

1 dependent on their parents?

2 A. No.

3 Q. Do you know -- do you have any information  
4 on the income of the families of students who are  
5 continued, who continue to be claimed as dependants by  
6 their parents?

7 A. No.

8 Q. Do you know if dormitories or group quarters  
9 are considered in the determination of present need in  
10 the consensus report?

11 A. I don't believe they are.

12 Q. But I think it was your testimony earlier  
13 that it is considered in the models used in  
14 determining prospective --

15 A. In population projections.

16 Q. What about the employment model?

17 A. Which model?

18 Q. Well, there was an O.D.E.A. model one, I  
19 think was based on population projections based on  
20 employment data and then O.D.E.A. model two, I believe  
21 was based on population projections based on  
22 demographic information?

23 A. I don't know. I really don't know the  
24 answer to that.

25 Q. Now, all the information contained at the



1 bottom of your answers to 41A and 42A is contained in  
2 the deposition exhibit that we have just indicated.

3 Is that correct?

4 A. Correct.

5 Q. Do you have, in the Answers to  
6 Interrogatories, question 43, we asked for a list of  
7 all publicly assisted housing. Now, we got that  
8 earlier in the deposition. Right? Is there any other  
9 information that you have?

10 A. No.

11 Q. In answer to that?

12 Let me mark this as deposition exhibit five.  
13 It is an index for aerial photographs.

14 (Exhibits D-5 and D-6 marked for  
15 identification).

16 Q. Now, Plaintiff's Exhibit six is a series of  
17 photocopies of aerial photographs of Piscataway that I  
18 believe are taken in 1980 and 1981 by the county  
19 planning department or they were available from the  
20 county planning department, and the page numbers to  
21 the aerials are identified in the upper left corner  
22 and I'll be referring to those page numbers. What I  
23 would like to do is run through each one as quickly as  
24 possible and identify those tracts that were vacant at  
25 that point and to determine if they have now been

1 developed or subject to approved plans.

2 Now, the tracts are limited to only sizable  
3 tracts.

4 Let me show you deposition exhibit six, page  
5 2E. Is there anything --

6 A. That's --

7 Q. Forgetting 2E, going to 2F --

8 MR. PALEY: Off the record.

9 (Discussion off the record.)

10 (Deposition adjourned)

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1  
2 C E R T I F I C A T I O N  
3

4 I, MARY LUKENSOW, a Certified Shorthand  
5 Reporter, and Notary Public of New Jersey, do hereby  
6 certify that the foregoing is a true and accurate  
7 transcript of the deposition of LESTER NEBENZAHL, who  
8 was first duly sworn by me, at the place and on the  
9 date hereinbefore set forth.  
10

11 I further certify that I am neither attorney  
12 or counsel for, nor related to nor employed by any of  
13 the parties to the action in which this deposition was  
14 taken, and further that I am not a relative or  
15 employee of any attorney or counsel employed in this  
16 case, nor am I financially interested in the action.  
17  
18

19 Mary Lukensow  
20 A Notary Public of New Jersey  
21

22 Commission Expires:  
23 October 30, 1984  
24  
25

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION-MIDDLESEX COUNTY  
DOCKET NO. C-4122-73

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URBAN LEAGUE OF GREATER :  
NEW BRUNSWICK, et al, :  
Plaintiffs, : Civil Action  
-v- : Continued Deposition of:  
THE MAYOR AND COUNCIL OF THE : LESTER NEBENZAHL, P.P.,  
BOROUGH OF CARTERET, et al, ; A.I.C.P.  
Defendants. :

TRANSCRIPT of continued deposition of LESTER  
NEBENZAHL, P.P., A.I.C.P., taken before NANCY BOUSELLI,  
a Certified Shorthand Reporter and Notary Public of the  
State of New Jersey, at the PUBLIC WORKS CENTER, Piscataway  
Municipal Complex, Piscataway, New Jersey, on Friday,  
March 23, 1984, at 12:15 p.m.

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PENGAD CO., BAYONNE, N.J. 07002 FORM 2046

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I N D E X

WITNESS

DIRECT

Lester Nebenzahl  
by Mr. Gelber

3

E X H I B I T S

NO.

DESCRIPTION

IDEN.

D-1

Vacant land map

7

1 MR. PALEY: Mr. Gelber, we are here to  
2 continue the deposition of Mr. Nebenzahl, whom  
3 you deposed two days ago, if memory serves. During  
4 that day Mr. Nebenzahl had previously been  
5 sworn, and as far as I am concerned, may continue  
6 with his deposition.

7 MR. GELBER: Okay.

8 L E S T E R N E B E N Z A H L, having been previously  
9 duly sworn according to law, testifies as follows:

10 CONTINUED DIRECT EXAMINATION BY MR. GELBER:

11 Q Mr. Nebenzahl, just to clarify something,  
12 if you could look at the answers to interrogatories,  
13 now the information that is provided in answer to  
14 interrogatories 27 and 33, was that compiled by you or  
15 your staff?

16 A Yes.

17 Q Okay, and to the best of your knowledge,  
18 is that information accurate?

19 A Yes.

20 Q Now again to confirm something I believe  
21 we talked about two days ago, Chart 27-D and Chart 33-A,  
22 B and C, include a complete list of all vacant land  
23 in the Township; is that correct?

24 A Yes.

25 Q Okay Now that list does not include park

PENGAD CO., BAYONNE, N.J. 07002 FORM 2046

1 lands, is that correct?

2 A Correct.

3 Q Okay, and you did not include land owned  
4 by Rutgers University or owned by the Federal government?

5 A I believe one large piece of property was included.  
6 All the vacant land shown in the E. and E.R. Zones would  
7 be Rutgers University. There is 250 acres shown lying  
8 within the Education Zone, and 113.57 acres shown in  
9 the E.R. Zone.

10 Q Not all of the land, though, shown in the  
11 E.R. Zone is owned by Rutgers; is that correct?

12 A Well, given the block and lot, we could check  
13 that with the tax book.

14 Q Let's wait for that. We'll get to that.  
15 So you're saying that all vacant land in the Township  
16 that is owned by Rutgers is included in 27?

17 A We have had to estimate the portion of the Rutgers'  
18 holdings, which totals near 1200 acres, I believe, as to  
19 what portion of that land could be considered developable  
20 or vacant.

21 Q I see. Have there been any demolitions  
22 or fires or any other occurrences that would have made  
23 a sizeable tract vacant in the last few years?

24 A Not to my knowledge.

25 Q Now just again to confirm something, am I

1 correct in my understanding that the tracts that are  
2 identified in answers to interrogatory 27-E and F, I and J  
3 and K and L, are all the vacant parcels in the Township  
4 that would not be sizeable for residential development,  
5 because they are subject to an approved site plan, or  
6 they are subject to some physical or environmental con-  
7 straints?

8 MR. PALEY: As of the date of the  
9 answers to interrogatories?

10 MR. GELBER: That's correct.

11 THE WITNESS: Yes. Since that time I  
12 would point out various applications have been  
13 filed in our offices for some of those tracts.

14 Q Have any of those been approved?

15 A Let's see. I would have to check the Planning  
16 Board agendas and the Zoning Board agendas for January  
17 and February, as well as March.

18 Q As of what date are these answers current?

19 A The beginning of January, 1984.

20 Q Could you take a look at the list contained  
21 in the answer to interrogatory 27-D?

22 A Yes.

23 Q And tell me which of those parcels are not  
24 suitable for high density residential development for  
25 any other reasons other than the ones already indicated



1 in the answers? Well, let me ask you, have you pre-  
2 pared an analysis of the parcels contained in 27-D in  
3 terms of their suitability for residential development  
4 for purpose of this case?

5 A Nothing has been prepared in written format other  
6 than the response to the interrogatories.

7 Q Do you intend to prepare one?

8 A We intend to prepare graphic material and  
9 support that material with testimony at trial, I assume,  
10 as to why certain parcels are not particularly suited  
11 for residential development or high density residential  
12 development.

13 Q Have you begun preparing that analysis?

14 A My staff has begun to prepare that.

15 Q Have you reviewed any of that work to date?

16 A No.

17 Q When do you anticipate completing that  
18 analysis?

19 A Approximately a week.

20 Q When do you anticipate that we will be  
21 receiving copies of the analysis and the graphics?

22 A I don't know that what we are producing will be  
23 reproduceable, so that the only exhibit that we will  
24 use at trial may be the only graphic information that  
25 we prepare.

1 Q When will it be available for inspection?

2 A Next week.

3 MR. PALEY: Off the record.

4 (A recess is taken.)

5 (Received and marked for identification  
6 Exhibit D-1.)

7 Q What we have done during the break is gone  
8 through all of the vacant parcels identified in answers  
9 to interrogatory 27-D, and some of the parcels identified  
10 in answer to interrogatory 33, question 33, and have  
11 plotted them on a map showing the vacant parcels in the  
12 Township, and the map has been identified as defendant's  
13 deposition exhibit one. What I would like to ask you now  
14 is to run through these parcels, and I would like to  
15 obtain your opinion as to whether or not they are suitable  
16 for residential development, and if not, why not?

17 Why don't we take them in numerical order.  
18 That is probably easier.

19 Okay, the parcel identified as parcel  
20 number one?

21 A In my view parcel number 1 is suitable for resi-  
22 dential development.

23 Q What about parcel number 2?

24 A Parcel number 2 lies adjacent to a large steel  
25 fabricator, the Harris Steel property, as it is referred

1 to. The actual steel process, or manufacturing or  
2 fabricating process itself, occurs directly across the  
3 street in South Plainfield, and that property is, I be-  
4 lieve, owned by the Harris Steel owners. The largest  
5 parcel, that parcel lying below and to the south of  
6 Lakeview Avenue, is traversed by a stream, and would re-  
7 quire large buffering to protect any prospective resident  
8 from the nuisances associated with living adjacent to that  
9 industrial use.

10 Q Isn't there a fair amount of buffering  
11 along New Brunswick Avenue?

12 A Yes, there is. That land is highly wooded.

13 Q Between parcel number 2 and the industrial  
14 use that you are referring to?

15 A The entire tract is wooded. On parcel number 2,  
16 however, on the southerly portion of number 2.

17 Q Using a clustering effect, wouldn't it  
18 be possible to develop it as residential because of  
19 the size of the tract?

20 A Yes, it would.

21 Q What about tract number 3?

22 A Tract number 3 is an area zoned presently as a  
23 shopping center. It comprises approximately 30 acres  
24 and again, that property is traversed by a stream. It  
25 would be feasible, I imagine, from an environmental view

1 to develop that property in residential use, although  
2 I see it as a prime site for necessary shopping services,  
3 that for which it is zoned, to serve existing residents  
4 in the area.

5 Q Is there other shopping in the area?

6 A There is some shopping to the west on Stelton Road  
7 approximately a mile away from that shopping center, but  
8 if a shopping center were developed, for instance, for  
9 parcel number 3, it would be serving the 3,000 garden  
10 apartments known as Pleasant View Gardens, which lies  
11 adjacent to that site, as well as numerous single family  
12 residential dwellings existing in the area.

13 Q Would it be possible to develop residential  
14 use on a portion of that site, and retain a portion  
15 for shopping?

16 A Yes.

17 MR. PALEY: Mr. Gelber, I agree with  
18 your suggestion that we go down each lot  
19 numerically. Let me just put a caveat on the  
20 record, okay? It's my understanding that  
21 your questions presuppose that each lot is  
22 being analyzed in isolation, and that Mr. Neben-  
23 zahl's responses to your questions should be  
24 viewed in light of each lot in isolation, not  
25 necessarily in the aggregate. With that caveat

1 I think he can go on, but I wanted to put that  
2 on the record.

3 MR. GELBER: I'm not sure I understand the  
4 caveat.

5 MR. PALEY: Well, the last time that we  
6 were here, Mr. Nebenzahl, despite his problems  
7 of communicating with clogged nasal passages,  
8 indicated that although a specific site might  
9 be suitable or appropriate for residential  
10 development, the consideration of general planning  
11 factors, including such phenomena as the character  
12 of the neighborhood and the character of the town,  
13 without going into it, might preclude development  
14 of a particular parcel otherwise topographically  
15 suited for development. I am interpreting your  
16 questions so far to refer to each lot in isolation  
17 and not to enlist from him a recommendation  
18 as to whether development of that particular lot  
19 is appropriate considering all of those develop-  
20 mental factors.

21 MR. GELBER: Okay. That's not entirely  
22 correct. The question is, is there any reason  
23 why that particular tract in that location would  
24 not be suitable for residential development, any  
25 reason, and if what you are saying is that am I

1 asking him to compare that tract with other  
2 tracts and compare which would be more suitable,  
3 no, I'm not. I'm asking whether or not there  
4 is any reason other than those given in the  
5 answers to interrogatories that would make that  
6 tract unsuitable for residential development.  
7 Does that clarify it?

8 MR. PALEY: I think that is a clear  
9 question, and I wonder if you would ask Mr. Neben-  
10 zahl his answer for parcel 1, 2 and 3, would  
11 change or be affected by the elucidation of that  
12 question you have just provided.

13 Q Well, you can modify or clarify anything  
14 you have said in the deposition.

15 A Well, that general area of Piscataway encompassing  
16 the vacant tracts which we have labeled 1, 2, 3, 4 and 5,  
17 and 6, for that matter, is the most densely developed  
18 area of Piscataway. Any development which will  
19 generate additional traffic will be adding to an already  
20 congested situation in terms of traffic movement. I  
21 think I mentioned previously that the owners of tract  
22 number 2 are industrial users. They own property adjacent  
23 to that property. They have never shown any interest  
24 in developing any property residentially, and in terms  
25 of tract number 3 I feel that that land should be set

1 aside for commercial purposes in light of the existing  
2 need of the residents in the area.

3 Q Have you prepared any analysis or studies as  
4 to the need for commercial use in that area?

5 A Not separate and apart from our Master Plan studies.

6 Q So whatever studies you have are contained  
7 in the Master Plan studies?

8 A Yes.

9 Q And are you referring to the draft, the  
10 1984 draft Master Plan?

11 A The Master Plan was adopted in October of 1983.

12 MR. GELBER: Off the record.

13 (A discussion off the record.)

14 Q I have in front of me the Piscataway  
15 Township Master Plan indicated as adopted October 12,  
16 1983. Is that the Master Plan you are referring to?

17 A Yes.

18 Q And all the data or studies supporting your  
19 contention about the need for commercial use in the  
20 area would be contained within this document?

21 A It would be summarized by that document. There  
22 are numerous planning documents and reports that have  
23 been done during the years that would contribute to that.  
24 Those properties have had the same designation in the  
25 Master Plan of Piscataway for many years, and all of the

1 prior Master Plans have shown that property the same  
2 way, the same way that the 1983 Master Plan does.

3 MR. PALEY: By property, are you referring  
4 to a specific parcel in answer to the last ques-  
5 tion?

6 THE WITNESS: Tract 1, 2 and 3.

7 Q Has any developer expressed an interest  
8 to the Township to develop tract number 3 for any use,  
9 let's say in the last five years?

10 A Yes.

11 Q And what is that?

12 A For a shopping center.

13 Q Is there an application currently pending?

14 A No, there is not.

15 Q Do you know why it has not been developed  
16 as a shopping center?

17 A No.

18 Q You refer to traffic problems in that area.  
19 Have you prepared any analysis or conducted any studies  
20 relation to traffic problems in the area that are not  
21 contained in the Master Plan?

22 A No, but I have personally attempted to proceed  
23 north on New Brunswick Avenue, for instance, in my own  
24 automobile during a rush hour, and have been delayed  
25 in my travels due to that traffic congestion.



1 Q Can that traffic congestion be mitigated  
2 by road widening or road improvements?

3 A I don't think so realistically, because there are  
4 major barriers to any road improvement such as the  
5 existence of Newmarket Lake and the appurtenant structures.  
6 It could be done engineering-wise, I suppose. Whether it  
7 is feasible, I doubt it due to the cost that would  
8 probably be involved.

9 Q Does the Township have any plans to improve  
10 any of the roads in that neighborhood to relieve the  
11 traffic?

12 A Not immediate plans, to my knowledge.

13 Q Is there a traffic or transportation or  
14 circulation report that has been prepared by the Town-  
15 ship prior to adoption of the 1983 Master Plan?

16 A There is a circulation plan that is contained within  
17 the Master Plan developed. There have been various studies  
18 prepared by other governmental agencies and their con-  
19 sultants concerning traffic in Piscataway, such as the  
20 Route 18 study prepared by P. R. C. Harris, Incorporated,  
21 and the Route 287 study prepared by Garmen Associates  
22 for both the State Department of Transportation and  
23 Middlesex County.

24 MR. GELBER: Off the record.

25 (A discussion off the record.)

1 Q In your opinion is the tract identified  
2 as tract number 4 suitable for residential development?

3 A A portion of Tract 4 could be developed eventually  
4 in my view. It is a portion of a property which is  
5 owned by Eastern Steel Barrel, which is a manufacturing  
6 company. I would assume that that corporation would  
7 probably choose to hold that land in case they find a  
8 need for expansion, or as a natural buffer area between  
9 existing residential uses in the area, and their facility,  
10 since many residential property owners in that neighbor-  
11 hood have appeared before the Planning Board and voiced  
12 their concerns regarding the manufacturing operation  
13 at that plant.

14 Q So Eastern Steel actually has a currently  
15 operating facility south of the tract identified as 4?

16 A Correct.

17 Q Does Eastern Steel own the entire tract?

18 A Correct. It is actually part of -- tract number 4  
19 is part of the same lot where the manufacturing facility is  
20 located.

21 Q Well, are there any other reasons why that  
22 tract would not be suitable for eventual development?

23 A Other than the existence of the actual use  
24 serving to be a nuisance to any potential residential  
25 users, I suppose in the middle of that portion of that

1 tract some housing could be constructed. I doubt  
2 whether or not that is a realistic assumption, though.

3 Q Approximately what portion -- strike that.

4 Approximately how many acres would be neces-  
5 sary to provide a sufficient buffer to enable residential  
6 development on the remainder of the tract?

7 A I think that would depend on many factors. It  
8 would depend on Eastern Steel Barrel's for the future  
9 as to whether they would expand their operation, for  
10 instance. It depends in good measure on the environmental  
11 studies really that are being conducted presently on the  
12 adjacent tract, which we have noted as number 5, which is  
13 contaminated, and whether or not any of that soil or  
14 that contamination has affected that soil in tract 4.  
15 The answer really is I wouldn't know until I saw plans  
16 before me to make an adequate decision as to an adequate  
17 buffer.

18 Q Have you received any preliminary studies  
19 concerning the nature or extent of the contamination on  
20 tract 5?

21 A I personally have not.

22 Q Do you know if those are available?

23 A I don't know where they are available. I would  
24 assume the Department of Environmental Protection or  
25 E.P.A., the Federal Environmental Protection Agency, would

1 have some data that would be made available to the  
2 public. I have not seen any reports.

3 Q Has that tract been qualified for Super  
4 Funds Assistance?

5 A Yes, it has. To my understanding it has, yes.

6 Q Does that apply to the entire tract?

7 A Yes, as far as I know.

8 Q In your opinion is there any reason the  
9 tract identified as tract no. 6 could not be developed  
10 for high density residential use?

11 A That tract presents numerous traffic problems,  
12 in addition to it being bordered on the southerly side  
13 by a railroad and a pipeline.

14 Q Does the Township or the County or any  
15 other governmental entity have any plans to improve  
16 roads adjacent to or near that tract?

17 A Not to my knowledge.

18 Q In your opinion could the traffic problem  
19 be mitigated through governmental improvements, road  
20 improvements?

21 A I don't know of any feasible road improvement  
22 that could be undertaken, which would alleviate the  
23 bottlenecks that are now existing along that portion  
24 of Old New Brunswick Road. Even if Old New Brunswick  
25 Road adjacent to that property were widened, for instance,

1 the intersection with Stelton Road becomes a major  
2 problem, and in essence what you would have would be  
3 a wider roadway emptying into a narrower roadway, with  
4 the same bottleneck occurring. I know that our adminis-  
5 tration receives numerous requests for assistance from  
6 the apartment dwelling owners on the north side of Old  
7 New Brunswick Road, who have an unbelievably difficult  
8 time trying to exit from the driveway located adjacent  
9 to Old New Brunswick Road on the north side, to enter  
10 onto that road in the morning, in order that they can  
11 have access from the property and be on their way to work.  
12 The traffic backs up and is at a standstill for almost  
13 the entire length of Old New Brunswick Road during rush  
14 hour.

15 Q Does the Township have any plans in response  
16 to those requests?

17 A I know that we have been trying to come up with  
18 feasible solutions for well over a year, and to date we  
19 have not been able to do so.

20 Q Has the Township retained any outside con-  
21 sultant or assistant in examinig that problem?

22 A Not to my knowledge.

23 Q If that problem were to be corrected in  
24 response to the complaints by the residents north of  
25 Old New Brunswick Road, wouldn't it be possible then to

1 allow residential development in the area south of  
2 Old New Brunswick Road?

3 A Any additional development on that property,  
4 any additional development now, will cause a problem  
5 in terms of additional traffic. At the present density  
6 or the present zoning with the allowable density at  
7 approximately two dwelling units per acre, the amount  
8 of trip generation is considerably less than what would  
9 occur at a higher density such as ten units per acre,  
10 and until that situation were resolved for the existing  
11 problems, that would only aggravate the problem further.

12 Q All right. Are there any other reasons  
13 other than those that you have just stated why that  
14 tract could not be developed for high density use?

15 A The provision for more density at that specific  
16 location would fly in the face with other stated goals  
17 and objectives of the Master Plan, such as the objective  
18 to disperse or to spread out throughout Piscataway the  
19 higher density uses which cause increased trip generation.  
20 When the Planning Board conducted its Master Plan studies,  
21 one of the items which was looked at in considerable  
22 detail was the existing location of high density housing,  
23 or higher density housing, and those high trip generation  
24 factors, and when the Board looked at the existing  
25 situation and chose those sites for increasing density,

1 this was decided not to be one of those for that very  
2 one reason being that very goal and objective.

3 Q Any other reasons?

4 A No.

5 Q What about the tract in and of itself?  
6 Is it a suitable tract for residential use?

7 MR. PALEY: Topographically speaking?

8 Q Topographically, environmentally, and  
9 physically.

10 A Other than the existence of the railroad adjacent  
11 to it, and the pipeline, I believe there are some  
12 sections of the tract which have a high water table which  
13 holds water, but could probably be overcome with engineer-  
14 ing.

15 Q What about tract 7? Well, let me ask you,  
16 tract 7 is what we discussed the other day and identified  
17 on plaintiff's exhibit 2 as "A", is that correct?

18 A Correct.

19 Q It is currently zoned for PRD use?

20 A Correct.

21 Q Okay. What about tract 8 adjacent to  
22 that? Is that suitable for residential development?

23 A Tract 8 encompasses a portion of a previous  
24 chemical manufacturing company, which is no longer in  
25 operation, and that would be ARCO or Air Products

1 Reduction, and attendant with that use of that property  
2 was some very dangerous substances to the point where  
3 I recall signs being posted around that area that there  
4 were potentially cancer-causing agents being used, and  
5 no one should enter their property.

6 MR. PALEY: Off the record a minute.

7 (A discussion off the record.)

8 THE WITNESS: There is an existing indus-  
9 trial use, light industrial use, now in place  
10 of that facility. It is called Reometrics, and  
11 there are, I believe, industrial facilities being  
12 utilized in Middlesex, the Borough of Middlesex,  
13 adjacent to the northern border of that property.  
14 I think it forms a transition for what will be  
15 the PRD we just mentioned, and the existing indus-  
16 tries in the area. I think that property is more  
17 suited for that which it is zoned.

18 Q Is the light industrial use by Reometrics  
19 in that tract?

20 A Correct.

21 Q Let's mark that as 8-A.

22 Mr. Nebenzahl, is there a sufficient  
23 amount of land in tract 8 to enable the expansion of  
24 the PRD site into a portion of that tract, and still  
25 retain sufficient buffering? I believe your answer to



1 interrogatories showed that the tract has about 35 and a  
2 half acres.

3 A I would suppose that a portion of that tract  
4 could feasibly be developed residentially and used to  
5 provide additional buffering. I believe it is in various  
6 ownerships.

7 Q Well, that tract is not owned by Reometrics?

8 A I don't believe so. I believe it is owned by  
9 Halo Carbon Products, which has recently filed for sub-  
10 division of the property.

11 Q What is the nature of that application?

12 A To subdivide the property wherein the existing  
13 Reometrics facility is located from the remainder of  
14 the holdings of Halo Corporation.

15 Q For what type of use?

16 A It has not been indicated to us.

17 Q And the application applies to the Reometrics  
18 site as well as the other?

19 A Correct.

20 Q Do they have an option to purchase that  
21 land?

22 MR. PALEY: Does who have an option to  
23 purchase what land?

24 MR. GELBER: Does Halo Carbon Products  
25 have an option to purchase the Reometrics site?

1 THE WITNESS: The history of this property  
2 is interesting and complex. Halo Carbon originally  
3 purchased the entire tract from Air Products, and  
4 attempted to construct a chemical manufacturing  
5 facility with attendant tank farm uses, and  
6 appeared before the Planning Board for additional  
7 use permits, I believe, or site plan approval  
8 to do so.

9 MR. PALEY: Site plan approval.

10 THE WITNESS: The Planning Board denied  
11 the application, citing as one reason the potential  
12 impact that that use would have on the PRD area  
13 when it was developed, and that case went to liti-  
14 gation and the Township was upheld in its deter-  
15 mination. That case also led to a re-evaluation  
16 of the existing industrial land use zoning within  
17 the municipality, and led to the classification  
18 of light industrial uses from other industrial  
19 uses within the Township. It was approximately  
20 1982 or 1981.

21 Subsequent to the litigation, Reometrics  
22 entered into a contract with Halo Carbon Products  
23 and actually purchased the entire piece and had  
24 some arrangement with Halo Carbon that Reometrics  
25 would work with them to subdivide the property.

1 Q By the entire piece, you mean 8-A, Reometrics  
2 purchased the entire piece?

3 MR. PALEY: 8 and 8-A.

4 THE WITNESS: What is 8-A?

5 MR. PALEY: 8-A is where Reometrics is now.

6 THE WITNESS: Oh, okay.

7 Q Have you had any informal discussions  
8 with either Reometrics or Halo Carbon, as to the proposed  
9 use for the entire tract?

10 A No. We have had formal applications by Halo Car-  
11 bon now.

12 Q For subdivision?

13 A For subdivision.

14 Q And what is the status of the application?

15 A It has been deferred by the Planning Board for  
16 further study as to the exact location of the collector  
17 road known as Birch Run Drive, which would connect  
18 Possumtown Road to and through the PRD.

19 Q Is it possible to rezone that entire area  
20 identified as 8 and 8-A to residential use, so that if  
21 the use now occupying 8-A were to discontinue, the entire  
22 tract would be available for residential use?

23 A I suppose it would be possible. I don't think  
24 it would be necessarily wise.

25 Q Why not?

1 A In light of the comprehensive Master Plan study  
2 that was recently hammered through by the Planning Board  
3 and the governing body through the adoption of the zoning.  
4 I would think that the property owner, whether it be Halo  
5 Carbon or Reometrics may have considerable problems with  
6 that approach, and I think the light industrial zoning  
7 serves the function of providing the buffering between  
8 the 88 acre piece of property that is already zoned  
9 for PRD.

10 Q Earlier you were discussing the use of  
11 the property by ARCO.

12 MR. PALEY: Air Products, please.

13 Q Is there any contamination on the site  
14 resulting from that former use?

15 A I don't know.

16 Q Is there any other reason other than those  
17 you have just stated, why that could not be developed  
18 as residential?

19 A I can't think of any at the present time.

20 Q Okay. What about tract 9? Well, actually  
21 for ease, why don't we discuss tracts 9, 9-A, 10, 11, 12  
22 and thirteen.

23 A Okay.

24 Q Is that what has been referred to as the  
25 Miller farm, I believe?

1 A No. That would be the Sudzin tract.

2 Q Is that tract suitable for higher density  
3 residential development?

4 A This property lies adjacent to a very large indus-  
5 trial user in Piscataway, that being Union Carbide, known  
6 as the Bound Brook plant, and Georgia-Pacific Corporation  
7 to the north.

8 Q Why don't we identify the site. That is  
9 the area immediately to the north?

10 A Correct. I have serious doubts as to whether  
11 a great portion of that property can feasibly be developed  
12 for residential purposes due to the existence of those  
13 **manufacturing facilities.**

14 Q If you added all of the tracts identified  
15 as 9 through 13, isn't that a very sizeable area?

16 A Yes, it is.

17 Q Is it possible to establish buffering  
18 between residential use and the industrial use you have  
19 just referred to?

20 A It's possible. However, this particular property  
21 is very flat. It has been farmed. There are no woods  
22 or wooded areas existing between the manufacturing uses  
23 and the residential properties. In my view it's one  
24 of the least desirable places to live in Piscataway,  
25 given choices relative to other residential sites in

1 the Township.

2 Q Is there a sufficient amount of land between  
3 the industrial use and tracts identified as 10 and 12  
4 to permit feasible development of residential use?

5 A The Master Plan and the zoning show a business  
6 professional zone that is marked as number 11 on the map,  
7 BP-1 zone. That was an effort to provide a buffer between  
8 the remainder of the tract and the industrial use we  
9 have just mentioned. When that plant is in full oper-  
10 ation no natural or planted buffer will do away with  
11 some of the nuisances involved with that operation, such  
12 as odors, vibration and noise.

13 Q If those problems exist, why are those  
14 sites now zoned for low density residential?

15 A It's my feeling that there is a portion of the  
16 property which could be developed. I think the more  
17 people that live there, the more people there will be  
18 to be exposed to those nuisance generating characteristics.  
19 Under the existing R-20 and R-15 zoning regulations,  
20 housing can be clustered and kept as far away from the  
21 plant as possible. There are access problems in that  
22 area as well in that the only non-residential, or the  
23 only access that would be available to the property  
24 other than existing local roadways which have residential  
25 uses located on them or adjacent to them, would be from

1 River Road, which is restricted in its ability to be  
2 widened as a County road, and any use other than residential,  
3 such as office or more industrial, would necessarily  
4 cause serious traffic problems for those local roadways  
5 and River Road as well.

6 Q With respect to the buffering from the  
7 manufacturing use, then is it your testimony that with  
8 clustering portions of that tract it could be developed  
9 for residential use?

10 A They can. If in fact they will, I think is  
11 another issue. I think on the open market it would be  
12 one of the last sections of Piscataway to be developed  
13 residentially.

14 Q There are presently residential developments  
15 both south and east of the tract you are referring to?

16 A That's correct.

17 Q Is that correct?

18 A Right.

19 Q What about tract 14?

20 A Tract 14 is a 66 or 67 acre parcel with its  
21 entire southerly border adjacent to Interstate 287, with  
22 limited access. That is, it has no access onto the high-  
23 way at the present time. All of the access into that  
24 property will again necessarily be tied into existing local  
25 roadways.

1 Q Is that what has been referred to as  
2 the Miller farm?

3 A Correct. There is a pipeline running through a  
4 portion of that site, and it is relatively narrow, although  
5 very long. If and when that property is developed for  
6 residential use, there will be significant noise impact  
7 associated with residents who may wish to reside on  
8 that property, because of the existence of Route 287 on  
9 one hand. On the other hand, it presents very prime  
10 land for office use if the access question can be  
11 resolved, and we have had informal -- as a matter of  
12 fact, during the Master Plan we had a request by a  
13 contract purchaser to develop that property for office use.

14 Q That land is currently zoned for R-20?

15 A Yes.

16 Q Why is it not zoned for commercial use  
17 if that is, in your opinion, the best use?

18 A I feel that the Planning Board thought, and I  
19 agree at this time since no concrete plans to resolve  
20 the access issue were set forth by the contract pur-  
21 chaser, the Board was very reluctant to allow a high  
22 traffic generater to tie into those local roads with  
23 no access directly onto 287.

24 Q With road improvements, is it not possible  
25 to provide access to that tract?



1 A I suppose it would be possible. I think it  
2 would involve a Federal and State approval of access  
3 directly from an Interstate highway, and given the very  
4 difficult process which our governing officials have  
5 been involved with over the last ten or fifteen years,  
6 that's a very difficult situation, to say the least.

7 The westerly portion of that property is actually --  
8 the access is actually limited to a thirty or forty foot  
9 strip on River Road because of the existence of the  
10 interchange and the State and Federal restrictions on  
11 the access to the Interstate.

12 Q Isn't it possible to provide access from  
13 the tract to the north through the existing neighborhood,  
14 or to the east through a relatively small existing  
15 neighborhood?

16 A It would be possible to tie into the existing  
17 local roadways, yes.

18 Q Is 287 an elevated highway at that point  
19 along tract 14?

20 A Elevated? I'm not sure, but I don't believe  
21 that it is significantly higher in elevation than the  
22 farm. Well, yes, it is. It is elevated. It looks to  
23 be about twelve to thirteen feet higher than the farmland  
24 itself. I don't think that elevation would mitigate to  
25 any great extent the sound of tractor trailers, for

1 instance at four o'clock in the morning when someone  
2 was trying to sleep in that vicinity.

3 Q Are there any additional buffers that  
4 currently exist to the north side of 287 at this point?

5 A No, that is a field.

6 Q And it's your opinion that the height  
7 of the highway would not reduce the noise level?

8 A It may reduce it somewhat, but not significantly,  
9 because I know personally that people have called me who  
10 live in the existing residential development to the north,  
11 and have voiced their anxiety and concern that they are  
12 troubled in the middle of the night by noise.

13 Q What about tract 15?

14 A What about it?

15 Q Is it suitable for residential use?

16 A No, it's not.

17 Q Why not?

18 A The majority of that lies within the flood plain.

19 Q Is that on the hundred year flood plain?

20 A I don't believe that has been mapped by the Federal  
21 Flood Insurance Agency, so that my answer is I don't  
22 know. I do know that the Master Plan and the governing  
23 body by commissioning a study which dealt with flooding  
24 problems in Piscataway, that study dealt with the Ambrose  
25 and Tudy brooks. I don't recall whether that particular

1 stretch of the brook was mapped. Our Master Plan  
2 shows that tract as being recreational and conservation  
3 land, which in my view is proper planning given the  
4 general conditions of that area, even for a flooding  
5 not of the magnitude of a hundred year storm.

6 Q What was the name of the study you just  
7 referred to?

8 A Ambrose-Doty's Brook Flood Plain Study. It was  
9 prepared by T & M Associates approximately two or three  
10 years ago.

11 Q Do you have extra copies of that study?

12 A No, I don't believe we do. There are some copies.  
13 We only have one or two office copies and we use that  
14 for our every day business in terms of development review.  
15 I don't think that can leave our office.

16 Q Okay Is there any --

17 A It's available for inspection.

18 Q Is there any portion of that tract, let's  
19 say the westerly portion, which would be available for  
20 residential development, in your opinion?

21 A In my opinion, nothing. I don't know. I would  
22 have to look at the flood maps.

23 Q What about tract 16? Is that suitable  
24 for residential development?

25 A Not in my view.

1 Q Why not?

2 A Tract 16, as tract 17, tract 18, tract 19 and  
3 tract 20, lie in the midst of an industrial area known  
4 as Rutgers Industrial Center. Beecham Labs, a very large  
5 pharmaceutical manufacturing facility, is located on  
6 Zirkel Drive North, on the southerly portion of that  
7 road. It manufactures such products as penicillin, and  
8 again the existence of those types of land uses are not  
9 consistent with sound planning in terms of compatability  
10 of land use types.

11 Q Could you locate on the map for me the  
12 penicillin plant, just roughly?

13 A I think it's there (indicating).

14 Q Between 17 and 20?

15 A Yes. I may point out additionally that the  
16 access to that entire industrial development wherein  
17 large trailer trucks are constantly traveling, is limited  
18 to only two access points and any residential use would  
19 then be subject again at all hours of the night to the  
20 noise attendant with those large vehicles traveling by  
21 the doorsteps.

22 Q What is the nature of the use surrounding  
23 tract 16?

24 A Industrial.

25 Q Those are currently in operation?

1 A Yes.

2 Q Is that clean industry?

3 A I would not refer to that industry as clean in  
4 terms of its potential impact on residential uses.

5 Q What is the nature, just for example?

6 A There are manufacturing facilities. There are  
7 warehousing facilities. Again, just the existence of the  
8 pharmaceutical plant itself in my view is enough.

9 Q Even though that pharmaceutical plant is  
10 separated by some distance from tract 16?

11 A I don't consider that a considerable distance  
12 whatsoever.

13 MR. PALEY: Off the record.

14 (A discussion off the record.)

15 Q Mr. Nebenzahl, in your opinion would  
16 tract 21 be suitable for residential development?

17 A No.

18 Q Why not?

19 A It lies adjacent to Route 287 and also lies  
20 adjacent to what used to be known as Tenneco Chemicals,  
21 now called Nuodex Chemicals, another chemical manufacturer.

22 Q That is currently in operation?

23 A Correct. In addition to the chemical facility,  
24 lying to the east of what used to be the Tenneco facility  
25 now called Nuodex, is a heavy industrial user, American

1 Can Company, lying directly to the north, and Route 287  
2 lies adjacent to the southerly portion. So again there  
3 would be numerous noises and traffic problems associated  
4 with residential development at that location. I believe  
5 American Can operates all night, and I believe Nuodex  
6 operates all night as well. There is also streams running  
7 through the property. The J.C.P. & L. has an easement  
8 because power lines run through the property. There is  
9 a host of easements and other problems associated with  
10 residential development.

11 Q Okay. Is tract 22 in your opinion suitable  
12 for residential development?

13 A Absolutely not.

14 Q Why not.

15 A Tract 22 is a five acre piece of property located  
16 in the midst of the Sun Belt of New Jersey. It is  
17 surrounded by large corporate office structures, and  
18 lies adjacent to Centennial Avenue. If for instance  
19 that property was zoned residential at any density, and  
20 the Zoning Board were asked to grant a use variance  
21 for any commercial use, at that juncture the Zoning  
22 Board would be bound by common sense even to grant the  
23 variance.

24 Q Is tract 23 suitable for residential  
25 development?

1 A Absolutely not.

2 Q What is the nature of the surrounding uses?

3 A Tract 23 is surrounded by light industrial and  
4 office development. It lies adjacent and actually has  
5 frontage along Route 287, Centennial Avenue and also New  
6 Brunswick Road. A portion of the property lies within a  
7 flood plain of the Ambrose Brook.

8 Q Is that only a small portion of that tract  
9 that lies in the flood plain?

10 A We have estimated approximately eight acres of  
11 the property to lie within the flood plain, and be  
12 undevelopable for any purpose. Any residential users  
13 would again be subject to tremendous noise and traffic  
14 problems at all hours of the night, and any potential  
15 residents would have difficulty sleeping, in my view.  
16 There is warehousing and office use located directly to  
17 the east, and again I believe those operations continue  
18 through on a twenty-four hour basis.

19 Q And with respect to the same question,  
20 what is your opinion with respect to tract 24 and 25?

21 A I have the same opinion with regard to tracts 24  
22 and 25. They lie in the midst of the light industrial  
23 use existing on both sides of Interstate Route 287. The  
24 property has frontage on an access road lying adjacent  
25 to 287, and again any potential residents would have to

1 be subject to tremendous noise problems.

2 Q What's the nature of the activity or uses  
3 along Seeley Drive?

4 A Seeley Drive has various industrial users located  
5 along it. It is part of an industrial subdivision. It  
6 is Fromm Electric, which is a warehousing supply facility,  
7 and Bosch Packaging, which is located along Seeley Drive.

8 MR. GELBER: Off the record.

9 (A discussion off the record.)

10 Q I think two days ago you said that the  
11 answers to interrogatories concerning the amount of vacant  
12 acreage in the R-8 zone was incorrect, and it should read  
13 138 rather than 118; is that correct?

14 A Correct.

15 Q Along River Road, between River Road and  
16 the Raritan River is this long stretch of land which is  
17 zoned RR-1?

18 A Correct.

19 Q What is the nature of that land? That's  
20 not available for development; is that correct?

21 A That's correct.

22 Q And why not?

23 A Because Middlesex County operates Johnson Park,  
24 a County wide park facility, the absolute best use for  
25 the property since it is all within the flood plain of



1 the Raritan River.

2 Q The entire RR-1 tract is within the flood  
3 plain?

4 A Just about the entire tract.

5 Q Is that owned by the Township or the County?

6 A The County.

7 Q It's owned by the County?

8 A Yes.

9 Q Okay. What about the portion that is  
10 zoned for RM? Is that subject to the same constraints?

11 A No.

12 Q Why is that?

13 A First of all, it is developed except for maybe a  
14 one or two acre parcel in between. That is all developed  
15 in garden apartments, and that portion which is low land  
16 is a municipal park.

17 Q Where is that, to the southerly portion  
18 of that?

19 A The southerly portion of that piece, an eight acre  
20 piece.

21 Q Earlier today you mentioned that there  
22 have been several applications filed on some of the  
23 vacant parcels, is that correct, applications for prelimi-  
24 nary site approval or some other approval?

25 MR. PALEY: Throughout the municipality

1           regardless of zone?

2           MR. GELBER: That's correct.

3           THE WITNESS: Correct.

4           Q       Do you anticipate that the Board will act  
5 on any of those applications within the next month?

6           A       Act on them, meaning grant final approvals?

7           Q       Or preliminary approvals?

8           A       I really don't know if I can answer that,  
9 because it's very difficult to guess what may happen at  
10 public hearings for applications for preliminary approval.  
11 For instance, whether any questions may arise as to  
12 potential impact associated with the development, wherein  
13 the Board would ask that an application be deferred. I  
14 really can't say. It's very difficult to second-guess  
15 the Planning Board.

16          Q       Okay. Let's go back to defendant's Exhibit  
17 one and continue down on our list.

18          MR. PALEY: I believe we're on number 26.

19          Q       That's right. Rather than repeating the  
20 question, let me just ask for every parcel and have you  
21 run through it, whether there is any reason other than  
22 that stated in the answers to interrogatories why that  
23 particular tract could not be or is not suitable for  
24 development, for high density residential development.

25          A       Where are we then?

1 Q Twenty-six.

2 A Tract 26 incorporates the industrial subdivision  
3 located on both the north and southerly portion of Seeley  
4 Drive. That stretch of roadway is developed with four  
5 or five industrial users and its proximity to Route 287  
6 and its very dangerous traffic access along Stelton Road  
7 at the present time, present considerable if not  
8 impossible ramifications when talking about residential  
9 development.

10 Q Tract 27?

11 A Tract 27 is a portion of the corporate park  
12 industrial park presently under construction by Sudler  
13 Constructionn Company.

14 Q Where is the park? Where is that portion  
15 that is presently under construction? Is that within  
16 tract 27?

17 A Okay. I would like to correct myself. The portion  
18 of that industrial subdivision which is presently unoccupied  
19 lies adjacent to newly constructed office facility wherein  
20 Continental Insurance Company has occupied two or three of  
21 those facilities. Digital Electronics is located in one  
22 of those facilities. The developer and owner of that  
23 parcel --

24 Q That parcel being the 27 tract?

25 A Correct -- has given every indication that he

1 intends to proceed with office-industrial park type  
2 of development.

3 Q Is that Sudler Construction?

4 A Sudler Construction, correct. There is no access  
5 allowed onto South Randolphville Road due to the actual  
6 constraints of that road to handle any additional traffic.

7 Q No access allowed by whom?

8 A By Sudler. That was a restriction imposed by  
9 the Planning Board when the Board acted on the subdivision  
10 approval for the tract.

11 Q But the subdivision approval applies to  
12 that portion to the east of tract 27?

13 A No.

14 Q Is that correct?

15 A No. As well as tract -- as that portion known  
16 as tract 27. The entire tract 27 as well as the adjacent  
17 facilities existing recently constructed to the east,  
18 and having frontage along Corporate Place South, were  
19 all subdivided at the same time in one application.

20 Q When was that, approximately; what year?

21 A 1979.

22 Q Is the land itself encompassed within tract  
23 27 suitable for residential development?

24 A Given the -- well, the majority of the land could  
25 withstand the development of residential use in terms

1 of its topography and environmental characteristics, if  
2 that were the only consideration, but given the continual  
3 construction in the area, the access restrictions and  
4 the adjacent land uses, I don't think it is feasible  
5 that that tract would be developed residentially at all.

6 Q Well, what are currently the adjacent  
7 land uses? To the south there is a farm; is that correct?

8 A That's correct.

9 Q To the east there is office space?

10 A Office buildings occupied and under construction.

11 Q Is there any manufacturing or light industrial?

12 A No.

13 Q And what about --

14 MR. PALEY: Well, Mr. Gelber, light indus-  
15 trial as we use the term in Piscataway, incorpor-  
16 ates the kind of uses that are built in that zone.  
17 I think Mr. Nebenzahl's answers that to his  
18 knowledge there is no manufacturing facilities  
19 there at the present time.

20 THE WITNESS: There is no manufacturing or  
21 warehousing to any significant extent. It is  
22 corporate offices, high technology tenants, so  
23 to speak.

24 Q No warehousing?

25 A Not to my knowledge.

1 Q What about across the street in tract 28?

2 A I believe a portion of tract 28 lies between the  
3 flood plain of the Ambrose Brook, and I believe that an  
4 existing dwelling is located on that tract listed on the  
5 National Historic Register. Both tracts 28 and 29 in  
6 my view are not suitable for residential development,  
7 because they are very susceptible to flooding. It  
8 doesn't take the hundred year storm to inundate the  
9 property.

10 Q Are they currently vacant, though?

11 A I believe our tax books show them as vacant, yes.

12 Q Then are they in any way incompatible with  
13 the development of residential use across the street  
14 from tract 27 and 30?

15 A There is no residential development across the  
16 street. I'm not sure I understand your question, to  
17 tell you the truth.

18 Q Well, you have just testified that develop-  
19 ment of residential use in tract 27 would be inappropriate  
20 given the surrounding uses, and what I am trying to do  
21 is explore what those surrounding uses are. Let me  
22 withdraw the question.

23 While we are in this area, would the area  
24 identified as tract 59 be suitable for residential  
25 development?

1 A No.

2 Q Why not?

3 A It would be bisected by Centennial Avenue. A  
4 portion of it lies within the flood plain of the Ambrose-  
5 Doty's Brook, and the owner and developer of the adjacent  
6 industrial park has already expressed interest in  
7 developing the property for office use.

8 Q And who is the owner?

9 A Murray Construction Company, which may be known  
10 as Centennial Industrial Park.

11 Q Is there an application on file relating  
12 to that?

13 A There was a subdivision approval granted by the  
14 Planning Board, yes.

15 Q When?

16 A 1983, I believe, or 1982. No site plans for any  
17 of the lots created, but a subdivision approval.

18 Q Is there any portion of that tract that  
19 would be suitable for residential development?

20 A No.

21 Q Now on tract 27 there is a subdivision  
22 approval for the tract; is that correct?

23 A Correct.

24 Q Have there been any preliminary site appli-  
25 cations, applications for preliminary site approval filed

1 for tract 27?

2 A No.

3 Q Okay. What about tract 30?

4 A An application for subdivision for tract 30 has  
5 been filed as of last week in our offices. The same  
6 developer as Corporate Park I intends to develop that  
7 tract, that being Sudler Construction, and has indicated  
8 to me and to the Planning Board or to the governing body,  
9 that he intends to develop that as he intends to develop  
10 the remainder of Corporate Park I.

11 Q When do you anticipate that the Board will  
12 act on the subdivision application?

13 A The site plan and Subdivision Committee of the  
14 Planning Board will meet to review and set their agenda  
15 this coming Wednesday afternoon.

16 Q Do you anticipate any action will take  
17 place within the next month?

18 MR. PALEY: You mean final action by  
19 the Planning Board as a body?

20 MR. GELBER: That's correct.

21 THE WITNESS: I don't know. It's a big  
22 application, a relatively large application.  
23 There will be a public hearing held in  
24 accordance with the law, and the residents in  
25 the area to the south have expressed great interest



1 in that application, and it would not surprise  
2 me if an action were not taken within a month,  
3 but again it is very difficult to second-guess  
4 the Planning Board.

5 Q Did you say that there has been an applica-  
6 tion for preliminary site approval as well as an applica-  
7 tion for subdivision?

8 A No.

9 Q There is no application for preliminary  
10 site approval on file?

11 A No.

12 Q Do you know if they intend to file one within  
13 the next few weeks?

14 A No.

15 Q You just don't know?

16 A Correct.

17 Q What about 31? Well, is tract 30 still an  
18 operating farm; do you know?

19 A Yes, I believe it is.

20 Q And what about tract 31, do you know?

21 A The latest information we have from the tax  
22 assessor shows the property, a large portion of the  
23 property or ten acres of it, as being qualified farm  
24 land for tax assessment purposes, which suggests that  
25 some farming operation is being undertaken.

1 Q Would that tract be suitable for higher  
2 density residential development?

3 A I don't believe so.

4 Q Why not?

5 A It would be totally out of character with the  
6 single family residential uses located to the south and  
7 east, which have been developed in accordance with the  
8 existing zoning, which is R-20, and given the limited  
9 width of the property and again potential access problems,  
10 I'm not sure whether the road that lies adjacent to it  
11 to the north is a public road. I think it is not. I think  
12 it is a driveway for school access purposes only. So  
13 that all access would have to be borne onto South Randolph-  
14 ville Road, and in my view that road at that location  
15 is incapable of handling that type of traffic. If the  
16 development were to tie into Holly Lane somehow, which  
17 would have to then be tied in through existing residential  
18 developments, I believe we would be dumping, so to speak,  
19 additional traffic onto those local roadways.

20 Q Okay. Anything else about tract 31?

21 A The tax map shows stream areas lying adjacent to  
22 that tract as well, and they may present significant  
23 problems to development.

24 Q Okay. Tract 32?

25 A Tract 32 is traversed by a pipeline.

1 Q Does that prevent development for resi-  
2 dential use?

3 A It does not prevent it. It decreases the desira-  
4 bility. For instance, some people find it unsafe to  
5 reside, I would think, underneath a power line. I am  
6 not sure whether a power line or pipe line is there.  
7 Those are high tension power lines which in my view  
8 form a potential hazard. I certainly would not wish  
9 to reside underneath one of those or in any near  
10 proximity, because in case of a mishap I would think  
11 that the extent of danger would be quite a distance.  
12 They impact the property from an aesthetic point of  
13 view when considering residential use as well.

14 Q Is that area currently wooded?

15 A Portions of the property are wooded, and portions  
16 of the property also lie within flood plain of Doty's  
17 Brook.

18 Q Which portion?

19 A The northerlymost portion of Tract 32.

20 Q Is it possible to develop the easterly  
21 portion of the tract for residential use, by establish-  
22 ing, let's say, a wooded buffer or fence to the east  
23 of the power line?

24 A I suppose it's possible. I don't know if it is  
25 necessarily feasible, or whether that would be a desirable

1 living area again.

2 Q For what reason?

3 A Due to the conditions I just mentioned.

4 Q The conditions of the power line?

5 A Yes. I might also point out that South Washington  
6 Avenue itself, which would be the only access for that  
7 property, experiences great travel volumes comparatively  
8 speaking. It would pose great access problems for  
9 residential use again.

10 Q Okay. Anything else about that tract?

11 A Nothing comes to mind.

12 Q How about tract 33?

13 A Tract 33 is presently now used as a trapshoot and  
14 farming operation. I have suspicions about that property  
15 and as to its soil content due to my observation of various  
16 foreign materials being piled on that property, and that  
17 appears to be done by the owner of the farmland on the  
18 other side of South Washington Avenue. Before that --

19 MR. PALEY: Off the record.

20 (A discussion off the record.)

21 THE WITNESS: Again, tract 33 is traversed  
22 by high tension power lines.

23 Q In which portion of the tract; the far  
24 westerly portion?

25 A No. It actually cuts at an angle from the easterly-

1 most portion northward at an angle towards the westerly  
2 portion.

3 Q Would the southwesterly portion be suitable  
4 for residential development away from the power lines?

5 A I don't think it would be suitable for high density  
6 residential development. I think it's suitable for lower  
7 density residential development due to the access that  
8 would entail. Again it appears to me that any access  
9 would necessarily have to be tied into existing local  
10 roads, which have been developed with R-10 and R-20  
11 zoning.

12 Q Okay. What about tract 34?

13 A That tract is known as Block 496, Lot 12. It is  
14 traversed by the transmission lines at its easterlymost  
15 portion, and is traversed by the Texas Eastern Transmission  
16 Corporation, I believe that's a pipe line, in an east  
17 to west direction.

18 Q Would those prevent development of that  
19 tract for residential use?

20 A In my view it makes development of residential  
21 property very unattractive for those reasons I mentioned  
22 previously dealing with the pipe line and the overhead  
23 transmission wires.

24 Q What about the pipe line?

25 A The pipe line would pose serious problems with

1 regard to design or may pose serious problems with the  
2 design of any residential development.

3 Q In what respect?

4 A No dwellings, for instance, could be constructed  
5 over the pipe line. I'm not sure whether a public  
6 right of way could be constructed over the pipe line.

7 Q Couldn't you avoid the problem by clustering  
8 the housing away from it?

9 A I think at the acreage that is left for clustering,  
10 I doubt seriously whether any significant housing could  
11 be constructed on the tract even clustered. It appears  
12 to me that only eight or so acres would be developable,  
13 and again given the nature and the character of the  
14 existing residential uses immediately adjacent to it,  
15 that type of development would be totally out of  
16 character.

17 Q Out of character with what?

18 A With the existing residential uses on Woodland  
19 Road, I believe.

20 Q What about tract 35?

21 A Tract 35 is a working dairy farm.

22 Q If it were to be developed for residential  
23 use, would it be suitable for higher density residential  
24 use?

25 A Again there are tremendous traffic problems

1 associated at that location. Any increased density  
2 will contribute to those problems. Any large scale  
3 development will pose problems with regard to traffic  
4 and again increase in density will increase the amount of  
5 trip generations at that location.

6 Q Doesn't that site allow access to both South  
7 Washington Street and Metlars Lane?

8 A Yes, it does, and presently the traffic which backs  
9 up on Metlars Lane, that traffic attempting to proceed  
10 to South Washington Avenue in a p.m. rush hour, for  
11 instance, would extend along the entire frontage of that  
12 property on most p.m. peak hours.

13 Q Would access be possible to Stelton Road  
14 from the westerly portion of the tract, or the easterly  
15 portion of the tract, I'm sorry.

16 A Not unless -- I don't think so. I believe access  
17 would have to traverse an existing private school, the  
18 St. Pius High School property. The property adjacent  
19 to this tract is owned by the Arch Diocese and I don't  
20 believe that they will have any inclination to allow  
21 increased traffic which would pose a danger to the students  
22 which travel to the school.

23 MR. PALEY: It's really the Diocese of  
24 Trenton.

25 THE WITNESS: Or now Metuchen, or whatever.

1           Q           Any other reason why this tract might  
2 not be suitable for residential development?

3           A           I think if the property were, for instance,  
4 rezoned for a higher density residential development,  
5 the likelihood that the farming operation would remain  
6 would be diminished, and I see that as a contravention  
7 of stated goals and policies in both our Master Plan  
8 and State policy.

9           Q           Are you saying that if it were to be  
10 rezoned for higher density residential use it's likely  
11 to be developed for that use?

12          A           I don't think so at any rate. My limited knowledge  
13 of the farmers who own the property indicate to me that  
14 they really would have no intention of selling that  
15 property, or developing it. They have operated the  
16 farm for many years and to my knowledge, intend to do  
17 so in the future, given their recent activity before  
18 our zoning Board of Adjustment for variances for the  
19 construction of a silo, for instance, and their  
20 acquiescence in providing for the construction of a  
21 very large fence in terms of length to keep the cows  
22 and horses which graze on the land, off the roads.

23          Q           When was the silo constructed?

24          A           The silo was constructed approximately five years  
25 ago. It was constructed without municipal approval, and



1 became a source of litigation, where actually the  
2 Township was withheld initially in its denial, and then  
3 subsequently the Board granted approval for the silo,  
4 with conditions.

5 Q What about tract 36?

6 A Tract 36 is comprised of two corner lots on a  
7 very busy intersection of two County roadways. The  
8 Judge of the Superior Court of Middlesex County issued  
9 an opinion that one of those tracts was not suitable  
10 for residential development when an application was made  
11 for an office use before the Zoning Board of Adjustment  
12 and denied, but the Zoning Board was overturned when  
13 it denied the use for a veterinarian clinic.

14 MR. PALEY: That's the northerly portion.

15 Q What is the surrounding use?

16 A To the north on Stelton Road lies various commer-  
17 cial facilities such as restaurants and basically fast  
18 food restaurants. As you proceed north from Stelton  
19 Road there are various mixed commercial uses and a  
20 fuel oil storage facility. To the west on Metlars Lane  
21 lies a few -- I believe one vacant parcel I believe of  
22 about one acre in size. There is a single family  
23 detached housing development lying to the southwest and  
24 south, and on the South Plainfield side or the easterly  
25 side of Stelton Road.

1 Q You mean along Coventry Circle?

2 A Yes, it's all developed single family, detached R-10.

3 Q You said there was a vacant parcel to the  
4 west?

5 A I believe there is a vacant parcel, very small  
6 piece in here.

7 Q But that has not been indicated in the  
8 answers to interrogatories concerning vacant parcels?

9 A No, it's very small in size, insignificant in  
10 terms of its ability to withstand any development for  
11 any multifamily residential use, for instance.

12 Q Okay. What about tract 37?

13 A Tract 37 is comprised of approximately six acres.  
14 Well, it is actually comprised of 7.82 acres, a portion  
15 of which lies within the general business zone, that  
16 portion being or having frontage along Stelton Road.  
17 On the west it is bordered by municipal park land. On  
18 the north it is bordered by a fire squad or fire fight-  
19 ing facility and volunteer First Aid facility.

20 Q Would that be suitable for residential  
21 development?

22 A I believe it is suitable for residential develop-  
23 ment. I believe multifamily residential development  
24 would be out of character with all of the surrounding  
25 residential development to the northwest, which has been

1 developed with quarter acre single family housing.

2 Q I notice that along Tuxedo and Haines; is  
3 that correct?

4 A Along the northerly side of Haines Avenue.

5 MR. PALEY: Between Haines Avenue and  
6 Metlars Lane, Mr. Gelber, for your information,  
7 is one extensive single family housing develop-  
8 ment that was constructed virtually at the same  
9 time, called Gramercy Park.

10 Q Okay, and Mr. Nebenzahl, what is the current  
11 use of the southerly side of Haines Avenue just north  
12 of tract 37?

13 A Municipal park land.

14 Q And I'm sorry, but you may have mentioned  
15 this earlier, but what is the use just to the west of  
16 that tract?

17 A Municipal park lands. I thought that was the  
18 area you were just referring to.

19 Q No, I was referring to the area just  
20 north of the tract along Haines Avenue.

21 A Just to the north of the tract along Haines Avenue  
22 lies the fire fighting facility.

23 Q And again to the south of the tract?

24 A Existing single family uses.

25 Q And across the street, across Stelton Road?

1 A Existing commercial uses, a MacDonal'd's fast food  
2 operation and shopping area, a little shopping area.

3 Q Is this area between School Street and  
4 Poplar, just to the west of Water Street, is that  
5 developed?

6 MR.PALEY: It's along Poplar and  
7 it's along Water and it is along School Street.

8 THE WITNESS: The answer is yes. It is  
9 developed in single family detached residential  
10 uses on relatively narrow but long lots.

11 Q Let me show you 17, a page of the aeri'als  
12 which were plaintiff's exhibit 6. See if you could help  
13 me identify Hidden Hollow. Is that a development?

14 A Yes.

15 Q Has that been developed since 1980?

16 A Yes.

17 Q What about tract 38?

18 A 38 is for the most part municipally owned lands,  
19 and in my view is suitable for multifamily development,  
20 and has been earmarked as such in the Master Plan  
21 and Zoning Ordinance.

22 MR. GELBER: Okay. Let's go off the  
23 record just one second.

24 (A discussion off the record.)

25 Q Okay. Mr. Nebenzahl, would your statement

1 also apply to what has been marked as tract 39?

2 A No.

3 Q Why not.

4 A It appears to me that that land is severely impacted  
5 by the Ambrose-Doty's Brook for its entire length along  
6 Stelton Road, and in my view is most suited for general  
7 business when considering adjacent land uses, and the  
8 need for services to be provided for the residents of  
9 the housing under construction directly to the east and  
10 to the south in Edison Township.

11 Q What about tract 40?

12 A Tract 40 presents serious problems in terms of  
13 residential development, but not in terms of, for  
14 instance, a shopping center, for which it is zoned. It  
15 is traversed by overhead power lines.

16 Q In which portion of the tract?

17 A At the southwesterly portion on the north side  
18 of the Ambrose-Doty's Brook. So for instance where a  
19 parking lot could be constructed underneath those power  
20 lines, housing really shouldn't be. In addition, again  
21 I see that site fulfilling a very real need in terms of  
22 providing these shopping facilities for the very large  
23 numbers of residents who would be located in the vicinity.

24 Q Would a portion of the tract be suitable  
25 for residential development?

1 A Assuming that the shopping center, or some portion  
2 of the property were to be developed for shopping, I  
3 think a very small portion of the property could be  
4 developed residentially with no significant detrimental  
5 impact.

6 Q What about tract 41?

7 A There is an industrial subdivision which has been  
8 under construction for the last ten years approximately  
9 along Ethel Road West, which provides the access to  
10 that property. The same concerns that I raised regarding  
11 industrial use being located adjacent to residential  
12 uses previously would apply in this instance as well.  
13 Some of the facilities occupied along Ethel Road West  
14 are warehousing facilities, and involve truck traffic,  
15 for instance, and noise. I don't believe anyone would  
16 develop any of that property for residential use, and I  
17 understand that there is a tremendous demand for the  
18 type of buildings which have been under construction  
19 there for the last ten years from the owner of the tract.  
20 I would be most inclined to believe that the owner of  
21 those properties would continue to develop that property,  
22 sell those individual lots that are left that appear  
23 on the map, for industrial purposes, and that it would  
24 not be developed for residential use even if it were so  
25 zoned.

1 Q Would it be possible to develop residential  
2 use on the tract adjacent to Stelton Road on the easterly  
3 portion of that area?

4 A I don't think so.

5 Q Why not?

6 A A portion of that tract lies within the flood  
7 plain of the Ambrose-Doty's Brook, and it would be  
8 subject to severe flooding problems.

9 Q Is information about this area contained  
10 in the study you referred to early about the Ambrose  
11 Brook?

12 A Yes, I believe it is.

13 Q Do you have any other information other  
14 than what is recorded and what is studied concerning  
15 that tract, and potential flooding problems?

16 A I have indications from the owner of the property  
17 that that land is undevelopable, verbal conversations  
18 with him, and as a matter of fact the last time I spoke  
19 to him he was negotiating with the County so that  
20 the County would acquire that property.

21 Q What about the two tracts that face  
22 Sutton Lane?

23 A They are surrounded by industrial uses, and again  
24 could not be developed residentially from any developer's  
25 point of view.

1 Q Isn't there residential use directly  
2 across the street, across Sutton Lane, from the tract  
3 in the upper left-hand corner?

4 A No, that is Rutgers University.

5 Q What is the current use of that area?

6 A I believe for the most part that is vacant.  
7 On that map you see an Avenue D and to the left of that  
8 may be located the high rise dorms of Livingston College.  
9 There is also large parking areas that serve the Rutgers  
10 Athletic Center within that area.

11 Q What is the current use of the area just  
12 north of School Street north of the tract we are  
13 referring to?

14 A That is under development as part of University  
15 Heights Planned Residential Development.

16 Q Okay. And what is the use immediately to  
17 the left of the tract at the corner of Ethel Road and  
18 Sutton Lane?

19 A You're pointing east and you mentioned west.

20 Q I'm sorry. East.

21 A I believe an existing warehousing facility,  
22 although I'm not sure. There is certainly no residential  
23 use along Ethel Road West. It is all industrial use.

24 Q Are there any noxious uses?

25 A By noxious do you mean odor or noise?



1 Q Both.

2 A Other than heavy truck traffic which travels on  
3 Ethel Road and noises which are attendant to the ware-  
4 housing uses, I cannot presently think of any noxious  
5 characteristics.

6 Q Okay. What about tract 42?

7 A Tract 42 is known as the Smith farm. Mr. Smith  
8 has indicated an interest in preserving the land as  
9 a working historic farm. In the middle of the property  
10 lies an existing dwelling which is, I believe, listed  
11 on the National Historic Register or the Registry of  
12 National Historic places, and the administration is  
13 presently working with her to preserve that area.

14 Q Is there an area suitable for residential  
15 development?

16 A If one ignores the goals of preserving historic  
17 properties and providing open space, that land could  
18 be developed in residential use.

19 Q You mentioned that this is an historic site;  
20 is that correct?

21 A Correct.

22 Q Does that have a designation from the  
23 National Trust of Historic Preservation?

24 A I believe it is listed on the National Historic  
25 Registry.

1 Q Is that one building, or the entire farm?

2 A I'm not sure.

3 Q Is that a sizeable portion of the tract?

4 A It's located directly in the center of the tract,  
5 I believe. Let's find out. There are various farm  
6 structures, such as a barn, stable, an area where  
7 horses are exercised, I imagine, in addition to the  
8 existing dwelling.

9 Q Are they all on the Register?

10 A I'm not sure.

11 Q Okay. That area is currently surrounded  
12 by residential development; is that correct?

13 A Correct.

14 Q What about tract 43, is that suitable  
15 for residential development?

16 A Yes, I believe it is suitable for residential  
17 development.

18 Q Tract 44 is recently rezoned to R-15A;  
19 is that correct?

20 A Correct.

21 Q Isn't it surrounded on either side by  
22 cemeteries?

23 A Yes.

24 Q Okay. What is the intended use for that  
25 tract?

1 A Townhouse development.

2 Q Has there been an application filed?

3 A There has been an application filed for sub-  
4 division of the property.

5 Q What is the name of it?

6 A The Castle Group.

7 Q Has there been an application filed for  
8 preliminary site approval?

9 A No.

10 Q Has there been any action taken on the sub-  
11 division application?

12 A The application was deferred pending the submission  
13 of maps for filing, which can be more clearly understood  
14 by the members of the Planning Board in terms of the  
15 structures and the existence of the cemetery uses, and  
16 the lack of any public roads other than Morris Avenue  
17 frontage.

18 Q What is the proposed density?

19 A Five units per acre.

20 Q In your opinion is that tract suitable  
21 for higher density residential development?

22 A In my opinion it is not when considering that  
23 directly across the street there will be in the very  
24 near future 550 dwelling units, and the fact that major  
25 traffic improvements are scheduled, but not yet

1 completed from Morris Avenue.

2 Q What are the proposed improvements?

3 A Widening of Morris Avenue is projected in the  
4 Master Plan, which would accommodate an additional two  
5 lanes of traffic. That will have to be phased in as  
6 development occurs along the roadway. In addition,  
7 Hoes Lane, Section 4, is being presently designed as  
8 we understand it, by a consultant for the New Jersey  
9 D.O.T. That road would be further south of Morris  
10 Avenue and would connect into the R-10A area, which we  
11 have labeled as item 46.

12 Q Why don't you draw on the map the proposed  
13 extension.

14 MR. PALEY: Wait. Excuse me. Do you  
15 want it on that map which has been marked?

16 MR. GELBER: Oh, yes. Why don't you  
17 put it on here.

18 THE WITNESS: Okay.

19 Q Once these traffic or road improvements  
20 have been completed, would tract 44 then be suitable  
21 for residential development in your opinion?

22 A I think it is now suitable for residential  
23 development at five units per acre. I think any  
24 additional density is questionable in terms of traffic  
25 generation, even though there would be roadway improvement

1 in that area. In addition, I should note or point out  
2 that existing residential development on the southerly  
3 side of Morris Avenue is comprised of single family  
4 dwellings on minimum of half acre lots; that tract 46  
5 will be developed at a density of approximately ten  
6 units per acre; and that there comes a certain point  
7 where it becomes unreasonable to keep drastically  
8 changing density in terms of impact upon those existing  
9 single family residential uses. It's very difficult to  
10 quantify at what point to that impact would be felt,  
11 but I think it is understandable that those residents  
12 who exist in the area can be given some assurance that  
13 the entire vacant stretch along Morris Avenue should  
14 not be developed so drastically differently than the  
15 density that they have been living with.

16 Q The tract that has been identified as 45,  
17 is that the same tract that we discussed two days ago  
18 and have labeled Roman numeral I?

19 A Yes.

20 Q What about tract 47, is that suitable  
21 for residential development?

22 A Yes.

23 Q Is that part of the R-20A zone?

24 A No.

25 Q That is currently zoned as R-20?

1 A Correct.

2 Q What about tract 48? What is your opinion  
3 about tract 48?

4 A That tract I believe is comprised of two lots  
5 with a depth of 600 feet and relatively narrow width  
6 of 250 feet. There is an existing single family develop-  
7 ment on all sides in accordance with the R-20 half acre  
8 zoning, and if that were developed at high density  
9 it would be plopping that density right in the midst  
10 of already developed single family housing. I don't  
11 think that would be good planning, and I don't think  
12 that the land is suitable for that type of development  
13 because of that. There is also a flood plain area in  
14 the vicinity, which may have an impact on the develop-  
15 ment of that site.

16 Q You said the land is not suitable. Do you  
17 mean there are any physical or environmental restraints?

18 A There may be. There may be flooding considerations.  
19 A portion of the property, which would be the southerly  
20 portion fronting on Zirkel has streams crossing through  
21 them. I believe there is generally flooding problems  
22 in that area of the Township in that particular block.

23 Q Okay. What about tract 49?

24 A It appears to me that that vacant area is  
25 comprised of a number of individual lots that lie in the

1 midst of Rutgers University property, Rutgers Chapel,  
2 I know, and Rutgers dormitories, eating halls.

3 Q Are all those facilities located to the  
4 south of Davidson Road?

5 A No.

6 Q What is located to the north?

7 A Well, of the subject property there would be  
8 private ownership of land developed in single family,  
9 detached, half-acre lots on Artis Avenue. To the north,  
10 that would be,. To the south would exist various Univer-  
11 sity properties and the chapel, and proceeding north  
12 on Davidson or westerly on Davidson Road would be the  
13 other University uses and properties I mentioned, such  
14 as the Davidson Hall dining facility and dorms.

15 Q So what is your answer to the question as  
16 to whether or not it would be suitable for residential  
17 development?

18 A I'm not sure at this point.

19 Q The information that we have received in  
20 answers to interrogatories concerning vacant land, does  
21 that include or exclude Hoes Lane, or that area that  
22 has been condemned for the Hoes Lane extension?

23 A We would have to add it up to check it, compare  
24 to the listing. I don't believe that we included the  
25 right-of-way for Hoes Lane in the computation.

1 Q Now once Hoes Lane is completed, wouldn't  
2 that be a fairly suitable place for residential develop-  
3 ment?

4 A If all the properties, all the vacant lots, were  
5 incorporated into one.

6 Q Okay. Tract 50. Do you know the  
7 character of the area surrounding tract 50?

8 A Immediately adjacent to this tract 50 on the  
9 easterly side I believe exists a garage for buses,  
10 and then to the east of that would be single family,  
11 detached housing in accordance with half-acre or R-15  
12 requirements.

13 Q Okay.

14 A And to the north would be the municipal offices  
15 and complex separated by a church. To the south on  
16 Lincoln Avenue is the cemetery.

17 Q The municipal complex is located south  
18 of Sidney Road in this area?

19 A Correct.

20 Q I see. Let's go back here just one second.  
21 Do you know what the current use of this area is that  
22 is presently vacant?

23 MR. PALEY: You are pointing to an  
24 area which is to the south of Lot 31, which  
25 appears to be bisected by the Texas Eastern Pipe



1 Line in part between South Randolphville Road  
2 and Stuart Road?

3 A Yes.

4 Q What is the current use?

5 A The current use is of a large church and some  
6 single family dwellings.

7 Q Yes, it is vacant?

8 A No.

9 Q It is not vacant?

10 A No, it's not vacant.

11 Q Okay. Let's go to 51.

12 A All right.

13 MR. GELBER: Off the record.

14 (A discussion off the record.)

15 Q I have asked about tracts 51, 52 and 60.

16 A Those tracts are comprised of numerous individual  
17 properties, and although environmentally do not pose any  
18 restriction in terms of their development for the most  
19 part, it tends to make any large scale residential  
20 development infeasible due to the various and numerous  
21 ownerships, for one, the existence of roadways which  
22 bisect all of the properties, the use of much of the  
23 property by the Board of Education by Piscataway Township  
24 as playground facilities. There are large areas utilized  
25 for municipal recreational facilities.

1 Q Are the latter two categories reported in  
2 answers to interrogatories 27-D and 33, as vacant land?

3 A It's very difficult at this juncture for me to  
4 answer that with any degree of accuracy, and for trial  
5 our office is going to have to look at this area in  
6 more detail than we have thus far, to determine which  
7 areas are in fact developed by the Board of Education  
8 and/or Piscataway for recreational use, and exactly  
9 where the schools lie, and that sort of thing. I don't  
10 think that this area could feasibly be developed or  
11 packaged by a developer for large scale residential  
12 development.

13 Q Do you know if there are any sizeable, let's  
14 say, any areas within this that are contiguous under  
15 single ownership that would be four or five acres?

16 A I don't believe there are, but I would like to  
17 check the list to make sure.

18 MR. PALEY: Let me say we have had a  
19 conversation regarding lots 51, 52 and 60 as  
20 shown on BD-1 exhibit, and we will undertake  
21 to provide you with a more exact analysis of  
22 the uses of that property, a substantial portion  
23 of which is currently park lands and other sub-  
24 stantial portions are proposed park lands. We  
25 will also attempt to obtain for you any

1           contiguous ownerships within that tract which are  
2           not so designated, and which may be available for  
3           residential housing.

4           MR. GELBER: And I might add to the extent  
5           that you consider those tracts to be unsuitable  
6           for residential development, as to that, infor-  
7           mation should be provided at least as to some  
8           indication of the grounds.

9           MR. PALEY: Fine.

10          Q        Now tract 53, I believe we talked about  
11       that two days ago, is the Senior Citizens Housing Tract;  
12       is that correct?

13       A        Correct.

14          Q        Is that tract suitable for higher density  
15       residential development irrespective of the use of  
16       the Senior Citizens?

17       A        It's very difficult for me to answer that question  
18       knowing the need, or realizing the need for Senior  
19       Citizen housing, the work that has been done to date to  
20       effectuate that need or to implement a plan to proceed  
21       with meeting that need, and realizing that if the land  
22       were developed for other type of housing, that it  
23       would not then be available for the necessary Senior  
24       Citizen housing. I think it's very suitable for Senior  
25       Citizen housing because the Senior Citizens Center is

1 located in the very close proximity to it, that there  
2 is planned park lands adjacent to it for Senior Citizens,  
3 for instance, to enjoy.

4 Q What is the proposed density for that site?

5 A The Zoning Ordinance allows twenty units per acre.  
6 The proposal set forth by the Senior Citizen Housing  
7 Corporation before the Zoning Board of Adjustment pre-  
8 viously were for, I believe, 150 units on that tract.

9 Q What about tract 54?

10 A Tract 54 lies in the midst of existing single  
11 family residential developments developed in accordance  
12 with R-15 and R-10 zoning requirements, so that the  
13 compatibility of any dense multifamily housing would  
14 be questionable.

15 Q Is there any other reason why that tract  
16 would be unsuitable for high density residential develop-  
17 ment?

18 A Other than the limitations posed by its size and  
19 therefore any amenities that might be offered to resi-  
20 dents of a higher density development, I can see no  
21 environmental constraints.

22 Q Is the area across Hoes Lane from the  
23 Municipal Center both north and south, is that fully  
24 developed?

25 A No, there is a site plan approval for a large

1 tract adjacent to A.T. & T.'s property. I believe it  
2 is owned by a construction company.

3 Q The site plan has already been approved?

4 A Yes.

5 Q Are there any other vacant parcels across  
6 Hoes Lane north of Vista Avenue?

7 A Not to my knowledge. There may be very small  
8 parcels.

9 Q We are looking at pages 9-E and 16-A of  
10 plaintiff's exhibit 6, which are aerial photographs. We  
11 are trying to identify if there are any other vacant  
12 parcels in the Hoes Lane area.

13 A Roman numeral V is that area which received the  
14 site plan approval, I believe, if I am reading this map  
15 correctly.

16 Q You are on page 16-A?

17 A Yes.

18 Q Is that the portion you have identified  
19 as 51 and 52?

20 A Correct.

21 Q Okay. And the area behind which you have  
22 identified as 5 right in here?

23 Q That is all this?

24 A It is all a portion of tract 60 wherein we are  
25 going to get you more information. You can see on the

1 aerial photograph the existence of a baseball diamond.

2 Q It is currently used as park lands?

3 A Correct.

4 Q On page 9-E, is that Behmer Road?

5 A Yes.

6 Q So that the aerial shows vacant land to  
7 the southwest corner of Hoes Lane?

8 A That land is now developed.

9 Q And across the street on the easterly  
10 section, the southerly side of Hoes Lane?

11 A There lies the high school and land which  
12 received approvals for office use. Ground breaking is  
13 scheduled for April of 1984.

14 Q Okay. Tract 55?

15 A Tract 55 is owned by Rutgers University, and is  
16 zoned for educational uses.

17 Q Okay. Tract 57 is also owned by Rutgers  
18 University?

19 A Correct. Rutgers University has indicated a  
20 desire to develop that property for multifamily housing.  
21 The Planning Board and the Mayor and Council have  
22 obviously agreed with the proposal, and zoned the area  
23 for PRD.

24 Q Is there other areas of vacant land owned  
25 by Rutgers University that might be available for

1 residential development?

2 A No, there is not. The land surrounding that area  
3 that we have marked 57 is an ecological preserve. It has  
4 been designated as such by the Board of Governors of Rutgers  
5 University, and has been designated as a teaching area in  
6 that regard.

7 Q What about the areas adjacent to Tract 55  
8 and 56?

9 A Meaning their nature?

10 Q Are they available? Is it possible? Are  
11 they available for residential development?

12 A The area to the west is the home of the Colgate-  
13 Palmolive Research Center. They have never indicated  
14 any desire to do anything other than to continue with  
15 their research operation. I understand they are committed  
16 by the corporate policy to even expand their research  
17 in terms of their corporate obligation. The land to  
18 the north is already developed as single family housing  
19 in accordance with our R-15 zoning requirements. The  
20 land to the south of Hoes Lane comprises the Rutgers  
21 University golf course, and it has been indicated to us  
22 by the University officials that the golf course will  
23 be an integral part of the hotel-conference center, and  
24 that there are no plans for anything other than the  
25 golf course use.

1 Q Why don't we mark that area.

2 A The golf course?

3 Q Yes.

4 A Okay.

5 Q Are there any areas within the Township  
6 other than those tracts 57 that are currently owned by  
7 Rutgers that in your opinion would be suitable for  
8 residential development?

9 A I really haven't -- no, I don't know. I'm not  
10 sure.

11 Q Could you, if it's possible, draw the  
12 boundaries of the areas owned by Rutgers on the exhibit?  
13 Is that possible?

14 MR. PALEY: No.

15 THE WITNESS: That area is already desig-  
16 nated by the Zoning designation of E and ER in  
17 that southwest portion of the Township, which  
18 comprises an area of approximately 1200 acres.

19 Q So everything designated as Zone E is owned  
20 by Rutgers?

21 A Only in the portion of the municipality of which  
22 we are speaking.

23 Q I see. Okay. What about the R-15 tract  
24 in that area?

25 A That area is completely developed.



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Q What about tract 61, 62 and 63?

A If either tract 61, 62 or 63 were to be developed, we would be violating the public trust, in that when the properties were subdivided all notice to parties during those hearings as well as those who have purchased dwellings within those subdivisions, and municipal officials earmarked those tracts as being forever preserved, in my opinion, in accordance with sound planning principles.

Q Does that also apply with respect to tract 64?

A No.

Q Would tract 63 be suitable for development?

A I believe tract 63 is traversed by a stream, and that with that limitation and the existence of single family homes on all sides on half-acre lots, that multifamily development is not feasible.

MR. PALEY: Mr. Gelber, you have asked for a summary, if you will, as to the existence of applications on any of the parcels which we have covered, and I think that the easiest way to do that instead of trying to characterize the parcels for any purpose, is just to go through them, okay, and to let you know if any applications are pending.

MR. GELBER: Okay.

1 MR. PALEY: To my knowledge, and Mr. Nebenzahl  
2 you can correct me, there are no applications  
3 pending on parcels 1, 2, 3, 4, 5,6 or 7.

4 THE WITNESS: Correct.

5 MR. PALEY: There is an application pending  
6 on parcel 8, which is the subdivision application  
7 he referred to between Halo Carbon and Reometrics.

8 THE WITNESS: Correct.

9 MR. PALEY: There is no application pend-  
10 ing for lots 9, 9-A, 10, 11, 12 or 13; is that  
11 correct?

12 THE WITNESS: Correct.

13 MR. PALEY: There is no application pending  
14 for lot 14, the Miller farm.

15 THE WITNESS: Correct.

16 MR. PALEY: Are there any applications  
17 pending for lot 15,16 or 17?

18 THE WITNESS: No.

19 MR. PALEY: 18, 19 or 20?

20 THE WITNESS: No, I don't think so.

21 MR. PALEY: 21?

22 THE WITNESS: No.

23 MR. PALEY: 22?

24 THE WITNESS: No.

25 MR. PALEY: 23?

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THE WITNESS: No.

MR. PALEY: 24, 25?

THE WITNESS: No.

MR. PALEY: 26?

THE WITNESS: There is an application pending before the Zoning Board for the construction of a hotel on a portion of what is shown as 26.

MR. PALEY: 27?

THE WITNESS: I don't believe any application for site plan has been made for any of those building properties.

MR. PALEY: 28 and 29?

THE WITNESS: No.

MR. PALEY: 30?

THE WITNESS: Yes.

MR. PALEY: While we are in the same neighborhood, 59?

THE WITNESS: No.

MR. PALEY: 31?

THE WITNESS: No.

MR. PALEY: 32?

THE WITNESS: No.

MR. PALEY: 33, 34 and 35?

THE WITNESS: No.

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MR. PALEY: 36?

THE WITNESS: No.

MR. PALEY: That is neither of the two?

THE WITNESS: Oh, the one on the southwesterly corner of Metlars Lane is the subject of an application before the Zoning Board for the tire warehouse.

MR. PALEY: 37?

THE WITNESS: No.

MR. PALEY: 38?

THE WITNESS: No.

MR. PALEY: 39?

THE WITNESS: No.

MR. PALEY: 40?

THE WITNESS: No.

MR. PALEY: 41?

THE WITNESS: Portions of 41 have been submitted for site plan approval of warehousing type of facilities.

MR. PALEY: Those portions of the area 41 shown as vacant now?

THE WITNESS: Yes.

MR. PALEY: 42?

THE WITNESS: No.

MR. PALEY: 43?

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THE WITNESS: No.

MR. PALEY: 44?

THE WITNESS: The subject of a subdivision application was mentioned previously.

MR. GELBER: That is the Castle Group?

THE WITNESS: Yes.

MR. PALEY: 45?

THE WITNESS: No.

MR. PALEY: 46?

THE WITNESS: Preliminary discussions and informal public hearings have been held on the PRD application of Hovnanian, Inc.

MR. PALEY: 47?

THE WITNESS: No.

MR. PALEY: The Hovnanian application does not include 47; is that correct?

THE WITNESS: Correct.

MR. PALEY: 48?

THE WITNESS: No.

MR. PALEY: 49?

THE WITNESS: No.

MR. PALEY: 50?

THE WITNESS: No.

MR. PALEY: 51?

THE WITNESS: No.

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MR. PALEY: 52?

THE WITNESS: No.

MR. PALEY: Anything in the area known  
as 60?

THE WITNESS: No.

MR. PALEY: The Senior Citizens Center, 53?

THE WITNESS: No.

MR. PALEY: 54?

THE WITNESS: No.

MR. PALEY: 55, 56?

THE WITNESS: NO.

MR. PALEY: 57?

THE WITNESS: No.

MR. PALEY: 58? That is a portion of  
the Seeley Drive development?

THE WITNESS: I don't think so.

MR. PALEY: 59 we have talked about. 60  
we have talked about.

THE WITNESS: No, no.

MR. PALEY: 61, 62 or 63?

THE WITNESS: No, no, no.

MR. PALEY: Okay.

MR. GELBER: That's it.

(Witness excused.)

(Proceedings concluded at 5 o'clock p.m.)


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C E R T I F I C A T E

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4 I, NANCY BOUSELLI, a Certified Short-  
5 hand Reporter and Notary Public of the State  
6 of New Jersey, do hereby certify that the fore-  
7 going continued deposition of LESTER NEBENZAHL  
8 was taken before me on March 23, 1984, and was  
9 recorded stenographically by me, and the fore-  
10 going is a true and accurate transcript of my  
11 stenographic notes.

12 I further certify that the witness was  
13 duly sworn by me according to law, prior to  
14 testifying.

15 I further certify that I am not an  
16 attorney or counsel for any of the parties, and  
17 that I am not financially interested in this  
18 case.

19  
20   
21 NANCY BOUSELLI, C.S.R.  
22  
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25