

ML - Morris County Fair Housing Council
v. Boonton

31-Jan-1980

Deposition of Richard T Coppola

pg. 134

ML 000418G

SUPERIOR COURT OF NEW JERSEY
MORRIS COUNTY
LAW DIVISION
DOCKET NO. L-60001-78PW

MORRIS COUNTY FAIR HOUSING :
COUNCIL, et al, : DEPOSITION OF:
: :
vs. : RICHARD T. COPPOLA
: :
BOONTON TOWNSHIP, et al :

THURSDAY, JANUARY 31, 1980

DEPOSITION OF RICHARD T. COPPOLA, taken by Carole L. Seeley, a Notary Public and Certified Shorthand Reporter of the State of New Jersey, at the office of Richard T. Coppola, 16 Ticonderoga Drive, Bordentown, New Jersey, commencing at 10:00 a.m. in the above-entitled action and in the presence of:

OFFICE OF THE PUBLIC ADVOCATE,
BY: CARL BISGAIER, ESQ.,

McCARTER & ENGLISH,
BY: ALFRED FERGUSON, ESQ.,
For Chester Township.

WILEY, MALEHORN & SIROTA,
BY: ROBERT S. GOLDSMITH, ESQ.,
For Rockaway Township.

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WITNESS

PAGE

RICHARD T. COPPOLA

MaxI-trial

Examination by Mr. Bisgaier 3

Examination by Mr. Ferguson 96

Chester

Examination by Mr. Bisgaier 100

E X H I B I T S

NUMBER

DESCRIPTION

I.D.

C-5 Thirteen-page Memorandum 1-80
dated January 17, 1980 3

C-6 Twelve-page Memorandum 2-80
dated January 18, 1980 3

C-7 Photocopy of three-page letter from
Alfred L. Ferguson to Carl S,
Bisgaier dated December 13, 1979,
together with photocopy of 15-page
document entitled "The Reasonableness
of the Chester Township Zone Plan"
by Richard Coppola, dated November,
1979 3

~~C-8~~ Report of Harvey S. Moskowitz
dated October 3, 1979 105

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(It is hereby stipulated and agreed by and between counsel for the respective parties that the reading and signing of the within deposition is waived.

It is also hereby stipulated and agreed by and between counsel that all objections, except as to form, will be reserved until the time of trial.)

(Thirteen-page Memorandum 1-80 dated January 17, 1980 received and marked for identification as C-5;

Twelve-page Memorandum 2-80 dated January 18, 1980 received and marked for identification as C-6;

Photocopy of three-page letter from Alfred L. Ferguson to Carl S. Bisgaier dated December 13, 1979, together with a photocopy of fifteen-page document entitled "The Reasonableness of the Chester Township Zone Plan" by Richard Coppola, dated November, 1979, received and marked for identification as C-7»)

RICHARD T. COPPOLA, called as a witness, previously sworn upon his oath, testified as follows:

EXAMINATION

2 BY MR. BISGAIER (Continued):

2 Q Richard, this is a continuation deposition, and
3 for the purposes of it, you're still under oath.

4 Do you understand that?

5 A I understando

6 Q I'm going to show you three documents.

7 Could you briefly identify what they are for
8 the purposes of the record?

9 A Yes.

10 The first is Memorandum 1-80, issued by my
H office, dated January 17 of this year. This is a supplement
12 analysis to the Memorandum 2-79 dated September 28th, 1979,
13 which we discussed at the last deposition, during which
14 time I indicated that I would be preparing this, which
15 simply extracts information from the previously prepared
16 Memorandum. There's no new information, per se, within
17 this document.

18 The second is Memorandum 2-80, again issued
19 by my office, dated January 18, 1980, which is a supplement
20 to the Memorandum 2-79 and Memorandum 1-80. Essentially
21 what this Memorandum does is takes at face value the findings
22 of the State in the "A Revised Statewide Housing Allocation
23 Report" dated May, 1978, and reviews the data in terms of
24 the region as I defined it during our earlier deposition in
25 Memorandum 2-79. Again, there's no new data there. It's

1 all data that has been published and has been used as part
2 of this litigation by most of the experts.

3 The final--

4 Q Why don't we hold off on that--

5 A Okay.

6 Q --until we do the Chester deposition.

7 Can you just reflect the dates on C-5 and
8 C-6 and state for the record when they were first given to
9 me?

10 A The dates are January 17th and January 18th, respectively,
11 for 1- and 2-80. They were given to you today. They
12 would have been given earlier, but, of course, there was a
13 cancellation by your office of the other deposition.

14 Q Have they been previously submitted to any attor-
15 ney for the defendants?

16 A No. As I said to you during the last deposition, I
17 would simply have had them available during our followup
18 depositions, which is today.

19 Q Have you previously worked on any major residen-
20 tial or non-residential development?

21 A In what context?

22 Q As a planner, packager, giving testimony--

23 A Oh, yes.

24 Q You have?

25 To the best of your recollection, could you

1 indicate what those particular developments were? Start
2 with the most recent and work backwards.

3 A Well, in my review capacity with municipalities I have
4 occasion to--

5 Q I'm sorry, I'm talking about in a private capacity,
6 working for a developer or a landowner or a packager.

7 A For multi-family development, particularly, or are you
8 including shopping centers?

9 Q Yes, any development.

10 A The most recent one is in Ewing Township where an
11 application has been submitted, as a matter of fact, for a
12 variance to permit the construction of a shopping center,
13 which I worked to design, a tract about 63 acres, a portion
14 of which will be devoted to residential use and a portion
15 to open space and a portion to a rather small community
16 type shopping center.

17 Q The portion that is going to be residential use,
18 what residential uses are being proposed?

19 A Forty-four single-family residential lots, approximately
20 a quarter acre each in size.

21 Q And this has been proposed for a variance currently?

22 A That's correct. The application is just being
23 processed.

24 Q Working backwards from that.

25 A I represented a developer in West Windsor Township for

1 the subdivision of approximately a hundred lots, single-
2 family residential, approximately, I think, around a quarter
3 acre in size each, a rather unique concept called Lanwin
4 Heath. That was recently approved by the Planning Board of
5 West Windsor Township. Recently means during December of
6 '79.

7 I have worked on and currently represent a
8 developer for a residential subdivision within Hopewell
9 Township, which is approximately 39 lots ranging in lot
10 size from an acre and two-thirds to eleven acres each.

11 Prior to that point, while working with
12 Gershen and Coppola Associates, and prior to that with
13 Alvin E. Gershen Associates—and I cannot tell you the
14 exact chronology here—I worked on a design for a planned
15 development in East Hanover Township, or Hanover Township
16 right near Florham Park, as I recall, a large tract with
17 some topographic variety, some access problems, a diversity
18 of existing land uses surrounding it, and laid out a proposal
19 for a mixed residential development plan, including single-
20 family homes, apartments, and townhouses. I don't believe
21 that was ever constructed, nor do I believe it was ever
22 approved or fully processed.

23 Q What was the name of that development?

24 A I'm trying to think right now.

25 Q Do you recall the year that you worked on it?

1 A It was called Hanover Green, I believe, Carl, and I
2 would suggest that the date was somewhere around ^f77, ^f78.

3 Q Was the proposal submitted to the municipality?

4 A I don't even know.

5 Q Do you recall what the densities were for the
6 single-family?

7 A I could tell you the tract density was approximately
8 six dwelling units per acre.

9 Q What were you proposing for garden apartments,
10 the net density?

11 A I really can't recall. I imagine it was somewhere
12 similar to all my ordinances of 10 to 12 net. It might
13 have reached 14 in some sizes, but I really don't know. We
14 never really got to that point of beyond the conceptual
15 plan.

16 I think there was a decision on part of the
17 owners just to go with the single-family, or whatever.
18 There were a lot of problems because it was adjacent to
19 another municipality which had an access point, and there
20 was some sort of a legal easement or covenant on that access.
21 It was through an industrial zone.

22 Q Do you recall what the net townhouse density was
23 that you were—

24 A I don't recall, I imagine it would probably be, if
25 you figure about 35 percent open space overall, it would

1 probably come up to be somewhere in the neighborhood of
2 10 again, 11.

3 I think in terms of my design, my own design,
4 that would cover it. There may be some others, but those
5 are the significant ones that I can think of now.

6 Q Were there any others that you were working on
7 when you were with Gershen and Coppola, Alvin E. Gershen
8 Associates or when you worked with the developer or landown^er?

9 A Well, there were many occasions that we worked with
10 the landowners in all. I can't recall any specific instance,
11 though,

12 Q. Were you involved in any of the firms Vwbrk[^] ;J-¹
13 regarding packaging: of tany developments or- *>v-

14 A You mean senior citizens¹ housing?

15 Q Senior citizens'--

16 A Not specifically, no.

17 Q Were you ever involved with their subsidized work
18 when it was done?

19 A Not unless there was planning work involving the
20 feasibility of the site, but I never did any design work
21 in regards to the monolithic structures which ended up
22 being built.

23 Q Do you recall whether you were involved at all
24 in the firm with reviewing those proposals or projects or
25 plans that had any of your input?

1 A No, not really at all. There was only a couple of
2 instances that I can even think of where I was directly
3 involved. One of them had to do with a parcel in Paterson
4 involving a funeral parlor and a site that existed and
5 whether the area which was residential was appropriate for
6 a multi-family development, and that was the extent of my
7 involvement. It didn't get into specific densities or
8 design.

9 Q Now, in terms of your work with municipal govern-
10 ments, whether at the Planning Board, Zoning Board or at
11 council stage, had you had experience reviewing major
12 developments?

13 A Yes.

14 Q And what had that experience been? For which
15 towns? Specificity as to major developments you've reviewed.

16 MR. FERGUSON: What's major?

17 Objection as to the form of the ques-
18 tion

19 MR. BISGAIER: I thought you were just
20 going to sleep through this and wait until
21 we got to Chester.

22 MR. FERGUSON: I woke up.

23 I withdraw the objection. If the
24 witness can figure out what "major" is,
25 he can answer it.

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THE WITNESS: I'm assuming in my answer that Mr. Bisgaier is referring to multi-family development.

Is that a fair assumption, Carl?

BY MR. BISGAIER:

Q Yes o

Let's talk about any multi-family development and any significant commercial or industrial development.

A Oh, okay» Fine.

Do you have a minute?

Q With more than 20 employees. f

A Is that when it was constructed, or after it was converted?

Q Right.

A Yes.

Starting with Lawrence Township, and in no specific chronology, I reviewed at the tail end of the review process the plans for the Quaker Bridge Mall and the Mercer Mall at the Clarksville intersection of Route 1. I am in the process of reviewing in Lawrence Township two preliminary informal submissions regarding two planned developments of multiple-family construction with some minor allotments to supportive retail and service commercial facilities.

1 Q Can you briefly describe those two PUD's?

2 A If you want it brief, why don't you tell me what you're
3 looking for, and I'll try to give it to you right off.

4 Q Type of units, densities.

5 A One of them is called a planned neighborhood develop-
6 ment. The growth density is eight dwelling units per acre.
7 The mix of units is townhouses, and two-families, and the
8 net density, again, is somewhere around 10 or 11. There's
9 a mandated requirement of 20 percent open space, but it
10 really nets out something closer to 37 percent in most
11 general instances.

12 Q Does the gross density, residential density cover
13 the entire site, inclusive of commercial, or--

14 A No.

15 Q --industrial?

16 A No, it excludes. The way the ordinance is written--
17 and this ordinance I wrote, and to a pretty good extent,
18 it represents my thinking, even after some modifications,
19 of course, by the municipal officials--it allows a percent-
20 age of land. In the case of the planned development, my
21 recollection is that it allows up to five percent of the
22 overall tracted area to be devoted to the permitted commercial
23 uses, which are of a neighborhood commercial variety, and
24 the gross density is applied against the remaining lands,
25 that is, only the lands that are going to be earmarked for

1 II the residential and recreational and conservation uses.

2 The planned community development, which is
3 the other, is the same density, I think. The difference is,
4 however, that it requires a certain percentage, 20 percent,
5 I believe, of single-family residential construction,
6 minimum lot size being, I believe, 10,000 square feet. It
7 may be down to 8,000 square feet. I'd have to check.

8 The remaining mix of residential uses are
9 garden apartments and townhouses and two-families, and
10 there is an allotment for up to 12 percent commercial and
11 8 percent office research and testing type uses, but,
12 again, that acreage is deducted from the acreage upon which
13 the gross density is computed.

14 Q Any other work in Lawrence Township of similar
15 significance?

16 A Well, there are a number of non-residential uses that
17 crop up all the time, but if you're asking me to put a
18 value judgment, no, I don't think there's any great signi-
19 ficance.

20 Q You were discussing other townships, as well.

21 A. In Mantua Township in Gloucester County, which is
22 south and east of Camden, I have reviewed plans for
23 apartment/townhouse development which has not been built
24 because of sewer constraints. The gross density there,
25 I believe, is eight dwelling units per acre, and, again,

1 the net comes in at about 10 or 11. I don't remember too
2 much about that. That does go back some time.

3 Q In what capacity were you reviewing that?

4 A As a planner for the township.

5 Q Was that a variance request?

6 A No.

7 Q It was consistent with the—as a permitted use
8 under the ordinance?

9 A Still is.

10 Q Was that an ordinance that you had drafted?

11 A Yes. They were coming in under an ordinance that I
12 had drafted. It's next to a K-Mart shopping center, or
13 Route 45, that parcel that I'm speaking about, boarded by
14 Berkeley Road and State Route 45.

15 Q What was the water sewer problem of that project?

16 A The State has put a lid on sewers in that area of the
17 State. They have an MQA. And there was also some sort of
18 legal agreement or some sort of legal problem in terms of
19 the ownership of the K-Mart property versus the adjacent
20 landis lease agreement, some commitments in terms of the
21 MUA which were not fulfilled, and it was really out of the
22 Planning Board's hands, and, I mean, nothing is pending.

23 Should I continue?

24 Q Sure.

25 A Montgomery Township in Somerset County. There is an

1 apartment/townhouse district which is being built, which was
2 a zone subject to litigation that I indicated to you I had
3 testified in. The nature of those developments are purely
4 apartment/townhouse construction. There is at this point no
5 permitted commercial,,

6 The densities, on the gross level, are six
7 per acre for the townhouses and eight per acre for the
8 garden apartments. The nets, as you may expect to, come in
9 at about, at the most, 50 percent higher than the gross,
10 and possibly not that high.

11 Q How many units are involved?

12 A Within the zone itself, there is a possibility for
13 upwards of 1900. The applications, which have been approved,
14 or are being processed, include a few hundred. I don't know
15 the precise number.

16 I represent West Milford Township-

17 Q Excuse me for one second.

18 On the Somerset Montgomery Township project,
19 you represented the municipality in that?

20 A Yes.

21 Q The developments were developments that were being
22 proposed consistent with the ordinance?

23 A They're being constructed. One has already been
24 constructed,, It's being rented out, sold out now.

25 Q Was the ordinance one that you had drafted or

1 worked on?

2 A Yes.

3 Q Okay.

4 Sorryo Go ahead.

5 A West Milford Township, I was indicating, I have repre-
6 sented both on my own and prior—in all instances as an
7 employee of Gershen and Coppola Associates and/or prior to
8 that, Alvin E. Gershen Associates, and I had occasion both
9 to work with the municipality and a plaintiff in that
10 municipality who desired to build multiple-family and felt
11 that the zoning was too restrictive in the municipality,
12 ala Mt. Laurel, and specific to his project, sought the
13 minimum density that he felt would make it feasible. And
14 there was a settlement on that issue which resulted in the
15 designation of a planned development option at a gross
16 density of eight dwelling units per acre.

17 Q Why don't we go back over that one.

18 What Was the name of the specific development?

19 A It was Harry Lerner. There was no specific develop-
20 ment, but Harry Lerner was the—

21 Q Owner?

22 A —owner and litigant.

23 Q And how many acres were involved in the litigation?

24 A I really don't recall, but—

25 Q Can you give a ballpark figure?

1 A Yes. A hundred?

2 Q And what had it been zoned for?

3 A It had been zoned for--there was no multiple-family
4 permitted in the town, so it had to be something other than
5 multiple-family. I don't remember exactly what, Carl. I
6 assume residential.

7 Q Do you recall what density it would have been,
8 then, the current residential densities?

9 A I imagine one per acre, since that was the norm.

10 Q And what did Mr. Lerner request?

11 A I believe he requested ten, but I'm really stretching
12 my memory on this one, okay?

13 Q And he was asking for what type of permitted use?

14 A Multiple-family, in general. I don't even think it
15 was that specific.

16 Q How would you describe the character as your
17 involvement in the litigation of the settlement process?

18 A I assisted the municipality and its professionals,
19 particularly the attorneys in meeting with the owner and
20 particularly his attorneys and planners to discuss it.
21 The town at that point was in the process of revising its
22 Master Plan, and it was, indeed, an appropriate site, in
23 my mind, along with others.

24 Q And did you make a recommendation to the munici-
25 pality with regard to this piece of litigation involving

1 Mr. Lerner?

2 A I'm not sure it was in the context specific to the
3 litigation, but in a general formulation of the Master Plan
4 and the implementing of ordinance, yes.

5 Q Could you state what that was, to the best of your
6 recollection?

7 A Agreed upon the eight dwelling units per acre.

8 Q I'm sorry?

9 A This was all part of a rather convoluted process inde-
10 pendent of the litigation, the litigation independent of
11 the municipality and the marriage of the two.

12 Q You made a proposal which, essentially, was accepted
13 by Mr. Lerner and the municipality as a part of a settlement;
14 is that correct?

15 A Yes.

16 Q Can you state what that proposal was that was
17 accepted by both parties?

18 A You want me to repeat it?

19 Q I didn't take it down.

20 A It's a planned development option. At that time it was
21 a planned unit development under the '67 statute, an overlay
22 type of situation on these lands and others. Gross density,
23 eighto Net density similar to everything else that I've
24 discussed, and no commercial. I'm not sure whether any
25 single-families were required or not.

1 Q You say it was an overlay. You're speaking now
2 of an ordinance that the town adopted which resulted in an
3 overlay over other zones?

4 A No. It was part of the land development ordinance docu-
5 ment, but it was an option, because there are no sewers
6 there and, therefore, some other uses had to be given to the
7 property in the absence of sewers, number one, and number
8 two, it required the amassment of or commitment of at least,
9 I think, 50 acres. And over the long run, it might be that
10 some smaller pieces would be left out. Very typical process.

11 Q What did the option overlay or float on?

12 A I think it was an R-1.

13 Q Which would be a one-acre zone?

14 A Which was a one-acre zone and happened to be the best
15 lands in the Township in regard to the physical constraints
16 or the lack of physical constraints, which is not saying a
17 whole lot in terms of West Milford, but it is a relative
18 situation, and those lands were chosen because they were
19 on the path of the then projected Wanaque trunk line for
20 sewer. They had reasonable accessibility in terms of access
21 to the parcels themselves, and, in turn, access from the
22 future residences to commercial and other service situations,
23 feasibility for police and fire protection given the exist-
24 ing infrastructure improvements and services in the town.

25 And also for package treatment plants. If

I

1 there was going to be non-point pollution, it was theoretic-
2 ally reasoned without really any detailed studies that these
3 lands might be more appropriate than some others.

4 Q Do you recall what the potential capacity was for
5 residential development under the option for the zone?

6 A Eight dwelling units per acre.
7

8 Q And how many acres did this option float over?

9 A Well, there were a number of different zones, not only
* this particular area—I don't know, offhand. It's part of
10 the Master Plan.

11 Q It's part of the existing Master Plan?

12 A Yes.

13 Q Could you estimate? Was it several hundred acres?

14 A I would estimate yes, but that's only an estimate, and
*5 I stand to be corrected on all these estimates.

16 Q Other than the Lerner situation in West Milford,
17 were you involved in any other major development proposals?

*1 A Yes. More recently during the last calendar year,
*0

19 the City of Newark brought suit against the Township of
20 West Milford, and I appeared in August and September before
21 Judge Rubin in Passaic County on behalf of the Township. e

22 Q Are there any other municipalities in which you've
23 done this type of work?

24 A Yes.

25 I, as you know, am representing Chester

1 Township. I worked with the municipality and its officials
2 in the formulation of a relatively recently adopted Master
3 Plan at the time of a concurrent involvement of the muni-
4 cipality in a litigation under the heading of Caputo,
5 although I did not testify in that litigation.

6 And my task was independent, really, of it,
7 although, of course, the attorneys for the municipality did
8 report to the municipality as to the process, and I am
9 certain that that information was an input into their
10 decision-making process, although it didn't affect my
11 recommendations any. My recommendations were made before
12 the litigation was finalized.

13 Q Have you reviewed any development proposals in
14 Chester Township of any significance?

15 A No, I haven't.

16 Q Are there any other municipalities in which
17 you've done this?

18 A Let me give a caveat to that.

19 I have seen in Chester Township conceptual
20 plans recently for a tract of land which is currently zoned
21 apartment/townhouse, multiple-family residential, and this
22 involves an on-site spray irrigation plant, and there is
23 a discussion about slight modifications to the zone boundar-
24 ies in order to effectuate the plan and the intent of the
25 ordinance based upon that engineering input. That's in

1 discussion phases. I haven't completed my review, and I
2 have no idea what the end result is going to be.

3 Q Okay.

4 A That's a proposal in the A/T zone. It's not a formal
5 proposal, but it's within the A/T zone and some surrounding
6 lands on the basis of what is purported to be the optimum
7 location for a spray irrigation facility which, in turn, is
8 purported to be a good design, and there were a lot of
9 purportives, and there are possibly some others that I'll
10 uncover, and I'll be happy to tell you about when I find
11 them.

12 Q Is there any other work that you've done,
13 municipal work?

14 A Yes. In Bedminster Township, I appeared in a recent
15 litigation on behalf of the municipality before Judge Leahy.

16 Q Are you reviewing a specific development proposal?

17 A Not really, although there was one involved in litiga-
18 tion. It happened to be bifurcated from that particular
19 state of the litigation, or the hearing process.

20 It was the Alan Deane property, and ther
21 was a bifurcation so that the actual plan was not discussed,
22 although I was familiar with the plan, and I had occasion
23 before testifying to review the Master Plan and the zoning
24 ordinance documents of Bedminster Township and comment
25 upon them to the municipal officials and the attorneys,

1 which did result in some modifications prior to trial to
2 those documents.

3 Q Can you briefly state what your comments were
4 <
5 regarding the Master Plan and/or the development proposal
6 of Alan Deane, if any?

7 A Yes.

8 In regards to the Master Plan, my initial
9 reaction was one of significant concern because the written
10 Master Plan itself was rather sparse. It consisted only
11 of four pages. However--

12 MR. FERGUSON: Off the record.

13 (Off the record discussion.)

14 BY MR. BISGAIER:

15 A However, in reviewing the background work which had
16 been completed but not, in fact, printed, it became appar-
17 ent--my concerns were largely solved,, And in regards to
18 the ordinance, the plan--the ordinance was written in terms
19 of percentage for a ratio, which did present some computa-
20 tion difficulties and led to some questions in regards to
21 the drafting of the ordinance as opposed to the intent of
22 the ordinance, or, I should even say the substantive provi
23 sions of the ordinance,, There were some changes made ther e.

24 Essentially I concurred with the overall
25 theme of the plan in terms of location of multiple-family
developments and so testified in court. That decision has

2 recently been rendered, and the Court agreed with the muni-
2 cipality that the areas that they designated for multiple-
3 family were reasonable. They happen to include the Alan
4 Deane property, and the densities that I had suggested--I
5 shouldn't say that I suggested, but that, indeed, were part
6 of the original plan for those lands which had been zoned
7 for multiple-family, again, were upheld by the Judge,
8 although he has asked for some additional lands to be
9 included.

10 Q What were those densities?

11 A Gross density of approximately 5.5, based upon the
12 County plan, which will result in net densities upwards of
13 11 or 12 in certain portions of the tract because of some
14 large amounts of critical land masses which would not be
15 appropriate for development.

16 Q Do you have any idea what the extent of the acre-
17 age was that had been zoned at a gross density of 5.5?

18 A It hasn't been zoned yet. That's what the Judge is
19 asking. They had zoned lands at a gross density of about
20 eight, and the exact amount of land, I just don't recall.
21 But in the hundreds of acres.

22 Q And you personally had approved of that zoning?

23 A In the context of Bedminster Township, yes.

24 MR. FERGUSON: I object to that ques-
25 tion. I don't know what the word "approved"

1 means.

2 Would you find that?

3 BY MR. BISGAIER:

4 Q What did you mean, "yes" in the context of Bedmin-
5 ster Township"?

6 A I thought it was a reasonable plan.

7 Q Now, I'm a little confused.

8 You stated that there was a gross density
9 of 5.50 You say there was a gross density of eight. Can
10 you clarify that?

11 A The ordinance that was subject to review by the Court
12 had certain zones which could theoretically be developed
13 at a density of approaching eight dwellings per acre. The
14 Judge did not find that unreasonable on its face, but had
15 some other considerations which I think will lower the
16 gross density of lands which may be zoned, but it's, still
17 in the process of litigation, so I don't know what the end
18 result is going to be.

19 Q Have you read or familiarized yourself with the
20 opinion of the Judge in that case?

21 A Yes.

22 Q And you find the opinion reasonable?

23 MR. FERGUSON: Objection to that ques-
24 tion.

25 BY MR. BISGAIER:

1 Q Purely from a planning perspective, do you find
2 the opinion reasonable?

3 A Not entirely,

4 Q ' What would your objections be as a planner to the
5 opinion?

6 A The objection I would have is that I think the village
7 areas themselves, and that's a question in my mind as to
8 what exactly the Judge meant, but the village areas of
9 Pluckemin and Bedminster proper, I don't think should be
10 engulfed with significant densities of multiple-family
11 development. I think the historic and aesthetic significance
12 as well as the cultural significance of those areas should
13 be maintained. That's a hit-pick to some extent,

14 I concur with the Judge in saying that the
15 lands west of 287 are reasonably zoned, and they are zoned
16 at relatively low densities, and that the higher densities
17 should be within the lands bounded by 287, or, I should say,
18 the lands to the east of 287.

19 I have some question about what the impact
20 in the Judge's mind is potentially on the villages within
21 that area, that is, the village of Pluckemin, that area,
22 and then outside of that area with the village of Bedminsteijr
23 to the north, I did feel that the Judge's reliance and
24 attention to the County Plan and other regional plans was
25 good, and I have been involved in some litigation where

1 there hasn't been that attention paid.

2 Q Did you feel that, from a planning perspective,
3 his opinion was sufficiently consistent with the tri-state
4 and county plans for you to reach the conclusion as a
5 planner that it was reasonable?

6 A Yeso I don't think that he took the tri-state plan
7 or the County plan on absolute face value. I don't think
8 he withdrew from the municipality's ability to provide
9 refined data on a local level. I think he tried to put all
10 of the planning inputs together, including housing responsi-
11 bilities in the context of an overall planning program. I
12 think he did quite well in that regard as opposed to just
13 taking the housing allocation numbers and making judgments
14 on them as if that was the result of a planning process as
15 opposed to just an input into it.

16 Q Do you recall potentially how many housing units
17 in Bedminster Township could conceivably be built as a
18 result of the Court's decision?

19 A No.

20 Q Do you have any estimate of that, or any knowledge
21 regarding it at all?

22 A You're talking about theoretically?

23 Q Theoretically.

24 A It's difficult to know, I mean, since the last paragraph
25 of the decision essentially says, "We will continue to

1 discuss the matter," it's difficult to put a number to it.

2 MR. FERGUSON: Were you referring to
3 '&' the Court's opinion of December 13, 1979,
4 when you say "decision"?

5 MR. BISGAIER: I'm referring to any
6 decision of the Court ruling to the case
7 that Mr. Coppola might be aware of.

8 MR. FERGUSON: Well, then, I would ask
9 that you ask the witness which decision, or
10 tell the witness which decision you're
11 referring to and ask him which one he's
12 referring to.

13 BY MR. BISGAIER:

14 Q Which decision are you referring to?

15 A I'm referring to the decision within the last 45 days
16 that's been rendered.

17 Which decision are you referring to?

18 Q I'm referring to any decision that the Court made--

19 A Oh.

20 Q --with regard to the--

21 Then I'm being responsive.

22 Q Yes.

23 MR. FERGUSON: The reason I made the
24 objection is on Tuesday of this week the
25 Court held a hearing on the remedy phase

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1 of the proceeding and made various rulings
2 which have not been yet reduced to the form
3 of an order, and I didn't want the witness
4 to be confused since I have told him very
5 very briefly what some people, at least,
6 think those rulings may have meant.

7 And I will state for the record that
8 the opinion that I have sampled is not
9 unanimous as to what those rulings meant,
10 even among the parties most intimately
11 involved with the litigation. I don't
12 quite know what those rulings meant, I
13 believe we'll find out in the not-too-
14 distant future.

15 BY MR. BISGAIER:

16 Q To your knowledge, did the Court in the Alan
17 Deane Bedminster case render an opinion as to the provision
18 of lease cost or housing units for persons of low moderate
19 income persons?

20 MR. FERGUSON: Could I have that read
21 back, please?

22 (The reporter read back the last ques-
23 tion.)

24 MR. FERGUSON: Objection as to the form
25 of the question.

1 One, it's asking this witness, who's
2 a planner, not a lawyer, to comment upon
3 a decision of a Judge, which is essentially
4 a legal opinion from a planning witness.

5 Secondly, there are two trial court
6 opinions in Bedminster, one in 1975 before
7 Mt. Laurel and another one supplemental to
8 it after Mt. Laurel-

9 MR. BISGAIER: I'll withdraw it.

10 MR. FERGUSON: --a third one in
11 December of 1979--

12 MR. BISGAIER: I withdraw the question.

13 BY MR. BISGAIER:

14 Q Do you have an opinion as to the provision of
15 lease cost or subsidized housing in Bedminster Township
16 in the context of the Alan Deane property or proposal?

17 MR. FERGUSON: Well, I object to the
18 form of the question. I don't know if
19 that's specific enough for the witness to
20 answer it. There are many different kinds
21 of opinions that one could have about the
22 provision of lease cost housing, and I don't
23 think it's fair to ask the witness to answer
24 it until you give him a context--

25 BY MR. BISGAIER:

1 Q I'll give you a hypothetical and see what you can
2 do with it.

3 If the Court were to order that in the context
4 of a development proposal on the lands which have been zoned
5 for multi-family use, or which may be rezoned as a result of
6 the Court Order for multi-family use in Bedminster Township,
7 that a percentage of the housing units in any development
8 proposal should be for lease cost housing and/or subsidized
9 housing for low and moderate income persons, would you,
10 as a planner, have an opinion in regard to that order?

11 A Probably.

12 Q Can you state what that opinion would be?

13 A I don't know. I would have to see what the order was.

14 First of all, you're linking lease cost
15 housing with subsidized housing, which I find fascinating.

16 Q Why?

«

17 A Because they're totally different animals.

18 Q I'm saying and/or subsidized housing.

19 A I don't understand, I guess, the question.

20 Q if the order was that 25 percent of any of the
21 units proposed in the project, in the multi-family areas of
22 Bedminster, zoned for multi-family, in the area of Bedminste
23 zoned for or to be zoned as a result of a Court Order for
24 such uses were to be for lease cost housing and/or for
25 subsidized housing?

1 A I guess I would have to ask you, then, first of all,
2 what do you mean by "lease cost," since you posed the ques-
3 tion."

4 MR. FERGUSON: For the record, I object
5 to the form of the question since I don't
6 know what the words, quote, were to be, closed
7 quote represent.

8 If we're talking about a mandatory
9 ordinance saying that 20 percent of the units
10 have to be built according to certain
11 specifications and those specifications
12 are, by Mr. Bisgaier or some higher author-
13 ity, deemed to be lease cost units, then
14 we have one type of problem. If the words,
15 quote, were to be, closed quote represent
16 something else, then we might have a differ-
17 ent kind of problemo

18 Perhaps you can specify.

19 Now, if the witness can answer it, he's
20 free to, but I think the question, as asked,
21 is very difficult to understand.

22 MR. BISGAIER: I'm asking something
23 which I think is rather simple. If there's
24 difficulty, maybe Al can help me with it.
25 He's been trying here.

1 BY MR. BISGAIER:

2 Q Basically what I'm saying is in those areas which
3 the Court deems appropriate for multi-family use, would you,
4 as a planner, object to an order mandating that any developer
5 who takes advantage of the multi-family use permitted
6 provide a certain percentage of the units as lease cost and/
7 or as subsidized housing, lease cost being defined as units
8 built consistent with minimal standards for health and
9 safety?

10 A On the site, or in terms of the overall costs or what?

11 Q On the site.

12 A Is that what lease cost is in your mind? I'm asking
13 you.

14 Q No, I'm not testifying. I'm just saying that
15 that was the provision--

16 A You asked the question, and that's the problem I have.
17 I have a little less problem with the subsidized because
18 that's a very very finite question.

19 The other one I think we can debate for hour
20 of what we're talking about when we say lease cost.

21 Q Let's go with subsidized.

22 A I think it would be--as a planner, I would question
23 whether or not it was reasonable.

24 Q Why?

25 A Because you're locking, then, the land, or you're

1 tying the land to government subsidies which are in some
2 cases out of the control of the owner of the land or the
3 municipality.

4 Q Hypothetically, suppose the subsidies were avail-
5 able and the developer had access to them?

6 A Then the question would be, is the land reasonable,
7 is the location reasonable, and so forth and so on.

8 Q What we're talking about, these specific lands
9 which you have, I presume you've reviewed--

10 A I think 25 percent of the units in that regard, I
11 would question whether or not it's reasonable. I haven't
12 really looked at it that way because I really don't think
13 that subsidized housing is going to be built on those lands.

14 MR. FERGUSON: Are you confining your
15 question to planning considerations? And
16 are you eliminating such things as taking
17 of property without compensation, the consti-
18 tutional and statutory authority of both
19 courts and indeed municipalities or legisla-
20 tive bodies to impose this kind of requirement
21 as a condition precedent to the development
22 of land?

23 MR. BISGAIER: Solely to planning
24 considerations.

25 BY MR. BISGAIER:

I
1 Q Would you, as a planner, object to these lands in
2 Bedminster which are presently zoned for multi-family uses,
3 or which the Court is directing to be used for multi-family
4 uses? Would you as a planner object to 25 percent of those
5 units being provided for subsidized housing, assuming those
6 subsidies were available?

7 A Not necessarily. I don't know. I'd really have to
8 review it in that context.

9 Q What would you have to know in order to make that
10 judgment?

11 A I'd have to know, first of all, how many units possibly
12 were going to be constructed on the site overall. I'd have
13 to see the plans and whether or not the location of those
14 subsidized units makes sense in the overall context of the
15 plan. I'd have to see the type of subsidized units being
16 proposed and feasible for construction. I'd have to investi-
17 gate the transit from a different viewpoint than just general
18 multiple-family development, and the job opportunities, as
19 well.

20 And I have really not done that specific to
21 **that** magnitude of subsidized units.

22 Q So whereas you could--

23 A Also, I'd have to, one other thing I'd have to know,
24 what kind of subsidized units they will be in terms of whether
25 they're family or senior citizens or just what.

1 Q Why?

2 A Well, there are different needs, I would say, for the
3 family and senior citizens in terms of community needs,
4 employment opportunities, transportation facilities,
5 shopping facilities, health care facilities, recreational
6 facilities,,

7 Q Would you be similarly concerned with non-subsidized
8 units?

9 A I think there are differences.

10 Q I'm just asking if you'd be similarly concerned.,

11 A Similarly, yes.

12 Q What are the differences?

13 A The differences are in terms of particularly in areas
14 such as Bedminster, the mobility, the transportation, the
15 amount of money that it costs to live in rural areas versus
16 urban areas where you have infrastructure improvements at
17 your fingertips, and you don't and you won't out in that
18 area.

19 If we're going to adhere to any of the
20 regional planning concerns, even the Governor's State of
21 the State message, and unless we're going to foster just
22 a homogenous landscape across New Jersey--

23 Q What?

24 A I lost track of where I was in that answer.

25 What I'm saying is that there will be

1 diversities in different parts of the State, and, therefore,
2 a blanket attitude that every multiple-family development,
3 let's say, should have 25 percent or 20 percent or 30
4 percent, whatever, subsidized, I think is being made in a
5 planning vacuum. It's not a planning--it's a question that
6 a planner, that I don't think ever would impose in a general
7 way.

8 Q What would stand in the way of--let me ask you
9 this: Are you familiar with subsidized housing that has been
10 built in communities similar to Bedminster, both family and
11 senior citizen?

12 MR. FERGUSON: Such as?

13 MR. BISGAIER: Any.

14 BY MR. BISGAIER:

15 A Not that I can think of off hand.

16 Q You have none?

17 A Is Princeton similar in your mind?

18 Q Is it in yours?

19 A No. So the answer is no. No, not offhand.

20 Q Okay.

21 Are you familiar with a subsidized housing
22 in Princeton?

23 A Yes.

24 Q What is your familiarity with that?

25 A I just have seen it during the development stages and

1 seen it during--visited the site during the construction
2 stages and have seen it now that it's constructed, have -
3 some idea of the-

4 Q Why did you undertake to visit the site and see--

5 A I happened to drive by it and--

6 Q Just as a personal interest?

7 A Yes, as a planner,,

8 Q And do you have familiarity with what was built on
9 the particular site that you looked at?

10 A Generally speaking, yes.

11 Q Can you describe it?

12 A I have no idea what the overall densities are, but
13 there is a mix of family and elderly units in a variety of
14 architectural forms, including single-story to three-story
15 structures, and I think a couple of mid-rise structures.

16 Heavily-treed tract in close proximity to
17 major arteries and health care facilities, recreational
18 facilities, schools and the like.

19 Q Is that in close proximity to other residential
20 developments?

21 A Yes.

22 Q What are they?

23 A Single-family.

24 Q Could you characterize them?

25 A I'd say moderately old residential area. I would say

1 constructed probably in the 50^fs, lot sizes range, I would
2 guess, as they do in most of Princeton, between a quarter
3 acre and an acre, some seemingly affluent homes--or, I
4 should say expensive homes--some more ordinary in constructi
5 probably still very expensive, given the Princeton mystique.
6 And there is also some commercial and research facilities
7 nearby.

8 The shopping center is nearby, the Princeton
9 Shopping Center. That is within the context of all that.
10 There are a number of medical buildings and offices right
11 on the same street, or off of the same street on Harrison
12 Street.

13 Q When you say it's in a close proximity to educational
14 facilities, how close and to what?

15 A The elementary school, which is on Witherspoon, is,
16 I would guess, about three-quarters of a mile away.

17 Q What health facilities are nearby?

18 A Princeton Hospital.

19 Q How far is that?

20 A About the same distance, I think.

21 And there are doctors^f offices lining up
22 from the Shopping Center, which is very near the property.

23 Q How far is the Shopping Center?

24 A About a quarter of a mile.

25 Q And what transportation arteries are nearby?

1 A State Route 206, Harrison Street. Thau's about it.

2 Q Are there any public transportations?

3 A I think they have their own jitney service. I don't
4 * know if there is public transportation, as well. There is
5 on 206, I guess.

6 Q Do you know if it stops at the project?

7 A I don't know.

8 Q What recreational facilities are nearby, and
9 what's their proximity?

10 A Well, there's recreational facilities surrounding the
11 school, and there are a number of parks within the Borough
12 itself, and this is close to the Borough.

13 Q Do you find this kind of site acceptable for sub-
14 sidized housing?

15 A I think it's working pretty well. It's a site, frankl[^],
16 from a physical viewpoint, which would have been appropriate
17 for almost any type of development.

18 You've very very close to the heart of
19 Princeton Borough, and all the facilities. You're dealing
20 with a built-up area. It was one of the few vacant pieces
21 left.

22 I wouldn't say it was ideal, but in the
23 context of what the choices were, I think it was appropri-
24 ate.

25 Q Are you familiar with any other subsidized

1 projects in suburban or rural areas?

2 A Yes.

3 Q What are they?

4 A In Hamilton Township there's a senior citizens'
5 project by the name of Pond Run or Klockner Senior Citizens.
6 I don't know what the name is these days.

7 Q Any others?

8 A Well, I know of others, but I'm not as familiar with
9 them as I am--

10 Q Are you familiar with any in Morris County?

11 A No, I'm not.

12 Q Do you consider the Hamilton Township project
13 reasonable from a planning point of view?

14 A Not really.

15 Q Why?

16 A We're dealing with, there, two mid-rise structures,,
17 In fact, they're not even mid-rise. They're high-rise
18 structures. They're about 18 stories high.

19 From a senior citizens' viewpoint, it may
20 make good sense,, I would say it does, because it's more
21 secure and there's better orientation of the collective
22 open spaces within the structures themselves and there's
23 less walking involved. But from a planning viewpoint, I
24 don't think they're appropriately situated, no.

25 Q Why?

2 A They disturb the landscaping,, They¹re incompatible
2 with the scale of uses around them.

3 Q What about from the locational point of view
4 only, the aesthetics of the design?

5 A The locational viewpoint, there is merit to the loca-
6 tion.

7 Q Why is that?

8 A Well, you're dealing with a city, for one thing,
9 You're dealing with a population of 100,000 people in a
10 relatively small portion of the overall municipality. You
H have relatively close proximity, again, to the Hamilton
12 Hospital, which I would guess is about a mile, a mile **and**
13 change away. I don't know exactly.

14 You have a shopping center right at the
15 corner within walking distance of the project. You have a
16 number of offices, of medical offices within the area. You
17 have ancillary shopping facilities scattered about White
18 Horse/Mercerville Road, which is near the site.

19 Q ' Do you know if there's public transportation to
20 the site?

21 A I think there is a stop within the site, but I'm not
22 sure. I think they also have some sort of a jitney service,
23 occasionally, I think, to the mall, which is not that far,
24 either. I'm talking about the Quaker Bridge Mall for
25 shopping excursions to break the monotony, I guess, of

1 activities.

2 That's a senior citizen housing project,
3 by the way.

4 Q On C-4, you--

5 A Which one is C-4?

6 :* Q I'll show it to you in a second.

7 You identify two sources on page 6.

8 Could you explain the best you can with as
9 much specificity as you can what those sources are?

10 A These were acquired from the New Jersey Department of
11 Transportation. I believe the studies or the printouts
12 were made by the Tri-State Regional Planning Commission;./

13 Q In other words, you're talking about the same
14 document--

15 A Yes.

16 Q --the sources?

17 A They were printouts. They were sheets that are readily
18 available at the State DOT.

19 Q Do you know how one might identify them in order
20 to get a copy of them?

21 A I generally have asked just for the employment resident
22 data through the library, and they just lead me to the
23 proper room, which changes often.

24 Q Now, could you compare C-4 with C-6?

25 A Which is C-6?

1 Q C-5. Here.

2 A C-5 is taking the figures that appeared in C-4. The
3 end result is slightly different. There was an error in
4 the computation on the cover sheet of C-4 in the last two
5 paragraphs, but all C-5 does is refers to the display board,
6 which is behind you, and indicates that of the incoming
7 trips into the 27 municipalities, which are the subject of
8 this litigation, for job opportunities, I should say, the
9 incoming trips for job opportunities for enterprises located
10 within the 27 municipalities, 85 percent of the trips,
11 approximately, originated within Morris County, which is
12 shown in red on the display, or the first ring of municipal-
13 ities surrounding Morris County, which is shown in orange
14 on the display.

15 Q Is there any differences between C-4 and C-5 in
16 terms of the data?

17 A No.

18 Q What was the error in computation you referred to?

19 A The error is in paragraph 5 on C-4. It says "Concern-
20 ing the total incoming work trips into the twenty-seven (27)
21 subject municipalities less than 3% of the total of the trips
22 originate from the municipalities within the second ring."

23 Actually, it's about three and a half percent.

24 Q Is there any other difference?

25 A Yes. There's a reference in that same paragraph to

1 three percent, again, concerning the employed residents who
2 work within the municipality situated in the second, and I
3 had indicated three percent in that computation was wrong
4 after disaggregating the data more carefully. It's the
5 same data, but it's closer to 4.87 percent. That's the
6 change in the interpretation of the data. The data is the
7 same.

8 Q What is their relationship, if any, between
9 density and cost?

10 MR. FERGUSON: Of what?

11 Object to the form of the question.

12 MR. BISGAIER: Between density of housing
13 and cost of housing.

14 MR. FERGUSON: Would you define cost?

15 If the witness can understand it, he
16 can answer, of course, but I would ask that
17 he give his definition in the answer.

18 If you have the definition, I would
19 like to have that incorporated in the ques-
20 tion, specifically step-in cost versus
21 building cost versus site development cost
22 versus off-site cost associated with housing,
23 et cetera.

24 BY MR. BISGAIER:

25 Q All of those.

1 A In any order? Okay.

2 I think the cost of housing can be broken
3 down into a number of components. Oftentimes people will
4 latch on to the idea of site cost, and that simplistic
5 view will result in an abstract considering a piece of land
6 and saying that the higher the density you have, therefore
7 the more you can spread your costs around.

8 I say it's simplistic for a number of reasons.
9 First of all, it loses track of the requirements for a
10 suitable environment for the people you're building for.
U But more importantly, it excludes considerations of other
12 ancillary costs which must address where the facility is
13 being located, the impacts of the facility upon surrounding
14 areas—

15 Q I'm sorry to interrupt you. You can finish this
16 question after my interruption if you feel it is necessary.

17 A Then I don't understand the question.

18 Q I'm not interested in all the potential costs
19 of the development. I'm just interested in whether you
20 believe there is a relationship between the density of a
21 residential development and the cost of the residential
22 development from the point of view of the construction,
23 from the point of view of ultimate rentals or ultimate
24 sales prices at all.

25 A Theoretically, I would say that it can be indicated.

1 Practically, I^fve never seen it occur.

2 Some of the most expensive developments I've
3 seen have been higher density than some of the least expen-
4 sive. So in even lot sizes, I think, if a study were made
5 for an entirety of the State, one would find that the most
6 expensive housing, single-family is on some of the smallest
7 lots. So I guess what it amounts to is what the market
8 will bear.

9 Q From the point of view of—if you as a developer
10 wanted to build a unit to rent or sell at the lowest cost
11 you could consistent with the protection of health and
12 safety, all other factors being equal—

13 A What do you mean by "equal"?

14 Q They're not variables.

15 A Okay. All right.

16 Q Would density of the site be a factor?

17 MR. FERGUSON: Object to the form of
18 the question.

19 Could you tell me what the variables
20 are that are equal?

21 MR. BISGAIER: No, I can^ft. I^fm
22 talking about anything else that might
23 enter into an evaluation of the development
24 of a particular project.

25 MR. FERGUSON: Other than what?

1 MR. BISGAIER: Density.

2 MR. FERGUSON: And what else?

3 MR. BISGAIER: How the universe of
4 discourse possibly could be defined by
5 density and everything else.

6 What do you mean by "what else"?

7 MR. FERGUSON: Density itself is a
8 function of two things, units and land.
9 Therefore, when you ask about density,
10 you're asking about number of units versus
11 land. If you're asking about cost, you're
12 asking about a whole range of cost, even
13 associated with those two factors. Therefore
14 density and cost is a simplistic question,
15 and I submit it can't be answered.,

16 MR. BISGAIER: If the witness can't
17 answer, I'll accept that.

18 BY MR. BISGAIER:

19 Q What I'm asking is, all other factors being
20 equal, were you an owner of land and you wished to build
21 at the lowest cost possible, consistent with health and
22 safety, would you be concerned at all about density?

23 MR. FERGUSON: For the record, I
24 object to the question "would you be con-
25 cerned about," because I'm-

1 THE WITNESS: I^fm not sure--

2 MR. FERGUSON: Let me finish, because I
3 don*t know what those words mean.

4 BY MR. BISGAIER:

5 Q Would density be a factor in your consideration?

6 Say the land is not now zoned. The municipal-
7 ity is asking you to propose a density. Would you care if
8 it was ten on the acre? Would you care if it was at one to
9 the acre? Would it enter into your--

10 A I think it would be dependent—I really can't answer it
11 the way you posed it, but certainly it would be dependent
12 upon who I was building housing for. In other words, lease
13 cost is applicable to a three-acre site as much as it is to
14 a multiple-family site, and I^fm not sure, and I have never
15 been satisfied that I have read anything, I have never
16 designed it or evolved it myself, that when you leave a
17 situation where you have a rural tract of land that you put
18 a septic tank on and then move to a situation where you have
19 to build services, all your other equals which we have
20 glossed over, where the tipping point is. It becomes a
21 vn&stbers game, which a lot of this type of litigation becomes,
22 trying to attach numbers to theories and you make a series
23 of assumptions and limitations in your approach such as
24 some do in terms of saying, well, we're just concerned with
25 the site, and I think your question was limited to that,

1 the site.

2 I have a hard time, as a planner, putting
3 Jfctlinders*on in that way and possibly coming to a conclusion
4 .vvhich i\$ really erroneous in terms of the planning process.

5 So, yes, I would be concerned about the density because I
6 would, naturally, want to know what could be designed. But
7 I^fd have to judge the number of units based upon what I had
8 to supply in terms of a good planning product. Those are
9 all the other equals that you said.

10 I don^ft eliminate—I don^ft think we've
11 gotten to the point where we're just talking about building
12 boxes.. We're talking about building dwelling units for
13 people, I still think, not just numbers.

14 Q You, as a developer, or you, as somebody who
15 would, as a planner, represent a developer, would not feel
16 that the density of the project would be a factor in terms
17 of the ultimate cost to the developer of building the
18 project or the ultimate sales prices or the ultimate rental
19 values?

20 A Some of the examples that I gave you earlier for jobs
21 that I've been involved in, those that I have taken I have
22 never been placed--

23 Q Can you answer that yes or no?

24 A No.

25 Q You can't?

1 A Not as I understood that question.

2 Would you want to repeat it and I'll try
3 again? *

4 Q Sure.

5 MR. BISGAIER: Go ahead.

6 (The reporter read back the last ques-
7 tion.)

8 BY MR. BISGAIER:

9 A Not necessarily.

10 Q When would you be?

11 MR. FERGUSON: When would you be what?

12 MR. BISGAIER: Concerned about it.

13 MR. FERGUSON: About what?

14 MR. BISGAIER: Sometimes you are a
15 royal pain.

16 MR. FERGUSON: So are you, Mr. Bisgaier,
17 and I really resent that because it can
18 refer to about six different things in your
19 question, and if you ask a decent question,
20 then I won't have to make silly objections
21 to silly questions, so go ahead and do what
22 you went to law school for.

23 MR. BISGAIER: Thank you for helping me
24 out here.

25 MR. FERGUSON: Any time you want it.

1 Go right ahead.

2 BY MR. BISGAIER:

3 Q When would you feel that the density was a factor?

4 A I already responded, and I'll respond again, I would
5 look at the density question against what I was planning
6 for. That's as specific an answer as I can give as to the
7 hypothetical that you've offered.

8 Q Suppose you were planning for garden apartments?

9 A For who? Where? What are the services? What are the
10 locations? I mean, you're talking—I'm not a numbers
11 player. I'm a planner. So I can't respond in terms of,
12 you know, simplistic yes or no's because it's not that kind
13 of a thing, Carl.

14 Q How do you, as a planner, determine what the
15 density should be for a zone?

16 A I'll look at the—are you familiar with the Master
17 Plan? With a typical Master Plan of a town? Could I ask
18 you that question? It would maybe save some time.

19 I would look at all the headings of the land
20 use parameters or the inputs into land use. I would also
21 be concerned with the question of the facilities that are
22 going to be there to serve the site and what has to be built.
23 And I would further be concerned with whether or not it was
24 going to be subsidized or not, particularly if it's going
25 to be elderly or not.

1 Q If it was going to be subsidized for the elderly,
2 how would that impact on your judgment?

3 A Because the impacts on the community are significantly
4 less per dwelling unit than they are for a family subsidized
5 or not.

6 Q What would your judgment be if it was going to be
7 subsidized for the elderly as to density for a zone?

8 A Well, if it's going to be subsidized for the elderly,
9 the density would have to be upped.

10 Q To what?

11 A Well, dependent again upon where we're talking about
12 and what facilities are available. But I would suspect it
13 would have to be upped by a factor of somewhere about three
14 times what would be otherwise allowed in the sense for a
15 family type housing. It could be upped, is what I'm saying,

16 Q . Is there a number that would be reasonable in that
17 context for you to say would be a reasonable number for a
18 zone in which was going to be subsidized housing for senior
19 citizens?

20 A I would say in the neighborhood of 24 dwelling units
21 per acre.

22 Q Is that to the gross acre or to the net acre?

23 A Gross.

24 Q Now, what, as a planner, would you believe to be
25 a reasonable density for a zone which would involve family

1 subsidized housing?

2 A I think in most ordinary situations, and I guess I've
3 been involved in ordinary situations, a density of between
4 six and ten dwelling units per gross acre appears workable
5 in all types of situations and ends in a product which can
6 be marketed for a tremendous diversity of means.

7 Now, there's other inputs involved, but that
8 has been proved to be the case in my experience.

9 Q What has been your experience with family sub-
10 sidized housing and your familiarity with subsubsidized
11 housing at those densities?

12 A Very little.

13 Q Do you have any project family subsidized housing
14 that's been built at those densities? As a multi-family
15 project, I'm sorry.

16 A I'm not sure what the overall density of the Princeton
17 facility is, so I really can't tell you*

18 Q How did you then come to the conclusion that a
19 reasonable density for family subsidized housing would be
20 between six to ten to the acre?

21 MR. BISGAIER: I apologize. Sorry.

22 MR. FERGUSON: For what?

23 MR. BISGAIER: Saying what I did

24 before.

25 BY MR. BISGAIER:

1 A My reaction to that is simply that I recall that
2 there have been projects by the HFA that have been built at
3 that density for family housing, so I assume it's feasible.
4 I was looking at it more from a community impact viewpoint
5 because whether the residents of the structures are sub-
6 sidized in terms of their rent or whether the construction
7 costs were subsidized or not, the people are the people,
8 so the impacts on the town and the visual landscaping and
9 the needs of those people are no different than they would
10 be if they were unsubsidized projects.

11 Q So you would not distinguish between densities
12 for a subsidized family project versus densities for a
13 unsubsidized family project?

14 A I think that's going to have to be determined by
15 what's called a Form 10, and that would work considering
16 infrastructure improvements, road improvements, as well as
17 the cost of the land that's being contracted for, if it's
18 approved by the FHA in order to make it feasible, and
19 whether there's any piggyback subsidies for different
20 v ; progiainas J

21 A ; •• Q, *.r-Are you familiar with any HFA projects which have
22 been constructed whose densities you believe were inappro-
23 priate?

24 A I really can't say.

25 Q Are you familiar with any projects sponsored by

1 the Department of Housing and Urban Development for family-
2 housing whose densities you believe to have been inappropri-
3 ate?

4 MR. FERGUSON: Where? In New Jersey,

5 or St. Louis, or--

6 MR. BISGAIER: Anywhere.

7 B^ MR. BISGAIER:

8 A I can't respond because I really don't know exactly
9 what densities some projects are, and, you know, some
10 products bother me, obviously, and some are more pleasing
11 to me, but I don't know exactly what the densities are, so
12 I can't respondo

13 Q Are you familiar with any restrictions that^are
14 imposed by the HFA or HUD with regard to densities?

15 A No, I am not aware of any restrictions in terms of
16 densities, except that the project has to be feasible from
17 an economic viewpoint in their minds,,

18 Q Does the density of the project enter into--is
19 the density of a project a factor as to project feasibility?

20 A In terms of impacts of site appropriateness, yes; in
21 terms of actual construction, I don't really know if it gets
22 involved or not. It should, but I don't think it does_0

23 Q How do you mean, it should, but you don't think
24 it does.

25 A Well, I think that there should be a concern for the

1 density when you're dealing with people. I think, however,
2 once the site is geared to be feasible by the HFA, the
3 rest of it becomes a computational analysis of feasibility
4 from a monetary viewpoint.

5 Q And does density of the site play a factor in the
6 feasibility of the site from a monetary point of view?

7 A It can very much so, dependent upon--yes, it considers
8 the cost of the lands and what the cost of the operation
9 will be and who it's being planned for and so forth and so
10 on, whether jitney service is going to have to be provided,
11 what the parking ratio is as approved by the municipal
12 authorities and the like.

13 Q When you used the term "higher density housffig"
14 in C-1, what were you referring to?

15 A Are you referring to the term "relatively high density"¹?
16 I just want to make sure.

17 Q Well, what were you referring to there when you
18 said "relatively high density"?

19 MR. FERGUSON: Which is paragraph one
20 of C-1? Is that where we are? Just so the
21 record is clear. This is a deposition.

22 MR. BISGAIER: Yes. It's the first
23 paragraph numbered one.

24 BY MR. BISGAIER:

25 A What is being discussed there is, again, relatively

1 high density housing in the context of densities which
2 ordinarily prevail which are generally not more than four
3 or five dwelling units per acre. So relatively high density
4 would be something above that.

5 Q Greater than four to five to the acre?

6 A Yes, four to five would be rather small single-family
7 lots.

8 Q So, then, the last paragraph of page one, of C-1
9 when you refer to higher density housing areas, you're
10 referring to any area which has residential densities of six
11 to the acre or greater?

12 A Yes.

13 Q The density computations in C-1 refer to a compar-
14 ing the number of units in the municipality to the gross
15 acres of the entire municipality.

16 Is that not correct?

17 MR. FERGUSON: Could I have that read
18 back?

19 (The reporter read back the last
20 question.)

21 BY MR. BISGAIER:

22 A That's incorrect.

23 Q Explain to me how you derived it.

24 A It compares population, not number of units to the
25 square mile acreage.

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1 Q Okay.

2 A It's a population density, not a dwelling unit
3 density.

4 Q Not a dwelling unit density.

5 Can you draw any conclusions from C-1 with
6 regard to dwelling unit density as opposed to population
7 density?

8 A No, I can't. This memorandum was prepared in May of
9 1979 by Gershen and Coppola Associates, and I don't feel
10 that I'll be testifying to this document.

11 Q Do you have any conclusions that you draw from
12 that document?

13 A It was a beginnings of what might of, I guess, been
14 an analysis to draw some conclusions, but none were drawn.

15 Q Can you draw anything today from it?

16 A Well, all I can tell you is that the densities of
17 municipalities—I don't think this requires a study, but
18 the densities of municipalities is not corrolated with the
19 value of homes,, Bergen County municipalities, Short Hills --
20 there are many--Princeton Borough, have relatively high
21 densities on a municipal basis throughout the State, and
22 they also have some of the highest-priced homes in the
23 State.

24 Q Are there factors other than density which
25 enter into what the assessed valuation might be, or the

1 equalized valuation in a given municipality?

2 MR. FERGUSON: Density of what?

3 MR. BISGAIER: Density of population.

4 WZ MR, BISGAIER:

5 A Let me make sure I understand.

6 You're asking if there are factors in terms
7 of valuation of homes in the municipalities that have some-
8 thing to do other than with the evaluation.

9 Sure. The types of homes and the market
10 for the homes. And what the demands are for homes.

11 Q So in terms of correlating what a specific home
12 would sell for, there are many many factors other than density.
13 In effect, you, yourself, would minimize the importance
14 that the density or the square footage of a unit, or the
15 density of a multi-family unit would play in that evaluation?

16 A I think you're agreeing with me, yes. I don't think
17 that the density question is the overriding one. It's, I
18 think, a question, but it must be inputted and measured
19 against other considerations. Exactly.

20 Q - It's not the overriding one when assessing the
21 value in the open market on a home that's built on a parti-
22 cular site?

23 A I was agreeing with your other statement, too, in terms
24 of sales price of the unit. The minimum requirements, the
25 densities and so forth don't always have a bearing on that.

1 Theoretically they may, but practically, they don't.,

2 Q Okay.

3 At this point it's not your intention to
4 testify from the document that's been marked as C-1?

5 A If I testify in regards to that data, because the data
6 is established data, I mean, there's no fancy computations
7 there, they're not assumptions. It's just established popu-
8 lation data. I would possibly use updated population figures
9 which have come out, but I wouldn't be discussing it in any
10 more--in making any other points than I'm making now. I
11 might do it in a more refined way in terms of the density
12 question and it's effect on the valuation process, but I
13 don't intend to go through page by page of that document,
14 no, Carl.

15 Q Do you draw any other conclusions from this docu-
16 ment other than the conclusions you've stated regarding the
17 relationship between residential density and assessed
18 valuation?

19 A Well, this document includes a bibliography which
20 certainly discusses the costs of sprawl. These are estab-
21 lished pieces of literature. You're referring to the docu-
22 ment, so I'm responding to it. I would indefinitely intend
23 to discuss on the stand the societal cost to an inefficiently
24 planned growth pattern in the State.

25 Q Other than listing documents, have you submitted

1 an expert report which embodies your opinions and conclusions
2 regarding the cost of sprawl?

3 A No, I haven't.

4 Q I do have, you know, this, a four-page document
5 here of yours which we've previously identified as C-3, which
6 just talks about the entitled costs associated with sprawl

7 A It's not an analysis, exactly. It's a collection of
8 tables.

9 Q Right.

10 MR. BISGAIER: Off the record.

11 (Off the record discussion.)

12 BY MR. BISGAIER:

13 Q Mr. Coppola, have you been asked by any of the
14 counsel for the defense to produce a report on the cost of
15 sprawl?

16 A I can't recall any specific request, no.

17 Q Have you ever given any of the counsel for the
18 defense any of your opinions with regard to the cost of
19 sprawl?

20 A In general terms, yes.

21 Q Can you state what specifically you've told them?

22 A Yes. That I concur with the Tri-State Regional Plan
23 Report, which does incorporate reference to some of the
24 bibliography items in C-1 for identification, and I think
25 it's a very very germane planning issue in terms of the

2 appropriate development pattern for the entire state. It's
2 nothing new. It's nothing new, really, but as a planner,
3 I embrace the findings of that report.

4 Q Do you have any reason to believe that the popula-
5 tion projections that are contained in the Draft 208 plan
6 for the Morris County area will not be realized?

7 A I can't say. I mean, population projection would have
8 to be adjusted every year, and they have been. If we're
9 talking five years ago, we would be talking about much
10 greater population projections, much greater employment
IX projections than we are now.

12 Q Are you familiar with the Draft 208 Plan? ?

13 A Yes, somewhat.

14 Q Are you familiar with the population projections
15 that are contained in the plan?

16 A I've read them. I couldn't rattle them off now.

17 Q Do you know what the purpose of having the popula-
18 tion projections are in the 208 Plan?

19 A In terms of--yes.

20 Q What is it?

21 A In terms of the capacities of the physical environment,
22 in terms of water quality and water availability to support
23 the environment, to support the population.

24 Q And it's also, is it not, a target for the
25 capacity of infrastructure that is going to be provided in

1 the 208 area; is that not correct?

2 A Yes, in part, very much so.

3 Q Do you have any reason to believe that they are
4 using inappropriate population projections in the 208 plan?

5 A I have no reason to feel they are using inappropriate
6 population projections because I don't think anybody in
7 his right mind looks at a population projection and antici-
8 pates that it's going to occur exactly that way. Otherwise
9 we would be in a difficult time right now because we could
10 all pick different population projections and plan differently.

11 I think the whole idea of the regional
12 perspective is to try to get things on a single line of
13 growth plan.

14 Q What's the significance of the fact that the
15 208 Plan is utilizing particular population projections?

16 A I think they had to begin with an idea of what other
17 regional authorities are anticipating as possible and work
18 backwards and see what the feasibility for those populations
19 would be.

20 Q So would you say that the population projections
21 contained in the Draft 208 Plan are as reliable as any
22 that you're familiar with for Morris County?

23 MR. FERGUSON: Reliable from what
24 point of view?

25 I object.

1 Reliability could be defined as
2 being consistent with the goals of the
3 plan, which is not as you characterize
4 it, Mr. Bisgaier, just to have a target
5 for infrastructure, but rather to project
6 far targets all over the place, one of
7 which is population itself as a determina-
8 tive factor in part for water quality,
9 and the whole point of water quality
10 planning--

11 MR. BISGAIER: You don't have to
12 testify.

13 MR. FERGUSON: --is a two-edged
14 sword.

15 I don't want the witness to be mis-
16 led, Mr. Bisgaier, by an incorrect assump-
17 tion of your question and then going on
18 to other questions which seem to rely on
19 it.

20 BY MR. BISGAIER:

21 Q Do you believe that the population projections
22 utilized in the Draft 208 Plan are reasonable as projection
23 for future population in Morris County?

24 A For the purpose that they're being used in the 208
25 Plan?

1 Yes, for the purpose they¹re being used in
2 the 208 Plan, I would say yes, they would have shown con-
3 sistent numbers that have been just as reasonable for the
4 purposes used in the 208 Plan.

5 Q Do you know of any population projections for
6 Morris County which, in your view, are more reliable as
7 forecasts of future populations in the County?

8 MR. FERGUSON: More reliable than what?

9 MR. BISGAIER: Than the population
10 projections in the Draft 208 Plan.

11 MR. FERGUSON: Are you stating as an
12 assumption of your question that the 208
13 projections are, in fact, a forecast?

14 MR. BISGAIER: No.

15 MR. FERGUSON: Then I object to the
16 form of the question because that assumption
17 is made in your question.

18 BY MR. BISGAIER:

19 Q Do you know of any other population--do you know
20 of any population projections for Morris County which you
21 believe are reliable as a forecast of future population to
22 the year 1990?

23 A My attitude towards population projections is to
24 utilize them as a springboard, a benchmark, much the same as
25 the 208 did, not as a crystal ball proposal.

1 Q Springboard to what?

2 A For whatever other planning considerations and judgments
3 we have to make,

4 Q Well, if you were attempting to make a planning
5 judgment, planning consideration which required you to fore-
6 cast or estimate population in Morris County in the year
7 1990, what would you utilize?

8 MR. FERGUSON: Could I have that one
9 read back?

10 (The reporter read back the last
11 question.)

12 MR. FERGUSON: Okay.

13 BY MR. BISGAIER:

14 A If I were going to make a population projection for
15 Morris County for the year 1990, I would possibly come up
16 with a range, and I would ask the question of what the
17 trends are now in terms of population movement and employ-
18 ment movement, specifically what types of employment are
19 moving. I would make further judgments as to what plans
20 there may be for making that movement more or less attrac-
21 tive in terms of other infrastructural improvements, includ-
22 ing roads and public facilities.

23 I would then shift my emphasis and I would
24 work from the 39 municipalities upward, and I would ask
25 the question, what should occur both in terms of visual

1 municipalities, the aggregate county in the contention of
2 what exists and in the contention of the overall growth of
3 the lands within Morris County and surrounding it.

4 I, therefore, would probably come up with a
5 series of numbers, none of which I would call projections,
6 but I would say considering Index One, this is what might
7 occur; considering Index Two, this is what might occur, and
8 onward. I think the idea of saying this is what will occur
9 is warped with more assumptions than I'm comfortable making
10 for a land area of the size of Morris County.

11 Q To what extent would you be willing to rely upon
12 or not, rely upon the Draft 208 population projections for
13 that purpose?

14 A The projections are not projections in the 208 study,
15 as I've indicated.

16 Do we still have a disagreement on that?

17 MR. FERGUSON: I object to the form of
18 the question because I don't know what the
19 word "rely" means. The witness has been
20 talking about all kinds of things he would
21 do, and I'm not sure you've got the same
22 thing in mind when you use the word "rely."
23 Rely for what purpose?

24 If the witness can answer the question
25 by specifying that, that's fine. Otherwise,

1 I ask that you make it--

2 MR. BISGAIER: What was the last ques-
3 tion?

4 (The reporter read back the last
5 question.)

6 BY MR. BISGAIER:

7 Q What is your understanding of the use of the
8 population numbers in the 208 study? That gives population
9 figures for Morris County for the year 1990 and the year
10 2000; is that not correct?

11 A I would have to go back to the document and check
12 those dates, exactly.

13 Q Well, is it correct that they give population--

14 A They use population projections?

15 Q Right.

16 A Yes.

17 Q What do they use them for?

18 A They use them for an analysis of water quality, water
19 availability, and necessary improvements to the infrastruc-
20 ture in the area of water.

21 Q Do you believe it was reasonable or unreasonable
22 for them to use those numbers for their purposes?

23 A I really never questioned whether it was reasonable or
24 unreasonable for them to do it. I would say that it was,
25 as I already answered, it's reasonable they might have used

1 different numbers, too. It doesn't make a whole lot of
2 difference in my mind.

3 Q Why doesn't it? May they not rely upon those
4 numbers for what the future infrastructure expenditures
5 would be by the State?

6 A I think they did in that study. They had to pick a
7 number.

8 MR. FERGUSON: Could I have that ques-
9 tion read back, ^{f1}May they not rely . . . "?

10 MR. BISGAIER: It^fs all right, I'll
11 withdraw that.

12 MR. FERGUSON: Wait.

13 MR. BISGAIER: It doesn't matter.

14 It's already answered.

15 Unless you want to hear it.

16 MR. FERGUSON: I'd like to hear it.

17 (The reporter read back the last
18 question.)

19 BY MR. BISGAIER:

20 Q What do you think the relationship might be
21 between the infrastructure expenditures for that capacity
22 of population and the actual realization of that capacity
23 in Morris County?

24 MR. FERGUSON: Could I have that one
25 read back?

1 (The reporter read back the last
2 question.)

3 MR. BISGAIER: I meant of that popula-
4 tion of Morris County.

5 MR. FERGUSON: I don't know that I under-
6 stand that question. Therefore, I don't know
7 if I can object or not.

8 The witness can do whatever he wants to
9 with it.

10 I object to the form, for the record.

11 BY MR. BISGAIER:

12 A I have no firm opinion at this time.

13 Q Do you think it would be a mistake for the State
14 to expend monies on an infrastructure for water sewer
15 developments if it was unreasonable to anticipate that water
16 and sewer capacity would be utilized?

17 MR. FERGUSON: Could I have that one
18 read back?

19 (The reporter read back the last
20 question.)

21 BY MR. BISGAIER:

22 A I think it would be a damn stupid mistake to do that.

23 MR. FERGUSON: I think the question and
24 answer makes sense, although I must say
25 there's enough double negatives in the

2 question to raise in my mind a doubt as to
2 exactly what Mr. Bisgaier was trying to get
3 at_

4 MR. BISGAIER: Off the record.

5 (Lunch break.)

6 BY MR. BISGAIER:

7 Q I just have a few more questions on this stuff
8 before I get into Chester,,

9 Do you have an opinion as to whether there is
10 any municipality in Morris County which is unsuitable for
H a family subsidized housing project?

12 A I don't have an opinion.

13 Q Do you have an opinion as to whether there's any
14 municipality in Morris County which is unsuitable for a
15 senior citizen subsidized housing project?

16 MR. FERGUSON: I object to the form
17 of those questions unless we define "suit-
18 able."

19 BY MR. BISGAIER:

20 Q From your perspective as a planner.

21 MR. FERGUSON: That doesn't specify it
22 enough.

23 Are you talking about economic suitability?
24 Site suitability? Transportation? Whatever.
25 I think it should be defined.

1 If the witness can answer, he can go
2 ahead,

3 BY MR. BISGAIER:

4 A I don't know of any that are or aren't, really. I mean,
5 I haven't really looked at every municipality in Morris
6 County in that context.

7 Q I'm asking if you know of any which you would
8 feel, as a planner, would be unsuitable, not whether you
9 feel all are or aren't.

10 A I don't know of any that I would say are, that I know
11 of, to be unsuitable in every instance, every possible
12 type of subsidized housing. It may be, may exist, but I
13 don't know.

14 Q On C-6, the DCA, you do not allocate or do any-
15 thing actually with the present housing needs as of 1970.

16 Why is that?

17 A Because it's just looking at the perspective.

18 Q Do you have an opinion as to the present housing
19 needs as of 1970 in the DCA report?

20 A Yes. My opinion is that it's rather sloppily done.
21 I'm not sure that the statistics they use are anything
22 that we can all understand. Even they, they use statistics
23 that were at hand, I understand that, and I'm not belittling
24 the report, but I don't fully understand what exactly their
25 rationale is for excluding some types of structures from

1 the category and including others.

2 Q What types of structures do you believe they may
3 have included that they shouldn't, and what type of structures
4 do you think they excluded that they shouldn't?

5 A Well, the home question of what's deteriorated and
6 what's delapidated, essentially that's the problem,

7 Q Your problem with the Department of Community
8 Affairs present housing needs of 1970 is as to how they
9 treated delapidated-

10 A Not how they treated it, so much, but even going to
11 their source material, they*didn't do an independent analy-
12 sis. They took it from census data. And I have problems
13 even with the census, because it's very very hard to measure.

14 Q Do you know of another method that's available
15 or other statistical information that would be available
16 to do that kind of an assessment of deteriorated and delapi-
17 dated housing?

18 A I think every municipality can make a much better
19 judgment as to what's delapidated housing within its bounds
20 than a broad-scale State-wide or nation-wide report.

21 Q Do you know whether such a study has been done by
22 the municipalities in Morris County, for example?

23 A No, I don't.

24 Q Do you know of any municipality that's done such
25 a study in the regional limit of the DCA report?

1 A No, I don't know specifically of any that have.

2 Q On the last page of C-6 you have a Table 4.

3 Can you state what the basis was, if there
4 was any other than just a basis of statistical comparison,
5 for utilizing the percentages in columns B, C, D?

6 A It was simply for the sake of comparison. As a matter
7 of fact, that whole memorandum, which is marked as C-6,
8 was used for comparison. It's not a projection that I'm
9 making, or I'm not representing that that is the fair share.
10 I'm simply indicating that the Region 11, as defined by the
11 State in the Fair Share Housing Allocation Report is unrea-
12 sonable in my mind for Morris County and the subject 27
13 municipalities, and that if we were to just change the
14 region and be a little more specific and use everything else,
15 just taking it at blind face for the purposes of housing,
16 you're going to wind up with a significant difference in
17 the numbers. And then, of course, if you apply possibly
18 different assumptions and different analyses, you may end
19 up with a whole set of different numbers.

20 Q Are you stating a preference here as to which
21 percentages in Table 4 are more appropriate than any others?

22 A I'm not saying that, that any of them are necessarily
23 appropriate. I'm just pointing that out as an indication
24 of the import in defining a region.

25 Q Do you have an opinion as to which of the percent-

1 ages that are reflected on Table 4 are more appropriate
2 to use in an allocation formula or not?

3 A Given those four? No, I don't.

4 Q Okay.

5 The data that you derived from the Department
6 of Community Affairs Report for the number of units that is
7 indicated for each municipality in C-6, starting on T-1 is
8 derived from what sources in the DCA report?

9 A I think it's footnoted on the end of that Table, Carl.
10 It should be, T2-4.

11 Q I'm sorry, I don't see it. Maybe you could ascer-
12 tain it. You reflect in Appendix A, which has many things
13 in it, and I'm curious as to which specific column, in *
14 Appendix A, DCA Report you utilized for deriving the numbers.

15 A I think it was the column 4, I believe.

16 Q Why did you use column 4? What did you believe
17 that column reflected?

18 A The perspective housing need, before any redistribution
19 or additive of existing needs or pickup of what the DCA
20 report refers to as reallocation of non-capacity of certain
21 municipalities within their defined region, which has a
22 tendency just to throw out units out of the urban areas,
23 contrary to, as I've--let me just finish it, because I want
24 to make it clear that the whole theme of my testimony, as
25 indicated in some of the correspondence, is going to rely

1 on the Tri-State Regional Planning Report, on the DCA
2 report, on the Morris County Master Plan, and, you know,
3 on the other regional documents and State documents, not
4 just on this one State Report. There are others that have
5 to be inputted.

6 I intend to spend some time on that, and
7 that gets into the question of this question in terms of
8 numbers as well as inefficiencies of distribution of popula-
9 tions, the government order, the Governor's State of the
10 State Address, all these items that are affecting the
11 planning processes in the State of New Jersey.

12 That's not really responsive to your question,
13 but I want to make that very very clear.

14 Q Not at all,

15 A Well, just so that there's no misunderstanding, I
16 might not have made it clear earlier.

17 Q Well, I will make it clear for everyone on the
18 one report that it's my intention to object to any testimony
19 by you as to the cost of sprawl, as to sprawl generally,
20 which is not reflected in any of the reports which I've
21 received to date.

22 That's not your problem, it's mine and for
23 the attorneys for the defense and for the Judge to resolve.

24 In any event, the numbers that you've
25 generated for perspective housing needs in C-6 are not,

1 obviously not comparable to the DCA report's numbers for
2 perspective housing needs as it has determined it should be
3 allocated. It's the numbers prior to the adjustments that
4 the DCA thinks are more appropriate.

5 A The heading on the column I used is exactly "Allocation
6 of the Perspective Housing Needs," so I'm taking those
7 numbers as they have projected them. It's no different.

8 Q But it's not consistent with what DCA judged
9 should be the allocation subject to redistributions.

10 MR. FERGUSON: Object to the form of
11 the question.

12 That document is a draft document. I
13 don't know that it's been adopted by anyone,
14 so, therefore, I don't know that DCA has
15 said "Should" about anything.

16 MR. BISGAIER: This document I'm
17 referring to, regardless of--

18 THE WITNESS: The figures that are in
19 DCA are identical to that which is in the
20 draft document under column 4, which is
21 headed "Allocation of Perspective Housing
22 Needs."

23 MR. BISGAIER: Okay, Let it speak for
24 itself.

25 MR. FERGUSON: Could I see the

1 exhibits that have been marked while you're
2 asking the questions? I just want to take
3 a look at--

4 MR. BISGAIER: That's the only one I
5 brought with me.

6 MR. FERGUSON: Oh.

7 BY MR. BISGAIER:

8 Q Now, on C-3 on page--an unnumbered page, which is
9 page two, you compare sewerage treatment, cost of sewerage
10 treatment plants.

11 Is your source for this material solely that
12 as indicated on that page?

13 A Yes, for the specific information that's presented on
14 that page, yes.

15 Q Do you have any other knowledge or sources for
16 similar types of information, concerning similar types of
17 information?

18 A With the comparison as indicated, none, no. I mean,
19 there's a lot in the literature in regards to the cost
20 associated with sprawl, and that is in that bibliography.
21 They're not for written documents to any planner any more
22 than the documents we've been discussing are. But I think
23 that table indicates in a specific fashion what I'm indi-
24 cating.

25 Q What is your knowledge of the capacity of sewerage

1 treatment plants that are built or that are proposed to be
2 built in Morris County?

3 A I have some knowledge in regards to some of the problems
4 in Chester Township, particularly, but I haven't done a study
5 on my own of putting together information which is available
6 for the entirety of Morris County, There are, of course,
7 the State studies.

8 Q Have you ever compared the costs of service, say,
9 between construction of sewerage treatment facilities in
10 Morris County as opposed to Newark, similar to this compari-
11 son that you've made in C-3?

12 MR. FERGUSON: Could I have that read
13 back?

14 (The reporter read back the last
15 question.)

16 MR. BISGAIER: I'll rephrase that ques-
17 tion.

18 BY MR. BISGAIER:

19 Q The comparison that you've made in C-3 between
20 what you call a small city conventional treatment and large
21 city conventional treatment, is it your position that that
22 is a comparison which exemplifies the costs associated with
23 the, relative costs associated with the construction of
24 additional sewer capacity in Newark, for example, compared
25 to the construction of additional sewerage capacity in

1 Morris County?

2 MR. FERGUSON: Could I have that read
3 back?

4 (The reporter read back the last ques-
5 tion.)

6 MR. FERGUSON: I don't understand what
7 the question is driving at. If it's a
8 question about marginal cost versus total
9 overall cost, it might make some sense. If
10 it isn't that, I object to it because nobody-
11 understands what it means.

12 BY MR. BISGAIER:

13 Q Do you understand the question as I asked?

14 A Not entirely, Carl, no.

15 Q What I want to know is, is it your position that if
16 one were to increase sewer capacity in the City of Newark
17 by a large city conventional treatment plant such as you've
18 indicated here and one were to build similar capacity in
19 Morris County, whether the relative costs would be the same.

20 A You're saying if they have the same size plant in
21 both areas?

22 Q Right.

23 A If you had a small plant in the City of Newark and a
24 small plant in Morris County, would the relative costs be the
25 same?

1 If they were serving the same number of
2 people and in the same amount of area, yes, generally speak-
3 ing.

4 MR. FERGUSON: I object to any correla-
5 tion between what the witness just said and
6 this document, since it's totally different,
7 since it's not clearly indicated that one is
8 a five-million gallon a day plant and the
9 other is a 50-million gallon-

10 THE WITNESS: He's comparing five to
11 five.

12 MR. FERGUSON: Let's not relate it to
13 this document because it's totally different.

14 BY MR. BISGAIER:

15 Q Do you have any knowledge as to the relative costs
16 associated with increasing sewerage capacity in the City of
17 Newark to the relative costs of increasing sewerage capacity
18 in Morris County for the same number of people?

19 A Specifically, no.

20 W; MR. FERGUSON: Does that question
21 assume the necessity for increasing capacity
22 at all?

23 You can answer--I'd like you to answer
24 my question.

25 I object.

1 BY MR. BISGAIER:

2 Q What conclusions do you glean from, if any, from
3 the costs of new school construction that you have listed
4 on page three of, I believe, C-3?

5 MR. FERGUSON: Let's show it to the
6 witness.

7 BY MR. BISGAIER:

8 A The conclusion is simply that if you have an existing
9 school facility which has been constructed, which has been
10 paid for, the idea of taking people who would be using that
11 facility and arbitrarily moving them and then making that
12 structure which has been paid for vacant and unuseable is
13 not terribly efficient and is going to add to the costs
14 for housing in the State of New Jersey.

15 Q All right.

16 Is that the only conclusion that you draw
17 from this?

18 A Not necessarily, no.

19 Q Are there any others?

20 A It will take a while.

21 This is broken down in terms of by the New
22 Jersey Department of Education. It's broken down in terms
23 of the costs for an elementary school of 600 students at
24 85 square feet per student; middle school, 1000 students,
25 125 square feet per student; high school, 1500 students at

1 155 square feet.

2 If you take that information, the cost of
3 new school construction and compare it to some of the studies
4 which have been and are currently being completed by Uniplan,
5 which has been commissioned to perform facility survey for
6 New Jersey public schools, it's apparent that there are
7 decreasing student populations in some of the older built-
8 up areas with all the infrastructure improvements in order
9 to provide access to those schools already in place. This
10 is an example of the inefficiency of sprawl. There's nothing
11 new or mysterious about it.

12 It makes just simple common sense that if
13 you're going to rebuild a city, you're going to have to
14 rebuild—you're going to have to be concerned with the cost,
15 not only of the on-site correction, but the ancillary costs
16 which do come out of everyone's pocketbooks and must be
17 related to the overall costs of construction.

18 Q Is that it?

19 A For the moment.

20 Q Now, on page four of C-3, you have information
21 relating to enrollment to capacity ratios in existing public
22 schools.

23 What conclusions do you draw from that?

24 A I happened to have flipped the page in my last answer.
25 Maybe you didn't follow it. I was referring to those, the

1 fact that there is a lot of excess capacity in those
2 schools, and before we start building new schools across
3 the landscape of New Jersey, it might be prudent, as Tri-
4 State has said and as the State Development Guide Plan has
5 indicated and as the cost of urban sprawl, which is a rather
6 landmarked study in planning, and it's indicated on the
7 bibliography in front of the documents presented to you,
8 it doesn't make much sense, and to discuss lease cost housing
9 in the context of a given piece of land without considering
10 these ancillary costs is absolutely ridiculous. And I
11 think it's contrary to what the Supreme Court was talking
12 about when they talk about lease cost,

13 Q Is it your opinion that the effect of implementing,
14 or if the--of implementing the Department of Community
15 Affairs fair share plan would be to result in a decline in
16 population in urban areas?

17 A First of all--

18 Q In Region 11.

19 A First of all, I don't characterize that study as a
20 plan.

21 MR. FERGUSON: Could I have the ques-
22 tion read back?

23 (The reporter read back the last
24 question.)

25 MR. FERGUSON: Fine.

1 THE WITNESS: Should I continue?

2 BY MR. BISGAIER:

3 A I don't characterize that as a plan. I don't think
4 the DCA has ever characterized it as a plan. The only plan
5 that has been promulgated at the State level is the State
6 Development Guide Plan which has, in fact, the word "plan"
7 in its title.

8 If this numerical exercise, however, were
9 taken on face value, and there was the redistribution that
10 is planned, yes, there would clearly be movement of popula-
11 tion out of the urban areas.

12 Q So-

13 A Obviously they're not talking about new growth.
14 They're not talking about disperspective. They're talking
15 about a redistribution of existing populations.

16 Q You believe the effect would be, for example, a
17 decrease in the total population of Essex County?

18 A Yes, I think that could possibly occur.

19 Q And a decrease in school enrollment in Newark?

20 A Well, if you're going to take people out of the area,
21 unless you're assuming a cross movement, which I don't think
22 that exercise considers, yes, I do. I think it would
23 actually foster the decline of our urban areas, and I think
24 it would make little sense from a planning viewpoint<,

25 Q When you talk about revitalizing urban areas,

1 what do you mean?

2 A I mean exactly as Webster defines the word "revitalize."
3 I think we can look in the dictionary. I'm talking about
4 not turning our backs on the cities, but doing exactly what
5 the Governor and what other government authorities have
6 indicated and what makes good sense from a planning viewpoint
7 apart from any political desires, namely, we have an in-
8 place situation where we have infrastructure. We have
9 public transportation. Where it can only be feasible to
10 the industry, that it's very meaningful, that is in a highly
U urbanized area, a dense area. We have an assortment of
12 public services, we have cultural facilities, we have
13 medical facilities, we have social service delivery systems.
14 We have jobs of a variety of types as opposed to more of
15 a white collar orientation as we move out to the exurban
16 areas. We have the ability, therefore, to provide or to
17 restore possibly maybe in a different fashion, but a live
18 blood into the urban areas.

19 Q How is that accomplished? How do we do that?

20 A What you do is, you try to attract people to the urban
21 areas instead of disperse them.

22 Q Do you try to attract jobs to the urban areas?

23 A Yes, I think you try to attract jobs to the urban areas.

24 Q Do you try and attract people to the urban areas?

25 A I just said that, yes.

1 Q Is that regardless of people, regardless of
2 their economic well-being?

3 A Yes, regardless of their well-being. I think all
4 people should have the opportunity, I think, in fact, it's
5 true in urban areas--

6 MR. FERGUSON: I don't know what either
7 the question or the answer means with "economic
8 well-being."¹¹

9 Are you talking about economic income
10 level?

11 BY MR. BISGAIER:

12 Q Do you think it's vital to the--

13 MR. FERGUSON: I object to the question.
14 I couldn't understand it. The answer was
15 given before I could object. The objection
16 is noted. I don't think that makes any
17 sense whatsoever.

18 BY MR. BISGAIER:

19 Q Do you believe it's vital to the revitalization
20 of the urban centers of New Jersey, such as Newark and
21 Paterson, for example, to attract to those municipalities
22 a population of middle and upper income persons and families?

23 A What are we talking about, in terms of--what dollar
24 amount do you put on that, just so we know what we're talk-
25 ing about?

1 Q Say moderate income would be greater than 80
2 percent of the medium*

3 A Yes, I think it's important.

4 Q [___ Do you think it's important that those municipal-
5 ities that are considered the urban centers should have a--
6 I'll rephrase that.

7 What is your opinion as to the proportion,
8 if any, of population, by income, that an urban center should
9 attempt to attract? Do you think that's irrelevant as to
10 urban revitalization?

11 A I'm not sure it's irrelevant or not, but I have no
12 percentage in mind at this point. It's an interesting,
13 question, but I don't have an answer to it.

14 Q And what are, by name of municipality, if you can,
15 the urban centers of New Jersey in Region 11 which you
16 believe offer the amenities that you referred to before as
17 justifying the effort at urban revitalization that you were
18 referring to?

19 A What-

20 MR. FERGUSON: Objection to the ques-
21 tion.

22 Can I have it read back?

23 (The reporter read back the last ques-
24 tion.)

25 MR. FERGUSON: I don't know that the

1 witness used the word "amenities" or that
2 he used the phrase "justifying the effort."
3 I think that's Mr. Bisgaier's characteriza-
4 tion from his point of view of the witness's
5 testimony, and I object to it.

6 The witness can answer.

7 BY MR. BISGAIER:

8 A I can't. I really don't know what you mean.

9 Q Before you said that the reason why urban revitali-
10 zation was a good thing, from your point of view, was that
U you believe that there are certain areas in New Jersey which
12 already provide a certain mass transit system, a certain
13 degree of infrastructure capacity, a certain degree of
14 educational facilities and the like, which you said were
15 such as to make urban revitalization a sensible, reasonable
16 thing to do. And what I'm asking you now is, can you
17 identify for me those municipalities in Region 11 which
18 provide those amenities, or whatever you--however you'd
19 like to characterize them?

20 A I think I have to maybe just clarify an answer, because
21 there might be some misunderstanding on your part.

22 I am saying that any established urban area
23 within Region 11 or without Region 11 that has been estab-
24 lished over a period of time inherently has, and I couldn't
25 give you any exceptions to this, a greater degree of

1 existing infrastructural improvements across the board of
2 community services and facilities, including social services,
3 transportation services, health care services, as well as
4 employment opportunities and retail and service facilities
5 to serve the populations on a specialized and general level
6 than do the exurban areas. And what I'm objecting to
7 strongly is, and what I think runs counter to planning in
8 any intelligent way is the dispersment of the cities, the
9 breakdown of the cities or the urban areas, whatever you
10 want to call them, the built-up areas relatively speaking,
11 as they exist compared to other areas, so that the end
12 result will be a homogenous sprawl,

13 And I think if we take the draft report of
14 the DCA as it refers to housing allocation, we take that
15 at face value, in the name of whatever, whatever social
16 goal is apparently being assumed to be accomplished, we're
17 running contrary to anything that's going to make sense for
18 the promotion of lease cost housing and in the interest of
19 the overall growth of the State. We're going to end up
20 having more diversity. We're going to end up having few,
21 if any, viable cities. We're going to have cities' cities.

22 We're going to have to go in as the State
23 did with the Pine Barrens in order to maintain some diversity
24 in the State, and I think we should do it collectively. And
25 it's a question of degree. It's a question of a plan of

1 overall approach as opposed to saying here are the numbers,
2 go build. That's stupid, from a planning viewpoint, in "
3 my opinion.

4 MR. BISGAIER: Could you read that
5 back?

6 (The reporter read back the last
7 answer.)

8 BY MR. BISGAIER:

9 Q You referred to the term "established urban areas."
10 Can you give me the names of any in Region
11 11?

12 A The City of Newark; the City of Jersey City; the City
13 of Passaic; the City of Bayonne; Elizabeth; Newark, if I
14 haven't mentioned it.

15 Q You want to refer to this?

16 A Well, I'm not sure I'm going to get every one, Carl.
17 If you want me to do a study of it, I will. I'm looking at
18 a map, and I'm taking them off. If there's anything
19 specific you want to ask me, if I consider it to be a city,
20 I'll be more than happy to answer it.

21 Morristown; Edison; Bayonne.

22 Q Any other areas in Morris County?

23 A Dover and Morristown are the two cores in terms of
24 employment opportunities, as the statistics attest.

25 Q These are established urban areas as you use them

1 in your prior answer?

2 A They're all relative to one another, I'm not going to
3 pat Newark in the same category of Morristown.

4 Are you asking if I am?

5 Q How do they differ?

6 A Are you really asking, just so I understand where you're
7 coming from?

8 They differ in size, for one thing.

9 Q Any other ways?

10 A Yes. Newark has a lot more in-place and infrastructural
11 improvements than any of the other cities in the State,
12 it being the largest city in the State.

13 Q You referred also to the breakdown of cities in
14 your prior answer.

15 Is it your position that if the allocation
16 as indicated in the DCA allocation report were, in fact,
17 effectuated, these urban areas that you just referred to
18 would break down as a result of that allocation?

19 MR. FERGUSON: What does "effectuated"

fi-s-
20 * f*HT mean? I don't understand that word.

21 **BY** MR. BISGAIER:

22 Q If, in fact, the units were built as allocated.

23 A I think it would certainly aid in that breakdown, yes.

24 MR. FERGUSON: Well, I still object
25 to the question.

1 Are you talking about effectuated
2 in means of units built or people for
3 whom the units were designed in the
4 report going out to live in them?

5 MR. BISGAIER: I meant that the units
6 were built and people occupied them who
7 were low and moderate income individuals.

8 MR. FERGUSON: From where the report
9 takes those people. From where their
10 need is generated to where their need is
11 fulfilled. Is that included in your ques-
12 tion?

13 MR. BISGAIER: I'm not going to
14 characterize it any further.

15 MR. FERGUSON: Then I object to the
16 form of the question because the other
17 alternative is that the units get built
18 and people come in from out-of-state,
19 filling them, where some other Region
20 out of Region 11, as set forth in the
21 report, and there is no dispersion out
22 from the built-up area, if that's an
23 alternative, which is possible from the
24 way you phrase the question, then a
25 whole lot of other questions are raised.

1 BY MR. BISGAIER:

2 Q Is it your opinion that it is implicit or explicit
3 in the DCA^f's Housing Allocation Report that there will be a
4 dispersion of population out of the urban areas in a totality
5 in absolute numbers?

6 A Everything else remaining equal?

7 Q Yes.

8 A Yes.

9 Q What variables would change that answer?

10 A If there were an influx, a counter influx into the urban
11 areas.

12 Q Of whom?

13 A People. Since we're talking about population.

14 Q That is a remote possibility.

15 A No, I don't think it's remote, not if we make the cities
16 less attractive to live in.

17 Q To whom?

18 A To the people who would be going to move in it. I
19 think part of the problem in the cities is that we don't have
20 people knocking on the door to move into the cities.

21 Q Why do you suppose that is?

22 A Because I don't think they're terribly attractive to
23 live there.

24 Q Why is that?

25 A Because they have been allowed to deteriorate.

1 Q How have they deteriorated?

2 A And they've been allowed to--

3 MR. FERGUSON: Come on, Carl, we've
4 been--

5 BY MR. BISGAIER:

6 A They've been allowed to be the area where the unemployed
7 live, so when you disperse people with the idea of being
8 employed further out, you're left with more unemployed in
9 the cities and on and on.

10 Q Can you identify this document?

11 MR. FERGUSON: Are you starting on
12 Chester now?

13 MR. BISGAIER: Yes.

14 MR. FERGUSON: I have a few questions
15 on the Maxi-trial phase.

16 EXAMINATION

17 BY MR. FERGUSON:

18 Q Mr. Coppola, do you know Mr. Alan Malloch?

19 A Yes, I do.

20 Q Mr. Alan Malloch has been heard to say at various
21 times and occasions that one way to aid the revitalization
22 of the cities is to decrease density in the cities and move
23 some people out.

24 Do you have an opinion as to Mr. Malloch's
25 opinion?

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MR. BISGAIER: Before you answer that, I'm going to waive any of my objections.

MR. FERGUSON: I don't waive your objections. If you have an objection as to the form of the question, state it. The rest are reserved under the Court rules.

MR. BISGAIER: I have an objection as to the form of the question.

MR. FERGUSON: What is the objection?

MR. BISGAIER: Your characterization of what Mr. Malloch said.

BY MR. FERGUSON:

Q Do you care to give us your opinion about Mr. Malloch^f's opinion, assuming that I characterized it the right way?

A I think that it's an ill-founded assumption on Mr. Malloch^f's part. I think to the contrary, that urban areas thrive because they are relatively dense and there is a diversity of population of sufficient numbers to support a wide spectrum of services and facilities and enterprises that seek to orient themselves in the midst of high density areas, and if you're going to disburse it, you're going to have simply a suburban sprawl,

Q Do you have an opinion as to whether a zoning

1 suit like the present litigation is an appropriate vehicle
2 to try and resolve the problem of urban decay that we see
3 around us?

4 A I think the urban decay we see around us has got to be
5 factored into a litigation of this sort, yes.

6 Q Do you think that, by zoning for more units in
7 the exurban ring, as it were, in New Jersey, that's going
8 to help the problems of urban decay in this inner city?

9 MR. BISGAIER: I object to the form
10 of the question as to what the definition
11 of "exurban" is, where the ring is, and
12 the question is relatively unintelligible.

13 MR. FERGUSON: Hopefully the answer
14 will be more so.

15 BY MR. FERGUSON:

16 Q Tell us what you mean, given the context of my
17 terms, if you can, and give us your opinion.

18 A I think when we move populations—when you try to
19 build intense pockets of development in an extreme way into
20 areas now that may have densities of 200 persons per square
21 mile or 500 persons per square mile, or even up to six and
22 seven hundred persons per square mile, we're going to be
23 bringing with those new urban areas the need for tremendous
24 amounts of supportive services that people require.

25 Therefore, we're going to be taking those

1 people from someplace. We're probably going to be taking
2 them out of our urban area. I think that's the premise of
3 the Housing Allocation Report. We're going to cause decline,
4 therefore, in the populations of the cities. We're not
5 going to take out of the cities those individuals who are
6 in need of Welfare, Social Services because they're not
7 going to be able to get those services out in the currently
8 exurban areas unless we move and scatter that form of
9 facility service as well, which doesn't make much sense.

10 I don't know if, really, this is the time to
11 try to do it or if there is going to be a time to try to
12 do it. What we'll be doing is taking the employed people
13 who currently work in the city out of the city with the
14 effect that there is going to be less of a liability in
15 the cities, and I believe it's going to be less of an
16 attractive place to live and it's not going to serve to do
17 anything but to further deteriorate the city.

18 Q When you were talking about density earlier, Mr.
19 Bisgaier never asked you if you had an opinion as to the
20 relationship between land value and density, at which units
21 are zoned for that land.

22 Can you comment on the interrelationship of
23 the zoning, of the density zoning for a particular piece
24 of land and the value of that piece of land either before
25 the zoning is changed to allow more dense units or after?

1 A Well, if a piece of land is rezoned for multiple-
2 family development, its value, of course, is going to
3 increase.

4 I'm not sure I understand exactly what
5 you're asking.

6 Q How does that factor affect ultimate housing
7 costs, the fact that if you rezone lands for multi-family
8 housing, the value of the land goes up?

9 A It can effect, of course, an additive cost to the cost
10 of housing.

11 Q So the mere fact of rezoning land for multiple-
12 family housing, then, increases the cost to the developer
13 of that delivered unit,

14 A It could, yes.

15 Q Would it be fair to say it's a very complex
16 relationship and has many different variables in it?

17 A I would say yes, very much so.

18 MR. FERGUSON: Okay.

19 EXAMINATION

20 BY MR. BISGAIER:

21 Q Could you identify the exhibit marked C-7?

22 A It's a letter by Mr. Ferguson of McCarter & English
23 to you indicating the copy of my proposed testimony on
24 behalf of Chester Township, and it attaches to it a report
25 prepared by my office dated November, 1979, entitled

1 M^rThe Reasonableness of Chester Township Zone Plan."

2 Q Have you read the letter that Mr. Ferguson wrote,
3 which is attached to C-7?

4 A Yes. As a matter of fact, I was in Mr. Ferguson^fs
5 office when it was drafted.

6 Q And you agree with what the letter states?

7 A Well, yes, I agree.

8 Q To the extent that the letter expresses opinions,
9 you would accept those as your opinions, and to the extent
10 that the letter indicates factual information, you accept
11 the factual information contained therein?

12 A By and large, yes. I don^t see any area right offhand
13 where I disagree,,

14 Q Why don^t you take an opportunity to read it?

15 (The witness complies,,)

16 BY MR. BISGAIER:

17 A Yes, I think I agree with that.

18 Q There's a Plate 1 between pages 12 and--no, which
19 is page 12 of the report, and it refers to total acreage
20 figures adopted from report of Harvey S. Moskowitz dated
21 October 3rd, 1979.

22 Do you have a copy of that report?

23 A Yes.

24 Q Could I have a copy of that?

25 (There was a break in the proceedings.)

1 BY MR. BISGAIER:

2 Q What is the source of that study?

3 A The source of that study was planimetric measurement,
4 apparently, as I understand it. Harvey Moskowitz took the
5 figures and the Chester Township Master Plan, modified them
6 slightly on the basis of his planimetering, but those are
7 the figures that were used by Judge Muir in the case, and
8 my feeling is that it would be best to use unified figures
9 since the differences were so slight.

10 Q That are the figures used in which case?

11 A The Caputo case.

12 The Master Plan figures are slightly differ-
13 ent in a couple of zones. They weren't enough to bother
14 me. I mean, there's certain difficulty in planimetric
15 measurement at that scale, anyway, so just for ease of, you
16 know, just knowing what we're discussing, I--

17 MR. FERGUSON: I'm not sure, Carl, that

18 that's correct, frankly, because I think

19 Moskowitz's study had to have been done

20 " V. after Muir decided the Caputo case. If

21 ? you're referring to his opinion.

22 THE WITNESS: Well, I'd have to go back

23 and--I saw that it referred to it in one

24 instance, I think he took some figures

25 out of the case and whatever, and rechecked

1 them. I don't know. It was just an effort
2 to have one set of figures so we don't waste
3 time nit-picking on that sort of stuff.

4 BY MR. BISGAIER:

5 Q On page one of Mr. Ferguson's letter he refers to
6 considerations which include the planning impact of DEP's
7 population projections.

8 What considerations was that referring to?
9 What conclusions have you drawn as a result of reviewing
10 that?

11 A Really it's a question of definition of the 208 study
12 that we discussed earlier in terms of capacities of the land
13 to sustain the populations which might be represented to be
14 appropriate for Morris County.

15 Q And what conclusions do you draw from that?

16 A Well, my conclusions are that, first of all, there's
17 not an unlimited capacity. We're dealing with some rather
18 sensitive areas in terms of water policy, as the studies
19 indicate., And I would simply testify to the fact that this
20 information must be factored into any decision-making
21 process in regards to the planning for new housing in Morris
22 County.

23 Q How would you factor in the DEP population projec-
24 tions?

25 A Well, the DEP population figures that he's referring

1 to, I really don't characterize as projections, per se. I
2 think we went through that this morning,,

3 They are, in fact, figures that they use to
4 work against in terms of their findings to plan for, not
5 with the idea that this population would occur or should
6 occur, but instead that if it occurred, what impacts would
7 there be and what would have to be done from an infrastructural
8 viewpoint in terms of trying to insure the safe absorption
9 of that populationo

10 Q You referred to factoring it, and I'm curious as
11 to what you meant and how you can factor it in.

12 A Essentially, someone taking the Revised Statewide
13 Housing Allocation Report and then playing around with the
14 numbers, playing a statistical game which has been done in
15 many litigations and saying that, no, we should do this and
16 we should do that and that, and the end result is that we
17 have this number that really is appropriate for this particu-
18 lar land area, sometimes rendered with no planning background,
19 sometimes without any consideration of the environment or
20 only a statistical consideration.

21 I believe a 208 study, which is a planning
22 document which has considered many competing factors in the
23 planning process, should be viewed along with others.

24 Q What weight are you giving it?

25 A I give the 208 study a significant amount of weight.

1 I give Tri-State a significant amount of weight. I give the
2 State Development Guide Plan, to the extent that it is a
3 detailed document, I recognize it as nowhere as detailed
4 as the 208 study, but these planning documents I pay a great
5 deal of weight to, a lot more, I might add, as a statement
6 of what may appropriately occur than a statistical analysis
7 such as the Housing Allocation Report.

8 MR. BISGAIER: Would you mark this C-8?

9 (Report of Harvey S. Moskowitz dated
10 October 3, 1979, received and marked for
11 identification as C-8₀)

12 BY MR. BISGAIER:

13 Q Could you identify C-8, first, for the record?

14 A This is a report which was prepared by Harvey Moskowitz
15 for an attorney named Norman Schulaner in regards to the,
16 quote., unquote unreasonableness of Chester Township Zoning.

17 Q And is that the source of the information you have
18 in C-7?

19 A Yes.

20 Q Plate 1?

21 A It's my Plate 1, right?

22 Q Yes.

23 A Yes.

24 Q You referred in C-7 to six background studies
25 for the Chester Master Plan. I'd like to request copies

1 of those whenever you receive them.

2 Do you have copies here?

3 A I don't have an extra copy for you, no.

4 MR. BISGAIER: Could we get them from
5 the Township, then?

6 MR. FERGUSON: Well, what studies are
7 we talking about?

8 MR. BISGAIER: The six background studies
9 entitled Existing Land Use, Regional-

10 MR. FERGUSON: Yes. Can we mark that
11 for identification?

12 MR. BISGAIER: --Community Facilities,
13 Traffic Circulation, Physical Characteristics,
14 and Population and Housing, If that's all
15 within this, then it's nothing other than
16 **that.**

17 **THE WITNESS: That's correct.**

18 **MR. BISGAIER: Fine.**

19 **MR. FERGUSON: Well, let's ask Mr. Coppola**
20 **whether the background studies to which he**
21 **was referring in C-7 are, in fact, contained**
22 **in the Master Plan which has been furnished**
23 **to the Public Advocate's Office from the**
24 **beginning of this litigation.**

25 **THE WITNESS: That's correct» The**

1 document which is entitled Land Use Planned
2 Element, 1978 Update Background Studies and
3 Land Use-

4 BY HR. BISGAIER:

5 Q All of the background studies which you utilized
6 for purposes of drafting this Master Plan are contained
7 within the documents?

8 A Yes. I believe, in fact, the report that I issued
9 refers to that document specifically and quotes directly
10 from it.

11 Q It does. Okay.

12 Did you do any other background studies for
13 purposes of the Master Plan other than that's contained in
14 the Land Use Planned Element 1978 Update?

15 A Noo

16 Q Thank you.

17 MR. FERGUSON: How do you define the
18 words "background studies"? Studies reduced
19 to writing, or are you including writing
20 ^? or general browsing in the applicable statis-
21 tical literature?

22 MR. BISGAIER: Studies reduced to
23 writingo

24 BY MR. BISGAIER:

25 Q Is your answer no?

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1 A Yes. I mean, obviously the written regional documents
2 I've been discussing all along. Some of them are referenced
3 particularly in the plan; others are not. But they were all
4 inputs.

5 MR. FERGUSON: Carl, that's from your
6 copy, I guess.

7 MR. BISGAIER: The letter refers to
8 ordinance changes which are being finalized.
9 Now, as of December 13th, 1979, copies were
10 not received by us.

11 I was just curious as to whether those
12 ordinance changes have been finalized, whether
13 we have them now.

14 MR. FERGUSON: It's my understanding
15 that they have been introduced on first
16 reading, but not yet adopted. It's anticipated
17 that they will be adopted within two or three
18 weeks, and as soon as they are, we will send
19 them down to you.

20 MR. BISGAIER: Thank you.

21 BY MR. BISGAIER:

22 Q Did you recommend what is now the A/T zone in
23 Chester Township?

24 A Yes.

25 Q Does the zone presently contain controls that you

Coppola - Disgaler

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recommended?

A No.

Q What did you recommend that was not accepted, or how was it changed?

A I didn't work on the ordinance for the town, so it's not a question of what I recommended. I have had some discussion with the attorney and the municipal officials in regards to the amendment.

Q Does the A/T zone contain controls which you approve of?

A The existing ordinance?

Q Yes.

A Yes, it contains some that I approve of.

Q And to the extent it contains controls that you do not approve of, those would be taken care of in the amendment that is now being given first reading?

A Well, depending upon how it's adopted. But, yes, the amendment that I have reviewed as being—I think once that is introduced, yes, it does clear up those problems.

Q Are you familiar with any plans or proposals for the extension of water or sewer service in Chester Township?

A No. Not for the extension of any services.

Q Are you familiar with any analysis that's been done of Chester Township which is not found in the Land Use Planned Element 1978 Update regarding water and sewer

1 capacity in Chester Township?

2 MR. FERGUSON: Would you amend that
3 question to include my letter, since it
4 does include some things that are not
5 specifically mentioned? And what I'm think-
6 ing of, of course, is the draft 208 which
7 came out after that document was prepared.

8 MR. BISGAIER: Yes.

9 BY MR. BISGAIER:

10 A I wasn't even going to mention the 208 because we
11 already discussed it, but there's been another study that's
12 at least underway in regards to the A/T tract.

13 Q Could you state what that is?

14 A What the study is?

15 I don't know what it's called. I don't even
16 know exactly who's doing it, but it's in regards to a
17 potential location of a spray irrigation plant and field
18 on the tract or lands nearby it.

19 Q Do you have familiarity with this?

20 A To the extent that it's been completed, there is a
21 .^feelibgp that certain lands are more appropriate for the
22 spray irrigation type of treatment facility than other
23 lands. That's it. I don't know exactly what the engineering
24 details are. They haven't been furnished from our review.
25 It's not really at that stage yet.

1 Q Other than individual septic tanks for single-
2 family homes in Chester Township, are you familiar with
3 any other system of disposal of solid waste in Chester
4 Township which is not by means of public sewer?

5 A You don't mean solid waste, do you?

6 MR. FERGUSON: Objection to the form of
7 the question.

8 BY MR. BISGAIER:

9 Q Not solid waste.

10 Disposal of sewerage in Chester Township
11 other than through a public system.

12 MR. FERGUSON: Object to the form of
13 the questiono

14 What else could there be? What do you
15 mean by "publie system," I guess is what
16 I^fm asking? He's already testified about a
17 spray proposal which he's reviewed.

18 BY MR. BISGAIER:

19 Q Are there any other systems in place in Chester
20 Townshfi> today other than individual septic systems for
21 individual single-family homes?

22 A Can I see the update to just make sure?

23 Q And the public sewerage to the extent it's avail-
24 able in Chester.

25 MR. FERGUSON: There is no public

1 sewerage available in Chester at all, it^fs
2 my understanding, so I object to the form
3 of the question.

4 Ask the witness if he knows.

5 BY MR. BISGAIER:

6 A All sewerage is handled by septic.

7 I wanted to make very sure that there was
8 no other facility. I didn't believe so, but I wanted to
9 double check.

10 Q Are there any multi-family units in Chester Town-
11 ship?

12 A There are some units that handle more than one dwelling
13 unit. There are not garden apartments, per se,

14 Q There are not garden apartment developments or
15 no townhouse developments?

16 A No, but there are multi-family units through conversion
17 or stuff like that which would be the case where there^fs
18 not public sewerage. They're obviously not going to have
19 garden apartments with--

20 Q Are there any commercial or industrial properties
21 in--

22 A Very few. Extremely few,

23 Q What are examples of the relatively larger ones
24 of commercial, industrial developments?

25 A Bell Tel has a facility.

1 MR. FERGUSON: Is that in the Township or
2 the Borough?

3 THE WITNESS: In the Township, I believe.
4 Let me just double check.

5 You have the Bell Telephone Laboratories
6 along North Road, and the Cooperative Indus-
7 tries situated at the corner of Hillside and
8 Oakdale Roads. The two activities are occupied
9 by 170 acres, together.

10 BY MR. BISGAIER:

11 Q And do you know how many employees?

12 A No, I don't.

13 Q Do you know how those facilities dispose of
14 sewerage?

15 A I think it's through septic. I don't know. I don't
16 think they have their own plant. If they do, it's certainly
17 a very limited plan and scope, but I think it's all done
18 through the ground»

19 Q Do you know how those facilities obtain their
20 water supply?

21 A I believe it's through wells.

22 Q To your knowledge, has there been any problems
23 associated with the disposal of sewerage or the obtaining
24 of water by those facilities?

25 A I don't know for sure. All I do know is that they're

1 the only two industrial operations in the entire town, and
2 they're on relatively large, particularly the Bell Tel,
3 is on a relatively large piece of land, and it's not a
4 huge facility, so I don't know whether they're having
5 problems or whether they would if they wanted to expand,
6 or just what the effect would be.

7 Q Have you or has anyone, to your knowledge, made
8 any representations to Chester Township regarding subsidized
9 housing in the Township?

10 A Well, no, not specifically, no, I don't know of any
11 landowner who has discussed it, myself.

12 Q Or have you personally discussed that with the
13 Township or made any recommendations?

14 A Well, the whole idea of the A/T zone was to provide a
15 situation where any type of multiple-family could go in.

16 Q Did you recommend anything other than what is
17 presently in the A/T zone and what is proposed in the
18 amendment, zoning amendment for Chester Township with
19 regard to subsidized housing?

20 A **Did** I propose to construct one, or did I think the
21 Public Advocate's office wanted to--

22 Q No.

23 Did you make any recommendations to Chester
24 Township in terms of what they could do or what it could
25 do, either through an ordinance or through any other means

1 to make possible the construction of subsidized housing in
2 the Township?

3 A Oh, yes.

4 Q Other than as contained in the A/T zone?

5 A Well--

6 Q Or in the amendment to that?

7 A That's exactly what was done. I mean, I can't discount
8 that because--

9 Q I'm not discounting it. I'm just asking if
10 there's anything other than it.

11 A No.

12 Q. Okay.

13 Did you make recommendations for sites for
14 the A/T zoning controls other than the site that is now
15 designated for the A/T zoning controls in the land use
16 ordinance?

17 A No.

18 MR. FERGUSON: Are you talking about
19 other than that is in the Master Plan?

20 MR. BISGAIER: No, I'm talking about
21 other than that is actually mapped.

22 MR. FERGUSON: Well, the Master Plan
23 has a map, and it has two other sites listed,
24 although they're not zoned A/T. As I under-
25 stand it, there was extensive discussion

1 about them.

2 BY MR BISGAIER:

3 Q Well, I'm asking you,

4 A If I understand--

5 Q Yes, go ahead.

6 A If I understand the question, Gershen and Coppola pre-
7 pared this. I was the planner in charge, and my recommenda-
8 tions are reflected in this adopted document.

9 Q The Master Plan?

10 A Yes.

11 And they include the lands as marked for
12 A/T, plus the two wing pieces on either side of the Borough
13 that I don't think are as appropriate as the piece that has
14 been chosen.

15 Q The acreage that you indicate in the Master Plan
16 for the A/T zone, which I believe is--

17 A I could find it for you, if you would like.

18 It's Plate 35, which is before you now, page
19 84.

20 Q Page 84, which reflects 157 acres in the A/T zone.

21 Is that for the three sites indicated, or
22 is that for the one site that's actually been zoned by the
23 municipality?

24 A The latter. Just the one that's been zoned.

25 Q Do you know how many more acres you found suitable

1 for the A/T zone that were not actually zoned?

2 A Yes. I can tell you specifically from the plan.

3 An additional 169 acres, approximately.

4 Q What densities did you recommend for the A/T zone?

5 A Eight dwelling units per gross acre.

6 Q Is that regardless of unit type?

7 A That's correct.

8 Q Did anyone other than yourself have any input into
9 the selection of the particular site which has now been
10 and are under A/T controls?

11 A Well, the town concurred with it,

12 Q Prior to your--

13 A No.

14 Q --conclusion that that area should be designated
15 for the A/T controls, did anyone have any input to you
16 suggesting that site?

17 A No.

18 MR. FERGUSON: Does your question include
19 the prior planners and the prior Master plans,
20 since there has been a history of selection of
21 A/T sites in Chester Township, and part of that
22 has obviously been made, is incorporated into
23 Mr. Coppola's review?

24 BY MR. BISGAIER:

25 Q Well, what did you review?

1 A Well, obviously I looked back at the prior, but I
2 must say that regardless of that, well, the prior—

3 Q Which?

4 A Well, the prior plan and the prior ordinance, but
5 regardless of that, my feeling was that that piece as it was
6 finally configured was the most appropriate on the basis of
7 my study.

8 MR. FERGUSON: I don't mean to question
9 thato I just want to make sure, though,
10 since I'm familiar with the history of the
11 planning in Chester Township, I didn't want
12 to let the record reflect the fact that
13 there had been extensive planning studies
14 in the past concerning the ground, the
15 same kind of ground you were talking about,
16 which is all directly south of the Borough.

17 BY MR. BISGAIER:

18 Q I believe you've previously testified that there
19 is currently an interest in development of the A/T site
20 that's now zoned for A/T controls; is that not correct?

21 A It appears so.

22 Q Can you state, to the best of your knowledge,
23 what that interest is?

24 A Yeso It's to build a packaged treatment plant which
25 would be of a spray irrigation type and develop apartments

1 and townhouseSo

2 Q Have you seen any conceptual plan for the same?"

3 A Yes.

4 Q What does it indicate as to the development plan,
5 development proposals?

6 A It indicates a relatively unimaginate design with a
7 proposed readjustment of lot lines, as I mentioned, I think
8 this morning in answer to one of your earlier questions
9 because of the location, or proposed location of the treat-
10 ment facility.

11 Q Do you know what the total number of units is
12 that is being proposed?

13 A Offhand, I don't. I really have forgotten how many
14 acres are exactly involved.

15 Q Is this a plan that's been submitted for site
16 plan review?

17 A No.

18 Q How has it occurred that you've seen it?

19 A Through the attorney for the municipality.

20 Q In what stage is the planning process?

21 A The planning process is done. I believe the precipi-
22 tating force is that the applicant or potential applicant
23 feels that there should be some adjustment, and I think is
24 engaged in an informal dialogue with the Township, maybe
25 under the threat of litigation or maybe in a current

1 litigation. To tell you the truth, I don't even know just
2 what the status is.

3 Q Has there been any official submission on the part
4 of the applicant?

5 A Not to my knowledge, no.

6 Q Can you tell me what the name is of the individual
7 who submitted the plans?

8 A It's called the Gurein tract, so I imagine his name is
9 Gurein.

10 MR. FERGUSON: G-u-r-e-i-n.

11 MR. BISGAIER: That's the name of the
12 person?

13 MR. FERGUSON: Yes. It's Harvey Gurein.
14 He's owned the land for years, from what I've
15 been told.

16 BY MR. BISGAIER:

17 Q At this time you don't know how many units are
18 being proposed or what the relative densities are or anything?

19 A Well, the density, I believe, that is being asked for
20 ~~IXow £&, lff~~ agreement with the eight dwelling units per acre,
21 Sut that would only be effectuated if certain lot lines
22 were switched. In other words, certain of the R-2 would
23 become A/T and putting the spray irrigation on a different
24 tract, essentially giving a density bonus, I guess, if you
25 want to look at it that way, and that, I think, is being

1 considered by the governing body and planning board. I
2 don't know in what arena and how formal or just what the
3 story is.

4 Q Do you know what form of ownership the proposed
5 units would be? Would it be rental or sales, condominiums
6 or--

7 A I think it would be a rental condominium.

8 MR. FERGUSON: A what?

9 THE WITNESS: In other words, rental
10 of the individual units and common ownership
11 of the open space. The developer would
12 attain the ownership of the development
13 itself, I believe, as I understand it.
14 Only in brief discussion, I guess it's
15 subject to change.

16 BY MR. BISGAIER:

17 Q Has the developer projected rentals?

18 A What?

19 Q Has the developer projected what rentals--

20 A Not- to me, not to my knowledge.

21 Q Has there been any indication of an interest of
22 utilizing subsidized units for the program?

23 A Not to my knowledge.

24 Q Have you personally had any experience with spray
25 irrigation or any other form of packaged method of dealing

1 with effluence?

2 A Only through involvement with my townships.

3 Q And what has that experience been?

4 A Well, the experience has been in the review process of
5 applications and the question of the pollutants that can
6 occur and the size of a plant that might be necessary, and
7 I have been involved in discussions on the merits of spray
8 irrigation versus a packaged plant point pollution type of
9 point discharge type of a plant.

10 Q Have you ever recommended a proposal of a develop-
11 ment proposal which contains such a system?

12 A Spray irrigation?

13 No, I never have.

14 Q Have you ever recommended against a development
15 which contains--

16 A No, I never have.

17 Q --such a system?

18 Have you formed any opinion with regard to
19 the utilization of such a system in Chester Township?

20 A Not particularly, no. I think it deserves a good deal
21 of looking at on the part of both the applicant and the
22 developer in the contention of the studies that have been
23 generated, particularly the 208 studies.

24 It's somewhat--conceptually, it scares me
25 because of the unknown happenings of the discharge once

1 it's going to be filtering into the ground.

2 MR. FERGUSON: Mr. Bisgaier, I^fm going
3 to make a statement now, just so--I want to
4 be sure you¹re aware of this.

5 In the Caputo litigation there was a
6 proposal for a spray irrigation project.
7 Judge Muir excluded the plaintiff's expert
8 witness, who's name was Smith, who was
9 going to put in an EIS which was designed
10 to prove the feasibility of this spray
11 irrigation project,,

12 Because that evidence was excluded,
13 we did not present our expert testimony of
14 A.W. Martin of King Of Prussia, Pennsylvania,
15 now known as S.C.M. Associates at the same
16 address, which was designed to show that
17 that area of the Township in which Mr.
18 Caputo^fs land was located was not feasible
19 for spray irrigation.

20 There's a great deal of expert examina-
21 tion and potential expert testimony on that
22 issue. We incorporated, by reference, all
23 the expert opinion that had been put forward
24 in the Caputo case.

25 It's our legal position that that's

1 res judicata, and if not, that it is then
2 certainly collateral estoppel as to you,
3 the Public Advocate, and as, indeed, to
4 any other plaintiff coming in to litigate
5 the same issues which were, in fact, litigated
6 and decided. I do not think we had given
7 you the specific expert reports of A.W.
8 Martin, and we have not gone into any specific
9 site-specific evidence on the spray irrigation
10 in this case since it's our understanding
11 of the issues that such site-specific issues
12 will not be raised and are not at issue in
13 this case.

14 However, you have been asking detailed
15 questions about spray irrigation proposals,
16 and I wanted to make sure that you knew about
17 the past history that has gone on. If it
18 does become relevant in this case, then, of
19 course, we reserve the right to bring in
20 whatever studies we have, and that specifically
21 is a fairly comprehensive study by Mr.
22 William Beck of A.W. Martin Associates
23 of the proposed Caputo spray project.

24 MR. BISGAIER: I don't expect that
25 we would be bringing in any testimony

1 regarding a specific site in Chester Township.

2 MR. FERGUSON: Well, to the extent that
3 there is--

4 MR. BISGAIER: I would say that, you
5 know, I would expect that by December 15th
6 we received all of the expert reports of the
7 Township.

8 MR. FERGUSON: That we proposed to use
9 in evidence, that's true. But the way the
10 case is setting up is that site specific
11 testimony--and there's no question in my
12 mind but that A.W. Martin is site specific,
13 at least as to that portion of your report.
14 It can be generalized from your site specific
15 work, you can make generalized observations
16 about the geology and topography of the town
17 which, if similar to the Caputo tract, could
18 hold true to other places.

19 If we get into this other kind of testimony,
20 I think we should be put on notice, and we
21 will give you what we believe are appropriate
22 responses to it. We don't intend to introduce
23 it since you have not raised this kind of
24 issue heretofore. If you do, however, please
25 give us notification of it, and we will make

1 an appropriate response.

2 Those studies have been done now for
3 about two years and are readily available.
4 I don't want to complicate this' litigation
5 by the introduction of them unless it's
6 going to be an issue. I don't think-it
7 has not been raised as an issue yet,

8 MR. BISGAIER: What issue are you
9 referring to?

10 MR. FERGUSON: Anything to do with
11 spray irrigation,,

12 MR. BISGAIER: We will not be raising
13 any issue as to anything dealing with the
14 Caputo tract or any site specific tract.
15 It's not a concern of ours in the case,
16 other than maybe, you know, we are concerned
17 about this particular A/T zone. That's
18 why I've been asking questions about it.

19 MR. FERGUSON: The A/T zone is a
20 little different geologically than the
21 Caputo tract. Some of the main problems
22 of the land application, though, can be
23 generalized from A.W. Martin's work.

24 Now, if you want evidence on the
25 I suitability of soil types in Chester

1 Township for spray irrigatiba., we can give
2 that to you, although I have yet to be
3 convinced that it's an issue in the case.

4 1 I don't think it is.

5 MR. BISGAIER: Okay.

6 MR. FERGUSON: If you want to make it--
7 let's put it this way, if you're going to
8 introduce evidence about particular parts
9 of the Township for spray irrigation purposes
10 or as being suitable or not suitable, whatever,
11 then that's evidence that we have not seen
12 yet. and we want to, be in a position to meet
13 it if we feel we have to.

14 I'm a little troubled by the fact that
15 you're getting into detailed spray irrigation
16 questioning of this witness.

17 MR. BISGAIER: I'm really only following
18 up on statements that he made with regard
19 to this particular project.

20 MR. FERGUSON: Now there have been
21 statements made in the Master Plan and, indeed,
22 by a prior planner to the extent that the land
23 suited or identified as suitable for multi-
24 family construction ought to be the land that
25 is most suitable for spray irrigation, among

1 other factorso Because that's the only men-
2 tion of sewerling anything in Chester Township.

3 BY MR. BISGAIER:

4 Q Are you familiar with any applications that have
5 been made to Chester Township for the development of land
6 in the Township for multi-family use other than the Caputo
7 tract, the Gurein tract?

8 A No, I'm not familiar with any others.

9 Q There are no other applications whatsoever, as far
10 as you know?

11 A For multiple-family, no.

12 Q What about for mobile home developments?

13 A Not to my knowledge.

14 Q What about for commercial office space or industrial
15 development?

16 A Well, there has been contention that the area along
17 Parker Road in the Township--and this is the subject of
18 another litigation--should be zoned from residential to
19 allow storage yards and that sort of thing»

20 Q What has been the position of the Township?

21 A Well, I can't speak for the entire township, but I can
22 speak for myself. My feeling is that the argument is a poor
23 one.

24 Q You say this is the subject of litigation?

25 I A Yes.

1 Q Does that mean that a proposal was rejected by
2 the Township?

3 A No, I don't think there's any specific proposal.

4 Q Do you know what the name of the litigation is?

5 A Hobbie Heat.

6 MR. FERGUSON: Off the record.

7 (Off the record discussion.)

8 BY MR. BISGAIER:

9 Q Plate 37 of the Land Use Planned Element 1978
10 reflects approximate gross acreage for certain zones in the
11 Town of Chester.

12 Is that reflective of the land that has
13 actually been zoned or the land that was proposed in the
14 Master Plan?

15 A I think both. The A/R/R on the plan has been broken
16 down into two zones in the ordinance, three-acre and five-
17 acre. That wording is there in the plan, although this
18 assumes that they're all going to be at three acres.

19 I think the R-2 has remained intact, the
20 BL-1, the H-2, and the A/T and the S/R/C, so it's-

21 Q It does accurately reflect-

22 A Yes, to my knowledge. I didn't prepare the zoning map,
23 but I don't think there were any changes.

24 Q Do you know what percentage of the A/R/R zone
25 would be at the five-acre lot size as opposed to the three?

1 A I don't know offhand. A relatively minor amount,
2 though.

3 MR. FERGUSON: How long do you want to
4 go?

5 MR. BISGAIER: Very short.

6 MR. FERGUSON: Please. Because I've
7 got to talk to Richard before I leave on
8 something else.

9 Off the record

10 (Off the record discussion.)

11 BY MR. BISGAIER:

12 Q Do you have any knowledge as to what the brekkdown
13 would be of employees working in Chester by income?

14 A Not offhand, but I'm trying to think if I saw some of
15 I that data--it didn't have any dramatic impact on the overall
16 plan, so if I saw the information, it was--there were so
17 few employees in the Township itself, so there are relatively
18 few job opportunities.

19 Q Are you familiar with any such data?

20 A For Chester itself?

21 Q Chester Township.

22 MR. FERGUSON: Incomes of people
23 employed within the Township?

24 THE WITNESS: Yes, the income of
25 employees.

1 MR. FERGUSON: All employees within
2 I the Township?

3 MR. BISGAIER: Right.

4 THE WITNESS: Right.

5 BY MR. BISGAIER:

6 A You're talking about the people who work in the town?

7 Q Work, right..

8 A I don't know, no, Carl.

9 Q Do you have any knowledge about any information
10 regarding the incomes of employees in Morris County?

11 j MR. FERGUSON: It's an awfully general
12 question. Can we be more specific?

13 BY MR. BISGAIER:

14 I Q Any breakdown that you're familiar with showing
15 the relative incomes of the Morris County employees in
16 all jobs.

17 A I recall seeing some sort of a study, and I don't know
18 whether it was one of the studies prepared on behalf of
19 this litigation or just what, but I can't recall exactly
20 where.

21 Q Do you recall what it showed, what it reflected?

22 A Well, as I remember it, in Morris County, the jobs are-j-
23 the incomes, rather, of the employees in Morris County are
24 generally higher than the northeastern part of the State.

25 I Q For a similar job as--

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1 A Well, no, I wasn't looking at that. Just in terms of
2 breakdown of the jobs, more of a white-collar executive
3 type of jobs in Morris County.

4 Q Than where?

5 A Than further east in the State.

6 Q Essex County?

7 A Well, yes. I mean once you leave Morris County,
8 you're in Essex and Bergen and Hudson,

9 Q So it's your understanding, based on some data
10 source that-

11 A I believe it may have been Tri-State, as a matter of
12 fact.

13 Q Okay.

14 I -*that the employees working in Morris County
15 are of a relatively higher income bracket than those work-
16 ing in Essex County or other counties in the northeast
17 region?

18 A Yes.

19 Q Do you have a source for that?

20 A I think it's Tri-State. I am not sure.

21 Q Any further specific source in Tri-State?

22 A Not that I can think of now.

23 Q Do you have anything other than a Tri-State
24 source to base that conclusion on?

25 A Not that I can tell you now. I really don't know.

1 I'll try to look through the file and find out.

2 MR. FERGUSON: Objection. I'm not sure
3 that the witness said it was a conclusion.
4 I think you asked him if he was familiar with
5 any data, and that's as definite as it got.
6 The witness didn't recall what he had read.

7 MR. BISGAIER: I thought you said that
8 that was your conclusion.

9 THE WITNESS: It's my recollection.
10 I'd have to go back to the data.

11 MR. BISGAIER: Okay.

12 MR. FERGUSON: I really have to go.

13 MR. BISGAIER: Well, I'm finished.

14 MR. FERGUSON: Okay, good.

15 (The deposition was concluded at 3:20
16 p.m.)

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C E R T I F I C A T E

I, CAROLE L. SEELEY, a Notary Public and Certified Shorthand Reporter of the State of New Jersey, do hereby certify that prior to the commencement of the examination, RICHARD T. COPPOLA was duly sworn by me to testify as to the truth, the whole truth, and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place, and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Carole L. Seeley
Notary Public of the State of New Jersey
My Commission expires December 22, 1981

DATED: Feb 24, 1980

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