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Boontor

25-Feb-1980

Morris Cty Fair Housing v. Boontor

Deposition of P. David Zimmerman

re: reports prepared for Washington

Township

pgs = 45

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SUPERIOR COURT OP NEW JERSEY  
LAW DIVISION - MORRIS COUNTY  
DOCKET NO. 6000-01-78PW

MORRIS COUNTY PAIR HOUSING  
COUNCIL, et als.,

:  
:  
: DEPOSITION OF:

Plaintiffs, : P. DAVID ZIMMERMAN

Louise  
Gargano

VS.

BOONTON TOWNSHIP, et als,

Defendants.

-----  
TRANSCRIPT of proceedings taken by and before  
DOROTHY M. PONTE, a Notary Public and Certified  
Shorthand Reporter of the State of New Jersey, on  
February 25, 1980 at the offices of P. David  
Zimmerman, 42 Court Street, Morristown, New Jersey,  
commencing at 10 a.m.

A P P E A R A N C E S :

STANLEY C. VAN NESS, ESQ.,  
Public Advocate  
BY: KENNETH E. MEISER, ESQ.,  
Deputy Public Advocate  
For the Plaintiffs.

MESSRS. VILLORESI & BUZAK  
BY: EDWARD J. BUZAK, ESQ.,  
For the Defendants.

Reporting Services Arranged Through:  
ROSENBERG & ASSOCIATES  
CERTIFIED SHORTHAND REPORTERS  
769 Northfield Avenue  
West Orange, New Jersey 07052

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>
P. DAVID ZIMMERMAN		
BY MR. MEISER	2	
BY MR. BUZAX		40

I N D E X    O F    E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>INDEX</u>
WTP-1	Report dated November 15, 1979	2
WTP-2	Report dated December 13, 1979	2
WTP-3	Washington Township zoning map	15

1 P . D A V I D Z I M M E R M A N ,

2 42 Court Strea\*, Morristown, New Jersey,  
3 having been duly sworn by the reporter,  
4 testified as follows:

5 DIRECT EXAMINATION BY MR. MEISER:

6 Q Could you tell me what reports you  
7 have prepared for Washington Township in conjunction  
8 with this case?

9 A I prepared two reports. The first one dated  
10 November 15, 1979 addressed to Mr. Villoresi and the  
11 second report dated December 13, 1979, similarly  
12 addressed to Mr. Villoresi. . . . , . . . .

13 MR. MEISER: Let's mark this one,  
14 the November 15 one, WTP-1.

15 (Report dated November 15, 1979  
16 marked WTP-1 for identification.)

17 (Report dated December 13, 1979  
18 marked WTP-2 for identification.)

19 Q Have you prepared any other maps,  
20 **charts**, details of any sort in addition to these  
21 two reports?

22 A Uo.

23 Q Do you plan to for trial?

24 A I would expect that there would be graphs,  
25 charts or illustrative material introduced in evidenc<sup>e</sup>

1 based upon information of these reports.

2 Q Do you know at this point what those  
3 **charts** will be and what form they<sup>l</sup>ll be?

4 A No, I have to discuss it with the attorney  
5 and I think together, we would decide what best  
6 would be.

7 MR. MEISER: We<sup>f</sup>d ask for copies  
8 of those when they<sup>f</sup>re prepared.

9 MR. BUZAK: Right.

10 Q What materials relevant to Washington  
11 Township did you examine in preparing this **report**?

12 A . . . I examined the zoning ordinance, the master  
13 plan, the Soils Survey of Washington Township, the  
14 SV1A forms dealing with market prices of housing  
15 in Washington Township, and I familiarized myself  
16 with the Township and I would represent that as  
17 the ongoing planning consultant to the Township, I  
18 am familiar with the Township.

19 Q How long have you been planning  
20 Consultant?

21 A Approximately nine or ten months.

22 Q Have you prepared any reports for  
23 Washington Township in conjunction with any other  
24 litigation against the Township?

25 A Yes.

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Q Which cases would that be?

A This would be Claremont Painting vs. Washington Township and Fornaro vs. Washington Township.

Q What is the issue in Fornaro?

A The issue in Fornaro was the zoning of property that was changed from the old ordinance to the new zoning ordinance.

Q What was it changed to?

A I'm not 100 percent sure. As I recall, at one time was zoned for sanitary landfill with an option for two acre zoning and the new ordinance as I recall, removed the sanitary landfill and offered the two acre zoning as the zone for the property,

Q Has the case come to trial yet?

A The case has been settled.

Q What about Claremont Painting, what was the issue there?

A The issue in Claremont Painting was many fold. Their property in an MDU zone, which is multiple dwelling unit zone, and there were several elements and requirements in the zoning ordinance that they were contesting regarding sewer and water density, a couple of other items, the zone district boundary line.

Q Did the case come to trial?

1 A No, it didn't. Similarly was -

2 Q What were the terms of the settlement?

3 Do you recall?

4 A The municipality clarified some issues  
5 regarding sewer and water. The density was unchanged.  
6 The zone district line was altered slightly.

7 Q When you say clarified, what did they  
8 clarify?

9 A Well, the ordinance requires public water  
10 and sewer for an MDU district development for  
11 multi-family housing. The Claremont wanted to  
12 put in a -- their own sewer and septic systems..  
13 The municipality indicated that the Washington  
14 Township MUS would accept a sewer system if it  
15 was developed according to their standards, and if  
16 it was developed in a way that could eventually  
17 or in the near future be incorporated into the  
18 total townwide sewer system.

19 Q So that's what they were allowed to  
20 do then?

21 A As I recall, yes.

22 Q How about any variance applications,  
23 have you prepared or testified in any variance  
24 applications in Washington Township?

25 A Yes.

1 Q What were those issues, which cases  
2 first?

3 A One was the Pornaro application for sanitary  
4 landfill about five years ago.

5 Q Were you involved with Washington  
6 Township five years ago?

7 A .No.

8 Q Well T-

9 A This was an application on behalf of a  
10 private individual to the Township.

11 Q When was this?

12 A . . . Approximate^ five years ago. . . .

13 Q You testified for the Township then?

14 A No, for the applicant. I have not been  
15 involved in any variance situations on behalf of  
16 the Township.

17 Q So which others besides Fornaro have  
18 you been involved in with Washington Township?

19 A The other one was an application for commercial  
20 piece or? property in the center of town.

21 . Q What is the present population of  
22 Washington Township? Do you know?

23 A No, I don't know. I would say approximately  
24 10,000 people.

25 Q Is there any existing study that you



1 know of, population, have they done any?

2 A Well, the County Planning Board did public  
3 **estimates** of the Town population and the State  
4 Department of Labor and Industry also makes estimates  
5 of the current town population.

6 Q Do you have any projections for what  
7 the population may be as of 1990? Have you made  
8 any estimate?

9 A No, I have not.

10 Q The master plan speaks of projected  
11 population from 24,000 to 27,000 in 1990. Do you  
12 think that's realistic?

13 A I don't know. We are in the process or we **are**  
14 initiating an analysis of the master plan, and  
15 I expect it will be revisions to the master plan  
16 completed this year.

17 Q Do you have any opinion as to what  
18 the ultimate population of Washington Township will  
19 be?

20 A No.

21 Q Are you going to testify as to your  
22 opinion as to whether Washington Township is a  
23 developed municipality?

24 A If asked to testify, I'm prepared to do so.

25 Q Do you have an opinion as of today?

1 A I've indicated in my report that for the  
2 basis of this litigation, it's my recommendation  
3 that even though the issue is not 100 percent clear,  
4 **the** Township should assume that they are developing  
5 the municipality and address the issue accordingly.

6 Q Well, you're saying they should  
7 assume that. Is that because your opinion is they  
8 are a developing municipality?

9 A I don't know. I think that there are certain  
10 criteria that have been established to measure whether  
11 communities are-developing municipalities, and *my*  
12 report. . . I point out that Washington Township **does,**  
13 not satisfy all those criteria; and I will leave  
14 that up to the attorney to judge whether legally the  
15 Township is less of a developing municipality than  
16 might normally be the prototype as spelled out with  
17 Mt. Laurel or whether we should assume that it is  
18 developing and move ahead.

19 Q Is it fair to say that today you're  
20 **not** prepared to say they're not a developing  
21 **municipality?**

22 MR. BUZAK: I'm going to **object** to the  
23 form of the question. I think he has  
24 stated, Mr. Zimmerman has stated that the  
25 municipality does not meet all the criteria

1 on which a developing municipality is judged,  
2 and his report, I think, leaves that question  
3 open and just proceeds to review the zoning  
4 ordinance and the various other factors  
5 involved. He does not draw that conclusion,  
6 and I think it's unfair to go either way,  
7 because he doesn't go either way. He's  
8 left that open.

9 MR. MEISER: Well, that's what I'm trying  
10 to clarify, whether he has left it open.

11 MR. BUZAK: Okay. Well, if that's  
12 your question as to whether he's left it open,  
13 I don't have any objection.

14 MR. MEISER: Can you read back the  
15 question?

16 THE WITNESS: If it may -- I really  
17 didn't understand the question. • If the  
18 question is whether I've formed a conclusion  
19 in the report or subsequently, I'd be prepared  
20 to answer that.

21 Q Go ahead. All right. Have you formed  
22 a conclusion?

23 A No.

24 Q Now, have you in your report listed  
25 or determined how many vacant acres there are in

1 the Township?

2 A No. What the report sought to do was identify  
3 vacant land in the areas and zone districts which  
4 would normally be looked at as providing for low  
5 and moderate income housing.

6 Q Have you attempted to determine how many  
7 acres of land in the Township are environmental  
8 constraints?

9 A Well, that's a broad question. It's difficult  
10 to know what you mean by environmental constraints.

11 All the property has constraints of one form  
12 or another. Whether they impact upon development,  
13 is perhaps the question.

14 Q Have you sought to determine what  
15 lands are environmental constraints severe enough  
16 to make them unsuitable for least cost or high,  
17 density housing?

18 A Yes. In conjunction with my second report,  
19 I did deal with the identification of areas and  
20 environmental constraints.

21 Q What environmental constraints did  
22 you look at in there?

23 A Could I have the report?

24 The first constraint was soil information  
25 as contained in the Soils Survey of Morris County,

1 and these soils are classified based upon their  
2 ability to support different community development  
3 land uses.

4 The second item was identification of flood  
5 plains as the Township is traversed by a number of  
6 brooks and rivers.

7 Lastly, was identification of areas of  
8 ridge lines and steep slopes, which would inhibit  
9 community.

10 Q How many acres did you conclude are  
11 in the flood plains?

12 A I did not make that calculation. . . ."

13 Q So at this point, you don't know how  
14 many acras there would be?

15 A Correct.

16 Q Did you make that calculation for  
17 steep slopes?

18 A No.

19 Q You did make a calculation for soils  
20 as to whether they're severe, moderate or slight  
21 for settle; is that correct?

22 A Yes. I indicated in my report that  
23 approximately 12 to 13 percent of the Township has  
24 slight soil problems, 17 to 43 percent has moderate  
25 problems and 40 percent has severe problems.

1 Q Now, that is an impediment only if  
2 you're using septic; is that correct?

3 A Yes, and no. The primary impediment would  
4 be for septic. However, you would have soils  
5 that are classified as severe, which have shallow  
6 depth to bedrock or a very high ground water  
7 table or swampiness or periodic wetness, which also  
8 would be an impediment to the development of housing  
9 whether, they had septic or not.

10 Q Did you compute what percentage of  
11 land has impediments; such as depth of bedrock?

12 A No.

13 Q Or high water table?

14 A No.

15 Q So the only environmental calculations  
16 you've made at this point is those which are severe  
17 for septic; is that correct?

18 A Correct.

19 Q Do you know how many apartment units  
20 **there** are in the Township as of today?

21 A No.

22 Q The 197^ master plan, I believe, lists  
23 seven apartment units. Have there been any apartment  
24 complexes built since then in the Township?

25 A Not to my knowledge.

1 Q So to the best of your knowledge,  
2 that's an accurate number?

3 A Yes.

4 Q Now, do you know how many single  
5 family units are in the Township today?

6 A No.

7 Q Do you know either as of today or  
8 as of the date of the master plan the breakdown of  
9 single family units between R-5, R-3, R-1, R-20?

10 A No.

11 When I say no, I don't have that firsthand.  
12 I have to refer to the master plan or some other  
13 data source to get that information.

14 Q Is there another data source available  
15 updated beyond the master plan which would have  
16 that?

17 A Well, the Town engineer keeps a running tally  
18 of the number of building permits and certificates  
19 of occupancies that have been issued, so an accurate  
20 count of the number of housing units in the Township  
21 can be made.

22 Q But you haven't seen that?

23 A I've seen it, sure. I have it in my file.  
24 I just haven't done it.

25 Q Do you know what percentage of the

1 residents in the Township have public sewer today?

2 A Ho.

3 Q In preparing your report, did you do  
4 any investisation of the status of the public  
5 sewer system in the Township today?

6 A Well, I'm aware of the status of the public  
7 sarer system in the Township.

8 Q What is the status as of today?

9 A Well, what do you mean? It's there and  
10 functioning and operating.

11 Q Well, let's step backwards a seonefc\*

12 , . . . The master plan spoke about a ban t.hat . . .

13 had been imposed on expansion. DD you know when  
14 that was taken off or is it still in effect?

15 A What page is that, please?

16 Q I believe page 29. Let me check.

17 I'm not sure where it is at the moment.

18 Is there any ban that you know of on tue-Jhs  
19 to either septic, public sewer systems in the  
20 Township?

21 A I'm not aware of any bans on tie-ins to the  
22 public sewer system or steptics in the Township.

23 Q You said you're not?

24 A That<sup>r</sup>s correct.

25 Q Now, has the Lons Valley Treatment Planfc



1 been built at this point?

2 A Not to my knowledge.

3 Q Do you know if there's any date for  
4 construction of that?

5 A No, I don't know if there's a date or  
6 not.

7 Q Do you know whether the HMUA has  
8 additional capacity for tie-ins to its system?

9 A No.

10 Q Were involved in any way in drafting  
11 the PUD ordinance?

12 A . . . No . . .

13 Q Have you been involved in drafting  
14 any of the zoning ordinances in the Township?

15 A No.

16 Q Now, the PUD ordinance requires tie-in  
17 to public water and sewer; is that correct?

18 A Yes.

19 MR. MEIHER: Could we have this  
20 zoning map marked?

21 (Washington Township zoning map  
22 marked WTP-3 for identification.)

23 Q For the record, can you indicate  
24 where the PUD zones are on this map?

25 A The PUD zone is located in the upper left-hand

1 corner of the map or in the northwestern sector  
2 of Washington Township.

3 Q Now, is there today access to public  
4 **sewer** that you know of?

5 A Yes, **there** is.

6 Q So that if I **were** building that PUD  
7 zone, I could tie in there?

8 A Well, for your information, the PUD zone  
9 is currently under development for a variety  
10 of housing units.

11 Q The entire zone?

12 A No.

13 Q How much of it is?

14 A Approximately 100 acres.

15 Q When was preliminary approval for  
16 that 100 acre site given? Do you know?

17 A Given the last planning board meeting.

18 Q When was that?

19 A I'd have to check my calendar, but it was  
20 I **think the** first week in February.

21 Q All right. The entire PUD acreage  
22 is what?

23 A Approximately 100 acres.

24 Q What was the name of the applicant  
25 that got preliminary approval?

1 A Hastings Square.

2 Q They will be able to tie into the  
3 HMUA zone?

4 A Yes. They will tie into the Hackettstown  
5 sewer system.

6 Q Now, what about the MDU zone? Could  
7 you tell where they're located on the map?

8 A There are two MDU zones in Washington  
9 Township. The smaller zone is located next to  
10 the PUD zone in the western portion of the Township.  
11 The larger zone, is located in the eastern **central**  
12 portion, of the Township.

13 Q Now, the MDU in the western part,  
14 would that also be able to tie into the Hackettstown  
15 sewer system?

16 A That's correct.

17 Q What about the one in the eastern?  
18 Is there access to public sewers there?

19 A There is not access at this time to public  
20 **sewers**. However, as I indicated, the Town has  
21 **clarified** the requirement for public sewer and  
22 water such that the applicant can put in a sewer  
23 system which would be acceptable to the MUA and  
24 ultimately would provide -- would tie into the  
25 Township system.

1 In the interim, the applicant would provide  
2 temporary treatment.

3 Q What about the R.2A? Is there access  
4 **there?**

5 A Mo.

6 Q There are mobile home parks in the R2A  
7 at this point?

8 A That's correct.

9 Q Do they have septic?

10 A I believe so, yes.

11 Q How many units are going to be built  
12 at the Hastings Square project?

13 A 382.

14 Q Do you know the breakdown between  
15 apartments, townhouses, single-family detached?

16 A Yes. Approximately 75 percent will be  
17 townhouses and patio homes, 25 percent will be  
18 single-family dwellings, single-family detached  
19 dwellings.

20 Q Any multi-family?

21 A Well, I'll classify -

22 Q I mean apartments?

23 A No, no apartments.

24 Q Do you know how many employees work  
25 for businesses in Washington Township?

1 A . Yes. It's in my report. In 1977 there were  
2 517 covered employment jobs and that *reals* in my  
3 **report** in Morris County that it's an error. It  
4 should be Washington Township.

5 Q Do you know what the largest employers  
6 in the Township are?

7 A I would assume that the municipality is  
8 the largest employer.

9 Q Outside of that, do you know what  
10 the largest is?

11 A No.

12 Q Are there any projections for  
13 future employment within the Township?

14 A No.

15 Q On this map could you delineate  
16 for the record the area which is considered Long  
17 Valley?

18 A Long Valley is approximately in the **center** of  
19 the map and it is pretty much circumscribed by  
20 **the circle** I'm drawing with my finger on **the** map.

21 Q What zones would that circle include?

22 A It would include a commercial zone, industrial  
23 zones, portion of the I-111 zones and single family  
24 residential zones.

25 Q The ?.-3?

1 A R-1, R~3, ^-20 and R-2.

2 Q Are there any natural barriers which  
3 indicate the boundaries of Long Valley?

4 A Yes.

5 Q What would they be?

6 A There are two - Long Valley is a long valley.  
7 Yes, there are natural boundaries to Long Valley.  
8 The area is a valley and is defined by the hill and  
9 ridges on the north and south and has an identity  
10 at the crossroads of **Route** 24 and Mill Road.

11 Q Do you know how many mobile **homes**  
12 are in **the** Township presently as of today?

13 A I think there are 40.

14 Q That's all within the one zone,  
15 the 2A zone?

16 A Yes.

17 Q Does the Township permit mobile  
18 homes on a single-family lot in other zones  
19 of the Township?

20 A I don't know.

21 Q As a planner, do you have an opinion  
22 on the suitability of mobile homes as least cost  
23 housing?

24 A I don't really have an opinion one way or  
25 the other. I assume that they can, under certain

circumstances, provide housing for particular segments  
to the housing market.

Q What would be the circumstances?

A A family or household that would be content to live in the mobile home and feel that a mobile home supplies their housing needs.

Q So it's primarily a matter of individual -- the person, whether the person wants to live in that type of housing? Is that what you're saying?

A I think that's one element.

Q What would the other elements be?

A Well, as with any housing, the development of a mobile home park has to, or should be, in an area that it makes sense from a land use perspective and can be accommodated by the environment.

Q Are there any particular reasons why that land was in the R-2A zone is suitable for mobile home parks in the Township?

A Well, the only -- frankly, the only reason is that there's one there now.

Q Do you know what the acreage is in the R-2A zone?

A I think it's 40 acres.

Q Have you given any consideration as to whether, in your opinion, 40 acres is an appropriate

1 amount of land to zone for mobile homes?

2 A Mo.

3 - Q So you wouldn't be prepared to express  
4 an opinion either way?

5 A Correct.

6 Q Are there any standards that you would  
7 use in determining what is an appropriate number of  
8 mobile homes to allow in a Township?

9 A I'm not really prepared to answer that.  
10 I'd have to do some research to come up with an  
11 answer.

12 Q Now, the PUD ordinance requires a minimum  
13 acreage of 100; is that correct, in the ordinance?

14 A I'd have to check the ordinance to refresh  
15 my memory.

16 Q Look at Section 2.175.

17 A Yes. The minimum tract size in a PUD  
18 development is 100 acres.

19 Q Do you have an opinion as to whether  
20 100 acres is an appropriate minimum requirement?

21 A Yes, I think it is appropriate minimum require-  
22 ment.

23 Q What were the reasons for that?

24 A Well, the purpose of planned unit envelopment  
25 is to provide a means for flexible development



1 of large parcels of property, and I would - my  
2 opinion that 100 acres would satisfy that.

3 Q By the way, have you ever drafted a  
4 PUD ordinance yourself for any town?

5 A Yes.

6 Q What towns?

7 A Andover Township.

8 Q Where is that, what county?

9 A Sussex County.

10 Q D-i that have any minimum acreage  
11 requirement?

12 MR. BUZAK: I'm going to object  
13 to ths question only because it doesn't  
14 involve V/ashington Township at all, but  
15 he may answerit.

16 Q Will you answer the question?

17 A Well, if he's objecting then --

18 MR. BUZAK: You can answer it now,  
19 but for the record, we're objecting.

20 A Yes, it did.

21 Q What was that?

22 A As I recall, it was 100 acres.

23 Q How,-, the overall density for  
24 Washington Township's PUD is what?

25 A Four units per acre.

1 Q Now, are there any internal density  
2 limitations as to the number of units that can be  
3 put on a particular acre?

4 A I don't know of any.

5 Q Now, that means that for a 100 acre  
6 tract, the maximum number of units I can build  
7 is 400; is that correct?

8 A That's my understanding.

9 Q The fact that some of the land has  
10 to be used for industrial or commercial purposes  
11 does not reduce the total residential density?

12 A I don't know. I would have to reacquaint  
13 myself with the specifics of the ordinance.

14 MR. BUZAK: I might be able to clarify  
15 that. In terms of Hastings Square, it was  
16 100 acre development; is that correct?  
17 That was what they were using?

18 THE WITNESS: Right.

19 MR. BUZAK: Wasn't it your testimony  
20 I that there were going to be 400 units built  
21 there?

22 THE WITNESS: 382 units.

23 MR. BUZAK: Okay. Pretty close.

24 THE WITNESS: The only -- as I read  
25 the ordinance, the only limitations would be

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on gross density would be related to environmental factors.

Q Could you clarify that?

A Grades - lands with grades of 15 percent or greater would have some limitations on development. Land and floodways would not be considered for density purposes and existing easements would not be considered for density purposes.

Q All right. For slopes, does that mean you would go to the same slope provision in your ordinance?

A- Yes.

Q What is the Washington Township slope ordinance?

A Well, as the slope gets larger and more severe, the density of the housing is reduced.

Q Where is this starting point for the density?

A I think it's 15 percent.

Q So that anything above 15 percent they reduce the density?

A That's correct.

Q What was your overall density permitted in your Andover ordinance?

A I don't recall.

1 Q Do you know if it was higher than  
2 four?

3 A I think it was lower.

4 Q Do you have any opinion as to whether  
5 a density for a PUD of four per acre constitutes least  
6 cost housing or permits it?

7 A I don't think there is a relationship.

8 Well, I don't think that the density of  
9 four units per acre in Washington Township is  
10 an inhibiting factor for least cost housing.

11 Q For what reasons?

12 A . . . Well, - I think we're dealing with a- suburban  
13 rural area of the State in which a density of four  
14 units per acre for a PUD makes sense, and the  
15 provision of least cost housing is a function of  
16 the propensity of the developer.

17 Q Why did a density of four per acre  
18 make sense to you?

19 A Because we're dealing with a sparsely developed  
20 area of the State as opposed to communities as more  
21 **eastern** locations, which are characterized by  
22 higher densities.

23 Q The sites where they're zoned for  
24 PUD were chosen because they were going to be your  
25 high density sites in the Township, weren't they?

1 A Yes.

2 Q Have you examined the densities  
3 within the Ilackettstown, I believe -- well, I mean  
4 itself?

5 A No.

6 Q So you don't know whether it is  
7 four to the acre or higher?

8 A Correct.

9 Q Well, first of all, are there any  
10 land or characteristics or environmental reasons  
11 which would preclude a high density for your PUD?

12 A I'm not that intimate with that property  
13 to answer that.

14 Q Do you know of any health or safety  
15 reasons that preclude a density higher than four  
16 per acre?

17 MR. BUZAK: In these particular --

18 MR. MEISER: Within PUDs.

19 A Well, the safety reason may be related to  
20 **the taaffic** in the area, that section of town having  
21 congestion at the present time without the PUD.

22 Q Have you done any traffic studies  
23 in that area?

24 A I haven't done any studies. I have for  
25 this application or for this litigation. I have

1 studied traffic in relation to other land use  
2 development in that area of the municipality and I  
3 am **aware** of the traffic impact statement supplied  
4 by **the** applicant for the PUD.

5 Q In Hastings Square?

6 A In Hastings Square.

7 Q Your finding there was that the  
8 382 units could be allowed despite the traffic?

9 A Well, I didn't make a specific finding.  
10 I'm indicating to you what my opinion is is that  
11 there is, at the present time, and I think everyone  
12 is aware of it, traffic congestion and that **with**  
13 the development of the PUD, that will be **exacerbated**.

14 Q The Township had made a finding though  
15 hasn't it, that by zoning -- how many acres is it  
16 for PUD?

17 A 400. \* .

18 Q That it could permit 1,600 units  
19 there despite the traffic situation; is that  
20 **correct?**

21 A Well, that's obvious giving the zoning of  
22 the area, but you indicated is thsrs a safety problem  
23 and I said...it's my opinion that th&reis.

24 Q All right. Ar^ there any other  
25 reasons in addition to traffic which would constitute

1 higher density and four to the acre?

2 A I haven't studied, nor am I aware of other  
3 factors which may have an impactsuch as the  
4 capacity of the sewer systems, the environmental  
5 factors of the land, which may constitute higher  
6 density.

7 Q Do you know of any reasonwhy these  
8 particular boundaries were chosen for the PUD  
9 zone?

10 A No.

11 Q Do you know of any reason, for  
12 example, why the R-2, which, joins the PUD, could'  
13 not be zoned PUD?

14 A • No, I don't know any reason why it could  
15 or why it should not, one way or the other.

16 • Q So you've not made any study yourself  
17 as to what sites in the area would or would not  
18 be appropriate for PUD zoning?

19 A Correct.

20 Q What about the MDU zone? How many-  
21 acres are zoned for MDU?

22 A Approximately 300 acres.

23 • The density permitted in the MDU  
24 zone is what?

25 A Six units to the acue.

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1 Q Do you feel that the density of six  
2 units per acre is appropriate to permit least  
3 cost housing?

4 A Well, as I answered earlier, I don't think  
5 it's an inhibition or hindrance to providing least  
6 cost housing.

7 Q Do you know of any factors which  
8 would count against a higher density than six  
9 units per acre within the MDU zone?

10 A Well, again, as I indicated earlier, the  
11 density for any area, for any zone district has  
12 to be determined based upon the characteristics  
13 of the municipality. It's significantly -- **it's**  
14 the most dense zone district in the Township.  
15 It is higher than the PUD zone, and given that  
16 variety of housing types are to be provided, it  
17 seems inappropriate density in my opinion. \*

18 Q Are there any specific factors dealing  
19 with the environment that would preclude a higher  
20 **density** on those tracts?

21 A Well, it is located approximate to a flood  
22 plain. It is in an area which is presently unsewered,  
23 although the developer will, I imagine, put in his  
24 own sewer systems; and in my opinion, the density  
25 is appropriate for the provision of a variety of



1 housing in even least cost housing, if that's proposed  
2 by the applicant.

3 Q Wnsn you say near or approximate to a  
4 flood plain, how close to the flood plain is it?

5 A Well, the zone district line has been changed  
6 to bring it to the Raritan River and I would say  
7 approximately 50 to 100 feet of the area abutting  
8 the Raritan River is in the flood plain.

9 Q Your flood plain ordinance would  
10 preclude any construction in that flood plain,  
11 wouldn't it?

12 A That's true, but one still has to be concerned about the development adjacent to that  
13 as all runoff would go into the river and one has to make sure that one isn't exacerbating the potential  
14 flooding in the area.

15 Q Have you made any studies on the  
16 Raritan and the problems of flooding?

17 A I haven't, no.

18 Q Have you made any studies or do you  
19 have any opinion as to how much runoff there  
20 would be with the density of six per acre?

21 A No.

22 Q Do you have any opinion as to, or  
23 any studies as to how much increase in the density  
24  
25

1 to eight units per acre would increase the runoff?

2 A I have not made those studies.

3 Q You use a reference in your report  
4 to moderate income, senior citizen housing. What  
5 is the status of that?

6 A Moderate income, senior citizen housing  
7 currently in existence in the Township in the MDU  
8 zone in the north and western portion of the Township.

9 Q How many units is that?

10 A That project is called Heath Village.  
11 I would have to estimate that there may be 100  
12 units there at the present time.

13 Q Are you reading from a page in your  
14 repeat?

15 A This is page 7. Unfortunately it doesn't  
16 identify the number of units with Heath Village,  
17 that's why I'm giving you an estimate.

18 Q Is that rental or ownership?

19 A Those are owned, I think.

20 Q Are they townhouses, condominiums?

21 A They're attached homes.

22 Q & you know when they were constructed?

23 A No.

24 Q Do you know what the initial sales  
25 price of them was?

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Q Do you know what they sell for today?

A No.

Q Is there any age requirement to live in Heath Village?

A I think so, yes.

Q How many acres does Heath Village consist of?

A I would estimate approximately 30 acres.

Q So there's a density of three to the acre?

A . . . I'm not really prepared to give you **those** figures. They're all approximations and I'd have to make separate calculations and measurements to give you accurate figures.

Q Is there any other construction within ~~the~~ MDU zone as of today?

A No.

Q Are there any other applications in for preliminary approval within the MDU zone today?

A Well, there is a developer in the MDU zone that has initiated discussions with the municipality for the construction of housing in the MDU zone.

Q How large a project?

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A This would be approximately 300 acres.

Q Where is that 300 acres located?

A This is in the eastern central portion of the Township.

Q How many units is he proposing?

A No one has arrived at those figures yet.

Q But there\*s been no preliminary application made?

A That's correct. We're in the discussion phase.

Q Has there been any discussion **stage** indication of whether this would be rental, sale, anything like that?

A No indication at this point.

Q Has there been any other applications either in the form of preliminary approval or discussion within the MDU?

A Not that I'm aware of.

Q Are you familiar with what's been called inclusionary zoning ordinances?

A Inclusionary zoning ordinances?

Q Yes.

A Mo.

1 Q You've never heard that term?

2 A No.

3 Q Do you as a planner feel that  
4 there's any way in which a Township through its  
5 zoning ordinance, through its conditions of approval  
6 can assure the developers build least cost housing?

7 MR. BUZAK: I'm going to object  
8 to the question because I know it goes  
9 well outside the report that was made.  
10 He can answer it, but I will object.

11 A I don't think so .

12 Q Does Washington Township belong  
13 to the County Housing Authority?

14 A I don't know.

15 Q Do you know whether Washington Township  
16 has ever passed a resolution of need?

17 A I don't know if they have or haven't.

18 Q Do you know if Washington Township  
19 has ever taken part in the community development  
20 program?

21 A I don't know.

22 Q Do you know if there's ever been an  
23 application to subsidized housing within the Township?

24 A Not that I'm aware of.

25 Q Do you know if there's any substandard

1 housing within the Township?

2 A I assume that there are some just as there  
3 are in every Township, but I don't know to what  
4 extent those numbers exist.

5 Q You've made no study yourself?

6 A That's correct.

7 Q What is the smallest single-family  
8 detached home, the smallest amount of land that a  
9 single-family detached can be built on?

10 A 20,000 square feet.

11 Q Is there a reason why there is a  
\*2 requirement of 20,000 square feet? ...

13 A I don't know if there is one.

14 MR. BUZAK: That is excluding the  
15 PUD zons; is that correct?

16 THE WITNESS: That's correct.

17 Q Have you looked at the land within  
18 the — are any of the 20,000 squars feet accessible  
19 to public sewer?

20 A I don't know.

21 Q The agricultural land in the Township,  
22 what zones is that in today? Do you know?

23 A Mostly in the R-2, R-3 and R~5 zones.

24 Q Are any of the agricultural lands  
25 in a less restrictive category than R-2, R-3 and R-^C

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1 A May 15 some, but my opinion is the majority  
2 are in the larger lot size categories.

3 Q Putting some of the agricultural  
4 land in an R-2 category doesn't preclude it from  
5 being developed for residential purposes, does it?

6 A That's correct.

7 Q As a planner, do you know any way  
8 that land can be limited solely to agricultural  
9 use?

10 A Well, there are a variety of techniques  
11 that have been discussed and that will be one of  
12 our tasks this year in revamping the master plan.  
13 Washington Township hasn't adopted any overt  
14 policy at this point other than to express the desire  
15 of the Township to preserve agricultural land as  
16 agricultural.

17 Q What, are some of those policies?

18 A Well, I think one of them is -

19 MR. BUZAK: I'm going to inject again  
20 because I think we're going beyond the field.  
21 The Washington township zoning ordinance  
22 does not contain any such provision. Mr.  
23 Zimmerman's report doesn't deal with it,  
24 and I think we're just on an interesting inquiry,  
25 but unrelated to the case before us.

1                   If you won't withdraw it, I'll let  
2                   him answer it.

3                   Q           Go ahead.

4                   A           At this point the only way in which the  
5                   Township deals with agricultural land is to place  
6                   it in a larger lot zone category and hopefully,  
7                   inhibit the development.

8                   Q           The question was what alternatives  
9                   you're aware of in addition to that.

10                  A           There are numerous alternatives. There is  
11                  clustering, transfer of development rights, outright  
12                  purchase of development rights by the municipality  
13                  and zoning for agricultural.

14                  Q           Do you have any opinion as to the  
15                  desirability of simply zoning land for agricultural  
16                  or not allowing a residential option?

17                  A           My professional opinion is that we will see  
18                  the day when that will occur.

19                  Q           Well, when you looked at classification  
20                  of soils, for slight, moderate and severe for  
21                  **septic**, was that based solely on the Soils Survey of  
22                  Morris County?

23                  A           Soils Survey of Morris County and Soil map  
24                  in the master plan.

25                  Q           Was the soil map and the master plan



1 taken from the Morris County Soil Survey?

2 A That's correct.

3 Q So there was no other source used  
4 by **the** Morris County Soil Survey?

5 A That's correct.

6 Q You referred earlier to the SRLA.  
7 What is that?

8 A That is a form filed in the County Tax  
9 Office which reports the sale or market price of  
10 housing.

11 Q Have you looked at those in forming  
12 your opinion?

13 A Yes.

14 Q Do you know what they showed for  
15 the last year?

16 A I know I have that information in my report.

17 Q Page 8 there's a footnote to it.

18 A Page 6 of my report of November 15th I indicate  
19 that significant number of homes are in 1979 in  
20 **the** 60 to \$70,000 bracket, and that in 1978 there  
21 **were** -- **the** average cost of housing was between  
22 50 and \$80,000.

23 Q When you said significant numbers,  
24 was there a percentage of that **were** in the 60 and \$70,600  
25 bracket?

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1 A That would be a majority of the housing units.

2 Q Were there any below \$60,000?

3 A Yes.

4 Q Do you know what percentage?

5 A No, not at this time.

6 MR. MEISER: All right. I have no  
7 more questions.

8 MR. BUZAK: First is just in connection  
9 with the documentation. It's been our  
10 understanding throughout all these  
11 depositions that the documentation referred  
12 to by the experts is documentation of that  
13 particular expert relied on in preparing a  
14 report, but that there was additional documentatic  
15 that's been furnished to you for purposes of  
16 this litigation.

17  
18 CROSS-EXAMINATION BY MR. BUZAK:

19 Q Mr. Zimmerman, in connection with  
20 the statement with respect to the MDU zones, you  
21 testified that there were two MDU zones, one was  
22 next to the PUD zone and the other one was in the  
23 eastern central portion of the township. In  
24 response to a question of Mr. Meiser you testified  
25 that the MUD zone next to the PUD zone could tie in

1 with the Hackettstown sewer system; is that correct?

2 A Correct.

3 Q Now, are you familiar with the capacity  
4 of the Hackettstown sewer system to handle the flow  
5 from that particular area?

6 A My understanding is that they have the capacity.

7 Q But have you done any studies or anything  
8 on that?

9 A No.

10 Q Do you consider yourself a mobile  
11 home expert?

12 A -No. . . . .

13 Q Your testimony with respect to mobile  
14 homes was your opinion as a planner; is that correct?

15 A That's correct. I'll submit that I have very  
16 little familiarity with the mobile homes.

17 Q You testified that there was some  
18 concern for traffic in the MUD zone. I believe it I  
19 was the zone in the northwestern portion of the I  
20 Township, and that in connection with the development j  
21 application that was recently observed, there was a  
22 traffic report, a traffic study submitted to the  
23 Board; is that correct?

24 A That's correct.

25 Q Mr. Meissr then in further discussing

1 it suggested that since -- and I'm really verbalizing  
2 this thought process more than he did -- but you  
3 had testified earlier that there were approximately  
4 400 acres in that zone and that the maximum density  
5 was four units per acre and Mr. Melser.'s question  
6 or statement was that, therefore, the Township  
7 feels that that zone could support 1,600 units  
8 without exacerbating the traffic flow?

9 MR. MEISER: I don't know -- if you  
10 want to ask him a question, go ahead. I  
11 don't know if you should try to characterize  
12 the record. I don't remember --

13 MR. BUZAK: I will ask him a question.  
14 I just wanted to set up what I was going to be  
15 discussing.

16 Q Now, was this particular developer,  
17 this Hasting Square required to put in any offtract  
18 improvements?

19 A No.

20 Q Does the Township zoning ordinance  
21 and/or land use plans permit the assessment, so  
22 to speak, for imposing a requirement of offtract  
23 improvement on developers?

24 A Yes'.

25 Q Is traffic or road width or traffic

1 generation one of the various items that they can  
2 use as a criteria to impose offtract improvements?

3 A That's correct.

4 Q Could offtract improvements be  
5 required of developers in the PUD zone?

6 A Yes.

7 Q The PUD zone specifically in question  
8 here, the 400 acres?

9 A That's correct.

10 Q Has the Township itself made the  
11 determination that the roads in that area can  
12 support 1,600 units or the traffic generation frgjjp  
13 1,600 units without further improvement?

14 A I'm not aware as to whether the Town has  
15 enunciated a policy in that regard. I was responding  
16 to the question and offering my own professional  
17 opinion as to the traffic situation, and the  
18 impact of full development.

19 Q And can you repeat that opinion again?

20 A My opinion is that there are traffic problems  
21 in **the** area and that full development of PUD  
22 zone would require offtract improvements to insure  
23 safe vehicle movement and circulation in that  
24 area.

25 MR. 3UZAK: I have no further questions.

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C E R T I F I C A T E

I# DOROTHY M. PONTE, C.S.R.,


a Notary Public and Shorthand Reporter of the State of New Jersey, do hereby certify that prior to the commencement of the examination

P. DAVID ZIMMERMAN

was duly sworn by me to testify 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, to the best of my ability.

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.

  
\_\_\_\_\_  
Notary Public\* of the State of New Jersey