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Oct. 1979

Deposition of
Russell L. Montney

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ML000632G

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - MORRIS COUNTY
DOCKET NO. L-6001-78 P.W.

3 MORRIS COUNTY FAIR HOUSING
4 COUNCIL, et als., :

5 Plaintiff, : DEPOSITION OF:

Louise
Gargano

6 vs. :

RUSSELL L. MONTNEY

7 BOONTON TOWNSHIP, et als., :

8 Defendant. :

9 Transcript of stenographic notes as taken by
10 and before JILL FRIEDBERG, a Notary Public and
Shorthand Reporter of the State of New Jersey, at the
11 offices of ROBERT CATLIN & ASSOCIATES, 2 Valley Road,
Denville, New Jersey on Thursday, January 31, 1980,
12 commencing at 10 a.m.

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

14 STANLEY C. VAN NESS, Public Advocate
Department of Public Advocate
15 BY: KENNETH E. MEISER, ESQ., Deputy Director
For the Plaintiff.

16 MESSRS. VILLORESI & BUZAK
17 BY: EDWARD J. BUZAK, ESQ..
For the Defendant Township of Denville.

18 MESSRS. JAMES, WYCKOFF, VECCHIO & PITMAN
19 BY: JOSEPH J. VECCHIO, ESQ.,
For the Defendant Roxbury Township.

20
21
22 Reporting Services Arranged Through:
23 ROSENBERG & ASSOCIATES
24 CERTIFIED SHORTHAND REPORTERS
769 Northfield Avenue
25 West Orange, New Jersey 07052

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I N D E X

WITNESS

DIRECT

RUSSELL L. MONTNEY

BY MR. MEISER

2

I N D E X O F E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENT.</u>
RM-1	Memo dated October 24, 1979	20
RM-2	One-page document dated October 1979	20
RM-3	Map entitled Existing Develop- ment	22
RM-4	Map entitled Vacant Land, an Overlay	22

1 R U S S E L L L. M O N T N E Y,

2 2 Valley Road, Denville, New Jersey 07834,

3 duly sworn by the reporter, testifies as

4 follows:

5 DIRECT EXAMINATION BY MR. MEISER:

6 Q Mr. Montney, we're here to take your
7 deposition in the case of Morris County Fair Housing
8 Council. We're going to be asking some questions
9 and if at any point there is a question that you
10 don't understand, please let me know and I'll do
11 my best to clarify my question.

12 With that, I'd like to begin by asking you
13 a little bit about your resume. First of all, I'd
14 like to show you the resume which we have received
15 in answers to interrogatories and ask if this is
16 your resume?

17 A Yes.

18 Q When did you graduate from Michigan State
19 University?

20 A 1950.

21 Q How long have you been with the Catlin
22 firm?

23 A I came with the firm in July of 1953. It will be
24 17 years come July, I'd be there 16 years, plus.

25 Q Prior to that, did any of your work

1 involve -- you're starting with Catlin. Did any of
2 your work involve land use planning in New Jersey?

3 A Yes, my -- the time that I served with Russell
4 Van Nest Black, who is planning consultant in New
5 Hope, Pennsylvania. We did work for towns in Eastern
6 Pennsylvania and Central New Jersey. We did work
7 for Mercer County and for other communities.

8 I think there was East Windsor Township and
9 other towns in that area around Mercer County.

10 Q Would you list the communities in New
11 Jersey which you are representing as a planner?

12 A At this moment in time, I'm representing the
13 Township of Denville, the Township of Roxbury and
14 the Borough of Morris Plains.

15 I have worked, in the recent past -- I don't
16 have contracts yet for this year but, with the
17 Borough of Rumson and the Township of Greenwich,
18 as well.

19 Q What was your role with Rumson?

20 A We did special planning studies. We did --
21 with regard to updating their master plan and developing
22 a land use element for this master plan and also,
23 developing provisions to their zoning regulations.

24 Q How many years have you been working
25 with Rumson?

1 A I think about -- approximately five years.

2 Q Has Rumson enacted a new master plan
3 in the last five years?

4 A They adopted a land use element, yes.

5 Q And when you say "land use element,"
6 you mean land use elements to the master plan. Is
7 that correct?

8 A Yes.

9 Q What has been your role with Greenwich
10 Township?

11 A We did a comprehensive planning study under
12 the 701 program, I think in 1970 we did that and
13 we have done work with them since then.

14 It's pronounced Greenwich, by the way, not
15 Greenwich.

16 Q Have you done any work on their master
17 plan in Greenwich?

18 A Yes, I worked with the Planning Board in
19 developing their masterplan, which was subsequently
20 adopted.

21 Q Now, I see on your resume, listed,
22 two towns in Somerset County and Bernards Township in
23 Somerville.

24 Could you tell us what role and when you were
25 involved with Bernards Township?

1 A We are on a retainer with Bernards Township,
2 well, I think approximately three years. That was
3 probably about 19 -- if I look it up, I could give you
4 the exact date. It was probably in the area of 1971,
5 '2, '3. In that area.

6 Q So, you've not had any involvement with
7 that town in the last five years?

8 A Correct.

9 Q What about Somerville?

10 A We -- I did some work for Somerville. They are
11 currently under contract to our firm for planning
12 services. I'm not now involved with them. I was
13 involved at one time both with regard to planning
14 studies and with regard to urban renewal studies,
15 which they are undertaking but it's probably -- but --
16 I haven't -- it's been five years since I've been
17 involved with them.

18 Q Now, in Bergen County, you list two
19 municipalities, Montville and New Milford.

20 What role have you had with those two towns?

21 A I prepared the master plans for both of them.
22 Both are under the 701 program and they would go back
23 to the late '60s and early '70s.

24 Q Have you done anything with them since
25 the early '70s?

1 A In New Milford, about -- it was in 1977 that
2 I prepared a draft of an ordinance to implement
3 the new municipal land use law work with Mr. La Barbera,
4 who is an attorney. That was subsequently adopted.

5 Q What about a master plan? Did you have
6 any role?

7 A I had previously, in the late '60s, I had,
8 maybe in 1970, I prepared a master plan for New
9 Milford.

10 Q Have they updated that since? Do you
11 know?

12 A Not to my knowledge.

13 Q What about Montville, when were you
14 involved with them?

15 A About the same period of time. I stayed on
16 at Montville on a retainer for a period of time. I
17 have -- I think it's been probably five years since
18 I've served them.

19 Q I see. Now, in Rumson, did your land
20 use element contain any provisions for multi-family
21 housing?

22 A No.

23 Q The answer is no?

24 A Yes, yes, the answer is no.

25 Q What about in Greenwich, is there any

1 provision for multi-family housing?

2 A Yes, in the master plan but not in the ordinance.

3 Q How many units of multi-family did you
4 recommend there? Do you recall?

5 A I don't recall.

6 Q Since you've been with the Catlin firm,
7 have you represented any developers?

8 A Me, personally?

9 Q Yes.

10 A Personally, yes, I have. The only developer
11 I have represented was Trap Rock Industries, who are
12 a sand and gravel operation in Kingston and Hope Well
13 Township.

14 Q In dealing with some of these zoning
15 problems they had in those communities, I assume
16 it was nonresidential properties?

17 A That's right.

18 Q Have you represented, or been retained,
19 by any residential developer since you worked for
20 Catlin?

21 A No. The best of my recollection, I haven't.

22 Q Have you testified in any litigation
23 concerning land use in these New Jersey communities
24 which you listed in your resume?

25 A Repeat the question, please.

1 Q Have you testified in any land use
2 litigation for any of these municipalities which you
3 listed?

4 A Yes.

5 Q Could you give us the names?

6 A I testified in -- in Greenwich Township --
7 I'm sorry.

8 Well -- well, all right. As I said, Greenwich
9 Township is currently in litigation. I have not
10 testified. I have worked with them in regard -- this
11 has not come to trial yet.

12 In Montville, early on -- it would be back in
13 the late '60s, I testified. In Roxbury, in the late
14 '60s, I testified and I have testified subsequent
15 to then in other matters related -- that was a major
16 case but I testified in other matters in Roxbury.

17 In Rumson, we were scheduled to -- there
18 was litigation but we were scheduled to settle before
19 we went to trial. In Denville, I testified in a number
20 of cases. Bernards Township, there was litigation
21 but I never testified in court.

22 I testified -- well, I only -- so far as the
23 Planning Board is concerned. In Morris Plains, there
24 has been litigation. There again, it's never come
25 to trial in Morris Plains. We have been in the courthouse

1 We were in Judge Muir's court but they went into
2 the chambers and it was settled.

3 Q Let's go back to Denville. When was
4 the last time you testified in Denville?

5 A Last year.

6 Q What was the name of that case?

7 A BP Oil vs. Township of Denville.

8 Q What was the nature of that case?

9 A It was a -- challenging the ordinance with
10 regard to the distance factor between gas stations.

11 Q What was the last case involving residential
12 housing in Denville which you testified in?

13 A I guess it has to be Gil-Gay.

14 Q What was the background of that contro-
15 versy?

16 MR. BUZAK: There's an objection in
17 terms of relevance to this particular action.
18 You can answer the question as to background.

19 A It had initially to do with the upgrading of
20 the zoning in that particular area in 1964, at which
21 time the zoning was upgraded from R-3 -- I'm sorry.
22 From R-2 to R-2A. That was challenged and upheld
23 and then it was subsequently relitigated on --
24 I think at least two or three other occasions.

25 Q The time you testified was when, approxi-

1 mately?

2 A What year? I testified in probably -- either
3 1964 or 1965, in that area.

4 Q Did Gil-Gay subsequently seek a variance
5 from the Township?

6 A They did, yes.

7 Q Were you involved in that?

8 A Yes.

9 Q In what capacity?

10 A As a consultant to the Township.

11 Q Did you testify either before the zoning
12 board in that matter?

13 A Yes.

14 Q Do you know when that was?

15 A Approximately 1971, in that area.

16 All these dates, I could get for you. I'm
17 trying but I can just give you approximations at
18 this point.

19 Q Do you remember what the decision of
20 the zoning board was?

21 A I think the decision of the zoning board was
22 to recommend approval for a D variance.

23 Q What happened then?

24 A My recollection is that it went to the council
25 who turned it down and it went back to court.

1 Q Do you know what the applicants sought
2 to build?

3 A A combination of townhouses and single-family
4 units.

5 MR. VECCHIO: Off the record.

6 (Whereupon, there is a discussion off
7 the record.)

8 MR. MEISER: On the record.

9 Q Do you recall the reasons for which you
10 were opposed to this variance?

11 MR. BUZAK: I'm going to object --

12 MR. VECCHIO: I object. I'm sorry.

13 I object on the basis that it is immaterial
14 to this particular case, which is a challenge
15 overall to the zoning ordinance.

16 MR. BUZAK: I'm not sure just why we're
17 going to go through every case he testified in
18 and what he testified and I can't see any
19 materiality to this case, which challenges
20 the zoning ordinance.

21 MR. VECCHIO: I would add that objection
22 to the fact that I don't believe he indicated
23 he was in fact opposed to the granting of the
24 variance and secondarily, the best evidence
25 on that matter would be the record, as adduced

1 before the Board. not his recollection.

2 Q Let me go back one step. Do you have a
3 copy of your testimony before the Zoning Board in that
4 matter?

5 A No.

6 Q Did you testify in favor of or against
7 these?

8 A That's a difficult question to answer. I'll
9 tell you why it's difficult.

10 I think my testimony -- you'll find my testimony
11 indicated a favorable response to some -- to the manner
12 in which that property was used but, not specifically
13 in favor of the proposal that was before the Board.
14 Does that make sense?

15 Q Generally. Did you give any testimony
16 as to whether it was appropriate to have townhouses
17 on that site?

18 MR. BUZAK: I'll continue the objections.

19 As I said, and as Mr. Vecchio said, except
20 for the fact that apparently you don't have a
21 copy of the testimony, that doesn't mean it's
22 not available.

23 A Yes, I did testify in favor of townhouses
24 on that site.

25 Q Did you give any reason as to why

1 townhouses were appropriate at that site?

2 A Yes.

3 Q What were they?

4 MR. VECCHIO: I object to the question
5 again for the same reason, dealing with the
6 specifics of that site. the criteria that are
7 involved for the granting or denial of that
8 subsection D variance. does not relate to the
9 purposes of this case.

10 MR. BUZAK: I join in that objection.

11 THE WITNESS: Do I answer anyhow?

12 MR. BUZAK: Yes.

13 THE WITNESS: Okay.

14 A That particular site has a severe drainage
15 problem and the solution has to do with detention and
16 that -- and that under certain circumstances, if the
17 property detention were provided, the land could be
18 developed for townhouses. But the solutions that
19 they came up with did not provide for those.

20 I should say, the detention of storm water
21 rather than just detention by itself.

22 Q Have you testified in Denville. in any
23 other residential land use cases?

24 A To the best of my recollection, no.

25 MR. VECCHIO: Could we go off the record

1 for one second?

2 (Whereupon, there is a discussion off
3 the record.)

4 MR. MEISER: On the record.

5 Q What about in Roxbury, have you testified
6 on any residential litigation in the last five
7 years?

8 A No.

9 Q When would be the last case you were in
10 Roxbury on, you testified in residential matters,
11 if any?

12 A It was about 19 -- probably about 1967. There
13 was again a challenge to the zoning of a comprehensive
14 provision in Roxbury in 1965.

15 Q What did the applicant seek to build
16 in that case? Do you recall?

17 A They challenged the changing of the zone from
18 an R-4 to an R-3 category.

19 Q The proposal involved single-family,
20 detached homes?

21 A Yes.

22 Q Have you testified in any -- before
23 the Zoning Board in Roxbury, in the last five years,
24 on any matters involving a residential variance?

25 MR. VECCHIO: Could you indicate what

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1 you mean by "residential variance"?

2 Are you talking about anything on a grand scale
3 or are you talking about anything on even a
4 one-family house?

5 MR. MEISER: Okay.

6 Q To make this clear, anything involving
7 more than, let's say, 30 units.

8 A There were two matters which were before
9 Roxbury Township, Board of Adjustment, involving
10 multi-family housing. One was Muscaralle and the
11 second one was Goldmeier.

12 Q What did Muscaralle seek to build?

13 MR. VECCHIO: Again, I pose the same
14 objections, that this matter is irrelevant
15 to the proceedings but, you may answer the
16 question and also, the objection is that the
17 criteria for the grant of a subsection D
18 variance, unless it relates -- unless it is
19 the same basis upon which this suit is brought,
20 is again irrelevant because it can be substantially
21 different.

22 A Well, okay, yes, I was involved in it and
23 I did write reports on them, as I recall, but both
24 of these ultimately resulted in changes to the land
25 use ordinance of Roxbury, wherein they were in fact

1 zoned for multi-family housing.

2 Q Were these two projects subsequently
3 built?

4 A One is before the Planning Board at this moment
5 in time for consideration for development.

6 Q Which one is that?

7 A The Muscaralle draft. The other one subsequently
8 went to the Board of Adjustment for some modifications
9 of standards and to the best of my knowledge, it's
10 not actively being pursued at the moment.

11 Q How many units are involved with the
12 Muscaralle project? Do you know?

13 MR. VECCHIO: What do you mean by that?

14 A 325 units, I believe.

15 Q Was that answer based upon the plans
16 submitted at the present time?

17 A No, the zone -- Muscaralle tract is approximately
18 65 acres. The density proposed -- density in the
19 ordinance is five units to an acre and that comes up
20 to 325. They are seeking at the moment 200 units of
21 those 325.

22 Q In Morris Plains, have you appeared
23 before the zoning Board of Adjustment?

24 A No.

25 Q Now, what was your major at Michigan

1 State?

2 A Landscape architecture and urban planning. I
3 started to do landscape architecture and transferred
4 into planning in my junior year and I have considerable
5 course work in both fields.

6 Q What was your major, urban planning?

7 A Well, my major was landscape architecture.
8 I had a minor in urban planning. The departments
9 were together at Michigan State. I had a considerable
10 amount of time coming to me. I was just out of the
11 Army and all of my ROTC that I would normally have
12 to take was devoted to planning, all that course work.

13 Q Have you taken any courses, or sought
14 any degree subsequent to getting your college degree
15 at Michigan State?

16 A No.

17 Q Have you taken any courses, either at
18 Michigan State or since in hydrology?

19 A No.

20 Q What about in soils?

21 A I did soils work when I was at Michigan State.
22 It was part of our curriculum. I have not taken any
23 courses subsequent.

24 To say that in the course of my practice of my
25 profession, the soils is part of it and we've had to

1 deal with it on many occasions, including working
2 with the Rutgers Soil Survey and subsequently with
3 the SES surveys.

4 Q Have you taken any courses of any kind,
5 dealing with either sewage or solid waste disposal?

6 A Have I taken coursework, no.

7 Q How long have you been a licensed planner
8 in the State of New Jersey?

9 A For as long as the law has been in effect.
10 I don't recall just when it did come in effect.

11 Q I see on your resume that you were a
12 guest lecturer at Rutgers. What courses did you lecture
13 in?

14 A Planning. University and the New Jersey
15 Federation of Planning Board has and still do provide
16 for seminars and planning and courses in planning,
17 which at one time I did participate in.

18 Q How long was that?

19 A That would be between 1957 and 1961, when I
20 was Director of Planning for Middlesex County. I
21 haven't done any of that since.

22 Q How long did you teach at NYU?

23 A I did one year. I worked with Brent Friedlander.
24 He was teaching graduate school in New York University.
25 He asked myself and a gentleman from Regional

1 Plan and a gentleman from the State. We all participated
2 in the graduate course at that time and we did lecture
3 the graduate class and we were judges in their final
4 projects.

5 Q In the cases which you were discussing
6 earlier, do you remember specifically whether you were
7 qualified as an expert witness in any of them?

8 A In all of them.

9 Q Your qualifications were as what?

10 A Planner.

11 Q What reports have you prepared for
12 Denville concerning this litigation?

13 A I've prepared the revisions to the master
14 plan. I've prepared various planning studies from time
15 to time.

16 MR. MEISER: Off the record.

17 (Whereupon, there is a discussion off the
18 record.)

19 MR. MEISER: On the record. Go ahead.

20 Q Would you answer the question?

21 A Yes, I think I did.

22 MR. MEISER: Read back the answer.

23 (Whereupon, the following was read back:

24 ANSWER: I've prepared the revisions to
25

1 the master plan. I've prepared various planning
2 studies from time to time.")

3 Q Have you prepared any reports specifically
4 for this litigation?

5 A Yes.

6 Q Do you have those here?

7 A I think I submitted two.

8 MR. BUZAK: I have them.

9 MR MEISER: Off the record.

10 (Whereupon, there is a discussion off
11 the record.)

12 MR. MEISER: On the record. I'd like to
13 mark this for identification and see if you
14 can identify it.

15 (Whereupon, memorandum to A.J. Villoresi,
16 Esq., Denville Township attorney, from Russell
17 L. Montney, regarding Morris County Fair
18 Housing Council vs. Boonton Township, et als.,
19 (Denville Township), dated October 24, 1979,
20 consisting of five pages marked RM-1 for
21 identification.)

22 (Whereupon, one-page document entitled
23 Township of Denville vacant land development
24 potential, dated October 1979 marked RM-2 for
25 identification.)

1 Q Can you identify them?

2 A Yes, this is a report which was submitted to
3 Mr. Villoresi.

4 Q Have you prepared any other reports
5 at this time for the Morris County litigation?

6 MR. BUZAK: For Denville Township,
7 actually.

8 MR MEISER: Yes.

9 A No.

10 Q In preparing this report, could you tell
11 us what materials you consulted with?

12 A As the report indicates, a master plan program,
13 the Natural Resources Inventory, the Denville Land
14 Use Ordinance, existing residential study of development
15 made in conjunction with the master plan and vacant
16 land analysis, which was the subject of this report.

17 Q Now, you refer to the existing residential
18 study. I believe this was done in connection with
19 the master plan?

20 A Yes. Now, we've subsequently updated that.
21 We have an updated existing development map which was
22 done in conjunction with this study, which is more
23 recent than the master plan.

24 Q When you say "with this study," do you
25 mean the October 24 1979 report?

1 A That's correct.

2 MR. MEISER: Would you mark this, please.

3 (Whereupon, map entitled Existing
4 Development, marked RM-3 for identification.)

5 Q I believe you also referred to a
6 vacant land map. Is that correct?

7 A Yes.

8 MR. MEISER: Can we get that one marked
9 also?

10 (Whereupon, map entitled vacant land,
11 an overlay, marked RM-4 for identification.)

12 Q Referring to RM-4, what does this show?

13 A This shows the available vacant land in the
14 Township of Denville.

15 Q How was this map prepared?

16 A It was prepared as an overlay to the RM-3
17 wherein all of the vacant lands that are not committed
18 were shown on the overlay.

19 Q What lands did you exclude as being
20 unsuitable for development on this?

21 A We didn't -- on that map, we didn't exclude
22 anything that shows all the vacant lands not committed
23 for development.

24 Q I see. And does this show lands which
25 have excessive slopes?

1 A That map does not. There are subsequent overlays
2 which show that.

3 Q What do the overlays to RM-4 show?

4 A Well, there are two overlays, to RM-4. The
5 first one shows excessive slopes. That is, slopes
6 in excess of 25 percent. The second shows composite
7 limitations, which includes depth to bedrock of zero to 6:
8 depth to water of zero to fivefeet and unacceptable
9 soil permeability.

10 Q Is there a blue marking on this map,
11 to one of the overlays?

12 A That's the one underneath. That's the fourth
13 one. That is areas subject to flooding so there
14 were four. I thought I said -- so, there are four
15 overlays.

16 Q How many square miles does Denville
17 consist of?

18 A Do you want me to calculate that out for you?
19 Do you want me to give it to you in acres?

20 Q Give it to me in acres.

21 A Based upon our land use analysis which was
22 done in January 1975, there were 8,216.31 acres.

23 Q Turning to page 70 of your master plan,
24 1975 revision, part one --

25 A Page 70?

1 Q Yes. does that give the population for
2 the Township for the 1940-50-60 and 70 --

3 A It's table 11? How do you get page 70?

4 Q Immediately after page 70.

5 MR. BUZAK: What revision do you have?
6 That's the right one.

7 MR. MEISER: Let's, for the record;
8 how many different master plans are there?
9 We have a component released in 1975.

10 A There is only one really. This is not the --

11 MR. MEISER: Off the record.

12 (Whereupon, there is a discussion off
13 the record.)

14 MR. MEISER: On the record.

15 Q For the record, could you tell us of
16 the population for 1940, 50, 60 and 70?

17 A Following page 70, in part one of the master
18 plan, there is a table which is a compilation which
19 was prepared by the Morris County Planning Board
20 showing the population for 1920 to 1970 and projections
21 for 1980, for the communities in Morris County.

22 Q The population for Denville, for 1940,
23 50, 60 and 70, please.

24 A For 1940, it was 3,117; 1950, it was 6,005;
25 1960, 10,632; 1970, it was 14,075.

1 Q Do you know what the present population
2 is?

3 A It's probably around 18,000.

4 Q Has Denville made any projected population
5 estimates for the years, 1990 and the year 2000?

6 A Well, I'm reading now from page 10, part two,
7 of the master plan report and it's indicated there
8 that the -- that the projection to 2020, to Rockaway
9 Valley Regional Sewerage Authority, was 28,000 and that
10 the projected population by the future land use element
11 of Morris County Master Plan and the goal of this
12 plan was 20,000.

13 Q Do you know what the differences were
14 and the assumptions that led to that 8,000 difference
15 in population projections?

16 A I think the regional valley was a sort of a
17 saturation kind of projection and the other was a
18 planning projection as to what might be reasonably
19 anticipated.

20 Q When was that saturation projection?
21 Do you know if the 28,000 assumed present zoning?

22 A I don't believe it did.

23 Q Do you have any publication in which the
24 regional Sewerage Authority made this projection?

25 A No.

1 Q Do you know the name of -- back in
2 which that projection was made?

3 A No.

4 Q Now, you indicated that Denville's
5 final projected population is 20,000. Is that
6 correct?

7 A That's a population goal, yes.

8 Q Do you have any idea when the Township
9 would meet that 20,000?

10 A I would say probably by the year 2000.

11 Q Was that 20,000 population based on the
12 assumption that the zoning would continue as it was
13 in 1975?

14 A It was proposed in '75 -- yes, or actually it
15 was adopted subsequently to that time, the master
16 plan.

17 Q Now, the report, RM-1, gives the
18 distribution of residential dwelling units by zone
19 districts, as of January, 1975. Do you know how
20 many units have been built since '75, in Denville?

21 A I do not have a specific figure off the top
22 of my head.

23 Q Is that compiled anyplace?

24 A It would be part of the records of the building
25

1 inspector.

2 Q I see. Now, RM-2 which lists available
3 vacant land by zoning district, was that computed
4 from that map, or how was that calculated?

5 A Yes, from the map.

6 Q Did you say your office had prepared
7 that map?

8 A Yes, that's correct.

9 Q Now, assuming a population of 20,000
10 by the year 2,000, do you have any idea of how many
11 new units would have to be built in Denville?

12 A Probably around 700.

13 Q Are you assuming -- how many of those are
14 you assuming would be single-family detached -- family
15 detached homes of those 700?

16 A With current zoning, it would probably all be
17 single-family units.

18 Q All single-family, detached?

19 A Yes.

20 Q In excluding land from RM-2, you settled
21 on a slope figure of 25 percent; is that correct?

22 A Yes.

23 Q What was the reason for choosing
24 25 percent?

25 A The ategories of slopes, which are established in

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1 the SES studies and which were subsequently used in
2 studies in Denville, had that category and in addition,
3 these are slopes beyond which it's difficult to develop.

4 Q What was your source of determination of
5 which lands had slopes of over 25 percent?

6 A We did a -- the Township has a series of topography
7 maps which were developed over a period of time through
8 aerial photography and photogrametry methods.

9 This information was transposed to a Township
10 base map and from that, the slopes were determined
11 on an area-by-area basis and there's in existence, an
12 excessive slopes map, which shows those categories over
13 25 percent.

14 Q Now, you list composite limitations.
15 Would you tell us for your basis of choosing depth
16 to bedrock, zero to six feet, excluding --

17 A Again, this series of maps, which is part
18 of the Natural Resources Inventory, was based upon
19 SES information and that is their lowest category.

20 Q Is it your feeling that you cannot
21 built in that depth to bedrock if it is somewhat
22 less than six feet?

23 MR. BUZAK: I'm going to object in terms
24 of the expertise. If you're asking him as
25 a planner and in conjunction with the maps,

1 I don't have any objection to the question.
2 But asking in terms of building and probable
3 construction, building of wells or septic
4 systems. I do have an objection. You may answer
5 the question.

6 A It's been our experience that it's difficult
7 to build in areas where the bedrock is zero to six
8 feet.

9 Q What is the problem, assuming the
10 depth of bedrock is, let's say, five feet?

11 A Well, it -- the problems can be in terms of
12 providing proper sewage disposal. If they're individual
13 systems, they can be with regard to storm drainage and
14 there could be problems of providing proper road
15 systems and other supportive facilities.

16 Q Would your position be the same if there
17 was public sewers available to these lands and there
18 was no need for septic?

19 A Well, the -- some of the same factors would
20 come into play. Obviously, if you had a public sewer,
21 the problem of providing septic in this area is
22 eliminated but you continue to have the problems
23 of bringing sewers to them in terms of going through
24 rock and you still have problems of building roads and
25 of providing proper storm drainage and so forth.

1 Q Is there any way of knowing on this map,
2 whether the problem is depth to bedrock; depth to water
3 or soil permeability?

4 A That map, in and of itself, does not distinguish
5 between the three categories.

6 Q Was there a reason why you lumped
7 the three together as a composite?

8 A Yes, they were in the Natural Resources --
9 the source of that information was the Natural
10 Resources Inventory and they were composited there
11 so we just brought that forward.

12 Q Do you know how the Natural Resources
13 Inventory came up with 833 acres for composite limitations

14 A Well, the Natural Resources Inventory was the
15 source of the information.

16 Q Is there a page reference?

17 A Yes, the page reference is following page 24
18 in the Natural Resources Inventory and the 833 acres,
19 is not a work product of the Natural Resources Inventory
20 but by taking that information from the Natural
21 Resources Inventory and putting it on this map in
22 measuring the areas on this map, in part of this study
23 as opposed to the Natural Resources Inventory.

24 Q Do you know who, in doing the Natural
25 Resources Inventory, who prepared that map and the date?

1 A The source of the data was soil conservation
2 information.

3 Q In other words, this is taken from the
4 Morris County Soil Survey?

5 A Yes.

6 Q So, in other words, if a soil was
7 such as to be listed as one of these three factors
8 in that Morris County Soil Survey, then it would be
9 in the Natural Resources Inventory?

10 A Yes.

11 Q Do you have any opinion as to the accuracy
12 of the Morris County Soil Survey, for particular
13 acreage which you -- would you give a hundred percent
14 accuracy, 80, 50 percent, based on your experience?

15 MR. BUZAK: I'm going to object to
16 that question on the basis of Mr. Montney is
17 an expert in planning, but as to asking him
18 opinions on the validity of data in reports
19 that he did not prepare, I think it's just an
20 improper question and I'll object to it. But
21 you can answer it.

22 A Well, I do not think it's a hundred percent
23 accurate. I think there are -- there's -- these are
24 not precise boundaries based upon discussions that
25 I had with experts in the -- in the office of the

1 Morris County Soil Survey, in the course of preparing
2 the natural resources inventory, but they're fairly
3 accurate depictions of what exists.

4 Q If you, as a planner, wanted to check
5 a specific site for depth to water; depth to bedrock,
6 what would you do? Would you go beyond the soil
7 survey?

8 A Well, I would. If I were working on a project,
9 I would get a -- have a soil analysis done.

10 Q Now, you refer to 188 acres being in
11 the flood hazard areas. How is that determined?

12 A I think there are sources. The Township did
13 have developed by Gilbert Associates an analysis of
14 the flood plains.

15 Q Has the United States Department of Housing
16 and Urban Development ever done a flood insurance map
17 for Denville?

18 A Yes, they have and that information is not
19 greatly different from what the Gilbert study was.

20 Q When you say "Gilbert study," when was
21 this done for Denville?

22 A It would be difficult to give you a precise date.
23 I have a study. If you want a precise date, I can get
24 it. Probably the mid-'70s, if that's close enough for
25 you.

1 Q What is the name of the report?

2 MR. BUZAK: I think it was listed in
3 the answers of interrogatories. In fact,
4 I'm sure it was.

5 MR. MEISER: Off the record.

6 (Whereupon, there is a discussion off
7 the record.)

8 MR. MEISER: On the record.

9 Q What was the definition of a flood
10 hazard in the study?

11 A Well, in the Federal Housing study or in -- in
12 the -- the Gilbert study or this study?

13 Q For your purposes of your using 188
14 acres in flood hazard, how do you define that?

15 A We took the line which has been established.
16 It is shown on the tax map and it's also shown on
17 the zoning maps. Those lines are the same as the
18 hundred year flood line.

19 Q So your definition of flood hazard
20 area is within that 100 year flood area?

21 A Yes, sir.

22 Q Going back to on this chart, well, soil
23 permeability, that was taken, again, from the Morris
24 County Soil Survey. Is that correct?

25 A That's correct.

1 Q Now, the conclusion of this report is
2 there is 786 acres suitable for development. Is
3 that correct?

4 A Yes.

5 Q Now, is there any attempt to determine
6 whether the 786 acres are being used for agricultural
7 purposes?

8 A No.

9 Q Do you know if any of them are?

10 A There are some that may well be used for
11 agricultural purposes.

12 Q But you don't know the number?

13 A No.

14 MR. BUZAK: Just as a point of information,
15 I assume that that information could be gleaned
16 from the tax assessor's records to see if
17 there's any formal assessment shown. So you
18 may not be able to get it.

19 THE WITNESS: That was in the reports
20 that were available from the assessor's office,
21 right.

22 MR. BUZAK: Just to clarify your answer.

23 Q Is this something you anticipate to check
24 into for trial?

25 A I haven't -- it was anticipated. I got a copy of

1 answers to interrogatories which indicate it was
2 available from the assessor's office and I assumed
3 it would be forthcoming from there.

4 Q Now, the answers to interrogatories
5 indicate that 449 acres are being used for agricultural
6 purposes. Do you have any data as to how many were
7 used in 1970 or '60, for agricultural purposes?

8 A No.

9 MR. BUZAK: For the record, Mr. Montney
10 was not necessarily the source of information
11 for the answer to that question.

12 Q Who prepares public water in Denville?
13 Who supplies it?

14 A It's supplied by the Township.

15 Q Now, on page 36 and 37 of the comprehensive
16 master plan, there's a listing of water supply in
17 Denville. Has there been any update of that that you
18 know of, since '75?

19 A The answer to your question is no.

20 Q The answer is there hasn't been any
21 update or you don't know?

22 A To the best of my recollection, there has been
23 no update of this map since 1975.

24 Q Now, your report on page 36, lists
25 consumption in 1975 in Denville. Is there any later

1 data on any annual consumption within Denville?

2 A Any such data that would be available would be
3 from the Public Works Department of the Township. I
4 do not keep a record of that. The source of this
5 information was -- shown in the report was the Department
6 of Public Works in Denville at that point in time and
7 that if there have been -- well, any additional infor-
8 mation would be either available from the Department
9 of Public Works or any other studies that may have
10 been made subsequent.

11 Q Do you know how much the consumption in
12 Denville for water is industry and how much consumption
13 is residential?

14 A Only to the extent shown in the report.

15 Q Do you have an answer to --

16 A Well, I say only to the extent shown in the
17 report. I do not personally keep a record of the usage
18 of water in Denville.

19 Q Do you know what percentage of Denville
20 residents are tied into the public water system?

21 A Again, I don't have those figures. I assume
22 they'd be available from the Department of Public
23 Works. If you want me to guess, I can guess.

24 Q Now, page 37 states that the average
25 resident of Denville may use up to 100 gallons a day.

1 Do you know, is there any basis for that hundred
2 gallons? Was there any study done?

3 A That would probably be based on an experience
4 factor, either in Denville or comparable communities.

5 Q It says up to a hundred. Do you have
6 any knowledge as to the actual consumption in Denville?

7 A No, that too would be available from the Public
8 Works Department.

9 Q Now, page 37 of the report states that
10 at present it can be said Denville has a reasonable
11 growth potential in terms of its water supply. Do
12 you have any idea what they're referring to by
13 "reasonable growth potential"?

14 A They -- I think they're talking about the fact
15 that that -- indicated in the Natural Resources
16 Inventory, that the area -- geographically, the
17 town is situated in an area with aquifer, for potentials,
18 which is shown on the map following page 36 -- predicated
19 on the fact that -- there are areas with which additional
20 wells could be built.

21 Q Do you have any opinion as to what the
22 maximum population of Denville could sustain based on its
23 public water facet?

24 A No.

25 Q Did you give any consideration to that

1 when the master plan was computing a maximum ultimate
2 population of 20,000?

3 A Yes.

4 Q Was it your feeling that the Township
5 would sustain a population of 20,000 based on its
6 present public water capacity?

7 A Yes.

8 Q Did you do any studies or indications.
9 as to whether Denville could sustain a higher population
10 than 20,000?

11 A I think the determination was that -- that
12 the water would not be a limiting factor for the
13 proposed population projection.

14 Q I see. Now, page 62 of the master plan
15 states that 90 percent of the Township residents
16 are served by potable well water. Do you know what
17 residents in the Township or, where they are located,
18 were not served by public water?

19 A That would be reflected on the map following
20 page 62, which shows distribution lines and it would be
21 those areas of the Township which are beyond the
22 existing distribution lines.

23 Q Can you tell when that map -- where
24 those residents might be that do not have public
25 water?

1 MR. BUZAK: I'm just going to object
2 to the extent that the map has been referred
3 to and does show the line and where the water
4 sources are located and I think from that, the
5 answers to the questions are on the map.

6 The map speaks for itself but you may answer
7 it.

8 A It would be -- generally speaking, it would be
9 the extremities of the Township. The lines do follow
10 the major road systems of the Township and it would
11 be those areas beyond these water mains, which are
12 not served by the public water system.

13 Q Was there any consideration when the
14 new residents would be coming into the Township,
15 would they all have been on public water?

16 A To the extent possible, yes.

17 Q Does that mean that was an assumption
18 that some would not?

19 A I think it's fair to assume that there may be
20 areas in the Township which would -- which may not
21 be served by public water.

22 Q There's a reference in the master plan,
23 to the Medcalf and Eddy study.

24 A I know of it, yes.

25 Q Could you tell us what that study is?

1 A It's a water study. I've not read it. I know of
2 it, of course.

3 Q Do you have a copy of it?

4 A No.

5 Q Do you know when it was prepared?

6 A No.

7 Q Do you know --

8 A I've seen a copy of it but I don't have a copy.

9 Q Do you know what it's reclamations were,
10 concerning water?

11 A I had presumed that this map, following
12 page 36, which is -- I'm sorry. Not that map but
13 the other.

14 The map following page 15 of part two of the
15 master plan report, which is existing water source
16 with proposed improvements, has to be based, to some
17 degree, on that study.

18 The source of this map was the Denville Department
19 of Public Works. There were a series of conferences
20 that were held during the development of the master
21 plan. One would be the Department of Public Works
22 and in which this information was inputted into the
23 master plan so, I would assume -- the Medcalf Eddy
24 study found its way in the master plan through that
25 mechanism.

1 Q The white on this map, which is, I believe,
2 RM-4, is the white on here the vacant developable
3 land?

4 A No.

5 Q After considering all the overlays --

6 A No, the pattern -- pattern that is the
7 available vacant land is the tan pattern.

8 Q So, you're saying that the tan which
9 does not have any overlay, would be the 800 vacant
10 developable lands?

11 A No, I think you'll find -- that's the even
12 hundred figure.

13 Q On your first map, the even hundred
14 figure is the tan, is that correct?

15 A That's correct.

16 Q Then, the overlays, the orange, blue
17 and yellow over the tan, consists of the vacant
18 undevelopable land?

19 A Those are the limitations to that land and
20 the remainder is the 800 figure.

21 Q So, if we took the overlays and saw
22 that area which was tan with no overlay, that
23 would be the 800 vacant developable acres?

24 A Well, there are some areas that have more
25 than one limitation so that the -- what we have done is

1 to take the eight vacant lands and; vacant available
2 land and apply each of those factors; such as slopes
3 composite limitation and flood hazard areas and
4 then we've taken areas that are not encumbered by
5 one or more of those and made another determination
6 as to the area.

7 That is to say, that if an area is encumbered
8 by more than one limitation, it is not counted
9 twice. So we have an accurate count of what is
10 suitable for development.

11 Q So, what that leaves us with is 736
12 786 acres not encumbered. Is that correct?

13 A Yes.

14 Q That would be the 10 areas which has
15 an overlay of orange, yellow --

16 A Or blue.

17 Q -- or blue. Is that correct?

18 A Yes.

19 Q Would it be possible, if you looked
20 at this map with its overlays, to tell us which of
21 those 800 -- the 786 developable acres are within
22 the area where there is public water?

23 A If one would superimpose the water system over
24 the -- yes, you could tell.

25 Q Is it possible for you to do that, now?

1 A ~~NE~~ impossible but difficult.

2 Q Do you know how many of these 786 acres
3 have access to public water?

4 A No, not without measuring it.

5 Q You plan to measure it for trial?

6 A I hadn't.

7 Q In preparing your report, did you
8 review any reports or projections of the Regional
9 Sewage Authority?

10 A I'm sorry, would you repeat the question?

11 MR. MEISER: Read back the question.

12 (Whereupon, the following was read back:

13 "In preparing your report, did you
14 review any reports or projections, of the
15 regional Sewerage Authority?")

16 A During the course of the development of the
17 master plan, the studies for the Regional Sewerage
18 Authority were going on. We did receive a preliminary
19 report from them, as to the population projections
20 and that's the extent of the -- we were aware, let us
21 say, of the -- what they had projected.

22 Q Had you reviewed any other reports or
23 projections of any sewerage authority?

24 A No.

25 Q Do you know what the status of the moratoriu

1 the Court imposed against the RSVA is?

2 A Well, it's a changing circumstance. I know
3 of -- not by personal knowlege but by being associated
4 with the Township, the availability of the capacity
5 is more and more limited each day or each month,
6 I should say; whenever the sewer allocation committee
7 meets.

8 Q Who is on that sewer allocation
9 committee, do you know?

10 A It's made up of a number of people. I'm not
11 sure if I can name them all for you. I know Mr. Grady's
12 on it, Mrs. Daniels is on it, Mr. Casstricci and I
13 don't know if I can name any others.

14 MR. BUZAK: There's a list in the
15 Township.

16 Q Turning to page 40, the master plan states
17 that less than 50 percent of the Township is
18 presently sewerred. Is that a reference, do you know,
19 to area of the township or to 50 percent of the
20 residents having it?

21 A I think it's an approximation based upon --
22 at the end of the -- in part two, following page 16,
23 there's a map entitled "Existing Sewer Service and
24 proposed extentions," which is not unlike the water
25 service map and that does show the areas served and

1 that estimate is based upon that map, I would think.

2 Q Well, the question was, is the less
3 than 50 percent a reference to an area or population?

4 MR. BUZAK: Or units. If I might
5 say, I would assume that that refers to unios
6 served because to go and figure out areas
7 served, it would be much more difficult because
8 you have to get into the lot size and as it
9 relates to the rest of that here, all you do
10 is take your tax, all your improved landand
11 then check that against your sewer bills
12 and find out how many of those units are
13 served.

14 A Well, it has to be that. I'm reading now from
15 page 40; less than 50 percent of the township is
16 presently sewerred. The rest of the residents are
17 using sub-service disposal. So, the reference to
18 residents then, there, probably you're talking about
19 50 percent of the residents.

20 Q They're saying reference to an expansion
21 along the Cedar Lake area. Do you know what the
22 status of the expansion along Cedar Lake is?

23 A I think that's under study.

24 Q Has there been any work started on that?

25 A It's my understanding that they're working on --

1 there have been past studies which are reflected in
2 the map previously referred to, following page
3 16, which is the extension of the sewers. But,
4 more recently, I think they're continuing studies
5 to more specific to that area of Cedar Lake.

6 Q Now, the master plan refers to four
7 possible expansions. Cedar Lake, Rock Ridge Lake
8 and Lake Arrowhead. I'm sorry, three.

9 Are those projections all on this map?

10 A Yes.

11 Q Are there any other projections for
12 expanding sewerage which is on this map?

13 A Not to my knowledge.

14 Q Have there been, since 1975, any
15 expansion started, which are not shown on this
16 map; sewerage systems?

17 A No, not to my knowledge.

18 MR. BUZAK: Is that by the Township
19 you're talking about?

20 MR. MEISER: Yes, for the moment.

21 Q When you have projected an ultimate
22 population of 20,000, did you give any consideration
23 as to what percentage the new residents would have
24 on access to the public sewerage system?

25 A I've -- I think there was a consideration given

1 to it. It had to relate to the timing of the expansion
2 of the system -- expansion of the RVRSA and so it
3 was considered, certainly.

4 Q Was there any assumption made as to
5 what percentage of the new residents would have
6 public sewers?

7 A I don't recall there was any specific figure
8 given. I think the assumption was that possibly they
9 would all be served.

10 Q Do you know, is there any excess
11 capacity which Denville now has in the RVRSA that
12 they could utilize?

13 MR. BUZAK: The answer to that is no
14 and I know that because I work close with the
15 survey and relief committee and in fact, they're
16 in a negative situation right now.

17 Q Is that your answer also?

18 A We don't meet with them daily, so what I was
19 going to say is that anything, it's very limited.

20 Q Do you know, are there any package
21 treatment plants for sewerage in Denville, anyplace?

22 A Not to my knowledge.

23 Q As a planner, do you know of any reasons
24 why package treatment plants could not be used in
25 Denville?

1 A Not necessarily as a planner but as a planner
2 having lived with this situation for a number of
3 years, they're -- I know there have been problems
4 with regard to package -- acceptance of package
5 plants by the State DEP, because of the fact that we
6 are in an area of water supply and that the whole
7 basis for the RVRSA is, of course, to protect that
8 water supply and so, there has been, I think, in
9 the past, there's been a reluctance on the part of
10 the DEP to accept the package sewer plants.

11 Q Do you know of any specific instances
12 of that, in this area that you're referring to?

13 A In Denville?

14 Q In this RVRSA area.

15 A I have to answer in a negative way. I don't
16 know of any having been approved.

17 Q Have you become aware of any problems
18 with septic failures in Denville?

19 A That's something that wouldn't come directly
20 to my attention. I think that's something to bring
21 to the attention of Mr. Wilbert. He's the Township
22 health officer. I think he would have a first-hand
23 knowledge of those failures and he would be the one
24 to answer that question.

25 Q Do you know how many apartment units

1 have been built in the A-1 zone, in Denville?

2 A I believe the figure is 192.

3 Q Do you know when the last units were
4 built in that zone?

5 A The last units that were built, was an
6 addition to the Manor Road development, Lumbreglia
7 development on Manor Road, that would probably be
8 about the early '70s.

9 Q How many units was that expansion?

10 A I can't tell you off the top of my head.
11 It was on the order of 17 to 20, something in that
12 area.

13 Q Now, on page 10, page 9, I believe, of
14 the second master plan, there's a reference to a
15 survey which was sent to municipal residents. Do
16 you remember that?

17 A Yes, I do.

18 Q I believe that question can refer to
19 whether residents sought an increase in the number of
20 apartments. Is that correct?

21 A Yes.

22 MR. MEISER: Off the record.

23 (Whereupon, there is a discussion off
24 the record.)

25 MR. MEISER: On the record.

1 Q Is that correct, that a survey was
2 made of the Township's residents' desires to increase
3 the supply of apartments?

4 A Yes.

5 Q Do you remember what the results of
6 that survey were?

7 A Well, I couldn't quote it for you. It's
8 been some time and I think it is summarized on page
9 two and three of the part 2 of the master plan.

10 Q What does it say about the residents'
11 desires?

12 A Well, with specific reference to the matter
13 of garden apartments, question 10, attempt to determine
14 if garden apartments should be moderately increased,
15 greatly increased, or not increased and the majority
16 of the responses favored not increasing this type
17 of unit but there was strong showing for a moderate
18 increase.

19 Q Was there any consideration given, if
20 the residents would have wanted a moderate increase
21 in apartments, where an appropriate place would have
22 been to put those apartments?

23 MR. BUZAK: Is that at the time the
24 survey was done or now or --

25 MR. MEISER: All right, in '75.

A Well, the results of the survey were seriously

1 considered by the Planning Board at the time and in
2 the development of the master plan and they considered
3 that aspect of it and I believe the determination .
4 as apparent in the master plan, was not to increase
5 it at that time.

6 Q As a planner, what do you think the
7 reasons are or do you think it's appropriate that
8 Denville has no more apartments built?

9 MR. BUZAK: Can you repeat that question?

10 (Whereupon, the following was read back:

11 "As a planner, what do you think the
12 reasons are or do you think it's appropriate
13 that Denville has no more apartments built?")

14 MR. BUZAK: You're asking him as the
15 planner for Denville, "Do you think it's
16 appropriate" -- that's one question. Is
17 that your question, "As Denville's planner,
18 do you think that it was appropriate not
19 to --"

20 MR. MEISER: All right, I'll let him
21 answer that question.

22 MR. BUZAK: And in light of what?
23 In light of the survey or just generally
24 speaking?

25 MR. MEISER: In light of today's
conditions, 1980, I'm asking. Let's first get

1 his answer to the first question. Let's see
2 what he says.

3 MR. BUZAK: I don't mind him answering
4 the question as Denville's Township planner
5 in 1975, when the revision was made, or whenever
6 the revision was made. But I mean, let's
7 get some parameters to the question.

8 MR. MEISER: We'll start out with today.

9 Q Do you have an opinion as to whether
10 Denville should provide additional apartment units?

11 A I would say that there is an opportunity to
12 provide some additional apartments, yes.

13 Q When you say "There is an opportunity,"
14 what do you mean by "opportunity"?

15 A It would not be inappropriate to ask some
16 additional apartments.

17 MR. BUZAK: Let me just get this straight.
18 You're talking about the areas zoned, presently
19 zoned, permitting apartments. Is that where
20 the question is being directed?

21 THE WITNESS: You can't do it there, Ed,
22 because the areas zoned for apartments are
23 completely saturated and he's asking me is
24 it appropriate -- would it be appropriate for
25 additional apartments. some additional apartments

1 in Denville and the answer to that question is
2 yes, it would be appropriate to have additional
3 apartments.

4 Q Why do you reach that conclusion?

5 A We've been considering, for some time, senior
6 citizen housing and we've made provisions in the
7 ordinance and I think that some additional apartments
8 in that area will be appropriate.

9 Q Would this be subsidized senior citizen
10 units which you anticipate?

11 A They could be.

12 Q Would the apartments for other than
13 just senior citizens, do you feel it would be appropriate
14 for Denville to provide that?

15 A I think not at the present time because of the
16 limitations that were imposed by the sewer ban and
17 so forth. I think it's not appropriate at the moment.

18 Q Your reason is because of the sewer
19 ban?

20 A That's one reason, yes.

21 Q Are there other reasons?

22 A Well, I suppose there could be other reasons,
23 I think, but that's primarily it.

24 Q Supposing the zoning for apartments
25 was made conditional to access to public sewers. Would

1 there be any reasons why apartment zoning would be
2 inappropriate then?

3 A I don't think you could zone a condition upon
4 access to a public sewer. I don't think you'd put
5 that kind of a limitation on a change of a zone.

6 At least, I wouldn't recommend it as a planner.
7 I would think you would wait until facilities are
8 available.

9 Q If the moratorium were to be lifted
10 in the near future, so that land could have access
11 to public sewers, what would be your recommendation
12 as to increasing apartments?

13 A I think it's something the Township would have
14 to reassess.

15 Q I want to make sure I'm not losing
16 anything. What other facts, besides the public sewer,
17 would you give consideration to determining whether
18 there should be an increased number of apartments
19 in Denville?

20 A I would think the factors of the traffic,
21 of the surrounding land uses, of the suitability
22 to the land for development of apartments.

23 Q Do you have any opinion as to where
24 in the Township, based solely on the land characteristics
25 and the traffic characteristics, there is land suitable

1 for multi-family housing?

2 A Well, I have to -- I think in terms of -- we
3 have to stand on the determinations that were made
4 by the Planning Board in the '75 master plan, which
5 took all these factors into consideration and it
6 would be my position that if some juncture this
7 ought to be reconsidered, in its totality in terms
8 of the total master plan as to whether or not it
9 was appropriate to consider additional multi-family
10 housing.

11 Q You say "at some juncture." The master
12 plan study was done in '75.

13 A It was adopted in '77 so when they do a
14 restudy and come up with a new master plan, I think
15 that would be the appropriate time to reconsider
16 that factor.

17 Q Do you agree with the decision of the
18 Planning Board not to provide for apartments in the
19 '77 master plan?

20 A Yes.

21 MR. BUZAK: I would object to the
22 question as to whether he would agree or dis-
23 agree to what the planning board did. The
24 planning board adopted the master plan.
25 It's given that it was prepared by Mr. Montney

1 and I think the question is an improper one.

2 Q What land in the Township is zoned
3 presently for senior citizen apartments?

4 A It's a conditional use.

5 Q In what district?

6 A It would have to be in any residential zone,
7 I would think.

8 Q What are you reading from?

9 A I'm reading from the land use ordinance, which
10 permits senior citizen housing.

11 Q Does it specify which zone it's permitted
12 in?

13 A No, it doesn't specify.

14 Q What page are you reading from?

15 A 5.36.

16 Q What conditions are placed on senior
17 citizen --

18 A Well, there are a series of conditions which
19 are five pages in length.

20 MR. MEISER: Off the record.

21 (Whereupon, there is a discussion off
22 the record.)

23 MR. MEISER: On the record.

24 Q Have there been any applications for
25 senior citizen housing at this point?

1 A No. When I say "no," I should qualify it by
2 saying that it has been under study. The matter has
3 ~~ben~~ under study for some time but there are no
4 current applications.

5 Q Is there any possibility in the Township
6 today of building townhouses?

7 MR. BUZAK: I'm going to object to the
8 form. I assume you're saying in connection --
9 whether that's a permitted use in the zoning
10 ordinance.

11 MR. MEISER: Yes.

12 A The only multi-family permitted by the
13 ordinance is the garden apartment and the areas
14 zoned for that are filled up at the moment.

15 Q What reasons do you feel exist in
16 the Township, to justify excluding townhouses,
17 completely?

18 A Excluding townhouses, then, completely?

19 Q Yes.

20 A Well, I think -- what the planning board and
21 governing body has to determine is the most appropriate
22 use for town and these have been reflected in the
23 master plan and it's subsequent adoption of the land
24 use ordinance.

25 Q I'm not sure that's responsive to my

1 question. What I'm trying to find out is, are there
2 any specific reasons why townhouses are not permitted?

3 A I was trying to answer that in a positive
4 way, in the sense that they -- you're suggesting they
5 were specifically excluded. What I'm saying is,
6 I'm not certain if that's the truth. I think they
7 determined what were the most appropriate uses
8 within the framework of the master plan and I've
9 done -- so, the land use pattern zone, the land use
10 master plan, is shown then with the results of that
11 process.

12 It seems to me that the determination was
13 made that these were the most appropriate uses.

14 Q Do you feel that there are any reasons
15 in the Township right now which would make a townhouse
16 use inappropriate?

17 MR. BUZAK: As a planner.

18 A I think -- I think the Townhouse development
19 is an appropriate concept, given the right circum-
20 stances.

21 Q What do you feel the right circumstances
22 are?

23 A I think it has to be, you know, part -- part
24 of the overall comprehensive plan for the Township
25 and I think it has to be considered as one alternative

1 and if it were to be done in Denville, I think it
2 ought to be as part of the comprehensive study of
3 the Town and reevaluation and I assume it would be at
4 such time as we -- within the framework of the land
5 use law. We do reevaluate the master plan -- probably
6 about 1980 -- 1982.

7 Q Do you know if there are any reasons,
8 in the light of 1980 conditions, if it's inappropriate
9 to have townhouses in the Township?

10 A I haven't really evaluated in terms of 1980
11 conditions. We evaluated in terms of 1975 and '77
12 and the conclusions that are evident in the master
13 plan and the subsequent land use ordinance, was
14 adopted and I assume that in 1982, when it's done
15 again, we'll go through that same evaluation.

16 Q Then, going back to the '75 - 1977 period,
17 other than the fact that the Township might have
18 decided that other uses were more appropriate,
19 do you know of any other additional reasons, beyond
20 that, as to why townhouses were excluded?

21 MR. BUZAK: Now, wait a minute. Townhouses
22 were not excluded. Townhouses were not included.
23 The zoning ordinance by its terms, includes
24 that which is permitted so to say it was
25 excluded I think is a nuance there. Could be,

1 included.

2 A That's what I was trying to answer the last
3 time you asked that question.

4 What I'm trying to suggest to you is that it
5 was considered as an alternative and it wasn't included
6 at that time. This is not to say we consciously
7 excluded but it was an alternative not appropriate
8 at that time.

9 Q Then you could not give me any reasons
10 for that other than they felt the townhouses were
11 not appropriate, to include. Is that what you are
12 saying?

13 A What I'm suggesting to you is that they
14 considered all factors as part of the comprehensive
15 provisions of the master plan and given all those
16 factors, set forth the plan that was so adopted, the
17 land use element.

18 Q What you're saying "All the factors,"
19 what are all these factors?

20 A I'm saying all the physical characteristics of
21 the town, the traffic, the water, the sewer, the makeup
22 of the community, everything that is gone into the
23 master plan was considered and determination was made
24 at the time as to what land use plan would be.

25 Q You mentioned that water is one thing,

1 included.

2 A That's what I was trying to answer the last
3 time you asked that question.

4 What I'm trying to suggest to you is that it
5 was considered as an alternative and it wasn't included
6 at that time. This is not to say we consciously
7 excluded but it was an alternative not appropriate
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19 what are all these factors?

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21 the town, the traffic, the water, the sewer, the makeup
22 of the community, everything that is gone into the
23 master plan was considered and determination was made
24 at the time as to what land use plan would be.

25 Q You mentioned that water is one thing,

1 one factor. Was water one factor for not choosing
2 to include townhouses, or condominiums?

3 MR. BUZAK: We're getting back again --

4 I object to the form of the question. I think
5 it's been pointed out a number of times, by
6 the witness, that there are no specific
7 exclusions. There were specific inclusions
8 and there -- if the question were what were
9 the reasons for specific inclusions, I think
10 that can be answered. When you say what are
11 the reasons for a specific exclusion, there
12 were no specific exclusions. I think it's
13 been approached wrong. If it's done on just
14 the opposite basis, I think the witness has
15 testified and perhaps if we get into what
16 were the reasons for the inclusion in the
17 zoning ordinance, we might be able to come
18 up with something.

19 I think he's testified that there have
20 not been specific exclusions from the ordinance.

21 MR. MEISER: I think to an extent
22 we're talking semantics. Failure to include
23 means to exclude. Those things they do not
24 provide, are excluded.

25 MR. BUZAK: That's absolutely true but

1 they're excluded by logic, so to speak, because
2 you are including only certain things and
3 that's the irony of the zoning ordinance.

4 Usually you are permitted -- it -- except
5 for what you are not permitted to do. Laws
6 generally set forth what you're not permitted
7 to do. The zoning ordinance sets forth
8 specifically what you are permitted to do
9 and by not saying you are not permitted to do
10 it, you can't do it.

11 A planner does not approach it, the
12 exclusion area of the ordinance, and say, we're
13 not going to permit this and permit that.
14 What they say is, instead, to set this frame
15 of reference as to what we are going to include
16 and why we are going to include it. So, I
17 think he has answered the question and said
18 there are no specific reasons for exclusion,
19 because there was no specific exclusion of
20 townhouses. There was nothing there as far as
21 I can discern from Mr. Montney's testimony.

22 Q Let me try one more time. Can you
23 give us any specific, concrete reasons why there
24 was a decision not to include townhouses within
25 the zoning ordinance?

1 A I think all housing types were considered at
2 the time that we were considering land use, particularly
3 housing aspects and residential aspects and given
4 all the factors that were on hand at the time, that
5 is in part of the master plan, certain land use
6 decisions were made as to what changes, if any,
7 were to be made in that land use plan at that point
8 in time and certain changes were made with regard
9 to the conservation zone and the areas that were
10 pointed out by the -- certain areas were pointed
11 out by the Natural Resources Inventory, which had
12 not been available prior to that time and given all
13 the other factors that were available in 1975, up
14 to 1977, certain decisions were made and those
15 decisions are shown in the master plan and I think
16 they had to include all the factors that we talked
17 about before.

18 They had to include water and sewer and storm
19 drainage and traffic and limitations of the land.
20 The topography, the soil limitations of bedrock, high
21 water table, soil permeability, all of these were
22 factors that were taken into consideration.

23 Q Now you listed a number of things.
24 I'd like to find out, specifically, how those things
25 were related -- is there a reason relating to public

1 water, why townhouses, in 1980, should not be provided
2 in Denville?

3 A I don't think it's been assessed in 1980 as
4 to that specifically and I don't know what the
5 circumstances are, as of this date, in terms of
6 water supply and I don't know whether-- the answer to
7 your question is I don't know whether there are
8 any limitations as to whether or not water would be
9 a limiting factor for townhouses at this juncture.

10 Q Were there any reasons why the master
11 plan being considered in '75-77, relating to public
12 water, why townhouses would not be included in your
13 zoning ordinance?

14 A I -- well, I think there may have been some
15 reasons at that time in terms of the -- to the extent
16 to which the system was also developed; the need
17 for extensions, which are set forth in the master plan
18 for the water system.

19 There probably was a need -- I know there was a
20 need at that time for a substantial enhancement of
21 the water system and there is today.

22 Q Did you indicate that you had testified
23 in the variance hearing for the Gil-Gay property,
24 that townhouses on that site under the proper retention
25 conditions would be appropriate?

1 A I did testify that it would be inappropriate
2 alternative under given conditions.

3 MR. BUZAK: That was in connection
4 with the use variance application. Is that
5 correct?

6 THE WITNESS: Yes.

7 Q What options are there for clustering
8 houses in the Township, in the present zoning?

9 A We have two -- three; three options in the
10 RC zone, which is the area in the Jersey City water
11 shed area. There's one option there.

12 In the RC zone, there's another option and R-1
13 zone there's a third option.

14 Q Could you go through each of those three
15 options?

16 MR. BUZAK: Off the record.

17 (Whereupon, there is a discussion
18 off the record.)

19 MR. MEISER: On the record.

20 Q Let's start with the R-1. Could you tell
21 us the maximum density under clustering?

22 A In the R-1 zone, the required lot area is
23 40,250 square feet, measured within 230 front street
24 property on it. That area may be reduced to 30,000
25 square feet within 200 feet of front street property line

under the clustering concept.

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Q Do you know what the reason is for requiring 30,000 square feet: not less than 30,000 square feet?

A Well, it was a figure established to provide for reasonable production of the lot size, keeping within character of the land and to still be able to maintain the character of the zone.

Q Do you feel that plan, unit development, is an appropriate land use tool for providing residential housing?

A In certain communities, under certain circumstances, yes.

Q Do you have any feelings as to the appropriateness of the PUD's in Denville?

A I think it's probably inappropriate procedure in Denville because of the character of the land, the overall character.

Q When you say "overall character of the land," what are you referring to?

A It's a unique community in the sense that it is -- of its topography and its physical limitations of the river, streams, the road system, the railroads that criss-cross it.

These are all physical limitations which

1 contribute to the overall factor, where I would think
2 it is probably not an appropriate mechanism to deal
3 with in Denville.

4 Q Why does the provision of rivers and
5 streams make it inappropriate to have it anywhere in
6 the Township?

7 A Well, I think the river, particularly the
8 manner in which it traverses the Township, it limits
9 traffic circulation severely and the road system that
10 has evolved because of these physical limitations,
11 is such that it places limitation on development.

12 Q Where are those limitations on development?
13 I'm trying to understand it.

14 A The traffic circulation, of course, the
15 topography in extreme -- in areas -- you've got to
16 couple that with the fact that most of the suitable
17 land in Denville has been developed and that the
18 land that is left to be developed, is more difficult
19 for many reasons.

20 Q If the township has 800 acres suitable
21 for development and 1,000 acres with environmental
22 constraints, wouldn't it be desirable to have something,
23 PUD, which allows the development concentrated in
24 those areas suitable for development and allow
25 areas with environmental constraints to be undeveloped?

1 A Take it at that abstract, you can say yes.
2 You have to take the given limitations that exist
3 to those lands in this particular environment.

4 Q The limitations are excessive slopes
5 for one. Is that correct?

6 A Yes.

7 Q Would it be desirable to build around
8 those excessive slopes and allow the slopes to be
9 open space?

10 A Yes, and I think, to some degree, that's
11 what is anticipated in the clustering, but it's
12 extremely difficult and we -- there is a development
13 before the Planning Board right now where that's
14 taken place and if it were clustered, to a great
15 degree it would be even more difficult.

16 Q What land is that application zoned
17 in?

18 A That's in the Holstein Lake area.

19 Q What is that zone?

20 A Zoned R-1 and RC, I'm sorry.

21 Q You mentioned traffic circulation is a
22 factor in development.

23 A Yes.

24 Q Doesn't Denville have better access
25 to major highways than most other towns in the County?

1 A Not really. It's very limited access to Route
2 80. It has a -- you can get off going east in one
3 location and you can -- two locations and you can get
4 on, going east, in one location. You can get off --
5 you can't get off going west. You would have to get
6 on going west.

7 I think Denville is kind of unique in the
8 sense of -- its physical characteristics, it has
9 to be the interplay between the railroads, the
10 river, highways and the topography, which makes it
11 extremely limited in terms of getting from one portion
12 of the Township to another.

13 You're passing through the Township on
14 Route 80 or Route 10 or Route 46, you're only limited
15 by the capacity of the highway. But if you're trying
16 to get to and from, though, it becomes more difficult.

17 Q Turning to the industrial area for a
18 moment, you have marked on RM-2, 292 acres, approximately,
19 of vacant land for industrial. How much land in the
20 Township is zoned industrial?

21 A I don't think we have an up to date figure
22 on that, on zone, industrial land. We have -- there
23 was 130 acres used for industrial in 1975.

24 Q I see. Do you know, has that increased
25 since then?

1 A A modest amount.

2 Q Is it fair, then, to say that approximately
3 twice as much lands zoned industrial, is vacant as
4 being used?

5 A Yes.

6 Q Has there been any study or consideration
7 as to whether this vacant land, zoned industrial,
8 is likely to be used for industrial purposes?

9 A To the extent that it's inherent in the master
10 plan, yes, I think it was evaluated as for other
11 land use considerations and it was determined that
12 it would ultimately develop in that fashion.

13 Q Do you know how many employees work for
14 industry in Denville Township?

15 A I -- I don't have that employment figure.
16 You'd have to put a time with it and that's available
17 from the Department of Labor and Industry.

18 I don't have that figure at my fingertips for
19 any specific time.

20 Q Page three of your supplemental master
21 plan, there's a statement that the Morris County Planning
22 Board projects five to 10,000 employees working in
23 Denville Township. Do you agree with that statement?

24 A On page three of part two?

25 Q I believe so.

1 MR. MEISER: Let's take a luncheon
2 recess now.

3 (Whereupon, a luncheon recess is taken.)

4 MR. MEISER: On the record.

5 A Yeah, I would generally agree with the
6 comments on page eight of part two of the master
7 plan with regard to employment potential in Denville.

8 I think I would add two things to that. One,
9 as is indicated here, we did carefully consider
10 the County master plan in all its factors, in terms
11 of preparing the Denville Master plan and secondly,
12 that change to -- probably on the leading edge of
13 industrial growth and that many of the areas, to the
14 east, are about this built up in Parsippany and
15 Cedar Knolls and places like that and places further
16 out are beginning to develop and so, I think in the
17 future, Denville can expect additional growth in
18 this area.

19 In fact, there are signs of activity now
20 where we see these areas will continue to develop.

21 Q Has Denville done any study of incomes
22 of the people who work in the Township?

23 A Not to my knowledge.

24 Q Has Denville done any studies in
25 housing needs of the people who work in the Township?

1 A I think the incomes that we've had are the
2 incomes inherent in the Census data. We did take
3 those into consideration.

4 Q The Census of the income of people who
5 work in the municipality, compared to the people who
6 left the Township?

7 A They are on people who live in the Township.
8 They're not people who work there necessarily.

9 Q So, my question was, is the town --
10 has the Township done any study of the housing needs
11 of the people who work in Denville?

12 A Well, I think they have taken -- the answer
13 to your question is no. We have not made a specific
14 study in that regard. I think what they have done
15 is to use the character of the people that live here
16 not, you know -- what -- which are not unlike the
17 people working here.

18 Q Do you have any basis that people who
19 live here are similar in income to the people who
20 work in the Township?

21 A In many cases, they are the same people.

22 Q Do you know how many people live in
23 Denville that work in Denville?

24 A I can't give you a figure, no.

25 Q I'm trying to find out what is the

1 basis of your statement, that they would have similar
2 backgrounds and similar needs.

3 A Well, the character of the industry we have.
4 I'm not suggesting to you that all the people who
5 work in Denville live in Denville.

6 Q Do you know, for example, how many
7 blue collar workers there are that work in Denville?

8 A No, I can't give you a figure now.

9 Q Do you feel that sound planning would
10 suggest that a municipality find out what the housing
11 needs are of people who work in the Township?

12 A Yes.

13 Q Are there any plans to do that in
14 Denville?

15 A Well, I think to a degree we have.

16 Q What is that degree?

17 A Well, I think we've examined the character
18 of the people who live in Denville through the Census
19 information.

20 Q But we've jumped now from live to work.
21 My question was concerning the people who work in
22 Denville, regardless of where they live.

23 A The character, that's what I was trying to
24 indicate to you, of the industry in Denville, is such
25 that it's not unlike the character of the people who

1 work here.

2 Q What is that character of the industry
3 in Denville?

4 A Well, the kinds of industry we have, which are
5 mostly light kinds of industry, service -- service
6 types of things.

7 Q Well --

8 A We don't really have any heavy industry,
9 per se.

10 Q But, assume that service -- do you have
11 any idea of the incomes of people who work in these
12 service industries?

13 A Well, I think we -- I don't find that data
14 here. We've gone into that: the Census statistics in
15 terms of -- but, we haven't gone beyond -- we haven't
16 made an industrial analysis of the industrial -- analysis
17 of the industrial population in Denville.

18 Q The OB zones indicate -- your charts
19 indicate that there are 63 acres of vacant land in
20 the OB area zones. I believe.

21 Can you tell me how many of the OB zones
22 there are in the Township?

23 A Well, there are now -- well, there are three
24 zones. The OB 2 was eliminated. The OB 3 is the hospital
25

1 area. The OB 1, we're in the OB 1 now. That's the
2 smallest zone and the OB 4 is the Route 10 area.

3 Q The OB 4 is completely unoccupied?

4 A No, it's not completely unoccupied. That's
5 a new zone that was created with this plan.

6 Q What was the OB 4, before the zoning
7 change?

8 A It was -- fundamentally, it was a B2 zone,
9 highway, business.

10 Q And your testimony is that you don't
11 know if any of that is occupied?

12 A I'm saying it is occupied; some of it is
13 occupied but not within the framework of the OB
14 4 standard.

15 Q I see. Page 8 of the Denville master
16 plan states that Denville is the commercial focal
17 point of a large area, including all of Denville, as
18 well as parts of Mountain Lakes and western Parsippany.
19 Do you agree with that statement?

20 A Well, I think that has changed to some
21 degree. I think up to a point in time it was. I
22 think the Town Square Mall has -- modified that
23 to some percent.

24 Q When you refer to the Town Square Mall,
25 where is that located?

1 A Rockaway Township, just west of here. In
2 the past it has been and referring to the master plan
3 which is being referred to in that passage and I
4 think to some degree. it still is. We have the -- in
5 the sense that we have a hospital here, medical
6 services, that kind of a thing, downtown Denville
7 is still an attraction to some people so it is
8 one of the smaller nodes in the master plan.

9 Q The hospital services the region?

10 A Yes, that's correct.

11 Q Now, do you know which companies are
12 the largest employers in Denville?

13 A I guess the hospital's the biggest employer.

14 Q Which hospital is that. for the record?

15 A That's the St. Clare's, yes.

16 The Thiokol complex is now a series of smaller --
17 Lockheed's got people there.

18 Avionics has people there. Willis & Paul. Then
19 there's a series of smaller plants out in Astro
20 Drive and then there's a series of smaller operations
21 along Route 53.

22 Advanced Pressure Castings, is out there.
23 Corona Plastics is out there. Precision Metal,
24 Redmond Press, there's a small dental lab there.

25 Q Do you know if those industries all have

1 access to public sewer?

2 A With the exceptions of -- with the exception
3 of those on Astro Drive. I don't believe they have
4 public sewer but those are fair housing kinds of
5 operations, where the demand for septic is rather
6 low. There's a low population density there, these
7 warehousing operations.

8 Q Do you have any opinion as to what
9 type of a housing today constitutes least cost housing
10 as the Courts have been using the phrase?

11 A Well, I think it probably is a range of
12 different facilities. I think that what we tried to
13 demonstrate in our report in the table that we did
14 in January of 1975, with regard to distribution of
15 residential dwelling units by zone district, I think
16 everything below R-2, below, would be categorized as
17 least cost housing.

18 Q Where are you talking about?

19 A Where they're located on lots of 15,000 square
20 feet and under.

21 Q Your definition of least cost housing
22 is anything on a -- detached house in 15,000 square
23 feet or less?

24 A Among other things.

25 Q What are the other things?

1 A Well, there are apartments involved there.

2 Q I see.

3 A In the -- there are apartments in conjunction
4 with residences. I mean, with businesses, I'm sorry.

5 Q Turning to RM 2, which is your chart of
6 vacant land development with potential, would you
7 conclude that 2.9 acres is suitable for development
8 at least cost housing?

9 A Yes.

10 Q What about the 16 acres in R-3?

11 A Yes.

12 Q What about the 15 acres in R-2A?

13 A Yes.

14 Q In the R-2, 66 acres?

15 A I think all of the -- well, let me qualify that.
16 I think the -- yes, I think that could be least
17 cost housing. Obviously is going to be an independent
18 house developer but I think it's within a density
19 range that would permit it.

20 Q 16,000 square feet?

21 A Yes.

22 Q What about-what about R-1?

23 A Well, I think R-1 then, I wouldn't put that
24 in that category because the changes are that
25 that won't be least cost housing.

1 Q So, in your mind, there is a total of
2 97 acres, more or less, that are zoned for least cost
3 and suitable for development in the township?

4 A Yes. But I think it's fair to point out
5 that nearly 80 percent of the housing that's been
6 developed in the past might well be put in that same
7 category.

8 Q You're lumping everything in R-2,
9 R-3 and R-4?

10 A Yeah.

11 Q Do you know what homes today, that were
12 built in the R-2 zone, are selling for?

13 A Well, I was going to say probably a wide
14 range of sales prices.

15 Q What would that range be?

16 MR. BUZAK: I'm going to object to
17 the question in terms of -- there's been no
18 foundation laid for Mr. Montney's expertise
19 in what the ranges of costs of housing in that
20 zone are. If he can answer the question based
21 upon data, then I think he should answer it.
22 But if he's just taking a guess, I'm going to
23 object to the question and I'm not going
24 to permit him to answer on a guess. I think
25 that's an improper answer.

1 THE WITNESS: I think it more appropriately
2 would come from a real estate expert, which
3 I am sure we will have at the time of trial
4 and I would be guessing now.

5 Q Do you have any data or information as
6 to what type of housing -- what the least cost housing
7 could be built today, in any of your R-2, 3 and 4
8 zones?

9 A I'm sorry, I don't understand the question.

10 Q Do you have any data as to what the
11 cost would be if you built a home for a single-
12 family home for today, either the R-2, 3 or 4 zones,
13 in the township?

14 A No, I don't have any data as such, no.
15 There again, at the appropriate time. that is something
16 that could be testified to by a real estate expert,
17 and I'm certain you'll have it.

18 Q Is it possible to tell on this map
19 where the 66 acres of R-2 land is, that's suitable
20 for development?

21 A One could deduct it from that -- those maps,
22 yes. That's a source of this information.

23 Q could you show us where on that map
24 that would be, by using the grids?

25 A Well, it's a matter of the R-2 lands in this

1 matter. It's in the area of Cedar Lake so it would
2 be in this area on the map. It would be in this
3 area, here.

4 Q Are there any main roads that we
5 can show on the deposition?

6 A It's off Diamond Spring Road, Morris Avenue.

7 Q How much of that area is presently
8 developed, can you tell?

9 A I'd say probably -- that particular area.
10 well, you mean the whole R-2?

11 Q The area along the lake which you were
12 referring to.

13 A Well, the R-2 is probably -- is probably 80
14 percent developed, I would say.

15 Q And the area in which the tan is
16 shown there?

17 A The vacant --

18 Q Is that in part largely undeveloped?

19 A Well, the southerly end of the R-2 zone,
20 around the lake, is undeveloped.

21 Q Now, is that one of the areas to which
22 sewers either exist or planned on the sewage map?

23 A It's planned for when sewers are extended to
24 serve that area. It will probably be -- it's the
25 area probably where it will be developed and it's an

1 of existing least cost housing and will probably
2 develop -- continue to develop in that fashion.

3 Q When you say "least cost," what do
4 you mean? We're referring to the square footage
5 requirement.

6 A Housing existing on 15,000 square foot lots.

7 Q What would be the disadvantages of,
8 first of all, lowering the density in there, assuming
9 public sewers come in?

10 A Well, I think they're probably -- there are
11 some drainage problems, high water tables, that
12 kind of a thing. The reason it's not -- has not been
13 developed now is the high water table and need for
14 sewers.

15 Q Do you know what the high water table
16 is?

17 A The orange areas are zero to -- these areas
18 through here are all high water table, zero to six
19 feet.

20 Q Well, that's one of the possible things
21 that could be -- they could either be high water
22 tables or there could probably be bedrock or probable
23 soil permeability. Is that correct?

24 A Yes, you're correct.

25 Q I show you a map which is in the Natural

1 Resources Inventory volume, page 24, which has three
2 composite limitations; where the depth of water is
3 shown as zero to five feet, shown as a heavy vertical
4 line and I then show you the areas we are referring
5 to.

6 Now, turning, for the moment, to the map,
7 there are 368 acres suitable for development in R-1.
8 Can you show on this map where those 368 acres are
9 located?

10 A For the most part, these exist to the south
11 of Route 10, between the Par-Troy boundary and Randolph
12 boundaries which is the southern extremity of the town-
13 ship. There is some additional land in the area of
14 Spring Lake.

15 Q Let's take the area near the Par-Troy
16 border. Is it going to be, or is there, sewers,
17 now?

18 A There is a sewer, Denbrook Interceptor Sewer,
19 that follows the Denbrook, providing sewerage to
20 certain of those areas.

21 The other areas, everything from here out --
22 I'd say from the southern extremity, along the Denbrook,
23 would be served by the Denbrook Interceptor.

24 The areas on the other side of the line would
25 be the Watnong Watershed and there are no current

1 plans for seweraging that area at the moment.

2 Q What about the RN, near lake that is
3 developed. Is that developable and does that have
4 access to sewer?

5 A Yes, through pumping facilities, which are
6 currently inadequate.

7 MR. BUZAK: Does that go to the RVRSA?

8 THE WITNESS Yes.

9 MR. BUZAK: The area in R-1?

10 A The Denbrook does but the Watnong doesn't --
11 well, doesn't at the moment.

12 Q Is there any area in the Township
13 where the sewage does not go to the RVRSA?

14 A Yes, the Watnong Brook watershed, that goes
15 through Morris Plains and goes into the -- that would
16 be the Morris County system.

17 Q Do you know what the capacity for
18 expansion of Morris Township system is?

19 A I don't.

20 Q Is there any moratorium in effect for
21 development for expansion there?

22 A I don't know of any but there is no -- right
23 now there's no lines that are extending anywhere
24 near this area. I'm not sure -- I'm not sure if it
25 were developed or if a sewer system or sanitary sewer

1 system were developed, whether it would go that way
2 or not. That's something we would have to ask Mr.
3 Purcell.

4 Q Are there any other R-1 areas on this
5 map marked tan, other than the two you've shown us?

6 A Are there what?

7 Q Marked tan that are suitable for
8 development.

9 A Are there any other areas?

10 Q In R-1, that are suitable for
11 development.

12 A There's an area here -- there's an area here
13 adjoining the Rockaway boundary. That's an RC, though.
14 I am sorry. No, I think the answer is no to your
15 question. I think that's all of the R-1.

16 Q Staying with that area, what is the
17 reason for zoning that area near the Borough of
18 Rockaway RC. It's on the fringe of R-1, I know.

19 A Because this RC-1 was conservation residential.
20 A conservation zone. It had to do with limitations
21 of the land. It's very steep terrain. It's difficult
22 access, difficult terrain.

23 Q This land, though, that we're referring
24 to, that's the tan with no other color over it?

25 A It's got a yellow over it which is steep slopes.

1 Q But, over part or all of it?

2 A Yeah, part of it. in excess of 25. but even
3 the part that's not 25 is still exceedingly steep.
4 I think what we should do is go into -- in the part
5 one of the master plan, following page 18, is a map
6 entitled "Excessive Slopes. When we compare that
7 with the vacant land map, we find that -- that the
8 area we're referring to, which is adjoining Rockaway
9 Borough line and the area of Holstein Lake, had
10 some very severe limitations and is noted by the
11 black, which is the over 25 percent and the hatch
12 mark, which is between -- some of it's between 15
13 and 25 and the other is between 8 and 15 and if you
14 view that you'll see it's quite evident why that,
15 combined with poor access, is the reason that land
16 hasn't been developed.

17 Q What other parts of RC are zoned
18 as suitable for development on this map?

19 A There are some lands in that general vicinity,
20 which is -- that's R-1. That gets back into the
21 R-1. That's adjoining regional high school, the lands
22 in the valley.

23 Now, these are the lands that are adjoining
24 Old Boonton Road in the northern part of the Township,
25 adjoining the Township of Boonton Municipal boundary.

1 These lands are adjoining the Rockaway River and they
2 are encumbered to some degree by the depth -- the
3 composite limitations.

4 Q Supposing the Township Fathers decided
5 they'd like another 194 units of apartments, to
6 match what they've got now.

7 Do you have any thoughts as to where you'd
8 recommend they could be put?

9 MR. BUZAK: I object to the form of
10 the question. It's a hypothetical that is --
11 has no basis in any kind of items that have
12 been on the record that were supplied or
13 that were alleged in any answers or pleadings
14 in this matter, but you can answer the question.

15 A I indicated earlier that --

16 MR. BUZAK: If you can.

17 THE WITNESS: You want me to answer this
18 question or no?

19 MR. BUZAK: Yes, if you can.

20 A Well, the answer -- I really can't answer the
21 question because I think it is -- something of that
22 nature, if that were so, if they were going to consider
23 another 194 units I think it ought to be a comprehensive
24 and I think we ought to look at all the factors as
25 they exist in January of 1980 and consider alternative

1 courses of action and go from there.

2 I won't attempt to pinpoint, you know, off
3 the top of my head a particular location. I think it
4 has -- there are too many factors involved.

5 Q Do you feel you could come up with
6 possibilities if you were to study the township as a
7 whole?

8 A If I were asked to make a study by the Township
9 as to the manner in which we might accommodate another
10 194 multi-family units, I could do it.

11 Q Let me just ask you something: You
12 could make the study?

13 A Yes, I could make the study.

14 Q But you haven't been asked to do such a
15 thing?

16 A No, sir.

17 Q Could you tell me whether 98 acres
18 of vacant land suitable for development, I 2 land,
19 is located?

20 A For the most part, you'll find it in the
21 northwestern corner of the Township, adjoining the
22 Township of Rockaway and it involves the area adjoining
23 the Thiokol complex.

24 As a matter of fact, it includes some of the
25 land -- a portion of those lands that were once owned

1 by the Thiokol complex, which remain vacant, and it
2 is just north of Route 80 on the boundary to Rockaway
3 Township.

4 Q Is the land across in Rockaway Township,
5 zoned industrial, residential there, do you know?

6 A I believe some of it is zoned industrial.
7 The Hewlitt-Packard, K & E, some of those are, out
8 along Hybernia Road, adjoin this.

9 Q Is there access to public sewer there?

10 A There is a public sewer. Thiokol has access
11 to a public sewer. The remainder of the land,
12 there s a connection, let me see. The sewer goes
13 as far as Thiokol. If the remaining were developed,
14 it would require an extension of that sewer.

15 MR BUZAK: That's according to the

16 RVRSA.

17 THE WITNESS: Yes.

18 Q Now, is some of this I2 that's vacant
19 and developable, is that on the border of the R 3
20 land?

21 A Yes.

22 Q Could any of that be used for residential
23 purposes?

24 A I think it would not be desirable for residential
25 purposes because it's along Beaver Brook and it's where

1 the -- some of that land might presumably be used
2 for off-street parking for industrial purposes.

3 It doesn't lend itself -- does not lend itself
4 to residential development.

5 Q I'm sorry, I didn't follow that. What
6 was the reason it didn't?

7 A I said it's because it's along the Beaver
8 Brook and it's low and its high water table. It is
9 marshy land. Some of that land adjoining Beaver
10 Brook might reasonably be used for off-street parking,
11 for industrial purposes.

12 Q There seems to be a number of it right
13 up against the R-3, which is still zoned as vacant
14 and suitable for development. Is that correct?

15 A Yes, but I think the rationale there is
16 land, because if its restriction, lends itself more
17 appropriately to the industrial development, than on
18 the R-3 development.

19 MR. MEISER: Do you want to ask any
20 questions? I'm checking my notes to see if
21 I have anything else.

22 MR. BUZAK: No, just the usual items
23 that I always say at these and that is, A,
24 that the sources that were cited by Mr. Montney
25 were sources that he used but a complete listing

1 of those has already been submitted to the
2 Public Advocate.

3 The second item is, specifically with
4 respect to something that was said by Mr.
5 Montney, when the question was asked as
6 to whether or not he was planning to overlay
7 the maps, which are RM 3 and 4. I think it
8 is -- with a designation of water mains and
9 he indicated that that was not his intent
10 and states, that is not our intent, either,
11 but that does not preclude as to taking the
12 maps already furnished to the Public Advocate
13 and perhaps overlaying them on this. I didn't
14 want there to be any misinterpretation of that
15 statement, that we're barred from doing that.

16 It might be one way that we may present
17 that, which you already have.

18 MR. MEISER: I think since it is hard
19 to judge prospectives from that small map
20 on the land resource, if that was done, we
21 would request an opportunity to inspect it
22 prior to trial.

23 MR. BUZAK: I think you should have that
24 opportunity.

25 Q Let me ask you a question. Can you tell

1 me on this map and in general, where the agricultural
2 lands are, in this township?

3 A There is a limited amount, right closest to
4 you --

5 Q I believe --

6 A -- in that RC zone.

7 Q The southeast part of the Township?

8 A Yes -- no, northeast, north is towards you.

9 Q Okay, fine.

10 A The Old Bush farms, although that is very
11 limited. Now, they've gone to greenhouses, that kind
12 of a thing. That's the only area that I know of
13 currently being used in any fashion for farming.

14 MR. MEISER: I have no further questions.

15 MR. BUZAK: I have no further questions.

16 (Whereupon, deposition adjourned.)

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I, JILL FRIEDBERG,

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a Shorthand Reporter of the State of New Jersey,

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do hereby state that the foregoing is a true

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and accurate transcript of my stenographic notes

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of the within proceedings, to the best of my ability.

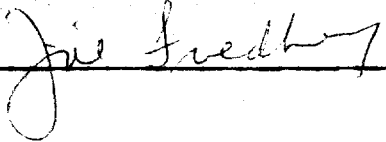
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