

Mc - Green Village 139 Corp.
v. Chatham

Jan. 17, 1980

Transcript of Deposition of John T. Chadwick

pg. 31

WLO 008285

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION : MORRIS COUNTY
Docket No. L-29276-78

GREEN VILLAGE 139 CORP.,
GERALD WEIR and JOSEPH
GIOVANNOLI,

Plaintiffs,

vs.

THE TOWNSHIP OF CHATHAM,
THE TOWNSHIP COMMITTEE OF
CHATHAM and THE PLANNING
BOARD OF THE TOWNSHIP OF
CHATHAM,

Defendants.

CIVIL ACTION

Deposition of:
JOHN T. CHADWICK, IV

T R A N S C R I P T of the stenographic notes of
the proceedings in the above-entitled matter, as taken by
and before RALPH A. MONTE, JR., a Certified Shorthand
Reporter and Notary Public of the State of New Jersey,
held at the offices of E. EUGENE CROSS ASSOCIATES, 235
Livingston Avenue, New Brunswick, New Jersey, on Thursday,
January 17, 1980, commencing at 9:30 in the morning.

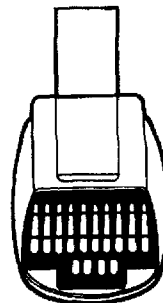
A p p e a r a n c e s :

MESSRS. FISCHER, KAGAN, KLEIN, GIAMPAPA & MILLER,
Attorneys for the Plaintiffs,
By: NORMAN I. KLEIN, ESQ.

MESSRS. SACHAR, BERNSTEIN, ROTHBERG, SIKORA & MONGELLO,
Attorneys for the Defendants,
By: DANIEL S. BERNSTEIN, ESQ.

simon
cittone
associates, inc.

1697 Oak Tree Road
Edison, N. J. 08817
(201) 548-3050



CERTIFIED SHORTHAND REPORTERS

Affiliated Companies:
JACK BERHANG & ASSOCIATES
BERHANG & CITTONE
KINGDON, BERHANG & CITTONE

INDEX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JOHN T. CHADWICK, IV.

Direct by Mr. Bernstein

3

20
21

1 JOHN T. CHADWICK, I V, previously
2 sworn.

3 DIRECT EXAMINATION BY MR. BERNSTEIN:

4 Q Mr. Chadwick, how would you define the term
5 large lot zoning?

6 A Anything of one acre or larger.

7 Q You presently are the master planner for a
8 number of communities north of Route 22, correct?

9 A Yes.

10 Q Could you tell us the names of those communities?

11 A Watchung, Warren, Borough of Fairfield, Township
12 of Parsippany, and our clients.

13 Q Yes.

14 A That's it.

15 Q Have you prepared the master plan and the draft
16 of the zoning order in compliance with the new municipal
17 land use law for each of these communities?

18 A Yes.

19 Q What multi-family zoning did you recommend
20 for Watchung?

21 A None.

22 Q What multi-family zoning did you recommend
23 for Warren Township?

24 A None.

25 Q Could you give us the rationale for not

1 recommending any multi-family zoning for Watchung?

2 A It's a developed municipality, approximately 10 per
3 cent of the land was remaining, all of it having a slope of
4 in excess of 10 per cent.

5 Q You would say that the land with a slope of
6 more than 10 per cent would not be vacant developable land,
7 correct?

8 A No, I would not.

9 MR. KLEIN: No, you would not say
10 it's developable?

11 THE WITNESS: Would be vacant undevelop-
12 able land, is that what you said?

13 Q No.

14 A I'll have to apologize, I'm having a very difficult
15 time hearing.

16 Q Fair enough, I'll speak up.

17 Is land which has a slope of more than 10 per cent
18 vacant developable land?

19 A Yes.

20 Q With regard to Watchung is it your testimony
21 that the town is substantially developed?

22 A Yes.

23 Q Do you have any percentages on that?

24 A Yes.

25 Q Could you give them to us?

1 A No.

2 Q They are contained in the master plan?

3 A They are in memo files of this office, I didn't
4 make an analysis of all the municipalities we have for
5 preparation for depositions for Chatham Township.

6 Q Are they contained in the master plan of
7 Watchung?

8 A No.

9 Q How about Warren Township, what is the rationale
10 for not proposing multi-family developments in Warren
11 Township?

12 A The rationale is actually set forth in all the back-
13 ground material, the record of public hearings and the master
14 plan of the municipality to really try to reiterate in a
15 complete answer, I think would extend these depositions
16 unusually long. It is a very complex situation, Warren
17 Township, relative to the available land for development,
18 utilities, drainage characteristics, et cetera.

19 Q Well, one of the advantages we as attorneys
20 have, we get to ask the questions.

21 A I've given you an answer.

22 Q Well, I would like to know specifically why
23 you didn't recommend any multi-family development for Warren
24 Township?

25 A I may have answered your question too quickly. I

1 did as the professional planner representing this firm
2 to Warren Township suggest they consider multi-family
3 development in various areas. We had approximately two
4 years worth of public hearings besides the planning study
5 conducted by ourselves, studies were conducted by consulting
6 engineers, environmentalists, et cetera.

7 The conclusions of all those findings was that
8 the infrastructure necessary to support multi-family develop-
9 ment in Warren Township in a six-year context, which was the
10 context that they, their plan really addresses, relevant
11 to the Municipal Land Use Law, multi-family development
12 was not suited to the community.

13 Q Could you tell us --

14 A Excuse me.

15 [Discussion off the record.]

16 Q Can you tell us what infrastructure Warren
17 Township lacked which made multi-family development impractical?

18 A Public sewers, water capacity.

19 Q That's public water?

20 A Yes, the entire drainage system in the municipality,
21 particularly as it affects basic roadways with the community,
22 is inadequate, I guess is a simple way to put it.

23 The circumstances of any heavy rains, major roads through
24 the municipality are flooded out.

25 Q You considered --

1 A Given some very basics, transportation, too high
2 density housing, the absence of sewers to serve high density
3 housing in the absence of water capacity, all findings and
4 facts in 1977 multi-family development was not placed in the
5 plan, I want to explain, the ability to correct those deficiencies
6 was not within the power of the municipality.

7 The sewer line or the sewer facilities were under
8 the actual jurisdiction of adjoining municipality, being
9 Bridgewater, when they accomplished their bonding approvals
10 with the Federal Government, et cetera. The sewer line
11 would then be available to Warren which then would no longer
12 have a position that sewer was not available but would have
13 a position that sewer would be imminently available.

14 The water service in the township is a franchise
15 to Elizabethtown Water Company. At that time it was an
16 unknown pressure problem, to be completely candid, I have
17 no idea whether that water pressure problem has been resolved
18 in the municipality.

19 The flooding conditions along the roadways, the municipi-
20 pality has been bonding over the last several years in
21 conjunction with the County to reconstruct new bridges so
22 that the roadways simply are passable during heavy rain
23 storms. They've accomplished a few of those, so in the
24 condition of Warren, the Warren master plan developed in the
25 mid-1970s a transition plan because of the transition of the

1 basics, strong likelihood that the plan will be reexamined
2 in the near future.

3 Q You mentioned, Mr. Chadwick, the timeframe
4 of six years. Can you tell us if that timeframe is relevant
5 to you when preparing a master plan?

6 A Yes.

7 Q Explain that.

8 A I think there's various elements within any master
9 plan that have a long-range nature that has no specific time-
10 frame. There are other elements that are immediate in
11 terms of policy adjustment which would be reflected in the
12 legislation, particularly a zoning order.

13 Q Does not the Municipal Law, Land Use Law, itself
14 mention that master plans are to be reexamined every six
15 years?

16 A Yes.

17 [Discussion off the record.]

18 Q As the planner for Warren Township did you feel
19 that it was reasonable to examine multi-family housing
20 within a six-year context?

21 A Yes.

22 Q Is that a procedure that you commonly employ
23 in your other client municipalities?

24 A Municipalities, I couldn't generalize, I really
25 couldn't answer the question.

1 Q Fair enough. Can you tell us what densities
2 you recommended for multi-family development in Parsippany-
3 Troy Hills?

4 A Densities range from 24 to the acre to six to the acre.

5 Q What was the recommended densities for town-
6 houses in Parsippany-Troy Hills?

7 A There are densities of six and eight. There's a
8 number of different options within Parsippany-Troy Hills,
9 approximately seven different methods that townhouses could
10 be developed, the basic conclusion within those ordinances is
11 a six to eight density.

12 Q As a professional planner do you feel that's
13 a reasonable density for townhouses?

14 A Yes, I think there can be circumstances where that
15 density could be excessive, and I can think of many circum-
16 stances where that density could easily be exceeded
17 and comply with any reasonable considerations for like
18 access, amenities, et cetera.

19 Q Without looking at any specific site, can you
20 tell us what factors would make a density of six units to
21 the acre excessive and what factors would make a density
22 of six units to the acre as being overly restrictive?

23 A If the land had little other or no development
24 impediments, a density of six will generally result in about
25 60 to 70 per cent of the tract as undeveloped, not necessary

1 for any specific purpose to serve the units be it walkways,
2 parking areas, the buildings themselves and immediate patio
3 areas which are common to a townhouse development.

4 Therefore, you are saying that 60 or 70 per cent
5 of your tract is necessary for open space, I don't think
6 that's reasonable. Whether I think it's reasonable, the
7 Supreme Court, at least my understanding as has been said,
8 open space standards of 50 and 60 per cent are unreasonable.
9 They haven't set a specific standard, but my understanding
10 the term excessive requirements for open space and the
11 particular order to which that case revolved about required
12 a 50 per cent open space, so I use that as a conclusion.

13 The conditions that would exist that would render
14 a six to the acre considered on a gross basis, excessive
15 would probably be either mandated conditions if attractive
16 land were, one, relatively small, and two, surrounded by
17 heavy traffic routes, then you have the impact of the
18 highways, on the land itself, and a high-density housing
19 would be right on the highway as opposed to be able to provide
20 some reasonable separation, either through earth work
21 landscaping, et cetera, or the conditions of land itself,
22 steepness, flooding, et cetera.

23 Q Now you had mentioned that six units to the
24 acre might be excessive where there were natural impediments,
25 is that correct?

1 A Yes.

2 Q Could you just list for me the natural impedi-
3 ments that might make six units to the acre excessive?
4 Were those the three factors you just mentioned? Flooding,
5 steep slopes and there was one other.

6 A Flooding, steep slopes and --

7 [Discussion off the record.]

8 Q Those are the two factors that might make
9 six dwelling units per acre excessive, correct?

10 A Those would be the common factors, there's a number
11 of things that could lead into a particular drainage circum-
12 stance that either would be common to the site or
13 common to an area. Easements for drainage, power line ease-
14 ments, a soil condition that is unique to part of the site,
15 for example, in the areas of a lot of areas in central
16 New Jersey will have tracts of land that are completely
17 buildable, but you'll have negligible peat pockets, within
18 the tracts of land, and depending upon their depth, they
19 become undevelopable, it's like a pock mark affair just
20 out of random, and those kind of things can enter in-
21 to the total yield of a property.

22 But the simple standards within zoning orders
23 are general regulations which provide guidance for develop-
24 ment of property until you get into the specific site
25 investigation, for example, saying that you can't build

1 more than four to the acre because we are absolutely certain
2 of a particular condition, generally is foundless.

3 Q Mr. Chadwick, referring to page 2 of your
4 report of December 26, 1979 to Mr. Klein regarding the present
5 lawsuit; at the top of page 2 you make a statement that the
6 master plan proposes an office complex. Would you explain
7 that to me, please?

8 A The area which I'll refer to as the northerly end of the
9 municipality is an extension of the Dodge tract from
10 Madison, the land use plan shows that area in an office
11 research category. It also shows highway and sewer trunk
12 lines, well, trunk lines to serve that area.

13 Q Do you as a planner find that it's reasonable
14 to designate that portion of the Dodge tract which is in
15 Chatham Township for office development?

16 A I've no reason to determine it unreasonable, given
17 the sport facilities, the plan is proposing to make available
18 to the area --

19 Q Mr. Chadwick, I'd refer you to the fourth
20 paragraph of page 2 wherein you state, "That properties
21 in a certain area are in an RM category with an A and B
22 subcategory."

23 First, could you tell me what areas you were referring
24 to that had the RM category?

25 A Along Green Valley Road.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q Which would include the plaintiff's property, properties I should say?

A Along Green Valley Road there is an RM sewers classification, that classification has three subclasses, an A, B and a C. As set forth in the Morris County Soils Conservation Survey, those soils classifications coincide along the Green Valley Road until you reach the brook.

To the west of the brook they change into a PT category. Now that soils classification is not a grid kind of designation, this is a very free form, but it generally coincides with the alignment of Green Valley Road and to --

MR. KLEIN: You mean Green Village Road.

THE WITNESS: Green Village Road.

Q Now I believe it would be a PV category that would be to the west, that's what's mentioned in your report, right?

A Yes.

Q Now can you tell us what difference does it make if the properties along Green Village Road are in the RM class or in the PV class as far as intensity of development is concerned?

A The soils classifications indicate, number one, the department to high water, the suitability for development, the RM class has slighter moderate impediments to development.

1 A PV class has severe --

2 Q But if we had sanitary sewers, and assume sani-
3 tary sewers were available with capacity to plan for
4 additional effluent all the way long Green Village Road,
5 wouldn't the existence of these sewers cure any of the
6 environmental problems caused by the PV soils?

7 A It would cure the sewer disposal problem there,
8 not cure a high ground water table with a wet ground condition
9 which is basic to construction.

10 Q Well, would you explain to me as a layman how
11 high water tables and wet conditions impede the construction
12 of more dense development?

13 A They add to the cost. You require fill, additional
14 drainage, sand piling, et cetera, in order to stabilize
15 the ground. Where you have a ground condition which is, has
16 a rating of little or slight or moderate development constraints,
17 those development costs which are basic to anything whether
18 it's low density single-family houses or high-rise residential,
19 one's going to cost less than the other to improve the site
20 for development.

21 Q As a professional planner do you feel that soil
22 types are an important factor for municipalities to consider
23 when planning the location of multi-family developments?

24 A I think they are an important factor, I don't think
25 they are the factor, there are a number of factors which would

1 be important, but they are important.

2 Q You would prefer to have your multi-family
3 development put on dry land which cannot have a high water
4 table and was not subject to flooding, correct?

5 A I answered you yes, if you had made a basic decision
6 in a general location, multi-family housing is suited.
7 In that location you had three soil types, one that's a
8 swamp, one that's medium dry, and one that's high and dry,
9 the high and dry land should be selected.

10 Q Is that the import of the fourth paragraph
11 on page 2 of your report?

12 A In part. The import is carried through the letter.

13 Q Isn't the thrust of the fourth paragraph that
14 Loantaka Brook should be the dividing line between one-family
15 residential zoning and multi-family zoning because of a
16 difference in soil types along both sides of the Loantaka
17 Brook.

18 MR. KLEIN: That question assumes
19 a lot of things which Mr. Chadwick hasn't
20 said. To some extent the paragraph is self-
21 explanatory. If you would like him to clarify
22 I think he can, but I think the question,
23 the way you've asked it, presupposes, has
24 certain assumptions in it which I don't believe
25 he's testified to necessarily.

1 Q What relevance do the soil types which are
2 mentioned in the fourth paragraph of page 2 of your report
3 have as far as multi-family development is concerned?

4 A In context with the Township of Chatham master plan
5 it is apparent there is a considerable investigation
6 of the natural limitations of the development of the
7 municipality; at the same time the plan determined that the
8 Shunpike-Greenville Road area was suited to multi-family
9 development.

10 In my judgment that context with the plan, those
11 areas most suited to development given the sewer and water
12 improvement planned, are those areas having the least
13 site improvement costs, and you can relate less site
14 improvement to dry land versus muck soil, and it's readily
15 apparent that the Loantaka Brook is a dividing line between
16 soil types.

17 Q At the bottom of page 2 in point 4 you mention
18 the HUD Flood Hazard Maps. In your opinion as a professional
19 planner is land within the flood hazard area but not within
20 the water course land that you would categorize as vacant
21 developable land?

22 A I don't think I could generalize. I think in many
23 cases my answer would be yes, and in many cases my answer
24 would be no. Based on conditions that run beyond simple
25 designation. I'm also assuming you've transferred in your

1 question, you've transferred HUD/FIA maps to NJAD maps
2 because HUD/FIA maps merely says an area there's no such
3 thing as water course, there's a definition of water course,
4 but there's no mapping of the water course.

5 Q Specifically on page 3 of the following sentence
6 appears, "The NJDEP maps water courses which delineate
7 boundaries along water courses where development is not
8 allowed. In my opinion the township's use of HUD/FIA
9 flood hazard maps to classify land as unsuitable for develop-
10 ment has a single purpose of reducing land area of the town-
11 ship to thereafter claim that the community is not a
12 developing municipal policy."

13 Now is it your testimony today that it is improper
14 to classify all land in the flood hazard area as unsuitable
15 for development?

16 A Using the HUD/FIA maps, yes.

17 Q What maps could one use to designate flood
18 plain land which is unsuitable for development?

19 A New Jersey Department of Environmental Protection
20 Studies relate to stream flows, stream and the lands desig-
21 nated as water course should be considered undevelopable.

22 The lands designated by NJDEP as flood fringe or
23 flood hazard areas actually flood fringe, it really requires
24 investigation as to whether those lands are suited or are
25 not suited to development.

1 Simple explanation would be the entire Hackensack
2 Meadows is a flood hazard designation, designations in
3 Parsippany-Troy Hills Route 46 are flood hazard areas.
4 Designations throughout the Plainfields are all flood hazard
5 designations which means that the flood hazard designation
6 is a warning, a floodway designation is an absolute --
7 there isn't a dispute as to whether it's flooded.

8 Q Are the terms flood fringe, flood hazard
9 areas and flood plain synonymous terms?

10 A Excuse me, I couldn't hear you.

11 [Whereupon the Reporter read back the
12 question.]

13 A No.

14 Q Could you explain to me the difference?

15 A Flood plain is a geologic term, relates to a geologic
16 formulation. Flood fringe is a term defined by the Depart-
17 ment of Environmental Protection in their Flood Hazard Statute,
18 and it's that area between what is a floodway and the outer
19 limits of a flood hazard area. A flood hazard area under
20 DEP definition consists of an area which is defined as flood-
21 way where water flows or frequently flows, and the flood
22 fringe areas which would be to either side are areas that are
23 periodically inundated, and the sum total of those bands
24 is classified as a flood hazard area.

25 Q Would you characterize flood plain lands as
vacant lands which are not suitable for development?

1 A No. Flood plain as I stated before is a geologic
2 term. You can have flood plains that no longer are flooded.

3 Q So that to you there would be no correlation
4 between lands which are flood plain lands and lands which are
5 developable?

6 A It's the same circumstances that I attempted to explain
7 between the designation by HUD Federal Insurance Administration,
8 and they use a term flood hazard maps, and those boundary
9 lines are drawn under a different criteria and for a different
10 purpose, and are the boundary lines drawn by the New Jersey
11 Department of Environmental Protection. But they use the
12 same terms, intermixed with this is geologic terms.
13 They are commonly thrown into conversation, they refer to
14 different things, they may overlap, they may not. In many
15 cases there will be significant overlap.

16 Q As a planner have you ever testified that
17 flood plain lands are not vacant developable land, but in
18 fact are not developable?

19 MR. KLEIN: What do you mean ever
20 testify?

21 MR. BERNSTEIN: Ever testify.
22 Before a court or Board of Adjustment.

23 MR. KLEIN: Wouldn't that have to be,
24 that question, to limit it somewhat by circum-
25 stances, nature of the flood plain where it's

1 located, development around it, et cetera.

2 MR. BERNSTEIN: I didn't ask about
3 specifics, I asked if Mr. Chadwick ever testified
4 that flood plain lands are not developable.

5 MR. KLEIN: Well, I'm not going to tell
6 him not to answer, but for the record I think
7 the question is too broad and general.

8 THE WITNESS: I have no idea.

9 Q You don't remember if you've so testified?

10 A Mr. Bernstein, I've been testifying before Board of
11 Adjustments and courts for 15 years, and you expect me to
12 recall whether or not I've used the term, and appropriately
13 flood plains should not be developed. Certainly you can
14 appreciate in cross-examination an attorney will use a term
15 that's improper, incorrect, for sake of brevity you'll
16 answer his question.

17 Q Turning to page 4 of your report in paragraph
18 numbered 6 you indicate that the zones in which multi-family
19 development is permitted in Chatham Township, each of some
20 soil types which would inhibit development now, why is that
21 relevant to the present lawsuit, Mr. Chadwick, the fact that
22 properties which have been designated in the zoning order
23 for multi-family development have some unfavorable soil
24 characteristics for development?

25 A In one part the municipality indicates a potential
development under the zoning order.

1 If you examine the facts of the plan, the question
2 arises as to whether or not in fact those numbers can be
3 achieved, given the condition of the land, or the question
4 arises that the numbers developed are achievable, but are
5 achievable at a very low density multi-family housing
6 which is also a statement within paragraph 6. The infor-
7 mation that's available through the master plan, it is
8 impossible to make that determination. You would have had
9 to make the calculation yourself and then set down the
10 conditions by which you made those calculations. There are
11 no asterisks, caveats or simple statement of figures.

12 But applying, for example, the potential development
13 within the quadroplex zone in comparison to the soils,
14 you can take either of those two positions.

15 Q Is it your position, Mr. Chadwick, that the
16 densities which are permitted in the multi-family districts
17 under the zoning order are in fact not achievable because of
18 environmental constraints to the property which is zoned
19 for multi-family development?

20 A No, not at all.

21 Q Have you made an examination to determine
22 the maximum densities which could be built in those areas
23 which are zoned for multi-family development?

24 A I'm sorry, Mr. Bernstein, I don't think I quite
25 understand the question.

1 Q All right. You examined in detail each of
2 the areas in Chatham Township which is zoned for multi-
3 family development.

4 A No.

5 Q Have you visited any of the multi-family
6 sites?

7 A Yes.

8 Q Can you tell us which ones you've visited,
9 if you remember?

10 A The apartment complex at the intersection of Green-
11 ville Road and Shunpike and the townhouse development which
12 would be, I guess, north on Shunpike from that site.

13 Q These are existing developments?

14 A One is under construction, and one is existing.

15 Q Have you looked at any of the other sites
16 which are vacant which are zoned for multi-family developments?

17 A Yes.

18 Q Which ones have you looked at?

19 A Along Green Village Road and Shunpike as well as what is
20 it, along South Morris, South Drive, back road to Summit,
21 what's the name of the road, I can't think.

22 MR. KLEIN: You mean River Road?

23 THE WITNESS: Yes, that's it.

24 Q Is it your testimony that each of these sites
25 has some environmental constraints?

1 A Yes.

2 Q These environmental constraints would make
3 construction more difficult?

4 A Yes.

5 Q Would these environmental constraints limit
6 the absolute density that one could achieve on these sites,
7 even absent zoning?

8 MR. KLEIN: Could you read that question
9 back, please.

10 THE WITNESS: I have difficulty, I think
11 I understand the question, but I'm not certain.
12 If you could --

13 MR. BERNSTEIN: I'll paraphrase it.

14 Q Would it be difficult to achieve high density
15 developments on the sites in Chatham Township which are zoned
16 for multi-family developments even if there were no zoning
17 restrictions?

18 A I can't answer the question. You are asking me a
19 question that requires very, very specific answers, or
20 specific knowledge. I've told you I've visited all of the
21 sites. I have not made a detailed examination of the sites.
22 I have, for example, made calculations using the zoning
23 standards as set forth for the R3A and R3B zones in comparison
24 to soil types. But when you ask a question that high density
25 development be placed on any or within all of the multi-

1 family zones, my answer in general would be yes, and it could
2 be very high density, but I say that first with the assumption
3 that the sewer facilities have been put in place, water
4 service to whatever extent can be brought is available to
5 all of the sites, soil survey, soil borings investigation
6 has been made, and in fact the survey of the soil conservation
7 service is relatively accurate, therefore the buildable
8 areas are pretty much as you would estimate from the survey,
9 but that's a soil survey, but that's a lot of assumptions
10 and suppositions, so to answer your question with any
11 definitive statements, I can't do it, and those are the reasons
12 I can't do it.

13 Q Fair enough.

14 In the second paragraph in point 6 of your report on
15 page 4 you state that approximately 40 to 50 per cent of
16 each area zoned for multi-family development "exhibits soil
17 types unsuited to intensive development." Would you explain
18 that?

19 A I think the paragraph is clear.

20 Q What are the soil types that would preclude
21 intensive development?

22 A PV and PT.

23 [Discussion off the record.]

24 Q Mr. Chadwick, in the second paragraph in point
25 6 on page 4 you indicate that 40 to 50 per cent of the land

1 zoned for multi-family development exhibits soil types
2 unsuited to intensive development. Can you explain how
3 these PV and PT soil types preclude intensive development?

4 A The statement is based on the rating system that is
5 developed by the Morris County Soils Conservation Service,
6 actually the Department of Agriculture. It rates land
7 in terms of development for urban purposes, it has a number
8 of different factors, high water table, plasticity of the
9 soil, slippage, erosion probabilities, percolation, et
10 cetera. Taking all of those factors they range the soil
11 as no impediments whatsoever, good, meaning there is maybe
12 one category that's out of the seven that is not perfect,
13 slight, moderate, and poor and very severe, the severe and
14 very severe. Using those categories which are generally
15 accepted in the field, I made this statement. That statement
16 is based upon the information contained in the soils survey
17 which you also referenced in the Chatham Township master
18 plan.

19 Q Would these limitations be present even if
20 the areas zoned for multi-family development were served
21 by sanitary sewers?

22 A In some cases I would have to make an examination
23 of the zoning map in terms of limitations to pure construction
24 as opposed to limitations to septic disposals. Septic
25 disposal is a criteria in terms of a rating, is a factor,

1 it is not an overriding factor in the case of PV and PT
2 soils, you are talking about soils types that it's a muck
3 characteristic, I used the word peat before, no foundation
4 base.

5 Q The soil types that make construction difficult
6 or impossible would still be present regardless of the
7 existence of sanitary sewers, correct?

8 A That's correct.

9 Q In the third paragraph in item 6 on page 4
10 you indicate that the estimates for housing potential found
11 on page 19 of the Chatham Township master plan are inflated.
12 Would you explain that statement?

13 A I think if you read the entire paragraph it explains
14 itself, and I'll read it for you. This would imply this
15 is estimates.

16 Q You don't have to read it, Mr. Chadwick.
17 Fortunately I'm able to read. What I'm interested in is
18 how the table inflates the amount of housing that could be
19 built in the municipality, and I don't understand the rationale
20 that is given in the paragraph in the sentence that follows.

21 A What I'm saying to you is exactly the same statement
22 I made previous, relevant to the calculations within the
23 master plan pertaining to developing community questions
24 you had asked. You cannot determine exactly how the numbers
25 were arrived at simply applying the zoning standards to an

1 area of land as shown in the tax maps and arriving at a
2 number, if it's 4 to the acre and there's 10 acres of land
3 there, it's 40 units potential, but there's a number of
4 circumstances that don't seem to equate. The soils types
5 would indicate that in several cases you couldn't simply
6 do that, you are talking about very wet soils, in other cases
7 the total acreage in the zone, if you multiply, yield a
8 much higher number. There appears a deduction of certain pieces

9 On the other hand, if you apply to another zone
10 district it doesn't. So in terms of examining their numbers
11 it is very difficult to say with certainty that is the
12 conclusion within that paragraph. Deduction cannot be
13 stated with certainty.

14 Q Why couldn't one as a planner make it simple
15 step of saying there are 10 acres that are zoned for town-
16 houses, the zone permits a density of 6 units per acre,
17 and multiply the 10 times the 6 and come up with 60 dwelling
18 units and assume that if there are difficult pieces of
19 property on the entire tract that the townhouses will be
20 clustered in the areas?

21 A No, can't do that, not with this order, because in
22 the order they've also got setback standards of the buildings,
23 and it required a 50-foot setback all around except for
24 certain positioning of windows, and the only way you could
25 avoid having a 50-foot setback is to have a strip of land

1 that's a long, skinny, narrow strip of land, so when you start
2 setting buildings 50 feet one from the other in a townhouse
3 development, you can't really cluster down on the grosses.
4 Those standards basically say you are not going to get
5 any more than six to the acre any place. You can't say
6 "I've got six to the gross, I can cluster them over in the
7 corner," Those standards say you are going to have six to
8 the gross, and you are going to have six to the net.

9 Q Mr. Chadwick, on page 5 of your report you
10 recommend that Chatham Township increase the density of its
11 quadplex and townhouse zoning to 6 and 8 units respectively.

12 A Uh-huh.

13 Q Now what I'd like to know is are there any
14 documents I can turn to which would tell me that one should
15 have quadplexes at 6 units per acre, are there any standards
16 in the planning trade that would support your contentions
17 here as to density?

18 A Yes, the answer is yes, and the library at Rutgers
19 University Urban Study Center, the library of any planning
20 school will be replete with studies of multi-family develop-
21 ment or the library of E. Eugene Cross Associates dealing
22 with multi-family development, numerous documents and
23 articles relating to multi-family development.

24 Q Can you cite me any specific studies or docu-
25 ments which state that these are the densities that should be

1 adopted?

2 A There is no one study that says this is it, this is
3 the only study that is any good of all the studies that
4 exist, but there are many, many studies that refer to densities,
5 and there will be densities relating to a suburban area;
6 Chatham Township is a suburban area and speak to six total
7 dwelling units to an area to a quadplex and townhouse
8 design. Urban Land Institute did a major study of townhouses
9 and quadplex developments in the mid-1970s.

10 Q What?

11 A The title of the book escapes me at the moment.
12 It was done on a three-part basis. It was done from a
13 cost efficiency basis in terms of construction, it was done
14 from a zoning standpoint in terms of a light and air
15 building arrangement, and it was done from a survey of
16 occupants in terms of their acceptance of their living
17 environment. The conclusions of those studies equally
18 waited, suggested that a townhouse development from 6 to 10
19 units was completely acceptable, and 8 was probably the most
20 preferable. You might say the lower the density the more
21 preference, but it wasn't the findings of the study, and
22 the quadplex was in the neighborhood of 6 to 8.

23 Although that wasn't as conclusive because that type
24 of housing type was particular to California at the time.

25 Q Are there any other studies which you can

1 cite here today which gave recommended densities?

2 A The basic trade journals carry articles, the Urban
3 Land Institute. The American Society of Planning
4 Officials, your homebuilders magazines all carry articles
5 on densities of development. Now those are source material.

6 If you wish, I'm going to our library, card catalogue,
7 but I don't carry these things as replete with title,
8 author and date of publication, but the three basic sources
9 would give you the most, I think, professional information
10 dealing with densities.

11 [Whereupon the Reporter read back the
12 answer.]

13 Q I assume that these preferable densities
14 would also depend upon the environmental characteristics
15 of the sites one wanted to develop?

16 A Yes.

17 Q You had mentioned a lawsuit written open
18 space of between 50 and 60 per cent for a multi-family
19 development was considered unreasonable. Could you give
20 me the name of the case?

21 A Oakwood at Madison. In addition there were three
22 cases of Harry Paszicky versus Manalapan Township, all going
23 to the Appellate Court, and in each case Judge Lane ruled
24 the standards for open space were unreasonable, and he found
25 that initially on his own conclusions and the two following
cases on the Oakwood at Madison case.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION : MORRIS COUNTY
Docket No. L-29276-78

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GREEN VILLAGE 139 CORP.,
GERALD WEIR and JOSEPH
GIOVANNOLI,

Plaintiffs,

vs.

CERTIFICATE

THE TOWNSHIP OF CHATHAM,
THE TOWNSHIP COMMITTEE OF
CHATHAM and THE PLANNING
BOARD OF THE TOWNSHIP
OF CHATHAM,

Defendants.

I, RALPH A. MONTE, JR., a Certified Shorthand Reporter
and Notary Public of the State of New Jersey, certify that
the foregoing is a true and accurate transcript of the
deposition of JOHN T. CHADWICK, IV., who was first duly
sworn by me, on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney nor
counsel for, nor related to or employed by, any of the parties
to the action in which this deposition was taken, and further
that I am not a relative or employee of any attorney or
counsel employed in this action, nor am I financially
interested in this case.


A Notary Public of the State
of New Jersey