

ML - Green Village v. Chatham

March 4, 1980

Transcript of Proceedings: Examination of John Chadwick

Pgs. 45

ML 0008295

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GREEN VILLAGE 139 CORPORATION,
GERALD WEIR, JOSEPH GIOVANNOLI,)

ML000829S

Plaintiffs,)

STENOGRAPHIC TRANSCRIPT

-vs-)

of

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

PROCEEDINGS.

Defendants.)

Tuesday, March 4, 1980.

Morris County Courthouse
Morristown, New Jersey 07960

B E F O R E:

ROBERT MUIR, JR., Assignment Judge, Superior Court.

TRANSCRIPT ORDERED BY:

JACQUES H. GASCOYNE, Superior Court Judge.

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

MESSRS. FISCHER, KAGAN, KLEIN, GIAMPAPA & MILLER,
BY: NORMAN I. KLEIN, ESQUIRE,
For the Plaintiffs.

MESSRS. SACHAR, BERNSTEIN, ROTHBERG, SIKORA & MONGELLO,
BY: DANIEL S. BERNSTEIN, ESQUIRE,
For the Defendants.

Earl C. Carlson, CSR
Official Court Reporter
Morris County Courthouse
Morristown, New Jersey
285-6249. 07960

PENGAD CO., BAYONNE, N.J. 07002 - FORM 2045

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I N D E X T O W I T N E S S E S

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|---------------|--------|-------|
| Name | direct | cross |
| John Chadwick | 3, 9 | 7 |

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

| | | |
|--------|--|-------|
| Number | Description | Evid. |
| P-13 | Chatham Township Master Plan of 1972. | 10 |

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1 THE COURT: Okay, let's proceed.

2 MR. KLEIN: Okay, your Honor. Your Honor,
3 the plaintiff calls John T. Chadwick, the IV to
4 the stand.

5
6 J O H N T. C H A D W I C K, IV, Sworn.

7 THE COURT: All right, go ahead.

8 DIRECT EXAMINATION BY MR. CHADWICK:

9 Q Mr. Chadwick, would you please tell us your edu-
10 cational background? A I am a

11 graduate from Rutgers University with an urban degree in
12 city planning. I have a masters degree in city and regional
13 planning from Pratt Institute and a masters in architectural
14 design, Pratt Institute, Brooklyn, New York.

15 Since graduation from Pratt Institute I have taken
16 various professional seminars and courses both at Rutgers
17 University and professional organizations.

18 Q And are you licensed by the State of New Jersey in
19 the practice of any profession?

20 A Yes, I am. I am a licensed professional planner in the
21 State of New Jersey.

22 Q In any other states? A No.

23 Q Could you tell us -- strike that.

24 When were you graduated from school?

25 A I graduated from Rutgers University in 1965 and Pratt

1 Institute in 1968. I have been licensed as a professional
2 planner in the State of New Jersey since 1969.

3 Q All right. Would you tell us your work experience
4 in this area since that time?

5 A I began employment with E. Eugene Cross Associates in
6 June of 1967. I have been with or an associate since that
7 date. We work with municipalities in the State of New Jersey
8 primarily. The work experience includes representing the
9 firm before municipalities throughout the State of New Jersey
10 covering planning matters, review of development --

11 THE COURT: Would you keep your voice up?
12 You speak very softly. And speak loud enough so
13 Mr. Bernstein can hear you at the end of that table,
14 please?

15 THE WITNESS: Sure.

16 THE COURT: Okay.

17 A My work experience includes reviewing the development
18 applications, subdivisions and site plans for municipalities
19 in preparing community development, et cetera. Effectively
20 it covers the entire spectrum of planning services to a
21 municipality.

22 Q And have you in the course of your experience been
23 engaged in the preparation of master plans and/or zoning
24 ordinances? A Yes, I have.

25 Q Could you tell us some of the representative

1 communities that you have done that work for?

2 A I have been in charge of preparation of master plans
3 and zoning ordinances for municipalities since 1967. Prob-
4 ably be in excess of a hundred master plans prepared under
5 my direction or prepared principally by myself since over
6 the past thirteen years.

7 I am also the director of planning of Oross Associates
8 a firm of approximately twenty persons, six licensed pro-
9 fessionals in the State of New Jersey. We represent cur-
10 rently thirty-five municipalities on a contractual basis
11 and additional municipalities on an on call basis.

12 Q Are you familiar with the environmental constraints
13 and topography in Chatham Township?

14 A Yes, I am.

15 MR. BERNSTEIN: I have one or two questions
16 on voir dire, your Honor.

17 THE COURT: Okay. Are you through with the
18 voir dire?

19 MR. KLEIN: Well, not quite.

20 THE COURT: Oh, all right. Go ahead.

21 Q Do you currently represent or within the past
22 thirteen years have you been involved in the preparation of
23 master plans and/or zoning ordinances for municipalities
24 with similar environmental and topographical restraints?

25 THE COURT: Wait a minute. All right. Okay.

1 I understand. Let him ask the other questions.

2 You are familiar with the environmental
3 conditions and ecological conditions in Chatham
4 Township?

5 THE WITNESS: Yes, I am, your Honor.

6 THE COURT: Okay. All right, go ahead.

7 Q All right. And then --

8 A And with respect to Chatham Township in a general
9 nature, in my opinion, no one municipality is a mirror of
10 another either in terms of manmade features or natural
11 features in context with major drainage basins, steep sloped
12 areas, et.cetera.

13 Q Okay. Would you care to identify some of these
14 townships for us?

15 MR. BERNSTEIN: I would like to know what
16 "steep" means. If it relates back, your Honor, to
17 towns which Mr. Chadwick believes have similar
18 environmental features.

19 MR. KLEIN: Obviously it relates back to that.

20 THE COURT: Okay.

21 MR. KLEIN: Yes.

22 THE COURT: All right.

23 A In terms of land areas impacted by soils conditions
24 associated with high ground water tables and/or flooding, I
25 was in charge of the preparation of the master development

1 plan for Ocean County, which has thirty-nine municipalities
2 both in 1968 and 1972.

3 We represent numerous municipalities in Atlantic County,
4 Middlesex County, Somerset County and Morris County, all
5 having land areas featuring various types of flooding con-
6 ditions.

7 In terms of severe topographic conditions we represent
8 municipalities along the Watchung Ridge line, including
9 Watchung, Warren. I have done work in Bernards Township,
10 Hillsborough Township, et cetera.

11 In terms of Morris County, the municipalities of Dover
12 and the municipality of Parsippany-Troy Hills are examples
13 and local examples of the municipalities featuring severe
14 topographic conditions.

15 MR. KLEIN: You want to ask a couple of
16 questions of Mr. Chadwick on vior dire?

17
18 CROSS EXAMINATION BY MR. BERNSTEIN:

19 Q Mr. Chadwick, the only community in Morris County
20 which you represent as the planner at the present time is
21 Parsippany-Troy Hills, is that right?

22 A Which I represent, correct.

23 Q Your firm?

24 THE COURT: He said, "Yes."

25 MR. BERNSTEIN: Okay. Very good.

1 Q In Somerset County, can you tell us what communities
2 you represent? A The Borough of Watchung, the
3 Township of Warren --

4 Q And -- A Excuse me.

5 Q All right, any others? A I am
6 trying to recall.

7 Q You personally. I am not interested in the firm.

8 A The Borough of Watchung, the Township of Warren, the
9 Township of Franklin and there is, we have a contractual
10 agreement.

11 Q As far as Franklin is concerned, you are not the
12 town planner in Franklin, are you?

13 A No, they have a full time municipal planner.

14 Q Now, is it your testimony that you are consulting
15 with them on a regular basis or on a specific project basis?

16 A With whom?

17 Q Franklin. A Specific project
18 basis.

19 Q Are you doing anything there at the present time?

20 A A specific project.

21 Q Which is... A It involves litigation.

22 To generalize that, it relates substantially to the issues
23 raised in the Mt. Laurel and Oakwood at Madison cases.

24 Q Who is the plaintiff? A Franklin
25 Field.

1 Q Is there anything else that you are doing for
2 Franklin Township or Somerset sometimes called, other than
3 the Franklin Field case?

4 A Representing the municipality in a development scheme
5 for the municipal center area including Middlebush.

6 Q Anything else? A No.

7 Q Have you prepared a defense for -- strike that.
8 Have you prepared studies for Parsippany-Troy Hills
9 with regard to the Public Advocate's law suit?

10 A Yes.

11 MR. BERNSTEIN: No further questions, your
12 Honor.

13 THE COURT: All right, proceed.

14
15 DIRECT EXAMINATION BY MR. KLEIN: (continued)

16 Q Mr. Chadwick, are you familiar with the master
17 plan of Chatham Township adopted in 1972?

18 A Yes.

19 Q Do you have a copy of that?

20 A Yes, I do.

21 MR. KLEIN: Your Honor, I would like to have
22 this marked as --

23 THE COURT: P-13.

24 MR. KLEIN: P-13 for Identification.

25 MR. BERNSTEIN: They can put it in evidence,

1 I have no objection that that, your Honor. It
2 looks like --

3 THE COURT: All right, the master plan of
4 Chatham Township can be marked in evidence.

5 MR. KLEIN: Make it J-4?

6 THE COURT: Fine. You can leave it as P-13
7 that is all right, Chatham Township for 1972.

8 (The document referred to was marked P-13 in Evidence.)

9 Q Mr. Chadwick, have you had an opportunity to read
10 and review the 1972 master plan of Chatham Township?

11 A Yes, I have.

12 Q Now, before we get into that specifically, could
13 you tell us based upon your knowledge and experience how
14 do you prepare a master plan? What are the actual materials
15 that you go through in connection with the preparation of a
16 master plan?

17 MR. BERNSTEIN: I'd object to that, your
18 Honor. I don't think it is relevant what one
19 planner or another planner does. If there is
20 something that is common in the trade, that's the
21 usual accepted practice, that may be relevant.
22 But just as I am not sure it is relevant how I as
23 an attorney prepares my case, I am not sure it is
24 relevant for this matter. Mr. Chadwick is one of
25 many planners prepares his work.

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1 MR. KLEIN: I think it is relevant, your Honor,
2 be
3 because we are going to/getting into questions of
4 comparison of the 1972 and 1978 master plans. The
5 different elements of those plans and how they bear
6 on each other and the underlying source material
7 with respect to those plans and how they vary and
8 differ, if they do at all, as well as the ultimate
9 conclusions.

10 THE COURT: All right. If the master plan
11 has seven or eight or nine sections and we are
12 only dealing with two or three and how you collect
13 the data for two or three or four of them, why go
14 into the whole thing?

15 MR. KLEIN: Well, if you prefer, I can.

16 THE COURT: Yes. I'd say under Rule 4 I really
17 don't need all that information. I am sure all the
18 planners here and I see at least two of them that
19 I recognize -- three of them, all right? That
20 sit here and tell me how they do it and we would be
21 here all day on that.

22 Not that I am saying it is not relevant in the
23 particular area that we are dealing with, but every-
24 thing, all the data you collected, I'd have a
25 problem with it. The only data that is relevant is
what I want to hear at this point, okay?

1 MR. KLEIN: Okay.

2 Q Mr. Chadwick, in connection with the drainage con-
3 ditions, for example, that may affect a municipality, in the
4 preparation of a master plan, what data would you seek to
5 assemble and review?

A It would be two
6 fundamental sources. The municipality records as they may
7 exist and most likely from the township engineer or municipal
8 engineer or consulting engineer, whichever the case maybe
9 and whatever drainage master plans may be in existence.

10 And the other source would be the Morris County Soils Con-
11 servation Service, which would give an indication in terms of
12 soils classifications, et cetera, along with the Morris
13 County Soils Conservation Service information coupled with
14 the Department of Environmental Protection flood hazard maps
15 as they may exist and the Department of Housing and Urban
16 Development flood insurance maps as may be relevant.

17 Q What is the relevancy of the HUD flood insurance
18 maps?

A The relevance in terms
19 in showing areas that may flood under the definition of the
20 Housing Urban Development, but they're relevant really in terms
21 of building elevations, proscribed as certain minimum first
22 floor area for which a structure must be erected and that is
23 above either a hundred or five hundred year. One foot above
24 the hundred or five hundred foot flood elevation.

25 It isn't an imposition upon land development as opposed

1 to a design technique.

2 Q If you could speak a little louder I would apprec-
3 iate it, Mr. Chadwick. I'm sorry, had you finished your
4 answer?

A Yes, I had.

5 Q Okay. Now, with respect to the development of a
6 housing element. What data would you seek to assemble?

7 A It would depend upon the municipality. In an urban
8 area it would/^{be}designed, the study would focus upon vastly
9 different issues than would be in a developing urban commu-
10 nity.

11 In context with Chatham Township, you would first check
12 the basic data in terms of type of dwelling units that are
13 available. The amount of land available and population
14 projections with the region. ^{Examine}/basically the directives of the
15 Supreme Court as they apply to this municipality's land use
16 policies as they now exist and formulate either alternative
17 land use plans all have a direct relationship to the findings
18 of fact as to the types of housing that should be produced
19 in the municipality to relate to the population seeking
20 residence therein.

21 Q Okay. What about with regard to traffic circulation
22 and the development of new road, if any?

23 A The studies would again include all the local sources
24 in terms of traffic volumes, traffic accident patterns, the
25 local sources being the municipal police department records,

1 township engineer, the county records, state records or
2 studies as they may exist for the municipality. Examination
3 of the road system based on, you know, fundamental data and
4 a development of/road system based on, you know, fundamental
5 data and a development of a road system to accommodate land
6 use plans or a land use plan for the municipality predicted
7 in the future.

8 For example, if a municipality were a large undeveloped
9 community crisscrossed by roadways having little or no
10 design to them and the plan is for that municipality to
11 accommodate substantial development, obviously major road
12 systems would be required to accommodate that.

13 The road system is a function of the land use plan. It
14 flows from the land use plan. The land use plan effectively
15 sets the amount of activity to be in various locations which
16 sets the other elements in place, being water, sewer facilities,
17 road networks, et cetera, to adequately serve what is fore-
18 cast and to be provided for within the land use plan vis-a-
19 vis the zoning ordinance.

20 Q Would there be any other kind of environmental
21 constraints that you would need to consider in connection
22 with the formulation of a master plan?

23 A In specific cases, yes. In context with my review of
24 the information in Chatham Township, the items that I have
25 mentioned, I think, are adequate. Quite obvious if you were

1 dealing with a municipality in close proximity to Newark
2 Airport, there are environmental constraint plans made.
3 If you're dealing with a municipality that's on the other
4 side of a theoretical LNG plan, you have potential environ-
5 mental considerations, but these are site specific and
6 deal with a particular man made circumstance.

7 You could have technical circumstances. There is a
8 fault line that runs through New Jersey. Its location is
9 know. It doesn't affect Chatham Township. That's an environ-
10 mental consideration in terms of basic sources that I refer
11 to. They would be the principal and primary sources of
12 environmental information from which land use plans should
13 be cognizant.

14 Q What bearing does development in neighboring
15 communities have on the, on your consideration of a master
16 plan?

17 A The municipality, municipal
18 plan law requires that the municipality examine the adjoin-
19 ing land use plans and their development character in order
20 to develop plans consistent with the municipality and con-
sistent with the regional plan.

21 If the plan adopted by a municipality is inconsistent,
22 the specific reasons for that inconsistency must be stated.
23 You get into the circumstances quite often when one munici-
24 palty is making a choice or a decision from known facts in
25 a different manner than others in terms if inconsistency

1 arises. In general, however, the effect of the development
2 of an area around a municipality must be taken in context
3 with the development policies of that single municipality.

4 Q Okay. Turning now to the 1972 master plan of
5 Chatham Township. I believe, you indicated that you were
6 familiar with that master plan?

7 A Yes, I am.

8 Q Could you tell us -- before we get to that.

9 In 1972 what was your understanding of the effect
10 and purpose of a master plan?

11 A The, my personal opinion in 1972 is not any general
12 difference from today's master plan. I think, the profession
13 recognized the need for basic definitions and should not be
14 included within a master plan which was originally published
15 bill
in the/S803, which was presented to the state by the governor.
16 It was never enacted, but substantial portions of that bill
17 are repeated in the Chapter 281 laws of the State of New
18 Jersey on the municipal land use law.

19 So in my opinion, as to what a master plan is in 1972
20 to 1980 isn't substantially different. Maybe more clarified.
21 There maybe more fine points that would be included, but
22 they're set forth in the plan and the context of the plan,
23 including both the man made and environmental considerations.

24 The question of need to focus upon housing questions,
25 availability of housing services, to housing environmental

1 constraints were known in 1972, they're known today. They
2 just become more in focus most likely because of the liti-
3 gation which has revolved around municipal land use plans.

4 Q Okay. Could you describe for us based upon the
5 information contained in the 1972 master plan the environ-
6 mental constraints affecting the Green Village road area of
7 Chatham Township?

8 A Excuse me. I didn't
9 get your reference. Was it the 1972 plan or the 1978 plan?

10 Q '72. A The environmental
11 constraints as generally referred to in the 1972 plan are
12 the same today, in terms of the infrastructure that is
13 available or not available. The unavailability of sewers or
14 the unavailability of the fact that sewers are not within
15 the roadway, that the water table of the refuge and the
16 park land adjoining is a high water table, that the elevation
17 of land along Green Village Road has not changed, is the
18 high elevation within the, what I will refer to as the
19 northern portion of the township, and the lands are sloping
20 away at a lower elevation to the rear.

21 Q Has there been any change in the development of
22 the area of the town running from, let's say, Loantaka Park
23 to Shunpike along Green Village Road?

24 A I can only answer from a comparison of the material
25 contained in the 1972 plan and the documentation contained
in the later documents.

1 The single largest development is the, at least to my
2 understanding of the garden apartment development, in close
3 proximity to the Shunpike and Green Village Road.

4 Q All right. Is that the development that's shown
5 here in the cross hatch marking?

6 A Yes, it is. It has two red circles.

7 Q Okay. A Shown on it.

8 THE COURT: Let the record show he is refer-
9 ring to --

10 MR. KLEIN: I'm sorry, your Honor. That was
11 P-1 for Identification.

12 THE COURT: -- P-1.

13 Q Now, what was the zoning in the Green Village
14 Road area of Chatham Township in 1972?

15 A The zoning from Shunpike going westerly along Green
16 Village Road was multi-family on the southerly side of
17 Green Village Road to the extent of the garden apartments
18 referred to above was a professional institutional zone
19 approximately the same extent westerly along Green Village
20 Road as was the multi-family development.

21 West of that area was in an R-1 townhouse option area
22 for those lot areas fronting or having direct access to
23 Green Village Road approximately west to the post office.
24 West of that area was in a low density, I believe, two and
25 a half acre, in a one acre residential zone category to the

1 brook, Loantaka Brook and west of that was in a rural
2 residential category which was a two and a half acre
3 residential zone.

4 Q The latter being the area that of the township
5 that abuts Harding Township, is that correct?

6 A That's correct.

7 Q Now, did the 1972 master plan recommend changes
8 in that zoning or was that zoning reflected in the master
9 plan?

10 A The 1972 master plan described
11 the zoning basically in effect until the new zoning of the
12 ordinance of the township that is the subject of this
13 litigation.

14 Q Okay. Now, am I correct then that -- well, I
15 don't want to put words in your mouth.

16 For the record, the area marked YY has previously be
17 described as the plaintiff's property on the southern side
18 of Green Village Road and the area marked X, all on P-1
19 for Identification right next to the post office is the
20 area of the plaintiff's property on the northern side of
21 Green Village Road.

22 Could you tell us what the zoning was with respect to
23 those two pieces of property as recommended by the 1972
24 master plan?

25 MR. BERNSTEIN: Your Honor, I'd object to
the form of the question. It indicates zoning

1 and then it recommends -- if the question was, what
2 did the 1972 master plan recommend, I have no
3 problem, or what was the zoning. But, I think,
4 it is ambiguous.

5 THE COURT: What the master plan recommended.
6 Then you can get to the zoning after that.

7 A The master plan recommended the area as an R-1, town-
8 house area essentially half acre lot zone with townhouse
9 option.

10 Q Is that for both parcels?

11 A No, for the parcel on the southerly side of Green
12 Village Road.

13 Q Okay. And the parcel on the northerly side?

14 A The parcel on the northerly side adjoins that same
15 zoning district, but be in an R-1 residential category.

16 Q And what is the minimum lot size in that zone?

17 Do you recall that? A In which, the R-1?

18 Q The R-1. A Half acre zone.

19 That was in the context with the '72 zone.

20 Q Okay. Now, in the preparation of that master plan,
21 does the plan indicate that there was consideration given to
22 soils types in the Green Village Road area?

23 A Yes.

24 Q And what does it indicate that the soils type was?

25 MR. BERNSTEIN: I'd like to know, your Honor,

1 if we are still talking about the 1972 master plan.

2 MR. KLEIN: I prefaced my question --

3 THE COURT: Why don't we just until he changes
4 it, we are talking about the '72 master plan.

5 MR. BERNSTEIN: Thank you, sir.

6 A My recollection had been that the '72 master plan
7 marked exhibit P-13 specifically referred to the physical
8 characteristics of the township relevant to both neighborhood
9 areas in the township at large. That particular document
10 does not. That was my purpose for actually quickly scanning
11 the document as I was doing.

12 The background material studies which I have reviewed
13 in general does refer to the physical features of the munici-
14 pality in terms of the issues or the items I have discussed
15 before in terms of water table, topography, et cetera.

16 Q Now, I assume you're also familiar with the 1978
17 master plan? A Yes, I am.

18 Q Okay. Now, could you tell us first, are you aware
19 of any kind of -- strike that.

20 Are you aware of the development which is actually
21 proceeding and being provided for the Borough of Madison
22 where it abuts Chatham Township on the northerly side of
23 the Township? A Yes, I am.

24 Q And what is the nature of that development?

25 A It is a large corporate office complex referred to as

1 the Dodge tract. It is a development a response ordinance
2 by which my classification by the Prudential Insurance
3 Company of America.

4 Q Okay. Is that development actually proposed to
5 come into the Township of Chatham as well?

6 A The area on that map P-1?

7 Q Yes.

8 THE COURT: P-1.

9 A Which is the, would be the upper portion of the tract
10 just -- I guess, I could initial it, would be the simplest
11 way of describing it.

12 The area that I am marking on P-1, and I am just indi-
13 cating that the tract of land with arrows is the extent of
14 the Dodge tract into Chatham Township and indicating that it
15 flows to to Madison. I have initialed it and placed a date
16 on it. I think today's date is the 4th.

17 THE COURT: Pardon?

18 THE WITNESS: Today's date is the 4th. I
19 initialled it and put the date on it.

20 THE COURT: Let the record show that he
21 refers to an area, I guess, it is located approx-
22 imately to the west of Loantaka Road and on the
23 map in question. I think, I know the name of the
24 road.

25 MR. KLEIN: Woodland Avenue.

1 MR. BERNSTEIN: Woodland?

2 THE COURT: Woodland Avenue.

3 A VOICE: Loantaka is up here.

4 THE COURT: Okay. On the document itself it
5 is the top most portion of the map, of the mapped
6 area, I should say.

7 Q Now, are you familiar with the drainage conditions
8 affecting the Township of Chatham in the Green Village Road
9 area both north and south?

10 A I am familiar with the documents I have referred to
11 before. The soils conservation survey, HUD maps and I have
12 made field observations of the area.

13 Q And based upon your review of those documents
14 and your field observations, what are your conclusions with
15 respect to the drainage affecting those areas?

16 A Green Village Road is the high lands within the area
17 between the refuge and the county park. The area is, as I
18 view it, in a plateau where you have an elevation in the
19 neighborhood of 280 down to 240 and running from the, using
20 Green Village Road as a boundary line, running south to the
21 refuge in the 240 foot elevation and running from the north
22 of Green Village Road going from 250 down to 240 or there-
23 abouts. That essentially I view the Green Village Road as a
24 plateau extending westerly with the lowest elevation to the
25 west and the highest elevation to the east and the elevation

1 falls off from the roadway both to the north and the south.

2 Q And with respect to the plaintiff's property, in
3 your opinion, are those properties located in the higher or
4 lower elevations? A Both.

5 Q All right. Could you be a little more specific?

6 A The front areas of the properties as indicated with
7 the red markings, which are Y's in --

8 Q The southerly side they're ~~re~~YY and on the northerly
9 side it is X, I believe. A Referring to

10 the southerly side, I have examined the topographic maps
11 of the municipality as well as the soil surveys for those
12 particular areas and also made field observations. The
13 property is relatively flat extending from Green Village
14 Road and walking southerly it falls off to the rear basically
15 where it abuts Nash Field.

16 I did not walk this property with the benefit of a
17 survey or stake the property. I walked the property for
18 the benefit of land marks that the area and field that I
19 observed, the land just described, the land marked in Y on
20 that map.

21 With respect to the property to the north marked with
22 an X adjoining the post office, the property again is rel-
23 atively flat at the Green Village Road area and the elevation
24 falls off as it extends back to Loantaka Park to the rear.

25 The precise drop, again not conducting a survey as

1 referred to by an engineer, but making a walking observation,
2 the rear most portion falls off. The front area is flat
3 and relatively the same elevation as the roadway.

4 Q Now, you indicated that you reviewed the soils
5 survey. Could you tell us what kind of soils predominate
6 in the plaintiff's properties?

7 A Yes, I can. And I am referring to the Morris County
8 Soils Survey, Morris County, New Jersey under the prep-
9 aration of the United States Department of Agriculture.
10 That survey contains aerial photographs showing the soil
11 types, all of the land area within Morris County and which
12 obviously includes Chatham Township and also referring to
13 those maps, the soil types are indicated in the same publi-
14 cation.

15 The soil types along Green Village Road consist of
16 a river head classification which is shown on the maps as
17 an RMWA subcategory of A, B and C. The subcategories A and
18 B basically describe the lands along Green Village Road.
19 The subcategory C is the rear most portion of the lots
20 fronting on Green Village Road.

21 In the other category, which in some cases also present
22 on the lot areas, when I refer to the lot areas, fronting
23 or having access to Green Village Road, I'm referring to,
24 to save time, I will just point to P-1. Essentially an area
25 along both sides of Green Village Road to Loantaka Brook and

1 back to the garden apartments or Hickory Place.

2 I am not referring to the smaller lots. I am^{only} referring
3 to the smaller lots. as they're shown on P-1. In addition
4 I -- I interrupted myself -- the soils types that is to the
5 rear is a PV classification, which is a Preakness soil having
6 various subcategories.

7 There are other classifications of a lesser extent.
8 The PV classification is a soil type that is referred to
9 as having severe developmental constraints for almost any
10 use of the land classified by the soil survey.

11 The river head classification in the A and B sub-
12 catories having slight or moderate development constraints.
13 The C classification having moderate to sometime severe
14 development constratins.

15 Q And in your opinion then the land areas abutting
16 Green Village Road generally taking the rectangular shape
17 indicated by you with Loantaka Park on one side and Hickory
18 Road on the other side, would they generally be land with
19 severe or moderate development constraints?

20 A The extremities of that area are referred to may fall
21 in either of the categories severe or moderate. The land
22 areas along and fronting and extending back from Green
23 Village Road would be in a slight, going to a moderate
24 development constraint.

25 The soil survey is an indication of soils types is

1 the post office as a demarcation of east and west.

2 Q Are you familiar with a proposal contained in the
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1 not precise. That's why I am giving you general classifi-
2 cations. If I had to describe and approximate the slight
3 to moderate to severe, I would, my conclusion would be the
4 back third of those areas would be in a moderate to severe
5 and the front two thirds of the area referred to before would
6 be in a slight and moderate category.

7 Q Now, how would those soil types compare, for example,
8 with the soil types located in the area which is north of
9 Green Village Road and, I guess, east of Shunpike?

10 A The soil types in that area are in a both PV and PT
11 category. There is also classifications of urban fill or
12 areas shown as being, having been filled. The soil types are
13 generally in the severe to moderate development constraints.

14 Q Now, could you describe for us generally the kind
15 of development which presently exists along Green Village
16 Road, let's say from Britten Road east to Shunpike? This
17 line being Britten Road.

18 A Britten Road itself is a single family residential area
19 along Green Village Road is single family homes, post office,
20 a nursery.

21 The single family homes are more tightly clustered in
22 the easterly sector of the roadway as it abuts the garden
23 apartment development and less intensive along Green Village
24 Road.

1 Q Could you tell us, for example, what those classi-
2 fications are? A Green Village Road

3 is shown as a major roadway. Shunpike and Shunpike bypass are
4 both shown as major roadways.

5 Q And how is a major roadway defined in the master
6 plan? If not specifically, generally?

7 A I don't find a specific reference by looking.

8 THE COURT: You're asking for a definition of
9 major and minor? What is the difference between a
10 major and minor road?

11 MR. KLEIN: Yes. Generally, yes.

12 A I don't have a specific reference to a definition, but
13 my perception of the plan is that major roadways are those
14 streets which carry the through traffic and traffic generated
15 from the development within the municipality's other streets
16 are to serve as, basically as local purposes, rights-of-way
17 for utilities and access to specific properties as opposed to
18 through traffic and traffic generated by the development of
19 the community.

20 Differentiation, one differentiation of the two is one
21 a major street provides for through traffic, traffic within
22 and through the community and all others are not designed to
23 carry through traffic or any of the other purposes, and as I
24 stated before, Green Village Road and Shunpike and the proposed
25 Shunpike bypass are major roads within the context of my

1 perception of that plan.

2 Q Now, could you tell us generally where it is proposed
3 that this Shunpike bypass would go in relation to the properties
4 of the plaintiff, if you can?

5 A It would be simpler to mark it on P-1 than to try to
6 describe.

7 Q Fine. A I have marked with a
8 blue pencil on P-1 a very rough alignment of what I referred
9 to as the Shunpike bypass and labled it "road" as shown in
10 the Chatham Township '78 master plan and initialed at the
11 rough alignment is shown with a cross hatch as distinguished
12 from the boundary line I previously placed and initialed.

13 Having drawn the line in and to answer the question, how
14 is the roadway affected or related to the properties in
15 question, marked as X and Y respectively, the road, in my
16 opinion, is in close proximity to those properties and, there-
17 fore, the properties are in the intersection of two major
18 roadways as shown in the 1978 master plan.

19 Q Now, do you know the designation of Chatham Township
20 relevant to the state development plan, the statewide outdoor
21 recreation plan and any other region, on any other regional
22 plans?

23 THE COURT: Let's take it one at a time.

24 MR. KLEIN: Okay.

25 THE COURT: The state development plan and

1 they are -- well, we will take the other plans later
2 because I don't want to get confused. Let's take
3 the state development plan.

4 THE WITNESS: The state development plan is
5 published by the Department of Community Affairs
6 and shows Chatham Township in a growth area.

7 Q When they, when the plan indicates a growth area,
8 what are the parameters that they use in that regard?

9 A I am not certain I understand your question.

10 Q How does the state development plan in general terms
11 classify what is a growth area as opposed to what is not a
12 growth area?

13 THE COURT: Can you do it this way? What are
14 the different categories the state development plan
15 provides for?

16 THE WITNESS: The popularized version is an
17 urban development center growth area and basically
18 rural and conservation areas as well as open space
19 areas shown on the plan.

20 The urban development areas, I think, speak
21 for themselves.

22 THE COURT: As limited growth areas?

23 THE WITNESS: Yes. The growth areas are bas-
24 ically described as areas having population
25 densities of two to fifteen dwelling units to the

1 acre.

2 THE COURT: How many?

3 THE WITNESS: Two to fifteen. There is some
4 clarification of that plan under way of which I
5 have participated so I am being general because of
6 my professional work with the Department of Community
7 Affairs and the tri-state in terms of their cor-
8 relation of the two regional plans and the densities
9 as published documents.

10 The growth areas refer to areas of varying
11 densities and expected to develop. They are
12 developing areas.

13 Q What about the statewide outdoor recreation plan?

14 A The statewide outdoor recreation plan commonly referred
15 to as SCORP shows the National Wildlife Refuge. That plan
16 does not indicate the county park. I have discussed the plan
17 with the representatives of Green Acres and asked if there
18 is any proposal to expand the Wildlife Refuge.

19 There is none on file with the state and there is
20 no proposal within the statewide outdoor and with the con-
21 servation outdoor recreation plan.

22 Q What about the tri-state regional plan? How does
23 that classify Chatham Township?

24 A Not to introduce new terms as a developing area,, a
25 growth area, the tri-state plan set up a grid system and

1 assigned densities within the grid system. That is still
2 under cross acceptance procedures with the development of
3 community affairs in Morris County, to the best of my know-
4 ledge. But to differentiate a limited growth and no growth
5 area to a development, a developing area, Chatham Township
6 is located within the developing area and both regional plans
7 affect the area as distinguished from limited growth or no
8 growth areas or conservation areas.

9 Q Now, are you familiar with the zoning that has been
10 adopted by the municipality?

11 THE COURT: Are you going into a new subject?
12 Let's take a ten minute break. The court reporter
13 has been going. Take ten minutes. Make it ten
14 after.

15 MR. KLEIN: Okay, sure.

16 (A short recess was taken.)

17 THE COURT: Okay. The last question you asked,
18 are you familiar with the zoning ordinance adopted
19 adopted in 1979?

20 THE WITNESS: Yes, I am.

21 Q And could you tell us under that ordinance the
22 zoning of the township from the Harding border along Green
23 Village Road to the border of the Borough of Madison?

24 THE COURT: I don't think he needs to do that
25 unless you want to refresh his recollection because

1 we got the map.

2 MR. KLEIN: Fine. If this is --

3 THE COURT: No, this you have introduced the
4 zoning map as part of the zoning ordinance.

5 MR. KLEIN: Okay. That's the '78.

6 THE COURT: Yes, J-3 in Evidence.

7 MR. KLEIN: Okay.

8 THE COURT: So if you want to refresh his
9 recollection we can put it up.

10 John, put it up on the board. Okay. Now
11 we know what the zoning is.

12 MR. KLEIN: Okay.

13 Q In particular, Mr. Chadwick, can you locate the
14 plaintiff's properties on J-3 in Evidence?

15 A Yes, I can. I will mark them with the same indication
16 that was used on P-1 in Evidence. An X with my initials on
17 it. On a piece of property on the northside of Green Village
18 Road and Y's with my initials on the tract on the southside
19 and I will roughly outline the two and initialed them.

20 Q Now, we were talking before about the Shunpike by-
21 pass that is being proposed in the master plan. What effect,
22 in your opinion, is that bypass going to have on the plaintiff's
23 properties?

24 A It has an effect on
25 the Green Village Road area and the plaintiffs' properties
in context with that same area.

1 The current intersection of major traffic routes is the
2 Green Village Road/Shunpike. The master plan proposes a by-
3 pass which would, as I have described and as I have shown
4 on P-1, being in close proximity to the plaintiff's property
5 and approximately halfway between Green Village Road inter-
6 section with Shunpike and the Loantaka Brook, in my opinion,
7 essentially expand what I will refer to as a center within
8 Chatham Township. It effectively makes a traffic pattern
9 of two major traffic routes running roughly north/south
10 intersected by Green Village Road and the land use plan in
11 my judgment does not take into consideration the proposed
12 improvements as shown on the master plan, including the
13 traffic improvement as just described.

14 The village center essentially as I have referred to
15 it, in my judgment, should reflect the changes of traffic
16 patterns in the road alignment as they propose to affect
17 that area westerly along Green Village Road as I have des-
18 cribed at some length.

19 Q Do you think that the location of that road in
20 that area should have an effect on the zoning of the properties
21 near to the location of the road?

22 A It is essential to deal with both the fundamentals of
23 the reasons for the Shunpike bypass given the known develop-
24 ment bordering the municipality which is in Madison. And
25 the traffic over-spill from that development plan takes that

1 into consideration.

2 The master plan, the land use plan specifically indi-
3 cates an office research category in that area that I refer-
4 red to as the Dodge tract and outlined on P-1 in Evidence.
5 In order to, in my judgment, both insulate future residential
6 development from the heavy traffic flow as planned on the
7 major roadways as well as take into account added services
8 that would be available, being high capacity roadways, the
9 types of zoning that are on the most easterly side or end
10 of Green Village Road, in my opinion, address those basic
11 factors.

12 One, allow the design flexibility on the site of a
13 multi-family housing type and separation from roadways and
14 to the other side of the coin, the added facilities in the
15 area serving the higher density population, all consistent
16 with the road proposals within the township's master plan.

17 Q What about on the western side of the proposed
18 program? A I am making the statement
19 relevant to land development considerations and the roadways
20 as that area would extend to the R-3 zone that I am pointing
21 to on --

22 Q J-3 in Evidence. A J-3, which is
23 Britten Road, or I have used as a basic westerly boundary
24 line and Loantaka Brook.

25 Q And in your opinion, is the proposed zone for that

1 area compatible with the development of Shunpike, the new
2 accessory road that is proposed?

3 THE COURT: Is the existing zoning compatible
4 with the proposed road?

5 MR. KLEIN: Yes.

6 THE COURT: When you're talking about exist-
7 ing zoning, you're talking about this zoning?

8 MR. KLEIN: That was adopted in January,
9 1979.

10 THE COURT: Okay.

11 A In my opinion, it is not and it is not for the funda-
12 mental reasons that I have stated to the court as to the
13 deed to both provide for design flexibility relevant to
14 future residential development for the intersection of two
15 major roadways. The two major roadways, in my judgment,
16 having an active shift within that same area. Green Village
17 Road currently is a roadway running east/west with no major
18 street intersection and carrying traffic to and from the
19 Shunpike.

20 What is being proposed is a fundamental shift of activity
21 being traffic flow westerly and intersecting with that road-
22 way, in my opinion, having the effect of the adjoining land
23 areas and all of Green Village Road.

24 The other side of the coin is that the access is then
25 afforded for higher more intense land development because

1 of the major roadway facilities geared to a major or regional
2 development as I referred to before, the Dodge tract, that
3 can be accommodated within this area that I have referred to
4 before.

5 Mr. Klein, I think, possibly another way of putting it
6 would be a comparison of a freeway running through rural
7 areas in the State of New Jersey. The freeway wasn't caused
8 by it or there for the need to serve the rural areas of
9 New Jersey, but quite obviously freeways have spawned
10 development all across New Jersey.

11 The Shunpike bypass, as I perceive the statement of
12 facts and the conclusions within the 1978 master plan is to
13 address both the Dodge tract in their own master plan and
14 the flowing traffic in that area. The bypass is necessary.
15 With the bypass you have a shift of activity. You have, in
16 my judgment, a following pattern of development that is
17 traditional. The following pattern of development, however,
18 can be accommodated in my judgment in a better manner using
19 the design flexibility afforded with the zoning districts
20 in the easterly sector of Green Village Road, the R-3A,
21 R-3C, R-3B zones.

22 Q So if I understand what you're saying is that the
23 center or one of the centers of traffic activity which was,
24 which is presently Shunpike, Green Village Road and Southern
25 Boulevard is going to shift to the west with the development

1 of the new road, is that correct?

2 A That's correct.

3 Q Now, referring to the area from the brook easterly
4 towards the Shunpike, in your opinion and based upon the
5 studies that you have done, would that area be compatible
6 with more intensive zoning than is presently planned?

7 A Yes.

8 Q Could you be more specific as to the kind of zon-
9 ing that you believe that area could support?

10 A Well, in terms of background study I reviewed the
11 materials that were available from our office or provided
12 to myself, materials available of our office of background
13 studies of Chatham Township back in the 1968 version of
14 their master plan.

15 The material provided was the 1972 master plan and a
16 copy of the zoning ordinance in effect. The '72 master plan
17 of the municipality did indicate substantial larger portions
18 of the area in a more intensive residential category rough-
19 ly similar to the zoned districts as shown on J-4?

20 Q J-3. A On J-3, which would
21 have covered all of the area labeled as Y on J-3 and adjoining
22 or portions of the area labeled as X on J-3.

23 The circumstances since 1972 from a major development
24 standpoint is the Dodge tract as the Prudential Corporate
25 Headquarters as well as development within and without

1 Chatham Township, albeit since 1972 the rate of housing
2 development has been, in my judgment, artificially, not
3 artificially, my judgment very low as a result of conditions
4 beyond the control of the municipality to some extent,
5 vis-a-vis, costs. However, the zoning of a municipality
6 also is of particular input in terms of those rates of
7 housing development.

8 In context with the history of both the plan of the
9 municipality in 1974, the circumstances immediately adjoining
10 the municipality of Madison Township, the Borough of
11 Madison and the Prudential development and their own 1978
12 master plan, the environmental conditions that are present,
13 be it elevations, soil types, as I described before, in my
14 judgment that area can accommodate more intensive develop-
15 ment, development type consistent with that zoning plan on
16 the easterly end of Green Village Road in the R-3A,B, C
17 zone districts.

18 Q Are the soils, for example, in the areas shown
19 in the R-3A, B and C districts compatible with the soils
20 in the balance of that area travelling west to the Loantaka
21 Brook along Green Village Road?

22 A The zone boundary lines as I perceive them, they
23 follow lot lines. They do not follow soil classification
24 lines. The soil types as I have described or the limitations
25

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1 if the zoning plan were designed to rate soils as a most
2 controlling or major controlling factor in terms of density
3 of development, in my judgment, the R-3 series of zones
4 should have been extended westerly along the Green Brook,
5 Green Village Road, areas along the Shunpike, both to the
6 east and west should have been of a lesser density.

7 In terms of the effect or the input of the Department
8 of Community Affairs housing allocation report which was
9 available during the development phases of the master plan
10 or fact finding of Chatham Township, substantial demand for
11 just low and moderate income housing was indicated within
12 that report for the township, notwithstanding moderate and
13 upper middle income housing.

14 The plan as set forth by the municipality itself rele-
15 vant to infrastructure. The infrastructure including funda-
16 mental services, roads and sewers proposes major new facilities
17 crossing the Green Village Road area. Taking the basic
18 information available, one, soils information in terms of
19 whether or not there is a development limitation to the land,
20 two, one of the plan facilities within the area roads and
21 sewers, three, what is the effect of regional considerations
22 beyond the municipality's boundary for development elsewhere
23 adding to the impact on the community and referring specific-
24 ally to the Prudential development, and secondly, to the
25 Department of Community Affairs' report, in my opinion, the

1 zoning was an unjustified reduction of the general scheme
2 as indicated in 1972 of a higher density area extending west-
3 erly along the Green Village Road corridor.

4 Q With respect to residential units available in the
5 township, did the 1972 master plan contemplate more residential
6 units or less residential units than the 1978 master plan?

7 A There is not a specific numerical breakdown in the '72
8 master plan that I recall as there is contained in the '78
9 master plan.

10 The '72 master plan, no. I am reviewing the exhibit
11 P-13. I think, my recollection is correct. In the published
12 version of the master plan there is not a specific table as
13 is contained in the '78 master plan. However, focusing
14 specifically on the Green Village Road area as I have testified
15 to previously, the higher density zoning district is roughly
16 equivalent to the R-3A, B, C series with one larger in area
17 and extending westerly in terms of more intensive residential
18 development.

19 The township has shifted, however, and added additional
20 lands along the Shunpike northerly which borders the R-4 zone
21 into a higher density residential category, the R-3 zone.
22 In addition, they have added along the Passaic River in the
23 most southeasterly area basically bisected by Mt. Vernon.
24 I think, it is Mt. Vernon. Yes, Mt. Vernon Avenue into an
25 R-2A classification which was previously zoned non-residential

1 as shown recommend non-residential in the master plan. How-
2 ever, it is a timeframe in which you make these comparisons.
3 Comparisons of the plan in/^{the}1972 plan and all of the issues
4 I have described before to the 1979 master plan as imple-
5 mented by zoning.

6 The question of a municipality's ability to provide
7 for ranges of housing, both for middle, upper middle and
8 wealthy households and low and moderate income households
9 is not a remote or academic subject, communities remote or
10 academic subject to municipalities.

11 There appears to be, in my judgment, a reduction in
12 terms of the area that is allowed for housing. A major
13 reduction in terms of the '72 plan would be simply that area
14 shown in the R-1A classification to the north and west of
15 the R-3A districts. And I will point to the rough area all
16 shown as a half acre residential zone in the '72 plan. Reduced
17 to a low density residential district in the current zoning
18 plan.

19 The finding of fact, in my opinion, support the reduction
20 of density in this area as referred to the soils information.
21 But by reducing in some areas, I think, the municipality has
22 the burden and responsibility to take into account what is
23 factual information available and provide for elsewhere.
24 And in that context the statements of my opinion to the zoning
25 along Green Village Road, not to be redundant, I carry on.

1 and I repeat.

2 Q Okay. You made a reference a short time ago to
3 the general infrastructure in the town as specifically to
4 sewers. Are you aware of the existence of a intercept line
5 running up to Green Village Road?

6 A I have reviewed the various materials in context with
7 preparation for my testimony. I am aware of the plans,
8 sewer plan within Chatham Township. I apologize for the
9 court not have a --

10 THE COURT: Well --

11 A -- a specific tag of reference to find the maps so I
12 wouldn't have to go into a long discussion.

13 THE COURT: Okay. I have to break now any
14 way for the meeting that I have. So tomorrow
15 morning at nine o'clock. It will give you a chance
16 to look at that. Okay, fine. Thank you.

17 - o o o -

18
19 I, Earl C. Carlson, certify that the
20 foregoing is a true and accurate transcript
21 of the testimony and proceedings in the
22 above entitled cause.

23
24 Earl C. Carlson

25 Date: March 8, 1981.

PENGAD CO., BATONNE, N.J. 07002 - FORM 2048