

ML - Morris County Fair Housing Council

Jan 22, 1980

v. Boonton

Transcript of Deposition of Allen J. Dresdner

pg. 109

ML000912 ~~06~~

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

42-4270

MORRIS COUNTY FAIR HOUSING
COUNCIL, ET ALS.,

DIRECT CROSS

Allen J. Dresdner
Plaintiff

DEPOSITIONS OF:

-VS-

ALLEN J. DRESDNER

BOONTON TOWNSHIP, ET ALS.,

Defendant

EXHIBITS

BEFORE: PATRICE K. SPROVIERI, a Certified Shorthand
Reporter and Notary Public of the State of New
Jersey, at the offices of Dresdner Associates,
P.A., 57 Union Place, Summit, New Jersey, on
Tuesday, January 22, 1980, commencing at 10:00
in the forenoon, pursuant to notice.

MB-4 Sketch map showing area served by

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

MP-8 STANLEY C. VAN NESS, PUBLIC ADVOCATE
By: KENNETH B. MEISER, ESQUIRE
for the Plaintiffs

K-1 Sketch map showing water bodies and
MESSRS. DILLON, BITAR & LUTHER
By: BARRY M. JOHNSTON, ESQUIRE

K-2 Site for the Borough of Mendham
reservoirs in Kinnelon
MESSRS. VILLORESI & BUZAK
By: EDWARD J. BUZAK, ESQUIRE
for the Borough of Kinnelon

SUPERIOR COURT
MORRIS COUNTY,
FILED

FEB 11 1980

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DEPUTY CLERK

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1-29-80

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By: KENNETH E. MEISER, ESQUIRE
for the Plaintiffs

MESSRS. DILLON, BITAR & LUTHER
By: BARRY M. JOHNSTON, ESQUIRE
for the Borough of Mendham

MESSRS. VILLORESI & BUZAK
By: EDWARD J. BUZAK, ESQUIRE
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I N D E X

WITNESS

DIRECT

CROSS

Mr. Dresdner

Mr. Meiser

2,82

Mr. Buzak

105

EXHIBITS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>IDENT.</u>
MB-1	Sketch map showing qualified farmlands in Mendham	4
MB-2	Sketch map showing flood plains in Mendham	4
MB-3	Sketch map showing slopes greater than 12 per cent in Mendham	4
MB-4	Sketch map showing area served by sewer in Mendham	4
MB-5	Sketch map showing area served by water in Mendham	4
K-1	Sketch map showing water bodies and slopes in Kinnelon	83
K-2	Sketch map showing water supply reservoirs in Kinnelon	83

1 A L L E N J. D R E S D N E R, 57 Union Place,
2 Summit, New Jersey, Sworn.

3
4 **DIRECT EXAMINATION BY**

5 **MR. MEISER:**

6 Q This is a continuation of depositions which
7 we started two weeks ago. The same guidelines would
8 apply. If you have any questions that you don't under-
9 stand, please clarify it with me, and I'll try to rephrase
10 the question.

11 MR. JOHNSTON: Let me just interj
12 point. When you say it's a continuation
13 continuation as to this witness but not as to this
14 particular defendant, I would hope.

15 MR. MEISER: We have asked no questions
16 about --

17 MR. JOHNSTON: About the Borough of Mendham?

18 MR. MEISER: They were general, introductory
19 questions about his resume.

20 MR. JOHNSTON: What defendant was present at
21 that --

22 MR. MEISER: The people who were present
23 initially were the attorneys from Morris Township,
24 from Mendham Township, from Passaic, and from
25 Kinnelon.

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MR. JOHNSTON: Thank you.

DIRECT EXAMINATION CONTINUED

BY MR. MEISER:

Okay, Mr. Dresdner, what materials have you prepared for your review of Mendham Borough?

A I prepared a report for the Borough of Mendham called an analysis of the relationship of environmental characteristics and land development, which I believe you've received and have a copy of.

Q Right. Go ahead.

A Well, I base that report on a number of [redacted] and published periodicals and maps.

Q For the record, why don't you just read into the record those which you have used.

A Some of them include the Lords Study prepared by the State Bureau of Geology, the county soil maps, the New Jersey State map of surficial geology, the USGS map of the area, the map of Morris County streams prepared by Morris County, the State Department of Community Affairs [redacted] Housing Allocation Report, the plans prepared by the tristate Regional Planning Commission, the State of New Jersey, the Department of Community Affairs and Morris County plans.

Those are some of the published reports that come immediately to mind. There are others.

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1 Q Have you prepared any maps yourself in pre-
2 paration for use at this trial?

3 A I prepared several sketch maps. I haven't finalized
4 them, nor did I intend to finalize them until just before
5 the trial.

6 Q Would you be actually the one, unlike Morris
7 Township, where someone else from Catlin's office was pre-
8 paring the maps for trial, will you be preparing these
9 yourself?

10 A Yes, we will be preparing them ourselves.

11 MR. MEISER: The sketch maps, can [REDACTED]
12 mark the back of them for identification [REDACTED]

13 (Thereupon, MB-1 through MB-5, sketch maps,
14 are received by the reporter and marked for identi-
15 fication.)

16 Q For the record, would you just briefly sum-
17 marize what is shown on these five maps, one by one?

18 A Yes. MB-1 shows qualified farm lands in the borough,
19 as well as regular farm land. MB-2 shows flood plains in
20 the borough. MB-3 shows slopes greater than twelve per cent
21 in the borough. MB-4 shows the area served by sewer in the
22 borough. MB-5 shows the area served by water in the
23 borough.

24 Q We'll come back to those. Now turning to
25 your report for a moment, on Page 3 you characterized

1 Mendham Borough as a low density rural-residential charac-
2 ter. In population terms, density terms, what do you mean
3 "low density rural-residential character"?

4 A part of it is the density of the area. A part
5 relates to the character of the area, and part relates to
6 the function of the area in identifying or classifying a
7 community as low density rural-residential. Generally
8 speaking, a low density rural-residential area is charac-
9 terized by a combination of single-family homes and farms
10 with densities in the built-up or residential areas, at
11 least from -- starting at perhaps two units per
12 that's half-acre lot sizes in areas where there
13 water and sewer provided. Occasionally, the density might
14 go down to four units per acre. A ten thousand square-foot
15 lot size is usually the smallest you would expect in these
16 kinds of communities, with the exception of those portions
17 of the community that are the oldest portions of the com-
18 munity.

19 There would be a large agricultural hinterland, and
20 center of the community, to the extent that one exists,
21 essentially to serve the surrounding residential area.

22 Finally, there are not usually large employment
23 generators within the community.

24 Q Okay. When a town is suburbanized so that
25 it has a suburban character, is there any type of density

1 as to persons per square mile that we might see or we might
2 be able to use as a characterization as suburban?

3 A Well, there would be a range. More important would
4 be the extent of development and its location in relation
5 to the central city and transportation facilities.

6 Q Is there any guideline that you could give
7 in terms of persons per square mile, the density in the
8 town itself?

9 A Generally, for a suburban community -- well, as I
10 mentioned, it would be a substantial range. For example,
11 Summit is a suburban community, and we have here [REDACTED]
12 everything from one-acre lots to six-story apartments.
13 New Providence is another suburban community, and they
14 range -- the residential areas range in size from, say,
15 perhaps one-third of an acre to garden apartments.
16 Berkeley Heights is a suburban community, and they have no
17 apartments.

18 Generally speaking, a suburban community can range
19 anywhere from densities which are typically five to ten
20 [REDACTED] square foot lots for single-family homes to ele-
21 [REDACTED] apartments, depending again on their history, the
22 reasons for their existence, and the reason for their de-
23 velopment.

24 Q Are you familiar with the term "developing
25 municipality" as the New Jersey Courts have used it?

1 A I'm generally familiar with it, yes.

2 Q Have you read any of the zoning cases in
3 which it's been discussed?

4 A Yes, yes.

5 Q Which ones?

6 A Well, what comes immediately to mind is Professor
7 Rose's publication. I've also read Mary Brooks -- I be-
8 lieve Mary is her first name -- on exclusionary zoning.
9 Those are two reports that come to mind.

10 Q Have you read any court decisions in which
11 the question of developing municipality has been discussed?

12 A I read the Mount Laurel decision, the Oat
13 Madison. I don't believe the Divan Realty in Montville
14 brought that up, and I read the Capputo case some time
15 ago. I've been trying to get that one to read, bring me
16 up to date on.

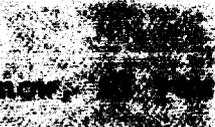
17 Q Do you have an opinion as to whether Mendham
18 Borough is a developing municipality?

19 MR. JOHNSTON: I'm not going to allow him to
20 answer that, because his response indicates that
21 he's read only a very few of the many cases on the
22 question of developing municipality under the
23 applicable doctrine, and, at any rate, you're asking
24 him to state an opinion on a matter which calls for
25 a legal analysis rather than an analysis in his line

1 of expertise.

2 MR. MEISER: I think that, in some of his
3 reports, he has gone into an analysis of whether,
4 in his opinion, towns are developing municipalities.
5 I can show you in some of his reports where he does
6 that.

7 MR. JOHNSTON: Since his reports have been
8 published, there have been additional decisions
9 coming down on that question, and, for that reason,
10 I do not think it's a proper question to ask of him
11 at this time.

12 MR. MEISER: Well, I think, you know, 
13 want to argue at court that it's irrelevant, then
14 fine, but I think here a lot of his conclusions as
15 to whether Mendham has any obligation, what the
16 environmental factors are, are really keen on this
17 question. I think it's worth finding out what his
18 opinion is and what its basis is.

19 MR. JOHNSTON: You're saying that it was
20 irrelevant. I certainly --

21 MR. MEISER: Irrelevant to the outcome of this
22 case, but if --

23 MR. JOHNSTON: Are you asking him whether he
24 based his report on a pre-conception of whether
25 Mendham was a developing community within the meaning

1 of court cases?

2 MR. MEISER: I'm trying to find out what his
3 opinion is in drawing his conclusions and writing
4 his report, as far as Mendham Township. The whole
5 conclusion is about whether Mendham Borough should
6 have any obligation to build or whatever. I think
7 it's worth finding it out what his opinion is on
8 it. I think it's also worth noting that your own
9 planner, in his master plan, discusses that sub-
10 ject. Now, obviously, they're not attorneys --

11 MR. JOHNSTON: The planner isn't here. The
12 planner --

13 MR. MEISER: Right, but he's not an attorney
14 either.

15 MR. JOHNSTON: I don't see what remotely that
16 has to do with this gentleman's report in this de-
17 position, what the planner may have said. You can
18 examine the planner on that.

19 What I'm saying to you is, if you're asking
20 this gentleman to state, in his opinion, whether the
21 Borough of Mendham is a developing community within
22 the meaning of the court decisions, I'm going to say
23 that he's not qualified to answer that question.

24 MR. MEISER: Well, whether he's qualified
25 or not, I mean, could come up before the court. I

1 think we're still entitled to find out what his
2 opinion is.

3 MR. JOHNSTON: On what basis? He's being
4 deposed as an expert witness in his area of exper-
5 tise. Why are you entitled to have an answer from
6 him which would be an opinion on a legal matter?

7 MR. MEISER: Because that's a framework for
8 his whole conclusions as to whether Mendham Borough
9 should have any ground -- should have any --

10 MR. JOHNSTON: I don't think there's any
11 basis in the report for that statement at all. You
12 can ask him that. You can ask him if a
13 his report was a conception of whether Mendham is
14 a developing community or not. Let him answer it.
15 If it turns out that I'm wrong, then I'll answer if
16 he has an opinion, but, certainly, I think you've
17 misconstrued what's in this document that we're
18 talking about now.

19 DIRECT EXAMINATION CONTINUED

20 MR. MEISER:

21 Q Mr. Dresdner, in any of your reports which
22 you have prepared for this case, have you gone into an
23 analysis of whether municipalities are developing munici-
24 palities within the meaning of the Supreme Court decisions?

25 A Yes, I have.

1 MR. JOHNSTON: With respect to the Borough
2 of Mendham in that?

3 MR. MEISER: I'll ask the question and --

4 MR. JOHNSTON: I didn't hear the question.
5 I'm sorry.

6 MR. MEISER: The question was has he done it
7 with any of them.

8 Q Which towns have you done that for?

9 A I've done that for the Township of Mendham, the
10 Township of Chatham. I'd have to doublecheck, but I be-
11 lieve also the Township of Kinnelon.

12 Q And was there a reason why you did that
13 analysis for those three municipalities?

14 A I was requested to.

15 Q And when you made those analyses, what fac-
16 tors did you look at?

17 A I looked at the six factors, as I recall, that were
18 listed as the criteria to determining whether a community
19 is developing or is not developing or developed.

20 Q What are the six criteria?

21 A Those six criteria included -- may I go into my
22 records?

23 Q Sure.

24 A Including land area, relation to central city, the
25 rural character of the community, population trends, vacant

1 lands available for development, and land use trends; that
2 is, whether they're in the path of inevitable future deve-
3 lopment.

4 Q How large is Mendham Borough?

5 A Mendham Borough is about 4700 persons.

6 Q How about in square miles?

7 A Slightly less than six square miles, 5.94.

8 Q What does the phrase "sizable land area"
9 mean to you?

10 A Sizable land area, to me, is a relative term which,
11 in and of itself, has no meaning except in relation to the
12 size of other communities.

13 Q In relation to other communities in New
14 Jersey, what do you think is a sizable land area?

15 A In New Jersey? Well, it would be in excess of
16 five to ten square miles, in excess of ten square miles.

17 Q Do you have any idea how many municipalities
18 in New Jersey are in excess of ten square miles?

19 A Well, the average size municipality in New Jersey
20 is thirteen square miles, thirteen or fourteen square miles.
21 The mean is probably down around the size of the Borough
22 of Mendham.

23 Q In other words, you would say, approximately,
24 there are many municipalities larger in area than Mendham
25 Borough, some are smaller?

1 A Yes.

2 MR. JOHNSTON: Is that what you meant by
3 "mean"?

4 THE WITNESS: Yes. I should say median
5 rather than mean, but yes, that's what I mean. The
6 difference, however, between this median size com-
7 munity of, say, five or six acres and the larger
8 sizable communities is quite large.

9 Q Do you know what the median size of an area
10 of municipalities in Morris County is?

11 A In Morris County? No, I don't.

12 Q Do you believe that Mendham Borou
13 substantially shed it's rural characteristics?

14 A No, I'm not of that opinion.

15 Q What factors do you look at to determine
16 whether it has shed it's rural characteristics or not?

17 A I look at the amount and distribution of lands that
18 are qualified for farm-land assessments and are being used
19 for farm purposes, whether qualified for farm-land asses-
20 sments or not.

21 Q In Mendham area, what percentage is qualified?

22 A I don't think I -- I don't recall working out that
23 figure. I do recall, however, on the basis of the map, that
24 there's a substantial amount of farm land in the southern
25 part of the community. In going through my report, I note,

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1 on Page 16, that 53 per cent of the vacant agricultural
2 lands in the borough are qualified farm lands. Elsewhere,
3 I note --

4 Q Excuse me. What was that number?

5 A Page 16, 53 per cent of the vacant agricultural
6 lands in the borough are qualified farm land and could not
7 be considered developable at this time. That is the
8 sentence.

9 I note, elsewhere on Page 16, that qualified farm
10 lands account for 837 acres.

11 Q Do you have any idea of what the agricultural
12 useage was thirty, twenty, or ten years ago?

13 A As I recall in reading the history, it was largely
14 hay, grain, and orchards.

15 Q Okay. I guess I didn't make my question
16 clear. What I was trying to ask is do you know how much
17 land was used for agriculture thirty, twenty, or ten years
18 ago in Mendham Borough?

19 A No, sir. I don't.

20 Q Do you know whether there's been a substan-
21 tial reduction in the last thirty years?

22 A There has been a reduction. The number of acres
23 that have gone out of farming, however, I don't know.

24 Q What is Mendham's population per square mile?
25 Do you know that as of today?

1 A Yes. I can work that out. About slightly less
2 than eight persons per square mile.

3 MR. JOHNSTON: Eight hundred or eight?

4 THE WITNESS: Eight.

5 MR. JOHNSTON: Slightly less than eight per-
6 sons?

7 THE WITNESS: Oh, I'm sorry. Eight hundred
8 persons.

9 MR. MEISER: It really shrank.

10 THE WITNESS: Eight hundred persons per
11 square mile.

12 Q Do you know how that compares to 
13 of persons per square mile in Morris County as a whole?

14 A No, I don't.

15 Q Let me just make this clear. You have not
16 been retained and are not going to testify to anything
17 about fair share at your testimony, in Mendham Borough, is
18 that correct?

19 A The extent of fair share that I have considered
20  to the amount of vacant developable land in the
21  township, in the borough, not to any obligation the commun-
22 ity might have to provide it.

23 Q Then you will not be giving any testimony
24 about whether Mendham Borough is or is not a developing
25 municipality, is that correct?

1 A That's correct.

2 Q Okay. One of the subjects you mentioned in
3 your report is transportation. How far is Mendham Borough
4 from the nearest exit of 287, do you know?

5 A There is a major interchange on 287 at Mount Airy
6 Road, which goes directly into Mendham. That would be
7 about seven miles from the center of Mendham and perhaps
8 five miles from the southern border of the borough.

9 MR. JOHNSTON: When you say "goes directly
10 into Mendham --"

11 Excuse me. I don't -- do you mind if I
12 interject questions as we go along? It ~~seems to me~~
13 it will save time.

14 MR. MEISER: Go ahead.

15 MR. JOHNSTON: When you say "goes directly
16 into Mendham," are you speaking of by way of Route
17 202, then Tempe Wick Road, or do you mean there's
18 really a direct route from that interchange into
19 Mendham?

20 THE WITNESS: No. It would be less direct
21 than 202 and Tempe Wick. It would take several
22 rural roads: Mount Airy Road, Clairmont Road, over
23 some hills to Bliss Road, Bernardsville Road, Hilltop
24 Road into the center of the borough.

25 MR. JOHNSTON: Okay.

1 DIRECT EXAMINATION CONTINUED

2 BY MR. MEISER:

3 Q How long a drive would that be, do you know?

4 A I don't know how long it would take.

5 Q What type of field work, by the way, did you
6 do in Mendham Borough in preparing your report?

7 A I took a windshield inventory of the borough. That
8 is, essentially, driving through the borough, noting the
9 character of the various areas in the borough, and coming
10 to conclusions regarding the character and extent of develop-
11 ment, the terrain, the streams, and the densities.

12 Q When was this tour taken?

13 A This was taken many months ago. During the summer,
14 in all likelihood, July or August.

15 Q Was this an all-day --

16 A Of 1979.

17 Q Was this an all-day tour?

18 A No. It was between a half a day and all day. It
19 was more than the morning. I recall that.

20 Q Were you in Mendham Borough for any other
21 purpose than preparing for your report and your testimony,
22 besides this windshield tour?

23 MR. JOHNSTON: Ever or on that trip?

24 MR. MEISER: For a purpose other than that
25 day for purposes of preparing this report.

1 A Yes, I was, but not for the purpose of preparing
2 this report. I'm sorry, so the answer would be no, I
3 wasn't.

4 Q Going back to the map, how far is Mendham
5 Borough from the nearest exit of Route 80?

6 A As the crow flies, it must be fifteen miles.

7 MR. JOHNSTON: Which exit is that?

8 THE WITNESS: That exit would be at the
9 Spicertown exit of Route 80 with 6, 34, and 42.
10 That is in the northern portion of Wharton.

11 Q Do you know what the closest place ~~would be~~
12 from Mendham Borough to pick up Erie Lackawanna?

13 A The closest place for Mendham Borough to pick up
14 the Erie Lackawanna would be either in Morristown or, pos-
15 sibly, Peapack-Gladstone.

16 Q Okay. I'd like to turn now to your map on,
17 I believe it's water. I think that's MB-5.

18 A Yes.

19 Q Now, this is a map which you prepared, I be-
20 lieve?

21 A Yes, sir.

22 Q And where was the information that you got that
23 you used to prepare this?

24 A This information was derived from the Lords Study.

25 Q The Lords Study listed the water, the area

1 served in water in each municipality?

2 A Yes.

3 Q I see, and when was the Lords Study done, as
4 of what date, what year, do you know?

5 A The Lords Study was done in -- it was published in
6 1974.

7 Q I see. Have you checked to see if there
8 may have been any expansion of the service area in Mendham
9 Borough since 1974?

10 A Yes, I did.

11 Q And the answer was?

12 A No.

13 Q Now, this map seems to indicate that all of
14 the northern part, up to the boundary line, is served by
15 water, is that correct?

16 A That's correct.

17 Q Where these lines are, the cutting off of
18 the water supply, do those relate to any roads or to any
19 recognizable boundaries, do you know?

20 A They probably relate to either drainage divides or
21 locations between roads.

22 Q I have a zoning map. I'm wondering if there's
23 any correlation between the zoning --

24 MR. JOHNSTON: Looks like it ought to overlay.

25 A We have areas between roads.

1 Q Okay, so let me just see something. The
2 water line is the red. That's where the water stops?

3 A Yes. The area of service is within the red line
4 shown on my overlay.

5 Q The southermost part, where it extends, I
6 guess, along Hilltop Road, is there any other -- I'm trying
7 to see if we can mark this. The intersection of Thomas
8 and Hilltop is served, is that correct?

9 A That's correct.

10 Q I see. Okay, and it seems to cross all of --
11 let me see if I can identify that road.

12 A It would include all of --

13 Q All of Talmage is covered? Part of Prentiss.
14 Okay, let me see if I can, just for my purposes, just draw
15 this map approximately where it would be. Coveville Drive
16 is covered, and most of this area that is zoned one-acre
17 zoning on the right is covered, is that correct?

18 A That's correct.

19 Q The area south is not, south of these red
20 lines, is not served by public water at this time, is that
21 correct?

22 A That's correct.

23 Q On Page 12 of your report, this is going to
24 stay with water, your report indicates that the borough
25 maintains two public water wells, water supply wells with a

1 combined capacity of point seven million gallons per day.

2 Where did you get that information from?

3 A I don't recall whether we got that from the borough
4 or a published source.

5 Q Is there a public source, that you know of,
6 that gives this information for each municipality?

7 A Well, they would give the information for water
8 wells. In fact, there are probably two sources. One is --
9 both are with the Department of Environmental Protection.
10 One relates to well information, and the other would relate
11 to water supplies.

12 Q Do you know the names of the two wells in
13 Mendham Borough?

14 A No, I don't.

15 Q Do you know when they were built?

16 A No, I don't.

17 Q Now, on Page 12 of your report, you indicate
18 that the present water demand in the borough is about a
19 half million gallons per day. Where did you get that infor-
20 mation from?

21 That might have been from the master plan or from
22 well records, from the township's -- borough's well record.

23 Q I see. Is there, in this area, an average
24 use of water per day by either a family or a home?

25 A There are standards or rule-of-thumb figures for

1 water use.

2 Q What are those standards?

3 A Well, in a built-up area where you have commerce
4 and industry, it's eighty to one hundred gallons per person
5 per day. For solely residential use, it could be all the
6 way down to 20 gallons per person per day.

7 Q Do you have any information as to what the
8 use is in Mendham Borough?

9 A No, I don't, other than the point five million
10 gallons per day.

11 Q In a built-up area, what is the reason that
12 it's 80 gallons to 100 gallons per day?

13 A Per person? Because industry is factored in.

14 Q I see.

15 A You can have a wide variety of use for industry and
16 commerce, from the water-intensive industry to water-non-
17 intensive industry.

18 Q Would you anticipate that Mendham would be
19 closer to the 20 than in the 80 to 100, with the absence of

20 ~~is it?~~
21 ~~is it?~~ Absolutely.

22 Q On Page 12, when you say the surface areas
23 for these supplies are shown on figure blank and includes
24 approximately fifty per cent of borough, is the figure meant
25 to refer to this?

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1 A Yes, sir.

2 Q Okay. Have you computed how many or exactly
3 ~~what the~~ percentage of the township is that is covered by
4 ~~water?~~

5 A No, I haven't, other than fifty per cent. In looking
6 at this drawing, I'd say it's about 55 per cent served by
7 water.

8 Q Do you know how many people in Mendham Borough
9 are using this water, public water source today?

10 A No, I don't.

11 Q Now, do you know how much of this ~~source~~
12 comes from the wells and how much from the reservoir?

13 A No, I haven't made a breakdown between the source
14 or sources of public water.

15 Q Do you know what the maximum capacity for
16 water per day would be in the borough, considering both
17 the reservoir and the wells?

18 A Well, I've noted as point seven million gallons the
19 two wells. The capacity of the reservoir is, as I recall,
20 ~~four~~ million gallons. However, you can't use all four
21 ~~million~~ million gallons in one day, because there would be no
22 replenishment.

23 You can assume perhaps ten per cent would be reason-
24 able to use up, which would be four hundred thousand.

25 Q A day?

1 A Yes. Not over a long period of time, but over a
2 short period of time without adversely affecting the situa-
3 tion. However, if you run it for -- reduce it ten per cent
4 a day for in excess of a week, you lose a goodly portion
5 of your water.

6 Q Do you have any idea as to how many addi-
7 tional families -- how many additional individuals, we'll
8 start with, could safely be allowed to utilize the borough's
9 public water system?

10 A I haven't worked that out.

11 Q If you were going to work it out, 
12 be your methodology? How would you decide to 

13 A Assuming there were no changes in water use habits,
14 I would take the differential between the point five million
15 gallons per day that exists and the point seven million
16 gallons per day in the two public water wells. That's
17 200,000 gallons per day, and assuming, say, three and a half
18 persons per family -- in order to make the division easier,
19 four persons per family. Multiplying that times 20, which
20 is a low figure, very low figure for water consumption, I
21 would come up with a figure of 80 gallons per day per family
22 and divide that into 200,000, and that would be an additional
23 2,500 persons.

24 Q Twenty-five hundred persons or twenty-five
25 hundred units?

1 A. Twenty-five hundred units.

2 Q. Is there any way of knowing or any guidelines
3 as to how close to a hundred per cent capacity the public
4 water system could safely operate?

5 A. I don't know what the guidelines are, but, surely
6 you shouldn't operate at capacity, and from between eighty
7 to ninety per cent of capacity, my opinion, is a comfortable
8 and reasonable margin.

9 Q. Is that based on any specific water companies
10 or specific knowledge?

11 A. No. Well, it's based on my experience as a planner,
12 and not as an engineer.

13 Q. Supposing an owner of land, let's say for the
14 moment, just south of your cutoff line in any part of the
15 town was interested in being hooked up to a public water
16 system, what would he have to do? What would the process
17 be, or is there a process?

18 A. He would have to -- if he wanted to hook up, he
19 would have to get permission from the water company, which
20 is owned by the borough, and pay for the installation, if
21 approved, pay for installation of the lines within his
22 development, as well as connecting, extending the lines off
23 site to link into the system.

24 The variables are whether he's linking into a portion
25 of the system that has adequate flow and pressure to support

1 an addition, so if he's tying into the end of the system,
2 that is, into a six or eight-inch water line, he may not
3 be able to get the volume or the pressure that would be
4 necessary from the standpoint of health or safety.

5 Q Have you done any investigation as to whether
6 there is the volume or pressure to allow an additional
7 hookup?

8 A No, I haven't.

9 Q Do you know if the water company has granted
10 any extensions in recent years, has expanded --

11 A No, I don't.

12 Q Do you know where these two wells are located
13 in the township?

14 A Yes. The two wells are located in the southern
15 part of the service area noted on the water supply overlay
16 of the Lords map with a square.

17 Q Would you be able to, through any of your
18 maps, tell on what road or where, any more specifically,
19 where they're located?

20 A Yes. It would be located in the area of Hilltop
21 Road and Thomas Road.

22 Q Do you know whether it would be possible for
23 a developer in the southern part of the borough to develop
24 his own well to service his development?

25 A There are a lot of private wells in the southern

1 portion of the borough. Depending on the conditions in
2 the area, particularly sub-surface conditions and site
3 ~~specific~~ sub-surface condition. I couldn't answer that
4 ~~question~~ yes or no.

5 Q Is there any way to know that you know what
6 a limit might be on public wells or an area like Mendham?
7 What information would you need to know for that?

8 A Exclusive of exploratory borings, the source that I
9 would go to is the Lords Study, which suggests a safe yield
10 of potable water for different rock types throughout the
11 state.

12 Q How much of Mendham Borough is pre ~~existing~~ ---

13 A Virtually all of it.

14 Q What do you feel that face yield -- what do
15 they say the face yield is?

16 A Without public water and public sewer, they recom-
17 mend a minimum lot size of three to four acres.

18 Q Do they get into any projections in the
19 Lords Study of what the safe yield for water is without
20 ~~considering~~ septic? In other words, just looking at the
21 ~~ability~~ to supply enough water for the people.

22 A I'm sorry. I don't understand the question.

23 Q Okay. Let me try to rephrase it. Let me ask
24 you this: What does the term "safe yield" mean, as you've
25 been using it, as the Lords Study uses it?

1 A That's the amount you can withdraw from the ground
2 without decreasing the potable water table.

3 Q Now, Mendham Borough, it was mentioned ear-
4 ~~lier has~~, I believe, a daily water capacity of seven-tenths
5 of a million. Is there any way of knowing whether that is
6 reducing the water table, and, if so, how much and whether
7 it's reducing it beyond the safe yield? That's a long
8 question.

9 A Well, I have my own judgment on it, but more accurate
10 would be a question to the borough as to whether they're
11 lowering the ground water tables as a result of ~~that~~
12 pumping.

13 Q Do you have any knowledge as to whether they
14 are?

15 A No, I don't.

16 Q Does the Lords Study give you any way of
17 looking at Mendham Borough as a pre cambrian rock and saying
18 the amount of water we can safely withdraw from the borough
19 as a whole is such-and-such a figure per day?

20 A Well, yes. It's a very gross figure, and it's
21 essentially three to four -- I'm sorry. It would be compar-
22 able to multiplying three to four acres by an average
23 family size.

24 Q How many acres are there in Mendham Borough?

25 A 4,735 acres, as I recall. Excuse me. Thirty-eight

1 hundred acres with a population of 4,735 persons.

2 Q What was the acreage again?

3 A Thirty-eight hundred acres.

4 Q Now, if you divide that by, let's say, four
5 acres, using the formula you used, what would that come out
6 to?

7 A Nine hundred and fifty.

8 Q And we were saying the average size was four
9 for a family?

10 A Yes.

11 Q Proceeding along the way you had discussed,
12 what does that come out to?

13 A Thirty-eight hundred.

14 Q And that thirty-eight hundred stands for
15 what?

16 A Well, in this case, that would be the population
17 that could be served by limiting potable water resources
18 to ground water solely and observing a face yield concept.

19 Q Now, is it your opinion that, environmentally,
20 we should not provide public water for more than 3800 people
21 in Mendham Borough?

22 A No. What I'm saying here is that, if you base your
23 water supply solely on ground water --

24 Q Right.

25 A -- when you go above 3800 people, you're drawing down

1 on your water supply. You're losing it. Again, assuming
2 you've got septic tanks, which is a source of recharge.

3 [REDACTED] have public sewers, what you're drawing out of
4 [REDACTED] and, you're losing, and there's no replenishment.

5 With the septic tanks, there is some replenishment.

6 Now, the Borough of Mendham has a surface water
7 reservoir which supplements or complements the ground
8 water and could offset the service and serve as an offset
9 for the population which is in excess of 3800 persons.

10 Q Considering the reservoir and considering
11 your safe yield approach that you've been taking [REDACTED]
12 have any opinion as to the population in Mendham [REDACTED] and
13 be supported with this type of water system?

14 A No, I really haven't worked that out. I would have
15 to find out what, in fact, has been the experience with the
16 two wells and what is the reasonably expected daily useage
17 of the reservoir.

18 Q Now, if I'm in an area which is unserved by
19 water and I want to draw -- prepare a large public well or
20 [REDACTED] that would serve the development, what type of permis-
21 [REDACTED] I need from the state or the local or federal
22 government?

23 A You would require approval, I believe, by the Board
24 of Health, the local board of health, probably the state
25 board of health.

1 MR. JOHNSTON: I might just state that,
2 although I have no objection to the witness answering
3 this question, he certainly can't be bound by the
4 laws and regulations, which will speak for them-
5 selves as to what has to be done to get permission
6 to draw water.

7 A And it would have to be registered.

8 Q Does Mendham Borough allow anyone outside
9 the borough to use its public water?

10 A They serve a portion of the township, as I recall.
11 Yes, they do.

12 Q Let me ask you this: Where is the
13 located?

14 A The reservoir is located on the boundary of the
15 Township of Mendham and Randolph Township.

16 Q On what stream?

17 A India Brook.

18 Q Do you know whether there's any possibility
19 of either expanding that reservoir or creating a new reser-
20 voir in any stream in the vicinity of Mendham Borough?

21 A No, I don't.

22 Q Do you know if the borough made any studies
23 about the possibility of either expanding their water sys-
24 tem through another well or through another reservoir,
25 expanding the reservoir?

1 A No, I don't know.

2 Q Now I want to ask you a little bit about the
[REDACTED] maps, if you can get that.

3 MR. JOHNSTON: I have just one point of
4 clarification I'd like to make on water. If you
5 prefer, I'll wait until the end of the deposition.
6 It might be better to do it now.
7

8 MR. MEISER: Go ahead.

9 MR. JOHNSTON: Mr. Dresdner, as I understood
10 your testimony earlier, when you were asked by
11 counsel how you would go about making a population
12 of the remaining capacity of the public wells
13 support population, you derived a figure of 2,500
14 units. It's my impression that your later testimony
15 indicated that that 2500-unit figure was a raw figure,
16 without taking into account safe yield. Is that
17 correct?

18 THE WITNESS: That's correct.

19 MR. JOHNSTON: So that you really aren't in
20 [REDACTED] position to say how much of that apparent 200,000-
21 gallon capacity could be safely used, is that correct?

22 THE WITNESS: That's correct.

23 MR. JOHNSTON: Okay. That's the only point
24 I wanted to clarify.

25 (Thereupon, there is a discussion off the
record.)

1 DIRECT EXAMINATION CONTINUED

2 BY MR. MEISER:

3 [REDACTED] This is MB-4, identification, I believe.

4 [REDACTED] Now, the circled-in area is the area served by sewers, is
5 that correct?

6 A Yes.

7 Q I see 1132. Is that the number of acres?

8 A Yes.

9 MR. JOHNSTON: Excuse me. Let's develop that
10 a little bit. How many acres did you testify were
11 in the borough?

12 THE WITNESS: Thirty-six hundred. [REDACTED]

13 MR. JOHNSTON: Okay.

14 DIRECT EXAMINATION CONTINUED

15 BY MR. MEISER:

16 Q What is the source from which you derived
17 this graphic illustration?

18 A That also is the Lords Study.

19 Q Have you checked to see if there's been an

20 [REDACTED]
21 [REDACTED] No, I haven't. There has not been an update of the
22 Lords Study.

23 Q If there's been an update in Mendham Borough?

24 A No, that I have not checked.

25 MR. JOHNSTON: What's the date of the Lords

1 Study?

2 THE WITNESS: 1974.

3 MR. JOHNSTON: Still '74?

4 THE WITNESS: Yes.

5 Q Do you have the Lords map from which you
6 derived that, also?

7 A Yes.

8 Q That's entitled, "Landfill overlay sheet 25,"
9 is that correct?

10 A "Sewage, landfill overlay sheet 25."

11 Q Do you, in your report give the quantity
12 this sewage treatment plant? I think it's on Page 14.

13 A Yes. I note on Page 14 that the average daily flow
14 is .35 m.g.d., and the capacity is .5 million gallons per
15 day.

16 Q We discussed this with water. It's the same
17 question with sewer. Is there any approximation of how
18 much a family or an individual needs or uses in gallons per
19 day?

20 It would be the same as they use for water, essen-

21 ~~OK~~ There's some loss, but, generally, the amount of
22 water that comes out of your tap is the amount of water that
23 flows into your cemetery system, whether it's a septic tank
24 or a public system.

25 Q So in the area of Mendham Borough, we're in

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1 the area of 20? Is that --

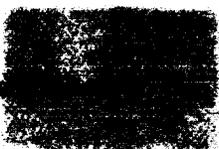
2 A Twenty gallons per person.

3 Now, I believe you indicated that, in your
4 report, this system is at 70 per cent of capacity, is that
5 correct?

6 A Yes.

7 Q Assuming for the moment that we wanted to
8 know how many more units could hook up to reach 100 per
9 cent capacity, could we go through the formula that you
10 used earlier?

11 A Less than 2,000 units.

12 Q Could you tell us how you compute 

13 A I divided 80 into 150,000.

14 Q And 80 was assuming that four individuals
15 are in a house?

16 A Yes.

17 Q Would use 20 gallons per person?

18 A Yes. I might add that's a very low figure, particu-
19 larly as you go from rural to suburban. The more built-up
20 the community, the higher the density, the greater the
21 .

22 Q By the same token, we'd really, I guess, if
23 we were accurate, to be precise, would use 3.5 persons
24 per family rather than 4, wouldn't we?

25 A No. I think in a suburban community you're safe in

1 4, safer at 4 than at 3.5.

2 Q I may have asked this question. Let me ask
3 again? Do you have any knowledge whether the sewage plant
4 in recent years has allowed any additional tie-ins?

5 A Well, to the extent that there is additional develop-
6 ment within the service area, they would accept the connec-
7 tion, and that would be the same with the water area. That
8 is, if you have in-fill, they would accept -- which I
9 answered in the negative to your question on water. I
10 assumed you meant extensions beyond the service area.

11 Q Do you know if there's been any extension in
12 the service area since the system was created?

13 A No, I don't.

14 Q Do you know when the system was created?

15 A No.

16 Q Do you know the type of treatment of sewage
17 that take place at the plant?

18 A I don't recall.

19 Q Did you speak to anyone about this?

20 the treatment plant operator.

21 Q Do you know if there's been an upgrades of
22 the treatment process in recent years?

23 A No, I don't.

24 Q Are there any standards as to how close to
25 100 percent capacity a sewage treatment plant can operate at?

1 A Well, it could -- I don't know whether there are
2 any standards, but good judgment suggests they should be
3 [REDACTED] at less than capacity at any one time.

4 [REDACTED] Do you have any thoughts as to how much less,
5 whether it be 70 per cent, 80 per cent, 90 per cent, 95
6 per cent?

7 A No, I don't have any thoughts other than the ten
8 to fifteen per cent under-capacity that was mentioned by
9 me earlier on water.

10 Q Okay, and that's based not on any specifics
11 but as your general feelings as a planner? [REDACTED]

12 A Correct.

13 Q Do you have any knowledge as to what percent-
14 tage of capacity the system would be operating at if in-fill
15 was completed in this area in accordance with the present
16 zoning?

17 MR. JOHNSTON: If what was completed in this
18 area?

19 MR. MEISER: If the in-fill that he was dis-
20 [REDACTED] cussing earlier -- in other words, if this area was
21 [REDACTED] fully built up as permitted by the present zoning.

22 A I don't know whether it would be within or whether
23 it would exceed capacity.

24 Q What would the sewage authority have to do
25 if it sought to expand its service area in this present

1 unserviced area? I guess I'm talking about both as far as
2 laying pipes and what it might have to do with upgrade its
3 treatment plant.

4 A. That would require some engineering feasibility
5 study. It may go beyond upgrading the treatment plant.
6 For example, it might require construction of a new treat-
7 ment plant. It would depend on the receiving or assimila-
8 tive capacity of the outfall stream. It would depend on
9 the topography of the land. They may have to do a number
10 of things or very little.

11 Q Do you know if such a study has e
12 made?

13 A. No, I don't.

14 Q On Page 15 of your report, the last full
15 paragraph above the slope limitations, the first sentence
16 states:

17 "The above history in treatment from Mendham Borough
18 sewage treatment plant continues today."

19 What was your basis for that sentence?

20 A. The assumption that there hadn't been any changes
21 since 1974 in the treatment of outfall from the borough's
22 sewage treatment plant.

23 Q Was that an assumption, or did you check that
24 out?

25 A. I don't recall. I would think that we checked it out.

1 Q Have you yourself done any pollution studies
2 of any sort of any of the streams in Mendham Borough?

[REDACTED] No, I haven't.

3 Do you know of any data since 1974 concerning
4 the quality of the streams in this area?

5 A None specific.

6 Q Is there any state or county policy that you
7 know of, that you know of, to limit the expansion of sewer
8 systems or to encourage septics for new developments?
9

10 A There was a state policy that encouraged centralized
11 sewer systems, as contrasted with package systems or smaller
12 treatment plants. The status of that policy now I
13 know. There's been some talk about going back to smaller
14 treatment plants.

15 Q Where was this policy written or whose policy
16 was it?

17 A Well, that was the State of New Jersey's policy,
18 and it resulted in the 201 area facility plants.

19 Q Do you know, is there any county policy pre-
[REDACTED] either sewer systems or assimilative sources to
[REDACTED] plants or septics?

22 A I know of no policy of one over the other. There is
23 a county sewer plan. You use the kind of system to either
24 accomplish water quality objectives or to complement use
25 objectives.

1 Q Have you reviewed the Morris County master
2 plan as far as it deals with the sewage facility element?

3 A Yes, I perused it. I may even have a copy of it
4 here. I don't recall any of the details of it.

5 Q Let me read a sentence to you, then I'll
6 give you a chance to look at it and see if you agree or
7 disagree with this. On Page 80, in discussing the North
8 Branch water shed, it states, "that existing facilities
9 such as the Mendham Borough plant should be utilized to
10 their fullest capacity with improved treatment as required
11 to meet the water quality standards of the receiving stream."

12 I'll give you this. Take a look at it, [REDACTED]
13 what your opinion is on that.

14 A Page 80?

15 Q Yes, 80.

16 A Oh, I see. Well, I --

17 MR. JOHNSTON: Before you respond to the
18 question, I might ask you to consider whether you
19 have the sentence in context or not. I don't know
20 myself what you're referring to, and I don't have
21 any objection to your answering the question or not,
22 but if you think you need some time to review the
23 context before you can do that, I suggest you take
24 it.

25 A Okay. Well, I cannot disagree with the improved

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1 treatment required to meet water quality standards of the
2 receiving stream. Whether that can be accomplished with
3 [REDACTED] the plant to its fullest capacity, that would
4 [REDACTED] additional study.

5 What they seem to be saying is that -- and I'm not
6 sure which is the first priority. The plant should be
7 utilized to its fullest capacity, and there should be
8 improved treatment to meet required water quality standards.
9 Well, the latter obviously takes precedence over the former.
10 That is the -- before, it says, additional service, it
11 should have a quality of effluent that meets standards.

12 I don't know whether that answers your question.
13 not.

14 Q Okay, fine.

15 MR. JOHNSTON: May I just see that for a
16 moment?

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

19 Q One of your concerns for recommending high
20 [REDACTED] or low density was the possibility of contamination
21 [REDACTED] by septics. How much of that problem can be taken
22 care of proper location? In other words --

23 A Of septic tanks?

24 Q Where you site the septic and where you site
25 the well.

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1 A Well, it's a combination of two factors: The soil
2 conditions and the location of the two utilities in rela-
3 [REDACTED] each other.

4 [REDACTED] Right.

5 A So given an adequate size lot, proper location of
6 the well and septic tank should obviate any problems that
7 one could expect from pollution of the ground water.

8 Q Your feeling is that, given the best location
9 of the two, you still require four acres of zoning per
10 house if there's no public water or sewer?

11 A No. The three to four acres is based on [REDACTED],
12 the safe water yield.

13 Q I see, so it's only secondarily --

14 A Yes.

15 Q -- the contamination?

16 A And in some cases independent.

17 Q We got into this a little bit in our last
18 deposition, but let me expand a little bit. Do you have
19 an opinion as to whether it would be feasible to utilize
20 [REDACTED] of package treatment plants for higher density
21 [REDACTED] in the southern part of Mendham Borough?

22 A A package treatment plant is probably the only
23 feasible way of serving higher densities in the southern
24 part of Mendham Borough.

25 MR. JOHNSTON: How did you happen to get into

1 that in the last deposition, since, as I understood
2 it, he wasn't asked any questions pertinent to
3 Mendham Borough before?

4 MR. MEISER: This subject of -- we can dis-
5 regard my introductory thing. The question came
6 up in connection with Mendham Township.

7 MR. JOHNSTON: As to what they can do in
8 Mendham Borough?

9 MR. MEISER: It was just a preamble to the
10 question. There was no discussion of Mendham
11 Borough.

12 MR. JOHNSTON: When you say you got
13 before, you mean you got into the general question
14 in another municipality?

15 MR. MEISER: Without any reference to Mendham
16 Borough.

17 MR. JOHNSTON: Thank you. I'm at ease now.

18 MR. MEISER: Okay.

19 A Now, the feasibility of the package treatment plant
20 ~~related~~ to, as I mentioned before, the ability of the
21 ~~receiving~~ stream to accept the effluent, period.

22 Q Are there package plants that do not require
23 a stream, that have other means of disposing rather than
24 into a stream?

25 A Yes, there's spray irrigation. There's a method --

1 it's not a common method -- of disposing of effluent.

2 Q Is there any other method?

there could be recharge back into the ground. I'm
[REDACTED] really familiar with that.

5 Q Do you draw any conclusions about the feasi-
6 bility of a package plant in any part of southern Mendham
7 Borough without looking at the particular stream and par-
8 ticular land?

9 A When you say the feasibility of a treatment plant,
10 you can't separate that from -- the package treatment, you
11 can't separate that from the number and density of units
12 you're going to serve, and there may be other [REDACTED]
13 ways of treating that, the sewage from that particular
14 density. I could not address package treatment plants
15 in the southern part of the Borough of Mendham. Generally,
16 it has been a state policy to discourage package treatment
17 plants.

18 Q This was the Department of Environmental
19 Protection policy?

[REDACTED] Yes.

20 Q That was a policy, you indicated, which may
21 have been in a state of flux?

22 A Yes.

23 Q I see, so I just want to make it clear on
24 this. For a particular site, what factors would you need
25

1 to know to make an evaluation of the feasibility of it?
2 You may be just repeating your last answer.

3 A Assuming that the outfall would be to a stream,
4 ~~first~~ there is an assimilative capacity of the stream to
5 accept the volume and quality of effluent. Secondly, would
6 be the density and distribution of the population to be
7 served. Package treatment plant becomes feasible as den-
8 sity increases. At a certain level or floor, it becomes
9 cheaper, if you will, to provide septic tanks rather than
10 a package treatment plant.

11 Q Can you point out on any of these ~~maps~~ which
12 are the F2 streams in the borough and where they are?
13 you have that information?

14 A All the streams --

15 Q Available?

16 A All the streams in the borough are F2 streams.

17 Q When you say all of the streams, how many
18 are we talking about? Do you know?

19 A No, I don't, but every stream in the borough is
20 ~~classified~~ as an F2 stream.

21 Q Now, have you done any analysis of the soils
22 in Mendham Borough?

23 A No analysis. I'm familiar with the soils from the
24 Soil Conservation Service map.

25 Q What are the predominant soils? Do you know

1 what they would be?

2 MR. JOHNSTON: Excuse me. Are you going to
3 get away now from sewage, or is this in connection
4 with the sewer question?

5 MR. MEISER: I'm moving on to soils. I may
6 have a few questions coming back to how the things
7 relate. Do you want to ask a few questions?

8 MR. JOHNSTON: Just one question. This might
9 be the best time to answer it.

10 Mr. Dresdner, do you recall, a while ago,
11 Mr. Meiser asked you whether the full development
12 of the area served by sewer would result in a
13 sent system -- let me put it another way. Whether
14 the present system could absorb the full development
15 permitted by zoning in the area that it serves?
16 Do you recall that question?

17 THE WITNESS: Yes, sir.

18 MR. JOHNSTON: I think your answer was that
19 you didn't know for sure whether it could or not
20 as far as capacity is concerned, is that right?

21 THE WITNESS: That's correct.

22 MR. JOHNSTON: When you say that, you're
23 talking about you don't know whether the capacity of
24 the treatment plant to take in effluent would be
25 exceeded?

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THE WITNESS: That's correct.

MR. JOHNSTON: You are not commenting, then, on what the effect of the outflow from the plant would be on --

THE WITNESS: That's correct.

MR. JOHNSTON: Okay. Thank you. I just wanted to make sure that I correctly solved those points in my mind. I'm sorry. Go ahead.

DIRECT TESTIMONY CONTINUED

BY THE WITNESS:

A The major soil associations in the borough of Parker-Edneyville Association and the Bartley-Turbotville Cokesbury Associations. Now, within these associations, there are a variety of soils, but the main ones are Parker, Edneyville, Bartley, Turbotville, and Cokesbury.

Q What is your opinion, if you have one, as to the suitability of, let's say first, Edneyville soil for, first of all, just residential development in general?

A It would depend in part on the slope. All of these soils would have to apply a slope factor to. The Edneyville soils are generally suitable for urban development, exclusive of the steep slope Edneyville areas.

Q When you say steep slope, what percentage are you talking about of slope?

A That would be, for Edneyville, eight to fifteen

1 per cent or -- I'm sorry. That would be fifteen to twenty-
2 five per cent.

LOGK

I see. Now, how does this soil rate as far
ability to use septic?

5 A They're essentially okay for septic, except for the
6 steep slopes.

7 Q I see. How about the Parker? How do you
8 classify the Parker?

9 A The Parker are less suitable for urban development
10 but not unsuitable for urban development.

11 Q I see.

12 A When I say less suitable, I compare it to
13 Edneyville. Again, the steep slopes are generally unsuit-
14 able.

15 Q And when you talk about steep slopes on Parker,
16 what are you talking about?

17 A In excess of fifteen per cent.

18 Q I see. What about the Cokesbury?

19 A The Cokesbury are generally poor for all types of
development.

Q And the Bartley?

22 A The Bartley are comparable to the Parker or are
23 between Parker and Cokesbury in terms of suitability, so
24 we're taking those four. From most suitable to least suit-
25 able, I would go from Edneyville to Parker to Bartley to

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1 Cokesbury.

2 Q And how does Turbotville fit in now?

3 A Turbotville is comparable to Cokesbury. It's a
4 soil that's generally unsuitable for urban development.

5 Q What about the Califon? Is there any Califon
6 soil in Mendham Borough?

7 A In Mendham Borough?

8 Q Yes.

9 A There should be. It's often associated with
10 Cokesbury. Yes, there are Califon soils in Mendham.

11 Q And how would you classify the Califon, or
12 how does the soil survey classify Califon?

13 A The Califon soils are also a difficult soil to work
14 with in urban development. They're characterized by a high
15 ground water table, not quite as high as Cokesbury, and as
16 I said, they are associated with Cokesbury. They're the
17 next higher soil.

18 Q Assuming for the moment the existence of a
19 source of public water, do you have any general feeling as,
20 first of all, overall in the township, the environmental
21 minimum density that would be required, assuming for the
22 moment that the whole town had public water? That's just an
23 assumption.

24 MR. JOHNSTON: Let me see if I understand
25 what you're saying. You're saying that, assuming

1 that the town had public water from some source that
2 we don't have to be concerned with?

3 [REDACTED] MR. MEISER: The reason I'm asking that is
4 [REDACTED] he has been basing his assumption on the Lords
5 Study which talks about requiring three to four
6 acres of minimum zoning, requiring private water.
7 I'm just curious what his conclusion would be if the
8 water were available.

9 A Well, I'm not basing it solely on the Lords Study
10 vis-a-vis potable water, because you can't take the commun-
11 ity out of context with its present development and its
12 present transportation system, its relationship [REDACTED]
13 rounding communities. For that reason, it would be very
14 difficult to claim a density for the community.

15 Q Well, obviously, transportation is relevant
16 to the patterns and these things. The past history is rele-
17 vant. What I'm trying to find out is if you think there's
18 a certain minimum zoning that would be environmentally re-
19 quired, assuming the water source to exist.

20 [REDACTED] Well, recognizing also that --

21 [REDACTED] MR. JOHNSTON: I still don't understand the
22 question. If you do, go ahead and answer it, but
23 when you say assuming the water source to exist, do
24 you mean, for example, that assumption that we were
25 getting water piped some great distance from some

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1 other source that was so remote we didn't have to
2 be concerned with it in our own land use?

3 MR. MEISER: I am assuming one of several
4 possibilities. That's one. Another one would be
5 an additional reservoir or a third public well
6 which would have a capacity to supply this.

7 What I'm really trying to find out is how
8 important the water factor is in his conclusion and
9 what his conclusion is if you take that factor
10 away.

11 MR. JOHNSTON: I'm not sure I understand it,
12 but if you think you do, I don't have any
13 to your trying to answer it.

14 THE WITNESS: Yes, I believe I understand it.

15 A It's still a very difficult answer to give to that
16 question, because there are certain areas of town which,
17 by virtue of its Cokesbury and Califon soils, may very well
18 require densities substantially greater than three or four
19 units per acre, because the percolation just isn't there for
20 a septic tank.

21 Additionally, even assuming septic tanks can be put
22 in, another factor could be storm water runoff into the
23 streams. The borough as well as the township is the head-
24 water for the North Branch, as I recall, and serves a pur-
25 pose in maintaining downstream flow, not only the quality

1 of downstream flow but the volumes of downstream flow. I'm
2 sorry.

3 [REDACTED] Go ahead.

4 [REDACTED] So for those reasons as well as those reasons I
5 mentioned previously, I couldn't give a single density figure
6 for the entire community.

7 Q Maybe we can come back on that. Let's go on
8 to the slopes map. We can come back to a few of those ques-
9 tions later. I believe that's your third one. What was your
10 source in preparing this map?

11 A The U.S. Geodetic Survey.

12 Q Now, the area in red is the area with
13 over twelve per cent?

14 A Yes.

15 Q Do you know anything more about these slopes
16 from this map than that they're over twelve per cent? In
17 other words, is there any way of knowing which is over
18 fifteen, which is over twenty?

19 A No, it just shows in excess of twelve per cent. It
20 [REDACTED] lude areas that were in excess of twenty per cent.

21 [REDACTED] But there's no way of knowing which of these
22 are twelve?

23 A No.

24 Q Now, we were talking about the soils map
25 earlier. One of the things that seemed to me is that a number

1 of soil characteristics are labelled A, B, C, D, and I be-
2 lieve B is usually from eight to fifteen per cent slope, is
3 that correct?

4 A No, no. D is. D as in David is eight to fifteen.
5 B is three to eight or five to eight, five to ten, something
6 like that.

7 Q I see. I guess I was wrong on that. Is
8 twelve per cent recognized as a traditional cutoff point as
9 between what is suitable for building at high densities and
10 what is not?

11 A Oh, no. Twelve per cent, in this case, 
12 because that was a figure that the Department of 
13 Affairs used in distinguishing vacant land from vacant
14 developable land. That was the sole reason we used twelve
15 per cent.

16 Q By the way, we were both wrong. If I'm
17 right, it's C that's eight to fifteen per cent slopes.

18 A Okay.

19 Q A is usually zero to three. B is three to
20  and C is eight to fifteen.

21  Right. Fifteen to twenty-five is D, and twenty-five
22 and over is E. There's some shifting in there, but, essen-
23 tially, eight to fifteen is C, yes.

24 Q Is that a traditional breakoff, eight to
25 fifteen per cent in classifying soils?

1 A Yes, in classifying soils it's a reasonable break.

2 Q As far as choosing land that's suitable for
3 [REDACTED], is there a difference between twelve per cent
4 [REDACTED] fifteen per cent that we should make the cutoff at
5 twelve rather than fifteen?

6 A I say the sole reason for my selecting twelve was
7 that's what the Department of Community Affairs used in its
8 fair share allocation. Fifteen can be used as easily and
9 is used in subdivision regulations.

10 Q What would it take to find out which per-
11 centage of these soils are in that twelve to fifteen
12 cent slope, in that borderline area? [REDACTED]

13 A I'd have to go back over the USGS and measure it
14 again.

15 Q Do you have any idea what percentage of these
16 might be over fifteen per cent?

17 A No. I suspect it would be a relatively small per-
18 centage, but that may be a reflection of my bias, but it
19 should be a relatively small per cent.

[REDACTED] (Thereupon, there is a discussion off the
[REDACTED] record.)

22 Q Now, you took this from the U. S. Geodetic
23 map. How much reliability would a planner give to that
24 map, the U. S. Geodetic thing? Would they say there's a
25 ninety-nine per cent chance of accuracy? Would they say the

1 slope is higher? Is there any guideline in the field as to
2 how accurate those maps are considered?

3 [REDACTED] No, there's no guideline. The maps themselves are
4 extremely accurate. The steepness of the slope depends,
5 in part, on the contour interval. If you have a contour
6 interval, say, of two feet, then you have a very accurate
7 slope map. If you have a contour interval of twenty feet,
8 then you have a less accurate slope map, not that the
9 twenty-foot contours are not accurate, but the interpolation
10 is less so.

11 Q I see, and what did you say the c [REDACTED]
12 were?

13 A Twenty feet. The accuracy errs on conservatism.
14 That is, the areas that I've shown as steep are conserva-
15 tive. There are more areas that are steep land than are
16 shown on this map. However, with a twenty-foot contour
17 interval, you get the steepest areas.

18 Q I see. Okay, what about the flood plains
19 map. Can you get that?

20 [REDACTED] This, also, I can make a copy of.

21 [REDACTED] MR. MEISER: I think that would save some
22 time, because if I've got that, it saves asking a
23 lot of general questions,

24 THE WITNESS: This is MB-2.

25 Q This is your wetlands map?

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1 A Flood plain.

2 Q Flood plains map. I'm sorry. Have you com-
3 [redacted] area that's in the flood plain?

4 A Well, approximately nine per cent of the borough is
5 in wetlands and flood plain. That would include both wet-
6 lands and flood plain. I corrected you too quickly, and
7 that would account for 325 acres.

8 Q Okay. Now, the first one that I'm going to
9 look at is the water plain area in the northeastern part of
10 the town. Looking at this map, could you tell us what that
11 is?

12 A Well, that's part of the flood plain of [redacted]
13 that passes through that portion of town. Oh, yes, that's
14 part of the headwater of the north or south branch of the
15 Raritan.

16 Q What was your source of this map for demar-
17 cating areas as in the flood plain or wetlands?

18 A The source was either HUD maps or the soil survey.
19 I don't recall which at this time. If they were HUD flood
20 insurance maps, that would have been the source. If not,
21 [redacted] the soil survey.

22 Q Do you know if there is a HUD map for Mendham
23 Borough?

24 A No, I just don't recall.

25 Q Okay. Now, when you say you used the soils,

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1 which soils would have been put within these demarcations?

2 A Well, the Cokesbury soils would have been put in
3 [REDACTED] the soils that have a seasonally high groundwater
4 [REDACTED] either at the surface or possibly within four feet
5 of the surface, but, surely, a seasonally high groundwater
6 at the --

7 Q So in other words, this was taken, then, from
8 the Morris County soil map, is that where it was taken?

9 A If it were, if it were, it would have been from the --
10 it might have been taken from the HUD study, if there is
11 such a study.

12 Q Is it your position that any land [REDACTED]
13 a soil with a high water table within four feet of the sur-
14 face should never be built on for high density?

15 A No, not at all.

16 Q Then what would be the rationale, if it's
17 not always true, of automatically taking off those soils
18 from the list of developable land?

19 A Here again, it was based on the Department of Com-
20 [REDACTED] affairs exclusion of wetlands, as they excluded areas
21 [REDACTED] slopes in excess of twelve per cent, wetland, and quali-
22 fied farm lands or fair share allocation purposes, the
23 implication being that these areas should not be developed.

24 Q Did DCA define, in the report you looked at,
25 wetlands as having a high water table within four feet?

A No. In fact, curiously and perhaps unfortunately,

1 they did not opine wetland.

2 Q Then what was your rationale for using the
3 four feet of high water table as the cutoff?

4 A Well, I didn't say that. I said up to four feet.

5 There's an excellent rationale for that, which is that the
6 land is unsuitable for septic tanks. That is, if you have
7 a seasonally high water table at -- within four feet of the
8 surface, that imposes severe constraints on septic tanks.
9 Depending on proximity to a stream and the nature of the
10 soil itself, it may also reflect the flood plain.

11 Q Simply from looking at the soil w
12 this water table within four feet, is it possible
13 determination of whether it's possible to use that for high
14 density, if there are public sewers?

15 A The limitation, the main limitation, to a high
16 ground water table -- I shouldn't say the name. An impor-
17 tant limitation to high water table is unfeasibility for
18 septic tanks as well as severe constraints for foundations
19 and road construction. The area does not lend itself to
20 high density urban development because of these environmental
21 constraints.

22 Q Under the soil map, a soil which has a high
23 water table of four feet or less is always deemed severe for
24 foundation?

25 A For foundations? Foundations with a basement. They

1 make a distinction. I should have mentioned this earlier:
2 With basement and without basements. They're invariably
3 [REDACTED] with high water table, particularly if the land is
4 [REDACTED] the flatter the land, the more severe -- the flatter
5 the land, given a high water table, the more severe the
6 construction constraints are on it. The reason for that is
7 drainage becomes difficult.

8 Q I'm not sure if I understood your answer.
9 Let's assume there's no basement. Does the soil, if any,
10 always list tables, water tables, of under four feet as
11 severe for foundation?

12 A No, no. It lists it severe for development [REDACTED]
13 a flat soil, say zero to eight per cent, relatively level.
14 When you get in the C soils, eight to fifteen, you have
15 relatively steep grades which impose other constraints,
16 but they do hasten runoff.

17 Q I see. The Morris County Master Plan states
18 that, in adopting a conservative approach, only those lands
19 having a water table of two feet or less have been mapped.

[REDACTED] validly use a two-foot water table as the cutoff
[REDACTED] development, or do you feel it has to be four?

22 A Well, I don't know what Morris County is making
23 reference to, but four would be more suitable for septic
24 tanks.

25 Q Okay.

1 A. Water table within two feet of the surface is high,
2 is a high water table.

3 MR. JOHNSTON: Could I interject a question
4 on that? Do you know what the current standard for
5 construction of an individual septic system mandates
6 as to the groundwater level?

7 THE WITNESS: One foot. The groundwater
8 table has to be one foot below the septic tank.

9 MR. JOHNSTON: Do you know at what depth the
10 perc test has to be taken and found acceptable?

11 THE WITNESS: I think it was two
12 don't recall. It may be four feet.

13 MR. JOHNSTON: So for all you know, it could
14 be four feet mandated by law for construction of
15 individual septic tank?

16 THE WITNESS: Well, in practice it would
17 virtually always be at least four feet.

18 MR. JOHNSTON: Okay. Thank you.

19 DIRECT EXAMINATION CONTINUED

20 Q. MR. NEISER:

21 Q. Can you tell me, from this zoning map, how
22 this area is zoned? Is our overlay good enough to do that?

23 A. It's zoned one-quarter acre residence.

24 Q. That's the area with this low water table?

25 A. Largely in the one-acre zone. A portion of it is in

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1 the business zone. Yes.

2 Q It's largely in the what acre zone did you



3 quarter-acre lot.

5 Q So you excluded in this area, this high water
6 area, land from being developable which has the highest
7 density zoning in the township, is that correct?

8 A Well, if it were vacant, yes. I'm not excluding it.
9 I'm merely taking it out from the calculation.

10 Q Of what's developable?

11 A Right, and that calculation was prepared
12 it with the Department of Community Affairs calc
13 developable land in the borough.



14 MR. JOHNSTON: In point of fact, do you know
15 whether that land we're talking about now is already
16 developed?

17 THE WITNESS: Well, no, actually. It includes
18 a large wetland which is part of the Mendham Commons,
19 which is not developed nor is planned for development.

20 MR. JOHNSTON: Well, the Mendham Commons is
21 developed as a unit, isn't it?

22 THE WITNESS: That's right. That's right,
23 but it doesn't include the developed portion of the
24 Mendham Commons. What is shown here is not developed
25 by the Commons, nor will it be.

1 MR. JOHNSTON: That's right, but it is in the
2 area of an approved development which includes some
3 open spaces, some units, okay?

4 THE WITNESS: Yes.

5 DIRECT EXAMINATION CONTINUED

6 BY MR. MEISER:

7 Q Can you tell from this zoning map whether
8 there's been any actual construction of housing within that
9 area?

10 A Yes. There appears to be several homes which are --
11 several lots, portions of which are located within this
12 wetland area.

13 Q I see. Let's move down the map to the second
14 wetland area which is on the border of Mendham Township,
15 bordered by, I believe it is, Franklin Road. Now, again,
16 that is taken from the soils --

17 A Either the soils or HUD flood insurance maps.

18 Q I see. Is it possible for you to take a look
19 at the soils map and see what those soils are, just see if
20 they conform to this?

21 That would go on Cokesbury soil, which is character-
22 ized by ground water at the surface.

23 Q What are the letters for Cokesbury? Does it
24 give it?

25 A Yes, CoA.

1 Q CoA?

2 A Right.

3 [REDACTED] Can you tell from this overlay what the
4 [REDACTED] has been for that particular area?

5 A Single-family one-acre zoned.

6 Q Can you tell from the zoning map, whether,
7 in fact, there's been construction within there?

8 A Yes, there's been construction throughout this area.

9 Q Is the construction within this wetlands
10 area or outside it? Does the zoning map tell?

11 A Well, the location of buildings on the zoning map
12 represent symbols. However, there's a road that [REDACTED]
13 through it, and there are homes built in the area.

14 Q I see. Let's go all the way down to the
15 far southeast part of the township. Can you tell from your
16 soil map what type of soil that is?

17 A That's also a Cokesbury soil with CoB, B as in Betty.

18 Q Okay. Moving on to -- I'm pointing, but let
19 me characterize it. It is the one along what's labelled a
20 private road, is the starting point. It's in the southern
21 part and the eastern part of the town, the southeastern
22 part. It looks like an oddly shaped T, perhaps. Is there
23 a stream in there, that you know of?

24 A There's an ephemeral or intermittent stream shown
25 on the soils map.

1 Q What do you mean when you say ephemeral?

2 A It's a seasonal stream. There's water during
3 periods.

4 I see, and is it possible to tell what soils,
5 generally? There's probably more than one in this area of
6 the soil map.

7 A That's essentially the Cokesbury soil again, CoB.

8 Q Now, the final one is a large thing which
9 goes from the western boundary of Mendham Borough to, per-
10 haps, the middle of the town, and it's the largest area on
11 here. Are there any major streams in that area?

12 A Well, there's a McVicker's Stream. That
13 major stream in the area.

14 Q I see, and is there one major soil charac-
15 terization there?

16 A Yes, it's a Cokesbury, CsB.

17 Q I see, and that's what is the predominant
18 soil in this delineated area?

19 A Yes.

20 Now, can you tell if there's been any develop-
21 ment in the northern part of that delineated flood plain
22 area?

23 A There's been a little, very little development within
24 this particular flood plain area.

25 Q That development has been what type of zoning?

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1 A That has been in one-quarter acre zone and one-
2 acre zone. There's also been development in the five-acre

3
4 Q I see. The one-quarter acre zone, is that
5 along Main Street and Hampton Road?

6 A Yes, it is.

7 Q I'm not sure what's been scratched out. Is
8 there any other flood plain on this map that we have not
9 looked at? The last one. Okay. That's at the northern
10 border?

11 A Right.

12 Q Of the Borough of Mendham, and that's
13 one strip. Everything else, just to make the record clear,
14 has been scratched out. That which we've not talked about
15 is not meant to be included as a flood plain land?

16 A That's correct.

17 Q Okay. Now, what is the zoning of this norther-
18 most flood area, can you tell?

19 A That's CcB. I believe that's Cokesbury, also. Let
20 check.

21 That's Califon's soil.

22 Q Let me just check that. That was called
23 CcB soil?

24 A Yes.

25 Q Okay. I have no further questions on this map.

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MR. JOHNSTON: Just one, if I may. You may have said this already. If you have, I apologize. [REDACTED] the areas in the northwestern sector and the southwestern sector that you have crossed out as not properly being in a delineated area, why were they crossed out, or else why were they put there to start with, then crossed out?

THE WITNESS: I, in looking over the soils map, my reaction is that they should not be crossed out. However, they are crossed out here. I will go back and doublecheck these areas. For [REDACTED] this follows India Brook.

MR. JOHNSTON: Yes.

THE WITNESS: And I would question -- I would go back and see whether I can determine why it was crossed out and whether it should be.

MR. JOHNSTON: Okay. I think we have to know that. I suppose you're not talking about something that you can do right now, are you?

THE WITNESS: Well, I'd rather take fifteen or twenty minutes after this and --

MR. JOHNSTON: If you'd write me a letter explaining the answer and a copy to Mr. Meiser, then he can determine whether he wants to depose any more questions about that. I think we can agree to

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1 handle them separately.

2 MR. MEISER: All right. Fine. Let me just

3 THE WITNESS: It will be consistent. If

4 these are, in fact, flood plains, the soils are
5 reflected as such, and you have the Morris County

6 map there. You can doublecheck it.

7 DIRECT EXAMINATION CONTINUED

8 BY MR. MEISER:

9 Q Now, you gave me a total, which I've written
10 down someplace, of the total acreage that is in this flood
11 plain, 325 acres?

12 A Approximately.

13 Q Do you remember, does that 325 acres include
14 or exclude the scratched-out area?

15 A It should exclude the scratched-out area.

16 Q You said it should.

17 A That I will also get back to you on with a letter.

18 Q Fine. All right. Now, in your report, let
19 me turn to that for a second, you list, on Page 16 of your

20 you list flood plains and wetlands as 68 acres with
21 farm lands already subtracted out.

22 A Right.

23 Q I guess we should go back to that map. Do
24 you know which of those 68 acres would be the ones you're
25 excluding now?

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1 A. I would have to lay that over my farm-land map and
2 see where the comparison is.

3 ~~Q~~ Maybe you can just Xerox. Would it be pos-
4 sible to Xerox? That might save the need for you --

5 A. We have to see whether it distinguishes between the
6 two colors.

7 Q. Sure.

8 (Thereupon, there is a discussion off the
9 record.)

10 Q. All right. On this map, what does brown and
11 what does green stand for?

12 A. I was afraid you'd ask that question. 
13 qualified farm lands. That would be the lighter.

14 Q. Okay, and the brown?

15 A. Maybe estates, but, again, I would have to clarify
16 that.

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

19 Q. How was this map prepared?

20  This was prepared from an existing land use map
21 prepared by Mr. Kasler, and the information on qualified
22 farm-land assessments, that we received from the Borough
23 Administrator, Mr. Snedaker.

24 Q. Now, when you have 837 acres of qualified
25 farm land, that would be all of the green?

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1 A Yes.

2 Q So that 837 would be the green?

3 A That's correct.

4 Q Now, your characterization on Page 16 where
5 you've got vacant and agricultural land, farm land, slopes
6 in excess of twelve per cent, vacant developable land, how
7 does the brown fit into that?

8 A That I would have to clarify. That may be, if not
9 estates, that may be the 459 acres, but looking at it, I
10 would have to go back into my records and also speak to my
11 person who prepared this sketch.

12 Q Now, on Page 16 where you've got
13 ferent breakdowns, assuming these are estates, where would
14 they be listed on that chart at the bottom of Page 16?

15 A They would not. If they were estates, they would
16 not be listed.

17 MR. JOHNSTON: They would not be listed as
18 vacant land at all?

19 THE WITNESS: No, they would not be listed as
20 vacant land if they were estates.

21 All right. The question I'm really getting
22 to -- I don't know if you're going to be able to answer it
23 now. It's sort of -- the bottom line is where in the town-
24 ship are the 459 acres of vacant developable land?

25 MR. JOHNSTON: You don't have your wetland

1 map on there, do you?

2 THE WITNESS: No. I was just looking here
3 to see if there was any consistency between the
4 steep slopes.

5 MR. JOHNSTON: Look, let's put this off the
6 record.

7 (Thereupon, there is a discussion off the
8 record.)

9 DIRECT EXAMINATION CONTINUED

10 BY MR. MEISER:

11 Q I'll ask the question again. Ref [REDACTED]
12 the planning board map, can you point out where
13 acres of vacant developable land are?

14 A The vacant lands are those parcels which have no
15 structures on them, as shown on this zoning map. There are
16 three characteristics which we will exclude, environmental
17 characteristics which we will exclude from the vacant lands.
18 These are the flood plains and wetlands, the steep slopes,
19 and the qualified farm-land assessment.

[REDACTED] that remains, and it doesn't lend itself to inter-
[REDACTED] the way it's set up here, are the vacant lands
22 suitable for development. They include portions of the
23 brown areas that are shown on the qualified farm-lands map.
24 They include areas which have no color on them that are
25 vacant land as shown on the borough zoning map.

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1 Q How much, if any, of these vacant developable
2 lands are north of Main Street?

3 A Very small percentage of the lands that are vacant
4 and developable are located north of Main Street.

5 Q This being Main Street, this road here?

6 MR. JOHNSTON: You say it's largely because
7 they're already developed rather than for any of
8 the other reasons?

9 THE WITNESS: That's correct, and the reason
10 they're largely developed is because they have the
11 fewest environmental constraints, and it
12 cally makes sense to go to these areas w
13 easiest to develop.

14 Q Now, is this area -- and I'm referring to the
15 far northwestern part of the corridor, vacant developable,
16 the brown up there?

17 A Yes, yes, if brown is vacant developable, and I will
18 have to clarify that.

19 MR. JOHNSTON: Except is that not where the
20 Mendham Borough sewage treatment plant is located,
21 in this area, if you know?

22 THE WITNESS: I don't recall where it's lo-
23 cated.

24 Q Does that brown area in the far northwest
25 have water, public water, or public sewer?

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1 A Yes.

2 Q Now, there's a large brown area south of
[REDACTED] and north of where the farms start. Other than
[REDACTED] the red, does that seem to be the vacant developable?

5 A There is a flood plain coming from there, also,
6 which is part of the McVicker's Brook, Stream section, but
7 other than that, that includes what appears to be a large
8 vacant area.

9 Q That land is zoned one acre and five acre
10 below it to the south?

11 A Yes.

12 Q Going back to our earlier maps, [REDACTED]
13 That is to the south of the water line, is outside the
14 water line?

15 A Yes.

16 Q And it's to the south of the sewer line, okay,
17 so we were saying that all of this brown here is outside
18 the water area. I know it dips down.

19 A No, the sewage dips down. I'm sorry. No, no. It's
[REDACTED]. You're right. It's the water. Most of this
[REDACTED] of the water line. The water line dips down in
22 here, then comes back something like that.

23 Q There's a brown area on the right-hand side
24 to the south of Main Street that is presently zoned what?
25 One acre?

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1 A One acre.

2 Q Now, can we tell whether that's in or out of
3 the water or sewer?

4 A Outside --

5 MR. JOHNSTON: Outside the sewer?

6 THE WITNESS: Outside the sewer and inside
7 the water.

8 MR. JOHNSTON: Inside the water. It does
9 not appear to be vacant, does it?

10 THE WITNESS: On some of the larger parcels,
11 if there were a building up front, we would
12 the rear portion. That's why I don't believe
13 we have estates.

14 MR. JOHNSTON: Approximately what dimensions
15 is this area? Can you tell, that patch of ground?

16 THE WITNESS: I have the scale right here.
17 That would be approximately 1200 feet deep and
18 700 to 800 feet wide at its widest.

19 DIRECT EXAMINATION CONTINUED

20 BY MR. KAISER:

21 Q Would you repeat those dimensions?

22 A About 1200 feet deep and 700 to 800 feet wide at its
23 widest.

24 Q Now, all of the other areas that are brown
25 would be south of the water and sewer line, is that correct?

1 A Most of them would be. Some, like right in here,
2 are within the water line but outside the sewer line.

3 Q Does this line going across the southern
4 part of the town have any meaning?

5 A That's a road.

6 Q What road is that?

7 A That's Cherry Lane.

8 Q So in other words, the land north of Cherry
9 Lane is within the water system?

10 A Some of the land north of Cherry Lane is within the
11 water system. The water system runs between Ch
12 and Talmage Road.

13 Q What about this corner area?

14 A A portion of that, if brown, that is within the water
15 area. A portion of it is shown as having steep slopes, and
16 it is outside the sewer service area.

17 Q What about water?

18 A It's within the water.

19 Q Within the water. Now, can we tell what the
20 for that brown land along the border?

21 A Yes. That's one-acre zoning.

22 Q And the land above Cherry Lane?

23 A That's five-acre.

24 Q Is there any other brown on this map which
25 would be in either the water or the sewer?

1 A The brown area just south of Cherry Lane, that's
2 outside of the sewer but within the water.

110001

MR. JOHNSTON: That's largely overlaid with
slopes, is it?

5 THE WITNESS: Yes, steep slopes.

6 Q And what zoning is that presently?

7 A That is five-acre zoning.

8 Q Is there anything else that would be within
9 the water or the sewer that's brown, that you see?

10 A There are two brown parcels on Hilltop Road. That's
11 within the water but outside the sewer, which has
12 slopes and are zoned five acres.

13 Q Anything else?

14 A No, that would cover it all.

15 Q Let me ask you about the zoning map itself.
16 Starting with Main Street, over to the right on Main Street,
17 we see zoning of a fourth an acre. If we go back, for example,
18 Halstead in here and Dean, then we jump to one-acre zoning.
19 Do you know any environmental or any reason why this was
20 one-acre?

21 A I don't know, of my own personal knowledge, why it
22 was zoned one acre.

23 Q Do you see any environmental reasons that
24 would have required one-acre zoning here, as compared to the
25 one-quarter acre there?

1 A A stream flows through the area we're talking about
2 and goes into the Mendham Borough Park. That would be a
3 [REDACTED] higher zoning.

4 [REDACTED] Is that stream marked on this map at all or
5 shown?

6 A Portions of it are shown on the map. The portion
7 shown near Mendham Commons is on the map, and it is not
8 shown anywhere else on the map, but the stream does go into
9 the pond located at Mendham Park.

10 MR. JOHNSTON: Excuse me. I suggest you might
11 be a little bit confused here. There's [REDACTED]
12 parklands. The one you're referring to, [REDACTED]
13 is further north. There's the borough pool.

14 THE WITNESS: I'm sorry. That's my error.
15 I was tracing out the stream that did not go to the
16 borough -- the borough pond is considerably north
17 of Mendham Park, I was referring to. I don't see
18 on this map an environmental basis for the distinc-
19 tion zoning between Main Street and off Main Street.
20 [REDACTED] there may be such a reason but not based on the zon-
21 [REDACTED] ng map.

22 MR. JOHNSTON: When you say an environmental
23 basis, you mean based on the environmental charac-
24 teristics we've been talking about today?

25 THE WITNESS: Yes, steep slopes, flooding.

1 I can get the water table.

2 DIRECT EXAMINATION CONTINUED

3 [REDACTED] WEISER:

4 Q Now, at the top of this map we have the
5 Raritan River, and what is the zoning, can you tell, along
6 the Raritan River?

7 A One acre.

8 Q And below the railroad track?

9 A Below the railroad track, one-half acre.

10 Q Can you estimate the distance of this half-
11 acre zoning from the river along here? [REDACTED]

12 A Probably from 150 feet to 300 or 400 feet [REDACTED]

13 (Thereupon, there is a discussion off the
14 record.)

15 Q Do you think 150 feet or 300 feet from a
16 river is an appropriate distance to increase the density
17 when we're talking about water protection?

18 A It depends on many other factors. As you noted,
19 there's a rail line which is abandoned. That seemed to be
[REDACTED] or one of the bases, rather, for the change in

22 Q I see.

23 MR. JOHNSTON: If you know, isn't the abandoned
24 railroad line part of what the county park system
25 now calls Patriots Path, running through there?

1 THE WITNESS: I don't know.

2 MR. JOHNSTON: You don't know, okay.

3 EXAMINATION CONTINUED BY

4 MR. MEISER:

5 Q Now, how many acres is the Mendham Commons,
6 do you know? Can you show on there where it is?

7 A Mendham Commons, I will draw it in red.

8 Q Within that acreage, how many acres is that,
9 do you know?

10 A I seem to recall a figure of 360. No, 120, 120
11 acres.

12 MR. JOHNSTON: I think that's about

13 but I can't say for sure.

14 Q Now, how many units are being built in Mendham
15 Commons, do you know?

16 A 360?

17 Q So that's a density of just under three per
18 acre?

19 A Yes.

20 Are these rental housing or for sale town-
21 houses?

22 A Either condominiums or townhouses.

23 Q Now, the land outside this, is that being
24 used for anything? I'm referring to the quarter-acre zoning
25 outside your sketch.

1 A Not to my knowledge.

2 Q As far as you know, that's vacant?

3 A Yes.

4 Q Maybe you know. Is this the water-impacted
5 area, or is that developable land?

6 A No, that would be part of the flood plain.

7 Q I see.

8 A High water table.

9 Q Now, in the Master Plan I saw several refer-
10 ences to a senior citizen housing project. Do you have
11 any knowledge of that?

12 (Thereupon, there is a discussion
13 record.)

14 Q Can we mark on there where that senior citi-
15 zens tract is?

16 (Thereupon, the witness complies.)

17 Q And do you know the acreage and the number of
18 units to be built there?

19 A No, I don't.

20 (Thereupon, there is a discussion off the
21 record.)

22 Q Do you know what the status of that is?

23 A No, I don't.

24 (Thereupon, there is a discussion off the
25 record.)

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1 Q Do you know the reason for the three-acre
2 zoning in the northwestern part of the township?

3 No.

4 Q As we go down the maps, south of Main Street,
5 we see the land shifting from one-acre to five-acre zoning.
6 Do you know of any environmental or other reasons why the
7 lines are where they are?

8 A Well, the lines follow property lines. The reason
9 or a good reason for reducing densities in that area would
10 be because of the relative steepness of the slopes and the
11 wetland areas. As you saw on the previous maps, 
12 much steeper, and there are more wetlands to the
13 Main Street than there are to the north.

14 Q Would that be your answer through the entire --
15 moving in a west-east direction for where we switch from
16 one-acre to five-acre?

17 A Yes. Generally, there's a change as you go further
18 south to north, undevelopable or land more difficult to
19 develop than there is to the north. The lines themselves
20 follow property boundaries, not natural boundaries.

21 Q Some of the five-acre land is within the
22 public water system, and this area, do you think five-acre
23 zoning is appropriate in areas where there is access to
24 public water?

25 A Yes. It would depend, in part, on the utility system,

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1 that is, the sanitary sewer system. Conditions may be such
2 that five acres is necessary to provide the necessary perco-
3 [REDACTED] but, generally speaking, my recommended basis for
4 [REDACTED] increasing the densities in the southern portion of the
5 community would relate, primarily, to the steep slopes, the
6 flood plains, and the distance from community facilities
7 and utilities.

8 Q Let's assume for the moment that we have what
9 you've listed as vacant developable land within this public
10 water area. Your feeling is that that land should still
11 remain five acres?

12 A I think it would be reasonable to remain [REDACTED]
13 acre, yes.

14 Q And your reasoning would be what?

15 A Proximity to the wells, potential soil conditions,
16 and possibly steepness of the slope.

17 Q Do you know or have any thought as to what
18 the ultimate population is that Mendham Borough can support
19 under this existing zoning?

20 [REDACTED] No, I don't.

21 [REDACTED] By the way, do both the senior citizen and
22 the Commons have public -- are they tied into public water
23 and sewer?

24 A Yes, sir. They are.

25 (Thereupon, there is a discussion off the
record.)

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MR. MEISER: That's enough. I'm finished with Mendham Borough.

(Thereupon, there is a luncheon recess.)

A L L E N J. D R E S D N E R, Sworn.

DIRECT EXAMINATION BY

MR. MEISER:

Q Let's begin by asking you what reports and studies you've done or maps for Kinnelon at this time, for purposes of this trial.

A I've prepared one report, an analysis of relationship of the environmental characteristics and land development for the Borough of Kinnelon. I've used, in preparing that report, previous master planning reports for the Borough of Kinnelon, its natural resources inventory, the Morris County soil survey, USGS maps covering Kinnelon, and publications by the New Jersey Department of Community Affairs, the Tri-State Regional Planning Commission, Morris County Planning Board. Did I say the Tri-State Regional Planning Commission? Period.

Q Now, you referred to the Master Plan. Did you review both the original 1963 -- I believe it's 1963 -- Master Plan and the update?

A Yes, I did.

1 Q Do you have the update here?

2 A Here are the documents I do have.

3 Now, did you indicate whether you've prepared
4 any maps yourself in preparation for this trial?

5 A I didn't prepare any final maps. I've been using
6 existing maps for analytic purposes. I have two maps here
7 that have been prepared. One map is slopes in excess of
8 twelve per cent and water bodies. The map shows both
9 water bodies and slopes, and the second map shows water
10 supply reservoirs in Kinnelon.

11 MR. MEISER: Can we get those maps
12 identification, K-1 and K-2?

13 (Thereupon, K-1 and K-2, maps, are received
14 by the reporter and marked for Identification.)

15 Q Do you anticipate preparing any other maps
16 for trial?

17 A No. Essentially, these are the two maps that will
18 be prepared: One relating to steep slopes, the other re-
19 lating to water sheds and reservoirs.

20 Now, have you made any trips to Kinnelon in
21 preparation for this case?

22 A Yes, I have.

23 Q What did that consist of?

24 A I made a windshield survey through the community
25 to note and to confirm the location of residential develop-

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1 ments, the character and quality of the landscape, and I
2 was particularly concerned with the reservoirs, and I
3 ~~_____~~ all the reservoirs.

4 ~~_____~~ Now, what is the present population of
5 Kinnelon? Is it 8500?

6 A I'm doublechecking right now. I don't recall what
7 it was. Yes, that would be about correct.

8 Q And what is the area of Kinnelon?

9 A The area is 12,600 acres.

10 Q How many square miles does that come out
11 to?

12 A .19.7 square miles.

13 Q Now, as part of your research in Kinnelon,
14 did you give any consideration to whether, in your mind,
15 Kinnelon was a developing municipality?

16 A Yes, I considered it.

17 Q Did you reach a conclusion?

18 A I reached a conclusion on that, although I wasn't,
19 as I recall, asked to reach a conclusion.

20 ~~_____~~ What is your conclusion?

21 ~~_____~~ That it is not a developing community.

22 Q And what were the reasons, under the Supreme
23 Court test, that led you to that conclusion?

24 A Well, as I said, I wasn't asked to come to a con-
25 clusion. I didn't apply the Supreme Court test rigorously.

1 My main considerations related to the difficult nature of
2 development in Kinnelon and its location off the beaten
3 [REDACTED] that is, off the direction of inevitable future
4 [REDACTED] development.

5 Q So you didn't go through the Mount Laurel 6
6 test, one by one?

7 A No, I didn't.

8 Q In Kinnelon, how many areas of vacant land
9 are we starting with?

10 A The vacant land areas, information that I would
11 have would be from the land use map and land use
12 dated April 13, and on Page 2, Table 1, there's [REDACTED]
13 that vacant land consists of 8,639.9 acres.

14 Q Would you repeat that number, sir?

15 A 8,639.9 acres. That's 72 per cent of the total
16 land area, according to Table 1.

17 Q Now, which one of these maps is your slope
18 map? Can we get that one out? Now, what was your method-
19 ology in computing this slope map?

20 [REDACTED] this also went to the USGS map, where we interpreted
21 the contour intervals, which were twenty feet to determine
22 slopes in excess of twelve per cent.

23 Q And how many acres did it turn out to be?

24 A As I recall, it was 44 per cent of the total com-
25 munity, so that would be 44 per cent of 12,600 acres or

1 approximately 5,500 acres.

2 Q So approximately 5,500 acres have slopes
[REDACTED] per cent?

[REDACTED] Yes.

5 Q Do we know how many of those 5,500 acres
6 are developed, if any?

7 A No, I don't have that breakout.

8 Q Do you have any opinion that, if we were
9 using a cutoff point of fifteen per cent slopes rather than
10 twelve per cent, would there be any substantial difference
11 in this number?

12 A No. My opinion, there would not be a substantial
13 difference in this number. This is a portion of the county
14 which has steep slopes to a greater per cent, to a greater
15 degree than most other portions of the county.

16 Q Now, the Master Plan on Page 7 stated that
17 there were 3,960 acres that have a slope of 10 per cent
18 or less. Does that sound accurate to you?

19 A That would be the original Master Plan?

[REDACTED] Right, the last textual paragraph.

(Thereupon, there is a discussion off the

22 record.)

23 A That seems reasonable. It does not conflict, in
24 any event, with my estimate of about 4,400 acres with
25 slopes in excess of 12 per cent.

1 Q Now, on Page 7, it continues that this land,
 2 referring to that 3,960 acres, is generally suited to most
 3 types of urban development. Would you agree or disagree
 4 with that statement?

5 A Well, insofar as the slope itself is concerned, I
 6 would agree. There are other considerations other than
 7 slope that address suitability for urban development.

8 Q What factors are you referring to there?

9 A The availability of utilities, the public interest
 10 in protecting public lands, the location of the zero to
 11 ten per cent slopelands. For example, if these
 12 more level lands are located in valleys between
 13 hillsides, their suitability for urban development is less
 14 than if they were in a large parcel, not isolated by hills.

15 Q I see. All right. We turn to the second
 16 map, which is, I believe, the water map. Could you tell us
 17 what is shown on this map?

18 A Yes. This shows the reservoir-rich area that
 19 Kinnelon is located in and infers a responsibility to pro-
 20 tect these reservoirs.

21 Within Kinnelon, there's Stickel's Pond, Tikeout
 22 Reservoir, Taylortown Reservoir, and Boonton Reservoir,
 23 all located entirely or within the borough. Additionally,
 24 there is the Split Rock Reservoir and the Charlotteburg Re-
 25 servoir, the latter of which is partially located within

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1 Kinnelon, and both of which have a portion of their water-
2 sheds in Kinnelon; so there are six reservoirs either
3 [REDACTED] or partly within Kinnelon, as well as their water-
4 [REDACTED] being entirely within or partly within the borough.

5 Q What are the black squares within the map?
6 What do they symbolize?

7 A They symbolize the drainage basins. That is, within
8 these black areas all waters flow to a common source. In
9 most cases it's a stream. Occasionally, it's a lake or a
10 reservoir.

11 Q At this drainage basin, where did [REDACTED]
12 the information that --

13 A This was taken from the USGS map by following con-
14 tour lines and connecting high points and thereby separating
15 the directions in which surface water flows.

16 Q Okay. Let's start out in the northwestern
17 part of the county. That is enclosed on three sides by
18 this drainage map. What does that indicate?

19 A That shows the portion of Kinnelon that is within
20 [REDACTED] Charlotteburg Reservoir watershed. Most of the water-
21 [REDACTED] located outside of Kinnelon. However, the dam and
22 lower portion and deeper portion of the reservoir is lo-
23 cated within Kinnelon.

24 Q Moving down below the Charlotteburg Reservoir,
25 what does this drain into immediately below it?

1 A Right. That area would drain, in Kinnelon, would
2 drain into the Split Rock Reservoir located entirely out-
3 ~~side of~~ Kinnelon.

4 Then the Stickel's Pond area, where does
5 that drain to?

6 A The map shows a common drainage area into Stickel's
7 Pond and Tikeout Reservoirs, both of which are part of
8 the same system.

9 Q And the remainder of the town drains into
10 what?

11 A Fayson Lakes, which is not noted or labeled
12 map, and the Taylortown and Boonton Reservoirs. ~~on~~

13 Q Where would Fayson Lakes be?

14 A Fayson Lakes is the lake shown immediately north of
15 Taylortown Reservoir.

16 Q This?

17 A Yes.

18 Q Did you do any analysis in your report of
19 vacant developable land within Kinnelon?

20 ~~It's~~ It's my recollection that I did not do any analysis
21 ~~of that sort.~~ of that sort. However, let me doublecheck my notes. That's
22 correct.

23 Q Is there a reason you didn't for this town?

24 A I think I was of the opinion that the limitations
25 to density were so great, particularly in terms of geologic

1 conditions, topographical conditions, and hydrologic,
2 that it was not necessary at that time to go through the
3 [REDACTED] land calculations.

4 [REDACTED] (Thereupon, there is a discussion off the
5 record.)

6 Q Referring to the Master Plan of Kinnelon on
7 Page 13, on Page 13 of the Master Plan of Kinnelon, they
8 chart as lands suited for development 6,441 acres. Do you
9 know what they were using when they were using the charac-
10 teristics of land -- the term "land suitable for develop-
11 ment"?

12 A The 6,441 acres would include, in part, [REDACTED]
13 slopes less than 10 per cent, which is some 3,960 acres;
14 and where they get the remaining 1,500 acres I don't know.
15 I believe I can account for some 3,900 acres as being lands
16 suitable for development based on the Master Plan. However,
17 I don't know where the additional 1,500 acres would come
18 from.

19 Q All right. On Page 13 in their Master Plan,
20 [REDACTED] line marginal land in the residential zone as 3,209
21 [REDACTED] Do you see that?

22 A Yes, sir.

23 Q Do you know what their definition in the
24 Master Plan of margin land is?

25 A No, I don't.

1 Q Going back to the water map for the moment,
 2 I believe that Butler owns one of these reservoirs, is
 3 that correct?

4 A Yes, that's the Tikeout Reservoir.

5 Q And is any of Kinnelon tied into or using
 6 public water taken from that reservoir?

7 A I don't believe so.

8 Q Let me backtrack for a second. Do you know,
 9 is any residence in Kinnelon presently using public water?

10 A There may be some homes adjacent to Butler that are
 11 being serviced by Butler, but, other than that,
 12 believe there are any homes receiving water from
 13 reservoir.

14 Q Is there any other residence in the township
 15 which is presently receiving public water from any source?

16 A I don't know. I believe they may be coming from
 17 the Taylortown Reservoir, and, of course, Fayson Lakes pro-
 18 vides its own water, but I believe that's from wells.

19 Q Do you know what the capacity of the Fayson
 20 wells are?

21 A No, I don't.

22 Q Do you know how many families are served by
 23 that?

24 A No.

25 Q So I guess you don't know whether they're at

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1 capacity either?

2 A That's correct.

3 [REDACTED] Do you know whether it would be possible for
4 [REDACTED] any new residences anywhere in the township to tie into
5 any existing source of public water?

6 A I don't have any personal knowledge regarding that.

7 Q Do you have any knowledge as to whether any
8 other town would be willing to sell water?

9 A No, I don't.

10 Q Have you done any research at all on the
11 water systems in Kinnelon, other than mapping t [REDACTED]

12 A No, sir. I haven't.

13 Q Let me ask you this: Do you remember in
14 your report stating that you did not believe there was a
15 capacity in Kinnelon for any additional public wells?
16 Do you remember making that --

17 A No, I don't. I may be in error, and I'm reading my
18 report now.

19 Q Let's turn to Page 11. I think that's the
20 [REDACTED] I'm referring to. The second sentence states:
21 [REDACTED] The principal reason for this is that the character
22 of pre cambrian rock structure underlying the borough is
23 such as to make unlikely the possibility of developing a
24 significant ground water source at any single location with
25 the potential for supporting the high density development."

1 Is your basis for this conclusion that this is
2 pre cambrian, or do you have other bases for that?



3 No, it would be pre cambrian.

4 Q But there are places in the county with pre
5 cambrian rock that have developed large public water sources,
6 aren't there?

7 A I don't know of any that have developed large public
8 water sources from pre cambrian rock. If there are large
9 public water sources, it would come from a reservoir.

10 Q What about Mendham Borough that we were talk-
11 ing about this morning? Do they have large wells in
12 pre cambrian rock?



13 A Oh, yes, they have wells in pre cambrian rock, but
14 a large population I would consider in excess of 10,000
15 persons.

16 Q I see. So what you're saying you don't
17 think that the potential is there to support something
18 like 10,000 people?

19 A Essentially, yes, yes, from a groundwater supply.



20 Then when you're referring to high density
21 development in that sentence, you're talking about high
22 density development for the town as a whole?

23 A Yes.

24 Q Do you have an opinion as to whether it would
25 be possible for a particular high density development to

1 develop a groundwater well in Kinnelon?

2 Yes, I'm sure there are places and conditions in
3 where you can develop a groundwater in sufficient
4 volume to serve a higher density of development. However,
5 as is the nature of the pre cambrian structure, it is very
6 difficult, if not impossible, to determine where these
7 places will be except on the basis of drilling.

8 Q I see. Now, when you say virtually all
9 potential surface water supplies have already been developed
10 for consumption outside the borough, what were you refer-
11 ring to there?

12 A I was referring to the numerous lakes and
13 that have already been usurped for reservoirs, and, as
14 shown on the watershed map, except when you combine the
15 portion of Kinnelon that flows into the Pequannock River
16 with the orange-shaded areas in Kinnelon, relatively little
17 remains within the borough which would provide for reser-
18 voir space or volumes of water to create a reservoir.

19 Q I see. Now referring back to your slope map,
20 in the southeastern part of the town there seems to be a
21 large corridor of largely white widths, particularly
22 in the southern part, not too many slopes, although you
23 can't reflect this. Do you see which ones I'm referring to?

24 A Yes, I do.

25 Q What would be the barriers to development

1 there?

2 A Well, a part of it is a lowlands or swamps, and
3 [REDACTED] an area towards the south central of this corridor
4 that we're talking about. The remainder of this is hemmed
5 in between steep slopes and high mountains.

6 Q What is the problem with developing high
7 density development hemmed in, as you say, with slopes,
8 if you leave the slopes as open spaces?

9 A It would depend on the extent of the level area or
10 the valley that you're building on. When you're building
11 in the lower areas, there is very little room to
12 water to protect downstream conditions, so if y [REDACTED]
13 high densities in these low areas, you increase the volume
14 and peak rates of stormwater runoff, therefore, increasing
15 the potential for downstream flooding when it doesn't
16 exist and exacerbating the conditions when they do exist.

17 That's looking at it in a very limited way, of course.
18 There are other limitations to developing in that corridor,
19 but you raised the question relating to topography --

[REDACTED] Is this corridor the area in which the Fayson
[REDACTED] development has been built?

22 A No. The corridor is to the east of the Fayson Lakes
23 development.

24 Q So that you're saying that Fayson Lakes has
25 been built to the west of this corridor?

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A Yes, sir.

Q In that white area to the left of the next
[redacted] area?

A Yes.

Q I see. What type of density was Fayson Lakes
built at?

A I don't recall. It seems less than one unit per
acre when I drove through. However, that was based on
front view, not so much on depth.

Q At the northeastern part on the Butler border,
it seems to me we have a large area of white [redacted] [redacted]ly
adjacent to it, then moving away. What is the [redacted]
there?

A The topography there is essentially a long, level
slope up from the Pequannock River and down into the
Borough of Butler. A portion of that area is already
developed in Kinnelon and is an extension of the Borough
of Butler.

Q Can you estimate how many acres are vacant
[redacted]?

A No, I can't.

Q Are there obstacles to development in this
area sufficient that you would take that out of the cate-
gory of developable land?

A If I were to classify land as vacant developable,

1 and in order to be consistent with previous calculations
2 that I've done for other communities, the only areas that
3 [REDACTED] take out of developable in those lands that are
4 [REDACTED] are lands which have slopes in excess of twelve
5 per cent, lands which are wetlands or subject to flooding,
6 and lands which have qualified farm-land assessments.

7 Q Is it possible to know how much of this
8 white would be wetlands?

9 A A relatively small portion would be wetlands, if
10 indeed there were any wetlands up there.

11 Q So I just want to make it clear. [REDACTED]
12 definition of developable area that the Department
13 Community Affairs has come up with, all the remainder of
14 this white land through the township would qualify?

15 A Well, not all of the remainder, because the white
16 areas include developed areas, as well, so a portion of
17 the white areas that are neither developed nor wetlands
18 or flood prone would be developable; but, as I mentioned,
19 I haven't made that calculation.

20 [REDACTED] I understand that. Does the Master Plan
21 [REDACTED] come up with any total of wetlands area?

22 A It has a total of rivers, lakes, ponds, and reser-
23 voirs. That's the original Master Plan, and that's nearly
24 a portion of the total.

25 In the updated Master Plan, it still calls that

1 category rivers, lakes, ponds, and reservoirs and really
2 does not include lands that are subject to flooding.

3 [REDACTED] Q Is there a reason that you didn't do the
4 [REDACTED] calculation of the vacant developable land as DCA outlines
5 that you've done in other towns?

6 A No, I didn't think it pertinent in this particular
7 situation.

8 Q And your reason? You may have said it ear-
9 lier.

10 A Well, the reason is that it's so extensively steeply
11 sloped that to take the level lesser lands out [REDACTED]
12 context with the adjacent steep slopes seems to [REDACTED]
13 sonable.

14 Q I see.

15 A The character of Kinnelon is that of a steeply-
16 sloped community.

17 Q Do you plan to make any such analysis of
18 vacant developable land between now and the trial?

19 A Not unless I'm requested to.

20 [REDACTED] Q If you are requested, I'd request a copy of
21 [REDACTED] since we're going to be out of deposition time.

22 A Depends when the trial is.

23 Q That's true. Are there any units of housing
24 in Kinnelon that have public sewer?

25 A Yes. I believe the small area adjacent to Butler is

1 tied into the Butler system.

2 Q I see, and do you know if the Butler system
[REDACTED] operating at capacity?

3 A No, I don't.

5 Q Do you have any idea as to whether there's
6 a possibility of any other tie-in to that system in
7 Kinnelon?

8 A In Kinnelon? No, I don't believe so.

9 Q No, you don't believe what?

10 A I don't believe that there are opportunities or
11 tie-ins that are in proximity to the existing [REDACTED]
12 You can always through a line down a road and [REDACTED]
13 reasonably speaking, I believe the only area is the area
14 I mentioned.

15 Q I see. The Master Plan, Page 67, recommends
16 several things. One is an engineering study to locate a
17 possible source of water for municipal distribution system,
18 and it talks about the possibility of using existing sources
19 or establishing a separate reservoir. Do you know if any
20 [REDACTED] studies have been made?

21 A No, I don't know whether it's been made.

22 Q Is it possible that, in these white, unde-
23 veloped areas of Kinnelon, to use any type of package
24 treatment plant for sewage?

25 A That would be very difficult to do, because the

1 logical way of disposing the effluent is into a stream and
2 not through spray irrigation or recharge in this particular
3 area, and as I noted earlier, so many of the streams in
4 the community are part of a public water supply reservoir
5 system.

6 Q Now, I believe you recommend zoning of one
7 home for every three or four acres in Kinnelon, is that
8 correct? Is that in your report?

9 A I don't recall whether I put it in the report, but
10 that would be a reasonable statement of my opinion for
11 Kinnelon.

12 Q Does Kinnelon have three-acre or
13 zoning anyplace in its town?

14 A No. The highest zoning is 60,000 square feet or
15 one and a half acres per unit.

16 Q I believe that the update of the Master Plan
17 says that the ultimate population of the township is
18 eighteen or nineteen thousand people at full development
19 under present zoning. Is that correct?

20 I believe so. Wait one second. I will doublecheck
21 about eighteen thousand residents in the ultimate.

22 Q Given the fact that Kinnelon has zoned the
23 possibility of that many units, would it be better to have
24 some relatively high density apartments in zoning the rest
25 of the town and three or five acres to protect our environ-

1 mental concerns, rather than the zoning that the township
2 has?

3 [REDACTED] If the touchstone were eighteen thousand and if that
4 were the fixed condition, my answer would be yes.

5 Q Have you looked at the soils in Kinnelon?

6 A Yes, I have.

7 Q What are the major soils in Kinnelon?

8 A The major soils are the Rockaway soils and Hibernia
9 soils.

10 Q Are there some soils in Kinnelon which are
11 listed as moderate for development?

12 A Yes, I would say so. Without looking at [REDACTED]
13 it's reasonable to assume that a community the size of
14 Kinnelon has soils that will be moderate, that would impose
15 moderate constraints or limitations to development.

16 Q Do you have any idea what percentage of these
17 soils would fit in that category of moderate?

18 A No, I don't.

19 Q Would the RoC be one that might fit within
20 [REDACTED] category of moderate?

21 [REDACTED] Yes.

22 Q And also, perhaps, the RpC?

23 A Yes, that would be moderate for town and country
24 planning, as noted in the soil survey.

25 Q We'll refer to the 1961 report on apartments,

1 which I believe you may have. Have you reviewed that
2 document?



Yes, I have.

Did you have any opinions as to that analysis?

5 A Well, the opinion I had on this analysis was similar
6 to the opinion I had on the Master Plan, and that is that
7 it was -- both this and the Master Plan were written during
8 a period, during a decade, when environmental and energy
9 concerns were not part of the planning process.

10 Q Go ahead.

11 A And what they reflected was an ethic that
12 it hasn't been discredited, has been substantiated
13 in the light of reality.



14 Q This report, and it's entitled, "Garden
15 Apartment Development, Kinnelon," was prepared October 1961.
16 They list several sites as possible locations for garden
17 apartments. That is on Boonton Avenue near Shirley Terrace.
18 Do you have any familiarity with that site?

19 A If Shirley Terrace can be pointed out to me --



(Thereupon, there is a discussion off the
record.)

22 Q Looking generally at the map, I take it we
23 did not find Shirley Terrace, is that correct?

24 A That's correct.

25 Q Looking generally at Boonton Avenue, are there

1 any undeveloped sites along Boonton Avenue, which, if we
2 were going to build apartments, might be a more desirable

3 [REDACTED]
4 [REDACTED] Yes, there are more desirable locations along
5 Boonton Avenue for apartments than other portions of
6 Boonton Avenue. Generally speaking, the closer you are
7 to the City of Butler, the Borough of Butler, the more
8 appropriate the location.

9 Q Now looking along Boonton Avenue, how does
10 that area fit in terms of slopes? Is there a possibility
11 of knowing from the slopes map whether that's within
12 fifteen or about it? [REDACTED]

13 A Yes. Well, portions of Boonton Avenue go through
14 areas of steep slope, and other portions go through areas
15 of less than twelve per cent slope.

16 Q I see. The areas of less than twelve per
17 cent slopes, are we talking in terms of a block, or is
18 there any way to approximate that area?

19 A No. It would be difficult. However, let's see how
20 [REDACTED] can do. Well, there are stretches of Boonton Road
21 [REDACTED], perhaps a half-mile in length and more, which go
22 through areas that are not excessively steep, and, here
23 again, they seem to be closer to Butler than further away.

24 Q I see. All right. There's reference to
25 Kiel Avenue on the west side of the road near the school.

1 Can you locate that on the map?

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

4 Do you have any comments as to that as a
5 possible location for multi-family housing?

6 A Yes.

7 Q And which is?

8 A I think it would be more preferable to have it
9 closer to Butler. Multi-family apartments do not tradi-
10 tionally generate school children, so there's no merit in
11 having that kind of high density within walking
12 to the school.

13 Q I see.

14 A It would be preferable to have residential develop-
15 ment that does generate children closer to the school.

16 Q Any other comments on that area?

17 A No.

18 Q The two final areas are the Fayson Lake area,
19 southeast of south Fayson Lakes, and then Fayson Lake area
20 southeast of Boonton area. I'm wondering if you can locate
21 and comment on those two possible sites.

22 A Well, that area looks developed on the map that I
23 have.

24 Q Both areas? Which one are you referring to?

25 A Well, southeast of south Fayson Lakes is developed,

1 and the other --

2 Q The other one says Fayson Lakes area south-
3 Boonton Avenue.

4 that also seems developed. There are some undeveloped
5 lands there, but that's deep and precipitous.

6 Q I see. All right. I really don't believe
7 I have any more questions.

8 MR. MEISER: Do you want to ask anything?
9

10 CROSS-EXAMINATION BY

11 MR. BUZAK:

12 Q Just in relation to the last comment [REDACTED]
13 potential apartment sites, multi-family sites in which
14 you're speaking of preferable or more preferable areas,
15 are you speaking in regard to or in relation to the slopes
16 of the land or a multitude of factors?

17 A A multitude of factors. At least as important as
18 the slope is proximity to public water and sewer supplies,
19 as well as transportation.

20 [REDACTED] In terms of those areas that were pointed out,
21 [REDACTED] the distance, if you know, from public water or
22 public sewer supplies?

23 A Well, they're in excess of a mile. They're not what
24 I would call proximate to public utilities at all.

25 MR. BUZAK: I have nothing else.

1 MR. MEISER: Okay. We're finished.

2 (Thereupon, the depositions were concluded

3 at 3:35 p.m.)
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C E R T I F I C A T E

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

ALLEN J. DRESDNER

was duly sworn by me to testify the truth, the
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing
is a true and accurate transcript of the testimony
as taken stenographically by and before me at the
time, place and on the date hereinbefore set forth,
to the best of my ability.

I DO FURTHER CERTIFY that I am neither
a relative nor employee nor attorney nor counsel
of any of the parties to this action, and that I
am neither a relative nor employee of such attorney
or counsel, and that I am not financially interested
in the action.

Patrice K. Sprovieri
Notary Public of the State of New Jersey