

ML - Morris County Fair Housing Council

2/18/80

v. Benton Twp (Morris Plains)

Deposition of Russell ~~Mont~~ Montney

P35

ML000918 ~~AG~~

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION-MORRIS COUNTY  
DOCKET NUMBER L-6001-78 P.W.

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MORRIS COUNTY FAIR HOUSING :  
COUNCIL, et als, :  
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 Plaintiffs, :  
 :  
 -V- :  
 :  
 BOONTON TOWNSHIP, et als, :  
(MORRIS PLAINS) :  
 :  
 :  
 Defendants. :

DEPCOSITION OF:  
RUSSELL L. MONTNEY

D.L. Moore  
2/18/80

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T R A N S C R I P T of stenographic notes as  
taken by and before JILL FRIEDBERG, Notary Public and  
Shorthand Reporter of the State of New Jersey, at the  
offices of ROBERT CATLIN AND ASSOCIATES, 2 Valley Road,  
Denville, New Jersey, on Thursday, February 7, 1980,  
commencing at 10:00.

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

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

MESSRS. HARPER & O'BRIEN  
BY: STEPHEN C. HANSBURG, ESQ.  
For the Defendants.

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I N D E X

WITNESS

DIRECT

RUSSELL L. MONTNEY

By Mr. Meiser

2

E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>IDENT.</u>
MP-1	Map, Existing Development, Revised 9-28-79	3
MP-2	Map, Existing Development, Vacant Land, Revised 9-28-79	3
MP-2A through MP-2H	Overlays Morris Township	4
MP-2-I	Morris Plains-Vacant Land-Soils handwritten on columnar pad, prepared 1979.	4

1 RUSSELL L. MONTNEY, 2 Valley Road,  
2 Denville, New Jersey, 07834, duly sworn by the Reporter,  
3 testifies as follows:

4  
5 DIRECT EXAMINATION BY MR. MEISER:

6 Q Mr. Montney, just like last week, I'm going  
7 to be asking you questions and if at any time you don't  
8 understand a question, please ask me to clarify it. I'll  
9 do my best to rephrase it. I want to begin by asking  
10 you, what reports you have prepared for Morris Plains  
11 Township and make sure that I've gotten everything.

12 A Borough.

13 Q Borough.

14 A I prepared two basic reports in conjunction with  
15 Mr. Denzler. He's the borough engineer.

16 As long as you've got them out here, the first one  
17 is dated October 4, 1979 and the second was dated  
18 November 9, 1979, which supplemented the October 4,  
19 memorandum.

20 Q Those are the two reports which you  
21 prepared?

22 A Yeah.

23 Q Have you prepared any maps or charts in  
24 connection with Morris Plains.

25 A Yes.

1 Q What do they consist of?

2 A They consist of a -- we did an existing development  
3 map and from there, we did a vacant land map and we then  
4 made an analysis of that vacant land, with a series of  
5 overlays, I should say.

6 Q Can we mark those?

7 A You can, indeed.

8 (Whereupon, the above-mentioned map, entitled  
9 Existing Development, dated January, 1975, revised  
10 September 28, 1979, marked MP-1 for identification.)

11 (Whereupon, the above-mentioned map, entitled  
12 Existing Development-Vacant Land, dated January,  
13 1975, revised September 28, 1979, marked MP-2 for  
14 identification.)

15 Q Now, with regard to the overlays, because  
16 there were limited areas that were implicated, we, rather  
17 than do the entire Town for each of the categories that  
18 we are dealing with, we did individual overlays in those  
19 areas which were affected with regard to certain topo-  
20 graphic and soils limitations.

21 A Now, we have a series of four maps dealing with  
22 topography and four dealing with soils, which are small,  
23 roughly 8 by 14 mylar overlays that go on -- that were  
24 used in conjunction with the second map, which would be  
25 MP-2, which would, if you will, show the soil, topog and

1 soil characteristics.

2 If you want to mark these, if I could suggest, you  
3 might want to mark these MP-2A, B, C, D, E, F. Would  
4 that be a reasonable suggestion?

5 MR. MEISER: Sure. Relate them to the MP-2  
6 map.

7 (Whereupon, the above-mentioned overlays  
8 of Morris Township, marked MP-2A through H for  
9 identification.)

10 A We have just a handwritten table on a columnar  
11 pad, which gives the soils. These are soils which are  
12 shown on the soils maps and give these characteristics.  
13 Maybe we can get that marked.

14 Q That will be fine. That will be MP-I for  
15 identification.

16 (Whereupon, the over-mentioned document,  
17 entitled Morris Plains-Vacant Land-Soils,  
18 prepared 1979, handwritten on a columnar pad,  
19 marked MP-2-I for identification.)

20 Q A little, again, background. Do you know  
21 what the present population of Morris Plains is today?

22 A We can give you an estimate.

23 MR. HANSBURY: Other than an estimate, I  
24 wonder if we could give you a more exact number  
25 through correspondence.

1 MR. MEISER: Let me find what the basis  
2 for his estimate is. Then we can.

3 MR. HANSBURY: Sure.

4 A It's approximately 6,000 people.

5 Q As of today?

6 A Yes.

7 Q Now, on -- do you have any estimate today,  
8 as to the ultimate of population that Morris Plains will  
9 reach?

10 A We made a projection --

11 MR. HANSBURY: Can I clarify that projec-  
12 tion in the terms you are speaking about?

13 MR. MEISER: In the Master Plan we are  
14 talking about, the last 1990's, now discussing  
15 where that would happen.

16 MR. HANSBURY: So, the time frame you're  
17 talking about is the end of the century, perhaps?

18 MR. MEISER: We can use that as an  
19 approximation.

20 A As you indicated, we did state in the Master Plan  
21 that we anticipated reaching a population of 6500 persons  
22 in the mid or late 80's and it goes on to suggest that  
23 any changes in residential patterns would modify that  
24 and we have had such changes subsequent to the adoption  
25 of the Master Plan.

1 MR. HANSBURY: And just for the point of the  
2 record, the estimate we gave you was based on the  
3 review of the Master Plan for several minutes.  
4 We'll be happy to provide a more exact number at a  
5 later date.

6 Q Now, those changes in zoning that you refer to,  
7 are what, that have happened since the Master Plan was  
8 put out?

9 A A new R-4 zone was created, multi-family zone was  
10 created in Morris Plains.

11 Q And that R-4 zone allows for how many  
12 additional housing units?

13 A 152.

14 Q Units, is that correct, 152 units?

15 A Yes, that's correct.

16 Q Does that mean that -- how much, in view  
17 of this, how much would you increase the ultimate popula-  
18 tion of Morris Plains, to increase by over the projection  
19 in the '75 population?

20 MR. HANSBURY: Again, as a result of the  
21 152 numbers, right?

22 MR. MEISER: Yes.

23 A Approximately 330 people.

24 Q That's assuming how many persons per unit,  
25 when you --

1 A 2.2.

2 Q That would bring our population to over  
3 approximately 6800, ultimately, that you are anticipating?

4 A That's -- that's a fair estimate, yes.

5 Q I see. What was your reason for using 2.2  
6 as a population estimate for these units?

7 A These are smaller units, one and two bedroom units.

8 Q Is that because of the zoning or is that  
9 on the basis of what's actually being proposed at this  
10 point?

11 A That was a decision on the part of the developer.

12 Q Now, your indication on your report as to  
13 vacant land, was how many acres are presently vacant in  
14 the municipality?

15 A We arrived at a figure in our November 9, 1979  
16 report, of 128 acres.

17 Q How is that figure computed?

18 A The map, MP-1, was prepared showing the development  
19 within the Borough and -- both lands that were developed  
20 and in the process of being developed and the result is  
21 that we identified -- the vacant parcels, these vacant  
22 parcels were measured in our office by means of a  
23 plainmeter, to arrive at the area of each of these parcels  
24 and they were summarized by zone and shown in the table  
25 accompanying the November 9, 1979 report.

1 Q Did you, in your MP-1, did you compute the  
2 R-4 land as being developed or vacant?

3 A Yes, as committed land, yes.

4 Q What was your decision of committed land?

5 A If there were applications in the process before  
6 the Planning Board.

7 Q How much land, residential land, let's start  
8 with first, single family homes, have been developed since  
9 the Master Plan, '75, has there been any substantial  
10 amount of growth or development in the Township since then?

11 A Well, what do you mean by "substantial?"

12 A Q Well, let me ask then, do you know how many  
13 units have been developed since the Master Plan of '75?

14 A That figure is available from the building inspec-  
15 tor. I don't have it at my fingertips.

16 Q Do you know how much industrial growth  
17 there's been in the Township since the Master Plan, '75?

18 A Of that, again, it would be available from the  
19 building inspector.

20 Q Did you have any work involved in preparing  
21 the 1975 Master Plan?

22 A Yes.

23 Q How about the existing Master Plan, were  
24 you involved in that, also?

25 A Yes.

1 Q What did you do, in preparing the '75 Master  
2 Plan, the same type of vacant land assessment that you  
3 did in preparing this report?

4 A We did a land use analysis, which resulted in a  
5 vacant land figure, yes.

6 Q Turning to Table 1 of your Master Plan,  
7 which is after Page 7, it indicates that there was a total  
8 undeveloped land in '74 of 524 acres. Do you see that  
9 figure?

10 A Yes.

11 Q Was that figure prepared by you?

12 A It was prepared by my office, yes.

13 Q Now, I'm wondering if you could give us  
14 any breakdown of the developments in the Township, since  
15 the Master Plan has caused that figure of 500 -- that  
16 caused that 524 acres figure to be reduced to 129 acres,  
17 which is your present figure?

18 A I've not prepared such a study. I could not do it.  
19 It would be a matter of comparing maps and going to the  
20 building inspector and ascertaining what developments  
21 were developed when and compiling a figure but, I've not  
22 made such an analysis.

23 Q So, do you have any feeling as to this 396  
24 acres that have been developed, what percentage might be  
25 residential and what part might be industrial?

1 A I don't have that figure at my fingertips, no.  
2 It would be a matter of having to develop that.

3 Q Can you give me any feel at all of any of  
4 the developments you're aware of in the Township, from  
5 '74 to the present, that you know of?

6 A Well, there have been -- there's been both, say,  
7 both -- there's been both residential and there's been  
8 commercial development and there's been industrial.

9 Q What does the residential consist of, that  
10 you know?

11 A Well, it's both single family and there's currently  
12 under construction a multi-family that was rezoned.

13 Q In the multi-family, how many acres are we  
14 talking about in the multi-family?

15 A Roughly 38 acres.

16 Q And, do you have any idea of the development  
17 in the single family, how many units have been developed?

18 A There again, that would be available from the  
19 building inspector. There is a table in the '75 report,  
20 entitled as Table 9 -- I'm sorry, Table 11, following  
21 Page 11 of the report, which gives a year by year report  
22 of the residential permits issued. I've not updated that.  
23 It goes to 1973. I haven't updated that since then but,  
24 those figures are available from the building inspector.

25 Q But, you yourself have no idea as to how

1 many units?

2 A I would only be guessing and I'm afraid Mr. Hansbury  
3 would object, if I guessed.

4 Q Do you know of any industrial uses that  
5 have come into the Township, '74?

6 A Yes, I do.

7 Q What are they?

8 A Well, the Monroe Calculator Division of Litman is  
9 one.

10 Q Do you know of any others?

11 A Traveler's Insurance.

12 Q Any others?

13 A Xerox has taken and A.T.&T.

14 Q Any others, anything else?

15 A Well, I'm sure there are others. I don't have a  
16 list of them. Those are just the ones that come to mind  
17 quickly.

18 Q Do you know how large the area of Monroe  
19 Calculator is?

20 A That I could get from the record. There again,  
21 I'll be guessing if I gave you a figure. I could ascertain  
22 that by going back to the records.

23 Q Do you know, either for Traveler's or  
24 Xerox or A.T.&T.?

25 A Again, do you want me to guess?

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Q Well what -- when you're talking about --  
what do you have, do you have any approximate idea?

A I'd -- rather than give --

MR. HANSBURY: I'm going to interject here.  
All those figures are available. We can provide  
them. I'd rather do them accurately than have Mr.  
Montney come up with estimates. We'll be happy  
to provide them. I understand what you're saying  
and we'd be happy to cooperate.

A I would feel more comfortable, too.

MR. MEISER: I'd be interested to the extent  
that you confine these in the area of industrial  
that have happened in the last eight years at the  
areas and residential since this Master Plan -- not  
eight years, since '74, that this has taken place.  
If you can get me that information, it would be  
very helpful.

MR. HANSBURY: I'm not sure that Mr. Montney  
is the one that may provide you with all the in-  
formation. Could I suggest this? If you send me  
a letter, then he'll coordinate an assimilation  
of all the information.

MR. MEISER: Fine.

Q Has there been any change since '74 in the  
total amount of public or semi-public lands in the

1 Township, do you know?

2 MR. HANSBURY: I'm going to put a general  
3 objection on the record. My objection is not to  
4 providing the information but, the purpose of a  
5 deposition is to get Mr. Montney's professional  
6 opinion. All of this information could have been  
7 procured through interrogatories and we would have  
8 been very happy to cooperate at that time. We  
9 will still be happy to but, this is really not  
10 expert testimony which is the purpose of this  
11 deposition. You're looking for facts. Mr. Montney  
12 does not have these facts at his fingertips as  
13 you can see.

14 THE WITNESS: Shall I answer?

15 MR. HANSBURY: If you can, sure.

16 A To the best of my knowledge, the only public lands,  
17 lands of public and semi-public nature, were those lands  
18 which we acquired by the New Jersey Department of  
19 Transportation in conjunction with the proposed Route 178  
20 State highway.

21 Q That's been the only change since then?

22 A To the best of my knowledge, those are the only  
23 changes that took place. I think some of that's been  
24 referenced in the Master Plan report. At the time it  
25 was an active issue, at the time the report was being

1 written so, there have been lands that have been deleted  
2 for that reason.

3 Q Does R-4 lands that are being developed as  
4 townhouses, have public water and sewer?

5 A Yes.

6 Q The public water is a municipal public water  
7 system?

8 A It is furnished by the Southeast Morris County  
9 Municipal Utilities Authority.

10 Q And the sewerage is furnished by whom?

11 A I can't say that precisely. You could ask that of  
12 Mr. Denzler, who is the Borough Engineer. He can give you  
13 a definite answer as to how the Town is divided into two  
14 areas and I'm not familiar with just how that -- where  
15 that's taken and so forth.

16 Q I'm going to turn to these maps for the  
17 moment. I believe on here, the yellow, is the vacant.  
18 Is that correct?

19 A Yes.

20 Q Now, do you know how much of the Township --

21 A Borough.

22 Q -- how much the Borough had development  
23 approved but not yet started? Is there any large segment  
24 of that?

25 A I don't think there's any that has been approved,

1 that hasn't been started.

2 Q What is the status of the R-4? Has  
3 construction started there?

4 A Yes, 'cause -- substantially, it has been advanced.

5 Q When is the date for completing that? Do  
6 you know?

7 A They are before the Planning Board now for the  
8 first section of final approval.

9 Q So, everything that's marked white is  
10 actually either constructed or under construction at this  
11 point then?

12 A Yes. Let me just -- it just occurred to me that  
13 there's one exception to that.

14 Q If you want to clarify for the record, fine.

15 A Yes, I want to clarify the last statement.

16 There's one area which is off Tower Hill Road  
17 and Lindabury Lane, which is scheduled for public hearing  
18 and is -- is not yet constructed or under construction, I  
19 should say and I believe that's six lots. That was being  
20 held up for a legal reason and it's been on the Board for  
21 about three years and it's coming to conclusion now but,  
22 it's part of an older subdivision that was approved some  
23 years ago and the extension is shown on the map from  
24 Interboro Lane, through to Tower Hill Road as the street  
25 was delineated at that time but, not built because of the

1 time lapse. The developer is now in the process of --  
2 in a manner of speaking, that which was started a number  
3 of years ago.

4 Q Could you point out on this map the vacant  
5 land that is zoned industrial? I believe your chart  
6 indicates that there's 50 separate acres of that.

7 A The areas in the southeast corner of the Borough  
8 adjoining Hanover Avenue and American Road are the major  
9 vacant industrial tracts.

10 Q Now, you pointed, I believe, to two tracts,  
11 one larger than the other. Is that 57 acres all located  
12 on those two tracts?

13 A Yes.

14 Q Now, the smaller triangular one, is, I  
15 believe, on the American Road?

16 A Yes.

17 Q Leads into it. What is the utilization of  
18 the land immediately to the south of it?

19 A That is the Monroe Calculator Division of Litman  
20 Industries.

21 Q Does this property face on to the back of  
22 the homes on Beech Road?

23 A Beech Drive, yes.

24 Q What about on Hanover, what is the use on  
25 the other side? Do you know whether that's industrial

1 or residential use?

2 A It's residential use.

3 Q So, on two sides, it's residential and on  
4 one side, it's industrial. Is that correct?

5 A Yes.

6 Q Do you know the size of that triangular area?

7 A No, but I could -- you know, I could go to the tax  
8 records and determine that.

9 Q Is there any proposal pending for usage of  
10 any of that land as of today, before any board in the  
11 Township, in the Borough?

12 A No. I might suggest that all that land is owned  
13 by Litman Industries but, there is, as of this date, there  
14 is no proposal for the use that land.

15 Q Now, the other large tract, is that under  
16 ownership or is that --

17 A That, too, is owned by Litman Industries.

18 Q Where on this map is the property that Litman's  
19 presently using for industrial purposes in the Township?

20 A That's Monroe Calculator that you made reference  
21 to a moment ago.

22 Q So, the other land on the other side of the  
23 178 is also owned by Litman?

24 A Yes.

25 Q Now, what type of buffer is between that

1 and the houses on Dayton and Canfield and Academy and  
2 Morris Plains Road?

3 A There is the railroad right-of-way that inter-  
4 cedes between the two.

5 Q Is there access to public water and public  
6 sewer on these two industrial sites?

7 A Yes.

8 Q And you have listed all 57 of these acres  
9 as suitable for development. Is that correct?

10 A That's correct.

11 Q The next listed as the largest land vacant,  
12 is R-2. That's listed as 47 acres. Would you point out  
13 on the map where these 47 acres would be, those four  
14 sites?

15 A The R-2 includes areas of -- on either side of  
16 Route 202, extending north from the industrial properties  
17 that we are just talking about, up to Malapardis Road  
18 and the area, generally, the area in the western part of  
19 the Borough, which is generally north of Grannis Avenue  
20 and west of railroad right-of-way so that, in estimation,  
21 the yellow areas that you see scattered in these two  
22 locations, encompass those lands which are shown as  
23 vacant in the R-2 zone.

24 Q Could you indentify those tracts by the  
25 streets they're on?

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1 A Beginning with the first one I made reference to,  
2 which is the area to the east of the railroad and  
3 adjoining Littleton Road, there is -- there are parcels  
4 of -- scattered parcels of vacant land in the vicinity  
5 of Court Road, Parker Drive, along Old Wood Road and  
6 then advancing to Malapardis Road and Ridge Road, which  
7 is a paper street.

8 On the westerly side of the Borough, there are  
9 some scattered lots adjoining Madison Avenue, lying  
10 south of Grannis Avenue, and there are a few scattered  
11 lots immediately north of Grannis Avenue, abutting Grannis  
12 and Lakeview.

13 There are a few scattered lots in the Buena Vista  
14 Way area which is a paper street. Finally, there's  
15 a parcel to the east of Sun Valley Road, adjoining the  
16 railroad right-of-way.

17 Q Which of these did you determine have flood  
18 hazard and soil limitations?

19 A It's kind of worked backwards. The Buena Vista  
20 Way area, I am now placing an overlay, which is MP-2-B,  
21 showing the topography of those scattered lots adjoining  
22 Buena Vista and over that, I place MP-2-1, which is --  
23 which shows excessive slopes in that area.

24 Q Now, when you say "excessive slopes," what  
25 do you mean by "excessive."

1           It slopes in excess of 25 percent. In the area  
2 to the east of Sun Valley Road and adjoining the railroad,  
3 I'm placing MP-2-F, which shows the soils map adjoining  
4 the parcel.

5           Q           What does that soils map show?

6           A           It shows the bulk of the parcel, that is vacant  
7 and being in the PtB category, which is identified on  
8 MP-2-I, which is the Table of Soils, Pompton Soils, and  
9 the -- it shows the depth to water being from one half  
10 to a foot and a half.

11          Q           Is the Pompton soil a common soil in Morris  
12 Plains?

13          A           I'd have to make reference to the soils map too --

14          Q           Is there --

15          A           You know, when you say "common," what do you mean  
16 by "common?" Can it be found in other areas? The  
17 answer is yes. Is it a predominant soil? The answer is  
18 probably no.

19          Q           Is there a waterway near this soil?

20          A           Yes, it's an abutting stream, which is known as  
21 Watnong Brook, which is a major stream passage through the  
22 Borough, from north to south.

23          Q           Now, immediately to the south of this land  
24 which we're talking about, on the Con-rail land, how  
25 has that been developed there? Do you know?

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1 A That's an estate.

2 Q On that estate, what -- it indicates there's  
3 two houses on that estate.

4 A Yes.

5 Q That estate is along Grannis Avenue?

6 A Yes.

7 Q Are there other estates similar to that one,  
8 in Morris Plains?

9 A No longer.

10 Q There is one or you know of others?

11 A It's the only remaining one.

12 Q How many acres is that? Do you know?

13 A I couldn't tell you off the top of my head.

14 Q What other grids have you prepared?

15 A I'm going now to the lots adjoining Madison Avenue,  
16 which are a mid-south of Grannis Avenue. I'm placing  
17 over -- an overlay of MP-2-E, to show soil classification  
18 of UP, which on Exhibit MP-2-I, indicates urban land,  
19 which doesn't give us the kinds of -- what is termed made  
20 land.

21 It doesn't give us the kind of data which are  
22 associated on other soil classifications and I would defer  
23 a further analysis of that land to Mr. Denzler, who is  
24 our Borough Engineer and he can give you a more firsthand  
25 knowledge of what the soil problems are there.

1 Q Let's stay with this for a second. Do  
2 you have any knowledge, yourself, as to what the problems  
3 would be with the urban land there?

4 A I have second-hand knowledge. I would prefer that  
5 you discuss that with Mr. Denzler.

6 Q Since we're taking your deposition, I'd  
7 at least like to get at what your knowledge is.

8 A The reason that vacant land is vacant, is because  
9 it has water problems.

10 Q Could you clarify what those water problems  
11 are?

12 A High water table and difficulty in -- low lying  
13 and you can't get rid of the water, so to speak.

14 Q Do you know what the water table is on  
15 these lands?

16 A I don't.

17 Q Do we have anything else on R-2 that  
18 constitutes --

19 A Yes, I'm now placing an overlay, MP-2-G, over  
20 a parcel immediately south of Malapardis Road, to the  
21 east of Jim Fear Drive. It shows three soil classifi-  
22 cations, HbC, UrC and RiB.

23 The HbC soil on a table of MP-2-I indicate a  
24 depth to water of one half foot to one half foot. The  
25 RiB, is known as ridgeway, showing a depth to water of

1 zero to one foot and the UrC, again, is urban land, is made  
2 land, which has been built.

3 Q Do you know anything about that UrC land  
4 there?

5 A It's obviously land that's been filled in that area.

6 Q Now, all of the soil things, are they taken  
7 from the Morris County Soil Survey?

8 A That's correct, yes.

9 Q Do you have anymore charts for the R-2 land?

10 A No.

11 Q I want to just clarify something. On your  
12 chart, you listed, for excessive slopes, for R-2 land,  
13 3.98 acres.

14 A Oh, I'm -- that's --

15 Q That was all on the tract located on  
16 Buena Vista Way?

17 A Yes.

18 Q Now, 9.8 acres that you have in your chart  
19 for R-2, was that assuming all three of these tracts were  
20 completely unusable? Was that how you came up with your  
21 3.98 acres?

22 A I think that the 3.98 acres would be the areas  
23 located near soils which would be MPE related; MP-2-E,  
24 MP-2-F and MP-2-G.

25 Q Now, the remaining approximately 33 acres

1 that are suitable for development in R-2, are those all  
2 located in the southeasterly part of the Town and is that  
3 where the remainder of these R-2 lands are?

4 A Not all, some, yes.

5 Q Let's just see if we can clarify for the  
6 record. There are approximately nine or ten tracts?

7 A There are nine tracts in the area which would be  
8 generally south of Park Road and east of the railroad.

9 Q Are there any other tracts in R-2, suitable  
10 for development?

11 A Yes, there's a tract consisting of eight lots along  
12 Grannis Avenue, between Grannis and Lakeview and there's  
13 a series of lots on a paper street, Ridge Road, which lies  
14 north of Malapardis Road and east of Route 202.

15 Q We have, finally, on the chart, 18 acres  
16 in R-1. Could you show us where on the map those are  
17 located?

18 A The first series of lots situated along the western  
19 boundary of the Borough, to the north of Northview Drive  
20 and Lindabury Lane and include Mountain Avenue, Watnong  
21 Avenue and Davenport Avenue.

22 I'm placing MP-2-C, which is topography in the area  
23 over the -- as an overlay and accompanying that, is MP-2-D,  
24 which shows the excessive slopes in the same area, to  
25 indicate that a substantial portion of that area is

1 encumbered by excessive slopes.

2           The second area is, again, along the western  
3 boundary of the Borough and immediately south of Route 10,  
4 is a linear tract of land, which is -- follows along  
5 Watnong Brook, is encumbered by a -- and adjoining the  
6 railroad right-of-way and is also encumbered by a traction  
7 company along the way.

8           I'm placing over it, MP-2-H, which indicates soils  
9 and on it are shown soils entitled Ue, PeC, PFe, and RiB  
10 and if we make reference to table MP-2-I, the Ue soil is,  
11 again, is made land, urban land or made land.

12           The PeC, is entitled Parker. PeC and PFe are  
13 entitled Parker soils and the depth to bedrock is four to  
14 ten feet.

15           The depth to water is -- is ten foot but, I would  
16 point out ~~that~~ this is bisected by the Watnong Brook, which  
17 by experience, has flooded on numerous occasions.

18           The RiB soil is again known as ridgeway soils and  
19 this is a soil through which the stream passes there. The  
20 depth to water is zero to one foot. I would also point  
21 out that this is a very inaccessible piece of land from  
22 a topographic point of view.

23           Q           What are the uses surrounding that?

24           A           Across the railroad right-of-way to the east, is  
25 the R-4 zone, which we've previously discussed and to the

1 west, on a high elevation is Parsippany, is an apartment  
2 development.

3 Q When you say this is inaccessible, what  
4 do you mean by that? Do you mean lack road?

5 A There's just no way to get from here to there.  
6 There's the railroad, Route 10 and the railroad, that  
7 goes under Route 10 and the apex -- at the northern apex  
8 of the northwest boundary of the Borough. It's in a cut  
9 and there's a stream valley that comes through here and  
10 the -- there's steep topography on this -- on all sides,  
11 I should say, of this particular piece of land.

12 Q Now, you indicated and I just want to make  
13 sure, a small type family development will be to the east  
14 of it. Is that where that will be?

15 A Yes, that's the R-4 zone.

16 Q And down here is what?

17 A There's an R-1 development going in there.

18 Q In this entire area, down to Davenport  
19 Avenue?

20 A Yes.

21 Q That's under construction?

22 A Yes. That's also very, very rugged land, as  
23 indicated by the topo and I had shown you to the south  
24 of Davenport Avenue. That kind of topo extends into the  
25 tract that we just made reference to.

1 Q How far south is the R-4 zoning?

2 A It's coincidently, to the south boundary of the  
3 Power and Light Company right-of-way, which is a line that  
4 extends on this map, for a point just south of the Morris  
5 County Society, which is a Crippled Children Facility.

6 There's a 200 foot wide power line right-of-way  
7 there, crosses from an east to west line, through Route 53  
8 and across into Parsippany.

9 Q Once we get below this power line, what is  
10 this land?

11 A Those are all the Warner-Lambert development.

12 Q This is industrial? There's a dot in this  
13 entire land.

14 A Yes.

15 Q This is the Warner-Lambert land?

16 A Yes.

17 Q Now, going across a mountain or there's  
18 something marked "proposed Route 178." Is that State  
19 land?

20 A Yes.

21 Q And the State -- what is the status of that  
22 construction at this point?

23 A There's no construction going on. They have  
24 acquired land for the right-of-way. That's the extent of  
25 it at the moment.

1 MR. HANSBURY: I can, perhaps, add something  
2 since I had a conversation with the Deputy Attorney  
3 General yesterday. Condemnation proceedings, the  
4 hearing will be held at the end of March or early  
5 April. Can we go off the record.

6 (Whereupon, an off-the-record discussssion  
7 took place.)

8 MR. HANSBURY: It's my understanding that Mr.  
9 Montney will be compensated at his normal hourly  
10 rate for the length of deposition time his deposition  
11 takes and your hourly rate for the Borough of Morris  
12 Plains is?

13 THE WITNESS: Right now it's \$45 an hour.

14 MR. HANSBURY: The bill is to be sent to you,  
15 Mr. Meiser?

16 MR. MEISER: We give a State voucher. I'll  
17 get a State voucher to you.

18 Q Could you indentify the colors, what they  
19 stand for on MP-1?

20 A Yes, I would like the opportunity to add a color  
21 code to this, subsequent to our trial. Do I have your  
22 permission?

23 Q Yes.

24 A With that, the yellow colors represent single family  
25 residential development. the orange, represents multi-

1 family development. The purple represents office and  
2 industrial development.

3 The red represents commercial development. The  
4 flesh color represents lands which have been acquired by  
5 the New Jersey Department of Transportation for Route 178,  
6 right-of-way. The greens represent public and semi-public  
7 lands. The blues represent water bodies and last but not  
8 least, the grays represent the vacant land.

9 Q Turning to the orange, you indicated that  
10 the orange is multi-family. Is that correct?

11 A Yes.

12 Q The orange is on both sides of this right-  
13 of-way, where the development will be. Is that correct?

14 A The development will not be -- that's a quirk of  
15 ownership. Development will be entirely on the east side  
16 of the railroad right-of-way.

17 Q What is the west side going to be used for?

18 A Nothing, couldn't possibly be used because it's  
19 entirely the length of a stream bed of Watnong Brook.  
20 If you're familiar with the Watnong Brook, you'll know  
21 there will be no development there.

22 Q So, this would be all open space or vacant  
23 land?

24 A Well, yes. It wouldn't be developed.

25 Q For the record, these yellows with red

1 stripes are --

2 A I'm sorry, I didn't indicate those. Those are  
3 lands that are committed for development.

4 Q And that is for R-1 development?

5 A Yes, that's correct.

6 Q There's been Planning Board approval for  
7 that?

8 A Yes, it has been approved and these are under  
9 construction.

10 Q Do you know how many units are going to be  
11 built there?

12 A Without going to my records, I'd be guessing but,  
13 I would say somewhere between 30 and 40, if that's -- you  
14 have to keep in mind that I'm reviewing a number of  
15 subdivisions for all different communities from time to  
16 time and it's hard to keep all the different numbers in  
17 your mind.

18 Q Was there a reason that the R-4 has a  
19 density of five units per acre? Why was it chosen?

20 A Yes.

21 Q What was the reason?

22 A Because of the character of the land, fundamentally.

23 Q What was it about the character of the land  
24 that dictated five units per acre?

25 A It's a very rugged piece of land and it was felt that

1 that was the optimum density to which it could be developed  
2 and it proved to be true.

3 Q What do you mean by "rugged?"

4 A Very steep topography of rock out croppings and it's  
5 bissected -- not bissected but, it's perversed by a  
6 segment of the Watnong Brook and the ultimate development  
7 of that land resulted in the construction of a detention  
8 pond to minimize the impact of the development of that land  
9 on the Watnong Brook.

10 Q Now, did the Master Plan recommend a second  
11 site for multi-family use?

12 A Yes.

13 Q Where was that site located?

14 A It is on the site of the west side of Littleton  
15 Road, Route 202, north of the underpass and to the rear  
16 of the lots running on the west side of Route 202.

17 It's shown on this particular map with a new street  
18 pattern, including a Thompson Way, Cornine Lane and  
19 Layer Drive. It's shown both with a road pattern and a  
20 lot pattern that -- that land has been -- those streets  
21 are -- their final approval has been given to portions of  
22 that final development and is actively being constructed  
23 now.

24 Q What type of zoning is it being built under,  
25 presently?

1 A It's an R-2. It never really changed and R-2,  
2 in the Master Plan, it was simply developed as it was zoned  
3 and it was not changed.

4 Q The Master Plan had recommended this be  
5 changed to multi-family. Is that correct?

6 A Yes.

7 Q Do you know the reasons why this was not --  
8 the change was not carried out?

9 A Fundamentally, because it was developed the way it  
10 was zoned.

11 Q The greens down here, are those parks,  
12 municipal parks?

13 A Those are lands that are owned by the Greystone  
14 Hospital, which is a State institution.

15 Q The main facilities of Greystone are not  
16 in the Township, are not in the Borough, are they?

17 A The main facilities?

18 Q Yes.

19 A No.

20 Q Is this the only part that Greystone owns  
21 in Morris Plains?

22 A No, they own a parcel which is north of Hanover  
23 Avenue, west of Mountain Way, which is currently developed  
24 for recreational purposes on a lease arrangement with the  
25 State Hospital.

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If they have major water -- a potable water facilities on that site; secondarily is used for Borough recreation purposes.

MR. MEISER: I have no further questions.

If you want to ask anything on it?

MR. HANSBURY: No, I don't.

(Whereupon, the deposition was adjourned.)

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C E R T I F I C A T E

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

RUSSELL L. MONTNEY

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 financially interested  
in the action.

Jill Friedberg  
Notary Public of the State of New Jersey

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