

Morris County Fair Housing Council

v. Boonton

Feb 7, 1980

Transcript of Deposition of Russell L. Montoy

pg. 88

ML000964 ~~88~~

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

MORRIS COUNTY FAIR HOUSING :  
COUNCIL, et als, :

Plaintiffs, :

-V- :

BOONTON TOWNSHIP, et als, :  
(ROXBURY) :

Defendants. :

DEPOSITION OF:

RUSSELL L. MONTNEY

D.L.Moore 6  
2/16/80

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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. JAMES WYCKOFF, VECCHIO & PITMAN  
BY: JOSEPH J. VECCHIO, ESQ.  
For the Defendants.

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WITNESS

DIRECT

RUSSELL L. MONTNEY

By Mr. Meiser

2

E X H I B I T S

NUMBER

DESCRIPTION

IDENT.

ROX-1	Existing Development Map of Roxbury Township	2
ROX-2	Vacant Land Map, gray pattern of Roxbury Township	2
ROX-2A	Mylar print of Vacant Land Map	3
ROX-3	Overlay depicting severe septic limitations	3
ROX-4	Overlay of excessive slopes	4
ROX-5	Overlay of critical areas	4

1 R U S S E L L L . M O N T N E Y , 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, could you tell us for the record,  
7 what reports you've prepared for Roxbury Township?

8 A Yes, I prepared two reports; the first of which is  
9 dated September 27, 1979; the second of which is dated  
10 December 13, 1979, which is a -- which was a supplement  
11 to the first report in which included a table relating  
12 to vacant land development potential.

13 MR. VECCHIO: That question was directed  
14 toward memoranda or reports relating to this  
15 litigation, I assume?

16 MR. MEISER: That's correct.

17 MR. VECCHIO: Okay.

18 MR. MEISER: Off the record.

19 (Whereupon an off-the-record discussion  
20 took place.)

21 MR. MEISER: On the record.

22 Q Could you tell us what maps you've prepared  
23 for purposes of this litigation?

24 A This is an existing development map for the Town-  
25 ship of Roxbury. The second map is a map which is a

1 similar map but, which only shows the vacant land in a  
2 gray pattern.

3 MR. MEISER: Mark them for identification.

4 (Whereupon, existing development map of the  
5 Township of Roxbury, prepared by Robert Catlin and  
6 Associates, marked ROX-1 for identification.)

7 (Whereupon, vacant land map, in gray pattern,  
8 of Roxbury Township, prepared by Robert Catlin and  
9 Associates, marked ROX-2 for identification.)

10 Q Are there going to be any overlays with  
11 this map?

12 A Yes, yes. These two, ROX-2, this and this map are  
13 the same. This happens to be a mylar print. Maybe we  
14 should mark this one ROX-2A.

15 Q Okay.

16 (Whereupon, mylar print of vacant land, ROX-2,  
17 overlay of Roxbury Township, prepared by Robert  
18 Catlin and Associates, marked ROX-2A for  
19 identification.)

20 A ROX-3, severe septic limitations.

21 (Whereupon, overlay depicting severe septic  
22 limitations of Roxbury Township, prepared by Robert  
23 Catlin and Associates, marked ROX-3 for identifi-  
24 cation.)

25 A ROX-4, excessive slopes and five is critical areas.

1 (Whereupon, overlay of excessive slopes  
2 of Roxbury Township, prepared by Robert Catlin and  
3 Associates, marked ROX-4 for identification.)

4 (Whereupon, overlay of critical areas map  
5 of Roxbury Township, prepared by Robert Catlin and  
6 Associates, marked ROX-5 for identification.)

7 Q Does that complete your maps and graphics?

8 A Yes.

9 Q I want to begin by asking you the present  
10 population of Roxbury. Can you give me that information?

11 A Present population should be somewhere between  
12 eighteen and 19,000.

13 Q Has the Township made any projections as  
14 to ultimate population at full growth?

15 A Yes, yes.

16 Q And that is?

17 A Between twenty and 25,000.

18 Q Is that under present zoning?

19 A Well, I'm referencing now, Page 4 of Part 2 of the  
20 Master Plan Report for Roxbury, population goals and it  
21 makes reference there, to the future land use element of  
22 the Morris County Master Plan, within which they projected  
23 Roxbury is part of a growth center with a target popula-  
24 tion between twenty and 25,000 and the Board's conclusion,  
25 that this was a reasonable -- represents a reasonable

1 population goal for the Township so that, this would not  
2 necessarily be within the framework of the then present  
3 zoning.

4 Q Now, turning to your December 13th report  
5 for the moment, the R-1 zone has 682 acres of vacant land.  
6 Is that correct?

7 A The R-1 zone?

8 Q Yes.

9 A Yes.

10 Q What is the density of R-1?

11 A One twenty -- one dwelling unit per acre.

12 Q The R-2 is zoned at what density? What  
13 density does R-2 permit?

14 A The R-2 zone has a minimum lot size of 25,000  
15 square feet.

16 Q Now, can you look -- looking at this vacant  
17 land potential chart, can you make any indication of the  
18 total number of units that could be built as a residential  
19 use under existing zoning?

20 A Well, you could -- a general way to translate that  
21 into density or into dwelling units is by dividing that  
22 38.19 figure by 1.5 and arriving at a potential.

23 Q What would that give you?

24 A Approximately -- approximately 25 units.

25 Q Excuse me, what did you say the R-2 zoning

1 was?

2 A The R-2 zoning is 25,000 square feet, which trans-  
3 lates into -- in terms of density, about 1.5 dwelling  
4 units per acre and the available vacant land in the table  
5 of the December 13th report, indicates that there's 38.19  
6 acres. If you want 38.19 acres, you divide by 19 and you  
7 come up with approximately 25.

8 Q Why didn't you divide by one multiplier?

9 MR. VECCHIO: I think there's a mathematical  
10 error. Off the record.

11 (Whereupon an off-the-record discussion  
12 took place.)

13 MR. MEISER: On the record.

14 Q Does that give you approximately 57 units?

15 A Yes.

16 Q If the lands, the R-2 with septic limita-  
17 tions, are built upon at present density, would that give  
18 you another 500 units within the Township, under existing  
19 zoning?

20 A Approximately.

21 Q Assuming that they're built at existing  
22 density?

23 A Yes.

24 Q And the RR, what can you build at the RR?  
25 What density?

1 A The RR density -- the RR requirements are for  
2 125,000 square foot per lot.

3 Q Now, when you determine on this chart that  
4 there's a severe septic limitation, is that taken from the  
5 Morris County Soils Map?

6 A Yes.

7 Q And the excessive slopes, 30 percent and  
8 over, where is that taken from?

9 A Yes, oh, no, that's not from the soils map. That's  
10 from an excessive slopes map.

11 Q That excessive slope map was prepared by whom?

12 A That was prepared by our office.

13 Q On the basis of what?

14 A A U.S. geographical map.

15 Q What about lands subject to stream overflow,  
16 where was that taken from?

17 A That was taken from SCS Maps.

18 Q When you say "SCS Maps," you mean --

19 A Soil Conservation Service.

20 Q In other words, you looked at the Soil --

21 A SCS.

22 Q Under what circumstances would a soil  
23 characteristic be put on this chart?

24 A Working with the soil scientists at the Morris  
25 County Soils Conservation Service, we found that there was

1 certain soils which are classified as subject to stream  
2 overflow.

3 MR. VECCHIO: Excuse me for a minute. What  
4 map are you referring to, the septic map or steam  
5 overflow?

6 MR. MEISER: The stream overflow for the  
7 moment.

8 MR. VECCHIO: Okay, sure.

9 A From that mapping, prepared by the SCS, these  
10 boundaries were then delineated.

11 Q What is the density between wetlands, how  
12 assorted wetlands, how is that used in that category?

13 A According with Mr. Seglin, who was there at the  
14 time, other soils are classified as assorted -- well, wet-  
15 lands and these are indentified by that office and are  
16 shown on the maps as such.

17 Q They're zoned as to the type of wetlands  
18 they are?

19 A No, there's certain soils that are classified as  
20 assorted wetlands and were classified and there are the  
21 critical areas map.

22 Q So, you can't, yourself, tell us what the  
23 characteristics of a particular wetlands is, why it's  
24 included in that category. Is that correct?

25 A That's part of the soil survey for Morris County.

1 No -- the answer is yes, I cannot testify directly myself.

2 Q Could I tell by looking at anything in the  
3 Master Plan, documentation, as to what constitutes these  
4 wetlands? What the breakdown is?

5 A If you would look at the Master Plan, which also  
6 has critical areas map in it --

7 Q Yes?

8 A -- and you would find there the source information  
9 for that -- for that map, which is the Soil Conservation  
10 Service. You would then go to that document and you could  
11 ascertain what the characteristics were.

12 Q Is there a page in the Master Plan that you  
13 can refer me to, in which you can show me what -- which  
14 we're talking about by master plans?

15 A Yes. Addendum, number one of part one, the Master  
16 Plan is entitled "Natural Resources Inventory" and in  
17 that documentation, there is a map entitled "Critical  
18 Areas Map" and on that map, there's a source of flood  
19 water weather area information from the National Coopera-  
20 tive Soil Information at Morris County, USDASES,  
21 November, 1977.

22 Q But, that does not break down that map,  
23 either, as to what the differences are between various  
24 wet areas. Is that correct?

25 A Well, this USDASES, the information shown on this

1 map is derived from that survey, which in turn provides  
2 that background information that I'm making reference to.

3 Q But, that survey is not shown in the Master  
4 Plan, is it?

5 A That's -- it's not, yes.

6 Q You've not seen the original survey yourself,  
7 have you?

8 A Yes, I've seen it.

9 Q Could you tell me who provides the public  
10 sewer system in the Township, if anyone? Is there a  
11 municipal authority?

12 A Not an authority as such. The Township owns and  
13 operates two separate sewer systems.

14 Q What are the names of those two separate  
15 sewer systems?

16 A One is referenced as an Ajax Plant, which is on the  
17 Lamington and Black River and the other one is commonly  
18 referred to as a Skyview Plant and that's in the north --  
19 I should say, the western part of the Township.

20 Q Has the Township ever done any master plan  
21 or projections or studies, on it's sewer systems, that  
22 you've seen?

23 A I think there's a study currently under way by  
24 Lee J. Purcell.

25 Q Do you know if that study has been completed

1 yet?

2 A You have to ask Mr. Purcell that question.

3 Q Have you ever seen any part of this study?

4 A I have -- I don't have -- I don't know that I've  
5 seen the full report. I've seen maps from that study.

6 Q I believe there's a map in the Master Plan  
7 of the sewer system as of '74. Is that correct?

8 A Yes.

9 Q Has there been, to your knowledge, any up-  
10 dating of the sewer system since then?

11 A Updating of the sewer system?

12 Q Yes, expansion, extensions, improvements.

13 A There again, I think you should ask Mr. Purcell that.  
14 To the best of my knowledge, no.

15 Q Has there been, to your knowledge, any  
16 moratoriums on expansion of any sewer system in the  
17 Township?

18 A Again, Mr. Purcell would be more knowledgeable in  
19 that area than I. He's been working with the Township.

20 Q The question was, "to your knowledge."

21 A I think -- to my knowledge -- I know the plant,  
22 the Ajax Plant, it's nearing the capacity but, I'm not  
23 really in a position to discuss that at any depth.

24 Q What about the Skyview Plant?

25 A I understand that's operating near capacity, too.

1 Q Do you know/<sup>what</sup>percentage of the Township  
2 residents, use the public sewers?

3 A I don't have that figure, no.

4 Q Do you know whether any package treatments  
5 are in use in Roxbury?

6 A I know of that, yes.

7 Q Which one is that?

8 A The Holiday Inn.

9 Q Do you know what percentage of municipal  
10 residents use private wells for their water supply?

11 A No.

12 Q Is there a municipal water system in  
13 Roxbury?

14 A Yes.

15 Q Do you know what the capacity of that system  
16 is?

17 A No.

18 Q Do you know what the maximum population is  
19 that Roxbury could sustain with its present water system?

20 A No.

21 Q Do you know of any plans for expansion of the  
22 water system in Roxbury?

23 A I think there are studies going on for that but,  
24 I am not intimately familiar with it.

25 Q Now, turning to the Master Plan, Volume II--

1 A That's Volume I. Do you want Volume II?

2 Q Yes. On page 9, there's a paragraph which  
3 states that, "Based on a careful analysis of the needs of  
4 the Township to provide for its share of the regional  
5 need for a variety of housing types as manifested by the  
6 Mount Laurel Decision of the New Jersey Supreme Court,  
7 by an analysis of how the needs by New Jersey Division  
8 of State and Regional Planning, as well as by the  
9 current housing supply in the Township and its region,  
10 it was the finding of the Land Use Committee that  
11 approximately 500 dwelling units would meet the need."

12 Can you give me some indication of how that 500  
13 dwelling unit figure was arrived at?

14 A What page is this? I'm sorry.

15 Q Page 9, you can read the paragraph, if you  
16 like.

17 A That 500 figure was in the DCA report, that was  
18 current at that time.

19 Q What DCA report are you referring to?

20 A Can I --

21 MR. VECCHIO: You can, sure.

22 A I'm getting it.

23 MR. VECCHIO: Off the record.

24 (Whereupon, an off-the-record discussion  
25 took place.)

1 MR. MEISER: On the record.

2 A I'm making reference to a document entitled,  
3 "An Analysis of Low and Moderate Income Housing Need  
4 in New Jersey," prepared by the Division of State and  
5 Regional Planning, dated May 7, 1975 and particularly,  
6 Page 26 of that document, to a table wherein for Roxbury  
7 Township, the necessary housing need is 538 units.

8 Q Can I see that, please?

9 A Sure.

10 Q Did you say 576 units?

11 A 538.

12 Q Oh, 538.

13 A It's way over in the right-hand column.

14 Q I see. Okay and I believe that 538 units  
15 consists of 477 with physical housing need and 98 with  
16 financial housing need. Is that correct?

17 A Those two figures according to this table on Page  
18 26, arrive --

19 MR. VECCHIO: I object to the question  
20 because of the fact that the document in and of  
21 itself speaks for itself. You should be asking for  
22 some sort of expert testimony from the document  
23 as to its meaning from a planning standpoint. You  
24 can answer the question.

25 A The 477 question that Mr. Meiser made reference and

1 the 98 figure, do in fact relate to the physical housing  
2 needs and financial housing needs. The two figures total  
3 575.

4 Then, there's a figure -- entitled or -- column  
5 entitled "Overlap," which is deducted from there, to come  
6 to a net housing need, so that the bottom line figure is  
7 538 but, it's made up of those two categories.

8 Q Now, how many acres are in the R-5 zone,  
9 that are set aside for multi-family dwelling?

10 A I believe it's around between 60 and 70 acres.

11 Q What are R-6, how many acres are in R-6?

12 A I believe it's around 30.

13 Q Now, what was the density set aside for R-5?

14 A Density was five dwelling units per acre.

15 Q What about in R-6?

16 A The same.

17 Q Now, on Page 9 again, Volume II of the  
18 Master Plan, what does that say?

19 A It recommends, "That provision be made in the area  
20 of the north side of Center Street for garden apartments  
21 with a gross density of eight dwelling units per acre."

22 Q Was this recommendation enacted by the  
23 Township?

24 MR. VECCHIO: Object to the question as it  
25 calls for a legal conclusion by somebody who is not

1 qualified to render such. You can answer it and  
2 also, the ordinance speaks for itself as does the  
3 Master Plan.

4 A The answer to your question is, it was not imple-  
5 mented.

6 Q Is there anyplace in the Township where you  
7 can build garden apartments at eight dwelling units per  
8 acre?

9 MR. VECCHIO: Object to the question, unless  
10 there's some definition as to what a garden apartment  
11 is. If you're talking about multi-family units,  
12 I will withdraw my objection. You can answer it.

13 A Well, there is no zone presently in the Land Use  
14 Ordinance, which would permit garden apartments at eight  
15 units per acre.

16 Q Is there any public health safety or environ-  
17 mental reason which would preclude, in your opinion, the  
18 construction of multi-family housing at a density of eight  
19 family units per acre?

20 MR. VECCHIO: Object to the question for  
21 same. It should designate specific sites to de-  
22 termine whether there were any such limitations.  
23 You can answer the question.

24 A There -- I think so far as the public health is  
25 concerned, I think this has to do with primarily with such

1 limitations, capacities and I would defer to Mr. Purcell,  
2 in that area, for an answer to that question.

3 Q Are there any other reasons besides such --

4 MR. VECCHIO: Any other reasons?

5 Q -- which would prohibit the use -- the  
6 construction of multi-family housing throughout the entire  
7 Township at a density of eight dwelling units per acre  
8 or greater?

9 A Yes, I would think there would be. There may be  
10 reasons of traffic. There may be reasons of topography.  
11 There may be reasons of soil characteristics. I would  
12 think that you would have to evaluate each specific site  
13 in terms of all its considerations, rather than a general  
14 way.

15 Q Now, the Department of Community Affairs  
16 Report, you referred to earlier, an analysis of low and  
17 moderate income housing needs in New Jersey, did you in  
18 determining the numbers of 500 for Roxbury, give any  
19 consideration to the State's definition of low and  
20 moderate income housing within your report or low or  
21 moderate income levels?

22 MR. VECCHIO: Again, I object to the  
23 question because I think it's irrelevant as to what  
24 he did or did not consider with reference to low  
25 and moderate income housing, because the

1 documents essentially, the Master Plan and zoning  
2 ordinance speaks for themselves and what considera-  
3 tions he gave it or didn't give it, are totally  
4 irrelevant to this case. You can answer.

5 A We did give consideration to -- we did evaluate,  
6 if you will, the kind of housing that was existing in  
7 Roxbury Township.

8 Q Did you give any consideration to the  
9 definitions of low and moderate income houses that are in  
10 this report?

11 A Well, I believe -- I believe the report speaks  
12 for itself. The Page 9 which you previously referenced,  
13 which indicates that and again, I'm reading from the  
14 paragraph based on careful analysis.

15 "Based on a careful analysis of the needs of the  
16 Township to provide for its share of the regional need  
17 for a variety of housing types as manifested by the Mount  
18 Laurel Decision of the New Jersey Supreme Court, by an  
19 analysis of housing needs by New Jersey Division of State  
20 and Regional Planning as well as by the current housing  
21 supply in the Township and its region, it was the finding  
22 of the Land Use Committee that approximately 500 dwelling  
23 units would meet this need."

24 Q The question I'm trying to ask you about,  
25 the State of New Jersey low and moderate income housing

1 need report in New Jersey, defining of moderate income  
2 household family on Page 1, having an income level of  
3 \$8500 a year or less. Page 1 gives a definition of low  
4 income and moderate income.

5 My question is, did you, to consider whether  
6 zoning 500 units at a density of five dwelling units per  
7 acre, would allow the construction of housing, would be  
8 responsive to those need?

9 MR. VECCHIO: Same objection.

10 A Well, I think the record was taken into considera-  
11 tion and an attempt was made to provide housing that  
12 would meet this need and as to whether it could be built  
13 at that, built on an open market, so to speak, without  
14 subsidies, I think is a question.

15 Q Can you tell me what the minimum floor --  
16 minimum square footage requirements are, for the R-5 and  
17 R-6 zone?

18 MR. VECCHIO: Again, I object to the  
19 question on the same basis, that the ordinance  
20 speaks for itself and is asking for an interpre-  
21 tation of the ordinance from someone who's -- does  
22 not have legal background to interpret it. Off  
23 the record.

24 (Whereupon, an off-the-record discussion  
25 took place.)

1 MR. VECCHIO: On the record.

2 A Page 6.31 of the Land Use Ordinance of the Township  
3 of Roxbury, in the R-5 zone, establishes minimum floor  
4 areas.

5 Q For a one bedroom?

6 A Of 900 square foot.

7 Q Two bedroom?

8 A 1,050 square foot.

9 Q Three bedroom?

10 A 1200 square feet.

11 Q Four?

12 A 1350 square feet.

13 Q Could you tell me how those figures were  
14 derived?

15 MR. VECCHIO: Same objection. As to how  
16 they were derived and not derived, is irrelevant.

17 The fact is that they're there and the issue is  
18 whether they are valid, invalid or otherwise.

19 You can answer it.

20 A I will. These are figures that were established  
21 by the legislative body of the Township at the time the  
22 ordinance was adopted.

23 Q Do you feel that these are the minimum  
24 square footage requirements necessary to protect the health  
25 and welfare of the residents living in these units?

1 MR. VECCHIO: Object to the question unless  
2 it's much more defined than what it is at the  
3 present time as to the minimum requirements to be  
4 dependent upon a number of occupants and other  
5 items surrounding the particular units. You may  
6 answer it.

7 A Well, I think that they are figures that were  
8 arrived at by a consensus of both the Planning Board and  
9 the governing body at the time they were adopted, as being  
10 those reasonably necessary.

11 Q What harm would you see, if a family or an  
12 individual is living in a one bedroom home or apartment  
13 in Roxbury, in 800 square foot minimum?

14 MR. VECCHIO: Same objection to the question  
15 and furthermore, an additional question as to whether  
16 a planner has a capacity to make a determination  
17 as to the psychological or health affects of the  
18 family living in an 800 square foot apartment.

19 Did you indicate how many people?

20 MR. MEISER: This is not related to persons.  
21 Apparently, I'm looking at their standards.

22 MR. VECCHIO: I see. You can answer it.  
23 Do you remember the question?

24 THE WITNESS: Yes -- please read it back.

25 (Whereupon, the following was read back:

1 "What harm would you see, if a family or  
2 if an individual is living in a one bedroom home  
3 or apartment in Roxbury, in 800 square foot minimum?" )

4 A What do you mean by "harm."

5 Q That's my question to you. What detriments  
6 do you see, if this 800 square foot was reduced?

7 A In what way?

8 Q I'm trying to find out if there would be  
9 any detriment or harm to the public welfare.

10 A I have to know what you mean by "harm or detriment,"  
11 really.

12 Q My question is, are there any possible  
13 disadvantages of any sort, that you can see, that would  
14 occur if that square footage requirement was reduced.

15 A Well, I suppose it would have to be evaluated in  
16 terms on an individual basis, you know, depending on where  
17 the area was and that sort of thing. It's difficult to  
18 give a broad answer to that kind of question without some  
19 frame of reference to go by.

20 Q In other words, you have not conducted any  
21 studies, yourself, as to what appropriate square footage  
22 requirements should be for a multi-family house. Is  
23 that correct?

24 A I think the issue was discussed at the time the  
25 ordinance was prepared and as I indicated to you earlier,

1 this is a figure that was arrived at by the Planning Board  
2 and by the governing body, as a reasonable figure for  
3 Roxbury Township.

4 Q What were the factors that led them to  
5 conclude that it was reasonable, is what I'm trying to  
6 find out?

7 MR. VECCHIO: I'm -- I object to the question  
8 again, because of the fact that the factors that  
9 led them to the conclusion are essentially irrele-  
10 vant, that the conclusion is there at the present  
11 time. It's different from asking a question as to  
12 whether in fact they are reasonable or not reasonable.  
13 You can answer it, if you recall.

14 A I can't really answer it, because, you know, I  
15 would have to go back and look into the minds of everyone  
16 who considered it at arriving at the answer I guess what  
17 they were saying or thinking at the time, I should say.  
18 I just don't think I could do that.

19 Q Is there a range of square footage require-  
20 ments, both perhaps above and below 900 square foot for  
21 one bedroom, which you feel could be deemed reasonable?

22 A Yes, I think -- I don't think that 900 is the only  
23 figure one could arrive at. I think that one could  
24 arrive at a different figure, yes, I think you could  
25 arrive at a range.

1 Q How low and how high do you think that number  
2 could go and still be within this range of reasonableness?

3 A I think it depends upon the community and upon  
4 the situation.

5 Q Let's talk about Roxbury and this R-5 and R-6  
6 zone.

7 A Again, I think that they considered the range, a  
8 range that you're speaking of and this is the figure that  
9 they arrived at. I think that's the legislative decision  
10 and not necessarily a -- based upon input from many  
11 different sources, not just a planning decision.

12 Q My question to you and maybe I can repeat  
13 it again, would be this.

14 Within this range of reasonableness in Roxbury,  
15 in an R-5 and in an R-6 zone, what do you think the lowest  
16 and highest use that we could go with a one bedroom  
17 square footage and still be reasonable?

18 MR. VECCHIO: I object to the question be-  
19 cause I think the question should be whether in  
20 fact the range established is a reasonable range.  
21 You can answer his question.

22 A Well, I -- I'm really not prepared to -- to give  
23 you a range as to what might be reasonable.

24 Q Do you feel that a number higher than 900  
25 square foot could be -- somewhat higher, could be

1 reasonable without delineating what that number would be?

2 A Conceivably, yes.

3 Q What about lower than 900?

4 A Yes.

5 Q Without giving a precise cut off, can you  
6 give us an approximation of how much lower you think it  
7 might be possible to go and still be within this range  
8 of reasonableness?

9 A Again, you know, it's a very broad -- very broad  
10 question and I think, in order to arrive at that range,  
11 one should take into consideration a broader input than  
12 just that of the planner.

13 I think that the different factors outside the  
14 field of planning should come into play in order to  
15 determine that range.

16 Q What factors are those?

17 A Well, the area of health, any other areas that  
18 might be considered as relating to the floor area of  
19 a particular unit.

20 Q Have you done any reading or seen any  
21 literature, concerning this, that you can relate, that  
22 you can refer me to as to what these health factors are?

23 A I've read some in conjunction with the subject  
24 litigation.

25 Q Now, do you know if the Township has given

1 any consideration to the possibility of permitting the  
2 planned unit developments within the Township?

3 A Yes.

4 Q When was this done?

5 A I believe it was about 1970.

6 Q What were the reasons for the decision, if  
7 you recall?

8 First of all, you can tell us what the decision was,  
9 step one.

10 A The decision at that time was not to implement  
11 that proposal.

12 Q And do you know the reasons?

13 MR. VECCHIO: Same objection. Can I have a  
14 general objection on that? Okay.

15 MR. MEISER: I'm sure that if we get to  
16 court, you'll register them.

17 A Well, I just -- it was subjected to public hearings  
18 and there were many, many such discussions given at those  
19 public hearings and the -- I couldn't begin to enumerate  
20 everything that was said at all these hearings and the  
21 result was that it was not adopted.

22 Q Do you have an opinion today, as to whether  
23 it would be appropriate to zone for planned unit develop-  
24 ment in this Township?

25 MR. VECCHIO: Object to the question as to

1           whether it would be appropriate or not appropriate.  
2           The issue at hand is whether in fact the present  
3           ordinance is valid or in fact invalid and whether  
4           the present ordinance is a reason as to whether  
5           there are other alternatives or not that may be  
6           as reasonable or otherwise. It's not pertinent.

7           A       My opinion would be that it would probably be less  
8           valid today than it was at that time, because of the  
9           development that has taken place in the intervening years.

10           Q       What type of municipality do you think a  
11           planned unit development is appropriate for? Are there  
12           general rules?

13           A       Well, yeah, I think there are general rules.

14           Q       What would be some of these general criteria?

15           A       One would be suitability of land, the availability  
16           of utilities, the road system. Those are three broad  
17           general categories.

18           Q       How does the factor of land availability  
19           affect the decision in the Roxbury Township, whether they  
20           were planned unit development or not?

21           MR. VECCHIO: Object to the question as to  
22           how it affects the opinion in Roxbury Township.  
23           First of all, there's no -- there's nothing even  
24           indicating as to what opinion of who in Roxbury  
25           Township and on that question, I would direct the

1 witness not to answer it because you have him  
2 speaking for the entirety of the municipality.  
3 Do you want him to speak for himself or those  
4 people that he dealt with, then I would revert back  
5 to my other objection.

6 Q I would ask for your opinion -- you have  
7 given the factor, number one, criteria for determining  
8 whether a PUD is suitable, as availability of vacant land  
9 for suitability for development and I note that in your  
10 chart, there is over a thousand acres for land suitable  
11 for development and I ask you to comment on that.

12 A Well, I think -- I think I did say -- the term  
13 we use going back to the question of general rules, would  
14 suitability plan and --

15 Q Yes?

16 A -- and I think that the three reasons I gave you  
17 have to be interrelated in the sense of land had to be  
18 suitable. There has to be available utilities and it has  
19 to be located adequately in regard to road systems and  
20 if you're going to deal in that kind of a development,  
21 you ought to be -- it ought to be done in areas where  
22 suitable parcels of land are available for development  
23 and utilities are available and that kind of thing so that,  
24 I think you have to take into consideration the entire  
25 community, to determine whether or not there are areas

1 that would lend themselves to that kind of a development.

2 Q Is it your opinion that there are or are not?  
3 What is your position as to land suitability for develop-  
4 ment as PUD?

5 MR. VECCHIO: The question assumes something,  
6 that he has a position on suitability to it. The  
7 first question should be, if he has a position of  
8 suitability to it.

9 THE WITNESS: Now, which question do I  
10 answer?

11 Q Go ahead, tell us whether you have an  
12 opinion, first.

13 A Well, I don't think that we are, you know, that  
14 we are addressing ourselves to that issue in Roxbury at  
15 this particular point in time.

16 We did at one particular point in time consider it  
17 over  
18 and we've gone/that and the results of that. I wouldn't  
19 really have an opinion at this time without having further  
20 studied it.

21 The question you asked me previously, was in a  
22 general way and in a general way, you know, it's something  
23 that could be looked at.

24 Q So, just to make yourself clear, without  
25 further studying this matter, you wouldn't have an opinion  
as to whether there are lands suitable for PUD, in the town.

1 Is that correct?

2 A I would not venture an opinion unless I would go  
3 back and make the same kind of studies that previously,  
4 to make a determination to whether it was appropriate  
5 at this time.

6 Q What are those studies that you would have  
7 to go back to?

8 A Well, it was a study -- we prepared a comprehensive  
9 study of the land development as it existed at that time  
10 and the availability of utilities and how it related to  
11 the road patterns and we explored possible alternatives.

12 I think we have to go back to that same kind of  
13 thing if we were make an evaluation.

14 Q Was that done in 1975, that type of study  
15 of consideration of PUD done while you were preparing the  
16 Master Plan?

17 A We had just completed that study and we were --  
18 I think at that time we were looking for -- trying to  
19 delineate particular areas that we thought would be  
20 appropriate for the kind of development and the two that  
21 we came up with were the R-5 and R-6 zone.

22 Q So, your answer was that you did not give  
23 a consideration of PUD's in '75, is that correct?

24 I want to make sure.

25 A Well, to say -- I don't think it's fair to say that

1 we didn't give consideration. I think it's more appropriate  
2 to say, we took a different approach to accomplishing  
3 what we set forth on Page 1 -- 9 of the Master Plan.

4 Q Your goal was to make possible 500 units  
5 of multi-family housing?

6 A Yes.

7 Q Is that what the goal was?

8 A Yes.

9 Q Is there any need in Roxbury Township,  
10 presently, for senior citizen housing?

11 A I can't answer that question. I have not surveyed  
12 it.

13 Q Has there been any study in the municipality  
14 of the need for senior citizen housing?

15 A I believe there have been some discussions in the  
16 past, yes.

17 Q You're not familiar with any of that data?

18 A No.

19 Q Are there any ongoing efforts, as of today,  
20 to evaluate that problem?

21 A I don't know.

22 Q Do you have any feeling as to whether a  
23 mobile home park could be an appropriate land use within  
24 Roxbury Township?

25 MR. VECCHIO: I object to the question,

1 especially the use of the word "feeling" and further,  
2 I object to the question in that it does not lay  
3 a specific foundation upon which a planner can  
4 offer any sort of an opinion, unless the particular  
5 area is designated and analyzed.

6 You can answer the question.

7 THE WITNESS: Can I have the question read  
8 back?

9 (Whereupon, the following was read back:

10 "Do you have any feeling as to whether a  
11 mobile home park could be an appropriate land use  
12 within Roxbury Township?")

13 A I don't have any particular feeling.

14 Q Have you ever had any contact, in your  
15 professional experience, with mobile home parks?

16 A I've read literature on it. I've -- they have  
17 displays at the League of Municipalities at Atlantic  
18 City. On occasions, I've seen it there.

19 MR. MEISER: Did you want to take a lunch  
20 break?

21 MR. VECCHIO: Yes. Off the record.

22 (Whereupon a luncheon recess was taken.)

23 MR. MEISER: Back on the record.

24 Q Could you tell me how much land in the Township  
25 is zoned industrial, as of today?

1 A No.

2 Q How about commercial or business?

3 A No, I do not. I just -- I do not have a current  
4 analysis of the zoning -- detailed analysis of the zoning.

5 Q When you say you don't have a current  
6 analysis, are you saying it's not in the 1975 Master Plan?

7 A Yes.

8 Q What about --

9 A We have a land use, the way it's used but, not the  
10 way it's zoned. There's a land use analysis but, not a  
11 zoning analysis.

12 Q Did you find it?

13 A No.

14 Q Show me what page you're referring to?

15 A I'm referring to Table 1, following Page 9 of  
16 Part 1 of the Master Plan.

17 Q I see.

18 A That was also furnished, too, I believe, in the--  
19 no, that was structural analysis. I'm sorry. I take  
20 that back.

21 Q That indicates that there were 1100 acres  
22 of industrial uses. Now, that would mean that those are  
23 the lands zoned and used for industrial purposes?

24 A Essentially, yes. This is not to say that there  
25 might not be a non-conforming use somewhere but,

1 fundamentally, that's true.

2 Q And business uses, is 399 acres in the  
3 Township. Is that correct?

4 A Yes.

5 Q Do you know whether there's been an increase  
6 in that figure since 1975?

7 A There's been a modest increase, yes.

8 Q What do you mean by "modest?"

9 A Well, I mean there have not been substantial  
10 growths in either of those categories.

11 Q But, you don't know the numbers?

12 A Since 1975?

13 Q Yes.

14 A No.

15 Q What is permitted in an OR land use within  
16 Roxbury?

17 MR. VECCHIO: Object to the question. Calls  
18 for a legal conclusion. The ordinance speaks for  
19 itself.

20 MR. MEISER: Off the record.

21 (Whereupon an off-the-record discussion  
22 took place.)

23 MR. MEISER: On the record.

24 A In the OR-5, office research district, I'm referring  
25 to Page 6.65 of the Land Use Ordinance, Township of

1 Roxbury, particularly 13-16.2501, which is entitled  
2 "Primary Intended Uses."

3 This district is confined for professional, executive,  
4 for administrative office purposes, scientific or re-  
5 search laboratories, as well as industrial and manufac-  
6 turing uses permitted in the I-5 and I-10 district,  
7 provided however, that retail sales and services are  
8 specifically prohibited.

9 Q Now, would you feel would an OR usage be  
10 characterized as industrial or business or something else,  
11 on the '75 chart?

12 A Industrial.

13 Q So that, it would be included within 1113?

14 A Yes.

15 Q I see. What about OSGU? What does that  
16 stand for?

17 A That's office space and government uses district.

18 Q What is permitted there?

19 A On Page 6.74, on the Land Use Ordinance, Section  
20 3-16.2801, primary intended uses, the open space and  
21 government use zone is designed for and permits the fol-  
22 lowing uses:

23 "Agriculture, open space, parks and playgrounds,  
24 golf courses, reservoirs, game preserves, schools, govern-  
25 ment offices, single family residential dwellings,

1 accessory buildings and accessory uses attendance thereto  
2 further regulated in this ordinance."

3 Q Has there been any studies, which you're  
4 aware of, assessing the likelihood of future industrial  
5 growth in the Township?

6 A Would you repeat that?

7 MR. MEISER: Read it back.

8 (Whereupon, the following was read back:

9 "Has there been any studies, which you're  
10 aware of, assessing the likelihood of future in-  
11 dustrial growth in the Township?")

12 A I think there have been efforts on part of the  
13 industrial community to prohibit the growth of industry  
14 in Roxbury and there may have been studies in conjunction  
15 with their efforts.

16 Q Have you seen any of them?

17 A I've seen pamphlets and promotional material that  
18 they put out. Each year they have an industrial day and  
19 they put together information in that regard.

20 Q How would you, as a planner, what factor  
21 would you look at, in determining whether the land zoned  
22 industrial in a township, is reasonable as a percentage  
23 of the total use in a township?

24 A Well, I think that you would take all of the  
25 factors that go into the make up as a master plan and

1 its consideration. This is something that is done in  
2 conjunction therewith so that, you would try and develop  
3 a reasonable balance between industrial growth in the  
4 other growth of the community.

5 Q Is there any discussion in either of your  
6 three volumes of your Master Plan, about the appropriate  
7 amount of industrial use within the Township?

8 MR. MEISER: Off the record.

9 (Whereupon an off-the-record discussion  
10 took place.)

11 MR. VECCHIO: On the record. I object,  
12 since the Master Plan speaks for itself and/or is  
13 silent for itself. Further, as to whether Mr.  
14 Montney finds it at this particular time or not,  
15 does not mean it is either there or not there.

16 MR. MEISER: He may be more perceptive at  
17 finding it than I am, though.

18 A Part 2 of the Master Plan, on Page 10, there's a  
19 paragraph heading entitled "Office Research and Industrial  
20 Uses," which discusses this aspect of the Master Plan.

21 Q Now, it states on Page 10 that it was the  
22 Land Use Committee's findings that the office research  
23 industrial zones established, remain valid and should  
24 generally remain intact. Do you know what the considerations  
25 were, that led them to that conclusion? I'm referring to

1 the size of the two zones.

2 A Yeah, well I think it was an assessment of the land  
3 use analyses and the manner in which the -- character of  
4 the development that existed and the full -- to fulfill  
5 the goals and objectives as set forth in the Master Plan.

6 Q There are 1600 acres zoned either I-3, I-5,  
7 I-10, on your chart, which is shown as vacant. Do you  
8 have any opinion as to whether there is any likelihood  
9 that any substantial number of that acreage will be used  
10 for industrial, within the next ten to twenty years?

11 MR. VECCHIO: Object to the question as  
12 calling for a speculative answer. You can answer it.

13 A Well, when you're --the 1500 acres you're making  
14 reference to, is the total available vacant land and it  
15 does take -- does not take into consideration the limita-  
16 tions to that land and if one does, that figure is  
17 diminished considerably and with that in mind, the answer  
18 to your question is, I think that there's a reasonable  
19 expectation that a good portion of this land would be  
20 developed.

21 Q A good portion of the 300 acres that are  
22 vacant and land suitable for development, is that what  
23 you're referring to?

24 A Yeah. Well, there's probably -- well, I don't have  
25 my calculator here but --

1 Q We're talking about I-3, I-5 and I-10. That  
2 comes out to a little over 300, I believe.

3 A All right, assuming that figure is correct, yes.

4 Q Now, there's another 1200 acres on your  
5 chart and I'm referring to the 26 acres in I-3, the 975  
6 acres that are in I-5 and the 313 acres in I-10, that are  
7 apparently suitable for development, except for septic  
8 limitation.

9 Is it your opinion that -- let be back up for a  
10 second. Let me start over.

11 Is it correct that those lands would be suitable  
12 for development if there was either a package plant or a  
13 tie-in to public sewers?

14 A Well, the problem with extracting those figures  
15 out like that, is that the figure in available land, the  
16 figure in the last column, which is vacant lands suitable  
17 for development, is arrived at by measuring those lands  
18 which were left after the other ones were taken out and  
19 the point I want to make, is that some of the land may be  
20 encumbered by more than one limitation so, it's not fair  
21 to say -- just to take -- to say that the 975.72 under  
22 septic limitations, if -- that you have as severe is  
23 necessarily available, because they may have other  
24 limitations. There may be excessive slopes.

25 Let's take the OR-10, by way of example, where you

1 start out with 532.802 acres, 322 which have severe  
2 limitation and 102 which are in slopes of over 30 percent.  
3 The fact that that 102 acres might -- there is good  
4 likelihood that 102 acres would also have severe septic  
5 limitation so that then would reduce that then down to  
6 200.

7 Then, there may be some streams involved, which  
8 could reduce it further.

9 Q Let's get this straight. If you found that  
10 an area had a severe septic limitation, do you also  
11 consider whether that area, with the severe septic limi-  
12 tation, had any other impediment?

13 A There's -- what we did was to delineate on one of  
14 the overlays, the area of severe septic limitation.

15 Q Yes.

16 A We put another overlay down and then, within that  
17 severe septic limitation, there may well also be excessive  
18 slopes and also, in that same area, there may well be a  
19 stream.

20 Q All right, let's assume for the moment that  
21 a land has all four of these impediments, which classifi-  
22 cation would it be shown under?

23 A It would result, if it had all -- if it had all of  
24 the four limitations, it would be excluded. For one or  
25 more limitations, it would be excluded and it would be

1 shown in each of the columns, according to its limitations  
2 but, the remaining lands which did not have any limitations,  
3 would find its way into the last column, which is available  
4 vacant land suitable for development.

5 Q In other words, the sum in R-1 with lands  
6 of septic, with excessive slopes, with lands subject to  
7 stream overflow and with assorted wetlands, comes out to  
8 more than 100 percent of the available vacant land?

9 A Yes, it could. It doesn't necessarily have to but,  
10 it could.

11 Q Is there anyway that we can tell from this  
12 chart, the amount of lands which would be suitable for  
13 development except for the one limitation of severe septic?

14 A No.

15 Q It's not possible to gather that information  
16 from this chart?

17 A That's correct. I might say that when it was  
18 designed, we were really trying to arrive at the land that  
19 was available and vacant land suitable for development in  
20 the most honest way we could. That is, if it had one or  
21 more of those limitations on it, that it was excluded.

22 Q But, land which has only the obstacle of  
23 septic limitation, is suitable for development, if we  
24 put a package plant or public sewer. Is that correct?

25 A If all other factors were equal, yes.

1 MR. MEISER: Off the record.

2 (Whereupon an off-the-record discussion  
3 took place.)

4 MR. MEISER: On the record.

5 Q You expressed an opinion that the industrial  
6 land, which is vacant and suitable for development, is in  
7 fact likely to be developed as industrial within the next  
8 fifteen or twenty years. Is that correct?

9 A Yes.

10 Q What about land which is zoned industrial  
11 undevelopable, except for septic limitation? Do you have  
12 an opinion as to whether that land is likely to be developed  
13 industrial, within the next ten to twenty years?

14 MR. VECCHIO: I object to the question,  
15 because of the fact that the man had already expressed  
16 that it's not his area of expertise but, you can  
17 answer it, if you know.

18 A Yes, it's conceivable that some of those lands might  
19 be used for very low in density kinds of things, such  
20 as warehousing, that kind of thing, where if you had a  
21 substantial area of land and have few employees, you might--  
22 there might be sufficient lands within one might put a  
23 septic system for minimal number of employees and use the  
24 land for a warehousing kind of operation.

25 That's a possibility that, wherein some of those

1 lands with severe septic limitations, might be used for  
2 industrial purposes.

3 Q Let's turn to the map for a moment. This  
4 is Roxbury, one. Now, what are the factors that make  
5 the large area, the large pink area on the right-hand side,  
6 near Mine Hill Township, suitable for use as office  
7 industrial?

8 A The large area you're making reference to is a very  
9 unique piece of land, because of the proximity of Roxbury  
10 to the Picatinny Arsenal. There have been in the past  
11 and still are in the present, facilities for the development  
12 of explosives. That happens to be the Hercules Powder  
13 Works, where, because of the nature of the use, substan-  
14 tial land areas are involved for separation of operation  
15 because of explosions and that land that you're making  
16 reference to, is the -- that entire area is the Hercules  
17 Powder Works.

18 Q Are you saying that this whole tract of  
19 land is all owned by Hercules Powder?

20 A I'm saying exactly that.

21 Q What zone is that? Is that I- what?

22 MR. VECCHIO: For the purposes of the record--

23 MR. MEISER: Yes?

24 MR. VECCHIO: -- I believe, did you not,  
25 refer to that one large tract of land as abutting

1 Mine Hill?

2 MR. MEISER: Well, let's clarify which  
3 tract.

4 MR. VECCHIO: Are you talking about the  
5 parcel with the lake indicated in the midst of it?

6 THE WITNESS: Well, let's identify it very  
7 precisely. Then there won't be -- am I pointing to  
8 the one you're referring to?

9 Q Go ahead.

10 A That happens to be -- that parcel, for the sake  
11 of discussion, it's an extensive area which is located  
12 south of Interstate 80, between Berkshire Valley Road  
13 and Howard Boulevard and extending south to Route 46.

14 Just by way of explanation, it's an area completely  
15 enclosed with a chain-link fence, which precludes any kind  
16 of access except for very well patrolled entrances, be-  
17 cause of the explosive nature of the operation. They have  
18 bunkers in places where they prepare powder and that kind  
19 of a thing, there.

20 Q The zoning for that is what?

21 A I-10.

22 Q Now, the industrial section immediately  
23 adjacent to Mine Hill, what is that zoned, can you tell us?

24 A That, too, is I-10.

25 Q Now, is that one parcel of land?

1 A Yes.

2 Q What is the present use of that, do you know?

3 A I don't, right off the top of my head. To the  
4 best of my knowledge, that's a -- they make concrete pipe.  
5 It's Concret Products Company, I believe it is.

6 Q Could you show us which map, again, shows  
7 the vacant land? I want to compare these two maps, if I  
8 can?

9 A The gray on this map, MT -- I'm sorry, ROX-1, the  
10 gray areas are vacant. You can get them in isolation if  
11 you want to use that other map.

12 Q All right then, so this then is all being  
13 used?

14 A Yes.

15 Q There's no part of -- the 431 acres does not  
16 include anything?

17 A That's correct. Hercules Plant, as I indicated  
18 to you, that's completely fenced in and it's all, you  
19 know, utilized for that purpose.

20 Q Do you know if any of the adjoining land,  
21 adjoining Hercules, is owned by Hercules?

22 A I can't say. I don't know. It might help your  
23 understanding to know that this is an area of soil mining.  
24 These ponds that you see, are a result of soil mining  
25 and the reason these -- the pipe company is there because

1 they're close to the source of the gravel.

2 Q Now, this vacant land on the adjoining  
3 Wharton Borough, is zoned R-4. Is that correct?

4 A That is zoned I-10 in that particular tract you  
5 referred to, which is along the railroad right-of-way of  
6 Mine Hill Township boundary and Dell Avenue, happens to be  
7 a big hole in the ground, which has been extensive, by  
8 the Houdaille Company.

9 MR. VECCHIO: Could you refer to it by its  
10 present common name, Mr. Montney? Is it referred  
11 to as the Gallo Tract? County Concrete and Gallo  
12 Tract?

13 THE WITNESS: Yes.

14 Q Could you show on this map where the vacant  
15 parts of I-10 land are?

16 A If you would permit me to use ROX-2A -- I'm sorry,  
17 ROX-2, which is really a print of ROX-2A and what is it is  
18 the vacant land shown on a zoning map so that we would--  
19 the portions you're asking for, we go back, backtrack  
20 a little bit, along Berkshire Valley Road, between there  
21 and the railroad is a tract. There is the Gallo Tract  
22 we just referenced. There's additional land on the other  
23 side of the railroad tract adjoining Mine Hill Township.  
24 There's a -- some adjoining the corner near the Wharton  
25 Borough boundary. There's some additional land south of

1 Route 46 adjoining or, I should say, to the east of the  
2 intersection with Howard Boulevard, a small portion.  
3 There's a tract east of Mount Arlington Boulevard and I  
4 must pause here and tell you that a portion of that tract  
5 has -- since this map was prepared, has been taken by the  
6 State as part of the fish and game lands.

7 I would add, just by way of information, that these  
8 lands shown on this pattern here, are all owned by the  
9 New Jersey Department of Fish and Games. That's a game  
10 preserve that they've taken some of that land for their  
11 purposes.

12 Going back to your question though, these are the  
13 I-10 vacant lands.

14 Q Now, there is 1100 acres in the I-5 that's  
15 marked available vacant land.

16 MR. VECCHIO: 1159.63.

17 A 166 acres available.

18 Q Let's find out first about the vacant land  
19 without getting into whether it's suitable for development.

20 A Okay. This is a tract, a large tract, which is  
21 situated in the northwest corner of the Borough --

22 MR. VECCHIO: Township.

23 THE WITNESS: Township.

24 A -- which is bounded on the south by Route 80, on  
25 the east by the railroad, east and north by the railroad

1 and on the west by the Netcong Borough boundary.

2 There's another tract on the east of the intersec-  
3 tion interchange, between Route 46 and I-80, which is  
4 bounded on the southwest by Route 46, on the east by  
5 Howard Boulevard and on the north by a railroad running  
6 parallel to Route 80.

7 A third area is the central part of the Township,  
8 which is bounded on the south by the railroad, Central  
9 Railroad, and on the north -- by north and west by Emmans  
10 Road.

11 Q Now, these three tracts come out to 1159  
12 acres?

13 A Yes.

14 Q Going to the I-5 location, the northern most  
15 one above Route 80, the small white parcels within the tract  
16 are the ones that are being used presently for industrial.  
17 Is that correct?

18 A Not entirely. This was an area of what we term  
19 "premature subdivision," wherein the land was divided on  
20 paper and sold to people without any roads. This goes  
21 back to the -- into the early 1900's, with a result that  
22 there were a lot of isolated ownerships and some became  
23 developed for residential purposes on a very scattered  
24 basis.

25 The white areas you see within that, are for the

1 most part, scattered residential development in that area.

2 Q East of there, industrial -- you say they  
3 are industrial usages within that I-5 zone.

4 A Limited amount, yes.

5 Q Where would that limited amount be?

6 A There is an industrial park here. There's some  
7 within the framework. This is office building but, it's  
8 permitted in the industrial zone, a limited amount by the  
9 interchange, along Ledgewood Landing Road, along Kings  
10 Highway and there's presently a soil mining operation  
11 going on there, which would further prepare it for  
12 industrial purposes.

13 Q Where does the soil mining take place?

14 A Generally on top of that mountain, where the 5 is,  
15 the very top of a high hill that's being worked on.

16 MR. VECCHIO: Can we go off the record?

17 (Whereupon an off-the-record discussion  
18 took place.)

19 MR. VECCHIO: On the record. Correction.

20 Mr. Montney may not have been aware of it but, the  
21 soil mining operation has been enjoined by some  
22 judicial proceedings. I don't know whether Mr.  
23 Montney was aware of that or not.

24 Q Now, can you tell me how the land in the  
25 adjoining Netcong Borough, next to the I-5, is being used,

1 whether for residential or industrial purposes?

2 A I really can't answer your question, because I'm  
3 not certain. I think it's probably a mixture of uses in  
4 that area.

5 MR. VECCHIO: That's a guess, right, Mr.  
6 Montney?

7 THE WITNESS: Yes, that's a guess.

8 Q Now, does this I-5 land abut the R-5?

9 A Yes -- no, yes, it does, too, yes.

10 Q What were the reasons on -- okay, all right,  
11 go ahead.

12 What were the reasons that led the Township to  
13 decide that it was an appropriate site for I-5 location?

14 MR. VECCHIO: Object to the question. Again,  
15 the question is, whether it is reasonable or not.

16 A It's not R-5. That's B-2. It doesn't abut the  
17 R-5. There's a boundary going along the highway. See,  
18 this is the B-2 zone. This is B-2.

19 Q That's marked B-2?

20 A Yeah, could you see here, B-2?

21 MR. VECCHIO: It comes around this way.

22 A This is a boundary line, between the R-5 and then,  
23 the B-2, it's highway-business so, it really doesn't abut.

24 Q What were the factors, in your opinion, that  
25 led the Township to make this particular piece of land,

1 R-5, on the Netcong Borough?

2 A I think it's proximity to the interchange of 80 and 206.  
3 It had good access on highways and --

4 Q Now, is there access to public water and  
5 sewer on this R-5 land?

6 A That's currently before the Planning Board for  
7 development and they have -- they're in the process of  
8 developing a water source there.

9 On site, I think they drilled a well and they are  
10 in the process of obtaining approval. They've gotten  
11 preliminary approval. They are in the process of obtain-  
12 ing approval from the DEP for a package plant with spray  
13 irrigation, to serve that development. That's actively  
14 before the Planning Board right now.

15 Q I see. Now, across the way, the B-2, it's  
16 across --- Rural Route 46.

17 Q Route 46. This is still largely undeveloped.  
18 Is that what the gray is?

19 A Gray means that it's undeveloped, yes.

20 Q Right and from a planning prospective, is  
21 there any reason why this could not also be zoned R-5,  
22 referring to the business area?

23 MR. VECCHIO: Same objection to the question,  
24 as to why it couldn't. The issue is, whether it  
25 is valid, or invalid or whatever. He can answer it.

1 A Yes, I think that -- the only reason it may not  
2 have been, is the fact that we are striving for a goal  
3 of 500 units and I think that that -- this R-5 and R-6  
4 generally met that goal but, I don't know of any other  
5 reason why that could have been included.

6 Q What about the western part of I-5, could  
7 that appropriately be zoned residential?

8 MR. VECCHIO: Same objection to the question.

9 A There again, I think we have to get into the over-  
10 all concept of the Master Plan. You do run into some  
11 severe topographical problems in that area and I think  
12 it was a determination that that would -- in terms of  
13 access, you don't have the same kind of access to that  
14 land, to those lands, I should say and the access is more  
15 appropriately from the other direction and that it let  
16 itself more appropriately to I-5 development.

17 Q When you're speaking of topographical  
18 problems, what specifically are you speaking about, slopes?

19 A Yes.

20 Q Are there slopes on the I-5 site?

21 A It's not a flat level site but, it's much less  
22 severe than the I-5 zone. You're talking in magnitude  
23 of 10 to 15 percent slopes, as opposed to 25 and above  
24 slopes.

25 Q I see. Turning to the central I-5 vacant

1 spot, are these white spaces, within it, industrial or  
2 residential uses?

3 A Both.

4 Q Could you point out which is which?

5 A (Witness indicates.)

6 Q Is residential permitted in there or does  
7 that pre-exist the zoning?

8 A It pre-exists the zoning.

9 Q Was this zone residential prior to being  
10 zoned I-5?

11 A I can't answer that question without guessing.  
12 I'd have to go back to the 1955 zoning, which was the  
13 first zoning and determine what it was then and how it  
14 subsequently came to being.

15 Q Do you know how these I-5 -- three vacant  
16 I-5, have been zoned industrial since 1975?

17 A My best recollection is they have been but, I'd  
18 have to check it. I can't say categorically that they  
19 were or were not.

20 Q Is there a barrier in the I-5, in the R-3  
21 residential zone?

22 MR. VECCHIO: Object --

23 A Interstate 80 --

24 MR. VECCHIO: Give me a chance to object.

25 MR. MEISER: Go ahead, I want to hear his

1 objection.

2 Q What about the R-3, what road is the barrier  
3 between the R-3 and I-5 zone?

4 A State highway in that location. It's Route 46.

5 Q Would it be appropriate, in your opinion, to  
6 zone any part of this I-5 zone, residential?

7 MR. VECCHIO: Object to the question for the  
8 same reason, that that's not the issue. The issue  
9 is, whether the zoning as it exists, is proper or  
10 not.

11 A Again, I would say that --

12 THE WITNESS: Can I answer now?

13 MR. VECCHIO: Yes, sir.

14 A That it was considered as part of the overall  
15 zoning pattern and it was determined that it was an  
16 appropriate location for that, in keeping with the overall  
17 considerations.

18 Q Is there any reason why it would/<sup>be</sup>inappropriate  
19 to zone that area for residential --

20 MR. VECCHIO: I object.

21 Q -- besides the fact that it wasn't chosen?

22 Is there any reason why it would be inappropriate?

23 MR. VECCHIO: I object to the question be-  
24 cause I think the witness has answered on a number  
25 of occasions, that he said that all of the factors

1 going into the Master Plan result in the fashion  
2 in which way it was zoned. If you want him to  
3 redo the entire Master Plan or go over it inch by  
4 inch, then maybe he can answer your question better.  
5 Do you want to get specific?

6 Yes, you can answer it.

7 A There may well be other considerations in that  
8 particular location which would be contrary to using it  
9 for residential purposes.

10 Q What would those considerations be?

11 A Topography, soil conditions.

12 Q Now, final I-5 zone, which is vacant, is  
13 the southern most one with a boundary along the Central  
14 Railroad. Is any part of that I-5 site presently being  
15 used, the area to the south and east of the railroad?

16 A It is currently before the Planning Board for  
17 development.

18 Q What is the proposal for development there,  
19 the I-5? Who is the applicant?

20 A It won't come to mind. I'd have to look it up for  
21 you.

22 Q Okay. Now, part of this I-5 zone abuts  
23 an R-3 zone. Is that correct?

24 A Yes.

25 Q Is there any boundary line, any natural

1 or constructed boundary line, that demarks the R-3 from  
2 the industrial?

3 MR. VECCHIO: I object to the term of the  
4 question, in that the use of the term boundary or  
5 natural demarcation is used. Do you mean buffer?

6 MR. MEISER: All right.

7 Q I'm trying to find out, is there a road,  
8 is there anything, at this point, besides a line on the  
9 map? Is there anything physical or constructed, that I  
10 would find, that would tell me where the line stops?

11 A Not unless you dug down to the water table.

12 Q What would the water table -- is there a  
13 difference?

14 A That's the Drakes Book. It would probably have  
15 been right at the surface but, if you're asking me if  
16 there's a road, if there's a steep slope, the steep  
17 slope starts here at Emmans Road and goes that way.  
18 Let me look at one thing and find out.

19 There's no visible physical area there. They just--  
20 as they say in the song, they've gone about as far as they  
21 can go.

22 Q Okay. Now, we have 50 acres of I-3 land  
23 marked as vacant land. Where is that?

24 A Let me get the up-to-date one. What has happened  
25 on -- I'm sorry. It's up-to-date, okay. We had

1 considered -- oh, there's what I was looking for over  
2 there. There's that one and this one. There are two  
3 I-3's.

4 Q All the vacant is to the right, by the  
5 Delaware-Lackawanna. Is that correct?

6 A Yes, it's quite -- there's opportunities in there  
7 for further development. It's limited because that is --  
8 if you recall from the other maps, that it was shaded.  
9 It's an area of soil mining, where there is substantial  
10 bodies of water that have been left with the result that  
11 it's the land around the periphery that's available for  
12 development.

13 Q Let's go, for the moment, to OR-10. I  
14 understand that there's 532 acres within OR-10.

15 A Yes.

16 Q Where is that, all in one site?

17 A Yes, it's situated in a central portion of the  
18 Township, to the west of the Ledgewood Circle. It's  
19 bounded on the north by Route 46, on the west by Mooney  
20 Road and on the south, by Mountain Road.

21 Q Now, is any part of the OR-10, presently  
22 developed?

23 A Not for OR-10 uses.

24 Q What usages are in the OR-10?

25 A Well, the -- a limited amount of existing --

1 pre-existing residential uses around the periphery.

2 Q Now, turning for the moment to OR-5, is  
3 there one section of OR-5 zoned in the Town that's vacant?

4 A Yes.

5 Q That is?

6 A That's on the western boundary line with Mt. Olive  
7 Township. It's on the east side of Route 206. It's north  
8 of the Flanders Road and south of Route 80.

9 Q What part of OR-5 is being used for office  
10 research purposes?

11 A Currently, there is one development that has gone--  
12 taken place there. The Daily Record printing plant is  
13 located there. They recently enlarged that to include  
14 their business operation as well. There was another site  
15 plan that was submitted in that zone, which was never  
16 completed.

17 MR. VECCHIO: Is that the Daily Record or  
18 Daily Advance?

19 THE WITNESS: Daily Advance, yes, I'm sorry.

20 A There's a second tract and it should be -- it's  
21 not reflected on this but, there's a building under  
22 construction in the northern part of that zone, to the  
23 west of Route 206, that's under construction. It's an  
24 error in the map in the sense that it's an area that's  
25 under construction, that's zoned as vacant land.

1 Q It's being constructed as office research?

2 A It's a warehousing operation, yes.

3 Q Now, is that warehousing operation and the  
4 Daily Advance, the only two businesses that have thus  
5 far taken advantage of the OR-5 or OR-10?

6 A There's a third one that hasn't come to fruition  
7 but, that's only been there for a relatively short period  
8 of time, both of them have.

9 Q How long has this land been zoned OR-5 and  
10 OR-10?

11 A I think -- if my recollection -- it is 1970, I guess  
12 it was.

13 Q What was it zoned previously to that? Do  
14 you know?

15 A R-1.

16 Q The both, OR-10 and OR-5, were previously  
17 zoned R-1?

18 A That's correct.

19 Q Were there any studies as for the need for  
20 office research zoning within the Township?

21 A At the time the zoning took place, there was some  
22 studies made, yes.

23 Q Do you feel, in view of the fact that there's  
24 been only three applications within ten years, that the  
25 acreage in OR-5 and OR-10 is reasonable and not excessive?

1 MR. VECCHIO: I object to the question. He  
2 did not testify there were only three applications.  
3 I also object to the characterization as to what  
4 his feelings are, what he feels and what is his  
5 reasonable opinion. That's two things.

6 Q Let me back up. Did you say there were only  
7 two applications for office research?

8 A Well, to the best of my recollection, I can recall  
9 the three applications in the OR-5 -- OR-5 zone.

10 Q Do you want the question read back to you?

11 A I answered it.

12 Q What was the answer, sir?

13 A To the best of my recollection, I can recall  
14 three applications.

15 MR. MEISER: There was a previous question  
16 which you objected to. Please read it back.

17 (Whereupon, the following was read back:

18 "Now, is that warehousing operation and the  
19 Daily Advance, the only two businesses that have  
20 thus far taken advantage of the OR-5 or OR-10?")

21 Q I'll change the question to, in view of the  
22 presently usage in OR-5 and OR-10, do you feel that the  
23 land zoned for that purpose, in those two zones, is  
24 reasonable and not excessive?

25 A I feel it's reasonable and not excessive.

1 Q What would your reasoning be for that?

2 A Well, it was very carefully looked at at the time  
3 the zoning took place and I think it was reasonable then.

4 I don't know of anything that's taken place in  
5 the interim, that would change that opinion.

6 Q I'd like you to go through the overlays for  
7 the industrial and the OR zones, if we can?

8 A Sure. Maybe it would be just as well if we used  
9 this map. Well, this would probably be better with the  
10 other one.

11 MR. MEISER: Do you want to take a break  
12 now? Off the record.

13 (Whereupon a recess was taken.)

14 MR. MEISER: Back on the record.

15 Let's go to the northern most I-5 site.

16 Now, what are the problems with that I-5 site?

17 Can you summarize them

18 A Let's take them as they go.

19 Q Okay.

20 A It shows considerable areas of septic effluence,  
21 which is the deeper red. It shows areas of slope in  
22 excess of 35 percent, which are currently the yellow  
23 areas. It shows assorted wetlands, which are the purple.

24 We don't have any stream overflows -- well, we do. Oh,--  
25 no.

1 Yes, down along towards Route 46, there's one area  
2 but, the stream comes up to 46.

3 Q Do we have any information about what those  
4 wetlands are? Is there a stream in there?

5 A No, I think -- well, probably what they would have--  
6 this is getting out of my area but, it's probably what  
7 they would call "perched" water. It's pretty far up  
8 the slope, layers of clay, that kind of thing.

9 Q Do you have any opinion -- first of all,  
10 let me ask you, are there any parts of that I-5, which is  
11 vacant and suitable for development?

12 MR. VECCHIO: Off the record.

13 (Whereupon an off-the-record discussion  
14 took place.)

15 MR. MEISER: On the record.

16 Q We're talking about roughly 166 acres in  
17 all the I-5 zone. Now, do you have any opinion, assuming  
18 a package treatment plant were there, would it be possible  
19 to cluster high density residential uses on that I-5 tract,  
20 using the wetland as open space?

21 MR. VECCHIO: Object to the question with  
22 reference to the area of expertise. Go ahead,  
23 you can answer it and also, not enough facts, i.e.  
24 the familiarity of the -- what the density is and  
25 the size of the development is. Go ahead.

1 A Well, obviously I would, you know, I would approach  
2 it from a different vantage point. In other words, it's  
3 difficult to answer that in its isolation, with no other  
4 given planning considerations for the entire community  
5 and if it were appropriate to develop additional lands  
6 for that purpose, it would seem to me that you would not  
7 approach it from that point of view.

8 You would approach it from the point of view, if  
9 you're going to provide for additional multi-family  
10 housing, you do it -- you determine, you know, what you  
11 were going to do and where would be the most appropriate  
12 place for it, given all of the other planning considerations.

13 Q Have you given any thought to where other  
14 appropriate multi-family usages in the Township could go?

15 A Not at this time, no.

16 Q Do you know any reasons why it would be  
17 impossible to have, for example, planned unit development  
18 on that I-5 tract, with a package plant and further  
19 allowing the critical areas, the wetlands and the slopes,  
20 to remain open space?

21 A Well, again, there -- you know, it -- there may  
22 well be more appropriate -- if you're going to provide  
23 for that kind of a use, there may be more appropriate  
24 areas, if you're going to provide for that kind of a use--

25 Q Is it --

1 A -- that are more suitable.

2 Q But, do you have an opinion as to whether  
3 there are more suitable lands?

4 A I haven't really looked at it beyond what we did  
5 in 1975, in that direction, because we had made it, you  
6 know, the Town had made a determination of the kind of  
7 direction they were going and we at that time selected  
8 what was felt to be the more suitable locations.

9 Q Is it your testimony that you cannot tell,  
10 right now, whether that I-5 zone could be suitable for --  
11 for example, a planned unit development in a high density?

12 A Yes, you could tell. You could make an assessment  
13 of it with that in mind and come to certain conclusions.  
14 I haven't done it as such but, one could do that.

15 I'm not testifying now that it is or is not suitable.  
16 I'm just suggesting that if you're going to make that  
17 determination, it ought to be on a community wide basis.

18 Q There's been no such community wide  
19 assessment. Is that correct?

20 A Not since 1975.

21 Q Even in 1975, there was only an assessment  
22 on where to put the 500 units?

23 A Yes.

24 Q Turning to the second I-5, you know that --

25 A This is adjoining Howard Boulevard, by way of

1 identification.

2 Q Yes, yes. That seems to have a substantial  
3 amount of land which is vacant and suitable for develop-  
4 ment on it. Is that correct?

5 A I would say that a greater percentage of that area  
6 is in that category than in the previous.

7 Q Have you computed, of the 166 acres, which  
8 you determine to be vacant and suitable for development,  
9 in I-5, how they are broken down by the three I-5 zones?

10 A No.

11 Q If you didn't do that, how did you get a  
12 total of 166 acres?

13 A Well, these lands were lumped -- all the land,  
14 these areas were lumped together.

15 Q You made no separate subtotal for each of  
16 the three?

17 A No.

18 Q When this excessive stream overflow with this  
19 I-5 -- what stream are we referring to?

20 A It's a tributary of Drakes Brook.

21 Q Is it -- there seems to be a large area in  
22 here, which have only the impediment of being severe septic  
23 limitations. Is that correct?

24 A Yes, there's an area -- the large area adjoining  
25 the Route 46 interchange with Route 80. That would be in

1 the southeast quadrant in that interchange and there's  
2 some additional land around the knolls, as it were. This  
3 is an upper plateau.

4 At the center of this upper plateau, with the  
5 slopes around it and the bottom -- toward the bottom of  
6 those slopes and on those slopes, there are severe septic  
7 limitations.

8 Q And the third I-5 site, the southern most  
9 one, is there any land on there which is vacant and  
10 suitable for development?

11 A Very little.

12 Q That's wetland?

13 A Yes.

14 Q And stream overflow?

15 A Yes.

16 Q Turning to the OR-10, 189 acres of this is  
17 vacant and suitable for development. Is that correct?

18 A Uh-huh.

19 Q Is that concentrated in one part of the tract?

20 A It's generally on the uplands area. Again, this--  
21 the slopes generally follow along Route 46 and toward  
22 the dump and toward Mooney Road and there's a -- that  
23 upland area, the areas toward Mooney Road, are those  
24 upland areas suitable for development.

25 Q Some of those areas which you've categorized

1 as suitable for development, adjoin R-1. Is that correct?

2 A Yes, it was a buffer. R-1 was left around the  
3 periphery of that tract so the residential development  
4 wouldn't back up within the office research zone. There  
5 is a special residential line setback to act as an  
6 additional buffer.

7 Q Much of the area which is listed as severe  
8 septic, seems not to have any other impediment. Is  
9 that correct?

10 A Well, you'll find in some of those areas, are  
11 also encumbered by -- some of the areas have severe  
12 septic limitations, have steep slopes, which are yellow,  
13 sort of wetland, which is the purple and some by the  
14 blue, which is stream overflow down here.

15 Q Can you estimate in the OR-10, what per-  
16 cent of that, with septic limitations, had no other  
17 impediment?

18 A Oh, gosh, 10, 15 percent.

19 Q Has no other limitation?

20 A Uh-huh.

21 MR. VECCHIO: It's a guess?

22 THE WITNESS: It's a guess. I haven't  
23 measured it.

24 Q The OR-5, this is one tract of 157 acres.  
25 Is that correct?

1 A No.

2 Q No?

3 A It's -- it's made up of -- there are a number of  
4 parcels in the OR-5 zone.

5 The two fairly large tracts, one on either side  
6 of Route 206, there are a series of smaller tracts along  
7 the west side of 206 and then, there is the Daily Advance  
8 site to the south end of the tract.

9 Q On the eastern side of the road, the vast  
10 majority of that seems appropriate for development. Is  
11 that correct?

12 A That's correct.

13 Q And even on the western side, a substantial  
14 amount of that is suitable for development. Is that  
15 correct?

16 A Yes, sir.

17 Q Now, your OSGU, that's publicly owned land?

18 A For the most part, yes. It's not to say that there  
19 aren't other tracts within it and particularly, in the  
20 fish and game lands, in the northeast corner of the  
21 Township, the over -- over a period of years, the State  
22 Department of -- what is it? The Department of Fish and  
23 Games, I guess.

24 MR. VECCHIO: Yes.

25 A Whatever that department is, that deals with that

1 land. They have been acquiring that to enlarge upon that  
2 game preserve, because there are isolated parcels in a  
3 manner of speaking, that intrude into those lands and as I  
4 have indicated to you earlier, the upper part of this parcel,  
5 which is at the intersection of Route 80 and Mount Arlington  
6 Boulevard, have been recently acquired by them.

7 To add to it, I think there might be some associations  
8 on that parcel as well, which is in the center portion of  
9 that tract.

10 MR. VECCHIO: Can we go off the record?

11 (Whereupon an off-the-record discussion  
12 took place.)

13 MR. MEISER: On the record.

14 Q Do you consider any of the OSGU vacant land  
15 to be appropriate for residential development?

16 A The answer to your question has to be yes. A  
17 limited amount.

18 Q When you say "limited amount," is limited  
19 referring to any particular area there?

20 A Well, it's the fact that -- it's those lands which  
21 may exist along the existing roads that may be -- I'm not  
22 sure if there's any appreciable amount of that, because  
23 as I look more carefully, you see, there's a spot there  
24 that I'm pointing to, a place on Berkshire Valley Road,  
25 where that's suitable.

1           The facts are, that that's about the only one that  
2           is.    That's septic effluence and septic limitation.  
3           A very limited amount.

4           Q           Let's move on to the B-2.  I understand  
5           there's 185 acres of vacant land in the B-2.  Can we  
6           see where that is?

7           A           Well, a limited amount of it will be along the --  
8           along Route 46 in the Netcong area and south on 206,  
9           we got 27 acres.

10          Q           There's 185 listed as vacant.

11          A           Okay, you're talking about just what's vacant,  
12          if there's a considerable amount vacant and there -- let's  
13          just for a moment, if we can put this back up, which  
14          will be -- which will give it to us, if you just want to  
15          think in terms of vacant, because it makes it a little  
16          less confusing.

17                    This -- the area in the quadrant, southeast  
18          quadrant of 206 and 80, to the north of Route 46, near  
19          Netcong, we have some on Ledgewood Landing Road, -- I'm  
20          sorry, that's Shippenport.

21                    I guess -- actually, you know, that's a limited  
22          amount on 46 and Kenvil area, for the most part that's  
23          where it's located.

24          Q           That total 280 acres?

25          A           Yeah, here you have some along-- some scattered

1 along 46, to west of the Ledgewood Circle and there's some  
2 here.

3 Q But, all along --

4 A Since this map -- this is -- I'm pointing to a  
5 tract on the north side of 46, just to the west of the  
6 intersection of 46 and 80. That's the Holiday Inn inside.  
7 There's a couple of tracts that are before the Board now  
8 in this area for development.

9 Q As what?

10 A As office buildings. In fact, I think -- my  
11 recollection tells me that one of those is the Telephone  
12 building. It shouldn't be vacant. The Telephone  
13 Company has a switching office there.

14 MR. VEECHIO: Can we go off the record?

15 (Whereupon an off-the-record discussion  
16 took place.)

17 MR. MEISER: Back on the record.

18 Q Was the R-5 originally zoned B-2?

19 A Portions of it.

20 Q What were the other portions?

21 A It's a good question, which I can't answer off the  
22 top of my head. It was residential because there are  
23 some -- you see some pockets of residential in here that  
24 existed.

25 Q Now, could the B-2 land, across from the

1 R-5 land, appropriately be zoned residential?

2 MR. VECCHIO: Object to the question for  
3 the same reasons as previously stated. Is that  
4 sufficient, Mr. Meiser or should I --

5 MR. MEISER: Yes, that's fine.

6 MR. VECCHIO: Go ahead.

7 A Well, again, I have to answer you the same way I  
8 did last time and say that, you know, I would have to  
9 take it in the contents of the total overall plan and  
10 there just happens to be some other reasons that, you know,  
11 you might be residential in there but, I won't go into  
12 that.

13 Q Let's go into them.

14 A There's an interchange between 80 and 206 and this  
15 land is downhill from that and I think there are more  
16 appropriate places for residential development than that  
17 location.

18 Q If the Township asked you to find additional  
19 locations for multi-family housing, do you feel you'd  
20 have any difficulty doing so in Roxbury?

21 MR. VECCHIO: Object to the question. As  
22 stated previously and I'll state them again, if the  
23 man has not done the study, how is he supposed to  
24 find out any difficulty on the number of occasions  
25 that he hasn't done any such study?

1 A My answer is, you might very well find difficulty,  
2 given the nature of the Town.

3 Q Let's go to the other letters. Let's find  
4 out where the vacant B-1 land is.

5 The B-3, there's 120 acres of B-3. Where would that  
6 be located?

7 A That would be parcels to the rear of what's called  
8 the Ledgewood Mall. That is -- which is the Mall -- the  
9 northern most Mall along the southeast side of Route 10.  
10 There's land back there. There's some land behind the  
11 Roxbury Mall, which is the southern most, again on the  
12 same side of Route 10 and then, there's some land north of  
13 Route 10, between Route 10 and Main Street.

14 In that same B-3 district, there's some lands between  
15 the railroad and Route 46. Just to the east of the  
16 Ledgewood Circle, there is some interior lands, which are  
17 part -- again, part of a soil mining operation.

18 Q That's part of a soil mining operation?

19 A Yes.

20 Q That entire tract is being used for a soil  
21 mining operation?

22 A Yes.

23 MR. VECCHIO: Off the record.

24 (Whereupon an off-the-record discussion  
25 took place.)

1 MR. MEISER: On the record.

2 Q Let's go back to the other map on vacant lands.  
3 On the B-2, we list 27 acres, total of the vacant and  
4 suitable land for development. Can you show us where the  
5 27 acres are?

6 A That is the southeast quadrant of 206 and 10 that  
7 we were talking about a moment ago. You'll find some  
8 shaped parcels that are unencumbered in that area that's  
9 in the R-1.

10 You'll find some lots generally along Route 46.  
11 Occasionally you'll find some land along Route 10 in the --  
12 to the east of the Ledgewood Circle.

13 Q A large number of this B-2, along the highway,  
14 seems to be -- have only the problem of septic limitation.  
15 Is that correct?

16 A That's back up against the Route 80, yes.

17 Q Now, is there any -- what road -- obviously,  
18 there's no access to Route 80 there.

19 A That's correct. There is no access.

20 Q Is this the only road that leads in?

21 A No, the only way you can get into that area is back  
22 through here, back here and then back.

23 Q When you're saying "here," is there a name?

24 A Well, Mountain Road.

25 MR. MEISER: Off the record.

1 (Whereupon an off-the-record discussion  
2 took place.)

3 MR. MEISER: On the record. We're done with  
4 office. We just have to do residential and then  
5 I'm done.

6 Q R-1 has 682 acres vacant available land. Is  
7 there any one location where that is at or can you show us?

8 A Do you mind if we go back here and then we can go  
9 back to this. That's why we made this.

10 Let's start with the area long the westerly boundary  
11 line with Mt. Olive -- in the vicinity of Mt. Olive and  
12 Hillside Road. You'll find some areas around Emmans Road,  
13 to the north of Emmans Road and to the -- I should say  
14 to the south of Emmans Road and east of Carey Road,  
15 which are vacant lands.

16 Between Hillside and Eyland Avenue, there is some  
17 initial land, most of which is before the Planning Board  
18 now in the public hearing stage for development. This  
19 parcel and this parcel are both in the public hearing stage.

20 We have 682 acres that is going to be the bulk of--  
21 I'm sorry, up on Mooney Mountain, there are lands which  
22 adjoin -- it's east of 205 and adjoining both sides of  
23 Mooney Road and it will be south of Mountain Road. There  
24 are some scattered lands, again, along Mountain Road, as  
25 it extends out to 206 so, those are the two areas, the

1 Mooney Mountain area and the -- what you might term, the  
2 Eyland Avenue-Hillside Avenue area for R-1.

3 Q Can we move to look at which -- what are  
4 the impediments to those lands?

5 A Yes, let's take them in the order we did before,  
6 which would be, first of all, the area in Eyland Avenue-  
7 Hillside Avenue area. Those areas along Emmans Road,  
8 some of those areas have very severe septic limitations.  
9 Some have assorted wetland and there are some along the  
10 Drakes Book, which are subject to stream overflow. Between  
11 Eyland Avenue and Hillside Avenue, there are no impedi-  
12 ments.

13 Q Who are what, the ones with applications  
14 pending?

15 A Yes, pending applications for -- I think they're  
16 on tonight for public hearing, at least one of them is.  
17 The other one will be scheduled.

18 On Mooney Mountain, you find some limited amount  
19 of slope limitations. There are some stream overflow  
20 and some assorted wetlands adjoining Mooney Road but,  
21 with those exceptions, the remainders are suitable for  
22 development.

23 Q How level or how sloping is Mooney Mountain?

24 A That is sort of the top of the mountain, as it were.

25 Q I see.

1 A This is being actively pursued for residential  
2 development. This is the Gottdiener Ranch.

3 Q All right. What about R-2? We have that  
4 listed as 399 acres of available vacant land.

5 A Some of it is scattered parcels in that same corri-  
6 dor of Eyland and Hillside. Extending through Succasunna,  
7 you'll find limited parcels, again some of which are --  
8 one is before the Planning Board. This one will be before  
9 the Planning Board shortly for development.

10 Q What is the zoning for R-2, by the way?

11 A That's 25,000 square feet. Then, you'll have a  
12 tract up in the Berkshire Valley area to the -- generally  
13 to the east of the Berkshire Valley Road and north of Route  
14 80 and extending alongside and backing up to fish and game  
15 lands.

16 There's a limited amount along the lower Berkshire  
17 Valley Road and -- a small strip. There's some scattered  
18 parcels in the Port Morris area and then, finally, there  
19 is some extensive areas in the Shore Hills section of the  
20 Township, which would be north of Route 80 and adjoining  
21 the Mt. Arlington Borough boundary.

22 Q Can we see what the obstacles of those are?

23 A We take the -- those same areas, same sequence.

24 If we -- let's start in the corridor. We have some lands  
25 with -- that are subject to stream overflow and assorted

1 wetlands and then that leaving some scattered lots in  
2 that area.

3 In the Berkshire Valley area, most of the land are  
4 encumbered by septic effluent limitations, with some  
5 slopes and some lands subject to stream overflow.

6 Q What is the zoning in Jefferson, across  
7 the way? Do you know?

8 A I think it's fundamentally residential.

9 MR. VECCHIO: I wouldn't be too sure about  
10 that.

11 THE WITNESS: There's some limited amount  
12 of residential along the boundary. Then, it goes  
13 into office-labs.

14 MR. VECCHIO: Could I see that for a monent?

15 Q Is there any public sewerage in that R-2 area  
16 there --

17 A No.

18 Q -- that we've been talking about?

19 A No.

20 MR. VECCHIO: That's an old map. Could I  
21 just, for the record, indicate that Mr. Montney  
22 gave an answer as to the lands zoned in Jefferson  
23 Township, based upon what appears to be an older  
24 zoning map of Jefferson Township and probably may  
25 have been rezoned.

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1 MR. MEISER: Fine.

2 Q What about the large R-2 section of the Mt.  
3 Arlington border?

4 A Well, as you can see, there are -- they're both  
5 slopes, septic effluence, stream overflow and assorted  
6 wetlands and as you -- the problem is, that they're  
7 substantially broken up by these impediments and too  
8 different to use kinds of shapes.

9 Q Is there any R-2 we've not looked at on this  
10 map?

11 A We have had and that, just those two on Musconet-  
12 cong River. If you could see that, R-2 comes down to  
13 38.19, which is pretty limited.

14 Q Let's go back to the other map. Maybe we  
15 can identify the R-2, 4, 5 and 6 so we don't have to fold  
16 maps. Let's do 5 and 6 first, because they're, by far,  
17 the smallest.

18 A Well, the 5, we've been over.

19 Q There's a list where your report says 60  
20 acres of vacant land. Is that on the R-5?

21 A Yeah.

22 Q Where is that 60 acres at? It's vacant.

23 A Well, that's the whole thing. They're the gray.

24 Q Has there been any development proposal  
25 in the R-5?

1 A Yes, it's actively before the Board right now.  
2 That's the one I told you, where they already drilled  
3 the well. They have conceptual approval on their septic,  
4 rather than their package plan and they're waiting for  
5 that.

6 Q Now, this map, this took place after you  
7 drew the map or did you not, listing something before  
8 the Planning Board as developed?

9 A To be honest with you, I don't know why it's on  
10 there. Evidently -- well, the only thing that I can say  
11 is that we put -- it really should be on as vacant, because  
12 and I tell you this under oath, it's actively before  
13 the Planning Board.

14 Q How many units are going to be on that R-5  
15 site?

16 A Initially, 200.

17 Q Now, if I would have looked at your chart,  
18 that chart would have told me that that site had only  
19 1.47 acres of vacant land suitable for development. Is  
20 that correct?

21 A Uh-huh.

22 Q Where is the R-6 site?

23 A Up here in the -- now that has -- that has been  
24 before the Board of Adjustment for some variance, but,  
25 it has not been before the Planning Board for a site plan.

1 Q Now, how many units are being proposed there?

2 A I think -- there's 20 some acres -- somewhere  
3 between a hundred and a hundred and fifty.

4 Q And you feel it's realistic to put a hundred,  
5 hundred and fifty units on that site?

6 A Well they -- the site extends into Hopatcong  
7 Borough and probably will be developed as a unit and  
8 the answer to your question is, yes, I think it's realistic.  
9 The gross density is five, but, there is business along  
10 the Musconetcong River there and there's some lands there  
11 and so forth.

12 Q Now, according to your chart, there is no  
13 land suitable for development in the R-6. Is that what  
14 your chart shows?

15 A Well, it shows that there are -- there are lands  
16 that are encumbered by limitations.

17 Q Does that indicate -- is this the blue?

18 A Uh-huh, sort of.

19 Q It seems like over two-thirds of that land  
20 has a stream overflow.

21 A Uh-huh.

22 Q Is that true?

23 A Again, you have to keep in mind the character of  
24 these designations. You know, they're not absolute but,  
25 there have been -- the applicant has made studies to

1 determine, you know, that those units could be built. In  
2 other words, there have been more finite studies, let us  
3 say, in terms of what we're showing here in terms of  
4 SCS limitations.

5 I think what that is saying is that this boundary  
6 is not precise. There is more land in here that would  
7 be available in here upon which to be developed.

8 These lands along the streams, they're not going  
9 to be developed.

10 Q Now, the R-3 is listed as having 158 acres  
11 of available vacant land. Let's see where that's located.

12 A Well, you can -- hold it right there. You can  
13 see scattered lots in the Shore Hills section of the  
14 Township. These are just --

15 Q Near the Mt. Arlington Borough?

16 A Yes, it would be the northern section along --  
17 around -- along the eastern shore of Lake Hopatcong, so,  
18 that's a lot of scattered material.

19 You'll find a little vacant activity in the -- in  
20 the Ledgewood section of the Township. It would be in the  
21 -- to the west of the Ledgewood Circle and you'll find  
22 some scattered lots in the R-3 and the Unneberg Avenue  
23 section.

24 You will find some scattered lots in the Succasunna  
25 area. That would be to the south of Route 46. I say

1 Succasunna and that's really Ledgewood -- I'm sorry,  
2 the Kenvil section of the Township, to the south of  
3 Route 46 from Kenvil -- actually from the Kenvil Avenue  
4 over to Hillside Avenue.

5 Q Those scattered sites add up to 158 acres?

6 A Well they -- you got a lot of scattered lots  
7 throughout -- that's deceiving, I think. The scattered  
8 lots are in Shore Hills.

9 Q And the R-3 zone is what density?

10 A 15,000 square feet.

11 Q Where are the remaining acres that are  
12 vacant in R-4? I see there is only 27.

13 A Again, they're mainly made up of scattered lots,  
14 some being in Succasunna and there's a few scattered lots  
15 that you have in Kenvil and again, scattered lots, on  
16 both sides of Route 46, adjoining the Mine Hill Township  
17 boundary.

18 That's -- where's my zoning map? 7500 square  
19 foot zoned that's -- small single family, also.

20 Q What about RR? I believe that's the last  
21 one we --

22 A There are two basic facts of RR, tracks of RR.  
23 The one is along the -- between Emmans Road and Mountain  
24 Road and the other is over -- is in the south part of  
25 the Town, off of Pleasant Hill Road and Reger Road.

1 Q What is the zoning for RR?

2 A That's 120,000 square foot. These two zones were  
3 created because of the very steep slopes involved and  
4 what they've done is to establish special development  
5 standards in those zones, in order to permit a degree of  
6 flexibility for the development within these very steep  
7 slope areas.

8 Q I see. Let's go back to the other map,  
9 if we could.

10 A Sure.

11 Q All right, the RR, first of all, has what,  
12 the orange or the steep slopes?

13 A Yes.

14 Q Now, on your chart, it indicates that 156  
15 of the 387 acres have steep slopes. Does that mean less  
16 than half of those have steep slopes? Is there a large  
17 part of the RR that does not have steep slopes?

18 A Well, there's some -- yes, that's what that means,  
19 but, you see, these are ridges. This is a ridge, a  
20 steep slope that goes along here and then you have sort  
21 of a plateau and then, you have another ridge, so, in  
22 between those, you have areas that are less than 30 percent.

23 This is and I'll point, Reger Road. That is a  
24 hairpin turn and it's not there to be fancy. That's the  
25 only way to get from that elevation to that elevation.

1 Q Where are the R-3 acres suitable for  
2 development? I believe there's 39 acres.

3 A Here's one here that I think we overlooked before.  
4 That's one -- as a matter of fact, it is being actively  
5 pursued right now.

6 Q What is the road --

7 A Orben Drive, the Orben Drive section of the  
8 Township. It's actually -- it's an area near the north--  
9 northeast quadrant of Route 20 -- I'm sorry, Route 46  
10 and Route 80. It's immediately north of Route 80.

11 We have some lands in the -- in both the Kenvil --  
12 these scattered lots in Kenvil and Kenvil, again, south  
13 of 46. This is Kenvil, south of 46.

14 Q Today, do you know, is there in the OR-5  
15 and OR-10, access to public sewer?

16 A No -- I say -- yeah, the answer is no. Well, let  
17 me qualify that because -- the access could be made  
18 available, it means you'd have to build lines. You'd  
19 have to pump and you'd have to have a capacity but, is it  
20 available today, the answer is no but, is it physically  
21 possible to connect into a sewer, the answer has got to  
22 be yes.

23 Q What about the I-5?

24 A The same is true.

25 Q Do you know whether there would be capacity

1 for the OR-5's and the OR-10's, if they were pumping?

2 A I defer that answer to Mr. Purcell.

3 Q You don't know?

4 A No, I've not worked directly. I would be giving  
5 you a hearsay answer. I'd rather not do that. I'd rather  
6 you ask Mr. Purcell that question directly, if he could  
7 answer.

8 Q Do you know how many people work in Roxbury  
9 Township, if any of these?

10 A I'd like to defer that one to Mr. Lindbloom. He's  
11 looked into that in depth. I think he'll be in a better  
12 position to answer that for you.

13 Q Do you have any knowledge yourself, is my  
14 question?

15 A Indirect.

16 Q What is that knowledge?

17 A Well, I've read Mr. Lindbloom's report.

18 Q That's your only knowledge, from Mr.  
19 Lindbloom's report?

20 A It's the most up-to-date knowledge, yes.

21 MR. MEISER: While I'm checking my notes,  
22 do you have any questions you want to ask?

23 MR. VECCHIO: None at all.

24 MR. MEISER: I have no further questions.

25 \* \* \* \* \*

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C E R T I F I C A T E

I, JILL FRIEDBERG,

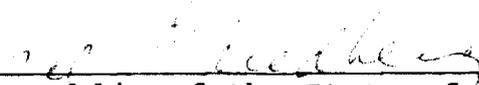
a Notary Public and Shorthand Reporter of the  
State of New Jersey, do hereby certify that  
prior to the commencement of the examination

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.

  
\_\_\_\_\_  
Notary Public of the State of New Jersey