

① CN - Origo Farms + Greenhouses, inc
v.
Twp of Colts Neck

5/8/79

Transcript of Proceedings: Deposition of
Anton D. Nelessen

P 144

CN 000 003 G

266 pw

(609) 531-9900
(800) 392-6223

P. O. Box 227
Allenhurst, N.J. 07711

Frederick J. Johnson, III, C.S.R.,
President

STATE SHORTHAND REPORTING SERVICE

X-----X

ORGO FARMS & GREENHOUSES, INC., a	:	CIVIL ACTION
New Jersey Corporation; and	:	
RICHARD J. BRUNELLI,	:	DEPOSITION OF:
	:	
Plaintiffs,	:	ANTON D. NELESSEN

-vs-

TOWNSHIP OF COLTS NECK, a	:
Municipal Corporation,	:
	:
Defendant.	:

X-----X

T R A N S C R I P T of the stenographic notes of the proceedings in the above-entitled matter as taken by and before PHILIP V. MORICI, a Shorthand Reporter and Notary Public of New Jersey, at the offices of STOUT, O'HAGAN & O'HAGAN, ESQS., 301 Main Street, Allenhurst, New Jersey, 07711, on Monday, April 9, 1979, commencing at two o'clock in the afternoon.

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

FILED
MONMOUTH COUNTY
MAY 8 - 1979

John C. Johnson
County Clerk

FRIZELL, POZYCKI & WILEY, ESQS.,
BY: DAVID J. FRIZELL, ESQ.,
For the Plaintiffs.

STOUT, O'HAGAN & O'HAGAN, ESQS.,
BY: ROBERT W. O'HAGAN, ESQ.,
For the Defendant.



I N D E X

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

Name of Witness

Direct

ANTON D. NELESSEN

By Mr. O'Hagan

3



1 A N T O N D. N E L E S S E N, being first
2 duly sworn according to law, testified as follows:

3
4 DIRECT EXAMINATION BY MR. O'HAGAN:

5 Q Mr. Nelessen, has your attorney explained
6 to you the nature of these proceedings?

7 A Yes.

8 Q Okay. Do you know that what you are saying
9 is being taken down by this Shorthand Reporter?

10 A Yes.

11 Q And that you are under oath?

12 A Yes. This is the first time I have done a
13 Deposition.

14 Q Okay. If for any reason you don't under-
15 stand my question or if the question is ambiguous, or
16 unclear, and for any reason you wish it repeated, please
17 ask me to repeat it or rephrase it and I will try my best
18 to comply.

19 A Okay.

20 Q If you don't do that, I am going to assume
21 that you understood the question.

22 A Okay.

23 Q Now, Mr. Nelessen, please advise us as to
24 your educational background?

25 A My educational background. How far back do you



1 want me to go?

2 Q Well, I am assuming that you graduated from
3 grammar school and high school, why don't we take it after
4 that.

5 A Okay. After graduating from high school I was
6 a special student at the University of Wisconsin at
7 Manana, where I had a choice of courses. My course
8 structure was as a special student. From there I went
9 to the University of Minnesota for structural architecture.
10 I graduated, I was one of the eight that graduated from --

11 Q Could I stop you for a minute. Are you
12 saying that the rest of them dropped out or were you eight
13 in the class?

14 A No, the rest of them dropped out. This was very
15 competitive in the school. From there I worked in Los
16 Angeles, but I went and took courses at UCLA, from there I
17 attended Harvard School of Design. After Harvard School
18 of Design, I went abroad from there.

19 Q There meaning Harvard?

20 A Harvard.

21 Q Now, first I think you said you went to the
22 University of Wisconsin?

23 A Yes.

24 Q You described yourself as a special student?

25 A Yes.



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

Q What does that mean?

A Special student means you have a choice of curriculum. You are not restricted, you can take anything you want in curriculum.

Q How many years and months did you stay in the University of Wisconsin?

A One year.

Q Thereafter you went to the University of Minnesota?

A Yes.

Q Did you graduate from that school?

A Yes.

Q With what degree?

A Bachelor of Architecture.

Q Thereafter, you went to a school out in Los Angeles?

A Yes, I took courses in school.

Q What school was that?

A UCLA.

Q Did you graduate from there?

A No, these were just courses.

Q And from there?

A Harvard, M.I.T., and I graduated.

Q With what degree?

A Master of Architecture.



1 Q And would that conclude your educational
2 experience?

3 A Yes, formal educational experience.

4 Q Would you advise us as to your employment
5 background?

6 A Employment background. The first major work was
7 for Setlin & Harlick (phonetic), which was a planning
8 design architectural firm. While I was at the University
9 of Minnesota, you were required to work for a firm for
10 graduation as well as working for the Dean.

11 Q I am sorry. You are talking a little too
12 fast.

13 A I am sorry. I also worked for the Dean of the
14 school who was then working on a housing project. I was
15 hired before getting out of school to work for Victor
16 Gruen Associates and having had four job offers from
17 either New York, Chicago and Los Angeles, I chose Los
18 Angeles. I worked for Victor Gruen in Los Angeles for
19 about two years, and I worked in Tehran and then I came
20 back. After graduating from school, I was hired by
21 David Crane in Philadelphia, and worked in urban project
22 for them. After that I was recontacted by Gruen again
23 and asked to be a special consultant to the Belgium
24 Government for the purposes of building a new town in
25 Belgium. And I took the job and I stayed at that job 18



1 months and then I spent a year or so doing research. And
2 I was in Japan where my major was teaching at the university.
3 So I went to teach in Harvard.

4 Q What did you teach?

5 A I taught Urban Design, Master of Architect, City
6 Planning, a combination of courses. I was Studio Instructor,
7 Grant Studio Seminar. At the same time, I was working
8 which is always part of this sort of academic background.
9 So you work part of the time while you are in a profession.
10 You maintain yourself in the profession. At that time I
11 worked for Gund-Monchelli Associates, which was a consult-
12 ing planning organization, then working on the impact of
13 the Kennedy Center on Harvard Square. And I worked for
14 several other sort of consulting firms. I worked for the
15 Puerto Rican Government for awhile, I worked for Charles
16 & Mann (phonetic), which is a large engineering firm
17 in the country for awhile. I worked for a real estate
18 investment firm for awhile. These were all consulting
19 work while I was at Harvard. Then when I left Harvard,
20 I came here.

21 Q Here, meaning where?

22 A Here in New Jersey at Rutgers.

23 Q When was that?

24 A That was in 1971. And subsequent to that time,
25 I had been involved with private consulting firms as well



Nelessen - direct
2
1 as teaching at the University.

2 Q What's the name of the private consulting
3 firm?

4 A We have several. One is called Nelessen & Helb
5 Associates.

6 Q I assume you are the principal?

7 A The other one is called Hinted, Nelessen Associates,
8 which is another organization.

9 Q What type of work experience have you had
10 in the two consulting firms since you have been here in
11 New Jersey since 1971?

12 A Oh, it's consulting work essentially. All the work
13 is generally consulting, it ranges from everything to
14 county plans to detailed landscape design.

15 Q Now, county plans, which particular counties
16 are you speaking about?

17 A We just finished as part of that office and are
18 now engaged as part of office work in the casino impact
19 in Atlantic County. That started essentially as a
20 studio project in school, but because I did that and those
21 people are gone, I am the remaining person and I am now
22 becoming involved with the State in the impact of
23 casino gambling. That's one level of work. The other
24 range of work we are doing both for the Regional Study
25 Council on cluster housing, we are engaged in preparing



1 site plans for one major new residential development in
2 Lawrenceville.

3 Q Lawrenceville?

4 A Lawrenceville. We are involved with a -- we are
5 just finishing the Hamilton Street study, which is a study
6 of commercial development and landscape of that. We have --

7 MR. FRIZELL: Will you identify

8 the town.

9 A That's Franklin Township. We have just finished --

10 Q Let's back up here. What are you doing
11 in Franklin Township?

12 A I just finished a study of their commercial area
13 in Franklin Township, study in zoning, proposed Ordinance
14 analysis, complete zoning of a commercial area about a
15 mile long.

16 Q Is Franklin Township in --

17 A Somerset. And we are involved with a couple of
18 other projects as well. The most recent one we completed
19 was a planning public relation package which synthesizes
20 all the information called for in Hamilton Township.

21 Q What county is that in?

22 A Mercer. We just completed that. And they were
23 taking all the information, going through all of it and
24 synthesizing it into a presentation, which tells about
25 the growth development and proposed future development



1 of that Township with special emphasis on housing cluster
2 as opposed --

3 Q Can I just interrupt you for one minute?

4 Now, am I correct, I form the conclusion with reference to
5 the municipalites that you have been employed in the manner
6 that you described, that the planner for the particular
7 municipality would contact you and arrange the work to be
8 concluded, is that an accurate assumption on my part?

9 A No, not typically. The work which was typically
10 done was either done on a direct contact with the Mayor
11 or merchants that heard of the work and directors of
12 projects who heard about either my work at the univeristy
13 or work as outside consultant, that's how they contacted
14 me. It's not typically done by planners, although there
15 is planners involved.

16 Q You said that the work that you performed is
17 not typically done by planners?

18 A Oh, the work is typically done by planners, but
19 the contact was not made initially by planners.

20 Q Now, you indicated that you were employed
21 in Franklin Township?

22 A Yes.

23 Q When did that commence?

24 A Oh, about a year ago this past January. We have
25 been working on the job over a year.



1 Q And on that particular job, did you work there
2 in conjunction with the municipal planner?

3 A Well, they had no planner when we first came
4 aboard. So the planner really got involved halfway through
5 the process. So we sat on the review meeting.

6 Q And who was that?

7 A Andy Paskowski.

8 Q Now, are you familiar with the make-up of
9 Franklin Township?

10 A By make-up you mean --

11 Q I mean as to whether it's an industrialized
12 area, suburban area, urban area, rural area?

13 A Yes.

14 Q The plans that you developed were with
15 reference to the commercial area?

16 A Yeah. It's really the fringe area, the area that
17 comes out of New Brunswick, which overlaps into
18 Franklin Township.

19 Q Was that reduced to writing?

20 A Well, yeah, like 500 pages.

21 Q Do you have copies of that available in your
22 office?

23 A No, but we can get you copies. They were done in
24 memo forms. It wasn't a filed report. What we did is,
25 as we did the report, memos were done. And those series



1 of memos have become the composite which the planning-making
2 or the decision-making people make the decision. So we
3 can give you copies of those memos. It's not a report.

4 Q Would you do that?

5 MR. FRIZELL: Just one thing. He
6 did say it's 500 pages.

7 MR. O'HAGAN: Off the record.

8 (Off the record discussion.)

9 BY MR. O'HAGAN:

10 Q In your plan, did you speak of the inter-
11 relationship between the commercial area and the other
12 areas of the Township of Franklin?

13 A Well, we were primarily confined with a study
14 area which was designed by the City Council, and they
15 had said to us, we got a problem in this area. We don't
16 want to put a boundary there, there was no clear notion
17 where the study area was. It was up to determine where
18 the boundary of the study area was. But the area was
19 the old urbanite park, and it was turned into farm land.
20 Our job was to find out what to do with this one mile
21 strip. However, we needed to do it and we studied both
22 sides of it, as well as population projection, what have
23 you, for the area.

24 Q Are you familiar with the fact that there
25 recently was a Superior Court case in Franklin which had



1 to do with the validity of the Master Plan Zoning, are
2 you familiar with that?

3 A Yeah, we did. But as far as we are concerned, it
4 had no real effect at all. So a study therefore never
5 really entered into it.

6 Q Did you participate in the trial of this
7 matter?

8 A No.

9 Q Did you review the planner's report ultimately
10 that was involved in the trial of that matter?

11 A No.

12 Q Are you finished with your work experience?
13 That was the initial question that I asked.

14 A I think in the brief -- yes, I think you got the
15 principals I worked for.

16 Q Would I be accurate in understanding that
17 you have not drafted a Master Plan for a municipality within
18 the State of New Jersey?

19 A Well, we did a thing as part of the university
20 which was called a zoning region for development of
21 a municipality, which was the Randolph Township commissioned
22 by the Randolph Planning Board. Although it has not
23 been -- they came to us saying, listen, we got to develop
24 a new Master Plan, zoning recommendations are part of that
25 Master Plan. Can you prepare zoning recommerdations for



1 developing new municipalities, one, which would be out of
2 Mount Laurel, and, two, which responds to the criteria
3 in the town, which we did. And that's a major gain,
4 another major work now that I construe as a Master Plan
5 although it's the most comprehensive Master Plan that's
6 been developed. It's not called a Master Plan, it's
7 called a comprehensive plan for the area.

8 Q Where is Randolph Township?

9 A Morris County. Route 10 runs straight through the
10 middle of it or right through the edge.

11 Q Can you tell me anything about the square
12 mileage of the municipality?

13 A No, I don't have it, but I could easily get it.

14 Q Was that released as a written report?

15 A Yes.

16 Q May I have a copy of that?

17 A Yes.

18 Q And I make the same offer to reproduce it
19 and photocopy it.

20 A Sure.

21 Q With reference to both of these documents,
22 you think you could have them to me within a week's time?

23 A I can definitely have the Randolph one with no
24 problem. Franklin Township, in fact, I am going to meet
25 tonight at eight o'clock in Princeton, so we are just



1 ending that one. And if you know what it's like ending
 2 something, pieces here and there and everywhere. It might
 3 take a little longer to get that for you, but I can get
 4 it for you.

5 Q Fine. Now, have you published any materials
 6 in treatise or magazines or books, anything of that nature?

7 A Yeah, there have been several pieces. There are
 8 publication with reports for the university on a number
 9 of studios --

10 Q Let me interrupt you for just a second.
 11 You used the word studio more than once, what do you mean
 12 by the word studio?

13 A At the university I directed the master Ph.D
 14 level studio and by a studio, a planning school at the
 15 last semester or so you take all the information that's
 16 compiled from 10 to 18 graduate students working on
 17 research on zoning or urban planning. And as a director
 18 of the studio -- I will use the word studio because I am
 19 the director of studio. The pieces that have come out
 20 of the studio at Rutgers will be the development guide-
 21 lines for Sussex County, Highland Park, the year 2000,
 22 zoning recommendations for a developing municipality,
 23 Randolph Township, casino impact in Atlantic County,
 24 New Jersey, which is the most recent one we finished.
 25 And then there were other memos typed, which was the



1 Ward Two Plan for New Brunswick. Now, that's sort of
2 one part of it. The other pieces of it which were
3 published naturally are environment stimulation, which
4 was furnished by the Graduate School of Design and
5 several magazines have done work. The most recent one
6 was a piece in the Journal for Architectural Educators,
7 where we talked about trying to get people to understand
8 the concept of planning.

9 Q Have you directed or published yourself
10 any studies pertaining to whether a municipality is or
11 is not a developing municipality?

12 A Only as it relates to Randolph.

13 Q And am I correct in understanding that in
14 regards to Randolph you had input in making the statement
15 as to whether to consider a municipality developing or
16 non-developing?

17 A Yes, when we were doing Randolph the whole notion
18 of region had come up. So, even before the whole
19 definition of region -- so the first part in the book,
20 as you will see, was a preliminary explanation as to what
21 was to be designed as region, what was to be designed as
22 fair share before the court cases came out. So we were
23 definitely in the process of doing that. We also
24 made recommendations, which is on tape at Randolph, when
25 asked whether or not we felt from our recommendations



1 whether or not they would be free from a Mount Laurel
2 suit. I said yes, and I firmly believe that. Obviously
3 they didn't follow those recommendations. Those recommenda-
4 tions still sit there and a number of unfortunate things
5 happened, people having to leave or transferred. But
6 that's neither here nor there.

7 Q But they didn't follow your recommendations?

8 A Well, they made the recommendation for the
9 community, the downtown center that's a developing
10 municipality, that has no focus. And one of the recommenda-
11 tions in there was we need some sort of focus. And that
12 part of it has been adopted and we will two years from
13 now or three years from now go back and do a re-analysis
14 on that.

15 Q Now, as I understand it, you have been
16 retained by the plaintiff in this suit that we are
17 concerned with today?

18 A Yes.

19 Q And you have written a report?

20 A Yes.

21 Q And one of the aims of the report is to
22 determine whether Colts Neck is or is not a developing
23 municipality; is that correct?

24 A Among others.

25 Q Right. Now, in your view, what criteria



1 should one utilize in making the judgment as to whether
2 a municipality is not developing?

3 A I think there is five.

4 Q What are they?

5 A First one -- let me see if I can -- okay. The
6 first one.

7 Q Just before we do that, are you looking at
8 your report now?

9 A Yes.

10 Q And would you advise us as to the date of
11 the report and the number of pages in it?

12 A There is no date on this, but the page numbers are
13 24. I think you have got the same copy.

14 Q That's what I am trying to find out.

15 A Yeah. Okay.

16 Q Can I just examine it for one moment, I
17 just want to verify that it's the same. Now, Professor --
18 is it proper to call you Professor or Dr. Nelessen?

19 A No, I am not a Doctor. You can call me Professor,
20 if you want.

21 Q Do you have the study there?

22 A Yes, this is the original draft, this is just a
23 retyped draft.

24 Q With reference to the original draft, may
25 I see that?



1 A Sure.

2 MR. O'HAGAN: I would like to look
3 through that.

4 MR. FRIZELL: Yes.

5 MR. O'HAGAN: Professor, may I
6 have a copy of this made?

7 THE WITNESS: My notes in it?

8 MR. O'HAGAN: Yes.

9 THE WITNESS: Sure.

10 MR. O'HAGAN: Suppose I ask our
11 switchboard operator to make a copy, then.

12 THE WITNESS: I think you will
13 find there classification of the soil types
14 themselves which we cut out on the last one.
15 I mean, they are there.

16 MR. O'HAGAN: Now I will ask someone
17 to make a copy of it and then we can proceed
18 on.

19 THE WITNESS: Yes.

20 MR. O'HAGAN: Off the record.

21 (Off the record discussion.)

22 BY MR. O'HAGAN:

23 Q Professor, --

24 A Okay. First, sizeable land area outside the
25 central city area; two, substantially rural characteristic;



three, population increase, sizeable population increase;
four, not completely developed and, five, inevitable
future commercial and industrial demand.

Q Now, the last one that I got, Professor,
was not completely developed, and I think you said --

A Inevitable future growth.

Q Okay. Now, with reference to whether a
municipality has or has not shed its rural characteristic,
what factors do you consider in making that assumption?

A Well, the key one was to find a definition of
what was rural and what was urban, in many respects.
And the classic definition which has been used has been
the regional plan definition of 100 persons per square
mile.

Q With reference to that, is that published
any place?

A Yes.

Q Where is it published?

A The Regional Plan Association Journal, they are
not a quasi-planning organization and they were the first
people to come up and use that as a number. I can find
that information, I mean details with reference to that.

Q Do they say if you are above 100 persons
per square mile --

A Yes.



1 Q -- you are therefore without question out
2 of the rural character concept?

3 A Yes, you begin to shed your rural characteristic.

4 Q So they indicate you begin to shed your
5 rural characteristic?

6 A Yes.

7 Q Now, is there a range between which the
8 shedding is complete? You have indicated that it starts
9 at 100, where does it end?

10 A That's a perceptual thing more than anything else.
11 I think that's a key thing. If you kept anything buffered
12 behind a tree, you have no idea whether it was rural or not.
13 It depends how much frontage you have there along your
14 roads, if that's the way one perceives most of the area. I
15 don't know if there are numbers. The numbers there say
16 anything above a hundred you start to get enough pockets
17 that you see housing, what have you, the rural quality is
18 gone.

19 Q But I understood you to say it's perceptual,
20 meaning that just the mere fact that a municipality has
21 exceeded a hundred per square mile doesn't mean automatically
22 that it shed its rural characteristic pretty good --

23 A Pretty good.

24 Q Please give me a chance to finish. I know
25 you don't do that intentionally. But do I understand you



1 to say that there are other factors to consider when you
2 make the judgment as to whether a town has shed its
3 rural characteristic aside from just the mere numbers of
4 100 per square mile?

5 A Well, a hundred is the one that's documented in
6 terms of changing its character, at 100. So that's the one
7 to choose in a clear definition. I am not sure exactly
8 what the Federal definition of rural is, but I know it's
9 substantially less than that, which means at a hundred it
10 started to move towards suburbanite character. I don't
11 know exactly what the Federal definition is, but I can
12 find it. But I know it's less.

13 Q So am I understanding you to say there are
14 no other factors you determined or consider in making the
15 judgment as to whether a municipality has or has not shed
16 its rural characteristic; is that correct?

17 A Well, in terms of numbers, yes. Then there are
18 the other issues, if we want to begin to look at the other
19 issues, other than pure numbers.

20 Q So you and I agree, then, that the numbers
21 alone don't tell the full story, there are other factors
22 to be considered; is that correct?

23 A Well, if you want a pure definition, you got a
24 definition of rural from these two factors, whether it's
25 the Federal Government's definition of rural -- for



1 instance, like a farm, a farm can be five acres or 500
2 acres, they are both farms. There is a very big difference
3 between those two issues, but they are both legally
4 classified as a farm. Here you are dealing with several
5 sort of issues, several which are perceptual, how much
6 acreage is devoted, how much you see along the road, how
7 much you see if you fly over it.

8 Q We are still back to the same question,
9 and I think it's kind of a simple question: Are you
10 saying that the only factor that you consider in making
11 the judgment as to whether a municipality has or has not
12 shed its rural characteristic is the number of people per
13 square mile?

14 A In terms --

15 MR. FRIZELL: Excuse me, I am going
16 to register a very minor objection here, and
17 and that's to the characterization that
18 the question is a simple question. I just
19 think that's inappropriate at this point.
20 You know, you ask whatever question you have.
21 But it's a simple question, it seems to
22 indicate that it requires a simple yes or no
23 answer. I don't think any of these questions
24 are that simple.

25 MR. O'HAGAN: Do you want the



1 question repeated?

2 THE WITNESS: Yes.

3 (Pending question is read back by
4 the Reporter.)

5 A Yes.

6 Q Okay. In your mind that's the end of the
7 inquiries you have to make?

8 A As to whether -- as to whether it's rural?

9 Q No, as to whether it sheds its rural
10 characteristic, is that the end of the inquiry you have
11 to make?

12 A I would say that a developer -- yes, that which
13 is beginning to shed its rural characteristic.

14 Q You would make no further inquiry?

15 A In terms of rural numbers, we can look at land
16 use and find out what percentage is used for what, we can
17 do that.

18 Q See, Professor, you are saying one thing one
19 time and another thing another time. I am just asking you
20 a direct question. Are there any other factors that you
21 would consider when you make the judgment as to whether a
22 municipality has or has not shed its rural characteristic?
23 Do you understand the question, first of all?

24 A Okay.

25 Q Do you understand the question?



1 A Not really.

2 Q Okay. Let me rephrase it, then. If someone
3 were to ask you to make a judgment as to whether a
4 municipality has shed its rural characteristic, am I under-
5 standing you to say that your inquiries would be limited
6 to how many people exist per square mile in the particular
7 municipality?

8 A Uh-huh, we combine that with your review on the
9 existing map, we combine that where recent construction
10 took place, combine that with ecological areas which can't
11 be developed as farm, we combine that with an aerial
12 flight over the Township itself to find out exactly how
13 much is in actual farming, and then we do a perceptual, or
14 attempt to do a perceptual thing from the ground. But
15 in this case we are taking the strict definition over a
16 hundred, and Colts Neck has got 280 persons per square
17 mile so it's no longer rural, it's suburban.

18 Q So am I correct in understanding in Colts
19 Neck you ended your consideration whether the town has or
20 has not shed its rural characteristic by making a judgment
21 as to the number of people that exist per square mile?

22 MR. FRIZELL: I am going to
23 object here only because that question has
24 been asked five times and he keeps answering
25 by saying he has a number of factors that he



1 just related. I counted at least for a third
2 time land use pattern, et cetera. I don't
3 have any objection to your question except
4 for the fact it's been repeated for a number
5 of times. I think a witness should be
6 asked the question once.

7 MR. O'HAGAN: He answered in a variety
8 of manners each time he has answered and I
9 am confused now and I am going to repeat the
10 question.

11 With reference to Colts Neck
12 Township --

13 A Uh-huh.

14 Q -- am I correct -- strike that. Please
15 examine your report, if you would.

16 A Uh-huh.

17 Q Now, you speak of the character of the
18 municipality. That's to be found on page three?

19 A Yes.

20 Q And it's described -- paragraph five, number
21 five, anyway.

22 A On page three. All right.

23 Q Okay. There is a heading on that called
24 the Character of Colts Neck, is there not?

25 A Uh-huh.



1 Q Were there any other factors which you
2 considered here other than the number of persons per
3 square mile?

4 A Well, let's start at the top of the list --

5 Q Wait, please. Just answer my question.
6 Were there or were there not other factors to be considered?

7 A Other factors in whether the whole Township was
8 considered rural or not rural?

9 Q Yes.

10 A The bottom line the number was 100 persons per
11 square mile. Other factors were added into that which
12 included all the issues here.

13 Q Other factors. Now, am I correct in under-
14 standing your last answer that some portions of the town
15 may be rural and other portions of the town may be some-
16 thing other than rural?

17 A No, the whole town is classified no longer growing
18 mergent suburban. But there are other areas that are
19 green and have the visual perception of being rural. But
20 you can't take one farm, we have to take the whole
21 Township. It's no longer mergent suburban.

22 Q What factors led you to conclude that?

23 A Okay. Start with the over-all area. The percentage
24 of the over-all areas' use is particularly residential --

25 Q Let's speak of that. What percentages of the



1 uses are in residential?

2 A If I can find for you here. Well, if I go for the
3 whole piece across the board, the land use for each
4 resident --

5 Q I think my question isn't clear. How much
6 is in residential uses?

7 MR. FRIZELL: If you know.

8 A Well, --

9 Q What percentage of the town is in residential
10 uses?

11 A We have it only in total number of units, but not
12 as a percentage.

13 Q Are you saying that you don't have to make
14 a judgment as to the percentage of land that's in residential
15 uses before you form the conclusion --

16 A Yes, of course.

17 Q -- that a town has to shed --

18 A Sure.

19 Q Sure what? You don't have to?

20 A Sure you would have to.

21 Q You would have to make that determination?

22 A Sure.

23 Q Have you made that determination in your
24 report?

25 A If it's not in the report, it's in the -- in the



1 reference material used for the report.

2 Q Then tell me what percentage of the town
3 is in residential use?

4 A Well, if I don't have it here, I can get that.
5 You know, that's an exhibit that went into the report.

6 Q Now, in preparing the report, what was your
7 expectation to the use of this property?

8 A Well, actually this would go to both you and
9 the municipality as a basis of --

10 Q For the Court?

11 A For the Court.

12 Q And you knew that both I and the Court would
13 rely upon it; is that correct?

14 A Uh-huh.

15 Q Now, are you saying that that percentage of
16 land presently used for residential purposes is an
17 important consideration in making a judgment as to whether
18 a town has shed its rural characteristic?

19 A Well, if you figure --

20 Q My question is -- you and I have a problem.
21 You don't listen to my question. I am going to ask that my
22 question be repeated and I am going to ask you to answer
23 it.

24 MR. FRIZELL: Excuse me. I am
25 going to object, Mr. O'Hagan, to any further



1 instructions of that kind to the witness.
2 If you have any problem to the witness, you
3 can direct it to me and I will instruct
4 the witness. But that's why we are here.
5 He is our expert and I won't have him
6 chastised while we are sitting here. Now,
7 if there is a problem, state it for the
8 record, and we will all be courteous to
9 one another and I will attempt to explain
10 it to him. He already told you that this
11 is the first Deposition that he ever had
12 taken, and I think you should attempt to be
13 considerate of that fact. Now, if you want
14 the Reporter to read back the question, please
15 ask the Reporter to read back the question,
16 but do not lecture the witness.

17 MR. O'HAGAN: Okay. I would ask
18 that you direct your witness to answer the
19 question as posed. Do you have any problem
20 with him in doing that?

21 MR. FRIZELL: No, I have no
22 problem with him doing that.

23 MR. O'HAGAN: Would you so direct
24 him.

25 MR. FRIZELL: Read back the question.



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

(The pending question is read

back by the Reporter.)

A Yes.

Q That's an important consideration?

A Yes.

Q Now, if in fact the amount of land presently utilized for residential purposes is a small percentage of the town, would that be some evidence that you would consider in making a judgment that in fact a municipality has not shed its rural characteristic?

A If you can define small.

Q Well, if you were to form the conclusion that less than 20 percent of a municipality were utilized for residential, would you form the conclusion that then the town has not shed its rural characteristic?

A No, I can't reach that conclusion.

Q If the percentage was 15 percent, would you make that conclusion?

A I can't make that conclusion.

Q If the land area consumed by residential were 10 percent, would you reach that conclusion?

A No.

Q What percentage would you make that conclusion?

A That percentage at this point I would prorate it



1 back to the point --

2 Q Yes, but please answer the question. What
3 percentage would you make the determination with reference
4 to the percentage of land consumed by residential purposes
5 that in fact the town has not shed its rural characteristic?

6 A Where it has shed its rural characteristic?

7 Q Right.

8 A If we are saying 100 persons per square mile?

9 Q No, I think perhaps my question is not
10 clear. We are speaking now of land utilized for residential
11 development?

12 A Yes.

13 Q What would be the maximum of land that
14 could be used for that purpose before -- that will lead
15 you to conclude that a town in fact has not shed its
16 rural characteristic?

17 A Irregardless of the percentage, if you took a
18 spread of all the units along every road, your reason of
19 it would be completely different than what the total
20 percentage would be if it was grouped. Fine, you take a
21 litte quarter and take two percent or ten percent of what
22 have you, but it depended upon the distribution of the
23 units, where they are distributed as well as what the
24 total percentage of those units are. Primarily you have
25 ten percent of the total land of the town occupied residential



1 units and you got 40 percent of the town which can't be
2 built on, and you have 25 percent of the town which is
3 in an ammunition depot, which you can't develop on, you got
4 a lot of development.

5 Q Now, I am going to repeat my question, and
6 I will ask the Reporter to repeat the question and ask you
7 to answer directly if you can.

8 A Right.

9 Q If you can't --

10 A I can't. I don't know what the percentage is.

11 Q Have you made an examination of Colts
12 Neck Township with a view towards determining where in
13 fact the residential uses are situated?

14 A No, I didn't, but Queale did and we used their
15 information.

16 Q You yourself have made no --

17 A No, I relied on their study.

18 Q Okay. Now, in forming the judgment as to
19 whether a municipality has or has not shed its rural
20 characteristic, is it important for you to determine the
21 percentage of the land that's utilized for farming
22 purposes?

23 A Uh-huh.

24 Q And have you made a judgment as to what
25 percentage of land -- strike that. Have you made a judgment



1 which will lead you to conclude that a town has not shed
2 its rural characteristic based upon the amount of acreage
3 still devoted to farm and farm-related activity?

4 A No, I wouldn't use that solely. That again -- that
5 would be the consideration. As I said before, it's part
6 of the land use. It wouldn't be the sole consideration,
7 but definitely would be one of the considerations.

8 Q With reference to Colts Neck Township,
9 have you made a judgment as to how many acres are presently
10 utilized for farm purposes?

11 A Again, I didn't do that, but Quaille, who recently
12 updated the Master Plan, did. And if I remember correctly,
13 I believe over 8,000 acres are presently in the state
14 preferential farm assessment, which I think they use as
15 a basis for their judgment. And it's also interesting to
16 note that all development land is farm, and I think it
17 came to 8,000 some acres.

18 Q Would it be accurate to say that the more
19 land devoted to farm use the less likely it would be that
20 a town has shed its rural characteristic?

21 A Oh, yes, if it was 100 percent devoted to farm it
22 would be rural. But it also depends upon the size of the
23 farm because eventually the farms keep getting smaller and
24 the quality is going to disappear.

25 Q Have you made a study as to the farm sizes



1 in --

2 A Quaile did. Thirty-seven point something.

3 Q You have made no determination --

4 A There is no reason to because other planners have
5 done it.

6 Q Now, if the amount of farm land that were
7 available for development in a town exceeded 50 percent of the
8 land, would that be a consideration that would lead you to
9 conclude that in fact a town has not shed its rural
10 characteristic?

11 A No, you wouldn't.

12 Q What percentage --

13 A I don't know.

14 Q What percentage would be required to be
15 devoted to farm use before that would lead you to conclude
16 that in fact the rural characteristic has been preserved?

17 A I can't answer that simply.

18 Q So you are saying that you can't say that
19 it's 50 percent or 60 percent, 70 percent, is that what
20 your testimony is?

21 A There are other factors which are involved, and I
22 can't give you a simple percentage thing above that point
23 or below that point. I don't think we can determine that
24 number precisely.

25 Q All right. In making a judgment as to whether



1 a town has or has not shed its rural characteristic, is
2 it important to determine the acreage of land that has
3 been removed from possible development in the future?

4 A Removed from possible development. There are
5 what, a thousand acres in Earle in Colts Neck that
6 are removed from development --

7 Q Professor, please answer my question.

8 A All right.

9 Q And I am asking you, in making a judgment
10 as to whether a town has or has not shed its rural charac-
11 teristic, is it important to determine the total acreage
12 and also the percentage of acreage that has been removed
13 from development in the future use?

14 A I don't understand removed from development in
15 future use.

16 Q Well, let's do it another way. You would
17 agree that Earle cannot be used for development?

18 A Not necessarily.

19 Q What would have to happen before --

20 A Well, I am not sure with the Federal mechanism,
21 but the Master Plan alludes to the fact that
22 Earle can be developed, or could be developed. Who knows
23 when, but they could give up Earle. But it could be
24 developed.

25 Q You have no way of knowing whether that's



1 in the immediate or foreseeable future, do you?

2 A Well, one would look to a County plan to get some --

3 Q Please answer my question. Do you have any
4 way of knowing whether that's possible in the foreseeable
5 future?

6 A No. Well, --

7 Q Let's assume, then, for the moment, it's
8 not likely to be turned over to private ownership in the
9 next 20 years --

10 A Well, you can't make that judgment.

11 Q You can't make that judgment. Can you make
12 a judgment that it's going to be turned over to private
13 ownership in the next 20 years?

14 A No, I can't make that judgment either.

15 Q I go back to my original question. Let's
16 assume for the moment that Earle, the land in Earle has
17 been removed for possible private development in the
18 future.

19 A All right.

20 Q Now, would that be a consideration that you
21 would determine and examine in making the judgment as to
22 whether a municipality has or has not shed its rural
23 characteristic?

24 A Earle was never rural. I mean, Earle was a
25 green, open reserve of some kind. Rural connotes undeveloped



1 land. But in terms of rural, to put a definition of a
2 visual perception of rural, again -- but I could say that
3 we could subtrace Earle, it's not under consideration here.

4 Q To your knowledge, are there any other
5 lands in Colts Neck Township that are in Federal, State,
6 County or local ownership?

7 A Yeah, there is a thousand acres, I think, in the
8 consolidated water shed area.

9 Q That's not in governmental ownership. Let's
10 talk about lands in governmental ownership.

11 A Well, then there is the parking area zoned by the
12 City itself.

13 Q You mean by the Township?

14 A The Township itself. There is land owned by the
15 road, Route 18, all the road network. And that, in as far
16 as in terms of buying pieces, are the ones that I know of.

17 Q So am I understanding you to say that you
18 didn't make an examination yourself to determine the
19 amount of lands in Federal, State, County and local
20 ownership; is that correct?

21 A No.

22 Q Okay. And the lands described are the
23 only lands that you know of that are in Federal, State,
24 County ownership; is that correct?

25 A Yeah, right.



1 Q Now, if in fact there were considerable
2 lands and large holdings in Federal, State, County and
3 local ownership which were by reason of that removed from
4 possible future development in the future, would that be
5 a factor that you consider in making a judgment as to
6 whether a municipality has or has not shed its rural
7 characteristic?

8 A No, if you left all the open space and removed all
9 the farm contingents, what would be left is all the open
10 spaces. But open space rural that's somewhat vague.

11 Q So you are saying it makes absolutely no
12 difference to you in making a judgment as to whether a
13 town --

14 A You go through a National Park, it's rural.

15 Q Please, we talked about this a couple of
16 times before. Let me finish my question. I don't interrupt
17 you and you don't interrupt me.

18 Are you saying that it makes no difference
19 to you as to whether in fact there is large amounts of
20 acreage in Federal, County, State and local ownership?

21 A Well, who has control of what, where does the water
22 shed run through, what approvals have to be gotten, of
23 course, makes a difference. But whether or not it becomes
24 rural --

25 Q Let me stop you --



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

MR. FRIZELL: Please don't stop him.

THE WITNESS: Can I clarify something, because I think we have a little problem.

MR. O'HAGAN: Why don't we go off the record.

MR. FRIZELL: There is no reason to be off the record to explain things.

MR. O'HAGAN: Wait a minute. I don't want to belabor the record, we will go off and we will come back on it. Maybe we have a misunderstanding.

(Off the record discussion.)

BY MR. O'HAGAN:

Q Now, Professor, you made a statement off the record as to what you consider to be rural and not rural?

A No, I told you that I am from a rural background by my perception of rural farm as being rural.

Q And you indicated that open space per se that might be in woods or in a government installation or green acres, or whatever, wouldn't in your judgment be wrong. Okay. What in fact is your definition of rural?

A Farms essentially is a rural way of life, a rural



1 character and ruralized with some production of some kind.
2 It meant essentially interim with some sort of inter-
3 relation with church and American Rural Life. And that's
4 what we are talking about, as to a strict definition of
5 rural. Now, whether you are talking about suburban or
6 whether you are talking about agriculture, or whether you
7 are talking about preservation, if these become a part and
8 parcel of rural. But if we are talking about rural as
9 rural American way of life, it becomes tied to farms and
10 production and that life style.

11 Q That would be the start and end of it
12 as far as you are concerned, whether it relates to farms?

13 A Then the perception is how much you see of that
14 as farms, how much you see as isolated countryside. Now,
15 there may be tremendous farms where you are involved with
16 a productive use of the land of some kind. Colts Neck is
17 horse farms, silos, I mean, that becomes rural in respect
18 to rural. Also rural is getting big these days. The
19 small farm is gone, they are dissipated to become the
20 superior farm. So now rural has taken on a new meaning
21 in terms of what rural is. But in a rural area you
22 don't see massive amounts of development, you don't see
23 commercial, you don't -- you don't.

24 Q Then, so that I understand you, you are
25 saying that the mere fact that there are significant amounts



1 of land, significant acreage owned by the Federal, State,
2 County and local government in a municipality has no
3 bearing upon the issue as to whether it in fact sheds
4 its rural characteristic?

5 A Farms, I would say now.

6 Q Now, in determining whether a municipality
7 has shed its rural characteristic, would it be important
8 for you to know whether the amount of land devoted to
9 farm use has increased or decreased in a given municipality?

10 A Yes, that -- yes.

11 Q Now, if in fact the amount of land devoted
12 to agriculture and farm uses including horse farms has
13 increased, would that be a factor that would lead you to
14 conclude that indeed the municipality has not shed its
15 rural characteristic?

16 A No, if at the same time you have massive amount of
17 development, I mean --

18 Q If in fact the development is not massive,
19 but the amount of acres devoted to farm purposes, that
20 would include crops, horse farms and whatever has increased,
21 would that be a factor that would lead you to conclude that
22 a town has shed its rural characteristic?

23 A It would be one of many.

24 Q Have you made an investigation on Colts
25 Neck Township to determine whether in fact the amount of



1 acreage devoted to farm use, including horse farms, has
2 increased in recent years?

3 A Again, we are taking the information from the
4 Master Plan, the land use information which was given to us,
5 and it has that definitely horse farming has increased in the
6 area. And it's also clear that within the last ten years
7 or so, over 50 percent of the land has been cleared, which
8 means it's going into some use, either development or
9 agriculture in some way. But precisely what those numbers
10 are, I mean, I haven't pulled those out specifically. But
11 again, I can get those for you.

12 Q In reaching your determination in your
13 report that Colts Neck in fact has shed its rural charac-
14 teristic, you made no judgment as to the increase or
15 decrease in acreage of farm and farm-related uses; is that
16 correct?

17 A That's correct.

18 Q Now, with reference to a municipality and
19 in the determination as to whether it's rural or --

20 A Can I expand on that a little bit? I am sorry,
21 I just found something in the report which says 60, 70
22 percent occupied by woods, crops --

23 Q What are you referring to?

24 A The top of page three. According to the current
25 Master Plan, 60, 70 percent of the land is occupied by



1 woods, crops, open fields, water. In 1969 it had decreased
 2 to 3,943.6 acres, so there has been a net loss. Now,
 3 precisely the reallocation of that into farms, whatever,
 4 I don't know if that was broken down, if it was in that
 5 Master Plan analysis of the current existing land use.

6 Q Am I understanding you to say, referring to
 7 the figure for 1969 and the loss of 3,943.6 acres --

8 A Uh-huh.

9 Q -- some of that might be devoted to farm
 10 use; is that correct?

11 A See, the first one by the Master Plan's definition
 12 was wood, crop, open field, and then it would mean a loss
 13 of wood, crop, open field. Exactly how much of woods got
 14 translated into pastures --

15 Q You don't know?

16 A I don't know if that's been pulled out. I mean, I
 17 can look for that. That may be buried in there some place.

18 Q Now, in making a determination as to whether
 19 a town has or has not shed its rural characteristic, in your
 20 mind is it important to ascertain the total amount of
 21 acreage that has been zoned for commercial or industrial
 22 uses?

23 A How much of the Township has been zoned, yes.

24 Q Now, would I be correct in understanding
 25 that one factor in reaching the conclusion that a town



1 has not shed its rural characteristic, one factor to be
2 considered would be a small percentage of the available
3 land was zoned for industrial or commercial uses?

4 A Yeah. Again, we are dealing with two things: One,
5 we are dealing with the over-all and location of that --

6 Q Okay. But so I understand you correctly,
7 you are saying one factor that an objective person would
8 utilize in forming a judgment whether a town has shed or
9 has not shed its rural characteristic --

10 A Right.

11 Q -- is the amount of land that's devoted to
12 industrial uses and commercial uses and the amount of
13 land that's been zoned for that purpose; is that correct?

14 A All right.

15 Q Would I be correct in understanding that
16 the smaller the amount of lands that were devoted or zoned
17 for industrial or commercial uses, the more likely it
18 would be that a town has not shed its rural characteristic
19 other factors being absent?

20 A Not necessarily.

21 Q Would you explain your answer.

22 A If you took the development and stripped it along
23 two miles of road and you got X number of major road
24 frontage in the Township, that two miles, though it may
25 be a small percentage of the total again comes across as



1 a major piece.

2 Q If in fact in a municipality there were
3 only two locations that were zoned for industrial uses --

4 A Yes.

5 Q --would that be a consideration that you would
6 determine that would influence your judgment in making
7 the determination as to whether a town had or had not
8 shed its rural characteristic?

9 A No.

10 Q Would it make any difference to you that
11 those two particular locations were isolated?

12 A Isolated --

13 Q I mean, not immediately adjacent to each
14 other.

15 A So, ask me that again. Whether or not --

16 Q I think the question was unclear.

17 A Yes.

18 Q And it was my fault. In making a judgment
19 as to whether or not a town has shed its rural characteris-
20 tic --

21 A Yes.

22 Q -- in your opinion would it be important to
23 understand firstly the total amount of acreage that was
24 devoted to industrial uses?

25 A Yes, part of the land use, of course, and where.



1 Yes.

2 Q If you gave the example of a long string of
3 industrial uses strung one after the other upon a highway --

4 A Uh-huh.

5 Q -- if in fact the industrial uses were con-
6 fined to two small locations, would that be a factor that
7 you would consider in making the judgment as to whether a
8 town has or has not shed its rural characteristic?

9 A No.

10 Q You would not?

11 A No.

12 Q Why not?

13 A Well, it would depend upon the size, too, it
14 would depend upon the type of industry that's in those
15 locations and --

16 Q Let's speak of an area -- strike that
17 question. Do you know how much actual area acreage in
18 Colts Neck Township is devoted to industrial?

19 A I think everything that's zoned is -- they zoned
20 only for what I think are available, and that's in here, it
21 should be some place here when we talk about the zoning.
22 Let's see if I can find that for you.

23 MR. O'HAGAN: All right. Off the
24 record.

25 (Off the record discussion.)



1 BY MR. O'HAGAN:

2 Q All right. Back on the record. Now, --

3 A Yes, 121.36 acres.

4 Q Did you make an inspection to see whether
5 that land is occupied or --

6 A No, but if I remember, the Apple Jack is on one
7 side and something on the other. We haven't gone down to
8 look at it.

9 Q Now, on the Apple Jack orchard --

10 A No, I mean the distillery on one side and the other
11 one is on the other side of Route 18, if I remember
12 correctly. The other area is zoned for industrial. But
13 precisely what's on that land, I am not sure. And again,
14 as I said, what do you define as industry?

15 Q If I were to tell you that in fact there is
16 less than one to 1.36 acres devoted to industrial uses,
17 would that be a factor that you would consider in making
18 the judgment as to whether a municipality has or has not
19 shed its rural characteristic?

20 A You could have a town with no industry and all
21 strip commercial and, sure, you consider it, but I can't --
22 I can't give you a positive yes or no on that.

23 Q So you are saying it makes no difference?

24 A Well, it would make a difference. It would make
25 a difference in size and complexity and where it's located



1 as well as other issues. But if it had no industrial
2 facilities, all commercial --

3 Q I think perhaps my question wasn't clear.
4 When I am speaking of all commercial --

5 A Absolute questions are difficult when you say yes
6 or no.

7 Q We are speaking now of industrial.

8 A Yes.

9 Q If in fact the industrial area in Colts
10 Neck Township was smaller than 121.36 acres and was
11 confined almost exclusively to the land Apple Jack which
12 is situated on Route 537 in the Township --

13 A Yes.

14 Q -- would that be a factor that would be
15 considered in making a judgment as to whether a town is
16 or isn't or has or has not shed its rural characteristic?

17 A No.

18 Q You wouldn't consider that?

19 A No.

20 Q Okay. Now, would your answer be the same
21 to a similar question relating to the size of the commercial
22 area as to whether the town has or has not shed its rural
23 characteristic?

24 A Again, it depends upon the size and the location of
25 these facilities.



1 Q Now, if less than two percent of the town
 2 has been zoned for commercial uses, would that be a factor
 3 that would influence one in determining whether in fact
 4 a town has shed its rural characteristic?

5 A And again percentage without detailed location and
 6 perception --

7 MR. FRIZELL: Excuse me. Just
 8 for clarification as to what we are talking
 9 about. Here you are asking him about
 10 zoning as opposed to use. I just want you
 11 to be clear on that when you hear that
 12 difference, that's all.

13 THE WITNESS: All right.

14 MR. FRIZELL: Some of the questions
 15 are directed to zoning for certain uses and
 16 others are directed to the actual use of the
 17 property.

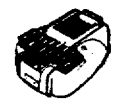
18 THE WITNESS: Okay.

19 BY MR. O'HAGAN:

20 Q All right. Let's speak again on the
 21 industrial uses.

22 A All right.

23 Q If in fact a small percentage of the land
 24 area was devoted to -- were devoted to industrial uses,
 25 would that be a factor that you would consider in determining



1 whether indeed a municipality has shed its rural charac-
2 teristic?

3 A Yes, it would be -- it definitely would be a
4 consideration if it was all considered with industrial.

5 Q If in fact the size of the industrial uses --

6 A Actual uses?

7 Q Actual uses was extremely limited, would
8 that be a factor that would, absent other conditions, lead
9 one to conclude that a town had not shed its rural charac-
10 teristic?

11 A If it had -- yeah, I would say yeah.

12 Q So you say yes, that would lead you to
13 conclude that the town had not shed its rural characteris-
14 tic?

15 A Yes.

16 Q Now, with reference to farm uses, if in
17 fact the areas were devoted to farm uses and they were
18 visible areas that were devoted to farm uses would that
19 be a consideration that would influence your judgment in
20 determining whether a municipality had or had not shed
21 its rural characteristic?

22 A Yes.

23 Q What percentage of the lane area would have
24 to be devoted to farm use before you would conclude that
25 a town had not shed --



1 A I can't give you a percentage. I said --

2 Q Please don't interrupt or else the question
3 is not going to be clear.

4 A All right.

5 Q The question was, to complete the question,
6 what percentage of land would have to be devoted to farm
7 use before you would conclude that a town had not shed its
8 rural characteristic?

9 A Again, I can't give you a detailed percentage unless
10 we would do a distribution of those and do a visual
11 analysis of those in terms of the over-all perceptions.
12 But as an over-all percentage, I think that's -- you know,
13 it's not a fair point in question. What percentage
14 basically depends upon location.

15 Q Now, if the farms were spread generally
16 throughout the town, absent the northern portion of the
17 town, would that be a consideration that you would
18 consider, you would use in making a determination whether
19 in fact a municipality had shed its rural characteristic?

20 A If you would put a concentrated center, let's say,
21 and band the whole thing with green around and those
22 greens were farms, you would have a new prototype of
23 development or you would have a new way of developing.
24 But whether or not you could classify the whole 20,000
25 acres as rural, again, that's a very -- that's a very



1 difficult question.

2 Q Now, you are not able to say what percentage
3 would have to be devoted to farm land. You indicated,
4 among other things, it would depend upon perceptual consider-
5 ation?

6 A Sure.

7 Q What do you mean by that?

8 A Let's take Colts Neck, most people don't view it
9 from the air, most people view it from the seats of their
10 cars. You come down 537 past the intersection of 35 --
11 34 and 547, and you hit that road of fences --

12 Q Are you going west or east?

13 A I am coming like we came today. I am going --

14 MR. FRIZELL: East.

15 A I am going east.

16 Q You are going from Freehold towards the
17 shore?

18 A Yes, but we are right in the middle of Colts
19 Neck. You have beautiful split rail fences, it gives you
20 a feeling of a horse farm. It's interesting that if you
21 go further down at one point along the same fence there
22 is a golf course behind it and it gives you the illusion
23 of continuity of rural, you get a rural feeling of an area.
24 And that's where the whole rural definition --

25 Q Are you saying that your conception of



1 Colts Neck traveling down 537 was not one --

2 A Past the --

3 Q Let me finish. Let's speak from the Freehold
4 line going towards Route 34. Are you saying that as you
5 travel eastwardly on Route 537 you don't have a perception
6 of a rural community?

7 A Once you hit -- once you hit -- you get a feeling
8 of a -- of a merging area.

9 Q At what point?

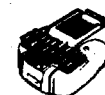
10 A That, you know, I have to show you specifically.
11 I mean, I can't --

12 Q Fine.

13 A I am saying -- do you understand what I am saying?
14 You are viewing the area in terms of peoples' perception of
15 a place. You got a certain view of the road, and that's
16 where nine-tenths of the people see it from, nine-tenths,
17 99 percent. So that road view is optically what you see
18 at 40 miles an hour. So we can maintain a rural character-
19 istic, rural character in Colts Neck without any problem
20 by fence lines and setback lines, what have you, without
21 it being agricultural.

22 Q Okay.

23 A If we take rural, nobody in Colts Neck are bloody
24 farmers. Two percent are farmers, that's the rural way
25 of life. I mean, we can make it rural by the perceptive



1 of perception being rural without having to deal what
2 percentage is located in Colts Neck as rural.

3 Q I am not sure that I am understanding you.
4 Are you saying that what's important in determining whether
5 in fact a municipality is rural or not rural is the
6 peoples' --

7 A Perception.

8 Q -- perception?

9 A Of it as being what it is.

10 Q Wouldn't that be something that would be
11 subjective and differ from person-to-person?

12 A No, it would not be. I would guess you would get
13 a 95 percent correlation if you take 100 people and drive
14 down that road and say, what do you think this area is?

15 Q Are you saying a significant portion of
16 Colts Neck Township would be perceived as being --

17 A No, I am not saying that a significant portion --

18 Q Please let me finish.

19 A Okay.

20 Q A significant portion of Colts Neck Township
21 would be perceived by the average person as being rural
22 in nature?

23 A No, that's not what I am saying.

24 Q What are you saying?

25 A I am saying that that road and the way that that



1 road was treated from 34 on down towards the shore here
2 with the split rail fences or the rail fences, has that
3 perception as being horse farms, rural, if you like.

4 Q Now, making a determination as to whether
5 a town has shed its rural characteristic, are you telling
6 me that there is an absolute cut-off line and then once
7 it reached a certain point it's no longer rural in nature,
8 but suburban in nature?

9 A Yes.

10 Q And there is no gray area?

11 A Well, that's the urban fringe, that was the thing
12 that we were trying to deal with in Franklin Township.
13 That area which would become fringe area, how do you begin
14 to define that fringe area; how do you begin to talk about
15 planning control of that fringe area. But if you look at
16 a State map -- I mean, Colts Neck is developing. And if
17 you look at Colts Neck, you got everything. But everything
18 around it is suburban, and encouraged by the built-up
19 quality of the map. You look at Colts Neck in a map form,
20 anyway, the built up area comes off as somewhat less.

21 Q You are saying, then, that the external
22 features and external conditions would be utilized in
23 making a judgment as to whether in fact Colts Neck --

24 A Everything would have to be looked at in terms
25 of where the urban fringes are. The urban rural fringe



1 changes all the time. In New Jersey, it's moving out.

2 And I am saying there are definitely gray areas, which is
3 one of the huge problems that we are dealing with.

4 Q All right. There are gray areas.

5 A There are.

6 Q So it's not possible to say once you pass
7 this line automatically you are a developing municipality,
8 there is a gray area?

9 A Well, there is various definitions.

10 Q Would it be accurate to say that planners
11 would differ as to whether in fact a municipality was or
12 was not developing?

13 A No, I think you will find pretty much the same
14 consensus that define a developing municipality which
15 planners will agree on.

16 Q You are saying all planners agree upon
17 whether a town was or was not --

18 A Well, a developing municipality.

19 Q By the way, are you a planner?

20 A Yes.

21 Q When were you licensed?

22 A Two years ago, three years ago.

23 Q Is there some doubt in your mind?

24 A Well, you know, you take the test and then you have
25 to wait six months. My license number is 1956.



1 Q 1956?

2 A Yes.

3 Q Now, again, when we are speaking of the
4 rural characteristic and whether a town has shed its
5 rural characteristic, you have indicated to me that there
6 is the gray area, and that some municipalities may be on
7 the road to being developed, but not yet developing, is
8 that a fair understanding of what you said?

9 A No, I was talking about developing, now you
10 translated it back to rural. I was saying in developing
11 municipalities in terms of urban fringe, there are gray
12 areas. But whether that developing means rural or rural
13 means --

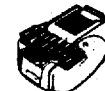
14 Q Are you saying there is no gray area is
15 to whether a municipality is or is not developing?

16 A No, I think there is a clear definition based on
17 rules and regulations, the five original statements which
18 I gave you.

19 Q So, in other words, there is no gray area?

20 A No, I think we can determine clearly whether it's
21 a developing municipality or not.

22 Q Now, with reference to Colts Neck in your
23 report you have compiled some statistics relating to the
24 growth in numbers and percentages from -- I believe you
25 started in 1940, did you?



1 A '50. I think '50 was the base number.

2 Q Now, in making that judgment, was the
3 important consideration in your mind the percentage of
4 growth or the absolute number of people or additional
5 people?

6 A Both.

7 Q Now, in making the judgment as to the
8 absolute number -- strike that. In making the judgment
9 as to comparison of the rate of increase in Colts Neck as
10 against the County, what studies --

11 A Okay. All right. You are dealing with just the
12 rate of the increase, not absolute numbers.

13 Q Yes.

14 A Okay.

15 Q What studies did you consult in comparing
16 the Township's growth with the County's growth?

17 A Well, again, what was available primarily was the
18 1971 Gershen Master Plan. And then Queale worked for
19 Gershen and then Gershen quit and became Gershen Coppola,
20 and then Queale and Lynch took over, they did supplement
21 study of the population, the update was in '77, as well as
22 the County numbers and the Master Plan, and we used
23 Queale and Lynch's work.

24 Q Now, did you make -- and when you compared
25 it to the growth between the County and the Township, did



1 you give any consideration to the fact that some municipali-
2 ties in the County were actually developed by 1950 and 1960?

3 A No, we were dealing with the developability or the
4 merchant development or what was the development at that
5 time in Colts Neck.

6 Q So you gave no consideration to the fact
7 that some municipalities in the County did not grow in any
8 respect?

9 A At this point we were concentrating --

10 Q I think perhaps my question wasn't clear.

11 A Right.

12 Q Let's go off the record for a minute.

13 (Off the record discussion.)

14 BY MR. O'HAGAN:

15 Q Okay. Now, Professor, you indicated that
16 you gave no consideration to the fact that some municipalities
17 within the County didn't grow at all from 1960?

18 A No.

19 A Did you compare the rate of growth in Colts
20 Neck Township with other isolated municipalities within
21 the County to make a judgment as to -- a comparison
22 between Colts Neck's rate of growth and other municipalities?

23 A No. Again, relying on our basic set of information
24 that wasn't --

25 Q Do you have an understanding as to whether



1 municipalities along the growth corridor adjoining the
2 Garden State Parkway and the growth corridor adjoining
3 State Route 9 have increased in population?

4 A No, but I can get that information for you out
5 of one of the reports.

6 Q So I'd be safe in assuming that you made
7 no comparison between Colts Neck's growth, rate of growth,
8 and the municipalities which adjoin the two growth
9 corridors?

10 A Only what was done by the Master Plan. And the
11 planner did, I believe Marlboro, Middletown, and they
12 talked about the municipality around it because it's now
13 part of the municipality land use law. But only what was
14 required by the municipality land use law.

15 Q Now, what percentage of growth would there
16 have to be before you conclude that a municipality was
17 a developing municipality?

18 A I mean, again, I can't -- I mean, I can't give you
19 specific numbers in terms of that, but --

20 Q If a municipality had grown less than 100
21 percent, would that be a factor that you would consider
22 in determining whether in fact it was a developing
23 municipality?

24 A One hundred percent in one year, ten years, five
25 years?



1 Q In ten years, between 1960 and 1970.

2 A One hundred percent would have doubled the growth.

3 Q I would assume so.

4 A Double the growth. That would be-- yeah, that
5 would be a significant growth.

6 Q Would that put it in a category of a
7 developing municipality?

8 A Substantial growth, yeah. Yes, when any place
9 grows double in a ten year period of time.

10 Q Now, do you place greater credence in the
11 percentage of growth rather than the absolute growth?

12 A Yeah, if you keep doubling and doubling, it's a
13 very serious thing to talk about doubling.

14 Q Now, in your mind is the percentage of
15 growth more important than the absolute numbers?

16 A No, the absolute numbers are equally important,
17 particularly when you start looking at them in light of
18 other consideration, zoning and remaining developed land
19 and projected population, it's very important.

20 Q Let's speak as to what would be the lowest
21 percentage that you could conceive that would result --
22 growth in a ten year period that you could conceive that
23 would result in a town being classified as non-developing?

24 A Zero.

25 Q That would be the lowest, anything above



1 zero would classify it as a developing municipality?

2 A In terms of percentage, yeah, that continues to
3 develop, it's being developed, it's whatever percentage.

4 I am not again precisely sure what those percentages are
5 or should be, but once you start to reach the point where
6 you are talking about half the total population, fifty
7 percent, a hundred percent, whatever.

8 Q You are familiar with the Court's definition
9 of developing municipalities?

10 A Based on those five definitions.

11 Q And it's your testimony that if a town has
12 only -- if a town had zero rate of growth, it would be
13 classified as non-developing; is that correct?

14 A Yeah, it would be definitely non-developing.

15 Q What would be the highest percentage that
16 could exist before it could be classified as developing?

17 A Sorry?

18 Q What would be the highest percentage of
19 growth that could exist before you would classify it as
20 developing?

21 A If zero percentage is non-developing, what percentage
22 would be developing? That's very difficult for me to
23 give you an answer, but I would say once you talk about
24 fifty percent of less growth over original numbers, you are
25 talking about serious numbers. And also that depends upon



1 again the basis of the numbers and other issues.

2 Q You are saying 50 percent or less, my
3 question was, what would be the lowest rate of growth that
4 would exist before you would classify a municipality as
5 developing?

6 MR. FRIZELL: Do you understand
7 the question?

8 THE WITNESS: I don't think so.

9 MR. FRIZELL: Because I don't.

10 Q (Continuing) Let me rephrase it. You
11 had indicated in your testimony before that one of the
12 chief factors in your mind is the percentage of growth
13 in population?

14 A Yes.

15 Q In a given municipality?

16 A Right.

17 Q And that's one of the factors that you
18 examined in determining whether in fact a municipality is
19 developing as far as the Supreme Court cases?

20 What I am asking is, what would be the lowest rate of
21 growth that could exist that would lead you to conclude
22 that in fact a municipality had turned the corner and was
23 now a developing municipality?

24 A Turned the corner?

25 Q No, well, gone over the threshold and is



1 now a developing municipality?

2 A Any amount of growth. We talked about doubling
3 the size of a municipality in ten years, whatever the
4 number is, any growth above that zero mark, any point
5 above that talks about a level of development which has
6 got to be considered, has got to be planned for.

7 Q Anything above zero rate of growth in your
8 mind would lead you to conclude that a municipality was
9 a developing municipality?

10 A And anything above that becomes a rate increase.

11 Q With reference to absolute numbers, have
12 you compared the increase in growth -- increase in numbers
13 in Colts Neck with other communities within Monmouth
14 County?

15 A No.

16 Q So you have made no judgment as to comparison
17 in the numbers of growth between Colts Neck and --

18 A Only what was available from the Master Plan.

19 Q Again, you didn't let me finish the question.

20 A I am sorry.

21 Q You have made no comparison between the
22 numbers of growth in Colts Neck and other municipalities
23 within Monmouth County?

24 A We have a document, which I think was the multiple
25 County study, and that projected total numbers of people,



1 percentage of multi-families, what have you, and that
2 information is available. But making a direct comparison
3 as to percentage of that growth, that growth and that
4 growth, no.

5 Q Okay. Now, to some extent -- strike that.
6 It would be accurate to say that between 1960 and 1970 the
7 population of the State of New Jersey increased drastically,
8 is it not?

9 A '60 and '70. I don't have those numbers, you
10 know, available here. It did increase, but not by a
11 substantial amount. We are starting to reach zero growth.
12 In fact, we haven't reached zero growth, we lost 100 or
13 so people last year.

14 Q Now, with reference to absolute numbers,
15 what number would it be in your mind -- strike that.
16 What number would you have to pass in terms of growth of
17 a municipality before -- strike that. I will start again.
18 Below which number in terms of growth would you classify
19 a municipality as non-developing in terms of its growth?

20 A I don't understand. Would you explain that again.

21 Q I don't blame you. All right. You have
22 ascribed an increase numbers in growth in Colts Neck
23 Township?

24 A Yes.

25 Q And you have concluded, I believe, that that



1 number is enough to classify Colts Neck Township as a
2 developing municipality?

3 A One hundred and sixty percent in ten years.

4 Q We are speaking in numbers, not percentages.

5 A Right.

6 Q We are speaking of the number of additional
7 people, am I correct in understanding that you consider
8 that in determining whether Colts Neck is a developing
9 municipality?

10 A Yes.

11 Q All right. Now, what would be the lowest
12 number that could exist in terms of growth that in your
13 mind would classify a municipality as non-developing?

14 A As I said before, if it had zero growth then it's
15 non-developing, it's stationary, static, zero. Anything
16 above that means some development occurring some place.
17 A percentage above that is really the repidity, I mean, how
18 rapidly it's growing. One increase means one development,
19 it means one septic tank, it means environment, it means
20 10 cars, it means four kids, what have you. One house is
21 developing, one development is developing.

22 Q In terms of definition of the Supreme Court
23 cases, am I understanding you to say that anything
24 above a zero increase and a number of additional residents
25 would classify a municipality as a growing municipality?



1 MR. PRIZELL: Hold on. I object.

2 I am going to raise an objection that
3 Professor Nelessen is not a lawyer. He has
4 attempted, to answer, I think, quite clear
5 as stated. If you are talking in planning
6 terms, what the Supreme Court said about de-
7 veloping municipalities or non-developing
8 municipalities, I don't think his questions
9 have been directed to that -- his answers.
10 Excuse me, his answers have been directed
11 to that. I think we should not ask opinions
12 of him which are legal in nature as opposed
13 to planning opinions.

14 BY MR. O'HAGAN:

15 Q Professor, in preparing your report which
16 has been submitted in connection with this case, you
17 familiarized yourself with the Supreme Court's decision,
18 did you not, as to what is, what is not a developing
19 municipality?

20 A ~~The~~ definition of rapidly increasing growth.

21 Q And indeed in your work in Randolph Township
22 and other municipalities --

23 A That wasn't defined at the time of Randolph.

24 Q But at any rate, you are familiar with the
25 Supreme Court's decision of a developing municipality?



1 A Yes.

2 Q Now, with that understanding and with that
3 background, do I understand you to say that if a munici-
4 pality has a growth in excess of zero in terms of absolute
5 numbers would be classified as a developing municipality?

6 A Yes.

7 Q Now, have you made any determination in
8 Colts Neck Township as to whether the rate of growth
9 has slowed down from 1973 to the present?

10 A No, we have the -- we have all updated information
11 from 1973, and that's as far as our current information
12 takes us.

13 Q To 1973?

14 A Uh-huh.

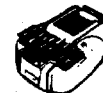
15 Q Now, in your mind would it be important
16 to determine the number of new houses that have been
17 constructed in Colts Neck Township from 1973 to the
18 present?

19 A I think we have all of the Building Permits,
20 Certificates of Occupancy, I think it came to an average
21 of houses constructed.

22 Q And how many is that?

23 A I don't know, but again I can find that for you.

24 Q Now, do you have an understanding as to
25 whether the rate of growth both in percentages and in



1 terms of absolute numbers have slowed down?

2 A I would imagine it's filed with the National
3 Trend.

4 Q Slowed down?

5 A Yes.

6 Q And in fact, you indicated before the growth
7 in New Jersey has slowed down?

8 A Well, depends how you define actual population.

9 Q Let's talk about rate of growth. In terms
10 of rate of growth, how has New Jersey slowed down?

11 A Again, rate of growth and formation of household,
12 the population reached zero. But in terms of household
13 formation, it's bigger than ever.

14 Q But in terms of absolute numbers, it has
15 slowed down; is that correct?

16 A Yes.

17 Q Now, in terms --

18 MR. FRIZELL: Excuse me, just to
19 clarify absolute number of population, I
20 think he is differing between household and
21 population.

22 THE WITNESS: Yes.

23 Q (Continuing) All right. In terms of
24 percentages of growth, and we are speaking now absolute
25 numbers, would it be accurate to say that the rate



1 in New Jersey has slowed down?

2 A I am sorry, say that again.

3 Q In terms of percentage of growth, in terms
4 of numbers of people, would it be accurate to say that the
5 rate has slowed down?

6 A The rate of growth, which means the total number of
7 population registered any point in the year?

8 Q Yes.

9 A Has slowed down, yes.

10 Q Now, have you made a judgment as to whether
11 the number of households in Monmouth County, and we are
12 talking really of the increased growth of the number of
13 households, has slowed down from 1970 to the present?

14 A No, just trend studies were done and I think it's
15 higher than ever before in history of number of households
16 being formulated.

17 Q And what material --

18 A The Center for Urban Policy Research at Rutgers who
19 have done a definite study and are doing a daily study,
20 which means the number of persons in the household are
21 dropping as well as the amount of houses in the State
22 are becoming deteriorated rapidly.

23 Q In Colts Neck Township we agree that an
24 increase of numbers of household, at least the rate of
25 growth, has slowed down since 1973 to the present, has it



1 not?

2 A No, not the rate of growth per household. I am
3 not clear exactly what you are saying has slowed down.

4 Q Well, have you made any investigation as to
5 whether the number of Building Permits from 1973 to the
6 present has slowed down and there was a lesser number issued
7 than the period of 1960-1970 --

8 A I remember seeing --

9 Q Let me finish. -- than the period between
10 1970 and 1973?

11 A No, but we have that information, and I can pull it
12 out for you. But I remember the number of absolute
13 Certificates of Occupancy that were issued between that
14 period slowed down. But again, correlating that with the
15 National, I am not exactly sure if that's high or low.

16 Q Now, ignoring other factors and examining
17 the factor that smaller number of Building Permits have
18 been issued, is that a fact that you could consider in
19 making a judgment as to whether a municipality has or has
20 not shed its rural characteristic?

21 A No, no. I mean, it has got to do with so many
22 other things of an exclusionary nature.

23 Q I am asking you to ignore other factors.

24 A Yeah, but --

25 Q And I am saying to you that if in fact



1 the number of Building Permits issued in any particular
2 year has reduced or is lower than it was in 1973 to the
3 present, is that a factor that --

4 A No, I don't think it has any bearing at all.

5 Q You don't think that it has?

6 A I don't think it has any bearing on it at all.

7 Q Now, you have made no independent
8 investigation yourself as to the growth in population in
9 Colts Neck Township, have you?

10 A No, we relied -- the Township has information.
11 So we are using an interpretation of their information.

12 Q Now, you also relied upon the County's
13 projection for 1985?

14 A Yeah.

15 Q You have made no study to determine whether
16 those projections are accurate?

17 A No.

18 Q I better rephrase it. I have a double
19 negative. You have made no studies to determine whether
20 the County's projection for 1985 are accurate, have you?

21 A No.

22 Q Now, in making a determination as to whether
23 Colts Neck Township was a developing municipality, did you
24 place any credence whatsoever on the projections for
25 growth forecasted by the County Planning Board for 1985



1 and the year 2000?

2 A Of course.

3 Q You did? Now, to the extent that those
4 calculations and projections are in error, would it be
5 fair to say that your report and your determination as to
6 whether a municipality has or has not shed its rural
7 characteristic would be in error?

8 A Yes.

9 Q It would be accurate?

10 A But if you take the County's work, I mean, and
11 compare those with the other two planners hired by the
12 Township over a period of six years, four years, the
13 numbers are substantially the same. There is adversely
14 little difference with the small household which I indicated
15 to you before.

16 Q Okay. Now, would you agree that in 1973
17 to the present we had witnessed a slowdown in the birth
18 rate in Colts Neck, the County and the State?

19 A And Nationally.

20 Q Now, that would be a factor to determine
21 in making a judgment as to whether the Township has
22 shed its rural characteristic, would it not?

23 A The birth rate?

24 Q Has declined in the world rate?

25 A Rural people have more children than non-rural



1 people? I am not sure what you are alluding to.

2 Q Would that be a factor that you would
3 consider in making a determination as to whether expected
4 growth in the future would be anticipated in Colts Neck
5 Township?

6 A Well, that would definitely be a part of the
7 statistical analysis, methodology to the projection.
8 But also you had to remember that although there is a
9 decrease now there is also some though that women who are
10 not entering the labor market may wait until later to have
11 children. It may be a reverse baby boom. The demographers
12 are not sure about the numbers they can extrapolate from
13 the birth rate today, the number of women that are in the
14 service market, how many years they can expect to have
15 children, these are all going to be a part of it. But
16 I would say at this point, you know, I think we have
17 a fairly reasonable projection, as good as any projection
18 can be.

19 Q And because of the decline in the birth
20 rate, would you anticipate that the growth in Colts Neck
21 Township in the future would continue to slow down?

22 A In fact, it might accelerate.

23 Q What factors lead you to conclude that?

24 A The increase in household size, it's smaller and
25 smaller people. There is more single and unrelated



1 people living together than ever before in history.
2 Although the population rate in terms of fertility is
3 dropping, it doesn't mean that the housing demand is
4 going to all drop. In fact, quite conversely, the
5 way it looks now it's going up.

6 Q In determining whether the population in
7 Colts Neck Township would continue to increase -- strike
8 that. Will increase in the future, did you give any
9 consideration as to the increase in the cost of energy?

10 A It's always a basis from all the things that we
11 are dealing with. From a responsible planning point of
12 view, we have to consider that.

13 Q Now, speaking of low and moderate income
14 people, would it be accurate to state that the increase
15 in gasoline or energy cost would affect them more severely
16 than middle and high income people?

17 A In terms of total percentage of income spent on
18 those facilities?

19 Q Yes.

20 A Of course.

21 Q Would it be accurate to say, then, that
22 low and moderate income people would have the tendency in
23 the future because of this increased energy cost to live
24 closer and closer to their places of employment?

25 A Well, studies have been done on that, it's been



1 proven that although you drive 10,000 or 20,000 miles,
2 a poor person might drive a \$200 car. So you got an
3 equally number of people in the low income category driving
4 cars than ever before. They are just paying less for the
5 car.

6 Q Are you saying that the cost of gasoline
7 will have no influence upon the fact and the issue, the
8 possibility of whether low and moderate income people
9 will move further and further away from their places of
10 employment?

11 A In fact, if anything, they will move closer and
12 closer.

13 Q To their place of employment?

14 A I would say so.

15 Q That's what I would say. Now, in Colts
16 Neck Township, have you made an investigation as to the
17 number of jobs available in the Township itself?

18 A No, but there are some reports available, but I
19 didn't go down the detail list of what the jobs were.

20 Q Now, if in fact there is a limited number
21 of jobs available in Colts Neck Township, would that be
22 a fact that would be influential in reaching a conclusion
23 as to whether low and moderate income people choose to
24 live in Colts Neck?

25 A Not as a planner. Depending on what comes first,



1 the chicken or the egg. Are you talking about the develop-
2 ment, are you talking about a service job? We are into
3 a service-related industry and service-related industry,
4 even the biggest industry, require people to take care of
5 jobs. I would imagine there is a good number of maids
6 out in Colts Neck, farm helpers, what have you. If we
7 need service people, we need low income people to support
8 them, so does industry.

9 Q Have you made a determination now as to the
10 number of jobs that are available and are lacking for
11 employees in Colts Neck Township?

12 A No.

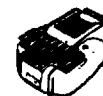
13 Q Now, in reaching the conclusion that you
14 did before as to which comes first, the chicken or the
15 egg, would that be an important examination and determination
16 to make --

17 A As to whether or not jobs would be available, yeah.
18 You would want -- you would want as many jobs made available
19 as possible.

20 Q And you are in no position to say whether
21 jobs would be available in Colts Neck Township and
22 surrounding areas for low and moderate income people?

23 A Well, you are in a very close proximity to major
24 job centers from Colts Neck with reasonable accessibility.

25 Q Where?



1 A New Brunswick.

2 Q And how would you get to New Brunswick?

3 A Route 18.

4 Q And that would involve use of the automobile?

5 A Yes.

6 Q Have you made a determination as to
7 whether jobs were available for low and moderate income people
8 in New Brunswick to any significant extent?

9 A Well, if they do \$300,000,000 of service industry
10 facilities --

11 Q If they do --

12 A -- of course there is going to be a need for those
13 jobs.

14 Q And you have already told us that low and
15 moderate income people would be more than likely to live
16 closer to their place of employment rather than further
17 away from their place of employment?

18 A Yes.

19 Q Have you made a determination as to whether
20 there is available housing in the municipality that are
21 closer to New Brunswick in --

22 A New Brunswick has no housing, no additional housing
23 available.

24 Q Have you made any determination of the
25 surrounding towns?



1 A Surrounding towns to New Brunswick.

2 Q Right, as to whether there are any available
3 jobs, have you made a study of it?

4 A No.

5 MR. FRIZELL: Are you finished
6 with that question?

7 MR. O'HAGAN: I am not, but if you
8 would like to take a break --

9 MR. FRIZELL: I would like to take
10 a break.

11 (Recess is taken.)

12 BY MR. O'HAGAN:

13 Q Now, Professor, with reference to this
14 particular site, is this a location where you would perceive
15 low and moderate income people would locate for housing,
16 and I am speaking of the site at the southeasterly section
17 of 537 and 34 and the Orgo Farm property?

18 A Would you expand on that question, please?

19 Q Do you feel that this particular site, I
20 am speaking of the Orgo Farm property, that low and
21 moderate income people would choose that as their place of
22 living?

23 A What's low and moderate people?

24 Q Let's speak of that. Is there a definition
25 that you have of low and moderate people?

A Not of people, but as income-related.



1 Q I think yours is more precise. What would
2 be the income limit of low income?

3 A It's a County medium. I mean, 50 percent of the
4 County's medium is classified as low and 50 percent is
5 classified as moderate.

6 Q With reference to Monmouth County, what
7 would be --

8 A I just don't have it here.

9 Q Well, you have been involved in this parti-
10 cular issue, have you not, in the Manalapan case as well
11 as the Colts Neck case?

12 A Yes.

13 Q It was necessary for you to develop those
14 figures in calculation?

15 A Yes, we developed a fair share of calculation in
16 Monmouth.

17 Q Please be good enough to search your memory
18 and advise me as to what the limit of low income families
19 are?

20 A That's about a five page report of full numbers,
21 I don't precisely remember, but we got it, and I could get
22 it for you. I just don't have it.

23 Q Okay. I ask you the same question with
24 reference to moderate income.

25 A Again, we have it, but I can't give it to you off



1 the top of my head.

2 Q Is that something that you reduced to
3 writing?

4 A Oh, yeah, it's a full scale report.

5 MR. O'HAGAN: Would you mind
6 sending me that?

7 MR. FRIZELL: I would mind. I mean,
8 that report was prepared for another client
9 and it's the property of that client and
10 I would mind that it be used for any purpose
11 in this litigation.

12 Q (Continuing) Let me speak of the data in
13 the report.

14 A Yes.

15 Q And by that I am talking about the limits
16 of lower income people and moderate income people, you have
17 a definition in your mind, do you not?

18 A The definition I just gave you.

19 Q And you have in your report a dollar
20 definition?

21 A Yes, as of 1976, '76-'77, yes.

22 Q Will you send me the raw data?

23 A Sure.

24 MR. FRIZELL: Wait a minute.

25 Excuse me, on what terms -- in other words,



1 I don't think it's appropriate to ask another
2 party's expert to do a separate report or
3 study of any kind. I don't know how long
4 it's going to take him to get that information.
5 Obviously, he is not billing you by the hour
6 and it's not appropriate that he should. He
7 didn't do a study of that type for this
8 particular report, and it doesn't -- if you
9 can't ask another person's expert to do work
10 for you. I mean, that's what it comes down
11 to. I mean, I don't have any particular
12 objection to you obtaining your information,
13 I just don't know what the mechanism of this
14 would be and I would object to him being
15 requested to obtaining information which
16 has not already been gathered for this
17 particular case.

18 MR. O'HAGAN: So we understand each
19 other, are you saying that you will not have
20 any testimony offered through Professor
21 Nelessen as to low and moderate income
22 families as it relates to this case?

23 MR. FRIZELL: In the type of
24 question that you are asking, that's correct.

25 MR. O'HAGAN: Will you explain



1 that a little further.

2 MR. FRIZELL: Income level of
3 families.

4 MR. O'HAGAN: So you are saying
5 there would be no proof of income level of
6 families offered by Professor Nelessen or
7 anybody else in the plaintiff's case?

8 MR. FRIZELL: Well, certainly
9 not Professor Nelessen, and I believe we
10 can represent that there will be no
11 testimony on that issue.

12 BY MR. O'HAGAN:

13 Q Okay. Now, Professor, is there a rule of
14 thumb that you are aware of as to the percentage of the
15 income that people may reasonably use to provide shelter?


16 A Typical rule is 25 percent.

17 Q Twenty-five percent?

18 A Yes.

19 Q Now, in --

20 A That's not necessarily true, but that's the rule
21 of thumb. It's the measure against which -- it's a measure
22 against which all the other -- some people spend considerably
23 more, both some poor people and some richer people spend
24 considerably more than 25 percent. But 25 percent is
25 a, you know --



1 Q Now, that applied to both rental units and
2 owner-occupied, does it not?

3 A Yes.

4 Q Now, with reference to an owner-occupied
5 unit, have you been given any information as to the expected
6 costs on the units that have been described by the
7 plaintiff to be located on the Orgo Farm property?

8 A In terms of what the selling price of those units
9 will be?

10 Q Yes.

11 A You know, construction costs are going up 15 to
12 20 percent, it depends. I don't think that's possible to
13 determine at this point.

14 Q Absent that information, do I understand
15 you to say that you are not in a position to gauge
16 whether low and moderate income people might purchase a
17 unit, an owner-occupied unit at this particular Orgo Farm
18 site?

19 A From the preliminary work which we have been able
20 to do generally, not only here, but across the board,
21 without subsidies, it's impossible for low income at
22 this point, without subsidies, generally we are getting
23 to feeling it's almost impossible for moderate income.

24 Q Would that pertain to both rental units
25 and to ownership units?



1 A The current look-up at new units going on the
2 market for rent, it looks even more difficult than home
3 ownership.

4 Q Now, with reference to the subsidies that
5 you mentioned, where were they coming from?

6 A Federal, State government.

7 Q What's that?

8 A Federal.

9 Q You speak of the State government, which
10 entity of the State government would the subsidy come from?

11 A Depending upon what would be the package for
12 governmental transfer at this point. You know, depending
13 upon the municipality, whether it's a direct entitlement
14 on to itself, whether it has to come from the County,
15 who to the County, the culmination of grant, it would be
16 very difficult to say at this point, although there is a
17 culmination of grant packages which may be applicable.

18 Q What are they?

19 A Let's say Section 8 to the County may be one.

20 Q Section 8, whose responsibility is that?

21 A That's the Federal Government.

22 Q And what else?

23 A Well, there is another -- there is a range of rent
24 subsidies and ownership subsidies programs. Again, I can't
25 cite you the direct note, but I can get that for you.



1 Q Have you made any investigation as to
2 whether they would be available for the potential occupants
3 of the units on the Orgo Farms property?

4 A No, not at this point.

5 Q You have made no investigation?

6 A No.

7 Q So, then, you are not in a position to tell
8 us whether such subsidies would or would not --

9 A It's also based on a year-to-year basis allocation
10 and pre-commitment on those sources, staff people that
11 will be on a review body. So you couldn't make any
12 prediction whether it would be forthcoming or not.

13 Q No. Do I understand you to say if those
14 subsidies would not be forthcoming, then the low and
15 moderate income housing units could not survive on this
16 particular tract?

17 A Could you define -- now you are saying low. We went
18 from low income -- from low income persons to low income
19 families, now we are talking about low income. I am not
20 clear.

21 Q Fine. You read the Mount Laurel case, have
22 you not?

23 A Not to its full extent, no.

24 Q But you were aware of the fact that they
25 discussed low and moderate income housing units, did you
not?



1 A Yes.

2 Q And what did you understand in that?

3 A Well, the provision of housing for people, for
4 poor income people living on the most expensive land in
5 the middle of the city.

6 Q Now, with reference to those people, is it
7 your testimony that such low and moderate income housing
8 not survive this particular location absent government
9 subsidies?

10 A If there are -- it depends upon one, the type of
11 unit. It also inevitably depends upon the type of subsidies.

12 Q But I think my question is not clear.
13 I am saying absent any subsidies.

14 A The only possibility, then, is the developer's
15 subsidy, which certain municipalities are thinking about.
16 So that may be possible internal, but it would certainly
17 be a smaller number of units. But at least it would be
18 possible to do that.

19 Q That would depend upon the adoption of an
20 Ordinance by the municipality, would it not?

21 A Well, if that -- well, on the other hand, it
22 could voluntarily be done by the developer.

23 Q Now, with reference to the Ordinance route,
24 are you aware of any municipality in Monmouth County that
25 has taken that route so far?



1 A No, I am not, but I am sure that's available in
2 one of the County's reports.

3 Q Are you aware of any particular site where
4 a developer is subsidizing any particular unit?

5 A Nowhere. It's under discussion, but that's not
6 in Monmouth County.

7 Q Now, absent, then, subsidies, and absent
8 whether we are talking about governmental subsidies or
9 developer subsidies, do I understand you to say that the
10 low and moderate income housing unit, as you have defined
11 it before, could not survive on this particular site?

12 A It would be very difficult.

13 Q And what sort of units, then, are you
14 contemplating for development on this Orgo Farms site?

15 A Well, the Mount Laurel was the first issue on
16 terms of the application of numbers. The next decision
17 really got down to the issue to a determination of layout
18 of units. But the type of preliminary numbers that are
19 done at this point are ten houses on a thousand square
20 feet of land.

21 Q We are talking about this particular site,
22 is that what's contemplated, ten units --

23 A Well, again you have to distinguish between that
24 and gross density. We are talking townhouses on very
25 small lots, minimum sort of maintenance, upkeep. We are



1 talking about zero lot line.

2 Q We are talking about this particular site?

3 A Yes.

4 Q Fine.

5 A We are talking about the village atmosphere.

6 Q Have you made any investigation to the
7 expected cost of construction of units such as you previously -

8 A We are doing that daily.

9 Q With reference to the Orgo Farms case?

10 A Yes.

11 Q What investigation have you done and what
12 sources have you consulted?

13 A Well, you apply directly standards are they relate
14 to either regional or subregional basis. We are doing
15 cross-comparison of townhouse developments, et cetera, as
16 to the cost per square foot selling price, what's under
17 construction, what the sales price will be and what is broken
18 down for every part of the construction all the way up
19 and down. A simple application of that at this point
20 it doesn't make any difference where the land is located,
21 we can apply the same thing to Orgo Farms.

22 Q Does it make any difference whether the
23 townhouse is in the Essex County area as opposed to the
24 Monmouth County area?

25 A There are slight fluctuations in the cost of



1 material and transportation, but we have found the over-all
2 sales price doesn't seem to vary much because a developer's
3 profit indeed varies. So there is a relatively consistency
4 in terms of type of townhouses, although they fluctuate
5 somewhat. The developer's profit fluctuates mostly.

6 Q What would you conceive as the cost of
7 construction of a townhouse?

8 A The type of townhouses down there, again depending
9 upon the size of the unit.

10 Q What size do you contemplate?

11 A Well, it would be a range of sizes.

12 Q Could I just interrupt you, then?

13 A Sure.

14 Q Are you able to talk about cost per square
15 foot, because that would be --

16 A When you talk about cost per square foot, what
17 cost per square foot do you want?

18 Q Let's exclude site improvement cost.

19 A Yes, we can.

20 Q All right. And just speak of the unit
21 itself and the amenities in size.

22 A Yes.

23 Q Can you speak of cost per square foot of
24 all of the units?

25 A Again, I don't really want to get tied down to
a specific number, but I can talk to you generally



1 about what the over-all price has been and what we sort
2 of anticipate now, assuming it was to be developed now,
3 six months from now.

4 Q What is that?

5 A You are talking about a selling price of a unit?

6 Q I am speaking of the cost of construction.

7 A Anywhere between \$24 and \$30 a square foot for
8 cost of construction.

9 Q And what would the expected builder's
10 profit be on the unit?

11 A That would depend on the greed of the builder.

12 Q The greed of the builder?

13 A Yes. Some developments have been charging 100
14 percent over cost, some will get by as much as ten percent
15 over cost. The average seems to be 20 percent, including
16 your operating, depending upon if there are architects.
17 I mean, it's a whole series of ways in which that can be
18 manipulated.

19 Q And now, the townhouses that you talked,
20 that varied on different sizes, can you tell me what
21 sizes?

22 A Probably 24, 2500 square feet.

23 Q The 24, 2500 square feet, what would the
24 selling price be?

25 A I would guess at that level, it would be somewhere



1 in the \$100,000 range.

2 Q And the --

3 A 950 square feet.

4 Q The one that's 950 square feet, what would
5 the expected selling price of that be?

6 A I would guess that would have to drop something
7 much smaller than that, but it would probably be around
8 the mid fifties, early sixties.

9 Q Now, with reference to those that are 24
10 to 2500 square feet, would you feel that they would provide
11 least cost housing, as the cases have defined them, in
12 Colts Neck Township?

13 A All units, all site plan units can be developed
14 for least cost. And if we can apply least cost construc-
15 tion technique we wouldn't build in areas of high waters.
16 Clustering for the purposes of safety might inevitably
17 cost less than that. But how much that affects construc-
18 tion cost and final sales price is one issue. But how
19 eventually it's going to affect its over-all phys (phonetic),
20 I'd --

21 Q When you say phys, what do you mean?

22 A Physical impact.

23 Q So that for me to understand your answer,
24 you are saying you don't know whether this unit that
25 would sell for \$100,000 would qualify at least cost housing



1 as defined --

2 A Well, we are trying to do 24 homes to the least
3 cost of that 2400 square foot unit, it could conceivably be
4 done. But what percentage those would have in it, would be
5 a mix, to make a mix of housing.

6 Q Now, I believe it's also projected that
7 there would be rental units on this site?

8 A Yes.

9 Q And could you advise me as to the
10 numbers that you are speaking of?

11 A Again, for instance, let's take a townhouse, people
12 have a tendency to think of something when you say rental,
13 one image goes to their minds. And when you say single
14 family housing, another image goes to their minds. But
15 there would be no reason why a townhouse wouldn't be
16 rented. But what the percentage of the rent to the owner-
17 ship would be is very difficult. Depending upon the
18 financing.

19 Q So, then to capsulize your comments, you
20 don't know --

21 A Not at this point.

22 Q -- what percentage?

23 A Depending upon the financing package.

24 Q In which it will be sold?

25 A Sure.



1 Q Now, on page 23 of your report, you discussed
2 the different packages.

3 A Uh-huh.

4 Q I would just look over your shoulder if
5 possible and maybe -- and you speak of three concepts.
6 Which of those concepts did you develop?

7 A This one.

8 Q Okay. Now, that's the first one?

9 A Uh-huh.

10 Q And that speaks of 1,018 on the site?

11 A Yes.

12 Q And who developed the other two concepts?

13 A That was done by the realtor.

14 Q Now, do I understand you to say that you
15 favor the first concept?

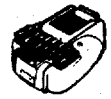
16 A Well, clearly.

17 Q Why do you favor that over and above the
18 second two concepts?

19 A Well, the conceptual plan the first one is very
20 different than the conceptual plan than the other two.
21 The other two plans have great problems because in essence
22 they didn't take into consideration the environmental.

23 Q What environmental factor do you have
24 reference to?

25 A I am talking about high water. I envision more



1 of a mix in terms again of village configuration rather
2 than something else.

3 Q Then do I understand you to say that the
4 second two concepts in your judgment are not suitable?

5 A Well, the second two are again -- what happened to
6 visibility studies that are being done by increasing the
7 number of units, obviously the developing people are
8 trying to say the more units, the more feasible this thing
9 will become.

10 Q Do you think, however, that the first
11 alternative is the one that's for this particular site, and
12 the other two --

13 A Well, this was --

14 Q Please let me finish. And the other two
15 have problems?

16 A I -- yeah.

17 Q Okay. Fine. Now, with reference to the
18 alternatives that you recommend, in order for that to be
19 feasible, and financially feasible, is it necessary to
20 develop a site which is located south of Route 18?

21 A You mean financially feasible?

22 Q Yes.

23 A The feasibility of that looks better if that could
24 be sold off as some sort of corporative facility on that
25 site. But that the site absolutely depends on that piece



1 of property, that cannot be developed with the other
2 piece of property on the other side of 18.

3 Q So if for some reason you could not use
4 that site located on the south of Route 18, --

5 A I am alluding to something else.

6 Q I know what you are alluding to.

7 A Okay.

8 Q If for some reason that portion couldn't
9 be utilized, then the site itself could not be developed
10 as you conceive on this alternative on page 23 of your
11 report?

12 A But used for a corporate headquarters facility.

13 Q I think perhaps my question wasn't clear.

14 A Right.

15 Q I think you stated that development of the
16 portion of north of Route 18 was contingent upon the
17 location of the sewer package plan on the site situated
18 on the south side of Route 18?

19 A Uh-huh.

20 Q If for some reason you couldn't use that
21 southerly portion, would I be correct in understanding that
22 the proposal that you set forth on page 23 would not be
23 feasible?

24 A No, it would depend. If tertiary treatment
25 policy is affected, then the alternative would be slow



1 growth.

2 Q Slow growth?

3 A Yes.

4 Q For the package plant?

5 A Yes. I mean, that would have to be an alternative.

6 I am not saying we can't get that, we can. There would
7 have to be another alternative.

8 Q Slope Brook is the one that flows into
9 the Swimming River Reservoir?

10 A Yes.

11 Q And you recommend in your report that would
12 not be utilized for your sewer package plant; is that
13 correct?

14 A Yes.

15 Q Why was that?

16 A Well, the other one is more qualified, two, it
17 goes around the Swimming River Reservoir.

18 Q Is it in fact legitimate to protect the
19 integrity, so to speak, of the Swimming River Reservoir?

20 A What do you mean by that?

21 Q Well, in fact is it important to reduce
22 the possibility of pollutants from entering the Swimming
23 River Reservoir?

24 A To reduce --

25 Q To minimize the possibility of pollutants?



1 A Relative to what's happening now?

2 Q Yes.

3 A Oh, is what's happening now dangerous?

4 Q Well, I will rephrase the question. I
5 think your comments are fair.

6 A Okay.

7 Q Is it an aim, is it a legitimate aim for
8 the municipality, and we are not speaking of this site,
9 I am keeping the site out of it. Is it legitimate for the
10 municipality and the State, whatever, County, to develop
11 their zoning plan in such a way as to project low density
12 development in Colts Neck in order that the possibility
13 of increased pollutants -- in order to reduce the possibility
14 of increased pollutants going into the reservoir?

15 A Well, farms --

16 MR. FRIZELL: Excuse me, before
17 you answer, I just want to say that was
18 an awfully long question.

19 MR. O'HAGAN: It is. I will rephrase
20 it.

21 MR. FRIZELL: And there is a lot
22 of things in that question.

23 MR. O'HAGAN: I will rephrase it.
24 That's a fair comment.

25 Q (Continuing) Professor Nelessen, in your



1 report, you have indicated that one of the factors that
2 makes this site attractive is that it doesn't drain towards
3 the Swimming River Reservoir?

4 A Drain?

5 Q Yes.

6 A Run off a certain amount of water. There is a
7 number of brooks on this site. The site has been
8 contoured, but there is a certain amount of the site
9 now, the northern part of it, that goes into Slope Brook,
10 across the farms, across the pastures.

11 Q You have indicated, to paraphrase it, that
12 one of the things that makes this an optimum site, is that
13 the sewer waste can be disbursed, if that's the correct
14 word, into the/ Hockhockson Brook, which doesn't enter into the
15 Swimming River Reservoir, rather, the drain.

16 A In fact, it's unique. I don't think there is another
17 site in Colts Neck that's like it.

18 Q In your mind that's important?

19 A Very important.

20 Q And do I understand you to say that's
21 important to locate high density housing development in
22 areas which will not drain into the Swimming River Reservoir?

23 A Wait a minute --

24 MR. FRIZELL: Excuse me. I think
25 we ought to clarify what we mean by drain



1 as opposed to sewers so we know what
2 the answers mean.

3 Q (Continuing) Okay. In your view, is it
4 important to locate high density developments in Colts
5 Neck Township in such a manner that the septic waste
6 will not flow into the drainage basin of the Swimming
7 River Reservoir?

8 A Septic, septic tank?

9 Q Yes.

10 A High density and septic, those don't match.

11 Q I agree with you. Now, you have indicated
12 that it's important in your view that this particular site
13 can handle the sewage waste by disbursement of it into **the**
14 **Hockhockson** Brook; is that correct?

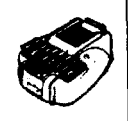
15 A Yes.

16 Q And in your mind, I believe that makes
17 this site optimum for high density development, the
18 chief factor?

19 A There are other regional facts, that sort of thing,
20 water.

21 Q Do I understand you to say that the gray
22 ~~balance~~ of the remaining portion of the town wouldn't have
23 that advantageous location?

24 A No, there is another piece of property which has
25 that connection, which either Route 18 cuts into it or goes



1 over it, they are not a contiguous parcel.

2 Q Isn't it important to direct the sewer
3 waste away from the Swimming River Reservoir?

4 A Well, one of the chief concerns, as long as I
5 have been involved with this project, and it's one of the
6 chief factors of the Township, to preserve the Swimming
7 River Reservoir. A number of studies have been done, and
8 again I am not the sanitary engineer, you can ask him
9 directly. But / **Hockhockson** contains the necessary amount of
10 flow and it's going into the reservoir.

11 Q Why is it important to channel sewer
12 water away from the reservoir?

13 A Well, it's dependent upon the quality of the
14 sewer waste. You conduct it directly into it if it was
15 a guaranteed tertiary sewage treatment plant. It's
16 depended on the quality of the affluent, and it's now
17 a new State law.

18 Q If you are willing to spend enough?

19 A If you are willing to spend enough.

20 Q Okay. But in your view, and you made a point
21 in your report, this particular site is optimum because
22 the sewer waste, even though there is going to be a degree
23 of treatment, flows in the/ **Hockhockson** Brook rather than the
24 reservoir?

25 A Yes, there is the USGS map and the filtration



1 plant for the Navy, which doesn't look like it's used much.
2 But there is a filtration plant, when we flew over this
3 site we could see it, which meant that the Federal Government
4 had at one point, I mean, made some designation. So the
5 notion there was it was worth-while exploring that
6 possibility.

7 Q In your view it's a legitimate aim to
8 protect the reservoir from the dumping of sewer waste
9 into it?

10 A Raw sewerage, yes, by all means.

11 Q Primary treatment sewerage?

12 A We are recommending tertiary treatment.

13 Q And secondary treatment?

14 A Yes.

15 Q As against tertiary treatment --

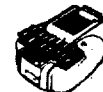
16 A Well, tertiary --

17 Q Let me finish. Would it be best to locate
18 a tertiary treatment plant in such a way as to cause it
19 to flow away from rather than a reservoir?

20 A No, tertiary treatment was a guaranteed purity,
21 it really wouldn't make too much difference. It's guaranteed
22 tertiary.

23 Q Are you familiar with the Interrogatories
24 that have been answered in this matter?

25 A No.



1 Q In your mind is high density development
2 more suitable on the east side of Route 34 than the west
3 side?

4 A What side?

5 Q Such as you proposed on this site?

6 A Is it suitable on the east side of --

7 Q 34 as opposed to the west side?

8 A The east side is Orgo's property?

9 Q Yes.

10 A And you are saying on the west side is the
11 Hammer Property?

12 Q Is it more suitable to develop high density
13 housing on the east side of 34 than --

14 A Yeah, presently I would say taking everything into
15 consideration, yes.

16 Q Why is that?

17 A Hockhockson is number one sort of consideration.

18 Q Why is that important?

19 A Well, the location. Well, for instance, if you
20 take a sewage treatment facility, although it can be
21 screened and buffered and tucked in real nicely against a
22 major green reserve and buffer it, it's virtually gone from
23 sight. I think that's very important.

24 Q What other factor?

25 A The other factors, it's a single ownership, it's



1 for sale, it's close to the contiguous center -- I mean,
2 the center of Colts Neck itself. We had in terms of the
3 preliminary plan had thought in our mind that that sight
4 by itself -- I mean, we are dealing with one **site** and it's
5 very difficult for me as a planner to deal with just one
6 **site** because I think that whole area there by walking
7 distance to the center should be defined, which becomes
8 the area to be developed in a mixed combination, and we
9 must develop in a ridiculous piecemeal basis. So that site
10 has got sewerage, it has got those possibilities, it's
11 under contiguous ownership, it makes a good piece of land.

12 Q Do you agree that it would be inappropriate
13 to develop high density development housing on the west
14 side of Route 34?

15 A No, I would like to see in my mind as a planner
16 a plan done for that whole area, not just the Orgo property.
17 I would like to see the Orgo property become extended as
18 part of the Colts Neck Village concept for that whole
19 section of 34 and 537, as a planner.

20 Q Both sides of Route --

21 A Yes. But as a planner, I think the whole thing
22 should be dealt with. I think the whole town should be
23 done in a zoning way, there is no question about
24 that.

25 Q Have you made any investigation -- you



1 indicated that a portion of the waste water on this
2 particular site flows towards the Swimming River Reservoir?

3 A I don't understand waste water.

4 Q Drainage water.

5 A Drainage from what?

6 Q Well, you have indicated, I thought, that
7 the configuration of the property was such that a portion
8 of the water from the property now as it exists flows --

9 A Surface run-off.

10 Q Right, surface run-off. Have you made a
11 judgment as to what percentage of the property flows
12 towards the Swimming River Reservoir?

13 A That's in one of the pieces in terms of total land
14 area, which is in one of the topo maps, what have you, and
15 that's available. But, no, I don't have the exact date.
16 I think, Killam has it in terms of over-all calculation
17 and we it in that form which can tell you by the topo.
18 But you are also dealing with Slope Brook, that's difficult
19 too, because it's not a direct brook, it's not directly
20 discharging. What's beautiful about that site is that it
21 has two very nice detention ponds which hold the detention.
22 And the farmers tried to drain that land, it's very clear
23 in the topo that it has been manipulated with and lakes
24 have been created. So it has retention, which is also
25 ideal which makes that site interesting.



1 Q Are you saying that you are not able to
2 tell me immediately now what percentage of the land --

3 A No, but I will be able to.

4 Q Would you correspond with me to that fact?

5 A Sure.

6 Q Now, how many times have you been on the
7 site?

8 A Twenty.

9 Q Now, Professor, in the beginning of your
10 testimony, and I think you were referring to Randolph
11 Township, you made a determination and a recommendation to
12 them as to what in fact is a region and what in fact was
13 Randolph's fair share?

14 A Yes.

15 Q Was it low and moderate income housing?

16 A What would be their fair share in terms of natural
17 absolute numbers.

18 Q When you speak of a region, how would you
19 define that?

20 A We had a great deal of trouble initially defining
21 that as a region, but it depended geographically on --

22 Q We don't really want to get into Randolph.

23 A Okay. But there was a funny correlation, 84
24 percent of the jobs moved into the County. And when we
25 took this trip relationship time expanded and time prorated,



1 against dollar value, against total number of people,
2 against total number of jobs in that particular region, it
3 came out fairly close to the Morris County outline.

4 Q Okay. But I wanted you to talk about a
5 region. Can you speak of that in absolute terms --

6 A It really has to be done from a measure point of
7 view, if we are going to talk about a region at all.

8 Q Would it be accurate to say that the
9 definition of what is a region would differ from municipality
10 to --

11 A The definition would not change, but the boundaries
12 of the definition would probably change.

13 Q Now, what factor did you consider when you
14 determine what in fact is a region?

15 A I can read you that from the report.

16 Q I am asking you now, what factors do you
17 consider when you determine what's a region? And I am
18 not speaking of Randolph Township, I am asking what
19 factors do you determine in any way when you determine what's
20 a region?

21 A Again, there has been no direct interpretation of
22 what's a region as far as I know.

23 Q How do you determine that?

24 A Again, I will refer you back to a study. But for
25 me to give you a list of the elements that went into the



1 equation, I can't give it to you off the top of my head.

2 Q We are not speaking of Randolph Township,
3 Professor. I will put your mind at ease.

4 A I know that.

5 Q But you indicated that the region, the
6 boundaries of it would differ from municipality to municipi-
7 pality?

8 A Yes.

9 Q You have had experience in this matter of
10 determining what is and what is not a region.

11 A No, only that one time.

12 Q Okay. What factors do you think go into
13 determining a definition of region?

14 A Demographics, expenditure of time and money of
15 travel trip, availability of jobs, mass transit, percentage
16 of people who take trips in different ways, the types of
17 skills related to the industrial profile of jobs available,
18 and income. Protected future possibility for industrial
19 or service industry basis, these are some of them.

20 Q Now, what studies have you made to determine
21 whether Colts Neck Township, what a region --

22 A None.

23 Q You have made no determination?

24 A No determination.

25 Q Have you made any determination as to what



1 is the region in as far as it relates to Manalapan Township?

2 A Again, the first thing I said is demographics, okay?

3 Q But --

4 A Let me explain it to you then.

5 Q Fine. I thought you were going to go down
6 the list again. Fine. Go ahead.

7 A That was demographics, what demographics are
8 available and what sort of jurisdiction becomes determina-
9 tion, how you have to deal with numbers. Unfortunately,
10 how we have to deal with them and the preliminary demographics
11 comes from County information. And that's one of the
12 problems with the region that they are determined by the
13 irregular property lines called counties, or wherever
14 the demographics are able to come from. So it becomes
15 very vague.

16 Q Now, did you make a determination as to
17 what in fact is a region when you are speaking of Manalapan
18 Township?

19 A If I remember, we used the County -- the County
20 numbers and also balanced them with four other numbers, the
21 Department of Labor and Industry numbers, I think the State
22 Department of Treasury --

23 MR. FRIZELL: Excuse me. Are you
24 talking in terms of statistics?

25 MR. O'HAGAN: I will be speaking



1 of geography in a moment.

2 A These are statistics.

3 Q Do I understand you to say that you didn't
4 make the same investigation as far as Colts Neck?

5 A No.

6 Q And did I understand you to say that the
7 region in Colts Neck may differ from the region in
8 Manalapan?

9 A The -- we take the same definition that we apply
10 to defining a region in Randolph, came to be the edge of
11 the County by incident. We are saying that beyond the
12 County's definition of a County, it's very difficult and
13 very costly to extract information, demographic information
14 on municipality basis to determine precisely what that is.
15 It can be done, but you will need a small computer running
16 constantly in order to figure out that information in
17 clear definition.

18 Q You made an investigation as far as Manalapan
19 Township is concerned?

20 A We used those three types of information.

21 Q But those figures were not automatically
22 applicable to Colts Neck Township, they may differ?

23 A The over-all numbers with regard to percentages
24 of County to City to Municipality would certainly be
25 the same. Maybe in Colts Neck even moreso because



1 geographically it's not the center of the County even more
2 than Manalapan.

3 Q Are you saying that what's applicable to
4 Manalapan may be applicable to Colts Neck?

5 A But again, those numbers are two years ago, three
6 years ago. Those numbers have changed and they haven't been
7 updated.

8 Q Okay. Fine. Have you made a judgment as
9 to the geographical boundary of the region?

10 A No.

11 Q Have you made a judgment as to the locations
12 at which the people who would ultimately occupy the housing
13 unit depicted on the Orgo Farms would come from?

14 A Where those people would live?

15 Q Yes.

16 A Oh, I would imagine that the first part of the
17 people would live in Colts Neck.

18 Q That would be the people --

19 A No, I said as a first determination. You are
20 taking a primary market area. The second would be
21 immediately the area surrounding, and the third would be
22 high quality development and from Route 18 it's an easy
23 drive. I mean, if you work at Johnson and Johnson and you
24 live in Colts Neck, there is no difficulty.

25 Q Now, with reference to the people who live



1 in Colts Neck, and would ultimately you say, reside in
2 the development, have you made a study as to the number
3 of persons in Colts Neck Township who are eligible for
4 subsidy as far as low and moderate income housing are
5 concerned?

6 A No.

7 Q Have you made a study as to the number of
8 persons --

9 A That was an interesting study to make, though,
10 if there were any at all.

11 Q Have you made a study as to the number of
12 persons who now live in Colts Neck Township who have
13 expressed a desire to live in a multi-housing type units?

14 A No, but I would take -- we take the same general
15 income strata of those people who have two acres, three
16 acres, and said I don't like to do that land any more, but
17 I would like to stay in the same place. We are talking
18 about the Heritage, we are talking about Rushmore, people
19 who made the choice, I sure would like to stay there but
20 I don't like to keep that house any more. So that's one
21 of your primary markets, I would hope.

22 Q Have you made a judgment as to the number --

23 A Well, how --

24 Q Let me finish. Have you made a judgment
25 as to the number of Colts Neck Township residents who would



1 ultimately reside at this particular development?

2 A No, we have done no retail market or consumer
3 surveys at all.

4 Q Now, getting back to this issue of rural
5 characteristic and whether a town has --

6 A Yes, I just spent the bulk of the afternoon on the
7 definition of rural.

8 Q In your judgment, is a factor that should
9 be worth considering the amount of municipal services that
10 are provided to the residents in making a judgment as to
11 whether a municipality has shed or has not shed its rural
12 characteristic.

13 A I am not sure as to municipality services.

14 Q Well, let's speak of a police force, is that
15 a factor -- strike that. Is the lack of a police force
16 one of the common criteria that's to be found in a rural
17 municipality?

18 A Well, some lack a need of a police force, rural
19 areas are more crime prone than other places. The lack of
20 the use of police would be rural characteristic.

21 Q Would we agree that the lack of a police
22 force is an indicia of the rural municipality?

23 A Well, everybody is covered by some form of police
24 force.

25 Q Well, do you understand my question?



1 A No.

2 Q Is it an indicia of a rural community that

3 the town --

4 A This is --

5 I am sorry, I don't understand --

6 Q Indicia?

7 A Yes.

8 Q Is the characteristic of rural type

9 communities that they don't have a large amount of municipal

10 services such as and including a police force, garbage

11 collection, associated road crew, a library and things

12 of that nature, is that characteristic of a rural community?

13 A Well, rural community, now let me ask you another

14 question. I don't understand rural community.

15 Q You understand how it was defined in the

16 Supreme Court cases?

17 A No.

18 Q Well, you have indicated that --

19 A Community is a very broad word.

20 Q I am speaking of a municipality, a rural

21 municipality.

22 A Right.

23 Q Now, is it characteristic of a rural municipality

24 that it doesn't have a high amount of municipal services,

25 and we have enumerated them, but I will do it again: A



1 local municipality police force, a garbage collection crew?

2 A I don't know any of them that don't have a local
3 police force, I don't know any of them that don't have a
4 garbage dump some place that the municipality maintains
5 even if they haul themselves, unless they are throwing
6 it in the back yard or have their own private dump.

7 But most rural municipalities have set aside land for that,
8 have a dump, a police department.

9 Q Now, are you saying, then, the fact that
10 a municipality provides a limited amount of governmental
11 services to its residents means nothing in determining
12 whether a town has or has not shed its rural characteristic,
13 is that what you are telling me?

14 A Again, either broaden that or narrow it because
15 I can't answer the question as it is. I don't understand
16 the question.

17 Q Okay. Now, we agree, do we not, that an
18 urban municipality provides considerable amount of munici-
19 pality services?

20 A What's urban municipality?

21 Q Let's speak of a large city such as Newark
22 and Trenton and Jersey City, whatever they provide, garbage
23 collection, police force, road crews.

24 A Some people don't have garbage pick-up, they don't
25 they have them, but they don't use them. So that's not



1 necessarily true either. Okay. I think I understand
2 your question.

3 Q Okay. Now, in your opinion in determining
4 whether or not a municipality has shed its rural charac-
5 teristic, is it important to make a determination whether
6 in fact such municipal type services are provided?

7 A Well, I guess I mean we didn't. I mean, we don't
8 have a Police Department, et cetera.

9 Q So you are saying, yes, that would be an
10 indication that in fact --

11 A Very, very minor, the bottom of the list.

12 Q That would be an indication that a munici-
13 pality has not shed its rural characteristic; is that
14 correct?

15 A Repeat the question.

16 Q We are saying the fact that a municipality
17 does not provide a considerable amount of municipality
18 services --

19 A It doesn't supply a considerable amount, consider-
20 able amount.

21 Q -- that would be an indication that it has
22 not shed its rural characteristic?

23 Why don't we go back to the question. He was
24 ready to answer that one.

25 (Question is read back by the



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

Reporter.)

BY MR. O'HAGAN:

Q I have a double negative.

A Right, it's hard for me to take double negatives.

Q Professor, you have indicated, I believe, that one of the factors to consider in making the judgment that whether a municipality has or has not shed its rural characteristic is the amount of municipal services that it provides for its residents; is that correct?

A Yes.

Q And if a town supplies a limited amount of municipality services to its residents, that would be one indication that it has not as yet shed its rural characteristic?

A No, it would just be delinquent in a service. I mean, if it has good services that they provide, what does that make them more urban than the rural, if there is such a thing.

Q So you are saying --

A I am saying there is several ways. We can provide our own garbage service, we can provide our own internal police department. Where would that be? It could be in the middle of the city or it could be in the middle of the Pine Barrens.

Q Okay. Fine. Now, in your report you indicated that Colts Neck was in the path of inevitable



1 future development; is that correct?

2 A Yes, unquestionably.

3 Q Now, in making that judgment, in the path
4 of inevitable future development, is it important in your
5 mind to determine the extent of available jobs within the
6 particular municipality?

7 A Yes, it's one sort of consideration, but path
8 leads more to location.

9 Q So that's one --

10 A I think of accessibility when you talk about path.

11 Q Let's speak first of the jobs in a particular
12 municipality.

13 A Okay.

14 Q If there were a large amount of industry and
15 commercial development in a municipality, would that lead
16 you to conclude without doubt that the town was in the path
17 of inevitable growth?

18 A No. In fact, those places with the most industry
19 and most commercial are now losing population across the
20 country. So it's just the reverse of what you are saying
21 now.

22 Q Is the availability of jobs in a particular
23 municipality a factor to be considered to any extent --

24 A Or protected future jobs.

25 Q Please let me finish.



1 A Okay.

2 Q The availability of jobs present is that a
3 fact to be considered in determining whether a municipality
4 is or is not in the path of inevitable --

5 A Consider it in the very sort of hierarchy of
6 scale, it doesn't receive much weight, but it receives some
7 weight.

8 Q What investigation did you make to the
9 extent of available jobs in Colts Neck Township?

10 A There is one study which was done as to the number
11 of jobs which are in Colts Neck and what people do and their
12 income.

13 Q Have you made an investigation as to the
14 vacancy rate in such jobs?

15 A No. That again are available in County information.

16 Q Speaking of the Monmouth County area,
17 and I am talking about the geographic jobs in Monmouth
18 County, have you made any studies to the extent of jobs
19 that are available?

20 A No, but the County Planning Board has it in one
21 of their reports.

22 Q But you didn't?

23 A No, it's much too big a job.

24 Q Now, in making a judgment as to whether a
25 municipality is in the path of inevitable future development,



1 is it important to determine whether there is existing
2 sewer and public supplies of water in a particular
3 municipality?

4 A Whether it's available there, but available becomes
5 at this point saying if people are going to put the
6 facility in then, sure, you look where the sewers are. If
7 they don't have any sewers, then sewerage should be
8 provided. There is also other environmental issues.

9 Q And you have spoken of several of them.

10 A Okay.

11 Q If in fact a municipality had an existing
12 sewer system --

13 A Yes.

14 Q -- would that be a factor that would lead you
15 to conclude that it was in the path of inevitable future
16 development?

17 A Sure, we would consider that.

18 Q And if a municipality did not have available
19 public sewers, would that be a consideration that would
20 influence your judgment in making a determination as to
21 whether a municipality was within the path of inevitable
22 future development?

23 A If they were there, it would be a higher point
24 scale. But sewers can be provided, water can be provided,
25 you may spray irrigate. I mean, there is all sorts of



1 techniques you can possibly use.

2 Q So you are saying it makes no difference
3 in reaching the judgment --

4 A When sewers can be provided, whatever it is.

5 Q Now, in making a judgment as to whether a
6 particular municipality goes within the path of inevitable
7 future development --

8 A Uh-huh.

9 Q -- in your mind is it important to ascertain
10 whether Federal or State funds will be available for the
11 development of a public sewer system?

12 A Yes, we would certainly consider that.

13 Q Okay. Now, if in fact Federal or State
14 funds would not be available for the development of a
15 municipal sewer system, would that be a factor that would
16 influence your judgment to determine that in fact the
17 municipality was not within the path --

18 A No, then it would have to be provided.

19 Q By whom?

20 A By whomever.

21 Q The developer?

22 A Either the developer, municipality. But primarily
23 at this point the developer provides for the municipality,
24 particularly if the municipality is intending on plotting
25 its own ground water.



1 Q Now, have you made an investigation to
2 determine whether the State and Federal Government have
3 a policy as to whether they will provide public monies for
4 the development of the sewer and sewer systems in Colts
5 Neck Township?

6 A No, but the engineer who is a specialist on this
7 would certainly be able to tell you that.

8 Q You are familiar with the State-wide plan
9 for development, are you not?

10 A Yes.

11 Q Does it not indicate that no State's monies
12 would be available for development of sewers in the areas
13 designated as limited growth areas?

14 A Yeah. I mean, I vaguely remember that. I mean,
15 I don't know the detail wording or remember the detail
16 wording, I know there were limited growth areas. You know,
17 depending on how you define it. The only resource the
18 Federal Government has were to put investment into
19 major sewerage. We know if we put sewerage in, we know
20 the growth will grow there.

21 Q And the Tri-State original commission,
22 their loan with the State have designated --

23 A No. Quite frankly, enough of the area --

24 Q Wait a minute. How can you respond to the
25 question when you haven't heard it? I ask you, does the



1 Tri-State regional planning group in its report entitled
2 The Regional Development Guide 1970 to 2000, does that
3 indicate that Colts Neck Township is within the limited
4 growth area?

5 A. Could you show me Colts Neck on here.

6 Q Right.

7 A Just draw it out in pencil so I could see it.

8 Q Now, Professor, I am showing you page 32
9 of the Regional Development Guide.

10 A Uh-huh.

11 Q And more particularly a map entitled, among
12 other things, recommended density for new development.

13 I point out this area as being Colts Neck Township, will
14 you tell me whether that indicates that the recommended
15 densities in the future are zero -- 0.5 dwelling per acre?

16 A 6.9 per acre in certain areas --

17 Q Wait a minute, Professor, You show me in
18 Colts Neck Township --

19 A You draw Colts Neck Township and I will tell you.

20 Q I have indicated it's in here.

21 A Draw a boundary line around it. It's in something,
22 it's defined by four lines.

23 Q Let's do it this way: Are you saying --

24 A I am saying that we got the computer print out --

25 Q Wait. Hold on. Professor, are you saying



1 that you are familiar with this document called The
2 Regional Developing Guide?

3 A Plus their computer print-out.

4 Q Please answer my question. Do you have a
5 problem answering me?

6 A Yes, probably more than you are.

7 Q You are familiar with it?

8 A Yes.

9 Q You have examined it before; is that correct?

10 A Yes.

11 Q Now, based upon your examination of this
12 document, are you saying that the Tri-State Regional
13 Planning Commission designates Colts Neck Township as an
14 area between two and four dwelling units per acre to be
15 developed in the future, is that what you are saying?

16 A Not two and four, no.

17 Q What are you saying?

18 A I am saying --

19 Q We are speaking only of this document.

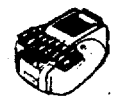
20 A Okay. Under the detailed computer print-out --

21 Q No, Professor, we are talking about this
22 regional --

23 A Yes, that's it.

24 Q We are talking about the Regional Development
25 Guide.

A Yes.



1 Q You are familiar --

2 MR. FRIZELL: I think what we
3 are talking about is the blow-up of that.

4 THE WITNESS: The blow-up?

5 MR. FRIZELL: That's all, we are
6 talking about that document.

7 THE WITNESS: All right.

8 Q (Continuing) Okay. Now, I am talking about
9 this particular book, you are familiar with it, are you not?

10 A Yes.

11 Q And you have reviewed it prior to this date?

12 A Yes.

13 Q And we are speaking only of this book.

14 A Okay.

15 Q I am talking about the Regional Development
16 Guide.

17 A Right.

18 Q Are you saying that it depicts areas in
19 Colts Neck Township for planned development in the future
20 between two and 6.9 dwelling units per acre?

21 A Yes.

22 Q Fine. Now, you have also indicated that
23 you have seen a blow-up of Colts Neck Township apparently
24 produced by the Tri-State Regional people?

25 A Right.



1 Q And is that the one that you referred to
2 in your report?

3 A Give me a reference on that.

4 Q Now I am referring to page 12.

5 A Twelve.

6 Q Is that the reference that you have as
7 to development between 2.0 and 6.9 dwelling units per acre?

8 A Yes.

9 Q Okay. Now, do you have a copy of the map?

10 A Yes, I do, but I don't have it here.

11 Q Who produced that?

12 A Tri-State.

13 Q Do you know the purpose for its production?

14 A Yeah, to find out on that map -- I mean, it's
15 very difficult with a regional map especially printed at
16 that very small scale to precisely measure. And when we
17 do things we like to precisely measure so we asked them --
18 and the computer print-out, it's a compilation. So we
19 asked them for the computer grid area precisely to locate
20 where the high density areas in the Township are to be
21 located. And it's that site, that's the intersection of
22 that site.

23 Q Now, that particular map that you are
24 referring to, did that have reference as built or as to
25 plan?



1 A No, Tri-State is a guide for development.

2 Q It recognizes as built units, does it not?

3 A I don't know what it actually -- the normal-
4 clature that went into this map. Again, we can find it
5 out because it's a computer print-out. I would guess at
6 that, I am really guessing at that, but we can find out.

7 Q Your guessing refers to as built?

8 A No, I refer to its equation, and part of that
9 equation means accessibility of roads, availability of
10 services, existing small lots in the area.

11 MR. FRIZELL: Are we talking about
12 the same things because the Regional Develop-
13 ment Guide has many maps and I think the
14 one we are talking about is amended density
15 for new development.

16 Q (Continuing) That's what you are talking
17 about?

18 A Yes, they are making recommendation for development.

19 Q What size is that?

20 A It's a little bigger than eight and a half by eleven.

21 Q It's incapable of reproduction?

22 A It's like this, sure.

23 MR. FRIZELL: We will send that to
24 you.

25 MR. O'HAGAN: Would you send that



1 to me?

2 MR. FRIZELL: Yes. In fact, I
3 thought you had it.

4 Q (Continuing) Now, turning into another
5 area, Professor, Have you yourself made a physical investi-
6 gation of the existing housing in Colts Neck Township?

7 A Every house? No.

8 Q Have you made a determination as to the number
9 of houses that could be classified as dilapidated or
10 deteriorated?

11 A Only from the Master Plan's physical analysis I did.

12 Q That's the extent of it?

13 A Yes.

14 Q Now, before we get to -- strike that.
15 Turning now to your report, Professor.

16 A Uh-huh.

17 Q On page two you make a statement regarding
18 the population of Colts Neck Township. Did I understand
19 you to say that you made no effort to determine the actual
20 population in December of 1978 that existed in Colts
21 Neck Township?

22 A I don't think you would find it in this report
23 although it's available in the update on the Master Plan
24 as far as I know.

25 Q In 1978?



1 A As far as I know. But their Master Plan was done
2 in '76, I think we got what was available from current
3 information based from what we got from the Township. I
4 don't really remember what those dates were because I
5 think they did some work in '77, I'm not clear on that.

6 Q You made no independent investigation?

7 A No. I mean, we always have been relying on the
8 information generated from the town.

9 Q Now, on page five of your report you indicate
10 that less than two percent of the population is classified
11 as foreign?

12 A Yes.

13 Q Where did you get that information?

14 A That was a study by the Federal Government, U.S.
15 Department of Agriculture, a study which was done or
16 commissioned in 1960, and it was released in 1977, March,
17 April, 1977. And it's the Navesink Water Shed area when
18 the Township was really interested in finding out whether
19 or not it could stop sediment from reaching the Swimming
20 River Reservoir. And that study at that point had a very
21 interesting overview for which they gave to the Township
22 memorandum, and that comes directly from that memorandum
23 and that's where it was from.

24 Q That's 1966?

25 A No, 1977. It was commissioned in 1960, it was



1 finished in 1977, U.S. Department of Agriculture Soil
2 Conservation Service. Field Examination Report, Navesink
3 Water Shed, U.S. Department of Agriculture Conservation
4 Service, May, 1977.

5 Q Now, on page six you indicate that 121.36
6 acres are zoned light industrial, how did you make that
7 determination?

8 A The land use update.

9 Q And that refers to the Master Plan that
10 was originally compiled in 1969 or 1970 and updated in
11 1976?

12 A It's the current Master Plan they adopted and then
13 they updated the land use element and several other elements
14 they updated.

15 Q Now, you know as well as I do that zoning
16 is something different than the Master Plan, and you have
17 indicated that 121.36 acres has been zoned for light
18 industrial. Do I understand you to say that you didn't
19 examine the Zoning Ordinance or the Develop Ordinance in
20 making that statement?

21 A What do you mean? You mean a D Zone?

22 Q No. Do I understand you to say that you
23 didn't examine the Zoning Ordinance in making a judgment as
24 to how many lands were exactly zoned industrial?

25 A As I remember, they just give the detail of what



1 that is. The pieces came from the update on the existing
2 land use which they had to do to get their old Master
3 Plan readopted.

4 Q And you haven't looked at the Zoning Map?

5 A Well, the Zoning Map is essentially the same
6 Zoning Map. I mean, the Zoning Map, the official map, has
7 not been updated over the one that we have been able to
8 get from the Township. I don't think Queale & Lynch have
9 updated it. That showed all new development, you know, all
10 new development updated from '73 to '76. I don't think any
11 work has been done from '73 to early '77.

12 Q Now, you indicated on page seven that 37
13 percent of the land is included in the critical areas or
14 areas that --

15 A No, critical land.

16 Q Do you have any reason to disagree?

17 A With the 37 percent?

18 Q Yes.

19 A No, we are taking -- no, we are pretty much in
20 favor of that, although I might add the details -- all these
21 numbers may vary a few percentages as one preliminary.
22 But I would believe that they did an accurate of preliminary
23 based on their information that they put together. From
24 visual inspection, I would say that looks pretty close but
25 there is no way for me to be tied down to that number 37, it



1 may be 38, it may be 31.

2 Q Do you have any reason to question that
3 wet soils suitable for development when sanitary sewers
4 are provided consumes 22 percent --

5 A No, I have a tendency -- I believe those numbers.
6 I use their numbers rather than generating our own.

7 Q Right. Is it accurate to assume that
8 existing development has occurred in areas that were not
9 deemed critical?

10 A No, it's not. We have to do it in series of over-
11 lays.

12 Q Can you point to any development in the
13 town that has occurred?

14 A I could find it in the maps in front of me.

15 Q That are deemed critical?

16 A Yes.

17 Q Now, you have indicated here that approximately
18 50 percent of the Township should either not be developed, or
19 if developed, be developed only with sanitary sewers?

20 A Yes.

21 Q Now, when you made that statement, were you
22 ~~conceiving~~ conceiving a municipality sewer system?

23 A No, I didn't make the statement, number one.

24 Q Well, you have used it here.

25 A It came from the analysis Queale & Lynch of 1976,



1 and they qualified that by saying there are certain areas
2 where you are going to continue to put septic tanks. This
3 is excluding existing two acre zones, you just can't. You
4 got soil so wet to the point that you better put sewers in
5 there.

6 Q So you are not in a position to say of that
7 fifty percent how much of the area could be properly
8 sewerred with a package sewer plant that the developer
9 proposes at this particular location?

10 A You mean the Orgo Farms?

11 Q No, you indicated 50 percent of the Township
12 should either not be developed or if developed be developed
13 only with sanitary sewers.

14 A Yes.

15 Q You are not in a position to say, as I under-
16 stand your testimony, that a percentage of that land which
17 must be sewerred may adequately be sewerred with a package
18 sewer plant, are you?

19 A It could be adequately serviced with a package
20 sewer plant, but I am not -- again, I don't understand the
21 question.

22 Q Do you know the criteria which is necessary
23 to exist before a packet sewer plant might be properly
24 used to adequately handle the sewerage?

25 A The combination of particulars in the soil, what



1 have you, no.

2 Q So am I correct in understanding that you
3 don't know when this statement was used as to whether they
4 were referring to a municipal-wide or regional-wide sewer
5 system or --

6 A They were saying you can't dump effluent into the --

7 Q Please. Let me finish my question.

8 A Okay.

9 Q You don't know whether they were referring
10 to original sewer system?

11 A No.

12 Q A municipal-wide sewer system --

13 Well, they did --

14 Q Please, let me finish. -- or a package
15 plant, are you?

16 A No.

17 Q So you are not in a position to tell us,
18 are you, what areas of the Town might be properly sewered
19 by use of a package plant?

20 A No. Although they make some very specific statements
21 about future sewers for the area in terms of regional
22 sewer system.

23 Q Have you relied upon those statements?

24 A Only in terms of location for the Orgo property.
25 It would be economically impossible to tie into -- I mean,



1 it's possible, you have to --

2 Q It would be economically unfeasible for
3 Orgo?

4 A For one developer to sewer a municipality, yes.

5 Q You indicated with only 37 percent designated
6 as critical, large areas of land in the Township remain
7 suitable for development?

8 A Yes.

9 Q Have you made an investigation to determine
10 what percentage of that land that remains after the critical
11 area is within ownership of the Federal Government?

12 A No.

13 Q Within ownership of the State Government?

14 A No.

15 Q Within ownership of the County Government?

16 A No.

17 Q Within ownership of the Local Government?

18 A No.

19 Q Have you made a judgment to determine what
20 percentage of that land is owned by tax exempt organizations?

21 A No.

22 Q Have you made a judgment to determine what
23 percentage of that land is situated in Greenways which
24 are connected with cluster developments?

25 A No.



1 Q Have you made a judgment to determine what
2 percentage of that land is encompassed in farm land
3 tax exempt property?

4 A Yes, close to 9,000 acres of it.

5 Q Nine thousand acres?

6 A About 8,000 some acres. Ten percent is going to be
7 roads, ten percent remain -- 7,000 acres remain developable.

8 Q Do I understand you to say of the 63 percent
9 land that remains after you subtract the critical land, at
10 least 9,000 some odd acres is in land tax exempt?

11 A What percentage of that is Earle? I don't know
12 what percentage. I would like to see their numbers on that.

13 Q I think you and I are reaching an agreement.
14 You are saying that the farm land tax exempt property is
15 63 percent?

16 A Yes, it's about 9,000. In fact, it's 6,661 acres,
17 by their definition.

18 Q Okay. The property designated as farm
19 tax exempt land, would you have an active farm use --

20 A Five acres that needs to be farmed or five acres
21 with --

22 MR. FRIZELL: Can you state, make
23 a statement from the farm land **assessment**
24 itself.

25 A I mean, yes, this is designated as farm protected



1 area of some kind.

2 Q Now, on page nine you make a statement as to a
3 warning expressed by the United States Department of
4 Agriculture.

5 A Yes.

6 Q And you quote the statement of the U.S.
7 Department of Agriculture as to their potential for ground
8 water pollution.

9 A Yes.

10 Q Do I understand you to say that it makes
11 no difference as to the degree of maintenance of septic
12 tanks and the adequacy of construction of septic tanks as
13 to whether the ground water would be polluted?

14 A I made no determination of that. I took it from
15 the Department of Agriculture.

16 Q So that would be a factor that would have
17 to be inserted in the formula as to how well the septic
18 system were maintained?

19 A Yes.

20 Q And would it also be important to determine
21 how large the tract was in which the septic tank was
22 located?

23 A Yes, and the soil type and its percolation value.
24 Also, other things, like where most of the local ground
25 water comes from.



1 Q So without making judgment and gathering data,
2 you can't make any conclusion as to the possibility or the
3 probability, to put it better, probability of pollution of
4 ground water and --

5 A I can't, but the Government has.

6 Q You are saying you can't make any determination?

7 A No.

8 Q Now, on page ten of your report, you indicate
9 that the Zoning Ordinance zones 90 percent of their un-
10 remaining undevelopable lands for two acre lots which will
11 occur on prime developable land, now farm land?

12 A Yes.

13 Q And you assert that's a definition from the
14 requirements of the Master Plan. Do you have an understand-
15 ing as to whether a municipality in fact can zone land as
16 farm land?

17 A I can, sure.

18 Q You can. And you are saying that that's a
19 lawful zone. With that understanding you can make that
20 assertion?

21 A That it can be zoned for farm land, yes.

22 Q Now, on page 12 of your report, you indicate
23 that the State-wide housing allocation for New Jersey
24 indicates that there is 679 units that would be developed
25 in Colts Neck Township. Did you make a study as to the



1 underlined data?

2 A No, I took the State's study.

3 Q So you made no investigation whether they
4 are right or wrong or whether there should be more or less
5 low income housing units?

6 A Again you are dealing with correlation. Our
7 Manalapan numbers and the State numbers correspond exactly.
8 Ours were done completely separate from the State-wide
9 numbers and they came out exactly the same.

10 Q But as far as Colts Neck is concerned --

11 A I think it's a fair number.

12 Q I understand. But you made no independent
13 investigation?

14 A No, there was no need to.

15 Q Now, on page 14 you make a statement concern-
16 ing the location of a possible sewer interceptor in the
17 surrounding portion of the Township and you quote from the
18 Master Plan. In fact, do you know whether a sewer inter-
19 ceptor line was developed in that location?

20 A No, I don't know.

21 Q Do you know the location of the nearest
22 sewer interceptor line?

23 A No, but from one of the graphic maps I could tell
24 you.

25 Q Where is that --



1 A The graphic maps?

2 Q No, I say where is that located?

3 A I don't know, but I could tell from the map.

4 Q Now, in determining that this site is
5 ultimately located for high density housing, as one of your
6 contingents you say that's located nearby shopping
7 facilities?

8 A Uh-huh.

9 Q Have you made an investigation as to the
10 location of the nearest supermarket?

11 A No, but the Master Plan has it in detail.

12 Q Well, have you made an investigation as to
13 the nearest supermarket?

14 A Yeah. In fact, it's located in one of the maps.

15 Q The Master Plan?

16 A No, well, it's updated, again the Master Plan I am
17 referring to is Queale & Lunch's, the latest piece defines
18 everything in the Township including that.

19 Q Where is the nearest supermarket?

20 A Oh, I can show you in the map.

21 Q Now, on page 20, speaking of the sewer
22 package plant, you indicated that it's going to be emptied
23 into Hockhockson Brook, do I understand you to say that
24 only the portion which is located south of Route 18 adjoins
25 Hockhockson Brook?



1 A Yes.

2 Q The northerly portion, the portion that's
3 north of Route 18 does not adjoin the Hockhockson Brook?

4 A In terms of contiguous property ownership, it does.
5 But, you know, 18 --

6 Q So we understand each other, Hockhockson
7 Brook is on the south side of Route 18?

8 A Yes.

9 Q Okay. Now, on page 21 we are speaking of
10 the Department of Environmental Protection, you indicated
11 that they made a preliminary determination that the
12 proposed discharge shall conform with the Department's
13 non-degradation policy.

14 A Uh-huh.

15 Q Did you speak with the DEP yourself?

16 A No, Killam did.

17 Q Was there a letter that was sent by the
18 DEP?

19 A And a final report by Killam.

20 Q Did you speak with Killam or --

21 A No, I received a report from them and this was
22 included as part of the things, you know, which had to
23 be looked at.

24 Q And you are saying it's in that report?

25 A Yeah, they did water sample tests, existing water



1 sample tests.

2 MR. O'HAGAN: I have no further
3 questions.

4 MR. FRIZELL: No questions.

5 (Witness excused.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MONMOUTH COUNTY
DOCKET NO. L-3299-78 P.W.

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

x - - - - - x

ORGO FARMS & GREENHOUSES, INC., :

Plaintiffs, :

-vs- :

CERTIFICATE

TOWNSHIP OF COLTS NECK, :

Defendant. :

x - - - - - x

I, PHILIP V. MORICI, a Shorthand Reporter
and Notary Public of the State of New Jersey, certify that
the foregoing is a true and accurate transcript of the
Deposition of ANTON D. NELESSEN, who was first duly sworn
by me.

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

Philip V. Morici

PHILIP V. MORICI
Notary Public of New Jersey

My commission expires 4/15/85

