

CN - Origo Farms v. Top of Colts Neck

2/27/94

transcript of proceedings: Depositions of
John Rahenkamp + Carl E. Hintz

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - OCEAN COUNTY
DOCKET NO. L-3299-78 P.W.:

L-13769-80

x-----x
ORGO FARMS & GREENHOUSES, INC., CIVIL ACTION
Plaintiff,
consolidated with VOLUME I
SEA GULL, LTD. BUILDERS, INC.,
Plaintiff, DEPOSITIONS

-vs-

OF

TOWNSHIP OF COLTS NECK, JOHN RAHENKAMP
Defendant. CARL E. HINTZ

x-----x

C O M P U T E R I Z E D 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
KATHLEEN M. SHAPIRO, a Certified Shorthand
Reporter and Notary Public of New Jersey, in the
office of STOUT, O'HAGAN & O'HAGAN, ESQS., 1411
Highway 35 North, Ocean Township, NJ 07712, on
Monday, February 20, 1984, commencing at ten
forty-five o'clock in the forenoon.

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FRIZELL & POZYCKI, ESQS.,
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Metuchen, NJ 08840
BY: DAVID J. FRIZELL, ESQ.,
For the Plaintiff Orgo Farms.

DRAZIN & WARSHAW, ESQS.,
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BY: LOUIS F. LOCASCIO, ESQ.,
For the Plaintiff Sea Gull Ltd.

LOMURRO, EASTMAN & COLLINS, ESQS.,
90 West Main Street
Freehold, NJ 07728
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For the Defendant Zoning Board of Adjustment,
Township of Colts Neck.

STOUT, O'HAGAN & O'HAGAN, ESQS.,
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Ocean Township, NJ 07712
BY: ROBERT W. O'HAGAN, ESQ.,
For the Defendant Township of Colts Neck.

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1 J O H N R A H E N K A M P, sworn.

2

3 DIRECT EXAMINATION BY MR. O'HAGAN:

4

5 Q. Mr. Rahenkamp, my name is Bob
6 O'Hagan. I represent the Township of Colts Neck
7 in this action. Has your deposition ever been
8 taken prior to today?

9 A. Yes.

10 Q. So you know the procedure?

11 A. Yes.

12 Q. And you do know that if I phrase a
13 question in a fashion that you don't understand
14 or you wish the question repeated for some reason,
15 you only have to ask and I'll do that?

16 A. Fine.

17 Q. Otherwise I'm going to assume you
18 understand the questions.

19 A. Yes.

20 Q. Mr. Rahenkamp, would you advise us
21 as to your educational background and credentials?

22 A. I have a Bachelor's in landscape
23 architecture from Michigan State in about 1956;
24 Masters degree in landscape architecture,
25 regional planning, University of Pennsylvania in

1 '59. Fellow of the American Association of
2 Landscape Architects; member of American Planning
3 Association; registered planner of New Jersey;
4 registered landscape architect nationally.

5 Q. Do you maintain an office for the
6 practice of your profession?

7 A. Yes.

8 Q. Where is that?

9 A. Usually Philadelphia; Denver; Tampa.

10 Q. In listening to your credentials, I
11 understood that you took some courses in planning.
12 Have you taken the necessary tests, whatever else
13 is required to become a licensed planner?

14 A. Yes. I'm registered in New Jersey.

15 Q. You're a registered planner in the
16 State of New Jersey?

17 A. Yes.

18 Q. When did you achieve your
19 registration?

20 A. Three or four years ago, plus or minus.

21 Q. Now, Mr. Rahenkamp, you have been
22 retained by Mr. Brunelli, who sits to my right;
23 have you not?

24 A. Yes.

25 Q. When were you first retained?

1 A. Probably in 1979, 1978, '79, something in
2 there.

3 Q. Do you know how it was that your
4 firm was brought to Mr. Brunelli's attention?

5 A. I can't recall. That's five six years ago.
6 We've done several planned unit developments in
7 the state.

8 Q. Now, under that you were primarily
9 responsible for drawing the plans for Mr.
10 Brunelli's development; is that correct?

11 A. I oversaw that, but I didn't actually draw
12 them.

13 Q. Let me rephrase the question.

14 Your firm drew the plans for the --

15 A. We did the planning studies; then
16 technicians followed it out thereafter.

17 Q. Can you describe for us in a brief
18 fashion the development that's proposed by Mr.
19 Brunelli at the Orgo Farms tract?

20 A. Well, basically it's a planned unit
21 development, mixed use, including residential,
22 various residential types; open space, about 44
23 percent of the site in open space; some
24 commercial, some office; on-site sewer and water.
25 So it's basically a self-contained planned unit

1 development.

2 Q. Let's speak -- did you say office
3 and commercial?

4 A. Yes.

5 Q. And industrial in terms of the sewer
6 treatment plant, I gather?

7 A. Relatively, yeah.

8 Q. Let's speak of the commercial uses.
9 Have they been identified?

10 A. I think they have.

11 Q. Let's digress for the moment.

12 You're looking at plans, Mr.

13 Rahenkamp. Would you tell us first the date
14 those plans? I gather it's a revision. Would
15 you tell us the date of the revision?

16 A. Well, this plan, this sheet is dated July
17 14th, '80. I don't know if there have been
18 revisions subsequent.

19 MR. BRUNELLI: You have the
20 right set, John.

21 MR. O'HAGAN: Off the record.

22 (Whereupon there is a
23 discussion off the record.)

24 MR. O'HAGAN: May we have
25 this marked as an exhibit for identification?

1 (Whereupon a plan, 7/14/80,
2 is marked DT-1 for identification.)

3 BY MR. O'HAGAN:

4 Q. Mr. Rahenkamp, DT-1 for
5 identification consists of six pages and
6 apparently was prepared by your firm?

7 A. No. It was prepared at our direction not
8 by us, a combination of firms.

9 Q. Do you know who actually prepared --

10 A. Who actually drew it? Abbington-Ney; I
11 believe they followed our original master plan.

12 Q. Getting back to the question, I was
13 inquiring of you as to the commercial uses.

14 A. Right.

15 Q. And you were about to describe them?

16 A. There was a office-commercial related to
17 the interchange on 18; and there was an area
18 identified for reserve as bus stop. And I don't
19 recall, in fact, whether there was a commercial
20 tied to that or not.

21 Q. You're referring to the area
22 reserved for the bus stop. Is that the easterly
23 most portion of the tract adjacent to Route 537?

24 A. Right.

25 Q. Any other commercial?

1 A. And there was an off-site piece down on 34
2 in this general location, called Colts Neck
3 Properties.

4 Q. Would you say generally viewing the
5 property from north to south it was more or less
6 in the middle of the site?

7 A. Yeah. Well, it was on the connecting road
8 going out to 534, Joshua Huddy Drive.

9 Q. So you say that was off-site. Can
10 you give us an idea of the size of that?

11 A. As I recall, it was ten acres. This is now
12 five or six years ago, you have to bear with me.
13 I believe it was about ten acres. And it was
14 consistent basically with the commercial along
15 the frontage.

16 Q. Do you know what arrangements, if any,
17 had been made with the owners of that tract or
18 tracts?

19 A. No, no.

20 Q. Let's start with that one that
21 you've described as being off-site, owned by
22 other owners.

23 A. I didn't identify it as off-site owned by
24 others. I know there's ten acres here. What the
25 exact ownership is, I don't know.

1 Q. So it very well might be owned by
2 Mr. Brunelli or a firm controlled by him?

3 A. Yes.

4 Q. Can you tell us what the nature of
5 the uses that were proposed for that off-tract
6 site?

7 A. Well, it's part of the Village, the
8 commercial strip along 34. And this general area
9 is part of the Colts Neck Village. We had
10 anticipated that it should be some service kinds
11 of stores; in addition to which there's about a
12 thousand units of housing that would obviously
13 generate commercial demand and deserve some
14 services. In addition to which, because our
15 pedestrian ways tie through the middle of the
16 site, it makes a good deal of sense to integrate
17 the commercial with it.

18 Q. You're not able to identify the
19 specific nature of the uses?

20 A. No.

21 Q. Would it be fair to characterize
22 them as convenience?

23 A. Predominantly. There should be office uses,
24 as well. Basically it's mixed use; depends on
25 resident mix, and normally it's a result of the

1 kinds of people in the community rather than
2 anticipated beforehand.

3 Q. You identified a parcel adjacent to
4 537 as commercial. You connected it somehow to
5 the bus stop. What were the nature of the uses
6 proposed there?

7 A. I don't recall the specifics of it. I know
8 that there is a bus line, or at least there was
9 in '80 when we did the plan. There was a fairly
10 good bus service going up 537. We wanted to make
11 sure that we got an adequate area for the bus
12 stop. And, further, that normally would generate
13 some uses of a commercial nature.

14 Q. Candy store and paper store, things
15 of that nature?

16 A. Yeah, right.

17 Q. When you say a "fairly good" bus
18 route, can you quantify that as to the number of
19 trips per day?

20 A. I don't recall. It was quite significant.
21 Frankly, I was impressed in this area of New
22 Jersey that the bus service was quite good.

23 Q. Do you know the points of -- where
24 the bus emanated or departed from and finally
25 wound up?

1 A. I don't recall. It's in our reports. I
2 don't recall exactly.

3 Q. Would it jog your memory if I say
4 that the bus route started in Red Bank and wound
5 up in Freehold?

6 A. That would be logical. Then you would have
7 commutation service in the major areas.

8 Q. You identified another commercial
9 location on the plans. Point that out to me
10 again; would you?

11 A. We had one over by the 18 interchange.

12 Q. Mr. Frizell just reminded me, you
13 spoke of --

14 A. I didn't go to the other side of 18.

15 Q. Let's talk -- then let's confine
16 ourselves to the north side of 18.

17 A. All right.

18 Q. You say a commercial site near the
19 interchange?

20 A. Uh huh.

21 Q. What would the nature of those uses
22 would be?

23 A. More on the order of office space. Because
24 that is an interchange, it normally would be a
25 generator and would justify office space,

1 predominantly, there. In addition, it doesn't
2 have as much frontage; normally that would be
3 more office use rather than commercial type.

4 Q. Now then, you say there was -- Mr.
5 Frizell indicated that there was some commercial
6 uses on the south side of 18?

7 A. Yeah. We had anticipated, again as an
8 extension of the expressway interchange, you
9 would have offices, particularly a free-standing
10 campus type office, identified as Alternate A.

11 Q. That's the easterly most portion to
12 the south of 18?

13 A. Yes.

14 Q. Anything else?

15 A. Well, there's a portion identified on 18.
16 However, this was subsequently purchased after
17 our original planning studies. It identifies
18 hotel or office; that would be consistent with a
19 expressway interchange.

20 Q. Consistent with what?

21 A. Consistent with the kinds of services that
22 would normally cluster around an interchange.

23 Q. We'll start on the south side of 18
24 and we'll speak of Alternate A, office/industrial.
25 Can you give us an idea as to the expected size

1 or square footage of that commercial
2 establishment?

3 A. No, not really, not this long after having
4 done the base plan. Basically that would end up
5 as probably some kind of free-standing use, a
6 corporate headquarters or something on that order,
7 free-standing office.

8 Q. Two thousand square foot or 100,000
9 square foot?

10 A. It would be pure speculation on either of
11 our part to narrow that down. Normally we would
12 anticipate 10,000 square feet per acre, that
13 would be normal office yield.

14 Q. Can you, from looking at this sheet,
15 advise as to the acreage that's in Alternate A?
16 Is there any other portion of the plan that would
17 help you in that connection?

18 A. I haven't the foggiest notion.

19 MR. FRIZELL: Off the record.

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

22 BY MR. O'HAGAN:

23 Q. Mr. Rahenkamp, you've had an
24 opportunity to examine the full set of plans that
25 Mr. Brunelli was kind enough to bring to these

1 depositions; have you not?

2 A. Yes.

3 Q. And speaking now of the south side
4 of Route 18, we were talking about Alternate A,
5 which is the easterly most portion of the tract
6 on the south of 18. Can you tell us, firstly,
7 the extent of the acreage on that side of the
8 freeway?

9 A. Well, the portion we looked at identified
10 as 17 was 24 acres. That's Alternate A and B, as
11 I understand it.

12 Q. Now, knowing the size of the acreage,
13 does that help you in terms of the anticipated
14 size of the office and commercial development on
15 that side?

16 A. Well, normally we would anticipate 10,000
17 square feet per acre. However, you've got a
18 right-of-way going through; and I don't know
19 whether that's an easement or outright
20 right-of-way, in which case you diminish in
21 number the -- the plan illustrates 120,000 square
22 feet something, obviously less than 10,000 per
23 acre. ✓

24 Q. Say that again?

25 A. The plan shows a blocked in building - both

1 of them do - with a note saying 120,000 square
2 feet. Theoretically you could yield 240,000
3 square feet and do it on a responsible basis.

4 Q. That plan in terms of 120,000 square
5 feet identified for the office/industrial, wasn't
6 that plan prior to Mr. Brunelli's acquisition of
7 what we'll call the Zimmer tract consisting of 14
8 acres?

9 A. Yes.

10 Q. So that it might be that after the
11 acquisition of that property -- and as I
12 understand it, once that tract has been acquired
13 you can move the sewer treatment plant and that
14 might free up additional land for commercial
15 development; isn't that correct?

16 A. True, yes.

17 Q. Now, turning next to the -- just
18 strike that.

19 The plan that has been marked for
20 identification on the south side of 18 refers to
21 Alternate A and Alternate B.

22 A. Yes, sir.

23 Q. In a brief fashion, can you explain
24 that to us?

25 A. No, because I didn't do those.

1 Q. Okay. That was very brief.

2 Now, directing your attention to
3 closer to 34 proceeding westerly on the piece
4 south of 18, it makes reference to an office or
5 hotel. Can you describe that for us as to the
6 anticipated size of that?

7 A. No. I didn't do the plans on 18.

8 Q. Did you have discussions with the
9 Abbington-Ney firm that did them?

10 A. No. Only in the last week or so, but
11 nothing related to what they did with it.

12 Q. I understood you at the inception,
13 Mr. Rahenkamp, to indicate that you were more or
14 less the guiding force and you developed the
15 broad planning concepts and you gave it to others
16 to sketch out the nitty-gritty so to speak?

17 A. True.

18 Q. Do I understand you to say then that
19 the hotel and the office building closer to 34
20 was not your idea?

21 A. It was not -- it's neither -- what? That's
22 not a proper characterization.

23 Q. Tell me what is.

24 A. All I'm saying is that I did not know of
25 the purchase until recently, period.

1 Q. Okay. Well, tell me what the
2 characterization should be. Was it your idea or
3 wasn't it?

4 A. It was neither my idea nor did I address
5 the issue. I would have no problem with it, as a
6 matter of fact.

7 Q. What would you anticipate, if you
8 have no problem with it, as to what size hotel we
9 would be talking about?

10 A. It would be pure conjecture. I don't know.

11 Q. Are you able to determine the size
12 of the acreage that's within the area designated
13 as office or hotel?

14 A. Not from that map, no.

15 Q. Could you look at another map and
16 make that determination?

17 A. I don't know.

18 MR. FRIZELL: Let's go off
19 the record a minute.

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

22 BY MR. O'HAGAN:

23 Q. Mr. Rahenkamp, can you look at
24 another map or -- strike that.

25 MR. O'HAGAN: Let;s go off the

1 record.

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

4 BY MR. O'HAGAN:

5 Q. Mr. Rahenkamp, in your past
6 experience have you had occasion to design hotels
7 as being integrated into planned unit
8 developments?

9 A. Yes.

10 Q. Is there a general concept accepted
11 by persons in your position as to the size of the
12 hotel that would be warranted by a specific land
13 area? For instance, I think you said that it
14 would be, when you spoke of the office building,
15 you said there would be so many square feet per
16 acre?

17 A. Normally we don't like to have fewer than
18 100 rooms. But I can't give you a specific
19 number of rooms per acre off the top of my head.

20 Q. The general rule is don't have fewer
21 than 100 rooms?

22 A. Yes. And basically it ought to be done in
23 a bucolic sensitive way, consistent with a PUD.

24 Q. I'm sure.

25 If we might direct your attention

1 now, Mr. Rahenkamp, to the office/commercial
2 which you identified as being adjacent to Route
3 34, and it's so indicated, can you tell us what
4 was planned for that location?

5 A. That one particularly we wanted to do
6 basically low-rise office, consistent with the
7 interchange location. And that would be
8 consistent with the normal uses that this kind of
9 an interchange would spin off.

10 Q. What size square footage would you
11 be talking about there?

12 A. We would go on about the 10,000 per acre
13 number.

14 Q. And have you or are you in a
15 position from examining the plans that are
16 present here to tell us how much acreage is
17 involved there?

18 A. I'm not sure.

19 MR. BRUNELLI: That set of
20 plans is laid out. There's a section that shows
21 it.

22 THE WITNESS: We show four
23 and a half acres and 45,000 square feet, which is
24 amazing; isn't it?

25 BY MR. O'HAGAN:

1 Q. That's one of those rare
2 coincidences; isn't it?

3 So you say you describe 45,000
4 square feet for those low-rise office buildings
5 adjacent to 34?

6 A. Yes, sir.

7 Q. Turning once more to the plan that
8 you've developed, you've pointed out to me the
9 off-tract site. Did you identify the acreage
10 involved in that?

11 A. Yeah. I think there's about ten acres in
12 there.

13 Q. What is planned there?

14 A. We had done studies on it; as I recall,
15 this is already zoned commercial. And we had
16 done several studies of it but it had not been
17 finally concluded nor was it an integral part of
18 the application.

19 Q. Then let's not touch it. You don't
20 know who owns that?

21 A. Not now, no.

22 MR. O'HAGAN: Mr. Brunelli is
23 here. Would it be appropriate to ask him whether
24 he owns that piece?

25 MR. FRIZELL: We can

1 stipulate we don't own it.

2 MR. O'HAGAN: Is there a
3 corporation that you control that owns it?

4 MR. BRUNELLI: No.

5 MR. LOCASCIO: What piece, 12?

6 MR. FRIZELL: Colts Neck
7 Properties.

8 MR. BRUNELLI: The road was
9 shown through there because the master plan
10 showed the road through there.

11 BY MR. O'HAGAN:

12 Q. Mr. Rahenkamp, would you go to the
13 next area zoned for either commercial or office?

14 A. Well, we had the reserve for bus stop. Let
15 me see what we did for that. We had two acres.
16 There are existing houses on it and existing
17 trees, which we would like to work around.

18 Q. Are there houses owned by the Orgo
19 family or is that -- I guess that's the Orgo
20 property, so they must control them?

21 A. I don't know who owns them.

22 Q. Now, Mr. Rahenkamp, this question is
23 going to take a little time for you to answer.
24 And perhaps I should have calculated it upon
25 hearing you. Can you recall for us the amount of

1 acreage that's involved in commercial or office
2 development?

3 A. You want a specific answer to your question?

4 Q. Well, just in a general fashion. I
5 realize from the off the record discussion that
6 the 14 acres that were purchased from Mr. Zimmer
7 can't be considered entirely in the commercial or
8 office realm?

9 A. Right.

10 Q. But would your answer then? And by
11 the way, have you allocated five acres to the
12 Zimmer piece in your calculations?

13 A. Right.

14 Q. You've come up to 35.5 acres?

15 A. Yes.

16 Q. That would be for office or
17 commercial use?

18 A. Yes.

19 Q. Now, as I understood your answer,
20 Mr. Rahenkamp, the office uses that you've
21 identified except for that off-site piece are
22 integral to the development; is that correct?

23 A. The two acre is and the four and a half
24 acre is. The 24 acres is obviously less integral
25 to the point that it's tied directly to the

1 parcel, because it's on the other side of 18.

2 Q. What does "integral" to the
3 development mean?

4 A. "Integral" means that it's an integral part.
5 You get there by pedestrian ways; there are
6 actual links to it.

7 Q. Would it be a fair statement that
8 the office and commercial uses help support the
9 residential uses? And I'm speaking in a
10 financial fashion.

11 A. As a matter of fact, not usually. It's a
12 matter of fact that most of the commercial is a
13 fairly marginal operation, and it is
14 predominantly to service the people that live in
15 the development. And, in fact, it's almost like
16 a social service. Obviously you're getting some
17 money back; but in terms of this kind of acreage,
18 you're not talking significant money compared to
19 the overall project.

20 Q. Now, Mr. Rahenkamp, you say it's to
21 support the residents in the development. Was
22 that your testimony?

23 A. I'm talking about the integral pieces, now.
24 The 24 acres on the other side of 18 obviously is
25 less tied to the specific residents of the tract.

1 Q. I would think so.

2 A. And is more for a regional need and
3 regional demand and usually consistent with an
4 expressway interchange.

5 Q. One hundred twenty-five thousand
6 square feet I thought you said?

7 A. Yes, all right.

8 Q. Was that what it was?

9 A. As I recall.

10 Q. Now, wouldn't that piece go to help
11 the financial makeup of the residential portion
12 of the PUD?

13 A. If there's measureable demand early enough.
14 A PUD is very heavily front end loaded, so you
15 have significant financial needs in the beginning.
16 Whether the office space and the commercial would
17 come on early enough to affect that is and
18 problematic and questionable and basically
19 related to the regional market. Certainly on the
20 six and a half acres and integral to the PUD
21 those would undoubtedly would come on a few years
22 down the road and would not be critical to the
23 financial success of the project.

24 Q. Wouldn't it be fair to say that the
25 developer, realizing that he was going to make

1 the profit from the commercial uses identified,
2 would be able to take certain measures regarding
3 the construction of the PUD?

4 A. Probably not, because the critical first
5 phase of the PUD is residential. And the
6 critical financing need is in the first two, two
7 or three years until you break even. And the
8 commercial and office would undoubtedly come up
9 after that.

10 Q. Are you saying that a lender - I
11 assume Mr. Brunelli would be talking about a
12 lender - would not be interested in the
13 commercial office and portion of this property in
14 making his decision to lend money to construct
15 the development?

16 A. It would not be a significant part of his
17 decision. His decision would be based on a
18 feasibility analysis of the residential. The
19 office and commercial basically would be a
20 residual. It's a nice residual to have but it's
21 not the critical one to make the project work.

22 Q. Are you saying in that
23 office-commercial offices and commercial could be
24 eliminated?

25 A. No. I think you would have a lower service

1 or social service if eliminated. It's a part of
2 the plan but not critical to the financial.

3 Q. You couldn't eliminate the 125
4 office building; would that be correct?

5 A. That obviously would be the least critical;
6 but that which is on this side of 18 is integral
7 to the project and you need. And, secondly, the
8 24 acres on the other side of 18 and at the
9 expressway interchange is logically for higher
10 intensity use. You don't wish to put low density
11 residential abutting up against the expressway,
12 except that you can treat it very well and very
13 carefully.

14 Q. Would your answer be the same for
15 the hotel?

16 A. Tell me the original question.

17 Q. As to whether the hotel could be
18 eliminated from the plan?

19 A. The hotel is not critical to the success of
20 the PUD. It would be helpful.

21 Q. Now, did you have discussions with
22 the -- with Mr. Brunelli and others including
23 Abbington-Ney when the decision was made to
24 propose development of 125,000 square foot office
25 building, a hotel, and so on and so forth?

1 A. The hotel I had not known about until
2 recently, in the last week or so. We had talked
3 about trying to get the additional piece in the
4 front several years ago.

5 Q. But weren't you --

6 A. I didn't know whether it was available or
7 not. It certainly doesn't hurt the scheme to
8 incorporate that land.

9 Q. Weren't you instrumental in
10 recommending that 125,000 square foot office
11 building be proposed on the south side of Route
12 18?

13 A. I don't recall having said we want 125
14 thousand square feet of space exactly, no. I
15 know that we indicated that it should be an
16 office or industrial use. In the early planning
17 stages we did not specify exactly what
18 configuration it would be.

19 Q. But in any case your plans indicate
20 125,000?

21 A. Meaning -- our plans meaning that this is
22 what was generated out of the whole team, that's
23 accurate.

24 Q. So it wasn't your idea to propose
25 125,000 square foot office building?

1 A. Our original planning concept was to have
2 office or industrial on that site because of the
3 expressway interchange; so, it's totally
4 consistent.

5 Q. Mr. Rahenkamp, would you be good
6 enough, please, to examine the exhibit that has
7 been marked DT-1 for identification with today's
8 date?

9 A. Yes, sir.

10 Q. And tell us if you can how the most
11 recent plans differ from those originally
12 proposed?

13 A. Basically in three areas that I can note;
14 one is on section 12 we're showing now
15 manufactured housing. We had originally shown a
16 high-rise senior citizen. As a matter of fact, I
17 feel more comfortable with the low-rise and not
18 having the high rise; so, that's fine.

19 In terms of section 17 and 18, those have
20 been changed. We originally had the sewer plant
21 on the back, in the area shown as Alternate A.
22 That's now shown as office and industrial and the
23 sewer plant is moved further west. And I have no
24 problem with that at all.

25 Q. By the way, where does that stream --

1 does it follow the southerly most boundary?

2 A. I don't know.

3 Q. Are you in a position to advise us
4 to whether there's sufficient flow in the
5 Hockhocksens Brook to accept the sewer effluent in
6 the place where the plant is now proposed as to
7 where it was located?

8 A. I'm not aware that it is a stream discharge.

9 Q. You mean it might be spray discharge?

10 A. I'm not aware of the engineering. I'm not
11 aware that it's a stream load.

12 Q. That's not within your field of
13 expertise?

14 A. It is, but we have not reviewed that
15 specific.

16 Q. So as I understood, section 17, 18
17 and 12 are the only suggested changes?

18 A. Yes.

19 Q. Now, what is the proposed number of
20 residential units in this development presently;
21 do you know?

22 A. We originally had 1073. I don't know given
23 the additional manufactured housing if that's
24 changed. Oh, I see.

25 MR. O'HAGAN: Off the record.

1 (Whereupon there is a
2 discussion off the record.)

3 MR. O'HAGAN: Back on the
4 record.

5 BY MR. O'HAGAN:

6 Q. With a little coaching we're able to
7 say that Alternate B is now 1253 residential
8 dwellings.

9 A. Yes, sir.

10 Q. Do you know how many units are
11 proposed in the area marked 12, "manufactured
12 housing"?

13 A. A total of 56 units.

14 MR. O'HAGAN: Off the record.

15 (Whereupon there is a
16 discussion off the record.)

17 BY MR. O'HAGAN:

18 Q. Now, Mr. Rahenkamp, are you in a
19 position where you could describe Alternate A and
20 Alternate B and what would be the situation where
21 one would be chosen over the other?

22 A. No.

23 Q. That's two questions in there. You
24 can't tell us?

25 A. I didn't do the plans.

1 Q. So someone else would have to tell
2 us that.

3 Now, assuming --

4 MR. FRIZELL: Off the record.

5 (Whereupon there is a
6 discussion off the record.)

7 BY MR. O'HAGAN:

8 Q. Mr. Rahenkamp, assume that there's --
9 we're speaking of Alternate B where there's 1253
10 units. Do you know how much acreage is involved
11 in the residential portion alone? And by that I
12 mean to extract from that the commercial acreage.

13 MR. FRIZELL: Off the record.

14 (Whereupon there is a
15 discussion off the record.)

16 BY MR. O'HAGAN:

17 Q. Alternate B proposes 1253 units?

18 A. Yes.

19 Q. As I understood, Mr. Frizell
20 subtracted from the total acreage is the two-acre
21 tract --

22 A. Yes.

23 Q. -- which was identified for the bus
24 stop and uses convenient to the bus stop?

25 A. Right. And four and a half acres on the

1 other side.

2 Q. So then all of the -- and then I
3 guess also subtracted from it would be the area
4 of the sewer treatment plant?

5 A. Yeah. We originally had 221 acres, all
6 right? Including section 17 on this side and
7 everything on this side, and including this. The
8 whole site was 221. If you wish to deduct two
9 acres and four and a half acres here, six and a
10 half acres less than 221.

11 Q. Let's speak of south of 18. Do you
12 understand Alternate B to include all of the land
13 south of Route 18?

14 A. I don't know. I did not generate those
15 plans. I don't see that there's any
16 inconsistency with what I would think is good
17 planning.

18 Q. Let me tell you what I'm after, Mr.
19 Rahenkamp --

20 A. Yes.

21 Q. -- and maybe we could short cut it.
22 I'm trying to determine first a
23 gross density --

24 A. Right.

25 Q. -- per acre after we subtract out

1 the commercial, industrial and other uses. Can
2 you do that?

3 A. Sure.

4 MR. FRIZELL: Off the record
5 a minute.

6 MR. O'HAGAN: Yeah.

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

9 BY MR. O'HAGAN:

10 Q. Doing it on the Alternate B?

11 A. It's 5.85 units per acre gross density.

12 Q. Now --

13 A. Exclusive, by the way, of 18. In other
14 words, I've taken 17 because this is not -- this
15 is into the stream irrigation, et cetera. I've
16 basically taken that and 17.

17 Q. Now, Mr. Rahenkamp, are you in a
18 position to tell us what the net density is after
19 you subtract out the streets and power lines and
20 the commercial and so on and so forth? Can you
21 do that?

22 A. In our original report we gave density
23 ranges on the various sections. For instance, the
24 townhouse section would be eight to the acre, two
25 story garden, et cetera. And those were the

1 density ranges originally established.

2 Q. Does the map tell us the densities
3 per acre?

4 MR. FRIZELL: It doesn't say
5 the density, Mr. O'Hagan. It does tell the area
6 of each section and the total number of units in
7 each section. It's a matter of dividing one into
8 the other.

9 THE WITNESS: However, even
10 if that were to be specific, the ranges we
11 reported on and established in our original
12 report are the ones that are applicable. Because
13 as your building this project certain sections
14 are going to be flexible and there ought to be an
15 adjustment in the densities. A PUD is overall
16 plan approval over time. For instance, if we
17 were to adjust the units to more twin houses or
18 four-plexes and then those intensities on the
19 individual sections would be changed on the gross
20 basis. That's applicable. And 5.85, 44 percent
21 open space, that doesn't change. The individual
22 section should range in the original numbers we
23 reported in our report.

24 BY MR. O'HAGAN:

25 Q. I'm interested in that as to -- I

1 understand what you're saying, that with a PUD
2 it's not static?

3 A. Exactly.

4 Q. And do I understand that you would
5 change as the market demanded?

6 A. Well, relatively change. Essentially we're
7 agreeing with the town on a PUD of relatively
8 fixed plan. But there's always some flexibility,
9 too. Makes sense.

10 Q. What makes it flexible?

11 A. The market is certainly a part of it. When
12 you do specific soil borings you might find
13 something that you hadn't known when you're
14 looking at the 200 acres. There may be factors
15 that change over time. The parking ratios, for
16 instance, have made extraordinary changes over
17 time.

18 Q. It might mean we're talking about
19 more units?

20 A. No. The overall fix, you fix on the
21 overall number. It's an internal flexibility.
22 It would not mean more units, no. That would be
23 the ultimate number.

24 Q. The component might change but the
25 end result would be the same?

1 A. Yes, subject to public review. It's not a
2 casual exercise.

3 MR. O'HAGAN: Off the record.
4 (Whereupon there is a
5 discussion off the record.)

6 MR. O'HAGAN: Back on the
7 record.

8 BY MR. O'HAGAN:

9 Q. Mr. Rahenkamp, we've had a
10 discussion off the record and you were good
11 enough to look at the plans and consult with
12 others and calculate it out. And do I understand
13 then that the densities for the three-story
14 garden apartments are calculated at 16 dwelling
15 units per net acre?

16 A. Yes, the net acreage.

17 Q. Where are those three-story --

18 A. The three-stories are predominantly in the
19 front end of section seven because the slopes are
20 eight and eight and a half percent. They work
21 very well up against Route 537.

22 Q. East of Route 34 and on the south
23 side of Route 537?

24 A. Yes, identified as section seven.

25 Q. Would it be accurate to say that

1 across the street from those three-story garden
2 apartments are single family homes for the most
3 part?

4 A. Yes. Obviously you have an open space
5 strip running along 537. I don't believe there
6 are any compatibility problems.

7 Q. How wide would the open space be?

8 A. The narrowest, I think, is about 25 feet,
9 something on that order at 200 scale. The
10 dimensions may be -- let's look at the specific
11 site plan, I can be more accurate. This is in 50
12 scale. That must be --

13 MR. FRIZELL: You want to
14 measure the distance from the building, Bob?

15 MR. O'HAGAN: Yeah, from the
16 building.

17 THE WITNESS: Well, from the
18 building we're set back about 130 feet from the
19 edge of the road, plus or minus, and from the
20 right-of-way you're set back about 115.

21 BY MR. O'HAGAN:

22 Q. Now, let's speak about the two-story
23 garden apartments. I understood you to say that
24 they were proposed as 12 dwelling units per acre?

25 A. Right.

1 Q. Would you identify where they're
2 located?

3 A. On section seven there are some two-story,
4 as well. We take the three-story and build them
5 into the slopes, as you've done with your own
6 office building here. When we get to flatter
7 slopes we go to two-stories. Many times in one
8 section we're mixing and matching different kinds
9 of units; so the numbers aren't absolute. The
10 landscape is.

11 Q. What would be the elevation of the
12 three-story, the uppermost portion of the
13 building above the ground?

14 A. Well the unit itself would probably top out
15 at about 27, 27, feet nine feet per floor. The
16 sloping roof would be under 35 feet normally.
17 And they will be shelved in the grade. On the
18 upside they're going two and a half stories and
19 downside, three.

20 Q. Can you speak next of the two-story
21 garden apartments?

22 A. Two-stories are basically fronting on the
23 ponds. There's a nice pond in this location
24 between section two and three. There is a small
25 pond back between five and six and -- yeah,

1 that's where they were.

2 Q. And those -- I think we've said this
3 on the record, I want to clarify. It's 12
4 dwelling units per acre?

5 A. Yes.

6 Q. Would it be fair to say then that
7 the density then declines gradually depending
8 upon the type of use and that the least dense are
9 the single family dwelling units?

10 A. Yes.

11 Q. How many single families did you
12 originally propose?

13 A. Let me have my report back, 128.

14 Q. And can you tell us, are they on
15 different sized lots or all lots proposed the
16 same?

17 A. It depends.

18 MR. FRIZELL: Excuse me. Off
19 the record.

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

22 THE WITNESS: What was your
23 question, are they reasonably close? Yes.

24 MR. O'HAGAN: Would you
25 repeat that question back again?

1 (Whereupon the Reporter reads
2 back, "Question: And can you tell us, are they
3 on different sized lots or all lots proposed the
4 same?")

5 THE WITNESS: We had a
6 variety of lots. Section eight we were down to
7 75 to 8500 square feet. Section 13 back in some
8 woods, ten to 12 thousand square feet.

9 Q. Now, Mr. Rahenkamp, are you the
10 witness who could tell us the expected sale price
11 of the units?

12 A. No. Rich would have to do that. We
13 originally projected sale prices four or five
14 years ago. I don't know what they would be now.

15 Q. They obviously would be different
16 today?

17 A. Substantially different.

18 Q. Because of inflation and the cost of
19 the units?

20 A. And AT&T.

21 Q. AT&T?

22 A. Yes.

23 Q. Meaning it's located in Freehold?

24 A. Yes.

25 Q. That would generate units of a

1 higher price nature?

2 A. It would generate more demand.

3 Q. Not higher prices?

4 A. No; in fact, quite the opposite, by the way,
5 as a matter of fact.

6 Q. Mr. Rahenkamp, originally as I
7 understood the testimony before the zoning board
8 of adjustment, the developer was speaking of
9 least cost housing and promised to provide a
10 certain percentage of least cost housing. Is
11 that what you understood?

12 A. No. Least cost housing based on the
13 Madison case, as I interpret it, is applicable to
14 all of the housing. What we're meaning to do,
15 even if these single family houses were \$100,000
16 houses, we're interested to have the town
17 accommodate adjustments in the normal subdivision
18 standards so that we would not be placing
19 extraordinary cost on the houses. So it was
20 applicable to the entire project, not only to the
21 less costly units.

22 Q. Now, from a design viewpoint --
23 strike that.

24 From a social viewpoint - and I
25 don't know that you're qualified to speak about

1 social viewpoints - is it fair, just and
2 reasonable to minimize the development cost for
3 prospective homeowners who might pay a hundred or
4 \$125,000 per unit in one location as opposed to
5 another?

6 A. Well, that's a strange question. In the
7 first place, most of the subdivision codes have
8 no basis whatsoever in terms of health, safety
9 and welfare and unnecessarily generated higher
10 cost. It's whether it's a guy buying a quarter
11 million dollar house or \$30,000 house, it seems,
12 to me, totally reasonable in these days of high
13 interest to reduce those costs within reason, as
14 long as in terms of health, safety, welfare there
15 is no public exposure.

16 Our sense and our design of this is meant
17 to hold water on-site; therefore, don't put on
18 curb and gutter; reduce the impervious cover; it
19 goes through the whole thing. To cut costs and
20 reduce environmental hazard, it seems to me, is
21 reasonable no matter what the social
22 ramifications. It can only accrue to those
23 buying houses.

24 Q. The least cost approach applied
25 across the board?

1 A. Yes.

2 Q. Is there a school of thought or
3 procedure in the design of low and moderate
4 income housing to put those housing -- that
5 housing more or less together as opposed to the
6 higher cost units?

7 A. We have done several hundred thousand units
8 in the last 20 years. We have mixed 235 housing,
9 subsidy housing, directly in the middle of much
10 more affluent housing, and intermixed it with no
11 adverse social impact and, in fact, with very
12 positive impact.

13 Q. Pardon me for interrupting you. I'm
14 asking -- I'm asking you is there a school of
15 thought in the design field such as you're
16 apparently expert at that would -- may not agree
17 with it?

18 A. Suggest the sprinkle?

19 Q. That would suggest a clustering
20 together of the low and moderate and put the
21 higher cost housing elsewhere?

22 A. I would say the school that I know of and
23 I'm aware of is one of integrating rather than
24 separating, consistently so.

25 Q. Are there other planners that take

1 the approach that I mentioned?

2 A. Not that I'm aware of, or at least not to
3 the degree that they would be broadly recognized.
4 There may be some ad hoc people to do that; but,
5 basically, most planners would agree that it
6 ought to be integrated. And I think that's a
7 fairly consistent body of thought.

8 Q. Let's speak of the site in
9 particular, Mr. Rahenkamp. Is it within your
10 field of expertise as to the concept of nonsource --
11 nonpoint source pollution?

12 A. So what degree? In terms of the sewer
13 plant? We did not design the sewer plant. In
14 terms of the surface drainage?

15 Q. Yes. Was that designed by you or
16 someone else?

17 A. It was designed by us with the
18 implementation by Abbington-Ney. Abbington-Ney
19 did the hard engineering; we did the soft
20 engineering, if you like.

21 Q. The soft engineering means the broad
22 concepts?

23 A. We want to use detention ponds and hold
24 water on-site and use surface drainage.

25 Q. When we speak of nonpoint pollution,

1 what are we speaking of?

2 A. "Nonpoint" essentially means that it's not
3 concentrated, for instance, as coming from a
4 sewer plant. Basically including agriculture,
5 various land uses, which would change the land
6 use characteristics.

7 Q. Urban runoff included?

8 A. Yes.

9 Q. What is urban runoff?

10 A. Urban runoff would generate certain
11 pollution loads into streams or flooding areas or
12 water retention areas of a different nature,
13 normally, than agricultural.

14 Q. Have you, yourself pursued a field
15 of study as to the measurement of nonpoint
16 pollution?

17 A. We're not -- we're not biologists or
18 bacteriologists or limnologists or the various
19 technicians. But we have monitored and managed
20 those kinds of people and done several EIS
21 studies.

22 Q. Let's speak about you, personally,
23 John Rahenkamp. Is that within your educational
24 background or would that be devoted to someone on
25 your staff?

1 A. I have a Bachelor of Scienc. To the point
2 of going down there with a dip stick and
3 measuring water quality, I don't do that. To the
4 degree of reviewing alternative techniques to
5 management, land and therefore its runoff
6 characteristics, I therefore do do that.

7 Q. Do you personally do it or someone
8 on your staff do it?

9 A. Well, we have a large staff. I, personally,
10 do some of it.

11 Q. You bascally set it in motion?

12 A. Set it in motion and then review it.

13 Q. Now, can you describe for us the
14 manner in which the developer seeks to treat the
15 nonpoint pollution on this particular project?

16 A. Well, there are combinations. In the first
17 place, the basic runoff characteristics are meant
18 to go by surface swales rather than underground.
19 By surface swales I mean we would have sodded or
20 vegetated swales which, by and large, absorb a
21 substantial portion of the pollution on-site.

22 Secondly, they would go in detention or
23 retention ponds, which would slow down not only
24 the pollution load - and there will be some - it
25 also slows down the overland flow so the

1 velocities would not be as fast and water can be
2 assimilated on-site. And with the Freehold type
3 soils, they're fairly absorptive, so that we
4 would probably end up assisting the underground
5 water table. In other words, we will put the
6 water back into the ground rather than running it
7 off. It's a nonmechanical system. It's trying
8 to hold the water on-site as much as possible.

9 Q. Let's approach each of those aspects,
10 if we might. Now you're speaking of swales and
11 slopes that would ultimately lead down to a
12 detention basin. Do I understand you to say that
13 those swales would catch the runoff from the
14 blacktop parking areas?

15 A. Yes.

16 Q. And from the roof tops?

17 A. Yes.

18 Q. Sidewalks?

19 A. Everything.

20 Q. Okay. Presently the site is under
21 developed?

22 A. It's in agriculture.

23 Q. Wouldn't it be fair to say then that
24 for the most part the water on the site presently
25 percolates down to the underlying aquifers?

1 A. No.

2 Q. Have you measured the extent of the
3 runoff presently?

4 A. No. We know the characteristics, however;
5 and, obviously, the detention ponds change that
6 level.

7 Q. Did anyone measure the present
8 runoff?

9 A. We measured it in terms of -- what should I
10 say, theoretical runoff factors. We did not put
11 a meter on it to measure the number of gallons a
12 second.

13 Q. You indicated, I think, earlier that
14 there are some existing ponds on the site now?

15 A. Yes.

16 Q. Could you just locate them for me?

17 A. Yeah. There are two, one here and one on
18 that side.

19 Q. Don't they serve the purpose that
20 you just described by catching the water and
21 holding it back?

22 A. Yes. The difference is, however, when you
23 have open farmland - and particularly if it's in
24 corn or in field crops - you get a fairly heavy
25 siltation load. These ponds are silting up

1 rather badly. The silt loads coming off of a
2 suburban PUD development like this would be
3 substantially less than farm use. The farm use
4 would be less than bucolic.

5 Q. You say the siltation would be less.
6 And isn't that basically a product of the fact
7 that you have blacktop and roof tops in the
8 development?

9 A. No, no. You misunderstood.

10 Q. Let me just rephrase it.

11 A. Please.

12 Q. You indicate that the amount of
13 siltation would be reduced, if this development
14 would be approved?

15 A. Right.

16 Q. Isn't a factor in that conclusion
17 that you're substituting blacktop for virgin land?

18 A. No.

19 Q. That makes no difference?

20 MR. FRIZELL: Let him answer
21 the question, please before you ask another one.

22 MR. O'HAGAN: All right.

23 THE WITNESS: The function of
24 the silt is how much of the soil is exposed, not
25 how much blacktop or roof cover you have. So the

1 answer to the question is by putting sod or grass
2 on the areas that are carrying the water, rather
3 than leaving as exposed dirt as it would be on a
4 farm, you're basically slowing down or holding
5 the silt and, therefore, you have less soil
6 exposed; therefore, less erosion and less silt.
7 You have more silt from a farm operation than you
8 do from a planned unit development that's
9 designed properly. It's not a function of the
10 blacktop and roofs.

11 BY MR. O'HAGAN:

12 Q. It's obvious that the blacktops and
13 roofs prevent the water from percolating down
14 into the ground?

15 A. Yes you're adding impervious cover and then
16 you have to design to adjust to that.

17 Q. Wouldn't it be fair to say that if
18 this site were developed in the two-acre type
19 zoning the amount of blacktop and roof areas
20 would be less than you've proposed?

21 A. Under two-acre the impervious would be less
22 than we're proposing, but not as significantly as
23 you think and as well, because this -- under PUD
24 with multifamily development, it goes through
25 site plan review which allows the town and public

1 agencies to scrutinize far more than with
2 two-acre zoning. So, in fact, the performance
3 criteria that can come back and accrue to the
4 public's benefit are extraordinarily greater
5 under a PUD than conventional zoning.

6 Q. Wouldn't that differ from town to
7 town?

8 A. Under New Jersey state law everything
9 except by-right single family has to go through.

10 Q. I appreciate that. If I could prove
11 to you that overwhelming majority of the
12 homeowners in Colts Neck put their property in
13 lawns and grass and shrubs, wouldn't -- might
14 that have the potential to hold back this runoff
15 and retard the runoff?

16 A. No, not necessarily. It will obviously
17 affect it; and, obviously, it depends, and not to
18 the degree you expect. The impervious cover
19 coming out of large lot zoning, because they're
20 large housing and rather extraordinary standards
21 on your roads, is far greater, even at two-acre
22 zoning than as to PUD impervious cover and is not
23 near as you would expect, certainly no more than
24 double that it would be under two-acre zoning;
25 not to the point of five times or ten times

1 multiple, if it was up to five units to the acre,
2 not what you would expect.

3 Q. Have you investigated as to whether
4 Colts Neck presently has a problem with
5 controlling their runoff?

6 A. No.

7 Q. So you can't tell us then whether
8 the storm management practices now used by Colts
9 Neck are adequate; can you?

10 A. No.

11 Q. Wouldn't that be a factor that you
12 might want to consider before drawing the
13 conclusion that you just expressed?

14 A. Perhaps. Although what I can tell you is
15 that in designing of the planned unit development
16 we anticipate that the water ought to be held
17 on-site. And we take a very responsible position,
18 that we have to accommodate the impacts that we
19 generate.

20 Q. Now let's speak of those swales, if
21 we might. And I think I started this by saying
22 that the thrust, as I understood your answer, was
23 to channel the water from the blacktop and the
24 roof tops into the swales, which would ultimately
25 lead it to the -- first you called it detention

1 and then retention?

2 A. Detention or retention; it could be a
3 combination of both.

4 Q. Can you locate the swales on any of
5 these plans for me?

6 A. I'm looking at the multifamily section. I
7 think it's section eight. Basically --

8 Q. That's the one that you talked about
9 being two or three-story?

10 A. Yes. Basically there are a series of
11 swales which run on the other side of the parking
12 lot. For instance, you can see with the dash
13 line indication of 95 and A on that section. So
14 basically this is a swale running under pipe,
15 underneath a road, swale, swale, and then down
16 into a detention pond, called Pond A, down on the
17 bottom side.

18 Q. Let's speak of the swale right next
19 to the parking areas.

20 A. Yes.

21 Q. Are you able to describe for us the
22 characteristics of that swale?

23 A. Yes? It's approximately a one on three
24 side slope. It will be -- one and three is
25 rather easy to mow and fairly comfortable.

1 MR. O'HAGAN: So let's just
2 go off the record for the moment.

3 (Whereupon there is a
4 discussion off the record.)

5 MR. O'HAGAN: Back on the
6 record.

7 BY MR. O'HAGAN:

8 Q. So then when you speak of that one
9 to three, as I understood your off the record
10 comment, Mr. Rahenkamp, for every three linear
11 feet that the swale traverses it falls one foot?

12 A. Yes.

13 Q. Can you tell us how wide those
14 swales are?

15 A. They vary in widths depending on how much a
16 volume of water is going through them. When
17 they're on the top side perhaps they're as narrow
18 as -- as three to five to ten feet maximum. When
19 they get down in the lower section they could be
20 as wide as 20, 25 feet.

21 Q. Would it be fair to say then that
22 the other things being equal, the narrower the
23 swale, the greater the volume of water passing
24 through it?

25 A. No.

1 Q. Wouldn't it be accurate?

2 A. It's the other way around.

3 Q. Wouldn't it be accurate to say that
4 if you had a given volume of water, the more
5 narrow the channel the faster it would have to
6 travel through to allow it to reach its
7 destinations?

8 A. You're missing the other functions. The
9 first would be the what is the bottom slope? And
10 if there is a significant volume of water, the
11 bottom of the swale would be wider. There's a
12 one and three side slope. If you have more
13 volume, then you're going to have a flat section
14 on the bottom.

15 Q. Now, if the slopes are not
16 maintained -- and, by the way, what maintenance
17 is required?

18 A. Well, after the first two or three years,
19 relatively little maintenance. In the first two
20 or three years they have to be administered to
21 because there may be some outwash areas and so on.
22 Normally we try and design them so that there's
23 not more than five cubic feet per second in terms
24 of velocity, which means that they shouldn't be
25 particularly steep. And normally we try to run

1 them around as long as we can; so, we run them
2 down fairly slowly.

3 Q. Tell us what maintenance is required.

4 A. If you have an erosion problem, obviously
5 you would go in and put in sod or seed,
6 restabilize it.

7 Q. If litter should fall into the swale,
8 wouldn't that be a problem?

9 A. Normally if the bottom slope is about one
10 percent, they're self-cleaning.

11 Q. Now, you said earlier that these
12 would be grassy; and, I assume, they would have
13 to be mowed?

14 A. That could be mowed; although, we've let
15 them go natural on many sites, as well.

16 Q. Do you recommend in this area mowed
17 or unmowed?

18 A. It's a choice that can be made by the homes
19 association or others in the future. Presently
20 we're making them, in construction, mowed so that
21 they could be mown.

22 Q. So that they could be mowed?

23 A. Yes.

24 Q. Wouldn't it be accurate to say then
25 that these swales are designed to leach out, for

1 want of a better word, the pollution that comes
2 from the cars and the parking lots and garbage
3 cans and so on?

4 A. Some of it, yes. Some of it will attach to
5 the grasses, some of the chemicals, and some only
6 attach to the soil particles. Yes, you're trying
7 to give it as much overland flow to allow as many
8 of the pollutants to drop out as possible.

9 Q. Your basically channelizing those
10 pollutants by the swales?

11 A. That's a poor characterization. You're
12 trying to spread them out, in fact.

13 Q. Let me rephrase it. You're
14 directing the flow into a swale that has the
15 width that you've described before?

16 A. Yes. But you have overland flow going to
17 it. In other words, you're trying to run the
18 water to the lowest point on the site as slowly
19 as possible and --

20 Q. Let me rephrase the question then.

21 A. Yeah.

22 Q. The way I understand you're saying
23 then is that -- that you run the flow from the
24 parking lots, from the areas next to the
25 buildings --

1 A. Yes.

2 Q. -- from the roof tops, from the
3 roadways and so forth into the swales?

4 A. Yes.

5 Q. Okay. So?

6 A. And in going across grass, as well.

7 Q. Then insofar as the parking lots
8 which are adjacent to the swales, you would have
9 to assume that that would not leach out, that
10 would just enter into the swale, those pollutants?

11 A. Well, some of it will enter more directly
12 than others. But in most cases in the middles of
13 the parking lots there's significant portions of
14 open space. We're obviously trying to run the
15 water over those as a sheet for as long as we can.
16 It's opposite to conventional engineering. We're
17 trying to run the water over ground and have as
18 much go across landscape as possible.

19 Q. Are you in a position to advise us
20 as to the linear footage of those swales?

21 A. No.

22 Q. I wouldn't think that you would be.
23 It's extensive; isn't it?

24 A. The entire project has swales and the
25 entire project is a surface drained project.

1 Essentially if you have I would suppose somewhere
2 on the order of 25 to 30 percent impervious cover,
3 you have essentially 65 to 75 percent of the site
4 in grass or in natural landscape. And you're
5 using every inch of that to absorb water.

6 Q. I wouldn't think that you could
7 calculate the swales while your sitting here now?

8 A. No way.

9 Q. Wouldn't it be accurate to say that
10 there's expense involved in building those swales?

11 A. Of course.

12 Q. Wouldn't it be accurate to say this
13 is a new school of engineering thought?

14 A. No. Good Lord, most of the development in
15 the early 20s and 30s is with surface engineering.
16 And most of the games we're doing now are coming
17 after World War II. It's old technology not new
18 technology.

19 Q. You can't tell us how much it would
20 cost to install this system of swales in Mr.
21 Brunelli's development?

22 A. Compared to what?

23 Q. Let's just speak of absolute dollars.

24 A. We have done cost estimates. I don't
25 recall what the cost estimates are in here. We

1 have done them, obviously.

2 Q. Getting back to the inquiry that I
3 was pursuing --

4 MR. FRIZELL: Excuse me, Bob.
5 Someone is here.

6 (Whereupon a brief recess is
7 taken.)

8 BY MR. O'HAGAN:

9 Q. Mr. Rahenkamp, as I understood your
10 testimony, the pollutant leaches out, so to speak,
11 within the swale. Doesn't there come a point --
12 and, by the way, when they leach out don't they
13 stay on the surface of the ground?

14 A. No.

15 Q. What happens to them?

16 A. Any one of several things. Either they can
17 attach themselves to some soils; some of them are
18 in chemical or compound form that can attach to
19 the soils. Others of them will dissipate simply
20 over time if they're exposed to air long enough.
21 And some of them will concentrate on the bottoms
22 of detention ponds because they're heavier; and
23 some of them will go downstream.

24 Q. You can't tell us the percentage of
25 any of those?

1 A. No.

2 Q. Doesn't there come a time when the
3 pollutants build up in the swales?

4 A. I'm sure over time there must be some
5 buildup, certainly.

6 Q. And if the pollutants built up in
7 the swale, wouldn't that make the swales less
8 effective?

9 A. Oh, I don't know. Over time -- we have had
10 swales in place for several years. Over time,
11 obviously, the grass grows and the natural
12 systems adjust to the water runoff system. So
13 the answer to that is I don't know specifically.
14 I don't know of any specific studies on that that
15 are specific enough to that point.

16 Q. Wouldn't -- so there are no specific
17 studies?

18 A. No, I don't know of any off the top of my
19 head. I'm not saying there aren't some.

20 Q. Wouldn't -- if the pollutants did
21 build up, that would be an item of maintenance;
22 wouldn't it?

23 A. If the pollutants built up, yes.

24 Q. How would an unsophisticated person,
25 such as myself, be able to look at a swale and

1 say well, the pollutants are built up?

2 A. You couldn't. The logical monitoring
3 points are places where it's going off site, for
4 instance, on the bottom of a detention Pond A.
5 You could easily put a monitoring station on the
6 pipe outflow and monitor the water situation
7 there, as you could on the other detention or
8 retention ponds.

9 Q. That was not planned for in the
10 plans submitted to the zoning board of adjustment?

11 A. We had put in a section on, what was it, a
12 silt trap or silt management or something. I
13 forget the exact language. But, yes, we had
14 anticipated that something like that would be
15 desirable and necessary.

16 Q. Now, ultimately, as I understand it,
17 the water winds its way down to the detention or
18 retention basins?

19 A. Yes.

20 Q. And there's -- in his testimony
21 before the zoning board of adjustment, General
22 Whipple had trouble with the designs with at
23 least two of basins. Were you present for that
24 testimony?

25 A. No.

1 Q. As far as you're concerned, were the
2 ponds designed correctly?

3 A. Yes. Otherwise, we wouldn't have put them
4 on the plan. They could be refined. And that a
5 public official could find some adjustments would
6 be necessary, given heavy technical review, I can
7 accommodate that and I can understand that.

8 Q. You did not physically, yourself,
9 design them as I understood your original
10 testimony?

11 A. No. We laid out the overall system.

12 Q. We'll go on.

13 A. Go ahead.

14 Q. With reference to the detention
15 basin, you're not scientifically able to advise
16 us as to what effect they have in terms of the
17 volume of pollutant runoff; are you?

18 A. Pollutant runoff, no.

19 Q. That would be -- that's not within
20 your field of expertise?

21 A. I wouldn't go that far, but, at least, do I
22 have some specific comment on it at this point?

23 No.

24 Q. Let's speak of your scientific
25 background.

1 A. I have a Bachelor of Science and I have
2 taken soils courses and I have taken science
3 courses.

4 Q. Now, you're saying that you are
5 scientifically capable to determine the amount of
6 the runoff?

7 A. No. I am saying I have had science courses
8 and I have done those kinds of jobs. However, I
9 have not gone out there with a dip stick and I
10 have not done the specific scientific measure.
11 Normally a limnologist, a hydrologist, some very
12 technical expert would do that sort of thing.

13 Q. Have you heard of General Whipple?

14 A. I've heard of General Whipple.

15 Q. Is he recognized as a knowledgeable
16 person in this field?

17 A. There are different schools of thought on
18 that.

19 Q. So you're not in a position to say
20 whether he's knowledgeable or not?

21 A. It would be -- I don't know him well enough
22 to characterize it exactly.

23 Q. Fine.

24 A. There are some questions about that.

25 Q. Fine. Now, Mr. Rahenkamp, wouldn't

1 it be accurate to say that the in terms of the
2 detention basin that really just holds the water
3 back and ultimately the same volume of water
4 finds its way downstream as if you didn't have
5 the detention pond?

6 A. Detention -- well, no. It depends on how
7 you wish to use the term. Detention would
8 normally hold some water. I'm sorry -- yes,
9 detention would dry out. Retention, retention
10 would hold the water.

11 Q. The same volume?

12 A. May or may not have a permanent pool; in
13 other words, we're detaining the water so we're
14 not compounding flooding problems downstream.

15 Q. And that's the purpose?

16 A. Yes. And at the same time to allow silt --
17 it slows down the water speed; therefore, silt
18 and other things drop out as well.

19 Q. Wouldn't it be accurate to say then
20 if the same volume of water found its way
21 downstream, insofar as water soluble pollutants
22 are concerned, the detention basin would have
23 absolutely no effect?

24 A. It's not accurate at all.

25 MR. FRIZELL: I think there's

1 an assumption that was never established; that is,
2 that it's the same volume of water getting
3 downstream in the detention pond. That's
4 assuming no percolation.

5 MR. O'HAGAN: I think Mr.
6 Frizell's comment is a fair one.

7 BY MR. O'HAGAN:

8 Q. I probably misunderstood you. I
9 understood you to say that.

10 A. No.

11 Q. Would you say then it would be
12 approximately the same volume of water?

13 A. No. There would be no more water and
14 probably less than there is under existing
15 agricultural.

16 Q. We've already agreed that there's
17 more runoff due to the impervious cover, more
18 volume of water?

19 A. More volume, yes.

20 Q. That comes into these detention and
21 retention ponds?

22 A. Yes.

23 Q. Wouldn't it be fair to say that the
24 great majority of that water ultimately finds its
25 way downstream?

1 A. No. Because the water, any water that
2 comes down, essentially three things can happen.
3 First, it can evaporate. The longer it takes for
4 it to move across the site, the more will
5 evaporate. Secondly, it will infiltrate. And
6 the slower it runs off, the rate, the heavier the
7 infiltration rate will be. And the third is some
8 of it will run off. By controlling the runoff
9 and running it over as much perimeter as possible
10 for as long as possible will slow down the water.
11 And the total volume going off the site is not
12 the same.

13 Q. You made no studies of how long it
14 takes rainfall, the furthest from this pond to
15 reach the pond; have you?

16 A. No. There are engineering factors that we
17 normally use.

18 Q. Fine. Let's speak of the water that
19 finally goes off the detention pond.

20 A. Yes.

21 Q. And we were speaking of water
22 soluble pollutants. Wouldn't they run off with
23 the water?

24 A. Some will; some will be absorbed in the
25 swales; some will drop out with the silt. In

1 other words, it depends on their weight. It
2 depends on how fast the storm is moving. Some of
3 them, if the storm is a horrendous 200-year storm,
4 obviously the water is going to push through so
5 fast you can't hold very much of it at all.
6 During the normal storm it would be an enormously
7 unusual occurrence. During a normal storm,
8 something in the 25 to 50-year range, the water
9 is going to be held in the pond. A substantial
10 part of it will settle out. Certainly the silts
11 will settle out and a substantial part of the
12 pollutant, as well. Over 50 percent of the nonpoint
13 source pollutants are identified as silt.
14 Without question we will substantially reduce the
15 silt load rather than general agriculture.

16 Q. General Whipple indicated that 50
17 percent of the pollutants from the site will run
18 off whether we use detention or retention ponds.
19 You don't have the scientific background to
20 refute that; do you?

21 A. No.

22 Q. Mr. Cracow in his environmental
23 impact statement said actually there would be a
24 greater runoff than there would be a greater
25 volume of the pollutants reaching downstream. Do

1 you agree with Mr. Cracow or General Whipple?

2 MR. FRIZELL: I'm going to
3 object.

4 MR. O'HAGAN: I retract the
5 question. I retract the question. That was
6 maybe not fair.

7 THE WITNESS: What's
8 applicable by the way, as compared to agriculture?

9 MR. FRIZELL: What kind of
10 pollutants are we about? Under what conditions?

11 MR. O'HAGAN: Let's get back
12 to this now.

13 BY MR. O'HAGAN:

14 Q. Mr. Rahenkamp, you're familiar with
15 the State Development Guide Plan; are you not?

16 A. Yes.

17 Q. And you recognize that the first
18 expressed goal is preserve sources of potable
19 water in the State of New Jersey; isn't that
20 correct?

21 A. That's one of several goals, yes. It also
22 has goals about producing affordable housing.

23 Q. Let's speak of goal one, about
24 preserving a source of water in the state. Do
25 you agree with that goal?

1 A. Of course.

2 Q. Is that a sound planning principle?

3 A. Of course.

4 Q. If you had your choice, other things
5 being equal, of building within or without a
6 watershed to the reservoir, which would you
7 choose?

8 A. Obviously there ought to be a watershed.
9 And there ought to be performance criteria for
10 which to protect the watershed water.

11 Q. Do me the courtesy of answering my
12 question.

13 A. I thought I did.

14 Q. You didn't.

15 Assume you had your choice to build
16 with or without the watershed. Assume a fair
17 objective planner, not retained by Mr. Brunelli.
18 Would you choose, from the broad planning
19 perspective, to build within or without the
20 watershed?

21 MR. FRIZELL: I object. The
22 question is absurd because it has so many
23 assumptions. It takes out so many variables. We
24 know that doesn't exist, can never exist; in fact,
25 that it's absurd. Are we talking about -- I mean,

1 how do you know that there is any area outside
2 any watershed, anywhere in the State of New
3 Jersey? What hypothetical choices are we
4 postulating?

5 Secondly, what type of
6 development are you postulating? Are you
7 assuming that the development is urbanized,
8 conventional development or suburbanized
9 conventional, or planned development?

10 I don't think it's fair to
11 ask the witness that kind of a question that
12 postulates hypotheticals that, in fact, cannot,
13 do not exist and, in fact, cannot exist.

14 MR. O'HAGAN: Let me rephrase
15 the question. Your points are well taken.

16 BY MR. O'HAGAN:

17 Q. Assume, Mr. Rahenkamp, that there
18 are areas designated as being outside of the
19 watershed to the Swimming River Reservoir. And
20 assume that it's your assignment to develop high
21 density housing such as Mr. Brunelli is proposing.
22 Being a fair, objective planner, would you
23 conclude it was better to build within or without
24 the watershed to the reservoir?

25 A. It's inapplicable for two reasons.

1 Q. Could you answer my question?

2 A. I will. I will.

3 Q. Fine. Fine.

4 MR. FRIZELL: He's trying to
5 answer the question.

6 A. In the first place, it's basic assumption
7 of the question assumes that agriculture is
8 somehow a bucolic use that doesn't create impacts.
9 Agriculture produces fertilizers, produces
10 substantial pollutant loads from the chemicals
11 used and, therefore, can't in any way be assumed
12 to be a bucolic use.

13 We have done work in the Newark watershed
14 and several reservoir sites. My position would
15 be I would prefer to have developement that I can
16 monitor by way of performance criteria and
17 monitor very closely in the reservoir areas
18 rather than leave it in agriculture or large lot
19 zoning, by which I have the least amount of
20 public control or management skills over.

21 Q. Assume for the moment that the water
22 quality in the reservoir presently is pure and
23 pristine; regardless of the farm uses that you
24 have described. I would ask you the same
25 question. If you had the choice of building

1 within or without the watershed of a high density
2 development, what would you choose?

3 A. This is not a high density development. I
4 don't accept this as a characterization.

5 Q. Now, Mr. Rahenkamp, you indicated
6 that General Whipple -- strike that.

7 Mr. Rahenkamp, is it sound planning
8 to try to develop similar uses in a neighborhood?

9 A. No.

10 Q. For instance --

11 A. No.

12 Q. -- should there be a buffer between
13 a high density area and a low density area?

14 A. Relatively there should be a buffer, but
15 not -- no. Our experience is they should be
16 heterogeneous and there's no reason why the
17 buffer, for instance, should be overstated. We
18 have open space strips between sections but not
19 extraordinarily.

20 Q. Mr. Rahenkamp, the density in some
21 parts of this plan reaches as high as 16 dwelling
22 units per acre. And on a gross basis it's
23 somewhere around six plus the office and
24 commercial and whatever uses you describe?

25 A. Yes.

1 Q. Are you familiar with the density of
2 this southeastern quadrant of Colts Neck as it
3 presently exists?

4 A. Not as a specific number.

5 Q. If I were to tell you that it's more
6 or less at the density of one dwelling unit per
7 every 50 acres. Might that be a factor that you
8 considered in determining the suitability of this
9 project for the location you propose?

10 MR. FRIZELL: I'm going to
11 object. I think again there's a statement in the
12 question about a southeastern quadrant as if
13 there's some meaning to that term. And I would
14 suggest that there is none, that it's an
15 orchestrated calculation by Mr. Queel (phonetic)
16 of which Mr. Rahenkamp -- with which Mr.
17 Rahenkamp is not familiar.

18 MR. O'HAGAN: Can I define
19 the area? I'll do that.

20 MR. FRIZELL: Whether you
21 define it or not, I think you're getting into a
22 whole series of questions that are not really
23 going to take us anywhere. But it's your
24 deposition.

25 BY MR. O'HAGAN:

1 Q. Mr. Rahenkamp, when I speak of the
2 southeast quadrant, I'm speaking of Route 34 to
3 the west, Route 537 to the north; and I'm
4 speaking of the area then east of 34 and south of
5 537. We're clear about the area, right?

6 A. Relatively.

7 Q. And that's where the Orgo tract is
8 located; isn't that so?

9 A. I don't know, but I'll accept it. Go ahead.

10 Q. You've told us already that you're
11 not aware of the density presently in that
12 quadrant?

13 A. We didn't calculate it, yes.

14 Q. If I were to tell you that the
15 density was one dwelling unit for every 50 acres,
16 would you feel that the placement of this project
17 as you've proposed in that area is consistent
18 with the principles of sound planning?

19 A. Well, you've misrepresented, in a planning
20 context, the area because you also have an
21 expressway interchange. You also have Colts Neck
22 Village; and you have an elementary school on the
23 bottom corner. So simply a gross density number
24 doesn't give me the planning facts necessary to
25 make a decision.

1 Q. Let's do it your way then. South of
2 Route 18 it's fair to say that there is virtually
3 no development in Colts Neck; isn't that right?

4 A. I don't know, but fine.

5 Q. Let's use Route 18 as a boundary to
6 the south.

7 You're right, the Atlantic
8 Elementary School is situated just to the west of
9 your tract.

10 Taking those facts into
11 consideration and bearing in mind the density
12 that I've just described, in your opinion is it
13 consistent with good planning to locate the
14 project that you've proposed in that area?

15 A. Very. The point is that by clustering the
16 development in an area like this you can leave
17 the bucolic landscape and farm areas and you can
18 justify keeping them open. If you don't allow
19 some cluster somewhere, somewhere you're going to
20 end up with minor subdivisions. That's the worse
21 kind of sprawl. If you get around the
22 interchange and around the Village, you make good
23 planning sense. You take the pressure off the
24 50-acre, whatever the intensity is. In fact,
25 this is consistent with planning as it was done

1 in the 17th and 18th century, before you got into
2 subdivisions. This is more consistent with sound
3 logical planning from day one.

4 Q. You mentioned pressures. Do I
5 understand you to say that this development would
6 take the pressure off Colts Neck for housing like
7 this?

8 A. It certainly moves toward your fair share
9 and, therefore, relieves the burden.

10 Q. You're concluding if Colts Neck
11 allowed this development their pressures would
12 diminish and perhaps reduce to nothing?

13 A. In proportion to that number that the
14 township is responsible for, certainly it affects
15 that number.

16 Q. Wouldn't this development, itself
17 create pressure?

18 A. In terms of?

19 Q. Development, more development?

20 A. No. I think that's a strange paradox. A
21 free-standing planned development will not
22 necessarily just generate additional sprawl. And
23 the town, if they plan properly, can very well
24 manage that process. I don't think in and of
25 itself it will be a gross generator. In fact, if

1 I can continue?

2 Q. Sure.

3 A. The sewer and water are planned on-site.
4 Therefore, you don't have trunk lines and so on
5 which might well have other people hooking on.
6 So by being basically a free-standing,
7 self-contained community you have the best
8 technique by which to manage and plan for what
9 has to happen here.

10 Q. So you're saying then the location
11 of this development where you've planned would
12 not create more pressure for Colts Neck?

13 A. No, I don't believe it will. No.

14 Q. Wouldn't the land owner to the east
15 feel that his property should be rezoned to be
16 compatible with the densities that you've
17 proposed?

18 A. I don't -- see, that's not planning logic.
19 That's legal logic. And it has nothing whatever
20 to do with planning in terms of planning large --
21 that doesn't necessarily follow. We have planned
22 unit developments done in the middle of
23 agricultural communities in which the open space
24 is kept agricultural lands. There's nothing
25 incompatible with the high density abutting low

1 density. They both gain.

2 Q. The location of this project would
3 not create additional pressures for variances
4 from adjacent and nearby property owners?

5 A. It may generate all kinds of requests. But
6 it doesn't mean that the town must acquiesce. It
7 may well be you have a defensible base to say
8 we've done our fair share and therefore we don't
9 need to accommodate sprawling development. You
10 have to acknowledge if we have our sewer plant
11 designed for this number of units, no matter what
12 they request, if the sewer plant is not
13 expandable there is no basis for intense uses.

14 Q. You've spoken of sprawled
15 development. How do you define it?

16 A. I define sprawl, predominantly large lot,
17 single family houses spreading across the
18 landscape, compared to doing clusters around
19 villages, what we can absorb, the intensity.

20 The worst possible solution - and I don't
21 understand Colts Neck - the worst possible
22 solution is large lot single family houses, the
23 worst possible. You have the least amount of
24 site plan review. You have the least amount of
25 opportunity from the public side to see what's

1 going to happen. And it uses up too darn much
2 land.

3 Q. Is sprawl also leapfrogging away
4 from developed corridors to the middle of a
5 virgin area? Is that sprawl?

6 A. You and I define "sprawl" in a very
7 different way.

8 Q. Is that an example of sprawl?

9 A. I don't believe it is.

10 Q. Do you recall that the State
11 Development Guide counsels against such a
12 leapfrog as I've described?

13 A. It counsels against sprawl. It doesn't
14 necessarily counsel against doing concentrated
15 developments around expressway interchanges where
16 there are adequate services, nor has an existing
17 village. No, quite the opposite.

18 Q. Now, we started to talk about
19 General Whipple. And you indicated that you
20 apparently had mixed emotions. Are there any
21 specifics that you can refer us to in that regard?

22 A. No.

23 Q. Are you familiar with his Mile Run
24 study?

25 A. I am familiar with some of it, yes. I

1 haven't reviewed it for several years. I don't
2 know General Whipple. I know his work.

3 Q. Basically you can't tell us much
4 about that at the moment?

5 A. No.

6 Q. Can you refer us to specific studies
7 relating to the effect of farmlands on the
8 reservoir?

9 A. Off the top of my head I don't recall. I
10 can generate that information.

11 Q. Can you refer us to specific studies
12 as to the affect of the equine, the horse
13 industry on the reservoir?

14 A. Whether there have been specific ones on
15 horses, I don't know. I know we've done and have
16 them available on dairy industry.

17 Q. Dairy. And dairy, I guess the
18 animals are fed all in one central location,
19 primarily; aren't they?

20 A. No, that's not a safe -- no, that's not a --

21 Q. I'm asking you.

22 A. No.

23 Q. It's not?

24 A. Sometimes it is and sometimes it isn't.
25 Obviously, it varies.

1 Q. You don't know whether the study
2 related to a central feeding area or not; do you?

3 A. It's not a feed lot operation. I know of
4 several studies on dairies we've done in eastern
5 Pennsylvania in the Susquehanna watershed. I
6 would have to review them to see which ones are
7 applicable.

8 Q. Fine.

9 By the way, Mr. Rahenkamp, you
10 somewhere refer to marketing of the -- or perhaps
11 I directed a question to you regarding marketing.
12 Are you familiar with the plans as to the time
13 for this development to come on board?

14 A. We had it originally as a five-year project.
15 I don't know if that's been changed.

16 Q. Would it be fair then to say that
17 somewhere over 200 units per year would both be
18 constructed and sold?

19 A. If it were a five-year project and there
20 are about 1000 units.

21 Q. I guess that is fair, then; isn't it?

22 A. Within relative ranges.

23 MR. O'HAGAN: I have no
24 further questions.

25 Before we start, would anyone

1 like another cup of coffee?

2 (Whereupon a brief recess is
3 taken.)

4

5 CROSS-EXAMINATION BY MS. HIGGINS:

6

7 Q. You indicated earlier --

8 A. I'm sorry, who are you?

9 Q. Kerry Higgins; I represent the
10 zoning board of adjustment.

11 A. Thank you.

12 Q. I believe you indicated earlier, and
13 if not it was in your report, that you felt that
14 this particular area, the Orgo tract, was best
15 suited for this type of development because it
16 was nearby to the Village Center; is that correct?

17 A. Yes.

18 Q. The Village Center of Colts Neck,
19 can you give me a rough breakdown of what it
20 comprises?

21 A. Frankly I didn't ride through it this
22 morning, so I'm saying from four or five years
23 ago. It's not an intense center. There's
24 obviously some scattered, relatively intense uses,
25 but not to the point it's a downtown area or

1 heavy concentrations. There are some municipal
2 uses. The school is there.

3 Q. A school, the Atlantic Elementary
4 School?

5 A. Yes.

6 Q. Do you know what grades that
7 encompasses?

8 A. As I recall it was K through six. I'm not
9 sure. Frankly, I don't remember.

10 Q. Maybe about 20 years ago when I was
11 in school.

12 A. Was it shorter than that? Sorry.

13 Q. Do you feel that the existing
14 commercial center would be adequate to handle the
15 load of the people in your planned unit
16 development?

17 A. I don't know the square footage that's
18 there. Normally --

19 Q. As it exists, what's built up now,
20 not the potential?

21 A. I don't know the square footage of it,
22 frankly, so I don't know. Normally there's a
23 fairly direct relationship between the square
24 footage, or the numbers of units and population
25 yield and the numbers of square foot of store

1 that it would support. So I frankly don't know
2 that number.

3 Q. Do you think that the people in the
4 proposed development here would be able to
5 satisfy whatever types of needs they need by
6 using the existing commercial center or Village
7 Center?

8 A. Not knowing exactly what it is, it wouldn't
9 be helpful for me to tell you. I don't know.
10 Obviously, they will use and use some of the
11 facilities that are there now. Whether they need
12 more is simply a function of the population.

13 Q. Do you recall whether there is a
14 grocery store, supermarket?

15 A. Yeah, there was as I recall.

16 Q. If I tell you there isn't?

17 A. You mean a 7-11 kind of thing?

18 Q. No, supermarket, a place where an
19 average family can go and do their weekly
20 shopping, an A&P, Shop Rite?

21 A. I have not driven through there. I don't
22 remember. We did 40,000 units this year. I
23 don't remember.

24 Q. Would you recommend that a planned
25 unit development be located near a supermarket

1 type --

2 A. It's not that critical. A thousand units
3 doesn't justify that, in and of itself. You need
4 closer to five to six thousand units. In and of
5 itself it couldn't justify that.

6 What normally is generated from 1000 units
7 is about the normal strip kinds of center, i.e.,
8 shoe repair, 7-11, a couple office spaces for
9 doctors and dentists, and so on.

10 Q. If I read you correctly before, and
11 correct me if I'm wrong, you indicated that from
12 an environmental standpoint or a control
13 standpoint that your preference would be put in a
14 planned unit development. You would prefer that
15 over an agricultural type of settlement because
16 you could control the runoff better; is that
17 correct?

18 A. No. What I was comparing was conventional
19 single family subdivision, which is basically
20 by-right, and a planned development.

21 Q. You were also discussing the runoff
22 on the site now?

23 A. And under existing agricultural generating
24 pollution loads, yes, we can control it better
25 under the PUD.

1 Q. The planned unit development would
2 be better over the agricultural use on that site?

3 A. Obviously on that particular site.
4 Obviously you need agriculture and you need
5 residential areas. The question is what's the
6 pollution load coming from them. On a planned
7 development I can control or manage the pollution
8 loads better than I can -- agriculture has
9 relatively the least amount of control.

10 Q. And then the difference between your
11 development, agriculture and then a two-acre type
12 zoning you can control it better than that, also?

13 A. You can undoubtedly control it under a
14 planned development than a by-right, yes.

15 Q. How about the volume, is there a
16 difference from the PUD rather than two-acre
17 single family house. This is a 214 acre tract.
18 So if we were zoning two acres, that would give
19 us 107 homes on that same tract?

20 MR. O'HAGAN: It would be
21 less than that.

22 MS. HIGGINS: That's right
23 because of the right of way, et cetera.

24 THE WITNESS: The difficulty
25 I have in answering the question directly is that

1 they would be on septic, individual wells. And
2 it's a matter of trade-offs more than it is of
3 identifying specific things.

4 We're into a sewer treatment
5 plant. The sewer treatment plant is in a
6 different watershed, not the same as the
7 reservoir. The septic fields would be in the
8 reservoir watershed area. So the answer is I
9 don't know specifically. I don't know the answer
10 to the question on a specific basis. It's a
11 matter of trading off. And volumes alone don't
12 necessarily mean anything in terms of pollutant
13 loads. They're not necessarily a direct
14 correlation.

15 BY MS. HIGGINS:

16 Q. If that's true, what different types
17 of pollution would be generated by your type of
18 development versus the two-acre zoning?

19 A. Obviously from more automobiles in a
20 planned development you're going to generate
21 pollutant loads that are generated by automobiles,
22 predominantly petroleum kinds of problems.

23 Q. That would be not present or as
24 prevalent in the two-acre zoning?

25 A. True. But on the other hand, there are

1 other kinds of pollution loads. For instance,
2 having a lot of grass where you need fertilizer
3 or using exotic chemicals to treat bugs and so on,
4 which is relatively uncontrollable on a single
5 family development, where it wouldn't be on a
6 planned development.

7 Q. Why would it be more controllable?

8 A. Because I can tell you where it goes, going
9 off site. And I can put a monitoring station
10 there; and I can essentially control the
11 environment coming from the site.

12 Q. You have to educate me. How can you
13 control the types of fertilizer?

14 A. I can't. But I can control it at its
15 outlet by the detention and retention ponds. I
16 can essentially or relatively control the water
17 quality and monitoring the water quality.

18 Q. By filtering?

19 A. By putting it through Weirs or checkpoints.
20 I can't in the single. It's improbable that you
21 would have detention pond are or design system;
22 therefore, no control points; therefore, much
23 more difficulty to monitor what's happening.
24 That's the difficulty of answering your question,
25 because with the single family it's hard to know

1 what the real impacts will be because it's not a
2 measureable occurrence.

3 Q. Your controls then would have to be
4 vigorously pursued? You wouldn't know about
5 these problems until five, six, seven, eight
6 years down the line?

7 A. Yes. They should be monitored.

8 Q. Your controlling device would be in
9 those detention/retention ponds; is that correct?

10 A. Yes.

11 Q. It would be monitored by what,
12 taking water samples?

13 A. Yes.

14 Q. Whose responsibility is that? Would
15 that be the homeowners association that would
16 have that responsibility?

17 A. Probably should be the public health
18 officer of the township or the county.

19 Q. So it's on the township to control
20 it rather than the developer?

21 A. It should, yes. It's a public monitoring
22 problem, just as would be any health, safety,
23 welfare problem of any development. And it ought
24 to be monitored by the public. It could be done
25 at the county, by the way.

1 Q. If we do have a problem in future
2 years with the detention/retention ponds with the
3 buildup of pollution located in them, what steps
4 would have to be taken at that point or what
5 would you suggest?

6 A. There are a whole series of mitigating
7 things. For instance, the bottom of the pond
8 could be cleaned out, gravels could be added in
9 the swales to increase the absorption of the
10 water or infiltration of the water along the way.

11 The key issue, by the way, is one of
12 concentration. In other words, to the degree I
13 can dilute, I have relatively less pollutant load.
14 So it's a matter of technical methods to spread
15 it out or slow it down to increase the
16 infiltration.

17 Q. At that point whose burden is it,
18 the town's, or the county health --

19 A. I don't know. The first line would be the
20 homeowners association because the swales and
21 basically all of the common space including the
22 ponds would go to the homes association. That
23 would be the first line of defense. Normally the
24 homeowners documents would have it, have the
25 right at the time to intervene if the management

1 had been done improperly; just as you can with
2 any property owner. You can intervene. Thirdly,
3 if it doesn't work, up to the town; if not, to
4 the county. And if not there, to the state, as
5 we do with heavy pollution problems now. There
6 are adequate remedies to protect the public.

7 Q. I don't recall exactly but if you
8 can refresh my memory about how much open space
9 are we talking about in your development?

10 A. In the designated open space there is 44
11 percent. And there is additional open space if
12 you look at the specific site plans. There's
13 substantial additional open space within each of
14 the sections.

15 Q. So each little yard and all, while
16 not being designated an open space, is in fact
17 open space?

18 A. Yes.

19 Q. Approximately how much acreage are
20 you talking about, if you can give me --

21 A. It's in the chart. Forty-four percent
22 yields 44.3 acres is in common open space, and --

23 Q. What was that number?

24 A. Forty-four point three was in common open
25 space. And then there's additional open space in

1 each of the sections. The total probably is on
2 the order of 60 to 65 percent. The total
3 probably of impervious cover is probably on the
4 order of 25 to 30 percent maximum.

5 MR. O'HAGAN: Can we just
6 interrupt and go off the record?

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

9 BY MS. HIGGINS:

10 Q. I think you just indicated that off
11 the record approximately 65 to maybe 70 percent
12 of the total area would actually be actual open
13 space?

14 A. Yes.

15 Q. Is it fair to say that open space is
16 going to be maintained by use, similar uses as a
17 single family dwelling in terms of fertilizer,
18 that type of care?

19 A. Well, you have a variety of open space, now.
20 You have the common open space which goes to the
21 homes association. That is an overall umbrella
22 organization. That's the 44 acres.

23 Q. How much of that would be actual
24 grassland?

25 A. Everything except that which isn't water,

1 except tot lots and tennis courts. Ninety-five
2 percent is going to be grass. It also
3 incorporated most of the major swales.

4 Q. So then the additional 25 percent
5 would also be probably grass area in terms of
6 people's lawns and grass areas in front of the
7 apartments, et cetera?

8 A. Yes.

9 Q. Safe to say that those are going to
10 be maintained by the use of fertilizer?

11 A. Yes. But at much lower application rates
12 than farm uses, obviously.

13 Q. But not as much a different
14 application as single family use?

15 A. No. That's accurate.

16 Q. We would really have then the same
17 amount of fertilization of this area in your
18 development versus the two-acre zoning, the
19 difference being that you feel that you can
20 control it actually by monitoring it?

21 A. Yes.

22 Q. You can't control it by preventing
23 it, you can only control it once it gets into
24 those detention ponds?

25 A. Yes.

1 Q. That amount of fertilizer is going
2 to go on that land either way we do it?

3 A. Yes.

4 Q. And if you can educate me again, the
5 water which is coming from rain, coming from roof
6 tops, whatever sources, is going either be
7 dissipated by evaporation; it's going to be
8 infiltrated into the ground, and/or run off into
9 the swale area?

10 A. If you draw an arrow in three different
11 directions, that's what it is going to do.

12 Q. Is there any general -- I'm sure in
13 your business you have some kind of general
14 figures as to how much - what do you call it -
15 percolates into the ground. Is that the correct
16 term?

17 A. Yes.

18 Q. How much goes into the ground versus
19 how much runs off?

20 A. Yes.

21 Q. Based on that type of soil?

22 A. Yes, to the predominantly Freehold soil.

23 Q. Very absorbent?

24 A. Yes, it's pretty good. The water table is
25 down five or six feet, relatively sandy, good

1 clay soil, good farm soil. And it will hold the
2 water fairly well, better than heavy clay soils
3 for instance.

4 Q. Any kind of percentage that you can
5 give me as to how much is absorbed into the soil
6 versus how much would run off?

7 A. Not off the top of my head, no.

8 Q. Which is more desirable, for it to
9 sink into the soil or for it to run off; or it
10 doesn't make a difference?

11 A. It's best for -- for it to infiltrate, best
12 that it would go into the ground. That way the
13 chemicals and heavy metals can absorb and would
14 absorb with the soils, be attached to the soils.
15 The more you spread it out the more infiltration,
16 the better. That also helps the reservoirs and
17 underground wells.

18 The key issue is you run the least amount
19 of water off the site as possible and hold the
20 most you can on-site.

21 Q. Does the existence of more blacktop
22 area, will that inhibit the amount of
23 infiltration in this type of a development versus
24 a two-acre type zoning?

25 A. Well, you're increasing the amount of

1 impervious cover, you're right; but you're
2 balancing it by running it into the swales and
3 detention ponds. Ponds, as well, will absorb
4 some water. What you're doing is eventually
5 balancing the equations. On the one hand you're
6 increasing impervious cover, and on the other
7 hand, you're balancing it better.

8 Q. Now, without the detention and
9 retention ponds would you say that the less
10 amount of water, as it falls from the clouds,
11 would infiltrate in this type of development
12 versus the two-acre zoning?

13 A. Based on the subdivision standards of the
14 township, as I recall them, we will infiltrate
15 more water with a PUD because of the swale design
16 than we would with a conventional road layout,
17 with a conventional storm system.

18 Q. What do you mean by that?

19 A. Putting on curb and putting in catch basins,
20 inputting it in pipe which allows very little of
21 it to hit the ground and spend some time running
22 over the dirt and running over the grass.

23 Q. Even though you have more impervious
24 cover?

25 A. Right. Which we're balancing it out by

1 designing it right.

2 Q. If the two-acre subdivision were to
3 be put in this area using your type system of
4 roads with no gutters and curbing, then that
5 would foster more infiltration?

6 A. Yes, would mitigate the difference.

7 Q. Okay. You indicated that you have a
8 free-standing, self-contained community. And I
9 wasn't sure exactly what you meant by that?

10 A. What I mean by that is that if you put a
11 development like this it could theoretically be
12 growth inducing. If you had to run a two mile
13 sewer line from here to the treatment plant
14 against which other users would all of a sudden
15 join on, that potentially could be growth
16 inducing. By having our own sewer plant and our
17 own water and not having a regional trunk line
18 going anywhere, it's very difficult or at least
19 more problematic for anybody else to get into the
20 system except ourselves. So we're not growth
21 inducing. We're basically clustering the
22 development in the town; it should absorb in one
23 place; servicing it ourselves. That's the least
24 growth inducing. It ought to take pressure off
25 the lands around it to keep them open.

1 Q. You indicated that in your
2 office/commercial off of 34 and at the bus stop
3 area you might foresee putting in convenience
4 type stores, newspaper type stands?

5 A. The bus stop would be the convenience type
6 of thing. On the other end, Route 18, it ought
7 to be more office type predominant.

8 Q. So the convenience type store
9 located up at the bus stop would be basically
10 that's a social service for your community? It's
11 not critical but you do it as a, you know, social
12 service for the planned unit development? Is
13 that right?

14 A. Yes. In the total gross context, the
15 commercial development doesn't represent an
16 enormous economic difference.

17 Q. Approximately how many people would
18 you picture being, residing in this development?

19 A. We have a report on the population
20 characteristics.

21 Q. Two point two?

22 A. That's realistic. Something on the order
23 of two to 3000 people.

24 Q. Would it be fair to say that two to
25 3000 people are going to need additional services

1 that aren't presently provided by the town in
2 terms of convenience stores or --

3 MR. FRIZELL: I think the
4 current status of services available in the Colts
5 Neck Village Center he may not be familiar with
6 it today versus a few years ago. But I think --

7 THE WITNESS: It's increased?

8 MR. FRIZELL: Yeah.

9 BY MS. HIGGINS:

10 Q. Just in general then, not taking
11 into account what is or isn't existing in Colts
12 Neck, normally would you see this type of
13 development generating additional buildup in its
14 vicinity, buildup of convenience stores; or is
15 that a normal pattern which you foresee since you
16 do so many of them?

17 A. Normally you build up a demand for offices,
18 demand for public health services, a demand for
19 day care centers, those things which you would
20 expect to be generated by this population. The
21 population mix is different than it is now;
22 relatively fewer children, more husbands and
23 wives working, many fewer people wanting to
24 consume family meals every night. There will be
25 a demand for restaurants. Normally they will

1 have demands for other services which may or may
2 not fit the pattern that's there now.

3 Q. When you were giving us your
4 credentials you said you were registered in New
5 Jersey. Is that the same as licensed?

6 A. Yes.

7 MS. HIGGINS: That's all I
8 have.

9
10 CROSS-EXAMINATION BY MR. LOCASCIO:

11
12 Q. Mr. Rahenkamp, I ask you the nature
13 of your discussions just now with Mr. Frizell
14 when you left the room for about a minute or two?

15 A. He was explaining to me who you represent.

16 Q. What did he say?

17 A. He said you're an attorney representing
18 another land owner applicant in the township.

19 Q. Anything else?

20 A. No.

21 Q. Now you said something about if a
22 project such as a PUD has its own sewer and water
23 system it's not growth inducing. Would you agree,
24 sir?

25 MR. FRIZELL: Excuse me, Mr.

1 Locascio. Could we just for Mr. Rahenkamp's
2 benefit - since I hadn't talked to Mr. Rahenkamp
3 for about two years - identify who you are and
4 where the property you represent is?

5 MR. LOCASCIO: Sure.

6 MR. FRIZELL: I thought he
7 ought to at least know what --

8 MR. LOCASCIO: I represent
9 Sea Gull Builders Limited, Incorporated. It's a
10 developer who owns another tract of land in Colts
11 Neck.

12 BY MR. LOCASCIO:

13 Q. Now what I'd like to know with
14 respect to your testimony concerning the sewer
15 and the water, that's going to be built on the
16 plant on the PUD tract; would you agree, sir?
17 First of all, do you know how much the whole
18 package will cost?

19 A. No.

20 Q. Mr. Radway, Scott Radway is
21 associated with your office; correct?

22 A. Yes, sir.

23 Q. And Mr. Nicholas DiNicolo, is he
24 associated with you also?

25 A. No.

1 Q. Do you know who he is?

2 A. No, not from that pronunciation.

3 He's with Killam Associates. I know Killam
4 Associates.

5 Q. Were they involved also in the
6 preparation of this project?

7 A. They did the sewer and water work, yes.

8 Q. Would you agree that if a high
9 density project could be built without the
10 necessity of building a private sewage plant and
11 instead could be built by means of tying into an
12 existing sewer and water system, would you agree
13 that the cost of that development would be
14 considerably or significantly less than the cost
15 of a development that requires its own private
16 plant?

17 A. Not necessarily. It depends on the
18 characteristics of the existing facility; what
19 would have to be done in terms of upgrades;
20 whether there's infiltration in the line. That's
21 not a truism. That's safe to use, no. It also
22 depends on how long the connection is.

23 Q. Assuming the connection is about 200
24 feet, that a high density project could be built
25 without building its own sewage plant but simply

1 tying in 200 feet to an existing line, would you
2 agree that the capital cost of that project would
3 be significantly less than the capital cost of a
4 project which requires the building of a sewage
5 treatment plant as required by this one, which
6 will exceed five million dollars?

7 MR. FRIZELL: I'm going to
8 object. Again, you're getting into a whole new
9 set of variables. If you want to take the whole
10 study that compares all the variables in one
11 situation and compares them to a controlled
12 atmosphere in another situation, then I think you
13 can get a realistic answer. When you're talking
14 200 feet, I think there's so many things that go
15 into it. What is the capacity of the downstream
16 facility? What is the nature of the facility
17 being tied into? What is the size of the project
18 being built? And what are the impacts of
19 expanding the lateral extensions and franchise
20 area which the downstream facility services?

21 THE WITNESS: Whether there
22 are pump stations. I mean --

23 MR. FRIZELL: And I don't
24 think that this witness necessarily is the way to
25 prove that point. Again, you can't have every

1 witness prove every point. That's a sewer
2 feasibility and that requires a very, very
3 detailed study to answer.

4 BY MR. LOCASCIO:

5 Q. Would you agree with this statement,
6 Mr. Rahenkamp: That if this site were on or
7 adjacent to -- this is now the Orgo site. If
8 this site were on or adjacent to a public utility
9 system, that both the capital cost and the
10 operating costs would, in all possibility, be
11 significantly lower than what they are presently
12 under this proposal? Would you agree?

13 A. In all possibility?

14 MR. FRIZELL: It could be
15 possible.

16 THE WITNESS: Yeah, anything
17 is possible. Yes, it is possible it would be
18 less. It depends. David was not misrepresenting
19 the actual factual thing. We need to know what
20 level of treatment would be at the existing plant;
21 what level of upgrading would have to be given to
22 it; how many units are we talking about; are the
23 lines sized adequate to take that number of units
24 going through it; do you have to expand existing
25 lines.

1 MR. FRIZELL: I'm going to
2 object and direct the witness not to answer
3 questions about sewer cost and sewer feasibility.
4 It's not in his report. Do your homework and do
5 it with your own witnesses. He has submitted
6 reports. He, himself, has submitted reports. He
7 signed reports about the land plan for this
8 facility. Killam Associates is available to be
9 deposed. And if you want to depose them and
10 bring them --

11 MR. LOCASCIO: He has
12 testified at length about the swale system and
13 sewage treatment plant facility.

14 THE WITNESS: No, no.

15 MR. LOCASCIO: I'm not
16 finished. I haven't asked questions that are not --
17 I think for that reason they will be strictly
18 that go to the questions brought out on direct
19 examination.

20 MR. FRIZELL: You better get
21 off the cost of the sewer system. It's not in
22 his testimony.

23 THE WITNESS: The swales are
24 different than the sewer plant.

25 MR. O'HAGAN: I think you

1 could pose certain hypotheticals and assumptions
2 in your question, Mr. Locascio. And if the
3 assumptions were agreed upon, you could get an
4 answer from Mr. Rahenkamp. And that might be the
5 line that you're leading to.

6 MR. FRIZELL: I think the
7 whole line is out of whack.

8 MR. LOCASCIO: Why don't we
9 do each question rather than object to a line of
10 questions. I'm going to ask a question. If you
11 have an objection, raise your objection.

12 MR. O'HAGAN: Couldn't you do
13 it from a planning perspective as opposed to
14 purely engineering costs, from the broad planning
15 perspective?

16 MR. LOCASCIO: Let me do it
17 this way.

18 BY MR. LOCASCIO:

19 Q. Mr. Rahenkamp, let's assume the
20 project that you have before us, the Orgo project,
21 assume that that project was within 200 feet of a
22 sewer and water supply. Would you agree that the
23 cost would be less to tie in to those lines
24 rather than build your own sewer treatment plant?

25 A. Given that scenario, there is no way of

1 accurately predicting that number because I don't
2 know.

3 Q. I'm not asking for a number.

4 A. Wait a minute. I cannot tell you the
5 relative cost of whether it's more or less
6 expensive without knowing the characteristics of
7 the system. It may well be an uphill system,
8 downhill. I may have to build pump stations.
9 There's no way. The two hundred feet is not the
10 significant factor. I have sites alongside of
11 existing sewer plants and the costs of going into
12 the plan is four million dollars because I've got
13 to build third stage treatment on a second stage
14 plant. It doesn't tell me anything that gives me
15 something to make a decision about 200 feet. It
16 doesn't matter. What matters is the total cost
17 of two projects compared --

18 Q. Assume then this: That the project
19 of Orgo is 200 feet from sewer and water
20 facilities which have the capacity to take the
21 proposed development. Would it be --

22 A. It depends on the 200 feet.

23 Q. Let me finish the question.

24 A. Go ahead.

25 Q. Assuming the capacity is there,

1 would it cost less to tie into those systems than
2 to build your own sewer treatment plant?

3 A. Probably or possibly. However --

4 Q. Let me ask you --

5 A. Wait a minute. Now it's my turn.

6 I've got two different watersheds here.
7 I may well have to go to pump stations in order
8 to get from one watershed to the other. I've got
9 Route 18 and I have to put a line underneath 18.
10 It's not a matter of simply saying 200 feet.
11 It's a matter of saying what is the total cost of
12 servicing this project. What are the line sizes?
13 Can this number of units be accommodated in the
14 stream outflow? Can it be accommodated throughout
15 the system?

16 You're just trying to deal with one
17 variable. That's not rational.

18 Q. You've said that in producing this
19 project there would be a satisfaction of the
20 Colts Neck fair share. Could you agree that the
21 cost of the project is the main ingredient which
22 goes into determining the least cost or low and
23 moderate income housing?

24 A. In the first place, I didn't say that this
25 would satisfy their fair share. I said it may

1 satisfy a proportional share of their fair share.
2 To the degree that it moves forward it's
3 satisfying a certain portion.

4 Q. Okay.

5 A. In terms of satisfying the least cost side,
6 is it site-specific to this site? Obviously it
7 is a function of cost of unit, yes.

8 Q. Meaning?

9 A. The total cost.

10 Q. The total cost?

11 A. The cost of the ground, the cost of the
12 improvements, the total package.

13 Q. Assuming -- would you agree that the
14 lower the cost of the project, the lower the cost
15 of each unit that can be sold? In other words,
16 the unit can be sold cheaper if the total cost is
17 less; would you agree with that?

18 MR. FRIZELL: Assuming that
19 the builders made a profit?

20 MR. LOCASCIO: Yes, of course.
21 Assuming the same profit margin.

22 MR. FRIZELL: And you're
23 asking this question as to all the units being
24 sold, not as to low and moderate income housing
25 units?

1 MR. LOCASCIO: That's correct.
2 I'll get to that.

3 THE WITNESS: I'm sorry. Ask
4 the bloody question again, if you will.

5 MR. LOCASCIO: Sure.

6 BY MR. LOCASCIO:

7 Q. Would you agree that if the total
8 cost of the project is less, that each dwelling
9 unit can be sold at a cheaper price?

10 A. Assuming the developer is having exactly
11 the same profit margins, yes. That's not
12 necessarily a safe assumption.

13 Q. Now, how many of the units -- you
14 said there were 1253 units. How many of those
15 would be available for low income?

16 A. I don't know the new cost breakdowns. We
17 did them back in '80. I don't know what they are
18 now.

19 Q. How many of them back in '80 were
20 low cost units?

21 A. We didn't designate the separation at that
22 time because Mount Laurel II had not yet be
23 resolved. We were talking least cost on all of
24 it.

25 Q. What I want to know now then whether

1 you are in a position to tell us of the 1253
2 units how many are for low income housing and how
3 many are for moderate?

4 A. I'm not in a position to tell you that now.

5 Q. You have not made the calculation?

6 A. No.

7 Q. You can't tell us whether any of
8 them qualify for low income housing?

9 A. No. I didn't make the calculations so I
10 can't tell me you that.

11 Q. You can't also tell us whether any
12 of them would be available for moderate income
13 housing?

14 A. I can't tell me you any of the statistics
15 on that, no. I did not do those calculations.

16 Q. Who did them?

17 MR. FRIZELL: Do you know?

18 A. No, I don't know.

19 Q. All you can tell us is that the
20 whole project, the 1253 units will be done under
21 the theory of least cost housing; is that correct?

22 A. Yes.

23 Q. And basically you try and not cut
24 corners, you try and get benefits from the town,
25 bonuses from the town? You try and cluster? You

1 can do it for as little money as possible so you
2 can sell them for as little as possible; is that
3 basically the theory?

4 A. No, no. The theory is that you do less
5 development so that you have less environmental
6 impact; so that you do a more rational job; and
7 so that you adjust the subdivision standards to
8 some rational basis. But it is not only to the
9 point to reducing the cost of housing. It is, in
10 fact, to doing a better job.

11 Q. The object of least cost housing is
12 not to make housing available?

13 A. It is to do both.

14 Q. Do you have any idea how much the
15 least expensive residential unit would cost on
16 this project?

17 A. No. I didn't do those calculations
18 recently.

19 Q. Now, there were certain parts of
20 your report which really weren't gone into at
21 length during the course of the deposition. But
22 basically, as I understand your reports, you talk
23 about services, municipal services or the effect
24 of the project on municipal services, fire,
25 police, school; correct?

1 A. Yes.

2 Q. And I think at one point you said
3 that the total cost or increased cost generated
4 by this project for the purposes of school would
5 be about \$100,000; is that correct?

6 A. We gave a series of equations. I don't
7 know where the \$100,000 -- I don't know where
8 you're even getting that. We gave a series of
9 equations, yes. It would produce a tax profit.

10 MR. FRIZELL: Radway did that?

11 THE WITNESS: Yeah.

12 BY MR. LOCASCIO:

13 Q. He was your associate who testified
14 before the Planning Board?

15 A. Yeah.

16 Q. Whatever the additional cost or --
17 strike that question.

18 You'll agree in this project would
19 have an impact on the municipal services?

20 A. Of course, any project would.

21 Q. Any project does.

22 Would you agree that of this project
23 consisting of 1253 units would have "X" effect
24 upon or "X" impact upon the services, fire,
25 police, schools that a project of approximately

1 half those units would have, approximately one
2 half "X" impact upon the services?

3 A. No.

4 Q. Would you agree that the main
5 ingredient that goes into the impact that a
6 project has upon services is the number of people
7 that are added to the municipality?

8 A. That's one of the factors, yes. However,
9 with the homeowners association and with a PUD
10 you have some intermediate management system by
11 which the impacts on the municipality would be
12 less than if you're simply comparing raw numbers.

13 Q. The PUD isn't going to have a school
14 is it? Not a police department?

15 A. No, no.

16 MR. FRIZELL: Let me object.
17 Again, it's outside the scope of his testimony.

18 MR. LOCASCIO: It's in his
19 report, Mr. Frizell.

20 MR. FRIZELL: It's a
21 hypothetical project, number one; and secondly,
22 it seems to me the only way to adequately make
23 any kind of a fair assumption or a fair analysis
24 that's going to have any meaning for this
25 deposition is to get all the variables under

1 control. When this study was done back in 1979
2 and 1980 of municipal it was done as a service to
3 the municipality, to try to give them some
4 informed information as to what impact this
5 project would have on the municipality.

6 Personally, I don't think it
7 has anything to do with the issue in the case, in
8 the exclusionary zoning case. It has very little
9 to do with it. Mr. Rahenkamp was not hired for
10 the purpose of analyzing this project vis-a-vis
11 any other project. He only analyzed this project.
12 If you want the impact of your own project,
13 you're perfectly free to hire a witness if you
14 think it is a relevant issue. I don't think it
15 is.

16 BY MR. LOCASCIO:

17 Q. I don't want to give you any other
18 hypotheticals. I want you to use all the facts
19 of the Orgo proposal. Just cut it in half.
20 Instead of 1253, you have 626.

21 MR. FRIZELL: I object to the
22 question. It's really absurd. Which half are
23 you going to take out? Which units are you going
24 to take out? How many units are going to be
25 generated; and the -- and services, demography?

1 western part of the town?

2 A. That's one of the factors, yes.

3 Q. Do you know how much Mr. Brunelli
4 paid for this property?

5 A. I don't remember anymore, no.

6 Q. So you're not really in a position
7 to tell us whether the Orgo property was cheap or
8 expensive; are you?

9 A. Well, I did the numbers originally and we
10 had numbers on it.

11 MR. FRIZELL: Can I object,
12 Bob? You had a two or three-hour deposition.
13 You know you're way beyond -- I didn't ask any
14 questions. And the only other person that asked
15 questions about this was the board of adjustment.
16 Your beyond redirect. How long are we going?

17 MR. O'HAGAN: Two more
18 questions and it will do it.

19 BY MR. O'HAGAN:

20 Q. So as I understand it, you can't
21 tell us that, what the price of Mr. Brunelli's
22 property was, as to whether it was a cheap price
23 or not?

24 A. I don't remember what the price was. We
25 did the pro formas on this about five years ago;

1 what they are now, I don't know.

2 Q. And assume now that a developer on
3 either the eastern or western side could purchase
4 the land for either a comparable or a lesser
5 price. Might that be a factor that would
6 motivate development on either the eastern or
7 western side of the town?

8 A. It's one of about ten factors. I'll
9 acknowledge that the price of land is one of
10 those ten. More than that, until you see a
11 specific set of facts, I can't tell you. I don't
12 know the cost of improvements, which may be
13 substantially greater or less. I don't know the
14 roll of the land. I don't know. There are many
15 other factors that go into the final equation of
16 what it costs per unit and whether it's
17 cost-effective. Without having those, I can't
18 help you.

19 MR. O'HAGAN: Mr., Rahenkamp
20 I have no other questions.

21 THE WITNESS: Thank you.

22 (Whereupon the witness is
23 excused.)

24 (Whereupon a luncheon recess
25 is taken.)

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C A R L E. H I N T Z, sworn.

DIRECT EXAMINATION BY MR. O'HAGAN:

Q. Mr. Hintz, would you outline for us your educational background and your professional credentials?

A. Certainly. I have a Bachelor's in -- Bachelor of Arts in city planning and physical geography from Rutgers University. I have a Bachelor of Science in landscape architecture from Rutgers University. I have a Master's in urban planning and environmental planning and design from New York University. I have done graduate work at Princeton University and done graduate work in environmental analysis at Harvard University. And I have completed all my course work and am working on my dissertation for my Ph.D. in environmental planning at Rutgers University.

Q. Have you achieved your Ph.D. as yet?

A. No, I haven't.

And I -- my professional credentials include membership in the American Society of

1 Landscape Architects. I'm a member of the -- I'm
2 a certified planner in the American Institute of
3 Certified Planners. I'm a professional planner
4 licensed by the State of New Jersey. And I am a
5 legislative chairman of the American Planning
6 Association New Jersey chapter's legislative
7 committee; a member of the American Planning
8 Association.

9 MR. O'HAGAN: Off the record.
10 (Whereupon there is a
11 discussion off the record.)

12 MR. O'HAGAN: Go back on the
13 record.

14 BY MR. O'HAGAN:

15 Q. Are you retained by any
16 organizations for planning purposes? And I'm
17 talking about as opposed to private clients.

18 A. Yes. I worked for the -- I'm a consultant
19 to the East Brunswick Township and to the East
20 Brunswick Redevelopment Agency. My firm is
21 consultant to Metuchen On-site Planning Review;
22 to the Township of Washington in Mercer County on
23 a variety of things, including planning,
24 landscape architecture, site review, and master
25 planning; Delaware Township in Hunterdon County

1 on master planning. That's it, private clients.

2 Q. Now, Mr. Hintz, as I understand it,
3 there was a conference before Judge Serpentelli
4 of a group of planners involved in these Mount
5 Laurel type cases that were before -- that are
6 going to be tried before him. And a formula was
7 developed for use by the planners; is that
8 correct?

9 A. Well, a formula was developed for
10 discussion and use in the Urban League case
11 facing Middlesex County.

12 MR. FRIZELL: Excuse me. Off
13 the record.

14 (Whereupon there is a
15 discussion off the record.)

16 BY MR. O'HAGAN:

17 Q. Mr. Hintz, we've had an off the
18 record discussion; and as I understood Mr.
19 Frizell, he directed you not to answer questions
20 as to, firstly, how the formula was derived;
21 secondly, as to what the formula actually was and
22 what was agreed upon. Is that correct?

23 A. That's correct.

24 MR. O'HAGAN: I think that
25 was a fair characterization of what went on off

1 the record.

2 MR. FRIZELL: I don't think
3 so.

4 MR. O'HAGAN: Well, if it
5 wasn't, why don't you flesh it out, then?

6 MR. FRIZELL: Well, I just
7 don't think that in this context that we ought to
8 be doing discovery about these proceedings.

9 MR. O'HAGAN: I understood
10 you to say that you directed him not to answer
11 questions as to what the formula was - and which
12 I was going to ask him - and then how it was
13 derived, which I probably was not going to ask
14 him.

15 MR. FRIZELL: Yes, I would
16 object to your answering questions. I direct him
17 not to answer it.

18 I would point out, for
19 instance, I asked Mr. Queel questions about his
20 report in this case; I think that's appropriate.
21 But when there's an ongoing discussion, an
22 attempt by people to reach a consensus in the
23 profession and the discussion isn't even
24 concluded yet, I think it's inappropriate for us
25 to start doing discovery in the midst of that and

1 attempt -- the Judge has made it very clear to me
2 that the participation by the planners who
3 consult with my clients, for instance, Mr. Hintz
4 and others, in those discussions, are totally
5 without prejudice. And I don't know how he could
6 come to that, "without prejudice" means -- if it
7 means that we can cross-examine him about what's
8 going on and make it part of the record in an
9 individual adversarial proceeding.

10 BY MR. O'HAGAN:

11 Q. Let me ask you this, Mr. Hintz.
12 Assume that a formula is finally agreed upon.
13 Will you be revising your calculations?

14 A. If I can agree with it, yes.

15 MR. O'HAGAN: Off the record
16 for a moment.

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

19 MR. O'HAGAN: Back on the
20 record.

21 If the record can reflect the
22 fact that we had an off the record discussion and,
23 as I understood Mr. Frizell's comments, that
24 while it's likely Mr. Hintz will work the figures
25 in the formula through, so to speak, after it's

1 developed by the planning group headed by Carlo
2 Lehrman (phonetic), he likely will or in all
3 probability will rely upon the formula that he's
4 developed as expressed in his or the --

5 MR. FRIZELL: We may present
6 them both as reasonable approaches to the same
7 problem. That may be the difficulty that we're
8 having.

9 MR. O'HAGAN: If that's the
10 case, I would like to depose Mr. Hintz once the
11 new figures are developed.

12 MR. FRIZELL: I think that we
13 had ample opportunity for discovery in the case
14 on these issues.

15 MR. O'HAGAN: See, I made the
16 same offer with Mr. Queel, that once he worked
17 the figures through he would be available for
18 deposition.

19 MR. FRIZELL: Well --

20 MR. O'HAGAN: But in any case,
21 let's go on from here now.

22 BY MR. O'HAGAN:

23 Q. Mr. Hintz, can we first speak of
24 concepts and approaches to the problem? Do you
25 understand that one of the goals of the State

1 Development Guide Plan is to preserve agriculture?

2 A. It's the stated purpose of the Guide Plan
3 to select out areas that are suitable for their
4 agriculture.

5 MR. O'HAGAN: Would you
6 repeat the witness's answer, please?

7 (Whereupon the last answer is
8 read back by the Reporter.)

9 BY MR. O'HAGAN:

10 Q. Are you saying that, Mr. Hintz, that
11 the way you understand the State Development
12 Guide Plan it's only those areas that are given
13 an agricultural designation that should be
14 preserved?

15 A. They're interested primarily in looking at
16 large blocks and large concentrations of
17 agricultural land and designating those as a
18 category of their recommended policy for, you
19 know, for the Guide Plan. So there were four or
20 five categories: growth, limited growth,
21 agriculture, and conservation. And there was a
22 fifth, I think, urban. And in trying to
23 determine which areas were most suitable for
24 agricultural, they wanted to look at areas
25 suitable, at large blocks of land for

1 agricultural preservation.

2 Q. Are you saying that if the
3 agricultural land wasn't located in the area
4 designated as agriculture, there is not a State
5 goal or purpose in preserving it?

6 A. They were looking at the broad policy
7 questions for the State as a whole. I don't know
8 whether they were -- I mean, I don't think that
9 would be contrary to the purpose of the Guide
10 Plan, but -- just as preserving environmentally
11 sensitive lands, you know, in areas that were
12 designated growth. And if a municipality was
13 entirely designated growth and had
14 environmentally sensitive lands, if that
15 municipality wanted to preserve those lands, it
16 would not be contrary. So the same thing would
17 apply to agricultural lands.

18 Q. Speaking of Colts Neck, while it has
19 not been designated as agricultural area on the
20 SDGP, it's a worthy goal to preserve the
21 agricultural base?

22 A. Certainly.

23 Q. And as a matter of fact, didn't the
24 SDGP indicate that agriculture throughout the
25 state should be preserved, whether or not it was

1 specifically identified as an agricultural area?

2 A. They're looking at the importance of, you
3 know, food production overall for the state. And
4 I think that that's a very valid concern of
5 theirs, yes.

6 Q. And similarly now the SDGP
7 identifies as one of its goals the preservation
8 of watersheds?

9 A. Potable watersheds.

10 Q. Do you recognize that as a worthy
11 planning goal?

12 A. Certainly.

13 Q. And similarly, they speak of the
14 maintenance of a land bank for future generations.
15 That, too, is a worthy planning goal; is it not?

16 A. I believe it is; but I don't know that. I
17 don't have a copy of the Guide Plan with me, and
18 I don't know that that's the exact language that
19 they use.

20 Q. Okay. Now, the SDGP also recommends
21 that growth, if it's to occur be within or
22 adjacent to areas with infrastructure such as
23 sewer and water. Do you recognize that as a
24 worthy goal from a planning viewpoint?

25 A. Well, I would offer this. That when the

1 Guide Plan was prepared, they were looking at it
2 as a policy document for investment of State and
3 Federal dollars for -- and other government money,
4 you know, for infrastructure; whether it be roads,
5 sewer or water facilities, at the time the Guide
6 Plan work was first initiated back in 1971-72.
7 And up until when the revised draft came out, the
8 whole tenor of funding for sewer and water and
9 road programs has all be done through public
10 agencies, through public entities. That has
11 since changed.

12 Q. Let's do it a little different way,
13 Mr. Hintz. Pardon me for interrupting you. I
14 think we're getting off the track.

15 You, as a planner, is it a worthy
16 goal from your viewpoint to preserve agriculture?

17 A. Agriculture?

18 Q. Yes, agricultural lands?

19 A. Sure.

20 Q. From your viewpoint as a planner, is
21 it a worthy goal to protect sources of potable
22 water?

23 A. In their proper place, yes.

24 Q. From your viewpoint as a planner, is
25 it a worthy goal to maintain land banks in

1 reserve for future generations?

2 A. Yes.

3 Q. From your viewpoint as a planner, is
4 it a worthy goal to locate developments where
5 infrastructure exists or adjacent to such areas?

6 A. I don't agree with that particular premise,
7 no. I think a lot of that should be privately
8 funded now.

9 Q. Now, from your viewpoint as a
10 planner, would you agree that it's a worthy goal
11 to rehabilitate the cities and the urban centers?

12 A. Certainly.

13 Q. And would you agree that from a
14 planning viewpoint the expenditure of monies to
15 build up the cities so as to make them more
16 habitable is a worthy goal?

17 A. Along with other goals, yes.

18 Q. And similarly, do you understand
19 that it's a worthy planning concept or goal to
20 not leapfrog development?

21 A. Yes, I do.

22 Q. And that's a goal you endorse?

23 A. Yes.

24 Q. Why do you endorse that goal?

25 A. Because it leads towards a sprawl pattern

1 of development, one that is costly in terms of
2 providing services and costly in terms of the
3 environmental, costly in terms of social and
4 community services.

5 Q. What is leapfrog development, by the
6 way?

7 A. Leapfrog development is what is now Colts
8 Neck, for example, large subdivision tracts of
9 one and two-acre lot subdivisions scattered
10 throughout the municipality in a helter skelter
11 type of fashion, intermingled with vacant and
12 farmland in between. In order to get to any of
13 that subdivision developments, one has to travel
14 along roads in the township, mostly local roads,
15 to get to that development and then, in turn,
16 they have to drive in other directions to get to
17 services, community facilities, stores, shopping,
18 schools, et cetera.

19 Q. And would you also say it was a
20 leapfrog development to develop away from
21 developed areas where there's present
22 infrastructure and jobs and homes and so forth?
23 Would that also be leapfrog development?

24 A. No.

25 Q. That's not?

1 A. No, not if it's concentrated development.

2 Q. I ask you to assume that the
3 development that is proposed is some two to two
4 and a half miles from a development corridor on
5 the east, and some to two and a half miles from a
6 development corridor on the west. And I'd ask
7 you to assume further that a developer proposes
8 to construct a concentrated development in a
9 sparsely settled area and in an area where
10 there's no water or sewer and few jobs. In your
11 opinion, is that leapfrog development?

12 A. No. There are adequate measures for --
13 it's only two and a half miles, for example, to
14 growth areas, to jobs. It's only -- it's a short
15 distance to other facilities. And in addition to
16 that, there is a concentration of services, both
17 retail and office facilities, transportation,
18 services that are far better at this site.

19 Q. Mr. Hintz I wasn't asking this site.

20 A. Far better at the location that I have in
21 mind than a location that's found in a lot of the
22 growth areas. I know of a lot of growth areas
23 that if I were the planner for that particular
24 municipality I might want to see growth occur in
25 a different way, because it might be leapfrog

1 development, even within a growth area designated
2 according to the State Development Guide Plan.

3 Q. So then I understand you to say the
4 development of a densely -- of a dense
5 development some two to two and a half to three
6 miles away from the corridors of development and
7 in an area with no sewer and and no water and few
8 jobs and merely convenience shopping is not
9 leapfrog development?

10 A. You're characterizing it in a way that I
11 don't characterize it, so I can't agree with what
12 you've stated.

13 Q. Mr. Hintz, in order for an area to
14 be developed as an agriculturally desirable area,
15 what factors have to be present?

16 A. As an agriculturally viable area?

17 Q. Yes.

18 A. It depends on a number of circumstances,
19 but certainly we would want -- I think one of the
20 first things that I would want to look at is the
21 existence, on a regional basis, of a large amount
22 of agricultural land and farming activity.

23 Q. Could we just stop at that point?

24 A. Sure.

25 Q. Pardon me for doing this. How large

1 would the land area have to be that's devoted to
2 farm purposes?

3 A. I don't know. But I would look to find at
4 least several municipalities where they all might
5 be in an agricultural area, where there was a
6 large amount of agricultural activity.

7 Q. So then what your saying is you
8 would eliminate from your definition of what is
9 agriculturally desirable one municipality
10 standing alone which, even though it might
11 provide a great number of acres that are devoted
12 to agricultural purposes --

13 A. If that municipality could focus its
14 development and has not had a past development
15 practice that will interrupt that or cause there
16 to be, you know, residential development or other
17 development within the agricultural area, then it
18 might work if the area is large enough; if it
19 doesn't have the intrusion of those nonfarming
20 activities in that particular area.

21 Q. How large does the area have to be?

22 A. I don't know.

23 Q. If I were to make a hypothetical and
24 ask you to assume that two-thirds of the land in
25 a particular town was used for agricultural

1 purposes, might that inspire you to say that the
2 area should be designated for agricultural
3 preservation?

4 A. No. It would depend on a number of factors.
5 I would have to look at a number of different
6 factors.

7 Q. If I were to ask you to assume that
8 the number of acres in agricultural use remained
9 more or less constant for the last ten years,
10 might that be a factor you would consider in
11 designating the area for agricultural
12 preservation?

13 A. I don't know what you mean by "constant."

14 Q. The number of acres that is used for
15 agricultural purposes is grossly the same?

16 A. That's only, you know, one of many
17 variables that I would have to look at.

18 Q. If I were to ask you to assume that
19 the farmers in the area were active farmers and
20 vigorously grew their crops and grew their crops
21 and cultured their animals, might that be a
22 factor that would inspire you to say that an area
23 should be designated agricultural?

24 A. It would be one consideration; but it would
25 depend upon whether they were a tenant farmer or

1 an owner farmer. It would depend upon whether
2 their farming activity is one that is
3 economically viable or, you know, just holding
4 the ground and just planting it with something.
5 It would depend on so many different variables.
6 You're talking such hypotheticals it's hard for
7 me to say yes.

8 Q. With reference to the viability, I
9 ask you to assume that the land price on the
10 sales of the farms remained high, might that be a
11 factor that would call you to -- compel you to
12 designate an area as desirable for agriculture?

13 A. Again, I can only say what I said before.
14 It's one of the of many vary abilities that would
15 have to be considered.

16 Q. I ask you to assume that there was
17 investment in the farms in terms of capital cost.
18 Would that be a factor that you consider in
19 saying the land should be preserved for
20 agriculture?

21 A. Again, my previous answer, that would be
22 one of many.

23 Q. What other factors would you
24 consider besides the ones -- strike that.

25 If I were to ask you to assume that

1 there was no sewer or water in the municipality,
2 would that be a factor that you would utilize in
3 determining whether it should be preserved for
4 agriculture?

5 A. Again, it would be one of many factors that
6 I would look at.

7 Q. If I asked you to assume -- and by
8 the way, when you say "one of many factors," I'm
9 assuming that you'd say that the factors that
10 we've described thus far would lead one to
11 conclude that an area should be maintained for
12 agriculture, but there might be other factors
13 that would militate against that view. Is that a
14 fair characterization of your answer?

15 A. Not exactly. Those are factors that would
16 have to be considered in. It would depend upon,
17 you know, the whole.

18 For example, taking your value of the land
19 as farmland, it would depend upon the value, the
20 value of that farmland in the region that I was
21 looking at. If you take your statement that
22 two-thirds of the town might be agriculture, if
23 it was two-thirds off in one block of the town
24 all by itself without anything impinging on it,
25 then that would be one consideration. If it was

1 two-thirds split all over the place, that
2 wouldn't have the same weight. Each of these
3 things would have to be considered, judged and
4 weighed against all the other variables in terms
5 of whether it's valuable to preserve farmland on
6 a regional basis.

7 Q. In making your determination as to
8 whether it would be desirable to save farmland,
9 would it also -- would a factor be the amount of
10 acreage that the town had zoned for commercial or
11 industrial purposes?

12 A. Again, you know, it's one factor of many to
13 be considered. But I don't know. You know, I
14 mean, I don't know how many acres you're talking
15 about, the percentage compared to the rest of the
16 municipality. I have no idea what you're talking
17 about.

18 Q. Let's just assume that there was
19 only one percent of the land mass zoned for
20 either commercial or industrial or both. Would
21 that be a factor that would weigh heavily in
22 determining that the area should be preserved for
23 farmland?

24 A. It's too vague. I mean, you could be one
25 percent of a huge municipality. It might mean

1 nothing; then again, it might mean a lot. It
2 would detract in the agricultural area.

3 Q. Let's assume that it's one percent
4 of a municipality having 31.5 square miles.
5 Would that be a factor that would weigh heavily
6 in deciding whether --

7 A. You mean Colts Neck?

8 Q. I knew you were going to come to
9 that conclusion.

10 Would that be a factor that would
11 weigh heavily?

12 A. It would be easier if we talked about Colts
13 Neck. I could tell you why farming is not viable
14 here.

15 Q. If you let me ask you the questions,
16 I'll appreciate it.

17 Assume that we're speaking of an
18 area that's one percent or less of a large
19 municipality, perhaps 31.5 square miles. Would
20 that be an area that you feel should be retained --
21 would that be a factor that would persuade you to
22 retain the land area in agricultural use?

23 MR. FRIZELL: Let me
24 interpose an objection to the form of the
25 question. I think Carl's response about well,

1 are we talking about Colts Neck is a fair one.
2 What he's saying and he's going to keep saying it,
3 is there's too many variables. When you're
4 trying to isolate one, the answer to all the
5 others may change. Whether the one percent makes
6 a difference or doesn't make a difference in a
7 given context, you simply can't isolate any one
8 of those variables. If you say we are talking
9 about Colts Neck, then he has an understanding of
10 what the other variables are, whether the one
11 percent commercial/industrial zoning makes any
12 difference or not.

13 MR. O'HAGAN: We'll get to
14 that.

15 MR. FRIZELL: You can keep
16 going around this and he's going to keep saying
17 it. There is no other answer, really.

18 MR. O'HAGAN: We'll get to it.

19 BY MR. O'HAGAN:

20 Q. Do you want it read back?

21 A. No. You said if one percent of a town --

22 Q. Measuring perhaps 31.5 square miles --

23 A. Right. Was zoned for commercial?

24 Q. And industrial or both?

25 A. Would that be reasonable?

1 Q. Would that be a factor that would
2 persuade you that the town should be maintained
3 as agricultural?

4 A. No. Just taking that as an example, that
5 would mean that a little over 200 acres would be
6 zoned that way in that fashion. That 200 acres
7 could mean a lot of commercial and industrial
8 development. Two hundred acres could accommodate
9 a regional shopping center, for example. That
10 probably would be inappropriate in terms of
11 agricultural community.

12 Again, I have to say that I cannot answer
13 without looking at some specific example, looking
14 at all of the other variables. There are many
15 considerations that I would look for in doing
16 that kind of analysis in that kind of activity.

17 Q. Let's speak of Colts Neck which,
18 apparently, you want to speak of.

19 A. I don't care. I'll sit here and answer
20 your questions. I don't care.

21 Q. In your opinion do you feel it's
22 appropriate to maintain agricultural lands in
23 Colts Neck as a goal or as a planning goal or
24 concept?

25 A. It may be. But it may also be too late for

1 what Colts Neck has done in terms of its
2 development pattern.

3 Q. Let's leave that for the moment.
4 Let me ask you this. Is it desirable from a
5 planning viewpoint to maintain a large
6 agricultural base in Colts Neck?

7 A. I'm not sure about that because the type of
8 agriculture that you're speaking of, or I think
9 that you're speaking of, and the type that I
10 think of as being important agricultural land, I
11 think we might differ on. I think of
12 agricultural land having value is land that has
13 value for food production. And I don't know that
14 I could characterize the agricultural, so-called
15 agricultural, activity in Colts Neck as being
16 that which produces food.

17 Q. Have you investigated that yourself?

18 A. Well, I've read the reports of your
19 consultants, the town's consultants.

20 Q. Are you aware of what Donald Moore,
21 the county agricultural agent, says?

22 A. I haven't read what Don Moore says, no.

23 Q. If I were to ask you assume that he
24 says there's considerable amount of corn, grain,
25 soybeans, apples and other crops grown in Colts

1 Neck for both human and animal consumption, would
2 your viewpoint change?

3 A. You know, it would depend on how much. It
4 might be a lot. I'm familiar with a lot of
5 farming activity in other parts of the state; and
6 if it's a lot of corn production, for example, it
7 might not mean anything other than they're
8 holding the land for speculation purposes. It
9 might not mean anything.

10 Q. Are you saying then it's not, from
11 your viewpoint, you don't feel it's desirable to
12 maintain the agricultural lands in Colts Neck?
13 Is that a fair statement?

14 A. I don't know that they can be; that's what
15 my answer is.

16 Q. Let me just ask you to answer my
17 question, from a planning viewpoint, regardless
18 of whether you can or can't. Is it desirable to
19 maintain the agricultural lands in Colts Neck?

20 A. If they want to do so and if it's their
21 policy, yes.

22 Q. Please do me the courtesy of
23 answering my question.

24 I said, from a planning viewpoint,
25 is it desirable to maintain the agricultural

1 lands in Colts Neck? It requires a yes or no
2 answer.

3 MR. FRIZELL: bob, I don't
4 think you've understood the answer. Planning is
5 a question of municipal policy. And what his
6 answer is, if the municipal policy is to maintain
7 agriculture, then you can formulate a planning
8 policy around it. If the planning policy of a
9 given municipality is not to maintain it, then
10 you can't.

11 MR. O'HAGAN: I'm asking him.

12 MR. FRIZELL: You asked the
13 question and he's answered. And then you started
14 lecturing him about to how to answer the question
15 that he just answered.

16 MR. O'HAGAN: I don't agree
17 with you.

18 BY MR. O'HAGAN:

19 Q. But I'm asking you now, Mr. Hintz,
20 regardless of whether it can or can't be
21 maintained, from your personal viewpoint as a
22 planner is it desirable to maintain the
23 agricultural uses in Colts Neck?

24 A. I can't answer that because it's -- I
25 thought I had answered. I haven't evaluated all

1 the various circumstances with regard to the
2 municipality, whether it's a good policy decision
3 to make or not ultimately, because from what I've
4 seen of the development pattern, it may not be
5 the most appropriate way to go. And there are
6 other problems as well with the type of farming
7 activity, as well, in the township. So it may
8 not be the best position to take. I wouldn't
9 know until -- unless I was hired by the planner
10 for the town to evaluate all these different
11 things and give recommendations for policy, and
12 then weigh these decisions.

13 Q. So then I understand your answer to
14 be then, in drawing your report and the one that
15 was submitted to us, you gave no consideration to
16 the desirability of maintaining the agricultural
17 lands in Colts Neck. Isn't that correct?

18 A. I wasn't hired to make policy decisions
19 about that.

20 Q. Was I correct that you gave no
21 consideration to maintenance of agriculture when
22 you prepared your report?

23 MR. FRIZELL: I think that's
24 a different --

25 A. I did respond to that in my report; which

1 There are too many variables. There is no way
2 proving this case today. This is intended to be
3 a deposition of Mr. Rahenkamp as to the general
4 planning that he testified about at the original
5 board of adjustment hearings; and they're in his
6 reports.

7 MR. LOCASCIO: His reports
8 deal with all the services.

9 MR. FRIZELL: Mr. Radway's
10 report, his testimony at length in the board of
11 adjustment hearings; you can read it.

12 MR. LOCASCIO: I have read it
13 and that's where I got the \$100,000 figure from.
14 Mr. Rahenkamp can't provided certain reports
15 dealing with the municipal services and financial
16 considerations, also and that's what I'm asking
17 him about with respect to the numbers that you
18 have generated or the reports you have generated
19 concerning services.

20 MR. FRIZELL: Shows us the
21 report and line if you want to ask a question
22 about the report.

23 BY MR. LOCASCIO:

24 Q. Mr. Rahenkamp, didn't you provide
25 certain reports concerning what the effect or

1 impact of this project upon the municipal
2 services of Colts Neck?

3 A. Yes.

4 Q. Assuming this project was cut in
5 half, would you agree that it would require about
6 one half the services?

7 A. No. You need to know the demographic
8 characteristics. You need to know where the
9 people are, and need to chart out the costs.

10 Q. Basically everything Mr. Frizell
11 said in his objection?

12 A. No. You need the facts.

13 MR. O'HAGAN: Couldn't you
14 say it's proportionally reduced?

15 Q. Assume that each of the proposals,
16 the town houses, the single families, the two to
17 three-story apartments, the two apartments, are
18 proportionately reduced 50 percent with a
19 homeowners association. Everything is the same,
20 reduced 50 percent?

21 A. Would it probably reduce your costs by 50
22 percent? Probably.

23 Q. You mean the cost of the services?

24 A. The cost of the services.

25 Q. Would you also reduce the gross

1 Q. Would they be fenced in in any way?

2 A. If I have my druthers, they would not be
3 fenced. Our experience is, having done these
4 kinds of detention and retention ponds, is that
5 we have not lost a child in some 20 years. And
6 they are not a hazard. As a matter of fact,
7 putting a fence makes it more hazardous because a
8 child can go behind them. So our experience is
9 no, they would not be fenced.

10 Q. And these are of course adjoining
11 one, in particular, is adjoining a two-story
12 garden apartment condominium; correct?

13 A. Yes.

14 Q. And the other is right behind the
15 town houses; correct?

16 A. Yes.

17 Q. How big how big, wide?

18 A. The one existing lake is four or five acres
19 large.

20 Q. You say you would not fence those
21 despite there would be children there?

22 A. I definitely would not fence them. Our
23 experience is quite the opposite, it compounds
24 the safety hazard.

25 Q. How many were lost with fences?

1 A. In addition, your a question assumes that
2 there is no surface water.

3 Q. Your experience is that having these
4 several acre ponds five or six feet deep are not
5 a hazard?

6 A. They are not a hazard. They have not been
7 a hazard whatsoever, no.

8 MR. FRIZELL: I don't think
9 it's ever been established that they're ponds, in
10 any event.

11 Q. Would you need the swales and the
12 detention and retention basins if this tract
13 could be developed by simply tying into present
14 existing sewer and water systems?

15 A. Good Lord, you don't understand anything.

16 Q. Yes, I do. I just want to know the
17 answer, sir. You wouldn't need anything?

18 A. The storm sewer has nothing to do with
19 sewage treatment. It has nothing to do with
20 water.

21 Q. I'm talking about sewers.

22 A. We're not running surface sewage.

23 Q. So no matter whether you could tie
24 into any you would still need all of these and
25 leave them unfenced?

1 A. They have nothing whatsoever to do with
2 each other.

3 Q. Did you ever -- never mind.
4 Withdraw that question.

5 MR. LOCASCIO: I have no
6 other questions.

7 MS. HIGGINS: Can I ask one
8 more?

9 MR. FRIZELL: Sure.

10 MS. HIGGINS: It will be a
11 quicky.

12

13 CONTINUED CROSS-EXAMINATION BY MS. HIGGINS:

14

15 Q. You mentioned earlier that from a
16 planning standpoint you did not feel it was poor
17 planning to place a high density planned unit
18 development in the midst of a agricultural region?

19 A. I think it's positive.

20 Q. And you did not feel that it would
21 be necessary or that it would be better to put
22 this type of a high density development closer to
23 other high density development; is that correct?

24 A. That is correct, yes.

25 Q. If the other high density

1 development or higher density were spread out
2 toward the outside of a town closer to other
3 shopping districts, would that change your
4 opinion? And if I can just explain that a little,
5 if you're saying that it's good planning to put a
6 PUD in the midst of an agricultural district, on
7 the -- conversely, aren't you giving up proximity
8 to shopping centers and all for your residents in
9 your planned development?

10 A. You may well, if it were, you know, just
11 isolated out in the middle of the agricultural
12 area. I suppose that would be true. In this
13 particular case, because we've got the Village
14 Center and because you've got an exit from 18,
15 because you've got existing bus service and
16 you've got a school, it's not quite the same as
17 being out in the middle of farmland. So we're at
18 a point at which there is already some level of
19 development. There is some strip commercial
20 starting. There are already some houses along
21 537, closer than two acre lots. It's not as if
22 there it is out of the middle of somewhere. Some
23 development is going to be induced by the
24 expressway interchange.

25 Q. Would it be wiser to put a

1 development of this type closer to the other
2 existing towns, Red Bank?

3 A. It's a fair point. And most of the
4 planning documents are trying to encourage
5 in-fill housing.

6 The other side of the coin is that in many
7 the sewer plants are already overloaded and
8 they're only on second stage treatment or not as
9 good and, therefore, the cost of doing in-fill is
10 very high, number one.

11 Secondly, the land is very expensive.
12 They've been identified as virtually that. It
13 can happen.

14 And, thirdly, the land simply isn't
15 available to be developed in any rational way.
16 And there are reasons why it's passed over.

17 No developer is going out scattering around
18 looking for planned developments. It requires
19 too much money to make these things happen. This
20 thing happened because it makes sense in terms of
21 market, in some rational context of planning.

22 Q. And availability of land?

23 A. Of course you have to be building in areas
24 with available land. If this weren't well
25 located in terms of the market, it wouldn't be

1 absorbed and, therefore, the developer would do
2 it at great risk. If it was in the middle of
3 bucolic landscape with no services, you would
4 wonder if there was market. The development game
5 is not so casual as you think. It's closer to
6 the relative planning realities.

7 Q. Looking at Colts Neck as a whole, if
8 you were to plan for Colts Neck, where would you
9 suggest that a development of this type take
10 place?

11 A. I wouldn't have taken this project on if I
12 didn't think this ought to be a node and it's
13 identified that way on the county maps. It was
14 identified on the Village Center on the original
15 town master plan. And, obviously, we're
16 expanding with that. Basically this is a logical
17 node. That's why the interchange with 18
18 happened, with 537; and it's a logical thing.

19 MR. FRIZELL: No questions.

20

21 REDIRECT EXAMINATION BY MR. O'HAGAN:

22

23 Q. Mr. Rahenkamp, as I understood your
24 answer to Ms. Higgins' question, you recognize
25 that the SDGP recommended in-filling of areas,

1 adjacent areas, where there's water and sewer or
2 building adjacent to such areas. That was
3 correct; wasn't it?

4 A. Yes. Now let's put --

5 Q. And as I understood your further
6 qualification on that, you advised that there are
7 factors that would militate against development
8 in those areas; isn't that correct?

9 A. Yes.

10 Q. And as I understood it further, one
11 of the chief factors was the cost of land?

12 A. One of the factors is, yes.

13 Q. If you had to weigh them, would that
14 be a heavy factor?

15 A. It's one of the factors. It's not
16 necessarily the heaviest, no.

17 Q. Well, if I were able to establish --
18 and then also you said that one of the factors in
19 militating against that was the capacity in the
20 existing systems; isn't that correct?

21 A. Yes.

22 Q. So those are two of the factors that
23 would militate against building within areas
24 where there's infrastructure or adjacent to them;
25 isn't that correct?

1 A. Yeah. It would be the capacity, both in
2 terms of gross capacity and in terms of quality.
3 For instance, many of our cities have mixed storm
4 sewer and sewer together, some strange things.

5 Q. For the moment I'm going to ask you
6 to assume that there's capacity on the eastern
7 end of the town in the sewer collection system,
8 and capacity on the western end of the town for
9 the sewer collection system. Would that be a
10 factor or might that be a consideration for a
11 developer locating either on the eastern or
12 western portions of the town?

13 A. I don't know how you define capacity,
14 whether you mean it's being treated adequately,
15 whether the lines are adequate size; assuming
16 that all of that is not withstanding.

17 Q. Can I clarify the question. I think
18 your point is good.

19 Let's assume that there's available
20 space in the treatment plant to handle --

21 A. With third stage treatment?

22 Q. Yes. And let's assume that the
23 lines are adequate to handle the additional
24 effluent. Might that be a fact that would
25 motivate a developer to locate on the eastern or

1 was to say, that the property I was hired to
2 evaluate in the context of, you know, the town's
3 agricultural preservation policy, that this
4 particular property does not fit in well with any
5 agricultural preservation program because of its
6 location and its surrounding land uses. And
7 that's in my report.

8 Q. Mr. Hintz, you also generated a fair
9 share number and you described the number as
10 being 1698 units as I recall it?

11 A. To the year 2000. It's a holding capacity.

12 Q. When you developed that number, I
13 understand your answer to be that you gave no
14 consideration to the desirability of maintaining
15 the agricultural base in Colts Neck; isn't that
16 correct?

17 MR. FRIZELL: I think that
18 that question is really loaded with things.
19 Whose desirability are we talking about?

20 MR. O'HAGAN: I'm asking him
21 from a planning viewpoint.

22 MR. FRIZELL: You mean his
23 personal desirability? I hope he didn't build
24 any personal desires into this report, from my
25 standpoint. He indicated that wasn't his job.

1 Did he factor in the township's?

2 MR. O'HAGAN: I think the
3 question is perfectly clear.

4 MR. FRIZELL: I don't think
5 it's perfectly clear at all.

6 MR. O'HAGAN: I'll rephrase
7 it.

8 MR. FRIZELL: Bob, just to
9 get us on the right track, maybe we can just
10 relate it to what's stated in the township master
11 plan about agriculture, that they want to
12 preserve it. Are you asking him if his fair
13 share methodology would implement that plan or
14 something like that? I honestly don't want to
15 fence with you about this, it's just that the way
16 the questions are phrased I don't think -- I
17 think we're mixing up different policies. I mean,
18 state policy, municipal policy, and whatever
19 policy he would do hypothetically if he were, A,
20 the planning board members or, B, the township
21 planning consultant.

22 MR. O'HAGAN: You know, I'm a
23 neophyte in this area and maybe I don't have
24 quite the same sophistication as you do, but I
25 would like to have my question answered. And I

1 Q. You're saying then that whether or
2 not farmland was preserved was irrelevant to your
3 derivation of the number of 1698 as Colts Neck's
4 fair share?

5 A. Farmland preservation certainly can be a
6 part of that, but you're mixing apples and
7 oranges.

8 Q. I could be. We'll get back to that
9 area, you can rest assured.

10 Now in determining whether an area
11 should be limited growth, what do you understand
12 a limited growth area to be?

13 A. Well, I would just repeat what the State
14 Development Guide Plan says.

15 Q. Do you need to refer to that?

16 MR. FRIZELL: Are you asking
17 Carl what the limited growth definition in the
18 State Development Guide Plan is?

19 MR. O'HAGAN: I think that's
20 a fair comment.

21 BY MR. O'HAGAN:

22 Q. Why don't you refer to that?

23 A. It's in page one of my report. It says:
24 Relatively poor accessability to existing
25 commuter rail and highway facilities.

1 Q. Let's stop there.

2 A. Sure.

3 Q. Would you -- I'm sure you would
4 admit that Colts Neck's accessability to rail is
5 poor?

6 A. Certainly.

7 Q. And I'm sure you'd concede that
8 Colts Neck's accessability to mass transit, such
9 as buses, is poor?

10 A. It's better than most.

11 Q. Really? Do you know where the New
12 York buses go?

13 A. I don't know that has to do --

14 MR. FRIZELL: What's the
15 relevance of New York buses?

16 Q. Let's speak in terms of mass transit.
17 Wouldn't it be accurate that the New York buses
18 use Route 9; on the east Route 35?

19 A. I really don't know what that has to do
20 with anything, because without evaluating in
21 detail what the commuter patterns are for
22 Monmouth County and where they go -- but there's
23 probably a very small percentage of people in
24 Monmouth County as a whole and Colts Neck
25 probably that commute to jobs in, you know, New

1 York City or wherever those commuter buses along
2 Route 9 go. If you look at the total population
3 of the county, the majority of people work in the
4 county. That's what the numbers from Rutgers
5 show.

6 Q. You indicate that the availability
7 to bus line is good. What do you base that on?

8 A. There's a bus line that runs past on county
9 road 537 that connects Freehold and Red Bank.

10 Q. How many times a day?

11 A. Four times a day.

12 Q. Is that good?

13 A. That's better than most, yes.

14 Q. Go ahead. You were talking about
15 the balance of the factors -- strike that.

16 Are you relying most heavily upon
17 the fact that the Orgo site is adjacent to Route
18 18?

19 A. Well, it's more than just that. I've
20 evaluated many sites around the state for planned
21 unit development. I've even written, you know, a
22 booklet on that subject for the State. I've been
23 involved in the PUD design process for years now,
24 and a review of the PUDs in terms of location.
25 The location along two state highways, Route 34,

1 Route 18, which is a freeway and then having the
2 county road forming the third side is a far
3 better site location than a lot of the PUDs that
4 I've been involved with and been involved with
5 the design of or review of. The addition of the
6 fact that there is a bus line that runs along
7 there right next to the site makes that site
8 somewhat higher and better than - in terms of
9 location - than a lot of sites that I've seen.

10 Q. Now, in terms of its proximity to
11 highways, is it important to consider the volume
12 of traffic on the highways?

13 A. No.

14 Q. That's not important?

15 A. Maybe if it were grid lock or something you
16 might want to worry about it. But other than
17 that I don't think so.

18 MR. FRIZELL: You meant
19 volume of the low end or high end or both or
20 either?

21 MR. O'HAGAN: I meant --

22 MR. FRIZELL: I want to
23 understand the question.

24 MR. O'HAGAN: Yeah. When you
25 say low end or high end --

1 MR. FRIZELL: When you say
2 volume of the highway, you mean whether or not
3 the highway is at --

4 MR. O'HAGAN: Is heavily
5 trafficked.

6 MR. FRIZELL: Is at capacity
7 or underutilized?

8 MR. O'HAGAN: Yeah.

9 THE WITNESS: I think it
10 becomes more critical if you're looking to locate
11 an office structure or some major commercial
12 facility. But if you're looking to locate
13 residential development, it could range all the
14 away from the low end to the high end. In fact,
15 if there were a large volume traffic, it might be
16 better to do high density.

17 The State Route 1-Route 206
18 corridor study recommended mixed use, planned
19 unit development as a way of cutting down on
20 trips and keeping the traffic volumes lower over
21 time. On the other hand, if you're talking about
22 the low end, certainly the lower the volume the
23 less trouble there is for locating any kind of
24 development, whether it's commercial or
25 residential, because you have capacity to take

1 that traffic. I don't think, though that a
2 commercial or office development would want to
3 locate, you know, unless there were enough volume
4 going by that it makes it economically viable.

5 BY MR. O'HAGAN:

6 Q. If a roadway has a low traffic
7 volume, wouldn't that be a factor that would
8 militate against a residential development
9 adjacent then?

10 A. It might be ideal then.

11 Q. You were talking about the factors
12 that were instrumental in designating an area as
13 limited growth. And you started with the traffic
14 and accessibility?

15 A. The State Development Guide Plan used --
16 the next one they called out: Low density
17 development with limited public water supply and
18 sewer services.

19 Q. Could we stop here now?

20 A. Sure.

21 Q. Would it be accurate that say that
22 Colts Neck has low density development?

23 A. Yes.

24 Q. Would it be accurate to say that it
25 has no public water or public sewer?

1 A. It would be accurate to say that, yes. But
2 that was -- that's one of the key things about
3 the Guide Plan.

4 Q. Please just don't anticipate.

5 MR. FRIZELL: Let him finish
6 answering the question.

7 Q. Please answer the question. What's
8 the next --

9 MR. FRIZELL: Wait a minute.
10 Hold it. What I was going to say, let him answer
11 the question. This is a deposition. If you
12 don't think he answered the question at some
13 future stage you can object to its use. I think
14 in the meantime for the purposes of conducting a
15 reasonable and orderly deposition, I think you
16 ought to let him answer.

17 MR. O'HAGAN: I'm trying to
18 limit the time that's involved in here.

19 BY MR. O'HAGAN:

20 Q. What's the next factor now?

21 A. Absence of large concentrations of prime
22 agriculture farmlands located in semi-rural areas.

23 Q. In Colts Neck wouldn't it be fair to
24 say that the great majority of the soils are
25 class one and class two soils?

1 A. The study that the town did did not
2 indicate that, that it was the vast majority, no.
3 But that's not what the State -- the State
4 Development Guide Plan evaluated that particular
5 criteria and did not see fit to designate Colts
6 Neck as an agricultural classification.

7 Q. Mr. Hintz, didn't the State
8 Development Guide Plan designate all of Colts
9 Neck as having class one and class two soils?

10 A. But this is not the classification that the
11 Guide Plan used for delineating whether or not it
12 should be in an agricultural area.

13 Q. Didn't they designate virtually all
14 of the township as having class one and class two
15 soils?

16 MR. FRIZELL: Excuse me.
17 Before you answer that, I mean, you're asking him
18 a very specific question about a specific
19 document. Why don't we take the document out and
20 look at it?

21 MR. O'HAGAN: I thought he
22 knew it.

23 MR. FRIZELL: Off the top of
24 his head?

25 MR. O'HAGAN: Yeah, in

1 preparation for preparing his report.

2 MR. FRIZELL: Whether or not
3 this SDGP designated the township as class one or
4 class two?

5 MR. O'HAGAN: There's a map
6 in his report that so indicates.

7 MR. FRIZELL: You can't read
8 that off of there.

9 MR. O'HAGAN: What?

10 MR. FRIZELL: I don't think
11 you can read that off of that map. See this?
12 This is a photocopy off the SDGP which -- the
13 original copy of which will show three
14 designations, one of which is a little dipple
15 pattern and can be picked up off the SDGP,
16 especially in a large high resolution map. You
17 can't read it off that, that white area that
18 you're showing no pattern at all in Colts Neck.

19 MR. O'HAGAN: Shows it all as
20 class one and class two.

21 MR. FRIZELL: No.

22 MR. O'HAGAN: Well, the white
23 area is class one and class two.

24 MR. FRIZELL: It's a stipple
25 pattern.

1 Off the record.

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

4 (Whereupon a brief recess is
5 taken.)

6 CERTIFICATE

7
8 I, KATHLEEN M. SHAPIRO, a Certified
9 Shorthand Reporter and Notary Public of the State
10 of New Jersey, certify that the foregoing is a
11 true and accurate Computerized Transcript of the
12 Depositions of JOHN RAHINKAMP and CARL E. HINTZ,
13 who were first duly sworn by me.

14 I further certify that I am neither
15 attorney or counsel for, nor related to or
16 employed by any of the parties to the action in
17 which the Depositions are taken, and further that
18 I am not a relative or employee of any attorney
19 or counsel employed in this case, nor am I
20 financially interested in the action.


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KATHLEEN M. SHAPIRO, C.S.R.

Dated: February 27, 1984
My Commission expires:
August 17, 1988

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - OCEAN COUNTY
DOCKET NOS. L-3299-78 P.W.:L-13769-80

X----- X
ORGO FARMS & GREENHOUSES, INC.,
et al, etc.,
Plaintiffs, CIVIL ACTION
-v-
TOWNSHIP OF COLTS NECK,
Defendant.
X----- X

DEPOSITIONS OF: JOHN RAHENKAMP,
Stetson House, 1717 Spring Garden St.
Philadelphia, PA 19130
CARL E.HINTZ
P.O. Box 1241, Princeton, NJ 08542
DATE: Monday, February 20, 1984
AT: STOUT, O'HAGAN & O'HAGAN, ESQS.,
1411 Highway 35 No.
Ocean, NJ 07712

STATE SHORTHAND REPORTING SERVICE
212 Monmouth Road
Oakhurst, New Jersey 07755

BY: KATHLEEN M. SHAPIRO, C.S.R.

ORIGINAL SENT: STOUT, O'HAGAN & O'HAGAN, ESQS.