

AM ~~000~~ - Haueis v. Far Hills

31st - Oct - 1983

Stenographic Transcript of ~~#~~ Noyung Trial

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I N D E X

	<u>DR</u>	<u>CR</u>	<u>RED</u>	<u>REC</u>
David Zimmerman (Continued)	2	55	142	149

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>EVD</u>
P-34	Northern portion of Somerset County map with growth overlay	2

1 MORNING SESSION

2 SGT.-AT-ARMS: Please rise.

3 THE COURT: Good morning, gentlemen.

4 Off the record, we have some housekeeping
5 chores.

6 (A discussion is held off the record.)

7 P. D A V I D Z I M M E R M A N, previously sworn,
8 resumes.

9 MR. VOGEL: There is an exhibit P-34.

10 Mr. Mastro thought it did not get into evidence.

11 I was about to refer to it.

12 THE COURT: I have it for identification.

13 MR. VOGEL: Yes.

14 MR. MASTRO: I believe, your Honor, I
15 was on voir dire on that. Only it was 4:00 and
16 you gave me the weekend to think about it and,
17 as I thought about it, I have no objection.

18 MR. VOGEL: All right. That is fine.
19 Then we would ask that it be admitted into
20 evidence.

21 THE COURT: P-34 will be marked in
22 evidence.

23 Would you produce it, please, so we
24 can get it marked?

25 (P-34 for identification, Northern

1 Portion of Somerset County Map with growth
2 overlay is received in evidence.)

3 DIRECT EXAMINATION (CONTINUED) BY MR. VOGEL:

4 Q Mr. Zimmerman, can you tell the Court
5 the significance in your view, as a planner, of P-34, as
6 it relates to the issue of the reasonableness of the
7 expanded Far Hills Village in the growth area of the State
8 Development Guide Plan?

9 A P-34 shows a larger, more expansive scale, the
10 northern half of Somerset County.

11 Q Why don't you go up to the board and then
12 you can point out to the Court.

13 A Where is the pointer?

14 THE COURT: Pointer, please.

15 THE WITNESS: The exhibit is based on
16 a map of the County, which shows the northern half
17 of the County, essentially, from Route 22 north.

18 BY MR. VOGEL:

19 Q Is that the Official Somerset County Map?

20 A Yes. This was obtained from the County of
21 Somerset.

22 It basically is a road map with political
23 boundaries and other important landmarks illustrated.

24 Imposed upon that is the growth area in
25 green, as depicted on the State Development Guide Plan

1 concept map.

2 Q Just let me -- that wasn't done with the
3 precision, for example, that the -- that is just a concept
4 of the growth area?

5 A Right.

6 I didn't work on this with the same
7 scale, magnifying glass, etcetera, that I did with the
8 other previous exhibit.

9 Q Right.

10 Sorry to interrupt.

11 A This map shows the Village of Far Hills pretty
12 much in the middle of a Route 206 corridor that extends
13 northward from Bridgewater to the villages of Peapack
14 and Gladstone.

15 This 206 corridor is, essentially, a
16 northern spur to a larger corridor, which is called the
17 Clinton corridor, which goes out Route 22 and hooks up
18 later on with Route 78 out to Clinton from the Somerville-
19 Bridgewater area.

20 But as far as the Route 202 -- I'm sorry
21 -- Route 206 corridor, the base is at Bridgewater and
22 there are substantial areas of Bridgewater that are built
23 up that have water and sewer that are identified by a
24 variety of housing, commercial and industrial development.

25 Also characterizing the growth area in

1 Bridgewater is an intense or, rather, a substantial
2 number of important highways, such as Route 202, 206,
3 Route 22, Route 287 and the -- those are the main roads
4 in Bridgewater.

5 Then, continuing north from Bridgewater,
6 there is the Village of Pluckemin, which is characterized
7 again by Route 202-206, a major interchange of Route 78
8 and 287. The Village of Pluckemin, itself, contains a
9 variety of uses. There is residences, commercial uses,
10 institutional uses, such as the churches and offices and
11 there are areas zoned in Pluckemin for even more extensive
12 development than what is there, such as multi-family
13 housing and offices.

14 THE COURT: Let me ask you a question,
15 and I throw it in because I had some involvement
16 with it one time. Beneficial Management was
17 going into the Pluckemin area and, initially, it
18 was defeated and now -- this is my recollection --
19 and they went back in. Has that been approved?
20 They were going to build a corporate headquarters.

21 THE WITNESS: I have some familiarity.
22 I have worked for Beneficial Management as a
23 planning consultant. They have established their
24 headquarters in Peapack-Gladstone.

25 THE COURT: They have moved north then?

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THE WITNESS: Yes. They are there now. They have about 1,000 employees at that facility and they have moved out of Morristown entirely.

THE COURT: They have abandoned the idea of going into the road that ran off 206 into Pluckemin center?

THE WITNESS: Yes.

THE COURT: All right.

THE WITNESS: There is area ---

THE COURT: It was a sizeable tract.

THE WITNESS: Well, there is a 14-acre tract just south of Pluckemin that is owned by City Federal and they have plans ---

THE COURT: I am sorry. It was City Federal that I had and not Beneficial. City Federal.

THE WITNESS: That is -- from what I understand, that is going to occur some day in the future.

THE COURT: So City Federal then has been given approval?

THE WITNESS: Yes.

THE COURT: Initially, they were turned down and they have gone back in. This is what I had.

1 THE WITNESS: There is also an area
2 immediately across the street that is zoned for
3 offices and the area immediately -- another area
4 immediately across the street that is zoned for
5 multi-family housing.

6 THE COURT: Thank you.

7 THE WITNESS: Continuing north on 202-206
8 is a large area, large number of acres, that is
9 being developed by Allen Dean for several
10 thousand housing units.

11 THE COURT: The Hills.

12 THE WITNESS: The Hills of whatever it is.
13 The Hills of Bedminster.

14 Again, continuing north along the 206-202
15 corridor is the Village of Bedminster, itself,
16 which has housing, commercial properties and
17 enterprizes. Also part of this same corridor is
18 the Village of Far Hills, which is along -- located
19 on Route 202 and again contains compact housing,
20 commercial and private offices.

21 Then continuing along two major roads,
22 one would be Route 512 or the Far Hills Peapack
23 Gladstone Road, and Route 206, up to the Village
24 of Peapack and Gladstone, and that upper point of
25 the corridor extension is the Beneficial Management

1 headquarters, with approximately 1,000 employees.

2 The two villages of Peapack and Gladstone,
3 each having a variety of housing, commercial and
4 other types of uses.

5 The corridor in my opinion seems to have
6 a -- some -- a high degree of internal consis-
7 tency, in that there is a lot of similarity
8 between the villages of Pluckemin, Far Hills,
9 Bedminster, Peapack and Gladstone. They all
10 are -- have been identified in the County Master
11 Plan as Village Neighborhoods.

12 They all are expanding as a result of
13 growth pressures that have come out this way in
14 the 1970's and are accelerating even in the 1980's
15 and the State Development Guide Plan recognizes
16 that, identifies these villages as part of a
17 growth corridor and depicts an area within which
18 additional growth can occur in this corridor.

19 The designation of the growth area is,
20 obviously, significant for Far Hills in that a
21 portion of Far Hills is shown, significant for
22 the subject property, because, as was shown by
23 the earlier exhibits, a portion of the subject
24 property is shown in the growth area.

25 But also it is significant in what it does

1 not show and that there are areas of Far Hills,
2 areas of Bernardsville, Peapack, Gladstone,
3 Bedminster, that are not designated as growth
4 areas and these are limited growth areas and it
5 is outside the growth area that you are going to
6 -- the State is recommending low-density-type of
7 development or development that -- at a slow pace
8 and it is within these uncolored areas that you
9 are going to have the estates or the low density-
10 type of housing.

11 So the plan clearly differentiates be-
12 tween two areas of the Somerset Hills section of
13 Somerset County. One is the area that will con-
14 tain the growth and that has been defined, as I
15 previously mentioned, by the roads and the exist-
16 ing villages. The fact that there is infrastruc-
17 ture in those areas, such as water and sewer,
18 commercial development, offices development,
19 variety of housing and on the other areas which
20 don't have the water and sewer, extensive high-
21 way networks, variety of housing, commercial,
22 office uses, low-density estates, agriculture,
23 farmettes-type of development is going to occur
24 or continue at a slow pace.

25 BY MR. VOGEL:

1 Q Mr. Zimmerman, based upon that descrip-
2 tion and that analysis of Route 206 corridor, do you have
3 an opinion as to the reasonableness of the State Develop-
4 ment Guide Plans characterization of that area, the
5 Route 206 corridor and the villages you have described,
6 as a growth area?

7 A Yes, I do.

8 Q And what is that opinion?

9 A I think that that growth area outlines a section
10 of the Somerset Hills which is, as I have mentioned
11 earlier, internally consistent in the fact that the entirety
12 of this area can be characterized by the same factors or
13 elements and Far Hills has characteristics similar to the
14 other -- all of the other areas depicted as lying in the
15 growth area in that it has similar features to the other
16 villages, highways, water and sewer facilities, variety
17 of residential-type of densities, commercial, employment
18 and features of this nature. So that Far Hills in my
19 opinion is comparable to all the other communities and
20 areas within this growth corridor, 206 growth corridor,
21 and to exclude Far Hills would just, looking at the illus-
22 tration, itself, be a classic exercise in my opinion of
23 gerrymandering the boundaries to exclude for whatever
24 purpose an area which in my opinion shouldn't be excluded.

25 Q I understood your answer. I am not sure

1 that you directly answered the question.

2 I wanted to know whether you first had an
3 opinion, and you said you had an opinion.

4 THE COURT: I am having trouble hearing
5 your question.

6 BY MR. VOGEL:

7 Q I wanted to know succinctly, do you believe
8 that the Route 206 corridor, including the various villages
9 that you have mentioned, is a reasonable growth area
10 corridor, is reasonably catagorized as a growth area?

11 A Yes, I do.

12 Q And do you believe that it is reasonable
13 for the growth area corridor to have included an expanded
14 Far Hills Village?

15 A Yes, I do.

16 Q And that conclusion is based upon all
17 the testimony that you have just given?

18 A Yes.

19 Q Do you have an opinion as to whether or
20 not the -- as you have just mentioned before, the gerry-
21 mandering around Far Hills Village where the exclusion of
22 Far Hills Village, whether that would have been arbitrary
23 and capricious?

24 A I think it would.

25 Q And, therefore, do you have an opinion

1 as to the inclusion of the Far Hills Village, do you
2 think that is arbitrary and capricious?

3 A I do not think the inclusion of Far Hills Borough
4 or the portion of Far Hills Borough that is shown as lying
5 in the growth area is an arbitrary and capricious act on
6 the part of the State Development Guide Plan.

7 Q Do you believe that the inclusion of that
8 portion of the Far Hills Village is in any way created by
9 a possibility of error in the judgment of those who
10 created the State Development Guide Plan?

11 A I don't think so.

12 The State Development Guide Plan does
13 indicate that the preliminary draft, which was published
14 in 1978, was disseminated to all Counties and Municipal-
15 ities in New Jersey, available widely throughout the State

16 The Department of Community Affairs had
17 a series of 90 public meetings throughout the State to
18 hear comments regarding the plan.

19 The plan, itself, mentioned in the section
20 on Somerset County that they met the Somerset County Planning
21 Board to discuss the plan, itself, and as a result of that
22 public input, interactions with the County Planning Boards,
23 the growth area lines, as well as the other land use
24 classifications, were finalized by the State Department
25 of Community Affairs and published in the 1980 report and

1 in my opinion the Department proceeded in a fashion which
2 is consistent with good planning.

3 This is a planning document and they
4 incorporated comments as were reasonable from localities
5 and Counties.

6 The plan, from what I understand, was
7 constructed based upon studies, analyses, and solid
8 foundation and criteria were used to develop the growth
9 area designation and it was, again, in my opinion an
10 exercise in good planning and it was not whimsical or
11 something that someone put together based upon some crazy
12 ideas that they thought would work or would not work. And
13 it has solid foundation.

14 Q One last --

15 MR. VOGEL: The reason, just for the
16 Court's sake, at 92N.J., page 241, the Court
17 does talk about the possible exceptions and I
18 am referring to questions out of that, your
19 Honor.

20 BY MR. VOGEL:

21 Q One other possible exception that the
22 Supreme Court talks about from the State Development *what*
23 Guide Plan is that the question involving substantial *change*
24 change that may have occurred from the time that the
25 State Development Guide Plan was promulgated to the

1 present time. So I want to ask you, Mr. Zimmerman, have
2 there been any changes in the area of Route 206 corridor,
3 which in your opinion would justify the deletion of any
4 portion of that corridor from the growth area?

5 A Not in my opinion.

6 The corridor has been growing over the
7 years. There has been a variety of new housing, offices,
8 commercial facilities developed and utilized in the growth
9 corridor and, indeed, the growth that we have witnessed
10 is consistent with the recommendations of the State in
11 this regard in that they are recommending that the growth
12 be channelized or channeled into the growth area and,
13 indeed, we see that happening.

14 Q So in fact not only do the change in
15 circumstances not suggest a modification in the growth
16 corridor or deletion of areas from the growth corridor,
17 but they suggest the opposite, a strengthening of the
18 corridor?

19 A Yes, indeed.

20 Q Okay.

21 You can resume the witness seat.

22 Mr. Zimmerman, you briefly referred to
23 a moment ago the County Master Plan and I am wondering
24 whether the County Master Plan in any way refers to these
25 various villages within the Route 206 corridor, about which

1 you have just testified, particularly relevant to the
2 issue of whether those villages are in some kind of growth
3 area or an area suitable for growth.

4 MR. MASTRO: Your Honor, let me object
5 to that question. I think we covered this --
6 this particular area -- quite thoroughly on
7 previous occasions and in depth. Unless there
8 is something additional ---

9 THE COURT: Where are we going with this?

10 MR. VOGEL: I think he can be succinct.
11 It is true a lot of this testimony does overlap,
12 your Honor, but we are on the issue -- we have
13 defined where the State Development Guide Plan
14 growth area map is and now the remaining issue
15 that is being tested is whether or not the map
16 is reasonable or arbitrary and unreasonable and
17 I think it is important to identify the other
18 major planning documents and what they say about
19 the growth area.

20 I think Mr. Zimmerman could be succinct
21 because we have been over it in the earlier trial
22 and I would direct him or request that he be
23 succinct.

24 MR. MASTRO: If it makes the post-Mount
25 Laurel II testimony a little more meaningful,

1 perhaps, Mr. Zimmerman should be allowed to sum-
2 marize previous testimony.

3 THE COURT: Yes.

4 I will hear some of it.

5 I don't want a replay, obviously, of
6 what we have had before.

7 But, as it is immediately relevant to
8 this inquiry I will permit it.

9 THE WITNESS: The Somerset County Master
10 Plan does identify various areas of the County
11 as village neighborhoods and areas particularly
12 appropriate for community development and, as
13 such, a portion of the Borough of Far Hills is
14 so identified and, further, the plan does talk
15 about these areas -- that is village neighborhoods
16 -- as receiving development -- higher-density
17 residential development in particular, and it
18 does identify communities, such as Far Hills,
19 Peapack and Gladstone, Bedminster, as examples
20 of -- as communities which will and should
21 experience growth in the coming years.

22 BY MR. VOGEL:

23 Q In your opinion is the -- does the
24 Community Master Plan and the ways in which you have just
25 mentioned support the reasonableness of the State Develop-

1 ment Guide Plan's growth area corridor for these villages?

2 A Yes, it does.

3 I would say it is right on target with
4 the State Development Guide Plan. It shows a growth
5 corridor along Route 206, which includes Borough of Far
6 Hills, the Allen Dean development, AT&T and up to Peapack
7 and Gladstone and it dovetails quite comparably with what
8 the State Development Guide Plan shows.

9 Q And in terms -- I know the maps are already
10 in evidence. In terms of the growth area for the Far Hills
11 Village, does that encompass the property in question?

12 A The County Master Plan does encompass the pro-
13 perty in question and portions of the Village.

14 Q For growth purposes?

15 A The designation is that these areas should be
16 the receptacals for growth.

17 Q Mr. Zimmerman, I want to show you
18 exhibit P-13 and ask you if you recall this booklet and
19 the map attached and forming a part thereof ---

20 THE COURT: The number again, 17?

21 MR. VOGEL: P-13.

22 THE COURT: That is the TriState Regional
23 Development Aide Plan?

24 MR. VOGEL: Yes, with the attached map.

25 THE COURT: Yes.

1 THE WITNESS: Yes, I do remember that
2 document.

3 BY MR. VOGEL:

4 Q And what is that document, just generally?

5 A It is a regional development guide published
6 by the TriState Regional Planning Commission.

7 Q Does that document identify the growth
8 areas from non-growth areas in the same conceptual way
9 that the State Development Guide Plan has done and the
10 County Master Plan has done?

11 A Yes, it does.

12 It shows in various colors the region and
13 it shows the location for major non-residential uses and
14 recommended residential density.

15 Q And does that map include the area about
16 which we have been talking; namely the Route 206 corridor
17 area and, particularly, the Far Hills Village area?

18 A Yes, it does.

19 I think it is clearly -- it clearly
20 depicts the Far Hills area. Indeed, it shows the railroad.
21 It shows the railroad station and in a color code indicates
22 that there is an area around the railroad on either side
23 that should be developed for a two to 6.9 units per acre
24 density.

25 THE COURT: Give me that again, please.

1 The area around the station ---

2 THE WITNESS: Should be developed for
3 a residential density of two-6.9 units per acre.

4 I should say that that -- just to be
5 super accurate here, net acre.

6 MR. VOGEL: All right.

7 BY MR. VOGEL:

8 Q Incidentally, Mr. Zimmerman, what is the
9 proximity of the P.Q., plaintiff's property, to the Far
10 Hills Village railroad station?

11 A It is within a stone's throw. It is right
12 across the railroad tract. It is about as close as you
13 can get without being in the railroad station, itself.

14 Q Based upon your review of the State
15 Development Guide Plan map, do you find the recommendation
16 for that higher-density housing that you have described
17 in the TriState Regional Development Aide Plan map to
18 be consistent with the State Development Guide Plan's
19 designation of the enlarged Far Hills Village as a growth
20 area?

21 A It is entirely consistent with the State Develop-
22 ment Guide Plan and consistent with the County Master Plan.

23 Q Does that consistency of both the TriState
24 Regional Plan and the County Master Plan, about which
25 you previously testified, in your opinion support the

Zimmerman - Direct

1 reasonableness of the State Development Guide Plan'
2 characterization of the Far Hills Village, enlarged
3 Hills Village as a growth area?

4 A Yes, I think it does. I think we have three
5 important planning documents:

6 State Development Guide Plan, County
7 Master Plan and the TriState Regional Development Guide,
8 which all unanimously indicate that -- or recommend that
9 growth should take place in the 206 corridor and, speci-
10 fically, recommend growth, additional growth for the Far
11 Hills Village area and even more to the point show the
12 subject property as lying in an area which should receive
13 growth.

14 Q Mr. Zimmerman, turning to the State
15 Development Guide Plan, itself, the text of the plan,
16 does the State Development Guide Plan lay out or set forth
17 its own criteria for how it determines what is a growth
18 area and what is not a growth area?

19 A Yes, it does.

20 Q And where in the State Development Guide
21 Plan is that set forth?

22 A There is on page 47 a section entitled Growth
23 Area and that section is about three pages long. Sets
24 forth the criteria that the State utilized in depicting
25 areas of the State as growth areas and there is a narrative,

1 which follows, which generally discusses what the State
2 had in mind when they designated certain areas as growth
3 areas.

4 Q And I take it you have reviewed that
5 section in the criteria of the State Development Guide
6 Plan for growth areas?

7 A Yes, I have.

8 Q And you consider those criteria reason-
9 able?

10 A Yes, I do.

11 Q Can you take each of those criteria --
12 perhaps, you ought to read the major criteria to the
13 Court. They are not too lengthy.

14 THE COURT: The exhibit you are using?

15 MR. VOGEL: We are referring to the
16 State Development Guide Plan, the one that -- the
17 full one that was admitted.

18 THE COURT: Thirty three?

19 MR. VOGEL: Yes, your Honor.

20 Would you like me to get that so your
21 Honor can follow it?

22 I know Mr. Zimmerman has his copy.

23 THE COURT: Do you have the exhibit?

24 THE WITNESS: I have a xerox copy of the
25 section I am referring to.

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THE COURT: P-33. Thank you.

Does each of you have a copy?

Mr. Mastro?

MR. MASTRO: Yes.

THE COURT: And you, Mr. Vogel?

MR. VOGEL: Yes.

THE WITNESS: Page 47.

MR. VOGEL: Forty ---

THE WITNESS: Forty seven.

MR. VOGEL: Thank you.

BY MR. VOGEL:

Q All right.

Would you please read the most -- those
criteria that you were referring to?

A The text indicates the following:

"The growth areas were delineated by a
applying the following criteria," and there are five
criteria so enumerated.

"First, location within or adjacent to
major population and/or employment centers.

"Second, location within or in proximity
to existing major water supply and sewer service areas.

"Third, location within or in proximity
to areas served by major highway and commuter rail facili-
ties.

1 "Fourth, absense of large concentrations
2 of agricultural land.

3 "Five, absense of large blocks of open
4 space or environmentally sensitive land."

5 Q Would you also just read the preceding
6 sentence to those five criteria?

7 A In the paragraph preceding the criteria the State
8 Development Guide Plan points out, "Several existing rural
9 centers in the more peripheral regions have also been
10 designated as locations where continuing development would
11 be appropriate."

12 Q Okay.

13 Back to the five criteria that you enum-
14 erated previously. First, Mr. Zimmerman, do you have an
15 opinion as to whether or not the Far Hills Village, as
16 designated on the State Development Guide Plan, is generally
17 consistent with those five criteria for a growth area?

18 A Yes, I do. I think in my opinion ---

19 Q Yes, what is that opinion ---

20 A The 206 growth corridor is consistent with the
21 five criteria I have enumerated.

22 Q And how about more particularly the
23 Far Hills Village, as it fits within that 206 growth
24 corridor as a growth area?

25 A Again, I think the Far Hills Village and the

1 subject property in particular all satisfy the criteria
2 or satisfy all the criteria that are enumerated in the
3 State Development Guide Plan.

4 Q Now, can we take each one of those
5 criteria separately and would you tell the Court in what
6 way you think the 206 corridor fits within that criteria
7 and in particular the expanded Far Hills Village fits
8 within each of those criteria?

9 A Certainly.

10 Q Why don't I ask them one at a time.

11 First, "Location within or adjacent to
12 major population and/or employment centers."

13 A The Far Hills Village, itself -- well, okay,
14 Far Hills Village, itself, is not a major population
15 center, such as Morristown or Somerville. But in the
16 context of where it is -- and historic functioning --
17 it has more population within it than the more outlying
18 areas of the northern portion of the County. It is a
19 population center in the same respect or context or
20 characteristics as Pluckemin, Bedminster, Peapack-Gladstone
21 are. It is an area which is adjacent to employment centers
22 and I would indicate that in my opinion major employment
23 centers that have grown in the last decade.

24 Bernards Township is an adjacent muni-
25 cipality and its proximity to Far Hills is direct. Within

1 Bernards Township is the new AT&T facility of about 4,000
2 employees. Similarly adjacent to the Village is Peapack-
3 Gladstone, which contains Beneficial Management headquar-
4 ters of about a thousand employees.

5 Another adjacent community, Bedminster,
6 has an AT&T facility or employment center of, again,
7 about 4,000 employees.

8 There are smaller ---

9 Q So there are two separate AT&T facilities?

10 A Yes, each one at the 287 Interchange, respectively,
11 in Bernards Township and Bedminster Township.

12 There are smaller employment opportunities
13 and activities in the area.

14 Bernards Village has growth in terms of
15 smaller office and commercial activities.

16 There is a new office building being
17 built in Bernards Township at -- on Route 202, at the
18 North Maple Avenue Interchange of about 215,000 square
19 feet, which will house about 750 employees.

20 Q That is the Basking Ridge Corporate
21 Plaza complex?

22 A I think that is what they call themselves.

23 Q Right.

24 How about around Mount Airy Interchange?

25 A Around the Mount Airy Interchange, there are three

1 or four midsize office buildings that have been developed.

2 There is also a newer facility that has
3 been built at that Interchange, approximately 150, 200,000
4 square feet, which also is a major employment center for
5 the region.

6 So I think the Village, itself, has -- is
7 a population center in the same sense that Pluckemin --
8 these other villages in the area or other population
9 centers.

10 More importantly, the Village is adjacent
11 to major employment centers that have developed in this
12 area in the last decade.

13 As far as the 206 corridor, itself, we
14 have mentioned many employment centers, such as the AT&T
15 facility in Bedminster, and Beneficial Finance headquarters
16 in Peapack, the City Federal Bank headquarters in Pluckemin
17 and there are other employment centers that are being
18 developed in this corridor and for obvious reasons.

19 Location is extremely important. Access is extremely
20 important. And given the transportation routes of 206,
21 202 and the new Interstate highways, 78, 287 and the
22 Interchanges, all serve to make land which 50 years ago
23 was farm land or estate land, now extremely valuable for
24 offices and employment center development.

25 Q Mr. Zimmerman, I want to focus on one

1 word here. The word adjacent to employment centers.

2 And I underscore adjacent is used in the criteria.

3 What is the distance in travel times
4 from these major employment centers that you describe:

5 AT&T in Basking Ridge; AT&T in Bedminster;
6 the various developments in Bernards Township along the
7 highway and others that you have mentioned?

8 What is the perimeter in travel time to
9 the Far Hills Village area?

10 A Well, the ---

11 Q Or in miles?

12 A There are two Interstate 287 Interchanges in
13 very close proximity to Far Hills. The Interchange at
14 Bedminster, which is the Interchange of 287 and 202-206,
15 is three miles from the site, itself -- that was the
16 subject property.

17 The Mounty Airy Interchange is three-and
18 a-half miles from the site or from the Village.

19 Obviously, depending upon traffic and
20 things -- but I would say, as I recall, it is roughly a
21 five minutes drive -- at the most maybe ten minutes to
22 these Interchanges and in my opinion they are adjacent
23 extremely proximate, whatever adjective you want to use.

24 I think the bottom line is that they
25 are as close to the Village, as you can get, without being

1 actually within the Village itself.

2 Q So as a planning concept, you believe
3 these are adjacent employment centers?

4 A Yes, and I think if you look at the map of the
5 County, you can see that these Interchanges are quite
6 close to the Village, the site, and form part of the
7 character and are now part of what each community has to
8 deal with in its planning and location of land uses.

9 Q Turning to the second criteria, "Location
10 within or in proximity to a existing major water supply
11 and sewer service areas," does the Far Hills Village as
12 expanded comply with that area and if so, how?

13 A The Village of Far Hills does have public water
14 and public sanitary sewage system. The public water is
15 owned by the Commonwealth Water Company. The sanitary
16 sewer lines currently exist in the Village. The subject
17 property is at a higher elevation than the Village, so
18 that a connection can be made quite easily across -- or
19 under the railroad tracts, and since the property is
20 higher, the sewage can flow via gravity system into the
21 public sewer system.

22 There is public water and sewer, which is
#2 23 an important criteria, in the Village and the subject
24 property can easily connect to that system.

25 As far as the corridor itself, there are

1 public water and sewer service areas in the corridor.
2 There is public water and sewer in Bedminster, in Pluckemin,
3 other areas of the corridor, and as development occurs,
4 these systems will be enlarged to handle development.

5 Q All right.

6 The third criteria on page 47 of the
7 State Development Guide Plan for growth areas reads as
8 follows:

9 "Location within or in proximity to
10 areas served by major highway and commuter rail facilities."

11 You have indicated that the Far Hills
12 expanded Village does comply with that criteria. Will
13 you explain to the Court in what way?

14 A As I mentioned earlier, there are major highways,
15 202, 206, Interstates 287 and Interstate 78 in very close
16 proximity, easily accessible to the subject site and into
17 the Village and, indeed, the State Development Guide Plan
18 for this area does call this spur, as I have named it,
19 the corridor -- corridor defined by the highway system,
20 itself.

21 Secondly, there is a railroad station
22 in the Village. The subject property is literally next
23 to the railroad station. Any development on the subject
24 property would afford people who live in that area close
25 proximity or access to the railroad station for commutation

1 to work, etcetera. But I think in my opinion the Village
2 and subject property satisfy the criteria of being served
3 by major highways and commuter rail facilities and, indeed,
4 as I have mentioned several times earlier, the corridor,
5 itself, is a function or is defined by the existence of
6 the major highways and the commuter rail facilities.

7 Q Mr. Zimmerman, we all know the Judge knows
8 every twist and turn of that rail line and most of the
9 houses and trees that go along the tracks. But, in
10 general, where does that commuter rail line go from Far
11 Hills, to where?

12 A Well, it goes into Hoboken and then via the
13 Path -- the old tubes system -- into New York City. So
14 it connects to employment centers to the east. The
15 developed areas of Newark, Hoboken, Jersey City and,
16 ultimately into Manhattan, New York City.

17 Q The Fourth criteria on page 47 of the
18 State Development Guide Plan for growth areas reads as
19 follows:

20 "Absence of large concentrations of
21 agricultural land," and you have already indicated that
22 there is compliance with this criteria.

23 Can you elaborate in what way in parti-
24 cular the Far Hills Village meets this criteria?

25 A One of the objectives of the State Development

1 Guide Plan was to preserve to the maximum extent possible
2 our dwindling supply of agricultural land in New Jersey,
3 and, certainly, the State Development Guide Plan did not
4 want to recommend growth in areas that were used in
5 active productive agricultural pursuits.

6 In my opinion the growth area in the
7 206 corridor does not outline any large concentration of
8 agricultural land and, secondly, the Village of Far Hills
9 and the growth area, as it goes through Far Hills, does
10 not include any large concentrations of agricultural land.

11 Those lands are all outside the growth
12 area.

13 Q In fact, Mr. Zimmerman, does the growth
14 area versus the nongrowth area, as shown on the State
15 Development Guide Plan or the limited growth area, parti-
16 cularly in the community of Far Hills, make that differen-
17 tiation quite clearly?

18 A Yes, it does, and I think that the value of the
19 growth area is not only in understanding the area that
20 is designated as growth area -- the area that is being
21 recommended to accommodate growth -- but also the con-
22 verse. There is an area that the State strongly recommends
23 not be the receptacle of growth, but rather be reserved
24 for agriculture, for open space or for limited development.
25 And, indeed, these two concepts work, in my opinion, in

1 concert and that is you have to encourage growth some
2 place in order to preserve and keep growth out of other
3 areas of our State and County.

4 Q And does the State Development Guide Plan,
5 as it goes through Far Hills, and as it designates the
6 growth area around the Village, and the limited growth
7 areas beyond that, does that fulfill that concept in
8 your opinion, as a planner?

9 A I think it does. Indeed, it does designate
10 areas in Bernardsville, Bedminster, Far Hills, and the
11 other Somerset Hills communities as limited growth wherein
12 development will proceed at its own slow pace and that
13 roads, sewer and water and other growth inducing facilities
14 are not encouraged. And in fact just the opposite, are
15 discouraged. So that we can have a variety of types of
16 living in this area of the County.

17 Q The fifth criteria identified on page
18 476 of the State Development Guide Plan reads as follows:

19 "Absence of large lots of open --" I am
20 sorry -- public open space or environmentally sensitive
21 land."

22 You have already indicated that Far Hills
23 growth areas complies with that concept or does violate
24 that concept. Could you explain that or elaborate upon
25 that to the Court?

1 A The Village does not have large blocks of
2 public open space. There are no State Parks in this
3 Village area. Any community is going to have some
4 community parks. I don't think that is what the State
5 Development Guide Plan was talking about.

6 The Village in my opinion is absent
7 large blocks of public open space, as is in my opinion
8 also the entire 206 corridor.

9 As to environmentally sensitive land,
10 again, the subject property is not characterized by
11 environmental sensitivity. This section of Far Hills is
12 not characterized by environmental sensitivity. To the
13 extent that other sections of Far Hills, which have steep
14 slopes, for example, or have natural features, which should
15 be protected, like Ravine Lake, or something like that --

16 Again, any area of the State is going to
17 have certain pockets of environmental sensitivity. But
18 in general the area depicted by the -- the area depicted
19 as growth area in the Village is absent environmentally
20 sensitive land, as is the length and width of the 206
21 corridor.

22 Q There are some -- that you have stated
23 a moment ago -- some pockets of exception to this rule;
24 is that not so?

25 A Yes, there are, and I think the State recognized

1 However, I think in looking at the
2 particularities of the Village, there is a piece of pro-
3 perty in the Village that is not environmentally sensitive,
4 does not have those constraints, and can develop consistent
5 with what the growth area recommends for that area.

6 Q Mr. Zimmerman, based upon your analysis
7 of the criteria for growth area, the State Development
8 Guide Plan, and the testimony of just given, do you have
9 an opinion as to the reasonableness of the designation of
10 the enlarged Far Hills Village as a growth area and in
11 particular the inclusion of the subject property within
12 that growth area?

13 A Yes, I do.

14 Q And what is that opinion?

15 A It is my opinion that the State Development *all*
16 Guide Plan outlined a series of five or six criteria in *criteria*
17 what I would consider to be the appropriate planning *subject*
18 fashion; has explained clearly, I think, what each of
19 these criteria means to a growth area and taking those
20 criteria and applying it to the Village, in my opinion
21 the criteria are satisfied.

22 The Village does have water and sewer,
23 proximity to employment centers, proximity to highways,
24 commuter rail facilities.

25 It is not characterized by agricultural

1 land or public land or environmentally sensitive land,
2 and when you apply these criteria not only to the corridor,
3 to the Village, but, lastly, to the subject property,
4 my opinion, the subject property, itself, perhaps, better
5 than any property in Far Hills that is within the growth
6 area designation best satisfies these criteria.

7 Q Mr. Zimmerman, I would like to take that
8 last statement. You helped us in the transition with
9 your conclusion and that was that the subject property
10 best satisfies that criteria. That is on a comparative
11 basis to the other properties -- undeveloped properties
12 in the Far Hills Village growth area. And I would like
13 you again to succinctly go around those properties in
14 the Village and tell the Court why you have reached that
15 conclusion and I just give you one admonition and that is
16 the Court has been through that testimony in the pre-Mount
17 Laurel II portion of this trial. So I think that your
18 testimony could be succinct in that regard.

19 MR. VOGEL: If we could get a moment,
20 Judge, to put that on the board?

21 THE COURT: We will take ten and we will
22 get back to it.

23 (A recess is taken.)

24 THE COURT: Are we ready to resume?

25 MR. VOGEL: Yes.

1 THE COURT: Go ahead.

2 BY MR. VOGEL:

3 Q Mr. Zimmerman, just before the break I
4 asked you to compare the property in question, that is
5 the property owned by plaintiffs, with the other tracts
6 in the growth area of Far Hills, as shown on the State
7 Development Guide Plan for its -- the relative suitability
8 of those tracts or availability of those tracts for higher
9 density development.

10 Can you do that?

11 A Yes, sir.

12 Q Now, first, will you identify to the Court
13 what exhibits you are referring to or plan to refer to?

14 A I plan to refer to two exhibits: One entitled
15 Existing Land Use, which is exhibit P-14 prepared by
16 myself, and the second exhibit entitled Existing Land
17 Use, D-9, prepared by Allen Dresdner, the planner for
18 the defendant.

19 Referring, firstly, to existing land
20 use map P-14, there are in the Village area several
21 properties that are designated V, which would be vacant.
22 The property in question, 19-20 acres, approximately,
23 is vacant. There is a small lot in the Village -- I think
24 it is the only lot left that at the time of the preparation
25 of this map was vacant. There is an area shown on the west

1 of the village, which is public. That is the fair grounds
2 park property.

3 There is an additional area in the general
4 vicinity of the Village which is shown by a diagonal line
5 designation as quasi-public. That is this property. It
6 is vacant, but it is owned by the Upper-Raritan Watershed
7 Association.

8 This lies within the flood plain and I
9 presume they purchased it to ensure that development does
10 not take place.

11 In any case I think we can all agree that
12 that area by virtue of its ownership and character, lying
13 in the flood plain, is not going to be developed.

14 There are a couple of lots on Schley Road,
15 which are vacant. The Schley Road in this portion of the
16 Village is a paper street. There is no road there. And
17 that might or might not be developed in the future.

18 I think that would be highly speculative
19 as to what would happen.

20 I would presume that nothing is going to
21 happen. But you never know.

22 At the northern portion of the Village
23 or the northern portion of this triangle there is a property
24 which is also vacant and this property is characterized
25 as lying in the flood way or flood fringe area and thereby

1 is in my opinion excluded from any intensive type of
2 development.

3 Q Would you just show those two areas that
4 you referred to? The one you just referred to in the
5 flood plain and the other owned by the Upper-Raritan
6 Watershed Association, on the other exhibit.

7 A Yes.

8 Referring to exhibit D-9, there is a color
9 on this map which is entitled Undeveloped Lands.

10 They show, one, the subject property;
11 two, that single lot in the middle of the Village area;
12 three, the area owned by the Upper-Raritan Watershed
13 Association abutting the river and, fourthly, another area
14 also abutting the river privately owned, but characterized
15 by lying in the flood way or flood fringe area.

16 Essentially, those four properties are
17 the vacant, undeveloped lands in Far Hills in the growth
18 area.

19 Q And in your opinion are any of them
20 suitable for development?

21 A Well, I think there is only one that is suitable
22 for development and that is the subject property, which is
23 at the -- which is characterized by abutting 202, Sunny-
24 branch Road and the third side abutting the railroad.

25 Q I just -- I also recall -- I am not sure

1 whether the Timber Properties piece now being taken with
2 Green Acres funds, whether that was in the growth area or
3 not on the State Development Guide Plan.

4 A The property, referring to Timber Properties, is
5 outlined by my pointer here as abutting the railroad,
6 fronting on 202 and lies to the southeast of the subject
7 property. There is a lake in the middle. But is outside
8 the State Development Guide Plan growth area designation.

9 A small portion of that property, however, is earmarked
10 by the County Master Plan as being part of the Village
11 neighborhood.

12 Q And what is the present legal status of
13 that property?

14 A My understanding is that the property is being
15 acquired by the municipality for Green Acres purposes.

16 Q So, based upon that understanding, do you
17 have an opinion as to whether that property would be
18 available for growth or ---

19 A That property has been taken off the market.
20 It is going to be put to public use not available for
21 growth unless the Village wants to put up some housing
22 themselves. But it is outside the growth area. The
23 majority of the property is outside the County -- Village
24 neighborhood area and just to backtrack a minute, if the
25 property is taken for Green Acres and utilizing State funds

1 to do so, then it has to be utilized for Green Acres
2 purposes. It cannot be used for other public or quasi-
3 public purposes.

4 So I would say the bottom line on that
5 piece of property is that it is not available for anything
6 but park purposes.

7 Q There is another large tract called
8 Moorland Farms, if I recall. Would you show the Court
9 where that is on the map?

10 A Yes. Moorland Farms is a large piece of property
11 south of the Village.

12 About half of that property is in the
13 growth area. The eastern half is not. It fronts on
14 Route 202, bounded on the east by the Liberty Corner Road
15 and on the west by the boundry between Bedminster and
16 Far Hills.

17 A portion of that property is also located
18 in Bedminster. Both in Far Hills and Bedminster.

19 Q And what is the status of that property
20 in terms of its availability for growth?

21 A My understanding is that that property is not
22 available for growth as its title has been encumbered by
23 restrictions and it is, essentially, owned by AT&T and is
24 being used for open space and there are deed restrictions
25 to the effect that it will continue to be used for open

1 space in the foreseeable future.

2 Q Mr. Zimmerman, does that exhibit D-9
3 have an overlay showing those environmentally sensitive
4 areas?

5 A Yes, it does.

6 Q All right. And just in terms of the
7 flood areas along the river that were mentioned before,
8 is that -- does that overlay support your conclusion in
9 that regard?

10 A Yes.

11 The blue designation is flood hazard
12 areas. It does show the area alongside the bank of the
13 Raritan River as lying in the flood hazard area, which
14 encompasses almost all of the property owned by the Upper-
15 Raritan Watershed Association, and the property of the
16 northern extreme end of the Village, which is vacant and
17 undeveloped.

18 Q Okay.

19 Would you turn that overlay back. I want
20 to ask you one more question.

21 Just referring to the remainder of the
22 lands in the growth area, as shown on the State Development
23 Guide Plan, and I realize you have to put those two maps
24 together, can you point out the designation on your exhibit
25 indicating which properties are in fact developed?

1 A All of the areas that lie in the growth area,
2 with the exception of these four yellow colored areas ---

3 Q Green.

4 A --- green colored areas are developed.

5 Q And that is from Mr. Dresdner's exhibit
6 D-9; is that correct?

7 A Yes.

8 Also referring to P-14, the dots indicate
9 residences, small dots also residences but on smaller lots.
10 The solid black is commercial and as shown on the existing
11 land use map, all of the properties with the four shown as
12 V, vacant, or shown as green on the D-9 exhibit are
13 developed for residences, parks or commercial, railroad
14 station uses, of that nature.

15 Q Mr. Zimmerman, to summarize, what is
16 your conclusion with respect to the comparison of the
17 suitability of the P.Q. and availability of the P.Q. for
18 higher density and particular Mount Laurel-type development
19 as distinguished from the other vacant tracts in the growth
20 area, as shown on on the State Development Guide Plan?

21 A My conclusion is that of all the properties lying
22 in the State Development Guide Plan growth area in Far
23 Hills, there is really only one property that is suitable
24 for development in that all the other properties are
25 developed or all the other properties are encumbered by

1 serious environmental constraints and the result is you
2 really only have one property left that can be utilized.

3 Q Okay.

4 Why don't you resume your seat, Mr.
5 Zimmerman.

6 I just have one last series of questions.
7 They deal with one subject and to some extent you have
8 covered it. But I want to ask you, Mr. Zimmerman, have
9 you as a planner developed your own criteria for establish-
10 ing whether or not a particular property or area is suit-
11 able for higher-density development, such as Mount Laurel-
12 type development?

13 A Yes, I have.

14 Q And I believe in the pre-Mount Laurel II
15 portion of this trial you did delineate those criteria.
16 But succinctly and briefly go down the line with each
17 of your criteria?

18 Let me interrupt. Are those criteria
19 delineated in your report already in evidence in this
20 trial?

21 A Yes, it is.

22 Q All right.

23 Would you go down the line with those
24 criteria, the ones you have developed as a planner, and
25 compare each of those criteria with the property in

1 question to determine your opinion as to its reasonable
2 suitability for higher-density development?

3 A Certainly.

4 The first criteria is the availability
5 of public water and sewers. The subject property is
6 proximate to the public sewer and water systems that
7 currently serve the Village. A hookup can easily and
8 feasibly be made to the subject property, such that it
9 is my conclusion that subject property will have adequate
10 water and sewer facilities.

11 Q Excuse me. I am going to interrupt you,
12 Mr. Zimmerman, and ask you -- your report, by the way,
13 is exhibit P-1. Is that correct?

14 A P-1.

15 THE COURT: Do you have P-1 to work
16 with, Mr. Mastro?

17 MR. MASTRO: Yes.

18 BY MR. VOGEL:

19 Q What page or pages of this report?

20 A Page 11.

21 Q The criteria listed on page 11?

22 A Yes.

23 Q You have covered the first criteria,
24 availability of sewer and water. Go ahead with the others.

25 A Next is access to a collector-type street.

1 Naturally, a higher-density housing is going to generate
2 more vehicle trips than single-family housing and access
3 to a collector-type street or street that can handle this
4 increase in traffic is important.

5 The subject property does front on
6 Route 202 and it is a corner piece of property. The
7 County Plan, the Somerset County Circulation Plan iden-
8 tifies Route 202 as an intermediate-type of road, which
9 serves to connect major highways and local streets and,
10 indeed, I think it does serve that purpose and if multi-
11 family-type housing was built on the subject property it
12 would take the cars from the property, from the local,
13 internal streets of the property, onto Route 202 and then
14 funnel them to the major highways.

15 Next is the compatibility of, or com-
16 patibility with surrounding land use and, as I see the
17 subject property and it exists as a transition piece of
18 property between the Village, which has its commercial,
19 single-family, but dense-type of development single family,
20 and some multi-family, the railroad station and the rail-
21 road tracks on one side and the middle is the subject
22 property, which is being proposed for higher-density or
23 multi-family housing and then on the other end or the
24 next pieces of property would be the Sunnybranch Road and
25 the larger acreage, ten-acre-type of properties. So the

1 subject property exists, is residential. It in my opinion
2 can exist as a transition between intense use on one side
3 and low-density use on the other side.

4 Q Let me ask you one question about the
5 intensity of the residential development within the Village.
6 That is the density of within the Village. What is that
7 density?

8 A The density -- there are two zoned districts in
9 the Village. Actually, there are two zoned districts in
10 the Village. Lots on 5,000 square feet and lots on 9,000
11 square feet and there are some homes that actually have
12 built on 3,000 square foot lots.

13 Q Will you take even of those densities,
14 the 3,000 square foot lots, the 5,000 square foot lots
15 and 9,000 square foot lots, and translate those densities
16 into numbers of dwelling units per acre?

17 A Well, the 3,000 square foot lots would be about
18 12 units per acre. This is not -- this is a consistent
19 density for some of the higher -- something like an
20 apartment -- garden apartment-type of uses in the suburban
21 area would be about 12 units per acre or small lot single
22 family -- maybe even higher-density townhouse use could
23 be found at that density.

24 Q Excuse me. Without getting off on a
25 tangent here, would that density be suitable for Mount

1 Laurel-type housing?

2 A Yes, it would.

3 Q Go ahead.

4 A It is within the range suggested by the Somerset
5 County Master Plan that talks about village neighborhoods
6 of which Far Hills is one, as having a density range of
7 between five and 15 units per acre.

8 The second density is 5,000 square foot
9 lots, which is about eight units per acre, and that is
10 typical townhouse-type density.

11 Again, within the range discussed by
12 the County Master Plan. And the 9,000 square foot lots
13 would be a little over four units per acre and that is
14 more of a single family small lot-type of density. And,
15 indeed, that is what is found in this area.

16 Q Now, to get all three of these densities
17 back to your criteria of compatibility of surrounding
18 land uses, how do those densities fit in with the concept
19 of developing the P.Q. for higher density purposes?

20 A Well, the property in question is adjacent to
21 the Village and the Village is characterized by homes
22 of about 12 units per acre or homes on lots of 3,000 square
23 feet or eight units per acre, homes on 5,000 square feet,
24 and if the subject property were developed for those
25 types of densities, it would comparable to what is in the

1 Village at the present time.

2 Q All right.

3 Going onto the next criteria that you
4 have developed as a planner for suitability of property
5 for multi-family housing or higher-density housing ---

6 A Next is proximity to commercial facilities and
7 the Village does have ---

8 Q Excuse me. Mr. Zimmerman, do you have
9 a criteria, public transportation?

10 A I didn't get there yet.

11 Q I am sorry. I have them in different
12 order in my notes.

13 All right.

14 A Proximity to commercial facilities would include
15 the advantage this property has in its location to the
16 Village, which has developed for smaller stores, post
17 office, professional offices, banks, pharmacy, delicatessen,
18 hair salon, all of those little neighborhood-type stores
19 which we all from time to time make use of.

20 There are also larger commercial facilities
21 in Bernardsville or Pluckemin or within the immediate
22 area, only four or five miles away.

23 Q Excuse me.

24 Let me ask you in terms of proximity of
25 the stores to the Village that you have described, is the

1 P.Q. within walking distance of that Village?

2 A Yes. That would be a distinct advantage of the
3 property in question in that you can within a couple of
4 minutes walk from your home to these shops, stores, bank
5 offices, etcetera.

6 It makes the property in question parti-
7 cularly favorably located in the Village as opposed to
8 other vacant areas.

9 Q All right.

10 The next cirteria.

11 A Now, we get to proximity of transportation
12 facilities and in particular the site is in close proximity
13 to two major Interstate Interchanges in the area, the
14 Mount Airy Route 287 Interchange and the Bedminster or
15 the 202-206 Route 287 Interchange.

16 I indicated earlier that we are really
17 dealing only with a couple of miles, three, four miles
18 and in either of those cases.

19 Secondly, the site is within walking
20 distance of a railroad station, so that if a resident
21 of that property was working in Summit or Newark or even
22 New York City, they could walk to the railroad station
23 and that would be an extremely convenient attribute of the
24 site.

25 Next is other location or proximity to

1 public and private facilities, such as library or fire
2 station, doctor's office, dentist, churches ---

3 Q How about post office?

4 A Post office would certainly be included.

5 Q Municipal building?

6 A Municipal building, likewise.

7 And the site is proximate -- very close
8 to these public and private facilities, in most cases
9 within walking distance. And, again, in my opinion that
10 translates into a very desirable attribute of the site,
11 which makes it readily developable for multi-family housing.

12 Q All right.

13 What is the next criteria?

14 A I think that's about it. Unless you want to
15 talk about need for housing.

16 Q No.

17 I have a note on the developability of
18 the site. I don't know -- I guess that was talking about
19 the physical characteristics of the site.

20 A Well, to some extent ---

21 Q Well, let me stop and then I will go back
22 to the physical characteristics.

23 Based upon your own planning criteria
24 for suitability of a particular area for higher-density
25 housing, do you have an opinion as to whether the P.Q. is

1 suitable for higher-density housing and, therefore, is
2 appropriate to be within a growth area of the State
3 Development Guide Plan?

4 A I think it is suitable for higher-density housing.
5 I think it is appropriate that the site is located within
6 the growth area designation and I think it is of all the
7 properties in Far Hills in the growth area, it is the
8 most suitable for higher density, Mount Laurel-type II
9 housing.

10 Q Mr. Zimmerman, I just want to ask you a
11 question or two about the developability of the site in
12 terms of its natural characteristics, slopes, water table,
13 things of that nature.

14 What. --

15 Do you have an opinion about that subject?

16 A Yes, I do.

17 Q And what is that opinion?

18 A There are four criteria that are enunciated in
19 the master plan of Far Hills and are identified as con-
20 straints on the development of property. Taking each one
21 in turn, first, whether the slope -- I am sorry -- whether
22 the property is characterized by steep slope, 15% or
23 greater, this property is not characterized by steep
24 slope. Most of the slope -- I mean the property is really
25 fairly level. There are one or two areas in the north

1 that are a little slopey, but we are talking about four
2 or five percent. There is no -- in my opinion -- slope
3 constraint on the property.

4 The next is depth to bedrock of less than
5 one foot.

6 The Soil Survey of Somerset County char-
7 acterizes the soils on the property and indicates that
8 there is much greater depth to bedrock. That is much
9 greater depth of soil between the top of the soil and
10 any bedrock or any rocks underneath. It is greater than
11 one foot. So there is no problem with that.

12 Third is flooding or flood fringe area.
13 The property is not -- does not flood. It is not -- as
14 you can see by the map, adjacent to the Mine Brook or the
15 branch of the Raritan River. There is no flood constraints
16 on the property.

17 Lastly, the master plan talks about
18 seasonal high water table. Portions of the property are
19 characterized by perched seasonal high water table and
20 at certain times of the year there is perched water found
21 on the property. However, that would be a problem if
22 the property were to be served by public -- I am sorry --
23 by individual septic systems.

24 Since that is not the plan or, certainly,
25 would not be envisioned if and when the property is developed,

1 wherein the property would be served by public water and
2 public sewer, that in my opinion is not an environmental
3 constraint on the development of the property.

4 So in putting these four factors together
5 and looking at the subject property in light of these
6 four factors, it is my opinion that there is no environ-
7 mental constraints on the development of the property
8 for higher density or Mount Laurel II-type housing.

9 Q Mr. Zimmerman, one overall question,
10 do you have an opinion as to whether or not it was
11 reasonable for the State Development Guide Plan growth
12 area, as it went through Far Hills and around the Village,
13 to have included the property in question?

14 A Yes, I do.

15 Q And what is that opinion?

16 A I think the State Development Guide Plan is
17 basically saying that there are areas of the State which
18 should entertain growth. Indeed, the State Development
19 Guide Plan recommends that growth take place in certain
20 portions of the State and that other portions of the
21 State be preserved for agricultural and low growth, etcetera.
22 The plan clearly shows a significant area of Far Hills as
23 growth area. The State is clearly in my opinion saying
24 that Far Hills should entertain growth and that when you
25 examine the municipality in detail in my opinion there

1 really is only one piece of property that can satisfy the
2 recommendation by the State, by the County, by TriState,
3 all of these other planning agencies, as accommodating
4 growth and coupling that concept with the decision by
5 the Supreme Court; namely, the Mount Laurel II decision,
6 which says, one, that you have been designated as a growth
7 area in the State Development Guide Plan, you, therefore,
8 do have an obligation to provide for regional housing
9 growth and, preferably, this growth should take place
10 within that area that is designated as growth area, and,
11 again, the subject property is located within that area
12 and can be used to fulfill that Supreme Court obligation.

13 Q And is it in your opinion reasonable to
14 have located within that growth area the P.Q.?

15 A I think it is reasonable. I think for the
16 above reasons it is really for all practical purposes the
17 only piece that is designated and available.

18 MR. VOGEL: Thank you.

19 Cross-examine.

20 CROSS-EXAMINATION BY MR. MASTRO:

21 Q Mr. Zimmerman, you indicated various
22 environmental constraints that were outlined on the Far
23 Hills Master Plan just a moment ago and I believe you
24 categorized four constraints. Am I right?

25 A Yes, sir.

1 Q Do they exist in other areas of the growth
2 area on the State Development Guide Plan?

3 A Some of those constraints do exist in portions
4 of the growth area in Far Hills.

5 Q Would you point those out for me, please?

6 A First, there are areas of the growth area that are
7 characterized by flooding or lying in a flood fringe area.

8 They are areas ---

9 Q And could you with a pointer outline
10 those areas for the Court, please.

11 A There are -- the growth area line is shown on
12 the exhibit thusly and there are portions of that area
13 that are identified in exhibit P-9 as lying in the flood
14 hazard area. That area colored in blue.

15 Q How about steep slopes. Are there any
16 steep slope areas in the growth area of Far Hills?

17 A Yes, there seem to be, again, referring to
18 exhibit D-9, two major -- two areas where there are
19 steep slopes. One in the northern portion of the growth
20 area section of Far Hills; one next to the north branch
21 of the Raritan, and the second being at the southern most
22 portion of the growth area designation on either side of
23 Route 287.

24 Q And how about high water table?

25 A The exhibit D-9 does not depict high water table.

1 Q Is there some other exhibit that would
2 demonstrate that?

3 A The exhibit D-10 shows areas with seasonally
4 high ground water and the criteria used in D-9 (sic)
5 is less than five feet. The criteria used in the Far
6 Hills Master Plan is slightly different. But in any
7 event, D-9 -- I am sorry -- D-10 shows in a blue diagonal
8 line portions of the section in the growth area as, indeed,
9 characterized by seasonally high water table.

10 Q And, indeed, it shows probably the
11 entire village being within the seasonally high water
12 table? Is that correct?

13 A That seems to be the case.

14 Q Are there other areas in the growth area
15 restricted by depth of bedrock?

16 A Exhibit D-9 and D-10 do not show depth to bedrock.
17 I would have to take a look at the master plan of the
18 Borough.

19 Q I am showing you a copy of my master plan.

20 MR. MASTRO: This isn't evidence, your
21 Honor.

22 THE COURT: We have it as an exhibit.

23 If so, what is the number.

24 MR. MASTRO: All right.

25 BY MR. MASTRO:

1 Q Mr. Zimmerman, referring to J-6, would
2 you address those areas that are affected by depth to
3 bedrock, less than one foot?

4 A The master plan shows that there are areas in
5 the growth areas starting at approximately the boundry
6 of the subject property -- that is the subject property
7 is excluded from depth to bedrock less than one foot.
8 But there are areas north of the subject property that
9 do have or are characterized by depth to bedrock of less
10 than one foot.

11 Q How about south to the subject property?

12 A South of the subject property, it doesn't appear
13 that there are any extensive areas of less than one foot
14 of depth to bedrock that lie in the growth area.

15 Q Would it be fair to conclude, Mr.
16 Zimmerman, that the areas within the State Development
17 Guide Plan growth area within Far Hills substantially
18 encompass areas classified as flood way and flood fringe,
19 some affected by depth to bedrock, a substantial amount
20 affected by seasonal high water table, with some slopes
21 in the northern and southern portions of Far Hills in
22 the growth area; is that a fair statement?

23 A Well, there are areas in the growth area that
24 are characterized by those natural constraints.

25 Q Let me be a little more specific.

1 Would it be fair to conclude that the
2 overwhelming majority of the land in the growth area of
3 Far Hills is encumbered by one or more of those constraints?

4 A Well, I am not sure I would characterize those
5 lands as encumbered. I think those lands do have charac-
6 teristics of slope, flood way, depth to bedrock and
7 seasonal high water table. Whether those factors encumber
8 development is entirely a separate issue.

9 Q Let me rephrase the question.

10 Is it fair to conclude that the over-
11 whelming majority of the land in the growth area of Far
12 Hills is affected by one or more of the four constraints
13 I just indicated?

14 A I used the term characterized by.

15 Q Let's change affected to characterized.

16 A That would make me happy and comfortable.

17 Q Can you answer that question then?

18 A Yes.

19 Q Do you have an opinion what portion? I
20 said overwhelming portion of land in the growth area of
21 Far Hills. Can you approximate a portion or a percentage
22 of that land?

23 A I would say that most of the land in the growth
24 area in Far Hills is characterized by those four factors.

25 Q Would you say it would approach 80 to

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90%?

A It may very well, yes.

Q And, indeed, you concluded, did you not,
that when you examined the growth area in detail that
there really is only one piece of property that can accom-
modate growth which is the P.Q.; correct?

A Yes.

Q And I assume the reason for that con-
clusion is because of what we just reviewed?

A Well, in part.

Q All right. Let's take the other factors.
Let's look at P-14. What is some of
the other factors?

A Other properties are undevelopable because they
are in private ownership, quasi-public ownership, such
as the Upper-Raritan Watershed Association property, or
have existing development upon them.

Q Is it fair to conclude that the property
owned by the Upper-Raritan Watershed is within a flood
fringe area or so close as not to be realistically avail-
able for any future development? Is that a fair conclusion?

A Yes.

Q Is it also fair to conclude that the
properties to the north of the P.Q. that are developed
for ten-acre residential use are not available for future

1 development?

2 A They are not available by virtue of the fact that
3 they do have housing on them. If in the future there was
4 some redevelopment to occur, then they might be available.
5 But at the present time in comparison to the public -- in
6 comparison to property in question, they are certainly
7 less available.

8 Q We are talking about substantial develop-
9 ment along Sunnybranch Road to the north of the P.Q. Are
10 you familiar with that development?

11 A Yes, I am.

12 Q And in fact that was a development of
13 one of the plaintiffs in this case, was it not?

14 A That is my understanding.

15 Q And do you know when those properties
16 were developed, during what period of time?

17 A I would be guessing, you know, within the last
18 ten years.

19 Q Are they substantial homes?

20 A Yes.

21 Q So we are not talking about an older
22 area of, perhaps, large estate homes, are we?

23 A These are contemporary homes.

24 Q They are certainly not turn of the century
25 homes, are they?

1 A That is for sure.

2 Q And there are several parcels that appear
3 on P-14 to the south of the P.Q. that are developed with
4 one family homes, are there not?

5 A In the growth area.

6 Q I am sorry -- in the growth area.

7 A There is Moorland Farms and a couple of homes
8 further to the south beside 287 in the growth area.

9 Q Mr. Zimmerman, was the development that
10 occurred north of the P.Q. along Sunnybranch Road and
11 the residential homes to the south of the P.Q. on Moorland
12 Farms and south of Moorland Farms in the growth area ---

13 THE COURT: Do you understand the question?

14 MR. MASTRO: I didn't quite finish it,
15 your Honor. I have to put a question mark at the
16 end of it.

17 BY MR. MASTRO:

18 Q Was that in place in 1977 when the first
19 draft of the State Development Guide Plan was promulgated?

20 A Yes.

21 Q And, indeed, all of the environmental
22 constraints or characteristics were also in existence at
23 the time the first draft of the State Development Guide
24 was promulgated, were they not?

25 A Yes.

1 Q Was it anticipated in the State Development
2 Guide Plan that the growth area in Far Hills outside of
3 the P.Q. would accommodate further growth?

4 A I didn't understand, the road what?

5 MR. MASTRO: Can you read the question?

6 (The pending question is read by the
7 Reporter.)

8 THE WITNESS: I can't answer that.

9 BY MR. MASTRO:

10 Q You seem to be puzzled and can you
11 indicate to me why you can't answer that?

12 A Well, there are certain portions of the growth
13 area outside the P.Q. that are already developed like the
14 Village and, indeed, the growth area. The criteria for
15 designating portions of the State growth area recognized
16 that the growth area was to include areas like the Village,
17 built-up areas, Pluckemin, etcetera, that already had
18 housing and commercial uses and other uses. So that
19 portion of the growth area that was already developed --
20 unless it was going to be redeveloped for more intense
21 use, was -- you know, designated in that way. Either
22 the development would stay the same or it would be re-
23 developed for a higher and more intense use. The growth
24 area second designated portion of Far Hills and in
25 particular the subject property, which could accommodate

1 growth immediately and, thirdly, that there is another
2 alternative that the growth area designated areas which
3 may accommodate growth in the future.

4 Q Is it your opinion, Mr. Zimmerman, that
5 the originators of the State Development Guide Plan encom-
6 passed those areas outside the Village and placed them in
7 the growth area in anticipation of future growth, knowing
8 what was then in existence in 1977?

9 A Yes.

10 (A pause in the proceedings.)

11 BY MR. MASTRO:

12 Q The answer to your last question was
13 "Yes," Mr. Zimmerman. Does it appear logical to you that
14 the originators of the State Development Guide Plan would
15 have taken areas that are clearly within the flood fringe
16 area of Far Hills, that encompass a river used for potable
17 water supply, that encompass an area that is part of Long
18 Lines and, apparently, not available in perpetuity for
19 development -- appeared to you that the originators targeted
20 that area for growth in Far Hills?

21 A Absolutely. I think that the growth area des-
22 cribes a wide section of Far Hills along the corridor within
23 which growth is to take place and when you translate this,
24 these boundries onto -- onto the Far Hills Borough, you do
25 find that there are particular sites -- one in particular

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1 that is eminently suitable for development -- can satisfy
2 the goals and objectives of the State Development Guide
3 Plan. And, as I mentioned earlier, and even as the State
4 Development Guide Plan discusses, that within these --
5 within the growth area there may be properties that are
6 environmentally sensitive and when we deal with those
7 properties we have to make compromises and choices have
8 to be made.

9 It would be extremely difficult and
10 contrary to the goals and objectives of the State Develop-
11 ment Guide Plan to draw up a plan for the entirety of
12 the State that would within growth areas extract out
13 isolated pockets of tracts or properties that were par-
14 ticularly -- that had environmental characteristics to
15 them which at first blush may constrain or inhibit develop-
16 ment.

17 This is a concept. The boundries are
18 very clear. The goals and objectives are very clear and
19 even in the text they talk about, there are within that
20 area environmentally sensitive sections which will have
21 to be dealt with on -- on a basis at the municipal level
22 or some lower level than the State. I don't know. And
23 I will certainly put that on the record. I don't know
24 if the State felt -- knew that the Moorland Farms was
25 encumbered by deed restriction.

1 We found that out through rather extensive
2 investigation on our part. They may not be aware that
3 the Moorland Farms had that deed restriction and in drafting
4 the Development Guide Plan put forth this area which is --
5 if you will go out and look at that area -- eminently
6 suitable for development. It is a vacant, open farm-type
7 of area and it is only by quirk of luck, fate, or chance,
8 or whatever the fate may be, that it is not available.

9 I think those are the realities of the
10 State Development Guide Plan.

11 Q Do you think if the originators of the
12 State Development Guide Plan were aware that Moorland
13 Farms was not available for development in perpetuity that
14 they would have intentionally included that within the
15 growth area in Far Hills?

16 MR. VOGEL: Did I ---

17 THE COURT: It assumes what he doesn't
18 know.

19 MR. VOGEL: He already directly testified
20 that he doesn't know. It assumes a certain
21 hypothetical state of facts that he says he
22 does not know. I think the question is inap-
23 propriate.

24 MR. MASTRO: Your Honor, I am modifying
25 that statement of facts to indicate to the witness

1 that if the originators of the State Development
2 Guide Plan knew about it, knew that this Moorland
3 Farms property was not available for development,
4 does it seem logical they would have placed it in
5 the growth area.

6 MR. VOGEL: It is a hypothetical question
7 and it presupposes certain facts are in evidence.
8 They are not in evidence.

9 Mr. Zimmerman is not aware of them and I
10 believe the question is objectionable because
11 of the fact ---

12 THE COURT: The fact that Moorland Farms
13 is owned or controlled by AT&T is certainly spread
14 out on this record. The fact that there is a deed
15 restriction, apparently, is also on the record.
16 The extent of that deed restriction, whether it is
17 for four years or in perpetuity, I am not so sure
18 about it. My understanding is that there was
19 a year limitation on it in which AT&T said it
20 would be kept open. I may be wrong about that.

21 MR. VOGEL: The issue of what they knew
22 about it is not on the record and that is funda-
23 mental to the question.

24 THE COURT: But then we are getting into
25 whether they did or did not know of these things

1 and you are asking him to assume knowledge and he
2 has said that he knows nothing about that, what
3 they did or did not know.

4 First -- now, you want him to -- forget-
5 ting what his knowledge is of what he thought --
6 you want him to assume that they knew all of
7 these things about Moorland Farms, which are here
8 apparent on the record or have become apparent
9 on the record -- would they still have drawn the
10 line in the fashion that they did -- is that it,
11 essentially?

12 MR. MASTRO: Yes.

13 MR. VOGEL: That is what I object to,
14 because that is -- there is no basis in the
15 record upon which Mr. Zimmerman can properly
16 make that assumption. Mr. Mastro could draw upon
17 all kinds of possibilities in the universe. But
18 there is no basis in this record upon which that
19 assumption can be made. The hypothetical ques-
20 tion must fall.

21 THE COURT: My problem with it is this,
22 ultimately, gentlemen:

23 Let's assume that they knew in Trenton
24 the existence of Moorland Farms and they knew
25 at that time that Moorland Farms was owned by

1 AT&T. Let's assume further that they knew there
2 was a deed restriction on the development of
3 Moorland Farms. All right. Now -- and you ask
4 him whether it was reasonable to include it in
5 this plan. I assume that he can answer that, that
6 it was reasonable, either way, for the same reason
7 he said earlier that it would have been unreason-
8 able to have gerrymandered the parcel in question
9 out of it. And they draw lines. And they were
10 not doing it. I assume this is where you want
11 him to go for the purpose of including or ex-
12 cluding Moorland Farms, anymore than they were
13 doing it for the express purpose of including or
14 excluding the parcel in question, and I don't
15 know where we are going to be when we get the
16 answer to that question. Maybe I am anticipating
17 too much.

18 Where will we be and how will it be any
19 different?

20 Do you understand what I am saying?

21 MR. MASTRO: Yes, I understand. Even-
22 tually, it becomes a question of reasonableness
23 of this line. That extensive testimony as to
24 the reasonableness of the line, as it affects
25 the property in question. My current thrust

1 of the cross-examination is as to the reason-
2 ableness of the line outside of the property in
3 question. I am cross-examining Mr. Zimmerman.
4 He is not my expert. I don't see why I can't
5 ask him questions with certain predicates. If
6 they prove not to be valid, your Honor will weigh
7 that when he makes his findings. But I see no
8 reason why I can't ask that in cross-examination.

9 MR. VOGEL: That is not my understanding
10 of the Rule on hypothetical questions.

11 My understanding is that they must be
12 based upon facts in the record.

13 THE COURT: Well, there are two versions
14 of the facts. All right. There may be -- if you
15 want to predicate them on some other -- not
16 plaintiff's version, but yours, and if that is
17 the extent, I will permit that.

18 MR. VOGEL: Fine.

19 THE COURT: But that is not plaintiff's
20 version.

21 MR. VOGEL: All right.

22 THE COURT: We get in trouble when the
23 predicates are remote and they are not predicated
24 on the query of either party.

25 MR. MASTRO: May I have a minute, your

1 Honor?

2 THE COURT: Of course.

3 MR. MASTRO: I would like to examine an
4 exhibit.

5 BY MR. MASTRO:

6 Q All right, Mr. Zimmerman, I show you P-5,
7 which is an agreement entered into evidence between AT&T
8 and Bedminster Township.

9 Were you present in Court when that
10 agreement was the subject of testimony?

11 A I don't recall.

12 Q This appears, does it not, to be a re-
13 corded document, i.e. recorded with the Somerset County
14 Clerk?

15 A Yes, it does.

16 Q I should modify that by saying a copy
17 of a recorded document.

18 Now, would you look at paragraph one.
19 First of all, what is the date of the agreement?

20 A 1974.

21 Q All right.

22 I shows, paragraph one, and I am para-
23 phrasing some of this -- the owner, AT&T, covenants and
24 agrees that its property, which is described in the
25 agreement, shall hereafter be held and maintained as

1 vacant land and that no structure of any kind shall here-
2 after be erected thereon except their facilities shown on
3 maps, which they described.

4 Do you see that, sir?

5 A Yes, I do see that.

6 Q All right.

7 Now, let's turn to page four and look
8 at paragraph four.

9 The owner acknowledges this agreement
10 will remain in effect regardless of any future zoning
11 changes and going down in that paragraph and that the
12 open space character of the owner's premises surrounding
13 its proposed facilities will be permanently preserved.

14 Do you see that?

15 A Yes, I do.

16 Q Is it fair to assume that a recorded
17 document would have been known by the originators of the
18 State Development Guide Plan, a document of this nature?

19 MR. VOGEL: Objection. The witness has
20 already testified that he simply does not know
21 whether they knew it or not.

22 MR. MASTRO: Let me withdraw the question.

23 THE COURT: Withdrawn.

24 BY MR. MASTRO:

25 Q Does it appear that the Somerset County

1 Planning Board was aware of this document as it was recorded?

2 A At what time?

3 Q Prior to 1977.

4 A Well, I think we can agree -- can all agree that
5 they weren't aware of it in 1970, when they drafted the
6 Master Plan.

7 Q Obviously.

8 Sometime between 74 and 1977?

9 A I have no knowledge of whether they were aware
10 of it or not.

11 Q And was -- there was Allen Dean litigation
12 taking place involving Bedminster, was there not?

13 A In the mid or late 70's, yes.

14 Q And, as a planner, in the normal course
15 of seeking a development in the proportions of AT&T Long
16 Lines, would not that information relative to the develop-
17 ment, including any restrictions of the magnitude incor-
18 porated in P-5, have filtered into the County Planning
19 Board, as a matter of course?

20 MR. VOGEL: Can I -- I guess I have got
21 the question ---

22 THE COURT: There are some statutory
23 requirements, are there not?

24 MR. MASTRO: There are, indeed.

25 THE COURT: County roads, as an example.

1 MR. MASTRO: There is no question that
2 this application went to the County Planning
3 Board. I don't think Mr. Zimmerman will disagree.
4 Perhaps, he will.

5 MR. VOGEL: Your Honor, may I point one
6 thing out in the Rules? They said something
7 before in the Rules of Evidence, May, 1983 edition,
8 under Rule 56 -- commentary -- I am reading at
9 page 331 of the commentary. "The facts upon
10 which an expert witness bases his opinion may
11 be supplied by hypothetical question. However,
12 the facts in the question must be supported by
13 the evidence." Citing authorities. "It is
14 error to allow a hypothetical question, which is
15 based on facts, which are not so supported."

16 THE COURT: I have no problem with that.
17 He is trying to establish ---

18 MR. MASTRO: I am establishing a record.

19 MR. VOGEL: That was kind of about ten
20 questions ago. We had a question on it.

21 BY MR. MASTRO:

22 Q Do you recall the question I asked,
23 Mr. Zimmerman?

24 A I would assume that -- that a site plan -- or I
25 would assume that the site plan that was submitted to

1 Bedminster for the AT&T facility was also submitted to
2 the County Planning Board for their review.

3 I cannot, however, assume that that agree-
4 ment and the terms of that agreement were part of that.
5 It may have been. It may not have been. I just don't
6 know and I would have been hesitant to assume one way or
7 the other.

8 Q In the normal course of planning procedure,
9 an agreement that insulated a substantial tract of land
10 as open space, would ordinarily have been subject of some
11 comment by the County Planning Board, would it not?

12 A Well, I don't know. I can't answer that.

13 Let me get a little foundation to the
14 basis for my hesitancy.

15 I have reviewed -- I worked for the
16 County. I worked for the Morris County Planning Board.
17 I have worked for municipalities. I worked for developers
18 from time to time.

19 If you have a condominium project in
20 which there is a condominium association agreement and
21 deed restrictions on open space and all that, those
22 never get to the County. What goes to the County is the
23 site plan, maps, and they review it as far as drainage,
24 as far as ingress and egress, road openings, and all
25 these other factors.

1 The details, as far as these quote-unquote
2 legal items encumbering property usually in my experience --
3 usually don't go to the County.

4 Q Can we agree on this statement that at
5 least the agreement being a recorded document, if nothing
6 else, was constructive notice to the Planning Board and
7 the State Development Guide Plan orginators? Can we agree
8 on that?

9 MR. VOGEL: Objection, your Honor.

10 THE COURT: I will sustain it. I think
11 the concept of constructive notice is a legal
12 phrase -- phrase of art, perhaps -- and, basically,
13 unfair to pose that to the planner.

14 BY MR. MASTRO:

15 Q Now, you testified during your direct
16 examination that the various portions of the State
17 Development Guide Plan, particularly, as they affected
18 Counties, were discussed by the County with the County's
19 Planning Boards, were they not?

20 A Yes.

21 Q Is there any question in your mind as
22 to whether or not that portion of the State Development
23 Guide Plan that affects Somerset County was, indeed, dis-
24 cussed with the Somerset County Planning Board?

25 A No, there is no question in my mind that it was

1 discussed. I think there is reference in the State Develop-
2 ment Guide Plan that they did, indeed, discuss it with the
3 County Planning agency.

4 Q You indicated in your direct examination
5 that a State Development Guide Plan was a planning document.
6 Is that correct?

7 A Yes.

8 Q Could you be a little more specific, what
9 type of planning document?

10 A It was a document that, firstly, was drafted in
11 response to a legislative mandate to prepare a comprehen-
12 sive plan for the State of New Jersey.

13 Second, it was document which served or
14 was prepared to serve as a basis upon which State invest-
15 ments in the infrastructure of the State, such as roads,
16 water and sewer, parks, etcetera, were to be guided. That
17 is if a State agency were to -- were called upon to make
18 an improvement in a road, they would reference that im-
19 provement request to the State Development Guide Plan
20 and if the improvement were to take place in a growth area,
21 it would mean -- it would be looked upon more favorably
22 than -- if an improvement were using State funds and
23 resources -- were to be made in an area that was not a
24 growth area.

25 Thirdly, it was a plan, which was to be

1 used as a guide by private parties, industry, offices,
2 commercial establishments, and their investments and
3 used as a guide by Counties, Municipalities or their plans
4 as to where development and conservation and agricultural
5 areas should take place in the State.

6 And I think, lastly, there was a connection
7 with the State Development Guide Plan to housing and there
8 are other reports that have been prepared by the State,
9 which reference the State Development Guide Plan to housing
10 development and in particular to housing development for
11 affordable-type housing.

12 Q Is it fair to say that its primary ob-
13 jective was to serve as a guide for the channeling of
14 State resources throughout the different areas of the
15 State?

16 A I don't think so.

17 Q You don't think so?

18 Okay.

19 You cataloged during your direct examina-
20 tion the various factors in the north-south dimension of
21 the Clinton corridor, which, primarily, form the basis for
22 placing that area in the growth area of the State Develop-
23 ment Guide Plan?

24 THE COURT: Do you understand that?

25 MR. MASTRO: Let me try that again. It

1 was a long question.

2 BY MR. MASTRO:

3 Q During direct examination you indicated
4 what had changed along 202-206 to warrant the State
5 Development Guide Plan to place a north-south dimension
6 to the Clinton corridor, which is generally east-west.
7 Do you recall that?

8 A Yes.

9 Q And among some of those reasons were
10 Long Lines AT&T facility; is that correct?

11 A Yes. That is correct.

12 Q Also, the Allen Dean litigation. Perhaps,
13 you didn't articulate it in those terms. But would you
14 agree that the Allen Dean litigation was a reason?

15 A I don't know if it was or it wasn't.

16 Q How about the results of the Allen Dean
17 litigation?

18 A I'm not sure of the timing on the results. When
19 was that decision rendered?

20 Q Well, how did Hills Development get into
21 Bedminster? Do you know that?

22 A Well, as a result of litigation. I don't know
23 when that decision was rendered, whether it was rendered
24 in 1979 or 1981. I am just not aware of that.

25 You know, I have a rough idea. But I

1 don't want to make a guess.

2 Q You are not certain as to whether Hills
3 Development and subsequent -- and related development was
4 prior to 1977 or not? You are not aware of that fact?

5 A Well, we know, certainly, that the development
6 wasn't.

7 Q How about the decision to allow such
8 development?

9 A I don't know when the final decision was made by
10 the Courts, which thereby enabled the development to
11 proceed -- to start.

12 MR. VOGEL: I would like to object to
13 the question, because it is at least my knowledge
14 that there were several decisions up and down in
15 the Courts and I don't know which one Mr. Mastro
16 is referring to.

17 MR. MASTRO: Let me rephrase the question.

18 BY MR. MASTRO:

19 Q Did you not give as one of the reasons
20 for the justification of the State Development Guide Plan
21 in the north-south direction -- north-northwesterly
22 direction, being Hills Development?

23 A Yes.

24 Q Did you intend that as subsequent justi-
25 fication or prior to the time that the growth area was

1 established along 202-206?

2 A Subsequent.

3 Q Well, what was there prior to 1977, that
4 justified in your opinion the State Development Guide Plan
5 to incorporate a north-south dimension to the Clinton
6 corridor?

7 A Well, I think there are a whole host of factors:
8 The existence of a 206 corridor; the
9 existence of a major intersection of 206 and Route 287;
10 the existence of a major interchange between 287 and 78,
11 as well as 206; the existence of the villages along the
12 corridor -- Pluckemin and Peapack-Gladstone, etcetera;
13 the existence of public water and sewer facilities in
14 those villages; the existence, as you mentioned -- the
15 AT&T Long Lines; the existence of commercial -- some
16 commercial development along 206 and probably a lot of
17 other factors I haven't enumerated. But there also is
18 rail line and portions in that corridor -- there is an
19 absence of residential land in that corridor, an absence
20 of large blocks of open public space in that corridor
21 and, lastly, it is a corridor in which one reasonably --
22 and the State certainly did recommend growth to take place
23 in the future. Indeed growth has taken place.

24 Q Mr. Zimmerman ---

25 MR. VOGEL: Excuse me. I just wanted,

1 your Honor -- I wonder if I can have P-33, which
2 is the State Development Guide Plan that may have
3 been handed up to you.

4 If you are reading it, that is okay, I
5 can do without it.

6 I just wanted to check one reference in
7 there.

8 THE COURT: Go ahead.

9 BY MR. MASTRO:

10 Q Mr. Zimmerman, you mentioned a variety
11 of factors. You neglected to indicate there is a river
12 in that corridor.

13 A There is a what?

14 Q River. Is that at all significant?

15 A Are you asking me if I think it is significant
16 or is it significant to conclude that this a reasonable
17 area or is it significant to the people who drafted the
18 State Development Guide Plan?

19 Q Let's take them one at a time.

20 Do you think it is significant?

21 A No.

22 Q In your opinion did the State Development
23 Guide Plan consider the fact that there was a river in
24 that north-south corridor?

25 A They indicated that within the growth areas there

1 may be some sections that have environmental constraints.
2 But they also indicated that compromises may have to be
3 made and there has to be recognition of not only the envi-
4 ronmental constraints, but of the growth pressures stem-
5 ming from economic and location factors.

6 Q In your opinion is the integrity of that
7 river important to the area and, indeed, the State as a
8 potable source of water supply?

9 A That is a difficult question to answer. One,
10 when you say the integrity of the river, I think it is
11 important to the State and to people who live in the
12 area of the river that the river be maintained in as pure
13 a state as possible.

14 I don't know what classification that
15 river has at that point and whether it is a trout stream
16 or whether it is classified at some lower level, which
17 might accommodate growth or not.

18 Second, I don't know to what extent the
19 communities along the river utilize that river for water
20 supply.

21 In general, I would say that the river
22 should be maintained in as highest quality that can be
23 maintained, but I would also recognize, as did the State
24 Development Guide Plan, that from time to time we are
25 dealing with choices amongst items which we all agree have

1 high priority.

2 Q And in your opinion the river would not
3 be of significant impact to give it high priority?

4 A I don't -- I am not convinced that the growth
5 in the growth corridor along 206 can occur and have a
6 major impact upon the river. Let me phrase that a little
7 differently. I think the growth can occur in the growth
8 area along the 206 corridor and that growth can be designed
9 in a manner which will not have a negative impact upon
10 the river.

11 Q And, indeed, your response during direct
12 examination was that only one parcel throughout the entire
13 growth area was suitable and available for growth, that
14 was the property in question; was that not the thrust
15 of your testimony?

16 A That is correct.

17 Q Did you conclude from that, leaving
18 everything else in its status quo, you are thereby pro-
19 tecting the river?

20 A Well, I think that conclusion was based on a
21 comparison or a relative examination of the parcels that
22 are vacant in the growth area in Far Hills and why build
23 on a property that is characterized by periodic flooding
24 when you can build on a property that isn't characterized
25 by periodic flooding. If the subject property wasn't

1 available for some reason, then we would have to re-
2 examine the properties that are vacant or re-examine
3 the properties that might be partially developed and
4 come up with another piece of property.

5 But the subject property is available
6 and can be used and I think -- it would be my opinion --
7 better planning to use the subject parcel than to use
8 other parcels.

9 Q While we are discussing the impact of
10 the river, are you familiar with 201-208 studies, Mr.
11 Zimmerman?

12 THE COURT: With what?

13 MR. MASTRO: 201/208 studies.

14 MR. VOGEL: I will object because ---

15 THE COURT: I don't know what they are.

16 MR. VOGEL: Right. The question is not ---

17 THE COURT: Unless you further identify
18 them. What are they?

19 MR. MASTRO: I have asked the witness if
20 he is familiar with such studies.

21 BY MR. MASTRO:

22 Q Do you know studies which are known as
23 201-208 studies?

24 A I have a general familiarity with those types of
25 studies.

1 Q What are they? What are these studies?

2 A They were ---

3 MR. VOGEL: I will object unless Mr.
4 Mastro first of all -- is he going to show the
5 witness the study? Are we going to deal with it,
6 with some kind of specificity relative to this
7 area of the community?

8 MR. MASTRO: All right.

9 THE COURT: Right now we are dealing
10 with generality, recognition of the designation
11 of the study and he says in a general way he
12 recognizes the designation.

13 I will permit it. Let's see where we are
14 going with it. I am not suggesting we are going
15 to smell the roses down this path. We are just
16 taking the path.

17 BY MR. MASTRO:

18 Q Generally, what is a 201-208 study?

19 A As I understand it, these were Federal and State
20 funded studies to investigate the quality of water resources
21 in our State and to make recommendations regarding those
22 resources.

23 Q Does not the State Development Guide Plan
24 make some reference to 201-208 studies in its text?

25 A I don't recall if it does or does not.

1 Q Have you participated in the planning
2 aspects of any development where Federal grants are in-
3 volved involving sewers, sanitary sewers?

4 A No.

5 Q Essentially, these studies relate -- are
6 part of the requirements under the Federal Clean Water Act?

7 A They may be. I don't recall. They may be. I
8 don't recall.

9 Q Do you know if there is any such study
10 that exists which encompasses the area in the growth area
11 of the State Development Guide Plan affecting Far Hills?

12 A I don't know.

13 Q You indicated in your direct examination
14 and, indeed, in response to a question, which I asked,
15 Mr. Zimmerman, that one of the factors supporting your
16 growth area in Far Hills was the existence of the Village,
17 correct?

18 A Yes.

19 Q Are there villages in Somerset County that
20 are not in the growth area?

21 A To the best of my knowledge, I think not.

22 Q J-11A. Mr. Zimmerman, do you have before
23 you, State Development Guide Plan showing the Somerset
24 County Plan?

25 A Referring to P-33?

1 Q Essentially, it is on page 133 of the
2 State Development Guide Plan.

3 A I have that in front of me.

4 Q All right.

5 THE COURT: Does that have a designation,
6 Mr. Mastro:

7 MR. MASTRO: Yes.

8 THE COURT CLERK: J-11A.

9 THE COURT: Thank you.

10 MR. MASTRO: J-11A.

11 BY MR. MASTRO:

12 Q Now, if we look at the village neigh-
13 borhoods, there appears to be one toward the south of the
14 County. Do you see where I am pointing? Is that in the
15 growth area?

16 A Are you referring to Rocky Hill Borough?

17 Q Rocky Hill Borough, yes.

18 A That is not in the growth area.

19 Q How about -- do you see where I am pointing?
20 It looks like Hillsborough. A couple of villages in Hills-
21 borough. Are they in the growth area?

22 A It is hard to tell. About half of Hillsborough
23 is in the growth area and half is not.

24 Q Would you look at the County Master Plan
25 map and try to relate it to page 133?

1 MR. VOGEL: Are you asking whether they
2 are in the growth area, County Master Plan or on
3 the State Development Guide Plan?

4 MR. MASTRO: On the State Development
5 Guide Plan, page 133.

6 THE WITNESS: It appears at first blush
7 that the two areas you referred to are not shown
8 on the State Development Guide Plan as growth
9 areas.

10 THE COURT: All right. Let's pick this
11 up after lunch.

12 As I indicated earlier, I have another
13 commitment at 1:30. I will see you at 2:30.

14 (The luncheon recess is taken.)

15 AFTERNOON SESSION

16 THE COURT: Each of you should now have a
17 copy of the opinion that we discussed this morning.
18 You have two of them, Mr. Mastro.

19 MR. MASTRO: Oh, I see them. Yes. Thank
20 you, Judge. That doesn't suggest that I agree
21 with it, Judge.

22 THE COURT: Pardon.

23 MR. MASTRO: That doesn't suggest that
24 I agree with it.

25 THE COURT: I didn't suggest that.

1 MR. MASTRO: But I will read it first.

2 THE COURT: The witness was with J-11A
3 and you were asking him to recognize certain
4 villages. He recognized Rocky Hill. He didn't
5 think it was in the growth area, as shown on the
6 State Development Guide Plan. You then showed
7 him two areas in Hillsborough and he made the
8 same general comment and I thought you were going
9 to be more specific, perhaps, as to those two
10 village areas and that is where we left it.

11 BY MR. MASTRO:

12 Q Do you know a village known as Griggstown?

13 A Griggstown?

14 Q Griggstown.

15 A I don't.

16 THE COURT: I think it is to the left
17 as you come up 206.

18 MR. MASTRO: Franklin Township.

19 BY MR. MASTRO:

20 Q How about East Millstone, Franklin
21 Township?

22 A Well, I may have in my travels been through these
23 little towns. But unless you can point them out on the
24 map, I have complete ignorance.

25 Q Do you see an area of -- which appears to

1 be in Montgomery designated village neighborhood? Do you
2 see that, sir?

3 A Yes.

4 Q Is that in the growth area?

5 A None of Montgomery Township is in the growth area,
6 so I would assume that that is not in the growth area,
7 also, whatever town that is.

8 Q Is there anything comparable to a village
9 in Morris County?

10 MR. VOGEL: I would object, your Honor.
11 I think we are getting pretty far afield. We
12 have a Route 206 corridor, certain well-known
13 villages through the Route 206 corridor. Are
14 we going to go through every village in the State
15 of New Jersey to determine if it is in a growth
16 corridor or not?

17 THE COURT: Mr. Mastro.

18 MR. MASTRO: Judge, I am taking two
19 Counties that have been mentioned and discussed
20 the course of this trial. This is an adjacent
21 County and, certainly, we talked about Mendham,
22 Mendham Borough, and other areas of Morris County
23 and the witness indicated familiarity with Morris
24 County.

25 THE COURT: He indicated what, sir?

1 MR. MASTRO: Familiarity with Morris
2 County. Perhaps more so than Somerset.

3 THE COURT: Surely, than the southern
4 part of Somerset County.

5 MR. MASTRO: And the relationship between
6 villages and growth area was the subject matter
7 of testimony on direct examination and I think
8 this is proper cross-examination as to the extent
9 of that relationship or if indeed there is a
10 relationship.

11 MR. VOGEL: I thought the witness's
12 testimony dealt with the relationship of the
13 villages in the growth area, the 206 corridor
14 growth area, not villages all over Somerset
15 County and all over Morris County or whatever.

16 We are talking about a corridor and they
17 do have an interrelationship and they are so
18 identified in the County Master Plan and the
19 State Development Guide Plan. I don't know if
20 we talked about villages all over the State,
21 per se, so I would object on the ground of
22 relevance.

23 MR. MASTRO: Let me try a threshold
24 question.

25 THE COURT: All right. Try it from

1 another direction.

2 MR. MASTRO: All right.

3 BY MR. MASTRO:

4 Q Mr. Zimmerman, is it your opinion that
5 villages, generally, are within growth areas on the State
6 Development Guide Plan?

7 A Well, I think we have several problems with my
8 being as responsive as I would like to to that question,
9 because I really don't know what you are classifying as
10 village.

11 Now, the Somerset County Master Plan
12 talks about some villages and it talks about -- you men-
13 tioned Neshanic Station. You didn't mention it, but you
14 pointed it out. That is a village of a very different
15 type character, size, etcetera, than Peapack, Gladstone,
16 for example, or Pluckemin.

17 So there are several types of villages
18 and one village in isolation like Neshanic may be treated
19 one way and a village as part of a continuum or series of
20 villages may be treated another way.

21 I don't think, as I recall, the State
22 Development Guide Plan using the word village at all.

23 Q Let me design a question that, perhaps,
24 can focus on the purpose of this line of questioning.

25 The Master Plan of Somerset County indicates

1 does it not, that villages provide areas for some measure
2 of potential growth, residential growth; is that correct?

3 A Yes.

4 Q During the course of your testimony you
5 indicated that that -- perhaps, I can find that -- that
6 villages were a suitable objective for inclusion within
7 the growth areas of the State Development Guide Plan. Is
8 that correct? Did I understand you correctly?

9 A I am not sure. I certainly think that the villages
10 that are part of the 206 growth corridor and villages that
11 have been identified in the Somerset County Master Plan as
12 village neighborhoods correspond to growth that has been
13 identified in the State Development Guide Plan as appro-
14 priate for increased types of land use and increased
15 intensity and expansion of land uses.

16 Q Now is that response you gave confined
17 to Somerset County or does it apply throughout the State,
18 assuming that in other Counties you have other areas
19 designated as villages or village centers that are com-
20 parable to villages in Somerset County?

21 MR. VOGEL: Objection.

22 THE COURT: Yes.

23 MR. VOGEL: This is, again, an assumption
24 a hypothetical question, and it assumes facts
25 which are not in evidence in this case.

1 THE COURT: Where are we going with this?
2 If I understand correctly, we got into villages
3 when we started to discuss the Somerset County
4 Master Plan. It was their designation. I don't
5 recall there was a designation like that else-
6 where and there was a considerable discussion in
7 our prior trial and I probably could find it in
8 the notes about villages in Somerset County.

9 All right.

10 Now ---

11 MR. MASTRO: Judge, let me try a few
12 threshold questions.

13 THE COURT: All right.

14 BY MR. MASTRO:

15 Q Mr. Zimmerman, in the neighboring Morris
16 County, is there a designation on the Morris County Master
17 Plan of villages, by whatever name called, similar to the
18 villages designated in the Somerset County Master Plan?

19 MR. VOGEL: Objection.

20 I object on the ground of relevance. I
21 think it is irrelevant. I don't think we have
22 to test the Morris County Master Plan or any other
23 County Master Plan. It is very, very clear we
24 are dealing with a subject matter of the Somerset
25 County Master Plan, as it relates to the State

1 Development Guide Plan, and to go afield to other
2 County Master Plans I think is irrelevant, beyond
3 the scope of direct examination.

4 THE COURT: Where is this taking us? That
5 is what I want to know.

6 MR. MASTRO: Judge, I am not testing ---

7 THE COURT: I don't want to impinge upon
8 your right to cross-examine. Ultimately, where
9 do we end up with it?

10 MR. MASTRO: Here is where we are going,
11 Judge.

12 Now, either these villages, as they exist ---

13 THE COURT: Yes.

14 MR. MASTRO: --- have some relevancy to
15 the growth areas designated on the State Develop-
16 ment Guide Plan or they don't, or it is by
17 accident that they are within the growth areas of
18 the State Development Guide Plan.

19 The impression that this witness gave me
20 on direct examination is that there was this
21 correlation; there was this relationship between
22 villages in the growth area on the State Develop-
23 ment Guide Plan and we just went through that
24 in Somerset County.

25 THE COURT: Well, I think he wants to

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take a more refined position on that.

My recollection of what he is telling us is that one could see similarity in some of these developed areas within the several communities in the 206 corridor. Pluckemin, Far Hills. He mentioned Bedminster. I assume he means around the center of Bedminster where Claremont was and the Inn is and then you get up to Peapack-Gladstone and to show that there were sewers and roads and public water and that kind of thing. But beyond that where are we going with it? Are we going to examine the whole context of what is or is not a village? Does it have any relevance if there are villages far removed from growth areas, for example?

I don't think we are dealing with villages, per se, are we?

MR. MASTRO: No, villages, as a concept. Are they, indeed, related to this growth area or do they exist at random, and I would suggest to your Honor probably in northwestern New Jersey a lot of villages have nothing to do with the growth area.

THE COURT: Yes. But I don't think his point is that. It isn't the fact that it is

1 a village, per se, all right, that necessarily
2 makes it included in the growth area. It just
3 happens that running up this corridor there is
4 a similarity of things which may have led someone
5 reasonably to conclude that growth was either
6 pushing that area, things were following it or it
7 was there and other things were being attracted
8 to it.

9 MR. MASTRO: I thought the testimony went
10 much further than that, that the villages, indeed,
11 were areas where growth is anticipated and had
12 a definite relationship to the growth area on
13 the State Development Guide Plan.

14 THE COURT: I didn't know there was that
15 kind of correlation, because you can take areas
16 that we can all agree are villages, by whatever
17 definition, and they might be up in Sussex County.
18 We can all agree they are ideal in terms of
19 villages and they have no relationship to growth
20 in any context whatsoever, nevermind the State
21 Development Guide Plan.

22 What is the purpose of such an exploration?

23 MR. MASTRO: Just to establish precisely
24 what you said.

25 THE COURT: That isn't the purpose of it.

1 MR. VOGEL: If I may say on our point
2 of view we start out with the State Development
3 Guide Plan in this kind of peninsula, so to speak,
4 which is the Route 206 growth corridor. Mr.
5 Zimmerman was testing the reasonableness of that
6 in terms of other planning documents. He went to
7 the County Master Plan and here is a series of
8 significant villages right up this corridor that
9 the County Master Plan has identified for growth.
10 Every one of them. And it tends to corroborate,
11 to support, to give substantiation to the notion
12 that this general peninsula, 206 corridor, is an
13 area recognized by planners as a proper growth
14 area. That is our position, not on villages all
15 over the State or special types of places.

16 THE COURT: I guess what we are trying
17 to do, Mr. Mastro -- again, I don't want to re-
18 strict your right of cross-examination. But I
19 don't know that it would serve us much to get
20 into an extended discussion of villages.

21 MR. MASTRO: I didn't intend to get into
22 an extended discussion, Judge. I wanted to merely
23 take a brief walk next door into Morris County,
24 which we have done in the past in this trial.

25 THE COURT: That is right.

1 MR. MASTRO: And relate if there is any
2 relationship between villages in Morris County --
3 if they do and are similar to Somerset County --
4 to the growth areas in Morris County. That's it.

5 THE COURT: What you want to do is see
6 if there is something of a comparable continuum
7 to use Mr. Zimmerman's word.

8 MR. MASTRO: In Morris County.

9 THE COURT: I will permit that.

10 MR. MASTRO: Would you answer that?

11 THE COURT: I will permit that. Now,
12 where you are going and how he responds to that,
13 I have no idea. I will permit the exploration
14 insofar as he can pursue it.

15 Go ahead.

16 THE WITNESS: Well, if he could hit the
17 nail on the head with a question, I would be
18 happy to deal with it.

19 MR. VOGEL: What is the question?

20 THE COURT: That is what we are waiting
21 for.

22 MR. MASTRO: Let me try it again.

23 BY MR. MASTRO:

24 Q Mr. Zimmerman, well, first of all, are
25 there villages in Morris County that are similar in texture

1 to those in Somerset County, i.e. old areas that are built-
2 up containing many population centers, surrounded, perhaps,
3 by less densely populated areas?

4 A Well, you could take for example a couple of
5 villages that I recall in Passaic Township, Gillette,
6 Stirling, and have -- on the railroad -- and they have a
7 variety of some commercial nereby and housing, railroad
8 station or railroad stops, and they are in the growth
9 area.

10 Q Is there anything in the Morris County
11 Master Plan that targets these areas as villages or village
12 centers or by similar name?

13 MR. VOGEL: I object to, again -- what is
14 the relevance of testing now the Morris County
15 Master Plan?

16 MR. MASTRO: I am trying to identify
17 these, Judge, if they are identified. I don't
18 want Mr. Zimmerman's opinion as to what he things
19 a village may be.

20 THE COURT: As best as I recall, I don't
21 recall the Morris County Master Plan discussing
22 villages, per se, although they may have. I
23 haven't looked at that document for some time.

24 BY MR. MASTRO:

25 Q How about in the northerly portion of the

1 County or northwesterly portion of the County? Are these
2 similar villages in that area? Washington Township? Any
3 villages?

4 MR. VOGEL: I am going to object, Judge,
5 and I hate to keep interjecting, but this really
6 troubles me.

7 First of all are we talking about a
8 village which, A, has a railroad station as an
9 integral part of it; B, has a significant major
10 highway through it; C, has a municipal building,
11 a fire station, a post office in it?

12 I mean if we are going to compare things
13 then -- and if Mr. Mastro wants to cross-examine
14 him about that, let's get something which is
15 really comparable with all of the ingredients
16 of the Far Hills Village.

17 THE COURT: So far he has been pursuing
18 it with the witness and I will allow it.

19 Are you talking about the northwest portion
20 of Morris County? Are you talking north of
21 Morristown, Mendham, Chester?

22 MR. MASTRO: Washington Township.

23 THE COURT: That kind of thing?

24 MR. MASTRO: Yes.

25 THE COURT: All right.

1 Can you help him?

2 THE WITNESS: Well, Mendham, Chester and,
3 I guess, Long Valley, are not identified in the
4 State Development Guide Plan as growth areas.

5 BY MR. MASTRO:

6 Q All right.

7 What are they identified as? Can you
8 tell me that?

9 A They are part of the County that is identified
10 as limited growth area and Long Valley appears to be agri-
11 cultural areas.

12 MR. VOGEL: I would like to object then
13 and ask that those questions be stricken. I don't
14 know that there is a railroad station in Mendham.
15 I am not a planner. But Mr. Zimmerman has high-
16 lighted the existence of the Far Hills railroad
17 station. I don't know that the Village ever
18 would have come about without that railroad
19 station. I don't know that there is a railroad
20 station in Chester. Indeed, I know to the contrary
21 that there is none. And I think that they are
22 not comparable. I would ask that ---

23 THE COURT: You can take that up on
24 redirect and I am sure the planner will be quick
25 to point it out.

1 All right. Go ahead.

2 BY MR. MASTRO:

3 Q Does every village in Somerset County
4 have a railroad station in it?

5 A I haven't surveyed every village in Somerset
6 County to be able to answer that.

7 Q You indicated in your direct examination
8 that the 206 corridor had a high degree of internal con-
9 sistency. Is that correct?

10 A Yes.

11 Q And that included the Pluckemin Village
12 and the Far Hills Village?

13 A Amongst others, yes.

14 Q Has there been any change in the Pluckemin
15 Village since the publication of the 1977 State Development
16 Guide Plan?

17 A I would say, indeed, yes. I think the development
18 of the Allen Dean property is about as significant a change
19 that that little village is going to see in its lifetime.

20 Q In what respect?

21 A Well, it is pouring ---

22 Q What do you see as the change?

23 A The change is that prior to Allen Dean you had a
24 village which -- it depends upon how far back you want to
25 go. I can remember when there were two gas stations and

1 that was it. Then you had the A&P shopping center that
2 came in, additional homes were built in the area. Some
3 of the older homes on the highway there were converted to
4 offices and commercial establishments.

5 THE COURT: Many of which I might add
6 were nonconforming uses

7 THE WITNESS: Could be. Sure.

8 And now you have, I think, a significant
9 change in the landscape, land uses in that area,
10 when you have several thousand housing units being
11 built in an area that was a dairy farm and it is
12 going to put more people on the roads. It is
13 going to put an increased demand for school. It
14 is going to be -- a new part of that plan envi-
15 sions new shopping and commercial area, new area
16 for professional offices.

17 I think those are significant changes for
18 Pluckemin.

19 THE COURT: Excuse me.

20 BY MR. MASTRO:

21 Q Since Allen Dean, has the identity of
22 that village remained intact?

23 A Well, I think if you mean by identity, do people
24 still recognize that a Pluckemin exists at that intersection,
25 I would -- all that I know, that recognition and identity

1 continues.

2 Q How about as contemplated in the Somerset
3 County Master Plan? Does Pluckemin as a viable village
4 within the parameters of the village neighborhood, as
5 defined in the Master Plan ---

6 MR. VOGEL: I would object, because I am
7 not sure what a viable neighborhood is.

8 THE COURT: Pardon.

9 MR. VOGEL: I would object because I
10 don't know what you mean by does it continue as
11 a viable neighborhood.

12 THE COURT: Do you understand that?

13 THE WITNESS: Well, there are a couple of
14 problems with that question, that being one. I
15 am not sure that the Somerset County Master Plan
16 identified Pluckemin even as a village. I thought
17 it identified Pluckemin as a development com-
18 munity and was part of a strip of development
19 that would take place up and down Route 206,
20 of which a portion of that development was
21 Pluckemin and the Village of Pluckemin and a
22 portion was a little less defined, as the Hills
23 Development is not taking place around the
24 totality of Pluckemin, but more in the strip
25 development fashion.

1 BY MR. MASTRO:

2 Q Would you agree with me that that portion
3 of Pluckemin is within the village neighborhood district?

4 A Which portion?

5 Q That we just described.

6 A The Hills portion?

7 Q The Pluckemin Village, itself, that
8 straddles 206, is within the neighborhood village of the
9 Somerset County Master Plan?

10 A Could I check the Master Plan?

11 Q Please take a look at it, sir.

12 A It seems that the County Master Plan shows the
13 Village of Pluckemin as a village neighborhood. It shows
14 expansion of the village neighborhood both to the west and
15 to the east. I think that is Burnt Mills Road. I may
16 be in error on that. And Washington Valley Road. I am
17 sorry.

18 THE COURT: Washington Valley runs off
19 to the right.

20 THE WITNESS: And the village neighborhood
21 shows that the village neighborhood is proposed
22 to be enlarged further to the east along Washing-
23 ton Valley Road, which would go beyond the com-
24 mercial development, A&P shopping center and
25 service stations.

1 In addition, the village neighborhood
2 would be enlarged northward on both sides of
3 Route 202-206, up to where 287 intersects with
4 206 and then, again, the village neighborhood
5 picks up and shows continued expansion along
6 with corridor on the other side of that inter-
7 section or to the north of that, Bedminster,
8 287 inetersection.

9 THE COURT: Did you make the red marking
10 around Far Hills on that drawing or did someone
11 else?

12 MR. MASTRO: That is mine. I did. I
13 think I did.

14 THE WITNESS: I don't recall who did it.

15 THE COURT: I can't help but remark that
16 the configuration of the State of New Jersey --
17 and it is a distinct one -- and that one looks like
18 a hand in glove with an index finger pointing
19 north.

20 Well, you have to have a queer mentality
21 to see those kind of things.

22 MR. VOGEL: I think -- no -- I have
23 observed that and it is a fascinating shape. The
24 thumb is a little short.

25 THE COURT: I won't puruse that too far.

1 Let's let it go at that.

2 BY MR. MASTRO:

3 Q There is a statement, Mr. Zimmerman, in
4 the Somerset County Master Plan ---

5 THE COURT: Do you have the exhibit, sir?

6 MR. MASTRO: I have it here, which is

7 J-11.

8 THE COURT: Do have a copy of it?

9 MR. MASTRO: Yes.

10 THE WITNESS: Not yet.

11 BY MR. MASTRO:

12 Q We can look at it together on page 46.

13 THE COURT: What page are you on?

14 MR. MASTRO: Page 46, Judge, right-hand
15 column, first paragraph.

16 BY MR. MASTRO:

17 Q Little over halfway down on the first
18 paragraph it says, "Certainly, some of these designated
19 villages will not be able to retain their neighborhood
20 character and will blur into an urban continuum as merely
21 another street with older housing."

22 Do you see that?

23 A Yes.

24 Q Would you consider the area of Pluckemin
25 within the neighborhood -- village neighborhood as falling

1 within that concept?

2 A No.

3 Q On either side of that concept?

4 A I don't know what you mean by either side of the
5 concept.

6 Q You feel it would not -- Pluckemin is not
7 blurring into a continuum of development? Is it something
8 less than that, more identifiable than a blurring into
9 such a contium?

10 A I think as Pluckemin exists today, it is iden-
11 tifiable in terms of its architecture, scale, type of land
12 uses that occur in the area and I think time will tell if
13 the development that is approved and proposed causes a
14 blurring or not.

15 Q How about --

16 Let's take a look at Far Hills, if we
17 might, for a moment, and I am making reference to P-14.

18 If we assume construction of 125 units
19 on the P.Q. -- isn't that what you recommended, something
20 in that area?

21 A Yes, at least.

22 Q And relate that to the existing Village,
23 do you see any change in that aside from the obvious
24 addition of 125 units?

25 A No, I don't.

1 And I offered that opinion based upon
2 several factors.

3 First of all, the County Master Plan on
4 the next page, page 47, talks about new housing development
5 in the vicinity of the Village. Replicating the compact
6 development and type of open space that exists in these
7 villages, that is a new development can replicate the scale,
8 the compactness in terms of density, visual impressions and
9 open space.

10 The County Master Plan is aware of at
11 least, as I remember it -- is aware that architecture,
12 architectural style is an important ingredient in the
13 expansion of the Village and the right architectural style
14 can enhance a village. The wrong architectural style can
15 be seen as detrimental to the Village and submerge the
16 Village into a new entity.

17 Second, I think if you examine closely
18 the specifics, any development that occurred on the pro-
19 perty in question is going to have a small amount of
20 frontage on Route 202. I think that the development, as
21 the property goes, will expand, as it moves to the interior,
22 and what the public sees and perceives, as they ride along
23 Route 202, can be designed in a way which would be archi-
24 tectually -- scale, landscaping and anything else that is
25 normally done with site plan review -- can be done in the

1 manner which would be entirely compatible with the rest
2 of the Village and I don't think that talking about 125
3 units automatically means that someone is going to put
4 up a high-rise or mid-rise, that of an architecture and
5 scale that would be incompatible with the architecture
6 and scale of the Village.

7 I think the Master Plan of the County
8 indicates that we should be sensitive to these issues.
9 It points out some guidelines.

10 I would certainly recommend it and I
11 don't think there is anything inherent about the location,
12 shape, proximity of the subject property that would dic-
13 tate something incompatible. In fact I think because the
14 subject property does have a majority of its property
15 somewhat out of the public view and only a small portion
16 on Route 202, that development can take place without
17 a major or substantial visual impact on the Village.

18 Q All right.

19 My question was not related to --

20 You can sit down.

21 My question was not related to the visual
22 impact of what one perceives as one travels along Route 202
23 and, perhaps, I can approach it this way.

24 Do you know the approximate number of
25 units currently in the Far Hills Village?

1 A I'd say about 100 units.

2 Q Now, my question, Mr. Zimmerman, if we
3 double the size -- essentially, that is what we are talking
4 about -- adding another additional 100 units or so, 125 --
5 will that in itself have any adverse impact on retaining the
6 present Far Hills Village as it is?

7 A I don't think so. I think that we are dealing
8 with a very small base of 100 units. One hundred is
9 relatively a small number of units and when you say double
10 the size, that is potentially possible with the development
11 of the subject property. However, I don't think that, if
12 I may humbly suggest, that choice of adjectives is the
13 way I would describe what may happen.

14 The land area of Far Hills is extensive.
15 We are talking about five square miles and it is charac-
16 terized by a lot of open space.

17 I don't think that 100 units or even 125
18 additional units in Far Hills is going to tip the scales
19 of that municipality and cause any problem in terms of
20 housing or traffic or whatever else you might measure in
21 terms of impact.

22 I think 120 or 100 units is perfectly
23 acceptable and, as I recall, the 1964 Master Plan, when
24 they talked about the Village, was talking about consider-
25 ably more units as potentially developable in the Village

1 at that time and the 100 that exists now and the 100 that
2 exists or could exist if the subject property is developed
3 and also we have three planning documents -- the County
4 Plan, the TriState Plan and the State Development Guide
5 Plan -- that all talk about additional units in this area.

6 The 100 units is consistent in terms of
7 density with what already exists in the area. The County
8 Master Plan talks about a range of density of five to 15
9 units per acre.

10 Even considering 100 units, we are only
11 talking about five units per acre, which is actually less
12 than the density that you have in the Village now.

13 Q You answered the question that wasn't
14 the question I asked.

15 My question was if you add 125 units to
16 an existing Village having approximately 100 units, and
17 I doubt if it is that many, and let's stick with the
18 Village now. I am not talking about Far Hills or what
19 impact it will have upon Far Hills. I am talking about
20 the impact on the Village. Are you going to change the
21 character of that Village?

22 MR. VOGEL: Objection.

23 MR. MASTRO: That was my question.

24 MR. VOGEL: Sorry. Objection.

25 THE COURT: Go ahead.

1 MR. VOGEL: I thought the question was
2 clear the first time and I believe the witness's
3 answer is what it was, and Mr. Mastro asking the
4 question again -- he may want some different kind
5 of answer, but I submit he asked the question and
6 Mr. Zimmerman gives the answers and his answer
7 stands. I don't think he has to reanswer it and
8 it was responsive in my view.

9 THE COURT: What do you want me to say
10 to that, yes or no?

11 MR. MASTRO: No. I didn't get an answer
12 to the question I asked.

13 THE COURT: Which is?

14 MR. MASTRO: The question I asked was
15 whether adding 125 units to the current Village,
16 which has approximately 100 or something less
17 units, are you going to change the character of
18 that Village? That was my question.

19 His answer ---

20 MR. VOGEL: Well ---

21 MR. MASTRO: Wait. Let me finish, please.

22 The response that I got was that the
23 growth anticipated was supported by other documents.
24 I didn't ask that question.

25 THE COURT: I didn't understand his answer

1 to be that way. I understood his answer to be
2 that the mere duplication of figures, that is
3 going from five to ten, ten to 20, 20 to 30, that
4 with such a low base, inherently you don't get a
5 destructive force or impact simply by doubling.
6 That the community could withstand here the
7 doubling without a negative impact, if I under-
8 stood his response.

9 MR. VOGEL: And he added that he thought
10 that is precisely what was contemplated by the
11 County Master Plan.

12 THE COURT: Well, I think he was re-
13 sponding to the question as he understood it.
14 If you want to refine it, fine.

15 BY MR. MASTRO:

16 Q Was that your answer?

17 THE COURT: I don't mean to mistake your
18 response. If I do, tell me and make it clear on
19 the record, because it is your testimony, not mine.

20 THE WITNESS: I think that was quite an
21 accurate synopsis of what I said.

22 MR. MASTRO: All right. Let me ask you
23 another question of similar character in a dif-
24 ferent dimension.

25 BY MR. MASTRO:

1 Q What is the approximate population of the
2 present Village?

3 THE COURT: What is what?

4 MR. MASTRO: Approximate population of
5 the present village.

6 THE COURT: In a few minutes we can get
7 this, because last time around we had the number
8 of these houses. There had been almost a count
9 on them and I don't want to draw on that and we
10 also had the population figures. I even remember
11 that there were more than 100 houses too. There
12 were 109.

13 MR. VOGEL: Here in the Master Plan of
14 Far Hills Borough, December of 1977, the back-
15 ground of Far Hills, second paragraph. You might
16 want to show it to the witness, 1977, and it gives
17 statistics.

18 THE WITNESS: I think we can assume it is
19 one-third the town.

20 THE COURT: Doesn't that help you?

21 MR. MASTRO: It gives the general back-
22 ground of Far Hills, not specifically the Village.

23 THE COURT: All right.

24 We had the number of houses and computed
25 how many people would inhabit a house and took an

1 average figure and multiplied that out. That
2 sticks in my mind. You may have a different or
3 more precise recollection.

4 MR. VOGEL: Your Honor, we are prepared
5 to stipulate that 109, which was your recollection,
6 is precisely the number of water meters authorized
7 for the Far Hills Village.

8 BY MR. MASTRO:

9 Q Do you have an approximation of the
10 number of people, Mr. Zimmerman, in the Village?

11 A As I recall, it is approximately -- in the
12 Village?

13 Q In the Village.

14 A I would estimate about one-third of the town or
15 about 250 people.

16 Q Now, how many people can we anticipate
17 will be living in these 125 units?

18 A I would assume about 250, maybe 300, tops.

19 Q In your opinion will doubling the popu-
20 lation of the current Village in Far Hills have any impact
21 on its character?

22 A No.

23 Q And let me clarify, Mr. Zimmerman, --
24 I recall that your prior testimony was, and my recollec-
25 tion is somewhat vague -- correct me -- that there would

1 be an integration of the development on the property in
2 question with the existing Village in spite of the division
3 caused by the railroad; is that correct?

4 A Yes.

5 I am not so sure I phrased it in spite of
6 the railroad. I didn't see it that way.

7 Q All right, sir.

8 Let me ask you this question, Mr. Zimmerman.

9 Was the 206 corridor delineated on the
10 initial draft of the State Development Guide Plan?

11 A I don't recall.

12 MR. VOGEL: I am going to object to that.
13 You have the answer already.

14 THE COURT: He doesn't know.

15 MR. VOGEL: It is academic.

16 THE COURT: I will permit it.

17 MR. VOGEL: I would object to any earlier
18 drafts. There could be 20 drafts, lots of plans.

19 MR. MASTRO: 1977 draft is what I am
20 referring to. I believe it was called the first
21 draft, if I'm not mistaken.

22 THE WITNESS: I really don't recall.

23 MR. MASTRO: Okay.

24 MR. VOGEL: Just so that I haven't opened
25 any doors, I object to any testimony concerning

1 any prior unofficial drafts, maps, whatever. We
2 are dealing with the official State Development
3 Guide Plan as recognized by the Supreme Court.

4 THE COURT: All right. Your objection
5 is on the record.

6 BY MR. MASTRO:

7 Q Mr. Zimmerman, we can turn our attention
8 to the five standards that appear on page 47 of the State
9 Development Guide Plan for a moment, please.

10 Do you have that before you?

11 A I am sorry. It was snatched away from me.

12 THE COURT: Do you need a copy?

13 THE WITNESS: Yes, sir.

14 THE COURT: All right.

15 BY MR. MASTRO:

16 Q I believe your testimony was that with
17 regard to the first standard you considered Far Hills
18 Village to be somewhat of a population center. Correct,
19 so far?

20 A Yes.

21 Q All right.

22 Is there any other area in the growth
23 area of Far Hills that would be similarly situated or
24 similarly classified within the parameters of that
25 standard?

1 A Well, all of the area in the growth area has
2 population. The flukey use of the population is located
3 in the Village area. That is the area that has the con-
4 centrated population.

5 Q Is that what we are calling population
6 center?

7 A I'd say the center is the Village and the area
8 up and down Route 512 in Far Hills.

9 Q Do you find that in any other area in
10 the growth area of Far Hills?

11 A Well, Moorland Farms. I don't think you can say
12 that is a population center. Maybe one or two houses on
13 that farm. But that's about it. No. I'd say the Village
14 and its northern extension is where the population in the
15 growth area is located.

16 Q How about the second standard, water and
17 sewer supply? Is that available to other areas in the
18 growth area of Far Hills aside from the Village?

19 A Well, it is available to the property in question.

20 There has been a previous reference to a
21 piece of property called Timber Properties, which if I can
22 point it out on the map, is southeast of the subject pro-
23 perty. It is indicated on P-14 as vacant, has a lake in
24 the middle, and I think it is about 30, 40 acres in size.

25 My understanding is that property does

1 have allocation and rights to extend out to and tie into
2 the sewer facility further to the west owned and operated
3 by Bedminster.

4 Q You also understand it is no longer
5 available for development because it is coming within the
6 public domain?

7 A That is correct.

8 Q How about the third criteria of major
9 highway and commuter rail facilities? Are they available
10 to other parts of the growth area in Far Hills other than
11 the Village and the P.Q.?

12 A Well, yes, they are available to the entirety of
13 the growth area in Far Hills.

14 The growth area -- making reference to P-17,
15 the northern half of the growth area has access to 202 and
16 the Peapack Far Hills Road, which is a County Road 7 or
17 also County Road 517. The northern portion of the Moorland
18 Farms also has access to Route 202.

19 Q The fourth criteria was absence of large
20 concentrations of agricultural land. Are there any of
21 those lands available outside of the Village area, outside
22 of the P.Q., and the Village area?

23 MR. VOGEL: Just for clarification, you
24 mean agricultural areas?

25 MR. MASTRO: Areas suitable for agriculture

1 outside of the Village and the P.Q.

2 MR. VOGEL: But within the growth area?

3 MR. MASTRO: I am sorry. But within the
4 growth area.

5 THE WITNESS: Well, I think what the
6 criteria talks about is large concentrations of
7 large agricultural land. You may have somebody
8 with a ten-acre parcel who has some horses and
9 is growing some corn in the backyard. But I don't
10 think that is what the State Development Guide
11 Plan is talking about. I don't think there are
12 any large concentrations of agricultural land in
13 the entirety of Far Hills.

14 BY MR. MASTRO:

15 Q Well, what would you classify as large
16 concentrations?

17 A I think we are talking about several thousands
18 of agricultural land in one contiguous -- it doesn't have
19 to be all owned by the same party. But, certainly, con-
20 tiguous, which would be identifiable and could be important
21 to the agricultural economy of the region.

22 Q If the efforts to restimulate agriculture
23 in New Jersey were to be funded in some way or implemented
24 in some way, would any areas in Far Hills in the growth
25 area outside of the Village and the P.Q. qualify for such

1 use?

2 A I don't know.

3 Q How about absence of large blocks of public
4 open space and environmentally sensitive land? Do they
5 exist outside of the Village and the P.Q.?

6 A To the best of my knowledge there are no large
7 blocks of public open space in the growth area outside of
8 the Village.

9 Q How about the watershed?

10 MR. VOGEL: Objection. I don't think he
11 is finished.

12 THE COURT: Are you?

13 THE WITNESS: Yes, sir, as far as the
14 open -- as far as public open space is concerned.

15 I think, again, what the plan was talking
16 about was something larger than the municipal park,
17 which would be part of any community, or municipal
18 open space, or even County open space, which we
19 would expect to exist in some scale in any com-
20 munity.

21 They might be talking about something
22 like the National Wildlife Refuge areas in Harding
23 Township or some areas of Somerset County that
24 have a large identifiable block of open space,
25 rather than what is there in response to local or

1 community needs.

2 BY MR. MASTRO:

3 Q You would not consider the watershed
4 together with the flood plain area owned by the Borough as
5 being a significant or large block of publicly or privately
6 owned open space, and I might throw in Moorland Farms in
7 that category?

8 MR. VOGEL: Well, objection.

9 First of all, the criteria says absence
10 of large blocks of open public space. I don't
11 know that it refers to privately owned open
12 space.

13 THE COURT: Are you talking about Moorland
14 Farms being out of the definition?

15 MR. VOGEL: It is privately owned, Moor-
16 land Farms.

17 THE COURT: That is his objection, Mr.
18 Mastro.

19 BY MR. MASTRO:

20 Q Let me ask you this, Mr. Zimmerman, is
21 the Upper-Raritan Watershed a private organization?

22 A Yes.

23 Q Would you classify it as quasi-public?

24 A Yes.

25 Q Would you consider that within the scope

1 of the five criteria?

2 A No.

3 MR. VOGEL: Did you mean the organization
4 or the property?

5 MR. MASTRO: The property. The property.

6 BY MR. MASTRO:

7 Q Did you understand that?

8 A Yes, I understood that.

9 Assuming it is even public, I think that
10 the property, it is good that they own the land. It
11 serves a purpose for the community. But I think that is
12 not a large block of open space. It is a smaller size
13 piece of property.

14 Q How about environmentally sensitive. Are
15 there large areas outside the Village and P.Q. within the
16 growth area of Far Hills that fall within that category?

17 A Well, again, there is a lot of property in New
18 Jersey, and I suspect some in the growth area that is
19 environmentally sensitive and depending upon the science
20 of engineering and the development pressures, some of that
21 area can be developed and some cannot.

22 For example, if you have steep slope land,
23 land of 15% slope, or greater, that in my opinion would be
24 environmentally sensitive and if you have large blocks of
25 that type of land, it really wouldn't make much sense to

1 area in Far Hills and assume that you are going to serve
2 whatever development occurs in the growth area with public
3 water and sewer. I don't think you have any environmental
4 -- I don't think you are dealing with any environmentally
5 sensitive properties or property characterized by environ-
6 mental sensitivity, which would preclude development with
7 the exception of a few pockets of steep slope land.

8 Q Do you have P-17, Mr. Zimmerman?

9 A That all depends upon what P-17 is.

10 THE COURT: Is P-17 a map?

11 MR. MASTRO: Yes, a map.

12 THE WITNESS: P-17 is a portion of Far
13 Hills Borough outlining the State Development
14 Guide Plan and the property in question.

15 THE COURT: Excuse me.

16 BY MR. MASTRO:

17 Q Mr. Zimmerman, you have testified last
18 week as to the methodology employed in translating the
19 line from the State Development Guide Plan onto P-17, and
20 your line at the northerly end appears to me to veer to
21 the left. Does it appear that way on the State Development
22 Guide Plan?

23 A Could I take another look at the map in the State
24 Development Guide Plan?

25 MR. VOGEL: While Mr. Zimmerman is looking

1 at that, could I have that question read back?

2 THE COURT: Of course.

3 (The pending question is read by the
4 Court Reporter.)

5 THE WITNESS: The State Development Guide
6 Plan does show, looking at it again, the line
7 probably somewhat more to the east than I have
8 shown it on this map.

9 BY MR. MASTRO:

10 Q I am more concerned with the alignment
11 of the line to the north of the Far Hills boundry, which
12 on P-17 appears to go to the northwest. Do you see that?

13 A Well, I think when we drew the line I was atten-
14 tive to where it crossed the boundry and I think it is
15 reasonably accurate in that regard.

16 As you pointed out, it does veer to the
17 left. On closer inspection it may take a more vertical
18 route. There is a slight inclination to the line toward
19 the west. Whether it is exactly as sharp as I have shown
20 it, I would have to re-examine it a little more closely.

21 MR. VOGEL: Excuse, your Honor.

22 BY MR. MASTRO:

23 Q Mr. Zimmerman, if we talked about depth
24 of bedrock a moment ago, is that at all important in re-
25 gard to installation of water and sewer?

1 A It can be. It cannot be. It depends upon how
2 much bedrock has to be penetrated by the water and sewer
3 lines, type of bedrock.

4 The property in question -- I think for
5 the property in question it is not a problem.

6 Q It would relate, would it not, to con-
7 struction costs, since water lines and sewer lines have to
8 be installed at minimal depths to provide gravity flow,
9 if a sewer line, and protection from freezing, I suspect
10 for both?

11 A I don't think -- I would agree. I don't think
12 it is inconsequential. But I think we would have to know
13 a little bit more about the facts.

14 I am aware that depth to bedrock is not
15 a problem with the subject site. The subject site has
16 ample depth to bedrock to handle the installation of public
17 water and sewer lines.

18 Q And last week, Mr. Zimmerman, we discussed
19 your translating the State Development Guide Plan on to
20 exhibits which are in evidence in this trial and during the
21 course of voir dire on one exhibit -- and I can't recall
22 precisely which one I asked you -- if there were other
23 maps from which data was transferred and, ultimately, be-
24 came the State and County maps in the State Development
25 Guide Plan. Do you recall that?

1 MR. VOGEL: Objection.

2 Your Honor, I would object to any ques-
3 tioning about other maps unless we are talking
4 about official maps that somehow are adopted by
5 the State, approved by the State, in evidence.

6 I mean I am sure that people down in
7 the State have all kinds of maps that they were
8 drawing lines on and playing with and things
9 like that.

10 But unless they are in some way authen-
11 ticated, I think that the question is objection-
12 able.

13 MR. MASTRO: Judge, if I am referring to
14 obscure maps, I suppose the objection is reason-
15 able. But let me redefine my question in a more
16 sophisticated perspective.

17 THE COURT: Fine.

18 BY MR. MASTRO:

19 Q Did you examine, Mr. Zimmerman, when you
20 were down at the D.C.A. any maps in the office of the
21 D.C.A. that related to outline of State Development Guide
22 boundries and, ultimately, incorporated into the State
23 Development Guide Plan?

24 MR. VOGEL: Objection.

25 Unless he is talking about official maps --

1 THE COURT: I don't know what he intends.
2 Before we get to that, did you examine maps down
3 there, official or unofficial or both?

4 THE WITNESS: Yes.

5 THE COURT: All right. I will permit it.

6 MR. MASTRO: You answered that yes?

7 THE WITNESS: I did examine -- I answered
8 yes.

9 BY MR. MASTRO:

10 Q Tell me what you examined.

11 A Well, they have work maps in the -- down in the
12 basement of the Department of Community Affairs, which
13 show a variety of -- you know, show a lot of information
14 on them and land development roads, what have you.

15 Q Was there any map in particular that
16 showed the north-south 206 corridor as it related to road-
17 ways or existing development in that particular corridor?

18 MR. VOGEL: Objection. We are dealing --
19 I have a lot of trouble dealing with work maps.
20 I mean we are dealing with the County Master Plan.
21 We have certain maps that are officially in the
22 County Master Plan. Dealing with the State Devel-
23 opment Guide Plan, we have maps, formal maps.
24 Mr. Zimmerman did testify they went down and asked
25 for an official enlargement of the officially

1 adopted map, the one the Supreme Court has
2 approved. The answer is no to all that.

3 There were work maps and drafts and all
4 kinds of maps in the cellar of the State House.
5 These are really in my opinion -- should not be
6 permitted to be put into evidence, referred to
7 in any testimony, because we have the authenti-
8 cated official map in evidence and there is no
9 enlargement of that except the photograph Mr.
10 Zimmerman has made.

11 MR. MASTRO: Your Honor, we are not
12 referring to all types of work maps that exist
13 in some vague environment. I am talking about
14 maps that were utilized in this process of
15 developing boundry lines for what became, ulti-
16 mately, the State Development Guide Plan. Those
17 maps that are, perhaps, a little more specific
18 than the vague maps that appear in the State
19 Development Guide Plan. The major portion of
20 this case at this point deals with these boundry
21 lines and, Judge, there is nothing on these maps
22 in the State Development Guide Plan that deal with
23 site specific details as to where roads are, where
24 rivers are. Mr. Zimmerman had to do that with
25 overlays.

1 Now, my questioning is toward the objec-
2 tive of determining whether the State had done
3 this process.

4 THE COURT: Any site specific maps.

5 MR. MASTRO: Right.

6 MR. VOGEL: I would like to say on my
7 objection, are we now seeking from this witness
8 some unofficial, unidentified map to clarify,
9 change, modify the authenticated officially adopted
10 map?

11 THE COURT: It could be. I will permit it.

12 THE WITNESS: Could I have the question?

13 THE COURT: Rephrase it now so we have
14 a common understanding.

15 BY MR. MASTRO:

16 Q Mr. Zimmerman, did you examine any par-
17 ticular map that included the Borough of Far Hills and
18 indicated to you an alignment of the growth area of the
19 State Development Guide Plan, as it related to site
20 specific details and I will include in that category
21 railroad, roadways, rivers, and any other geographical
22 features of a similar nature?

23 It is a long question.

24 MR. VOGEL: I want to renew one aspect
25 of the objection. If Mr. Mastro has a particular

1 map in mind, I think he should have subpoenaed
2 that map.

3 We will look at the thing to see if it is
4 some authentic map or some draftsman's sketch of
5 things.

6 I don't know what he has in mind.

7 I know there are a lot of maps down there
8 and I think we are getting other maps that he
9 is going to ask questions about. He should have
10 had that map and subpoenaed it. He has his own
11 planner. Maybe he subpoenaed the map. I don't
12 know.

13 THE COURT: I don't know, but I will allow
14 the question.

15 THE WITNESS: There is a work map, as I
16 have indicated, in the files of the Department of
17 Community Affairs, Division of State and Regional
18 Planning, or what used to be the Division of
19 State and Regional Planning, and that map does
20 show streets and roads and certain landmarks,
21 rivers, etcetera. It is a work map. It is
22 colored in various colors showing land use and
23 development and ---

24 BY MR. MASTRO:

25 Q Does it show the boundry line of the

1 growth area, as it goes through Far Hills?

2 A Yes, it does.

3 Q Were you able to determine from examining
4 that map whether the property in question was within the
5 growth area on that map?

6 A Yes, I was.

7 MR. VOGEL: Objection.

8 Is the Court going to allow testimony
9 about a map until we find out is there a signa-
10 ture on it; was it ever approved, adopted; what
11 kind of map? Are we just going to have testimony
12 about some work map or are we going to find out
13 if it is some kind of official map of that Depart-
14 ment?

15 THE COURT: I am going to allow it. I
16 will allow the exploration.

17 BY MR. MASTRO:

18 Q Do you recall the question?

19 A I think I have answered the question.

20 THE COURT: Does the work map show a
21 boundry line of the growth area as it goes through
22 Far Hills? That was the question.

23 THE WITNESS: Yes, it does.

24 BY MR. MASTRO:

25 Q And does it show whether the property in

1 question is within or without the growth area, as indicated
2 on those work maps?

3 A It shows the line just as I have depicted on my
4 exhibits.

5 Q Is there an indication on the maps of any
6 railroad?

7 A Yes, there is.

8 Q Does it show the railroad within or with-
9 out the growth area or can't you tell?

10 A Well, it shows the railroad -- I mean, as you can
11 see on that map, and the other exhibits, portions of the
12 railroad is in the growth area and a portion is not.

13 Q And, Mr. Zimmerman, these were Atlases,
14 were they not?

15 MR. VOGEL: They were -- excuse me.

16 MR. MASTRO: Atlases, were they not?

17 THE COURT: Do you understand what he
18 means?

19 THE WITNESS: More or less, they are
20 U.S.G.S. maps. United States Geographical Survey
21 maps. I think the date was 1954.

22 BY MR. MASTRO:

23 Q Do you know whether these were used in
24 the process of developing the boundries for the State
25 Development Guide Plan?

1 A I assume they were to the extent that they were
2 utilized and whether the State Development Guide Plan was
3 an extraction or summarization or an exact duplication,
4 I can't answer.

5 Q Was the railroad station, itself, within
6 or outside that growth area boundry line?

7 A As I recall, the railroad station was outside
8 the growth area line. The line went, as I have depicted
9 it, on the exhibit P-17. The railroad station exists in
10 this area and the growth area line lies to the west of it
11 and my examination of the work map indicated that there
12 was a black dot, which depicted the railroad station, and
13 the line went immediately to the left or the west of that
14 black dot. And went up and down the Borough as I have
15 shown it on the exhibit.

16 Q Mr. Zimmerman, if I understand what you
17 said and I am referring to my notes now, in referring to
18 P-14, you testified that there was little else in the
19 Village of Far Hills that was vacant. Is that correct
20 so far?

21 A I think I testified that there was little else
22 in the growth development -- in the growth area of Far
23 Hills that was vacant.

24 Q Well, my notes indicate you started with
25 the Village. Little else in the Village that was vacant

1 and I am assuming the Village, as we have discussed it,
2 is within the growth area. Do you recall saying that?

3 A I don't recall, but I think we can agree that
4 there is little in the Village that is vacant.

5 Q You said, according to my notes, good part
6 is in the flood plain. Is that correct? Did I record
7 that properly?

8 A Yes.

9 Q The northerly portion of the triangle
10 in the Village area is vacant, but in the flood plain.
11 Is that correct?

12 A That is correct.

13 Q The only one suitable tract for develop-
14 ment in the Village area is the subject property. Do
15 you recall saying that?

16 A Yes, suitable for Mount Laurel II-type development.

17 Q Timber Properties is outside the growth
18 area and being acquired for public use. Do you recall
19 saying that?

20 A Yes.

21 Q Moorland Farms is partly in the growth
22 area, but it is not available for growth because of deed
23 restrictions?

24 A Yes.

25 Q Where is D-9?

1 And you also said that all the areas on
2 D-9 except those -- here we are -- all the areas on D-9,
3 except those designated in green, are already developed.

4 Did I record that properly?

5 A Yes.

6 Q Now, in spite of everything I have just
7 recited, which I think summarizes that portion of your
8 testimony, it is still your opinion that the State
9 Development Guide Plan line is reasonable where placed?

10 A Yes.

11 MR. MASTRO: All right.

12 May I have a second, your Honor?

13 THE COURT: Of course.

14 MR. MASTRO: I think that is all I have,
15 your Honor.

16 I see it is approaching 4:00.

17 MR. VOGEL: I might be able to conclude
18 with Mr. Zimmerman this afternoon, Judge, if I
19 had five minutes, maybe ten. I think I could.

20 THE COURT: And do you intend to bring
21 him back in any event?

22 MR. VOGEL: I probably would not, unless
23 the Court had some questioning.

24 THE COURT: No.

25 If we can conclude, fine. But let's see

1 how it works.

2 MR. VOGEL: All right.

3 THE COURT: Redirect.

4 If we get into some type of thicket,
5 gentlemen, we will back tomorrow.

6 REDIRECT EXAMINATION BY MR. VOGEL:

7 Q This map that you -- to which your testi-
8 mony made reference, Mr. Zimmerman -- I don't know if it
9 is the same one Mr. Mastro is thinking about, but did you
10 attempt to get a copy of that map?

11 A Yes, I did.

12 Q And what happened?

13 THE COURT: You are talking about the
14 work map?

15 MR. VOGEL: Yes. The work map he is
16 referring to. I don't know if it is the same one.

17 THE WITNESS: There are no copies.

18 BY MR. VOGEL:

19 Q There are no copies?

20 A Yes.

21 Q And was the work map completed?

22 A Well, there were a couple of work maps. It
23 depends upon which work map you are talking about.

24 Q Was there -- were you led to believe that
25 they are still working on some work maps?

1 A Well, there was one set of work maps that were
2 completed. They were working on another set of work maps
3 that are substantially completed with the exception of
4 Somerset and Morris County, which are uncompleted.

5 Q And did they give you any idea how long
6 that process was likely to take?

7 A They estimated approximately two months, because
8 they were waiting for the Department of Transportation to
9 supply them with base maps.

10 Q And were the work maps that you saw, did
11 they have any legends on them?

12 A No.

13 Q Did they have a seal of the State of
14 New Jersey on them?

15 A No.

16 Q Did they say anything about being State
17 Development Guide Plan blow-up maps?

18 A No.

19 Q Did they -- did they have any dates on
20 them?

21 A Other than date of the base map, which as I
22 indicated, was 1954. There was no dates on the work map.

23 Q And the 1954 -- that is the U.S.G.S. map
24 upon which they were drawing the lines?

25 A Yes.

1 Q And did you ask for any official blow-ups
2 of the State Development Guide Plan map?

3 A Yes, and they gave me the State Development Guide
4 Plan.

5 Q And that's it?

6 A That is what is the official.

7 Q Did you ask to see copies of other work
8 maps?

9 A Yes.

10 Q Were all the work maps made available
11 to you?

12 A No.

13 Q So they only let you see some work maps?

14 A That is right.

15 Q But not all?

16 A That is right.

17 Q Was it clear that there were other work
18 maps that you couldn't see?

19 A Well, they indicated that there was other maps
20 and materials. But what they were making available to the
21 public was what I already testified to as the two work
22 maps.

23 MR. MASTRO: Judge, I asked -- let me
24 object. I asked the question about maps that he
25 examined. Now he is testifying as to what someone

1 else told him. We are getting into a hearsay
2 area that goes beyond what the witness knows from
3 his own personal knowledge. My questions related
4 to what he saw, what he examined.

5 THE COURT: He also learned there were
6 others which he wasn't allowed to see. That is
7 what I am thinking of.

8 Go ahead. I will permit it.

9 BY MR. VOGEL:

10 Q P-17, the orange line delineating the
11 growth area of the State Development Guide Plan, that line
12 from the southern end of Far Hills to the northern end is
13 a relatively straight line, is it not?

14 A Yes.

15 Q And, indeed, on the blow-up of the State
16 Development Guide Plan, exhibit P-32, that also shows that
17 as a straight line from the northern to the southern end
18 of Far Hills, does it not?

19 A Relatively so, yes.

20 Q And the fact that this exhibit P-17 you
21 veer off after you get out of Far Hills and veer off to
22 the left, is that of any significance?

23 A That I think is irrelevant to the issue.

24 Q And, indeed, when you had the blow-up
25 made of the official State Development Guide Plan P-32 and

1 you superimposed the streets and roads and railroad and
2 the P.Q. thereon, you found that a little more of the P.Q.
3 was in the growth area than before; isn't that so?

4 A Yes, that is correct.

5 Q Mr. Zimmerman, when you were talking about
6 the four environmental constraints or you were answering
7 questions on cross-examination, you indicated that the
8 environmental constraints of the seasonal high water table
9 and the constraint of depth to bedrock was of no particular
10 significance in terms of ability to develop high-density
11 housing. Is that correct?

12 A Substantially so, yes.

13 Q That you could deal with that in one way
14 or the other?

15 A Right. I think normal engineering practices and
16 techniques can deal with those.

17 Q You indicated, however, that grades of
18 15% or greater was a problem and to the extent that those
19 grades existed, that would impair high-density development?

20 A That is correct.

21 Q You did not mention at that particular
22 point in your testimony the flooding along the river,
23 flood plain areas. Would that impair or make it particu-
24 larly difficult for higher-density development?

25 A Yes, I would put flooding as in the same category

1 as steep slopes. It would be a difficult problem to
2 engineer away and it might be best not to develop at all
3 on flood ways and flood fringe areas.

4 Q Mr. Zimmerman, with respect to changing
5 the character of the Village by doubling the population
6 or doubling the number of housing units or something
7 thereabouts, would you please refer to page 46 of the
8 County Master Plan, the second full paragraph in the first
9 column, the last sentence thereof.

10 Does that County Master Plan indicate the
11 anticipated size of the villages in terms of population
12 after the growth has occurred?

13 A That sentence and I will quote it in its entirety
14 deals with two issues, density and absolute size.

15 "Density is also dependent upon the amount
16 of open space preserved, but the compact areas of develop-
17 ment may well approximate five to 15 families per acre
18 and the size of the village may vary ultimately from one
19 to 10,000 persons."

20 Q Based upon that, would you -- is it your
21 opinion that an increase in the population of the Far
22 Hills Village, as you have described, would in any way
23 be incongruous with the growth that is contemplated in
24 the County Master Plan?

25 A It certainly would not in my opinion be incon-

1 gruous. The density would be in the range of five to 15
2 families per acre and, assuming that there are 250 persons
3 now in the Village and another 250 were added with a net
4 of 500 persons in the Village, it would still fall well
5 under the range that the County Master Plan is talking
6 about of between 1,000 to 10,000 persons.

7 Q Mr. Zimmerman, just one last question.
8 Would you say that the Route 206 corridor growth area and,
9 particularly, encompassing the Far Hills Village, the
10 expanded Far Hills Village, in any way as a planner can be
11 said to be either in error or arbitrary or capricious?

12 A No. I don't think it is in error. The work
13 map shows this to be the case. Two planners have testi-
14 fied before this Court, have indicated that that is where
15 the growth line exists. The line was devised as a result
16 of a wide variety of meetings, consultations, presentations,
17 by the State Development Guide Plan people. And in my
18 opinion it is not a line that was whimsically drafted. It
19 was a line that was done according to the precepts and
20 principles of good planning procedures and I think satis-
21 fied what I think is reasonable criteria for not being
22 arbitrary and not being capricious.

23 Q Mr. Zimmerman, in terms of the ability
24 of Far Hills to realistically have developed Mount Laurel II
25 contemplated housing, do you have an opinion as to whether

1 or not it is important to have included within that growth
2 area the subject property?

3 A Yes. I think ---

4 MR. MASTRO: Let me object to that
5 question. Your Honor, that can apply to any
6 area throughout the State.

7 THE COURT: Let me have the question back,
8 please, loud and clear.

9 (The pending question is read by the
10 Court Reporter.)

11 THE COURT: In terms of Far Hills, Mr.
12 Mastro?

13 MR. MASTRO: All right.

14 THE COURT: Can you answer the question.

15 THE WITNESS: Yes. I think it is impor-
16 tant to include the subject property because,
17 according to my analysis of all the properties
18 in the growth area in Far Hills, the subject
19 property is the only one that is appropriate for
20 Mount Laurel II-type housing.

21 MR. VOGEL: Thank you. No further
22 questions, your Honor.

23 RECROSS-EXAMINATION BY MR. MASTRO:

24 Q Mr. Zimmerman, would you expand on that
25 last response? If I heard you correctly, you said the

1 subject property is the only property in the growth area
2 in Far Hills that is capable of development for Mount
3 Laurel II purposes. Is that correct?

4 A Substantially so, yes.

5 MR. MASTRO: I have no further questions.

6 THE COURT: All right. Then we are in
7 recess until tomorrow morning at 9:00.

8 (The trial proceedings are adjourned
9 to November 1, 1983 at 9:00 A.M.)

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C E R T I F I C A T E

I, Robert B. Grossman, C.S.R., License
No. 397, hereby certify the foregoing to be a
true and accurate transcript of the testimony
and proceedings in the above entitled matter.

DATE: 11/5/83

Robert B. Grossman
ROBERT B. GROSSMAN, C.S.R.
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