

AM - Haueis v. Far Hills

~~2007~~

11/9/83

Stenographic Transcript of  
Proceedings

P 169

AM000297S

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: SOMERSET COUNTY  
DOCKET NO. L-73360-80

1  
2  
3 ALOIS HAUEIS, ET ALS, :  
4 Plaintiffs, :  
5 vs. : Stenographic Transcript  
6 BOROUGH OF FAR HILLS, : of  
7 Defendant. : Proceedings  
8 -----

9 Place: Somerset County Courthouse  
Somerville, New Jersey

10 Date: November 2, 1983

11  
12 BEFORE: THE HONORABLE DAVID G. LUCAS, J.S.C.

13  
14 TRANSCRIPT ORDERED BY:  
J. ALBERT MASTRO, ESQ.

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

16 HERBERT VOGEL, ESQ.  
17 Attorney for the Plaintiffs

18 J. ALBERT MASTRO, ESQ.  
19 Attorney for the Defendant.

20  
21 Charles R. Senders, C.S.R.  
22 Official Court Reporter  
Somerset County Courthouse  
23 Somerville, New Jersey 08876  
24  
25

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HON. DAVID G. LUCAS

PENGAD CO., BAYONNE, N.J. 07002 - FORM 2046

I N D E X O F W I T N E S S E S

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<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>
ALLEN J. DRESDNER, recalled		
By: Mr. Vogel	--	4
RICHARD A. GINMAN		
By: The Court	66	--
Mr. Mastro	--	125

I N D E X O F E X H I B I T S

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
P-35	Booklet entitled 1980 Census Data	5	
P-36	Diagram caption Median Rentals	14	19

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1 (Transcript of proceeding, November  
2 2, 1983, commencing at 9:05 a.m.)

3 THE COURT: When we terminated  
4 yesterday, we were in the cross-examination  
5 of Mr. Dresdner.

6 My notes indicate that we had gotten  
7 through the question of the reasonableness,  
8 or lack of reasonableness, of the County Master  
9 Plan, the State Development Guide Plan, and  
10 Tri-State Regional Development Guide Plan,  
11 and rationale given by Mr. Dresdna for his  
12 conclusions based on the imprecision of those  
13 instruments, or the lack of preciseness.

14 Next, we had talked about the impact  
15 of the village by virtue of the development  
16 of the parcel in question, the increase of  
17 the cost of purchase or rent housing space in  
18 the village.

19 I think that's where we were. I  
20 don't know whether that is a subject that was  
21 going to be developed or whether it was going  
22 to be left?

23 MR. VOGEL: Yes.

24 THE COURT: Pick it up there.

25 MR. VOGEL: Yes, Your Honor, thank

1                   you.

2  
3       A L L E N   J.   D R E S D N E R, previously sworn,  
4       recalled:

5  
6       CROSS-EXAMINATION CONTINUED BY MR. VOGEL:

7                   Q           Mr. Dresdner, in your direct testimony  
8       you referred to lower cost housing in the village,  
9       and existing lower cost housing in the village than  
10      in the other villages of Somerset Hills?

11                  A           That's correct.

12                  Q           What was the source of your infor-  
13      mation, how do you know that?

14                  A           That was based on the 1980 census of housing  
15      which had information relating to the cost of housing,  
16      as well as median rentals.

17                  Q           Based on that information, you  
18      reached the conclusion that the cost of rental housing  
19      in the Far Hills village is lower than the other villages  
20      of Somerset Hills?

21                  A           Yes. For example, the median housing value,  
22      again, from the 1980 census --

23                  Q           I didn't ask you for an example,  
24      I just want to know if that was the conclusion you  
25      reached?

                  A           Yes, sir, it was.

1 Q I show you this booklet entitled  
2 1980 Census Data for Somerset County and Municipalities,  
3 Characteristics of Housing, Income, and Employment.

4 Are you familiar with that booklet?

5 A I am familiar with the information that is  
6 included in this booklet, which, I believe, is from  
7 the census of population and housing; right, yes.

8 MR. VOGEL: May I have this booklet  
9 marked for identification, Your Honor?

10 THE COURT: All right. The next  
11 number will be 35, 1980 Census Data.

12 (Whereupon, booklet entitled 1980  
13 Census Data marked as Exhibit P-35 for  
14 identification.)

15 Q I wonder if you could go up to the  
16 bulletin board, Mr. Dresdner, so that we could write  
17 down the average rentals for the various communities  
18 of Somerset Hills and compare them as shown in the 1980  
19 Census Data Book?

20 Let's first -- I refer you to what  
21 appears to be Page 3 of this booklet and ask you if the  
22 median gross rent of renter-occupied housing in Somerset  
23 County is set forth thereon?

24 A Yes, it is.

25 Q How much is that median rent?

1 A \$325 a month.

2 Q Would you put that down for  
3 County median?

4 (Whereupon, the witness complies.)

5 Q All right. I now show you Page 9  
6 and ask you if the median gross rental for renter-  
7 occupied housing in Bernards Township is shown thereon?

8 A Yes, it is.

9 Q What is the amount of that?

10 A \$232.

11 Q Can you put that down?

12 THE COURT: Why don't you move that  
13 out of your way, sir, that exhibit on the left?  
14 Is that comfortable for you to work that  
15 way?

16 THE WITNESS: Yes, it is, sir.

17 THE COURT: All right. The building  
18 was built, and the room was built, for the  
19 comfort of the people who built it, I think,  
20 and they walked away from it.

21 Q Now, I ask you for Bernardsville,  
22 is the median gross rental indicated?

23 A Yes.

24 Q On Page 12?

25 A Yes.

1 Q What is that?

2 A \$372.

3 Q Is the median gross rental for Far  
4 Hills indicated on Page 24?

5 A Yes, it is.

6 Q What is that amount?

7 A \$432.

8 MR. MASTRO: Your Honor, I haven't  
9 objected. But I am wondering where this  
10 testimony is going? How is it related to a  
11 definition of what looks like a fair-share  
12 housing analysis?

13 THE COURT: I don't know where we  
14 are going.

15 MR. VOGEL: The direct testimony of  
16 this witness was that one of the bases for  
17 the unreasonableness of including additional  
18 housing in Far Hills and, particularly, on  
19 the PQ, was that it would drive the cost of  
20 existing rental units up. That the existing  
21 rental units were the lowest of any of the  
22 communities in the Somerset Hills region,  
23 though.

24 That was the direct testimony that  
25 was offered.

1 We are testing whether or not that  
2 fact testified to by your witness is correct.

3 MR. MASTRO: All right.

4 I understand where he is going now,  
5 yes.

6 Q All right, Peapack-Gladstone, is  
7 the median rental for housing there indicated?

8 A Yes, it is, it is \$370.

9 Q Let me see if I can find Bedminster --  
10 here we go.

11 Bedminster Township, on Page 6?

12 A \$428.

13 Q Mr. Dresdner, based upon Exhibit P-19  
14 for identification and with the 1980 Census Data for  
15 Somerset County and Its Municipalities, particularly  
16 relating to housing, is it clear that contrary to the  
17 testimony that you gave on direct examination, the highest  
18 rental of existing housing is in Far Hills, median  
19 rental costs of existing housing as of the 1980 census?

20 A I would like to review these figures for  
21 perhaps a minute, because they are in conflict with  
22 the information that I have from the Census of Housing.

23 Q Can I ask you -- I have no problem  
24 with you doing that. Can I ask you a question, do you  
25 have the census booklet, or the census source that you

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1 went to for your figures?

2 A I don't have it with me. In the office, I  
3 might,

4 I might add, the way I developed my figures  
5 were different in terms of how I used them. I was  
6 concerned with the percentage of occupied units renting  
7 for \$400 or less per month.

8 My information, the way I had set that infor-  
9 mation out, shows that Far Hills is lower or higher,  
10 rather, has a higher percentage of its occupied rental  
11 units renting for \$400 or less a month than all, save  
12 one, of the surrounding communities,

13 So, if I could just take a look at these  
14 numbers and compare them with one or two of the other  
15 communities, I would be able to respond specifically  
16 to your question.

17 Q You would agree that your numbers  
18 are in conflict with the numbers in the 1980 census  
19 booklet, would you not?

20 A Not yet, not yet.

21 Q All right, go ahead.

22 THE COURT: Do you want to -- do you  
23 have some other information you want to  
24 explore, sir, get away from that seat, you  
25 may?

1 THE WITNESS: This is all I want  
2 to look at, Judge.

3 THE COURT: I will give you whatever  
4 time you need.

5 THE WITNESS: I wouldn't dispute  
6 these figures. I assume they are accurately  
7 taken from the census of housing.

8 My statement, however, relating to  
9 the percentage of occupied dwelling units being  
10 for rent which were \$400 or less, Far Hills  
11 as being higher than all of the other communi-  
12 ties, save one, is something I would still  
13 stand by.

14 Q You don't have the census data with  
15 you?

16 A No, I don't have the census data on that.

17 Q You just took that information and  
18 compiled it yourself?

19 A From the census, yes.

20 Q From the census?

21 A The information on the number of units that  
22 are renting less than \$400 or \$400 or less is in this  
23 census document, as well as it is here.

24 So, my use of the housing numbers were some-  
25 what different than the mere recitation of the numbers.

1 Q I have trouble understanding what  
2 you are saying, Is there any question that these figures  
3 that are up on the board, that you have taken from P-35,  
4 represent figures from an official application of  
5 Somerset County, do you have any data like that?

6 A No, there is no question in my mind about  
7 that, as I mentioned. Assuming these are accurate, it  
8 is an accurate reproduction of the census of housing,  
9 I would not dispute these numbers in and of them-  
10 selves.

11 Q Do you have any reason to believe  
12 that it is not an accurate reproduction of the census  
13 figures?

14 A No, As I said, I assume it is a reasonable  
15 reproduction.

16 Q These figures represent the median  
17 gross rentals of renter-occupied housing in each of  
18 the communities listed, Is that not so?

19 A That's correct.

20 Q Now, just so that I understand it,  
21 what did your figures represent?

22 A My figures were addressing the percentage  
23 of occupied housing units that were renting for \$400,  
24 that were renting for less than \$400.

25 Q Why did you limit yourself in that

1 way?

2 A Well, \$400 related to a maximum rental for a  
3 moderate-income family, assuming that the family was  
4 approximately two persons and that had an income of  
5 80 percent of the County median income.

6 It was a means of determining what the avail-  
7 ability of rental was, rental units were, for low- and  
8 moderate-income families.

9 Q What would you say is the rental  
10 that a moderate-income family of four would pay?

11 A I would have to go back to the tables that  
12 are prepared by the Department of Housing and Urban  
13 Development, relating to Section 8 Housing. There are  
14 the tables that are commonly used to determine what  
15 those limits would be.

16 Q You do recall, do you not, Mr.  
17 Dresdner, that those tables increased the median family  
18 income as the number of persons in each family go up?

19 A Oh, yes, yes, of course.

20 Q So that if the median income were --  
21 do you recall a figure for a family of four, that the  
22 median income is approximately \$31,000 for the region?

23 A No. I recall the median family size for  
24 Far Hills being 2.8, that's my recollection.

25 Q You don't recall the median income

1 for a family of four in the region?

2 A No, no.

3 Q You only recall a median income for  
4 a family of two?

5 A I don't, frankly, recall what that median  
6 income is either. I haven't prepared myself for that  
7 information for the purposes of this trial.

8 Q You limited your analysis to the  
9 median income for a family of two. Is that correct?

10 A A median income of 2.8.

11 Q 2.8?

12 A Because that is a median family size for  
13 Far Hills.

14 Q I thought the \$400 per month was  
15 based on a median income of a family of two?

16 A I think I meant approximately 2 -- I meant  
17 2.8. That would be the median family size in Far Hills,  
18 between two and three persons per family.

19 Q Your analysis was for a family of  
20 2.8?

21 A Generalized, because the information  
22 given in the census was broken down in, as I recall,  
23 in \$200 or so categories.

24 Q Doesn't the Far Hills number on this  
25 board indicate median income for the community?

1 A That is the median,

2 Q Median?

3 A That is the median rent for the community.

4 Q Median gross rental; right?

5 A Yes.

6 MR. VOGEL: Your Honor, I would like  
7 to have this sheet marked into evidence,  
8 perhaps it could be captioned?

9 THE COURT: P-36. We will put "Rental"  
10 on it.

11 MR. VOGEL: Perhaps it should be  
12 captioned median rentals?

13 (Whereupon, diagram captioned Median  
14 Rentals marked as Exhibit P-36 for identifi-  
15 cation.)

16 MR. MASTRO: Judge, I have an objec-  
17 tion based upon relevancy.

18 THE COURT: Right now it is marked  
19 for identification. Is a proffer going to be  
20 made?

21 MR. VOGEL: I will offer it in  
22 evidence, based upon the fact, Your Honor,  
23 that this witness testified on direct examina-  
24 tion that there would be a substantial  
25 negative impact if the State Development Guide

1 Plan line as it is shown encompassing a larger  
2 Far Hills village, were to occur if, in fact,  
3 that development occurred particularly on the  
4 PQ.

5 That there would be various negative  
6 effects, one of which was, to drive up the  
7 cost of lower-cost housing within the village.  
8 We are testing that premise.

9 The information, it is our position  
10 that based on the cross-examination, the  
11 information provided in direct was absolutely  
12 contrary to the census data.

13 We didn't raise it as an issue of  
14 proving unreasonableness of the State Develop-  
15 ment Guide Plan line or the arbitrariness of  
16 that line.

17 It is the defendants' direct testimony,  
18 and we are testing the credibility of that  
19 testimony and the facts upon which it was  
20 based.

21 MR. MASTRO: Your Honor, my  
22 recollection of what Mr. Dresdner said was  
23 that Far Hills had more rental units at a  
24 level of \$400 or less than surrounding  
25 neighborhoods.

1                   Now, this exhibit is unrelated to  
2                   that testimony.

3                   MR. VOGEL: Well, I would say it is  
4                   related, Your Honor.

5                   I mean, anyone can take some kind  
6                   of isolated segments of total statistics.

7                   We are taking the figures from the  
8                   census to demonstrate that the basic premise  
9                   trying to be articulated or proven by the  
10                  witness is incorrect. The facts upon which  
11                  it is based are incorrect.

12                  THE COURT: I don't know how much  
13                  weight a factfinder would give it. I would  
14                  admit it. You are trying to establish, as  
15                  I get it, or this does indicate, what the  
16                  lowest median rental is in a given community,  
17                  Far Hills, and what the lowest median rental  
18                  may be in other surrounding communities.

19                  Any comparison with that is what  
20                  may be found in the County. Is that right?

21                  MR. VOGEL: Right. We are simply  
22                  saying that his premise that the Far Hills  
23                  village has the lowest rentals around, and  
24                  if you put it up --

25                  THE COURT: Would not be borne out

1 by this?

2 MR. VOGEL: Is not borne out by  
3 this. The facts are not so.

4 So, it is a matter of credibility,  
5 that's all it is put in for.

6 MR. MASTRO: Mr. Dresdner did not  
7 say that. He said there are more rental  
8 units at a level less than \$400 than  
9 surrounding communities.

10 As I looked at the figures as they  
11 are placed on the board, I was thinking to  
12 myself, how many rental units are there in  
13 Bernards Township? They are spotty.

14 THE COURT: Then you get into the  
15 bases for establishing a median figure. For  
16 example, you go into a community where there  
17 is only one --

18 MR. MASTRO: Of course, that is my  
19 point --

20 THE COURT: One available, and you  
21 are going into the next community, where  
22 there are 20.

23 MR. MASTRO: That is the point.

24 MR. VOGEL: We are only dealing  
25 with credibility, Judge, that is the only thing

1 I am offering this for.

2 To the extent that I am going to  
3 argue that Mr. Dresdner's figures in no way ar  
4 borne out by the data that is in the facts,  
5 that in the census data the median rentals  
6 for each of these communities, they don't bear  
7 out his factual conclusion that there is more  
8 lower-cost housing in Far Hills than any other  
9 surrounding towns.

10 It is just the opposite.

11 MR. MASTRO: Judge, Mr. Dresdner  
12 did not say that Far Hills has the lowest  
13 median rent.

14 THE COURT: I agree with you. When  
15 he was talking about Far Hills, he was talking  
16 about the village, that's how I understood it.

17 MR. VOGEL: The village, yes.

18 THE COURT: One would suggest, if  
19 one comes to Far Hills where all the land  
20 mass is in a 10-acre zone, I don't know how  
21 many rentals there are. I don't know that  
22 there are rentals in such an area. If there  
23 were, the existence of one or two would  
24 throw off any median for the whole village.

25 His testimony, as I recall it, was

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restricted or limited to the village area  
and I may have misunderstood him.

THE WITNESS: I think you did, Your  
Honor. It was addressing the entire Borough  
of Far Hills, because that is what the census  
would be dealing with.

THE COURT: All right. Then it is  
broader than I thought.

MR. VOGEL: This impeaches that  
credibility, or that is the intent of this  
cross-examination.

THE COURT: I will allow it, given  
the weight, as I say, to the trier of the  
facts.

All right.

Mark it in as P-36 in evidence.

(Whereupon, diagram previously  
marked as P-36 for identification, marked  
into evidence,)

CROSS-EXAMINATION CONTINUED BY MR. VOGEL:

Q Now, Mr. Dresdner, another point  
that you made in terms of the negative or adverse impact  
should the Far Hills village be enlarged for higher-  
density housing, including, particularly, the PQ, was

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1 your conclusion that there would be a substantial  
2 adverse traffic impact. Do you recall that testimony?

3 A Yes, as I recall,

4 Q I just want to know if you recall  
5 the general nature of the testimony?

6 A I don't recall it being general. As I  
7 recall, there was a specific question in the relation  
8 of Sunnybranch Road.

9 I do think there would be a substantial  
10 traffic impact on 202 as well. But as I recall the  
11 question, it related to Sunnybranch Road.

12 Q All right. Have you done a traffic  
13 study of Sunnybranch Road?

14 A No, I haven't. I know approximately the  
15 number of homes on Sunnybranch Road. I know that the  
16 homes are on essentially 10-acre parcels. I would  
17 also --

18 Q I just asked you if you had done  
19 a traffic study of Sunnybranch Road.

20 A I considered the traffic on Sunnybranch Road.

21 Q Have you made a traffic count on  
22 Sunnybranch Road?

23 A No, I didn't consider it necessary to make  
24 a traffic count for an area that encompasses less than  
25 20 homes, perhaps less than 15 homes, each one of 10

1 acres or more,

2 Q Do you know the traffic flow at the  
3 present time on Sunnybranch Road?

4 A I don't know specifically the traffic flow.  
5 But I would make certain assumptions based on other  
6 studies relating to peak hour flow.

7 Q What are those assumptions?

8 A Well, the assumptions are that each residential  
9 unit would generate one-half of a car during the peak  
10 hour.

11 Q Based upon?

12 A Based upon other studies of --

13 Q Excuse me, based upon that assumption  
14 of one-half car in the peak hour per home, have you  
15 concluded what is the present approximate peak hour  
16 traffic flow on Sunnybranch Road?

17 A Oh, perhaps eight cars per hour, during the  
18 peak hour.

19 Q Have you made a study of the  
20 capacity of Sunnybranch Road, the traffic capacity?

21 A No, I haven't. It is a narrow road. I,  
22 frankly, did not think it was necessary to make a  
23 study of the capacity of Sunnybranch Road, because I  
24 didn't think that was a consideration.

25 Q In order to determine the adverse

1 impact of a development on a particular roadway, don't  
2 you have to know the existing traffic flow, the capacity  
3 of the road, and the likely increase in that traffic  
4 from the proposed added development?

5 A Not necessarily. The concern in this case is  
6 the substantial increase in traffic that would be  
7 generated by the development.

8 The development would have proposed some 120  
9 units, I believe, which is 10 times the number of units  
10 that are located along the remainder of the road.

11 Those 120 units would be concentrated on a  
12 20-acre site, while the remainder of the area is in  
13 excess of 100 acres.

14 It is very clear to me that the traffic  
15 impact would be substantial and adverse on that  
16 subdivision.

17 Q How many cars would be generated  
18 at the peak hour from 125 additional townhouse dwelling  
19 units on the PQ?

20 A Using the same ratio, there would be 60  
21 vehicles generated.

22 Q 60 vehicles in the peak hour.

23 Do you always use the same ratio  
24 for townhouses as single-family houses?

25 A No, there are -- yes, I should say, based on

1 other studies, they are comparable.

2 There are some differences, but for general  
3 purposes, they are comparable.

4 Q Did you estimate how many houses  
5 there are on Sunnybranch Road at the present time?

6 A As I recall, 12, but maybe --

7 Q 12?

8 A It may be two more or less.

9 Q So, you think there may be something  
10 like six cars per peak hour at the present time?

11 A Yes, sir.

12 Q Is it your testimony to this Court  
13 that the addition of 60 cars to the existing flow of  
14 six or eight cars for peak hour would represent a  
15 substantial adverse impact on traffic on Sunnybranch  
16 Road?

17 A I think it would change the character of the  
18 entrance of Sunnybranch Road to the subdivision. I  
19 think it would have, in my opinion, it would have a  
20 substantial impact on intersection movements on Sunny-  
21 branch Road. That impact would be negative.

22 Q Adverse?

23 A That's correct.

24 Q So that on a road like Sunnybranch  
25 Road, six to eight cars in the peak hour would, in your

1 opinion, result in a substantial adverse impact?

2 A That's correct. The intersection is located  
3 in proximity to the railroad station and the grade  
4 crossing of the railroad.

5 The peak hour would coincide with that period  
6 of the day when commuters are driving, or being driven  
7 to the station and would create a negative traffic  
8 impact.

9 Q Are there any standard planners'  
10 numbers for reasonable traffic flows, reasonable in  
11 the sense that the road can handle it, for a highway  
12 such as 202?

13 A Yes, there are standards relating to levels  
14 of service.

15 Q What is the level of service, let's  
16 say, the median level of service, what is that, C?

17 A That is the design level of service, yes.

18 Q How many cars per hour can 202  
19 handle, level of service C?

20 A Well, 202 is a two-lane highway in the area.  
21 Typically, it can handle from 800 to 1,000 cars per  
22 hour.

23 However, --

24 Q All right, that is not the question  
25 I asked. I asked you about level of service C, the

1 number of cars,

2 MR. MASTRO: Your Honor, he should  
3 be permitted to finish the answer.

4 MR. VOGEL: Judge, the witness  
5 shouldn't be permitted to give a disertation  
6 on the subject. There is a question, and he  
7 should be permitted to answer the question.

8 THE COURT: Let's have the original  
9 question read back.

10 (Whereupon, last question read by  
11 the reporter.)

12 THE COURT: The question is, how  
13 many cars can 202 handle?

14 THE WITNESS: Well, I hadn't  
15 finished that. What I am saying is that 202  
16 is a two-lane highway.

17 Under level of service C,--

18 THE COURT: Let him finish.

19 THE WITNESS: Under that level of  
20 service, it can handle from 800 to 1,000 vehicles.  
21 However, that figure must be modified on the  
22 basis of existing conditions.

23 For example, if there is an impediment  
24 to movement, such as a grade crossing of the  
25 railroad, as we have here, dates which are

1 used to prevent traffic, or to halt traffic  
2 when a train is passing across Route 202,  
3 these all affect the level of service.

4 During the peak hour, at certain  
5 times the traffic volumes, the traffic capacity  
6 at a level of service C would be substantially  
7 below 800 to 1,000. Where it would be, I  
8 really don't know at this point, because I  
9 haven't studied the number of times during  
10 an hour that the gates are lowered, for what  
11 period of time the gates are lowered.

12 Q Have you seen any traffic studies for  
13 202 through Far Hills?

14 A No, I haven't.

15 Q Do you know what the present traffic  
16 volumes are there?

17 A No, I have observed traffic on --

18 Q Do you know by traffic count?

19 A I have made no traffic counts, but I have  
20 observed traffic.

21 Q Have you seen any traffic studies  
22 with traffic counts?

23 A No, I haven't.

24 Q Are you aware of the fact that since  
25 287 has been installed, the number of traffic, the

1 traffic volumes on 202 have decreased?

2 A The traffic volume had decreased. It is my  
3 understanding it has not decreased at this point in  
4 time, because traffic tends to increase over time and  
5 traffic has not been reduced over that which it was  
6 prior to 287.

7 Q Mr. Dresdner, is Sunnybranch Road  
8 a paved road?

9 A It is an improved road, it is an improved  
10 road.

11 Q How would you describe, it, what  
12 category of road is it for traffic count purposes?

13 A Well, I would call it a local service road  
14 of a rural nature.

15 Q All right. The level of service  
16 C on a local service road of that which you have  
17 described, what is the traffic volume, acceptable  
18 traffic volume?

19 A I wouldn't use that particular measure for  
20 a residential street, a level of service C.

21 Q Do you know what it is, you may not  
22 use it?

23 A The traffic volume?

24 Q Yes.

25 A The traffic volume?

1 Q Yes.

2 A I don't know what the traffic volumes are  
3 on Sunnybranch Road, I have indicated that I would  
4 estimate that a traffic volume during the peak hour  
5 is approximately six or eight vehicles per hour.

6 Q Do you know what the count would  
7 be for level of service A on that type of road,  
8 what traffic volumes that type of road could handle?

9 A That definition for a road such as Sunny-  
10 branch is not applicable.

11 Q I realize you don't want to use  
12 that. I am asking you whether or not you know for  
13 that type of residential street, under the manuals that  
14 set these numbers, do you know what the traffic  
15 volumes would be for level of service A, the highest,  
16 best level of service?

17 A I just can't answer the question the way you  
18 are posing it.

19 Q Either you know it or you don't  
20 know it?

21 THE COURT: He says he can't answer  
22 it the way you are posing it.

23 THE WITNESS: I am saying that  
24 connection between a level of service A  
25 and a rural, low-density subdivision doesn't

1                   exist. The purpose of these levels of service  
2                   are for other types of roads.

3                   Q            Is it your answer that that infor-  
4                   mation does not exist?

5                   THE COURT: That is not his answer.  
6                   The answer, sir, he couldn't answer it as it was  
7                   phrased.

8                   MR. VOGEL: Pardon?

9                   THE COURT: He could not answer the  
10                  question as you posed it, he doesn't accept  
11                  that premise implicit in your question.

12                  Q            All right. Let me ask you, who  
13                  promulgates these levels of service, this type of level  
14                  of service data?

15                  A            The Institute of Traffic Engineers, I believe,  
16                  is the name of the organization.

17                  Q            Do the level of standards --

18                  A            Or the National Association of Highway Officials  
19                  as well.

20                  Q            It is a well-recognized manual for  
21                  highway engineers, is it not?

22                  A            Yes. The Manual of Traffic Engineers is the  
23                  title.

24                  Q            And Traffic Planners, is it not?

25                  A            Yes.

1 Q Does this manual apply to State  
2 highways, does it not?

3 A It does apply to State highways.

4 Q Does it apply to county roads?

5 A It does apply to county roads.

6 Q Does it have standards for municipal  
7 roads?

8 A It has standards for certain types of municipal  
9 roads. To the best of my knowledge, it does not have  
10 a standard for a rural cul-de-sac.

11 Q That is your recollection?

12 A That's correct.

13 Q Does it have standards for roads  
14 within municipal subdivisions, what are they called,  
15 collector roads?

16 A They would have. They make their distinction,  
17 in terms of, as I recall, two-lane rural roads, two-lane  
18 urban roads, four-lane rural roads, and -- well, rural  
19 roads and limited access.

20 Q Let's take two-lane roads.

21 Do you know the type of traffic  
22 volumes which would be categorized as level of service

23 A?

24 A No, sir, I don't. Because rural roads are  
25 also modified by grades, by the existence of shoulders.

1 There are a number of factors that go into the deter-  
2 mination of what the threshold for a level A, B, C,  
3 D, or E road is.

4 Q Mr. Dresdner, do you recall the  
5 traffic volumes for the least improved, paved rural  
6 road for a level of service A?

7 A No, I don't. Because the level of service  
8 also relates to the capacity of the road.

9 That is, such as you described, depending  
10 again on the grade of the road, the availability of  
11 shoulders, has different capacities.

12 A road that has a higher capacity would have  
13 a higher level, would have a higher threshold of traffic  
14 volumes for level of service A than would one that has  
15 a lower capacity.

16 Q Okay. Let me ask you one question  
17 about that. When you reached the conclusion that the  
18 proposed additional density on the PQ would have an  
19 adverse traffic impact and you took the numbers of  
20 68 cars into account, which I assume you did, did you  
21 use any standard manual, traffic manual, traffic count  
22 manual, for any type of road in reaching your conclusion?

23 A My conclusion was based on personal obser-  
24 vation of conditions during that peak hour.

25 Q Try and answer the question.

1                                   The question is, did you use any  
2 annual written or printed manual in terms of reaching  
3 your conclusion?

4           A           I have used manuals in my practice for  
5 years.

6                                   Those manuals are part of my experience  
7 and my judgment.

8                                   So to answer, in a broad sense, I have used  
9 manuals, because I am familiar with manuals.

10                                  I am familiar, at least with philosophy  
11 generally and often with the specifics of the manuals.

12                                  Q           Can you tell me what manual you used?

13           A           Well, the Manual of Traffic Engineering is  
14 the basic manual that we use in our office.

15                                  Q           Can you tell me what data within  
16 that particular manual you utilized to support your  
17 conclusion that there would be a substantial -- let  
18 me finish the question, adverse impact?

19                                  MR. MASTRO: Your Honor, I want to  
20 object to that.

21                                  Mr. Dresdner has indicated that he  
22 is familiar with manuals. When he makes an  
23 observation, from what I gather, from what he  
24 is saying, that whether consciously or not,  
25 he is utilizing it.

1 Now, Mr. Vogel is trying to target  
2 what I gather from Mr. Vogel's question is,  
3 did Mr. Dresdner appear on Sunnybranch Road  
4 with a manual in his hand, looking at Page 42.  
5 Obviously, he didn't.

6 THE COURT: I take it that is the  
7 testimony and that his knowledge of manuals  
8 here is general. That he knows of their  
9 existence. He may have retained some general  
10 information as to their contents and that he  
11 employed, as he would other things, he has  
12 acquired in applying his expertise, but with  
13 no specific reference to a specific manual.

14 Is that a fair statement, sir?

15 THE WITNESS: Yes. I think it is  
16 generally fair.

17 I would add that I have used the  
18 manual extensively in my professional practice.

19 MR. VOGEL: We will go on to another  
20 subject.

21 Q The State Development Guide Plan --

22 THE COURT: Are we going into the  
23 State Development Guide Plan?

24 MR. VOGEL: Yes.

25 THE COURT: Let's take 10.

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(Whereupon, a short recess takes place.)

THE COURT: Are you looking for --

MR. VOGEL: We are referring to the State Development Guide Plan, Your Honor, P-33.

We did not want to use the official one, so that the Court could refer to it.

Mr. Dresdner has a copy of it, and I have the photo pages that I intend to discuss.

THE COURT: I have another copy, so I can work from that.

Tell me where you are?

MR. VOGEL: Referring to Page 47 of the State Development Guide Plan.

CROSS-EXAMINATION CONTINUED BY MR. VOGEL:

Q I want to review the criteria established by the State for the delineation of the growth areas.

Are you familiar with that part of the State Development Guide Plan?

A Yes, I am.

Q Do you have, taking the first of

1 those criteria, that is, that the growth areas should  
2 be located within or adjacent to major population and/or  
3 employment centers, do you believe that that criteria  
4 is either arbitrary or unreasonable?

5 A No, the criteria is reasonable, criterion.

6 Q Now, taking that criterion, criteria --

7 THE COURT: Plural, i-a.

8 Q Taking that particular criteria,  
9 would you say that the Route 206 corridor encompasses  
10 centers, employment centers?

11 I refer you particularly to your exhibit,  
12 D-17B and to the various new facilities that you have  
13 outlined in with a red arrow, including Beneficial,  
14 AT&T, Allen-Deane and City Federal.

15 A The question is?

16 Q The question is, would you agree  
17 that the Route 206 corridor established in the State  
18 Development Guide Plan does contain major employment  
19 centers consistent with that criteria?

20 A There are major employment centers along  
21 Route 206, within the corridor, as delineated by  
22 the State.

23 Q Going to the second criteria, the  
24 location within, or in proximity to existing major  
25 water supply and sewer service areas.

1 of that existing sewer system?

2 A In my opinion, placing this property in  
3 context with the surrounding area, it is an area  
4 that is environmentally sensitive and is part of a  
5 critical land area as identified in the map entitled,  
6 "Critical Land Areas," which is Plate 5.

7 Q You kind of skipped from the site  
8 in question to the area around the site?

9 A Yes, deliberately. So, as I mentioned, you  
10 can't take one site out of context with the surrounding  
11 area.

12 Q You are unable to answer the  
13 question directly, limited to the site, for the  
14 reasons you have already given, is that so?

15 A Yes, I think it would be unreasonable to  
16 answer it that way.

17 Q Mr. Dresdner, taking some of the  
18 other environmental constraints and referring to your  
19 exhibits, it looks like D-9 and perhaps D-17B, can you  
20 give the Court an estimate of the percentage of  
21 lands in the growth area as shown on the State Develop-  
22 ment Guide Plan, within Far Hills that are affected  
23 by steep slopes?

24 A The area affected by steep slopes within  
25 the conceptual growth area in Far Hills is shown in

1 brown on Exhibit D-10.

2 It is difficult to estimate, but just off the  
3 top of my head, an estimate would be perhaps 15 percent  
4 or so.

5 Q 15 percent?

6 A Of that portion of the growth area that would  
7 be in steep slopes.

8 Q Is the line underneath there?

9 A Yes.

10 Q So you have got this brown area  
11 up in the northern part, these two little brown areas,  
12 and here is a line, you have got this little brown  
13 area down here.

14 Is it your testimony that that  
15 represents 15 percent -- what did you say, 10 or 15  
16 percent?

17 A No, I said about 15 percent.

18 287 is also steep at that point, but, yes,  
19 15 percent, I think, would be reasonable.

20 Q That is 15 percent, in your  
21 estimate, that little area, that little --

22 A All of those moderate areas, I would say,  
23 are 15 percent.

24 Q How much of the area, of the growth  
25 area portion of the State Development Guide Plan as it

1 goes through Far Hills is characterized by flood  
2 plain, as indicated in your exhibits?

3 A Well, the flood plain would be the dark  
4 yellow area.

5 Q Excuse me, dark blue?

6 A Dark blue area, dark blue area.

7 Q You and Mr. Zimmerman are together  
8 on colors.

9 A My eyes are rolling.

10 That perhaps 20, 20 percent of the area, it  
11 is difficult to measure, or estimate, because it is  
12 a long band that stretches along the northern and  
13 central portion of the growth area and boundary of  
14 the borough. But perhaps 20 percent, or about 20  
15 percent.

16 Q 20 percent. So, you think the  
17 combination of the steep slopes and the flood plain is  
18 about 35 percent, or would it be a little less than  
19 that?

20 A I think 35 percent is a reasonable estimate  
21 when I put the two together.

22 Q Now, I want to take -- you can  
23 resume your seat.

24 I want to take the other environmental  
25 constraints that you identified in your testimony.

1 First of all, other than the steep  
2 slopes and the river, about which there is very little  
3 question, it is not particularly suitable for building  
4 on, in terms of seasonal high water table, is it  
5 your -- wouldn't you agree that if public sewers were  
6 available to an area, that building on lands of  
7 seasonal high water table are not a particular problem?

8 Let me ask it another way, first.  
9 Is it safe to say that the most significant problem  
10 with building on lands of seasonal high water table  
11 refers to septic systems?

12 A That is usually what it is related to.  
13 The problems of septic system operation and maintenance  
14 as well in areas that have seasonally high ground  
15 water.

16 Q If you were to put in public sewers,  
17 or if they were installed by the developer, would you  
18 not agree that it is a reasonable, or that lands  
19 that are subject to seasonal high water table, can  
20 be built upon?

21 A Well, lands that are subject to seasonally  
22 high water tables can be built upon, with or without  
23 public sewers.

24 Q Isn't it true that public sewers  
25 solve the most critical problem, or the most important

1 problem of seasonal high water table lands?

2 A Not necessarily. Even if the most important  
3 problem related to septic systems, there are other  
4 ways of dealing with seasonally high water to provide  
5 septic systems. Typical is the Wisconsin Mounding  
6 Techniques. There are problems of laying pipes in  
7 wet areas.

8 They relate less to the impacts on the natural  
9 environment and more to increased exposure, or risk to  
10 infiltration of the system from ground water.

11 Q Is the Far Hills village in an area  
12 subject to seasonal high water?

13 A It is not shown as subject to seasonal high  
14 water, based on the critical land areas map.

15 Q How about on your maps?

16 A The areas shown as having seasonally high  
17 water --

18 Q The village?

19 A Yes.

20 Q So that in terms of the comparability  
21 of the village and the PQ for building on lands of  
22 seasonal high water, you would agree that they are  
23 comparable, would you not?

24 A Yes, they are essentially comparable. I  
25 assume many of the problems of sewerage seasonally high

1 water, sewerage in areas subject to a seasonally high  
2 water table, would attend to the property in question  
3 as it does to the village itself.

4 Q I thought I recalled your testimony,  
5 Mr. Dresdner, that you indicated that you thought the  
6 village, the existing or historic boundaries of the  
7 village, was the appropriate place for higher-density  
8 housing?

9 A Because they do have --

10 Q First, did you state that?

11 A Yes, yes.

12 Q When you stated that, I'm sure you  
13 took into account, did you not, that your own  
14 environmental maps indicate that the village is an area  
15 subject to seasonal high water?

16 A I took into account a number of features  
17 and considerations.

18 Q Did you take that one into account,  
19 among others?

20 A Of course, I took that one into account.  
21 I took the fact of the existence of the sewers into  
22 account, the fact of the availability of the services  
23 in the traditional and historic nature of the village.

24 Q There was another environmental  
25 constraint that you indicated on your maps, and that was

1 depth to bedrock,

2 Do your maps indicate that the PQ  
3 is subject to the burdens of depth to bedrock?

4 A There is no -- this exhibit does not have  
5 any information on depth to bedrock,

6 Q I thought I recall that in the  
7 testimony somewhere?

8 A That was a general question that was asked  
9 earlier.

10 Q You would agree that if there was  
11 a depth to bedrock problem, that units could be built  
12 on slabs, and that is one way of dealing with that  
13 problem, would you not?

14 A Yes. The problems with depth to bedrock  
15 are the costs of laying pipes rather than building  
16 on a slab.

17 Q All right. Finally, I guess we  
18 have been over agricultural, prime agricultural lands,  
19 that only a very small portion of the PQ is subject  
20 to prime agricultural lands. Is that correct?

21 A Yes.

22 MR. VOGEL: We are approaching 11,  
23 but I have at least one other question at  
24 this point, Your Honor, that I think would  
25 fit in with this testimony.

1 THE COURT: I don't have another  
2 witness yet.

3 MR. VOGEL: All right.

4 Q The 201 facilities plan that is  
5 now in evidence, from which you have taken some  
6 information for this case, that is a map that is  
7 designed to assess whether there should be federal  
8 funding for sewerage, public sewerage treatment  
9 systems. Is that not so?

10 A No. It is a much more detailed plan than  
11 that. It sets forth a program for sewerage improve-  
12 ments, including sanitary treatment plants, lines,  
13 extensions, and the like.

14 Q Where does that big fat booklet  
15 get filed, who does it go to when it is done?

16 A Well, it is filed with the County, it is filed  
17 with all of the counties that are within the water  
18 shed. It is filed with the utilities, various utility  
19 authorities, and should be filed with each one of  
20 the municipalities that are within the service area.

21 Q Is it filed with the Federal EPA or --

22 A Well, the -- yes, it would be delivered to  
23 the Federal EPA as well. The Federal EPA would use  
24 the plan in assessing the fundability of any project  
25 with federal funds.

1                   Q            I may have missed this, and I want  
2 you to correct me if I am wrong, but it was my  
3 recollection of your testimony that the 201 -- there  
4 were 208 and the 201 plan, that the 201 plan was  
5 essentially developed for the purpose of assessing  
6 the availability, the purpose of assessing whether you  
7 could get federal funding for sewerage treatment plants  
8 and waste water treatment facilities?

9                   A            No.

10                  Q            Isn't that the fundamental purpose  
11 of the plan?

12                  A            Well, the plan is necessary if funding is to  
13 be made available. But the basic purpose of the plan  
14 would be to design a system to serve an area.

15                                The prime purpose of which is either to  
16 protect water quality or to upgrade the quality of  
17 surface and subsurface water.

18                                This is done structurally, which, you know,  
19 are sanitary treatment plants, pipes, and the like, and  
20 non-structural techniques, which is through land use  
21 planning.

22                  Q            Can you contrast for me the 208 from  
23 the 201 plan?

24                  A            The 208 plan is a water quality management  
25 plan, that is the title, and it addresses strategies.

1 Q Water quality, in the sense of  
2 drinking water or --

3 A Well, drinking water, recreation water, all  
4 waters, whether surface or subsurface.

5 Q Okay.

6 Now, if 208 is water quality, is 201  
7 waste water plants?

8 A Well, yes, that is what I have said.

9 The 201 facilities plan is a plan for the  
10 construction of facilities designed to achieve the  
11 objectives of the 208 water quality management plan.

12 MR, VOGEL: Let's see. I thought  
13 that the 201 plan was marked into evidence,  
14 maybe it was only marked for identification?

15 Yes, D-18 for identification.

16 THE COURT: The 201 study, marked  
17 only for identification.

18 Q Do you still have that, do you have  
19 that?

20 A I returned everything that I borrowed for  
21 the day, back to the County.

22 Q You don't have it any more?

23 A No. The three documents I had, I returned.  
24 I can bring them back.

25 Q Well, the only thing we have from

1 that then is what is D-19, Plate 5?

2 A That's correct.

3 Q Let me ask you this, it is at least  
4 my understanding that a 201 facilities plan is utilized  
5 for the purpose -- one of its purposes is to attempt  
6 to get funding, federal funding, for usually major  
7 sewerage treatment plant facilities and regional plants.

8 Is that so?

9 A Well, yes, in order to get federal funding  
10 one of the criteria that the government looks at is,  
11 is this individual application for upgrading of a  
12 sewerage treatment plant in compliance with the 201  
13 facilities plan?

14 If it is in compliance, then they will  
15 further consider whether it deserves funding. If it  
16 is not in compliance, in all likelihood, it would  
17 be rejected very quickly.

18 Q Okay. Now, is there any proposal  
19 for a regional sewerage treatment plant in this area  
20 for which a 201 facilities plan was developed?

21 A As I recall, the plan for servicing this  
22 water shed, there are several treatment plants proposed  
23 or identified. The newest one being in Bedminster.

24 Q That is an existing plant?

25 A That is an existing plant.

1 Q Is that the one that now services  
2 the village?

3 A That is the one that currently services the  
4 village; right.

5 Q Is there some application for federal  
6 funding to enlarge that plant?

7 A Not to my knowledge.

8 Q Mr. Dresdner, are you aware of  
9 correspondence between Bedminster and Far Hills in  
10 which Bedminster asked Far Hills for its plans, or its  
11 needs for additional sewerage treatment plant  
12 capacity?

13 A No, I'm not familiar with any correspondence  
14 of that nature.

15 Q Are you familiar with any  
16 correspondence from Far Hills to Bedminster in which  
17 Far Hills stated that they only have a need for  
18 sewerage connection for 19 more homes in the Borough  
19 of Far Hills?

20 A No, I'm not at all familiar with any corres-  
21 pondence of that sort.

22 Q I show you Exhibit P-20 in evidence  
23 in this trial, letter dated December 1, 1982, from John  
24 R. Todd, III, to Mayor Paul F. Gavin, Township of  
25 Bedminster.



1 A It is my understanding that Bedminster is  
2 considering, and perhaps even planning, the expansion  
3 of its treatment plant.

4 I must admit, I don't know to what extent it  
5 is planning the expansion, whether it is for additional  
6 service or improving the quality of the effluent or  
7 the nature of its improvements.

8 Q Were you aware of Far Hills'  
9 communication of any variety, whether by D-20, which  
10 you said you haven't had, in fairness to you, but of  
11 any type of communications of Far Hills' officials,  
12 verbal or otherwise, to the Bedminster officials  
13 stating that Far Hills only needed an additional  
14 19 connections of capacity from the intended expansion  
15 of the Bedminster plant?

16 A No. The first time I have heard of that has  
17 been in this courtroom.

18 MR. VOGEL: Thank you.

19 Judge, I see a new face in the court-  
20 room. I am guessing that is Mr. Ginman, who  
21 I have never met. I don't know how Your Honor  
22 wants to handle that?

23 THE COURT: Are you finished with  
24 this witness?

25 MR. VOGEL: I am definitely not

1 First, do you agree that is a  
2 reasonable criteria for determining a growth area?

3 A That is one of several reasonable criteria  
4 that can be used to identify growth areas or growth  
5 corridors.

6 Q You would not suggest or do not  
7 believe that that criteria is in any way arbitrary  
8 or capricious, do you?

9 A Not at all. In fact, it ties in with the  
10 objectives of the Statewide Development Guide Plan.

11 Q Within the Route 206 corridor, are  
12 there areas that are located within or in proximity  
13 to sewer service areas and water supply areas?

14 A Portions of the Route 206 corridor are  
15 served by public water and public sewer.

16 Q With respect to the Far Hills  
17 village, is it not so that that village is serviced  
18 by public sewer and water?

19 A That's correct.

20 Q Is it not true that the PQ, for  
21 example, is adjacent to areas serviced and sewer and  
22 water?

23 A It is adjacent to an existing sewer serviced  
24 area.

25 Q With respect to the third criteria,

1 location within, or in proximity to areas served by  
2 major highway and commuter rail facilities, first of  
3 all, would you agree that that is a reasonable criteria  
4 to determine a growth area?

5 A Yes, I would agree.

6 Q You would not suggest, I take it,  
7 that that criteria is in any way arbitrary or  
8 capricious?

9 A That's correct.

10 Q Now, with respect to the 206  
11 corridor, is that corridor located or in proximity  
12 to areas serviced by, first, major highways?

13 A Route 206 is a highway. Whether it is major  
14 or not, I think, might be arguable. But it is in  
15 proximity to a major highway.

16 Q Is it not in close proximity; namely,  
17 the corridor as defined on the map, is it also not in  
18 close proximity to portions of 287, Interstate 287?

19 A Yes, it is in proximity to 287 as well as  
20 78.

21 Q Is it not in close proximity to  
22 Route 202, State Highway 202?

23 A Well, 202 and 206 are coincident along a  
24 portin of the corridor.

25 Q In some portions they split, is that

1 not so?

2 A That's correct.

3 Q So, would you say that the corridor  
4 as delineated on that map does indeed, is indeed,  
5 serviced by the major highways?

6 A That's correct.

7 Q Now, that criteria also uses the  
8 word, and when it says "location within or proximity  
9 to areas serviced by eight major highways and commuter  
10 rail facilities," is the Route 206 corridor serviced  
11 by commuter rail facilities?

12 A A portion of the 206 corridor is serviced by  
13 commuter rail facilities.

14 Q Is, for example, the Far Hills  
15 village served by commuter rail facilities?

16 A Yes, it is.

17 Q I forgot to ask you before whether  
18 or not the Far Hills village is adjoining or in proximity  
19 to major highways.

20 First, is it in proximity to Route  
21 202?

22 A Route 202 passes through the Borough of  
23 Far Hills. Route 206 passes to the east of the Borough,  
24 perhaps a mile to the east.

25 THE COURT: West, isn't it?

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THE WITNESS: West, yes, I'm sorry,

Your Honor,

Q I was trying to figure that one myself. But within a mile or so of the villege, is that not so?

A Yes.

Q How about 287, let's take 287, does that pass through Far Hills, first of all?

A 287 passes through Far Hills, but I wouldn't consider 287, the interchange, or the access to 287 from Far Hills as adjacent or approximate. It is located several miles away. I would not term the Borough of Far Hills as readily accessible to points of access to either 78 or 287.

Q Just so that I understand, so you do not believe using the words of the criteria, that Route 287 is "in proximity to" that portion or a portion of the 206 corridor as it passes through the Borough of Far Hills?

A THE COURT: Could you repeat the question?

THE WITNESS: If you would repeat that?

Q I will try again. The words of the criteria are that the major highways should be in proximity

1 to the growth area.

#2

2 Is it your view that Route 287 is  
3 not "in proximity to" the growth areas as shown on the  
4 State Development Guide Plan, as it goes through the  
5 Borough of Far Hills?

6 A My testimony is, I guess, two-fold.

7 In answer to your question that the 287, Route  
8 287 is in proximity and indeed within the Route 206  
9 corridor.

10 Q Within the Borough of Far Hills?

11 A Within the Borough of Far Hills.

12 Route 287 passes through the Borough. I do  
13 not consider the Borough in proximity to access to  
14 I-287.

15 Q All right. In reaching that  
16 conclusion that it is not in proximity to 287, how  
17 far is the nearest point of the growth area, the 206  
18 growth corridor area, as it encompasses Far Hills,  
19 to the nearest interchange of Route 287?

20 A Three miles, as I recall.

21 Q Three miles.

22 You consider that not in proximity  
23 to Far Hills?

24 A That's correct. There are two villages located  
25 between Far Hills and that interchange. The two villages

1 are Pluckemin and Bedminster.

2 The village of Far Hills is located on 202.  
3 Pluckemin and Bedminster are on 206.

4 I would not consider it as approximately as  
5 either of these two villages are to 287.

6 Q Is it your opinion also that for  
7 planning purposes, I-78 is not in proximity to the  
8 growth area portion of Far Hills?

9 A That's correct, your access to I-78 is some-  
10 what further than the access to 287. It would logically  
11 follow that being located further from the 287 access,  
12 I would consider it less approximate.

13 Q How long does it take one to get  
14 from the Far Hills growth area to say 287, the nearest  
15 interchange, driving time?

16 A Oh, depending on the time of day or night,  
17 say in the mid-afternoon, perhaps 15 minutes;

18 Q 15 minutes to drive three miles?

19 A Well, you have to go through the Village  
20 of Bedminster, There is traffic in the area, from the  
21 substantial office development. 15 minutes, I think,  
22 is a reasonable figure.

23 Q You would agree, however, I take it,  
24 Mr. Dresdner, that the Far Hills village, in particular  
25 the growth area in Far Hills as shown on the State

1 Development Guide Plan, is in proximity to Route 202  
2 and Route 206?

3 A It is surely in proximity to Route 202 that  
4 passes by, yes. I would say it was in proximity to 206,  
5 but separated from it.

6 Q The fourth criteria for growth area  
7 in the State Development Guide Plan is "absence of large  
8 concentrations of agricultural land."

9 Do you agree that that is a reasonable  
10 criteria?

11 A Yes, I think it is a generally reasonable  
12 criteria and, surely, reflects a certain value that the  
13 State places on agricultural lands.

14 Q I am looking for your exhibit, the  
15 one where you show both the County Master Plan and  
16 the State Development Guide Plan?

17 A I think it is on the bottom of that one there.

18 Q Referring to your exhibit, D-9,  
19 you can see the area in Far Hills delineated as growth  
20 under the State Development Guide Plan, can you not?

21 A Yes, I can see that.

22 Q Are there any actual farms in that  
23 area?

24 I am not talking about just people who have  
25 farmland assessment because they have a few horses or

1 something, I'm talking about agricultural farms?

2 A Well, the horse farms are an industry, and  
3 I would consider that agricultural.

4 Within Far Hills there are substantial  
5 areas which are farmed, at least in that sense. But  
6 there are also the traditional kind offarming as well.

7 Q I am talking about the growth area,  
8 are there any farms in the growth area?

9 A There are no farms in the portion of Far  
10 Hills that are within the conceptual growth area.

11 Q The last of the criteria in the  
12 State Development Guide Plan reads as follows:

13 "Absence of large blocks of public  
14 open space or environmentally-sensitive lands."

15 First of all, do you agree that  
16 that is a reasonable criteria to delineate growth areas  
17 on the State Development Guide Plan?

18 A That also is a reasonable criterion for  
19 identifying areas that are appropriate for growth or  
20 inappropriate for growth.

21 Q You would not suggest that that  
22 criteria is arbitrary or capricious?

23 A No, generally, I would applaud the State for  
24 the design of the criteria that they have used.

25 Q With respect to the 202-206 corridor,

1 are there any large blocks of public open space?

2 A I am more familiar with Far Hills.

3 Q Let's take the whole corridor itself,  
4 which includes Far Hills.

5 Are there any large blocks of public  
6 space?

7 A Again, I'm not that familiar with the corridor  
8 insofar as public open space is concerned, so I can't  
9 answer that question.

10 Q Now, with respect to environmentally-  
11 sensitive lands, you have heretofore testified that  
12 the lands in the corridor insofar as Far Hills is  
13 concerned, is virtually riddled with environmental  
14 sensitivities of one variety another. Is that a fair  
15 statement?

16 A I wouldn't use "riddled." I would say  
17 extensively covered by environmentally-sensitive lands.

18 As I have also indicated on another map, the  
19 corridor as well has substantial areas of environmentally-  
20 sensitive land.

21 Q Now, as I recall, I think, you  
22 delineated, and maybe the State Development Guide Plan  
23 does as well, I think there were four categories of  
24 environmentally-sensitive lands, steep slopes, flood  
25 plains, seasonal high water table, and depth to bedrock

1 problems.

2 A Well, the prime agricultural soils was another  
3 criteria that was used on the 201 facilities map.

4 Q The 201 facilities map, was that  
5 used in the State Development Guide Plan?

6 A Well, I think you would have to ask Dick  
7 Inman, but it surely should have been considered.

8 Q All right. Now, taking each -- I  
9 want to take each of those four or five criteria and  
10 you have referred to the 201 facilities map and that  
11 was D-19 in evidence. I think it was called Plate 5  
12 as well, maybe we can find that.

13 I show you D-19, perhaps I think  
14 we all had copies of that, if I may off the record?

15 (Whereupon, a short discussion  
16 takes place off the record.)

17 MR. VOGEL: Your Honor, I will give  
18 to you D-19, the witness has a copy of it, and  
19 I have a copy. I believe Mr. Mastro does  
20 as well.

21 THE COURT: Do you, Mr. Mastro?

22 MR. MASTRO: I have a copy.

23 Q Now, referring to D-19, there are,  
24 as you have indicated, five categories of environmentally-  
25 sensitive lands; correct?

1 A Well, yes.

2 Q Let me withdraw that question, I  
3 think we are crossing a different group.

4 Taking D-19 and the categories  
5 of environmentally-sensitive lands as shown on D-19,  
6 I want to ask you, with respect to the premises in  
7 question, first of all, can you identify the location  
8 of the premises in question?

9 A Yes, I can, it is to the east of -- west of  
10 Sunnybranch Road, between Sunnybranch Road and the  
11 railroad, and fronts on Route 202, or has frontage on  
12 Route 202.

13 Q Sunnybranch Road is clearly depicted  
14 on D-19, is it not?

15 A Yes, it is.

16 Q The railroad is also shown on D-19?

17 A Yes, that is shown as well.

18 Q The Route 202 frontage is shown on  
19 D-19?

20 A Yes, it is.

21 Q Could you, on D-19, draw in with  
22 your pen there the approximate location of the PQ?

23 A Understanding that is an approximation.

24 (Whereupon, the witness complies.)

25 MR. MASTRO: Your Honor, I think for

1 the clarity of the record, I think Mr. Dresdner  
2 has a copy of D-19, with the growth line on  
3 it, which may be helpful?

4 MR. VOGEL: No, it wasn't the  
5 growth line. I wanted to show the PQ on  
6 this property.

7 I think we all know where the growth  
8 line is, give or take a few feet one way or  
9 the other.

10 THE COURT: It depends on who is  
11 giving or who is taking.

12 MR. VOGEL: That is certainly so.

13 Q All right. Now, except for a very  
14 small portion of the frontage along Route 202, charac-  
15 terized by prime agricultural soils, are there any  
16 adverse environmental constraints that affect the PQ,  
17 at least a determined by Exhibit D-19?

18 A No. The only environmental constraint that  
19 is shown on the PQ, on D-19, or the only critical land  
20 area, is the frontage along Route 202, which is shown  
21 as prime agricultural soils.

22 Q What percentage, roughly, of the  
23 frontage would represent prime?

24 A I'm sorry?

25 Q What percentage of the whole site

1 would be represented by prime agricultural soils?

2 A Oh, possibly 10 or 15 percent. They would  
3 extend all the way along the 202 frontage. The depth  
4 is back from 202, though that is difficult to make  
5 out, because it is symbolic.

6 Q Symbolic, 10 or 15 percent?

7 A Yes, sir.

8 Q Would you agree at most 10 or 15  
9 percent, as shown on that map?

10 A Yes, I would say at most 10 or 15 percent.

11 Q What is -- when this map says  
12 "critical land areas," what is the significance of  
13 that map in terms of suitability of properties for  
14 higher density-type development?

15 A This map is intended to identify areas which  
16 should not be sewerred.

17 To the extent that an area or a property falls  
18 within a critical land area, it should not be, or at  
19 least sewers should not be funded with public moneys.

20 Without public sewers, there would be  
21 structural limitations to higher density.

22 The purpose of the map, however, is to identify  
23 those areas which should not be sewerred, either by new  
24 systems or by the extension of the existing systems.

25 Q So, at least insofar as D-19 is

1 concerned, the property in question is suitable for  
2 being sewerred for higher-density development purposes?

3 A I don't think you can identify or select one  
4 property out of the map.

5 Q But the question relates to the  
6 property in question.

7 If you will listen to the question,  
8 with respect to the PQ, the issue is whether or not this  
9 map supports the conclusion that the PQ is suitable  
10 for the extension of public sewers?

11 A I have the same trouble or difficulty with  
12 this map, which is a generalized map, and deals with  
13 critical land areas, rather than, specifically, property,  
14 than I have with the application of the very generalized  
15 State Development Guide Plan boundaries. This map is  
16 drawn to show large areas of lands that have critical  
17 or environmentally-sensitive characteristics.

18 The existence of one property, or several  
19 properties, in the middle of an environmentally-, or  
20 on the edge of an environmentally-sensitive area,  
21 does not render that property suitable, necessarily  
22 suitable, for sewerred.

23 The decision as to whether an area or  
24 property should be sewerred, must be taken in context  
25 with the surrounding area.

1 I couldn't answer your question as it relates  
2 to just one property.

3 Q I understand the answer. The  
4 built-up portion of the village is sewerred, it it not?

5 A That's correct, it is sewerred.

6 Q The PQ, as you have drawn it on this  
7 map, and as you know it, is adjacent to the village;  
8 correct?

9 A That's correct.

10 Q So that the extension of the village  
11 sewer system, assuming there were capacity for that  
12 purpose, would be not the injection of a totally new  
13 sewer system, but strictly an extension of an existing  
14 sewer system onto a 19-acre adjoining site. Is that  
15 correct?

16 A Well, it would be an extension of an existing  
17 system to serve an area that would be approximately  
18 double the population that is being served by the  
19 present system.

20 Q Right now, with respect to the  
21 extension into that proposed area of the sewer system,  
22 is there anything on plate 5, Exhibit D-19, relative  
23 to that particular property, knowing that the existing  
24 sewer system is joining with the village, which indicates  
25 that it is environmentally unsuitable for the extension

1 finished with this witness, I don't think  
2 that I would finish in, certainly, not too  
3 quickly. The Court may want to consider  
4 some special order here.

5 THE COURT: Well, my inclination  
6 would be to accommodate Mr. Ginman at this  
7 point, I don't have any problem with that.

8 Would that pose any problem with  
9 you?

10 MR. MASTRO: I have no problem.

11 THE COURT: Would it pose any problem  
12 with you, while this cross-examination is  
13 being interrupted?

14 MR. VOGEL: No, Your Honor.

15 THE COURT: How about your witness,  
16 Mr. Dresdner?

17 MR. MASTRO: Mr. Dresdner?

18 THE WITNESS: It is a continuing  
19 problem with me, but one that I have borne  
20 and will continue to bear.

21 THE COURT: All right, sir. With  
22 that, then, let's take a break for a few  
23 minutes. Either or both of you might want  
24 to introduce yourselves to Mr. Ginman, as I  
25 will and perhaps I can tell you informally how

1 I propose to proceed,

2 Then we will come back on the  
3 record and we will move from there.

4 MR. VOGEL: Both of our planners,  
5 for both sides, have said very positive  
6 things about Mr. Ginman, so we know something  
7 about his background.

8 (Whereupon, a short recess takes  
9 place.)

10 THE COURT: Mr. Ginman, if you will,  
11 please,

12  
13 R I C H A R D A. G I N M A N, sworn:

14 THE SERGEANT-AT-ARMS: Please be  
15 seated. State your full name and the spelling  
16 of your last name?

17 THE WITNESS: Richard A. Ginman,  
18 G-i-n-m-a-n,

19  
20 DIRECT EXAMINATION BY THE COURT:

21 Q Mr. Ginman, will you tell us, please,  
22 your present address?

23 A I live in Ringoes, New Jersey, Hunterdon  
24 County.

25 Q Your present business address?

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1 A I am employed by the State of New Jersey,  
2 Department of Community Affairs in the Division of  
3 Housing and Development.

4 Q Would you be kind enough, please,  
5 to tell us what your educational background is?

6 A I am a graduate of Rutgers University with  
7 a planning minor, 1961. I am a licensed professional  
8 planner.

9 Q All right. Do you have any advanced  
10 degrees beyond your bachelor's?

11 A No, I do not.

12 Q When were you licensed as a planner?

13 A I don't remember the exact date.

14 Q You are licensed?

15 A Oh, yes. I would guess 15 years or so. It  
16 is number 988, it is a fairly low number.

17 Q Now, what has your employment  
18 experience been in the area of planning, since 1961?

19 A I have been employed by the Montgomery County  
20 Planning Board in Pennsylvania, which concentrated  
21 mostly on municipal master plans.

22 In 1964, I joined the State of New Jersey,  
23 Department of Conservation and Economic Development,  
24 which at that time housed the Division of State and  
25 Regional Planning, who was my employer.

1 I worked on a variety of projects, mostly  
2 dealing with regional planning, most notable was the  
3 preparation of the Hackensack Meadowlands Development  
4 Commission and similar such projects.

5 I became director approximately 10 years ago,  
6 for the division.

7 Q Director of the Division of  
8 Planning?

9 A That's correct.

10 Q That was then situated in what  
11 department?

12 A By that time, the division had been transferred  
13 to the Department of Community Affairs. The Department  
14 of Community Affairs began, I believe, in 1967 or  
15 '68, I can't remember the exact date.

16 The division's responsibilities included  
17 statewide planning, regional planning, local planning,  
18 and urban planning.

19 Q Now, in some way that division  
20 has now found itself in the Department of Community  
21 Affairs. Is that right?

22 A That's correct.

23 Q It still is in the Department of  
24 Community Affairs?

25 A Well, the division exists in the statute, but

1 because of budgetary constraints, it was terminated  
2 last year and the staff absorbed into other functions  
3 in the department.

4 Q Now, what was your employment or  
5 implication, if any, with or in the State Development  
6 Guide Plan -- can I have P-33, and I show you P-33  
7 marked here in evidence?

8 A Yes. It is a product of the Division of  
9 State and Regional Planning. It was prepared under  
10 my supervision, within the Bureau of Statewide  
11 Planning.

12 Q Now, would you tell us, please,  
13 as a preliminary, or a prelude to that docket which you  
14 have in hand, what studies were undertaken by your  
15 bureau or your division?

16 A Well, the division was charged in the  
17 legislation that created it in 1961, with, among other  
18 things, preparing and maintaining a comprehensive  
19 guide plan.

20 The first efforts towards that plan or  
21 towards meeting that statutory requirement, was an effort  
22 called the Horizon Plan, which was begun under  
23 predecessors of mine in the division.

24 That effort culminated with no publication  
25 of a report, but there had been drafts, extensive drafts,

1 of planning studies and analyses and various  
2 alternative design schemes for the State of New Jersey.

3 That probably reached its peak around 1970  
4 or '71, about that time. It coincided with the  
5 Department's distraction with the urban uprising and  
6 upheavals that were going on within the State.

7 So, the department tended to concentrate more  
8 on short-range urban planning.

9 Around, let's say, the middle seventies,  
10 around 1974, 1975, we began to take another look at  
11 the need for a State plan and began to meet with County  
12 planners over about a period of a year to, I would say,  
13 18 months, to try to assess the level of detail and  
14 the type of plan that would be necessary or would be  
15 suitable for the State to undertake that would not  
16 duplicate efforts at the County or local level.

17 We began to flush out what a State Development  
18 Guide Plan would look like. The first draft of that  
19 effort became available in 1977.

20 Q Was that first draft promulgated  
21 in some fashion?

22 A No, it was not. It was published in a form  
23 similar to this, and as well, it was also published  
24 in a brochure form that was like a fold-out with a  
25 summary and colored maps for the public.

1 Q It was for general public consumption,  
2 though, wasn't it?

3 A Yes. It was circulated and discussed widely  
4 with literally anyone that would invite us to a  
5 meeting.

6 Q Now, after the publication, the  
7 first draft in 1977, did your studies continue?

8 A Yes, they did. The municipalities and  
9 counties made suggestions and we work mostly through  
10 county planning boards and also discussed our records  
11 with other state agencies.

12 In that period, the Byrne administration  
13 organized an office within the Governor's office  
14 called the Office of Policy and Planning, with an  
15 executive director who created a committee called  
16 the cabinet committee on development policy and  
17 projects.

18 Am I going too fast?

19 Q I think you may be, all right.

20 A That ladder committee, let me state it  
21 again, was called the cabinet committee on development  
22 policy and projects.

23 That committee discussed not only the  
24 planning efforts, but any other planning issues  
25 throughout the State.

1 For example, one of the issues they became  
2 interested in was the Bridgewater Commons, which is  
3 right outside of Somerville. It is a given illus-  
4 tration.

5 Q Were you involved in that planning,  
6 at that level?

7 A Yes, I was one of the department's regular  
8 attendees for the Commissioner. I would present from  
9 time to time various changes or suggestions that  
10 can come up regarding the guide plan and worked with  
11 the other departmental staff individuals who had  
12 similar concerns about the State planning efforts.

13 Q Now, you mentioned the concern at  
14 one point with what has been called the Bridgewater  
15 Commons. Did you have occasion to meet with local,  
16 that is, Somerset County, planners with respect to  
17 that project?

18 A I didn't specifically meet with Somerset  
19 County Planners on that project. I think they may  
20 have met with the Governor's Office of Policy and  
21 Planning. We were not the lead agency dealing with  
22 that.

23 The Department of Transportation had the  
24 responsibility of providing access, and they were  
25 actually the lead agency on that particular discussion.

1           We were involved on a peripheral matter,  
2 but it was illustrative of the type of projects that  
3 the committee would deal with,

4           Q           During the period of 1977 until  
5 the date of the publication of this in this case,  
6 which is May of 1980, you said that there was a  
7 continuing study and you worked with county planning  
8 boards?

9           A           For the most part, yes, and with other  
10 state agencies,

11           Q           Yes. Now, were you particularly  
12 involved during that period at any time with the  
13 Somerset County Planning Board?

14           A           Yes,

15           Q           Would you tell us what that effort  
16 was and in what fashion it was carried out?

17           A           It was an effort that, on occasion, it would  
18 be an effort between the staff that were specifically  
19 assigned to this and staff at the County Planning  
20 Board level. But in addition, I met separately at  
21 meetings at the County Planning Board hosted to discuss  
22 the plan with localities and also with the Director  
23 and his staff on several occasions.

24           Q           Do you recall that at that time,  
25 the period of '77 through '80, did you County have a

1 developed master plan, that is, Somerset County?

2 A Well, they certainly had very clear ideas  
3 about what were growth areas, similar kinds of concerns  
4 that we had about what areas are suitable for further  
5 investment.

6 Our main interest and focus of the State  
7 Development Guide Plan was the use of a document to  
8 try to prioritize where State investments were  
9 occurring. So, at least they would occur together,  
10 and at least complement what was being considered  
11 locally.

12 Primary investments or growth-inducing  
13 investments that we were considering were things such  
14 as sewer and water facilities, highway improvements.

15 This same concept was also shared with the  
16 County, that that be coordinated in some fashion.

17 So, we tried to work together on a strategy.  
18 It was clear that they had very specific ideas. Whether  
19 that was a specific plan, I was not sure of, I just  
20 didn't know.

21 Q In 1980, did it come to pass that  
22 State Development Guide Plan P-33 was published?

23 A Yes, it was published after a meeting with  
24 the cabinet Committee on development policy and projects,  
25 at which point the committee felt that the draft was

1 now suitable for public release. They so authorized  
2 the division to release it in the May meeting of that  
3 committee, May of 1980.

4 Q I am looking at the preparatory  
5 language to the State Development Guide Plan. I am  
6 looking at II, under a caption, the State Development  
7 Guide Plan. It consists of three full paragraphs,  
8 so spelling out, essentially, the purpose of the plan.

9 I would ask you to make reference to  
10 that.

11 A When you say reference, do you think para-  
12 phrase it?

13 Q I'm going to ask you -- you might  
14 want an opportunity to refresh your recollection as  
15 to what it says?

16 A Yes.

17 Q Now, understanding that the plan  
18 speaks for itself and that the language of the plan  
19 speaks for itself and that the plan is in evidence,  
20 all right, can you put, in synopsis form, what you  
21 understand the plans to be or to have been?

22 A It was our feeling, and I think the feeling  
23 of many other State agencies, that a de factor plan  
24 was in effect emerging, whether we chose to prepare  
25 one or not.

1           Several departments of the State government  
2 were moving in areas of policy that greatly influenced  
3 land use decisions.

4           The Department of Environmental Protection  
5 was funding vast sewer construction programs. It goes  
6 without saying that the Department of Transportation  
7 had, for years, been expending large sums of money  
8 for highway improvements and so on.

9           The Department of Agriculture was promoting  
10 an agricultural presentation program. Our own depart-  
11 ment was anxious to promote conservation of cities,  
12 as well as increasing the housing supply.

13           All of these things were happening anyway.

14           What we were attempting to do was to synthesize  
15 all of what was going on at the State level, to state  
16 it clearly in some fashion, so that all government  
17 and private areas that were interested in what the  
18 State's intentions were, would clearly know what that  
19 was,



20           That, in effect, was our intent, to try to  
21 put it clearly before the public and the rest of  
22 who had to make decisions about funding priorities and  
23 so on.

24           In some cases, the plans did not coincide and  
25 our attempt was to try to smooth out the rough edges

1 and to make sure that they did, at least clearly state  
2 what the state was intending to do. In addition to  
3 that attempt to work with local government, county  
4 and municipal government, in some strategy that also  
5 accomplished their goals as well.

6 Q Did you, as part of the plan,  
7 divide the state into certain areas; and if you did,  
8 will you tell us what those areas were for the  
9 purposes of planning?

10 A To avoid the repetition of what we felt was  
11 veryadequate planning at the county and legal level,  
12 again I might say, with concurrence and agreement  
13 from the county planners that we met with, we concen-  
14 trated our efforts at what might be called very broad-  
15 based planning policies.

16 As a result, we fashioned four large land  
17 extensive areas for the state.

18 The first of which is an area we called the  
19 growth area, where the primary emphasis would be  
20 placed on investments for future growth and development.  
21 the infrastructure necessary to serve the population,  
22 areas that were suitable for large-scale conservation  
23 efforts.

24 An example of those was the New Jersey  
25 Pinelands, a vast area that subsequently got its own

1. planning authorization and federal recognition.

2. A third area was in the recognition of what  
3. the Department of Agriculture was trying to achieve  
4. with agricultural preservation. We delineated areas  
5. suitable for that kind of retention, agriculture.

6. A fourth area was limited growth areas.  
7. They were areas that, by virtue of our analysis,  
8. were neither clearly agricultural, neither had  
9. agricultural priority, nor were necessarily high  
10. priority for conservation and did not have the  
11. necessary, we did not feel, had the necessary invest-  
12. ment and infrastructure that would warrant them to be  
13. growth areas.

14. So, they became limited growth areas, that  
15. would probably develop as they had, but would not  
16. really require the kind of investment that the State  
17. and local governments normally would have for very  
18. large-scale development.

19. Additionally, we also recognized this is not  
20. an area-wide decision, but a city specific designation.

21. We recognized that the legislature had,  
22. in its designation of urban aid communities, clearly  
23. stated a policy of facing urban aid communities with  
24. a special appropriation. We, therefore, felt it was  
25. appropriate to so signify in our plan that they had a

1 special designation and that was the clear legislative  
2 intent.

3 Shall I stop?

4 Q All right. On Page 47 of your  
5 report, if you will make reference to it, or the  
6 State Development Guide Plan, more appropriately,  
7 there is a delineation in, about the middle of the  
8 page, of certain criteria which were followed in  
9 arriving at what was to be designated to be growth  
10 areas. Is that so?

11 A That's correct.

12 Q Would you, sir, looking at the plan  
13 that you have in front of you, would you spell out  
14 what those criteria were?

15 A Well, the first of the criteria was location  
16 within or adjacent to major population and employment  
17 centers.

18 The second one was the location within the  
19 proximity to major water supply and sewer service  
20 areas. The third was a location within or in proximity  
21 to areas served by major highway and commuter rail  
22 facilities.

23 The fourth was absence -- this is a negative  
24 criteria, absence of large concentration of agricultural  
25 land. The fifth, also negative criteria, was absence

1 of large blocks of public open space or environmentally-  
2 sensitive land.

3 I would like to perhaps give an observation  
4 that our intent here was to look at these in fairly  
5 broad categories.

#3 6 It did not -- we were not intending to  
7 eliminate in anyway site specific problems that  
8 municipalities or counties may have identified as  
9 being an environmental problem. Our map is generally  
10 broad and does not show that. I will admit that  
11 we were criticized often by the environmental  
12 community for not being more detailed in our mapping.  
13 But I think that was a problem that was created as  
14 a result of our initial intent to be very broad.

15 That was -- I think that went with the initial  
16 policy decision that we could not then go back and  
17 start to draft a very site specific, a very precise  
18 map.

19 Q Now, if you would turn in the plan  
20 to Page 100, I have got mine marked 133, there is a  
21 map, XXIII, Somerset County Development Guide Plan,  
22 do you have that in front of you?

23 A Yes.

24 Q Now, making reference to it, all  
25 right, there is a designation, is there not, of a

1 growth area for Somerset County?

2 A That's correct.

3 Q A limited growth area?

4 A Yes.

5 Q And agricultural area?

6 A Yes.

7 Q And a conservation area. Is that

8 so?

9 A Yes.

10 Q Now, the growth area appears to be  
11 marked by a horizontal hatch mark. Is that so?

12 A That's correct.

13 Q A limited growth area by a clear --

14 A Yes, there is no marking.

15 Q No designation, as there is no  
16 marking for that absence.

17 I am making reference to the legend  
18 which appears to be to the right of the page?

19 A That's correct.

20 Q Now, looking at the center of that  
21 at about the middle of it, there is a Bridgewater-  
22 Green Brook area running somewhat east and west, do you  
23 see that?

24 A Yes.

25 Q Then above it and running somewhat

1 north and east are the designations of Warren and  
2 Bernards Township, isn't that true?

3 A Correct.

4 Q Looking at your map, if you will,  
5 can you tell us in what designation Bernards Township,  
6 looking to the east of that line, in what category  
7 it falls. Do you understand my question?

8 A Yes. For the most part, Bernards Township  
9 to the -- well, there is a western part, I believe,  
10 and an eastern part. The eastern part falls into  
11 the growth area.

12 Q That little niche up there along,  
13 apparently, the municipal boundary, I assume, where  
14 it meets Morris County, is shown as a conservation  
15 area, is it not?

16 A Yes, there is an outgrowth on the great swamp,  
17 which is targeted up in that area, perhaps falls over  
18 into this county. I think it does, anyway, yes.

19 Q Then we look to the west of that  
20 line and there is the white or unmarked area indicating  
21 a limited growth area. Isn't that so?

22 A That's correct.

23 Q Which fall within a portion of  
24 Bernards Township and a portion of Bernardsville,  
25 a portion of Far Hills?

1 A That's correct,

2 Q Then a line running on a general  
3 northwest-southeast fashion, up and it embraces a  
4 part of Far Hills, does it not?

5 A That's correct, That is a growth area  
6 that generally parallels the Route 206, what we call  
7 the Route 206 corridor.

8 Q You call that the Route 206 corridor?

9 A Yes,

10 Q Fine. It embraces part of the  
11 Borough of Peapack-Gladstone, does it not?

12 A Yes,

13 Q Part of Bedminster Township?

14 A Yes,

15 Q Part of the Borough of Far Hills?

16 A That's correct,

17 Q This has been referred to here in  
18 various fashions, it looks like a finger or thumb or  
19 whatever, Does it follow generally an outline of the  
20 Route 206 corridor?

21 A Yes,

22 Q I believe you will leave the specific  
23 questioning of that to counsel for now.

24 Address your attention finally,  
25 looking at this plan, for my purposes at any rate, to

1 the conclusion based on Page 166. Would you address  
2 yourself to it, please, would you make yourself  
3 familiar with what it says?

4 I ask you to address yourself to the first  
5 sentence there, which states: "The statute authorizing  
6 the preparation and maintenance of the State Develop-  
7 ment Guide Plan is silent regarding the content of such  
8 a plan and its intended use other than as a reference  
9 supporting the Division of Planning's mandate to  
10 encourage interagency coordination and the procedures  
11 for periodic evaluation or amendment."

12 I ask you if that is your understanding of  
13 what the situation was at the time of the adoption  
14 of the plan in 1980?

15 A Yes, As we read the authorization that created  
16 the Division of Planning, it also provided for the  
17 preparation and maintenance of the plan, it did not  
18 spell out in very clear detail other than content or  
19 how it was to be used. We discussed that with  
20 successive governors and administrations since that  
21 initial creation of the division.

22 Q Now, I would ask you then, are you  
23 generally familiar with the decision in a case entitled  
24 Southern Burlington County N.A.A.C.P. v. Mount Laurel  
25 Township, which we cite at 92 New Jersey 158, which was

1 decided in January of this year?

2 A I have read the opinion, yes, Your Honor,

3 Q We know it as Mount Laurel II?

4 A Yes.

5 Q My references will be in that  
6 context.

7 Now, before doing this, I am going  
8 to note that the opinion measures approximately 250  
9 pages. I know no one has, except the writer of the  
10 opinion, who proposed that he is familiar with all of  
11 its contents, and that, I suggest, no matter how many  
12 times some of us have read it. It is a voluminous  
13 opinion.

14 A That's correct.

15 Q Given the nature of the subject,  
16 apparently, it had to be.

17 I am going to make reference to it.

18 Now, having made those preliminary  
19 remarks, the opinion is by the Chief Justice.

20 On Page 224 of the opinion, he talks  
21 about a lack of official guidance. He has been talking  
22 in his opinion about the Mount Laurel I remedy in terms  
23 of developing communities and the six criteria which  
24 were employed.

25 He has talked about the absence of

1 any assistance, generally, up to that point, from  
2 either the executive or legislative branches in the  
3 formation of a more precise program, something that  
4 would be of assistance to the Court.

5 He says at the bottom of Page 224:

6 "Lacking any official guidance, however, as to the  
7 State's plans for its own future, its own determination  
8 of where the development should occur and where it  
9 should not, and what kind of development --"

10 I am now at the top of Page 225, "and  
11 this Court fashioned its own remedial planning guide  
12 in the form of a definition of 'developing', it was  
13 obvious to anyone who studied the matter that such  
14 definition of the Mount Laurel responsibility, furnished  
15 no guarantee that if lower-income housing resulted, it  
16 would be built where it should be built. That is  
17 where a comprehensive plan for the State of New Jersey  
18 might indicate such development was desirable."

19 "We proceeded in spite of this  
20 drawback, since, given the constitutional requirement  
21 and the lack of any assurance that such a statewide  
22 plan would be forthcoming, there appeared no justifica-  
23 tion for delay."

24 That is, and I don't mean to use  
25 the word in any deprecatory sense, but that is the

1 rationale for the Court's involvement, if you like,  
2 in Mount Laurel I, and the Court is recognizing what  
3 it had to do and why it did what it did.

4 He goes on at Page 225: "We now  
5 have a satisfactory alternative. The State Development  
6 Guide Plan (May, 1980) promulgated pursuant to statute,"  
7 and he cites the statute, "provides a statewide blue-  
8 print for future development.

9 "Its remedial use in Mount Laurel  
10 disputes will ensure that the imposition of fair-share  
11 obligations will coincide with the State's regional  
12 planning goals and objectives."

13 He then says of your plan, I mean,  
14 the bureau's plan, "The SDGP represents the only official  
15 determination of the State's plan for its own future  
16 development and growth."

17 He then goes on to Page 225, onto  
18 to explore the development of the plan and you will  
19 recall that.

20 I don't mean to make a speech here  
21 or testify, it is just so that we can get some back-  
22 ground in context of the case.

23 Now, on Page 236, all right, he  
24 talks about the growth areas.

25 At the bottom of Page 236 he says the

1 following: "Based on all of the foregoing," in which  
2 he has flushed out, if you like, the history of the  
3 development of the plan, "we are able to fashion  
4 judicial relief through means not available to us when  
5 we established the 'developing municipality' remedial  
6 doctrine.

7 "These considerations founded in  
8 sound public policy relating to comprehensive planning,  
9 are compelling in favor of a remedial solution that  
10 imposes the Mount Laurel obligation only in those  
11 areas designated as 'growth areas' by the SDGP.

12 "For reasons shortly to be noted,  
13 we have decided to allow some limited variation from  
14 that rule."

15 At page 238, at the bottom of the  
16 page, he talks as follows: "Sound planning requires  
17 that municipalities containing 'growth areas' have  
18 a Mount Laurel obligation. That together, all of  
19 those municipalities have to affirmatively provide a  
20 realistic opportunity for the construction of sufficient  
21 lower-income housing to meet the needs of New Jersey's  
22 lower-income population. And, as among those municipalities  
23 containing growth areas, the Constitution does not  
24 prohibit further distinctions in municipalities being  
25 required to take more than others, because a combination

1 of factors suggest that they are more suitable for  
2 such development.

3 "The thought that 'suitability'  
4 may determine and validate distinctions and uses  
5 between municipalities as expressed by Chief Justice  
6 Vanderbilt in Duffcon Concrete Products v. the Borough  
7 of Creskill, 1 New Jersey 509, 1949, one of the first  
8 cases to evaluate a zoning ordinance in the context of  
9 regional characteristics and needs."

10 Then, finally, we get down to the  
11 end of this, so we understand the background in which  
12 I have invited you to be the Court's expert, the  
13 bottom of Page 239.

14 "As noted above, we have decided  
15 not to make the SDGP the absolute determinant of the  
16 locus of the Mount Laurel obligation. A reluctance  
17 to give it conclusive effects is based on the fact that  
18 while it has the legitimacy of legislative authorization,  
19 the legislature has neither explicitly authorized its  
20 use for Mount Laurel purposes, nor mandated that the  
21 actual use of land as permitted in zoning ordinances  
22 conform to the SDGP.

23 "Given those circumstances, we deem  
24 it prudent to allow parties to attempt to persuade  
25 the trial court in a particular case that SDGP should

1 not determine whether the Mount Laurel doctrine applies  
2 to the particular municipality involved in the case.

3 "While we believe important policy  
4 considerations are involved in our decision not to make  
5 the SDGP conclusive, we think it even more important  
6 to point out that it will be the unusual case that  
7 concludes the locus of the Mount Laurel obligation is  
8 different from that found in the SDGP.

9 "Subject to those cases, we hold  
10 that henceforth, only those municipalities containing  
11 'growth area' as shown on the concept map of the SDGP  
12 (or any official revision thereof) shall be subject to  
13 the Mount Laurel prospective need obligation."

14 Then, to reach the bottom of this  
15 page, 240, "Any party in a Mount Laurel litigation  
16 seeking a ruling that varies the locus of the Mount Laurel  
17 obligation from the SDGP growth areas will have to  
18 prove one of the following:

19 "(1) Accepting the premises of the  
20 SDGP, the conclusion that the municipality includes any  
21 growth area, or as much growth area as is shown on the  
22 concept map is arbitrary and capricious, or, alterna-  
23 tively, the conclusion that the municipality does not  
24 contain any growth area whatsoever, is arbitrary and  
25 capricious."

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As I understand it, gentlemen,  
that is the essential predicate on which the attack  
here is made.

Now, you have seen certain --

MR. MASTRO: Judge, may I comment on  
that?

THE COURT: Of course.

MR. MASTRO: That, certainly, is  
part of the problem with which we are  
confronted.

However, defendants' position as  
expressed previously is that a refinement of  
the growth area logically would exclude the  
Borough of Far Hills.

That is not necessarily saying that  
the growth area as drawn, 206 corridor, is  
arbitrary and capricious. They are two  
different things.

The concept of the 206 corridor as  
being rational, reasonable, is undisputed.  
But its application to include a portion of  
the Borough of Far Hills, if construed  
literally, then it's arbitrary and capricious.

*Δ's position*

THE COURT: I have no problem with  
that. But my purpose in spelling this out, as

1 I did right from the language of the opinion,  
2 is that he gives three predicates or three  
3 bases on which the attack can be formulated.

4 It was my understanding that the  
5 other two bases, (2) and (3), were not applicable  
6 here, that (1) was, and that it was within  
7 the concept of (1) that the attack here was  
8 being made.

9 Now, a further refinement of (1)  
10 is something that I am not precluding, but I  
11 am just suggesting that I understood and  
12 wanted the witness to know that the attack  
13 was being made, essentially, on ground number  
14 (1).

15 Q Now, have you had an opportunity  
16 to look, at least at the several exhibits which have been  
17 offered, more importantly, I made a list, D-9, an  
18 existing land use map, will you point this out for the  
19 witness, D-9, existing land use map?

20 MR. VOGEL: I think it is the one  
21 right underneath that.

22 Q Now, I appreciate you have not  
23 had an opportunity to study these and this is drawn, as  
24 I understand it, by Mr. Dresdner and is part of the  
25 defendants' case.

1 I would direct your attention to the  
2 line proceeding in a generally northeast-southwest,  
3 the broken line, which purports to coincide with the  
4 line which delineates growth and limited growth on the  
5 State Development Guide Plan, at Page 133.

6 Do I make that clear?

7 A Recognizing that we are dealing with quite  
8 a difference in scale.

9 Q Of course.

10 A Can I refer to maps that I have worked with?

11 Q But all I want to know, for our  
12 purposes right now, this was the purport of that line,  
13 as I understood it, that it shows, at least generally  
14 on this drawing, which is to a different scale, that  
15 part of the delineation between areas as it relates  
16 to Far Hills. Now, you may agree or disagree with it?

17 A Well, I have to qualify my answer. Because  
18 I did make a -- I did look at our own map, which does  
19 not happen to be at this scale, but a working map we  
20 have used for a number of years. In fact, its rather  
21 fragile and ratty appearance will attest to the fact  
22 that it has been used.

23 Q I just want to show it to you so  
24 you can get some idea of --

25 A The lines or the points that I am familiar

1 with are where the lines intersects, are really three,  
2 one of which is along this road here, next to the  
3 railroad. This intersection on our map is slightly  
4 west of this railroad station, which coincides with  
5 this line. Also intersects with the river above that,  
6 about approximately in the middle of this bend, which  
7 is correct, with this line.

8           The third line is along the municipal boundary  
9 on the south, at least on our line. It appears to  
10 narrow a bit more toward the municipal boundary than  
11 this line, but it closely identifies it.

12           It would, perhaps pinch in a little bit  
13 more the way I read our map, a little.

14           Q           What I would like to do, if I can run  
15 through some half-dozen of these, give you an opportunity  
16 over the lunch hour, when you come back, perhaps to  
17 get a more particular view of them.

18           I don't intend to do any comparison  
19 of you with your map. I will leave that to counsel.  
20 I want to go over the maps that I thought were relevant  
21 to the inquiry, the broad inquiry.

22           Then there is P-17, which was a map,  
23 a portion of Far Hills, P-17, that was drawn by Mr.  
24 Zimmerman.

25           It is the one with the orange line.

1 That orange line purports, according to Mr. Zimmerman,  
2 to coincide with the dividing line, if you like, as  
3 shown on the State Development Guide Plan, at Page 133,  
4 the growth area as opposed to the limited growth area,  
5 being east-west of the hatched area?

6 I have the same comment about this  
7 one. Generally, the northern part of the line seems  
8 okay, but I think that the southern part would be  
9 pinched in more toward the boundary.

10 Q You may be asked to particularize  
11 that by counsel.

12 P-14 is a map of existing land use.

13 Jean, let's get those things in  
14 sequence. Let's take 9, pull it off there, back it up  
15 with 17.

16 That sequence is fine.

17 Now, 14, the map of existing land  
18 use, this doesn't show the line, but it does show a  
19 different scale, I believe, the Borough of Far Hills.  
20 It shows the zones, it shows the village. Then the  
21 references on the left there, the R-9 and R-5 zones.  
22 It shows the parcel in question in respect to the  
23 railroad station, 202 and the village, which lies  
24 essentially southwest of it.

25 The next would be P-16, the Somerset

1 County Master Plan of Land Use.

2           Again, this is Mr. Zimmerman's drawing.  
3 The orange-yellow area, apparently, to show a proposed  
4 village neighborhood as shown on the Somerset County  
5 Master Plan and embraced within it, the parcel in  
6 question outlined in red, D-15, which is the Somerset  
7 County Master Plan of Land Use, drawn by Mr. Dresdner.

8           All right. There he has super-  
9 imposed on it in red the Borough of Far Hills. The  
10 finger up there, with a note to the parcel in question.

11           Finally, in the same sequence, P-15,  
12 a map, a portion of Far Hills, different scale now,  
13 showing the parcel in question, the noteworthy land-  
14 marks, and the proximity to the village.

15           I would ask you if you get an oppor-  
16 tunity, perhaps over the lunch, to make reference to  
17 those,

18           Then, gentlemen, what I propose to  
19 do, I thought maybe we would break now and go to lunch.  
20 I am just going to go quickly to the State Development  
21 Guide Plan, and I will ask the witness a couple of  
22 gross questions about the line and the reasonableness  
23 of the line.

24           At that point, he will be available  
25 to each of you for cross-examination.

1                   If you desire more time to look at  
2 those, to make yourself more familiar with those  
3 exhibits, why, please tell me after lunch, and I will  
4 make that available to you, fair enough. But I think  
5 those six would give you at least a quick reference to  
6 the area. Certainly, the first two, to the line as it  
7 is conceived by the planners, Mr. Zimmerman and Mr.  
8 Dresdner.

9                   All right, let's break for lunch  
10 then.

11                   (Whereupon, a luncheon recess takes  
12 place.)

13                   THE COURT: All right. We will be  
14 including P-25 and P-32A.

15                   I think it ought to be made perfectly  
16 clear to this witness that both planning  
17 experts, Mr. Zimmerman and Mr. Dresdner,  
18 concur that the line on the east side of the  
19 Route 206 corridor, A, intersects the muni-  
20 pality, the Borough of Far Hills; and, B,  
21 that it intersects the parcel in question.

22                   Is there any dispute about that?

23                   MR. MASTRO: That is a fair statement,  
24 Your Honor.

25                   MR. VOGEL: The plaintiff agrees as

1 well,

2  
3 R I C H A R D A. G I N M A N, previously sworn,  
4 recalled:

5  
6 DIRECT EXAMINATION CONTINUED BY THE COURT:

7 Q Now, Mr. Ginman, did you bring  
8 with you any maps, particularly, did you bring with  
9 you what has been referred to here as a base map,  
10 Atlas 25, showing a portion, or all of Far Hills?

11 A Yes, We used four detailed conversations  
12 with each of our constituent counties, a map, in some  
13 cases it was more than one. In this case, the area in  
14 question is on Atlas Sheet 25.

15 Q Is that what you have with you?

16 A Yes, I do.

17 Q Would you point it out to us, please?

18 A Yes, this map here,

19 I caution the Court, though, I would not like  
20 it entered into evidence, since our staff are using  
21 these maps to update maps for the Court. It is  
22 literally the only record copy we have.

23 MR. VOGEL: We have no objection.

24 I presume that the witness is going to kind  
25 of transfer the line from that map onto the

1 the others that are already in evidence,  
2 Judge, and we will cooperate with the State.  
3 We have no problem with that.

4 THE COURT: Well, the record should  
5 be clear as to what he is designating, even  
6 if we don't here physically accept it in  
7 evidence, I don't know how we can get a  
8 photograph of it.

9 MR. VOGEL: We could, perhaps, mark  
10 it for identification?

11 THE COURT: I don't think he wants  
12 it marked.

13 MR. VOGEL: For identification, even?

14 THE WITNESS: Unfortunately, this  
15 is not in my care any more. I had to go  
16 through the Assistant Commissioner to get my  
17 hands on it. I would not like to offer some-  
18 thing that I am really in no position to  
19 offer.

20 THE COURT: The Clerk tells me  
21 that the County Clerk has facilities to  
22 reproduce maps and we could, perhaps, find out  
23 if they such capacity. Then you might want  
24 to take a look at that, too, before we subject  
25 the map to a reproduction process.

1 THE WITNESS: I wouldn't want to let  
2 it out of my sight.

3 I am personally responsible for it.  
4 Not that I doubt that you would not take care  
5 of it.

6 THE COURT: I don't know what that  
7 process is. It may simply be the taking of  
8 a photograph.

9 Let the record reflect, at any rate,  
10 that the witness is standing in front of a  
11 map, for want of a better term, we are going  
12 to refer to it as Atlas 25.

13 Is that a fair description?

14 THE WITNESS: Yes.

15 Q Will you describe for the record,  
16 please, what Atlas 25 is, what is its origin, what does  
17 it purport to show?

18 First, where did it come from?

19 A The basic information of the atlas sheet  
20 itself is prepared, or was prepared by the Department  
21 of Conservation and Economic Development. I believe  
22 the current series is out of print, that no longer is  
23 being made available.

24 It is a form of topographic map. It shows  
25 contours. It shows roadways, some other physical features.

1 It is at the scale of one inch equals a  
2 half-mile, or is it one mile to the inch?

3 THE COURT: John, will you help him,  
4 please, move some of those things to the side  
5 so we can get a clear view of the map that he  
6 is using?

7 THE WITNESS: I'm sorry, the same  
8 map is over here, Your Honor. You apparently  
9 had it produced into evidence before.

10 It is just that we used it for  
11 different purposes,

12 It is one mile to the inch.

13 THE COURT: Can we take a look at it,  
14 perhaps we can set it up, John, on the other  
15 easel, for comparison purposes?

16 What is the number on the one we  
17 have just put up here -- D-8.

18 Q Now, does D-8 appear to be taken from  
19 the same base map, Mr. Ginman?

20 A The same base map was used for both maps.

21 In our case, we added some information. We added in  
22 color, in a color rendering. We put the developed  
23 area in red and orange, actually, and some of the conser-  
24 vation areas, or areas that were in public ownership  
25 for conservation, are in the dark green.

*u p 20*

1 Q Once more, the map consists at  
2 first blush, of essentially three colors, perhaps  
3 four, red, green, and I don't know whether that is  
4 a gray or white, then the outline in yellow. Can you  
5 tell us exactly what each color signifies or stands  
6 for?

7 A We further identified, I should mention, that  
8 the base information here was probably -- dates from  
9 around the mid-seventies. It was taken from a variety  
10 of sources, aerial photographs, county land use  
11 information, and so forth, to the extent that we could  
12 identify developed areas at the time.

13 It does not show individual homes isolated  
14 in the country but, rather, areas that are contiguous  
15 to development at that time.

16 Q Does the red indicate development?

17 A Development, yes.

18 Q What about the neutral color or no  
19 color?

20 A No color is, for the most part, absence of  
21 development. It may include farmhouses and individual,  
22 lone houses here and there, or industrial buildings. But  
23 it does not show contiguous development which we  
24 intended to show with the red.

25 Q The green?

1 A The green is publicly-owned open space.

2 Q Now, have you made some delineations  
3 there in what appear to be black, bounded by yellow,  
4 in the lower left-hand corner, for example?

5 A Here, all right. The lines which are reflected,  
6 we used a tape here, a removal tape that can be adjusted,  
7 because we were using, we were discussing these lines  
8 and the layout of these lines with counties. Occasionally  
9 we would make adjustments to these lines.

10 We were not looking for permanent markings,  
11 but the tape and lines in yellow outline the extent  
12 of the growth area, the growth areas contained interior  
13 to that.

14 In other words, between these series of  
15 yellow lines on this side, including the 206 corridor  
16 south, is all in the growth area. Where it happens to  
17 abut up again, in this case, agricultural area, it is  
18 shown in the brown line. The brown line bounds the  
19 agricultural area.

20 Q Now, what is shown there in gross  
21 aspect, what part of what particular areas for Somerset  
22 County?

23 A This is, for the most part, this is Somerset  
24 County. It does include a little bit of Morris County,  
25 I believe, up in the corner here, although the county

1 lines are Morris County to the north here. There might  
2 be a little bit of Hunterdon over in the left-hand  
3 side here and Middlesex down in the corner here. So  
4 it is central New Jersey.

5 Q Can you locate Route 22 there for  
6 us?

7 A Route 22 runs at the base of the mountain,  
8 which is shown over here.

9 While it tends to be overshadowed by the  
10 red development, the corridor runs down along the base  
11 of this mountain and goes back out to the west, like  
12 this. In fact, that is the red line here.

13 Q What is the line running on an  
14 east-west direction above Route 22?

15 A Route 78.

16 Q That is Route 78. Can you show us,  
17 with respect to 78, where it intersects with 287?

18 A Right at that point, right at the base of  
19 this item called the Route 206 corridor.

20 Q Now, would you take that place of  
21 confluence of 287 and 78, can you outline for us,  
22 please, or show us where Route 206 heads north and  
23 northwest?

24 A 206, actually, intersects or goes under 78  
25 slightly to the east of that intersection, proceeds

1 northerly like so.

2 Q Now, as you proceed from that,  
3 that place that you just pointed out, what would be  
4 the landmarks as you head north on 206? What outstanding  
5 features would be there? Would there be villages  
6 there, for example, things of that sort, streams or  
7 what?

8 A Gee, I'm not --

9 Q Anything shown?

10 A Well, I did not outline anything specifically  
11 other than the developed areas of Bedminster and  
12 Peapack-Gladstone, Far Hills, picked up with the edge  
13 of this corridor here. But for the most part, we are  
14 following 206 north.

15 Q All right. Now, can you locate  
16 on your drawing there where Far Hills is?

17 A Right about there, or at least the village.

18 Q The village?

19 A Yeah, the municipality extends around here.

20 Q Have you drawn a yellow line in  
21 the proximity of Far Hills?

22 A Yes. The easternmost extent of the growth  
23 corridor known as the 206 corridor, extends approximately,  
24 I think the municipal line is about here and ends at  
25 the intersection of this river here. Is that the North

1 Branch?

2 Q Does it go north of Far Hills  
3 into Peapack-Gladstone?

4 A It does, and includes both villages.

5 Q Then goes back over the western  
6 boundary?

7 A Yes, the western boundary of 206, generally.

8 Q Now, on the eastern boundary of  
9 the growth area and in the vicinity of Far Hills,  
10 does the line appear to pass through some portion  
11 of the Borough of Far Hills?

12 A Yes,

13 Q Can you tell from that drawing  
14 where or what, by virtue of those landmarks, how close  
15 the line appears to be?

16 A How close?

17 Q To anything?

18 A Well, the principal features that I look  
19 for in examining the line where it intersects with  
20 physical features that I could identify readily, those  
21 were the river, which is this bend in the river. It  
22 is about in the middle of that bend, the norther  
23 extremity.

24 Q All right.

25 A It is slightly west of the railroad station

1 intersection with the road proceeding this way, 202,

2 I believe,

3 Q 202?

4 A 202,

5 The southernmost boundary seems to converge  
6 on where 287 and the boundary come together,

7 Q Is the railroad shown on your map,  
8 in the area of Far Hills?

9 A We identify a series -- I should have mentioned  
10 this earlier, but we identify a series of dots of  
11 railroad stations and that is the dot representing  
12 that railroad station.

13 Q Where does the line lay in respect  
14 to the dot for the railroad station?

15 A The line lays west of the railroad station.

16 Q West of the railroad station.

17 Does it intersect the railroad track  
18 at any point, or can't you tell that?

19 A Yes, but the -- the difficulty, it is difficult  
20 to ascertain precisely where it intersects the track  
21 from this map. The line width is of a magnitude that  
22 comes out to, I think, at this scale, probably several  
23 hundred feet.

24 Q Looking in the area of the station  
25 on Route 202 itself and somewhat to the east of it, can

1 you find a road called Sunnybranch?

2 A No, I could not.

3 Q You couldn't identify it on the  
4 map?

5 A Not on this map.

6 Q I assume for similar reasons you  
7 couldn't identify the parcel in question which lies  
8 somewhere to the east of the railroad station?

9 A No, I would not be able to, not from this  
10 map.

11 Q Is there a stream there which acts  
12 as a western boundary for the Borough of Far Hills,  
13 can you make that out?

14 A I believe it does wrap around like this.

15 Q Where does the eastern boundary of  
16 the growth area lay with respect to that stream, can  
17 you tell us that?

18 A The eastern boundary with respect to the  
19 stream, at least at this point, or at least where the  
20 stream is running, basically north-south and acts as  
21 the western boundary of the municipality.

22 The line lies to the east of that.

23 Q All right. Now, did you try to  
24 transpose that line shown on that map of that scale  
25 to any other maps?

1 A I did, But on re-examination of the map I  
2 used, it appeared at least that one of the features  
3 on the map was probably incorrectly placed when  
4 compared to other maps that you have at your disposal.

5 In fact, a road that runs almost north-south  
6 seems to be misplaced, I feel I may do the Court a  
7 disservice by using this map.

8 Q What road would that be, do you  
9 know?

10 A I'm not sure it was identified on our map.  
11 Let's see if it is identified here,

12 MR. VOGEL: I think we can stipulate  
13 that, Mr. Mastro and I both saw that map, it  
14 was Sunnybranch Road,

15 THE WITNESS: Sunnybranch Road, I  
16 guess it did not appear to be in the right  
17 place, It was probably not drafted correctly.

18 Q Now, as you have drawn your lines,  
19 everything within that 206 corridor will be growth  
20 area. Is that right?

21 A We felt that in reflection and discussion  
22 with the County, that it would be difficult not to  
23 recognize what was actually going on in this area.  
24 That there were a lot of private investments being made,  
25 as well as the fact that there was a high degree of

*without  
for  
206  
corridor*

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1 transportation accessibility. Not to accept that as a  
2 growth corridor would be somewhat short-sighted.

3 Q The area to the east of the eastern-  
4 most boundary of the growth area would be a delineation  
5 of the limited growth area. Is that right?

6 A That's correct.

7 Q Can you tell anything from your  
8 map as to the topography of Far Hills, in terms of  
9 high points, low points, water conditions, soil conditions,  
10 that kind of thing?

11 A In our evaluation in preparing the guide plan,  
12 we did a statewide analysis of such things as topography.  
13 wetlands, existing infrastructure, and a series of  
14 criteria that we used in our judgments about where  
15 the growth should occur.

16 In fact, in discussions with Somerset County,  
17 it was repeatedly brought up; the fact that the  
18 northern part of the county was quite rugged and that  
19 it was more difficult to develop.

20 So, not only had we observed it on our own  
21 studies, we had been reminded of that on several  
22 occasions.

23 I did not make a specific study of Far Hills,  
24 or any particular part of the Borough, or any part  
25 of its environmental conditions, restrictions, or

1 attributes,

2 Q Now, I had asked you earlier to take  
3 a look at, I think, D-9. Is that over there, John,  
4 can you help find D-9, the existing land use map Mr.  
5 Dresdner drew?

6 MR. VOGEL: Would you like either  
7 myself or Mr. Mastro to help, we know these  
8 exhibits very well?

9 Q Now, Mr. Ginman, what you show on  
10 Atlas 25, to which you have been making reference, was  
11 that transposed to the drawing which appears in the  
12 State Development Guide Plan, at Page 133?

13 A That's correct,

14 Q In the fashion which is shown on the  
15 diagram at 133?

16 A That's right,

17 Q Now, on D-9, which is Mr. Dresdner's  
18 drawing of that line, transposed, essentially, from  
19 what appeared at, as I understood it, Page 133 of the  
20 State Development Guide Plan, he has drawn that  
21 abbreviated line, if you like, the north boundary of  
22 the Borough and south boundary of the Borough.

23 I would like you, if you would,  
24 or if you haven't already, to make reference to it and  
25 to the line as shown on Atlas 25?

1 A All right. The only part of the line that  
2 I would quibble with as not precisely following the  
3 line that is shown here, would probably be the southern  
4 end here, where I believe it would pinch more in  
5 this direction.

6 Q Where do you think the termination  
7 in the southern boundary should have been, or should  
8 be, would you mark with an X, please, and I will give  
9 you a red pencil to do this.

10 Just mark an X where you think  
11 the southern boundary should have been?

12 A From this point to approximately where it  
13 crosses Route 202.

14 Q It would have been somewhat western,  
15 to the west, than of the base, as it is now shown?

16 A Yes, slightly.

17 Q Other than that, Mr. Ginman, is  
18 the line as drawn by Mr. Dresdner a fair representation  
19 of the easternmost boundary, or the boundary delineating  
20 the growth area from the limited growth area as shown  
21 on Atlas 25?

22 A Yes.

23 Q Then I would ask you to look at  
24 P-17.

25 MR. MASTRO: I will help.

1 Q P-17 is the portion of Far Hills,  
2 here we go now,

3 I am going to ask you to address  
4 yourself to that orange colored line which runs north  
5 and south, essentially, and intersects the Borough of  
6 Far Hills. That is the line drawn by Mr. Zimmerman.

7 It is his representation of where  
8 the eastern boundary, the or delineation line between  
9 growth area and limited growth area is shown on the  
10 map, which is part of the State Development Guide Plan.

11 Have you had an opportunity to  
12 make reference to it?

13 A Yes, I have.

14 Q Would you make any changes, sir,  
15 in that map, as compared to what you have on Atlas 25?

16 A I would.

17 Q Would you then take the red pencil  
18 and show us what changes you would make on that?

19 A In this case, I would probably adjust the  
20 line ever so slightly in the north here to a little,  
21 approximately more in the center of this dip, to that  
22 point there. Perhaps similarly, in this line, as it  
23 converges from here, to approximately there.

24 But the location at the intersection with 202  
25 is approximately the same.

#4

1 Q The next question is, looking at  
2 the two of them, if we can place them side by side, D-9  
3 and P-17, having reference to Atlas 25, I don't know  
4 how you would describe it as a focrum, or the center,  
5 or what, but would Mr. Dresdner's line of D-9 and Mr.  
6 Zimmerman's line of P-17, as it appears to come across  
7 the railroad track with respect to Route 202 and  
8 with respect to the village, all right, and as far  
9 as you can make it out, on Atlas 25, are they essentially  
10 the same, or are they comparable?

11 A I think they are essentially the same at that  
12 point.

13 Q Essentially the same. They both  
14 bear then a fair relationship to what you have shown  
15 on Atlas 25?

16 A Yes.

17 THE COURT: Now, gentlemen, do you  
18 want me to pursue this question of the boundaries  
19 with the witness, or would you want me to  
20 leave that for your exploration?

21 MR. VOGEL: I am certainly satisfied,  
22 Your Honor, that you have explored it with  
23 the other critical exhibits. So that we know  
24 where the line is relative to the village  
25 and the property on exhibits in evidence in

1 this trial. I don't think it is necessary to  
2 go on to the others, Your Honor.

3 THE COURT: If you wish, you can  
4 do it on your cross, but if you wish me to  
5 do it, just let me know. Mr. Mastro?

6 MR. MASTRO: I concur. I think we  
7 are now at a point where it is up to counsel  
8 to explore the texture of the boundary lines.

9 Q Then I would ask you, Mr. Ginman,  
10 and this may bring some protests from counsel, address  
11 yourself to Page 133, the State Development Guide Plan  
12 as shown on P-33, to take a look at it?

13 In the context of your Atlas 25,  
14 is the line that is the easternmost line of the 206  
15 corridor as shown on the State Development Guide Plan,  
16 Page 133, a reasonable, accurate transposition of the  
17 line as shown on Atlas 25?

18 A It is close, but I think this one exaggerates  
19 the line.

20 Q Which exaggerates?

21 A 133 moves the line closer to the line that  
22 was picked by the first representation of both --

23 Q Mr. Zimmerman?

24 A I think both Mr. Dresdner and Mr. Zimmerman.  
25 Both moved that line further west than does appear in

1 this map. So, there is a slight difference in this  
2 map from our maps.

3 Q They both moved it further east?

4 A Further east, yes.

5 THE COURT: Just for clarification,  
6 I was asking him about Page 133. Then on this  
7 map he pointed to Atlas 25 at that point, and  
8 it might be unclear from the record.

9 Q The first question is what is shown  
10 on Atlas 25 is transposed accurately onto Page 133?

11 A Reasonably, with the exception of the southern-  
12 most intersection of the line, which, on 133 appears  
13 further east than it does on Atlas 25.

14 Q So that is other than its anchor  
15 point?

16 A Yes.

17 Q As I understand it, that should be  
18 to the west on 133?

19 Does the line as shown on 133  
20 fairly represent the line that you have put on Atlas  
21 25?

22 A Yes, it does.

23 Q Now, the next question would be  
24 whether you have an opinion as to whether the line  
25 shown on Page 133, which we have previously identified

1 with Atlas 25, fairly delineates the growth area in  
2 the 206 corridor from the limited growth area to the  
3 east?

4 A At the time of the publication of the report,  
5 it did,

6 Q Now, given the purpose of the State  
7 Development Guide Plan which you have enunciated and  
8 given the criteria for the designation of growth area  
9 shown on Page 47 there, and given your reference to the  
10 Atlas and the reference to that easternmost line, is  
11 the delineation of the easternmost line in the 206  
12 corridor as shown on Page 133, a reasonable one?

13 MR. MASTRO: Your Honor, at this  
14 point I would object to that question.

15 THE COURT: You object?

16 MR. MASTRO: I object to that question.  
17 If I might indicate the basis for my objection?

18 THE COURT: Please, yes.

19 MR. MASTRO: Before Mr. Ginman can  
20 respond to that question with some measure of  
21 certainty, I think he would have to know  
22 some site specific details as to what exists  
23 along the perimeter of the easterly line of  
24 the 206 corridor, particularly infrastructure,  
25 environmental constraints, development in the

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way of residential development as well as industrial development.

THE COURT: Let me rephrase it then and see if we can avoid -- I know exactly what your, I hope, your point is, Mr. Mastro.

MR. MASTRO: Your Honor, on the rephrasing of it, I am not objecting to the general thrust of the question. I would ask the Court to consider the standard at Page 240 of the Mount Laurel II opinion in terms of whether or not the line is an erroneous line and whether or not it is arbitrary and capricious.

THE COURT: I am going to get to that.

MR. MASTRO: Fine.

Q What I am asking you, sir, we lawyers get semantically involved. But facially, that is, on the face of it, all right, without consideration of the particulars, which you will hear about, I am sure, shortly from counsel, but on the face of it, based on your experience, your consultation with those officials and the things which I have just mentioned, the purpose of the plan, the criteria for growth areas as opposed to limited growth area, is the line facially, as you look at it on Page 133, that easternmost boundary

1 delineating growth, limited growth, a reasonable one?

2 MR. MASTRO: Your Honor, may I address  
3 that, please?

4 THE COURT: Yes.

5 MR. MASTRO: I think we are going to  
6 say the same thing. Could I express what I  
7 understand the question to be?

8 THE COURT: Yes.

9 MR. MASTRO: Whether the boundary  
10 line of the 206 corridor, easterly boundary  
11 line of the 206 corridor is reasonable within  
12 the parameters and subject to the limitations  
13 and within the objectives of the State  
14 Development Guide Plan. Is that about what  
15 you said?

16 THE COURT: Yes.

17 MR. MASTRO: All right.

18 THE COURT: That's all I am asking.

19 On its -- just facially as you look at it,  
20 without knowing more.

21 Q Is it reasonable?

22 A With all of those qualifiers, yes, consistent  
23 with the objectives and purposes of this plan.

24 Q Of the plan, which is what I  
25 enunciated first, all right.



1 the word "arbitrary" to conceptually accurate,  
2 I have no problem with it.

3 MR. VOGEL: No, I would respectfully  
4 disagree with my adversary, Your Honor. The  
5 test is set down in the Supreme Court's  
6 decision.

7 The term is "arbitrary". I think  
8 Your Honor has qualified it, the word, the  
9 way it ought to be qualified. That is,  
10 arbitrary in the sense of being oblivious  
11 to the standards and purposes of the State  
12 Development Guide Plan.

13 If it ignores those purposes and just  
14 drew the line somewhere, it is arbitrary.  
15 So, the predicate has to be purposes of the  
16 State Development Guide Plan.

17 MR. MASTRO: Judge, the problem I  
18 have with Mr. Vogel's analysis is this. If  
19 you are referring to "arbitrary" as that line  
20 relates to the 206 corridor, it is saying one  
21 thing.

22 If you are referring to "arbitrary  
23 as it relates to site specific data, as it  
24 intersects Far Hills, that is something else.

25 THE COURT: My question was whether

1 the line as drawn, the easternmost boundary,  
2 which differentiates between growth area  
3 and limited growth area, all right, in that  
4 corridor, is an arbitrary one. Arbitrary  
5 meaning as here demonstrated, not in an  
6 absolute sense, but one without reason or  
7 foundation.

8 Do you understand what I'm saying?

9 A I understand. I'm just waiting to see if  
10 it is okay to -- ,

11 Q Okay, go ahead, the objections are  
12 on the record.

13 A All right. Recognizing, I think, the point  
14 that counsel and yourself are trying to make about the  
15 definition of the word "arbitrary, in a sense all  
16 lines, many lines are arbitrary since you have to make  
17 a point at which you think your judgments make the  
18 most sense.

19 Within the context of the plan, what we were  
20 trying to accomplish, and recognizing the fact that  
21 we looked carefully at this area not once, but many  
22 times, discussed it with other professionals or  
23 peers in the county level, we made a judgment as to  
24 where the line should go.

25 In that sense, it was not arbitrary from our

1 intuitive planning judgment. But we have to draw a  
2 line somewhere.

3 Q Now, in the same background, the  
4 same purposes of the plan, State Development Guide  
5 Plan, the criteria distinguishing growth and non-growth  
6 your references to County planning officials, the line  
7 as drawn on the State Development Guide Plan, Page 133,  
8 the easternmost boundary of the Route 206 corridor  
9 separating use and limited use areas, a capricious line?

10 MR. MASTRO: Your Honor --

11 THE COURT: Same objection?

12 MR. MASTRO: Same objection. If it  
13 is intended to be within the context and  
14 the purpose of the guide, I have no problem  
15 with that.

16 Q We are dealing, of course, as it is  
17 on its face, facially, is it a capricious line?

18 A No.

19 Q Then, finally, given all of those  
20 same factors and taking into mind, as I understand it,  
21 that there may be a difference between the southernmost  
22 hinge of the line as shown on Atlas 25 and as shown  
23 on Page 133, is the line erroneously drawn or drawn  
24 in error, as far as you know?

25 A I don't believe so, at least not at that time.

1 THE COURT: Gentlemen, that would  
2 appear to be the limit to which I would take  
3 the witness at this time.

4 I could proceed to the questions  
5 of the implication of Far Hills and the  
6 implication of the parcel in question.

7 I think that rather than do that,  
8 I would leave that then to counsel to explore  
9 from their individual positions.

10 MR. VOGEL: I would like to say that,  
11 I think, Your Honor in pursuing the first two  
12 exhibits, from the transposing of this  
13 witness' view of the line and comparing it  
14 to Page 133 and Atlas 25, and the exhibits  
15 in evidence, I think Your Honor has brought us  
16 to the point where we know where the line  
17 passes through the village of Far Hills and  
18 passes through the property in question.

19 THE COURT: Then you can pursue  
20 with the witness.

21 MR. VOGEL: I am certainly satisfied.  
22 I think the criteria of the Supreme Court has  
23 been covered by Your Honor's questions.

24 I think Mr. Mastro has asked to  
25 proceed first with cross-examination, and I have

1 no objection to that.

2 THE COURT: You have no objection?  
3 Is there anything you would have me ask, Mr.  
4 Mastro, or Mr. Vogel, of the witness while I  
5 am still examining him?

6 MR. VOGEL: I have one question I  
7 would appreciate if Your Honor would pursue  
8 with the witness. The photo enlargement of  
9 Page 133 of the State Development Guide Plan  
10 as shown in Exhibit 32A, and particularly  
11 where the line of the growth area passes  
12 through the boundary of Far Hills.

13 THE COURT: I am going to leave that  
14 one, if you will, for your more particular  
15 exploration with the witness.

16 Mr. Mastro, is there anything that  
17 you would like me to do?

18 MR. MASTRO: I believe Your Honor  
19 has covered the areas that we felt were  
20 appropriate.

21 THE COURT: All right. Sir, then,  
22 do you want to take the cross-examination?

23 MR. MASTRO: Surely.

24 CROSS-EXAMINATION BY MR. MASTRO:

25 Q Mr. Ginman, can we address, again,

1 the objectives of the State Development Guide Plan?

2                   You responded to a question, or  
3 several questions, that were posed by the Judge. From  
4 your responses, what I understood you to say was that  
5 the key objective of the guideplan was to form a  
6 profile for the channeling of State resources in those  
7 areas where you felt development should take place.

8                   Is that a fair characterization of  
9 what you said?

10 A               With one minor caveat. I think the reverse  
11 is also true for those areas of the State where either  
12 agriculture or conservation was more appropriate, that  
13 appropriate State measures be taken in that direction  
14 as well. But the primary focus was for growth-inducing  
15 capital construction projects, where the State should  
16 prioritize those.

17               Q               Investment?

18 A               Investment in infrastructure.

19               Q               In effect, it also has a negative  
20 aspect, negative objective of discouraging growth in  
21 non-growth areas or conservation areas?

22 A               There probably are very few State tools to  
23 do that in the form of discouragement.

24               We attempted to look at what things the State  
25 might be able to do positively to encourage their

I probably answered that in that

1

Ginman-cross

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1 protection.

2 For example, at the time we prepared this,  
3 the blueprint commission on New Jersey agriculture  
4 was lobbying heavily for a bond issue and a structure  
5 to preserve agriculture, which has since come into  
6 being.

7 That was an example of a positive attempt to  
8 try to protect an area.

9 Similarly, with the Pinelands, an effort by  
10 the legislature and the federal government to find a  
11 management strategy to deal with them.

12 Q Are transportation arteries, inter-  
13 states, major roadways, important in determining  
14 where growth areas are?

15 A Yes.

16 Q Would you agree that not only  
17 are they important, they are rather critical, since  
18 growth tends to develop along those arteries?

19 A Yes.

20 Q Would you indicate what the major  
21 factors were that stimulated development of the Clinton  
22 corridor, Interstate 78, Route 22?

23 Would you indicate what were the  
24 major factors that generated an interest for a 206  
25 corridor?

*Quoted*

1 Q Is it fair to say that 206, in  
2 addition to Interstate 287, and probably intersection  
3 with 78, were key factors leading towards the develop-  
4 ment of the 206 corridor?

5 A Yes.

6 Q Would it also be fair to say that  
7 indeed the intersection of 287 and 78 was the basis of  
8 the 206 corridor?

9 A That's correct.

10 Q Beneficial Management is located  
11 where, sir?

12 A Along the 206 corridor in Peapack or Peapack-  
13 Gladstone. I forget how it is put together.

14 Q Peapack-Gladstone?

15 A We used to refer to it as Peapack-Gladstone.  
16 I guess it is one or the other.

17 THE COURT: Sometimes referred to  
18 as Gladpack.

19 Q Was there dialogue between your  
20 office and the Somerset County Planning Board as to the  
21 extent of the 206 corridor?

22 A Yes.

23 Q Was there unanimity as to the  
24 location of that corridor, between your office and the  
25 Somerset County Planning Board?

1 A Well, in the original draft, we had overlooked  
2 the 206 corridor. The 1977 draft did not have a 206  
3 corridor.

4 Subsequent to '77, developments and the  
5 discussion with the Somerset County Planning Board  
6 led us to conclude that our plans should be amended  
7 and include a development corridor for 206 as well.

8 Q Could you target some of the develop-  
9 ments that were either in place or approved in the  
10 206 corridor, that led to that re-examination?

11 A Well, the AT&T complex was one and the  
12 Beneficial was the other. There were constantly  
13 discussions coming to us from our sister agencies,  
14 Labor & Industry, about other potential possibilities.

15 Q Can we get back to discussions  
16 between your office and the Somerset County Planning  
17 Board.

18 Were you both in accord as to the  
19 extent of the corridor, the north-south extent of  
20 the corridor?

21 MR. VOGEL: Just an objection,  
22 because the question isn't clear. Are you  
23 talking about 1977 and '80?

24 MR. MASTRO: Let me rephrase it.

25 THE COURT: All right.

1 Q Subsequent to your discussions with  
2 the Somerset County Planning Board and your acknowledgement  
3 of in-place or approved non--residential development  
4 along 206, was there discussion with the Somerset County  
5 Planning Board as to the extent, north-south extent,  
6 of the 206 corridor?

7 A Yes.

8 Q Did your office agree with the  
9 Somerset County Planning Board as to the extent of  
10 that corridor?

11 A It is hard for me to speak as to the acceptance  
12 on the part of the Somerset County Planning Board or  
13 the staff,

14 We felt we reflected their concerns in our  
15 drafting.

16 I would not want to suggest that we were in  
17 total unanimity on all fine points.

18 Q Was there any position expressed  
19 by the staff of the Somerset County Planning Board to  
20 lead you to conclude that the Planning Board, Somerset  
21 County Planning Board, would have preferred the growth  
22 area not extend as far to the northwest as it ultimately  
23 did?

24 A I don't recall. That does not mean to  
25 suggest that there weren't any concerns. I just don't

1 recall the level of agreement at that point.

2 Q Mr. Ginman, do you have a copy  
3 of the guide plan before you, would you look at the  
4 double I page, double I, in the beginning of the  
5 guide plan?

6 Do you see the last sentence, which  
7 reads, "The concept map consists of broad, generalized  
8 areas without site specific detail or precise boundaries  
9 and areas designated for growth should not be thought  
10 of as solid urbanization without any open space,  
11 farmland, or recreation areas."

12 A I haven't found the line, but I have been  
13 listening to what you say, and I agree, that --

14 THE COURT: The concept map consists  
15 of --

16 Q The last line on the page, would  
17 you read that?

18 A Yes, I am familiar with that. Do you want me  
19 to read it?

20 Q No, just familiarize yourself with  
21 it, not out loud.

22 Now, could you describe to me  
23 what was meant by "generalized areas, without site  
24 specific details or precise boundaries"?

25 A I guess when we began the process with the

1 counties, and to the extent that the counties also  
2 reflect their constituent municipalities' concern, we  
3 felt it was our job to do the broad conceptual planning  
4 specifically where the State would be most effective,  
5 investment strategies and where growth would occur.

6 We left it to county and local government  
7 to fill in the precise delineations of what parks  
8 would be preserved and what stream corridors were  
9 environmentally sensitive, where the high rise apart-  
10 ment buildings should go, where the industrial  
11 parks should be built.

12 We felt that it was beyond our responsibility  
13 to get into that level of specificity. I think it  
14 was generally agreed upon by the counties and the  
15 municipalities as well.

16 Q Does that mean, Mr. Ginman, that  
17 the boundary lines of the categories of areas on the  
18 State Development Guide Plan map were not to be  
19 accepted literally as drawn?

20 MR. VOGEL: I would object to the  
21 form of the question. I think it is an unfair  
22 summarization of what the witness has said.  
23 There is nothing that has really supported  
24 that kind of suggested meaning by what the  
25 witness has testified to.

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THE COURT: Mr. Mastro?

MR. MASTRO: Your Honor, I read that line several times. It seems very clear to me what it means.

I think it is within the context of that language, "generalized areas, without site specific detail or precise boundaries," is an appropriate question to explore with Mr. Ginman.

THE COURT: I think you are doing that. The objection is to the last question.

Let's have it read back, perhaps we will all understand it.

(Whereupon, last question read by the reporter.)

MR. MASTRO: May I just rephrase that slightly, Your Honor?

THE COURT: Go ahead.

Q That it was never intended by the guide plan that they be accepted literally as drawn, in many circumstances?

THE COURT: Do you understand the question?

THE WITNESS: Oh, I understand the question perfectly.

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THE COURT: Can you answer it?

THE WITNESS: All right. Let me try to answer the question by describing the process that we took upon ourselves with the tri-state regional plan, Tri-State Regional Planning Commission when it existed, the Somerset County Planning Board, for that matter; all of the counties that are constituent parts of the tri-state region, and the State entered into what we call the cross-acceptance process. Where the staff of each of the agencies met to discuss the intent of the three plans at the different levels, at the State, region, and County, and come to an agreement about the general policy and philosophy.

*Cross-acceptance*

Now, none of those lines were identical, neither the counties' lines, nor the regional planning agency's lines, nor the State's lines.

In the final analysis, we came to agreements with probably most of those counties and the regional planning agency, that the intent of the policy was the same.

So, while the precision of the lines may not have been followed verbatim, we were

Ginman-cross

looking for consistency in policy.

For example, that there was a  
corridor and that it had development pot

Q Indeed, there was never any intent to draw these lines with a measure of precision that site specific detail would require, would you agree with that?

A Well, I would have to qualify that by saying that we drew the lines with some concern as to where they were being placed. But it was not our expectation that, and it stated again in the report, that it would be wall-to-wall growth and, let's say, an urban landscape.

We anticipated that for the most part it would be a growth corridor but could reflect the nuances and the concerns that might be apparent in any specific local situation, that were not apparent at the State level.

Q You indicated during the course of the Judge posing inquiries, that the objective of the State Development Guide plan was, or its approach at least was broad-based in order to avoid repetition of what was done at the County and local level.

Do you recall that?

A Yes.

1                   Q            Would you expand on that concept  
2 for me, please?

3                   A            Most of the staff at the Division of  
4 Planning had experience at the local level. In fact,  
5 we were underwriting a federal planning assistance  
6 program to municipalities. We were administering  
7 that program.

8                                So, we had quite a bit of experience as  
9 to what was going on at that level. Many of us had  
10 also worked at the county level.

11                               It was inconceivable to us that we would  
12 ever have the necessary resources to duplicate what  
13 was going on, either at the local or county level.

14                               So, it was our intent from the very beginning  
15 not to be very site specific.

16                               So, it was an assumption that was agreed  
17 upon with the county planners as well, recognizing  
18 that the level of detail that is necessary to adequately  
19 plan at the local level is quite substantial; and  
20 multiplied by 567 municipalities, becomes quite a  
21 financial burden for the State to undertake.

22                   Q            Indeed, the State Development  
23 Guide Plan did not identify any factors within the  
24 growth areas that perhaps needed much more additional  
25 attention at the county and State level, for example,

1 environmentally-sensitive areas. Is that a fair  
2 statement?

3 A That is a fair statement.

4 Q Would not that concern be more  
5 appropriate as one approaches the boundary line area  
6 of a growth area?

7 A I don't know that the line has anything with  
8 it. I just think that they are so site specific, that  
9 they would have to be done at a level different than  
10 a level that was undertaken by the plan.

11 It would be universal, regardless of what  
12 part of the State.

13 Q Mr. Ginman, among the criteria or  
14 growth areas is availability of land. Is that correct,  
15 sir?

16 A Yes.

17 Q Can you describe that briefly?

18 A Well, part of our responsibilities, I believe  
19 it is spelled out in the goals, there is a series of  
20 goal statements, I believe, in the report.

21 It talks about the need to prepare future  
22 population growth and economic development and so forth.  
23 I am paraphrasing, that is not exactly a statement,  
24 but it is generally along those lines.

25 So, in any growth area, we would have to

1 provide for sufficient amount of land area for  
2 future development; in other words, not just  
3 surrounding existing developments with a line and  
4 suggest that that is the growth area.

5 We had to have some vacant land area included  
6 within that, to allow for future development. So that  
7 is what is meant by available land area, available in  
8 a sense that it was not currently developed. Not that  
9 it was developed in a sense of a real estate broker's  
10 hands, being marketed as such.

11 Q Did the plan take into account  
12 the population projections for future growth?

13 A Yes, on a statewide basis.

14 Q Was sufficient land set aside in  
15 the growth areas to accommodate what was projected?

16 A Yes.

17 Q Was there a safety factor calculated  
18 within the land set aside in the growth areas to allow  
19 for more land than was needed?

20 MR. VOGEL: I am going to object,  
21 Your Honor. I believe that we are getting  
22 so far afield from the general purposes for  
23 which this witness has been called. That  
24 is to define where the line is and to determine  
25 whether or not that line is reasonable, or

1           whether there is an error which is arbitrary  
2           and capricious,

3                       We are now into such a broad  
4           exploration of the philosophies of the line  
5           that I think it is going beyond what this  
6           witness has essentially been called for,

7                       Otherwise, he may be another five-  
8           day witness like Mr. Zimmerman has been and  
9           almost Mr. Dresdner.

10                      MR. MASTRO: Your Honor?

11                      THE COURT: Yes.

12                      MR. MASTRO: We are on the issue of  
13           whether the growth areas contemplated in  
14           open space, slopes, high ground water, etc.,  
15           water sheds, whether provided for those,  
16           which I think is related to the location  
17           of the boundary lines.

18                      So much so that I think this permitted  
19           latitude to those other county and local  
20           levels for some measurement of judgment as to  
21           where growth should go.

22                      Now, essentially, that is where I  
23           am going with that question. I think Mr.  
24           Ginman is the appropriate party to respond  
25           to those concerns.

1 THE COURT: Well, I didn't know  
2 whether you were still on that part of your  
3 inquiry, which relates to environmentally-  
4 sensitive areas.

5 I thought you had now moved to  
6 available land, which is a subject quite apart  
7 from that?

8 MR. MASTRO: These are related, Your  
9 Honor.

10 I believe further questioning Mr.  
11 Ginman will bear this out, that the amount  
12 of land set aside acknowledges that there are  
13 sensitive areas, even within the growth area.

14 So, they were compensated for and  
15 I think it is appropriate to pursue that.

16 MR. VOGEL: I thought the question  
17 was, did you take into account population  
18 projections, did you have a factor of  
19 variability.

20 THE COURT: We got into the safety  
21 factor, that was the last question.

22 MR. VOGEL: Safety factor on popu-  
23 lation projection.

24 Here is someone who has told us  
25 how the line was drawn. He has said all kinds

1 of specific details of where the apartment  
2 houses ought to go and where the -- have been  
3 left to the county planning board and local  
4 planning officials.

5 He has been quite clear about that,  
6 how far in depth we are going to get into  
7 the minutia of each of the things then that  
8 they thought about, I don't know. We could  
9 be here a long time. I don't know that we  
10 are going to get anything that is going to  
11 advance the inquiry for which this witness  
12 has been called.

13 MR. MASTRO: Your Honor, even though  
14 it is all related, even remotely, to the  
15 issues, I suggest to the Court that should  
16 be permitted. I don't think I am out --

17 THE COURT: That far out?

18 MR. MASTRO: That far away from the  
19 essential issues.

20 I will come closer as the questioning  
21 continues.

22 Let me rephrase the question.

23 THE COURT: Let's have some under-  
24 standing. If I understand the witness correctly,  
25 he has said that the Borough, in drafting the

1 State Development Guide Plan, did consider  
2 projections for future growth, but they did  
3 it from the vantage point of a state overview.

4 Now, the next question to him, I  
5 understand, and the one to which an objection  
6 and exception has been raised, is the safety  
7 factor built into the planning for future  
8 growth.

9 MR. MASTRO: Let me rephrase the  
10 question.

11 THE COURT: Please.

12 Q Mr. Ginman, was sufficient land  
13 set aside to accommodate the growth at a density that  
14 your department felt was appropriate?

15 THE COURT: Can you answer that  
16 as posed?

17 THE WITNESS: Yes. We were very  
18 concerned about the challenges we were receiving  
19 from the development community, that the  
20 plan was restrictive.

21 We demonstrated that. In fact, we  
22 had calculated what we felt was the possible  
23 population growth for the State.

24 Keep in mind that there was not  
25 unanimity on this. Many counties disagreed

1 with our estimates, as did several State  
2 agencies.

3 Population projecting is not an  
4 exact science, as anyone will attest, and  
5 we were being somewhat on the conservative  
6 side.

7 In any case, we demonstrated that  
8 our projections for the State showed that  
9 the land area set aside in the growth area  
10 could, in fact, hold the anticipated population,  
11 for at least the planning period which was,  
12 I think, to the year 2000.

13 The idea -- and in the process of  
14 analyzing the holding capacity of the growth  
15 area, we tended to use the existing densities  
16 of the counties that surround those  
17 growth areas.

18 So, for example, this particular  
19 area, we would have used the current density  
20 of the existing developed area in Somerset  
21 County as our measurement, understanding that  
22 Somerset County's developed area includes  
23 areas that are set aside and not develop  
24 for whatever purpose.

25 We assumed that that would also

*SDAP  
exclusionary*

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include lands that were not going to be developed in that corridor.

So, not only could we accommodate them, but on a statewide basis, we had a ratio of about three to one. In other words, we only needed about 30 percent of the actual land area to accommodate the growth.

*3 to 1 ratio*

But that also recognized that not all land would be made available at any one particular time.

Q So, in effect, if I understand you, what you said, there were three times as much land as was necessary to accommodate the growth, at least to the year 2000?

A On a statewide basis, yes.

Q The reason for the excess land, or one of the reasons, was to accommodate environmental concerns. Is that correct?

*by the way intended to accommodate environmental concerns in part*

A That would be one, yes.

Q Does that not lead to the conclusion that in different areas of the growth area, it would not be anticipated that growth take place. Is that a fair statement?

MR. VOGEL: I'm going to object, Your Honor, not to relevancy, but we have

1 difficulty with the questioning of the Court.

2 MR. MASTRO: Let me rephrase it,  
3 Judge, I will withdraw it.

4 THE COURT: You would withdraw the  
5 question.

6 MR. VOGEL: I am only giving the  
7 statement some thought. It may be helpful in  
8 the future.

9 THE COURT: Maybe we ought to hear  
10 the new question, maybe he is leaving the  
11 area.

12 MR. VOGEL: All right.

13 Q Mr. Ginman, you indicated in your  
14 response to the previous question, that the setting  
15 aside of land in the growth area acknowledged that  
16 not all of that land within the growth area would be  
17 developed, depending upon county or local concerns,  
18 or site specific detail.

19 Is that a fair characterization  
20 of what you said?

21 A That's correct, or at what density, or what  
22 level of development. None of that could be proceeded.

23 Q Does not that position, or that  
24 theory, lead to the logical conclusion that the portions  
25 of the growth area within the interior, that proved to

1 be environmentally sensitive, would be free from  
2 growth and that portions of the growth area occurring  
3 at the extremities, near the boundary lines, also,  
4 if environmentally sensitive, or for some other reason  
5 not available for growth, will be free from growth,  
6 are they fair conclusions?

7 MR. VOGEL: Objection, Your Honor.

8 I have three bases for the objection.

9 THE COURT: All right. Let's hear  
10 them.

11 MR. VOGEL: First, perhaps a little  
12 unkind, it was a speech most of the way  
13 truth, not a question.

14 Secondly, I believe the question was  
15 leading, was manifestly leading.

16 Thirdly, the question was far beyond  
17 the scope of direct examination.

18 With respect to the latter two bases,  
19 I would like to say the following: If Your  
20 Honor's questioning of the witness is viewed  
21 as direct and we are both cross-examining,  
22 then we do have the right to ask certain  
23 leading questions, I recognize that. But if  
24 Your Honor was direct, then the cross should  
25 be limited to the general subjects covered

1 by Your Honor's direct,

2 Therefore, I think the question is  
3 far beyond the scope of direct examination.

4 If Your Honor, on the other hand,  
5 views our questioning of this witness as an  
6 extension of direct, then I think the question  
7 is absolutely leading and Mr. Mastro should  
8 ask questions that are not leading.

9 So, on either of those two bases,  
10 I believe, are objectionable. They are to  
11 some extent, in the alternative, though.

12 MR. MASTRO: Judge, cross-examination  
13 generally takes that posture. Let me try to  
14 rephrase the question.

15 THE COURT: Please, it had several  
16 parts, As you know, with most compound  
17 questions, the answer is yes to the first  
18 and no to the second. He is betwixt and  
19 between. I will sustain the objection at  
20 this point.

21 Q Mr. Ginman, tell me whether you  
22 agree or disagree with this statement, there was  
23 sufficient land set aside in the growth, 206 corridor,  
24 acknowledging that the State Development Guide Plan  
25 could not address some important concerns, among which

1 are environmental.

2 Accordingly, latitude was allowed  
3 to county and local officials to address those concerns  
4 and make those decisions without being forced or  
5 compelled by the State Development Guide Plan to do  
6 so.

7 Do you agree with that statement?

8 MR. VOGEL: Objection. I object on  
9 the grounds that it is beyond the scope of  
10 the direct examination, that exam given by  
11 Your Honor.

12 THE COURT: On that ground, I will  
13 deny the objection.

14 However, I don't know that it is  
15 this witness' testimony that the Borough  
16 was insensitive to environmental restraints.

17 In fact, my understanding of what  
18 he said, was that it left room here for  
19 peculiar or particular environmental restraints,  
20 best known to local authorities.

21 It may be that I didn't hear him  
22 correctly?

23 THE WITNESS: No, I stated that.

24 MR. MASTRO: I think what you are  
25 saying is substantially what I indicated.

1 I see no reason why this witness  
2 can't address that statement, whether he  
3 agrees with it or he disagrees with it and  
4 expand on his answer.

5 THE COURT: Do you understand the  
6 question as it was posed to you?

7 THE WITNESS: Yes.

8 THE COURT: Go ahead?

9 THE WITNESS: I was assumed that  
10 all growth areas would contain a variety of  
11 land use types, even though we had initially  
12 surveyed some very gross factors of environ-  
13 mental concern and development concern.

14 I mean, we had some initial maps of  
15 where all of these steep slopes were over  
16 12 percent and where all of the coastal  
17 lands and so forth.

18 We tended to stay away from those.  
19 But in many cases, there was competition for  
20 space, where you got too close to heavy  
21 investments on the part of the State, certain  
22 lands that at least at the State level, looked  
23 like they may be difficult. We would opt in  
24 favor of the development that was already  
25 occurring.

1           So, it was assumed, even though we  
2 had looked at some of the environmental  
3 conditions originally, that there would still  
4 be environmental concerns and development  
5 concerns and just reasons, or peculiar  
6 individual reasons why a person might not  
7 ever put his land on the market, would keep  
8 the land off the market, it would not  
9 actually be developed,

10           So, these factors were considered.  
11 We felt the comfortable margin of three to  
12 one was acceptable. That within that broad  
13 parameter, adjustments could be made at the  
14 local level to basically follow the policy.

15           Q           Was it not the objective to allow  
16 those at the county and local level to determine as  
17 to where the growth area development would go, rather  
18 than the State dictating that conclusion to them?

19           A           Yes, keeping in mind that the land use law  
20 of the State provides authority at the local level for  
21 planning and zoning. It went without saying that  
22 the final arbiter of where the land would be developed  
23 would be at the local level. We wanted to give as  
24 much flexibility as possible to the local government.

25           THE COURT: Let's take a break for

1 a few minutes and give everybody a chance  
2 to loosen up, and we will come back.

3 (Whereupon, a short recess takes  
4 place.)

5  
6 CROSS-EXAMINATION CONTINUED BY MR. MASTRO:

7 Q Mr. Ginman, I understood you to say  
8 that there was dialogue between your office and other  
9 State agencies during the preparation of a guide plan?

10 A That's correct.

11 Q Indeed, there was dialogue between  
12 your office and the Department of Environmental  
13 Protection?

14 A Yes.

15 Q Was that significant dialogue --  
16 let me rephrase the question.

17 Out of all the agencies that you  
18 talked to, how would you classify the dialogue with  
19 DEP, intense, average, minimal?

20 MR. VOGEL: Objection, leading  
21 question. This is Mr. Mastro's own direct.  
22 It is beyond what Your Honor questioned. He  
23 shouldn't be leading. It can be asked in a  
24 non-leading manner, and the witness can  
25 describe it.

1 MR. MASTRO: Your Honor, my under-  
2 standing is that when the Court calls a  
3 witness, we both cross-examine, we both  
4 respect to Mr. Ginman, but we cross-examine.

5 MR. VOGEL: Then stick to the limits  
6 of the direct, Judge. Otherwise, to the extent  
7 that he is your direct witness, then it  
8 shouldn't be leading.

9 THE COURT: Where are we going with  
10 it, that is my question? Where are we going  
11 with it? Are you asking to make a comparison,  
12 apparently, the extent of his conversations,  
13 of his bureau, with DEP? Is there some  
14 relevance in the fact that they had extended  
15 conversations with DEP but not with DOT?

16 MR. MASTRO: It is my understanding,  
17 Your Honor, that there was more intense  
18 dialogue with the Department of Environmental  
19 Protection than probably with most of the  
20 other agencies.

21 They had reviewed the plan very  
22 intensely and had been critical in many  
23 respects.

24 THE COURT: I will allow it, but --  
25 all right. As long as we can move it along,

1 just as long as we don't get bogged down  
2 with, we met 10 hours with DEP and you only  
3 gave five to DOT and two and a half to  
4 somebody else.

5 Q Is what I said fairly accurate,  
6 Mr. Ginman; if not, correct it?

7 A The approach of the Department of Environmental  
8 Protection varied somewhat from the approach that we  
9 were taking.

10 They were interested in looking at the State  
11 in as detailed a fashion as possible, recognizing  
12 their concerns and their concerns are varied between  
13 water supply and sewerage disposal, hazardous waste,  
14 wastelands, preservation of environmentally-sensitive  
15 areas.

16 I can understand and appreciate the desire  
17 for absolute precision and scientific background.  
18 They had argued substantially with us that our maps  
19 should be much more detailed. We argued that in order  
20 to do so, we would have to literally start to sub-  
21 stitute ourselves for the municipal level of government,  
22 to get into the environmental concerns at the level  
23 of detail they were arguing for.

24 So, I would say, in that sense, we had  
25 very substantive conversations and, perhaps, some

1 substantive policy differences as to how the plan  
2 should represent itself.

3 Q When you say the DEP would have  
4 preferred more detail, would that include addressing  
5 aquifers, rivers, streams, surface and subsurface  
6 water supplies, steep slopes, drainage, etc.?

7 MR. VOGEL: Objection, again, to  
8 the leading nature of the questions.

9 THE COURT: I will allow it.

10 A It wasn't so much a question of the attention  
11 to those, since we did include many of those items  
12 in our plan and discussed them. I think it was level of  
13 specificity. I think the DEP would have preferred  
14 that the level of planning we do would be at least  
15 at the level of that Atlas sheet shown and/or maybe  
16 even more preferrably the U.S. geological survey,  
17 which is even more of a finer grain in scale.

18 But in defense of our original premise, which  
19 was to try to remain general and to allow the freedom  
20 of flexibility for the counties and the municipalities,  
21 we resisted that attempt.

22 Q Mr. Ginman, on Page 1 of the guide  
23 plan, one map showing the whole state with all of the  
24 areas designated on it, I am not having too much success  
25 finding it, is that the one at the beginning part of

1 the text, I think it is 40?

2 A Page 41. Is that the one?

3 Q State Development Guide Plan concept  
4 map, Page 44.

5 Was the level of detail shown on  
6 Page 44 of the SDGP a chief concern of the Department  
7 of Environmental Protection?

8 A Yes.

9 Q Was that concern that this map does  
10 not show the concerns or the subject matters that we  
11 just discussed?

12 A That is true.

13 Q Mr. Ginman, are you familiar with  
14 the 201 and 208 studies?

15 A Yes.

16 Q Were these studies taken into  
17 account when preparing the State Development Guide Plan?

18 A In some cases, I guess the term was, as a  
19 subcontractor, we were providing specific information  
20 for several 208 studies.

21 Q Was there a study that encompassed  
22 the 206 corridor of Somerset County?

23 A I can't really answer it, I just don't know,  
24 it has been a while.

25 I know we were not involved in any part of the

1 state, but there was some selective areas that we  
2 worked with the DEP to try to deal with the aspects of  
3 the 208 planning that we felt we had some expertise in.

4 Q At any rate, is it fair to conclude  
5 that these 201-208 studies were considered, were  
6 available, and were a part of the design of the State  
7 Development Guide Plan?

8 MR. VOGEL: Objection. The question  
9 says that and it tries to, again --

10 MR. MASTRO: I will withdraw it.

11 Q Let me rephrase it, to the extent  
12 that the 201 and 208 studies were done and were  
13 available, were they duly reviewed, acknowledged, and  
14 incorporated within the State Development Guide Plan?

15 A In my recollection, they were not prepared  
16 prior to the guide plan. They were being prepared  
17 about the same time that we were working on this.

18 The basic ground rules of 208 planning were  
19 somewhat different. There was a rather elaborate  
20 procedure set up by the Federal EPA as to how those  
21 plan were to be prepared.

22 There was some very specific criteria that had  
23 to be explored. We weren't saddled with that.

24 So, probably, the area that the intersection  
25 intersected, but those plans were being done at an

1 entirely different level of specificity than we were  
2 working at. That was in the whole area of population  
3 assignments. In other words, what areas and what  
4 municipalities would be assigned what population.  
5 That corresponded somewhat to the growth area  
6 designation.

7 It wasn't identical and it was a difficult  
8 comparison.

9 I remember the process, it was very frustrating,  
10 because we were dealing on a much more general level.

11 So, I guess a round-about answer is that it  
12 was very difficult to use the 208 planning process as  
13 it was then emerging, directly in this process. We were  
14 hoping that we would find some common ground.

15 Q Any among other things, would you  
16 agree that the 201-208 studies are a necessity for the  
17 process of obtaining federal grants for anything  
18 affecting water and sewer improvements?

19 A Absolutely.

20 Q As a matter of fact, was the State  
21 Development Guide Plan itself the product of any federal  
22 funding?

23 A Yes.

24 Q What was the nature of that?

25 A It is called Section 701 of the Housing Act of

1 1954 as amended. I couldn't give you all of the  
2 amendment cites, but it was basically a program set up  
3 in 1954 that began to fund planning at a variety of  
4 levels.

5 The initial funding was for municipalities  
6 and, subsequently, was made available for counties,  
7 regions, states. The Department of Housing and Urban  
8 Development administered the program at the federal  
9 level.

10 They, from time to time, and from year to  
11 year, would proscribe rather specific goals and  
12 objectives that they would hope to meet. One of those  
13 goals was to institutionalize a state planning  
14 program in each state.

15 Q You may have answered this question,  
16 Mr. Ginman, was the State Development Guide Plan  
17 map and the county map, or were they, intended to be  
18 site specific in any respect?

19 MR. VOGEL: Well, I would object to  
20 the part of the question about the county  
21 map.

22 MR. MASTRO: Let me try one at a  
23 time.

24 THE COURT: Rephrase it.

25 Q Let's take the state map on Page 44.

1 Was that intended to be site specific?

2 A Not my interpretation of the word "site  
3 specific", no.

4 Q How about the county maps?

5 A What do you mean by the county maps?

6 MR. VOGEL: Objection.

7 THE COURT: Do you understand the  
8 question?

9 THE WITNESS: No, what county maps?

10 MR. VOGEL: Right, I don't understand  
11 the question either.

12 Q The ones in the State Development  
13 Guide Plan, for example, Page 133, was that intended  
14 to be site specific?

15 A They are nothing more than a blow-up reflection  
16 of the map on Page 44. They are not intended to be  
17 anything more or less than that. They are one and  
18 the same.

19 Q The same answer you gave for the  
20 State. Is that correct?

21 A Yes.

22 Q To clarify the record, what do you  
23 mean when you hear the term, site specific, what does  
24 that mean to you?

25 A A specific parcel of ground as defined by a

1 metes and bounds description.

2 THE COURT: Would you repeat the  
3 question and response, please?

4 (Whereupon, last question and answer  
5 read by the reporter.)

6 Q How about the location of a river,  
7 a roadway, a steep slope, ridge, are they site  
8 specific details?

9 A I'm not quite sure I understand the context  
10 of the question.

11 THE COURT: Rephrase it.

12 MR. MASTRO: Let me withdraw it,  
13 Judge, I will think about it.

14 A Let's try this approach, Mr. Ginman,  
15 was the State Development Guide Plan intended to be  
16 a land use map?

17 A Well, among planners and specifically, the  
18 municipal land use law, I think a land use map takes  
19 on a very specific connotation in terms of assigning  
20 land use by categories and so forth, industrial,  
21 commercial, residential, residential by what density  
22 and so forth.

23 No, it was not intended to be by that  
24 definition.

25 Q When the State Development Guide

1 Plan map on Page 133 was prepared, was any consideration  
2 given to the upper Raritan water shed?

3 A I'm not sure of the question. There are  
4 water sheds throughout the state. Every piece of land  
5 is in a water shed. I am not sure I understand the  
6 question.

7 Q Was there an awareness, I will  
8 phrase it, was there an awareness that there was a  
9 water shed in the vicinity of the Raritan, North Branch  
10 of the Raritan, the area of Far Hills?

11 A I think that is true for every -- I am going  
12 really to have to answer it in the same way. I think  
13 in every part of the state we were aware that there  
14 was a water shed and the state is divided into a number  
15 of water sheds.

16 Q Was consideration given to those  
17 water sheds when you prepared the guide plan map?

18 A I still don't understand; the map, I don't  
19 know what you mean by "consideration"?

20 Q Was there an influence made for  
21 the water sheds, did you attempt to void them, leave  
22 them in the conservation area, or limited growth area  
23 as opposed to a growth area?

24 A As I stated again, water sheds exist through-  
25 out the state. Water sheds cover every inch of New Jersey.

1           Every inch of New Jersey is in a water shed  
2 somewhere, so I don't understand the question.

3           Q           All right. Let me rephrase it in  
4 this respect.

5                       Was consideration given to the river  
6 and adjacent flood plains?

7           MR. VOGEL: I am going to object,  
8 Your Honor, because we could get into such  
9 detail. The witness has made so clear the  
10 notion that here is a corridor, that within  
11 that corridor they anticipate a certain  
12 amount of growth.

13                      They also anticipated that there  
14 are some lands not suitable, steep slopes,  
15 rivers, whatever. He has defined that in  
16 more specific details of working out what is  
17 environmentally sensitive, shouldn't be built  
18 on, should be left to the counties and the  
19 local governments.

20                      We are really beating that one into  
21 the ground, over and over again, every minute  
22 detail, on every subsubject. I don't know  
23 where we are going.

24           THE COURT: Mr. Mastro, I think all  
25 of that is --

1 MR, MASTRO: The nature of the  
2 objection -- let me -- I will rephrase the  
3 question.

4 MR, VOGEL: Thank you, Judge.

5 MR, MASTRO: I thought it was a  
6 speech.

7 THE COURT: I figured you did, that's  
8 why you made no response.

9 Q Were the issues of rivers and adjacent  
10 flood plains, steep slopes, more for county and local  
11 determination as opposed to state determination in  
12 preparation of the guide plan map?

13 A Well, as I said earlier, we acknowledged and  
14 actually reprinted maps in the report that covered 12  
15 percent or greater steep slopes, as well as wetlands  
16 and so forth and so on.

17 So, to a certain extent, there were some  
18 very gross figures of environmental concern that we  
19 looked at,

20 However, for the specificity of defining  
21 the extent of a flood plain in a specific area, that  
22 would be protected by whatever local means. We left  
23 that to the municipality,

24 Q Was it anticipated in the guide  
25 plan that all growth in New Jersey would be channeled

1 into these growth areas?

2 A No, We assumed that some growth would  
3 continue to occur in the limited growth areas. Because,  
4 historically, it had, and it did not require any growth  
5 supporting infrastructure, not at least at the rate of  
6 development or the extent of development that was  
7 occurring.

8 I think that was equally true for agricul-  
9 tural areas as well, that some minor amount of develop-  
10 ment would continue to occur in those areas.

11 Q Mr. Ginman, would you look at  
12 Page 21 on the State Development Guide Plan.

13 Directing your attention to the  
14 first goal, which is to protect the State's air, water,  
15 wildlife, and land resources from adverse "affects",  
16 I assume it means "effects," of man's activities  
17 and to correct past misuses, could you expand on that  
18 briefly?

19 A Well, in the context of all of the goals  
20 that we were stating, we were acknowledging and  
21 recognizing that, certainly, the protection of the  
22 environment and those things that are necessary to  
23 sustain life and health, water, water supply, air,  
24 and so forth, would have to be protected. That, in  
25 fact, the State had made a major commitment in creating

1 a department for just that purpose.

2 Q Would that apply equally to all  
3 areas designated on the State Development Guide Plan  
4 map?

5 A Protecting the environment?

6 Q The concerns indicated, water  
7 resources, protection of wildlife, would that apply  
8 equally to a growth area as well as non-growth areas,  
9 limited growth areas, or conservation areas?

10 A Well, to the extent feasible and in full  
11 recognition that there were parts of thd State where  
12 development had occurred and had ignored, perhaps,  
13 some of these basic concerns.

14 I think we were satisfied that local decisions  
15 would bear that in mind in their future planning.

16 It certainly was the movement that was  
17 occurring at the time, in the late seventies.

18 Q Would you look at the second goal  
19 on Page 22, which refers to preservation of open  
20 space. Could you expand on that briefly?

21 A Well, again, one of the primary concerns of  
22 the State is to ensure that it has adequate land  
23 set aside for no development whatsoever, parks, and  
24 recreation areas.

25 In fact, we have, the voters of New Jersey,

1 had underwritten several bond issues to the effect,  
2 to assist in the purchase of such lands.

3 We think it is a clear indication of the  
4 State's goals.

5 Q Had your department, or the DCA,  
6 whether it is your office or your predecessor, prepared  
7 any reports that related to open space?

8 A Yes.

9 Q Do you know approximately when  
10 that was done?

11 A Well, one that I can recall was a report  
12 prepared -- we were the staff, to the open space  
13 policy commission. There were several specific reports  
14 dealing with -- this goes back to the preparation of  
15 the horizon plan, outlining recreation needs, I  
16 believe.

17 I understand that we -- our original, the  
18 department which we originally came out of was  
19 Conservation and Economic Development. So, we were  
20 quite sensitive or sensitized and sensitive to that  
21 particular issue.

22 THE COURT: Mr. Mastro, I hope I  
23 don't cut you off in a sensitive area, but  
24 if we can, I would like to break at this  
25 point?

1 Unless you hear to the contrary, we  
2 will resume on Monday morning at nine o'clock.

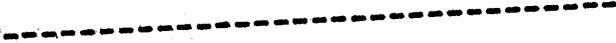
3 Thank you and have a good weekend  
4 everyone.

5 (Whereupon, the matter stands  
6 adjourned at 3:45 p.m.)  
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: SOMERSET COUNTY  
DOCKET NO. L-73360-80

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ALOIS HAUEIS, et als, :  
Plaintiffs, :  
vs. :  
BOROUGH OF FAR HILLS, :  
Defendant. :



C E R T I F I C A T E

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DATED: 11/9/53

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