

CH

General

14-Mar-1980

Deposition of John W. Sinton -

re: expertise in land use development  
ecological impact

pgs = 160

CH000059S

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - MORRIS COUNTY  
DOCKET NUMBER 6001 - 78 PW

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MORRIS COUNTY FAIR HOUSING :  
COUNCIL, et al. , :  
 : DEPOSITION OF:  
 :  
Plaintiffs, : JOHN W. SINTON  
 :  
vs :  
 :  
BOONTON TOWNSHIP, et al., :  
 :  
 :  
Defendants. :  
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STENOGRAPHIC TRANSCRIPT taken in the above  
captioned matter before Sandra M. Trobich, Notary Public,  
Certified Shorthand Reporter of the State of New Jersey,  
at 520 West State Street, Trenton, New Jersey, on Monday,  
February 4, 1980, beginning at 10:00 A.M.

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

STANLEY C. VAN NESS, PUBLIC ADVOCATE,  
By: KENNETH E. MEISER, DEPUTY PUBLIC ADVOCATE,  
For the Plaintiffs.

SACHAR, BERNSTEIN, ROTHBERG, SIKORA & MONGELLO, ESQS.,  
By: DANIEL S. BERNSTEIN, ESQ.,  
For the Township of Mendham and the Township of  
Chatham.

WILEY, MALEHORN AND SIROTA, ESQS.,  
By: JAMES P. WYSE, ESQ.,  
For the Township of Rockway.

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YOUNG, DORSEY AND FISHER, ESQS.,  
BY: JOHN H. DORSEY, ESQ.,  
For the Township of Hanover.

Reported by:  
Sandra M. Trobich  
C. S. R.

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I N D E X

WITNESS

EXAMINING ATTORNEY

PAGE

JOHN W. SINTON

By Mr. Bernstein

3

By Mr. Wyse

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1 (It is agreed by and between  
2 counsel that the reading and signing  
3 of the deposition be waived and all  
4 objections, except as to the form of  
5 the question be reserved until the time of  
6 trial.)

7 J O H N W. S I N T O N, sworn, testified as  
8 follows:

9 EXAMINATION BY MR. BERNSTEIN:

10 Q. First, my name is Daniel S. Bernstein,  
11 and I'll be asking you questions.

12 Will you prefer to be called ~~Mr.~~/Dr. Sinton  
13 since I see you have, I believe, a Ph.D?

14 A. Yes. Whichever you prefer.

15 Q. Okay. Mr. Sinton, first what I'd be  
16 interested in is your academic training, if you  
17 could tell us -- I have a copy of your resume;  
18 could you tell us the work you had done at the  
19 college level and at the higher level as a post-  
20 graduate?

21 A. I went to Stanford University on the under-  
22 graduate level, where I majored in History and  
23 I minored in Geology and political Science. And  
24 from there, I went on to graduate school in History  
25 Indiana University, Bloomington, Indiana, where I

1 received a Ph.D in History. I taught history for  
2 approximately two years and in 1969 I went back to  
3 school, University of Massachusetts to do post-  
4 doctoral work in Resource Planning, at which time  
5 I took courses in organic chemistry and other  
6 resource planning courses, forestry. I then  
7 went into consulting after that.

8 Q. Now, with regard to your undergraduate  
9 training, could you tell me approximately how many  
10 courses you took in geology?

11 A. Four, as I remember.

12 Q. And could you tell us, if you remember, what  
13 those courses entailed, without going into details,  
14 what was the title of the course or what the courses  
15 were about?

16 A. Basic courses in physical geography and  
17 geology and paleontology.

18 Q. Now, with regard to your postdoctoral work,  
19 how long were you at the University of Massachusetts  
20 at this work?

21 A. I took courses for two years there.

22 Q. Did you get a degree?

23 A. No, I did not.

24 Q. Was this a full load of courses, that is,  
25 I don't know whether it's 16 or 32 credits a semester

1 but were you full time occupied as a student while  
2 you were doing this postdoctoral work?

3 A. For two years I was. I was teaching  
4 assistant at the time there, also.

5 Q. And were the courses exclusively in the  
6 area of environmental studies or were there other  
7 endeavors you also studied during these two years?

8 A. My aim at that time was to intergrate the  
9 social science and humanistic background I had with  
10 a straight science background, and so, I took  
11 primarily straight science courses, but the  
12 two or three advance seminars in **anthropolgy**  
13 example. The rest was in science.

14 Q. Would it be fair to say that you have no  
15 degrees either in geology or any other environmental  
16 area of endeavor?

17 A. Yes.

18 Q. Now, what was it from 1969 to 1971 that you  
19 were doing this postdoctoral work, and also teaching  
20 at the University of Massachusetts?

21 A. Between 1968 and 1970 I was doing post-  
22 doctoral work full time as a student, and I began  
23 at that time my consulting. For one, I was a  
24 teaching assistant, that first year.

25 Q. And the second year?

Sinton

1 A. The second year I got a grant from the  
2 Water Resources Center.

3 Q. And you were doing what while you were  
4 studying?

5 A. I was writing a monograph which was the point  
6 of the grant. I received a grant to do a study  
7 of the Charles River which resulted in a monograph.

8 Q. Now, the reason you referred to these two  
9 years as postgraduate work is because they came  
10 after you received your Ph.D in History; is that  
11 correct?

12 A. Yes, that's true.

13 Q. I have a copy of your resume in front of me  
14 and it indicates that in 1969 you were consultant  
15 to the United Nations.

16 A. Yes, I was.

17 Q. What did this work entail?

18 A. This work entailed completing a National Park  
19 and regulation study for the United Nations Develop-  
20 ment program for the island of Jamaica. My part in  
21 that was to assess the natural resources features;  
22 in particular, the ecological aspects of the pro-  
23 posed parks and all of the beaches.

24 Q. Well, at that point you were still doing your  
25 post graduate work at the University of Massachusetts,

1 weren't you?

2 A. Yes.

3 Q. So, I assume that you didn't -- weren't doing  
4 that work in Jamaica itself.

5 A. Yes.

6 Q. Well, how long did this study take for the  
7 United Nations?

8 A. Three months during the summer.

9 Q. How did you happen to get this job working  
10 for the United Nations?

11 A. My advisor at the time, Carl Carlozzi

12 Q. I'm sorry.

13 A. Had asked -- had gotten the job and had asked  
14 me to perform the services.

15 Q. Now, were you in charge of this project?

16 A. I was in charge of the natural resources  
17 aspect of the project.

18 Q. And what did you do as far as completing  
19 your work in Jamaica?

20 A. I, in conjunction with staff at the City  
21 Planning Department, which covers the whole island of  
22 Jamaica, did a resource survey of all the ecological  
23 features on the island of Jamaica.

24 Q. And you were interested in these environ-  
25 mental features from what prospective?

1 A. I don't understand.

2 Q. You say that you charted all the -- did you  
3 ~~map~~ these environmental features?

4 A. Yes.

5 Q. And what was the purpose of you mapping them,  
6 why did they want the various environmental features?

7 A. Well, for planning purposes to give priority  
8 to which areas should or should not be managed for,  
9 say wilderness purposes or for extensive or intensive  
10 or moderate recreation, or which beaches for example,  
11 were most amenable to recreation. That sort of thing.

12 Q. What factors did you believe to be salient for  
13 intensive development of areas in Jamaica?

14 A. I have to think back on the work that I  
15 completed.

16 Well, the primary criterion was ecological  
17 stability that if the stability of a particular feature  
18 was intrinsically unstable -- in other words, if the  
19 ecological processes could be easily interrupted so  
20 ~~that~~ the feature would change processes significantly  
21 ~~when~~ we set that particular area aside for, for  
22 example, wilderness. If the processes either had  
23 already been destroyed or if they were capable of  
24 sustaining intensive use, then they were graded on a  
25 second or third priority.

Q. Could you give me some examples of what would

1 constitute or what constituted, in your study, a  
2 fragile ecological area, what factors that made these  
3 areas fragile?

4 A. Well, there were in particular, we suggested  
5 setting aside the Blue Mountain area and the Cockpit  
6 area, and the forest ecosystem in the tropics which  
7 is really quite different from here, is really quite  
8 fragile. There were very few forests left in  
9 Jamacia or the other islands for that matter, and  
10 they have soils problems which are not similar to  
11 here. The cutting down of the forest, it takes a  
12 long, long time for a tropical forest to regrow. So,  
13 any of those forests which remained in a virgin or  
14 perhaps only been cut two or three times, those were  
15 set aside. The ecological areas in a tropical  
16 forest are very interdependent and the chains can  
17 easily be broken, even though it's a particularly  
18 diverse ecology.

19 Q. Do you remember any other areas that you  
20 found to be ecologically fragile or sensitive other  
21 than the forest in Jamacia?

22 A. The reefs were of particular importance to  
23 us, also. We suggested, for example, setting aside  
24 national parks on several of the reefs, especially  
25 on the north coast.

1 Q. What would the alternative be, was there any  
2 commercial exploitation of these reefs that you were  
3 trying to preclude --

4 A. You bet. They were dynamiting them.

5 Q. And you felt that the reefs were worth  
6 preserving?

7 A. Sure.

8 Q. Were there any other areas that you found  
9 ecologically fragile and you recommended keeping in a  
10 more pristine state?

11 A. Not in a pristine state, no.

12 Q. That you recommended less intensive develop-  
13 ment of?

14 A. On which we suggested less intensive  
15 development?

16 Q. Yes.

17 A. There was several beaches on which we  
18 suggested less intensive development because the  
19 foreshore was very short. In other words, the beach  
20 itself, the sand could have been washed away easily.  
21 There were some riverine areas on which we suggested  
22 less development.

23 Q. Any other areas where you suggested less  
24 intensive development, that come to mind?

25 A. Not that come to mind.



1 Q. Were there any areas where you suggested more  
2 intensive development in Jamaica?

3 A. There were areas in which we allowed more  
4 intensive development, that land would be capable of  
5 sustaining more intensive development. There were  
6 some dry desert-type areas which could have sustained  
7 more, out near Kingston area, and there was some  
8 beaches, some beach areas in which the land near the  
9 beach was capable of sustaining more intense  
10 development than they already had.

11 Q. In determining that these areas could sustain  
12 higher development, what factors did you find were  
13 positively correlated with the ability to sustain this  
14 development?

15 A. Clearly one was the presence of areas  
16 already developed.

17 Q. Would you explain that to us.

18 A. Well, it could be contiguous, for example,  
19 to Kingston itself, where services and infrastructure  
20 were available.

21 Q. Such as?

22 A. Such as, well, there was very little sewerage  
23 at the time, but water supply, for example --

24 Q. You're talking about public water?

25 A. Public water. Transportation --

1 Q. You're speaking of mass transportation, I  
2 assume?

3 A. Yes.

4 Q. You felt they were relevant factors?

5 A. Yes, they were relevant because  
6 any adverse impacts which might come from higher  
7 density development.

8 Q. Other than proximity to existing developed  
9 areas, proximity to public water, and proximity to  
10 mass transportation, are there any other factors that  
11 you found to be positively correlated with developable  
12 areas?

13 A. Yes, those areas which -- on which the natural  
14 vegetation had already been destroyed. The original  
15 vegetation on these islands on the tropics is very  
16 rare, and we held that to be an important criterion.  
17 So, for example, there would be areas which had been  
18 denuded. There were many second growth fields and  
19 what have you, and those would have been -- those we  
20 suggested as areas of more intense recreationable  
21 or for development.

22 Q. Were there any other areas that come to mind  
23 where you suggested more intensive types of develop-  
24 ment or any other factors that would positively  
25 correlate with more intense development?

1 A. Not in Jamaica.

2 Q. Now, is there a difference between an  
3 environmental approach and an ecological approach?

4 All of the questions, if you can't answer  
5 the questions --

6 A. I suppose there is, but I couldn't tell you  
7 exactly tell you what it is. You see, environmental --  
8 an environmental approach tends to be more general,  
9 from my point of view, and it's -- no one has  
10 strictly defined it. An ecological approach applies  
11 a particular science, but an environmental approach  
12 for example, can include hydrology and geology  
13 ecological is primarily a biological -- the relation-  
14 ship of biological processes to other physical  
15 processes.

16 Q. The next project that you worked on, at least  
17 according to your resume, is with the firm of  
18 Carlozzi, Sinton & Vilkitis; is that correct?

19 A. Yes, that's correct.

20 Q. Are you still employed by that outfit?

21 A. Funny you should ask. We're in the process  
22 at this point of destroying the firm.

23 Q. Destroying?

24 A. Disbanding.

25 Q. Hopefully, not down the street in the

1 bankruptcy court.

2 A. No.

3 Q. Now, I assume you were a principal, since  
4 your name appears in the letterhead.

5 A. Yes, that's true.

6 Q. And what did the work of your firm primarily  
7 concern, what was the main thrust?

8 A. Environment resource consultants.

9 Q. And what work would you be doing and for whom?

10 A. Depended on the project. We were among the  
11 very first to do environmental impact statements  
12 when NEPA came out. We began in the early  
13 to do environmental impact statements.

14 Q. Did you do any in New Jersey?

15 A. Not for Carozzi, Sinton & Wilkitis .

16 Q. Well, did you do any IES's for anybody in  
17 New Jersey, you personally?

18 A. Let's see. I contributed -- I have only  
19 contributed to IES for two of the casinos, and that  
20 work was done not for this company, but for Coastal  
21 Plains.

22 Q. CAFRA?

23 A. The Coastal Plains, Incorporated. No, the  
24 CAFRA work I have done resource inventories.

25 Q. Coastal Plains, that's an organization?

1 A. Consulting firm.

2 Q. I see.

3 Q. And the two casinos were?

4 A. One was Caesars, and Resorts was the other one.

5 Q. Now, it indicates here that your firm had done  
6 master plans PUD developments on the East Coast.

7 A. Yes.

8 Q. Did you personally work on the master plans?

9 A. Yes. The main one I worked on -- I did odds  
10 and ends, but the major one that I worked on was  
11 Fairfield, Connecticut.

12 Q. What year would that master plan be?

13 A. 197 -- I don't remember that it was in the  
14 early 70's.

15 Q. And were there any other master plans you  
16 worked on?

17 A. Not in a concentrated effort, no.

18 Q. Would it be fair to say that was the only  
19 master plan that you worked on in your career in  
20 what you referred to as a concentrated effort?

21 A. No.

22 Q. Could you tell the other municipalities  
23 where you worked on master plans?

24 A. The resource inventories were which I have  
25 done in New Jersey, were integral parts of the

1 master plan and the master planning process.

2 Q. You're talking about natural resources  
3 inventories?

4 A. Yes. It formed the basis of the master plan.

5 Q. Good. Tell me the towns where you've done  
6 natural resource inventories, and I assume when you  
7 say "you" that you personally worked on these?

8 A. Yes, I did.

9 These were Galloway Township in Atlantic  
10 County, Port Republic, also in Atlantic County.

11 Q. Port --

12 A. Port Republic.

13 Q. That's a town?

14 A. That's a statement or that's a question?

15 Q. Is that a town?

16 A. Yes.

17 Q. And the other is Galloway, Port Republic?

18 A. Those are the two in which I was the major  
19 investigator.

20 Q. Were there any others that you did where you  
21 played a subsidiary roll?

22 A. Not in the master planning process.

23 Q. And not in the natural resource inventory  
24 process?

25 A. Yes, for the Coastal area facilities review,

1 for the Office of Coastal Zone Management, I did a  
2 series of resource inventories.

3 Q. But these would be the only two that would  
4 affect municipalities directly; I assume you did these  
5 for the municipalities?

6 A. Yes.

7 Q. And didn't do any other consulting work for  
8 municipalities directly?

9 A. No.

10 Q. Do you know when you did these NRI's  
11 for Galloway Township and Port Republic?

12 A. Galloway was 1975 and Port was 1976  
13 that. '76 and '77.

14 Q. '76 and '77.

15 Would you say that the resource inventories  
16 which you prepared for the towns would still be  
17 valid today?

18 A. Yes.

19 Q. And could you tell us what environmental  
20 features you looked at for each of the municipalities,  
21 what did you find to be the salient environmental  
22 features that you investigated?

23 A. Hydrology, water above and below ground, soils,  
24 and vegetation.

25 Q. I assume that soils -- any other factors?

1 A. Those were the primary ones which had to do  
2 with wild life habitat and -- but that was dependent  
3 on the vegetation, and the land use pattern,  
4 human intervention, human interference.

5 Q. Why was the water study important? Why do you  
6 list -- I assume you consider yourself an environ-  
7 mentalist; would that be a fair characterization?

8 A. That's fair.

9 Q. As an environmentalist, why would you look  
10 at the study of the hydrology and study of water when  
11 preparing an NRI?

12 A. Water is critical to life, not only humans  
13 but vegetation and wildlife, as well.

14 Q. I assume you'd look at it primarily from a  
15 potable water source?

16 A. No. In this case, the potable water,  
17 although it's important there, at that time the wells  
18 were in pretty good shape, but we do look at it, of  
19 course, from that point of water quality is what you're  
20 talking about and flood hazard.

21 Q. Those are the two primary areas of  
22 investigation for water?

23 A. Yes, in South Jersey that's -- in most places  
24 that I've done work, of course that's true.

25 Q. And with regard to soils, why are soils



1 relevant?

2 A. That gives you an idea where you can build  
3 ~~and~~ what kind of mitigation you have to take and what  
4 kind of disposal systems can be used or not used.

5 A. You're speaking for effluent, I assume?

6 A. For effluent.

7 Q. And I believe the third feature was  
8 vegetation, you spoke of?

9 A. Yes.

10 Q. And why is that important?

11 A. Well, that's important primarily for human  
12 use, recreation. To some extent it's important for  
13 to a great extent it's important in its relationship  
14 to the soil and water, for holding water or water  
15 retention properties or for absorption of effluent,  
16 for example, and to a minor extent, in most of these  
17 areas to migrate adverse air pollution.

18 Q. I assume, then, that you were advocating the  
19 retention of certain wooded areas?

20 A. Wooded areas?

21 Q. Yes.

22 A. Surely.

23 Q. And for what purpose would you advocate the  
24 retention of these wooded areas?

25 A. In the case of Port and other places, for the

1 economy and for recreation.

2 Q. When you said the economy, would you explain  
3 that to me.

4 A. The wood industry -- much of the industry for  
5 the past 200 years in that area has been based on  
6 wood and good, proper forest management, any forest  
7 management which should be proper. Forest management  
8 is critical to the life style and the economy.

9 Q. Are there any other reasons why you'd want  
10 to retain woods?

11 MR. MEISER: Are you speaking about  
12 that Township or in general?

13 MR. BERNSTEIN: In general.

14 MR. MEISER: I mean, that's so  
15 general.

16 MR. BERNSTEIN: Sure, but they're  
17 good reasons.

18 THE WITNESS: For **aesthetic** purposes  
19 for recreation.

20 BY MR. BERNSTEIN:

21 Q. How about health, for air quality?

22 A. To some extent, depending on where the woods  
23 are and what the situation happens to be for our air  
24 quality. A good deal of work has been done on that,  
25 but nothing conclusive, from my point of view.

1 Q. You haven't worked directly on any master  
2 plans? I have your testimony that you worked on these  
3 two natural resource inventories.

4 A. You mean in New Jersey?

5 Q. Yes.

6 A. Not counting Fairfield.

7 A. Well, that would be Fairfield, Connecticut  
8 correct.

9 A. Right.

10 Q. So, that in New Jersey you hadn't worked  
11 directly on any master plans?

12 A. Insofar as these resource inventories were  
13 an integral part of the master plans, I have worked  
14 on the master plans because I intergrated this into --

15 Q. Did you actually work on the master plans as  
16 well as the natural resources inventories of  
17 Galloway Township and Port Republic?

18 A. No, I did not.

19 Q. Did you work on any other master plan besides  
20 that for Fairfield, Connecticut?

21 A. No, not to the best of my recollection.

22 Q. How would you define a master plan?

23 A. It's a document which guides the general  
24 development of a township over a given number of years,  
25 and includes the elements of transportation, housing,

1 and physical resources.

2 Q. Have you personally worked on any residential  
3 or planned unit development projects?

4 A. Have I?

5 Q. Yes.

6 A. Yes, I have.

7 Q. In what municipalities?

8 A. If my memory serves me right, the only  
9 major planned unit development that I worked on  
10 directly was in Florida in Pasco County, north of  
11 Tampa.

12 Q. And what investigations did you do for the  
13 project?

14 A. I intergrated the ecological, the hydrologic,  
15 and the market analyses for that plan.

16 Q. That's the only residential or planned unit  
17 development that comes to mind that you directly  
18 worked on?

19 A. That I have directly worked. I have reviewed  
20 many others, but that's the one I have directly --

21 Q. Have you reviewed any in New Jersey?

22 A. Yes, as a member of the County Planning Board,  
23 I review them all the time.

24 Q. Oh, you're a member of the County Planning  
25 Board?

1 A. Yes.

2 Q. Which one?

3 A. Atlantic County.

4 Q. And are you a member of the County Planning  
5 Board or an employee of the County Planning Board?

6 A. A member of the Citizen's County Planning  
7 Board, non paid.

8 Q. Well, when you refer to Citizen's County  
9 Planning Board, you mean the appointed position?

10 A. It's an appointed non paid position.

11 Q. When were you appointed by the County Planning  
12 Board, the Atlantic County Planning Board?

13 A. 1978.

14 Q. Did you play any part in the adoption of the  
15 Atlantic County Master Plan?

16 A. As they say in New England, nope, not yet.  
17 We don't have a County plan yet. We're struggling.  
18 But yes, I have played a part in developing the plan.

19 Q. So, what you're telling me is that Atlantic  
20 County is presently preparing a master plan, but  
21 doesn't have one that's already been adopted; correct?

22 A. It's in the working for three years now, yes.

23 Q. And when might we expect the County Master  
24 Plan to be adopted?

25 MR. MEISER: If you know.

Sinton

1 Q. If you have no idea, that's acceptable.

2 A. It's slated for this spring, that's my guess  
3 spring, 1980.

4 Q. Now, you've testified you're presently  
5 working on the County Master Plan, along with the  
6 other members of the County Planning Board?

7 A. Yes.

8 Q. And have you reached an opinion as to where  
9 development should be concentrated in Atlantic  
10 County, in general terms?

11 A. Yes.

12 Q. And could you give us that opinion?

13 A. In Atlantic County, in general, the areas  
14 already urbanized or suburbanized should get more  
15 of the development, which is slated for the County  
16 at this time. There is a corridor in Atlantic  
17 County which is slated for no development, little  
18 or no development.

19 Q. Where is that corridor, if you could advise  
20 us?

21 A. It's in Mullica Township and Hamilton Township,  
22 running north and south, and containing the head-  
23 waters of some of the streams that go into the  
24 Mullica Basin, and in the south and Hamilton Township,  
25 the headwaters of the Great Egg Harbor River.

1 Q. Why would you be recommending little or no  
2 development for these headwaters areas?

3 A. There are a couple of general reasons. One  
4 is that this corridor, in a sense, forms a link  
5 between the northern and the southern Pinelands,  
6 and it's critical that genetic flow can be allowed  
7 to continue between the north and the south in the  
8 Pineland area. Another is that most of it is marshy,  
9 that the water stands on much of it during perhaps  
10 two or three months in the year. Thirdly, it's a  
11 major area of recreation for people throughout the  
12 County, and even in other counties. And from my  
13 point of view, it contains the best areas possible  
14 for cedar for the growth of cedar, which is dwindling  
15 stock of lumber that we have.

16 Q. Would you give me a definition of what is  
17 meant by the term "headwaters."

18 A. It's those areas which are at the very  
19 head of a river system and which are separated from  
20 other headwaters by some physiographic feature.

21 Q. Now, when we speak of a headwater area,  
22 is it only the land that is directly adjacent to the  
23 start of the river that is the headwater or is it  
24 a larger physical area?

25 A. Well, it certainly depends on the region and

Sinten

1 the river.

2 Q. Well, I'm sorry. Did you finish?

3 A. Yes.

4 Q. I didn't want to cut you off.

5 As an environmentalist, if you were to define  
6 the beginning of a river, how would you determine  
7 how big or how small the headwater area was?

8 A. Go up there and look at it.

9 Q. But as a layman, how would you know, I could  
10 see where a river started; how would I know what was  
11 encompassed within the headwater area? How  
12 know how big it was? How could I make measurements?

13 A. Usually one would go to an aerial photograph.

14 Q. And what would you look for that would tell the  
15 area of the headwaters?

16 A. Well, you would look for the drainage pattern,  
17 and changes in vegetation, off the aerial photograph,  
18 which would suggest soil and water changes on the  
19 ground.

20 Q. So that I would look for the areas which  
21 drained into the headwaters as one parameter.

22 The areas which drained into that -- which the  
23 headwater drains?

24 A. Yes, you look for -- in general, of course,  
25 that's true, one looks for water.

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1 Q. Are there any other features that you would  
2 look for in determining what the headwaters area  
3 was, if I wanted to map it out?

4 A. You mean besides the field check?

5 Q. No. Besides check to see what drains into  
6 the headwaters area, what other physical features  
7 would I look for?

8 Q. Soil moisture is the most obvious one, how  
9 much water at a given time of year does that soil  
10 hold, which suggests the amount of water coming into  
11 that area.

12 Q. You're talking about --

13 A. But you can get that, you see, from vegetation,  
14 generally.

15 Q. Or from soils maps, I assume?

16 A. Yes, but -- well, in a general way, again,  
17 yes. But all of that has to be corrected from field  
18 checking.

19 Q. Now, is there anything that makes headwaters  
20 areas, in general, areas that should be looked at  
21 by environmentalists when making up their natural  
22 resource inventories?

23 A. I guess I'm saying, in a long-winded fashion,  
24 what's the significance of headwaters areas from the  
25 environmental stand point?

1 A. Well, we're back essentially, to the water  
2 quality, primarily, and then to some extent, flood  
3 head.

4 Q. And how is water quality related to headwater  
5 areas?

6 A. Polluted water in the headwaters means polluted  
7 water down stream.

8 Q. So, it's best to keep it pure, I assume?

9 A. Well, pure is a relative term.

10 Q. How would you describe it, since you're the  
11 expert and I'm only an attorney?

12 A. Each basin, each body of water has a different  
13 character, it just does not duplicate, water bodies  
14 don't duplicate themselves, they have a character  
15 that is particular unto themselves. So that when  
16 you say pure, that means the character which the  
17 water would have if there were no human interference  
18 whatsoever, and even that character will change from  
19 year to year or from season to season, so that it may  
20 be more acid at one time of the year than at another  
21 or it may carry more suspended solids at one time of  
22 the year or another, and that would be in its natural  
23 state.

24 Q. Well, would it be fair, then, to say that it  
25 would be important not to pollute headwaters?

1 A. Generally, yes.

2 You mean by -- you mean to put sediment  
3 which would otherwise not be there or fecal matter  
4 or whatever?

5 Q. That's right.

6 A. Yes.

7 Q. Now, are you aware of any regulations of  
8 any New Jersey agencies which would control  
9 development or the flow of effluent in headwaters  
10 areas?

11 A. Well, sure, there are standards which the  
12 Division of Water Resources established, and which  
13 are expected to be adhered to.

14 Q. And these are standards for the discharge  
15 of effluent into streams; is that correct?

16 A. Well, these are standards which require  
17 one to keep the stated water quality at a particular  
18 point. It doesn't mean that one can't discharge  
19 into the stream. It just means that one can't  
20 degrade the quality of that particular stream  
21 beyond a set standard.

22 Q. Is this a policy with which you agree?

23 A. In general, yes.

24 Q. And would agree that it would be an expensive  
25 venture to process waste matter to the degree which is

1 legally necessary in order to discharge it into a  
2 headwaters area?

3 MR. MEISER: Is this a specific  
4 question?

5 MR. BERNSTEIN: General question.

6 BY MR. BERNSTEIN:

7 Q. Do you know?

8 A. Depends.

9 Q. Well, have you studied the specifics of waste  
10 treatment and in any of the areas in New Jersey?

11 A. Certainly, in Atlantic County I have. We have  
12 a 208 Plan, and I've reviewed other materials in  
13 other counties. The cost depends on what's needed,  
14 and I don't think -- I can't make a general  
15 statement on the cost of something unless it's,  
16 you know, it has to be specific.

17 Q. Now, with regard to Atlantic County, have  
18 there been any studies by the County Planning  
19 Board in order to provide least cost or least cost  
20 or moderate cost housing anywhere in the County?

21 A. No. There has been a housing study which  
22 has been completed, which has suggested least cost  
23 needs, but there has been no study on any particular  
24 site at any particular area for this, nor has least  
25 cost -- nor has fair share been distributed at this

1 point.

2 Q. Who has studied the housing needs in Atlantic  
3 County, what organization?

4 A. Alan Mallach.

5 Q. Alan Mallach?

6 A. Your friend, Alan Mallach.

7 A. Your friend and mine.

8 Has this been in published form or has this  
9 merely been by way of oral communication?

10 A. It was sent in a diplomatic pouch. It is  
11 available from the -- It's available, I believe it's  
12 available at this point and time. It's finished and  
13 available.

14 Q. I would get it from the Atlantic County Planning  
15 Board, I assume?

16 A. Yes.

17 Q. Are there any studies which are presently being  
18 done to determine where the least cost housing or  
19 low cost housing or moderate cost housing should be  
20 located in Atlantic County?

21 A. The staff is now doing studies on that.

22 Q. Do you, sir, as a member of the County Planning  
23 Board, have an opinion at this point to where that  
24 housing should be located?

25 A. In some specific cases, yes. In other cases

1 no.

2 Q. I'd like to know, sir, where you feel that the  
3 least cost housing would be appropriate.

4 A. I would say in -- there are areas in  
5 Galloway Township and in Egg Harbor Township and in  
6 Hamilton Township, the larger townships in the  
7 western areas, which would, from my point of view,  
8 be given a fair share. The areas in the eastern  
9 part, I'm not -- I mean, I'm sorry, that's in the  
10 eastern part of the County.

11 The areas in the west I have not studied  
12 carefully enough at this time to make a more  
13 definite statement.

14 Q. And can you tell me what it is about the  
15 areas in Galloway, Egg Harbor, and Hamilton that  
16 would make these areas suitable for least cost  
17 housing?

18 A. They are contiguous to other areas which  
19 have been developed, they are near transportation  
20 lines, they are in a vicinity of sewerage lines,  
21 and the soil limitations are not major.

22 Q. Were there any other areas that come to  
23 mind where you could tell us that least cost housing  
24 in Atlantic County would be appropriate?

25 A. Not with assuredness, until I've studied the

1 western sections more carefully.

2 Q. Now about with regard to the cities in  
3 Atlantic City, the only city that comes to my mind  
4 would be Atlantic City, but would you, as a member  
5 of the County Planning Board, find that least cost  
6 housing would be appropriate in Atlantic City?

7 A. Surely it would.

8 Q. And why?

9 A. It would also down beach in Ventnor and  
10 Margate.

11 Q. These are the urban areas, I assume, of  
12 Atlantic County?

13 A. These are the urban areas.

14 Q. And why would least cost housing be  
15 appropriate in these urban areas?

16 A. There is some land which is left in these  
17 areas, but there is very little, and the services are  
18 available and the environmental factors are not  
19 critical.

20 Q. And could you tell us the services which are  
21 available?

22 A. Well, the same services which I mentioned  
23 before, the transportation and communications network,  
24 the infrastructure of sewerage lines, the schools  
25 are available.

1 Q. And the environment has already been affected,  
2 as much as it's going to be affected, by preceding  
3 development; would that be a factor?

4 A. Well, they always build on a dump, I suppose.  
5 Yes.

6 Q. Would it be fair to say that in your work that  
7 we've discussed up until now, both in Jamaica,  
8 in the South Jersey communities, and in your work  
9 as a county planner, that you have advocated more  
10 intensive development in areas which have (A), existing  
11 development; (B) public sewers; (C) public water; and  
12 (D) soils which are able to take the increased  
13 development?

14 MR. WEISER: Can you break that down?

15 THE WITNESS: Let's go through that.

16 BY MR. BERNSTEIN:

17 Q. All right. I will go through it one at a  
18 time, if you prefer. That's a fair comment  
19 Mr. Weiser.

20 BY MR. BERNSTEIN:

21 Q. Is it a fair statement that in your work as  
22 a planner, that you have advocated increased  
23 development in those areas which have public sewers,  
24 as a general rule?

25 A. Well, you see, in Atlantic County that's not



1 necessarily true. In general, I would tend more  
2 to do that. There are some situations I can think  
3 of, for example, in Atlantic County, in Egg Harbor  
4 Township and in Galloway Township where sewer lines  
5 or interceptors would not be available, but where  
6 septic systems or septic management district, for  
7 example, would suffice for some developments. I  
8 would say probably 75 per cent of the time I would  
9 do that, but not every time.

10 Q. So, at least in 75 per cent of the time you  
11 would plan areas of more intensive development  
12 where there was public sewers; is that a fair  
13 statement?

14 A. I think that's fair.

15 Q. Now, with regard to public water, would you,  
16 in general, tend to locate more intensive  
17 development in areas which were served by public  
18 water?

19 A. That really does depend on the water supply.  
20 That very much depends on the water supply that's  
21 available.

22 Q. You couldn't make a general statement with  
23 regard to public water?

24 A. Not on public water.

25 Q. Fair enough.

1 With regard to public transportation, would  
2 you say that as a general rule you would advocate  
3 increased density in areas which were served with  
4 public transportation?

5 A. Again, 50 percent of the time perhaps I  
6 would. Depending on other conditions.

7 Q. That was 50 percent did you say?

8 A. Yes.

9 Q. With regard to existing development, would  
10 it be a fair statement that you would advocate  
11 increased development in those areas which had  
12 existing developments?

13 A. In general, being a few miles, one from the  
14 other, yes, that's true.

15 Q. Now, are there any other general rules that  
16 you can give me so that I would know where you would  
17 advocate increased development? We've spoken about  
18 water, we've spoken about sewers --

19 A. On environmental grounds?

20 Q. Oh, yes, or planning grounds, sir, because  
21 you have done some work in the planning area.

22 There is one other area that you had mentioned  
23 mentioned; in general, would you look for increased  
24 development in areas where the soils had good  
25 bearing quality?

1 A. Surely.

2 Q. And would you explain what type of soils,  
3 without going into the scientific names, where you  
4 would seek to avoid increased development?

5 A. Soils which shift.

6 Q. And why is it important to study -- oh, you  
7 have other types?

8 A. Soils which are water logged, slopes which  
9 are generally over 15 percent soils which are  
10 unstable because of the bedrock structure; I was  
11 born in San Francisco, so anywhere there, for  
12 example. But you see, there are engineering  
13 services to mitigate against some of that. One always  
14 does run some risks, but there are engineering --  
15 one, for example, might build right in the middle  
16 of a swamp, people have stilt villages. It's been  
17 done. Anything can be done, in fact, if one wants  
18 to engineer it.

19 Q. But anything can't be done with regard to  
20 least cost housing.

21 A. I think in general that's true.

22 Q. Now, are there any other factors which you,  
23 as a -- would you refer to yourself as a planner,  
24 as well as an environmentalist?

25 A. I generally don't refer to myself as an

1 environmentalist. I generally refer to myself as an  
2 environmental planner or a resource planner.

3 Q. As an environmental planner, are there any  
4 other factors that you would look for as being  
5 positively correlated with increased development,  
6 other than what we've already spoken about, namely  
7 sanitary sewers, proper soils, existing development  
8 and mass transportation?

9 A. Not that I can think of.

10 Q. Would it be a fair statement that these  
11 would be the principal or primary factors that you  
12 would look for when determining where subsequent  
13 development should occur?

14 A. That's fair.

15 Q. Are you a licensed planner?

16 A. No, I am not.

17 Q. But you teach planning?

18 A. Yes.

19 Q. Have you worked with Mr. Wallace in any other  
20 areas besides the study for your County Planning  
21 Board?

22 A. I taught planning with Mr. Wallace.

23 Q. Well, when you say you both taught  
24 together?

25 A. Yes, certainly, yes.

Sinton

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Q. In Jackson College?

A. Yes. He would say one thing and I would say another. I don't know what with him.

Q. That was your only other involvement with Mr. Mallach on a professional basis?

A. I am working with Mr. Mallach right now on a housing report in Commercial Township which involves the construction of a small number of high density, least cost units in the Fort Curran area.

Q. Commercial Township is where, sir?

A. It's across the river from Jersey River Township.

Q. Is it in New Jersey or Pennsylvania?

A. Yes, it's in Commercial Township.

Q. Commercial Township is in Camden County, is that right?

A. Yes, has there been any papers or studies that have been presented to Commercial Township by you and Mr. Mallach?

A. I gave Mr. Mallach a brief report on three potential areas, three areas of potential interest for construction of these units.

Q. What I would ask, sir, if you would give a copy of your report available to Mr. Neiser so that I can get a copy of what you've done there in Commercial Township would that be possible?

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1 A. Yes, it would.

2 Q. Thank you.

3 In your opinion -- you're an environmental  
4 planner?

5 A. Yes.

6 Q. In your opinion as an environmental planner,  
7 is there a responsibility that all communities have  
8 for their fair share of housing?

9 A. MR. MEISER: That's a legal question,  
10 I believe. I think it's the very question  
11 that the courts have to answer.

12 A. MR. BERNSTEIN: It may be a legal  
13 question, Mr. Meiser, but I've heard planners  
14 as well as our good friend, Mr. Mallach,  
15 answering this question, and indeed in court.  
16 I would be pleased if there were no comments  
17 from the Public Advocate's Experts to what  
18 towns are responsible to have fair share  
19 housing. Now, I don't suppose Mary Brooks  
20 is an attorney, but she tells us in her town  
21 that we need over 1,000 units, and I'm not sure  
22 that expertise Miss Brooks has to be picked  
23 up this answer, but if she can tell it,  
24 then surely other planners can give their  
25 opinion, as well. I'll agree with you that

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ultimately it's the court's decision,  
but that doesn't mean that only the court  
can decide it.

MR. WHEELER: I think you can ask the  
question if you want, but we're going for --  
this person isn't going to testify as to  
every town in the State. He is going to be  
testifying on relative to specific situations  
that you have presented, and we're not  
presenting him to give his opinion on fair  
share and his opinion on any of that. We're  
going way beyond --

MR. WHEELER: But there are two  
responses: one is if we had a report from  
Mr. Sinton -- I'm not chiding him for it,  
I assure he wasn't hired to give a report,  
but if I had a report, I would know  
precisely what he was going to discuss and  
his view points, and there would be a different  
method of interpretation, as I'm sure you  
appreciate, but I don't. Carefully, since  
it is discovery, I have a right to examine  
all the view points so that I can be better  
prepared for cross-examination during the  
trial, and I'm not limited to cross-examining

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...ally on one man, especially since his  
qualifications, apparently, in other areas,  
and I can't tell you how the examination will  
follow. So, I have a right to ask it.  
whether it's relevant or not remains to be  
seen.

MR. WEINER: I object, but you can  
answer the question.

BY MR. BRANSTEN:

Q. The question was before all the objections:  
should all communities provide fair share of housing?

- A. I don't know.
- B. That's a fair question.

Now, in looking at Atlantic County for the  
County Planning Board, as a member of that board, is  
it your opinion that each of the municipalities in  
Atlantic County should provide a proportionate share  
of the housing needs for the County as a whole?

MR. WEINER: Proportionate to  
what.

Q. (Continuing) and opinion of what is needed.

- A. To their fair share as --
- B. In accordance with the law.
- A. You mean within the 1970's?

C. As defined by either LCP or by the County



1 Planning Board or by Tri-State or by any other  
2 planning body or planner.

3 In other words, as a member of the County  
4 Planning Board, do you find that a housing allocation  
5 to each of the municipalities in Atlantic County  
6 would be appropriate?

7 A. Yes, I do.

8 Q. Now, in making that allocation, would  
9 environmental factors play a role?

10 A. Yes, they would.

11 Q. Could you explain to us what role the  
12 environmental factors would play?

13 A. They play a role in citing, choosing the  
14 particular site on which that house should be built.  
15 I think it's obviously unfair to suggest that least  
16 cost housing should be built in flooded areas, and  
17 those people have the least means to put their  
18 houses on stilts.

19 Q. Do you know if all the communities in  
20 Atlantic City have sites which would be appropriate  
21 for least cost housing?

22 A. From my point of view?

23 Q. I can only ask you, sir, from your point of  
24 view.

25 A. From my point of view, yes, they do.

1 Q. Well, when I asked you previously, sir,  
 2 in these depositions about least cost sites, you  
 3 only mentioned the communities of Galloway,  
 4 Egg Harbor, and Hamilton; why is that that you had  
 5 only mentioned these three communities while now you  
 6 tell me that all of the communities in Atlantic  
 7 County have appropriate sites for least cost housing?

8 A. Those communities, these three that I mentioned  
 9 would take the larger proportion of least cost  
 10 housing.

11 Q. And is that because they would be most  
 12 The would provide the most suitable sites?

13 A. Yes, they would.

14 Q. And didn't you tell me that you hadn't  
 15 studied the western portion of the County?

16 A. Not to the extent of the eastern.

17 Q. Can you say definitively that the communities  
 18 in the western part of Atlantic County have sites  
 19 which would be suitable for least cost housing?

20 I know areas in those three townships which  
 21 are suitable.

22 Q. That's Galloway, Egg Harbor, and Hamilton  
 23 Township?

24 A. West of that is Buena, Folsom, and  
 25 Hammonton.

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1 Q. Well, is it your testimony --

2 A. There are sites available. To what extent  
3 they should -- they will have the pressure upon  
4 them to develop is a major question in my mind.

5 Q. Well, as a member of the County Planning  
6 Board, is it your opinion that there should be  
7 zoning for least cost housing in each of the  
8 communities in Atlantic County?

9 A. Typical question. Yes, I think there should.

10 Q. And is it your opinion that each of the  
11 communities in Atlantic County should zone in  
12 a way that the private market could build either  
13 or moderate income housing?

14 A. Yes, I think they should.

15 Q. In your opinion, should the County Planning  
16 Board establish quotas of low and moderate income  
17 housing which --

18 MR. MEISER: It's a legal question  
19 whether they have the power or anything else  
20 to do it.

21 MR. BERNSTEIN: I didn't say that  
22 they had the power. Certainly, we know that  
23 Mr. Mallach can make allocations, we know  
24 that in Middlesex County that Mr. Roach has  
25 not made one, but three sets of allocations,

1 each of which conflict with one another,  
2 and the question that I'm asking this  
3 gentleman, who is a member of the County  
4 Planning Board and has done some work in  
5 the housing and the environmental areas so  
6 that he's especially suited to answer this  
7 question:

8 BY MR. BERNSTEIN:

9 Q. Should your County establish quotas?

10 A. We have argued this, and the jury is still  
11 out, and I can't respond definitively to that.

12 Q. Let me tell you what I'm looking for,  
13 looking for your opinion, sir, since you're  
14 testifying on behalf of the Public Advocate, and  
15 since you're a member of the County Planning Board,  
16 that gives you a unique perspective, and what I'm  
17 interested in is, in your opinion, should the  
18 County Planning Board of Atlantic County set up  
19 quotas or guidelines suggesting allocations of  
20 either least cost housing or low and moderate  
21 income housing for each of the communities in  
22 Atlantic County?

23 A. I would regret either answer, yes or no.

24 Q. Well, you can explain it, give me your  
25 ideas on the question without giving a yes or no.

1 A. The County Planning Board does not really  
 2 have the power to do that, and I would much prefer  
 3 to see townships voluntarily allocate to themselves  
 4 a fair share. From a planner's point of view,  
 5 neither a directive from the County seems workable,  
 6 nor does straight voluntary acceptance seem workable.  
 7 Given the problems at this point in Atlantic County,  
 8 my tendency would be to advise the County Board to  
 9 allocate.

10 Q. And in making that allocation, what I'd be  
 11 interested in, sir, what are the factors that you  
 12 would recommend that the County take into account?

13 In other words we're looking at each of the  
 14 municipalities; what factors would be positively  
 15 be correlated with a -- a more substantial  
 16 allocation of low and moderate income families?

17 A. I think the same factors that we have been  
 18 talking about, which are suitable, which allow for  
 19 suitable development, and that goes, again, to  
 20 water, soils, to infrastructure. Essentially,  
 21 the same criterion we've been talking about.

22 Q. How about proximity to employment, would  
 23 you consider that to be a valid factor for  
 24 increased allocation?

25 A. In Atlantic County?

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1 Q. Or anywhere. Anywhere, sir.

2 A. Well, it depends --

3 Q. All stick to Atlantic County. That's a  
4 fair problem you have there.

5 A. Either proximity to employment or proximity  
6 to public transportation.

7 Q. How about the existing income level of the  
8 residents of the communities, do you feel that that  
9 is a proper standard for establishing a housing  
10 allocation formula?

11 A. No more than existing age structure. 

12 Q. Is that relevant or not relevant?

13 A. No, I don't think it's relevant.

14 Q. How about the amount of industrial or  
15 commercial ratables that a municipality might  
16 have, would that be relevant on a housing allocation  
17 formula?

18 A. I don't think so, not from my viewpoint.

19 Q. Do you subscribe to the view that  
20 municipalities should over-zone for low and moderate  
21 income housing? That is, zone more than is needed  
22 so that the chances that it will build will be  
23 increased?

24 A. I would in some areas, and I wouldn't in  
25 others.

1 A. What would tell us whether we should or  
2 shouldn't over zone for low and moderate income  
3 housing?

4 A. From my planning point of view, from my  
5 experience, the recalcitrance of the town, the  
6 behavior of the particular town.

7 Q. Explain that to me, does that mean if a town  
8 is more recalcitrant and doesn't want low income  
9 housing --

10 A. One would tend to over zone in those areas.

11 Q. You would rather give an extra wallop  
12 towns that were more opposed to low income housing  
13 and a smaller wallop to those that weren't opposed  
14 to it?

15 A. I wouldn't say it's a wallop. I would say  
16 insurance.

17 Q. And that would be based on the past behavior  
18 of the municipal officials?

19 A. In their willingness to accept least cost  
20 housing, yes.

21 Q. Now, we've spoken --

22 A. Certainly in Atlantic County this has been  
23 my experience.

24 Q. We've spoken about least cost housing; could  
25 you give a definition of how you would define the

1 term?

2 A. Housing which can be built at the least cost  
3 available, and that which would include maintenance.

4 In other words, not -- it would not be least  
5 cost simply from the point of view of land is cheap,  
6 but --

7 Q. Now, in your own mind, do you have any  
8 densities that you recommend as being required in  
9 order to reach least cost housing, and start with  
10 Atlantic County because you're presumably more  
11 familiar with Atlantic County than the other areas  
12 of New Jersey. Can you give us any guidelines  
13 to what would constitute least cost housing in  
14 Atlantic County?

15 A. In an area like Atlantic City, it might be  
16 as high as 20 per acre.

17 Q. And how about in --

18 A. Per garden apartments or whatever. And in  
19 the -- on the mainland towns, it would --

20 Q. Could you give me the names, because you  
21 mentioned mainland towns to us up here it doesn't  
22 always register.

23 A. These are the towns that are across the  
24 bay on the mainland, the island being called off -  
25 shore, Absecon, Northfield, Linwood, Pleasantville,



1 Somers Point, those are the mainland area. A  
2 density of between perhaps ten and 14, ten and 15,  
3 usually generally fits suburban areas, and I  
4 think the density for least cost housing in areas  
5 such as Egg Harbor or Galloway could be quite low,  
6 perhaps six, six or eight.

7 Q. How about --

8 A. But again, I would modify that because it's  
9 possible they could be clustered, for example, so  
10 that the net density would be comparatively low.

11 Q. Such as?

12 A. In some areas, perhaps four, four or five.

13 Q. Now, how about in the western part of the  
14 County, what would least cost housing be out there?

15 A. In the western portions, my tendency would  
16 be to give them perhaps the suburban figures of  
17 ten to 14 or ten to 15, the reason being that they  
18 are under suburbanization process from the Delaware  
19 Valley area, just as the mainland towns are under  
20 the same, similar pressures from their offshore  
21 islands, and the character of the township and the  
22 amount of land available in those towns suggests  
23 that figure.

24 Q. What would be the lowest density which would  
25 be consistent with least cost housing anywhere in

1 Atlantic County?

2 A. Well, I'm thinking of perhaps areas of  
3 ~~Hamilton~~ Township or Galloway Township, where land  
4 ~~prices~~ are still relatively low and construction  
5 costs are somewhat lower than other parts of the  
6 State. And perhaps in some of those areas it could  
7 be six.

8 Q. That would be in your opinion, the lowest  
9 density that would be consistent with least cost  
10 housing in Atlantic County?

11 A. Yes.

12 Q. Now, are there any parts of Atlantic ~~County~~  
13 where the soils have severe limitations as to septic  
14 disposal and where there are not public sewers?

15 A. Yes, there are many areas.

16 Q. And what might be the lowest density which  
17 would be consistent with least cost housing in these  
18 areas.

19 A. Depends on the soil problem.

20 Q. Assume that there are areas where you would  
21 require large lots because of the septic limitations;  
22 is that correct?

23 MR. MEISER: You're assuming use of  
24 septic, no public sewer, no nothing?

25 MR. BERNSTEIN: Thank you for making

1 that clear.

2 BY MR. BERNSTIN:

3 Q. I'm **supposing** an area where you have no  
4 **public** sewers and where you have a severe septic  
5 limitations as shown from the soil maps, can you tell  
6 us what zoning, what would be the largest size lot  
7 which you recommend for these areas?

8 A. Where the depth to ground water -- this is  
9 the usual problem, where the depth to ground water  
10 is not greater than a foot and a half, I would  
11 suggest one acre zoning.

12 Q. Are there --

13 A. Above that -- that's between, say, a foot  
14 and foot and a half. I would suggest that's  
15 essentially in line with the Pinelands Commission,  
16 for example.

17 Q Are there any areas of Atlantic County that  
18 would require more than one acre zoning, where there  
19 is a lack of public sewers and where there are  
20 **severe** soil limitations, or would one acre be the  
21 **maximum** that you would need anywhere in Atlantic  
22 County to have a home run septic system?

23 A. There are areas which drain internally.  
24 In other words, they don't go into a river system,  
25 which are called sponges, and which little or no

1 development ought to be -- at the most, five acre --  
 2 I mean at the least, five-acre lots because of the  
 3 tendency to pollute well water.

4 Q. I assume that where you have severe septic  
 5 limitations that you would be especially careful in  
 6 those areas where the person not only did not have a  
 7 sanitary sewer, but where the person also relied on  
 8 wells?

9 A. That's true, with this one modification, and  
 10 that is where the well goes, what aquifer that person  
 11 is tapping.

12 In other words, it could be an aquifer

13 Q. Below where the effluent flows?

14 A. That's right.

15 Q. But if there is an interrelation between the  
 16 septic system and the water supply in the well, one  
 17 would be very careful about the proper insulation of  
 18 the system, I assume?

19 A. That's true.

20 Now, as an environmental planner, could you  
 21 look at the zoning ordinances of municipalities, and  
 22 merely by looking at the zoning ordinances, tell if  
 23 that particular community precluded least cost  
 24 housing?

25 MR. MEISER: Do you understand the

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1 question?

2 THE WITNESS: Yes.

3 I have never looked at zoning ordinances  
4 from solely that point of view, but I believe I  
5 could.

6 Q. Well, wouldn't you know the environmental  
7 factors and the development factors of a town before  
8 just --

9 A. Yes.

10 Q. -- Looking at the ordinance in a vacuum?

11 A. Sure, sure you would. I would imagine  
12 that material would be included, of course.

13 Q. But what I'm asking, sir, as a hypothetical  
14 question, could you or any planner or any  
15 environmentalist merely look at a zoning ordinance  
16 and not look at anything else and tell that  
17 community that it was precluding least cost housing?

18 A. No. I don't believe they could.

19 Q. Tell what you feel would have to be examined  
20 as well as the zoning ordinances in order to tell  
21 if a community was precluding least cost housing.

22 A. If my understanding of the law is proper,  
23 one would certainly have to know the area in which  
24 the township was. And the master plan materials  
25 which would -- which should -- which would have to

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1 to, by law now, include all the environmental data.

2 Q. As a planner, even if there were not a legal  
3 mandate, you would want to know the environmental  
4 information and the regional information before  
5 making an opinion as to whether or not the town  
6 precluded least cost housing, wouldn't you?

7 A. Yes, I would.

8 Q. And in your opinion, this information would  
9 be needed by any planner in order to make an  
10 educated opinion?

11 A. Yes.

12 Q. How would you, sir, define the term "Least  
13 Cost Housing"?

14 MR. MEISER: I believe this is the  
15 second time you asked that. Do you want him  
16 to read back his previous answer?

17 MR. BERNSTEIN: One of the advantages  
18 we are entitled to ask a question, I think,  
19 on more than one occasion. I don't believe  
20 there is any preclusion to that.

21 MR. MEISER: Do you want to give  
22 your answer again?

23 THE WITNESS: That housing which  
24 cost the least in terms of not only capital  
25 input, but maintenance.

1 BY MR. BERNSTEIN:

2 Q. Now, would least cost housing be the same in  
3 South Jersey, that is where you come from in Atlantic  
4 County, as it would be in Morris County?

5 A. You mean in character or in price or cost?

6 Q. In character and in density and in type.

7 A. In some areas, I think it would. In  
8 suburban areas, I think it probably would, and  
9 rural areas it may not.

10 Q. Have you looked into the situation in  
11 Morris County so that you can make an opinion as to  
12 what would constitute least cost housing in the  
13 various defendant municipalities?

14 A. Not all of them, but I believe I could make  
15 some general comments which might be modified at a  
16 later time.

17 Q. Could you tell me what general comments you  
18 could make, and if you could name the defendant  
19 municipalities, I would appreciate that.

20 MR. MEISER: Off the record.

21 THE WITNESS: I could.

22 MR. BERNSTEIN: Wait. While  
23 Mr. Meiser is out of the room, it's not fair  
24 for you to talk about the answer.

25 Unless you're saying you don't need

1 the map --

2 THE WITNESS: No. I'd like to go  
3 to the bathroom.

4 MR. BERNSTEIN: Fine.

5 (Whereupon, a short recess was taken)

6 BY MR. BERNSTEIN:

7 Q. Mr. Sinton, do we have in front of you a map  
8 showing the geographical location of each of the  
9 municipalities in Morris County which is taken from  
10 the Morris County Master Plan?

11 A. Yes.

12 Q. And when we had stopped at the break I asked  
13 you if you could recommend densities that would be  
14 consistent with least cost housing for the various  
15 communities in Morris County which are the defendants  
16 in the present lawsuit. And I believe you could --  
17 you indicated that you, in a general way, could give  
18 us densities that you felt would be appropriate.

19 A. I might suggest perhaps for one or two places,  
20 and this spaced on later modification of my general  
21 idea at this point in time.

22 In other words, not holding myself absolutely  
23 on these numbers at this point in time, and based  
24 on future work.

25 Q. Well, when you say "future work", would that



1 entail independant study or the review by yourself  
2 of the municipalities, expert reports?

3 A. It would include both.

4 MR. BERNSTEIN: I would have a  
5 question for Mr. Meiser as to the extent of  
6 Mr. Sinton's work, since I understood that he  
7 would be merely rebuttal, that is reviewing  
8 our reports and commenting on them rather than  
9 doing independant work.

10 MR. MEISER: Well, to the extent that  
11 he determines that it's necessary to see the  
12 situation that is being critiqued on, the  
13 starting point is going be those reports.  
14 If it's professional judgement, he cannot  
15 evaluate those reports without doing some  
16 checks, some investigation, and it's going  
17 to be necessary for him to do that, but his  
18 starting point will obviously be the reports  
19 in the municipalities which has been submitted  
20 to us and their supporting documents.

21 MR. BERNSTEIN: In your opinion,  
22 Mr. Sinton would not be restricted to merely  
23 a critique of the reports, but could do work  
24 on his own which was brought upon after a  
25 review of the reports; is that correct?

1  
2 MR. MEISER: If it's necessary in  
3 his professional ability to make a decision  
4 or a determination or an evaluation, that is  
5 what he is being retained for, he'll do  
6 whatever is necessary in his judgement to  
7 carry that out. I'm not going to tell him  
8 how he prepares --

9 MR. BERNSTEIN: The reason I asked  
10 you is that I'm not sure that that wouldn't  
11 go beyond what Judge Muir had ordered with  
12 regard to the discovery procedure, but I  
13 leave that to Judge Muir rather than to  
14 Mr. Sinton. I just wanted to clarify my  
15 own thinking the public advocate's position  
16 with regard to rebuttal witnesses.

17 BY MR. BERNSTEIN:

18 Q. Could you give us your present thought  
19 **processes,** Mr. Sinton, as to where least cost  
20 **housing** would be appropriate in Morris County and  
21 **at what densities.**

22 A. I can comment generally only on three townships  
23 of which I have, at this point in time, a passing  
24 knowledge.

25 Q. Which are?

1 A. Which are Mendham, and Chatham Township,  
2 and East Hanover.

3 Q. How did you happen to pick out these three  
4 towns?

5 A. They looked interesting.

6 Q. No. Was there any suggestion to you that  
7 these three towns would be the ones to pick?

8 MR. MEISER: They were the first  
9 depositions that were taken, he gave us some  
10 assistance in preparing question for  
11 depositions.

12 MR. BERNSTEIN: I see. The reason  
13 I asked is because we have East Hanover and  
14 Mendham and Chatham represented here today.

15 MR. DORSEY: I am East Hanover.

16 BY MR. BERNSTEIN:

17 Q. Can you tell me with regard to Mendham  
18 Township what work you did?

19 A. I have reviewed some of the expert reports.

20 There was one expert report, as I remember, on

21 Mendham which I have reviewed, and I believe

22 looked at the master plan for Mendham, as well as  
23 the survey, and --

24 Q. And did you make any written comments as to  
25 your review?

1 A. No, I did not.

2 Q. Did you give an oral report to the Public  
3 Advocate's Office?

4 A. Yes, I orally reported to Mr. Meiser and  
5 Mr. Onsdorss.

6 Q. Can you tell me what you found in reviewing  
7 these documents, since I have special interest in  
8 Mendham Township, representing that municipality?

9 A. Mandham is the least clear in my memory.  
10 The work I did was about three weeks, but --

11 MR. BERNSTEIN: Before you respond  
12 I believe the Public Advocate's Office had  
13 copies of whatever reports I submitted to  
14 them; would it be easier for you and would  
15 you be clearer if I deposed you as to  
16 Mendham and Chatham Townships after lunch  
17 when you had a chance to review those reports,  
18 or would you prefer that there be another date  
19 for depositions when myself and the represen-  
20 tatives of East Hanover would have the  
21 opportunity to interrogate you after you had  
22 a few days in which to review the reports  
23 and refresh your recollection? Which would  
24 be preferable from your standpoint?

25 This could be off the record, I

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1           guess, at this point.

2                           (Whereupon, an off-the-record  
3           discussion was held.)

4 BY MR. BERNSTEIN:

5 Q.       Let me ask you, Mr. Sinton, can you tell us  
6 all the towns that you've looked at in your capacity  
7 as a witness for the public advocate?

8 A.       I've looked at Washington Township, Mendham  
9 Township, at Morris Township, at Chatham Township,  
10 at East Hanover Township, at Kinnelson, and Boonton.

11                           MR. DORSEY: Township or town

12                           THE WITNESS: Township.

13 BY MR. BERNSTEIN:

14 Q.       Now, we have Mr. Dorsey who is here repre-  
15 senting Hanover Township and he's specifically  
16 interested in if you've made any investigation of  
17 Hanover Township.

18 A.       I have not.

19 Q.       And Mr. Bush is here and his firm represents  
20 East Hanover, and your answer was you did investigate  
21 East Hanover?

22 A.       Briefly, yes.

23 A.]      And Mr. Vyse is here representing Rockaway, and  
24 I guess your answer is you have not done anything on  
25 behalf of investigating Rockaway; is that correct?

MR. WYSE: Rockaway Township.

THE WITNESS: Rockaway Township.

BY MR. BERNSTEIN:

Q. Now, what is your purpose in reviewing the studies of the towns? Was it in order to find what you considered to be errors or inconsistencies in either the master plan or the reports of various experts?

A. Part of my work was directed toward finding inconsistencies in the master plan and the experts' reports.

Q. And you testified, I believe, that you looked at the master plan?

A. Yes.

Q. And what did you find to be relevant to this case in the Master Plan?

A. I'd have to review it again. I couldn't --

Q. Would that be true of each of the documents from Mendham Township?

A. For Mendham, yes, that would be true.

Q. How about with respect to Chatham Township?

A. I recollect more of Chatham Township, and have spent similar time on Chatham.

Q. Would it be a fair statement that with regard to Chatham Township you would need to

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1 recollect the documents to give me a full perusal  
2 of your thought ~~processes~~ up to this point, or do  
3 you have almost complete recollection of the  
4 comments that you raised with regard to Chatham  
5 Township?

6 A. I would prefer to review those documents.

7 Q? Would that be true of the other municipalities  
8 that you named, that you don't have complete recall  
9 of the documents which you studied?

10 A. That's true.

11 Q. That's fair.

12 Now, to get back to the question that I had  
13 initially asked you before we went into these  
14 municipalities that you had studied, you had some  
15 discussions as to proposed densities which you felt  
16 would be appropriate for least cost housing in some  
17 areas of Morris County.

18 A. Yes.

19 Q. Can you tell us your thoughts on least cost  
20 housing with regard to the communities in Morris  
21 County which you studied?

22 A. My sense was for Mendham, Chatham, and  
23 East Hanover, that the amount of available land and  
24 type of land which was available and the present  
25 character of the township, that approximately

1 between ten and 15 per acre would be viable.

2 Q. And that would be for what?

3 [REDACTED] For what?

4 [REDACTED] For what type of dwelling units?

5 A. For garden apartments or town houses. Less  
6 for town houses, perhaps ten to 12 for town houses,  
7 12 to 14 or 15 for garden apartments.

8 Q. Now, did you presuppose in your investigation  
9 that the municipalities has sewer capacity that was  
10 available for these types of structures?

11 A. I have not done enough specific work either  
12 on the availability of the sewage or on the viability  
13 of septic systems or packaged treatment plants or  
14 detention or retention plants or whatever.

15 Q. And you wouldn't know about the public water  
16 for these communities, as well, would you?

17 A. Not to my recollection. Not to my  
18 recollection. There is, I understand, a water  
19 supply master plan, but again, I would have to  
20 [REDACTED] those documents.

21 Q. What I'd be interested in, sir, is wouldn't  
22 you need to know the capacity of a piece of  
23 property to assimilate effluent before reaching  
24 a conclusion as to how much density that area  
25 should support presupposing there are no public



1 sewers?

2 A. And barring mitigating -- barring alternative  
3 technology.

4 Q. Barring alternative technology.

5 A. Yes, you would. But I don't like to bar  
6 alternative technology.

7 Q. Do you know what the added cost features  
8 would be for a private sewer system or a package  
9 plan in Morris County in general, and in any of the  
10 defendant municipalities in particular?

11 A. No, I do not.

12 Q. Do you have any idea on what the cost of  
13 package treatment plan would in terms of each  
14 additional dwelling unit which would be generated?

15 A. No, I have not made any cost effectiveness.

16 Q. Have you ever done any of these studies for  
17 any municipalities or for any projects?

18 A. Only in conjunction with the Atlantic County  
19 Planning Board.

20 Q. And could you tell us --

21 A. The 208 Planning Program.

22 Q. What have you found would be the cost of  
23 constructing a package treatment plant per unit,  
24 per dwelling unit in the studies for your own  
25 Atlantic County Planning Board?

1 A. Rather than give you a wrong answer, I will  
2 need to go back to review the notes and the costs  
3 studies that have been made.

4 Q. Now, you just advised me that as to East  
5 Hanover, Mendham Township, and Chatham Township that  
6 there were certain densities that you had recommended;  
7 is that correct?

8 A. At this time.

9 Q. Now, are there any other communities that you  
10 feel qualified to give a preliminary opinion on as  
11 to an estimate of reasonable densities for least  
12 cost housing?

13 A. No, I don't.

14 Q. Now, did you find that there was a similar  
15 situation in Chatham Township, Mendham Township, and  
16 East Hanover from a planning and environmental  
17 standpoint that would warrant similar densities?

18 A. As I have seen from the reports and from  
19 some short visits to Mendham, my sense is that they  
20 have, in essence, the same suburban or exurban  
21 character.


22 Q. Would you explain what you mean by the term  
23 "exurban".

24 A. People moving out of the cities into places  
25 in the county.

Sinton

1 Q. What's the difference between suburban and  
2 exurban?

3 A. Well, exurbanites tend to live in different  
4 types of developments, either single -- some of them,  
5 perhaps become county squires or in areas which  
6 they recreate as small, urban centers as opposed to  
7 the general concept of a suburban sprawl.

8 Q. Well, I don't understand how exurban is  
9 different from suburban. If you could tell me what  
10 would be different in exurban that would be different  
11 in suburban as far as housing goes, planning,   
12 what are the different attributes?

13 A. Well, let me think of a good example of an  
14 exurbanite community. It's easier to deal with  
15 South Jersey in this respect.

16 Q. Well, could you give us a northern Jersey  
17 because while your focus may be more South Jersey,  
18 everyone in the room besides yourself is from  
19 North Jersey, and we really lack familiarity with,  
20 in fact, some of the names of some of those towns.  
21 Or if you could give me attributes without getting  
22 to specific municipalities, I want to know how --  
23 are they less developed than suburban communities?

24 A. They can be, but not necessarily. A village  
25 center, such as the center of Mendham --

1 Q. Brookside?

2 A. It that what -- I don't know. Again, my  
3 knowledge of --

4 Q. That's exurban?

5 A. The central part.

6 Q. That's what I'm asking, is that to you  
7 exurban?

8 A. Yes, that is to me an exurban.

9 Q. How about the housing, is that what you  
10 could consider exurban, with large lots and homes  
11 well spaced, is that exurban?

12 A. That tends to be, that's one type.

13 Q. And the fact that it has low density  
14 development, does that make it exurban?

15 A. Yes, that tends to be an exurban character-  
16 istic.

17 Q. The fact that there is no industry in  
18 Mendham, is that a characteristic of an exurban  
19 community?

20 A. No, not from my point of view.

21 Q. What are the other attributes that would be  
22 exurban? Would the lack an infrastructure be an  
23 observant attribute?

24 A. No. The need for an infrastructure and  
25 community -- strong community center, on the other

1 hand. The lack of central -- of a central area  
2 tends to be a suburban characteristic.

3 D. Well, suburban, I assume, would be more  
4 densely developed in general, whereas in exurban  
5 areas you only have small centers of development,  
6 pockets if you will.

7 A. No, well, what would the difference in  
8 densities be?

9 A. The difference -- it's in the difference --  
10 there would be quarter-acre lots, while an exurban  
11 village center would be much more highly concentrated.

12 Q. What do you find in the balance of the town  
13 the other portion of the exurban --

14 A. Less densely developed.

15 Q. And is there a reason for that?

16 A. Aside from the wishes of the residents --

17 Q. Are there any guidelines or rules that you  
18 recommend with regard to densities of development  
19 in centers and in the outlying areas of exurban  
20 communities that we in Morris County might be able to  
21 relate back to our client communities?

22 A. I certainly couldn't give a response. The  
23 reason I laughed is because I am certainly in no  
24 position to plan for these communities at this time.

25 In other words, to make -- to tell any

1 community at this point and time what they should  
2 or should not have, since I was not their planner --  
3 Q. What would you have to do in order to be able  
4 to plan for these communities and be able to make  
5 recommendations as to density?

6 A. I think go through the same planning process  
7 that planner go through, take the physical  
8 characteristics and --

9 Q. Would you do that yourself, physically go  
10 into these various communities.

11 A. Sure, I would.

12 Q. And I assume this would -- how long would  
13 this take -- you would feel competent as a planner  
14 to made recommendations to the Public Advocate  
15 as to the type of densities and the numbers of  
16 units each town should have, how much time would it  
17 take you per community before you felt competent with  
18 your recommendation?

19 A. That's variable. It would depend a lot on  
20 the help that is available, the staff one had, the  
21 cooperation from the community.

22 Q. Well, I'm particularly looking from the  
23 vantage point of this particular litigation,  
24 assuming it was you John Sinton, who was to do the  
25 work, without staff, but you personally, in any of

1 towns -- we'll take Mendham since Mendham Township  
2 I happen to have an interest in that one, how much  
3 time would it take you to make the studies that you  
4 felt were appropriate and do the investigations that  
5 you felt were needed before you could recommend to  
6 either the Public Advocate, the Township itself,  
7 or to me the amount of least cost housing which was  
8 needed, the sites where it was appropriate, and the  
9 amount of housing which the municipality could  
10 support?

11 A. Well, I'm not prepared to state the amount of  
12 least cost housing necessary for any particular  
13 township, and I would not be in that position nor  
14 would I put myself in that position. In order to  
15 chose sites for a suggested number of least cost  
16 housing, that would, in my mind take me about a week  
17 for each town.

18 Q. How about the densities, how long would it  
19 take you to make that study?

20 A. The same, that would be included.

21 Q. That would be a week, full working on each  
22 town? In other words --

23 A. For me alone, yes, it would.

24 Q. What was your assignment from the Public  
25 Advocate's Office, what will you be doing?

1 A. I was asked to respond to testimony which  
2 defendants gave, to review that testimony, and to  
3 suggest critiques of the testimony, and responses  
4 to it.

5 Q. This would be in oral or written form?

6 A. Both oral and written form.

7 Q. Did you make any written comments as of yet?

8 A. No. I have made only oral comments.

9 Q. And your written comments would be made --

10 A. There is a deadline set in February, I  
11 believe.

12 Mr. Meiser, is that true?

13 MR. MEISER: Well, part of his dead-  
14 line is going depend on the pre-trial  
15 schedule as to whether the judge is going to  
16 require when your things are going to be  
17 submitted, when there is going to be  
18 responsive written actions to that.

19 BY MR. BERNSTEIN:

20 Now, you had testified, I believe, that you  
21 visited Mendham Township?

22 A. Yes.

23 Q. What date or dates was that?

24 A. In the fall of 1978, would have been in  
25 October, and summer of 1978, about June.



1 Q. There were three times?

2 A. Twice.

3 Q. And do you remember what streets you traveled on?

5 A. No.

6 Q. Did you go alone or with someone else?

7 A. I went with someone else.

8 Q. Someone else was --

9 A. Student of mine who has since graduated.

10 Q. His name would be?

11 A. Egbert Debbert.

12 Q. He is from?

13 A. Mendham.

14 MR. BERNSTEIN: Off-the-record.

15 (Whereupon; an off-the-record  
16 discussion was held.)

17 THE WITNESS: The purpose was not  
18 for this suit.

19 BY MR. BERNSTEIN:

20 Q. Oh, it wasn't for this suit?

21 A. No, it was not.

22 Q. It was a social visit?

23 A. Yes. And I may not ever visit again.

24 Q. And could you tell us, do you remember any  
25 of the streets you traveled on, the names of the

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1 streets?

2 A. No, I don't.

3 Q. How did you know when Mendham Township started  
4 the adjoining towns left off?

5 In other words, Mr. Debbert was the --

6 A. Debbert. Egbert Debbert.

7 Q. Did your student tell you, hey, Professor,  
8 we're in Mendham Township now, and did he say, we're  
9 leaving Mendham Township for Chester? When did you  
10 know you were physically in Chester, physically in  
11 Randolph, physically in Mendham Boro?

12 A. We never left Mendham. We simply traveled  
13 primarily by foot.

14 Q. You were hiking?

15 A. Yes, hiking and going on some of the back  
16 roads.

17 Q. How do you know that you were only in  
18 Mendham Township and not in the adjoining towns?

19 A. Because he told me that we were in Mendham  
20 this whole town.

21 Q. Can you tell us what you saw during your hike?

22 A. What did I see? I saw the center of town,  
23 the town center.

24 Q. And what was in the town center?

25 A. Stores like one sees in small towns.

1 Q. Such as?

2 A. Grocery stores, general store, church --

3 Q. When you say a grocery store, was this a  
4 supermarket?

5 A. No, it was a small --

6 Q. A small grocery store?

7 A. A small grocery store.

8 Q. You said there was a grocery store; what else?

9 A. There's a church and a general store.

10 Q. Any other stores that you remember?

11 A. I don't remember other stores. I t

12 was a **tobacconist** or something of this sort.

13 Q. So, you remember there was a grocery store,  
14 a general store, and a tobacco store; is that all  
15 that you recollect?

16 A. That I remember, yes.

17 Q. Were there other stores that were there that  
18 you just don't happen to remember?

19 A. Yes, there were.

20 and there was a traffic jam at the time, as  
21 I remember, also.

22 Q. When you say a traffic jam, you're speaking  
23 of three or four cars?

24 A. No, it was the commuting traffic --

25 Q. You don't know which road this was on?

1 A. No. I would have to go back and look at it.  
 2 I would remember it from going back to that cross-  
 3 roads.

4 Q. So, you recollect three stores and a church?

5 A. Yes. There were other stores; I don't  
 6 recollect them.

7 Q. Do you remember anything else beside houses  
 8 in Mendham Township?

9 A. Open space. The purpose of the trip was for  
 10 fishing, primarily.

11 Q. Was there a light at this intersection that  
 12 you're speaking of?

13 A. Yes, there was.

14 Q. And was it a blinking light or a light with  
 15 red flash green, that stop and start traffic?

16 A. I don't remember.

17 Q. Now, were there any impressions of Mendham  
 18 Township that you have as a result of this trek?

19 A. Sure. I like the town.

20 Q. And tell us why you like it?

21 A. It's a pretty place, it has all the amenities  
 22 that one looks for in a town in Morris County.

23 Q. Such as?

24 A. Such as fishing, and I suppose there is  
 25 hunting, and as a matter of fact I know there is

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1 hunting and a nice landscape, probably a sense  
2 of community.

3 Q. Attractive homes?

4 A. Attractive homes.

5 Q. Now, did you notice, as a planner, any of the  
6 streams in Mendham Township?

7 A. I fished one, yes.

8 Q. And do you know the name of that stream?

9 A. Part of Raritan.

10 Q. And do you know whether or --

11 A. It was a branch, a headwater stream,  
12 stream.

13 Q. And you're aware that there are headwaters  
14 in Mendham Township?

15 A. Yes, indeed.

16 Q. Now, as an environmentalist, is it relevant  
17 to the planning of Mendham Township that it  
18 contains headwaters?

19 A. Sure.

20 Q. And how is that relevant?

21 A. The same as it's relevant in any other  
22 place, that one should protect the quality of the  
23 headwater streams.

24 Q. And how do you protect the quality of head-  
25 water streams?

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1 A. By limiting development on those headwaters.

2 Q. And when you say limit development, what

3 type of --

4 A. And insuring that they are forested, you

5 know.

6 Q. How would you limit development in the head-

7 waters, would that be through the zoning ordinance?

8 A. I would generally assume, yes.

9 Q. What densities would you, as environmental  
10 planner, recommend for the areas surrounding the

11 headwaters in Mendham Township?

12 A. I'd have to go back and look at those

13 water areas.

14 Q. Would you recommend --

15 A. The densities would be low. But I would --

16 I could not make an of-the-cuff --

17 Q. Could you give us an idea of what you mean

18 by low density? And the reason I ask is that

19 because what I mean and what Mr. Meiser means by

20 low densities may be two different things. So that

21 when you say they would be less, can you give us a

22 range of what you would think at the present time

23 with subsequent study would be reasonable density?

24 A. Well, perhaps one per acre within 100 feet

25 of the stream.

1 Q. Now, did you notice any steep slopes while  
2 you were on your jaunt in Mendham Township?

3 A. Yes, there were some.

4 Q. Did you notice any rock outcroppings?

5 A. Yes, there were some of those.

6 Q. Does that have any significance for a planner,  
7 rock outcroppings?

8 A. Yes, surely.

9 Q. Why is that?

10 A. Suggests less intensive development on those  
11 areas than in other areas.

12 Q. And why would you have less intense develop-  
13 ment there?

14 A. Floods and water quality problems, again.

15 Q. As a general rule, would it fair to say  
16 that you recommend, without looking at anything else,  
17 an acre as a possible density in an area with rock  
18 outcroppings?

19 A. I guess more or less, depending on where they  
20 are and there situation and the adjacent lands.

21 Rock outcroppings are usually part of a larger  
22 region or site, and as a planner, I would look at the  
23 larger area with those rock outcroppings as part of  
24 that site.

25 Q. Now, you talked about alternative technologies

1 with regard to waste disposal.

2 A. Yes.

3 Q. Could you tell us what these alternative  
4 technologies consist of?

5 A. Well, one is a nonstructural one which I  
6 don't think has been used sufficiently and that  
7 would be a septic --

8 Q. Lagoon?

9 A. -- management district, which would allow  
10 for in a particular region, if there were soils  
11 suitable for septic systems, for septic tanks  
12 fields to be located for them in that one area  
13 then say, other areas adjacent, which would not  
14 accept the loading as much.

15 Q. Do you know if this has been done in New  
16 Jersey?

17 A. No. I don't know if it's been carried out.  
18 I do know that there is an ordinance, I believe,  
19 in Hopewell, it's in Hopewell in Mercer County.

20 Q. Hopewell Township or Boro?

21 A. Township. Which has an ordinance to that  
22 effect.

23 Q. How do you know that there is one in Hopewell  
24 Township?

25 A. I read the ordinance awhile ago.

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1 Q. Was that the Board of Health or --

2 A. That was the Township.

3 Q. Was it the Board of Health ordinance or  
4 a zoning ordinance or a development ordinance?

5 A. It was a development ordinance of itself.

6 Q. Was this part of the new development  
7 ordinances which were just adopted of Hopewell  
8 Township, or, within the past eight months?

9 A. I don't know how far it got after that. I  
10 saw a draft of it and I don't know whether it was  
11 passed or not.

12 Q. And that was prepared by --

13 A. I don't know.

14 Q. Do you know if --

15 A. I do know they got help from the Division  
16 of Water Resources on it, but I'm not sure if there  
17 was a consultant -- paid consultant for it.

18 Q. The other types of alternative technology  
19 that you spoke of -- you didn't actually speak of,  
20 that you're aware of.

21 A. There is secondary, regular secondary  
22 treatment for activating sludge and intermitten  
23 sand, filters, and tertiary treatment, various little  
24 black boxes, so-called black box treatment,  
25 separates phosphorous and nitrogen out.

1 Q. Do you consider yourself to be an expert  
2 in the area of effluent disposal?

3 A. No. I consider myself acquainted with the  
4 uses.

5 In other words, I'm not an engineer with  
6 regard to effluent disposal. I understand their  
7 use in planning, and the alternatives that are  
8 available.

9 Q. Would it be fair to say that you're not  
10 familiar with the costs involved in constructing  
11 the alternative types of systems?

12 A. No, I'm not a expert on that. On the  
13 economics of alternative, no, I'm not an expert on  
14 that.

15 Q. And you've never designed these alternative  
16 systems?

17 A. No, I have not.

18 Q. Would it be fair to say that your knowledge  
19 of these systems has been gained through your

20 and which you do as an environmental planner?

21 A. Or as I run into them again on the Atlantic  
22 County Planning Board, as they are in use, whether  
23 they work or not. In other words --

24 Q. And those would be the sole methods that you  
25 acquired any knowledge of these systems?

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A. Yes.

Q. Do you know whether or not it would be feasible to use the alternative technologies in Mendham Township, giving the environmental restraints of that municipality that is feasible from an economic standpoint?

A. I couldn't tell you that.

Q. I assume that you couldn't tell us whether it would be feasible to use alternative systems in any of the municipalities in Morris County.

A. No, I could not.

Q. Do these alternative technologies require larger land areas for their operations?

MR. MEISER: What do you mean by "larger"? Larger than what?

BY MR. BERNSTEIN:

Q. Larger than your conventional --

A. Septic?

Q. No. Your municipal sewer plant.

A. You mean package plants? No, they don't.

Q. How about your --

A. Package plants with land disposal?

Q. With land disposal?

A. No, not necessarily any larger than a

1 municipal plant. Generally smaller. Municipal  
2 plants are quite enormous, many of them.

3 [REDACTED] Do you know if there are any alternative  
4 [REDACTED] systems working anywhere in Morris County to your  
5 knowledge?

6 A. Not to my knowledge.

7 Q. Do you know of any alternative systems  
8 working anywhere in any of the counties in the  
9 northeast metropolitan area which would be, I guess,  
10 the farther south would be Middlesex County?

11 A. Right across the border, Pedminster  
12 AT&T Plant that is doing quite well. [REDACTED]

13 Q. That is a package system, though?

14 A. Yes.

15 Q. Is there any of those --

16 A. You mean -- are you talking about spray?

17 Q. Spray system.

18 A. Certainly Penn State is the most famous of  
19 those that's working, and essentially the same --

20 [REDACTED] Well, Penn State, though, is in Pennsylvania.

21 [REDACTED] But it's the same structure.

22 Q. What I'm interested in is the northeast  
23 New Jersey area.

24 Other than package systems, are you aware of  
25 any alternative systems that have been employed by

1 any one in the Middlesex, Union, Morris, Somerset,  
2 Essex, Hudson, Passaic, I'm not sure what the other  
3 county is, but in that northeast New Jersey area,  
4 are you aware of any of the alternative systems  
5 other than package plants that have been in  
6 operation anywhere?

7 A. No.

8 Q. You mentioned AT & T's facility; do you have  
9 any idea of the cost figures involved in constructing  
10 AT & T Facility?

11 A. No.

12 Q. You're aware of spray irrigation as an  
13 alternative method?

14 A. Yes.

15 Q. Do you know of any spray irrigation facility  
16 in any of the counties that I mentioned in the  
17 northeast New Jersey area?

18 A. Not there, no.

19 Q. And are there disadvantages to the spray  
20 irrigation system?

21 A. You mean there or somewhere else?

22 A. No. Anywhere. Obviously it wouldn't be a  
23 disadvantage there because they're not built, but  
24 are there disadvantages in general to this spray  
25 irrigation system versus panacea?

1 A. Or a placebo.

2 Q. Or a placebo.

3 [REDACTED] es, there are disadvantages.

4 Q. [REDACTED] which would be?

5 A. I think the major one is that it is an  
6 aerosol, and as such it's carried by the wind, and  
7 it may not be healthy for people in a neighborhood.  
8 There are other problems --

9 Q. Such as?

10 A. It works better in the summer than in the  
11 winter. If it's not -- if the site isn't carefully  
12 selected on high enough upland with deep enough  
13 water table, then it tends to mound, and one would  
14 tend to get ammonia and nitrogen counts that are  
15 much too high. There are problems with that system --

16 Q. I assume that not all soils could accept the  
17 spray irrigation system of waste disposal.

18 A. That's true.

19 Q. Do you know of any housing which you would

20 [REDACTED] least cost housing that is built anywhere

21 in the northern -- in the northeastern New Jersey  
22 counties which has been built on alternative systems  
23 of waste disposal?

24 A. Not at this time, I don't.

25 Q. I believe he testified that in three of your

1 municipalities in Atlantic County that you could see,  
2 and I believe one of them was Galloway, although I'm  
3 not sure, that you could see least cost housing being  
4 built at a density of between six and eight units  
5 per acre; is that correct?

6 A. Yes.

7 Q. What I'd like to know, sir, is what distin-  
8 guishes those municipalities in Atlantic County  
9 from the three communities which you studied in  
10 Morris County, namely Chatham Township, Mendham  
11 Township, and East Hanover, where you felt that  
12 appropriate density would be between ten and  
13 dwelling units per acre?

14 A. The cost of the land is clearly one, and --

15 Q. The cost being cheaper, I assume, in South  
16 Jersey?

17 A. Much cheaper.

18 And secondly, there are -- at this point  
19 Atlantic County is undergoing a considerable amount  
20 of change with the new regional system, sewage  
21 system being put in, so there is still, in that  
22 area, large amounts of acreage which is available  
23 close to sewage and transportation lines, which I  
24 have not seen from my brief studies of Morris County.

25 A. In other words, you see far less vacant land

1 in Morris County than you see in Atlantic County?

2 A. Far less cheap, vacant land right near sewage

3 [REDACTED]

4 Q. As a result, that vacant land that you see  
5 Morris County you would prefer to see developed at  
6 a higher density?

7 In other words, what's the relevance of not  
8 seeing cheap land near sewage systems in Morris  
9 County?

10 A. Would you run that through again?

11 Q. Sure.

12 Why is it relevant that there is less cheap  
13 sewerable land in Morris County than there is in  
14 Atlantic County, how is that relevant to density?

15 A. In an environmental viewpoint, it's not  
16 relevant.

17 Q. From a planning standpoint.

18 A. From a least-cost standpoint, if the land  
19 is somewhat cheaper, if you price a piece of land out  
20 of the market, nobody can afford to buy it.

21 Q. So, are you saying with more expensive land  
22 you must get get higher densities in order to make  
23 it least cost housing?

24 A. I would assume that to be true.

25 Q. Now, you're saying that the land in Calloway



1 Township is cheaper, that is the land near sewer  
2 systems, then the land in either Chatham or Mendham  
3 of East Hanover; correct? Isn't that --

4 A. Yes.

5 Q. And wasn't that the justification for lower  
6 densities in Galloway Township and higher densities  
7 in the Morris County communities in order to provide  
8 lease cost housing?

9 A. Yes.

10 Q. Now, can you tell us anything about the land  
11 costs in Galloway Township for an acre of land  
12 proximity to sanitary sewers?

13 A. About between \$2,000 and \$3,000 an acre.

14 Q. And could you tell what the cost of land is  
15 in Mendham Township, Chatham Township, and East  
16 Hanover?

17 A. No. But my assumption is that it is  
18 considerably more.

19 Q. Well, what you're saying is you're  
20 recommending higher densities for our Morris County  
21 communities bases on your assumption as to land cost?

22 A. My original assumption was that those townships  
23 in Morris County which I had mentioned would have  
24 similar characteristics to the mainland towns in  
25 Atlantic County.

1 Q. And it was based on --

2 A. That includes -- yes, I'm trying to go back  
3 to the original -- my original trend of thought.  
4 That includes the price of the land, a character  
5 of the town, and so forth.

6 It occurs to me that if least cost housing  
7 can be provided in an area for six to eight units  
8 per acre, then that is just as suitable to me as  
9 providing least cost housing at ten to 14 units  
10 per acre. The question is whether it can or cannot  
11 be done. And I don't think I made a statement  
12 I would naturally recommend anything in general  
13 although I could be wrong on this, for the townships  
14 in Morris County. I would prefer to have a site  
15 chosen and then attempt to fit whatever that land  
16 is capable of holding on to that site.

17 In other words, if there were areas in  
18 Morris County where least cost housing could be  
19 developed at a density lower than ten acres, I  
20 would --

21 Q. When you say ten acres, you mean --

22 A. -- ten units, I would assume that this would  
23 be satisfactory to all concerned.

24 Q. Why would you prefer to examine Morris County  
25 communities on a site-specific basis rather than to

1 make overall recommendations as to the zoning of  
2 each community?

3 [REDACTED], not in a position to allocate fair share  
4 [REDACTED] township, and my understanding of my work is  
5 that I would be -- I would respond to material that  
6 would come in ~~vis-a-vis~~ fair share allocation, and  
7 I'm not, therefore, willing to allocate any number  
8 of units to particular township or other area.

9 Q. As an environmental planner, which do you  
10 feel is a preferable approach; (A) to allocate a  
11 specific number of least cost housing units [REDACTED]  
12 municipality or (B) to chose sites which are [REDACTED]  
13 for least cost housing, and then to determine a  
14 resonable density for those sites?

15 A. You mean which is more important or -- it's  
16 a kind of question which is more important, the  
17 social factor or the environmental factor, I think  
18 is essentially it. That is a debate that goes on  
19 and on, you know, should we adhere strictly to  
20 [REDACTED] environmental or ecological criteria or should we  
21 [REDACTED] according to social needs.

22 In this specific case or in the Atlantic  
23 County case, I -- my own sense as a resource planner  
24 is that the social needs can be accommodated within  
25 the ecological framework.

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Q. But didn't you say to us that you would prefer to have a site selected and then you would determine what the appropriate density was, didn't you mention that just a few minutes ago.

A. No. From my job --

Q. Your vantage point.

A. No. My job, what I was asked to do was to respond to particular reports and to -- and then make my response known. My job was not to allocate anything, and I said before, I was unwilling to take on that job.

(Whereupon, a luncheon recess was taken.)

then taken.)

BY MR. BERNSTEIN:

Q. Sir, have you done any work of any type in Morris County?

A. No, I have not.

Q. Have you done any work of any type in Warren County?

A. No.

Q. Union County?

A. No.

Q. Middlesex County?

A. No.

Q. Essex County?

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- 1 A. No.
- 2 Q. Somerset County?
- 3 [REDACTED] es.
- 4 [REDACTED] Bedminster, right?
- 5 A. Bedminster, yes.
- 6 Q. Anything else other than working in Bedminster?
- 7 A. No.
- 8 Q. Bergen County?
- 9 A. No.
- 10 Q. Passaic County?
- 11 A. No.
- 12 Q. Hudson County?
- 13 A. No.
- 14 Q. Hunterdon County?
- 15 A. No.
- 16 Q. Now, is it your understanding that the
- 17 environmental limitations in Morris County are
- 18 **similar** to the environmental limitations that you
- 19 would face in Atlantic County?
- 20 [REDACTED] in Atlantic County the limitation in terms
- 21 of depth of water table, and water quality,
- 22 and to some slight extent, water supply are **similar**
- 23 Q. Would you consider the environmental constraints
- 24 constraints toward developing least cost housing in
- 25 Morris County to **be comparable** with the environmental

1 constraints that one would face when developing the  
2 same type of housing in Atlantic County?

3 A. With the exception of deep slopes and rock  
4 outcroppes and bedrock.

5 Q. And I assume that steep slopes, rock and  
6 bedrock are found in Morris County but are not found  
7 in Atlantic County.

8 A. That's true.

9 Q. I assume that you would have different soils  
10 types in Morris County than you would find in  
11 Atlantic County.

12 A. Yes, you would.

13 Q. And have you worked in areas which had  
14 comparable soils types to Morris County?

15 A. In Massachusetts, in Amherst, and Bedminster,  
16 Fairfield, Connecticut all have similiar soils  
17 types.

18 Q. Could you tell us what the soils types are  
19 in Morris County, if you know? The predominant soils  
20 types?

21 A. Oh, the names --

22 Q. The names.

23 A. Lord, I don't remember.

24 Q. How about the initial soil series, do you use--

25 A. Well, there is a parsippany series, there is

1     whippany series, there is a series of P's aren't  
2 there? I'd have to have these soil surveys with me.

3     Q.     How would you know if the soils in Morris  
4 County are comparable with the soils in either  
5 Somerset County or the areas of Pennsylvania that  
6 you've studied if you're not aware of the soils  
7 types that are in Morris County?

8     A.     Being aware of the soils types in Morris  
9 County is not the same as remembering the precise  
10 names. For example, when I worked on the Bedminster  
11 material, this was common vocabulary for me.

12     Q.     Well, what can you tell about the soil  
13 Morris County without getting into names, are there  
14 any attributes that you can tell us about the soils  
15 or different characteristics or where they're are  
16 located, what can you tell us about the soils in  
17 any of the towns in Morris County?

18     A.     Well, similiar to that whole Piedmont region  
19 valley area, northern western parts, they --

20     [REDACTED]ardon?

21     [REDACTED] So ahead. I'm sorry.

22     A.     -- they tend to be quite shallow and rather  
23 a clay in many areas, and is often a deeper soils,  
24 the alluvial soils from the rivers are often mucky,  
25 and then there are areas where the soils which

1 have washed down from the hills are somewhat  
2 deeper, but the materials essentially under the  
3 ~~the~~ cambrian rock tends to be clay.

4 Q. Aren't most of the soils that you mentioned  
5 as having either moderate or severe limitations  
6 with regard to effluent disposal?

7 A. Many of them do. It would be hard to say that  
8 most of them do. I would say at least 50 percent  
9 certainly have moderate to severe limitations.

10 Q. Do you know what size building lot is required  
11 for any of the soils in Morris County absent  
12 public sewers?

13 A. As required by the township?

14 A. No. As required by soil conditions, if one  
15 were to install a one-family home on any of the soils  
16 in Morris County.

17 A. Yes. To my knowledge, that depends on the  
18 zoning and the township.

19 Q. Assuming one were to use a septic system and  
20 ~~one were~~ to build a one-family home, do you find that  
21 ~~there is~~ a correlation between the size of the lot  
22 and the -- that is required for effluent disposal  
23 and the soil types?

24 A. Are you referring -- If you're referring to  
25 the LORD'S STUDY, or the --



1 Q. LORD'S STUDY (A), but (B), and probably  
2 more important, severe septic limitations on  
3 certain types of soils.

4 A. I'm am not aware of a density which is  
5 required by law on any soil type.

6 Q. Well, you're aware, sir, that certain soils  
7 with poor **percolation** --

8 A. Yes.

9 Q. And on many soils, larger lots are needed  
10 with longer **laterals** , that's correct, right?

11 A. That's right.

12 Q. Now, can you give us any statistical **infor-**  
13 mation as to different types of soils that require  
14 larger lots for effluent disposal? If you're aware.  
15 If you're not aware --

16 A. That's what I'm trying to think. The only  
17 State law that I know in terms of health requires  
18 that there be a four-foot difference between surface  
19 of the ground and the water table. But legally,  
20 **that's** the only -- there are different soils types  
21 **which** have those constraints.

22 Q. Well, you're aware, sir, that regardless of  
23 legal constraints, certain soils accept effluent  
24 more poorly than others?

25 A. Surely.

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1 Q. And with these soils one needs much larger  
2 leaching fields, correct in order to --

3 A. That's correct.

4 Q. Now, do you know of any lot size that's  
5 required for these poorer soils, absent zoning,  
6 which you would recommend as --

7 A. Which I --

8 Q. -- As an environmental planner in order to  
9 have a proper operating septic system?

10 A. I could not say for Morris County. I could  
11 say for Atlantic Coutny. But I'm not well enough  
12 acquainted.

13 Q. Now, as an environmental planner, do you  
14 accept the designations of soils as they are laid  
15 out on the County Soil Conservation Service Maps  
16 and the listing of limitations which are given by the  
17 County Soil Conservation Services?

18 A. For planning purposes, I do.

19 Q. For the purposes of this suit, do you  
20 accept both the designation of areas as depicted on  
21 the county maps and the depiction of soil limitations  
22 as shown by the Soil Conservation Services?

23 A. If I am to decide on the viability of any  
24 given site or the feasibility, environmental  
25 feasibility of any given site for high density or

1 least costing, I would accept the soil maps only as  
2 a general indicator of where one/ or one might not find  
3 suitable soils. I would not accept the soils as the  
4 last word. In other words, I would need a ground  
5 check.

6 Q. You won't be doing that in this case?

7 A. I may find it necessary.

8 Q. Now, with regard to the types of limitations  
9 that are listed in Soils Conservation Service  
10 Manuals, do you accept the limitations which they  
11 give for the different soils types as being  
12 authoritative?

13 A. Yes, they are. For any particular small  
14 area, again.

15 Q. Do you know how long it would take to clean-  
16 up a polluted aquifer?

17 A. Oh, Lord. One would have to find out the  
18 flushing rates that would mean that you'd have to  
19 figure out the infiltration, the outtake by the  
20 vegetation, the climate of any one particular year,  
21 I mean the weather patterns for that particular year,  
22 and the type of pollutant that was in the aquifer.

23 Q. Is this a short term or long term --

24 A. It's a long term.

25 Q. When you speak long, you mean ten, 20, 30-year

1 type of thing?

2 A. No. I would -- to discover it, I would say  
3 that a year's work, a season's work should be  
4 adequate to discover that.

5 Q. But how long would it take to cleanup the  
6 aquifer once it was discovered?

7 MR. MEISER: Are you assuming what  
8 the pollution is, the quantity of it, or what  
9 are you assuming?

10 Q. (Continuing) I can't give you specifics.

11 A. I can't answer that specifically. Again,  
12 each water body is different, whether it's  
13 above ground, the characteristics vary.

14 Q. Are you aware of any aquifers in Morris  
15 County?

16 A. Not to name them, no.

17 Q. Can you tell us where any of them are? You  
18 could look at the map if you could give us some of  
19 the towns where the aquifers are.

20 A. Well, from my brief survey of some of the  
21 townships, I know there are some up in Kinnelon, but  
22 my memory doesn't give me other aquifers. I'm sure  
23 they're there, they've got to be there.

24 Q. As an environmental planner, are there any  
25 recommendations which you would make in an area

1 where an aquifer is located?

2 A. Recharge it as much as possible.

3 Q. Recharge it?

4 A. Don't make it impervious so much as that  
5 its possible.

6 Q. What would you recommend with regard to the  
7 zoning of sites which are on top of aquifers?

8 A. In the past, my recommendations have always  
9 been either to allow low density or to cluster any  
10 development.

11 Q. Is that your present recommendation?

12 A. Yes, it is.

13 Q. You mentioned Bedminster, I believe it was?

14 A. Yes.

15 Q. And could you tell us if you worked for  
16 Allen Deane, as a wild guess, in Bedminster?

17 A. You mean the fellows in the black hats? Yes.

18 Q. And could you tell us who retained you?

19 A. ACLU.

20 Q. And did you prepare a report which was  
21 submitted to the -- I guess there were attorneys  
22 representing the ACLU?

23 A. Yes, I prepared a short report, but I do not  
24 have a copy of it, and I have been asked for that  
25 report and I will continue to search for it.

1 Q. Who might have a copy of this report?

2 A. ACLU Office. Who would be there --

3 MR. MEISER: Gary Gordon is the  
4 attorney.

5 THE WITNESS: Gary Gordon might have  
6 it. The woman -- what's her name?

7 MR. MEISER: She is no longer there.

8 BY MR. BERNSTEIN:

9 Q. Where is this office located?

10 A. Newark.

11 Q. And did you know -- Did you testify in  
12 case?

13 A. No.

14 Q. Could you tell me why you didn't testify?

15 A. I never asked. None of the people dealing  
16 with environmental matters in that case testified.

17 Q. Well, Allen Deane had people who testified.

18 A. I don't believe Michael Clark did, and I  
19 didn't.

20 Q. You mean all the ACLU people didn't testify?

21 A. Well, I that Michael was -- I don't  
22 believe that Ian McHarg did if memory serves me  
23 right.

24 Q. I can tell you that Allen Deane had  
25 environmental people testify. I'm aware of that.

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1 A. I can't tell you why.

2 Q. Can you tell what your conclusions were?

3 A. It may be that the ACLU people did not  
4 testify.

5 Q. Could you tell me what your conclusions were  
6 in the study you prepared for ACLU?

7 A. The conclusions were that given the mitigation  
8 techniques that the Allen Deane property was using,  
9 that it was feasible to cite that development in --  
10 on the site where they had planned.

11 Q. Do you know what type of densities that  
12 Allen Deane was proposing?

13 A. I would have to go back. I don't remember.  
14 I do remember that it was clustered and the clusters  
15 were at least, at least six, and if my memory  
16 serves me correctly, eight, but those were not net  
17 necessarily net densities.

18 Q. You're speaking of six and eight. You mean  
19 six units and acre?

20 A. At least that.

21 Q. Did you consider them to be least cost  
22 housing?

23 A. No. At the time we did not, no. This was  
24 not a least cost housing case, and if memory serves  
25 me right, the development was not a least cost

1 development, although there was a section in there  
2 which was voted to least cost housing, I believe it  
3 [REDACTED] perhaps 10 percent of the total number.

4 Q. Why, might I ask, was the Civil Liberties  
5 Union involved in the case if it wasn't for the  
6 least cost aspect?

7 MR. MEISER: I don't know if he  
8 knows.

9 MR. BERNSTEIN: If he doesn't know,  
10 he can tell us.

11 MR. MEISER: Do you know what  
12 ACLU'S motivation was? [REDACTED]

13 THE WITNESS: No.

14 BY MR. BERNSTEIN:

15 Q. Were you paid by the Civil Liberties Union?

16 A. No. I was paid travel and expenses, only.

17 Q. If you were only paid travel and expenses,  
18 could I inquire as to your motive in doing,  
19 essentially, your work gratuitously in this particular  
20 matter?

21 A. I was interested in particular in the case,  
22 because the case, that case and the Morris County  
23 case have repercussions for Atlantic County, as well,  
24 as I was interested in, having never done expert  
25 reports before of that type, I was interested in what



1 was involved.

2 Q. So, it was an experimental --

3 A. Well, it wasn't experimental. It was, in  
4 a sense, an apprenticeship.

5 Q. How much did you spend on the Bedminster  
6 case?

7 A. Well, probably two weeks of my time.

8 Q. Now, I'm curious, why did you pick the  
9 American Civil Liberties Union, why didn't you  
10 volunteer your services to either Allen Deane or  
11 to Bedminster Township, what drew you to that  
12 in that particular case?

13 A. Honest answer?

14 Q. Yes. You've been honest with me so far.

15 A. My social conscience.

16 Q. Well, I can appreciate that, but if they  
17 weren't proposing least cost housing other ten percent  
18 reserved, so-called reserve for low and moderate  
19 income housing, how did that jive with a social  
20 conscience, was your conscience only directed toward  
21 the ten percent housing that was to be so-called  
22 internally subsidized, or did you just favor more  
23 middle class housing for the suburban hills,  
24 Somerset Hills? I'm curious how your social  
25 conscious fit into Allen Deane's promotion.

1 A. I felt strongly that the people who worked  
2 in and near the area should have a chance to live  
3 in the area.

4 Is that one of the -- Your continuing  
5 feelings with regard planning, that there should be  
6 a nexus between employment and housing?

7 A. That's one of them, yes.

8 Q. And how close do you feel that the housing  
9 should be to the employment? Is there any --

10 A. There are other concerns in my mind, but  
11 so far as that is concerned, that is certainly  
12 important criterion. I can't say that there is  
13 any particular distance, but in that particular  
14 case I felt that some -- people employed in an  
15 area who had to travel, in this case 30 miles, at  
16 least, because they could not live anywhere in the  
17 vicinity, was counter productive, and particularly  
18 I consider that so now. Transportation costs --

19 Q. Did you feel strongly that Bernards Township,  
20 which was permitted AT & T to locate within its  
21 borders, and Bedminster Township, which, I believe,  
22 has long lines within its borders, that those towns  
23 which permitted industry to develop within their  
24 borders had a responsibility to provide the housing  
25 for the workers of those industries?

1 A. For at least some workers of those industries,  
2 ~~yes.~~

3 Q. And was one of the factors that you took into  
4 account when deciding to volunteer your services  
5 on behalf of the Civil Liberties Union?

6 A. Yes, it was.

7 Q. Were there any other reasons other than the  
8 two you have given; one you were interested in  
9 testifying and it's effect on Atlantic County, and  
10 two, your social conscience that led you to become  
11 involved in the Bedminster Township case?

12 A. Those were the two reasons.

13 Q. Now, you had mentioned that you felt that the  
14 Bedminster case had ramifications for Atlantic  
15 County.

16 A. Yes.

17 Q. Tell what those ramifications were in your  
18 opinion.

19 A. There are towns in Atlantic County which do  
20 ~~not feel~~ that they need to accept their  
21 responsibility for the growth which has got to  
22 come to the area for obvious reasons, and I felt,  
23 certainly terms of the municipal master plans which  
24 were then being written and the County Master Plan,  
25 that we should -- we had to pursue every avenue to

1 try to alleviate the obvious confrontations that  
2 were coming up, short of going to court, and clearly  
3 in State Courts, even at the State Supreme Court  
4 level, this decision would impact on whatever was  
5 going to happen in Atlantic County.

6 Q. I assume you have a similar rationale for  
7 testifying in the present lawsuit.

8 A. Yes.

9 Q. You're being compensated in this case?

10 A. Yes, I am.

11 Q. And your rate of pay is?

12 A. \$200 a day, plus expenses.

13 Q. Do you have any idea, sir, of the least cost  
14 housing in any of the communities in Morris County  
15 would sell for?

16 A. No, I have none.

17 Q. Do you have any idea what the least cost  
18 rentals would be for any multi-family dwelling  
19 units in Morris County?

20 A. No, I don't.

21 Q. You had mentioned, sir, that there was a

22 State Regulation you had to have a septic system,  
23 was it 14 feet under the ground?

24 A. At the outfall, that's water quality for the  
25 health.

1 Q. Now, if you had to have your septic system  
2 14 feet under the ground and you had a water table  
3 two feet, how do those jive? Can you put the septic  
4 system in when you have a seasonal water table within  
5 two feet of the ground?

6 A. It has to be built up in some way.

7 Q. You're speaking of the mounds?

8 A. Yea.

9 Q. Have you had the experience in any of the  
10 towns the northeastern counties, with regard to the  
11 mounds system?

12 A. No.

13 Q. Are you aware of the operation of the mounds  
14 anywhere in the State?

15 A. No, not in New Jersey.

16 Q. You're not aware of a single mound septic  
17 disposal system in New Jersey?

18 A. No.

19 Q. What I'm saying is correct?

20 A. Yes.

21 Q. Now, I see in 1975 you were a consultant to,  
22 as you put it, several South Jersey towns for  
23 natural resources inventory; are those the towns of  
24 Galloway and Fort Republic?

25 A. Yes.

1 Q. Were there any others?

2 A. I had some students do some work, and helped  
3 them and helped colleagues in the towns of  
4 Hammonton and Egg Harbor City -- I mean Egg Harbor  
5 Township, I helped some on Absecon.

6 Q. Was there any thing published by your  
7 students or by municipalities as a result of this  
8 work?

9 A. Not to my knowledge. The reports are there  
10 and were incorporated into the master planning process  
11 process. Hamilton Township is one --

12 Q. I assume that these municipalities have  
13 consultants as well as your students.

14 A. Yes.

15 Q. So, if I were to read these reports, it  
16 wouldn't be possible for me to tell where  
17 Professor Sinton's students' contribution was  
18 made and where the outside consultant contributions  
19 were made?

20 A. That's true.

21 Q. What work did you do for the Pinelands  
22 Commission?

23 A. It's ongoing right now. I'm essentially  
24 in charge of integrating the historical, cultural,  
25 and social data for the Pinelands into the regional

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plan.

Q. That would more in the field of history  
than in the field of environmental planning.

A. More in the field in this case of social,  
rather than ecological planning. Actually more  
in the field of land use, human use of resources,  
rather than ecological parameters.

Q. Now, I see three environmental impact  
studies, that your firm prepared, on page two of  
your resume, the Red River Dam, the Rowlesburg Dam,  
and the Dredging Cape Fear River and Morehead  
Harbor.

A. Yes.

Q. Were those prepared by yourself, sir, or  
members of your firm?

A. I was a co-manager for the Red River Dam  
Impact Study. I was a project manager on the  
Rowlesburg Project, and a co-manager for the  
North Carolina studies.

Q. And what did your work entail?

A. In the case of the Rowlesburg and the Red  
River Dams, it was primarily ecological. At that  
time we were trying to find methods to gage the  
impact of a dam on the vegetation and ecological  
processes, as well as the water quality down

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1 down river.

2 Q. Is water quality one your specialities?

3 A. Yes, I work with that quite often.

4 Q. Have you looked into the water quality  
5 situation of any of the communities in Morris  
6 County?

7 A. No, I have not.

8 Q. Do you anticipate doing that?

9 A. Yes, I do.

10 Q. What will you do in assessing the water  
11 quality of the different **tributaries** in Morris  
12 County?

13 A. I expect to look into the water quality  
14 records, and I expect to try to discover any  
15 changes in water quality that have come from  
16 development in those areas. To gage the impact  
17 of any particular development on whatever the  
18 water quality is, as well as any mitigation procedures  
19 that have taken place in the county.

20 Q. Will you be studying the impact that the  
21 **sewer** systems have had on the water quality of the  
22 rivers and streams?

23 A. Yes, I will.

24 Q. And you'll be looking at data supplied by  
25 whom, sir?



Sinton

1 A. Division of Water Resources, the County  
2 people, 203 people and the 201 people.

3 [REDACTED] It indicates in your report that you presented  
4 written testimony on Bedminster, which we discussed,  
5 Commercial Township and Atlantic City.

6 A. The wording is incorrect. Those are written  
7 reports, not a testimony.

8 Q. What is the Commercial Township?

9 A. At this point in time it's a report, and  
10 not testimony.

11 Q. What is the Commercial -- the Commer [REDACTED]  
12 Township was the housing study with Mr. Mallard [REDACTED]

13 A. Yes.

14 Q. And for Atlantic City it was --

15 A. Oh, you mean on the --

16 Q. Which report did you submit?

17 A. On the casino jobs?

18 Q. Casinos.

19 A. The most recent one was on Caesars' problem  
20 of the beach.

21 Q. Was that the only part that your report  
22 assessed?

23 A. Yes.

24 Q. Was it the impact of construction on the  
25 beach area?

Sinton

1 A. No. In this particular case it was a **study**  
2 of the changes in the beach itself to see what  
3 ~~processes~~ were at work in either creating or  
4 destroying the beach in that particular area over  
5 the past 150 years.

6 Q. And for Resorts?

7 A. That was a social study of the impact of  
8 destroying the Blenheim Hotel.

9 Q. Would it be fair to say that most of your  
10 work has been involved with costal areas.

11 A. No, it wouldn't be fair. As a matter of  
12 fact, very little of it has been involved with  
13 costal -- well, maybe 25, 30 percent. Most of it  
14 has been as delt with inland areas. Much of it  
15 actually has to do in the present case with the  
16 interface between costal and inland areas. But for  
17 the most part, it's been inland, fresh water.

18 Q. With regard to your work in New Jersey,  
19 would it be fair to say that most of your work  
20 has centered around South Jersey?

21 A. Yes.



22 Q. In fact, other than you volunteered effort  
23 in Bedminster Township, you hadn't done any other  
24 work in the 3-county northeast New Jersey area?

25 A. That's true.


1 Q. With regard to the reports that we discussed  
2 today, are there any other reports or planning st  
3 ~~udies~~ studies which you played a primary roll in the  
4 preparation of?

5 A. There were -- well, this is costal South  
6 Jersey in this case, a series of impact statements  
7 for the Office of Costal Zoned Management to help  
8 in their management plan.

9 Q. Any other studies that you've done that we  
10 hadn't discussed?

11 A. There was some major input, this was   
12 into a series of alternative strategies for   
13 up the Merrimac River, a decidely unfortunate  
14 task, which included a whole series of land-based  
15 and flat box treatment?

16 Q. Now, I see that you have a publication,  
17 "The Social Values of Trees and Forests for Enjoyment  
18 of Wildlife." Could you explain to us what that  
19 article was concerned with?

20  I'm trying to differentiate that one article  
21 ~~from~~ another one. That was an early article.

22 Q. 1971.

23 A. Yes.

24 I'm trying to remember what I focused the  
25 article on. If my memory serves me right, it was of

1 the things of the Suburban Forestry Management  
2 Movement, and I'm embarrassed to tell you I'd have  
3 [REDACTED] it.

4 Q. Was it wasn't of cosmic import?

5 A. No, it was not.

6 Q. So, I guess, based on your prior testimony,  
7 you would state that there are recalcitrant  
8 communities in Atlantic County that don't permit  
9 the densities of development that you feel are  
10 necessary for least cost housing?

11 A. If I could modify that to say that, [REDACTED]  
12 accept least cost housing period, and I couldn't  
13 state what the density should be at this point, yes,  
14 that is true.

15 Q. As a member of the Atlantic County Planning  
16 Board, do you have any thoughts on the reasonableness  
17 of the State of New Jersey's latest Fair Share  
18 Allocation Plan?

19 MR. MEISER: Why don't you first  
20 [REDACTED] find out if he's gone through it.

21 MR. BERNSTEIN: He knows it. I'll bet  
22 you he knows it.

23 THE WITNESS: Not in detail.

24 BY MR. BERNSTEIN:

25 Q. You don't know what your towns in Atlantic

1 County are allocated in the latest allocation  
2 scheme?

3 A. Not off the top of my head. I've certainly  
4 run through it.

5 Q. You reviewed it I assume, as a member of the  
6 Atlantic County Planning Board, and you reviewed  
7 that, I'm sure, to see how it affected the towns  
8 you were interested in.

9 A. Yes, yes, but if you asked me to --

10 Q. I'm not asking you to give me numbers today.

11 The question is: do you agree in a general ~~sense~~  
12 with the allocations that they've made for ~~the~~  
13 various communities with which you have an ~~interest~~  
14 interest?

15 A. In general, yes.

16 Q. Do you agree with their methodology?

17 A. In the case of Atlantic County, if memory  
18 serves me right, they did not take into account the  
19 enormous growth of the casino industry at the time,  
20 neither did they take into account at the time the  
21 impossibility of constructing the number of houses  
22 which would be considered. Otherwise, the  
23 methodology was okay.

24 Q. So, for Atlantic County, I assume there was  
25 a pretty substantial under statement of the housing

1 needs of the County.

2 A. It's difficult to say if it's an under  
3 **statement.** The statement that they made probably  
4 was about in line with what the construction  
5 industry at this point and time probably can do.

6 Q. Well, they give a figure, based on allegedly  
7 what they felt the need was; correct?

8 A. Yes.

9 Q. Is it your testimony that you feel the need  
10 is greater because of the casinos in Atlantic City?

11 A. Yes, and because of displaced people.

12 Q. And you're testifying that the Housing  
13 Allocation Plan of the Department of Community  
14 Affairs did not take into account the growth of  
15 the gambling industry in Atlantic City and the  
16 housing needs that were created because of it?

17 A. They could not have been expected to.

18 Q. But nevertheless, it was an inaccuracy?

19 A. Yes.

20 Q. You say they couldn't have been expected to  
21 take into account the casino gambling?

22 A. Not the growth, not the amount of growth.

23 Q. Well, the referendum, though, was approved  
24 prior to the preparation of the latest study, wasn't  
25 it?

1 A. Yes. But not the -- the projections for the  
2 number of casino hotels were much lower originally  
3 than what we have now.

4 Q. I assume you cannot provide today any cost  
5 analysis as to the construction of package plants  
6 using either secondary or tertiary treatment?

7 A. No, I cannot say.

8 Q. And you couldn't tell us if you aware of  
9 any least cost housing that uses either secondary  
10 or tertiary treatment?

11 A. No.

12 Q. Certainly, it will be more economical if  
13 developer could tie into a municipal facility,  
14 rather than build his own plant?

15 A. That's true.

16 Q. As a general rule, would you say that it  
17 would make more sense to place least cost housing  
18 within a municipal sewer service area rather than  
19 to construct a new sanitary sewer to serve the new  
20 homes being built?

21 A. Obviously, in those cases where it's possible  
22 to do, yes.

23 Q. You don't know how large a development would  
24 have to be created in order to construct least cost  
25 housing with a package plan?

1 A. No. I assume it's variable depending on the  
2 stage of treatment that you need the water at,  
3 where the area is, the cost of construction, those  
4 sorts of things.

5 Q. You couldn't give a minimum figure as to a  
6 20-lot subdivision or 20 garden apartment units as  
7 being the smallest size where you could construct the  
8 least cost facilities with a package plan?

9 A. Disregarding any subsidies for than

10 Q. Disregarding any subsidies.

11 A. Any subsidy for --

12 Q. I'm assuming a market cost.

13 A. Not, I couldn't.

14 Q. With the subsidy you could build almost  
15 everything.

16 Can you tell me, sir, what type of pollution  
17 and pollutants are contributed to streams by  
18 residential development?

19 MR. MEISER: Do you need any specifics  
20 to answer the question?

21 A. You mean if you were just running your lines  
22 into the streams from septic tanks or whatever?

23 Q. Right.

24 A. Well, the household wastes, obviously, high  
25 nitrates and high phosphates from laundries, the



1 run off components from the organics from the  
2 asphalt, and that sort of thing.

3 Q. I assume --

4 A. And possibly the fertilizers from the lawns,  
5 that --

6 Q. I assume that even with sanitary sewers that  
7 you would get some of these items in the steams?

8 A. Surely you would. Some. That's true.

9 Q. Now, do know how any of the steams in Morris  
10 County are classified by the DEP?

11 A. My understanding is that almost all of them  
12 are FW-2 I believe that the Passaic River and  
13 Chatham River is lower.

14 Q. FW-2 means?

15 A. Good for recreation, good for fishing,  
16 comparatively clean. It's not quite up to drinking  
17 water, all though most people I know --

18 Q. When you talk about FW-2 streams, what is  
19 the requirement for waste treatment facilities  
20 where the processed waste is dumped into the streams?

21 A. There are a series of standards which I can't  
22 name right now, but there are criterion for bacterial  
23 counts and for nitrates and phophates, for heavy  
24 metals, and whatever, and you can't surpass those  
25 standards.

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1 Q. Basically, they require tertiary treatment,  
2 don't they, or advanced waste treatment?

3 A. Generally, advanced, that's correct.

4 Q. That's more expensive isn't it?

5 A. Yes.

6 Q. I assume that it would be very difficult to  
7 build least cost housing, in fact, it might be  
8 prohibited if advanced waste treatment was necessary;  
9 isn't that true?

10 A. I can't answer that. I don't know. I would  
11 have to go through the cost factors and the area  
12 whether it could be leached onto a larger field,  
13 and how much land is available, if there is land  
14 disposal possible at all. There are too many --  
15 even if I could give you a cost figure at this point,  
16 there are variables, such as those.

17 Q. From an environmental standpoint, is there  
18 any disadvantages from allowing packaged treatment  
19 plants to be built adjacent to FW-2 or FW-1 streams?

20 A. Well, for FW-1 streams ~~there~~ may be possible  
21 disadvantages.

22 Q. Such as?

23 A. It's impossible to get out all of the nitrogen  
24 or organic phosphorus that one could get out.

25 For FW-2, it's possible that some tertiary

1 treatment could put the water back with even less  
2 organics in it than it originally had, which in the  
3 long run would down grade the stream, but at least  
4 for a while --

5 Q. Well, do know of any disadvantages from  
6 permitting these packaged plants to be built adjacent  
7 to FW-2 streams?

8 A. From my experience, they have not degraded  
9 the streams.

10 Q. Do you know of any effect that they've had  
11 on the animal, insect, or plant life in the streams?

12 A. When they have gone awry, yes.

13 Q. Do they go awry?

14 A. Of course, everything breaks down.

15 Q. And what effect do they have when they go  
16 awry?

17 A. There is a temporary load -- pollutant load  
18 put into the streams.

19 Q. And you know if there has been any long-term  
20 effects from these plants, from treatment plants  
21 on the streams?

22 A. Not to my knowledge. There has been no long-  
23 term effect. One does not construct without hazard,  
24 but that's a --

25 Q. Is there continuing hazards that these plants

1 present to aquatic insect and plant life in  
2 the streams?

3 A. Not to my knowledge.

4 Q. You've read no studies of their effect on the  
5 streams in Morris County/

6 A. No, not in Morris County.

7 Q. Have you studied the 208 plan as it pertains  
8 to Morris County?

9 A. Not personally.

10 Q. Well, if you haven't, how you have studied it  
11 impersonally? I'm curious. You have't lo  
12 it, is that right?

13 A. No.

14 Q. Is that one of the things that you plan to do,  
15 to study the 208 Study and the various 201 Studies?

16 A. Yes.

17 Q. Can you explain the policy, the federal  
18 policy and the State policy of antidegradation?

19 A. It's policy which requires that those standards  
20 which are imposed by the Division of Water Resources,  
21 DEP, on the streams presently, not the -- that those  
22 be upheld, and that the classifications for those  
23 streams at no time in the future be downgraded.

24 Q. Do you agree with those standards?

25 A. Yes.

1 Q. Would you recommend that least cost housing  
2 be placed in areas without public sewer, public  
3 water, public employment, public transportation,  
4 or close proximity to employment?

5 MR. MEISER: Are those all inclusive?

6 Q. (Continuing) All inclusive.

7 A. If it were suitable, yes, I see no reason  
8 not to.

9 Q. Well, what other factors would make it suitable  
10 when you didn't have public sewer?

11 A. It may or may not be preferable, but ~~is it~~  
12 is suitable, if there are suitable areas.

13 Q. Well, what's the difference between preferable  
14 and suitable? I **thought** these were for principle  
15 factors which determine whether or not we should have  
16 intensive development.

17 A. If it is preferable from the point of view  
18 of environmental suitability to have high density  
19 least cost housing near those criterion that we  
20 already discussed, water, soils --

21 Q. Sewer.

22 A. -- Sewer --

23 Q. Public transportation --

24 A. -- Transportation, that is preferable.

25 If the only possibility is to place this

1 housing away from these -- away from transportation,  
 2 sewage, whatever, and it's necessary to find a  
 3 place, then that place should be found.

4 Q. But you would prefer to look for sites that  
 5 have those attributes?

6 A. Yes.

7 Q. Do you know if any one of the public advocate's  
 8 witnesses has looked for sites which meet these  
 9 attributes?

10 A. The Public Advocate's witnesses?

11 No I do not.

12 Q. Have you asked to look for these sites?

13 A. I don't believe I've been asked to look for  
 14 these sites. I have not asked -- I don't believe  
 15 they have asked me to look for those sites.

16 Q. Is open space desirable in a community,  
 17 from an environmental standpoint?

18 A. Among other reasons, yes, it is.

19 Q. And could you give us the reasons why it's  
 20 desirable?

21 A. Aesthetics, character of life, life style  
 22 recreation, play, you know.

23 Q. It also helps with pollution, I assume,  
 24 by assimilating some of the waste?

25 A. Sure.

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1 Q. Could you as a environmental planner, give  
2 us some guide parameters as to how much of the town  
3 should be an open space?

4 A. That is an argument that has not been  
5 resolved, and I doubt that it would be. The methods  
6 to determine exactly how many trees one needs to  
7 take up sulfer dioxide or ozone or alternatively,  
8 organics from ground water have not been studied  
9 sufficiently, all though studies are under way right  
10 now. We just -- we don't know.

11 Q. Do you have any idea?

12 A. No one does to my knowledge. It's just not  
13 scientifically available.

14 Q. Would you, as an environmental planner give  
15 us some idea as to the amount of open space and  
16 amount of useable open space which you would  
17 recommend for a typical PUD ordinance?

18 A. I don't know of the typical PUD ordinance.  
19 The only one on which I have worked directly in  
20 Florida, where conditions are probably more similar  
21 to South Jersey than certainly North Jersey because  
22 of the soils and water problems and because there  
23 were swamps, real swamps, the open space requirements  
24 were enormous. I believe some 70 percent of the  
25 land was held for open space in those areas. There

1 are are other areas I know going up right now in  
2 Galloway Township, where approximately 25 to 30  
3 percent is being required for open space.

4 Q. Do you find both of those requirements to  
5 be reasonable?

6 A. Given the situation, yes. Each is peculiar  
7 to itself.

8 Q. You haven't studied the situation in Morris'  
9 County to determine if there were a PUD ordinance,  
10 what would be reasonable?

11 A. I would suppose that each PUD -- which applied  
12 under a PUD ordinance would be looked at individually.

13 Q. Would you advocate the construction of least  
14 cost housing in floodplain areas?

15 A. Do you mean floodplains themselves? I would  
16 advocate not in floodplains themselves.

17 Q. And could you explain why you wouldn't  
18 advocate the construction of least cost housing in  
19 floodplains?

20 A. I would not advocate any housing in flood  
21 plains.

22 Q. And the reason, sir?

23 A. People get flooded out and the town pays for  
24 it, as well as the people. A floodplain is really  
25 a second bed for the stream, it's just that this stream



1 stream decides to use that second bed only on  
2 occasion.

3 Q. What do you consider steep slopes?

4 A. Anything a cat can get up that I can't.

5 In terms of housing, suitability for housing?

6 Q. Yes. Is there a percentage--

7 A. My general rule has been 15 percent, that  
8 there should not any housing on slopes deeper than  
9 15 percent, and between 12 and 15 percent care in  
10 the engineering of the construction should be used.

11 Q. I assume that in your professional capacity  
12 you have not worked in areas where have been slopes?

13 A. I have worked in areas with very steep slopes.

14 Q. Could you tell us where, sir?

15 A. The Cheat River, which is the Rowlesburg  
16 Dam Project, in Kentucky, but in particular,  
17 Rowlesburg, the slopes are generally steeper than  
18 in New Jersey.

19 Q. Would you recommend the construction of  
20 least cost housing in areas having slopes of 12  
21 percent or more?

22 A. Only if the engineering made it viable or  
23 feasible. If that engineering, if the engineering  
24 for safe and safely maintainable housing was too  
25 costly, then obviously it would no longer be least

Sinton

1 cost housing.

2 Q. Can't we say, as a general rule, that slopes  
3 of 12 percent or more preclude the construction of  
4 least cost housing?

5 A. I would assume in most cases that's true.

6 Q. Would you not agree, sir, as a general rule  
7 you could not build least cost housing without  
8 public sewer facilities and public water facilities?

9 A. I wouldn't say that general, not. I would  
10 say that in particular one might or might not,  
11 depending on the situation. Public water m  
12 or may not be available from wells, depending  
13 on what's on the site, or depending on whether it  
14 could be diverted for a small area, whether in fact  
15 the site was suitable for septic systems or septic  
16 management.

17 Q. Let me put it a different way.

18 In those areas having moderate or severe  
19 soil limitations for septic disposal, where there  
20 is no public sewers, we could say as a general rule  
21 that in those areas you couldn't construct least  
22 cost housing.

23 A. I would accept that only on the severe  
24 limitations. I would have to do a field check of  
25 any area of moderate suitability. And even in the

1 areas where it's suggested severe, there may be,  
2 after field checking, some possibility. That  
3 excludes, of course, floodplains, whatever.

4 Q. Well, do you know the amount of land that  
5 would be required in order to put a septic system  
6 for a one-family house on in those areas that are  
7 designated as severe for septic limitations?

8 In other words, do you know the relationship  
9 between the soils and the size of the lot that is  
10 required in order to have a functional system?

11 A. Not in Morris County. In South Jersey it's  
12 generally one to an acre one to four acres,  
13 depending on seasonal -- Now, taking those same  
14 figures of one to an acre, one to four acres as a  
15 planner, can you put up least cost housing on one  
16 unit to the acre or one unit to the four acres,  
17 is it compatible?

18 A. It depends on -- I can't answer about the  
19 density argument until I actually go to the site and  
20 see what's there. And this is even true down in  
21 South Jersey. That there may be extensive areas  
22 where it's not feasible, and then there may be areas  
23 on which one gets, all of a sudden, good spots of  
24 good soil which wouldn't appear on the soils map,  
25 and it's perfectly suitable in those particular

1 areas. I can't -- I just can't give a density.

2 Q. Well, what I'm asking first, if you have a  
3 land which requires -- which can not take more than  
4 one half to the acre, can you put up least cost  
5 housing given that environmental constraint?

6 A. If the area is -- if you've tested the area  
7 out, for example, in conjunction with other areas,  
8 and found that similar areas can't accept any more  
9 or you see a pollutant load all of a sudden  
10 appearing in a well, if you can satisfy yourself  
11 that such is true, then what you say is correct.

12 Q. My question is: if you have an  
13 environmental constraint --

14 A. Yes.

15 Q. -- that precludes it, and you're satisfied  
16 with it, let's assume you go out and you make your  
17 tests, you're satisfied you can't put up more than  
18 one house per acre, if you're using septic --

19 A. Yes.

20 Q. -- are you satisfied that in that situation --  
21 and I'm further assuming there are no public  
22 sewers, that you couldn't build least cost housing?

23 MR. MURPHY: You're assuming no  
24 package plant?

25 A. (Continuing) I'm asking whether or not you

1 could with a package plant.

2 A. With a package plant?

3 Q. Right.

4 A. You can do -- I think you've got to assume  
5 that given engineering feasibility studies or  
6 engineering packages of any sort, so that you could  
7 do damn near anything.

8 Q. But wouldn't that take it out of the least  
9 cost parameters, sir, because of the cost?

10 A. It may, it may, it's true.

11 Q. You're aware that Mr. Mallach contends that  
12 you require densities of ten units to the acre for  
13 townhouses and 15 units to the acre for garden  
14 apartments in order to achieve least cost housing?

15 A. Yes.

16 Q. Would you agree you would have to have a  
17 sewer system, either a package plant or public  
18 sewer system, in order to achieve these densities?

19 A. Give me a site and I'll tell you the answer.

20 Q. Well, not of us have sites.

21 A. I don't mean to be evasive on it, but it  
22 really is true that unless I have a particular  
23 site in mind -- I can give you an example, if you  
24 cluster an area, if you set aside a certain amount  
25 of land and you cluster the units in such and such

1 a way, and you have, instead of aerosol spray,  
2 for example, a leakage into the ground, like,  
3 you know, holes in the rubber hose type system,  
4 then, that is a possibility. I think that ~~be-~~  
5 ~~fore~~ any body could answer that question they'd have  
6 to try to **ferret** out all possibilities to see whether  
7 it were feasible or not.

8 Q. Have you ever made any studies based on  
9 economics to determine whether or not a package  
10 plant could be used for the construction of least  
11 cost housing?

12 A. No, I haven't.

13 Q. Are you aware of any such studies?

14 A. Yes.

15 Q. By whom and where could we --

16 A. The one that's -- has been most recently  
17 used was, I believe, '76 HUD STUDY, which I have  
18 not checked recently.

19 Q. Which was --

20 A. Which uses '75 dollars.

21 Q. Who prepared this study?

22 A. HUD. But I don't know who within HUD.

23 Q. Or which department or its title or --

24 A. I don't know.

25 But that gives a series of alternative

1 treatments and then costs.

2 Q. Are there any soil types that would preclude  
3 the construction of least cost housing?

4 A. Yes.

5 Q. What kind of soil types are they?

6 A. Much hard rock.

7 Q. How about a limited depth to bedrock?

8 A. My general rule been anything less than a  
9 foot and a half. But again, you'd have to run  
10 feasibility studies.

11 Q. How about high water table?

12 A. I mean depth to -- either depth to water  
13 table. On bedrock it's essentially the same  
14 phenomenon.

15 Q. A foot and a half is what you say would  
16 preclude the construction of least cost housing,  
17 either a bedrock or of depth to a seasonal water  
18 table. You tell me --

19 A. Yes, yes. You see, as I'm looking at the

20 ~~land,~~ <sup>are</sup> there/little pieces which may be -- if you

21 take a site, and there<sup>is</sup>/a piece here which has only

22 one and half, the water table is only one and a

23 half feet below you, and then say you move 200 yards

24 away and the water table is four feet down, and

25 that's not unusual at all --

1 Q. You could build on the part that's four  
2 feet down?

3 A. Or you might, you see, put septic areas in  
4 that part, where as you would scatter or cluster  
5 the other houses in a different area.

6 Q. Now, the only way --

7 A. If the whole -- if everything were uniform, then  
8 it would probably be pretty easy to make a decision.

9 Q. Let's assume I have a 100-acre site any-  
10 where in Morris County you can tell me, and it's  
11 got a depth to water table of one and a half feet  
12 or less, would this prohibition be sufficient to  
13 preclude the construction of least cost housing?

14 A. Uniformly?

15 Q. Uniformly, the whole 100 acre countryside.

16 A. If engineering were alternative technology,  
17 alternative to septic systems were available, then  
18 one could build. That's essentially, I think, the  
19 same response that I've given.

20 Q. So, that's basically an engineering question,  
21 you're saying?

22 A. Yes.

23 Q. And with the public water you would say  
24 basically it's a function of whether or not the  
25 private water and the private wells could support



1 the population that is required?

2 A. Or whether it could be diverted from another  
3 source, a reservoir, for example.

4 Q. Are you familiar with the term non-point  
5 pollution?

6 A. Yes.

7 C. What does that term mean to you, sir?

8 A. It's pollution which emanates from a source  
9 which cannot be pin pointed.

10 Q. And how does increased density effect  
11 non-point pollution?

12 A. Well, people excrete various things of  
13 various sorts, and any time you add another person  
14 some where there is going to be more nutrient  
15 load added some where to something.

16 Q. If we could summarize, you generally would  
17 state that you would be opposed to residential  
18 construction on floodplain areas; correct?

19 A. Yes.

20 Q. And I think you agreed with me that it would  
21 be very difficult, if not impossible, to build least  
22 cost housing on steep slopes of 12 percent or more?

23 A. That's true.

24 C. Are you aware, sir, of the LORDS Study?

25 A. Yes.

1 Q. And do you know what the LCRBS Study  
2 recommended for the pre cambrian gneiss, for the  
3 ~~ares that~~ are covered with the pre cambrian gneiss  
4 ~~as the~~ underlying geology?

5 A. If my memory serves me right, it was  
6 generally, I think, one to three or four acres.

7 Q. One to three or four acres?

8 A. Yes.

9 Q. And that was assuming wells and septic;  
10 correct?

11 A. Yes. And that was also assuming that  
12 everything would be uniformed.

13 Q. Now, do you have any knowledge that leads  
14 you to believe the LCRBS Study is in error, that  
15 its conclusions are faulty with regard to the  
16 requirements either for pre cambrian gneiss or  
17 for any of the other requirements in that report?

18 A. That's difficult to answer the way you put  
19 it because I don't want to say the LCRBS Study is  
20 ~~wrong~~, but to draw a conclusion as to density on  
21 ~~the basis~~ of gross geological information is a very  
22 poor way to go about planning. Which, it would  
23 assure that all pre cambrian areas -- that no  
24 pre cambrian areas could sustain more than one  
25 person to every three or four acres, and that just

1 is not the case. It's not the case in Morris  
2 County nor is the case in Pennsylvania.

3 Q. Well, have you made any studies which have  
4 determined that the capacity of the pre cambrian  
5 gneiss, anywhere in the State or in the country,  
6 for sustaining a residential population where you  
7 have septic and wells?

8 A. I simply wouldn't use that to make a study.  
9 It's not a -- it's not a unit which I find viable  
10 as a planner?

11 Q. Well, have you made any studies to determine  
12 mine soil-bearing capacity for residential  
13 population?

14 A. Well, I think we stabs at --

15 Q. I'm saying you, sir.

16 A. Yes, I have with the firm, the defunct firm  
17 of Carlozzi, Sinton & Wilkitis, where this  
18 argument consistently came up of density, how much,  
19 in a master plan, placed the number of people on the  
20 ~~plot~~ plot and tell me how many you can get,  
21 how many you can get on a lead of a pin. And in  
22 the PUD in Florida and Fairfield, Connecticut study,  
23 and the studies now going on Galloway Township,  
24 the master planning studies, they're finished, but  
25 now all of the developments which are coming in,

1 people keep trying to pin down the number of  
2 people you can get on the head of a pin, and what  
3 we're dealing with in essence is a series of  
4 limiting factors, what does the Gneiss limit.

5 Well, if you're right on top of that  
6 it's like being on top of granite, it's the same,  
7 it just never got out of the ground or water  
8 as a limiting factor, it's -- I have not dealt with  
9 nice itself as a limiting factor, but I have  
10 delt with geographic regions -- geological regions,  
11 and they've not proved useful. I would have  
12 soils more useful.

13 Q. Well, as a planning tool, don't you look  
14 at aggregate studies in order to plan a community,  
15 rather than to go out and make soil bearings on  
16 what may be thousands of acres in manh of our large  
17 communities?

18 A. Sure, but that's too highly aggregated,  
19 certainly for municipal purposes, and just not  
20 all for site planning purposes.

21 Well, what would you recommend with regard  
22 to a municipality that may be composed of ten square  
23 miles, or wherein the underlying geology is that  
24 of pre cambrian gneiss, what would you recommend  
25 in order to -- for the town to prepare a master plan

1 and a zoning ordinance, where the town didn't have  
2 sanitary sewers or public water, what's the method  
3 ~~that you~~ would advocate? Would it be to go to  
4 each of the different sites and to start digging,  
5 and to make exploratory tests every 100 acres,  
6 would it be to look aggregate plants that have been  
7 developed, either of the LORDS Study, soil  
8 conservation people or others? What's your  
9 recommendation there?

10 A. The only thing that the geology tells  
11 me at this point is that in general, you want  
12 outcrops of hard rocks or in some areas shallow  
13 depth bedrock or shallow depth to water table,  
14 in some areas steep slopes. It gives me, if I  
15 go into a general area, say -- or the whole  
16 northeast area, it gives me an idea of the evolution  
17 of the area and what kind of things I might be  
18 thinking about while I'm going through. The soils  
19 survey, on the other hand gives me much direct  
20 information on what can be done, the limits or the  
21 limitations or the **viability** of the smaller areas  
22 within, say, the pre-annexation system.

23 And then I go back there. But it's --  
24 I've just not found it's useful for planning  
25 purposes.

1 Q. Well, in Galloway Township you made the  
2 NRI; correct?

3 A. Yes.

4 Q. What did you use in arriving at the  
5 different types of soils throughout the entire  
6 town?

7 A. Used the Soils Survey.

8 Q. You used --

9 A. We took for granted the basic geological  
10 **strata** and the geological history, but in -- if you  
11 talk about actually the whole South Jersey, **they**  
12 are a series of systems of huge strata and **they**  
13 aquifer, all of which are composed because of use  
14 and weathering and other physical factors, they're  
15 composed of smaller units. So, I couldn't say,  
16 dealing with the cohansey, for example, as a  
17 whole geological system, I couldn't say you can  
18 build on the cohansey but you can't build on the  
19 kirkwood, it's just -- you can build pleistocene  
20 **but you** can't build on pre cambrian. It's too  
21 **gross.** You prepared the NRI for Galloway Township;  
22 correct?

23 A. Yes.

24 Q. How many square miles is Galloway?

25 A. Ninety-six.

1 Q. Now, did you go out and make any soil  
2 samples in Galloway Township to confirm that the  
3 Soil Conservation Service has correctly located the  
4 soils, or did you rely --

5 A. Very few.

6 Q. How many?

7 Q. About a half dozen.

8 Q. You mean you made -- on the average, that  
9 would be one soil test for every 16 square miles?

10 A. Yes. It was -- there were very few,  
11 obviously. We went around simply to check for

12 Q. But it was very cursory?

13 A. Sure it was.

14 Q. But for the most part, you relied upon the  
15 Soil Conservation Service information; correct?

16 A. Yes, for the municipal planning purposes,  
17 I think all planners do.

18 Q. That's a proper reliance, isn't it?

19 A. Yes, as a general index we can assume that  
20 the Soil Survey is correct about 75 percent of the  
21 time, anyway. Seventy-five, 80 percent of the time.

22 Q. When planning for a municipality you  
23 rely upon the Soil Conservation Services maps ?

24 A. Yes.

25 Q. Now, how big is Port Republic?

1 A. Eight square miles.

2 Q. Did you rely upon the Soil Conservation  
3 Service when you prepared the Natural Resources  
4 inventory for that municipality?

5 A. Yes.

6 Q. Did you make any soil tests in that  
7 municipality?

8 A. No.

9 Q. Now, the municipality based its master  
10 plan on the NRI?

11 A. That was one of the bases, yes. The  
12 factors --

13 A. And one supposes **that** the zoning is based  
14 on the Master Plan; correct?

15 A. I would hope so. That may or not be the case.

16 Q. But as an environmental planner, you would  
17 hope, in fact, the State mandates it through the  
18 statutes.

19 A. Yes.

20 Q. That the zoning is supposed to --

21 to follow the Master Plan.

22 Q. Now, that means the towns are basing their  
23 zoning upon the Soil Conservation Service's maps;  
24 isn't that right?

25 A. That's true. Well, wait.



1 Q. As one of the factors.

2 A. I wish that many of them would, but -- as  
3 a planner you see this as a reasonable guide to  
4 planning?

5 A. Yes, I do..

6 Q. And you see nothing wrong with that method?

7 A. Not on the municipal planning level, no.

8 Q. Now, with with regard to the municipal  
9 planning level, we know that pre cambrian gneiss  
10 is a type of soil or a type of rock.

11 A. From which soil is derived.

12 Q. Would you agree with me that the pre  
13 cambrian gneiss has severe limitations for residential  
14 construction purposes?

15 A. If I were right on the gneiss, yes. You see,  
16 I grew up a good deal of my life in the Sierra,  
17 which is hard rock granite, so I understand the  
18 critical problems of hard rock. If you are on  
19 that gneiss, there is no question that you'll have  
20 difficulty.

21 Q. Now, let's suppose that Mendham Township  
22 is large on pre gneiss --

23 A. As opposed to the soil derived from that  
24 rock, yes.

25 Q. -- what recommendation would you make with

1 regard to zoning over the gneiss itself;

2 MR. MEISER: Are we talking about

3 two different things? It sounds to me that

4 you two are having two different assumptions.

5 I think we should get it straight. Let's

6 get straight what what the assumption is.

7 You can ask either question, but let's make

8 sure.

9 THE WITNESS: I feel between a rock

10 a soft place, and it's uncomfortable.

11 MR. BERNSTEIN: You've been

12 for that all day.

13 BY MR. BERNSTEIN:

14 Q. Let's assume we have an area that is directly

15 on the pre cambrian gneiss with a limited amount of

16 soil; what would be your recommendation as to

17 zoning over that area, assuming we have no public

18 water or sewers?

19 A. That it should be sparsely developed.

20 Q. And when you say sparsely developed, do you

21 have any parameters? I assume that is larger than

22 an acre per dwelling unit.

23 A. I would say, yes, probably, if it's right

24 on that soil there, right on that bedrock, right

25 near it, certainly no more than one to an acre.

1 Q. Now, let's assume that we have soil, but the  
2 underlying geology is pre cambrian gneiss.

3 A. Yes.

4 Q. Would there be any recommendation that you  
5 can make based on your study as to the amount of  
6 people or dwelling units per acre that that site  
7 with a septic system and a well could support?  
8 That is for zoning purposes.

9 A. Yes. For zoning purposes, using the soils  
10 map --

11 Q. Yes, sir.

12 A. I assume, certainly, that a planner could  
13 use that material to set out zoning an area --  
14 zoning a district.

15 Q. Right.

16 Now, if --

17 A. Which is not to exclude areas within that  
18 district which may in fact be different.

19 Q. Now, if we had a municipality where we had  
20 a substantial body of land where there was soil,  
21 and under that soil there pre cambrian gneiss, and  
22 there was not sanitary sewers and no public water,  
23 wouldn't that be an area that you would recommend  
24 for large-lot zoning?

25 A. I would in general, but again, I would be

1 careful to see if there were sites within that  
2 region which were available for higher density?

3 Q. And how would you determine what those sites  
4 were, what attributes would they have, if we have  
5 a given that they don't have public water, we have  
6 a given that they don't have sewers, if we have a  
7 given that they are on pre cambrian gneiss, what  
8 attributes in particular would those sites that  
9 you're looking for have which would make them  
10 suitable for higher density which Mr. Mallach  
11 advocates?

12 A. Well, deeper soils and/or well water which  
13 is within easy reach, in fractured zone, for  
14 example, or whatever.

15 A. I assume you'd be doing a study of the  
16 particular sites to determine that they were  
17 appropriate for least cost housing.

18 A. Yes.

19 Q. Will you be doing any of the studies for the  
20 Public Advocate's Suit?

21 A. Yes.

22 Q. You'll be making tests of the soils and  
23 examining the wells to see which areas would be  
24 appropriate?

25 A. If necessary, we will do some of that work.

1 Q. Well, isn't that a necessary step in  
2 determining where least cost housing should be  
3 located where you don't have the infrastructure?

4 A. Yes, somebody will have to do that.

5 Q. Without being sites specific, you really  
6 can't tell us areas that the infrastructure is  
7 absent, where least cost housing should be located;  
8 isn't that right?

9 A. That's right.

10 Q. And I assume that one would be doing a  
11 deficient study if one looked at studies which didn't  
12 have infrastructure and wasn't site specific.

13 A. I would assume that's true.

14 Q. And you're going to be site specific on  
15 each of the municipalities in Morris County which  
16 lack infrastructure?

17 A. I haven't discussed that with plaintiff  
18 counsel, how many of what kind.

19 Q. Well then, we have a number of communities  
20 in Morris County which don't have infrastructure,  
21 which have practically no areas which are served,  
22 very small areas which are served by public water,  
23 which have no sanitary sewer systems which are  
24 primarily on pre cambrian gneiss, as I understand  
25 most of the County is on pre cambrian gneiss.

1 given those limitations, how are you going to pick  
2 out the areas where we should have the density  
3 housing or are you only going to pick it in areas  
4 that do have infrastructure? I'm interested in your  
5 methodology, sir.

6 A. I don't know for sure. Given the time and  
7 resources that we have I would assume that we'd  
8 simply proceed at -- I can't answer that. I will --  
9 okay. Let me try to put it this way: I'll be  
10 responding to the reports that come in, and to the  
11 depositions that I see, and then I will be  
12 at areas which might be suitable environmental  
13 In a number of townships, I can't say how many --

14 Q. You'll be physically looking at these areas?

15 A. Yes.

16 Q. And you'll be checking the soil surveys?

17 A. Yes, I will.

18 Q. Are there any other things that you would  
19 check other than the sites themselves and the soil  
20 surveys, what other documents would you look at?

21 A. Oh, besides the 208 and --

22 Q. The 201?

23 A. The 201s and any water resources reports  
24 that have come in.

25 Q. But to get sites specific, what other

1 documents would you look at?

2 A. I don't know yet. I will be able to tell  
3 you later after I have made a study. I can't --

4 Q. AS a planner, as an environmental planner,  
5 what are the documents that one would look at to  
6 determine if a site which lacked infrastructure  
7 and had part bedrock was suitable for more intense  
8 development?

9 MR. MEISER: It's obvious he  
10 hasn't done this, and I don't want him to be limited  
11 to this, because he hasn't done that yet.

12 MR. BERNSTEIN: No. I understand  
13 that. But I'm interested in what documents  
14 an environmental planner would look at.

15 BY MR. BERNSTEIN:

16 Q. Aside from Morris County, what are the  
17 things you, in your professional career, would look  
18 at in the State of New Jersey to determine whether  
19 you would put more intense development?

20 A. Well, very honestly, it depends on who lets  
21 me see whatever is available.

22 Q. Assume you could get whatever you wanted,  
23 what would you want to look at?

24 A. Well, certainly I'd want to look at  
25 developments in other sites and other -- in similar

1 on similar soils in similar areas, not necessarily  
2 even in Morris County. There are areas that I  
3 know of, for example, in Pennsylvania which are  
4 exactly the same, just similar types, and there  
5 would be comparative data which I would be looking  
6 for. And inside the town, I probably would be  
7 asking for just basic information, basic engineering  
8 information, if that were available. I can't tell  
9 you until I see it. It's one of those hazy areas  
10 where you get what is there.

11 Q. Do you know of any studies that have  
12 the findings of the LOPDS REPORT?

13 A. No, I do not.

14 Q. And you have --

15 A. Excuse me. Of any studies?

16 Q. Or reports, yes.

17 A. Or reports. No. I know of many that  
18 simply haven't dealt with the LOPDS REPORT, but I  
19 know of no studies which have been done to dispute.

20 Q. Do you know of any studies other than the  
21 LOPDS REPORT which establishes a minimum lot size  
22 which is required for a dwelling unit where one does  
23 not have public water and sanitary sewers?

24 A. Yes, the Pinelands Commission has a require-  
25 ment of one acre zoning throughout the Pineland,



1 on Pinelands soils.

2 Q. And these soils are different from soils  
3 found in Morris County?

4 A. Yes, they are.

5 MR. BERNSTEIN: Off-the-record.

6 (Whereupon, an off the record  
7 discussion was held.)

8 BY MR. BERNSTEIN:

9 Q. I believe that my last question asked if  
10 the soils were different in the --

11 A. In South Jersey.

12 Q. -- in South Jersey than in the Morris County  
13 area?

14 A. Yes.

15 Q. And you found that in the Pinelands area  
16 you required an acre for each dwelling unit?

17 A. Yes. That's -- **apropos** of the question  
18 whether there were any other studies or --

19 Q. That's the only other --

20 A. That's the only other one that I know of.

21 Q. And the only other way that you could  
22 dispute the LORDS STUDY in Morris County would be to  
23 do site specific work where you would be checking  
24 rock and soil formations on specific sites?

25 A. You mean that finding of three to four to

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1 an acre?

2 Q. Yes, sir.

3 [REDACTED] Or one to three or four acres, I mean?

4 [REDACTED] Yes, sir.

5 A. The other way -- that's one way. The other  
6 way would be simply to monitor past development in  
7 areas of pre cambrian **strata**.

8 Q. They wouldn't be the only two methods  
9 that you're aware of?

10 A. That I would, yes. It doesn't preclude me  
11 if some thunderbolt strikes me.

12 Q. You're aware of the Tri-State region  
13 planning committee's guides that have been produced  
14 for the New York Metropolitan area?

15 A. Ive only been told of the study, but I  
16 have not read it.

17 Q. Are you familiar with the State Development  
18 Guide?

19 A. No.

20 [REDACTED] Have you looked at the Morris County  
21 Master Plan?

22 A. Only briefly.

23 Q. Would you say that a county master plan  
24 would be a relevant document that planners should  
25 review when assessing the reasonableness of a

1 zoning ordinance?

2 A. They're required by law to do that.

3 Q. No. But when a planner is criticizing  
4 a zoning ordinance of a community, would you say

5 that one of the factors that you should examine  
6 is the county master planning?

7 A. Yes.

8 Q. And I assume that you would agree that  
9 the planner should study the documentation of the  
10 New Jersey Department of Community Affairs and  
11 Tri-State Planning Commission in order to determine  
12 what these bodies think of the municipalities  
13 scrutiny?

14 A. Yes, one should -- planners should certainly  
15 do that.

16 Q. You would consider them as an environmental  
17 planner to be good handbooks or guides which could  
18 be used as a starting point in studying the zoning  
19 of a municipality?

20 If I were simply studying the zoning on a  
21 municipal basis, yes.

22 MR. BERNSTEIN: That would conclude  
23 my examination of Mr. Sinton, with one  
24 and that is I would like to be  
25 able to examine him as to Chatham and

1 Mendham, since these are two of the three  
2 towns that he's seen to study, after  
3 Mr. Sinton has a chance to review the  
4 documentations since it wouldn't be fair  
5 to either him or me if he were to try and  
6 wing it and guess at what he saw.

7 MR. MEISER: All right. We are  
8 willing to produce him for a second date  
9 on that. His testimony will be what his  
10 conclusions are up to this point, with the  
11 understanding that he has not done a  
12 report and not done a final study.

13 MR. BERNSTEIN: I understand that.

14 MR. MEISER: Do you want to ask  
15 any questions today? What are your thoughts?  
16 It's 4 o'clock. I'd like to stop.

17 MR. WYSE: I have no other questions,  
18 no.

19 MR. MEISER: I'll save my redirect  
20 questions until they are finished.

21 EXAMINATION BY MR. WYSE:

22 Q. Mr. Sinton, you testified that you didn't  
23 do any kind of study or analysis of Rockaway  
24 Township; is that correct?

25 A. That's correct.

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Q. Does that mean you haven't looked at any of the expert reports submitted by Rockaway Township in this case?

A. No, I have not.

Q. Are you familiar with any of the geological or ecological environmental features of Rockaway Township, specifically?

A. No.

Q. Are you aware of the iron mining history in that region?

A. Not particular to that region, no.

MR. WYSE: That's it. No other questions.

(Whereupon, the matter was concluded at 4:05 p.m.)

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C E R T I F I C A T E

I, Sandra M. Trobich,

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

John W. Sinton

was duly sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Sandra M Trobich  
Notary Public of the State of New Jersey

My Commission expires 6/80

Dated: 3/14/80