

CN - Origo Farms + ~~Greenhouse~~ Greenhouse, Inc

7/3/79

v.
Twp of Colts Neck

Stenographic transcript of Decision: Δ Given
90 days to adopt a reasonable Ordinance that will
provide for least cost housing + a variety of
housing types

P 27

CN 000 006 S

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MONMOUTH COUNTY
Docket No. L-3299-78 P.W.

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ORGO FARMS AND GREENHOUSES, INC., x
et al.,
Plaintiffs,
-vs-
TOWNSHIP OF COLTS NECK,
Defendant. x

STENOGRAPHIC TRANSCRIPT
of
DECISION

Freehold, N.J.
July 3, 1979

B E F O R E:

HONORABLE MERRITT LANE, JR., A.J.S.C.

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

MESSRS. FRIZELL, POZYCKI & WILEY
appearing on behalf of the plaintiffs
by David J. Frizell, Esq.

MESSRS. STOUT, O'HAGAN & O'HAGAN
appearing on behalf of defendant
Township of Colts Neck
by Robert W. O'Hagan, Esq.

MESSRS. GAGLIANO, TUCCI & KENNEDY
appearing on behalf of Monmouth
Consolidated Water Co.
by James A. Kennedy, Esq.

Vincent G. De Bonis
Official Court Reporter
Courthouse
Freehold, N.J. 07728

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

THE COURT: This is an action in lieu of prerogative writs challenging the zoning ordinance of the defendant Township both on Mt. Laurel grounds and as being arbitrary, unreasonable and capricious. Plaintiff also seeks specific relief with respect to its property arguing that it is ideally suited both physically and environmentally for plaintiff's proposed high density planned unit development.

The property is on the southerly side of Monmouth County Route 537 approximately one quarter mile east of New Jersey Route 34. The Farm, known as the Orgo Farm, has dwellings, out buildings and greenhouses and is known as Lot 20, Block 48 and Lot 1, Block 48-01 on the tax map and is owned by plaintiff Orgo Farms and Greenhouses, Inc. The property consists of approximately 190 acres between Route 537 and the Route 18 Freeway. There is over 1800 feet of existing frontage on Route 537. There is another 25 acre parcel south of Route 18.

One of the issues is the standing of plaintiffs. While other jurisdictions have taken a somewhat limited view of a given plaintiff's standing to challenge zoning restrictions, it is

1 the law of this State that taxpayers and citizens
2 of a municipality possess a broad right to seek
3 review of local legislative action affecting the
4 overall integrity of the zoning plan of a
5 municipality without demonstrating any particular
6 or special damage. Booth v. Board of Adjustment,
7 Rockaway Twp., 50 N.J. 302, 305 (1967); Kozesnick v.
8 Montgomery Township, 24 N.J. 154, 177-178 (1957).
9 Plaintiff Brunetti is a land developer and
10 holds an option to purchase the Orgo Farms
11 property. Plaintiff Orgo Farms, Inc. is a
12 substantial land owner and taxpayer in defendant
13 township. Under these conditions it is perfectly
14 obvious that plaintiffs have standing to attack
15 the zoning ordinance.

16 It is fundamental that judicial
17 proceedings in lieu of prerogative writs shall
18 not be available so long as there exists an
19 administrative review to an administrative
20 agency which has not been exhausted, except where
21 it is manifest that the interests of justice
22 require otherwise. See e.g. Matawan Borough v.
23 Monmouth County Tax Board, 51 N.J. 291, 296-297
24 (1968); Kotlarich v. Ramsey, 51 N.J. Super.
25 520, 539 (App. Div. 1958). The principle,

1 however, is not absolute. Where a determination
 2 depends wholly on a question of law or where
 3 the administrative remedy would be futile,
 4 exhaustion will not be required. Kotlarich v.
 5 Ranney, Supra, 51 N.J. Super. at 539. The rule
 6 has been more recently summarized by the Supreme
 7 Court in Brunetti v. Borough of New Milford,
 8 68 N.J. 576 (1975). There the Court said:

9 "This Court has recognized that the
 10 exhaustion of remedies requirement is a rule of
 11 practice designed to allow administrative bodies
 12 to perform their statutory functions in an
 13 orderly manner without preliminary interference
 14 from the courts." Citations omitted. "Therefore,
 15 while it is neither a jurisdictional nor an ab-
 16 solute requirement, there is nonetheless a strong
 17 presumption favoring the requirement of exhaustion
 18 of remedies." Citations omitted.

19 "Admittedly, the exhaustion requirement
 20 will be waived where 'the interest of justice so
 21 requires.'" Citations omitted. "This has been
 22 held to mean that exhaustion of remedies will
 23 not be required where administrative review will
 24 be futile, where there is a need for prompt
 25 decision in the public interest, where the issues

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1 do not involve administrative expertise or
2 discretion and only a question of law is involved
3 and where irreparable harm will otherwise result
4 from denial of immediate judicial relief."
5 (588-589).

6 In the present case, quite apart from
7 challenging the validity of defendant Township's
8 zoning ordinance plaintiffs also seek specific
9 relief for their property. Plaintiffs have
10 instituted this suit without ever submitting
11 any application of any description to any local
12 administrative or quasi judicial body. There was
13 some informal discussion with the Planning Board.
14 Such informal discussion does not comply with
15 the requirement for administrative review.
16 As a result of plaintiffs' failure to avail
17 themselves in any way with the traditional
18 administrative mechanisms relating to land use,
19 the Township has been forced to spend considerable
20 sums of money and precious time to defend a
21 lawsuit, a substantial portion of which involves
22 a request for specific relief for a planned unit
23 development with, as yet, many undefined
24 parameters. In short, the municipality has been
25 compelled to deal with, in large part, an unknown

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quantity.

On the other hand, remanding or, more appropriately, dismissing the case for failure even to invoke potential administrative remedies will not save the Township the monies already spent in defense of this action. Additionally, the primary issues raised as to the validity of the Zoning Ordinance, both in Mt. Laurel terms and in terms of the ordinance's reasonableness, are basically legal in nature.

Stripped of the typically vast array of facts, varying interpretations and charged emotions attendant to litigation of this nature, the basic legal questions posed can be succinctly stated:

(a) Is the municipality a developing municipality within the meaning of So. Burl. Cty. v. Mt. Laurel Tp., 67 N.J. 151 (1975), Cert. Den. 423 U.S. 808 (1978).

and, if so,

(b) Is the municipality's zoning ordinance exclusionary?

Taking the second question first, it is clear that the Zoning Ordinance of the Township of Colt's Neck is exclusionary. Indeed, the

1 contrary position is not really urged by defendant.
2 The A-1 zone comprises virtually the entire zoned
3 area of the Township which has not been developed
4 for residential or commercial uses. The zone
5 permits single family dwellings of 2000 square
6 feet in floor area on minimum lot sizes of 88,000
7 square feet with 300 feet frontage, 300 feet width
8 and 200 feet depth. Clustering in the A-1 zone
9 is permitted which reduces the lot size to 55,000
10 square feet but which actually reduces the
11 permitted density by way of a provision that the
12 maximum number of residential lots for each cluster
13 development is found by multiplying the gross
14 acreage of the proposed development by .45.
15 The resulting density is equal to approximately
16 2.2 acres per lot. The A-1 Zone comprises 14,040
17 acres, 93.3 per cent of the land in the township
18 after subtracting the area occupied by the
19 Earle Naval Ammunition Depot.

20 428.4 acres or 2.8 per cent of the zoned
21 land in the township lies within the A-2 zone
22 permitting single family units on minimum lots
23 of 40,000 square feet. 221.1 acres, or 1.47
24 per cent of the zoned land, has been zoned for
25 A-3, single family units with minimum lots of

1 30,000 square feet. 235.7 acres, or 1.6 per cent
2 of the zoned land, is zoned for business. 121.4,
3 or .7 per cent of the zoned land, is zoned for
4 light industry.

5 The ordinance provides for no multi-
6 family housing of any kind, no townhouses, no
7 patio houses, no zero lot line houses, no
8 mobile homes. Predictably this arrangement has
9 resulted in high prices and the concomitant
10 emergence of the township as home to a
11 disproportionately large segment of the County's
12 economic elite. Whereas 23.9 per cent of the
13 families in Monmouth County make between \$15,000
14 and \$25,000 per year, 33.7 per cent of the
15 families in Colts Neck fall within this category.
16 In the \$25,000 to \$50,000 range the percentages
17 are 6.6 per cent for the County and 21 per cent
18 for Colts Neck.

19 There are also notable differences in
20 general housing characteristics. Of the total
21 of 1550 year round housing units in Colts Neck,
22 only 14.2 per cent were renter occupied, whereas
23 the county figure is in excess of 30 per cent.
24 Additionally, 95.4 per cent of units in Colts
25 Neck were one family single family units against

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71.3 per cent for the county. Without going on with what one party has labeled a barrage of statistics, it is overwhelmingly clear that the Zoning Ordinance of the Township of Colts Neck is by design and effect patently exclusionary. It fails to allow for an appropriate variety and choice of housing for all categories of people who may desire to live there as required by Mt. Laurel.

The reason given for the 2 acre zoning is to protect agriculture. That is sophistry. If the town truly wanted to protect agriculture it would zone a portion of the land for no less than 5 acres. I am unimpressed by the argument that farms cannot exist side by side with housing. That is exactly what is now going on in Colts Neck as an examination of the map showing development will disclose. Nor am I impressed by the "protect the reservoir" argument. Of course it has to be protected but that is no justification to bar all but 2 acre costly houses. There are parts of the township that are not in the watershed. There are ways to develop a densely populated site that will give protection against pollution. I do not want any misunder

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standing. I am totally in favor of farming.
I think it essential. I am also totally in
favor of reasonable zoning that is not exclusionary
and that will permit innovation in housing methods.

The major issue presented in this
litigation is whether the township is a developing
township as defined in Mt. Laurel and reiterated
in Oakwood at Madison, Inc. v. Tp. of Madison, 72
N.J. 481 (1977).

As noted recently by the Law Division in
Glenview Development Co. v. Franklin Township,
164 N.J. Super. 543, 565 (Law Div. 1978),

"The principles of Mt. Laurel do not
apply to all New Jersey municipalities. They do
not apply to developed municipalities, Pascack
Ass'n Limited v. Washington Tp., 74 N.J. 470
(1977), or to rural municipalities which are not
developing municipalities, Mt. Laurel, 67 N.J.
at 160." (565) The parties agree that
Justice Hall in Mt. Laurel articulated the
following criteria to be employed in determining
whether a given municipality is in fact a
developing municipality. Developing municipalities
(1) Have a sizeable land area
(2) Lie outside the central cities and

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older built-up suburbs

(3) Have substantially shed their rural characteristics

(4) Have undergone great population increases since World War II, or are now in the process of doing so,

(5) Are not completely developed

(6) Are in the path of inevitable future residential, commercial and industrial demand and growth.

(67 N.J. at 160)

Justice Hall also indicated that the decision did not concern "central cities or older built-up suburbs or areas still rural and likely to continue to be for some time yet."

Id. What remains is the task of applying these criteria to the facts.

The Township is in North Central Monmouth County near the County's geographic center. It is 31.60 square miles in area, or 20,224 acres. Even allowing for those portions of the township taken up by NAD Earle, the Swimming River Reservoir, schools, county and municipal property, et cetera, it cannot be denied that this township has a sizeable land area.

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Within ten miles of the township are the urban and suburban centers of Red Bank, Long Branch, Freehold and Asbury Park; within twenty miles New Brunswick, Perth Amboy and Woodbridge and within forty miles, New York City, Hudson County, Newark, Trenton and Elizabeth.

The township is traversed by several roadways, including Route 18, State Highway 34, County Highways 537 and 520 and County Route 50. Major transportation routes within reasonable proximity include the Garden State Parkway, U. S. Route 9, State Highway 33 and State Highway 79.

In 1950 the population of Colts Neck was 1,814 persons. In 1960 the population was 2,177 persons. At that time the county had a population of 334,401 persons. In 1970 the population had increased 167.3 per cent to 5,819 persons, while Monmouth County had increased by only 38.1 per cent to 461,849 persons.

Population projections for the years 1985 and 2000 vary. One is a 1985 population of 10,800 people and a 2000 population of 18,500 people. This projection may be too high. I do not accept Mr. Queale's future population

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1 projections. It is difficult to arrive at a
2 figure because all the data is infected with the
3 exclusionary existing zoning. All that need be
4 said is that there are tremendous pressures that
5 will lead to a substantial increase in population.

6 Defendant argues substantially as
7 follows:

8 "Colts Neck's population increases are
9 consistent with its position in the county and
10 the historic regional growth pattern outward
11 from urban cores and along major highways. Every
12 town in the county has had population increases.
13 When measured as percentage increases, those
14 starting at low population levels might show
15 large percentage increases, e.g. a community with
16 a population of 1,000 increasing to 2,000 has a
17 100 per cent increase while gaining only 1,000
18 people. From 1960 to 1970 Colts Neck had an
19 increase of over 3,600 people representing a 167
20 per cent increase over its 1960 population of
21 2,177. Throughout the county, 13 towns recorded
22 greater population increases between 1960 and
23 1970. These 13 towns represented 58 per cent of
24 the county's land area but recorded 76 per cent
25 of its population increase. Ten of the 13 towns

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are either north or east of the Parkway in the county's traditional development corridor. In addition, Freehold Township reflected the outward expansion of the county seat while Manalapan and Marlboro in the northwest reflected development extending south from the greater New York Metropolitan Area via Routes 9 and 18.

"In general, the township's percentage increase in population appears significant while the increase in absolute numbers is less impressive compared to the low level of housing development and the population growth in other towns where highways, jobs and utility services are convenient. The 1960's revealed the most rapid population growth in the township's history, yet this occurred during a period when an average of only 87 homes per year were being built. The population growth was more a reflection of the larger homes having greater population capacity than of rapid construction. Since 1970 the average has declined to 54 units per year. In addition, the number of jobs is approximately 0.5 per cent of the county's total number of jobs with approximately one third these jobs being part time. In contrast, the township represents

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6.7 per cent of the county's land area but only 1.3 per cent of its population in 1970 and has averaged only 1.3 per cent of all dwelling units authorized in the county since 1960. To the extent jobs might be considered an attraction for additional housing and people, Colts Neck is not a major employment center nor is it projected to be one. To the extent housing development might be an indicator of continuing population growth, the township has reflected an overall decline in the number of units authorized each year since 1965."

I cannot conclude that defendant Township has not experienced a rapid population growth. Based upon the 1978 population estimate by the Monmouth County Planning Board, Colts Neck had a population as of January 1, 1978 of 7,590 people, a 248 per cent increase from the 1960 figure. The 1985 and 2000 population estimates about which I have spoken, even if they may be a bit high, demonstrate this growth will continue. When considered within the perspective of the grossly exclusionary zoning in effect, such growth can indeed be deemed explosive.

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With respect to whether the township is located outside the central cities and older built-up suburbs, the parties agree that it is.

With respect to whether the township has substantially shed its rural characteristics, plaintiffs argue substantially,

"Colts Neck Township has substantially shed its rural characteristics. The Township's Master Plan documents that in 1960 71 per cent or 14,359.04 acres were occupied by woods, crops, open fields, water and the Monmouth Consolidated Water Company's watershed area which contains 1000 acres. By 1969 land uses in these categories had decreased to 51.5 per cent which is a loss in these categories of 3,943.68 acres. In contrast, at the time of the Mt. Laurel opinion Justice Hall noted that 65 per cent of that township was still vacant land or in agricultural use. This decrease amounting to 28 per cent of these land categories within nine years must be considered substantial. The Township's own Master Plan, 1976 amendment, concludes that 'The obvious trend is in the gain in residential uses and a loss in the agriculture and previous undeveloped areas.' The population density of

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the township, based on the Monmouth County Planning Board's population estimate for Colts Neck Township of 7,590 persons in 31.6 square miles, is 240 persons per square mile."

On the other hand, defendant reiterates its arguments that population increases have in actual numbers been relatively small and that the building of dwelling units is on a decline. Its position is something like this:

"The township is a major contributor to the county's agricultural base. While it is about 5.7 per cent of the county's land area, it has 9.6 per cent of its qualified farmland and almost 18 per cent of the horse farms. Monmouth County has an estimated 10,000 horses, the highest horse population in the state. Monmouth County also has the highest number of horse farms with 50. Colts Neck has almost one-sixth the horse farms in Monmouth County. The township's location between Freehold Raceway and Monmouth Park make it locationally ideal for horse farms, but its history of agriculture and the prevailing farmland characteristic encourage its continuation.

"Other characteristics of the township support the continuation of the township's rural

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characteristics:

"The township provides no municipal trash or garbage collection. It is available by individual contracts with three firms working in the area.

"Once off the through roads of Routes 34 and 537, the road system is basically a rambling, two-lane rural system. The new subdivisions have curvilinear, interior local streets.

"The township has no municipal police force. Police protection is provided by the State Police.

"There is no sewer service.

"There is no public water or surface water supply distribution in the township.

"There are only two volunteer fire companies and one rescue squad.

"The township has three elementary schools but no high school.

"There is no library.

"The township road department is small and provides patchwork maintenance plus drainage ditch maintenance but undertakes no major construction jobs.

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" Major portions of the township remain in the qualified farmland designation (9,437 acres) which when combined with the MAD Earle property and Swimming River Reservoir, both of which are undeveloped and create a visual impression of undeveloped property, represent about three-quarters of the township area (46 per cent farmland; 26 per cent MAD Earle and 5 per cent reservoir.)

" The township has not zoned substantial portions for commercial or industrial development. The only industrial development recognizes the existing Laird Distillery and a dump and substation for the power line in the midst of the MAD Earle complex. The commercial designation represents existing development patterns along Route 34. The combined industrial/commercial land use pattern is less than one per cent of the township (one half of one per cent of the total township and about three-quarters of one per cent of that portion of the township outside the MAD Earle and reservoir properties).

" Based on the township's continuing agricultural base, its limited population, the stable but low level of housing construction, the

1 general absence of municipal services, the absence
2 of industrial jobs, a limited number of local
3 commercial jobs, the absence of planning and
4 zoning for industrial and commercial expansion,
5 an absence of major road improvements and substan-
6 tial agricultural acreage and horse breeding
7 activities indicate the township has not sub-
8 stantially shed its rural characteristics. In fact,
9 it appears to have stabilized and been strengthened
10 with the growth of horse breeding in the state."

11 Defendant's arguments are not
12 persuasive. As plaintiff points out, the
13 rural features presently existing in Colts
14 Neck are merely the result of exclusionary zon-
15 ing. I take it from the testimony of Mr. Orgo
16 that there are very few dirt farms. There
17 are for the most part what I believe he
18 termed to be either tax dodges or rich man's
19 farms. It is clear that the predominant
20 development trend in Colts Neck is horse
21 farms and residential.

22 Population density of approximately 240 per-
23 sons per square mile is well above the figure em-
24 ployed by the Regional Plan Association of 100 per-
25 sons per square mile to determine whether a given mun-
cipality may be termed rural. While I might agree that

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Colts Neck is less suburban than Eatontown or Red Bank, for example, it is not rural. The growth in and continuing trend toward residential development belies defendant's arguments. The lack of local services, what Judge D'Annunzio termed "an adequate capital infrastructure", Glenview Development, Supra, 164 N.J. Super. at 569, is again merely a result of exclusionary zoning practice. Colts Neck is not Franklin Township. It has substantially shed its rural characteristics.

With respect to whether the township is completely developed, major public, quasi public and institutional holdings exist in the township. The NAD Earle property of 5,150 acres, the reservoir of 1,010 acres, the County Golf Course of 180 acres, dedicated open spaces of 625 acres and school properties, municipal buildings and similar uses of approximately 150 acres make up about 37 per cent of the township. Streets represent another 4 per cent. So that when the 13 per cent of residential development is added to the previously indicated developed characteristics about 54 per cent of the township is removed from immediate consideration. While over 90 per cent of the remaining 46 per cent of

1 the land is qualified farmland, the fact
2 remains that it is open, developable land.
3 While I agree that preservation of agricultural
4 open space is desirable, it is also true that
5 in this day and age diverse housing opportunities
6 must be afforded. As plaintiff points out, a
7 rationally conceived zone scheme providing for
8 open space, providing for varying sized lots,
9 providing for clustered and high density development
10 can effectively serve both desired ends and
11 is certainly preferable to the profligate waste
12 of land zoned 2 acres residential. I am not
13 adverse to large residential lots. I do feel,
14 however, that large lots should result not from
15 the mandate of zoning but from a particular
16 property owner's private acquisition of several
17 parcels for his own homestead.

18 Finally, it is abundantly clear that
19 Colts Neck is in the path of inevitable
20 future development. The population projections
21 indicate this, the recent and continuing
22 construction of Route 13 indicates this, the
23 increasing unavailability of land along the
24 coast indicates this, as does Colts Neck's
25 location along Route 537, the major artery

1 connecting the central eastern municipalities
2 in Monmouth County with the interior. To hold
3 that a municipality as pivotally located as
4 Colts Neck is not, in this County, in the
5 path of future growth would be absurd, and you can
6 just look at the number of approved developments
7 that are now pending.

8 In summary, Colts Neck is a developing
9 municipality whose zoning ordinance is patently
10 exclusionary. As such it offends both of the
11 Mt. Laurel criteria. The Zoning Ordinance is
12 declared void.

13 I should point out that a reasonable
14 ordinance can accommodate the Tri-State and County
15 Planning Board recommendation of gross density of
16 .5 units per acre. That recommendation does
17 not mean that every acre thus should contain
18 only .5 units. It means that throughout the
19 area the gross density be .5 units per acre.
20 Presently it is .12 units per acre.

21 The existing zoning is not designed
22 to maintain farm lands. The arguments used to
23 support the ordinance are fallacious. The only
24 result of the ordinance is to maintain a
25 predominantly wealthy, single family community.

1 Perhaps if I were wealthy and lived in
2 Colts Neck I would feel the same way the
3 defendant fathers apparently do but if I did I
4 would have failed in my obligation as a citizen
5 of this State.

6 I might say that I agree with Mr.
7 Halsey that municipalities are not proper
8 boundaries for zoning. Zoning should be a
9 function of county government. If it were,
10 the decision in this case might well be different.
11 That change, however, must come from the
12 Legislature.

13 Plaintiffs maintain that as their
14 property is ideally suited for development at
15 high density, they should be afforded specific
16 relief. Such an extraordinary remedy was
17 granted by the Supreme Court in Oakwood at Madison,
18 Supra, 72 N.J. at 549-551 where the Court set
19 forth the reasons for the action that led the
20 Court to provide for specific relief. In a
21 footnote, however, the Court warned that:

22 "This determination is not to be
23 taken as a precedent for an automatic right to a
24 permit on the part of any builder or plaintiff
25 who is successful in having a zoning ordinance

1 declared unconstitutional. Such relief will
2 ordinarily be rare and will generally rest in the
3 discretion of the Court, to be exercised in light
4 of all attendant circumstances."

5 (72 N.J. at 551-552, note 50.)

6 In Oakwood at Madison, the corporate
7 plaintiff was a land developer who had submitted
8 a housing project of defined and known dimensions
9 to the Township prior to the Supreme Court
10 grant of relief. In this connection plaintiff
11 was able to guarantee that at least 20 per cent
12 of his development would be devoted to least cost
13 housing. In the present case although plaintiff
14 Brunetti does have a PUD plan in mind, it was
15 never formally submitted to any municipal agency.
16 The plan is not well defined and there has been
17 no presentation of what per cent, if any, will
18 be devoted to least cost housing. In fact,
19 the testimony indicates that the various housing
20 units in plaintiff's proposal will probably be
21 priced in line with the current cost of dwellings
22 in the township. Under these circumstances
23 specific relief is wholly inappropriate.

24 I have allowed proofs with respect to
25 plaintiff's property solely for the purpose of

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demonstrating that higher density development is feasible in Colts Neck even though maybe not at the density talked of by plaintiff. While Colts Neck is precariously parched environmentally, the proofs show that most of Monmouth County shares this condition. I am confident that the town fathers in adopting the new ordinance will consult with knowledgable planning and environmental specialists in the attempt to achieve a viable, rational zone plan accommodating both the region's need for least cost housing and a variety of housing types and for a stable, healthy environment.

It is not up to the Court in the first instance to tell the municipality where the various zones will be placed. Defendant will be given 90 days to adopt a reasonable ordinance that will provide for least cost housing and a variety of housing types to include:

1. Areas in which houses will be built on small lots.
2. Areas in which townhouses, garden apartments, patio housing and zero lot line housing may be placed.
3. Areas in which a mix of small houses,

1 multifamily housing and commercial adjuncts may
2 be placed.

3 4. Areas in which property owners may
4 build innovative housing as opposed to standard
5 rectangular lots.

6 5. Sharp reduction of minimum floor
7 area.

8 6. A true cluster provision, not one
9 that increases the needed land.

10 If no ordinance is adopted within the
11 90 days, the Township will be unzoned and any
12 property owner may build what he pleases subject
13 only to the construction code.

14 Costs will be awarded to plaintiff.

15 Mr. Frizell, will you submit a
16 judgment, please.

17 MR. FRIZELL: Yes, Your Honor. If I
18 may inquire, the 90 days, when I write the
19 judgment, should that be 90 days from the date
20 the judgment is signed?

21 THE COURT: Date of judgment.

22 * * * *

23 Certified as a true and accurate
24 transcript of stenographic notes.

25 
Official Court Reporter