

CN - Origo Farms v. Two Colts Neck

7/21/80

Transcript of proceedings: witness → Robert Halsey

+ Franceschini

+ Srotek

+ exhibits marked for identification

P 160

CN 000 012 S

1 (The hearing convened at 7:15
2 p.m.)

3 (Compliance with the Open Public
4 Meetings Act was noted.)

5 THE CHAIRMAN: Roll call.

6 MR. SCHRUMPF: Here.

7 MR. DAHLBOM: Here.

8 MR. TISCHENDORF: Here.

9 MR. BRENNAN: Here.

10 MR. NIEMANN: Here.

11 THE CHAIRMAN: This is a special
12 meeting and narrowly confined to the issue at hand.
13 So I would ask Counselor if he would like to proceed
14 where he left off at the last meeting?

15 MR. PRIZELL: Are we going to
16 hear from Mr. Halsey first?

17 THE CHAIRMAN: Well, we will
18 decide. If you would like to proceed, you can; or,
19 we would like to hear from Mr. Halsey first. I don't
20 think the Board has -- Sam, what do you think.

21 MR. SAGOTSKY: I thought we might
22 unless -- there is special reason, I would call Mr.
23 Halsey.

24 THE CHAIRMAN: In view of that,
25 since there is no objection let's call and swear Mr.

1 Halsey, please.

2 MR. HERMAN: Mr. Chairman, before
3 we do that, for the record, my name is Jay Herman.
4 I'm the attorney for the Board of Education. At the
5 conclusion of the last meeting I think Mr. Frizell
6 agreed to bring Mr. Orgo back. I didn't hear if
7 there was an indication in dialogue. It doesn't
8 matter, even if next time. I think you did represent
9 that you would bring him back tonight.

10 MR. FRIZELL: We expect him here.

11 THE CHAIRMAN: It was indicated
12 he would be here tonight.

13 MR. SAGOTSKY: I have a
14 microphone here, to change matters; and, I'll try
15 from here then.

16 Mr. Halsey?

17
18 R O B E R T D. H A L S E Y, a witness called on
19 behalf of the Zoning Board of Adjustment, having been
20 duly sworn according to law, testified as follows:

21
22 THE WITNESS: My home address is
23 29 Pocono Avenue, Oceanport. My work address is 1
24 Lafayette Place, Freehold.

25

1 DIRECT EXAMINATION BY MR. SAGOTSKY:

2
3 Q. Mr. Halsey, under this date of July 15th,
4 you have been requested to appear before the
5 Adjustment Board of Colts Neck in response to a
6 subpoena; is that correct?

7 A. That's correct, sir.

8 Q. And the only fee that you are being paid
9 is the subpoena fee?

10 A. That's correct.

11 Q. And you are on the payroll of the County
12 of Monmouth?

13 A. That's right.

14 Q. There is no extra pay involved to you in
15 any way for appearing here this evening, is there?

16 A. No, there is not.

17 MR. SAGOTSKY: Am I coming
18 through to everybody all right? I'm on a mike, here.

19 Q. Now, Mr. Halsey, will you give us your
20 background and your qualifications?

21 A. Well, briefly, I graduated from Rutgers
22 University in 1962 with a Bachelors's degree in
23 political science and city and regional planning.
24 And I was employed for two years after that with the
25 firm of Eugene Cross Associates, a planning

1 consulting firm based in New Brunswick. Beginning in
2 July, 1964 I was employed by the Monmouth County
3 Planning Board in various capacities leading up to
4 appointment as Director in April of 1971. And I have
5 been employed as Director of the Board since that
6 time.

7 Q. Your title is Planning Director?

8 A. That's correct.

9 Q. And are you secretary of the Monmouth
10 County Transportation Coordination Committee?

11 A. Yes, I am.

12 Q. And are you a member of any national
13 association or societies?

14 A. I'm a member of the National Association of
15 County Planning Directors.

16 Q. And Board of Trustees of any
17 institutions?

18 A. At the present time, I'm on the Board of
19 Trustees at Allaire Village. I'm on the Board of
20 Directors of Twin Borough Savings and Loan
21 Association in Eatontown.

22 Q. Are you an advisor to any economic
23 development committee?

24 A. I'm advisor to Monmouth Overall Economic
25 Development Committee.

1 Q. Any other council or committee?

2 A. There are several county organizations I'm
3 either a member of, or an advisor to, various county
4 advisory boards.

5 Q. Are you a member of the American
6 Institute of Planners?

7 A. No. I was a member at one time. I'm not a
8 member presently.

9 Q. Monmouth County Sewerage Advisory
10 Committee?

11 A. I was secretary to the committee. That is no
12 longer an active committee.

13 Q. Are you engaged in any way with the
14 Monmouth County Conservation Council?

15 A. That's another committee which no longer is in
16 existence. I was a member of that.

17 MR. FRIZELL: I'm sorry, Mr.
18 Sagotsky. Is that a public body or is that a private --

19 THE WITNESS: It was a public
20 body that's no longer in existence.

21 BY MR. SAGOTSKY:

22 Q. Were you a member of the Oceanport
23 Borough Planning Board?

24 A. Yes, for a period of approximately three years
25 in the mid 1960's.

1 Q. Are you an officer of the Monmouth
2 County Bayshore Outfall?

3 A. I was secretary-treasurer, but I have not been
4 with the Outfall Authority for about five years.

5 Q. Have you taught any course or courses in
6 zoning?

7 A. I have taught a course in planning for the
8 Rutgers Extension Service and a course in zoning
9 administration.

10 MR. FRIZELL: Mr. Sagotsky, I
11 don't know if you want to continue this, in any event,
12 but I certainly have no objection to Mr. Halsey's
13 testifying.

14 MR. SAGOTSKY: One more question.

15 Q. Do you have any degrees?

16 A. A Bachelor's degree.

17 MR. SAGOTSKY: I'll offer his
18 qualifications and we'll have it marked 1, assuming
19 there is no objection.

20 (Whereupon the curriculum vitae
21 of R.D. Halsey is marked D-1 for identification.)

22 MR. BRENNAN: I would like to ask
23 a few questions.

24 MR. SAGOTSKY: Yes, of course.

25 MR. BRENNAN: Mr. Sagotsky asked --

1 forgive me if I do not express the right title of the
2 organization, the American Institute of Planners?

3 THE WITNESS: That's right.

4 MR. BRENNAN: Where you were a
5 member but you are no longer a member. May I ask why
6 you are no longer a member?

7 THE WITNESS: Well, the American
8 Institute of Planners doesn't exist now. It was
9 merged with another organization. But I dropped
10 membership before that occurred. I felt I wasn't
11 doing anything for the organization; I didn't feel
12 the organization was doing anything for me. So I
13 just did not renew my membership.

14 MR. BRENNAN: Well, then would it
15 be fair to say that membership or non-membership in
16 that organization would not add anything to your
17 credibility as a witness?

18 THE WITNESS: I don't think so.
19 In New Jersey, a planner has to be licensed. I do
20 have a license, by the way. I neglected to mention
21 that. I'm a licensed planner in the state and that's
22 the basic requirement to hold a responsible planning
23 position.

24 BY MR. SAGOTSKY:

25 Q. You are a licensed planner in New Jersey?

1 A. That's correct.

2 MR. FRIZELL: I do have one
3 question or two questions, Mr. Sagotsky.

4 BY MR. FRIZELL:

5 Q. Your position as director of the County
6 Planning Board, is that -- is there a tenure to that
7 position or do you serve at the pleasure of the Board
8 of Freeholders?

9 A. No, in Monmouth County it's a civil service
10 position.

11 BY MR. SAGOTSKY:

12 Q. Mr. Halsey, the subject property about
13 which you are requested to testify this evening is
14 known as the Colts Neck development or Colts Neck
15 Village. And it is located on the southerly side of
16 Monmouth County Route 537. It's approximately a
17 quarter of a mile east of New Jersey Route 34 and is
18 known as the Orgo farm.

19 At this juncture, I would like to
20 describe it a little bit more. But before doing so,
21 can you -- do you have a development map of the
22 county which would indicate the area -- or on which
23 the area will be shown; and, if you have, will you
24 set it up for us?

25 A. The maps which we have, among others, are

1 overall maps of the county. So any properties within
2 Monmouth County would be located on the map. The map
3 which I believe you would like to see would be the
4 map which accompanies the Monmouth County General
5 Development plan and is a part of that plan.

6 Q. Will you fix the plan upon the bulletin
7 board.

8 A. (Whereupon the witness complies.)

9 MR. FRIZELL: You want to mark
10 that, Mr. Sagotsky?

11 MR. SAGOTSKY: Yes, I would like
12 to mark it. I would like to mark it but on the
13 theory it seems like a picture map, can that be
14 spared or is that something that will have to be
15 returned to your office?

16 THE WITNESS: The map can be
17 spared. If the report is requested, I would
18 appreciate getting that back after the hearings are
19 closed. We're very short on copies at the present
20 time.

21 MR. SAGOTSKY: Very well. Set up
22 your map and I'll have it marked as D-2.

23 (Whereupon a map is marked D-2
24 for identification.)

25 MR. SAGOTSKY: The map is marked

1 as D-2, 7/15/1980; and, the legend thereon, Monmouth
2 County General Development Plan.

3 BY MR. SAGOTSKY:

4 Q. Now, the general area I would further
5 describe it a farm known as the Orgo farm and
6 dwellings and out buildings and greenhouses, known as
7 Lot 20, Block 48 and Lot 1, Block 4801 on the tax map.
8 Now, the farm area consists of approximately 214
9 acres and it's between Monmouth County Route 537 and
10 Route 18 freeway. There's approximately seventeen or
11 1,800 feet of frontage on 537. And there is a rear
12 parcel that was divided from the larger parcel when
13 the right-of-way for the freeway was obtained; and,
14 that's approximately 24 acres and is land locked due
15 to the non-accessability of Route 18. Now, the
16 southerly boarder is Hohockson (phonetic) Brook.

17 Does that area that I have generally
18 described show on that map, D-27

19 A. The area is located on the map. The boundaries
20 of the property are not shown on this map. I can
21 point to it or mark the map.

22 MR. FRIZELL: Maybe you could
23 draw it in for us.

24 THE WITNESS: I'll do it in very
25 rough fashion. I'm not sure of the extent, but

1 generally the area which I just transcribed with the
2 two generally north south lines extending from Route
3 537 southwards across Route 18 to Honockson brook and
4 generally following the rear of the property that
5 fronts on the east side of Route 34. That's to the
6 best of my abilities to present it on this map.

7 BY MR. SAGOTSKY:

8 Q. Would you characterize the land as
9 rolling and draining into Slope Brook? Does that
10 appear on your map?

11 A. The map does indicate Slope Brook. And this
12 map does not show topography, so one has to have
13 other knowledge to determine the drainage of the land.

14 Q. Is it fair to say that the subject
15 property is in the approximate center of the township?

16 A. In general terms, yes.

17 Q. Now, I call to your attention that there
18 is an application that has been filed for a planned
19 unit development in the area that we have just
20 discussed and pointed out. The application involves
21 approximately 214 acres. It's been noted at 221
22 acres, but that's the general, approximate acreage.
23 And it will consist of approximately 1,146 dwelling
24 units, varied, condominiums, detached. There will be
25 a business -- part will be a business area; of course,

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1 part will be for recreation. And there is
2 it is planned for a population of approxima
3 people.

4 Now, assuming that there will also be in
5 this plan -- there is in this plan provision for a
6 water -- for water and sewer; the sewer is to be
7 provided in the southern part, that separated 24
8 acres that I have just mentioned, which is to serve
9 these premises. Now, generally this plan that I have
10 just described and for which there is an application
11 known as a PUD to the Township Board of Adjustment,
12 is this plan consistent with the development plan of
13 the County of Monmouth Planning Board?

14 A. No, it is not.

15 Q. Can you begin to point out in what
16 manner it is not?

17 A. The County's General Development Plan envisions
18 the higher density developments similar to the type
19 that you described for this premises in two corridors,
20 one what we call the coastal corridor, which
21 generally lies parallel for mostly east of the Garden
22 State Parkway and is shown on the map in darker tone
23 colors. The second major corridor is known as the
24 Route 9 corridor and generally straddles Route 9.
25 Between those two development corridors is an area

1 which we recommend generally for low density
2 developments. And the areas shown in white are
3 classified on the map as rural residential, less than
4 one half dwelling unit per acre. That separation
5 area between the two development corridors generally
6 connects the Mount Pleasant hills in Marlboro and
7 Holmdel Township southward through the area tributary
8 to the Swimming River Reservoir, through the Earle
9 Ammunition Depot and then southwards through the
10 Allaire Park, Manasquan River Reservoir site and some
11 poorly drained soil in Howell Township. So it forms
12 a separation zone between the two county development
13 corridors. As regards the particular site, the plan
14 as adopted by the Monmouth County Planning Board in
15 1971 does show industrial -- excuse me -- not office
16 and research for the area from Slope Brook southward
17 to the freeway alignment. At the time the plan was
18 drawn, we had knowledge of the alignment of the
19 freeway even though it was not yet built. The area
20 from Slope Brook north is shown as rural residential
21 classification.

22 Q. Now, have there been any changes in that
23 map plan for the Township of Colts Neck?

24 A. At the present time, the County General
25 Development Plan is undergoing review by the County

1 Planning Board. It now is before the Board. Each
2 meeting, a period of time is set aside to review
3 goals and objectives and propose changes in the plan.
4 At the present time, this is unofficial because the
5 Board has not taken an official vote to make any
6 changes.

7 MR. FRIZELL: Let me object.

8 First of all, the question -- I don't want to get too
9 technical -- first of all, Mr. Halsey, the question
10 was has there been any changes in that plan. And
11 that really is a simple answer. I take it the answer
12 is no?

13 THE WITNESS: No official changes
14 in the plan.

15 BY MR. SAGOTSKY:

16 Q. Are you planning a change in preference
17 to the office area, office zone?

18 MR. FRIZELL: When you say you --

19 MR. SAGOTSKY: The Planning Board,
20 the Monmouth County Planning Board.

21 MR. FRIZELL: The Planning Board
22 is a body. And as bodies, just like this Board, the
23 individual view of a consultant or individual view of
24 an individual member can be one thing. But, until
25 the body passes a resolution or does something to

1 make a change, that's the status of the plan. Well --
2 quite frankly, this all sounds familiar to me.

3 THE CHAIRMAN: It's not familiar
4 to me. I think it would be helpful to know what
5 their thinking is. I think Mr. Halsey is just
6 relaying their thinking. He's not propounding his
7 own personal views.

8 MR. FRIZELL: You see, Mr.
9 Schrumpt --

10 MR. BRENNAN: I have a question
11 as to whether or not his thinking is speculation as
12 to what the Board might do in the future. It's not
13 relevant to the issue before the Board of Adjustment
14 at the present time.

15 MR. SAGOTSKY: Well, the question
16 is asked because it has a bearing on what the Board
17 considers proper planning for the future of that area.

18 MR. FRIZELL: Well, I think
19 that's the point, though, Mr. Sagotsky. What the
20 Board thinks is a product that is reduced typically
21 to writing, in the form of a resolution or adopted
22 plan. That plan that they've not -- maybe they'll
23 erase office and put in industrial, maybe they'll put
24 in farming. I don't know what they'll put in. But
25 until they do something and formally commit

1 themselves, it doesn't mean anything. They could
2 change it ten times before they adopt it.

3 well, as I said, I don't want to
4 get -- when I said, Mr. Schrupf, it sounded familiar
5 to me, the same evidential question was raised from a
6 proceeding before a judge and was found not to be
7 evidential.

8 MR. SAGOTSKY: I think in this
9 case the Board may hear it for what it's worth as to
10 the thinking. They may or may not be guided by it.
11 You brought out the point it is not, apparently,
12 official, but certainly I ask the Board that it be
13 permitted to be answered and go on from there. We're
14 not held to the strictest rules of evidence.

15 MR. BRENNAN: Before we go into
16 that then, may I ask what the color coding is on the
17 chart? Is it density of population or what?

18 THE WITNESS: Pointing to the
19 colors, brown is high density. That's residential
20 over ten dwelling units per acre. The orange, medium
21 density, four to ten dwelling units per acre; and,
22 lighter orange is medium low density, 1.2 to four
23 dwelling units per acre; yellow, 0.5 to 1.19; and the
24 white, residential, less than one half dwelling unit
25 per acre. The industrial categories, purple,

1 as far as the eastern end is concerned. Maybe I
2 should touch on all of the portions of the township
3 shown on the county plan for the record.

4 MR. SAGOTSKY: It might be well.

5 THE WITNESS: All right. I will
6 start at Earle Ammunition Depot, down in the vicinity
7 of Pine brook in the Squankum Road area. Going northward
8 along the boundary, we show adjacent to the stream --
9 which is -- all of the streams are shown in either
10 regional or local drainage and conservation areas --
11 that's a basic part of the plan. Adjoining that, to
12 the left, is Colts Neck Township. That's shown in
13 the rural residential category. That holds true all
14 the way along the eastern boundary of the township,
15 where -- to the point where it intersects the
16 reservoir. Then proceeding along the boundary which
17 runs through the northern branch of Swimming River
18 Reservoir, again the Colts Neck side of the boundary
19 is in rural residential. Following that boundary up
20 to the boundary at Newman Springs Road, we still have
21 rural residential in Colts Neck, going to the west
22 over to the Marlboro boundary.

23 MR. BRENNAN: What is north of
24 that line that you just described?

25 THE WITNESS: North of that line

1 is Holmdel Township, till we get over to the juncture
2 of the Holmdel -- excuse me, Marlboro Township. We
3 come up as we intersect Route 34 at Route 520, we
4 have the junction of Colts Neck Township, Holmdel
5 Township and Marlboro Township. Proceeding west on
6 Newman Springs Road, you have Marlboro Township.
7 That is also known as rural residential; and, in
8 Colts Neck, in rural residential. Proceeding over to
9 the westerly boundary of the township, a portion of
10 Marlboro is shown as rural residential, then a larger
11 area is part of the quasi-public land owned by the
12 State, the Marlboro Hospital property. Proceeding
13 southward, the Colts Neck side is rural residential.
14 As we get down toward Crine (phonetic) Road area,
15 cross Big Brook, to the right in Marlboro is
16 industrial; to the left, in Colts Neck, is rural
17 residential. We reach the county Route 46, Dutch
18 Lane Road, the configuration is rural residential
19 both on the Marlboro side and the Colts Neck side.
20 Proceeding south to the juncture of the boundary of
21 Colts Neck Township, Marlboro Township and Freehold
22 Township and we are still rural residential on the
23 Colts Neck side and medium low density on the
24 Freehold Township side. Then, as the line proceeds
25 southward, there is an area of low density which is

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1 the 0.5 to 1.19 dwelling units per acre o
2 Neck side. That's generally the area bound
3 northeast by Route 18 freeway on the east
4 proposed freeway which extends from the Route 18
5 freeway; southward toward Howell Township, parallel --
6 roughly paralleling Five Points Road, giving a better
7 local reference. That corner of the township is
8 shown in the low density residential. Then the
9 boundary proceeds through the Earle Ammunition Depot,
10 which is a federal installation, crosses the southern
11 division of what is now Conrail, was the Central
12 Railroad of New Jersey; and, a small area, your
13 extreme southeast corner of the township, is shown as
14 industrial. And it happens to be the site of a
15 landfill facility. Then the boundary proceeds through
16 the Earle Ammunition Depot to the point of beginning.

17 MR. BRENNAN: That map, what
18 would you consider high density?

19 THE WITNESS: The highest
20 categories are shown as Asbury Park and a few small
21 areas of existing -- Latontown, the apartment area of
22 Latontown north of Route 36, between Route 35 and
23 Hope Road, generally; The Vale Homes area, Shrewsbury
24 Township; and, an area of apartments in Matawan
25 Borough and also a small area of apartments in

1 Monmouth beach and some in Long Branch.

2 MR. BRENNAN: Now, how many
3 people per acre in high density?

4 THE WITNESS: Well, it's in the
5 terms of dwelling units per acre, over ten dwelling
6 units per acre.

7 MR. BRENNAN: So then if you had
8 1,100 to 1,200 dwelling units on 180 to 200 acres in
9 Colts Neck Village, that would qualify as high
10 density?

11 THE WITNESS: That would probably
12 come in the medium density category. Roughly, in
13 ballpark numbers, you are talking six dwelling units
14 per acre.

15 THE CHAIRMAN: When you
16 categorized Colts Neck as being overall rural
17 residential, Mr. Frizell, you said, that's not
18 exactly right, is it? He did say, it's not exactly
19 right, is it. I was wondering if you were referring
20 to that little yellow area down in the corner there
21 as being the one that wasn't rural residential.

22 MR. FRIZELL: From where I'm
23 sitting, I thought the line crossed somewhere. But
24 apparently from Mr. Halsey's testimony the -- on the
25 eastern boundary -- I forget what color you called

1 that; dark yellow color, actually traces the township
2 boundary line. So the all yellow on one side and all
3 white on the other, the Colts Neck side is all white.

4 THE CHAIRMAN: So essentially
5 Colts Neck is rural residential?

6 THE WITNESS: That's right.

7 THE CHAIRMAN: I think somebody
8 was trying to bring out that point. The area in blue
9 there, is that owned by the Federal Government or
10 leased, that part of Colts Neck which is called RAC
11 Earle?

12 THE WITNESS: I believe that's
13 owned by the Government. That was acquired in the
14 early 1940's.

15 THE CHAIRMAN: And, therefore,
16 Colts Neck in their master plan have no control
17 whatsoever over it?

18 THE WITNESS: No.

19 THE CHAIRMAN: Thank you.

20 MR. NIEMANN: How many units were
21 there in the rural residential classification?

22 THE WITNESS: Few. We are less
23 than one half unit per acre.

24 MR. NIEMANN: And a medium
25 density would be how many units per acre?

1 THE WITNESS: would be 1.2 to
2 four

3 MR. TISCHENDORF: As I read it,
4 that says medium low.

5 THE WITNESS: You wanted to know
6 the medium for that?

7 MR. NIEMANN: Yeah. You got
8 medium low and medium high?

9 THE WITNESS: The terminology is
10 high density, the medium density, the medium low
11 density, the low density and rural residential.
12 Those are the residential classifications for --

13 MR. NIEMANN: The difference per
14 unit per acre between your intended development plan
15 and what would exist, should the plan unit
16 development be constructed, would be approximately
17 how many units per acre difference?

18 THE WITNESS: Well, our plan
19 would call for less than one half dwelling unit per
20 acre, which would fall in the rural residential
21 category. And the proposed development would fall in
22 the medium density, four to ten, which would be the
23 second highest category on the county plan.

24 THE CHAIRMAN: I think an
25 important point here, when you say "our plan", who is

1 "our"?

2 THE WITNESS: The Monmouth County
3 Planning Board.

4 THE CHAIRMAN: In other words,
5 the Monmouth County Planning Board is just not geared
6 to Colts Neck, it's geared to the entire and
7 represented by people from the entire county?

8 THE WITNESS: That's correct.

9 THE CHAIRMAN: There's nothing in
10 favoring Colts Neck on that Planning Board in any way?

11 THE WITNESS: I don't believe we
12 ever had a member from Colts Neck. I couldn't be
13 sure of that but I could check.

14 MR. NIEMANN: Would I be jumping
15 the gun on your next question as to why the Monmouth
16 County Planning Board constructed the layout of the
17 development of the county in the manner which is
18 represented in that map, wherein Colts Neck would be
19 classified as a rural residential?

20 MR. SAGOLSKY: That would be
21 pertinent.

22 Do you want the question repeated?

23 MR. NIEMANN: Is this general
24 development plan, which is represented in this map,
25 the result of the de facto development of Monmouth

1 County or does it represent what you, the Planning
2 Board or the Board of Freeholders, desires or intend
3 for the future development of this county? Why would
4 Colts Neck be in rural residential classification; or,
5 would you, do you consider that to be the Board's
6 general development as far as versus a higher density
7 development.

8 MR. FRIZELL: I have no problem
9 with Mr. Halsey answering that question or similar
10 questions. But I think, for the record, I should
11 state the question started with a question from Mr.
12 Sagotsky asking whether or not this particular
13 development, which I understand is the subject of the
14 hearing, whether this particular development was
15 consistent with the plan. Mr. Halsey said no, in
16 fact, the plan shows the property half of office
17 research and half of it rural residential; and,
18 therefore, it's inconsistent. But I think if you
19 start asking questions about the General Monmouth
20 County Development Plan, I think it is a little bit
21 far afield of the hearing, which is to test the
22 feasibility of a given development, it is with -- to
23 my chagrin, that the outcome of the previous
24 litigation and the evidential -- well, you can't
25 talk about that particular property, you have to talk

1 about that particular property at the Zoning Board of
2 Adjustment and that's why we're here. But now I
3 think the reverse is true; that is, to start talking
4 about the General Development Plan. And I have no
5 plan -- as I said, you are hearing it. Really, it's
6 inconsistent. I have no difficulty with that
7 testimony but I think if you start trying to focus on
8 why the county made that plan the way they did, I
9 think it's a little afield of the subject of the
10 hearing.

11 MR. SAGOTSKY: Well, I'll go on
12 and then if you feel again if it's presented, then
13 ask your question.

14 MR. NIEMANN: Yeah. My question
15 is intended just to sort of put into focus the
16 various criteria which have to be established in
17 order for this board to find the desirability or
18 appropriateness of that kind of development
19 consistent with the general layout of the community
20 and general welfare. And Mount Laurel, as I
21 understand it, is a regional decision where the
22 impact of housing and communities is not just
23 evaluated in one township but rather on a regional
24 basis. And I think that, perhaps, is relevant for
25 that particular reason.

1 MR. SAGOTSKY: All right.

2 THE CHAIRMAN: Why don't you
3 continue, Mr. Sagotsky, with your line of questions?

4 MR. SAGOTSKY: Fine.

5 BY MR. SAGOTSKY:

6 Q. Perhaps at this juncture of the case,
7 give us the description of the duties of the Planning
8 Board, the Monmouth County Planning Board, and the
9 part that you play with reference to the future
10 planning of the county and the area we're now talking
11 about?

12 A. Well, I'll try to limit just to the planning,
13 if I can. The County Planning Board has several
14 functions that are spelled out by statute; and, then
15 it has other discretionary functions. One of the
16 statutory functions is to prepare and adopt, after
17 public hearing, a master plan for the county. And
18 the process that's used by the Monmouth County
19 Planning Board is to use paid professional staff to
20 make recommendations to the Board. The Board, after
21 considering those recommendations and making whatever
22 adjustments it sees fit, then holds -- in this case,
23 held a public hearing on the proposed plan following
24 the public hearing, the Board adopted the plan.
25 That's essentially the process.

1 Q. It's an effort to Guide the land use
2 planning of the county?

3 A. That's correct.

4 Q. Now, sir, has the Board, the Monmouth
5 County Planning Board, adopted a location criteria or
6 a point system whereby it rates and judges
7 applications for future development as to densities
8 and other limits?

9 A. Yes. The Board, in 1977, adopted a position
10 paper to indicate the general way in which it would
11 review proposals for high density residential
12 development in various parts of the county. And the
13 purpose of that was to give some sense of timing to
14 the plan. This plan is a capacity plan. It makes no
15 distinction between now and full development. In
16 other words -- let me rephrase that. It shows,
17 rather, areas at densities which may not be suitable
18 due to a lack of particular utilities and services
19 even in the proposed development zones. So the Board
20 adopted the position paper, which I believe I have
21 with me. I stopped short of bringing the entire
22 office out I did try to bring the reports I thought
23 would be appropriate. This position paper is
24 entitled, Residential Location and Timing Criteria
25 and was adopted by the Board on May 16, 1977. There

1 is a map attached. The map was not adopted as part
2 of the document. The document consists just of two
3 pages of text and then a point rating sheet. So
4 there are three pages to this document. The map was
5 merely a Guide to indicate at the time that it was
6 drawn those areas that tended to have more of the
7 facilities used in the point rating system.

8 MR. SAGOTSKY: I would like to,
9 at this point, mark it. That would be D-3.

10 (Whereupon a report, Residential
11 Location and Timing Criteria, is marked D-3 for
12 identification.)

13 BY MR. SAGOTSKY:

14 Q. Now, describe further its contents and
15 its purpose and its application to the area that we
16 are now talking about, the Orgo farm area?

17 A. Well, the purpose, as I mentioned, is to give
18 some sense of timing of the plan, orderly development
19 of the plan. It actually was not intended to apply
20 to the Orgo farm area, because we did not propose
21 high density residential for that property. It was
22 intended for the larger areas shown in medium low
23 density, portions of which already have utilities and
24 other portions of which do not have utilities. And
25 the Board position was that the areas that have more

1 of the utilities and services should be developed
2 before we expand development onto -- expand those
3 utilities and development onto virgin land. And the
4 paper outlines the purpose and a few key points of
5 information and then sets forth a point rating system,
6 which does not have any pass or fail point. It's
7 merely to enable either local officials or
8 prospective developers or property owners to evaluate
9 a particular site as to suitability or how it might
10 be received by the County Planning Board if
11 development were proposed before the board.

12 Q. Now, does a sewerage system take part in
13 that evaluation; and, apply your evaluation with
14 reference to where the sewer system here would be and
15 whether that is in line with a proper impact for
16 future planning of the township?

17 A. The point rating related to public sewerage
18 systems have three categories, ten points, for site
19 presently served by sewers; eight points, site can be
20 served by a short extension; five points, site in
21 area scheduled to be sewerred by approved public
22 sewerage system. Those are the three categories
23 applying under sewerage.

24 Q. With reference to the sewer system, in
25 good planning and development, what would the

1 relationship be of the development of an area with
2 reference to a present existing sewer system as
3 against one to be built in an area where the Orgo
4 farm is?

5 MR. FRIZELL: Well, wait a minute.
6 Can I object? Does the paper -- I understand we're
7 talking about the paper. Does the paper address
8 private sewer systems at all?

9 THE WITNESS: No. The points are
10 for public sewerage systems.

11 BY MR. SAGOTSKY:

12 Q. And the point is that you make a point
13 or favoring an area near a public sewer system or the
14 public sewer system availability, do you not?

15 A. That's correct.

16 Q. And how does this area rate with
17 reference to that, the Orgo area?

18 A. It is doesn't have public sewers at the present
19 time and it could not be served by a short extension
20 public sewers and is not in an area scheduled to be
21 sewerred by an proved public sewerage system.

22 Q. A high density system then should be
23 located generally in what area?

24 A. Well --

25 Q. With relation to a public sewer system?

1 A. Well, ideally should be located on a site that
2 is already served by public sewers. Ten points would
3 be the highest you could earn for sewerage
4 accessibility.

5 Q. Can you give us a rating of this area
6 with reference to your point system?

7 A. It would get zero for public sewerage.

8 Q. As to any other elements, can you give
9 us a rating according to your point system. How
10 about water?

11 A. Well, public water supply, again, it would get
12 zero.

13 Public transportation, it would get eight
14 points, which is the highest. It's directly on a
15 local bus route. It's a limited bus route but it
16 gets the eight points because the criteria says
17 directly on local bus route.

18 Shopping facilities, I am not sure of the
19 facilities located in the Colts Neck Village area.
20 The point rating for that would be eight points if
21 the site were within one quarter mile of convenience
22 shopping. Convenience shopping would be generally
23 what you would consider your neighborhood shopping
24 facilities, a place where you can obtain your
25 day-to-day needs, food, items of that nature;

1 generally a full service supermarket or a complex
2 with a food store, probably a drug store and few
3 other small service stores would meet the term of
4 convenience shopping. It would get eight points if
5 it's within one quarter mile of convenience shops;
6 six points, one half mile. We give two points if
7 it's adjacent -- if it's adjacent to commercially
8 zoned land, it would get definitely at least two
9 points. And depending on the nature of the food
10 stores that might be within one quarter or one half
11 mile, it might get more points. But I have not
12 enough knowledge to give a definite figure.

13 Fire protection, five points within one mile of
14 a fire house; four, within one and a half miles of a
15 fire house; and, three within two miles of a fire
16 house. I believe in that case it's within one mile
17 of the Colts Neck firehouse and would probably get
18 the five points.

19 The last factor is access.

20 THE CHAIRMAN: The type of fire
21 protection doesn't matter, whether it's volunteer or
22 paid?

23 THE WITNESS: No.

24 MR. PRIZELL: On that point, how
25 many paid fire departments are there in the county;

1 do you know?

2 THE WITNESS: If we accept the
3 Navy, Earle fire department and Fort Monmouth fire
4 department, Asbury Park and partially -- Long Branch
5 has paid drivers, a couple paid drivers. But Asbury
6 Park would be the only one and all the rest are
7 volunteer.

8 THE CHAIRMAN: Not to short
9 circuit your line of questions, Mr. Sagotsky, but a
10 thought just struck me and I would like to ask Mr.
11 Halsey a question. Is the Monmouth County Planning
12 Board equipped to assist people who say would want to
13 come in and put a planned unit development in
14 Monmouth County? If they came to you and say, where
15 is the best spot to put this, in your opinion, would
16 you be able to assist them?

17 THE WITNESS: We could assist. I
18 don't know if we would try to recommend or determine
19 a best spot.

20 THE CHAIRMAN: Show the spot?

21 THE WITNESS: Pull out our plan
22 and pull out the point rating system and evaluate the
23 site as we see it. I don't think we would make
24 recommendations as to the best site in the community
25 for a planned unit development. There are many areas

1 that are suitable for development.

2 MR. BRENNAN: Would you suggest
3 various sites?

4 THE WITNESS: we would suggest areas
5 based on the plan rather than sites themselves. We
6 generally do not get involved in sitting down and
7 doing a site analysis unless we get a request from an
8 official public agency.

9 MR. BRENNAN: Well, I guess
10 nowadays ten is the best, so I would have to say, on
11 a scale of one to ten, if someone were coming in and
12 saying that he wanted to put in a PUD that contained
13 a mix of residential units including subsidized
14 housing, shopping center -- which might address some
15 of the issues you raised earlier -- and office
16 buildings, with ten being the best and one being the
17 worst, how would you rate the Orgo site?

18 MR. FRIZELL: Wait a minute.
19 Excuse me. I have a little problem with the question.
20 I know Mr. Halsey must have a problem with the
21 question. I really don't think that's a completely
22 fair question. I think that Mr. Halsey's general
23 attitude on this is well known. But I think unless --
24 there's two things. One thing, you could use his
25 point system. I have no problem with the point

1 system. but unless you can establish that Mr. Halsey
2 knows a lot more about this than I think he knows --

3 MR. SAGOTSKY: well, Mr. Halsey
4 is a county planner. He works for the County
5 Planning Board. He's acquainted with the mapping,
6 with the purpose, with the general objectives. He
7 certainly is going to be asked a question with
8 reference to the negative criteria, as to whether it
9 would be a good impact upon the township if a PUD
10 were located in that area. So I would submit that
11 under those circumstances the question would be
12 proper.

13 MR. FRIZELL: well, the
14 difficulty I have with the question is not the nature
15 of question, is whether or not Mr. Halsey would
16 recommend a PUD on that site. I have no problem with
17 that question. But the question was a relative type
18 of a scale. Where's the ten? I would like to know.
19 If he had answered the previous questions, I would
20 have been in his office tomorrow morning. But it's a
21 relative question. I have no difficulty with Mr.
22 Halsey giving his general attitude and I've heard it
23 many times.

24 MR. BRENNAN: May I rephrase the
25 question, then?

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MR. FRIZELL: Sure.

MR. BRENNAN: would you recommend the Orgo farm site for the type of PUD that I previously described?

THE WITNESS: No, I wouldn't.

THE CHAIRMAN: Let's get back to the thrust of my question. Did Mr. Brunelli come to the Planning Board and ask them where might be a good site in Monmouth County?

THE WITNESS: I believe the first time Mr. Brunelli came in in conjunction with this proposal he came in my office and discussed this specific site. And I believe we had this at the time and pulled it out and discussed it on the basis of our point rating system. And the plan -- essentially the same thing I'm telling you tonight, I told Mr. Brunelli.

THE CHAIRMAN: In other words, it's cart before the horse. He already selected the site before he determined the best site?

THE WITNESS: That's right; and, it's not unusual. This is normally how we're approached by private individuals, land owners or developers; sometimes by municipal officials. In those instances, it might be in conjunction with

1 proposed zoning. But normally a land owner or
2 someone with an interest in developing property, they
3 normally come in with a specific site in mind. This
4 is not unusual. Mr. Brunelli's not the only one who
5 has come in in this manner.

6 THE CHAIRMAN: I'm aware of that.
7 I just thought it might be a good idea to put your
8 expertise to work and pick your brains before diving
9 into something.

10 Q. Your Board is concerned about high
11 density development and the future with relation to
12 Monmouth County growth; is it not?

13 A. Yes, sir.

14 THE CHAIRMAN: Mr. Sagotsky, we
15 got you off the track. Do you want to continue?

16 MR. FRIZELL: Are we finished?
17 Is that all?

18 THE WITNESS: I believe we were
19 still on the point system and there's one more item
20 that I didn't mention, just to complete the question
21 that was asked on the point system. There is a point
22 rating system for access, five points if the site is
23 located on a secondary arterial route; four on a
24 major collector within half mile; two, primary
25 arterial; and, one. This would get the five because

1 Q. Do it your way. You can start with the
2 State Development Guide and then the Tri-state
3 regional and then show the relationship of your
4 Monmouth County Planning, wherever, with reference to
5 those, consistent or inconsistent to them.

6 A. The State Development Guide is a document which
7 was prepared by the Division of State and Regional
8 Planning under the Department of Community Affairs.
9 To the best of my knowledge, it has no official
10 status with any state agency. It's a document
11 prepared by that office. It has been used to
12 evaluate developments and evaluate various county
13 plans. The Monmouth County plan is generally
14 consistent with that Guide. It's a very -- the State
15 Development Guide is a very generalized map of the
16 state showing proposed development corridors, areas
17 for agricultural preservation and areas of non-development
18 or extremely low density development. Essentially
19 relating to Monmouth County, it has a coastal
20 development corridor, a Route 9 development corridor,
21 a low density area generally between those two
22 corridors; and, a large agricultural preservation
23 zone in the area from the southern part of Manalapan
24 Township west to the Mercer County boundary. That's
25 in very rough form. The pattern is consistent with

1 the County plan. It's really very difficult to use
2 the State Development Guide to evaluate a specific
3 site.

4 Q. But that is consistent with the county
5 development?

6 A. Such as it is, the pattern is consistent.
7 There are some individual small apparent
8 inconsistencies. But since in our opinion the State
9 Guide has no status, we really don't pay too much
10 attention to it other than to be aware of its
11 existence.

12 Q. Would you use the term that there is an
13 acceptance of the Guide, your plan and the Tri-state
14 Regional Map Planning, division or cross-acceptance?
15 You might use that term.

16 A. We probably should discuss the Tri-state
17 Planning Commission proposal.

18 Q. It you will?

19 A. The Tri-state Regional Planning Commission is a
20 planning agency formed by the states of Connecticut,
21 New York and New Jersey for the area generally known
22 as the New York metropolitan area. It includes
23 Monmouth County within its boundaries. The
24 Commission has a document, which they have had
25 adopted, called the Regional Development Guide. The

1 Regional Development Guide is an official document
2 and is used by the Tri-state Regional Planning
3 Commission in evaluating plans of other agencies and
4 various proposals within the region. The Guide has
5 been cross-accepted. There has been an agreement
6 between the County Planning Board and the Tri-state
7 Regional Planning Commission cross-accepting the
8 Monmouth County plan and the Tri-state Regional
9 Development Guide. The cross-acceptance indicates
10 areas in which the two plans are in agreement or
11 consistent and a few areas in which the wording is
12 that the two agencies agree to disagree. The pattern
13 of the Tri-state Regional Development Guide as
14 cross-accepted with the county plan is generally
15 again consistent with the county plan. There are a
16 few areas in which there is an inconsistency.

17 MR. BRENNAN: Would there be an
18 inconsistency relative to the Township of Colts Neck?

19 THE WITNESS: At the present time,
20 yes. The Tri-state plan does not show industrial or
21 office and research in the Colts Neck Village area or
22 in that portion.

23 MR. BRENNAN: So then it would
24 keep it relatively low density?

25 THE WITNESS: Yes.

1 BY MR. SAGOTSKY:

2 Q. would a sewer plant in the Orgo area
3 have any tendency to cause or be related to urban
4 sprawl as differentiated from having a PUD in an area
5 better located nearer public sewer and other point
6 that you've made?

7 A. Well, the Planning Board position is that
8 developments should first go where public sewers are
9 already available, preferably use available capacity.
10 The construction of sewerage facilities in areas
11 presently unsewered would be reviewed on the basis of
12 whether or not we propose that area for development
13 in the future. Our proposal for sewers in an area
14 shown at low densities or rural residential would not
15 be supported by the county. We would not want to see
16 sewers in that area because sewers would enable
17 development at densities higher than those proposed
18 on the plan. within the proposed development
19 corridors, we still would want to see the existing
20 capacity utilized before sewers were extended to open
21 up new land as a matter of economies. It's generally
22 less expensive to use existing systems than to build
23 new systems, largely due to increased costs of
24 construction, inflationary costs. It's essentially
25 to use what we have, make the existing systems more

1 efficient. Once you've put the plant in place,
2 adding additional customers and flow, so long as you
3 are within the capacity of the system, generally adds
4 revenues at a greater rate than it adds costs. You
5 do add operating costs, but you don't add capital
6 costs it normally puts on the sewerage authority or
7 the public sewerage system or a private system. If
8 it's a private utility, it would enhance the
9 financial structure of that particular system.

10 Q. And promotes density where it shouldn't
11 be, according to their plan?

12 A. That's right. The sewers are necessary in
13 areas of Monmouth County that have development
14 generally the medium low density and greater. In
15 some instances we have problems even in areas where
16 we have development at the low density. There are
17 several areas in Monmouth County with development on
18 one acre lots which, because of soil conditions,
19 probably should have sewers. But our original
20 relationship between the county plan and the county
21 sewerage plan was that sewers should be provided for
22 the areas that are shown in medium low density and
23 not provided in areas shown in the yellow or low
24 density.

25 Q. Now, with reference -- has the Planning

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1 Board made any revision which might apply to the
2 location of offices in Colts Neck?

3 MR. FRIZELL: May I understand
4 that question a little better? I think we had some
5 previous questions about the plan and it's not
6 changed.

7 BY MR. SAGOTSKY:

8 Q. Has any revisions been made with
9 reference to the offices by the Planning Board, the
10 elimination of offices in Colts Neck?

11 A. I'll state just the way it happened. The staff
12 has prepared --

13 MR. FRIZELL: Before you answer,
14 Mr. Nalsey, let me restate the objection. It's the
15 same question that I think was asked before. Mr.
16 Nalsey is going to guess what the final outcome of
17 the plan with reference to the office site, what it
18 might be, if and before it's been revised.

19 BY MR. SAGOTSKY:

20 Q. The question is, has it been done and if
21 it hasn't been done, how far has it progressed? I
22 think the Board should know.

23 A. The plan has not been amended by formal
24 adoption. The staff has prepared a draft of a
25 revised plan. The Board has instructed the staff to

1 make certain changes. At the present time, the
2 revised draft -- and I have a copy with me marked
3 draft -- does not show any office and research or
4 industrial development. That was removed from the
5 original draft at the direction of the board. The
6 staff did have a proposal for office and research at
7 roughly the same location with less of a specific
8 boundary. I might mention that this would be true of
9 any proposals in the revised plan. We do not have
10 specific boundaries on any of the proposed industrial
11 or commercial zones. We merely intend to indicate
12 locations where such type activity should be located
13 and leave the exact boundary up to the local
14 officials to determine where that's possible. In
15 some cases, we have to have some existing boundary
16 because of some existing conditions.

17 MR. FRIZELL: What staff?

18 THE WITNESS: Paid professional
19 staff of Monmouth County.

20 MR. FRIZELL: Including yourself?

21 THE WITNESS: It includes myself.

22 MR. BRENNAN: Are we to infer
23 from your comment that if the staff made the changes
24 in the proposal requested by the Board that the Board
25 would adopt the plan?

1 THE WITNESS: You could only
2 infer to the point that at the present time that's
3 what the present board members are thinking. This,
4 frankly, probably will come to the public hearing
5 sometime in the winter, probably early next year.
6 There will be different members on the board,
7 possibly; maybe the same members. There will be a
8 public hearing held. It's possible the Board might
9 make one or several changes in the plan based on what
10 they hear at the public hearing. We plan on going to
11 the public hearing with a draft and the adoption will
12 come after that. All I can say at the present time
13 is the board members who have been reviewing the
14 draft at various work sessions of the Board -- our
15 work sessions are during the regular public meeting
16 of the Board -- have indicated to -- either at those
17 meetings or privately, individually -- just indicated
18 what their preference is. They're giving us guidance.

19 MR. BRENNAN: I can understand
20 that. I can appreciate the position that the board
21 is trying to put you in, but I get back to my earlier
22 remarks, that essentially what you are saying is
23 purely speculative. The board must approve it and
24 then it must go to public hearings. And then if it
25 stands the test of an airing to the public, something

Halsey - direct

1 might be done.

2 THE WITNESS: That's co

3 MR. BRENNAN: Or it might

4 done.

5 MR. DARLBOM: Could I ask a

6 question as to what the impact of recommendations

7 from the Monmouth County Planning Board? What impact

8 do they have on the local Planning Board? I mean,

9 are they obligated to follow your recommendations or

10 is that strictly something that they can do on their

11 own?

12 THE WITNESS: Strictly up to

13 local officials.

14 MR. DARLBOM: So even though you

15 do recommend or do not recommend something in density

16 and so forth, the local Planning Board can do

17 otherwise?

18 THE WITNESS: That's correct.

19 BY MR. SACUTSKY:

20 Q. Now, what was the --

21 MR. NIEMANN: Can I get back to

22 the point system? I'm sorry, to back track. I just

23 want to make sure I understand this. You allocated

24 the 26 points out of 46 points possible for the

25 planned unit development as presented this evening?

1 THE WITNESS: That's the maximum
2 I can see, based on a couple of unknowns.

3 MR. NIEMANN: It lost
4 approximately 20 points or so because of the lack of
5 sewer and water facilities; isn't that correct?

6 MR. SACOTSKY: The location of
7 them.

8 MR. NIEMANN: Now, is this point
9 system which has been adopted by the county, is that
10 scaled or in any way adjusted for the density impact
11 of the proposed land use in relationship to the
12 ability or the availability of the existing services
13 or facilities to accommodate them or to expand upon
14 them in the future? Does the mere fact that there is
15 a public thoroughfare located on 537, for example,
16 doesn't warrant eight point consideration regardless
17 of 1,900 units are going to be constructed there and
18 that system is therefore incapable of handling?

19 THE WITNESS: This system was
20 intended merely as a guide to make an evaluation of
21 relative suitability of the various locations in the
22 county for high density, residential development.
23 Any proposal should go -- undergo scrutiny for site
24 specific situations, including negative criteria.
25 For example, this doesn't take into account any

1 environmental impacts or another possible negative
2 criteria. It's a very general guide to give people a
3 quick feeling as to how they might -- the type of
4 response they might get from the County Planning
5 Board. In this particular instance --

6 MR. NIEMANN: So, in other words --

7 THE WITNESS: From the plan one
8 can get a rough idea of where the Planning Board, as
9 a body, would be testifying before local boards of
10 adjustment or a court of law relating to a zoning
11 case.

12 BY MR. BAGOTSKY:

13 Q. Would the potential impact of this plan
14 plan in the Orgo farm be detrimental to the public
15 good? I'm talking about the negative criteria.

16 MR. KRIZELL: I have to object.
17 Again, I'm not sure that's a fair question of Mr.

18 Malsey, unless he knows an awful lot more about this
19 plan than I think he does. That is such a broad
20 question. And I -- quite frankly, it's certainly
21 beyond his ability to answer under my understanding
22 of his knowledge of the facts of the case. If he was
23 a paid expert who was -- had been charged to examine
24 the application and all the proceedings and the
25 transcript, et cetera, he might be able to make some

1 kind of a determination. But we have volumes of
2 material on which -- with which that question can be
3 answered. And I think unless Mr. Halsey has reviewed
4 it fairly, I don't think he should be requested to
5 answer questions like that.

6 MR. SAGDTSKY: Judge Lane has
7 said, according to the record, in one of your
8 objections similar to this is, the witness is an
9 expert. He certainly can take care of himself. He
10 can answer yes or no or qualify. And under these
11 circumstances, before this board, with their general
12 rules of evidence as they are, I submit that the
13 witness, of course, be allowed to answer.

14 THE CHAIRMAN: I would like to
15 interject a point and go back to the last hearing we
16 had on this when, Mr. Frizell, you objected to my
17 paraphrasing that exact statement. I said what's
18 best for the most people. And you objected rather
19 vehemently to that. I still consider that a
20 paraphrase of detrimental to the public good. And
21 every one of our resolutions we've ever given down
22 from this board has to have those words in them. I
23 think it's very germane to the situation.

24 MR. FRIZELL: I have no objection
25 to making that determinations and that's your duty to

1 do as a Board member. But to bring a man on subpoena
2 in ask him the \$64,000 question of the case, as if he
3 knows all the material and knows the background of
4 all of the evidence that we submitted in this case --
5 it's not that I don't think it's an important
6 question. It is. Certain people can be brought in
7 here to answer it. We certainly asked that question
8 of our people. And if the Board wants to bring
9 someone in -- in fact, I'm going to ask again about
10 an independent planner to answer those kinds of
11 questions. But Mr. Halsey is here. He's a County
12 Planning Director. He's quite qualified in that
13 respect. But to talk about this particular PUD
14 without a very, very thorough knowledge of it, I
15 think, is inappropriate.

16 MR. SACOTSKY: Of course, it's up
17 to the Board to determine the final solution here,
18 whether to uphold the objection or not.

19 MR. FRIZELL: Just to put it into
20 context, I'm certainly not inconsistent. There's two
21 things you need to answer the question, one is
22 information and the other is expertise. In Mr.
23 Orgo's case, he's not a planner. He doesn't answer
24 those questions. In Mr. Halsey's case, I don't think
25 he has the information.

1 THE CHAIRMAN: Well, quite
2 frankly, Mr. Frizell, I haven't found anybody that
3 answered that question yet. I've asked the same
4 question of every person you presented to this Board
5 in some form or another and they have refused to
6 answer it.

7 MR. FRIZELL: I don't think
8 that's the case.

9 MR. SAGOTSKY: At this point --

10 THE WITNESS: That wasn't the
11 question.

12 MR. SAGOTSKY: No, it wasn't.

13 THE WITNESS: A lot of what could
14 be called negative criteria, I can't give a direct
15 answer to that question. I would have to explain how
16 I would answer it. It's up to the Board.

17 BY MR. SAGOTSKY:

18 Q. Answer as you can, without being
19 detrimental to the public good and answer it along
20 those lines. That's the negative criteria. And
21 without impairing the zoning plan, which is the other
22 part of the negative criteria. And that's the
23 question, based upon your knowledge and based upon
24 your expertise and based upon the location of the
25 area; based upon the map which has now been

1 introduced as an exhibit; and, which map describes
2 the area where the PUB is planned to be. Now, based
3 upon all those considerations and other elements that
4 you have mentioned -- you brought in the point system --
5 what is the relationship of that with reference to
6 the public good, more with reference to the negative
7 criteria?

8 A. Well, as regards the public good, which is a
9 very broad thing, I personally, professional opinion --
10 I cannot speak for the Board on this. Obviously, I
11 have to give a professional opinion in this case.
12 There is no real element of the public good that can
13 be served at this site that cannot be better served
14 at other locations of the county.

15 MR. BRENNAN: Can you restrict
16 that to the Township of Colts Neck whether on your
17 point system it be another location within the
18 township that would rank higher than your 26 points?

19 THE WITNESS: I haven't evaluated
20 other sites on the point rating system. If Colts
21 Neck were to seek to zone an area for high densities,
22 I would like to see other areas of the township or
23 another area of the township in which to find a more
24 suitable site.

25 MR. BRENNAN: May I rephrase that

1 then? Looking at the township of Colts Neck on that
2 map, are there other locations where it would be
3 easier to bring, from an existing utility sewer, and
4 water to the site and still have the same score
5 relative to public transportation? In other words,
6 if you moved it over to the easterly side, say near
7 Lincroft, Middletown or something like that, would
8 there be access to sewerage and water?

9 THE WITNESS: I would not look
10 toward the Lincroft area. I would look toward the
11 southeastern portion of the township adjacent to
12 Tinton Falls, where sewer and water would be in
13 closer proximity. And some site that might also be
14 on public transit. And others would not be on public
15 transportation. Local bus service is a limited
16 service between Red Bank and Freehold. It does
17 happen to travel on 537. It also travels on a
18 portion of Swimming River Road and would be near some
19 site in that southeastern part of the township. It
20 would probably get some points on public
21 transportation; another might not get any. We would
22 have to look at specific sites. In general, I would
23 look to the south eastern portion of the township.

24 MR. BRENNAN: would it if you
25 were to locate a PUD on that site -- excuse me. Let

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1 me not say a PUD. Let me say eleven to 1,200
2 residential units. Would it also be closer to
3 existing shopping areas and best existing areas of
4 employment within Monmouth County in contrast to the
5 Orgo site?

6 THE WITNESS: It would be closer
7 to areas of employment; shopping, also. I have the
8 same problem with that as with the Colts Neck Village
9 area, as far as what facilities are offered, as the
10 service stores. The distance to shopping might not
11 be that much greater. I think it would be closer.
12 But I still do not think we would get any greater
13 amount of the points on our rating system. A lot
14 would depend on what's available in an individual
15 store. And that would be a technical point. Again,
16 we use this to look at a specific site and look at
17 that site and evaluate it. When we discuss an area,
18 we are looking more in generalities. And I'm using
19 my knowledge of the county, my knowledge of utilities,
20 services in the county. But it's difficult to use
21 the point rating system to discuss a general area
22 because the points can change from one site to
23 another. Two adjoining pieces of land could have
24 several points differential in their rating.

25 MR. DAHLBOM: In a location that

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1 was close, like you say, to Hinton Falls, with the
2 possibilities of having extensions to sewer and water,
3 would immediately get us 20 points, wouldn't it?

4 THE WITNESS: It would probably
5 get points, not necessarily 20. It would have to be
6 available right at the site.

7 MR. DANLON: So it would receive
8 it on a basis of an extension?

9 THE WITNESS: Either on a short
10 extension or an area scheduled for sewer on a
11 proposed system.

12 THE CHAIRMAN: With the
13 availability of public water and public sewer, would
14 they not cost a PUD a lot less than putting in their
15 own water and sewer systems?

16 THE WITNESS: I couldn't answer
17 that.

18 THE CHAIRMAN: Too speculative?

19 THE WITNESS: Too many variables
20 involved.

21 MR. SAGOTSKY: Well, I have
22 concluded. I now turn it over to the Board, turn the
23 matter for any further questions, anyone else the
24 Chairman desires and, of course, Mr. Frizell.

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EXAMINATION BY THE BOARD:

MR. NIEMANN: with respect to the negative criteria that I believe you are discussing now, do you have an opinion as to the negative impact of the construction of the planned unit development in the location of the Orgo farm in relationship to the Monmouth County General Development Plan; and, if you do, if the answer to that is yes, and what are those reasons and why do you come to that opinion?

THE WITNESS: There are two basic reasons. One is very general in that it would create a focal point for other pressure for development that would be inconsistent with our county development plan. The second would be more specific and that relates to drainage into the Swimming River Reservoir. One of the reasons that there is a large area shown for rural residential is an effort by the County Planning board through its influence to hold down the density of development of the area tributary to the Swimming River Reservoir to the greatest extent possible in the current statutes and other factors relating to ownership of property and rights of property. The concern for that is that urban development, the higher the density of development, generally the

1 greater the adverse impacts on surface water quality.
2 And in this particular instance a good portion of the
3 Urgo site would drain through Slope brook into the
4 reservoir. So we would have a concern about those
5 impacts.

6 MR. NIEMANN: And how many people
7 does that reservoir service and their water needs, to
8 the best of your knowledge?

9 THE WITNESS: It's a good portion
10 of Monmouth Consolidated Water Company's capacity and
11 one of their major sources of supply. And I don't
12 know the population they serve. It's something on
13 the order of 200,000 or possibly greater than 200,000.
14 I believe their pumpage is around forty some million
15 gallons a day, total. Swimming River Reservoir is
16 one. They also have the Glendola Reservoir, which
17 pumps from surface water of another system. And they
18 have some wells which are used from time to time to
19 supplement the system.

20 THE CHAIRMAN: I believe that
21 Monmouth Consolidated came before this Board for a
22 variance and in their testimony they said they had
23 250,000 customers served by the reservoir.

24 MR. SAGOTSKY: You may take
25 judicial knowledge of that, if that's your

1 recollection.

2 THE CHAIRMAN: I would suggest a
3 five minute break at the request of one of the
4 members of the Board for everybody and then we'll
5 probably have some more questions. We will resume
6 after a short break.

7 (whereupon a recess is taken at
8 6:35 p.m.)

9 (The hearing reconvenes at 6:55
10 p.m.)

11 THE CHAIRMAN: Are there any
12 board members that have a question?

13 Mr. Tischendorf?

14 MR. TISCHENDORF: Is there a
15 process by which there is a judicial review applied
16 to the development of a Monmouth County master plan
17 or State Development Guide or do you operate, develop
18 any of those things with any constraints from the
19 judicial bodies at the county or state level?

20 THE WITNESS: The county plan is
21 prepared in accordance with the provisioning statute
22 that says that a county planning board may prepare
23 and adopt the county master plan. But the plan has
24 no status. In other words, we have no zoning power
25 no means of implementation except to use it as a

1 basis for discussing a proposed development; advise
 2 the local officials as to how the County Planning
 3 Board thinks the County should develop in the future.
 4 And the only judicial review comes at such time when
 5 I or some other member of the Board or staff are
 6 subpoenaed before a court to testify as to the plan
 7 and its relationship to a local development

8 The State Development Guide has
 9 even less status than the county plan, as best I can
 10 tell. It is prepared by a state department, a state
 11 office. But it has no official status with any
 12 department. Nobody's adopted the plan that I know of;
 13 nor do I know of any provision for any agency to
 14 adopt a State Guide. It is an expression of the
 15 thinking of the particular executive branch at the
 16 time, viewed through the State Planning Office and
 17 Department of Community Affairs.

18 MR. TISCHEENDORF: So the judicial
 19 side can ignore it if they wish or find it is
 20 irrelevant? They really don't have to find it
 21 invalid?

22 THE WITNESS: Our plan and the
 23 state plan have a power of persuasion. That's all.

24 MR. DANLON: In other words, you
 25 have never been taken to court by any individual? I

1 mean, the Planning Board.

2 THE WITNESS: No, the Planning
3 Board has not been taken to court.

4 THE CHAIRMAN: Any other Board
5 members?

6 Is there anyone from the audience
7 that would like to ask Mr. Halsey a question?

8 The Planning Board?

9 MR. MARKS: I have a couple of
10 questions.

11

12 CROSS-EXAMINATION BY MR. MARKS:

13

14 Q. Mr. Halsey, are you familiar with the
15 concept of urban sprawl?

16 A. Yes.

17 Q. Could you explain what urban sprawl is?

18 A. It's a term applied to the spread of
19 development of urban characteristics over an
20 excessively large area. It means different things to
21 different people. But generally in the New York
22 metropolitan area, it's a term that used to indicate
23 that the development, the number of persons and the
24 level of economic development could be contained in a
25 much smaller geographic area more efficiently and

1 with less adverse impact on the region on the natural
2 features of the region.

3 Q. How does urban sprawl relate to planning
4 that's done by your department?

5 A. Well, applied to Monmouth County, urban sprawl
6 would eventually lead to homogeneous development of
7 the county one area would be virtually
8 indistinguishable from other another area of the
9 county. It would be similar to what one finds in
10 going from one community to the next in the coastal
11 area in the county. The only way you know you are
12 leaving one town and entering another is a sign. In
13 the absence of a sign, there is no indication. The
14 effect of urban sprawl is to spread everything
15 uniformly over the county. And our reaction to that
16 is that the county would be better served by having
17 development channeled into particular areas, leaving
18 other areas with less development; or, ideally, in
19 some cases, no development. And, of course, we're
20 constrained by history, development that occurred in
21 the past. That's generally the relationship between
22 the term urban sprawl and the county plan and its
23 efforts.

24 Q. Would it be fair to say that urban
25 sprawl is related to unplanned development or

1 sporadic development?

2 A. Unplanned, yes; sporadic doesn't necessarily
3 indicate sprawl. That could be a hopscotch pattern.

4 Q. Would you see this subject parcel, if
5 developed as a PUD, would that contribute to urban
6 sprawl?

7 A. It could. If a particular site in any -- any
8 particular site in the area which is generally
9 undeveloped or more lightly developed than other
10 areas of the county, for intensive development to
11 occur in that area history indicates that it attracts
12 pressure for more development of a similar nature and
13 to that extent would tend to create more urban sprawl
14 in the county.

15 Q. And destroy the area which was planned
16 or suggested to be planned as being developed in a
17 less intent state?

18 A. I wouldn't use the term destroy. It would
19 change its character. I don't think the term
20 destruction is necessarily appropriate. That would
21 depend on how the development was handled.

22 Q. But it would be contrary to what the
23 Planning Board perceives is the best use for that
24 particular area of the county?

25 A. Yes, it would.

1 Q. Are you familiar with the traffic in the
2 surrounding area, in particular Route 537 and Route
3 347

4 A. Yes in addition to knowledge through the
5 Planning process, I travel the route quite frequently.

6 Q. And do you have any opinion about the
7 nature of Route 537 at its peak hours of travel? How
8 would you characterize that road?

9 MR. FRIZELL: I'm going to object
10 to this, Mr. Halsey. Number one, I think except from
11 a purely personal perspective -- which I don't think
12 is any more valuable than anyone else's here -- I
13 don't think he is a traffic counter. And I think
14 from a very, very general kind of a perspective, his
15 testimony, in terms of the general county
16 transportation plan, should be restricted to those
17 kinds of things, arterial roads, et cetera. But to
18 start about a particular site and how much traffic
19 and how Mr. Halsey would characterize it is really
20 not helpful.

21 MR. MARKS: Why don't we ask a
22 couple of questions and see if he's familiar with it?

23 MR. BRENNAN: Doesn't it get back
24 to the objection that was just raised? Mr. Halsey is
25 a planner. And now you are asking him -- and he's

1 already said only through personal observation he can
2 testify. We can have a awful lot of people testify
3 on this point. He's supposed to be an expert witness
4 who is describing to us the status of the county plan
5 and not his personal observation as to how many times
6 he may or may not have gotten hung up at a light at
7 the intersection of 537 and 34.

8 MR. MARKS: My question would run
9 to the capacity of 537, whether in his planning
10 function he's had access to any traffic studies made
11 of that particular road.

12 MR. BRENNAN: Well, if you want
13 to proceed along that line, then I think you ought to
14 draw out from the witness his expertise in that area.

15 MR. MARKS: Okay.

16 BY MR. MARKS:

17 Q. Mr. Halsey --

18 THE CHAIRMAN: The Chairman will
19 accept Mr. Brennan's suggestion. It's pretty good.

20 MR. MARKS: I agree.

21 BY MR. MARKS:

22 Q. In your official capacity, have you been
23 familiar with any traffic studies made with respect
24 to Route 537?

25 A. Yes.

1 Q. In particular the intersection with
2 Route 347

3 A. Let me state the level I think it would be
4 understood and then you can decide I won't answer a
5 specific question.

6 The level of knowledge I have is as a planner.
7 Transportation and traffic is part of the expertise.
8 The term "expert" with a planner always bothers me
9 because a planner is, by his very nature, a
10 generalist. But traffic studies have been taken in
11 the past by the County Planning Board. At one time I
12 did do the traffic counting for Monmouth County,
13 before we had a Traffic Safety Department. So I have
14 physically placed counters on various highways in
15 Monmouth County at various locations. I have to
16 pause a minute but my recollection is I did not place
17 a counter or personally take any surveys at that
18 particular intersection. My knowledge of the traffic
19 of that site is through two transportation studies I
20 did for the County Planning Board. One is
21 Circulation of Transportation in Western Monmouth
22 Region. It was done in the summer of 1964. The
23 second was done, Circulation of Transportation of the
24 County of Monmouth, which was prepared in 1969. The
25 other knowledge comes from state AAD. The numbers

1 would not give you peak hour information. I do not
2 know as of this date if our county traffic department
3 has any hourly count. We do have a county traffic
4 safety department. They have a counting program
5 where traffic counters, hourly counters, some daily
6 counters, are placed at various locations. We also
7 have permanent counters. One is on 537 in Freehold
8 Township. But that is west of the Route 18 freeway
9 and the traffic configuration there is much different
10 than it is in the area of Colts Neck Village and
11 especially east of 537.

12 The critical factor in evaluating a specific
13 development at a specific section of roadway would be
14 your peak hour traffic. That would require a
15 specific count and in many instances sometimes peak
16 15 minutes in areas where the peaking is very high.
17 That's the level of my knowledge. I know what the
18 AAD is of that road in 1979 as reported by the New
19 Jersey Department of Transportation, is 9,800
20 vehicles. And that's an average calculated by the
21 State. It's not an observed count at that location.
22 It's based on the average number of cars that pass
23 there on a given day. Essentially you take the total
24 number of cars that pass there in a year and divide
25 by 365. It's not a good number to determine site

1 impacts.

2 Q. Do you have knowledge of studies made by
3 the county or any other agency relating to the
4 capacity of Route 537?

5 A. The capacity is again site specific. You do
6 not evaluate a capacity of a whole road. A capacity
7 is effected by the cross-section of the road the
8 pavement with this lateral curb ranges between width
9 of pavement, obstructions, vertical alignment, site
10 distance, percentage of truck traffic on the road.
11 Number of lanes, of course, is a critical factor.
12 It's a two lane road; nominally has an absolute
13 capacity of 2,000 vehicles per hour total. That's
14 under a little or over, conceivably slightly over
15 2,000 under forced conditions. And after that it's a
16 question of the desired level of service.

17 Q. Do you have -- have you examined any
18 studies regarding the level of service concerning
19 Route 537 near its intersection of Route 34?

20 A. Not recently enough to be of assistance I did
21 but it was in 1969, in conjunction with the study I
22 mentioned before.

23 Q. You had mentioned previously in your
24 testimony the problem of drainage into the Swimming
25 River Reservoir and the desire of the county, from a

1 planning standpoint, to limit development in that
2 area. Why would the county want to limit development?

3 A. Well, the more intensive the development
4 generally the greater the adverse impacts on water
5 quality of the surface waters in the particular area.
6 In this case, the surface water drains to a reservoir.
7 A reservoir is a man-made lake, in this instance; and
8 a man-made lake or a natural lake becomes a body to
9 which things flow but which generally do not leave.
10 It acts as a sedimentation trap and also can act as a
11 trap for other contaminants that might come off the
12 land. Now rural development can also be guilty of
13 this. Agriculture can also be a problem. But as
14 areas go from less dense development to more dense
15 development, the adverse impacts of the development
16 on the water quality are greater. The different
17 elements are injected, find a way into the surface
18 water runoff from impervious surfaces from
19 developments; vehicles using the area. So that it's
20 usually related. You can find a fairly good
21 correlation between the density of the development
22 and the water quality. Things can be done to
23 mitigate against that but that's in broad parameters.
24 You have to study the specific site and study the
25 measures and get a lot of experts to testify back and

1 know how many previous occasions, I think three. And
2 I would like to have an answer today.

3 MR. SAGOTSKY: My objection --

4 THE CHAIRMAN: The Chair will
5 rule that Mr. Halsey does not have to answer that
6 question. And I'll give the reason and then I will
7 ask the Counselor to explain the Mount Laurel
8 decision. Maybe that will help us. Maybe you can
9 elucidate and give us your opinion and we'll know
10 where you're coming from. That might help.

11 MR. NIEMANN: Shouldn't we first
12 have --

13 THE CHAIRMAN: Who issued the
14 Mount Laurel decision, the State or a judge? Could
15 you tell us that?

16 MR. FRIZELL: The Supreme Court.

17 THE CHAIRMAN: You asked Mr.
18 Halsey to answer as an individual.

19 MR. FRIZELL: The Supreme Court
20 of the State of New Jersey issued the Mount Laurel
21 decision in April of 1975.

22 MR. SAGOTSKY: Judge Hall.

23 MR. FRIZELL: The decision was
24 written by Justice Frederick Hall.

25 THE CHAIRMAN: It was written by

1 forth.

2 MR. BRENNAN: Mr. Marks, when you
3 asked that question, you used the phrase "in that
4 area". Were you referring through your statement "in
5 that area" to mean the specific site, the Orgo farm,
6 or were you talking about the south eastern quadrant
7 of Township of Colts Neck?

8 MR. MARKS: No, I wasn't talking
9 about the south eastern quadrant. And what I would
10 like to --

11 BY MR. MARKS:

12 Q. Mr. Halsey, as a general principle, is
13 it correct to say that the greater the density the
14 more likely chance of an adverse effect upon a
15 reservoir a runoff or the increased generation of
16 pollution?

17 A. Generally, yes.

18 MR. MARKS: Okay. Thank you.

19 THE CHAIRMAN: Mr. Fessler?

20 MR. BRENNAN: Mr. Frizell, maybe
21 you can help me on this point but did you not
22 previously, at some time in the past, have a witness
23 testify that any of the drainage would run down into --
24 let me call it "banana creek", because I don't
25 remember the name of it. It might have been

1 Hohockson. But any off-point pollution would have
2 flowed away from the reservoir as opposed to towards
3 it?

4 MR. FRIZELL: Not entirely. Part
5 of the tract flows toward Hohockson brook and part of
6 the tract flows into the Slope brook. The
7 environmental report will be presented next week.
8 Hohockson Brook avoids the reservoir, as he said, and
9 that's where the sewer plant would be. And to
10 eliminate any possibility of upset from the point
11 source, the non-point source would be split. Some of
12 it would go into Slope Brook. However, the testimony
13 was that the mitigation measures that Mr. Halsey
14 refers to are all being implemented, especially
15 retention facilities and swales, that kind of thing.
16 But the environmentalist will get into that in more
17 detail.

18 THE CHAIRMAN: Any other
19 questions from anyone?

20 MS. THOMAS: I'm Barbara Thomas
21 from the Environmental Commission. On the general
22 development plan has the Monmouth County Planning
23 Board studied the necessity or discussed widening
24 Route 537? And with this PUD at that intersection
25 near the intersection of Route 34, there has been

1 relating to this proposed development would depend on
2 the traffic generated by the development. And the
3 only study we have done relating to traffic
4 generation from developments in Monmouth County have
5 been traffic counts taken by our department at
6 various times over the years, that we isolated
7 developments, residential developments. And
8 generally with a fairly close tolerance, the average
9 is seven trips per day per unit, overall. That's
10 over a 24 hour period. As I mentioned earlier, the
11 critical factor is the peak hour volume. So the
12 analysis that has to be done in conjunction with this
13 would be to determine the peak traffic generated by
14 this development. If it only has one access route on
15 537, all the traffic will be entering one road. If
16 it has another secondary access, it would split in
17 some fashion. The peak hour traffic from the
18 development would have to be weighed against the
19 observed peak hours on Route 537 and something would
20 have to be done. If the only access is on Route 537
21 and you are talking about something over 1,000 units,
22 you are adding roughly 7,000 vehicles per day. You
23 will have roughly ten to 12 percent of that in the
24 peak hours. If it's a typical development pattern,
25 commuter pattern, it might be a little more. Around

1 12 percent would probably come pretty close. What
2 you will find after the development is in place. And
3 then it's a matter of figuring out whether that 12
4 percent can get out of that road onto Route 537 at
5 that peak hour given the traffic that's on there,
6 what has to be done, signals, additional lanes.
7 That's the only way it can be approached, is a very
8 specific study.

9 THE CHAIRMAN: The question was
10 posed to you was by Mrs. Barbara Thomas of the Colts
11 Neck Environmental Commission.

12 And we do have a private study
13 that has been made by Mr. Henry Ney that he computed.
14 You are welcome to look at that. And there is
15 possibly some major surgery to be done to that
16 roadway even at his recommendation.

17 MS. THOMAS: My question was
18 whether the Monmouth County Planning Board since he,
19 Mr. Halsey, is testifying whether they had done
20 anything on it.

21 THE CHAIRMAN: I understand.

22 THE WITNESS: I can state just in
23 at the present time there is nothing on the county
24 capital improvement program for the widening of that
25 road. So it has no funding status.

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THE CHAIRMAN: Any more questions of Mr. Halsey?

MR. RALEIGH: would off-site criteria such as the Tinton Falls historic history influence the redirection of 537 in future plans?

THE WITNESS: At one time it did. But our alternate was blocked by Tinton Falls' action to approve a major office building directly in the path of the relief route.

THE CHAIRMAN: That's a rather succinct answer and that's what happened. Any more questions?

Thank you, Mr. Halsey.

MR. FRIZELL: I have a few.

THE CHAIRMAN: I'm sorry, Counselor. Mr. Frizell?

MR. BRENNAN: I know you'll be brief, Mr. Frizell.

MR. FRIZELL: Certainly.

CROSS-EXAMINATION BY BY MR. FRIZELL:

Q. Mr. Halsey, let me begin with the standard questions. I know I've ask you this before, but some people haven't heard it. If you had your

1 druthers, you would rewrite the Mount Laurel decision,
2 would you not? You disagree with the principle that
3 every developing municipality should accept or zone
4 for its fair share of variety and choice of housing?

5 MR. MARKS: I'm going to object
6 to that question.

7 MR. SAGOTSKY: I'm going to
8 object. Let me comment on that. I don't know
9 whether he answered it or not. If you are finished
10 your question, I would like to comment before he
11 answers.

12 MR. FRIZELL: Go ahead.

13 MR. SAGOTSKY: I don't think
14 that's the issue here.

15 MR. MARKS: As you, yourself said,
16 it's the specific parcel that we're interested in.

17 MR. SAGOTSKY: This might have
18 been pertinent in your case before Judge Lane but it
19 is not pertinent here. And I leave that to the Board
20 to judge. The issue here is entirely different. The
21 issue here is, the application is made for the
22 purpose of qualifying this under negative criteria,
23 can this be done without a negative impact upon the
24 community? That's one of the basic elements the
25 Planning board has to go into, not your question.

1 MR. FRIZELL: The answer to that
2 question has to be faced by the witness' fundamental
3 philosophy of planning and if it disagrees with the
4 whole principle of a policy. That, I think, is
5 certainly something that the Board should know and
6 something that should certainly influence Mr.
7 Halsey's -- the acceptance of Mr. Halsey's testimony.

8 MR. NIEMANN: Couldn't the
9 question have been better asked if the factors
10 influenced the Planning Board's constructing or
11 developing this general plan in terms of densities
12 rather than his philosophical attitude.

13 MR. FRIZELL: It's his principles
14 of planning.

15 MR. SAGOTSKY: Well, it's the map,
16 it's the development plan. That's the -- that is the
17 purpose for which he was called.

18 MR. FRIZELL: Had that been the
19 only question, I wouldn't have asked the question.
20 well, in any event --

21 MR. BRENNAN: You want to
22 withdraw it?

23 MR. FRIZELL: I don't want to
24 withdraw it. I want to have a ruling on it. Mr.
25 Halsey has answered that question for me on I don't

1 one judge?

2 MR. FRIZELL: It was signed by
3 seven. It was enforced, as you well know. We think
4 why we're hereby not only by Judge Merritt Lane, Jr.
5 at Superior Court and a decision of the Appellate
6 Division of the Superior Court. To say that issue is
7 not relevant to this case, when it is the principle
8 special reason we proposed --

9 THE CHAIRMAN: Has the Mount
10 Laurel decision been implemented?

11 MR. FRIZELL: Yes, it has in
12 several municipalities. My answer is yes, it has had
13 its impact.

14 THE CHAIRMAN: I would be
15 interested in knowing where.

16 MR. SAGOTSKY: Could I ask you to
17 reserve that question, please?

18 THE CHAIRMAN: Sure. All right.
19 I think it would be helpful. Perhaps when he
20 finishes his cross. If it's relevant to this type of
21 a situation, definitely.

22 MR. SAGOTSKY: Yes.

23 THE CHAIRMAN: I'm aware of
24 Manalapan. That has to do with their zoning, not
25 with a PUD. Okay. You don't have to answer that

1 question. I think that's asking you for a personal
2 opinion and earlier Mr. Frizell objected to you
3 giving any personal opinions. So we shouldn't
4 entertain any more.

5 MR. FRIZELL: I don't think
6 that's quite correct. Mr. Halsey gave quite a few
7 opinions to which I did not object, his opinions
8 about the -- whether or not this thing, the PUD,
9 should be developed. And he gave an opinion. But,
10 in any event -- and I said I had no objection to it
11 and I still don't have it, so long as it's understood
12 where Mr. Halsey's coming from. And that's what I
13 think is important. In any event --

14 MR. BRENNAN: Wouldn't you say
15 that his previous opinions were rendered in the role
16 of a county planner and you are now asking him to
17 make a personal opinion?

18 MR. FRIZELL: Not entirely.

19 THE CHAIRMAN: I was under the
20 impression, Mr. Frizell, that every single one of
21 them was as a county planner not as a personal answer.

22 MR. FRIZELL: Well, I think Mr.
23 Halsey gave his opinion put his opinions on the
24 record. But that's for the record. I can continue
25 without that, based on the Chair's ruling.

1 BY MR. PRIZELL:

2 Q. Let me go over a few things. First of
3 all, when was the General Development Plan, D-2,
4 prepared?

5 A. It was prepared over a period of years in the
6 late sixties. It was adopted in January of 1970.

7 Q. Some some five and a half years prior to
8 the Mount Laurel decision?

9 A. Yeah.

10 Q. It couldn't have taken it into account?

11 A. No, it couldn't.

12 Q. Now, there were some questions about
13 urban sprawl. If Colts Neck Township were developed
14 to its capacity on two acre lots, all residential
15 land that's zoned residentially the way it's zoned,
16 on two acre lots, would that constitute urban sprawl?

17 A. Yes, in my opinion it would.

18 Q. So that the current zoning of Colts Neck
19 Township if it were implemented to its capacity or
20 fully implemented would be an example of urban sprawl?

21 A. Yes.

22 Q. Now, is there anything inconsistent --
23 do you have any difficulty with the Munciple Land
24 Use Law purpose, that purpose under the purposes of
25 the law which says that one of the purposes is to

1 encourage planned unit development in general?

2 A. No. In fact, we -- not only I -- agree with
3 the general purpose; but in various county documents
4 we've stated that it's something that should be
5 utilized more in Monmouth County.

6 Q. And in fact planned unit development can
7 be a method, a development method, which would
8 discourage urban sprawl. It's not necessarily -- it
9 doesn't necessarily bring about urban sprawl? In
10 fact. It can help prevent urban sprawl?

11 A. It depends on where it's located.

12 Q. Now, you mentioned the State Development
13 Guide Plan. Now, do you have a copy of it with you?

14 A. I think I have a copy of their map, very small
15 scale, somewhere in the pile of documents.

16 Q. Let me just ask you -- and perhaps you
17 can answer from memory -- the State Development Guide
18 Plan puts much of Colts Neck in what's called a
19 limited growth area; is that correct?

20 A. Are you sure it's limited growth? Or that may
21 be the term they have, growth areas, limited growth
22 and it would be limited growth.

23 Q. It's not in the agricultural area?

24 A. I don't think so. I think the only
25 agricultural area is the western portion, although

1 they might have a small one.

2 Q. Do you have the map?

3 A. Let me check. I would rather be specific about
4 that. The State Development Guide Plan and Tri-state
5 Development Guide were considered at the same time
6 and I -- no, I don't have -- the map is strictly the
7 Tri-state Guide.

8 Q. Let's me just give you assumption, that,
9 in fact, your guess was right, that it's limited
10 growth. In fact, virtually all limited growth
11 although some growth areas. There is a policy
12 statement in the State Guide Plan, is there not, that
13 the limited growth area number one, is not intended
14 to discourage or prohibit development within the
15 limited growth area provided that public sewer
16 extensions are not required -- which is to say that
17 development with private utility systems is not
18 inconsistent with the plan; is that your
19 understanding?

20 A. Not necessarily. There was some discussion of
21 that, and it was strictly discussion, across the
22 table with staff and I don't know how they came out
23 with the final interpretation. The discussion at the
24 time when we met in our offices with the state, the
25 authors of the draft, was that they didn't want to

1 see what we call urban density development in those
2 areas. That's the way they worded it.

3 MR. BRENNAN: Mr. Frizell, is
4 there a written document on this that would speak to
5 itself?

6 MR. FRIZELL: Yes.

7 THE WITNESS: Yeah.

8 MR. FRIZELL: I was going to move
9 off of that for that reason.

10 BY MR. FRIZELL:

11 Q. However, just generally, there is a
12 policy -- one of the policy statements in the State
13 Development Guide Plan is that the plan should not be
14 used to prohibit the implementation of the Mount
15 Laurel decision, itself. That is, that the
16 designation of an area for limited growth, for
17 instance, would not excuse that municipality from the
18 state policy?

19 A. Again, I can't recall the exact wording.

20 Q. I understand that.

21 A. But there was a lot of discussion about it. I
22 don't have enough recollection of the exact wording.
23 I would suggest that you submit that document.

24 Q. Well, except that you did answer
25 previously about what the Guide said about Colts Neck.

1 That's why I have to ask you the questions.

2 A. The reason I am having trouble answering that,
3 we spent a lot of time with the Director of State and
4 Regional Planning and a lot of what I recall of what
5 they were thinking about the Guide as opposed to what
6 actually got put in print at the end; and, that's why
7 I'm cloudy, too. And I don't think that would be
8 fair to you or the Board of Adjustment.

9 THE CHAIRMAN: I would suggest,
10 Mr. Frizell, if you have it, submit it.

11 MR. FRIZELL: I would have never
12 have asked the questions if he was going to talk
13 about the Guide Plan. However, he was asked the
14 question and not -- I mean, I have to do it. And the
15 state of his knowledge about the Guide Plan --
16 perhaps he should not been asked the question. I
17 appreciate the concern. I'll be glad to move off of
18 it.

19 BY MR. FRIZELL:

20 Q. In terms of the Tri-state Plan, the
21 Tri-state Plan also contains provisions, does it not,
22 about the implementation of the housing element of
23 the plan and the development of a variety of housing,
24 especially for low and moderate income housing; and,
25 the implementation of the State Development Guide

1 Plan is not intended to be inconsistent with that
2 policy?

3 A. The state?

4 Q. The Tri-state?

5 A. The Tri-state Plan is a lot different than the
6 State Development Guide. The State Plan is very
7 broad brush and shows bands. The development is
8 similar to ours but more generalized. It's very
9 tough to distinguish specific boundaries. The
10 Tri-state Regional Development Guide is a very
11 specific plan, but it's done in square miles, a grid
12 of square miles. They chop the whole region up in a
13 grid and in each of those squares they have a
14 designation either for residential development
15 densities or for non-residential activity; it could
16 be industrial or commercial or others, in some cases
17 special districts for government use. So that one
18 gets -- the Regional Development Guide gets very
19 specific and their policies on that Guide are based
20 on density of development on a specific square mile,
21 overall. Within that square mile, they don't get
22 site specific that you can't have anything of another
23 density in that grid; but, overall in that grid.

24 Q. They also encourage planned development
25 as a method of preserving critical land, planned unit

1 development, do they not?

2 A. Yeah. On a specific site, if an area is to be
3 developed, they would prefer -- they would like to
4 see them develop.

5 Q. Are there any square mile grids or any
6 part of which are higher than the rural residential
7 designation touching any part of Colts Neck Township?

8 A. Yes.

9 Q. And in square mile grids, would be at a
10 densities of three to seven units per acre?

11 A. Well, let's -- for that we can pull out the
12 cross-acceptance document and look at the grids.
13 There is one area that I know that is in -- that's
14 Earle Ammunition Depot. That's a different category.

15 Q. You mean industrial?

16 A. No, it's not industrial.

17 Q. When you say different category, you
18 mean higher residential?

19 A. It has higher residential and higher economic
20 development. They weren't sure what they were doing
21 on the map when they looked at the area. Tri-state
22 uses aerial photographs in evaluating the region.
23 And in looking at the aerial photographs of that area,
24 they saw the development cluster which is the housing
25 area and the facilities at the Earle Ammunition Depot

1 and they put that in, initially, as an economic and
2 residential development area. And, initially, one
3 block which lay in the vicinity of Route 34 and,
4 possibly, as best we could equate the grid square
5 with the area, on the Orgo farm site.

6 Q. I'm not worried about what was initially.
7 I'm asking today if they have any of those higher
8 density residential blocks in the Township of Colts
9 Neck?

10 A. As adjusted, everything in Colts Neck is either
11 zero to zero point five, which is open land or no
12 residential development.

13 Q. Is there anything --

14 A. We went through -- what happened, they had the
15 original Guide. Then we went through with this
16 process of cross-acceptance, which ended up in a
17 memorandum back and forth between the County Planning
18 Board --

19 MR. SAGOTSKY: Perhaps we should
20 mark in at least for identification.

21 MR. FRIZELL: I don't think we
22 should mark it at all since that case was closed.

23 MR. SAGOTSKY: Except you
24 referred to it, Mr. Frizell.

25 MR. FRIZELL: I only asked him a

1 question.

2 MR. SAGOTSKY: That's all you
3 need.

4 MR. BRENNAN: I interpreted you
5 another way, that you got an answer that you didn't
6 want to hear. So I would like to see --

7 MR. FRIZELL: The difficulty --

8 MR. BRENNAN: I would like to
9 have that grid put in evidence now.

10 MR. FRIZELL: The answer was
11 correct. The problem, when he looked at the grid and
12 then he's trying to guess off the grid.

13 MR. SAGOTSKY: May I mark it for
14 identification?

15 MR. BRENNAN: Yes, I wish you
16 would.

17 THE WITNESS: I'm not sure this
18 is one -- before we do it, I probably have to go
19 through this file and pull out the most recent one
20 that's attached to correspondance from Tri-state.

21 MR. FRIZELL: I know Tri-state,
22 that's why I have a problem. That particular problem,
23 we couldn't get into evidence when we wanted to put
24 it in. My question was, your answer was yes before
25 and why did you answer yes before?

1 THE CHAIRMAN: Did they disclaim
2 that and say, not to be reproduced without permission?

3 MR. FRIZELL: I think the nature
4 of the document is difficult. It's difficult to work
5 with and plus you get a lot of inconsistent
6 information.

7 THE WITNESS: The actual document
8 that would have to be -- it has to be in here. This
9 file is the file of the cross-acceptance file with
10 Tri-state. In here is a memorandum from Tri-state
11 including the entire region. Each county, their
12 memorandum of understanding which includes the
13 original plan, then specific sections referred to
14 verbally with Tri-state as changes this to a specific
15 item. And the two agencies agree to disagree. And
16 it is has to be taken very specifically.

17 THE CHAIRMAN: Well, since Mr.
18 Frizell felt it was necessary to ask you that
19 question and you needed the grid to make the answers,
20 we want to enter that into evidence.

21 Would you supply us with a copy?

22 MR. FRIZELL: Do you have the one
23 that you said you needed to answer the question?

24 THE CHAIRMAN: Get it, please.

25 BY MR. FRIZELL:

1 Q. Why did you say yes?

2 A. Well, they originally had an area on there but
3 that's on the map that I had from Tri-state. On the
4 Regional Development Guide, it showed a development
5 square. They took that off.

6 Q. My question really was whether they left
7 any on.

8 A. I don't think so.

9 THE CHAIRMAN: I think we're
10 moving a little. In essence, let's do it by the
11 numbers. Find the documents first then answer the
12 question straight ahead.

13 MR. SAGOTSKY: You are welcome to
14 be seated. It would be easier.

15 THE CHAIRMAN: At this stage of
16 the game, I bet you wish you had never been
17 subpoenaed.

18 THE WITNESS: No. The only thing
19 I apologize to the Board for not having the Tri-state
20 document out. I probably should have gotten that
21 thing and had it photocopied. I just grabbed the
22 file.

23 THE CHAIRMAN: If you feel there
24 is a copy available, will you please supply it to us
25 and enter it into evidence as D-4?

1 MR. FRIZELL: You can supply it
2 later.

3 BY MR. FRIZELL:

4 Q. And originally there were development
5 squares in Colts Neck at that intersection and you
6 went through the cross-acceptance process with the
7 county -- that is, the county and Tri-state got
8 together and at the start of that process that square
9 was removed or those squares were removed?

10 A. That's correct.

11 Q. So that the original Tri-state Plan was
12 amended to be more in conformance with what the
13 county has recommended?

14 A. That's right. That was it, the thing I can't
15 find.

16 MR. SAGOTSKY: You could supply
17 it later and I'll mark it.

18 THE WITNESS: What I would like
19 to do, to make sure that I don't -- I want to
20 identify it. The item I pulled out of that sheaf of
21 papers is one -- I'm sorry, that's not the letter
22 that's attached. That's the result of the -- yeah,
23 here's the cover letter that went with the whole
24 series of county evaluations. And that's the
25 document that evolves, a copy of a resolution signed

1 by the county. I can use a copy of this available
2 to the board. I wouldn't want to leave this because
3 it's the only one I have. The last sheets I believe
4 are the grid squares as accepted.

5 BY MR. FRIZELL:

6 Q. I take it there are several places where
7 the county plan is inconsistent with tri-state and
8 that's where you agree to disagree?

9 A. Right.

10 Q. Let me go back to the question Mr.
11 Benison asked before. The County Planning Board has
12 no executive or implementation authority; is that
13 correct?

14 A. That's correct.

15 Q. And tri-state's authority is really in
16 terms of being a federal entity for a review, a
17 funding review process?

18 A. That's correct. They're the metropolitan or
19 regional clearing house. We're the sub-regional
20 clearing house under the process which essentially
21 is a federal designation of a regulation which
22 requires local and regional comments on proposed
23 applications for federal funding.

24 Q. All right. So federal funding is
25 involved. They have no implementation powers or

1 authority?

2 A. They just have the the right to comment. Their
3 only influence comes through the influence on the
4 respective governor's office.

5 Q. The county does have a document that you
6 may be familiar with, does it not, the Natural
7 Features Study of Monmouth County? And the Natural
8 Features Study, as most county documents, is blown up
9 into planning areas; that is, a number of county
10 planning areas, in particular, a planning area five,
11 which Colts Neck is a part of?

12 A. Well, the Natural Feature Study is a report and
13 shows the entire county.

14 Q. I understand that. But in the report it
15 discusses it in terms of planning areas? I have a
16 copy of it. I don't know if you brought one.

17 A. That I brought along, too.

18 Q. Now, if you refer to page 50 of the
19 Natural Features Study --

20 MR. SAGOTSKY: You want to mark --
21 I would like to mark that for identification.

22 MR. FRIZELL: Sure, you can mark
23 mine.

24 MR. SAGOTSKY: January 31, 1980,
25 a letter entitled, Tri-state Regional Planning

1 Commission. Attached to it would be a page marked
2 "mapping" and a number of other pages down to and
3 including Monmouth County Center Names. Presumably
4 that will all be D-4.

5 (Whereupon a letter dated 1/31/80
6 is marked D-4 for identification.)

7 MR. SAGOTSKY: So that when
8 photocopied, that will appear and next will be the
9 document that's been referred to. The next document,
10 referred to and in possession of Mr. Halsey and
11 referred to for the purpose of cross-examination or
12 examination by Mr. Frizell is entitled Natural
13 features Study for Monmouth County, D-5.

14 (whereupon Natural Features Study
15 for Monmouth County is marked D-5 for
16 identification.)

17 BY MR. FRIZELL:

18 Q. What is the function of the Natural
19 features Study, briefly?

20 A. Its basic function was to evaluate the county
21 in relation to the natural features, the ecology and
22 environment of the county and try to identify the
23 suitability of the different areas or lack of
24 suitability for development in a very broad scope.

25 Q. And now, based on the study, they made a

Halsey - cross

1 finding that the -- did they not -- a
2 on page 50 there among the generalize
3 areas suitable for development in plan
4 includes number two land on both sides
5 Route 537 from state Route 18 east to -- Swimming
6 River Road in Colts Neck; and, that it further found
7 that the reservoir generally was a sensitive area in
8 terms of sensitive areas?

9 A. Right.

10 Q. So that the Orgo farm is within that
11 area which is designated as a -- as suitable for
12 development by that Natural Features Study?

13 A. Right, except for the flood plains and the
14 streams and tributaries of the reservoir. Yeah,
15 that's the statement.

16 Q. In other words, those are somewhat
17 inconsistent statements to some extent, are they not?
18 That is, in Colts Neck and you started with Route 18
19 some all that area within the Swimming River area and
20 watershed if you start at Route 18?

21 A. Yeah. The areas as described except -- well,
22 not knowing exactly where it breaks -- but virtually
23 everything except for probably a small area that
24 might drain to the southward is tributary to the
25 Swimming River Reservoir.

1 Q. So that areas designated suitable for
2 the development do include those areas?

3 A. That's correct.

4 Q. Now, in terms of the statements that you
5 made about the developments --

6 THE CHAIRMAN: Excuse me, Mr.
7 Frizell. Suitable for what kind of development?

8 BY MR. FRIZELL:

9 Q. Well, when they refer to development,
10 they're talking about all kinds of development; are
11 they not. This is the Natural Features Study. It
12 doesn't distinguish between residential and
13 commercial development, does it?

14 A. That's right. It's generally -- it was
15 prepared by staff of the Planning Board for the
16 Environmental Council, which is an advisory body to
17 the Planning Board. The evaluation was to determine
18 the areas in the county that were most sensitive to
19 development. It included soils, geologic structure,
20 drainage.

21 THE CHAIRMAN: Just generally to
22 be developed? It doesn't have anything to do with
23 density and so forth?

24 THE WITNESS: That's right. It
25 doesn't specify degrees. Well, suitability --

1 generally, the result of a composite map which is
2 used. Essentially, the darker the area, the less
3 suitable for development. It's not site specific.
4 It doesn't discuss such things as watershed areas.
5 It doesn't generally say that areas tributary to a
6 reservoir or any other large area should be developed.
7 It doesn't recognize the agricultural zones -- not
8 zone, but agricultural areas of the county as
9 agricultural areas, except for the two top
10 classifications of agricultural soil; only class one
11 and two. So it's very specific on agriculture. It
12 doesn't recognize any of the class three agricultural
13 soils which are being used by the same staff now in
14 reviewing plans. So in the case of the Orgo farm,
15 the map indicates that the bulk of the Orgo farm,
16 with the exception of an area delineated along Slope
17 Brook, would be suitable for development.

18 Q. And that's also carried over into the
19 document entitled, Planning Area Five Land Use Report?
20 I would refer to it, Mr. Halsey. You can take a look
21 at it. There's a development suitability map within
22 the Report, which the source is development
23 suitability map of April of '74?

24 A. Right.

25 Q. Page 25.

1 A. I can also leave a copy of this so you don't
2 have to use yours. This is a report evaluating -- a
3 staff report evaluating existing land use. You want
4 this?

5 Q. Yeah. We can mark that in. You want to
6 point out the error about Hohockson brook while we're
7 here?

8 A. Oh, okay. You mean the mapping error?

9 Q. It's not only mapping error it's the
10 text error about the Hohockson Brook draining into
11 reservoir.

12 A. The base map used by our staff in preparing --
13 the original base map had a mapping error, showed
14 Hohockson Brook going northward roughly toward Slope
15 brook. And it looks like an extension of Slope Brook.
16 Whereas, Hohockson brook flows actually parallel to
17 the north boundary of Earle Ammunition Depot, which
18 eventually comes into the the Swimming River below
19 the reservoir. When our staff wrote the report, they
20 were looking at a map that had a wrong delineation of
21 Hohockson Brook. And it was picked up after the
22 report was published.

23 Q. It's page 27. On page 27 is a reference
24 to the fact in Hohockson Brook drains into Swimming
25 River Reservoir. In fact, it does not; isn't that

1 correct?

2 A. That's right. Hohockson Brook does not drain
3 into the reservoir.

4 Q. So that, well --

5 THE CHAIRMAN: That's been
6 established a couple times. Hohockson Brook goes
7 into --

8 MR. FRIZELL: Swimming River but
9 below the reservoir.

10 THE CHAIRMAN: Goes into Pine
11 brook then into Swimming River, below the reservoir.

12 THE WITNESS: That's right.

13 THE CHAIRMAN: And from thence to
14 where?

15 THE WITNESS: Swimming River,
16 then goes into the Navesink River. I can -- well,
17 starts in the vicinity of the Orgo farm, the
18 headwaters of Hohockson Brook -- these streams may
19 have other names but on there, Hohockson Brook or a
20 major tributary of Hohockson travels along the
21 northern boundary of Earle Ammunition Depot. Then it
22 flows more to the north and east, east of -- parallel
23 to the Navy railroad; then goes more to the east over
24 toward water Street; then becomes the Tinton
25 Falls-Colts Neck boundary. At that point, it becomes

1 Pine Brook. Pine Brook comes up from the south. Pine
2 Brook then flows through Tinton Falls across the
3 Parkway and then intersects Swimming River east of
4 the Parkway. And then it flows -- Swimming River
5 winds down into the Navesink River. The dam which
6 forms the Swimming River Reservoir is located not
7 only west of the Parkway but west of Swimming River
8 Road.

9 BY MR. FRIZELL:

10 Q. Mr. Halsey, in terms of the -- you
11 indicated previously that one of your one of your
12 problems with a planned development in Colts Neck was
13 that -- the possibility that it would create
14 pressures for development of surrounding areas which
15 was inconsistent with the development plan of the
16 county. Is that a fair --

17 A. Yeah.

18 Q. Now, is that a -- is the development of
19 surrounding areas a necessary evolution as a result
20 of a development, considering -- if you consider the
21 fact that the -- that a development could be
22 developed with a limited capacity utility system and
23 could be developed in the context of a zoning
24 ordinance which, accept for that particular site, was
25 consistent with the plan?

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MR. SAGOTSKY: Is that question clear?

MR. FRIZELL: I'm asking you to make two assumptions. One is that the capacity of the system are limited to the development; and, number two, that a zoning ordinance is in place which is consistent with the plan in the surrounding areas.

MR. SAGOTSKY: well, at this point --

THE WITNESS: I can answer it. I have no problem with the question.

MR. SAGOTSKY: well, I was just commenting with the reference to the zoning plan. But I'll withdraw if you can answer it.

THE CHAIRMAN: In line with that, you weren't here but the sewer plant plan for this will already be operating at full capacity. That's been testified to. Okay?

THE WITNESS: History -- my experience would dictate that other properties in the general vicinity could use the argument -- they could also come in put in a sewer plant and convince the municipality to zone only their piece of land because of unique suitability and put in a utility system only for that development.

1 BY MR. FRIZELL:

2 Q. Let's assume that there's a state policy
3 which is fulfilled by that particular development but
4 which potentially might be excited by other
5 development. That is to say, there is no state
6 policy favoring the extensive development that you
7 are referring to. That is, the special reasons for
8 putting that particular development in no longer
9 exist once that development is in.

10 MR. MARKS: I'm going to object
11 to that question on the ground that the special
12 reasons refer to the specific parcel in question. I
13 think it's too hypothetical.

14 MR. SACOTSKY: It appears the
15 question was partly testimonial. Perhaps it could be
16 reframed.

17 BY MR. FRIZELL:

18 Q. Well, assume that the township has an
19 obligation, in which case it is evidence that it does
20 has an obligation. There's a Court Order that's part
21 of the evidence here, that specifically -- that this
22 township shall have patio houses, townhouses, rental
23 housing and a variety and choice of housing within
24 its borders.

25 THE CHAIRMAN: The Court Order

1 says that?

2 MR. FRIZELL: Yes, sir. Can we
3 have A-10, please.

4 MR. SAGOTSKY: The Court Order
5 refers to a zoning ordinance which has not been
6 passed and which has not been ordered to be passed
7 yet because it's on appeal. So, I object to that for
8 the moment as being not relevant. It's not pertinent
9 at the present time.

10 MR. FRIZELL: Let me just refer
11 to A-11, the Colts Neck Township Development
12 Regulation adopted pursuant to this Order -- shall
13 include areas: A. Areas in the township zone
14 planning in which single family houses on small lots
15 shall be permitted, areas within the township zone
16 plan in which the following forms of housing shall be
17 permitted: townhouses, garden apartments, patio
18 homes and zero lot line houses; C. Areas within the
19 zone plan which would permit the development of
20 housing pursuant to a plan which would mix different
21 housing types including small housing types as
22 described above and multi family housing, together
23 with the commercial uses adjunct to residential
24 development; D. Areas in the zone plan in which
25 development may be plans for innovative and creative

1 housing and site design in which housing development
2 shall not be restricted to housing sites all having
3 the same standard dimensions, essentially rectangular
4 in shape; minimum floor areas shall be reduced in the
5 A-1 zone; F. Clustering of single family residential
6 uses shall be permitted, et cetera.

7 MR. SAGOTSKY: I have two
8 objections, two objections. Number one, that there's
9 an Order. It is under appeal. It is not in effect
10 at the present time. And it and when it takes effect,
11 there's nothing that's been quoted by Mr. Frizell or
12 by the Court which states where that PUD is to be.
13 And therefore, the entire question at this time is
14 irrelevant. And I ask that it not be answered on the
15 grounds --

16 MR. FRIZELL: Let me respond in
17 two ways, Mr. Sagotsky, that is precisely the
18 argument that was made before Judge McGann; that is,
19 the special reasons do not exist because the matter
20 is under appeal. The response is, that is a Superior
21 Court Order which has been affirmed by the Appellate
22 Division. It is an Order. It has, in fact, has been
23 stayed. But it nevertheless is a finding and an
24 Order that applies to the township.

25 Number two, with respect to the

1 where that is is something that we can get to. But
2 until I asked the first question, I don't think I can
3 get to the second, that is, assuming that that is an
4 obligation.

5 THE CHAIRMAN: If you ask your
6 question that way, assuming that this Order which is
7 stayed and not effective is made effective, then you
8 can proceed.

9 MR. BRENNAN: I think I have the
10 same problem.

11 THE CHAIRMAN: You implied that
12 it is in effect. I took great exception. I didn't
13 think it was.

14 MR. BRENNAN: You can make a
15 whole string of assumptions and finally get down and
16 you have nobody else but Jackie Robinson had to be
17 the first black man in baseball because you have
18 excluded the other ten percent of our population.

19 MR. FRIZELL: That's a signed
20 Superior Court Order, A-11 in evidence here. That's
21 a fact.

22 MR. BRENNAN: I think you are
23 going beyond that in your question.

24 MR. FRIZELL: My question is,
25 assuming that that's a fact. And I don't know that

1 Mr. Halsey ever read the Order. That's why I asked
2 him to assume it. I even forget what the line of the
3 questions was. But I think it was, assuming that to
4 be the question once and that, in fact, had been
5 fulfilled, is it necessarily -- does it necessarily
6 follow that other areas would be developed in that
7 same way?

8 MR. MARKS: Objection. It
9 doesn't speak to the specific narrow inquiry before
10 this Board, which is the subject parcel.

11 MR. FRIZELL: Well, it does speak
12 to Mr. Halsey's opinion that he renders.

13 MR. MARKS: It's not a fair
14 question. It's not germane.

15 MR. SAGOTSKY: The issue is this
16 particular tract; is it suitable; does it comply with
17 the negative criteria. This Board's opinion or
18 judgment is to be based on a different set of facts
19 than what was set forth before the Court. And so I
20 just renew what I said before. Otherwise, I guess
21 this will go on to ad infinitum.

22 MR. FRIZELL: I'm going to leave
23 the question and let the Board rule on it.

24 MR. SAGOTSKY: I didn't mean to
25 make it argumentative but it so happened that way.

1 BY MR. SAGOTSKY:

2 Q. Would a sewer plant in the Origo area
3 have any tendency to cause or be related to urban
4 sprawl as differentiated from having a PUD in an area
5 better located nearer public sewer and other point
6 that you've made?

7 A. Well, the Planning Board position is that
8 developments should first go where public sewers are
9 already available, preferably use available capacity.
10 The construction of sewerage facilities in areas
11 presently unsewered would be reviewed on the basis of
12 whether or not we propose that area for development
13 in the future. Our proposal for sewers in an area
14 shown at low densities or rural residential would not
15 be supported by the county. We would not want to see
16 sewers in that area because sewers would enable
17 development at densities higher than those proposed
18 on the plan. Within the proposed development
19 corridors, we still would want to see the existing
20 capacity utilized before sewers were extended to open
21 up new land as a matter of economies. It's generally
22 less expensive to use existing systems than to build
23 new systems, largely due to increased costs of
24 construction, inflationary costs. It's essentially
25 to use what we have, make the existing systems more

1 efficient. Once you've put the plant in place,
2 adding additional customers and flow, so long as you
3 are within the capacity of the system, generally adds
4 revenues at a greater rate than it adds costs. You
5 do add operating costs, but you don't add capital
6 costs it normally puts on the sewerage authority or
7 the public sewerage system or a private system. If
8 it's a private utility, it would enhance the
9 financial structure of that particular system.

10 Q. And promotes density where it shouldn't
11 be, according to their plan?

12 A. That's right. The sewers are necessary in
13 areas of Monmouth County that have development
14 generally the medium low density and greater. In
15 some instances we have problems even in areas where
16 we have development at the low density. There are
17 several areas in Monmouth County with development on
18 one acre lots which, because of soil conditions,
19 probably should have sewers. But our original
20 relationship between the county plan and the county
21 sewerage plan was that sewers should be provided for
22 the areas that are shown in medium low density and
23 not provided in areas shown in the yellow or low
24 density.

25 Q. Now, with reference -- has the Planning

1 Board made any revision which might apply to the
2 location of offices in Colts Neck?

3 MR. FRIZZELL: May I understand
4 that question a little better? I think we had some
5 previous questions about the plan and it's not
6 changed.

7 BY MR. SACOTSKY:

8 Q. Has any revisions been made with
9 reference to the offices by the Planning Board, the
10 elimination of offices in Colts Neck?

11 A. I'll state just the way it happened. The staff
12 has prepared --

13 MR. FRIZZELL: Before you answer,
14 Mr. Halsey, let me restate the objection. It's the
15 same question that I think was asked before. Mr.
16 Halsey is going to guess what the final outcome of
17 the plan with reference to the office site, what it
18 might be, if and before it's been revised.

19 BY MR. SACOTSKY:

20 Q. The question is, has it been done and if
21 it hasn't been done, how far has it progressed? I
22 think the Board should know.

23 A. The plan has not been amended by formal
24 adoption. The staff has prepared a draft of a
25 revised plan. The Board has instructed the staff to

1 make certain changes. At the present time, the
2 revised draft -- and I have a copy with me marked
3 draft -- does not show any office and research or
4 industrial development. That was removed from the
5 original draft at the direction of the board. The
6 staff did have a proposal for office and research at
7 roughly the same location with less of a specific
8 boundary. I might mention that this would be true of
9 any proposals in the revised plan. We do not have
10 specific boundaries on any of the proposed industrial
11 or commercial zones. We merely intend to indicate
12 locations where such type activity should be located
13 and leave the exact boundary up to the local
14 officials to determine where that's possible. In
15 some cases, we have to have some existing boundary
16 because of some existing conditions.

17 MR. FRIZELL: What staff?

18 THE WITNESS: Paid professional
19 staff of Monmouth County.

20 MR. FRIZELL: Including yourself?

21 THE WITNESS: It includes myself.

22 MR. BRENNAN: Are we to infer
23 from your comment that if the staff made the changes
24 in the proposal requested by the Board that the Board
25 would adopt the plan?

1 THE WITNESS: You could only
2 infer to the point that at the present time that's
3 what the present board members are thinking. This,
4 frankly, probably will come to the public hearing
5 sometime in the winter, probably early next year.
6 There will be different members on the board,
7 possibly; maybe the same members. There will be a
8 public hearing held. It's possible the Board might
9 make one or several changes in the plan based on what
10 they hear at the public hearing. We plan on going to
11 the public hearing with a draft and the adoption will
12 come after that. All I can say at the present time
13 is the board members who have been reviewing the
14 draft at various work sessions of the Board -- our
15 work sessions are during the regular public meeting
16 of the board -- have indicated to -- either at those
17 meetings or privately, individually -- just indicated
18 what their preference is. They're giving us guidance.

19 MR. BRENNAN: I can understand
20 that. I can appreciate the position that the board
21 is trying to put you in, but I get back to my earlier
22 remarks, that essentially what you are saying is
23 purely speculative. The Board must approve it and
24 then it must go to public hearings. And then if it
25 stands the test of an airing to the public, something

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1 might be done.

2 THE WITNESS: That's co

3 MR. BRENNAN: Or it might

4 done.

5 MR. DAHLBOM: Could I ask a

6 question as to what the impact of recommendations
7 from the Monmouth County Planning Board? What impact
8 do they have on the local Planning Board? I mean,
9 are they obligated to follow your recommendations or
10 is that strictly something that they can do on their
11 own?

12 THE WITNESS: Strictly up to

13 local officials.

14 MR. DAHLBOM: So even though you

15 do recommend or do not recommend something in density
16 and so forth, the local Planning Board can do
17 otherwise?

18 THE WITNESS: That's correct.

19 BY MR. SACUTSKY:

20 Q. Now, what was the --

21 MR. NIEMANN: Can I get back to
22 the point system? I'm sorry, to back track. I just
23 want to make sure I understand this. You allocated
24 the 26 points out of 46 points possible for the
25 planned unit development as presented this evening?

1 THE WITNESS: That's the maximum
2 I can see, based on a couple of unknowns.

3 MR. NIEMANN: It lost
4 approximately 20 points or so because of the lack of
5 sewer and water facilities; isn't that correct?

6 MR. SACOTSKY: The location of
7 them.

8 MR. NIEMANN: Now, is this point
9 system which has been adopted by the county, is that
10 scaled or in any way adjusted for the density impact
11 of the proposed land use in relationship to the
12 ability or the availability of the existing services
13 or facilities to accommodate them or to expand upon
14 them in the future? Does the mere fact that there is
15 a public thoroughfare located on 537, for example,
16 doesn't warrant eight point consideration regardless
17 of 1,900 units are going to be constructed there and
18 that system is therefore incapable of handling?

19 THE WITNESS: This system was
20 intended merely as a guide to make an evaluation of
21 relative suitability of the various locations in the
22 county for high density, residential development.
23 Any proposal should go -- undergo scrutiny for site
24 specific situations, including negative criteria.
25 For example, this doesn't take into account any

1 environmental impacts or another possible negative
2 criteria. It's a very general guide to give people a
3 quick feeling as to how they might -- the type of
4 response they might get from the County Planning
5 Board. In this particular instance --

6 MR. NIEMANN: So, in other words --

7 THE WITNESS: From the plan one
8 can get a rough idea of where the Planning Board, as
9 a body, would be testifying before local boards of
10 adjustment or a court of law relating to a zoning
11 case.

12 BY MR. BAGOTSKY:

13 Q. Would the potential impact of this plan
14 plan in the Urgo farm be detrimental to the public
15 good? I'm talking about the negative criteria.

16 MR. PRIZELL: I have to object.
17 Again, I'm not sure that's a fair question of Mr.

18 Halsey, unless he knows an awful lot more about this
19 plan than I think he does. That is such a broad
20 question. And I -- quite frankly, it's certainly
21 beyond his ability to answer under my understanding
22 of his knowledge of the facts of the case. If he was
23 a paid expert who was -- had been charged to examine
24 the application and all the proceedings and the
25 transcript, et cetera, he might be able to make some

1 kind of a determination. But we have volumes of
2 material on which -- with which that question can be
3 answered. And I think unless Mr. Halsey has reviewed
4 it fairly, I don't think he should be requested to
5 answer questions like that.

6 MR. SAGOTSKY: Judge Lane has
7 said, according to the record, in one of your
8 objections similar to this is, the witness is an
9 expert. He certainly can take care of himself. He
10 can answer yes or no or quality. And under these
11 circumstances, before this board, with their general
12 rules of evidence as they are, I submit that the
13 witness, of course, be allowed to answer.

14 THE CHAIRMAN: I would like to
15 interject a point and go back to the last hearing we
16 had on this when, Mr. Frizell, you objected to my
17 paraphrasing that exact statement. I said what's
18 best for the most people. And you objected rather
19 vehemently to that. I still consider that a
20 paraphrase of detrimental to the public good. And
21 every one of our resolutions we've ever given down
22 from this board has to have those words in them. I
23 think it's very germane to the situation.

24 MR. FRIZELL: I have no objection
25 to making that determinations and that's your duty to

1 do as a Board member. but to bring a man on subpoena
2 in ask him the \$64,000 question of the case, as if he
3 knows all the material and knows the background of
4 all of the evidence that we submitted in this case --
5 it's not that I don't think it's an important
6 question. It is. Certain people can be brought in
7 here to answer it. We certainly asked that question
8 of our people. And if the Board wants to bring
9 someone in -- in fact, I'm going to ask again about
10 an independent planner to answer those kinds of
11 questions. But Mr. Halsey is here. He's a County
12 Planning Director. He's quite qualified in that
13 respect. but to talk about this particular PDB
14 without a very, very thorough knowledge of it, I
15 think, is inappropriate.

16 MR. SAGOTSKY: Of course, it's up
17 to the Board to determine the final solution here,
18 whether to uphold the objection or not.

19 MR. FRIZELL: Just to put it into
20 context, I'm certainly not inconsistent. There's two
21 things you need to answer the question, one is
22 information and the other is expertise. In Mr.
23 Orgo's case, he's not a planner. he doesn't answer
24 those questions. In Mr. Halsey's case, I don't think
25 he has the information.

1 THE CHAIRMAN: Well, quite
2 frankly, Mr. Frizell, I haven't found anybody that
3 answered that question yet. I've asked the same
4 question of every person you presented to this Board
5 in some form or another and they have refused to
6 answer it.

7 MR. FRIZELL: I don't think
8 that's the case.

9 MR. SAGOTSKY: At this point --

10 THE WITNESS: That wasn't the
11 question.

12 MR. SAGOTSKY: No, it wasn't.

13 THE WITNESS: A lot of what could
14 be called negative criteria, I can't give a direct
15 answer to that question. I would have to explain how
16 I would answer it. It's up to the Board.

17 BY MR. SAGOTSKY:

18 Q. Answer as you can, without being
19 detrimental to the public good and answer it along
20 those lines. That's the negative criteria. And
21 without impairing the zoning plan, which is the other
22 part of the negative criteria. And that's the
23 question, based upon your knowledge and based upon
24 your expertise and based upon the location of the
25 area; based upon the map which has now been

1 introduced as an exhibit; and, which map describes
2 the area where the PUD is planned to be. Now, based
3 upon all those considerations and other elements that
4 you have mentioned -- you brought in the point system --
5 what is the relationship of that with reference to
6 the public good, more with reference to the negative
7 criteria?

8 A. well, as regards the public good, which is a
9 very broad thing, I personally, professional opinion --
10 I cannot speak for the Board on this. Obviously, I
11 have to give a professional opinion in this case.
12 There is no real element of the public good that can
13 be served at this site that cannot be better served
14 at other locations of the county.

15 MR. BRENNAN: Can you restrict
16 that to the Township of Colts Neck whether on your
17 point system it be another location within the
18 township that would rank higher than your 26 points?

19 THE WITNESS: I haven't evaluated
20 other sites on the point rating system. If Colts
21 Neck were to seek to zone an area for high densities,
22 I would like to see other areas of the township or
23 another area of the township in which to find a more
24 suitable site.

25 MR. BRENNAN: May I rephrase that

1 then? Looking at the township of Colts Neck on that
2 map, are there other locations where it would be
3 easier to bring, from an existing utility sewer, and
4 water to the site and still have the same score
5 relative to public transportation? In other words,
6 if you moved it over to the easterly side, say near
7 Lincroft, Middletown or something like that, would
8 there be access to sewerage and water?

9 THE WITNESS: I would not look
10 toward the Lincroft area. I would look toward the
11 southeastern portion of the township adjacent to
12 Tinton Falls, where sewer and water would be in
13 closer proximity. And some site that might also be
14 on public transit. And others would not be on public
15 transportation. Local bus service is a limited
16 service between Red Bank and Freehold. It does
17 happen to travel on 537. It also travels on a
18 portion of Swimming River Road and would be near some
19 site in that southeastern part of the township. It
20 would probably get some points on public
21 transportation; another might not get any. We would
22 have to look at specific sites. In general, I would
23 look to the south eastern portion of the township.

24 MR. BRENNAN: would it if you
25 were to locate a PUD on that site -- excuse me. Let

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1 me not say a PUD. Let me say eleven to 1,200
2 residential units. Would it also be closer to
3 existing shopping areas and best existing areas of
4 employment within Monmouth County in contrast to the
5 Orgo site?

6 THE WITNESS: It would be closer
7 to areas of employment; shopping, also. I have the
8 same problem with that as with the Colts Neck Village
9 area, as far as what facilities are offered, as the
10 service stores. The distance to shopping might not
11 be that much greater. I think it would be closer.
12 But I still do not think we would get any greater
13 amount of the points on our rating system. A lot
14 would depend on what's available in an individual
15 store. And that would be a technical point. Again,
16 we use this to look at a specific site and look at
17 that site and evaluate it. When we discuss an area,
18 we are looking more in generalities. And I'm using
19 my knowledge of the county, my knowledge of utilities,
20 services in the county. But it's difficult to use
21 the point rating system to discuss a general area
22 because the points can change from one site to
23 another. Two adjoining pieces of land could have
24 several points differential in their rating.

25 MR. DAHLBOM: In a location that

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1 was close, like you say, to Tinton Falls, with the
2 possibilities of having extensions to sewer and water,
3 would immediately get us 20 points, wouldn't it?

4 THE WITNESS: It would probably
5 get points, not necessarily 20. It would have to be
6 available right at the site.

7 MR. DANLON: So it would receive
8 it on a basis of an extension?

9 THE WITNESS: Either on a short
10 extension or an area scheduled for sewer on a
11 proposed system.

12 THE CHAIRMAN: With the
13 availability of public water and public sewer, would
14 they not cost a PUD a lot less than putting in their
15 own water and sewer systems?

16 THE WITNESS: I couldn't answer
17 that.

18 THE CHAIRMAN: Too speculative?

19 THE WITNESS: Too many variables
20 involved.

21 MR. SAGOTSKY: Well, I have
22 concluded. I now turn it over to the board, turn the
23 matter for any further questions, anyone else the
24 Chairman desires and, of course, Mr. Frizell.

25

1 EXAMINATION BY THE BOARD:

2

3 MR. NIEMANN: with respect to the

4 negative criteria that I believe you are discussing

5 now, do you have an opinion as to the negative impact

6 of the construction of the planned unit development

7 in the location of the Orgo farm in relationship to

8 the Monmouth County General Development Plan; and, if

9 you do, if the answer to that is yes, and what are

10 those reasons and why do you come to that opinion?

11 THE WITNESS: There are two basic

12 reasons. One is very general in that it would create

13 a focal point for other pressure for development that

14 would be inconsistent with our county development

15 plan. The second would be more specific and that

16 relates to drainage into the Swimming River Reservoir.

17 One of the reasons that there is a large area shown

18 for rural residential is an effort by the County

19 Planning board through its influence to hold down the

20 density of development of the area tributary to the

21 Swimming River Reservoir to the greatest extent

22 possible in the current statutes and other factors relative

23 to ownership of property and rights of property. The

24 concern for that is that urban development, the

25 higher the density of development, generally the

1 greater the adverse impacts on surface water quality.
2 And in this particular instance a good portion of the
3 Urgo site would drain through Biolo Brook into the
4 reservoir. So we would have a concern about those
5 impacts.

6 MR. NIEMANN: And how many people
7 does that reservoir service and their water needs, to
8 the best of your knowledge?

9 THE WITNESS: It's a good portion
10 of Monmouth Consolidated Water Company's capacity and
11 one of their major sources of supply. And I don't
12 know the population they serve. It's something on
13 the order of 200,000 or possibly greater than 200,000.
14 I believe their pumpage is around forty some million
15 gallons a day, total. Swimming River Reservoir is
16 one. They also have the Glendola Reservoir, which
17 pumps from surface water of another system. And they
18 have some wells which are used from time to time to
19 supplement the system.

20 THE CHAIRMAN: I believe that
21 Monmouth Consolidated came before this Board for a
22 variance and in their testimony they said they had
23 250,000 customers served by the reservoir.

24 MR. SAGOTSKY: You may take
25 judicial knowledge of that, if that's your

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recollection.

THE CHAIRMAN: I would suggest a five minute break at the request of one of the members of the board for everybody and then we'll probably have some more questions. We will resume after a short break.

(Whereupon a recess is taken at 6:35 p.m.)

(The hearing reconvenes at 6:55 p.m.)

THE CHAIRMAN: Are there any board members that have a question?

Mr. Tischendorf?

MR. TISCHENDORF: Is there a process by which there is a judicial review applied to the development of a Monmouth County master plan or State Development Guide or do you operate, develop any of those things with any constraints from the judicial bodies at the county or state level?

THE WITNESS: The county plan is prepared in accordance with the provisioning statute that says that a county planning board may prepare and adopt the county master plan. But the plan has no status. In other words, we have no zoning power no means of implementation except to use it as a

1 basis for discussing a proposed development; advise
2 the local officials as to how the County Planning
3 Board thinks the County should develop in the future.
4 And the only judicial review comes at such time when
5 I or some other member of the Board or staff are
6 subpoenaed before a court to testify as to the plan
7 and its relationship to a local development

8 The State Development Guide has
9 even less status than the county plan, as best I can
10 tell. It is prepared by a state department, a state
11 office. But it has no official status with any
12 department. Nobody's adopted the plan that I know of;
13 nor do I know of any provision for any agency to
14 adopt a State Guide. It is an expression of the
15 thinking of the particular executive branch at the
16 time, viewed through the State Planning Office and
17 Department of Community Affairs.

18 MR. TISCHENDORF: So the judicial
19 side can ignore it if they wish or find it is
20 irrelevant? They really don't have to find it
21 invalid?

22 THE WITNESS: Our plan and the
23 state plan have a power of persuasion. That's all.

24 MR. DANLON: In other words, you
25 have never been taken to court by any individual? I

1 mean, the Planning board.

2 THE WITNESS: No, the Planning
3 board has not been taken to court.

4 THE CHAIRMAN: Any other Board
5 members?

6 Is there anyone from the audience
7 that would like to ask Mr. Halsey a question?

8 The Planning Board?

9 MR. MARKS: I have a couple of
10 questions.

11

12 CROSS-EXAMINATION BY MR. MARKS:

13

14 Q. Mr. Halsey, are you familiar with the
15 concept of urban sprawl?

16 A. Yes.

17 Q. Could you explain what urban sprawl is?

18 A. It's a term applied to the spread of
19 development of urban characteristics over an
20 excessively large area. It means different things to
21 different people. But generally in the New York
22 metropolitan area, it's a term that used to indicate
23 that the development, the number of persons and the
24 level of economic development could be contained in a
25 much smaller geographic area more efficiently and

1 with less adverse impact on the region on the natural
2 features of the region.

3 Q. How does urban sprawl relate to planning
4 that's done by your department?

5 A. Well, applied to Monmouth County, urban sprawl
6 would eventually lead to homogeneous development of
7 the county one area would be virtually
8 indistinguishable from other another area of the
9 county. It would be similar to what one finds in
10 going from one community to the next in the coastal
11 area in the county. The only way you know you are
12 leaving one town and entering another is a sign. In
13 the absence of a sign, there is no indication. The
14 effect of urban sprawl is to spread everything
15 uniformly over the county. And our reaction to that
16 is that the county would be better served by having
17 development channeled into particular areas, leaving
18 other areas with less development; or, ideally, in
19 some cases, no development. And, of course, we're
20 constrained by history, development that occurred in
21 the past. That's generally the relationship between
22 the term urban sprawl and the county plan and its
23 efforts.

24 Q. Would it be fair to say that urban
25 sprawl is related to unplanned development or

1 sporadic development?

2 A. Unplanned, yes; sporadic doesn't necessarily
3 indicate sprawl. That could be a hopscotch pattern.

4 Q. Would you see this subject parcel, if
5 developed as a PUD, would that contribute to urban
6 sprawl?

7 A. It could. If a particular site in any -- any
8 particular site in the area which is generally
9 undeveloped or more lightly developed than other
10 areas of the county, for intensive development to
11 occur in that area history indicates that it attracts
12 pressure for more development of a similar nature and
13 to that extent would tend to create more urban sprawl
14 in the county.

15 Q. And destroy the area which was planned
16 or suggested to be planned as being developed in a
17 less intent state?

18 A. I wouldn't use the term destroy. It would
19 change its character. I don't think the term
20 destruction is necessarily appropriate. That would
21 depend on how the development was handled.

22 Q. But it would be contrary to what the
23 Planning Board perceives is the best use for that
24 particular area of the county?

25 A. Yes, it would.

1 Q. Are you familiar with the traffic in the
2 surrounding area, in particular Route 537 and Route
3 347

4 A. Yes in addition to knowledge through the
5 Planning process, I travel the route quite frequently.

6 Q. And do you have any opinion about the
7 nature of Route 537 at its peak hours of travel? How
8 would you characterize that road?

9 MR. FRIZELL: I'm going to object
10 to this, Mr. Halsey. Number one, I think except from
11 a purely personal perspective -- which I don't think
12 is any more valuable than anyone else's here -- I
13 don't think he is a traffic counter. And I think
14 from a very, very general kind of a perspective, his
15 testimony, in terms of the general county
16 transportation plan, should be restricted to those
17 kinds of things, arterial roads, et cetera. But to
18 start about a particular site and how much traffic
19 and how Mr. Halsey would characterize it is really
20 not helpful.

21 MR. MARKS: Why don't we ask a
22 couple of questions and see if he's familiar with it?

23 MR. BRENNAN: Doesn't it get back
24 to the objection that was just raised? Mr. Halsey is
25 a planner. And now you are asking him -- and he's

1 already said only through personal observation he can
2 testify. We can have a awful lot of people testify
3 on this point. He's supposed to be an expert witness
4 who is describing to us the status of the county plan
5 and not his personal observation as to how many times
6 he may or may not have gotten hung up at a light at
7 the intersection of 537 and 34.

8 MR. MARKS: My question would run
9 to the capacity of 537, whether in his planning
10 function he's had access to any traffic studies made
11 of that particular road.

12 MR. BRENNAN: Well, if you want
13 to proceed along that line, then I think you ought to
14 draw out from the witness his expertise in that area.

15 MR. MARKS: Okay.

16 BY MR. MARKS:

17 Q. Mr. Halsey --

18 THE CHAIRMAN: The Chairman will
19 accept Mr. Brennan's suggestion. It's pretty good.

20 MR. MARKS: I agree.

21 BY MR. MARKS:

22 Q. In your official capacity, have you been
23 familiar with any traffic studies made with respect
24 to Route 537?

25 A. Yes.

1 Q. In particular the intersection with
2 Route 34?

3 A. Let me state the level I think it would be
4 understood and then you can decide I won't answer a
5 specific question.

6 The level of knowledge I have is as a planner.
7 Transportation and traffic is part of the expertise.
8 The term "expert" with a planner always bothers me
9 because a planner is, by his very nature, a
10 generalist. But traffic studies have been taken in
11 the past by the County Planning Board. At one time I
12 did do the traffic counting for Monmouth County,
13 before we had a Traffic Safety Department. So I have
14 physically placed counters on various highways in
15 Monmouth County at various locations. I have to
16 pause a minute but my recollection is I did not place
17 a counter or personally take any surveys at that
18 particular intersection. My knowledge of the traffic
19 of that site is through two transportation studies I
20 did for the County Planning Board. One is
21 Circulation of Transportation in Western Monmouth
22 Region. It was done in the summer of 1964. The
23 second was done, Circulation of Transportation of the
24 County of Monmouth, which was prepared in 1969. The
25 other knowledge comes from state AAD. The numbers

1 would not give you peak hour information. I do not
2 know as of this date if our county traffic department
3 has any hourly count. We do have a county traffic
4 safety department. They have a counting program
5 where traffic counters, hourly counters, some daily
6 counters, are placed at various locations. We also
7 have permanent counters. One is on 537 in Freehold
8 Township. But that is west of the Route 18 freeway
9 and the traffic configuration there is much different
10 than it is in the area of Colts Neck Village and
11 especially east of 537.

12 The critical factor in evaluating a specific
13 development at a specific section of roadway would be
14 your peak hour traffic. That would require a
15 specific count and in many instances sometimes peak
16 15 minutes in areas where the peaking is very high.
17 That's the level of my knowledge. I know what the
18 AAD is of that road in 1979 as reported by the New
19 Jersey Department of Transportation, is 9,800
20 vehicles. And that's an average calculated by the
21 State. It's not an observed count at that location.
22 It's based on the average number of cars that pass
23 there on a given day. Essentially you take the total
24 number of cars that pass there in a year and divide
25 by 365. It's not a good number to determine site

1 impacts.

2 Q. Do you have knowledge of studies made by
3 the county or any other agency relating to the
4 capacity of Route 537?

5 A. The capacity is again site specific. You do
6 not evaluate a capacity of a whole road. A capacity
7 is effected by the cross-section of the road the
8 pavement with this lateral curb ranges between width
9 of pavement, obstructions, vertical alignment, site
10 distance, percentage of truck traffic on the road.
11 Number of lanes, of course, is a critical factor.
12 It's a two lane road; nominally has an absolute
13 capacity of 2,000 vehicles per hour total. That's
14 under a little or over, conceivably slightly over
15 2,000 under forced conditions. And after that it's a
16 question of the desired level of service.

17 Q. Do you have -- have you examined any
18 studies regarding the level of service concerning
19 Route 537 near its intersection of Route 34?

20 A. Not recently enough to be of assistance I did
21 but it was in 1969, in conjunction with the study I
22 mentioned before.

23 Q. You had mentioned previously in your
24 testimony the problem of drainage into the Swimming
25 River Reservoir and the desire of the county, from a

1 planning standpoint, to limit development in that
2 area. why would the county want to limit development?

3 A. well, the more intensive the development
4 generally the greater the adverse impacts on water
5 quality of the surface waters in the particular area.
6 In this case, the surface water drains to a reservoir.
7 A reservoir is a man-made lake, in this instance; and
8 a man-made lake or a natural lake becomes a body to
9 which things flow but which generally do not leave.
10 It acts as a sedimentation trap and also can act as a
11 trap for other contaminants that might come off the
12 land. Now rural development can also be guilty of
13 this. Agriculture can also be a problem. But as
14 areas go from less dense development to more dense
15 development, the adverse impacts of the development
16 on the water quality are greater. The different
17 elements are injected, find a way into the surface
18 water runoff from impervious surfaces from
19 developments; vehicles using the area. So that it's
20 usually related. You can find a fairly good
21 correlation between the density of the development
22 and the water quality. Things can be done to
23 mitigate against that but that's in broad parameters.
24 You have to study the specific site and study the
25 measures and get a lot of experts to testify back and

1 forth.

2 MR. BRENNAN: Mr. Marks, when you
3 asked that question, you used the phrase "in that
4 area". Were you referring through your statement "in
5 that area" to mean the specific site, the Orgo farm,
6 or were you talking about the south eastern quadrant
7 of Township of Colts Neck?

8 MR. MARKS: No, I wasn't talking
9 about the south eastern quadrant. And what I would
10 like to --

11 BY MR. MARKS:

12 Q. Mr. Halsey, as a general principle, is
13 it correct to say that the greater the density the
14 more likely chance of an adverse effect upon a
15 reservoir a runoff or the increased generation of
16 pollution?

17 A. Generally, yes.

18 MR. MARKS: Okay. Thank you.

19 THE CHAIRMAN: Mr. Fessler?

20 MR. BRENNAN: Mr. Frizell, maybe
21 you can help me on this point but did you not
22 previously, at some time in the past, have a witness
23 testify that any of the drainage would run down into --
24 let me call it "banana creek", because I don't
25 remember the name of it. It might have been

1 Hohockson. But any off-point pollution would have
2 flowed away from the reservoir as opposed to towards
3 it?

4 MR. FRIZELL: Not entirely. Part
5 of the tract flows toward Hohockson brook and part of
6 the tract flows into the Slope brook. The
7 environmental report will be presented next week.
8 Hohockson Brook avoids the reservoir, as he said, and
9 that's where the sewer plant would be. And to
10 eliminate any possibility of upset from the point
11 source, the non-point source would be split. Some of
12 it would go into Slope Brook. However, the testimony
13 was that the mitigation measures that Mr. Halsey
14 refers to are all being implemented, especially
15 retention facilities and swales, that kind of thing.
16 But the environmentalist will get into that in more
17 detail.

18 THE CHAIRMAN: Any other
19 questions from anyone?

20 MS. THOMAS: I'm Barbara Thomas
21 from the Environmental Commission. On the general
22 development plan has the Monmouth County Planning
23 Board studied the necessity or discussed widening
24 Route 537? And with this PUD at that intersection
25 near the intersection of Route 34, there has been

1 relating to this proposed development would depend on
2 the traffic generated by the development. And the
3 only study we have done relating to traffic
4 generation from developments in Monmouth County have
5 been traffic counts taken by our department at
6 various times over the years, that we isolated
7 developments, residential developments. And
8 generally with a fairly close tolerance, the average
9 is seven trips per day per unit, overall. That's
10 over a 24 hour period. As I mentioned earlier, the
11 critical factor is the peak hour volume. So the
12 analysis that has to be done in conjunction with this
13 would be to determine the peak traffic generated by
14 this development. If it only has one access route on
15 537, all the traffic will be entering one road. If
16 it has another secondary access, it would split in
17 some fashion. The peak hour traffic from the
18 development would have to be weighed against the
19 observed peak hours on Route 537 and something would
20 have to be done. If the only access is on Route 537
21 and you are talking about something over 1,000 units,
22 you are adding roughly 7,000 vehicles per day. You
23 will have roughly ten to 12 percent of that in the
24 peak hours. If it's a typical development pattern,
25 commuter pattern, it might be a little more. Around

1 12 percent would probably come pretty close. What
2 you will find after the development is in place. And
3 then it's a matter of figuring out whether that 12
4 percent can get out of that road onto Route 537 at
5 that peak hour given the traffic that's on there,
6 what has to be done, signals, additional lanes.
7 That's the only way it can be approached, is a very
8 specific study.

9 THE CHAIRMAN: The question was
10 posed to you was by Mrs. Barbara Thomas of the Colts
11 Neck Environmental Commission.

12 And we do have a private study
13 that has been made by Mr. Henry Ney that he computed.
14 You are welcome to look at that. And there is
15 possibly some major surgery to be done to that
16 roadway even at his recommendation.

17 MS. THOMAS: My question was
18 whether the Monmouth County Planning Board since he,
19 Mr. Halsey, is testifying whether they had done
20 anything on it.

21 THE CHAIRMAN: I understand.

22 THE WITNESS: I can state just in
23 at the present time there is nothing on the county
24 capital improvement program for the widening of that
25 road. So it has no funding status.

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THE CHAIRMAN: Any more questions of Mr. Halsey?

MR. RALEIGH: Would off-site criteria such as the Tinton Falls historic history influence the redirection of 537 in future plans?

THE WITNESS: At one time it did. But our alternate was blocked by Tinton Falls' action to approve a major office building directly in the path of the relief route.

THE CHAIRMAN: That's a rather succinct answer and that's what happened. Any more questions?

Thank you, Mr. Halsey.

MR. FRIZELL: I have a few.

THE CHAIRMAN: I'm sorry, Counselor. Mr. Frizell?

MR. BRENNAN: I know you'll be brief, Mr. Frizell.

MR. FRIZELL: Certainly.

CROSS-EXAMINATION BY BY MR. FRIZELL:

Q. Mr. Halsey, let me begin with the standard questions. I know I've ask you this before, but some people haven't heard it. If you had your

1 druthers, you would rewrite the Mount Laurel decision,
2 would you not? You disagree with the principle that
3 every developing municipality should accept or zone
4 for its fair share of variety and choice of housing?

5 MR. MARKS: I'm going to object
6 to that question.

7 MR. SAGOTSKY: I'm going to
8 object. Let me comment on that. I don't know
9 whether he answered it or not. If you are finished
10 your question, I would like to comment before he
11 answers.

12 MR. FRIZELL: Go ahead.

13 MR. SAGOTSKY: I don't think
14 that's the issue here.

15 MR. MARKS: As you, yourself said,
16 it's the specific parcel that we're interested in.

17 MR. SAGOTSKY: This might have
18 been pertinent in your case before Judge Lane but it
19 is not pertinent here. And I leave that to the Board
20 to judge. The issue here is entirely different. The
21 issue here is, the application is made for the
22 purpose of qualifying this under negative criteria,
23 can this be done without a negative impact upon the
24 community? That's one of the basic elements the
25 Planning board has to go into, not your question.

1 MR. FRIZELL: The answer to that
2 question has to be faced by the witness' fundamental
3 philosophy of planning and if it disagrees with the
4 whole principle of a policy. That, I think, is
5 certainly something that the Board should know and
6 something that should certainly influence Mr.
7 Halsey's -- the acceptance of Mr. Halsey's testimony.

8 MR. NIEMANN: Couldn't the
9 question have been better asked if the factors
10 influenced the Planning board's constructing or
11 developing this general plan in terms of densities
12 rather than his philosophical attitude.

13 MR. FRIZELL: It's his principles
14 of planning.

15 MR. SAGOTSKY: Well, it's the map,
16 it's the development plan. That's the -- that is the
17 purpose for which he was called.

18 MR. FRIZELL: Had that been the
19 only question, I wouldn't have asked the question.
20 well, in any event --

21 MR. BRENNAN: You want to
22 withdraw it?

23 MR. FRIZELL: I don't want to
24 withdraw it. I want to have a ruling on it. Mr.
25 Halsey has answered that question for me on I don't

1 one judge?

2 MR. FRIZELL: It was signed by
3 seven. It was enforced, as you well know. We think
4 why we're hereby not only by Judge Merritt Lane, Jr.
5 at Superior Court and a decision of the Appellate
6 Division of the Superior Court. To say that issue is
7 not relevant to this case, when it is the principle
8 special reason we proposed --

9 THE CHAIRMAN: Has the Mount
10 Laurel decision been implemented?

11 MR. FRIZELL: Yes, it has in
12 several municipalities. My answer is yes, it has had
13 its impact.

14 THE CHAIRMAN: I would be
15 interested in knowing where.

16 MR. SAGOTSKY: Could I ask you to
17 reserve that question, please?

18 THE CHAIRMAN: Sure. All right.
19 I think it would be helpful. Perhaps when he
20 finishes his cross. If it's relevant to this type of
21 a situation, definitely.

22 MR. SAGOTSKY: Yes.

23 THE CHAIRMAN: I'm aware of
24 Manalapan. That has to do with their zoning, not
25 with a PUD. Okay. You don't have to answer that

1 question. I think that's asking you for a personal
2 opinion and earlier Mr. Frizell objected to you
3 giving any personal opinions. So we shouldn't
4 entertain any more.

5 MR. FRIZELL: I don't think
6 that's quite correct. Mr. Halsey gave quite a few
7 opinions to which I did not object, his opinions
8 about the -- whether or not this thing, the PUB,
9 should be developed. And he gave an opinion. But,
10 in any event -- and I said I had no objection to it
11 and I still don't have it, so long as it's understood
12 where Mr. Halsey's coming from. And that's what I
13 think is important. In any event --

14 MR. BRENNAN: Wouldn't you say
15 that his previous opinions were rendered in the role
16 of a county planner and you are now asking him to
17 make a personal opinion?

18 MR. FRIZELL: Not entirely.

19 THE CHAIRMAN: I was under the
20 impression, Mr. Frizell, that every single one of
21 them was as a county planner not as a personal answer.

22 MR. FRIZELL: Well, I think Mr.
23 Halsey gave his opinion put his opinions on the
24 record. But that's for the record. I can continue
25 without that, based on the Chair's ruling.

1 BY MR. FRIZELL:

2 Q. Let me go over a few things. First of
3 all, when was the General Development Plan, D-2,
4 prepared?

5 A. It was prepared over a period of years in the
6 late sixties. It was adopted in January of 1970.

7 Q. Some some five and a half years prior to
8 the Mount Laurel decision?

9 A. Yeah.

10 Q. It couldn't have taken it into account?

11 A. No, it couldn't.

12 Q. Now, there were some questions about
13 urban sprawl. If Colts Neck Township were developed
14 to its capacity on two acre lots, all residential
15 land that's zoned residentially the way it's zoned,
16 on two acre lots, would that constitute urban sprawl?

17 A. Yes, in my opinion it would.

18 Q. So that the current zoning of Colts Neck
19 Township if it were implemented to its capacity or
20 fully implemented would be an example of urban sprawl?

21 A. Yes.

22 Q. Now, is there anything inconsistent --
23 do you have any difficulty with the Munciple Land
24 Use Law purpose, that purpose under the purposes of
25 the law which says that one of the purposes is to

1 encourage planned unit development in general?

2 A. No. In fact, we -- not only I -- agree with
3 the general purpose; but in various county documents
4 we've stated that it's something that should be
5 utilized more in Monmouth County.

6 Q. And in fact planned unit development can
7 be a method, a development method, which would
8 discourage urban sprawl. It's not necessarily -- it
9 doesn't necessarily bring about urban sprawl? In
10 fact. It can help prevent urban sprawl?

11 A. It depends on where it's located.

12 Q. Now, you mentioned the State Development
13 Guide Plan. Now, do you have a copy of it with you?

14 A. I think I have a copy of their map, very small
15 scale, somewhere in the pile of documents.

16 Q. Let me just ask you -- and perhaps you
17 can answer from memory -- the State Development Guide
18 Plan puts much of Colts Neck in what's called a
19 limited growth area; is that correct?

20 A. Are you sure it's limited growth? Or that may
21 be the term they have, growth areas, limited growth
22 and it would be limited growth.

23 Q. It's not in the agricultural area?

24 A. I don't think so. I think the only
25 agricultural area is the western portion, although

1 they might have a small one.

2 Q. Do you have the map?

3 A. Let me check. I would rather be specific about
4 that. The State Development Guide Plan and Tri-state
5 Development Guide were considered at the same time
6 and I -- no, I don't have -- the map is strictly the
7 Tri-state Guide.

8 Q. Let's me just give you assumption, that,
9 in fact, your guess was right, that it's limited
10 growth. In fact, virtually all limited growth
11 although some growth areas. There is a policy
12 statement in the State Guide Plan, is there not, that
13 the limited growth area number one, is not intended
14 to discourage or prohibit development within the
15 limited growth area provided that public sewer
16 extensions are not required -- which is to say that
17 development with private utility systems is not
18 inconsistent with the plan; is that your
19 understanding?

20 A. Not necessarily. There was some discussion of
21 that, and it was strictly discussion, across the
22 table with staff and I don't know how they came out
23 with the final interpretation. The discussion at the
24 time when we met in our offices with the state, the
25 authors of the draft, was that they didn't want to

1 see what we call urban density development in those
2 areas. That's the way they worded it.

3 MR. BRENNAN: Mr. Frizell, is
4 there a written document on this that would speak to
5 itself?

6 MR. FRIZELL: Yes.

7 THE WITNESS: Yeah.

8 MR. FRIZELL: I was going to move
9 off of that for that reason.

10 BY MR. FRIZELL:

11 Q. However, just generally, there is a
12 policy -- one of the policy statements in the State
13 Development Guide Plan is that the plan should not be
14 used to prohibit the implementation of the Mount
15 Laurel decision, itself. That is, that the
16 designation of an area for limited growth, for
17 instance, would not excuse that municipality from the
18 state policy?

19 A. Again, I can't recall the exact wording.

20 Q. I understand that.

21 A. But there was a lot of discussion about it. I
22 don't have enough recollection of the exact wording.
23 I would suggest that you submit that document.

24 Q. Well, except that you did answer
25 previously about what the Guide said about Colts Neck.

1 That's why I have to ask you the questions.

2 A. The reason I am having trouble answering that,
3 we spent a lot of time with the Director of State and
4 Regional Planning and a lot of what I recall of what
5 they were thinking about the Guide as opposed to what
6 actually got put in print at the end; and, that's why
7 I'm cloudy, too. And I don't think that would be
8 fair to you or the Board of Adjustment.

9 THE CHAIRMAN: I would suggest,
10 Mr. Frizell, if you have it, submit it.

11 MR. FRIZELL: I would have never
12 have asked the questions if he was going to talk
13 about the Guide Plan. However, he was asked the
14 question and not -- I mean, I have to do it. And the
15 state of his knowledge about the Guide Plan --
16 perhaps he should not been asked the question. I
17 appreciate the concern. I'll be glad to move off of
18 it.

19 BY MR. FRIZELL:

20 Q. In terms of the Tri-state Plan, the
21 Tri-state Plan also contains provisions, does it not,
22 about the implementation of the housing element of
23 the plan and the development of a variety of housing,
24 especially for low and moderate income housing; and,
25 the implementation of the State Development Guide

1 Plan is not intended to be inconsistent with that
2 policy?

3 A. The state?

4 Q. The Tri-state?

5 A. The Tri-state Plan is a lot different than the
6 State Development Guide. The State Plan is very
7 broad brush and shows bands. The development is
8 similar to ours but more generalized. It's very
9 tough to distinguish specific boundaries. The
10 Tri-state Regional Development Guide is a very
11 specific plan, but it's done in square miles, a grid
12 of square miles. They chop the whole region up in a
13 grid and in each of those squares they have a
14 designation either for residential development
15 densities or for non-residential activity; it could
16 be industrial or commercial or others, in some cases
17 special districts for government use. So that one
18 gets -- the Regional Development Guide gets very
19 specific and their policies on that Guide are based
20 on density of development on a specific square mile,
21 overall. Within that square mile, they don't get
22 site specific that you can't have anything of another
23 density in that grid; but, overall in that grid.

24 Q. They also encourage planned development
25 as a method of preserving critical land, planned unit

1 development, do they not?

2 A. Yeah. On a specific site, if an area is to be
3 developed, they would prefer -- they would like to
4 see them develop.

5 Q. Are there any square mile grids or any
6 part of which are higher than the rural residential
7 designation touching any part of Colts Neck Township?

8 A. Yes.

9 Q. And in square mile grids, would be at a
10 densities of three to seven units per acre?

11 A. Well, let's -- for that we can pull out the
12 cross-acceptance document and look at the grids.
13 There is one area that I know that is in -- that's
14 Earle Ammunition Depot. That's a different category.

15 Q. You mean industrial?

16 A. No, it's not industrial.

17 Q. When you say different category, you
18 mean higher residential?

19 A. It has higher residential and higher economic
20 development. They weren't sure what they were doing
21 on the map when they looked at the area. Tri-state
22 uses aerial photographs in evaluating the region.
23 And in looking at the aerial photographs of that area,
24 they saw the development cluster which is the housing
25 area and the facilities at the Earle Ammunition Depot

1 and they put that in, initially, as an economic and
2 residential development area. And, initially, one
3 block which lay in the vicinity of Route 34 and,
4 possibly, as best we could equate the grid square
5 with the area, on the Orgo farm site.

6 Q. I'm not worried about what was initially.
7 I'm asking today if they have any of those higher
8 density residential blocks in the Township of Colts
9 Neck?

10 A. As adjusted, everything in Colts Neck is either
11 zero to zero point five, which is open land or no
12 residential development.

13 Q. Is there anything --

14 A. We went through -- what happened, they had the
15 original Guide. Then we went through with this
16 process of cross-acceptance, which ended up in a
17 memorandum back and forth between the County Planning
18 Board --

19 MR. SAGOTSKY: Perhaps we should
20 mark in at least for identification.

21 MR. FRIZELL: I don't think we
22 should mark it at all since that case was closed.

23 MR. SAGOTSKY: Except you
24 referred to it, Mr. Frizell.

25 MR. FRIZELL: I only asked him a

1 question.

2 MR. SAGOTSKY: That's all you
3 need.

4 MR. BRENNAN: I interpreted you
5 another way, that you got an answer that you didn't
6 want to hear. So I would like to see --

7 MR. FRIZELL: The difficulty --

8 MR. BRENNAN: I would like to
9 have that grid put in evidence now.

10 MR. FRIZELL: The answer was
11 correct. The problem, when he looked at the grid and
12 then he's trying to guess off the grid.

13 MR. SAGOTSKY: May I mark it for
14 identification?

15 MR. BRENNAN: Yes, I wish you
16 would.

17 THE WITNESS: I'm not sure this
18 is one -- before we do it, I probably have to go
19 through this file and pull out the most recent one
20 that's attached to correspondence from Tri-state.

21 MR. FRIZELL: I know Tri-state,
22 that's why I have a problem. That particular problem,
23 we couldn't get into evidence when we wanted to put
24 it in. My question was, your answer was yes before
25 and why did you answer yes before?

1 THE CHAIRMAN: Did they disclaim
2 that and say, not to be reproduced without permission?

3 MR. FRIZELL: I think the nature
4 of the document is difficult. It's difficult to work
5 with and plus you get a lot of inconsistent
6 information.

7 THE WITNESS: The actual document
8 that would have to be -- it has to be in here. This
9 file is the file of the cross-acceptance file with
10 Tri-state. In here is a memorandum from Tri-state
11 including the entire region. Each county, their
12 memorandum of understanding which includes the
13 original plan, then specific sections referred to
14 verbally with Tri-state as changes this to a specific
15 item. And the two agencies agree to disagree. And
16 it is has to be taken very specifically.

17 THE CHAIRMAN: Well, since Mr.
18 Frizell felt it was necessary to ask you that
19 question and you needed the grid to make the answers,
20 we want to enter that into evidence.

21 Would you supply us with a copy?

22 MR. FRIZELL: Do you have the one
23 that you said you needed to answer the question?

24 THE CHAIRMAN: Get it, please.

25 BY MR. FRIZELL:

1 Q. Why did you say yes?

2 A. Well, they originally had an area on there but
3 that's on the map that I had from Tri-state. On the
4 Regional Development Guide, it showed a development
5 square. They took that off.

6 Q. My question really was whether they left
7 any on.

8 A. I don't think so.

9 THE CHAIRMAN: I think we're
10 moving a little. In essence, let's do it by the
11 numbers. Find the documents first then answer the
12 question straight ahead.

13 MR. SAGOTSKY: You are welcome to
14 be seated. It would be easier.

15 THE CHAIRMAN: At this stage of
16 the game, I bet you wish you had never been
17 subpoenaed.

18 THE WITNESS: No. The only thing,
19 I apologize to the Board for not having the Tri-state
20 document out. I probably should have gotten that
21 thing and had it photocopied. I just grabbed the
22 file.

23 THE CHAIRMAN: If you feel there
24 is a copy available, will you please supply it to us
25 and enter it into evidence as D-4?

1 MR. FRIZELL: You can supply it
2 later.

3 BY MR. FRIZELL:

4 Q. And originally there were development
5 squares in Colts Neck at that intersection and you
6 went through the cross-acceptance process with the
7 county -- that is, the county and Tri-state got
8 together and at the start of that process that square
9 was removed or those squares were removed?

10 A. That's correct.

11 Q. So that the original Tri-state Plan was
12 amended to be more in conformance with what the
13 county has recommended?

14 A. That's right. That was it, the thing I can't
15 find.

16 MR. SAGOTSKY: You could supply
17 it later and I'll mark it.

18 THE WITNESS: What I would like
19 to do, to make sure that I don't -- I want to
20 identify it. The item I pulled out of that sheaf of
21 papers is one -- I'm sorry, that's not the letter
22 that's attached. That's the result of the -- yeah,
23 here's the cover letter that went with the whole
24 series of county evaluations. And that's the
25 document that evolves, a copy of a resolution signed

1 by the county. I can use a copy of this available
2 to the board. I wouldn't want to leave this because
3 it's the only one I have. The last sheets I believe
4 are the grid squares as accepted.

5 BY MR. FRIZELL:

6 Q. I take it there are several places where
7 the county plan is inconsistent with tri-state and
8 that's where you agree to disagree?

9 A. Right.

10 Q. Let me go back to the question Mr.
11 Carlsson asked before. The County Planning Board has
12 no executive or implementation authority; is that
13 correct?

14 A. That's correct.

15 Q. And tri-state's authority is really in
16 terms of being a general agency for a review, a
17 funding review process?

18 A. That's correct. They're the metropolitan or
19 regional clearing house. We're the sub-regional
20 clearing house under the process which essentially
21 is a federal designation of a regulation which
22 requires local and regional consents on proposed
23 applications for federal funding.

24 Q. All right. So federal funding is
25 involved. They have no implementation powers or

1 authority?

2 A. They just have the the right to comment. Their
3 only influence comes through the influence on the
4 respective governor's office.

5 Q. The county does have a document that you
6 may be familiar with, does it not, the Natural
7 Features Study of Monmouth County? And the Natural
8 Features Study, as most county documents, is blown up
9 into planning areas; that is, a number of county
10 planning areas, in particular, a planning area five,
11 which Colts Neck is a part of?

12 A. Well, the Natural Feature Study is a report and
13 shows the entire county.

14 Q. I understand that. But in the report it
15 discusses it in terms of planning areas? I have a
16 copy of it. I don't know if you brought one.

17 A. That I brought along, too.

18 Q. Now, if you refer to page 50 of the
19 Natural Features Study --

20 MR. SAGOTSKY: You want to mark --
21 I would like to mark that for identification.

22 MR. FRIZZELL: Sure, you can mark
23 mine.

24 MR. SAGOTSKY: January 31, 1980,
25 a letter entitled, Tri-state Regional Planning

1 Commission. Attached to it would be a page marked
2 "mapping" and a number of other pages down to and
3 including Monmouth County Center Names. Presumably
4 that will all be D-4.

5 (Whereupon a letter dated 1/31/80
6 is marked D-4 for identification.)

7 MR. SAGOTSKY: So that when
8 photocopied, that will appear and next will be the
9 document that's been referred to. The next document,
10 referred to and in possession of Mr. Halsey and
11 referred to for the purpose of cross-examination or
12 examination by Mr. Frizell is entitled Natural
13 features Study for Monmouth County, D-5.

14 (whereupon Natural Features Study
15 for Monmouth County is marked D-5 for
16 identification.)

17 BY MR. FRIZELL:

18 Q. What is the function of the Natural
19 Features Study, briefly?

20 A. Its basic function was to evaluate the county
21 in relation to the natural features, the ecology and
22 environment of the county and try to identify the
23 suitability of the different areas or lack of
24 suitability for development in a very broad scope.

25 Q. And now, based on the study, they made a

Halsey - cross

1 finding that the -- did they not -- a
2 on page 50 there among the generalize
3 areas suitable for development in plan
4 includes number two land on both sides
5 Route 537 from state Route 18 east to Swimming
6 River Road in Colts Neck; and, that it further found
7 that the reservoir generally was a sensitive area in
8 terms of sensitive areas?

9 A. Right.

10 Q. So that the Orjo farm is within that
11 area which is designated as a -- as suitable for
12 development by that Natural features Study?

13 A. Right, except for the flood plains and the
14 streams and tributaries of the reservoir. Yeah,
15 that's the statement.

16 Q. In other words, those are somewhat
17 inconsistent statements to some extent, are they not?
18 That is, in Colts Neck and you started with Route 18
19 some all that area within the Swimming River area and
20 watershed if you start at Route 18?

21 A. Yeah. The areas as described except -- well,
22 not knowing exactly where it breaks -- but virtually
23 everything except for probably a small area that
24 might drain to the southward is tributary to the
25 Swimming River Reservoir.

1 Q. So that areas designated suitable for
2 the development do include those areas?

3 A. That's correct.

4 Q. Now, in terms of the statements that you
5 made about the developments --

6 THE CHAIRMAN: Excuse me, Mr.
7 Frizell. Suitable for what kind of development?

8 BY MR. FRIZELL:

9 Q. Well, when they refer to development,
10 they're talking about all kinds of development; are
11 they not. This is the Natural Features Study. It
12 doesn't distinguish between residential and
13 commercial development, does it?

14 A. That's right. It's generally -- it was
15 prepared by staff of the Planning Board for the
16 Environmental Council, which is an advisory body to
17 the Planning Board. The evaluation was to determine
18 the areas in the county that were most sensitive to
19 development. It included soils, geologic structure,
20 drainage.

21 THE CHAIRMAN: Just generally to
22 be developed? It doesn't have anything to do with
23 density and so forth?

24 THE WITNESS: That's right. It
25 doesn't specify degrees. Well, suitability --

1 generally, the result of a composite map which is
2 used. Essentially, the darker the area, the less
3 suitable for development. It's not site specific.
4 It doesn't discuss such things as watershed areas.
5 It doesn't generally say that areas tributary to a
6 reservoir or any other large area should be developed.
7 It doesn't recognize the agricultural zones -- not
8 zone, but agricultural areas of the county as
9 agricultural areas, except for the two top
10 classifications of agricultural soil; only class one
11 and two. So it's very specific on agriculture. It
12 doesn't recognize any of the class three agricultural
13 soils which are being used by the same staff now in
14 reviewing plans. So in the case of the Orgo farm,
15 the map indicates that the bulk of the Orgo farm,
16 with the exception of an area delineated along Slope
17 Brook, would be suitable for development.

18 Q. And that's also carried over into the
19 document entitled, Planning Area Five Land Use Report?
20 I would refer to it, Mr. Halsey. You can take a look
21 at it. There's a development suitability map within
22 the Report, which the source is development
23 suitability map of April of '74?

24 A. Right.

25 Q. Page 25.

1 A. I can also leave a copy of this so you don't
2 have to use yours. This is a report evaluating -- a
3 staff report evaluating existing land use. You want
4 this?

5 Q. Yeah. We can mark that in. You want to
6 point out the error about Hohockson brook while we're
7 here?

8 A. Oh, okay. You mean the mapping error?

9 Q. It's not only mapping error it's the
10 text error about the Hohockson Brook draining into
11 reservoir.

12 A. The base map used by our staff in preparing --
13 the original base map had a mapping error, showed
14 Hohockson Brook going northward roughly toward Slope
15 brook. And it looks like an extension of Slope brook.
16 Whereas, Hohockson Brook flows actually parallel to
17 the north boundary of Earle Ammunition Depot, which
18 eventually comes into the the Swimming River below
19 the reservoir. When our staff wrote the report, they
20 were looking at a map that had a wrong delineation of
21 Hohockson Brook. And it was picked up after the
22 report was published.

23 Q. It's page 27. On page 27 is a reference
24 to the fact in Hohockson Brook drains into Swimming
25 River Reservoir. In fact, it does not; isn't that

1 correct?

2 A. That's right. Hohockson Brook does not drain
3 into the reservoir.

4 Q. So that, well --

5 THE CHAIRMAN: That's been
6 established a couple times. Hohockson Brook goes
7 into --

8 MR. FRIZELL: Swimming River but
9 below the reservoir.

10 THE CHAIRMAN: Goes into Pine
11 brook then into Swimming River, below the reservoir.

12 THE WITNESS: That's right.

13 THE CHAIRMAN: And from thence to
14 where?

15 THE WITNESS: Swimming River,
16 then goes into the Navesink River. I can -- well,
17 starts in the vicinity of the Orgo farm, the
18 headwaters of Hohockson Brook -- these streams may
19 have other names but on there, Hohockson Brook or a
20 major tributary of Hohockson travels along the
21 northern boundary of Earle Ammunition Depot. Then it
22 flows more to the north and east, east of -- parallel
23 to the navy railroad; then goes more to the east over
24 toward Water Street; then becomes the Tinton
25 Falls-Colts Neck boundary. At that point, it becomes

1 Pine Brook. Pine Brook comes up from the south. Pie
2 brook then flows through Tinton Falls across the
3 Parkway and then intersects Swimming River east of
4 the Parkway. And then it flows -- Swimming River
5 winds down into the Navesink River. The dam which
6 forms the Swimming River Reservoir is located not
7 only west of the Parkway but west of Swimming River
8 Road.

9 BY MR. FRIZELL:

10 Q. Mr. Halsey, in terms of the -- you
11 indicated previously that one of your one of your
12 problems with a planned development in Colts Neck was
13 that -- the possibility that it would create
14 pressures for development of surrounding areas which
15 was inconsistent with the development plan of the
16 county. Is that a fair --

17 A. Yeah.

18 Q. Now, is that a -- is the development of
19 surrounding areas a necessary evolution as a result
20 of a development, considering -- if you consider the
21 fact that the -- that a development could be
22 developed with a limited capacity utility system and
23 could be developed in the context of a zoning
24 ordinance which, accept for that particular site, was
25 consistent with the plan?

1 MR. SAGOTSKY: Is that question
2 clear?

3 MR. FRIZELL: I'm asking you to
4 make two assumptions. One is that the capacity of
5 the system are limited to the development; and,
6 number two, that a zoning ordinance is in place which
7 is consistent with the plan in the surrounding areas.

8 MR. SAGOTSKY: well, at this
9 point --

10 THE WITNESS: I can answer it. I
11 have no problem with the question.

12 MR. SAGOTSKY: well, I was just
13 commenting with the reference to the zoning plan.
14 But I'll withdraw if you can answer it.

15 THE CHAIRMAN: In line with that,
16 you weren't here but the sewer plant plan for this
17 will already be operating at full capacity. That's
18 been testified to. Okay?

19 THE WITNESS: History -- my
20 experience would dictate that other properties in the
21 general vicinity could use the argument -- they could
22 also come in put in a sewer plant and convince the
23 municipality to zone only their piece of land because
24 of unique suitability and put in a utility system
25 only for that development.

1 BY MR. PRIZELL:

2 Q. Let's assume that there's a state policy
3 which is fulfilled by that particular development but
4 which potentially might be excited by other
5 development. That is to say, there is no state
6 policy favoring the extensive development that you
7 are referring to. That is, the special reasons for
8 putting that particular development in no longer
9 exist once that development is in.

10 MR. MARKS: I'm going to object
11 to that question on the ground that the special
12 reasons refer to the specific parcel in question. I
13 think it's too hypothetical.

14 MR. SAGOTSKY: It appears the
15 question was partly testimonial. Perhaps it could be
16 reframed.

17 BY MR. PRIZELL:

18 Q. Well, assume that the township has an
19 obligation, in which case it is evidence that it does
20 has an obligation. There's a Court Order that's part
21 of the evidence here, that specifically -- that this
22 township shall have patio houses, townhouses, rental
23 housing and a variety and choice of housing within
24 its borders.

25 THE CHAIRMAN: The Court Order

1 says that?

2 MR. FRIZELL: Yes, sir. Can we
3 have A-10, please.

4 MR. SAGOTSKY: The Court Order
5 refers to a zoning ordinance which has not been
6 passed and which has not been ordered to be passed
7 yet because it's on appeal. So, I object to that for
8 the moment as being not relevant. It's not pertinent
9 at the present time.

10 MR. FRIZELL: Let me just refer
11 to A-11, the Colts Neck Township Development
12 Regulation adopted pursuant to this Order -- shall
13 include areas: A. Areas in the township zone
14 planning in which single family houses on small lots
15 shall be permitted, areas within the township zone
16 plan in which the following forms of housing shall be
17 permitted: townhouses, garden apartments, patio
18 homes and zero lot line houses; C. Areas within the
19 zone plan which would permit the development of
20 housing pursuant to a plan which would mix different
21 housing types including small housing types as
22 described above and multi family housing, together
23 with the commercial uses adjunct to residential
24 development; D. Areas in the zone plan in which
25 development may be plans for innovative and creative

1 housing and site design in which housing development
2 shall not be restricted to housing sites all having
3 the same standard dimensions, essentially rectangular
4 in shape; minimum floor areas shall be reduced in the
5 A-1 zone; F. Clustering of single family residential
6 uses shall be permitted, et cetera.

7 MR. SAGOTSKY: I have two
8 objections, two objections. Number one, that there's
9 an Order. It is under appeal. It is not in effect
10 at the present time. And if and when it takes effect,
11 there's nothing that's been quoted by Mr. Frizell or
12 by the Court which states where that PUD is to be.
13 And therefore, the entire question at this time is
14 irrelevant. And I ask that it not be answered on the
15 grounds --

16 MR. FRIZELL: Let me respond in
17 two ways, Mr. Sagotsky, that is precisely the
18 argument that was made before Judge McGann; that is,
19 the special reasons do not exist because the matter
20 is under appeal. The response is, that is a Superior
21 Court Order which has been affirmed by the Appellate
22 Division. It is an Order. It has, in fact, has been
23 stayed. But it nevertheless is a finding and an
24 Order that applies to the township.

25 Number two, with respect to the

1 where that is is something that we can get to. But
2 until I asked the first question, I don't think I can
3 get to the second, that is, assuming that that is an
4 obligation.

5 THE CHAIRMAN: If you ask your
6 question that way, assuming that this Order which is
7 stayed and not effective is made effective, then you
8 can proceed.

9 MR. BRENNAN: I think I have the
10 same problem.

11 THE CHAIRMAN: You implied that
12 it is in effect. I took great exception. I didn't
13 think it was.

14 MR. BRENNAN: You can make a
15 whole string of assumptions and finally get down and
16 you have nobody else but Jackie Robinson had to be
17 the first black man in baseball because you have
18 excluded the other ten percent of our population.

19 MR. FRIZELL: That's a signed
20 Superior Court Order, A-11 in evidence here. That's
21 a fact.

22 MR. BRENNAN: I think you are
23 going beyond that in your question.

24 MR. FRIZELL: My question is,
25 assuming that that's a fact. And I don't know that

1 Mr. Halsey ever read the Order. That's why I asked
2 him to assume it. I even forget what the line of the
3 questions was. But I think it was, assuming that to
4 be the question once and that, in fact, had been
5 fulfilled, is it necessarily -- does it necessarily
6 follow that other areas would be developed in that
7 same way?

8 MR. MARKS: Objection. It
9 doesn't speak to the specific narrow inquiry before
10 this Board, which is the subject parcel.

11 MR. FRIZELL: Well, it does speak
12 to Mr. Halsey's opinion that he renders.

13 MR. MARKS: It's not a fair
14 question. It's not germane.

15 MR. SAGOTSKY: The issue is this
16 particular tract; is it suitable; does it comply with
17 the negative criteria. This Board's opinion or
18 judgment is to be based on a different set of facts
19 than what was set forth before the Court. And so I
20 just renew what I said before. Otherwise, I guess
21 this will go on to ad infinitum.

22 MR. FRIZELL: I'm going to leave
23 the question and let the Board rule on it.

24 MR. SAGOTSKY: I didn't mean to
25 make it argumentative but it so happened that way.

1 THE CHAIRMAN: I think the reason
2 I raised the question, I think the Order is lot more
3 broad than the subject at hand. And I would rather
4 have you rephrase it. And I don't consider that an
5 Order, yet. It's been stayed. And let's just deal
6 with what we have to consider, this particular PUD.

7 MR. NIEMANN: Mr. Chairman --

8 MR. FRIZELL: I don't know how
9 the question can be rephrased. I have assumed that
10 the township has an obligation and that this
11 obligation is fulfilled by the development.

12 MR. SAGOTSKY: That's an opinion.

13 MR. FRIZELL: Assuming those two
14 facts, does it necessarily follow that the township
15 could not enforce the ordinance in other areas of the
16 township and therefore Mr. Halsey's opinion that it
17 is would lead to pressures outside the borders of the
18 tract, does it affect his opinion and that's my
19 question?

20 THE WITNESS: Does it? Well, I
21 got to wait until you rule.

22 THE CHAIRMAN: You feel you can
23 answer that?

24 MR. SAGOTSKY: He wants to wait
25 for the ruling, Mr. Chairman.

1 THE CHAIRMAN: I already ruled on
2 it. I just want to stick to the PUD in question, no
3 other spot in the township or anything else that may
4 develop later on.

5 MR. SAGOTSKY: I think you lost
6 him.

7 MR. BRENNAN: I think Mr. Frizell
8 is trying to calm our concerns or not arouse our
9 fears with this.

10 But maybe your question is,
11 acting on the assumption that the Court Order is law,
12 would the existence of this one high density
13 development, of necessity, attract other high density
14 developments to Colts Neck?

15 MR. FRIZELL: Can we call it
16 medium densities?

17 MR. BRENNAN: Today?

18 THE WITNESS: I would have to
19 look at it in two ways. From a legal point of view,
20 the assumptions you gave kind of settle possible
21 limits. But from a practical point of view, it would
22 create definite strong pressures for more such
23 development. And based on what I have observed in
24 other areas, in Monmouth County and other areas
25 outside of Monmouth County, I would definitely

Halsey - cross

1 envision very strong pressures for sim
2 development on adjoining or nearby pr
3 similar sites in that area. It would
4 character of the area. And a future board would
5 to deal with it, would have to look at that area
6 differently than they do now. And there would be
7 something in place, which is not in place at the
8 present time. But legally, from the assumption you
9 gave, that the township would be within the right to
10 stop there.

11 MR. SAGOTSKY: It would not be in
12 accordance with the development plan?

13 THE CHAIRMAN: Just a minute. I
14 think I heard a question behind me.

15 MR. NIEMANN: Well, Mr. Chairman,
16 I was just going to say this it's my understanding
17 that even though an Order is appealed, when it's
18 appealed it's still an effective Order and when it's
19 stayed, it doesn't really abate or effect its legal
20 validity. And it is an Order which is recognized and
21 the stay is just a postponement of its actual
22 operation until later when the opinion is rendered.
23 And this Board should consider it which is something
24 legally mandated to do. That's the only thing I was
25 going to say.

1 BY MR. FRIZELL:

2 Q. You described generally the General
3 Development Guide of the county and told us what all
4 the different colors were. And in each of those, the
5 area generally that's referred to as planning area
6 five, since Colts Neck is part of that, this yellow
7 color, medium low density, is a predominant color in
8 that area; is it not?

9 A. Yes, sir.

10 Q. Now, if a township were to come in with
11 a zoning ordinance which was -- the amount was four
12 dwelling units per acre, single family residential
13 development subdivisions throughout the entire area
14 which is shown as that yellow/orange color with no
15 multi family at all, that would not be inconsistent
16 with the plan, would it?

17 A. That's right. If the overall densities could
18 be no multi family or it could include a mix. So
19 long as the density stayed within those parameters,
20 it would be consistent with the plan. It does
21 doesn't refer to specific developments.

22 Q. It does not?

23 A. No. We would not propose a specific
24 development because it might be at a higher density
25 in the adopted plan. In the text we indicate a

Halsey - cross

1 typical proposed area and we showed a
2 apartments and various size lots. The
3 that averaged out to, I think in the exa
4 units per acre, which would be the equivi 3,000
5 square foot lot typical subdivision. But it included
6 lot sizes from thirteen to 30,000 square feet, a
7 garden apartment complex and the densities concept,
8 using the smaller lot size and apartment to allow for
9 school site and for open lands along streams. Just a
10 typical example, a development could come in with a
11 higher density so long as it's overall density fell
12 within those limits.

13 Q. The overall area of the entire
14 municipality?

15 A. Not the entire municipality; but, the general
16 area, rather than be site specific. Because, the
17 property in Monmouth County is rather -- quite small.
18 As a matter of fact, when you try to assemble land
19 for large development, there's a degree of difficulty.
20 So we recognize that there can be different densities,
21 so long as the average comes out. The reason for
22 that is, a lot of our highway plans, sewer and water
23 capacity, all of the plans for Monmouth County taken
24 together are based on density of development of
25 various areas. In sizing future utilities, we try to

1 have everything consistent.

2 Q. Can you recall from memory what planning
3 area five consists of?

4 A. Well, it's Colts Neck Township and Howell
5 Township and Marlboro Township on the east and
6 Farmingdale, Freehold Borough, Freehold Township,
7 Englishtown and Manalapan Township.

8 Q. That's generally the central area of the
9 county?

10 A. Right. Also the co-terminus with the Freehold
11 Regional High School District and the other terms
12 that are used, the Greater Freehold Area; mid
13 Monmouth Area is another term that's applied.

14 Q. In general, you use it as a sub-region
15 within Monmouth to do your analysis?

16 A. That's right.

17 Q. Now within planning area five, Mr.
18 Halsey --

19 MR. FRIZELL: Well let me ask
20 this, let's mark these and we'll ask them some
21 questions about them.

22 MR. SAGOTSKY: If you are
23 exceeding the bounds of examination, the bounds for
24 what we called the witness and going beyond for
25 identification, I assume he's going to become your

1 witness?

2 MR. FRIZELL: I'm only going to
3 ask him a simple factual question on the documents.
4 I wouldn't be leading him.

5 MR. SAGOTSKY: I have to advise,
6 you are making him your witness and will be bound by
7 his answers. And it's a little unusual but I guess
8 we can go along with that.

9 MR. FRIZELL: This was sent in
10 the mail with a letter addressed to Mr. Schrumpt,
11 A-30

12 MR. SAGOTSKY: A copy of which
13 was sent to me. A-30 is entitled, A Revised State

14

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16
17
18
19
20 MR. FRIZELL: That's the State
21 Allocation Report.

22 MR. SAGOTSKY: A-30 is the
23 Allocation Report for New Jersey, yes. That's the
24 one that you mailed. You mailed the report to the
25 building here and you sent a letter to Mr. Schrumpt

1 and a copy to myself.

2 THE CHAIRMAN: Is that being made
3 a part of the record now?

4 MR. SAGOTSKY: It's just being
5 marked for identification. And A-30 has not been
6 introduced other than by letter, so legally it would
7 have no effect at this point.

8 MR. FRIZE: Let me move it then,
9 Mr. Sagotsky. Has the Board had an opportunity to
10 look at it? This is the document that Mr. Schrupf
11 requested. In fact, what about my letter there? We
12 can make that part of our argument. It's not really
13 evidential.

14 MR. SAGOTSKY: You are offering
15 six documents now for --

16 MR. FRIZELL: Yes.

17 MR. SAGOTSKY: As A-31 -- give me
18 the title of those documents for further
19 identification.

20 THE SECRETARY: 1978 Tax Rates.

21 MR. FRIZELL: Mr. Sagotsky, I
22 don't want to interrupt you. Maybe if we can just
23 ask Mr. -- I only have a very little bit of
24 information from each one. If we can elicit the --

25 MR. SAGOTSKY: There will be no

1 A-31.

2 MR. FRIZELL: That way we'll save
3 time.

4 MR. SACOTSKY: Nothing is offered.
5 A-30 will be the last remaining one.

6 BY MR. FRIZELL:

7 Q. Do you know in planning area five, Mr.
8 Halsey, which of the municipalities has the lowest
9 municipal tax rate?

10 A. No. I would have to look at the sheet.

11 Q. I made little marks on there to help you.
12 I'll give you a hint the initial are "CN".

13 A. I assumed as much. But I always read because
14 tax rates have a strange habit of bouncing around.
15 According to this sheet, which is --

16 MR. BRENNAN: What date is that?

17 THE WITNESS: This is a -- it's
18 on the 1978 tax rates.

19 You could have gotten a more
20 recent one. It looks like one that's put out by our
21 office.

22 This indicates that Colts Neck
23 Township has the lowest tax rate of the municipalities
24 in planning area five.

25 BY MR. FRIZELL:

3 THE CHAIRMAN: You said municipal.

4 Q. From the standpoint -- not just
5 municipal services?

6 A. It's the sheet put out which indicate the total
7 tax rate in each municipality.

8 Q. Do you know which municipality in
9 planning area five has the lowest percentage of
10 senior citizens 65 and over?

11 A. Colts Neck Township.

12 THE CHAIRMAN: What's the date on
13 this?

14 MR. NIRMANN: Are we going to
15 Mount Laurel factors again?

16 MR. FRIZELL: Well, special
17 reasons.

18 THE WITNESS: This is a sheet
19 entitled, Age Group Distribution, taken from the
20 information -- from the 1970 census obtained through
21 the Tri-state Regional Planning Commission, first
22 count tabulations. And we pulled this information
23 out and --

24 THE CHAIRMAN: Is it possible
25 that that has changed drastically? Since there is a

1 new census, I would think it's entirely 10 years old.
2 Colts Neck has developed a lot since 1970.

3 MR. FRIZELL: It's reissued
4 October, 1979, by the Monmouth Planning Board. It's
5 their expertise.

6 THE WITNESS: It's the
7 regurgitation. It's first count.

8 THE CHAIRMAN: You don't have the
9 1980 census figures, do you?

10 THE WITNESS: Not yet, no.

11 MR. BRENNAN: Mr. Frizell, can I
12 ask a question on the first question that you asked,
13 relative to municipal tax? You said the tax levied
14 by the municipality?

15 MR. FRIZELL: I mean the full
16 real estate tax.

17 MR. BRENNAN: The sheet that you
18 showed Mr. Halsey, is that in dollars of assessed
19 valuation or what?

20 MR. FRIZELL: Dollars per hundred.

21 BY MR. FRIZELL:

22 Q. Can you tell me, Mr. Halsey, which
23 municipality in planning area five has the lowest
24 number of multi family housing?

25 MR. MARKS: Excuse me. Mr.

1 Frizell says this goes to say -- to special reasons.
2 Special reasons means reasons unique to the property
3 in question. And I'd like a ruling and --

4 MR. FRIZELL: I recommend you,
5 Mr. Marks, to read the application here and read the
6 transcripts of Judge McGann's decision. And your
7 opinion of special reasons is different from mine.
8 And I would like a ruling from the Chair. You also
9 disagree with Mr. Jack McDonald. The primary special
10 reasons were set forth --

11 MR. MARKS: Don't wave Judge
12 McGann's opinion in my face. Judge McGann just said
13 this Board has to hear the application, in toto.
14 That's all he said. It was very simple.

15 MR. FRIZELL: Well, we have
16 submitted an application based on special reasons,
17 one of which includes the township's obligations to
18 its own citizens and the region of which it is a part.

19 MR. SAGOTSKY: Was your tax rate
20 part of it?

21 MR. FRIZELL: I would just like
22 to get Mr. Halsey on and off with these figures; and,
23 I really don't want to keep them.

24 MR. TISCHENDORF: I'm bothered
25 about the validity of the senior citizens. You

1 provided testimony we had fewer school children than
2 we had five years ago and we also have a larger
3 population than we did five years ago. And somebody
4 has to be older. And therefore a '70 figure is way
5 out for estimating that.

6 MR. FRIZELL: It's not a '70
7 figure. It's an update.

8 MR. TISCHENDORF: I heard --

9 THE CHAIRMAN: Regurgitation.
10 And if I understand my English, same figures brought
11 up again.

12 MR. SAGOTSKY: I think Mr.
13 Chairman, you can settle it by making a ruling.
14 Let's move on. It's getting a little bit --

15 THE CHAIRMAN: Can you ask your
16 questions, Mr. Frizell, without referring to an outdated
17 report?

18 MR. FRIZELL: We're beyond that
19 one.

20 THE WITNESS: This one's a
21 different date.

22 BY MR. FRIZELL:

23 Q. This is based on the percentage of multi
24 family units in the township?

25 A. This one? It's the one he asked me, the one

1 that has the information is entitled, Total Housing
2 Units in Monmouth County on January 1, 1979. That's
3 information tabulated from responses we get from
4 municipal building inspectors as to certificates of
5 occupancy minus demolition of residential units. And
6 we began with the 1970 census and tried to keep it
7 up-to-date each year. The question was, which in
8 planning area five has the lowest percentage of multi
9 family. And the answer, according to this, is
10 Marlboro Township.

11 Q. What's Marlboro's percentage?

12 A. Two point two.

13 Q. And what's Colts Neck?

14 A. Three point seven.

15 Q. What's the definition of multi family
16 units?

17 A. On this table strictly everything over one
18 family.

19 Q. So, if it was a two family house it
20 would qualify?

21 A. It's a very simple breakdown to distinguish
22 single family from others and --

23 Q. Can you tell me which municipalities in
24 Colts Neck Township has the highest average household
25 income? I'm sorry, in planning area five? That

1 one's not marked.

2 MR. MARKS: I'm going to object
3 to that question for the same reason I raised before.

4 THE CHAIRMAN: I will sustain
5 that one. Where did they obtain that information?
6 Unless you can prove to me where they obtained that
7 information and prove it's validity --

8 MR. PRIZELL: The county, it's
9 official county documents.

10 THE CHAIRMAN: I'm asking Mr.
11 Halsey, on your behalf, where. How do you know --
12 they know what any member of this board made, what
13 was their income?

14 MR. SAGOTSKY: As of what year?

15 THE WITNESS: The source for this
16 is a company, National Data Planning Corporation.

17 MR. DAHLBOM: They have access to
18 our IRS reports?

19 THE WITNESS: They use an
20 estimating method.

21 THE CHAIRMAN: Then it's entirely
22 invalid, total estimate. It could be 100 percent
23 wrong.

24 MR. SAGOTSKY: Well, the
25 objection would be sustained then.

1 MR. FRIZELL: Are you telling me
2 that the official report of the Monmouth County Planning
3 Board, obtained at their office, is not evidential at
4 this proceeding?

5 THE CHAIRMAN: On the basis of
6 what Mr. Halsey told us of where they got their
7 source as to that particular one, Mr. Frizell.

8 MR. FRIZELL: Okay.

9 MR. SAGOTSKY: That's the income
10 portion, Mr. Frizell.

11 THE CHAIRMAN: Try another one.

12 BY MR. FRIZELL:

13 Q. Can you tell me what the population
14 projections are for Colts Neck Township in the year
15 1985 and the year 2000 by the Monmouth County
16 Planning Board, as reissued November, 1979?

17 A. Reissued means we just reprinted it. These are
18 projections which we made when we did our population
19 derivation out of a study called, A Study of
20 Population in Monmouth County, in 1974. And we
21 projected Colts Neck to the year -- '85 or 2000?

22 Q. Both.

23 A. 1985, we projected 10,800; and, the year 2000,
24 16,500.

25 MR. FRIZELL: Okay. Thank you.

1 MR. BRENNAN: What's that mean?

2 MR. FRIZELL: That's their
3 projected populations.

4 MR. BRENNAN: I appreciate that.
5 Does that mean Colts Neck is growing faster or slower
6 or at the average pace or whatever unit five is? I
7 am trying to get the relevance of the numbers.

8 MR. FRIZELL: I probably have to
9 back in. I really don't want to take his time. The
10 point is, that the township, according to that
11 projection, it would be a very rapid growth. In order
12 to reach that projection, you would have to occupy --
13 this is what the evidence would be -- virtually every
14 square inch of this township would have to have a
15 house on it, which is the projection. And also, that
16 the projected population for this development is not
17 inconsistent with that. The 2,500 is well within
18 those limits.

19 THE CHAIRMAN: Historically, what
20 did we do between '65 and '75? You took '75 to '85.

21 MR. FRIZELL: I just want to put
22 material in.

23 THE CHAIRMAN: That would be very
24 interesting. You want to compare a ten year period?

25 MR. FRIZELL: I'll be glad to

1 compare the 165 percent growth in 10 years.

2 THE CHAIRMAN: What were we in '65,
3 in population and what were we in '75?

4 MR. FRIZELL: That's argument.
5 well, I have it.

6 MR. SAGOTSKY: Of course, it's
7 information. He's not saying anything formal. It's
8 going to be whether it will be concentrated or
9 disseminated or whatever; just a set of figures from
10 which you may make --

11 THE CHAIRMAN: Does this
12 population figure include the people that live in
13 Earle; and, all of a sudden, the population of this
14 township could triple next year?

15 MR. FRIZELL: No, it wouldn't,
16 Mr. Schrumpt. The population is counted -- it's
17 about 7,800 today. You are talking about 3,000 more
18 within the next five years.

19 THE CHAIRMAN: The population of
20 Earle was -- during the peak wartime years --

21 BY MR. FRIZELL:

22 Q. That is not projecting based on some
23 kind of explosive population in the Ammunition Depot,
24 is it?

25 A. No. The total includes -- your question was,

1 does it include Earle. It includes Earle. I can
2 explain, if the Board wants to know, how the
3 projections were arrived at.

4 Q. I mean, I'm glad if they want to ask you
5 a question. I would like to finish what I want to do,
6 because, as I indicated to the Board, I have two
7 people from Canada and they will be very short.

8 When you were asked questions about the
9 relationship -- about the low rural density in the
10 General Development Plan to the Swimming River
11 Reservoir, was that a major consideration in that
12 determination?

13 A. When this plan was developed?

14 Q. Yes.

15 A. I was on the staff at the time. I wasn't a
16 director at the time the plan was prepared and
17 adopted. The discussions that were conducted by
18 staff and with the staff and the Board were that that
19 was a major consideration; and, the steep slopes in
20 the area, up in the Mount Pleasant hills was another.
21 So the question that came up was, how far we could
22 get, cut it back, how much of the basin could be kept
23 in low density development.

24 Q. There are areas, all in Colt's Neck
25 Township, which are still designated rural densities;

1 and, there are areas not in Colts Neck township,
2 within the region, up to four units per acre and also
3 industrial and other types of uses?

4 A. Right.

5 Q. Now, you were indicating previously
6 about the availability of sewer capacity from the
7 Tinton Falls area. Do you have any personal
8 knowledge of any sewer capacity whatsoever which
9 could be provided from Tinton Falls into Colts Neck
10 from the system there in terms of the capacity of
11 those particular -- as I understand your rating
12 system, a short extension is five points, I think it
13 was or whatever it was, six points. Do you have any
14 knowledge that a -- personal knowledge -- that a
15 short extension could be achieved which could
16 accomodate a housing development in the eastern
17 section of Colts Neck Township?

18 A. I would have to get the sewer map out and look
19 at it. There are sewers in the Tinton Falls -- area
20 of Tinton Falls.

21 Q. The fact that there are sewers itself
22 doesn't always answer the question?

23 A. You need capacity in the lines and you need
24 capacity in the treatment system. And that would be
25 determined by checking with two agencies; one, with

1 the nearest regional sewerage authority for capacity
2 in the trunk lines; and, the sewer treatment plant;
3 and, with Tinton Falls.

4 MR. BRENNAN: I think the
5 question was answered, wasn't it? Rather than keep
6 going on, he would have to get the map out and look.

7 Q. Using your point system then, in order
8 for any points to be achieved, it would be that the
9 extension, whatever the extension would be, and only
10 if there were capacity to be extended?

11 A. Our point rating system doesn't get into
12 capacity.

13 Q. But, as I understood it, you would have
14 to extend it. But the extension, wouldn't that have
15 to be on the basis of a capacity?

16 A. Yean. The point rating system doesn't get into
17 that detail, the site analysis. As I mentioned
18 earlier, the point rating system is a broad brush.
19 To go into site specific analysis, you have to go to
20 a specific site and determine what the sewer capacity
21 is. And regional system, I have that knowledge of
22 because I know the size of lines that was made
23 relative to the areas that it's serving, the
24 collection system. In Tinton Falls I don't know what
25 size pipes were in the specific streets. But it has

1 nothing to do with the point rating system.

2 Q. Tonight you gave the point rating system
3 or did your best to analyze it for the board. Were
4 you asked at any time prior to tonight to analyze any
5 other areas of Colts Neck utilizing that system?

6 A. No, I don't think I was.

7 Q. Mr. Sagotsky indicated that prior to
8 your testimony -- well, let me ask you this: Did you
9 have occasions to we know you are a invited guest
10 tonight but did you have any occasion to prepare your
11 testimony or have any discussions with Mr. Sagotsky
12 prior to your testimony?

13 A. I had discussions with Mr. Sagotsky, yes,
14 basically along the lines of the original questions.

15 MR. SAGOTSKY: No question about
16 that.

17 THE CHAIRMAN: I would like to
18 correct that, that he's not an invited guest. He's a
19 subpoenaed guest.

20 MR. SAGOTSKY: He wouldn't come
21 voluntarily.

22 THE WITNESS: Also, on the point
23 rating system, you asked if I had occasion to do it.
24 I did it a couple years ago. I was asked by the
25 Applicant.

1 MR. FRIZELL: I have no other
2 questions.

3 THE CHAIRMAN: Around the Horn,
4 again. Does anybody have a question for Mr. Halsey?

5 MR. BRENNAN: Before the New York
6 humidity gets to our two guests from Canada, we might
7 want to let them come up.

8 THE CHAIRMAN: I think Fred has a
9 question.

10 MR. NIEMANN: I was just going to
11 ask if Mr. Sagotsky prepped you for your answers or
12 whether your answers were based on the specific
13 questions asked or were you sort of tipped off about
14 what was going to happen?

15 THE WITNESS: He didn't really
16 prep. He asked me what my opinion was in various
17 things and I told --

18 MR. NIEMANN: Did he not ask you
19 to, in any way, speak in favor of any particular
20 position?

21 THE WITNESS: No.

22 MR. FRIZELL: I do have one other
23 question.

24 BY MR. FRIZELL:

25 Q. This General Development Guide Plan

Halsey - cross

1 generally reflects, does it not, existing local
2 zoning ordinances and policies?

3 A. To a great extent, it does, that's right.

4 Q. Can you say definitively that if Colts
5 Neck had zoned differently that that line might be
6 drawn differently? That that yellow line -- that
7 some other areas might be shown as higher densities
8 if Colts Neck had determined that was appropriate?

9 MR. MARKS: I'm going to object.
10 The question is speculative.

11 THE WITNESS: I can answer in a
12 different way. Colts Neck did not agree with --
13 their zoning did not indicate this area and also --
14 so many of the road proposals -- it wasn't strictly a
15 case of look at local zoning. We recognized local
16 zoning at the time in 19 -- the late sixties when
17 that was being developed. We recognized one zoning --
18 one of the facts we had to face -- changing local
19 opinion was one of our objectives. We try to bend
20 local opinion rather than fly in its face. We did
21 follow a pattern. And if those proposed changes did
22 not agree with the local zoning at that time, in many
23 cases zoning has been changed to conform to the plan;
24 in other cases the zoning is still the same as it was
25 at that time.

1 Q. In terms of Colts Neck, it does, in fact,
2 duplicate the municipal zoning ordinance in terms of
3 its recommendations?

4 A. No. On the residential densities?

5 Q. Aside from the commercial areas, yes,
6 excluding that, yeah.

7 A. Residential densities, we say less than half a
8 dwelling unit per acre.

9 MR. FRIZELL: I have no other
10 questions.

11 MR. TISCHENDORF: Are you
12 familiar with what the Colts Neck zoning ordinance
13 read in 1969? Right now many of us have impressions;
14 how it reads in '77 or '79.

15 THE WITNESS: I believe it was --
16 1969, was that one unit per acre? You had some areas
17 that were zoned for smaller lots.

18 MR. TISCHENDORF: I think it
19 predates many of us and I think we are reacting to
20 the present zoning and what not really obtained when
21 this was drawn up.

22 THE WITNESS: Colts Neck had
23 originally gone to one acre zoning and subsequently
24 went to a two acre base.

25 MR. TISCHENDORF: I think they

1 may have gone to one acre in 1970.

2 MR. DARLSON: One acre zoning;
3 when I moved into the township. And that was in '62.

4 THE WITNESS: The relationship
5 between the plan and Colts Neck can also be explained
6 in the fact in the Planning Director in 1970 also
7 assisted Colts Neck in preparing its master plan
8 during the late fifties or early sixties. Their
9 draft of the plan was prepared -- was prepared by
10 Charles Pike.

11 MR. TISCHELDORF: In any case,
12 when this work was done Colts Neck didn't have two
13 acre zoning.

14 THE CHAIRMAN: No other questions?

15 MR. FESSLER: Fessler. May I
16 raise one question?

17 Mr. Halsey, you indicated that
18 this plan was under review by the staff. You brought
19 up the Mount Laurel decision was not in effect when
20 that particular map was drawn. Do the present
21 proposals from your staff that have been discussed in
22 various ways with the Monmouth County Freeholders and
23 so on, with the Monmouth County Planning Board,
24 propose any radical change in the white area in the
25 center of that map, which Colts Neck is in?

1 THE WITNESS: I don't consider it
2 radical. It proposes expanding the area to encompass
3 more of the area draining into the Swimming River
4 Reservoir the most notable is in Holmdel. We're
5 essentially trying to split Holmdel into the north
6 slope and south slope areas. It's the same concept.

7 MR. FESSLER: If I understand it
8 right, it does not propose any more density
9 development in Colts Neck than is shown on the map
10 now?

11 THE WITNESS: No. It would have
12 a rural residential, very low densities
13 recommendation.

14 MR. FESSLER: I understand from
15 your testimony there indeed has been a pattern for
16 the County Planning Board, low density corridor down
17 the middle between the two --

18 THE WITNESS: That's right. It
19 was officially recognized by the Planning Board when
20 it adopted the General Development Plan for the
21 western Monmouth region. It was prepared in '64 and
22 adopted in '65.

23 MR. FESSLER: Thank you.

24 THE CHAIRMAN: Time for a paper
25 change.

Halsey - cross

1 Thank you, Mr. Halsey, for your
2 testimony.

3 (Whereupon the witness is
4 excused.)

5 (Whereupon a brief recess is
6 taken.)

7
8 L E O N A R D W. F R A N C E S C H I N I, a
9 witness called on behalf of the Applicant, having
10 been duly sworn according to law, testified as
11 follows:

12
13
14 F R E D B. S I R O T E K, a witness called on
15 behalf of the Applicant, having been duly sworn
16 according to law, testified as follows:

17
18 MR. FRANCESCHINI: My name is
19 Leonard W. Franceschini and I have two residences,
20 2866 NE 30th Street, Fort Lauderdale; and, 1401 Dixie
21 Road, Mississauga, Ontario, Canada.

22 MR. SIROTEK: Fred B. Sirotek and
23 I live 1485 Prince of Wales Drive, Ottawa and 323
24 Washington Street, Ogdensburg, New York.

25 MR. FRIZELL: Mr. Franceschini,

1 what firm are you and Mr. Sirotek associated with?

2 MR. FRANCESCHINI: Well, our
3 association is three-fold in both countries. We have
4 three companies in Canada and three companies in the
5 United States. Basically, the purposes of those
6 companies are, one, to buy and own and land bank
7 prospective development properties; the second
8 company is a company that is strictly for portfolio
9 real estate investment on joint venture basis; and,
10 the third company is a company that is solely
11 involved in construction management and contracting
12 on a joint venture basis.

13 MR. FRIZELL: Mr. Sirotek, what
14 is your background in the construction business?

15 MR. SIROTEK: Being involved in
16 construction in my own business since 1951. We have
17 done literally hundreds of projects both in Canada,
18 the West Indies and United States.

19 MR. FRIZELL: And Mr.
20 Franceschini, what is your background and experience
21 generally, briefly?

22 MR. FRANCESCHINI: The first
23 twenty years of my business career was dedicated to
24 heavy engineering, road building, bridge building,
25 dams, et cetera; also, crushed stone, asphalt plants

1 and that type of involvement. And after the first 20
2 years, I entered my second career with Fred Sirotek.
3 And he's already described the general type of work
4 that we're doing.

5 MR. FRIZELL: In what capacity --
6 were you ever, at any point in time, contacted by
7 Richard Brunelli for the purpose of lending your
8 expertise or your consultation to the Colts Neck
9 Village development property?

10 MR. FRANCESCHINI: Yes.

11 MR. FRIZELL: In what capacity
12 were your services --

13 MR. FRANCESCHINI: Primarily as
14 an advisor and construction manager for the project,
15 probably in general; and, also as a potential joint
16 venture investor, co-partner, if you will.

17 MR. FRIZELL: All right. You
18 have, today, no financial interest in the project, do
19 you?

20 MR. FRANCESCHINI: None.

21 MR. FRIZELL: So that, as of
22 today, your capacity is still primarily as a
23 consultant and potential manager of the construction
24 of the project?

25 MR. FRANCESCHINI: That's correct.

1 MR. FRIZELL: And as a potential
2 developer of industrial and commercial areas?

3 MR. FRANCESCHINI: Exactly.

4 MR. FRIZELL: Mr. Sirotek, could
5 you tell the board, just very briefly, what is
6 involved in the construction management business and
7 what you do in that capacity?

8 MR. SIROTEK: Construction
9 management is a form of contracting; except, rather
10 than acting as a general contractor and therefore
11 being profit motivated as far as the cost of
12 construction is concerned, in the capacity of a
13 construction manager we act as professionals and are
14 paid a fee rather than the residue of being the
15 difference between the cost and the contract. It is,
16 in our opinion, a much more superior way of acquiring
17 construction.

18 MR. BRENNAN: Would you call
19 yourself a consulting engineer to the developer?

20 MR. SIROTEK: Not in the true
21 sense of the word because we do not do any
22 engineering ourselves. We always hire outside
23 engineering firms, invariably local firms. We
24 consider ourselves experts on the cost end of
25 construction. We have our input at the design stage.

1 And our input we consider quite important in order to
2 work as a team with the other professionals, rather
3 than each one going its own way, and I think at the
4 end that it was the wrong way to go.

5
6 this notion of developing the project with
7 construction management professionals. Now, however,
8 what did you mean, Mr. Sirotek?

9 Mr. SIROTEK: It invariably
10 involves time and money. Under the construction
11 manager method, the flexibility of changing design,
12 particularly on buildings which are being built for
13 occupants unknown, you know, tenants-to-be, it is
14 possible to carry the construction of a building to
15 three-quarters completion and literally stop until a
16 tenant appears on the scene. It is -- its something
17 you couldn't possibly afford to do with a general
18 contractor because a general contractor will claim
19 he's being damaged by virtue of having to abandon the
20 job or stop the job. It offers flexibilities and
21 advantages which the contractor cannot offer.

22 Mr. FRIZELL: Mr. Franceschini,
23 Mr. Sirotek commented about the fact that management
24 construction professionals don't have a -- in that
25 aspect of the job -- do not have anything particular

1 to gain by the materials. Does that have any effect;
2 that is, the cost of materials, the cost of the labor?
3 Does that have any effect, in your experience in this
4 profession, on the quality of the job?

5 MR. FRANCESCHINI: Well, I think
6 Mr. Sirotek was referring more to the substitution of
7 the materials and economy factors that are involved.
8 As construction management, we hold out to be agents
9 for the owner; and, in fact, are paid by the owner on
10 a percentage basis, fee basis. And so everything
11 that we can save for the owner is the way that we
12 represent his best interests. So that when there is
13 a decision to be made as regards to the various
14 components or whether it be structural steel or tile
15 floor and we can find more economical methods or new
16 motivations or new systems in the construction
17 industries tha the owner or ourselves have not heard
18 at that time, that's the way we can be of great help
19 to the owner.

20 MR. FRIZELL: When you were
21 talking about construction management, you were
22 talking primarily, I take it, of the group section of
23 the project which is north of Highway 18, the main
24 residential sections of the project, in that capacity?

25 MR. FRANCESCHINI: No. Actually,

1 the area that we are primarily interested in is the
2 area that will be developed for light industrial,
3 scientific reasons or anything that may pertain to
4 commercial.

5 MR. FRIZELL: Did you have an
6 opportunity to examine that section?

7 MR. FRANCESCHINI: Yes. We
8 looked it over briefly, quickly.

9 MR. FRIZELL: And based on that
10 qualification, that it was brief, did you find the
11 site appropriate, based on your information and your
12 experience, for that type of development?

13 MR. FRANCESCHINI: Yeah, for the
14 time that we had to deal with the subject, it seemed
15 to be a fine location.

16 MR. FRIZELL: And does your firm
17 have the qualifications to manage the construction of
18 the entire project, as you call it?

19 MR. FRANCESCHINI: From the point
20 of view of road layout, road construction and the
21 utilities other than the services?

22 MR. FRIZELL: Yeah. Maybe I
23 misspoke. We understand and we'll have witnesses
24 Thursday night, I hope, for the actual builders of
25 the residential areas. But I think -- do I

1 understand what you are referring to is the major
2 installations which the developer is responsible for;
3 that is, the major road, et cetera?

4 MR. FRANCESCHINI: That's the
5 kind of work that we can handle with ease.

6 MR. FRIZLLL: Does the size of
7 this particular project, being 214 acres, does -- do
8 you have anything in your experience, does it
9 frighten you or do you feel qualified to handle it;
10 or, have you handled things like that in the past?

11 MR. FRANCESCHINI: Yes, we have.
12 In fact the size is to its credit. We would be able
13 to do a great deal more in terms of flexibility and
14 material use and innovative methods on that size of
15 property rather than a smaller site. As far as
16 handling that size of site or that size of
17 undertaking, there isn't any problem with that regard,
18 financially or otherwise.

19 MR. BRENNAN: Am I correct in
20 saying that you would act as an agency function for
21 the total project but your primary interest is in the
22 office-industrial, which would be south of Route 18?

23 MR. FRANCESCHINI: Well, as far
24 as that area that you explain is concerned, that is
25 the area that one of our companies might be

1 interested in joint-venturing, becoming equity
2 involved or possibly doing turn-key proposals for
3 tenants or prospective purchasers of the land and the
4 buildings. That's the way that we're hoping things
5 might evolve. Mind you, we're at the very
6 preliminary stages of any discussions. So there has
7 been nothing decided as regards the overall as much
8 as services, the roads, the sidewalks and curbs and
9 so on. We can handle that strictly from an agent
10 point of view, management construction.

11 MR. FRIZELL: Now, has Mr.
12 Brunelli indicated to you a willingness on his part
13 to engage your services at the appropriate time when
14 these things are appropriate, if and when approvals
15 were obtained?

16 MR. FRANCESCHINI: Yeah. Mr.
17 Brunelli has in no way indicated to me that he has
18 received any type of approvals or any types of building
19 permits or anything of that nature. We all
20 understand that everything is in an undetermined
21 situation and there are certain regulations and
22 certain fulfillments, et cetera, and conclusions, as
23 well as permissions that must be granted. So it's
24 strictly, at this particular point in time, as far as
25 we're concerned, a pie in the sky.

1 MR. FRIZELL: All right.

2 MR. FRANCESCHINI: For the lack
3 of a better word.

4 MR. FRIZELL: Now, could you just
5 briefly tell the Board in terms -- you said -- you
6 indicated that the scope of the project would be no
7 problem, Mr. Sirotek. Have you been involved in
8 construction projects of that size which have been
9 completed, successful conclusions?

10 MR. SIROTEK: Oh, yes, projects
11 several times that size.

12 MR. FRIZELL: More than one?

13 MR. SIROTEK: Yes.

14 MR. SAGOTSKY: You mean a PUD,
15 Mr. Frizell, planned unit development?

16 MR. FRIZELL: Were you involved
17 in large scale residential and commercial involvement?

18 MR. SIROTEK: No. I specialize
19 in non-residential projects. I have done residential
20 projects as well; but, they're not my favorite. What
21 I was referring to was the the commercial, office, light
22 industry that is south of Highway 18, I believe it is.

23 MR. FRIZELL: In terms of major
24 installations you might be involved in, Mr.
25 Franceschini, in the north end of the site, roads,

1 grading, whatever is necessary to achieve the
2 developer's responsibility of the site, have you been
3 involved in sites of that size; one example?

4 MR. FRANCESCHINI: Prior to the
5 association that Mr. Sirotek and I have, the company
6 that I was formerly employed by did the dredging and
7 filling for the three Expo islands in 1967, Montreal.

8 MR. FRIZZELL: I have no other
9 questions.

10 MR. BRAPPEAU: Was that one of the
11 few aspects that came in within budget?

12 MR. FRANCESCHINI: That's a good
13 question. As I recall, I don't think there was any
14 budget for it. Mr. Brappeau (phonetic), the mayor at
15 the time, was a very, very lucrative gentleman. We
16 bailed them out, actually. They had another company
17 going the work and their dredges couldn't work fast
18 enough. We supplemented. We subsequently filled the
19 coffer dams with salvage we were able to scavenge
20 from one place or another, all good fill. We worked
21 on that particular undertaking on a cost plus basis
22 because we were working as a support of a -- the
23 other organization couldn't fulfill the requirements.
24 There was a deadline. They had to have the whole
25 site and so on.

1 MR. SAGOTSKY: There was a sixty
2 million dollar loss. Presumably you got some of that
3 sixty million?

4 MR. FRANCESCHINI: I don't know.

5 MR. SAGOTSKY: That's what the
6 mayor said, sixty million dollars.

7 MR. FRANCESCHINI: You are
8 pulling my leg, I expect.

9 MR. SAGOTSKY: Yeah, the loss on
10 the Expo.

11 MR. FRANCESCHINI: I don't
12 understand the question.

13 MR. SAGOTSKY: I'll withdraw it.

14 MR. DANLON: Your interest at
15 the present time is strictly exploratory?

16 MR. FRIZELL: Really consultative
17 in setting the job up for this type of a consultation.
18 That's what their function is at this point. I can
19 only represent to the Board, from the standpoint of
20 the Applicant, this is a job that would be handled by
21 management consultant professionals; hopefully, with
22 the right contracts, Mr. Franceschini and Mr. Sirotek,
23 but that's something to be determined when the time
24 is appropriate. But this is a job that would be
25 handled by construction management professionals

1 having the capability of handling a job with the
2 scope that we're talking about. It's a very simple
3 point to make.

4 THE CHAIRMAN: Narrowly confined
5 to the commercial and industrial aspect?

6 MR. FRIZELL: No. Also managing
7 the developer's responsibilities in the north section.
8 That's the main roads; also, residential builders
9 which Mr. Sirotek is not. And in any of those
10 sections -- we have the builders and we know how to
11 do that. These people would represent the developer
12 as consultant and as managers on his behalf, to have
13 the major installations put in that part of the
14 project.

15 MR. FRANCESCHINI: with the
16 exception of the sanitary and water sewer system.

17 MR. FRIZELL: which has been
18 indicated by Killam.

19 You have the capabilities of
20 doing that also?

21 MR. FRANCESCHINI: Sure. We have
22 done sewer and water lines.

23 MR. FRIZELL: So, if it was
24 necessary, even if Killam didn't do it, you could do
25 it?

1 MR. FRANCESCHINI: We could.

2 THE CHAIRMAN: Any other
3 questions from the Board?

4 MR. HERMAN: For the record, Jay
5 Herman for the School Board.

6 Frankly, Mr. Frizell, I have a
7 question for you. I don't really understand the
8 function of these witnesses. Are you telling the
9 Board that they are going to build and/or supervise
10 certain aspects of this project?

11 MR. FRIZELL: Your question comes
12 a little late. Why are you asking me that?

13 MR. HERMAN: Well, you've had
14 them testify that no contracts have been entered into
15 with Mr. Brunelli and no concrete arrangements have
16 been made with them. Frankly, to bring two people
17 here, whether from Canada or from next door, to tell
18 the Board that they have talked to Mr. Brunelli, I
19 frankly miss the point in their testimony.

20 MR. FRIZELL: All right.
21 Unfortunately, Mr. Herman, see you have to have -- a
22 planned development application procedure is very
23 typically -- I realize this is a fairly unique one --
24 but it's very typically a procedure in which the
25 developer makes assurances to the town and to the

1 appropriate board, because of the scope of the
2 project, that the project is going to be handled in a
3 highly professional manner. One of the aspects of
4 that is having people who have experience in doing
5 projects of this size to lend the expertise. And
6 what we're saying, I think if you want to get
7 technical about it, is that these people exist. And
8 this is a project that's appropriate for their
9 expertise. The developer has presented -- that's why
10 I made the representation that this is a project to
11 be handled in that way.

12 MR. HERMAN: You are not going
13 one step further and saying that the developer has
14 hired these people?

15 MR. FRIZELL: We can't enter into
16 a contract for a project.

17 MR. HERMAN: Do you have
18 contingents with either of these gentlemen that if he
19 gets approvals --

20 MR. FRIZELL: Mr. Brunelli has
21 indicated a willingness. These men cannot commit
22 themselves to a project that has no status. They've
23 come down, however -- obviously, they came down just
24 for this project.

25 Did you not?

1 MR. HERMAN: If the Board
2 approves the project, is Mr. Brunelli under any
3 obligation to employ any of them?

4 MR. FRIZELL: He is under an
5 obligation by virtue of his representation to this
6 Board to employ management professionals of this
7 caliber. Hopefully, as I indicated --

8 MR. HERMAN: But not these people?

9 MR. FRIZELL: That's correct.
10 That's why I said a PUD development application
11 changes. We have to make certain overtures. If and
12 when a final approval were submitted to the Board,
13 it is would be submitted under the context of -- with
14 the development in it and these people in, for
15 instance, would be a possible condition of approval.
16 That adds weight. One of the findings that has to be
17 made by the board is that there's adequate assurances
18 that the project will, in fact, be done properly and
19 to completion.

20 MR. HERMAN: The project --

21 MR. FRIZELL: Either these people
22 or people of similar caliber. But I think the
23 necessary information has to be put to the Board.

24 MR. BRENNAN: I just raise the
25 question that, you know, these gentlemen really have

1 not demonstrated their experience or their caliber
2 and I think the board has not asked and have not
3 concluded that they are experts as construction
4 consultants or that they would have the where withal
5 within their company or from external sources to
6 raise the equity.

7 MR. FRIZELL: I understand.
8 because of the hour, it's 11:05, I short cut a lot.

9 MR. FRANCESCHINI: We would give
10 any information that's necessary and I would consider
11 it a good public relations move on our part to do so.
12 But I wonder if at this particular time -- and I
13 don't hesitate in terms of doing it, terms of
14 cooperating -- but I wonder what the curiosity aspect
15 is, especially in light of Mr. Brunelli's position as
16 owner of a potential deal and his capacity or his
17 intelligence to be able to bring the right
18 contractual arrangements with the parties of his
19 choice after the fact?

20 MR. FRIZELL: Well, Mr.
21 Franceschini, from many of the questions -- I think
22 as I indicated to you earlier -- that are put by the
23 Board are, who is -- where do you have -- where are
24 the people that have the experience to develop a
25 project of this magnitude. Because, in Monmouth

1 County, there hasn't been a project of this size and
2 the management consultants locally may not have that
3 kind of expertise. That is, we want to make it clear
4 to the Board, we don't hesitate to employ significant
5 people. It's a relevant consideration to the Board
6 and that's why you are here.

7 Mr. Sirotek, you are absolutely
8 sure?

9 MR SIROTEK: It would be
10 immensely easy to build in Monmouth County and --
11 than it was to build 14 buildings on nine islands in
12 the west Indies where there is absolutely no
13 expertise, and we have recruited and dismantled the
14 organization in the course of 18 months from beginning
15 to end. I wouldn't be concerned with Monmouth County.

16 MR. FRIZELL: Besides the Expo
17 islands, Mr. Franceschini, would you please tell the
18 Board of the --

19 MR. FRANCESCHINI: Queen
20 Elizabeth Highway, we did 50 miles on there; Alaska
21 Highway, for the American government, incidentally;
22 Peace River Bridge; during the war, the first
23 Edmonton airport.

24 MR. FRIZELL: That's major
25 installations. What about commercial development? I

1 think this project anticipates between --

2 MR. FRANCESCHINI: Since
3 associated together, Mr. Sirotek and I have done 30
4 acres of industrial property and development in
5 Ottawa and New York.

6 MR. FRIZELL: What is the value?

7 MR. FRANCESCHINI: And of our own
8 portfolio, in excess of 15 million dollars and about
9 four hundred and fifty to 500,000 square feet of
10 buildings, in all in north New York and New Brunswick,
11 primarily.

12 But I don't mean to be caustic
13 about my comment regarding any information that I
14 would be supplying. As I said earlier, I would be
15 more than willing to supply any information that
16 might be required by anybody on the Board. And I
17 think it might be directed through one office, if it
18 could be, for simplicity's sake.

19 THE CHAIRMAN: I would suggest in
20 the interest of time that perhaps you could get this
21 information --

22 MR. FRIZELL: Sure.

23 THE CHAIRMAN: -- and submit it to
24 the Board, so you don't have to recall them. Give us
25 enough information to work with.

1 MR. TISCHENDORF: I would just
2 like to say that Mr. Herman's question was
3 instructive. I think we on the Board have some
4 experience with representations made to this Board,
5 perhaps at the time of variance, a little bit like a
6 representations of a Cadillac and at the time of site
7 planning we had a Fiat.

8 MR. FRIZELL: I understand that
9 that's a problem that we have and you have. It's
10 better than not making them.

11 MR. TISCHENDORF: Agreed.

12 MR. FRIZELL: We make them in
13 good faith. And we say whatever constraints the
14 board poses in that regard. But it's just basically
15 good faith. It's not really a hard evidence question.
16 I think Mr. Herman is correct. It's a good faith
17 overture to the board that this is the way that the
18 project will be indicated; and also, that their
19 analysis of the commercial and industrial areas, even
20 though peripheral, was positive.

21 MR. DAHLBOM: Motion to adjourn.

22 MR. MARKS: I have one question.

23 Mr. Frizell, Mr. Sagotsky and
24 myself were all talking about scheduling. And I
25 don't know whether you are on target. I thought my

1 first witness would be the 29th.

2 MR. FRIZELL: We're not now, a
3 little bit off target because of Mr. Halsey's
4 testimony.

5 MR. MARKS: Do you think you are
6 going to need two more meetings?

7 MR. FRIZELL: Definitely. That's
8 the 17th and the 24th.

9 THE CHAIRMAN: Our next session
10 will necessarily be interrupted. Your time will be
11 truncated because we give you from seven to eight.
12 Then we have had a regular meeting and that's --

13 MR. FRIZELL: I have indicated to
14 Mr. Sagotsky -- and I'll be glad to say it -- that
15 assuming we can finish the hearings before the
16 deadline, that I have no objections for an extension
17 in order for the Board to deliberate and prepare a
18 resolution, for 30 days. I think I had a problem
19 making that extension early in the game because I
20 didn't know how things would go. I think things have
21 moved along as best we can. We may have a problem
22 getting finished on the 24th. I think that still
23 leaves you --

24 MR. MARKS: I'm not even worried.
25 Even if you were to take an additional amount, I'm

1 sure we could do whatever we had to to get it in.

2 The question I have is scheduling
3 my witness. I would like to schedule someone from
4 the 29th. And if I have someone here the 29th, that
5 we begin the presentation of our case and that if you
6 have any minority witnesses, why you could follow
7 after we present that.

8 Do you have any problem with that?

9 MR. FRIZELL: No, I don't have
10 any problem with that.

11 MR. MARKS: Then I will presume
12 that we will start on the 29th and not the 24th. Is
13 that okay?

14 MR. FRIZELL: Yeah.

15 MR. SACOTSKY: I'm drafting an
16 Order to send up to you for your approval.

17 MR. BERMAN: Will it be possible
18 to tell us who will be present Thursday?

19 MR. FRIZELL: We expect to have
20 Jerry Carr (phonetic), who is the principle at
21 Abbington, Ney who has prepared the environmental
22 impact statement. I guess we'll have to bring back
23 Mr. Radway. That will be extensive. There's a lot
24 of material in terms of plans and things.

25 MR. BERMAN: Mr. Radway will not

1 come Thursday?

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

3 MR. HERMAN: Mr. Orgo?

4 MR. FRIZELL: I think we ought to
5 wait for Mr. Orgo and Mr. Radway and follow that up
6 with the 24th, hopefully put Mr. Orgo and -- we have
7 the architect and residential builders.

8 MR. HERMAN: Who was that?

9 MR. FRIZELL: Mr. Gilvary.

10 MR. HERMAN: Who were the
11 builders?

12 MR. FRIZELL: Pizzo and Pizzo,
13 PUD builders.

14 (whereupon the hearing is
15 adjourned at 11:15 p.m.)

16 CERTIFICATE

17 I, KATHLEEN M. SHAPIRO, a Registered
18 Professional Reporter and Notary Public of the State
19 of New Jersey, certify that the foregoing is a true
20 and accurate transcript of the proceedings as taken
before me stenographically on the date hereinbefore
mentioned.

21 
22 KATHLEEN M. SHAPIRO, R.P.R., C.P.

23 Dated: July 21, 1980
24 My Commission Expires on
25 June 7, 1983