

CN - Orgo Farms v. Cats Neck Twp

2/15/84

Transcript of Proceedings: Deposition of
Robert W. Clark

P 79
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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MONMOUTH COUNTY
Docket Nos. L-3299-78 P.W.
L-13769-80 P.W.

ORGO FARMS & GREENHOUSES, INC.,)
a New Jersey Corporation, and)
RICHARD J. BRUNELLI, consolidated)
with SEA GULL, LTD. BUILDERS, INC.)

Plaintiffs,)

CIVIL ACTION

vs.)

Deposition of:
ROBERT W. CLARK

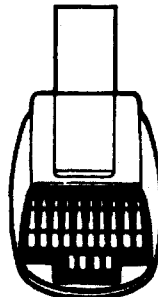
TOWNSHIP OF COLTS NECK, a)
Municipal Corporation,)

Defendant.)

T R A N S C R I P T of the stenographic
notes of the proceedings in the above-entitled matter,
as taken by and before DOUGLAS L. PERKS, a Certified
Shorthand Reporter and Notary Public of the State of
New Jersey, held at the MONMOUTH COUNTY PLANNING OFFICE,
1 Lafayette Place, Freehold, New Jersey, on Wednesday,
February 15, 1984, commencing at 10:30 in the forenoon.

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A p p e a r a n c e s :

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

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

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>
ROBERT W. CLARK		
By: Mr. Frizell	2	
By: Mr. Locascio		51

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

<u>NUMBER</u>		<u>IDENT.</u>
PO-1	Eight-page affidavit	3
PO-2	Attendance list of planning board	5
PS-1	Monmouth County Sanitary Sewerage	
	Facilities Map	64
PS-2	Monmouth County Water Supply Map	65

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1 R O B E R T W. C L A R K, residing at 51 Irving Place,
 2 Red Bank, New Jersey, having been duly sworn by a
 3 Notary Public of the State of New Jersey, testifies
 4 on his oath as follows:

5 DIRECT EXAMINATION BY MR. FRIZELL:

6 Q Mr. Clark, my name is David Frizell and I rep-
 7 resent Orgo Farms & Greenhouses and Richard J. Brunelli in
 8 the litigation with the Township of Colts Neck.

9 Have you ever given a deposition before,
 10 Mr. Clark?

11 A Yes.

12 Q So you know that the reporter will take down
 13 your verbal responses and put them into a pamphlet which can
 14 be used by the court in terms of this litigation.

15 Mr. Clark, what is your current position at
 16 Monmouth County?

17 A Director of county planning.

18 Q How long have you had that position?

19 A Since October 1981.

20 Q Was Mr. Robert Halsey your predecessor?

21 A Yes.

22 Q While Mr. Halsey was county planning director,
 23 what position did you hold?

24 A Assistant director.

25 Q How long did you have that position?

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1 A About three or four years.

2 Q You graduated from the University of Kentucky?

3 A Yes.

4 Q Did you get a degree there?

5 A Yes.

6 Q Do you hold any other degrees?

7 A No.

8 Q What was your degree in?

9 A Bachelor in Urban Studies.

10 Q What year did you get that degree?

11 A 1968.

12 MR. FRIZELL: Mark this, please.

13 (Eight-page affidavit received and
14 marked Plaintiff's Exhibit PO-1 for Identifica-
15 tion.)

16 Q Mr. Clark, I am going to show you an affidavit
17 that apparently you executed for the Township position in
18 this case and ask you if that looks like a copy of it?

19 A Yes, it does.

20 Q I will just represent to you that, that is the
21 copy that we received.

22 A Yes.

23 Q Mr. Clark, did you render any other written
24 reports of any kind or affidavits to Mr. O'Hagan in this
25 case?

1 A No.

2 Q Did you issue any memorandum or notes of any
3 kind to Mr. O'Hagan or the Township prior to issuing that
4 affidavit that you recall?

5 A No.

6 Q Did you write any letters of any kind?

7 A I believe I did write a letter when they requested
8 that we attend one of their workshop sessions of the town.
9 I guess it was the planning board.

10 Q What is the import of that letter?

11 A They just asked us to come and join in conversation
12 about planning, zoning, in Colts Neck.

13 Q Just generally or about this case in particular?

14 A This case obviously came up.

15 Q What did that letter say?

16 A Just an invite and just responded back and said that
17 we would be there. It might not have been a letter. It
18 might have been a phone call.

19 Q Approximately what was the time frame of that
20 correspondence of that letter?

21 A It must have been, I guess, in December.

22 Q December of 1983?

23 A Yes, it must have been December.

24 Q Did you attend the meeting at that time?

25 A Yes.

1 Q When was the meeting?

2 A Do you want an exact date?

3 Q If you have it.

4 A December 1.

5 Q Was that a public meeting, Mr. Clark, do you
6 recall?

7 A I don't know.

8 Q Do you recall who attended it?

9 A There were members of the planning board.

10 Q The whole planning board?

11 A No, I don't believe so. I have a list of people that
12 attended that meeting.

13 Q This is the list?

14 A Yes.

15 MR. FRIZELL: Let us just mark this.

16 (Attendance list of planning board
17 received and marked Plaintiff's Exhibit PO-2
18 for Identification.)

19 Q Prior to that time, Mr. Clark, did you have
20 any correspondence or contact with the Colts Neck Planning
21 Board or Colts Neck officials concerning this case?

22 A I really don't believe so.

23 Q Just perhaps incidental?

24 A Well, possibly through maybe a review of zoning change
25 or something like that, but nothing really specific in the

1 last year or so I would say.

2 Q Now, did you ever deliver any memorandum or
3 reports at that meeting to the board or was it oral at that
4 point?

5 A It was oral.

6 Q There were no written reports?

7 A No.

8 Q So then PO-1, your affidavit, is the only
9 written document which you rendered in this particular liti-
10 gation at this stage?

11 A Yes.

12 Q Now, how did it come about that you wrote this
13 affidavit? Were you requested to do this by Mr. O'Hagan?

14 A Yes, I guess you would say requested. We had dis-
15 cussed the matter and I told Mr. O'Hagan at that point in
16 time that we would not become involved in a Mount Laurel-type
17 case. We were there if they requested our assistance to pro-
18 tect the integrity of our county plan, our land use plan,
19 and that is the reason for being involved.

20 Q Now, were you contacted by anyone besides
21 Mr. O'Hagan in connection with the preparation and rendering
22 of the affidavit?

23 A I had spoken to Mr. Handso, the administrator, on
24 some occasions.

25 Q Anybody from the County Planning Board ask you

1 to do this or was this strictly between you and the Township
2 at this point?

3 A I spoke to our chairman on the form of it. It was
4 basically a routine matter.

5 Q Now, did the County Planning Board at any point
6 specifically take any action in connection with this case or
7 this affidavit or your participation in the case?

8 A No, no official action.

9 Q Now, the affidavit makes reference to the
10 Growth Management Guide of the County. What is that? Is
11 that a map?

12 A Yes.

13 Q Do you have a copy of those? I know we have
14 them. I want to see if you have one handy.

15 Now, in terms of the preparation of this affi-
16 davit and anything else you may have done for Colts Neck,
17 what decides the Growth Management Guide, which I assume you
18 reviewed in order to prepare your affidavit, what documents
19 or plans did you look at in connection with this case or were
20 you given an order to prepare the position you took in the
21 affidavit?

22 A The position we took was based on the adopted plan.

23 Q Did you look at the plan submitted by the appli-
24 cant in the case?

25 A No.

1 Q Did they give you a summary of any kind about
2 what the applicant was proposing?

3 A Roughly, just what I had read in the newspapers about
4 the development.

5 Q Now, in terms of Colts Neck, would you describe
6 for us what the County Growth Management Guide provides for
7 in Colts Neck Township?

8 A Provides for?

9 Q Yes.

10 A Colts Neck is in a limited growth area. It is indi-
11 cated as such in white on the map. We have a village center
12 located at the intersection of 537 and Route 34, which would
13 consist of, if you read the text, possibly a convenience
14 store, drug store, and a clustering of maybe 200 homes on
15 small lots. We have protection areas located around the
16 Swimming River Reservoir, and also, protection areas along all
17 stream valleys within Colts Neck, as well as anyplace else
18 in the County.

19 Q What were the determinants that said the village
20 center had to be located in Colts Neck particularly at the
21 intersection of Route 34 and Route 537 as opposed to some-
22 where else in the Township or the region? What was the par-
23 ticular reason that it was chosen?

24 A Basically, all the village centers in the county plan
25 are there because they are already existing. Holmdel Village,

1 Imlaystown, Allenwood, they are existing centers today.
2 Therefore, they were indicated as such to capitalize on the
3 already existing centers.

4 Q What is the characteristic of the existing cen-
5 ter in Colts Neck that resulted in the designation of village
6 center there?

7 A Well, there is a general store there, and there is a
8 clustering of single family homes on small lots in the area
9 existing, and again, to allow within the limited growth area,
10 in order to maintain, let us say, a balance, we do allow for
11 some growth within the limited growth area. We are not say-
12 ing, shut off all the growth within the limited growth area.
13 There are two villages and a town center in the limited
14 growth area where residential construction and other con-
15 struction can take place.

16 MR. O'HAGAN: Can I just clarify. Were
17 you speaking of Colts Neck when you say there
18 are two villages centers?

19 THE WITNESS: No, I was speaking of the
20 entire limited growth corridor, the town cen-
21 ter as indicated as Farmingdale.

22 Q Is that part of the county plan to promote the
23 concentration of development within the limited growth areas
24 in order to obtain an overall limitation of growth within
25 those areas?

1 A The two villages and the town center you are speaking
2 of?

3 Q Yes.

4 A Yes, that is basically why they were designated as
5 such, so there would be some room for growth within the
6 limited growth area.

7 Q Now, you indicated that the text talked about,
8 perhaps, 200 small lots being new lots, I take it, being
9 created within this village center area?

10 A Not necessarily new, total.

11 Q All right. Where does it say that in the text?
12 Can you find that quickly?

13 A Page 56.

14 Q That refers to these villages could be served
15 by a neighborhood shopping center or a general store?

16 A Yes.

17 Q Now, what is a neighborhood shopping center?

18 A A neighborhood shopping center, in our definition, is
19 basically, let us say, a 7-11, a drug store. The necessities,
20 food and drugs, is what we are talking about. Possibly a
21 gas station.

22 Q It does not contemplate a supermarket?

23 A Well, a food store, convenience food store.

24 Q Not a supermarket?

25 A I would say not.

1 Q Now, when they say small lots, 200 small lots,
2 what size lots are you talking about?

3 A Fifty foot frontage, maybe 50 by 100. Fifty by 150.
4 Basically small lots.

5 Q Does the county plan anticipate that these 200
6 lots would be built on septic?

7 A Yes.

8 Q As opposed to sewers?

9 A Yes.

10 Q Now, did the County do any individual studies
11 or analysis in order to determine whether or not 200 lots on
12 septic could be developed in Colts Neck?

13 A Community septic system is basically, probably, what
14 we had in mind on most of these villages, and I think it so
15 states in the plan. Community septic systems or a package
16 sewer treatment plant.

17 Q So either a community septic system or a package
18 plant would be consistent with the county plan?

19 A Yes.

20 Q Is it fair to say, Mr. Clark, that your affi-
21 davit and your position is intended at least to be an expres-
22 sion of the County Growth Management Guide as opposed to an
23 individual expression of opinion or an expression of the
24 County Planning Board with respect to this particular litiga-
25 tion? Did I understand your preamble correctly earlier in

1 your testimony?

2 A Yes, we are here to protect the integrity of an offi-
3 cially adopted plan by the planning board and that is basi-
4 cally my job and that is how I became involved.

5 Q Now, could you describe generally, Mr. Clark,
6 what the County Development Guide or its predecessor pro-
7 vided for in this area prior to the adoption of the Growth
8 Management Guide?

9 A Let me say, I believe, that it is irrelevant to what
10 is in place now. I can discuss it if you want to discuss it,
11 but I don't think it has any bearing here. We are talking
12 about now an adopted plan in 1981 and that plan is 14 years
13 old now, and I will add that, that plan had heavy reliance on
14 existing zoning and planning in the towns and a lot of zoning
15 in the towns were just put right onto the county plan. We
16 did not do that in this plan at all. We looked at the county
17 as one from the municipality and just a little change in
18 philosophy as how the plans were prepared.

19 Q For the moment, Mr. Clark, we will let the
20 judges decides what is relevant and what is not relevant. I
21 am just trying to establish a sequence of facts so we can all
22 agree on the facts.

23 A Can I see the map?

24 MR. LOCASCIO: Do you want the map?

25 THE WITNESS: Just the map.

1 A I believe we had indicated some commercial at the
2 intersection south of 537, I believe. Yes, we had indicated
3 a highway commercial along Route 34 at the intersection of
4 537 and 34, and then south of that, industrial. Excuse me,
5 office and research, I should say, designation on the south-
6 ern boundary which would be Route 18 and it occurred on both
7 sides of Route 34.

8 Q Now, without going too much into detail in this
9 plan, did the County Planning Board take any specific action
10 to recind this plan or to do anything with it or did they
11 simply adopt a Growth Management Guide, do you know?

12 A Well, they did not obviously recind this plan, but, I
13 believe, in the resolution adopting it, the County Planning
14 Board hereby adopts the Growth Management Guide as the offi-
15 cial master plan for the County of Monmouth. That is it.

16 Q Was that the predecessor or master plan for the
17 county, do you know?

18 A Yes, it was.

19 Q Now, was the existence or the proposed Route 18
20 freeway, which passes through Colts Neck immediately adjacent
21 to the office research center, the primary determinate in the
22 location of the office research center at the intersection of
23 Route 34 and Route 18?

24 MR. O'HAGAN: I am sorry, Mr. Frizell.

25 You are speaking of the previous map?

1 MR. FRIZELL: Yes.

2 MR. O'HAGAN: Are we clear that Mr. Clark
3 was involved in the decision making as to that
4 aspect of this?

5 MR. FRIZELL: I do not know if it is a
6 matter of decision making, Mr. O'Hagan.

7 MR. O'HAGAN: You are talking about the
8 1969 plan?

9 MR. FRIZELL: Correct.

10 MR. O'HAGAN: I do not know if he was
11 even on the staff then and was instrumental in
12 drawing it. It would not be a foundation ques-
13 tion.

14 MR. FRIZELL: No, I think I mean, as I
15 said, I do not want to go all through the plan
16 itself, but I think there has to be some under-
17 standing at the County Planning Board level and
18 the county planning staff level as to what the
19 determinates are in the existing plan that they
20 were talking about until 1981. I would expect
21 that it would be described in the text that way.

22 MR. O'HAGAN: Okay.

23 MR. FRIZELL: If Mr. Clark does not think
24 that I have accurately described the reasons
25 why that area is office research, he can tell

1 us.

2 MR. O'HAGAN: Okay, because I thought he
3 already said why it was office research. Can
4 we just go off the record for a moment?

5 MR. FRIZELL: No, we cannot.

6 MR. O'HAGAN: Because you asked him
7 originally --

8 MR. FRIZELL: Excuse me, I have a ques-
9 tion pending and I do not want to go in a
10 colloquy with you about this.

11 A The question as to why that zone is there, to tell you
12 the truth, I don't know. I came on board in November of 1970.
13 This plan was already adopted. I would imagine, I would
14 speculate, that yes, in deed Route 18 was certainly a factor.
15 Also, I might indicate that it may have been a factor of
16 local planning zoning at that time as to why that is indicated
17 as office research.

18 Q Now, would you describe from your own knowledge
19 what the existing commercial activity and presence along
20 Route 34 near the Route 537 intersection was already in the
21 ground and existing there, do you know?

22 A Yes, basically.

23 Q Could you just describe generally what?

24 A I would describe it as your basic strip highway
25 development. You have a hardware store and some specialty

1 shops, restaurants.

2 Q What is already there, is that consistent with
3 the County Growth Management Guide's vision of the village
4 center?

5 A No.

6 Q It is somewhat more expansive, is it not?

7 A Yes.

8 Q I do not mean to be factious when I ask this.
9 You do not expect, that based on this Growth Management Guide,
10 that those things are going to be torn down in any way?

11 A Of course not.

12 Q So that the village center designation is
13 already somewhat surpassed in the existing conditions?

14 A Yes, they are, but we felt that we would not endorse
15 that type of development.

16 Q That type of development was consistent with
17 your previous general development plan for that area, was it
18 not?

19 A Yes, you could say it was.

20 Q Now, does the point system that Bob Halsey used
21 in analyzing location criteria for residential building, is
22 that still in use in the county?

23 A We have not really used it recently at all. It is
24 still a document of the County Planning Board.

25 Q It has not formally been recinded, but you do

1 not use it as a working document currently?

2 A No, I may use it in-house to look at projects, but we
3 have not obviously used it as a review any time recently.
4 It needs some revision.

5 Q Now, do you have here at the County Planning
6 Board a copy of the current Colts Neck Township master plan?

7 A We should.

8 Q Would it be great trouble for you to get that
9 for us? I have a copy which was given in discovery, but I
10 want to make sure that we are looking at the same thing.

11 Mr. Clark, has the county done any studies
12 recently as to what the potential or proposed impact of the
13 Route 18 freeway is on the county economic development?

14 A Not specifically, no.

15 Q When the highway was being proposed, were there
16 any studies at that time in existence?

17 A As to economic impact?

18 Q Yes.

19 A I don't believe so. At least I have never seen one.

20 Q Are you familiar with the county's economic
21 development plan of 1978, over all economic development plan?

22 A Yes.

23 Q Now, in terms of promoting economic development
24 of the county, did the county take a position that the com-
25 pletion of the Route 18 freeway was an important factor in

1 promoting economic development in Monmouth County?

2 A They probably did.

3 Q Now, Route 18 is a limited access freeway, is
4 it not?

5 A Yes.

6 Q How many points of access exist, do you know,
7 in Monmouth County?

8 Are you counting the Parkway?

9 A Not yet. I believe there are six existing and with a
10 possibility of two or three more. I would have to look at
11 the county map, the new county map, to tell you exactly how
12 many. Is it important to get the exact number?

13 Q No, it is not. There is one, I think, on
14 Tennent Road?

15 A Yes.

16 Q Also on Route 79?

17 A Yes.

18 Q On Route 537?

19 A Yes.

20 Q One at Route 34?

21 A Right.

22 Q The next one is down at Route 18, Wyckoff Road
23 near the Parkway?

24 A Right.

25 Q So between the Middlesex County border and the

1 Parkway there are four?

2 A Five.

3 Q Five counting Wyckoff Road?

4 A Yes.

5 Q How many are located in Colts Neck Township?

6 A I guess only two. It would be Route 34 and Route 537
7 at the line of Colts Neck and Freehold Township.

8 Q If we count Route 537 as in Colts Neck and
9 Route 34, two of the five are located in Colts Neck?

10 A Yes.

11 Q Is it consistent, Mr. Clark, for the county to
12 promote Route 18, in terms of economic development of the
13 county, as a major determinate for future economic develop-
14 ment of the county and at the same time designate this area
15 from the Colts Neck border to the entire area in Colts Neck,
16 in fact, west and east of Colts Neck for limited growth?

17 A Why not?

18 Q Is there anything in terms of county studies
19 that will show how this particular freeway will benefit the
20 county economically unless some economic development is per-
21 mitted to occur at the points of access to the freeway?

22 A We have five office research indicated along Route 18.

23 Q Well, was the county's position that the com-
24 pletion of the Route 18 freeway and its impact on economic
25 development would occur at those nodes which are outside the

1 Township of Colts Neck?

2 A Not necessarily outside the Township of Colts Neck.

3 What we try to do is we tried to indicate those nodes within
4 out growth corridors and you can see those nodes are indi-
5 cated within our growth corridors.

6 Q Prior to the adoption of the Growth Management
7 Plan and the actual completion of the freeway, the County
8 General Development Plan of 1969 anticipated economic develop-
9 ment at the other intersection, at least at the Route 34
10 intersection and to a certain extent at the Route 537 inter-
11 section in Colts Neck Township, is that correct?

12 A Yes, it does.

13 Q Now, why would the completion of the highway
14 motivate the County Planning Board to remove the plan for
15 economic development at those intersections, or if it was
16 not the completion of the highway, why would it have occurred
17 between 1969 and 1981 that motivated the County Planning
18 Board to change the plan?

19 A Well, we felt that the current plan was a much better
20 plan than this plan in that we could not rely that much on
21 local planning zoning. I think that was the first factor.
22 I think the entire philosophy of the staff and the board
23 changed somewhat as to what we were attempting to do here.
24 As you can see, basically by indicating strip highway, we are
25 basically encouraging it. You see no strip highway development

1 on this plan. If you add up all the industrial land on here,
2 we have enough probably for the State of New Jersey. Again,
3 I think that was a reflection of local planning desires and
4 local zoning desires at that time. So there are many dif-
5 ferences between the two plans, but I think you have to recog-
6 nize that it was a different board, it is a different staff,
7 and philosophies are different.

8 Q Let me just digress to philosophy for a minute,
9 Mr. Clark. What has the planning board done in the past
10 several years in terms of promoting affordable housing in
11 Monmouth County? Can you just give us a general overview
12 of that?

13 A We have a housing rehabilitation program through our
14 community development program which is housed in this office,
15 and we provide grants to low-income homeowners to rehabilitate
16 their homes. The County Board of Social Services is in-
17 volved in the 235 Program, 256 and 202 Program and other
18 housing programs in the county. We encourage affordable
19 housing by the indication of our urban centers where we talk
20 about going up to seven units an acre. In our housing por-
21 tion of the Growth Management Guide we talk about a variety
22 of housing types, encourage a variety of housing types, en-
23 courage small lots, single family apartments, townhouses,
24 mobile home parks, what have you.

25 Q How many units has the county sponsored of new

1 development for low and moderate-income families in the past
2 ten years?

3 A Has the county sponsored?

4 Q Either the county or the county agency?

5 A I don't know for sure. I don't know.

6 Q Is there any county agency that is actively
7 sponsoring the development of low and moderate-income houses
8 in Monmouth County?

9 A Well, I would say through our Community Development
10 Program. We have, for instance, the Freehold Senior Citizen
11 Building here in this borough. Community Development bought
12 the site and then the developer went in and built it. So I
13 would say that was one indication where the county was direct-
14 ly involved in that. We did an inquiry, the site for the
15 town, and then they built senior citizen assistant housing.

16 Q That was built by private sponsors, that
17 development, a private developer?

18 A Yes, sure, it was the Freehold Senior Citizen Corpora-
19 tion.

20 Q Perhaps, non-profit, but not part of the
21 governmental structure?

22 A No.

23 Q Has the county issued any documents or plans
24 for the encouragement of low and moderate-income housing
25 development in the suburban towns of Monmouth County?

1 A What is a surburban town?

2 Q Well, a surburban town, I would say, Mr. Clark,
3 are those towns outside of the urban centers that you have
4 designated in the Growth Management Guide?

5 A Well, we have indicated that throughout the growth
6 areas, which included surburban-type towns, that there be a
7 variety of housing types within those towns, not only single
8 family, but apartments, townhouses.

9 Q What kind of densities are you talking about
10 in those areas?

11 A An average of four. Therefore, you may have some
12 areas with one-acre lots and you may have ten units to the
13 acre, but hopefully, what it would average out to be would
14 be around four units to the acre. Overall, if you took the
15 entire growth area and figured it out, it would be four units
16 to the acre.

17 Q Has the county ever, to your knowledge, done
18 any particular studies to determine the need for low and
19 moderate-income housing both in the present and the future
20 in Monmouth County?

21 A No, we have not done a study. We have reacted to
22 prior studies done by the State. That is about the extent
23 of it. We take the position here that rehabilitation is
24 much more viable to our operation and we encourage rehabili-
25 tation rather than new.

1 Q When you say, "rehabilitation is much more
2 viable," you do not encourage by any particular policy the
3 development of new housing for low and moderate-income fam-
4 ilies, but rather encourage rehabilitation of existing struc-
5 tures?

6 A We do not discourage new, but I am saying that our
7 emphasis is on rehabilitation of existing housing stock. We
8 feel that we have a fairly good housing stock in our low-
9 income area. The problem is that it needs rehabilitation.

10 Q To your knowledge, Mr. Clark, has the county
11 ever taken a position favoring a plaintiff in a Mount Laurel-
12 type litigation as this one is in encouraging the town to
13 approve a development which included lower income housing?

14 A We have never been involved in one. We were never
15 asked to become involved in one. The definition of lower
16 income housing, I am not so sure that I have seen a develop-
17 ment come in here that specifically says, this is lower
18 income housing.

19 For example, Fair Haven, we are encouraging and actively
20 have encouraged the development of ~~townhouses~~ in that town
21 which has none. They are strictly single-family residences
22 and we have actively encouraged that they do develop town-
23 houses, which is a lower cost housing than was existing.

24 Q Have you adopted any policies which would assure
25 that some of that housing, whether it be in Fair Haven as

1 townhouses or elsewhere in the county, would be available
2 and affordable by lower income families?

3 A No, we have done no such studies.

4 Q Are you aware that Mr. Halsey testified in
5 several Mount Laurel suits when these cases were being tried
6 in Monmouth County?

7 A Yes.

8 Q I am aware of a number of times at which he
9 testified on behalf of the municipality that generally, to
10 the effect, that he felt that the development of higher den-
11 sity forms of housing in these suburban towns of Monmouth
12 County was inconsistent with the County General Development
13 Plan.

14 Are you aware of any positions taken by the
15 county which would contradict that position, and, that is,
16 is the county's position different now? That is really the
17 gist of my previous question. Has the county done anything
18 since taking the position against these litigations in the
19 past which would encourage the development of lower income
20 housing in the suburban areas of Monmouth County?

21 A Again, I do not know what Mr. Halsey said and I do not
22 know the specifics as to what he was speaking about. So I
23 don't think I can really comment on that. Again, I will say
24 that in reading through our plan, the housing section, that
25 you do see that we encourage a total variety of housing types

1 throughout the growth areas, and there is other language in
2 here.

3 These are objectives: "Increase the supply of adequate
4 housing units, reduce the overall cost of housing, improve
5 the quality of housing by eliminating substandard housing,
6 create or maintain viable neighborhoods in conjunction with
7 housing rehabilitation."

8 These are major objectives and then there is language
9 as to how one could reduce, possibly, the overall cost of
10 housing. You know, take off some of the restrictions, zoning
11 restrictions, smaller lots, house size, things like this.

12 So I would say in a way that we are certainly encourag-
13 ing a lower price unit in various areas of the county.

14 Q Now, with respect to Colts Neck in particular,
15 has the county issued any comments that you know about either
16 in the existing zoning policy or their existing master plan?

17 A I have to look at the file.

18 MR. O'HAGAN: What file are you looking
19 at? Is that a file of Colts Neck?

20 THE WITNESS: Yes, this is the official
21 file on the master plan of Colts Neck.

22 A Here is a readoption of the '71 Colts Neck Master
23 Plan which finds it to be in general **conformance** with this
24 plan.

25 MR. O'HAGAN: This being the General

1 Development Plan of 1979?

2 THE WITNESS: Yes.

3 A That looks like the only comment that we have made to
4 Colts Neck at any time lately unless there is something con-
5 cerning zoning.

6 Q Would you describe, Mr. Clark, generally, as
7 to your understanding of the Colts Neck Township Zoning
8 Ordinance and then the Colts Neck Township Master Plan for
9 the whole town?

10 A As it currently exists?

11 Q Yes.

12 A Well, I don't really know until I look at it. I don't
13 know what they have in mind. I will tell you in a minute.

14 MR. FRIZELL: Off the record.

15 (Discussion held off the record.)

16 Q Before we get to the master plan, Mr. Clark,
17 I do not see the zoning ordinance here, but I think
18 Mr. O'Hagan will agree with me that the zoning ordinance of
19 Colts Neck provides for some commercial development along
20 Route 34 generally as shown in the General Development Plan.
21 That is on both sides of the highway, maybe a half a mile
22 north of the Route 537 intersection.

23 MR. O'HAGAN: At the most.

24 Q Then the ordinance provides for some forty
25 thousand-foot lots where they currently exist, basically,

1 and then the balance of the town is two acre lots with
2 clustering down to fifty thousand-foot lots.

3 MR. O'HAGAN: The zone A-3 is smaller
4 than forty thousand. That is in the neighbor-
5 hood of New Street and in that general neigh-
6 borhood. A-2 is where the forty thousand
7 square foot lots are and A-1 is the balance of
8 the town.

9 MR. FRIZELL: Which is about 95 percent
10 of the town, I think, we calculated.

11 MR. O'HAGAN: A large percentage.

12 MR. FRIZELL: Laird's Applejack is
13 shown as industrial on the zoning ordinance?

14 MR. O'HAGAN: I am pretty sure that is
15 the case, yes.

16 Q It is basically two acre lots with clustering
17 down to fifty thousand-foot lots throughout 95 percent of
18 the undeveloped area in Colts Neck Township. Is that zoning
19 consistent with the objectives of the County Growth Manage-
20 ment Guide?

21 A We would like to see it boosted to -- I don't know --
22 ten acre, 20 acre, 50 acre. I don't know. It does not
23 address what we want to see in Colts Neck.

24 Q Why does it not address it? Is that because
25 the lots are too small to preserve agriculture and too large

1 to provide housing or what?

2 A Well --

3 Q From a general perspective?

4 A Well, again, you have to talk general. We feel the
5 lot sizes are too small to preserve agriculture in Colts Neck.

6 Q Are you aware that they are all developed on
7 septic?

8 A Yes.

9 Q Is this development of these fifty thousand
10 foot lots, and I understand they are clustered down from two
11 acre lots on septic in Colts Neck, consistent with the
12 county's objectives in terms of protecting the integrity of
13 the reservoir?

14 A It depends on how well they function. I don't really
15 know a good answer to that. I would say what we would like
16 to do and what we indicate on here is a buffer, a complete
17 buffer around the Swimming River Reservoir as the first step
18 to the protection of the reservoir. Further up, stay out of
19 the stream valleys which is indicated on this plan now. Now,
20 we have some septics in this area. As to what impact they
21 may have on the stream or the reservoir, I do not know,
22 unless you go out there and do some testing. So I don't have
23 a good answer for you on that.

24 Q Now, I take it that since you did not analyze
25 the particular development plans for this project, which is

1 what we call the Colts Neck Village Development, you are not
2 in a position to say what impact, if any, that development
3 would have on the Swimming River Reservoir?

4 A Well, I think what you are talking about is magnitude,
5 and I believe there is something in the vicinity of a thou-
6 sand units. I think when you talk on that magnitude, then
7 you are definitely talking about potential problems. I am
8 not saying that there will be problems, but you are talking
9 definitely potential problems, and you have some scattered
10 septic systems on one acre lots, you are talking about one
11 story. When you have a cluster of a thousand, 1200 units,
12 you are talking a different story.

13 Q In terms of talking two different stories,
14 depending on the design of the particular development, would
15 not the particular design of the development have a very sig-
16 nificant impact on the potential damage or environmental
17 impact on that development on the reservoir?

18 A It may certainly, sure, and we are more concerned
19 with secondary impacts from that development.

20 Q Are you aware that this particular development
21 proposes -- first of all, that this particular development
22 straddles Route 18 and has a package treatment plan outside
23 the Swimming River Reservoir? Are you aware of that?

24 A I recall that, I believe, from the last time around.

25 Q That some significant portion of the

1 development, certainly all that including everything south
2 of Route 18 and some part of it north of Route 18, in fact,
3 **drains** out of the basin of the reservoir?

4 A Drains to where? Do you know where it drains?

5 Q It drains down to Hockhockson below the reser-
6 voir into the Swimming River. Apparently, you were not
7 aware of that?

8 A Well, again, I remember some of it would and depend-
9 ing on where you located it. It is fine to look at a plan
10 and say you are going in here, and, you know, where it ends
11 up may be another story. Yes, in deed, if it was here, the
12 impact would be less because it is below the reservoir.
13 That is true. I can't deny that.

14 Q Now, are you aware of any studies that determine
15 the impact of the equine industry in Colts Neck on the qual-
16 ity in water in the Swimming River Reservoir?

17 A Yes.

18 Q What studies are you aware of?

19 A Well, there is a recent study. I forget who it was
20 ~~done by, but~~ it concerns, as a matter of fact, the Navesink
21 River more than the Swimming River Reservoir. I am not sure
22 who put it out, but; yes, there were some problems they had
23 indicated with the horse farms. Right now, there are methods
24 being implemented that would decrease that problem into the
25 proper storage of manure on the farms in the area, and that

1 is being implemented now by our soil conservation service
2 here in the county.

3 Q Who has possession of the study about the
4 Navesink River?

5 A I believe we have a study in the office here.

6 Q When we are finished, I would appreciate that.

7 A I might add that it has been disputed by our own
8 agricultural agents, also. There are two sides to the story.

9 Q Are you aware of the existence of any environ-
10 mental impact studies for the Route 18 freeway here at the
11 county?

12 A Yes, there was one done.

13 Q Was that done by the State?

14 A Well, a consultant for the State.

15 Q Is that available?

16 A It might be. I think we might still have that.

17 Q Now, are you aware of how many package treat-
18 ment sewerage plants currently exist in Colts Neck Township?

19 A No, not offhand. We do have a sewer facility map
20 that is being updated. I think 1979 was the date of it or
21 1978, which indicated all sewerage treatment plants in the
22 county.

23 MR. O'HAGAN: Well, is there not one
24 attached to the Growth Management Guide?

25 THE WITNESS: Sewered areas, but not

1 actual facilities.

2 Q Now, referring to the Colts Neck Township Master
3 Plan, what does it provide for the area west of Route 34 near
4 the Route 537 intersection?

5 A West of Route 34?

6 Q Are you aware where the Orgo tract is?

7 A Yes.

8 Q It is this tract here which I am referring to.
9 It has an S on it.

10 A Right.

11 Q Also, a circle. What does the Municipal Master
12 Plan provide for this tract in this area?

13 A Well, it appears that some of it is, most of it is,
14 low density residential and farming development with some
15 commercial shopping center along Route 34, and then the
16 lower portion, some research and development. We are speak-
17 ing of this entire tract, are we not?

18 Q Yes.

19 A Okay. So it is basically split between those two
20 types of uses.

21 Q Split between low density research and develop-
22 ment, shopping center, and the low density residential and
23 farming development?

24 A Split by power lines.

25 Q Is that inconsistent with the County Growth

1 Management Guide for that area?

2 A Yes.

3 Q Has the county, to your knowledge taken any
4 formal position advising Colts Neck that this is not consis-
5 tent with the current Growth Management Guide?

6 A Not unless we had received a zoning change or a master
7 plan revision since October of 1981, no. We did send all the
8 towns a copy of our guide. However, we did not send out a
9 letter to each and every town where there were inconsistencies.

10 Q In the preparation of the Growth Management
11 Guide, what determines whether a town receives a town center
12 designation versus a village center designation? I note that
13 Farmingdale is called, town center, and Colts Neck is a
14 village center.

15 A Yes.

16 Q Is there any explanation in the text as to why
17 one would be called a village center and one would be a town
18 center?

19 A Yes, I think there is an explanation in the text.
20 Obviously, Farmingdale is a large borough in terms of boroughs.
21 Probably 90 percent developed right now with a sizeable popu-
22 lation. You are talking about a farming community, and,
23 again, we felt that this was the most appropriate spot to
24 concentrate any type of development that may take place in
25 this portion of our limited growth area, try to channel this

1 growth in the Farmingdale area where you have a downtown, so
2 to speak, shopping area. You have other services within
3 Farmingdale as you do not in these other villages.

4 Q Are you saying that there is better commercial
5 services available in Farmingdale than there is at the inter-
6 section of Route 537 and Route 34?

7 A Definitely. It is a downtown. Farmingdale is a down-
8 town. I would not consider the intersection of Route 34 and
9 Route 537 a downtown where one would be walking up Route 34
10 to commercial facilities, whereas in Farmingdale, yes, you
11 can in fact walk to commercial facilities.

12 Q Is that the determinate, the fact that you can
13 walk to the facilities, or the volume of the facilities that
14 was the determinate.

15 A That was one reason. It was one of many. Again, our
16 primary objective in this area, Colts Neck and Holmdel, is
17 to preserve the primary agricultural land, the farming com-
18 munity, the horse industry, in those areas, protection of the
19 Swimming River Reservoir. Down in Farmingdale, it was not
20 ~~was~~ a critical situation. Yes, you do have farmland and we
21 ~~have~~ indicated this area here as farmland, but you do not
22 have all the critical concerns as you do in Colts Neck and
23 Holmdel.

24 Q How much roughly of Monmouth County do you know
25 is in an area where the surface waters ultimately become part

1 of the public potable water supply?

2 A I don't understand the question.

3 Q You have adopted a policy because there are
4 surface waters which fall in Colts Neck and become part of
5 the Swimming River Reservoir. How much of the county in
6 total, percentagewise, is part of the surface area where the
7 water, the rain water that hits that area, becomes part of
8 the potable water supply? Do you know?

9 A I don't know offhand.

10 Q Is it more than 50 percent of the county, do
11 you know?

12 A Served by surface water?

13 Q In other words, you are concerned here in terms
14 of the reservoir, that the surface waters become part of a
15 public potable water supply?

16 A Yes.

17 Q My question is, are there not other areas in
18 the county in which the surface water is also part of the
19 public potable water supply?

20 A There are some, yes.

21 Q How much of the county, for instance, serves
22 as a recharge area for the actifers which are used with the
23 potable water?

24 A You are out of my league. I would have to rely on
25 Bob Huguley.

1 Q If an economic development economy occurred at
2 the Route 34 and Route 537 intersection, that is if a major
3 industrial concern, offices, research and development, were
4 to come along, a Bell Labs, Westinghouse, or some other in-
5 dustry, would the county take a position opposed to that
6 development at that site?

7 A Yes.

8 Q Have they ever taken a position opposed to a
9 similar development in Monmouth County?

10 A Yes.

11 Q Where was it?

12 A Bamm Hollow.

13 Q What was being proposed?

14 A About two million square feet of office space.

15 Q That was at the Garden State Parkway and what
16 exit?

17 A Well, there was no exit there. It was between 109
18 and 114.

19 Q What did the county do?

20 A We were requested by the Township of Middletown to
21 review the project in relationship to our plan, in which we
22 did, and we issued a statement to the Township of Middletown
23 in opposition to the development.

24 Q Was Middletown Township itself favoring the
25 development or opposing the development?

1 A Well, they turned it down. So it was split. There
2 were some that were favoring it and there were some that were
3 opposed.

4 Q What were the reasons? Bamm Hollow is in the
5 growth area, is it not?

6 A No.

7 Q Is that up in here?

8 A Yes, Bamm Hollow is right in this area right here.

9 Q What were the reasons that the county took its
10 position?

11 A Basically because it is in a limited growth area, the
12 impact of traffic problems, creating a new sprawl into the
13 agricultural area of the county.

14 Q Are there any issued reports on that?

15 A Yes.

16 Q Were there any others besides that where you
17 were aware that the county came out and opposed a develop-
18 ment?

19 A Yes, there are others. Not quite as significant, say
20 ~~as~~ this one. Are you talking particularly in this type of
21 situation where there is a facility in the limited growth or
22 anything else you are speaking of, because we have opposed
23 highrises in Monmouth Beach.

24 Q I am talking about research office, research
25 facilities. With Pru-Pac in Holmdel, what position did the

1 county take with respect to Pru-Pac?

2 A That was up prior to the adoption of this plan.

3 Q Of the Growth Management Guide?

4 A Yes.

5 Q Do you know what position they took with re-
6 spect to Pru-Pac?

7 A I don't know. I don't even know if they commented on
8 it. I don't recall, and as you can see, we do not indicate,
9 even in the area of Pru-Pac and Bell Labs, we do not indicate
10 any office research node there. It is existing, and we do
11 not endorse any further expansion in Holmdel.

12 Q In fact, is it not true that the County of
13 Monmouth promoted Pru-Pac and encouraged its development in
14 Holmdel? Mr. Halsey, in particular, sponsored Pru-Pac for
15 a Good Neighbor Award with the New Jersey Association of
16 Business and Industry?

17 A He might have.

18 MR. O'HAGAN: I would object to the form
19 of the question. We are sort of mixing apples
20 and oranges. First, I understand, Mr. Frizell,
21 you are talking about sponsoring it and en-
22 couraging it, and finally, after it was built
23 you are talking about some kind of an award.
24 I do not know if that is a fair question and I
25 would object to the question on that basis.

1 Q What office at the county takes the role of
2 promoting economic development in Monmouth County?

3 A The Department of Economic Development.

4 Q How many people, do you know, are employed by
5 Bell Labs in Holmdel?

6 A In Holmdel, an excess of 4,000.

7 Q That is a limited growth area?

8 A Yes.

9 Q How many people are employed by Pru-Pac in
10 Holmdel, do you know?

11 A No, I don't know offhand, but I would imagine over a
12 thousand.

13 Q That is also in the limited growth area as
14 shown in your Growth Management Guide?

15 A Yes.

16 Q I only have one more question. In your affi-
17 davit, on page 5, paragraph 12, you say, "We do not encourage
18 either the extension of utility lines or the development of
19 private systems intended merely to serve a proposed a develop-
20 ment."

21 Now, is this statement not inconsistent with
22 the Growth Management Guide that talks about a community sep-
23 tic system and/or package treatment center for the village
24 designation on your Growth Management Guide?

25 A No, I don't believe so. We are talking about public

1 water and sewer lines. They are not a septic system or
2 package treatment plant. No, I would not say that is incon-
3 sistent.

4 Q You mean the form of ownership is the differ-
5 ence? You would discourage private development of utility
6 systems?

7 A Yes. I think you have to read the entire number 12.
8 "It is our view that it is wasteful to develop in virgin
9 areas as water and sewer lines would either have to be ex-
10 tended, or otherwise provided for, roads developed, et
11 cetera."

12 Here we are talking basically your systems that are
13 in place now as you would not have to extend those into un-
14 developed areas.

15 Q Well, do you know what is proposed for this
16 particular development?

17 A No, except the package. I would assume that it would
18 have to be a package plant.

19 Q Do I understand then that your reference to the
20 "development of private systems intended merely to serve a
21 proposed development," does not refer to the type of package
22 plant that we are proposing for this particular project?

23 A I think you are being real picky over semantics here.

24 Q I do not mean to be. I only mean to understand
25 whether or not what you are saying here is directed towards

1 my client's project or not. If it is not relevant to my
2 client's project, then you are correct, I do not care about
3 it.

4 A I would say what this was representing was basically
5 public monies to extend existing water, public water and pub-
6 lic sewer lines into an undeveloped area.

7 Q So if our project proposes completely a private
8 funded package treatment plant, do I understand then that
9 this paragraph would not apply to it?

10 MR. O'HAGAN: Are you talking about the
11 entire paragraph, as Mr. Clark read something
12 different than you did, Mr. Frizell?

13 MR. FRIZELL: Yes, the whole paragraph
14 that he is talking about in this paragraph the
15 wasteful use of monies.

16 A I think you could possibly make a case for some of
17 that being deleted or at least debated.

18 Q Some of what you said in this paragraph?

19 A Quite possibly it would be debated.

20 Q As it applied to our development, you mean?

21 A Well, again, any development. Not necessarily just
22 this one. Any development in the county.

23 Q You are aware, are you not, of the current DEP
24 position concerning private development utility systems?

25 A Yes.

1 Q Could you describe your understanding of that
2 for us?

3 A I rather respond to a question, if you have a ques-
4 tion about it.

5 Q Does the DEP encourage the private development
6 of utility systems currently with private capital?

7 A Yes and no. That is supposedly their intent. They
8 would like to get out of the giving out of grants for sewer
9 lines, yes.

10 Q Without having reviewed the particular plans
11 for this development, how do you come to any conclusions re-
12 garding the potential secondary impacts of the development
13 on the surrounding area?

14 A Well, again, we did not look at the plans per se. I
15 did not know the layout, but I do understand what is involved,
16 as I said, in excess of a thousand units. Some commercial,
17 et cetera. Just that in itself, I believe, is enough to
18 assess impact, secondary impacts in the area, in an area that
19 we have designated primarily for agriculture and the preser-
20 vation of the horse industry.

21 Q Let me just break that down for a moment. You
22 could not assess its impact on the reservoir without knowing
23 something about how it was going to drain at all towards the
24 reservoir, or how the sewerage treatment was going to be
25 handled?

1 A That is true.

2 Q Now, regarding the horse industry, do you know
3 where the nearest horse farm is to this particular develop-
4 ment?

5 A Let me just say that in addition to horses, you have
6 livestock, and there is a livestock farm next to the Orgo
7 Farms, I believe.

8 Q Do you know anything about this livestock farm?

9 A No, just what I see.

10 Q That there is cattle on the property?

11 A Yes. Again, when we are talking secondary impacts,
12 we are talking what follows a development of a thousand
13 units: shopping centers, gas stations, fast food, more
14 development, more services, et cetera.

15 Q Have you done any particular analysis or study
16 of what the potential secondary impact of this particular
17 development would be in Colts Neck Township or are you just
18 generalizing?

19 A I think it is basically a fact, at least in the State
20 of New Jersey, if you would look at a development at inter-
21 changes along in the State of New Jersey, that there is good
22 factual data as to what happens, the scenario of any type of
23 development like this.

24 Q Where would I get this good factual data?

25 A You would probably have to go out and do studies.

1 Q You are not aware of any presently?

2 A We may have something here in the office that talks
3 about secondary impacts. If I can find it, certainly I will
4 make it available to you.

5 Q If there were zoning controls on the surround-
6 ing properties, why would those zoning controls not be just
7 as effective in reducing and protecting existing zoning con-
8 trols or at least as you propose them, in preventing it in
9 the first place?

10 A Well, I don't think that any zoning controls are going
11 to help a situation such as this. This kind of impact that
12 you are talking about, you know, the guy next door says, well,
13 you got this. How about me, and that is a scenario of what
14 happens in any town. You know, you get your foot in the door
15 and --

16 Q Does not the principle that you expound in the
17 Growth Management Guide of concentrating development from
18 limited growth areas in both town centers and village cen-
19 ters, is not that policy directed toward zoning controls in
20 the outlying areas and the promotion of clustered and high
21 density development within the village and/or town center
22 areas?

23 A No, not in the village. Again, we talk about a speci-
24 fic number, 200, and that is why we did put in 200, so it is
25 quite clear that we are talking about a very small tight knit

1 village. Town centers are much larger. We are talking about
2 five units to the acre. We actually put a density on there
3 and we are talking many more people in a town center rather
4 than a village.

5 Q Talking about the town center for the moment,
6 does not the policy you expound assume there is going to be
7 zoning controls in the surrounding limited growth areas that
8 are going to be effective?

9 A We hope that they would be.

10 Q So would it not be effective in terms of
11 Colts Neck if they are going to be effective in terms of
12 Farmingdale?

13 A Well, I was talking in general. I do not think there
14 are any zoning controls right now that are truly effective
15 and we are working on a study right now hopefully that the
16 town will be able to use, growth management techniques, agri-
17 cultural districting, and buying of development easements or
18 credits or what have you. Those things are not in the works
19 right now. Those are the true controls that I see, not just
20 zoning.

21 Q Would the installation of a package treatment
22 system which would service the Route 537 and Route 34
23 Colts Neck Village area, would that promote protection of the
24 water quality of the reservoir or would it tend to detract
25 from it?

1 MR. O'HAGAN: Taken alone, you mean?

2 MR. FRIZELL: The installation of a
3 waste water treatment in that area.

4 MR. O'HAGAN: Taken alone as I under-
5 stand the question?

6 MR. FRIZELL: Yes.

7 A That would go Hockhockson.

8 Q That would go Hockhockson?

9 A Yes.

10 Q Are you aware that the Colts Neck Inn has a
11 sewer treatment plant that discharges into the basin of the
12 reservoir?

13 A Yes, at least it is indicated on our sewer map that
14 there is such a facility.

15 Q All of the commercial, the rest of the commer-
16 cial along Route 34 is all septic, is it not?

17 A Yes.

18 Q All of the village area that currently exists
19 in Colts Neck, at that Colts Neck Village, is on septic?

20 A Yes.

21 Q Do you think that affordable housing for low
22 and moderate-income families could be developed at five units
23 per acre? Have you ever attempted to determine that?

24 A No, I don't see why they couldn't be. There are low-
25 income units at five units to the acre in places in Monmouth

1 County.

2 Q Have you done any particular studies in terms
3 of what densities are required in order for a private devel-
4 oper to bring affordable housing? When I say, affordable,
5 I am referring to housing that is affordable by low and
6 moderate-income families in Monmouth County. Have you done
7 any particular studies that would determine what densities
8 are required in order to provide affordable housing in
9 Monmouth County?

10 MR. O'HAGAN: That is without public
11 subsidies?

12 MR. FRIZELL: Without public subsidies.

13 A Without public subsidies I do not think it can be done.

14 Q I see you have a copy of the Tri-State Region
15 Planning Commission Map on your wall. Are you generally
16 familiar with the Tri-State Region Commission, what it was?

17 A Sure.

18 Q It has now been disbanded, is that right?

19 A Yes.

20 Q In the document entitled Regional Development
21 **Guide**, they promote the use of planned development techniques
22 for the purpose of preserving critical areas. Is that con-
23 sistent with the county's position in terms of techniques
24 that are available to ~~preserve~~ critical areas in a given juris-
25 diction or region?

1 A I don't recall what techniques are included in there.
2 I would have to look at it.

3 Q Well, does the county encourage planned unit
4 development?

5 A Sure. Well, yes, cluster I would say is what we en-
6 courage.

7 Q Do they encourage planned unit residential
8 development on a large scale?

9 A It is not specifically mentioned, no.

10 Q Besides the village center designation at the
11 intersection of Route 537 and Route 34, is there any other
12 part of Colts Neck that is shown for anything other than the
13 limited growth?

14 A No.

15 Q Assuming that Colts Neck Township had to, for
16 Constitutional reasons, had to have a development which would
17 include affordable housing for low and moderate-income fami-
18 lies, in order to be most consistent with the County Growth
19 Management Guide, where would it be located?

20 A Well, to be most consistent, I would say over by
21 Water Street close to the Tinton Falls boundary.

22 Q How would that be consistent? Isn't that
23 shown as limited growth?

24 A Yes, it is, but I think your question is if it had
25 to be done for Constitutional reasons, and that would be the

1 most desirable and the least offensive to this plan because
2 it is on the fringe of the growth corridor.

3 Q Why would the development of affordable housing
4 in the Colts Neck Village area be offensive to your plan?

5 A Again, you are talking development. I am not talking
6 low income.

7 Q I am talking about the development of afford-
8 able housing?

9 A Again, at what scale are you talking about? Yes,
10 there could be some units out in Colts Neck Village that may
11 be for lower-income families. I see no problem with that.
12 There could be units anywhere.

13 Q What is the magnitude at which you would gen-
14 erally, and I do not want to pin you down to a specific
15 number, what is the magnitude of which you think that the
16 overall development could reach and still not be offensive to
17 your plan? I assume that 200 units over some time frame,
18 the time frame of that plan, would not be inconsistent, is
19 that right, total units?

20 A Total units, 200, yes.

21 Q If it got to be 500 units, would that be offen-
22 sive to your plan?

23 A Yes, I think it would be.

24 Q Would anything over 200 units be offensive to
25 your plan? I do not want to pin you down. I want to get a

1 general feeling.

2 A The general feeling is around 200 units, plus 50 on
3 each side. Again, this is a conceptual plan. I think you
4 have to realize that when we are talking approximately 200
5 units, yes, if it went up to 500 units, that is 150 percent
6 more than was indicated, and I would say, yes, that is prob-
7 ably too much. That is not what we had in mind.

8 Q Is the subdivision of single-family houses in
9 Colts Neck Township, throughout the township, on fifty
10 thousand foot lots clustered down from two acres consistent
11 with the plan?

12 A No.

13 Q We can agree that, that is what happened in
14 Colts Neck since 1960, roughly?

15 A Yes.

16 Q That has gobbled up, if I can use the word, a
17 lot of farmland and a lot of agricultural land and open
18 space?

19 A Yes.

20 Q Would the continued development of Colts Neck
21 along those lines be consistent with the County Growth Manage-
22 ment Guide?

23 A No.

24 MR. FRIZELL: I have no other questions.

25 CROSS-EXAMINATION BY MR. LOCASCIO:

1 Q Mr. Clark, just before the last line of ques-
2 tioning, Mr. Frizell asked you to assume Colts Neck had to
3 have low and moderate-income housing. You indicated if that
4 was necessary, then the least offensive place would be over
5 by the Tinton Falls area, is that correct?

6 A Yes.

7 Q Would you show me that?

8 A In this area right here. This is the dividing line
9 here. Water Street and Tinton Falls Inn is right here.

10 Q That would be adjacent to the farm of
11 Mr. Brennan, is that correct?

12 A Yes, basically behind that.

13 Q How many acres is the Brennan farm, do you
14 have any idea?

15 A I don't.

16 Q It is big?

17 A Yes.

18 Q That is recently being developed as an exten-
19 sive horse farm, is that correct?

20 A Yes.

21 Q As far as you know, there are no plans to
22 develope that area for low and moderate-income housing, is
23 that so?

24 A Not that I know of.

25 Q Assuming that tract is not available, where

1 would be the next best place to develop low and moderate-
2 income housing consistent with your Growth Management Guide?

3 A Well, again, it depends on how many units we are
4 talking about. If we are talking about to meet the needs of
5 the existing population, low-income population in Colts Neck,
6 I could see some units possibly right in the village area
7 that exists right now. Quite possibly, maybe some housing
8 on some of the farms to provide housing for farm workers
9 which, again, I am assuming that these are low-income people
10 in Colts Neck, farm workers, things like this. Possibly you
11 could put up some units right on the farms.

12 Q You do not know what the need is?

13 A I don't know, no. Other than that, I can't see of a
14 new development. Mainly, I am looking and I don't see any
15 employment opportunities. That is why I mentioned this area
16 closer to Tinton Falls because you have direct access to
17 Eatontown industrial area and you do have a lot of employ-
18 ment activity and opportunities there. There is not a whole
19 lot out here.

20 Q Would you agree there is a lot of employment
21 opportunities in Freehold?

22 A In Freehold, well, yes.

23 Q Would you then agree that another possible
24 good choice or more acceptable area would be on the border
25 of Colts Neck and Freehold looking on the roadway of

1 Route 537 specifically?

2 A Well, again, I don't think we would like to see any
3 concentration of any development, whether it be low income
4 or otherwise, along Route 537 in that area.

5 Q Why is that?

6 A Well, again, it is in our limited growth area.

7 Q Well, actually, with respect to your limited
8 growth area, with respect to the vicinity of Route 537 and
9 the borderline of Colts Neck -- in other words, what I am
10 talking about, west of Route 18 and from that Route 18, west
11 to the boundary line of Colts Neck, okay, that is the area I
12 am talking about, and off of Route 537, okay, with respect to
13 that area, although you presently, in your Growth Management
14 Guide have it listed as a limited growth area, right?

15 A Yes.

16 Q Your previous 1969 General Development Plan had
17 it listed definitely, is that so?

18 A Right.

19 Q What was it listed at in the 1969 plan?

20 A Low density at half a unit to 1.9 units an acre.

21 Q Do you know the rationale changing from the 1969
22 General Development Plan, which allowed up to 1.9, almost two
23 units per acre, to a limited growth area in the 1981 Growth
24 Management Guide? Do you know why that change was made?

25 A This did not make any sense.

1 Q Why not?

2 A It just does not make any sense. Why is this one area
3 so different than here and so different from here? We never
4 understood why that was. There is no difference between this
5 area and this area. Our line basically follows the ridge
6 line and that is the rationale for our line that divides
7 limited growth from the growth corridor. There was no such
8 rationale in here.

9 Q When you made the change or the line at the
10 ridge which makes it a limited growth area on your Growth
11 Management Guide, were you aware of the fact that the State
12 Development Guide Plan specifically designates that area that
13 I have been talking about as a growth area?

14 A Yes.

15 Q There is no question that it does, correct?

16 A It does. It does come into Colts Neck at that area.

17 Q That specific tract that I am talking about,
18 which is west of Route 18 and south of Route 537 and at the
19 line of Colts Neck, that is presently designated by SDGP as
20 a growth area?

21 A According to the map it is.

22 Q Of course your Growth Management Guide is con-
23 trary to the SDGP?

24 A Yes.

25 Q Did you discuss with the State planners or

1 anyone from the State your decision or the county's decision
2 to make your Growth Management Guide contrary to the SDGP?

3 A We have many decisions with them. We felt that
4 through discussions we got to a point where it was basically
5 a compromise. Okay. They had it further extended into
6 Colts Neck. I believe at the beginning we got them to tight-
7 en up the corridor development somewhat, but not as far as we
8 went. We were in the process of doing this planning at that
9 time. This plan was not completely done. So we were looking
10 at this one and with our new philosophy on the planning com-
11 mittee. So we did not know exactly where our line was going
12 to go, but we felt that things should be tightened up for the
13 Route 9 corridor.

14 Q You did indicate that you talked with the State
15 planners and they had wanted the line of the growth area to
16 go even further east of where their present line is, is that
17 correct?

18 A I believe it is and even went up into Holmdel, also.

19 Q I am not concerned about Holmdel. I am con-
20 cerned with Colts Neck. How much further east of the SDGP's
21 present line with respect to growth area did it extend into
22 Colts Neck?

23 A I don't really remember. I don't know. They had
24 various maps. We must have looked at ten, 12 different sets
25 of maps that they had and go back and advise and bring it

1 back. We had that kind of communication.

2 Q In any event, eventually after discussions
3 with the county, the State decided to move their line fur-
4 ther west, but still through this line in such a fashion that
5 the growth area did extend into Colts Neck, is that correct?

6 A Yes, it did.

7 Q So that was not an unintentional decision by
8 the State, that was a conscious decision at the meeting with
9 Monmouth County Authorities to draw their line in such a
10 fashion that the growth area went into Colts Neck, correct?

11 MR. O'HAGAN: He does not know whether
12 it was conscious or unconscious.

13 MR. FRIZELL: Excuse me a minute. I am
14 playing judge here. There are three people
15 talking at one time.

16 Q It was a conscious decision to run the growth
17 area into Colts Neck, correct?

18 MR. O'HAGAN: I object to, conscious.
19 He does not know why they did it.

20 Q There is no question that they discussed it
21 with Monmouth County before they did it, correct?

22 A Yes, we did it, also.

23 Q You did it a different way?

24 A That is right.

25 Q You talked about private package sewer plants

1 with respect to development. This is an important considera-
2 tion where a development will run its sewer lines, correct?

3 A Yes.

4 Q Is that right, Mr. Clark?

5 A Yes.

6 Q Specifically, in paragraph 8D of your affidavit
7 you indicate that one of the reasons, one of the several
8 reasons enumerated there of why you feel that the growth in
9 Colts Neck should be limited for certain reasons which in-
10 clude the following, and under D you put, "A desire on the
11 part of the Monmouth County Planning Board to channel growth
12 into areas which are presently served by utilities," correct?

13 A Yes.

14 Q Now, I would like to skip over to paragraph 13
15 of your affidavit where you say, "Extension of development
16 away from the development corridors into the middle of a
17 limited growth area serves to consume too much land," cor-
18 rect?

19 A Yes.

20 Q Now, let us stop there for a minute and go
21 back to the same tract that I was talking about before west
22 of Route 18 and to the boundary line of Colts Neck. That
23 certainly is not in the middle of the limited growth area,
24 is it?

25 A No.

1 Q It just on the edge of it, correct?

2 A Well, I would say the apartments on Kloslosky Road is
3 the edge of it.

4 Q So it is adjacent to the growth area by your
5 Growth Management Guide?

6 A It is more than adjacent.

7 Q How far is it?

8 A Well, let us see. Well over a mile.

9 Q From your line?

10 A Yes.

11 Q Then you go on in paragraph 13, "As it would
12 be better if development would be in the growth areas or
13 immediatly adjacent to the growth areas in order to conserve
14 land," correct?

15 A Yes.

16 Q Would you consider that tract that I have been
17 talking about to be immediately adjacent to the growth area?

18 A No.

19 Q No?

20 A No.

21 Q How far away from the line is immediately adja-
22 cent to the growth area?

23 A Adjacent means up against, I believe, is the defini-
24 tion.

25 Q Okay. How about immediatley adjacent, how far

1 do you go from the line?

2 A Immediately, I don't know. I have to look up the
3 definition of immediately.

4 MR. O'HAGAN: It is closer than that.

5 A It is a little further away than adjacent. How far,
6 I don't know.

7 Q A mile?

8 A It could be. Maybe two.

9 Q Now, I would like to go to paragraph 11 of your
10 affidavit where you talk about the Monmouth County Planning
11 Board taking the view that the development in these areas we
12 are talking about, growth and limited growth areas, I guess,
13 is proper as the residence would be adjacent to sources of
14 employment, shopping centers, and markets, good road systems,
15 and would be able to utilize existing utilities, correct?

16 A Yes.

17 Q Now, would you agree that the tract of land
18 that I have been talking about, and just so we can use a
19 catch phrase, we will talk about the Sea Gull tract, would
20 you agree if that were developed, residents of that area
21 would be adjacent to sources of employment, namely, Freehold?
22 Would you agree with that?

23 A They would be in the vicinity, yes.

24 Q Would you agree that if that is the case, then
25 they would be adjacent to shopping centers and markets in

1 Freehold, correct?

2 A In a vicinity, sure.

3 Q Certainly would you agree that if that were the
4 case, residents of that development would be in the vicinity
5 of or adjacent to good road systems of Freehold? Would you
6 agree with that?

7 A Possibly, yes.

8 Q Would you also agree then that residents of
9 that particular development on the Sea Gull tract would be
10 able to use or utilize existing utilities?

11 A No.

12 Q Let us talk about that. When you are talking
13 about existing utilities, you are talking about sewerage, is
14 that one of your main concerns?

15 A Sure and water.

16 Q Is it not a fact that this Sea Gull tract that
17 I have been talking about is approximately between 100 and
18 200 feet from the Freehold Area Sewer System -- I do not know
19 if it is the Freehold or the Manasquan, but is it not a
20 regional system? I would like you to check that for me.

21 MR. O'HAGAN: Do you mean, Mr. Locascio,
22 so we are sure what you are talking about, do
23 you mean 100 to 200 feet from a collector line,
24 is that what you mean?

25 MR. LOCASCIO: I would like him to look at

1 it and tell me.

2 MR. O'HAGAN: I do not know how he can
3 answer it.

4 A I would have to look at the sewer line map. I am not
5 sure how far the sewers extend in that area.

6 Q Do you have any of those in the office here?

7 A Yes.

8 Q Could we get one?

9 A Yes.

10 Q Is it not attached to the Growth Management
11 Guide?

12 A This is service area, I believe, in here and it really
13 does not tell you the exact pattern of where the lines are.

14 Q If you will just have that brought up. I will
15 have other questions.

16 MR. FRIZELL: Off the record.

17 (Discussion held off the record.)

18 A Yes, this development right here is served by sewers.
19 I do not know what the heck that is all there, Apple Tree
20 or Apple Brook or something.

21 Q You are presently looking at the Monmouth
22 County Sanitary Sewerage Facilities Map, I guess, you would
23 call it. What is the date of this thing?

24 A 1980.

25 Q Having looked at that, could you now answer my

1 question as to how far the Sea Gull tract is from the closest
2 sewer hookup facility?

3 A It is close.

4 Q How close?

5 A How close?

6 Q One hundred to 200 feet?

7 A Yes.

8 Q Could you be a little more specific from your
9 scale?

10 A No, I wouldn't want to trust the accuracy. You want
11 to know exactly?

12 Q If you could.

13 A You could be talking a couple hundred feet.

14 Q So what you are saying is that the Sea Gull
15 tract is about 200 feet from a sewer connection?

16 A Assuming that the tract does go right up to the bound-
17 ary.

18 Q Of Colts Neck?

19 A Freehold Township, Colts Neck, yes, a couple hundred
20 feet.

21 Q As far as you know, is that particular sewer
22 facility have the capacity to take additional sewerage?

23 A Not presently, but with the Manasquan River Regional
24 Sewer System coming through, yes.

25 Q When is it coming through?

1 A Well, it is under construction now.

2 Q Do you know when it will be ready?

3 A The Freehold Plant will be turned into a pumping sta-
4 tion some time in the near future.

5 Q Do you have some kind of a target date as to
6 what you are talking about? Months?

7 A A couple of years.

8 Q It would be able to take --

9 A That is in the plans.

10 Q Now, by the way, that connection you have just
11 referred to a couple hundred feet away would also be able to
12 provide city water?

13 A The water, I don't know. I don't know where the water
14 lines are. I would imagine that they are probably -- there
15 is East Freehold Water Company, I believe, up in this area.

16 Q About the same area?

17 A It may be. Again, I would have to look at a water
18 facilities map.

19 Q Do we have that here?

20 A We have to have it brought up.

21 MR. LOCASCIO: Mark this.

22 (Monmouth County Sanitary Sewerage
23 Facilities Map received and marked Plaintiff's
24 Exhibit PG-1 for Identification.)

25 Q Now, going back to paragraph 11 of your

1 affidavit which was the last one we have gone through, the
2 source of employment, the shopping centers, the markets, the
3 road systems. Now that you have seen that this Sea Gull
4 tract is about 200 feet away from a sewer hookup, would you
5 agree that the development in this area would be such that
6 the residents could use existing utilities?

7 A Well, with a short extension.

8 Q You are now looking at the Monmouth County
9 Water Supplies Facilities, 1980, also?

10 A No, 1978.

11 Q Is that the one presently in existence now?

12 A Well, there are changes that have to be made to this,
13 but this is a water system in the same area that we are speak-
14 ing about and it looks about the same distance where you
15 could possibly hook in a six-inch line.

16 Q That is also about 200 feet away from the
17 Sea Gull tract?

18 A Yes.

19 MR. LOCASCIO: Let us have that marked.

20 (Monmouth County Water Supply Map re-
21 ceived and marked Plaintiff's Exhibit PS-2 for
22 Identification.)

23 Q Now, assuming a development on the Sea Gull
24 tract could tie in both the sewer and water, there would be
25 no need for a private package plant, correct?

1 A Correct.

2 Q Looking at the two documents in front of you,
3 PS-1 and PS-2 for Identification, can you tell us approxi-
4 mately how large a development those two facilities or
5 utilities could facilitate?

6 A No, I can't tell you that unless I talk to the water
7 company, et cetera.

8 Q Now, going back to paragraph 8D of your affi-
9 davit, you indicated, "A desire on the part of the Monmouth
10 County Planning Board to channel growth into areas which are
11 presently served by utilities," okay?

12 A Yes.

13 Q Would you agree that the Sea Gull tract is one,
14 although not presently served by utilities, certainly with a
15 very short extension could be served by utilities?

16 A Yes to your question, but --

17 Q Let me ask you another question to follow-up
18 on it.

19 MR. O'HAGAN: I thought he was trying to
20 finish an answer.

21 MR. LOCASCIO: He has answered it. I
22 would like to follow-up on it.

23 Q The Sea Gull tract that we are talking about
24 now, going right to your next paragraph you indicated that,
25 "It is our view that it is wasteful to develop in virgin

1 areas as water and sewer lines would either have to be ex-
2 tended or otherwise provided for, roads developed, et cetera."

3 Now, would you agree that if the Sea Gull
4 tract were developed, there certainly would not be much waste
5 if, in fact, it was certainly an extension of that 200 feet
6 or so for water and sewer?

7 A I believe this is related to the Orgo Farm case.

8 Q You are talking about your affidavit?

9 A Yes.

10 Q There is no question about that. Have you ever
11 discussed the Sea Gull tract at all?

12 A No.

13 Q So that was prepared before you knew anything
14 about the Sea Gull tract, correct?

15 A That is correct.

16 Q I understand that and I appreciate your clari-
17 fication of it.

18 A We are talking about picking out certain segments of
19 this testimony and then referring to this site.

20 Q I understand that. There is no question that
21 I am doing that, and that is what I am asking you, whether
22 the statements you make in your affidavit apply to the
23 Sea Gull tract, and that is what I am really asking you. It
24 seems like you are saying that many of them do not apply, is
25 that so?

1 A Some of them do not, that is correct.

2 Q That is because the Orgo tract does not have a
3 sewer system or water facilities there, and as far as you are
4 concerned, you cannot really run it that far up to the Orgo
5 tract, that is a long extension, correct?

6 A Yes, it is.

7 Q So the only feasible way of doing the Orgo
8 tract would be a private package plant, correct?

9 A Yes.

10 Q Whereas with respect to the Sea Gull tract, it
11 is certainly feasible that you would not need a private pack-
12 age plant at all. You can hook up 200 feet up to it?

13 MR. FRIZELL: Objection. It is not es-
14 tablished in the record. He just said he does
15 not know what the capacity in the line was. He
16 does not know what the capacity of the water
17 system is and he does not have sufficient
18 knowledge to answer that question.

19 Q Do you remember the question? Do you want it
20 read back? What were you going to say?

21 A There are lines existing. As to capacity or ability
22 to serve a development which we do not even know how many
23 units we are speaking of, cannot be determined at this time.

24 Q What I would like to know, going back to the
25 question, and then I will add to it the assumption that the

1 sewer and the water lines have the capacity to accept the
2 size of the development proposed, knowing that, I would like
3 to add to the question -- listen to the question.

4 MR. FRIZELL: I object to the form of
5 the question. The question answers itself.

6 MR. LOCASCIO: I rather have Mr. Clark
7 answer it.

8 MR. FRIZELL: It is an obscurity.

9 MR. LOCASCIO: I would like to have the
10 question read back.

11 MR. FRIZELL: I will object to the whole
12 line of questioning on another ground. The
13 way here for the plaintiff to make his case is
14 not to ask unretained experts opinion questions
15 about his tract in a generalized way that are
16 unrelated specifically to the County Growth
17 Management Guide. Mr. Clark and I tried at
18 least in most cases to direct our questions in
19 this regard. Mr. Clark is a county planning
20 director and we subpoenaed him to testify in
21 that capacity. In his affidavit, and again,
22 I tried to establish this early, he tried to
23 describe in a short way what the Growth Manage-
24 ment Guide provided for our particular tract,
25 and I am sure he would be glad to do the same

1 thing for you, but to get an unretained expert
2 who is not being paid to answer questions and
3 to do separate studies and to testify in a case
4 to give opinion-type testimony, I think it is
5 inappropriate and he certainly should be advised
6 that he does not have an attorney here, that
7 his only obligation is to answer questions as
8 they relate to his function as county planning
9 director and as directed to the County Growth
10 Management Guide.

11 MR. LOCASCIO: Would you now read back
12 the question, please, and remember the addition
13 I am making to it. If you do not remember, I
14 will be happy to add it later.

15 MR. O'HAGAN: Just before you do that,
16 I understood that we were reserving objections
17 except just as to the form.

18 MR. LOCASCIO: So was I.

19 MR. FRIZELL: All the objections are
20 still reserved.

21 (Pending question read back.)

22 MR. O'HAGAN: Why don't you rephrase the
23 question.

24 Q Mr. Clark, you have told us through your testi-
25 mony today and through your affidavit which we have gone over

1 to some length that one of the things that makes it, one of
2 the reasons you are opposed to the development of the Orgo
3 tract as proposed is because it would require the construc-
4 tion of a private package sewerage plant, correct?

5 A Yes, it is one of many.

6 Q It would be too far to run an extension of an
7 existing sewerage line to the Orgo tract, correct?

8 A That would be against our policy, yes.

9 Q However, having reviewed PS-1 and PS-2 for
10 Identification, would you agree that it would be feasible to
11 develop the Sea Gull tract without the construction of a
12 private package sewerage plant?

13 A I can't talk about the feasibility. You used the
14 word, feasibility. I don't know if it is feasible or not.
15 All I know, looking at PS-1 and PS-2, is that there are
16 existing sewer and water lines within approximately 200 feet
17 of the tract that you are talking about. That is basically
18 all I can say, and if the capacity is there, it may be feasi-
19 ble, sure.

20 Q Assuming the capacity is there and assuming it
21 is feasible because of the short distance, would that be
22 contrary to your plan?

23 A Yes.

24 Q That is because it is in the limited growth
25 section by your line, correct?

1 A That is correct.

2 Q I want to go to the next paragraph of your
3 affidavit, number 13. "A large scale development would re-
4 quire the development of shopping facilities sufficient to
5 handle the influx of people."

6 By the way, with respect to shopping facilities,
7 certainly Freehold has certain shopping facilities, not only
8 the borough, but also the township, correct?

9 A Correct.

10 Q Sufficient to handle additional peoples, cor-
11 rect? The merchants would probably love it, correct?

12 A Yes, I guess they would.

13 Q Now continuing, "In addition, various service
14 type businesses such as physicians, dentists, lawyers would
15 seek to locate their practices adjacent to concentrated resi-
16 dential development," correct?

17 A Yes.

18 Q Now, certainly physicians, dentists, and law-
19 yers are presently located within Freehold, correct?

20 A That is correct.

21 Q How far is the Sea Gull tract from Freehold
22 Center, roughly?

23 A About three miles.

24 Q Now, I would like to go to paragraph 14. "If
25 all of this development should come to pass as the result of

1 a single property being developed in a large scale fashion,
2 it might be that existing and/or proposed utilities would be
3 insufficient. Thought would have to be given to a municipal
4 wide utility system or possibly tying into an existing re-
5 gional system."

6 The Sea Gull tract which you now have looked
7 upon as being 200 feet from what sewer system?

8 A It is the Freehold Borough.

9 Q That is an existing regional system?

10 A It is an existing municipal system.

11 Q Which is about to be tied into the --

12 A The Manasquan River Regional System, but I think you
13 have to look at the paragraph before that because if all of
14 this development should come to pass, we are not only talk-
15 ing about your Sea Gull tract, we are talking about the sec-
16 ondary impacts in paragraph 13 that are associated with a
17 development.

18 Q I understand that. Now, I would like to ask
19 you, how did the mechanics of your affidavit come about?
20 Specifically, did you dictate it or did someone else dictate
21 and submit it to you?

22 A I met with Mr. O'Hagan where he discussed various
23 aspects of our plan. On another occasion, I was out ill, I
24 believe, and Mr. Huguley on the staff, and, I believe, a
25 couple other staff members met with Mr. O'Hagan and we

1 started putting down some language. It was then given to me
2 and I basically edited it and gave it back to Mr. O'Hagan.

3 Q Who dictated the first draft?

4 A I think it was an effort on behalf of myself, some of
5 my staff, and Mr. O'Hagan.

6 Q Now, I believe you said in response to one of
7 Mr. Frizell's questions about paragraph number 12 that you
8 do not encourage the extension of utility lines or that the
9 development of a private system intended merely to serve a
10 proposed development. I think you said something about that
11 you do not want to use public money to extend an existing
12 sewer or water facility, is that correct?

13 A That is correct.

14 Q You would not have any objection, however, if
15 a developer such as Sea Gull used their own private funds to
16 extend the sewer system that 200 feet, would you?

17 MR. O'HAGAN: That is in and of itself
18 viewing that aspect of the matter.

19 MR. LOCASCIO: That is correct.

20 Q You would have no problem with that, would you?

21 A If a developer used his own funds to connect?

22 Q That 200 feet.

23 A Well, if the question is just, you know, if a private
24 developer pays for an extension, I have no problem with it
25 assuming that it fits the other aspects of our plan, but I am

1 not endorsing the fact that this particular development ex-
2 tend 200 feet.

3 Q That is mainly because you do not know anything
4 about this development?

5 A I know nothing about it. You only told me about a
6 tract of land.

7 Q You talked about the Colts Neck Master Plan
8 which you reviewed, I believe, when Mr. Frizell asked you a
9 few questions, and you said something about the master plan
10 not being revised since your Growth Management Guide, do you
11 remember that?

12 A Yes.

13 Q Are you aware of the fact that there is pres-
14 ently a draft of ordinance and a draft of a master plan in
15 Colts Neck, which simply put, would extend your growth line
16 to include the Sea Gull tract? In other words, it would con-
17 form with the SDGP. Are you aware of that?

18 A No.

19 Q You are not?

20 A No.

21 Q In your discussions prior to your preparing
22 your affidavit or prior to your testifying today, you were
23 never advised that Colts Neck has a draft ordinance and a
24 draft master plan which make the Sea Gull tract fall within
25 a growth area?

1 A No.

2 Q They have never consulted with Monmouth County
3 as far as you know about extending the growth area from your
4 Growth Management Guide further east, so as to conform with
5 the SDGP?

6 A No.

7 Q Finally, Mr. Clark, I am not being facitious,
8 but taking this deposition in your office, I just happen to
9 note on the wall that you have a poster with several state-
10 ments, "Farmland, New Jersey, Shrinking Resource."

11 Is that one of your personal philosophies or
12 concerns about the fact that New Jersey's farmland is indeed
13 a shrinking resource?

14 A It is not only mine, it is the boards, and, I believe,
15 the board of freeholders since they are bonding for two
16 million dollars to purchase agricultural lands.

17 Q Is that philosophy one of the more significant
18 reasons why the line in your Growth Management Guide for
19 growth areas was drawn where it was, namely, contrary to the
20 SDGP?

21 A That is one.

22 MR. LOCASCIO: Thank you, Mr. Clark.

23 I have no other questions.

24 MR. O'HAGAN: No questions.

25 (Deposition concluded.)

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C E R T I F I C A T E

I, DOUGLAS L. PERKS, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the deposition of ROBERT W. CLARK, who was first duly sworn by me, on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Douglas L. Perks

Notary Public of New Jersey

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