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Colts Neck Twp. July 1984

Determination of Region +
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Report Author: Philip B. Caton of
Clarke & Caton

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DETERMINATION OF REGION AND FAIR SHARE
FOR COLTS NECK TOWNSHIP
AND
EVALUATION OF SITE SUITABILITY

Prepared for:

Honorable Eugene D. Serpentelli
Judge of the Superior Court of New Jersey
Ocean County Court House
Toms River, New Jersey

July, 1984

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JUDGE SERPENTELLI'S CHAMBERS

Honorable Eugene D. Serpentelli
Judge of the Superior Court of New Jersey
Ocean County Court House
C.N. 2191
Toms River, New Jersey 08653

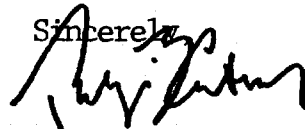
Re: Orgo Farms & Greenhouses, Inc. et al v. Twp. of
Colts Neck, Sea Gull Ltd. Builders, Inc. v. Twp.
of Colts Neck
Docket No. L-3299-78 P.W. - L-13679-80
P.W L-3540-84
Mercer County - Mount Laurel II

Dear Judge Serpentelli:

Pursuant to your Order of April 10, 1984 in the above-captioned case, I am pleased to submit herewith my report and recommendations on the issues of region, fair share and the suitability of the plaintiff's sites.

By copy of this letter I am also transmitting copies of this report to all counsel and planning experts.

Sincerely,



Philip B. Caton, P.P.

PBC:LN
Enclosure

cc: Edward C. Eastman, Jr., Esq.
David J. Frizzel, Esq.
Louis F. Locascio, Esq.
Robert W. O'Hagan, Esq.
Richard T. Coppola, P.P.
Carl E. Hintz, P.P.
R. Lee Hobaugh, P.P.
William Queale, Jr., P.P.

FAIR SHARE REPORT
FOR
COLTS NECK TOWNSHIP

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INTRODUCTION TO FAIR SHARE ANALYSIS

As the Court, counsel and planners involved in this case are well aware, a Concensus Methodology for determining region and municipal fair share has been formulated by some two dozen planners in the context of Urban League of Greater New Brunswick v. Carter et al. The framework and justification for the Concensus approach are documented in the Fair Share Report for that case which was submitted by the Court-appointed Master, Carla Lerman, on April 2, 1984.

This fair share analysis relies heavily on the Concensus Methodology for two reasons: first, it represents a rational approach to fair share determinations which is consonant with the technical guidance contained in the Mount Laurel II decision; and second, it constitutes a tremendously valuable opportunity to achieve consistency and predictability in an area which the Supreme Court described as "the most troublesome issue in Mount Laurel litigation" (92 N.J. 158 at 248). Broad use of the Concensus approach by the professional planning community will significantly reduce the "marass of facts, statistics, projections, theories and opinions sufficient to discourage even the staunchest supporters of Mount Laurel" (Ibid., p.248).

Notwithstanding the merits of consistency, the Preface to Ms. Lerman's report (p.2) specifically allows individual planners to present evidence pertaining to a unique situation in a given town which would justify a departure from the Concensus approach. This report contends that Colts Neck constitutes just such a case in which an alteration from the rigorous application of the Methodology is warranted.

Fair Share reports submitted by Richard Thomas Coppola and Associates, Hintz/Nelessen Associates and Queale and Lynch, Inc. were reviewed as part of this assessment. While the principals of each of these firms participated in the Concensus proceedings, their reports in this case were rendered prior to its completion. Consequently a variety of different approaches to Fair Share were evident. This report assumes that these pre-Concensus techniques have been subsequently abandoned. Accordingly, it will address only those technical issues which have been raised by the planners involved regarding the application of the Concensus approach to Colts Neck Township.

Finally, since the Concensus Report is well known to the participants in this case, this Fair Share assessment will not attempt to describe the justification for each procedural step. That basis has been amply supplied by Ms. Carla Lerman and recent reports by various planners including those mentioned above.

REGIONAL DETERMINATIONS AND SUMMARY OF FINDINGS

This Report finds that Colts Neck Township is located within two separate regions for purposes of allocating low and moderate income housing. The region for allocation of Present lower income housing need is comprised of Monmouth and Ocean Counties (see Map 1). The region for allocation of Prospective Need is a commutershed region comprising Middlesex, Monmouth and Ocean Counties (see Map 2). Both of these regions were determined in accordance with the Concensus Methodology.

The Fair Share for Colts Neck Township through 1990, as calculated according to an adaptation of the Concensus approach, is as follows:

Indigenous Need:	20 households
Surplus Present Need:	6
Prospective Need:	162
Total	188 households

This is the recommended Fair Share number. However, for the information of the Court and the parties involved in this case the municipal Fair Share number calculated according to strict adherence to the Concensus approach is illustrated below:

Indigenous Need:	20 households
Surplus Present Need:	5
Prospective Need:	148
Total:	173 households

Statewide data strongly indicates the composition of the lower income Fair Share to be distributed approximately 65% lower income and 35% moderate income. However, recognizing the economic realities of providing affordable housing to those of lower income dictates that for purposes of compliance the municipal fair share is considered to be divided evenly between low and moderate income households.

FAIR SHARE COMPONENTS: INDIGENOUS NEED

The Mount Laurel II decision specifies the nature of present housing need as that "generated by present dilapidated or overcrowded lower income units" (92 N.J. 158 at 243). Since no data source correlates precisely to that description, the Concensus Methodology uses surrogate indicators of substandard housing from the 1980 Census. These indicators include overcrowded units, units lacking complete plumbing for exclusive use and units with inadequate heating. All overlap among these categories is eliminated statistically and they are summed to determine total dilapidated and overcrowded units. This sum is then multiplied by 82% to calculate the number of low and moderate income households residing in those specified substandard units.

If the Present Need generated within a municipality is no greater a proportion of its total occupied housing stock than prevails within its Present Need region as a whole, then the municipality's Present Need constitutes its Indigenous Need number. This is the case in Colts Neck, where the 20 lower income substandard units comprise less than 1% of the total of 2,151 occupied units in the Township (see Table I). This is in comparison to a 3.6% incidence of lower income substandard housing for the region of Monmouth and Ocean Counties.

FAIR SHARE COMPONENTS: PRESENT NEED

A. Regional Pool of Units

According to the Concensus Methodology the "surplus" of Present Need - represented by the sum total of the number of substandard lower income units in excess of the regional proportion - from each municipality forms a pool for reallocation to "Growth Area" municipalities. In the Monmouth/Ocean region this pool consists of 2,562 excess units from 40 municipalities (see Plate 9 (p.15) of the Coppola report for a detailed listing).

Mr. Queale calculates a substantially higher pool of units - 3,789 - apparently due to a different treatment of non-Growth Area municipalities. However, although the difference in the regional pool is significant, ultimately the allocation of Present Need to Colts Neck is so nominal that the regional difference is de minimus.

B. Allocation

The Concensus Methodology bases allocation of Present Need on three components, each of which requires special attention when applied to Colts Neck.

1. Growth Area

It is evident from the Monmouth County map of the State Development Guide Plan (SDGP) that a portion of the southwest corner of Colts Neck Township adjacent to Freehold and Howell Townships is within the Growth Area of the Route 9 corridor. However, the scale of that map is quite small and a precise measurement of the Growth Area is required in order to compute the Township's allocation factor.

Fortunately a better alternative exists for this case. The New Jersey Office of Planning has supplied the Court with a copy of the original Monmouth County SDGP map. The base map is from the NJ Department of Transportation Atlas Series at a more legible scale of 1 inch = 1 mile. According to Richard Girman, former Director of the Division of State and Regional Planning who was responsible for the preparation and publication of the SDGP in 1980, these Atlas maps were the originals from which the smaller (8-1/2"x11") county maps were drafted.

The Growth Area of Colts Neck is clearly more expansive on the NJDOT Atlas map than it appears on the smaller abstraction which is included in the SDGP and the Mount Laurel II decision. Messrs. Queale and Hintz have each traced the Atlas map and measured the Growth Area. The results differ by about 10% (454 acres v. 506 acres respectively). This disparity is not

startling considering the steps involved in tracing and transferring the mapped information before actually measuring the area.

Since these areal computations are reasonably close this report will assume the Growth Area of Colts Neck to be the average of the two, or 480 acres. This area is within 5% of each of the estimates. Ultimately the Fair Share allocated to Colts Neck using this average Growth Area will vary only about 2% from that which would be calculated according to either of the litigant's estimates. This is due to the fact that Growth Area is only one of the independent components of the allocation formula, along with current employment and employment growth.

A second issue with regard to this allocation factor pertains to the size of the Growth Area in the regions. The Concensus Methodology dictates that the land area of any Urban Aid municipalities which are to be excluded from a Fair Share allocation be deducted from the regional total Growth Area. In this case the Urban Aid municipalities involved are Asbury Park, Keansburg and Long Branch in Monmouth County, Lakewood in Ocean County and New Brunswick and Perth Amboy in Middlesex County.

This report relies on county-based Growth Area data published in the SDGP (p. 170) for the gross regional total and then deducts the entire area of the municipalities listed above to obtain a net Growth Area figure. Messrs. Coppola and Queale apparently use a similar approach and arrive at nearly identical net regional totals. Mr. Hintz, on the other hand, calculates a significantly smaller Growth Area based upon information from County Planning Boards pertaining to updated zoning regulations in the Pinelands and CAFRA jurisdictions. This information can be assessed on its merits after Mr. Hintz has provided it to the interested parties.

In the absence of this information, the Growth Area calculations for Colts Neck and its regions are displayed in Table II. For allocation of Present Need, Colts Neck contains a Growth Area of 480 acres within a regional Growth Area of 252,363 acres, resulting in an allocation factor of .1902%.

2. Current Employment

The second independent allocation component of the Concensus approach for Present Need is the extent of current (1982) employment in the municipality in comparison to the region. Employment is the most widely recognized allocation criteria, as supported in the following specific guidance from Mount Laurel II:

"Formulas that accord substantial weight to employment opportunities in the municipality, especially new employment accompanied by substantial ratables, shall be favored;..." (92 N.J. 158 at 256)

In this key passage the Court highlights two principles which support the inclusion of employment as an allocation determinant:

first, employment generates a demand for housing which must be satisfied across a spectrum of affordability, and second, commercial and industrial land uses are attractive sources of tax gains to the municipality...that is, the revenue from property taxes derived from them will generally far outweigh the costs of services which the municipal government will have to provide to them through its local tax base.

The Lerman report specifies that employment is to be utilized in the allocation of both Present and Prospective Need; however, no guidance is indicated as to whether the employment data should include jobs in the public and private sectors or simply one or the other. It does compute Fair Share for the seven Middlesex municipalities on the basis of private sector employment alone and in practice most planners do the same.

Clearly on a statewide basis private sector employment is much more significant than that of the public sector. In 1982 (September) the employment profile of the State of New Jersey was as follows:

<u>Employment Source</u>	<u>Job Totals</u>	<u>% of State</u>
Private sector	2,516,390	84%
Public sector		
Local & county	323,216	
State	93,860	
Federal	71,515	
Subtotal	488,591	16%
Total	3,004,981	100%

However, the Mount Laurel II decision requires a precise determination of municipal Fair Share and the proportionality of private to public sector employment in a specific municipality can range far from the 84%-16% Statewide average. In fact, in certain municipalities government employment exerts much more influence over the local housing market than private sector employment. In such situations fair share analysis must take public sector employment into consideration.

One must still integrate data on public jobs into the allocation formula in a manner which reflects the realities of the data base (availability and accuracy) and appropriate weighting with private sector employment. In this regard the following guidelines would seem to be warranted:

1. Public sector jobs should be counted at one half (50%) the value of private sector jobs in the allocation formula. This proportion is derived from the fact that public employment generally presents only one of the two characteristics noted above as critical for allocation of fair share. Public sector jobs certainly generate a demand for housing as do their private counterparts. However, most of these jobs are located on property which is exempt from local real estate taxation. Therefore, rather

than being an attractive tax "gain" the source of employment actually constitutes a tax burden on the host municipality.

2. Local government employment should not be counted in either the municipal or regional employment totals. Municipal government staff size varies directly with the size of the resident population, thus its inclusion would tend to shift fair share allocation from relatively unpopulated to populous municipalities. Population per se is inappropriate as an allocation criteria; therefore, any indices which track population directly should also be avoided.

3. To the extent possible all public jobs under the umbrella of county, state and federal government should be counted in both municipal and regional employment totals. The totals of state and federal jobs in each county are published annually by the NJ Department of Labor (NJDOL) "Covered Employment Trends." As in the case of private employment these gross county totals must be reduced by the jobs within non-Growth Area and designated Urban Aid municipalities to yield a net county public employment figure.

Unfortunately, no public job figures are reported by the NJDOL on a municipal basis, so primary research is required to ascertain the extent of public employment in the target municipality and any excluded municipalities within the region. It is much more important to compile an accurate public employment count for the target municipality than for the excluded municipalities throughout the region. This is because the net regional public job totals, when halved and combined with private sector employment, will expand the regional employment pool only modestly (3-5%). However, even when counted at 50% parity public sector employment can substantially expand the job base of a given municipality.

4. Civilian employees on military installations should be counted as public employment but military personnel should be excluded. The Department of Defense administers a variety of programs through which housing is constructed for military personnel. In fact Earle N.A.D. is currently assessing the construction of 200-600 units of such housing in Colts Neck and Wall Townships. Accordingly, the pressure on the local housing market from military employees is substantially less than that of civilian employees who require housing proximate to their workplace. Since military bases are tax-exempt (except for a nominal per pupil educational stipend) neither of the two principles supporting employment as an allocation criteria are present in the case of military personnel.

5. Public jobs should be counted only in computing the "Current Employment" allocation component of Present and Prospective Need, but not in the "Employment Change" component. This is due to the unavailability of reliable data. Whereas current employment data for public sector jobs is reasonably accurate and accessible for these purposes, comparable historical data for public employment is simply not available.

6. Since the compilation of public employment data requires primary research, which can be time-consuming and expensive, a certain threshold should be established which would exempt municipalities from having to include it in their fair share analysis. Essentially, the intention is to include public employment only when it constitutes a significant proportion of the local employment base.

When local government employment is deducted from the state-wide figures previously displayed, the combination of county, state and federal employment comprise approximately 10% of the total job base. A threshold of at least 30% of non-local public employment in the target municipality appears to be a reasonable standard. With public employment below this proportion a municipality would not have to include public sector employment figures. However, if 30% or more of the local employment base is comprised of public sector employees (ie., three times the state average or more), then the allocation factor of Current Employment must include the public sector.

The impact of public sector employment in Colts Neck is illustrated in Tables III, IV and V along with the conventional private sector approach. The 1982 private sector employment total for the Township was 829. Public sector employment is derived from Earle N.A.D. (468 civilian jobs actually located in Colts Neck) and the State Police unit (an estimated 18 of which are assigned to regional duty in the area around Colts Neck). This municipal public sector total of 486 jobs is divided by 2 (243) and combined with the private sector total of 829 to yield a municipal employment base of 1,072 jobs.

The regional employment total for Present Need allocation (2 counties) increases from 146,793 to 157,460 jobs with the addition of public employment. Similarly, the regional total for Prospective Need allocation (3 counties) increases from 355,303 to 373,809 jobs.

Even though the public sector comprises approximately 37% of Colts Neck's employment base, the actual difference in Fair Share allocation is modest. Exhibits I and II summarize the total Fair Share calculations both with and without public sector employment. The consideration of public employment increases the Township's Fair Share from 173 to 188, a net of 15 households or about 9%.

The modest impact of public employment on municipal allocations underscores the sense of imposing a proportionality threshold to avoid extensive data compilation for relatively minor Fair Share adjustments. Based on this limited experience with the effect of public employment, it appears that the threshold should be no lower than 30% if treated according to the guidelines in this report.

3. Local Economic Capacity

The Concensus Methodology incorporates a comparison of the median household income of the municipality to that of the region as a dependent component in the allocation of both Present and Prospective Need. It is not an independent factor but rather is applied as a ratio to an average of the other factors to create an additional component. The inclusion of this measure of local economic capacity merits discussion in light of Mr. Queale's objection to its appropriateness (Memo 84-6 to Colts Neck Planning Board).

The use of a local economic capacity factor in housing allocation formulae has precedent both in New Jersey and in other states. The Center for Urban Policy Research (CUPR) at Rutgers University describes* the factor in two dimensions: fiscal capacity and financial capacity. Fiscal capacity involves the resources available to the public sector to assist in the provision of low and moderate income housing, through such devices as tax abatement, municipal fee reductions or waivers, increased social service costs, etc. Financial capacity measures the ability of the community residents to absorb the potential costs of the new development. Of the 13 allocation plans in place across the country which CUPR analyzed, 8 of them had some form of local economic capacity criterion.

Closer to home, New Jersey has had prior exposure to local economic capacity factors as well. Two fair share allocation bills were introduced into the NJ Legislature in the 1970's (sponsored by Assemblyman Albert Merck in 1972 and Senator Martin Greenberg in 1975). Both pieces of legislation included guiding concepts for state and county governments to use in allocating lower income housing to municipalities. In both cases local economic capacity was one of the fair share allocation criteria.

In 1978 the NJ Department of Community Affairs (DCA) published A Revised Statewide Housing Allocation Report for New Jersey. This document identified statewide goals for lower income housing, established regions and devised a fair share allocation formula by which municipal allocations were computed. This formula included not one, but two indices of local economic capacity: growth in commercial and industrial ratables and per capita income of residents of the municipality in relation to its region.

The basic thrust of these precedents of economic capacity is to recognize that residential development involving lower income households imposes a financial burden on a community. Thus one aspect of the suitability of any municipality to accommodate such households is its financial capability to meet the attendant costs.

*Mount Laurel II: Challenge and Delivery of Low-Cost Housing, Center for Urban Policy Research, Rutgers University, 1984, p.395-7.

The Concensus Methodology's use of median household income has a variety of advantages related to the Mount Laurel doctrine. First, since it will tend to direct the fair share obligation to wealthier communities it will indirectly enhance the likelihood of the fair share being achieved. This is due to the primary reliance (in the absence of public housing subsidies) on the private developer to produce lower income housing. So long as the private sector is the main delivery mechanism the successful provision of lower income units will rely on the strength of the conventional housing market. Other factors being equal, the wealthier the community the more attractive its residential market is likely to be for conventional housing. Consequently the lower income housing will tend to have an improved chance of not only being zoned for but actually constructed in this location.

Two other related implications of median household income were identified by Carla Lerman in her Memorandum of March 13, 1984 to Judge Serpentelli. These points are excerpted from that Memorandum (p.2) as follows:

"Use of median household income as a factor in determining fair share provides one means of measuring past efforts to provide affordable housing. Measuring these efforts has been of general concern to the planners' group. A municipality that has been relatively open to garden apartments, or one which has made efforts to develop assisted housing will have a relatively lower median household income than a municipality that has been more exclusionary.

In addition to reflecting past efforts, the median household income will broaden the formula in such a way that a town which has not sought to increase employment and ratables, but has been exclusionary in its residential zoning, will receive a relevant fair share allocation, in spite of its low employment."

The median household income ratio has a modest impact on the fair share allocation to Colts Neck. Without the influence of the fiscal capacity factor the Township's total fair share obligation by 1990 would be reduced by 26 households from 188 to 162.

This 14% increase in municipal allocation should be viewed in the context of the region and the state. The 1980 Census reported the median annual household income in New Jersey at \$19,800. In Colts Neck the median income was \$38,077--almost double the State standard. Within Colts Neck's Present and Prospective Need regions, only 2 municipalities out of a total of 110 have a higher median household income (Holmdel Township in Monmouth and Mantoloking Borough in Ocean County) (see Table VI). In fact, Colts Neck ranks 17th highest of the State's 567 municipalities in this standard. Not surprisingly, 12 of the 16 municipalities with

higher median household income levels are in Bergen, Essex and Morris Counties. Within this perspective the local economic capacity factor is evidently a fairly subtle influence on total municipal fair share allocation.

C. Phasing

Once the allocation of surplus Present Need has been determined for a municipality, the Concensus Methodology allows for the implementation of that particular component of the Fair Share to be phased in equally over 3 six-year periods. Accordingly, Colts Neck's Present Need allocation of 18 households is reduced to 6 households for compliance by 1990.

FAIR SHARE COMPONENTS: PROSPECTIVE NEED

A. Population Projections

The three planners apparently agree on the Concensus Methodology's use of the average of the ODEA Models 1 and 2 for projecting population growth to 1990. The two models happen to produce nearly the same total for the Middlesex/Monmouth/Ocean County region: 1,618,200 (Model 1) v. 1,617,700 (Model 2). The individual county projections, however, are very divergent, with Model 1 (Economic/Demographic) projecting high growth for Middlesex and relatively low growth for Ocean County and Model 2 (Demographic Cohort) projecting virtually no growth for Middlesex and continuing robust growth in Ocean County.

When the headship rates developed by CUPR are applied to the age cohorts of the averaged projections the resultant growth during 1980-1990 within the 3-county region is 136,361 households. Assuming that a similar proportion of those households are of low and moderate income as characterized the entire state population in 1980 (39.4%) yields a net growth projection of 53,726 households of lower income by 1990 (see Table VII). These households must be allocated among the Growth Area municipalities in the region.

B. Allocation

The Concensus Methodology specifies that allocation of Prospective Lower Income Housing Need be determined according to a formula with four factors, as follows:

1. Growth Area

No municipalities in Middlesex County are entirely devoid of SDGP Growth Area. Accordingly, the area of the entire county is added to the Present Need regional acreage, less the area of the county's two Urban Aid cities - New Brunswick and Perth Amboy (see Table II). Colts Neck Township's Growth Area of 480 acres in relation to the 3-county regional Growth Area of 400,040 acres yields an allocation factor of .1200%.

2. Current Employment

In concert with the discussion of this criteria under Present Need, in this region the private and public sector employment base is expanded to include Middlesex County. Middlesex includes substantially more jobs than both Monmouth and Ocean Counties combined (see Table IV).

Colts Neck Township's allocation factor of .2333% considering only private sector employment rises to .2868% when public sector employment is incorporated in the municipal and regional totals.

3. Employment Growth: 1972-1982

The third allocation criteria endorsed by the Concensus report is the municipality's share of the region's annual growth in employment from 1972 to 1982. As explained in the employment discussion under Present Need, due to the lack of reliable historical data on public employment this factor must be calculated using private sector job totals alone.

The inclusion of this "dynamic" employment factor reflects the Supreme Court's guidance in support of formulas which give "substantial weight to employment opportunities...especially new employment accompanied by substantial ratables." In contrast to the static measurement of current employment, this factor provides a different dimension of a municipality's economic development and will tend to direct allocation of housing need to municipalities whose employment base is expanding rapidly in relation to other municipalities within the region. Typically housing demand follows commercial and industrial expansion; consequently it is appropriate that the fair share obligation be sensitive to these trends.

In Colts Neck the average annual increase in private sector employment from 1972 to 1982 was 26 jobs (see Table XII). This represents .2175% of the average annual increase of 11,955 jobs within the Growth Area municipalities in the 3-county commuter-shed region. Linear regression was used to calculate these annual trends. The derivation of the regional employment rate of change is illustrated in Tables VIII through XI.

4. Local Economic Capacity

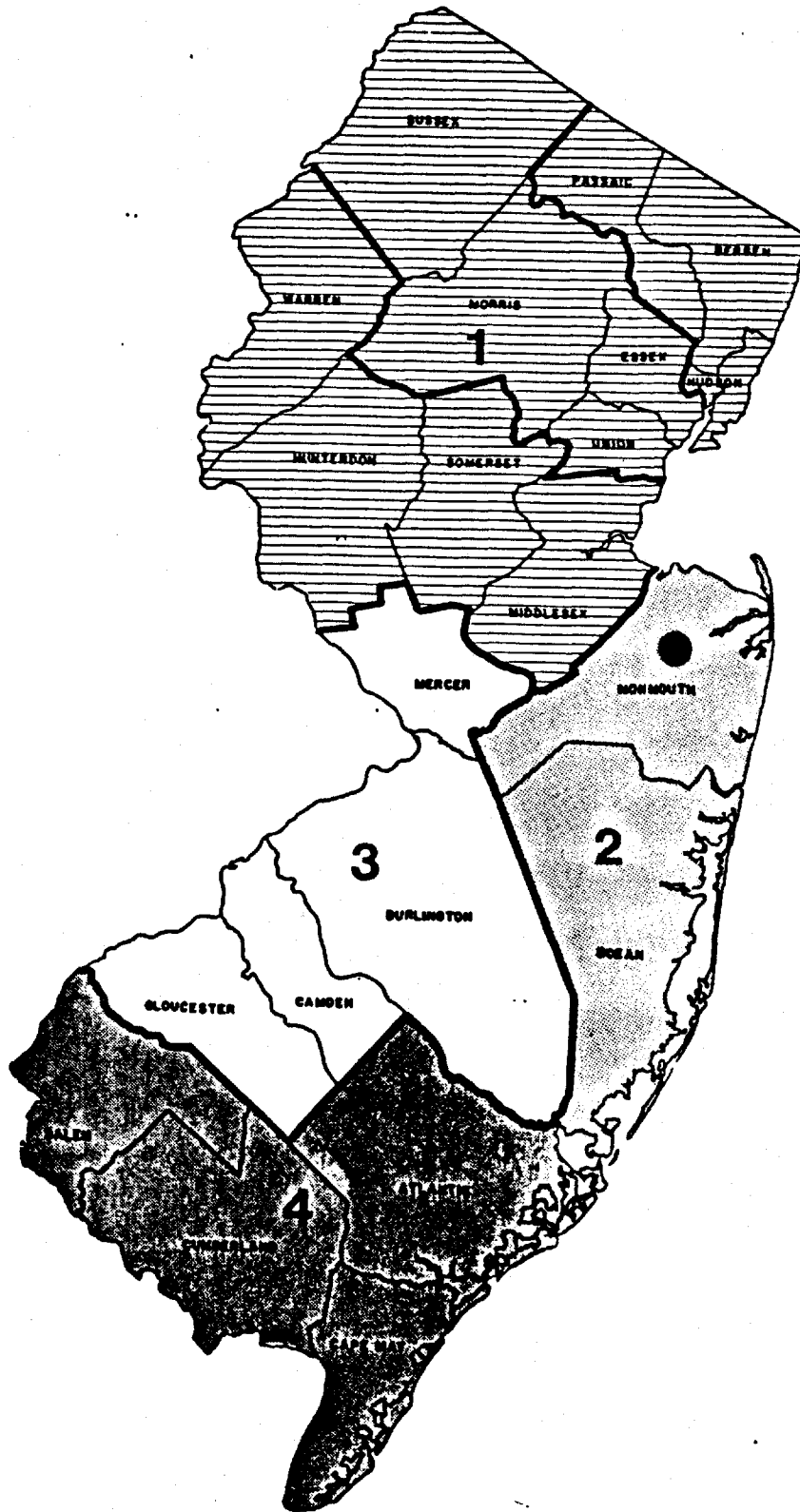
Similarly to the allocation of Present Need, a ratio of municipal/regional median household income was introduced into the allocation formula. The Colts Neck Township income level of \$38,077 is 1.691 times the 3-county regional median household income of \$22,517 (see Table VI). This ratio is lower than the income ratio of 1.804 in the Present Need region due to the slightly higher household income characteristics of Middlesex in comparison to Monmouth and Ocean Counties.

CONCLUSION

The critical figures in the allocation of fair share to Colts Neck are contained in Exhibits I and II and in the Summary of Findings at the front of this Report.

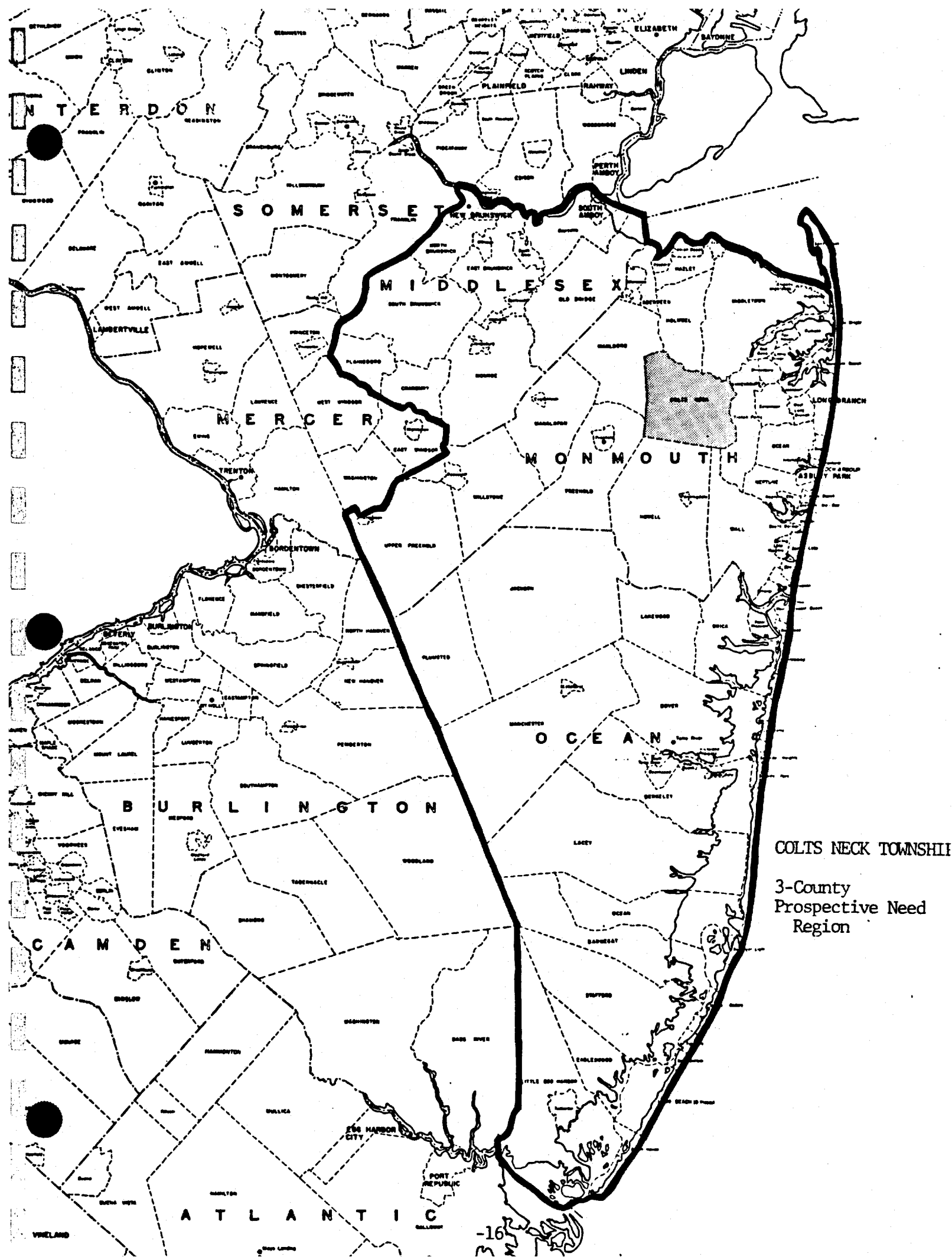
The application of the Concensus Methodology to Colts Neck Township presented no extraordinary issues other than the handling of public sector employment. The incorporation of public employment into the allocation formula does not make a dramatic difference in Colts Neck's fair share. However, the recommendations concerning it should be useful in assessing if and how it should be handled in other municipalities which contain a disproportionately high concentration of public employment.

Present Housing Need Regions



COLTS NECK
TOWNSHIP

-
1. 11 County Northern Region
 2. 2 County Central Region
 3. 4 County Southeastern Region
 4. 4 County Southern Region



COLTS NECK TOWNSHIP
3-County
Prospective Need
Region

EXHIBIT I

SUMMARY OF COLTS NECK TOWNSHIP'S
FAIR SHARE* OF LOWER INCOME HOUSING THROUGH 1990

*Public and Private Sector Employment Method

Indigenous Need: 20 households

Present Need

Allocation Factors:

1982 Covered Employment:	.6808	%
SDGP Growth Area:	.1902	%
Fiscal Capacity:	.7856	%

Composite Allocation Factor: .5522 %

Pool of Present Need to be Reallocated: 2,562 households

Initial Present Need Allocation:	14	households
Plus 20% for reallocation:	3	
Subtotal:	<u>17</u>	
Plus 3% for vacancies:	1	
Total Reallocated Present Need:	<u>18</u>	households

Phasing Allowance: 1/3 of 18 by 1990: 6 households

Prospective Need

Allocation Factors:

1982 Covered Employment:	.2868%
SDGP Growth Area:	.1200%
Annual Employment Growth:	.2175%
Fiscal Capacity:	.3519%

Composite Allocation Factor: .2441%

Projected Regional Growth in Lower Income Households
 by 1990: 53,726 households

Initial Prospective Need Allocation:	131	households
Plus 20% for reallocation:	26	
Subtotal:	<u>157</u>	
Plus 3% for vacancies:	5	
Total Prospective Need Allocation:	<u>162</u>	households

TOTAL FAIR SHARE THROUGH 1990: 188 households

Note: While data available on a statewide basis would indicate the composition of this fair share to be approximately 65% Low income/35% Moderate income, for compliance purposes it is reasonable to consider the need to be equally divided between low and moderate income households (94 Low income; 94 Moderate income).

EXHIBIT II

SUMMARY OF COLTS NECK TOWNSHIP'S
FAIR SHARE* OF LOWER INCOME HOUSING THROUGH 1990

*Private Sector Employment Only Method

<u>Indigenous Need:</u>		20 households
<u>Present Need</u>		
<u>Allocation Factors:</u>		
1982 Covered Employment:	.5647 %	
SDGP Growth Area:	.1902 %	
Fiscal Capacity:	.6809 %	
Composite Allocation Factor:	.4786 %	
Pool of Present Need to be Reallocated:		2,562 households
Initial Present Need Allocation:	12 households	
Plus 20% for reallocation:	2	
Subtotal:	14	
Plus 3% for vacancies:	0	
Total Reallocated Present Need:	14 households	
Phasing allowance: 1/3 of 14 by 1990:		5 households
<u>Prospective Need</u>		
<u>Allocation Factors:</u>		
1982 Covered Employment:	.2333 %	
SDGP Growth Area:	.1200 %	
Annual Employment Growth:	.2175 %	
Fiscal Capacity:	.3217 %	
Composite Allocation Factor:	.2231%	
Projected Regional Growth in Lower Income Households by 1990:		53,726 households
Initial Prospective Need Allocation:	120 households	
Plus 20% for reallocation:	24	
Subtotal:	<u>144</u>	
Plus 3% for vacancies:	<u>4</u>	
Total Prospective Need Allocation:		<u>148</u> households
TOTAL FAIR SHARE THROUGH 1990:		173 households

Note: While data available on a statewide basis would indicate the composition of this fair share to be approximately 65% Low income/35% Moderate income, for compliance purposes it is reasonable to consider the need to be equally divided between low and moderate income households (86 Low Income, 87 Moderate Income).

TABLE I

SUBSTANDARD HOUSING UNITS: INDIGENOUS & SURPLUS PRESENT NEED

Mormouth/Ocean County Region

	Mormouth	Ocean	Regional Totals	Colts Neck Township
Total Occupied Housing Units	170,130	128,304	298,434	2,151
Overcrowded Units	3,947	2,512	6,459	12
Units Lacking Complete Plumbing	1,537	523	2,060	12
Units Lacking Adequate Heating	2,295	2,254	4,549	0
Total Substandard Housing Units	7,779	5,289	13,068	24
Total Present Need (82% of Substandard Units)	6,379	4,337	10,716	20
Present Need as Percentage of Total Occupied Housing Units	3.75%	3.38%	3.6%	.9%
Surplus Present Need for Reallocation	1,827	735	2,562	N/A

- Notes:
1. Substandard units include units identified in 1980 U.S. Census, STF-1 and STF-3 Series as overcrowded, lacking plumbing for occupant's exclusive use, lacking central heating or heating source without flue - all overlapping eliminated between categories.
 2. Surplus Present Need for Reallocation derived by aggregating those substandard units in each municipality which exceeded 3.6% of the total occupied housing units.

TABLE II

ALLOCATION FACTORS: GROWTH AREA

Colts Neck Township Present Need Region

County/ Municipality	Growth Area (acres)	Less: Growth Area in Urban Aid Municipalities (acres)	Net Growth Area (acres)
Monmouth	156,624	4,832	151,792
Asbury Park		960	
Keansburg		608	
Long Branch		3,264	
Ocean	116,187	15,616	100,571
Lakewood		15,616	
REGIONAL TOTALS:	272,811	20,448	252,363

Colts Neck Township Growth Area: 480 acres

Allocation Factor: Colts Neck Growth Area as percentage of Present
Need Region: $\frac{480}{252,363} = .1902\%$

Colts Neck Township Prospective Need Region

Monmouth/ Ocean Totals	272,811	20,448	252,363
Middlesex	154,110	6,432	147,678
New Brunswick		3,520	
Perth Amboy		2,912	
REGIONAL TOTALS	426,921	26,880	400,041

Allocation Factor: Colts Neck Growth Area as percentage of
Prospective Need Region: $\frac{480}{400,041} = .1200\%$

- Notes: 1. Gross County Growth Area figures from NJ State Development Guide Plan, May, 1980.
2. Urban Aid Municipalities Area figures from 1982 Annual Report of the Division of Local Government Services.

TABLE III

1982 COVERED EMPLOYMENT: COLTS NECK PRESENT NEED REGION

Monmouth/Ocean County Region

Private/Public*	1982 Covered Employment	Less: Employment in Non-Growth Areas	Less: Employment in Selected Urban Aid Cities	Totals for Present Need Allocation
MONMOUTH				
Private	131,493	5,097	14,246	112,150
Public	7,811	N/A	50	7,761
Total	<u>139,304</u>	<u>5,097</u>	<u>14,296</u>	<u>119,911</u>
OCEAN				
Private	64,369	19,186	10,540	34,643
Public	2,906	N/A	N/A	2,906
Total	<u>67,275</u>	<u>19,186</u>	<u>10,540</u>	<u>37,539</u>
REGION				
Private	195,862	24,283	24,786	146,793
Public	10,717	N/A	50	10,667
Total	<u>206,579</u>	<u>24,283</u>	<u>24,836</u>	<u>157,460</u>

- Notes: 1. Public sector jobs are listed in this table at half (50%) of the actual count for county, state and federal employment; local government employment is excluded. See text for explanation.
2. Sources: "Covered Employment Trends - 1982"
NJ Department of Labor
Telephone interviews with numerous public officials

TABLE IV

1982 COVERED EMPLOYMENT: COLTS NECK PROSPECTIVE NEED REGION

Middlesex/Monmouth/Ocean County Region

County Private/Public*	1982 Covered Employment	Less: Employment in Non-Growth Areas	Less: Employment in Selected Urban Aid Cities	Totals for Prospectiv Need Allocation
MIDDLESEX				
Private	240,832	0	32,322	208,510
Public	10,370	N/A	2,531	7,839
Totals	251,202	0	34,853	216,349
MONMOUTH				
Private	131,493	5,097	14,246	112,150
Public	7,811	N/A	50	7,761
Totals	139,304	5,097	14,296	119,911
OCEAN				
Private	64,369	19,186	10,540	34,643
Public	2,906	N/A	N/A	2,906
Totals	67,275	19,186	10,540	37,549
REGION				
Private	436,694	24,283	57,108	355,303
Public	21,087	N/A	2,581	18,506
Totals	457,781	24,283	59,689	373,809

- Notes: 1. Public Sector jobs are listed at half (50%) of the actual county, state and federal employment; local government is excluded. See text for explanation.
2. Sources: "Covered Employment Trends - 1982"
NJ Department of Labor
Telephone interviews with numerous public officials

TABLE V

ALLOCATION FACTORS: 1982 COVERED EMPLOYMENT

Colts Neck Township Present Need Region

<u>Employment Type</u>	<u>Colts Neck Township Employment</u>	<u>Present Need Region Employment</u>	<u>Regional Allocation Factor</u>
Private	829	146,793	.5647%
Public	243	10,667	2.2781%
Composite	<u>1,072</u>	<u>157,460</u>	.6808%

Colts Neck Township Prospective Need Region

<u>Employment Type</u>	<u>Colts Neck Township Employment</u>	<u>Prospective Need Region Employment</u>	<u>Regional Allocation Factor</u>
Private	829	355,303	.2333%
Public	243	18,506	1.3131%
Composite	<u>1,072</u>	<u>373,809</u>	.2868%

Notes: 1. Public sector jobs are listed in these tables at half (50%) of the actual count for county, state and federal government; local government employment is excluded. See text for explanation.

TABLE VI

MEDIAN HOUSEHOLD INCOME RATIOS - COLTS NECK TOWNSHIP

Present Need Region

<u>County</u>	<u>Number of Households</u>	<u>Median Household Income</u>	<u>Aggregate County Household Income (000's)</u>
Monmouth	143,376	\$22,380	\$3,208,783
Ocean	<u>60,735</u>	<u>18,086</u>	<u>1,098,477</u>
REGIONAL TOTALS	204,111	\$21,103	\$4,307,260

Colts Neck Township Median Household Income (1980 Census): \$38,077

$$\text{Income Ratio: } \frac{\text{Colts Neck Township}}{\text{Present Need Region}} = \frac{\$38,077}{\$21,103} = 1.804$$

Prospective Need Region

Monmouth/ Ocean Totals	204,111	\$21,103	\$4,307,260
Middlesex	<u>169,847</u>	<u>24,217</u>	<u>4,113,142</u>
REGIONAL TOTALS	373,958	\$22,517	\$8,420,405

$$\text{Income Ratio: } \frac{\text{Colts Neck Township}}{\text{Prospective Need Region}} = \frac{\$38,077}{\$22,517} = 1.691$$

Note: All County income figures are net of Non-growth and designated Urban Aid municipalities.

TABLE VII

1990 PROJECTED LOWER INCOME HOUSEHOLDS

Colts Neck Township Prospective Need Region

<u>County</u>	<u>1990 Households</u>	<u>Less 1980 Households</u>	<u>1990 Net Additional Households</u>
Middlesex	245,989	196,708	49,281
Monmouth	214,573	170,130	44,443
Ocean	<u>170,941</u>	<u>128,304</u>	<u>42,637</u>
REGIONAL TOTALS	631,503	495,142	136,361

Assuming 39.4% of the additional households are of lower income (as in 1980), the total projected lower income household growth by 1990 is as follows:

Total Household Growth by 1990:	136,361
	.394
Total Lower Income Household Growth	<u>53,726</u>

Note: Projections for 1990 households are based on applying headship rates developed by Rutgers Center for Urban Policy Research to an average of the New Jersey Department of Labor's population projection Models 1&2.

TABLE VIII

AVERAGE ANNUAL PRIVATE SECTOR EMPLOYMENT CHANGE, 1972-1982

Colts Neck Township Prospective Need Region

County Covered Employment Totals

	<u>MIDDLESEX</u>	<u>MONMOUTH</u>	<u>OCEAN</u>
1972	183,842	96,182	41,705
1973	199,997	103,489	46,578
1974	205,511	105,487	46,401
1975	197,382	104,416	45,570
1976	203,735	106,950	52,102
1977	214,187	110,056	54,920
1978	227,736	121,710	59,770
1979	235,611	124,155	60,702
1980	236,560	126,165	59,564
1981	243,547	129,461	62,352
1982	240,832	131,493	64,369
Average Annual Employment Change	5,932	3,586	2,302

- Notes:
1. Calculations by Linear Regression
 2. Employment Totals include private sector jobs in every municipality in each county
 3. Source: "Covered Employment Trends" 1972 through 1982, NJ Department of Labor

TABLE IX

AVERAGE ANNUAL PRIVATE SECTOR EMPLOYMENT CHANGE, 1972-1982

Colts Neck Township Prospective Need Region

Non-Growth Municipalities

<u>County</u>	<u>Municipality</u>	<u>1972</u>	<u>1982</u>	<u>Average Annual Increase or Decrease(-)</u>
MIDDLESEX	None	N/A		0
MONMOUTH	Allentown	327	304	
	Farmingdale	2,250	2,924	
	Millstone	196	573	
	Roosevelt	--	71	
	Sea Bright	411	764	
	Upper Freehold	<u>148</u>	<u>461</u>	
	Total:	3,332	5,097	177
OCEAN	Barnegat Light	170	303	
	Bay Head	229	276	
	Barnegat	--	327	
	Beach Haven	925	1,297	
	Berkeley	900	1,469	
	Eagleswood	109	155	
	Harvey Cedars	105	108	
	Lacey	919	2,339	
	Lakehurst	590	823	
	Lavalette	489	823	
	Little Egg Harbor	54	212	
	Long Beach	460	613	
	Manchester	424	1,181	
	Mantoloking	75	231	
	Ocean	238	393	
	Plumsted	252	294	
	Pt. Pleasant Bch.	1,696	2,149	
	Seaside Heights	881	1,677	
Seaside Park	359	746		
Ship Bottom	560	722		
STafford	1,036	2,202		
Surf City	329	350		
Tuckerton	<u>555</u>	<u>506</u>		
Total:	11,355	19,186	783	

Notes: 1. Calculations by straight line averaging; minor deviations will result in comparison to regional employment changes calculated by linear regression.

2. Source: "Covered Employment Trends" 1972 through 1982, NJ Department of Labor

TABLE X

AVERAGE ANNUAL PRIVATE SECTOR EMPLOYMENT CHANGE, 1972-1982

Colts Neck Township Prospective Need Region

Covered Employment Totals:
Designated Urban Aid Municipalities

	MONMOUTH			OCEAN	MIDDLESEX	
	<u>Asbury Park</u>	<u>Keansburg</u>	<u>Long Branch</u>	<u>Lakewood</u>	<u>New Brunswick</u>	<u>Perth Amboy</u>
1972	7,215	848	7,605	8,509	26,475	16,116
1973	7,443	868	7,830	10,059	29,172	15,858
1974	7,075	850	7,936	9,494	26,485	16,293
1975	6,198	786	7,519	8,922	24,641	14,972
1976	6,368	770	8,023	9,305	24,217	13,654
1977	5,703	698	7,682	9,494	24,281	12,643
1978	5,803	810	8,283	10,116	24,746	12,728
1979	5,125	730	8,511	10,770	22,418	14,098
1980	5,075	698	8,462	10,111	21,341	14,367
1981	5,316	600	8,137	10,850	21,340	13,015
1982	5,188	707	8,351	10,540	20,273	12,049
Average Annual Employment Change	-249	-21	80	203	-743	-365
County Aggregate		-190		203		-1,108

- Notes: 1. Calculations by Linear Regression
2. Source: "Covered Employment Trends" 1972 through 1982,
NJ Department of Labor

TABLE XI

AVERAGE ANNUAL PRIVATE SECTOR EMPLOYMENT CHANGE, 1972-1982

Colts Neck Township Prospective Need Region

County	Average Annual Change	Less: Change in Non-Growth Areas	Less: Change in Selected Urban Aid Cities	Net Average Annual Employment Change
Middlesex	5,932	0	-1,108	7,040
Monmouth	3,586	177	- 190	3,599
Ocean	<u>2,302</u>	<u>783</u>	<u>203</u>	<u>1,316</u>
REGIONAL TOTALS	11,820	960	-1,095	11,955

- Notes:
1. Public sector employment totals not included due to unavailability of reliable data during 1972-1982.
 2. Average Annual Change calculated by Linear Regression.
 3. Job gains are deducted from Gross County totals; job losses (minus) are added.
 4. Source: "Covered Employment Trends" 1972 through 1982, New Jersey Department of Labor

TABLE XII

AVERAGE ANNUAL PRIVATE SECTOR EMPLOYMENT CHANGE, 1972-1982

Colts Neck Township

	<u>Covered Jobs</u>		<u>Covered Jobs</u>
1972	532	1977	636
1973	583	1978	800
1974	548	1979	675
1975	654	1980	738
1976	660	1981	743
		1982	829

Colts Neck Township Average Annual Employment Change: 26 jobs

Allocation Factor: Colts Neck Township Change as Percentage
of Change in the Prospective Need Region (11,955 jobs/year):

$$\frac{26}{11,955} \times 100\% = .2175\%$$

- Notes: 1. Public sector employment totals not included due to unavailability of reliable data during 1972-1982.
2. Average Annual Change calculated by Linear Regression
3. Source: "Covered Employment Trends" 1972 through 1982, New Jersey Department of Labor

EVALUATION OF SITE SUITABILITY

INTRODUCTION TO SITE SUITABILITY ANALYSIS

This report is rendered pursuant to the Order of April 10, 1984 by Judge Eugene D. Serpentelli regarding the case of Orgo Farms & Greenhouses, Inc. et al and Sea Gull Ltd. Builders, Inc. v. Township of Colts Neck. The determination of region and municipal fair share are set forth in the preceding section; this analysis addresses the suitability of the plaintiff's sites for the development of Mount Laurel housing.

The suitability assessment is organized according to five broad components which collectively yield a comprehensive evaluation of each site. While a degree of overlap among these categories is unavoidable, basic distinctions among them warrant the separate analysis. The characteristics of site suitability are as follows:

REGIONAL ACCESSIBILITY
PROXIMITY TO GOODS AND SERVICES
AVAILABILITY OF WATER AND SEWER UTILITIES
ENVIRONMENTAL SUITABILITY
LAND USE COMPATIBILITY

Each of these will be defined in the context of the report and applied to each plaintiff's site. Furthermore, site plans and a range of supporting documentation were available for the actual development proposals on each tract. While the goal of this study was not to conduct a development design review, the site evaluations do take cognizance of these plans and their relationship to the suitability components. Summary descriptions of the plaintiff's sites and proposed development projects precede the analysis.

It should be noted that for purposes of evaluating zoning districts which may involve parcels under independent ownership the need for site assemblage is a substantive component of Mount Laurel suitability. However, site assemblage is not at issue in this case since both plaintiffs control sizeable tracts of land.

A wide variety of briefs, transcripts, plans, reports, publications and other sources of data were reviewed in the course of preparing this assessment. Since the recommendations and conclusions are reflective of this input, a list of these documents follows the text of the report. Every reasonable effort was made to identify and access meaningful information; the counsel and professionals for all parties were extremely helpful in this regard.

DESCRIPTION OF SITES AND PROPOSED DEVELOPMENTS

The site owned by Plaintiffs Orgo Farms and Greenhouses and Richard Brunelli (hereinafter the Orgo Farms tract), comprises 223 acres in central Colts Neck Township. The tract is bounded by County Route 537 on the north, the Stavola Brothers "Winding Brook" farm on the east, the U.S. government Earle Naval Ammunition Depot on the south and various independently owned commercial parcels fronting on N.J. Route 34 to the west. The property is bisected by N.J. Route 18 which runs east-west and an easement for powerlines owned by Jersey Central Power and Light which runs northwest to southeast.

The plans for Colts Neck Village (March 2, 1984) include limited options for alternative development. Both versions include a mixture of residential and commercial uses and a sewerage treatment plant. The site plans involve a range of residential building types, specifically single family detached houses, patio or zero lot line homes, townhouses, two and three story condo flats and possibly manufactured housing. Both versions call for a bus stop and convenience commercial space on Route 537, an office building of 45,000 square feet near the intersection of Routes 18 and 34 and further office and/or hotel development south of Route 18. Depending on the final mix of commercial and residential uses, the total housing construction could be either 1,073 units for a gross residential density of 4.8 units/acre or 1,253 units at 5.6 units/acre. The net residential densities are considerably higher due to the substantial acreage devoted to commercial uses and utilities.

Vehicular access to the main portion of the site is shown at the northeast corner from Route 537 and in the southwest from Route 34. Additionally allowance has been made to accommodate a master plan collector road named Joshua Huddy Drive from Route 34 midway between Routes 18 and 537.

The site owned by Plaintiff Sea Gull, Ltd. (hereinafter the Sea Gull tract), comprises approximately 74 acres in the southwest corner of Colts Neck. It is bounded generally by the Route 18 right-of-way on the north, the Freehold Township municipal boundary on the west, Stone Hill Road on the south and Mine Brook on the east. The conceptual site plan prepared for "Sea Gull Village" (April 8, 1984) calls for a total of 585 dwelling units in two-story townhouse and three-story apartment configurations for a density of 7.9 units/acre. Vehicular access to the site would be from Hunt Road at the northwest corner and Stone Hill Road on the southern boundary of the site.

REGIONAL ACCESSIBILITY

The accessibility of a proposed housing site is a major component of its suitability for development. Accessibility has various dimensions. Firstly, a site for large scale residential development must have good access within the region - by highway and/or rail - so that residents can travel conveniently to places of employment, cultural events and entertainment, regional shopping centers and so forth. The road network surrounding the site must be capable of handling the traffic which will be generated by the development for both local and regional destinations. The availability of public transportation is an aspect of accessibility which is particularly important in the context of housing which includes a substantial proportion of lower income persons.

Background

The State Development Guide Plan identifies the Garden State Parkway, Interstate 195 and Routes 9, 18, 35 and 36 as the major highways in the Parkway - Route 9 Growth Corridor which is comprised of Monmouth and Ocean Counties. Route 18 provides regional access from connections to Route 1 and the NJ Turnpike near New Brunswick to the Garden State Parkway near Asbury Park. A proposed freeway, designated Route 38F, to connect the Camden area north through Route 33 and ultimately into Route 18 near the Sea Gull tract has been recommended for abandonment in the 1983 Long Range Plan of NJ Department of Transportation. Accordingly, with the exception of the Route 18 extension southeast of the Parkway, no new additions are planned to the regional highway network serving central Monmouth County.

The primary arterial highways in Colts Neck Township are NJ Route 34 and County Route 537. The Township's official Master Plan recognizes these roads as the major north/south and east/west highways and, along with Route 520 recommends that adequate rights-of-way be retained to accommodate an eventual four lanes of moving traffic. The 1983 draft of the Township's Master Plan maintains that recommendation and notes that "Regional traffic flows of higher speed traffic along Route 18, Route 537, ... and the north/south traffic on Route 34 are relatively free of design problems" (p. 16-17). A key distinction between the official Master Plan (originally published in 1971 and subsequently re-adopted) and the draft update is the deletion in the recent version of Joshua Huddy Drive. This master plan road was proposed as a "minor collector" which would essentially bisect the properties between Route 537 and Route 18 travelling eastward from Route 34 until curving northward to intersect with Route 537 at Laird Road.

While regional traffic flow through Monmouth County is dominated by north/south movement on the Parkway, Route 9 and Route 35, vehicular travel in Colts Neck is more evenly distributed in both

east/west and north/south directions. This is a consequence of the concentrations of employment and commercial activity in Freehold to the west and Lincroft, Red Bank, Eatontown and Long Branch to the east.

In fact, the only public transportation operating in Colts Neck is sub service along Route 537 between Freehold and Red Bank. The Monmouth Bus Company (part of NJ Transit) recently took over this line from the privately-owned Borough Bus Company. Buses run hourly on weekdays during working hours (8 a.m. to 5 p.m.) with no service on weekends. The hours are too restricted for broad use by commuters to daily employment; consequently ridership is low (75 persons/day in both directions). Nonetheless it does provide a measure of mobility to Colts Neck residents for shopping or errands in the more urbanized areas east and west of the township. Furthermore, regional bus service is available in Freehold and regional bus and rail service are available in Red Bank.

Orgo Farms

It is evident in the background report that the Orgo Farms tract is well-situated in terms of accessibility to the regional highway network. The site has frontage of some 1,800 feet on Route 537, access to Route 34 and proximity to a full interchange of Route 18.

Two reports were reviewed which address the traffic implications of development on the Orgo Farms site. Robert Nelson, P.E. issued a report on behalf of the Township on April 18, 1979. Unfortunately, his analysis is based in part on the assumption that all traffic from the project would have to use Route 537. He characterizes the likely impact of the development on the adjacent street system as "most detrimental." Aside from the misinformation concerning access to Route 34, this conclusion assumes that no improvements will be made to the intersection of Routes 34 and 537. If this were to be the case, the development of Orgo Farms would most certainly have a detrimental effect on traffic congestion.

In fact, the Site Plan for Colts Neck Village calls for a variety of road improvements to be financed by the developer. These include widening Route 537 westward from the boundary with the Stavola Farm to provide turning lanes at the intersection with Village Boulevard and then further west to expand the present two lanes to four moving lanes of traffic at the intersection with Route 34. The analysis of Abbington-Ney concludes that B to C levels of traffic service will result at the intersection. The Orgo Farms engineers also recommend certain design changes which will make the intersection of Greentree Drive and Route 34 safe for vehicular traffic to and from the project.

Traffic circulation at Orgo Farms would be improved by the construction of Joshua Huddy Drive and its extension through the site is provided by the plans of Colts Neck Village. However, the Township is entitled to delete that collector road from its next Master Plan in order to diminish development interest in the agricultural lands to the east of Orgo Farms. While it would facilitate traffic flow, Joshua Huddy Drive does not appear critical to manage circulation around the site.

The information available was not particularly current nor exhaustive as to the exact nature of signalization, channalization and road-widening improvements which would be required to maintain adequate levels of traffic operation around the Orgo Farms site. For instance, it appears that the intersection of Route 34 and 537 experiences queuing problems at peak hours under current conditions. These base conditions may well be worse now than were forecast for 1984 when Abbington-Ney studied the traffic impacts.

So the specific improvements proposed in the Colts Neck Village site plan may require review and modification. Nonetheless it appears that the site access and circulation problems attendant with the Orgo Farms development are capable of being satisfactorily resolved given the tract's extremely advantageous location within the highway network in central Monmouth County.

Sea Gull

The Sea Gull tract also is well-situated for regional transportation. Route 537 and a full interchange of Route 18 are both easily accessible via Hunt Road in Freehold Township. Stone Hill Road, which abuts the southern end of the site, provides a variety of options for travel to the east, south and west via Five Points Road and Route 33.

While no traffic impact analysis has been provided for the 585 unit development on this site, it does have the dual advantage of almost immediate access to regional highways to the north and dispersion through the collector street system to the south.

Traffic analysis would have to include the trips generated by the existing neighborhood (Joysan Terrace) and new subdivision (The Hunt) on Hunt Road as well as the potential development of the companion parcel to the Sea Gull tract across the municipal boundary in Freehold. However, there is no evidence to suggest any insurmountable traffic problems would result from the Sea Gull project.

PROXIMITY TO GOODS AND SERVICES

Beyond issues of vehicular accessibility in a regional context are locational considerations regarding the proximity of the development site to sources of goods and services. These are provided both by the public and private sector and range in importance from the critical (fire protection) to the merely convenient (barber/beautician). In the aggregate the distance and mode of travel from the site to these services have a major effect on its desirability to prospective residents and on the relationship of the development to the existing community.

Sources of services from the public sector include fire and police headquarters, first aid/rescue squads, post offices, the municipal complex, schools, the library, hospitals, social service offices, parks and playgrounds. On the private sector side are the typical neighborhood-oriented commercial uses: grocery store, pharmacy, cleaners, bank, gas station, hardware store, barber/beautician, deli/restaurant and recreational outlets. Places of worship are also important, although immediate proximity is not as critical as their availability and diversity within a reasonable distance of the site.

Naturally, judgements on these matters must take into consideration the context of land use, which in the case of Colts Neck is generally rural. Accordingly, standards of suitability relating to proximity of goods and services will be less demanding than would be the case for a suburban or urban site.

Orgo Farms - Public Services

Due to its location adjacent to the central crossroads of Colts Neck, the Orgo Farms tract is very close to most important sources of public services. Fire Company No. 1 and a first aid squad are located approximately 1/2 mile west of the site on Route 537. Police protection is in the process of changing from State to local jurisdiction but the headquarters will remain adjacent to the municipal complex on Cedar Drive approximately 1 mile to the northwest. The Post Office is located in the Colts Neck Shopping Center on Route 34 within a mile of the project site.

The Colts Neck branch of the Monmouth County Library system recently located in the former Atlantic Grange Building on Heyers Mill Road within a mile of the tract. Brookdale Community College across the Swimming River Reservoir in Middletown Township is also available for library use and night education.

Colts Neck Township has 3 schools covering grades K-8. Orgo Farms is within three miles of both the Conover Road School (K-3) and the Cedar Drive School (6-8). The Atlantic Elementary

School (4-5) is next to the northwest corner of Orgo Farms on Route 537. However, due to declining enrollments, the school's use for public education was terminated at the end of the past academic year. It is being occupied currently by administrative offices of the Board of Education and is available for lease to private schools on a yearly basis.

The probable impact of the Orgo Farms development on the Atlantic School is not clear. It would be a tremendous asset to have an elementary level school adjacent to the project. Children could walk to school without crossing major streets and the playground and ballfield would be readily accessible for recreation after school hours.

However, even if enrollments increased sufficiently in Colts Neck to justify another school it is not clear that the Atlantic School would be re-opened for educational use. It was constructed in 1922, with additions in the 1950's and is not in line with current standards. Also, the widening of Route 537 on the south side in conjunction with the Orgo Farms construction will exacerbate an existing noise problem in the front classrooms. Consequently the Board of Education might well recommend new construction or expansion of one of the other two schools in the Township to meet expanding enrollments.

Most active public recreation takes place at the three school sites and the Hominy Hill County Golf Course approximately two miles west of Orgo Farms on Route 537. Also, the site is within 3/4 mile from an eleven acre Green Acres open space between Creamery Road and Route 34 at the western tip of the floodplain leading to the Swimming River Reservoir.

Orgo Farms - Private Goods and Services

Similarly to its central position vis-a-vis public services, the Orgo Farms tract has extremely convenient access to the commercial strip development along Route 34. The only commercial zone in Colts Neck Township stretches for just over one mile on Route 34 north and south of its intersection with Route 537.

Carl Hintz has supplied a list of 85 retail and service uses which are located in this area. Among them are retailers of convenience foods, specialty foods, cards/gifts, jewelry, cosmetics, computers, flowers, hardware, paint, clothing, liquors and many more. Service uses include banks, cleaners, tailors, travel, photography and bindery. Professional and office uses include doctors, dentists, chiropractors, realtors, accountants, attorneys, appraisers, contractors, insurance adjustors, and a veterinarian. Finally, there is a motel, various restaurants and a racquet club.

In summary, the commercial strip offers an extremely wide range of goods and services within a mile of most of the Orgo Farms site. In some cases, such as the Colts Towne Plaza, the commercial operation actually abuts the Orgo Farms property. However, while these shops and many others are within easy walking distance of the site, the environment on Route 34 is not conducive to pedestrian shopping. It is a highway-oriented strip and unless specific paths were constructed for pedestrians separated from the highway it is likely that most of the shopping trips by Orgo Farms residents would be by car.

The weekly grocery shopping trip and other occasional forays for furniture, clothing, major appliances and the like still require a trip to Freehold, Matawan, Marlboro, Lincroft, Eatontown or Shrewsbury. While the Route 34 commercial zone should not aspire to be a regional shopping center, in-fill of additional commercial uses (including a supermarket) which are compatible with the existing retailers and services is desirable. Such in-fill would be consistent with both the State Development Guide Plan and the 1983 Colts Neck Draft Master Plan (Goal #11).

Sea Gull - Public Services

By virtue of its location at the very edge of the township, the Sea Gull tract is not in a central position for access to municipal services. However, the location of most critical functions are well within acceptable distances for a rural township. Furthermore, the site is reasonably close to county government services in adjacent Freehold Township and Borough.

The municipal complex in Colts Neck and police headquarters are approximately three miles northeast of the site over collector and arterial roads. The nearest fire station is Company No. 1 located 2 1/2 miles eastward on Route 537. The first aid squad is located just east of Company No. 1 so both fire and rescue units have convenient access on a principal arterial to the site. The Colts Neck Post Office is in the Shopping Center on Route 34 approximately 3 1/2 miles distant.

The site is roughly equi-distant (3 miles) from two public libraries - either in Colts Neck on Heyers Mill Road or in Freehold Borough. Both the Cedar Drive School and the former Atlantic Elementary School are also approximately 3 miles away. The Conover Road School is nearly 5 miles away. The Community Education Center of Brookdale Community College is located in Freehold Borough, which is much closer than the main campus in Middletown and accessible by bus on Route 537.

A wide range of services are available two miles away at the Monmouth County Social Services Building on Kozloski Road in East Freehold. The services include programs to provide lower income persons with medical, housing, handicapped, child care,

employment and nutritional assistance. The County Vocational School and County Park are located adjacent to the Social Services Building.

In terms of recreation the Cedar Drive School and adjacent Markos tract on Bucks Mill Road provide the closest combination of active and passive recreation in Colts Neck. Hominy Hills Golf Course is 1 1/2 miles east on Route 537. The closest recreation facilities are in East Freehold where the playgrounds and ballfields of the Burlington School and the Dwight D. Eisenhower School are within one mile west of Sea Gull on Stony Hill (Burlington) Road. The Baysholm Conservation Tract is next to these schools within 3/4 mile of the site.

Sea Gull - Private Goods and Services

The disadvantage of the Sea Gull tract's peripheral location is most evident when considering its access to private commercial activity. It is almost precisely midway between the Route 34 strip in the center of Colts Neck and the established "downtown" core in Freehold Borough. Although the intersection of Route 18 and Route 537 would ordinarily be an attractive commercial location, Colts Neck has maintained strictly A-1 (2 acre residential) zoning around it. This has effectively discouraged development here while channeling new commercial uses to the Business zone on Route 34 or to another municipality.

Development on the Sea Gull tract would essentially constitute the suburban fringe of Freehold Borough in classic planning theory. True to form, no commercial uses are permitted on Route 537 in Freehold Township except for one Business zone on the boundary with the Borough, over 2 miles from the Sea Gull property.

While it is not nearly as accessible to convenience shopping and services as would be desirable, the continuing pattern of housing development nearby in Freehold bears ample evidence that this disadvantage has not destroyed its viability as a residential location. It does underscore the importance of the bus service on Route 537 especially for lower income households who would live in Sea Gull Village.

AVAILABILITY OF WATER AND SEWER UTILITIES

Distinct from the judgmental nature of the other four categories of site suitability, the availability of potable water and an acceptable means of sewage treatment and disposal are fundamental requirements of every development. Regardless of the judicial award of a builder remedy no lower income household will ever occupy a dwelling unit constructed by a plaintiff who is unable to provide water and sewer service.

Furthermore, this requirement is most demanding on the typical Mount Laurel builder. Single family detached homes on large lots can usually subsist independently on wells and septic systems. However, in order to achieve profitability most developers of mixed income housing must build at densities which require common provision of water and sewer service. Viewed in this context the availability or capacity to provide these utilities to the site is of paramount concern to suitability.

Background

Water and sewer utilities are taken for granted in most urban and many suburban areas where public utilities or private companies have an established infrastructure and seemingly unlimited capacity to accommodate new customers.

Such is not the case in Colts Neck. It is the only municipality in central Monmouth County which has neither a public water nor sewer system. The limited exception is the Earle Naval Ammunitions Depot which operates a small package treatment plant which discharges into the Heckhockson Brook. Otherwise all development within the Township relies on well water and on-site septic systems.

Monmouth County is in the midst of great changes in the way that water and sewer service have traditionally been supplied to franchise areas of public or private utilities. Even though Colts Neck is not now in any such franchise area these changes will impact developments like those proposed on the Orgo Farms and Sea Gull sites.

In 1981 New Jersey's Statewide Water Supply Master Plan identified a current need for an additional 12 million gallons daily (mgd) due to surface and groundwater stresses in the Monmouth/Ocean County area. The proposed Manasquan River Reservoir would supply an estimated 35 mgd to the region, sufficient to accommodate growth projected through the year 2000.

Unfortunately the construction of the Reservoir is at least 5 years and perhaps 10 years from completion. In the meantime the State Department of Environmental Protection is becoming progressively less willing to grant permits for additional diversions of groundwater from certain aquifers. The Department's approval is required for any new well which is intended to pump

more than 100,000 gallons daily (approximately the capacity needed for 300 homes).

One of the aquifers generating the most concern is in the Raritan formation some 500 to 700 feet under the surface of Monmouth County. According to an analysis by Elson T. Killam Associates, the Raritan is the only formation capable of supplying the quantity of groundwater required by a prospective user of the scale of Orgo Farms at full development.

The Catch-22 which is evolving has implications beyond Orgo Farms. The Freehold Township Water Department is among many public purveyors which rely on groundwater from the Raritan formation. The State DEP cut Freehold's most recent request for additional diversion rights so severely that the Township is currently unable to supply water to new developments for domestic use. The Monmouth Consolidated Water Company, which services 23 municipalities in northeastern Monmouth County, failed in a recent attempt to secure State approval for additional groundwater pumping.

The water situation is complex, both technologically and bureaucratically, and it is not the intention of this report to do more than identify the nature and seriousness of the issue. To be sure, development in central Monmouth County will not be suspended for 10 years until the water flows north from the Manasquan Reservoir. However, it appears just as certain that developers in the county will find the provision of water a progressively more difficult hurdle to clear on the way to site plan approval and a building permit.

As mentioned previously, Monmouth County is also undergoing a transition in the way sewerage service is organized. The County is regionalizing the collection, treatment and disposal of sewage which had traditionally been a local responsibility in most municipalities. Thirteen regional and subregional authorities have been established and are in the process of becoming operational. Although Colts Neck Township is still not in any franchise area, this reorganization does alter the composition of the authorities which service adjacent municipalities.

Orgo Farms - Water Availability

As indicated above and in their Conceptual Engineering Report of January, 1979, Elson T. Killam Associates recommended that the Orgo Farms development include a complete potable water system on-site which would rely on groundwater pumped from the Raritan formation. While that possibility has not been foreclosed, due to the recent State regulatory approach on permit applications for groundwater diversion the development may need to secure water from another source.

The only alternative which was reported in the course of the study by Killam was the possibility of purchasing water from a private purveyor such as Monmouth Consolidated Water Company. This option was rejected after a preliminary assessment on the basis of cost and jurisdictional complications.

The cost of installing a 24,000 foot main on Route 34 south to the Orgo Farms site from the existing main at the intersection of Routes 34 and 520 was estimated in 1979 at \$1 million. This expense was in contrast to the cost of drilling and preparing two production wells for a total of \$350,000. Aside from the substantial cost differential it was recognized that Colts Neck's governing body would need to approve any extension of water service into the Township under a franchise agreement.

This alternative is still likely to be much more expensive than on-site production wells. However, it may deserve re-evaluation if the prospects are dim for adequate groundwater diversion rights in the near future. As an option, Monmouth Consolidated also has a main in Swimming River Road which could be extended westward along Route 537 to the Orgo Farms site.

Although there has been no such indication to date the additional cost of these improvements could undermine the basis for a builder remedy if it threatens the developer's ability to provide a "substantial" proportion of low and moderate income housing. Further, the extension of a water main into Colts Neck has planning ramifications which will be assessed in the land use section.

At this juncture it is sufficient to note that the regulatory climate today is much different than in 1979 when the acquisition of groundwater for this project would have been relatively routine. Water service may still be available to the Orgo Farms tract at an affordable cost; however securing it is likely to be a more expensive and institutionally more complicated matter than was contemplated 5 years ago.

Orgo Farms - Sewer Availability

The Site Plan of Colts Neck Village proposes an independent sanitary sewerage system for the entire P.U.D. The system would include a wastewater treatment facility located south of Route 18, one sewage pumping station at the northern end of the site near Route 537 and attendant force main, trunk and collector lines.

Like the treatment system at Earle N.A.D., treated effluent from the plant would be discharged into the Hockhockson Brook. Since the Brook drains into the Swimming River below the Reservoir the effluent can have no adverse impact on drinking

water. The treatment plant would be physically remote from the principal development site north of Route 18 and could be well buffered from surrounding property.

The actual plant design would be determined only after thorough review, consultation and approval by the State Department of Environmental Protection. So it is premature to assume exactly the sophistication of the system which will be required and its precise cost. However, there appears to be no basis to challenge (and indeed none of the experts involved in the case have done so) the Plaintiff's assertion that a suitable system can be designed and installed to meet all applicable regulatory standards.

Sea Gull - Water Availability

The Sea Gull tract is subject to the same constraints on groundwater availability as have been previously described. However, the prospect of drilling wells is presented in the Sea Gull reports as the secondary preference for securing water. The primary thrust seems to be connecting to the Freehold Township Water Department lines adjacent to the site.

Unfortunately, an assessment of the Freehold Township situation shows the groundwater depletion problem to also be a key impediment to this approach for servicing Sea Gull. The report by Resolve, Inc., planners for the Sea Gull project, references a letter of February 15, 1984 received from the Mayor of Freehold Township which indicates that the governing body has no intention of entertaining requests for utility service from outside the municipality. Indeed it is inconceivable to imagine their approving such a request until the Township is certain it can meet the needs of development within its boundaries. Such is not currently the case and it would be speculative to assume that it would occur before the completion of the Manasquan Reservoir.

One potential source of supply to both Freehold Township and Sea Gull is Gordon's Corner Water Company, a private purveyor in Marlboro. They are affiliated with a new company which has recently applied to the State D.E.P. for approval to divert surface water from the Matchaponix Brook. The State is conceptually in favor of the project and, if processing goes smoothly it could be in operation by 1986. However, a serious threat of litigation exists which could delay or derail the Matchaponix diversion. Even if it were operating it is not clear that Gordon's Corner Water Company could supply the Sea Gull tract directly at an affordable cost. Routing water to Sea Gull through the Freehold Township system is possible, though subject to the jurisdictional complications described above.

In summary, the availability of water to service the Sea Gull tract is an open question at this time, with various prospects but no clear resolution in sight.

Sea Gull - Sewer Availability

The report prepared for Sea Gull by Resolve, Inc. focuses on securing sewer service by connecting the project to an existing main located adjacent to the tract in Hunt Road. This main serves the Joysan Terrace subdivision in Freehold Township and is now part of the newly-established Manasquan Regional Sewerage Authority (RSA).

Although no engineering design work has been performed on this possible connection it appears to be technologically feasible. Improvements to one and possibly two existing pump stations would be required but these costs would probably be manageable. The Manasquan RSA has adequate capacity to handle the additional flow which full development of Sea Gull Village would generate.

However, similar jurisdictional complications exist as in the water situation. The Manasquan RSA has franchise agreements with 5 municipalities: Freehold Borough, Freehold Township, Howell Township, Farmingdale Borough and Wall Township. In order to extend service into the Sea Gull tract, the Authority would need a request from Colts Neck Township, approval of all 5 municipalities it is currently serving and approval of the State D.E.P.

Without speculating as to potential resistance from parties who have not made their positions known, it is evident that Freehold Township would resist a request by Colts Neck to join the Manasquan R.S.A. It is premature to say whether these objections could be overcome through negotiation or litigation but the resistance must be recognized.

The only other prospect for sewerage the Sea Gull tract would be with an independent treatment plan discharging into Mine Brook which borders the site. However, Mine Brook drains into the Yellow Creek and, some 3 miles eastward, into the Swimming River Reservoir. The Sea Gull tract is the most remote property from the Reservoir in central Colts Neck. Nonetheless, the location of even a sophisticated treatment plant on Mine Brook would need to be scrutinized very carefully for environmental impact.

ENVIRONMENTAL SUITABILITY

In framing the doctrine of Mount Laurel II and applying it to specific cases the Supreme Court repeatedly indicated its intention that environmental interests not be unduly sacrificed in the satisfaction of a municipality's fair share obligation. Perhaps the clearest statement in this regard has been cited by Judge Serpentelli in his prior decision in this case (Orgo Farms, et al. v. Township of Colts Neck):

We emphasize here that our concern for the environment is a strong one and that we intend nothing in this opinion to result in environmentally harmful consequences. (92 N.J. 158 at 331, n.68)

The paragraph which contains this footnote is addressing the impact which environmental concerns should have in the trial court's judgment on the award of a builder's remedy. The decision instructs the trial court to conduct further inquiry into the environmental factors affecting the project and gives the following additional guidance:

It is only if the proposed development...is contrary to sound planning principles, or represents a substantial environmental hazard, that it should be denied. (Ibid. at 331; emphasis supplied).

The Court makes a similar reference in footnote 68 to "substantial environmental degradation" as the standard for the trial courts to use in enforcing the constitutional doctrine. Presumably this reflects the Court's recognition that all development is somewhat disruptive to the existing environment, be it natural or otherwise. Therefore the standards for evaluating environmental impact must be realistic within the context of the Court's other stated objectives for creating the builder's remedy relief.

The environmental factors which are most important in assessing the suitability of the development sites in Colts Neck include topography, soil characteristics and hydrology. The off-site impact of the proposed development is particularly critical in the area of hydrology.

Other environmental characteristics, such as air quality, noise, wildlife, vegetation, geology, and unique or historic features are not considered pivotal to the analysis of these sites and are not addressed in this section. Water supply and sewer service to the projects themselves have been examined in the previous section. Notwithstanding the current uncertainty of their availability, due to the intensity of the proposed developments this analysis assumes that collective utilities will be a prerequisite to construction at either site.

Background

The planners for both Monmouth County and Colts Neck Township have formulated maps illustrating the effect of soils and topography on the development suitability of property within their respective jurisdictions. At the County level the initial results of this work were published by the Monmouth County Environmental Council in the Natural Features Study (1975). Gradations of suitability were defined in that document by the extent to which land was characterized by any significant natural features including wetlands, steep slopes or Class I farm soils.

The text of the Council's report identifies as suitable for development "lands on both sides of County Route 537, from State Route 18 east to Swimming River Road in Colts Neck" (p. 50). A County-wide map entitled "Development Suitability" accompanied the report and represents most of both prospective sites in Colts Neck as "suitable" or "highly suitable" for development.

An important distinction exists between this map, which reflects actual environmental conditions affecting how development could occur, and the County Growth Management Guide map, which represents the policy determinations of the County Planning Board as to how development should occur. Development policy is addressed in the Land Use section of this report.

Similarly, in the 1983 Draft of the Colts Neck Master Plan Mr. Queale has prepared a municipal map entitled "Critical Areas" (Plate 6). This is a composite which shows the location and types of limitations which certain natural environmental conditions place on development. In this instance the factors include floodplains, slopes in excess of 10% and unfavorable combinations of soil characteristics. Appropriately, prime agricultural soils were not designated as part of such Critical Areas since they do not constitute an environmental impediment to development. Rather, their preservation is a policy option which a community may elect...again, reflecting the distinction mentioned above.

The Critical Areas map is generally consistent with the County's Development Suitability map, though more detailed. Major portions of both plaintiff's sites are shown to be unencumbered by environmental constraints. The specific limitations which are reflected will be addressed below.

The final background point involves a further reference to footnote 68 of the Mount Laurel II decision. The Court asserts its conviction that "meeting housing needs is not necessarily incompatible with protecting the environment." It then cites a report by the MSM Regional Study Council which contends that

"the kind of higher density development that is needed to provide lower income housing can actually result in far less environmental pollution than traditional suburban development patterns."

The MSM report was based in part on findings in The Costs of Sprawl, a study prepared in 1974 for the President's Council on Environmental Quality. It notes that many of the environmental impacts of residential development diminish as the density of development increases. Among the reasons which are cited is the greater flexibility available in site planning at higher densities to incorporate measures which control environmental impacts.

A further perspective is provided by the 1983 Draft Master Plan for Colts Neck in a discussion of the impact of higher density (5 units per acre) development: "...townhouses and apartments occupy less ground coverage and can be designed to allow the consolidation of utility services, preserving open spaces, keeping the building and paving improvements out of flood plain areas and similar environmentally sensitive design objectives" (p. 37).

This is not to minimize the environmental impacts of intensive residential development. While the per unit impact of development diminishes as density increases, the total impact of a project may be environmentally disastrous. Optimally, each development proposal would be assessed according to its specific site engineering to allow for a fair and complete evaluation. However, this report on suitability is not at the detail of a project site plan review. It does take into account the basic design concepts which have been prepared and their relationship to the key environmental factors.

Orgo Farms

The topography of the Orgo Farms site should present no special erosion or other environmental problems. Slopes on the property range predominantly between 2 and 5 percent, with limited areas of 0-2% and 5-10% slope. The two areas with steeper slopes are left as open space along Slope Brook and under the JCP&L easement in the south central portion of the site. The Township's Critical Areas map identifies an area in excess of 10% slope adjacent to the southeast cloverleaf of the Route 18 - Route 34 interchange. This is also planned to be left in its natural wooded state as an infiltration field.

The soil characteristics of most of the site north of Route 18 are very compatible with development. Approximately 85-90% of this property is comprised of either Freehold or Collington type soils. Both types are deep, well-drained soils

with a depth to seasonally high water table at 5 feet or greater. The remainder of the northern parcel contains Colemantown or Shrewsbury soils, both of which are rated much less suitable for development. The stated design intent to leave these areas as undeveloped open space appears to have been followed generally, although not exclusively.

Soil conditions in the portion of the tract south of Route 18 present serious limitations to development. Keansburg, Colemantown and Manlapan soils predominate and all are either marginally suitable or unsuitable for development. The optional location of 180 units of manufactured single family homes in this area should be discouraged. Since this section of the tract drains into the Hockhockson Brook the Swimming River Reservoir will not be impacted by stormwater run-off. The sewage treatment plant and some commercial development can probably be accommodated; however, the plans in this area merit careful review.

The environmental issue of over-riding concern in the record of testimony and reports is the impact of the proposed Orgo Farms development on the water quality of the Swimming River Reservoir. The Reservoir is a critical water resource serving an estimated 250,000 people in northeast Monmouth County; accordingly, the management of stormwater and septage within its drainage basin is of substantial public interest.

The Orgo Farms tract lies in two drainage basins: the Yellow Brook and Pine Brook. Approximately 190 acres comprising most of the property north of Route 18 drains in the Yellow Brook basin and flows northeast one mile to the Reservoir. The remaining 33 acres of the tract drain to the Hockhockson Brook in the Pine Brook basin and flows northeast to join the Swimming River east of the Garden State Parkway and below the Reservoir.

The principal issues of contention are two:

1. What quantity and types of pollution would be generated by development of Colts Neck Village and how do these compare with the pollution which would result from development of the property as zoned?
2. Will the pollution generated by Colts Neck Village constitute a substantial environmental hazard in terms of its impact on the Swimming River Reservoir?

As noted previously, the Orgo Farms development is assumed to include an independent sewerage treatment and disposal system which would discharge into the Hockhockson Brook. Consequently the primary adverse impact on the Reservoir will derive from non-point source pollution in stormwater which drains in the Yellow Brook basin.

Non-point source pollutants, both organic and inorganic, occur in run-off from many sources. These include degradation of street surfaces, chemicals and compounds applied to streets, motor vehicle leaks and emissions, pesticides, garden and lawn fertilizers, garbage and litter, and household pets. Additionally, without proper controls excessive silt and sediment can be carried off-site and deposited in streams or lakes.

The reports and plans of Colts Neck Village reflect a sensitivity to these environmental consequences and incorporate various design responses to minimize the effects of stormwater pollution. On-site street widths are relatively narrow and road drainage is channelled through natural swales and across vegetated areas rather than along concrete curbs to a structured underground system. Surface ponds have been designed to ensure that run-off from the site in a fifty year storm will be at no higher volume than under its current undeveloped condition. The expert reports for Orgo Farms contend that run-off from the development would actually contain less sediment and certain other pollutants than are currently carried off the cultivated fields.

Reports prepared for Colts Neck Township by General William Whipple and Dresdner Associates deal with the environmental consequences of non-point source pollution from residential development of various densities. Prior studies are cited to the effect that multi-family housing produces more run-off pollution per acre than does single family housing on large lots. However, the extent of additional pollution is not conclusive. This relates in part to the experts' reliance on data from other developments which did not incorporate the stormwater management techniques planned for Orgo Farms and thus are of questionable comparability. It also results from the apparent lack of a broad foundation of scientific analysis in this field.

General Whipple did testify that the development of Colts Neck Village would cause a "significant" increase in non-point source pollution from stormwater run-off. Even with "state of the art" retention and detention he estimated the pollution at two to three times that of traditional single family development.

Concern over the environmental impact of the run-off pollution on the Reservoir is heightened by the proximity of the Orgo Farms tract. Slope Brook rises on the property and flows only one mile to the Reservoir - not much distance to allow the natural processes of stream flow to improve water quality.

However, the evidence regarding impact on the Reservoir is vague and inconclusive. Richard Moser, an employee of the parent company of Monmouth Consolidated Water Company, testified that

This ridge imposes design constraints on buildings, internal streets and parking lots. The schematic site plan for Sea Gull Village programs the 117 lower income units for the top of this ridge. The site plan in this area does not relate the circulation and structures to the topography as well as it might; minor revisions would improve this relationship.

The only other topographical constraint relates to the long, narrow configuration of the parcel and the fact that access to local streets occurs at either end. This combination dictates a linear site plan organized off a main collector street which runs virtually the length of the tract. This collector road, and consequently the residential sections along it, do not have much latitude to adjust for natural drainage courses or other variable topography.

The majority of the Sea Gull tract is comprised of Colts Neck Sandy Loam soil categories. These soils are generally deep, well-drained with a depth to seasonally high water table in excess of 6 feet. Soil borings taken during the spring of 1980 and 1981 confirm these characteristics. The Colts Neck soils should present no serious limitations to construction.

The fringes of the Sea Gull site are a different matter. The Township's "Critical Areas" map (Plate 6) indicates the flood plain of Mine Brook and the southern tip of the parcel along Stone Hill Road as environmentally sensitive. The soil along Mine Brook is alluvial and unsuitable for development. The Sea Gull Village site plan reserves this flood plain as open space.

The southern portion of the site is comprised of Shrewsbury and Evesboro soils which present varying suitability problems for development. However, the site plan programs townhouse units in this area at a density comparable to the rest of the tract. The soil logs for this section should be reviewed to determine whether this density can be accommodated.

No hydrological information has been presented for the development of Sea Gull Village. As previously noted, the site drains in the Yellow Brook basin and flows approximately 3 miles northeast to the Swimming River Reservoir. The site area of 74 acres represents one quarter of one percent of the Reservoir's total watershed acreage. The impact of run-off pollution on water quality in the Reservoir will be diminished by the length of stream flow. In fact, the 1983 Draft Master Plan for Colts Neck recommends high density development only in the southwest corner of the Township in order to minimize the threat of stormwater pollution to the Reservoir (p. 25, 41).

In all likelihood an acceptable stormwater management approach can be developed for Sea Gull Village; certainly no evidence to the contrary has been presented. However, this

the development at Orgo Farms would have a deteriorating effect on water quality but did not define or quantify that effect in a meaningful way. Similarly, General Whipple's report does not deal specifically with the environmental impact on the Reservoir.

The 190 acres of the Orgo tract which drain to the Swimming River Reservoir comprise less than 1% of its total 30,720 acre drainage basin. Perhaps the absence of specific impact analysis on the Reservoir is reflected in the following statement from General Whipple's report: "The effect on streams of the various pollutants in urban run-off is impracticable to determine precisely, especially where relatively small areas of the watershed are to be developed. Insufficient research has been done to determine such relationships" (p. 2-3).

Experts for Orgo Farms make the point that the Township is unfairly dramatizing the environmental consequences of Colts Neck Village while ignoring the adverse impact of continuing single family residential development and archaic farm management practices. In recent years many single family homes with on-site septic systems have been constructed on the periphery of the Reservoir itself as well as elsewhere in the Yellow Brook basin.

Regardless of the advisability of past Township policies the environmental suitability of the Orgo Farms site requires an independent assessment. The Mount Laurel II decision and Judge Serpentelli's opinion in this case place the burden of proof with the municipality to argue that a builder's remedy should be denied on environmental grounds.

There are clearly issues of environmental significance involved with the development of Colts Neck Village. It is evident that the Swimming River Reservoir will be adversely impacted to an extent, notwithstanding the sensitive site planning and engineering of the proposed development. However, the evidence provided does not specify the extent and nature of this impact sufficiently to warrant its characterization as "substantial environmental degradation" or "hazard" as referenced in Mount Laurel II.

Sea Gull

The topography of the Sea Gull tract presents site planning challenges but certainly no insurmountable obstacles to its suitability for residential development at the desired density. The site slopes generally eastward to Mine Brook which flows toward the property's lowest elevation at the northeast corner. While the majority of the site slopes gently from 0 to 5%, localized slopes of 5 to 10% occur intermittently along Mine Brook and a pronounced ridge in the north-central portion carries slopes in excess of 15%.

conclusion must be tentative in view of the schematic nature of the design and the lack of availability of site engineering for the project.

LAND USE COMPATIBILITY

The compatibility of the proposed developments with neighboring land uses and their relationship to municipal, county and state land use policies are the final elements of the site suitability analysis. The following background section will describe salient features of local and regional comprehensive plans for Colts Neck and its environs. Thereafter the development programs for the two sites will be discussed within this broad planning context and assessed as to compatibility with other properties in their immediate vicinities.

Background

A. The State Development Guide Plan and Regional Development Guide

Much of the recent analysis which has been prepared by the experts and counsel for respective parties in this case deals with the appropriateness of the State Development Guide Plan Growth Area designation for part of Colts Neck Township. Judge Serpentelli has ruled that the designation shall stand and that the municipality bears the obligation to provide for its fair share of the region's lower income housing need.

A review of the SDGP Concept Map (p. 44) shows Colts Neck in the midst of a Limited Growth area which stretches from Aberdeen Township in the north to the Monmouth County boundary with Ocean County in the south. This "island" of Limited Growth is entirely encompassed by areas slated for higher growth. The Parkway - Route 9 Growth Corridor swings southeast from Middlesex County and divides to flank the Limited Growth area. "Outside" the Parkway corridor the Coastal Zone High Growth area starts at Keyport on the Raritan Bay and follows the coastline south then swings inland at the Manasquan River.

The entire Township of Colts Neck is within this Limited Growth area with the exception of the southwest corner, which is part of the Growth corridor generated by Route 9. This Growth area contains 450-500 acres and adjoins Freehold Township on the west and Howell Township on the south.

The Guide Plan's recommendations for State development policy are set forth in Chapters IV and V, which address the Concept Map and Implementation strategies and guidelines. Highlights from the discussion of Growth and Limited Growth areas follow. The characteristics of Agricultural and Conservation areas are not treated per se since no portion of Colts Neck carries either designation in the Guide Plan. However, individual parcels may well exhibit features which would resemble the Agriculture or Conservation area definitions.

Growth areas were designated in extensively-developed areas, partially-developed suburbs with good access to jobs and services and certain existing rural centers in peripheral regions. Development is recommended in these areas to make more effective utilization of water and sewer utilities, roads and other public facilities which are already in place. Additionally, channeling growth to such areas would

"reduce growth pressures on large areas of agriculturally productive and environmentally significant lands which might otherwise undergo scattered and potentially detrimental development" while

"discourag(ing) growth in fringe areas which have neither the infrastructure nor the employment opportunities upon which growth depends" (p. 48).

As to Implementation the SDGP advocates the creation of "denser, more compact settlement patterns" located "within and adjacent to existing developed areas" (p. 84).

The SDGP recognizes certain established towns as Rural Centers and designates them for Growth due to their function as service centers for surrounding Agriculture and/or Limited Growth areas. These eight Rural Centers are situated in sparsely populated areas of Sussex, Warren, Hunterdon, Morris, Cumberland and Salem Counties and are further characterized by good highway access and public water and sewer utilities.

The SDGP includes commentaries on plans of other regional or sub-regional entities. The Regional Development Guide (RDG) of Tri-State Regional Planning Commission is of particular relevance since Monmouth County was within the Commission's area of jurisdiction. The Mount Laurel II decision quotes extensively from the SDGP on the comparability of the two Development Guides (92 N.J. 158 at 232 n. 13). The SDGP characterizes the broad policies of both plans as similar and notes that as a result of plan coordination meetings and subsequent revisions the RDG can be regarded as "the next level of mapping detail" (SDGP at 115). Further, "each plan promotes concentration of growth, stressing that future development should occur adjacent to already developed areas and as infill in mostly settled areas. Accordingly, each plan recognizes the public and private costs of sprawl..." (SDGP at 114, ML II at 232 n. 13).

The RDG recommends residential development to occur in three ranges of density. Generally the areas which the SDGP designates for Growth in Monmouth County are given residential density guidelines of either "2 - 6.9 units per net area" or "7 or more." The SDGP Limited Growth and Agriculture areas are termed "Open Lands" by the RDG and slated for residential development at "0 - .5 units per net acre."

The Regional Development Guide Map published in September, 1981 classifies all of Colts Neck Township as Open Lands. The Map designates most of the Route 9 corridor for densities of 2 - 6.9 units/acre. The corridor is depicted as extending into east Freehold Township but not as far as the SDGP Growth area which ventures into Colts Neck. An earlier version of the RDG Map did designate the center of Colts Neck for 2 - 6.9 units/acre; however, this recommendation was changed to Open Lands as a result of the plan coordination process.

The RDG text recommends very low residential densities be maintained in Open Land areas: three to ten acres per dwelling and even lower densities if possible. It does recognize that small clusters of development are established within the areas which the plan designates as Open Lands. As to development policy in these settlements:

"Expanding growth around them is not recommended, but new construction on the vacant lots within these areas at existing densities is appropriate and may often be advisable in order to concentrate any additional local development... the low densities in the open lands and the small population levels that would result will help to channel the bulk of future growth into urban areas" (RDG at 17).

The State Development Guide Plan's recommendations for Limited Growth areas discourage population expansion but not quite to the extent of the RDG's Open Lands policy. Presumably this is because the SDGP also includes Agriculture and Conservation area designations which are more restrictive as to development while these environmentally-sensitive areas are encompassed within the RDG Open Lands category.

The Guide Plan recognizes that "it is neither desirable nor feasible to prohibit development in these (Limited Growth) areas" (SDGP at 71). However, it points out that significant new levels of growth would perpetuate energy-inefficient development patterns and divert public and private investment from urban areas. Accordingly, potentially growth-inducing public investments in Limited Growth areas are to be made "at the minimum level consistent with health, safety, general welfare and the expectation of moderate amounts of growth." (SDGP at 91). The Guide Plan observes:

"The effect of this maintenance policy in the Limited Growth Areas, combined with growth investments in the Growth Areas, should be containment of suburban expansion and leap-frog development. It would assist efforts to improve conditions in the State's major cities and spur growth in the adjoining suburbs." (SDGP at 92).

B. The Monmouth County Growth Management Guide

In 1982 the Monmouth County Planning Board published a Growth Management Guide (GMG) which revised the General Development Plan under which County planning policies had been directed during the previous 12 years. The Guide is not a composite of municipal zoning district maps with site specific detail. Rather it is a statement of County development policies which are meant to guide local officials in making municipal land use decisions. In style and approach it is essentially a county version of the State Development Guide Plan.

The GMG designates certain areas for Growth and others for Limited Growth (including Agriculture/Conservation areas). Like the SDGP, it plots two Growth corridors which follow Route 9 and the Garden State Parkway. However, instead of including part of Colts Neck within the Route 9 corridor the GMG shows the Growth area limit west of Colts Neck in Freehold Township. All of Colts Neck is designated Limited Growth with a village indicated at the crossroads of Routes 34 and 537.

A series of land use policies are articulated for each development category in the GMG. Since none of Colts Neck is within a Growth area those policies do not warrant detailed attention. However, it should be noted that the residential densities recommended for Suburban Settlement areas within the Growth corridors are relatively dense at an overall minimum of 4 units per net acre. Cluster development is encouraged in all residential areas as a means of preserving open space, limiting impervious ground surfaces and lowering cost. Limited Growth area policies include two of particular interest:

1. "Discourage and/or limit the installation of public facilities and services in the Limited Growth areas" (GMG at 52). This is proposed as a means of limiting major development to the two Growth corridors.
2. "Determine densities and uses appropriate for given areas of the County through use of the Residential Location Timing Criteria method of zoning and development" (GMG at 52). This technique was formulated by the staff of the Planning Board to "score" development proposals on their relationship to existing and planned urban services. The specific services rated were public water and sewer availability, public transportation, convenience to shopping, fire protection and site access. The Timing Criteria analysis was not intended to be a "rigid zoning type control" but as a point of departure for the individual review each proposal receives. While this approach was adopted by the Board and utilized in the late 1970's, it has not been actively used in recent years by the staff or Board as an evaluative tool.

The County Guide indicates that its Agriculture/Conservation areas generally coincide with the Limited Growth areas. Development in these areas is to be channelled to certain designated Town Centers, Town Development Areas and Villages. This approach is very similar to the SDGP identification of Rural Centers, though at a more refined scale as would be expected of a County plan.

Before discussing the policies which apply to these nodes of development, two general policies of the Agriculture/Conservation Area deserve mention:

1. "Encourage municipalities to designate agricultural zones in their master plans and land use ordinances and encourage the formation of agricultural districts" (GMG at 53).

Part of the foundation for this policy can be traced to the County's Natural Features Study (1975) which referred to "the rapid loss of Monmouth County's precious farmlands" and cited Colts Neck, Marlboro and Freehold Township as examples.

Quite recently the newly-established Monmouth County Agriculture Development Board released for public review the proposed Agricultural Development Areas for the County. Pursuant to the Agriculture Retention and Development Act of 1983, when officially certified these will be "areas where agriculture will be presumed to be the first priority use of the land and where certain financial, administrative and regulatory benefits will be made to farmers who choose to participate."

Virtually all of Colts Neck Township north of the Earle N.A.D. is within a proposed Agriculture Development Area. The western boundary of this area appears to conform closely to the boundary line between the Limited Growth and Growth Areas designated on the County's Growth Management Guide map. As a general designation these areas may well meet the eligibility criteria set forth by the State law; however, it should be noted that the proposed district incorporates sections of Colts Neck which are very suburban in character. This is particularly evident in the northern portion of the Township.

2. "Encourage public acquisition of working farms or farmland which may be lost to development for the purpose of continuing farming operation" (GMG at 54).

The relationship of this policy to the agricultural preservation concerns reflected above is self-evident. The County Board of Freeholders has appropriated \$2 million to be matched by State funds from the Farmland Preservation Bond Act for the purchase of development rights in the Agricultural Development Areas.

The GMG designates three Town Centers in the County's Limited Growth Area: Allentown, Roosevelt and Farmingdale. Each of these is circled by a Town Development Area. The Guide intends that these Town Centers and Development Areas will absorb the bulk of future growth within the Limited Growth Area. Densities are recommended at a minimum of 4-5 units per net acre with development contingent upon the availability of water and sewer extensions from the Town Centers.

Town Centers are described as multi-use activity cores which include a small central business district, professional offices, small-scale light manufacturing facilities and mixed residential uses (including single family homes on small lots and possibly apartments and townhouses). Though larger than "Villages," they are limited in size depending on the availability of public water and sewer service.

The GMG characterizes the crossroads area of Routes 34 and 537 in Colts Neck as a Village. Villages are described as small nodes of residential development which are scattered throughout the Limited Growth Area. Their size should be limited to a maximum of 200 dwelling units and they may be served by a general store or local shopping center. Within this context of limited size, the Guide encourages residential development to be clustered in Villages as a means of preserving farmland in out-lying areas.

C. The Colts Neck Township Master Plan

The official Master Plan of Colts Neck was originally adopted and published in 1971, then re-adopted in 1976. As such it is not surprising to find it somewhat out-of-step with the County's evolving priority on agricultural preservation.

The Land Use Plan (Plate 10) shows the prevalent land use to be Low-density Residential and Farm Development. This is reflected in the Township's Zoning Ordinance by an A-1 District which allows agricultural and horse farming as well as single-family, detached residential development on 2 acre lots.

A Commercial zone is shown along both sides of Route 34 from the Yellow Brook crossing south past the intersection with Route 537. The Existing Land Use Map (Plate 1), dated 1969, reveals that much of this property was vacant or in farm use at the time the Master Plan was drawn. Most of this zone has since been developed with highway-oriented commercial uses as summarized in the section of this report regarding Private Sector Goods and Services.

The majority of the property south of Route 537 to Earle N.A.D. is classified as Low Density Research and Development. This office use district straddles Route 34 but is not oriented

exclusively to the highway since its east/west dimensions are bounded by Airport Road and the JCP&L Right-of-way. An optional Shopping Center district is indicated just south of the intersection of Routes 34 and 537. The Township's Zoning Ordinance maintains a linear Business zone along both sides of Route 34 and for 1/3 mile west on Route 537; the remainder of this area is zoned A-1 Residential/Agricultural.

The Plan's description of land uses cites the "obvious trend" of an expansion of residential uses and a diminution of agricultural and previously undeveloped areas. The trend is vividly documented by the statistics:

LAND USE DISTRIBUTION - COLTS NECK TOWNSHIP

	1960		1969	
	Acreage	Percent of Township	Acreage	Percent of Township
Residential	627	3.1	2,442	12.0
Farm, Vacant, Wooded	13,801	67.8	9,281	45.3

Source: Excerpted from Plate 2, Colts Neck Master Plan, 1971

Yet despite these figures and occasional references to the value and character of the agricultural base in the Township, the Master Plan is clearly oriented toward preparing for further growth. Not urban, high density development but a continuation of the suburbanization process which had quadrupled the residential acreage in Colts Neck within the previous decade.

The traffic circulation plans illustrate this intention. Routes 34, 537 and 520 are all designated "primary arterial" highways and are intended ultimately to carry four moving lanes of traffic. Most pointedly, the southeast quadrant of the Township - the only remaining undeveloped sector - is bisected by a Master Plan road. This Joshua Huddy Drive is shown as a major collector running east from Route 34 for two miles then veering north to meet Laird Road at Route 537.

Substantial commercial development is anticipated centering on the crossroads of Routes 34 and 537 and moving southward with the completion of the interchange of Route 18. A sewer interceptor is even mentioned to serve "the more intense development around the Village of Colts Neck" (MP at 9). The Plan maintains that this commercial district will primarily provide for the daily

convenience needs of Township residents although it also acknowledges the location's regional accessibility.

Residential development in Colts Neck did continue at a brisk pace during the 1970's. While population expansion in Monmouth County as a whole was at 9% for the decade, Colts Neck grew by 36%. More than 600 housing units were constructed - virtually all of them single family detached homes on 2 acre lots. Many subdivisions were built under a clustering provision which allows for lot size reductions in exchange for consolidation and dedication of open space.

This provision is valuable for protection of sensitive watershed areas and comprehensive recreation planning. However, it does nothing to preserve agricultural uses. It helps to make Colts Neck a more attractive place for people to live, but not to farm.

The 1983 Draft Master Plan is much more reflective of the Monmouth County Growth Management Guide - it documents an increase in horse farming in the Township and a recent slowing of the trend toward residential displacement of agricultural uses. This does not appear to have resulted from any particular policies or actions of the municipal government. Rather, it probably reflects the combined impact of increased profitability in the equine industry and the nationwide recession in the housing construction industry.

The Draft Master Plan recommends a variety of techniques to sustain this trend, including municipal designation of Agricultural Development Areas which would be zoned at 5 to 10 acres per unit for residential development with density bonuses for clustering. It also suggests a Transfer of Development Rights (TDR) program which would operate on a Township-wide basis to preserve farmland. This would relate to a new "Growth Area" zone in the southwest corner of the Township where density bonuses would permit residential development at up to 5 units per acre.

These are substantive recommendations; however, they have no official status with the municipality. They have not been adopted by the Planning Board and do not represent municipal policy. As such, private market forces are still the prime determinant of whether Colts Neck will become evenly blanketed with 2 acre subdivisions from growth corridor to growth corridor and, if so, how long it will take.

Orgo Farms

The State Development Guide Plan, Tri-State's Regional Development Guide and Monmouth County Growth Management Guide all place Colts Neck within the center of a district which is intended for low residential growth.

The SDGP recommends "delaying growth" (ML II at 230), containing expansion and leap-frog development and allowing the normal "moderate" pace of development to occur in these Limited Growth areas. The RDG goes further in advocating general development densities of only 3 to 10 acres/unit and exclusively infill construction at existing densities in settlements like the Village of Colts Neck. The County GMC recommends farmland preservation in the outlying areas and would sanction modest development (50-100 units) near the Village of Colts Neck.

The SDGP does not designate Colts Neck as a Rural Center and indeed it is not of the scale or regional significance of Flemington, Phillipsburg, Millville-Vineland or the like. However, the SDGP is, by its own definition, a "state-level policy guide" which consists of "broad, generalized areas without site-specific detail or precise boundaries" (SDGP at ii-iii). Accordingly, the County's recognition of the Village of Colts Neck as a focus of residential development within the Limited Growth area is a logical extension of the Guide Plan.

It is also consistent with sensible planning. The Township has observed that the Orgo Farms site is almost equally distant from the two Growth corridors and is therefore the most removed from any other tract reasonably considered as a response to Mount Laurel II. This line of reasoning leads to the conclusion that any site located between Orgo Farms and either Growth area would, by virtue of being closer, be a better prospect. The opposite is more likely the case. In fact, the analysis of accessibility to public services, to private goods and services and to the regional highway and public transportation network demonstrate that the Orgo Farms tract is well-located for development judged by these suitability characteristics.

However, the County GMC defines Village development in very restrictive terms. A Town Center designation would legitimize much more growth than the maximum of 200 dwelling units imposed on Villages. Upon review, there are certain distinctions which set the Town Centers of Allentown, Farmingdale and Roosevelt apart from Colts Neck. Among these are the existence of public water and sewer systems (if limited) and a larger residential population in close proximity to the "center" of town. On the other hand, the Village of Colts Neck enjoys at least comparable regional accessibility to that of the Town Centers and has a more diversified commercial district.

On balance, the issue emerges as one of scale. There are legitimate differences in community development characteristics between the designated Town Centers and Colts Neck; however, they do not seem nearly as dramatic as the differences in growth policy which contrast the two designations. After all, the Orgo

This may have been Orgo Farms intention when water was presumed available from deep wells located on-site. However, the P.U.D. may have to purchase water from Monmouth Consolidated Water Company and install a main from a peripheral location to the center of Colts Neck. It is highly unlikely that such a main would be installed to serve Orgo Farms alone - typically it would be sized adequately to accommodate capacity development along its route. Clearly the availability of public water would add to the attractiveness of developing property in the Township.

These and other dimensions of the development pressure issue can be addressed in the course of the proceedings. The point is not to resolve them at this time, but rather to recognize through the process those specific aspects of a project like Orgo Farms P.U.D. that might precipitate subsequent development in opposition to the Township's Zoning Ordinance and devise ways to mitigate them.

The final component of local land use suitability involves the relationship of the proposed development to its immediate neighbors. No particular compatibility problems are presented with Route 18 and Earle N.A.D. on the south, nor with the commercial properties on the west - given proper buffering. Route 537 and the Atlantic Elementary School, which has been previously discussed, form the northern boundary. Scattered residential and small scale commercial properties would face the P.U.D. from across Route 537. The major impact on these residents will be the increased traffic flow on Route 537.

A significant compatibility problem does exist along the 4,000 foot long eastern border of the Orgo Farms tract. The Stavola farm currently has 164 acres under cultivation (corn and hay) and another 40 acres in grass for grazing beef cattle. The compatibility problems of farming adjacent to residential development are well-documented and led to the passage of the Right-to-Farm Act by the N.J. Legislature in 1983. That law and companion legislation should improve the prospects for peaceful co-existence. A different type of compatibility problem would arise if the Stavola farm were developed under the current large lot zoning.

Mr. Frizzell makes the point that virtually any sizeable site in Colts Neck will have similar neighboring land uses since the Township is zoned predominantly for Agriculture/Residential - 2 acre. Nonetheless, every effort must be made to organize development away from the eastern border and to provide an effective buffer by use of set-backs, landscaping, changes of elevation, etc.

Sea Gull

The obvious benefit of the Sea Gull tract from a regional planning standpoint is its location within the Growth area designated in the State Development Guide Plan. The policy of the Guide

Plan is to channel growth into "urbanized" areas which are already developed and into suburbs in close proximity to available jobs and services. The stated intention is to make most efficient use of the public infrastructure by clustering development in or adjacent to existing service areas.

In fact, the public water and sewer systems which would be necessary to support a large residential development are immediately adjacent to the site. From this perspective the Sea Gull tract can be viewed as a natural extension of the suburbanization process around Freehold Borough. However, as noted in the section of this report on utilities, the overlay of political jurisdictions on this land use map may jeopardize the availability of public water and sewer service to the site. The SDGP Growth area line does not follow municipal boundaries but the utility franchise agreements do.

In contrast to the State Development Guide Plan, both Tri-State and Monmouth County place the Sea Gull tract within a low growth area with the rest of Colts Neck Township. The Regional Development Guide and Growth Management Guide restrict the width of the Route 9 Growth corridor to a boundary which runs north/south within Freehold Township.

To the west of this line the County GMG designates a Suburban Settlement zone in which residential development is recommended at a minimum density of 4 dwelling units per net acre. To the east of the line is the GMG's Limited Growth - Agriculture/Conservation area in which all development which cannot be channelled to Growth areas is directed toward Town Centers, Town Development Areas and Villages. The remainder of these districts are to be retained in agricultural use.

This narrow definition of the Growth corridor through Freehold Township reflects both historical development patterns and watershed characteristics. The intensity of land use diminishes from Freehold Borough eastward through the Township, with the density of residential zones ranging from High Density (garden apartment/townhouse) and R-9 (single family/9,000 square foot lots) near the Borough to R-25 (single family/25,000 square foot lots) and R-40 (single family/40,000 square foot lots) adjacent to Colts Neck Township. Additionally, the County's plotting of the Growth corridor in this area roughly follows a ridge line which defines the watershed basin for the Swimming River Reservoir to the east.

Nonetheless, the designation of Limited Growth does not reverse the substantial residential development which has occurred and is continuing in east Freehold Township. Both sides of Route 537 are served by public water and sewer systems eastward to the

Colts Neck Township boundary. Construction of a subdivision of 13 homes is currently being completed on Burlington Road near Colts Neck and site work has recently been started on a new 49 lot subdivision on Hunt Road. Even with the proposed inclusion of east Freehold in the County Agricultural Development Area it is likely that residential development will continue at a moderate pace on available tracts in this area.

Ultimately it is the SDGP Growth area designation which creates the bulk of Colts Neck's fair share obligation. Thus, within the relatively limited array of options available to such a rural municipality, the Sea Gull tract must be viewed as reasonably suitable from a land use standpoint.

The Sea Gull tract is also relatively well located in terms of surrounding land uses. Like many properties in Colts Neck it shares a common border with an operating horse farm. While this would normally pose compatibility problems with residential development, in this case the existence of Mine Brook would serve as an effective buffer. The floodplain of the Brook requires buildings to be set back from this eastern edge of the site and the difference in elevation and vegetation along the streamcourse should effectively screen the two abutting land uses.

To the south across Stone Hill Road and to the west across Hunt Road are subdivisions of single family homes on 25,000 and 40,000 square foot lots. These residents will feel the impact of increased traffic which would be generated by development of the Sea Gull tract and it has been previously noted that no traffic analysis of this proposal has been prepared. The tract itself has only very limited frontage on Hunt Road near its intersection with Route 537. To the south of this access point a triangular tract of vacant land in Freehold Township is interposed between Hunt Road and Sea Gull. This tract should be developed in a way which provides a transition between the Sea Gull property and the single family subdivisions.

The issue of development pressure has been raised regarding the Sea Gull tract, especially if water and sewer utilities are brought in from Freehold Township. Development interest inevitably increases with the advent of public utilities; however, this interest will be mitigated by two factors. First, the Growth area of Colts Neck is logically restricted in the southwest corner of the Township by Route 18 which provides a physical and visual separation. Secondly, much of the other property in this vicinity is either developed with single family homes or, in the case of the Abbatiello Farm, has recently undergone major improvements and reinvestment as a horse farm. Consequently development pressure in this location would be relatively restrained in comparison with the impact of bringing water and sewer service in to most other parts of Colts Neck Township.

ADDENDUM

A number of issues relating to the provision of Mount Laurel housing in Colts Neck were purposely not addressed in this report. They are identified and discussed below.

1. The Township of Colts Neck intends to address a portion of its fair share obligation through rehabilitating dilapidated lower income housing and permitting mobile homes on horse farms for lower income employees. Any credit which the municipality receives for these strategies does not affect the fair share number; rather, it is a function of the compliance process. Therefore it is not timely to address at this stage.

2. Similarly, the Township planner's recommendation of developing a manufactured housing subdivision which would provide 100% low and moderate income housing is a compliance approach. Consequently its consideration in this report would be premature.

3. The scale of both plaintiff's proposed developments has elicited the question of phasing from municipal officials. The Mount Laurel II decision does give the trial court the authority to "phase-in" the development of a proposed project if it would effect a "radical transformation" of a community (ML II at 331). However, this determination is not timely until after the award of a builder's remedy to a plaintiff. Since this case has not reached that point and the nature of any builder's remedy has not been defined it is not yet timely to address the phasing issue from a planning standpoint.

RESOURCES

The following reports, publications, briefs and other documents were reviewed in the preparation of this report:

1. Master Plan and Summary of Proposals - Colts Neck Township, Alvin E. Gershen Associates, April, 1971
2. Rough Draft, 1983 Master Plan and Summary of Proposals - Colts Neck Township, prepared by Queale & Lynch, Inc., October, 1983
3. "An Analysis of Colts Neck" prepared by Queale & Lynch, Inc., February, 1984
4. Miscellaneous memoranda dated 1982-1984 to Colts Neck Planning Board from Queale & Lynch, Inc. regarding Fair Share matters.
5. Development Regulations of Colts Neck Township
6. Trial briefs filed by Drazin and Warshaw, P.C.; Frizell & Pozycki; Lomurro, Eastman & Collins; and Stout, O'Hagan & O'Hagan
7. Transcript of Proceedings before Colts Neck Zoning Board, August 21, 1980: Testimony of General W. Whipple, Jr.
8. "Nonpoint Source Pollution from Proposed Colts Neck Village PUD Complex" by William Whipple, Jr., May, 1979
9. "The Value of Agricultural and Open Space Lands in the Township of Colts Neck," by Terraplan, February, 1984
10. "Environmental Impact of Orgo Farms Development" by Dresdner Associates, February, 1984
11. Plans of Colts Neck Village, prepared by Abbington-Ney Associates; Patrick M. Gilvary, Architect; Elson T. Killam Associates, Inc.; and John Rahenkamp and Associates, dated March 2, 1984
12. Report on Fair Share and Growth Area Designation by Hintz-Nelessen Associates, February 12, 1984
13. "Environmental Impact Statement - Colts Neck Village" by Abbington-Ney Associates, June 25, 1980
14. "Conceptual Engineering Report...for Colts Neck Village" by Elson T. Killam Associates, January, 1979

15. "Colts Neck Village Project Description" by RSWA, Inc.,
September 20, 1979
16. "Feasibility Study - Application for Variance," John D.
Lazarus, September 26, 1979
17. "Outline of Testimony - Colts Neck Village," by Henry Ney,
undated
18. "Traffic Engineering Analysis - Proposed Planned Unit
Development," by The Traffic Engineering Group, April
18, 1979
19. "Fair Share Housing Analysis - Colts Neck Township," by
Richard Thomas Coppola and Associates, February, 1984
20. "Township of Colts Neck - The Appropriateness of Its Growth
Area Designation," by Richard Thomas Coppola and
Associates, February, 1984
21. "A Report Concerning Lot 2, Block 41.01, Township of Colts
Neck" by Resolve, Inc., February, 1984
22. Draft "Environmental Assessment for 200-600 Units of Family
Housing at the Naval Weapons Station, Earle, Colts
Neck, N.J." by Rogers, Golden & Halpern, Inc., March,
1984
23. Monmouth County Growth Management Guide, Monmouth County
Planning Board, October, 1982
24. Position Paper: "Residential Location Timing Criteria,"
Monmouth County Planning Board, May 16, 1977
25. "Natural Features Study for Monmouth County," Monmouth
County Environmental Council, April, 1975
26. "Monmouth County Planning Area 5 Land Use," Monmouth
County Planning Board, November, 1978
27. "Proposed Agricultural Development Areas," Monmouth County
Agriculture Development Board, May, 1984
28. Monmouth County Maps: "Sanity Sewerage Facilities" (June,
1980), "Water Supply Facilities" (January, 1978),
"Composite Zoning Map" (March, 1980), Monmouth County
Planning Board
29. "Long Range Plan - Surface Passenger Transportation Element,"
N.J. Department of Transportation, 1983
30. "Our Region's Response to the Mount Laurel Decision and
the New Municipal Land Use Law," MSM Regional Study
Council, Inc., February, 1978

31. State Development Guide Plan, N.J. Department of Community Affairs, May, 1980
32. Regional Development Guide 1980 - 2000, Tri-State Regional Planning Commission, September, 1981