

~~MM~~ - Holmdel  
M.M.

N. J. Labor Union Assoc.  
v.  
Twp Holmdel

5/15/75

Transcript of the Court's decision directing Holmdel to  
amend its zoning ordinance

Pg. 23

MM0000368

1 **FILED**

2 **APR 8 1976**

3 **DAVID B. FURMAN, J.S.E.**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION-MONMOUTH COUNTY  
Docket Number L-1149-72 P.W.

5 MIDDLE UNION ASSOCIATES, :

6 Plaintiff, :

7 v. :

Decision of the Court  
on  
Counts Two and Three

8 ZONING BOARD OF ADJUSTMENT :  
9 OF TOWNSHIP OF HOLMDEL, et al, :

Defendants. :

10 - - - - - :

11 Freehold, N. J.  
12 May 15, 1975

13  
14 B E F O R E:

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

16  
17 A P P E A R A N C E S:

18 ALAN J. WERKSMAN, ESQ. (Werksman, Saffron & Cohen),  
19 for the Plaintiff.

20 S. THOMAS GAGLIANO, ESQ. (Gagliano, Tucci & Kennedy), and  
21 DEAN A. GAVER, ESQ. (Hannoch, Weisman, Stern & Besser),  
for the Defendant Township of Holmdel.

22 Daniel Greenspan  
23 Official Court Reporter

24  
25 MM000036S

1 THE COURT: I want to thank all three counsel  
2 for your help. The briefs which you submitted  
3 have been very helpful, and the way in which you  
4 tried the case has made it a pleasure to have had  
5 you here.

6 In this action plaintiff appealed from the  
7 denial of a recommendation by the Board of  
8 Adjustment, Holmdel Township, for a use variance  
9 under N.J.S.A. 40:55-39(d) to construct in a  
10 Commercial-Industrial district in which any type of  
11 residential construction or use is prohibited a  
12 694 unit planned residential development on 80  
13 acres, with a mix of apartments for rent and town  
14 houses for sale. Earlier in the case the denial  
15 was affirmed.

16 Plaintiff also attacks the validity of the  
17 ordinance as it applies to plaintiff's property  
18 (count 2 of the complaint) and the validity of the  
19 entire ordinance on the grounds that it does not  
20 provide for multi-family housing and low-cost  
21 housing and on the grounds that the ordinance is  
22 not in accordance with a comprehensive plan.

23 The following issues on these questions are  
24 set forth in the pretrial order:

25 a. Is the zoning ordinance in accordance with

1 a comprehensive plan?

2 b. When adopting a zoning ordinance must  
3 a municipality consider the surrounding  
4 municipalities?

5 c. Is the zoning ordinance of the  
6 Township of Holmdel as applied to plaintiff's  
7 premises arbitrary, unreasonable and capricious?

8 d. Is the zoning ordinance of the Township  
9 of Holmdel unreasonable in not providing for  
10 multi-family dwellings?

11 e. Does the zoning ordinance of the  
12 Township of Holmdel preclude the use of  
13 plaintiff's premises for any purposes as alleged  
14 in the second count of the complaint?

15 f. Does the zoning ordinance of the  
16 Township of Holmdel as applied to plaintiff's  
17 premises result in a taking of plaintiff's  
18 land and the condemnation of same as alleged in  
19 the second count of the complaint?

20 g. Is the zoning ordinance of the Township  
21 of Holmdel contrary to, and in violation of,  
22 the statutory standards of the State of New  
23 Jersey for planning and zoning uses as alleged  
24 in the second count of the plaintiff's complaint?

25 h. Does any statute of the State of New

1 Jersey or provision under the constitution of  
2 the State of New Jersey or of the constitution of  
3 the United States exist which requires the Township  
4 of Holmdel to provide for other than one-family  
5 detached housing facilities in its zoning ordinance?

6 i. Is the Township of Holmdel required to  
7 provide for a balanced housing in its zoning  
8 ordinance?

9 j. Does this plaintiff have the standing to  
10 raise the alleged denial of basic civil rights and  
11 liberties as set forth in paragraphs 3 and 5 of the  
12 third count of plaintiff's complaint?

13 k. Does the zoning ordinance of the Township  
14 of Holmdel, taken as a whole, have any rational  
15 relation to the statutory purposes of zoning as  
16 set forth in N.J.S.A. 40:55-32?

17 Plaintiff's property is an irregular piece on  
18 the east side of Union Avenue about 600 feet north  
19 of Route 35, a main artery. At the time plaintiff  
20 assembled it the zoning was for one-family houses  
21 on relatively small lots, I gather a little more  
22 than a quarter of an acre. When plaintiff applied  
23 for subdivision, the Planning Board did not act  
24 upon it before the governing body changed the  
25 zone to one acre lots. In 1961 the zone was changed

1 to Industrial. In 1963 it was changed to its  
2 present zoning, Commercial-Industrial.

3 Permitted uses in the CI Zone are:

- 4 (1) Limited industrial uses;  
5 (2) Scientific and research laboratories;  
6 (3) Office buildings for business, professional,  
7 executive and administrative purposes;  
8 (4) Retail sales and services with certain  
9 exceptions; and  
10 (5) Agricultural uses.

11 Plaintiff maintains that the zoning ordinance  
12 effectively prevents the use of plaintiff's land  
13 for any purpose and, therefore, constitutes a  
14 taking without compensation.

15 In order to prevail on this theory,  
16 plaintiff must demonstrate that the ordinance so  
17 restricts the use of the subject premises that it  
18 cannot practically be utilized for any reasonable  
19 purpose or that the only uses permitted by the  
20 ordinance are those to which the property is  
21 not adapted or which are economically infeasible.  
22 Morris County Land Improvement Co. v. Parsippany-  
23 Troy Hills Tp., 40 N.J. 539, 557 (1963); Gruber  
24 v. Mayor and Tp. Comm. Raritan Tp., 39 N.J. 1, 12  
25 (1962).

1           An effort was made by a Mr. Rice from 1962  
2 through 1964 to dispose of the property. He was  
3 a professional but was unable to dispose of it.  
4 Mr. Milton Werksman, one of plaintiff's partners,  
5 who is a lawyer apparently specializing in  
6 real estate, testified that he made efforts to  
7 sell it for industrial uses. He talked to  
8 friends of his, brokers, lawyers and developers,  
9 during his daily activity. Apparently, he  
10 brought some of them down to look at the property.  
11 Mr. Lazarus testified that he had attempted to  
12 dispose of it. I discount Mr. Lazarus' efforts  
13 because they have gone on for far too short a  
14 period to be meaningful. He was engaged after  
15 the Board of Adjustment denied the recommendation,  
16 his engagement being sometime in September of  
17 last year. Certainly, the result in not being  
18 able to sell an 80 acre parcel in less than a  
19 year means nothing at all. There is no proof at  
20 all that any attempt has been made to market the  
21 property for a scientific or research laboratory  
22 or for an office building.

23           I believe Mr. Walker's testimony that proper  
24 efforts were not made to sell the property. Rice  
25 stopped in 1964. Mr. Werksman's conversations with

1 his acquaintances in the real estate field did  
2 not constitute marketing. As I have said,  
3 Lazarus has been at it too short a time. In  
4 addition, I think the price of \$15,000 an acre  
5 is too high. It makes no difference whether that  
6 was communicated to any prospective buyer or not.  
7 I think Mr. Walker's figure, which I believe was  
8 \$6,000 to \$9,000 an acre, was far more reasonable.

9 Plaintiff has failed to meet the burden  
10 of proof that the property could not practically  
11 be used for a permitted purpose. The proof was  
12 directed to industrial and retail sale uses only.  
13 As I have pointed out, there are other permitted  
14 uses in the CI Zone.

15 There will be a judgment for defendant on  
16 the second count.

17 Plaintiff contends that the Holmdel zoning  
18 ordinance is invalid in that it is not in  
19 accordance with a comprehensive plan and in that  
20 it is unreasonable in not providing for multi-  
21 family dwellings. This Court, on a motion,  
22 determined that plaintiff had standing to raise  
23 the issues. Plaintiff originally argued that the  
24 zoning ordinance is exclusionary and denied to  
25 those who cannot afford single-family detached



1 homes the opportunity to live in Holmdel, but the  
2 Court dismissed this equal protection argument  
3 on the ground that plaintiff does not have  
4 standing to raise it.

5 Although it has raised the issue of whether  
6 the Holmdel zoning ordinance is in accordance with  
7 a comprehensive plan, plaintiff has not pursued  
8 this point in its brief nor in its proof. The  
9 basic requisites of a comprehensive plan are set  
10 forth in *Kozenik v. Montgomery Tp.*, 24 N.J. 154,  
11 166-167 (1957). See also *Johnson v. Tp. of*  
12 *Montville*, 109 N.J. Super. 511, 519-521 (App. Div.  
13 1970).

14 It is clear that the purpose of a comprehensive  
15 plan, as required by N.J.S.A. 40:55-32 and as  
16 interpreted by the Supreme Court in *Kozenik v.*  
17 *Montgomery Tp.*, *supra*, was to prevent the occurrence  
18 of what has come to be known as spot zoning.  
19 This problem is certainly not present in the  
20 case at Bar. The Holmdel zoning ordinance was  
21 not adopted piecemeal, although it has been amended,  
22 and is clearly an integrated product of a rational  
23 process. Therefore, plaintiff cannot prevail by  
24 contending that the zoning ordinance is not in  
25 accordance with a comprehensive plan.

1 Plaintiff argues that the zoning ordinance  
2 is invalid in that it neither provides for  
3 multi-family housing nor for a balanced housing  
4 scheme in the Township.

5 New Jersey Constitution of 1947, Article  
6 IV, Section VI, paragraph 2, gives the  
7 Legislature power to enact enabling legislation  
8 to empower the municipalities to enact zoning  
9 legislation.

10 N.J.S.A.40:55-30 specifically gives  
11 municipalities authority to "limit and restrict  
12 to specified districts \* \* \* regulate therein,  
13 buildings and structures according to their  
14 construction, and the nature and extent of their  
15 use, and the nature and extent of the uses of  
16 land \* \* \* ."

17 N.J.S.A. 40:55-32 sets forth the purposes of  
18 zoning legislation and the essential considerations.  
19 It provides, and I quote:

20 "Such regulations shall be in accordance with  
21 a comprehensive plan and designed for one or more  
22 of the following purposes: to lessen congestion  
23 in the streets; secure safety from fire, flood,  
24 panic and other dangers; promote health, morals  
25 or the general welfare; provide adequate light and

1 air; prevent the overcrowding of land or buildings;  
2 avoid undue concentration of population. Such  
3 regulations shall be made with reasonable  
4 consideration, among other things, to the character  
5 of the district and its peculiar suitability for  
6 particular uses, and with a view of conserving the  
7 value of property and encouraging the most  
8 appropriate use of land throughout such  
9 municipality."

10 The authority to zone is based on an enabling  
11 act which sets forth specific purposes. The  
12 act of zoning classifies homogeneous and  
13 compatible uses into separate districts under a  
14 comprehensive plan designed to promote the  
15 statutory purpose. It has been said that this  
16 makes it possible to exclude specific uses which  
17 could not be so excluded under the municipality's  
18 police power. Andover Tp. v. Lake, 89 N.J. Super.  
19 313, 320 (App. Div. 1965). See 1 Rathkopf, The  
20 Law of Zoning and Planning (3d ed. 1969), p. 15-5.

21 Reasonable zoning regulations designed to  
22 promote early physical development of municipalities  
23 according to a land-use pattern represent a valid  
24 exercise of police power. Such regulation by  
25 establishing districts where land may be devoted

1 only to certain specified uses, and which fix  
2 area, front, and side yard requirements in the  
3 districts, impose restrictions on ordinary  
4 incidents of ownership. They are not  
5 constitutionally offensive because, when  
6 reasonable in degree and considered necessary by  
7 the governing body to the physically harmonious  
8 growth of land use in the municipality, they  
9 serve the overall public interest of the community.  
10 *Gougeon v. Board of Adjustment of Borough of Stone*  
11 *Harbor*, 52 N.J. 212, 225 (1968); *Harrington Glen,*  
12 *Inc. v. Municipal Bd. of Adjustment of Borough of*  
13 *Leonia*, 52 N.J. 22, 32 (1968). See *Fischer v.*  
14 *Township of Bedminster*, 11 N.J. 194 (1952);  
15 *Duffcon Concrete Products, Inc. v. Borough of*  
16 *Cresskill*, 1 N.J. 509 (1949); *Clary v. Borough of*  
17 *Eatontown*, 41 N.J. Super. 47 (App. Div. 1956).

18 However, all zoning legislation is subject  
19 to constitutional limitations that it not be  
20 unreasonable, arbitrary, or capricious and that  
21 the means selected by such legislation shall have  
22 a real and substantial relation to the legitimate  
23 purposes sought to be attained. *Schmidt v. Board*  
24 *of Adjustment, Newark*, 9 N.J. 405, 414 (1954).  
25 Constitutional guarantees require that zoning power

not be utilized beyond the public need or impress unnecessary and excessive restrictions upon the use of private property or pursuit of useful activities. *Katobman Realty Co. v. Webster*, 20 N.J. 114, 122-123 (1955).

The test of the validity of a municipal zoning ordinance is the reasonableness of the ordinance viewed in light of existing circumstances in the community, used in a broad sense, and the physical characteristics of the area.

It used to be said that the party attacking the validity of a zoning ordinance has a heavy burden of affirmatively showing it bears no reasonable relationship to public health, morals, safety or welfare. Proof of unreasonableness has to be beyond debate. *Barone v. Bridgewater Tp.*, 45 N.J. 224, 226 (1965). Even that presumption could be overcome by a showing on the face of the ordinance, or in the light of facts of which judicial notice can be taken, of transgression of constitutional limitations or bounds of reason. *Moyant v. Paramus*, 30 N.J. 528, 535 (1959).

Usually, the judicial role in reviewing a zoning ordinance is tightly circumscribed. There

1 used to be a strong presumption in favor of its  
2 validity. A court could not pass upon the wisdom  
3 or lack of wisdom of an ordinance. It could only  
4 invalidate a zoning ordinance if the presumption  
5 in favor of its validity is overcome by a clear,  
6 affirmative showing that it is arbitrary or  
7 unreasonable. *Harvard Ent., Inc. v. Bd. of Adj.*  
8 *of Madison*, 56 N.J. 362, 368 (1970).

9 The total factual setting has to be  
10 evaluated in each case. Under usual circumstances,  
11 if the validity of the ordinance is in doubt,  
12 the ordinance must be upheld. *Euclid v. Ambler*  
13 *Realty Co.*, 272 U.S. 365, 388 (1926).

14 In *Southern Burlington County N.A.A.C.P. v.*  
15 *Tp. of Mount Laurel*, \_\_\_ N.J. \_\_\_ (1975), the  
16 Supreme Court considered an attack upon the  
17 zoning ordinance of Mount Laurel Township brought  
18 by various individual plaintiffs and by three  
19 organizations representing the housing and other  
20 interests of racial minorities. Plaintiffs argued  
21 that Mount Laurel's system of land use regulation  
22 was invalid in that it excluded low and moderate  
23 income families from the municipality.

24 The Supreme Court held the zoning ordinance  
25 to be invalid to the extent that it did not

1 provide reasonable opportunity for an appropriate  
2 variety of housing to meet the needs, desires and  
3 resources of all categories of people who might  
4 desire to live in Mount Laurel.

5 The Court held that a presumptive obligation  
6 exists for each municipality affirmatively to  
7 plan and provide for such a variety and choice of  
8 housing, and went on to state, and I quote:

9 "We have spoken of this obligation of such  
10 municipalities as 'presumptive.' The term has two  
11 aspects, procedural and substantive. Procedurally,  
12 we think the basic importance of appropriate housing  
13 for all dictates that, when it is shown that a  
14 developing municipality in its land use regulations  
15 has not made realistically possible a variety and  
16 choice of housing, including adequate provision to  
17 afford the opportunity for low and moderate income  
18 housing or has expressly prescribed requirements or  
19 restrictions which preclude or substantially hinder  
20 it, a facial showing of violation of substantive  
21 due process or equal protection under the State  
22 Constitution has been made out and the burden, and  
23 it is a heavy one, shifts to the municipality to  
24 establish a valid basis for its action or non-action.  
25 Robinson v. Cahill, supra, 62 N.J. at 491-492, and

1 cases cited therein. The substantive aspect of  
2 'presumptive' relates to the specifics, on the  
3 one hand, of what municipal land use regulation  
4 provisions, or the absence thereof, will evidence  
5 invalidity and shift the burden of proof and, on  
6 the other hand, of what bases and considerations  
7 will carry the municipality's burden and sustain  
8 what it has done or failed to do. Both kinds of  
9 specifics may well vary between municipalities  
10 according to peculiar circumstances." (Slip  
11 opinion, pg. 35-37).

12 Based upon a dictum in this decision, the  
13 defendant argues that the plaintiff, who seeks  
14 to develop, should not be permitted to maintain  
15 its attack on the ordinance. I might in theory  
16 agree with defendant. However, plaintiff has  
17 owned the land since the mid-fifties. During this  
18 time it has been a taxpayer. I fail to see how  
19 it would be constitutional to allow a resident  
20 who is not a developer to attack an ordinance but  
21 deny that right to a developer merely because he  
22 wants to make use of his property by developing.  
23 If plaintiff were a contract purchaser, there  
24 might be a reason to distinguish. I am sure we  
25 are all familiar with the provisions for equal.



1 protection of the law. I cannot accept defendant's  
2 argument in this regard.

3 The defendant Township seeks to distinguish  
4 the Mount Laurel decision and to avoid its clear  
5 mandate by arguing that the thrust of the decision  
6 is to guide municipalities in providing zones for  
7 low and moderate income housing.

8 Even though it appears that the planned  
9 residential development proposed by plaintiff  
10 would not provide such low and moderate income  
11 housing, the Mount Laurel case cannot be so  
12 easily distinguished. The variety of housing to  
13 which the Court addressed itself included, but  
14 was not limited to, low and moderate income  
15 housing. What the Court was basically concerned  
16 with, however, was the fact that the Mount Laurel  
17 zoning ordinance permitted only one type of housing,  
18 single-family detached homes, and that multi-  
19 family housing, including garden apartments and  
20 town houses, was prohibited. (Slip opinion,  
21 pg. 37.) It noted that not only were many people  
22 incapable of affording such housing but that many,  
23 including young people and elderly and retired  
24 persons, did not desire such housing. (Slip opinion,  
25 p. 38).

1           Holmdel is 17.90 square miles in area or  
2           11,456 acres. It has a number of farms. The  
3           population in 1960 was 2,959; in 1970, 6,117; and  
4           the estimated population in 1974 was about 7500.  
5           It has made a conscious effort to attract  
6           industrial and commercial organizations and has  
7           been highly successful. At the present time  
8           there are about 7300 employees employed in the  
9           Township. This represents 7 percent of the jobs  
10          in the County. It must also be kept in mind that  
11          Prudential Casualty Company is building a plant  
12          at which there will be, I believe, about 650 new  
13          jobs.

14          Holmdel's ordinance provides for residential  
15          uses only single-family detached houses on one  
16          acre. There is a provision for open space zoning,  
17          but it is of little help to a developer. The  
18          minimum house size in an R-4b Zone is 1200 square  
19          feet and in an R-4a Zone, 1750 square feet for a  
20          one-story house and 2000 square feet for two  
21          stories. The R-4b zone is very small and, to a  
22          large extent, built up.

23          There are presently 3,917 acres in the  
24          Residential Zone that is undeveloped. Only about  
25          60 percent of the land is zoned for residences.

1 In fact, there are only about 1,848 residences  
2 in town, 23 of which are two-family. In 1973  
3 Holmdel had 1.08 percent of new housing units  
4 built in the County--this, notwithstanding that  
5 it has 7 percent of the jobs.

6 451 acres zoned Industrial are already  
7 developed. Defendant admits that there are 613  
8 acres so zoned but underdeveloped. In the Office  
9 and Laboratory Zone there are 1,408 acres, of  
10 which 514 are developed or under development.  
11 There are--and this is not in addition to the  
12 figures that I have given but it is a compilation  
13 or it includes and crosses, I believe, all of  
14 the zones--there are 4,790.71 acres assessed as  
15 farm land.

16 Of the houses for sale in May of this year  
17 through Multiple Listing, only three were for  
18 less than \$50,000. To build a new home in the  
19 R-4a or b Zones, the cost would be in excess of  
20 \$70,000. To buy a \$50,000 house and finance it,  
21 as most people have to do these days, one must  
22 have an income of at least \$24,667 a year. There  
23 is no employee of the Township, with the possible  
24 exception of Dr. Satz, who makes that much.

25 There is no doubt that Holmdel is a developing

1 municipality. It is close to built-up urban  
2 areas. It has sizeable land area, vacant. It is  
3 in the path of population influx. It has been  
4 experiencing development. As I have said, it has  
5 made a conscious effort to develop through  
6 commercial and industrial uses. Mr. Strong's  
7 definition of a developing community was just a  
8 plain non sequitur. The Parkway has been a great  
9 factor in the growth of Monmouth County and in the  
10 bringing of people who might, if they could  
11 afford it, want to live in Holmdel.

12 There is a lack of housing for low and  
13 moderate income persons in this County. There is  
14 a need for rental housing to serve the needs of  
15 the people. Holmdel has done nothing to make such  
16 housing available. The housing area is the  
17 County. 70 percent of the residents work in the  
18 County. I can understand the thinking of the  
19 people in Holmdel, but Holmdel falls squarely  
20 within the Mount Laurel category.

21 Holmdel contends that the mandate of the  
22 Mount Laurel decision is not applicable to it  
23 because there allegedly is an adequate supply of  
24 multi-family housing in the region. In making  
25 this argument, defendant clearly misses the import

1 of Mount Laurel. The Court held that each  
2 municipality must meet its fair share of the  
3 present and prospective regional needs for low  
4 and moderate income housing, that is, the need  
5 of Monmouth County. Theoretically, if no such  
6 need exists in the region around Holmdel, the  
7 defendant need not so provide.

8         However, the Court also held that when,  
9 as here, a municipality has not made realistically  
10 possible a variety and choice of all forms of  
11 housing, including but not limited to low and  
12 moderate income housing, it bears the heavy  
13 burden of justifying its action or non action.  
14 Holmdel has offered no convincing reason why it  
15 should not provide areas in which housing for  
16 low and middle income people and in which multi-  
17 family housing can be built.

18         Mr. Strong's testimony was not very helpful  
19 since it was based on 1970 figures. I cannot  
20 credit his belief that the figures today are  
21 substantially what they were in 1970. I really  
22 was totally unimpressed with his testimony.

23         Insofar as Holmdel's zoning ordinance does  
24 not so provide, it is invalid. I recognize that  
25 you probably need sewerage and water for multi-

1 family housing. The fact that there may be none  
2 now is no reason not to zone for the purposes I  
3 have referred to. Utility services can be  
4 supplied. The question is which is going to come  
5 first. Mount Laurel has clearly spelled it out.

6 Plaintiff's planning expert testified that  
7 there is presently a need for 30,000 moderate  
8 and low priced housing units in the County. In  
9 his opinion, Holmdel's fair share would be 7  
10 percent, the percentage of jobs that it has.  
11 I find that his method of calculating such share  
12 is logical and fair.

13 Holmdel is directed to amend its zoning  
14 ordinance to provide for a reasonable area or  
15 areas where low and middle income housing can be  
16 built, including multi-family housing, in an  
17 amount of not less than 2100 units. "Low and  
18 moderate income families or housing" is used as  
19 defined in Mount Laurel. This more than doubles  
20 the number of residential units. The land is  
21 there. The municipality will have to cope.  
22 It also must be realized that it will be a long  
23 time before 2100 units will in fact be constructed.

24 The Township must be given adequate time for  
25 its Planning Board to properly determine how best

1 to accomplish this result within a comprehensive  
2 plan, for public hearings to be held, and for  
3 the Township Committee to act upon the Planning  
4 Board's recommendation. I am well aware that  
5 this will be a difficult task. The thinking of  
6 all must change so that the Supreme Court's  
7 mandate in Mount Laurel may be accomplished.  
8 I realize that changes do not come quickly or  
9 easily.

10 In the past, traditionally Courts have  
11 allowed 90 days for such changes when ordinances  
12 have been found invalid or have been ordered to  
13 be amended. I think that that period is far too  
14 short and that it would necessarily result in  
15 a half-thought out job. Therefore, Holmdel will  
16 be directed to amend its zoning ordinance in  
17 accordance with this opinion within one year.  
18 I warn the Township that any request for an  
19 extension will not <sup>meet</sup> / with any sympathy whatsoever  
20 from this Court.

21 I might add that the suggestion of the  
22 plaintiff's expert that the Township rezone part  
23 of the residential district to provide for more  
24 flexibility in density in order to compensate for  
25 the increased density to be permitted in multi-

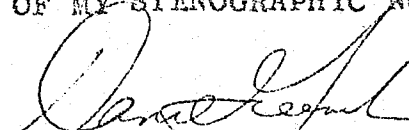
1 family and low income use districts might well  
2 be reasonable in the present situation. Holmdel  
3 is a large, developing municipality with a  
4 distinctly rural atmosphere. An agricultural  
5 zone might be considered. I imply nothing as to  
6 its validity.

7 The judgment will be drawn by Mr. Gagliano.  
8 There will be no costs. In drawing the judgment,  
9 please recite that I set forth my findings of  
10 fact and conclusions of law on the record, today's  
11 date, with Mr. Greenspan as the certified shorthand  
12 reporter.

13 Again, I thank the attorneys very much for  
14 all of your help.

15 \* \* \* \*

16  
17  
18  
19  
20 CERTIFIED A TRUE TRANSCRIPT  
21 OF MY STENOGRAPHIC NOTES.

22   
23 Daniel Greenspan  
24 Official Court Reporter.  
25