

Monroe (1987)

4/25/87

Cover Letter + Objections to plan

pgs = 15

w/ p.i.

CA000425F

Barbara J. Williams, Esq.
90 Denow Road
Lawrenceville, New Jersey 08648
(609) 896-0910

June 25, 1987

HAND DELIVERED

Ms. Renee Reiss, Administrative Secretary
State of New Jersey
Council on Affordable Housing
707 Alexander Road
Trenton, New Jersey 08625-0813

Re: Township of Monroe (Middlesex County)

Dear Ms. Reiss:

I am enclosing the original and two (2) copies of objections to the Housing Element and Fair Share Plan of the Township of Monroe, Middlesex County for filing and review on behalf of the Civic League of Greater New Brunswick.

I would appreciate your forwarding these documents to the appropriate staff members for their consideration and advising me as to the dates established for mediation when established.

I thank you very much for your assistance in this matter.

Very truly yours,

Barbara J. Williams

encl.

cc: Monroe Service List
C. Roy Epps, Civic League of Greater New Brunswick
Eric Neisser Esq.
Allan Mallach, AICP

OBJECTIONS OF THE CIVIC LEAGUE
TO MONROE'S HOUSING ELEMENT AND FAIR
SHARE PLAN

Introduction

As a defendant in an exclusionary zoning suit transferred to the Council by the Courts,¹ Monroe is deemed to have filed a petition for substantive certification by filing its Housing Element and Fair Share Plan [hereinafter the "Plan"] N.J.A.C. 5:91-4.2. The Civic League of Greater New Brunswick [hereinafter the "Civic League"] respectfully submits these objections to Monroe's Plan pursuant to N.J.A.C. 5:91-5.1. These objections are limited to those provisions of Monroe's Plan which fail to comport with the guidelines and criteria established by the Council. N.J.A.C. 5:91-5.1(a)4.

The Civic League expressly reserves its rights with respect to objections it may have regarding the methodology and regulations of the Council in general; including but not limited to objections as to regions, filtering and fair share; and as specifically applied to Monroe.

Having been a named plaintiff in the Mount Laurel litigation cited above, the Civic League remains an interested party in this matter.² The Civic League's membership includes low and moderate income persons whose need for

1. Urban League, et al v. Carteret, et al. Civil No. C 4122-73.
2. Hills Development Co. V. Township of Bernards, 103 N.J. 1 (1986)

affordable housing has been expressly recognized by the New Jersey Supreme Court.

In support of these objections, the Civic League shall rely upon the expert's report of Allan Mallach, AICP dated June 1987, annexed hereto as Exhibit A.

Objections

1. Proposed Rehabilitation Element

Monroe has failed to demonstrate that its proposed Rehabilitation element would be within the parameters set set forth in N.J.A.C. 5:92-11.5.

Aside from one exception, the cost of rehabilitation of the units for which the Township proposes to take credit, is under the ten thousand dollar (\$10,000) presumptive minimum cost of rehabilitation of a lower income unit adopted by the Council on Affordable Housing. In two instances the cost of the projected rehabilitation is below three thousand dollars (\$3,000). As a result, it is the position of the Civic League, that credit should not be granted for eleven (11) of the twelve (12) units for which Monroe claims credit on the basis of rehabilitation.

The issue of the cost of rehabilitating the units also exists regarding Monroe's reliance on the Middlesex County Program to meet its indigenous housing obligation. As reflected in the Monroe Plan, the maximum amount that Middlesex County will provide is seven thousand five hundred dollars (\$7,500), with the amount extended to fifteen thousand dollars (\$15,000) only in "extreme cases". Given the probability that the majority of grants will be limited by the County to the \$7500 maximum, a large portion of substandard housing will not be able to be rehabilitated for for this amount. In order for a substantial amount of the households to participate in the program, supplementation of the County resources by the Township or alternative sources will be necessary, and should be incorporated as part of the Plan.

Monroe has provided no documentation by means of surveys, tax assessor records or otherwise that the substandard units which comprise the indigenous need can be rehabilitated for the amount of monies available. Nor is evidence offered that the County will be in a position to specifically provide to Monroe the funds necessary to ensure that forty five (45) units will be able to be rehabilitated within the next six (6) years. Given the fact that only thirteen (13) units have been rehabilitated by Monroe in the last seven (7) years, (with some requiring

limited rehabilitation), it is the position of the Civic League that it is incumbent upon Monroe to produce such evidence of availability of funding for rehabilitation and to provide additional evidence that the rehabilitation plan will be actively promoted.

The Civic League respectfully submits that the failure of Monroe to provide the requisite evidence of adequate funding for the units proposed to be rehabilitated; evidence that rehabilitation will be adequately promoted; or evidence that the previously rehabilitated units meet the guidelines of the Council, mandates a denial of its petition for substantive certification pursuant to N.J.A.C. 5:91-6.3(a).

In the alternative, denial of certification should be conditioned upon the submission by Monroe of the necessary documentation which should be incorporated as part of the Plan within fifteen (15) days.

2. Sites for New Construction

Monroe has proposed four sites to be rezoned; three for multi-family housing and one site for two family housing. Each will be addressed separately.

A. Site 5 (west of Jamesburg)

Site 5 is located approximate five hundred (500) feet northwest of the intersection of Jamesburg-Half Acre Road

and Forsgate Road. It is bounded by the boundary of the Borough of Jamesburg on the east, a railroad and power line right of way on the north and west, and it appears to be bounded on the south by vacant land. While it was not possible for representatives of the Civic League to access the site, the parcel in question appears to be cleared, but lower than adjacent land in Jamesburg. Examination of the Soil Survey reveals that the site was utilized at one time for the mining of sand and gravel.

Site 5 has no access to any existing streets within either Jamesburg or Monroe. Any potential access would be realistic only if obtained within Jamesburg not Monroe. Accordingly, based upon the foregoing reasons, the Civic League objects to this site being included as part of the Monroe Housing Element as an isolated site.

However, Monroe proposes that this site be developed in conjunction with and part of a larger site, the balance of which is in the Borough of Jamesburg. The Civic League also objects to the site as so presented. Insufficient information has been presented to reach any other conclusion. For instance, no map has been presented which shows the total site area, no indication of access to Half Acre Road is provided, and it has not been demonstrated that the site may reasonably be utilized at the

proposed density. Additional investigation and documentation is necessary to determine if the site can support the proposed density in light of the past soil mining on the site and the substantial setbacks which must be provided due to the power lines and rail line. Moreover, no indication is given in the Housing Element as to the acceptability of the larger site to the Borough of Jamesburg and what conditions would be imposed by that municipality to the development of this site. Furthermore, the Civic League is not in a position to consider withdrawing its objection to the site until the following additional documentation is provided:

- (1) Map and conceptual site plan of the entire project;
- (2) Written commitment by the developer
- (3) Detailed soil/slope documentation to ensure the site is actually buildable.
- (4) Clarification of the requirements to be imposed on the site by the Borough of Jamesburg and confirmation that the adjacent parcel within the Borough of Jamesburg is or will be appropriately zoned to permit development of the site.
- (5) Impact of the proposed development on Jamesburg and analysis of available infrastructure to support the development.

B. Site 6 (East of Jamesburg)

The subject parcel is comprised of 73 acres of irregular shape and is located north of State Home Road and south of Pergola Avenue immediately east of the Jamesburg boundary.

A substantial portion of the site is in a wetland area with

of Site 6 as part of the Housing Element and Fair Share Plan of the Township of Monroe.

C. Site 6-A

Site 6-A is an area of approximately two blocks, which appears to be a largely self-contained and largely isolated neighborhood populated by a mix of lower income and middle income black families. In addition to houses ranging from poor to good condition, the neighborhood contains two churches. Access thereto is via State and New Streets to Jamesburg-Englishtown Road. Site 6-A is therefore more of a neighborhood than a "site" subject to total development.

Monroe proposes that this neighborhood be dealt with in a comprehensive plan which includes: (a) new infrastructure (b) demolition of vacant buildings (c) rehabilitation of substandard buildings and (d) rezoning of approximately six (6) acres so as to allow the construction of twenty four (24) units, five (5) of which would be lower income housing.

The Civic League objects to the inclusion of this site in the Housing Element of Monroe Township and questions whether development as proposed is realistic. Further documentation is necessary before an adequate assessment of the viability of this site may be made. The following are specific areas of concern which should be addressed by the Township of Monroe:

- (1) No documentation is provided as to:
 - the proposed activities to be carried out
 - the source of financing for:
 - the infrastructure or for
 - demolition of vacant buildings.
- (2) The source of supplemental rehabilitation funds in excess of the \$7500 County maximum remains unspecified.
- (3) The ownership patterns of land upon which the 24 units of new construction are to be built is not delineated. Nor is any documentation provided that the owners are willing to sell or develop the land as proposed. If multiple ownership is involved it is even more crucial that this information be provided.
- (4) The proposed ordinance does not contain a set-aside for small developments. Given the probability of multiple ownership, it is necessary that Monroe further demonstrate how the units will be provided.

D. Site 8

This site is also a landlocked parcel. It is immediately south of Jamesburg between Half Acre and Perrineville (Gatzmer) Roads. Review of the Soil Survey reflects highly irregular topographical conditions; the northern site has a history of soil and gravel mining; the eastern portion contains extensive slope and wetlands areas. The site is bounded by a single family subdivision to the west and a cemetery and townhouse development (in Jamesburg) to the north. Access to the site is possible only through the development in Jamesburg or the townhouse development.

The Civic League objects to the inclusion of this site as part of the Housing Element of Monroe based upon

the forgoing factors. At a minimum, Monroe must establish that the site is physically suitable; that access is available physically and legally; that the owner intends to develop this site under the proposed ordinance; and the impact of the development on Jamesburg and its infrastructure and any conditions to be imposed by such municipality.

Overall Site Considerations

The Civic League objects to all of the sites set forth in the Plan based upon the planning considerations heretofore enunciated.

In addition, the Civic League objects on the further basis, that when the Plan is viewed in totality, the Township of Monroe has provided sites which will have public road access only through another municipality, Jamesburg, and will not be accessible from any point in Monroe Township which has presented the Plan. The ultimate impact is therefore on the roads of Jamesburg and upon the infrastructure of Jamesburg, such as the Jamesburg pumping station. The result is that while Monroe has presented the Plan, the resources needed to deal with its results will be required to emanate from Jamesburg, which has fewer resources to deal with the consequences of the Plan as it is presently constituted.

Moreover, the Plan indicates that capacity in the Manalapan Basin while available, is limited and may be a possible constraint, and further indicates capacity is available in the Matchaponix Basin. Yet all of the sites proposed by Monroe are in the Manalapan Basin thereby delimiting the possibility of construction that would otherwise be present by a split of the sites of and between the two basins. This concentration within the one basin is also objectionable to the Civic League.

All of the sites, but particularly Sites 6 and 6-A, raise an additional issue. Over one-half of the lower income units are contained in these two sites, with access only into Jamesburg. The neighborhood represented is one of the few areas of Monroe which contains a predominately lower income and Black population. It can be anticipated that the perception will exist that construction on these sites will be deemed to be an extension of the existing neighborhood, thereby creating a further concentration of the Black community in only one portion of Monroe and a further concentration of the lower income community in only one portion of Monroe - -a location on the fringes of the community. Given the size of Monroe, no rational basis exists to concentrate all of the Black and lower income community in one specific area. Such a deliberate isolation of the units is inimical to the federal Fair Housing Act.

Throughout the existence of the litigation against the Middlesex County municipalities, the Civic League has always taken the position that the low and moderate income units should be dispersed throughout the community. It is the position of the Civic League that the Black and lower income populations should have the option of living in other portions of the Township and that a wider dispersal of the units should exist in order that this option may become a reality. Accordingly, the Civic League objects to the sites selected on the basis that such an option is effectively precluded by the Plan as submitted.

The Civic League respectfully submits that unless these conditions are satisfied an full documentation provided with respect to same, Monroe's petition for substantive certification should be denied in accordance with N.J.A.C. 5:91-6.3(a). In the alternative, denial of certification should be conditioned upon the appropriate submissions by the Township in accordance with N.J.A.C. 5:91-6.3(b).

3. Ordinance Provisions

The Civic League objects to the proposed ordinances as drafted on the following bases:

- A. The R-10-2F district provides no standards for the percentage of lower and moderate income units required on a general basis and fails to delineate what occurs when application of the 20% set aside yields a fraction. Site 6-A illustrates the necessity of further amplification of these standards.
- B. The standards regarding the townhouse district require clarification and/or amplification
1. [F] Garden apartments or flats should be a permitted use.
 2. [G.2] No reference is made as to how the "average distance" is to be measured. The standard is unduly restrictive as well as being ambiguous.
 3. Section G.4 would remain unclear as a result of a possible typographical omission.
 4. [G.6] The open space requirement is a very high minimum. Application of this requirement will result in a minimum net density of 12 and 15 DU per acre, which is unreasonably high.
 5. [G.8] Developers should have the option to provide basements should they elect to construct them.
 6. [G.9] Specific ground transmission standards should be given.
 7. [G.11] The active recreation facilities to be required should be specified in the ordinance or the standards the planning board should consider should be enunciated so as to limit the discretion.
 8. [G.12] The 400 foot minimum road frontage for all sites is unworkable given the configurations of the proposed sites.
 9. [G.14] Where the development is part of a larger development straddling the municipal boundary, no setbacks that are internal to the entire development should be required.

10. [G.15] The sixty foot buffer requirement for residential zones is excessive.
11. [G.16] The requirement that all internal roads have a minimum width of 30 feet is excessive.
12. [G.18] The maximum standards for building length are unreasonable; the requirement of two outdoor exposures is reasonable for townhouses but not for garden apartments; language that "elevations and setbacks should be varied" is vague and unduly discretionary.
13. [H] It is both unreasonable to limit the use of garden apartments to the rental component of the lower income units, and to require that all such units be garden apartments. Other units, particularly one bedroom units, can appropriately be garden apartments. Conversely, three bedroom lower income rental units should be townhouses.

The second part of this section is also unreasonable as are many of the specific provisions of the townhouse zone are either clearly inappropriate or at least inadvisable, as applied to garden apartments.

14. The terms "townhouse" and "garden apartment" are not defined.

In the absence of correction of the deficiencies and ambiguities in the proposed ordinances, Monroe's petition for substantive certification should be denied in accordance with N.J.A.C. 5:91-6.3 (a). In the alternative, denial of certification should be conditioned upon the appropriate submission of corrections and additions to the ordinances in accordance with N.J.A.C. 5:91-6.3 (b).

Conclusion

When all of the above described defects are considered, it is respectfully submitted that Monroe's Plan should be dismissed pursuant to N.J.A.C. 5:91.3.3 for failure to undertake those actions required by N.J.A.C. 5:93-3.1. The objections set forth above raise serious questions as to the feasibility of the Plan and the potentiality the the units as outlined therein will be constructed. Until such objections are satisfactorily addressed by the Township of Monroe, substantive certification should be denied.