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Expert Witness Letter - Jim Higgins (1985)

Re: Monroe Greens - Monroe Twp.

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Our File # 6858

August 12, 1985

John Payne, Esq.
 Rutgers Law School
 Constitutional Litigation Clinic
 15 Washington Street
 Newark, New Jersey

Re: Monroe Greens

Dear Mr. Payne:

Pursuant to our conversation please find enclosed herewith copy of letter from Jim Higgins the expert for plaintiff Monroe Greens.

Also enclosed herewith please find Article which appear in The New York Times that I thought you might be interested in.

Very truly yours,

Stewart M. Hutt

STEWART M. HUTT
 For the Firm

SMH:al
 Encl.

cc: Mr. Steven Denholtz

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June 25, 1985

Mr. Stewart Hutt
Hutt, Berkow & Jankowski
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Dear Stu,

I have reviewed the Mt. Laurel Compliance Program report for Monroe Township submitted by Hintz-Nelessen Associates. While it is basically a good report, I feel that there are some aspects of the report that require comment, particularly as they relate to the Monroe Greens proposal and the Monroe Development and Balantrae proposals.

MONROE GREENS

The report discusses the fact that sewers are available (pages 20 and 30), however it seems to pass over the very important fact that not only are they available, but they are readily available to the point where the entire development could be sewered immediately without any major improvements to either of the two pumping stations being necessary. I feel that this is a very important consideration if the court is concerned with the construction of Mt. Laurel housing in the immediate future in Monroe.

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With regard to water, the report states that Monroe Greens is one of the least suitable sites with regard to water (pages 23 and 30) due to the fact that an interconnection would be necessary to properly service the site. I disagree with the conclusion for several reasons. First, based on my discussion with Mike Rogers, Executive Director of the MTMUA, last summer, an interconnection is desirable but not necessary to serve the site. His indication to me was that water was readily available to the site to serve the entire development. Even if he was mistaken, and the entire development cannot be serviced with the existing distribution system, a portion of the development could be serviced from either of the two residential developments east of the site or from Matchaponix Avenue. This would allow for a first phase of the development to be constructed immediately, while the necessary interconnector is being constructed to service the remainder of the development. Consequently, the goal of providing Mt. Laurel housing in Monroe in the immediate future would be realized.

Second, Mike Rogers also indicated to me that the construction of the subject interconnection was a high priority of the MTMUA but that existing populations in that part of the Township did not make it financially feasible. He went on to state that it would be feasible if the Monroe Greens development were to be constructed. The fact that the Monroe Greens developer is willing to contribute to the cost of constructing the interconnection makes this proposal not only suitable, but desirable, from the standpoint of water service since the necessary water will be supplied to the site and the Township will derive a significant benefit from the construction of the interconnection.

In addition, there is at least one other less expensive alternative to the two mile interconnection that would adequately service the entire development. This alternative, which would involve creating a loop between the system serving Matchaponix Avenue and the system serving the Outcalt section of the Township, would cost approximately two-thirds of what the longer interconnection would cost and be completed sooner, but would not result in the same benefits for the Township. However, either of the above interconnections are relatively inexpensive when considering the size of the project and can be done in an expeditious fashion by the developer while the first phase is being constructed.

With regard to traffic, I've reviewed the report submitted by Robert Nelson, Traffic Engineer, regarding the impact of traffic to be generated by the proposed development. The Nelson report does not support the conclusions of the Hintz-Nelessen report. Specifically, the HNA report states that the site has access to narrow roads and therefore does not have good road accessibility. According to the Nelson report the road widths are adequate to support the development and the only improvements that are necessary are those to intersections, to which the developer is willing to contribute to the cost of construction. In addition the HNA report states that the proposed development will "push" traffic through the Boroughs of Spotswood and Jamesburg. The Nelson report does not identify this as a problem.

The HNA report is accurate with regard to existing mass transit conditions. However I would like to point out that bus routes serve areas of high population concentration, and currently the population in the Outcalt section of the Township is not sufficient to justify mass transit. A development of this size is large enough to justify the creation of new bus routes or the rerouting of existing routes to service it.

I disagree with the conclusion on the environmental suitability of the site. This conclusion was apparently based on the existence of wetlands within the boundaries of the site. The report ignores the detailed design of the proposed development which significantly preserves the wetlands. It is not likely that these wetlands would be preserved if the site were developed as currently zoned. Consequently, in terms of environmental suitability, the design demonstrates that the proposed development is suitable and that the proposed development will likely have less impact than conventional development of the site.

With regard to the comment on the proximity of the site to the BFI landfill, this does not appear to be Carl Hintz's opinion since it states specifically that it is a concern of the Township Council with no supporting statement from Carl. I don't see the landfill as a problem if the water is supplied by MTMUA.

In summary, I disagree with the conclusions of the HNA report on page 30 where it states that there are planning concerns regarding the environmental sensitivity, lack of bus transportation, good road accessibility, and water supply service. The developer has addressed each of these areas and can adequately satisfy any of the concerns addressed by the HNA report. In addition, it is important to emphasize to the court that this development is in an excellent position to immediately provide Mt. Laurel housing to meet Monroe's need.

BALANTRAE

The Balantrae site has two major planning concerns that are not addressed by the HNA report. The first of these is the lack of immediately available sanitary sewer. The favorable recommendation given to this site is based on the future conversion of the existing MTMUA plant to a pumping station. The timetable for this conversion is still uncertain. The conversion of the treatment plant is not something that can happen immediately and, according to Mr. Ed Moe, a Professional Engineer retained by Monroe Greens, is a matter that is still very much uncertain. If a decision to convert the plant to a pumping station is reached once the necessary engineering studies are complete, an agreement for the sharing of costs must be entered by Balantrae, Monroe Development, Concordia, R.H. Development and others (see Hintz Report page 28). It is probable that this negotiation process will add additional delays before actual construction of Mt. Laurel housing could begin. Consequently, to include this development in any compliance package could result in significant delays in the actual construction of Mt. Laurel housing.

Second, a major portion of the site is in the agricultural area of the SDGP - either one-third or two-thirds, depending upon whose map you look at. The fact is that the site is currently used for agricultural purposes which leads me to believe that the two-thirds designation is more correct. Consequently, I feel that designation of this site for Mt. Laurel purposes is contrary to the intent of the SDGP and the Mt. Laurel II decision as it relates to the SDGP.

Also, this site is proposed as a retirement village. Therefore, the low and moderate housing provided would be restricted to the elderly. The 446 low and moderate units proposed by Balantrae and the 100 low and moderate units proposed for Concordia would cause almost 2/3 of Monroe's compliance package to be limited to senior citizens. Clearly, this is a disproportionate amount.

MONROE DEVELOPMENT

My comments regarding the Monroe Development site are basically the same as they are for Balantrae. Even though this is a builders remedy site, it makes little sense to propose Mt. Laurel housing on it if the sanitary sewers are not readily available, since the housing could not be built in the immediate future. With regard to that site's designation in a Growth Area, the Middlesex County map I have shows the site in the agricultural area. Again, since the site is utilized for farming purposes and surrounding land uses, particularly to the east and south, are agricultural, I would lean towards the agricultural designation of this site as being the correct one.

INFILL HOUSING

I have serious reservations regarding the feasibility of the proposed 70-150 infill housing sites. (page 34) While this approach may be feasible in a densely developed, or urban, community that has an established housing authority, I don't feel it is practical in a rural community such as Monroe for several reasons:

First, the Township has no Housing Authority at present, and whether one can be created that will function efficiently within a reasonable period of time is questionable. This is a particular concern since the Township is proposing the acquisition of between 70 and 150 separate parcels and innovative financing to provide the lower income housing.

Second, the scattering of lower income housing throughout established single family residential neighborhoods could be a serious political problem which would foster additional delays in provision of low income housing.

Third, it is questionable whether the funding mechanisms for this aspect of the compliance program can achieve the desired goal. It is obvious

that items 1, 2 and 3 (page 35) will reduce the cost of housing. It is not obvious that they will reduce the cost to within Mt. Laurel limits. Item 4, the use of Community Development Block Grant Funds (I'm assuming that is what is meant by "Community Development Revenue Sharing") is not permitted for new housing construction except as a last resort. I don't think that Mt. Laurel housing would qualify as a last resort measure. Generally, that provision is limited to providing housing for people who are displaced by other development activities.

Finally, in regard to this part of the compliance package, I want to point out that this does not appear to be a recommendation of Mr. Hintz, but rather a recommendation of the Township Council. (page 34) My professional opinion is that it is too questionable an approach to be included in a compliance package.

In closing, I see little that justifies the preference of either the Balantrae or Monroe Development sites over the Monroe Greens sites for the construction of Mt. Laurel housing. The concerns expressed in the HNA report have been adequately addressed by the developer, and the Monroe Greens proposal can result in the immediate construction of Mt. Laurel housing, something each of the other two proposals cannot do. The compliance package is also deficient in that it provides a disproportionate amount of senior citizen housing and a questionable program for infill housing. Consequently I feel that the Monroe Greens proposal makes a great deal more sense from a planning standpoint.

Very truly yours,



James W. Higgins

JWH:imm