

2/23/87

Monroe 1987

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No p.i.

Formal Objection to the
Petition for Substantive
Certification submitted to Monroe

Includes: Fair share Report Evaluation

ML000212#

BISGAIER AND PANCOTTO

ATTORNEYS AT LAW
510 PARK BLVD.
CHERRY HILL, N.J. 08034
TEL. (609) 665-1911

CARL S. BISGAIER
LINDA PANCOTTO

February 23, 1987

Chairman Arthur R. Kondrup and
Members of the Council on Affordable Housing
CN 813
707 Alexander Road
Trenton, New Jersey 08625-0813

Re: Tp. of Monroe, Middlesex County
Objections to Final Housing Element

Dear Chairman Kondrup and Members of Council:

Pursuant to N.J.S.A. 52:27D-315-14, 15(a) and 16 and
N.J.A.C. 5:91-5.1, this correspondence and its enclosures are
submitted as a formal objection to the Petition for Substantive
Certification submitted to the Council on Affordable Housing by
the Township of Monroe. This objection is submitted on behalf
of Monroe Development Associates, plaintiff in Monroe
Development Associates v. Tp. of Monroe, Docket
No. L-076030-83PW, a matter transferred to the Council by order
of the Honorable Eugene D. Serpentelli, A.J.S.C., dated October
11, 1985.

Objections are in two categories. The first address
the Draft Housing Element and Fair Share Plan submitted by
Monroe to the Council. The second address Monroe's failure to
incorporate plaintiff's lands in its affordable housing program.

Re: Monroe Tp., Middlesex County
Objections to Final Housing Element

The Council should be aware that plaintiff may shortly lose its interest in the lands which were the subject matter of the aforementioned litigation due to withdrawal from the partnership of the owner of said lands. If so, the Council will be informed that said lands are no longer under consideration for relief pursuant to any request being put forth by plaintiff.

Objections to the plan submitted are incorporated in the following reports:

Exhibit A: "Evaluation of the Monroe Township Housing Element and Fair Share Plan" prepared by Abeles, Schwartz Associates dated February 1987.

Objections to the failure to include plaintiff's site are contained in the following reports:

Exhibit B: "Mount Laurel II Compliance Program, Monroe Township" prepared by Hintz Nelessen Associates, P.C., dated February 15, 1985, (partial - pp. 25 and 29); and

Exhibit C: "Review and Recommendations: Mount Laurel II Compliance Program, Monroe Township, N.J.", prepared by Carla Lerman, PP, dated July 1985 (partial - pp. 16-20).

February 23, 1987

Re: Monroe Tp., Middlesex County
Objections to Finald Housing Element

The Hintz report was presented to Judge Serpentelli by Monroe as its compliance plan prior to transfer. It recommends a development of six hundred (600) units on the site. The Lerman report was that of the court's master. It recommended four hundred and eight (480) units on the site.

Attempts at premediation and settlement have been to no avail.

Respectfully submitted,

CARL S. BISGAIER

CSB:emm

cc: Mario Apuzzo, Esquire
Douglas K. Wolfson, Esquire
Arnold Mytelka, Esquire
Eric Neisser, Esquire
Stewart Hutt, Esquire

bcc: Ken Schuman
Péter Abeles

EVALUATION OF THE MONROE TOWNSHIP
HOUSING ELEMENT AND FAIR SHARE PLAN

Prepared for:
Monroe Development Associates

Prepared by:
Abeles Schwartz Associates, Inc.
434 Sixth Avenue
New York, New York 10011

February 1987

I. PURPOSE AND SCOPE

The purpose of this report is to evaluate the Monroe Township Housing Element and Fair Share Plan (prepared by E. Eugene Cross Associates) with respect to its compliance with the New Jersey Fair Housing Act [hereinafter, the Act] and the substantive and procedural rules of the Council on Affordable Housing [hereinafter, the Council].

The report focuses on two major areas of analysis which indicate that the Monroe Township Fair Share Plan is deficient and does not provide a realistic opportunity for the Township to meet its full fair share obligation.

The first area of analysis involves the establishment of the Township's total fair share obligation. This primarily involves an analysis of the appropriateness of applying the Council's automatic adjustments (for filtering, conversions and spontaneous rehabilitations) given the housing and market characteristics of Monroe. In addition, this section also analyzes the adequacy of the credits claimed by Monroe.

The second area of analysis specifically analyzes the Township's proposed plan to determine whether it provides a realistic opportunity for the construction of lower income housing. In particular, this section evaluates the adequacy of the sites chosen as potential lower income housing sites.

The final chapter of the report summarizes the findings and presents an evaluation of the extent to which the Monroe's plan complies with the Act, and provides a realistic opportunity for the production of lower income housing.

II. EVALUATION OF THE MONROE TOWNSHIP LOWER INCOME HOUSING NEED

A. INTRODUCTION

According to the Council's published figures, Monroe's fair share obligation consists of 65 units of indigenous need, 25 units of reallocated present need and 189 units of prospective need. Its total need is, thus, 279 units. The Council's methodology adjusts this total need based on a general model intended to reflect the effect of private market activities on lower income housing needs through demolitions, filtering, conversions and spontaneous rehabilitations. As applied to Monroe, the Council's formula results in automatic downward adjustments of 70 units for filtering, 17 units for conversions and 8 units for spontaneous rehabilitations, thereby reducing Monroe's fair share obligation by 95 units to 184 lower income units; it does not make any upward adjustments for demolitions in Monroe.

The ensuing section of this Chapter evaluates the applicability of the Council's methodology to Monroe, particularly with respect to the automatic reductions for filtering, conversions and rehabilitation.

B. EVALUATION OF APPROPRIATENESS OF DOWNWARD ADJUSTMENT OF MONROE'S FAIR SHARE OBLIGATION FOR FILTERING, CONVERSIONS AND REHABILITATIONS

Under Subchapter 13, the Council has the power to waive the express provisions of the regulations where such waiver would not contravene the provisions of the Act (Sec. 5:92-13.1). The purpose of the following analysis is to provide factual evidence to demonstrate that based on trends and existing conditions in Monroe lower income housing units will not be created or otherwise become available to lower income households in Monroe as a

result of filtering, conversions and/or rehabilitations, and that as such, the automatic downward adjustment of Monroe's fair share for these processes is illusory, tends to significantly understate Monroe's fair share obligation, and on this basis the Council's rules should be waived in order to promote the provisions of the Act.

Technical Appendix A of the Council's rules identify filtering, conversions and rehabilitations as secondary sources that result in increasing the availability of lower income housing. While, as Appendix A indicates, studies have shown that these processes do result in creating vacancies that are affordable to lower income households under certain market conditions, this is not the case in most suburban housing markets.*

In fact, in many suburban municipalities, these processes are not resulting in the increase of units affordable to lower income households, but rather units are becoming less affordable to lower income households. This is attributable to a number of factors, including high prevailing and accelerating real estate values, lack of multi-family housing, low vacancy rates, and the high quality and standards associated with and often required in suburban areas.

There are a variety of reasons for the ineffectiveness of rehabilitations, conversions and filtering to create lower income housing under such circumstances. For instance, in suburban areas, most rehabilitations and conversions are undertaken by private homeowners and the substantial investment and the high demand for the units generally result in higher rents than

* For instance, the Council acknowledges that filtering is "much more an urban than a suburban housing phenomenon" (18 N.J.R. 1945).

lower income households can afford. With respect to filtering in tight markets, or where there are few multi-family and rental units, the demand for units even at the low end of the sales and rental price ranges exceeds the trends affordable to lower income households.

The housing stock and market and recent trends in Monroe are highly representative of the type of suburban municipality in which these processes do not result in increasing the supply of housing units affordable to lower income households. The Township's housing stock is comprised primarily of large single-family homes on large lots. Close to 90% of the Township's housing stock consists of single-family detached units, and the majority are large, containing more than 6 rooms.* The remainder of the Township's housing stock is divided between two-family dwelling units and townhouse or cluster units (mainly in condominium ownership).

According to Monroe Township building department officials, there are no rental apartment complexes in the Township. The limited number of rental units in the Township are located in absentee-owner units in either single-family or multiple family residential structures. The vacancy rates for both sales (under 1.6%) and rental units (2.4%) are well below the levels generally considered necessary for adequate market mobility (3% for sales units and 5% for rental units). As described below, moreover, a study of activity in both the rental and sales markets reveals that the housing stock is filtering up rather than down to lower income households.

* U.S. Bureau of Census, Census of Housing and Population (1980).

TABLE 1

AFFORDABILITY MONTHLY RENTAL LEVELS*
LOW AND MODERATE INCOME HOUSEHOLDS IN MONROE (1985)

	<u>Low Income Household</u>	<u>Moderate Income Household</u>
Studio	\$338	\$541
1-Bedroom	\$386	\$617
2-Bedroom	\$434	\$695
3-Bedroom	\$513	\$820

* Based on Section 8 Income Limits for Middlesex County as established from U.S. Department of Housing and Urban Development estimates (as of October 21, 1985) and assuming that 30% of income can be spent on rent and utilities.

Typically, it is rental rather than sales housing that becomes available to lower income households as a result of secondary market sources. A comprehensive survey of real estate brokers* in Monroe, however, indicates that at present there are no available rentals within the affordability range of low or moderate income households (see Table 1). According to realtors in the area, there is a high demand for the rental units, and a very low vacancy rates. The limited number of rentals in the municipality are either in single-family or two-family homes or in the case of some retirement community units, in multiple-family structures. Owners can therefore not only obtain high rents for the units, but also be highly selective in screening tenants. The survey revealed that monthly rents for these single-family homes range between \$850 and \$1,000 per month plus utilities (which often add between \$60 to \$90 monthly shelter costs). Sublets in the retirement villages are also beyond the range of lower income households. For instance, 2- bedroom units at Rossmoor and Clearbrook rent for between \$850 to \$950 per month and new units at Concordia rent at between \$950 to \$1,100 per month when available. The realtors report that it is extremely rare to find listings below these levels. There rental shelter costs far exceed that affordable to lower income households.

The sales market is even less likely to provide decent affordable housing to lower income households. Table 2 shows the maximum sales prices that low and moderate income households could afford, taking into consideration income levels, the prevailing interest rates and other factors associated with housing (e.g., taxes, insurance, maintenance, utilities). These range from a maximum of from about \$25,000 for a 1-person low income house-

* Abeles Schwartz Associates Survey, February, 1987.

TABLE 2

AFFORDABLE SALES LEVELS FOR LOWER INCOME UNITS*

	<u>Studio</u>	<u>1-Bedroom</u>	<u>2-Bedroom</u>	<u>3-Bedroom</u>
Low Income Household	\$21,524	\$26,324	\$31,125	\$39,272
Moderate Income Household	\$42,366	\$50,359	\$58,385	\$71,762

* Based on Section 8 Income Levels applicable to Somerset County as established by U.s. Department of Housing and Urban Development (1982 to 1985); and assuming that 28% of income is spent on shelter costs (including taxes, insurance, utilities, and maintenance) and based on a 30-year mortgage at prevailing interest rates and a 10% downpayment.

hold to about \$63,000 for 4-person moderate income households. The market value of sales units, however, far exceeds these levels.

Most of Monroe's stock consists of 3-bedroom single-family houses. These units generally sell in the range of from \$155,000 to \$170,000 in Monroe Township.* Two-bedroom houses which are less frequently available typically start in the range of \$135,000. Two-bedroom units in the retirement villages (Rossmoor, Clearbrook and Concordia which is now under development) range between \$120,000 for townhouse units to \$185,000 for single-family houses.

These sales prices far exceed the amount affordable to lower income households which as shown in Table 2 range from a maximum for three-bedroom units of \$72,000 for moderate income households to \$39,000 for low income households, and from a maximum for two-bedroom units of \$58,000 for moderate income households to \$31,000 for low income households.

The limited number of sales in this range are generally for units located near Monroe's border with Jamesburg Borough. These units are small, and are the most likely units in the Township to be substandard. That these units often are sold at below-market prices reflects the dilapidated conditions of many of the units.

In sum, the sales units in Monroe, are appreciated at a rapid pace. Since 1980, when the 1980 census reported the average value of residential units at \$63,300, the cost of housing in Monroe has increased by more than 100%. This indicates that,

* Based on Abeles Schwartz Associates Survey, February, 1987.

(as with the rental units in the Township) the sales units are also becoming less affordable to lower income households and it is highly unlikely that any safe, decent housing will become available to lower income households as a result of secondary market sources.

Based on the above analysis, the evidence strongly indicates that few, if any, units have become available to lower income households through either filtering, rehabilitation or conversion. In fact, there are indications that due to the filtering up of both rental and sales units, some lower income households may have been displaced by more affluent households. Trends in Monroe indicate that the cost of housing will continue to escalate during the next six year period, and it is likely few, if any, additional units will become affordable and available to lower income households during the next six years as a result of secondary market sources. Thus, the 95 units awarded to Monroe for these processes do not reflect the actual housing situation in the Township. As such, in Monroe's case the use of these downward adjustments to the Township's fair share tends to significantly understate its actual lower income housing need by over 34%. Thus, the Council should waive the strict adherence to its regulations to more fully address Monroe's fair share obligation.

C. EVALUATION OF CREDITS CLAIMED BY MONROE

Section 5:92-6.1 of the Council's rules provides that municipalities may receive credits on a one to one base for housing units created or rehabilitated after April 1, 1980, provided that the units' occupancy is restricted to low or moderate income households and that the municipality has implemented adequate assurance for continued affordability. In addition,

under its proposed rules, the Council provides that for rehabilitations:

a unit shall be eligible for crediting if: a) it was below applicable code standard and was rehabilitated up to applicable code standard between April 1, 1980 and January 1, 1987, provided it was occupied at the time of rehabilitation by an eligible low or moderate income household as defined in N.J.A.C. 5:92-1.3; and b) is currently occupied by the occupants who resided within the unit at the time of rehabilitation, or by another eligible low or moderate income households as defined in N.J.A.C. 5:92-1.3.

Monroe claims credit for 12 units rehabilitated since 1981 under the Middlesex County Community Development Housing rehabilitation program. The Plan's documentation, however, does not provide sufficient evidence to meet the Council's threshold requirements for credits.

First, the Plan does not provide documentation that the housing units are now, or were at the time of the loans, lower income households. The Plan's crediting documentation, however, actually identifies only one (1) of the units as being occupied by a lower income household. Similarly, the Plan does not provide documentation that the units were below code standard and were rehabilitated up to applicable code standard, with the exception of one unit.

Thus, it is apparent that Monroe should receive credit for at most one unit, rather than the twelve units for which it claims credit.

III. EVALUATION OF MONROE'S PROPOSED FAIR SHARE PLAN

A. INTRODUCTION

The Monroe proposed fair share plan consists of two components: a rehabilitation program and a new construction program. Monroe indicates that it will provide 172 lower income housing units under these two programs. The following evaluates the adequacy of these two programs.

B. REHABILITATION PROGRAM

The Township proposes to rehabilitate 53 indeginous units "at a rate of 9 units per year" under the Middlesex County Community Development rehabilitation program.

While, as indicated in the Plan, the Middlesex County program may be able to provide sufficient funds for the rehabilitation, the Plan provides no assurances that these units will, in fact, be rehabilitated under the program. In particular, the plan gives no indication that the Township will promote any efforts to identify substandard units. In addition, there is no plan to implement an outreach program to promote the use of the County program. Moreover, the Plan does not provide for any administrative support especially in terms of ensuring that the units are brought up to code standard, remain at or above code standard, and are occupied by lower income housing.

Without such commitments in the Plan, it is unlikely that a significant number of units will be rehabilitated through the program. For instance, based on the past six years, the Plan shows that just twelve units have been rehabilitated and there is no indication that these units (except for one unit) meet the crediting requirements of the Council's rules. As such, Monroe's plan to rehabilitate 53 units is illusory without further commitments.

C. NEW CONSTRUCTION PROGRAM

The Monroe Plan proposes to provide 119 lower income units through "new construction resulting from inclusionary zoning". The Plan identifies two sites (Site A and B) as likely sites for these projects. Although the Plan indicates that proposals have been made at Council and Planning Board meetings for construction lower income units on these sites, the Plan provides no analysis of the capacity of these sites, the economic feasibility of developing the sites with lower income housing components, or their appropriateness for development at particular densities. Further, the Plan does not provide any indication of the densities at which these properties will be rezoned, the precise number of lower income units that the site would yield or when any rezoning and/or approvals will take place. Both of the sites, moreover, have significant problems which may inhibit their development at densities sufficient to meet Monroe's fair share obligation in the short-term.

Site "B"

In particular Site B is unlikely to be developed for lower income housing in the near future. The 180-acre site is located in the rural southern area of the Township, and is identified on the State Development Guide Plan as an "agricultural area". This is a level site of approximately 180 acres in the rural southern end of the Township. The site has access to Route 33 on the north, Butcher Road on the east and Hightstown Road on the south. With the exception of the nearby Twin Rivers PUD (over the Township border to the west of the site), there are no other neighborhood services nearby. Whatever commercial uses do exist on Route 33 are primarily roadside warehousing, farm equipment sales and a small office building. There is also a golf driving range at the corner of Route 33 and Butcher Road which is currently used for storage of trailer vehicles.

In addition, there are presently no water or sewer connections available on the site. Furthermore, the existing sewage treatment plant does not have sufficient capacity to handle additional effluent from any development of the site.

The site is also crossed by a side tributary of the Millstone River, with 60-acres of the site lies within 100-year floodplain related to this stream. As such, the development of Site B is severely restricted by the sewer capacity problem in the area as well as other factors. Its immediate development potential is, thus, extremely limited and the site is unlikely to result in the development of lower income units during the present compliance program.

Site "A"

Site "A" is capable of sustaining an inclusionary development; however, the Monroe Plan includes no indication that it would permit sufficient densities to generate the lower income housing units necessary for Monroe to meet its fair share obligation.

This site is of approximately 84 acres located immediately to the east of Jamesburg Borough in the north-central part of Monroe Township. About 38 percent of the approximately 84 acres is either in wetlands or 100-year floodplain area. A side tributary of the Manalapan Brook cuts across the site, separating the lower third of the site from the upper two-thirds. Thus, only about 50 acres of the site is developable.

The areas adjacent to the site differ considerably. Pergola Avenue on the north is a well travelled route with a mixture of older houses and some fairly recent houses. Walnut Street is occupied by recently constructed single-family houses. The areas to the east and south of the site are largely undeveloped

at present. To the west of the site there are two disparate residential areas. The area around Little Brook Lane, to the southwest of the site, is a middle-income single-family subdivision. The area directly adjacent to the site on the west is an older enclave of more modest lower-to lower-middle income area. Many of the houses in this area are boarded-up and/or dilapidated buildings.

In order for this site to accommodate 119 units of lower income households, a density of nearly 12 units per acre would be required with a 20% set-aside. Given the established single-family character of most of the existing uses in the area, Monroe's past practices prohibiting multi-family development, and the Plan's failure to provide any commitment to this type of density and development, it is highly uncertain that Monroe will, in fact, rezone to permit the development of the 119 units.

Summary

Site "B" is not a realistic short-term site for lower income housing, primarily because of the absence of sewer and water capacity on the site. While site "A" does have potential as a lower income housing site, the Plan does not indicate that the site would be rezoned at such a density as to allow for the development of 119 lower income housing units. As such, the Plan should identify and include other sites appropriate for lower income housing development.

IV. CONCLUSION

Based on an analysis of Monroe's Housing Element and Fair Share Plan, it is our conclusion that the Plan is deficient in the following areas:

Calculation of Fair Share Obligation: Based on an examination of the Monroe housing market, it is evident that secondary market sources are not resulting in an increase in the availability of affordable units in the Township. Thus, the evidence indicates the application of the Council's formula and downward adjustment of Monroe's fair share by 95 units for filtering, conversions, and rehabilitations considerably under-rates Monroe's actual fair share obligation. As such, under Subchapter 13 of its rules, the Council should express provisions of its Act and revise Monroe's obligation to reflect Monroe's actual obligation as 184 lower income units.

Credits: Although Monroe claims credit for twelve units rehabilitated since 1980, it provides adequate documentation for only one (1) unit. Thus, its credits should only be 1 unit.

Rehabilitation Program: While the Middlesex County program could potentially finance the proposed number of units, the Plan as proposed is deficient and illusory because Monroe fails to provide for the necessary outreach and administration functions.

New Construction Program: The Plan identifies two sites, but does not provide any indication of the capacity of the sites or any rezoning plan. Site "B", in particular, has little immediate development potential due to its lack of sewer capacity and water availability. The Plan, moreover, makes no assurances of adequate infrastructure on the site. Site "A" is a potential site; however, the Plan contains no commitment that

Monroe would rezone the parcel for densities adequate to allow for the required number of lower income units. The Plan, also, does not identify or make any provision for lower income development on alternative sites, even though the Township has received the proposals.

MT LAUREL II COMPLIANCE PROGRAM
MONROE TOWNSHIP, MIDDLESEX COUNTY, N.J.

prepared for:
Township Council
Township of Monroe

prepared by:
Hintz-Nelessen Associates, P.C.
12 North Main St
Pennington, NJ 08534

02/15/85

Revised: 03/05/85
03/08/85
03/13/85
03/15/85

There were proposals by various parties to utilize their property as Mt. Laurel sites. The proposals range from those with builders of some experience in construction of housing, to vague proposals by persons or companies representing a piece of land, to a suggestion by the township council. Given the choices, those with builders, which have an ability to construct housing, should outweigh other sites by non-builders, all other factors being equal.

The following table outlines the proposed compliance program.

Table 4

<u>Proposal</u>	<u>Units of Low/Moderate Income Housing</u>	<u>Total New Units of Housing</u>
Rehabilitation of Existing Housing Stock	90	-
New Infill by Housing Authority (as guarantee and vehicle for next compliance in 1990)	70-150*	-
Monroe Development ("Builder's Remedy" Site)	120	600
Concordia Planned Retirement Community Expansion and Others (5% Low/Moderate)	100	**
Balantrae - 396.3 Acres @ 5.2 d.u./ac and 46.6 acres at 10 d.u./ac	466	2510
	-----	-----
	846-926	3110

*Provides for a surplus should any program fall short.

**Been processed for approval by Planning Board.

Monroe Development

The site is in the growth area, has good road access and is not far from a bus route. Sewer and water are available. The environmental suitability of the site is the main drawback with a floodplain approximately covering a third of the site.

Since it has a "builder's remedy," it must be included in the compliance program. However, it is recommended for 600 dwelling units per acre, to produce 120 low/moderate income units (20%), since not all of the site is usable.

G. Katom

The property is located adjacent to Jamesburg Borough, and is not far from Rossmoor. Sewer and water are available, but limited at this time in this area. It is within the growth area of the SDGP. The site is not recommended since it lacks public transportation, is not large and there is no builder behind the proposal. The amount of low and moderate income units that would be produced would be small because the site is only 28 acres.

H. Township Proposal

This site was a suggested alternative for consideration by the township council. It lies in the growth area of the SDGP. Sewer and water are limited at this time. Road accessibility is relatively good, but there is no bus transportation. Since there is no builder proposal for the site, it does not rank high as a site to produce affordable housing.

**Review and Recommendations:
Mount Laurel II Compliance Program
Monroe Township, New Jersey**

**Prepared for
Honorable Eugene D. Serpentelli, A.J.S.C.
Ocean County Court House
Toms River, New Jersey**

**Carla L. Lerman, P.P.
July 1985**

a housing authority could produce 70 to 150 units in a six year period; however, clarification of funding sources would be required before this plan could be evaluated as a realistic mechanism.

Recommendation: This aspect of the Compliance Program should not be considered at this time. If, during the compliance period, the Township Council establishes a housing authority which is able to construct or otherwise provide additional housing units for low and moderate income households, the number of units thus provided would be counted as credit towards Monroe's fair share, either for the decade 1980-1990 or the following decade.

3.) Monroe Development Associates: Builder's Remedy Site

Throughout the Township Council's deliberations the Township attorney expressed his opinion that Monroe Development Associates was clearly the one developer who was entitled to a builder's remedy. This site, which is located adjacent to Cranbury Township on the west central boundary of Monroe, consists of 60 acres, approximately 1/3 of which are estimated in the Compliance Program report to be located in the floodplain. The developer provided a further report, after the Compliance Program was submitted to the Court, which indicated that he estimates that only 17percent of this site is unusable for construction due to location of the floodplain. The site is on a through road that leads from Applegarth Road (a major north/south route in Monroe) to Route 130 (a major north/south route in Cranbury Township). It is within one mile of water and

sewer connections, although the exact nature of the sewer connections and how they will coordinate with the proposed modifications of the Forsgate Treatment Plant are not clear. The site is approximately three miles from two substantial neighborhood shopping centers -- one to the south on Route 33 in East Windsor, and the other to the east on Perrineville-Jamesburg Road, in the Concordia development. For convenience goods within walking distance, the developers are planning a small, two acre commercial development on the site. There are some environmental constraints on development of the site, owing to the fact that the floodplain covers a portion of the site; the site development plan does not propose any structures or building on that portion of the site, but designates that area for recreation and open space. This site is clearly in the Growth Area as defined in the State Development Guide Plan, and, as such, is one of only three of the proposed sites which can be so categorized. The developers have proposed to build 840 units, which is a gross density of 14 units per acre. Twenty percent of those units would be designated for low and moderate income households, with ten percent of the units for low income, 10 percent for moderate income. The Compliance Program, because of the environmental constraints of the floodplain area, proposes that a maximum of 600 hundred units be constructed on this site, which would result in 120 low and moderate income housing units.

The Court in Mount Laurel II made it quite clear under what situation a builder was to be granted a builder's remedy.

We hold that where a developer succeeds in

Mount Laurel litigation and proposes a project providing a substantial amount of lower income housing, a builder's remedy should be granted unless the municipality establishes that because of environmental or other substantial planning concerns, the plaintiff's proposed project is clearly contrary to sound land-use planning.

92 N.J. 158 at 279-280

The absence of input from the Planning Board or the Township's consulting planner creates difficulty in determining whether this site is consistent with policies as reflected in the master plan update due in 1985. However, certain decisions that have been made by the Township would indicate that this site of Monroe Development Associates is not inappropriate in Monroe Township for higher density housing. The Township has permitted three major developments of higher density housing (Planned Retirement Communities) on the western side of the town, one of which is less than 1/2 mile from this proposed site. In addition, the Township anticipated a fairly dense concentrated development of the western portion of the Township by zoning many, many hundreds of acres for light impact industrial use, which would incur substantial water and sewage requirements, as well as substantial additions to traffic on local roads. If the policy direction for the Township had been to maintain open space and agricultural use, some efforts would have been made to encourage agricultural preservation rather than zoning the entire Township for full development.

The most significant drawback to development of this site has been the need to expand and/or change the function of the Forsgate Treatment Plant, which is where the sewer connections would be made. However, other development being permitted on

the western side of the Township, and anticipated further development has resulted in an application being made by the Monroe Township Municipal Utility Authority to convert the Forsgate Treatment Plant to a pumping station. All local approvals have been obtained, with final approval from the State Department of Environmental Protection being awaited. The Monroe Development Associate's site is merely one part of the pattern of development which has required that these improvements in the Forsgate Treatment Plant be made in the immediate future.

Recommendation: On balance, the site proposed for development by the Monroe Development Associates seems suitable for higher residential densities, and is recommended to be included in the Compliance Program for Monroe Township. The gross density that is recommended, however, is 8 units per acre.

There is no valid planning reason, in a primarily rural municipality with approximately 20 net square miles for development to encourage higher density development than is economically required. Naturally, developers are interested in the highest possible densities that will not negatively impact marketability, in order to spread site costs and maximize profits. In this case, the developer has estimated his sewer connection costs at approximately \$350 per market rate unit. The lower density would increase this cost to approximately \$625 per market rate unit. This amount does not seem excessive for a development of this type. As far as the developer's contribution to the improvements required at the Forsgate Treatment Plant, it is reasonable to assume that the required

contribution will be based on the number of units, not the acreage. Therefore, a lower density should not have a negative impact on per unit costs for plant improvements.

Monroe Township has permitted higher density housing in the planned retirement communities, but in those developments the zoning required high cost facilities for residents, such as a golf course, swimming pools, community buildings, houses of worship, etc., which added substantially to the site development costs. Recently, the permitted density was reduced to 7 units per acre, with no change in the site requirements. This density policy is reflected in the proposed PVD (Planned Village Development) zone included as appendix A in the compliance report. This zone calls for a gross density of 8-10 units per acre. Therefore, considering the floodplain area and the proposed retail area, it is reasonable to choose the lower of the proposed PVD densities for this site.

This recommendation will result in 480 housing units on this site, of which 96 will be for low and moderate income households.

4.) Concordia Planned Retirement Community Expansion
(5percent Low/moderate)

In an effort to provide some housing for low and moderate income elderly, and in order to take advantage of proposed new developments that would qualify for approvals regardless of Mount Laurel II, the Township Council included in the Compliance Program a mandatory 5percent set aside for the Concordia expansion, the application for which was considered to