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31-Jan-1986

Mallach's Supplement to his formal report sent
to Judge Skillman

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January 31, 1986

Hon. Stephen Skillman, J.S.C.
Middlesex County *GQUTJL* House
New Brunswick, N. J. 08903

RE: Countryside Properties, Inc. v. Borough
of Ringwood [Docket No. L-42095-81]

Dear Judge Skillman:

The purpose of this letter is to serve as a supplement to my formal report as advisory master in the above litigation, in response to your request for review and comment of the compliance plan recently proposed by Ringwood Borough, and summarized in Mr. Katz' letter of January 13, 1986, a copy of which is attached to this letter.

I believe that the salient features of the plan, in terms both of what it includes and what it does not include, are as follows:

[13 The Borough will undertake a program to rehabilitate 31 existing substandard units occupied by lower income households; the borough will seek grant financing for this program, but will use municipal funds if outside grant funds are unavailable.

C23 The Borough will create a multifamily housing zone on Lot 16, Block 877 [the "lower tract"], adequate to contain 49 lower income units and 196 market units, thereby resulting in a 20% Mount Laurel setaside percentage within the zone.

C3] The Borough will assume a greater share of the infrastructure costs associated with development of the lower tract than was previously contemplated.

[43 Lot 1, Block [the "upper tract"3 will not be rezoned.

I believe that this plan is potentially capable of achieving the realization of Ringwood's Mount Laurel obligations. Since it has only been presented in summary form, it is clear that many questions remain which would have to be resolved. In the discussion below, I will try to address those questions which appear to be potentially significant.

[13 Rehabilitation: It should be noted that the earlier discussions of the rehabilitation program were not grounded in any determination that there were 31 suitable existing units occupied by Mount Laurel households; instead, it contemplated that a subsequent determination of the number of such units, not to

exceed 31, would be made, and the number of new units to be constructed adjusted accordingly. Under the proposed plan, it would be assumed that 31 qualifying units would be available.

If one excludes from consideration units that are overcrowded but not otherwise deficient, the figure of 31 represents a very substantial percentage of the indigenous need pool¹. Thus, the number cannot simply be taken on faith. I would suggest that the following approach be pursued:

a. A detailed statement should be prepared setting forth the structure and operation of the program. This program, furthermore, should be designed to include remedying overcrowded conditions; i.e., adding one or more rooms to existing single family structures.

b. A preliminary survey should be conducted, in order to provide some basis for the number of units proposed to be rehabilitated.

c. A governing body resolution, committing itself to financing the rehabilitation program at an adequate level in the absence of outside grant funds, should be enacted. This need not take place until or unless (a) and (b) above have been adequately addressed.

d. Consideration should be given to whether a fallback program should be included; i.e., a program under which, should the number of units rehabilitated by a given date fall short of the target number, the municipality would provide for construction of new units to make up the difference.

Through these steps, the incorporation of a rehabilitation program as an element in the borough's compliance plan would be made workable.

C23 Rezoning of Lower Tract The rezoning proposed under this plan is essentially the same as was contemplated in the earlier settlement negotiations, and, as discussed in my report, is a reasonable use of the site. One question not addressed in the materials on the new plan submitted by the borough is the status of any residual acreage fronting on Skyline Drive. As was discussed in the report, the developer's position is that any such acreage not needed for the residential development (which he has estimated at 12 acres) should be retained under the existing commercial zoning. Given the commercial character of Skyline Drive in this area, that appears reasonable.

¹/Roughly half of the pool is made up of overcrowded units, so that the total number of physically deficient units may be no more than 40-45; thus, the target here is likely to represent 70% to 80% of the total pool.

C33 Infrastructure; It will be necessary both to prepare a firm estimate of the offsite infrastructure costs associated with development of the site, and a reasonable apportionment of those costs between the borough and the developer. This matter should be a part of any compliance plan, rather than remaining for subsequent negotiation. A governing body resolution (or possibly an ordinance) would be required at such time that the apportionment of costs has been established.

C43 Status of the Upper Tract: As noted, the most significant respect in which the new plan differs from the earlier settlement negotiations is in the deletion of the upper tract. Looking at the plan in and of itself, this can be justified by virtue of the fact that the plan provides for the entire indigenous need without reference to that tract. In view of that consideration, it is not certain whether comparative site suitability issues will have to be addressed.

It should be noted, however, that from a site suitability standpoint, the differences between the upper and the lower tracts are not substantial. Both sites are complex sites with steep slopes, and some environmental sensitivity. The environmental sensitivity of the lower tract, however, is arguably greater, by virtue of the site relationship to High Mountain Brook. No similar problem exists with respect to the upper tract; while it is, on balance, slightly steeper, as shown below, the difference in this respect between the sites is not great:

	LOWER TRACT/2	UPPER TRACT
0 to 15% slope	32%-34%	26%
15% to 25%	40%-48%	43%
25% to 35%	14%-22%	19%
over 35%	47%-61%	12%

The lower site, as noted in my report, has particular locational advantages, by virtue of its proximity to the borough commercial center, which are not shared by the upper tract, and which arguably support its development and offset the issues raised by the proximity of the site to High Mountain Brook. On balance, the two sites are not significantly different in terms of overall site suitability for multifamily housing at moderate to low overall densities.

2/As discussed in the report, the environmental assessment prepared by Thonet Associates for this site presented slope data using an unconventional breakdown; i.e., 0-10%, 10-20%, etc. The figures presented here are my own estimates derived by interpolating within the ranges provided in the Thonet Associates report.

Hon. Stephen Skillman, J.S.C. C43

January 31, 1986

I hope that these comments are useful. Please let me know if you need any further information, or would like further discussion of any of the issues raised in this letter.

Very truly yours,

Alan Hallach

AMfrits

cc: G. Czura, Esq.
L.Katz, Esq.