AMG

3-9-84

Memo re: review of Ps docs
by Realty Assoc.

Pss. 8
Pi # 3348

AM000134D

RICHARD B. READING ASSOCIATES

759 STATE ROAD, PRINCETON, NEW JERSEY 08540 AREA CODE 609/924-6622

MEMORANDUM

TO: John E. Coley, Jr., Esquire
Kunzman, Coley, Yospin & Bernstein
15 Mountain Boulevard
Warren, New Jersey 07060

FROM: Richard B. Reading

DATE: March 9, 1984

SUBJECT: AMG Realty Company, Skytop Land Corp., Timber Properties vs. Township of Warren

In accordance with your request, I have reviewed the documents filed by and on behalf of the Plaintiffs in the above-referenced matter in order to identify and analyze the economic factors and issues involved with the subject litigation. The documents reviewed and discussed hereinafter include:

1. Oross Associates, Letter, January 10, 1984
2. Planners Report, Harvey S. Moskowitz, Undated
3. Preliminary Analysis, Michael Sorich, November 22, 1983
4. Economic Analysis, Abeles Schwartz, Associates November, 1983
5. Proposed Interim Order in the AMG Realty and Skytop Corp. McDonough, Murrary and Korn
6. Trebor Development & Investment Co., Letter, December 19, 1983
7. Timber Properties, Inc., Letter, Decembe 19, 1983

Although the foregoing list of submissions would suggest the presence of a substantial volume of information, there are, nevertheless, shortcomings in the basic economic underpinnings of the individual and collective proposals to produce higher density attached housing products including a

component thereof destined for occupancy by families with lower and moderate incomes. The most apparent shortcoming in these proposals is the absence of a concise presentation which would link the Plaintiffs' recognition of a need for lower and moderate income housing units and the various development proposals which have been furnished. Specifically, there is no discussion in the Plaintiff's reports that suggests that the individual and collective proposals may be a reasonably economical or efficient means to meet the mandates of Mt. Laurel II or that the proposed density increases are factually, functionally or economically linked to the five to one leveraging between total and lower cost housing products. This would appear to be a critical issue in light of the up to twelve-fold increase in development density requested by the Plaintiffs in order to develop one-fifth of the units within the applicable cost parameters for low and moderate income families.

While there is no issue or argument with the need to develop the lower cost housing units, at a relatively high density (eight, ten or more units per acre), the magnitude of the density increase for the "market" units does not appear to be consistent with the constant (20 percent) set-aside proposed. If, as noted in the AMG/Skytop proposal, a 20 percent set-aside can be achieved with a gross development density of 5.5 (or 6.5) units per acre, then it should follow that a density of 8.0 units per acre would be able to accommodate a higher leverage (set-aside) than the 20 percent set-aside.

The magnitude of a density increase needed to induce and reward a developer to produce lower cost housing will unquestionably be commensurate with the "depth" of the

subsidy (offset) required to provide the lower cost housing units. If, for example, low and moderate housing cost parameters may be achieved merely through the cost savings effectuated by a relaxation of municipal subdivision standards, fees and permits along with a removal of raw land costs for the set aside units, a relatively low density increase would be required. Under these assumptions, the potential number of units under existing ordinances would need to receive only a corresponding (20 percent) density increase in order to absorb the raw land cost for the 20 percent lower cost units. A developer that purchased a 100 acre tract of land valued at $20,000 per acre and permitted 2 units per acre (200 units) could, theoretically, provide "free" land for 20 percent of the total units (50 units) with a density increase to 2.5 units per acre (to 250 total units) inasmuch as the raw land value ($2,000,000) would still be distributed among the same number (200) of market units. In reality, however, these direct proportional increases would probably not be adequate because of a combination of market and economic factors. Firstly, the original per unit value would be somewhat diminished by the increased density (smaller lot size). Secondly, there may be some diminution in market value by virtue of the location of the market units on the same property and adjoining, less costly, "set-aside" units. Thirdly, a direct proportional increase would not be a sufficient incentive/reward to a developer, since the total land value was not increased by virtue of the density increase needed for the lower cost housing products. Finally, a proportional density increase (20 percent) would not be adequate to

compensate a litigant/ developer for his costs in seeking to develop lower cost housing as well as the risks involved therewith.

Clearly, a more-than-proportionate (20 percent) density increase is required to encourage (and financially accommodate) the production of lower cost housing units. The density "multiple" which is necessary for low cost housing requires a precise determination of the current value of the land in question, the quantification of the municipal and developer concessions involved in providing such housing and the applicable profit margins on the potential housing units as zoned, and for the lower cost and market units proposed as the development alternative. This information, which is obviously not available in the Plaintiff's reports should be obtained in the course of the forthcoming trial, if not sooner.

A second area of concern to the Defendant municipality (and assumably to the Plaintiffs) involves the economic realities of the housing market as they relate to the goals and objectives of Mt. Laurel II. Under the proposals forwarded by the Plaintiffs, a 20 percent set-aside is planned regardless of the increase in the zoned density. Not only does the constant set-aside appear to be unresponsive, to the land economies achieved through multiples of increased density (vis-a-vis as-zoned density), the ability to furnish lower cost housing units is totally contingent upon the Plaintiffs' abilities to sell market priced housing units. This relationship, and particularly the inherent five to one leverage, raises the very real question as to whether or not the Plainfiffs' proposals represent an efficient and effective means to develop lower

cost housing. Under the Plaintiffs' proposals, four market area units must be built and sold to yield one lower cost (low or moderate income) housing unit. If Warren Township has a need and, concomitantly, an obligation to provide 900 lower cost housing units, then a total of 4,500 housing units including 3,600 market value units must be built and sold to achieve the indicated goal/obligation of 900 lower cost housing units.

Can a community which was incorporated in 1806 and by the 1980 Census contained less than 3,000[1] occupied households be expected to physically and functionally absorb 1.5 times its present household base in a relatively short period of time[2]. Given the magnitude of the Township's existing household base, the historical development of 61 housing units per year during the 1970's and the issuance of building permits for an average of only 24 units per year since 1980 (1981 and 1982), the production and delivery of 750, 409 or 281 housing units per year over a 6, 11, or 16 year time time frame, respectively, is, at the very least, questionable. The question as to the absorption of the market units will undoubtably be exacerbated by the presumed increases in the production of market housing units in the adjacent municipalities and other communities in the Region as they seek to serve their individual Mt. Laurel obligations.

---

[1] According to the 1980 Census there were 2,999 occupied households in Warren Township as of April 1, 1980.

[2] Plaintiffs' claim (Proposed Interim Order) of an obligation for 900 lower cost households does not specify the time frame for the satisfaction of such need, other than the accompanying claim that the Township must zone "immediately" for such need.

Since land and available infrastructure are limited resources in Warren Township (and other communities as well), an efficient allocation of these resources will be required if any meaningful contribution is to be made in serving the lower cost housing needs of the municipality, the Region and State. The Plaintiffs suggest that a 20 percent ratio between lower cost and total households is a desirable ratio for the provision of fair housing opportunities. However, even assuming that there presently exists no lower cost housing in the community, the ratio which would be effectuated by the Plaintiffs' leveraged method would, at fulfillment, yield only 900 lower cost housing units out of a total housing base of 7,500 units (3,000 + 4,500)---a ratio of only 12.0 percent overall.

Thus, critical concern to a community is not the lower cost housing absorption, but the physical, fiscal and functional and ability of the housing market to absorb four "market priced" units for each lower cost unit. If as claimed by the Plaintiffs, Warren Township must provide for 900 lower cost housing units, then it should seek to do so in the most efficient and cost effective manner available. At this point in time and, absent any cogent rationale for the 20 percent ratio suggested by the Plaintiffs, it appears that there may be more efficient methods than a straight 20 percent set aside. Furthermore, given the finite nature of land municipal infrastructure, it would be in the interest of all concerned to seek and encourage those developments which have the greatest real potential for developing the greatest numbers and proportions of lower cost homes. It would not appear economically prudent, at lease at this point in time, to proceed with a development scheme that would provide only one lower cost home out

of every five additional units built and, in the aggregate, require the development of a household base 2.5 times that which currently exists just to provide the community's fair share of the region's need for lower and moderate cost housing.

The significance of these concerns transcends this matter as it relates to Warren Township, itself, and includes the entire concept and economic implementation of the goals and objectives of Mt. Laurel II. Because Warren Township is brought forward as a landmark case, the methods adopted here will unquestionably be held up as a model for other communities. Surely, no one would be well-served if the standard bearer for the numerous cases which will follow this matter embraces a land development concept which is inefficient and economically unworkable.

Lacking any arguments to the contrary, there are no visible reasons why a community should not be able to offer an escalating density bonus in exchange for increased proportions of lower and moderate income housing units or why a municipality should not be afforded the opportunity to chose from a variety of development alternatives for furnishing lower cost housing.

Just as there may be opportunities where a prospective developer may be able to set aside more than the minimum 20 percent for lower cost housing, there may also exist a potential for transfer development opportunities to other properties in the community where higher densities and proportions of lower cost housing might be more appropriate. There is a legitimate concern that once a substantial proportion of a community's realistically available infrastructure has been allocated to a 20 percent set aside

development, there will remain an insufficient capacity to encourage the development of alternative projects that could make a much more substantial contribution to the community's lower cost housing needs. Merely because one developer, or group of developers, proposes to furnish lower cost housing opportunities with a minimum set aside should not be deemed to be the only, or an effective, solution to a community's Mt. Laurel II housing obligation. This would be particularly true when, as here, the acceptance of the "first offer" may preclude other, more effective methods for producing low cost housing.

In summary, the methods proposed by the Plaintiffs, which are contingent upon the absorption of enormous numbers of "market" units, may actually diminish, rather than foster, potential for providing lower cost housing by using up municipal infrastructure that might otherwise be available for lower cost units. These difficulties are in addition to the unavoidable social and political impacts that would accompany the expansion of a community's population and housing base to a level 250 percent of that which presently exists just to provide a 12 percent component in the resulting housing base for lower income families. It is quite likely under these circumstances that the absorption potential for "market" units will be fully saturated long before a meaningful contribution to lower cost housing need coulb e achieved.