

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
APRIL 21, 2025**

Mr. Sullivan called the Regular Meeting of the Planning Board to order at 7:31 P.M.

Adequate Notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2025, and January, 2026 was published in the *Chatham Courier and the Morris County Daily Record*, a copy was filed with the Municipal Clerk and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Neibert, Mr. Sullivan, Mr. Kahn, Mr. Choi, Mrs. Ewald, Mrs. Foran, Mr. Nikolopoulos, Mr. Shehady, Mrs. Stillinger, Mrs. Chang and Mr. Miller.

Also present were , Affordable Housing Planner Kendra Lelie, Board Engineer John Ruschke and Board Attorney Steve Warner.

Minutes

Mrs. Ewald asked for a clarification on a section of the minutes of the April 7, 2025 meeting. Mr. LaConte said he would review the recording and adjust the minutes as necessary.

Discussion

Master Plan Consistency Review – Ordinance 2025-09

Mrs. Stillinger asked about the percentage of the fee increase. Mr. Sullivan said that they are mostly being raised by \$100. Mr. Warner said they are administrative fees.

Mr. Sullivan asked about the multi-density housing fee going down. Mr. Shehady said that the ordinance is not decreasing any fees. He also noted that a memo was submitted by the Board Manager indicating that fees had not been increased in the past 20 years. Mr. Shehady further noted that a fee for amended site plans is being added.

Mr. Warner said that the question before the Board is whether or not the ordinance is consistent with the Master Plan, and a public hearing on the ordinance will be conducted by the Governing Body. Mr. LaConte noted that the public hearing will be on April 22nd.

Mr. Miller asked about fees for appeals, and if the applicant should reimbursed for that fee if they win the appeal. Mr. Warner said he is not sure it would be legal to do so.

Mr. Shehady commented on technical review fees.

Mr. Miller moved to find Ordinance 2025-09 to be not inconsistent with the Master Plan. Mrs. Ewald seconded the motion.

Roll Call: Mr. Choi, Aye; Mr. Shehady, Aye; Mrs. Ewald, Aye; Mrs. Foran, Aye; Mr. Neibert, Aye; Mr. Nikolopoulos, Aye; Mrs. Stillinger, Aye; Mr. Sullivan, Aye; Mrs. Chang, Aye; Mr. Miller, Aye.

Workshop of the 4th Round Affordable Housing

Affordable Housing Planner Kendra Lelie gave a presentation on the Fourth Round Affordable Housing Plan. She reported that the Township's obligation is 141, and she provided an overview of how that number was determined. Mr. Warner noted that the Township Committee corrected the DCA's non-binding advisory number by adopting a binding number by resolution, and he noted the process by which the Township is awaiting a decision from a program judge to approve the obligation.

Mrs. Lelie explained the plan to use overlay zoning to address the unmet need.

Mrs. Lelie said that the Township's Realistic Development Potential is 4 units, and there will be an unmet need of 137 units. She specified that the Township is not required to build the 137 units, but rather to adopt meaningful zoning over properties that may be redeveloped over the next 10 years to allow for the development of 25% of the unmet need. Mrs. Lelie noted that the RDP will be met at the former Skate Park site. Mrs. Stillinger asked if there could be additional units in the future at that site. She also asked if the DEP is likely to approve the wetlands variances. Mrs. Lelie said that there is not likely to be further development, and she and Mr. Ruschke are working on wetlands permit applications.

Mr. Miller asked about additional properties for consideration for overlay zones. Mrs. Lelie explained the focus on properties that made sense from a planning perspective. She also said that at least 17-18 acres are needed to support the needed number of units, noting the ratio of 5:1 for inclusionary development. Mrs. Lelie discussed some redevelopment options available.

Mrs. Chang asked if a developer would be required to include affordable housing if they were redeveloping the overlay zone areas. Mrs. Lelie said that if the overlay zone is adopted, then the developer would need to meet the conditions of the zoning. She also said that the Township would not be penalized if the area with the overlay zone was not redeveloped.

Mrs. Lelie addressed the mid-point review and the potential that the Fair Share Center or a developer could question the number of units zoned per acre, and described measures that could be deemed as meaningless steps toward compliance. She further noted that the elements of the Master Plan can be further amended if circumstances change.

Mr. Sullivan asked if this plan would encourage the self-destruction of the Township's commercial district. Mrs. Lelie said that zoning for mixed use would allow the retail to remain while adding residential units.

Mr. Neibert said that sometimes there is not enough parking at the Hickory Square Mall for the businesses there, and opined that adding residential parking would exacerbate the issue which may require removing some of the retail businesses. Mr. Miller noted the need for traffic studies. He also asked about considering overlay zones on the Presbyterian Church, Long Hill Chapel and Corpus Christi properties rather than concentrating the overlay zone in one area. He also noted the proximity of open space to some of the overlay area. Mrs. Lelie said that if that were done, the base zoning would remain. She also said that the currently proposed overlay can be changed as long as the overall acreage remains the same.

Mr. Sullivan asked about a townwide set aside. Mrs. Lelie said that anything adopted in the Third Round remains as is, and is a mandatory set aside which is attributed to the unmet need for the next round. She also said that the Township needs to create mechanisms and opportunities to capture affordable housing. Mrs. Lelie further asked if anyone would want to see the Fairmount Country Club redeveloped as housing if an overlay were put there. Mr. Neibert said that there has to be reasonableness that a property has a potential for redevelopment.

Mrs. Chang asked if an overlay on the gas station property would encourage someone to buy that property to redevelop it for housing. Mr. Shehady discussed the economics of real estate, and said a developer would need to assess the viability of redeveloping that site. Mr. Kahn commented on the viability of a site if the density were increased, and spreading the overlay around decreases the viability of any single site. Mrs. Chang asked if the developer would be required to build affordable housing. Mr. Shehady said they would if they wanted to take advantage of the density.

Mr. Warner reminded that the Board members need to consider from a fiduciary standpoint for the Township to satisfy its affordable housing obligation and not have builders remedy lawsuits or a challenge to the plan. He also asked about the requirement to have 25% of the unmet need built within the next 10 years. Mrs. Lelie addressed the unmet need requirements, and said that meaningful mechanisms need to be put into place. Mr. Warner said that the Township needs to demonstrate that 25% will come to fruition during the 10 year period. Mrs. Lelie said that this is different from realistic development potential, and hinges on properties to be redeveloped. She also said that the Township cannot force anyone to redevelop their property. Mr. Warner said that the Township needs to address the unmet need in a way that the development is feasible and that the plan is not challenged.

Mr. Miller asked why some additional properties were not considered. Mr. Shehady said that other properties were considered, and assumptions should not be made that they were not considered. He also said that the proposed plan contains those properties that were recommended after others were considered. Mr. Miller said that some of the proposed properties could be offset by including others. He also commented on the Board's past practice of requesting conservation easements and said that they likely would have been requested on some of the properties proposed for the overlay zone.

Mrs. Ewald noted that there are implications made by what is stated by Board members.

Mrs. Lelie said that she sympathizes with the Planning Board having to go through a quick process. She also said that the public hearing for this will be on June 16th so that the Township Committee can endorse the plan on June 24th. The plan would then need to be submitted to the Court for approval.

Mr. Shehady said that feedback is being sought. He also stressed the timeline to finalize a plan, and noted the lack of available land in the Township to meet the affordable housing obligation.

The Board took a recess at 9:05 PM.
The meeting was resumed at 9:25 PM.

Mr. Sullivan asked Mrs. Lelie to discuss the protections the Township will enjoy by having an adopted plan. He also asked if the DCA has changed how unmet need is addressed in the new round and if it is always an open ended issue. Mrs. Lelie said that a town like Chatham will never be able to meet its obligation, and there is always a chance of a builder wanting to file a builder's remedy lawsuit. She also said someone wanting to redevelop their property could increase the RDP. Mrs. Lelie further said that in her experience, she has not seen any municipality with an approved plan fall victim to a builder's remedy lawsuit. She also said that not having a plan will leave the Township more open to a builder's remedy lawsuit. Mr. Warner provided an explanation of builder's remedy lawsuits. Mrs. Lelie said that courts will still want to see a municipality adopt a plan even if there is a builder's remedy lawsuit.

Mr. Sullivan noted that having an unmet need does not mean that a municipality has not worked to meet its obligation. He also said that Chatham Township has always met its obligation. Mr. Warner noted that municipalities will need to have their Fourth Round Plan in place before the round actually starts. Mr. Shehady said that the next phase will be the implementation of the plan. Mrs. Lelie said that a Housing Element and Fair Share Plan and draft implementation ordinances will need to be adopted by the Planning Board by June 30th.

Mr. Nikolopoulos asked what the consequences are of a municipality stating that they cannot comply with the affordable housing obligation.

Mr. Miller stated that the Township will need to adopt a plan, however he does not feel this is the best plan. He asked what would prevent a developer from wanting to build densely enough to provide more than the 25% of the unmet need.

Mr. Kahn said that it is critical to adopt a plan within the required timeframe. He said that no plan is perfect however this plan is a decent solution.

Mrs. Chang said she agrees that the location of the overlay zone seems appropriate.

Mrs. Stillinger said that the plan is as good as it is going to get. She said it has a certain amount of realism.

Mr. Sullivan said that courts have indicated that affordable housing should not change the character of a municipality.

Mrs. Lelie provided a summation. She said that noncompliance will likely result in a builder's remedy lawsuit. Mrs. Lelie also said that the Township would not likely be able to get any extensions. She further said that anyone wanting to build a higher density than the ordinance allows would need to apply to the Zoning Board for a use variance.

Mrs. Lelie said she will have a final draft of the plan before it has to be placed on file and notice for adoption at a public hearing.

Mr. Neibert said that the plan looks good, and he does not see reasonable alternatives to the overlay zone.

Mr. Miller moved to adjourn at 9:48 PM. Mr. Sullivan seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary