MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
NOVEMBER 2, 2020

Mr. Franko called the Regular Meeting of the Planning Board to order at 7:30 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 2020, and January, 2021 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. Franko, Mr. Nelson, Mrs. Ozdemir, Mr. Hoffmann, Mr. Kelly, Mr. Sheth, Mrs. Abbott and Mr. Choi. Mrs. Ewald arrived a few minutes late.

Also present were Township Planner Frank Banisch, Engineer John Ruschke, and Board Attorney Steve Warner.

Mr. Coviello and Ms. Hagner were absent.

Approval of Minutes

Mr. LaConte noted that he received a clarification in the minutes from Mrs. Abbott earlier in the day.

Mr. Hoffmann moved to approve the minutes of the October 19, 2020 meeting as amended. Mr. Nelson seconded the motion, which carried unanimously.

Public Hearing - Amended 2020 Housing Element & Fair Share Plan and Spending Plan

Mr. Warner reminded the Planning Board that an updated Housing Element and Fair Share Plan was adopted on July 20, 2020. Subsequently on July 23, 2020 an amended Settlement Agreement with the Fair Share Housing Center was executed which included 522 Southern Boulevard as the site for a 100% municipally-sponsored affordable housing development. The Settlement Agreement was ruled by the Superior Court to be fair and reasonable. Mr. Warner also stated that notice of the public hearing was published and distributed per statute.

Mr. Banisch and Mr. Ruschke were both sworn in to give testimony.

Mr. Warner noted that a resolution has been prepared for the Planning Board to adopt the Housing Element and Fair Share Plan.

Mr. Banisch described the amended Housing Element and Fair Share Plan. He said that the updates are to be consistent with the July 23, 2020 Settlement Agreement with the Fair Share Housing Center. Mr. Banisch said that the updates are in the first 15 pages of the document. He reviewed the contents of the introduction of the Housing Element and Fair Share Plan. Mr. Banisch also reviewed the mechanisms that the Township is employing to meet the Third Round Obligation, noting that the Third Round extends from 1999 to July 2025. Mr. Banisch also noted that a Vacant Land Adjustment was employed to arrive at a Realistic Development Potential. Site suitability criteria is also addressed in the HEFSP. Mr. Banisch stated that the Third Round obligation is 387 units, and the Township has 228 credits against that obligation. The unmet need for the Third Round is 159 affordable units. To meet that need, there is an overlay zone at Fairmont Commons and an affordable housing ordinance that mandates a set aside. Mr. Banisch also addressed the Township's Development Fee Ordinance, which allows the Township to collect development fees in certain circumstances. Mr. Banisch further addressed the terms of the Settlement Agreement pertaining to rental units. He also noted that a Spending Plan is required to be adopted at least 30 days prior to the Compliance Hearing.

Mr. Warner asked if an order was entered on October 30th that the Township's Fair Share Plan is deemed fair and reasonable to members of the protected class, and those affected had time to prepare for the Hearing that was held regarding the July 23rd Settlement Agreement. Mr. Banisch confirmed that had occurred. Mr. Warner asked if the Housing Element and Fair Share Plan utilizes the Court-approved obligation per the July 23rd Settlement Agreement and the order approving that agreement entered on October 30th. Mr. Banisch confirmed that it does. Mr. Warner asked if the Housing Element and Fair Share Plan addresses the Township's cumulative housing obligation for the period from 1987 to June 20, 2025. Mr. Banisch stated that it does. Mr. Warner asked if the proposed compliance mechanisms provide a realistic opportunity for the provision of affordable housing, and Mr. Banisch said that it does. Mr. Warner asked if the Housing Element and Fair Share Plan is not inconsistent with the goals and objectives of the Master Plan, and if it will guide the use of land in a way that protects general health and safety and promotes the general welfare in accordance with applicable statutes. Mr. Banisch stated that it does, and that it promotes longstanding objectives of the Land Use Plan for a better balance of housing and will address the Township's Constitutional obligation. Mr. Warner asked if the amended Housing Element and Fair Share Plan is designed to achieve access to Affordable Housing to meet the present and prospective needs of the Township to comply with applicable statutes. Mr. Banisch stated that it does.

Mr. Banisch addressed the Spending Plan, and stated that COAH rules allow for the creation of a trust fund for Affordable Housing. A court-approved spending plan is necessary in order to use the funds for the intended purpose. The spending plan identifies revenues during the certification period, identifies administrative mechanisms to collect and distribute funds, and discusses how funds are anticipated to be used. Mr. Banisch discussed how development fees are collected, and addressed anticipated uses of the funds.

Mr. Warner asked if the Spending Plan was prepared pursuant to the Fair Housing Act. Mr. Banisch confirmed that it was. Mr. Warner asked if the Spending Plan utilizes the court-approved affordable housing obligation as agreed with the Fair Share Housing Center and memorialized in the July 23, 2020 Settlement Agreement and applicable court orders. Mr.

Banisch stated that it does. Mr. Warner asked if the Spending Plan addresses the Township's cumulative housing obligation from 1987 to June 30, 2025. Mr. Banisch said that it does so by advancing the provisions of the Housing Element. Mr. Warner asked if the proposed compliance mechanisms provide a realistic opportunity for providing the Township's fair share of Affordable Housing. Mr. Warner asked if the Spending Plan is not inconsistent with the Master Plan. Mr. Banisch stated that the Spending Plan advances the goals of the Master Plan. Mr. Warner asked if the Spending Plan is designed to achieve access to Affordable Housing. Mr. Banisch said that it does.

Mr. Hoffmann asked about $60,000 that can be reallocated. He said that the Township has properties that may need site work for Affordable Housing, and asked if the $60,000 could be reallocated to that purpose. Mr. Banisch described the reallocation process. Mr. Banisch also said that the Township cannot have unallocated funds at the end of the project.

Mrs. Ewald asked about the 30% affordability assistance and asked what drives the amount. Mr. Banisch said that the model spending plan was used for that figure. He also said that there is monitoring every three years. Mrs. Ewald asked if the low-low income housing and Group Homes would be eligible for affordability assistance. Mr. Banisch said that the Group Homes qualify as very-low income housing.

Mr. Kelly asked about if the dollar figures in the Spending Plan are a forecast. He also asked if the PILOT for the Arbor Green development go into the Trust Fund. Mr. Banisch stated that Arbor Green is part of an inclusionary development, therefore the PILOT would not go into the Trust Fund.

Mr. Franko opened the Public Hearing.
Seeing no public comment, Mr. Franko closed the Public Hearing.

Mr. Warner stated that an approval resolution for both the Housing Element and Fair Share Plan and the Spending Plan was prepared for the Board's consideration.

Mr. Nelson moved to adopt the resolution of approval. Mr. Kelly seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Ms. Hagner, Absent; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Sheth, Aye; Mrs. Abbott, Aye; Mr. Choi, Aye.

Master Plan Consistency Review Pursuant to the Municipal Land Use Law

Mr. Warned reminded the Planning Board that land use ordinances are introduced and adopted by the Governing Body, and the Planning Board is afforded a 35 day period to conduct a Master Plan Consistency Review according to the provisions of the Municipal Land Use Law.

Ordinance 2020-18

Mr. Banisch explained the purpose of Ordinance 2020-18 is for the retrofitting of private storm drain inlets to prevent the discharge of solids and floatable litter and for the installation of bicycle-safe grates.

Mr. Warner asked if Ordinance 2020-18 is not inconsistent with the Master Plan. Mr. Banisch stated that the ordinance is not inconsistent with the Master Plan. He also stated the goals of the Master Plan that are advanced by Ordinance 2020-18.

Mr. Ruschke stated that Ordinances 2020-18 and 2020-21 are designed to help keep the Township in compliance with an NJDEP permit.

Mrs. Abbott asked how widespread of a need there is for retrofitting. Mr. Ruschke said that the ordinance only applies to commercial properties, and would apply when a parking lot is being repaved.

Mr. Nelson moved to adopt the resolution to determine Ordinance 2020-18 as not inconsistent with the Master Plan. Mr. Hoffmann seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Ms. Hagner, Absent; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Sheth, Aye; Mrs. Abbott, Aye; Mr. Choi, Aye.

Ordinance 2020-21

Mr. Banisch stated that Ordinance 2020-21 is designed to comply with State regulations regarding stormwater management best practices. He further stated that the ordinance advances specific goals of the 2011 Land Use Plan and the 2005 Conservation Plan. Mr. Banisch recommended that the Board determine that Ordinance 2020-21 is not inconsistent with the Master Plan.

Mr. Warner noted a typographical error in the ordinance in which BMPs was autocorrected to Bumps.

Mr. Ruschke noted that this is a repeal and replace ordinance based on the State's model ordinance, and it is not a substantial change to how the Township manages stormwater.

Mr. Franko opened the floor to the public.
Seeing no public comment, Mr. Franko closed the floor to the public.

Mrs. Ewald moved to adopt the resolution to determine Ordinance 2020-21 as not inconsistent with the Master Plan. Mr. Nelson seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Ms. Hagner, Absent; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Sheth, Aye; Mrs. Abbott, Aye; Mr. Choi, Aye.

Ordinance 2020-22

Mr. Franko stated that Ordinance 2020-22 is an amendment to a previously adopted Affordable Housing Ordinance. Mr. Banisch addressed the Township's intent in 2015 to adopt an updated Housing Element and Fair Share Plan that calls for a balance in housing types. He recommended that Ordinance 2020-22 be determined not inconsistent with the Master Plan.

Mr. Warner asked if the memorandum prepared by Mr. Banisch dated October 22, 2020 will be incorporated.

Mr. Franko opened the floor to the public.
Seeing no public comment, Mr. Franko closed the floor to the public.

Mr. Hoffmann moved to adopt the resolution to determine Ordinance 2020-22 as not inconsistent with the Master Plan. Mr. Nelson seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Coviello, Absent; Mrs. Ewald, Aye; Ms. Hagner, Absent; Mr. Hoffmann, Aye; Mr. Kelly, Aye; Mr. Sheth, Aye; Mrs. Abbott, Aye; Mr. Choi, Aye.

Discussion

Open Space Element of Master Plan Updates

Mr. Basralian stated that a Loantaka Brook Reservation Trail Map was added to the draft Open Space Plan. Some typographical edits were also made.

Mr. Warner asked the extent to which specific lots are listed for designation as Open Space, which may have an impact on future action by the Township. He also asked if the Skate Park is listed as Open Space. Mr. Basralian said that the Skate Park is not included. The only sites listed are those that are already preserved. Some other large parcels are also discussed for potential preservation. Mr. Warner also asked if 522 Southern Boulevard or either of the River Road Group Home sites are listed. Mr. Basralian said that they are not listed in the Open Space Element, and Mr. Ruschke confirmed that they are not on the map. Mr. Warner asked about the Hillside Avenue Group Home site. Mr. Basralian said that site is not included either. Mr. Warner asked about 58 Meyersville Road. Mr. Basralian said the Open Space Element noted the presence of the playing field, and otherwise refers to 58 Meyersville Road as the Municipal Building site. While the ball field is noted, the site is not listed as being permanently preserved.

Mr. Kelly stated that he was the 2019 Township Committee Liaison to the Open Space Committee, and he commended both the Open Space Committee and Mr. Basralian specifically for their work. He also said that the Open Space Element is worth being read.

Mr. Franko stated that the Open Space Element has been scheduled for a public hearing on November 16, 2020. Mr. LaConte confirmed that notice has been published, and remaining notice will be handled on November 5th. Copies of the draft are also publicly available.

Other Business

Mr. Warner reported that the Planning Board and members have been dropped from the Kronos Holding LLC litigation. He also reported that the litigation from the Fair Share Housing Center challenging the Dixiedale Approval has been dismissed with prejudice.

Mr. Nelson moved to adjourn at 8:49 PM. Mrs. Ewald seconded the motion, which carried unanimously.

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Gregory J. LaConte
Planning Board Recording Secretary