

TOWNSHIP OF FRANKLIN
PLANNING BOARD
COUNTY OF SOMERSET, NEW JERSEY

REGULAR MEETING
May 20, 2015

The regular meeting of the Township of Franklin Planning Board was held at 475 DeMott Lane, Somerset, New Jersey and was called to order by Chairman Orsini at 7:30 p.m. The Sunshine Law was read, the Pledge of Allegiance said and the roll was taken as follows:

PRESENT: Councilman Chase (arrived at 7:30 p.m. just as the meeting started), Carl Hauck, Raleigh Steinhauer, Cecile Maclvor, Robert Mettler, Charles Onyejiaka, James Pettit, Robert Thomas (arrived at 7:34 p.m.), Edward Potosnak (arrived at 8:00 p.m.) and Chairman Orsini

ABSENT: None

ALSO PRESENT: Board Attorney, Mr. Peter Vignuolo, Mr. Mark Healey, Director of Planning and Vincent Dominach, Senior Zoning Officer

MINUTES:

- **Regular Meeting – March 4, 2015**

Vice Chair Maclvor made a motion to approve the Minutes as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Steinhauer, Vice Chair Maclvor, Mr. Mettler, Mr. Onyejiaka and Mr. Pettit

AGAINST: None

- **Regular Meeting – April 1, 2015**

Vice Chair MacIvor made a motion to approve the Minutes as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Steinhauer, Vice Chair MacIvor, Mr. Mettler, Mr. Onyejiaka, Mr. Pettit and Chairman Orsini

AGAINST: None

RESOLUTIONS:

- **Kaye / PLN-14-00016**

Vice Chair MacIvor made a motion to approve the Resolution as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Vice Chair MacIvor, Mr. Mettler, Mr. Onyejiaka, Mr. Pettit, Mr. Thomas and Chairman Orsini

AGAINST: None

- **Kelly / PLN-08-00008**

Vice Chair MacIvor made a motion to approve the Resolution as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Vice Chair MacIvor, Mr. Mettler, Mr. Pettit, Mr. Thomas and Chairman Orsini

AGAINST: None

DISCUSSION:

- **Clarkin & Vignuolo – Monthly Retainer - \$833.33**

Vice Chair MacIvor made a motion to approve the Vouchers as submitted. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Mr. Steinhauer, Vice Chair MacIvor, Mr. Mettler, Mr. Onyejiaka, Mr. Pettit, Mr. Thomas and Chairman Orsini

AGAINST: None

HEARINGS:

- **Bank of America – PLN 14-00015**

Site Plan with Sign Variances at 712-714 Hamilton Street, Somerset; Block 154, Lot 9 – **CARRIED TO JUNE 3, 2015 at 7:30pm –NO FURTHER NOTIFICATION REQUIRED.**

COMMITTEE REPORTS

No reports discussed.

WORKSESSION/NEW BUSINESS:

- **Master Plan Amendment - Housing Element and Fair Share Plan**

Mr. Mark Healey, Director of Planning, Franklin Township, came forward to discuss the Master Plan Amendment. He then introduced Mr. Ed Bocker, who he indicated was an attorney with the Township Attorney's office. Mr. Bocker then gave the Board the benefit of his background with land use law and stated he was the first attorney to ever represent the Township on Affordable Housing.

Mr. Vignuolo, Board Attorney, then indicated that Mr. Healey remains sworn in for his testimony from the first meeting of 2015. Mr. Healey then stated that his license for professional planning was in good standing and that he was a member, in good standing, with the American Institute of Certified Planners. He then told the Board that on March 10, 2015, the Supreme Court issued its ruling on the most recent case brought before it regarding COAH's third round rules. He testified that the decision returned a determination of whether a municipality was meeting its affordable housing obligation to the courts. Immediately upon the ruling coming into effect the week of June 8th, Mr. Healey stated that the Township intends to file for declaratory judgment, seeking the protection of the courts from potential builder's remedy lawsuits. He added that the filing would include a new Fair Share, which was before the Board that evening that demonstrated the Township's compliance with its constitutional obligations to provide housing affordable to low and moderate income households. He then noted to the Board that the plan was provided to them in their agenda packet and had been up on the Township website for a few weeks. Mr. Healey then stated that that night's hearing had been noticed, per the Municipal Land Use Law, to those on COAH's service list. He then indicated that the plan before the Board that evening consisted of two (2) main components: 1) a housing element and 2) a Fair Share Plan. Mr. Healey added that the housing element was a required component of the plan and provided analysis of the existing housing stock, including values, rents and occupancy characteristics as well as demonstrates the diversity of the Township's housing stock. He also indicated that it demonstrated the Township's demographic characteristics and population trends, including household characteristics, age characteristics, income and poverty levels,

race and Hispanic origin, as well as other demographic characteristics. He added that it also contained existing and future employment characteristics. Mr. Healey then stated that the Fair Share Plan, which he said was the “meat” of the plan, demonstrated the Township’s compliance with its affordable housing obligation. He said that it also contained an updated spending plan that demonstrated how the Township’s Affordable Housing Trust Fund would be spent over the next ten (10) years. He then went into detail, indicating that the Fair Share Plan had three (3) main components: 1) Prior Round obligation, which covered the period from 1986-1999, 2) the “Third Round” obligation, covering the period from 1999-2025, and 3) the Housing Rehab obligation. Mr. Healey started with a review of the Prior Round obligation, stating that the Township’s obligation consisted of 766 units. He indicated that the Township exceeded its obligation by 97 units, whereby 723 affordable units were constructed, with a 140-unit family rental bonus that was applicable, resulting in a total of 863 total credits. He then stated that the Township also met the Prior Round rental obligation of 160 units, with 196 such units constructed. He then went on to discuss the “Third Round” obligation (1,000 units), stating that the plan showed that the Township significantly exceeded its obligation, claiming 1,348 credits, consisting of 1,001 actual units, 250 bonus credits and the 97-unit surplus from the Prior Round obligation. Of the 1,001 units in the Third Round obligation, Mr. Healey indicated that 753 of the units have already been constructed and are occupied by very low, low and moderate income households. He added that another 2,008 units have site development approvals in place, some of which (Summerfields) were already under construction. The remaining 40 units (Habitat for Humanity III and the last phases of the Leewood development) were already zoned for such purposes and have necessary agreements in place that address the obligation. He then indicated that the plan demonstrated the Township’s compliance with the following sub-requirements:

- Family Housing Requirement: 500 units required – 688 provided
- Age-Restricted Limitation: Complies with the 250-unit cap
- Rental Housing Requirement: 250 units required – 869 rental units provided
- Family Rental Housing Requirement: 125 units required – 556 family rental units provided
- Very Low Income Requirement: 130 units required – 145 very low income units provided

He then reiterated that they were applying 250 bonus credits (the 25% cap). He added that the developments included in the plan (submitted in 2008) received substantive certification from COAH (2010), the vast majority of which have since been constructed and occupied. The developments included are:

- Avalon at Somerset (aka Lauduree) – constructed/occupied (58 affordable units)
- Berry Street Commons – constructed/occupied (92 affordable units)
- Cedar Manor – constructed/occupied (28 affordable units)
- Flores Townhomes - approvals in place, both Use Variance and Site Plan approval (5 affordable units)
- Franklin Commons – constructed/occupied (65 affordable units)

- Habitat For Humanity I and II – constructed/occupied (16 affordable units)
- Hidden Brook at Franklin (aka Presbyterian Homes) – constructed and occupied (85 affordable units)
- Leewood – 21 units constructed/occupied, with the remainder subject to a Redevelopment Agreement (a total of 105 affordable units)
- Parkside Senior – constructed/occupied (69 affordable units)
- Parkside Family – constructed/occupied (68 affordable units)
- Somerset Park – constructed/occupied (84 affordable units)
- Summerfields at Franklin – under construction (150 affordable units)
- Special Needs Housing – constructed/occupied (58 affordable units)

Mr. Healey then noted that there had been a few new developments that had come up since the Township had received substantive certification. They are:

- Independence Crossing – constructed/occupied (51 affordable units)
- Voorhees Station – constructed/occupied (61 affordable units)

Due to participation in the State’s Special Needs Partnership program, Mr. Healey stated that they would be creating six (6) additional Special Needs housing units as well as six (6) more units in Habitat For Humanity “III”, subject to a developer agreement. Lastly, in terms of the rehab obligation of 171 affordable units, they had already completed the rehab of 109 affordable units, leaving an obligation of 62 more affordable rehab units to be completed in the next ten (10) years. He indicated that they were more than capable of meeting the obligation by completing approximately 7 units per year in the ongoing Rehab program.

In summary, Mr. Healey indicated that the Township exceeded its obligation of 1,000 housing unit obligation by 348 units through 1,001 affordable units, 250 bonus credits and a 97 unit surplus from the Prior Round obligation. He said that the Township had received requests for developments to be included in the Fair Share Plan, which were provided to the Board in their packets that evening. He added that they had also received an objection to the Township’s Fair Share Plan, dated May 19, 2015, which was also provided in their packets. Mr. Healey indicated that the first request was from Starlight Meadows, located on Bunker Hill Road, to be included in the plan. He testified that they did not include the project in the plan because the Township had already exceeding its obligation for affordable housing, the project included 15 units per acre - 90 times the permitted density of the site in its current zoning, the “A” Agricultural Zone, and the site was not located in the Township’s sewer service area and was not supplied with public water. He added that they had received a proposal from Schoolhouse Developers for a development at the corner of Schoolhouse Road and Mettlers Lane to be included in the plan. Mr. Healey indicated that they also did not include the proposal in the Fair Share Plan because they do not feel they need the units to meet the Township’s obligation and the site was zoned M-1 (Light Industry). Mr. Healey then drew the Board’s attention to a letter that was received that day from the County Planning Board, as required by the Municipal Land Use Law (MLUL), which asked for the plan to be sent to the Somerset County Planning Board. He indicated that the

County had already reviewed the Township's Plan and provided a memo. He stated that in the memo, the County applauded the Township for the "ongoing, successful and proactive efforts to support the COAH as demonstrated in the analysis contained in the plan". He added that they "see the Township as a role model statewide" in this regard. The County also stated that "the Township's outstanding planning over the years has resulted in appropriately directing the residential and employment growth into concentrated employment nodes, mixed use corridors and diverse neighborhoods that have provided a variety of housing types at all levels of affordability" while protecting rural and agricultural and environmentally sensitive areas of the Township.

Councilman Chase then opened a discussion regarding Mr. Shimanowitz's (Starlight Meadows, LLC legal counsel) arguments for including the project in the Fair Share Plan. Mr. Bocker, legal counsel with the Township Attorney's office, addressed this issue by discussing Supreme Court opinion allowing municipalities to institute a declaratory judgment action, thereby triggering court jurisdiction to consider what a municipal affordable housing obligation is and how that obligation should be met. Consequently, he stated, that obligation was unsettled and there had not been a determination by a court as to what "the number" is for a particular municipality. He then discussed the high "estimate" by the Fair Share Housing group for the needs for affordable housing in the State. He also discussed the cap of 1,000 units imposed by the Fair Share Act upon any municipality such that the municipality's character would not be undermined by the position of an obligation that would change the nature of a community. Mr. Bocker recommended that the Board allow the objection to be addressed within the context of litigation that the courts would have to undertake to not only determine Franklin Township's obligation, but all the municipalities within the State. A discussion ensued among the Board.

Mr. Thomas made a motion to open the meeting to the public for questions or comments. Mr. Mettler seconded the motion and all were in favor.

Mr. Brian Plocher, Attorney employed with the law firm of Hutt and Shimanowitz and representing Starlight Meadows, LLC, came forward. Mr. Plocher stated that the heart of the objection to the Fair Share Plan goes to how the Township actually applied its credits and bonuses in connection with the 1,000 unit cap. He stated that their position was that the Township sees the 1,000 "net" number in Mr. Kinsey's report and then the Township subtracted all the credits and the bonuses, thereby saying that the Township had satisfied its obligation in the Third Round. However, he felt it important to note that the 1,000 unit cap is a net number and referred to page 39 of Mr. Kinsey's report that the Township relies upon. He indicated that the report notes that the 1,000 unit cap was calculated after verifying and subtracting from the prospective need obligation any credits, units and bonuses to which a municipality was entitled for previous affordable housing activity. Mr. Plocher stated that Mr. Kinsey did calculate a larger yield number of 2,726 to be used for those credits, units and bonuses from prior round affordable housing activity. He then discussed the different way Mr. Healey, the Township's Planning Director, interpreted the calculation methodology. He added that they were not opposed to the validity of the credits and bonuses, just the fact that they were

subtracted from the 1,000 unit cap instead of Mr. Kinsey's "real" number of 2,726, which would have left more than 1,000 units left for the Township to reduce their Third Round obligation to the 1,000 unit cap.

Ms. Doreen Blank-Rockstrom, Executive Director of the Raritan Valley Habitat for Humanity, came forward. Ms. Blank-Rockstrom stated that she was there that evening to extend her appreciation for the support that the Township of Franklin has given to Raritan Valley Habitat for Humanity for the many opportunities they have given to build home ownership affordable housing. She then indicated that they were awarded, last year, a sum of \$191,000 from Somerset County. She said that it afforded them the opportunity to purchase two lots on Churchill Avenue to build two homes starting in the next few weeks. She said that these two homes would be added to the already built 17 homes in Somerset.

Mr. Dominach informed Ms. Blank-Rockstrom that the comments in the public portion were to be restricted to those regarding the Fair Share Plan. He also told her at that time that Churchill Avenue was going to be paved in another month, so that Habitat for Humanity would need to get permits in at least to put in water and sewer taps before that happens, otherwise they would have to wait for the 5-year moratorium to pass before they could do so.

Seeing no one further coming forward, Vice Chair Maclvor made a motion to close the public portion of the meeting. Mr. Mettler seconded the motion and all were in favor.

Chairman Orsini asked for clarification from Mr. Healey regarding the testimony he gave regarding the Third Round obligation of their Fair Share Plan as to whether it was substantively certified by COAH and Mr. Healey answered in the affirmative.

Vice Chair Maclvor made a motion to adopt the Fair Share Plan. The motion was seconded and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Mr. Steinhauer, Vice Chair Maclvor, Mr. Mettler, Mr. Onyejiaka, Mr. Pettit, Mr. Thomas and Chairman Orsini

AGAINST: NONE

A) Resolution Adopting – Housing Element and Fair Share Plan

Vice Chair Maclvor made a motion to memorialize the Resolution. Mr. Mettler seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Mr. Steinhauer, Vice Chair Maclvor, Mr. Mettler, Mr. Onyejiaka, Mr. Pettit, Mr. Thomas and Chairman Orsini

AGAINST: NONE

- **Master Plan Amendment – Hamilton Business District (HBD)**

Chairman Orsini told the Board that the discussion that evening was incorporating all of the previous discussions regarding the Master Plan Amendment for the Hamilton Street Business District. He asked Mr. Healey to briefly recap the highlights of all of the discussions.

Mr. Healey gave a brief background, noting that the discussions started with the formation of the Hamilton Street Advisory Board back in 2014. He stated that the committee evaluated the strengths and weaknesses and opportunities as to how to revitalize Hamilton Street. He noted that one of the main things that they identified as the key to the revitalization process was the need to encourage investment in private redevelopment along the corridor. He added that they discovered that the zoning was thwarting any potential private redevelopment and formed a Zoning sub-committee to evaluate this situation and the full Hamilton Street Board made recommendations to the Planning Board. In doing so, they were asking the Planning Board to evaluate those recommendations, which they had already done. Mr. Healey stated that those recommendations have since been formed into a Master Plan Amendment that was before them that evening, as well as a draft ordinance that was included in the Appendix.

Mr. Healey then went on to highlight the recommendations and changes that would be made to the Master Plan should the Planning Board adopt the amendment. He discussed the permitted uses and found that the existing uses were consistent with the nature of the area (walkable, downtown main street type of businesses). Some recommendations to the permitted uses was to eliminate stand-alone townhouse apartments and independent senior living facilities and the zone would require mixed use development, i.e., only permitting residential use when providing first floor commercial uses. He added that the plan eliminated the inclusion of two-family homes as a permitted use and eliminates single-family dwellings as a permitted use on Hamilton Street. The plan also proposed to eliminate contractor design build operations as a conditional permitted use and adds outdoor dining as a permitted accessory use. In terms of the bulk standards, Mr. Healey testified that generally the standards were appropriate for such an area (lot area, setbacks, coverage requirements, etc.). He noted that the 85% impervious coverage limit was proposed to stay, while the building coverage was proposed to go up to 50%. He reminded the Board that they had decided that if they did get a proposal for an underground structure or underground parking, that they would entertain a variance proposal and would be reviewed on a case by case basis. Mr. Healey then discussed the unique parking standards along Hamilton Street, noting that they were less stringent to go along with the desire to make that area walkable and the fact that there was already some on-street parking available. Some recommendations to change the parking requirements was to allow the approving board, on a case by case basis, to reduce the parking requirements for one- or two-bedroom units below what was ordinarily required, based on the nature of the application and the expected occupancy. He added that there was language in the Master Plan for the approving board to place deed restrictions to make sure the parking

levels stay consistent with their testimony. Design standards and signage requirements, he testified, were appropriate for the area. Some areas discussed were roof design, storefront and facade treatments, awnings and canopies, sign standards, etc., unique to Hamilton Street. He noted some recommendations would be 1) to have design standards supplemented with illustrations and diagrams to make it more clear what was desired, 2) to prohibit free-standing signs along Hamilton Street – existing free-standing signs would be grandfathered in, and 3) potential incentive zoning techniques to encourage the private reinvestment into the area along Hamilton Street through some flexibility in building height, being careful to allow for the larger parking demand that comes with a larger building as well as the other site demands such as storm water management, etc. Mr. Healey did state, however, that the recommendation was to keep the 2-1/2 story and 40 ft. height limitation, but to allow an increase up to 3 stories if the development consists of the residential portion having no more than 2 bedrooms and that a certain percentage of the units consist of 1-bedroom units. He added that it would allow for more options to offer developers. He added that there was another option to go up to a total of 4 stories and 45 ft., limiting each unit to no more than 2-bedrooms, requiring a certain percentage of 1-bedroom units as well as requiring the lot area to be no less than 40,000 sq. ft., with a 200 ft. depth and 200 ft. frontage. Mr. Healey indicated that it would encourage developers to revitalize the area with unit types that were attractive for the area, such as smaller households, young professionals, and grad students at Rutgers or Robert Wood Johnson to provide housing for these markets. He added that the Township wants to encourage the larger scale developments as opposed to the existing 10,000 sq. ft. developments to develop the area more quickly. Mr. Healey then discussed building lot depths and the alignment of the Special Improvement District (SID). He then discussed the plans to change the zoning for certain properties, including the Quick Mart site and the office building on the corner of Hamilton Street and Franklin Blvd. He told the Board that they are currently in the Office Professional Zone and was proposed to be included in the Hamilton Street Business District. Some of the properties along the east side of Franklin Boulevard were presently in the General Business District, per Mark Healey, and were proposed to be changed to the Hamilton Business Street (HBD) to allow the properties to be developed with mixed uses. Lastly, he noted, there was a site that was on Mark Street, which was a non-conforming commercial contractor's yard, was recommend to be added to the HBD Zone, but would not be permitted to be developed as a commercial use or main street commercial use on its own since it did not front on Hamilton Street. He did testify that it would allow it to be redeveloped into the Johns Plaza Shopping Center in the future. Mr. Healey indicated that there were some recommendations in terms of the Special Improvement District, specifically, the Churchill-Millstone Mixed Zone, which was residential, and recommended to be removed from that zone. He then stated that there was also a recommendation to add the St. Peter & Paul site to the Special Improvement District. H indicated that they would not be assessed a fee since they were not a commercial use, but by adding them to the district, they are a very important gateway location to the Hamilton Street Business District.

Mr. Pettit opened a discussion regarding the number of residential properties along Hamilton Street. Mr. Healey stated that there were approximately 20 residential

properties. Mr. Pettit was concerned about the residents needing to get permits to do anything on their property should the zone change. Mr. Healey and Mr. Dominach indicated that they could add minor accessory structures such as a shed, but would need a variance for an addition to their property. A discussion ensued among the Board. Mr. Pettit then opened a discussion regarding what constitutes “story height”. A discussion ensued with Mr. Dominach regarding the definition.

Vice Chair Maclvor wanted Mr. Healey to give an example of what the fees collected from the Hamilton Business District owners were used for. Mr. Dominach, who is the Executive Director of the Hamilton Street Advisory Board, stated that they have a yearly budget; and some of the uses have been flags and security cameras for the street, new tops for the waste cans on the street and additional marketing for the area.

Councilman Chase opened a discussion regarding the omission of a comma in Section 1 of the Ordinance: Principal Uses. Mr. Healey added that there was also an error in the description of a mixed use that would also need to be corrected. The Councilman then discussed whether the Pemrose site was in the Hamilton Street Business District. Mr. Healey answered in the affirmative. Councilman Chase thought it would be wiser not to preclude apartment complex develop on the Pemrose site just in case the objection to the Township’s Fair Share Plan gain any momentum and they need to continue to include the Pemrose development in the Fair Share Plan. Mr. Healey indicated that he fully realized that they might have to make amendments to the Fair Share Plan and may involve the need for additional units. He recommended that should that occur, they discuss another change to add the site back in. A discussion ensued among the Board.

Mr. Mettler made a suggestion to use portions of larger developments for some additional open space. Mr. Healey stated that having open space where the Hamilton Street Business District could gather was always something the Hamilton Street Advisory Committee has identified as a need/want and would be beneficial. He said that it was also something that was part of the Recreational Advisory Committee’s purview. A discussion ensued among the Board.

Vice Chair Maclvor made a motion to open the meeting to the public. Mr. Mettler seconded the motion and all were in favor. Seeing no one coming forward, Vice Chair Maclvor made a motion to close the meeting to the public. Mr. Mettler seconded the motion and all were in favor.

Vice Chair Maclvor made a motion to adopt the Master Plan update for the Hamilton Street Business District. Chairman Orsini seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Mr. Steinhauer, Vice Chair Maclvor, Mr. Mettler, Mr. Onyejiaka, Mr. Pettit, Mr. Thomas and Chairman Orsini

AGAINST: NONE

Vice Chair Maclvor made a motion to memorialize the Resolution regarding the Hamilton Street Business District Mast Plan update. Chairman Orsini seconded the motion and the roll was called as follows:

FOR: Councilman Chase, Mr. Hauck, Mr. Steinhauer, Vice Chair Maclvor, Mr. Mettler, Mr. Onyejiaka, Mr. Pettit, Mr. Thomas, and Chairman Orsini

AGAINST: None

EXECUTIVE SESSION:

There was no business to discuss.

ADJOURNMENT:

Vice Chair Maclvor made a motion to adjourn the regular meeting at 8:33 p.m. Mr. Mettler seconded the motion and all were in favor.

Respectfully submitted,

Kathleen Murphy, Recording Secretary
July 9, 2015