

PLANNING BOARD MEETING OF MARCH 20, 2018

MINUTES

7:30 PM

PRESENT: R. Dodds
L. Frank
D. Haywood
J. Mathieu (7:33 PM)
S. McNicol
L. Riggio
J. Strasser
M. Syrnick
D. Banisch, Planner (7:35 PM)
D. Pierce, Attorney

ABSENT: C. Ely
L. Voronin

CALL TO ORDER

The meeting was called to order at 7:31 PM by L. Riggio.

NOTIFICATION

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News on March 1, 2018, and has been posted in the Kingwood Township Municipal Building on March 14, 2018 and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Periodic Examination for a General Reexamination of the Kingwood Township Master Plan and Development Regulations – Reexamination Report – Public Hearing

It was moved by R. Dodds, seconded by J. Strasser and carried to open the public hearing on the Periodic Examination for a General Reexamination of the Kingwood Township Master Plan and Development Regulations – Reexamination Report. All members present voted **AYE**.

D. Pierce stated the public hearing is for the purpose of the adoption by the Planning Board of the Periodic Examination for a General Reexamination of the Kingwood Township Master Plan and Development Regulations – Reexamination Report which is being done in connection with the Housing Plan and COAH settlement.

D. Haywood commented there is an error. The Eastern Gateway Village Center Overlay (EGVCO) acronym is not consistent in the document.

It was moved by J. Mathieu, seconded by S. McNicol and carried to close the public hearing. All members present voted **AYE**.

It was moved by D. Haywood, seconded by S. McNicol and carried to adopt the Periodic Examination for a General Reexamination of the Kingwood Township Master Plan and Development Regulations – Reexamination Report with the following change:

The acronym for Eastern Gateway Village Center Overlay (EGVCO) shall be consistent throughout the document.

All members present voted **AYE** on **ROLL CALL VOTE**.

Amendment to the Land Use Plan Element of the Kingwood Township Master Plan, March 2018, Eastern Gateway Village Center Overlay – Affordable Housing Overlay Zone – Public Hearing

It was moved by R. Dodds, seconded by S. McNicol and carried to open the public hearing on the Amendment to the Land Use Plan Element of the Kingwood Township Master Plan, March 2018, Eastern Gateway Village Center Overlay – Affordable Housing Overlay Zone. All members present voted **AYE**.

D. Pierce stated this is another component of the Master Plan to fulfill the Township’s obligation for the Affordable Housing settlement.

D. Banisch stated it is the first time he has seen on realtor.com that some millennials are not migrating to the cities and urban centers but are choosing to live in small towns and suburbia. The settlement provides for an obligation through 2025.

It was moved by J. Mathieu, seconded by R. Dodds and carried to close the public hearing on the Amendment to the Land Use Plan Element of the Kingwood Township Master Plan, March 2018, Eastern Gateway Village Center Overlay – Affordable Housing Overlay Zone. All members present voted **AYE**.

It was moved by D. Haywood, seconded by S. McNicol and carried to adopt the Amendment to the Land Use Plan Element of the Kingwood Township Master Plan, March 2018, Eastern Gateway Village Center Overlay – Affordable Housing Overlay Zone with the following change:

The acronym for Eastern Gateway Village Center Overlay (EGVCO) shall be consistent throughout the document.

All members present voted **AYE** on **ROLL CALL VOTE**.

Amended Third Round Housing Plan Element and Fair Share Housing Plan – Public Hearing

It was moved S. McNicol, seconded by R. Dodds and carried to open the public hearing on the Amended Third Round Housing Plan Element and Fair Share Housing Plan. All members present voted **AYE**.

D. Banisch stated he had received a call from D. Pierce indicating that he did not include a Site Suitability Analysis in the Amended Third Round Housing Plan Element and Fair Share Plan. He provided to the Board a revised Table of Contents which included the Site Suitability Analysis as Appendix B for the two sites in the

EGVCO. The Courts did not speak to the Site Suitability Analysis criteria and there was not direct reference to it. It is technically a housekeeping item. The Township is required to look at site suitability in these sites. The block and lot designations on Exhibit 1 are incorrect. The parcel on the northerly side of Route 12 is Block 15, Lot 8 and the parcel on the southern side is Block 21, Lot 1. He will make the corrections. In regard to the Union Road site, Block 19, Lot 5, the Housing Board envisions a partnership with the municipality and the ARC of Hunterdon. The parcel was previously approved for a project through Habitat for Humanity. A possible configuration is two apartment buildings with four units each which would include a group home in one or more of the apartments of the first floor. Prospective developers have indicated that the donation of the land is not sufficient. The prospective developer is requesting money from Kingwood in the partnership. To the best of his knowledge, there are no available funds in the Affordable Housing Trust Fund. The element of the plan calls for the development of the site in the future. The property is still allocated for affordable housing as a planned site but not as an existing development. He suggested adding “proposed” to the municipally owned group home site and add the block and lot of the site, Block 19, Lot 5, on page 5.

It was moved by S. McNicol, seconded by R. Dodds and carried to close the public hearing on the Amended Third Round Housing Plan Element and Fair Share Housing Plan. All members present voted **AYE**.

It was moved by S. McNicol, seconded by J. Strasser and carried to adopt the Amended Third Round Housing Plan Element and Fair Share Housing Plan with the change to include the revised Table of Contents showing Appendix B and Exhibit A as amended with the following changes:

- The acronym for EGVCO should be consistent throughout the document;
- Page 1 - (acres) filled in the number;
- Page 5 – 5th paragraph, add “proposed” in front of municipally-owned group home;
- Page 5 – second bullet, 5th line from the bottom, correct it to read 103-unit;
- Page 7 – 4th paragraph, 3rd line, remove one of the “is”;
- Page 7 – 5th paragraph, remove “of Settlement Agreement”
- Page 7 – 5th paragraph, 5th line down, replace “with” with “within”;
- Page 8 – 2nd paragraph, last line – change “no” to “not”;
- Page 10 – 2nd paragraph, 5th line, “51” units should be changed to “61” units;
- Page 13 – Table 8, footnote “3” should be “1”;
- Page 14 – second line, median residential housing value was \$388,700 should be changed to match the chart with \$384,000;
- Page 15 - add identification of footnote in title of Table 11;
- Page 19 – first paragraph under table 18, 3rd line replace “residents” with “residences”;
- Appendix B - #4 – bullet point – remove one of the words “parcel”;

All members present voted **AYE** on **ROLL CALL VOTE**.

It was moved by S. McNicol, seconded by D. Haywood and carried to find that the ordinances of the zoning for the EGVCO, the Affordable Housing Development Fee ordinance and Accessory Apartment ordinance are consistent with the Master Plan as now amended by the adoption of the Reexamination Report, Housing Plan Element and Fair Share Plan and the amendment to the Land Use Element. All members present voted **AYE** on **ROLL CALL VOTE**.

D. Pierce stated the next item is the Affirmative Marketing Plan which the Board does not need to affirmatively adopt. The only action would need to take is to endorse the plan.

D. Banisch stated Affirmative Marketing is a set of procedures by which the municipality advertises the availability of affordable housing in your housing region. The Township is required to adopt an Affirmative Marketing Plan that is consistent with Fair Housing Act requirements, COAH's former regulations and the Uniform Housing Affordability Controls, which are the three different regulatory or statutory pieces that regulate affordable housing. It is a media campaign and there is specific outreach that is required in the settlement agreement for specific groups, some of which are physically situated within the specific housing region and others that are not. It was a condition of the settlement agreement that the Township would amend their Affirmative Marketing Plan to comply with those notification requirements. The Township hires an administrative entity to conduct this outreach effort and they have to follow the procedures in the Affirmative Marketing Plan. The development of the EGVCO where there is a large number of affordable units that are constructed would require an administrative agent to market the available units. The costs of the affirmative marketing of the units are chargeable to the developer. In the case of an accessory apartment or individual unit, a municipality would have to shoulder the cost. They are not paid advertisements on media. They are announcements that are made to those media outlets. The Township will have to advertise in a paper of general circulation and individually notify the organizations by letter. Press releases announcing affordable housing is available in Kingwood will have to be provided to the media outlets but paid advertising does not have to be purchased. The announcement may have to be put in as a display advertisement. The Township has to undertake certain aspects of marketing. The Township will have to create a Municipal Housing Liaison who will be dealing with the administrative agent.

D. Pierce stated the marketing plan is a requirement and a condition of the settlement. The Township in order to obtain the benefits of the settlement and court protection against a builder's remedy suit has to implement this marketing plan.

R. Dodds stated announcing the availability of the affordable housing units could be a press release email to the media outlets.

M. Syrnick stated at the time the EGVCO is built and we have these affordable housing units all these items can be revisited because there may be different ways to advertise.

D. Banisch stated this could be the Affirmative Marketing Plan in seven years. If other ways of public outreach are identified and required at some point in the process, the Affirmative Marketing Plan may have to be amended to conform. One of the reasons the Housing Plan Element and the Fair Share Plan was written with identifying both the court masters comments and the paragraph in the settlement agreement is because he fully expects during the life of this document and over the course of the next seven years some of these provisions will be revisited. He wanted to make it easy for whoever is administering the plan will be able to locate where these requirements are in the three different documents.

It was moved by R. Dodds, seconded by D. Haywood and carried to endorse the Affirmative Marketing Plan. All members present voted **AYE** on **ROLL CALL VOTE**.

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

J. Mathieu stated, in his opinion, since this process first began the conditions that are being put forth in the current iteration of COAH and the expense of the Township almost appears to be that we are spending as much money as we would in defending a builder's remedy. He suspects that he is probably wrong. At some point in his opinion and he is not against affordable housing, this has to be reined in. It is getting absolutely silly. The

Township is expected to have over 100 units of housing when no one has come before this Board in the past ten years wanting to build much more than five houses. His comments are to put it all in perspective. It is getting to be a little onerous.

D. Pierce responded he thinks J. Mathieu's comment is wrong because a builder's remedy litigation is very expensive.

D. Haywood stated it is just in case someone does want to come out and build affordable housing units.

D. Banisch stated he can understand that sentiment and here is not the first place that he has heard those comments. The adoption of these amendments and ordinances are putting the whole mess in the rear view mirror so no one has to be distracted by this, either the Governing Body or the Planning Board. The benefit to that is that instead of fighting the numbers game, the Governing Body said that is the number and we will deal with it. A durational adjustment, which is what the Township has, is when there is no water or sewer services available and therefore you cannot address your affordable obligation. The conditions of a typical durational adjustment are that anybody anywhere in the township who petitions the governing body for an endorsement of an application to the DEP for water and sewers for inclusionary development can build that development anywhere they want in the Township. In this case, that is not the case. The Township is specifically relieved from the provisions under the durational adjustment that require the Governing Body to endorse an application for affordable housing development anywhere in the Township. It is strictly limited to Block 15, Lot 8 and Block 21, Lot 1. That is a very significant bonus because the Township remains the master of its destiny from a planning perspective. The Township cannot have any piecemeal development that is unwanted where the Governing Body is forced, essentially, to endorse an application for development in an area in the Township where it is inappropriate. That is a very significant benefit and it remains to be seen because we are still seven years away from 2025 when the Governing Body will have to revisit this again but those generous terms may be extended. The Township may find themselves in a position where the Township still has no water or sewer service and no significant demand for major residential development in high densities and the Governing Body will simply ride it out on these same conditions for an extended period of time. While it looks like a mess and looks like what is all this paper and expense and what is it costing us and what are we getting, from a planning perspective he feels that those are very significant benefits to everyone in the Township. There is real predictability with the plan. Some of you may be following what has been going on with the numbers and some of you may not have been. Since the Supreme Court ruled in March 2015 that the municipalities can go to Superior Court with a Declaratory Judgement to get a declaration of compliance and repose that you are complying with your affordable housing obligations. One resolved piece of that was the courts had to resolve the numbers. No one knew what the numbers were and the numbers had been all over the place. There is the subject of challenges on a statewide basis. Not every vicinage has resolved the numbers issue. There have only been a couple. The Township has certainty with their numbers. If your number changes by 20% or more down as a result of it being adjudicated by a group of courts or COAH is restarted by this governor or if the legislature or by some other mechanism determines that your affordable housing obligation is more than 20% less than what it is today, the Township can have your obligation reduced simply by petitioning the court but it will not go up. It is locked in. The only catch is you cannot take a mechanism out of your plan. He feels that the site on Block 19, Lot 5 will continue to be somewhat problematic and the Township may have to go back to the courts and ask to be able to rely on their durational adjustment and the two EGVCO sites. There is no development and no Affordable Housing Trust Fund being built with development in the Township. There is no way to fund that project from the municipally subsidized side of the project without going to the taxpayers. The Fair Housing Act is quite explicit that a municipality has to provide a realistic opportunity to address its affordable housing obligation but it doesn't have to expend taxpayer's funds to do so. It would be easier to address when the Township is a couple of years down the road and the Township has a little bit of story to tell the Court. It should be an easy adjustment to the Township's plan and will unfortunately, be dealt with in a couple of years. He stated he feels the Township is in pretty good shape with the settlement agreement because it really has put

it to bed in a very significant way for an extended period of time. There is certainty. The Township has been waiting since 2004 for some resolution. The two properties, Block 15, Lot 8 and Block 21, Lot 1 are the only places in the township that affordable housing can be built. The zoning ordinance already provides residential densities in excess of those that the zoning provides for affordable housing. If someone wants to build residential development in those zones, they would be allowed 15 residential units per acre. If they build affordable housing units, they could get 20 units per acre. It is not changing it much. The governing body took a huge step when they designated the EGVCO sub-districts by providing for residential densities in such significant numbers. It adds tremendous value to a site. It is all in the eye of the beholder. There is a 15% set aside if it is rental and a 20% set aside if it is for sale units. They can avail themselves of the mixed use options in the zone. They have to build the densities prescribed in the ordinance. For every acre they have to provide 15 units per acre plus the non-residential component that they may want. It is a very rich zone. With water and sewer service it is a very significant zone. If there is sufficient water available that is to be determined.

R. Dodds stated it is trying to guess the future. The Township is guessing with some knowledge that if things change dramatically and all of a sudden there is a lot building, it will not be in the middle of our farm fields but in the part of the Township that the Township has designated.

ADJOURNMENT

It was moved by J. Mathieu, seconded by R. Dodds and carried to adjourn the meeting at 8:34 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary