

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
NOVEMBER 20, 2017**

Ms. Nicole Hagner 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 2017, and January, 2018 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 Ms. Hagner, Mr. Hurring, Mrs. Swartz, Mr. Ciccarone, Mr. Franko, Mr. Nelson, Mr. Sullivan, Mr. Travisano and Mr. Tarasca. Mr. Brower and Mr. Kraweic were absent.

Also present was Attorney Amanda Wolfe, Township Engineer John Ruschke and Township Planner Frank Banisch.

Approval of Minutes

Mr. Franko moved to approve the minutes of the September 25, 2017 meeting. Mr. Nelson seconded the motion, which was approved unanimously with abstentions by Mr. Ciccarone and Mr. Tarasca.

Mr. Franko moved to approve the minutes of the October 16, 2017 meeting. Mr. Ciccarone seconded the motion, which was approved unanimously with an abstention by Mr. Travisano.

Discussion

Ms. Hagner provided a brief overview of the discussion items on the agenda.

Master Plan Consistency review of the Dixiedale Ordinance

Mr. Banisch said that his draft memorandum will be converted into a letter to the Township Committee, should the Planning Board vote to accept his recommendations. He reviewed the draft memorandum with the Planning Board, and said that Ordinance 2017-15 cannot be deemed consistent with the Master Plan. Mr. Banisch said that the recent reexamination of the Master Plan said that the Planning Board should consider rezoning the Dixiedale Farm property, rather than outright indicating that it should be rezoned. Because the reexamination report did not make the change, Ordinance 2017-15 is technically inconsistent with the Master Plan, although it is consistent with the goals and objectives of the Master Plan.

Ms. Hagner asked is the proposed R-6C zone would allow for both single-family and multi-family housing. Mr. Banisch said that single-family residential units would remain a permitted use. Ms. Hagner asked if the technical inconsistency is due to the multi-family housing, which Mr. Banisch confirmed.

Mr. Banisch noted that the Township Committee will need to adopt a reasons resolution in order to also adopt Ordinance 2017-15 due to the inconsistency with the Master Plan.

Ms. Wolfe explained that the Township Committee introduced Ordinance 2017-15, and it has been referred to the Planning Board to review the document for consistency with the Master Plan. As the ordinance is inconsistent with the Master Plan, the Township Committee will need to adopt a reasons resolution along with the ordinance.

Mr. Franko clarified that the Planning Board will be approving Mr. Banisch's memorandum to recommend adoption of the ordinance despite the inconsistency with the Master Plan.

Mr. Franko moved to adopt a resolution to approve the memorandum prepared by Mr. Banisch. Mr. Ciccarone seconded the motion.

Roll Call: Ms. Hagner, Aye; Mr. Hurring, Aye; Mrs. Swartz, Aye; Mr. Brower, Absent; Mr. Ciccarone, Aye; Mr. Franko, Aye; Mr. Sullivan, Aye; Mr. Nelson, Aye; Mr. Travisano, Aye; Mr. Kraweic, Absent; Mr. Tarasca, Aye.

Master Plan Consistency Review of the Watershed Protection Ordinance

Mr. Banisch said that Ordinance 2017-20 creates watershed overlay districts, and the ordinance is not inconsistent with the Master Plan. He also noted that the ordinance creates overlay districts over existing zones.

Mr. Ciccarone said that Ordinance 2017-20 gives the Township the power to regulate pipelines. The current ordinance regarding pipelines prohibits them, and there is a doubt that it would withstand legal challenge. He also described the overlays.

Mr. Ruschke noted that the ordinance also regulates petroleum and hazardous substances. Mr. Franko asked from whence the regulations are drawn. Mr. Ruschke said that the proposed regulations are based on EPA and NJDEP regulations.

Mr. Travisano asked that the proposed ordinance be shared with neighboring towns. Mr. LaConte indicated that it has already been sent to all municipalities which share a border with the Township.

Mr. Sullivan noted that the proposed ordinance is very specific to Chatham Township, and several municipalities within the consortium addressing the Pilgrim Pipeline have adopted a different model ordinance. Mr. Ruschke said that the model ordinance focuses on regulating pipelines in commercial zones. However the Township does not have a contiguous commercial zone, which would render such an ordinance indefensible in Chatham Township.

Mrs. Swartz asked how differing regulations in different municipalities will affect the Pilgrim Pipeline. Mr. Ruschke said that such regulations will create a challenge for the permitting of the Pilgrim Pipeline. He also said that the proposed ordinance imposes stringent environmental controls. Mr. Sullivan said that if every town had the same model ordinance, the Pilgrim Pipeline developer could initiate a legal challenge to every municipality all at once, and the Township having its own ordinance makes a legal challenge more difficult.

Mr. Nelson moved to approve the memorandum to the Township Committee recommending that Ordinance 2017-20 is not inconsistent with the Master Plan. Mr. Franko seconded the motion.

Roll Call: Ms. Hagner, Aye; Mr. Hurring, Aye; Mrs. Swartz, Aye; Mr. Brower, Absent; Mr. Ciccarone, Aye; Mr. Franko, Aye; Mr. Sullivan, Aye; Mr. Nelson, Aye; Mr. Travisano, Aye; Mr. Kraweic, Absent; Mr. Tarasca, Aye.

Master Plan Consistency Review of the Amendment to the Zoning Map

Mr. Banisch explained that Ordinance 2017-16 updates the Township's Zoning Map regarding the two ordinances previously discussed. He noted that the ordinance is inconsistent with the Master Plan as it relates to the creation of Zone R-6C, and is not inconsistent with the Master Plan as it relates to the overlay districts.

Mr. Franko made a motion to approve the memorandum prepared by Mr. Banisch regarding Ordinance 2017-16. Mr. Travisano seconded the motion.

Roll Call: Ms. Hagner, Aye; Mr. Hurring, Aye; Mrs. Swartz, Aye; Mr. Brower, Absent; Mr. Ciccarone, Aye; Mr. Franko, Aye; Mr. Sullivan, Aye; Mr. Nelson, Aye; Mr. Travisano, Aye; Mr. Kraweic, Absent; Mr. Tarasca, Aye.

Hearing of Citizens

Ms. Hagner opened the floor to the public for comment.

1. Alex Tyo, 288 Hillside Ave, asked if copies of the memoranda prepared by Mr. Banisch are available. Ms. Hagner said that copies will be available once they are formalized and sent to the Township Committee. Mr. Tyo asked if the Township Committee will be able to amend the draft ordinance. Mr. Banisch said that if there is a substantive amendment, it would have to be reintroduced with an additional public hearing.
2. Anthony Marchigiano, 25 Edgehill Drive, asked about the impetus of the zoning change and why so much leverage is being yielded so early in the process instead of requiring variances during the application process. Ms. Wolfe indicated that the request has a linkage to affordable housing. Ms. Hagner said that the developer could currently go before the Zoning Board of Adjustment. However the Township Committee has asked the Planning Board to consider the potential rezoning of the Dixiedale Farm property.

3. Regina Degnan, 11 Woods Lane, said that other options for the Dixiedale Farm property were available, and opined that the current owner wants to change the character of the neighborhood. She said that it is a historic property, and opined that it is short-sighted to move forward with the rezoning. Mrs. Swartz said that the property is already zoned for single family homes, and noted that a large portion of the property will remain undeveloped per a deed restriction under the proposed concept plan. Ms. Hagner said that it is easy to opine what is best for someone else's property, and the property is zoned for development. Ms. Hagner said that the plan is for the mansion to remain, whereas other plans might call for it to be removed. She also said that it is not up to the Township to tell the property owner what to do and what not to do with their property. Mrs. Degnan said that there is a possibility to purchase the property as open space. Mr. Ciccarone said that the property owners have a contract with a purchaser, and the Township will not interfere with the contract. He also said that the developer will still need to submit an application to the Planning Board for the development, at which time the public will be able to cross examine the developer's expert testimony. Mrs. Degnan said that she objects to the rezoning of Dixiedale, and she thinks the purchase will fall through if the property is not rezoned. Mr. Sullivan said that keeping the property zoned for single-family homes would be considered exclusionary zoning, which could result in a larger amount of development in other areas. Ms. Hagner said that the Planning Board agrees with the concept of how the property is being rezoned. Mr. Ciccarone reiterated that the Township cannot interfere with the contract between the owner and the buyer. He also noted the recent open space acquisitions as examples of the Township's endeavors to preserve open space.
4. Laura Riso, 39 Wickham Way, asked about municipalities who are challenging the affordable housing mandate. Mr. Ciccarone explained the litigation in which the Township is involved pertaining to affordable housing. He said that the developer seeking to develop the Dixiedale Farm property have offered to build 24 affordable units, and those units would be part of the Township's affordable housing plan to meet the 3rd Round obligation. He also said that the proposal is beyond what a developer would be required by the court to do. Mrs. Riso said she is under the impression that some municipalities are fighting against having any obligation. Mr. Ciccarone said that if the Township does not reach a settlement with the Fair Share Housing Center, then the matter will go to trial. Ms. Wolfe said that going to trial could potentially work out worse for the Township, resulting in a much higher obligation. Mrs. Riso asked if the obligation could be zero. Mr. Ciccarone said that it will never be zero, and the NJ Supreme Court has ruled at least three times that every municipality has an obligation to provide for the opportunity for affordable housing, and zoning is a primary mechanism how the opportunity is created. Mrs. Swartz said that the Township's obligation will not be going away, and the Township will do well to show a good faith effort to allow for affordable housing.
5. Michael Chidlovsky, 302 Hillside Ave, asked about the consistency review and what will be forwarded to the Township Committee. Ms. Hagner said that the Township Committee introduced three ordinances which were referred to the Planning Board for a

review to determine if they are not inconsistent with the Master Plan. She noted that the Master Plan is available on the Township website. Ms. Hagner also said that although Ordinance 2017-15 is technically inconsistent with the Master Plan, the Planning Board has recommended its adoption because it furthers other principles and goals of the Master Plan. Mr. Chidlovsky asked if the Planning Board can recommend amendments to the ordinance. Mr. Banisch said that the Planning Board can make recommendations, and the adoption of the ordinance as written has been recommended. Mr. Ciccarone read aloud a portion of the memorandum regarding Ordinance 2017-15 in which the adoption of the ordinance is recommended.

6. Debbie Honer, 208 Hillside Ave, asked if an ordinance for rezoning has ever been adopted containing a contingency in which zoning could revert to a prior designation if certain conditions are not met. Mr. Ciccarone said that the ordinance requires the developer to build affordable housing.
7. Mrs. Degnan asked if the area is still rezoned if the proposed development does not happen. Mr. Ciccarone said that it would still be rezoned, and the Township Committee could further rezone the parcel if the current plan falls through. Mrs. Degnan asked about the permitted uses under the proposed changes. Mr. Banisch said that single-family and multi-family housing will be permitted. Mr. Ciccarone said that the proposed development will be similar to the Rose Valle development. Mrs. Degnan said that she would like to see Dixiedale preserved because it is a unique piece of land.
8. Steve Palmisano, 306 Hillside Ave, said that the Mt. Laurel regulations have been in place for a long time, and about the location of the currently proposed affordable housing. Mr. Ciccarone said that the affordable housing is proposed to be built at the Skate Park.
9. Mr. Tyo discussed the number of affordable units to be built.
10. Malia Romano, 184 Hillside Ave, asked if there has been public input on the Dixiedale Farm development. Mr. Ciccarone said that the concept plan was originally presented at a public Planning Board meeting in 2016.

Ms. Hagner closed the public comment session.

Discussion

Proposed Improvements to Shunpike Corridor

Ms. Hagner said that the Planning Board was asked by the Township Committee to review Morris County's plans to make improvements on the section of Shunpike Road between Green Village Road and Southern Boulevard. The Planning Board does not have any official capacity in this review other than to offer some feedback.

Ms. Hagner said that the plans take away the merge from Green Village Road onto Shunpike Road, and also reduce the number of lanes in each direction. Mr. Ciccarone said that the merge

is a dangerous intersection, as drivers often do not yield as they are supposed to. Mr. Sullivan said that people do yield, and the intersection as presently constituted offers a good line of sight to see if there is oncoming traffic. He also raised a concern about the impact that a change in traffic flow will have on people's willingness to shop at the Hickory Shopping Center. He also said that the County's plans will create additional congestion in that area. Mr. Sullivan said that the County wants to slow down traffic, and he wants traffic to still be able to move efficiently and effectively.

Ms. Hagner said that the current flow of traffic seems to work. Mr. Sullivan said that perhaps better signage and lane markings would be helpful, including markings on Southern Boulevard to indicate which lane should go straight and which should be a turn-only lane. Mr. Ciccarone noted that the County's plan would allow for cars on Green Village Road to go straight into Chatham Mall rather than having to make a right turn followed by a quick left.

Mr. Sullivan noted that the County's project is estimated to cost \$700,000 and he thinks there are other road improvements which should be a priority.

Robert Jansen of the Green Village Fire Department said that the current traffic flow works well when they are responding to fire calls. The proposal will make it more difficult for fire trucks to get through the intersection.

Ms. Hagner opined that there is not a significant traffic problem on this section of Shunpike Road. Mr. Sullivan said that most accidents in this area are when cars are travelling onto Green Village Road from Southern Boulevard, because there will be cars merging from two lanes into one.

Mr. Sullivan warned against the congestion that the County's plans will create on Shunpike Road. Mr. Banisch said that the County has software to simulate how traffic flow will be impacted by the proposed changes in the traffic pattern.

Mr. Sullivan noted that the County recently made similar changes to the intersection of Loantaka Way and Woodland Road, and the changes have led to a backup of traffic at the light.

Mr. Travisano suggested that the Board recommend to the County that improvements be made to Snake Hill rather than Shunpike Road, or perhaps another more pressing need.

Mr. Ruschke said that the County probably did perform a traffic study, however there is still a concern about Shunpike Road's ability to handle the congestion that would be created by the proposal. He said that safety upgrades should not sacrifice the road's capacity.

Mr. Sullivan proposed that the concerns raised be brought to the County's attention.

Public Comment

Ms. Hagner opened the floor to Public Comment.

1. Dot Stillinger, 216 Noe Ave, asked if a builders remedy lawsuit could result in affordable housing being built on Esternay Field. Mr. Ruschke said that because Esternay Field was purchased with Green Acres funds, it cannot be redeveloped for residential purposes. Mr. Sullivan noted that Esternay Field is on the Township's Recreation and Open Space Inventory (ROSI), and properties on the ROSI are not eligible for development. Mrs. Stillinger said that last time there was a builders remedy lawsuit, there was land available for development. She asked where affordable housing will be built if the Township winds up with a huge obligation. Ms. Hagner said that municipalities are asked to change their zoning to allow for high-density development. Mr. Sullivan noted that some municipalities are using overlay districts.

Seeing no further comment, Ms. Hagner closed the Public Comment session.

Mr. Travisano moved to adjourn at 9:02 PM. Mr. Nelson seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary