

**MINUTES  
PLANNING BOARD  
TOWNSHIP OF CHATHAM  
November 21, 2016**

Mr. Thomas Franko called the 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 2016 and January, 2017 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. Hurring, Mr. Ciccarone, Ms. Hagner, Mr. Travisano, Mr. Nelson and Mr. Murray. Mrs. Swartz and Mr. Brower were absent. Mr. Sullivan arrived a few minutes late.

Also present were Township Planner Frank Banisch, Board Attorney Steve Warner and Amanda C. Wolfe, Esq.

**Approval of Minutes**

Mr. Nelson moved to approve the minutes of the October 17, 2016 meeting. Ms. Hagner seconded the motion, and it carried unanimously.

**Discussion**

**Ordinance for Re-Zoning of Chestnut Road**

Mr. Franko said that the Township Committee has introduced an ordinance to rezone a section of Chestnut Road, and it has been referred to the Planning Board to review consistency with the Master Plan. Ms. Hagner noted that the Planning Board has already recommended that the zoning change be made.

Mr. Banisch explained that the ordinance is not inconsistent with the Master Plan because the 2011 Land Use Plan reaffirmed the R3 and R4 zone districts for medium density residential character. The ordinance in question does not change the intention of the Master Plan.

Mr. Warner said that a formal resolution is not required, but the Planning Board should still send a formal memorandum from the Township Planner to the Township Committee explaining why the ordinance is not inconsistent with the Master Plan.

Mr. Travisano moved to authorize Mr. Banisch to draft a memorandum to the Township Committee stating why the ordinance is not inconsistent with the Master Plan. Mr. Nelson seconded the motion.

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

Resolution for Development of Block 48.16, Lot 117.27

Mr. Franko said that the Planning Board has essentially been asked to have Mr. Banisch's office perform a study on the need for redeveloping the Skate Park property. Mr. Banisch said that such a declaration would facilitate the development of affordable housing by a third party developer on that site.

Mr. Murray asked why the Township Committee did two resolutions rather than one, as the matters are linked. Mr. Warner said that each resolution is asking for something very different, and deal with different statutes. Mr. Banisch said that the link is that the same developer will be involved in both projects. Ms. Hagner asked why it would be necessary to declare the property in need of redevelopment. Mr. Warner said that the designation would be necessary in order to have a Payment In Lieu of Taxes (PILOT) agreement. Mr. Sullivan said that if the PILOT was not a factor, then the designation would not be necessary.

Ms. Hagner said that the property is already zoned for affordable housing, and further questioned the need for declaring the property in need of redevelopment. Mr. Ciccarone said that the bulk requirements are not adequate for the proposal.

Mr. Murray asked if it would be possible to go forward with declaring the property in need of redevelopment and then advise against rezoning the Dixiedale Farm property.

Mr. Ciccarone said that the Dixiedale Farm property is already zoned for residential use, and the proposal is to have residential development similar to the Rose Valle condominiums. He also explained that this first came to the Township Committee's attention in the context of trying to meet the affordable housing obligation.

Mr. Sullivan said that the Planning Board is being asked to move forward with an analysis without full disclosure of all information. He also asked if this topic would be under discussion if the PILOT were not necessary. Mr. Ciccarone said that the discussion would be different, but it would still be necessary.

Mr. Banisch said that the Township cannot receive a vacant land adjustment to meet the affordable housing obligation.

Mr. Franko said that a report from Mr. Banisch is necessary for all Board members to be able to intelligently participate in this discussion.

Ms. Hagner asked if it would be worthwhile to have another Planner perform the study, as Mr. Banisch has already made recommendations to the Township Committee on this matter. Ms. Hagner also commented on the developers fee ordinance. Mr. Ciccarone said that the Township has not collected any developers fees.

Mr. Franko cited from the Township Committee resolution that the Planning Board has been directed to conduct a study on the need to redevelop the Skate Park.

Mr. Warner described the public hearing process for any recommendation to be made by the Planning Board on this matter.

Mr. Sullivan asked what legal ramifications the Township would potentially face if the Planning Board and the Township Committee go against the advice of the Township Planner and a challenge is brought forward in court. Mr. Warner asked who would challenge that action.

Mr. Ciccarone stressed the importance of moving this process forward, and said that the developer will still need to come before the Planning Board with a full application.

Ms. Hagner asked again why the designation of an area in need of redevelopment is needed if the land is already zoned for affordable housing. Mr. Warner said that the designation offers the opportunity for a PILOT, yet a PILOT would not be required by the designation. Ms. Hagner asked if the Township would have the ability to have a PILOT anyway, and Mr. Warner said that the designation of an area in need of redevelopment is necessary for that opportunity.

Mr. Sullivan commented on the litigious nature of this topic, and said that it is important to have the correct first steps. Mr. Franko said that the Planning Board is only being asked to perform a study. Mr. Ciccarone said that the process is nowhere near having an application for review.

Mr. Travisano asked if there would be any benefit to delaying the decision on the rezoning issue until the designation and redevelopment plan is further along.

Mr. Ciccarone suggested that Board members visit the Melrose and Rose Valle condo developments to get an idea of what the developer is proposing for the Dixiedale property.

Mr. Travisano said that there would be a disadvantage to have someone other than Mr. Banisch perform the requested study. Mr. Sullivan said that he trusts Mr. Banisch, however he thinks the outcome of the study is obvious.

Mr. Nelson moved to authorize Mr. Banisch to perform a study to determine whether Block 48.16, Lot 117.27 is or is not an area in need of redevelopment under the criteria set forth in *N.J.S.A. 40A:12A-1 et seq.* Mr. Travisano seconded the motion.

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

Resolution for Re-Zoning of Dixiedale Farm, Block 66, Lot 1

Mr. Ciccarone said that this request generated from a developer, and he suggested that the developer should present to the Planning Board what they are seeking. Mr. Warner said that he is unsure if the applicant is ready to make an application.

Mr. Warner said that the MLUL does not have a specific procedure for the hearing of a request for rezoning. Although the Township does not have an ordinance requiring a presentation for such a request, the Planning Board is not precluded from hearing such a presentation.

Mr. Franko asked the representative of the applicant to come forward to address the Board.

Attorney Douglas Henshaw of Day Pitney LLC, representing Sterling Properties/Sun Homes said that he learned of this meeting the day prior to the meeting. He said that he is willing to put together a package of documents for the Board professionals and members. Mr. Henshaw said that he is also willing to make a presentation to the Board if requested. He also said that the rezoning request and redevelopment designation are separate matters, however the affordable units would need to be built in sequence with the market-rate units, and he reiterated his client's commitment to produce affordable housing at the Skate Park site in the event that the site is designated an area in need of redevelopment and a corresponding redevelopment plan is subsequently adopted, and the requested zone change for the Dixiedale Farm property is granted and a corresponding site plan is subsequently approved. The presentation for the requested zone change will be scheduled for the December 19, 2016 meeting.

**Resolution**

Mr. Warner read into the record the NOW, THEREFORE clauses of the resolution authorizing Mr. Banisch to perform the study for redevelopment of the Skate Park property. The cost of the study is not to exceed \$10,000.00.

Mr. Ciccarone moved to approve the resolution. Mr. Travisano seconded the motion.

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

Mr. Ciccarone moved to adjourn at 8:46 PM. Mr. Travisano seconded the motion, and it carried unanimously.

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Gregory J. LaConte  
Planning Board Recording Secretary