

RESOLUTION 2020-213

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, STATING THE REASONS FOR ENACTING ORDINANCE NO. 2020-17 ADOPTING A REDEVELOPMENT PLAN FOR 522 SOUTHERN BOULEVARD, BLOCK 128, LOT 2 ON THE TOWNSHIP TAX MAP

WHEREAS, on September 24, 2020, the Township Committee of the Township of Chatham introduced Ordinance 2020-17, titled “An Ordinance of the Township of Chatham, County of Morris, State of New Jersey, Adopting the Redevelopment Plan for 522 Southern Boulevard, Block 128, Lot 2 on the Township Tax Map”; and

WHEREAS, the Township Committee referred Ordinance 2020-17 to the Planning Board for statutory review pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, the Planning Board determined that Ordinance 2020-17 was inconsistent with the 2011 Land Use Plan (“2011 LUP”) because the Redevelopment Plan provides for a 100% municipally sponsored affordable housing multi-family rental development which is not a permitted use in the B-1 District; and

WHEREAS, despite the inconsistency, the Planning Board found that Ordinance 2020-17 advances the affordable housing objectives of the 2011 LUP to “[p]reserve the desirability of the community and its neighborhoods by managing the scale of new and expanded buildings and alternatives to their landscapes” and to “[p]romote a balance of housing types for all segments of the population”; and

WHEREAS, the Planning Board found that a 100% municipally sponsored affordable housing multi-family rental development, while inconsistent with the 2011 LUP, advanced the goals of the 2020 Housing Element and Fair Share Plan and the July 23, 2020 Affordable Housing Amended Settlement Agreement, and assists the Township in meeting its constitutionally mandated fair share obligation with the creation of a 100% municipally sponsored affordable housing multi-family rental development; and

WHEREAS, the Planning Board also recommended that, subject to a three (3) story height limitation, a mixed-use development (rather than an entirely residential development) including retail or other commercial use should be permitted, because such uses are already permitted in the B-1 District and inclusion of these uses will improve consistency with the 2011 LUP; and

WHEREAS, on October 5, 2020, the Planning Board made the above findings at a public meeting based upon the advice and opinions of the Board Planner, including a Memorandum, dated October 1, 2020, as revised during the October 5, 2020 Planning Board hearing, attached as Exhibit B to the Planning Board’s Resolution; and

WHEREAS, notwithstanding the above findings, the Planning Board recommended adoption of Ordinance 2020-17 because it advances the objectives of the 2011 LUP and advances the goals in the 2020 Housing Element and Fair Share Plan and the July 23, 2020 Affordable Housing Amended Settlement Agreement; and

WHEREAS, the Township Committee concurs with the findings of the Planning Board that Ordinance 2020-17 advances the goals of the 2011 LUP to preserve the desirability of the

community and its neighborhoods because of the proximity of the proposed development to the Township's commercial center; Ordinance 2020-17 promotes a balance of housing types for all segments of the population because it fosters the creation of affordable housing and because Ordinance 2020-17 advances the goals in the 2020 Housing Element and Fair Share Plan and the July 23, 2020 Affordable Housing Amended Settlement Agreement; and

WHEREAS, the Township Committee does not concur with the Planning Board recommendation that the Redevelopment Plan should provide for retail or other commercial uses because 522 Southern Boulevard would be solely acquired by the Township for a 100% municipally sponsored affordable housing multi-family rental development and not retail or other commercial uses pursuant to N.J.S.A. 52:27D-325.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, as follows:

1. The Township Committee hereby acknowledges receipt of and review of the October 5, 2020 Planning Board Resolution and Exhibit B to that Resolution, the Planner's Memorandum, dated October 1, 2020, as revised during the October 5, 2020 Planning Board hearing.
2. Pursuant to N.J.S.A. 40A:12A-7(e) approves of the Planning Board recommendation that Ordinance 2020-17 advances the goals of the 2011 LUP, the 2020 Housing Element and Fair Share Plan and the July 23, 2020 Affordable Housing Settlement Agreement because Ordinance 2020-17 promotes affordable housing within the Township.
3. Pursuant to N.J.S.A. 40A:12A-7(e) disapproves of the Planning Board recommendation that Ordinance 2020-17 provide for retail or other commercial uses as permitted uses because 522 Southern Boulevard will solely be acquired for a 100% municipally sponsored affordable housing multi-family rental development pursuant to N.J.S.A. 52:27D-325.
4. The reasons stated in this Resolution serve as a sufficient basis to enact Ordinance 2020-17 despite the inconsistency with the 2011 LUP and the Township Committee hereby adopts Ordinance 2020-17 for the reasons set forth herein.
5. This Resolution shall take effect immediately.

Adopted: October 8, 2020

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:

Gregory J. LaConte, Clerk

By: _____
Michael J. Kelly, Mayor

RESOLUTION PB-2020-

**RESOLUTION OF THE PLANNING BOARD OF THE
TOWNSHIP OF CHATHAM FINDING THE 522
SOUTHERN BOULEVARD REDEVELOPMENT PLAN
AND ORDINANCE NO. 2020-17 TO BE INCONSISTENT
WITH THE TOWNSHIP MASTER PLAN PURSUANT TO
N.J.S.A. 40A:12A-7(e)**

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended (the “Redevelopment Law”), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Township Committee of the Township of Chatham (the “Township Committee”), by Resolution 2020-169 authorized and directed the Planning Board of the Township of Chatham (the “Planning Board”) to conduct an investigation with respect to the property commonly known as 522 Southern Boulevard and identified as Block 128, Lot 2 on the Tax Map of the Township (the “Study Area”), to determine whether the Study Area satisfies the criteria set forth in Section 5 of the Redevelopment Law, specifically N.J.S.A. 40A:12A-5, and should be designated as an area in need of redevelopment, which designation would permit the Township to utilize all of the redevelopment powers, including Eminent Domain pursuant to N.J.S.A. 40A:12A-8(c) (as designated, a “Condemnation Redevelopment Area”); and

WHEREAS, the Planning Board authorized the firm of Banisch Associates, Inc., (the “Planning Consultant”) to conduct an investigation and perform a study pursuant to N.J.S.A. 40A:12A-6 to determine whether the Study Area satisfies the criteria set forth in N.J.S.A. 40A:12A-5 to be designated as a Condemnation Redevelopment Area; and

WHEREAS, the Planning Consultant prepared an investigative report entitled, “Preliminary Investigation Report” dated July 2020 (the “Report”);

WHEREAS, the Planning Consultant concluded in the Report that there is substantial evidence to support a finding that the entire Study Area meets multiple redevelopment criteria provided under the Redevelopment Law, and should be designated as a Condemnation Redevelopment Area; and

WHEREAS, on August 17, 2020, after the Planning Board conducted a duly noticed public hearing to determine whether to recommend to the Township Committee designate the Study Area as a Condemnation Redevelopment Area, at which hearing the Planning Board considered the Report and the Planning Consultant’s testimony and heard from all persons who were interested in or would have been affected by the determination that the Study Area is a Condemnation Redevelopment Area, the Planning Board adopted a resolution wherein it recommended that the Study Area be designated a Condemnation Redevelopment Area; and

WHEREAS, on August 27, 2020, at a duly noticed and constituted public meeting, the

Township Committee, by Resolution 2020-193, endorsed the findings and recommendations set forth in the Planning Board's August 17, 2020 Resolution; and

WHEREAS, on September 24, 2020, at a duly noticed and constituted public meeting, the Township Committee introduced, on first reading, Ordinance No. 2020-17, which adopted the Proposed Redevelopment Plan for 522 Southern Boulevard (the "522 Southern Boulevard Redevelopment Plan") for the property identified on the Chatham Township Tax Map as Block 128, Lot 2, previously determined to be a condemnation redevelopment area; and

WHEREAS, after introduction, the Township Committee referred Ordinance No. 2020-17 and the 522 Southern Boulevard Redevelopment Plan (attached hereto as **Exhibit A**) to the Planning Board for Master Plan consistency review pursuant to N.J.S.A. 40A:12A-7(e); and

WHEREAS, on October 5, 2020, at a duly noticed and constituted public meeting, the Planning Board reviewed the 522 Southern Boulevard Redevelopment Plan and Ordinance 2020-17, received the advice and opinions of the Board Planner, including a memorandum dated October 1, 2020 (attached hereto as **Exhibit B**), and any comments from members of the public, and determined, pursuant to N.J.S.A. 40A:12A-7(e), that the 522 Southern Boulevard Redevelopment Plan and Ordinance 2020-17 are inconsistent with the Township's Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board as follows:

Section 1. The foregoing recitals are incorporated herein as if set forth in full;

Section 2. The Planning Board hereby finds and determines, based upon the advice and opinions of the Board Planner, including a memorandum dated October 1, 2020 as revised during the October 5, 2020 hearing, pursuant to N.J.S.A. 40A:12A-7(e), that the 522 Southern Boulevard Redevelopment Plan and Ordinance No. 2020-17, attached hereto as **Exhibit A**, are inconsistent with the Township's Master Plan, but nonetheless recommends the adoption of same since they advance many of the Master Plan's stated goals and objectives, including inter alia, the following:

- The 522 Southern Boulevard Redevelopment Plan and Ordinance No. 2020-17 advance the goals set forth in the 2011 Land Use Plan because it preserves the desirability of the community and its neighborhoods by managing the scale of new and expanded buildings and alterations to their landscapes because the Study Area is well situated for the provision of affordable housing to assist in meeting the Township's constitutional obligation, given its location next to a commercial center offering a grocery store, hardware store, pharmacy, food establishments, and is within walking distance to recreational facilities; and
- The 522 Southern Boulevard Redevelopment Plan and Ordinance No. 2020-17 advance the goals set forth in the 2011 Land Use Plan because it promotes a balance of housing types for all segments of the population because, through the adoption of the 522 Southern Boulevard Redevelopment Plan, a new public-private partnership initiative will provide a realistic opportunity for between 62 and 66 affordable family

units to be constructed and occupied in a building at this location;

- The 522 Southern Boulevard Redevelopment Plan and Ordinance No. 2020-17 advance the goals set forth in the July 2020 Housing Element and Fair Share Plan. The July 2020 Housing Element and Fair Share Plan sets forth the manner in which Chatham Township will address its third-round affordable housing obligations as agreed to in a Settlement Agreement between Chatham Township and the Fair Share Housing Center, dated December 13, 2018. The 2020 Housing Element and Fair Share Plan includes the 522 Southern Boulevard property and a finding that the construction of 62 affordable rental units at 522 Southern Boulevard can be performed consistent with the site suitability criteria in N.J.A.C. 5:93-5.3. The Settlement Agreement was approved by Superior Court Judge Maryann Nergaard, J.S.C. on February 22, 2019 along with the January 10, 2019 First Amendment. Additionally, the provisions of the July 23, 2020 Second Amendment, which were approved by Superior Court Judge Michael Gaus, J.S.C. at a joint fairness and compliance hearing on September 24, 2020, have also been included in this Housing Element and Fair Share Plan. The Board finds that, while the proposed use as a municipally sponsored affordable multifamily rental development is not permitted in the B-1 District, the proposal clearly advances the goals for a better balance in housing opportunities and reflects the proposal for affordable housing in the Housing Element and Fair Share Plan; and
- Notwithstanding the above, the Planning Board recommends that, subject to a three (3) story height limitation, a mixed-use development (rather than an entirely residential development) including retail or other commercial use should be permitted, because such uses are already permitted in the B-1 Zone and inclusion of such uses will improve consistency with the 2011 Land Use Plan;

Section 4. The Secretary of the Planning Board shall forward a copy of this Resolution with the attached 522 Southern Boulevard Redevelopment Plan and Ordinance 2020-17 to the Township Committee. This Resolution shall serve as the report to the governing body in accordance with N.J.S.A. 40A:12A-7; and

Section 5. This Resolution shall take effect immediately.

ROLL CALL VOTE:

Deniz Ozdemir, Secretary

Thomas Franko, Chair

I, Deniz Ozdemir, Secretary of the Planning Board of the Township of Chatham, Morris County, New Jersey, hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the said Board at a meeting held on October 5, 2020.

Deniz Ozdemir, Secretary

Memorandum

To: Chatham Township Committee
From: Chatham Township Planning Board
Date: October 6, 2020
Subject: Consistency Review of Ordinance No. 2020-17

Background and Statutory Authority

The Township Committee has forwarded to the Planning Board Ordinance No. 2020-17 adopting the Redevelopment Plan for 522 Southern Boulevard (Block 128, Lot 2). This plan calls for the redevelopment of 522 Southern Boulevard as a municipally-sponsored 100% affordable multi-family rental development.

The ordinance has been referred to the Board in accordance with the Board's referral powers N.J.S.A. 40A:12A-7. "Adoption of redevelopment plan", subsection e, which reads as follows:

e. Prior to the adoption of a redevelopment plan, or revision or amendment thereto, the planning board shall transmit to the governing body, within 45 days after referral, a report containing its recommendation concerning the redevelopment plan. This report shall include an identification of any provisions in the proposed redevelopment plan which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. The governing body, when considering the adoption of a redevelopment plan or revision or amendment thereof, shall review the report of the planning board and may approve or disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following the recommendations. Failure of the planning board to transmit its report within the required 45 days shall relieve the governing body from the requirements of this subsection with regard to the pertinent proposed redevelopment plan or revision or amendment thereof. Nothing in this subsection shall diminish the applicability of the provisions of subsection d. of this section with respect to any redevelopment plan or revision or amendment thereof.

Intent of the Master Plan

This proposed Redevelopment Plan, which calls for a 100% affordable municipally-sponsored 62-66 unit development, is inconsistent with the 2011 Land Use Plan as it relates to the permitted uses in the B-1 Business Center District, which reads as follows:

B-1: Business Center District The B-1 district is located at the intersection of Green Village Road and Shunpike Road and has frontage on Southern Boulevard. The district's permitted uses are retail stores, cleaning and tailoring shops, restaurants, theaters, banks and professional offices. The minimum lot area is 45,000 square feet with a maximum building coverage of 20%.

This proposed Redevelopment Plan, while inconsistent with the permitted uses in the B-1 District, nonetheless advances the goals of elements of Chatham Township's Master Plan, including the Land Use Plan Element and the Housing Element and Fair Share Plan.

The 2011 Land Use Plan Element included the following two broad goals related to housing:

- Preserve the desirability of the community and its neighborhoods by managing the scale of new and expanded buildings and alterations to their landscapes.

This site is well situated for the provision of affordable housing to assist in meeting the Township's constitutional obligation, being situated next to a commercial center offering a grocery store, hardware store, pharmacy, food establishments and within walking distance to recreational facilities. The proposed development of a 3-story municipally sponsored 100% affordable rental apartment building at this location, providing at least 62 affordable 2- and 3-bedroom units plus one unit for a building superintendent, is compatible with the surrounding uses.

- Promote a balance of housing types for all segments of the population.

The Redevelopment Area provides an appropriate setting for this municipally-sponsored 100% affordable rental development. Through the adoption of this Redevelopment Plan, a new public-private partnership initiative will provide a realistic opportunity for between 62 and 66 affordable family units to be constructed and occupied in a building at this location.

The July 2020 Housing Element and Fair Share Plan includes 522 Southern Boulevard to meet part of the family rental requirement according to the Settlement Agreement with Fair Share Housing Center. The Housing Element and Fair Share Plan sets forth the manner in which Chatham Township will address its third-round affordable housing obligations that have been agreed to in a Settlement Agreement between Chatham Township and the Fair Share Housing Center, dated December 13, 2018. The Settlement Agreement was approved by Superior Court Judge Maryann Nergaard, J.S.C. on February 22, 2019 along with the January 10, 2019 First Amendment. Additionally, the provisions of the July 23, 2020 Second Amendment, which was approved by Superior Court Judge Michael Gaus, J.S.C. at a joint fairness and compliance hearing on September 24, 2020, have also been included in this Housing Element and Fair Share Plan.

The specific reference to 522 Southern Boulevard in the Housing Element and Fair Share Plan is set forth as follows:

“Hickory Tree Center Apartments – 62 Affordable Units and 1 Superintendent Unit

A development of 100% affordable family rental units will be constructed at 522 Southern Boulevard (Block 128, Lot 2), in a largely residential setting adjoining the Hickory Tree commercial area. This is the commercial center of Chatham Township, named in memory of a hickory tree planted during President Madison's term in office.

Here, the affordable units will be within walking distance of a wide variety of retail and service businesses. At least fifty-nine (59) affordable 2-bedroom and 3-bedroom units are required by the amended FSHC Settlement and the Township will work with a tax credit developer to construct a project consisting of 62 affordable 2-bedroom and 3-bedroom units on this 3+-acre parcel.

According to the site suitability criteria in NJAC 5:93-5.3, COAH's second round rules, the site has been found to be an "Approvable site", an "Available site", a "Developable site" and a "Suitable site".

Evaluation of Consistency with Chatham Township Master Plan

The Master Plan goals and objectives cited above, and the specific proposals of the Housing Element and Fair Share Plan serve as a guide to this Redevelopment Plan. It is anticipated that the new development will blend into the current landscape of the Redevelopment Area, harmonize with nearby neighborhoods, and enhance the quality of life for residents of Chatham Township, including low- and moderate-income persons and households.

The Board has compared the proposed ordinance to the 2011 Land Use Plan Element and the 2020 Housing Element and Fair Share Plan and finds that the intent of the proposed ordinance advances the Land Use Plan goals for a balanced land use plan and the Housing Element and Fair Share Plan goal to meet the constitutional mandate to provide for the Township's fair share of the regional need for affordable housing.

The establishment of a municipally-sponsored 100% affordable multi-family rental development, while inconsistent with the permitted uses in the Land Use Plan element of the Master Plan, clearly advances the goals for a better balance in housing opportunities and reflects the proposal for affordable housing in the Fair Share Plan. Thus, while the B-1 District does not permit residential development, the Planning Board finds that the proposed ordinance advances many of the Master Plan's significant objectives and aids in meeting the constitutional obligation for affordable housing. Thus, the Board recommends adoption of the ordinance.