

**MINUTES OF THE  
EAST BRUNSWICK TOWNSHIP  
PLANNING BOARD**

**November 16, 2016**

**STATEMENT - Open Public Meetings Act**

**FLAG SALUTE**

**ROLL CALL -**

**PRESENT:**

Jeanette Tugya, Chair  
Charles Heppel  
Kevin McEvoy, Mayor  
Howard Schmidt  
Steve Albert (phone)  
Victor Santamarina (phone)  
Louis Vacca (phone)

**ABSENT:**

Larry Bravman  
James Wendell  
Dan Losik  
Laurence Reiss

**ALSO PRESENT:**

Lawrence B. Sachs, Esquire (phone)  
Greg Potkulski, Director of Planning & Engineering  
Steve Gottlieb, Planner/Landscape Architect  
Debra Rainwater  
Linda Rubenstein

**DISCUSSION:**

Rezoning of properties and modification of zoning criteria as recommended by the township Council and determination of consistency with the adopted 2016 Housing element and Fair Share Plan. Motion to accept that ordinance modification are consistent with the Housing Element and Fair Share Plan by S. Albert, second by L. Vacca. Mr. Schmidt voted no. Motion passed by a vote of 6-1.

**RESOLUTION:**

Determination of consistency of proposed ordinance modifications and zone changes as recommended by the Township Council with the 2016 Housing Element and Fair Share Plan. Motion to memorialize resolution by C. Heppel, second by S. Albert. Resolution adopted unanimously.

**ADJOURNMENT:**

Motion to adjourn by J. Tugya, second by C. Heppel. Next meeting is scheduled for December 7, 2016.

THE CHAIRWOMAN: This is the November 16, 2016, East Brunswick Township Planning Board meeting.

In accordance with the Open Public Meeting Law, on November 3, 2016, notice of this special meeting stating the time, date, and location was sent to the Home News Tribune, filed with the township clerk, and posted on the bulletin board in the lobby of the municipal building. A copy of this notice will be incorporated in the minutes of this meeting.

The Chair reserves the right to call any applications in an order different from that appearing on the agenda. On each application, the Chair will give the public an opportunity to comment.

The planning board will entertain no new business after 10:30 p.m. and will close all proceedings at -- how about 11 a.m. The doors outside the courtroom are the exits to be used in case of a fire and other emergencies.

Please stand for the pledge of allegiance.

MR. GOTTLIEB: Hope you guys are standing.

(Flag salute)

THE CHAIRWOMAN: Okay. Roll call, please.

MR. GOTTLIEB: Mr. Schmidt.

MR. SCHMIDT: Here.

MR. GOTTLIEB: Mr. Vacca.

MR. VACCA: Here.

MR. GOTTLIEB: Mr. Albert.

MR. ALBERT: Here.

MR. GOTTLIEB: That's good. Mr. Reiss. Mr. Santamarina.

MR. SANTAMARINA: Here.

MR. GOTTLIEB: Mr. Losik. Councilman Wendell. Mr. Bravman. Mayor McEvoy.

MAYOR McEVOY: Here.

MR. GOTTLIEB: Mr. Heppel.

MR. HEPPEL: Here.

MR. GOTTLIEB: Chair Tugya.

THE CHAIRWOMAN: Here. Discussion. Rezoning of properties and modification of the zoning criteria as recommended by the township council and determination of consistency with the adopted 2016 housing element and fair share plan.

MR. GOTTLIEB: What was sent out to everybody yesterday were just some -- a few modifications to what was presented to the planning board on -- and is within the housing element and fair share plan, which was presented to the planning board on November 2. The modifications to chapter 132, which were required by the court master, affect -- actually put exemptions to mandatory development fees into our code. They were not there in proper format previously. And then it also in the affordable housing ordinance, it reflects requirements that require the township to report and monitor the affordable housing and the spending of fees.

Now, as far as the zoning goes, nothing has changed as far as the zoning modifications or the rezoning. That is consistent with what was previously presented to you; however, the modifications that were made to the new zone, the MDA zone, which affects the Alfieri tract, changed the bulk standards from yard setbacks to setbacks to roadways and between buildings. Those are the only changes, and what we're asking is that you have reviewed this and determined that this is consistent, that these changes are consistent with the housing element and fair share plan. Anybody have any comments? Anybody have any comments?

MR. SCHMIDT: What are we commenting on?

MR. SACHS: This is Larry speaking. The only comment that I'll make is that if the board is satisfied with what is -- has been provided through e-mail and the revisions that were provided yesterday that a motion could be made, which would be seconded, and then obviously you'll take a roll call as to that.

MR. GOTTLIEB: Thank you, Larry.

MR. SCHMIDT: Is the floor open to discussion, Steve, about the rezoning, or is that further down the calendar?

MR. GOTTLIEB: The public hearing for the zoning --

MR. SCHMIDT: Not the public hearing.

MR. GOTTLIEB: Well, no, I mean, the public hearing -- this is simply to determine consistency with the housing element and fair share plan. The actual zoning modification, the discussion on that is really for the council meeting on the 28th.

MR. SCHMIDT: So we have -- as board members, we have no input on the changes in the zoning in those two locations?

MR. GOTTLIEB: At this point, that -- your ability to comment on that was at the presentation of the fair share plan, which you had commented on.

MR. SCHMIDT: I wanted to supplement that, if I can.

MR. GOTTLIEB: Well, feel free to supplement it.

MR. SCHMIDT: I'd like to supplement it. Okay. And we're all on the record here, okay.

MR. GOTTLIEB: Yes.

MR. SCHMIDT: I have serious reservations about the rezoning of the Mack-Cali tract at the intersection at the corner of Summerhill and Old Stage Road. Let me expand on that a little bit. I know it's ultimately going to be determined by the council, and I may appear before the council to oppose it because I probably know that intersection better than anybody on the board. I live -- I have lived off of Old Stage Road for 40, more than 40 years. I know how difficult that intersection is. It borders an adjoining community. It's patrolled by two police departments, and I've seen a lot of accidents at that intersection over the years. I cross it several times a day, and I was just crossed it now coming here. There's stacking at four corners.

What I did was since the last meeting, I spoke to a couple of members of the police department, who I know, East Brunswick Police Department, and I wanted to get their off-the-cuff opinion on the possible rezoning of that tract to multifamily usage, which is permitted in the town green zone. The reaction of the police officers that I spoke to was you couldn't pick a worse spot for multifamily dwellings. Some of the accidents at that intersection have been bad. The large traffic that's developed at that intersection is coming out of the Spotswood Shop Rite. Many times you can't get even a parking spot in there. One of the police officers said if you had multifamily, either apartments or townhouses, with the current configuration of the exits on the front of that property where the insurance building is now, there would be no way to make a left onto Summerhill Road.

That would be impossible because of the stacking.

Likewise, there would be no ability to make a left onto Old Stage Road. It's very difficult to come out anywhere near that corner and make a left onto those -- on those two arteries.

I don't know how that property is ultimately going to be developed if the rezoning goes through. I mean, if that was limited to single-family dwellings where you had a dozen houses there, I would not be against it because I think that would throw off maybe 25 cars, but if you had 50, 60, 70 units in there, I see that as being a complete disaster for that particular location just

because of the fact that it's heavily trafficked. There's been a number of accidents there. Two towns now patrol it, Spotswood and East Brunswick. There is stacking most of the day on all four corners, on two sides of Old Stage and also on Summerhill. So it's very difficult for anyone coming out of that insurance company property to gain access to go north on Summerhill Road.

So my personal feeling is -- and I'm not speaking as an expert, I'm speaking as a resident of the area and as a board member. I don't think that's a wise move for that particular location. If it was farther up Summerhill Road perhaps, it might be a different story. It's just too close to that intersection, and the idea of apartments and townhouses in that spot spells trouble to me. So I -- if there's any vote going to be taken here -- I don't know if there is or not -- on the board's -- whether the board has an opinion on that -- I mean if we don't have an opinion on it, then I don't know why we're discussing it, but I certainly -- I cannot support multifamily uses because once we have it as a permitted use, then, of course, they don't need a variance. They would just have to get a site plan approved or a subdivision approved, and --

MR. SACHS: Howard, Larry speaking.

MR. SCHMIDT: Yeah, Larry.

MR. SACHS: That is not entirely accurate because even though what's happening at this point is you are making recommendations to deal with the affordable housing litigation, and these are obviously some rezoning that we're doing, any potential developer who goes into that site is still going to have to comply with the Municipal Land Use Law, is still going to have to comply with providing a traffic study of some sort, will still have to take input from the police department as they do on every application, and with respect to Spotswood, because this property is on the border, obviously, the borough of Spotswood would be notified directly, as would any residents in the Spotswood border within 200 feet of this plan. So, I mean, I understand your opinion on this, but it still has to go through the process of being approved as a potential development site, you know, for -- could be mixed use, could be all residential -- we don't know -- but you still have to go through scrutiny by the planning board.

MR. SCHMIDT: I understand that Larry. It's just that once you make multifamily housing a permitted use there, it does make it easier for developer, who doesn't have to obtain a use variance to put apartments in.

MR. SACHS: I agree with you.

MR. SCHMIDT: It would be an easier row to hoe. As far as traffic studies, I'll be perfectly honest with you. Since I've been on the board, I have not been impressed with traffic engineers that have come before this board. They are --

MR. SACHS: Listen, we do -- we obviously have our own -- we have a number of traffic studies on our behalf when we believe there's a traffic issue involved. Obviously, we understand that.

MR. SCHMIDT: I have a higher opinion of the civil engineers. They usually, if there's a problem, they acknowledge it, and they tend to resolve it. Traffic engineers will say anything before a board.

MR. SACHS: Well, okay.

MR. SCHMIDT: That's my opinion.

MR. POTKULSKI: But we have staff that reviews their reports and will comment if we feel that it's inadequate or things need to change. I would agree with you that 10 years ago, prior to that signal being reconstructed and prior to signal having all lead greens installed on that, meaning there's a separate left-turn phase for each approach, there were issues. There were a lot of accidents. I will pull the traffic accident data since the signal's been done, and I can guarantee you that there are very few accidents there now, but like Larry said, when an application comes before the board, and like I said at the last meeting, I don't envision somebody coming in here with just a residential development. That's not what they're going to do. It's going to be a mixed use development. I envision maybe a daycare center with some townhouses or something like that, but at that time, they're going to come in with a full-blown traffic study with access points. I don't think the access points are going to remain the same as they do today under the insurance company. So they're going to come in with site plan and a traffic report. We're going to review that in detail. The county is going to review that in detail because Summerhill Road is a county road. So at that point, if we have issues, if we feel there's too many units and the traffic doesn't work, we'll recommend that in the report and reduce things and things of that nature. It can be denied based upon that.

MR. SCHMIDT: No, I appreciate that what you're saying is that at the time we'll deal with it. That's really in effect, Greg, what you're saying. At the time, we'll deal with the traffic issues. What I'm saying is I think that if you're going to permit that usage, you're going to open a Pandora's box there. I still don't -- with the access and the egress points on that property now, there's no way you can make a left coming out of that property. You can't make a left now.

MR. POTKULSKI: But what I'm saying is the property is a lot bigger than what -- where the access point is now. It goes up towards Frost Woods further, and what I'm saying is the access points can be adjusted. There's nothing that says those access points have to remain where they are today.

MR. SCHMIDT: No, the only way you can have safe egress there, they'd have to put a road through Frost Woods above that property north of that property and run a road through Frost Woods out onto Summerhill Road. That's the only way you're going to be able to get out of that property.

MR. POTKULSKI: Those issues come up at site plan, you know, when they come in with exactly what they're going to be proposing and we look at sight distances, we look at gaps in traffic, things of that nature, and that's when that's determined and, you know, we've dealt with this before.

MR. SCHMIDT: Yeah, I mean --

MR. SACHS: I'm just going to throw in that I don't think we need to engineer this project at this particular time. This is only a recommendation for a zoning change. Obviously, it's being recommended because of the COAH litigation. I mean, I'm not going to give my thoughts on what I believe the state has done to every municipality to make this happen, because this is not just isolated to East Brunswick. It's isolated to every town in New Jersey. I mean it's endemic to every town in New Jersey. Every town has to come up with a plan

to provide affordable housing, and I will put my confidence in our professional staff and our special counsel, who was involved in this, and the special master, Betsy McKenzie, who provided great assistance to the town in coming up with this plan, that this will work. I mean, again, we don't have to engineer it right now. These sites may never get developed in the fashion that we're proposing today. If, in fact, the Appellate Division issues a decision that drastically alters what, you know, how COAH is to be dealt with, then all of this work is going to get tossed in the garbage, okay, and we're going to live with what we have we have right now, but I just don't want to lose sight of what we're doing today. Today we're only making a recommendation to the council.

MR. SCHMIDT: Right, I understand that. I want to go on the record here so that when it comes up to the council, the public portion, I'm probably going to appear on it, but it was very interesting to me that three police officers that I ran this past -- and I don't even know them that well, Larry, but their immediate reaction is that that intersection cannot support that kind of development.

MR. SACHS: I understand what you're saying, and, you know, I'll accept --

MR. SCHMIDT: And that's on the East Brunswick side. So any record of accidents you also have to get from the Spotswood side because they handle accidents at that intersection, also. So there may be more accidents at that location than, you know, we're aware of. So --

MR. SACHS: That could be, but as Greg said, if that's the case, then obviously, that's a consideration that the planning board will deal with it when ultimately an application is submitted, but, you know, Howard, I respect your opinion, and you can put it -- obviously, you put it on the record, you know, and then, you know, basically at this point, if the board is comfortable with what's in front of you this morning -- I was going to say this evening, but it's this morning -- then what we'll do is someone can make that motion, and obviously, Howard if, you know -- I understand your position. You certainly can vote your conscience on that.

MR. ALBERT: Happy to make a motion.  
(Inaudible)

THE CHAIRWOMAN: I have to open to the public.

MR. POTKULSKI: Yeah, we have to open to the public first.

THE CHAIRWOMAN: Anybody here in the public? Seeing none, closing to the public.

MR. POTKULSKI: All right, now you can do whatever you want.

MR. GOTTLIEB: Steve, go ahead. It's just to accept these ordinances and that they are consistent with the housing element and fair share plan.

MR. ALBERT: So moved.

MR. VACCA: This is Louis. I'll second it.

MR. GOTTLIEB: Okay. I'll do the roll call. Mr. Schmidt.

MR. SCHMIDT: No.

MR. GOTTLIEB: Mr. Vacca.

MR. VACCA: Yes.

MR. GOTTLIEB: Mr. Albert.

MR. ALBERT: Yes.

MR. GOTTLIEB: Mr. Santamarina.

MR. SANTAMARINA: Yes.

MR. GOTTLIEB: Mayor McEvoy.  
MAYOR McEVOY: Yes.  
MR. GOTTLIEB: Mr. Heppel.  
MR. HEPPEL: Yes.  
MR. GOTTLIEB: Chair Tugya.  
THE CHAIRWOMAN: Yes.  
MR. GOTTLIEB: Now we just need --  
THE CHAIRWOMAN: The resolution.  
MR. GOTTLIEB: We need a motion for the  
resolution to memorialize.  
THE CHAIRWOMAN: Okay. Can I read that  
resolution, too?  
MR. GOTTLIEB: Yes, by all means.  
THE CHAIRWOMAN: To determination of  
consistency the proposed ordinance modification and  
zone changes as recommended by the Township Council  
with the 2016 housing element and fair share plan.  
Make a resolution.  
MR. GOTTLIEB: A motion --  
THE CHAIRWOMAN: Motion.  
MR. GOTTLIEB: -- to adopt.  
MR. HEPPEL: I'll make a motion.  
THE CHAIRWOMAN: Second?  
MR. GOTTLIEB: Do we have a second for  
the resolution?  
MR. ALBERT: Steven, second.  
THE CHAIRWOMAN: Okay. Roll call.  
MR. GOTTLIEB: Is that Steve Albert?  
Okay, Mr. Albert.  
MR. ALBERT: Yes.  
MR. GOTTLIEB: Mr. Vacca.  
MR. VACCA: Yes.  
MR. GOTTLIEB: Mr. Santamarina.  
MR. SANTAMARINA: Yes.  
MR. GOTTLIEB: Mayor McEvoy.  
MAYOR McEVOY: Yes.  
MR. GOTTLIEB: Mr. Heppel.  
MR. HEPPEL: Yes.  
MR. GOTTLIEB: Chair Tugya.  
THE CHAIRWOMAN: Yes.  
MR. GOTTLIEB: Anything else?  
THE CHAIRWOMAN: Next meeting.  
MR. GOTTLIEB: Next meeting is scheduled  
for December 7. Motion to adjourn.  
THE CHAIRWOMAN: Yes.  
MR. HEPPEL: Second.  
THE CHAIRWOMAN: Have a wonderful happy  
Thanksgiving.  
(Meeting concluded at 10:20 a.m.)