

BOROUGH OF FAR HILLS
Planning Board Special Meeting
MINUTES
December 17, 2019

CALL TO ORDER

Chairman Lewis called the meeting to order at 7:02 p.m. at the Far Hills Municipal Building and read the open public meetings statement in accordance with the law.

PLEDGE OF ALLEGIANCE

Chairman Lewis led the Pledge of Allegiance.

ROLL CALL

Present: Marilyn Layton, Vice Chairman Tom Rochat, Councilwoman Sheila Tweedie, Mayor Paul J. Vallone, MD, Kevin Welsh, Debra Ross, Chairman Robert Lewis

Absent: John Lawlor, Alt. #1 and Gerrie McManus, Alt. #2

Also Present: Board Attorney Susan Rubright, Borough Planner David Banisch and Planning Board Secretary Shana L. Goodchild

BILL LIST

1. December 17, 2019

There being no questions or comments, a motion was made by Councilwoman Tweedie, seconded by Ms. Layton to approve the December 17, 2019 Bill List as presented. The motion carried by the following roll call vote:

Roll Call:

Aye: Ms. Layton, Mr. Rochat, Councilwoman Tweedie, Mayor Vallone, Mr. Welsh, Mrs. Ross, Chairman Lewis

Nay: None

Abstain: None

MINUTES

1. November 4, 2019

Councilwoman Tweedie made a motion to approve the minutes of November 4, 2019 for content and release. Mayor Vallone seconded the motion. All were in favor.

ORDINANCE

1. Ordinance No. 2019-08 – Master Plan Consistency Review

At the request of Chairman Lewis, Planner David Banisch explained that the ordinance is a rezoning ordinance that the Governing Body prepared and introduced in response to the Housing Plan Element and Fair Share Plan adopted by the Planning Board to address the Borough's third round affordable housing obligation. The ordinance was crafted after the settlement agreement and is entitled the TH-6-IAR Zoning District and establishes use, bulk and development standards for Block 5, Lot 4 for 134 units, including 105 market-rate, age restricted townhouses, 25 affordable apartments available to the general public and four (4) age restricted affordable rental apartments. Mr. Banisch explained that the ordinance comes to the Planning Board by way of the referral powers under the MLUL, N.J.S.A. 40:55D-26. He noted that the adopted Housing Plan Element and Fair Share Plan identifies Block 5, Lot 4 for inclusionary development and this particular site addresses portions of the Borough's prior round obligation and portions of the Borough's Third round obligation. The site will yield a total of 14 credits towards the Borough's 38 unit prior round obligation and 29 credits towards the third round obligation of 76 units (20 units and 9 bonus credits). When asked by Chairman Lewis if it is a new zone specific to the property, Mr. Banisch responded in the positive. He went on to explain that the ordinance establishes the maximum limit of permitted development and allows for 105 townhouses in buildings not containing more than five (5) townhouses per building and 29 affordable housing apartments in one (1) or more buildings, including 25 affordable apartments for the general public and up to four (4) age restricted apartments. Mr. Banisch explained that the Housing Plan Element and Fair Share Plan identifies an exhibit that conceptually depicts the proposed development for the property. The plan for development has been refined taking into account the environmental constraints. The concept plan maintains a 200 foot scenic corridor easement across the Route 202 frontage of the site and requires an additional 100 foot easement adjacent to the scenic corridor easement which will prohibit the development of parking and residential buildings within 300 feet of Route 202. To conclude, Mr. Banisch found the proposed development regulations contained within the proposed ordinance not inconsistent with the Master Plan and recommended adoption of proposed Resolution No. 2019-21 with a slight revision to page two (2). There being no questions by the Board, Mr. Banisch outlined the proposed revision to the second to last line on page two (2).

When asked by Chairman Lewis if the ordinance is similar to the Polo Club site, Mr. Banisch responded in the positive and noted that it is similar in manner and form but pointed out that the subject ordinance has greater setbacks from roadways and between buildings within the development. When asked by Mr. Welsh if the ordinance proposes less density than the Polo Club, Mr. Banisch responded in the positive noting that the Polo Club was 125 units on 12.5 acres and the proposed ordinance calls for 134 units on approximately 42 acres. Mr. Rochat opined that most of the development is proposed on half of the property leaving more open space. Mr. Banisch spoke of the stream corridor and steep slope area that removes a considerable amount of land from the developable area of the site. When asked by Chairman Lewis about next steps for the developer, Mr. Banisch explained that the ordinance would allow the developer to apply to the Planning Board for Preliminary and Final Subdivision and Site Plan approval. Attorney Rubright confirmed that process will involve a detailed application and plan with proper public notice. She outlined some of

the approvals likely to be required including, but not limited to NJDOT, NJDEP, Wastewater Management Plan and Treatment Works approval.

When asked by Ms. Ross the difference between Resolution No. 2019-20 and Resolution No. 2019-21, Mr. Banisch explained that Resolution No. 2019-20 was the consistency review for the re-zoning ordinance for the Matheny School project.

Charles Schwester, 410 Lake Road asked if public comment would be permitted to which Chairman Lewis suggested that it would be more appropriate at the Borough Council meeting and asked Attorney Rubright to expand on the issue. Attorney Rubright outlined the ordinance introduction and public hearing process before the Borough Council and reminded those present that the Planning Board is charged with reviewing the proposed ordinance for consistency with the Master Plan; the Governing Body holds the public hearing. She noted that the noticed public hearing is on Monday, December 23, 2019 at which time public comment could be provided.

Jon Sobel, 44 Spring Hollow Road noted that the public was not given the opportunity to speak before the Borough Council voted to introduce the ordinance to which Attorney Rubright pointed out that the process, under the required Statutes, calls for the introduction and then the public hearing.

There were no additional questions or comments from the Board.

RESOLUTION

1. **Resolution No. 2019-21** Finding that a proposed ordinance is consistent with the Master Plan and should be adopted by the Borough Council

Councilwoman Tweedie made a motion to approve Resolution No. 2019-21 and to accept the comments and recommendations by Mr. Banisch. Mr. Welsh seconded the motion. The motion carried by the following roll call vote:

Roll Call:

Aye: Ms. Layton, Mr. Rochat, Councilwoman Tweedie, Mayor Vallone, Mr. Welsh and Chairman Lewis

Nay: Ms. Ross

Abstain: None

CORRESPONDENCE

The Board reviewed the following items of correspondence. Mr. Banisch noted that he read Mr. Lieberman's letter and most items were accurate however, he wanted the record to reflect that the ordinance will allow the removal of invasive species and the reestablishment of native vegetation within the easement along with paths and benches; no parking lots or buildings will be constructed. Attorney Rubright cautioned the Board that by virtue of receiving the letter it did not imply any agreement by the Board.

1. A letter dated November 4, 2019 from Stuart J. Lieberman, Esq. re: Pulte Homes Development, 220 Route 202, Far Hills, NJ.
2. New Jersey Freshwater Wetlands and Flood Hazard Area Protection Act Legal Notice dated November 15, 2019 from EcolSciences re: Pulte Homes New Jersey, LP, Block 5, Lot 4.
3. A letter dated November 20, 2019 from Anthony Melillo, Melillo Equities re: 27 Route 202, FH, LLC/27 Route 202, Far Hills, NJ, Unit 5.
4. The NJ Planner, September/October 2019 edition (Vol. 80, No. 5).

ZONING UPDATE

1. November 26, 2019 - Memo

The Board reviewed the zoning update and there were no questions or comments.

PUBLIC COMMENT

Sohail Khan, 3 Fox Hunt Court opined that the public meetings have given residents the feeling of a “subject and ruler” mentality; decisions have been consistently predetermined and pushed through. He opined that the Borough was changing the zoning to accommodate the developer. He questioned the pace at which decisions had been made and the lack of providing the public the ability to speak and be heard. Mr. Banisch noted that the Borough did not have the opportunity to approach the issue on its own schedule; the compliance timing was dictated by the Court. When asked by Chairman Lewis to explain what will happen if the Borough does not comply with the schedule, Mr. Banisch explained that if the Borough doesn’t maintain the schedule of compliance dictated by the Court there is potential to lose immunity from builders remedy lawsuits; this is the compliance phase of a settlement agreement that the Borough entered into to address its third round affordable housing obligation. Attorney Rubright explained that the Borough, through the settlement process, was able to guide its destiny with regard to the development and also to negotiate a lower number. Mr. Banisch added that the Borough was able to negotiate age restricted units along with the price point. Mayor Vallone clarified that when negotiations began with Fair Share Housing they were looking for 165 affordable units, through the negotiation process that number was reduced to the low 70’s. When asked by Mr. Welsh about benchmarks moving forward, Mr. Banisch explained that the fundamental piece was establishing zoning to create the realistic development opportunity that the courts require.

Charles Schwester, 410 Lake Road, questioned the market rate terminology. He congratulated the Mayor on negotiating the age restriction provision and recommended that the Planning Board hold the developers to the agreed upon higher price point.

Sohail Khan, 3 Fox Hunt Court opined that there were other options to address the Borough’s obligation and felt that the Borough was misled as to the process and urgency.

David Karner noted that he was present when the Polo Club was built and it was unwanted development at the time. At the same time Bedminster Township was going through a development process when it fell victim to builders remedy and the result was The Hills. Mr. Khan argued against the timeline however Mr. Karner opined that, due to lack of involvement, most are not aware of the court mandated schedule.

Janice Vallone, Sunny Branch Road opined that the Borough Council and Planning Board were taking the proper steps to establish guidelines to avoid builders remedy. She explained that the Borough's actions were in response to a State mandate and suggested that Mr. Khan contact the legislature and the Governor to express his concerns.

John Sobel, 44 Spring Hollow Road, opined that the Planning Board controls the process and expressed his disappointment with the lack of transparency. He questioned the validity of notice that was provided for a meeting where a settlement agreement was finalized and whether there was a schedule issued by the Judge. He opined that the Borough was expediting the process and not listening to the residents. He asked if the Planning Board met to review the ordinance to which Mr. Banisch responded that there were no work-sessions leading up to the consistency determination. Attorney Rubright noted that the ordinance was available for review since introduction by the Borough Council. Mr. Banisch reminded those present that the developer presented plans for public review and comment. Councilwoman Tweedie explained that the proper time for public comment is at the ordinance public hearing. Attorney Rubright reiterated the process for ordinance introduction and adoption and explained that the ordinance did not contain anything new since it mirrors what the Planning Board adopted in July as part of its Housing Element and Fair Share Plan. She added that the Planning Board will control the site plan process and will review all of the issues during the noticed public hearings for the application. Mr. Sobel opined that quick decisions by the Borough were unnecessary so long as good faith efforts can be demonstrated to the court. In conclusion, Mr. Sobel opined that the Borough should have a better understanding of the consequences before moving forward.

Charles Schwester, 410 Lake Road asked if there was a back-up plan to which Mr. Banisch opined that the Borough Council would have to determine the next step if that circumstance presents itself.

Dr. George Mellendick, 260 Lake Road, questioned the process and availability of documents and he expressed concern with the accuracy and timeliness of the minutes. Attorney Rubright reviewed the ordinance noticing process noting that the ordinance was available from the Borough Clerk. Dr. Mellendick noted that he called the Borough office and the ordinance was not available after it was introduced. When asked how people know to ask for a copy of the ordinance, Mr. Banisch explained that the ordinance introduction is published by title in the newspaper. Dr. Mellendick opined that the Borough should improve communication. Borough Attorney Joe Sordillo confirmed that a full copy of the ordinance was posted on the Borough webpage and noted that the court order requires adoption of the ordinance by December 23, 2019; the Borough requested additional time but was denied.

David Karner questioned why Ms. Ross voted no on the consistency review but she declined to provide a reason. She asked if a price point could be set within the ordinance to which Mr. Banisch responded in the negative. When asked if the zoning will revert back if the developer does not pursue approvals, Mr. Banisch responded in the negative.

Jack Carhill, Far Hills Ave. opined that Pulte not being present for the Borough Council presentations was disrespectful. Mr. Karner noted that he and the Mayor met and the issue was discussed with Mr. Melillo.

Chairman Lewis closed the meeting to public comment.

ADJOURNMENT

Motion by Councilwoman Tweedie and seconded by Vice Chairman Rochat and unanimously carried to adjourn the meeting at 8:36 p.m.

Respectfully submitted,



Shana L. Goodchild
Planning Board Secretary

APPROVED 01/06/20