

LAWRENCE TOWNSHIP PLANNING BOARD MEETING
Monday, May 1, 2017

Present: Maria Connolly
Philip Duran
James Kownacki, Councilman
Kevin P. Nerwinski, Municipal Manager
Terrence Leggett, Vice Chairperson
David Maffei, Mayor
Stephanie Pangaldi
Kim Taylor
Doris Weisberg
Edward Wiznitzer, Chairperson

Absent: None

Excused Absence: Diego Samuel

Also Present: Phil Caton, Planning Consultant
James F. Parvesse, Municipal Engineer
Edward Schmierer, Planning Board Attorney
Susan Snook, Recording Secretary

Statement of Adequate Notice:

Adequate notice of this meeting of the Lawrence Township Planning Board has been provided by filing the annual meeting schedule with the Municipal Clerk as required by law; by filing the agenda and notice with the Municipal Clerk, posting prominently in the Municipal Building and mailing to the Trenton Times and the Trentonian newspapers.

Oath of Office:

Mr. Nerwinski was placed under oath. Mr. Schmierer, Esquire administered the oath.

Public Participation (for items not on agenda):

None

Minutes for Approval:

The March 20, 2017 minutes were approved per unanimous vote.

Resolutions:

Resolution No. 12-17 for Minor Subdivision Application No. S-5/16; **Greenacres Holding Company**; 2116 Lawrence Road; Tax Map Pages 30.02 and 30.04, Block 3004, Lot 198 was unanimously approved.

Applications:

Minor Site Plan with Variance Application No. SP-5/17; **Federal Realty Investment Trust (Automobile Dealership)**; 3371 Brunswick Pike; Tax Map Page 52.02, Block 5201, Lot 33

Mr. Schmierer stated their notice was in order. The Board took jurisdiction and the application was scheduled for the May 15, 2017 meeting.

LAWRENCE TOWNSHIP PLANNING BOARD MEETING
Monday, May 1, 2017
Page 2

Minor Subdivision with Variance Application No. S-1/17; Levico Development, Inc., 253 Drift Avenue;
Tax Map Page 23.03, Block 2319, Lots 8 and 9

Mr. Schmierer stated their notice was in order. The Board took jurisdiction and the application was scheduled for the May 15, 2017 meeting.

Old Business / New Business / Correspondence:

Mr. Caton presented new information on Affordable Housing. Mr. Caton distributed a map and two sheets of paper, copy attached, per Council's vote last week and the Township has settled the litigation with the Fair Share Housing Center. The court trail has been going on for 28 days and at this point all the municipalities in Mercer County, who were participating in the trial have settled with the exception of the two Windsor's and Hopewell. The settlement document that was signed at the end of last week, on April 29th, therefore, the Township is not sharing any further legal expenses as it has been for the prior 28 days.

Mr. Caton went over the process and just give you food for thought, we are not going to have to do anything about this Affordable Housing plan for some weeks; however, Mr. Caton wanted to get it to the Planning Board members so they can start thinking about it. The Fair Share Housing Center retained an expert, David Kinsey and he prepared and calculated what every municipalities fair share in the state would be. In the case of Lawrence his number for the third round, the round we are in right now, was 1,586 units.

At the top of that third round fair share plan summary, the present need is 73 units (those are the units that are calculated to be occupied by low income households currently and not up to physical standards), deteriorated units or over crowded. Our response to the present need for the last 30 years has been to run a rehabilitation program and that continues to be our response under the settlement. We also had the option of participating in the Counties housing rehabilitation program, so that is an alternative and we can trigger that any time we want.

The next line, prior round, which is 1987 thru 1999 is 891 units was our fair share for that prior round and we have already had COAH approval of our plan to address the 891 units and in fact, those are illustrated in the other chart which says composite fair share plan for Rounds 1 thru 3 so rounds 1 and 2 are comprised in that prior round (1987 – 1999) 891 units and Round 3 is our current round. There was just a court ruling about the gap present need and that goes from 1999 to 2015, that 16 year period was the source of a lot of controversy between municipalities and Fair Share Housing Center and New Jersey Builders Association. Municipalities generally arguing that since COAH's rules were not in place during that time, COAH adopted rules but they were overturned twice, so no rules were really in place during that time, the municipalities should not have any obligations to meet during that time. This went all the way to the Supreme Court, which disagreed with the municipalities and said there should be a way of incorporating within the concept of present need, the need that developed was unaddressed between 1999 and 2015; so it instructed the Courts to go figure that out.

They have not done that yet, but they are going to. In the meantime, Fair Share Housing Center expert figured it out for them, for their side, and the allocation to Lawrence was 768 units. The final component of the Fair Shares, the perspective need, that is from 2015, when all of this started as a result of a Court decision to 2025, that ten year period is called the prospective need and again the Fair Share Housing Center experts allocation for Lawrence was 818 units; so adding together the gap present need and the perspective need, which is this 26 year period from 1999 to 2025 brings us 1,586 units.

LAWRENCE TOWNSHIP PLANNING BOARD MEETING
Monday, May 1, 2017
Page 3

When talking with the Fair Share Housing Center, the Township said essentially there is no way they are going to be making a plan for 1,586 units. Lawrence was the first municipality in the State to get Round 3 certification. So Fair Share Housing Center stated they will reduce the number by 30% and will bring that down to 1,110 units and the Township stated this is still too high, more than we should be responsible for this Third Round. A further argument was made that Lawrence is not the Lawrence of 2017, it is not the same as Lawrence of 1987; we do not have the kind of vacant land we used to have because it is a mature municipality. There is a device in COAH's rules called the vacant land adjustment that allows municipalities whose number is higher than they think they can accommodate to prove it. We undertook a vacant land analysis and you have to look at every piece of vacant land suitable for multi-family housing and impute a density to it for the entire Township and when we did that we found that we had a development potential, which is realistic of 696 units.

696 units is 414 units short of that third round settlement number of 1,110 and the Fair Share Housing Center has been all over our work and our figures and they have agreed that we have this realistic development potential of 696, we have is what is called an unmet need which is the difference between that and the calculated number of 414. What is our program for addressing these two components? The realistic components, like a hard number, it is a number that Court expects us to have a plan to meet. The unmet need is a softer number because after all it is a number beyond which the Township can really accommodate because we have proven that. The Court still and Fair Share Housing Center still want us to make a good faith effort toward that but it does not have to be at the same level of rigor as the realistic development potential.

What this ends up to in terms of a plan is we first have 31 credits that are a result of this chart and all the different productions and mechanisms that are listed on the chart from the prior round and the third round. We have a surplus of 31 units. Second thing we are obligated to do under this settlement is to enact a mandatory set aside ordinance and what this does it says since the Township was not able to meet its full fair share number, if during the next ten years, since it is 2017 it is eight years to 2025, if the Township decides to rezone an area for multi-family housing or if the Zoning Board gets a use variance and approves for a multi-family housing or single family housing existed, then those multi-type family developments have to have the customary set aside.

The theory being that the Court does not want a Town to say we don't have enough land to meet our fair share and as soon as they get Court approval they turn around and rezone something for a multi-family. It is not an obligation to re-zone, if the Town decides to rezone or if the Zoning Board decides to permit a use variance then it will have 15% set aside if it is rental and 20% set aside if it is for sale, just like normal.

The third unmet need program is overlay zone on certain tracts in Town. The first is Morris Hall, that is already zoned for senior citizen housing at 14 units to the acre and this is the portion of the Morris Hall property adjacent to the nursing home that was recently built and has 10 acres left. So this is no change and we are getting credit for it, but it is already zoned that way. The next two are two parcels on Princess Road that are next to one another, Hub Distributors and Capital Health. Hub is about 10 acres and Capital Health is about 31 acres and these overlays provide the property owner with the ability to do multi-family housing with a set aside but it does not take anything away from them. Hub Distributors is a light industrial zone and they can continue to operate there under the zoning that they have for as long as the ordinance allows. They will be able if they choose to build a multi-family development there, as would Capital Health on the property next door. In addition to the light industrial uses that are already provided there in the ordinance.

LAWRENCE TOWNSHIP PLANNING BOARD MEETING
Monday, May 1, 2017
Page 4

The last two, Fampec and Tricone Engineers, are two small parcels adjacent to the Mall by the car dealerships and the inspection station, which are split by the drive. These are zoned highway commercial and in addition to highway commercial, there are 5 and 7 acres respectfully, in addition to highway commercial they would like the other be able to build a multi-family housing (80% market rate and 20% of low and moderate with a for sale and 85 – 15 for rent). The final unmet need obligation we would have is to do a redevelopment study of the Lawrence Shopping Center, which is something the Township has been considering doing to see if there is a way of improving the Shopping Center. The nature or extent of the study is up to us and whether or not it results in housing, which is a permitted use, is up to us. All we are committed to do in the settlement agreement is to look at it.

This finished the unmet need and the realistic development potential is there are two sites that are up for re-zoning and this is not an overlay zone in the case of Brandywine (yellow) which is a 50 acre parcel at the back of the Lenox Drive office park and when the Supreme Court's decision came down in 2015, Brandywine filed to intervene to our case. They were the only interested party that said they wanted to track the progress of the Township's compliance. So we negotiated with them for 300 units, which is indicated on the map, 20% of which will be low and moderate income units and able to negotiate a better deal with Brandywine because we knew they were interested and did not want them to be an objector to our plan. They agreed they will do a rental housing development, but instead of having 15% low and moderate units they will have 20%, which means 60 units of credit rather than 45 from the 300 units that they will be permitted to build.

Secondly, the research and development zoning that is currently on that will be lifted. Unlike the others where the multi-family zoning is just being added, in this case, because we really have to count on them, the other zoning, the research and development zoning will be extracted and removed from the property and actually the Township is going to put this in writing in a settlement agreement of its own with Brandywine and obligate them to do the rental housing. They already agreed to all of the terms, just have not received the settlement agreement for Council yet.

Finally, the Quaker Bridge Mall property, which is a 103 acre property and is programed for 350 units at 20%. This unlike, Brandywine we were able to negotiate with Fair Share Housing Center to allow this to be an overlay so the regional commercial zoning, which covers the entire Mall property will remain and will have the additional right to build mix income housing up to 350 units and will be writing and reviewing the ordinance for that as with the rest of these. Issues as to height, density and location on the property are all issues we will have an opportunity to talk about.

The way these cases typically run, now that there is a settlement with the Council with Judge Jacobson in Mercer County will set a time for a hearing on the fairness of this proposed settlement to the interest of low and moderate income people and will probably occur in a couple of months. Mr. Caton stated he expects the Court to fully approve this and once it does it will give the Township probably four months to make the changes to the Master Plan Housing Element and draft the ordinances that are necessary to effectuate the plan. This is about a six month window in which the Board can talk about this.

Mr. Caton stated we did well and only have to secure development on one site, Brandywine. We have no idea whether the Mall is interested in residential development there. Mayor Maffei asked if the Lawrence Shopping Center which has 53 acres, can it be subdivided. Mr. Caton stated sure and do not know at the moment of how many lots are involved with the Shopping Center now. Mayor Maffei stated it might make the Lawrence Shopping better. Instead of having 400,000 sf of retail space they could have 200,000 sf of retail space, which would fill up the Mall completely and the subdivision could be used for housing.

LAWRENCE TOWNSHIP PLANNING BOARD MEETING
Monday, May 1, 2017
Page 5

Mr. Caton stated this is a mixed use and if the Board decides that a residential development for a part of the Shopping Center is a good idea and there are ways to do it. You could have residential over retail or you could have residential adjacent to retail and the issues to whether it is family housing or senior housing, which there is adjacent to right now, it can be looked at. It did change hands a few days ago and would like to engage a discussion with them.

Councilman Kownacki stated he is not happy with the Brandywine site and to put 300 units there it could be school kids so we have to look at what is going to happen with our school system. Mr. Caton commented that this would be family housing and they proposed that the market rate units could be just one and two bedrooms, so the number of school children that should be generated should be very modest. The affordable housing units, the 60 affordable units, they will be 1, 2 and 3 bedrooms, but the school population will be modest.

Mr. Nerwinski stated this does not obligate us to do anything to comply with this development agreement. It was a number to get the settlement reach but does not bind us to do anything to make that number real.

Mr. Caton concluded that the next step which will not be for a couple of months is to look at preparing a housing element to incorporate this which is part of the Master Plan. Once a draft is completed and the Board goes over it, it will be up for adoption, which is required, within the next six months.

Adjournment:

There being no further business to come before the Board, the meeting was adjourned at 7:42 p.m.

Digital audio file of this meeting is available upon request.

Respectfully submitted,


Susan J. Snook
Recording Secretary

Minutes approved: June 19, 2017