

**Kingwood Township
Housing Board Meeting Minutes
December 8, 2008**

Call to Order

The meeting was called to order by the Township's Deputy Mayor, James Burke at 5:10 P.M.

Notice Requirements

Adequate notice of this meeting was provided in accordance with the Open Public Meetings Act and published in the Express Times on December 4, 2008, and by telefaxing a copy of the notice to the Hunterdon Democrat, Courier News and the Star Ledger on December 2, 2008. A copy of the notice was also posted in the Kingwood Township Municipal Building and Post Office on December 2, 2008.

In order to ensure full public participation in this meeting, all members of this committee or Board, and also members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over talk, and further, all persons are ,the Township. Your cooperation is appreciated.

Roll Call

Present: James Burke
James Wells
Richard Abbott
Ron Hartpence

Absent: Phil Lubitz

Also present at the meeting were Planner, David Banisch from Banisch Assoc., and Secretary Keller.

The meeting started with David Banisch who reviewed the proposed plan. He explained the changes that were made and noted he met with the developer from the Route 12 Business Park. Mr. Banisch reviewed his memorandum of December 5, 2008. This memorandum is a Proposed Modification to Draft a Housing Plan Element and Fair Share Plan. The following is a copy of the memorandum.

Memorandum

To: Kingwood Township Housing Board
Kingwood Township Planning Board
Kingwood Township Committee

From: David J. Banisch, PP/AICP

Date: December 5, 2008

Re: Proposed Modification to Draft Housing Plan Element and Fair Share Plan

The purpose of this memorandum is to identify an alternative affordable housing compliance mechanism to the inclusionary zoning that is identified in the draft Housing Plan Element and Fair Share Plan. The Township has been approached by the owner/developer of the Route 12 Business Park with a proposal to construct affordable housing in a possible mixed use configuration on the site and adjoining lands near the corner of Pittstown Road and Route 12. We met with the owner/developer on Thursday, December 4 to discuss his proposal. The number of affordable units that has been discussed would effectively close the gap between the number of affordable units that are now identified in the plan without an inclusionary zoning overlay and COAH's growth share projection, which is approximately 35 affordable units.

This memorandum identifies (1) a list of pros and cons related to inclusionary zoning; and (2) a brief description of the mixed use housing proposal for the Boards and the Township Committee to consider as an alternative to inclusionary zoning. If the Boards and Township Committee decide to eliminate inclusionary zoning in the plan, the change should be made to the Housing Element and Fair Share Plan prior to adoption on Tuesday night.

Inclusionary zoning – overview provided in the draft Housing Element and Fair Share Plan:

COAH's regulations require a 40% increase over the existing density that is currently permitted in the ordinance. Although the Township's zoning does not specify density for the AR-2 zone, the 40% increase in density over Kingwood's minimum lot size requirement of 7 acres translates into a requirement of one dwelling unit per 5 acres ($.1428 \text{ du/ac} \times 140\% = .2 \text{ du/ac}$ or 5-acres). This density does not include environmentally constrained areas, which may be deducted under the zoning ordinance today. COAH's regulations also require mandatory clustering or lot size averaging in the inclusionary zoning ordinance. This will result in the Township being able to include specific performance standards, such as a minimum open space requirement or farmland set-aside as a by-product of subdivision (i.e. 50% open requirement).

In essence, this compliance mechanism allows for the municipality to capture the affordable housing obligation that accrues from new development at the time of approval, and shifts the cost and construction burden to the developer.

COAH's exclusionary zoning ordinance provisions permit the Township to give the developer the option of (1) constructing affordable units off site; or (2) making a payment in lieu of construction. If the Township includes this provision in the ordinance, it must be provided so that the developer may exercise the option at his discretion. If no such option is provided in the Township's ordinance, the developer must construct the affordable units on site at COAH's growth share ratio of one affordable unit for every four market-rate units approved.

The exclusionary zoning technique that is proposed in the fair share plan would apply to all zoning, township-wide. The idea being that by applying the inclusionary zoning regulations to the entire AR-2 zone, the potential impact is diluted as a market preference. In other words, if exclusionary zoning were to be adopted for selected areas of the Township, it could be expected that the additional unit yield available under exclusionary zoning may render these areas more attractive for development, and thereby incentives development with the density bonus provision over other lands in the Township that do not include the density bonus (i.e. straight 7-acre minimum lot size areas).

The inclusionary zoning component in Kingwood's plan is effectively the default strategy in the plan, because it serves as a back-stop against any potential failure of the strategies and techniques that are identified in the plan to address the actual affordable housing obligation to date (i.e. prior cycle 1987-1999; and 3rd Round growth share to date). There are a number of partnerships identified in the draft Plan, which may be difficult to bring to fruition. These partnerships, along with the accessory apartment compliance mechanism address the actual 2004 to present growth share.

- Actual growth share to date: 47.02 units;
- Partnership and accessory apartment compliance mechanisms: 49 units in draft Plan.

Therefore, the inclusionary zoning may be viewed as the means to address the 'prospective' growth share obligation. However, COAH requires that inclusionary zoning become effective as a condition of substantive certification. In essence, if inclusionary zoning is identified in the plan, it must become law in order for the municipality to receive 3rd Round substantive certification from COAH. Inclusionary zoning is not subject to COAH's implementation schedule provisions, which allow the municipality to defer the full implementation of an affordable housing mechanism by two years (initially).

Summary of Route 12 Business Park Proposal:

The Route 12 Business Park proposal is to eliminate the self-storage units approved in the plan and to construct a total of 450,000 sq. ft. of nonresidential and commercial development, including the existing Building B (89,000 sq. ft.) and approved Building (34,500 sq. ft.) The approved self storage units would be eliminated and replaced with 60,000 sq. ft. of affordable housing (60 units averaging approximately 1,000 sq. ft. per unit) and approximately 265,000 sq. ft. of flex commercial / light assembly use. The developer has advised us that he has reached agreement with the adjoining landowner to the east to acquire additional land, and his plan is to expand the existing wastewater treatment facility to accommodate the new development. the developer has conducted feasibility analyses and determined that the proposal is supportable, based upon upland area that is confirmed in a Letter of Interpretation from the NJDEP. The additional nonresidential development and residential development would be provided in separate buildings, however common driveways and parking areas may be developed. All development would be constructed in phases, depending on the market absorption rate.

As part of the proposal, the developer would seek zoning adjustments to accommodate the proposal and a series of assurances and other agreements with the Township. These include:

- Reasonable development standards, including reasonable requirements for landscaping, building façade treatment, and topography/grading;
- Expedited local Planning Board approvals;
- Sign standards appropriate to multi-tenant nonresidential occupancy on a State Highway;
- Additional incentives, such as limited market-rate housing, which may become necessary as project pro-forma is developed and actual development costs are obtained.
- Township asked to consider assuming roadway dedication and road maintenance.

Based upon preliminary calculations, the development would generate an affordable housing obligation of approximately 48 affordable units. The 60 units proposed could effectively address the Township's entire 33 unit family rental obligation. A maximum of 16 units could be age-restricted under COAH's rules. If the 11 remaining units were family rentals, the number of affordable housing credits resulting from the project would be approximately 71 affordable housing credits.

Pros / Cons - Inclusionary Zoning

PROS

- Includes both market-rate and the affordable units that are required under COAH's growth share methodology.

- Guarantees that affordable housing will be built, in accordance with COAH regulations, with every market-rate development over 4 units, and avoids shifting the responsibility to construct affordable housing to the Township.
- Affordable units are constructed by the developer.
- Would require reduced lot sizes for single-family in the form of mandatory clustering and/or lot-size averaging – would identify mandatory open space set aside requirements and assist in reducing sprawl development and conversion of open lands to large residential lots.
- Variety of housing options within a development provides more affordable options for housing within the community.
- May be designated in areas served by individual well and septic systems (i.e. outside of sewer service areas).
- Density bonuses or incentives may be provided to encourage the construction of additional affordable units (i.e. greater than 20% affordable)
- Can be sale or rental with added incentives for developers to build rentals.
- May provide opportunities for partnerships with developers to address other affordable housing obligations – shift the burden of construction to experienced home builders.
- COAH's regulations accept inclusionary zoning as presumptively valid – not subject to zoning challenge.
- Distributes affordable housing throughout the Township – the idea of locating affordable housing in one area of town may be found to be undesirable

CONS

- Increases density wherever inclusionary zoning is designated. Would increase number of units that developer may build in the Township (changes density from 1:7-acres to 1:5-acres)
- Mandatory increases in density and reduced lot size criteria required under inclusionary zoning
- Mandatory reduced bulk standards such as reduced lot sizes, setbacks, result in a change from current zoning, lot sizes and bulk requirements, which may be seen as inconsistent with community expectations for development;
- Requires affordable housing units to be built in accordance with COAH's fixed schedule for delivery of affordable units, based on percentage of market-rate units constructed:
- Administrative capacity will be required for resales or rentals – potential administrative burden on local government from small developments vs. private nonprofit and private for profit affordable housing developers/operators normally bear the administrative burden.
- Locates affordable housing in all developments 4-market rate units and larger and may situate affordable housing in remote locations in the Township, transportation could be a problem for residents in affordable housing.

- Increased density could result in accelerated pace of development when economy improves. In light of pending zoning changes in nearby municipalities in the Highlands, increased density could enhance attractiveness of developing within inclusionary zoning overlay.
- Accelerated pace of development would result in increased local services cost burden.
- Increasing density may not be necessary at this time because COAH's regulations are now subject of Court challenge. The COAH provisions adopted in 2008 may not survive Court challenge.

The pros and cons listed above are intended to provide the Boards and the Township Committee with a range of considerations to evaluate the question as to whether the Route 12 Business Park proposal should replace inclusionary zoning in the Township's Fair Share Plan. While the feasibility of the Route 12 Business Park is not fully determined, the Township could identify the proposal in the Fair Share Plan and subsequently amend the plan in the future if the proposal fails.

A more detailed explanation of the Route 12 Business Park will be provided for Monday's Housing Board meeting and Tuesday night's public hearing. We will prepare an amendment to the draft plan to replace the exclusionary zoning overlay proposal in the plan, if it is determined that the change should be made prior to adoption of the plan.

We trust that the Board and the Township Committee will find this information useful in its consideration of this matter.

The Housing Board members reviewed the plan with Mr. Banisch and had many questions. Mr. Banisch responded. There was a discussion on the illegal apartments in the Township. Mr. Banisch will be writing up a letter to send to the owners of the apartments.

Mr. Banisch noted that this proposed plan will be presented to the Planning Board on December 9, 2008 for approval. The Township Committee will then adopt a Resolution approving the plan.

It was moved by James Wells, seconded by Ron Hartpence and carried the motion to present this plan as discussed and suggested by the Housing Board to the Planning Board, and the Township Committee for their approval for a BP Zone Mixed Use Affordable Housing Development Option.

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Roll Call Vote:

| | | |
|----------------|---|-------------------------|
| Aye | - | James Burke |
| | | James Wells |
| | | Richard Abbott |
| | | Ronald Hartpence |
| Nay | - | None |
| Abstain | - | None |
| Absent | - | Phil Lubitz |

All voted **Aye** to **Adjourn** the Housing Board meeting at 6:20 P.M.

Respectfully submitted,

Cynthia L. Keller, RMC
Housing Board Secretary