

**MINUTES OF THE COMBINED
CONFERENCE/WORKSHOP AND SPECIAL MEETING
June 16, 2020**

The Livingston Planning Board met for a combined Conference/Workshop and Special Meeting, by means of Zoom Webinar telecommunications and a link to Facebook Live, opening at 7:41 P.M. Notice of the Meeting had been published pursuant to the Open Public Meetings Act and guidance provided by the State’s Division of Local Government Services.

Secretary Jackie Coombs-Hollis announced that proper notice had been given and called the Roll:

Present:	Peter Klein, Chairman Richard Dinar, Vice Chairman Rudy Fernandez Martin Kalishman Nathan Kiracofe Barry Lewis Sanjay Nambiar Samuel Ratner Michael Rieber Stephen Santola Jackie Coombs-Hollis, Secretary Catherine Maddrey, Assistant Secretary Rocco Marucci, Township Assistant Engineer Richard Vallario, Board Attorney	Absent:
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1. Minutes. The Minutes of June 2, 2020 were accepted as presented.

2. Old Business Universal Microlab, LLC - Application No. 2017-17-PFSPV(Amendment) Consideration of Memorializing Resolution – Members Dinar, Fernandez, Kalishman, Kiracofe, Lewis, Alternate No. 1 Nambiar (in place and stead of Member Santola), Ratner, Rieber and Klein, being the Members present who had participated in the decision, having no questions or comments after having read the Resolution, and feeling that the Resolution was ready for a vote, unanimously adopted the Resolution.

3. New Business

- a. CP Management Group II, LLC – Application No. 2017-83-PFSPV (Amendment) – Consideration of Retaining Traffic Expert
Upon motion by Member Kalishman and second by Member Ratner, it unanimously

RESOLVED, that the Planning Board of the Township of Livingston hereby finds that the technical review services of an expert in traffic, to render advice to the Board, is required for proper consideration of issues that have arisen in connection with Application No. 2017-74-PFSPV (Amendment); and it is

FURTHER RESOLVED, that the Board engage the services of an expert in traffic to conduct a technical review of the plans and the issues that have arisen in respect thereto and to provide expert advice and opinion to the Board; and it is

FURTHER RESOLVED, that, pursuant to Section 170-52.B of the Code of the Township of Livingston, Applicant CP Management Group II, LLC is hereby required to file with the administrative officer an escrow deposit fee of adequate funds to cover the costs that may be incurred by the Board for such technical review.

- b. Amended and Restated Litigation Settlement Agreement with Livingston Corporate Park Associates, LLC – Upon motion by Member Rieber and second by Member Lewis, the following resolution submitted to the Board prior to the Meeting was unanimously adopted:

WHEREAS, Livingston Corporate Park Associates, LLC (“LCPA”) is an intervenor in a declaratory action filed by the Township of Livingston (“Township”) and pending in the Superior Court of New Jersey, Law Division, Essex County, Docket No. ESX-L-4773-15 (“DJ Action”); and

WHEREAS, the DJ Action seeks a judicial determination of the Township’s compliance with its obligation to provide realistic opportunity for a fair share of housing affordable to lower income households as set forth in decisions of the Supreme Court of New Jersey; and

WHEREAS, LCPA intervened in the DJ Action based on its stated interest in multifamily residential inclusionary development of owned property, consisting of approximately 13.847 acres designated as Block 6101, Lot 45 on the Township Tax Map and located near the intersection of Eisenhower Parkway and South Orange Avenue, that is currently improved with an office building, surface parking and related site improvements; and

WHEREAS, following a series of meetings and communications, representatives of LCPA, Township and the Planning Board (“Board”) recommended a concept for an overlay rezoning of the LCPA property for multifamily development subject to an affordable housing set aside requirement as described in a draft Litigation Settlement Agreement, conditioned upon adoption of an implementing zoning ordinance amendment, to be negotiated in good faith by the parties, that would be the subject of public hearing conducted in accordance with applicable statutory procedural requirements and in compliance with all other requirements; and

WHEREAS, LCPA, Township and Planning Board then entered into a certain Litigation Settlement Agreement dated December 5, 2017 (“Litigation Settlement Agreement”) in resolution of claims by LCPA as an intervenor in the DJ Action; and

WHEREAS, the Litigation Settlement Agreement is contingent upon it receiving Court approval in the DJ Action as well as such approval of: a separate agreement with intervenor Fair Share Housing Council (“FSHC”); the 2016 Housing Element and Fair Share Plan; and Court entry of a new compliance judgment including a ten-year period of repose from builders remedy litigation following a duly noticed judicial fairness/compliance hearing in accordance with applicable legal requirement; and

WHEREAS, in response to subsequent comments from Special Master Frank Banisch, P.P. and from counsel for FSHC, the parties have engaged in further negotiations that led to the preparation of an Amended and Restated Litigation Settlement Agreement; and

WHEREAS, on June 1, 2020 the Township Council adopted a Resolution approving the Amended and Restated Litigation Settlement Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Livingston that entering into the Amended and Restated Litigation Settlement Agreement presents an outcome that would be in the best interests of the public good and welfare; and

IT IS FURTHER RESOLVED that the Board Chairman is authorized to sign on behalf of the Board the Amended and Restated Litigation Settlement Agreement in final form acceptable to the Township Attorney and Special Counsel.

5. Minor Subdivision
Block: 3203; Lot: 9
116 East Cedar Street
Application No. 2020-6-MSUBV
Mango Tree Real Estate Holdings (NJ), LLC R-3 Zone

The Applicant proposes to subdivide Lot 9 to create two (2) new lots designated as proposed Lots 9.01 and 9.02 that measure approximately 9,903 square feet and 10,390 square feet, respectively. Lot 9.02 would contain the existing house with the existing driveway. Lot 9.01 would be a vacant building parcel for construction of a new single-family home.

Masthew P. Posada, Esq., of Schenck Price, appeared for the Applicant.

Witness for the Applicant: Charles Heydt, P.P., of Dresdner Robin Environmental Management, Inc.

Members of the public with questions: Mary Beth Picini - 6 Dougal Drive
Kejun Mei - 10 Dougal Drive

Members of the public making sworn statements:

Mary Beth Picini - 6 Dougal Drive
Kejun Mei - 10 Dougal Drive
Michael Green - 120 E. Cedar Street

After closing of the evidentiary record and upon the evidence and testimony presented, on motion by Member Dinar and second by Member Kalishman, (and with the Alternate Members not participating) it was unanimously resolved, subject to a memorializing resolution, that the Application be disapproved and denied.

Recess. The Board was in recess from 9:28 P.M. to 9:35 P.M.

6. Minor Subdivision with Variances
Block: 6900; Lot: 11
39 Burnet Street
Application No. 2020-10-MSUBV
Eugene Taylo, Jr.

R-4 Zone

The Applicant proposes to subdivide Lot 11 to create two (2) new lots designated as proposed Lots 11.01 and 11.02 that measure approximately 7,775.8 square feet and 7,375.8 square feet, respectively. The plans denote that the existing improvements on site are to be removed in connection with the proposed subdivision, which includes the removal of the existing 1-½ story frame single-family residential dwelling and 1-car detached garage. Both lots depict building setback lines and envelopes for vacant building parcels for construction of two (2) new single-family homes.

Appearing for the Applicant: Barry H. Evenchick, Esq., of Pashman Stein Walder Hayden

Witnesses for the Applicant: Eugene Taylo, Jr., Applicant
William R. Fox, P.E. & L.S., of Canger Engineering
Associates

No members of the public has questions or offered statements.

After closing of the evidentiary record and upon the evidence and testimony presented, on motion by Member Lewis and second by Member Dinar (and with the Alternate Members not participating) it was unanimously resolved, subject to a memorializing resolution, that the Application be approved and granted upon conditions agreed to.

7. Adjournment. The Meeting was adjourned at 10:10 P.M.

Respectfully submitted,

Jackie Coombs-Hollis, Secretary