

AMENDMENT TO MASTER PLAN

TOWNSHIP OF LIVINGSTON

ADOPTED AND APPROVED AFTER PUBLIC HEARING ON MARCH __, 2009

Background

On December 4, 2007 the Planning Board of the Township of Livingston (“Board”) adopted the 2007 Master Plan upon reexamination and comprehensive revision, but, because of then current litigation regarding the regulations of the New Jersey Council on Affordable Housing, the Board, although engaged in a full study and analysis of anticipatable affordable housing obligations, was unable to accurately and responsibly determine the prospective affordable housing obligations of the Township of Livingston (“Township”). As a result, Section IV of the Master Plan keeps in full force and effect the Housing Element and Fair Share Plan adopted on February 4, 1997 as amended through July 5, 2005.

That Housing Element and Fair Share Plan was adopted and amended in settlement of litigation in Superior Court entitled “Livingston Builders, Inc. v. Township of Livingston, et al.” (Docket No. ESX-L-7641-94) in which, after a noticed Mt. Laurel fairness hearing, there was entered an Order Approving With Conditions Mt. Laurel Compliance Plan on April 7, 1997. A second Order Approving With Conditions Mt. Laurel Compliance Plan was entered on April 28, 1998, and a Final Judgment of Mt. Laurel Compliance was entered on February 7, 2000. An amendment was approved by Order entered on September 30, 2005.

New Litigation

On November 16, 2007, Joseph Kushner Hebrew Academy, Inc. (JKHA) became a plaintiff in another civil action against the Township and the Board, in Superior Court, Law Division Essex County (Docket No. ESX L-9126-07), seeking a “Mt. Laurel builders remedy”. In that suit, entitled “Joseph Kushner Hebrew Academy, Inc. and TMB Partners, LLC v. Township of Livingston, et al.”, JKHA seeks to compel the rezoning of a portion of its property at the intersection of South Orange Avenue and White Oak Ridge Road to permit “inclusionary multifamily development” with “a substantial set aside of affordable units”. That suit was consolidated with another builders remedy suit entitled “Squiretown Properties, LLC v. Township of Livingston, et al.” (Docket No. ESX L-9785-07).

On December 2, 2008, the Township, the Board and plaintiff JKHA entered into a Mt. Laurel Settlement Agreement (“Agreement”), subject to court approval, that provides for consideration of adoption of an implementing amendment to the Master Plan Housing Element & Fair Share Plan in accordance with the legal requirements applicable to any such adoption. The claims of the other plaintiffs are not covered by the Agreement.

The Board remains engaged in a full study and analysis of the Township’s anticipatable affordable housing obligations, in light of continuing change in State statutory and regulatory

requirements, with the intent of holding future hearings on a full revision of the Housing Element & Fair Share Plan, but is, nevertheless, now adopting a Master Plan amendment to implement the Agreement.

Amendments to 2007 Master Plan

The one-page “Section IV – Housing Plan & Fair Share Element” of the 2007 Master Plan adopted on December 4, is deleted and the following is substituted therefor:

SECTION IV – HOUSING ELEMENT & FAIR SHARE PLAN

The Township’s Master Plan Housing Element & Fair Share Plan adopted on February 4, 1997, as amended through July 5, 2005, remains in full force and effect subject to the following further amendment:

ADDITIONAL INCLUSIONARY DEVELOPMENT

It is recommended that, subject to a Mt. Laurel Settlement Agreement approved by the Superior Court, the rear portion consisting of approximately 11.65 of the approximately 30.0-acre parcel commonly known and designated as Block 6100, Lot 30 on the Tax Map of the Township be rezoned for inclusionary residential development under zoning regulations that permit the construction of not more than 114 townhouses and not more than 112 multi-family apartment units; with an aggregate total of not more than 226 dwelling units of which not less than twenty percent (20%) of the total units shall be affordable to very-low income, low-income and moderate-income families.

And “Section III – Land Use Element” of the 2007 Master Plan is amended by adding the following additional provision at the end thereof:

Inclusionary Residential Development

The Township is a defendant in a “Mt. Laurel builders remedy” lawsuit entitled “Joseph Kushner Hebrew Academy, Inc. and TMB Partners, LLC v. Township of Livingston, et al.”, Superior Court, Law Division Essex County (Docket No. ESX-L-9126-07).

Recommendation: Subject to a Mt. Laurel Settlement Agreement approved by the Superior Court, the rear portion consisting of approximately 11.65 acres of the approximately 30.0-acre parcel commonly known and designated as Block 6100, Lot 30 on the Tax Map of the Township be rezoned for inclusionary residential development under zoning regulations that permit the construction of not more than 114 townhouses and not more than 112 multi-family apartment units; with an aggregate total of not more than 226 dwelling units of which not less than

twenty percent (20%) of the total units shall be affordable to very-low income, low-income and moderate-income families.

These amendments to the 2007 Master Plan of the Township of Livingston are subject to approval by the Superior Court, Law Division Essex County, in the action brought by Joseph Kushner Hebrew Academy, Inc. in Docket No. ESX-L-926-07.