

**PLANNING BOARD
BOROUGH OF ATLANTIC HIGHLANDS
SEPTEMBER 13, 2018**

WORKSHOP MEETING: 7:30 P.M.

Roll Call **Members Present** – Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Pepe, Mr. Ilarazza, Mr. McGoldrick, Mr. Dougherty
Members Absent – None

Michael Steib was present as Board Attorney. Douglas Rohmeyer was present as Board Engineer. Chairman Neff called the meeting to order and stated that the meeting is being held in compliance with the Open Public Meetings Act. Chairman Neff called for a moment of silent prayer followed by the Pledge of Allegiance.

Public Comment – Mr. Neff opened the meeting to any members of the public who wish to make comments.

Brent Sonnek-Schmelz, 51 Ocean Blvd, offered comments regarding the Board Engineer’s sworn testimony and asked that he be sworn in before any testimony is given in order to ensure the testimony is valid. Mr. Steib indicated he will swear in the Board Engineer going forward. Mr. Sonnek-Schmelz asked if there will be public comment during items on the Agenda. Mr. Steib replied that there will be a question and comment period for the public hearing items, not for the administrative items. Mr. Sonnek-Schmelz replied that he would like to address an administrative item that is on the agenda. Mr. Steib advised that would be out of order. Mr. Sonnek-Schmelz replied that is okay, he will continue to be out of order. He noted that Mr. Fligor voted on the application however in his research Mr. Sonnek-Schmelz did not see a certification that the recording was listened to or transcript was read. Mr. Fligor advised he absolutely did listen to the recording. The Board Secretary advised the certification is in the file. Mr. Sonnek-Schmelz indicated he put in an OPRA Request specifically for that document and he did not received it. Mr. Steib directed the Board secretary to provide a copy. Mr. Sonnek-Schmelz asked about item 11 on the Regular Agenda. Mr. Steib advised they will be announcing that that matter is being carried to the September 27, 2018 Special Meeting at the Elementary School and no testimony will be entered this evening.

Tucker Snidecker offered comments indicating his upset with the Planning Board holding meetings on Back to School Night. Mr. Neff advised that the Planning Board meetings are always held on the second Thursday of the month and the calendar is set at the first meeting of the year.

Donna King, 43 Fourth Avenue, read an excerpt from the Objectives and Goals from the original Master Plan of 1964. She indicated that the Saint Agnes School will be sold. Mr. Colangelo replied that there is nothing in front of the Board for that property so they can not consider it at any time. Without a plan, they do not know what will happen on that lot. Dr. Cetron stated that the Planning Board cannot interfere with private land owners and developers until it becomes an application before the Board. Ms. King asked that the Planning Board get involved in the vision of what we want our town to be. Mrs. Murray added that if they get involved outside of the application process, they will have to recuse themselves from being a part of the hearing process when an application is filed. Mr. Colangelo stated that there was an application that did involve that parish a number of years back and they had a hard enough time finding a quorum to hold the meeting because as parishioners, they have to recuse themselves. Ms. King asked who makes the final decision on the McConnell property. Mr. Colangelo stated they cannot discuss an active

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application. Ms. King indicated that she was upset with not being able to discuss the application. Mr. Steib explained that with respect to the application that is currently before the Board, that they cannot discuss the substance of because the applicant is not present, it will be discussed at the September 27th meeting and the Board will have to make a decision one way or another. In terms of the zoning of the property, that is under the province of the Governing Body. It currently has zoning and that zone is what applies. Anyone who wants to develop that property has to propose a development and if it complies, it complies. But if they do not comply with the zoning, they will have to request variances or waivers or other relief and it will come before this Board. Ms. King stated that nothing that comes before the Board will be exactly as it should be. Everything that comes to the Board, as long as she can remember, is asking for some kind of variance or tweak. She asked that the Board keep their grandchildren in mind so that they have a place to go and learn how to sail a boat.

Mark Fisher asked questions about the wording used on the public comment portion of the Agenda and asked who approves the Agenda. Mr. Neff advised the Board Secretary puts it together and he approves it. He added that he will look into the wording. Mr. Steib advised this is a public comment period not an interrogation of the Board. Mr. Fisher questioned the procedural notice that is on the Agenda and read at each meeting. Mr. Steib explained the wording was changed after a recommendation made at a training seminar held by the Borough's insurance carrier. Mr. Fisher asked if every public planning Board has this statement. Mr. Steib advised he cannot speak to other Boards, however this Board took the recommendation of their carrier.

Kate Wigginton, Avenue D, asked if the 11:00 rule will be followed for the Special Meeting. Mr. Steib advised they have not discussed that yet. Ms. Wigginton asked what ramifications exist for someone who lies during sworn testimony before the board, specifically someone who testifies they are renovating a home for their elderly mother but the mother is still in a nursing home. Mr. Steib explained that if the Board finds that there are false statements made that affect or impact their decision, they can bring it back to rethink that decision if it is a material statement. As far as charging someone for a criminal offense that is not for this Board to do it would have to be done by someone filing a complaint. In the case Ms. Wigginton brought up, the Board should not be considering a poor old mother because it is not criteria for a variance to be granted. Ms. Wigginton asked if a decision will be made at the special meeting for the application that is scheduled. Mr. Steib clarified that the matter will continue on that evening but he cannot say whether or not a decision will be made.

Michelle Walter, 36 South Avenue, stated that she doesn't have any objections to any items but she has a few questions on an item on the agenda. Mr. Neff explained that there will be a public hearing period when we get to that item on the Agenda.

Other Business – Mr. Steib noted that there is no pending litigation.

Mr. Neff advised that he and the Vice-chairman have received a memo from the Borough Administrator earlier today asking that the Board review the Master Plan for suggestions based on applications that come before them for needs that they see are gray matter in the Ordinances and make some recommendations to the Council as to ways to improve. This would be similar to the Annual Report at the end of the year. Dr. Cetron stated that after the Master Plan review, they will have plenty of recommendations; there are already a few on hold.

Mr. Neff noted there is no further business to be discussed during the Workshop Meeting.

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MR. HAWLEY MOVED TO ADJOURN THE WORKSHOP MEETING, SECONDED BY MR. COLANGELO. BY VOICE VOTE ALL AGREED.

There being no further business to come before the Board, the Workshop Meeting Adjourned at 7:55 P.M.

Erin Uriarte
Planning Board Secretary

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REGULAR MEETING: 7:56 P.M.

Roll Call **Members Present** – Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Pepe, Mr. Ilarazza, Mr. McGoldrick, Mr. Dougherty
Members Absent – None

Michael Steib was present as Board Attorney. Douglas Rohmeyer was present as Board Engineer.

Approval of Minutes for the August 29, 2018 Special Meeting

MRS. MURRAY MOVED TO APPROVE THE MEETING MINUTES FOR AUGUST 29, 2018, SECONDED BY MR. COLANGELO.

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Mr. Colangelo, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. McGoldrick
Nays: None
Abstain: Dr. Cetron, Mr. Pepe, Mr. Ilarazza
Absent: None

Approval of Attorney’s Voucher for July 2018 in the amount of \$5,791.00

MR. COLANGELO MOVED TO APPROVE THE ATTORNEY’S VOUCHER FOR JULY 2018, IN THE AMOUNT OF \$5,791.00, SECONDED BY MR. NEFF.

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffmann, Mrs. Murray, Chairman Neff
Nays: None
Abstain: None
Absent: None

PB18-06, Block 142, Lot 5, 17 Avenue D (Denholtz Custom Homes) – Application for Preliminary & Final Subdivision with Variances – Mr. Steib advised that because of the large crowd, this application was heard at the Elementary School however they were unable to conclude and they did not have a date available for use of the school so it was carried to this date so arrangements could be made. This matter will be heard on September 27, 2018 at the Atlantic Highlands Elementary School at 7:30 pm.

Housing Element and Fair Share Plan – Public Hearing – Mr. Steib advised that Erik Nolan is here on behalf of the Borough, along with Susan Gruel, who is the Borough’s Affordable Housing Planner.

Erik Nolan introduced himself as the Borough’s Affordable Housing Attorney. Susan Gruel from the firm of Heyer, Gruel and Associates was sworn in.

Mr. Nolan stated that the Borough is at the stage now where they are applying for third round approval. The Affordable Housing story starts back in 2005 when they were still before COAH and the Planning Board adopted a plan that was endorsed by Council. Right before substantive certification was granted, the 2004 regulations were invalidated so the Borough amended their plan in 2006 and re-petitioned COAH for substantive certification and before that could be approved, COAH’s regulations were invalidated again. COAH adopted new round three regulations in September 2008, the Borough adopted a plan, it was sent to COAH and the 2008

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regulations were then invalidated. In 2014, COAH tried again to adopt third round regulations but they became deadlocked in a vote. At this point, the Supreme Court issued a decision on March 10, 2015 which was the Mount Laurel Four decision, and all the cases went back to trial court however there were no Fair Share numbers calculated, which caused a lot of confusion. Towns that were before COAH were ordered to file a declaratory judgement action to protect themselves from Builders Remedy Lawsuits. To keep the immunity going, they filed a declaratory judgement action on July 2, 2015 asking the courts to approve the Housing Element and Fair Share Plan and grant immunity from Builders'. That motion was granted on September 4, 2015 and they have granted orders to continue that immunity while the Monmouth County Court tried to figure out what the number were. During that time, the Fair Share Housing Center and a consortium of municipalities hired experts to come up with a series of numbers. Eventually there was a trial in Mercer County where numbers were found but they only applied to Mercer County so people used that as a measuring stick for what the real numbers probably are and that helped with settlement negotiations. The Borough then entered into negotiations with the Fair Share Housing Center to get off the litigation track and to get protection until 2025. They also sat with the Court Master of the Judge and the Fair Share Housing plan, where they came with a deal that included a 30% discount of their number. They entered into a Settlement Agreement on January 26, 2018 and on March 16, 2018 the Court entered an order for a fairness hearing to approve that agreement on May 8th. Immunity was also extended. On May 8th, the Fairness Hearing was held and the judge approved the settlement agreement. An order was entered to memorialize the approval and directed the Borough to adopt and endorse a Housing Element and Fair Share Plan, as well as adopt supporting ordinances. Last night, the Borough Council introduced three Ordinances which are on the Planning Board agenda for a consistency review. Once the Housing Element and Fair Share Plan is approved by the Planning Board, it goes back to Council to be endorsed, it will be handed in to the court and a compliance hearing will be held in front of the Judge a few months down the line. At that hearing, the Housing Element and Fair Share Plan will be considered for approval. If there are any objections, they will be filed and there will be a hearing to determine whether or not it creates a realistic opportunity for the production of affordable housing. At this point, the next step is for Ms. Gruel to summarize the plan.

Ms. Gruel gave a summary of the plan and the Fair Share numbers that need to be addressed. The present need or rehabilitation component is 51 units. The prior round component, from 1987-1999, is 86 units. The gap in the third round, from 1999-2025, is 207 units. In terms of the manor of which to address the Borough's rehab obligation, they will work with Monmouth County which has a rehab program, or hire a third party to rehab units that meet the criteria. Mr. Steib clarified that is for rehabilitating existing units that are occupied by low or moderate income households.

Ms. Gruel stated that this community has very little vacant land available and as a component of the Housing Plan, they performed a housing plan assessment to determine how much vacant land there is; which then becomes part of the calculation for the Realistic Development Potential (RDP). That number was established at 42 units. The remaining number of 251, is the unmet need and you will see through the Ordinances how that is being met. There is not much land to do anything so it will be through the redevelopment that may happen and how they can capture affordable units. There are a number of ways that the plan address the 42 unit RDP, much of which is already constructed. The Borough has been very active in redeveloping portions of downtown that have affordable units built in to the mixed use development. In addition, there is a senior age-restricted project; 10 units of the 57 units at Springpoint Living Facility are applied to the 42 because of an

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age-restricted cap. 95 First Avenue has one rental affordable unit and is occupied. The Memorial Parkway-Habitat for Humanity development, which has one-family for-sale affordable unit and one-family rental affordable unit, has been constructed. The 35 First Avenue & 2 Hennessey Blvd development has 5 family rental units affordable out of the 22 total units approved. 60-64 First Avenue has 2 family rental units out of the 10 total units approved in 2017. 44-48 First Avenue has 3 family affordable rental units as part of its 2016 approval. 158 First Avenue will have 4 family affordable rentals; this project was approved but has not been built. The 21 Leonard Avenue-Habitat for Humanity development will be a 2 family affordable for-sale units and 2 family affordable rental units. There is a provision that allows for rental bonus credits so there is an additional 11 credits received from the projects we went through. In order to address the unmet 251 units, the Springpoint Living project that has 47 units that were not applied to the RDP and that will go towards that. Another mechanism to be used to meet that need, would be the Ordinance that was introduced by Council to amend the OR Zone to allow for multi-family development, in addition it will also require a mandatory set-aside for the OR zone as well. There is another ordinance that will require any multi-family application with 5 or more units must have a 20% set aside. Dr. Cetron indicated concern with the definition of multi-family. Mr. Steib explained the Ordinance defines multi-family as any building that contains three or more dwelling units on one lot.

Ms. Gruel continued by stating that there were some street names that were mislabeled but that does not change any of the calculations or numbers.

Dr. Cetron referred to the mandatory set-aside ordinance effective date and asked how it would affect pending applications. Mr. Nolan advised that the Time of Application Rule would apply to any ongoing applications.

Ms. Gruel stated that the third Ordinance is called an “Affordable Housing Ordinance” which sets the standards and is more regulatory; it controls the bedroom mix, low vs. moderate, sale vs. rental and there is very little discretion because that is what the law is and the Borough kind of has to accept those.

Mr. Nolan suggested that any future approval include a condition that the applicant has to comply with the Borough’s Affordable Housing Ordinance. Mr. Steib advised it is already in the Resolutions.

Mr. Colangelo asked if any additional units that are constructed outside of the identified properties, will go toward the 251 units. Mr. Nolan confirmed that the 42 units are set in stone, anything moving forward will meet the unmet need. However, just having the plan will protect the Borough.

Mr. Neff referred the rehabilitation program and stated that the Ordinance requires the Borough to dedicate an average of \$10,000.00 for each unit to be rehabilitated. Mr. Nolan advised that will come out of the Affordable Housing Trust Fund.

Mr. Pepe asked where the Affordable Housing fees come from. Ms. Gruel stated that the zones that do not require a set aside will have to make a payment for the Affordable Housing Fee. Mr. Nolan advised that the CFO will figure it out; half is collected at the time of building permit and the other half at the time of the CO. This is set by the State, not part of the settlement.

Mr. Fligor asked what the figures are for some of the other towns he has worked in. Mr. Nolan replied that the lack of vacant land put the town in good shape. A town with a lot of land, like Wall

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Township, the requirement is 1500 affordable units in 7 years. Jackson's requirement is at 1800 affordable units.

Robert Alverson, 52 Avenue C, indicated concern with the issues of 21 Leonard Avenue. The overall plan of 42 units seems doable but no one is looking into the particular lot and the contaminants that could exist. Leonard Avenue is substandard and is packed with parking. The borough needs to ensure that is a proper number of units for 21 Leonard and he is concerned with the plan changing the character of the neighborhood.

Ms. Gruel stated that 21 Leonard Avenue property is part of the plan. It would require a subdivision with a duplex on each parcel. The subdivision will come before the Board however the site has been zone Affordable Housing for a number of years. In order for a site to be considered, it has to be available, approvable, developable and suitable and Ms. Gruel explained what each of those terms meant, in terms of affordable housing. This particular site was testified to during the Fairness Hearing. The Borough owns the site, there are no known encumbrances to prohibit the development of that site for what is proposed. There are no surface water resources on the property. After members of the public began to yell out, Ms. Gruel advised this is the assessment that was done and if anyone has other information they are welcome to bring it to court at the compliance hearing to present that. Ms. Gruel continued that the site is located within the 100-year flood plain so it will be built in accordance with FEMA regulations. The site is currently zoned for affordable housing and based on a NJDEP letter to COAH in 2008, there is no further action taken regarding the type of environmental remediation for that site. The site has appropriate access to water and sewer infrastructure so it is developable. It is compatible with land use and has access to public right-of-way. There are one- and two-family homes existing in the zone. The site is located in State Planning Area 1 and has a developer who is reputable. One of the appendices of the Housing Plan has a proposed subdivision as well as some photos of what is proposed. In her opinion, the site is suitable under COAH regulations. That decision will ultimately be made by the judge but during the fairness hearing, this plan was presented with 21 Leonard as a component of the plan and the judge determined the settlement agreement was fair, reasonable and equitable for low and moderate income households.

Mr. Colangelo asked if the lot has to be subdivided or can they build one building with four units. Mr. Nolan replied that the original plan was for one building with a parking area but the neighbors complained. They listened to the neighbors and went back to bring in Habitat for Humanity to try and make it a duplex to fit the neighborhood better. In the 2005 plan, there were three properties on Leonard Avenue included for Affordable Housing but there were objections so the town took out two Leonard Avenue sites in the 2006 plan. The Borough also received a complaint that it was all rental units, so they switch it to two-for sale and two-for rent. Mr. Colangelo asked if Habitat for Humanity decides not to move forward and someone else comes in, because it is only one lot without a subdivision, could the Borough be forced to build back to the old plan. Ms. Gruel stated that from a planning perspective, the plan and the settlement agreement, would show it as a duplex. Mr. Nolan added that he can add it to the JOR order to keep it as two lots with a duplex on each. Not every project has to have very-low income units so they were taken out of this project so it will only be for moderate income families.

Mr. Neff asked Ms. Gruel to review the lot requirements for the proposal at 21 Leonard. Ms. Gruel explained that the lots are over 6,000 square feet in size, they are two and half stories, they are setback in accordance with the bulk standards and there is off-site parking. From the adjacent

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parcels, one home is set back 13 feet and the other is 20 feet. Mr. Hawley clarified that all they would need would be a minor subdivision. Ms. Gruel replied that as it conceptually understood, yes. Mr. Hawley added that the neighbors in that area requested Habitat for Humanity and they wanted a duplex.

Mr. Alverson indicated he does not agree with the testimony given. Mr. Nolan explained that there will be a compliance hearing where the Judge can decide that that's not the case. Mr. Alverson referred to wetlands, sewer lines and flooding concerns. Mr. Neff advised the homes will fall under review when they go through the construction process. Mr. Alverson stated that the project is too big for the neighborhood.

Stan Cook, Avenue C, agreed with everything Mr. Alverson said. Mr. Cook added that the neighbors presented a Planner at the Fairness Hearing but it was objected to by the Borough's Attorney and the Fair Share Attorney because they had a problem with a planner representing citizens of the Borough. Mr. Nolan clarified that it was because the planner was not identified before the hearing. There is still a compliance hearing before the Judge for citizens to voice their concerns. Mr. Cook advised that Little Silver's requirement is 21 and we are half the size of that town and we have 42. There are other towns that are smaller than Atlantic Highlands with a smaller development potential and he would like the Board to consider if 42 is the right number. Ms. Gruel stated that Atlantic Highlands is a developed community and they were able to take vacant land adjustment which really assisted and most of the 42 units comes from development that has been constructed or already approved so it is fortunate that the Borough has been proactive in getting affordable units before this. Mr. Cook questioned Little Silver's requirement. Ms. Gruel replied that she is unaware of Little Silver's requirement. Mrs. Murray advised that the numbers are what the Judge agreed to and the Board can only go by what is presented. Dr. Cetron added that every town is different and this town is 42 units plus the 51. Mr. Colangelo clarified that just because Little Silver has more square mileage, it doesn't mean that they have the same available building lots. You can't just compare the numbers. Mr. Cook added that no one in the neighborhood asked for two duplex units, they asked for one duplex. Dr. Cetron stated that they are well aware of public opinion, but they are also aware of a court settlement.

Tucker Snedecker, 57 Avenue C, asked if the Board is aware of the number of cars predicted to be on the road with the addition of two families, which usually have two cars, with dual driveways. He asked where the cars will go. He added that the Borough just rented out space for a cheer leading business and he would like to know where all the cars will go. Dr. Cetron explained that the specific plan still has to come before the Board, tonight they are only looking at a general scope as per the court order. The plan refers to that property as "proposed" so it is not a done deal. Mr. Snedecker asked if the Board is aware that the citizens objected at the hearing and specifically 21 Leonard was brought up and it wasn't that "we have to do this," it was discussed and Mr. Nolan approached him after the hearing to discuss it and now it is a totally different story now that the Judge put him a step forward. Now Mr. Snedecker feels that Mr. Nolan is asking to give them another step forward. He asked if the Board is aware of the testimony that was presented because he doesn't recall anyone from the Board being there. Mr. Colangelo advised that the Board is not aware of the testimony but to be fair, it still have to come back to the Board. Mr. Snedecker asked if the Board is aware there are issues with the way it was zoned and that they will be challenging that as well. Mr. Colangelo replied that if that is what they want to do, then please do it, but this is not the place to challenge it. He will be able to go before the Judge and present witnesses, but

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the Board is not able to make that judgement, only the Judge can. Mr. Alverson stated that the Board is giving it their blessing. Members of the audience began to yell out.

Mr. Pepe asked if an application comes before the Board asking for a subdivision and the Board decides it doesn't work for this lot, does this plan lock the Board into a decision. Mr. Steib stated that if an applicant comes in with a fully conforming subdivision application with no variances and no waivers, Pizzo Mantin says you have to approve it. Dr. Cetron added that under current zoning, they could do that now without this plan being approved. Mr. Steib agreed. Mr. Snedecker stated that he doesn't feel it is fair for the neighborhood that this is being put on them. Mr. Colangelo advised that by getting passed this point, it allows the plan to go before the Judge that Mr. Snedecker will need to appear before to appeal the plan. Mr. Snedecker stated the Board can stop it. Mr. Colangelo advised they cannot. Mr. Snedecker asked if the Board is aware that when the property was sold the community was promised it would be returned to what it was before. Dr. Cetron advised that was not before the Board nor is it something within their scope that they can deal with. Mr. Snedecker opined that it is before the Board right now. Dr. Cetron explained that it is not; the plan is just agreeing that the proposed direction is to split the lot and put two fully conforming duplexes, which meet the zoning requirements. Mr. Pepe advised that was the essence of his question, which is if the owner of the property comes in to ask for the subdivision, the Board would have to approve it because it is fully conforming. Mr. Hawley added that they will then be able to go to construction for permits, no further Board review needed. An audience member stated that there are issues with the zoning. Mr. Neff asked what if someone bought it as is and bought a 4 or 5 bedroom house with 4 or 5 teenagers who all have their own cars, it would be the same thing.

Mr. Cook stated that the property is currently zoned for affordable housing but the zone only permits a two-family, not four families. So today, they would have to come in and ask for a rezoning. Dr. Cetron stated they could come in and build a single-family, a two-family or they could ask for a subdivision and then apply for building permits for the duplex. Once the lot is subdivided, there are two lots and a duplex would be permitted on each.

Mark Fisher, Third Avenue, referred to the ordinances being reviewed and questioned the Uniform Affordable Housing Controls language. He asked when that law was passed because he heard how regulations were invalidated and he wonders if this will be another step that is invalidated. Mr. Nolan explained the UHAC regulations are separate from COAH regulations. The UHAC regulations have been in place since 2002 and they have not been invalidated. Mr. Fisher indicated that he understands these are State regulations that the Borough must basically now accept and asked if they are old laws or if they have been updated. Mr. Nolan explained that the UHAC laws were enacted in 2002 and there has been one amendment to require 13% very low instead of 10%. Mr. Fisher advised that knowing it was amended tells him that it is current. He then asked if there are any affordable units involved with the Denholtz property. Mr. Steib advised that they cannot discuss any active applications before the Board, that question may be raised at the hearing on September 27th.

Kate Wigginton, 62 Avenue D, asked if the ordinance that created affordable housing for 21 Leonard Avenue, did it change from R-1 to multi-family. Mr. Nolan replied that it was switched from R-1 to affordable housing in 2006. They actually zoned three lots affordable housing but they took two out. Member of the audience yelled out to disagree.

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Mr. Alverson asked if this Board can ask the Borough to reduce the amount of numbers on that site and put it somewhere else. Mr. Nolan stated that it would have to go back to the Court. Mr. Alverson asked why this Board cannot give it back to the Borough. Mr. Hawley stated it cannot be done here. Mr. Steib added that if the Board decides the Plan is not acceptable, they can say they want to amend the plan, take that out and it goes back to the Governing Body and to the Judge and it will have to go through another fight.

Mark Fisher, 91 Third Ave, asked how many affordable units are designated for Block 142 Lot 5. Mr. Colangelo asked for an address. Mr. Fisher replied 17 Avenue D. Mr. Neff advised the property is not in the plan and they are not discussing it. Mr. Fisher asked why. Mr. Neff stated that it is an active application before the Board.

Seeing no further questions from the audience, Mr. Neff asked for comments from the public.

Tucker Snedecker, 57 Avenue C, was sworn in and thanked the Board for listening and hopes they take the history into consideration. He is passionate because he lives there on that street and they are not being given what was promised to them and the community when that house was taken away. They are getting something else that is being shoved down their throats by an Attorney hired by the Borough and he is asking the Planning Board to do the reasonable thing. It has been months and there could have been dialogue with the town and Mr. Nolan to fix this. The Board is telling him to hire an attorney and this is not what elected officials should be doing. Mr. Colangelo clarified they are not elected officials. Mrs. Murray asked what Mr. Snedecker had been promised. Mr. Snedecker replied that back when the house (21 Leonard Avenue) was removed and the neighbors' houses were lifted, they were promised that that property would be returned to its same condition and demeanor as it was before the house was removed when the gas company bought it. Mr. Pepe asked who made the promise. Mr. Snedecker replied that he believed it was the gas company and local officials in town; Bonnie Simpson is on the record from previous meetings and lived here the entire time and was in attendance when they testified to that.

Mr. Neff asked for any further comments from the public. No further comments were received. Mr. Nolan indicated he has nothing further to present.

Mr. Pepe asked what the next step is. Mr. Nolan advised the plan will go to Borough Council on September 26th to legally endorse it so that it can go back to the Court.

Mr. Steib explained that the settlement was reached, there was a Fairness Hearing before Judge Perry, who heard testimony and determined the settlement was fair and reasonable. The Judge then entered an order directing the Borough to implement the settlement and then come back for a compliance hearing to determine if all the pieces were put together properly.

Dr. Cetron stated that he understands the problems of 21 Leonard Avenue but they do not have a lot of choice, in that it will come back before the Board to subdivide and they will be able to evaluate it at that time. Mr. Pepe stated that he hears the concern, but the appropriate place to make these arguments would be in front of the Judge.

MRS. MURRAY OFFERED A MOTION TO ADOPT THE HOUSING ELEMENT AND FAIR SHARE PLAN, SECONDED BY MR. ILLIANO.

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffmann, Mrs. Murray, Chairman Neff
Nays: None

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Abstain: None
Absent: None

Mr. Colangelo left the meeting at 9:15 p.m.

Ordinance Consistency Review – Mr. Steib explained there are three ordinances to be reviewed for consistency relating to Affordable Housing. He added that Ms. Gruel had explained them during her presentation. The first one is the Affordable Housing Ordinance.

DR. CETRON OFFERED A MOTION TO DEEM ORDINANCE NUMBER 015-2018 CONSISTENT WITH THE MASTER PLAN, SECONDED BY MRS. MURRAY.

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron,
Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Pepe
Nays: None
Abstain: None
Absent: Mr. Colangelo

Mr. Steib advised the second Ordinance is the mandatory set-aside ordinance.

DR. CETRON OFFERED A MOTION TO DEEM ORDINANCE NUMBER 017-2018 CONSISTENT WITH THE MASTER PLAN, SECONDED BY MRS. MURRAY.

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron,
Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Pepe
Nays: None
Abstain: None
Absent: Mr. Colangelo

Mr. Steib advised this is the Ordinance to amend the OR Zone Regulations.

COUNCILMAN FLIGOR OFFERED A MOTION TO DEEM ORDINANCE NUMBER 016-2018 CONSISTENT WITH THE MASTER PLAN, SECONDED BY DR. CETRON.

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron,
Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Pepe
Nays: None
Abstain: None
Absent: Mr. Colangelo

PB15-03, Block 17, Lot 8.01, 170 Ocean Blvd (Thomas Paine House LLC) – Memorialization of Extension of Approval –

MRS. MURRAY OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MS. HOFFMAN.

ROLL CALL:

Ayes: Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Mr. Colangelo, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Ilarazza, Mr. McGoldrick
Nays: None

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Abstain: Mr. Illiano, Mr. Pepe
Absent: Mr. Colangelo

PB18-05, Block 102, Lots 7 & 8, 188-190 First Avenue (Atlantic Highlands Real Estate Partners) – Memorialization of Approval of Preliminary & Final Site Plan Approval & Bulk Variances –

MS. HOFFMAN OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY DR. CETRON.

ROLL CALL:

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Ms. Hoffmann, Chairman Neff, Mr. Pepe
Nays: None
Abstain: Mrs. Murray, Mr. Ilarraza
Absent: Mr. Colangelo

PB18-01, Block 19, Lot 1, 233 East Highland Avenue (Kozlowski) – Memorialization of Approval of Bulk and Use “d” Variances –

MRS. MURRAY OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. HAWLEY.

ROLL CALL:

Ayes: Mr. Hawley, Mr. Caccamo, Dr. Cetron, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Pepe, Mr. Ilarazza, Mr. McGoldrick, Mr. Dougherty
Nays: None
Abstain: Mr. Illiano, Councilman Fligor
Absent: Mr. Colangelo

PB18-07, Block 134, Lot 12, 97 Center Ave (Dougherty) – Memorialization of Approval of Bulk Variance –

MRS. MURRAY OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY COUNCILMAN FLIGOR.

ROLL CALL:

Ayes: Mr. Illiano, Councilman Fligor, Mr. Hawley, Mr. Caccamo, Dr. Cetron, Ms. Hoffmann, Mrs. Murray, Chairman Neff, Mr. Pepe, Mr. Ilarazza
Nays: None
Abstain: None
Absent: Mr. Colangelo

PB16-13, Block 8, Lot 23.01, 25 Bayside Drive (J&L Bayside Drive LLC) – Application for Bulk Variances –

Mr. Steib explained that this application has been carried for a number of months. At the last meeting, he was directed to advise the applicant to either submit a revised plan or attend this meeting to explain why they need additional time. Plans were submitted earlier this week and they will be reviewed for completeness. If the Board recalls, the neighbors have agreed to purchase the property and they are coming in to subdivide the lot to each take a portion to be added to their parcels. Hopefully they will be back next month, but the applicant will have to re-notice once they are deemed complete because it is a substantially different plan.

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MRS. MURRAY MOVED TO ADJOURN THE REGULAR MEETING, SECONDED BY DR. CETRON. BY VOICE VOTE ALL AGREED.

There being no further business to come before the Board, the Regular Meeting was adjourned at 9:25 P.M.

Erin Uriarte
Planning Board Secretary