

**Borough of Watchung
Planning Board Special Meeting
November 25th, 2008
Minutes**

Chairman Speeney called the special meeting regarding the Amendment to the Master Plan - the Housing Element and Fair Share Housing Plan to order at 7:34p.m. and stated that notice of this meeting had been posted at Borough Hall, filed with the Borough Clerk and given in the way of notice to the Courier News, Echoes Sentinel, the Reporter and Star Ledger in conformance with the N.J.S.A. 10:4-6 et seq.

Present at the call of the roll were:

Speeney [X] Boyd [A] Havas [x] Haveson [X] Addario [X]
Pennett [X] Schaefer [X] Spratford [X] Ellis [X] Pote [X]

Also present was Board Attorney Frank Linnus. Chairman Speeney indicated that there was a quorum present to conduct business. He welcomed some Boy Scouts from Watchung Troop 32 in the audience who are working on the Citizenship in the Community merit badge. Chairman Speeney said that the Mayor asked for approximately 10 minutes of a question and answer period. There would be a 20 minute presentation from Marcia Schiffman from Maser Consulting, PA on the Housing Element and Fair Share Plan (HEFSP) after which the Planning Board would have an opportunity to have a dialogue with Marcia. Finally, there would be a public portion. The Chair asked the Mayor to host the question and answer period.

Giacamo Fiorenza of 164 Valley Drive came to the microphone. He asked why people who work for the community could not purchase homes that came onto the market as COAH affordable units. The Mayor said that unfortunately the rules of COAH do not allow for specifically chosen groups of people to have any more opportunity to obtain these units than anyone else who qualifies. Mr. Fiorenza asked if the Borough could ask for an extension. Mr. Fiorenza asked if instead of creating a new development, could houses that come on the market between now and the year 2018 be bought by residents. Ms. Schiffman said that it was a good idea to use your existing housing, however the problem is the difference in cost between of the price of the house and the price that a household could afford. Ms. Schiffman explained the premise of "marketing to afford" where the municipality buys a home, and either rents it or sells it to a family at an affordable price. She said the difference between what the home sells for and what the family could afford would have to be made up by the municipality. She said that the Borough has not really looked at this strategy due to of the price of homes in Watchung. Mr. Fiorenza asked if the Borough has a fund in place for this. The Mayor said there is a fund. Ms. Schiffman said

that there is approximately \$457,000.00 in that fund. She said that there is a projection that in the next 10 years, the fund may increase to \$1,000,000.00. Of that fund, COAH requires that at least 30% must be used to make COAH units more affordable. Mr. Fiorenza asked if the commercial properties on Route 22 have ever paid into this fund. (That question was not answered) Ms. Schiffman said that there is an accessory apartment program going into effect, and the funds will also be used for both that and for the rehab program. Ms. Linda Goldshein of 70 Sherwood Drive came to the microphone. Ms. Goldshein asked if the prior discussion meant that houses in town cannot be used as COAH homes. Ms. Schiffman said that in order for the Borough to be counted, there are certain criteria that must be met. One is that the property needs to be deed restricted for 30 years. The occupant must fit within the guidelines of the income range. The Chair interjected that there was another variable in this process, which was an asset value. He said someone that has an asset value of greater than approximately \$180,000.00 could not qualify even if their income is low. Ms. Goldshein asked why the accessory apartment program would cost the Borough money. Ms. Schiffman said that under COAH a municipality is permitted to set up an accessory apartment program, and requires a subsidy be provided for every accessory apartment. The subsidy can be used to renovate the unit, or by the owner to cover the cost of the reduced rent. The rents must meet COAH criteria. Ms. Goldshein said that there are many illegal apartments in the Borough, and asked why those units couldn't be used for COAH. The Chair answered that there would be no way of knowing where those illegal apartments were. The Mayor thanked the Chair for allowing the question and answer period. Ms. Schiffman made her presentation on COAH explaining the history and the plan. The Chair opened up to questions from the Board. Mr. Haveson stated that he felt somewhat assaulted at the fact that we are using numbers from 2000 when it is now 2008. Ms. Schiffman said that the reason the 2000 census was used, is because there is nothing more recent. Mr. Haveson asked how much of the money in the Borough's COAH fund was spent to pay for our obligation, and how much went to Administrative expenses. Ms. Schiffman said that you are only allowed 20% of your fund to be spent on administrative expenses. Mr. Haveson asked what the blank line under the monetary Fair Share Obligation in the draft. Ms. Schiffman said that they have to put in the numbers. Tracee Schafer brought up employment projections. Mrs. Schafer asked if the state of the economy was taken into account in the future projections of employment. Ms. Schiffman said that they will continue to monitor the plan, and be able to identify whether they still have the obligation that they are projecting. Ms. Schafer said that currently, there are nineteen foreclosures in Watchung, and the banks are trying to make deals on these properties because they don't want them on their inventory. She suggested the Borough might be able to pick up a few properties at a very reduced rate that could keep within the guidelines of the affordable housing sales pricing. The Mayor said that this is a strategy since September. He said that the plan could be amended in the future if this idea

becomes more viable. The Chair said that this particular plan could be amended 6 months after adoption and can be amended again two additional times. The property on Bonnie Burn Road with a proposed 28 units was discussed. Chairman Speeney thought that because there was a prior agreement, that there would be no growth share associated with it. Ms. Schiffman said that yes, she thought there would be, but she would double check. Mayor Addario brought up the proposed affordable housing project on East Drive. He said that while getting Watchung Square to go through, it was a difficult time for the residents and that they were 'up in arms' over the project and that there was a 6 acre buffer zone dedicated by East Drive. Mayor Addario said that the few people who know if this proposed project are upset. The Chair said he was on the first committee that formed the 2005 COAH submission. He said that committee recognized that that land was more buffer than anything else, based on his memory of the hearings of Watchung Square etc. He said that this committee thought that there was a lot of other property they could build on until it turned out a lot of environmental issues (steep slopes, wetlands, etc.). The Chair said that the wetland rules have been expanded and has minimized the amount of building that could be done, even on the properties that they were considering in 2005. One property that was considered was using either part of Ness or the land behind Watchung Ridge. That was a piece of land that was affected by the additional wetlands rules. The Chair said it looked like this current committee has their hands tied by the same issues and went back to the piece of land that is the least environmentally onerous. He said the land now has to be considered for what the Borough needs. He expressed sadness that there was sort of a passive agreement that it would be a buffer, but the Borough has it's hands tied. Mr. Havas asked if there were other build able lots in town besides East Drive. Ms. Schiffman said that Environmentalists looked at the property behind Presbyterian Homes. She said that there are very few properties. The Chair explained that in 2005 at the site which is now Raymour and Flanigan, they were looking at 50 or 60 unites that would meet the affordable housing obligation, but to have those built, they would have had to build 180 units in total. The Chair stated he believes there are probably other properties that are available, but he would guess that they are private. Mr. Havas asked when we could expect to hear back from COAH. Ms. Schiffman said that within 45 days they should hear whether or not the plan was accepted. Mr. Havas asked whether they were planning 10 units per acre by East Drive. Ms. Schiffman said it is tight. Special needs housing was discussed. Ms. Schiffman said that would be great on that site. Councilman Pote asked Ms. Schiffman what her confidence level is that Watchung's plan will be accepted based on her experience. Ms. Schiffman said she felt comfortable that this plan will be accepted. Councilman Pote asked if she thought pertaining to the East Drive property, if COAH would perceive that as a 'stretch'. Ms. Schiffman said that the site meets the COAH suitability criteria. Councilman Pote asked Ms. Schiffman if she saw the cost as prohibitive in terms of what needed to be done to get ready to put those homes there. Ms.

Schiffman explained there is some extra cost, but that is the only site that is available. Councilman Pote asked Ms. Schiffman to explain builder's remedy to the public. Ms. Schiffman stated that on a builder's remedy, if you don't submit a plan, a builder could come in and take the Borough to court regarding a site that the builder feels is a suitable building site. They could provide a plan, which could likely have no relationship to the zoning, and there will likely be a significant increase in density to help support affordable housing. When there is no plan in place and you go to the courts, the municipality does not have good standing. The court appoints a court master to negotiate the project. Unless the site is totally unreasonable, it will likely be approved. Legal fees could be astronomical. Mr. Havas asked if our plan is rejected by COAH, how long will the Borough have to go out and correct it. Ms. Schiffman said if the plan is declared incomplete, we have 45 days to address the completeness issues.

The Chair opened up to the public for questions for Ms. Schiffman. Paul Schapp of Edgemont Road came to the microphone. He wanted to know about access to this development to Edgemont Road. Ms. Schiffman said that at this time, the access to this proposed development would be from East Drive. The Chairman said that if a plan for this comes before the Planning Board, it could become an issue for emergencies that a second access might be needed, possibly from Edgemont, but that was not the case at this time. Phil Whitting of Fawn Lane came to the microphone. He asked what the infrastructure upgrade cost implications would result in this affordable housing being forced upon this municipality. The answer was the community. The resident from 15 Orchard Road came to the microphone. He asked regarding the builder's remedy, what would happen if the town does not have the land to propose in order to meet its COAH obligation, and why after promising the residents of the East Drive area that this land would be used as a buffer, would the town rescind their decision and say now we have changed that plan. Ms. Schiffman said then you must look at other options, such as "market to affordable", redevelopment of a project, looking at property that might be suitable for developing tear down and new housing units. Mr. Linnus, the Borough Attorney, said that every town has the pressure of coming up with a plan on a deadline. Mayor Addario said that he wants to caution the Mayor and Council that when Watchung Square built into the mountains, and the mountains started to slide, it cost them 12 million dollars to put the wall up. If that should happen with this property, you now have another problem. The Chair said that he thought that what Mr. Addario is saying is that although there are no obvious wetland issues with that property, there is a steep slope issue, and a grading responsibility. The experience of Mr. Davino who built Watchung Square was that the mountain started to slide and the retaining walls that had to be built were huge. The Chair said that this could be an issue. Helen Rebmann, of 650 Johnston Drive came to the microphone. Mrs. Rebmann said that when Watchung Square Mall was built, that all of the homes along Johnston Drive above it had huge problems with settling, and it was so bad, that they actually came out and reimbursed the people for all their

problems. She said that the people who live on East Drive, Edgemont Road and North Drive are being hurt. She said that houses are not getting sold because of Crystal Ridge and the apartments. Mike Departo of 46 Orchard Road came to the microphone. He asked if the real estate market continues to drop and houses become even less expensive, is there sliding scales pertaining to COAH that makes that house more of an affordable housing unit. Ms. Schiffman said that COAH reevaluates on an annual basis.

Linda Goldshein of 70 Sherwood Drive came to the microphone. She asked if the Borough gets their plan adopted, if in fact we need to proceed with the plan. Ms. Schiffman said that once the plan is certified, COAH reviews it on a bi-annual basis. They will review your growth share and whether in fact you are following your proposed plan. Ms. Goldshein mentioned Borough owned property near the Public Works Dept and the Police Station.

The Chair brought the discussion back to the Board. Giacomo Fiorenza of 164 Valley Drive came back to the microphone. Mr. Fiorenza asked if a builder's remedy could occur even if the Borough submit's it's plan in on time. Ms. Schiffman said that if your plan is before COAH, you could have objectors to your plan. The objectors could go to COAH and COAH would act as the mediator. The assumption is that the Borough's plan is correct unless proven otherwise. Mr. Linnus stated if the Borough submit's it's plan by the end of the year, and that plan is ultimately approved by COAH, then the Borough gets what is known as substantive certification. That will prevent a builder from filing a lawsuit. The Chair stated that this meeting will be continued on December 10th, 2008 at 7:30pm in the Council Chambers of Borough Hall (15 Mountain Blvd, Watchung NJ).

The Chair adjourned the meeting at 9:38PM.

Respectfully Submitted,

Carolyn Taylor
Planning Board Clerk