

**BOROUGH OF SOUTH PLAINFIELD  
PLANNING BOARD MINUTES  
JULY 25, 2017**

**Roll Call:**

**Present:**

Mayor Matthew Anesh  
Council President Derryck White  
Stephanie Bartfalvi; Alt. 1  
Brian Bythell; Alt. 2  
Paul Grzenda  
Rich Houghton  
Jack Pedersen; Vice Chairman  
Bob Ackerman; Chairman

**Absent:**

John Mocharski  
Michael Pellegrino  
Peter Smith

**Also Present:** Alex Fisher, Esq.; Stan Slachetka, PP, AICP; Jeffrey Cucinotta, PP, AICP

**Chairman Ackerman** opened the meeting at 7:00 pm saying that this meeting is being held in accordance with the Open Public Meetings Act, by posting a notice to The Observer and The Courier News and providing the same to the Borough Clerk.

It is the policy of the Borough of South Plainfield's Planning Board not to hear any new cases after 10:00 pm and no new witnesses after 10:30 pm.

**Minutes:** (2)

June 27, 2017 Meeting

Council President White made motion, seconded by Mayor Anesh to accept the above stated Minutes. Those in Favor: Mayor Anesh; Council President White; Mr. Bythell; Mr. Grzenda; Mr. Houghton; Vice Chairman Pedersen and Chairman Ackerman. Those Oppose: None

July 11, 2017 Meeting

Mayor Anesh made motion, seconded by Ms. Bartfalvi to accept the above stated Minutes. Those in Favor: Mayor Anesh; Council President White; Ms. Bartfalvi; Mr. Bythell; Mr. Grzenda; and Mr. Houghton. Those Oppose: None

**Resolutions:** (1)

**A. Case #17-01 - Grasso Bros. Construction, LLC**  
Block 362; Lot 8; R-10 Zone  
1007 Lorraine Avenue

Council President White made motion, seconded by Mayor Anesh to accept the above stated Resolution. Those in Favor: Mayor Anesh, Council President White; Ms. Bartfalvi; Mr. Bythell; Mr. Grzenda; and Mr. Houghton. Those Oppose: None

**Current Files:** None

**Informal Hearings:** None

**Public Hearings:** (1)

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**Master Plan Amendment – Housing Plan Element and Fair Share Plan**

Stan Slachetka, PP, AICP addressed the Board. This is a public hearing duly advertised pursuant to the requirements of the Municipal Land Use Law. Joanne has prepared the Publications and has transmitted them to: adjoining municipalities; Middlesex County; Office of Planning Advocacy – State Planning Commission; published in two (2) newspapers. This an amendment to the Borough's Master Plan - the Housing Element and Fair Share Plan. There is a document that was prepared and dated July 13, 2017. It has been on file for the Public Review prior to this Public Hearing. All the Board Members have a copy of this document. Will focus on the highlights and key components. It is important to understand that this Housing Fair Share Plan is one of the ways in which the Borough is implementing the Settlement Agreement that it has entered into with Fair Share Housing Center as part of the ongoing litigation related to the Borough's housing obligation, its plan to address that obligation and various ordinances to implement that. As part of the comprehensive package of actions that are required by the Borough to implement the Settlement Agreement between Fair Share Housing Center which will ultimately lead to an approval of the Borough's plan by the Court with what they call a Judgement of Compliance Propose that would approve the plan through 2025.

The plan has two (2) parts. The first part is the Housing Element. That Housing Element presents all the various demographic and socioeconomic indicators that are required to be evaluated and presented pursuant to the requirements of the Fair Housing Act which is the statute that governs the provisions of affordable housing. As you know, recently the Courts have taken over the responsibility of establishing all municipalities affordable housing obligations as well as the responsibility of the Council of Affordable Housing. Therefore, the implementation of the Settlement Agreement that the Borough has entered into with the Fair Share Housing Center.

The second part of the plan is the Fair Share Plan. This explains the way the Borough is going to satisfy its affordable housing obligation as established by the Court in the Settlement Agreement. That Fair Share Plan element has two parts to itself. The first part is the establishment of the actual obligation that the Borough has. The second part is the mechanism which the Borough either satisfies or will be satisfying that obligation through zoning.

The final component of the Housing Element Fair Share Plan is attached as an appendix to the plan is what's called a Vacant Land Analysis. That Vacant Land Analysis is an evaluation of the vacant and developable land in the Borough. That analysis is to determine what is the Borough's realistic development potential with the understanding that the Borough has very limited capacity for development because of the limitations of vacant developable land. The Borough has been and continues to be a relatively developed community. There are areas in the Borough were development has been occurring. However, the Borough has been nearly fully developed. That analysis recognizes that and established the realistic development potential for the Borough which then establishes the Borough's obligation moving forward. There are other requirements associated.

That is the three (3) pieces of the plan that are in the documents before the Board... 1) Housing Element that has all the demographic information... 2) The Fair Share Plan which presents the numbers regarding the Borough's affordable housing obligation... 3) The way the Borough is intending to meet that obligation, has addressed that obligation and the Vacant Land Analysis that established the Borough's realistic development potential.

Being adopted as part of the Master Plan, the Housing Plan Element along with the Land Use Plan Element establishes the legal foundation for the Borough's zoning. Pursuant to the Municipal Land Use Law, the Borough's ordinance zone plan has to be consistent with the Land Use Element and the Housing Plan in the Master Plan.

The obligation in numbers is divided into three (3) pieces. The first piece is the Present Need...The rehabilitation obligation of the Borough. That is the number of housing units in the Borough that are currently occupied by low to moderate income household... existing housing units that are in need of substantial repair. They are below housing code and need to be brought to code. To address that obligation, the Borough has to have in place a program to provide funding and assistance to those low-moderate income households to repair and rehabilitate their housing units. The present need obligation is established by an evaluation of census data. All these numbers are affirmed and established by the Settlement Agreement with the Fair Share Housing Center and affirmed by the Court. Also must be approved by the Court appointed Plan Master, Elizabeth McKenzie, who is to oversee the entire process. The Boroughs rehabilitation obligation is forty-eight (48) units. There has been rehabilitation activity taken place within the Borough. That rehabilitation activity has been documented in the Housing Plan. The

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Borough has an ongoing program to offer the opportunity of funding for rehabilitation in the Borough and will continue to do so as part of its obligation. The program is funded by the development fees that the Borough has been collecting over the years and continues to collect. By having that program, the Present Need Obligation has been satisfied. The Borough is not obligated to address all forty-eight (48) units, but the mechanisms are in place to satisfy the obligation through 2025... eight years moving forward.

The second part... the need to address any new affordable units to be created within the Borough is broken down into two (2) subsequent parts. The first part is called Prior Round Obligation... the number of affordable units that were previously established by the Council of Affordable Housing as being the obligation. Affirmed and agreed to by the Housing Fair Share Center and part of the Settlement Agreement. That is the number of units that are being addressed in what is called Cycle One and Cycle Two or Round One and Round Two of the affordable housing obligations established by the Council for Affordable Housing. The important thing to note about the prior round obligation is three hundred forty-two (342) units of new affordable housing. The Borough has fully satisfied the prior round obligation. That has been recognized by the Court, Plan Master and Fair Share Housing Center. There are number of projects that have been completed or zoned that have addressed and satisfied that obligation. They are spelled out in detail within the Fair Share Plan. There is a chart (Appendix D) which provides a summary of those various projects and zoning that is in place. A portion of the projects satisfy the prior round obligation. Senior Project satisfies both the Prior Round and a portion of the Prospective Unit. Looking at the prior round obligation, the obligation is three hundred forty-two (342) units. There are bonuses and caps. Up to twenty-five percent (25%) of affordable housing obligation in one of these components can be Senior units. The Borough as part of satisfying its obligation gets rental bonus credits when new rental units are provided pursuant to the regulations that the Court has accepted. The Senior cap is eighty-five (85) units. The rental bonus cap is eighty-three (83) units. Given all those factors and three hundred forty-two (342) units, the compliance strategy is that eighty (80) of the one hundred (100) units at the South Plainfield Senior Residence that has been previously constructed has been applied to the prior round obligation. There are a variety of other projects that have provided affordable rental units... The Highlands of South Plainfield, Woodland Manors, small portion of the Harris Steel site which has been in the plan since the last time COAH has approved the plan. A very small portion goes to your prior obligation. There are two (2) group homes. Both for developmental disabled.

Mr. Slachetka introduced Jeffrey Cucinotta, PP, AICP. He has helped to develop the Fair Share Housing Plan.

Mr. Slachetka continues... There are sales units which are called '*credit without controls*'... units that do not have deed restrictions on them but were credited toward the Borough's prior year obligation based on prior judgements from the Court and the plan that the Borough had approved by both the Court and COAH. Those are units that were determined to be affordable based on the methodology and analysis the Borough took. There was a regional Contribution Agreement to the City of New Brunswick for fifty-seven (57) units. In combination with eighty-three (83) rental bonus credits, this fully satisfied the Borough's three hundred forty-two (342) unit obligation. That has been put aside to the bank. There is no need to worry about prior round obligation.

The second round of the Borough's prior obligation, is the Prospective Need. That covers the time from 1999 to 2025. That's been the big area of contention with the Fair Share Housing who is the advocacy group for low-moderate income households throughout the State and has been the key party of all these negotiations and litigation in the municipalities on affordable housing. 1999 is the date in which COAH regulations – Cycle 1 and 2 were applicable. There has been a significant discussion and a lot of Court testimony about what that obligation is from 1999 through 2025.

There is a period from 1999 to the present that is sometimes categorized as the 'Gap Period'. It has been subject to a lot of litigation. Because of the Settlement Agreement that the Borough has achieved with the Fair Share Housing, there is no need to worry about that issue. The number between 1999 and 2025 is established as part of the Settlement Agreement. The Fair Share Center proposed using their own professional experts with a number that was significantly higher, approximately thirty percent (30%) higher than what was ultimately settled on. Because of the negotiations, the Borough was able to get that number down to five hundred thirty-eight (538) units.

The Borough is a community that is nearly fully developed. Therefore, eligible for a Vacant Land Adjustment. As part of that Vacant Land Analysis, the areas that were looked at are the vacant developable land and sites that are developed that have the opportunity to be further developed in the future or redeveloped. Two (2) of those sites... Harris Steel site which was part of the Borough's plan the last go around and what is commonly referred to as the

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Motorola site or 1111 Durham Avenue... Jack Morris is the developer. It is currently developed with a corporate office building but because the Borough was in negotiation with Fair Share Housing Center and part of the vacant land adjustment that site was offered by the developer for a potential site for new housing develop rather than a corporate office. The Borough is obligated to consider that site and obligated upon the recommendation of the Court Master to include that site in the plan. That site enters into the calculation of the Borough's Realistic Development Potential (RDP) and the Borough is able to gain some additional bonus credits. The Borough was formally obligated to put that site in the Plan. The Harris Steel site that is to be developed is included into the calculation of the RDP. There are a few sites throughout the Borough – not many – but a few that are vacant developable sites that were included into the calculations of that RDP. All though the Settlement Agreement had the Prospective Need at five hundred thirty-eight (538) units, the calculations of the RDP brought that calculation down to four hundred nineteen (419) units with what's called an 'Unmet Need' of one hundred nineteen (119) units. There is a corresponding senior cap, corresponding rental obligation and corresponding potential rental bonus credits. Those are: One hundred four (104) units for the senior cap; one hundred five (105) units for the rental bonus cap; and one hundred five (105) rental units for the obligation. The way in which the Borough met it was in three (3) to four (4) different ways... the remainder of the South Plainfield Senior Residences; JSM at Tingley (Celebrations) senior units which is part of the Boroughs prior plan. Sixty-eight (68) units went towards the obligation. The Harris Steel site, which provides for one hundred forty-one (141) additional units to be added to the nine (9) units that went towards the prior round. Therefore, there are one hundred fifty-four (154) affordable units to be developed. The Motorola site (1111 Durham Avenue) will provide eighty-two (82) new rental units. The Mastrocola site that was approved with a variance are providing one (1) unit and Lordina Builders that were previously approved will provide two (2) units. Collectively, three hundred fourteen (314) units with one hundred five (105) rental bonuses. Therefore, the Borough has fully satisfied the Realistic Development Potential leaving an Unmet Need of one hundred nineteen (119) units.

The primarily way in which the Borough is satisfying the Unmet Need is by proposing two (2) overlay districts. One of them corresponds to the Downtown area – HDD District; OPA-1; OBC-1; OBC-2. Appendix B of the Fair Share Plan is a housing site map listed both existing sites and proposed sites.

Mr. Slachetka introduces Exhibit B-1 – Affordable Housing Sites – 2017 Housing Element and Fair Share Plan - a larger rendition of Appendix B in the Master Plan Amendment – Housing Plan Element and Fair Share Plan. Mr. Slachetka demonstrates the existing and proposed affordable housing sites. Specific sites are in red and the two (2) overlay districts that are being proposed are in blue outline. The first overlay district corresponds to HDD zone which is the Downtown area. Adjoining is the OBC-2 district and OPA-1 zone. This area is being proposed to retain the existing underlining zoning, all three (3) districts will remain in place and property owners in those districts will have the option to develop those areas with accordance with the requirements of the district. Pursuant to the overlay, there will be a provision for new mix use residential development where there will be multi-family units on the second and third floor. Retail or office use on the first floor. A small portion near the railroad right-a-way, south side of Oak Tree Road, and South Plainfield Avenue would be allowed to go upwards of four (4) stories. All other overlay districts would be three (3) stories. The idea is to offer options and opportunities to develop this area with new mix use, multi-family residential development that would require to have fifteen percent (15%) set aside for affordable rental units. The Borough would receive bonus credits for those units. A twenty percent (20%) set aside if the affordable units are for sale. The second area of the overlay is OBC-1 in the north-west portion of town. This area was chosen because of its accessibility to transit. There are multiple bus lines that go pass this area which gives this area the opportunity for develop new affordable units. Again, the underling zone will remain in place but the developer or property owner will have the option of being able to develop a new mix use with multi-family residences and will be required to have the same fifteen percent (15%) set aside if it is a rental unit and twenty percent (20%) set aside if it is for sale. There is no mandate or obligation for property owners to develop in such a way but giving a new option. The Borough is not obligated to address all one hundred nineteen (119) units of Unmet Need. Only to provide the opportunity to capture affordable housing if new development or redevelopment occurs pursuant to the incentives that are provided in those areas. Details are provided in the Fair Share Plan. The Downtown overlay goes along with the Borough's effort to revitalize the Downtown area. An analysis was down at the development potential in those areas. It satisfied both the Court Master and the Fair Share Housing Center that there was a reasonable opportunity in those areas, given those incentives.

The Borough needs to make the required changes in zoning that. There will be a new ordinance that would provide for the opportunity to develop the Motorola site for a new multi-family residential development. There will be amendments. The Harris Steel site has been part of the plan since the last time COAH approved it. It was part of

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the original settlement. The zoning will be updated for that site. There will be an ordinance that will address the Motorola site. Another ordinance that will address Harris Steel site. There will be an ordinance that will establish the overlay districts in the north-western part of the Borough and Downtown. There is an ordinance that relates to zoning that will establish a Mandatory Set Aside. If the Zoning Board approved a multi-family residential unit of five (5) or more or greater than six (6) dwelling units per acre they would be required to provide the same set aside... fifteen percent (15%) for rental or twenty percent (20%) for sale as part of that project. If the Borough rezoned an area or adopted a redevelopment plan for a residential and/or mixed use, any new type of project that is not contemplated or provided for in the Borough's plan would have to have the affordable housing set aside. It doesn't mean that it gets applied Borough wide. Its only in those instances that there is some action taken by the Zoning Board, Planning Board or Governing Body with regard to providing for a new multi-family residential development but it is not necessary part of this plan. This is part of every Settlement Agreement in every community that has a Vacant Lot Adjustment. It is what the Fair Share Housing wants.

Mr. Fisher stated those agreements without Vacant Land Adjustments they are required for every single agreement he has seen.

Mr. Slachetka continued... With regards to the Motorola site, because there was a negotiated Settlement Agreement with the developer, the Borough's overall litigation and plan, the Borough agreed to provide for new multi-family residential development of four hundred ten (410) units - eighty-two (82) of those being affordable units and being rentals, the Borough is getting two (2) for (1) rental credits for those units. As part of the negotiation, the design of that site because of the concerns of the Borough has with the impact of the adjoining residential area, the site plan or concept plan that was approved for this Settlement Agreement provides for a transition of units as terms of density from townhome type units to stacked townhome units to multi-story multi-family residential units that are approximate to Route 287. There are other enhancements... design of open space, roadways, design of landscaping, creating a one hundred foot (100') buffer from Durham Avenue and the residential units on Durham Avenue. There are a variety of other enhancements and requirements that locks the developer to a certain design standard to the development of the site. There has been negotiation back and forth with that.

There were similar discussions and negotiations with Harris Steel. Though they were in the plan, there was fine tuning of the ordinance insuring there is open space. The area was designed to make sure that there were community open spaces and other amenities such as design of roadways, landscaping requirements and design of the building. Those were all embedded within the ordinance in more specificity then the current ordinance for that district, multi-family district.

Assuming the Planning Board adopts this plan as its new Housing Element and Fair Share Plan, the next step in the process is that the Borough Council would adopt the endorsed plan. The Borough Council would also be introducing the various ordinances that was outlined that revised the zoning as well as the other ordinances that are needed in accordance with the requirements of the Court including what's called an Affordable Housing Ordinance that governs the provision of the affordable housing within each one of these specific developments under the State Regulations, Guideline and Statutes Those ordinances once introduced, will come back to this board for its review. There is a little change in the schedule. The ordinances will be introduced on August 14, 2017. Therefore, the ordinances will be in front of the Planning Board in the second meeting in August.

It is determined the second Planning Board meeting in August is August 22, 2017.

Mr. Slachetka continues... On the 22<sup>nd</sup>, the Board pursuant to the MLUL will get referred all these ordinances. They will be reviewed as to the consistency of the Housing Element and Fair Share Plan in the Borough's Master Plan. Ultimately, those ordinances and resolutions will get adopted including a resolution adopting a spending plan that governs the expenditure of the various development fee funds that have been collected by the Borough and continue to be collected by the Borough. That is an action by the Council. The Planning Board does not get involved. The Borough will be back before the Court for what is called a Compliance Hearing. Assuming the Borough have addressed all the issues the Court Master had, the Borough will receive a Judgement and be in a good place through 2025.

There is an Errata Sheet dated July 14, 2017 before the Board. Since the publication of the Housing Element and Fair Share Plan, couple comments were received from the Fair Share Housing Center and concurred with the Court Master. Two (2) minor changes:

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1. The technical nature on page 13 under footnote number 2 - added a new sentence "It is also noted that the 1999-2025 need covers any gap period present need established by the Supreme Court decision." That is what was mentioned before. The gap number is being still litigated and since the Borough has a Settlement Agreement, it is protected from any other further changes to that number. If the Court determines there is a bigger gap number then was anticipated, it does not affect the Borough's obligation.
2. On page 25 under 'Right to Use Other Compliance Mechanisms' the language "consistent with the Settlement Agreement' is added to the end of the paragraph.

Everything that they anticipated to be addressed is addressed. The Borough has gotten the general sign off from the Fair Sharing Housing Center and Court Master on the current version of the plan.

There is a need for additional time to write up the ordinances. It has been determined that the original date of the next meeting was to be August 8, 2017 is canceled and the meeting moved to August 22, 2017. Discussion among Board Members and the Board Professionals as to moving hearings scheduled on August 22, 2017 to September 12, 2017 due to conflicts and the time constraints for referring ordinances back to Mayor and Council to meet the Court hearing date of September 8, 2017.

Mr. Slachetka stated his concern regarding a quorum for the August 22, 2017 meeting in order to refer the ordinances to Mayor and Council. It is determined that among the Board Members present, seven (7) members are available on August 22, 2017. Bryan Bythell is unavailable.

Chairman Ackerman commended the efforts of the Professionals and all those involved in the Fair Share Plan for a job well done.

Mr. Grzenda asked what is the next step after 2025. Mr. Fisher stated that the cycle will continue. However, no one knows what the numbers will be.

Mr. Slachetka stated that there will be some limitations to future obligations because the Borough is a fully developed. It is difficult to say what the Court, Governor and Legislature will decide.

Chairman Ackerman opens the discussion to the audience. An audience member asked, what would be the public input? Mr. Slachetka stated that this hearing is a public hearing. Like every ordinance, there will be a second reading... a public reading on the adoption of the ordinances. The ordinances will be introduced on August 14, 2017 at the Mayor and Council Meeting. Then referred to the Planning Board. The Planning Board's obligation is to address whether those ordinances are consistent with the Master Plan, it is not a public hearing. The public hearing on the ordinances occurs on the second reading. The audience member asked will that be on August 22, 2017? Mr. Slachetka stated no... that is when the Planning Board will review the ordinances for consistency with the Master Plan. Council President White stated the first Council Meeting in September. The audience member stated that the Borough is in compliance in every way. Mr. Slachetka stated yes.... The Borough's plan is in compliance. The audience member asked when is the public forum. Mayor Anesh stated there was public input on the Settlement Agreement and that was announced through the Council Meeting.... February 2017. Mr. Slachetka stated that was opportunity for the public to discuss any concerns

With no further questions or concerns from the audience, Chairman Ackerman closes the audience discussion.

Chairman Ackerman asks the Board Members if there are any further questions, concerns or comments. There were none.

Mr. Fisher reads the Resolution entitled – '*Borough of South Plainfield Planning Board, In the Matter of The Master Plan Amendment dated July 13, 2017 – Resolution Adopting Master Plan Amendment Housing Element and Fair Share Plan*' which will be amended to add the Errata Sheet. Mr. Slachetka stated that the plan that will go to the Council to be endorsed will have the two (2) changes on the Errata Sheet incorporated.

Chairman Ackerman calls to motion to accept the resolution. Council President White made motion, seconded by Vice Chairman Pedersen. Those in favor: Mayor Anesh; Council President White; Ms. Bartfalvi; Mr. Bythell; Mr. Grzenda; Mr. Houghton; Vice Chairman Pedersen and Chairman Ackerman. Opposed: None.

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**Old Business:** None

**Committee Reports:**

- A. **Street Naming Committee** – Bob Ackerman – report progress.
- Mr. Grzenda asked about naming the street in the Von Graff development and the street name should not be left upon the two (2) older ladies that had appeared at the hearing. Chairman Ackerman stated that it has always been by written request from a resident justifying why a street should be named after a particular person... serviceman, veteran etc. Mr. Grzenda stated that there is a historical reason to name the street Von Graff. Chairman Ackerman stated we used the last name on the list. The name has been on the list for a number of years since there has been no need to name a street. We have always used the names from the list in order and always had a formal request. Therefore, it will remain the same process.
- B. **Environmental Committee** – Rich Houghton & Bryan Bythell - report progress.
- C. **Council Reports** - Council President White - report progress.
- D. **Mayoral Updates** - Mayor Anesh – report progress.

**Minor Site Plan:** None

**New Business:** None

**Correspondence:** None

**Audience Comments:** None

**Executive Session:** None

**Adjournment:** 8:15 pm.

Respectfully Submitted,  
Joanne Broderick  
Planning Board Secretary