

RESOLUTION NO. 21-2022

RESOLUTION OF THE HARRISON TOWNSHIP JOINT LAND USE BOARD ADOPTING AN AMENDED THIRD ROUND HOUSING ELEMENT AND FAIR SHARE PLAN

WHEREAS, on November 20, 2008, the Harrison Township Planning Board, predecessor to the Harrison Township Joint Land Use Board (“Board”), adopted a Housing Element and Fair Share Plan (“HEFSP”) pursuant to N.J.S.A. 40:55D-28 and the Revised Third Round Rules of the Council on Affordable Housing, N.J.A.C. 5:96 & 5:97, detailing the Township of Harrison’s third round affordable housing obligations and setting forth the municipal plan to satisfy and address same; and

WHEREAS, on December 31, 2008, pursuant to COAH’s Revised Third Round Rules, the Township of Harrison (“Township”) submitted a petition for third round substantive certification of its HEFSP with the Council on Affordable Housing (“COAH”); and

WHEREAS, before COAH acted upon the Township’s 2008 petition, in In re Adoption of N.J.A.C. 5:96 & 5:97, 215 N.J. 578 (2013), the New Jersey Supreme Court affirmed the invalidation of COAH’s Revised Third Round Rules and required COAH to adopt new third round rules; and

WHEREAS, COAH failed to adopt new third round rules, and by decision and Order entered on March 10, 2015 in In re Adoption of N.J.A.C. 5:96 & 5:97, 221 N.J. 1 (2015) (“Mount Laurel IV”), the Court authorized the trial courts to resume their role as the forum for evaluation of municipal compliance with fair share obligations, permitted municipalities to file a declaratory judgment action (“DJ Action”) with the court seeking a declaration that its HEFSP presents a realistic opportunity for the production of affordable housing, and required the preparation of new HEFSP in accordance with COAH’s prior Round Rules, N.J.A.C. 5:91 and N.J.A.C. 5:93; and

WHEREAS, in accordance with Mount Laurel IV, on July 7, 2015, the Township filed a DJ action with the Superior Court captioned In the Matter of the Application of the Township of Harrison in Gloucester County, Docket No. GLO-L-908-15, and during the pendency of the proceedings, was able to reach a settlement with Fair Share Housing Center (“FSHC”) regarding satisfaction of the Township’s third round fair share obligation; and

WHEREAS, pursuant to the 2016 settlement with FSHC, on September 15, 2016, the Board adopted a new amended third round housing element and fair share plan entitled “Third Round Housing Element and Fair Share Plan, Harrison Township, Gloucester County, New Jersey,” dated August 22, 2016; and

WHEREAS, before the 2016 settlement agreement could be memorialized by the parties and approved by the court, FSHC advised of an error in its calculated third round obligation for the Township and its reevaluation of the settlement agreement; and

WHEREAS, during that time, Madison Richwood, LLC (“Madison”), owner of property set forth in the Township’s affordable housing plan, was permitted to intervene in the pending DJ Action; and

WHEREAS, the parties engaged in good faith negotiations and the Township and FSHC entered into a Settlement Agreement dated November 14, 2019 (the “Settlement Agreement”) resolving the Township’s third round affordable housing obligations and setting forth a plan to address same (the “Plan”), and the Township and Madison entered into a Settlement Agreement dated December 30, 2019 resolving the concerns raised by Madison (the “Madison Agreement”); and

WHEREAS, the Court conducted a Fairness Hearing on January 7, 2020 and found that the Settlement Agreement was fair and reasonable to the interests of low- and moderate-income households and approved the Settlement Agreement and the Madison Agreement, and provided the Township with a compliance period within which to satisfy the terms of the agreements; and

WHEREAS, as part of the municipal compliance requirements, on November 19, 2020, the Board held a public hearing regarding the proposed “Amendment to the 2016 Third Round Housing Element and Fair Share Plan,” prepared by the Township’s and Board’s affordable housing planning consultant, Elizabeth McManus, PP, AICP, LEED AP of Kyle + McManus Associates, dated November 4, 2020 (the “2020 Amendment”); and

WHEREAS, during the hearing, and as memorialized by Resolution 33-2020, adopted December 3, 2020, the Board adopted the 2020 Amendment, finding that the amendment was consistent with the goals and objectives of the Harrison Township Master Plan and that adoption and implementation of the plan were in the public interest and would protect the public’s health and safety and promote the general welfare; and

WHEREAS, the Court conducted a Compliance Hearing on January 15, 2021 and found that the Township’s Plan, including the 2020 Amendment, implementing ordinances and compliance submissions were constitutionally compliant, and they met and satisfy the Township’s cumulative third round Mount Laurel affordable housing obligations, and as such, the court granted the Township a Conditional Judgment of Compliance and Repose, entered on January 27, 2021; and

WHEREAS, in working to address the final conditions of its judgment, last May Madison advised the Township that due to market conditions and changes resultant from the COVID-19 pandemic that it had entered into a contract to sell its lands included in the Plan and that the contract-purchaser did not desire to pursue residential development on the site in accordance with the Madison Agreement or the Plan; and

WHEREAS, the Township then worked diligently to coordinate with and identify other sites and developers for new projects that would provide a realistic opportunity for the production of affordable housing sufficient to meet its affordable housing obligations in light of the changes prompted by Madison’s intended sale of its lands; and

WHEREAS, the Township and FSHC successfully re-engaged in negotiations and were able to reach agreement on an amended Plan to ensure the Township's continued satisfaction of its Mount Laurel affordable housing obligations; and

WHEREAS, the terms of the amended settlement between the Township and FSHC are memorialized in an Amended Settlement Agreement entered into on December 20, 2021 (the "Amended Settlement Agreement"), which is scheduled to be reviewed by the Court at a Fairness Hearing scheduled on March 11, 2022; and

WHEREAS, pursuant to the terms of the Settlement Agreement, the Court's January 11, 2022 Case Management Order, and in advance of the scheduled March 11, 2022 Fairness Hearing, the Township's and Board's planning consultant, Elizabeth McManus, PP, AICP, LEED AP, prepared an amendment to the 2020 Amendment, entitled "Amendment to the 2016 Third Round Housing Element and Fair Share Plan, Township of Harrison, Gloucester County, New Jersey," dated March 4, 2022 (the "2022 Amendment"), incorporating the changes to the Plan; and

WHEREAS, on March 3, 2022, the Board held a duly noticed public hearing regarding the 2022 Amendment, during which it took testimony from its consultants and provided an opportunity for comments and questions from members of the public; and

WHEREAS, the Board has determined that the 2022 Amendment is consistent with the goals and objectives of the Harrison Township Master Plan, and that adoption and implementation of this amended Plan are in the public interest and will protect the public's health and safety and promote the general welfare.

NOW, THEREFORE, BE IT RESOLVED by the Harrison Township Joint Land Use Board, as follows:

1. The above recitals are incorporated and made a part hereof as if set forth at length herein.
2. The plan entitled "Amendment to the 2016 Third Round Housing Element and Fair Share Plan, Township of Harrison, Gloucester County, New Jersey," prepared by Elizabeth K. McManus, PP, AICP, LEED AP of Kyle + McManus Associates, dated March 4, 2022 (the "2022 Amendment"), is hereby approved and adopted as an amendment to the Harrison Township Master Plan.
3. The Board recommends that the Plan be reviewed and endorsed by the Mayor and Committee of the Township of Harrison for submission to the Superior Court for entry of an Amended Judgment of Compliance and Repose thereafter.
4. The Board Secretary shall forthwith cause notice of the adoption of this resolution and the 2022 Amendment to be published in the official newspaper(s) of the Township.

5. The Board Secretary shall also forthwith transit a copy of this resolution and the adopted 2022 Amendment to the Harrison Township Clerk and the Mayor and Committee of the Township of Harrison.
6. No later than thirty days from the date hereof, the Board Secretary shall cause a copy of this resolution and the 2022 Amendment to be provided to the Gloucester County Planning Board via personal service or certified mail, return receipt requested, in accordance with the requirements of N.J.S.A. 40:55D-13.
7. This Resolution shall take effect immediately.

ATTEST:

**HARRISON TOWNSHIP JOINT
LAND USE BOARD**

By: _____
Donna Schwager, Secretary

By: _____
Walter Bright, Chairman

The foregoing Resolution was adopted at a regular meeting of the Harrison Township Joint Land Use Board on March 17, 2022.

Donna Schwager, Secretary