

**City of Northfield Planning Board**  
**1600 Shore Road**  
**Northfield, New Jersey 08225**  
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**Minutes: August 21, 2018**

Notice of this meeting had been given in accordance with Chapter 231 Public Law 1975, otherwise known as the Open Public Meetings Act. Notice of this meeting had been given to The Press, posted on the bulletin board in City Hall, filed with the City Clerk, and posted on the City website, stating the date, time and place of the meeting and the agenda to the extent known.

This SPECIAL meeting of the Northfield Planning Board held on Thursday, August 21, 2018 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 5:07 p.m. with the reading of the Sunshine Law and the following members present or absent as noted:

Mark Bruno  
Mayor Erland Chau  
Jim Leeds  
Dr. Richard Levitt  
Joe Massari-absent  
Chief Paul Newman  
Henry Notaro  
Councilman Frank Perri  
Daniel Reardon  
Ron Roegiers  
Derek Rowe  
Clem Scharff-absent  
Jim Shippen

Matthew Doran, Professional Engineer  
Norman Zlotnick, Solicitor-absent

Dr. Levitt read the notice published August 10, 2018 in The Press of Atlantic City which basically stated the purposes of the Special meeting. The Planning Board will consider adopting a resolution amending the City's Housing Element and Fair Share Plan to reflect the changes necessary to conform with agreements entered between the City, Fair Share Housing Center (FSHC), and Mason Properties, LLC and to take any other actions related to responsibilities of the City of Northfield and the Planning Board in conjunction with the affordable housing requirements of the New Jersey Fair Share Housing Act. Dr. Levitt welcomed Tiffany Cuvillo Morrissey, Professional Planner and Mike Jedziniak, Esq.

Mr. Jedziniak is with the law firm of Jeffrey R. Surenian & Associates, LLC in Brielle, NJ which only deals with Mount Laurel Law and only represents municipalities. His firm was hired by the City of Northfield in 2004 to deal with Gurwicz matters which were settled. In 2015, COAH went out of business and the Supreme Court placed jurisdiction back to the courts where it remained. The Fair Share Housing Center (FSHC) is a statewide advocacy group and the attorneys were able to reach a settlement with them as

well as settle issues with Mason Properties, LLC. The bottom line is that the Planning Board will consider amending its Housing Element/Fair Share Plan consistent with the terms met and the Mason issues. The Board still has a choice, but he highly suggested not voting it down. This needs to be adopted and endorsed. Mr. Jedziniak said once this is completed, he will file with the court the final Round Three Plan and once approved, the City will begin implementing the plan. The city will be under legal protection from any Mount Laurel lawsuits until July 2025.

Dr. Levitt gave an overview of the situation for the newer Board members. The City must be compliant with the court order and without this protection; developers can file Builder's Remedy lawsuits for court approval to proceed with development outside the normal development process. Dr. Levitt asked Ms. CuvIELLO to discuss the final numbers. Mr. Jedziniak added that it is essential to comply with Mount Laurel as Builder's Remedy lawsuits can make you lose control of planning destiny and this will keep the city immune from these types of lawsuits. Dr. Levitt said that designating areas for affordable housing is for capability only and doesn't mean they have to be built at this time. It shows effort to comply.

Ms. CuvIELLO addressed the Board and explained that the 2015 prior round obligation now includes rehabilitation shares where people are living at the properties and are being rehabilitated. The first round began in 1999 and was re-addressed in 2015 where 190 units were assigned. The third round encompasses 1999 to 2015. This plan obligation was negotiated at 89 credits. This is a reduction from 339 to 183 to 89 which is a win for the city.

She continued by discussing the vacant land adjustment involving undeveloped or under developed vacant land of a certain size. This brought the affordable units down to 18 with a 71 unit balance termed unmet need. There needs to be zoning created for this. Dr. Levitt asked if Birch Grove Park and the Country Club were excluded from the vacant land requirement. She said open space cannot be developed. Birch Grove Park falls under this category and is not included. The Country Club is also excluded since it was included in a prior round. She referred to the vacant land table on page 12 and said 16 acres of land was considered for the 18 units. This formula uses a density of 6 units per acre for a total of 91 units. The realistic development potential takes 20% of this number for a total of 18 units with 71 labeled unmet need.

Ms. CuvIELLO went on to page 15 of her report and discussing how the credits will be provided for and what is to be accomplished. The Atlantic County Improvement Authority will provide for the City's 17 unit rehabilitation obligation. Bonus credits are available of which the Gurwicz project will provide two credits per unit. She discussed the table on page 16 "Northfield Housing Sites", and said these occupied sites were addressed in the 2015 plan. This contains four group homes which are existing as well as two city-owned sites to be proposed as Habitat for Humanity sites. Even though Habitat for Humanity has not been very active lately, open discussions are available and this is allowed to remain as viable units. As to senior housing credits, the Mason Properties site on Mill Road and Wabash Avenue is proposed to allow for 12 units per acre of senior housing and this includes some modifications from the prior round. This was part of the prior round and includes 80 units on site of the 190. The Country Club was also included with the prior round and includes 72 units. Ordinances for the Country Club were not implemented in 2015, but the Golf Course cannot be eliminated and the integrity of the Golf Course must remain although two Country Club lots located on the driving range areas are included in the unit numbers. Dr. Levitt said housing in the form of golf villas has been in the plan for many years, but they were never built. Tiffany said that addresses the 190 units.

She continued by discussing 18 units of potential realistic development brought over from the 2015 round into the next round. The Group Homes carried over for a total of 10 units. The driving range on Tilton Road proposed to allow for mixed development of commercial on the ground floor and residential behind or above in the same structure would provide up to 8 affordable units. There is also city-owned property on Dolphin Avenue proposed for age-restricted dwellings which can now be considered for single-family units since only 3 affordable units are needed at this property. This actually gives 21 credits instead of 18.

Ms. CuvIELLO commented that for the unmet need of 68 units, the city can't just do nothing and must look at property for an overlay zone such as St. Gianna's on Route 9. This is a 14.4 acre site with the Catholic Church, solar facilities, and other ancillary uses of about 6 acres available for optional development. A zone could be created to allow for a maximum of 100 units of senior housing whether assisted living or independent living. An overlay zone means the original zoning stays in place with optional development for something that would work with the church.

The last component of the plan for addressing unmet need is an inclusionary zoning ordinance involving rental or condo units. If a developer were to intend to build more than 5 units of multi-family residential units, 15% would have to be set aside if rentals and 20% set aside if they are condos for sale. These units would be captured as affordable housing units sometime in the future. Dr. Levitt asked if this type of ordinance has been tested in the courts and Ms. CuvIELLO said the city would be addressing unmet needs, so it is considered appropriate. There are no changes to existing ordinances that address conditional uses for age restricted developments which require a set aside for affordable housing.

Ms. CuvIELLO next described the two actions required by the Planning Board. The first aspect is the public hearing and adoption of the Housing Element and Fair Share Housing Plan and the Spending Plan and the second aspect is to refer the Ordinance to the Governing Body and recommend that the Ordinance is consistent with the Master Plan. The Ordinance includes the provisions to implement those standards for the Country Club property, the Mason Properties site, the overlay zoning at the church, and the affordable housing set aside for any multi-family development.

Ms. CuvIELLO next explained the ordinance section dealing with the marketing of affordable units to the community. This involves notification and advertising. Design of the units and the number of bedrooms and pricing is also involved.

Mr. Leeds asked about sites that were discussed in 2015 such as the Burton Avenue School, the old Oak Avenue school site, and the senior housing at Dolphin Avenue. Ms. CuvIELLO said the senior housing on Dolphin does not qualify due to the timing of when they were built. They also are fully developed. Dr. Levitt added that the city can't impose new restrictions on fully developed properties such as the Four Seasons development. Ms. CuvIELLO added that the two school sites were not included since they were not needed for the numbers. There was a question about whether or not those schools are in danger of closing. They are being utilized as private schools and Mr. Jedziniak said things could change by 2025 and if they are closed in the future or leveled, this could affect the number at that time.

Ms. CuvIELLO addressed the spending plan. She stated the City adopted a Development Fee Ordinance in 2017 and it has two components. There will be a housing impact fee for any new residential units not part of affordable housing. This is usually 1% to 1.5% of assessed value and this usually amounts to about \$2500 to \$3500. Any newly constructed home would qualify and have to pay this fee. Mr. Jedziniak said that his firm represents 60 municipalities and they all have impact development fees.

These fees are placed into an affordable housing trust fund so that the city doesn't need to use general funds. Mr. Perri asked who would collect these fees. Ms. Cuiello said they would be collected with building permit fees before a CO is obtained. Ms. Cuiello agreed that these fees are not unusual. Commercial properties already pay a 2.5% fee and this is mandated by the state. She said the Spending Plan projection is low due to the amount of city development which is only about 5 units per year. The projection for funds is \$165,000 to be collected and will be higher if the economy picks up. Mr. Leeds questioned additional fees for developers in the current market. Ms. Cuiello said if the spending plan doesn't pass and the fees are not collected from developers, they will be required to build affordable housing which will be much more expensive than the impact fees. These fees are common in municipalities participating in affordable housing and they were adopted by the City a year ago. The Spending Plan states how the City will spend the fund and there are rules governing this.

Ms. Cuiello explained that the distribution numbers are 20%, 30% and 50%. The percentage distribution is as follows:

20% Administrative expenses

30% Affordability assistance which involves assisting affordable deed restricted units with housing costs, rent costs, and down payment assistance

50% New projects in the municipality; development for affordable housing obligation

Ms. Cuiello said that is basically the plan. She added that the impact fee doesn't apply to any development projects that include affordable housing units as part of the project. They are exempt from these fees. Mr. Roegiers pointed out that these fees are subsidizing the competitor and Mr. Jedziniak said in essence they are. Ms. Cuiello said that is how it works with affordable housing. Mr. Jedziniak added that he believes the plan will be approved by the Judge and said the city has 4 years to spend what they collect. Mr. Roegiers commented on the 68 credits that the numbers are short. Ms. Cuiello said the city has an unmet need of 68 credits because the city can do a vacant land adjustment. Mr. Roegiers asked what the time frame is for the affordable housing units. Ms. Cuiello said there is no time frame. The city only has to create the opportunity for the units to be developed. Mr. Jedziniak said if no development occurs and the time gets closer to 2025, it will be determined that the 2018 choices were not realistic. He noted that there is a very slim chance that this will happen and that there will be no development. Ms. Cuiello said development is already happening with the Gurwicz project and the inclusion of 40 affordable units. Dr. Levitt said Northfield is almost a fully developed community. He also commented that Tiffany did a remarkable job with this plan and understood the city very well.

Mr. Bruno asked what would happen if Mr. Gurwicz isn't selling enough non-affordable units and wants to increase his number of affordable units. Dr. Levitt said that risk is low since the developer makes more money from the non-affordable units. Ms. Cuiello said if Mr. Gurwicz decided to increase his affordable number that would add units to the next round. Mr. Bruno said he had a problem with New Jersey being the only state where COAH is mandatory and you can be sued for not complying. Mr. Jedziniak said there are other states such as Massachusetts and California although New Jersey has the strongest affordable housing obligations. Dr. Levitt said it is unfortunate in Atlantic County that we have beach-front high-end housing along the shore with low taxes and low school bases and that these affordable numbers can't be averaged out at the county level instead of by municipality. He urged Mr. Jedziniak to consider this in future legislation. Mr. Jedziniak said that very thing is going on right now and that his firm testified on this issue a few weeks ago.

Dr. Levitt opened the public session. Nancy Leanza of 402 Aster Street addressed the Board and was sworn in by Dr. Levitt. She lives one block from the Gurwicz Cresson Hill project and is concerned that

the 40 designated affordable units could become 80 units. She understands that this does not necessarily have to happen. She has concerns that the city could be sued if they don't comply. She also felt that all of the affordable housing is affecting one end of the town. Ms. CuvIELLO said the city has to create the zoning to allow it to happen; the city does not have to compel it to happen or provide financing for it. Mr. JEDZINIAK said in counties such as Monmouth, Middlesex, or Burlington, a plan has been approved and nothing happened for a long time. Opportunistic developers have come along with a plan for their property and have gone after a town's immunity from lawsuits and petitioned the courts saying that the plan does not provide a realistic opportunity. They have obtained density increases for their projects to offset the cost of affordable housing. Dr. LEVITT said the risk is higher in counties with large amounts of acreage with the need to increase density to increase profits. It is highly unlikely that this could happen in Northfield. Mr. JEDZINIAK agreed and stated that some of the municipalities they represent have over 1000 units of affordable housing obligations. It's a possibility, but it's not going to happen especially since we have a settlement with FSHC, an effective advocacy group with good attorneys. Ms. LEANZA said affordable housing has been an issue for over 30 years and she has concerns that at some point there will be lawsuits against towns. Mr. JEDZINIAK assured her that it is his job to make sure his clients stay immune from lawsuits. Dr. LEVITT said that any changes to his plan would have to come before this Board and she would be notified. Mr. GURWICZ's motivation is not to build more affordable units; he wants marketable units. Mr. JEDZINIAK said Mr. GURWICZ would also need a court order for changes. Ms. LEANZA said all this is happening within a mile of her home and she thinks it is a high density for her area. Ms. CuvIELLO said the problem is that Northfield itself is a small area and everything is near to other properties. Ms. LEANZA said that is what attracted her to Northfield. Ms. CuvIELLO reviewed her plan and what was accomplished for Ms. LEANZA. Dr. LEVITT said the goal was to provide minimal impact to residential single family homes. Ms. LEANZA again asked if the city could be sued. Mr. JEDZINIAK assured her not to worry about that; he will not let that happen.

Dr. LEVITT asked for a motion to vote to approve the Resolution of the Planning Board for the City of Northfield, Atlantic County, New Jersey, Adopting Amendment to the City's Housing Element and Fair Share Plan and read the "Resolved" portion of the resolution and asked for discussion. Mr. LEEDS asked about the Mason Properties settlement. Dr. LEVITT said the site is now senior housing for 80 units with 12 units per acre set aside for affordable housing. Ms. CuvIELLO said they reduced the affordable units on the site with 15% set aside. The density can be increased to 15 units per acre as long as they don't need any variances. There still exists a two year extension on the 19 home subdivision plan. Dr. LEVITT said this would be a good site for adult housing since children wouldn't be added to the school and it is near to the Library and Tilton Market.

Mayor Chau made the motion to adopt the resolution and Mr. Shippen seconded the motion. The roll call vote was as follows:

Mr. Bruno-no vote as more than 9 members were present

Mayor Chau-yes

Jim Leeds-yes

Chief Newman-yes

Henry Notaro-yes

Councilman Perri-yes

Mr. Reardon- no vote as more than 9 members were present

Mr. Roegiers-yes

Mr. Rowe-yes

Mr. Shippen-yes

Chairman Levitt-yes

The motion carries.

The second vote involved the Ordinance being referred to the Governing Body for endorsement and agreement that it is consistent with the Master Plan. Mr. Shippen made the Motion and Mayor Chau seconded. The roll call vote was as follows:

Mr. Bruno-no vote as more than 9 members were present

Mayor Chau-yes

Jim Leeds-yes

Chief Newman-yes

Henry Notaro-yes

Councilman Perri-yes

Mr. Reardon- no vote as more than 9 members were present

Mr. Roegiers-yes

Mr. Rowe-yes

Mr. Shippen-yes

Chairman Levitt-yes

The motion carries.

The City Council meeting was to immediately follow this Special Meeting. Mr. Roegiers made the motion to close this meeting and Mr. Perri seconded. Dr. Levitt closed the meeting at 6:02 p.m.

Respectfully submitted,

Robin Atlas, Secretary to the Board