TOWNSHIP OF COLTS NECK
PLANNING BOARD MEETING
FEBRUARY 11, 2025 MINUTES

Mr. Tobia called the meeting to order by reading the following statement: "As Chairman and Presiding Officer of this meeting of the Planning Board, I hereby declare that the notice requirements of the law have been satisfied by prominently posting on the Township bulletin board a notice of this meeting, and that there has been transmitted a notice to the Asbury Park Press and the Two River Times and that a copy is on file in the Office of the Township Clerk. This meeting is a quasi-judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be always maintained. I further order that this public announcement be placed in the minutes of this meeting."

Salute the Flag

Roll Call:

Present: Tobia, Lukowitz, Torchia Buss, Corsi, Lutkewitte (arrived 7:25 pm), Savage, Sullivan, Taeschler, Viola, and Stivala

Absent: Visi

Also Present: Timothy Anfuso, P.P., Mike Steib, Esq. and Beth McManus, P.P.

Approval of Minutes:

Motion to approve January 14, 2025 meeting minutes

OFFER:	Taeschler
SECOND:	Corsi
AFFIRMATIVE:	Tobia, Lukowitz, Buss, Corsi, Savage, Sullivan, Taeschler, Viola and Stivala
NEGATIVE:	None

General Public Comment (none-agenda items)

Kevin O'Brien, 18 The Enclosure stated after the January 14th Planning Board meeting, he was confronted by a Board member. He came at me hot. He said you are not wanted, not helping, and should move. The next day I filed a police report. I will not be intimidated, and residents should be able to voice their concerns without fear. While we could have used eminent domain, we got a car wash. Land prices are rising, and the elected officials have chosen not to pursue grants or issue municipal bonds to purchase land with no real plan on how to satisfy our affordable housing obligation. Is Colts Neck willing to purchase land for veteran housing. We owe 285 affordable units, which could result in 1,200 apartments. The state requires no more than 30% of the housing to be seniors and 50% must be for families. Is Colts Neck willing to donate land or senior housing such as Tinton Falls. I am concerned about the lack of transparency. Mr. Viola refused to share the Court Order. I obtained a copy and transmitted it to over 900 residents. Can Beckers hardware store be rezoned for affordable housing. I ask the Board of Education and this Board to join me in securing veteran housing as opposed to another apartment complex. Colts Neck can be more transparent,

financially responsible and respond to their residents while meeting the mandates of the court. An affordable housing steering committee comprised of eight residents could shine a light on the dark side of government. And No Mr. Chairman, you were not the member who approached me. Thank you

RESOLUTIONS:

PB762 Roger Mumford Homes, LLC – Block 53, Lots 4, 5 & 7 – Obre Rd
Memorialization of a Resolution granting Preliminary and Final Major Subdivision approval for a 26-lot subdivision consisting of 25 residential lots and one open space / stormwater management lot in the A-7 Zone.

OFFER:	Taeschler
SECOND:	Sullivan
AFFIRMATIVE:	Tobia, Sullivan and Taeschler
NEGATIVE:	None
RECUSED	Lukowitz

Resolution of the Planning Board Regarding Affordable Housing Hearings

Mr. Viola requested permission of the Chairman to read a portion of the Chairman's statement from the Minutes just adopted. It read "although I have been told that Planning Boards and governing bodies conduct such sessions, it is my opinion that this is a Township Committee responsibility. Mr. Tobis made a motion that any future public or informational meetings on affordable housing be conducted by the Township Committee because it is their ultimate decision'. Also, at the end of the meeting you commented on a survey that was erroneously released to some residents. You recommended that if it is going to be released again, it should be brought to the Affordable Housing Subcommittee first. At one time you say you want affordable housing while at another you say you don't. This is just a political statement at a land use Board and inappropriate. I urge my colleagues to vote no.

Mr. Tobia said at the last meeting I made the motion because in my opinion it does not belong before this Board. There was only one descending vote which was yourself. You as the governing body are responsible for hiring the professionals, negotiating agreements with developers, meeting with the court and approving the locations. It is the Township Committee's responsibility to make these decisions, good or bad. And yes, this is just a land use Board. It is not a political stunt because I am not running for the Township Committee. So, for you to say it's a political stunt is incorrect. Furthermore, there is no reason why you would not want it before your committee where the final decisions must be made before it gets to this Board.

Mr. Viola stated you are conflating issues. There were no specific projects, developer's agreements, contracts, anything awarded or discussed at that meeting. The January meeting was just an informational meeting to receive public input on what type of housing and locations they prefer to satisfy our obligation.

Mr. Tobia said once again that's your responsibility. The survey should go before the affordable housing subcommittee. And while we are talking about the affordable housing subcommittee, I recommend it be expanded to include two members of the school board, emergency services and public works. If you truly want to be transparent, that subcommittee should be expanded to get more opinions to make better decisions.

Mr. Tobia asked Mr. Steib if he could expand the affordable housing subcommittee. Mr. Steib stated if you make a subcommittee of this Board, you could put whoever you want on it. Well then it will be expanded on this Board said Mr. Tobia.

Ms. Buss stated this is an unfortunate display. I got involved with the Township Committee four years ago because of an affordable housing public hearing. I wanted to get involved. During my time with the Township Committee there has been transparency. I personally met with the prior School Board to go over our obligation. There have been lots of meetings with stakeholders. There is lots of interest right now and I think that's great. Quite honestly for years there was no interest from the public. Now that people are telling us they are interested, we are going to share information with the public. The January meeting was held by the Planning Board specifically not to be political but to receive input from the public. I will be voting yes because I do not believe the Planning Board will not be holding another public information meeting, but I do think it's imperative for the Planning Board to be involved in the planning of affordable housing.

Mr. Taeschler said that going forward we need to work together as a team. In the future I think we should have informational secessions that are distant from the Township Committee or the Planning Board. The last meeting I went to was at the High School. It was a Town Hall meeting hosted by the Township Committee. I believe both bodies need to work as a team and if an informational succession is needed in the future a Town Hall style meeting should be held that is neither a Township Committee or Planning Board meeting.

Chairman Tobia said we need a vote on the resolution

OFFER:	Lukowitz
SECOND:	Taeschler
AFFIRMATIVE:	Tobia, Lukowitz, Corsi, Savage, Sullivan and Taeschler
NEGATIVE:	None
RECUSED:	None

ADMINISTRATIVE ITEMS:

Public Hearing: Round Three Housing Element and Fair Share Plan of the Master Plan

Chairman Tobia asked why is the Planning Board receiving the plan at the eleventh hour if this Order requiring action within 90 days was given on November 21, 2024. Why wasn't it given to the Board earlier so we could have discussed it at the December meeting, the January meeting or given to the affordable housing subcommittee. Mr. Viola said we received it on November 25, we shared part of it with the public in December. It was not discussed in January because we had the public information meeting. Mr. Tobia said we need more time to study the plan and understand its impact. Mr. Tobia asked Mr. Steib what happens if we don't act on the plan this evening. Mr Steib said the Board will be out of compliance with the Order and we would be subject to whatever actions the judge choses. The judge can throw out your settlement agreement, could throw out your immunity, there are all types of things the judge could do. Mr. Lukowitz said we just received these documents addressing our plan. There is no secret that this is a serious issue, a sensitive issue, a very emotional issue. How could anyone expect this Board to read through these documents without the luxury of hearing from the professionals. I know the Township Committee has been in contact with the professionals. I would like to have that luxury. I would like to be able to speak with professionals. I have a lot of questions about

it. I'm not saying it's wrong, it might be right. I am not there yet. This was received in November and there was plenty of time to discuss it or have a special meeting. For me to get this on Thursday and expect a yes or no vote today is inappropriate.

Mr. Tobia asked Ms. McManus before you go into your presentation, could you explain the fundamental roles of the Planning Board versus the Township Committee in the affordable housing process. Ms. McManus stated the housing element is a required element of the Township Master Plan. It's like the land use element, circulation element, conservation element etc. The role of the Planning Board for compliance purposes is to adopt the housing element as part of its Master Plan. It's a fundamental requirement to gain immunity. The governing body's primary role is the implementation of the housing plan. They do that by adopting ordinances that implement the plan. It could be zoning ordinances, spending ordinances, development fee ordinances, or ordinances on how affordable housing will be administered. The governing body also adopts resolutions supporting the housing element.

Ms. McManus explained the purpose of this Housing Element and Fair Share Plan is to comply with November 21, 2024, Orders issued by the Hon. Linda Grasso Jones, J.S.C. She emphasized this Housing Plan, and its adoption will occur **"under protest" with the intent to appeal the Orders once the matter is deemed final**. The Township reserves all rights and positions in connection with any appeal.

She stated the judge is requiring the Township's to adopt a new Housing Element and Fair Share Plan within 90 days. She opined the following provisions are the most consequential terms in the judge's orders:

- Granting the Township's request for a durational adjustment without the durational adjustment waiver.
- Retaining the "Area 1" overlay district. Area 1 is an overlay zone which keeps the existing business zoning in place but also allows for inclusionary housing developments. Area 1 runs along Route 34 from Route 537 to the new carwash.
- Providing up to $2 million toward extending water and/or sewer service for affordable housing in Area 1. The Court has directed that if infrastructure to Area 1 becomes available by some other means, the Township could be responsible for up to $2 million of its costs. This is subject to an application to and approval by the Court.
- Removing the market to affordable program from the Third Round.

Third Round Obligation: 306 units

Colts Neck Township has nine (9) credits from existing approved projects known as Mauro and Reflections at Colts Neck.

Two third round intervenor's – Colts Neck Building Associates and Countryside Developers – have been incorporated into plan. Both are subject to court approved Intervenor Settlements and have received site plan approval for inclusionary developments. Colts Neck Building Associates will provide sanitary sewerage from an on-site treatment plant and potable water from Gordons Corner Water Company. Countryside Developers will obtain public sanitary sewage and potable water from Freehold Township. These two developments, including bonuses, account for 159 affordable units.

The remaining Third Round obligation of 138 units is being satisfied through compliance with COAH's rules regarding durational adjustments. This is a scenario where a municipality lacks the public sewer and water capacity to fully address its remaining obligation. In this case it equates to 138 affordable units. Ms. McManus explained that a durational adjustment obligates the Township to support all applications to the DEP to provide public sewage and potable water into the Township if and when it becomes available to develop affordable housing.

Mr. Lukowitz asked what the time frame does the township have to meet its durational adjustment. Ms. McManus said there is no specified period. It's just a recognition that the Township doesn't have the infrastructure to support inclusionary development and if infrastructure becomes available the township will have to meet its obligation at that time. It does not expire. Chairman Tobia asked if it would remain past the fourth round 2025 date. Yes, it will remain in perpetuity until it is satisfied. Mr. Lukowitz asked if this obligates the township to actively pursue extending infrastructure into the township. No, the township does not have to seek infrastructure. However, in the future if a builder seeks to extend infrastructure, then the township is obligated to work with them. We are obligated to support it and consent to the development and all applications to the NJDEP. This does not include funding; it does not include a PIOLT or constructing infrastructure. It does require the township to work with the developer and amend its Housing Element and zoning accordingly.

Ms. McManus explained the Township previously sought a waiver which would only obligate the township's consent to infrastructure in Area. However, this waiver has been removed and we now need to support infrastructure anywhere in the township. So, on one hand the judge is requiring the township to fulfill some of the terms of the waiver, such as funding up to $2,000,000 to bring sewers to Area 1, but on the other hand that waiver is being eliminated.

Chairman Tobia questioned if a developer wanted to extend infrastructure into Area 1, we pay $2,000,000 of that cost. Ms. McManus said potentially. We will have to consent to that application and if it followed the terms of the settlement agreement potentially fund part of it. Mt. Tobia asked where that money would come from. It could be from the general budget appropriation but most likely from the Affordable Housing Trust fund. Mr. Tobia asked if the Affordable Housing Trust Fund currently has $2,000,000 – No. Could the Trust Fund be used to leverage a bond for annual payments – Yes. We are only obligated to partially fund the infrastructure to Area 1. If a developer wants to extend infrastructure to other areas of the township, we must support it but not obligated to fund it. Chairman Tobia stated just to be clear and transparent, this order that we just received at the eleventh hour strips the township from any location a developer finds to bring sewers into town from Tinton Falls or another community and we could have more developments like the Kushner project. He said the durational adjustment of 138 units could result in two Kushner style developments and then we also have a fourth round obligation to fulfill. You just increased your population by at least 10%, created issues for the police department, created issues for the school system and a currently taxed fire and first aid. So you just opened this town up to at least two more Kushner style of developments.

Mr. Viola asked Ms. McManus to read the opening paragraph in her February 10, 2025 memorandum. Ms. McManus read the following statement.

The purpose of this Housing Element and Fair Share Plan (hereinafter the "Housing Plan") is to comply with November 21, 2024 Orders issued by the Hon. Linda Grasso Jones, J.S.C. As stated in the Housing Plan, its adoption will occur "under protest" with the intent to appeal the Orders

once the matter is deemed final. The Township reserves all rights and positions in connection with any appeal

Ms. McManus described the following three basic components of the Township's Third Round affordable housing obligation and how it is being satisfied.

Rehabilitation Obligation: 25 units

The rehabilitation obligation is an estimate of the number of substandard housing units existing in Colts Neck that are occupied by low- and moderate-income households. The Township will address this obligation through participation in the Monmouth County Housing Repair Program. This is a program which provides financial assistance to income eligible homeowners to repair basic building code violations in their home. This County program is funded by the federal Community Development Block Grant (CDBG) program. Mr. Lukowitz asked how it became 25 units in need of rehabilitation. Ms. McManus explained it simply comes from census data points. Mr. Lukowitz asked if the township challenge those outdated census numbers – No. The Housing Plan proposes a waiver from a municipal rental rehabilitation program since the most recent census and the upcoming Fourth Round rehabilitation obligation is 0 units

Prior Round Obligation: 218 units

Ms. McManus briefly discussed how the Township satisfied its prior Round One and Two cumulative obligation of 218 units. She reviewed the following table

Satisfaction of the 218-unit Prior Round Obligation				
Mechanism	**Rental Units**	**Sale Units**	**Bonus Credits**	**Total Credits**
RCA with the City of Long Branch	0	0	0	107
The Grande (family for-sale and rental units)	22	66	22	110
Amboy Road Associates (family for-sale units)	0	1	0	1
Total Prior Round Credits	***22***	***67***	***22***	***218***

She reviewed the following table which shows how the Township is satisfying its Third Round obligation of 306 affordable units.

Satisfaction of the 306-unit Third Round Obligation					
Mechanism	**Unit Type**	**Units**	**Bonus**	**Credits**	**Durational Adjustment?**
Mauro (Route 704 / Cross Street)	Family For-Sale	2	0	2	No
Reflections at Colts Neck	Assisted Living	7	0	7	No
Colts Neck Building Associates	Family Rental	72	72	144	Yes

Countryside Developers	Family For-Sale	15	0	15	Yes
Durational Adjustment	Family For-Sale / Rental	138	0	138	Yes
Total Third Round Credits		***234***	***72***	***306***	

At the conclusion of Ms. McManus's presentation, Mr. Sullivan asked if this Board adopts the Third Round Housing Element under protest with the intent of appealing, do we know if the Township Committee is 100 % going to file the appeal? Mr. Viola said yes.

Meeting open to the public.

Mr Robert Scales – 2 Queens Pass sworn. I am a member of the Colts Neck Board of Education; however, I am here tonight as an individual and not the Board. I am Chairman of the school's Affordable Housing Committee. We project that the number of school children generated from the numbers you are discussing will add another 300 to 400 students. The numbers received from Rutger's University are low. One of our primary schools is already at capacity – over 525 students. The amount of impact this is going to impose will be another school. I must plan. I have asked for a revenue number these projects will generate. If I have a number, I can start planning for a new school. I ask for your support in our efforts in planning how this will impact our school system.

Kevin O'Brien – 18 The Enclosure South sworn. It's my understanding we have a 138 unit shortfall. Is it possible that we create a Housing Authority to build and run the 138 units, so we don't have an influx of school children. Could we do a shared service with the Holmdel Housing Authority. Secondly, during the December 11th meeting I asked about the Judges Order and was told we don't discuss matters of litigation. So, I OPRA it and sent it out to various individuals. It's unfortunate that this Board didn't receive it. Finally, while we are talking about transparency, why are the meetings not being broadcast? We did it via zoom during the pandemic.

Anthony Ursino. 15 Joshua Huddy Drive. I am a member of the community who just woke up when I drove past 537 and saw the 265 units of the Kushner project being constructed. This is all new to me and I don't understand credits or durational adjustments. But I know the school system will be harmed. No one understands the Mount Laurel process. Developers can just go to court and get whatever they want. I have a question. If a property was to become rental could the rental be eligible for credits. Yes, if the appropriate deed restrictions were placed on the property. Can we get credit for the rooms in the Village Inn Motel. Not as they stand today. The rooms currently do not meet the definition of a dwelling unit because they do not have kitchens. You could do an adaptive reuse and convert two rooms into a dwelling, place a 30 year deed restriction on the property and then get credit. Does Section 8 vouchers receive affordable housing credit. No, not without a 30 year deed restriction. Chairman Tobia said the township could buy the property, work with a non-profit like Tunnel to Towers and redevelop the site into some affordable housing units.

Kevin O'Brien reading the Court Order says the Township must commit $2,000,000 for water and sewer to Area 1. Are the funds just for sewer or both. Also, the judge gave 90 days to adopt this plan. That puts you between a rock and a hard place. I believe you have no other option currently.

Public comments closed.

Mr. Steib read from Ms. McManus February 10, 2025, memorandum. Page 1 says this is being done under protest. Page two talks about four projects which are all done. So, the only thing we are talking about is the durational adjustment. With the exception to the Order's modification to the durational adjustment, this is nothing new. Everything has been here for years.

Chairman Tobia asked isn't the $2,000,000 for sewers new. Mr. Steib said the $2,000,000 is just a continuation of what was there. What is new is the rejection of the waiver. The township realized that infrastructure couldn't be delivered to Area 1 in a timely fashion, so it requested it be removed. The judge gave partial approval to that by releasing the waiver but said you still need to commit $2,000,000 which you previously offered with the waiver.

Mr. Lukowitz stated I still have concerns. I am just learning about this at the 11th hour. We all could have been educated about this all along the way. Now I have received this where the decisions have been made and been told I need to vote for this. We must change the way things are done. We need to get the subcommittees more involved. Mr. Tobia said it's disrespectful to the Board to get this where the decisions have been made. He said next time it must go through the subcommittee fist. Where the subcommittee can explain it to the Board prior to adoption. And since I can I am going to expand the Board's Affordable Housing Subcommittee to include a lot more members of the township.

Mr. Tobia asked Mr. Steib if we table this tonight, what does it do to the Township Committee and the Court. Mr. Steib said it was mentioned that the Board could send a letter to the judge asking for additional time because with the holidays 90 days is short. I don't know what she will do. You are going to have a hearing on the 7th. If the plan is not adopted, she could grant an extension or find you out of compliance with the Order and strip the township of its immunity. This plan is being adopted under protest with the intent of appeal. You can't start the appeal until this plan is approved. So, the first step in appealing the Order is to adopt the plan to set the appeal in motion. Mr. Tobia asked if this Board doesn't act on this plan, could the Township Committee approve it. No, not under the Municipal Land Use Law. This Board has the sole authority to adopt a Master Plan element. Mr. Lukowitz opined it would be reasonable for the judge to grant an extension if a thoughtful letter explaining the situation was sent.

Mayor Buss said she was confused. As Mr. Steib explained, 95% of this plan is not new. There is something a little different here and it has been explained. I'm not sure where the delay is going to go and what it will achieve. What is our goal in delaying this tonight. Mr. Tobia said the main concern is getting a better understanding of what could happen with the $2,000,000 for infrastructure. Could another developer on the outskirts of town claim, "me too" and try to get the town for pay for sewers to their project. If we were given more time, we could have crafted better language in our resolution to explain our position regarding the $2,000,000. Mr. Lukowitz said he does believe the worst case scenario will ply out. Even if it does, we could always appeal that. I want to stop this right here.

Mr. Anfuso said he has been the Township Planner for a long time and in his professional opinion it is in the best interest of the Township for the Board to approve the plan. The Board could send a well crafted letter requesting additional time but there are no guarantees the judge will accept it. It has been his experience with the courts that the towns have been viewed as dragging out the process and fighting affordable housing. By volunteering to be out of compliance with the order, the Board is just asking the judge to make an example of the Township and strip its immunity. Mr. Steib concurred. He said you have two issues. First the timing of getting the order. I understand that and it's a valid

criticism. The other facet of this is the judge is not going to change her decision. The decision has been made. You might as well as adopt the plan under protest so the appeal can get started.

Motion to approve the Round Three Housing Element and Fair Share Plan of the Master Plan and memorialize the resolution

OFFER:	Taeschler
SECOND:	Corsi
AFFIRMATIVE:	Buss, Corsi, Lutkewitte, Savage, Sullivan, Taeschler and Viola
NEGATIVE:	Tobia and Lukowitz
RECUSED:	None

Chairman Tobia stated at the next meeting I will be appointing an expansion to the Affordable Housing Subcommittee to include the Board of Ed, Police Department, emergency services and a couple of others. He strongly recommend in the future we receive everything in a timely fashion so the subcommittee can review it first and then make a recommendation to the full Board. I also recommend the Township Committee hold a summit meeting with the State Agricultural Development Committee to educate landowners of the benefit of farmland preservation to take as much developable property out of the affordable housing pool. The public is concerned, frustrated and wants to learn about affordable housing. We are going to take the lessons learned and have a whole bunch of affordable housing meetings moving forward. I employ everybody to work together, have more meetings and get involved. They may not like it, but we will try to give them all the information. I thank everybody for their commitment to this and participating.

A motion to adjourn was made by Lukowitz at 9:12 p.m., seconded by Taeschler and unanimously carried.

I hereby certify that the above is a true and exact copy of the Planning Board Meeting minutes for the meeting conducted on February 11, 2025, adopted by the Planning Board of the Township of Colts Neck at its meeting held on April 8, 2025.

Krista Hill-Kane, Secretary
Planning Board of the
Township of Colts Neck