

**BOROUGH of ALLENHURST
PLANNING BOARD
RESOLUTION
11-29-2023 (1)**

WHEREAS, the Planning Board of The Borough of Allenhurst, in the County of Monmouth and State of New Jersey, adopted its current Master Plan pursuant to N.J.S.A. 40:55D-28 in March 2008; and

WHEREAS, the Master Plan includes Section 3.2, Housing Element, in accordance with N.J.S.A. 40:55D-28b (3), but the same did not address the Fair Share Obligations as mandated by the Fair Housing Act, N.J.S.A. 52:27D-301 et seq.; and

WHEREAS, N.J.A.C. 5:97-2.1(a) requires the adoption of a Housing Element by the Planning Board and endorsement by the Governing Body which addresses the Fair Share Obligations; and

WHEREAS, the New Jersey Supreme Court issued a decision on March 10, 2015 in the case captioned *In the matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing*, 221 N.J. 1 (2015) which transferred primary jurisdiction over affordable housing matters from the Council on Affordable Housing ("COAH") to the trial court; and

WHEREAS, on or about on July 22, 2021, Power Station at Allenhurst filed a Mount Laurel lawsuit entitled *Power Station at Allenhurst, LLC v. Borough of Allenhurst; Board of Commissioners of the Borough of Allenhurst; and Allenhurst Planning Board*, Superior Court of New Jersey, Law Division, Docket No.: MON-L-2551-21 for the Borough's failure to provide very-low, low and moderate income housing; and

WHEREAS, on October 15, 2021 Power Station filed a motion for partial summary judgment in the Mount Laurel Lawsuit seeking: (1) a determination that the Borough failed to meet its constitutional affordable housing obligation; and (2) a builder's remedy as a successful Mount Laurel litigant; and

WHEREAS, on or about October 20, 2021, Fair Share Housing Center ("FSHC") filed a motion to intervene in the Mount Laurel Lawsuit and such motion was granted on November 5, 2021; and

WHEREAS, on or about December 8, 2021, the Honorable Linda Grasso Jones, J.S.C., granted Power Station's motion for partial summary judgment finding that the Borough failed to satisfy its constitutional affordable housing obligation; and

WHEREAS, the parties began settlement negotiations which culminated in the preparation of two (2) settlement agreements one with Power Station at Allenhurst, LLC and one with FSHC (collectively, the "Settlement Agreements") and the Power Station Settlement Agreement was approved by the Commissioners at the February 14, 2023 meeting, executed by the Planning Board

on February 22, 2023 and the FSHC Settlement Agreement was approved by the Commissioners at the May 9, 2023 meeting. The Settlement Agreements are incorporated herein by reference; and

WHEREAS, on or about July 6, 2023 a Fairness Hearing was held before the Honorable Linda Grasso Jones, J.S.C. and the Court approved the Settlement Agreements by order dated July 31, 2023; and

WHEREAS, consistent with the terms of the Settlement Agreements, the Borough Planner prepared a Housing Element and Fair Share Plan (the "HEFSP") which is incorporated herein by reference; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board of the Borough of Allenhurst held a public hearing on the Housing Element and Fair Share Plan as created in accordance with the Settlement Agreements at a special meeting of the Board on November 29, 2023, at which all members of the public who wished to be heard were provided an opportunity to be heard; and

WHEREAS, the Planning Board reviewed the HEFSP and considered the testimony of the Board's Planner, Jennifer Beahm, PP, AICP, and members of the public who provided comments; and

WHEREAS, Ms. Beahm's testimony included minor revisions to the HEFSP previously placed on file for the Board's master plan public hearing required pursuant to N.J.S.A. 40:55D-13 including, but not limited to, an updated discussion and updated aerial map of the Main Street Commercial District Inclusionary Overlay Zone consistent with the Main Street Commercial District Inclusionary Overlay Zone Ordinance (introduced as part of the Combined Compliance Ordinance #2023-21); and the Board considered Exhibit AH-1; and

WHEREAS, the Planning Board has determined that the HEFSP adoption and implementation is in the public interest and protects public health and safety and promotes the general welfare by providing for very-low, low and moderate income housing as required by the Fair Housing Act, Mount Laurel case law and the Court-approved Settlement Agreements.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Allenhurst, in the County of Monmouth and State of New Jersey, that the statements contained in the foregoing preamble be and are hereby incorporated into this Resolution as if more fully set forth herein at length; and

BE IT FURTHER RESOLVED, that the Planning Board hereby adopts the November 2023 Housing Element and Fair Share Plan as prepared by the Borough's Planner, Jennifer C. Beahm, PP, AICP, License No. 05625 which is consistent with the Settlements between the parties in Power Station at Allenhurst, LLC v. Borough of Allenhurst; Board of Commissioners of the Borough of Allenhurst; and Allenhurst Planning Board, Superior Court of New Jersey, Law Division, Docket No.: MON-L-2551-21; and

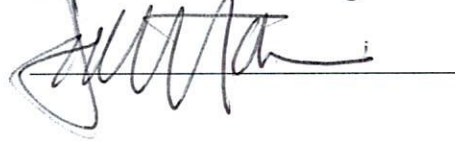
BE IT FURTHER RESOLVED, that the Planning Board Chair, Vice-Chair, Attorney, Engineer, Zoning Officer and Planner are hereby authorized to sign any and all documents necessary to effectuate the intentions of the within Resolution; and

BE IT FURTHER RESOLVED, that the within Resolution shall take effect immediately;
and

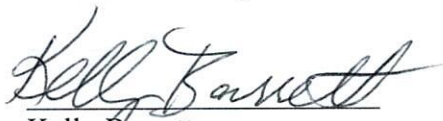
BE IT FURTHER RESOLVED, that a certified true copy of the within Resolution shall be forwarded to appropriate governmental agencies, governmental entities and/or individuals.

Member	Moved	Seconded	In Favor	Opposed
Tomaino			X	
Costello	ABSENT	ABSENT	ABSENT	ABSENT
Bolan		X	X	
Varley			X	
Schechner	X		X	
Adjmi			X	
Ryan			X	

Chairman of the Planning Board



I hereby certify that this is a true copy of the resolution adopting the Housing Element and Fair Share Plan of the Borough of Allenhurst, County of Monmouth and the State of New Jersey on November 29, 2023.



Kelly Barrett,
Planning Board Secretary

