

**BOROUGH of ALLENHURST
PLANNING BOARD
RESOLUTION
11-29-2023 (2)**

**RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF
ALLENHURST FINDING THE PROPOSED "COMBINED COMPLIANCE
ORDINANCE 2023-21" CONSISTENT WITH THE MASTER PLAN, AS
AMENDED AND SUPPLEMENTED**

WHEREAS, in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law") in 2004 the Borough authorized the Planning Board to undertake a study to determine if certain parcels met the criteria to be designated as an area in need of redevelopment; and

WHEREAS, that process led to the adoption of the 2007 Main Street Redevelopment Plan as prepared by Heyer, Gruel & Associates dated November 2007; 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.

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, on or about December 13, 2021, the Honorable Linda Grasso Jones, J.S.C. appointed Mary Beth Lonergan, PP/AICP of Clarke, Caton & Hintz as Special Master in the Mount Laurel lawsuit; 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 and the FSHC Settlement Agreement was approved by the Commissioners at the May 9, 2023, meeting. The Settlement Agreements are attached hereto as Exhibit A; 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 and Order of Fairness and Preliminary Compliance required the Borough to enact a number of ordinances including a Development Fee Ordinance, and Affordable Housing Ordinance, a Mandatory Set Aside Ordinance, and Overlay Zone Ordinance and a Redevelopment Plan Amended all in accordance with the Borough's Third Round Housing Element and Fair Share Plan, consistent with the terms of the Settlement Agreements regarding complaint with the Borough's affordable housing obligations; and

WHEREAS, the Board of Commissioners of the Borough of Allenhurst introduced the Combined Compliance Ordinances 2023-21 on October 17, 2023; and

WHEREAS, the Board of Commissioners of the Borough of Allenhurst referred Ordinance 2023-21 to the Planning Board for consideration and determination if same is consistent with the Borough of Allenhurst's Master Plan; and

WHEREAS, the Planning Board reviewed the Ordinance and considered testimony relating to the Combined Compliance Ordinances 2023-21 and members of the public who provided comments;

NOW THEREFORE, BE IT RESOLVED by the Borough of Allenhurst Planning Board as follows:

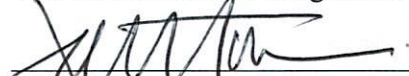
1. That the above recitals be and are hereby incorporated in this Resolution as if more fully set forth herein at length.
2. The Planning Board hereby finds:

- (a) That the proposed Ordinance is consistent with the Borough's Master Plan, including the Housing Element and Fair Share Plan.
- (b) That the proposed Ordinance is designed to further the Borough's goal of achieving access to affordable housing to meet the municipality's low and moderate income housing needs
- (c) That the proposed Ordinance is consistent with the Settlements with Power Station at Allenhurst, LLC and FSHC in the Mt. Laurel litigation 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

3. The Planning Board hereby recommends that the Board of Commissioners of the Borough of Allenhurst adopt the "Combined Compliance Ordinance 2023-21" as presented to the Planning Board on November 29, 2023.
4. This resolution shall take effect immediately. The Secretary of the Planning Board shall deliver a copy hereof to the Borough Clerk, who shall immediately bring the same to the attention of Board of Commissioners of the Borough of Allenhurst.

<u>Member</u>	<u>Moved</u>	<u>Seconded</u>	<u>In Favor</u>	<u>Opposed</u>	<u>Abstain</u>
Tomaino	_____	_____	✓	_____	_____
Costello	<u>ABSENT</u>	_____	_____	_____	_____
Bolan	_____	_____	✓	_____	_____
Varley	_____	_____	✓	_____	_____
Schechner	_____	_____	✓	_____	_____
Adjmi	✓	_____	✓	_____	_____
Ryan	_____	✓	✓	_____	_____


Chairman of the Planning Board



Chairman of Planning Board

JOSEPH P. TOMAINO

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

A handwritten signature in cursive script, appearing to read "Kelly Barrett", written over a horizontal line.

Kelly Barrett,
Planning Board Secretary

