

**A RESOLUTION OF THE BOROUGH OF WOODBURY HEIGHTS
PLANNING/ZONING BOARD
AUTHORIZING A SETTLEMENT OF LITIGATION**

WHEREAS, Woodbury Heights Development, LLC, as the owner of certain property in the Borough of Woodbury Heights designated as Lot 1 of Block 80, filed a builder's remedy lawsuit against the Borough of Woodbury Heights and the Woodbury Heights Planning Board under the Mount Laurel II case [*Southern Burlington County NAACP v. Township of Mount Laurel*, 92 N.J. 158 (1983)], the New Jersey Fair Housing Act, N.J.S.A. 52: 27D-301, et seq., and applicable regulations promulgated pursuant to the Fair Housing Act; and

WHEREAS, during the course of this litigation as filed by Woodbury Heights Development, LLC, which litigation was captioned "*Woodbury Heights Development, LLC v. Borough of Woodbury Heights and the Planning Board of the Borough of Woodbury Heights*", and docketed in the Superior Court of New Jersey, Law Division, Gloucester County as Docket No. GLO-L-1750-09, the parties discussed the potential for settlement; and

WHEREAS, as a result of such settlement discussions, the parties to this litigation have reached a possible agreement so as to provide for less intensive development of the subject property than had been previously approved for this lot in 2006; and

WHEREAS, in fulfillment of its responsibilities under this Agreement, the Planning Board reviewed a requisite amendment to the Borough's Master Plan, including to the Housing Element and Fair Share Plan, as prepared by Tiffany CuvIELLO, PP, AICP; and

WHEREAS, in further fulfillment of its responsibilities under this Agreement, the Planning Board also reviewed a proposed ordinance as prepared by Tiffany CuvIELLO, PP, AICP, to create a new Section 70-13.2 under Article IV, District Regulations, entitled "RM Residential Multifamily District", to allow for the compromised development project as negotiated by the parties to the above-referenced litigation; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 50:55D-13, the Planning/Zoning Board of the Borough of Woodbury Heights held a public hearing on this Housing Element and Fair Share Plan Amendment on March 19, 2012; and

WHEREAS, the Planning/Zoning Board determined that the Housing Element and Fair Share Plan Amendment were consistent with the goals and objectives of the Borough of Woodbury Height's Master Plan and that adoption and implementation of the Housing Element and Fair Share Plan Amendment was in the public interest, in order to protect public health and safety and to promote the general welfare; and

WHEREAS, thereafter the Planning/Zoning Board adopted the March 19, 2012 Housing Element and Fair Share Plan Amendment as prepared by Tiffany CuvIELLO, PP, AICP; and

WHEREAS, thereafter the Planning/Zoning Board recommended that the proposed ordinance as prepared by Tiffany CuvIELLO, PP, AICP to create a new Section 70-13.2 under Article IV, District Regulations, entitled "RM Residential Multifamily District", of the Land Use Ordinances and Code of the Borough of Woodbury Heights be adopted by the Borough Council; and

WHEREAS, the Borough Council of the Borough of Woodbury Heights thereafter duly adopted the aforesaid ordinance to create a new Section 70-13.2 under Article IV, District Regulation, entitled "RM Residential Multifamily District" on April 18, 2012; and

WHEREAS, the Planning/Zoning Board of the Borough of Woodbury Heights has now reviewed and discussed the terms and provisions of the proposed settlement as same have been negotiated by the respective counsels for the parties in this aforesaid litigation; and

WHEREAS, the Planning/Zoning Board, considering the totality of the circumstances involved in this matter, as well as considering the laws and regulations of the State of New Jersey that are applicable to this matter, has determined that a settlement of this pending litigation is in the best interests of the Planning/Zoning Board and of the Borough of Woodbury Heights as well as its residents, taxpayers and citizens in general; and

WHEREAS, this settlement agreement, which is embodied in that certain Litigation Settlement Agreement document, is contingent not only upon Court approval following a

Fairness Hearing, in accordance with the applicable legal requirements, but also upon approval by Mayor and Council of the Borough of Woodbury Heights.

NOW THEREFORE, BE IT RESOLVED by the Planning/Zoning Board of the Borough of Woodbury Heights, County of Gloucester, State of New Jersey that the Planning/Zoning Board hereby authorizes the entering into and the execution of the Litigation Settlement Agreement, as negotiated amongst the respective counsel for the parties involved in this Mount Laurel litigation, upon the prior approval of Mayor and Council, and subject to Court approval following a Fairness Hearing.

BE IT FURTHER RESOLVED, that the appropriate Board officials are hereby authorized and directed to take all appropriate actions to effectuate the intent and purpose of this resolution, including the execution and delivery of this Litigation Settlement Agreement upon behalf of the Board to the other parties in this litigation.

ROLL CALL VOTE

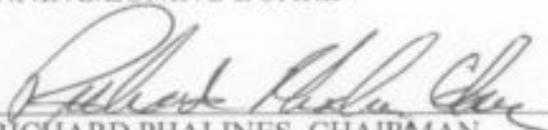
THOSE IN FAVOR: *HOLMSTROM, ELTON, DEECK, HALT, BAKESICH, SEBKO, PHALINES*

THOSE OPPOSED: *COWLEY, TOMASETTI*

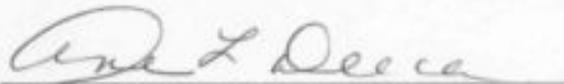
THOSE ABSTAINING: *0*

Dated: May 7, 2012

BOROUGH OF WOODBURY HEIGHTS
PLANNING/ZONING BOARD

By: 
RICHARD PHALINES, CHAIRMAN

ATTEST:


ANNE DEECK, SECRETARY
PLANNING/ZONING BOARD

CERTIFICATION

The foregoing resolution was duly adopted by the Planning/Zoning Board of the Borough of Woodbury Heights at the regular meeting of said Board on May 7, 2012.



ANNE DEECK, SECRETARY
PLANNING/ZONING BOARD