

**WEST WINDSOR TOWNSHIP PLANNING BOARD
RESOLUTION NO. 2011-2**

**A RESOLUTION OF REFERRAL AND RECOMMENDATION
PURSUANT TO N.J.S.A. 40:55D-26 and N.J.S.A. 40A:12A-7
CONCERNING THE PRINCETON JUNCTION RE-DEVELOPMENT PLAN
DISTRICT 1 AS DESIGNATED BY THE WEST WINDSOR TOWNSHIP
COUNCIL**

WHEREAS, the West Windsor Township Council designated a re-development area pursuant to the Local Re-development and Housing Act located at N.J.S.A. 40A:12A-1 in December of 2005 designating a portion of the Township's RP-1 Zoning District as District 1 of the re-development area; and

WHEREAS, District 1 is comprised of a 24.4 acre property within the 350 acre site surrounding the Princeton Train Station which property is owned by IC/LA Washington Road, L.L.C. (hereinafter referred to as "Intercap"); and

WHEREAS, subsequent to the re-development zone designation, Intercap instituted litigation against the Township and the Township Planning Board challenging both the re-development designation and the re-development plan; and

WHEREAS, the West Windsor Township Council has engaged in negotiations with Intercap culminating in a proposed settlement agreement and developer's agreement; and

WHEREAS, the Township Council first referred proposed Zoning Ordinances 2011-4 and 2011-5, which were aimed at implementing the settlement, to the Planning Board pursuant to N.J.S.A. 40:55D-26 and N.J.S.A. 40A:12A-7; and

WHEREAS, proposed Ordinances 2011-4 and 2011-5 were considered by the Planning Board at its regular meeting on February 23, 2011 and at a special meeting on March 2, 2011; and

WHEREAS, the West Windsor Township Planning Board conducted its review process and found that proposed implementing Ordinance 2011-5 was the effective implementing Ordinance barring any failure of the settlement agreement according to its terms and found proposed Ordinance 2011-5 inconsistent with the purposes of the Princeton Junction Re-development Plan and the goals of the plan related to District 1; and

WHEREAS, the Planning Board, in its resolution of inconsistency, made recommendations to the Township Council for the purpose of achieving consistency with the goals of the redevelopment area; and

WHEREAS, the Township Council has redrafted the proposed implementing Ordinance in view of the comments and concerns expressed by the Planning Board and referred modified Ordinances 2011-16 to the Planning Board for review; and

WHEREAS, the revised Ordinances 2011-16 and Ordinance 2011-17, which was proposed to become effective only upon a failure of the settlement, were considered by the Planning Board at its regular meeting on August 17, 2011; and

WHEREAS, the Board considered the testimony and opinions as expressed by the Board's special Planning Consultant, Ms. Linda Weber, AICP, PP and her report dated August 10, 2011.

NOW THEREFORE, be it resolved by the West Windsor Township Planning Board as follows:

1. After careful review and consideration of the Board Professional's report and in view of the Board's familiarity with the West Windsor Township Master Plan and the Princeton Junction Re-development Plan, the Board finds that the proposed implementing Ordinance 2011-16, while addressing some but not all of the Board's comments made in Resolution 2011-1, is inconsistent with the Princeton Junction Re-development Plan and the espoused intent, purpose and goals of the plan related to District 1.

2. BE IT FURTHER RESOLVED that the Board makes the following recommendations in order to resolve the proposed implementing Ordinance's perceived inconsistency with the Princeton Junction Re-development Plan:

a. Goal 1 in the Re-development Plan states that the Plan will result in development which is tax positive or tax neutral. The Planning Board continues to recommend that the Township Council obtain a developed and updated fiscal impact report in order to establish that the development regulation, which is proposed, will result in a tax positive or tax neutral financial impact upon the municipality. The revised proposed Ordinance 2011-16 does not address this concern which was detailed in the prior Resolution of the Board;

b. Goal 3 of the Re-development Plan requires compliance with COAH growth share requirements. While the Board recognizes that the Growth Share requirements are no longer valid, it also recognizes that it is likely to be replaced by a 10% – 20% affordable housing share requirement. The proposed implementing Ordinance 2011-16 requires a minimum 12.2% share of affordable housing or inclusionary housing units on site. The

Planning Board recommends that the developer be required to develop 12.2 percent of the residential housing as affordable housing as required by the settlement agreement. The implementing Ordinance should be modified to require the developer of District 1 to satisfy any and all inclusionary housing requirements which may be imposed upon West Windsor Township pursuant to applicable regulation at the time of any future application for Site Plan approval not to exceed 12.2 percent as provided by any applicable Court Order. Such a requirement will thereby ensure that West Windsor Township will not be exposed to any future costs and/or expense associated with satisfying any inclusionary housing requirements generated as a result of the development of District 1;

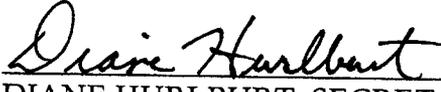
c. The Redevelopment Plan goal 2 provides for market rate housing units and affordable units to be integrated into any housing area. The proposed ordinance change dealing with the “clustering” of affordable housing units does not accommodate integration of affordable units. The term clustering is ambiguous in view of the stated goals and objectives of the redevelopment plan. As such, ordinance 2011-16 is inconsistent with the espoused “integration” goals of the plan. The Board recommends that Council eliminate the proposed additional language modifying goal 2 of the redevelopment plan and retain the original language without modification to ensure consistency with the Plan as it relates to inclusionary housing goals and objectives.

d. Lastly with respect to Ordinance 2011-16, the Board finds that, although not a consistency issue, the proposed changes with regard to the minimum required parking spaces presents a risk that the Board may not be able to insure that the site will be able to accommodate the peak demands for parking and that Council should follow the recommendations of the Board’s traffic consultant and require a minimum of 1.5 space per unit. The site plan process builds in some flexibility on the issue and the developer will be entitled to make the case for fewer spaces should it determine that the requirements result in excess capacity based on future traffic studies to be submitted as part of the site plan review process.

3. BE IT FURTHER RESOLVED with respect to proposed Ordinance 2011-17, the Board finds that the proposal of a new zone with characteristics, goals and objectives which are currently not included in the Township Master Plan is inconsistent with the Master Plan. The West Windsor Master Plan does not provide any basis or rationale for establishing the “PM-PJ District” contemplated by proposed Ordinance 2011-17.

I hereby certify that the above is a true copy of the resolution adopted by the Planning Board of the Township of West Windsor at its regular meeting on September 7, 2011.

DATED:


DIANE HURLBURT, SECRETARY
West Windsor Township Planning Board

DATED:


MARVIN GARDNER, CHAIRMAN
West Windsor Township Planning Board