



**Planning Board of the City of Englewood
Consistency Review
Ordinance No. 23-22**

WHEREAS, the City Council of the City of Englewood, County of Bergen and State of New Jersey, has, pursuant to N.J.S.A. 40:55D-26.a, referred to the Planning Board for its review and report to the Council, **Ordinance No. 23-22**, which was introduced for a First Reading on June 27, 2023; and

WHEREAS, at its meeting on August 3, 2023, the Planning Board reviewed the Ordinance with its consultant, Chelsea L. Gleis, PP, AICP of Burgis Associates, Inc., Westwood, New Jersey; and

NOW THEREFORE, the Planning Board makes the following findings with respect to the Ordinance:

1. The Ordinance is intended to amend and supplement Chapter 250, Land Use of the Code of the City of Englewood prepared for the City of Englewood Planning Board by the City of Englewood's professional planner, John P. Szabo, P.P., AICP of the firm Burgis Associates; and

2. Upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board conducted a public hearing on April 27, 2023, on a draft of the proposed revised Housing Element and Fair Share Plan dated March 10, 2023, presented by John P. Szabo, Jr., P.P., AICP, of Burgis & Associates, a professional planner retained by the City of

Englewood who prepared the revised Housing Element and Fair Share Plan in association with a Planning Report on the City's compliance with its Affordable Housing obligation, both dated March 10, 2023.

3. On April 27, 2023, the revised Housing Element and Fair Share Plan was adopted by the Planning Board.

4. The required elements of the Housing Plan are set forth in N.J.S.A. 52:27d-310 and the rules are at N.J.A.C. 5:94-2.3. The Planning Board is mindful it is intimately involved in decisions relating to appropriate sites for low- and moderate-income housing. The instant ordinance is intended to implement the recently adopted Housing Plan Element and establish new affordable housing overlay zones of properties that will encourage the production of very low-, low- and moderate-income housing units in the City. The Planning Board has reviewed the Ordinance with the understanding that the governing body of the City of Englewood is involved in seeking a declaration of its compliance with the Mt. Laurel doctrine and the Fair Housing Act of 1985.

5. This Ordinance is intended to implement the recently adopted Housing Plan Element and the Planning Board is charged pursuant to N.J.S.A. 40:44D-26 with preparing a report including identifying any provisions in the proposed development regulations which are **inconsistent** with the Master Plan and with providing recommendations concerning these inconsistencies and any other matter that the Board deems appropriate. The Municipal Land Use Law requires that every zoning ordinance must "either be **substantially consistent** with the Land Use Element... or the Master Plan or designed to effectuate such plan element." N.J.S.A. 40:55D-62a. In defining "**substantial consistency**" the Supreme Court in Manalapan Realty v. Township Committee 140 NJ 366, 384 (1995) noted some inconsistencies are permitted "provided it does not substantially or materially undermine or distort the basic provisions and objectives of the Master Plan."

6. The Planning Board is likewise mindful that N.J.S.A. 40:55D-26 and the Appellate Division case Willoughby v. Wolfson Group, Inc., 332 N.J. Super. 223, 229 (App.Div.), certif. den. 165 N.J. 603 (2000) charges the Planning Board with reviewing and identifying any inconsistencies between the proposed Ordinance and the Master Plan, whether substantial or not. Toward that end, the Planning Board notes the following inconsistencies, and recommends the following:

- The Planning Board is mindful of the City's longstanding commitment to providing affordable housing. Concurrent with this mission, the Planning Board previously urged the enactment of an Affordable Housing requirement which the City recently implemented requiring a twenty (20%) percent affordable set-aside in multi-family housing developments. The Planning Board also referred three (3) proposed multi-family projects to the City Council and recommended that the project sites be investigated as potential redevelopment areas which could provide potential affordable housing credits for the City's affordable housing inventory. These development proposals should be studied and explored for possible redevelopment and affordable housing credits.
- In addition, the Planning Board notes that the City's Affordable Housing efforts have not consistently captured all affordable housing opportunities, including the The Actors Fund Home and an affordable housing project at 202 First Street that the Planning Board encouraged in association with the 15 South Dean Street development, among others. The Planning Board recommends that additional efforts be made to inventory and capture all of the City's creditable affordable housing units, including rehabilitated units.
- The Board is likewise mindful that in reviewing the proposed overlay zones and the Ordinance which proposes greater height, more intense densities and larger development coverages that are significantly at variance with existing zoning, the Board notes that the Master Plan has a fundamental Objective 2: to "Maintain the Character of Neighborhoods" by "Preserving neighborhood character through compatible building types and character-defining features. Protecting community character is important to all residents regardless of the size or type of the neighborhood.

Identifying “character” of each neighborhood is the first step towards protection.” See, Master Plan at page 69.

- The Planning Board understands that new development opportunities are encouraged in the Master Plan, provided that they are in appropriate locations. For example, the Master Plan encouraged the creation of zoning for new townhomes.
- Section 2. of the Ordinance is **inconsistent** with the Master Plan. The Board recommends that Section 2 be further studied with transparency and public input to identify appropriate sites in appropriate neighborhoods where the Ordinance’s worthy objective of achieving affordable housing can be accomplished while maintaining the character of residential neighborhoods ..
- Section 3D.(2) is **inconsistent** with the Master Plan and preserving neighborhood character and should be amended to require buffers consistent with existing zoning.
- Section 3I.(1) is **inconsistent** with the Master Plan and preserving neighborhood character and should be amended to reflect existing bulk requirements.
- Section 3L(4) is **inconsistent** with the Master Plan and preserving neighborhood character and should be deleted, as permitting chain link fencing is incompatible with neighborhood character in residential zones.
- Section 3Q(5) should be amended to reflect that lighting shall be consistent with existing residential lighting in the existing neighborhood.

This Consistency Review was approved by the Planning Board at its regular meeting on August 3, 2023, upon motion of Ms. Mann and seconded by Vice Chairman Shafer upon the roll call as follows:

MOTION BY: Ms. Emily Mann

SECONDED BY: Vice Chairman Howard Shafer

IN FAVOR: Chairman David, Vice Chairman Shafer, Mayor Wildes, Councilman Wilson, Ms. Cordon, Mr. Rosenblatt, Mr. Amonte and Ms. Mann

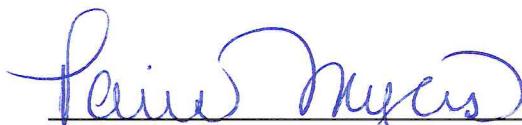
OPPOSED: None

ABSENT: Mr. George, Ms. Patino-Valle and Mr. Lerman



Anthony David, Chairman, pem
City of Englewood Planning Board

I hereby certify that this is a true copy of Resolution of the Englewood Planning Board, Bergen County, adopted August 3, 2023.



Paris Myers, Planning Board Secretary