

**AGENDA OF THE SPECIAL PUBLIC MEETING OF  
THE RINGWOOD PLANNING BOARD, TO BE HELD  
ON MONDAY, JANUARY 26, 2009, 8:00 P.M.,  
BOROUGH HALL, 60 MARGARET KING AVENUE,  
RINGWOOD, NEW JERSEY**

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- I. Statement of Chairman as to compliance with Statute.

On January 20, 2009, a notice of this Special Public Meeting was sent to the Suburban Trends, and was also posted on the Bulletin Board in the municipal building. This meeting is also being electronically recorded. Meetings shall be adjourned no later than 11:30 P.M. unless changed by Resolution of the Board.

- II. **Roll Call:**  
Brown\_\_\_\_, Davison\_\_\_\_, Farber\_\_\_\_, Garceau\_\_\_\_, Jolin\_\_\_\_, Kidd\_\_\_\_,  
Sergi\_\_\_\_, Speer\_\_\_\_, Wiley\_\_\_\_, Loweth\_\_\_\_, Bontatibus\_\_\_\_\_.

- III. Flag Salute.

- IV. Appointment of Temporary Chairman.

- V. Election of Chairman.

- VI. Election of Vice Chairman.

- VII. Election of Executive Secretary.

- VIII. Closed Session to discuss appointment of Planning Board professionals.

- IX. Motion to appoint Planning Board professionals.

- X. Adoption of Annual Calendar for 2009.

- XI. Chairman appoints members to the following Standing Committees:

Administrative	Personnel
Budget and Finance	Site Plan and Subdivision
Master Plan/Ordinance	

**AGENDA OF THE REORGANIZATIONAL MEETING OF JANUARY 26, 2009 – PAGE 2**

- XII. Chairman appoints liaisons to the following organizations:
- |                          |                                 |
|--------------------------|---------------------------------|
| Board of Adjustment      | Economic Development Commission |
| Board of Health          | School Board                    |
| Environmental Commission | R.E.V.O.A.                      |
- XIII. Public Portion.
- XIV. **Approval of Minutes:**  
Regular Meeting –12/8/08 AJ, TS, JS, BW, LL, RB
- XV. **Approval of Vouchers:**  
Beattie Padovano, LLC – P.O. #08-03304 \$ 95.00
- XVI. **Skyline Village** – Block 801, Lots 3, 4 & 4.01 – Conceptual Review.
- XVII. Attorney’s Report.
- XVIII. Correspondence.
- XIX. Adjournment.

NOTE: FORMAL ACTION MAY OR MAY NOT BE TAKEN ON ANY OF THE ABOVE ITEMS.

January 20, 2009

Helen M. Forsa, Secretary

**MINUTES OF THE REORGANIZATIONAL MEETING  
OF THE RINGWOOD PLANNING BOARD, HELD ON  
MONDAY, JANUARY 26, 2009, 8:00 P.M.,  
BOROUGH HALL, 60 MARGARET KING AVENUE,  
RINGWOOD, NEW JERSEY**

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The meeting was called to order at 8:07 P.M. and was in compliance with the Statute.

Mr. Dunn swore in members Garceau, Kidd, Speer, Wiley, Kidd and Bontatibus.

Present on roll call were Farber, Garceau, Jolin, Kidd, Sergi, Speer, Wiley, Loweth and Bontatibus. Also present were Attorney Dunn and Planner McGroarty.

Ms. Forsa was appointed as Temporary Chairman.

Ms. Forsa asked for nominations for the position of Chairman of the Planning Board from January 1, 2009 through December 31, 2009.

It was moved by Ms. Farber and seconded by Mr. Speer that Mr. Sergi be nominated for the position of Chairman.

There being no further nominations, the nominations were closed and the Secretary directed to cast one ballot for Mr. Sergi as Chairman of the Planning Board for 2008. On roll call Farber, Garceau, Jolin, Kidd, Speer, Wiley and Loweth and Bontatibus voted "aye"; Sergi abstained.

Mr. Sergi is elected as Planning Board Chairman for the year 2009.

The Chairman asked for nominations for the position of Vice Chairman of the Planning Board for the year 2009.

It was moved by Mr. Speer and seconded by Ms. Loweth that Mr. Wiley be nominated for the position of Vice Chairman.

There being no further nominations, the nominations were closed and the Secretary directed to cast one ballot for Mr. Wiley as Vice Chairman of the Planning Board for the year 2009. On roll call Farber, Garceau, Jolin, Kidd, Sergi, Speer, Loweth and Bontatibus voted "aye"; Wiley abstained.

Mr. Wiley is elected as Planning Board Vice Chairman for the year 2009.

Since Ms. Brown was not in attendance, it was decided to hold the nominations for position of Executive Secretary.

It was moved by Ms. Farber, and seconded by Mr. Garceau that Ms. Jolin be appointed as Acting Executive Secretary. On roll call Farber, Garceau, Kidd, Sergi, Speer, Wiley, Loweth and Bontatibus voted “aye”; Jolin abstained.

The Chairman welcomed new member Mr. Ronn Kidd back to the Board. Mr. Kidd was a member of the Board previously for many years.

### **Adoption of Annual Calendar**

The Board discussed the Annual Calendar.

It was moved by Ms. Jolin, seconded by Mr. Bontatibus and unanimously carried that the Annual Calendar for 2009 be adopted.

### **Appointment of Standing Committees and Liaisons**

The following members were appointed as liaisons to the following organizations:

Board of Adjustment – Mr. Garceau  
Board of Health – Ms. Loweth  
Environmental Commission – Ms. Jolin  
Economic Development Commission – Mr. Kidd  
Open Space Committee – Mr. Sergi  
School Board – Ms. Brown  
R.E.V.O.A. – Ms. Farber

It was determined that only a Master Plan/Ordinance Committee was needed this year. The Chairman appointed Ms. Farber, Mr. Wiley and Mr. Bontatibus along with himself to the Committee.

### **Public Portion**

The Chairman opened the meeting to the public. There being no one wishing to speak, it was moved by Mr. Speer, seconded by Mr. Bontatibus and unanimously carried that the public portion be closed.

### **Approval of Minutes**

It was moved by Mr. Speer and seconded by Mr. Bontatibus that the minutes of the Regular Meeting of December 8, 2008 be approved. On roll call Jolin, Sergi, Speer, Wiley, Loweth and Bontatibus voted “aye”; Farber, Garceau and Kidd abstained.

Reorganizational Meeting

January 26, 2009

Page 3

**Approval of Vouchers**

It was moved by Ms. Jolin, and seconded by Ms. Farber that the following vouchers be approved for payment: NJPO - \$350.00; Beattie Padovano - \$95.00; Banisch Associates - \$71.00, \$865.00, \$4,569.40, \$1,717.90.

**Skyline Village – Block 801, Lots 3, 4 & 4.01 – Conceptual Review**

The minutes of this conceptual review are not verbatim.

Mr. Wiley stated for the record that Mr. Latincics is working on a small personal project for me and I do not feel it would bias me in any way but wanted it on the record.

James J. Delia, attorney for the applicant, Ronald Pagano and Tibor Latincics, engineer for the applicant were present.

Mr. Dunn explained the conceptual review process. It was based upon statute and was not binding on either the applicant or the Board. Mr. Dunn stated that the Board had to be concerned about the proposed project's relationship to the Highlands and the relationship to COAH. As far as the Highlands zone is concerned, this property is in the CC-80 zone and residential as proposed in this plan is not permitted. Today's zoning doesn't make too much difference because within the next 12 months the Borough is going to have to conform to the Highlands Master Plan. The entire Borough is in the preservation area under the Highlands Act and the property in question is currently in the conservation zone under the Highlands Master Plan. With respect to COAH, the Borough has been granted an extension to December 9, 2009 to file an application for third round certification and between now and then the Board has a lot of work to do to determine (a) how many affordable housing units it needed to build and (b) how Ringwood is going to discharge that obligation.

Mr. Delia stated they were here to introduce the property and the concept of what we are proposing to do to the Board and discuss how it relates and impacts COAH and the Highlands. The property is located in the CC-80 zone which does not permit what we are looking to do which is to create age restricted housing with 140 units. This property is 15+ acres. Our engineer has prepared and we have submitted a map that gives you the basics of the project, but essentially we are able to meet all the setbacks. We are far away from and respect the buffers that have been put into place on the property. We can meet all the setbacks, meet all the zoning parameters as it stands right now. Ringwood is unique and with the Highlands and COAH, it is a bit of a challenge and we think this property and project can help everyone. We think it is a win-win to create the COAH units while respecting the environmental aspects of this region and protecting the watershed. Obviously this is conceptual so we have not gone into full design yet.

One of the reasons we are here is to see if it has any appeal to you in terms of recommending to the Mayor and Council a rezone. If there is interest, that would be encouraging for us to do further due diligence and come up with more developed plans as we move forward. We have a situation with age restricted housing where we don't have to worry about impact on schools. We bring in a community that will help support the economics of downtown by producing more shoppers within walking distance. We meet many of your Master Plan goals as mentioned in my letter. Mr. Pagano is committed to using the green technologies that are available today to help move this process along.

In terms of the Highlands, the angle we would need to approach on this is to identify this property as an existing community zone and that would have to come from Ringwood in your dialogue with the Highlands Council. If we are able to accomplish that goal, we believe that will help guide us through the labyrinth at Highlands and help this project get to the point where it meets all the DEP objectives, COAH objectives and ultimately the Borough's objectives and requirements.

Mr. Latincsics gave an overview of the project. He had a 2002 aerial photograph of the property. He also had photographs of the property. He stated that the distinguishing feature of the property is that it is in downtown Ringwood fronting on Skyline Drive and directly adjacent to Fieldstone Plaza. The cleared area of the property was soil mined approximately 30 years ago and the property goes up to the pavement of Fieldstone Plaza. The southerly property line is shared with Fieldstone Plaza and we feel that is significant in evaluating senior housing for the obvious convenience to all the amenities provided by Fieldstone Plaza. Erskine Brook is a C-1 watercourse and we indicate the 300 foot buffer to Erskine Brook. This site is outside that 300 foot buffer. At the other end is High Mountain Brook and this site is outside the 300 foot buffer to High Mountain Brook. He reviewed the existing treatment plants in the area.

Mr. Latincsics read the definition of "existing community zone". We believe this site meets the criteria and goals of the existing community zone. The library, the Park and Ride and Ringwood Commons are directly across from this site. To the rear of this site, there is a 9 acre parcel which is open space as part of the Northgate development which provides a buffer to the residential area of Erskine Lake. The site is 15.8 acres fronting on Skyline Drive. There is a wetland area in the lower portion of the property. We do have a Highlands resource area determination which identifies the constraints on the site. We indicate the 300 foot buffer to that wetland area and the proposed development outside and above that. An element we hope to achieve is a direct pedestrian connection to Fieldstone Plaza. The property is in the Erskine Brook watershed and it is for that reason, we did a preliminary impervious surface investigation based on this general area plan and we tabulated that there are 23 acres of impervious surface among the various plazas along Skyline Drive. If water deficit is a concern, there are a lot of opportunities to upgrade the existing drainage systems. In view of today's standards, there is no stormwater management other than one small detention basin for Fieldstone Plaza. There is no stormwater management by today's standards for Ringwood Plaza or Fieldstone Plaza, limited for Ringwood Commons, so there are a lot of opportunities to address those huge expanses of impervious surface. There are 140 units proposed. Typically, you are struggling with parking but in this case, there is sufficient area for 353 parking stalls which is more than sufficient for 140 units.

Mr. Latincsics stated that the setbacks are 42 feet to the rear and 55 to 60 feet for the front yard setback of Skyline Drive. We provide a 75 foot front yard which would be landscaped and buffered. A key element which needs to be discussed, whether it is for this project or any project in Ringwood, is the Land Use Capability Map which is part of the Highlands Regional Master Plan. This map identifies the "Highlands zoning" and the

green is the protection zone, the blue is the lake community zone, yellow is the existing community zone, brown is the existing community zone constraint. What is significant is Fieldstone Plaza is preservation green while clearly it should be a community zone. The Park and Ride facility, the library, Ringwood Commons are also preservation green and there are other inconsistencies in the map. For example, Ringwood Plaza, Fieldstone Plaza, doctor's offices, St. Catherine's, Robert Erskine School, the Lutheran Church, all those de facto buildings should be designated as community zone. I believe that is an item that is important to the entire town and this application to see if the Borough supports the dialogue and process with the Highlands Council.

Mr. Dunn asked the following questions:

Q. This is 140 age restricted units; how many are affordable?

Mr. Delia - We can come away with 28 affordable.

Q. That would meet your growth share for 140 age restricted units?

Mr. Delia - Yes.

Q. That wouldn't give Ringwood any units that would go to offset other obligations that it has?

Mr. Delia - That goes directly to your obligation. There is no additional increase as a result of the project and I confirmed that with our planner, Burgis Associates, and they are in the process of finalizing a planning report which we hope at some future meeting to present to you. Lucy VanDenBerg's guidance letter of October 30<sup>th</sup> clearly indicates we are not adding any more need to your growth share so we come away with 28 which we think goes a long way of meeting whatever number you may end up with in a year.

Q. We will leave that to your planner to decipher because I don't follow that. If this is put in the existing community zone, do you anticipate the Regional Master Plan is going to allow us to put this in an existing community zone and just eliminate the steep slope requirements of the Highlands Master Plan.

Mr. Latincsics - No. The project will require a Highlands permit with a waiver.

Q. Is any portion of it in the riparian area?

Mr. Latincsics - No. We provide the 300 foot buffer. We do have steep slopes and, in the Highlands, the categories are 10% to 20% and greater than 20%.

Q. How much of the property is greater than 20%?

Mr. Latincsics – We had a slope analysis performed. I don't have that number at my fingertips – a substantial portion. The project would require a Highlands permit with a waiver. When a waiver is required, mitigation is required. In that case, we would seek to possibly coordinate our mitigation with your open space plan.

Q. What does that mean?

Mr. Latincsics – One way of doing mitigation is buying open space and if you go to the Highlands RMP, it encourages buying residential properties. Residential properties are exempt from the Highlands Act in many cases. There is a preference for purchasing residentially zoned properties that may be entitled to a Highlands exemption. That is one avenue we would investigate for mitigation.

Q. Would it be important for us to know, if we were thinking about going to the Highlands and telling them to put this into an existing community zone, how much of the property is 20% or greater slope?

Mr. Latincsics – We can provide that information.

Q. How much of it is forested?

Mr. Latincsics – The majority of it, except the lower portion that was cleared 30 years ago.

Q. How about potable water, most of Ringwood is in a water deficit area under the RMP?

Mr. Latincsics – I think it is.

Q. How would this project deal with that?

Mr. Latincsics – The project itself would have water conservation, plumbing fixtures as all new projects. Another avenue we have been investigating is we have the water meter records for every commercial property along Skyline Drive. We would look to upgrade the older facilities and gain those credits towards this project.

Q. Upgrade private facilities?

Mr. Latincsics – Many of the facilities in Fieldstone Plaza, Ringwood Plaza, the Ambulance Corp. building, all those are 30 year old plumbing fixtures (10 gallon flush toilets). By upgrading those to water conservation plumbing fixtures, we gain those water credits.

Q. How exactly do you go about that?

Mr. Latincics – There is a mutual incentive here. We would all like Fieldstone Plaza to upgrade their facilities. They have the same challenges that we have. They are also not in the community zone which is to their benefit.

Q. How about sewer, do you have a treatment plant on site?

Mr. Delia – We are in the beginnings of investigation on that. That would be one of the due diligence items that would need further inquiry before we could give you a good response on that.

Q. When you show on the plan a proposed sewage treatment plant, that doesn't mean anything at this point?

Mr. Latincics – It is conceptual. The Borough or the County has the obligation to update the Wastewater Management Plan and we would ask that this project be considered when the Wastewater Management Plan is being updated.

Q. What did you say before about stormwater management? You obviously have to do some stormwater management on this property.

Mr. Latincics – We could do the conventional which is building on site facilities or we could take a broader approach and revisit some of the older, dated deficient facilities downtown. We reviewed the Stormwater Management Plan ordinance and we would follow that guidance. I believe upgrading the Fieldstone Plaza and the Park and Ride detention basins are specific goals in the municipal Stormwater Management Plan and we would seek to coordinate this project with those goals.

Q. And the roadway across the freshwater wetlands buffer, is that eligible for any kind of general permit?

Mr. Latincics – That would require a series of DEP permits.

Q. Are they achievable?

Mr. Latincics – I believe so.

Q. Have you done subsurface investigation to determine how much rock you would have to take out to build what is shown on your schematic plan?

Mr. Latincics – That is the series of test holes which are indicated on the plan. Those are preliminary and that is one of the purposes tonight to gauge interest of the Borough in providing senior housing before more expensive comprehensive testing is done.

Q. You realize it is very difficult for the Board to give you an idea of how they would look at senior housing with an affordable housing component before it has completed the studies that we are doing for the Highlands. We are into the process now of doing the planning that is necessary to conform to the Highlands and I think you have made some suggestions as to how you would like us to approach the Highlands with respect to your issues, but the Planning Board has broader issues to deal with other than this specific property. In terms of gauging the Board's intent as to senior housing, I would say it is very difficult for them to tell unless they have done the planning they have to do under the RMP.

Mr. Delia – In the same token, we think our timing is right at least to get the ball rolling, to give you some food for thought while you have bigger, more global issues to tackle. This comes up in the context of those larger issues especially when we are looking at this downtown area and if there is any desire or intent on the part of Ringwood to redesignate that area and that is why we are here to get your interest in it. We don't have all the answers right now and you don't have all the questions or answers either, but we want to get the dialogue going and that is the purpose of being here.

Mr. McGroarty – I had a couple of observations. There are a lot interesting ideas that are generated by a proposal like this. It is not exactly consistent with the 2007 Land Use Element for this particular area, in fact, this area was called out very specifically in that document and it is the idea of creating a town commons. That is not in and of itself an insurmountable obstacle. With respect to Highlands, it is not a matter of asking Highlands to change it in that straightforward fashion. It is called a map adjustment. I have just finished doing a map correction in another municipality and it is a difficult process doing the correction. The map adjustment is a policy change and while I don't disagree with anything that has been said, it is going to be more involved. It is not simply asking Highlands if they would do this. For a map adjustment under the RMP, the change would require that Highland development credits are involved which are essentially transfer development right credits. The idea is to shift development density elsewhere into these locations where higher density would be developed so an area like this wouldn't just be developed without purchasing those development rights from another location. There is an alternative and that is a larger picture that has to be analyzed because the impact of the development to the entire region would have to be analyzed to see if it makes sense to concentrate more development here. The process would be called map adjustment and it does get rather involved in terms of what has to be done. It is part of the conformance process which we are going through now.

There is also another possibility which is as a redevelopment plan under Highlands which is different from the redevelopment statutes elsewhere in New Jersey. It is always difficult when you are dealing with undeveloped land. The Highlands Act is very specific as to what constitutes a redevelopment area.

Mr. Dunn - Am I correct that going to Highlands and saying that we have Fieldstone Plaza that already exists, that's a map correction?

Mr. McGroarty – It may not be. It would seem logical that that would be the case. To change the classification from protection, which is the most restrictive, it is not easy, but not impossible to get a change. I don't know the answer. We can check to see if Fieldstone Plaza would be a map correction. They would not entertain vacant land as a map correction to the existing community zone; at least they have not thus far and I have asked about that in other circumstances. The RMP encourages the redevelopment approach for new development so those are different possibilities that can be explored.

With regard to COAH, the problem with the COAH obligation is that it is hard to say right now. The Borough is starting the first phase of the build out analysis which is to go through the analysis, do a build out and perhaps come out at the other end with a much reduced COAH obligation. Ringwood still has a prior round obligation of 51 units which has to be addressed. The third round obligation is 89 units and we expect that number to go down. The primary concern I have here is concentrating new residential development in an age restricted category because you will only get COAH credit for 25% of whatever the growth share number is in the third round obligation. No more than 25% of those units can be age restricted and the same is true of the prior round.

You can carry units forward but the possibility of getting an amendment to get a change to your Wastewater Management Plan to create an area for a sanitary treatment facility is going to be very difficult without any other obstacles, but to get it and not provide the kind of mix of affordable housing, may be a problem.

Ms. Farber – We have to find 75% of third round elsewhere and there is not that much vacant land left to develop at all much less where you can get some kind of waste treatment where you can get the density, if you are going to do inclusionary zoning, that could host that kind of development.

Ms. Jolin – My understanding of COAH is that you cannot restrict a COAH facility and you have to open it up to people who are eligible for COAH. Can you have age restricted COAH housing?

Mr. McGroarty – Yes you can, but no more than 25% of the total and they have tightened that restriction. If you have more, you are not penalized; they just go forward to future rounds. The important point is if you are going to get higher density through a sanitary sewage facility and not provide that kind of mix, I don't think it would be entirely consistent with the Highlands RMP and that could be a problem. You have now used an important location to concentrate affordable housing that is capped at 25% and you have limited your options.

Mr. Dunn - The growth share of 89 units is based upon what COAH projects that Ringwood will have in non-residential development?

Mr. McGroarty – Combined, residential and non-residential, but as you know, that number will be affected by the build out analysis.

Mr. Delia – In terms of the COAH units, we can be flexible in our approach there. Whatever is going to work best for Ringwood in terms of meeting your need. If you want them age restricted we can do it; if you want to broaden them, and I am talking just the COAH units now, of taking them out of the age restricted so you come closer to meeting your number.

Mr. Dunn - How flexible, 100% affordable?

Mr. Delia – Of those 28 units.

Ms. Jolin – How do you feel about the whole thing being affordable housing?

Mr. Delia – I don't think that's possible.

Mr. McGroarty – Let me make another observation. The number of affordable units, 28 in this case which would be 20% of this project, that satisfies this project's obligation, but it does nothing more. You may get some bonus credits for rental units; there are rental bonus credits, but again there are restrictions on that. It is hard to say because we don't know what the build out analysis will show, but if it is 40 units, 30 units, I think your letter indicates that you thought it might be 61, but I think the number is going to be lower, but whatever the number is this site is taking care of itself, whatever obligation it generates. You will still have to meet whatever number is generated by other development or potential development throughout the Borough.

Mr. Sergi – I thought that from discussions that this would count towards our existing obligation. This only goes to this obligation, not to our existing?

Ms. Farber – All of it has to be captured in what we plan for now. What's left over from second round that hasn't been built yet and all of third round.

Mr. McGroarty – Technically, the rules do say that if you have an unmet prior round obligation, and you do, that whatever affordable units come on line go to address that obligation.

Ms. Jolin – If we had this high density housing project that went through, would our obligation to COAH increase?

Mr. McGroarty – Not necessarily. If the number stayed at 89, one might argue that this is going to be the biggest development the Borough will see over the next ten years so that 89 is primarily addressed through whatever growth happens here.

Ms. Jolin – We have a number of 89. When COAH sees that we have just built 140 units, would they now say you owe us 97.

Mr. McGroarty – No. What will happen is there will be a review process every two years and as development comes on line and CO's are issued, that will generate the need for affordable housing so it will be an ongoing process to evaluate where your need stands.

Ms. Farber – We also have to figure that we have a number of CO's within this round that have been issued because of development that was approved prior to the Highlands that were built after the third round started, those have to be counted for because we have already grown that much. As much as we can adjust what we haven't grown yet, I don't know how flexible even the Highlands Council can be about how many CO's we have issued in this round.

Mr. McGroarty – That is called the actual growth, from January 1, 2004 forward, any CO's issued, residential or non-residential, generate a need for the third round and Highlands cannot reduce that even if the numbers are reduced by way of the build out analysis; actual growth is existing and it has to be addressed.

Mr. Dunn – We have been waiting for this build out analysis, did I read the ruling correctly that once we have expressed an intent and get a grant to proceed, they are going to tell us what the build out is.

Mr. McGroarty – Yes. They have established this as a two step process. Module I began a few weeks ago and they would like the results by February 6<sup>th</sup>, but the absolute deadline is February 27<sup>th</sup>. I have the maps tonight. That is just to look at existing conditions and see if there are any corrections. The next Module which will go on from February and March, will apply all the Highlands restricted categories and I think by the end of March or beginning of April, we will know what the development capacity is and then we will move into the Housing Element and Fair Share Plan work.

Mr. Kidd – Are these units for sale or rental?

Mr. Pagano – Sale.

The Chairman opened the meeting to the public. There being no one wishing to speak, the public portion was closed.

Mr. Sergi stated looking at this, my personal opinion is that it is premature at this time. We have a lot of work to do, we have COAH work to do, we have planning, we have redevelopment schemes we want to look at, we want to look at the overall area of Ringwood and how this property fits. I am not ready for a piecemeal approach. I want to look after we are done with the Highlands conformance, our COAH obligation, maybe some redevelopment analysis and then see how everything fits in.

Mr. Delia – What would you suggest an appropriate timeframe for us would be to check back in with the Board.

Mr. Dunn – We have to finish with Highlands conformance by December 9, 2009 so it looks like the Board will be working hard this year. By the end of March, they expect to have the capacity analysis completed that will form the basis for the planner to make the projections for Ringwood. We are here and we will be meeting every two weeks.

Mr. Delia – Is there anything you want from us that will be helpful for you in the global picture as it relates to our property?

Ms. Farber – The percentage of steep slopes is key.

Mr. Dunn – I don't think any of us wants to waste a lot of time if we don't think it is going to work with the Highlands.

Mr. Sergi – You have steep slopes, you have wastewater allocation; there are so many issues I wouldn't even attempt to analyze right now.

Mr. Speer – I don't know if there is any kind of preapplication process that you can go to the Watershed Management at DEP that will tell you how you fit in with those rules. We are eventually going to have to conform to the Highlands Master Plan, but also those rules in large part.

Mr. McGroarty – Right now if you go down and you are in a protection zone, they will tell you no. You can go to the Highlands Council, but they will tell you that the Borough has to make that decision and that is what the Borough is in the process of trying to work on right now.

**Discussion of Highlands**

Mr. McGroarty presented maps which have been provided by the Highlands and a memo from Ms. Slagle dated January 26, 2009.

Mr. McGroarty stated that the Highlands is asking the Borough to review the maps and make corrections on these maps and other maps which are coming. If you are seeing a site on the developable map identified as developable, but you know that is incorrect, that doesn't disqualify it yet. What Highlands is asking municipalities to do is to look at the maps and make any changes that you think are required and the next set of the maps will start to apply the environmental constraints. A lot of the developable land that you see on this map is going to go away. We will take your comments and marked up maps and it has to be entered into the system through the GIS process.

Mr. Sergi stated if we say that hypothetically we come up with 15 and we have a previous round of 51 but we can only put 15, where are you going to put it?

Mr. McGroarty stated I would say that we would look for a vacant land adjustment for prior round numbers and, hopefully will be beyond debate when done through this process, if you don't have the land or if there is no water and sewer, you can get what is known as a durational adjustment and water and sewer in the preservation area is going to be very restrictive.

Mr. Sergi asked theoretically we can have our previous round numbers reduced?

Mr. McGroarty said we can certainly try. There is no guarantee, but the COAH rules do provide for the vacant land adjustment, both prior round and third round, and we started doing it for the prior round, but there were a lot of caveats built into that. We'll see if they apply once this Highlands analysis is finished because I think that will supercede a lot of the possibilities. COAH may come back and say you can redevelop these sites at a higher density, but you can't do that if you don't have water and sewer.

Ms. Farber stated the durational adjustment only lasts through the third round.

Mr. McGroarty stated that is correct. In the fourth round, you would have to reevaluate it or it would last only until such time if a new sewer line or the like were coming in and that is not likely here.

Ms. Farber stated that they say the durational adjustment says you can put off providing the units except that you have to try to get the utilities within the third round period. It sounds like they are giving you time, but they are only giving you until the end of third round.

Mr. McGroarty stated my approach would be not to rely on the durational adjustment. The durational adjustment means there is an absence of infrastructure. I would argue rather that it is vacant land analysis because of the environmental constraints and because you are entirely within the preservation area of the Highlands. Even for the durational adjustment, we could argue that it is a durational adjustment because there is a lack of water and sewer. The State Plan, the Highlands RMP all have to support the idea that there should be growth of that kind of infrastructure and it would not support it in most of the Borough anyway. We have to look at the prior round number but I would approach it as a vacant land adjustment.

Mr. Dunn stated that in Ms. Slagle's memorandum she states that the parcels in green, blue and red she has altered to remove from the developable category so has she already worked on this map.

Mr. McGroarty said yes she has already started to work on it.

Mr. Dunn stated he thought the Board or a committee should review these maps as soon as possible and give Mr. McGroarty its findings.

The Chairman asked Bill O'Hearn to participate in this review process. Mr. O'Hearn stated he would.

The Ordinance Committee will meet next Monday, February 2<sup>nd</sup>, at 8:00 P.M. in the Court Room.

Mr. McGroarty will have a large set of the maps delivered to the Board before the Ordinance Committee meets.

### **Other Business**

Ms. Jolin asked the Board to consider recommending an ordinance to allow for chickens on residential property with the proper regulations for health and noise. Ms. Jolin will try to draft an ordinance and bring it to the Board for review.

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It was moved by Ms. Farber, seconded by Mr. Bontatibus and unanimously carried that the Board moved into Closed Session at 9:50 P.M. to discuss appointment of professionals.

The Reorganizational Meeting was reconvened at 9:52 P.M.

Reorganizational Meeting

January 26, 2009

Page 16

**Appointment of Planning Board Professionals**

It was moved by Ms. Farber, seconded by Mr. Wiley and unanimously carried that Thomas W. Dunn of Beattie Padovano be appointed as Planning Board Attorney for the year 2009; that Banisch Associates be appointed as Planning Board Planner for the year 2009 and that David A. Hals be appointed as Planning Board Engineer for the year 2009, in accordance with the contracts reviewed and subject to funding of the Mayor and Council.

There being no further business, it was moved by Mr. Kidd, seconded by Ms. Farber and unanimously carried that the meeting be adjourned at 9:55 P.M.

Helen M. Forsa, Secretary

**AGENDA OF THE REGULAR MEETING OF  
THE RINGWOOD PLANNING BOARD, TO BE HELD  
ON MONDAY, FEBRUARY 23, 2009, 8:00 P.M.,  
BOROUGH HALL, 60 MARGARET KING AVENUE,  
RINGWOOD, NEW JERSEY**

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- I. Statement of Chairman as to compliance with Statute.
- On February 1, 2009, a notice of this Regular Meeting was published in the Annual Notice to the Suburban Trends, and the Annual Notice was also posted on the Bulletin Board in the municipal building. This meeting is also being electronically recorded. Meetings shall be adjourned no later than 11:30 P.M. unless changed by Resolution of the Board.
- II. **Roll Call:**  
Brown\_\_\_\_, Davison\_\_\_\_, Farber\_\_\_\_, Garceau\_\_\_\_, Jolin\_\_\_\_, Kidd\_\_\_\_, Sergi\_\_\_\_, Speer\_\_\_\_, Wiley\_\_\_\_, Loweth\_\_\_\_, Bontatibus\_\_\_\_.
- III. Flag Salute.
- IV. Public Portion.
- V. **Approval of Minutes:**  
Reorganizational Meeting – 1/26/09 JF, KG, AJ, RK, TS, JS,  
BW, LL, RB  
Closed Session – 1/26/09
- VI. **Approval of Vouchers:**
- |                                   |          |
|-----------------------------------|----------|
| Ace Reprographic – P.O. #09-00363 | \$ 17.20 |
| Gramco – P.O. #09-00330           | 153.95   |
| Richard’s Supply – P.O. #09-00362 | 109.90   |
| Schwanewede/Hals – P.O. #09-00407 | 202.50   |
- VII. Discussion of Initial Assessment Report for Highlands.
- VIII. **Raykov – Amended S.P. 2000-#149 – Block 400, Lot 5.02 – Margaret King Avenue -**  
Amended Preliminary and Final Major Site Plan to construct three 15,000 square foot buildings for warehouse/industrial space – Determination of Completeness and Public Hearing.
- IX. Attorney’s Report.
- X. Correspondence.
- XI. Adjournment.

NOTE: FORMAL ACTION MAY OR MAY NOT BE TAKEN ON ANY OF THE ABOVE ITEMS.

February 18, 2009

Helen M. Forsa, Secretary



**MINUTES OF THE REGULAR MEETING  
OF THE RINGWOOD PLANNING BOARD, HELD ON  
MONDAY, FEBRUARY 23, 2009, 8:00 P.M.,  
BOROUGH HALL, 60 MARGARET KING AVENUE,  
RINGWOOD, NEW JERSEY**

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The meeting was called to order at 8:00 P.M. and was in compliance with the Statute.

Present on roll call were Brown, Garceau, Kidd, Sergi, Speer, Wiley, Loweth and Bontatibus. Jolin attended at 8:06 P.M. Also present was Planner Slagle.

The Chairman opened the meeting to the public. There being no one wishing to speak, it was moved by Mr. Speer, seconded by Mr. Bontatibus and unanimously carried that the public portion be closed.

**Approval of Minutes**

It was moved by Mr. Kidd and seconded by Mr. Bontatibus that the minutes of the Reorganizational Meeting of January 26, 2009 be approved. On roll call Garceau, Kidd, Sergi, Speer, Wiley, Loweth and Bontatibus voted "aye"; Brown abstained.

It was moved by Mr. Kidd and seconded by Mr. Bontatibus that the minutes of the Closed Session Meeting of January 26, 2009 be approved. On roll call Garceau, Kidd, Sergi, Speer, Wiley, Loweth and Bontatibus voted "aye"; Brown abstained.

**Approval of Vouchers**

It was moved by Mr. Wiley, seconded by Mr. Bontatibus and unanimously carried that the following vouchers be approved for payment: Ace Reprographic - \$17.20; Gramco - \$153.95; Richard's Supply - \$109.90; Schwanewede/Hals - \$202.50.

### **Discussion of Initial Assessment Report for Highlands**

Ms. Slagle of Banisch Associates was present to discuss the draft of the Initial Assessment Report that she had prepared.

Ms. Slagle stated the major difference between this draft and the last draft was on page 13 we have a section called RMP Updates and Adjustments. The RMP updates and adjustments process is a mapping function that will occur with the Highlands. The map updates are factual corrections to the map. The second type of process is an RMP adjustment which is going to be more policy oriented and what I have added in here is a combination of the work we did on the initial MP3 report. That grant was to identify the potential redevelopment sites in the Borough that could be designated under the Highlands plan. The four sites we identified at the time were the non-residential districts. The result of that analysis was that the Community Commercial zone was the most promising for potential redevelopment. We folded that discussion into this report. The Initial Assessment really isn't a policy document. It was intended to provide an overview for everyone to understand where the RMP lies in relation to current land use planning in the Borough. By adding this section in there, we are putting Highlands on alert that we are thinking about this. There will be plenty of opportunities as we go through plan conformance to discuss this further.

Mr. Sergi asked if the work we did on the build-out analysis goes back on the mapping to the Highlands that we have taken these parcels off?

Ms. Slagle stated that she brought in the two large vacant parcels in the community commercial zone as developable for redevelopment purposes.

Ms. Slagle stated there are seven modules that the Highlands wants us to achieve this year to reach basic plan conformance by the December 8, 2009 deadline. Module I is a build-out analysis where the Highlands has provided us a geo data base that identifies every block and lot in the Borough and each block and lot has a series of attributes identified with it. They have asked us to look at their database and correct it. The deadline for this is February 26, 2009. We have been working on it for a few weeks and what the Highlands will do is run an initial build out for all the municipalities. They will send us a report back and we will get a second chance to verify it and then move on to Module II which is the land capacity analysis. That is going to take all the land that we have identified and all these corrections and they will apply all the Highlands regulations on top of it and come out the other side of Module II with a revised COAH number. Module III is preparing the Housing Plan for the Borough.

Ms. Slagle stated that maybe there are other targeted areas that people are looking at that could be potential redevelopment areas because development and redevelopment is going to get extremely tight. If we want to identify an area that has a potential, we want to work with the Highlands now in order to have some sort of flexibility.

Ms. Slagle explained that the Community Commercial zone came out as the winner in the redevelopment options because it had the most potential for providing some sense of community because there was enough vacant land there. The other zones are pretty well developed. The Community Commercial was the largest and had the most developable potential that serviced a large population center for the Borough.

Ms. Slagle discussed the various modules that will be required.

Mr. Speer stated he felt that we should leave all our options open.

Ms. Slagle stated we did the MP3 grant before the RMP was adopted and we were working off the Highlands Act. That still remains, but what the Highlands has done is to prepare a document that tells us how to designate redevelopment sites. That grant was to give Highlands an idea of how it would work off the ground, but it was also for us to start that process of thinking about redevelopment sites.

Mr. Sergi asked are we limited in time if we come up with other sites for redevelopment? Ms. Slagle said no.

Mr. Speer stated he felt we should say we want potential redevelopment on any of our commercial areas. He did not think we should preclude anything. We can put in a general blanket statement that there are a number of existing commercial areas in town that may be feasible sites for future redevelopment. I don't think we should just focus on the CC-80 zone.

Ms. Jolin stated if we did designate the one district, it might give a false impression to applicants thinking that their chances of getting success in that particular area are out of balance. If we are focusing on that, we might do well to say we have a wider area and everything is open instead of narrowing it down.

Mr. Kidd stated that redevelopment doesn't mean it's going to be a more intensive use of that area. It could be just cleaning up an area of dilapidated buildings and getting new structures there.

Ms. Slagle stated it could be a variety of things. If it is a vacant site, it can allow for a little bit of increased flexibility in density or coverage depending on the site constraints. You still have to work within the DE P confines. It can also mean sites that want to do specific cleanup or have special circumstances that require a little more intensive issues with wastewater or water capacity.

Mr. Speer stated every site will have something with wastewater.

Ms. Slagle will send another draft to the Board and then submit the report to the Highlands on Friday if there are no changes.

**Raykov – Amended S.P. 2000-#149 – Block 400, Lot 5.02 – Margaret King Avenue – Amended Preliminary and Final Major Site Plan – Determination of Completeness**

The Board and the applicant received a copy of Mr. Hals report dated February 23, 2009. Based on that report, the applicant decided not to attend the meeting and to make revisions to the plan.

It was moved by Ms. Jolin and seconded by Ms. Brown that the Raykov application, Amended S.P. 2000-#149, be deemed incomplete on and as of February 23, 2009 based on the report of David Hals dated February 23, 2009. On roll call Brown, Garceau, Jolin, Kidd, Sergi, Speer, Wiley, Loweth and Bontatibus voted “aye”.

The Chairman suggested that a site inspection be held to view this property. Ms. Forsa will notice a site inspection for Saturday, April 4, 2009 at 9:00 A.M.

**Other Business**

It was moved by Mr. Speer, seconded by Ms. Jolin and unanimously carried that Diana G. Brown be appointed as Executive Secretary of the Planning Board for the year 2009.

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Ms. Jolin submitted some information to the Board regarding an ordinance to allow chickens. Ms. Jolin stated she would like the Board to propose an ordinance to allow chickens in Ringwood but not have a 50 foot restriction from the neighbor's property, but narrow it to 5 feet instead of 50 feet. She said some of the other restrictions would be no roosters, reasonable to have people apply for a permit and pay a fee so there can be some monitoring of the number of chickens people have, would not have to be just on an agricultural property and limit the number of chickens per size of lot.

Mr. Sergi stated he felt 5 feet to a neighbor's property was not enough. Mr. Sergi also stated that the ordinance should be simplified.

Ms. Forsa stated that in the R-20 zone, the side yard is 15 feet. For a certain size shed, there are other guidelines. She felt that to propose an ordinance that did not adhere to minimum zoning regulations would be a difficult task.

Ms. Loweth stated she would be concerned about wild animals coming after the chickens. She also stated she would not want to look at a wired chicken coop.

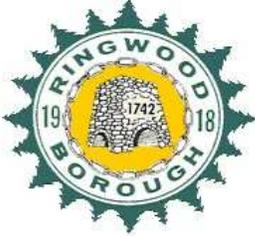
Mr. Wiley also stated he did not want to look out his window and see a chicken coop.

Mr. Sergi stated that he felt Ms. Jolin should continue looking into an ordinance, but he felt it needed more thought.

Ms. Jolin will gather more information and perhaps prepare a draft ordinance for the Board to review.

There being no further business, it was moved by Mr. Kidd, seconded by Mr. Bontatibus and unanimously carried that the meeting be adjourned at 9:05 P.M.

Helen M. Forsa, Secretary



**PUBLIC HEARING  
BOROUGH OF RINGWOOD  
COUNTY OF PASSAIC  
STATE OF NEW JERSEY**

PLEASE TAKE NOTICE that the Planning Board of the Borough of Ringwood will conduct a public meeting to review and discuss the Draft Highlands Master Plan Element. The meeting will be held on Monday, September 14, 2009 at 8:00 P.M. at the Violet E. Bogert Annex, 60 Margaret King Avenue, Ringwood, NJ. A copy of the Draft Highlands Master Plan Element is available for public review at the Office of the Planning Board Secretary and Municipal Clerk between the hours of 8:30 A.M. and 4:30 P.M. Monday through Friday.

NOTE: FORMAL ACTION MAY OR MAY NOT BE TAKEN ON THE ABOVE ITEM.

Helen M. Forsa, Secretary

1T: The Trends

August 24, 2009

April 25, 2005

Passaic County Planning Board  
401 Grand Street  
Paterson, NJ 07505

Borough of Bloomingdale  
101 Paterson-Hamburg Turnpike  
Bloomingdale, NJ 07403

Town of Ramapo  
Route 59  
Suffern, NY 10901

Township of Mahwah  
300-B Route 17 South  
Mahwah, NJ 07430

Town of Tuxedo  
P.O. Box 725  
Tuxedo, NY 10987

Borough of Oakland  
Municipal Plaza  
Oakland, NJ 07436

Town of Warwick  
P.O. Box 489  
Warwick, NY 10990

Borough of Wanaque  
579 Ringwood Avenue  
Wanaque, NJ 07465

Borough of West Milford  
1480 Union Valley Road  
West Milford, NJ 07480

PLEASE TAKE NOTICE that the Planning Board of the Borough of Ringwood will hold a Public Hearing at its Regular Meeting to be held on Monday, September 27, 2004 at the Violet E. Bogert Annex, 60 Margaret King Avenue, Ringwood, New Jersey at 8:00 P.M. The purpose of the meeting is to adopt the Reexamination Plan of the Borough of Ringwood.

BOROUGH OF RINGWOOD

State of New Jersey  
County of Passaic

*Laurel Kidd*

Of full age, being duly sworn, according to law, on his/her oath, says that she is employed at the Borough of Ringwood. Annexed hereto is a true copy of the notice that was published on the following date(s):

August 26, 2009

PUBLIC HEARING  
BOROUGH OF RINGWOOD  
COUNTY OF PASSAIC  
STATE OF NEW JERSEY  
PLEASE TAKE NOTICE that the Planning Board of the Borough of Ringwood will conduct a public meeting to review and discuss the Draft Highlands Master Plan Element. The meeting will be held on Monday, September 14, 2009 at 8:00 P.M. at the Violet E. Bogert Annex, 60 Margaret King Avenue, Ringwood, NJ. A copy of the Draft Highlands Master Plan Element is available for public review at the Office of the Planning Board Secretary and Municipal Clerk between the hours of 8:30 A.M. and 4:30 P.M. Monday through Friday.  
NOTE: FORMAL ACTION MAY OR MAY NOT BE TAKEN ON THE ABOVE ITEM.  
Helen M. Forsa, Secretary  
Suburban Trends-2672977.  
Fee:\$10.26  
August 26, 2009

in the Suburban Trends, a newspaper of general circulation and published in Kinnelon, in the County of Morris and circulated in Passaic and Morris Counties. Said newspaper is published twice each week.

Subscribed and sworn before me this

26<sup>th</sup> day of August 2009.

*Laurel O Kidd*

A Notary Public of New Jersey

**LAUREL O. KIDD  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES FEB. 27, 2014**



**MINUTES OF THE REGULAR MEETING  
OF THE RINGWOOD PLANNING BOARD, HELD ON  
MONDAY, SEPTEMBER 14, 2009, 8:00 P.M.,  
BOROUGH HALL, 60 MARGARET KING AVENUE,  
RINGWOOD, NEW JERSEY**

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The meeting was called to order at 8:05 P.M. and was in compliance with the Statute.

Present on roll call were Brown, Farber, Garceau, Jolin, Kidd, Sergi, Speer, Wiley, Loweth and Bontatibus. Also present were Attorney Dunn and Planner McGroarty.

The Chairman opened the meeting to the public. There being no one wishing to speak, it was moved by Mr. Speer, seconded by Ms. Jolin and unanimously carried that the public portion be closed.

**Approval of Minutes**

It was moved by Mr. Kidd and seconded by Mr. Garceau that the minutes of the Regular Meeting of July 13, 2009 be approved. On roll call Garceau, Kidd, Sergi, Wiley, Loweth and Bontatibus voted "aye"; Brown, Farber, Jolin and Speer abstained.

**Approval of Vouchers**

It was moved by Mr. Wiley, seconded by Ms. Brown and unanimously carried that the following vouchers be approved for payment: Schwanewede/Hals - \$200.00, \$1,080.00, \$1,755.00; Banisch Associates - \$30.00; \$159.60.

### **Review and Discussion of Draft Highlands Master Plan Element**

The Board Planner, Mr. McGroarty, was present to review the Model Highlands Element for Municipal Master Plans dated May 2009.

Mr. Dunn stated that in accordance with the request of the Highlands Council, this was advertised as a public meeting for purposes of discussing the proposed Model Highlands Element for Municipal Master Plans. Publication was made on August 26, 2009 and the Board has received the proof of publication from the Trends. Additionally, the meeting was noticed on the Borough's website.

Mr. McGroarty stated this is not an official Master Plan hearing. It is a public meeting. It is not required by the Municipal Land Use Law, but is required by the Highlands Council as part of the grant process. There are 7 modules and this is the 5<sup>th</sup> one. The Highlands Council is requiring the Borough to have a public meeting and to take comments from the public and the Board and to introduce this Highlands Element. This is a model Master Plan Element and it actually comprises a number of elements. It has 12 separate elements. It is designed to supplement your existing Master Plan or replace it, depending on your preference. The purpose of it is to make sure the Borough's Master Plan and the development regulations are consistent with the Highlands Regional Master Plan. You will be adopting something like this plan, but you are not required or encouraged to adopt it this year.

Mr. Dunn asked is there any official action needed by either this Board or by the governing body in order to make the petition for basic plan conformance. Mr. McGroarty said yes, but that will be in December. The governing body will do it by resolution to petition for plan conformance.

Mr. Dunn asked will this document be part of the petition for plan conformance? Mr. McGroarty stated that is correct.

Mr. McGroarty stated that the Highlands came out with this Master Plan Element, then made a change to it and had public informational sessions and then stated they would like all the municipalities to have conducted their public meeting prior to September 1<sup>st</sup> so the document could be submitted by that date. That wasn't practical so we submitted on behalf of Ringwood a draft element on September 1<sup>st</sup> and copies were provided because we wanted to stay on schedule. The transmittal letter made clear and we also spoke to the Highlands Council that this in no way commits the Borough to what is in here.

Mr. McGroarty stated that they have made some basic changes to the element, but not any policy changes. There are three tiers that will apply in Ringwood and they cannot be changed.

Mr. McGroarty submitted a memorandum dated September 14, 2009 which provides an explanation of the 30 maps that are included.

Mr. Sergi asked can we have an appendix that highlights some of the statutes so we can know what they mean.

Mr. Dunn stated it is one of the problems I have with the drafting of the ordinance. I would think as Planning Board members and ultimately when it gets to the governing body, they are going to want to understand what the ordinance means and what impact it is going to have and I am not sure how to do that in a way that makes any sense. From reviewing the ordinance, most of what exists in Ringwood is going to be exempt from whatever ordinance we adopt because it is residential. The major exemptions have to do with construction of a new dwelling on an existing lot, construction of a dwelling for the benefit of a family member, improvement to an existing dwelling, including a septic system, pool, deck, etc. and an increase in the size of any kind of structure by 125% for the footprint so long as it isn't more than ¼ acre impervious surface. To my way of thinking, all of the residential areas that exist are going to meet one or more of those exemptions and the ordinance isn't going to apply to them at all.

Ms. Farber asked can we do a study to know how many parcels there are that if developed as residential development, would qualify for the exemption and what's left over. We should know what is going to be left over before going down this path.

Mr. Dunn stated that they have the lake management area with the buffers. There is a Tier 1 buffer around the lake. Existing dwellings within that area are exempt from that ordinance. If someone wanted to build a new house in that area that didn't meet any of the other exemptions, they would have to comply with the buffer area and probably couldn't build. Likewise, the second tier and the scenic tier. Most of what Ringwood has is going to be exempt. If that is in fact the case, it is important for the governing body to understand that.

Mr. McGroarty stated that the recommendation will be for the Borough to maintain two ordinances – the existing ordinance that will apply to any property that qualifies for exemption and the Highlands ordinance that will apply to new development.

Mr. Dunn stated I would recommend that this be a total replacement for your existing Master Plan. The existing Master Plan justifies your underlying zoning and it creates a commercial area or residential areas. If these standards don't apply, you want to maintain your zoning as it is. Mr. Dunn stated the way I am reading it is that they are asking you to supplement your existing zoning with a new chapter of your Zoning Ordinance that says if you are not exempt from this new chapter, these are the rules that apply to you in addition to what applies to you under your existing zone.

Ms. Farber stated they are having multiple overlay zones.

Mr. McGroarty stated it makes sense to supplement the two because if you throw out the old entirely, then how do you deal with all these exemptions. When we talk about NJAC 7:38, those are the DEP regulations that apply throughout the Highlands. Those are the things that are going to be a challenge to bring them into the ordinance and make them comprehensible.

Ms. Farber stated we adopted an NRI and land use ordinances that we thought were consistent with the DEP regulations because we would be given the option to continue with our new Master Plan elements based on what we understood to be the requirements of the DEP and Highlands Council so that they would remain as we wrote them and be able to tell whether they were as protective as the Highlands Master Plan and have them help us draw that conclusion rather than reinvent the wheel in what is a much more convoluted, much more obtuse, much more expensive, and much more long and drawn out. Is there any way we can say to the Highlands Council, tell us where this is falling short and where we can fix it as opposed to telling us to get rid of all the hard work we did for four years?

Mr. McGroarty stated that is what the Initial Assessment Report is for and that is what the 7 modules are for.

Mr. McGroarty stated the Housing Element and Fair Share Plan is part of the Highlands Master Plan. The deadline for that was December 8, 2009. That has been extended to June 8, 2010. The Borough has additional time to put together a Housing Element and Fair Share Plan. The grant process covers the cost of doing the plan. I think it would make sense to get started on that because your numbers are not going to change. Your projections for the third round are no longer the projections that COAH has. Your growth projections that you need to plan for in terms of your COAH requirement are what has emerged out of the build-out reports that have been done with one caveat. On page 5 of the build-out report, where it says overview, the build-out in the preservation area is 3 dwelling units. What the build-out report doesn't take into account are all the existing lots that Tom Dunn talked about.

Ms. Farber asked don't they hold us accountable for all the growth obligations for the units that have been developed since 2004?

Mr. McGroarty said yes. When we do the Housing Element, we have to account for actual growth from January 1, 2004 to present and you have your prior round obligation. The prior round number is 51 units. We could look at doing a vacant land adjustment. We don't have the land to accommodate the kind of growth that would allow 51 units.

In response to a question from Mr. Speer, Mr. McGroarty stated we cannot declare the obvious. You can demonstrate that you cannot take care of your obligation but you have to do it through our rules which is a vacant land analysis. COAH can hold it in abeyance if you don't have water and sewer to extend to an area where you were

planning; that is a durational extension, but you can also demonstrate that you can't accommodate that kind of growth anymore and COAH will ask you to look at alternate measures. The RCA is back. The details have not yet been worked out. The RCA number will now be \$80,000 per unit and there are rules as to how many and how they are distributed.

Mr. Dunn asked why didn't COAH say you have an obligation for "x" number of second round units and you don't have any real obligation for your third round because you only have a build out of three. One of the ways you must meet that requirement is to RCA the maximum so the municipality would be faced with the possibility of raising that money for RCA without the customary way that other towns have raised the money.

Mr. McGroarty stated I would not be surprised if they do attempt that. It hasn't been worked out in the rules yet. I would argue that has been an option; it has never been mandatory. When you do the vacant land adjustment, that is the tradeoff. You have to accept exploring some of the alternatives. We do have some time to work on this.

Mr. Dunn stated it would help me understand this if you would take us through the maps and tell us what they mean and what impact it is going to have on the Borough.

Mr. Speer asked if the Fair Share Plan can be tabled until next year? Mr. McGroarty stated you don't have to, but since you know what the numbers are going to be, it would be worth starting.

Mr. Speer stated I am assuming every property is going to have a Ringwood zone and a Highlands overlay zone, what is our underlying zone going to be?

Mr. McGroarty stated your underlying zone would be any property that qualified for an exemption would adhere to your existing zone.

Mr. Dunn stated at the Highlands meeting I went to, they said you can submit this petition based upon your existing zoning and then change your existing zoning down the road at any point so long as you comply with the things the Highlands says is important. You can change the Master Plan either right away or later on.

Mr. Sergi stated the figures don't match with the maps. Mr. McGroarty stated in the time that we had, we had to use their maps so most of them came from the ERI or from other sources. I asked that question at the last session I went to. Ultimately we will be replacing all of these maps with our own maps. We can't change the data but we can reorganize and present it differently.

Mr. McGroarty stated with regard to transfer development rights even though you are entirely preservation, you could designate areas as receiving zones in the existing community area or in a redevelopment area. Redevelopment might be something of primary importance to you and worth looking at.

Mr. Dunn asked couldn't you just designate in your Master Plan those areas that you think are a redevelopment area and develop a zone for it? You need to get Highlands Council approval first.

Mr. McGroarty stated you are right; you just can't do it. You have to go through the Highlands.

The Board reviewed the text and the maps.

On page 10, Existing Community Zone, the optional sentence in paragraph 2 should be removed.

Mr. Dunn stated the existing community zone does not include the shopping centers.

Mr. McGroarty said that is correct.

Mr. Dunn asked do you have any idea of how they are going to defend the rationale of putting an existing shopping center into the protection zone?

Mr. McGroarty said no. I can't explain or defend the methodology for how they have come about this. I am sure the staff can offer you an explanation.

Mr. Speer stated one of our shopping centers that is in the protection zone has water and sewer.

Mr. Dunn stated at what point should Ringwood go to Highlands and say we have these existing facilities, why can't we take them into account in our Master Plan and make them part of an existing community zone that allows some development if that is what the policy makers want to see. If you want to say let's go with the Highlands and there is not going to be any development, that is for the Borough to decide. If you want to make accommodations for growth, either by redevelopment or some kind of a map adjustment, when is the appropriate time to do that?

Mr. McGroarty explained the two types of map changes.

Mr. Dunn stated so long as now we are meeting the statutory deadline and it is not binding on us, it's an issue that the governing body needs to talk about. The plan does not recognize some existing conditions.

Mr. Sergi asked why is the James Drive Treatment Plant always omitted from this as well as the Rachlin Treatment Plant and there is one at Skylands Manor which belongs to the State? They have never been acknowledged.

Mr. Speer asked if all these properties are exempt, why are you passing this regulation?

Mr. Dunn stated the answer is because the State legislation says that if we don't do it, the State Highlands Council is going to control the development in our town. The Highlands Council is going to control the development in our town under DEP regulations that don't allow us to have any development anyway. For instance, if you haven't complied with it and someone comes in and they say they want to build a high rise hotel on a piece of property that is in the existing community zone and maybe they can make it work. If you haven't controlled it, the State could allow it. We need to adopt this ordinance in order to make sure we continue to have at least some local control over our development.

Ms. Farber stated the alternative of the Highlands Council being our Planning Board occurs and this development is proposed, we have as good a chance of going to the Highlands Council and appearing at their public meeting as a member of the community to influence the outcome as we do trying to figure this out.

Mr. Dunn stated I am not sure you do.

Mr. McGroarty stated I am not sure you are going to be able to use your Highlands projections to put together a Housing Element for COAH if you do not conform.

Ms. Farber stated that is the answer – to protect you from liability in the event of a builder's lawsuit. It is a legal shield in addition.

Mr. Dunn stated there is an exemption for the 125% which applies to the footprint so if someone goes up four stories and doesn't increase the footprint and one of those stories is a parking garage and you are not increasing the impervious coverage, that is an exemption isn't it. If you don't want a four story building, your ordinance says you can only build two stories and provides other regulations. If you don't comply with the Regional Master Plan and someone convinces the State they can build a four story building with a parking garage under it and get a waiver for the septic requirements from the DEP, you don't have any say over any of it. I think there is some power to the argument that says if you don't comply with this plan that you are going to lose control.

Mr. Speer stated we need some clear language at the front of that ordinance telling people that if you fit into these categories, read no further.

Mr. Dunn stated there are so many exemptions in the Statute, someone is not going to be able to see that this doesn't apply which is why I thought it would be useful for us to have a map of the properties that we know are exempt.

The Board took a recess from the discussion of the Highlands to hear the Raykov application. The discussion of the Highlands will resume after hearing the Raykov conceptual.

**Raykov – Amended S.P. 2000-#149 – Block 400, Lot 5.02 – Margaret King Avenue – Amended Preliminary and Final Major Site Plan – Continuation of Public Hearing**

Mr. Steven Schepis, attorney and Mr. Tibor Latincsecs, engineer, for the applicant, were present.

Mr. Latincsecs had submitted a modified site plan to the Board for a conceptual review.

Mr. Schepis stated we have prepared a plan based on the comments from the last meeting.

Mr. Dunn stated our engineer is not here this evening and he has not reviewed the plan as he would have a preliminary site plan.

Mr. Latincsecs stated the basic footprint has not changed since our previous appearances. There has been discussion as to the extent of restoration, the location of the restoration and the outdoor storage. We have eliminated that outdoor storage use and continued landscape berm along that area. The question at the last meeting was what is the intended outdoor storage and we have listed the inventory on the map.

Mr. Dunn asked all those items are permitted under our Zoning Ordinance? Mr. Schepis stated yes and the ordinance doesn't seem to have any limitations other than to have screening.

Mr. Schepis stated that whatever uses there are going to be are not going to be unrelated storage. There will have to be some type of office use on site. The applicant would have to have a tenant with an associated use so that the outdoor storage is accessory to whatever the principal use is. There is not going to be auto parts per se or junk cars. None of the vehicles will be junk. It is not the intent to have this be an auto salvage facility. It is clearly going to be outdoor storage in conjunction with a permitted use.

Mr. Dunn asked outdoor storage was not included in your original plans? Mr. Schepis stated correct.

Mr. Dunn asked you are asking as consideration for a conservation easement outdoor storage that was not included in your original plan?

Mr. Schepis stated I think what it comes down to is the conservation restriction which is an offer from the applicant totally unrelated. It is not a quid pro quo for anything. It is just simply an offer from the applicant to the Board to allay some of the legitimate concerns that some of the Board members have voiced as to the potential expansion of the site subsequent to the Board's approval. In order to allay that concern, Mr. Raykov agreed to a concession that everything beyond the approved limit of

disturbance as shown on the plan which is more than 12 acres would be subject to a conservation easement in favor of the municipality.

Mr. Dunn stated that he needs to review the ordinance to determine whether the Board has jurisdiction or whether a use variance is required.

Mr. Kidd asked do you intend to make this a mini storage?

Mr. Schepis said no. This is something Mr. Raykov would have to answer the intent of the operation but his request was to have approved for this particular use and that if there would be a specific user, i.e., a mini storage company, then certainly one could consider that, but there would have to be some type of use located in the building that would have control over the outdoor storage.

Mr. Kidd stated it sounds like your use is changing from our last meeting.

Mr. Schepis stated it is not changing, but it is more defined. Originally we listed it as outdoor storage and because of the concerns that it was too vague, we tried to be more specific.

Mr. Kidd stated the way I understood it last time you were going to possibly split up the building into thirds for different users and associated equipment that was going to be used with those businesses. Now I am hearing that possibly other equipment might be up there.

Mr. Schepis stated whatever your ordinance would permit, we would stay within the confines of the ordinance.

Mr. Latincsics stated that outdoor storage is not visible from Margaret King Avenue. There is a wooded area in the front, a berm with a double row of conifers and the majority of the outdoor storage is behind the building.

Mr. Latincsics stated we are trying to reach a consensus on the footprint of the development and then we will fine tune the engineering.

Mr. Sergi stated you have addressed a lot of my concerns. Originally there was supposed to be trees at 25 foot grid. You have taken that out and put in crown vetch. In lieu of putting in all the 25 foot trees on grid in the tan area, I would like to see the buffer area extended twice.

Mr. Latincsics stated the best thing to do up above is hydro seed that high elevation.

Mr. Latincsics stated a good compromise would be the conifer berm and then woodland seedlings and let it revert to woodland.

Mr. Sergi stated that would be okay.

Mr. Dunn stated that Mr. Hals' report says that the maximum permitted increase by Highlands regulations is 198,965 square feet. He says that is the maximum impervious area permitted by Highlands regulations and you are showing 202,893 square feet.

Mr. Schepis stated there is another limitation which Mr. Hals doesn't point out which is the maximum impervious coverage additional of  $\frac{1}{4}$  acre. I mentioned this at the first meeting that we had an extensive application process with the DEP and it culminated in a telephone conversation with myself, Mr. Latincics, Mr. Dunn.

Mr. Dunn stated you want us to certify as to what was lawfully in existence in 2004 and we know that much of what is there was not lawfully in existence so what Mr. Hals is saying is what was lawfully in existence is whatever he says it was.

Mr. Schepis stated when I posed the question to the head of Watershed Management about impervious coverage that existed prior to 8/10/04, whether it was lawful or not, and he pointed out and agreed with me that the Statute doesn't have retroactive effect when it comes to impervious coverage that existed "unlawfully". The DEP doesn't have the authority to request this impervious coverage be removed.

Mr. Dunn stated at the time of the public hearing, we will have Mr. Hals testify and you can cross-examine him.

Mr. Schepis stated his reasoning is wrong. It not a maximum of 125%; it's a maximum of the lower of 125% or  $\frac{1}{4}$  acre.

Mr. Dunn stated you are asking us to bless what was not lawfully existing and I understand your position.

Mr. Dunn stated we have not heard anything about the staging of this project.

Mr. Latincics stated we have a phasing plan and when the restoration is to take place which is proposed to be early on in the process. Basically, phase 1 is the first building and phase 2 is the second building. Septic system is in, the water main has been extended, the access drive is in but there is a phasing sequence proposed.

Ms. Farber stated you mentioned buses, they are so large and they have gasoline that can leak and it is on crushed stone which may be considered impervious in some instances. It just seems to be a risk.

Mr. Latincics stated actually we were thinking of school buses. The school buses next door are in the worst possible location.

Mr. Schepis stated the school buses are parked in close proximity to the water course and on the occasion when there is a flood event and some of the buses get wet, one of the possibilities Mr. Raykov considered is allowing the buses to move to higher ground.

Mr. Latincsics stated that the existing impervious surfaces are 8.1 acres and that would be reduced with the restoration. DEP does credit restoration against the 25% expansion. We were hoping to leave tonight with a consensus on the bounds between the site development, buffering and conservation easement so that the development is contained between what is proposed.

Mr. Dunn asked the DEP no longer want us to certify what was lawfully in existence?

Mr. Schepis said I didn't say that.

Mr. Dunn stated that we were asked to do a certification as to what was lawfully existing and we did a resolution that the DEP wasn't happy with and the DEP said we want a more specific determination as to what was lawfully existing. You want us to certify whatever we say was lawfully existing and now you want us to authorize an increase in what was lawfully existing over and above what we think the DEP regulations allow.

Mr. Schepis stated as long as it comports with your Zoning Ordinance, correct.

Mr. Dunn stated he would have to review the Zoning Ordinance.

Mr. Schepis stated a condition of approval would be the acceptance of the conservation easement by the municipality.

Mr. Dunn stated he did not see any reason why the Board should certify anything to the DEP about what was lawfully in existence. Mr. Raykov has not testified as to when this unlawful disturbance occurred.

The application is carried to October 26, 2009 without further notice. The applicant's attorney granted the Board an extension to October 26, 2009.

**Review and Discussion of Draft Highlands Master Plan Element (Continued)**

Mr. McGroarty stated there were 21 indicators that were used to create the overlay zones and there is a methodology spelled out.

Mr. Dunn asked how could we contemplate new multi-family residential development, new mixed development that is in a water deficit area and has no wastewater.

Ms. Farber stated if DEP is flexible with respect to redevelopment areas and it is something we want to be and we can figure out how to compensate for the deficit, then they might be willing to look at something like a package treatment plant.

Mr. Dunn asked you have an existing community zone that is fully developed, there is language in this that deals with new multi-family residential development that can only occur in the existing community zone, is that something you want as a matter of policy?

Mr. Speer stated I don't think we are ever going to zone for multi-family. Would we ever consider it?

Mr. Sergi stated we might for COAH. Mr. Speer stated he would agree with that.

Mr. McGroarty stated I think this deals with net density. I think what it boils down to is it shall apply to new development served by new or extended public water supply, new or extended wastewater utility structure or both. If you are not going to have that situation, all that follows doesn't apply.

Ms. Farber stated to protect the lakes and take out the septic systems and put in a sewage treatment plant to the extent that it is feasible and I don't know that it is.

Mr. McGroarty stated he did not believe this had to do with the lakes. If you anticipate in your plan, and it sounds like you don't, they are saying if you extend water or sewer, one of the conditions will be at least a minimum density of "x" because they don't want to see sewers extended for something less.

Ms. Farber stated compact development with sewer service is the key cornerstone of the State Plan which says if you are going to develop previously undeveloped land and justify extending infrastructure, it shouldn't be for low density but for high density as a concept. How this applies to the preservation area doesn't seem to make any sense at all.

Mr. Dunn stated I raised this at the meeting I attended. I said we have these septic regulations and there are thousands of houses in Ringwood where people are going to have a three year inspection requirement and if their septic tank fails, what are they going to do about it. The response from the person I was speaking to was they can usually

build a septic system that meets the requirements in the front yard and solve it on the property. If enough of them happen, you are going to have to put in a sewer. I said the DEP regulations don't allow us to put in a sewer and the response was presumably for health and safety reasons, the DEP would grant a waiver to allow you to put in a sewer that would correct the health and safety problems.

Ms. Farber stated except that the only water bodies in Ringwood are a reservoir for drinking water, not a good receiving body or Category 1 streams which are pristine and need to remain so. There is no potential unless to expand existing sewer service.

Mr. Dunn asked shouldn't this plan say while cluster development may be allowed under the Highlands Master Plan, there appear to be no opportunities for cluster development within Ringwood?

Mr. McGroarty said I would say yes. You are not obligated to do it and you can do it later on if you want.

Mr. Dunn stated what we are submitting now for basic plan conformance is not binding on anybody at this point and if the governing body adopts a resolution that says we adopt this petition on the understanding that it is not binding on us at this point, but it may be modified in the full planning conformance, that is going to be an acceptable kind of resolution to do. I suggest from a legal perspective that we keep this as vague as possible and not refer to specific lots and blocks at this stage. If you get into the stage where you are doing a full conformance and you are really serious about redevelopment, then obviously you are going to identify the lots and blocks that are involved. As I understood the original pilot report done on redevelopment, they are going to permit you to aggregate properties so that if there are in-fill properties between two properties that are currently developed at 90%, you can include some in-fill properties in that redevelopment area. I would like the Board to be sure in full conformance and not do it in a quick way what properties they are going to want to have included.

Mr. Speer asked in one of the earlier modules, didn't we leave open all properties in the existing commercial zones that had some potential for redevelopment.

Mr. McGroarty stated this is the first module where you actually get into that.

Paragraph c on page 24 and paragraph e on page 26 need to be modified or removed.

Ringwood is classified as High Resource.

Mr. McGroarty stated that the Water Use and Management Plan is probably one or two years away.

Being in a water deficit area was discussed.

Ms. Farber asked I would want to get a question to COAH about when they are talking to the Highlands Council about implementing EO 114, will they consider the Highlands communities a two year durational adjustment who have a water deficit situation?

Mr. McGroarty stated they are not giving any blanket adjustments.

Ms. Farber stated this is a more particular question; it is not broad because it is specific to those communities that have 100% of their land in a water deficit situation where there is no ability to know how to get out of the deficit. In that case, will COAH agree to an adjustment?

Mr. McGroarty stated he felt the best way to approach it is to factor it in to the vacant land adjustment process. The rules do recognize the Highlands region and the regulations that apply.

Mr. Dunn asked should the Borough be considering adopting changing its underlying zoning to regulate development on steep slopes for an exempt use?

Mr. McGroarty said yes.

Mr. Dunn stated on page 34, 3<sup>rd</sup> paragraph, last sentence, since most of this doesn't apply, I don't know whether you want to say that because lake areas are exempt.

Mr. McGroarty stated that could come out.

Page 38, Section 7, should be taken out.

Mr. Dunn stated can we add a section to this right at the beginning of the ordinance that specifies that the scope of this plan doesn't apply to uses that are exempt under the Highlands Act and list who it doesn't apply to. To look at the critical exemptions and to make it clear up front that this plan only applies to those things that are not exempt.

Mr. McGroarty stated he will check on that.

The Utility Services Plan will be left open.

With regard to the Circulation Plan, we only have one park and ride.

On page 49, 1, 2 and 8 should be taken out.

Ms. Forsa to request Morris Land Conservancy for updated ROSI document.

Mr. McGroarty stated we should have a list of criteria for acquisition.

Ms. Farber stated at one point we were asking the Highlands Council is it possible to have zoning for bed and breakfasts and could you ask them about the likelihood of permitting that as a permitted use.

Mr. Wiley stated he would like to see a section in the report that speaks to the financial detriment to the town.

Mr. McGroarty stated I think we could add a section to the Economic Development portion.

Mr. Wiley stated assuming there is a financial detriment, a water tax could be a possible solution to lack of increase in revenue in combination with open space and restrictions on development as inflation incurs there are no additional tax revenues to offset the cost of running the town.

Mr. Dunn stated we want the sustainable economic development plan to say there will be no sustainable economic development under this plan and this will cause a great financial hardship.

**Attorney's Report**

Mr. Dunn stated he is working on the ordinance. A petition has to be filed by December 8<sup>th</sup> and the petition has to include all these supporting documents including the ordinances and a draft ordinance from the Board of Health. Mr. Dunn stated that he would not like to see an ordinance in the draft form as presented because he felt there was excessive language in it and he wanted it to be clear that this applies in addition to and there are things that need to be defined that are not defined. It also needs to be conformed to your ordinance structure.

Mr. Dunn will also prepare a draft Executive Summary for the Council to review.

**Correspondence**

Ms. Forsa stated that Mr. Houser wanted to put up a sign at his Take Five building. He never requested an approval for the sign at the time of site plan approval. The sign is in conformity with the ordinance. Mr. Dunn stated usually the site plan says all signs shall be in conformance with the ordinance. The Board had no problem with the erection of the sign and just asked that the Borough Engineer take a quick look at it to be sure there is no problem with sight distance.

There being no further business, it was moved by Mr. Kidd, seconded by Ms. Loweth and unanimously carried that the meeting be adjourned at 11:45 P.M.

Helen M. Forsa, Secretary

**AGENDA OF THE REGULAR MEETING OF  
THE RINGWOOD PLANNING BOARD, TO BE HELD  
ON MONDAY, OCTOBER 26, 2009, 8:00 P.M.,  
BOROUGH HALL, 60 MARGARET KING AVENUE,  
RINGWOOD, NEW JERSEY**

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- I. Statement of Chairman as to compliance with Statute.

On February 1, 2009, a notice of this Regular Meeting was published in the Annual Notice to the Suburban Trends, and the Annual Notice was also posted on the Bulletin Board in the municipal building. This meeting is also being electronically recorded. Meetings shall be adjourned no later than 11:30 P.M. unless changed by Resolution of the Board.

- II. **Roll Call:**  
Brown\_\_\_\_, Davison\_\_\_\_, Farber\_\_\_\_, Garceau\_\_\_\_, Jolin\_\_\_\_, Kidd\_\_\_\_, Sergi\_\_\_\_, Speer\_\_\_\_,  
Wiley\_\_\_\_, Loweth\_\_\_\_, Bontatibus\_\_\_\_\_.

- III. Flag Salute.

- IV. Public Portion.

- V. **Approval of Minutes:**  
Regular Meeting – 9/14/09

DB, JF, KG, AJ, RK,  
TS, JS, BW, LL, RB

- VI. **Approval of Vouchers:**
- |                                     |           |
|-------------------------------------|-----------|
| Banisch Associates – P.O. #09-02462 | \$ 828.00 |
| P.O. #09-02463                      | 750.00    |
| P.O. #09-02472                      | 2,782.13  |
| P.O. #09-02473                      | 654.67    |
| P.O. #09-02474                      | 144.00    |
| P.O. #09-02475                      | 1,886.36  |
| P.O. #09-02476                      | 948.00    |
| P.O. #09-02477                      | 240.00    |
| P.O. #09-02594                      | 526.50    |
| P.O. #09-02595                      | 852.50    |
| P.O. #09-02596                      | 71.00     |
| P.O. #09-02597                      | 90.00     |

- VII. Review and Discussion of Petition for Plan Conformance to Highlands Council.

- VIII. **Raykov – Amended S.P. 2000-#149 – Block 400, Lot 5.02 – Margaret King Avenue -**  
To Be Carried to November 9, 2009.

- IX. Discussion/Adoption of 2010 Budget.

- X. Attorney's Report.

- XI. Correspondence.

- XII. Adjournment.

NOTE: FORMAL ACTION MAY OR MAY NOT BE TAKEN ON ANY OF THE ABOVE ITEMS.

October 21, 2009

Helen M. Forsa, Secretary

**MINUTES OF THE REGULAR MEETING  
OF THE RINGWOOD PLANNING BOARD, HELD ON  
MONDAY, OCTOBER 26, 2009, 8:00 P.M.,  
BOROUGH HALL, 60 MARGARET KING AVENUE,  
RINGWOOD, NEW JERSEY**

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The meeting was called to order at 8:20 P.M. and was in compliance with the Statute.

Present on roll call were Garceau, Jolin, Kidd, Sergi, Wiley, Loweth and Bontatibus. Speer attended at 8:25 P.M. Also present were Attorney Dunn and Planner Slagle.

The Chairman opened the meeting to the public. There being no one wishing to speak, it was moved by Ms. Jolin, seconded by Ms. Loweth and unanimously carried that the public portion be closed.

**Approval of Minutes**

It was moved by Mr. Bontatibus and seconded by Mr. Wiley that the minutes of the Regular Meeting of September 14, 2009 be approved. On roll call Garceau, Jolin, Kidd, Sergi, Wiley, Loweth and Bontatibus voted "aye".

**Approval of Vouchers**

It was moved by Mr. Wiley, seconded by Mr. Kidd and unanimously carried that the following vouchers be approved for payment: Banisch Associates - \$828.00, \$750.00, \$2,782.13, \$654.67, \$144.00, \$1,886.36, \$948.00, \$240.00, \$526.50, \$852.50, \$71.00, \$90.00; NJPO - \$60.00.

### **Review and Discussion of Petition for Plan Conformance**

The Board Planner, Ms. Slagle, was present to discuss the Petition for Plan Conformance to the Highlands Council.

Ms. Slagle presented a memorandum dated October 26, 2009 which is an Overview of Module 6 and 7 and a summary of where we are to date.

Plan Conformance is due on December 8, 2009 and we are up-to-date on everything due the Highlands.

Ms. Slagle stated Module 6 required three ordinances. Highlands has since eliminated the septic system ordinance for basic plan conformance and is making that an element for full plan conformance. The Land Use Ordinance is currently being reviewed by our office. Highlands is encouraging us not to make any substantive changes, but only take out things that are not pertinent and add any comments we feel are necessary to get on the record.

Mr. Dunn stated he specifically asked at the Highlands meeting whether we could make changes in it when doing the full plan conformance and they said yes. He also specifically asked when the governing body adopted their resolution that it include a provision in that resolution that says that we are submitting the plan and reserving the right to amend or supplement the Petition and any of the documents during the process leading to full Plan Conformance. That change has been approved by the Highlands Council.

Ms. Slagle stated there is no action required by the Planning Board on Modules 6 and 7.

Mr. Dunn stated he has not commented on the ordinance, but it seems to be better than it was. You have a 127 page ordinance that doesn't apply to somebody doing anything to their house, doesn't apply to a new house or an existing house, and it doesn't apply to interior renovations. There are a lot of exclusions from the ordinance. It really only applies to somebody who wants to develop a property, subdivide it or build a new commercial facility on an existing vacant land.

Ms. Slagle stated the Highlands Land Use regulations will only act as an overlay to existing municipal zoning making sure that local zoning is consistent. The Highlands regulations would only come into effect on anything that is not exempt. Appendix A shows many of the exemptions and waiver.

Mr. Kidd asked in reality none of the lots in the industrial zone could ever be built?

Ms. Slagle stated the lots in the industrial zone are pre-existing and there may be some provisions there to grant some relief, but those lots are really constrained.

Mr. Sergi asked what are going to do about COAH?

Ms. Slagle stated we are going to have to work on this in a couple of stages. I have attached on Appendix C the items that we have to submit for December 8<sup>th</sup>. Highlands is requesting a Consistency Review Report for all their certified second round sites. They also want us to tell them if we are interested in doing a Housing Partnership Program which is basically what they used to call the RCA. With the RCA, the unit cost is \$80,000.

Mr. Kidd asked don't we just have to provide the opportunity for the units?

Mr. Slagle stated we have to provide a realistic opportunity for affordable housing. We have the growth projection from the Highlands which is three units, but we still have to address the prior round. We can ask for a vacant land adjustment based on the Highlands regulations and get some of that knocked down and then see how much of that goes away, but we still have to look at the mechanisms from there and see what are the best opportunities.

Mr. Kidd asked but if we just have to provide the opportunity, why would the State want us to give \$80,000 a unit?

Ms. Slagle stated they are just asking if we are interested in the program.

Mr. Dunn stated COAH makes a determination after you have submitted your plan whether you are making a realistic opportunity for housing. The Borough can't force people to build it, they can just make it realistically possible for people to build the housing. When we get into the final plan, the concern that I have and I believe our planners share it, is that if you say to COAH we have no land on which we can build this housing, COAH can still say you have the ability to raise the money and do it and not approve your plan. There is a delicate balance between saying we are going to take vacant land adjustments and leaving the town open in order to meet COAH requirements to do RCA's.

Ms. Slagle stated they want a draft plan to the Highlands by March for review. Until we know what the final numbers are, it will be hard to come up with a mechanism that everyone will be happy to live with.

COAH was discussed at length.

Mr. Dunn stated what you are faced with right now is that the governing body has to file this Petition by December 8<sup>th</sup> in order for the Borough to remain a conforming municipality and there are reasons for you to remain a conforming municipality not the

least of which is that as a conforming municipality you get the extension that COAH has granted to Highlands municipalities. If you don't conform, now you are subjected to problems with COAH and you are not going to have the benefit of COAH allowing you to use the build-out analysis which is three units whereas if you didn't have that, you would have a lot more units to comply with.

Ms. Slagle stated more importantly, the Act mandates preservation areas to conform. If a municipality does not conform, your jurisdictional abilities go to the Highlands for land use.

Mr. Dunn stated I got the Highlands staff to agree that we could specifically state in the resolution that we are reserving the right to change the Petition at anytime before full plan conformance which I think is a major selling point in terms of your resolution. I have prepared a draft of a resolution from the Planning Board recommending to the governing body that they file the Petition. I have spelled out some of the reasons why the Planning Board thinks it is a good idea to file the Petition in a timely way. Much of what is in these documents doesn't apply to any existing houses. It only applies to new development and allows you to stay in control of your zoning. By filing the Petition, you can maintain the maximum amount of home rule power to make sure your community is structured the way you want it to be structured.

Mr. Dunn stated that the things that I think you are going to want to talk about is how you can fit within the redevelopment guidelines that allow existing areas to be expanded and built upon at a commercial density that is maybe going to be able to attract some commercial developers and maybe allow you to improve the quality of the commercial properties. The MP3 grant that was done at the beginning of this process identified some areas in the community that might qualify for the Highlands redevelopment. That is not to say that there are not a lot of infrastructure problems and other things in developing those properties but it is an area where, if the community feels there is a need for some viable economic growth, you can possibly do that and shape to a certain degree how that growth occurs.

Ms. Slagle stated there are waiver provisions for the industrial zone if someone wanted to put forth an application on Highlands constrained land, but it is on a case by case basis.

Mr. Speer asked if we could get the existing shopping centers out of the protection zone and is that an RMP update or map amendment?

Ms. Slagle stated an RMP update is changing the land use capability zone on a property to reflect actual conditions. Because the shopping zone is protection but it is developed, we want to take it out of protection and put it into existing community. It doesn't meet the requirements for an existing community overlay. Highlands has a specific density that has to be met to have that existing community on a property. They may let you do it, but they will tell you that you have to find acreage of protection

somewhere else in the community. It is not clear how it is going to work. A better option is designating it a redevelopment site.

Mr. Dunn stated the first thing, after you have made the Petition, is to commission Joanna to revisit that redevelopment area to identify it, to think about it, to say to Highlands this is the way we think this redevelopment area should be developed and to get approval of that redevelopment area as part of your final plan conformance.

Mr. Speer asked when is final plan conformance?

Ms. Slagle stated when you submit this Petition everything is in draft form. We still have to go through a whole process with Highlands to deem it complete. Their preliminary timeline is at least eight months before we get the Petition deemed complete.

Mr. Dunn had submitted a draft recommendation dated October 20, 2009 for the Planning Board to send to the governing body. He reviewed the recommendation with the Board.

Mr. Dunn stated that this is intended to provide some understanding to the Borough Council that the Planning Board has reviewed this process and essentially is recommending that the governing body that they pass the resolution.

Mr. Wiley wanted the resolution to state that this has an economic impact on the Borough.

Ms. Loweth stated that she agreed with Mr. Wiley because every time we vote on something, we are giving it legitimacy and I would like it to be qualified.

Mr. Dunn wanted the resolution to be worded correctly. He offered some additions to the recommendation as follows:

WHEREAS, the Planning Board recommends that the Borough and the Board strenuously argue to the Highlands Council, during the upcoming process of Full Plan Conformance, that the Petition needs to be modified to address the financial detriments to the Borough that result from the Highlands Regional Master Plan; and

BE IT FURTHER RESOLVED that, in accordance with the Highlands Plan Conformance Guidelines, the Planning Board does hereby reserve the right to recommend to the Borough Council, as required, such amendments or supplements to the Petition (and any of the documents listed on Exhibit A to the Resolution) during the process leading to Full Plan Conformance. In particular the Board recommends that during process leading to Full Plan Conformance, that the substantial economic impact on the Borough should be fully addressed; and

It was moved by Mr. Sergi and seconded by Mr. Bontatibus that the recommendation and resolution prepared by Mr. Dunn be approved.

On roll call Garceau, Sergi, Speer, Wiley, Loweth, Bontatibus voted "aye"; Kidd voted "nay".

**Raykov – Amended S.P. 2000-#149 – Block 400, Lot 5.02 – Margaret King Avenue**

The applicant's attorney has requested an extension and granted an extension to the Board to December 31, 2009.

The application is carried to the meeting of November 9, 2009.

**Adoption of 2010 Budget**

The Board discussed the proposed 2010 budget.

Mr. Wiley felt the Board should reduce the budget in some way to assist the governing body in reducing the municipal budget.

Ms. Forsa stated she had reduced some line items. After discussion, the Board eliminated the \$1,500 in Urban Planning.

It was moved by Mr. Wiley, seconded by Mr. Bontatibus and unanimously carried that the 2010 Budget be adopted as modified.

There being no further business, it was moved by Mr. Kidd, seconded by Mr. Bontatibus and unanimously carried that the meeting be adjourned at 10:15 P.M.

Helen M. Forsa, Secretary