

PLANNING BOARD MINUTES  
PUBLIC MEETING  
SEPTEMBER 12, 2013 - 7:00 P.M.  
HELD AT OAKLAND SENIOR CENTER  
20 Lawlor Drive, Oakland, New Jersey

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ☐ Adoption of an annual schedule of meetings
- ☐ Posting a copy of same at Borough Hall
- ☐ Forwarding a copy of same to The Record
- ☐ Mailing a copy to any person requesting same

\*\* MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.

PLANNING BOARD MEMBERS:

Gina Steele, Jason Shafron, Lee Haymon, Nicholas DiLandro, Eric Kulmala, Dan Hagberg, Elaine T. Rowin, John Morris, Councilwoman Coira, Mayor Linda H. Schwager and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:03 P.M., ROLL CALL:

Present: Mrs. Rowin, Messrs. Shafron, DiLandro, Kulmala, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
Absent: Mrs. Steel and Mr. Haymon

Also in attendance, Mr. Matthew Cavaliere, Esq. substituting for Mr. Joseph Russo, Esq., Board Attorney, Steve Lydon, Burgis Associates and Kevin Boswell, Boswell Engineering also in attendance.

Motioned by Mayor Schwager and seconded by Mrs. Rowin, to excuse the absences of Mrs. Steele and Mr. Haymon was voted unanimously by the Board.

Chairman Potash informed the Board that Mr. Matthew Cavaliere, Esq., Board of Adjustment Attorney, would be sitting in for Mr. Russo who is on vacation.

Motioned by Mrs. Rowin and seconded by Mayor Schwager, to open the meeting to the public for matters not on the agenda was voted unanimously by the Board.

Mrs. Nancy Krause, member of the Environmental Commission, came before the Board offering an invitation to the Land Preservation Presentation given by ANJEC (Association of the NJ Environmental Commissions). The event would be hosted by Oakland, Franklin Lakes and Wyckoff held Wednesday, October 2, 2013 at 7:00 p.m. at the Wyckoff Public Library.

She explained that the topics of discussion would include dealing with Open Space Stewardships and Walkable and Bikeable communities which would be a desirable addition to the community. The presenter would be visiting and observing each town's allotment of open space making the presentation more personalized.

Mayor Schwager questioned if there was a fee associated with the presentation and do people have to pre-register. Mrs. Krause responded that there is no fee and no pre-registration is necessary for attending.

A discussion ensued concerning recording the presentation. Mrs. Krause informed the Board that the Environmental Commission would video record the entire presentation. It was suggested by Mayor Schwager that Mrs. Krause contact Oakland's Communication Commission so that residents can view the video of Channel 77.

Chairman Potash explained that the Environmental Commission is doing a study on the NRI (Natural Resource Inventory) and Mrs. Krause would be discussing how this could be tied into the Highlands ERI (Environmental Resource Inventory) which could become part of the Borough's Master Plan.

Mrs. Krause explained that the Environmental Commission was encouraged by ANJEC to create the Borough's own NRI. This document is designed to help the municipality implement the Oakland Master Plan where the ERI is designed to help implement the Regional Master Plan for the Highlands.

The Oakland NRI covers all properties including those that are exempt by the Highlands Master Plan. The Highlands Master Plan covers groundwater supply information in much greater detail and NRI covers the geological aspects such as soils and environmental issues.

Mr. Shafron enters the meeting at 7:16 p.m.

Mrs. Krause informed the Board that the Environmental Commission should be done with the draft of the NRI by the end of the year with the hope that the Planning Board would then be able to adopt it. She recommended that the Oakland NRI and the Highlands ERI be adopted simultaneously as part of the Master Plan so that there would be no conflicting information.

Chairman Potash expressed that the Environmental Commission should continue developing their plan and the Planning Board would continue with their review of the Highlands ERI that could become part of the Master Plan. He entertained a motion to close the meeting.

Motioned by Mrs. Rowin and seconded by Mr. Kulmala to close the meeting to the public for matters not on the agenda was voted unanimously by the Board.

Chairman Potash explained that they would go through other business of the meeting to allow time for Mr. Boswell to arrive.

#### MEMORIALIZATION:

Eligible voters: Mrs. Steele, Messrs. Haymon, Kulmala, DiLandro, Hagberg, Morris, and Mayor Schwager.

1. Ferragamo – 4 Riverside Drive & 55 Park Drive, Block 2004, Lot 2. Approval for a minor subdivision with variances.

Motioned by Mr. Morris and seconded by Mr. DiLandro, to memorialize the above resolution of approval.

Roll Call Vote:           Ayes: Messrs. Kulmala, DiLandro, Hagberg, Morris and Mayor Schwager.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: Mrs. Steele and Mr. Haymon

#### PAYMENT OF BILLS:

Motioned Mr. Morris and seconded by Mr. Hagberg, for the payment of bills subject to the availability of funds.

Roll Call Vote:           Ayes: Mrs. Rowin, Messrs. Shafron, Kulmala, DiLandro, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: Mrs. Steele and Mr. Haymon.

#### APPROVAL OF MINUTES:

Motioned by Mr. Kulmala and seconded by Mayor Schwager, to approve the August 8, 2013 minutes.

Roll Call Vote:           Ayes: Messrs. Kulmala, DiLandro, Hagberg, Morris and Mayor Schwager.  
                                  Nays: None  
                                  Abstain: Mr. Shafron, Mrs. Rowin, Councilwoman Coira and Mayor Schwager.  
                                  Absent: Mrs. Steele and Mr. Haymon.

1. VPK Enterprises, LLC- 588 Ramapo Valley Road, Block 4701, Lot 14. Public hearing for an amended site plan.

Mr. Francis Battersby, Esq. was before the Board to represent VPK Enterprises, LLC. Kathy MacMacin, business manager for the restaurant, accompanied Mr. Battersby.

The property located at 588 Ramapo Valley Road in the B-3 Business zone is currently operating as a restaurant known as Valley Stables. The applicant is seeking approval for an amended site plan to allow for a small extension off the front left side of the building which would total 203 square feet. He explained that the proposed extension would be located within the current front porch and would go no further forward than the existing roof requiring no variance. No additional seating, no reduction in parking and no variances are being proposed.

Ms. McMacin of 593 Ramapo Valley Road was sworn in and testified that she is the manager of Bistro II and VPK Properties. She explained that due to the lack of space in the bar area, the improvements being proposed would include a small bump out in the bar area to help the current flow as well as create new emergency exit. Ms. McMacin informed the Board that no new seating or additional parking would be proposed for the extension.

Chairman Potash pointed out that Mr. Lydon's letter specifies that no variances would be required. Mr. Lydon agreed that with the information provided by the applicant, he did not see any setback issues.

Mr. Lydon did question the current number of seats in the restaurant and the number of parking spaces provided. Ms. McMacin responded that the restaurant provides a total of 88 seats and 45 parking spots, two of which are designated handicapped. Mr. Lydon explained that the drawings submitted did not indicate where the handicapped parking spaces were. Ms. McMacin responded that the handicapped parking spaces are the two marked spaces on the right hand side of the lot.

Mr. Kulmala verified that the restaurant still provides valet parking. Ms. McMacin responded that valet parking is still provided.

Mr. Cavaliere questioned the number of seats in the bar. Ms. McMacin responded that there are 20 seats in the bar area, a small dining area off the bar and 61 seats upstairs in the dining area. Mr. Cavaliere questioned the applicant if they intended to move some seats into the expanded area in the bar. Ms. McMacin responded that no more seats would be added.

Chairman Potash explained that the applicant is limited to the number of seats because of parking and the septic system which does not allow the applicant to exceed the total number of 88 seats. Ms. McMacin responded that she understands and will not be increasing the number of seats.

Mr. Lydon pointed out that he counted 16 seats in the small dining room off the bar, 6 seats by the foyer area and 20 around the bar which would total 42 seats on the first floor. He informed the applicant that when you add the 61 seats upstairs with the 42 seats on the first floor, the entire restaurant total comes to 103 seats. Ms. McMacin responded that two of the tables in the bar area were used for people to place their drinks while waiting to be seated so they were not counted as seats. Mr. Lydon explained that the Borough's ordinance specifically states that parking is dictated by the number of seats and not by the square footage of a building. He continued that if there are 103 seats, there should be 52 parking stalls as oppose to 42.

A discussion ensued concerning the plans and the current layout of the tables. Ms. McMacin testified that the plans do not accurately reflect the current layout of tables in the restaurant.

Chairman Potash expressed that the Board does not know the number of seats allowed with the prior approval but the applicant does not intend to increase the number of seats with this application. Mr. Battersby expressed that the intention of the application was not to increase the number of seats but to increase the space to provide a better flow for the patrons and the staff. He continued that his client is trying to explain that those tables counted do not have seats and are strictly for waiting purposes.

Mrs. Rowin informed the Board that she has noticed more than 45 cars parked at the site at one time. Chairman Potash responded that he believes the valet parking has improved the situation. Mrs. Rowin expressed that the valet parking has since improved the situation but valet parking was not part of the original approval and cars were being stacked along Ramapo Valley Road causing a hazard situation. She explained that she realizes the restaurant is functioning and working, however, the parking topic should be part of the record because it is known that more cars parked in the lot than what was allowed. Mr. Battersby expressed that the application would not add any additional patrons or burden to the parking area.

Mr. Cavaliere questioned if the applicant would agree that the maximum seating for the restaurant would not exceed 88 seats total. Ms. McMacin responded that she would agree to the stipulation. Mr. Cavaliere explained that the applicant could arrange the seating anyway they want but the number of seats for the entire restaurant would not be allowed to exceed 88 seats.

Mr. Boswell verified that the setback would not be increasing anymore than what exists currently. Mr. Battersby responded that nothing is going out further than the existing front wall of the foyer and the extension is strictly under the existing roof which is now an open porch on the left side of the building.

Mr. Boswell verified that the expansion would have no impact on the existing septic system pursuant to the code. Mr. Battersby responded that there would be no impact on the septic system because they would not be increasing the number of seats. Mr. Boswell confirmed that the applicant would satisfy all requests of the Health Department. Chairman Potash informed Mr. Boswell that the Board received a letter today stating that the Health Department had no objection to the application.

Mrs. Rowin confirmed that the sign would not be moved any closer to Ramapo Valley Road. Ms. McMacin responded that the sign would not be moved.

Motioned by Mrs. Rowin and seconded by Mr. DiLandro, to open the meeting to the public regarding matters concerning the VPK Enterprises, LLC application was voted unanimously by the Board.

No comments.

Motioned by Mrs. Rowin and seconded by Mr. Kulmala, to close the meeting to the public regarding matters concerning the VPK Enterprises, LLC application was voted unanimously by the Board.

Chairman Potash entertained a motion for the VPK Enterprises, LLC. The approval would be subject to the seating for the restaurant not to exceed 88 seats for the entire restaurant.

Motioned by Mr. Kulmala and seconded by Mr. DiLandro, to approve the VPK Enterprises, LLC application subject to seating for the restaurant not to exceed 88 seats for the entire restaurant.

Roll Call Vote:           Ayes: Mrs. Rowin, Messrs. Shafron, Kulmala, DiLandro, Hagberg, Morris, Councilwoman Coira, Mayor Schwager and Chairman Potash.  
                              Nays: None  
                              Abstain: None  
                              Absent: Mrs. Steele and Mr. Haymon.

#### NEW BUSINESS:

None

#### OLD BUSINESS:

Chairman Potash announced that they would continue discussions concerning revisions and comments pertaining to the Highlands ERI and Highland Master Plan Element. Chairman Potash questioned Mr. Lydon if the Highlands ERI would be made part of the Borough's Master Plan or would it be part of the Highlands Master Plan. Mr. Lydon responded that they would both become part of the Borough's master plan as separate elements. Mr. Lydon suggested that it might be less confusing if the ERI and NRI were combined into one document assuming that they are consistent with one and other.

Chairman Potash questioned Mr. Lydon what would be the next step concerning the two documents. Mr. Lydon suggested that the Environmental Commission continue their work on the NRI and the Planning Board continue their review of the ERI. He explained that Highlands gave the Borough a deadline back in the spring and has since received an extension. However, after discussions with the Borough Administrator, it was expressed that the sooner plan conformance is achieved and adopted grant money becomes available to the Borough. This funding source would help the Borough plan for the conversion of some of the sewer treatment plants, pump stations and sewers in the downtown area.

Mayor Schwager informed Mr. Lydon that she is working on an agreement with Northwest Bergen Sewer Authority and questioned the order that should be taken since Highlands plays a role in this. Mr. Lydon responded that Plan Conformance allows for money and it removes some of the regulatory burdens and hurdles that have prevented the Borough from being able to negotiating with Northwest Bergen Authority and concluded that some of this does rely on Plan Conformance. For instances, interbasin water transfer would rely upon the Borough's Wastewater Management Plan which is part of the Plan Conformance. Mayor Schwager requested that Mr. Lydon explain Plan Conformance. Mr. Lydon explained that Plan Conformance is when the Borough's land use plan, documents and ordinances are consistent with the Highlands Regional Master Plan. Chairman Potash added that some of the steps in the process of Plan

Conformance would be modifying the master plan and zoning ordinances which could be a long process.

Mr. Lydon referenced a letter addressed to the Borough Administrator suggesting issues that the Borough may want to consider attaching to Plan Conformance. For instance, the Highlands would like the Borough to adopt a TDR (Transfer Development Rights) program, however, the Highlands have not provided the Borough enough information to consider what this means and the impact it would have on the Borough.

A discussion ensued concerning some confusion with the issue of flooding in the town and the concern for getting water back into the ground. Mr. Lydon responded that the Highlands want to charge for gallons being transferred out of the basin but he would like to see the Borough not be responsible for replacing the groundwater recharge with those gallons being transferred through Northwest Bergen when sewerage the town. This is a regional approach but Oakland is taking the brunt.

Mr. Boswell explained that technically the Highlands ERI looks at water going into the ground and water going out of the ground and claims that the three different zones of aquifers beneath Oakland are in a deficit. He expressed that the Borough does not want a cost or a penalty when sewerage the town so you have to look at other options like going to Northwest Bergen Authority who wants the flow or if the ERI becomes an overriding document, then the Borough may have to look into other sewer plants that are within their basin.

Mr. Boswell commented that his concerns are that the Borough and Highlands have a different idea on what it means to sewer the downtown. He expressed that it is crucial the Borough carefully plan where they want to sewer the town. It would not be good to lockout a section of town where the septic systems are failing.

Mr. Morris questioned the difficulties involved for getting approval for an interbasin transfer for the town so it could expand the sewer project. Mr. Boswell responded that it would be extremely difficult because Oakland is within the Highlands Preservation and Planning area.

Mr. Boswell explained that he is dealing with other towns with the same issues as Oakland and most of them are doing the same thing. Before committing to Plan Conformance, they are negotiating with the Highlands to incorporate goals that the town wants to achieve. He advised the Borough to be cautious and make sure the town does not box itself out of making progress with sewerage more than the downtown area. Mr. Morris commented that the town's strategy should be to sewer the whole town. Mr. Boswell explained that the Highlands and Northwest Bergen Authority both want to arrange to amend your Wastewater Management Plan. Northwest Bergen Authority would like to see the whole town sewerage and are interested in receiving as much flow as possible with a plant equipped to receive 12.5 million gallons a day, where as, Highlands would agree that the downtown area could be sewerage. He recommends that the Borough decide what for their goals are for sewers in the town.

Mr. Lydon suggested that it might be better to negotiating sewers to be extended into the entire Planning Area and down along Long Hill Road. Mayor Schwager informed the Board that this would help since the middle of the town is being proposed for affordable housing. Chairman Potash expressed that with everything discussed, the Board would

not agree to vote on these documents tonight. He recommends that perhaps a letter needs be sent to the Highlands informing them that the Planning Board has reviewed the documents but are not willing to recommend until the items listed get settled to the Borough's satisfaction. Mr. Lydon agreed that would be a good first step and also suggested that the Board amend the documents inserting their language in reference to what the Borough wants with their Wastewater Management Plan, Transportation Plan and the Circulation Element before adopting the document and conforming.

Mr. Kulmala questioned if Highlands would supersede the Borough assuming the Borough decides to go with Plan Conformance. Mr. Lydon responded that Oakland would have to get approval from the Highlands prior to any amendment to change any of the Land Use Ordinances or Master Plan. The Highlands would have time to review any of the Borough's amendments for any conflict with the Highlands Regional Master Plan before they can adopt. A discussion ensued concerning NJDEP having more power over the Preservation Area and Highlands having more power over the Planning Area.

A discussion concerning if the septic system installed on the Shoprite was in the Preservation area. Mr. Lydon responded that it is in the Preservation Area and the septic is a very comprehensive system. The discussion continued that sewers should go down as far as Portobello and then continue down Long Hill Road.

Mr. Lydon explained that all of Ringwood and West Milford are in the Preservation Area and had no choice to comply. However, the Borough of Oakland's situation is more difficult because there are choices.

Mayor Schwager questioned what the Borough should do first. Mr. Boswell responded that the Borough should plan where it would like to sewer and remember that the town does want to box out any area preventing that area from being sewered if sewers could be possible. Chairman Potash questioned if it would be reasonable to ask for sewers in the entire Planning Area and some limited areas in the Preservation Area. Mr. Boswell responded that if they say you do not have to do an interbasin transfer I would go with it.

Chairman Potash suggested that the professionals work together to modify the Highlands documents and include the items discussed. It would be included in the Highlands Environmental Resource Inventory and the Master Plan Element, the information regarding sewers and the interbasin transfer and allowing, without penalty, to send our flow through another basin from the entire Planning Area and possibly some limited areas in the Preservation Area.

Chairman Potash expressed that the Board would like clarification concerning TDR's (Transfer of Development Rights). Mr. Lydon responded that the TDR's are more difficult especially in a town like Oakland with the traffic downtown along at certain times of the day and during the school year. His concerns were if the Borough does not know what the parameters of the TDR program are; the town could be swamped with traffic worsening the gridlock situation. There needs to be commitment from the Highlands Council that the Borough will achieve or maintain a certain level of service at key times on roads in the downtown area. Mayor Schwager added that there is a major problem during the times inspections are made on the railroad.

Mr. Lydon responded that there are so many elements of the Master Plan that have not been touched upon. Chairman Potash explained that the Board would leave it in the



professional's hands to amend the Highland documents as discussed and have a draft of that document presented to the Board.

PUBLIC MEETING ADJOURNED AT 9:00 P.M.

Motioned by Mayor Schwager and seconded by Mr. DiLandro, to adjourn the meeting by a unanimous vote by the Board.

Respectfully submitted by,

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Kathlyn Gurney/Administrative Assistant

\*Next meeting on October 10, 2013.