

**Borough of Highlands
Planning Board
Regular Meeting
September 13, 2012**

Mr. Stockton called the meeting to order at 7:33 P.M.

Mr. Stockton asked all to stand for the Pledge of Allegiance.

Mr. Stockton made the following statement: As per requirement of P.L. 1975, Chapter 231 notice is hereby given that this is a Regular Meeting of the Borough of Highlands Planning Board and all requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

ROLL CALL:

Present: Mr. Mullen, Mr. Schoellner, Ms. Peterson, Mr. Redmond, Mr. Hill,
Mr. Stockton, Mr. Colby

Absent: Ms. Ruby, Mayor Nolan, Mr. Gallagher, Mr. Russo

Also Present: Debby Dailey, Deputy Clerk
Jack Serpico, Esq., Board Attorney
Marty Truscott, P.P.
Bruce Padula, Esq., Borough Attorney

**PB#2012-2 Huhn, John
Block 14 Lot 2.014 – 22 Grand Tour
Approval of Resolution**

Mr. Schoellner offered the following Resolution and moved on its adoption:

**RESOLUTION
BOROUGH OF HIGHLANDS
PLANNING BOARD
RESOLUTION OF MEMORIALIZATION
MONMOUTH COUNTY, NEW JERSEY
MINOR SITE PLAN APPROVAL**

**Approved: August 9, 2012
Memorialized: September 13, 2012**

**MATTER OF HUHNMONACO RESIDENCE
APPLICATION NO. PB#2012-2**

WHEREAS, an application for Minor Site Plan approval has been made to the Highlands Planning Board hereinafter referred to as the Board by John Huhn and Angela Monaco on lands known as designated Block 14, Lot 2.014 as depicted on the tax map of the Borough of Highlands (hereinafter “Borough”), and more specifically located at 22 Grand Tour, Highland, New Jersey in the R-102 zone; and

WHEREAS, a public hearing was held before the Board on August 9, 2012 with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the applicant, witnesses and consultants and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised; and

WHEREAS, the following exhibits were marked into evidence:

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- A-1 EM Waterbury and Associates correspondence dated June 19, 2012
- A-2 EM Waterbury and Associates Stormwater Management Report dated June 2012
- A-3 Survey prepared by Richard Stockton dated May 17, 2012
- A-4 Driveway Plan prepared by EM Waterbury and Associates dated June 13, 2012
- A-5 EM Waterbury and Associates correspondence dated July 31, 2012
- A-6 Public Notice
- A-7 Photographs consisting of three pages
- A-8 Monmouth County aerials with topography
- B-1 March 11, 2009 Resolution granting Final Subdivision Approval for Block 14, Lot 2.01
- B-2 T&M Report dated July 10, 2012
- B-3 T&M Report dated August 6, 2012

NOW, THEREFORE, does this Highland Planning Board make the following findings of fact and conclusions of law with regard to this application:

1. The applicant is seeking Minor Site Plan approval to allow for the paving of the existing stone driveway on the subject property. The subject property is the result of a Major Subdivision application which was approved in 1999. The subject property is a flag lot with a variance for the lot frontage non conformity. The 1999 Resolution of approval contained Condition No. 16 which required that the driveway be constructed with stone to improve traction and lessen stormwater runoff.

2. The applicant proposes no site changes other than the new driveway surface.

3. The applicant has indicated that the driveway is difficult to walk or drive on because of the gravel and that during rainstorms the gravel washes away into the street and onto neighboring properties.

4. The applicant originally proposed pervious concrete with a stone recharge beneath the concrete to address the stormwater resulting from the proposed paved surface. However, the applicant's engineer performed calculations of the stone driveway versus a paved driveway and the result was a stone driveway was .8cfs and a paved driveway was .88cfs for the hundred year storm. It is the opinion of the applicant's engineer and the Board's engineer that the difference between these two conditions is de minimus and therefore, the proposed drainage design is not necessary. The applicant will install a concrete driveway with curbing with no specific stormwater management provisions.

5. The applicant's engineer testified that the elimination of the permeable paver section in construction of the concrete driveway will not cause negative downstream or neighbor property impacts.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of Borough of Highlands on this 13 day of September, 2012, that the action of the Board taken on August 9, 2012, granting Application No. PB 2012-2 Minor Site Plan approval is hereby memorialized as follows:

The application is granted subject to the following conditions:

- 1. The installation of the driveway shall take place in strict conformance with the testimony, plans and drawing which have been submitted to the Board with this application.
- 2. Payment of all fees, costs, escrows due or to become due.

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3. Subject to all other applicable, rules, regulations, ordinances and statutes of the Borough of Highlands, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized to send a certified copy of this Resolution to the Applicant and to the Township Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.

Seconded by Mr. Mullen and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Mullen, Mr. Schoellner, Ms. Peterson, Mr. Redmond, Mr. Hill

NAYES: None

ABSTAIN: Mr. Stockton, Mr. Colby

Review of Council Resolution R-12-203 Determining Entire Borough in Need of Rehab

Bruce Padula, Esq., was sworn in and then gave background to the following Resolution:

**R-12-203
RESOLUTION**

**Resolution determining the entire Borough of Highlands to be
an area in need of rehabilitation in accordance with the
conditions set forth in N.J.S.A. 40A:21-3 and N.J.S.A.
40A:12A-14**

WHEREAS, N.J.S.A. 40A:21-3 and N.J.S.A. 40A:12A-14 provide that the governing body of a municipality may determine a delineated area within a municipality, or the entire municipality, may be determined an area in need of rehabilitation; and

WHEREAS, finding the Borough as an area in need of rehabilitation will enable it to enact legislation to encourage property owners with improve their property for residential, commercial and industrial use; and

WHEREAS, in order to make such a determination, the following conditions must exist: (1) a significant portion of structures therein are in a deteriorated or substandard condition and there is a continuing pattern of vacancy, abandonment or underutilization of properties in the area, with a persistent arrearage of property tax payments thereon or (2) more than half of the housing stock in the delineated area is at least 50 years old, or a majority of the water and sewer infrastructure in the delineated area is at least 50 years old and is in need of repair or substantial maintenance; and (3) a program of rehabilitation, as defined in section 3 of P.L.1992, c. 79 (C.40A:12A-3), may be expected to prevent further deterioration and promote the overall development of the community; and

WHEREAS, the Highlands Planning Board previously considered this matter and, by letter dated October 31, 1995 informed the governing body of its support determining the entire Borough as an area in need of rehabilitation; and

WHEREAS, Ordinances O-95-33, amended by O-97-06 and O-04-08, determined that the entire Borough of Highlands to be an area in need of rehabilitation pursuant to the provisions of N.J.S.A. 40A:21-1 et seq., referencing N.J.S.A. 40A:12A-14; and

WHEREAS, the Housing Plan Element of the current Master Plan identifies one of its goals as the rehabilitation of the existing housing stock within the Borough including the rehabilitation of substandard units;

WHEREAS, additional goals contained within Housing Plan Element include: (a) reestablishing a housing rehabilitation program within the Borough; (b) identifying commercial

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and industrial properties that are suitable for adaptive re-use and encourage their redevelopment for mixed use with housing on upper floors; and (c) recognize the potential of vacant, underutilized and deteriorated properties for in-fill residential development; and

WHEREAS, the Housing Plan Element recognizes the lack of maintenance and deteriorating condition of many units within the Borough and encourages increasing staffing for code enforcement; and

WHEREAS, according to the 2010 General Housing Characteristics provided by the United States Census Bureau, the Borough has an housing vacancy rate of 16.6%, which is an increase from the vacancy rate established by the 2000 Census; and

WHEREAS, the Borough Engineer has confirmed that a majority of the water and sewer infrastructure in the Borough is at least 50 years old and is in need of repair or substantial maintenance; and

WHEREAS, based on these factors, the Borough finds that a program of rehabilitation is expected to prevent further deterioration and promote the overall development of the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Highlands that the entire Borough is an area in need of rehabilitation as defined by N.J.S.A. 40A:21-3(b) and N.J.S.A. 40A:12A-14.

Mr. Padula stated that Resolution R-12-203 was not actually adopted by the Governing Body. This is part of a bi-partisan effort by Council supported by Mayor Nolan and Council President Kane to move forward with a tax exemption ordinance. This is where it would exempt improvement assessments to properties. So it encourages homeowners to improve some property. A condition to adopting the ordinance is finding an area in need of rehabilitation. This is not an area in need of redevelopment, this is not part of the redevelopment plan. It's simply an area in need of rehabilitation as defined by the Statute. So the Council prepared this resolution and before adopting sent it to the Planning Board for review. Once the Board reviews it will be sent back to Council with or without recommendations and then the Council can consider it for adoption. Once that's considered then the borough can move forward with the Tax Exemption Ordinance. It exempts improvements to residential, mixed use, consumer and industrial properties. It does not decrease rateable's; it encourages improvements to properties which he further explained.

Mr. Mullen asked about the studies and findings of the previous designations.

Mr. Padula explained that in the 1995 Resolution speaks of the PB reviewed the issue of designating all properties within the borough as areas in need of rehabilitation. He further explains data from 2010 census.

Ms. Peterson asked if this has been a successful program.

Mr. Padula did not know.

Mr. Serpico read the boards review process of this item to make recommendations.

Mr. Colby commented that a lot of residents took advantage of this in the past, he included.

Mr. Padula explained that there are 75% of municipalities that do some form of this.

Discussions continued between the board and the Borough Attorney.

Mr. Stockton asked if there were any questions from the public for Mr. Padula.

Brian Cobb of Recreation Place questioned the designation of the entire borough.

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Mr. Padula explained that the taxes won't go down but will be delayed in going up. He then read the residential abatement amount of up to \$25,000. He explained the Borough's desire to claim the entire borough as an area in need of rehabilitation. He explained the process for the adoption of an exemption ordinance.

Mr. Serpico explained the criteria that the Council would have to meet. He then explained the task of the Planning Board.

Board continues discussion.

Mr. Mullen would like to see the next phase.

Pauline Jennings of Ralph Street questioned if developers could use this abatement for development.

Mr. Padula – yes, the ordinance applies to commercial for up to 30%.

Pauline Jennings feels that this is unfair.

Mr. Padula explained that the Planning Board discussion this evening is a review of the Resolution and comment on the Resolution.

Chris Francy of 36 Fifth Street - the resolution does not speak about a rehabilitation agency and is that a necessary step for the process to happen?

Mr. Padula – no, which he further explained.

Chris Francy – questioned if the abatement ordinance from 1995, if there was an equivalent resolution for that.

Mr. Padula – don't know if there was a resolution. He then read portions of ordinance 0-95-33.

Mr. Francy spoke of ordinance encouraging development and he feels that this exemption ordinance is a win-win for the town.

There were no further questions from the public.

Marty Truscott, P.P. of T & M Associates was sworn in.

Mr. Truscott stated that Mr. Padula explained the resolution well. He just wants to add a few things. The resolution as prepared lists reasons why the area is in need of rehabilitation which is consistent with the Master Plan. He then read portions from the Master Plan. He did find an additional objective of the Master Plan that we can more rely on that this is consistent. It's on page 19 of 2004 Master Plan. The goal is to expand the utilization of the redevelopment and rehabilitation laws of the State of New Jersey to provide tax incentives for the improvement of the houses in the borough. The 2007 Reexamination Report the Planning Board acknowledged within that that it took note of the 1995 area in need of rehabilitation. The Boards task is just for recommendations.

Ms. Peterson – one recommendation that we might want to make to the Council is that in addition to something like this the town should also focus on Code Enforcement.

Mr. Mullen questioned if a swimming pool would be eligible.

Mr. Colby stated that anyone buying will bring a house up to code.

Mr. Padula then read the definition of improvements.

Mr. Stockton asked if there were any questions from the public.

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Eileen Scanlon of 24 Fifth Street question if the housing stock in the borough was more than 50 years old.

Mr. Truscott- it's not but its close.

Mr. Padula explained the 50% and that there is other criteria.

There were no further questions from the public.

Mr. Stockton asked if there were any comments from the public.

Pauling Jennings of 27 Ralph Street was sworn in and questioned if this is beneficial to the borough and would this encourage house flipping.

Brian Cob of 11 Recreation Place was sworn in and stated that rehab is about underutilization properties. He then questioned the State Statute that defines "improvement".

Mr. Padula 40:A-_____.

Brian Cobb – his point is the definition of improvement seems to be limited. He then questioned if the Planning Board could declare the entire borough in need of rehab.

Mr. Serpico – no, the Council can but not the Planning Board.

Brian Cobb stated that his opinion is that this rehab wording should be about underutilized properties, which he further explained. Do not open this up to the entire town.

There were no further comments from the public; therefore Mr. Stockton closed the public portion.

Mr. Colby offered a motion to prepare resolution to approve as written, seconded by Mr. Hill and approved on the following roll call vote:

Mr. Schoellner feels that we are jumping the gun on this.

Mr. Mullen stated that he would like to be able to read the Statue and feels uncomfortable voting with so little information.

ROLL CALL:

AYES: Mr. Redmond, Mr. Hill, Mr. Colby, Mr. Stockton

NAYES: Mr. Mullen, Mr. Schoellner, Ms. Peterson,

ABSTAIN: None

Mr. Serpico – motion carries.

Approval of Minutes:

Mr. Schoellner offered a motion to approve the August 9, 2012 Minutes, seconded by Mr. Mullen and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Mullen, Mr. Schoellner, Ms. Peterson, Mr. Redmond, Mr. Hill

NAYES: None

ABSTAIN: Mr. Stockton

Mr. Schoellner offered a motion to adjourn the meeting, seconded by Mr. Stockton and all were in favor.

The Meeting adjourned at 8:27 P.M.

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