

**Borough of Highlands
Planning Board
Regular Meeting
August 8, 2013**

Meeting Location: Highlands Elementary School, 360 Navesink Ave, Highlands, NJ.

Mr. Stockton called the meeting to order at 7:30 P.M.

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

Mrs. Cummins read 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. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,
Mr. Britton, Mr. Stockton, Mr. Danzeisen

Absent: Mr. Schoellner, Mayor Nolan, Mr. Korn
Ms. Peterson Resigned

Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Robert Keady, P.E., Board Engineer
Martin Truscott, P.P.

Resolution – Recommendation RE: Ordinance O-13-16

Mr. Stockton spoke about resolution.

Mr. Serpico explained that the Planning Board is tasked with other item, spot zoning. The Planning Board shall comment on spot zoning, we know have to address that. Spot Zoning is the only issue to discuss tonight. He then read from State Statute the definition of spot zoning. He then read from case law regarding Jennings vs. the Borough of Highlands.

Mr. Gallagher said that this zone is owned by one person. He stated that the Eastpointe High Rise is next to subject zone. He believes new ordinance is consistent with surrounding area so its not spot zoning, it's a benefit for the community.

Mr. Colby said that since the storm, found area outside of flood zone, its practicle to add to density. The Master Plan does not address the disaster that occurred. This is possible ratable for the town.

Mr. Britton stated that he agrees and Eastpointe has the same use. What does it benefit us on our taxes?

Board has discussion.

Mr. Colby spoke about tax ratable need. High rises not expense for town verses trailers, which he further explained.

Mr. Gallagher questioned if Eastpointe was a conforming use.

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

Mr. Truscott explained that Eastpointe is a non-conforming use.

Mr. Gallagher wants new ordinance to include Eastponte and Shadow Lawn property. No argument for spot zoning, it's the largest parcel in town.

Board has discussion.

Mr. Truscott said it's the boards call. He did add some explanatory information on legal definitions. He spoke against spot zoning issue. He spoke about the book definitions and read

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definitions to board. The ordinance does not change the use, its adding a conditional use to the zone. Ideally you need Master Plan amendments.

Mr. Serpico stated that there is no legal requirement to allow public participation but we have in past.

Mr. Stockton opened up public portion.

Peter Mullen of 11 Marine Plan stated that it might be appropriate to list the benefits to the town.

Mr. Mullen was sworn in and spoke about if condos was a way to benefit town. This in the long term is not appropriate development. You can't automatically say it's a financial benefit. He spoke of density concerns. He does not feel board should use Eastpointe as example. He stated that this on of the unique pieces of land..

Mr. Stockton stated that there are several high rises along the east coast.

Mr. Mullen continued to speak against the ordinance.

Mr. Gallagher stated that Eastpointe is here and it's the surrounding area. He then reiterated that Eastpointe should be included in this ordinance as a permitted use.

Mr. Mullen questioned the density.

Mr. Colby spoke about how Highlands will get traffic from this. He continued to speak in support of the ordinance.

Mr. Mullen asked Mr. Colby how he came up with the density.

Mr. Colby stated that he did not come up with it but he agrees with it.

Mr. Gallagher spoke of financial benefit of seven million dollars a year coming out of development. He spoke of education costs and property taxes.

Mr. Colby stated that after Eastpoint was built taxes went down.

Mr. Mullen – it's a bump

Mr. Gallagher stated that we need to increase tax base.

Kim Skorka of 315 Shore Drive stated that the surrounding area is also of single-family homes. She spoke about density concerns. She questioned if developer goes bankrupt and what if market does not come back. She then asked if this would affect COAH housing.

Board has discussion.

Kim Skorka stated that she does not want to see another high rise.

Pauline Jennings of 27 Ralph Street stated that this is spot zoning and only serves the property owner. This is amendment to existing ordinance and she cautioned the board about the issue of spot zoning. She asked why do amendment if there is no proposed development for that site. She stated that the property owner must have approached the Governing Body. She questioned the number of buildings.

Mr. Stockton stated its not up to the Planning Board and the number of buildings in not part the spot zoning issue.

Ms. Jennings continued to speak against the ordinance and stated that his sneaks of spot zoning.

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Mr. Gallagher stated that the zone is consistent with development of surrounding property. We indicated financial benefits to town. He continued to speak about benefits of ordinance and based on law this does not fit criteria of spot zoning.

Mr. Colby stated that its smart zoning not spot zoning.

Rocko stated that the maintenance fee at Eastpointe is \$530 per month and the annual taxes is \$8,000.

Mr. Mullen questioned Mr. Gallagher about density

Deliberation

Mr. Colby stated we should add Eastpointe to be added to ordinance.

Mr. Serpico explained the first issue is spot zoning.

Mr. Gallagher believes this is not spot zoning.

Mr. Colby stated that the area is not in a flood plain.

Mr. Stockton stated its not spot zoning and its is consistent with Eastpointe. He discusses the ordinance favorably.

Mr. Colby agrees.

Mr. Serpico – we need a motion on spot zoning.

Mr. Gallagher offered a motion that this is not spot zoning, its consistent with Eastponte, its a benefit to community, will increase ratables, and its not in a flood zone. He also stated that we need post Sandy Master Plan update. Seconded by Mr. Redmond and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Britton,
Mr. Britton, Mr. Danzeisen, Mr. Stockton**

NAYES: None

ABSTAIN: None

Resolution

Mr. Gallagher offered the following Resolution and moved its adoption:

**RESOLUTION
BOROUGH OF HIGHLANDS PLANNING BOARD
FINDINGS OF REVIEW OF ORDINANCE O-13-16
ZONING ORDINANCE AMENDMENTS**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Ordinance O-13-16, which Ordinance will amend the Borough Zoning Ordinance; and

WHEREAS, the Municipal Land Use Act, NJSA 40:55D-26 & 64, requires that the Planning Board prepared and transmit a report back to the Governing Body; and

WHEREAS, said statute does further require that the report of the Planning Board shall include an identification of any provision or provisions set forth in the proposed Ordinance amendment which is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters as the Board deems appropriate; and

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WHEREAS, the Board conducted a review of the proposed amendment on July 11 and August 8, 2013; and

WHEREAS, the Board received comments from Board Members, the Board Engineer, the Board Planner and Attorney and various members of the public.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Highlands that the proposed inclusion of High Rise Multi-family dwellings as a Conditionally Permitted Use in the MH Zone and the proposed density set forth in Ordinance 0-13-16 are inconsistent with the Land Use element of the Highlands Borough Master Plan.

BE IT FURTHER RESOLVED that in addition to the foregoing the Board hereby makes the followings and recommendations to the Mayor and Council:

1. The ordinance should address the steep slope and slump block issues in order to protect contiguous property owners. It is recommended that a setback provision be added to the ordinance that will protect the “ridge line” and steep slope areas with adequate buffering. It is further recommended that the Governing Body create a sliding scale setback based on the height of any proposed structure that will address the aforementioned issues.
2. The Board recommends that the reference to the amount of stories (10), for any proposed structure be stated as a maximum, not a minimum.
3. The Board recommends that SECTION TWO, M. 10, a, be amended to state that the maximum building height of 120 feet include, not exclude the height of any attached parking structure.
4. The Board finds that the proposed ordinance is consistent with some of the provisions of the Borough Master Plan.
5. The Board finds that the proposed amendment that will permit high rise multi-family dwellings and structured parking facilities as an accessory or appurtenant use thereto as a Conditional Use is not “spot zoning” because that use is consistent with the Eastpointe high rise condominium project that is also located in that area. Additionally, the proposed use will be a substantial benefit to the entire Borough that will increase tax ratables and the area is not in a flood zone.
6. The Board finds that the Borough Master Plan should be reviewed and revised to account for the state of the Borough and its future in light of the post Sandy condition of the Borough. Future development in the Borough should take into consideration the current condition of the Borough.
7. The Board also finds that the increase in the dwelling or unit density is consistent with the density of the Eastpointe project.
8. The Board recommends that the area containing the Eastpointe project be rezoned or included in the same area as that contained in the proposed Ordinance amendments so that it will a permitted use in the zone.
9. The Board also finds that the residents in any new development in the zone will help support the Borough economy and will also help to partially off-set the displaced or loss of residents in the Borough flood zone.

BE IT FURTHER RESOLVED that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

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

ROLL CALL:

AYES: Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Britton,
Mr. Stockton, Mr. Danzeisen

NAYES: None

ABSTAIN: None

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Review of Ordinance O-13-18

This item was removed from the agenda because the ordinance has not been introduced yet.

Approval of Minutes:

Mr. Hill offered a motion to approve the July minutes. Seconded by Mr. Redmond and approved on the following roll call vote:

ROLL CALL:

AYES: *Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Britton,
Mr. Danzeisen, Mr. Stockton*

NAYES: *None*

ABSTAIN: *None*

Other Business:

Mr. Stockton stated that Janet Peterson has resigned from the Planning Board. We will need to appoint a new Vice Chair.