

**PLANNING BOARD OF RUTHERFORD
MINUTES OF REGULAR MEETING
December 16, 2010**

Present:	Chairman Porter	Absent:	Mr. Uhl
	Councilwoman Inguanti		Ms. Vitale
	Mayor Hipp		Mr. Doren
	Mr. Daub		Mr. Boyle
	Mr. Rizzo		Mr. Kuruc

Also present were Dick Allen, Board Attorney and the Recording Secretary.

The meeting was called to order at 7:35 p.m. and the Sunshine Law was read by Chairman Porter followed by a salute to the flag.

MINUTES:

October meeting minutes can not be approved for lack of quorum.

July minutes were approved on motion by Mr. Rizzo, seconded by Mr. Daub and with all members present voting aye.

VOUCHERS:

Planning Board Attorney submitted an invoice for \$1,690.93 which was approved on motion by Mr. Daub, seconded by Mr. Rizzo and with all members present voting aye.

OLD BUSINESS

Chairman Porter updated the Board on Highland Cross Redevelopment Area. Three issues have arisen. Linque Partners filed a lawsuit against NJMC for failure to take action to provide affordable housing in the meadowlands district. Linque Partners asked to terminate mediation with the Boro. Also, the NJMC passed a resolution to turn down Linque on a request to amend to the Highland Cross Redevelopment Plan filed in 2008; and instructed NJMC staff to consult with a redeveloper and the municipality to establish development densities within 30 days of this resolution.

Mr. Allen clarified that NJMC has said 3 times that there will be residences on this site, so its telling all parties to figure out how many will be there. This is a NJMC staff issue, not COAH issue.

Chairman stated the League of Municipalities issued a preliminary explanation of the Assembly bill to revise COAH. S1 called for Rutherford to have 95 units over the next 10 years where the COAH total would be 182. Mayor Hipp stated the 50% rule is of contention.

CORRESPONDENCE

Boro Engineer Berge Tombalakian wrote to Construction Official John Uhl regarding 75 Union Avenue and the inconsistencies with the parking lot striping. No action to be taken.

NEW BUSINESS

Master Plan Zoning Changes

Chairman stated notices were affected to have a public meeting.

Members of the Historic Preservation Committee have asked for an expansion of sites listed in the Master Plan to include the Historic Sites Inventory of 2004.

Councilwoman Inguanti made a motion to open the public, seconded by Mr. Daub and all members present voted aye.

Mr. Allen stated that the Recording Secretary published the notice in the Bergen Record and notified all surrounding towns and the County Planning Board; therefore this Board has jurisdiction.

Chairman Porter opened the public portion of the hearing.

Rod Leith, Santiago Avenue, stated the Preservation Committee reviewed the inventory of sites and districts and asks that the Historic Site Survey be included in the Master Plan.

Mr. Allen asked about the sites that have been demolished already, it may create confusion. Mr. Leith stated they would like the sites included anyway so more demolitions don't happen. Mr. Allen recommends that the HPC does what it needs to do for its interests but the Master Plan doesn't protect a house that doesn't exist anymore; so it should not be listed in the Master Plan while still being on the site survey. Mr. Allen also noted that some research is incomplete and asked if they should not be included or is there enough evidence to justify the historic designation. Mr. Leith stated its both but would like to be inclusive of all properties under investigation. Chairman wanted to ensure that in a few years, the HPC did not come back asking for more sites to be added.

John Moe, 61 Ridge Road, stated that as years go by, more properties will become historically significant.

Mr. Leith added that the inventory is not just historic sites but also significant architecture to the Borough from different periods of time in the Borough's history.

William Neumann, 96 Carmita Avenue, stated a few other sites should be added including the West End district which is being investigated by the Bergen County Historic Preservation committee. Historic preservation can have an affect on affordable housing and other zoning policies.

Mr. Leith read into the record significant portions of the Inventory document.

William Galloway, 36 Elm Street, participated in the survey in 2004 by visiting the sites to conduct interviews and obtain histories of the homes.

Mr. Allen asked Mr. Leith if his Dec. 9 memo to Chairman Porter should be part of the record. The Yearance Kettle house is under question and should be clarified. There are 10 districts that should be identified but are not described in the inventory except in this memo and Mr. Leith recommends they be included as the criteria is satisfactory for inclusion. Mr. Leith stated the memo also recommends the extension of Ridge Road district. Mr. Allen read from the memo that a house at 168 Chestnut Street should be renamed the Hollister-Cropsey-Miller house which is only a label change. Also, there should be an addition to the table 7-3 to include 3 additional houses in the Fritz group; Mr. Allen stated none of investigation affects the document, only their designations.

Mr. Allen summarized that the HPC wished to include in the Historic Preservation Element an extension of the Ridge Road district to Woodland Avenue; the addition of 7 historic districts; renaming of 168 Chestnut Street; addition of 3 additional structures to the Fritz group; the addition of 104 Mountain Way, the Oakley House; the addition of 153 Wheaton Place, the Walton House; the addition of 75 Francisco Avenue, the Taylor Nursing Home; and some structures on East Newell and Courier which will be further delineated and other structures associated with William Carlos Williams.

Discussion regarding the Goss buildings on Union Avenue; Chairman Porter stated it is not ready to be included tonight and can be reviewed at a later time.

Mr. Allen stated the resolution for tonight includes the Historic Preservation Element that was proposed to be amended at the last meeting and has now been reprinted; it does not include any of tonight's discussion but came from the November meeting. He continued that to expedite the process, the draft resolution references the publicly distributed document and finds an amendment made to that as a result of the hearing noted on the last page, then a formal document can be published incorporating the amendments made. Mayor Hipp asked what Exhibit A is and was told Page 2 through Page 12; Mayor asked for clarification on Page 8 which seems to contain a contradiction. Mr. Allen explained the governing body has the power to adopt two different kinds of ordinances, and explained the difference between the two types of HPC. At the November meeting, the Planning Board proposed creating an ordinance and vesting the HPC with review powers so that when an application occurs, the zoning and planning board must refer it to the HPC for review and comment; but not the more intense review process of the HPC. Mayor Hipp asked why the section is in a Master Plan amendment and was told the Master Plan recommends action to the Borough but its up to the Board how it wants to deal with it. The Council can make it ineffective by not adopting the recommended ordinance, there is no obligation; the only thing the Council can't do is create an HPC under Section 110 and supplement the list of historic structures, they are bound to the list the Planning Board finds unless they bring the HPC to the next level. The HPC gets

authority from Council resolution or ordinance and if its by ordinance, they choose which type and the Planning Board discussed the less intense ordinance.

Councilwoman Kim Birdsall, 44 Summit Cross, wished to clarify the Historic Preservation group wished to have the inventory incorporated into the Master Plan and the type of commission, strong or weak, can come later. It can help the HPC move forward to become a commission which will allow it to apply for grants. Mayor asked about interior renovations. Discussion. Mr. Allen clarified that Section 110 deals with only applications for development; Section 111 deals with both applications for development and applications for various permits, including facades. Unless it needs a variance, subdivision, site plan or conditional use approval, its not an application for development and simply an application for permit. If its not an application to a board, its not an application for development.

Mr. Leith asked if the HPC will be allowed to review and comment if there is a permit application for demolition of a site on the list. Mr. Allen stated they can only review and comment if the Boro Council mandates it by ordinance which is not what the Board discussed in November. Discussion. Mr. Leith expressed the view that some group should be able to review and make comments so that historically significant homes are not lost when new owners buy properties and they do not know the history. Ms. Watson asked how much review would be granted and mandated; who has jurisdiction to tell a homeowner what they can do. Mr. Leith stated that in terms of an interior renovation, an applicant should be required to have an architect review the plans and give the applicant guidance as their demolition contractor may not have expertise to save structures with extensive renovations. Chairman Porter stated they are trying to put in place a process so that the HPC is notified of relevant applications. Discussion. Chairman Porter stated the parameters would be handled by Mayor and Council; authority to mandate review can't come from this Board; we only recommend and draft the element of the Master Plan.

Mayor Hipp stated he would like the Boro's ordinances to agree with the Master Plan which is why he is concerned about recommendations in master plans; that can create mischief and the recommendations in the 2007 Master Plan are very general and vague, only establishing zones and uses. Creating a commission is a very specific kind of recommendation and should be done correctly for the intent and the Mayor and Council needs to have flexibility to address some of these issues. He is not sure he agrees with the recommendation that we create a commission under 40:55D-110.

Mr. Daub made a motion to close the public hearing. Mayor Hipp did not wish to close the public hearing. He asked for comments on the 40:55D-110 recommendation. Ms. Watson asked for alternatives to the recommendation and Mayor Hipp stated either there would not be a recommendation or the possibility of continuing the resolution structure by making changes could be explored. If the crux of the issue is communication, it can be resolved by a resolution of the Council without public hearing. This recommendation would not have saved the historic house spoken of tonight. Identification is important but recommendations like this are inappropriate for this Board

to take at this time. Mayor stated his objections to Exhibit A are the recommendations on page 8 but the issue of identification must come from resolution by Mayor & Council and would be a better first step to keep the Board involved. He is not comfortable specifying a commission with powers pursuant to 40:55D-110, there is a lot of mischief. Chairman asked him to define mischief. Mayor continued that this would not allow the HPC to become involved on a permit application for demolition. His other concern is that any application for development to either board does require it. Further discussion.

Councilwoman Birdsall stated the HPC is only looking for the sites to be included in the Master Plan and the commission can come later. Mayor is trying to find a simpler way.

Councilwoman Inguanti asked if a commission is created under Section 110, and a permit for demolition is applied for, could one of the conditions for approval be that notification is required. Mr. Allen stated he would defer that to the Boro Attorney for specific ordinances but cautions that goes beyond section 110. It may be required to do something like Section 111 but could have the same effect as a resolution. Councilwoman Inguanti wished to clarify that the Master Plan addition will set up zones and historic structure inventory and page 8 recommends the creation of a commission to the Council.

Chairman Porter called for a motion to close the public comment. Mr. Rizzo seconded the motion. Upon roll call, all members present voted yes.

Chairman called for comments from the Planning Board. He stated that the Mayor took issue with page 8 calling for the creation of a commission under NJ State Law 40:55D-110 and to just recommend to the Mayor and Council to create a resolution to strengthen the communication and what it applies to versus creating a commission on the level of 110 or 111. Mayor stated a generic recommendation would be fine because he doesn't want a Master Plan inconsistent with a Council ordinance or resolution. Chairman read a revised page 8 and the Mayor agreed with same with the other paragraphs being stricken.

Mr. Daub would be satisfied with the Mayor and Council debating the strength of the commission and the inventory should be included. There were no other comments from Board members.

Chairman Porter called for a motion to strike the three paragraphs on page 8 at issue and to amend the list with the items verbally described by Mr. Allen including the sites and districts to be formally added to this document. Mayor Hipp so moved, seconded by Mr. Daub and with all members present voting aye, was approved.

Mr. Allen will revise the document and forward to the Recording Secretary for publication and distribution to the County.

Ordinance to Amend Zoning

Chairman Porter stated it was read for the first time at the last Mayor & Council meeting and reflects the Board's discussions. Planning Board review is necessary to return to Mayor & Council for voting on second reading. Mr. Allen stated the Board has 30 or 45 days to comment; after that time, the Council can move on without Board comment. The Board can take action tonight or take no action tonight. If the Board does not take action, the Mayor and Council may not get to it before the new year and it would need to be reintroduced in January.

Councilwoman Inguanti stated this ordinance is required as some of the ordinances did not match the Master Plan and after a few years of review, the Council is trying to match them up. Rutherford mostly has good zoning but we need to protect the transitional areas and that's what this ordinance does to allow for buffer zones between neighborhood and commercial. Mayor Hipp stated the Downtown Commercial Zone as a district, which was recommended by the Planning Board, is not included. Discussion. Councilwoman asked if the change to the resolution would require a new ordinance introduction. Mr. Allen stated he would defer to the Boro Attorney. Mayor stated you could just add Downtown Commercial to 131-3 but would defer to Mr. Smith although its not a big change. Mr. Allen stated if you just change the label and continue to use it throughout, it might not be a major change. Chairman Porter also noticed that under the next section, a typo has been made of V2 and not B2 as a designation. Also, under #9, T should be TO.

Mayor Hipp made a motion to accept the ordinance with the following amendments, that the Downtown Commercial district be included and corrections be made to section two, for V2, and to item 9 should be TO, after confirmation and review with Mr. Smith. Councilwoman Inguanti seconded the motion, and all present voted aye on roll call vote. Mayor Hipp stated there is one difference in that the Master Plan called for Meadow Road to be made open space, so this won't be consistent and he will ask the Board to entertain amending the Master Plan to conform to the ordinance.

Chairman Porter asked for a motion to adjourn at 9:00 p.m. All were in favor.

Mary Ellen Sartori, Recording Secretary