

**RESOLUTION DENYING RYLAND DEVELOPERS' MOTION TO DENY
READINGTON'S PETITION FOR SUBSTANTIVE CERTIFICATION OR IN
THE ALTERNATIVE, SUSPENDING CONSIDERATION OF THE PETITION
PENDING A FINAL RESOLUTION TO LITIGATION**

COAH Docket Number 09-2155

WHEREAS, Readington Township petitioned the Council on Affordable Housing (Council or COAH) for third round substantive certification on December 30, 2008 for an obligation consisting of a rehabilitation share of zero units and a prior round obligation of 394 units and a projected affordable housing growth share obligation is 192 units; and

WHEREAS, Readington is addressing a portion of the projected growth share obligation with 28 units of credit and three rental bonuses and the remaining 161-unit obligation will be addressed through a number of mechanisms; and

WHEREAS, on February 27, 2009 COAH received one objection to the Readington Township Housing Element and Fair Share Plan (HEFSP), by Ryland Developers, L.L.C. (Ryland), the contract purchaser of Block 14, Lot 29.02 and 29.03, which is 38.6 acres; and

WHEREAS, Ryland states in its objection that Readington's plan does not create a realistic opportunity for the construction of affordable housing and claims instead that its property, which is close to major highways and is served by public water and sewer, is more favorable to inclusionary development than the sites that Readington includes in its plan; and

WHEREAS, mediation was held on July 8, 2009; and

WHEREAS, Ryland submitted a motion to COAH on August 24, 2009 requesting that the Council deny Readington's petition for substantive certification or in the alternative, suspend consideration of the petition pending a final resolution to litigation which Ryland stated was forthcoming; and

WHEREAS, Ryland maintains that or about July 6, 2009, prior to the beginning of mediation, Readington adopted Ordinance 19-2009, published on July 16, 2009, which created a new Village Hospitality Zone (VH zone), permitting hotels, restaurants, spa/salon facilities, conference centers, and public and private open space parks and

which includes the Ryland Inn facility, a restaurant and banquet facility occupying a building dating to the early 19th century; and

WHEREAS, Ordinance 19-2009 also revises the standards for the Agricultural Residential Zone (AR Zone) by imposing new bulk restrictions and changing the size required to qualify as an “Agricultural Residential” project from 40 to 24 acres; and

WHEREAS, in addition the minimum lot size for the AR Zone was increased from six acres to eight acres under the new Ordinance which further states that the new standards have been established to, among other things, provide adequate space for on-site wells and septic systems and space for future replacement systems; and

WHEREAS, Ryland states that one of its parcels of land is within the VH zone and is comprised of 24 acres, is within Readington’s sewer service area and is served by public water; and

WHEREAS, Ryland argues that prior to the adoption of the ordinance, the VH parcel was zoned for Industrial use and was limited by less restrictive bulk and dimensional regulations; and

WHEREAS, the other parcel Ryland has contracted to purchase is within the Agricultural Residential Zone (AR Zone), is 24 acres in size and has frontage on Rt. 22; and

WHEREAS, Ryland states that this parcel is also within the town’s sewer service area and has public water available to it which has been reserved and maintained by Ryland for future development of the site; and

WHEREAS, Ryland argues that Ordinance 19-2009 is retaliatory against Ryland, significantly changing the way in which the properties may be developed; and

WHEREAS, Ryland states that pursuant to the MLUL, the planning board is required to re-examine and update the municipal master plan every six years and that at Readington’s July 6, 2009 meeting, the Governing Body stated that Ordinance 19-2009 was adopted to reconcile the existing Land Use Ordinance with the Master Plan as re-examined by the Readington Township Planning Board; and

WHEREAS, Ryland maintains that prior to the introduction of Ordinance 19-2009, a Master Plan reexamination report was adopted by the Planning Board in March 2009; and

WHEREAS, as a result of the reexamination report, the committee for the Planning Board proposed a number of Master Plan revisions, which were considered and adopted June 22, 2009, well after Ryland filed its objections with COAH; and

WHEREAS, Ryland states that it has filed a Complaint in Lieu of Prerogative Writ challenging Readington Township's actions in Superior Court; and

WHEREAS, Readington submitted opposition to Ryland's motion on September 14, 2009; and

WHEREAS, Readington states that COAH initially set the mediation date for May, 2009 but that date was rescheduled at the request of Ryland; and

WHEREAS, Readington argues that COAH should deny Ryland's motion, maintaining that mediation was held and a COAH Mediation report dated August 24, 2009 was issued; and

WHEREAS the Mediation Report concluded that no issues of material fact remain; and;

WHEREAS, a COAH Compliance Report was also issued on August 24, 2009, recommending that Readington be granted substantive certification and that Readington's waiver request to receive upfront credits towards its growth share obligation be approved; and

WHEREAS, Readington states that it has not been served with litigation in the Superior Court despite Ryland's contention that it has filed a complaint and that Ryland's statement that it would file such a complaint is an admission that jurisdiction over the disputed zoning lies before the court and not COAH; and

WHEREAS, Readington argues that as no material issues of fact remain, as a result, COAH should take action on the pending petition for substantive certification, which addresses its third round obligation without inclusion of Ryland's site; and

WHEREAS, Readington asserts that its adoption of the zoning ordinance in July 2009 was not retaliatory against Ryland, and its adoption was the result of a lengthy planning board process; and

WHEREAS, Readington states that earlier this year the Planning Board commenced a reexamination of its Master Plan and adopted the Master Plan Reexamination Report on March 9, 2009; and

WHEREAS, the Township Committee adopted Ordinance 19-2009 to amend zoning districts to be consistent with the Master Plan; and

WHEREAS, Readington points out that prior to the adoption of Ordinance 19-2009, both of Ryland's lots were located within the Research Office Zone (RO Zone), which prohibits residential development; and

WHEREAS, Readington further notes that Lot 29.02 is not within the sewer service area, contrary to the assertions of the objector; and

WHEREAS, Readington argues that even if Ryland were successful in overturning Ordinance 19-2009, the zoning would revert back to the previous zoning of RO; and

WHEREAS, Readington states that there is no benefit to staying COAH proceedings because even if Ryland were successfully in Superior Court, residential housing would not be permitted; and

WHEREAS, Ryland submitted a reply on September 21, 2009, arguing that NJDEP is aggregating the statewide sewer service area map in conjunction with its implementation of a statewide Water Quality Management Plan and has mandated that local planning authorities create a countywide map and plan for incorporation into the statewide map and plan; and

WHEREAS, Ryland submits that there is no provision in the process to advise the public of the sewer service changes proffered by Readington and based on the papers submitted by Readington, Ryland's property located at Lot 29.02 has been stripped of its long standing sewer designation despite the fact that Ryland had an agreement in place and paid annual fees for reservation of sewer capacity; and

WHEREAS, Ryland argues that Readington has not provided information concerning any environmental constraint that would render the property unable to be served by sewer and that Readington is taking punitive action against Ryland, the sole objector to Readington's plan; and

WHEREAS, Ryland maintains that, based on the above, to grant certification would be rewarding and immunizing the wrongful actions of Readington; and

WHEREAS, on September 30, 2009, after reviewing the papers submitted by the parties, a task force recommended that Ryland's motion be denied; and

WHEREAS, Readington is scheduled to receive certification of its HEFSP, which does not rely on either of Ryland's properties, at the October 14, 2009 Council meeting; and

WHEREAS, Readington has demonstrated by way of its Housing Element and Fair Share Plan (HEFSP) that there is a realistic opportunity for the creation of low and moderate income housing in Readington.

NOW THEREFORE BE IT RESOLVED Ryland submitted an objection to Readington's HEFSP and mediation was concluded on July 8, 2009, followed by a mediation report which was issued on August 24, 2009, finding that further mediation would not result in a settlement being reached and that there are no outstanding issues of material fact requiring referral of Ryland's objection to the Office of Administrative Law; and

BE IT FURTHER RESOLVED, the COAH compliance report dated August 24, 2009 recommends that Readington Township be granted third round substantive certification and approval of the waiver from COAH from N.J.A.C. 5:97-6.14(b)2 to allow the Township to receive up front credits toward the growth share obligation for an Extension of Expiring Controls Program.

BE IT FURTHER RESOLVED, Ryland has stated it will file a challenge to the Township's rezoning ordinance in the Superior Court; and

BE IT FURTHER RESOLVED, the proper venue for resolution of the disputed zoning is before the Superior Court and not before COAH.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on October 14, 2009

A handwritten signature in cursive script that reads "Renee Reiss".

Renee Reiss
Council Secretary