

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
December 21, 2004**

The Public Session of the Planning Board was called to order at 7:38 PM. by Chairman Frank Siefert.

Public Notice of this meeting pursuant to the Open Public Meetings Act has been given in the following manner:

1. Posting notice on the official bulletin board in the Borough Office on January 21, 2004.
2. Required Service of notice and publication in the Burlington County Times on January 25, 2004.

PRESENT: Frank Siefert, Donna Tyson, Christopher Halt, Mayor Martin, Councilwoman Alls-Moffat, Anthony Dydek, Jose Talavera, and Robert Smyth.

Also Present: Solicitor Tom Coleman, Engineer Mark Malinowski, and Secretary Ken Palmer

ABSENT: Birnie O'Reilly.

MINUTES:

A motion was made by Councilwoman Alls-Moffat and seconded by Dona Tyson to approve the minutes of November 9, 2004, as amended at the meeting – minor change of wording regarding the Moccia application. The vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. 11/17/04, **Draft of Borough of Riverton Municipal Stormwater Management Plan, November 2004, from Remington, Vernick & Arango Engineers, Inc. – copies distributed to the board.**
2. 11/17/04, **copy of letter to mayors from Susan Bass Levin, Commissioner NJ Dept. of Community Affairs concerning the Statewide Transfer of Development Rights Act and a questionnaire to be completed if interested in implementing a transfer of development rights program.**
3. 11/24/04, **copy of “Mayor’s Fax Advisory” from NJLM, concerning 1) COAH Adopts Round 3 Methodology and 2) Build-Out Analysis, A-3254.**
4. 12/8/04, **copy of memo to mayor concerning COAH response/concerns regarding the Development Fee Ordinance – copies distributed to the board.**
5. 12/8/04, **copy of 2004 budget expenses to date from Betty Boyle.**
6. 12/20/04, **Four MMMM’s Resolution from Tom Coleman – copies e-mailed and distributed to the board.**
7. 12/18/04, **fax copy and letter from Mark Malinowski, board engineer regarding review of additional submissions regarding the Moccia site plan application – copies distributed to the board.**
8. **Two vouchers/invoices as presented under New Business.**

PUBLIC HEARING:

APPLICATION FOR SITE PLAN APPROVAL OF A PARKING AREA PAVED AND EXPANDED AT 300 BROAD STREET, BLOCK 801, LOT 13, BY MOCCIA PROPERTIES, LLC, 530 MAIN STREET, RIVERTON, NJ:

Introductions and Housekeeping – Board solicitor Tom Coleman reviewed that all jurisdictional requirements have been met and the matter could be heard. Mr. Jerald Cureton attorney for the applicant was introduced and he swore in the applicant Robert Moccia, Walter Croft the applicant’s engineer, and Andrew Ott the applicant’s engineer.

Testimony and Board Questions – Following qualification by Mr. Cureton, Mr. Ott the applicant’s engineer reviewed that the applicant had previously paved and expanded a gravel/stone area used for parking on the property without realizing that a site plan review was required. A site plan application has been filed and several submissions made and reviewed by the board’s engineer. The paved lot is approximately 6,000 +/- square feet, contains 12 spaces, and is intended to serve occupants of the property as well as adjacent small businesses owned by the applicant. Following initial review by the board’s engineer in November, revisions were made and

submitted for subsequent review. Mr. Ott reviewed and responded to the board engineer's subsequent review and report of 12/17/2004 which included references to pertinent sections of the Borough's code. The points are referenced by their code numbers below:

- Section 109-6D, details of the signage and pavement markings will be added to the drawing as well as recommended location of signs.
- Section 109-6F, applicant requests a waiver from providing a detailed lighting study and maintains there is more than adequate lighting provided by offsite sources including adjacent street lighting and the rail station that exceeds the ½ foot candle needed.
- Section 109-8A, (8), a waiver for a true and accurate survey to be supplied to the engineer is requested, the 1981 survey included with the application, while old is true and accurate. (9), a waiver is requested from preparing and submitting a detailed parking schedule, an explanation of the use and benefits has been provided. (19), a waiver is requested from preparing and providing a contour grading plan, testimony as to the direction of and lack of impact on adjacent public or private property by runoff from the site has been provided. The hydrology report should suffice. (20), a waiver is requested from developing and submitting a detailed landscape plan. No landscaping was removed and mature trees were maintained.
- Section 109-10, a written agreement for professional review and inspections is not a problem.
- Section 109-11, the lot is built so a performance bond should not be needed.
- Section 128-34, a waiver is requested to provide area and bulk requirements information. Only a parking lot was constructed and testimony has already been provided that the coverage of 41% is less than the 75% permitted.
- Section 128-64, testimony has already been provided as to who will use the lot. Mr. Ott will defer to Mr. Moccia regarding testimony as to the types of business.
- Section 128-65A, a waiver is requested to allow 9'x18' stalls rather than the 10'x20' stalls since their envisioned use does not require that size. The smaller size is widely accepted for downtown areas and where shopping carts are not utilized. It is agreed to designate and provide for a handicapped space (one is all that is required) and provide all the applicable markings and signage for the space. Mr. Croft will be better able to determine and show where that space will go.

Mr. Ott also discussed the general comments and related them to the points already discussed. The applicant will testify as to use of the garage and suitability of the two spaces in front of it. The relocation of the spot in the southwest corner is not a problem and will be addressed by the architect. There is no problem and it is agreed that County Planning Board as well as other approvals will be obtained as needed. This is usually and is expected to be a condition of any approval granted by the town.

Mr. Croft was qualified by Mr. Cureton and addressed the board. He testified as to using a 1981 survey to prepare his drawings. The North arrow was added to the plan. He replied to Tom Coleman's question that the 1981 survey did accurately portray the location of the buildings on the site.

Mr. Moccia testified as to the history of the use of the site. The site has a two unit apartment. The garage is used solely for storage by the applicant and he will utilize the spots in front of it. The parking area has always been used for the apartments and for overflow parking on the site and by the adjacent businesses. To his knowledge, the area has always been used for parking since he owned it and it is intended to be used as such in the future. The area is not used for the storage of vehicles. Lastly, Mr. Moccia responded that he did not know he needed to file a plan for what he thought was simply an improvement to an already existing use. Mr. Cureton stated that concluded their testimony and they hoped to obtain preliminary and final site plan approval.

Donna Tyson thought that detailed information was missing that is needed before approval is granted. Tom Coleman suggested that Mark Malinowski respond and perhaps that would address some of the board's concerns. Mark stated that intent to comply with Section 109-6D was sufficient to grant conditional approval. Mark stated that the ½ foot candle of lighting is adequate but he thinks it is a good idea that measurements be taken to ensure that the levels testified to in fact exist. In answer to the chair's question, Mark replied that the ordinance does not specify a specific level of lighting only that it is adequate, and in his opinion the level testified too is adequate as long as a test confirmed this. Mr. Ott commented that businesses using the lot are usually closed by early evening except for holiday periods and then are closed while the adjacent lighting is present. In reply to Donna's question,

Mark replied that adjacent lighting from public (municipal and light rail) sources is generally okay but not if it was relying on other private sources. The use of the old survey was sufficient as long as it accurately represented the site and unless the board required one, he did not think a new survey was needed. Donna asked that if the applicant was relying on natural drainage, is the old brick walkway to the apartments in that area still present and the answer was yes. Mr. Ott stated that all onsite observations during and after heavy rainfalls had not demonstrated any standing water problems. Jose wanted to know if there were ADA requirements related to the walkway and access to the apartment building and the answer was no since no modifications to a pre-existing structure were being made at this time. Mr. Moccia commented that there was also other access to the building. Mark stated that a waiver from the parking schedule is okay since there is adequate parking for the residents on the site. It might be advisable to provide reserved signs for the spaces used by the residents to ensure their access to them. Mark replied to Muriel's question that a parking schedule provides proof that there are sufficient spots for the intended use of the building and since there are more than the required number being provided, the condition is satisfied. If the use of the building is changed then a schedule would probably be needed, but that is not part of this proceeding. Contour plans go to ensure that there is no impact on the surrounding area. Mark feels there should be some grading information to reassure that there is no adverse impact on adjoining property from stormwater runoff. This is more relevant since a pervious type of surface has been replaced by impervious material. As to the chair's concern for a landscape plan, Mark stated this is more an esthetic issue and he defers to the board on that point. Mark replied to the chair's concern regarding bulk coverage that since coverage is within allowable limits, a variance is not needed and that was his concern in his report. As to the smaller stall size and the chair's observation of the trend towards larger vehicles, Mark stated the requested size is the minimum acceptable. In addition smaller parking spaces permit lower coverage and environmental impact of impervious materials. He feels they are acceptable for the use intended, but it is up to the board. In summary, Mark feels: there is a need for one handicapped space; that stormwater impact is a major concern; that reserved signage for the residents should be provided and the same for the spot(s) in front of the garage is desirable; and that since there is access to a county road, all approvals should be contingent on obtaining county approvals.

Muriel is concerned that the space adjacent to Broad Street is too close to the sidewalk and opened vehicle doors might interfere with pedestrian traffic. It was determined and agreed that the architect would attempt to adjust the spaces to provide additional clearance. In reply to Donna's concerns over entry and egress from the lot and the narrow drive, it was explained that the drive is one way and traffic only exits onto Broad Street. Entry is from the adjacent alley and signage and arrows would indicate this. Chris Halt feels that unless required he doesn't want to see lighting added since there appeared to be so much already present. Tom stated that the board should focus on the board's needs and to verify what is there is adequate lighting first before considering alternatives. Mr. Ott stated that tests could be done and results provided. Muriel wanted to know if the handicapped space needed to be lighted and the answer was no if lighting on the site was adequate. There was a lot of talk among the board, professionals and applicant concerning the status of the lighting at the station and impact on the site. It was determined there have been no complaints of inadequate lighting on the site. Donna stated she preferred stone over asphalt paving. She also feels the existing walkways should be uncovered and maintained. Mr. Moccia stated that can be done. She feels it would be desirable to add some landscaping to soften the site. She asked if the lot was for any use other than the tenants and it was stated there are private parking signs. She asked about enforcement and it was stated that was up to the owner. The chair summarized that he felt the engineer was satisfied with the plan except for handicapped parking, grading calculations, lighting calculations and landscaping. Muriel stated a better survey was needed to which the engineer stated he was satisfied that the one provided accurately portrays the site. Tom replied to the chair that he would guide the board through all the issues. Donna asked about all the proofs mentioned and it was stated the engineer had agreed that some of the waivers were appropriate. Tom asked Mark his position on the performance bond and Mark stated it was for the signage and possible landscaping or other items that may be required. He feels it could be made a condition of approval that a bond provided to guarantee that additional work on the site is done. Mr. Cureton replied to Tom's question regarding the grading that since professional testimony has been provided as to the adequacy of drainage at the site, nothing more was needed. Mark replied he had nothing additional at this time.

Public Comment – The hearing was opened to public comment:

- Michael Heine, 206 Carriage House Lane, questioned why the applicant is even present since the new lot has been present for many months, is used every day and the applicant doesn't seem to want to make any changes. Mr. Heine favors parking improvements in the area because he feels the neighborhood needs them. However, procedure was not followed and he feels the application as submitted is substandard. Available lighting should not be a consideration when the applicant can properly light the site with out nuisance spill over lighting. Total perimeter landscape buffers should be provided and not have the site be a glaring blotch on the area. There should be professional calculations on runoff and percolation tests. He wants the 9'x18' stall size rejected as too confined and not applicable to this site. He supports having a stone surface rather than impervious paving.
- Glen Smyth, 201 Howard Street, has been on the site during inclement weather and can attest drainage is into the grassy area and does not interfere with pedestrian traffic or flow onto neighboring property. He feels the paved surface is a big improvement over the previous conditions.

There was no further comment and the hearing was closed to public comment.

Deliberation and Votes – Tom Coleman suggested the board go through Mark's letter point by point and address the waivers requested.

Regarding including details of the traffic control signs on the plan and additional signs, the applicant has agreed to provide same. Donna asked if special permits were required and the answer was as probably not as long as any signs complied with sign ordinance for private property.

The applicant has stated it is reasonable and that they will provide as a condition of approval a lighting test.

Regarding the survey, the board can accept the provided survey or request a new one. The engineer has stated that as long as the one provided is an accurate portrayal of the site, he was satisfied with it. There were mixed opinions from the members. It was explained that the survey supplied met the site plan application requirements for a true and accurate survey and that it was up to the board to determine if it deemed that a more current survey was needed given the age of the one provided. Tom and Mark both reiterated that if the survey provided was a true and accurate representation of the site prior to the paving of the lot, the board could grant the waiver for a current survey. The chair asked if there was a motion to accept the survey submitted and waive submission of a new one. A motion was made by the mayor and seconded by Chris Halt to accept the survey submitted. A poll vote of the members approved the waiver of submitting a new survey by a vote of 4 to 3 as follows:

Mr. Siefert – aye	Ms. Tyson – nay
Mr. Halt – aye	Mayor Martin – aye
Councilwoman Alls-Moffat – nay	Mr. Dydek – aye
Mr. Talavera – nay	

Regarding the requested waiver of submitted a grading plan, it was discussed that the engineer felt one is needed. Donna felt that for all concerned the grading plan should be provided. Following an interjection from Mr. Heine in the audience that the mayor should recuse himself since the mayor was related to a tenant at the site and it presented appearances of impropriety; there was intense discussion among the board and between the mayor and attorneys for board and applicant. Except for the possibility that there might be an appearance of a conflict since there was no relationship with the applicant, both attorneys stated they didn't see a legal reason to require the mayor recuse himself. The decision was the mayor's to make and the mayor stated that he was capable of rendering informed and non-biased decisions and felt there was no conflict of interest. At one point during the discussion Mr. Talavera left the meeting stating he resigned. Tom advised the chair that Mr. Smyth was now eligible to vote at which point there was a similar interjection that he also was related to the same tenant. Mr. Smyth reiterated opinions similar to the mayor's, that any conflict would be related to issues not before the board and that he also did not see a need to recuse himself. At the conclusion of discussion on the waiver request, the chair motioned and Donna Tyson seconded that the requirement for a grading plan not be waived and one be provided. A poll vote of the members approved denial of the waiver request to submit a grading plan by a vote of 7 to 0 as follows:

Mr. Siefert – aye
Mr. Halt – aye
Councilwoman Alls-Moffat – aye
Mr. Smyth – aye
Ms. Tyson – aye
Mayor Martin – aye
Mr. Dydek – aye

A motion was entertained to grant a waiver for a landscape plan. There was no motion forthcoming so there was no waiver granted. A plan should be provided.

Concerning the parking schedule, following a discussion as to what was involved, it was discussed and determined that including a schedule on the plan which indicates the requirements for the site as well as the uses intended was not a major deal since all requirements were being met. When entertained, there was no motion made to grant the waiver, so none is granted. The schedule should be added to the plan.

The applicant has agreed to post a performance bond if needed.

When entertained, there was no motion to waive including the area and bulk requirements on the plan. There was no motion and the requirements should be added to the plan.

Regarding the waiver for the size of the parking stalls, there was discussion that the 9'x18' size maximized the number that could be provided and pro and con opinions that the smaller size was adequate for the site. The mayor motioned and Tony Dydek seconded that a waiver be granted to permit 9'x18' stalls instead of the required 10'x20' stalls. A poll vote of the members approved the waiver of the stall size by a vote of 5 to 2 as follows:

Mr. Siefert – aye
Mr. Halt – aye
Councilwoman Alls-Moffat – nay
Mr. Smyth – aye
Ms. Tyson – nay
Mayor Martin – aye
Mr. Dydek – aye

Discussion on what form of approval was warranted ensued and agreement was reached that at the most only preliminary approval was proper based on information provided and contingent on additional requirements being made prior to considering final approval. As to the purpose of granting such approval, it was stated that it formalizes the findings and decisions to date and provided the direction the applicant needs to seek final approval. The chair reviewed and the attorneys and professionals agreed that perhaps the board would entertain a motion to the effect that grants preliminary site plan approval based on the information provided and contingent on or resulting from:

- traffic signage and controls be shown on the plan
- completion and submission of a lighting study
- providing a parking schedule on the plan
- conducting and supplying a grading and stormwater runoff report proving that what exists works
- providing a suitable landscape plan
- adding area and bulk requirements to the plan
- relocating the stall near the garage
- adjusting the size of the stall next to the Broad Street sidewalk
- the need for a new survey is waived
- the requirement for 10'x20' stalls is waived and 9'x18' stalls is permitted.

The mayor made a motion to grant preliminary site plan approval as stipulated and Bob Smyth seconded the motion. Under discussion, Donna feels the application is incomplete and no approvals should be granted. It only provides private not public parking. Councilwoman Alls-Moffat voiced similar opinions. The mayor feels it is beneficial if it frees up public spaces that would otherwise be taken. The applicant agreed to waive time requirements during which the board must act. Asked why the applicant should not just resubmit the site plan and begin the process anew, Mr. Cureton stated that the applicant's opinion was that the area had always been used for parking and that he had thought he was simply improving the site for everyone's benefit and feels the application should be approved as submitted. The applicant has already invested considerable time and funds to getting the process to where it is now. Granting preliminary approval allows the applicant to move forward from this point

whereas denial ends the process and requires the applicant to start all over. It was explained that preliminary approval did not require county approvals and that it is possible that the county could require things that could in essence require submitting an amended plan even following final approval. There being no further discussion, a poll vote of the members approved the motion to grant preliminary site plan approval as defined above by a vote of 4 to 3 as follows:

Mr. Siefert – aye	Ms. Tyson – nay
Mr. Halt – nay	Mayor Martin – aye
Councilwoman Alls-Moffat – nay	Mr. Dydek – aye
Mr. Smyth – aye	

Following the vote, Donna Tyson wished to state that personally she felt that the mayor and Bob Smyth should have recused themselves from the matter. Later in an additional comment, she stated the process had been rewarding, educational, and she was impressed with how professionally the members had conducted themselves.

Continuance – The applicant’s attorney requested a two month continuance so they could properly review and address as needed the results of tonight’s hearing. Councilwoman Alls-Moffat made a motion seconded by Tony Dydek that, at the request of the applicant, the hearing be continued. There being no further discussion, the question was called and the motion passed unanimously by voice vote to the effect that:

Be it resolved by the Planning Board of the Borough of Riverton, County of Burlington, and State of New Jersey that consideration on the application of Moccia Properties, LLC for site plan approval is continued, applicant having requested a two month extension of time for consideration of the matter until the next regular meeting of the Board in February 15, 2005 at 7:30PM.

This notice will be posted on the bulletin board and is the only official notice required of the continuation.

OLD BUSINESS

Adoption and Memorialization of Resolutions – The following resolution was reviewed, considered and adopted by the Board:

Resolution 2004-03 for:

Application For Site Plan Approval With Relief From Off Street Parking Requirements And Other Variances Needed To Open An Ice Cream Parlor At 529 Main Street, Block 903, Lot 26, By The Four MMMM’s, LLC., 608 Thomas Avenue, Riverton NJ: Following explanation of the resolution by Tom Coleman and review of the resolution by the members and there being no further discussion or changes or corrections a motion was made by Councilwoman Alls-Moffat and seconded by Toy Dydek to adopt the resolution as distributed. The vote was unanimous to adopt the resolution. The secretary will have the resolution signed and a brief notice published in the newspaper.

Environmental Commission – Christopher Halt reported that the commission had testified before the zoning board regarding the Cedar Lane Mews site plan with use variances application and made their views known concerning the serious reservations they have regarding the plan. The commission has again reiterated their concerns to Council as to the need for a 100 foot setback along the Pompeston Creek.

Redevelopment – Councilwoman Alls-Moffat reported she and Councilman Gilmore had brought the revised plan before Council but it was withdrawn due to lack of information on part of other Council members. Regarding zoning matters, she mentioned the Cedar Lane Mews hearing and her desire copies of the minutes be available to members of planning board. The secretary reviewed the status of the application and informed the members that the zoning minutes are posted on the Borough’s website after they are adopted.

Fence Ordinance Revision – Donna reported that the committee had met and was working on clearing up some issues and plans to meet after the first of the year. The revised ordinance will hopefully eliminate much of the questions, problems and confusion surrounding the current ordinance. Hank Croft, also a member of the committee and a member of the ARC, backed up Donna's report.

New Development in Cinnaminson Township – Donna Tyson reported she continues to monitor the issue and is corresponding and working with Bob Smyth to gather information. There is nothing new this month. Donna reported on the demolition going on along the street the light rail station is located on. She spoke with the broker involved and it appears that 80,000 square feet of office and retail space is planned at the site with a planned 2005 occupancy. There is hope that the copy of traffic study prepared for Kaplan is close to being received.

NEW BUSINESS

Minor Site Plan Hearing, 6-10 Broad Street – Tom Ward owner of Ward's Fuel was sworn in and the chair asked him to discuss his application. Mr. Ward wishes is relocating his business from 213 Broad Street, Palmyra, to the site formerly occupied by JAMCO Transmission. The other occupants of the site remain including Stan's garage. He will use the space for storage of HVAC materials used in that portion of his business and for office space. No hazardous materials will be stored onsite and no materials will be stored outside. He plans to utilize existing signage space reworded for his business and to have it comply with all Borough codes. After answering several questions from the board to qualify and further understand Mr. Ward's testimony, the chair asked if the board had any additional questions or concerns and there were none. Tony Dydek stated he had visited the site and did not see any problems. The chair announced that he and Tony Dydek would approve the application.

Draft Municipal Stormwater Management Plan – The secretary reviewed the attached explanation memo from Mary Longbottom which outlines the board is required to review and make a recommendation to Council. This must be completed by April 2005. There was talk of having the board's engineer review and/or have the Borough's engineer address the board. Further discussion was tabled until the January meeting. In the interim, members should review and be prepared to discuss at the next meeting. Tom Coleman stated the plan was part of the new DEP stormwater management rules, is a land use requirement, and in the opinion of the NJLM the provisions are cost prohibitive to most municipalities. It requires that an ordinance be in place and will apply to all new development and redevelopment. While it may not apply to most of the Borough it may apply in some instances. Tom feels that if the board's engineer was asked to review it for the board, he would work with the Borough's engineer to expedite the process for the board's purposes without duplicating efforts. It was agreed to table the matter until after the January reorganization. Donna wanted to know if was related to the regional stormwater management plans. It was suggested the Council member in charge of that issue be asked.

Vouchers and Invoices:

1. 11/2/2004, Tom Coleman, \$442.00 for attendance at the October meeting and matters related to the Moccia application. (\$400.00 – general services, \$42.00 – Moccia escrow)
2. 11/15/2004, Mark Malinowski, Lord Worrell & Richter, \$287.50 for October services concerning the Moccia application. (All from Moccia escrow)

A motion was made by Councilwoman Alls-Moffat, seconded by the mayor, and unanimously approved to pay the items as presented. The secretary will have them signed and submitted for payment.

PUBLIC COMMENT

The meeting was opened to public comment.

- Michael Heine, 206 Carriage House Lane, commented that he felt the board had done some admirable work tonight regarding the Moccia application by recognizing that it needed more information and taking steps to obtain that information. However, he feels the conditional approval was wrong and went on to call into question the intentions of the member who made the motion, the mayor. He feels the actions of the mayor and Bob Smyth by refusing to recuse themselves sullied the board. He feels there is a lack of respect for the behavior of a public body and their actions brought things to a low point. As Mr. Heine continued such comments, the chair interjected that he would allow the board and its members to be disrespected by such

comments and asked Mr. Heine to move on. The chair stated he applauds the efforts of the board and the motions made in conjunction with the hearing. Not willing to move on, the chair cut him off and asked for additional comments from the public.

- William Henry Harris, 502 Cinnaminson Street, stated that while he wouldn't go into detail on the Moccia application since the applicant and his representatives are not present; feels Mr. Moccia hired an architect to do an engineer's job and the board's acceptance made a mockery of things.
- Jodi Leslie-Eichfeld, 502 Cinnaminson Street, agrees with things stated in the public forum and is disappointed by what she feels was unethical behavior demonstrated tonight.

There was no further comment and the meeting was closed to public comment.

MISCELLANEOUS

Donna Tyson asked Tom Coleman if there were guidelines on what professionals can do. Tom Coleman stated that he believed that Mr. Ott was retained as Mr. Moccia's engineer. He asked if Donna and the board wished to reopen discussion of the application if they were questioning Mr. Ott's qualifications. The chair stated that he felt the two disciplines present and representing the applicant were qualified and doesn't feel the time is appropriate to reopen discussion on that.

Meeting adjourned at 10:40 PM.

Next meeting is annual reorganization meeting on 1/18/2005 at 7:30 PM in the Borough Hall

Tape is on file.

**Kenny C. Palmer, Jr., Secretary
RIVERTON PLANNING BOARD**