

**RIVERTON BOROUGH PLANNING BOARD  
MINUTES  
October 19, 2004**

The Public Session of the Planning Board was called to order at 7:32 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, Birnie O'Reilly, Donna Tyson, Mayor Martin, Councilwoman Alls-Moffat, Anthony Dydek, Jose Talavera, and Robert Smyth.

**Also Present:** Solicitor Tom Coleman and Secretary Ken Palmer

**ABSENT:** None.

**REORGANIZATION:**

The chair announced that Eric Goldstein and Christian Hochenberger have resigned from the board. The mayor has appointed Donna Tyson to fill the remainder of Eric's term and Robert E. Smyth as a new alternate. Donna and Bob were sworn into their positions prior to the meeting by board solicitor Tom Coleman. A replacement for Christian has not been appointed yet. The new board representative to the Environmental Commission will be discussed at the Environmental Commission meeting on 10/21. The position of a vice chair was not discussed.

**MINUTES:**

A motion was made by the mayor and seconded by Tony Dydek to approve the minutes of September 21, 2004, as distributed. The vote was unanimous.

**CORRESPONDENCE/ANNOUNCEMENTS**

1. **Two copies of a brochure on the transfer of development rights, Municipal Implementation Tool#8: Transfer of Development Rights from the DVRPC Outreach series of publications.**
2. **Site Plan Applications from the Millers and Mr. Moccia – distributed to the board, and where applicable to board professionals.**
3. **Copy of proposed revisions to the Borough's current Development Fee Ordinance prepared by Tamara Lee for Council – distributed to the board for review.**
4. **10/12/2004 follow up from Fred Hardt's office regarding two unpaid invoices.**
5. **10/18/2004 e-mail from Mary Longbottom concerning need to reprint copies of the Borough Master Plan – costs come out of the board's budget.**
6. **Copies of the letters from the mayor to Donna Tyson and Bob Smyth regarding their appointments on the board.**
7. **One voucher/invoice as presented under New Business.**

**PUBLIC HEARING:**

**APPLICATION FOR SITE PLAN APPROVAL WITH RELIEF FROM OFF STREET PARKING REQUIREMENTS AND ANY OTHER VARIANCES NEEDED TO OPEN AN ICE CREAM PARLOR AT 529 MAIN STREET, BLOCK 903, LOT 26, BY THE FOUR MMMM'S, L.L.C., 608 THOMAS AVENUE, RIVERTON NJ:**

**Continuance** – During review of the jurisdictional requirements, it was discovered that the published notice in the newspaper had not been completed in the prescribed time – it must be published no less than 10 days prior to the hearing date. All other jurisdictional requirements have been met. Tom Coleman informed the board that if they were satisfied all other requirements had been met; a continuance was in order so the applicant could re-publish the notice. After review with the applicant and applicant's counsel that the notice would have to be republished within the prescribed time, the applicants requested a continuance. Birnie O'Reilly made a motion seconded by the mayor that, at the request of the applicant, the hearing be continued conditioned that the notice is published according to statute. 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 The Four MMMM,s for site plan approval is continued, applicants having requested an extension of time for consideration of the matter until the next regular meeting of the Board on November 9, 2004 at 7:00PM.

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

## **OLD BUSINESS**

**300 Broad Street, Parking Lot Issues and Commercial Use** – Mr. Moccia stated he was in the process of securing additional engineering drawings as well as new counsel representation. If he can accomplish these items in time, he intends to publish and notice that his application will also be heard on November 9<sup>th</sup>. He will maintain contact with the secretary regarding scheduling and getting on the agenda.

**Environmental Commission** – There was no report.

**Redevelopment** – Councilwoman Alls-Moffat reported a first reading on the revised plan was tabled by Council until next month so everyone can thoroughly review it.

**Fence Ordinance Revision** – Frank reported that he had called Kerry Brandt. Donna Tyson reported that she had sent e-mails to other members of the committee, the chair Kerry and Hank Croft. The revised ordinance is close to being ready, but it has been a long and complicated process to review the changes given the delicate nature of the subject in the town. Muriel again stated she thinks the process is dragging on too long and doesn't think it is that complicated an issue. Donna reiterated that the review had been thorough; the format is being changed to make it easier to read, understand and follow; and hopefully the new revised ordinance will lessen the frequent need for variances for fences. Birnie commented she thought it was admirable that the committee was thoroughly researching the issue. On a related matter, Jose asked about the new fence being erected at 204 Broad Street. The secretary reviewed that the approval for the fence replacement was given to the owner as part of the approval of the site plan application to operate a bed and breakfast establishment.

**New Development in Cinnaminson Township** – Donna Tyson reported she had attended the last meeting of the Cinnaminson Planning Board, that there were only eight people in attendance, and none of them were residents from Cinnaminson Township. The developer was awarded final approval on 148 units. The township is under the gun from the court to approve the development and some feel they are almost reduced to rubber stamping the plans presented to it. There are concerns about trash removal plans and parks and recreation areas. There are three isolated wetland areas that are not clearly shown on the plan. Donna feels it is all about achieving the maximum density permitted. It appears it will be late next year before any units come on line. The traffic study does pre-date the light rail and Donna and others are concerned that all the changes due to the light rail make the study completely irrelevant to actual conditions that currently exist. Copies of the traffic study have been requested for review as it pertains to Riverton. Donna referred to articles describing the state's position that traffic issues transcend community boundaries and impact on neighboring towns need to be considered. The Borough needs to keep abreast of developments on this project. Bob Smyth feels the Borough should establish a rapport with Kaplan to ensure that the town gets its share of the pie since right now its promotional literature just refers to Cinnaminson and not the neighboring communities. It should be a regional approach. The mayor asked Tom Coleman if there was anything the Borough can do. Tom said that not much officially can be done. He reviewed that Kaplan brought the site from the developer who won the builder's remedy suit against the township. While the comments and concerns of the Borough and/or its citizens should be given consideration, Tom feels that due to the suit, Cinnaminson officials are almost paralyzed by the mandates handed down by the court. Donna asked if changes were possible if the approval was based on flawed information, i.e. the traffic study. Tom again stated that the township's discretion in the matter had basically been stripped by the court mandate. There was additional discussion of how a builder's remedy suit can strip a communities right to self decision and how the Borough is protected from same by its COAH Substantive Certification of its Affordable Housing Plan. It was again mentioned that the scope of the project and its impact on the Borough's housing and businesses must be monitored.

**Fred Hardt, Old Invoices** – The secretary reviewed the note from Fred's office and stated he would once more follow up on it.

## **NEW BUSINESS**

**November Meeting and Conflict with Annual League of Municipalities Conference** – The chair asked if there were conflicts with the regular meeting scheduled for November 16. There were conflicts and it was determined that the board would meet on a different date and time in an attempt to accommodate all interests. Following discussion, a motion was made by Birnie O'Reilly, seconded by the mayor, and unanimously passed to move the regular meeting to November 9, 2004 at 7:00 PM. The secretary will have the appropriate notice published in the paper and posted on the bulletin board.

**Informal Presentation by Vince Fumo on Development of 604 Broad Street** – Mr. Fumo presented his preliminary proposal to erect town homes on the vacant parcel at 604 Broad Street in the NB district. He was informed that the Borough would prefer to see commercial use of the site. In addition, Mr. Fumo was informed that town homes would require a use variance since town homes are not allowed anywhere in the Borough and that use variances must be heard by the zoning board. Board members also commented that the types of businesses adjacent to the site and the location on Broad Street would not be best suited to residential development. In addition it was discussed that the Borough has an issue with existing density and the desire to alleviate it where possible. Tom Coleman informed Mr. Fumo that a mixed use plan of businesses that have an upper level apartment are a conditional use that can be considered.

**Vouchers and Invoices:**

1. 10/7/2004, Tom Coleman, \$470.00 for attendance at the September meeting and general legal services.

A motion was made by Birnie O' Reilly, seconded by the mayor, and unanimously approved to pay the item as presented. The secretary will have it signed and submitted for payment.

**Review of Development Fee Ordinance Revisions** – Tom Coleman discussed the current ordinance and how the proposed revisions were made to track with the new substantive rules and regulations currently under review for COAH's third round. The revisions would become effective only if the state revisions become effective. The changes are not arbitrary but are based on COAH's proposed changes. The chair asked what action is required by the board and Tom replied the mayor and Council wished the board to review the changes and if the board's opinion was favorable, the changes could come back for a first reading in November. The board's recommendation should be in the form of a motion. Asked if the percentages in the ordinance could be deviated from, Tom stated that would not be a good idea and that all developers should be treated the same. Asked how the proposed numbers fit with other communities, Tom replied that they would be in line since most communities also take their lead from what comes down from COAH. Following discussion, a motion was made by the mayor, seconded by Birnie O'Reilly, and unanimously approved to recommend that Council consider the proposed revisions as prepared by the Board's Planner Tamara Lee.

**Reprint Copies of Master Plan** – The secretary reviewed Mary Longbottom's e-mail requesting permission to reprint and prepare 20-25 copies of the plan at an approximate cost of \$300.00. They copies are sold by the Borough to recoup the cost. It was asked if board members could/should have a copy and the answer was yes all members should have a copy. It was discussed that the Master Plan was adopted by Council and that it was due to be reconsidered soon. A motion was made by Donna Tyson, seconded by Tony Dydek, and unanimously approved to allow Mary to procure additional copies with the provision that all board members as needed obtain a copy. The secretary requested that if copies of this document as well as other ordinances are needed by the members that they contact Mary directly.

**MISCELLANEOUS**

**Costs of Reprinting the Master Plan** – Birnie stated she thought the cost was high and wanted to know if Mary had permission to shop the job around. No one knew for sure. The mayor stated he thought she had permission to shop around but could also use her discretion to ensure that the complete job of providing a finished product was done properly.

**Names on Agenda** – Birnie O'Reilly asked the secretary if the names of presenters of items could be included on the agenda. The chair replied that he would have them on next month's agenda.

**PUBLIC COMMENT**

The meeting was opened to public comment.

- Michael Heine, 206 Carriage House Lane, commented on the Cinnaminson development saying Borough missed the boat when the item was in the courts. The Borough must be represented at the Cinnaminson hearings by professionals. He cautions that although master plan and zoning protect Borough today from builder's remedy, if redevelopment opens door to any residential development it also opens door to builder's remedy. COAH agreements do not bind the court in its decisions. He

addressed fair treatment issues. He wants to know why the Millers have to go through a site plan approval if Moccia hasn't been cited for his parking lot. Muriel stated that the law was in action. She doesn't feel fines, etc. are the first stage, but if honest mistakes are made and steps are being taken to resolve them, then let things proceed. If that doesn't work then stronger steps can be taken. Mr. Heine disagreed. Tom Coleman stated that enforcement issues not appropriate before board, they are a Council issue. Donna asked how the board should address the parking issues on the Miller application to which Tom replied that he will guide the board as appropriate at the time of the hearing. Frank stated that he was pleased that attempts were being made to try and resolve issues in the least rancorous way possible. Mr. Heine later commented that underutilization of existing property is a problem that needs to be fixed first before changing zoning.

- Frank Cioci, 408 Lippincott Avenue, commented that he feels both personally and professionally that town homes are an appropriate use in town especially as they afford older citizens an alternative to the large homes they may wish to leave but don't want to leave the town. Jose asked what it takes to change the zoning laws and it was answered that it usually starts with a change to the Master Plan which is drafted by the planning board. The mayor agrees with Mr. Cioci.

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

**Meeting adjourned at 9:14 PM.**

**Next meeting is on 11/9/2004 at 7:00 PM in the Borough Hall (SPECIAL DATE AND TIME!)**

**Tape is on file.**

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