

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
May 17, 2005**

The Public Session of the Planning Board was called to order at 7:00 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, 2005.
2. Required Service of notice and publication in the Burlington County Times on January 23, 2005.

PRESENT: Frank Siefert, Birnist O'Reilly, Donna Tyson, Christopher Halt, Mayor Martin, Councilwoman Alls-Moffat, Robert Smyth, and Joseph Katella.

Also Present: Solicitor Tom Coleman, Planner Tamara Lee, and Secretary Ken Palmer

ABSENT: Anthony Dydek.

MINUTES: A motion was made by Councilwoman All-Moffat and seconded by Mayor Martin to adopt the minutes of the April 19, 2005, regular meeting as distributed. The vote was unanimous. A motion was made by Councilwoman All-Moffat and seconded by Mayor Martin to adopt the minutes of the April 19, 2005, executive session as distributed. The vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. **“Mayors Advisory” bulletin from NJLM, announcing a hearing on S-2118 which would modify the “time of decision” rule by rendering any application once deemed complete immune from any subsequent changes in State statutes or regulation and from changes in municipal ordinances which occur prior to a final decision being rendered by a planning or zoning board.**
2. **Announcement by Delaware Valley Regional Planning Commission, of audio seminar on 5/25/05 “Development Finance and Pro Formas.”**
3. **Announcement by Delaware Valley Regional Planning Commission, of public review of the commission’s Draft Long Range Plan: Destination 2030 and Draft Transportation Improvement Program for Burlington, Camden, Gloucester and Mercer Counties.**
4. **Five vouchers/invoices as presented under New Business.**

MINOR SITE PLAN APPLICATIONS

Minor Site Plan Hearing, 531 Main Street, Suite C – Lila Hart of Lila Hart, Inc. wishes to open a book store/information center. Ms. Hart was not present. The chair stated he could not contact her and stated the hearing would need to be tabled until June. There was discussion about the impact of the business going from a non-profit to profit business and the appearance of a sign in the window. Tom Coleman was asked his opinion and he stated that he has not seen the application. In addition code enforcement issues belong with Council and the Council’s solicitor. In his opinion, if it is an improper sign, Tony Dydek may have an issue with it as the Borough’s Code Officer. He wants to hear testimony from the applicant. Donna wanted it on the record that she feels the signage should be removed as it is presumptuous and premature. She wants Tony Dydek to look into it. The chair stated he would follow up with Tony and try again to contact the applicant regarding an appearance next month.

OLD BUSINESS

Development Fee Ordinance and the Spending Plan – The chair introduced board planner Tamara Lee. Tamara reviewed the purpose of the development fee ordinance and why it was revised – to meet revised COAH rules. Tamara explained that COAH had approved the revised ordinance with a few conditions. The one of urgency is that COAH stated the Borough had 60 days to revise the Spending Plan which is part of the Housing Plan element of the master Plan. Because the new rules dictate that development fees can accrue from any

development/redevelopment in the Borough, the money that may go into the housing fund could change. The part of the plan that needs revision is the projections part of the spending plan. While the Borough is certified under COAH until April 2006, COAH wants the revisions made to the projections portion of the spending plan. The board had questions regarding unmet needs and Tamara explained the concept and how the Borough is not in danger of being found not in compliance since no COAH development has occurred. It is not that the Borough must develop; rather, it is if development occurs, then a COAH related funding obligation is incurred and the Borough needs to project this in its plan. COAH now has developed a new model spending plan and wants the Borough to follow it even though the Borough is still certified until next year. Tamara stated that she has essentially complied by stating that there is no projected change since there are no approved applications involving development/redevelopment applications "in place" as of when the projections were revised.

Apparently COAH also wants projections for applications that are before a board but not yet approved. Tamara feels this puts an unfair burden on the Borough. She reasoned this by explaining that if a current application is included and then it is subsequently denied, the projections now include something that will not occur. Therefore, she has not done this and thinks it is advisable to let COAH force the issue and at least we can be on the record for opposing this new burden. Asked why COAH would require this, Tamara stated because they are trying to get commitments for as many units as possible. Tamara feels the board should approve the proposed revisions, pass it on to Council so it can meet the 60 day deadline and hold off actually amending the master plan until COAH approves the revisions. Asked about the impact on the reexamination of the master plan, Tamara stated they more or less go hand in hand and she emphasized to the members that April 2006 is closer than you think when the efforts and requirements to review, revise, notice and conduct hearings is concerned. While the Borough once had considered a "payment in lieu of development" alternative; that is not in place now since the Borough does not want to be placed in the position of having to undertake the building of affordable housing. Birnie wanted to know if the Borough should make sure developers/redevelopers are aware of the Borough's position. Tamara stated she will do that; and, in fact has done so in her review letters for two applications currently before the zoning board. Even if units are not built the town will still get the development fees.

Tamara also stated that the issue of how an applicant will meet its obligation can only be raised in these two instances because there are use variance(s) involved and a board can thus consider the COAH issues when deciding on the merits of the application. Councilwoman Alls-Moffat moved that the board approve the revised spending plan and forward a resolution to Council of their action. Birnie O'Reilly seconded the motion and it was unanimously approved. Tom Coleman stated he would prepare a resolution to be signed by the secretary and forwarded to Council.

Donna asked what happens if COAH changes the rules again and the impact on anything the town approves. Tamara stated there is always a chance of change; but, feels that given the effort and time expended by COAH to revise the rules, the growth share rules now in place will probably be around for some time to come. Tamara stated that any development/redevelopment in the town will probably trigger a growth share obligation under COAH's new rules. Donna stated that the town needs to carefully consider any approvals. Chris asked about the impact of commercial development and Tamara stated there is a formula developed by COAH based on jobs created and/or square footage developed to calculate the obligation. Tamara stated that the only time the town's hands are tied is where a "buy right" plan (one where a plan involves no variances) is approved, since any development will trigger a growth share obligation under COAH's third round rules. Under such a plan the Borough could collect the fees but has no means to exact the units from the developer. Asked if senior housing goes into COAH, Tamara stated yes but affordable senior housing can only satisfy 25% of the total COAH obligation. There is also a limit on how much can be rentals. Birnie asked if the information was available on line and Tamara referred her to the NJ DEA website where the COAH rules and regulations are available. The mayor asked the impact if National Casein was redeveloped as over 55 housing. Tamara replied there would be an obligation generated. Even assuming there was an affordable component, and regardless of the number of "affordable" units available, the number counted towards the COAH obligation still could not account for any more than 25% of the total obligation. Asked is there any way to assure that a developer will handle the COAH component, Tamara stated that a town can designate inclusionary zones which require that any development must include an affordable housing component. This is what was done with the Martha's Lane area as well as the golf course overlay.

Reexamination of the Master Plan and Tamara's Proposal – The chair asked if everyone has had a chance to review Tamara's proposal. The chair asked Tamara if the Borough was at risk not having the reexamination already completed or scheduled to be completed until possibly next year. Tamara reviewed the concept of due diligence and why she did not think the town was at risk. She further stated that reexamination had the benefit of demonstrating a best scenario schedule which is very different than the rigid schedule imposed by COAH. The chair asked for board feelings on the matter commenting that the proposal represented a significant scaling back on the possible costs involved to complete the review process. Tamara stated that there are a lot of things going on including the smart growth grant for redevelopment and the recertification of the housing plan. All of these things require that zoning be reviewed and that it is a good opportunity to coordinate planning policy efforts with Council and even the zoning board. Chris Halt asked about a joint advisory group and/or citizen advisory groups, and Tamara stated that is one way that has been used in other towns. Every town is different. Tamara recommends using the Council representatives on the board as the liaisons. The more open the process the better. But, it can get bogged down if not carefully orchestrated. Tamara recommended that the board initially meet with the entire Council in a joint meeting to see what they have in mind. Hopefully there is a meeting of the minds. Birnie asked if there is a lack of agreement does the board go back to Council. Tamara stated the board owns the master plan and is charged with adopting a plan that they feel represents the best for the town. When it goes to Council, it is their job to enable the ordinances to insure the master plan is enforced. Not having an agreement only complicates the matter. So it helps if there is at least basic agreement on the direction to go. Asked about focus groups or citizen groups and other methods, Tamara stated all can work; but, it is important not to lose focus and momentum. The format can be as formal or informal as desired – “whatever works.” Tamara stated she may still have some of the exhibits that might help in any meetings. There being no further discussion on Tamara's proposal, Councilwoman Alls-Moffat moved that the board accept Tamara's 5/9/05 proposal. Birnie seconded the motion and it was passed unanimously. The chair asked if there were volunteers to make up the subcommittee. There was the reminder that no more than three members of the board could be on the subcommittee. Bob Smyth, Birnie O'Reilly, and Joseph Katella volunteered to form the subcommittee. Under discussion of the joint meeting with Council, it was mentioned that Council would hold their normal two sessions in June but only one session each in July and August. The board stated they would like to meet with Council as soon as possible. It was discussed that the meeting be the same night Council meets and to have it before the Council session. The board decided they wanted to have it on June 1st. Reminded that both the board's and Council's decisions regarding a special meeting must be made in an open meeting and be properly noticed, the board agreed to hold the special meeting on June 8th unless Council can't make that date. The time period between Council's June 1 and June 8 sessions allows sufficient time to provide the 48 hour notice of the special meeting. If the meeting cannot occur June 8, the mayor will attempt to get agreement on the date for the July 6 session. Birnie asked about the smart growth grant and it was explained that Council had authorized Tamara to approach the State about revising the scope of the plan to use it to finish the redevelopment plan, generate concept plans and soliciting bids from developers.

2005 Goals and Objectives – The chair asked if the members objected to tabling discussion on the goals and objectives since Tamara is present to discuss the master plan and redevelopment. Bob Smyth stated that the board should review Chapter 22 of the Borough's code which discusses the duties and responsibilities of the board.

Environmental Commission – Chris Halt reported that Michael Robinson was still trying to work with Council on the proposed increased setback from the creek. Nothing has changed on the advancement of the stormwater management plans and the next update is postponed until June. Birnie asked if there was anything known about the “blue oil drum” on the river bank at the foot of Linden Avenue. Public works has been reluctant to touch it if there is anything hazardous in it. The next option was to contact state DEP. Donna stated she is willing to contact the DEP hotline. It was agreed that public works would be contacted once again and if no action was going to occur, the DEP be contacted.

Redevelopment – Councilwoman Ed Gilmore was given the floor and he asked to address some thoughts on the master plan and zoning. He feels some tweaking is in order but to otherwise leave it alone. He feels the provision of apartments over stores should be removed since there are already enough apartments in town. In the recreation plan, the number of tennis courts should reflect three not two. National Casein's property should be rezoned as future park land as well as other Borough parcels should be designated as park land. The bulk of the Neighborhood Business zone especially along Broad Street should be changed back to residential. Concerning

redevelopment, Ed stated that the plan has been in Council's hands since 2002. The redevelopment committee has attempted several revisions to garner Council majority which has still not been obtained. Tamara has been asked to further tweak the plan for the committee. Muriel stated she was disappointed in the committee meeting. She objects to the removal of provisions that will discourage residential development in the General Business zone. She thinks the plan should be left alone until the master plan, COAH, etc. issues are resolved. Tamara stated that the redevelopment plan does impact zoning. Tamara feels that the redevelopment plan should not be revised until the Housing Element is revised and approved by next year. The Housing Element consists of the Housing Plan and Fair Share Plan. The Housing Plan defines the state of housing in the town and COAH has very detailed guidelines on the form this part takes. The Fair Share Plan explains the town's obligations and how it plans to meet them. Ed Gilmore asked if we are allowing COAH to dictate the town's plans. It was explained that COAH is the law and towns must comply if they are to be certified and thus protected from unplanned development as it concerns COAH. Tom Coleman concurred that it is best not to jeopardize the certification currently in place and before changing the zone(s), it is best to have the revised and approved Element in place. There was additional discussion and the conclusion that the board as well as Council and its committees must be very careful with changing things until the ramifications as far as COAH are fully understood.

Public Comment to Tamara Lee on COAH, the master plan and redevelopment:

The meeting was opened to public comment regarding the topics addressed by Tamara Lee.

- Michael Heine, 206 Carriage House Lane, asked if the spending plan revisions proposed by Tamara compromised the Borough's leverage concerning new development, to which Tamara explained why it did not. Tamara explained what she thought were the various mechanisms that are in place. She explained how the Borough has fulfilled its unmet need for new units by providing for their construction if the opportunity arises. Concerning a question on new obligations between now and recertification, Tamara explained how the need would be calculated, how the planning or zoning boards have leverage where variances are requested and how for "buy right" plans the Borough is currently limited to just collecting the fees since nothing is in place as to how the Borough will discharge any obligation it must assume.
- William H. Harris, 502 Cinnaminson Street, wanted to clarify Michael's use of the term duplex. It was clarified that semi-detached side by side was intended; however, as regards COAH, the issue is moot since erecting any regular residential units will generate a corresponding COAH obligation.
- Tom Ehrhardt, 410 Thomas Avenue, asked for clarification concerning the redevelopment plan. Muriel stated that the issue is currently stalled and there is a version available for review at Borough Hall. She hopes things will move forward at the next Council meeting. COAH and its impact is a primary issue of concern. Donna Tyson asked if there was a COAH component for the proposed residential and commercial construction for the Sitzler property. Tamara replied there was and she had included the generated obligation in her review of the application.
- Frank Cioci, 408 Lippincott Avenue, wanted to know if the redevelopment plan and/or the revised master plan will change the Neighborhood Business zone and if the changes will impact the ability of business owners to have apartments over businesses along Main Street between Broad and Fifth Streets. Tamara replied that this among the types of policy questions that need to be addressed. The redevelopment plan establishes policies and they may be different than the intent of the master plan and current zoning. These types of concerns need to be conveyed to the board and or redevelopment committee since either plan can impact the current status of zoning. Nothing forces the planning board or redevelopment body to make a decision; but, they need to be aware of these impacts. Frank feels the business owners in town should be involved in the review process since the changes he hears being discussed could have a major impact on them. Ed Gilmore stated that the revised redevelopment plan will probably be discussed at the June 1st Council session. Birnie asked when the redevelopment committee meets. Muriel explained it meets as the committee feels necessary. Birnie asked if Tamara would be coming to the joint meeting. Tamara stated that she would attend if the board feels it is necessary. However, as presented in her proposal, since funds are limited, she feels this is the type of fact gathering that the board can handle without her presence. She will generate material to help facilitate these types of meetings but does not feel her presence is needed unless the board feels differently. Birnie wanted to know since the master plan and redevelopment plan work appear related, could Tamara's charges be considered under the revised smart growth grant for redevelopment plan work. Other board members asked similar questions. The possibility of making it a joint master plan redevelopment plan effort was mentioned. While it is true the two efforts are related, the mayor feels there may be legal

ramifications. Tom stated that since the redevelopment plan was forwarded to Council from the planning board, the board at this time has no official say in redevelopment plan efforts. It is up to the redevelopment committee and Council to consider the plan. If Council made the decision to send the plan back to the board for reexamination and reconsideration, that is a completely different issue. Tamara stated the State will not fund work on the master plan. Michael Heine, feels that given Tamara's courtesy rate for her time and services, the board should avail it self as much as needed. A few hours shouldn't break the budget. There were no further questions for Tamara and public comment was closed.

Fence Ordinance Revision – Donna reported that she had e-mailed Kerry Brandt and he had e-mailed her a preliminary draft. The committee is reviewing the revised draft. She feels this may be the final review before the committee releases the proposed revisions.

New Development in Cinnaminson Township – Impact on Riverton – Donna Tyson reported she had spoken with the broker leasing the commercial space being developed near the Cinnaminson light rail station and the first phase is fully leased. She has been informed that the DEP is going to mandate that Kaplan provide an easement for the heritage trail through the Cinnaminson development. Kaplan has met informally with the Cinnaminson Planning Board to review Sections 2 & 3 of the development. Bob Smyth asked that if there was any plan to update the old traffic study. Donna stated she did not know. She also stated she had asked Rick Arango, the Cinnaminson board's engineer if a traffic study had been done for the 80,000 square foot commercial development and he had replied he did not recall seeing one. Donna asked if there was one, she would like to see it as it impacts Riverton. She also feels the old plan should be revisited because of the changes since it was done. She reiterated her concerns about the major impacts on Riverton and the degradation in service that is projected to occur. Donna stated she understood a town can set a level of service and mandate a developer maintain that level. Bob replied that the old study had projected a downgrade in Riverton's level of service and it did not factor in the impact of the light rail since the plan predated the light rail operation. Birnie stated she would like to know what the procedure is to allow a town to mandate a level of service. Bob stated the traffic study is a factual study and does not provide that type of procedure. He suggested the board should find out if approval of the first phase considered the impact of the traffic study and if approval of the subsequent phases also needed to consider the traffic impact on the area. If the board and town missed their chance to raise the issue during the initial approvals, perhaps they have a chance to raise their concerns during the new round of approvals. Bob and Donna will look into this. Birnie feels the board should put the wheels in motion. It was generally agreed that there should be some way the Borough can have a say in the probable continued degradation of service by development outside of the town.

NEW BUSINESS

Vouchers and Invoices:

1. 3/7/05, Tom Coleman, \$596.00, preparation and attendance at the February meeting and general legal research and advice.
2. 3/7/05, Tom Coleman, \$42.00, for work in February on the Moccia Site Plan application. To be paid from escrow.
3. 5/4/05, Tom Coleman, \$512.00, preparation and attendance at the April meeting and general legal research and advice.
4. 5/4/05, Tom Coleman, \$98.00, for work in April on the Moccia Site Plan application. To be paid from escrow.
5. 5/17/05, Lord Worrell and Richter, \$150.00, for board engineer Mark Malinowski to attend the meeting for the Moccia Application. To be paid from escrow.

The secretary apologized to the board and Mr. Coleman for the late submission of the two March Bills. A motion was made by Birnie O'Reilly and seconded by Councilwoman Alls-Moffat to pay the items as presented. Payment was approved unanimously. The secretary will have them signed and submitted.

Miscellaneous:

- Donna asked Tom if there was a resolution regarding the Ward application moving into the “Stan’s Auto” site? Tom and the chair stated that it was a minor site plan and no resolution is involved. There have been concerns over the parking of fuel oil trucks on the site. Bob Smyth commented that he had heard of the problem at a Council session. It was determined that it is properly an enforcement issue residing with Council and the Code Enforcement Official. Tony Dydek was not present to discuss the issue. The chair replied he had discussed the matter with Mr. Ward. Asked if there was anything from the review regarding the fuel oil business and it was commented that Mr. Ward had stated at the time that his occupancy of the site involved the HVAC side of his firm and not the fuel oil side.

PUBLIC COMMENT

The meeting was reopened to general public comment:

- Charles Caruso 412 Lippincott Avenue, apologized that Lila Hart had not been present for her application, but a family emergency had arisen. He stated he would be pleased to answer any questions. The board thanked him, but stated they needed to discuss their issues with the applicant.

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

Meeting adjourned at 9:23 PM.

Next regular meeting is on 6/21/2005 at 7:00 PM in the Borough Hall

Tape is on file.

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