

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
November 15, 2005**

The Public Session of the Planning Board was called to order at 7:02 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, Robert E. Smyth, Mayor Martin, Councilwoman Alls-Moffat, Alan Adams, Joseph Katella, and Suzanne Wells.

Also Present: Secretary Ken Palmer, Solicitors Tom Coleman and Charles Petrone, Board Planner Tamara Lee and Patrick Ennis, PE of Lord Worrell & Richter for Board Engineer Mark Malinowski.

ABSENT: Donna Tyson and Christopher Halt. The chair announced that Donna had resigned from the board.

MINUTES: A motion was made by Councilwoman Alls-Moffat and seconded by Suzanne Wells to adopt the minutes of the October 18, 2005, regular meeting and November 3, 2005 special meeting as distributed. The voice vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. 10/2005, copy of brochure from DVRPC regarding funding from the Transportation and Community Development Initiative program.
2. 10/2005, copy of NJ Future Newsletter regarding Smart Growth.
3. 10/18/05, certified mail Public Notice from PSE&G regarding Application for a Modified Freshwater Wetlands Statewide General Permit #1 for the PSE&G Natural Gas Distribution System.
4. 10/14/05, copy of letter to secretaries of land use boards form County Engineer regarding procedures for subdivision approvals.
5. 10/24/05, letter to chair from Peter Cerra, Executive Director, Habitat for Humanity of Burlington County, regarding their proposal to partner with communities to assist in meeting COAH Third Round Requirements. Letter included a copy of the proposal.
6. 10/25/05, copy of "Mayor's Fax Advisory" newsletter from NJLM regarding Wastewater Management Planning and proposed statewide amendments by the state.
7. 11/1/05, 2006 budget request from Mary Longbottom.
8. 11/3/2005, letter of resignation from Donna Tyson.
9. Two vouchers/invoices as presented under New Business.

PUBLIC HEARINGS

Adopt the Revised Housing Element to Amend the Master Plan of the Borough of Riverton in Conjunction With the Petition to COAH for Third Round Certification:

The secretary attested that all required notices were mailed and published as required. The chair introduced Board Planner Tamara Lee. Tamara explained the purpose of the hearing to allow for public input. She proceeded to recap the purpose of the revised housing element, amending of the Master Plan, and the process for petitioning COAH for Third Round Certification. Once approved by COAH, the Borough will be certified through 2014. As long as the petition is filed by the deadline the Borough is protected even while COAH is reviewing the submission. Tamara reviewed the sections of the element and explained how the Fair Share Plan details how the Borough plans to meet its obligation. Tamara reviewed the factors that went into calculating the projected obligation of six new units (two from round two and four additional under round three). Tamara reviewed the new affordable housing inclusionary zone which would provide for a mixed use of office and a maximum of ten residential units.

The board was asked if it had any questions. There were none. The hearing was opened to questions from the public:

- Nick Colleti, 309 Manor Court, asked if there had been any certified mail sent to the property owners in the area regarding affordable housing. Tamara explained that the existing zone was established when the Borough was originally certified almost six years ago, that the new zone was just now being proposed, and that the recent mailing and noticing was the first required and complied with. Only the owners of the properties under consideration in the zone are required to be officially notified by mail. Neighboring property owners are not required to be notified.
- Eric Saia, 401 Martha's Lane, asked if research had been done prior to coming up with the new zone and if anything had been published. Tamara explained the various ways that a town can satisfy its obligation. She also discussed how the vacant land adjustment drastically reduced the original number provided by COAH. Tamara explained how after reviewing all the alternatives that creating an inclusionary zone on the National Casein site was the only viable method and the site was the only area of sufficient size in the Borough. Tamara reiterated that it does not impact the current use of the site; but only if the site is ever redeveloped.
- James Moffat, 402 Fulton Street, asked how the six units will be distributed. It was explained that one unit would be built in the redefined existing zone and five in the new zone. He asked if Tamara had stated that 30% of the Borough properties were tax exempt and if that wasn't quite high. Tamara replied that the percentage was correct, yes it is very high, and that it was not uncommon to have such high percentage in small, built-out boroughs.
- Jeff Mack, 311 Manor Court, asked if there would be apartments. Tamara explained that the board had specifically stated that there would not be multi-family units; however, the zones will allow for possibly having attached single family structures rather than only detached dwellings. COAH requires that there not be any visual distinction between market rate units and affordable units. The existing zone that abuts Manor Court is residential only. Asked why make the change now, Tamara explained that the Borough has to provide a plan to meet its current and future obligation or it can be found out of compliance and subject to builders remedy and the Borough would have no say in how a developer proposed to meet the town's obligation.
- Margaret Wark, 406 Howard Street, asked if this is a done deal and the town was going to take over property to build units. Tamara explained that is not the case; but, rather it establishes the zoning needed to meet the affordable housing needs of the town if the areas are ever developed or redeveloped.
- Eric Saia, asked if zoning wasn't supposed to be based on the master plan and the proposed new zone is not. Tamara explained this is why the proposed housing element is being presented as, and if adopted, will be an amendment to the plan. Without the amendment to the plan, the affordable housing zones in the zoning code would not be correct. Also, other parts of the plan may need amending and that is all part of the reexamination of the plan that is currently underway. Eric inquired if it is mandated that the master plan be reviewed every six years isn't this reexamination late. Tamara stated that while running late it still meets the due diligence requirement and that the town was not in danger as long as the process continued at a recognized appropriate pace.

There were no further questions and the hearing was closed to public input.

The chair asked if board members had any further questions or comments. Bob Smyth commented on the reexamination process and the status of the reexamination. He also commented on how the subcommittee had agreed to concentrate on the housing element ahead of other areas due to its importance to the future direction of the town. Suzanne Wells thanked Tamara for the thorough job she had done in guiding the board and the subcommittee through the process. Suzanne related the time and detailed guidance Tamara had provided in helping the board examine the options available and how the amendment process allows the town to make further changes if the opportunity arises for another method to satisfy its obligation.

There being no additional input from the board, the chair again opened the hearing to public comment:

- Nick Colleti, asked if anyone on the board stood to gain financially from the proposed change. The answer was a resounding no that no member had any interest in the properties involved. Mr. Weber owns the lots in the existing zone and National Casein owns the property included in the new zone. Mr. Colleti wanted to know who maintains vacant lots adjoining Manor Court. It was stated that it is the property owner's responsibility. He is concerned that the properties are not being maintained. It was explained that this is a

code enforcement issue. Asked if had made any complaints, Mr. Colleti replied he had not. Joe Katella replied that the existing building lots being an affordable zone was not new and that the proposed addition was designed to protect the town.

- Eric Saia, commented that he worked for National Casein. He read from the master plan and the proposed revision and feels that there has not been due diligence in the research done prior to imposing this change on National Casein's property. He feels that the golf course property is a much better site given its larger size and the wetland restrictions on the National Casein property. He wanted to know if another vacant land adjustment was warranted. Tamara explained how the other methods available to meet the obligation all involved agreements being in place when the petition is filed and that it was not possible within the time period the Borough had to prepare the petition. Tom Coleman reviewed that the Borough has only had a period beginning in July when it was informed by the state that it must submit the petition by December or lose any mechanism in place to control development and obtain fees to promote affordable housing initiatives. Tamara further explained that COAH provides that if another method can be developed to meet the obligation, the town can choose to amend the plan if it can properly demonstrate to COAH that it will meet the obligation in this other way. However, until such a method actually exists, the proposed zone is the only method available to demonstrate how the obligation will be met. The golf course is not an option since it is already encumbered with the unmet need from the vacant land adjustment. If the golf course property is ever sold off for development, affordable housing from the unmet need must be developed there. Tamara feels the vacant land adjustment has been taken as far as it can be. The fact the town is updating the vacant land adjustment provides good reason for COAH to continue to honor it. Mr. Saia commented on how the redevelopment efforts initiated by the board have appeared to present National Casein in an unfavorable light. He also referred to the letter in 2003 that stated that action should be taken to remove National Casein as well as minutes from meetings that appeared to present an unfavorable opinion of National Casein. Eric went on to state that National Casein has always complied with all regulations at all levels and has always tried to be a good neighbor. In reply, it was stated that the redevelopment plan did not paint National Casein unfavorably; but simply recognizes that the area meets the needs of a redevelopment area. As to the letter, it was pointed out that this letter and actions mentioned were Council matters not a board matter. Further the letter had been proven to be a forgery and did not originate from anyone on Council. As to other meetings, it was corrected that they were not planning board meetings and the members were not familiar with the topic. Eric commented further that he feels the master plan and related land use threatens National Casein and is not positive. Tamara discussed the history of thought on the matter and how it has developed that industrial use was no longer considered the best use. This does not mean it is not wanted now or that it is bad, just that if the property was ever to be redeveloped, the town feels there are better uses for it. National Casein's use of the site is protected and the overall opinion of the town is that they are good neighbors. Only if National Casein decides to move on will the Borough exercise the chance to redevelop the site as it feels is the best use for the site. The mayor feels that National Casein has always been a good neighbor. Muriel recalled how a developer once proposed that the site should be redeveloped to contain 188 high density apartments and that Borough is only taking steps to meet its COAH obligation yet also protect the town from having something completely unwanted forced upon it. Eric asked if a proforma or any official study had been done to compare the taxes from the current use to the proposed use. Tamara replied that while an official study had not been done, it was a recognized fact that office use presents a higher ratable. The re-zone action being considered does not require this kind of study. Bob Smyth further commented that he feels that National Casein is a good neighbor and feels Eric and the public should understand that it is not about National Casein, but rather what happens if National Casein decides to leave.

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

The chair asked if there was any further comment from the board and if not he would entertain a motion on the matter. There was no further comment and a motion was made by Councilwoman Alls-Moffat and seconded by Suzanne Wells that the board approve the Housing Element with Fair Share Plan. The voice vote was unanimous.

The secretary read the resolution adopting the Housing Element and Fair Share Plan. A motion was made by Councilwoman Alls-Moffat and seconded by Suzanne Wells to adopt the resolution as read. The voice vote was unanimous. The secretary will have the resolution signed and properly published and mailed as required.

Application by Brandenburger/Sheridan, Inc. for Preliminary Site Plan Approval and All Required Variances As Needed to Redevelop the “Nu-Way” and “Riverton Motors” Properties on Broad Street (Block 1501, Lots 20, 21, 22, & 23)

Introduction: The chair introduced the topic and introduced David Oberlander, counsel for the applicant. The secretary attested that all jurisdictional requirements had been met and Tom Coleman stated the hearing could proceed. Mr. Oberlander explained that the applicant was prepared to address all issues of completeness and to address the concerns from the board’s professionals.

Completeness Review: Mr. Oberlander reviewed the application and plans. Andrew Ott, the applicant’s engineer, and Jim Brandenburger, the applicant, were sworn in. The following were entered as exhibits:

- A1 – site plan application
- A2 – site plans
- A3 – hydrological report and attachments
- A4 – Affidavit of Service and Publication with proofs of publication and mailing from applicants attorney (reviewed and attested to completeness by the secretary).

Mr. Ott stated that he had no real issues with points 1-23 in Mr. Malinowski’s letter and revisions would be made accordingly. He stated that point six was not applicable as it dealt with subdivision and that is not a part of the application. Mr. Ennis conceded that he was correct. Mr. Oberlander addressed point three, the issue of unpaid taxes. Since Jim is not the owner of the property, Dave feels that resolution of the tax issue should be made contingent on approval. Tom Coleman stated this was satisfactory if the board concurred. The board concurred. Jim stated that he was purchasing the property with agreement there be a clean title and the current owner would have to satisfy all outstanding obligations and liens before the sale could be completed. A quick review of the points in Mark’s letter was done with highlights as follows where straight agreement was not noted:

- Point 1 – The variances requested will be shown on the application.
- Point 2 – The secretary attested that all fees had been paid and escrows deposited.
- Point 6 – It was agreed this item was not applicable.
- Point 14 – Documentation will be supplied that there are no wetland issues with the properties under consideration. Existing waterways are offsite and over 200’ from the site and they are not permitted to go on other properties.
- Point 15 – They do not know where the two existing inlets on Broad Street go and they will not be using them for their drainage.
- Point 21 – A traffic report has been obtained and will be filed.
- Point 22 – A sign package will be included in the revised submissions.

Jim stated he planned to present a complete set of revised filings prior to the next meeting hopefully prior to the end of the month to ensure sufficient time for review. The chair referenced Tamara’s letter and it was agreed by all parties that her concerns were site plan review related and would be addressed at the appropriate time.

Preliminary Review: Jim was asked to review the plans and significant changes that had occurred since the original concept presentation. A colorized version of the current survey in exhibit A2 was marked as A5. A colorized version of the proposed development in exhibit A2 was marked as A6. Jim explained that the Riverton Motors site was now part of the application. He reviewed the plans for the site which except for the addition of the new lot were essentially unchanged. All existing structures would be demolished. A CVS store is planned as the primary tenant. A small strip of stores would be located adjacent to the CVS store. It is planned that perhaps a free standing bank will be located on the Riverton Motors portion of the site. Bob Smyth asked about the Riverton Motors site and possible contamination. Jim explained that environmental testing has been done on the entire site. After suspicious areas were identified, test drillings were made. There are no underground storage tanks except heating oil tanks currently in use. No leakage has been discovered, no remediation is needed, and official documentation will be supplied. Bob stated this was reassuring and complimented the applicant on his foresight. Muriel asked about time frames and Jim replied he hoped to be underway by next Summer if things go

as hoped for. Jim stated that the CVS was definite and that there were several existing tenants interested in the new stores. There is nothing definite yet on the bank site. It is planned to try and increase the green space and lessen the impervious coverage. The proposed buffers were discussed. To comply fully with the lighting design standards would be very expensive and it is doubted that the style would permit compliance with the foot candle requirements. Bob Smyth asked if the existing gas lights will remain and Jim replied yes. Jim stated they wish to install street lighting that will complement the existing gas lamps; but, their concern is the actual lot lighting. All of these items will be fully addressed during the official site plan review. The chair asked if the bus stop will remain. It was stated this is a county and/or New Jersey Transit issue and not up to the applicant. The proposed commitment by CVS was reviewed. CVS is interested in a 25 year lease commitment, they pay their portion of taxes directly and readily pay all their share of common area maintenance. Jim also reviewed that except for CVS, no other tenant of that quality was interested in locating on the site. Jim stated that a study of the plans indicates the Borough will realize an increase in ratables over the current use. CVS, which prefers to closely follow their own set of design standards, has agreed to vary their designs within reason to conform to the town's architecture standards. Jim stated he has presented the plans before the ARC and reviewed their preliminary comments. Joe Katella asked and was told a bicycle rack would be considered. Suzanne Wells asked who would own the site and Jim replied his firm would retain ownership and lease to the tenants. The preliminary elevations and signage were reviewed for the CVS and strip stores and they were marked as exhibits A7 – A9. There are no renderings yet for the bank. Bob Smyth asked and it was stated that the styles were also based on the "Moorestown" and "Princeton" locations. The need for drive up or drive through windows and their location was discussed. Hours of operation were discussed and assurances presented that a 24 hour operation is not planned. An 8:00 AM – 10:00 PM period was mentioned. The applicant hopes to have CVS representatives present during the site plan presentation. Tamara highlighted the principal concerns from her review. Mr. Ott stated he would clarify the parking issues. Concerning drainage, all current standards and regulations will be met. Emergency overflow will continue as sheet runoff. Preliminary percolation tests of the site have proved very positive. Jim and his engineer stated they would continue to work with Tamara to address pedestrian and landscape issues. Muriel asked for clarification on the requirements in point 11 of Mark's review letter and it was supplied.

The presentation being concluded and there being no additional comments from the board at this time, the hearing was opened to public comment:

- Nick Colleti, 309 Manor Court, asked who owned the sites. Jim replied he is the contract purchaser of the entire site. Nick asked about re-buffering and drainage and Jim stated that in order to clear and prepare the site and to install the improvements that things may get a little worse before they get better. However, all containment requirements would be met and approvals obtained before work commenced. Final buffering cannot be done until the major construction work regarding the site and improvements is completed. They will not be working up to the property lines. The operation will be bonded as required. Access and site control will be "policed" as well as no parking or storage is planned at the rear of the site. The issue of screening and trash enclosures will be fully addressed. Traffic control on Fulton Street is a police enforcement issue. The traffic report will provide details on the projected impact.
- Keith Barth, Fulton Street, lives adjacent to the site and is concerned about noise and possibly increasing buffering. Jim replied he is working with his landscape architect to provide as much buffering as possible. The use of high efficiency HVAC units should reduce the noise.
- Eric Saia, 401 Martha's Lane, asked if a business and marketing plan was being submitted. Mr. Oberlander replied that such a plan is not required to be submitted for the planning application. However, Jim replied that he had researched the potential and is not going into this blind. He would not be proceeding unless he had a firm commitment from a major tenant.
- Jeff Mack, 311, Manor Court, asked about the building lines and how close construction would approach the homes. Jim replied that construction would approach no closer than eight feet of any property lines. The right of way for the existing walking path would not be touched. Asked about plans for the strip stores, Jim replied that several existing tenants have expressed interest; but, he is not signing any leases until things are further along. Jim also stated that it must be realized that in order to retain the existing tenants the lease agreements with the present owner barely cover the owner's expenses. Once the site is improved such an arrangement cannot realistically continue. Asked about control over the types of business, Mr. Oberlander stated uses are limited to permitted uses in the zone. Jim stated he was conscious of the impact and wanted to

ensure the uses were most beneficial for the town.

- Keith Barth asked about timeframes and Jim replied he envisioned the process from demolition to completion taking six to eight months and he hopes that he may begin around mid-summer next year. There being no further comment, the hearing was closed to public comment.

Continuance: The applicant agreed that he wished to continue the hearing until the next meeting. The applicant stated that he would notice if there were additional changes to the application. A motion was made by Suzanne Wells, seconded by Alan Adams, and unanimously approved to continue the matter at the applicant's request.

The Planning Board of the Borough of Riverton approved the following resolution at its regular meeting on November 15, 2005:

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 by Brandenburger/Sheridan, Inc. For Site Plan Approval and all related variances as needed to redevelop the "Nu-Way" and "Riverton Motors" Properties on Broad Street (Block 1501, Lots 20, 21, 22, &23) is continued, applicant having requested an extension of time for consideration of the matter until the next regular meeting of the Board on December 20, 2005.

This notice provides the only official notification required of this continuance granted by the applicant unless subsequent amendments to the application require that formal notification be made.

OLD BUSINESS

Petition to COAH for Third Round Certification:

The chair asked if there was any further questions or comments on the issue. Bob Smyth asked if everything was on track to meet the submission deadline. Tamara stated that the board's work was completed and as long as Council passed the needed endorsements, the petition will be filed as required. The chair and the board thanked Tamara for her efforts and guidance.

Reexamination of the Master Plan – Bob Smyth and Muriel reviewed that completion of the Housing Element represented a major milestone. No other policy recommendations have been made. Suzanne Wells has been added to the subcommittee and the number of board members is still within the limit permitted. As things progress, the subcommittee may seek additional support from the town. Bob feels things are on track. Of course any policy decisions will only be sought from and made by the full board in open meetings.

Redevelopment – There was nothing new to report.

Environmental Commission – Discussion and report was tabled due to the absence of Chris Halt.

Architectural Review Committee – Discussion and report was tabled due to the absence of Chris Halt.

Draft Fence Ordinance Revisions – Discussion and review of the matter was tabled since revisions have not been received from the subcommittee.

Review of Section 128-64 "Off-street Parking" – The mayor reviewed that the request had been reviewed by Council. The consensus was that the position offered by Kerry Brandt of the zoning board was on target and that things should be left as they are and that applicants follow the proper channels as warranted.

Review Procedures/Ordinance for Informal Reviews by the Board – Muriel and the mayor reported that the ordinance had received final approval. Muriel read the enabling resolution adopted by Council.

NEW BUSINESS

Vouchers and Invoices:

1. 11/3/05, Tamara Lee, \$2,443.75, for third round COAH certification work for period of 10/1-10/31/05.
2. 11/1/05, Raymond and Coleman, \$603.00, general business advice, COAH matters, and meeting attendance at October meeting.

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

2006 League of Municipalities Conference – Bob Smyth reported on several items that he planned to attend and that may be of interest to the board including integrating local plans with the state Master Plan and the new educational requirements for board members.

PUBLIC COMMENT

The meeting was opened to public comment.

- Eric Saia, 401 Martha's Lane, asked if National Casein would be notified of any ordinance changes concerning its property. Chuck Petrone and Tom Coleman reviewed the COAH approval process. The official requirements regarding zoning changes were also reviewed. Mr. Saia asked if he could volunteer to assist the reexamination subcommittee in its efforts. His offer was accepted.

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

Meeting adjourned at 9:35 PM.

Next meeting:

- **Regular Meeting is on 12/20/2005 at 7:00 pm in the Borough Hall.**

Tape is on file.

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