

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
October 18, 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, Christopher Halt, Robert E. Smyth, Mayor Martin, and Councilwoman Alls-Moffat.

Also Present: Secretary Ken Palmer, Solicitor Charles Petrone for Tom Coleman, and Board Planner Tamara Lee.

ABSENT: Donna Tyson, Alan Adams, Joseph Katella, and Suzanne Wells.

MINUTES: A motion was made by Mayor Martin and seconded by Bob Smyth to adopt the minutes of the September 20, 2005, regular meeting as distributed. The voice vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. 9/28/05, copies of letter from Lucy Voorhoeve, Executive Director, COAH dated 8/10 and 8/24/05 and mailed 9/20/05 as well as Tom Coleman's 9/26/05 letter to the board regarding COAH's response regarding events related to the Development Fee Ordinance and Third Round Petition. (Copies distributed to the board.)
2. 10/5/05, copies of 9/21/05 letter from Walter Croft, ARC Chairman to mayor and 10/11//05 response from Mayor Martin concerning Arc's participation in planning and zoning application matters. (Copies distributed to the board.)
3. 10/5/05, copy of 9/12/05 letter from State DEP regarding public comment on a draft major modification for Stormwater Discharge Major Modification to the Master General Permit.
4. 10/5/05, announcement from Remington & Vernick Engineers, regarding applications for new Smart Growth Grants.
5. 10/5/05, letter from Peter Cerra, Executive Director, Habitat for Humanity of Burlington County, announcing that they are formalizing a proposal for municipalities in the County to help satisfy COAH Third Round Requirements.
6. 10/5/05, letter from New Jersey Future inviting membership.
7. Five vouchers/invoices as presented under New Business.

OLD BUSINESS

Petition to COAH for Third Round Certification:

Board Planner Tamara Lee was introduced and proceeded to recap the prior meeting, the goals established at the meeting and the developments to date. During the entire presentation, there was an open dialog between the board, Tamara and Chuck Petrone to ensure the board understood the material, its impact, and what the board needed to do to facilitate the process moving forward to completion. The deadline remains that the Borough must submit a petition for re-certification application to COAH by December 19, 2005. Using the board's guidance and the decision that the best way to plan to meet the four additional new COAH units was through inclusionary zoning, Tamara has developed the Fair Share Plan section of the Housing Element. A copy of the Housing Element was provided to the board prior to the meeting. Also distributed was a draft of the revised Affordable Housing Ordinance which will include the new inclusionary zone. Tamara reviewed the details of the September 26, 2005 meeting that she, Muriel, and Borough Solicitor Bruce Gunn had with COAH during a meeting in Trenton on the Smart Growth Grant. COAH has reduced the Borough's rehabilitation number to four units. COAH also agreed to honor the Borough's Vacant Land Adjustment as long as reasonable projections are calculated for the redevelopment area and the Borough re-affirms its ability to satisfy the 13 unit unmet need if the conditions for granting the adjustment change. Tamara believes all this has been done in the completed

revised Housing Element as well as the draft revised Affordable Housing Ordinance. Tamara has received in writing confirmation of the substance of the discussion with COAH. Tamara feels the Borough is on sound footing to pursue the plan she has drafted which retains the existing inclusionary zone for two units and a new zone for the four additional units. Tamara has revised the plan to reflect that the rehabilitation units can occur anywhere in the Borough not just in the Neighborhood Business zone. Her draft assumes that the Borough will continue to utilize the County to administer the rehabilitation program which it also helps fund. Tamara assumes the County will continue to be able to fund the now greatly reduced number since it stated it could support the old number. However, the Borough needs to enter a new memorandum of understanding with the County to that effect. The Borough will continue to be responsible for marketing the program and will also need to pass a revised ordinance agreeing to fund any shortfall. Also discussed is the contribution from Mr. Brandenburger that was made a condition of his site plan approval to develop the site at Broad and Main Streets. Bob Smyth asked what role the State Housing Agency played in this matter. Tamara explained that the State administers the new unit component at no cost to the Borough. The State does not administer the rehabilitation component.

Tamara reviewed in detail the draft of the revised Affordable Housing Ordinance. During discussion on the revisions to the existing zone it was determined that that area should **not** include Lot 20 which is owned by the owners of the Nu-Way site. Lot 20, which the tax records indicate was vacant, is not vacant. Part of the strip stores on the Nu-Way site are on that lot. While this discovery might further reduce the amount of vacant land and the original new unit obligation, it is not certain if it would be worth revisiting since it would probably not make that much difference and may just confuse the entire issue.

The new inclusionary zone which will be the lots currently owned and occupied by National Casein will be rezoned to be for mixed use containing office use and residential use. Any redevelopment of the lots will need to provide for four units of new affordable housing with 50% moderate income and 50% low income. The “incentive” allowances were discussed and the board had concerns over the proposed allowance that part of the development could exceed the Borough’s current maximum 35 foot height requirement and possibly reducing the buffer requirement between residential and commercial space. The board decided that the 35 foot height limit and 20 foot buffer requirement should be maintained. It was noted that COAH currently mandates that a minimum 25% of any new units must be rental units. Rental does not mean apartments, just that they be rental units. However, while the Borough can require that redevelopment in an area includes affordable housing, it cannot mandate the percentage that will be rental units versus owned. Tamara has reviewed with Tom Coleman that the Borough can have in the ordinance a general provision that any developer must comply with all Riverton rules and COAH rules. It was also noted that COAH’s rules are being challenged at many levels, especially some of the mandates, as they make it almost impossible to comply with the rules. The need for the incentives was discussed. Tamara also made sure the board had a clear understanding of what COAH’s definition of low and moderate income is. It does not refer to poverty levels, but to very real levels that apply to people who are fully and gainfully employed. The possibilities and merits of having the two affordable housing zones be developed as a single area were also discussed. Tamara’s calculations were also reviewed in detail as well as the rationale behind the calculations. Tamara also offered that the mixed use proposal has been presented before and approved by COAH. The possibilities of trying to preserve some of the existing structures on the National Casein site were discussed.

Tamara also distributed drafts of other materials that must accompany the petition. These included the Spending Plan, the Affirmative Marketing Plan, revisions to the Development Fee Ordinance to meet Round Three parameters, and an Affordable Housing Growth Share Ordinance which replaces the now obsolete accessory apartment section. These documents support the Housing Element and provide the means of achieving the plan and the enabling ordinances to enforce the plan. Only the Housing Element has to be adopted prior to submission. Any ordinances may be submitted as drafts. The ordinances only have to be approved once COAH certifies the Borough’s plan. Following certification, the Borough has 45 days to adopt the enabling ordinances. As discussed previously, certification may take some time from the date it is submitted.

The need for special meeting(s) to complete the work and have it before Council in time for their consideration was discussed. The board hopes to be able to conduct the required public hearing on the Housing Element at its regular November 15th meeting. It was agreed that at least one meeting is needed prior to the 15th meeting. Enough time is needed for the board to digest all the material given to them as well as allow Tamara the time to

incorporate agreed upon revisions and the details agreed to at tonight's meeting. Only the Housing Element needs a public hearing. The rest of the material while part of the petition package supports the Housing Element and can be in draft form. If all proceeds to plan, the board will vote at the special meeting to hold the public hearing on the 15th. Following the hearing the board can then vote to adopt the element and recommend sending the package to Council. After a discussion of dates, Bob Smyth moved, Muriel Alls-Moffat seconded and the board unanimously voted to hold a special meeting on Thursday, November 3, 2005, at 7:00 PM in Borough Hall. The secretary will make sure proper notice is posted and that the meeting is properly noticed in the newspaper. It was also determined no one had any conflicts with the date of the November 15th meeting. Tamara will make sure the hopefully final drafts of materials are distributed at least by the end of the month.

Before leaving the topic, the chair requested and received a motion to open the meeting to public comment on the matter:

- Michael Heine, 206 Carriage House Lane, asked Tamara about the collection of fees and using them to satisfy the Borough's obligation in other towns. He also voiced concern that any development plans not further the loss of the Borough's unique identity. Tamara responded that the use of fees paid to another municipality is possible; but, given the Borough's small size and area available for development, the Borough quite possibly cannot generate the fees needed to satisfy its obligation. There are two types of fees: "development fees" and "payment in lieu of" fees. Only development fees can be spent outside the town. Payment in lieu of fees must stay in the Borough. Thus of all the mechanisms available, it was decided that the proposed new inclusionary zone is the Borough's best alternative.
- Councilman Ed Gilmore, 103 Main Street, voiced his concern that the Borough needs more not less open space especially for recreational use. The National Casein site represents the only real area that can be retained as open space. Ed enumerated uses for the existing buildings. The chair stated that Ed's concerns and proposals are the next item on the agenda and perhaps he would wait and continue his discussion then.

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

Board Review of a Proposed Revision to Chapter 128-29 – Councilman Gilmore was introduced and discussed his proposal that a revision be made to the bulk requirements for the General Business zone particularly as it impacts the National Casein site. He distributed additional copies of the material previously given to the board. Ed feels the Borough needs more open space and the National Casein site represents the last significant site to achieve this. He thinks that the Borough could purchase the entire site then parcel it out for development as the Borough wants. He proposes that the front of the site be developed and the back retained for park and recreation purposes. Tamara stated that this can and has been done, but doing so makes it harder for a developer to economically develop the site. Ed proposes that the old "Dreer's Nursery building be preserved and perhaps converted to affordable housing. Tamara stated that this may constrain the developer's efforts to meet the affordable requirement. Muriel asked about COAH's rules concerning rehabilitation versus new construction. Tamara explained that you cannot use rehabilitation to replace new but you are allowed to substitute new construction for rehabilitation. However, Tamara also offered that COAH might consider converting old commercial to residential as "new" residential; but, she would have to research this. Tamara stated that the petition can always be amended once it is submitted; but, presently it is absolutely critical that the petition be submitted by December 19th. In addition, it is always possible to apply for an amended certification if once certified if conditions change. Finally, you are not allowed to zone for parks. The chair stated that while the door is not closed on Ed's proposal, he does not feel that it can be considered now until the petition is completed and submitted. Ed closed by stating that he doesn't want the opportunity to be lost if it is to happen.

Reexamination of the Master Plan – In addition to related discussion under the topic of the COAH petition, Bob and Muriel reviewed progress of the subcommittee to date. Input received from the zoning board, the school, and the County was distributed to the board and discussed. A member of the County was invited to tonight's meeting but could not attend. The Housing Element is a major piece and thankfully is being addressed under the COAH petition.

Redevelopment – Councilwoman Alls-Moffat reviewed the meeting with the State over the Smart Growth Grant and the subsequent major COAH related development. There were also offers of grant funds to help develop the Post Office. While the original grant cannot be used strictly for redevelopment, the State is still encouraging the

town to make use of the grant for “planning” related purposes and funds are available for other projects. Since the original proposed use of the grant no longer exists, Bob Smyth asked if there was a list of alternative “planning” uses. Tamara stated that traffic and market studies are possible alternatives; but ideas are welcome and needed. Otherwise the State gave the town almost a blank sheet as long as it is planning related. The State will readily state what the grant cannot be used for, but left the actual use up to the town. As to lack of progress on the redevelopment plan, it was reviewed that since the plan directly impacts the COAH petition, it has been recommended by Tom Coleman and Tamara and that work on the plan be put on hold until the COAH petition is completed. The mayor feels that grant funds should be used for something the town plans to do and grant funds are available to pay for it. It was also noted, that if the town cannot spend the funds it now has, it may make it harder to justify additional grants.

Environmental Commission – Chris Halt reported that the commission intends to present testimony on the Cedar Lane application that is before the zoning board. The commission is still seeking assistance in drafting the proposal supporting the request to increase the wetland setback for the Pompeston Creek. Chris also announced that there is a meeting of the Pompeston Creek Regional Stormwater Management Committee is on the 19th in Moorestown and that the Regional Stormwater Management Committee personnel will be in attendance.

Architectural Review Committee – Chris Halt reviewed the ARC activity for the month. Jim Brandenburger had appeared to review the proposed plans for the Nu-Way site. At the meeting Jim had announced he had also been able to buy the Riverton Motors site. Also Jim has been made aware that the County has a 14 foot right of way easement along the property that the County may use for Broad Street improvements. This latter remark seems to contradict the County’s statement that it was not planning any further changes to Broad Street in the town.

Draft Fence Ordinance Revisions – Discussion and review of the matter was tabled due to the lateness of the hour and the press of other business.

Review Procedures/Ordinance for Informal Reviews by the Board – Muriel and the mayor reported that the ordinance was approved at first reading in Council and is scheduled for second reading and public discussion in November.

River Road Development in Cinnaminson Township – The matter was tabled due to Donna’s absence.

NEW BUSINESS

Review of Section 128-64 “Off-street Parking – The mayor reviewed that there was a request to Council that the section be revised to alleviate businesses having to request variances for parking when there is a permitted change of use at an existing site where parking issues already exist. The request to Council was that portions of the section be repealed. The mayor and board discussed zoning chair Kerry Brandt’s preliminary response that no provisions of the section should be repealed but perhaps there was a way to modify things for existing sites. The secretary reported that the topic was on the agenda for tomorrow night’s zoning meeting. The general consensus of the board supported Kerry’s position and that perhaps the board will look into the matter further.

Vouchers and Invoices:

1. 10/5/05, Lord Worrell & Richter (9/30/05), \$150.00, general professional services on 8/16/05.
2. 10/5/05, Lord Worrell & Richter (9/30/05), \$657.00, professional services in reviewing the Brandenburger Concept Plan. (PAY FROM ESCROW.)
3. 10/5/05, Tamara Lee (10/3/05), \$2,096.25, for third round COAH certification work for period of 9/1-9/30/05.
4. 10/12/05, Tom Coleman (10/4/05), \$554.00, general business advice, informal review ordinance, COAH matters, and meeting attendance at September meeting.
5. 10/18/05, Kenny Palmer (10/18/05), \$30.00, copying the September board meeting tapes for absent members.

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

Conflict with the November League of Municipalities Convention – The board discussed if there were any conflicts between the convention and the board meeting scheduled for November 15th. There were none

PUBLIC COMMENT

The meeting was opened to public comment.

- William Harris, 502 Cinnaminson Street, wanted to know how long a paper street can exist until it is considered vacated. Chuck Petrone stated he would look into the matter and try to have an answer by the next meeting. It was also mentioned that there are seven building lots on the tax map along the paper street and vacating the street right of way would make the lots non-buildable.
- James Moffat, 200 Fulton Street, commented on the proposed fence ordinance revisions. He feels that the town and Borough have more important things to consider than revising the fence ordinance. There was comment that some members have concerns with some of the revisions especially front yard fences. The secretary provided a brief review of why zoning is concerned since that board has to hear variances from the ordinance. Also the issue of front yard fences has always been a touchy issue in the town.
- Nancy Morton, no address provided, was at the meeting to address her application for Minor Site Plan Approval. She stated she had left a message for the secretary; however, the secretary replied that he had not received any message. The application and payment had only been dropped off today and the secretary and the chair were not aware of its existence prior to tonight's meeting. With the absence of the Code Enforcement Officer nothing could be decided tonight. The chair apologized for any mix up and told Mrs. Morton that the issue would be resolved no later than the board's special meeting on November 3.

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

Meeting adjourned at 9:56 PM.

Next meetings:

- **Special Meeting for COAH Third Round Petition is on 11/3/2005 at 7:00 PM in the Borough Hall.**
- **Regular Meeting is on 11/15/2005 at 7:00 pm in the Borough Hall.**

Tape is on file.

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