

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
September 20, 2005**

The Public Session of the Planning Board was called to order at 7:05 PM by Secretary Kenny Palmer.

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: Christopher Halt, Robert E. Smyth, Mayor Martin, Alan Adams, Joseph Katella, and Suzanne Wells.

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

ABSENT: Frank Siefert, Donna Tyson, and Councilwoman Alls-Moffat.

REORGANIZATION: Prior to the start of the meeting, Board Solicitor Tom Coleman swore in Robert E. Smyth as a regular member, Suzanne Wells as an alternate member, and Alan Adams as the Class II member of the board.

HOUSEKEEPING: In the absence of the chair and vice chair, the secretary called the meeting to order, called the roll, and established that a quorum was present. A motion was requested to appoint an acting chair from the regular members for the meeting. It was motioned and seconded that Robert E. Smyth act as chairman for the meeting. There were no other nominations and the motion was unanimously approved. Acting Chairman Bob Smyth took over as chair for the meeting.

MINUTES: A motion was made by Mayor Martin and seconded by Chris Halt to adopt the minutes of the August 16, 2005, regular meeting as distributed. The voice vote was unanimous.

CORRESPONDENCE/ANNOUNCEMENTS

1. **9/7//05, communication addressed to chair from New Jersey Planning Officials inviting board to join NJPO and including the latest copy of "The New Jersey Planner" newsletter. The newsletter contains information regarding mandatory education requirements for members and discussion on COAH third round rules. The finalized education requirements and related courses should be released in January 2006.**
2. **9/20/05, announcement from Association of New Jersey Environmental Commissions (ANJEC) of their 32nd Environmental Congress on October 21, 2005.**
3. **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 present a thorough discussion on the progress to date and what was still to be done regarding the Borough petitioning COAH for re-certification under COAH Third Round Rules. During the entire presentation, there was an open dialog between the board, Tamara and Tom 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 critical deadline in all of the discussion is that Riverton, when the board finishes writing the new Housing Element, must submit a petition for re-certification application to COAH by December 19, 2005. The submission will include needed supportive documentation, but the main document will be the new Housing Element. The Housing Element will have three parts: 1) a Housing Plan, 2) the Growth Share Projections, and 3) a Fair Share Plan.

During the presentation, two items of related old business were also discussed. Tom Coleman reported that he still had not received a response from COAH regarding his request for clarification of the situation surrounding timing and regulations for revised Development Fee Ordinances and Third Round submissions. His follow-up requests also have not received a response. His advice to the board was that given the time frames involved he

recommends the board continue its present course to prepare the submission. He feels there is a good chance that the decision will not be reversed; and, if that is the case, the board and town do not have the luxury of waiting to take action and the town will be left unprotected from possible suits by builders. Tamara reported that she had also been unable to secure any further information on other communities in a similar situation as Riverton. Both Tamara and Tom agreed that COAH is under a lot of pressure due to understaffing and loss of their most experienced personnel. There are around 110 communities preparing to submit third round petitions and most or close to all will not be submitted until the close to the deadline placing additional pressure on COAH to handle the load of work.

Tamara distributed two handouts to the board. One was a listing of the submission requirements and the other was a draft of the Housing Element. Regarding the work to be completed and the time frames, Tamara reiterated that the board will probably have to consider some special sessions. At a minimum, at least one will probably be needed for a public hearing on the revised Housing Element which is required before it can be adopted by the board and recommended to Borough Council. Council is not required to adopt any supporting ordinances at this point, only to adopt resolutions related to the submissions. Once submitted, the Borough is "safe" from suits by developers. Following a period for public comment to COAH on the submission, the process of review and approval begins and it is not uncommon that some revisions may be required. The process may take more than a year to complete and once certified it is retroactive to the date of submission.

The Housing Element, which is part of the Master Plan, is the critical element that applies to and is reviewed by COAH when considering certification. It contains three sections. Tamara has drafted the first two and reviewed all three with the board. The Housing Plan is the first section and uses updated (2000) census data and demographic analysis to quantify where the Borough's housing stock is now and to support where it might go. The second section is the Growth Share Projections which is where the Borough states where it projects growth to be after the next ten years. It is developed by a thorough review of past development/redevelopment, pending applications, and projected growth. The third section is the Fair Share Plan where the Borough presents how it plans to meet the resulting obligations. While the first two sections of the element are drafted, the Fair Share Plan remains and the purpose of this meeting is to provide Tamara the direction needed to craft it.

Tamara reviewed the background and how:

- Under the old rules, COAH told a municipality what the town's new and rehabilitation needs were. For Riverton it was 15 new and 15 rehabilitation units.
- By using a Vacant Land Adjustment, Riverton was able to demonstrate that its amount of supposedly developable land was not the case and the town was able to reduce the new component to two (2) units with 13 classed as an unmet need. The unmet need only comes into consideration if subsequent changes make any of the "adjusted" area subject to development/redevelopment.
- Under third round rules, any previously defined obligations remain and now instead of being given a number by COAH, a town must, based on COAH rules, project the new obligations which are subject to periodic review by COAH at 3, 5, and 8 years over the 10 year period of certification. At any point, if actual growth exceeds the projected growth by 10% an immediate amendment of the plan is required and the certification can be called into question.
- COAH has already told the Borough that its previous number of rehabilitation units is reduced to four (4).
- COAH has adopted a stance of closely examining vacant land adjustments and desires to disallow them whenever possible.
- The Borough's pending redevelopment plan especially regarding the National Casein property may provide the impetus for COAH to not allow the vacant land adjustment.
- Both Tom and Tamara have advised Council, based on existing and possibly pending applications that involve the redevelopment area as well as the plan's potential impact on the Housing element, that it may be best if Council not consider adopting a redevelopment plan until issues surrounding the third round petition are clarified.

Tamara reviewed the draft of the Housing Element:

- Revising the Housing Plan section was basically reviewing and updating what was previously written. Between the 1990 census and 2000 census everything has essentially aged in place. The town has actually experienced some negative growth and based on regional planning data is projected to continue negative growth.
- The Growth Share Projections start with the existing obligations (2 new units and now revised 4 rehabilitation units) and the possible unmet need of 13 new units currently not required due to the existing vacant land adjustment.
- Using figures developed from a historical review of development/redevelopment based on building and demolition permits, a review of current and pending applications before the planning and zoning boards, as well as projected growth patterns; Tamara has developed a projected number of 4 additional new units. This is based on essentially a net increase of one new residential unit and no new commercial units over the period reviewed, a projected obligation of three (rounded up number) new units based on pending applications, and a projected zero future growth obligation.
- While the figures based on historical growth and the impact of pending applications is readily quantifiable, the “gut” projection number is harder to quantify. Based on the Borough’s existing zoning codes Tamara feels there is strong support for the Borough using the zero future growth calculation since recognized and required/permitted regional planning figures project negative growth. Using the zero growth projection supports the Borough being proactive in projecting its obligation. While the residential and NB districts support zero growth the GB district allows uses that are different from some of the existing uses and therefore a case may be made that some redevelopment could be expected in this zone (see National Casein above).
- While Tamara hopes to convince COAH that the vacant land adjustment is still valid, at this point in time she feels the state may not continue to approve the Borough’s vacant land adjustment. Tamara thinks the Borough needs to use both the hoped for obligation of six (6) new units but also allow for the fact that it may be nineteen (19) new units (6 plus the 13 unmet need from the vacant land adjustment) if the approval of the vacant land adjustment is denied.

The form and content of the Fair Share Plan were thoroughly debated:

- Using her memos distributed in August regarding methods to meet COAH obligations, Tamara reviewed the pros and cons of each method. Most can be complex and involve a lot of administration and/or the availability of adequate funding.
- After reviewing all the possible methods for satisfying affordable housing, the board concluded that: First, Riverton is small, relies on volunteers, and thus to administer a complex housing plan may be difficult, if not impossible. Second, since the Borough is almost completely built out, any new development or redevelopment will be minimal and thus, any fees that might be collected from developers will always be quite limited. Not being able to generate the fees will restrict or greatly limit the Borough’s ability to use options that require funding, like Regional Contribution Agreements or municipally sponsored affordable housing projects.
- After extensive discussion, the board agreed that the best way to satisfy its affordable housing obligation is to expand the current affordable housing (AH) inclusionary zone. An inclusionary zone mandates that affordable housing be part of any development plans.
- The current AH zone is located on Martha’s Lane, a paper street adjacent to the National Casein property. The current AH zone will remain the same, but a second AH zone should be proposed for the National Casein site. As with the current AH zone, the new AH zone will include adequate development density bonuses to insure that the subject land maintains its value and economic development potential.
- It was proposed that the new zone be re-zoned for a mix of office uses with some residential development. The currently permitted retail uses will no longer be allowed and the reasons for removing retail uses from the zone were discussed. Principally, removing the retail uses will reduce the competition on downtown retail businesses and improve their chances of economically succeeding. Another factor is, based on COAH’s criteria, that office development equates to three housing units per 25,000 square feet of building area, while retail space equates to only one housing unit per 25,000 square feet. Thus, by providing a density bonus with office space requires less building area than retail space.
- The board also concluded that any residential development in the new zone should include a mix of 50% affordable housing and 50% market rate housing which should maximize the flexibility permitted in terms of

the type of housing units that will be allowed. However, most of development on the site should be commercial and any proposed zoning ordinance should include the necessary incentives to encourage developers to build more offices and less residential units.

- The board wanted to make sure it is clear that the development of all residential housing in this zone should not be allowed.

Finally it was reviewed what the next steps should be:

- At a minimum, Council should consider a resolution removing the National Casein property from the redevelopment plan and from the identified area needing redevelopment. This action supports the actions to be proposed in the Fair Share Plan and the rationale for maintaining the vacant land adjustment.
- Tamara will provide a recap of the discussion as soon as possible.
- Tamara will draft the third section of the housing element and provide a draft of the complete element to the board prior to 10/18.
- Tamara will also attempt to have a draft of the ordinance for the new affordable housing zone prior to the next meeting.
- The draft Fair Share Plan and ordinance will be discussed at the October 18th meeting, as well as a proposed Growth Share Ordinance for the rest of the Borough.
- A motion was made by Joe Katella, seconded by Suzanne Wells and unanimously approved that the secretary is authorized to incur the expense required to produce copies of the tapes of this meeting so that Frank, Muriel and Donna may review them prior to the next meeting. This is not required but deemed needed due to the amount of material covered and its complexity.
- The secretary will also make copies for the board of the NJPO newsletter material on COAH.

Board Review of a Proposed Revision to Chapter 128-29 – Councilman Gilmore was not feeling well and was unable to stay for his presentation. The matter was tabled and Mr. Gilmore will be given the opportunity to make his presentation at the next meeting.

Reexamination of the Master Plan – In addition to related discussion under the topic of the COAH petition, Bob Smyth reviewed progress of the subcommittee to date. Input is coming in on “Worksheet C” with more needed. Input from the zoning board is desired. Input has been received from the Environmental Commission and the Board of Emergency Management. Bob is going to meet with the Board of Education. The subcommittee feels that input from the County level should be received from them during an open session of the entire board where questions from the board could be allowed.

Redevelopment – The mayor had nothing additional to add other than already discussed in relation to the possible impact on or by the COAH third round petition to the proposed plan. It is still not before the entire Council for consideration.

Environmental Commission – Chris Halt reported that the commission is seeking help from Council and/or the board in drafting the proposal supporting the commission’s request that Council considers increasing the wetland setback for the Pompeston Creek. There is a lack of resources within the commission to complete this item at present. The commission is in contact with Councilwoman Villari on stormwater management and everything is on schedule.

Architectural Review Committee – Chris Halt reviewed the ARC activity for the month.

Draft Fence Ordinance Revisions – The secretary reported that the subcommittee chair had informed him that there had been no comments received from members of the planning board. The board decided to table the matter until next month.

Review Procedures/Ordinance for Informal Reviews by the Board – Tom Coleman reviewed that the board wished to have some form of process in place when dealing with requests for informal review which provides the board adequate time to review a request before a meeting to consider it. The process is supported by statute. Tom stated that if the board was satisfied with the proposed draft, a motion to recommend to Council for consideration

was in order. The chair entertained a motion which was made by Joe Katella, seconded by Suzanne Wells and passed unanimously that the draft ordinance be passed to Borough Council with the Board's recommendation that it be adopted.

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

NEW BUSINESS

Vouchers and Invoices:

1. 9/7/05, Tom Coleman (9/1/05), \$554.00, general business advice, including the informal review ordinance, and meeting attendance at August meeting.
2. 9/7/05, Tom Coleman (9/1/05), \$105.00, services provided for the Brandenburger Concept Plan hearing. (PAY FROM ESCROW)
3. 9/7/05, Tamara Lee (9/4/05), \$212.50, services provided for the Brandenburger Concept Plan hearing. (PAY FROM ESCROW)
4. 9/7/05, Tamara Lee (9/4/05), \$3,527.50, for third round COAH certification work for period of 8/1-8/31/05.
5. 9/7/05, Tamara Lee (9/4/05), \$127.50, for master plan reexamination work for period of 8/1-8/31/05.

A motion was made by Mayor Martin, seconded by Joe Katella and passed unanimously to pay the items as presented. The items will be delivered to Frank for his signature.

PUBLIC COMMENT

The meeting was opened to general public comment. There was none and the meeting was closed to public comment.

Meeting adjourned at 10:30 PM.

Next regular meeting is on 10/18/2005 at 7:00 PM in the Borough Hall

Tape is on file.

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