

**RIVERTON BOROUGH PLANNING BOARD
MINUTES
November 3, 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 October 25, 2005.
2. Required Service of notice and publication in the Burlington County Times on October 26, 2005.

PRESENT: Frank Siefert, Robert E. Smyth, Mayor Robert Martin, Councilwoman Muriel Alls-Moffat, Alan Adams, and Suzanne Wells.

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

ABSENT: Donna Tyson, Christopher Halt, and Joseph Katella.

MOTION TO SUSPEND NORMAL BUSINESS: A motion was made by Councilwoman Alls-Moffat and seconded by Mayor Martin to suspend normal business for the meeting until the next regular meeting and proceed with the announced purpose of the meeting to consider the revised Housing Element and the petition to COAH for Recertification under COAH Third Round Rules. The voice vote was unanimous.

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. Tamara asked if the members had the latest revision of the Housing Element. Tamara reviewed the minor changes to the element including changes to reflect the revised Vacant Land Adjustment. Block 1500, Lot 20 which is part of the Nu-Way site is on the tax rolls as a vacant lot. It is not vacant. To reflect that two affordable units will not realistically fit in the existing Affordable Housing zone, Tamara now intends to project one unit on the existing AH1 zone and five units on the new AH2 zone. There are a few possible bumps in the element due to COAH rules. COAH states that 25% of units must be rental, yet a town cannot zone "ownership." For six units this presents a problem. With advice from Tom Coleman, language is inserted that states a developer must comply with COAH requirements. COAH will probably take issue with this; but Tamara and Tom think this can be addressed if and or when COAH challenges them. There are also suits in progress challenging COAH and things may change. On the issue of multi-family housing, the board concurred and Tamara stated she would change all documentation to refer to singles, duplexes twins and town houses, but not apartments.

Tamara reviewed the Affirmative Marketing Plan and it is basically unchanged from the existing plan. It was discussed that the things are changing at the County level as to who is administering the program. Tamara stated that this is easily modified as needed once the dust settles at the County level. Regardless, marketing is at the local level and the marketing plan addresses how the town proposes to market the program. At the state level the responsibility as been transferred to another unit. It is okay to identify the appropriate agency and if it changes in the interim, it is a minor modification.

The Spending Plan defines what the town will do with the monies it will receive. Tamara suggests \$40,000.00 for the rehabilitation portion. While the County has pledged to cover this, the town must bond or make sure the amounts are available if the County does not fund the cost. The law also allows a percentage to be set aside for administrative costs. This acts to cover costs if the State or County rescinds its intent to cover the administration of the plan. Hopefully this set aside will allow the town not to have to bond for the shortfall.

Tamara reviewed the changes made to the draft Affordable Housing Ordinance. Tamara stated that this draft will

also have the multi-family phrase removed as in the Housing Element. This document does not have to be adopted. A draft form is okay for the submission. In discussing the landscape buffers it was concluded that the 20 foot requirement was okay once it was understood where it would possibly apply. The issue that the town may not really want to redevelop the new affordable housing area was also discussed. It was again concluded that time for submitting the petition was the critical factor and to come up with an alternative method at this late date was not possible. The town can always come up with a revised method and subsequently modify the plan to reflect the changes. This is a benefit under the round three rules. The monitoring piece allows and even encourages flexibility in meeting changes. Under round two, modifying an approved plan was difficult at best.

The draft Growth Share Ordinance was reviewed. To accommodate the board's concerns that commercial and residential uses be kept separated, this draft will be revised to reflect that there is no mixed use permitted in a single structure. The provisions for creating affordable housing units elsewhere within the Borough were discussed. COAH has not yet defined any model requirements for this ordinance. COAH does not specify when a town can access development fees vs. payment in lieu of fees. This represents a possible hitch in the process since the fees are different. It was discussed what constitutes an obligation. Replacing housing does not generate an obligation. Only increasing the housing stock or increasing commercial space creates a corresponding COAH obligation. As with the Affordable Housing Ordinance, the Growth Share Ordinance only has to be submitted in draft form. Only the Housing Element must be adopted. All related ordinances are only required be adopted if and when COAH approval is received. At that time, the town has 45 days to adopt the enabling ordinances.

The draft Development Fee Ordinance was reviewed. COAH has developed model regulations for this ordinance and the draft complies with the COAH model. Only minor changes have been made since the last revision made earlier in the year. Tamara explained Section 128-122. The rest is based on standard COAH language.

Finally, Tamara reviewed the details of the revised Vacant Land Adjustment. While the details are finalized, Tamara needs to add text that explains the changes. Tamara reviewed all the submissions that must accompany the Housing Ordinance for the petition. Tamara summarized the changes discussed tonight. The purpose of the public hearing was explained. The secretary read the draft of the required notice to the board.

The chair asked if the board had any more questions at this time. If not a motion was entertained to call for a public hearing on the Housing Element. Councilwoman Alls-Moffat motioned and Suzanne Wells seconded that the board conduct a public hearing on the proposed Housing Element at the board's regular meeting on November 15, 2005 and that the secretary make sure that all required notifications are met. It was explained that notice must be published in the newspaper and that the impacted property owner(s), neighboring municipalities, and County agencies need to be notified by certified mail. The publishing and mailing needs to occur no less than 10 days prior to the date of the scheduled hearing. There was no further discussion and the motion passed by unanimous voice vote.

Public Comment – The chair requested and received a motion to open the meeting to public comment on the matter:

- James Moffat, 206 Fulton Street, asked about the date and time of the hearing. It was explained that the hearing would be the first order of business at the regular meeting at 7:00 PM on November 15.
- Michael Heine, 206 Carriage House Lane, asked if the proposed changes for the new AH2 zone were necessary to meet certification under round three. It was explained that using an inclusionary zone was a permitted method of showing how the obligation would be met. The Borough must submit its petition by the December deadline to remain protected. Any other method requires that a specific property be identified, an agreement with the owner is in place, and an agreement with a non-profit agency is in place. Since this does not currently exist, there is not time to do so and still hold the hearing, adopt the element, and have Council endorse the plan. The Borough can amend the plan later if another method for satisfying the Borough's obligation occurs. Michael is concerned there is case law where a judge might overturn an approved plan.

- William Harris, 502 Cinnaminson Street, feels that changing the National Casein property without the owner's consent could result in a lawsuit. It was explained that the owners of the site would be among those formally notified.

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

Meeting adjourned at 8:55 PM.

Next meeting:

- **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**