

Sea Bright, New Jersey
Unified Planning Board Minutes
July 13, 2010
8:01 p.m.

Chairman Cunningham called the meeting to order and requested those present to join in the Pledge of Allegiance to the flag:

The Borough of Sea Bright, in compliance with the "Open Public Meetings Act" has advertised the date, time and location of this meeting in the **The Asbury Park Press** on January 15, 2010 filed it with the Clerk, and posted a notice on the bulletin board in the Borough Office.

3. ROLL CALL:

PRESENT: Beer, Cunningham, DeSio, Fernandes, McBride, Murphy, Nott, Torcivia, Smith, Leckstein, Janey
ABSENT: Cashmore

4. MINUTES:

A. Boardmember Leckstein introduced a motion adopting the May 25, 2010 Unified Planning Board Minutes. Second by Boardmember Nott and approved upon the following roll call vote:

Ayes: Cunningham, DeSio, Fernandes, Murphy, Nott, Torcivia
NAYS: None
ABSTAIN: None
ABSENT: Cashmore

5. Boardmember Torcivia introduced a motion that the Unified Planning Board has reviewed the following ordinance and recommend it for final adoption.

A.

ORDINANCE NO. 18-2010
AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT
AMENDING CHAPTER 130 LAND USE
REQUIRING RETROFITTING OF EXISTING STORM DRAIN INLETS

Second by Boardmember DeSio and approved upon the following roll call vote:

Ayes: Beer, Cunningham, DeSio, Fernandes, McBride, Murphy, Nott, Torcivia, Smith
NAYS: None
ABSTAIN: None
ABSENT: Cashmore

B.

**DRAFT MASTER PLAN
HOUSING PLAN ELEMENT AND FAIR SHARE PLAN**

Patrick McNamara, Esq said that New Jersey is governed by the 'third round rules' of COAH. An Ordinance and draft of a Housing Element and a Fair Share Plan has been prepared through the COAH process. This is a work session concerning the Housing Element and the board should spend time reading and making recommendations to this document. The Housing Element can not be debated until it has been noticed and that this is the only item on the agenda.

John **Msluega**, planner of T&M Associates said that the draft of a Housing Element and a Fair Share Plan is the first step that Sea Bright needs to be in compliance and to meet the needs and obligations for affordable housing. COAH operations regulates affordable housing obligation throughout New Jersey. This draft plan meets COAH's current regulations.

COAH's housing obligation is comprised of three separate obligations. The first round came from the 1985 Fair Housing Act whereby COAH adopted regulations imposing an obligation of all municipalities in New Jersey through a formula, which lasted 6 years. In 1994, came the second round. The third round rules were determined by the municipalities' growth share and a percentage of the growth should be set aside for low and moderate income. Also, the third round is comprised of not how many units were built in the municipality but also non-residential developments determined by the number of jobs created. This includes actual construction and certified occupancy data. The municipality is to build an affordable unit for every sixteen jobs created. The theory is that people should live where they are employed.

There are three prior round obligations, beginning with 37 units, rehab obligation is 21 units and the last is the growth share which makes up all of COAH's components for fair housing within the municipality. To date it is unknown what Sea Bright's growth share is but the initial projection is 4 units which is cumulative from 2004 to 2018. This projection portrays job loss. Rehab units are based on census and state information occupied by low/moderate individuals that have code violations and deficiencies.

COAH methodology allows the municipality to address all rounds differently. We can employ realistic development potential to reduce those numbers. This addresses the real situation that Sea Bright is a developing town and where could you put 37 affordable units. We have demonstrated an analysis called a vacant land adjustment to prove that we can not meet the prior round obligation of 37 units which in some way goes away but not entirely. This is referred as unmet need. If our unmet need plan is certified by a judge and has been addressed. The plan states that we do not have the land to build 37 affordable units and this is a potential of zero. The compliance plan has an ordinance provision that states that if anyone is constructing apartment above retail in those zones will be required to have one unit for affordable housing.

Attorney McNamara said that re-zoning the property in question provides and addresses an obligation that the state is already identifying that Sea Bright needs to meet a legal obligation. The property owner is aware of the Borough's obligation and is saying that he has a right to bring a builder's remedy. He has the presumption that he can fulfill the obligation that the Borough has not met that he has standing. The developer will need to meet all legal requirements for a new development. He will have twenty market units and four affordable units and the plan has series of options for qualified rental, income restricted and senior which is in COAH's regulations.

Attorney McNamara said that Mr Scudieri has a concept plan for two three-floor buildings including surface and below parking.

Attorney McNamara said that if a Housing Element Plan does not exist then the Borough leaves itself open to an attack. In the builder's remedy lawsuit the choice does not exist for the Borough. Once the Housing Element Plan is adopted no one else can bring another builders remedy lawsuit and this becomes a benchmark. Sea Bright's Housing Element Plan completed in the 1990's was never submitted to COAH for certification.

Attorney McNamara said that the Borough could adopt a Developer Fee ordinance where all new developers would contribute into a developer fund for future affordable

housing with COAH approval. The Board said that the developer fee ordinance would be a burden to homeowners.

Boardmember Fernandes introduced a motion to open the meeting to the public at 10:07 p.m. Second by Boardmember McBride and adopted by unanimous voice vote.

Peter Graham of Land's End said he felt that this was spot zoning.

Nick Caliendo of Land's End said that the current property has been mismanaged and future developments would not be successful.

Boardmember Murphy introduced a motion to enter into Executive Session at 10:40 p.m. Second by Boardmember McBride and approved upon the following roll call vote:
Ayes: Beer, DeSio, Fernandes, McBride, Murphy, Nott, Torcivia, Smith
NAYS: Cunningham
ABSTAIN: None
ABSENT: Cashmore

Boardmember Murphy introduced a motion to continue into the regular order of business at 10:50 p.m. Second by Boardmember McBride and approved upon the following roll call vote:
Ayes: Beer, Cunningham, DeSio, Fernandes, McBride, Murphy, Nott, Torcivia, Smith
NAYS: None
ABSTAIN: None
ABSENT: Cashmore

C.

ORDINANCE NO. 15-2010
**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF
SEA BRIGHT, SPECIFICALLY CHAPTER 130, TO CREATE A NEW
HOUSING DISTRICT ENTITLED "R - 4 MULTI FAMILY HOUSING"
FOR DEVELOPMENT AT FOR BLOCK 34,
LOT 4 ON OCEAN AVENUE**

Boardmember Torcivia introduced a motion recommending that the Governing Body include aesthetics and height of the building in its negotiations with the developer as it is relative to the surrounding area.
Second by Boardmember DeSio and approved upon the following roll call vote:

Ayes: Beer, Cunningham, DeSio, Fernandes, McBride, Murphy, Nott, Torcivia, Smith

NAYS: None

ABSTAIN: None

ABSENT: Cashmore

Boardmember Torcivia introduced a motion authorizing Attorney Higgins to negotiate with the developer on behalf of the Unified Planning Board. Second by Boardmember DeSio and approved upon the following roll call vote:

Ayes: Beer, Cunningham, DeSio, Fernandes, McBride, Murphy, Nott, Torcivia, Smith

NAYS: None

ABSTAIN: None

ABSENT: Cashmore

8. ADJOURNMENT:

There being no further business before the Planning Board Boardmember Murphy made a motion to adjourn the meeting at 10:55 P.M. Second by Boardmember McBride and approved upon unanimous voice vote.

Respectfully Submitted,

Suzanne Branagan
Board Secretary