

M I N U T E S

Of The
Special Meeting of the
ADVISORY PLANNING COMMISSION

December 27, 1956

The members of the Advisory Planning Commission met in the conference room at 520 East State Street, Trenton, New Jersey. The meeting was called to order by the Chairman, Fred G. Stickel, III, at 1:55 p.m.

Those present were:

Fred G. Stickel, III, Chairman
Herbert H. Smith, Vice Chairman
H. Thomas Carr, Secretary

William A. Bloom
B. Budd Chavooshian
C. Rexford Davis
Alexander Feinberg
Philip A. McLaughlin
Edward B. Wilkens
William A. Sutherland

Those absent were:

Alfred H. Fletcher
Louis Danzig
Joseph M. Healey
William Holster
Dennis Maloney

Previous to discussing "Tentative Approval," for which this meeting was especially held, questions were raised as to whether the Commission could set up (a) right to gear building permit issuances to school plans; (b) school construction fee to be imposed on builders. Also the need for a timing device. The Chairman requested the Vice Chairman, and Dr. Wilkens to review ordinances which have timed building permits and plans and report on this issue in the future.

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Mr. Henry R. Williams, Chairman of the Planning Board of Pequannock Township, and President of the New Jersey Federation of Official Planning Boards, submitted copies of an Advisory Planning Questionnaire which were distributed to the members present.

The Chairman remarked that the purpose of this meeting was to consider the "Tentative Approval" problem and the report of the Subcommittee, at which time he called upon Mr. Alexander Feinberg, Chairman of the Subcommittee to review and study this section of the Act (40:55-1.18), for a statement regarding his report, a copy of which was handed to each member.

Mr. Feinberg discussed the pros and cons and read aloud that portion of the Act in question, after which he stated that it was determined that it would be apropos and feasible to elaborate on just what was meant by "Tentative Approval" and suggested the following amendments:

"The governing body or the planning board, as the case may be, may tentatively approve a plat showing new streets or roads or the resubdivision of land along a mapped street. This tentative approval shall confer upon the applicant the following rights for a three-year period from the date of the tentative approval:

- (1) That the zoning, sizes of lots, side-yard restrictions, location and width of streets including cartway, upon which tentative approval was granted will not be changed.
- (2) that the general terms and conditions specifically agreed upon between the applicant and the governing body or the planning board upon which tentative approval was granted will not be changed.
- (3) that the said applicant may submit on or before the expiration date the whole or part of or parts of said plat for final approval.

The final approval by the governing body or the planning board, as the case may be, of a plat showing a new street or the resubdivision of land along a mapped street shall expire ninety days from the date of such approval, unless within the period such plat shall have been duly filed by the owner or his agent with the county recording officer. The governing body for good cause shown may extend the time for plat filing for a period not to exceed ninety days."

(L. 1953, c.433, p. 2178, - 18.)

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A lengthy discussion followed wherein questions were raised such as: the legal efficacy in case of litigation; aspect of non-conforming uses; the municipality's power in dealing with planning; the power conferred upon the developer; whether a sketch plan or final plan should be submitted for approval; the distinction between "tentative approval" and "preliminary approval."

At this point of discussion, the Chairman stated that the words "tentative approval" and "preliminary approval" should not be used synonymously, as is the case in many municipalities, and suggested these terms be clarified by the way of spelling out "tentative approval" as to what it encompasses and in that way some reference in the definition of "tentative approval" and "preliminary approval" could be clarified.

At this time, Mr. Herbert H. Smith, Vice Chairman, remarked that, as a representative of the American Institute of Planners (two local chapters -- Philadelphia and New York), he wanted it to be known that both groups are on record as opposing any enlargement of the "tentative approval" provision, even in the spelling out of details. The Vice Chairman explained that he believed that no matter which way the Commission spelled out this term, it would give to a particular group of individuals; namely developers, a legislative cloak of protection which would not be given to others. He further stated that, in view of his firm belief that the present wording of the statutes is sufficient to accomplish sound planning, and in view of the fact that he was very much concerned about the binding of police power of municipalities of specific legislative terms, plus the fact that, in his opinion, the existing legislation has not been found to be inadequate, inactive or unworkable and that 90 to 95% of the planning boards are interpreting the existing provisions of the Act

with the desired suggestions at the moment, he was opposed to the amendment of the Section on "Tentative Approval" in the Municipal Planning Legislation.

Mr. B. Budd Chavooshian moved that the Commission adopt the amendment into the Minutes accepting the recommendation of the Subcommittee on "Tentative Approval, at which time the Chairman suggested spelling out the definition of "Tentative Approval" (40:55-1.2 DEFINITIONS) and asked to appoint a committee of H. Thomas Carr, B. Budd Chavooshian and Edward B. Wilkens. However, Mr. Chavooshian is to get the definition together which, in turn is to be submitted to the Chairman, Mr. Fred G. Stickel, III, who will word this definition into legal phraseology.

The Chairman reminded the members present that the motion was still open on the floor that the recommendation of the Subcommittee be accepted with the understanding that members H. Thomas Carr, B. Budd Chavooshian and Edward B. Wilkens will submit a definition of "Tentative Approval" which will be added to the list of DEFINITIONS in 40:55-1.2.

The motion was seconded and a vote, viva voce, of all members present to accept the recommendation of the Subcommittee on "Tentative Approval" was taken by the Chairman as follows:

Alexander Feinberg	-	Aye
William A. Sutherland	-	Aye
Edward B. Wilkens	-	Aye
C. Rexford Davis	-	Aye
B. Budd Chavooshian	-	Aye
William A. Bloom	-	Aye
Philip A. McLaughlin	-	Aye
H. Thomas Carr	-	Aye
Herbert H. Smith	-	Nay
Fred G. Stickel, III	-	Aye

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After recording the vote, the motion was carried.

The Chairman brought to the attention of those present the matter of preparation of the report to be submitted to the Legislature -- what problems the Commission has discussed and what has been agreed upon, and suggested some recommendation be made that the Commission's powers be extended to include the review of the Zoning Act.

Mr. B. Budd Chavooshian, Mr. Alexander Feinberg and Mr. Philip A. McLaughlin are to meet with the Chairman, Mr. Fred G. Stickel, III, at his office in Newark, Raymond Boulevard, on Thursday, January 24, 1957, at 10 a.m. to discuss this matter.

The meeting adjourned at 4:15 p.m. The next meeting will be held on Wednesday, January 30, at 1:30 p.m. in the conference room at 520 East State Street, Trenton, New Jersey.