

Solicitor Details Sea Isle Landscape Law

By JOE HART

SEA ISLE CITY — Municipal Solicitor Paul Baldini donned his instructor's cap to inform members of the planning board of the intent behind the city's proposed landscape ordinance.

After tabling proposed amendments to the ordinance several times at the planning board's request, city commissioners asked Baldini to appear before planners on Feb. 15 to alleviate their concerns.

Board members' comments about the law included concern about imposing planting requirements in commercial districts, where they thought builders were allowed to build on 100 percent of their lots.

Member Ed Sgallo gave a hypothetical situation in which a 5,000 sq. ft. project in the downtown business district would be required to plant 10 trees and dozens of shrubs under the proposed ordinance.

"I don't understand how we can expect them to do this when they are allowed to build on their entire lots," he said. "Where will the trees go?"

Baldini began at the beginning.

"The concept goes back to the old tree ordinance from Chapter 19 in the city code," he said. "Officials and the public complained that the ordinance could not be enforced."

Seeing the problem, Baldini sought a solution.

"We decided to move the ordinance from Chapter 19 to the zoning Chapter 26, and require builders to apply for landscaping permits," he said. "This permitting process would help by putting the power of enforcement in the hands of the zoning officer."

With the introduction of the state's stormwater management rules, the city began requiring new projects to maintain a certain amount of pervious area in their plans.

"We designed the landscaping ordinance to work with the new stormwater regulations," he continued. "We thought architects and builders could be creative in their designs using the required pervious area for their plantings."

The ordinance also had an aesthetic goal: Baldini said his intention in drafting the law was to make a greener, more beautiful Sea Isle while satisfying the state requirements for storm water management.

"We definitely wanted to add greenery to new projects and get away from the all-concrete plans used in the 1950's," Baldini said.

As to Sgallo's query where trees will be placed, City Engineer Andrew Previti said the 100 percent buildable lot no longer exists.

"Regulations require a rear yard setback of five feet," he explained.

"This rear area can be used for landscaping and buffers," Baldini said. "Builders can also use planters and flower boxes in the front of buildings to satisfy these requirements."

According to Baldini, the ordinance also could have been placed within the site plan section of the municipal code (Chapter 30).

"Again, we decided on the zoning chapter for a reason," he said. "We wanted to catch projects that don't require a site plan review."

The solicitor and engineer worked together to develop this ordinance by reviewing similar ones from other communities. They also spent many hours defining terms such as plant and shrub to aid in application and enforcement of the ordinance.

"With the proposed amendments, this will be a successful and enforceable landscaping ordinance," Baldini said.

"After this thorough explanation, the ordinance makes a lot more sense," said Chairwoman Patricia Urbaczewski.

The board thanked Baldini and directed its Solicitor James Pickering, to write a letter to the commissioners supporting the proposed ordinance changes.

In related news, the solicitor also took time to address an issue the board has raised over site plan review exceptions.

Again beginning at the beginning, Baldini explained how he wrote the exceptions in 1993 at the request of new mayor Leonard Desiderio.

"Previous to this, there were no exceptions," he explained. "Waivers were left up to the discretion of the mayor or other officials."

"I asked the solicitor how waivers were granted," Desiderio added. "When he told me there were no guidelines, I asked him to create some."

Baldini explained which projects are deemed exceptions from the requirements for site plan reviews.

He said some exceptions are obvious, such as single-family units and duplexes, as well as parking areas for three cars or less.

Other exceptions include proposed projects with no change in acceptable use, projects which simply change from one permitted use to another, and projects involving normal maintenance or replacement, such as a new roof, painting or siding.

Board members raised concerns, however, as to the definition of certain "conditions" that necessitate a site plan review. Currently, the zoning officer is left to determine when these conditions exist.

"We are seeing inconsistencies in the types of projects obtaining waivers to site plan reviews," Sgallo observed.

He said he appreciated the fact that projects changing in intensity, floor area, landscaping, trash or fire safety are supposed to automatically require reviews, but wondered if leaving the burden on the zoning officer was the best solution.

Baldini suggested continued dialogue, noting that the ordinance "hasn't been amended in over a decade."

"If the board thinks changes are necessary," he said, "I am open to suggestions."

Contact Hart at (609) 886-8600 Ext 35 or at: jhart@cmherald.com



BALDINI