

ABS 046.01

To: Absecon City Planning Board

From: Robert L. Reid, AICP, PP, Board Planner

Subject: Review of SENATE Bill No. 2577
and the Impact on Absecon City

Date: March 30, 2009

SUMMARY OF SENATE BILL NO. 2577

The following is a summary of my review of SENATE Bill No. 2577 (As amended by the General Assembly on March 16, 2009) which permits the conversion of age-restricted housing units to non-age-restricted housing units and modifies laws concerning affordable housing. The bill shall take effect immediately after the signature of Governor Jon S. Corzine, which is pending.

The Senate and General Assembly of the State of New Jersey (The Legislature) declared (in part):

“That the shortage of affordably priced workforce housing has been exacerbated in recent years by a municipal preference for age-restricted housing which has resulted in an oversupply of age-restricted housing approvals and an inability among the majority of New Jersey’s workforce to live near their jobs.”

“Under currently deteriorating national economic conditions, it is appropriate to take immediate action at this time to create the opportunity to increase the production and supply of workforce housing through the conversion of the over-supplied age-restricted market to meet the needs of New Jersey’s residents who require smaller, more reasonably priced homes.”

Conversion to non-age-restricted development permitted with conditions.

Any age-restricted development shall be eligible to be changed to a converted development, pending planning board approval, provided that the development meets all of the following conditions:

- (1) preliminary or final approval for construction of the development has been granted prior to the effective date of the bill;
- (2) the developer of the age-restricted development is not holding a deposit for, or has not conveyed, any dwelling unit within the development;
- (3) the developer of the age-restricted development agrees that an amount not exceeding 20 percent of the units in the development will be provided as affordable units in accordance with regulations promulgated by the Council on Affordable Housing pursuant to the “Fair Housing Act.”

A developer seeking to change the previously approved age-restricted development to a converted development approval shall file an application with the planning board for an amendment. Public notice is required in accordance with the New Jersey Municipal Land Use Law (NJMLUL).

An application for the conversion to non-age restricted housing shall not be considered a use variance or other variance in accordance with the NJMLUL. The intent of the bill that such converted developments are to be considered permitted uses in the zoning district in which they are located.

All applications seeking amended approval for a converted development shall include documentation that all of the following site improvement and infrastructure requirements have been met:

- (1) the site meets the Residential Site Improvement Standards (RSIS) parking requirement for the residential land uses in a converted development as established pursuant to N.J.A.C.5:21-4.14-4.16;
- (2) the recreation improvements and other amenities to be constructed on the site have been revised, as needed, to meet the needs of a converted development;
- (3) the water supply system is adequate, as determined pursuant to N.J.A.C.5:21-5.1, to meet the needs of a converted development;
- (4) the capacity of the sanitary sewer system is adequate to meet the projected flow requirements of a converted development pursuant to N.J.A.C.7:14A-23.3.
- (5) if additional water supply or sewer capacity is needed and the developer is unable to obtain additional supply or capacity, the number of dwelling units in the development has been reduced accordingly;
- (6) if additional parking is needed, and the developer is unable to provide the required parking, the number of dwelling units in the development has been reduced accordingly; and
- (7) if additional parking is provided and increases the amount of impervious cover by more than one percent, the storm water system calculations and improvements have been revised accordingly.

A unit in a converted development shall conform to all requirements imposed pursuant to the "State Uniform Construction Code Act. It shall also conform to any requirements for, and limitations on, size and square footage imposed pursuant to a preliminary approval. However, any floor plans of the dwelling units may be revised without requiring any further planning board approval or review.

In the case of an age-restricted development which is being changed to a converted development, the layout of the plan approved pursuant to the NJMLUL may be reasonably revised to accommodate additional parking, different recreation improvements and other amenities, infrastructure enhancements, a needed reduction in the number of units, height requirements, revision to dwelling footprints that do not modify square footage of the development or the individual dwellings, or a needed change to construct the affordable units as attached housing.

In order to construct the affordable units as attached housing, to meet accessibility requirements, or provide them as rental units, the affordable units may be constructed in one section of the development with a separate management entity if such a management entity is required due to the nature of the development.

The size, height, floor area ratio, number of bedrooms and total square footage of buildings established as part of a preliminary or final approval for an age-restricted development shall not be increased, but may be decreased for a converted development, except that the number of bedrooms for the affordable units only may be increased within the footprint to meet the bedroom distribution requirements as established in the Uniform Housing Affordability Controls.

Within 30 days after the submission of an amended application, the planning board shall advise the applicant in writing whether the amended application is complete, with completeness to be determined based upon whether the applicant has submitted documentation addressing the issues described above. Should the planning not respond within 30 days, the application shall be deemed complete for purposes of review by the planning board.

The planning board shall render a decision on an application for a converted development within 60 days of a determination of application completeness, unless the time frame is extended by the applicant. If there is no decision by the planning board within the time period, including extensions, the application shall be deemed approved.

Applicants seeking approval for a converted development shall not be charged application fees, although reasonable escrow fees may be charged in accordance with the NJMLUL.

After a development has been officially changed to a non-restricted development, the developer shall file a copy of the revised plan approval with the municipal engineer for review and a determination that all site information is complete. Such information shall be used as the base document for the calculation of any required inspection escrow accounts, and performance and maintenance guaranties in accordance with the NJMLUL. Any reasonable costs for the review of the revised plans may be charged to the escrow account that the developer posted with the municipality.

An application for approval to change a development from age-restricted to non-restricted status, may be submitted to the planning board at anytime before the first day of the 25th month next following the effective date of the bill; provided, however, that the planning board may extend this time period by an additional 24 months if it finds, at the end of the initial period, that poor economic conditions continue to adversely affect the real estate market in New Jersey.

All development approvals for a development that changes from age-restricted to non-restricted status shall be deemed vested in accordance with the NJMLUL, and extended as permitted under the Permit Extension Act of 2008. In the case of a prior approval that was not extended as permitted under the "Permit Extension Act of 2008," the period of vesting and protection shall not be less than 24 months from the date of approval of the application to change to a non-restricted status.

The planning board shall issue a resolution memorializing its decision on an application for a converted development within the time period set forth in the NJMLUL. In the event that the planning board denies an application for a converted development or approves an application subject to conditions deemed unsatisfactory to the applicant, the applicant may appeal that determination to the court in a summary manner. Such an appeal shall be filed within 30 days of the applicant's receipt of the resolution issued by the planning board. The notice of appeal shall include the plans and reports, if any, submitted by the applicant to the planning board in support of the request for approval of a converted development, a copy of the transcript of the hearing before the planning board, and any other items that comprise the record before the planning board.

In deciding an appeal, the court shall consider whether the applicant complied with the criteria contained in the bill. Upon finding that the criteria have been satisfied, the court may make an order instructing the board to approve the converted development, along with any reasonable conditions of approval deemed necessary by the court.

IMPACT ON ABSECON CITY

The new bill only impacts one age-restricted development in Absecon know as The Pinnacle Club at Absecon. This is the only age-restricted development with approval prior to the bill being passed and with no units sold. As you know the development was approved for 85 units age-restricted units along with 94 parking spaces. The bedroom mix as approved consists of 19 - one bedrooms and 66 –two bedrooms. This includes 8 -two bedroom townhouses (TH).

Site Design Impacts - Additional Parking Required

The new bill requires the converted development provide parking in accordance with the NJ Residential Site Improvement Standards (RSIS). With the above previously approved bedroom mix the required parking is as follows:

Table 1

<u>Units</u>	<u>Unit Type</u>	<u>Bedrooms</u>	<u>Park'g Req'd / unit</u>	<u>Req'd Park'g</u>
8	TH	2	2.3	18.4
58	Apt	2	2	116
19	Apt	1	1.8	34.2
TOTAL				169

The new bill requires 20% of the units to be affordable units rather than the 10% required by the Absecon Ordinance. The new bill requires a bedroom mix of 20% maximum 1 bedroom, 20% minimum of three bedroom and the remainder could be all two bedroom. With the conversion and the affordable bedroom mix the required parking is as follows:

Table 2

<u>Units</u>	<u>Unit Type</u>	<u>Bedrooms</u>	<u>Park'g Req'd / unit</u>	<u>Req'd Park'g</u>
8	TH	2	2.3	18.4
54	Apt	2	2	108
4	Apt	3	2.1	8.4
19	Apt	1	1.8	34.2
TOTAL				169

The RSIS parking requirement remains unchanged as the result of the required 20% affordable units. A total of 169 parking spaces is required for the conversion of the 85 units to non-age-restricted units. The proposed parking for the previously approved development is only 94 spaces. This is a shortfall of 75 parking spaces.

Reduction In Size of the Development Possible.

The applicant wishing to convert the development would be required to provide the additional parking or reduce the size of the project. One scenario could be that the applicant only convert the portion of the building that has been constructed along with the construction of the townhouses along Church Street. This would require parking for only 48 units. For required parking for 48 units see Table 3 below:

Table 3

<u>Units</u>	<u>Unit Type</u>	<u>Bedrooms</u>	<u>Park'g Req'd / unit</u>	<u>Req'd Park'g</u>
8	TH	2	2.3	18.4
30	Apt	2	2	60
2	Apt	3	2.1	4.2
8	Apt	1	1.8	14.4
TOTAL				<u>97</u>

The applicant could reduce the size of the development to provide the required parking and recreation amenities. The above scenario would substantially reduce the value of the development with the reduction of the number of units reduced from 85 to 48. Another scenario could be that the applicant could purchase additional land to expand the development to provide the additional required parking spaces. This would be a significant cost since all adjoining land is developed. Neither appears to be viable options.

Impacts to Absecon Schools

There has been a steady decline in enrollment in Absecon Schools over the years. Currently the number of students attending E. C. Attales Middle School and H. Marsh Elementary School is only at 833.

The current education staff consists of 56 teachers for grades from kindergarten through 8th grade (K through 8), plus 19 special subjects and basic skills teachers. In addition to the teachers, there are school counselors and the administration staff. With 75 teachers on staff, that is approximately 11 students per teacher. The 75 teachers on staff utilize 45 existing classrooms. With 45 classrooms, that is approximately 18.5 students per classroom. The capacity of each classroom is approximately 30 students. With the 45 classrooms, the approximate capacity of the school is 1,350 students. Currently we have available capacity for 517 students.

The development, if converted to non-age-restricted apartments, will generate additional school age children. The question is...what is the number that will be generated by the conversion of 85 units to non-age-restricted units?

According to municipal tax records, there are 3,239 dwellings in Absecon City. With 833 students (K through 8), that is 0.26 students per dwelling. This is not an accurate count because the dwelling count includes single family, multi-family units and age-restricted units. A more accurate estimate would be if we reviewed actual school age children currently residing in multi-family developments. The research of Absecon School records and municipal tax records was completed for the Oyster Bay Development and the California Hill Development for comparison. This can offer a more accurate estimate of what number of school age children will be generated. See Table 4 below:

Table 4

<u>Development</u>	<u>Units</u>	<u>School Age Children</u>	<u>Student / Unit</u>
California Hill	102	45	0.44
Oyster Bay	213	64	0.30
Totals	<u>315</u>	<u>109</u>	
Average Student / Unit (109 Students / 315 units=)			0.35

Additional School Age Children Generated

If we use the student per unit for the existing Oyster Bay and the California Hill Developments as a guide above in Table 4, it is reasonable to expect that an average of 0.35 per unit school age children will be generated. The number of elementary and middle school age children generated by the conversion of the 85 units at the Pinnacle Club would be an estimated 29 students.

In addition to the existing 833 students in K through 8, there are 82 high school students attending Pleasantville High School, ACIT Academy and Charter Tech High School. With a total of 915 students in the Absecon School system (K through 12), high school students represents approximately 9% of the students. Based on this ratio of high school students and students attending middle school and elementary school it is reasonable to estimate that approximately 3 high school age children will be generated.

Costs to Absecon

In the school year 2008/2009 the average cost of each high school age student is approximately \$ 7,732. With the possible addition of 3 high school age students, the added cost could be approximately \$ 23,196.

Ironically, the cost of educating our children could slowly increase per student without an increase in school age children. This due to the steady decline in enrollment while we continue to pay for the existing facility and staff that has a capacity for a greater number of students.

Benefits to Absecon

With available capacity for 517 more students (K through 8), the additional estimated 29 students will have only a slight increase in the classroom sizes (18.5 average student per classroom to 19.1) and no additional education costs to taxpayers. Actually the additional elementary and middle school age children would help the Absecon taxpayer. State Aid is based on the number of students in the school system. The existing elementary and middle school facility has a fixed cost to operate to meet State requirements for the education of our 833 children. The existing facility of 45 classrooms and a teacher staff of 75 have the capacity to provide an education for 517 additional students without any additional costs. The hiring of additional teachers or increasing the size of the school would not necessary.

State Aid for 2008/2009 was \$1,563,068. or \$1,876.43 per student. Additional children added to the existing facility would qualify Absecon for additional State Aid. However, it is difficult to say what the additional aid Absecon would receive because there are so many factors.

According to Absecon Schools "Equalization Aid" is based on the difference between what the State defines as an "Adequacy Budget" (higher if our student count is higher) and what Absecon can afford (District Income and Property Valuation). In determining the "Adequacy Budget" the amount to spend on each student is weighted using the following point system:

Kindergarten = 0.5 Elementary = 1 Middle = 1.04 High School = 1.17

The higher the grade level, the higher Absecon's "Adequacy Budget" would be. There would be a possibility that Absecon's "Equalization Aid" funding would be higher.

The additional residential units would increase tax ratables without increasing the cost of educating our elementary and middle school students. The current assessment of the Pinnacle Club of approximately \$4,000,000. is for vacant land only. The current tax assessment is \$74,250. The estimated value of the 77 unit building and land at the Pinnacle Club is approximately \$15,660,000. This is based on the developers sales brochure which including the selling prices for the 77 apartment units. The estimated value does not include the 8 townhouse units proposed on Church Street. Using the 2008 rate of 1.839 the estimated taxes for the 77 unit apartment building would be approximately \$287,987. per year. This does not include the value of the townhouses.

The new Senate Bill will require 20% affordable units rather than the current 10% required by local ordinance. This would allow Absecon credit towards its constitutional obligation to provide for affordable housing.