

**Minutes of a joint Town Council and Planning Board meeting held on October 27th, AD 2011 at 6:00 o'clock PM in the Town Council Chambers, Town Hall, 40 Commons, Little Compton, RI.**

**Council Members present: Charles N. Appleton, Jr., Fred M. Bodington, III; Paul J. Golembeske, Gary S. Mataronas and Robert L. Mushen.**

**Planning Board Members present: Chuck Barend, Mark Cady, David DeSouza, Robert Green (arrived at 6:55 PM), Patrice Hagan, Sal Marinosci and Michael Steers.**

**Also present: Richard S. Humphrey, Town Solicitor who arrived at 6:08 PM.**

**Robert L. Mushen, Town Council President called to order a Public Hearing to receive comments on a proposal for conservation development at 6:02 PM.**

**Michael Steers, Planning Board Chairman called to order a Public Hearing to receive comments on a proposal for conservation development at 6:02 PM.**

**The Town Council President chaired the joint Public Hearing. He noted that he intends to ask the Planning Board to give an opening statement, and then allow the public to comment by coming up to the microphone. A three minute limit will be imposed in order to allow all to speak. He then asked his fellow Councilors if they wished to have**

**the Planning Board give a brief opening statement. All were in agreement to proceed in that fashion.**

**Mike Steers gave a PowerPoint presentation on the conservation development zoning proposal. Councilors were then given the opportunity to ask questions.**

**Councilor Bodington – will these lots under conservation restrictions come off of the tax roll? The answer is that the portion that is under restrictions will have a 80-20 split assessed to it by the Assessor's where only 20% of the taxes will be collected from the property owner, unless it is sold in fee simple to a non-profit entity in perpetuity who will not be taxed.**

**Public comments:**

**Larry Anderson: Speaking as a private citizen and not on behalf of any organization or in any official capacity. He supports this proposal. It is consistent with the Comprehensive Plan goals and objectives. He made many points in support of his opinion and gave only one concern that the Planning Board is considering a trial "one" time development to see how it would work. Mr. Anderson is not in favor of this portion of the proposal, he believes it should be adopted without limit to the number of developments that could take place and rescind the ordinance should a future need arise.**

**Robert Brayley:** Applauded the Planning Board for putting forth a proposal in good faith effort. He is concerned however over the groundwater issues that have been raised, the fact that the developer has this as an option only – no portion is mandatory, and that all of the informational meetings and discussions have not yielded a compelling reason to adopt this particular proposal.

**Mary W. Karlson:** Submitted a signed notarized statement of testimony to the Council after having read the statement to those in attendance. Mrs. Karlson's testimony, in brief, states that she is opposed due to compelling science on public health threats to groundwater and various failure's that in her opinion exist within the present zoning ordinances that should be correct prior to implementing any type of conservation zoning ordinance proposals.

**Malcolm McGeoch:** Stated that his opinion has not changed, he is opposed to this proposal. Opposed to cluster zoning and has health concerns. He asked how in public meetings the proposal is proposed to be directly supported by the Comprehensive Plan, but only cluster zoning is mentioned in the Comprehensive Plan, not conservation development. He additionally finds concern with only 25% of uplands are being required of the 50% required to be set aside for conservation, why isn't the entire amount of land to be set aside for conservation required to be uplands. 25% seems to allude that this proposal is for something other than simply attempting to conserve land in town.

**Andrew Morgan:** Believes taxes will be effected as more property will be removed from the tax rolls. He also feels that as the town begins to find more and more OWTF (individual on-site waste water treatment facilities) fail the town may be forced into installing town-wide septic lines. He feels this proposal would only contribute towards that problem.

**Ralph Watson:** Concerned over who would be responsible for oversight or the management of these properties. What if someone allows encroachment of vehicles on the conserved property, who will police violations.

**Thomas Arcoleo:** Confused on the number of allowable units. Still believes there could be more units with the conservation development than with conventional.

**Carolyn Montgomery:** She also has a problem with the stewardship of the conserved properties, who will really oversee them. She also feels this will yield areas where the housing units are denser.

**Jacques Hopkins:** Questioned if an organization that holds a conservation easement could ever reverse the restriction and sell the property?

**Robert Green,** member of the Planning Board arrived at 6:55 PM.

**Richard Ross:** There is no hard evidence to define how a lot can be built upon, the ordinance uses the term “reasonable” to describe evidence to be supplied. He believes for any subdivisions it should be required to prove with actual DEM approvals for both septic systems and water availability. He has read editorials that supporters feel this would allow more homes to be clustered along the shoreline for better views, but wouldn't this hurt the coastline views enjoyed now by recreational boaters? He also noted that in the proposal a septic system and parking are both allowable on the conserved property through waivers. He feels the intentions of the Planning Board to preserve land were good, but the ordinance is not written well enough. Clustering will be an advantage to a developer.

**Abigail Brooks** submitted a letter via e-mail which she asked to be read into the record. The Town Council President read Ms. Brooks letter to those in attendance, in brief it supported the adopting of the proposal and the efforts of the Planning Board. It is filed within the comments folder for this subject.

**Motion made by Councilor Golembeske, receiving a second by Councilor Mataronas, voting in favor (Appleton, Bodington, Golembeske, Mataronas, Mushen):** Receiving no further public comments the Town Council votes to close the Public Hearing at 7:00 PM.

**Motion made by Planning Board Member Marinosci, receiving a second by Planning Board Member Hagan, voting in favor (Barend, Cady, DeSouza, Greene, Hagan, Marinosci, Steers): Receiving no further public comments the Planning Board votes to close the Public Hearing at 7:00 PM.**

**Councilor Mushen asked if any of the Councilors had questions as a result of the comment period, to which Councilor Golembeske asked if the conserved land would be a separate lot, and if it would potentially have separate ownership? Yes.**

**Questions raised during the comment period were answered at this time:**

**If the Comprehensive Plan calls for cluster zoning why is this proposal conservation development? Answer: Conservation Development grew out of cluster zoning, change in terminology and land planning, but other factors are similar.**

**Why does the conservation development plan only require 25% of the 50% conserved land to be uplands? If this was a true plan of conservation efforts wouldn't you want to seek 100% of the conserved land to be uplands? Answer: The Planning Board's approach had an objective to improve on present zoning and felt that by requiring the building lot to be 100% upland and 25% of the remaining 50% to be sufficient. Presently no percentage is required**

**to be uplands in conventional development.**

**Wouldn't requiring 100% of the conserved land to be uplands only allow a subdivision for those lots free of wetlands? Answer: No, it would only cause fewer buildable house lots.**

**Who manages or oversees the conserved lands? Answer: The entity that is deeded the title or conservation restrictions. Should that be a non-profit organization such as the Sakonnet Preservation Association then they would be responsible for maintenance and upkeep. A resident expressed concern that the town may not want to give away management rights over the land.**

**Couldn't someone still build more houses under conservation development than conventional? No, they may be located closer together in a general area, but will not result in any more house lots than in conventional development.**

**Can the entity that holds the restrictions release those restrictions at some future date? Answer: It would depend on how the deed restrictions were written, but if restricted in perpetuity then the answer would be no. Assuming they were not written in perpetuity then it would be up to the entity or individual holding the restrictions. The Solicitor could not guarantee that it could not happen.**

**What is "reasonable" proof that a lot is buildable, as required in the**

**proposal and present zoning? The Planning Board presently requires a system suitability certificate for lots within a new subdivision, they intend to continue that practice in the future.**

**In this proposal septic systems and parking are allowed within the restricted area upon waiver, is this a good practice to get into?**

**Answer: Presently conservation land can allow parking, septic or wells on the restricted portion of the land.**

**Councilor Appleton, speaking for himself, stated that he has had many individuals calling him who have all been opposed to this proposal. He stated further that even if this was the best plan ever the majority of the residents were clearly against this proposal and he could not in good conscience move forward to approve. He will vote to deny the proposal.**

**Councilor Bodington agreed with Councilor Appleton.**

**Councilor Golembeske likes the plan, but also feels the will of the people seems to be to deny the proposal. He personally would like to see a proposal to conserve the land, but has questions about this particular proposal that he still can not seem to get answered. He also worries that if this was adopted for a single trial basis and it was placed abutting his property could he sue the town because his property value has been affected? The Solicitor stated that he could bring a claim, but could not guarantee how the Courts would view the**

**claim.**

**Councilor Mataronas wishes to adopt this proposal, but also feels that the people have made it clear that they do not want it adopted and he was voted in to represent the people. He will vote against the proposal at this time.**

**Councilor Mushen noted that the Planning Board has acted in a manner to continue to support what they believe is in the best interest of the town. During the series of meetings several concerns have been raised regarding the present zoning ordinance as it relates to the Comprehensive Plan goals. He feels the town could benefit from pursuing further those concerns. He is also proud that we as a small town can interact as we have to review proposals and work toward the greater good for all. It was stated that Little Compton is the only town that has not done certain things as it relates to other cities and towns throughout Rhode Island, he believes this to be a good thing. He is in favor of this proposal.**

**A motion was made by Councilor Golembeske, receiving a second from Councilor Bodington: Not to approve the proposal before the Council regarding Conservation Development Zoning. Discussion ensued:**

**Outside the wording of the above motion Councilor Golembeske wanted to note that he would like the Planning Board to pursue**

**further different options that may be available to preserve and/or conserve land.**

**Councilor Mataronas noted that the process to consider this proposal is similar to the process the town went through when considering the development of the Agricultural Conservancy Trust. Change can be difficult.**

**It was also noted that both the proponents and opponents of this proposal have the same goal to preserve land within Little Compton.**

**Motion made by Councilor Golembeske, receiving a second by Councilor Bodington, voting in favor (Appleton, Bodington, Golembeske, Mataronas) voting opposed Councilor Mushen: The Town Council wishes not to approve and not to proceed with a proposal to amend the Town Code and Town Comprehensive Plan to include Conservation Development Ordinances.**

**End of Public Hearing scheduled for 6:00 PM.**

**Carol A Wordell, Town Clerk**