

**Town of Middletown
Planning Department**

350 East Main Rd., Middletown RI 02842 (401) 849-4027

PLANNING BOARD MINUTES

October 12, 2005

Board members present:

Hedy Bennett, Chairman Ron Wolanski, Town Planner

Art Weber, Vice Chairman Vernon Gorton, Town Solicitor

Jan Eckhart, Secretary

David Lawrence

Richard Adams

Audrey Rearick

Members absent:

Colleen Aull

The meeting was called to order at 6:30 pm.

The minutes of the special meeting and regular meeting of September 14, 2005 were reviewed.

Motion by Ms. Rearick, seconded by Mr. Adams to approve the minutes. Vote: 5-0-0. (Mr. Lawrence had not yet arrived)

Sitting as Planning Board

Old Business

1. Omni Land Co., West Main Rd., Proposed 9-lot subdivision Plat 111, Lots 8, 9, 9A, 10, Final Plan – Set amount of performance security.

Attorney David Martland represented the applicant. He stated that the applicant was continuing to finalize the cost estimates for the installation of improvements. He requested that the matter be continued to the November Planning Board meeting.

Motion by Mr. Weber, seconded by Ms. Rearick, to continue this matter to the November 9, 2005 Planning Board meeting. Vote: 5-0-0. (Mr. Lawrence had not yet arrived)

2. Request of Attorney Patrick Hayes on behalf of his client for a change in zoning designation for property consisting of a portion of Lot 14, AP 112 from residential R-20A to general business (GB).

Attorney Patrick Hayes, Jr., representing the applicant, discussed the proposal and the environmental investigation that had been completed.

Mr. Weber expressed concern with the lack of definitive language in the report with regard to the potential impact to groundwater and to Crystal Springs water supply. The report does not rule-out the potential for negative impacts.

The applicant's engineer, Samuel S. Hemenway of Garofalo & Associates, Inc., stated that the report, produced by Sage Environmental, represents the results of a limited investigation. It is unlikely that the subject property would contribute to contamination of the Crystal Springs property due to the flow of ground water away from the Crystal Springs property. Background levels of arsenic and lead were detected, but are not the result of contamination by the existing business.

Ms. Bennett asked about the responsibility for future groundwater monitoring, which is recommended in the report.

Mr. Hemenway stated, and Mr. Hayes agreed, that the property owner would normally be responsible for monitoring.

Mr. Adams stated that Table 3 of the Sage report indicates that the Total PCB exceeds drinking water standards.

Mr. Hemenway stated that he would have to review the results to determine the impact of the total PCB figures.

Mr. Adams asked if drainage control would be installed to serve the entire site, including the existing development.

Mr. Hayes stated that the drainage system would serve the entire site.

Mr. Lawrence asked if the RIDEM would be responsible for ongoing monitoring.

Mr. Wolanski stated that it would be the property owner's responsibility to conduct monitoring. RIDEM or other engineering firms could be asked to review the monitoring results.

Mr. Hayes stated that the property owner could be required to perform monitoring through an easement attached to the property.

Mr. Hemenway stated that a monitoring regime must be established.

Mr. Weber and Mr. Eckhart expressed concern for the types of chemicals likely to be used in connection with the auto sales/service use, rather than combining all chemicals under the PCB heading.

Mr. Eckhart asked about the amount of pavement that is proposed.

Mr. Hemenway stated that the property owner would likely pave to the extent possible subject to the required drainage control.

Mr. Weber stated that the Town Engineer should be asked to review the environmental report to provide advice to the Planning Board.

Mr. Wolanski stated that if the Town Engineer is unable to provide that review, a consulting engineer could be considered.

Mr. Hayes stated that the property owner is interested in restricting the majority development of the remainder of the property for conservation purposes.

Ian Scott, owner of Crystal Springs, addressed the board. He stated that he is concerned with the potential impact of the proposal on water quality. Pavement should not be permitted to encroach on Bailey Brook. A similar proposal for the subject property was considered 15 years ago but was denied by the town. Once the property is rezoned for GB use there is the potential for many incompatible uses.

Mr. Lawrence stated that if no expansion were to occur, there could still be negative impacts from the existing site.

Mr. Weber and Ms. Bennett stated that they want the results of the applicant's environmental study to be reviewed by the Town Engineer or consulting engineer if necessary.

Mr. Hayes stated that the development on the subject site would not impact the Crystal Springs property, and drainage would be directed away from that area. If the Town chooses to, it could restrict the types of uses that would be allowed as a condition of the rezoning.

Concern was expressed about the types of chemicals stored and used at the site.

Mr. Hemenway stated that he could provide a list chemicals of concern related to the use of the property. He stated that any potential impacts on the Bailey Brook and water supply would be mitigated by the wetlands and other vegetation.

Mr. Adams asked for confirmation that the drainage improvements would be designed to capture and treat runoff from the entire site. He stated that the future monitoring should be conducted both upstream and downstream of the site, and that wells located under proposed paved areas would be of little value in identifying future impacts.

Mr. Hayes confirmed that the drainage system would serve the entire site.

Mr. Weber stated that he did not have a problem with the rezoning, but wants to be sure that potential water quality impacts are addressed.

Mr. Eckhart stated that, if approved, there might be some value to groundwater protection in installing impervious surface vs. pervious pavement. Runoff would then be directed to the drainage system for treatment.

Motion by Mr. Weber, seconded by Ms. Rearick, to continue the discussion of this matter to the November 9, 2005 Planning Board

meeting, and to seek the review of the applicant's environmental report by the Town Engineer, or a consultant if necessary. Vote: 6-0-0.

3. Review of proposed ordinance amendments for storm water drainage control and implementation of the town's Phase II Storm Water Management Plan.

Ms. Bennett stated that the proposed amendments have been reviewed.

Mr. Wolanski stated that there are still some minor changes that must be made to the text of the amendments, but the Board could forward the proposed amendments to the Town Council. The Board must still hold a public hearing prior to approving the amendments to the subdivision regulations.

Motion by Mr. Weber, seconded by Mr. Adams, to forward the zoning and other proposed Town Code amendments to the Town Council for consideration, and to advertise a Planning Board public hearing the consider proposed amendments to the subdivision regulations, to be held during the regular Planning Board meeting November 9, 2005. Vote: 6-0-0.

4. PUBLIC HEARING -Review proposed amendments to Article 7 of the Subdivision Rules and Regulations regarding policies related to guarantees of performance.

Ms. Bennett stated that the Town's Roads & Utilities Advisory Committee and DPW Director have recommended the proposed changes. She is in favor of the amendments.

The public hearing was opened. No members of the audience wished

to speak on the matter.

The public hearing was closed.

Motion by Mr. Adams, seconded by Mr. Weber, to adopt the proposed amendments to the subdivision regulations as presented, and forward them the Town Council for approval. Vote: 5-1-0, with Mr. Lawrence voting in opposition.

5. James Scribner, Chases Lane, Proposed 2-lot subdivision, Plat 106, Lot 6A, Preliminary

Attorney David Martland, representing the applicant, reviewed the request for conditional approval, subject to the required zoning relief for frontage for proposed lot 6D. He stated that the Plan is constant with the Comprehensive Plan and that both resulting lots would meet the minimum lot area requirements. He stated that, as requested during the site visit, the plan will be revised to show a shared driveway to serve both proposed lots so that a new curb cut on Chases lane will not be required. The required easement will be shown on the plan.

There was discussion about the configuration of the easement. It will likely extend directly to the west from Chases Lane.

Ms. Bennett stated that she is opposed to creating new lots that do not meet zoning requirements. She asked about the orientation of the proposed dwelling.

Mr. Scribner stated that there are no plans for a new dwelling at this time, but it would probably be oriented with the front door facing Chases Lane.

Mr. Eckhart asked if the property could be accessed from the Gate 17 access road.

Mr. Martland stated that the road is actually part of the Navy's property and access would not be allowed.

Mr. Adams stated that the purpose of frontage requirements, along with log area requirements, is to regulate the density. In some cases, allowing for infill development such as the proposal may be appropriate.

Motion by Mr. Weber, seconded by Ms. Rearick, to grant conditional preliminary plan approval subject to the following conditions:

1. Relief granted by the Zoning Board of Review to allow for the creation of a lot with less than the required frontage is required prior to final approval.

2. The existing garage structure located on proposed lot 6D must be removed prior to final approval or relief granted by the Zoning Board of Review would be required prior to the granting of final subdivision approval.

3. Access to proposed lot 6D shall be provided via a shared driveway located on lot 6A. An appropriate access easement across lot 6A must be provided on the plan.

4. Easement documents for all proposed easements must be provided for review by the Planning Board and Town Solicitor prior to final approval.

5. Any comments from the Town Engineer and DPW Director on the revised plan must be addressed prior to final approval.

6. The application fee for final plan review in the amount of \$160 must

provided.

Vote: 5-1-0, with Ms. Bennett voting in opposition.

6. Green End Pond, LLC (Blake Henderson), John Clarke Rd., Proposed 2-lot subdivision, Plat 115, Lot 33 Request for combined preliminary and final review.

Attorney David Martland represented the applicant. He described the plan.

Mr. Wolanski stated that he had received revised comments from the DPW Director dated October 12th requesting that a sewage storage tank be required for the new development on proposed lot 2. Mr. Wolanski stated that this item, as with the need for a drainage control on the property at development, could be addressed by adding appropriate notes to the plans prior to recording.

The applicant agreed to add the notes to the plan.

Motion by Mr. Weber, seconded by Mr. Adams, to grant preliminary and final plan approval subject to the following conditions:

1. Prior to recording, the following note must be added to the plan: “Prior to the issuance of building permits for proposed lot 2, and as part of the Soil Erosion and Sediment Control permitting process, plans must be submitted and approved for storm water drainage control consistent with the requirements of sections 515 & 516 of the Middletown Rules and Regulations Regarding the Subdivision of Land, including that there shall be no increase in the rate of runoff from the property as calculated for the 25-year storm.”

2. Prior to recording, the following note must be added to the plan: “Prior to the issuance of building permits for development on

proposed lot 2, the design and installation of a sanitary sewage holding tank with a capacity to accommodate the anticipated 24 hour sewer flow from the proposed development must be approved by the Public Works Director.”

Vote: 6-0-0

New Business

7. Bryant – Request for 2-lot subdivision, Concord & Continental Dr., Plat 114, Lot 67

Attorney William Harvey, representing the applicant, described the plan. The applicant has submitted an application for a variance to allow for a reduced rear yard setback for proposed lot 67, in order to accommodate the location of the existing dwelling on that lot and allow a sufficient building envelope on proposed lot 67-E.

Ms. Bennett stated that the Board normally conducts site visits prior to considering subdivision plans.

By consensus the matter was continued to the November 9th Planning Board meeting. A subcommittee was established and will meet at the site on October 24th at 9am.

8. MR4A-JV – Request for administrative subdivision approval, Mitchell’s Lane, Plat 124, Lots 5 & 29, Plat 123, Lot 12

Attorney David Martland represented the applicant. The applicant is seeking approval of the administrative subdivision, consistent with one of the conditions of the rezoning of the property. Proposed parcels A and B are intended for residential development.

Ms. Bennett asked about potential constraints to development for proposed parcels A and B.

Mr. Wolanski stated that the Board must, prior to approving a subdivision, make a positive finding that there are no constraints to development that would make the lots unbuildable. Unlike a minor or major subdivision, the application checklist for an administrative subdivision does not require RIDEM documentation with regard to wetlands and septic suitability. However, the Board should request the documentation that it deems necessary to allow it to make a positive finding with regard to the development constraints of the proposed building lots. There is no indication of wetlands on the property, however the applicant has not provided information to indicate that the lots can support septic systems.

Mr. Martland stated that as this is an administrative subdivision that creates no new lots and such documentation should not be required. The Board was aware that these lots would be proposed for residential development as it reviewed the zone change petition.

Mr. Wolanski stated that the zone change request and the current subdivision request are separate processes that do not undergo the same review. There has been no information presented to demonstrate that the lots could support septic systems.

Mr. Offenbergl stated that there have been subdrains installed on the lots in order to lower the water table, which is high, and to allow for installation of septic systems. Documentation from RIDEM would not be available until the drains are in place through a wet season, which means that the application would be delayed until at least the spring.

Mr. Offenbergl, the applicant's engineer, asked if an easement to the public sewer system would be sufficient.

Mr. Wolanski stated that if the easement is shown on the plan and the DPW Director approves a proposed connection to the sewer system that should be sufficient to allow the Board to make a positive finding.

Mr. Offenbergl stated that the Board has not required such documentation for administrative subdivisions in the past.

Mr. Gorton stated that there should be some assurance provided by the applicant that the proposed building lots, which have been substantially reconfigured and reduced in size from the existing lot configuration, could be built upon. A note could be added to the plan stating that the lots are not intended for development.

There was additional discussion regarding this issue. There was discussion of whether a letter from the Town Engineer and/or the applicant's engineer would be sufficient to allow the board to make a positive finding and allow approval of the plan.

Ms. Bennett asked Mr. Wolanski for a recommendation.

Mr. Wolanski stated that the Board must make a positive finding with regard to the development potential of the lots. The Board must determine which information it will need in order to be comfortable that the lots are buildable, and to make that finding. If the Board cannot make a positive finding it probably should not proceed with approval.

Ms. Bennett stated that additional information should be provided.

Mr. Eckhart stated that he has had prior experience with the use of subdrains and he is confident the lots would be approved for septic systems in the future.

Mr. Adams stated that he believes the findings are required in order to protect against the creation of lots with obvious development constraints. That is not a concern with this plan.

Motion by Ms. Rearick, seconded by Mr. Eckhart, to continue discussion of the plan to the November 9, 2005 meeting, and to ask the Town Engineer to review the plan to provide a recommendation with regard to the effectiveness of subdrains in lowering water table to allow for septic installation. Vote: 5-1-0, with Mr. Adams voting in opposition.

9. Alan Bradley – Request for alteration to an approved subdivision plan - Mark Horan, Horan Building Co. 10-lot Greene Lane subdivision (Overlea Farm)

Mr. Bradley explained his desire to retain pavement that is part of the defeasible easement on his property. The pavement would extend from the road. The pavement is required to be removed as part of the Overlea Farm Subdivision.

Mr. Wolanski stated that he has received a letter from the subdivision developer, Mr. Horan, indicating his support for the idea. The Town Engineer and DPW Director have indicated their concern for the proposal, particularly for safety concerns. An alternative would be to retain only the pavement located on Mr. Bradley's property, and remove the pavement and install the required sidewalk within the road right-of-way as required by the plan.

Mr. Bradley indicated that that would be acceptable.

There was discussion that the Town Engineer and DPW Director would have to sign-off any changes to the plan with the road

right-of-way.

Motion by Mr. Adams, seconded by Ms. Rearick, to approve the minor alteration to the approved subdivision plan to allow the retention of pavement located outside of the road right-of-way on the Bradley property. Vote: 6-0-0.

Sitting as the Town Center Review Board

There being no business before it, the Town Center Review Board did not convene.

Motion by Mr. Adams, seconded by Ms. Aull, to adjourn. Vote: 6-0-0

The meeting adjourned at 9:20pm