

PLANNING BOARD MINUTES

SPECIAL MEETING

January 3, 2008

Board members present:

Jan Eckhart, Vice Chairman Ron Wolanski, Town Planner

Audrey Rearick , Secretary Frank Holbrook, Town Solicitor

Richard Adams

Gladys Lavine

Members absent:

Art Weber

Betty Jane Owen

Frank Fogue

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

1. Presentation by RIDEM staff regarding the benefits and implementation of Conservation Subdivision Development standards. Mr. Eckhart described the meeting agenda. He introduced Scott Millar, Sustainable Watersheds Chief for the Rhode Island Department of Environmental Management.

Mr. Millar provided a presentation of the concept of conservation subdivision development. He explained the benefits of conservation development over conventional development, including environmental benefits and openspace preservation. He described

the cost savings for both the developer and the town resulting in reduced infrastructure installation and maintenance costs. He described the development design review processes.

Following the presentation there was a question & answer session. Questions and concerns were raised about the use of conservation development principles on smaller properties. Mr. Millar stated that the concept and its benefits are applicable to any size development. Questions of the application of the new regulations and the size and siting of the development lots within a subdivision are policy questions that must be addressed at the local level.

2. Public Hearing – Discuss and consider adoption of proposed amendments to the Town of Middletown Rules and Regulations Regarding the Subdivision and Development of Land (Regulations). The amendments, if adopted, would amend various sections of Articles 1, 2, 3, 4, 5, 6, and Appendix A & C of the Regulations in order to implement proposed procedures and standards regarding Conservation Subdivision Development

3. Discuss and consider a recommendation to the Town Council regarding proposed Zoning Ordinance amendments to implement proposed Conservation Subdivision Development procedures and standards.

Discussions of both the proposed amendments to the subdivision regulations and the proposed zoning ordinance amendments were combined.

Mr. Wolanski explained that this is the first hearing in the process toward potential adoption. The Town Council will also hold a public

hearing if the proposed amendments are forwarded by the Planning Board.

The Public hearing was opened.

Robert Silva, Esq., offices at 1100 Aquidneck Ave., asked how the proposed regulations would interact with the existing cluster subdivision regulations in the Zoning Ordinance.

Mr. Wolanski stated that the existing cluster regulations would be replaced by the proposed conservation development regulations.

Sam Howell of Sachuest Way expressed concern that existing neighborhoods could be adversely impacted by conservation developments, particularly on smaller parcels. He stated that the process of review must be as open as possible to allow public input to avoid a perception of the Planning Board being in cahoots with the developer. The yield plan should be developed first and presented as early as possible.

Mr. Wolanski stated that under the new process the yield plan would be one of the first items created by the developer, as it would be the basis for determining the number of lots to be considered in the conservation plan. The process would include abutter notification as required by law, but might be advisable for the developer to engage the neighbors as early as possible.

Mr. Adams stated that the proposal offers a tool for the town to use in considering developments, and would also be valuable to Portsmouth, which is experiencing development pressure.

Greg Shultz of 10 Sachuest Way stated that the town should consider providing internet links to proposed amendments in meeting notices.

He suggested that step 6 (appendix C of the Regulations), regarding plan design and review, should include reference to the need to consider the context of the plan and the impacts on existing neighboring development. Referencing Section 504 of the Regulations, he stated cul-de-sac roads should be allowed where appropriate. He also stated that developments should be required to incorporate low impact development (LID) techniques for the control of storm water runoff.

Mr. Wolanski stated that the town currently requires as part of its new storm water management ordinance the consideration of LID techniques in developing storm water plans. Reference to this requirement could be added to the proposed regulations.

Mr. Adams raised the question of the appropriate development size threshold to require conservation developments.

There was discussion that more flexibility for smaller sized parcels might be appropriate.

Steve MacGillivray of 230 Third Beach Rd. suggested that there should be some flexibility in determining where conservation development is appropriate. He expressed concern with the proposed density bonus and with the potential aesthetic impact of the clusters of single and two-family dwellings that could be allowed in conservation developments in the R-40 & R-60 districts.

Peter Gallipeau of Sachuest Drive suggested that the town consider using a formula for determining buildout potential, rather than the yield plan method. He stated that the a formula would be more predictable and limit the need for some engineering and possibly

permitting needed to justify the yield plan.

Mr. Millar stated that using a formula is an option, but most towns adopt the yield plan approach as it allows for graphical representation of the development potential of the property.

Mr. Gallipeau stated that the definitions of yield plan in the proposed zoning ordinance amendments and in the subdivision regulations are not consistent.

Mr. Wolanski stated that the definitions would be revised to be consistent.

Mr. Gallipeau stated that the proposed submission checklist for the yield plan appears to be in conflict with the current zoning ordinance regarding the definition of developable land. It appears to exclude land that would be considered buildable under the current regulations from being used to demonstrate buildable lots on the yield plan.

Mr. Wolanski stated that the yield plan checklist would be revised.

There was discussion of the permitting that would be required as part of the yield plan to demonstrate that lots are buildable. Mr. Gallipeau raised concern that the developer would be required to proceed with permitting, including wetlands and Watershed protection, for lots that would not be created. This would add a significant amount of time to the plan review and approval process

Mr. Millar stated that in general practice, the developer is responsible for demonstrating that the lots shown on the yield plan are buildable lots.

Mr. Shultz, speaking as an attorney for RIDEM, discussed his experience with the wetland permitting process. He stated that RIDEM

is often asked to review conceptual plans.

Mr. Gallpeau asked how the proposed density bonus would be implemented for partial lots. Would the bonus be rounded up or down in the case of partial lots?

Mr. Wolanski stated that that had not been determined.

Mr. Millar was asked about the use of the density bonus in Exeter. He indicated that he was not aware of the bonus being used.

Bob Silva asked about the definition of buildable land area.

Mr. Wolanski stated that the current definition would not be change as a result of the current draft. Therefore for the purposes of creating the yield plan current standards would apply. In designating the open space areas of the conservation plan, other factors such as slopes, wetland buffers, and other areas could be consider for protection even though they might be considered buildable areas under the definition.

Mr. Shultz addressed issues relating to the density bonus provision of the ordinance. He pointed out that the definition of a conservation development included in the regulations indicates that overall density would not increase as a result of the conservation plan. If a density bonus is to be offered, this language should be changed. He also suggested that in section 304.G., language be added to better define the “other benefits” that might be considered in a request for a density bonus, including possible public access to the open space.

Mr. Howell suggested that the Board consider requiring a comparison of the conservation plan to the yield plan, in light of the context of the surrounding development, before a decision is made on which plan to

consider for approval.

Mitch Thurman, a resident of Bailey Ave., stated that conservation development is not going to be the best solution in all cases. He expressed concern for the density impacts of conservation development plans. He also stated that in his experience narrower roads do not necessarily slow traffic, and that maintenance of subdivision landscaping must be enforced.

Dick Neidich, a resident of Sachuest Drive, stated that the conservation development concept is not the best alternative in all cases, particularly on smaller properties. He suggested that just as much of more “open space” is provided as a result of conventional development, with its larger lots. He suggested that the Board reconsider the mandatory conservation plan for smaller developments.

Mr. Neidich also pointed out that in information provided by the RIDEM, there is a statement that indicates that state law might not allow for density bonuses.

Mr. Millar stated that he believes that bonuses are permissible.

The Town Solicitor was asked to review this issue.

Roberta Duffy, a resident of Forest Ave., asked if there was any information available on the potential impact on tax assessment for lots in conservation developments.

Mr. Millar stated that there was a study done in Rhode Island that indicates that the property values are higher in conservation developments. Each individual tax assessor would have to evaluate each case.

Mr. Howell suggested that the town consider a tax credit to encourage property owners to reduce the overall development density on a property.

Liz Bozyan, a resident of Indian Ave., stated that property taxes on land are a major issue in her part of town, rather than the taxes collected on the value of the structure.

Mr. Gallipeau stated that in Barrington open space is taxed, and each property owner in the development pays an equal share of the taxes on the open space in addition to the taxes on their individual property.

There was discussion of the potential dwelling footprint size allowed in conservation developments. Mr. Gallipeau suggested that the board consider relaxing the building lot coverage requirements.

Motion by Ms. Rearick, seconded by Mr. Adams, to continue the public hearing and discussions of both the subdivision regulations and zoning ordinance amendments to the January 9, 2008 regular Planning Board meeting. Vote 4-0-0.

Motion by Ms. Rearick, seconded by Mr. Adams, to adjourn. Vote: 4-0-0

The meeting adjourned at 9:10pm