

# **PLANNING BOARD MINUTES**

**November 12, 2008**

**Board members present:**

**Jan Eckhart, Vice Chairman Ron Wolanski, Town Planner**

**Audrey Rearick, Secretary Frank Holbrook, Town Solicitor**

**Richard Adams Russell Jackson, Assistant Town Solicitor**

**Frank Forgue**

**Betty Jane Owen**

**Gladys Lavine**

**Member absent:**

**Art Weber**

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

**Minutes:**

**Motion by Mr. Adams, seconded by Ms. Rearick, to approve the minutes of the October 8, 2008 regular meeting and the special meetings of October 27, 2008 and October 30, 2008. Vote: 6-0-0.**

**New Business**

**1. Development Plan Review - Victor Ruggeri, Proposed tradesman center consisting of two 3,600 sq.ft. buildings. Vierra Terrace, Plat 113, Lot 105C**

**The applicant and his attorney, Jeremiah Lynch, Esq., were present.**

**Mr. Eckhart stated that a site visit to view the property in light of the waivers that have been requested might be appropriate.**

**Other board members agreed.**

**Motion by Mr. Adams, seconded by Ms. Owen, to continue the matter to the December 10, 2008 Planning Board meeting. Vote: 6-0-0. A site visit was scheduled for November 18th at 9am.**

**2. Peter Gallipeau, Request to discuss the ownership status of Bailey Ave. ROW abutting AP126, Lot 4.**

**Town Solicitor Frank Holbrook recused himself from the discussion.**

**Mr. Gallipeau stated that he believes that there is an inconsistency between the town's interpretation of the extent of the town ownership of Bailey Ave., as displayed on the approved Lewis subdivision, and information that he has provided that indicates his ownership of a portion of the right-of-way.**

**Assistant Solicitor Russell Jackson stated that he had not completed his review of the information provided by Mr. Gallipeau. The appeal period for the Lewis plan has expired, and the Board does not have the ability to reconsider that plan at this time.**

**Attorney Brian Bardorf, representing George Lewis, stated that the question of ownership has been researched. Public use of the right-of-way for various purposes is well documented. Mr. Gallipeau has raised this issue as a way of leveraging his interests. If Mr. Gallipeau wishes to contest the public status of the road, it should be contested in court.**

**The board agreed that the issue is not to be decided by the Planning Board. By consensus the matter was referred to the Town Solicitor**

for further review.

**3. Peter Gallipeau, Request for conceptual review of proposed minor subdivision of land fronting on Paradise Ave. and Cross Country Lane. Plat 120, Lot 97.**

**Town Solicitor Frank Holbrook recused himself from the discussion.**

**Mr. Gallipeau described a proposed plan that would address what he contends is a restrictive building envelope on the subject lot. The plan would preserve a portion of the lot as openspace in exchange for the creation of a new lot with dimensional requirements based on conservation development.**

**Board members stated that the request does not match the type of plan envisioned when the conservation subdivision regulations were adopted.**

**Attorney Robert Silva, representing an abutting property owner, McGeough, stated that the alternative to the proposal would be a variance application to the Zoning Board of Review. In either case, if approved, it is anticipated that an area of openspace would be preserved by locating a dwelling on the lot closer to Paradise Ave. He requested that the Planning Board consider providing a recommendation to the ZBR in favor of a variance request if the conservation plan is not acceptable.**

**Mr. Eckhart suggested that a site visit would be helpful.**

**Board members agreed.**

**Motion by Mr. Adams, seconded by Ms. Rearick, to continue the matter to the December 10, 2008 Planning Board meeting. Vote: 6-0-0.**

**A site visit was scheduled for November 18th at 10:30 am.**

## **Old Business**

### **4. Public Informational Meeting (continued from October 8, 2008) - Peter Gallipeau (Saltwood Farm), Proposed 14-lot Subdivision, Plat 126, Lots 4, 217, 218, 219, Master Plan Submission**

**Town Solicitor Frank Holbrook recused himself from the discussion.**

**Peter Gallipeau described the history of his efforts to subdivide the subject property, and the details of the proposed conservation subdivision plan now before the Board. Prior to the adoption of the regulations to provide for conservation development the Board had approved a 9-lot conventional subdivision plan for a portion of the property.**

**The applicant's engineer, Lynn Small of Northeast Engineers and Consultants, provided a summary of the components of the plan.**

**Ms. Owen asked if there would be underground utilities to serve the proposed development.**

**Mr. Gallipeau stated that there would be underground utilities.**

**Mr. Gallipeau described comments received from town and other agencies, noting that the plan has been revised to address some of the concerns. Some items, such as storm water drainage control, would be addressed at the preliminary plan stage of review. He noted that the proposed connection to public water has yet to be approved by the City of Newport water department. Because the abutting Lewis subdivision was not required to extend the proposed new roadway to the property line at Bailey Ave., a connection to public water is not available in the immediate vicinity.**

Regarding other concerns Mr. Gallipeau stated that the density is consistent with zoning and is demonstrated by the yield plan and the calculations. Whether developed as a conservation plan or conventional development, the proposal would include a new road connecting Bailey Ave. to Sachuest Way to address town regulations and policies of the Comprehensive Plan. If a conventional plan were to be developed, public water would likely not be provided, limiting some benefit to the surrounding neighborhoods. Impact of the development on the abutting neighborhoods would be minimal.

Ms. Owen stated that she attended the Conservation Commission meeting where this matter was discussed. The commission has requested that, in addition to indicating the location of Zone 1 of the watershed protection district on the plan, that markers also be set in the field to identify the boundary. The commission also questioned the openspace calculation and the inclusion of wetlands in development lots on the yield plan.

The discussion was opened to the floor.

Sam Howell, a resident of 110 Sachuest Way, stated that he has discussed the application with residents in the Sachuest and Bailey Ave. neighborhoods. The majority of residents prefer that a conventional subdivision be considered for approval. He stated that he is not happy with the recently adopted regulations amendments that provide for conservation development. The subject property is too small, and not appropriate for conservation development. The proposed plan adversely impacts abutting property owners. He requested that the Board reject the application.

**Kevin Brown, a resident of 8 Sachuest Drive, provided two handouts to illustrate his concerns with the application, including: Open space parcels are not contiguous; some lots are larger than others and therefore not consistent with conservation development; the plan represents two subdivisions, one conventional and one conservation; the plan should exclude the perimeter wetland as part of the yield calculation as that area is not available for development; land area of the plan does not match assessor's data; the designated openspace is not open to the public; the subject property is too small for conservation development and therefore the plan would result in a nuisance; the proposed gravel driveway across the openspace is inconsistent with accepted practice; Lot 10 does not have access to the openspace; public access to the open space is limited.**

**Richard Neidich, a resident of 7 Sachuest Drive, discussed the history of the development of the area. He stated that the plan is really a cluster development, and results in a wall of houses abutting an established neighborhood. He provided a presentation depicting the proposed plan and a potential conventional plan for the property. He stated that more open space is provided by a conventional development than the proposed conservation development.**

**Earle Trickey, a resident of 1 Sachuest Drive, discussed the history of the land. He stated that he has no particular concern with the proposed development, but he would prefer to see Bailey Ave. connect directly to Sachuest Drive.**

**Mr. Neidich stated that he and several of his neighbors are long-term residents of the neighborhood and are original occupants of their**

respective homes.

Nancy Grasing, a resident of 105 Bailey Ave., stated that she understands the concerns of her neighbors, but change will happen. Her family has owned her property for 47 years. The preservation of open space is positive, provided that stormwater drainage from the development is properly addressed.

Gregory Shultz, a resident of 10 Sachuest Drive, requested that the applicant review the 10-step design process that was used to develop the plan. He stated that the town's definition of developable land area should be reviewed for possible revision. Third-party review of the plan should be required.

Elizabeth Rowe, a resident of 65 Bailey Ave., stated that she was not notified by the town of the application. She expressed concern over potential storm water drainage and traffic impacts.

Mr. Wolanski stated that the Planning Board notice had been mailed via certified mail, return receipt requested. He provided the signed card indicating that the notice was received by someone at Ms. Rowe's household.

There being no one else wishing to speak, Mr. Eckhart provided Mr. Gallipeau an opportunity to address comments.

Mr. Gallipeau stated that the Board should base its review of the plan on the regulations that it recently adopted. He discussed the purposes of the conservation plan. He indicated that due to the lot coverage requirements, the footprint of a home on a convention lot could be twice that of the proposed lots. The Sachuest Drive properties abutting his land did not have views across his property

until 2005 when he cleared invasive vegetation on his and his abutters land at his own expense. Whether a conventional or a conservation plan is developed, the impact on views from the abutting properties on Sachuest Drive will be the same. Mr. Gallipeau stated that his proposal meets the town's requirements, except for some waivers requested. A rejection of the plan would set a bad precedent for future development in town. A conventional development would provide no added benefit to the neighborhood. The proposed roadway connection would proceed. Public water would not be provided to the area. The proposed density is appropriate and is demonstrated by both the yield plan and the formula. Regarding concern over stormwater drainage, the conservation plan provides more flexibility to address drainage control.

Mr. Gallipeau stated that he would like to review the design process for the plan.

Mr. Eckhart suggested that the discussion be continued to the December Planning Board meeting given the late hour and the need to complete the remainder of the agenda.

Motion by Mr. Adams, seconded by Ms. Rearick, to continue the matter to the December 10, 2008 regular Planning Board meeting. Vote: 6-0-0.

5. Request of the Town Council for an advisory recommendation on a proposal to amend the Middletown Zoning Ordinance Section 603 regarding dimensional regulations in the Office Park (OP) zoning

**district.**

**Attorneys David Martland and Gregory Fater, representing their respective clients, citing the duration of the discussion of the previously agenda item, requested that this matter be continued to the December Planning Board meeting.**

**By consensus of the Board, the matter was continued to the December 10, 2008 regular Planning Board meeting.**

**6. Discuss potential amendment to the Middletown Zoning Ordinance, Article 4, regarding the definition of Building Height.**

**Mr. Wolanski stated that the board held a special meeting with the Building/Zoning Official on October 30, 2008. At that meeting the consensus of all present was that the current definition and practice for measuring building height is appropriate and that there is no need for amendment at this time.**

**Motion by Mr. Adams, seconded by Ms. Owen, to table the matter indefinitely. Vote 6-0-0.**

**7. Discuss process for Comprehensive Community Plan 5-year update**

**Mr. Wolanski stated that a special meeting of the Board was held on October 30, 2008 to discuss the process for proceeding with the work needed to complete the comprehensive plan 5-year update. At that time the Board had decided to proceed with the board acting as the update committee, with invited representation from other committees and agencies on an as-needed basis. Since the meeting on October 30th, it has been suggested that creating a more formal and representative update committee would result in a more complete**

process. Such a committee would have to be created by the Town Council.

The consensus of the Board was to proceed with a request to the Town Council to establish a comprehensive plan update committee. Mr. Wolanski was asked to draft a memo to the Town Council for review by board members.

**8. Discuss potential amendments to the Middletown Zoning Ordinance, Sections 602 & 603 regarding allowed uses and dimensional requirements on the Limited Business (LB) zoning district**

Mr. Wolanski stated that he has not completed research on the potential alternative zoning options discussed at the October Planning Board meeting. He requested that the matter be continued to the December Planning Board meeting.

Motion by Ms. Owen, seconded by Mr. Fogue, to continue the matter to the November 10, 2008 regular Planning Board meeting. Vote: 6-0-0.

**New Business**

**9. Carol Cummings, 2-lot Subdivision, Indian Ave., Plat 129, Lots 154 – Request for 6-month extension of the final plan approval.**

There was no one present to represent the applicant.

The board reviewed a letter submitted by Carol Cummings requesting a 6-month extension of the subject subdivision approval.

Motion by Ms. Rearick, seconded by Mr. Adams, to approve a 6-month extension of the subdivision approval. Vote: 6-0-0.

**10. Discuss zoning and development standards and requirements for**

**the light industrial (LI) zoning district.**

**Mr. Wolanski stated that he had received inquiries regarding the Omni Land Company property on West Main Rd., which has been approved for a light industrial development. Some have indicated that the cost of the land, and costs associated with the required development standards, along with the use restrictions, may be impacting the owner's ability for attract a buyer/developer.**

**There was discussion of the extensive process to develop the regulations that are now in place. The consensus of the Board was that no action need be taken at this time unless a specific proposal for potential amendments is presented to the board for consideration.**

#### **Additional New Business**

**11. Mr. Adams stated that he had drafted a letter to the editor of the Providence Journal in response to a recent editorial criticizing the lack of action on the part of the Town to improve the appearance of West Main Rd.**

**There was discussion regarding whether the letter should be sent.**

**Some members stated that they had not had an opportunity to review the letter.**

**Motion by Mr. Adams, seconded by Ms. Owen, to authorize the vice chairman to send the letter once all members had been given an opportunity to review the letter and offer comments. Vote: 6-0-0**

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

**The meeting adjourned at 9:20pm**