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PLANNING BOARD MINUTES

**October 19, 2021, 6pm**

Town Council Chambers – Town Hall  
350 East Main Road  
Middletown, RI 02842

**Board members present:**

Paul Croce, Chair  
Bill Nash, Vice Chair  
Michael Fenton, Secretary  
Art Weber  
Joe Pierik  
B.J. Owen  
John Ciummo

Ron Wolanski, Town Planner  
Marissa Desautel, Assistant Town Solicitor

*Mr. Croce called the meeting to order at 6:00pm and introduced the item to be considered.*

1. **Public Informational Meeting - Application of Horan Building Company for Master Plan approval of a 7-lot subdivision including a proposed new road. The property is located on the southwest corner of the intersection of Green End Ave. and Vaucluse Ave. and is identified as 208 Howland Avenue, Tax Assessor's Plat 129, Lot 53.**
  - a. Mr. Croce stated that there are two items the Planning Board must address in response to the ZBR action to remand the subject application back to the Planning Board for additional review: 1) required submission of a revised conventional plan to contain the same information included on the previously provided conservation design plan. 2) Allow Planning Board consideration of a reduced number of lots prior to acting on the Master Plan application.
  - b. **Motion** made and duly seconded to open the public meeting. **Vote:** 6-1-0, with Mr. Nash voting in opposition.
  - c. **Motion** made and duly seconded to receive email communication of Melissa Welch dated October 19, 2021 re: Horan/Howland Ave. Subdivision. **Vote:** 4-3-0 with Mr. Ciummo, Mr. Weber, and Mr. Nash voting in opposition.
  - d. Attorney Jay Lynch represented the applicant and discussed the purpose for the meeting. He asked engineer Lyn Small to review the revised conventional design plan.

- e. Ms. Small stated that the conventional design plan contains the same information as previously provided on the conservation plan. The property can support the development of seven building lots.
- f. Mr. Croce invited the objector's attorneys to address the board.
- g. Attorney Stephen McGillivray addressed the board with questions for Ms. Small regarding the calculation of developable land area, and size of proposed homes and septic systems. Ms. Small answered the questions.
- h. Mr. Croce reminded Mr. McGillivray that at Master Plan stage engineering information is not required and would not be accepted by the board.
- i. Mr. McGillivray stated that the Board will not get engineering information on the conventional design plan if the conservation plan is approved. Mr. Croce reiterated that it is not required.
- j. Mr. McGillivray asked Ms. Small about the sizing and design of proposed raingardens. Ms. Small stated that the raingardens are shown as placeholders and have not been engineered.
- k. Mr. McGillivray requested an opportunity to submit new written testimony from his engineer. Mr. Croce denied the request and again reiterated that this review is a conceptual level review. Review of engineering will occur at Preliminary Plan stage.
- l. Mr. Croce asked the applicant to address the issue of consideration of the number of lots.
- m. Mr. Lynch reviewed provisions of the town regulations and statutory language. He stated that the Preliminary Plan stage is the appropriate time to consider possible reduction in the number of proposed lots.
- n. Mr. Weber stated that the current 7-lot plan is inconsistent with the Middletown Comprehensive Community Plan. The plan designates the property for low-density development. The subdivision should have fewer lots.
- o. Mr. Lynch stated that the low-density designation as defined in the comprehensive plan includes R-40 zoning. The proposed plan complies with the requirements of R-40 zoning.
- p. Ms. Owen referenced language in the comprehensive plan relating to historic resource and landscapes preservation. The subject property is identified as a resource in the plan. The subdivision should have fewer lots.
- q. Mr. McGillivray stated that the number of lots can be considered at Master Plan stage. The ZBR remand specifically states that the Planning Board must consider a reduction of the number of lots. The plan must meet zoning requirements and be consistent with the comprehensive plan. He also stated that the remand indicates that the objectors should be given an opportunity to cross-examine Mr. Houle, an expert witness previously presented by the applicant.
- r. Mr. Pierik stated that he would need additional information before he could make a decision on the application.
- s. Mr. Croce invited public input.

- t. Dwight Sipprelle, of 165 Indian Ave., stated that the board should uphold the language of the comprehensive plan, including preservation of historic resources and landscapes. Stormwater runoff and flooding is also a concern.
- u. Meg Stiener of 133 Indian Ave., expressed concern over stormwater runoff. The number of lots should be reduced.
- v. Sandra Craig of 501 Indian Ave., stated that the board should uphold the comprehensive plan. She noted the adjacent historic district and concerns over impacts of runoff and flooding.
- w. Liz Drayton of 116 Wapping Rd. stated the rural character of the entire area should be considered. She expressed the need to preserve farm land and expressed concerns about runoff and flooding.
- x. Mark Horan, the applicant, stated that he shares the concerns that have been expressed. The land is zoned for R-40 residential development and his plan complies with town requirements. He said that his plan can cohabitate with the residents concern for historic and environmental preservation.
- y. Attorney Mathew Leys, representing abutter Robert Sylvia, stated that the language of the comprehensive plan must be considered in reviewing the project. He requested that his expert witness, land use planner Paige Bronk, be allowed to testify.
- z. Mr. Croce asked for the solicitor's advice. Ms. Desautel stated that the board has discretion to accept new testimony or not. Mr. Croce denied the request.
- aa. Attorney Girard Galvin, representing abutter Robert Amodo, requested an opportunity to introduce written expert testimony of an engineer relative to the proposed number of lots.
- bb. Mr. Lynch objected as he would not have the ability cross-examine the witness.
- cc. Ms. Desautel advised the board to not accept the written testimony. She went on to advise the board that the number of lots approved at Master Plan could be reduced at Preliminary Plan phase when more engineering information is provided. The Board is required by the ZBR remand to consider the appropriate number of lots prior to Master Plan approval.
- dd. There being no additional members of the public wishing to speak, a motion was made and duly seconded to close the public meeting. Vote: 7-0-0.
- ee. Mr. Croce called for discussion of the appropriate number of lots.
- ff. Mr. Weber suggested that three lots would be more appropriate.
- gg. Mr. Fenton recognized the concern expressed by the speakers. He supports approval of 7 lots at this stage, with the possibility that that number could be reduced once additional information is provided at the next phase.
- hh. Ms. Owen suggested that 3 or 4 lots would be more appropriate.
- ii. Mr. Nash stated that the plan complies with the town's regulations for Master Plan review at 7 lots, and will not detract from the neighborhood.
- jj. Mr. Pierik stated that he is concerned with possible inconsistencies with the comprehensive plan. The project needs to comply with town regulations.
- kk. Mr. Ciummo stated that he is concerned with the number of lots being requested.

- ll. Mr. Nash stated that if there is desire to deny the application, a clear rationale for the denial must be expressed.
- mm. Mr. Pierik stated that he would like more information before deciding on the appropriate number of lots.
- nn. Mr. Croce stated that the number of lots should be reduced. He is not happy with the current design, including the access to the open space. Better access should be provided. He suggested that four lots would be more appropriate.
- oo. Mr. Nash requested the rationale for the proposed reduction in the number of lots.
- pp. Mr. Weber and Ms. Owen cited the comprehensive plan language relating to historic resource preservation.
- qq. Mr. Fenton suggested that access to open space in the conservation plan for lots that don't abut it could be provided with easements over lots that do abut it.
- rr. **Motion** by Mr. Croce, seconded by Mr. Weber, to grant approval to the conservation design subdivision plan subject to the following conditions and findings:
  - i. New lots will be subject to the Town's development impact fees ordinance, Town Code Chapter 150. A note to this effect must be provided on the preliminary subdivision plan prior to approval.
  - ii. The builder is required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151). The use of pervious paving and other methods to promote infiltration of storm runoff should be considered as means of meeting the requirements of Chapter 153. A note to this effect must be provided on the preliminary subdivision plan prior to approval.
  - iii. Based on a desire to preserve historic resources and landscapes as identified in the Middletown Comprehensive Community Plan, the subdivision shall be limited to four development lots plus an open space parcel(s) meeting the requirements of the Middletown Zoning Ordinance and the Middletown Rules and Regulations Regarding the Subdivision and Development of Land. The Preliminary Plan design shall include two lots on each side of the proposed street. Adequate access to the open space parcel(s) shall be provided for the residents of the subdivision, with such access subject to the approval of the Planning Board prior to Preliminary Plan approval.

Findings made:

1. The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
2. The proposed development is in compliance with the standards and provisions of the Town zoning ordinance.
3. There will be no significant negative environmental impacts from the proposed development.

4. The subdivision will not create lots where physical constraints would make building on the lots impracticable.
5. All subdivision lots shall have adequate and permanent physical access to a public street.

**Vote:** 6-1-0, with Mr. Pierik voting in opposition due to lack of consistency with the Middletown Comprehensive Community Plan.

**Motion** to adjourn by Mr. Nash, seconded by Mr. Weber. **Vote:** 7-0-0

*Meeting adjourned at approximately 7:55pm*

Respectfully submitted:

Mike Fenton, Secretary

