

Town of Watertown
Planning and Zoning Commission
Public Hearing
Southridge Estates
June 18, 2008

Time: 7:00 PM
Date: June 18, 2008
Place: Watertown High School Technology Center
324 French Street
Watertown, Ct.

Members Present: D. Minnich, R. Russ, C. Mancini, G. Dupliese, J. Blais, D. George, R. Rondeau

Members Absent: M. Masayda, G. Martin

K. Demirs sat in for G. Martin
R. Rondeau sat in for M. Masayda

Other Present: R. Mulcahy, Administrator of Land Use
C. Berger, Town Engineer

M. Masayda arrived at the meeting at 7:25 PM

Minnich: I call the public hearing of Planning and Zoning Commission at June 18, 2008 at 7PM.

Continuation of a public hearing for a proposed 21 lot subdivision to be known as Southridge Estates located at Bunker Hill Road/Sandbank Road, Watertown, CT in an R-70 residence district. You have a presentation?

Curt Jones – Civil One Professional Engineer 43 Sherman Hill Road, Woodbury

We do have somewhat of a revised; I would like to pass out 11 by 17 sheets to enables us to discuss this. In terms of the site plan itself

most of our discussion and our reason has centered on the westerly road, the Phase II road and different configurations, different road lengths. Between the last meeting and this meeting that was the focus of our effort here. The Phase I road remains the same as it has been. We took a look at this and we stepped back and there was a lot of discussion about the rain gardens, the drainage and how we got here. We took a look at it if it is going to be a cull de sac let optimize the cull de sac and simplify it as much as possible. And that is what we have done. We took the bend out of it where it went up the hill and straightened out that last half of the road which in turn shortened the length some. It enabled us to just to pitch the road out to Bunker Hill Road, all in one steady grade. Rather than having a high or low point in the road it just a positive grade going in. That enabled us to consolidate the rain gardens so that there are no rain gardens to the rear of the property where the access to that had been viewed as somewhat problematic. So now the consolidated rain gardens are just at the entry and it is not actually marked on this map, it is on the detailed maps. That first little parcel on the left hand side and as a result the road length and we did not track down the policy that we talked about briefly last time. However the most conservative estimate way of measuring the road that we could come up with from the edge of Bunker Hill Road to the very back of the pavement and that is 960 feet for Phase II. Phase I is still over 1000 so we would request that waiver that has been previously discussed with you. Chuck was kind enough to look at these quickly today he did have a couple brief comments. I will let Chuck talk about that. I am in agreement with everything that I heard from Chuck. That is kind of synapses of the site plans themselves. Gail is here to talk about a couple of the other issues and I will turn it over to Gail unless there are some immediate questions on the site plan itself.

Dupliese: We did not change the number of lots? We just changed the length of the road in Phase II and the lots numbers stay the same?

Jones: Yes, sir. That is correct.

Blais: To conform with our, regulations 960 feet right?

Jones: Yes

Minnich: Do I understand the math to show that where the rain garden was it is no longer a part of this project?

Jones: That is correct, that will become part of the other land option. Lot 15 is plenty big enough as it is in a 1070 thousand zone. It seem it would be natural to go back to the farm.

Russ: On lot 6 you show a road going pass the driveway past a house going pass the rain gardens?

Jones: Yes, that is the access driveway for the rain garden behind lot 6.

George: Phase II you have 9 lots on the cull de sac?

Jones: That is correct.

Rondeau: All of the drainage for Phase II is now going to go into the rain garden that is up across from lot 16.

Jones: We can look at the detail plans it is next to lot 12. It is at the entry to the left. So all the drainage would come out towards Bunker Hill Road rather than going in where the maintenance would be a little tougher. The road is entirely pitched out to Bunker Hill without any high points or low points in it.

Rondeau: My recollection was that land across from lot 16 that has now gotten reacquired by the original farm land?

Jones: That is merged back into the farm because that had been set aside for the rain garden and you might recall had that long steep driveway going down and that was a source of concern so that is what we took out.

Rondeau: What water was going into that rain garden where was it coming from?

Jones: Previously there was a different alignment to the road and say in front of lot 19 it came up higher on to the hillside and created a high point there.

Rondeau: Which you shifted it to the...

Jones: We shifted it down the hill so it could maintain the constant grade out. That high point was fine when we had a through road it was not the best alignment once it was a cull de sac in my opinion. So we took a fresh look at it and really started from scratch and looked at the best road that would fit within the parameter.

Rondeau: So is there going to be any drainage from any of the lots on your subdivision into the farmer's field now? Or is it all going to be contained?

Jones: Well you have the downhill line so lot 12, 13, 14, and 15. Those will sheet flow into the water course.

Rondeau: Which they were going to do anyway.

Jones: That is correct. And the alcove lots 16 through 20 we have made provisions so that all the footing drains and driveway drainage can be accommodated by the road drainage system.

George: So the water drains off 12, 13, 14, and 15 will not be as much because it is going to be sodden down instead of cornfields.

Jones: Yes, there will actually be a reduction because of the change in the land cover.

Rondeau: Now that portion of the land however that may be whatever a couple of acres is that going to change any of the issues as far as open space goes?

Jones: Not in my opinion but we can discuss that. And Gail is here to talk about the open space. It is just merged back in you could make it part of lot 15 would be four times the lot size or 16 it just...

Rondeau: No the fact that you are making the subdivision now look smaller technically would mean that you may mean not to give up quite as much in terms of open space I was just curious if you were suggesting to change that in any way.

Gail Mctaggert – Secor, Cassidy and McPartland

I have copies of the appraisal it required of fee in lieu and I have some copies of the entire appraisal and mini experts that show, it's a long document and mini excerpts from this appraisal that show important comparability in and so forth. You would want the original.

The excerpts have all the important stuff in them.

Mctaggert: They have the comparables, which is how the appraiser came to his decision, the executive summary and the final determination. The appraisals will show a million and one, 1 million and 100 thousand dollars. And what we proposed and I think one of your members just mentioned what we proposed is to roll the open space back into the farm and propose a 5% fee in lieu of open space. So under this appraisal of a million and one at 21 lots it would be .05 times that million and half which would be \$55,000 dollars and divide it by 21 lots that would be 2,619 a lot. And I actually have a little hand out for each of you that show that calculation. One of the things that is important to understand about that appraisal is the appraisal includes the 25.14 acres that is the other land that we were considering as part of the open space. So the appraiser included the whole thing so you have the value of

that as well the value of the parcels we are talking about. So it is conservative in that respect. The other thing is why the 5% and I heard Jim Strub talking about at prior meetings this is a interesting situation where the Commission has the opportunity to really help a farmer. What he could do if he did not have a restriction on that remaining land would be at some point offer that to a preservation trust and if it has a restriction place on it by this Commission it will not be available to him. What has happened in under state and federal laws for these sorts of gifts for tax reasons he get no benefit if it is part of the land use approval. So what we are asking is that property is going to be farmed it will be folded in to the farm and it will be used for farming as it has been. If he were to do something else with it, he have to come back to this Commission for re subdivision approval anyway any further activity to develop or do something with that land would require an application to this Commission. The intention is to farm it that is what is being done now; I think some of you know he has an award winning dairy farm. There are not very many of those, one of the reason for doing subdivisions is trying to keep some farming going to turn some this land into dollars, so we can keep that farm in operation intact. So we thought certainly the Commission could and if you required it and we would do it. We would put a restriction on it, it is not necessary it going to be farmed. So we are asking given all of that and the fact of the appraisal includes the entire property including this other land as part of that. We are asking that you consider our proposal for 5% which we think is an excellent compromise because it does provide an ability to preserve this important farm land. I don't know if there are any questions on that?

Minnich: The understanding that Jim said to us was the 5% as you have mentioned was different than what is in our regulations for 10%. We had a straw vote and thought that was fine. I hesitate about the word being said it would require on both the land records as well as on the Mylar's that be restricted for that purpose. You are telling me there is a tax issue and I do not clearly understand that in doubting for that because in my mind the agricultural land was the reason is half of what we normally take and I am also looking at this as we

always do in a larger perspective. We need to do this here now when somebody else comes and don't have the restrictions how is that equitable. I am not understanding the...

McTaggart: Well this Commission has discretion under the state statute up to 10% for fee in lieu. It does not say it must be 10%. There is discretion to determine the amount. And actually what the state statute says is be a combination of open space and fee in lieu and over the years I have watched Commissions do everything from 1% to 10% depending on the situation. I don't know if you have another situation that is precisely like this one where you have an established and this is more than one generation of dairy farm that has been important open space attribute to the community because farms are. The tax issue again is I am not a tax attorney but I worked with quite a few land owners that have deeded property to both land trusts and to the state farm land preservation trust in order under our tax code under our federal tax code to get any sort of benefit for that to transfer all of the development rights and so forth it has not to be restricted to begin with. If it is restricted then you are not giving up anything when you transfer it so there is no real benefit to it. It's not something that is a deal breaker it would be something very nice for this family that held this farm as long they will be farming it and the Commission has the protection of knowing if we change it we would have to come back and forth as commissioned at that time. So it is not going to be something that you laterally view as change. There is another issue and that is property that just gets put into open space and some farm land around the state is no longer farmed many times ends up not being in as well maintained as property that is actively farmed. It doesn't take long for those to be over ridden. In this case we have someone who has great pride in taking care of it. You have a track record on what has happened out at that farm to show for that. So we are just asking that he not be foreclosed the opportunity down the line to be able to utilize that property to preserve it forever in that way. If you require that we put an agricultural restriction for agricultural uses which are defined in our space statute 1-1Q, if you were to define that which is the way the farm land trust defines it in Connecticut.

We would be willing to do that we are just asking you to find in this particular situation putting that back into the farm and having it part of that farming operation is sufficient protection. Because in the end what you are interested in that it stays in sort of an open and farming type capacity.

Minnich: How on this issue how long what the intent of your client with regards to farming this? I guess what I am saying I am trying to rationalize what you just said and trying to go along with it but I guess what I am wanting to understand is he going to come in next week and say that he wants now to do it, that is not to develop the property that our of state has cogitation and is intended to be for a longer period of time.

McTaggart: I understand and he is here. Mr. Lynn is here if you want to come up. He has reserved that entire center part of this as you look at the map is still part of his farming operation. It just gets folded into it.

Nelson Lynn – Owner of the farm

My intentions are to have cattle on the land and be able keep the medals and pastures clean that are there. And be able to have animals and that is what I lived with all my life, that is what I would like to have.

Minnich: How long?

Lynn: I will be there for as long as I can be there.

Minnich: Typically we ask for 10% that is in our own regulations and we also as your attorney has said you also combined it at times with partial open space or in this case with agricultural land. But normally when we do that with combining something we put a restriction on the land. Your attorney has informed us that there are tax implications and are trying to work with you and I guess in this end in terms of my own my own terms of being equitable is if your intent is to sell it next week the is a whole different story and If you are going to keep it for

whatever period of time you can tell us in the future. So I am trying to get an out your intent?

Lynn: My intent is to be there for the rest of my life. That is where I want to be.

McTaggart: Sometimes we are humbled by our clients. And I have one of those situations. We are asking you to consider it. We understand that you could place a restriction on the farm we think it is not required for protecting it the 5% the \$55,000.00 dollars is a good number because it also includes not the subdivision land but also that open space land that open space land was considered by the appraiser and he used a per acre number so those 25.14 acres are part of this calculation of the per acre value. So you are actually getting more dollars than if we took this sub dividable land just the lot area and done that. If there are no more questions on that I have one more issue.

Rondeau: I am still confused on the other land that is included in the appraisal. Is it just the part of the land that has been sent back into the farm that was the rain garden or are you talking the entire wetland area?

McTaggart: It is not just wetland area there is a water course through there and there is a lot of wetlands but it is that other land area.

Rondeau: What was the scope of the land included in the appraisal?

McTaggart: It includes all this and this then the 2 phases everything but the farm. So I guess what I am saying is that we included that entire amount that was included and what the appraiser did he figured out a per acre fee and came up to the million and one evaluation by using that and we included the acreage including the open space what would have been the open space area in that number. So what I am saying is it's a higher number than would have been if they had not done that.

Rondeau: The area that is labeled as other land of Walnut Grove Farm... that area in green.
That is considered wetlands.

McTaggart: Not all of it is considered wetlands.

Rondeau: Of that extra area the value of wetlands is obviously a lot less than the value of developed land. Would you agree?

McTaggart: I would agree with that, but what I am trying to say is that the appraiser didn't accept out the wetlands he came up with a per acre value of all of that land.

Rondeau: He came up with an average some of the land may have been more \$500.00 dollars an acre that was wetlands for sake of argument. The other land that was not considered wetlands may have been more than \$1,500.00 dollars an acre when you average those together you come up with your.

McTaggart: He appraised the whole piece and he does include areas that are wetlands without questions. Actually in Connecticut almost every piece of property that gets appraised has some areas that are wetlands. But he appraised the whole piece of property. If somebody were going out in the market and buying a pre subdivision because that what the statues states. That what the appraiser does. I could not quote to you for Mr. Bionde what the wetland acres worth.

Minnich: Is there anybody else on the Commission have any questions?

McTaggart: We have also asked for bonding we don't have a problem for putting it all up at once. But we are just asking that we could put a letter of credit on day one and another letter of credit on Phase II so if we were to end up with a different builder on those we can deal with it. And it would be the same total amount of money we are just asking that any approval resolution would allow us to do that.

And I think that is it unless the Commission has other questions?

Minnich: Does members of the Commission have any further questions? Do you have any further presentation?

McTaggart: I think we are basically finished I don't know if Chuck had questions for Curt on the review of the plans?

Berger: I received these revisions around noon time today and did not look at them this afternoon as Curt had mentioned I think the revisions on Phase II are good. I think as he represented it is simplified, the drainage and it makes a lot more sense. I do see an opportunity to possibly simplify a little bit more on Phase I on Old Meadow Lane and what I mean by that is Southridge Lane initially had a drainage system that consisted of a combination of grasslands, swales and curb and gutter system with revisions it is complicated with the catch basins and the pipe how do you transition from a swale to curb and gutter system. Again revisions to Southridge Lane have simplified all that and it is now a grass line swale drainage system for the most part coming out to Bunker Hill Road. Old Meadow Lane remains a combination of the curb and grassland swale system. I think there is an opportunity to eliminate some of the catch basins that are located in the paved portions of Old Meadow Lane and simplified as well. It is not going to change the drainage significantly. There is enough capacity there in the existing pipes that they proposed the outlet won't change but there a little bit of fine tuning that I would like them to look at on Old Meadow Lane.

Blais: Do you feel as though you can resolve this issue without many problems?

Jones: I do yes. As Chuck said the intent is to simplify it. We are in agreement.

Dupliese: When I look at this piece you have 88 acres and we can choose what open space we would want, we do not have to accept what you give us but we can take any open space we wanted.

McTaggart: Technically this Commission has the right to determine open space should be dedicated and you have discretion to make that determination and you can say 0, you can say 10%, you can use your regulations and the same thing is true of under your rules you always wants a proposal from the applicant if there is a fee in lieu.

Dupliese: I am looking at a beautiful piece of land that the town could use for a ball field or whatever it is 8.88 acres of land is a nice piece of land. I hate to be trading 8.88 acres of good land that we could use in Watertown for \$55,000.00 dollars.

McTaggart: In this case actually what you say about open space is that open space under our statutory scheme and under regulatory scheme is used for a lot of different things. And farming is an absolutely appropriate use of open space. And although those wetlands you are going to have a ball field might not be the best thing. The wetlands and that stream running through are beneficial to the farming operation and we have a wetlands approval that took that into consideration. It is true that if you are just thinking of open in terms of recreation and those sorts of things that open space is many different things and one of those are in fact state statutory states trying to preserve farmlands in Connecticut. This particular land it works well apart of the farm operation even though it does have wetlands in it. I think some of you know that farming activity has a special status under the wetlands statutes it is exempt for the wetland statutes, so this is a situation where the open space has made good use of maintained and protected in its open status but properly is not a perfect place to have a ball field.

Minnich: Anyone else?

Rondeau: I would like the Commission member to clarify himself just so I understand his question? Were you suggesting perhaps in theory your lots 1 and 11 or 12 and 20 something of that nature as being the open space vs. Is that what you are asking?

Dupliese: I think that is the point that I am trying to get at. Is when we look at this to me I do respect everything Mr. Lynn does I like his farm. I am not going against you, what I am trying to get at is that I want good open space this is not aimed at any person, It is not personal I would prefer to have 8 ½ acres of nice open space for Watertown we could use in the future whatever it be on that particular site. Eight and half acres up on that hill that could be used as a future substation for a fire house or a extra two ball fields which would be a great location and in the town we have none. I am saying to trade that 8 ½ acres for \$55,000.00 dollars as a Commission member I just can't see doing that. In my heart I cannot give it away for \$55,000.00 dollars.

McTaggart: Just to answer it I don't think you are not trading us in my estimation there is obviously priorities for open space and in fact small chunks of land that sit in subdivisions are not usually nearly as important as where you can take an open space and link it to a another subdivision and do that do it. In fact where this situation is there might a more productive use of that open space then having a small chunk that is sitting on subdivision. People that buy into a subdivision my guess is that they are going to enjoy that, a farm in the center of this. If you are going to come and buy in this subdivision there is going to be farm right down between the two phases of this. I got to believe that the person who come to live and are going to be thinking that is an asset to this subdivision.

Minnich: Down the street recently we had other developments and there was some concern perhaps that the same topic is that park when that became the topography prohibited that being done without a fair amount of expense. I also say that these subdivisions are presented to staff of Park and Rec and we have not heard from Park and Recreation in regards to their desire to have a park they have more generalized topic have said they would prefer the money to be put in the fund. And lastly my own last thought on this we have discussed this issue of open space and whether you want to have open space and we have come to a tentative motion that the discussion that you started out with regards to 5% and then

have the farm in lieu of another 5% that is where we are at. And here we are at an end of a conclusion and that would substantially change the layout of what is being presented in a matter of fairness that discussion is rather late in the process here. None the less everyone entitled to change their mind and where...

McTaggart: If the Commission felt insecure about the protection of that farmland we would take a restriction on it. We are just saying to you understand what the ramifications on that are. Is there anyone else on the Commission?

Berger: I have one other issue that I do not think we have talked about on this one. Both roads are currently proposed at 30 ft wide I don't know if that is what the Commission wants to consider in this situation the possibility of narrowing the roads?

Minnich: What is the width of the one down the street?

Berger: One across the street is 24 feet wide.

Minnich: How about the one down the street?

Berger: I believe it is 24 feet wide as well.

Minnich: Is there anyone else on the committee? Is there any members of the public that would like to comment on this project? Any comments from the Commission?

Blais: I would like to propose with the wetlands that the agricultural property go back into the subdivision. I think people who buy lots going with a baseball park in front of their area that they are buying property I think the presentation satisfies me with Chuck the engineer coinciding with their engineer and I think we should end this discussion of the public hearing.

Rondeau: I think in theory the way this can be looked at we are being offered roughly \$55,000.00 dollars in reality we are entitled to 8.88 acres of

land or the appropriate value in theory we could ask for lots 12 and 20. I don't know if that comes out to 8.88 acres but in theory we could ask for two lots. The town could turn around and sell those lots for \$150,000.00 dollars apiece and have \$300,000.00 in the general fund. I guess what I am getting at in theory what is being proposed is without effecting whether this is going to be farm land or not may or may not be appropriate.

McTaggart: First of all the fee in lieu of open space does provide for deeding of lots into town. It's actually a pre development in the state statue. It is a pre development cost, so you are just looking at a number of acres, pre development, pre approvals before we have any approvals and appraiser is looking at it without knowing that it is going to have subdivision approval on it at that point. The second thing is that this Commission for what purpose just to take the lots for what purpose? What we are saying is that we have a proposal that does some very good things. It is good for the community; preservation of farmland is also one of your goals in this town under the plan of conservation and development. If just put that all into open space in the back and it got farmed you would have no \$55,000.00 dollars. It would just be the whole acreage there with no money coming in and it could be farmed the same way that we are talking about. We are saying we understand that you are looking for a compromise we thought we did that, the 5% was I think we had a straw vote but I think it is wise we came to that and we thought it was very fair.

We did talk to the neighbors about the folding in of the open space and they were thrilled about it. So the neighborhood around the farm is thrilled about this coming back into farmland. It was a very positive comment even though they are not here tonight.

Minnich: Any other comments from members of the Commission?

Mancini: Did you know how thrilled the neighbors were that houses being built in the back of their property? You said they were thrilled when

you folded in, I am sure they were not thrilled about that when they bought their property 25 or 30 years ago that was all farmland...

McTaggart: They have bought it a lot longer than that there is generations that have owned that farm all the way outside of that and so these are the people that have been on that neighborhood for a very long time.

Minnich: Is there any comments from the Commission?

Masayda: This open space farm area is not going to be on, should something happen two years from now that could be developed in lots then.

Minnich: While you were not here I asked Mr. Lynn and he came to the podium and I asked him on the record what his intentions was for the land. And he said his intentions for farming for as long as he is living.

Masayda: What happens after that?

McTaggart: We would have to come back to this Commission, if we were going to change this subdivision plan.

Rondeau: As long as there are regulations there would be nothing to prevent them from doing that.

McTaggart: We offered to put a restriction on it. If this Commission so votes to do it, we are just saying we think it not necessary what you missed is...

Masayda: What would specifically be the restriction?

McTaggart: The restriction is that it is used for agricultural purposes under section 1-1Q under the definition of agriculture under the state statute. The reason we prefer not to do it is many farmers in Connecticut that had owned the farmland for a very long time when of the best things that they can do when they retire or is to restrict it over to a farmland trust. Any they get a conservation restriction, it helps them

to not develop their land and save some of it out and protect forever for farming. If we did a restriction from this Commission we will not be able to do that under the IRS rules. It is part of the land use approval he will not be able to then deed out either an easement or the whole to a farm land trust to a land trust. I have done many of these transactions and I am certain this is what the tax advice that we are getting is accurate.

Masayda: At what point does he deed it out to the land trust?

McTaggart: When he retires perhaps when he cannot farm it now longer.

Masayda: If he chooses not to that is it also an option?

McTaggart: It is an option to choose not to, he could sell it or he can do what anybody can do with their land. His plans are to farm this land as long as he is alive and can farm it.

Masayda; He can change his mind say next year and I am going to sell it.

McTaggart: If he is going to developed it will have to come back in this Commission a tremendous amount of that back part is wetlands which are terrific for the farm operation but not perfect for development.

Masayda: It meets the requirements and if should deny, If he all of sudden changes his mind wants to sell it and do something else?

Blais: People have options with their land. Why should you restrict the longest running farm in this town prevent these people from using their land the way they want to use their land.

Masayda: I am not trying to restrict it, the discussion was about the open space and that part of that 5% was because he was going to keep it as open farming in which would be today but may not be tomorrow.

Blais: Prior to you coming to this meeting this evening, Mrs. McTaggart gave a very nice... Well you missed some of this meeting. You should recuse yourself because you did not hear her presentation.

Masayda: I am asking specific questions so we do not have to say everything but since you are taking up some of my time....

Blais: I am bringing to your attention what you missed at this meeting.

McTaggart: One of the things about the appraisal is included all of the land. So the appraiser looked at the whole land including the 25 acres of other land that is not part of the...

Masayda: You have already said that and you have answered my question.

Minnich: Anyone else on the Commission? Any final comments from the applicant?

McTaggart: We just hope you will approve it and we would like to see you approve with the 5%. Thank you.

Russ: Could I make a motion to close this public hearing?

Minnich: A motion made by Ron is there a second? Is there any further discussion?

Dupliese: Could we still vote on the 10% as open space?

Minnich: When a regular member comes at that moment the alternate is no longer seated.

Masayda: I recused myself from that part of the hearing.

Minnich: If you recuse yourself then you recuse your vote on this.

Masayda: That is fine.

Minnich: Okay Mike has recused himself from this topic. Ray would you sit in for Mike.

Rondeau: Yes

Minnich: Is there any further discussion? All those in favor please say I, all those opposed say no. The motion carries unanimously. The public hearing is closed.

Text of Motion is to Close the public hearing.

Motion made by R. Russ and seconded by R. Rondeau.

M. Masayda recused himself from voting on the public hearing on Southridge Estates because he arrive late for the public hearing. Mr. Rondeau sat in his place for the vote.

Michael Masayda _____
Secretary