

**MINUTES FOR TWO (2) PUBLIC HEARINGS OF THE  
PLANNING & ZONING BOARD  
HELD TUESDAY JUNE 15, 2010; 7:30 P.M.  
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the June 15, 2010 Public Hearing of the Planning and Zoning Board at 7:31 p.m.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**Members Present:** Edward Mead, Mark Bender, Kathy Patterson, Robert Dickman, Kevin Liddy, Kim Rose, Janet Golden, Victor Ferrante, Susan Shaw, Chair.

**Not Present:** Gregory Vetter, Sr.

**Staff:** David Sulkis, City Planner; Emmeline Harrigan, Assistant City Planner

**C. PUBLIC HEARING CLOSE BY 7/20/10; exp. 8/19/10**

1. **169 ORONOQUE ROAD – RITCHIE FARMS (ZONE R-30)** - Petition of David Field for a 3-Lot Subdivision on Map 74, Block 924, Parcels 2C, 2D and 3, of which David Field is the owner.

**George Adams, Esq., Harlow, Adams and Friedman PC, 300 Bic Drive, Milford.** With David Field, property owner and Jeff Gordon, PE of Codespoti & Associates. Asking approval of a three-lot cluster subdivision. The cluster subdivision is different from a normal subdivision in that it takes lot sizes down from the size required in the zone to a smaller size and providing a bigger area of open space. In this case, the applicant is not asking to reduce lot sizes at all. The only effect of the Board's approval of a cluster subdivision would be changing the set back lines from the R-30 set back lines to the smaller set backs that pertain in an R-12.5 zone. The purpose of this is to allow the houses to be situated a little further from the wetlands than they would otherwise be. This was a recommendation made by the Inland-Wetlands agency and is noted in the letter of approval from MaryRose Palumbo of the Inland-Wetlands agency.

The site is approximately 3.5 acres and it is proposed to give .47 acres to the City as open space. This open space connects nicely to another 4.4 acres of open space that went with the Oronoque Estates subdivision. Mr. Adams distributed a site plan that showed the areas to be donated as open space and how it provides access to the existing parcel of open space. (The proposed open space area was designated by a yellow bar.)

The open space parcel to be given to the City is approximately 20,000 SF, which is larger than the 15,000 SF required.

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Three building lots are proposed. The smallest of which is 30,000 SF, which is the minimum requirement in the R-30 zone. Even though they are clustering down to the R-12.5, they are not proposing smaller lots. The other two lots are oversized for the zone.

Ingress and egress to these lots are proposed via a common driveway, similar to the previously approved Magnolia Ridge Subdivision on West Rutland Road.

Mr. Adams distributed the Form of Declaration of Perpetual Access Utility Easements With Maintenance Covenants that was worked out with the City Attorney's office for the Magnolia Ridge Subdivision, which has worked out very well. A key feature that the City wanted in that driveway easement is:

"that it is expressly understood that the access easement referred to herein is not a public road and not entitled to public services from the City of Milford and that the City of Milford has no design or maintenance responsibilities of any kind or any liability arising therefrom".

Other than this clause it is the standard shared driveway. People share the expenses, they vote on the maintenance decision and the driveway has been adjusted in response to comments from City departments to make it safe and accessible. No new roads, public or private are being proposed within the subdivision.

In order for a cluster subdivision to be approved, calculations must be met. There has to be three times the minimum area in the zone, which is 90,000 (30,000 x 3) SF and there is enough land for 3.5 lots under than analysis. In order to approve the cluster subdivision, which in this case is unusual, in that the only thing that will be changed is the setbacks in response to Inland-Wetlands comments, the Board has to find that the property is not less than the minimum gross site area and that the maximum number of lots to be created (3) will not exceed the maximum number that can be created under a conventional subdivision.

Mr. Adams noted that on one of the sheets in the Board's plans shows a three-lot conventional subdivision and a three lot cluster subdivision and it is very hard to tell the difference until you look closely because the only difference is in the setbacks. The configuration of the lots has not be changed. He mentioned the other requirements for the subdivision which this application meets.

Plans were circulated the City departments. The applicant has responded adequately to the concerns expressed by the varioud City departments. Glen Behrle issued a memo on May 27<sup>th</sup> saying he believes that Mr. Codespoti responded adequately to Westcott and Mapes comments on the subdivision.

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**Jeff Gordon, President, Codespoti & Associates, 504 BPR, Orange.** Codespoti as an engineering firm, surveyors and planners prepared the plans for this subdivision. Property is approximately 3.5 acres of which 31,700 SF are regulated wetlands. He relayed the calculations required to meet the cluster subdivision. The regulations are not being used to increase any density.

The cluster modified requirements allows you to go down to a 12,500 SF lot. All lots will be in excess of 30,000 SF. The only modification is to building setbacks which is to satisfy the setbacks to protect the natural environment. Via a display, Mr. Gordon described the property. There is a manmade pond on the site. There are a few fingers of wetlands on the site as they come down Zion Hill Road and an existing home on Lot 2, which will remain. The property is served by public sewers.

SP-3 site plan was discussed. A sight line analysis was done. The site is not flat. From the current driveway location to the bend in the curve there is about a 16-foot change in vertical elevation. Coming up the hill and around the bend, the sight line is marginal. The posted speed is 20 MPH. The Police Department asked for the design to be for 25 MPH based on the 80 percentile of what people were actually driving. Proposing slight modifications on the shoulder (indicated on the display), so as to cut back the embankment a couple of feet in order to open up a 250 foot sight visibility. (Showed a blowup of the cross-section from the driveway to 250 feet.) This would have nothing to do with the road. This will meet the Police Department's review. The driveway would be 16 feet wide which would provide enough clearance for two cars to pass each other.

A Natural Resources report had been submitted in March. Wetlands significance was highlighted in the report.

On the SP-3 site plan, Mr. Gordon showed both setbacks for both zoning districts, so a comparison could be drawn as to the distance the house is from the pond and how far it can be moved. In Ms. Palumbo's letter it was hoped that if cluster approval could be obtained, the house on Lot #1 could be moved 10-feet away from the wetlands. Final location of the deck and the house on Lot 1 has to go back to the Wetlands Commission for their specific sign off.

**George Adams:** Said the neighbor where they would be chopping back the rock has given a letter stating they have no objection to the site line between 169 and 187 Oronoque Road being improved by moving the wall back. (The hand written letter was date stamped into the record.)

**Mme. Chair:** Asked for Mr. Sulkis' comments.

**Mr. Sulkis:** It is a good subdivision.

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**Mr. Bender:** Asked who was responsible for the maintenance of the pond.

**Mr. Adams:** The pond is located on one lot and is the responsibility of that lot owner.

**Mr. Bender:** Would like to see the driveway made wider. Also, no room for error for someone coming from the house on Lot 3 and described the portion of the driveway to which he was referring.

**Mr. Gordon:** Stated they could be flexible on this, but a lot of the specifications for the driveway had to meet the approval of Glenn Behrle of the Engineering Dept.

**Mme. Chair:** Asked if the public wished to speak in favor of this application. (No response)

Asked if the public wished to speak in opposition to this application. (No response)

**Mr. Liddy:** Asked Mr. Sulkis if the comments made by the City Departments were satisfactorily addressed by the applicant.

**Mr. Sulkis:** The Police Department's report spoke about the sight line issue. The changes were made and the plan that will be submitted will incorporate those changes. This type of subdivision is the best of both worlds for the property.

**Mr. Bender:** Asked who determined the 25 mph speed limit for Oronoque Road. His thought is that the speed limit is not observed.

**Mr. Gordon:** The posted speed limit is 20 MPH. Described how the calculation was determined for the design of the driveway.

Messrs. Gordon and Bender discussed the methods used in determining the speed limit and how it applies to the property's design.

**Mrs. Patterson:** Asked if there was a fire department report and what they said.

**Mr. Sulkis:** Read the response from the Milford Fire Department stating their requirements were met.

**Mrs. Golden:** Mentioned she lives on Oronoque Road and cars drive over the speed limit as a rule.

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**Ms. Rose:** Asked if the open space was wetlands only or usable open space.

**Mr. Gordon:** Described the land composition of the designated open space.

**Mr. Bender:** Still concerned about how the sight line was established and thought the driveway should be reconfigured.

**Mr. Gordon:** Stated making a left turn out of the driveway might be of concern. The machinery can open up the sight line as much as possible, within the right of way. Most of the work would be in front of the subject property.

**Mr. Dickman:** Stated what he thought the formula for the sight line number was and how the suggested 25 MPH was determined. (32 MPH @ 80% = 25 +/-)

**Mr. Sulkis:** Asked if consideration had been given to the maintenance of the sight line area once it is created.

**Mr. Gordon:** Right now it is an area of rock. There is not much vegetation. It will be in the right-of-way and would be the responsibility of the Highway Department.

The Chair closed the public hearing.

2. **479 NEW HAVEN AVENUE (ZONE CDD-4)** – Petition of David J. King for a two lot re-subdivision (previously approved on 2/1/2005) on Map 56, Block 506, Parcel 2, of which David J. King is the owner.

**Mr. Sulkis:** Advised the Board the block number had been incorrect on the plans they had received and a map noting the correct block number was distributed to them this evening.

**David King, West River Street, Milford.** Owner of 479 New Haven Avenue which is directly across from Twin Lights Auto Body and currently houses Milford Tax Services. Robert Diamond of Milford Tax Services and Mr. King's wife came before the Board previously to subdivide this property in 2005. Situations occurred whereby the subdivision was never recorded and he is now reapplying for approval of the same subdivision. Everything on the property is the same as it had been when he received prior approval.

**Mr. Sulkis:** This subdivision was previously approved but the mylar was never filed. Therefore he must reapply for Board approval.

**Mme. Chair:** Anyone to speak in favor of this application? (No response)

Anyone to speak in opposition to this application? (No response)

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**Mr. Ferrante:** Have any of the regulations or requirements changed since the previous approval?

**Mr. Sulkis:** Yes. The City will be getting their 10% open space this time around.

**Mr. Bender:** Noted a change in the southern property line.

**Mr. Sulkis:** That change is due to the open space that will be given.

**Mme. Chair:** Closed the public hearing.

**D. NEW BUSINESS**

3. **130 MERWIN AVENUE (ZONE R-7.5)** – Petition of Washington Cabezas, Jr., Engineer, for Coastal Area Management Site Plan Review approval to construct a single family residence on Map 59, Block 737, Parcel 19, of which Lufam Homes, LLC is the owner.

**Washington Cabezas, Jr., Cabezas DeAngelis Engineers & Surveyors, 1450 Barnum Avenue, Bridgeport.** Representing, Louis Sanchez, owner of Lufam Homes, LLC. He is proposing to tear down a rundown existing dwelling on the site and dilapidated garage at the rear of the property and rebuild. Most of the garage is in the City's conservation area and in a wetlands area as well. Inland Wetlands approval for this area was received on May 19, 2010. Also received ZBA approval for the side yard setbacks on January 12, 2010. Now before the Board for Coastal Area Management Site Plan approval.

The existing dwelling is not NFIP compliant by the zoning standards of Section 5.8.13.4. There are a couple of things the dwelling needs in order to be NFIP compliant. The proposed structure will be NFIP compliant. Flood vents are needed around the structure. Proposing 10 shown in the architectural plans, which will be more than adequate based on the Smart Vent manufacturing specifications. There will also be a maximum of one foot above grade. They will also have louver doors which will open automatically, non-powered.

The CAM report submitted was by Codespoti & Associates, the reviewing engineer. A few revisions were made based on their comments.

Mr. Cabezas described the engineering work that would be done on the premises via a site plan display. The proposed utilities for the proposed house will be above the base elevation of 12 and the front door was raised above the flood line.

Noted that he has not received a memo of approval for the engineering plans from Bruce Kolwicz, Director of Public Works, but Mr. Wheway of Codespoti sent

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a memo to him on May 26<sup>th</sup>. Planning to use the existing sewer connection on the existing house.

Submitted John Gaucher's email of approval and the memo to Bruce Kolwicz from Bob Wheway, which were date stamped into the record.

Mr. Cabezas stated only three things are required per the engineering memo, which is a certified letter by an architect or engineer to make sure the applicant is flood zone compliant according to the zoning regulations of 5.8.13.4. A letter has been drafted to this effect, which was distributed and date stamped into the record.

He stated the application was straightforward. It involved taking down the existing house and garage and putting up a new three story house which is bigger and NFIP compliant.

**Mme. Chair:** Asked Ms. Harrigan for her comments.

**Ms. Harrigan:** Stated the application was clearly explained by Mr. Cabezas. Explained the procedure between engineering, public works, planning and zoning and the applicant. Expected to receive the memo from Public Works by this time.

**Mme. Chair:** Suggested that any approval made by the Board could be contingent upon receiving the memo from Public Works.

**Mr. Bender:** Noted the CAM report states that construction would not affect the wetlands or anything near it, but since the garage is located in the wetlands how could taking it down not affect the wetlands.

**Mr. Cabezas:** The soil scientist's report stated the actual wetlands start at the rear of the garage. The wetland line would be the rear line of the garage. All construction to the site would be constricted with proper sediment and erosion control; no stockpiling and not affect anything to the adjoining properties.

**Mr. Ferrante:** Questioned the dimensions and height of the structure and location of the mechanicals.

**Mr. Cabezas:** Gave him the requested information.

**Mr. Ferrante:** Noted there was the garage level, main level and second level comprising the three stories, with no attic.

**Mr. Cabezas:** Confirmed this.

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**Mr. Liddy:** Asked Ms. Harrigan to clarify a regulation for three garages allowed in the R-7.5 zone, and this application is for four garages.

**Ms. Harrigan:** There are generally three garage openings. This is tandem underneath the house. It is really two garage doors in the front. They will most likely utilize the back portion of the house for nonessential storage. She further noted that nothing could be stored on the first level because it is in the flood zone.

**Mr. Liddy:** The regulations allow for three cars, not four. He suggested a waiver be requested.

**Ms. Harrigan:** Explained this is a tandem situation and from the National Flood Insurance standpoint this is the best solution for a flood hazard area, to just keep it one space. He can block out some of the space if the Board requires, so that there are only three parking spaces there, but then he has to vent those spaces and engineer them and it makes it very complicated when in reality she does not see it as "4" parking spaces.

The Board discussed ways in which this "labeling" situation could be resolved.

**Mr. Bender:** Asked if it was in the Board's jurisdiction to review the house as opposed to the CAM requirements.

**Ms. Harrigan:** Replied the Board could review the site plan to make sure the house meets the zoning requirements.

**Mme. Chair:** Asked if the Board is so inclined to entertain a motion based on receipt of the memo and approval by Mr. Kolwicz.

The Board members decided it would be best to wait until the regulation was clarified regarding the number of garages and whether the plan should be changed to reflect the regulation's meaning.

**Mr. Ferrante:** Made a motion to table the application.

**Mrs. Golden:** Second.

**Mme. Chair:** Asked to wait while Mr. Sulkis was reviewing regulation 3.1.3.7.

Discussion by the members and Ms. Harrigan as to how the applicant could resolve this issue without doing unnecessary construction in an unusable area.

**Mme. Chair:** Noted there was adequate time to come to a decision on this application without tabling it.



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**Ms. Rose:** Understands the situation is simple and obvious in theory, but the Board cannot allow the applicant to cross out a number and write in another number, as it could set a precedent for future applicants.

**Ms. Harrigan:** Noted a different scenario where any number of cars could be parked underneath the house with no restrictions. Because this applicant has chosen to enclose an area within a flood plain that cannot be used for any other purpose and has a template that shows four cars there, because that space cannot be used for anything else. She will work with the applicant to resolve this matter.

**Mme. Chair:** Asked if there was a waiver that could be obtained to satisfy this situation. She agreed with Ms. Rose about making a change and setting a precedent.

4. **282 WEST MAIN STREET – 2-LOT RE-SUBDIVISION** - Request by Two Ninety Six LLC for release of bond for the above re-subdivision. Approval from Bruce Kolwicz, Public Works Director, to reduce bond by \$23,661.00 in his memo dated June 8, 2010.

**Mr. Ferrante:** Made a motion to approve the request for bond reduction based on the expertise and recommendation of the City officials.

**Mrs. Golden:** Second.

All members voted in favor.

**E. OLD BUSINESS**

**PUBLIC HEARING CLOSED 5/4/10; exp. 7/6/10**

5. **90 HEENAN DRIVE (ZONE CBDD)** Petition of 90 Heenan Drive, LLC for Site Plan Review approval to construct affordable housing units pursuant to CGS Section 8-30g on Map 91, Block 807, Parcel 2, of which 90 Heenan Drive, LLC is the owner.

**Mme. Chair:** A motion was distributed to the Board based on its discussion at the last meeting making such a request. Suggested the Board review the motion by the numbers listed.

**Mr. Bender:** Regarding item number 1, asked what specific “evidence” the Board would be looking for.

**Mr. Sulkis:** Went through what he would require and would deem necessary to make up the evidence. The applicant would be required to produce the

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engineered drawings for the retaining walls and depending on how the walls are constructed, they would have to show that the drainage and sheeting action that is coming down the hillside that the water is contained in some way so that it does not fly off the wall into the unit or trickle down the wall and flood the unit out at the base. They would have to have a plan that proves the water coming down will not be an issue.

**Mr. Bender:** Stated the determination as to what would work or not work in this case could be arbitrary.

**Mr. Sulkis:** Replied he would not be making the decision, the City Engineer would do that.

**Ms. Rose:** Suggested that debris, stone, rocks that could break loose in the future be added to number 1. Also asked who was the City Engineer.

**Mr. Sulkis:** There is no actual City Engineer at this time. The City has been using Codespoti & Associates and Westcott and Mapes as its on-call engineers to review engineering plans submitted.

It is important to make sure the hillside will be stable in the future.

**Ms. Rose:** Agreed with what Mr. Bender said and it is important to look down the road 20 years.

**Mme. Chair:** Review of item number 2.

**Ms. Rose:** Asked if the applicant called that roadway a private street through the industrial park.

**Mr. Sulkis:** Their testimony called it many different things; a driveway, a private street, an access way. By the end of the hearing it was called what it is, a private road which goes through the industrial park.

**Mme. Chair:** Noted the minutes confirm that by the end of the hearing Mr. Carroll acknowledged it was a private street, in terms of maintenance.

**Mr. Liddy:** Suggested a reason be given for denying the creation of a private street.

**Mme. Chair:** The creation of a private street within the industrial zone changes impacts the industrial zone and changes the use in that area.

**Mr. Sulkis:** Stated there were numerous reasons given in the previous hearings as to why a private street should be denied.

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There were no questions concerning number 3. Went on to number 4.

**Mr. Ferrante:** Regarding number 4 would like to see a master lease so the homeowners could have collective negotiating power, given the hybrid ownership situation.

**Mr. Sulkis:** The owner of the property can do what they want with the property in accordance with the affordable housing plan. Based on the testimony of Tom Ivers, the City's housing expert, he has stated in his opinion the paperwork that qualifies this as 8-30g is incomplete. All they have to do is finish the paperwork

to his satisfaction and more importantly, to the Fair Housing Plan Guidelines as provided by the State of Connecticut, then this project would be good to go. Beyond that, having anything in there that spells out how people should negotiate with the landlord, goes beyond the purview of what is being asked for in the application. The important thing is that their plan complies with the Fair Housing Act and the requirements of the State of Connecticut, which currently it does not do.

**Mr. Ferrante:** Stated he was more concerned with the individual leases in this situation. Does not think this is a good situation for the lessees of the land.

**Mr. Liddy:** Suggested it be incorporated in the beginning of the marketing plan or guidelines, clearly stated, that the potential homeowner be told that they do not own the land, it is leased land, so that it is not buried somewhere in the agreement that they do not own the land.

**Mr. Sulkis:** Made the comparison between this property situation and a condominium, where the homeowner does not own the land. Not sure that the Board has a role in this aspect of the agreement as long as the property owner is compliant with the provisions of 8-30g,

**Mr. Liddy:** Reiterated that most people own the land on which they live. Most potential homebuyers think they own the land.

**Mr. Sulkis:** That is why they have attorneys.

**Mr. Dickman:** Recalled that Mr. Ivers was complimentary of leased land arrangement. He thought it was an appropriate way to approach the issue of affordable housing. He will trust in his testimony that it is an appropriate setup and should not be delved into too deeply.

**Mme. Chair:** Item No. 5.

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**Mr. Mead:** Perhaps add “in the future” with regard to maintenance of the hillside.

It was agreed that “in perpetuity” would be added in the appropriate item number.

Reviewed the board’s comments on the numbered items.

No Board comments on item numbers 6 and 7.

**Mme. Chair:** Reviewed the items in the motion that Mr. Sulkis will redo and present to the Board at the next meeting on July 6<sup>th</sup>.

**Mrs. Patterson:** Asked if the City Attorney would be reviewing Mr. Sulkis’ motion prior to presenting it to the Board.

**Mr. Sulkis:** Replied the City Attorney typically does not review something like this. The City’s trial counsel has been keeping track of what has been going on.\

**Ms. Rose:** Asked what engineering source would be reviewing the plans once they are submitted.

**Mr. Sulkis:** The Director of Public Works will pick a reviewing engineer and whatever is proposed will be thoroughly vetted.

**Mme. Chair:** Asked for a removal of the motion to table 130 Merwin Avenue.

Mr. Ferrante removed his motion to table 130 Merwin Avenue.

Mrs. Golden removed her second to the motion.

**F. PROPOSED REGULATION CHANGES – None.**

**G. LIAISON REPORTS – None.**

**H. APPROVAL OF MINUTES – (6/1/10)**

**Mr. Bender:** Stated it was not clear that he meant to say “the other side of the street that does not have a sidewalk”, as transcribed on page 220 of the Minutes.

**Mme. Chair:** Thanked him for clarifying that remark.

**Mrs. Patterson:** Made a motion to approve the minutes.

**Mr. Bender:** Seconded the motion.

All members voted in favor of approving the minutes as transcribed.

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**I. CHAIR'S REPORT – None.**

**J. STAFF REPORT**

**Mr. Sulkis:** Kathy Kuchta, Secretary of the Inland Wetlands office was the one person to pass the zoning enforcement officer test and was offered the position and has accepted it. She will start in her new position on July 6<sup>th</sup>.

**Mr. Liddy:** Asked that she be introduced to the Board.

**Mr. Sulkis:** Replied he will speak to Doug Novak about this.

**Ms. Rose:** Made a motion to adjourn the meeting

**Mrs. Golden:** Seconded the motion.

All members voted in favor of adjourning the meeting at 9:10 p.m. The next meeting will be held on July 6, 2010.

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Phyllis Leggett, Board Clerk