

**SOUTH HADLEY PLANNING BOARD PUBLIC HEARING  
ON SPECIAL PERMIT REQUEST AND FORM H PLAN**

**BY RIVERCREST CONDOMINIUMS LLS**

**MINUTES OF AUGUST 29, 2011**

**(As Approved on September 12, 2011)**

**Present:** Joan Rosner, Chair; Mark Cavanaugh, Member; Helen Fantini, Member; Jeff Squire, Member; Melissa O'Brien, Member; Jeremy King, Associate Member; and Richard Harris, Town Planner

Ms. Rosner called the public hearing to order at 7:01p.m. She introduced the members of the Board, the Town Planner and explained the procedures for conducting the hearing. She also emphasized the importance of the public to voice their comments and questions.

Ms. Rosner noted that she lives across the street from Ed Ryan who is one of the partners of the applicant. She has filed a disclosure statement and feels she is capable of making an impartial judgment on the application.

Ed Ryan, 6 Sycamore Parc and a representative of the applicant, stated that he has never spoken with Ms. Rosner privately or outside of a Planning Board meeting about this application. He noted that everyone has to live somewhere.

Ms. Rosner stated that revisions have been made to the project plan. She intends to ask the applicant to review the changes. Then, the Board members will speak and ask questions. She noted that the Board members have reviewed all the statements submitted at the last public hearing and understands the comments.

Since the last session was nearly 4 hours long, Ms. Rosner inquired as to how many persons wished to speak. Numerous persons raised their hands. She stated that the Board wishes to give everyone an opportunity to speak; however, she will cut off speakers if the comments are redundant. Given the number of persons present, she stated that persons should keep their comments to 3-4 minutes. If someone has a longer statement, they can submit the statement for the record and provide a verbal summary. Since there is not an audio system set up for this public hearing, she suggested people need to speak loudly so everyone can hear.

Ed Ryan, representing the applicant, inquired if the Board intends to continue the public hearing after tonight. Ms. Rosner stated that the public hearing is likely to be continued until September 19, 2011.

Mark Reed, Heritage Surveys, 241 College Highway, Easthampton, MA engineering consultant for the applicant, stated that they filed a set of revised plans. The revisions were made based on comments from the Conservation Commission, Planning Board, other departments, etc. He summarized the comments as follows:

- Reduced the number of dwellings from 31 to 30. A unit near the cul-de-sac was eliminated.
- Roadway was shortened by approximately 15 feet.
- Wetland boundaries were accepted last week by the Conservation Commission.
- Changed plan design and drainage so no work is within the 50 foot no disturb area nor the 200 foot riverfront area.
- Orientation and style of the first unit off Ferry Street was changed with the driveway off Ferry Street being eliminated.
- Changed size and configuration of some units with more duplex units being proposed.
- All roadway drainage into the infiltration chambers, into the ground, and a smaller “dry” detention basin. Cul-de-sac is now piped into the stormceptor. There will be no storm event (2, 10, or 25-year) discharge.
- Along the westerly side of the development, they have proposed a 3 foot wide, stone lined leaching trench to take the roof drainage. Also a similar approach is proposed for units 20-23, 27-30, and 6-7.
- Stormwater is recharged. Water does not leave the site.

Mark Reed reviewed the paving and grading sheets and the other plan sheets – most have not changed. He noted that there is no change in the sewer system plans with first seven units to be gravity flow while the balance of the units will use grinder pumps. He added one more construction detail sheet. Sheet 8 was revised to reflect the stone infiltration trench and the landscaping plans were revised to correspond with the new unit layouts.

Mark Reed indicated that he is in the process of working with the Town’s Peer Review engineer to review the new drainage calculations and plans. The Conservation Commission will next review the project at their September 28<sup>th</sup> meeting.

Ms. Fantini inquired why the drainage plans were changed, in particular the provision of the stone lined trench along the west side of the property. Mark Reed responded that the drainage plans had to be changed to avoid doing any grading work within the 50 foot no disturb zone. The stone lined trench was inserted based on the comments from the Conservation Commission, Planning Board, and abutters to avoid storm water runoff onto adjoining properties.

Mr. Squire noted that the Planning Board’s role is to ensure that the project satisfies the Special Permit standards and Stormwater standards. He expressed concern that the current stormwater runoff is handled by sheet flow, but the new proposal concentrates the runoff into a single location and have it infiltrate. He noted that the purpose of the infiltration system is similar to that of septic systems. The drainage system should try to mimic the existing conditions. He voiced concerns about possible approval of the system

because it could be more detrimental. He suggested that the system may be able to handle routine storm events, but certainly not the event of this past Sunday.

Mark Reed stated that the system is designed to handle a 10-year event or 4.5 inches over a 24 hour period. Routine storm events can be handled by the trenches. This plan meets the Conservation Commission requirements. Without the proposed design, the stormwater cannot meet the pretreatment standards.

Mr. Squire indicated he did not agree that there are not other ways to meet the standards – possibly with few units. He reviewed the standards that the Board should consider in approving the Stormwater Management permit.

Mark Reed commented that the system is designed to have no off-site drainage increase from the 2, 10, and 25 year storm events.

Mr. Cavanaugh inquired if the Peer Reviewer was looking at the same standards referenced by Jeff Squire. Mark Reed responded that the Peer Reviewer was looking at the plan's compliance with those standards.

Ms. O'Brien reviewed the first Special Permit Standard in regards to character, scale, etc. She noted that the Master Plan discusses character and that it is more than density, scale, buffer, etc. She inquired how the proposal was crafted to meet the first standard in regards to character.

Ed Ryan restated the standard. He noted that reasonable people can disagree as to the meaning of the standards and neighborhood. However, he stated that they feel it meets the standard. This standard raises the issue of adjacent land uses and neighborhood. The neighborhood is more than Ferry Street – they believe this site is part of the Village Center neighborhood. He reviewed the four neighborhoods which have historically comprised South Hadley: Falls, Plains, Woodlawn, and Town Center. These were defined by their grammar schools and the corresponding voting precincts.

Ed Ryan reviewed the land use and activities within various distances of the subject site:

- Within 1/10 of a mile, there is a 2-family dwelling, playground, Business A district
- Within 2/10 of a mile there is also multifamily and some additional nonresidential uses
- Within 3/10 of a mile there is more multifamily including the Village Green and the Village Commons (a mixed use development)
- Immediately beyond the Village Commons is Mount Holyoke College and the First District 2 headquarters

He suggested that is the character of the neighborhood.

Ms. O'Brien inquired if the applicants had reviewed the vision statements in the Master Plan. She noted that the Master Plan's Land Use Vision Statement for Route 47 indicated that it is of a rural character with scenic vistas and that the Village Commons is outside of

that area. She inquired if it was the applicant's contention that the proposed site is outside of the Route 47 area.

Ed Ryan responded that "yes", they feel that it is not in the same character as Route 47. He noted that the Master Plan proposes that the Planning Board encourage multifamily in the areas identified in the 2004 Community Development as "focus areas". These areas were in the plan when endorsed by the Planning Board and Town Meeting.

Ms. Fantini asked about the status of the neighboring properties' lot coverage data. Mark Reed stated that he has the information but forgot to bring them. He stated that he will email them to the Town Planner on Tuesday.

Ms. Fantini inquired if the data would include just building footprint or would it include other impervious surface. Mark Reed stated that they took building data from the Assessor's database.

Ms. Fantini queried as to whether the 46% of the site devoted to the project is all impervious. Mark Reed responded that 46% of the site is within the limits of work. Impervious areas would be less than 46% of the site.

Mr. Harris inquired if the 46% of the site includes revegetated areas. Mark Reed stated that it would. Therefore, Mr. Harris requested that the applicant separate out the buildings, impervious surfaces, and vegetated areas.

Mr. Cavanaugh asked about the reference to the Focus Areas in the Master Plan. Ed Ryan commented that "affordable housing" includes multifamily. The entire project is within the "circle" for this focus area.

Ms. Fantini/Mr. Cavanaugh both suggested that the Master Plan is looking for mixed used developments in these areas. Ms. Fantini read the entire reference to these areas in the Master Plan.

Steve Ellenburg, 16 Jewett Lane, summarized a prepared statement which is to be submitted "What's at Stake?":

- Rivercrest itself with a \$7million investment
- Effect on the neighborhood
- Effect on the Master Plan – if this development is approved, the Master Plan would be eviscerated.

After Mr. Ellenburg spoke for a period of time, Ms. Rosner noted that he had spoken for 5 minutes. He quoted two questions from the statement.

Robert Lak, 31 Ferry Street, referenced the first four standards as "mandatory requirements". He made several comments:

- suggested that the Center Edge is well outside the 1,350 feet which is the standard for a neighborhood.
- Mr. Harris stated that the “circles” on the 2004 map are arbitrary.
- Expressed disagreement with Mr. Ryan’s comments over what is a neighborhood.
- Because the first four standards are “mandatory”, a failure to meet any one of those standards requires the application to fail.
- The proposed development is 41 times the density of the adjacent land uses.
- If the application is approved, the character of the area would change which would promote further such developments.
- The process for this matter is backwards, there should have been a preliminary hearing on this project before the applicant invested so much money and effort into the project. (Ms. Rosner responded that he needs to talk to the State Legislature about the application process and requirements.)
- The application stated that the development would not be visible from Ferry Street and the applicant stated that the fact that the abutter cleared the adjoining property means it is not the developer’s problem. Mr. Lak disputed both points and suggested that the development will be visible from adjoining properties.

Ray Authier, 47 Cherry Drive, Wilbraham, one of the partners in the proposed development, described a development in Easthampton which of good quality and well planned. He noted that the development is also a “40B” development which is more dense because of the affordability requirements.

Ellie Klepacki, 34 Leahy Drive, expressed concern that the public cannot hear due to the lack of an audio system.

Geri Brockway, 16 Jacobs Way, reviewed the background on the property and its ownership. She read a prepared statement but did not submit the statement (she indicated that she would submit it later). She noted that South Hadley does not fit the definition of a “rural community” as is being portrayed by some of the speakers.

Cheryl Lak, 31 Ferry Street, read 2 pages of a statement. She stated that there was no demonstration of a need for this project.

Stephen Brooks, 96 Ferry Street, questioned the role of the public hearing – sought clarity as to its purpose. He stated that the opposition is not a “Not In My Back Yard” issue.

Joanne White, 36 Ferry Street, questioned the Board holding the public hearing without the minutes of the June 13, 2011 public hearing having been made available. Rudy Ternbach, 118 Ferry Street, suggested that the minutes could be posted without the Board’s approval. Mr. Harris responded that the minutes were approved right before the public hearing and would be posted on Tuesday. He also suggested that he would not post draft minutes unless the Board said to do so.

Kristin Stueber, 24 Brock Way commented that Ed Ryan stated that this is a walkable neighborhood. Therefore, she suggested that the Board should insist upon sidewalks.

Without sidewalks, the children will have to walk in the street. While the applicants suggest that there will not be any children in the development, there is no guarantee. The comparison of open space and development should be based on only the work area – the usable area and not the total site.

Christine Lee, 21 Washington Avenue, stated that she is a track coach at Mount Holyoke College. Her team runs in this area and she is quite familiar with the sidewalks and the traffic. One reason for choosing this area for her runners is the low density of development. She expressed concern about such concentration of population in this area.

Tom Dennis, 11 Buttonfield Lane, stated that there are different meanings to the term “neighborhood”. Using Mr. Ryan’s description – one based on the grammar school – the Town would have two neighborhoods and could have only one if the Plains School is closed. He noted 25 definitions in the Oxford Dictionary. While South Hadley may not meet the definition of a rural town, it has a rural road and Ferry Street is such a roadway.

Anna Symington, 57 Ferry Street, stated she has lived there for 11 years. They have almost 6 acres and bought it because of the size and the agricultural zoning. She questioned what the impact would be on the area and the community if this development were approved. She suggested that the Board should determine whether this development would be a betterment for the town.

Rudy Ternbach, 118 Ferry Street, submitted and read part of the April 28, 2006 Planning Board minutes regarding the proposal to enact a moratorium on Special Permits.

Wayne Monat, 2 Ferry Street, asked how the Board can approve the stormwater management system. He stated that there is a clay boundary in the area which will preclude the infiltration required.

Linda Young, 15 Westbrook Road, stated that she has known Mr. Ryan and the Marions most her life. Speaking as a former member of CPAC, she stated that people in South Hadley want to keep the single-family neighborhoods. She added that “below” the cemetery is single-family.

Mary Purdy, 21 Ferry Street, commented that she and others are not opposed to development. A subdivision of 4 to 6 single-family houses would be consistent with the area – not 30 multifamily condos. She read a statement which was submitted (see attached).

John Domian, Jr., 21 Ferry Street, stated that it is the indisputable right and responsibility of the Board to consider the Master Plan in making a decision. He read a statement which was submitted (see attached).

Norma Monat, 2 Ferry Street, requested that a copy of the recent Town Reminder editorial regarding this matter be included in the public hearing record (see attached).

June Carpenter, 116 Brockway Lane, stated that Brockway Lane is 1 big, long, driveway and expressed concern about the impact the construction would have on Ferry Street including the possibility that construction equipment would be parked on Ferry Street or on Brockway Lane. Ed Ryan, representing the applicant, stated that at no time will construction equipment be parked off site.

Martha Terry, 25 Brainard Street, stated that there were suggestions that she wrote the materials submitted by several of the abutters. However, she stated that she merely typed the materials they submitted.

Laurel Carpenter, 116 Brockway Lane, expressed concern that the Town is becoming too developed and losing wildlife due to the development. She suggested that the Town is moving towards an urbanizing area.

Steve Ellenburg, 16 Jewett Lane, stated that the Planning Board needs the Conservation Commission's input before making a decision. Lee Marion, one of the partners in the applicant, inquired as to what has been the practice for the Planning Board and Conservation Commission.

Mr. Harris stated that the Conservation Commission Administrator's office is adjacent to the Planning Board office. He and the Administrator talk regularly about the projects to coordinate the reviews. Historically, the Planning Board has had the Conservation Commission's approval, when possible, before the Planning Board acts. However, the Administrator has indicated that she and the Commission would prefer to know what changes, if any, the Planning Board will require prior to completing their review. He offered that he is confident that the Planning Board will have a good understanding of the likely Conservation Commission decision prior to acting on this application. He suggested that if the Planning Board and Conservation Commission waited for each other to act, then no action would ever be taken and the law requires a decision at some point.

Laura Carpenter, 116 Brockway Lane, inquired as to the status of the Peer Review. Mr. Harris stated that he is anticipating the report by September 19<sup>th</sup>. However, he will contact the Conservation Commission Administrator regarding that matter.

Anna Symington, 57 Ferry Street inquired as to when the NOI was filed. Mark Reed indicated that the date of the NOI filing was approximately the same as when the Special Permit Application was submitted.

John Dyjach, 6 Ferry Street, stated that they chose to stay in this area due to the character of the area. He also noted that the items from the first public hearing are not included in the minutes.

There was discussion as to what was or was not in the minutes. Several Board members noted that the Board approved the minutes earlier this evening and the minutes were complete as approved.

Mr. Harris noted that, so far, the Board has indicated that they want to see the lot coverage information and Peer Review for the next public hearing.

Rudy Ternbach, 118 Ferry Street, suggested that the Board should require a third party review regarding the cost-benefit of this proposal. He elaborated that the applicant's claims of the project's benefits are going unchallenged.

Mr. Squire stated that he agrees on the need for the Peer Review for the Stormwater plan, but that the Board must still decide on the Special Permit Standards and whether the project meets the Stormwater standards.

Mr. Harris stated that the standards for the Special Permit are not as straightforward as the stormwater standards. They require the qualitative judgment for which the Planning Board is empowered.

Steve Ellenburg, 16 Jewett Lane, indicated that he agreed with Mr. Harris' comments. The Planning Board is to exercise its judgment.

Joanne White, 36 Ferry Street, inquired as to how the Board will reach a decision. Mr. Harris reviewed the process – the Board will need to decide if they have sufficient information to make the findings, then the public hearing will be closed, then the Board will make findings on the Special Permit standards, and then a decision regarding the Special Permit.

Board members indicated that they were ready to discuss the issues.

Ed Ryan and Lee Marion indicated that they would like the Board to vote tonight. Ed Ryan stated that it has been suggested that Chapter 40B has been floated as a threat. He stated that it was not a threat, but one of their options and possibly the only viable option if the Special Permit is denied. He then laid out their options if the Special Permit is denied:

- Do a 4 to 6 lot subdivision. He stated that this is not economically feasible.
- Keep paying taxes on the property but not be able to use it. He indicated they could not do that.
- Sell the property to the residents, town, etc. He stated they are open to that option - at a price that is not a loss to them, but no one has made an offer.
- That leaves one option - something he and the Marions do not want to do - submit a 40B Comprehensive Permit application. He indicated that he would anticipate as many as 50 dwellings under this scenario.

Robert Lak, 31 Ferry Street, commented that Ray Authier had suggested using 40B “as a bomb”.

There was further discussion as to the Chapter 40B process. Mr. Harris summarized the Chapter 40B approach, noting that an applicant submits an application to the Zoning Board of Appeals for a Comprehensive Permit. This application includes requests for waivers from all local regulations which would preclude the proposed project. The ZBA conducts hearings and makes a decision on the application. If the applicant does not agree with the decision or feels it makes the project financially infeasible, then they can appeal to the State Housing Appeals Committee which has authority to overrule the ZBA. The first test is whether or not the Town has met its 10% affordable housing goal – South Hadley has not.

Mr. Harris suggested that the Board not act tonight. The Board members have previously stated that they need more information to be able make the findings before deciding.

Rudy Ternbach, 118 Ferry Street, suggested that the applicant could do a Flexible Development with affordable housing.

Mr. King stated that he would like to see “other” impervious surface (such as parking and driveway areas) data on the adjacent/abutting properties.

Mr. Cavanaugh inquired what the additional information will do for the Board. He questioned whether there is a middle ground.

Ms. Fantini suggested that the data being requested will provide the Board with a measure of the relative compatibility.

Mr. Squire offered that changes in the project may provide easier means for assessing compatibility. He mentioned use of visual impact data.

Scott Brough, 34 Ferry Street, asked if anyone on the Board has visited the site. Several members indicated that they had visited the site. He noted that the proposed trench is only 5 feet from the property line – the location of existing trees which provide screening.

Matt McDonough, 148 Woodbridge Street, inquired if the Peer Review could be accelerated. Mr. Harris stated he will review that with the Conservation Commission Administrator.

Joanne White, 36 Ferry Street, stated that the proposed development is not compatible with the area.

Ms. O’Brien inquired if the comments from the Town Engineer have been addressed. Mark Reed responded that they had addressed the comments. But, he will follow up with Mr. Murphy to verify that he is satisfied.

Mr. Harris stated that he would recommend that the public hearing be continued to September 19, 2011 at 7:00 p.m. for the following additional information:

- Status of stormwater management and peer review
- Need for lot coverage and other impervious surface data for the surrounding properties

All members present indicated that they concurred with those items.

**Motion** - Mr. Cavanaugh moved and Ms. Fantini seconded the motion to continue the public hearing to September 19, 2011 at 7:00 p.m. The Board voted **Five (5)** out of **Five (5)** members present in favor of the motion.

There being no further public comment, Ms. Rosner stated that the hearing will be continued. With concurrence from the other members, Ms. Rosner recessed the hearing at 10:00 p.m.

Respectfully submitted,

Richard Harris, Recorder