

**CITY OF NORWALK  
ZONING COMMISSION  
SPECIAL MEETING  
MARCH 10, 2010**

**PRESENT:** Jackie Lightfield; James White; Michael Mushak; Andrea Light; Bob Hard; Bob Keyes; Michael O'Reilly (7:52); Adam Blank (8:00)

**STAFF:** Mike Wrinn; Vladimir Mariano

**OTHERS:** Atty. Liz Suchy; Steve McAllister; Chris Allen; Matthew Popp; Gary McIntyre

**I. CALL TO ORDER**

Ms. Lightfield called the meeting to order at 7:30 pm.

**II. ROLL CALL**

Mr. Wrinn took the roll call.

**III. PUBLIC HEARINGS**

**a. #11-09SP—Silvermine Homes, LLC—241 & 249 Silvermine Avenue—11 unit conservation development**

Ms. Lightfield opened the public hearing.

Atty. Liz Suchy introduced her team and stated that it would present a rebuttal to the comments expressed at the public hearing held on February 17.

Mr. Steve McAllister described drainage on the site and addressed concerns about the underground water and trenches. He stated that a distance of 75 feet would be maintained between private wells and any septic system.

Mr. McAllister discussed building coverage, noting that the applicant had 11% coverage where 20% was allowed. He provided the total square footage of impervious surface area as 53,082 square feet or 1.22 acres, pointing out that this was considered by the DEP to be a low-density of impervious surface.

Mr. McAllister gave details about the rain gardens and filter inserts. Ms. Lightfield asked about the frequency of septic failure and the plans to manage such a failure. Mr. McAllister explained that a septic failure usually involved a leaching field that failed due to problems with soil drainage. He added that unlike the soil types intended for this project, it was usually clay or silty soils that caused drainage problems.

Mr. Chris Allen addressed the concern about additional wetlands and watercourses on the property. He explained that the definitions of wetlands and watercourses were defined in the City's regulations. He gave a summary of the geology of the site, pointing out that the Silvermine River valley consisted of coarse, porous soil. He added that the site was located at

the base of a low point of a hill and that water flowed across the site during rainfalls, but that it was not a permanent watercourse. Mr. Allen addressed comments made by members of the class of intervenors about the conservation value of the wetlands on the property.

Ms. Light asked Mr. Allen to clarify whether the property met the criteria for being a “real wetland.” Mr. Allen said that it was a real wetland, but that it did not remain wet for long enough to generate poorly drained soil.

Mr. Mushak asked about the depth of the effluvial soils. Mr. Allen discussed the fluctuations of the high water table.

Mr. Mushak asked about the effect of melting on the groundwater and the septic systems. Mr. McAllister discussed the mottling layer.

Mr. Mushak asked about the optimum distance between the septic system and the ground water. Mr. McAllister said that the State Health Code listed it as 18 inches.

Mr. Matthew Popp addressed concerns about landscaping on the site. He said that the size of the disturbance due to tree removal was 10 feet by 10 feet. He stated that each rain garden would have a six-inch outlet pipe and that about two-thirds of the rain gardens were in the conservation easement.

Mr. Popp also discussed the Norway maple trees on the property, stating that they provided little under-story and were also an invasive species that would actually have a negative impact on other species in the area. He added that the meadow would be cut yearly and also that the fence was located in the conservation easement to give the easement extra protection. He emphasized that the removal of non-native species was consistent with the Plan of Conservation & Development. In response to comments about preserving the character of the Silvermine area, Mr. Popp emphasized that the neighborhood was considered an eclectic one that would not in fact be compromised by the project. He also discussed the conservation easement’s value, as far as protecting the stone wall and the natural character of the area. In response to a concern about a species of salamanders, he pointed out that the site did not contain any vernal pools.

Ms. Lightfield asked about the size of the trees’ root systems. Mr. Popp said that they extended out to the drip line and also that the tree stumps, not the root systems, would be removed. Ms. Lightfield pointed out that root systems tended to encroach onto septic systems. Mr. Popp explained that the Norway maples did not have aggressive root systems, such as those found in willow trees.

Mr. Mushak asked about the conservation easement’s benefit to wildlife and to Norwalk overall. Mr. Popp said that the benefit involved common species of wildlife and also that the conservation development provided a better benefit to the City overall in comparison to a regular development.

Mr. Blank asked why the property’s border would be created from rocks, instead of a fence. Mr. Popp explained that the boulders would be used to demarcate the wetland.

Mr. Blank asked about the responsibility for mowing on the property, pointing out that rogue homeowners could mow into the easement. Mr. Popp said that one company would probably be used for mowing. Mr. Wrinn described how the development would need to be maintained.

Mr. Gary McIntyre addressed concerns about the possibility of very large homes being built on the site. He said that based on the footprint alone, homes could ostensibly be over 7,000 square feet, but added that the septic systems were designed based on the number of bedrooms in the house. He stated that most of the residences' patios would be 16 feet by 8 feet. He gave details of building #8 and discussed it in terms of the Connecticut Building Code.

Mr. Mushak noted that although the homes' garage doors were prominent features, out in front of the homes due to space constraints, the fact that the verandas were ahead of the garages prevented the "tract house" appearance. Mr. McIntyre agreed, discussing how the bungalow style houses blended in with the Silvermine area's older homes. He emphasized that the development would not stick out, as the area contained many contemporary homes, not just capes and ranches.

Atty. Suchy addressed the class of intervenors' statement about the Commission needing to consider an alternate development. Citing Section 118-410 of the Zoning Regulations, she discussed the purpose and intent of a conservation development, pointing out that this project in itself was an alternative to a traditional single-family residential development. She added that the project met the requirements of a conservation development and that Mr. McAllister had provided sound expert testimony. Atty. Suchy said that although the intervenors were qualified in their own fields, they were not experts in civil engineering. She also explained that only non-native trees were being replaced and that the planting plan was also sound. In terms of the impact of construction, she said that the impact would be relatively low, in comparison with sites such as Harbor Bluff in Rowayton.

Atty. Suchy explained that the regulations did not mandate any requirement about specific dimensions of a conservation development and that the intervenors' claim that the easement had been gerrymandered was invalid. She also said that the expertise provided about the storm water system was sound and that no credible evidence to the contrary had been provided. She added that this project compared favorably with other area conservation easements, in terms of utilities.

Atty. Suchy said that the impact of the project to wildlife was considerably smaller than that of a conventional subdivision. She also differentiated the development from the Norden project, noting that this project needed a special permit and involved building coverage of a mere 11%. She added that the applicant had indicated a reserve septic system. She explained that the size of the proposed dwellings was on a par with those in other similar developments, noting that expertise, rather than subjective conjecture, should be heeded.

In response to concerns about right-of-way access, Atty. Suchy stated that the issue involved property owners and was not under the jurisdiction of Zoning. She added that the applicant had made an offer to discuss the issue, but had not received a response.

Atty. Suchy addressed the comments of the intervenors, in terms of what would be preserved by the conservation development. In response to a request to "look at the bigger picture," she reminded the Commission that it was charged only with reviewing the application before it.

Atty. Suchy addressed concerns about the catch basins, noting that Mr. McAllister's plans and testimony were sound and had not been challenged by another certified professional. She added that Mr. Allen's expertise was also sound and that the delineation of the conservation easement was out of the jurisdiction of Zoning as well. In response to comments about the Zoning Regulations being dictated by the market, Atty. Suchy stated that the market was the developer's risk and was not a consideration for approval. She also explained that while the homeowners' petition indicated dissent, it was not in itself a reason for disapproval of the project. She added that a correct, but unpopular decision may be needed in this case.

Atty. Suchy pointed out that Mr. Aurelia was not a professional engineer or a soil scientist and that NASH maintained an inconsistent position as far as rain gardens on the property. She discussed the value of the conservation development, as determined by the Conservation Commission.

There was a discussion of the Harbor Bluff conservation development and its utilities and drainage system. Atty. Suchy reiterated that the Silvermine project's utility lines would be owned by the utility company and the septic system would be owned by the association.

Mr. Keyes asked if there were a wetland area in the Harbor Bluff development. Atty. Suchy said no. Mr. Keyes confirmed that while there was pedestrian access allowed in the Silvermine development, there was not a devoted path.

Mr. White pointed out that the houses directly on the river in other developments had not had an adverse impact.

Ms. Lightfield closed the public hearing.

**b. #1-09MV/#13-09CAM—Hollywood restorations—115 Woodward Av—Auto body repair—Revocation of permit**

The request was withdrawn.

**IV. REPORT OF PLAN REVIEW COMMITTEE, JAMES WHITE, CHAIR**

**\*\* MR. WHITE MADE A MOTION TO SEND THE ITEM BACK TO COMMITTEE.**

**\*\* MR. KEYES SECONDED.**

**\*\* MOTION PASSED UNANIMOUSLY.**

**V. COMMENTS OF ASSISTANT DIRECTOR**

There were none tonight.

**VI. COMMENTS OF COMMISSIONERS**

There were none tonight.

**VII. ADJOURNMENT**

**\*\* MS. LIGHT MADE A MOTION TO ADJOURN.  
\*\* MR. BLANK SECONDED.  
\*\* MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 9:15 pm.

Respectfully submitted by Charlene Smith.

