

Planning Board Minutes  
September 2, 2015– 7:00 P.M.  
Town Council Chambers  
125 Main Street  
East Greenwich, R.I

Members Present: Michael Donegan, Vice Chair; Brad Turchetta; David Eaton; Chris Russo;  
John Ayotte; Dan Tagliatela, Jason Gomez;

Members Absent: Stephen Brusini

Staff present: Lisa Bourbonnais, Planning Director; Lea Anthony-Hitchen; Assistant  
Planning Director; Aaron Lindo, Planning Assistant; Peter Clarkin, Town  
Solicitor; Tom Coyle, Town Manager;

Mr. Donegan called the meeting to order at 7:22 PM and introduced the members of the Board and staff present. Mr. Turchetta recused himself and left the room before the first item on the agenda was discussed.

1. Recommendation: Zoning Board of Review application of **William J. Ross** for property owned by Thomas P. Hegburg & Linda Keehan for “William J. Ross Inc. Headquarters,” located on a land-locked vacant parcel adjacent to New London Turnpike; being Map 67 A.P. 13 Lot 34 (Zoned MUPD, Mixed Use Planned Development). The Applicant seeks 13 separate Use and Dimensional Variances from Chapter 260 of the Town Code; Zoning Ordinance. The Applicant proposes to construct a commercial office and warehouse building with 6,000 square feet of gross floor area and storage of construction equipment and landscape material. The Planning Board reviewed the project at the Master Plan stage and granted a conditional approval on September 18, 2014. As part of that approval, however, the Planning Board did not make a specific recommendation to the Zoning Board of Review and has now been asked to do so.

Mr. Donegan stated that the applicant had received notice of the public hearing and had confirmed that they would be present. He asked if the applicant was present and after no person came forth representing the applicant, had the record reflect that the applicant was not present.

Mrs. Bourbonnais was asked if she had received notice that the applicant was not going to be present or was going to be delayed. She stated that she had spoken to someone from the applicant’s office and was told they should have been present.

Mr. Donegan recommended to proceed with a discussion of the item but not to decide on a recommendation without the applicant present. It was stated that they will continue the discussion for the next meeting, projected to be September 16, 2015. This will give the applicant another opportunity

to present their case and participate in the discussion. It was decided that the Planning Board would give a recommendation to the Zoning Board at the next meeting, regardless of the participation from the applicant.

Mr. Donegan asked Mrs. Bourbonnais to present the issue that the Zoning Board has requested a recommendation on, i.e. the consistency of an application with the Comprehensive Plan. Mrs. Bourbonnais stated that the applicant appeared before the Board on September 14, 2014 for Master Plan approval, seeking to install a commercial business in an F-2 farm zone where commercial use was not permitted. The Comprehensive Plan calls for the area in question to be re-zoned from F-2 to MUPD (Mixed Use Planned Development), a zone designed to accommodate high density residential uses, with the goal being to incentivize affordable, deed-restricted units as well as ancillary commercial uses. The Comprehensive Plan calls for first floor commercial uses that would support the residential units above the first floor, such as the Downtown East Greenwich Main Street area. The Plan does not anticipate anything close to industrial use for the land in question, which is what the applicant is proposing.

It was initially asserted that the plan needed a zone change as well as a Comprehensive Plan amendment that would call the area a commercial zone instead of high density residential zoning. The applicant felt that because the area shown in the Comprehensive Plan that called for high density residential zoning was a little over 90 acres, their proposed 6 acre lot would not prohibit the Town in meeting their high density residential unit goal. The Planning Board hesitantly agreed with the applicant, granting Master Plan approval with a large caveat that the Comprehensive Plan consistency finding would be withheld until the preliminary stage of review. It was not anticipated that the Zoning Board of Review would have to review this application. The reason being that when you go to the Town Council for a zone change, most applicants seek all of the zoning relief they are going to need as part of that zone change so they do not need multiple zoning visits with various Boards. The applicant did not do this, only requesting the MUPD zone change and did not list the provisions they would need relief from. The use the applicant seeks is not allowed in the zone and would need a use variance. The applicant also needs a number of other dimensional variances that are not accommodated by what they want to do. There are 13 variances total. The Zoning Board will not proceed without an affirmative finding from the Planning Board regarding Comprehensive Plan consistency.

Mr. Ayotte asked if the applicant does not want to get a Comprehensive Plan amendment simply because they do not want to. Mrs. Bourbonnais replied that it took about 4 years to write the Plan and about a year to receive state approval. The applicant knows the process well and understands the process can be bureaucratic and time consuming. It was stated that a comprehensive plan amendment is complex. The Affordable Housing Plan, a state mandated element of the Plan, asks the Town to list parcels where MUPD is anticipated and assign unit counts to the parcels. Because the Plan calls for the applicant's site to be designated MUPD, the Affordable Housing section would have to be amended, requiring substantial narrative changes. There would be a need to figure out where the missing units would be made up. Because of this, the applicant resisted a Comprehensive Plan amendment.

Mr. Tagliatela asked to be reminded why the Planning Board did not deny the applicant at the September 14, 2014 meeting. Mrs. Bourbonnais replied that there was a legalistic approach taken as to why an affirmative finding was not made at Master Plan. It had to do with a recent court case in Kent County Superior Court where the court determined that Comprehensive Plan compliance could be found at Preliminary stage rather than at Master Plan, which the applicant argued. Board Members at the time felt like the project was a good project. When the Plan was made, the 90 acre area was pictured as having access from Division Road. The piece of the 90 acres that Mr. Ross wants to develop commercially has visibility from Rt. 95, making it a unique part of the 90 acres. The access to the land would also be from West Greenwich and not from Division Road in East Greenwich which was never anticipated. When the Board objectively reviewed the project logistically, it made sense and was worth consideration.

Mr. Donegan followed up by saying the Board was being generous when allowing the project to be approved proceed past Master Plan. The Board wanted to hear from the applicant how they thought the project fit into the Comprehensive Plan. To this effect, the applicant presented an expert who talked about planning and said there was enough land for affordable housing after the 6 acres were commercially developed. The Board was not comfortable with that answer because it called for a specific type of commercial use that would not be ancillary to HDRUs and wanted the applicant to present additional evidence. The applicant told the Board not to make a decision at the meeting, referring to the aforementioned Superior Court case. The Board responded that the decision is usually made at every stage of planning so that resources are not unnecessarily spent on a plan that is not going to be approved. Mr. Donegan continued, saying that at the time, Chairman Steve Brusini told the applicant that if the project goes to the preliminary stage and more money is spent on development costs, it would be done at their own risk, which the applicant affirmed.

Comment [AL1]: Correction from 9/16/15 PBM #3

Mr. Donegan stated that the current meeting is not for preliminary plan approval, but rather the Planning Board is specifically being asked by the Zoning Board if the project “is consistent with the Comprehensive Plan.” Mr. Tagliatela brought up the point that if the Planning Board declares the project is consistent with the Comprehensive Plan at the current meeting, and then say it is not consistent at the preliminary plan hearing, it would be procedurally inconsistent. Mr. Donegan agreed and stated that the order of this process is odd because the same determination is being made at various stages. It is presumed that there will be different evidence given by the applicant at the different hearings which will affect the outcome of the decisions being made.

Mr. Ayotte referenced a chapter of the Town Code regarding land developments (A263-8) that the proposed development “[shall be] consistent with the requirements of the East Greenwich Comprehensive Plan and/or shall satisfactorily address the issues [where there may be inconsistencies,]” pointing out that the applicant has not been given the chance present evidence for this. Mr. Donegan replied that the applicant was given the chance at the Master Plan hearing but made the choice to defer until a later time in the process. Because of this, it has advanced to the Zoning Board, who in turn has

asked the Planning Board for its opinion and recommendation.

Mrs. Bourbonnais stated that recommendations for Comprehensive Plan compliance do not happen often. Whenever there is a use variance that comes before the Zoning Board, something that is not permitted by right or by a simple special use permit, the Planning Board is asked to make a recommendation regarding Comprehensive Plan consistency. There is a legal standard that has to be met when a use variance is requested which says one cannot make any other use of the property unless the variance is granted. This legal burden is nearly impossible to meet and people are generally talked out of pursuing it after they request it at the staff level. Anytime there is a use question, it goes to the Planning Board for recommendation.

Mr. Gomez asked what the original thought process was when the Comprehensive Plan was being made in regards to the mixed use zoning of the piece of property in question. Mrs. Bourbonnais replied that the area does not have the typical characteristics of the Town of East Greenwich which made the area an ideal spot for affordable housing. The area would have access to infrastructure via West Greenwich (water and sewer) and highway access for transit as well as other things that often support affordable and high density housing. There was also the same style of development already happening nearby so it would be consistent with the surrounding area.

Mrs. Bourbonnais continued on to say that the application from the Zoning Board consists of 13 separate pieces of relief, most of which are dimensional variances and buffering. Regarding the property in question, the Comprehensive Plan allows residential zoning, especially multi-family, affordable deed-restrictive residential zoning as well as ancillary commercial zoning, expressly retail and office uses. The proposed project is neither of these. It is storage of commercial vehicles, landscaping materials, and construction materials/equipment. It is closer to an industrial use and not a use allowed in the zone.

Mr. Gomez stated that when this project was discussed previously, it was thought of as a unique piece of land that was undesirable residentially but reasonable to use as a light industrial/commercial property. However, when the use variances are taken into account, the project does not look as reasonable as before.

Mr. Gomez continued to say that one of the Planning Board's conditions to get Master Plan approval was to obtain permanent access to a road. He pointed out that permanent access has not been granted but rather a lease and asked for an elaboration. Mrs. Bourbonnais replied that an easement is being leased from the Department of Transportation and that the applicant has a signed agreement with the DoT for access to the property. It is not permanent but it is long-term. Because the condition states *permanent* access, it would have to be determined if the long-term agreement is acceptable at the Preliminary Plan hearing.

Mr. Russo asked a procedural question. He affirmed that the applicant filed with the Zoning Board who in turn asked for a recommendation from the Planning Board. The applicant received notice to be at the Planning Board meeting but is not present. He asked that if the Planning Board makes an unfavorable ruling for the applicant, is the Zoning Board obligated to adopt the Planning Board's recommendation or can the applicant appear before the Zoning Board to attempt to overturn the Planning Board's recommendation. Mrs. Bourbonnais answered that the applicant does indeed have the opportunity to appear before the Zoning Board to reverse the Planning Board recommendation.

Mr. Donegan interjected that he recommends a discussion of the issue but not a vote. This will give the applicant a second opportunity to present their case at the next scheduled Planning Board meeting.

Mr. Eaton had a question regarding the temporary lease of the easement to access the property. He referenced the staff report stating that the applicant declared that the land is only needed for 10-15 years. He asked if the Town of East Greenwich would be loaning the parcel of land to the applicant. Mrs. Bourbonnais expressed that this is an issue as well. It is understandable if the applicant plans to finish his career with this land and abandon the use afterwards but the zoning relief runs with the land. If zoning relief is granted, it is permanent. Whoever takes over the site needs to have access as well. The issue of permanent access is significant. The applicant will argue that the access is permanent because it will be for the life of the business but it is the life of the lot that matters.

Mr. Donegan asked to explore the potential consequences if the Planning Board found the project to be consistent with the Comprehensive Plan but the State of Rhode Island found it to be inconsistent. Mrs. Bourbonnais replied that it would be uncharted territory and that she did not know. Mr. Donegan stated that he assumed one of the difficulties applying for a Comprehensive Plan change is meeting the 10% affordable housing goal. The Town is currently at 4.3%. Taking any of the projected land to be used for affordable housing away would give the Town great scrutiny from the State because the Comprehensive Plan was recently approved in 2014. If light industrial land use is permitted in an area that was intended for residential use, the State housing agency would most likely determine that the Town is relegating affordable housing to an undesirable area.

Mrs. Bourbonnais confirmed that this was a real concern. From a logistical standpoint, there is a clause in the zoning ordinance about buffering specific types of commercial and industrial uses from residential uses. If commercial use is allowed, a portion of the land is lost to provide an adequate buffer. If it is argued that the units lost can be made up on the balance of the acreage, additional chunks of land may be lost because of the buffer needed, and because of other site constraints. It would be disingenuous to say the Town can still meet the 10% target with the subject 6 acres lost. The real consequence is from potential future applications for land development and how the Town can force anyone to adhere to the Comprehensive Plan.

Mr. Donegan asked Mrs. Bourbonnais for her opinion regarding what was drafted in the Comprehensive Plan for the use of the land in question. Mrs. Bourbonnais replied that regardless of what the future land use map shows for the subject parcel, the very first housing policy in the housing chapter in the Comprehensive Plan refers to the quadrant in Town containing the subject parcel. It talks about creating a new zoning district and refers to a specific geographical area, west of Shippeetown Road and south of Crompton Road. It calls for "changing the current zoning from Commercial (CH) and Farming (F2) to Residential Mixed Use (MUPD) Zoning District. The new District will allow mixed-use development, thereby helping to arrest the strip-style suburban development that has begun to emerge near that area. The dimensional requirements will allow commercial structures and will also require upper-story residential use, which will require at least 20% LMI (low or moderate income) units, and commercial development at the street level. These zoning measures are intended to implement policies and recommendations of the Comprehensive Plan's Land Use Element relative to retaining and enhancing the Town's villages as vital centers, for curbing sprawl outside the village centers, and for ensuring that the character of new development is consistent with the traditional development patterns of the Town...Attached single family units will be allowed as-of-right in the District. The intent is to promote walkable communities and concentrated areas of public space. The new District will permit a density bonus, appropriate to the carrying capacity of the land, for a density ranging from 12, 16 and 20 units per acre, in areas that are currently zoned CH and F2, for developments that provide at least 20% of units to be affordable for 30 to 99 years to households  $\leq 80\%$  AMI. The Town will encourage developers to make affordable units permanently affordable by working with the EGHA. Multi-family will be allowed by right in projects utilizing the density bonus." If you assign 12 units per acre to the 6 acres, it is not an insignificant number of units that will be lost. Given that nothing the applicant wants to do on the subject parcel match this language in the Plan in any way, it is not consistent with the Town's Comprehensive Plan.

Mr. Donegan asked Mrs. Bourbonnais if she had received any evidence from the applicant that would show more consistency with the Comprehensive Plan. She said that she had not. The argument the applicant made at the staff level is that the balance of the land can still be used in a MUPD way. The 90 acres set aside is theoretical in that wetlands and other prohibited areas have not been mapped out. The 6 acres in question has been mapped out as usable land and can be used as projected in the Comprehensive Plan.

Mr. Eaton commented that there is a tolerance of risk to be taken into consideration for the analysis of the land to see whether or not the removed units can be made up if the 6 acres were lost to the subject project. Mr. Donegan stated that the Town does not do that as it is not called for in the Comprehensive Plan. Mrs. Bourbonnais asked if the applicant could be forced to perform a site assessment to prove the units could be made up on site in the balance of the property. Mr. Donegan stated that if they were asking for relief, that could potentially happen. He continued to say that the issue is more procedural. If it was known there was permanent access to the parcel and all of the remaining acreage was buildable land, a different Comprehensive Plan may have been submitted. These were unknown so the project is

not consistent with the Comprehensive Plan. It is not proper to ignore what we have submitted to the state in regards to land use.

Mr. Eaton asked how often a Comprehensive Plan is updated. Mrs. Bourbonnais replied that it is undesirable to re-write the Plan more than once every ten years. The current plan was written with a twenty year life span as it has a twenty year planning horizon in it, but the Town is allowed to amend the Plan annually.

Mr. Donegan asked Mr. Clarkin if he had any comments regarding the Planning Board's view and understanding of the issues and procedures. Mr. Clarkin replied that the Board is on the correct path with the issue.

Mr. Donegan asked if anyone from the public would like to speak. There being none, Mr. Gomez made a motion to continue the discussion until the next Planning Board meeting. This was seconded by Mr. Tagliatela and passed unanimously

Vote: 6-0 for motion to continue the discussion until the next Planning Board meeting.

Mr. Donegan recused himself from the meeting, noting that he and Steve Brusini recused themselves from the second item on the agenda having filed the appropriate recusal forms for the Town and the Rhode Island Ethics Commission.

Mr. Gomez took over as chair person, noting that Mr. Donegan has left and Mr. Turchetta has returned and introduced the second item on the agenda:

2. Pre-Application Review: **Philip Ryan Homes, LTD** for property owned by Middle Park Enterprises, LLC. The applicant seeks a Pre-Application conference regarding proposed construction of 56 dwelling units on 9.84 acres, being near utility pole 104 on Middle Road; Assessor's Map52, Plat 11, Lot 499, zoned LI-O, Light Industry-Office. Project requires a Comprehensive Plan amendment and a Change of Zone to PD-R/4 which is a residential planned development zone.

Attorney Bill Landry, a partner from Blish and Cavanagh law firm, introduced himself as representing Phillip Ryan Homes. He stated that Mr. Thomas Primeau of Phillip Ryan Homes and Ms. Nicole Reilly, PE, of DiPrete Engineering were present. After describing the property and confirming he had read the staff report, he was informed by Mr. Gomez that the pre-application review would not be voted on, with the goal of having discussion and obtaining opinions from the Board.

Mr. Landry continued describing the property, stating that there is a small pond and wetlands in the south east corner of the property as well as public water and sewer availability. The applicant is

proposing a high quality, deed-restricted, 55 and over, active adult community; a compatible community to Pine Glen across Middle Road. There will be 56 residential units in 21 buildings. The key consideration in land use in Rhode Island is consistency with the Comprehensive Plan. The foundation of this application is the component in the affordable housing plan that identifies the parcel as one that is suitable to the Town's affordable housing strategy, particularly identifying it with a group of parcels that would be suitable for a rezone to R-4, R-6, or R-10 for projects that include affordable housing. The corresponding text language talks about PD's that have an underlying zoning of R-4, R-6, or R-10. To provide a clarification of intent, the language in the Plan says that to make development in these areas feasible, the Zoning Board and the Planning Board should be encouraged to relax standards so as to permit lots that are undersized or deficient in setback to be built exclusively as affordable housing developments. The idea is to give the Town enough flexibility to incentivize new development in the identified areas of Town that make sense for affordable housing. One of the modifications that will be requested is a zone change to the R-4/PD designation as well as some front setback relief that has been identified in the application.

The projected process is to appear before Town Council after passing Master Plan review. The Council would then vote on the zone change and the future land use change in the Comprehensive Plan. The site is not fully designed yet but DiPrete Engineering has existing maps of the area having been involved with a previous commercial application on the same site. Mr. Landry stated that the applicant is aware of the focus that is needed on drainage issues as well as traffic analysis. A thorough traffic analysis is expected to be presented at the Master Plan stage, taking into consideration the intersection of Middle Road and South County Trail.

Mr. Landry addressed issues raised in the staff report. He addressed the need to be attentive to the environmental land use restrictions that may involve the property as a result of environmental contamination that was identified in the 1990's. The applicant has been working through this issue, engaging with RI DEM and ON Semiconductor to have the environmental land use restriction (ELUR) released on the parcel. He explained that the ELUR was placed on the parcel because it was part of the ON Semiconductor parcel at the time the contamination was identified. The contamination is traced back to Gulton-Graphic Instruments and involved PCE (tetrachloroethylene) principally in the area of the loading dock. The various testing regiments that have been carried out are such that the settlement agreement on the subject parcel provides that the ELUR to be released because it has tested satisfactorily. ON Semiconductor and Cherry Semiconductor were parties to the ELUR and settlement agreement meaning they have to be a part of the discussion. Mr. Landry stated the applicant has concurrence from DEM that the subject parcel is not contaminated and should be released from the ELUR. The mechanics are expected to be worked out in the very near future.

Mr. Ayotte asked if the contaminated area is shown on the plan. Mr. Landry referenced a map of the subject property and explained where the contamination occurred. He further explained that contamination occurred on what is now a separate parcel from the subject parcel, which is up gradient



to the contamination site and test locations.

Mr. Landry addressed a question about the density bonus available. In R-4 zoning, it is a 20% density bonus. PD provides a 15% density bonus. The plan concurs with the staff report in that it does not exceed the 15% density bonus.

The issue of setbacks was addressed next. In the R-4 zone, there is a 10 foot front set back. In a PD, there is a 50 foot setback. He explained that the setbacks are not critical in respect to the property because there is a large embankment along Middle Road facing the south side of the site. The site is naturally buffered as it drops off from Middle Road, creating a visual barrier from surrounding properties. On the north side of the property, there is a couple hundred feet between the boundary and the abutting building which has plenty of potential for a landscaping buffer. To the east, there is a wetland complex which acts as a natural buffer.

Mr. Landry expressed the opinion that the 10 foot setback associated with the R-4 zone should be the controlling factor for the project. The Comprehensive Plan talks about R-4, R-6 and R-10 zones as being the underlying zoning for parcels that are being planned for affordable housing, which have setbacks of 10 feet. He referred to the language of the Plan that states that in order to make the areas feasible for affordable housing, the Zoning Board should be encouraged to relax the standards and permit the lots that are undersized or deficient in setbacks. Another point he made referenced the PD section of the zoning ordinance. The 50 foot setback applies to different types of PD's including MUPD's that would have a commercial component.

Mr. Russo commented that he is not familiar with the area and asked Mr. Landry to elaborate on the drop off from Middle Road previously mentioned. Mr. Landry replied that rooftops might be visible but it is a fairly significant drop.

Mr. Russo asked if the setback issue was a deal breaker for the plan. Mr. Landry replied that it is not necessarily a deal breaker but a 50 foot set back would pose a genuine problem. He also pointed out that if the houses are moved back, there is a better chance the buildings will be seen. He stated it is not the setback that was planned around or deemed applicable.

Mr. Gomez asked if there were more specific points that needed to be addressed. Mr. Landry replied that more engineering has to be done and that he had finished his presentation. Mr. Gomez opened questioning from the Board members.

Mr. Turchetta questioned the issue of traffic, stating that the traffic from East Greenwich High School creates a large amount of traffic from either side of the school in the morning and afternoon. He said that the traffic will be the biggest issue. Mr. Landry replied that focus on the traffic loads and site distances have a high priority and highly qualified traffic assessments will be made. There are no

assessment numbers yet but options to mitigate traffic are being explored such as adding a lane on South County Trail, widening the intersection, turnabouts, and traffic lights. Most of the options may not be viable due to DoT permissions but pre-judgement on the issue cannot be made without proper assessments being carried out.

Mr. Tagliatela addressed the pre-application fee-in-lieu arrangement from the applicant in regards to affordable housing. Mr. Landry stated that it is preferable to pay the fee-in-lieu rather than building the affordable units. Mr. Clarkin interjected that the Town does not accept fee-in-lieu arrangements. Mr. Landry explained that he recalled the litigation that involved the fee-in-lieu provision. The Town's method for calculating the fee was at issue but there is now State legislation that says where municipalities have provided for a fee-in-lieu alternative, the state has established what the fee is going to be.

Mr. Gomez asked Mrs. Bourbonnais for background on the fee-in-lieu. She stated that the Town has been court ordered not to collect the fee that is currently provided for in the ordinance. The Town has not been enforcing or acting on the provision for a number of years. The reason it has not been amended yet is because the current thinking is that the Town does not want a fee-in-lieu under current State law as it does not give the municipality any discretion with regard to when it is collected or on what project. Once it is provided for, it is entirely up to the developer whether or not to utilize it.

Mr. Gomez asked if there were any major issues with the development the applicant would like the Planning Board to know about. Mr. Landry stated that he has not heard anything surprising, unexpected or significantly problematic. If the Town does not accept the fee-in-lieu, he stated that at the current stage, he agreed to disagree as to whether or not the developer has a prerogative to pay the fee-in-lieu and this issue will become more in-depth in later stages of development.

Mr. Ayotte asked about the density of Pine Glen across the street from the subject development. Mr. Primeau answered that it was approved for 87 units but is somewhat different than the subject development. Mr. Ayotte followed up by asking Mrs. Bourbonnais if the land had to be contiguous to be included in the density calculations. The answer was yes. Mr. Landry commented that the density proposal does not exceed the limits for the land.

Mr. Gomez asked Mrs. Bourbonnais about wetland setbacks. She stated there is a clause in the Zoning Code that talks about the area that is not allowed to be built upon in relation to wetlands. Ms. Reilly commented that the wetland buffers were deducted from the setback calculations. The wetland setbacks were included in the open space/common land calculations.

Mr. Gomez opened up public comment. The applicant, Thomas Primeau, came up to speak. Mr. Primeau gave some background on work he has done in the Town. He stated that he has always tried to design buildings that are architecturally compatible with the surrounding properties as to not devalue the

adjacent homes. He commented on the traffic issue, referencing the two age-restrictive communities he has already completed, saying that the communities are like a 'ghost town.' The people get up late and are mostly all retired. He stated that the subject development is different because it has an affordable housing component. It is a hard economic grind to integrate affordable housing into the development because money will be lost by developing the units the same way as the market rate units. The setbacks should be viewed from a practical standpoint as opposed to a textbook standpoint of the zoning ordinance. The natural buffers should be taken into consideration and the setbacks should be flexible for developers that incorporate an affordable housing element. He said that he will be seeking a waiver for the setback relief.

He continued to say that the fiscal impact study will also show that the subject development will probably generate over a half a million dollars of net revenue because there will be no community services provided by the Town. The Town will also receive the impact fees which will most likely be \$3,000 per unit that would not be received in a commercial setting. The development will not be detrimental from an economic standpoint, it will be an asset.

Mr. Eaton asked how the subject development will be different than the Fry Brook development. Mr. Primeau responded that Fry Brook is in a much more quality luxurious setting with very expensive units with an average price of \$750,000. The intent is different with the subject development. The units will be priced closer to the high \$300,000 range and built in a different style. He stated that he wants to create attractive buildings with a streetscape; a quality look but a different look.

Mr. Gomez asked the Board for feedback. Mr. Eaton gave comments on points that have been observed in the application. Traffic will be a common denominator for the project with analysis being a crucial aspect. The impact of sewers, public services, public safety, and the lighting/visual aspect will need to be addressed in the Master Plan stage. Lastly, the property value switch for residents already living in the area might garner pushback from the public.

Mr. Turchetta echoed Mr. Eaton's traffic concerns, knowing firsthand how much traffic there can be on Middle Road, especially in the vicinity of the high school. Given the change needed in the zoning and setbacks, he likened the project as initially being a square peg in a round hole.

Mr. Tagliatela commented about the setbacks. He stated it seems improbable that the roofs and the top windows are not going to be seen from the road. The affordable units also have to be included and built as part of this project.

Mr. Russo said that he liked the project overall. The setbacks will need to be addressed as well as the financial impact to the surrounding residencies.

Mr. Ayotte stated that the project is a good use of the land. His concerns were of the setbacks and the conditions that would be imposed for the 50 foot setback. Traffic is also an issue, specifically internal circulation on Middle Road for emergency vehicles getting by. Another concern related to the affordable housing units being indistinguishable from the rest of the units being proposed.

Comment [AL2]: Correction from 9/16/15 PBM #3

Mr. Gomez commented that the project is a good use of the land. It is a unique situation of carving residential land out of existing commercial land which leads to concerns of the setbacks to protect the residents that will be living on the site from the commercial use of the abutting land. More detail at Master Plan is expected for the density calculations and affordable housing.

With no closing comments, the discussion was closed.

### 3. Minutes: August 5, 2015

Mr. Gomez stated that he did not have a chance to look through the minutes. Mr. Russo noted a grammatical correction to be made on page 12 in the 2<sup>nd</sup> to last paragraph.

A motion was made to approve the August 5, 2015 minutes as corrected by Mr. Russo and seconded by Mr. Ayotte. The motion passed unanimously.

Vote: 6-0-0 in favor of the motion to approve the August 5, 2015 minutes.

### 4. Planning Board Member Comments: For items not on the agenda and not relating to specific applications.

Mr. Turchetta brought up the issue of precedence regarding setbacks. Mrs. Bourbonnais commented that the Board should always be concerned with the amount of relief that it gives or the degree to which it allows a waiver from the regulations. If the Board concedes that a setback for a PD/R-4 zone should be 10 feet, it might be justified. However, if the Board agrees that the setback should be 40 or 50 feet, it should be realized that an 80% deviation is required which will set precedence for all other projects going forward. A 10-15% of relief from the standard in the ordinance should be considered but probably not 80 or 90% of relief. It is a matter of degree and scale. The Planning Board has traditionally thought about how much relief is being granted and tried to give the least amount necessary. The Zoning Board has a legal standard which requires them to give the least relief necessary which is a good practice to follow. Veering away from regulations is a dangerous path to take. Mr. Turchetta agreed that consistency is a concern.

Mrs. Bourbonnais addressed the upcoming agenda. The Community Development Block Grant application has to be reviewed and advanced to the Town Council for approval. The Planning Board has

to certify that the activities listed in the applications are or are not consistent with the Comprehensive Plan.

Mr. Gomez commented that in the past, there were some projects that were questionably beneficial to the Town of East Greenwich and the applicants were using the Town because of the purview the Town had over block grant money. Mrs. Bourbonnais responded that it does happen sometimes, but often the recipients are regional entities that serve an East Greenwich population.

Mr. Eaton asked if the block grant is specific to the Town of East Greenwich. Mrs. Bourbonnais replied that block grant money is HUD pass through money, i.e. federal money that comes through HUD that goes to the States. States get a finite and specific allocation. Within that allocation, there are a few different things that have to happen. The Town competes for the Small Cities Competitive Grants, competing against other towns that are seeking similar amounts of money for similar activities. There are also entitlement communities and larger cities that are entitled to a larger chunk of the money that comes to Rhode Island. Places like Central Falls are eligible for ~\$450,000 whereas East Greenwich is eligible for less than that. The Town has a list of service agencies and entities that apply every year. They are notified every year about the process and applications are solicited from them. The Town also runs ads in the newspaper leading up to the block grant, letting applicants know that the money is becoming available and that they are welcome to submit an application.

Mr. Gomez asked for a motion to adjourn. Mr. Turchetta made the motion to adjourn, seconded by Mr. Russo at 9:05 PM.

For further information, please direct inquiries to the Planning Department.