

**MINUTES OF PUBLIC HEARING
HELD BY THE PLANNING AND ZONING COMMISSION
OCTOBER 15, 2012**

ROLL CALL:

Members Present: Joseph Diminico, Chairman
Kevin Dougan, Vice Chairman
Andy Kidd, Secretary
Eric Prause
Horace Brown

Absent: Anthony Petrone
Susan Shanbaum
John Chaput

Also Present: Mark Pellegrini, Director of Planning
Renata Bertotti, Senior Planner
Ginger MacHattie, Recording Secretary

The Chairman opened the Public Hearing at 7:07 p.m. The Secretary read the legal notice for the application when the call was made.

RIPLEY HILL DEVELOPMENT, LLC – 717, 727, & 743 Tolland Turnpike – for a 32 unit multi-family residential community – PRD Zone Change and Preliminary Plan of Development (2012-076)

Mr. Kevin Grindle, landscape architect, spoke on behalf of the applicant regarding 717, 727, and 743 Tolland Turnpike. He displayed a map showing the three parcels with 743 Tolland Turnpike shaded. In 2007 a zone change and PRD preliminary plan of development were approved for 717 and 727 Tolland Turnpike. Ripley Hill has since acquired 743 Tolland Turnpike and would like to make the third parcel part of the overall development scheme. Parcel 743 Tolland Turnpike consists of 0.88 acres. The parcel to the northwest is Vintage at the Grove. To the south is Miller Farms, LLC. The PRD preliminary plan of development approved in 2007 had 25 units placed on 3.28 buildable acres. This is a density of 7.6 units per acre. The units did extend to the rear lot lines.

Mr. Grindle said the proposed plan will provide more roadway frontage and consist of 32 units. There will be a common access drive off Tolland Turnpike that climbs through the parcel. The units along Tolland Turnpike will have a common elevation. At the rear of the parcel is the recreation area. He said the overall impervious area has been reduced with the newer plan. Mail and dumpsters will be located close to Tolland Turnpike so they do not have to traverse the entire site. Water and sanitary services will also be close to Tolland Turnpike. The additional units do not yield larger square footage of disturbed area on the property. Having the ability to incorporate the third parcel allows the developer to utilize the land in a more ideal fashion. It is a priority to locate the open space adjacent to Vintage at the Grove's. The recreation area will be located in an existing clearing so no additional clearing would be needed. He said stormwater

detention basins will be located along the western side of the property and along the frontage. The basins will be kept shallow and impact will be as pleasing to the eye as possible. There is an existing vegetated buffer that will remain. Full planting plans will be developed at the time of final design.

Mr. Grindle displayed an artist's rendering of a typical unit. He said each unit will have a one-car garage and one stall on the drive aisle. He displayed an artist's rendering of the development as viewed from Tolland Turnpike. Materials will include vinyl clapboard and cultured stone. The basement level is not designed to be habitable.

In response to questions from Mr. Brown, Mr. Grindle explained the 15' buffer will have multiple species of trees; the intent is not to create a mono culture. The buildings are 50' away from Tolland Turnpike; 30' is required. A buffer will be provided and will include flowering ornamentals in the 6' to 8' range. The screening will be shown on the final design plan.

In response to a question from Mr. Kidd, Mr. Grindle explained the mail location is as one pulls into the site. The sidewalk from the parking area to the mail location is the only sidewalk. There is about 900' of overall roadway in the development, but the developer does not think a sidewalk is necessary on the easterly side of the access drive. There is a 4' grassed shelf. The recreation area also has a grassed walkway to the visitor parking. He is requesting a waiver of interior sidewalks.

In response to a question from Mr. Kidd, Mr. Pellegrini explained that the applicant's argument is the internal walkways will have a limited number of residents that use it. The Planning and Zoning Commission may feel that an internally designated path of stone dust is acceptable. Another thing to consider is pedestrian activity outside of the site. It is possible some residents may want to go for a walk. This is a preliminary plan and it is not necessary to grant a waiver at this stage. The applicant has made the request now, but the Commission could decide not to act now.

In response to a question from Mr. Kidd, Ms. Bertotti said that the original plan for 25 units included interior sidewalks.

Mr. Grindle said there are some PRDs that have sidewalks and some that do not have sidewalks. He said Miller Farms has interior sidewalks that rarely get used. This means a substantial amount of concrete lays dormant. Vintage at the Grove has sidewalks that work very well. It has a reasonably short cul-de-sac with sidewalks only at the mailbox location.

Mr. Kidd commented that he likes the idea of minimizing impervious surfaces as much as possible. It might be interesting to think about connecting the mailbox area to Tolland Turnpike.

In response to a question from Mr. Kidd, Mr. Grindle explained there is existing vegetation in one area and it would be a shame to cut those trees down just to replant.

In response to a question from Mr. Diminico, Mr. Grindle said the difference in grade from back to front is about 17 feet.

Mr. Prause said overall the development looks high quality and he may even prefer this plan over the approved plan. It is compatible with the Plan of Conservation and Development. He asked if the units will be owner occupied.

Mr. Grindle assumes the units will be owner occupied. The development fits in with the goals of the Town's Plan of Conservation and Development. It also fits in with other developments on Tolland Turnpike.

In response to questions from Mr. Prause, Mr. Grindle said the density will be 7.7 units per acre; the previous plan was 7.6 units per acre. This development will fit well with the developments in the area and add value to the adjoining properties.

Chairman Diminico asked anyone wishing to speak either in favor of or in opposition to this application to come forward at this time.

Mr. Bert Kelsey, 759 Tolland Turnpike, lives next to 743 Tolland Turnpike. This property has extreme elevation changes. He wants to know how much blasting will take place as his well is 200' from the elevation change.

Mr. Diminico explained protocol for blasting is through the Fire Marshal's office.

Mr. Kelsey said he is surprised the developer is doing this project as Miller Farms is not finished yet. He said he would use the sidewalk.

Mr. Grindle said he is not aware that the elevation is made of rock. The sidewalk will continue along the entire frontage of the parcel; the waiver is not for the streetscape.

Ms. Bertotti said Town staff has four comments which are all minor and technical in nature and can be included as modifications on the final plans.

The public hearing on this application was closed.

BRUCE R. & ROSEMARIE T. CHIRICO – 571 Porter Street and the westerly portion of 599 Porter St. – to change the zone from Residence AA (RAA) zone to Rural Residence (RR) zone – Zoning Map Amendment (2012-099)

Attorney Stephen Penny represented the applicant who is requesting a zone change from Residence AA (RAA) to Rural Residence on two abutting parcels. The two parcels are 571 and 599 Porter Street which are located on the north side of Porter. 571 Porter Street is zoned RAA, is 2.23 acres, and contains a single family residence. 599 Porter Street is 9.79 acres and contains a single family home and a horse barn. A portion of 599 Porter Street is zoned RAA and a portion is zoned Rural Residence (RR). The RR zone is the only zone that permits farming, including keeping of horses, in Manchester. These two parcels are more appropriately sized for RR than RAA zoning. There will be no livestock, only keeping of horses. Attorney Penny reviewed the history of these two parcels, which included the keeping of horses for many years. The applicant has maintained nine chickens here for 19 years.

The zone change being proposed is consistent with the Plan of Conservation and Development's efforts to conserve farmland. There is no explanation for the current zone district boundary. The property at 599 Porter Street has been keeping horses for at least 20 years. The lot exceeds the dimension requirements of the RR zone.

In response to a comment from Mr. Dougan, Attorney Penny explained that the zone change would resolve the issue at 599 Porter Street.

In response to a question from Mr. Brown, Attorney Penny explained that the term rear yard refers to the separating distance of a structure from the rear property line to the rear of the building, with the street being the principle focal point.

Mr. Pellegrini pointed out that the aerial photograph shows the barn, paddock, and riding area all in the rear yard.

In response to a question from Mr. Diminico, Attorney Penny explained that the applicant boards horses with no income. It costs her to have the horses there. They are intended as a teaching tool for children.

Mr. Pellegrini explained that the barn and paddock are in a zoning district where they are not allowed. The Commission does not have to resolve how that occurred, but make a decision about the zoning district change. He said the situation was brought to the Town's attention as a result of a complaint.

In response to a question from Mr. Kidd, Attorney Penny explained that poultry is not permitted in a RAA zone, but in a RR zone. The client maintains agricultural use will qualify her for 490 status.

Mr. Kidd noted that neighboring parcels look like residential parcels.

Mr. Dougan commented that the Commission is usually asked to accommodate changes that allow for higher density. He does not see why the Commission is struggling with a request to go the other way.

In response to a question from Mr. Prause, Attorney Penny said the barn has been there since the 1940s and the horses have been there for some time. The issue is not how the land is occupied but why the zone district change is through the middle of the lot.

Chairman Diminico asked if any member of the public wished to comment either in favor of or in opposition to this application.

Mr. John Weedon, Co-Chair of Manchester Conservation Commission and member of the Manchester Agriculture Preservation Association, supports this application. He said it will rectify a mistake with the boundary. The Chiricos are good neighbors and run a clean operation. It is made too difficult to keep farmland in Manchester. We should not put people through hoops, but instead work the hardest to preserve farmland.

Ms. Betty Lusandy, 38 Somerset, teaches gardening education. Agriculture has been quickly diminishing in Connecticut. Sixty to eighty years ago, Connecticut was 70% agricultural land. Now farmland makes up less than 12% of the entire state, she said. Tonight there is someone involved in agriculture that would like to continue. They are just asking to have three sections re-merged to become one farm.

Ms. Bonnie Potocki, 121 McKee Street, referred to public comments made during the Manchester 2020 exercise. A great effort was made to poll the community and one thing the community wants is to promote agriculture. The Plan of Conservation and Development should guide the Commission's decision making. She said this is an opportunity to promote agriculture.

Ms. Virginia Ruff, no address given, hates to see farms disappear. She hopes this application is approved.

Ms. Rose Chirico said this property has been farmland since 1945. The farmhouse and barn were built in 1945. Her family has been working on this land for 20 years. It gives her five children and others in the neighborhood an education about farming. Now that is threatened by a line on a map. She said she asked Town officials to explain the line and they could not, but they did agree it does not make sense. Ms. Chirico said she is currently in economic hardship and now she is being asked to spend money she does not have to fight to move a line. If the Commission votes against her application, she will be forced to disband the farm.

In response to a question from Mr. Diminico, Ms. Chirico said the house was built before the subdivision to the left of her house. Mr. Gorman owned all of the land around Hickory Ln. and Butternut Rd. that the subdivision currently sits on. The 571 and 599 Porter St. parcels are pretty much combined now with shared driveway and the way the two parcels are being utilized.

In response to a question from Mr. Brown, Ms. Chirico said the barn is between the houses.

Ms. Bertotti explained that the property owner's house is on 571 Porter. There is also a single family house on 599 Porter.

In response to questions from Mr. Prause, Ms. Chirico said there were not as many horses before as there are now. She cleared another paddock for the currently pregnant horse so that that horse can be by herself. Ms. Chirico stated she had 5 horses when she initially moved to this property. There are 7 horses there now, one of which is pregnant. She does not expect an increase in intensity of use. There is an electric fence with woods between her property and the subdivision.

Ms. Mary MacNamara, Rose's sister, has lived in Manchester for 53 and a half years and it has changed in her lifetime. The changes anger and sadden her. Land was taken for the JCPenney warehouse. We need to take a stand and make Manchester prettier. There are enough buildings. It is time to have some rural parts in Manchester. Without horseback riding in Manchester, people would have to go to Glastonbury. Currently, the Town of Manchester has sixteen horses in the entire Town. It is time to support somebody who actually wants to use their land for rural use.

Ms. Michelle Kenton agreed with Mr. Dougan's comments. This is a nice piece of property.

She does not like overdevelopment. This situation is the most absurd thing she has heard about in a long time. It is obvious the barn goes with the house on 599 Porter Street. The Town should endorse more open land. Ms. Chirico teaches her kids and other kids through this farm. She said some kids do not know where eggs come from.

Ms. Bertotti received three communications in support of this application. Two were e-mails from Mr. David Natesky and Mr. Tony Kamarco. A letter was received from Miriam Degrandi, 125 Butternut Road, which Ms. Bertotti read into the record.

Attorney Penny submitted a letter in support from Ms. Virginia Street, 626 Porter Street, who has lived across from the applicant for over ten years.

Mr. Colin MacNamara said this town has changed a lot. He said we need to encourage our neighbors to take steps to bask and partake in older customs. We should not forget where we came from. He supports those that want to continue in that tradition.

Ms. Susan Jacobsen, 21 Hickory Lane, said her family supports local farms and she does home gardening; farming is a great thing. She said what Rose has is a nuisance. The manure is a big issue. She displayed pictures of what she sees from the street. The chicken coops are right next to her enclosed gazebo. There are more than nine chickens. The manure is in the wooded area next to her driveway; there is not a large buffer as was stated. She displayed a picture of a horse and a cow, which are not behind the barn. Ms. Jacobsen says she smells manure the majority of the year. On August 19 she invited Mr. Greg Smith, Chief Building Official, Mike Raymond, Town Sanitarian, Tim O'Neil, Administrative Town Attorney and Jim Davis, Zoning Enforcement Officer to her property. She does no entertaining at home due to the smell of the manure. She asked for proof of ownership of those animals. She moved to Manchester because of the beauty and privacy. If the property is rezoned, it will put more in her back yard.

In response to a question from Mr. Diminico, Ms. Jacobsen said she has lived at her house since 2010. There have always been issues but this year it was worse. What Ms. Chirico represents and what she does are two different things, she said. In 2011 the Town signed off on a horse farm to Amanda Morris. This leads one to believe she is leasing the property. Ms. Chirico was instructed to move the cow and chickens to the RR property. Horses come with papers. Rose should show proof of ownership, but she cannot because she stables them. Ms. Jacobsen is concerned about water contamination from the horse manure. Ms. Jacobsen said one horse produces 40 to 50 pounds of manure per day. That is seven to nine tons per year, per horse. This does not include the urine on straw bedding in the horse stables. If anything, the zoning for RR should be removed from this area. Ms. Chirico has been getting away with this for years. Zoning has received complaints over the years. What she has is not agricultural use. This use is a nuisance due to the objectionable odor.

Mr. Lawrence Stolt, 17 Butternut Road, had a signed proxy to represent Roseanne and Bill Fehling, 32 Hickory Lane. Mr. Stolt has been living there for 32 years and lived there when Dr. Duke owned the land. He had a horse from 1980 to 1983. From 1983 until the time the Chiricos purchased the property there were no animals. What the Chirico's are doing is not farming; it is horses, cows, and chickens. The Town is being asked to authorize what is already being done. Ms. Chirico mentioned her children. They ride motorcycles on the land and shoot deer with bow

and arrows. The horses walk on Town trails and leave manure. They charge for boarding; there were signs that said stables for rent until there was a complaint. The real issue is the abutting neighbors. If one were to walk the property they would see there is manure everywhere, including right up to 32 Hickory Lane. They dig big holes and cover them up with trees. This is a big problem. If this application is approved, Ms. Chirico will expand. This causes a real problem with the neighbors and was not there when he moved in. This application should not be approved.

Mr. Tim Shaw, 641 Porter Street, moved to his home in 2008. At that time there were no farm animals or horses that he could tell. At 599 Porter Street there were young kids living there and they had bonfires and burned mattresses. After the kids moved out, he toured the barn with Rose. Then a woman moved in with three horses. Mr. Shaw can see the whole piece of property. He is not anti-horse or anti-agriculture. He has 2.75 acres with a pond. He put a lot of work into his property. His quality of life has significantly diminished since last November when seven horses and a cow were introduced. He assumes Ms. Chirico is breeding the animals because one cow is pregnant. The odor of manure is detectible and the flies are so bad he has to chase them off his car. Both issues were not present prior to November 2011. Mr. Shaw had a party at his house this summer and had to rent several fans to keep the smell off the guests and out of the eating area. A month ago, a front end loader was scraping the paddock area and dumping manure just outside of his property. The horse waste is sitting above the water table that feeds his well. The applicant has no manure disposal plan. The only reason they are dealing with it is because of the complaints. There are manure piles along the fence line. The Health Department says there is no issue because the manure is a certain number of feet from the well head. Mr. Shaw recently retired and would like to sell his property in the future. All his hard work will be for nothing when prospective buyers smell the manure. These people have no regard for their neighbors. What they do affects all of the neighbors. He is not opposed to what they are doing, just the management of the area.

Ms. Catherine Berger, manager of the property at 24 Hickory Lane, agreed with the comments made by Mr. Stolt and Ms. Jacobsen. She has to run the air conditioning from May to September because she cannot open windows due to the smell. There have been roosters at the applicant's property in the past that wake her up at 5:30 a.m.

Ms. Michelle Renten, Princeton Street, has heard some things that are not "jiving". She has been to parties at Rose's in the summer and has never smelled anything. Neighborhoods that go up near a farm should expect to smell some farm smells. There is never any noise from the chickens. She said people love undeveloped land in their backyard. They do not want a development but do not want a farm either.

Mr. Anthony Beretti said the accusation that manure piles are buried is untrue. The applicant is not renting out stalls or gaining from the farm or the animals. The fact is the Board of Health, Animal Control, and even some Planning and Zoning Commission members have visited the property and they have not found any violations. The applicant is only here because of a line on a map. This property was a farm since 1945.

Attorney Penny said he appreciates the fact that things are sometimes difficult when conflicting uses are side by side, but that is why we have zoning regulations. He was at the property last

Friday and did not smell anything. He walked the entire property. All complaints sound like enforcement issues. If there are problems with the management of the farm, he is sure they will be dealt with. None of that matters when it comes to the zone district line change going right through the property.

Mr. Kidd said he is familiar with the horse boarding business and this sounds like it has a commercial aspect to it. He is not sure how the applicant keeps profit separate from non profit.

Attorney Penny explained that the applicant does not have a commercial enterprise. The horses are free boarded. The owner of a horse may provide feed, but no money changes hands.

Ms. Bertotti said there are no staff comments.

Mr. Diminico said this is really a zone change issue and one would think it is a simple matter, but nothing is farther from the truth. The Plan of Conservation and Development encourages farmland. He does not hear that the zone change is an issue, but he hears that management and farm practices are the issue.

Mr. Dougan said he did not visit the site and does not know that a visit would have any bearing on his decision regarding the split zone. He appreciates the public's response but cannot take it into account regarding the zone change.

Mr. Kidd drove by but did not go in. He agrees that the smell is immaterial to this application.

Mr. Brown said he heard a lot of comments and concern, but those are enforcement issues. The seven horses the applicant has is under the regulations, she can have 18 horses and cattle. Splitting the property was very unfortunate.

The Chairman closed the Public Hearing portion of the meeting at 10:12 p.m.

NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN BE HEARD IN THE PLANNING DEPARTMENT.