

CHM Stephen T Gionfriddo, Sec'y Louis A Carta, Steven J Leinwand, Paul P Parisi, Sebastian J Passanesi, Rose Sbalcio and Alternate Steven Gadomski. COMMISSION MEMBERS PRESENT

Mayor Sebastian J Garafalo, Ex-Officio, Cos Giuffrida, Paul H Bixby, Thomas E Hutton, Jr., Thomas J Serra and Director of Public Works, Salvatore Fazzino, Ex-Officio. MEMBERS ABSENT

Commissioner Gadomski acted for Commissioner Giuffrida who was absent. ACTING MEMBERS

Director George Reif, Hope Kasper and Patricia Michnowicz STAFF

Lucas Held, reporter for the Middletown Press, Marty Kearns, reporter for the Hartford Courant and Rich Webster, reporter for WCNX Radio Station. There were approximately 30 members of the public present. OTHERS

CHM GIONFRIDDO

Let's go to the Public Hearing and I'll ask the secretary to read the notice.

SEC'Y CARTA

THE MIDDLETOWN PLANNING AND ZONING COMMISSION WILL HOLD A PUBLIC HEARING, MAY 9, 1984, 7:00 PM, IN THE COUNCIL CHAMBER, MUNICIPAL BUILDING, DeKOVEN DRIVE, MIDDLETOWN, CONNECTICUT, to consider the following:

<p>Item 2.1 Proposed special exception to permit a rear lot located on the east side of Arbutus Street in an R-1 zone. Applicant Edward Baldwin</p>	<p>PROPOSED SE REAR LOT ARBUTUS ST E BALDWIN S84-11</p>
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CHM GIONFRIDDO

This legal notice appeared twice in the Middletown Press, April 27, 1984 and May 4, 1984. Mr. Baldwin, would you like to come up and identify yourself and explain to the Commission what you're looking for? At the microphone please. Thank you, otherwise they won't pick you up.

MR BALDWIN

Well, my sister's got two pieces of land on ...

CHM GIONFRIDDO

Excuse me. Just for the record, would you give your name and address please?

MR BALDWIN

Ed Baldwin, Arbutus Street. My sister's had two pieces of land on Arbutus Street and they sold one to Mr. Gawlak for a building lot and they reserved a hundred feet, kept a hundred feet to get access to their rear land, which they have twenty-four or twenty-five acres in the rear. They'd like to have that approved and I can't see anything wrong with it. It's an access to the rear land. It will never be a lot or anything, just an access. That's about it.

CHM GIONFRIDDO

Does anyone on the Commission have any questions of Mr. Baldwin?

COMM CARTA

I have a question. Is it that you want this parcel to be approved as a building lot?

MR BALDWIN

No. No.

COMM CARTA

So I'm not clear on exactly what it is that you do want.

MR BALDWIN

That hundred foot strip would be connected to the back lot and used as an access to rear land. Otherwise they have no way of getting out to that twenty-four acres unless they had an access.

COMM CARTA

Prior to this that piece was not connected?

MR BALDWIN

No, it was ... One sister owned one two hundred and some foot lot and another sister owned the next one which was two hundred and some foot.

COMM CARTA

I see.

MR BALDWIN

They put the other hundred foot and made a three hundred foot lot, 330 foot lot, and saved the hundred as access to the rear.

COMM CARTA

I understand.

MR BALDWIN

They don't want to make a building lot or anything, it's just an access to the rear lot.

COMM CARTA

They cut it off of one existing building lot which was larger.

MR BALDWIN

Oh yes, it was plenty larger.

CHM GIONFRIDDO

George?

DIR REIF

They at one time had two lots that met the requirements, two hundred feet of frontage on the street. Someone purchased one of the lots and during the process of having the soil tested, it was determined that the lot was not large enough because of the characteristics of the soil. They needed more area so they moved the line. When they moved the line, they created what was potentially an illegal lot because they now had a lot with three hundred feet of frontage and a lot with one hundred feet of frontage, or 96 or 4 feet, whatever it is.

DIR REIF (Continued)

Okay, so that created something that was not acceptable, an illegal lot. It didn't have enough frontage. The option was what's the reason Mr. Baldwin is here tonight, to apply for a rear lot. The minimum frontage for a rear lot is twenty-five feet, he happens to have 94 feet and it happens to include quite a few acres. Twenty acres in the back?

MR BALDWIN
Twenty-four.

DIR REIF
Twenty-four. There's no limit on how many acres you can have in the rear. That's why he's applying for a rear lot. If you approve his rear lot, it can be used as any other rear lot.

COMM CARTA
That was my original question; Is what we're approving a ...

DIR REIF
Right. Now the Health Department in their comments have indicated that the rear lot, 24 acres hasn't been tested. But the chances of having a lot that has 24 acres not being usable for a septic system is rather remote. I give them the benefit of the doubt.

CHM GIONFRIDDO
Are there any other questions? Mr. Baldwin, would you like this to be voted on this evening if the Commission saw fit to do so?

MR BALDWIN
Yes, I would. Mr. Gawlak is waiting for his permit to build in the meantime. When they sold the lot to him, he sold his house and he's kind of anxious to get going on the building.

COMM LEINWAND
Move to make this Item 6.6 under New Business.

CHM GIONFRIDDO
Is there a second?

COMM SBALCIO
Second.

CHM GIONFRIDDO
Any discussion? If not, all those in favor? Any opposed? (Vote was unanimous) Okay, thank you. Is there anyone from the public who wishes to speak in favor of this proposal? Come up to the microphone and identify yourself please.

MR CONIFF
I'm Eugene Coniff and I live at 998 Arbutus Street. Approximately 460 feet of my property abuts the lot in question and I see no objection to this being done.

CHM GIONFRIDDO
Thank you. Is there anyone else who wishes to speak in favor?

HELEN HART

Helen Hart, Margarite Road Extension. I also own property to the south of this land and I have no objection.

CHM GIONFRIDDO

Thank you very much. Biff, did you ...

MR SHAW

I'm Ralph Shaw of 876 Arbutus Street. It seems like old times being here. I'd like to say something a little more expansive than has been said, not simply because of this particular request, because I think it's a fairly simple request. But I'd like to say that, in looking at this request and others which you've been looking at in recent months, you have available to you, I think, one of the finest Planning & Zoning codes there is in existence. I've had some experience with some others recently in trying to build a couple of bank buildings in other towns and what not. And I would hope that this Commission would take upon itself this week and in weeks to come the use of a very fine document and what goes within it. Within that statement I hope you understand that looking at your code, Ed Baldwin's request certainly meets all the specifications and requirements that are needed, and I think that's the real test of what needs to be done in this community, in this case and in a number of other cases you'll be looking at. I would hope that, as an old father of this Commission, you'd accept that simply in the grace with which I hope it's been given. Thank you very much.

CHM GIONFRIDDO

Thank you. Is there anyone else wishing to speak in favor of this proposal? Is there anyone here wishing to speak in opposition?

ATTY SHAW

Mr. Chairman, I'm Attorney John Shaw from Shaw, Howard & McMillan in Middletown. I represent Mrs. Betty Wyskiel who is one of the owners of property shown on the map as now or formerly of Raymond Hubbard, which I think you'll see is to the south of the piece. I have submitted to the Commission through Mr. Reif a statement of Mrs. Wyskiel's position with respect to this. I guess let me say that we're not so much in opposition to the approval of the interior lot as we are with just some real concerns which Mrs. Wyskiel has with respect to the impact that the approval of this might have on her property which she owns together with her sister, Frances Lane of Claremont, New Hampshire. The main issue is that the piece that you see on the map as now or formerly of Raymond Hubbard is, it appears, a land-locked piece of land. I've spent the last week and a half doing extensive title work, both in Middletown and in Durham, and can find no deeded access to any public highway to that land. It was at one time part of a larger piece owned by Louis Baldwin, which extended north and may have included the piece that Mr. Baldwin is proposing today with access to Arbutus Street much farther to the north. However, in 1900, a twenty acre piece was conveyed out to Mrs. Wyskiel's grandfather and his brother without any access to a public highway at all.

ATTY SHAW (Continued)

As I've described in the letter and as some of you know from the area, this is a wooded area that contains a good many wood roads going through it. The Hubbard Family and their ancestors have used these roads for access to their piece at least since 1900 without the need, it seemed to them, for any recorded easements. The roads have just simply been used for that time. In addition, Mrs. Wyskiel contends, as I've indicated, that she's not certain that the northerly boundary of the Hubbard piece as it's shown on the map is exactly where that map puts it. So she's concerned for the fixing of that boundary perhaps. I think we only want to suggest that while we recognize that this is not a forum for the solving of people's boundary problems or for the confirming of rights in ancient wood roads, nevertheless, I've suggested in my letter what we feel is appropriate language which may be included, or we invite the Commission to ask that it be included on any approval of the interior lot map, which would protect the owners of the piece shown as the Hubbard piece. We would hope that any development of the rear lot and access to Arbutus Street from the rear lot would not in any way impair the historic rights over the wood roads that have been used by the Hubbard Family to Arbutus Street. Further, we would hope that approval of the rear lot would be subject to any claims of course that may be asserted with respect to the boundaries on that score. I should say with respect to the Gawlak piece that there is no claim on Mrs. Wyskiel's part to any question of the boundary between her piece and the Gawlak piece, nor is there any claim on her part to any rights of access over that piece, as shown on this map. So the concern is for the protection of access rights to the Hubbard piece and for the protection of the possible boundary claims that there may be with respect to the northern boundary of the piece.

CHM GIONFRIDDO
Commissioner Leinwand.

COMM LEINWAND
Help me understand this. The Hubbard parcel is land-locked.

ATTY SHAW
Yes.

COMM LEINWAND
There is no access to Arbutus Street or any other street.

ATTY SHAW
In any other street in Middletown or in Durham, yes.

COMM LEINWAND
When you suggest in the end of your letter, ... shall not alter or interfere with any historic or prescriptive rights of access from Arbutus Street to land shown as now or formerly of Hubbard..., I understand that. If there is no access, then what are you talking about with "historic or prescriptive rights"?

ATTY SHAW

What I refer to here, Steve, is that where there are no deeded rights, that is appearing in somebody's deed and land records, an easement to cross someone's property into another property one can find in the indexes in the Town Clerk's office, that does not rule out the possibility that there may have been rights that have accrued by implication, by consistent historic use over a period of time. I think as to the rights of access in that corner on this map, the assertion is that there are rights that the Hubbards have over roads that cross the piece to their property which they have used since 1900. And therefore, they have a legal claim to rights to those pieces even though they're not recorded in the land records.

COMM LEINWAND

Let me ask it a little differently. If in fact the Gawlaks didn't have the problem with their need for extra land and we had the two 200 foot frontage parcels along Arbutus Street, then there would be no question that there would be no access to the Hubbard parcel, correct?

ATTY SHAW

The access that the Hubbard ...

COMM LEINWAND

... two lots, two legal lots, without that hundred foot strip and it truly would be land-locked.

ATTY SHAW

The access that the Hubbard's have used for 84 years would still be there. They would still have rights to it. There is an area of narrow wood road which crosses, we believe, a portion of the area shown on that map as the hundred foot strip to get back there. Obviously, development of that lot would be very difficult and would interfere with the access to the Hubbard piece, as would development in certain areas of the 25 acre rear piece.

COMM LEINWAND

I guess that the logical result of my question is that if in fact it was to go forward as two lots along that strip along Arbutus Street, there would be no access to that rear land. In fact now, despite the fact that there are soil problems and topography problems, you could now talk about that being a new road going in which gives you access to develop that parcel which you never really had before. Correct?

ATTY SHAW

If access were given by deed over that road or it became a town road in some respect, access would then be vested along that area. I think the assertion that is made is that the historic rights of way are there, have always been there. The fact that they're not recorded in the land records is not necessary to their continued existence. At some point as the area develops, it may be necessary to settle that question with litigation, action to acquire title and so on. But our assertion is that that road has always been used as access, for at least 84 years it's been used as access to that rear piece.

CHM GIONFRIDDO

Commissioner Parisi.

COMM PARISI

Who subdivided off the parcels that front on Arbutus Street? Was it Hubbard, Wyskiel or was it Baldwin before 1900? Who land-locked the piece themselves?

ATTY SHAW

The deed in 1900 from Louis Baldwin to Robert & Frank Hubbard in 1900 land-locked that piece. At that time, the Baldwin piece extended further north than it shows on the map here and I believe had frontage up on Arbutus Street further, at that time. There's no question that at that time a land-locked piece was created possibly subject to a right of way of necessity to Arbutus Street up farther north.

CHM GIONFRIDDO

Commissioner Carta.

COMM CARTA

I have a question. Have you started any litigation on these accesses and rights of way.

ATTY SHAW

We have not at this point, Mr. Carta. I guess Mrs. Wyskiel just became aware of this application about the time the first notice was published. And we've spent considerable time in the last couple of weeks looking in the land records for some right of way that would give them access without confronting this issue at this point. Obviously, if we are unable to reach some sort of an agreement to protect their rights with Mr. Baldwin and his family, well then it may be necessary to go that route, yes. We've not even had time to have a survey done of our piece.

COMM CARTA

So there's no legal, you haven't filed a legal conflict at this time.

ATTY SHAW

There is no legal claim filed at this point for the protection of those rights. That's correct. Again, we're not asking the Commission to solve those problems for us.

COMM CARTA

I don't think we have the power to anyway.

CHM GIONFRIDDO

Commissioner Parisi.

COMM PARISI

Have you had any discussions with the Baldwin Family relative to working this out amiably or you haven't even got to that point.

ATTY SHAW

We haven't even got to that point yet. The Baldwin Family and the Hubbard Family have been friendly families, I believe, for a hundred years at least in this community and we would hope that perhaps some discussion along those lines would be fruitful.

CHM GIONFRIDDO

I have a question. Do you feel in any way, shape or form that if this matter were not voted upon this evening and you had an additional two week period of time during which you may be able to have some discussions and have something tangible by the next meeting, or not tangible. I mean, you come back and report nothing transpired?

ATTY SHAW

I would not. There's nothing that leads me to believe that that would not be possible. I think that it's possible it could be very fruitful along those lines and at the same time I recognize Mr. Gawlak's position. I want to be clear that there is nothing in what we say or the position we take that would in any way affect his interests.

CHM GIONFRIDDO

In other words, are you saying basically that paragraphs one and two at the end of this letter here placed on a map would be enough to satisfy you this evening.

ATTY SHAW

It would.

CHM GIONFRIDDO

Any other questions? Thank you. Is there anyone else from the public wishing to speak in opposition to this proposal? If not, we'll close the public hearing on Item 1. Commissioner Leinwand is disqualifying himself from this issue. Since we don't have any other alternates present, we'll proceed with six members. We'll ask the secretary to read the Legal Notice.

SEC'Y CARTA

Item 2.2	Proposed subdivision of parcels of land located on the west side of Atkins Street between Atkins Street and Stantack Road. a. Five lots to be known as Ruth Brechlin subdivision. Applicant/agent Ruth Brechlin/Atty. George V. Lawler b. Seventy-one lots to be known as the Westfield Heights subdivision. Applicant/agent Westfield Associates/Atty. William T. Shea c. Three lots located on the north side of Footit Drive, approximately 395 feet west of intersection of Atkins Street and Footit Drive. Applicant/agent Westfield Associates/Atty. William T. Shea	PROPOSED SUBDIVISION R. BRECHLIN/ WESTFIELD HEIGHTS/ FREDRICKSON S83-25, 26 S84-8
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ATTY SHEA

Mr. Chairman and members of the Commission, first I would like to inform you that I am also acting in capacity of representing Mrs. Ruth Brechlin in 2a. I would also ask for a binding by the Commission that the three proposed subdivisions, as have been advertised and in the call of the meeting as 2a, 2b, 2c, be heard together for the purposes of simplicity.

CHM GIONFRIDDO

They will be heard together.

ATTY SHEA

Fine. Mr. Chairman, may I respectfully request that a motion to that effect be made and put on the record.

CHM GIONFRIDDO

Would somebody like to make a motion.

COMM CARTA

I'll make a motion.

CHM GIONFRIDDO

Commissioner Carta has made a motion to hear the three items together in one public hearing, seconded by Commissioner Sbalcio. Is there any discussion? If not, all those in favor? Any opposed? (Vote was unanimous)

ATTY SHEA

Thank you Mr. Chairman and members of the Commission. As you know, these matters have previously been heard in public hearing. They were heard on February the 8th of 1984. At that time, a full hearing relative to the proposals of Westfield Associates/Ruth Brechlin were made before this Commission. Subsequent to that date, a rendering of an opinion by the City Attorney, Mr. Francis O'Neill, to the effect that the 800 foot rule required an additional point of ingress or egress to the Westfield Heights subdivision, resulted in a withdrawal without prejudice of the applications and an immediate re-submission of the same. Westfield Associates and Mrs. Brechlin then prepared a new plan which incorporated the Fredrickson property subdivision as a roadway that would be integral to the Westfield Heights subdivision providing an additional means of ingress and egress, thus satisfying the opinion of the City Attorney. Subsequent to that, it is my understanding from my discussions with Mr. O'Neill that he recommended to the Chair and to the Commission that an additional public hearing would be had so that the people interested in this matter would have an opportunity to view the changes that have resulted from Mr. O'Neill's opinion. We are at that point tonight. Mr. Chairman and members of the Commission, in order to proceed in as most an expeditious manner as is possible, I would ask that the matters that we introduced into evidence and into the record of the public hearings of February 8, 1984 be incorporated by reference. I think that that will save us all some time. And we will accept those and incorporate those as a part of this public hearing, with the approval of the Commission.

COMM PARISI

Mr. Chairman, may I interrupt and ask a question point blank. I was not a member of this Commission in February. Is it your position for the public record that if I read the February transcripts and look at all the submissions that you made that you would not challenge my vote on this issue because I was not here for your February presentation.

ATTY SHEA

Mr. Parisi, not only would I not challenge them but I don't believe that anyone would be able to successfully challenge them as long as they are part of this Public Hearing record. That's the purpose of my motion.

COMM PARISI
Fine.

CHM GIONFRIDDO
They will so be incorporated into this record.

ATTY SHEA
Mr. Chairman, again because of the fact that ...

CHM GIONFRIDDO
Would you like it in the form of a motion?

ATTY SHEA
I would appreciate it.

CHM GIONFRIDDO
Would someone please make a motion to incorporate them. Commissioner Sbalcio made the motion. Is there a second?

COMM GADOMSKI
Second.

CHM GIONFRIDDO
Seconded by Commissioner Gadomski. Any discussion? If not, all those in favor? Any opposed? (Vote was unanimous)

(SEE PH TRANSCRIPT OF 2/8/84, Item 2.1, and PH EXHIBIT P-1, #S83-25)

ATTY SHEA
Did I hear that you incorporated the record? I couldn't hear you.

CHM GIONFRIDDO
Yes, that's correct.

ATTY SHEA
Now Mr. Chairman and members of the Commission, I think that the most expeditious matter is to explain to you with the assistance of the panels that Mr. Reif has prepared -and members of the public- the changes that we have incorporated in the Westfield Heights subdivision and the effect those changes have had on the other two subdivisions that have been proposed by Ruth Brechlin and by Westfield Associates... (Inaudible. Away from microphone) ... provided at the suggestion of Planning staff, a dual access highway from Atkins Street and this was the means of ingress and egress to the subdivision. They came in here, they looped, came across, came off at the end of the dual access, Brechlin Boulevard. The Brechlin subdivision is shown in these lots here. At this time, the Fredrickson subdivision was not shown as part of the Westfield Heights nor is it today. But it is shown as a separate, individual subdivision shown in green on this map. As a result of Mr. O'Neill's opinion and because of the fact that Westfield Associates controls the property of Shirley Fredrickson, we have changed the subdivision layout to show the same right of way from Atkins Street. That will be a one hundred foot right of way. We have shown a subdivision, a street designed to subdivision standards from Atkins Street and we have also shown an additional means of ingress and egress from Shirley's Court.

ATTY SHEA (Continued)

That will tie into Spruce Circle and will thus satisfy the requirements as have been interpreted by the City Attorney relative to the dead end limitations in the City of Middletown Subdivision Regulations. This really is the only change that we have. I think that the graphics on the plan that has been submitted are sufficient to explain that change. It's very simple. However, this does lead itself to a question as to whether or not there has been any effect upon the traffic considerations by providing this new means of ingress and egress. As a part of the record of this Commission and as a part of the record of the February 8th public hearing, we presented the opinion of Mr. Frederick A. Hesketh, a professional engineer who specializes in traffic engineering. We have asked Mr. Hesketh for the purposes of this meeting to update, and first to review and to update his opinion which was dated February 6th, 1984. I would at this time like to read into the record Mr. Hesketh's findings relative to this change which we've proposed. This is a letter addressed to me and copies of this will certainly be distributed to members of the Commission as well as for the record. (SEE PUBLIC HEARING EXHIBIT, P-1, 5/9/84, File #S83-25)

CHM GIONFRIDDO

Thank you.

ATTY SHEA

Now Mr. Chairman and members of the Commission, as I said parenthetically in referring and reviewing and reading Mr. Hesketh's report, I said that we of Westfield Associates and Mr. Green, our engineer, have met with the City officials relative to the public utilities, to the patterns of roads, to the necessary improvements, and we are at the present time in the process of reviewing and carrying out the recommendations of the various City agencies relative to the plans that we have provided. Mr. Reif has very graciously afforded us with copies of all of the comments and we, I think the day before yesterday, had a round table discussion which had been scheduled perhaps ten days ago for the purpose of reviewing the various comments. We see no difficulty; We have met as recently as today with the Water Department; We are proceeding with the development of our wetlands criteria and have discussed this with the Inland Wetlands Commission. We have suggested that until we find the determination of this Commission or receive a determination, it would not be appropriate for us to file the actual application for Inland Wetlands approval. Certainly it is a requirement that we involve ourselves in certain wetland areas. We have taken great steps to avoid those as much as possible, and as a matter of fact the plan that you have before you in effect shows one crossing of a wetland. We have avoided incursions into the wetlands wherever else is possible. But of course, we may only propose and it's up to this Commission to dispose, and so until we know what your disposition will be, it is not appropriate for us to file our actual application. This is a procedure that seems to meet with the approval of the staff of the Inland Wetlands Commission of the City. I think Mr. Chairman that that brings us up to date on the changes that have taken place on this property. I would state to the Commission that this matter has been under the consideration, this parcel of land has been under the consideration of this Commission since the year 1976.

ATTY SHEA (Continued)

I think Mr. Parisi goes back in his prior service on this Commission to the original application for Westfield Heights. At that time, we were told by the City, when we were denied a subdivision permit, that the reason for it was because this was not being served, the land was not served by municipal water & sewer. I would call to your attention the schematic we have filed. This is a schematic plan showing the proposed extensions of the sanitary sewer and water facilities of the City of Middletown, Connecticut by Westfield Associates to service Woodland Terrace subdivision, which I am pointing to at this point, and the Westfield Heights subdivision. We will be extending and are in the process now of completing our engineering of the extension of the municipal water service from this point on Middle Street, through the Woodland Terrace subdivision, to this point on Atkins Street. We then plan and propose and expect this as a condition of approval that this be then continued to Brechlin Drive and this then satisfies the lots that are shown on the Brechlin subdivision, the Fredrickson subdivision and Westfield Heights. The sewer, the municipal sewer is currently shown, the termination of the sewer as it exists behind the North & Judd Manufacturing Plant, is shown on this schematic. We will carry this this summer. We'll probably start working on it as early as June of this year, that means in another month, to service the Woodland Terrace subdivision, and then that too will be carried along Atkins Street to Brechlin Drive and all of this area of Westfield Heights, of Ruth Brechlin property and of the Shirley Fredrickson will be sewerred by municipal water, municipal sewer system. We believe therefore Mr. Chairman that we have met the original questions that were raised on the original basis for a rejection of a subdivision of the property on which this subdivision is proposed. It has taken us a long time. But Mr. Green, who is known for a bit of an Irish wit, has often told me that the way that you eat an elephant is one bite at a time. We have been biting since 1976. Thank you.

CHM GIONFRIDDO

George, I have one technical question. What is the requirement with respect to ... I remember the issue that we had here once before, the reason you had to withdraw and re-apply right away had something to do with the filing in Inland Wetlands. Isn't that the case?

ATTY SHEA

No. That had to do with notice to Inland Wetlands, not filing.

CHM GIONFRIDDO

What is the requirement with respect to filing an application.

DIR REIF

When someone files something with the Planning Commission they are supposed to file it with the Inland Wetlands at the same time.

ATTY SHEA

No sir. I'm sorry Mr. Reif.

DIR REIF

No, don't be sorry. I'm just saying if you think ...

ATTY SHEA

The statute says that we are to give notice of it and that's what we have done.

DIR REIF

If you think you've satisfied the Inland Wetlands Agency, which you've stated as part of this Public Hearing...

ATTY SHEA

Please, if I may respond to that. We have not filed an application with the Inland Wetlands Agency, Mr. Reif, nor are we required to until we know what we are going to be requesting of them. We have satisfied the requirement of the State Statute dealing with subdivisions by notifying the Inland Wetlands Agency of our subdivision application and filing with them all of the copies that we have filed with the Planning Commission. That has been complied with; That was the purpose of the withdrawal.

DIR REIF

It sounds like they've met the requirement.

COMM CARTA

That was the part that was missing the last time.

CHM GIONFRIDDO

I just wanted to make sure. Do any Commissioners have any questions of Attorney Shea. Commissioner Passanesi.

COMM PASSANESI

I don't quite follow what you're going to do down at Footit Drive. Are you going to make a physical connection in there?

ATTY SHEA

Yes Sir. We are going to make a physical connection. Mr. Hesketh, you've heard him on his recommendation which he frankly made on his own. He suggested to us that we provide a full, a complete subdivision connection into Footit Drive. And that means that Shirley Court will be constructed to the Subdivision Regulations.

COMM PASSANESI

It's not drawn that way, that's why I'm asking. This comes up to the property line and stops, you have no curvature, you have no physical connections to Footit Drive.

ATTY SHEA

That is correct at this point. This is the discussion that we are now having with the Public Works Department. We've already had some discussion and we have not received from them what their desires are. They're studying that right now. We certainly expect to receive that from them in the very near future.

COMM PASSANESI

So you are physically going to make a connection.

ATTY SHEA

Yes, we believe that that's what Mr. O'Neill's opinion requires of us.

COMM PASSANESI

So you're going to put it right into Footit.

ATTY SHEA
Yes.

DIR REIF
Mr. Chairman, can I ask a question?

CHM GIONFRIDDO
Certainly, George.

DIR REIF
The question is, have there been any discussions with the Public Works Department that I have not participated in?

ATTY SHEA
I think there have been some telephone conversations but I think, George, you're pretty much familiar with what ...

DIR REIF
Okay. As of Friday afternoon, the Public Works Department took the position that they wanted Footit Drive finished up to the standards of a ...

ATTY SHEA
I don't think that's our understanding at this point but I'm sure that you'll be made aware of it.

DIR REIF
Right. That was their point and that is one thing that you are suggesting, from your point of view very wisely, that this Commission not require that Footit Drive be finished.

ATTY SHEA
Well, what we have said is that certainly if we do reconstruct, in the first place let's say that we don't believe that we have the legal responsibility to rebuild Footit Drive. That's a town maintained street today. We do have the legal responsibility of providing a safe intersection and that in effect means, Mr. Passanesi, the construction of that intersection, and that includes part of Footit Drive. Now, where that line starts and where it stops is a matter that usually is determined by the engineers and not by anyone else. That's something that they are discussing. Frankly, I'm not competent enough to render an opinion in that regard. We all have agreed, and I think this goes for Mr. Bauer and Mr. Fazzino, that if Footit Drive is constructed and fully paved from Atkins Street to Shirley's Court, as in the language of Mr. Hesketh you will have... "...You would update Footit Drive to a totally different classification of roadway...." You'd have an entirely different street than you have today. That's a Planning consideration that I would imagine this Commission would want to consider. We do know from our discussions within the neighborhood that the people on Footit Drive certainly do not want that roadway upgraded from its current unimproved status. That however, again, is a matter for the City of Middletown to make a determination on and it would be presumptuous on our part to tell you what to do. What we're saying is, we're going to do what we have to do and we are working and discussing that with the people of the staffs of the various departments.

CHM GIONFRIDDO

Attorney Shea, has there been any discussion with the Water Department as to the adequacy of either, number one, the supply of water in that area to handle this additional number of homes or the water pressure? That's a concern that's been raised to me.

ATTY SHEA

Yes sir. We've had considerable discussions with that and we think that we have the solution to that problem and we are discussing that now with the Water Department and we are making proposals. As a matter of fact, we have made proposals to them and they have asked for some time to review them and to get back to us. What we would say to you is that the proposals that we have made will result in sufficient water, there is sufficient water supply Commissioner, Mr. Chairman. There seems to be no doubt about that. The question is, the sufficiency of the pressure. There is more than one way to handle that. There are several engineering methods that have been discussed and which I always hesitate to give hearsay testimony in these public hearings but I do believe that those methods, that there is more than one method that Mr. Baron, to whom we have been referred, recognizes as being sufficient to meet the question. I expect that the Commission would seek that advice directly from Mr. Baron but he has in effect, I think I've heard him say yes, those methods would be acceptable. The discussion is now on-going as to which is the best one for the City of Middletown, not for us. And that is what he is working on and that is what we are discussing in a very practical way. That is the sharing of responsibility to see to it that certain programs of the City which carry out recommendations made in the recent water study be incorporated. It seems that often times in developments that I've been experienced with, you will find that a developer and a City could work together but because of time differences they never come together. This one seems to fall into the exact same time pattern of both parties, and therefore it looks as if it could be very beneficial to the City of Middletown from a cost benefit point of view.

CHM GIONFRIDDO

Is a possible water tower out there something that's being discussed.

ATTY SHEA

I believe that was a recommendation that was made by the City's consultants, and I think that Mr. Baron is considering that.

CHM GIONFRIDDO

So that's one of the options you're discussing.

ATTY SHEA

Well certainly that's one of the options. The other is methods of boosting pressure and there are several of those and there are several accepted methods. Again, that's an engineering matter that I would ... If you wish to discuss that further, I'd rather refer you to Mr. Green, and he is of course right here and available to you. But, we do not anticipate any problem and we certainly don't anticipate that we're going to be able to sell a lot until we have over 20 pounds pressure which right now, if we plunked a house down on our highest lot, that's what we would have.

COMM PASSANESI
Mr. Chairman?

CHM GIONFRIDDO
Commissioner Passanesi.

COMM PASSANESI
Can you tell us please, very briefly, did you consider any alternative suggestions for the use of Parcel X other than this pie shaped piece?

ATTY SHEA
Yes. We have suggested that this be offered to, in the Fredrickson subdivision, that this be offered to the City as part of the right of way, and if the City does not wish to accept it as part of the right of way we would deed it to the abutting land owner, which would be most advantageous to the abutting land owner.

COMM PASSANESI
Okay, thank you.

CHM GIONFRIDDO
Is there any further questions? Any other questions? Commissioner Carta.

COMM CARTA
I have a number of questions. In the Brechlin subdivision on lots 1 & 2, lot 2 I assume is the Brechlin home?

ATTY SHEA
I believe it is sir. I'm just going to ... Yes it is.

COMM CARTA
Okay. So on lot 1, there's a water right of way down through there, the brook, culvert under the road.

ATTY SHEA
I'm sorry. I couldn't hear you Commissioner.

COMM CARTA
I'm sorry. There's a water, brook that runs through lot 1.

ATTY SHEA
Yes.

COMM CARTA
I'm assuming it's the line, the broken line, the broken dotted line down the center.

ATTY SHEA
Yes.

COMM CARTA
And then the other one is what? A topographic line? The one to the front of the street, to Atkins Street, there's a line closer to Atkins Street from the brook. I want to get clear on whether that's a flood boundary. All I'm trying to do is delineate where that ...

ATTY SHEA

Could we come up and look at the same map?

COMM CARTA

Alright, fine. I can tell here that this is the detention basin.

(Multiple speakers)

COMM CARTA

So that leaves me with a couple of questions. On lots, the Westfield Heights subdivision lots six, seven, eight, nine, ten and twelve show a delineation. Do you have any objections to putting in a rear setback line?

ATTY SHEA

No.

COMM CARTA

What I'd like to see there is a setback line prohibiting anyone from building any barns, garages or putting a home back in there.

ATTY SHEA

You're talking encroaching into the wetlands. Yes, we would have no objections to that and we have incorporated that in previous subdivisions that have been approved by this Commission and we would certainly adopt it here.

COMM CARTA

The detention basin won't be full all the time.

ATTY SHEA

No, it will not.

COMM CARTA

So, it will look like good land. On the Brechlin subdivision, that lot 1, I have some question about it. Is there enough land between the wetlands and the street?

(Multiple Speakers)

COMM CARTA

That's not a retention basin on that lot. I assume it's just a wetland limit.

MR GREEN

That's correct.

ATTY SHEA

There is a pond out there.

MR GREEN

There's a pond but there's no detention there.

COMM CARTA

The pond is on lot 1 or lot 2? It looks like on lot 2.

(Multiple Speakers)

COMM CARTA

I assume this is a pond.

MR GREEN

Yes, it is.

COMM CARTA

Okay, that's lot two. And the brook runs through here. So my concern is only this, is there enough land here to put a house in or you'd need Wetland approval or ...

MR GREEN

You probably would need Wetland approval.

(Multiple speakers)

MR GREEN

Between the road and there you've got about 65 feet to the wetland limit.

COMM CARTA

So you'd need a 25 foot setback.

MR GREEN

They probably would have to have Wetland's approval. Although physically it doesn't look like a wetland; It looks like a yard. It's well maintained.

(Multiple speakers)

COMM CARTA

So my question is on that lot two, could there be some delineation of where the home has got to go, that it's not left up to the discretion of the builder. In other words, on lots six, seven, eight, nine, ten and twelve and lot one from the Brechlin subdivision, can you delineate in this case the rear line so that there's no encroachment by buildings and in this case perhaps position a house in advance ...

MR GREEN

I think it would be our intention to place the house on the non-wetland portion of those lots. If anything else was designed, for example in the case of the Brechlin lot, they would have to go to the Wetlands Agency to get it approved.

COMM CARTA

Okay. What I'd like to see incorporated in any approvals that we may give, assuming that we give any approvals, that there actually be a setback. Could that be delineated so that no one can go beyond it.

MR GREEN

You can use a hundred feet if you like from the street line.

COMM CARTA

That's fine. So either someone putting an addition there, wishing to put a garage there, coming in for a permit at a later date if they want to put a barn in, don't put it in. Fine.

CHM GIONFRIDDO

Are there any other questions? If not, thank you very much. Are there any members of the public who wish to speak in favor of this proposal? Are there any members of the public who wish to speak in opposition?

WAYNE REED

Good evening. Wayne Reed, 1557 Country Club Road, Middletown, Connecticut. After I make my comments, I will have a copy for the chair. Will P&Z consider the traffic study that's now being computer run for a mid June report in addition to this one? In other words, if the two reports are substantially different, which one is going to take precedence in your consideration? 2) These concerns have been given by your staff and City departments. They are also concerns of the Westfield Residents. A) The project cannot proceed unless water & sewer are brought to the area of which we are all quite aware of from everything that has been said. B) Who pays for it if we go to that water tower, the booster tower? Is it going to be the city taxpayer or is it going to be the developer? Who suffers if we do end up with a low water pressure area in the area? As I have not yet seen a report from the fire department if there will be an effect on that or if they feel that they will have sufficient power to contain any fires that might develop in there. Yes, twenty pounds pressure at the house in the very back might be sufficient to flush your toilet but is it sufficient for a fire hydrant and a substantial house fire. Who pays for the sewer lines along Atkins Street, including resurfacing of the street which will have to happen once those lines go down. Does the Middletown City Water then take over and maintain all lines? I'm assuming that they would, at least within both the new development and along Atkins Street. Can the City Water & Sewer works add on north & south along Atkins Street based on the size lines that are going in and still be able to move these lines. In other words, are the lines going to be built just sufficiently large enough to take care of the development that's going in or are they going to be put in with enough foresight to be able to be extended. As noted, Footit Drive cannot accept traffic from Westfield Heights as it exists now, at least not for the 500 feet talked of in the pictures. Will Westfield Associates upgrade this road to acceptable limits. I know you've discussed this already tonight. Will the City taxpayer have to do it. If yes, will it be at the expense of loss of repairs to other present roads where that money would have gone or will it be in the form of a tax hike. If on the other hand, for some reason the Fredrickson subdivision is not completed, have we now created a new way to have a dead end road? In other words, what insurance do we have that the road will be through? Is it my understanding based on the proposal made earlier tonight, all three proposals must be approved or all three are shot down? Will the City tax dollars required for the upgrading assist Westfield Heights, exceed that of the tax revenues that we will get from there? In other words, are we going to be in a situation where the City taxpayer is actually going to be paying the developer to put his houses in? Public Works report, page 2 of 5 under General Note #4, implies all structures will have surface water problems and must then be tied into the storm sewer system. At least that's the way I would read it and somebody else would the same way. It specifically asks. I don't have the page open to it. It says that all houses should be tied into the storm sewer system which implies the soil is bad. You're going to have runoff. You're going to have surges of water power.

WAYNE REED (Continued)

Page 4 of 5, Item 3; Who'll be asked to pay for Footit Drive's drainage? Right now it is not sufficient. We're going to have more water going in there and the rip-rap is not sufficient to handle it. It's got to be replaced. Again, it's going to be the taxpayer, or is it going to be the developer? Item #5; If the outlet mentioned in Item 5 will allow erosion, how far down stream will there be erosion and what effect will it have and what about a stream surge. Will that wipe out additional present buildings? Page 5 of 5, Item 2: indicates a lot not acceptable as a building lot. The developer has already acknowledged that some of these do have problems. Parcel X; What happens if the City says they do not want it and what if it's so bad that the adjoining landowner doesn't want it either? Does it then become a dump? I don't think enough has been said on how to take care of it if these two are both turned down. If the total City dollars required to upgrade services to Westfield Heights is lumped together, will such a request for the dollars take the route of a City referendum? Can P & Z approve a plan if a referendum is required? If Westfield Associates has met with members and staff of this committee, being Planning & Zoning, and other town departments in regards to this development and related work dollars, a transcript of such a meeting should be made as part of this Public Hearing for the record. That would go along with what George was asking - Has he been involved in some of these meetings because each of you should know what's been going on at these meetings in order to more properly vote yes or no on the proposal. In summary, we are not opposed to housing development in Middletown but we do not want to further subsidize developer's programs through our tax dollars. We have already subsidized this developer when Middletown taxpayers voted to extend water lines to the Westfield Industrial Park area. Westfield Associate plans, as presented, are so full of question; There is an environmentally sensitive land that we do not see a need for approval, at least until realistic answers are presented. Thank you. (SEE PH EXHIBIT O-1, PH 5/9/84, File #S83-5)

CHM GIONFRIDDO

Thank you.

VIRGINIA RENSCHEN

Virginia Renschen, 227 Atkins Street, Middletown, Connecticut. I wanted to ask a question. I didn't want to say my pro or con right this minute but ... In your opinion, is a 78 lot subdivision the same as a 75 lot subdivision? I mean, to me it's two different subdivisions, and according to what went on here in the past, I assumed that on March 11th the new RR zone went into effect. This is not the same subdivision as the last subdivision and I think that this should come under the new rules. If it were in fact the same subdivision, that would be another matter. But it includes three additional houses and it includes an additional road and I just don't see that it is the same subdivision at all. They can re-apply, they can come in under the new rules. Anyone who applied for subdivision on March 12th came in under the new rules, and I think what's fair is fair.

CHM GIONFRIDDO

Virginia ...

VIRGINIA RENSCHEN

How do you feel? I mean, do you feel 78 is the same as 75 because it isn't to me.

CHM GIONFRIDDO

Virginia, we, at that meeting, at the meeting that Frank O'Neill's opinion came in, the Planning & Zoning Commission expressed itself quite clearly I thought at that meeting. They didn't feel it was necessary for him to go out and re-apply but that he should be given the opportunity to make corrections. My feeling, you know, my understanding of this is the difference between the 75 and 78 is the Fredrickson lots. The Planning & Zoning Commission that night clearly expressed itself that he should go out and readopt his plan to meet the new City Attorney's opinion ...

VIRGINIA RENSCHEN

Was it the City Attorney's opinion that 3 additional houses be put into this subdivision?

CHM GIONFRIDDO

I don't think they are. I think when he says 78, I think he's incorporating the three Fredrickson lots.

VIRGINIA RENSCHEN

So it is a different subdivision then.

CHM GIONFRIDDO

Virginia, I understand the point you're making but I think that the Commission expressed itself that night as to how they wanted him to approach it. It was suggested, as a matter of fact I brought it up as a subject for discussion, whether or not he should have to go out and re-apply and the Commission to a person just about said they didn't feel that was the proper thing to do, that he should have the opportunity to revise and come back in for a public hearing. So I don't think we're going to re-hash that ground. The Commission spoke on it once already.

VIRGINIA RENSCHEN

But if he had come in with thirty more lots, would that have been acceptable?

CHM GIONFRIDDO

Obviously, that's not the case.

VIRGINIA RENSCHEN

No it isn't. But would it be or wouldn't it be. In other words, this is a different subdivision.

CHM GIONFRIDDO

The only thing he did was do exactly what the Commission told him, which is to come up with a second access through this Fredrickson property, which I believe he had already submitted at the time, and he combined it as all into one subdivision of 78. Well it's not really one subdivision. He combined it into one plan of 78 lots. The Commission that evening decided that that's how they wanted to approach it and I'm not going to speculate as to what the members of the Commission would do if he came back with a lot of additional lots.

CHM GIONFRIDDO (Continued)

The subject was discussed that night and that's how they wanted him to handle it. It was discussed pro and con and the Commission voted to do it this way. And we're here and I'm sure they're not going to reverse themselves and tell him now that they're not going to accept his plan and go out and re-apply.

VIRGINIA RENSCHEN

Well, if something is wrong with the plan tonight, will he be allowed to come back with yet another plan, or is this the end of it. This is the third time he's been back now.

CHM GIONFRIDDO

I'm sure that the Commission is going to vote up or down based on what they have seen this evening.

VIRGINIA RENSCHEN

Okay, thank you. Can I come back and talk later on this?

CHM GIONFRIDDO

Any time.

VIRGINIA RENSCHEN

Thank you.

CHM GIONFRIDDO

Does anyone else wish to speak in opposition?

BOB STEFURAH

My name is Bob Stefurah. I live at 584 Atkins Street. I only have one question to ask. If Mr. Shea does not finish his first proposal, where is he going to get the money to finish the second one? His first proposal, okay, not the Brechlin property, the other proposal. If he isn't going to finish that first one, where is he going to get the money to finish the second one?

CHM GIONFRIDDO

You're asking me to speculate on where the developer's going to raise money to build his developments. The only thing we do is approve them. Obviously, if he doesn't finish the first one, he's not going to be starting on the second one so you won't have to worry about it. He can get these approved and turn around and sell the property to somebody else. We can't tell him how to raise his money or where to raise it or what to do once he gets his approval. If the approvals are contingent upon certain things, if the things aren't done, then ... Okay?

BOB STEFURAH

Okay, thank you.

C.B. McCOID

C.B. McCoid, 67 Bell Street, Middletown. I have one request for clarification. With regard to the answer that was just given to Mr. Stefurah, you said if he does not finish the first development, he would not start the second. Does that mean that the policy of this board requires that he complete the first project before he starts the second one?

CHM GIONFRIDDO

I think the only thing I, I mean I don't know what the policy of the board is and I can't speak for the board. The only thing I would say is in order for him to be able to start the second one, he's got to get the water & sewer through the first to the second. I think if he brings the water & sewer through the first up to the second, unless there's a condition put on him by the Planning & Zoning Commission that he isn't to start construction until the first one is done, he technically probably could start construction on the second one before he's finished the first one. There's nothing that would stop him, I wouldn't think, as long as the water & sewer were brought in there. I mean that's ... I'm not an expert on it. I can't tell you if that's fact or fiction but I think it is fact. As long as he meets all the conditions of the Commission on the second or on this subdivision we're speaking about and has the water & sewer brought up there, I imagine he could build that one before he builds the other one.

CB McCOID

Mr. Chairman, may I suggest that this gentleman may, for all we know, be building castles in the air. Let's establish a track record for this gentleman and his associates. Let them finish project one. Having done so, give them the permission for the second development. But allow them to go forward on the second development at the conclusion of completion of development number one. Let's not have a half built situation where he collapses this little house of cards and then disappears into the sunset with a bale of local money. Let's require either a bond or some form of device that holds his feet to the fire. I don't know this gentleman and in fact no one here in town knows him. So let's require that he perform one step at a time: Complete development number one; He has permission for it, let him go forward. If he is successful he will have the money - he laughed a moment ago when the question was asked, where will he get the money - well let's see how well he does. Let him finish what was originally called Bradley Woods. Give him permission to go forward on this but not until he completes the first project satisfactorily. We don't know a thing about this man except that he's from out of town and I'd like to see some performance. I wouldn't trust him as far as I could throw him. Thank you.

CHM GIONFRIDDO

Thank you, Chet.

RON ORGANEK

My name is Ron Organek. I live on Atkins Street in Middletown. I have a few questions myself. Probably my first one is going to, I don't know, cause some problems for us. I know the area because I live in that area and the first development that's coming out is coming out sort of on a corner. One of the roads going out to Atkins Street is on a corner and I don't believe there was much said about the site line for the intersection at that point. We're coming up from Footit Drive. It's a fairly straight road. Now I don't understand why at Footit Drive there is concern about site lining for the intersection when at the first project I don't believe there was such a concern. Possibly it might be a good idea to revamp that intersection on the first development to create a site line.

RON ORGANЕК (Continued)

It is on a slight corner. It is very difficult to see. Okay? Now, another question I have is, I understand you people were talking about a lot there. I'm not sure if it was lot #1 or whatever, which I'm guessing is going to be on the corner of Atkins Street and Brechlin Drive. Now if I can recall, I haven't been in that area in the last several days, I know that there is quite a bit of standing water there, okay? It is quite wet and if you do walk through there in the Spring when the rest of the area is fairly dry, there's still standing water showing at that point. And it is quite a large area. I'm sure that Mr. Stefurah over here can attest to that. My last comment, or I hope my last comment will be, we have a chance of getting IBM going into this area. IBM is a very, a company that does like to present quite an image. Probably fifty percent of IBM is image itself. Through all these deliberations that we've had in these last several years here, every time Mr. Shea and I believe it's Westfield Associates came to us with a proposal, they came in and they said, whatever amount of units we cannot afford to go any lower without putting up, we cannot put up quality homes. The first development was rejected. The second development came in with less homes. We are told we cannot build any homes at a quantity less than what we are proposing tonight without putting, where we can't put up a quality home again. Then that proposal was rejected. Then they came back again and we were also told the same thing over and over again. Now, my impression, or it is my opinion that the homes that are going in here now are not a quality home. Okay? Now, would that have an effect on the decision of IBM to go into our area out there? I think that's something to really be, to consider. Also, I believe that with the Zoning laws, even though you have certain laws, that the laws are designed to protect and improve the City. I think that there is a possibility of intent of law here, such as, if this development does go through, IBM sees something that possibly could not be of quality homes, would they decide not to build in our area? Thank you.

VIRGINIA RENSCHEN

Virginia Renschen, 227 Atkins Street, Middletown, Connecticut. I am opposed to this proposal because of what I said before and because I feel that there is something wrong going on and I have asked this question three times and I have yet to get an answer. The second proposal depends solely on the first proposal, the first subdivision going through. I went down to the, down the corridor here in the Town Clerk's office and I had a look at the map and according to what I can see on the map, the access road to the Woodland Terrace subdivision goes directly across the driveway of North & Judd Company, therefore altering their original site plan. And I was led to believe that in Industrial Park, one, that, or whatever that is part of, that the original site plan could not be altered without coming before this Commission. Now is that so or isn't it so because that's something that should be decided first. If that's not going to happen, then parcels 3, 4 and 5 or whatever on the first subdivision will never go through and therefore, financially the second subdivision supposedly would not be possible. So is there an answer to that? Can you legally build across someone else's driveway on the original site plan of an industrial parcel for residential use?

CHM GIONFRIDDO

Virginia, the only thing I can say is once the matter was approved, it was turned over to staff and ...

VIRGINIA RENSCHEN

In other words, we could be wasting our time.

CHM GIONFRIDDO

Wait, let me ask the question. George is staff and the staff has been following through on this. What is, you've heard the question and ...

DIR REIF

I have three issues that are of significance, two are ones you've already talked about, Footit Drive and the water pressure, etc ...

CHM GIONFRIDDO

I want the answer to her question.

DIR REIF

The other issue is what she has raised and that's the access of utility lines in the streets through the Woodland Terrace and the North & Judd property back to Middle Street. That's an issue that Virginia is raising and it's a good one.

CHM GIONFRIDDO

George, wait a minute ...

DIR REIF

The subdivision that provided that direct access, Richard Brooks, has been withdrawn by this Commission and I don't think the Commission, I have not seen any supplementary drawings showing how that access or utility lines ... There's a diagram here tonight but I haven't seen anything beyond that.

CHM GIONFRIDDO

George, once we gave it preliminary approval, which I assume we did ...

DIR REIF

Right. You got to the fringe of preliminary approval. There's a lot of things to be done before it ...

CHM GIONFRIDDO

But what I'm saying though is at this point it's in the hands of staff. If a problem develops that staff feels is necessary, that the matter should come back to the Commission, I am assuming that you will bring it back.

DIR REIF

Yes, I did in a report dated 2/3/84, bringing you up to date, with a title This is a factual sheet concerning Woodland Terrace. It brought up all these ...

CHM GIONFRIDDO

What I'm saying is a report indicating problems. What I'm suggesting is if you feel there's a problem with the original Woodland Terrace, why don't you put it on the Agenda and ...

DIR REIF

I did once. I'll be glad to put it on again.

CHM GIONFRIDDO

Yes. Well, we're talking about a situation now where there's questions as to whether or not Woodland Terrace can go forward. If you really feel as a staff that there are those kinds of questions, then it should be put back on the Agenda and aired out and discussed once and for all. This is the third or fourth public hearing it's been brought up and we still can't answer the questions. So what I would suggest is, obviously, let's get it back on for discussion if you feel there's a concern.

COMM CARTA

George, what is the question? I heard you hit a couple of things.

VIRGINIA RENSCHEN

You want to know my question or his question?

CHM GIONFRIDDO

I want to know what George ... George says there's a concern at this point so what's his ...

DIR REIF

There were two features associated with Woodland Terrace and Richard Brooks, the now withdrawn Richard Brooks. That subdivision provided a method of getting a street from Middle Street to Woodland Terrace. It also provided a way to get a utility line, in that case a water line, from Middle Street to Woodland Terrace. Richard Brooks has been withdrawn ...

COMM CARTA

But didn't ...

DIR REIF

But what?

COMM CARTA

I'm sorry, go ahead George.

DIR REIF

I have not seen anything other than a diagram indicating how the street is going to be built or the water line is going to be extended. I have heard things but I haven't seen anything to resolve the problem.

CHM GIONFRIDDO

You've heard tonight that Mr. Shea says starting in June he intends to start running that line. So sometime between now and June, I would suggest that I've got to see some pretty detailed plans as to where it's going. And if you don't, it should be on the Agenda so that we can ...

DIR REIF

I will tell you one thing, the way this Commission got up to the firing line as far as giving preliminary approval for Woodland Terrace, Westfield Associates could develop sections I, II and III and not build a road to Middle Street.

CHM GIONFRIDDO
Correct.

DIR REIF
They would of course have to put the water line in and the sewer line.

CHM GIONFRIDDO
That's how it was left, yes.

DIR REIF
Yes, that's right. So it's possible that that's what they would propose to do. But so far I have not seen any drawing indicating that and the staff people, me and the Public Works and Water & Sewer, are waiting for those drawings.

CHM GIONFRIDDO
Commissioner Carta, you have a point?

COMM CARTA
It's difficult to re-hash old ground and I don't know if it's quite appropriate to be in this public hearing bringing up another public hearing. My recollection to that is what Virginia brought up the last time around, did Mr. Shea own access to the water & sewer lines. And what he told us is that he purchased that entire parcel of land. He was in fact the owner. That made him the owner of the water & sewer lines. He actually owned the whole parcel which we call the industrial park, whatever. But he certified or testified at that public hearing he was the owner, and Virginia had looked it up in the land records and couldn't find it and Mr. Shea got up here and said he owned it. Therefore he had all the access he needed to water, sewer and the like.

DIR REIF
I would expect to see that as part of this updated drawing, set of drawings for Woodland Terrace. We have not seen them yet.

COMM CARTA
Somewhere we have to take somebody's word for it. Now, if he can't get the water line, then in fact there'll never be one.

DIR REIF
There's more than just taking somebody's ...

CHM GIONFRIDDO
Let's not debate. George ...

VIRGINIA RENSCHEN
Sir, I'm not questioning whether or not he owns the property.

CHM GIONFRIDDO
Virginia. George, the concern is there. Obviously, to me it's an appropriate question because if you can't get the water & sewer line across the street, we can't approve the subdivision. So George, get together with Mr. Shea and let him show you how he intends to bring the water & sewer into Woodland Terrace and across the street. You have to see it in order for him to put it in in June. So let's put the question to bed once and for all and you come back to us and report what the situation is so we can answer the question and we know what the situation is. Alright?

DIR REIF
Fine.

COMM CARTA

I think, Virginia, I'd like to say something. There's no way that I would ever give final approval, nor do I believe anyone on this board would give final approval to any building lots that were not served by sewer and water, that were not served by roads that went somewhere, i.e. where we say they should go. That will never happen.

VIRGINIA RENSCHEN

I know that. I'm not worried about that.

COMM CARTA

Let me finish please. That will never happen certainly while I'm here. I would raise enough rumpus and I'm sure I wouldn't have to because there's people here who simply wouldn't stand for it. But in the meanwhile, it is necessary to give the person an opportunity to get that to happen. That's all my point is and you can count on me personally to not approve finally the building of any homes on any lots or the release of final approval of those lots if in fact those utilities and those roads aren't there. Very simple. And the fellow would then lose all his approval and rights and that would be the end of that.

VIRGINIA RENSCHEN

I'm not questioning you. My question was, can you buy another person's driveway when they are in an industrial park and you are a residential user. That's the question simplified. Can a residential user buy the driveway of an industrial user without a subdivision.

CHM GIONFRIDDO

Virginia, the situation ... I spoke to George today about a number of things. He indicated you raised the question to him about the right of way, etc., and he is going to be looking into it. It's in the hands of staff and he's going to report back to us as to what the problem is, as to whether a subdivision is required, etc. He understands the point you've raised and he's checking into it. Okay?

VIRGINIA RENSCHEN

Okay. Getting onto another issue, when the Rural Residential zone was created, it was determined at that time and it was my opinion that perhaps members of this Commission felt that the City of Middletown was discriminating against a certain type of home owner and that we had to provide an area for a certain type of home owner to move to and therefore the Rural Residential zone was passed. People talked about the executives of Aetna Life & Casualty; Where would they move, where would they go. By the way, nobody said thank you for defeating the industrial park bond issue Virginia, now we have IBM instead of ten corrugated aluminum buildings. Anyway, however. I loved it. Anyway, the thing that concerns me is that we're already, we've made this nice thing that we're going to do and now we're going to set out to ruin it. I think this type of development will be the ruination of what started out to be a fantastic plan. I'm opposed to it and I wish very much that you would reject it. Thank you for listening to me. Thank you for answering my questions.

VIRGINIA RENSCHEN

By the way, I would also like to say that Mr. Reif here is available to take phone calls. I call him once a week and any one of you can call him once a week and talk to him. He has a lot of good opinions on things and sometimes when I call him and I ask him questions I'll say, gee do the members of the Commission know that? And sometimes he'll say, well gee they didn't call me. And so sometimes I wish that you would call him. Thank you.

CHM GIONFRIDDO

Thank you Virginia. Anyone else wishing to speak?

ANN BICKFORD

Ann Bickford, Country Club Road. I think that one point was brought up here that has been concerning me. It doesn't seem that it's been a topic recently but, when Mr. Shea did bring up his earlier proposals, each time asking for much higher density than had been zoned currently, and the Commission did turn them down, thank you for that. But each time he made the comment that when he came back it would be with a lesser quality home. It was like a threat really. It's the way a lot of us interpret it. Now he has come back with a lower density and this issue of quality seems to have been kind of muted. And I don't, I think it's rather pertinent before you go forward with this approval to find out just what he is contemplating and how does he put together his attitude at that time when he was holding this up to the Commission, that he would have to lower the quality of the homes. Just what is his intent and how does he explain if he now says it's going to be a good quality home or residential development as opposed to how does he put that together with what he was telling us before when he was after a higher density. We do know that the thrust of the area is now to try to create a high quality residential zone and this second subdivision that he wants is right in the center of that. This is an area where we really would like to have high quality homes and somehow or other these things don't seem to go together and I think it's rather pertinent. I'd appreciate it if you would ask him a little bit about what he's planning. Thank you.

CHM GIONFRIDDO

Ann, the reason that we don't is, under PRD regulations I think the Planning and Zoning Commission has a little more authority as to the types of structures etc. that are allowed to be built, okay? Under a normal subdivision such as this, we don't have any say so whatsoever basically as to what the type or quality of home is he puts on the land. So long as he meets the requirements of the Building Department basically, he can put anything he wants up. If he came in and said he was going to put up lean-tos, if the Building Department would give him building permits we couldn't turn him down based on that. That's not one of the criteria we're allowed to look at. Under PRD's we have some say so, under subdivisions we don't. I understand your concern. If we were to turn him down based on the quality of the home we're expecting him to build there, I'm sure we'd be sued and probably be in trouble.

ANN BICKFORD

Well I think it was unfortunate that he took that tactic in the first place I guess. But anyway, he did. It does diminish our faith, I guess, in what he's doing. Thank you.

CHM GIONFRIDDO

Thank you. Anyone else wishing to speak?

BOB STEFURAH

Bob Stefurah, I live at 584 Atkins Street. On Ron Organek, about the water problem on one of those lots on Brechlin Drive and Atkins Street. There's a stream behind there that runs along that proposal, her first lot on Brechlin Drive to the second one next to Hackney's. That stream goes all the way into a pond plus it continues down in back of the Hackney property and goes across the street into the Odoardi property. What are you going to do with all that water when this proposal goes through? Are you going to widen that stream? It would be very dangerous if that lot of Mr. Hackney's got flooded out everytime we had a heavy, heavy rain. So that's another concern about water. Thank you.

CHM GIONFRIDDO

Thank you, Bob. Anyone else wishing to be heard on this issue? If not, we'll close the Public Hearing.

ADJOURNMENT 8:45 PM

ADJOURNMENT

Respectfully submitted,

Patricia Michnowicz
Patricia Michnowicz, Transcribing secretary

Stephen T Gionfriddo, Chairman
Planning & Zoning Commission

Received at the meeting of _____