

**VILLAGE OF ESSEX JUNCTION  
PLANNING COMMISSION  
MINUTES OF MEETING  
August 21, 2008**

**MEMBERS PRESENT:** Mark Thibeault (Chairman); Dan Kerin, Diane Clemens. (Liza Kilcoyne and Andrew Boutin were absent.)  
**ADMINISTRATION:** Robin Pierce, Developer Director.

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**1. CALL TO ORDER and AUDIENCE FOR VISITORS**

Chairman Mark Thibeault called the meeting to order at 7:30 p.m. There were no comments from the public at this time.

**2. ADDITIONS/AMENDMENTS TO AGENDA**

None.

**3. MINUTES**

*August 7, 2008*

**MOTION by Dan Kerin, SECOND by Diane Clemens, to approve the 8/7/08 minutes as written. VOTING: 3 ayes; motion carried.**

**4. PUBLIC MEETING**

Mark Thibeault explained the procedure to be followed with applications before the Planning Commission and swore in those individuals to give testimony.

Preliminary Plan for a 24-unit PRD (Planned Residential Development) at 27-29 Roscoe Court in the R-2 District by Jim Dousevicz, agent for the Trombley Estate, owner

Brad Dousevicz, Brian Bertsch, and Paul O'Leary appeared on behalf of the application.

**APPLICANT COMMENTS**

Paul O'Leary, engineer, explained there are three parcels of land involved with the development, including the Roscoe Court right-of-way (2.3 acres) which is jointly owned by Trombley and Aubin, the Trombley parcel (4.0 acres), and the Aubin parcel (1.3 acres). There is an agreement with Aubin to give up the right-of-way in exchange for a right-of-way to their lot. The size of the Aubin lot will increase from 1.3 acres to 1.7 acres. The right-of-way portion on the Trombley lot (1.2 acres) will be deeded to the Village. The lot to be developed will be 4.9 acres. Per the Code there could be 28 units built on the parcel, but only 24 units are proposed. Access will be from West Street on Roscoe Court which will become a 20' wide paved road with grass swales and infiltration trenches on the sides. The road inside the development (the Trombley parcel) will be private. The residential development will include three duplex buildings containing a total of six units and 18 single family houses. The houses will be between 1,400 s.f. and 1,600 s.f. cottage style units including a single car garage set back 20' to 25' from the sidewalk. There will be two parking spaces per unit. Additional parking (12 guest spaces) is on the street around the center green and on the west side of the green. One-third of an acre in the center area (7% of the entire site) will remain open green space for common use. There will be concrete sidewalk on one side of the street connecting to West Street. There will be a 14' wide gated emergency access on the

Jones property connecting to Oneida Ave. Police and the Fire Department will have keys to the gate. The McGovern and Frankenhoff properties have the right to use the access and have agreed to relinquish their right-of-way. Storm water will be managed on-site (sheet flow to infiltration areas). Permits from the State of Vermont will be secured for the storm water infiltration systems on the site. The development will be served by municipal sewer (pump stations and forced main connection on West Street) and municipal water. The development meets lot coverage, density, and setback requirements per the Land Development Code. Regarding accessory structures, all units will have 6'x 10' or 6'x 12' decks (Unit #2 is the only unit with limited space). The deck area is included in the lot coverage calculation. The development shows 38% lot coverage leaving 62% open space. Private space requirements for a PRD are shown on the plans. Regarding legal easement across the railroad track, extensive research did not reveal any record. Regarding tree cutting, due to the grading to meet storm water requirements (swales and infiltration systems) and construction the opportunity to save trees is minimal except along the perimeter. Easements will be delineated on side and rear lot lines, stated Mr. O'Leary, and an easement to the railroad tracks will be granted to the Village to allow access to the existing path in the area.

#### STAFF REPORT

Robin Pierce pointed out the public street should be 28' wide per the regulations so a variance will be needed. Because the road is not a through street a variance for a narrower neighborhood street is reasonable. The development must meet all the guidelines required for 'Vermont Neighborhood' designation (the applicant intends to comply with the provisions of the program). The Village has to set the guidelines which include having 20% of the rental houses rented to people with a maximum annual income not exceeding \$56,000, and for the privately owned units the owners must have an income not exceeding 90% of VHFA median income level and/or the purchase price cannot exceed \$247,000. The applicant has indicated willingness to work on pedestrian connectivity, stated Mr. Pierce.

Mark Thibeault confirmed the emergency access will be grass paver and the easement to the Aubin property will be maintained by the homeowners association. There are no wetlands on the site. Maximum lot coverage is 40%. The development shows 37.4% lot coverage. Chairman Thibeault suggested limited common elements (decks) be noted in the bylaws so lot coverage is not exceeded when the decks are built. Paul O'Leary said an average of what each unit can add will be calculated and included in the bylaws. Mark Thibeault asked about the existing fence along the right-of-way. Mr. O'Leary said the fence was installed by Mr. Trombley or the previous owner. The fence will remain because it provides security and privacy to abutting properties. The fence is on the property to be deeded to the Village which means the Village may be responsible for the fence. Robin Pierce will research this matter further. Paul O'Leary said many property owners along the fence have opened holes in the fence to access their property (back yards). Research has not revealed any rights to the right-of-way held by the residents. Mark Thibeault noted if the street becomes a public street the residents can request a curb cut from the Board of Trustees.

#### PUBLIC COMMENT

Jennifer Poland, 4 Loubier Drive, asked for delineation of what is private and public in the proposed development. Paul O'Leary outlined the boundaries of the property. Ms. Poland

questioned if the grass swales by the access road will handle storm water run off. Mark Thibeault explained there is stone underneath the grass to help the water drain. The Village Engineer and the state must approve and permit the storm water system. Mr. O'Leary added the existing 16' wide road is gravel with no infiltration system in place. The proposed road will be 20' wide with a five foot wide sidewalk and infiltration systems. What is proposed is superior to what is there today, stressed Mr. O'Leary. Ms. Poland expressed concern about wetlands being created on her property, noting public roads in the village have curbs. Mark Thibeault pointed out curbs along the road mean a wider road and curbs channel storm water run off. A narrower road is less expensive. The housing being proposed is to be affordable housing. Also, the Planning Commission has the flexibility to waive the requirement for curbs and allow a narrower road. Dan Kerin pointed out Cherokee Ave. is a public street without curbs or sidewalks. Ms. Poland asked if there could be a clause included in the approval that guarantees the drainage will be fixed if there is a problem. Mark Thibeault confirmed this is done with permits on a regular basis.

Peg Culver, Loubier Drive, stated curbs will be a problem for the right-of-way in the back. Residents should not be prohibited from coming into their back yards from a public road. Mark Thibeault explained deeded rights to the right-of-way have not been found. Residents can approach the Trustees regarding access from the road (i.e. curb cuts). Ms. Culver said the residents want a guarantee there will not be storm water run off in their back yards. Many people have expensive plantings and salt from winter melt could be harmful. Mark Thibeault reiterated the Village Engineer and the state must approve the storm water system proposed by the applicant.

Ed Payne, 10 Loubier Drive, suggested there be storm water catch basins because Loubier Drive is lower than Roscoe Court. If existing vegetation is cleared for the development water will drain onto the surrounding properties. Paul O'Leary said with the storm water system that is proposed there is more capacity along Roscoe Court than in the development itself. The swales will be a one-in-four slope (down one foot and across four feet). It was noted a car would likely be able to traverse the swale, but it may be more difficult or not feasible with a boat and/or trailer. There was mention of the ditch line for the Trombley property when Loubier Drive was built. Paul O'Leary said the ditch line will not be used. Mark Thibeault pointed out the applicant testified storm water will not drain off the property. Mr. Payne asked how to make an application for a curb cut to access the back yard. Mr. Thibeault said the Board of Trustees must grant the curb cut. Paul O'Leary stated the applicant will not oppose the neighbors approaching the Board of Trustees on the matter. Also, it is possible to section the swale if necessary. Robin Pierce read Section 705 of the Code relative to curb cuts. Diane Clemens commented it appears the neighbors have had nearly 15 years of access to their back yards from a private road. Mark Thibeault clarified the neighbors can not assume adverse possession once the road becomes public. The level of access needed by the neighbors must be defined for the Trustees. Residents should send their information to the Village Development Director, Robin Pierce. Mr. Pierce will discuss getting the matter of curb cuts and access to the back yards of properties abutting Roscoe Court before the Board of Trustees with the Village Manager.

Boris Von Strettsky, 16 Loubier Drive, said the only access to his garage is via Roscoe Court. Mr. Von Strettsky expressed concern about stagnant water in the ditch, especially in a wet year.

Also, driving through a swale will ruin it. Mark Thibeault stated a culvert in the swale may be necessary to allow continued access to Mr. Von Strettsky's garage. Regarding the drainage, water typically dissipates into the underlying stone. Paul O'Leary said the system is designed to have the water dissipate within an hour.

Ben Morse, 23 Seneca Ave., pointed out nothing is shown on the plans which will allow access to his property (back yard) and the back yard is part of the swale. Mr. Morse said his fence which is eight feet high and 220' long is on his property. As well Roscoe Court is on his property. The Goodrow property is also impacted. Mark Thibeault stated Mr. Morse can move his fence onto the property line. Paul O'Leary said the swale is on the Trombley property. The applicant will redo the associated section of Mr. Morse's fence. It was noted by the residents from Loubier Drive that the fence is all privately owned and installed. The fence was installed to prevent people from cutting through yards which could again be a problem due to the proposed development. It was also noted the residents on Onondaga Ave. all own their fence. The existing six foot tall stockade fence on both sides of Roscoe Court is about 30 years and very weathered. Paul O'Leary stated a new fence is not proposed. Ben Morse again asked about access to his property since the site plan shows a house there. Mark Thibeault stated the Trustees will have to determine if curb cuts will be allowed to access back yards. Paul O'Leary pointed out Mr. Morse does not have access onto a public road (for access he will have to cross the Goodrow property) and there is not enough space on the corner lot to grant an easement. Mark Thibeault concurred Mr. Morse should discuss a solution with the Goodrows. Perhaps the future owner of the corner lot could be approached as well. It may be prudent to contact an attorney. It was noted the setback from the surveyed property line of the Morse property to the proposed houses is 25'.

There was discussion of removal of trees and planting of street trees. Paul O'Leary confirmed there will be street trees planted along both sides of the road at 40' intervals. Trees will be removed to the property line.

Tammy Nadeau, 21 Seneca Ave., expressed concern about loss of privacy in the back yard with the removal of trees and two story houses in the development. Paul O'Leary assured the houses will comply with setback requirements. Mark Thibeault stated the Land Development Code does not require a buffer between residential units, but the Planning Commission will give the matter further consideration and could require the planting of more trees. The applicant's landscaping plan includes street trees and the typical plantings associated with each unit. The landscaping budget is approximately \$93,000 with \$44,000 for landscaping for the dwelling units, \$28,000 for street trees, and \$21,000 for lawn work. Ms. Nadeau mentioned the addition of at least 54 more cars on Roscoe Court due to the development so there will be additional traffic and noise.

Mike Goodrow, 1 Onondaga Ave., asked if there will be streetlights in the development. Paul O'Leary said streetlights on the public street are not proposed, but there is street lighting in the private area. Mark Thibeault clarified standards for a public road must be met which means streetlights at 400' intervals. Mr. Goodrow asked about the project timeline. Mark Thibeault stated the application needs Act 250 and storm water permits. The proposal is the first one to go through the Vermont Neighborhood Program and the first meeting with the state is 8/28/08. The applicant anticipated starting construction in the spring of 2009.

There were no further comments.

**MOTION by Dan Kerin, SECOND by Diane Clemens, to close the public portion of the application for 27-29 Roscoe Court. VOTING: 3 ayes; motion carried.**

#### DELIBERATION/DECISION

Preliminary Plan, PUD, 27-29 Roscoe Court, Dousevicz/Trombley

**MOTION by Mark Thibeault, SECOND by Dan Kerin, to grant Preliminary Plan approval with the requirement the applicant provide information on the following for Final Review:**

1. Ensure the rear private space meets the required standards;
2. Bicycle/pedestrian easement to the railroad tracks;
3. Architectural style of buildings;
4. Size of open space area;
5. Recreation facilities;
6. Affordable housing criteria
7. Emergency access shall be grass paver;
8. Waiver for road width;
9. Project cost to confirm landscape budget;
10. Fence section by Morse property.

**VOTING: 3 ayes; motion carried.**

A short recess was taken.

**MOTION by Mark Thibeault, SECOND by Dan Kerin, to reconvene the public portion of the meeting. VOTING: 3 ayes; motion carried.**

Major Amendment to Site Plan to change the entry drive configuration and parking at 58-80 Pearl Street in the TOD by Pearl Street Partners, LLC, owner  
Steve Schonberg and Bill Gardner appeared on behalf of the application.

#### APPLICANT COMMENTS

Steve Schonberg stated approval of the parking changes is needed from Big Lots before the plan can be executed. There is a tenant to occupy 10,000 s.f. of office space on the second floor. The tenant is Champlain Valley Agency on Aging with over 40 employees and clients. The site will be the regional center for the service. There is still other retail and office space available. Issues with parking and circulation need to be addressed before the site can be fully occupied. Mr. Schonberg described the changes proposed at the main entrance and the east entrance. At the main entrance the island will be moved to align with the point of the sidewalk. Circulation will be one way in by the credit union. By Kinney Drugs the parking by the outlet of the parking lot will be removed. This will ease the situation for delivery trucks. At the east entrance ingress will be one lane and egress will be either via a left turn lane or right turn lane. Parking spaces are being reconfigured on the site. The new parking count will increase by a total of one space. Employees are required to use the top row of parking along Pearl Street or behind the building by the railroad tracks.

Dan Kerin commented a physical barrier, such as curbing, will help define the traffic circulation.

Mark Thibeault asked about the area by the former Petrie house on Cherry Street. Mr. Schonberg said the parcel was not part of the acquisition. Mark Thibeault stated Cherry Street, the Merchant's Bank, the credit union, and Kinney Drugs may need to be part of the application. The Planning Commission needs to understand everyone's right to the access. Also, parking may be part of their permits which may have to be revised as part of the current application. Mr. Thibeault asked if there will be any internal changes in square footage or uses. Mr. Schonberg clarified the application is looking at circulation, parking, access, and curbing. Chairman Thibeault stressed the site plan needs to show the entire property. Kinney Drugs and the bank need to sign off on the application.

#### STAFF REPORT

Robin Pierce stated curbing on both sides of the main entrance is a good idea. The east entrance as proposed has less potential to cause a problem, but would be clearer with curbing. There is plenty of parking in the lot (207 spaces are required; there are 454 existing spaces) so to lose some spaces to clarify the east entrance is not a problem. Mr. Pierce advised the one-way circulation by the credit union should be given further consideration since most people will drive out the wrong way rather than go all the way around by the drug store and up the roadway. Residents have indicated there is a problem with cars entering the lot from Cherry Street at excessive speeds. A traffic calming application in the area may be warranted.

Diane Clemens mentioned pedestrians walking across the lot from the quick stop store to the shopping center. Mr. Schonberg confirmed people do walk across the lot and not necessarily using the walkways. Speed of cars is a concern in the lot. There was further discussion of parking reconfiguration, improving internal circulation, and possibly installing a traffic light. Suggestion was made that the east entrance be enter only from the west and exit only to the east (i.e. no left turn).

#### PUBLIC COMMENT

Angela Lincoln, 2 Cherry Street, testified the 25 mph traffic cones placed on Cherry Street are being hit by passing vehicles on a daily basis. Ms. Lincoln suggested a wide speed table be installed on the street to slow the speed of cars entering and leaving the shopping center lot. There are many children on Cherry Street and safety is an issue.

Jackie Lincoln, 5 Cherokee Ave., suggested a four way stop at the main entrance of the parking lot, and the east entrance should be an exit only spot. The traffic light at South Summit Street should be in sync with the light at the shopping center on Pearl Street. Cherry Street should be closed so it is not part of the parking lot. Ms. Lincoln echoed the safety concern for residents on Cherry Street. Mark Thibeault stated it is unlikely the curb cut will be closed at Cherry Street, but traffic calming measures can be investigated.

Steve Primo with Kinney Drugs stated Kinney Drugs has no parking rights outside of the deeded parcel, but does have a blanket reciprocal agreement for the entire parking lot. The information is recorded in the land record. Mr. Primo said he is willing to work with the applicant to expedite the project, but there is concern with the one-way ingress design. Kinney Drugs would like ingress and egress because that works best for a drug store.

There were no further comments.

**MOTION by Dan Kerin, SECOND by Diane Clemens, to close the public portion of the application for 58-80 Pearl Street. VOTING: 3 ayes; motion carried.**

**DELIBERATION/DECISION**

Major Amendment of Site Plan, Parking and Circulation, 58-80 Pearl Street, Pearl Street Partners, LLC

**MOTION by Dan Kerin, SECOND by Diane Clemens, to table the application pending further information. VOTING: 3 ayes; motion carried.**

**5. OTHER PLANNING COMMISSION ITEMS**

State Property on West Street

Diane Clemens reported the state is scoping use of the property at 111 West Street. A public meeting is scheduled on September 25, 2008 to gather input. There is interest by some to use one or two acres for a public dog park.

Bulb-out at 39 Lincoln Street

Robin Pierce reported the Public Works Director is concerned a bulb-out for buses dropping off people at 39 Lincoln Street will be a road hazard to drivers and possibly cause an accident. Mark Thibeault stressed the site (39 Lincoln Street) needs to be designed to work for the use.

**6. ADJOURNMENT**

**MOTION by Mark Thibeault, SECOND by Dan Kerin, to adjourn the meeting. VOTING: 3 ayes; motion carried.**

The meeting was adjourned at 10:30 p.m.

*RScty: M.E.Riordan*