

**MINUTES OF A CITY COUNCIL SPECIAL PERMIT HEARING HELD ON JUNE 12, 2012, DOCUMENT #29- APPLICATION FROM ATTORNEY MICHAEL MIGLIORI REPRESENTING APPLICANT/OWNER SYLVAN HILL DEVELOPMENT, LLC, TO BUILD A CLUSTER RESIDENTIAL DEVELOPMENT OF 29 SINGLE FAMILY HOMES ON LAND ON FOREST ST; ASSESSOR'S MAP 588, BLOCK 422, LOTS 1A, 3A, 4, 6C, 35, 36, 37, AND 38; LOCATED IN RM (RESIDENTIAL MEDIUM) ZONING DISTRICT**

**SUBJECT:** DOC. #29 – An application from Attorney Michael Migliori representing applicant/owner Sylvan Hill Development LLC, for a special permit to build a cluster residential development of 29 single family homes on land on Forest St.; Assessor's Map 588, Bl. 422, Lots 1A, 3A, 4, 6C, 35, 36, 37, & 38; located in RM (residential medium) zoning district.

Present: President John Michitson, Vice President Robert Scatamacchia, Councillor Michael Hart, Councillor Sven Amirian, Councillor Michael McGonagle, Councillor William Macek, Councillor Colin LePage and Councillor Mary Ellen Daly O'Brien. Absent: Councillor William Ryan.

City Clerk Margaret Toomey: Document #29 – An application has been received from Attorney Michael Migliori representing the applicant/owner Sylvan Hill Development LLC, for a special permit to build a cluster residential development of 29 single family homes on land on Forest St.; Assessor's Map 588, Block 422, Lots 1A, 3A, 4, 6C, 35, 36, 37, & 38; located in the RM (residential medium) zoning district. A favorable conditional recommendation has been received from the Planning Board and Planning Director and related communications and materials have been distributed.

President Michitson: Opened the hearing.

Good evening Mr. President, members of City Council, it's a pleasure being with you this evening. My name is Michael Migliori representing the applicant/petitioner this evening. My offices are located at 18 Essex Street here in Haverhill. Here with me on behalf of the project is also Mr. Stephen Stapinski to my right representing Sylvan Hill Development. What I would propose to do is initially making a brief presentation then asking Mr. Stapinski to touch upon some engineering matters and then wrap up with city department comments. The project, as you know, is called Sylvan Hill Crossing. It is a cluster residential development. If I can take a moment and discuss the history of this site because I think it's somewhat interesting. In 2006 the site had received a comprehensive permit. It was a project that was approved for 88 units on the same site, single family homes and town homes. The lots obviously were significantly smaller than the 29 lot plan you have this evening. There was substantially more impervious areas as a result of the size of the project parking areas, driveway, roofs, etc. There was no dedicated open space in that approval. It was necessary to cross wetlands with roadway and driveway causing some disruption. That plan compared to what we've submitted, in my opinion, had some substantial environmental impact. The plan before you tonight with the new open space and the cluster residential plan I think is a much superior project and I think we'll all be hopefully happier with this project as opposed to the 40B project. The development is located as you know, on Forest Street, has been submitted pursuant to Chapter 255 section 94, the cluster development ordinance. The cluster development ordinance contains a number of requirements that must be met. For a project to comply, I'd like to touch upon some of them now, some of the more important ones. It has to be a minimum of 15 acres which we comply with. Each individual lots has to be the requirements of a single family lot in the RH district. We also comply with that. We can't build more lots than what we would have been allowed to build under the existing zoning which is RM in that particular area of the city even though we are applying RH standards this evening. In the RM you are allowed basically 2 per acre, 20,000 square foot lots. You can build a home on, in theory, probably could have built somewhere around 35 homes out there. We are under that number. The plan itself has to be in accordance with the Haverhill Master Plan which it is. The site has to be serviced by both public water public sewer which it will be and it has to

have the open space component which we do have. The plan before you tonight shows 29 single family homes that will be three or four bedrooms in size, two stories in height, located on a parcel that is a little over 20 acres. The density comes out to approximately 1.45 units per acres. As I indicated, the underlying zoning is actually RM which again allows 20,000 square foot lots. A by right plan was provided to the Planning Board that depicted the same layout that you see before you tonight, 29 conventional single family house lots which meet all the requirements of the RH zone. The only change to the plan that was submitted to the Planning Board is the addition of an open space boundary which we overlooked and Councillor Macek doing his due diligence realized that we had overlooked it. We have now added it and that plan that I submitted to you tonight, I've circled the two areas where we've added the open space border. The site itself is adjacent to Liberty Hill Condominium, the West Lowell Ave. apartments and is across the street from Briarwood apartments. The site abuts an open space that is currently owned by West Meadow Hill Condominiums. Additionally, it abuts open space parcel that is owned by the city. What's going to happen is the city will be recipient of a parcel from this project that is 10.88 acres that will be dedicated open space. It will be deeded to the parcel. That parcel as I indicated is contiguous to about a 4 acre parcel of open space that the city already owns. Additionally, on the other side of that parcel owned by the city, Jillian's Village is going to be transferring approximately 15 acres of open space to the city. All of this is contiguous land. What's going to happen is the city is actually in that area end up with a parcel of open land of 30 acres which will be accessible by the public in general. The public will have access to open space we're dedicating to the city from 2 entry points one is on West Lowell Ave. as well as a three foot wide trail between two of the lots within the sub-division that connect to the roadway within the subdivision. This open space has been properly master planned and is contiguous with other open space in the city. There are wetlands which traverse the site. The good news is that these wetlands and streams are proposed to remain undisrupted and the development has been planned to meet all of the City of Haverhill conservation requirements regarding a 50 foot no build and a 25 foot no disturb zone as well as the City and State DEP storm management requirements. There will be no increase in drainage runoff onto any adjacent parcels from this site. The site is serviced by both city and water along Forest Street. We will be connecting to that Forest Street water and sewer and bringing down the new roadway within the subdivision. Telephone, electric, cable will all be underground. The homes will be built as green homes meeting energy star requirements and using wherever possible sustainable products in their construction. As I indicated I think earlier, all of the lots meet the minimum RH zoning requirements. This plan comes as a result of a significant amount of new planning to develop a neighborhood that is responsive to the current real estate climate and market conditions in the city. These are single family homes, as well as a program that maximizes open space on the site, reduces environmental impact, respecting the topography and resources that you find at the property. At the same time the development is sensitive to the density that does exist in the area, the abutters along the frontage of Forest Street which are all single family homes. But it still will generate a significant amount of revenue to the city and fulfill a demand for a type of housing that is lacking at this point in Haverhill. Should the special permit for the cluster development be granted by the Council then what happens is it moves onto Conservation for approval by them. We would be filing a Notice of Intent and also back to Planning Board for a definitive plan review process. All of those meetings are open to the public so the public can come and comment on those meetings as well at which we hope to get final approval. The cluster development before you tonight, the plan meets or exceeds all the requirements contained in the zoning ordinance. The Planning Board, held a hearing on April 11<sup>th</sup> at which time it voted and passed the conditional favorable recommendation. The biggest concern from the few neighbors that were there that evening seemed to be around traffic impact and what would happen with this project. At the request of the Planning Board, a traffic study was conducted. It was dated April 30<sup>th</sup>, has been provided to you. In a nutshell, the report concludes that Forest Street traffic is well below capacity currently and the additional traffic from this project is not a significant increase and Forest Street will still be below capacity. So I think we hopefully addressed those concerns as I recall was the biggest concern of some of the neighbors. At this point, I am going to ask Mr. Stapinski to step in and I'll get back to you with the department reviews at the end. Thank you.

Mr. President, members of the City Council, for the record my name is Steve Stapinski, Merrimac Engineering, we prepared the plan. I think the only thing I would add to Attorney Migliori's presentation, obviously I gave him my notes, is that we now have access to the open space on Forest Street. At the time we originally submitted the plan, it was an access easement or open space easement now it will be dedicated in fee open space. I would add that in 2006 when the 88 unit plan was approved by the City there was a water and sewer study. An analysis was done to show that there were adequate utilities present and obviously this density is actually about one third. There is still adequate utilities. There's really been little or no development in the area since. One question that came up after the Planning Board hearing from the neighbors was what type of housing was it really going to look like, single family houses. If you look at Ryan Patrick Way, which is a street that's off of Forest Street, and you look at some of the other new houses that have been built, the sizes of the houses on this plan are the same or similar in size to those. It really is a good mix. I guess, if anything you'd say because of the Liberty Hill Apartments, condominiums next door, the Briarwood across the street and the apartments on the other side of the site maybe this really isn't a conducive land use, maybe it should be apartments, but when you look at it from the streetscape standpoint, the single family houses that are there this is certainly in keeping with the land use of that corridor. I would be happy to answer any questions you might have on the project.

Attorney Migliori: The Council has been provided with all of the minutes from the Planning Board hearing along with the recommendation from Mr. Pillsbury. As we indicated at the Planning Board meeting we had reviewed all of the comments and requests made by the various departments. We didn't find any of them objectionable, agreed to them. We still stand by that. We agree to all of those requests. I think you can see from reading them there weren't any negative comments about the project. I didn't see anything. In fact, Mr. Moore I thought wrote a wonderful report because he tied together the benefit of the open space and it being attached to the piece the city owns and the piece the city will own once Jillian's Village makes that transfer. He was very supportive as I think all of the city departments along with Mr. Pillsbury. Mr. Pillsbury has stated what requirements he wants to be attached to your action tonight. Again, we have no problem with any of those. I'll wrap up there. If you do have any questions for either of us we are ready.

President Michitson: Is there anyone else that would like to speak in favor? Anybody else that would like to speak in favor? Is there anyone else that would like to speak in favor? There was no one. Is there anyone opposed that would like to speak? Is there anyone opposed that would like to speak? Is there anyone opposed that would like to speak on this matter?

My name is Lisa Aach and I live on Forest Street in one of the small houses that's right across from where this is going to be. My concern is with traffic. I have not seen the reports that were done. I appreciate the fact that they were done. However, I believe they were done on a school vacation week which would have been, the traffic would have been a lot less that week. Just to kind of give you a background sometimes I work from home. Even on a hot day I have to shut the windows because there's so much traffic. So even though that study might say there wasn't that much traffic I can definitely tell you it's not really that true. I don't know what the limits are and what they are allowed to have for traffic so I don't know what it's gauged by. That would be really interesting to know. I do have a little bit of a wish list too so if this does go thru there are some additions that I'd like to see added to this that I think would be really beneficial. Perhaps they could do another traffic study just so we can have it on a time that's not guaranteed to have limited traffic. I also think within that main section of Forest Street it would be nice to have sidewalks on one or both sides of the entire street. It would also be important to have speed limit signs because with the added traffic that we've seen throughout the years with the addition of Target and the former Lowes and everything on the ends, it's added a lot of traffic but mostly it's big traffic. It's high commercial vehicles, it's 18 wheeler trucks. They are zooming up and down that street so

if we could have something a little bit more enforceable such as speed limit signs, maybe to do something at the end where Forest hits 97 and West Lowell Ave that would be really helpful too. I don't know what you can do in those situations but it's just really just looking for accidents really bad and a lot of people go straight thru the stop signs. That's all I have for now.

President Michitson: Okay, thank you very much.

My name is Lise Norris, I am from Riverbend Condominiums and I am right at the bottom of the hill. My concerns are mostly drainage problems. I've heard other complexes having problems where the developments have gone up and it's been quite costly to the people in these condominiums for that. Condo fees have had to go up quite a bit and I would hate to see that happening where I live. Quite a big investment that I made in my unit, I think it's big for me anyways and I would hate to have some type of drainage or runoff. I am very concerned about this. If this should happen, who is responsible for this? Thank you.

President Michitson: Thank you very much. Is there anyone else that would like to speak? Now there's a five minute rebuttal.

Attorney Migliori: Is it okay if I use significantly less time than five minutes?

President Michitson: Yes.

Attorney Migliori: You know the traffic concerns, we had a study done. There was a study done five or six years prior to it. When there were going to be 88 units up there. There has been no new development in that area. It was found at the time that the 88 units in that traffic study was not going to be a significant impact. We are down to 29 single family homes now. The traffic study indicates pretty much the same thing, I don't see any need for doing another traffic study. As far as enforcement signs and stop signs we can certainly work with the city at the definitive plan stage about signage if it's need out there. I don't think that's a big issue. With respect again to drainage, the drainage will be all contained on site and there will not be any impact from drainage from this site onto any abutting properties. That will be vetted at the definitive plan stage and reviewed by the appropriate department heads to make sure we have the appropriate drainage in place and that it will work.

President Michitson: Thank you very much and a five minute rebuttal to the rebuttal.

Lise Norris: I am hearing that there shouldn't be any drainage problems. What if there is? Who picks up the tab for that and to correct the problem and the damage done to the condominium below the hill? I need to have these answers. I need to know who is going to be responsible for taking care of us if that should happen. Another question I had, if this project goes thru, is there going to be any blasting going on? Thank you.

President Michitson: Thank you very much. If there are no further comments we will close the hearing now and then the City Council will discuss hopefully some of the issues that you brought up. The hearing is now closed. Council what is your wish?

Councillor Macek: Move the special permit be granted with conditions. Second from Councillor Daly O'Brien.

Councillor Macek: Just a few words. First, I want to say and assure the neighbors that regarding any drainage runoff. First off, everything today needs to be designed so that it's zero impact. There can't be any runoff onto abutting property. They have assured us that that's the case. Our departments look for that

and if there ever were any problems that were immediately obvious, there's a developer's bond and until that bond is released, the city does have recourse against not only the developer but also against the bonding company that has somewhat pledged that if there are any issues we can go against that bond. So there is a mechanism in place that has to be released by the Planning Board before the developer is really complete that bond remains. I looked at the traffic study. Unlike most of them, we actually had a number of weeks to review all the filing because there were a couple of continuations over the last month. So we had all the material. We actually had more time than we usually have to review it and kind of dig into it and I think the traffic study as was stated, was an amended study based upon on the 88 unit project. While traffic is something we would all would like to have as little as possible with the growth that we have in the city and people have a right to develop their property I think that this 29 unit project is much more desirable than an 88 unit project. I think that you sometimes should be careful what you wish for and in this case you are getting the much better of the two options. Sidewalks, I hadn't thought about that. I did take a look at the plan. You only have about 200 feet of frontage maybe 250 that the development is actually on Forest Street. The rest of where the project goes wide in the back there's other property owners. To ask them to put in a sidewalk for just the 200 feet I think would maybe even look foolish. I don't think it really fits at this point. I think the city maybe could look at doing a longer sidewalk. It's something we are getting some revenue for this year and perhaps we could let our DPW director Mike Stankovich know that he should take a look at Forest Street for maybe some installation of sidewalks. Speed limit signs. They've actually agreed to work with the city and maybe doing some installation for speed limit signs. I am a big believer that we should post whenever possible. As far as 97, I think the city really has a responsibility to make sure that's properly signed and we put the best effort into making sure that the traffic over there is converging safely. I think those are all good points that you made and if they should become an issue make sure you let me know. I certainly will work to resolve any issues that should come up. I think this project has been presented and tweaked and as Attorney Migliori mentioned, there was one change that I noted that should be made to conform with our current zoning for cluster development, the RH standards. They did that. I think they are very willing to work with the city and our wishes to have a quality project there. I believe that as long as the conditions that are recommended by our Economic Development and Planning Director are attached and also that we amend that we use the June 12 map (plan) there really should be no problems going forward. There are other places that they have to get approvals, Conservation, definitive plan stage. There are other opportunities to make sure that everything is properly in place before they actually get their construction permits.

Councillor Daly O'Brien: Mr. Stapinski can I ask you a couple of questions? I'm afraid that I no reference to the size homes that your speaking of when you talk about Ryan Patrick Way. Are these going to be two story colonial type, expanded capes? What are you looking at? These are family homes, I guess.

Steve Stapinski: These are generally they will all be colonials. Some will have attached garages, some have garages on the ends. Generally in terms of the size, they average 2400 to 2600 square feet. That's really the range. Some of the houses on the plan are larger. Some are slightly smaller. But the average is the 2400/2600 square foot range.

Councillor Daly O'Brien: My question there of course is the impact on schools. That means we are going to have another family area developed but the plus is, it's not 88 units. I'm happy it's not that. I'd rather see a cluster development over a large project. I'd rather see single family homes over condos. Because I think that will add a benefit to that area rather than having another large condo complex in that area. I understand their concerns about drainage and I would be concerned too. Do we have any idea when those other condo projects were put in? How old are they? 20 years old, 24 years old?

Steve Stapinski: I'm sorry to say that I did work for Nat Sergei in 1976 on the Liberty Hill projects. That will tell you how old I am.

Councillor Daly O'Brien: That's 36 years old.

Steve Stapinski: That project was already approved I think 8 years when I started doing work on it. I think it was 1968 and then another phase in 1972.

Councillor Daly O'Brien: My point in asking you, it's my understanding that the requirements that we have now for drainage as alluded to by my fellow Councillor are much stricter when they were in that day. You are someone who would have worked with our existing requirements then. They are much stricter.

Steve Stapinski: I would actually say that the Riverbend Condominiums and Liberty Hill were all permitted in the middle to late 60's. They were done at the same time as Forest Acres, Presidential Drive. These developments on Forest Street and Lowell Avenue and also you had some apartments off of Hilldale Avenue and Broadway across from St. Joseph's kind of in the back. Those were all permitted under these 1964-66 regulations. The City Council changed the zoning in the early 70's in response to all that multi-family development to make the regulations much more stringent. Since that time the Planning Board has had three revisions to their sub-division regulations. The Conservation Commission has also come into play.

Councillor Daly O'Brien: My point is, there have been other condominium projects since then that are 24 years old or 28 years old. That are on the hill and I think that's what they fear. They are more on the hill and coming down towards where they are. But I think, if I recall correctly, our regulations are even stronger now than they were 24 years ago.

Steve Stapinski: Yes, that's correct.

Councillor Daly O'Brien: I just want to back up what my fellow Councillor was alluding to. I must say those are the longest Planning Board minutes I have ever read in my ten years on the City Council. Thirteen pages, that was quite extensive and I read them all. I kept thinking, when is this going to end. I think there was a lot of people there asking a lot of good questions and it seemed like a lot of them got answered. But they still have some concerns tonight. I think that the neighbors brought up some good points. The one that I think is most important is the trucks. I think that road is not for trucks. I think it's something that we as a Council could refer to traffic and safety to look at that kind of truck traffic on that road. It seems to me that is not necessarily where 97 and 110 both have their own exits from 495. Why are they crossing Forest Street? I don't get that. That doesn't seem like it's necessary. That's a problem. I would be as concerned knowing that there's a mixed group of people. There's not only a lot of young children up in that area and there's going to be more with this housing project. But there's also a lot of older folks. I just think it's a recipe for disaster if we don't look into that and try to limit the truck traffic and put up speed limit signs. The idea of referring this for sidewalks is an absolutely fabulous idea. It's the only way to make that neighborhood safe under these conditions. All in all, I think we can do this project right, I am for it. It has a few key elements that I am very interested in. That is the green housing, the fact that it was reduced from a large amount of housing down to 29 in a cluster development. It builds a neighborhood and those are good for families. It adds open space to already existing open space that the city has and that's always a plus. Whatever we can do to retain more green space in Haverhill is going to be for the betterment and it's something our families will enjoy long after we are gone. I still want my great grandchildren to know pieces of Haverhill that are treed and have fields. I think that is so important. Unless something else comes up that changes my mind, I think it's a good plan.

Councillor Macek: I would move that the permit be granted and that it be amended by adding all of the conditions, stipulations and recommendations in the May 11, 2012 letter from our Economic Planning

and Development Director William Pillsbury; the revised plan of June 12, 2012 be the official plan that is being accepted with this special permit.

President Michitson: Councillor did you want to mention anything about traffic?

Councillor Macek: I don't think that's part of the special permit. We can do that separately before we wrap.

President Michitson: Oaky, there's an amendment, is there a second? Councillor Daly O'Brien - second.

President Michitson: Amendment by Councillor Macek seconded by Councillor Daly O'Brien. Any discussion? Madame Clerk please call the roll.

Clerk Toomey: Councillor Scatamacchia-yes, Councillor Hart-yes, Councillor Amirian-yes, Councillor McGonagle-yes, Councillor Macek-yes, Councillor LePage-yes, Councillor Daly O'Brien-yes, President Michitson -yes. 8 yeas, 0 nays, 1 absent.

President Michitson: The amendment passes, now the amended motion.

Clerk Toomey: Councillor Scatamacchia-yes, Councillor Hart-yes, Councillor Amirian-yes, Councillor McGonagle-yes, Councillor Macek-yes, Councillor LePage-yes, Councillor Daly O'Brien-yes, President Michitson -yes. 8 yeas, 0 nays, 1 absent.

President Michitson: That passes.

Respectfully submitted,

Barbara S. Arthur  
Administrative Assistant  
Haverhill City Council

June 22, 2012

**REASON FOR VOTE -DOCUMENT #29**  
**Application from Attorney Michael Migliori for Applicant/Owner of**  
**Sylvan Hill Development, LLC to build a cluster residential development of 29 single family homes**  
**on land on Forest St.**

**In granting the special permit, those members voting in favor found that the application fulfills all of the general conditions contained in Chapter 255-94 of the Haverhill Zoning Ordinance.**

President Michitson: I voted in favor of the special permit because the applicant met the zoning requirements for cluster development.

Councillor Scatamacchia: I voted in favor because the applicant met the zoning requirements.

Councillor Hart: I voted in favor because the applicant met all requirements of the cluster development zoning ordinance.

Councillor Amirian: Based on the recommendations of our department heads, I found this project was in the best interest of the city and the applicant met the requirements of the cluster zoning ordinance.

Councillor McGonagle: I voted for this project based upon its meeting all the provisions in respect to the special permit and the recommendation of the Economic Planning Director.

Councillor Macek: I voted to support the special permit request as I felt the project was compliant with the Cluster Development Zoning Regulations and that it will add needed affordable single family housing.

Councillor LePage: I voted yes on this special permit because I believe it complies with all zoning requirements.

Councillor Dally O'Brien: I voted yes to grant this permit because it met conditions for a cluster development; adds open space to existing city land, and the project is reducing environmental impact with "green" housing.