

MEMORANDUM

FROM: OFFICE OF THE CITY ATTORNEY
MIDDLETOWN, CONNECTICUT 06457

TO: Mayor Maria Madsen Holzberg

DATE: June 10, 1997

RE: Legal Opinion Request

ISSUE:

Whether the City must construct Alsace Terrace for a subdivision developer.

ANSWER:

The developer is responsible for constructing the road.

ANALYSIS:

Connecticut General Statutes §8-25, as amended, authorizes the Planning & Zoning Commission to adopt regulations concerning the subdivision of land. This section provides, inter alia, as follows:

The commission may also prescribe the extent to which and the manner in which streets shall be graded and improved and public utilities and services provided and, in lieu of the completion of such work and installations previous to the final approval of a plan, the commission may accept a bond in an amount and with surety and conditions satisfactory to it securing to the municipality the actual construction, maintenance and installation of such improvements and utilities within a period specified in the bond. Such regulations may provide, in lieu of the completion of the work and installations above referred to, previous to the final approval of a plan, for an assessment or other method whereby the municipality is put in an assured position to do such work and make such installations at the expense of the owners of the property within the subdivision. Such regulations may provide that in lieu of either the completion of the work or the furnishing of a bond as provided in this section, the commission may authorize the filing of a plan with a conditional approval endorsed thereon. Such approval shall be conditioned on (1) the actual construction, maintenance and installation of any improvements or utilities prescribed by the commission or (2) the provision of a

bond as provided in this section.

C.G.S. 88-25(a), as amended.

Accordingly, the statute expressly authorizes planning and zoning commissions to include requirements within subdivision regulations concerning the developer's responsibility for the cost of road work.

The subdivision regulations adopted by the Planning & Zoning Commission provide that "[t]he developer shall bear the full responsibility for the cost and installation of any and all required improvements in the proposed subdivision." Subdivision Regulations of the City of Middletown, at 85.01.

There were two planning and zoning applications in the present case. The initial application was filed on February 11, 1992 and received preliminary approval from the Commission on March 11, 1992. A copy of the Commission's Notice of Decision is attached.

The initial approval was for two lots located at the corner of Ballfall Road and Alsace Place. At the time of the application the Public Works Department commented that Alsace Place was not a City street and that lots along the road should not be approved unless the road was improved to City standards. A copy of this comment dated February 26, 1992 is attached.

The preliminary approval contains a staff recommended condition that a note be placed on the subdivision plan stating that "the back lots are not approved for building purposes until that time when Alsace Place is improved to City standards, at the cost of the record owner, and approved by the Planning and Zoning Commission."

Prior to the subdivision receiving final approval from the Commission, the Public Works Department submitted a comment that the note on the plan be clarified to specify that road improvements be made by the record owner of the lots. A copy of this memo dated December 8, 1992 is attached.

On December 9, 1992 the Planning & Zoning Commission gave final approval to the subdivision. A copy of the Notice of Decision is attached.

The final approval required that a revised note be placed on the final mylar map. The revised note deletes the phrase "at the cost of the record owner" and was placed on the plan. A copy of that portion of the map is attached.

The second application was filed on March 11, 1994 and was for an eight lot resubdivision on Alsace Terrace. After a public hearing, the application received preliminary approval on June 22, 1994. The approval was "subject to all departmental comments and specifically required that all work be done during normal working hours to allow for city inspections." A copy of the Notice of Decision is attached.

On March 24, 1994 the Public Works Department submitted a comment concerning specifications for the construction of the street. A copy of this comment is attached.

During the public hearing on the application, the developer's attorney and surveyor stated that the "Developer will pay for constructing road to city specs." A copy of the minutes of the Planning & Zoning Commission meeting of April 13, 1994 are attached. The statement appears in the middle of page 3. These minutes were approved by the Commission at its next meeting on April 27, 1994.

A review of the minutes of the Planning & Zoning Commission meetings wherein this application was considered, April 13, 1994, April 27, 1994, May 11, 1994, May 25, 1994, June 8, 1994 and June 22, 1994, reveals that issue of road construction was not discussed beyond the above referenced statement from the developer's attorney and surveyor and the Public Works Department comment.

Accordingly, it is apparent from the record and the Notice of Decision's specific reference to departmental comments, that the application was approved subject to the developer constructing the road.

The developer's attorney contends that the City must construct the road improvements because Alsace Terrace is a City street. As support for this contention the developer has produced a copy of a letter from a former Public Works Director asserting that the road is a City street.

However, the developer has not submitted any proof that the road was accepted by the City pursuant to C.G.S. §13a-48, as amended. The Connecticut Supreme Court has held that compliance with the statute is mandatory in order to make a road a public highway. Thompson v. Town of Portland, 159 Conn. 107 (1970); see also Fuller, Land Use Law and Practice, Conn. Practice Vol. 9, at §49.6.

The developer also argues that this situation is analogous to that addressed in a prior opinion of this office concerning Fairchild Road. In that opinion it was determined that 0.12 mile of the road was a City street by implied acceptance because the City maintained it and received state aid for it.

In the present situation, the City receives state aid for the paved portion of Alsace Terrace, .03 miles (approximately 160 feet). However, there has been no showing that the City has taken any action with regard to the remaining 500± unimproved feet of the road. There is no evidence that this portion of the road is used by the general public or that the City maintains it. Therefore, the necessary criteria does not appear to be present for the City to be held to have accepted it by implication.

The unimproved portion of Alsace Terrace appears to be a paper street which has not been accepted, formally or otherwise, by the City. Judge Fuller notes that "[m]unicipal zoning


regulations generally allows building and zoning permits for lots on maps served by paper roads provided that the roads between the lots and the public highway are improved at private expense." Fuller, supra, at 849.9. This appears to be the action which was taken by the Planning & Zoning Commission in this matter.

Judge Fuller also notes that "the municipality cannot be required on demand to improve an old public highway to serve a subdivision upon demand of the subdivider." Id. at 849.7. Judge Fuller's comment is made in relation to streets abutting subdivisions. Connecticut case law is clear that a Commission may not disapprove a subdivision based upon the inadequacy of the abutting streets and also may not compel developers to make improvements to such public roads. Reed v. Planning & Zoning Commission of the Town of Chester, 208 Conn. 431 (1988). In these situations, Judge Fuller reports that developers and towns often enter into a cost sharing agreement to improve the public road similar to that proposed by the developer in this instance. Id.

However, this situation is different because it is not the abutting street providing access to the subdivision which must be improved but the subdivision street itself which must be constructed. For this reason, it is not recommended that the Public Works Commission agree to either construct the road to City standards or to share in the cost of such construction.

CONCLUSION:

It is apparent that the Planning & Zoning Commission approved this subdivision application on the condition that the developer construct the road to City standards. Further, it has not been proven that Alsace Place is an accepted City street.


Timothy P. Lynch
Deputy City Attorney

TPL/es

cc: Trina A. Solecki, City Attorney
Salvatore C. Fazzino, Public Works Director
William Warner, AICP, Planning & Zoning Director

RECEIVED
CITY ATTORNEY'S OFFICE
97 MAR -5 AM 3: 03

REQUEST FOR OPINION, ADVICE OR OTHER LEGAL SERVICE:

(Submit to Mayor in Duplicate)

TO: Mayor's Office

FROM: Salvatore C. Fazzino

SUBJECT: Alsace Terrace
Joseph Mazzotta Subdivision, 1994

FACTS: (In brief statement tell WHO, WHAT, WHEN, WHERE, WHY & HOW.)

Developer - Joseph Mazzotta

Location - Alsace Terrace - 7 lot subdivision

Subdivision Approval - March/April 1994, approval includes subdivision road (Alsace Terrace) that must be constructed to city standards before C.O. may be issued on home.

LAW: (Cite appropriate ORDINANCE, REGULATION, STATUE, OR CASE LAW that applies to this Question.)

Subdivision Regulations of Planning & Zoning Commission - Chapter 5.01
Cost of Subdivision Improvements

QUESTION: (What in your own words is the precise question you wish to have answered?)

Alsace Terrace is a paper street. Two corner houses have Ballfall Road addresses and said houses have driveways on Alsace Terrace. City receives Town Aid for unimproved roads of which 158 feet is for Alsace Terrace.

Joseph Mazzotta received P&Z preliminary approval which includes constructing the subdivision road to city standards. Mr. Mazzotta is now asking the city to participate in the cost of improvements.

Applicant sites legal opinion by Trina Solecki on Fairchild Road. The City maintains that Fairchild has houses on the road, electricity, has been patched, and city removes snow on its entire length. This is not the case on Alsace Road. The City only maintains 158 feet.

The City also contends that the Road Improvement is needed only by the Developer for the sole purpose of developing his parcel of land. Planning & Zoning required that the Developer construct the Alsace Terrace to its subdivision road standards. Without said road, developer could not proceed to build houses.

Public Works Commission requests legal opinion on whose responsibility it is to construct the subdivision road.

ESTIMATE OF PRIORITY: Check One

EMERGENCY

STANDBY FOR FUTURE ACTION

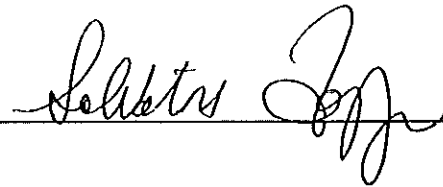
URGENT

APPLICANT SHOULD KNOW FOR FUTURE ACTION

Date:

2/19/97

Signed:



LEGAL NOTICE

NOTICE OF DECISION BY THE MIDDLETOWN PLANNING AND ZONING COMMISSION at its Meeting of March 11, 1992

1. Approved revision to a previously approved Smith Park special exception to include tennis courts. Applicant/agent Maguire Group, Inc. SE91-4
2. Granted approval for four model houses on lots 98, 111, 112, and 113 in the Meadows at Riverbend Subdivision, Section II with the conditions that (a) no certificate of occupancy be granted until all municipal requirements are met; and (b) a restriction placed on the deed that would prohibit a transfer of title until the above conditions are met. Applicant/agent Tuttle Road Associates/Robert Fusari S91-15
3. Approved request for a modification of the sewer main layout in the Meadows at Riverbend Subdivision with the condition that the Public Works Department and the Water and Sewer Departments are in agreement and approve the modification. Applicant/agent Tuttle Road Associates/Robert Fusari S91-15
4. Granted preliminary approval of a resubdivision to establish 2 additional lots located on Ballfall Road and Alsace place as depicted on a map entitled, "Subdivision Plan, Property of Joseph Mazzotta, dated 4/90" with the condition that (a) it meet departmental comments and (b) a note as outlined in the Planning Department analysis dated 3/11/92 be placed on the map. A revised drawing is required. Applicant/agent Dean Thomasson S92-1

on to amend the previously approved Russell additional parcels to accommodate a Bradlees and Saybrook Road with the conditions that comments with the exception of number two nt's memorandum dated 2/25/92 and (b) place rn lane at the Saybrook Road entrance and action of Russell St., East Main St., and traffic improvements as recommended in the gent Hurand Realty Co., Inc./The Hutensky 2-3

Ann Loffredo, Chairwoman
Planning and Zoning Commission

appear in the Middletown Press TWICE.

<p>SENDER:</p> <ul style="list-style-type: none"> • Complete items 1 and/or 2 for additional services. • Complete items 3, 4a & b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery. 		<p>I also wish to receive the following services (for an extra fee):</p> <p>1. <input checked="" type="checkbox"/> Addressee's Address</p> <p>2. <input type="checkbox"/> Restricted Delivery</p> <p>3. <input type="checkbox"/> Return Receipt for Merchandise</p>	
<p>3. Article Addressed to:</p> <p>Dean Thomasson 73 Main Street Middletown, Ct 06457</p>		<p>4a. Article Number</p> <p>9110189023</p>	
<p>5. Signature (Addressee)</p> <p><i>[Signature]</i></p>		<p>4b. Service Type</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Insured</p> <p><input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD</p> <p><input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise</p>	
<p>6. Signature (Agent)</p> <p><i>[Signature]</i></p>		<p>7. Date of Delivery</p> <p>5-17-92</p>	
<p>8. Addressee's Address (Only if requester and fee is paid)</p>			

SITE PLAN REVIEW

Public Works Dept. - Engineering Division

February 26, 1992

92 FEB 26

PM 12:47

NAME: SE 92-1 Joseph Mazzotta

LOCATION: Ballfall Road and Alsace Place

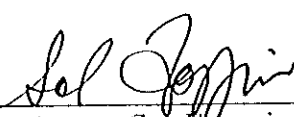
REVIEW FOR: Planning & Zoning X Inland Wetlands
 Building Division Other

***** COMMENTS *****

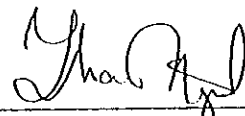
1. Alsace Place is not an accepted City street nor is it an improved City street and the City will not improve Alsace Place, therefore the two back lots do not have any frontage on a City Street.

These back lots should not become building lots unless one of the following procedures are followed:

1. Acceptance as rear lots provided that they meet all P & Z requirements.
 2. Acceptance as building lots on a private road with such road built according to the P & Z regulations governing private roads.
 3. Acceptance as building lots on a City accepted road with such road built according to the P & Z regulations governing roads built to City standards.
3. The profile of Alsace Place is too steep at the intersection of Ballfall Road and does not meet our specifications. If the intention is to make this road a City street or a private road, the developer should be aware that the installation of utilities in Alsace Place should be done in accordance with a street layout that will meet the City's criteria for a private road or a City street.



 Salvatore C. Pazzino,
 Director



 Thomas Nigosanti,
 Chief Engineer

SUBDIVISION REVIEW
PUBLIC WORKS DEPARTMENT
Engineering Division

December 8, 1992

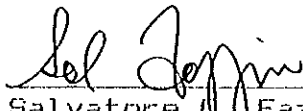
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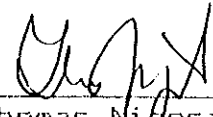
As per request from the Planning & Zoning Department, the following are comments and concerns that our department has in reference to the following application:

SE 92-1 Mazzotta - Alsace Terrace

The comment should not be removed from the record drawing.

The comment should be clarified to state that the improvements shall be made by the record owner of the back lots and not the record owner of the "street".


Salvatore W. Fazzino,
Director


Thomas Nicosanti,
Chief Engineer

LEGAL NOTICE

NOTICE OF DECISION BY THE MIDDLETOWN PLANNING AND ZONING COMMISSION at its Meeting of December 9, 1992

1. Tabled request for cash release of the remaining cash deposit being held for the Laurelwood Estates Subdivision. Applicant/agent Richard Romeo/Patricia Ingellis S87-13
2. Denied proposed Zoning Map amendment to rezone the lots zoned R-15 fronting on the north side of Washington Street between Old Mill Road and Plaza Drive to B-2. Applicant/agent Marsha D. Clark, Theodore Tine etal/Atty. Robert S. Palmer Z92-19
3. Denied Zoning Code text amendment to add Section 33.06, "Buffer and Ingress and Egress Requirements" to Section 33, B-2 General Business zone. Applicant/agent Marsha D. Clark, Theodore Tine etal/Atty. Robert S. Palmer Z92-18
4. Accepted withdrawal of a request for final approval of lots 7, 8, and 9 in the Westridge Estates Subdivision located off Randolph Road as displayed on a revised map dated 10/8/92. Applicant/agent Glenn Russo S90-22
5. Granted final approval of the Eugene & Paul Zaklukiewicz Subdivision located on Newfield. Applicant/agent Catherine Schmidt/Atty. Kenneth Atin S92-8
6. Approved request to release cash deposit being held for the Laurel Heights Subdivision with the condition it meet departmental comments prior to any release. Applicant/agent Frank Rak S87-14
7. Approved request to release cash deposit being held for the Woodbine Subdivision with the condition it meet departmental comments prior to any release. Applicant/agent Frank Rak S86-18
8. Approved request to release cash deposit being held for the Red Area, Section III Subdivision located in the Wesleyan Hills P.R.D. Applicant/agent Hill Development Corp./Joseph G. Lombardo P.R.D. I
9. Approved request for final approval of the Joseph Mazzotta Subdivision located on Alsace Terrace with the condition a revised note be placed on the final mylar map as required during the preliminary approval. Applicant/agent Joseph Mazzotta/Atty. Dean Thomasson S92-1

10. Granted final approval of a 2 lot resubdivision located on East Street with the condition that (a) a contract be executed to assured completion of the subdivision and (b) a cash deposit in the amount of \$5,600.00 for sidewalk, driveway aprons, monumentation and other miscellaneous work be given to the City of Middletown and a cash deposit in the amount of \$1,200.00 for trees and restoration be given to the City of Middletown, and (c) a mylar map be submitted. Applicant/agent Thaddeus Bysiewicz/Atty. Dean Thomasson S90-16
11. Approved interpretation of Section 40 of the Zoning Code in regard to the Oddfellow Playhouse to clarify the use under Section 40.04.08. Applicant/agent Oddfellow Playhouse/Elizabeth Morgan
12. Postponed public hearing for a proposed 21 lot subdivision located on east side of East Street north of Flynn Lane and across from Miner Street to be known as Russell Ridge Subdivision II. Applicant/agent Thaddeus P. Bysiewicz/Atty. Dean Thomasson S92-14
13. Adopted Zoning Code text amendment to modify Section 37, Special Industrial Zone, Subsection 37.00, "Description of Zone". Copy of adopted text is on file in the Office of the Town Clerk. This amendment becomes effective December 30, 1992. Proponent P & Z Comm.
14. Elected W. Lee Osborne as Chairman, Stephen T. Gionfriddo as Vice-Chairman, and John Robinson as Secretary. Anthony Vasiliou was designated as a representative to the Midstate Regional Planning Agency. No one was designated to the Parking Authority.

W. Lee Osborne, Chairman
Planning and Zoning Commission

P.O. No. 043186, Account No. 2453

The above legal notice to appear in the Press ONCE.

Wednesday, December 16, 1992

NOTES

REFERENCE IS MADE TO A MAP TITLED:
PROPERTY SURVEY FOR JOSEPH AND
JOSEPHINE MAZZOTTA TOWN OF
MIDDLETOWN, CONNECTICUT, SCALE: 1"=50'
DATE: MAR. 11, 1986, BY RICHARD J. ZIDBICON,
REGISTERED LAND SURVEYOR, No. 11355

REFERENCE IS ALSO MADE TO A MAP TITLED:
PROPERTY TO BE CONVEYED TO JOSEPH MAZZOTTA
MIDDLETOWN, CT SCALE: 1"=40', SEPT. 15, 1987,
BY THEODORE F. JACKOWIAK, REGISTERED
LAND SURVEYOR No. 5091

ZONE IS R-15

Map # 17-93

Revised Note

THE BACK LOTS ARE NOT APPROVED FOR BUILDING PURPOSES UNTIL THAT TIME WHEN ALSACE PLACE IS IMPROVED TO CITY STANDARDS AND APPROVED BY THE PLANNING AND ZONING COMMISSION.

"THE SUBDIVISION OF LAND DEPICTED ON THIS SHEET WAS GRANTED FINAL APPROVAL BY THE MIDDLETOWN PLANNING AND ZONING COMMISSION AT ITS MEETING ON 12.9-92 AND IS THEREFORE ELIGIBLE TO BE FILED IN THE OFFICE OF THE TOWN CLERK."

[Signature]
COMMISSIONER

[Signature] 2-16-93
CITY PLANNING DIRECTOR

I HEREBY
MAP AND S
OF A CLAS
FOR SURVE
AND ADOPT
INC. ON S

DATE:

LEGAL NOTICE

NOTICE OF DECISION BY THE MIDDLETOWN PLANNING AND ZONING COMMISSION at its Meeting of June 22, 1994

1. Approved a special exception to permit a used car dealership located on 465 Middlefield Street with the following conditions: 1) it meet departmental requirements; 2) that no more than five cars be on the site for sale; 3) that no advertising be allowed on the cars, except required by DMV information on an 8-1/2" x 11" page, or the lot other than a sign advertising the name of the business; and 4) primary use is auto repair and any car sales is merely incidental to the repair business. Applicant/agent Reliable Fleet Maintenance/Paul Tuomi SE94-5
2. Tabled a discussion regarding amenities' package for the Hunt Club Subdivision. Applicant/agent Resource Development Corp./Michael Hussey S87-44
3. Gave an affirmative G. S. 8-24 Report for installation of new sidewalks along Pine street and Bretton Road and specifically not approving the removal of any sidewalks or roadways. Applicant Public Works Dept.
4. Approved a request for a lot certification on Ward Street with the condition the encroaching porch be removed and that parking be provided for the existing two family dwelling on the same lot. Applicant/agent Manuel Nunes L94-2
5. Granted preliminary approval for an 8 lot subdivision on Alsace Terrace with the elimination of one rear lot subject to all departmental comments and specifically required that all work be done during normal working hours to allow for city inspections. A request to waive sidewalks was denied. Model home approval was granted for Lot #4 with the condition that no Certificate of Occupancy be issued until final approval is granted. Applicant/agent Dean A. Thomasson S94-2
6. Approved a request for release of the cash deposit being held for Hubbard Estates Subdivision, Phase V, with the condition that the departmental comments be met. Applicant/agent Atty. Frank St. John S87-60
7. Tabled a request for partial release of a cash deposit being held for the Farmstead Estates Subdivision. Applicant/agent Louis Aresco S89-4
8. Approved a request for release of the cash deposit being held for the Brooks Road Subdivision with the condition that the departmental comments be met. Applicant/agent Sebastian C. Mazzotta S92-15
9. Tabled a Proposed Zoning Code text amendment to modify Section 39A Interstate Mixed Use Zone. Applicant/agent Sawmill Brook Racing Assoc., Inc./RMC Corp. Z94-7
10. Tabled a proposal for an addition of a showroom to include service departments for a previously approved special exception located at 720 Newfield Street. Applicant/agent Michael R. Augeri SE94-5

THE MUNICIPAL BUILDING IS WHEELCHAIR ACCESSIBLE

11. Denied a proposed special exception to allow a check cashing facility at 460 East Main Street. Applicant/agent Cashers, Inc./Atty. Joseph S. Elder NC94-2
12. Adopted a Zoning Code text amendment to modify Section 61.02.21 to allow a child care facility in the B-2 zone as a special exception. A copy of the adopted text is on file in the Office of the Town Clerk. The effective date is July 1, 1994. Applicant/agent Susan Carta Z94-9

W. Lee Osborne, Chairman
 Planning and Zoning Commission

P.O. No. 047241, Account No. 344-3425

The above legal notice to appear in the Middletown Press ONCE.
 Friday, July 1, 1994

THE MUNICIPAL BUILDING IS WHEELCHAIR ACCESSIBLE

Z 798 441 129



**Receipt for
 Certified Mail**

No Insurance Coverage Provided
 Do not use for International Mail
 (See Reverse)

Send to
 Dean A. Thomasson

Do not envelope to the

Is your RETURN RECESS completed on the reverse side?

SENDER: • Complete items 1 and/or 2 for additional services. • Complete items 3, and 4a & b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: Dean A. Thomasson 73 Main Street Middletown, Ct. 06457		4a. Article Number 2 798 441 129	
5. Signature (Addressee)		4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise	
6. Signature (Agent) 		7. Date of Delivery 6-30-94	
		8. Addressee's Address (Only if requested and fee is paid)	

Thank you for using Return Receipt Service.

DEPT. PLANNING & ZONING

1994 MAR 29 AM 9 12

Co. 1
4/13/94

SUBDIVISION REVIEW

PUBLIC WORKS DEPARTMENT
Engineering Division

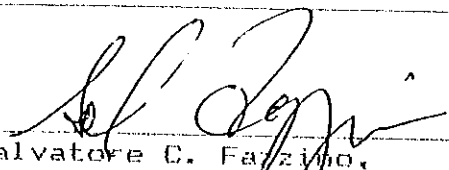
March 24, 1994

As per request from the Planning & Zoning Department, the following are comments and concerns that our department has in reference to the following application:

SE 94-2 Mazzotta - Alsace Terrace

The following comments are offered on the 3/10/94 revision of this subdivision:

1. The catch basin alignment at the intersection of Ballfall Road will have to be modified so that the catch basin does not fall on the radius.
2. minimum curb radius of 25' is required at the intersection of Ballfall Road.
3. Road profile at the intersection does not comply with Public Works standards.
4. Velocity of water in pipe should not exceed 10 fps.
5. Minimum cover over drainage pipe is 3 feet.
6. Width of pavement should be 30 feet.
7. Sidewalks are not shown. A waiver is needed to eliminate sidewalks.
8. Drainage outlet should have flared end section.
9. Drainage calculations need to be revised to incorporate additional catch basins.
10. Clarification of pond calculations are necessary.
11. Certification by engineer that peak flow from subdivision is not increased by development.


Salvatore C. Fazzino,


Thomas Vincenti

PLANNING AND ZONING COMMISSION REGULAR MEETING APRIL 13, 1994 7:00 P.M. PAGE 1 OF 4

Chm. W. Lee Osborne, Vice-Chm. Philip Halibozek, Sec'y Stephen P. Shapiro, Ann Loffredo, Sebastian J. Passanesi left at 7:15 P.M., Anthony J. Vasiliiou, Jennifer Alexander, Francis Patnaude, Gerard Winzer

COMMISSION MEMBERS PRESENT

John Robinson, Stephen Gadomski, Mayor Thomas J. Serra, Ex-Officio, Dir. P.W. Salvatore Fazzino, Ex-Officio

COMMISSION MEMBERS ABSENT

Alternate Comm. Francis Patnaude acted for absent Comm. John Robinson.

ACTING MEMBER

William Warner, Planning Director, Tom Nigosanti, Chief Engineer Public Works Dept.

STAFF

Reporters from the Middletown Press and Hartford Courant and approximately 10 members of the public.

OTHERS

On motion and second by Comms. Shapiro and Loffredo the Commission approved the minutes of the 3/23/94 meeting. Vote was 5 to 0 with Comm. Patnaude abstaining.

ITEM 2.1
A P P R O V E D
MINUTES 3/23/94

The Commission commended the new format of the Zoning Enforcement Officer's Report.

ITEM 3.1
ZEO MONTHLY
REPORT

The Commission acknowledged the ZEO sign report.

ITEM 3.2
ACKNOWLEDGED
ZEO SIGN REPORT

The Commission had a brief discussion in regard to a court decision regarding Russell Ridge II. They expressed their pleasure pursuant to the decision.

ITEM 3.3
COURT DECISION
RUSSELL RIDGE
II

On motion and second by Comms. Loffredo the Vasiliiou the Commission tabled a proposed 17 lot subdivision located on the east side of Long Hill Road to be known as Meadow View Subdivision. Applicant/agent Laurel Grove Limited Partnership PRD I. Vote was unanimous.

ITEM 4.1
TABLED 17 LOT
SUBDIVISION
MEADOW VIEW
SUBDIVISION

On motion and second by Comms. Loffredo and Vasiliou the Commission granted final approval of Phase III (Lots 5, 6, 16, 17 and 32) of the Southwind Subdivision located on the south side of Long Hill Road with the conditions that (a) the Developer enter into a contractual agreement with the City assuring that several unfinished items be completed; and (b) the Developer submit a cash deposit in the amount of \$25,000.00 for road and other miscellaneous work and a cash deposit in the amount of \$2,500.00 for trees and restoration. Applicant/agent Bysiewicz Corp./Atty. Dean Thomasson S92-6. Vote was 6 TO 0 with Comm. Francis Patnaude abstaining.

ITEM 4.2
GRANTED FINAL
A P P R O V A L
SOUTHWIND PHASE
III

On motion and second by Comm. Loffredo and Vasiliou the Commission scheduled a public hearing on April 27, 1994 to consider a proposed Zoning Code text amendment to allow under Section 44.08 and 60.02 as a special exception an adaptive reuse of a structure formerly used as a place of congregation for members of a religious faith in the RPZ zone. Applicant/agent Jehovah's Witnesses of Middletown/Gene T. DeProta Z94-4. Vote was unanimous.

ITEM 5.1
SCHEDULED P.H.
4/27/94 ZONING
CODE TEXT
AMENDMENT S.E.
ADAPTIVE REUSE
OFFICE

On motion and second by Comms. Loffredo and Shapiro the Commission scheduled a public hearing on April 27, 1994 for a proposed special exception to permit a used car dealership located on 465 Middlefield Street. Applicant/agent Reliable Fleet Maintenance/Paul Tuomi SE94-5. Vote was unanimous.

ITEM 5.2
SCHEDULED P.H.
4/27/94 S.E.
U S E D C A R
DEALERSHIP 465
MIDDLEFIELD ST

There is a tape recording of the public hearing available in the Planning and Zoning office.

ITEM 6
P. H. T A P E
RECORDING

Sec'y Stephen Shapiro read the legal advertisement into the record regarding a proposed 8 lot resubdivision located off Alsace Terrace with request to waive the sidewalks requirements and request for model home approval on lot 5. Comm. S. Passanesi disqualified himself at 7:15 and left the meeting. Alternate Comm. Gerard Winzer acted for Comm. Sebastian Passanesi. Atty. Dean Thomasson and David Mylchreest explained the proposal. David Mylchreest used plans to review departmental comments. Comm. Ann Loffredo questioned screening for lot 2 and 4 from lot 3. Comm. Patnaude questioned Water and Sewer comments, "Why was main installed without inspections?" David Mylchreest responded. Discussion ensued. Comm. Jennifer Alexander questioned cul-de-sac, sidewalks, and school buses. Discussion ensued. Comm. Stephen Shapiro discussed sidewalk waivers. Atty. Thomasson and David Mylchreest responded, "Developer will pay for constructing road to city specs." Comm. Anthony Vasiliou questioned the Water and Sewer comments, well's hook-up of existing homes, and Public Works' comments. David Mylchreest agreed with conditions. Joseph Mazzotta responded to Water comments. Discussion ensued regarding Water and Sewer conditions and hook-up of existing homes. Comm. Vasiliou asked the Water Department to appear. Atty. Dean Thomasson responded. Discussion ensued. Comm. J. Alexander asked for a summary of activities. Discussion ensued. David Mylchreest clarified. Discussion ensued. Comm. Halibozek moved continuation and asked that a representative from Water and Sewer be present. Comm. Winzer seconded the motion. Vote was unanimous.

ITEM 6.1
8 L O T
RESUBDIVISION
ALSACE TERRACE

There was no discussion with the public.

ITEM 7
DISCUSSION WITH
PUBLIC

PLANNING AND ZONING COMMISSION REGULAR MEETING APRIL 13, 1994 7:00
P.M. PAGE 4 OF 4

On motion and second by Loffredo and Winzer
the Commission adjourned the meeting at 8:35
P.M. Vote was unanimous.

ADJOURNMENT

Respectfully submitted,

William Warner
Planning Director

Approved at the meeting of _____.