

**Town of Middlebury
Development Review Board (DRB)
Meeting/Hearing conducted online via Zoom
Minutes of April 26, 2021**

Approved as presented 5/10/2021

Members Present: Gary Baker, acting V. Chair, Rick Emilo, David Hamilton, Jason Larocque, Anne Taylor and Mark Wilch

Members Absent: Kevin Newton and John MacIntyre (both recused due to conflict)

Staff Present: Jennifer Murray, Dave Wetmore

Others Present: Charlie Kireker, Holly Killary, Amey Ryan, Jeremy Palmer (representing HOA), Marian and Joey DeAngelo-mfdeangelo@gmail.com

MEETING AGENDA

1. Continued MRV hearing from 3/22/2021- Application (file #2021-07:003.100 amend PUD/SD) is a request by Middle Road Ventures (MRV) for amended site plan/subdivision approval to the previous decisions dated 2006, 2009, 2011 and 2014 and to consider modifications to the lot reconfiguration as approved by Act 250. The MRV subdivision amendment request is specifically related to the lots formerly identified as #401-#412, of parcel # 007003.100. The MRV property is located at 490 Middle Road North in the Medium Density Residential district.

I. Call to Order- Gary Baker, acting DRB Chair, called the meeting to order at 7:05 pm. Gary reviewed the night's agenda. Prior to the call to order, Staff determined who was in attendance at the hearing and contact information.

II. Approval of minutes-

Motion by David Hamilton- Dave moved to approve the minutes of April 12, 2021 as presented, 2nd by Anne Taylor. No further discussion, **Motion to approve minutes as presented, 5-yes and 0-no, Rick abstained**

III. MRV public hearing, application (file #2021-07:003.100-amend PUD/SD) – continued from 3/8/2021.

Gary Baker- reopened the MRV hearing by stating this is a continuation from 3/22/2021.

Gary- Re-administered the oath to Charlie, Holly, Amey, Jeremy and staff. Joey and Marian are prospective purchases of one the new lots and are interested in listening to the discussion.

Gary – asked if there were any conflicts of interest or ex-parte communications that needed to be disclosed- none expressed.

Gary- invited DRB comments- Anne outlined staff memo issues.

Gary –invited Jennifer Murray to review the staff memo for the DRB and Applicant.

Jennifer- Conservation easements.

1. Conservation easements appear to be in order and a new draft conservation easement conferring Star Point Park to Middlebury Area Land Trust (MALT) has been submitted and reviewed by Staff and Jim Carroll (Town Attorney). However, it is staff's opinion that Star Point Park was created as a public park and that parking should be available for 2-3 cars along the Parks frontage on Star Point Drive. The parking area does not need to be improved, but to truly have public access permission should be granted to park vehicles outside of the road right-of-way. Staff is recommending a covenant be included in the yet to be executed easement deed for this purpose.

Charlie- expressed that MRV does not control any land where parking could be developed. He noted that parking is available at the beginning of South Ridge development, near the Middle School athletic fields and there is parking available at the Lodge at Otter Creek, just up the road. He objects to this request and states it was not meant to be a public park.

Jennifer- reinforced that the Park was established as a public park and that the easement deed had not been transferred yet. MRV does have the ability to identify an area to park a few cars. There is a flat area adjacent to the Road that can allow 2-3 cars to park. Jennifer clarified that we are not asking for MRV to develop a parking area, rather just identify an area outside of the right-of-way and create language in the deed to allow parking. Perhaps in the future the HOA would think about developing a permanent parking area and information kiosk. If Creek Road closes this area will serve as a trail access to Creek Road and Otter Creek.

Holly-confirmed that the easement deed had not been transferred yet.

Charlie- if the easement deed has not transferred, Charlie has no objection to adding language to the deed to allow parking.

Jeremy- Stated that there is parking at the beginning of South Ridge. There are trails in Star Point and he understands that parking should be available near the Park as well.

Dave H.- states that he agrees with staff that parking at the Park is important and supports the inserting a covenant for that purpose. This parking would allow universal accessibility to a public recreation area, and that is important.

2. Two public trails- one connecting Star Park to Creek Road, mentioned above and the second headed east across lots 41 and 42 toward the TAM Trail. Per the staff memo, MRV confirmed that Jamie Brookside and husband has cleared and marked a new MALT trail departing from the TAM and MUMS play fields.

Jennifer-displayed the DuBois and King plans. Jeremy stated that he uses the MALT trail often and explained to the DRB where this trail is located. The trail is contained within lots 41 and 42. He said it is approx. a 20 minute running loop for him. Correspondence with MRV, Eben Punderson and staff confirms that MRV agrees to show the trails location of the final D&K plat.

Charlie- confirmed that this will be done. Charlie and Holly noted that the D&K plat will come with an engineer stamp/certification and not a surveyors stamp.

Jennifer- expressed that D&K maps sent to us last week were several sheets and included a lot of detail. It is a lot to record and the intent was that the D&K final plat would be a

survey showing less detail- the final parcel boundaries, roads, driveway accesses, building envelopes, easements and conserved areas. Separately, D&K should submit a full set of Final Plans showing all infrastructure, wetlands, etc. in addition to the information shown on the final survey plat.

Emergency Access Road maintenance-

Jennifer-asserts that the emergency road (ER) should be listed as a common element and that year around maintenance is required by HOA. The HOA Declaration clearly identifies that the management of common elements are the responsibility of the HOA. Any town enforcement related to the common elements would be directed to the HOA except for issues related to individual lots.

Charlie- agrees that the ER should be listed as a common element and to a condition regarding maintenance.

Accessory apartments-

Jennifer- in the absence of specific language in the HOA Declarations regarding accessory apartments, staff suggests a finding acknowledging MRV's assertion that accessory apartments are not prohibited. Further, Jennifer expressed that under State law accessory apartments cannot be regulated more prohibitively in the Declaration than they are under zoning.

Charlie- expressed that if accessory apartment are expressly allowed in State law that MRV could add clarifying language to the HOA Declaration. Charlie noted that at least one has been approved in South Ridge.

Jennifer- noted that DRB will need to review the final HOA Declarations document.

Review of final plat for 5-lot SD of lot 40-

Charlie- noted that Tim Short has amended the plat and included the triangle with lot #56. This was an error on Tim's part. Amended lot 56 is now approx. 1 acre. Charlie expressed that the triangle was always meant to be part of lot 56.

Charlie- noted that the sidewalk in front of lots 52-56 and driveway accesses have been installed.

Jen- expressed that was all the remaining issues she had. She requested the DRB entertain a deliberative session to review conditions.

Gary-asked for further DRB comments/questions. None expressed.

Charlie- asked about process and when he would know the Board's decision. Dave shared that if the Board makes a decision tonight, people could call the Office on Tuesday to hear the result. Charlie thanked the Board and shared that over the last 30 years he is proud of the South Ridge development and the wonderful combination of neighborhoods, retirement community and conserved lands that it is.

Jennifer-asked if the D&K final plat could be stripped down to just include the elements discussed earlier? Charlie and Holly will check with John Ashley.

No further comments were made- 7:52 PM

Motion by Anne Taylor- I move to enter deliberative session for the purpose of discussing the PUD Amendment for the South Ridge Subdivision (application # 2021-007003.100 amend

PUD/SD) requested by Middle Road Ventures. 2nd by Rick Emilo. Motion approved 6-yes and 0-no.

Motion by Mark Wilch- I move that the Middlebury Development Review Board, having reviewed the application submitted and having heard and duly considered the testimony and documents presented at the public hearing held March 8, and continued on March 22nd and April 26th, **APPROVE** (with the conditions discussed in deliberative session) application #2021-07:003.100 amend PUD/SD for the subdivision of lot #40 into 5 lots as requested by Middle Road Ventures. 2nd by Jason Larocque. Motion approved 6-yes and 0-no.

IV. DRB- Other Business

Dave W. – noted that the DRB has a hearing scheduled on May 10, 2021

Jen- will draft amended Rules of Procedure for next meeting.

Election of Officers next meeting

V. Adjournment

Motion by Rick Emilo- moved the DRB adjourn at 8:35 PM, 2nd by Jason Larocque.

Motion passed, 6-yes, 0-no. Meeting adjourned at 8:35 PM.

Minutes Submitted by Dave Wetmore