

**Town of Middlebury- Development Review Board (DRB)  
Meeting/Hearing conducted in person and via Zoom  
Minutes of October 24, 2022**

**Draft**

Members Present: David Hamilton, Chair, Gary Baker, Vegar Boe, John MacIntyre, Kevin Newton, Michael Reeves and Mark Wilch

Members Absent: Jason Larocque, alternate (recused)

Staff Present: Jennifer Murray

Others Present: Jason Larocque, Otter Creek Engineering, John M (Jack) and Margot Brown (Applicants), Alicia and Dean Butler, Sharon and Bruce Meacham, Meaghan and Mike Leonard, Robert Nixon

**MEETING AGENDA**

- I. Call to Order-** David Hamilton, DRB Chair, called the meeting to order at 7:00 pm. David.- reviewed the agenda and rules of procedure. The hearing scheduled for tonight to review a request for student housing by Richard Tinsley at 53 North Pleasant Street is canceled, as that application has been withdrawn by the Applicant.
- II. Approval of minutes-**  
**Motion by Gary Baker-** Gary moved to approve the minutes of 9/12/2022 as corrected, 2<sup>nd</sup> by John MacIntyre. Discussion- none noted, **Motion to approve minutes, 7 yes, 0 no**
- III. Public comments-** None expressed
- IV. Public Hearing-** David Hamilton opened the hearing at 7:05 PM and read the hearing notice. David asked if there are members with conflicts to report, and Jason recused himself. He will be representing the Applicant as their engineer.
  - 1. **Application (file #2022-12:012.000 amend PUD/SD) is a request by Jack Brown (applicant) dba Daisy Lane Properties, LLC, for a planned unit development amendment and subdivision approval for an expansion to the Daisy Lane subdivision. Applicant seeks PUD and subdivision approval to add five (5) additional lots on the remaining 14+/- acres of the property owned by Daisy Lane Properties, LLC, identified as parcel #012012.000. The property is in the R-2 zoning district located on the west side of Lower Plains Road. This application is classified as a “major” subdivision requiring both preliminary and final subdivision review.**

David H.- Administers the oath

Jason- Discloses abutter Tim Larocque is a family member, he is a member of the DRB as well as the East Middlebury Fire District #1 Prudential Committee.

Jason- Explains the history of project and prior approvals. This project is in its final phase, Phase 3 or 4 depending on your perspective. The project involves a lot line adjustment and creation of 5 new lots. Lots meet minimum setbacks, frontages and dimensional requirements except Lot 5C for which they are seeking a waiver on the frontage requirement. After tonight, they will proceed with State permitting related to wetlands and stormwater. The wetland shown on the plan was a Class 3 wetland that now has been reclassified as Class 2. The project will extend the road beyond its present terminus at the cul de

sac, another 250ft and add new 8-inch water main for another 225ft. The water service has been approved by the East Middlebury Fire District #1. Lot 5C won't be connected to the water system. The well for 5C has been moved outside the conservation area. Jason pointed out an easement that would allow the Daisy Lane to be extended all the way to Lower Plains Road in the future. However, the Applicant has spoken with residents within the existing subdivision and there is no desire to extend the road at this time. Jason said that the easement and Daisy Lane would remain with the HOA and were they to desire to turn the road over to the Town for maintenance in the future, it would need to be upgraded to the town road specifications, which would include paving. The existing cul de sac is smaller than what is depicted on the plan for the new cul de sac, 72 feet in diameter. The driveway for Lot 5C is a little under 8% at its steepest.

David H – Asks Jason to explain boundary line adjustment again. Jason- 0.16 acre adjustment to a small lot of Lower Plains. The BLA memorializes the easement agreement between Jack Brown and the Larocques. There were a few lot line adjustments in earlier phases.. figured it was just easier to transfer the land.

Vegar- Asks about the frontage for Lot 5C, 57ft in project narrative. Can some additional frontage be taken from the adjacent lot to the north (4C)? Jason- doesn't believe it's possible because Lot 4C is already so small, but he will take a look again.

Gary- asked for confirmation that the road will conform to the A76 standard. Jason- yes. Gary has been involved with Jack Brown on projects for several years as a member of both the DRB and Selectboard. He expressed his confidence in Jack as a developer, and that the work will be done correctly.

Mark- asked about Daisy Lane not connecting to Lower Plains Road. Jason sited neighbors' safety and traffic concerns as two of the reasons for why it is not shown connecting at this time.

Kevin- what would be the trigger that would cause it to be connected? Jason- was thinking in the future perhaps if the HOA wanted to pave and turn the road over to the connection might be a stipulation the Selectboard would have for taking it over. For that reason, they've left an easement allowing that to happen. In addition to neighbor concerns, two practical reasons for not building the road now would be the costs to the HOA for (1) additional snow maintenance and (2) constructing the additional section of road to the A76 standard.

Mike- Notes that on the plan the house on 5C appears very close to the wetland/wetland buffer conservation area. Jason says it has actually moved away from the buffer a bit. They are planning to have conservation language (deed restriction) in the deed for Lot 5C, and the owner for Lot 5C would own the conservation area.

Dave H.- confirms that 25% open space was the original goal for this subdivision PUD. Jason- yes, it was 25.8% of the original acreage.

Jen- confirmed the wetland depicted as Class 3 on the map is actually Class 2 now. Jason- yes, and they are working with the State on whether a crossing can be created for the driveway on Lot 5C.

David H- opens the floor to questions from the public.

Alicia Butler- Shared preference for not connecting Daisy Lane to Lower Plains Rd at this time. Her concern is for the 15 small children that play on Daisy Lane. They bought in a cul de sac for that reason. Who would own the 2.46 acres shown as Lot 6C? Jason- Lot 6C (right of way to Lower Plains Road),

existing/constructed road, and parking area would be owned by the HOA. Gary- the HOA could vote to ask the Town to take it over.

Mike Leonard- Bought in a cul de sac purposely. Several children on the road, doesn't want the disruptions of construction and equipment or development of new lots.

Sharon Meacham- Shares the concerns of her neighbors about the road extending all the way to Lower Plains. She doesn't anticipate the HOA would want to pave it and turn it over to the Town. Has concerns about timing of the last phase, as she thinks it would be weird if the remaining lots were prepared but not built upon. She asked about the additional tax burden to the HOA if they acquire Lot 6C. Jen- the DRB can't speak to that, but she can ask the Assessor on Wednesday.

David H- explained the procedure following this hearing, and how deliberative session would work.

Jen- requested that they leave the hearing open in case additional evidence is needed to render a preliminary decision.

On a motion by Kevin, seconded by Mark, the DRB voted to enter deliberative session. Motion passed 6-1, John opposed.

On a motion by Kevin, seconded by Vegar, the DRB voted to leave deliberative session and re-enter the hearing. Motion passed 7-0.

Jason returned to the hearing.

On a motion by Mike, seconded by Gary, the DRB voted to close the hearing. Motion passed 7-0.

I Gary Baker **move** that the Middlebury Development Review Board, having reviewed the application submitted and having heard and duly considered the testimony presented at the public hearing of October 24, 2022, **approve** the preliminary plat for the amendment to the PUD for the Daisy Lane Subdivision (application # 2022-12012.000 amend PUD/SD) requested by Daisy Lane Properties, LLC and Jack Brown, as discussed in deliberative session and subject to those outlined requirements necessary for submission of the Final Plat application for DRB review. Second by Mark Wilch. Motion passed 7-0.

## **V. Other business**

Vegar clarified how many students are allowed to reside at the Tinsley North Pleasant Street location now that the application for student housing has been withdrawn. Mike- 3 per unit. Jen confirmed.

There was no other business.

## **VI. Adjournment**

On a motion by Mike, second by Vegar, the DRB voted to adjourn the meeting. Motion passed 7-0.

Meeting adjourned at 9:15 PM.

Minutes submitted by Jennifer Murray