

BOROUGH OF MILLSTONE
BOROUGH COUNCIL REGULAR MEETING AGENDA
October 15, 2007

TIME:

CALL TO ORDER – OPENING STATEMENT: The regular meeting of the Borough Council, Borough of Millstone will please come to order. Adequate notice of this meeting has been noticed to the Hillsborough Beacon and Courier News. If any member of this body believes this meeting is being held in violation of the Open Public Meetings Act, please state your views at this time, stating the reason for which you feel the notice is improper. Hearing none, we proceed to the next item on the agenda.

PLEDGE TO THE FLAG:

ROLL CALL: Councilman Joe Dempster
Councilwoman Carol Halm
Councilman Norman Hewitt
Councilwoman Donna Lucash
Councilman Robert McCarthy
Councilman William Poch
Mayor Raymond Heck

MINUTES:

- Due to the master plan hearing minutes will be scheduled for the November meeting.

REPORTS:

- Assessor
- Clerk
- Emergency Management
- Finance
- Historic Commission
- Millstone Valley Fire Department
- Recreation Commission
- State Police
- Tax Collection – August 2007

PRESENTATION OF BILLS FOR PAYMENT:

COUNCIL REPORTS:

- Buildings and Grounds
- Planning Board
- Traffic and Roads

MAYOR'S REPORT

MEETING OPEN TO THE PUBLIC:

- Motion to Open the Meeting to the Public
- Motion to Close the Meeting to the Public

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OLD BUSINESS:

- Second Reading of Ordinance 2007-007: An Ordinance replacing the light industrial district with a mixed use mandatory cluster zoning district and amending the development ordinance of the Borough of Millstone,, Somerset County, New Jersey (ordinance attached to end of agenda).

NEW BUSINESS:

- Discussion - Stream diversion, Somerset County Plan
- Resolution regarding an agreement with Rzem Family Associates LP regarding a settlement of the COAH litigation.

WHEREAS, the Borough of Millstone has been named as the defendant in certain litigation commenced in the Superior Court of New Jersey, Law Division, Somerset County, Docket No. SOM-L-1970-02, entitled Van Cleef Family Limited Partnership and Riverside, LLC, as plaintiffs vs. The Borough of Millstone and the Planning Board of the Borough of Millstone, as defendants, (“the Litigation”), and

WHEREAS, the Rezem Family Associates, L.P. has joined in the Litigation, and

WHEREAS, the Litigation has been transferred to the Council on Affordable Housing under which mediation has taken place among the parties to the Litigation, and

WHEREAS, the Borough of Millstone wishes to amicably resolve the Litigation, conclude the mediation before the Council on Affordable Housing and proceed with a petition for substantive certification before the Council on Affordable Housing.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Millstone, County of Somerset, State of New Jersey (“Borough”) that the Borough hereby agrees to and authorizes the entry into an agreement with Rezem Family Associates, L.P. in the form submitted to the Council on Affordable Housing for the purposes set forth in the recitals set forth above, and

FURTHER RESOLVED that the Mayor of the Borough of Millstone and is hereby authorized to executed the above referred to agreement on behalf of the Borough, and

FURTHER RESOLVED that in the absence or unavailability of the Mayor, the President of the Borough Council is hereby authorized to execute in place and instead of the Mayor and,

- Presentation by the Planning Board of the Millstone Borough Housing Plan and Fair Share Element.
- Resolution endorsing the new Housing Element and Fair Share plan

WHEREAS, the Planning Board of the Borough of Millstone, County of Somerset, State of New Jersey, adopted a new Housing Element of the Master Plan on October 15, 2007; and

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WHEREAS, the Planning Board adopted the Fair Share Plan as a consolidated document with the new Housing Element on said date; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the new Housing Element and Fair Share Plan is attached pursuant to N.J.A.C. 5:95-2.2(a)2.

NOW, THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Millstone, County of Somerset, State of New Jersey, hereby endorses the new Housing Element and Fair Share Plan as adopted by the Millstone Borough Planning Board; and

BE IT FURTHER RESOLVED that the Governing Body of the Borough of Millstone, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:95-3.2, submits this amended petition for substantive certification of the new Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the new Housing Element and Fair Share Plan has been included with the petition; and

BE IT FURTHER RESOLVED that notice of this petition for substantive certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:95-3.5 within seven days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this resolution, the adopted new Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the inspection at Borough Hall, 1353 Main Street, Millstone, NJ 08844 during normal business hours (the first and third Tuesdays of the month from 3:00 p.m. to 4:30 p.m.) and otherwise by appointment by calling Dan Devoti at 908/874-0896, for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:95-3.5.

EXECUTIVE SESSION (if necessary):

WHEREAS, the law commonly known as the "Sunshine Law" requires that Borough Council meetings be open to the public except for the discussion of certain subjects; and

WHEREAS, the "Sunshine Law" requires that a closed session be authorized by Resolution;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Millstone that the balance of this meeting shall be closed to the public; and

BE IT FURTHER RESOLVED, that the meeting shall be adjourned at the end of the closed session; and

BE IT FURTHER RESOLVED, that the subjects to be discussed and the time of public release of the minutes of the closed session are indicated below:

<u>SUBJECT MATTER</u>	<u>TIME WHEN AND THE CIRCUMSTANCES UNDER WHICH THE SUBJECT MATTER CAN BE DISCLOSED</u>

ADJOURNMENT:

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Ordinance 2007-007

**AN ORDINANCE REPLACING THE LIGHT INDUSTRIAL DISTRICT WITH A
MIXED USE MANDATORY CLUSTER ZONING DISTRICT AND AMENDING THE
DEVELOPMENT ORDINANCE OF THE BOROUGH OF MILLSTONE, SOMERSET
COUNTY, NEW JERSEY**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Millstone, Somerset County:

1. Section D-112 of the Development Ordinance of the Borough of Millstone, Light Industrial District LI-10, is hereby deleted and the following NEW Section, Mixed Use Mandatory Cluster, is substituted therefore:

D-112 MIXED USE MANDATORY CLUSTER

In the Mixed Use Mandatory Cluster District, the following regulations shall apply:

A. PRINCIPAL PERMITTED USE REGULATIONS FOR THE ENTIRETY OF THE DISTRICT.

A building may be erected or used, and a lot may be used or occupied, for any of the following purposes and no other, except as hereinafter set forth subject to all pertinent area and special requirements of this district.

- (1) A mandatory cluster coincident with the boundaries of the district and consisting of a Residential Component, a Mixed Use Component, and an Open Space Component, each of which shall be configured and located and the access for which provided as shown on the zoning map for the Mixed Use Mandatory Cluster District.

B. PURPOSE, USE, BULK, AND DESIGN STANDARDS FOR THE RESIDENTIAL COMPONENT.

- (1) Purpose. The purpose and intent of this District is:
 - (a) To provide for a traditional neighborhood with a diversity of dwelling unit types, lot sizes and green spaces in a compact arrangement that promotes a pedestrian friendly environment.
 - (b) To encourage new development that emulates the character found in the older and historic sections of the Borough of Millstone and thereby be in character with the historic open space included in the Open Space Component.
 - (c) To adopt buffer and landscape screening standards that will minimize the visual impact of the new development upon the historic open space included in the Open Space Component.

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(d) To promote a streetscape quality to neighborhoods that furthers the identity of the Borough of Millstone as a charming habitat in the historic Somerset County area.

(e) To provide for affordable housing.

(2) Key design elements.

(a) Unlike conventional suburban development patterns (with separated land uses, deep setbacks, no on-street parking, cul-de-sacs and no sidewalks), traditional neighborhoods promote a compact, integrated and sustainable development pattern and shall have the following design elements:

[1] Park and open space land - creates the green, square or park-like areas to help anchor the neighborhood and includes a green edge of open space to help shape the neighborhood.

[2] Network system of interconnecting streets - organizes a block pattern of lots; links to pedestrian systems; streets and streetscapes create outdoor rooms.

[3] On-street/parallel parking - provides a separator between vehicular and pedestrian traffic; utilizes cartway as an aisle that promotes effective traffic calming by slowing down the speed of vehicles, especially along narrower streets.

[4] Shallow setbacks - helps to create an outdoor room sense of space, with two to two and one half story buildings, typically from 70 to 85 feet across from one another on both sides of the street; promotes a human scale relationship for the pedestrian as part of the public realm; buildings placed at a build-to line create a street wall.

[5] Front porch/portico/colonnade - serves as transition element from the private realm of the building to public realm of the sidewalk and street; provides shade; promotes a finer, more ornamental texture of the building; creates a cozy space to sit, read, relax; provides outdoor room to greet and socialize with neighbors.

[6] Sidewalks/crosswalks/pedestrian paths/walkways - serves to link uses, buildings and lots together; accommodates a healthy pedestrian circulation network; provides close to home opportunities for exercise; enhances way finding and an appreciation of the neighborhood/place.

[7] Shade trees - provide (as street trees) the canopy/overhead plane to help create an outdoor room; and, as shade trees, provide an old shade character.

[8] Other infrastructure- includes fence, hedges, wall, and street lamps

[9] Building materials - Roofing may be fiberglass composite dimensional shingles that emulate slates or wood, artificial slate or shakes, wood shakes, or metal. Siding may

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be a combination of brick, architectural stone, stucco, and concrete or wood siding. EIFS (exterior insulation finishing systems, such as Dryvit) and aluminum and vinyl siding and shutters are prohibited. Windows shall be double hung with architectural grill patterns and shall include shutters with hardware, where appropriate.

[10] There shall be a variety of building heights within the development.

(3) Use and building type regulations.

(a) Buildings in a traditional neighborhood shall have a size, height, scale and proportion that are compatible with traditional Millstone residential buildings.

(b) Regardless of whether fee-simple lots or some form of common ownership is to be used, when the Residential Component is first created, the proposed lots shall be laid out and designated as either residential or green space. Residential lots shall be further categorized as permitted below. All lots shall be laid out so that the dimensional, coverage and all other requirements specified in this Section shall be satisfied. However, the actual lot lines do not need to be legally established. Any future development on an individual lot, regardless of whether or not it has been legally established, shall conform to this initial use designation for that particular lot.

(c) The following uses shall be permitted by right.

[1] A range of dwelling unit types as set forth and described in Subsection B(4)(a) hereof. All such dwelling units shall be age restricted to permanent residents 55 years of age or older, with the following exceptions:

[a] A member of a couple under the age of 55 years who is residing with his/her partner who is 55 years of age or older.

[b] Emancipated children (as defined under New Jersey law) residing with their parents or parent where one or both of the parents with whom the child or children are residing is 55 years of age or older.

[c] One adult younger than 55 years of age will be admitted as a permanent resident if it is established that the presence of such a person is essential to the care of one or more of the adult occupants 55 years of age or older.

[2] Home occupations

[3] Recreational amenities for the residential development

[4] Affordable housing meeting all requirements of the New Jersey Council on Affordable Housing

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- (d) The following uses shall be permitted as accessory uses:
- [1] Detached garages
 - [2] Fences or walls, provided that the good side faces out and that no fence exceeds 36 inches in height within the front yard or 72 inches in height within of the rear and side yards. All other provision of D-115.c shall apply.
- (e) Dwellings shown on the approved plan shall not be converted to nonresidential use.
- (4) Residential unit composition and density
- (a) Dwelling unit composition.
- [1] There may be a diversity of dwelling unit types and lot sizes, with variations in lot widths to promote additional diversity of dwelling unit sizes.
 - [2] A mix of dwelling unit types is encouraged. The following minimum or maximum percentages, whereby the mix of unit types may be provided within each block to the maximum extent possible, applies. (Note: Another method of creating a sense of mix within this district is the ability to permit the flexible lot sizes and widths as provided for in Subsection B(6)_____.
 - [a] Single-family detached: 30% minimum to 100% maximum.
 - [b] Single-family semidetached: 0% minimum to 60% maximum.
 - [c] Townhouse: 0% minimum to 60% maximum.
- (b) Density
- [1] The density for residential dwelling units shall be based upon the optimum mix of permitted dwelling types, provided the minimum lot area is provided for each dwelling unit.
- (5) Detailed design standards.
- (a) Green space requirements.
- [1] Within the traditional neighborhood, a variety of green spaces shall be designed to complement the residential development.
 - [2] Green space shall be in the form of a park, common green surrounded by roads, buffer or approved landscaped area.

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[3] Green space shall be maintained by the homeowners' or condominium association.

[4] Underground stormwater detention facilities.

(b) Buffer screening

[1] The developer shall be responsible for establishing a complete vegetated screen along the easterly perimeter of the Residential Component, in the Residential Component itself or along the westerly border of the Open Space Component located between the proposed development and Somerset Court House Road. The screen must be designed to provide a year round ninety (90) percent screen within three years. Fences may be required, at the discretion of the Planning Board to be located along side and rear yards facing Somerset Court House Road. The minimum width of the buffer shall be one hundred feet as measured from Somerset Court House Road and as shown on the open space plan.

(c) Streets and access ways.

[1] Streets and access ways within the development shall form an interconnected vehicular circulation network to the maximum extent practicable.

[2] All vehicular access to the Residential Component shall be as shown on the Mixed Use Mandatory Cluster zoning map.

[3] All streets shall be special purpose streets with a right-of-way of 40 feet in width.

[4] Streets shall conform to Residential Site Improvement Standards, New Jersey Administrative Code Title 5, Chapter 21, Table 4.3 for Neighborhood with on-street parking on two sides with one travel lane. Streets shall be 28 feet in width (with one fourteen foot travel lane and two seven foot wide parking aisles).

[5] Streets that provide access to two or fewer lots and are no longer than 200 feet in length may not be required to have a cul-de-sac turn-around.

[6] All streets shall have Belgian block curbing.

[7] Alleys shall be a minimum of 12 feet wide, paved and have a concrete edge or curb unless the Planning Board determines that, for safety reasons, they need to be wider.

(d) Curb cuts, driveways and garages.

[1] Garages, driveways and parking lots shall not be the dominant aspect of the building design and the streetscape as viewed from the street.

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[2] To the maximum extent practicable, garages shall be accessed at the rear of the lot. Curb cuts may be permitted for each lot, provided that any garage door facing the street is recessed at least 25 feet back from the front façade of the principal structure and that no more than 50% of the total number of dwelling units have such front facing garages. The remaining garages shall be located at the rear of the principal structure with garage doors facing the side or rear property line.

[3] For garages that take access from the rear of the lot, the garage shall be set back at least five feet from the side and rear property line.

[4] When the garage is located behind the rear facade of the house, such garage may be detached from or attached to the dwelling, and the garage doors may face any direction.

[5] Garages having access from the alleys must be set back a minimum of thirty-six (36) feet from the far edge of the alley.

[6] On corner lots, the front yard setback for a garage shall be twenty feet from the lot line when the garage faces a street other than the front-façade facing street.

(e) Sidewalks and Pathways.

[1] Sidewalks of four feet in width shall be constructed and maintained along both sides of all streets.

[2] Sidewalks linking the development to the Mixed Use Component shall be provided.

(f) Street trees, lighting, and other landscaping.

[1] Street trees shall be planted at the equivalent of one tree per 35 ft.. Landscaping and plantings shall comply with the Borough's landscaping design standards. All street trees shall be planted within a "shade tree easement" located behind and adjacent to the 40 foot right-of-way.

[2] Each unit shall have a post light adjacent to the sidewalk.

[3] Ornamental street post lights shall be placed at all intersections.

[4] Landscaping in the form of foundation plantings shall be provided.

(g) Buildings and neighborhood design.

[1] The design of the individual residences shall meet the standards for traditional neighborhood design, as set forth in Subsections B(2)(a)[5], [9], and [10]. No principal

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building shall have a flat roof. Significant roof pitches and variations in roof lines are required.

[2] A minimum of 40% of the principal residential buildings shall have a front door accessing onto an unenclosed front porch with a minimum floor area of 60 square feet. Such porch shall be covered by a permanent roof and shall not be enclosed in the future.

(6) Dimensional requirements.

(a) Streetscape.

[1] The most critical dimension in the traditional neighborhood is the width of the streetscape from building walls on one side of the street to the opposite side of the street.

[a] Where blocks are created with buildings close to the street and sidewalk **[Take out? This is too vague and undercuts the reminder.]**, the streetscape width shall be in the range from 70 feet to 85 feet for residential building streetscapes.

[b] Where buildings parallel or encircle a green space, the streetscape width, as a function of the width of an approved green space, may be wider than is otherwise permitted.

(b) Front setback for principal buildings and garages

[1] Front yard from an interior street right-of-way: 10 feet minimum; 25 feet maximum.

[2] Front porch may encroach upon setback up to 50% of porch depth.

[3] Garages shall be twenty five feet back from the building façade or twenty feet back from the property line per Subsection D-112(B)(5)(d)[6].

(c) Side yards for principal buildings and garages.

[1] Single-family detached: Five feet minimum

[2] Single-family semi detached: Five feet minimum one side

[3] Townhouse: five feet minimum at end of building

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- [4] Detached garages: zero feet. Attached garages: five feet.

- (d) Rear yards for principal buildings and garages.
 - [1] Twenty -five feet minimum yard setback for the principal building.
 - [2] Five feet minimum building setback for a garage or per Section D-112B(5)(d)[5].

- (e) Minimum lot size: single-family detached dwellings.
 - [1] Minimum lot area: 5,000 square feet
 - [2] Minimum lot width: 45 feet
 - [3] In the case where individual lots are not created, such as condominium development, an equivalent lot area and lot width shall be created.

- (f) Minimum lot size: single-family semi detached dwellings.
 - [1] Minimum lot area: 5,000 square feet
 - [2] Minimum lot width: 45 feet
 - [3] In the case where individual lots are not created, such as condominium development, an equivalent lot area and lot width shall be created.

- (g) Minimum lot size townhouse dwellings.
 - [1] Minimum lot area: 3,100 square feet
 - [2] Minimum lot width: 28 feet
 - [3] In the case where individual lots are not created, such as condominium development, an equivalent lot area and lot width shall be created.

- (h) Impervious surface coverage.
 - [1] Maximum impervious surface coverage for each individual lot: 70%.

- (i) Maximum building height.
 - [1] Thirty-five feet or 2 1/2 stories, or which ever is less

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- (7) Other requirements.
 - (a) All buildings within the development shall be served by public water and a regional public sewage disposal system.
 - (b) All utilities shall be placed within the right-of-way to the extent practicable. Where it is necessary to place utilities outside of a right-of-way, they shall be placed within an easement where they will not interfere with the placement of street trees or landscaping on the individual lots.
 - (c) If the development is to be carried out in phases, each phase shall be so planned that the intent of this chapter shall be fully complied with at the completion of any phase. Any phased development shall be fully described and defined on the subdivision and site plan.
 - (d) All streets, whether public or private, shall have a right-of-way.

C. PURPOSE, USE, BULK, AND DESIGN STANDARDS FOR THE MIXED USE COMPONENT.

- (1) All development in the Mixed Use Components shall comply with the regulations for the Traditional Village Commercial District.
- (2) Apartments both market units and affordable units meeting the requirements of the New Jersey Council on Affordable Housing, shall be permitted above the retail uses as principal permitted uses.

D. USE AND OTHER REGULATIONS FOR THE OPEN SPACE COMPONENT.

- (1) A building may be erected or used, and a lot may be used or occupied, in the Open Space Component for any of the following purposes and no other, except as hereinafter set forth subject to all pertinent area and special requirements of this district.
 - (a) Educational uses intended to foster greater understanding of the historical aspects of the Mixed Use Mandatory Cluster District.
 - (b) Uses customarily incidental to and landscaping for such educational uses as would be found in a heritage park.
 - (c) Buffer screening meeting the standards set forth in Subsection B(5)(b)[1].
 - (d) Storm water management facilities (i.e., basins, swales, etc.) and underground utilities located within the area in which the existing County detention basin is located south of C.R. 514, provided that above-ground facilities are designed and planted in a manner to blend into the

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natural character of the landscape and do not appear as engineered structures. Any detention facility located north of C.R. 514 and west of Somerset Courthouse Road shall be located underground so that it is not visible. No stormwater management facilities shall be located north of C.R. 514 and east of Somerset Courthouse Road.

(e) Underground utilities, provided that the land disturbed therefor is restored to its natural state.

(f) Temporary construction activities and the short term disposition of soil, provided that land disturbed therefor is restored to its natural state.

(g) Prohibited uses. Passive and active recreational uses, it being the intent of this District that the Open Space Component be preserved in its natural state with such landscaping enhancements as are permitted by the Planning Board and with the only development being that which enhances the quality of the Open Space Component as a preserved area with Revolutionary War significance as more fully set forth in the Millstone Borough Master Plan.

(2) The developer shall be responsible for maintaining the established trees and shrubs currently located between the Residential Component and C.R. 514. The Planning Board may request additional landscaping to enhance the existing natural vegetation to preserve a complete vegetated screen between the new development and C.R.514.

(3) The developer shall undertake an archeological dig using a protocol acceptable to the Borough Planner prior to the disturbance of any land other than plantings and borders and shall thereafter restore the disturbed areas to their natural state.

E. AFFORDABLE HOUSING.

(1) The applicant shall provide in the Mixed Use or Residential Components family rental affordable units meeting all the standards of the New Jersey Council on Affordable Housing and satisfying the growth share attributable to the Mixed Use Mandatory Cluster.

2. This Ordinance shall take effect upon its filing with the Somerset County Planning Board and its passage and publication, as provided for by law.

Mayor

Gregory Bonin, Clerk