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PLANNING BOARD

PLANNING BOARD MEETING MINUTES

June 28, 2016

Chairman James T. Whitin called the meeting to order 6:17 p.m. with Clerk Marc De Rego, Member David Cole, Member Andrew Sousa and Town Planner James Hartnett in attendance. Vice-Chairman William Raus arrived at 6:23 p.m.

Public Hearing

Bentley Estates (15-009C). Review proposed cul-de-sac center island design.

Dan Aguiar from SITEC Engineering was present for the meeting. Hartnett read the decision requirement for the vegetative, permeable cul de sac into the record. Aguiar noted that after much research and discussion, a paver solution, "BodPave", had been chosen for the cul de sac. Aguiar explained in detail how the system works. Discussion ensued. Aguiar noted that the system would be "drivable on an emergency basis". A response letter from Tibbetts dated June 28, 2016, was read into the record. Sousa stated that he did not approve of the presented design for multiple reasons including that the center would not be plow-able.

De Rego motioned to approve the design of the center island in accordance with Conditions as stated in the Bentley Estates Decision dated May 31, 2016. Cole seconded the motion and the vote was four in favor with Sousa opposed.

Public Hearing

NOQUOCHOKE VILLAGE (15-026SPA-NOD-IHSP) (*Continued from February 9, 2016, March 8, 2016, April 19, 2016, May 17, 2016 and June 1, 2016*). Request by applicant for approval pursuant to Westport Zoning By-Laws, Article 13, Inclusionary Housing Special Permit, Article 15, Site Plan Approval and Article 19, Noquchoke Overlay District Special Permit to construct a community center, 50 townhouse units within seven structures and associated parking areas and landscaping for property owned by the Town of Westport and located at 1163-1175 American Legion Highway, Assessor's Map 33, Lots 17, 45, 47, 47A & 47E, Westport, MA.

Whitin stated to the public that there have been 3 open public hearings on this development, February 9, March 8, and April 19 of this year. On other dates, the applicant requested continuations to a subsequent date. These have been lengthy hearings with presentations from the applicant and their engineers, input from town departments, abutters and this Board. In response to these hearings, the applicant has made a number of changes to address comments and concerns. On April 19th, the Planning Board continued the hearing in order for the applicant to meet with the police chief to discuss access to the property. Based on that meeting, changes to the driveway entrance have been made and will be presented to this Board tonight.

John Frasier from The Community Builders, Phil Cordeiro from Allen & Majors, and Liz Collins, Chair of the Affordable Housing Trust were present for the meeting. Frasier stated that he had met with the Police Chief Pelletier regarding the gated entry way to the Village. Frasier noted that out of several choices, a design was chosen and incorporated into the Noquchoke Village Plan with the note indicating the "future location if required". Cordeiro reviewed the chosen design for the Board Members including the center island design. He noted that the gateway is wide enough to accommodate emergency vehicles whether they turn in from the left or right side. Frasier read the recommendation from the Police Chief which would allow a review period of time where there will be no gated entrance, and one would be added if deemed necessary.

Cordeiro read the comments from the Fire Department dated May 26, 2016, into the record. He reviewed each comment, and explained how the plan complied to each comment. Whitin read comments from ConCom dated June 23, 2016, into the record. Cordeiro noted that they will be filing a Notice of Intent with the ConCom, as required. Whitin read a letter from the Board of Health into the record dated May 12, 2016, which requested that the applicant apply for a Ground Water Discharge permit. Hartnett read the revised notes addressing the drainage in the front area of the proposed project into the record. Cole stated that the requirements the Planning Board has already put in place are far more stringent, and more enforceable than any requirements that would come from having a Ground Water Discharge Permit in place. He also noted that not using a discharge permit would allow the testing to stay local instead of being controlled by the State.

Cordeiro stated that the Title-V septic system had been approved by the Board of Health. The PILOT program is approvable by the MASSDEP. Hartnett noted that even though the BOH had approved the design, it is still subject to review and approval by the State because it is an alternative septic disposal system.

The Board dispensed with re-reading of the previously read conditions and findings of fact into the record. Hartnett read additional findings of fact and conditions into the record.

Abutter Pam Costa was present and submitted a letter from the MASS DEP to the Board for review. Costa noted that the letter stated that the septic design was NOT approved for the PILOT program, and has only been approved for up to 2000 gallons a day. Costa noted that this issue was discussed at a Board of Health meeting on June 27, 2016. She noted that the BOH voted to approve a letter of recommendation but with the requirement of a Ground Water Discharge Permit. Abutter Robert Alves was present and stated his concern that the project would begin construction before final approval of all parts of the project. Hartnett noted that a building permit could not be issued without approval.

Bill Harkens- Gifford Road, was present and discussed the wording in Article 15, regarding the ground water testing process. He noted that the wording "discard" as used in the Article should not mean to discard testing results. Discussion ensued. Hartnett changed the wording in the conditions to "may allow re testing of specific test results if they appear to be inconsistent with other test results". Harkens requested that the Board include distribution of the nitrogen reports to the Water Resource Management Committee.

Raus motioned to close the Public Hearings for Noquochoke Village pursuant to Westport Zoning By-Laws, Article 13, Inclusionary Housing Special Permit, Article 15, Site Plan Approval and Article 19, Noquochoke Overlay District Special Permit to construct a community center, 50 townhouse units within seven structures and associated parking areas and landscaping for property owned by the Town of Westport and located at 1163-1175 American Legion Highway, Assessor's Map 33, Lots 17, 45, 47, 47A & 47E, Westport, MA. Cole seconded the motion and the vote was unanimous with all in favor.

Cole motioned to approve the Noquochoke Overlay District Special Permit pursuant to Article 19, for Noquochoke Village, to construct a community center, 50 townhouse units within seven structures and associated parking areas and landscaping for property owned by the Town of Westport and located at 1163-1175 American Legion Highway, Assessor's Map 33, Lots 17, 45, 47, 47A & 47E, Westport, MA, subject to findings and conditions as read. De Rego seconded the motion and the vote was unanimous with all in favor.

De Rego motioned to approve the Inclusionary Housing Special Permit pursuant to Article 13, for Noquochoke Village, to construct a community center, 50 townhouse units within seven structures and associated parking areas and landscaping for property owned by the Town of Westport and located at 1163-1175 American Legion Highway, Assessor's Map 33, Lots 17, 45, 47, 47A & 47E, Westport, MA,

subject to findings and conditions as stated. Cole seconded the motion and the vote was unanimous with all in favor.

Sousa motioned to approve the Site Plan for Noquochoke Village pursuant to Article 15, to construct a community center, 50 townhouse units within seven structures and associated parking areas and landscaping for property owned by the Town of Westport and located at 1163-1175 American Legion Highway, Assessor's Map 33, Lots 17, 45, 47, 47A & 47E, Westport, MA, subject to findings and conditions as stated. Raus seconded the motion and the vote was unanimous with all in favor.

Southeastern Massachusetts Livestock Association SEMALA (15-005SPA-STOD-SP)- Request by applicant for a minor modification to approved site plan.

Andy Burns, Darren Mendes and Russell Iuliano were present. Burns noted that the name of the entity has changed to Livestock Institute of Southern New England. Burns explained the proposed changes to the plan. Changes include:

- Widening the driveway entrance in accordance with MassDOT requirements.
- Changing the shape of the detention basin at the intersection (same volume).
- Lower Driveway at Station 2+0 by 2'
 3+0 by 5'
 4+0 by 6'
 5+0 by 2'
- Lower southeast parking area by 2.5'
- Lower southwest parking area by 2'

Burns explained that the drainage on the plan has not changed. Discussion ensued. Burns described the addition of a one story "lean to" to allow outside access to the electrical boxes for the building. He also noted that all of the changes to the turning radius clearances have been confirmed.

De Rego motioned to approve a minor modification to the site plan for SEMALA, Southeastern Massachusetts Livestock Association case number 15-005, to increase in the size of the building, increase the width of the entrance to conform to MassDOT requirements, lowering of the grade of the drive to conform to the existing contours and lowering the grade of the access area to the rear of the building to allow proper loading door heights subject to waivers and conditions as listed in the Decision dated October 6, 2015. The Board found that the Science and Technology Overlay District STOD special permit was granted for the use of the property in the STOD and the proposed minor site design changes do not impact the use, open space or dimensional requirement of the STOD and do not impact the previously approved Special Permit Decision. Cole seconded the motion and the vote was unanimous with all in favor.

Westport School Department 16-002SPA-m. Macomber School Site Plan decision and modification.

Hartnett noted that the Planning Board approved the site plan at the last meeting subject to review by the fire department. The Fire Department required that the lane widths be changed to a minimum of 20', this change has been made.

Sousa motioned to endorse the decision for minor site plan review as amended showing the 20' fire lanes. Raus seconded the motion and the vote was unanimous with all in favor.

Town Planner Report.

a. Hartnett discussed information regarding the following questions and subjects that originated at a previous Work Session.

1. Can the Board require the designation of open space, park land or other designation in a residential subdivision? Hartnett stated "It is clear that under Section 81-Q, the Planning Board cannot require land to be dedicated for public use but Section 81-U does allow the Board to require a park or

parks suitable for playground or recreation purposes or for providing light and air and that no building may be erected on such park or parks for a period of not more than three years without the Board's approval."

2. Discussed the Court Case of *Chira v. Planning Board of Tisbury*, 3 Mass.App. Ct 433 (1975) – requirements of "attractiveness" and "livability" lack clear and objective standards. Hartnett stated that his reading of this portion of the decision does "not decide whether regulations dealing with aesthetic considerations and environmental protection are permissible under the Subdivision Control Law" it only concludes that the requirements were not clear and objective standards.

3. Agricultural Zoning- Noise. Hartnett noted that the Town By-laws have defined "agriculture" and only those uses under that definition would be exempt from the noise by-law. Because the expanded definition under the recently approved By-law includes agri-entertainment, agri-tourism and agri-commercial an argument could be made that they would be exempt from the noise by-law as a defined agricultural use. He noted that in his opinion, there is a stronger argument against this and only the traditional agricultural uses as defined in the Town By-law would be exempt from the noise By-Law. Hartnett also stated that the proposed wording discussed at the last Planning Board meeting does not include the additional uses under the agricultural definition so the additional uses permitted as accessory uses, entertainment, tourism and commercial would be regulated by the noise By-law. No changes would have to be made to the proposed wording.

b. Subdivisions Update

Upland Trails – near completion, waiting for the telephone pole at the intersection to be removed before it can be completed.

Black Oak Circle – A pre-construction meeting was held with George Mello and Mr. Pontes from Pontes Excavating this morning. Work should begin within the next 7-10 days and they are looking to complete the subdivision prior to winter.

Private Acres – One of the home owners came into the Planning Office looking to see if the department had been in contact with the contractor. There has been no work at the site for over eight months. There is a telephone pole that needs to be moved, the road is in poor condition with piles of debris in the cul de sac and steep slopes along the existing driveway. Hartnett noted that he had left two messages with Matt Antonio.

Gels Way – George Mello held a pre-construction meeting on site a couple of weeks ago and it appeared that they were ready to get started but they have not started as of yet. They are in the process of finalizing a contract with their contractor and they plan on getting the development done prior to winter.

Old County Estates – This subdivision is moving along, drainage has been installed, the gravel base is in place and they are in the process of installing underground utilities. The developer is hoping to get the binder down by August.

Medeiros Farm – This development has been purchased by a new developer and they have cleaned up the shoulders and installed guardrails. They also completed the gravel drive to the rear lots. They will be holding off on the top coat of asphalt until some of the houses have been constructed.

Carvalho Lane – There has been no work done on this project for over a year. The developer was before the board a few months ago and stated that they would be looking to start up again later this year. The developer has been notified that he should request a continuance of his covenant.

Briggs Landing – They have been building a number of houses in the development and just started work on the sidewalks. Tibbetts has been inspecting along the way.

c. FEMA Letter. Hartnett discussed the letter with the Board, noting that he was recently involved in a conference call which discussed changing the FEMA designation of the Cherry and Webb Beach and a section of East Beach.

d. Road widths for site inspection. Hartnett noted that he had driven out and measured a few existing subdivision roads and submitted his findings for the Board to review.

Administrative Items.

None.

Any other business that may come before the Board.

The Master Plan will be presented to the Board of Selectmen on July 11, 2016.

Correspondence.

- a. Coastal Barrier Resources Designation. Discussed in the Planner Report: FEMA Letter.
- b. ZBA notice of hearing. Town Landing Hearing is scheduled for Wed. June 29, 2016.
- c. WRWA Letter. Letter from the President of the WRWA dated June 27, 2016, RE: requesting that Hartnett become a member of the WRWA Science Committee because of his experience and credentials. Raus motioned to endorse Hartnett becoming a member of the Committee. De Rego seconded the motion and the vote was unanimous with all in favor.

Minutes.

June 21, 2016. Raus motioned to approve the minutes as written. De Rego seconded the motion and the vote was unanimous with all in favor.

Invoices.

None.

ADJOURNMENT

Members unanimously voted to adjourn at 8:54 p.m.

Respectfully submitted,

Joan Steadman, Recording Clerk