



TOWN OF WESTPORT  
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## PLANNING BOARD

### PLANNING BOARD MEETING

November 4, 2020

Chairman Jim Whitin called the meeting to order at 6:01 p.m. with Vice-Chair Robert Daylor and members John Bullard, Manuel Soares, Mark Schmid, and Town Planner James Hartnett in attendance.

**Chair's Announcement** – Under MGL Chapter 30A, section 20(f) – The meeting is being recorded. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Westport Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by following the remote links:

A video recording of this meeting is posted on the town's website. ([www.westport-ma.gov](http://www.westport-ma.gov))

### **Call to order 6:00 p.m.**

#### **1. Administrative Items**

##### **a. Old County Estates (14-006C) Request for Final Subdivision release and Surety release.**

Attorney Koldys was present virtually representing Old County Estates LLC. Attorney Koldys is requesting a release of the subdivision from all covenants and a complete release of the cash surety. He mentioned the paperwork was mailed to the owners in Florida requesting an easement for the fire cistern and has not been returned as of the date of this meeting so it could be recorded. Attorney Koldys is asking for a release subject to administrative approval from Hartnett when the easement is recorded.

Hartnett reviewed some comments from S.W. Cole's report dated October 18, 2020. He mentioned he visited the site after a rainstorm and did not see puddling near house #12 as previously documented. Hartnett mentioned the rock wall was in a small section of the layout, however, it did not interfere with the street.

Manny Costa of 3 Jo-Ann's Way was present virtually. He did not support releasing the surety until the easement was recorded. Costa was also concerned if Lot 4 didn't sign the easement agreement.

Chris Carreiro of 12 Jo-Ann's Way, Marco Franzese of 5 Jo-Ann's Way, and Alicia Pavao of 0 Jo-Ann's Way were all present virtually. They conveyed they did not support releasing the surety until the easement was recorded.

Soares asked if there would be any legal consequences if the Board required the contractor to move the tank out of lot 4. Whitin responded the tank is on private property and not in an easement; the homeowner would need to grant permission to remove the tank.

Soares expressed his concern about not receiving the easement on the tank from Lot 4 and suggested not to vote until the easement was recorded.

Costa questioned if the easement was not granted by the homeowner on Lot 4, would the town be able to assist in getting the road accepted. Hartnett commented the town would have to do a taking of the road.

Whitin explained the Planner cannot give the letter of release to the Treasurer until the easement is recorded. Hartnett mentioned the funds would not be released until the outstanding issues were taken care of.

**Motion**

Daylor moved to grant final approval of “Old County Estates” and release the surety of \$18,000 plus interest upon receipt of the recorded copy of the easement of lot 4 by the Town Planner. Seconded by Bullard.

Daylor withdrew his motion. Seconded by Bullard.

**Motion**

Daylor moved to defer the final approval of the subdivision entitled “Old County Estates” until the receipt of the easement for Lot 4 has been recorded. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

b. **Coelho – 60-66 American Legion Hwy (20-006SP)** Closeout and release Consultant Review balance and interest. (\$800.00 + Interest)

Hartnett mentioned this was a flexible frontage permit that was approved on September 8, 2020, and there is a balance remaining in the design review account.

**Motion**

Bullard moved to release the \$800 plus interest in the design review account for Coelho for property located at 60-66 American Legion Highway. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

c. **Lafrance Hotel – (19-004SPA)** Request Certificate of Completion

d. **Lafrance Storage – (19-007SPA)** Request Certificate of Completion

Dan Aguiar from Sitec Engineering was present on behalf of Lafrance Hospitality Corp regarding the Lafrance Hotel on Old Bedford Road and the parking and storage building on State Road.

Aguiar mentioned several upgrades that differ from site plans that were approved in 2019. Aguiar requested the internal handicapped ramps remain without the detectable warning strip. He added the architect from Opechee wrote a letter dated November 4, 2020, mentioned the warning strips were not required per the Massachusetts regulations 521 CMR Section 21.11 on the privately-owned portion of the site. Aguiar commented that at the request of MassDOT the sidewalks will match the bituminous asphalt that is currently there. He mentioned the as-built plans will reflect the additional sidewalks that were added to connect the Old Bedford Road sidewalk and the Town Place Suites Hotel to improve pedestrian safety.

Richard Lafrance of Lafrance Hospitality Corp. was present virtually. Lafrance mentioned the parking lot is for the banquet overflow and hopefully, people will use the sidewalks to cross safely.

Hartnett spoke with Derek from S.W. Cole and he mentioned there were no major issues when he was on-site for the inspections during the construction that he saw but he is still reviewing the as-built plans.

Whitin asked if the Commission on Disabilities had any comments. Hartnett responded there were no comments from them, however, the Building Commissioner requested a copy of the letter from Opechee.

Sean Lafrance of Lafrance Hospitality Corp. was present virtually. Lafrance spoke with the architect and he confirmed that Marriott doesn't require the detectable warning strips on private property.

Bullard was in favor of granting the occupancy permit, however, he would like to have a surety in place until the punch list was complete. Hartnett responded \$5,000 - \$10,000 would be sufficient. Richard Lafrance was in favor of adding the cross-walk signs.

Schmid commented he was concerned with the safety of crossing Old Bedford Road directing people to use the cross-walk and ramp. R. Lafrance was in favor of adding a sign. Whitin agrees with adding the sign to persuade people to use the cross-walk for their safety.

Aguiar mentioned at the time of the initial Site Plan Review, the walkways were not drawn into the plans between the hotel and the overflow parking lot because they did not have the easement for the railroad property.

### **Motion**

Bullard moved to recommend the granting of the occupancy permit for the Lafrance Hotel and Storage building provided a cash surety of \$5,000 is provided to the Town and all work is completed within 6 months. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

#### **e. 2021 Zoning By-Law amendments - Medical & Non-medical marijuana**

Hartnett commented the zoning amendments were forwarded to the Selectboard and should be referred back to the Planning Board prior to this meeting. Recommend the Planning Board schedule a public hearing for December 1, 2020.

### **Motion**

Daylor moved to schedule a public hearing on December 1, 2020, at 7:00 p.m. to discuss the 2021 Zoning By-Law amendments. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

#### **f. State & Federal Stormwater Permits – Discussion Soares**

Whitin asked if the NPDES permit should be submitted to the building inspector with the request for a building permit and what is appropriate. Soares responded, yes, and mentioned there are currently several projects that require Site Plan Review that fall within the category of requiring an NPDES permit that has not been before the Planning Board.

Daylor mentioned the NPDES are filed with the Conservation Commission due to the Order of Conditions.

Schmid added NPDES permits were required but has not had experience with involving Planning Boards for the towns they are working in.

Daylor asked when we issue a Special Permit or Site Plan Review permit does S.W. Cole automatically do construction monitoring. Soares mentioned under the Building Code, they are required to file a NPDES permit and that would take the liability off of the town.

Hartnett commented he could ask S.W. Cole to request the NPDES permit at their pre-construction meeting. He also mentioned Kleinfelder is looking to standardize the regulations for the MS4 Permit and possibly could incorporate stormwater drainage regulations.

Soares suggested having S.W. Cole provide review inspections on every project.

A work session was scheduled for December 8<sup>th</sup> at 4:00 to further discuss the enforcement of stormwater.

g. Budget FY2022 – Discussion

Hartnett gave an overview of the FY2022 budget. Daylor was in favor of the budget.

**Motion**

Daylor motioned to approve the FY2022 budget. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

**6:15 p.m. Public Hearing**

**2. CVE North America Inc. (20-005SP) - Soule's Way (continued from September 8, 2020, September 22, 2020)**

Request by the applicant to consider the Special Permit and Site Plan Approval Low Impact Development applications for **CVE North America, Inc.** for property owned by **John B. Hathaway Trust and The Westport Lot 24 Nominee Trust, Daniel C. Perry Trustee**, located south of Soules Way between Route 88 and Drift Road, Assessor's **Map 57, Lots 19 & 24**. Pursuant to Westport Zoning By-Laws Article 20 Low Impact Development and Article 24 Large Scale Solar Energy System, the applicant requests permission to construct a solar energy system, approximately 5.0 Megawatts, lot size 35 acres.

Ryan Young of CVE North America Inc. was present along with Attorney Daniel Perry.

Young gave a slideshow presentation of the 4MW project. He mentioned they will be participating in the PILOT program with the town.

Whitin asked if they have attempted to meet the new By-law requirements. Young added they are meeting some of the requirements by reducing hazardous waste and added screening.

Whitin asked what the size of the clearing area is and the setbacks from the property lines. Young mentioned those items have stayed the same and they are 100 feet from the wetland area.

Bullard asked why the applicant did not reduce the amount of clearing to follow the current By-Law requirements that were asked of them at the November 4, 2020 meeting. Attorney Perry argued that they have met the requirements of the By-Laws as stated.

Daylor supported Bullard's comments. Daylor commented the design was favorable, however, CVE was not responsive to the interest of the town by reducing the amount of clearing and was concerned that the clearing was too close to the neighbor.

Whitin asked to come back with another design proposal with the proper setbacks.

Attorney Perry requested a continuance to produce a revised plan.

Jake McGuigan of 202 Drift Road was present virtually. McGuigan voiced his concern about the effect of the nitrogen impact on the river and protecting the rural community.

Whitin mentioned Scheller's email dated 10/30/20 for the record.

Gregory Werthessen of 7 Fox Lane was present virtually. Werthessen commented he is an abutter to the solar field and appreciates the fact the board members are protecting adjoining properties.

### **Motion**

Bullard moved to continue the hearing to December 15, 2020, at 6:15 p.m. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

### **7:00 p.m. Public Hearing**

#### **3. Borrego – 0 Division Road (20-004SP-LID-S) (continued from July 14, 2020, August 11, 2020, September 22, 2020)**

Request by the applicant to consider the Special Permit and Site Plan Approval Low Impact Development applications for **Borrego Solar Systems, Inc.** for property owned by **John Ciccotelli and Marie T. Ciccotelli**, and located on the west side of **Division Road between 355 and 403 Division Road**, Assessor's **Map 46, Lot 8, 9C**. Pursuant to Westport Zoning By-Laws Article 20 Low Impact Development and Article 24 Large Scale Solar Energy System, the applicant requests permission to construct a solar energy system, approximately 2.1 Megawatts.

Matthew Swansburg of Borrego Solar was present virtually. He mentioned that he submitted a subdivision covenant for the subdivision needed for endorsement and will get an HOA signed. Hartnett commented a subdivision was submitted in May 2020 and was approved by the Board but not endorsed. Hartnett added the zoning freeze becomes active when the plan is endorsed and any revised plans need to be submitted three weeks before the meeting to send to Field Engineering for review.

### **Motion**

Daylor moved to continue the matter to December 15, 2020, at 7:00 p.m. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

#### **4. Matters not reasonably anticipated.**

Whitin commented the Assistant Planner's position needs to be advertised.

### **Motion**

Bullard moved to ask the Selectboard permission to hire and advertise for the Assistant Planner's position. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

#### **5. Correspondence**

a. CVE North America, Inc. (18-003SP) S.W. Cole Site review. Noted.  
Hartnett gave an overview of the minor items that need to get addressed.

b. Black Oak Circle (16-001C) – Lt. Brisk's comments. Noted.  
Hartnett mentioned the Fire Department is inspecting fire tanks and the homeowners association was informed of the damage by the Fire Department.

c. Sitec, Inc. merger – Noted.

d. Westport Zoning Board of Appeals – Noted.

Hartnett made the Board aware The Meatworks facility on Rt. 6 installed a new cooler to their building that does not need to come before the Board for Site Plan Approval.

#### **6. Planners Report**

1. Master Plan Review Committee – Members David Cole, Robert Daylor, Mark Schmid, Jim Whitin & Henry Lanier. Need to set a timeline for meetings.

Hartnett updated the Board and asked for guidance for a meeting date. Member Soares requested to be added to the Master Plan review committee.

Hartnett to get in contact with Mark Schmid to set up a meeting date.

### **Motion**

Daylor moved to appoint Manuel Soares at his request to the Master Plan Review Committee. Seconded by Schmid. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, and Whitin voted aye and the motion carried 4-0.

### **2. MS4 Stormwater Regulations**

Hartnett mentioned he is working with Kleinfelder, the Board of Health, and the Conservation Commission to develop a stormwater regulation for MS4 so it does not conflict with current regulations.

### **7. Minutes**

October 20, 2020

### **Motion**

Bullard moved to accept the minutes of October 4, 2020 as amended to include the Board's Zoning options and setbacks. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

### **8. Invoices**

None

Whitin asked if the members would like to continue with the binders or use the Ipad's like in the past. Schmid and Soares mentioned they would like to continue with the binders but agreed to try the Ipad's. Copies will be made as needed.

### **Adjournment**

The members unanimously adjourned at 9:00 p.m.

Respectfully submitted,

James Hartnett, Town Planner  
Nadine Castro, Assistant Town Planner II