

PLANNING BOARD MINUTES

A regular meeting of the South Kingstown Planning Board was held on Tuesday, February 9, 2010 at 7:00 p.m. in the Council Chambers, South Kingstown Town Hall, 180 High Street, Wakefield, Rhode Island.

A. ROLL CALL

Mack – Present Clendenen – Present Riendeau – Present Leslie Castrovillari - Absent
Morrison – Absent DelGiudice – Present Kenerson – Present

Mr. Dennis Vinhateiro, Principal Planner, Mr. William Boardman, Town Engineer and Ms. Nancy Letendre, Special Legal Counsel, were present.

B. CONSENT AGENDA (CA):

Ms. Mack read the items on the Consent Agenda.

Mr. Clendenen asked to remove Special Item, E1, Whittier Estates, a proposed ten-lot subdivision comprised of nine new lots (proposed as duplex buildings = 18 units including three inclusionary units) and the existing single-family home, with a flexible frontage waiver request, from the Consent Agenda.

C. APPROVAL OF MINUTES:

(CA) "To approve the minutes of the January 12, 2010 regular meeting."

E. SPECIAL ITEMS:

2. (CA) Preliminary Plan Review and Draft Approval, Willard Avenue Minor Subdivision, a Proposed Two-lot Subdivision (One Existing House) with Existing Street Frontage, AP 56-4, Lot 34, Located at 8 Willard Avenue, North End Realty, LLC, Owner/ Applicant

"The South Kingstown Planning Board hereby grants Preliminary Approval of the Minor Subdivision prepared for North End Realty LLC, a proposed two-lot subdivision located on Willard Avenue, AP 56-4, Lot 34, as depicted on plans entitled: 'Survey Plan Showing Proposed Minor Subdivision of Land in South Kingstown, Assessor's Plat 56-4, Lot 34, Old Post Road and Willard Avenue.' Plan dated November 6, 2009; scale: 1" = 20'. Plans by Flynn Surveys Inc., 10 Fieldview Road, Hope, RI 02871. This approval is based upon the following Findings of Fact and Conditions of Approval:

Findings of Fact

1. The subdivision is consistent with the requirements of the Comprehensive Plan.
2. The subdivision conforms to the standards and provisions of the South Kingstown Zoning Ordinance.
3. No lot is designed and located in such a manner as to require relief from Article 5, Section 504.1 of the Zoning Ordinance, as amended.
4. There will be no significant negative environmental impacts from the proposed development as shown on the plans, with the required Conditions of Approval.

5. The subdivision, as proposed, will not result in the creation of building sites with such physical constraints to development that building on these lots according to pertinent regulations and building standards would be impracticable.
6. The subdivision has adequate and permanent physical access to a public street, namely Willard Avenue.
7. With the required Conditions of Approval the subdivision will provide for adequate surface water runoff, for suitable building sites and for the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community.
8. The design and location of building sites, utilities, drainage improvements, and other improvements in the subdivision minimize flooding and soil erosion.

Conditions of Approval

1. Approval is limited to two lots in total: 'Lot B' is the new lot and 'Lot A' will accommodate the existing building.
2. The subdivision shall be developed in substantial conformance with the plans and specifications submitted in support of this application.
3. Fair Share Development Fees for both school facilities and open space and recreational purposes, as required in the Zoning Ordinance and as amended annually in the Capital Improvement Program, shall be required for 'Lot B' only.
4. Survey monuments shall be shown on the Final Plan and installed in the field to define the new lot lines. The number and location of the monuments shall be subject to the approval of the Administrative Officer.
5. The existing garage shall be razed prior to Final Approval.
6. The applicant shall record deed descriptions of both new lots concurrent with the recording of the Final Plan.
7. The applicant shall obtain a Physical Alteration Permit and if necessary, a Tree Permit from the Town's Department of Public Services to locate a driveway to serve the new lot."

3. (CA) Order of Notice Scheduling a Public Hearing, Otter Acres Compound, Phase 3, a Proposed Two-lot Subdivision (by Definition an Administrative Subdivision Proposing the Creation of a Non-buildable Conservation Parcel) with a Flexible Frontage Waiver Request, AP 61, Lot 60, Located on the North Side of Tuckertown Road at Otter Acres Way, Stewart Nursery Co., Inc., Owner/Applicant

"The South Kingstown Planning Board hereby schedules a Conceptual Master Plan and the Preliminary Plan Public Hearing on March 9, 2010 to consider the application of Stewart Nursery Co., Inc. to amend the Final Plan of the Otter Acres Residential Compound, Phase 3. Staff is directed to place the requisite legal advertisement for such hearing and prepare notice materials for use by the applicant."

- F. (CA) **REPORT OF THE ADMINISTRATIVE OFFICER:**
ADMINISTRATIVE SUBDIVISIONS recorded during January 2010.
None were recorded.
MINOR SUBDIVISIONS recorded during January 2010.

None were recorded.

MAJOR SUBDIVISIONS recorded during January 2010.

None were recorded.

TRC APPROVAL, DECEMBER 23, 2009

COMMUNICATIONS ANTENNA ARRAY, a proposed co-location of three panel antennas on an existing non-residential structure (electrical transmission pole) and installation of accessory telecommunications support equipment on a new concrete pad within the existing fenced compound, AP 29, Lot 4, located at 360 Great Neck Road, Narragansett Electric Co., owner, T-Mobile Northeast, LLC, applicant

Mr. DelGiudice moved, Mr. Riendeau seconded; motion carried: "To approve the remaining items on the Consent Agenda."

VOTE: Mack – aye DelGiudice – aye Clendenen – aye Kenerson – aye Riendeau – aye

E. SPECIAL ITEM:

1. Major Land Development Project Draft Decision, Whittier Estates, a Proposed Ten-lot Subdivision Comprised of Nine New Lots (Proposed as Duplex Buildings =18 Units including Three Inclusionary Units) and the Existing Single-Family Home, Flexible Frontage Waiver Request, AP 56-4, Lots 38 and 40, Located at 52 Willard Avenue, Linda M. Sisson, Owner, Robert Leonard and Mark Lubic, Applicants

Mr. Robert Leonard, applicant was present.

Ms. Mack stated that there was a letter before the Board from Mr. Robert Leonard, dated February 9, 2010 with a request to withdraw Whittier Estates from the Town of South Kingstown Planning Board Agenda in order to provide the applicant with the opportunity to explore other options or avenues. Legal Counsel recommended that the Planning Board grants the applicants' request to withdraw the application with prejudice.

Mr. Riendeau asked Legal Counsel for clarification with regard to the applicant withdrawing the current application with prejudice and how it affects the future of the application. Ms. Letendre stated that If the Board accepts the withdrawal request with prejudice it would be the same as a denial and the applicants could not use the same application if they decided to re-apply. It provides finality to the current proposal without having to render a decision.

Mr. DelGiudice asked what the time frame was for the applicants to re-apply. Ms. Letendre stated that there are no time constraints relative to a new application and if the Subdivision Regulations should change there is no vesting of the land use. The other advantage to the Board is if the application should come back it comes back with a clean slate. She stated that a denial could be sent back to the Board on appeal.

Mr. Roderick Cavanagh, who represents the owner, stated that asking questions of Mr. Leonard with regard to the application being withdrawn with prejudice without his legal counsel present puts him at a severe disadvantage. He also stated that Mr. Leonard's counsel had not been made aware of the aspect of the recommendation to withdraw the application with prejudice and the consequent effect it may have. Mr. Cavanagh suggested, in fairness to Mr.

Leonard, that the decision should be continued to the next Planning Board meeting in order to provide Mr. Leonard with the opportunity to discuss the Board's suggestion with his legal counsel.

Discussion ensued with regard to the possible ramifications should the Board make its decision without Mr. Leonard meeting with his legal counsel on the withdrawal process or should the Board continue the decision to the March 9, 2010 Planning Board meeting.

Mr. Vinhateiro stated that the decision time frame extends to March 9, 2010 and suggested that the decision time frame be extended for an additional 30-day period as a condition of continuing discussion of the draft decision/request for withdrawal to the Board's March 9, 2010 meeting. Mr. Leonard was in agreement to grant the 30-day extension.

Mr. Riendeau moved, Mr. DelGiudice seconded; motion carried: "The South Kingstown Planning Board hereby continues the Conceptual Master Plan Draft Decision for Whittier Estates Major Land Development Project, a proposed ten-lot subdivision comprised of nine new lots (proposed as duplex buildings = 18 units including three inclusionary units) and the existing single-family home with a flexible frontage waiver requested, to its March 9, 2010 regular meeting."

VOTE: Mack – aye DelGiudice – aye Clendenen – aye Kenerson – aye Riendeau – aye

D. PRE-APPLICATION REVIEWS:

1. Minor Land Development Project, Otter Acres Compound, Phase 3, a Proposed Two-lot Subdivision (by Definition an Administrative Subdivision Proposing the Creation of a Non-buildable Conservation Parcel) with a Flexible Frontage Waiver Request , AP 61, Lot 60, Located on the North Side of Tuckertown Road at Otter Acres Way, Stewart Nursery Co. Inc., Owner/ Applicant

Ms. Amy Sonder, professional land surveyor, Mr. Robert Stewart and Mr. Kyle Stewart, owner and applicant were present.

Ms. Sonder provided an overview of the project. Otter Acres is a six-lot residential compound served by a 30' wide private right-of-way called Otter Acres Way. The development parcel is 21.15 acres and is one of the six building lots in the compound. Currently the parcel is used for agricultural purposes by Stewart Nursery and the owner wishes to subdivide the 21+ acres into two lots, a 14.5+ acre conservation parcel and a 6.6+ acre lot that would continue as the sixth buildable lot in the compound.

The Otter Acres Residential Compound is served by Otter Acres Way, a 30' wide private right-of-way. The development parcel has 51' of frontage on Otter Acres Way and the applicant is seeking a flexible frontage waiver to allow use of the 51' as legal frontage for the proposed sixth buildable lot. Ms. Sonder presented a yield plan showing that the applicant could subdivide the parcel and provide 200' of frontage on Tuckertown Road to support a two-lot subdivision.

Mr. Riendeau asked if the applicant is deeding the open space conservation parcel to the Town. Mr. Vinhateiro stated that it is a conservation easement in favor of the Town but the applicant would retain ownership and farming rights. Ms. Sonder stated that the parcel would still maintain its agricultural use.

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Mr. Riendeau asked what soil replenishment was. Mr. Stewart stated that because the land is presently used as a nursery when they remove nursery material it has to be replaced. The applicant wants to replace that material by using all acceptable agricultural practices which includes soil replenishment consisting of composting and cover crops to keep the soil in good condition.

Mr. Clendenen brought to Ms. Sonder's attention that there were repeats on lot numbers 58 and 63 on the current plans. Ms. Sonder stated that she would make the corrections by the next presentation. Ms. Sonder also stated that the applicant has another request and that is to combine the Preliminary and Master Plan stages of review.

As a Pre-application review, this item requires no action.

2. Comprehensive Permit, Larchwood Inn, a Proposed Multi-household Land Development Project Consisting of Multiple Attached and Detached Structures Containing Eighty (80) Residential Units with 25% Affordable Units, AP 56-3, Lot 124, Located at 521 Main Street, 521 Main Street, LLC Owner/Applicant

Mr. William Landry, attorney, representing 521 Main Street LLC, Mr. Donald Power, architect and Mr. Eric Prive, project engineer were present.

Mr. Landry provided a conceptual overview of plans for the 3.3 acre property formerly known as the Larchwood Inn. The design concepts have been influenced by three major considerations. First, is the focus on the base zoning applicable to the parcel, which is CD, Commercial Downtown. Mr. Landry made note of all the potential uses for base zoning that could be proposed for the site. Second, this is the type of parcel that our Town and State housing plans look at for higher density residential use because of the existing utilities and access to services and public transportation. The third consideration is that the property needs to be developed in a way that respects the historic nature of the property. Mr. Landry stated that his client has retained a project team that features Mr. Donald Powers who is very experienced in historic preservation and will respect the architectural features and provide an appropriate transition from the current use to the proposed use.

Ms. Mack asked Mr. Landry why he is requesting a Comprehensive Permit if it is a benign application. Mr. Landry stated that it may not be necessary. The applicant is proposing a high density housing proposal that will offer units beyond what the Town would normally require. He noted that the Comprehensive Permit device provides greater flexibility for applicants and planners to accomplish goals in order to meet the Town's need for adequate housing. Mr. Landry stated that he does not think that the zoning of the parcel is consistent with the Town's local housing needs. He noted that high density elderly housing is allowed. Mr. Landry noted that there is a need for family housing and the object of the Comprehensive Permit law is to try to remove unnecessary barriers in the Zoning Ordinance in order to permit local needs to be met and that is why his client is gravitating toward that approach. Ms. Mack asked Mr. Landry if he is aware of the limited number of parcels located in a CD district relative to properties zoned residential. Mr. Landry stated that it was not unusual and that the CD zone is usually smaller than residential.

Mr. Donald Powers provided an overview of his proposal.

Mr. Boardman asked where the placement of the utilities would be, such as the air-conditioning and heating units that usually go on the outside of buildings or on the roof. Mr. Powers stated that in the larger buildings they would be placed in the attic. For the smaller buildings he noted the areas on the proposed plans.

Ms. Mack stated that at the TRC meeting she suggested that the pavilion, which was located on the front of the site, not be part of the plan as well as trying to maintain the expanse of lawn considering the density of the project. She noted that a tree inventory had not been done and it appears that there would be major loss of some significant trees which cannot be replaced. Ms. Mack also noted that there is significant slope on the parcel and since the garages are being planned for underground, this would involve cut and fill. Mr. Powers did believe that it would.

Mr. Riendeau asked if there was any consideration to address Commercial Development, not just residential. Mr. Landry stated that it was discussed but deemed not practical for the site. Mr. Riendeau stated that he raised the question because the Town has very little commercially zoned land as compared to our neighboring communities. He noted that there have been discussions with the Economic Development Committee for two years on how to increase commercial zones within the community. Mr. Riendeau feels that going from a Commercial Downtown to residential zoning could be highly controversial. He is very concerned that only all residential is being proposed which has a high density ratio compared to the parcel to the left of the property.

Mr. Landry stated that Mr. Riendeau had a valid point and it is something that the applicant has considered. However, he feels that the Town will want something that is compatible architecturally with the present building. Mr. Landry pointed out the number of affordable housing units that the Town needs in order to meet its goal for 2010. He noted that there are limited areas in town that have appropriate water, sewer and infrastructure that would support the higher density use.

Mr. Powers stated that zoning maps are blunt instruments for suggesting how a Town should grow. He stated that he did not feel that anyone would want a commercial enterprise in close proximity to the Larchwood Inn. Regardless of what goes there, it is going to have to respect the Larchwood Inn and he feels that residential use would more easily merge with the vision of the site rather than commercial use.

Mr. Kenerson asked Mr. Vinhateiro for clarification on the statements in his Principal Planner comments that the CD zone does not allow Use Code 12.1, Multi-household Land Development Projects but does allow Multi-household Land Development Projects for elderly only in Use Code 12.3. Mr. Vinhateiro stated that by using the Comprehensive Permit process the applicant can come forward to ask for the relief necessary to accomplish its plans. Mr. Kenerson stated that he has initial concerns with regard to the density and location of the project. He noted that coming from Route 1 the Larchwood Inn is a gateway as you come into the village with its beauty and architecture. He noted that with the density come issues of parking and traffic. Mr. Kenerson stated that there are also positive features associated with the proposal such as providing affordable housing in an area where it would normally not be found. He also noted that it would generate economic possibilities for the downtown district.

Mr. Clendenen stated that some of the documentation that the Board received discussed the Larchwood Inn as being an historical and cultural landmark and is likely listed on the National Register of Historic Places as part of the Wakefield Historic District. He asked about the legal status of the Larchwood Inn. Mr. Vinhateiro replied that the Wakefield Historic District is a National Registered District but the property itself is not listed on the National Register and is not locally zoned as an historic district. Ms. Letendre stated that because it is part of a National Registered District, anything that will happen to the property will be brought to the attention of the Rhode Island Historic Preservation and Heritage Commission for recommendations.

Ms. Mack stated that she wanted to make the client aware of the Historic Tax Credit that would be available if the project is a commercial project as well. It would not require a complete historic renovation to the actual structure and this is something that the client may want to consider. Ms. Mack also suggested an idea for the client to consider as an alternative to the present proposal and that is making the Inn a place which could accommodate wedding receptions, large meetings, conferences and proms. Such a facility would also retain the stately atmosphere of the Larchwood Inn.

As a Pre-application review, this item requires no action.

G. CORRESPONDENCE

No correspondence was noted.

H. COMMENTS- BOARD MEMBERS & PRINCIPAL PLANNER

Board members discussed issues that may come before the Technical Review Committee.

Mr. DelGiudice asked Ms. Letendre about Grow Smart Rhode Island as a third bi-annual Power of Place Summit and if this was something he should attend. Ms. Letendre stated that this year the focus of the summit would be on economic development and it presents a great opportunity to learn more about sustainable development and conservation subdivision.

Mr. Kenerson stated that he would attend the TRC meeting to be held on Wednesday, February 24, 2010.

I. ADJOURNMENT

Mr. DelGiudice moved, Mr. Riendeau seconded; motion carried; "To Adjourn."

VOTE: Mack – aye DelGiudice – aye Clendenen – aye Kenerson – aye Riendeau – aye

The meeting adjourned at 8:00 p.m.