



BELLINGHAM PLANNING BOARD

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December 8, 2011 Meeting Minutes

Present at the Meeting

Patricia M. Buckley (PMB), Chairman
Glenn C. Wojcik (GCW), Vice Chairman
Dave Brown (DB) - absent
Peter M. Morelli (PMM)
Peter Pappas (PP), Secretary
Roger Oakley (RO), Associate Member

Other Officials: Stacey J. Wetstein (SJW), Town Planner
Jay Talerma (JT), Town Counsel
Jean Keyes (JK), Coordinator

PMB opened the meeting at 7:05 p.m.

Shores at Silver Lake III Definitive Subdivision (Center, Cross and South Main Streets) Continued Public Hearing; Decision Deadline: 12/31/11

Don Nielson with Guerrier and Halnon, Don Seaberg with Benchmark Engineering, and Mr. Kim Hazarvartian with Tepp LLC for the Applicant.

PMB stated that it was the understanding of the Planning Board that the Board had requested a modification for Shores at Silver Lake II as well as the Shores at Silver Lake III. PMB asked if she understood correctly that the Applicant did not intend to file the Shores at Silver Lake II modification.

Mr. Seaberg stated that they have shown the connection for Shores at Silver Lake II, but that as far as what is going to be built for the Shores at Silver Lake II, they still haven't decided what they want to do. They want to really focus on the 20-lot subdivision.

PMB stated that the Board can't focus on the 20-lot subdivision until they figure out what is going on with Shores at Silver Lake II and that the Board was very clear on that issue.

Mr. Seaberg replied that he understands that the Board did not like the original Shores at Silver Lake III proposal, so Mr. Kim Hazarvartian has shown all the traffic for Shores at Silver Lake III with an even a higher density. The Applicant does not want to expend a lot of energy on the Shores at Silver Lake II unless they know that the Shores at Silver

Lake III is going to get approved. Given the market and the current circumstances, they are trying to focus on one piece at a time.

PMB restated that the Board asked for and has been clear about what they wanted and it is her understanding is that the Applicant is unwilling to give it. She wanted to be accurate about that statement.

Mr. Seaberg restated the Applicant's position that they are submitting information only for the Shores at Silver Lake III as presented.

PMB asked SJW if they filed a modification.

SJW stated that they have not, but the Applicant could have easily addressed the market issue by doing a phased plan for the entire parcel rather than this sort of segmentation thing. She wanted to know their position on that.

Mr. Seaberg stated that the Applicant can do a phase plan but they don't know what they want to build on the Shores at Silver Lake II yet. It's hard to phase something if it's up in the air how they want to address the second part of the property.

PP questioned that the Applicant went through 40B and now they don't know what they want to do with this parcel. Mr. Seaberg stated that they knew what they wanted to do on the 40B parcel and that was a long process. That was years when they came up with a consensus on the 40B.

PP stated that in the documents that were submitted, no phasing plan was included, so the Applicant is planning to do all 20 lots all at once. Mr. Seaberg replied that the houses are not all going up at once. The Applicant will build the road for those 20 lots and the houses will be constructed as the market goes. PP reiterated that the Applicant is proposing only one phase for the Shores at Silver Lake III and Mr. Seaberg replied that with any subdivision they don't build all the houses at once, that they build the road, the lots are cut out, and they sell the lots and build the houses as it goes.

PP stated that in the Applicant's comments to the Town's peer review of the Shores at Silver Lake III, it is stated at least half a dozen times that the question posed by the peer reviewer can't be answered because it is based on the future plans for Shores of Silver Lake II. PP also stated that the last time the Applicant was before the Board, one of the biggest concerns the Board had was that the Applicant wanted the Board to make a determination on one piece without knowing the other piece. The Applicant does not even know what the other piece is.

Mr. Seaberg replied that that is correct and that they are asking the Board to make a determination on the 20 lots because the 20 lots stand on their own.

PMB made the point that the Board has already asked for a modification, because they wanted to know what the second phase (Shores at Silver Lake II) is because the Applicant is referencing it quite a bit and one is hinging on the other. PMB asked for Town Counsel's opinion.

JT stated that his partner Mark Bobrowski reviewed this plan, but it is his opinion as Town Counsel that the roads don't line up (between Shores II and III) and that there is no access. There is no road alignment which means there cannot be adequate access. There is no approval for the access they are seeking. It doesn't exist under Section 251 regarding adequate access. There can be no adequate access because there is no approval. JT stated that two things to consider with subdivisions is 1) Engineering – does it work from a technical standpoint and is it safe, 2) to create recordable title. In this case, both instances fail because there is no way to create title because there is nothing recorded that shows the roads actually aligning. Section 421.1 referenced about streets in subdivision. Section 421.2 referenced as well and the plan does not meet either requirement of the referenced sections. The Town is entitled to know what build-out is. Fundamentally, there is nothing to approve. There can't be safe vehicular travel. JT stated that he is a firm believer in not doing an approval that is contingent upon some future approval. PMB and PP agreed with JT.

JT added that there could be debate about what the Board needs to know in terms of drainage profiles and everything else for Shores at Silver Lake II, but the discussion does not even get to that point because these lots can't exist because there is no way to get to them to Shores at Silver Lake II.

There was some discussion on the legal frontage for the lots for Shores at Silver Lake III and whether or not the Shores at Silver Lake II was rescinded. Also, there was some discussion on whether the Shores at Silver Lake III was dependent on the Shores at Silver Lake II for drainage. JT summarized that the Applicant has conflicting subdivision plans and that that is a problem.

PMB suggested that the Applicant withdraw without prejudice and come back to the Planning Board when everything is complete. The Planning Board has told the Applicant time and time again that the Board can't do their job piecemeal. The Applicant needs to either withdraw without prejudice or the Board is going to have to make a decision.

Mr. Seaberg stated that he cannot withdraw without prejudice on behalf of the client. PMB reiterated that the Board would have to make a decision and it may not be favorable to the Applicant and Mr. Seaberg stated again that he cannot withdraw without prejudice.

GCW suggested that the Board gives the Applicant until the next meeting (December 22, 2011) to decide whether or not to withdraw without prejudice. PMB, PP, RO and SJW all stated that the Applicant had ample opportunity to present all the information, including the modification, but that they have chosen not to and that the Board at the August 25th meeting made it clear that no more continuances would be given. Mr. Seaberg restated his position that he did not believe that Applicant would withdraw at the next meeting either.

PMM asked about information he requested concerning the Cross Street sewer that he never received. Mr. Seaberg stated that Don DiMartino (DPW Director) signed off on the sewer extension project so that has all been reviewed and his consultants and that the sewer extension permit was going to be filed with the state soon. He does not think there would be a reason for the State not to approve it.

GCW: Motion to deny the Shores at Silver Lake III Definitive Subdivision.

PMM: Second.

Vote: 4-0 (PMB, GCW, PP, PMM)

GCW: Motion to close the public hearing.

PMM: Second.

Vote: 4-0 Approved (PMB, GCW, PP, PMM)

The Board continued discussion on the revisions to the Parking Bylaws and the changes to the minimum number of parking spaces as agreed upon by PMB, GCW, PMM, PP, and RO are as follows:

of spaces per ksf GFA = # of spaces per thousand square feet of Gross Floor Area

Residential:

- Single and Two-family and multi-dwelling: 2 spaces
- Elderly – 1 per bedroom (assisted non-driving)
- Other – studio 1 bedroom accessory dwelling (e.g. in-law apt)
- Religious center: 1 for every 2 people
- Hotel up to 8 units: 1 space per unit + 1 unit = 9 spaces

Restaurants per GFA (Gross Floor Area):

- Fine Dining: 20 spaces per GFA
- Casual Dining: 25 spaces per GFA
- Fast Food: with drive through 17 per GFA
- Fast Food without drive thru 20 per GFA

Commercial Recreation per GFA (Gross Floor Area):

- Golf Course: 12 spaces per golf hole
- Bowling: Same as retail
- Movie Theater: 14 spaces per GFA
- Soccer complex: 50 spaces per field (outdoor parks for non-professionals, may include other sports as well)
- Health Fitness Center: 6 per GFA
- Rec Center: 3 per GFA

- Gas Station w/retail store: Retail GFA + 1 space per each pump
- Motor vehicle sales and service: 3 spaces per GFA (must be defined)
- Car Wash: 3 spaces per GFA
- General Retail: 4 spaces per GFA - standalone that is not a shopping center
- Shopping center: Table until December 22, 2011
- General Retail: lump all into retail and base # of spaces per GFA
- Multi-use strip mall (if they didn't go with shared parking): each store has # of spaces based on GFA of whole pad and give % to each store based on size of the store.
- Low-rise, mid-rise, medical: lump all together. 1 space per 200 square foot of GFA
- Warehousing: 2 per 1000 square foot of GFA; multi-use is 2 spaces per office + 1 per warehouse. Truck parking is part of the development plan not the parking spaces.
- Convalescent Nursing Home, Rest Home: 5 per 1000 square foot of GFA
- Other uses: catch-all to be determined by building inspector or planning board. Change definition - no.
- Day Care standalone: regulated by students per room as opposed to # teachers. High traffic at peak times. 6 per 1000 square foot of GFA
- Animal Hospital/Vet: 4 per 1000 square foot of GFA
- Shared multi-use: to be discussed in December 22, 2011 meeting

Parking area design and location:

SJW suggested that the Board not change the existing language at this time. She also suggested that the Board place all landscaping, design and dimension information into a regulation and also place parking space calculation into a regulation.

PMB and PP agreed that this was a good idea so as to simplify the language so that it would pass as Town Meeting and be easier for businesses in town.

PMM: Motion to continue the public hearing for the modifications to the Subdivision Rules and Regulations to January 12, 2012.

Glen: Second

Vote: 4-0 (PMB, GCW, PP, PMM)

GCW: Motion to sign the 10/12/11; 10/13/11; 10/27/11; 11/10/11; 11/10/11 Executive Session

PMM: Second

Vote: 4-0 Approved (PMB, GCW, PP, PMM)

GCW: Motion to sign the vouchers

PP: Second

Vote: 4-0 Approved (PMB, GCW, PP, PMM)

GCW: Motion to adjourn

PP: Second

Vote: 4-0 Approved (PMB, GCW, PP, PMM)

Minutes Accepted on: 12-22-11
(Date)

Patricia M. Buckley
Patricia M. Buckley

Peter Pappas
Peter Pappas

Peter M. Morelli
Peter M. Morelli

Jean E. Keyes
(Prepared by: Jean Keyes)

Glenn C. Wojcik
Glenn C. Wojcik

Dave Brown (absent)
Dave Brown (absent)