



Minutes

NORTH HAMPTON PLANNING BOARD Special Meeting on July 21, 2004

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These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription. An audio recording of the meeting is available in the Town Office. In the event that a question arises about verbatim comments, it can be answered by listening to the recording.

Present: (1) Phil Wilson, Chairman; (2) Ron Todd; (3) Joseph Arena; (4) Craig Salomon, (5) Jon Rineman, Selectman Representative.

Alternates Present: (1) Laurel Pohl

Members Absent: (1) Shep Kroner – Vice-Chairman; (2) Judy Day; (3) Krystina Deren Arrain, Planning and Zoning Administrator.

In Attendance: (1) Barbara Smith, Recording Secretary; (2) Jeffery Clifford – Town Engineer Pro Tem, Altus Engineering; (3) Elmer Pease –PD Associates; (4) John Chagnon, Ambit Engineering Inc; (5) Ed Huminick, CIF, Inc.; (6) Mark West, West Environmental; (7) Bernard Pelech, Law Offices of Wholey & Pelech; (8) Bob Brown, Rye Planning Board; (9) Chris Ganotis, North Hampton Conservation Commission.

Handouts Submitted to Recording Secretary:

- *Waiver Of Notice* – Submitted by Mr. Chagnon, signed by Mr. Brown as Rye Planning Board Chairman. (One page, text)
- *Open Space/Conservation Easements And Declaration Of Restrictive Covenants* – Submitted by Mr. Pease. (14 pages – text, draft)
- *Wetland Landscaping Plan for Wetland Detention Basin* – Revised July 21, 2004 – Submitted by Mr. Pease. (One page, text)
- *Easement Plan Greystone Village Of North Hampton* dated July 07, 2004. Submitted by Mr. Chagnon. (One page, drawing)

I. Old Business

Case #04-16 -- Map/Lot #020-008/009/011-000 and 021-001-000: 223 Lafayette Road, P. D. Associates, LLC, 5 Dartmouth Drive, Suite #101, Auburn, NH 03032. (a) Subdivision Application to create 68 lots for the creation of a manufactured home retirement community. (b) Applicant requests a waiver to Section XII. O. to permit placement of unit septic systems on the individual unit sites. (c) Voluntary Lot Merger Request to consolidate the aforementioned four (4) lots.

Mr. Wilson called the meeting to order at 7:09PM.

The applicant requested a waiver of Section XII. O. to permit placement of individual septic systems on each site. That had been approved pending the approval of the overall subdivision application. They also have a voluntary lot merger request to consolidate four lots, which would be a pro-forma requirement for the Board if this were all approved. The Board approved the conditional use permit at the last meeting. Mr. Wilson noted, as he saw it the remaining issues in front of the Board, some multiple issues, and some single. Mr. Wilson noted the Board does have the current set of plans from Altus Engineering, provided by Mr. Clifford that were received via email. Mr. Wilson stated the following issues.

1. New review of the recent set of plans, and a letter sent by Mr. Clifford dated July 21, 2004.
2. Revised drainage calculations.
3. Conservation Commission's recommendations.
4. Clubhouse architecture, have renderings been submitted (external drawings and floor plan).
5. Revised plan set
 - a. Red Maples substituted for Norway Maples.
 - b. Cat-o-nine tails removal.
6. Excavation and dust control.

Mr. Wilson then polled the Board for additional issues. Mr. Salomon added open space and covenants. Mr. Pease handed the Open Space/Conservation Easements And Declaration Of Restrictive Covenants to the Board. Mr. Todd questioned the response to the Fire Chief's concerns. Mr. Chagnon added that the only issue he thought open was the roadway. Mr. Todd also wanted to know if a response was available to the town engineer related to a draft of conditions that Mr. Wilson drafted. Mr. Clifford replied no. Mr. Wilson added that he needed the engineer's review. Mr. Todd later asked about the maintenance of the 20-foot road surface during the snow fall periods. Mr. Pease noted that the snow storage system would not affect the 20-foot minimum travel lane.

Mr. Pease handed out the replacement page for the West Environmental report. (Noted in hand out list as Wetland Landscaping Plan for Wetland Detention Basin – Revised July 21, 2004). No other Board member had additional issues. Mr. Wilson polled Mr. Pease and Mr. Chagnon. Mr. Pease added that the concerns of the Conservation Commission were addressed in a meeting two weeks earlier. Mr. Ganotis noted that his memo addressed the Board's request to document and submit the Commission's concerns.

Mr. Chagnon distributed a copy of the Easement plan (see handout list). Mr. Wilson questioned if the finalization of the DOT Easement would be a condition of final approval, and if it would appear on the final mylar. Mr. Chagnon replied with information relating to the permit and the final mylar. Mr. Chagnon suggested the Board review the changes in the plan from the last meeting. Mr. Wilson gave the floor to Mr. Clifford who had comments on the plan.

Mr. Clifford talked about the revised drainage plan. Mr. Chagnon stated that the plan should be completed in the next few days. Mr. Chagnon noted that the fire chief's concerns about the radius of the cul-de-sac were addressed by designing a road to loop through. Mr. Wilson questioned the required time line from the acceptance of plan jurisdiction. Mrs. Smith added that it was believed to be May 19, 2004. Mr. Wilson confirmed the date. He established that the Board would not have the drainage plan in time to meet the 65-day requirement from acceptance. He then asked the applicant to submit a written document waiving the 65-day requirement, or they would be compelled to deny the application, due to the fact that conditional approval from that point is only relevant for administrative issues only. Mr. Salomon, and the remainder of the Board agreed that the lack of drainage was not administrative.

Mr. Pease was willing to extend for two weeks. Mr. Wilson suggested a 30-day extension. The Board and the applicant agreed to an extension date of August 18, 2004; however, there would be a meeting on the August 3, 2004 in which it was anticipated that most issues would be concluded. Mr. Pease completed the waiver letter and submitted it to the Recording Secretary. During the session, Mr. Salomon reviewed the applicant's waiver letter for completion prior to submitting to Mr. Wilson, who accepted the letter from Mr. Pease.

Mr. Clifford read from his July 21, 2004 memo. His concerns consisted of the state's approval of the test pits. Mr. Wilson had questions on the location relative to the fill plan. Mr. Chagnon visualized the fill areas using the plan. Mr. Todd confirmed with Mr. Chagnon that each lot would still have its own septic systems. Mr. Clifford noted that there was one spot on the plan (Lot 51). Mr. Chagnon noted the reason for the perceived conflict was that the existing swale and fill required. He would ask for state's approval in a segmented fashion, beginning with lot 1-49, then for the 50's, subject to the fill. Mr. Arena expressed concerns that the fill might change the flow pattern.

Mr. Arena also questioned if an excavation permit would be required in areas that required fill. Mr. Chagnon replied an excavation permit was not required, unless the applicant removed soil for commercial use. Mr. Wilson stated he thought the Caswell proposal stated that they would salvage and sell applicable soils. Mr. Huminick explained the removal process. Mr. Wilson noted that the issue was a red herring anyway. Mr. Todd asked if the new soil used for fill would require a new percolation test. Mr. Clifford stated that in the event the state did not require one, he would recommend to the Board that the town does require a percolation test. Mr. Pease stated it could be a condition on the building permit. Mr. Wilson noted the effected area would be required on specific lot numbers. Mr. Clifford defined the re-test requirements should be defined as fill greater than two (2) feet. Mr. Clifford agreed to Mr. Wilson's request to research and present to the Board the appropriate verbiage for the condition.

Mr. Clifford addressed Comment 2 of his memo related to the debris on the Robinson property, stating that drainage estimates may require an easement. Mr. Wilson noted that a letter of agreement from the abutters would suffice, as it is a one-time deal. Mr. Salomon agreed. Mr. Pease noted that was in process. Mr. Salomon noted that there are two issues, one being an easement to remove the soil, the other being concerns of the flow after the fact. Mr. Chagnon

explained the future drainage situation using the plan to demonstrate. Mr. Clifford debated the explanation referencing the swale on the Robinson property. Mr. Pease noted that currently the Robinson property is dumping less than acceptable drainage on their property. Mr. Wilson noted that there are both long-term and short-term issues. In the short term the agreement with Robinson related to the removal of the debris. In the long term since the town holds a purchase agreement on the Robinson property, would they want an easement, if there were an agreement with Robinson property to allow a two-way flow between the two properties? Mr. Chagnon noted the only restriction is that there can be no increase in flow to the neighbors. Mr. Pease explained the situation further, and also agreed to provide any required documentation to the Board and Mr. Clifford.

Mr. Salomon summarized his perception that there are two issues within this subject; (1) the volume of run off from the applicants' property to the Robinson property, (2) the velocity of, and the damming issue. Would any of these issues change, and if the answer to any of these questions were in the affirmative, then a need for an easement existed. Mr. Wilson stated his issue with the conversation was that the Board was discussing a gravel pit, an artificial system that had been created, and with the fill effect on the topography, would that change the drainage pattern. Mr. Chagnon explained the slope process used to avoid that issue. Mr. Pease would build the swales required. Mr. Wilson elaborated on the contents of the letter. There were multiple discussions at once on the issue. Mr. Wilson stated the issue should now wait until the document was received from Mr. Pease. Mr. Pease confirmed he was reasonably clear on what the Board wanted.

Mr. Clifford discussed the arborist report and visualized the agreed tree plan on the easel. He was concerned that the "no-cut" areas must be clearly defined. Mr. West noted that they agreed two months ago to that condition. Mr. Wilson noted that Jeff Ott's tree preservation recommendation that would be implemented during the construction process was to preserve certain trees outside the no cut zone. Mr. Pease agreed they would take all appropriate considerations to implement the recommendations. Mr. Clifford wanted the note changed. Mr. Clifford would provide Mr. Pease with the language he suggested be changed in the note. The recreation area was discussed. Mr. Pease would review and respond to the recommendations. The Board and the applicant both needed further review time for Mr. Ott's memo. Mr. Arena was concerned about actual accountability to the cutting plan. Mr. Wilson stated, as he had at several meetings that the town might send out inspectors. Mr. Pease welcomed that.

Mr. Clifford expressed concerns over the citing of buildings on lots 64-68. He felt they were close to a ditch and recommended moving the buildings at least 15 feet forward. Mr. Chagnon was open to exploring that suggestion and noted that it was not out of the question. If they are not able to move them forward then a fence might be an appropriate solution. Mr. Chagnon, and Pease would review that before the August 3, 2004 meeting.

Mr. Clifford expressed concerns about guardrails vs. a chain link fence or some other form of physical barrier to replace the current separation of a five (5) foot road shoulder. It was agreed that the danger was minimal but they would be open to placing some form of poles on the areas

impacted on road D. Mr. Wilson also noted potential danger near the Rye Highway Department area. The guardrails were not visually acceptable to the applicant, but poles might be acceptable. Mr. Clifford agreed to the poles.

Mr. Clifford expressed concerns that a water main appears to be under a building, and re-enforced his concerns about the fill and the 4,000 sq ft requirements. Mr. Chagnon referred Mr. Clifford to Jeffery Marcoux with his questions on the subdivision approval. Mr. Chagnon noted that Mr. Marcoux would accept the prototype in order to approve. The design should not be an issue.

Mr. Todd asked if the approval review process would increase any lot size. Mr. Chagnon responded it would not. Mr. Wilson summarized that if they get the subdivision approval it would be an indication that they do not have any problems.

Mr. Clifford expressed concerns with the Greystone Villages sign. Mr. Wilson confirmed with Mr. Pease that the sign would look the same as the one depicted in the drawing. Mr. Pease would provide a drawing for the August 3, 2004 meeting. Various Board members expressed options for alternative signs more to their personal taste. Mr. Pease remarked that he was satisfied with his choice in the sign.

Mr. Wilson asked the status of the easement from Crown Homes Properties. Mr. West noted the easement document was in draft status, but the document would be executed for the August 3, 2004 meeting. Mr. Clifford asked about the planting plan. Mr. Chagnon noted that the NH Soil Consultants' report addressed the planting plan. Mr. West noted there are no further plans for additional plantings.

Mr. Ganotis referred to the land as his last concern and noted that the catch basin was not included in the wetlands' impact area. Mr. West was optimistic that Mr. Richardson's review would state to the contrary noting that Mr. Richardson's review would be the deciding factor. Mr. Clifford suggested that Mr. Ganotis should articulate his concerns in writing to the NH-DES. Mr. Ganotis stated he was in the process of drafting a letter to the NH-DES.

Mr. Clifford was concerned about endangered species. Mr. Todd suggested that Mr. Clifford recommend a monitoring plan to the applicant. Mr. West noted that currently the Wetland Bureau required up to 5 years' monitoring and would copy the Board on the reports sent to the Wetlands Bureau. Mr. West defined the areas as a mitigation area for wetlands. Mr. Clifford offered his opinion that the area should be included in the wetland impact area. Mr. West clarified that the handout stated they would plant a substantial amount of plants that would help protect against evasive plants. Mr. Arena wanted a 100% guarantee against invasive species. Mr. West also noted that it was not feasible to guarantee 100% protection against invasive plants. They would do all that was possible in the areas but could not guarantee 100%. Mr. West stated they were addressing 90%.

Mr. Ganotis recommended that the area be treated as a wetland. Mr. Pease said the ramifications of doing that is impact mitigation; the permissions required to later return and clean those areas once they are classified as wetlands. Mr. West stated that if dredging was required they would. Mr. Pease stated that in his years of association with Mr. West he had great confidence in Mr. West's current recommendations of how to manage that area. Ultimately, it was the state's decision on what must be done regarding this area.

Mr. Salomon noted there are two issues; one being the state's decisions, and the second being NH Soil Consultants' recommendations. He suggested that if NH Soil Consultants confirmed that they considered the issue in their review, and if they concur with Mr. West, then the town should proceed. Mr. Clifford would confirm NH Soil Consultants' review. Mr. Wilson questioned the impact to the town if the state considered the area as wetland.

There was more lengthy discussion with no resolution until the state makes its determination about Ponds 1 and 2. The conversation eventually moved to Item # 18 on Mr. Clifford's list -- NH-DOT Acknowledgment for the turn lane. Mr. Chagnon noted that a NH-DOT permit would take care of that. Regarding # 20 stump disposal, Mr. Pease confirmed that there would be no stump burial on site. Mr. Chagnon referenced the report containing the specifications. Regarding # 21 dust issues, Mr. Chagnon stated it was addressed in the B&P. Mr. Pease would provide the B&P sheets. Mr. West added that the EPA permit verifies the dust control standards they would apply. He would provide the report. Mr. Clifford memo was now closed.

The Board then heard from Mr. Brown. The Town of Rye had an easement waiver (see handouts). The town was not properly notified regarding the meeting. Mr. Brown stated that this was a clerical error. Mr. Pelech added the procedures that should be followed to notify abutters. Mr. Brown noted it is the burden of identifying the abutters falls upon the applicant.

The Board reviewed again the Conservation Commission's issues that had been covered a few weeks ago. There had been no changes in responses since the last meeting. The septic system maintenance issue was also brought up again. Mr. Pease had confirmed he would apply to the condition of the Board regarding the monitoring of the water quality. Mr. Ganotis was concerned with the flow monitoring. Mr. West stated and Mr. Clifford confirmed that it was not possible to measure flow as suggested. However it was possible to monitor erosion.

Mr. Chagnon could propose that if the Board were comfortable with the idea he would ask NH Soil Consultants to propose and develop a test and schedule. Testing for containments that might occur from septic system failures concerned Mr. Todd. Mr. Wilson reiterated the existing agreements with the applicant for protection against system failures. Mr. Salomon stated that in the event of a sale of the properties the next owner should be required to maintain the surety bond.

Mr. Wilson closed the Conservation Commissions' issues, but remarked to Mr. Ganotis that the recommendation of the density reduction brought by the commission would not be implemented.

The Board had already agreed to the current density with the applicant, and the concerns raised by the Commission did not merit a reduction.

Mr. Wilson addressed the clubhouse architecture. Mr. Pease displayed the drawing and verbalized the drawing. Mr. Pease noted that there was a floor plan in the package that the Board had and described in detail the floor plan and the exterior.

Mr. Rineman asked if there would be events held there. Mr. Pease responded in the affirmative. Mr. Arena asked about capacity. Mr. Pease responded the capacity was 60 individuals, noting total floor space of 2100 sq ft. Mr. Rineman asked who was responsible for building maintenance. Mr. Pease answered that the management was responsible for building maintenance. Mr. Rineman and Ms. Pohl asked about parking on Route 1. Mr. Pease responded that there would be no parking on Route 1 since there were 23 parking spaces at the facility. Mr. Arena asked if the building was prefabricated, Mr. Pease that the clubhouse would be prefabricated.

Mr. Salomon requested that it be noted for the record that he had not participated in the discussions of architectural standards.

Mr. Wilson opened the floor for public comments at 9:19 PM. After polling the public there were no comments, the public comments were closed at 9:21 PM.

Prior to formal acceptance of the plan by the Board, Mr. Pease would provide full drawings. He anticipated delivering them to Ms. Arrain by Friday, July 23, 2004.

Mr. Wilson opened the discussion of the Fire Chief's concerns. Mr. Todd requested the results of the roadway's reference. Mr. Wilson quoted for the record that Deputy Chief Landry was referencing the NFPA 1141 – Standard for fire protection in planned building groups section 5.2. Mr. Pease would review that reference. Mr. Chagnon noted that the distance from Cape Cod berm to Cape Cod berm would be 21 feet. Mr. Todd discussed the turning radius at the cul-de-sac. Mr. Chagnon added that the Deputy Chief asked for 120 feet, but the actual would be 100 feet, however they compensated with a wider turn radius and road. The Deputy Chief has found their plan acceptable.

Mr. Wilson introduced the covenants plan (see handouts). Mr. Wilson proposed to the Board that Michele Peckham review the plan as the town attorney opposed to Atty. John Ryan. Mr. Wilson cited Ms. Peckham's experience with town easements. With the exception of Mr. Salomon, all other members agreed. Mr. Salomon preferred that Atty. Ryan would be a better alternative. Mr. Salomon wanted to make sure certain conditions such as (1) inclusion for enforcement of penalties on a daily basis for any ordinance violations (2) a provision in the record that anyone holding the mortgage at the time subsequent to foreclosure of a prior recorded mortgage be included. Mr. Pease requested that whoever reviewed the document should contact him with questions or comments.

Mr. Wilson questioned the wording in Section 2.1, age restrictions and requested the verbiage changed to reflect that at least one occupant must be at least 55 and other under 55, however no one under the age of 18. Mr. Pease would reword the section.

Mr. Arena questioned the chain of ownership comparing it to a condo association. Mr. Pease explained that the management company owned the land and noted that after 75% of the home sites were leased the association would assume ownership of the project lot. Mr. Pease added that the association is mandated by the rules and regulations, and they cannot change them. Mr. Wilson was not aware of that condition, and if he had understood this from the beginning, he would have a different opinion and displayed a lack of trust in an association's ability to adhere to the agreed standards. Mr. Wilson worried about the impact on the town. He stated he might not have accepted the concept if he had been aware of the proposed ownership structure.

Mr. Pease remarked that all of his previous submissions stated that he intended to structure this as a condominium and he assured the Board that he would not have ever led the Board to think otherwise. Most members backtracked and expressed that they believed they had asked the right questions. Mr. Pease noted that he needed to know how to address the issue of a single point of control vs. an association and would get back to the Board to make sure they are comfortable with the ownership/accountability structure. Mr. Pease would make sure they were provided with the necessary controls. Mr. Arena stated that he asked the relevant questions one year ago, but was derailed. Mr. Wilson would add the issue of ownership structure to the agenda for the August 3, 2004 meeting.

Mr. Wilson opened the floor to comments from the public. There were no comments from the public and the public hearing was closed.

Mr. Todd moved and Mr. Rineman seconded the motion to adjourn the meeting. The vote was unanimous.

The meeting adjourned at 9:55 PM.

Respectfully submitted,

Barbara Smith
Recording Secretary