

NOTTINGHAM PLANNING BOARD

May 9, 2012

PUBLIC SESSION

Approved & Amended

Type of Meeting: regularly scheduled meeting

Method of Notification: Posted at the Nottingham Municipal Building & Nottingham Post Office

Meeting Location: Nottingham Municipal Building

PB Members Present: Arthur Stockus, Chair, Troy Osgood, Vice Chair, Susan Mooney, Secretary, John Morin, Dirk Grotenhuis, Robert “Buzz” Davies, Alt. Member, Cheryl Smith, Alt. Member

PB Members Absent: Hal Rafter, Selectmen’s Rep, Traci Chauvey, Alt. Member,

Others Present: Lisa Sears, Land Use Clerk, Kristen Lamb, Ed Viel, Tom Sweeney, Robert Prieto, Celia Abrams, Joseph Falzone, Jack Mettee

Chair Stockus called the meeting to order at 7:01 pm. Introductions were made. Mr. Davies was seated for Mr. Bacon’s former seat. Ms. Smith will be participating but not voting. The approval of the minutes was moved to the end of the agenda.

MOTION by Ms. Mooney to move Case P10-02-SUB DR to the first agenda item.

SECOND by Mr. Morin

VOTE 6-Aye. 0- Opposed 0- Abstained MOTION PASSED

Chair Stockus called the case.

Case #P10-02-SUB DR (continued) – Harbor Street Limited Partnership – 154± acre parcel which fronts both Friar Tuck Lane and Oakridge Road – Map 10 Lots 9 & 10, Map 8 Lots 8-21 & 9 – Application for a design review of a 43-lot subdivision. Property is owned by Harbor Street Limited Partnership, Brian M. & Jennifer Spagna, Seth F. & Pearl I. Peters

Chair Stockus noted that this case was continued from the last meeting to allow the Board time to get an opinion from Local Government Center (LGC) on the request from the applicant to further extend the Design Review process (Beals Associates received April 24, 2012). Chair Stockus summarized the LGC opinion noting the RSA’s and that LGC recommends that the Design Review should be ended immediately.

Chair Stockus noted that there were some misconceptions based on emails received from the public. Chair Stockus stated that the Planning Board has endorsed Mr. Falzone’s Open Space Plan for this project and that tonight’s discussion was an administrative one only. There were 24 emails received; 1 asking for the project to be dropped, 1 against granting the extension and the rest in favor of granting the extension. Chair Stockus read part of RSA 676:4 I (d) & (b). He added that if the Design Review was ended tonight then the

47 applicant still has 12 months to submit the formal application for this project (May 9, 2013)
48 and fall under the old Zoning Ordinance (ZO) which was before the Impact Fee Ordinance.
49 Chair Stockus added that the applicant has asked for the extension to January 23, 2013.

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51 Chair Stockus read the memo from Paul Colby, Code Enforcement Administrator stating
52 that he believes that Design Review Phase should be ended. Mrs. Sears stated that this
53 application for Design Review came in on May 6, 2010.

54
55 Mr. Davies questioned which fees would the applicant have to pay and for which
56 processes. There are no new fees (town/application/filing) associated with terminating this
57 Design Review.

58
59 Mr. Falzone commented on his opinion of the Design Review process and his experience
60 with pursuing conservation projects in other towns and the approximate time tables these
61 projects take. He noted he has had some take as little as 9 months and others take as long as
62 18 months. Mr. Falzone stated that granting the extension would “keep the status quo”
63 allowing this project to come under the old ZO with no impact fees for this project. He
64 added that keeping the status quo would protect his investment of engineering costs that he
65 has spent so far on this project. He noted that if the project doesn’t end up in conservation
66 due to lack of federal/state/town funds he will still pursue the 42 lot subdivision.

67
68 Mr. Falzone went on to explain that he has a very successful record in Nottingham and
69 other towns in pursuing these conservation projects. Mr. Falzone noted that the impact fees
70 for this project would be about \$205,000, and that it wasn’t about getting more time for any
71 design revisions to these plans but it’s about protecting his investment and potential costs.

72
73 Mr. Falzone briefly spoke of the federal funding cycles noting that the federal funds would
74 probably be contributing 80-90% of the project plus what he and the Conservation
75 Commission, as agents for the Town’s conservation fund would be. Mr. Falzone said that
76 he has to protect the \$250,000 invested engineering costs, in this plan/project to date and if
77 terminated tonight he would have to move forward with the subdivision plans within 12
78 months. He noted that if this conservation project works out then it will be funded at the
79 earliest in the first quarter of 2013 (Jan-March).

80
81 Chair Stockus confirmed that if granted the request for January 2013 that still would likely
82 not be enough of an extension. Mr. Falzone agreed stating “not unless all the stars are
83 aligned”. There was a brief discussion on where the project is and what groups have
84 expressed interest. Chair Stockus noted that this discussion of changing this project from
85 the proposed 42 lots to keep the land in conservation began in the early summer of 2011.

86
87 Mr. Falzone stated that he has not made an application to this federal agency (for
88 conservation projects) that has failed. Discussion was again on the speculation of time
89 tables/agencies involved. Mr. Falzone said he was very confident that this conservation
90 project would go through, if funded, but could not guarantee it.

Ms. Smith spoke of the ranking of applications, competition of funds from other projects, that these projects go through noting that this project seems to have “a decent ranking”. She noted that this was a valuable piece of property.

Mr. Grotenhuis asked Mr. Falzone why he made the initial application if he didn’t have the funding in place noting that, if granted, this project will have taken up well over 3 years. Mr. Falzone noted that when started in May of 2010, he was unsure of the real estate market and that he always has a few projects pending most of the time and that doing so has made him successful. He added that he doesn’t believe that this has taken too much time.

Mr. Falzone also stated that if the extension request is not granted that he would not have any hard feelings towards the Town. He stated that as a business man this is a money decision for him. He also stated that he has controlled the market (real estate) in this Town since 2001. He stated that he would have moved quicker to develop had the Board not given him his last extension, agreeing that he would have a year to submit the formal application once the Design Review is complete.

Mr. Davies asked Ms. Mooney if the Town would benefit if this did end up in conservation. Ms. Mooney stated yes and reviewed what was found on the site like vernal pools, etc and that there is a large amount of abutting conservation land that ties in nicely. She noted that once the impact fees are spent your still going to have houses there drawing on the tax base but not if the land is in conservation.

Mr. Morin noted that if funding doesn’t come through and we grant this extension the Town loses out on \$200,000 from impact fees Mr. Falzone wouldn’t potentially have to pay. Discussion was on if granted to January 2013, then ended then, Mr. Falzone would still have the 12 months to submit the formal application which means this would not end until January 2014 when it began in May of 2010 and Mr. Falzone would still not have to pay any impact fees.

Ms. Mooney stated that she believes it is in the Town’s best interest to grant the request.

MOTION by Ms. Mooney to grant the request from Beals Associates to extend the Design Review until Jan. 23, 2013.

SECOND by Mr. Osgood

VOTE 3-Aye. 3- Opposed 0- Abstained MOTION FAILED.

Ms. Lamb asked if the Board would take public input. Chair Stockus allowed Ms. Lamb to speak. Ms. Lamb stated that she didn’t see this as an administrative decision as Mr. Stockus had stated but as one for conservation. Chair Stockus disagreed, noting the choice was Mr. Falzone’s to pursue but ending the Design Review doesn’t prohibit the conservation pursuit. Ms. Smith asked Mr. Falzone if he would pursue the subdivision if the Design Review were ended. Mr. Falzone discussed if dead ends streets were allowed now in Nottingham because these plans could still change if they are. Chair Stockus noted he would have to defer to Mr. Colby.

Mr. Falzone again stated he would have to pursue the subdivision within the 12 months if the federal money didn't come through, "unless a wealthy person would step forward and purchase the property from him."

MOTION by Mr. Grotenhuis to end the Design Review for Case P#10-02-SUB DR.

SECOND by Mr. Morin

VOTE 3-Aye. 3- Opposed 0- Abstained MOTION FAILED.

Chair Stockus suggested continuing this case when there is a full Board at the next meeting.

MOTION by Mr. Grotenhuis to continue this case to May 23, 2012

SECOND by Ms. Mooney

VOTE 6-Aye. 0-Opposed 0- Abstained MOTION FAILED

2013 Zoning Ordinance-Draft changes with Mettee Planning Associates, Jack Mettee

Possible grants for planning of Neighborhood Heritage Districts

Mr. Mettee reminded the Board about the recent grants available for creating a Neighborhood Heritage District in Nottingham Square area of town. He noted he had been discussing this with Ms. Mooney and Joe Welsh. He noted there is interest but the deadline is fast approaching but also noted that this could be pursued next year or later. He added that there needs to be enough time to gather support from other Boards, Committees etc for administrative issues. Ms. Mooney asked Mr. Mettee who would be paying Mr. Mettee for his assistance with this project. Mr. Mettee stated that no one would be but he would be hoping to get the work if the grant was received.

The Board reviewed in detail the revisions on *open space* and *non conforming Use, Lots and Structures* from the document dated April 18, 2012 from Mr. Mettee.

The Board also reviewed in detail the first draft of the revisions to *Accessory Dwelling Units* (ADU) and *Home Occupations* from the document dated April 18, 2012 from Mr. Mettee.

Mr. Mettee will return to the Board on June 27, 2012 with revisions as well as a first draft for the Telecommunication Ordinance which is the next item on the contract with Mr. Mettee.

Review of the Minutes

April 25, 2012

Line 37 add comma after applicants

Line insert is not after he

Line 62 date to dated

Line 70 add to after voted

184 Line 71 delete in, add enable
185 Line 92 should be \$1,150.00
186 Line 135 insert in after be
187 Line 136 delete whole line and change to: to simplify future reviews.
188 Line 139 change match up to reflect
189 Line 162 change who to what agency
190 Line 164 change vast amount to significant number

191
192 **MOTION by Ms Mooney** to approve the amended minutes of *April 25, 2012*

193 **SECOND by Mr. Osgood**

194 **VOTE 6-Aye. 0- Opposed 0- Abstained MOTION PASSED**

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196 **Master Plan Chapter(s) Review**

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198 Due to the late hour, the Board moved the review to the June 13, 2012 meeting.

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200 **Other Business**

201

202 Mrs. Sears will send the Board an updated schedule of cases and meeting dates via email.

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204 **MOTION by Mrs. Mooney** to adjourn at 9:23pm.

205 **SECOND by Mr. Grotenhuis**

206 **VOTE 6-Aye. 0- Opposed 0- Abstained MOTION PASSED**

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208 **Respectfully Submitted,**

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213 **Lisa L. Sears, Land Use Clerk**

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215 *These minutes are subject to approval at a regularly scheduled Planning Board meeting*
216 *at which time the above minutes are corrected or accepted.*