

**SEEKONK PLANNING BOARD**  
**Public Hearing, Regular Meeting**  
**MINUTES**  
**December 13, 2011**

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Present: Ch. Abelson, M. Bourque, S. Foulkes, L. Dunn, R. Bennett, R. Ross, R. Horsman  
J. Hansen, Town Planner

7:02 pm Ch. Abelson called the meeting to order.

Ch. Abelson opened up the Public Hearing for:

**Definitive Subdivision: Caleb Estates -160 Olney Street – 4 lots**  
**Applicant: DeCastro Builders**

Ch. Abelson read the order of business.

A motion was made by R. Ross, seconded by R. Horsman and it was unanimously

**VOTED: To waive the reading of the legal notice.**

Introduction of Town Planner and Board Members.

Discussion:

P. Carlson from Insite Engineering representing applicant DeCastro Builders summarized that the subdivision Caleb Estates at 160 Olney Street consists of 4 lots and that the street will be 627 feet with a hammer-head design. He noted that the hammer-head design was discussed and approved by the Fire Chief and DPW Director. He also noted that based on the Planning Board's previous meeting and approval of the preliminary plan, extensive modifications to the plan were made.

L. Dunn asked P. Carlson if the lots that have the swale in front would have a right-of-way of 14 feet.

P. Carlson explained the right of way for the road way system was 40 feet. He went on to state that to make it all work there is a 7 foot easement required on the front of the lots outside of the right of way. He went on to explain that Insite not only took into consideration what the Planning Board recommended but also what neighbors had to say as well as the Conservation Commission, who approved the plan with a Notice of Intent. Each lot will have its own individual septic system.

P. Carlson also discussed the easement issue and explained that they are all recorded under each individual house deed. All operation of maintenance under the homeowners association will be filed with each individual lot. In addition there is a maintenance program required, which

consists of a yearly \$1,200.00 maintenance fee which covers anything from grass cutting to erosion protection. Copies of all the documents for the homeowners association will be on file in the Planning Department. Homeowners will have their own copies and it will be recorded with their deed.

R. Horsman noted that he only had a problem with point number four and had two questions, 1) who in town or who is ultimately responsible to make sure the homeowners association does their part to keep up the swale. 2) If the swale is not kept up how does the town prosecute?

P. Carlson answered he did not know who in town would be responsible to handle that. He said it would be the responsibility of the homeowners association. He also went on to say that they would put into the control/operation maintenance plan that the project engineer would stay on during construction and go on a yearly inspection and provide a check list to Planning and Conservation as to the status of the subdivision. It would be the responsibility of the homeowners association to contact them once a year to do this inspection.

R. Horsman noted that he needed something in writing to convince him that years from now the subdivision and swales would be maintained properly.

J. Hansen read R. Horsman the bylaws regarding homeowners associations, Section 20 of the general bylaws. In summary it stated that reports shall be given to the DPW one year following the date of completion of subdivision and every year after and in the event of failure of the owners to maintain the property the Town may enter the property, perform the necessary maintenance, and could charge a reasonable amount to the owners of said property.

S. Foulkes asked about the Health Agent's approval in writing.

J. Hansen explained that they have done perc tests but it is not in writing because the applicant has not paid the fee to the Health Department. Once that is paid the approval will be put in the file.

S. Foulkes referred to an undated letter from a neighbor Mr. Stolte, and asked if his concerns outlined in his letter had been addressed. She also requested that when letters come into the Planning Office with no date that they be time stamped.

P. Carlson said the owner and developer had gone through a redesign to address these problems and moved the drainage swale from north side to south side.

Ch. Abelson asked if anyone in the audience wanted to speak.

Lydia Cordeiro resident of 180 Olney St. commented that between Agawam Ct. and 160 Olney there are only two storm drains she asked how DPW can improve on these because her yard gets flooded when there is a lot of rain. Other comments included how would the developer deal with the down spouts run-off that go onto her property and the detention pond as a breeding ground for mosquitoes. Ms. Cordeiro also asked if there had been any sort of testing or monitoring of the

wildlife in the area that might be displaced and lastly she asked about the maintenance of the swales.

P. Carlson said the down spouts in the subdivision are all in the rear of the yards and will go into an underground infiltration system and will not discharge into the grass. It is an underground pipe.

M. Bourque asked who enforces that the down spouts go directly in the ground.

P. Carlson answered that a separate plan would have to be submitted to Conservation and Planning for review and compliance and a mechanism would be put in for a review process to be done by the building inspector and if they are not in compliance the builder would not get their CO. He also said in reference to the detention pond, the perc tests done provided good infiltration soil so the majority of storm events that do happen will not create a lot of water in the back pond because of the swales. As far of mosquitoes that would be a Board of Health issue. He also commented that no wildlife study had to be done for this as it is not in the bylaws. As far as the homeowners association there is a maintenance fee split by the homeowners for grass cutting and making sure the swales are working properly.

L. Cordeiro asked about the privacy issue between her property and the new lots.

P. Carlson noted that she would have to discuss that with Mr. DeCastro.

Jason Audette 50 Agawam Court asked about liability if swale fails and there is flooding in his yard and home.

Ch. Abelson commented that most of the water is going in the opposite direction. If nothing worked the developer would be responsible.

R. Ross commented that assuming the contractor was negligent during construction the liability would be theirs but as to the engineering design of the swale it would be more complicated because the abutters are not part of the homeowners association. He commented that if the swale fails it would probably be up to the homeowners association or the Town.

J. Audette asked if the grass cutting would be inspected on a regular basis and would there be a privacy barrier along the road . He was concerned about his young children playing in that area.

Ch. Abelson commented that inspections can be done but the onus is on the homeowners association to file a report if maintenance is not being done. He also said there is nothing mandated for a privacy barrier.

A motion was made by R. Ross, seconded by L. Dunn and it was unanimously

**VOTED: Adjourn the Public Hearing**

A motion was made by R. Horsman, seconded by M. Bourque and it was unanimously

**VOTED: To adopt Finding of the Facts as prepared in a December 2, 2011 memo by the Town Planner to the Planning Board**

A motion was made by L. Dunn and seconded by R. Ross and it was unanimously

**VOTED: To adopt the waivers as prepared in the December 2, 2011 memo by the Town Planner to the Planning Board with the corrected citation of section 5.3.17.7, which are justified as they are in the public interest and not inconsistent with the subdivision control law.**

A motion was made by R. Ross and seconded by R. Bennett and it was unanimously

**VOTED: To approve the Definitive Subdivision Plan – ‘Caleb Estates’, latest revision date of 11/10/11 and the Stormwater Management Narrative, latest revision date of 10/25/11, subject to the following conditions:**

1. Prior to issuance of a building permit for each lot, the lot owner/developer shall submit to the Planning Department a lot site plan and supporting information documenting that the grading of the lot is consistent with the impervious surface coverage and the drainage patterns depicted on the approved Subdivision Plans and that the development of the individual lot will implement and maintain erosion and sediment control measures during construction as stipulated on the approved Definitive Subdivision Plan. The lot plan should illustrate the placement and details of these measures.
2. Prior to issuance of a building permit for each lot, the lot owner/developer shall provide the Planning Department with site specific soils data and a roof drainage system design meeting the design requirements shown on the drawings, including the required separation from seasonal high groundwater. Prior to the issuance of certificate of occupancy from the Building Department, a record plan indicating as-built conditions of the roof drainage system design shall also be submitted to the Planning Department.
3. Appropriate documentation shall be submitted to the Planning Board for the establishment of a homeowner’s association, associated drainage easements Board of Health Review, and a sight line easement which shall be sufficient in width to allow a clear sight line across the front of the ANR lot. These documents shall be submitted prior to endorsement and recorded along with the Subdivision Plans.

4. The performance of the channels and outlets should be monitored by the developer for at least two years following placement into service, with action by the developer if erosion or sedimentation results from operation of this system.
5. A copy of the USEPA NPDES Construction General Permit Notice of Intent and associated Stormwater Pollution Prevention Plan shall be furnished to the Planning Department prior to the initiation of construction.

**And so voted Aye by R. Ross, R. Bennett, R. Horsman, M. Bourque, L. Dunn, S. Foulkes, and Ch. Abelson.**

**Motion passes (7-0).**

#### **Surety Establishment for Caleb Estates**

A motion was made by R. Horsman, seconded by R. Bennett and it was unanimously

**VOTED: To approve surety of \$280K in the form of a covenant for 2 lots: 1 and 3, with an expiration date of 24 months starting December 13, 2011.**

#### **Form A: 167 School Street – Applicant: Najas Realty**

A motion was made by R. Horsman, seconded by R. Ross and it was unanimously

**VOTED: To endorse The Form A for 167 School Street**

#### **Discussion: Luther's Corners Parking/Circulation – Planning Board Study- Consultant Selection**

A motion was made by R. Ross seconded by L. Dunn and it was unanimously

**VOTED: To accept DiPrete Engineering to be the consultant for the Luther's Corner's parking circulation study as theirs was the best quality proposal.**

#### **Discussion: Master Plan – Public Facilities and services, Land Use, Transportation sections**

R. Horsman made a suggestion to discuss the Master Plan agenda item at a different meeting due to the lateness of the meeting.

J. Hansen agreed but pointed out that within the public facilities and services section there was survey that will be sent out with the census and it is a time sensitive item. He asked Board members for comments on the survey.

R. Horsman said he would like to see the addition of Mayor as a choice on the survey question asking about changing the form of government in Seekonk.

A motion was made by R. Horsman seconded by L. Dunn and it was unanimously

**VOTED: To approve the survey with the addition of Mayor as a choice on the survey question asking about changing the form of government style in Seekonk.**

A motion was made by R. Horseman and seconded by S. Foulkes and unanimously

**VOTED: To finish discussing the Master Plan in early 2012.**

**Correspondence:** none

**Approval of Minutes:**

A motion was made by R. Bennett, seconded by R. Horsman and it was unanimously

**VOTED: To accept the minutes of 11/8/11**

A motion was made by M. Bourque seconded by R. Horsman and it was unanimously

**VOTED: To go into executive session, under G.L. c.30A, §21(a)(3), to discuss strategy with respect to potential litigation regarding Wheaton Avenue, as the Board's chair has declared that holding an open session regarding the matter may have a detrimental effect on the litigating position of the Town with the Board and to not return to open session at 9:30PM.**

Respectfully Submitted by:

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Florice Craig, Secretary