

MINUTES OF MEETING OF WAREHAM PLANNING BOARD

Date of Meeting: **March 25, 2013**

I. CALL MEETING TO ORDER

The meeting was called to order at 7:06 P.M.

II. ROLL CALL

Members Present: George Barrett, Chairman
 Michael Baptiste, Vice Chairman
 Michael Fitzgerald, Clerk
 Charles Klueber
 John Cronan, Associate Member

Also Present: John Charbonneau, Town Planner
 Selectman Alan Slavin, BOS Liaison

III. PRELIMINARY BUSINESS

A. Approval of meeting minutes: November 19, 2012 & March 11, 2013.

**MOTION: Mr. Klueber moved to approve the minutes of November 19, 2012.
Mr. Fitzgerald seconded.**

**VOTE: Unanimous (3-0-1)
Mr. Barrett abstained**

**MOTION: Mr. Baptiste moved to approve the meeting minutes of March 11,
2013. Mr. Klueber seconded.**

VOTE: Unanimous (4-0-0)

B. Invoices to be paid.

- 1. Ricoh – Invoice #88666005 dated 3/7/13 in the amount of \$117.50**

C. Discussion – Tri-party agreement – “Jonathan Estates”.

Present before the Board: Mario Dibona
 Attorney Margaret Ishihara

Ms. Ishihara stated she is representing Mr. Dibona in this matter. She spoke re: the tri-party agreement relative to Jonathan Estates. She discussed the covenant, the recording

of the tri-party agreement, & the issues that could arise, for example, a title search & the recording of the agreement that could hold up a closing.

Ms. Ishihara suggested that all parties sign the tri-party agreement. She stated there will be a separate release of covenant as well. She stated once the documents are signed by everyone, the documents could be recorded. She explained the covenant that is on the lots currently would be released & it would be replaced, on the record, w/ the tri-party agreement.

Mr. Barrett stated the release references the agreement & there is a necessity to actually file/register the tri-party agreement.

Mr. Fitzgerald expressed concern re: dates. He stated there is a paper trail. He noted that if there was cash being put into the possession of the Town, this would be a completely different situation. He stated however, this is a contractual agreement that is just a paper trail. He stated if there was a vote of the Planning Board to sign the releases or whatever is necessary to sell a lot, this would help the developer. He stated the Board an sign off in support of the tri-party agreement.

Mr. Charbonneau suggested that the Board sign the signature page & revise the agreement. Mr. Fitzgerald again expressed concern re: the paper trail/agreement. Brief discussion ensued.

MOTION: Mr. Klueber moved to accept the agreement as written. Mr. Fitzgerald seconded.

NOTE: A question was raised as to who signs off on this. It was stated the Town does. Another question was raised as to in 18 months or whatever the timeline is, will the same four Board members have to sign this document. Mr. Charbonneau advised Mr. Barrett that the Board members can sign tonight.

Mr. Charbonneau questioned why there are so many notarized signatory pages. He stated there are signatory pages for the applicant, the applicant's attorney, the bank, & the Town.

It was stated Mr. Charbonneay will make a few amendments to the agreement & then Chairman Barrett can endorse the agreement.

VOTE: Unanimous (4-0-0)

Mr. Charbonneau asked the Board if they felt comfortable signing the release of covenant or would the Board like Town Counsel to review.

It was stated Chairman Barrett will endorse the agreement & release the covenant on Wednesday, March 27, 2013.

D. Housing Production Plan – c/o Sandy Slavin.

This matter will be discussed later in the meeting.

E. Form A – 2230 & 2232 Cranberry Highway – c/o JC Engineering, Inc.

Mr. Charbonneau informed the Board that the applicant wishes to withdraw without prejudice because the applicant needs to go before the ZBA for a Variance & perhaps a Special Permit.

MOTION: Mr. Klueber moved to accept the withdrawal of a Form A for 2230 & 2232 Cranberry Highway – c/o JC Engineering, Inc. Mr. Baptiste seconded.

VOTE: Unanimous (4-0-0)

F. Best Friends Preschool – Modification to Site Plan – c/o Maria Laporta.

This discussion has been postponed.

G. Site Plan Review – 3041 Cranberry Highway – Set public hearing date.

Mr. Charbonneau advised the Board that he received a letter re: 3041 Cranberry Highway. He stated he could not process the plan through Site Plan Review because clarification needs to come from the Building Commissioner re: if this can be done. He stated since the letter, the Building Commissioner has said since it looks like there is separate ownership on the plan, proof of a lease agreement with the owner that shows a connection between the two sites is needed. Once this is done, then this can be done.

Mr. Charbonneau stated he received another letter today explaining that all of the individuals on the application & plan are part of the same LLC. He stated now he can move forward & hold a public hearing, keeping in mind that April 22, 2013 is Town Meeting.

Mr. Barrett asked if the lots are going to be combined. Mr. Charbonneau stated not at this point.

Mr. Baptiste stated this is just a lease agreement.

Mr. Fitzgerald asked if it has a separate access to the parking area. Mr. Charbonneau indicated he has a plan & believes you access the lot from the Thai restaurant & it is going to be a parking lot for the Thai restaurant. He doesn't believe it is going to have its own curb cut. He stated he can review the information & set a public hearing for May 14, 2013. He stated this public hearing date will give him time to review, distribute information, & give it to the Board for review.

MOTION: Mr. Barrett moved to set a public hearing date for 3041 Cranberry Highway for May 14, 2013 at 7:00 P.M. Mr. Fitzgerald seconded.

VOTE: Unanimous (4-0-0)

H. Supplement to notice of intent to sell & convert land pursuant to M.G.L. Chapter 61A – Eagle Holt Company, Inc. – off of County Road.

Mr. Baptiste asked about purchasing of the land & rights to the private pond. Mr. Charbonneau stated he doesn't recommend purchasing the property because the Town doesn't have any money. Mr. Baptiste stated Mr. Charbonneau is assuming this & that is not the right thing to do.

Mr. Charbonneau asked for the Board to discuss this matter because a Board vote is needed to either recommend that the Town exercises its right of first refusal or not recommend. Discussion ensued re: the approved subdivision, road & value, & recommendations by other boards, commissions, etc.

Mr. Barrett advised the Board members that the Planning Board has to do anything, it only states that the Board has been copied by certified mail. Mr. Charbonneau stated he has never seen anything in writing requesting the Board to do anything. He stated the Town has 120 days within which to exercise first refusal & it is up to the BOS. He stated it is a courtesy to reach out to land use boards to get their opinion. Mr. Baptiste stated they are just looking to see how the Planning Board feels about this. Mr. Fitzgerald stated it is in the Town's best interest moving forward. Mr. Charbonneau advised the Board that a motion would be needed to recommend the Town not exercise their right of first refusal.

MOTION: Mr. Klueber moved the Planning Board recommend the Town not exercise their right of first refusal re: property off County Road owned by Eagle Holt Company, Inc. Mr. Fitzgerald seconded.

VOTE: Unanimous (4-0-0)

Mr. Charbonneau stated he will type up a letter on Wednesday.

NOTE: The meeting went back to item D. Housing Production Plan, c/o Sandy Slavin.

Mr. Charbonneau stated the Board needs to decide whether or not to accept the Housing Production Plan. Mr. Barrett stated he thought Mr. Charbonneau was going to give the Board a full report on this plan. Mr. Charbonneau stated he will give a report, however he has some questions. He stated the plan contains a lot of data. He stated, for example, the plan does not mention industries. He stated the State uses this information to calculate median household income in the affordable units. He stated there are market rate units on the market now that are being purchased lower than the affordable units. He

stated when you speak about challenges & obstacles with affordable housing, that is an obstacle. He stated even though single family units are still _____, it shows the Town percentage is 78.1% which is still lower than the surrounding communities. He stated the Town of Rochester is 90%.

Mr. Charbonneau offered another comment re: pages 6 & 7 at the bottom of paragraph D, it says the State certifies the locality.....the Town may be able.....references footnote 6.....however, it says, if the applicant wishes..... so even if the Town has a housing production plan & meets its goals, there is still a mechanism for appeal so no matter what, there is no concrete way, even if the Town meets its goal.

Mr. Barrett asked if a note can be added to the report that the Town doesn't feel Wareham is placed correctly....page 55... it says one of the action items is to prepare local 40B procedures which the Town has. He stated it was adopted on February 8, 2006. He added that under a mobile home study, the problem comes when they have to meet certain income, so he doesn't think it is that simple. Some may not qualify.

Mr. Barrett stated he is hesitant to do anything w/ 40B. Discussion ensued re: what has happened in the past. He stated he would want something added that the Town is probably grouped wrong w/ the demographic housing values & that should be a goal to correct.

Discussion ensued re: how to proceed.

MOTION: A motion was made & seconded for the Planning Board to endorse the Housing Production Plan & to have the Town Planner draft a letter indicating the Planning Board's endorsement/support of said plan.

VOTE: Unanimous (4-0-0)

IV. PUBLIC HEARINGS

V. CONTINUED PUBLIC HEARINGS

VI. ANY OTHER BUSINESS/DISCUSSION

VII. TOWN PLANNER'S REPORT

A. Proposed Zoning Bylaw – Medical Marijuana Facility moratorium public hearing to be held on April 8, 2013.

Mr. Charbonneau stated this matter will move forward as a temporary moratorium.

B. Sign Bylaw Update.

C. Planning Dept. Updates:

1. Bella Terra Circle – Cost estimate for road completion.

D. Rules & regulations governing the subdivision of land.

Mr. Charbonneau stated he has written up the document, recorded it, & it is now on the Town's website.

Mr. Charbonneau reported that he attended the marijuana moratorium presentation & many towns are treating this like an overlay district. He suggested that this would be a great project for the Westfield site.

Mr. Charbonneau stated he has put in an application w/ SRPEDD for a technical assistance grant for the TDR Bylaw & he feels the Town has a good chance of receiving this grant.

VIII. CORRESPONDENCE

A. ADM Tihonet Mixed Use Development dated March 13, 2013.

IX. ADJOURNMENT

MOTION: A motion was made & seconded to adjourn the meeting.

VOTE: Unanimous (4-0-0)

Date signed: 7/22/13

Attest: George Barrett
George Barrett, Chairman
WAREHAM PLANNING BOARD

Date copy sent to Wareham Town Clerk: 7/24/13