

WEST NEWBURY PLANNING BOARD
Minutes of Meeting
February 28, 2012

Pursuant to a meeting notice posted by the Town Clerk and delivered to all Board members, a meeting of the West Newbury Planning Board was held on February 28, 2012, in the Planning Board Office. Board members Ann Bardeen, Brian Murphey, John Todd Sarkis, Chair, and Arthur Wallace attended. Associate Member Patricia Reeser and staff member Jean Nelson were also present.

The Meeting was called to order at 7:30 PM.

Ocean Meadow representative(s), for discussion of affordable housing.

Stan Checovich and Doug Stockbridge, partners of Ocean Meadow LLC, and David Chenelle of Perkins and Anctil appeared before the Board. They said that Steve Gillis had intended to be present but was not able to attend due to the change in date of the meeting.

Sarkis summarized that the Board had asked that the developers propose a binding agreement to ensure provision of the remaining four affordable units. A letter had been sent to Steve Gillis on January 19, 2012, requesting his proposal for the Board to review.

Chenelle distributed folders for each Board member which contained the following:

- Proposed Plan "A" 2/27/12, a color-coded plan of the status of the units to date.
- A narrative of Plan "A"
- A narrative of Plan "B"
- Two pages of e-mails with Elsa Campbell of DHCD
- A letter from Robert W. Anctil of Perkins and Anctil, "legal opinion relative to the authority of the Planning Board to mandate the construction of the affordable units within a certain period of time."

Stockbridge said that they are asking for release of seven units tonight. At the present time, four units are under agreement, and this is already a big improvement over sales last year.

He summarized Plan "A", where the market will dictate when units will be built. If a market-rate unit is built for sale in any of the designated affordable locations, then the attached unit will be completed as an affordable unit. This was described in the Plan "A". He said that Ms. Campbell has said this would be OK.

Murphey asked why the change from attached affordable units to mixed locations. Stockbridge said that the market is changing, and this concept is helping with a compromise.

Sarkis noted that a unit in a mixed building will probably sell more slowly. Nelson asked if buyers of the market rate unit will be told that an affordable unit will be located next to them. Stockbridge said that the location of the affordable is to remain discreet, and that would not be divulged due to privacy concerns. Nelson said that she took that answer to be a no, and that has been a problem in the past.

Checovich said that units have different price points. The thirteen units in the back of the community are at a higher price point.

Nelson asked how changing the designated affordable units would be handled, since the recorded L.I.P Agreement lists them. Chenelle said that has been discussed with Elsa Campbell at DHCD, and paperwork would have to be completed and recorded. Nelson said that she will contact Campbell for more information on the process.

Sarkis noted that Plan "B" does not address the fifth and sixth units. It only deals with units three and four. Stockbridge said that an affordable unit can be ready for sale in 30 days, once the market rate attached has been completed.

Reeser asked the status of the trails. Stockbridge said that Gillis has been talking with Steve Greason of the Open Space Committee and trails group. Greason has proposed two culverts on site. Gillis has stated that the trails on Lot 1 will not be available for use until 2013. Reeser said that a grant has been received for trail work, and that access to the trail on Lot 2 has been denied.

Sarkis noted that the letter sent to Gillis had asked for a list of infrastructure to be completed. Checovich said that the top coat of pavement remains to be done. This includes the driveways to the units. He feels that the balance of the work has been completed. The Conditions will be reviewed to see if an As-Built Plan is required.

Nelson related that residents had asked her about the "five year period" after which the Homeowners Association takes over. She had told them that is not a Planning Board requirement, but probably something in the condo documents. Stockbridge agreed. According to Town Counsel, Gillis would still retain development rights, and is obligated to complete the project as per plan.

Reeser suggested that the Special Permit be modified if a new agreement is executed. It was determined that would not be necessary. A signed and recorded agreement would be binding and would make any future buyers aware of the revision or amendment to the Form I.

It was agreed that a representative of Perkins and Anctil will write the initial Amendment to the Form I, which will be reviewed by Town Counsel. Sarkis was authorized by the Board to work with the attorneys to finalize an acceptable covenant. Wallace said that he feels this is a significant step forward. He suggested that the Board sign the Form J for 56 Moody Lane, which is closing on April 3rd.

Motion made by Wallace, seconded by Bardeen, to release 56 Moody Lane from the Form I. The vote in favor was unanimous, 4-0. The release was signed.

The group will return to the Board on March 20, 2012, to discuss the Covenant and to seek additional releases, if successful. They left at approximately 8:30 PM.

General Business:

..Notice to Sell Agricultural Land and Notice of First Refusal Option, M.G.L. chapter 61A Lots 2 and 3 Middle Street, Assessors' Map R-3, Parcel 33, owned by Sforza, received from Smolak and Vaughn, Attorneys
The lots as shown on the ANR Plan were discussed.

Motion made by Sarkis, seconded by Bardeen, that the Planning Board inform the Board of Selectmen that they do not recommend exercising first right of refusal for the lots. The vote in favor was unanimous.

Discussion of Zoning Bylaw Amendments. Regarding Byfield GPOD: Nelson said that Paul Colby of the Byfield Water District is available to meeting with residents. She suggested that the Planning Board might convene such a meeting, so that they could hear explanations and review hydrology reports. It was decided that, since time is short, the Warrant Article could be deferred to the Fall Town Meeting.

Motion made by Wallace, seconded by Murphey, to delete the Byfield Water District's request to amend the GPOD Map from the list of articles submitted to the Board of Selectmen. The vote in favor was unanimous.

Wallace said that he is pleased to see the LGSPI Overlay District Zoning Bylaw on the Warrant. He said that the Board of Selectmen are not in favor of placing the Stretch Code on the Warrant.

Murphey asked if outreach has been made to the school? Wallace said that he will remind Rick Parker of this. Reeser suggested that Wallace or someone from the EAC discuss the proposal for an Overlay District for the Page School with the Open Space Committee.

Review of Inclusionary Housing Zoning Bylaw and other models

Board members have reviewed the list of comments made by COG, Inc., and several Inclusionary bylaws from other communities. It was decided that models from Stow and Hamilton were most appropriate for West Newbury. Sarkis said that he feels the bylaw should only apply to multi-family development rather than single family homes, because it is easier to regulate and enforce, and density bonuses it makes it more possible to absorb the cost. It seemed that not everyone felt this was fair.

Bardeen reviewed the samples that she had read, listing that in most cases, the threshold is higher than the three in West Newbury; most give options such as building on-site, off-site, providing land, and a buy-out formula; and other communities have an affordable housing trust fund and a dedicated committee. West Newbury does not. Some, but not all, grant density bonuses for the affordable units. Sarkis said that the cost of inclusionary housing ultimately comes from the landowner unless a density bonus is granted.

Nelson said that she sees as the biggest hurdle the fact that a density bonus requires a Special Permit, which requires yet another application, hearings, and procedures, and seems to take away the right to develop a conventional subdivision.

Sarkis listed some "nuts and bolts" criteria that he felt would be necessary. The Inclusionary Bylaw should not apply to congregate care units, hospitals, dorms, or ANR lots; the threshold of 3 units is too low; and he asked if it would apply to Reduced Frontage lots.

Board members agreed to review the Hamilton and Stow models for discussion at the next meeting.

Site Plan Review Bylaw: Nelson related that she had not seen a solution to the problem with the Site Plan Review bylaw or significant revisions in the COG draft. There were some minor suggestions made and basically it is a choice of which language the Board prefers. She suggested that Charlie Wear may be helpful in determining applicability thresholds and requirements. She will send the draft bylaw and regulations out again to the Board.

..Update on **Sullivan Property**, Assessors' Map 1U, Lot 19, Whetstone Street and Sullivan Court, re Notice of Intent to Convert to Other Use Under M.G.L. Chapter 61A. Reeser related that Trust for Public Land has made an offer to the Sullivans.

..**Update on Contract with COG, Inc.** Nelson and Sarkis will discuss the situation with Michael McCarron.

Minutes of February 7, 2012: Motion made by Sarkis, seconded by Bardeen, to approve the Minutes as written. The vote in favor was 2-0 (Sarkis and Wallace in favor, Bardeen and Murphey abstained because they were not present.)

Minutes of February 21, 2012: The Minutes were reviewed and amended.

Motion made by Sarkis, seconded by Bardeen, to approve the Minutes as amended. The vote was 3-0.

Motion to adjourn, 10 PM.

Submitted by,

Jean Nelson
Planning Board Administrator

These Minutes were approved by the West Newbury Planning Board on March 20, 2012.