

HOPKINTON PLANNING BOARD

Monday, April 23, 2007 7:30 P.M.  
Hopkinton Town Hall

MINUTES

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PRESENT: R.J. Dourney, Vice Chairman, Sandy K. Altamura, John H. Coolidge, Jaime Goncalves, Claire Wright

.....Elaine C. Lazarus, Planning Director

.....Cobi Wallace, Administrative Assistant

**1. Public Hearing – Hopkinton Highlands II/Estates at Highland Ridge – Toll Brothers, Inc. – Extension of Time**

Mark Kablack, Attorney for Toll Brothers, Inc./Eagle Farm Limited Partnership, and Tom Betts, Senior Project Manager, Toll Brothers, Inc. (TBI), appeared before the Board. Mr. Dourney asked if TBI is still on the site, and Mr. Betts responded that they are but not all the time. Mr. Kablack noted they met with the Board on January 22, 2007, and that he is here now to provide a progress report and request an additional extension of time to complete the subdivision. He referred to a letter from TBI dated April 19, 2007, which indicates progress on remaining work items, including those raised by the Board's inspecting engineer. Mr. Kablack stated that the development has reached a couple of milestones including submittal of as-built and street acceptance plans. He outlined the status of some of the items:

- (a) Community Well – Mr. Kablack stated that the system upgrade was approved by DEP last summer, the modifications were made, and the well is operational. He added they would like to monitor the operation of the well through another spring/summer season. Mr. Dourney noted that it was said that the problems were related to the filtration system. Mr. Kablack stated that there is enough water there but sediment clogged the filters, resulting in reduced water flow. He added that Northeast Geoscience, Inc. has been awarded the contract for peer review and that results of the study should be available by mid June;
- (b) Continued drainage problems on Overlook Rd. and the intersection of Cedar Street Ext. and Overlook Rd. – Mr. Kablack noted there are problems with water flowing from Cedar Street Ext. resulting in icy conditions on Overlook Rd. during the winter. He noted they are working with the DPW and work on that particular drainage problem is about to begin;
- (c) Summit Way drainage issues and erosion from building lots onto Summit Way – Mr. Kablack stated TBI has installed a box inlet structure to collect water coming from the hill and channel it into the stormwater system. He noted the work was done without proper erosion controls on April 20 just before the heavy weekend rains, but that the area has been cleaned up since;
- (d) McGrath Property, 14 Overlook Rd. – Mr. Kablack noted the homeowners contacted TBI with pictures of erosion on their property some time ago and the solution involved both the McGrath and adjacent Shah (16 Overlook Rd.) properties. He noted they have met with both

property owners and are in the final stages of preparation of legal documents for the work to be done.

Mr. Kablack stated that the punch list should be completed over the summer with work on individual lots to be finished by the end of summer or early fall. Mr. Kablack stated he hopes that TBI has demonstrated enough effort and goodwill to warrant an additional extension. He requested an extension through the end of September which would allow TBI to stay on schedule, complete work over the summer and begin the road acceptance process by the end of the summer or beginning of fall. He noted he is willing to meet informally with the Board in the interim but would like to avoid additional public hearings because of the work involved in doing that.

Ms. Altamura stated she has no problems with the process but would like to know if there are comments from the residents. She stated there should be an informal meeting, perhaps by August 1, to identify any outstanding issues. Ms. Wright stated that she feels the request is not unreasonable. She noted that the residents initially felt that nothing was being done and that something had to get the process moving. She stated that TBI has worked hard but encountered unanticipated problems involving the communal well and drainage issues on individual lots. Mr. Goncalves stated he is mainly concerned with the water system and would like to see the developer back after completion of the peer review. He recommended an interim update specifically for the communal well and another for the remaining items. Mr. Dourney asked how many lots remain unsold in the subdivision and Mr. Betts noted that there are 4 left, 3 with homes on them and one vacant lot. Mr. Dourney asked if there is a crew on site. Mr. Betts noted there is a warranty crew on site but they are shutting down the construction trailer and will be there as dictated by the construction schedule. He stated that they missed windows of opportunity and could not get the swale done due to rapid weather changes before the winter.

Pam Aggerback, 20 Overlook Rd., asked whether the Town or Mr. Betts have ever seen a situation like this before with homes built without septic systems in place. She expressed concern about the financial viability of the Homeowners Association. Ms. Lazarus stated she never heard of this type of situation before. Mr. Dourney stated that normally builders will not start construction until all permits have been obtained and questioned when permits expire. Ms. Lazarus stated all approvals were in place, but TBI moved things around on some lots and then was unable to put the system in. Mr. Betts stated the soils turned out to be inadequate. Mr. Goncalves asked about lot 3, and Mr. Kablack noted they now have an approved septic plan. Mr. Kablack acknowledged that in hindsight they should have had a septic system installed before starting the home construction. Mr. Kablack stated it was not planned this way and that considering the size of the lots they expected to find a place for a septic system, and on other lots they have been successful. He added that this is one of the reasons they need another extension.

Kin Cheung, 4 Summit Way, asked if it is possible to install an additional catch basin behind his mailbox to prevent puddles forming at the end of his driveway and presented a photo to illustrate the problem. Mr. Kablack noted they are at an impasse regarding Mr. Cheung's problem. He noted that if the Board's inspecting engineer believes that the stormwater system is not working properly, TBI will be happy to address the problem. Mr. Dourney noted the Town cannot be asking for better than adequate but that the Board will ask its inspecting engineer to take a look

at it. Mr. Coolidge noted it could just be a grading issue. Mr. Cheung noted he also owns 7 Summit Way and he presented a photo showing puddles in the driveway there. Ms. Lazarus noted that some of these problems seem to be lot grading issues that do not impact the Town's infrastructure, and the homeowner will have to work with the developer. Mr. Coolidge noted that the Town is still holding a performance bond. Mr. Cheung noted he is in favor of the Board granting an extension.

Bill Flannery, 29 Overlook Rd., noted he is concerned the extension will be too open-ended and he has a low level of confidence. He added he is not impressed with TBI's performance and hopes the Board will require the developer to come back on a monthly basis with a time line specifying what will be done and when. He noted the residents should be getting status reports too. Mr. Dourney asked if TBI has a record of the residents' email addresses, and Mr. Betts stated they have. Mr. Flannery noted he has emailed TBI twice regarding the swale and continued runoff issues but has not received a response so far. He thanked the Board for its involvement and noted it should keep the pressure on. Mr. Dourney noted that there was positive feedback from the residents a while ago and encouraged the developer to improve communication and respond to email messages. Mr. Kablack acknowledged that communication has not been as global as he would like it to be. He noted that they might have missed opportunities but that they are still planning to do the swale. Mr. Flannery noted he would like to make sure that the swale work gets done before the bond is released.

Jason Anjoorian, 7 Overlook Rd., noted he sent a note to the Planning Board a while ago regarding water flowing onto his property from adjacent lot 5 as a result of a septic system redesign. He noted that remedial action was discussed with TBI but that he has not heard anything since then and that the item is not on the punch list. He noted he would like to see this added to the list. Mr. Dourney asked if the subdivision plan infrastructure is built correctly in this location, and Ms. Lazarus indicated it is. Mr. Dourney noted that if TBI is making an effort to build in accordance with the approved plan, the owner should work with them to find a solution. Mr. Anjoorian referred to DEP regulations and stated he was told that the pipes from the neighbor's property are installed illegally. Mr. Dourney questioned whether this should be looked at by the Board's engineer or the Building Inspector. Ms. Lazarus noted this is related to individual building lots and that water is not being deposited onto the subdivision roadway, and Mr. Dourney concluded it would be best to talk to the Building Inspector about this. Mr. Kablack noted this was discussed with the neighbor but he was not cooperative with respect to a solution, and they have done what they can.

Kushal Patel, 2 Summit Way, referred to Mr. Flannery's comments and noted that TBI was initially prepared to work on the swale but that no progress was made since last May, almost a year ago. He complained that there is never a firm commitment from the company or a set time line. He added that the contractor was out there over the winter for a couple of weeks but then never came back again.

The Board noted it would take care of an administrative item at this time, then return to the public hearing.

**2. Continued Public Hearing – Drowne Family Subdivision – Saddle Hill Road – Definitive Subdivision**

Tim Paris, engineer, and members of the Drowne Family Trust, applicants, appeared before the Board. It was noted that not enough Planning Board members are present to act on the application and that the public hearing will have to be continued. The applicants agreed, and the Board voted unanimously to continue the public hearing to May 14, 2007, at 7:45 P.M.

**3. Continued Public Hearing – Hopkinton Highlands II/Estates at Highland Ridge – Toll Brothers, Inc. – Extension of Time**

Mr. Betts noted that Mr. Patel's lot still has to be stabilized and was not completed before winter. Mr. Patel stated that the lot is a mess and that he would like TBI to come and take a look at it.

Sutaja Shah, 16 Overlook Rd., stated that she moved into her home in January of 2006. She noted that she received a letter from the Town indicating that her septic system is not in compliance. She noted there are also problems with drainage from neighboring property and that she has no confidence that it will be fixed. Mr. Kablack stated that TBI is here tonight to address the status of the subdivision roadway and stormwater management system. He added they have not backed away from commitments described in the April 19 letter including all individual lot upgrades. He stated the upgrades to individual building lots were not part of the original project and have caused additional delays in finishing the subdivision and that they are now asking the Board for an extension of time to get these things done. Mr. Dourney explained there are limits to the Planning Board's jurisdiction but noted the Board will forward drainage or septic concerns on individual lots to the appropriate departments.

Mary Pratt, 102 Fruit St., noted that last winter the development did not have water and that hopefully it will better this summer. Mr. Dourney noted the water system will be put to the test over the next couple of months. Ms. Pratt referred to the drainage problems on the individual lots and stated that the Town needs a stormwater bylaw so that this type of issue can be addressed.

John Edwards, 11 Overlook Rd., noted he would like to get the opinion of an independent engineer to determine whether the downspouts are working correctly. He noted he wants to request a specific deadline and have additional meetings if needed and that feedback from the residents should be considered. Mr. Goncalves suggested continuing the public hearing, and Ms. Lazarus noted that the current extension expires on May 1, 2007. Mr. Goncalves stated there has to be a time line. Mr. Dourney referred to the need to pass the proposed stormwater bylaw at Town Meeting as there is a lot of development going on and the water has no place to go.

Karen McGrath, 14 Overlook Rd., thanked the Board for listening to the residents' concerns. She questioned the final grading compared to what was approved and stated there appears to be a commonality to all of this. She stated she feels it is a grading issue.

Jurang Huang, 9 Overlook Rd., noted his property is a mess. Mr. Coolidge asked if the Board's inspecting engineer is out there, and Ms. Lazarus stated that he inspects when work is being done. Mr. Betts stated they are working with the homeowner on this issue.

Mr. Goncalves suggested monthly meetings to make sure the process is being followed. He added that a while ago a lot of work was being done in a short period of time and that he thought things were going well. Mr. Kablack noted they have to put things into seasonal context and Mr. Betts stated he does not know how he could have done better. He stated the recent rain caused a lot of problems and that they should be able to get back in as soon as it dries out.

Mr. Kablack stated he would like the Board to close the public hearing and grant a reasonable extension with a requirement for written status reports and informal meetings while keeping the residents fully informed. He noted this will allow them to work during May and come back at the end of June or early July with a report from the well monitor and results of the peer review.

The Board voted unanimously to close the public hearing.

The Board voted unanimously to grant an extension of time to complete the Hopkinton Highlands II subdivision to September 30, 2007 with the following conditions:

1. Toll Brothers shall provide an update of the April 19, 2007 letter to the Planning Board including a complete list of remaining work items with completion dates for each item. The updated letter shall be sent as soon as possible and a copy shall be sent to the subdivision residents.
2. Toll Brothers shall attend a minimum of two status meetings (a) on June 25, 2007 to provide a progress report on the remaining work items in the subdivision and discuss the results of the peer review of the communal well system; and (b) on or about August 1, 2007 to provide a second update as to the progress in completion of the remaining work items. Toll Brothers shall provide written updates to the Planning Board in advance of the meetings and copies shall also be sent to the subdivision residents. Toll Brothers shall notify the subdivision residents of the date and time of the meetings.

In addition, the Planning Board stated that it would forward to the Director of Municipal Inspections the concern raised regarding a septic system on lot 33 (16 Overlook Rd.) and the discharge of a drain from lot 5 to lot 4 (9 and 7 Overlook Rd. respectively). The Board also stated that it would request that its inspecting engineer view the site drainage conditions to determine whether additional modifications are necessary to resolve any outstanding issues. In accordance with the requirements of the Subdivision Rules and Regulations, Toll Brothers shall be responsible for the cost of the inspection.

#### **4. Bills**

The Board unanimously voted to authorize payment of outstanding bills.

#### **5. Boulder Capital/Weston Nurseries**

Roy MacDowell, Boulder Capital LLC, appeared before the Board to introduce his company and describe their plans for the Weston Nurseries land. He introduced other members of the development team, including representatives from Vanasse Hangen Brustlin, Inc. (VHB), Goulston & Storrs, Connery Associates and Douglas Resnick PC. Mr. MacDowell noted he is here to provide a little background on the things that they have been doing so far. He presented

several overview plans of the property and described where parcels (pods) and potential uses would be. He noted that the site of the current garden center would be expanded to form an upscale village retail center. He noted some of the land will be retained by the current owners. He stated that the Town of Ashland is considering using CPA money to purchase portions of Weston Nurseries land located there. Mr. MacDowell stated that the wetlands have been identified and they will go to the Conservation Commission soon. He added that not all pods shown will be developed. He described a possible road network from Phipps Rd. to Rafferty Rd. He noted that the Southborough train station has limited parking and they are considering including a shuttle service in their plans. He noted they are looking at open space, tax revenue and traffic issues and that they want to make sure that the development is not detrimental to the Town. He noted they are also working with the Trust for Public Land (TPL) and the Land Use Study Committee (LUSC) and will come back with results if things work out. Mr. MacDowell noted they are looking at the quality and contiguity of open space. He showed another plan with more contiguous open space including one pod on the north side suitable for a playing field on East Main St. He stated that the area on Clinton St. to be set aside for a leaching field could possibly double as a playing field. He noted this plan will have 61% open space or 421 acres. He stated they are talking to NStar about the creation of a comfort zone around their facility. He indicated land development would provide for trails open to the public and preserving open vistas.

Bob Ballou, VHB, indicated the location of wetlands and development pods. He stated that the proposed road network intends to follow already existing dirt roads and preserve existing tree lines. He noted the pods indicate areas where development could go. He stated architectural building design would look for rooftops in smaller groups instead of housing along the road and there would be a mix of single family and multifamily development with detached and attached units. He describe their vision of a village retail complex which would be the center of gravity of the whole project creating, an identity off Rt. 135 and make it look like it has been there forever. He stated it could include some professional office but they have to do a market study first. He noted they want the roads to be understated in order to retain the rural character with lots of stone walls similar to what is there now.

Rob Nagi, VHB, addressed traffic issues. He stated they intend to build a spine road connecting East Main St. to Rt. 85 which will spread out the impact and reduce downtown traffic. He noted they would like to encourage people to use the Southborough train station but that the parking lot there is very small. He noted that Ashland has a big parking lot but that at that point there are no seats on the train.

Mr. MacDowell introduced John Connery of Connery Associates to address fiscal impact. Mr. Connery stated that municipalities normally rely 60-70% on income from property tax. He noted he has looked at a way to measure the incremental fiscal impact of development. He stated he met with the School Committee and the Principal Assessor. He noted that he looked at a mixed development scenario for this property. He stated he is looking at 120,000 sq.ft. of commercial space with possibly an upscale grocery store or a medical office. He stated the figures do not include the cost of schools. He stated there could be approximately 1,200 residential units, broken down into 300 affordable rental apartment units under a friendly 40B, 144 single family homes and 766 multifamily units, which, along with commercial space, would result in a

\$950,000 - \$1,000,000 net tax revenue per year. He stated the Town would probably need to form a 4<sup>th</sup> fire district, and that additional fire and ambulance services will be required. He noted DPW costs will be relatively small as some roads will be privately maintained. He stated that there will be significant education costs due to the addition of 260-280 children. He noted this number was initially estimated at 325 so this is significantly less. Mr. Connery estimated that 60% of the children will be of elementary school age, the rest middle and high school. He noted it costs \$9,000 to educate a student in Hopkinton, which is 30-40% higher than other towns.

Mr. MacDowell noted they are looking at a 10-12 year cycle for a project of this magnitude and that it is market driven. Mr. Connery noted that at first there will be a “turbo” revenue boost because permitting fees would be around \$2,000,000, followed by new growth money and property taxes. He noted commercial areas and multifamily developments will be done first, and assured that this will not go negative, with \$0.75 to \$0.80 spent for every tax dollar received. He stated there will be an opportunity to get a mix of uses – apartments, condos, single family, and a high-end town retail center. He noted the fiscal net impact will be positive and sustainable.

Marilyn Sticklor, Goulston & Storrs, addressed the Board. She noted zoning changes will be a vehicle to allow this plan to be developed as it is not permitted under the current zoning bylaw. She stated that the Planning Board and developer will have to collaborate on forming an overlay district article for Town Meeting to allow mixed uses. She noted the approval process would involve an application for a special permit followed by site plan review. Ms. Sticklor noted the Planning Board would adopt a master plan for long term buildout to be repositioned to market forces. She stated the intent is to preserve the rural character of the area, and that amendments to the Subdivision Rules & Regulations might be needed to achieve that goal. She suggested the adoption of architectural design guidelines.

Ms. Wright noted it appears that all commercial eggs are put in one basket by concentrating on the garden center area and asked if there are any other viable places on the site, possibly for research and development offices. Mr. MacDowell noted that there is no market for that right now. He stated that the community might want to go in another direction, including a partnership with TPL. He noted that it might be possible to reconfigure the area for nursery activities, and that they are considering medical office space. He noted that the 300 affordable rental units might get the Town up to the state requirement under Chapter 40B. He added that the limited number of bedrooms in a condominium project will translate into fewer school children.

Mr. Dourney asked if there are any examples of this type of overlay district, and Ms. Sticklor referred to the Pine Hill development in Plymouth, MA. Ms. Sticklor stated that the Planning Board in Plymouth modified the Subdivision Rules & Regulations to allow the development. Mr. MacDowell noted they can do a lot with landscaping and stone walls, and the idea is to preserve the Mezitt family legacy.

Mr. MacDowell noted that the land has a significant existing dirt road network as a result of the current agricultural use. He stated 77 acres will be set aside for growing/storage of nursery stock.

Mr. Goncalves asked if they have spoken to Liberty Mutual regarding access to the back of the property. Mr. MacDowell responded that they have not spoken to them but that it would be extremely difficult to develop their property due to grade and wetlands.

Ms. Wright noted that there might be no market for R&D but the Town would like to attract commercial development. She stated it sounds like Boulder Capital is looking at a long range fit and 10 year build-out. She noted Hopkinton is already very attractive due to its proximity to major highways although she is not sure if the political climate is encouraging for business right now. She noted she feels the Town should get multiple uses out of this property but that the Boulder plan is primarily focused on residential uses, and the Town does not have any other land available for commercial uses. She stated she gets the feeling that there is no interest in keeping this as an option at least for a piece of the site. Mr. MacDowell noted that successful development would depend on the nature of the mix, but that the Weston Nurseries site is too far (2.75 miles) away from Rt. 495. He stated if it was a little closer and out of downtown traffic this would be more viable. He noted he will be happy to look at it some more. Ms. Wright referred to a past rezoning proposal for land off Rt. 85 and that the Town is just looking for a couple of office buildings. Mr. MacDowell noted he spent time with Fred Merrill, Sasaki Associates, and it is fair to say that he felt their plan is consistent with the East Hopkinton Master Plan recommendations. Mr. MacDowell stated that the proposed zoning overlay district includes provisions for residential and commercial development. He added that things might be different 10 years from now but there has to be flexibility. Ms. Wright noted that there are zoning articles proposed for the Annual Town Meeting aiming to expand the industrial uses on South St., preparing for the future even though the market is not there right now, and maybe something similar makes sense here.

Ms. Lazarus asked if the 77 acres set aside for nursery activity is part of the 61% open space and Mr. MacDowell stated it is. He noted the area is farmable but mostly wetlands. He added that along with development the intent is to invigorate the Weston Nurseries retail business.

Ms. Altamura asked if Boulder has considered building a golf course and Mr. MacDowell stated golf courses do not make any financial sense right now, but that it was different 10 years ago. Ms. Altamura noted that with the influx of residents more people will be looking for something to do. Mr. MacDowell noted that the development will include a clubhouse, tennis court and plenty of open space with riding trails and views to be enjoyed.

Ms. Wright questioned how much age restricted development the area can absorb and if there is any information available regarding the market for 2 bedroom units. Mr. MacDowell noted that studies have shown that 75% of people occupying 2 bedroom units have downgraded from single family homes and that they are also used for a home office. He noted that rental apartments under a “friendly” 40B attract people who cannot otherwise afford to stay in Town as a transition until they are able to purchase a home. Ms. Wright noted that it appears that in multifamily developments, people prefer the few stand-alone units. Mr. MacDowell noted that units can be configured to achieve the same feel and that most units will look out on open space. He added that on the Weston Nurseries land the grading on the north side allows for terracing the units and that landscaping is imperative. Mr. Resnick noted that demand is market driven, and Ms. Wright

responded that it appears the market is strong for stand-alone units. Mr. Resnick encouraged the Board to visit the Boulder website to view examples of their landscaping.

Ms. Altamura noted that this is a huge development with many units and asked what would happen if the market goes flat and changes in plans have to be made. Mr. MacDowell noted that the multifamily portion would only be a percentage of the total plan - 30% single family or 3 bedrooms, 70% with 2 bedrooms - and that considering the size of the parcel it has to be a mix. He noted residential use would be best for the property, because (1) there is no market for a major commercial development; and (2) a mix of open space, retail and residential development makes a lot of sense and will be revenue positive.

Mr. Dourney asked about the topography, roads and value of the open space, and Mr. Ballou noted that some areas are stunning but that some land has been scarred by the farming use. He noted that the intent is to preserve quality open space and that while there are some nice pieces in the southern portion, the more important parcels are located in the north.

The Board thanked the Boulder Capital team for attending the meeting and making the presentation.

#### **6. Other Business**

The Board discussed the upcoming meeting schedule. The Board scheduled a meeting on June 4, 2007, and canceled the June 11 meeting already posted as it coincides with the Special Town Meeting. It was noted that the agenda for June 4 will be limited to discussions regarding Weston Nurseries.

#### **7. Town Meeting Articles**

Ms. Lazarus encouraged Board members to call her if they have any questions regarding the Planning Board's articles for Town Meeting.

Adjourned: 10:05 P.M.

Cobi Wallace  
Administrative Assistant

Approved: May 14, 2007