

HOPKINTON PLANNING BOARD

Monday, December 3, 2007 7:30 PM
Hopkinton Town Hall

MINUTES

PRESENT: Mark Abate, Chairman, R.J. Dourney, 1st Vice Chairman, Joe Markey, 2nd Vice Chairman, Sandy Altamura, John Coolidge, Carol DeVeuve, Ken Weismantel, Claire Wright

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

.....Anna Rogers, Secretary

1. Approval-Not-Required Plan – 294 Hayden Rowe St. – Lepelley

Lynn Lepelley, applicant/owner, and Joe P. Marquedant, JD Marquedant & Associates, Inc., appeared before the Board. Mr. Marquedant stated the property was previously divided in 1986. He stated Mr. Lepelley would like to create two new lots and tear down the existing house. He stated both new lots meet the frontage and area requirements of the RB district.

Ms. Wright and Mr. Markey arrived at this time.

Mr. Weismantel asked about the demolition delay bylaw. Ms. Lazarus stated the Board only endorses the plan as not requiring approval under the Subdivision Control Law. She stated the compliance with other laws and procedures is the applicant's responsibility.

The Board voted unanimously to endorse the plan as not requiring approval under the Subdivision Control Law.

2. Administrative Business

The Board voted unanimously to approve the Minutes of November 19, 2007 with revisions.

Mr. Weismantel requested that agenda time be set aside at a future meeting to discuss where the Board stands in their FY 08 goals as it is almost halfway through the year.

3. Liaison Reports

Housing Committee – Mr. Markey stated the Housing Committee will be meeting next Wednesday and he should have an update at the Board's next meeting.

Zoning Advisory Committee (ZAC) – Mr. Weismantel stated that ZAC is moving forward with the Legacy Farms OSMUD and they hope to be finished with it by Christmas.

Community Preservation Committee (CPC) – Mr. Coolidge stated that the CPC will be holding a public hearing on December 13th. He stated there will be a request from the Parks & Recreation Commission regarding fields, a request from Town Clerk, and possibly others.

4. Legacy Farms

Ms. Lazarus stated that she, Mr. Weismantel, Mr. Abate, Mr. Troiano (Town Manager), and the new Town Counsel met last week to discuss Legacy Farms. She stated that Town Counsel suggests the Master Plan (MP) created by Legacy Farms be approved as a Special Permit (SP) issued by the Planning Board. She stated they believed it made more sense and would be more workable in the future, and it would be more enforceable than one contained in a development agreement. She stated Legacy Farms would apply for the SP after the zoning has been adopted. She stated if changes were needed in the future, they could amend the SP or file for a new one. Ms. Altamura stated she was concerned about what would happen with the 500 acres of open space the Town was promised if the developers walk away from the project, or sell portions of it. Ms. Lazarus stated that once the SP has been exercised, it runs with the land. Mr. Dourney stated that potential buyers would be crazy to buy land with voided permits.

The Board decided to continue the discussion after the next agenda item.

5. J.T. Gaucher, DPW Director

Mr. Gaucher, DPW Director, appeared before the Board. He stated \$25,000 was given to the Town for mitigation purposes when the Next Generation Children’s Center (NGCC) was permitted, for the intersection at Main, Meserve, W. Main, and Wood Streets. He stated he is attempting to get reimbursed for work done by a consultant to redesign the intersection and make safety improvements. He stated approximately \$1,690 was already given back to the DPW and now they are looking to get the remaining balance. He stated they did some work on the intersection over the last few years and when they were adding the new water main lines last summer. He stated they are trying to improve the intersection to help keep large trucks off of Elm St. Ms. Wright asked about the island on Wood St. Mr. Gaucher stated it is staying there for the time being and it is a physical barrier to help direct traffic.

It was asked what is needed to be done to finish the redesign of the intersection to make it more safe and to keep the trucks off of Elm St. Mr. Gaucher stated the turning radius would need to be increased more and it would be helpful if the Wood St. intersection with W. Main St. met at more of a right angle. He stated in order to do that the house at the corner of Wood St. and W. Main St. would need to be removed. He stated the State won’t take the land so the Town would have to do that, and the Town won’t receive State funding for the intersection work without the land taking. He stated the project would cost a million dollars or more.

Mr. Abate asked if this money could be set aside for an intersection in more need of work than this one. Mr. Gaucher stated the W. Main St./School St. intersection needs work but this money was specifically for the Main St./Wood St./W. Main St. intersection.

The Board voted unanimously to authorize the transfer of the remaining balance to the DPW for reimbursement of work done on the Main/W. Main/Wood/Meserve Streets intersection.

Mr. Coolidge stated he would be concerned that the developer of NGCC would be upset if the Town spent the money on another project. Mr. Dourney asked if the house on the corner came on the market in the near future, what would the Town do. Mr. Gaucher stated to be able to buy

the house the DPW would need Town support and funds. He stated the Town would need to pay for the house and for a new intersection design plan. He stated if the State approves the project at that point, the Town would be put on a waiting list for State funds. He stated that the W. Main St./School St. intersection has a higher priority.

Jane Moran, 70 E. Main St., stated with all the money issues the Town is having in regard to fixing intersections, why not enforce a certain % of mitigation for every new development. She stated that Boulder Capital, developer of Legacy Farms, could help the Town pay for all the infrastructure costs associated with their project. Mr. Abate stated the Board has begun to talk about mitigation with applicants. He stated the Board just helped to get \$25,000 from Rockwood Meadows to help pay for work to be done at W. Main St./School St. Ms. Moran stated the Board has no bylaw with teeth though. She stated the Board needs to be strong and firm. She stated the townspeople can't incur those costs. She stated the reports done by Sasaki and Community Opportunities Group didn't include the DPW traffic studies. Mr. Markey stated that mitigation is the way to go, but the Board needs to be comfortable with it. Ms. Altamura asked how other towns handle it. Ms. Wright stated the Town would have to show that the new development had specific impacts on a certain intersection or roadway to be able to get any money to help fix it. Mr. Dourney stated they can't expect new developers to fix existing bad conditions, but if they will be creating a problem, they need to fix it. Mr. Abate stated it would need to be done in a way so as not to discourage new development the Town wants. Ms. Moran stated the Board has the knowledge to pursue it. She stated that developers should pay for any problems they are creating. She stated she doesn't want to see the Town's rural character disturbed.

Mr. Markey stated he would be interested in learning more about mitigation. Ms. DeVeuve stated she would like to find out what other towns are doing. Mr. Abate stated they need to find the right balance between mitigation and discouragement. Mr. DeVeuve stated other growing towns must have some sort of determination method for the amount they are asking for. Ms. Wright stated that Hopkinton isn't the only community looking to increase its commercial base and we shouldn't discourage developers from building here.

Mr. Abate asked that this discussion be an agenda item at a future meeting once more information on what other towns are doing has been collected. The Board asked Ms. Lazarus to gather information on what other Towns do.

6. Legacy Farms – continued

Ms. Lazarus stated that a development agreement is needed to define things like phasing plans, mitigation, what happens when the number of children in the development exceed what is anticipated, overall traffic mitigation, etc. She stated this should be negotiated by the Board of Selectmen (BOS) with input from other Town Boards and officials. Ms. Wright asked if the OSMUD referenced the Master Plan (MP). Ms. Lazarus stated the OSMUD will probably say that the MP needs to be approved by a SP issued by the Planning Board. She stated the original OSMUD draft said the MP would be approved by Town Meeting. She stated the Pine Hills MP was approved by Town Meeting in Plymouth and they feel that now all amendments to it have to go back to Town Meeting. She also stated that Town Meeting vote can't really be appealed but SP's can.

Ms. Lazarus stated that ZAC needs the Planning Board to tell it how to reference the MP in the OSMUD. Mr. Markey stated the MP is what is the vision now, but in 10-15 years the project could look totally different because of market and technology changes. He stated a range of experts studied the land and based on the Town's input, came up with the best uses for different parts of the property. He stated the Board has the opportunity to set the Town in the right direction now. Ms. Altamura stated that things change and the market moves. Ms. Wright stated the Town needs to move forward. She stated the last couple of years it seems as though some things go nowhere due to appeals. She stated this project needs Town support.

Mr. Weismantel stated he believes approving the MP by SP with proper deliberations and citizen input is the way to go. Mr. Abate stated approving the MP by SP preserves the Planning Board's authority. Mr. Coolidge stated he is not afraid of appeals and most recent appeals have all proven the Town has done its homework and it was a proper ruling. Mr. Dourney stated that Legacy Farms has been asking people's opinions on the project. He stated the leaders of the Town should be encouraging people to embrace the MP and to speak up now before things are approved and not to appeal it.

Ms. Wright asked what the SP does for future review. She asked if it takes away the review of development pods. Mr. Weismantel stated there are eight pods. He stated as each pod comes up, it will have to go through site plan review. He stated there will be a subset in the MP to define them. He stated by allowing the MP to be approved by SP, it means that future changes will come back to the Planning Board for review.

Brian Herr, 31 Elizabeth Rd., asked what would happen if the owner sold off one of the pods. Mr. Abate stated the rights and conditions of approval would go with the land, not the owner.

Mr. Abate stated a downside of the SP being able to be appealed is that if the whole SP got appealed on the basis of one issue, it would affect the whole project. Ms. Lazarus stated the bar is set pretty high on appealing SP's. She stated the law allows the applicant to proceed at their own risk even if it is appealed.

Chris Barry, 17 Clinton St., asked if once the MP is approved and work starts, does that exercise the rights on the whole property. He stated he thought Legacy Farms wanted the North and South parcels kept separately. Mr. Weismantel stated that ZAC has not gotten to that point in their review yet. He stated they want the property to be as one large parcel, not split up. He stated there will be phasing, including: infrastructure, housing, and the village center, etc.

Mr. Barry asked about affordable housing. He stated Legacy Farms wants to build 240 rental units and only have 60 of them be affordable. He asked why they were building rental units when there are local families that need affordable single family homes. Mr. Markey reminded Mr. Barry that the Town has a new bylaw requiring any new development of 10 units or more to provide 10% of the units as affordable.

Mr. Barry stated he feels the Town should get a substantial amount of mitigation from Legacy Farms. He gave the example of a recent large-scale commercial development in Westwood and noted that the Town got 15 million dollars in mitigation for a 4.5 million square foot project.

Mr. Markey stated he believes the Board is recognizing there are issues associated with this project beyond zoning, but questioned how the Town would resolve them. Mr. Abate stated every Board in Town is taking the process differently. He stated they all need to come together and an agreement needs to be prepared with all the different entities giving input.

Lyn Branscomb, 8 Kerry Ln., asked the Board to clarify where the development agreement fits in. She stated she believed the OSMUD was first to be approved at Town Meeting, then the MP to be approved by SP by the Board. Mr. Abate stated that Legacy Farms would be working on the development agreement soon as it is a separate but parallel thing to the OSMUD. Ms. Lazarus stated she believes that Boulder Capital will want a development agreement in place before the Town Meeting vote. Mr. Weismantel stated the Board will also be holding preliminary MP hearings before Town Meeting in conjunction with the Civic Engagement Committee. Ms. Lazarus stated during the public hearings for the MP, the Town will have consultants reviewing all aspects of the plan.

Mr. Herr stated there are firms around that specialize in projects similar to this one. He stated they could get Legacy Farms to pay for it. He stated they would look into mitigation, real estate tax revenue, etc., but the Town needs to act on it. Ms. Lazarus stated something like that needs to come from the BOS level. Mr. Markey stated it makes sense to have someone review the MP. He suggested notifying the BOS to hire a consultant to review it. Mr. Weismantel asked if the BOS should be the driving force on this. Ms. Lazarus stated the DPW, Conservation Commission, Planning Board, and any other interested Town entities need to get together and talk about it. Mr. Abate stated the Town needs to know what they want out of the land.

Ms. Moran stated that Legacy Farms has an attorney working with them on the OSMUD language and asked if the Town had the same thing.

The Board asked Ms. Lazarus to send a letter to the BOS requesting them to take the lead in working on a development agreement and ask whether or not a consultant is needed for the Town. The Board decided to request that the BOS attend the meeting on December 17th and suggest that Town Counsel should also attend.

Ms. Moran asked if the Board would consider a mitigation bylaw for Town Meeting. Mr. Dourney stated a Town Meeting article can be proposed by anyone.

Adjourned: 9:05 PM

Anna Rogers, Secretary

Approved: December 17, 2007