

HILLSBOROUGH PLANNING BOARD

April 17, 2013

Approved Meeting Minutes

Present:

Members: Herm Wiegelman (Chair), Martha Caron (Vice Chair), Dave Fullerton, Larry Baker, Ann Poole, Alan Urquhart, Denise DeForest, Bob Eckberg (Alternate), Bill Clohessy (Alternate).

Staff: Robyn Payson, Planning Director; John P. Segedy, Recording Secretary

Town Officials: Laura Buono, Town Administrator; Brett Cherrington, Chair – Conservation Commission, Dennis Roberts, Jr. - Economic Development Council

Public: Mike Black, Saxon Partners; Wayne Morrill, Jones & Beach Engineers; Michael Pon, The Villager; Douglas Hatfield; Jason Pihl; Don Solomon; Jack Wells; Roberta Davidson; Rosemary Urquhart; Yvonne Wiegelman; Edward Tasker; Marlene Murphy; Floyd Murphy; Jennifer Zdon, Chris Zdon; Kristin Claire; Percy Merritt, Jr.; Llewellyn Weaver; Samantha Saunders; Sonia Pearsall; Brittany Pearsall; Frank Pearsall; Iris Campbell; Paul Kuggigra; Steve Hahn; Trihn Hahn

CALL TO ORDER

The meeting was called to order at 7:00 pm by Herm Wiegelman, Chair.

A packet of information regarding agenda items was provided to Board members by Robyn Payson, Planning Director.

PUBLIC BUSINESS

1. Site Plan Review – Master Site Plan – Continued Public Hearing from March 6, 2013

Douglas Hatfield, Jr.; Michael Black, Saxon Partners; Antrim Road (M 11D, L 298; M 11H, L 305 & 306; M 11L, L 311 & 327)

Chair Wiegelman reopened the Public Hearing at 7:01 pm. He explained the hearing was to consider the application for a Master Plan of a development of 250,000 square feet of commercial space and an 85 unit housing development. Chair Wiegelman said after having the developer present his proposal, he would entertain questions from the Board and then from the public. He asked that comments and questions be directed to the chair and not to each other.

Wayne Morrill speaking for the developer said that the development was the same as presented at previous meetings, that the commercial development would be in five phases and then a sixth phase being the residential part. He said that a second access had been added to the proposal and pointed it out on the plan. He also said that lighting would be 'dark sky compliant', that they would be getting all required DOT (Department of Transportation) and wetlands permits and that they were asking for approval of the master plan and development agreement.

Mike Black said they would be happy to answer any questions.

Martha Caron said she would like to address the Development Agreement.

Dave Fullerton asked that people identify themselves when speaking for the recording.

Martha Caron asked about the “right to purchase” referred to in the agreement.

- a) She would like clarification about vesting of the developers rights and the transfer of them.
- b) She expressed concern about Section 10 of the agreement about the owners limited liability.
- c) Martha Caron also expressed concern about Section 12 which she said allows the owner to terminate the agreement/project at any time. This bothered her because everyone is trying to make this happen.
- d) She said she didn't see any time constraints in the agreement & that this could sit out there for a thousand years.
- e) Whether there is or isn't a commitment to the residential component.

Mike Black said that Section 10 was put in to protect the property owner, but that the owner was committed on board with the project going forward.

Alan Urquhart asked if the attorney had already approved the agreement why were they questioning it. Ann Poole said that the Board needs to approve it.

Mike Black said that he will be buying the property from Doug Hatfield after the first phase is approved.

Doug Hatfield said that he is the owner referred to, and that Section 12 says pursuant to a purchase and sales contract. He said that the Purchase and Sales contract requires him to sell the property to Mr. Black or his LLC, so he can't just walk away or I would be liable to him for all the expenses incurred. Doug Hatfield said that as the owner but also as a citizen of the community he is committed to this project because it is extremely important to the economic development of the community. Doug Hatfield said that as to section 10, it doesn't relieve him of liability, it just sets the order of liability, so that Mr. Black comes first then him.

Martha Caron said she was just trying to be sure that the project has a future.

Ann Poole said that one of the reasons for the Board to be careful is because this presentation is the first development of it's nature so they are setting a model.

Dave Fullerton said that being this is on 110 acres, he doesn't think it is setting (a standard). He said that this project will stand on it's own and any other project will proceed on it's own merits.

Wayne Morrill said that basically they are just asking for approval of the concept of 250,000 square feet of development on 160 acres, then Mike will take over.

Martha Caron said she appreciates getting more information coming out that is not in the agreement, such as the vesting in Mr. Black after the first approval.

Ann Poole asked about Page 3, Phase 5 where it says 'propose 7/___'

Mike Black said it's a typo. It is supposed to be the square footage of the restaurant.

Ann Poole asked about the numbering of the last few items also.

Mike Black said yes.

Robyn Payson read aloud a memo she had written:

Tonight, the Planning Board will be considering approval of the Weatherstone Crossing Commercial Condominium Master Site Plan and its accompanying development agreement.

It is important to remember that this phase of approval only lays the groundwork for what will be a six phase development requiring six complete site plans. Approval of this Condominium Master Site Plan does not give the Developer permission to build anything. This is a basic approval of the allowable amount of square footage, with a general idea of what this development may look like. The Planning Board will have its full jurisdiction over each Site Plan and each Site Plan will have to conform to the Site Plan regulations and Zoning of the Town of Hillsborough.

This development agreement has been reviewed, and is deemed “ acceptable as to legal form and within the authority of the Planning Board to approve” by Attorney Michael Donovan who is representing the interests of the Town of Hillsborough.

In his memo, Atty. Donovan refers to the granting of certain waivers being necessary in order for the Planning Board to approve this document. The waivers to which he is referring, were previously requested in a memo by Jones and Beach Engineering and submitted on February 1st 2013, and granted by unanimous vote at the Planning Board at the meeting of February 6, 2013.

In view of the waivers mentioned in Attorney Donovan’s memo already being granted, and Attorney Donovan deeming the development agreement is acceptable and legal for the Planning Board to sign, I recommend that the Planning Board move forward and approve the Weatherstone Crossing Commercial Condominium Master Plan and its accompanying Development Agreement.

Chair Wiegelman opened the hearing for public comment.

Brett Cherrington, of the Conservation Commission said that Mr. Black had come to a Conservation Commission meeting and Doug Parker from the Night Riders snowmobile club has been there and asked about the trail that currently crosses the property where the development entrance will be. He said that Mr. Black had suggested moving the trail to another part of the property.

Brett Cherrington said that he has since written a letter asking that the trail be deeded. He said he would like Mr. Black to consider deeding once it is moved.

Mike Black said that he will work with the snowmobile club, but he is not sure that deeding is the right term.

Brett Cherrington said that he appreciates Mike Black's willingness to allow and move the trail, but that he doesn't expect that he will be the owner forever and that the only way to protect the trail is by deed.

Donald Solomon said that requiring deeding is an unjust taking. He said that if there is concern about completion that could be included in each approval.

Mike Black said that (completion) is addressed in Section 6.

Dave Fullerton moved: *To close the Public Hearing.*

Alan Urquhart seconded. Motion passed 7-0.

Dave Fullerton moved: *To approve the “Commercial Condominium Master Plan, ‘Weatherstone Crossing’” and the development agreement which covers the implementation and development of the “Commercial Condominium Master Plan, ‘Weatherstone Crossing’”. In addition, to authorize the Chairman to execute this document on behalf of the Board.*

Alan Urquhart seconded. Motion passed 7-0.

Most of the public left at this time.

Chair Wiegelman recessed the meeting for 10 minutes at 7:35 pm.

Chair Wiegelman called the meeting back to order at 7:45

2. Conceptual Review -Jason Pihl - 27 West Main St.

Robyn Payson introduced Jason Pihl and said he is planning on opening a tattoo parlor in a room in Sweet Expressions building. She asked if the Board is requiring a change of use approval and a hearing for this. She said she also has another case where a Karate Studio is moving into what had been a florist.

Ann Poole said that there have been a number of different businesses in there in the past so it (the change of use/exemption from site plan hearing) shouldn't apply in this case.

Martha Caron said that she thinks that as it is just a different commercial activity it was not applicable. She said that there is some gray area with what is a change of use and they have been leaving it up to the Planning Director to make some of those decisions. She also said that where one commercial activity is replacing another, unless it impacts the exterior, or there are hazardous materials or something weird about it wouldn't (be a change of use).

Herm Wiegelman said that if it was changing from an office to a restaurant then it might make sense, but since this has had other commercial businesses it doesn't. He said he thinks they can continue to have the planning director decide if there is sufficient change to justify Planning Board involvement, and if there are questions, the planner can direct the applicant to the Board to decide if it wants to require a hearing.

John Segedy, recognized as a member of the public said, that as someone who spoke adamantly last year against the change of the rule to requiring public hearings for exemption from site plan review with changes of use, he would suggest that if the Board isn't going to use the rule they should get rid of it. The problem with having a rule that is ignored or waived most of the time is that it becomes a tool that is only used against those that are disfavored.

Denise DeForest moved: *To approve the business without a change of use site plan review.*

Alan Urqhart seconded. Motion passed 7-0

MINUTES

March 20, 2013

Larry Baker asked about the the minutes had been tabled.

John Segedy clarified that the disagreement had been resolved and that the process would continue as it has for the past few years. He said he will continue to submit them to the Planning Director for review and recommendations before posting and distributing the draft minutes, if any recommendations aren't adopted they can be brought to the Board

Ann Poole moved: *To approve the minutes of March 20, 2013 as submitted.*

Larry Baker seconded.

Alan Urquhardt said he would like to see absent members listed and a statement as to whether they were excused.

Larry Baker said that perhaps when they discuss the rules later would be the time to consider that.

Motion passed 7-0.

April 3, 2013

Ann Poole moved: *To approve the minutes of April 3, 2013 as submitted.*

Larry Baker seconded. Motion passed 7-0

OTHER BUSINESS

1. **Trainings** – Robyn Payson reminded the Board of upcoming trainings/conference.
2. **Upcoming Subdivision** – Robyn Payson told the Board there was an upcoming subdivision

application that involved property in two towns.

OLD BUSINESS

1. Rules of Procedure

Robyn Payson said she had sent a clean copy with only the change that had been discussed (recordings).

Alan Urquhart asked when they would review the rules as he has many notes about them.

Chair Wiegelman suggested that perhaps a meeting without much on the agenda would be a good time to discuss them.

Robyn suggested the second meeting in May.

2. Master Plan Update

Robyn Payson said she would like to schedule the first meeting of the Committee so they can talk about organizational matters.

There was discussion of dates.

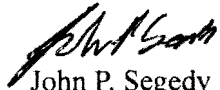
It was agreed to have the first meeting on Wednesday May 15, 2013 at 6:00, an hour before the Planning Board meeting.

Adjournment

Larry Baker moved: *To adjourn.*

Ann Poole seconded. Motion passed 7-0 at 8:13 PM.

Respectfully Submitted:



John P. Segedy

Recording Secretary

Approved May 1, 2013