



BERWICK PLANNING BOARD

MINUTES

June 7, 2012

PRESENT: Kerry Ashburn, Peter Perri, Judy Burgess, Paul Boisvert, Ron Morrell, Niles Schore, Alternate, Ken Poirier, Alternate, Attorney Bryan Dench, Kelton, Taintor & Abbott; Jim Webster, CEO and Joan Michaud, Planning Coordinator

Public Audience: 60+ attendees

Meeting was called at to order at 6:40 p.m. by Chairman, Kerry Ashburn.

PUBLIC HEARING:

- Sullivan School Associates LP / Bateman Partners, 45 School Street (Map U-4, Lot 142) :
Proposal to Amend Site Plan

Present: Nathan & David Bateman, Sullivan School Associates; Jim Fisher, Northeast Civil Solutions; David Lloyd, Archetype; Attorney Ronald Ward, Drummond Woodsum; and Neil Orenstein, Port City Video

Attorney Ron Ward, on behalf of the applicant, thanked the Chair for a very well organized site walk. Attorney Ward felt that the meeting was primarily to answer questions that the Board had from the prior meeting and to also answer questions on the documents that had been provide to them. One of the outstanding issues from the previous meeting was to have a peer review of the documents submitted. The Peer Reviewer and representatives from Northeast Civil Solutions (NCS) had exchanged substantial information and both were at the meeting to answer questions for the Board.

Niles Schore asked when the internal reconfiguration of the bedrooms was done. David Sherman stated that after consultation with the Town Manager and submission to the MSHA and was prior to April 2010.

Paul Boisvert stated that he was impressed with the site visit. He was on the Board in 2010 and he was in favor of the development at that time and still was but after reading several documents over the last two to three weeks, Bateman's character is in questions. He wanted to have a better understanding of what the Town was getting into for the next 75 years and what kinds of services the Town will have to provide for the project. He was also interested

in knowing how Bateman is related to Phoenix Management. Attorney Ward answered that Phoenix Management is owned by Nathan and Aaron Bateman and that they are very highly regarded by the Maine State Housing Authority (MSHA).

Paul Boisvert said that the MSHA submittal documents reflect that 21 out of the 34 units will probably have special needs residents, for which the Town will be responsible, and he wanted to know how the services would be provided.

David Bateman stated that services that are provided are coordinated through Phoenix Management. They are services not required by the town and paid for by the project itself. He stated that a Residence Service Coordinator would be on site to assist all the residence and with things such as questions with transportation and assistance with preparing monthly budgets any questions that the residents might have because they are there to provide an outreach service and is mandated by the MSHA. It is an outreach service for residents who may want to live here. It provides services across the state and happens in all these type of projects and it is ongoing with Bateman's other projects that are administered by the MSHA. The project is a low-income tax credit project and market rate program. Everyone pays rent and they have to have a job. It is a market rate program and the residents have to have a job and they will be reviewed annually. The average median income which rates are published rates yearly by the federal government and are available thru MSHA. Mr. Bateman stated that it is not a Section 8 program.

Paul Boisvert noted in the document he referred to as a reservation for a percentage of units be held for Section 8 voucher. David Bateman rebutted that any project that receives federal funding must make allowances for Section 8 vouchers. He also said that typically people with Section 8 vouchers do not come to communities that don't have municipal services.

Paul Boisvert felt that someone not associated with Bateman would give the Board an explanation of what services would be required by the Town. Mr. Bateman said that a simple phone call to MSHA and they would be able to answer the Board's questions.

Ron Morrell inquired as to why a Service Coordinator was required and why the program had such strict guidelines. Mr. Bateman responded that it is required because it's a LITC program which is administered by the IRS and the MSHA.

Judy Burgess stated that she was disappointed with the Applicant. She was not on the Board at the time but the Board would not be here if the two, one and efficiency units that were approved were what was being built. She felt that a professional engineer would know enough to read the local ordinances and know that any changes to an already approved site plan must be approved by the Planning Board. She also stated her concern about the children that might go into the schools and felt that three bedrooms guarantees children, two bedrooms might not. She was also concerned about the letter that the Planning Board received from Paul Andrade in regards to overcrowding in the Hussey School.

Paul Connolly, Principal of Civilworks in Dover, NH, was hired by the Planning Board to do a Peer Review of the project for them. Mr. Connolly is a licensed professional engineer in the State of Maine, New Hampshire, Massachusetts and New York. The recently submitted Plans by the Applicant were reviewed and a report was written to the Board with his finding. He went through the outstanding items and noted the ones that he felt had not been met to his satisfaction. A final review of the Stormwater Management Analysis Report was just

received and Mr. Connolly felt he would be able to finish the review within 10-14 days.

Peter Perri asked Mr. Connolly if he had done any calculations of the property. He said he looked at some of the calculations and his calculations were very close to those on the Plans. Peter asked if there was any way he could determine the actual amount of the parcel and the amount of wetland on the property. Mr. Connolly responded that he could but he was not a registered land surveyor in the State of Maine.

Peter Perri asked about the ADA parking requirements and wanted to know if turning radius had been reviewed. Mr. Connolly responded that he had received a copy of an email from David Rodrigue, an abutter to the property, and due to his concerns, had reviewed the turning radius of (P) passenger vehicle and (SU) standard unit (20' wheel base & 30' bumper to bumper) vehicles. After review, he felt that the turning radius was adequate but tight and that a fire truck would have sufficient space on the paved portions of the proposed site.

Peter Perri requested something in writing addressing his four concerns; parking, review of traffic counts and a total calculation of square footage of the site and how much was wetland. He felt that Mr. Connolly's credentials would suffice. Additionally, he requested his recommendation on repaving the access road from Wilson Street.

The meeting was then opened up to the Public for comments by the Chair.

Unknown resident asked what services would be required to be supplied including the special needs tenants. David Bateman reiterated that the services that are provided are coordinated by the Resident Services Coordinator through Phoenix Management and not the Town and that the higher level needs people would go to larger communities for their social services.

Paul Boisvert gave David Bateman an example of if two special needs children living in the project and they required transportation to a school in Portland or Baxter. Who would pay for it? Mr. Bateman stated that it would not be the Town that would pay for it.

Attorney Dench stated that there is a provision in the ground lease that imposes on the tenant (developer) to pay taxes and assessments in reference to special assessments. It pertains to assessments for example of extending water and sewer lines. The legal obligation for services for a special needs student will be paid by the school administration district through usual tax collection.

Peg Wheeler, 63 Blackberry Hill Road, School Board Chairman, stated that 50% is based on kids in each municipality.

Tom Lavigne, 46 Keay Road, questioned how the Lease Agreement is for 90 years and 75 with the Town. The Community will need the resources to support the tenants living in the project.

Eleanor Murphy, 40 Rochester Street, spoke to the fact that the Maine State Housing letter states that 20% of the units will be available 90 years for the homeless and mentally challenged. She wanted to know what happens at 75 years.

Jodie Wright, 12 Wilson Street, asked how a set of unstamped plans got through the systems. She also mentioned she was concerned about the fiscal impact of the project on the Town.

Andrea Burns, 55 School Street, stated she went to several meetings on the Sullivan School project and low income housing and three bedroom units were never mentioned. She was also concerned about who would be monitoring the units.

Frank Underwood, 21 Keay Road, felt that a formal letter from the Town should be sent Maine State Housing Authority and Bangor Savings to notify them that the Lease had been broken. He also felt that the letter should be recorded with the Registry of Deeds due to the long term relationship with the Town. Frank suggested that Civilworks be the 'Clerk of the Works' to follow the project along.

Marcia Poirier, 121 Old Sanford Road, spoke to the fact that she has had MS for 27 years and during the site walk was reviewing the facility for the use of the handicap in terms of parking, lighting and size of the bathrooms and stated she would like to see the ADA requirements observed.

David Rodrigue, 12 Wilson Street, questioned the access to the Police Station. He asked what the difference was between a Conditional Use and Amendment which Kerry replied to. He felt that drainage was his main concern and felt that what was recorded at the Registry of Deeds is what should be built.

Ron Long, 423 Pine Hill Road, referred to Exhibit 22 of the document submitted to the Court regarding an under water retention. He cautioned the Board to go slow and request the developer to tear down the building. He also requested that the lot description in the Lease be reviewed and compared to what was submitted by the Peer Review Engineer, Paul Connolly.

Louisa Sheldon, 65 Sullivan Street, felt that the Comprehensive Plan should be followed. She was also concerned about the drainage from the project. She felt that there were Zoning Violations and the Planning Board was treating it like an Amendment. Louisa inquired as to whether or not the developer has insurance to cover errors made.

Attorney Ron Ward felt that the public had their opportunity to speak on the project but the Public Hearing was to decide whether the expanded plan met the Ordinance. He cited Section 9.8 required approval by the Planning Board and that the Performance Criteria was used and that was what was relevant to the Change. He went on to say that the new plan is a better plan and meets the Ordinance requirements. He requested the Board to make a decision on whether or not the application meets the Land Use Ordinance.

Attorney Dench spoke to the legal proceedings. He reiterated that the CEO issued a Stop Work Order on the project and that the developer believed the order was incorrect and that Legal proceedings are what brought us to this point. He stated that only the Planning Board can change or issue approval on the larger footprint and difference in the bedrooms. The Judge, over objection, allowed the project to go forward on the original portion of the building and that the Planning Board is treating the amended plans from the beginning on the advice of their attorney.

Peter Perri asked Paul Connolly questions on the drainage, storm water and runoff from automobiles. He also asked him what the difference between a parking stall versus a parking space. Paul answered that they are essentially the same and they meet and exceed the Town's ordinance requirements.

Judy Burgess asked Paul Connolly a question on the required ADA parking spaces and he confirmed that the spaces exceed requirements.

Peter Perri asked Paul Connolly what the difference was between a parking stall and parking space. Paul answered that they are essentially the same and that the plans meet or exceed the town's ordinance requirement.

Deborah McDonald, 19 Route 236, asked Attorney Dench whether the Board has the right to hold Bateman to the originally approved plan. Attorney Dench is required to review the application to the standards of the Ordinance.

Dave Stolpe, 185 Hubbard Road, asked how large the change actually was in the building. Attorney Dench responded that it was argued to the court that it was about a 79% change which was over 3,000 sq. ft.

Louisa Sheldon, 65 Sullivan Street, asked if the developer had insurance to cover errors. Attorney Dench stated that usually architects have the insurance for errors. Not the developers.

Frank Underwood said that MSHA requires insurance and those requirements were submitted to the Board.

Jodie Wright, 12 Wilson Street, asked how a set of unstamped plans got through the state governmental agencies. David Lloyd replied that all plans are stamped by him and go through the SFM and MSHA.

Peter Perri stated that the plans that were given to the CEO were not stamped. Mr. Lloyd replied that the contractor takes the architects plans to the CEO and they should all be stamped.

Rick Burns, an abutter to the Sullivan School, stated in his opinion the Lease had been violated because a massive addition had been built without the consent of the Town.

Peg Wheeler, 63 Blackberry Hill Road, stated she would like to see the proposal go back to the Board of Selectmen to review whether there are any criminal charges that should be levied on the developer.

Ron Long, 423 Pine Hill Road, asked Attorney Dench whether the developer was in default of the Lease. Attorney Dench responded that the lease provides terms in the event of a default.

At the conclusion of comments by the public, the Chair closed the Public Hearing.

UNFINISHED BUSINESS

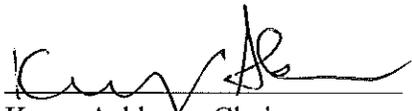
- Brad Dudley, Jitter Mugs Drive Thru Diner, 503 Portland Street (Map 72, Lot 18) – Traffic Flow Change

Mr. Dudley withdrew his request to change flow of traffic around the diner and will stay with the plans originally approved by the Board.

APPROVAL OF MINUTES

- Minutes – May 3, 2012: Approved

The meeting adjourned at 10:42 p.m.


Kerry Ashburn, Chair