

April 4, 2012

Meeting Minutes

The meeting was called to order at 7:04 PM.

1. Roll Call

In attendance: Dan Bowie, Henry Coe, Paul Dahn, Anne Gardner, Sue Grolnic, Bonnie Sontag and Don Walters

Absent: Jim McCarthy

Also present was Andrew Port of the Planning Office.

2. General Business

a) Approval of the Minutes

Minutes of March 21, 2012 Meeting

Henry Coe made a motion to approve the minutes as amended

Sue Grolnic seconded the motion.

Minutes approved as amended.

Paul and Dan abstained

The motion passed unanimously.

Motion Approved.

2. New Business

a) Springwell Investment LLC

Oleo Woods OSRD Definitive Subdivision

Request to Amend Condition of Approved OSRD Special Permit and Definitive Subdivision Plan Approval (Related to timing of Occupancy Permits and Conservation Restriction) and Abandon Section VI-C Special Permit (Lot 18)

Chairman Bowie said Phil Christianson was still working with the applicant on some issues. Tonight's discussion pertains to the conservation restriction because it's tied to the occupancy permits. Our current language says the occupancy permit cannot be issued until the conservation restriction is approved and recorded. The conservation restriction has been drafted, reviewed, and approved, but it's unlikely to get referred out of the Planning and Development Subcommittee until April 17, after which it goes before the City Council, then to the state. Springwell is contemplating closing on lots this month. We want to revise the requirement that the restriction is recorded before the occupancy permits can be issued so we don't have to go back and forth on this every time there's a

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closing. Chairman Bowie has drafted language that read, in part, that the conservation restriction would have to be recorded by the 10th occupancy permit.

A member asked what the reasons for delay were? Chairman Bowie explained that in 2006 the Board tied the conservation restriction to the issuance of the building permit. We know what happened with the first developer, he never pulled a building permit. Springwell has performed as expected and, in a revision for them, the Planning Board tied the conservation restriction to the first occupancy permit.

A member asked if the conservation restriction had been stuck in subcommittee? Andrew Port, Planning Office, explained it was in a procedural holding pattern, not stuck. The back and forth has been about language. Another member asked what steps were needed to get it out of committee? Andrew Port said it has to be signed; on April 30, it could have its first and second reading by the full Council, then it can go to the state. A member said checks and balances were needed. Another member asked if it had a sponsor? The Planning & Development Subcommittee Chair, Councilor Connell, is out with health concerns, but Councilor Ives is familiar and the committee understands what they need to do.

A member asked how the idea of the number “10th occupancy” came up? Chairman Bowie said there were six units under Purchase & Sale agreements, and three other units reserved. Springwell’s representative, Mike, said a lot of assets were out, they were ahead of schedule, and they had done everything they could.

Paul Dahn made a motion to amend the OSRD Special Permit and Definitive Subdivision Plan Approval (Related to timing of Occupancy Permits and Conservation Restriction) in accordance with the language that Chairman Bowie approved earlier.

Anne Gardiner seconded the motion.

The motion passed unanimously.

Motion approved.

Votes Cast:

Dan Bowie: approve

Henry Coe: approve

Paul Dahn: approve

Anne Gardner: approve

Sue Grolnic: approve

Bonnie Sontag: approve

Don Walters: approve

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as

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part of this application and all of which are available in the planning department, were considered.

3. Old Business

**a) Ken Labrecque, c/o Lisa Mead, Esq.
1-3 Parker Street
Section VI.C Special Permit**

Chairman Bowie read the notice. Attorney Lisa Mead, Blatman, Bobrowski and Mead, spoke on behalf of property owner Ken Labrecque, 27 Rolfes Lane, Newbury, for the VI.C application of a 48,559-foot lot created by the ANR.

Attorney Mead displayed two large images of the plans. Proposed on the same lot is a new, four-unit building, comparable to the existing four-unit structure, with four two-bedroom units. The applicant has been issued an Order of Conditions by the Conservation Commission covering all storm water management and a variance for the front yard set back in order to provide sufficient parking in the rear. A special permit to modify the existing use adding an additional, multi-unit use was granted from the Zoning Board of Appeals.

Attorney Mead outlined in detail the development's compliance with all permit criteria in accordance with section VI.C. She described the adjacent buildings as commercial, with some residential structures up the street. The ordinance allows an additional structure on this site, including a commercial structure. She said property owner Ken Labrecque felt a multi-family rental had less environmental impact and the location lent itself to rental, rather than a for-sale, units. The impact of four additional units would be modest, adding 16 parking spaces. Eight bedrooms would use an additional 880 gallons of water per day and would not overload any municipal systems. There were no special regulation requirements or historic restrictions needed. It would not impair the integrity or character of the district.

Conservation land will be preserved as required by the Conservation Commission. The proposal added to the rental housing stock, a good thing. The first floor has two 2-bedroom units and the top two units are two-stories each. A preliminary meeting with the Planning Board had taken place and also a meeting with the Affordable Housing Trust resulted in a request for \$13,000 to the Trust for a 'down payment' fund.

Current rents of the existing two-bedroom units are \$1,000 per month. The owner plans to keep the new units below the state-determined affordable rental rate, as well. It's unlikely the owner will ever change to condos because the area generally does not lend itself to condos. This application is different than prior VI.C applications in that it adds rental units instead of taking units away from affordable housing stock. Attorney Mead asked the board to approve the application as presented.

A member concerned about space for turning around asked for all parking spaces to be identified. Attorney Mead said the plan provides adequate access to the site with parking to

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the rear and the side and parking spaces of standard size. Thirteen spaces are required; 16 spaces are provided. The member asked what the area behind the parking contained. Attorney Mead responded that it was all part of the wetlands storage. A developed detention area abuts the parking area so runoff won't go directly into the wetland area. Another member asked what the possible commercial uses were. Attorney Mead said that the parking was inadequate for retail use, but fine for office space.

A member reminded the board they had discussed a restriction to keep the proposed structure a generically affordable rental building. With other V.I.Cs, the Board has been happy with the amount of money donated to the Affordable Housing Trust, but those were condos. These are attractive apartments in a good location, so let's make sure they stay that way. Another member thought a restriction too onerous, saying market forces would limit the opportunities for conversion to high-priced condos and that fact alone would keep rents low. The member said the location was perfect for rental housing and believed the project stood on its own. Attorney Mead said that the Planning Board accepted the AHT valuations and recommendations in the past. She believed the application stood on its own merits with a \$13,000 donation in combination with the type of project proposed.

A member said the proposed rental-only plan should be in writing. Andrew Port, Planning Office, said based on what he knows of case law he was reluctant to try and regulate making something rental-only. A member said development in the area could flourish in five or ten years. If the units are considered attractive in another part of our city that's developed, then it's the right direction to go in this area. Another member said if all goes according to the vision, this will be a desirable area, but rents could ease up over time. Therefore, a timed condition on the rents of the units was worth considering. In effect, we'd have very reasonable rents for a set period of time and at the end of which the owner can do what he wants with the rent, and might be able to do something else. We don't want the restriction to be a burden.

Attorney Mead said the owner has to find financing and securing the commercial loan must be considered along with any restriction. The Shepard's Auto Body parking lot is adjacent, preventing additional development along there. The car rental, car wash, and pizza place are doing well. The MBTA is issuing an RFP for a developer and that development will take several years to realize.

A member encouraged Attorney Mead to look at the wider neighborhood. Attorney Mead responded that the existing stock was not going to change. The member said the Board needed to consider not just where the development is located, but development in the wider area. Attorney Mead said the market would keep rents in check for the time frame under discussion. Another member said nothing could keep the building from going condo. Attorney Mead said the Board had approved V.I.Cs that took rental units off the market. This application was adding rental units to the market. There's a big difference if the market is driving the rents or a restriction drives the rents.

Andrew Port, unsure a deed restriction was necessary, did not know whose role it would be to write one. He said the proposal is consistent with the vision we've had for this area. A

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member said the VI.C is posing difficulties; if it weren't VI.C, everyone would be jumping up and down about more rental units. The \$13,000 donation doesn't mean a whole lot and the conservation land has to be left open. The rental aspect was the attractive part and the member was sympathetic to letting the market drive the rents. The member also took into account that the applicant has other rental units in the city.

A member said the Planning Board had jurisdiction over the AHT advice. The Board acknowledged it was predisposed to accepting AHT advice because the proposal was rental units. Attorney Mead said the developer and his father have owned rental units on Fair Street and Otis Place for 40 years. The bigger history is the fact that his units could have been condo'd many times, but it would have been a loss to the city. Attorney Mead did not think the city gained anything with a restriction.

The Chairman opened and closed the public comment portion of the meeting.

A member read the findings. A member requested a rereading of the section of the findings specifically about this being affordable housing in order to be very clear that this, as affordable rental housing, was proposed by and important to the Planning Board. Another member said that the findings say at least twice that these are rental units, what does that legally bind the applicant to? Another member said the findings outline what the project proposes to do. Andrew Port said a finding is not a condition.

Henry Coe made a motion to approve the Section VI.C Special Permit
Anne Gardiner seconded the motion.

Motion approved.

Votes Cast:

Dan Bowie: approve
Henry Coe: approve
Paul Dahn: approve
Anne Gardner: approve
Sue Grolnic: opposed
Bonnie Sontag: approve
Don Walters: approve

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

5. Planning Office/Subcommittees/Discussion

**a) William O'Flaherty, Esq. for Chuck Lagasse
Piper's Quarry Subdivision
Request to Amend 1983 Restrictive Covenant
Informal Discussion**

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Chairman Bowie said Attorney O'Flaherty was not aware of the prior history for the property and they are ready to file a modification.

Andrew Port, Planning Office, asked whether there needed to be a public hearing, given that a lower-than-standard roadway was exchanged for less development and that a change to that typically requires a public hearing. Are we satisfied with the roadway for the particular additional development? Chairman Bowie asked what had actually been built for a road? Andrew Port said he hadn't heard back from the Fire Department about what they'd seen and whether they preferred to make adjustments on the road. Chairman Bowie said the Board needs to evaluate the additional building against the roadway and we need to know what's there. Andrew Port said the most logical feedback on the road is both the Fire Department and Public Works. Those comments should be heard at a public hearing. Waivers were granted to have a lesser-conforming public road because it's a family compound rather than a subdivision. A member asked if by covenant the residents have to be in the same family or could that change tomorrow?

Chairman Bowie said the Board couldn't look at the modification and impose present day regulations on housing that was already there, but should restrict the sixth lot. The subdivision plan shows five lots, but the ANR was approved. There is some concern that the roadway, as approved, was never built. A member said the Board could not approve the amendment unless the road met basic safety requirements. It will be a public hearing and the member supposed the Board couldn't make a request for a modification. Andrew Port added that there might be abutter's issues. We need to get back to them. Chairman Bowie summarized the issue as a matter of whether and how the sixth lot affects the roadway.

b) Other Topics

Andrew Port reminded the Board that the Planning & Development Subcommittee public hearing on the zoning will be held on April 17th.

A member approached the subject of the proposed Local Historic District conceptually, saying an ordinance is coming before the City Council and will be the subject of a joint public hearing. Andrew Port corrected the statement, because it is a local historic district under 40C not 40A, it will not come before the Planning Board. It could have architectural guidelines like what we have downtown.

6. Adjournment

Don Walters made a motion to adjourn.

Bonnie Sontag seconded the motion.

Motion approved unanimously.

Meeting adjourned at 8:42 PM.

Respectfully submitted, Linda Guthrie, Note Taker