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TOWN OF JOHNSTON PLANNING BOARD

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MINUTES MAY 5, 2009

The Planning Board of the Town of Johnston held its regular monthly meeting on Tuesday, May 5th, 2009, at the Johnston Senior Center, 1291 Hartford Avenue. All persons interested in items on the following agenda had been requested to be present at that time.

I. **Roll Call**

The meeting was called to order at 7:10 p.m. Members present: Patricia A. Aguiar, Michael A. Campagnone, Lauren Garzone (*Secretary*), Peggy A. Passarelli, Mohamad Yaser Sasa (*Vice Chair*), and Anthony Verardo (*Chair*). Also present: Timothy J. Chapman, Esq. (Assistant Town Solicitor), Merrick A. Cook, Jr. (Administrative Officer) and Rian Smith (Assistant Planner).

II. **Minutes**

April 7, 2009, minutes accepted (6-0).

III. **Correspondence**

Pat Aguiar appointed to consecutive three-year term.

IV. **Old Business**

A. **Winsor Woods II**

Major Land Development/Subdivision — Preliminary Plan Review
Vicinity of Carriage Way, Bridle Way and Parasol Court
AP 48 / Lots 581, 586 + 587; 13.67± acres; R-40 zone

PROPOSAL: 13 lots (single-family residential use)

APPLICANT: Pezzuco Brothers Development Corp. — Ronald R. Pezzuco

OWNER: Pezzuco Brothers Development Corp. — Richard & Ronald R. Pezzuco

SURVEYOR: Anthony Muscatelli, PLS #1718 — International Mapping & Engineering

ENGINEER: Joseph Casali, PE #7250 — Casali & D'Amico Engineering, Inc.

PUBLIC HEARING

PB '09-05



ATTORNEY: John Pagliarini, Esq. — LaPlante, Sowa & Goldman

Master Plan for phases I & II approved 10-5-04 with conditions; extended 4-7-09. Final Plan for phase I (8 house lots; construction of 3 streets) approved 6-5-07.

Project engineer reviewed 13-lot subdivision with DEM (wetlands & OWTS), Fire Dept., & PWSB permits/approvals; outside flood zone. Infrastructure installed in Phase I. Pending DEM drainage testing delaying subdivision of Lot 13 into 2 lots (possible phase III).

Attorney Eric Brainsky addressed defeasible 50' easement between lots 98 and 99 contested by abutters. *Exhibit 1*: Mark S. Krieger, title attorney, 5/2/09 letter re: determination of enforceability following title search. Easement approved by Planning Board and recorded for use of public in land evidence records in 1996 under Newman Farms Estates, and referenced in project deeds and those of abutters named Cairo.

Discussion: eventual assignment to Town as public right-of-way; health and public safety access; enforceability; plan revisions if r-o-w not upheld in court; likely incorporation of hammerhead or cul-de-sac on undeveloped portion of Lot 13–14 for emergency purposes. All 13 lots to comply with zoning requirements either way; only traffic and emergency vehicles affected.

Public hearing opened. Attorney Jill Votta for Cairos referred to original plan for Newman Estates in disputing r-o-w. Requested that the matter be tabled, if not denied.

Brainsky: no empirical evidence provided by abutters to justify delay. Area at issue now owned by Cairos and Dichiros became an easement in 1996. *Exhibits 2, 3, & 4*: final plan for Winsor Woods with easement and 50' right-of-way (sheets 5, 6 & 7). 8/31/07 easement of record predates abutters' purchase of their parcels. Easement not disputed, only use thereof. *Exhibits 5 & 6*: Warranty deed transferring property to Cairos. *Public hearing closed.*

8/1/06 Planning Board approval of master plan included construction of three streets. Road completed in 2007; utilities installed except sewer.

Preliminary plan approved with conditions (6–0). Approval based on application, testimony, and Town memoranda; on consistency with general purposes of Town regulations, Section 1, and with Town Comprehensive Plan; and on positive findings for Section 5–2 a. 1-5.

Conditions: subject to defeasible easement located between Surrey Drive and west end of Bridle Way; and easement to be approved by solicitor and Town Council and conveyed to Town if upheld by court; otherwise, revised plan required.

(Heard out of sequence)

- B. **Atwood Avenue/Floral Drive II — 1302 Associates, Inc.** (Mangiarelli's) PUBLIC HEARING
 Minor Subdivision — Preliminary Plan PB '08–34
 1302 Atwood Avenue/Floral Drive; AP 44 / Lot 50; 20.07± acres; R–15 & B–1 zones
 PROPOSAL: Extension of Floral Drive for single-family residential use (2 lots; Phase I for commercial use) with detention basin
 APPLICANT: 1302 Associates, LLC — Joseph D. Brito
 OWNER: Joseph D. Brito & Vincent Diraimo — 1302 Associates, LLC
 SURVEYOR: Albert Florentz, PLS #1688 — Bibealt & Florentz



ENGINEER: Joseph Casali, PE — Casali & D’Amico Engineering, Inc.
 ATTORNEY: —

Project engineer reviewed proposal: lot A entirely in R-15, with 48-foot relief on frontage obtained. Construction access to be closed when construction complete. Outside of flood zone, no wetlands, water table good, public water available, and private sewer. Approvals obtained: DEM UIC; PWSB extension of water main, additional hydrant and service to home; and Fire Dept. for entire parcel.

Response to Town Engineer 4/30/09 memo: relief on frontage obtained; proposed Town drainage easement; road extension solely for use of house; retaining wall ≥ 5-7’; variance for roadway width to 24’ and waiver for sidewalks; sewer connections to be worked out; UIC to be inspected and certified; detail on Floral Drive to be provided. *Exhibit A*: applicant \$84,000 performance bond estimate for site improvements.

Discussion: Floral Drive not to be used as throughway to Atwood Avenue, as stipulated by Zoning Board; retaining wall; and sewer. *Public hearing opened and closed.*

Preliminary plan approved with conditions (6-0): subject to approval by engineering department, 6’ relief granted from roadway width, and sidewalks waived. Approval based on application, testimony, and Town memoranda; on consistency with general purposes of Town regulations, Section 1, and with Town Comprehensive Plan; and on positive findings for Section 5-2 A. 1-5.

B. & C. **Pine Hill Village** (formerly Killian Estates Farm)

ADVISORY OPINIONS

Zoning Ordinance 2009-CP-42 & 46

PB ’09-12+13

Comprehensive Community Plan and Zoning Map Amendments

Vicinity of Greenville Ave., Killian Rd. & I-295; AP 50 / Lot 66; 24.6 ± acres; R-40 zone

PROPOSAL: R-7 zone; high-density/multi-family residential use; 6 buildings of ≤ 50 age-restricted apartments (26 2- & 24 1-bed) with street construction

APP. / OWNER: Greenville Holdings, LLC

SURVEYOR: James G. Flynn, PLS 1904 — Flynn Surveyors, Inc.

ENGINEER: David E. Provonsil, PE #5160

ATTORNEY: Eric Brainsky, Esq. — Law offices of Michael E. Kelly

Master Plan approved for 13 lots and positive recommendation to Town Council for zoning map change 10-7-08. Master Plan approved for 7 lots with conditions 4-5-06; decision appealed 5-5-06; Superior Court Consent Order 2-29-08.

Attorney Brainsky reviewed previous proposal for 12 single-family house lots, Court order, zone change to R-40 cluster development, and abutter concerns with access from Killian Road. Administrative Officer submitted memo from DPW director positing that applicant’s proposal not consistent with Community Comprehensive Plan (CCP)—a required finding for advisory opinions to Town Council—until after CCP amendment adopted. Also cited requirements of site plan review by Board and public water and sewer service.

Debate over sequence of advisory opinions on amendments to CCP and map change. Citing RIGL 45-22.2-8.c, applicant maintained that amendments may take place concurrently, with subsequent state approval of CCP.



Discussion: new sewer proposal eventually to connect through low-pressure system off of Greenville to Atwood Avenue. Town engineer not yet consulted. Applicant disagreed that review of first stage of project required before recommendation on zone change conveyed to Town Council. Possibility of subsequent ownership, implementation of age restriction through deeds or condo association, unknown whether units to be sold or rented, and section 8 not intended.

Expert witness: Edward Pimental, AICP, with c.v. *Exhibit 1:* land use report by Edward Pimental. Pimental described support of CCP for proposed high-density use, with connection to existing high-density area via Greenville Avenue, and town’s aging community’s need for greater variety and style of residence. Proposal requiring no amendment to text. Discussion re: operative version of Johnston CCP.

Attorney reiterated request for recommendations on both petitions. Board decided to issue recommendation to Town Council only for zone change; applicant to return for advisory opinion on zone change concurrent with review of first approval stage at a later date. Applicant agreed to extend 45-day requirement until next meeting.

Continued until June 2, 2009, meeting with applicant agreement to 45-day extension.

V. **New Business**

A. **Federal Emergency Management Agency (FEMA) Update**

ADVISORY OPINION

Update to Zoning Ordinance (Text) & Adoption of Maps

PB '09–10

Administrative Officer summarized need to adopt updated flood maps.

Positive recommendation on adopting FEMA maps (6–0) based on: positive findings for consistency with general purposes of Town regulations, Section 1, including goals and policies, and with applicable elements of Town Comprehensive Plan; and positive findings for applicable purposes of Zoning.

B. **Atwood Avenue — Cassisi**

INFORMATIONAL HEARING

Major Subdivision — Master Plan Review

PB '09–19

Vicinity of Atwood Avenue; AP 24 / Lot 11; 7.47 ± acres; R–15 zone

PROPOSAL: 8 lots (single-family residential use) & open space; street construction

APP. / OWNER: Frank & Maria Cassisi

SURVEYOR: Peter V. Cipolla, Jr., PLS #1680

ENGINEER: Peter Alviti, Jr., PE #3622 — Hudson Place Associates

ATTORNEY: —

Project engineer described existing conditions of site: 80’ slope from front to back; extremely permeable soils along Atwood Avenue; large ledge outcrop in center; largely forested with excavation by owner already underway on portions; absence of wetlands and flood zone; and average grade of 14%. Proposed number of lots reduced from the 18 permitted in R–15 zone by limitations imposed by slope and ledge.

Town engineer (6–x–09 memo) calculated size of developable area at 50%; proposed 54% exceeds maximum allowed. Applicant corrected “17% slope” to 13.95%, allowing 60%



developable area. 40' r-o-w with 26' pavement width proposed. Applicant considering moving roadway 30-40' with 3 to 1 side slopes as alternative to proposed retaining walls along r-o-w.

Utilities (sewer, water, gas, electric, telephone/cable) available along Atwood Avenue. Proposed road drainage system to reduce storm-water runoff; underground infiltration system for central portion of site. DEM UIC and RIDOT permits pending. Traffic increase and ingress/egress negligible.

Discussion of potential Fire Department concerns with single access and 890'x26' cul-de-sac—290' over maximum length and 2' under width. Waivers required at preliminary stage. (Length needed to meet 8% grade requirement.) Hydrants to be installed. No zoning variances required due to creation of flat pads for houses and lawn. Extensive grading and revegetation proposed for open space/buffers along perimeter; limited visual impact on adjacent properties due to buffer and elevation. Mechanical removal of ledge, no blasting. No foreseeable potential impacts. Open space of nearly an acre to remain in natural state; slope and erosion issues eliminating possibility of playground as raised by Board.

Master Plan approved (6-0) based on: application, testimony, presentation, and memorandum from the Town Engineer; consistency with general purposes of Section 1, Johnston Land Development & Subdivision Review Regulations, and with Town Comprehensive Plan; and positive findings for Section 5-2 A. 1-5.

C. **Shun Pike — Shun Properties, LLC**

ADVISORY OPINION

Zoning Ordinance 2009-CP-58 — Zoning Map Amendment

PB '09-21

114 & 116 Shun Pike; AP 32 / Lots 11, 12, 17 + 20; 25± acres; R-40 & I-L zones

PROPOSAL: Industrial zone (sorting station & single-family residential use)

APPLICANT: Shun Properties, LLC

OWNER: Shun Properties, LLC & Joseph & Nina Vinagro

SURVEYOR: Nicholas Veltri, PLS# 1719 — Veltri Survey, Inc.

ENGINEER: Kevin C. Morin, PE# 7051 — DiPrete Engineering

ATTORNEY: Kristen W. Sherman, Esq. — Adler Pollock & Sheehan P.C.

Elizabeth Noonan, Esq., presented ongoing recycling operations within mixed zone, mainly industrial and light industrial with small portion R-40, to be made consistent. Project engineer reviewed existing conditions. Lot 20 bisected by line through house. Meetings with Town persuaded applicant to rezone lots. Existing residential lot to become conforming through zone change to R-40 and adjusted setbacks. Proposed building to conform with zoning setbacks except for height.

Solicitor clarified that proposal only requires an advisory opinion; administrative subdivision to follow. Industrial site plan review required for one building eventually; other already permitted.

Positive recommendation to Town Council on Zoning Ordinance 2009-CP-58 (6-0). Recommendation based on positive findings for RIGL §45-24-52—consistency with Town Comprehensive Plan, including goals and policies, implementation program, and all other applicable elements; with RIGL §45-24-30—applicable purposes of zoning; and Johnston Land Development & Subdivision Review Regulations, Section 1—general purposes.



D. **Naples Avenue — Menard**

ADVISORY OPINION

Zoning Ordinance 2009-CP-60 — Land Purchase
Naples Avenue; AP 5 / Lot 51; R-20 zone

PB '09-22

PROPOSAL: Purchase of lot from Town

APPLICANT: Michael Menard

OWNER: Town of Johnston

SURVEYOR / ENGINEER / ATTORNEY: —

Continued to June 2, 2009, meeting. Decision deadline extended by 45 days by Planning Board in applicant's absence.

E. **Central Pike & Scituate Avenue — RIRRC**

ADVISORY OPINION

Land Transfer
Central Pike & Scituate Avenue; AP 43 / Lots 589-593; I & R-40 zones

PB '09-24

PROPOSAL: Conveyance of 5 lots by Town

APPLICANT: RI Resource Recovery Corporation

OWNER: Town of Johnston

SURVEYOR / ENGINEER / ATTORNEY: —

Administrative Officer reviewed quit-claim deed with exhibits and Town Council 2/11/08 agreement conveying land from Town to RIRRC.

Positive recommendation to Town Council on conveyance of lots to RI Resource Recovery Corporation (6-0). Recommendation based on positive findings for RIGL §45-24-52— consistency with Town Comprehensive Plan, including goals and policies, implementation program, and all other applicable elements; and with RIGL §45-24-30—applicable purposes of zoning; and on Johnston Land Development & Subdivision Review Regulations, Section 1— general purposes.

VI. **Adjournment**

10:57

Lauren Garzone, SECRETARY