

**Town of Westwood Planning Board
Meeting Minutes
Westwood High School
May 30, 2006
7:30 PM**

Board Members Present: Steven Olanoff, Bob Moore, Rob Malster, George Nedder

Board Members Absent:

Staff Members Present: Diane Beecham, Town Planner; John Bertorelli, Town Engineer; Tom McCusker, Town Counsel

The meeting was convened at 7:30 pm.

Discussion of Site Plan Review Application Requirements for Installation of Modular Classrooms at the Hanlon School (non-profit education use)

Diane Beecham gave an overview of why this particular application has to go through site plan review when other school projects (such as the new high school) did not have to go through it. She indicated that prior to the two year zoning recodification process that occurred between 2002 and 2004, public schools and grounds were specifically exempted from site plan review. As part of the recodification, the twelve applicability criteria were condensed into three criteria and the public school exemption was removed. Thus, the School Department is on this agenda to discuss specifically what will be required as part of their application. The site plan will be developed by the Town Engineer.

Mr. Olanoff stated that he wanted to know what trees will have to be removed in order to accommodate the modular classrooms.

Mr. Nedder expressed concern about having the Town Engineer prepare the site plan which will then be reviewed by the Planning Board.

Mr. Olanoff questioned how far the land has to be cleared in the back of the school for this project.

Mr. Malster questioned if there will be lighting on the modulares. Also, are there going to be utility hook-ups for sewer and water?

Where will the rooftop drainage off of the modulares go?

Will the location of the dumpsters change? If not, then this should be indicated on the plan.

The Planning Board scoped the application as follows:

- Traffic study exempted
- Model exempted
- Impact statement exempted
- Table of development data for dimensional regulations

The Town Planner should also check with the Fire Chief to see if he is going to make recommendations that will impact the site plan, such as having to extend the parking lot.

Mr. Nedder asked if Cabot, Cabot and Forbes is going to pay for a school enrollment impact study for the Westwood Station project. Mr. Malster responded that the School Department indicated that they want to use these modulars now as a way to address school capacity issues in the short-term. The School Department originally was also going to look at various longer term alternatives but did not want to address these longer term issues now because of the uncertainties of the impact of the Westwood Station project.

Continuation of Public Hearing: Application for a Senior Residential Development at High Rock Village

Applicant: Tremont Redevelopment Corporation/Michael Lombardi

Address: 30+-acre parcel in vicinity of High Street and Mill Street

Project: Approximate 119-unit Senior Residential Development project

In Attendance: Brian Herlihy, Tremont Redevelopment; Richard Gallogly, Esq. Rackemann, Sawyer & Brewster

Mr. Malster read the letter from Richard Gallogly, Esq. dated May 30, 2006 into the record which requested an extension of the opening of the public hearing on the High Rock application. The Applicant waived any rights to claim that the public hearing was not held within the required 65 days.

[The Applicant did not want the Board to start the public hearing process until an appointment was made to the Planning Board seat vacated by Henry Gale. The appointment must be done in conjunction with the Board of Selectmen, who had not yet scheduled a joint meeting of the two boards or had given any indication on the date of that meeting. The Board was concerned that that meeting might occur outside the 65-day limit and so were going to schedule the hearing unless a request for an extension was received.]

On a motion by Mr. Olanoff and seconded by Mr. Moore, the Planning Board unanimously voted to accept the Applicant's request for an extension. On the same motion, the Board unanimously voted to set the public hearing for July 11, 2006.

Working Session of MUOD Rules and Regulations

In Attendance: Dan Bailey, Esq. Rackemann, Sawyer & Brewster

Mr. Bailey stated that his revised draft of the Rules and Regulations that provided for the conceptual MUOD special permit flowed by subsequent staged special permits was done in response to what he thought both the town and the Applicant

wanted. When he provided a copy of the draft to CC&F, they were very clear that they wanted one special permit. It was emphasized to him by the CC&F attorneys that they thought that there was nothing in the bylaw that allowed for multiple special permits.

Mr. Bailey stated that CC&F wants to do all the infrastructure up front in terms of the phasing of the project. The multi-special permit scenario risks this investment because it provides multiple avenues of appeal. If CC&F have these avenues of appeal, it will risk the infrastructure improvements. He felt that there is adequate protection for the Town with special permit in combination with the development agreement.

Mr. Bailey stated that he does not want to tell the Planning Board there will be the same protection under site plan review as there is under a special permit. However, there is case law that argues that site plan review within the context of a special permit has more teeth than a stand-alone site plan review process.

Mr. Moore stated that the risk profile is much more for the Town by having process that provides for the granting of one special permit at the beginning. The Town loses a valuable leverage point by setting the process this way. The reaction to this may be to be more conservative as part of the special permit.

Mr. Nedder stated that it is ludicrous to have to do this large project with one special permit.

Mr. Moore questioned if this is all being driven by the fact that CC&F wants to do all the mitigation/infrastructure up front.

Mr. Bailey stated that the office market/office tenants are not as patient as retailers. Potential office tenants need to know specifically when the space will be available, which can not be done if later stages of the project can be stalled by appeal. The reaction will be that the potential office tenants will not sign leases.

Mr. Moore asked if the development agreement also provides for litigation risk. Mr. Bailey responded no because it does not involve a third party risk that could tie CC&F up for years. Mr. Moore asked what happens if the developer and Town disagree with respect to something in the development agreement? How would that be enforced? Mr. Bailey responded that the actual resolution process will be part of the development agreement.

Mr. Nedder questioned what measures does the Planning Board have to enforce the performance standards? He stated that he is very much against having a single special permit for the entire project. He would not vote to approve a 4.5 million square foot project with a single special permit; probably the maximum under this scenario would be a 2 million square foot project.

Mr. Olanoff stated that by constructing all the infrastructure at one time, how can changes be made if the mitigation ends up not working as planned? If changes

have to be made, how extensive can they be? Can the Board require that stop lights be removed and installed a full flyover be constructed?

Mr. Olanoff also stated that he does not this project to be overbuilt in terms of infrastructure; it should be emphasized as a transit-oriented development.

Ms. Beecham stated that there is an issue of having the Board be too conservative as a result of having one special permit fro such a large project. The result may be that this process ends up being more detrimental to the developer in the end. Also, it is likely that the hearing process will have to be that much longer if there is only one special permit because the Board will have to contemplate every scenario.

Mr. Nedder stated that he wants the project to be constructed incrementally; there is no way that he can approve the entire project at one time.

Ms. Beecham stated that there is an issue of meshing the development agreement with the special permit. How does the Board insure that the development agreement negotiations are adequately incorporated into the public hearing process so that they are adequately represented on the formal record?

The meeting was adjourned at 10:00 pm.