Town Of Sandwich
THE OLDEST TOWN ON CAPE COD

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MINUTES
March 15, 2016

7:05pm
Upstairs Meeting Room
Human Services Building,
270 Quaker Meetinghouse Road

Present: Sarah Regan, Chair, Scott Torrey, Vice Chair, Robert King, William Burbank, Joseph Vaudo, and Thomas Lynch
Absent: Lori Caron
Also Present: Blair Haney, Director, Planning and Economic Development, Josh Peters, Asst. Town Planner, Justin O'Connor, Tree Warden, and Sam Jensen, Asst. Town Engineer

Approval of Minutes
Mr. King motioned to accept the minutes February 16, 2016 as written. Mr. Torrey seconded. The vote was unanimous.

Submission of New Plans
No new plans were submitted.

Atkins Road
Definitive Subdivision & Cluster Special Permit
Monomoy Properties LLC
Ms. Regan read the following letters into the record:

- Shawn MacInnes, 48 Crestview Drive, letter dated March 13, 2016
- Frank Pannorfi, Chair, Board of Selectmen, letter dated March 3, 2016

Ms. Regan deferred reading the letter from Sam Jensen, Asst. Town Engineer, until later in the meeting.

Atty. Eliza Cox, Mr. Ray Caterino, manager of Monomoy Properties, Atty. Michael Scott, and Brian Yergatian, BSC Group, were present for the applicants. Atty. Cox reviewed the new packet of information that was submitted to the Board dated March 9, 2016 in response to comments given at the initial Planning Board public hearing on December 15, 2015. She also told the Board that the proposed subdivision layout had received approval from the Cape Cod Commission on March 23, 2015, and the Commission unanimously approved the project on September 17, 2015. The packet also included information on the Atkins Road Fee Taking, emergency access over Marie Lane, a safety assessment, and compliance with the Town of Sandwich Subdivision Rules and Regulations with three exceptions. Plan revisions and a Typical Driveway Plat (Lot 9 Grading Plan) were also submitted by BSC Group.

Ms. Regan asked Mr. Jensen to review his Engineering memo dated March 15, 2016 with the Board. In reviewing this memo, he feels that the remaining items could be worked into the decision as conditions:

- The typical driveway plan submitted to the Board clarifies how access to Lot 9 might be provided – similar improvements may be required on other lots with extensive topography which can be addressed during the driveway permit application process.

- The plan should specify that all roads, including the emergency access road, will be cleared of snow and ice, and that the HOA will be responsible for winter maintenance.

Mr. Jensen commented on three waiver requests:

- Requirement to show street numbers for each lot – better practice to assign the numbers after the plan is recorded
- Requirement to show location of all existing trees 15" in caliper or greater, and all holly trees 6" in caliper or greater – The cluster subdivision is preserving quite a bit of Open Space and appears to have struck a balance
- Waiver requested from the 500' dead end rule – the proposed arrangement of streets and emergency access provisions appears reasonable

Mr. Jensen also addressed the subservice infiltration system proposed at the subdivision entrance – a minor change to the piping will be sufficient. There were several recommended actions to be addressed as well: location of emergency access gate, specification of maximum cross slope of emergency access road at 6%, labelling metes and bounds for property line adjacent to Marie Lane, identify proposed pavement widening, and add the small portion of emergency access easement that is missing on the lotting plan.

Ms. Regan then asked Mr. Haney to review his memo to the Board dated March 10, 2016. In his memo he recapped the concerns he had noted that the Board had at the December 15, 2015 meeting: landscaping, Marie Lane as an emergency access, additional sidewalks, design issues, waiver from the 500' rule in the Subdivision Rules and Regulations. The public concerns were box turtles, disputed ownership of a portion of Atkins Road, increased traffic, and erosion and stormwater run-off. Mr. Haney shared his comments with the Board:

- Applicant has submitted updated landscaping plan that meets/exceeds requirements
- Designating Marie Lane as an emergency access is legally sound and appropriate
- Project engineer has worked with Engineering Dept to resolve outstanding issues
- 500' waiver is the only substantive waiver request and the Sandwich Fire Department has not taken issue with the design
- Division of Fisheries & Wildlife has written that the project "will not result in a prohibited take of state listed rare species"

He also addressed the Fee of Atkins Road, the traffic questions, and the conditional approval of the Cape Cod Commission. He concluded by saying that Planning and Development staff support conditional approval of the Cluster Development Special Permit and approving the definitive subdivision as proposed. He suggested conditions as well: providing a locked gate and access to the parcel of land owned by the Town of Sandwich (Discussed with the Dept. of Natural Resources) and establishing a HOA that will assume maintenance responsibilities.

Ms. Regan asked if there were further questions or comments from the Board. Mr. Burbank asked if someone could explain how Marie Lane came into existence and how the access issue had been resolved from the December meeting until this meeting. Mr. King asked if Marie Lane is a legitimate ingress and can boulders be removed for emergency access? Marie Lane is part of an approved subdivision involving registered and non-registered land as shown on recorded plans #424-20 and #31944D. The emergency access gate will be placed at the property line. Mass Gen. Law addresses the right of way for emergency vehicles.

Ms. Regan opened the meeting for public comment. The following people spoke:

- Roseanne Carr, 9 Crestview Drive Ext. – She is interested in the emergency access as it is sometimes painful to get emergency vehicles into the development. She submitted a copy of plan #31944D for Crestview Road Extension and #424-20 for Hillcrest Estates subdivision. She also read Chapter 89, Section 79 of MGL regarding the right of way for emergency vehicles. Ms. Carr feels safer knowing that emergency vehicles will be able to access not only this new

subdivision but also the surrounding area. Later she commented favorably on the possibility of bringing gas over at the same time as the water was being brought over from Rte. 6A.

- James Kalweit, 17 Atkins Road -
    a. The 500' measured from the end of the road is creating Atkins Road to Atkins Road – the waiver needs to be 2700' with one access point
    b. The traffic study should be done on the entire road – there may not have been accidents on Rte. 6A but there have been several accidents on Atkins Road
    c. The possibility of affordable housing was not mentioned to abutters – Ms. Regan said that it had only been raised in the letter read into the record tonite from Mr. Pannorfi. Mr. Kalweit said that he had had a discussion with the subdivision attorneys about affordable housing and was still waiting for an answer
    d. Because his basement is 78' from the development, he is concerned with where the water will go, especially the subsurface run-off
    e. Retaining walls are to be put in place to protect the surrounding area during construction. He wanted to know if any bond will be required to be posted in case the builder becomes insolvent
    f. He feels that the issue of the water pipes going under the highway should be settled before the subdivision is approved
    g. Why is only Crestview Drive being widened to 20' and not the rest of the roads not being brought up to that standard?
    h. Marie Lane is a private road
    i. Mr. Pannorfi's letter is a "cya" move
- Lisa Golfomitsos, 2 Marie Lane –
    a. Marie Lane is a completely private road
    b. Town dumps extra snow at the end of Marie Lane even though it does not plow the road
    c. Concerns about emergency access – if accident occurs where Atkins Road meets Crestview Drive, emergency vehicles couldn't reach subdivision anyway
    d. Response time is currently 40 minutes for an emergency
    e. Concern that one of boulders to be removed is a glacial boulder – she has been told that the part she sees is only about 1/3 of the actual size of the boulder and removing them could potentially impact her property
    f. She has been unhappy with the lack of communications with the engineers coming on her property without notice as it upsets her dogs and her son
    g. She submitted a packet of pictures showing the state of Atkins Road after a storm
    h. Concern for the loss of the cart path that currently is on the property
- Natalie Smith, 4 Crestview Drive Extension –
    a. The water pressure is terrible and has the developer thought about putting in a pump station

In response to a question by Mr. King, Atty. Cox said that there were several meetings held with the Sandwich Water District and that there were two options:

- Run the water under Rte 6 which is the plan is currently proposed
- If that plan is not feasible for any reason, then a booster station will be installed in the development to improve the water pressure

Mr. Yergatian, BSC Group, told the Board that the field work and surveying needed for the design of the water system has been done. The optimal plan would be to run the pipes under the road. The design work itself will be done when the application is successful. He reiterated for the Board that 100% of the stormwater runoff from impervious surfaces will be collected, treated, infiltrated into the ground on site. The design complies with MA DEP and the Town of Sandwich standards. There will be a reduction in the volume and rate of discharge of the runoff leaving the site following construction compared to existing conditions. Ms. Regan brought up that one of the speakers was actually more

concerned with the below the surface water table. Mr. Yergatian assured the Board there would be no increase in the ground water table as a result of this subdivision. The water will not drain sideways when it rains; the soil has been tested and the water will drain down.

Mr. Kalweit had further questions and comments at this point.

- He is concerned about the effect the subsurface water will have on his property – he said water does go sideways and referred to a glacial till
- He asked that everything be done honestly

Mr. Yergatian responded that the conversation he had had with Mr. Kalweit previously had been about glacial outwash, not glacial till. He explained the difference – with glacial outwash the water will drain down, not sideways. The plans call for the runoff on impervious surfaces to be routed back through the development to an infiltration basin at least 700' from Mr. Kalweit's foundation. Mr. King then asked if he were Mr. Kalweit would it currently be more likely to impact his property in the event of heavy rain to have his foundation because of the topography then after the subdivision is properly completed. Mr. Yergatian agreed with this. At this point he also explained the difference between glacial till and glacial out wash. Mr. Kalweit then asked if there will be a pump house to discharge the water uphill. He noted that at least 100 trees will be gone with the construction – this will also impact the run-off. He wants Mr. Yergatian to show him how this will work.

Deanna White, 48 Crestview Drive, expressed concern about the placement of the subdivision on the site. She also brought up the box turtles on site.

There was no further public comment. Atty. Cox said she had nothing further.

Mr. King motioned to close the public hearing for Atkins Road Definitive Subdivision & Cluster Special Permit for Monomoy Properties LLC. Mr. Vaudo seconded. The vote was unanimous.

Scenic Road Permit
Cape Crossing
Route 130 Land Development LLC

Ms. Regan read the public hearing notice into the record. She also read the following letters into the record:

- Justin O'Connor, Tree Warden, Town of Sandwich, email dated March 23, 2016
- Lynn E. Cormay, letter dated March 21, 2016
- Blair Haney, Director of Planning & Development, Town of Sandwich, memo dated March 10, 2016
- David DeConto, Asst., Director of Natural Resources, Town of Sandwich, memo dated February 24, 2016

Mr. Richard Rheaume, PE, LSP, Chief Engineer, Prime Engineering, Inc., Shaun Kelly, Vanasse & Associates, Inc., and Mr. Robert Cleary were present. Mr. Rheaume reviewed a 2010 arborist assessment to support the application for the removal of six trees along the northbound side of Route 130 to allow for the modifications at the entrance/exit for the proposed commercial development. One of the proposed trees to be removed has already been removed by the Town because it was dead. The removal of these trees is to create acceptable site distances for the entrance/exit. The proposed tapering is to allow for the left turn lane. Mr. Kelly explained that the tapering is a necessary function of vehicle speed. The vehicle speeds used by Vanasse & Associates, Inc. were south 41mph and north 43mph.The proposed taper is 308' to meet DOT standards. Mr. Rheaume explained that the left turn stacking lane is needed to keep the traffic flow. A Roadway Improvement Plan dated 12/4/15 with revisions on 12/2/15 and 2/16/16. The trees were not clearly identified on this plan, but Mr. Rheaume showed an enlargement of the plan with the trees labeled. Trees identified as #6,10,12, and 13 will

need to be removed. Mr. Torrey asked if there was no stacking lane could the trees be preserved. Mr. O'Connor said that there was no actual plan identifying the trees to be removed. Ms. Regan referred to the arborist report that numbered trees and noted that it was six years old. When asked Mr. O'Connor said he agrees with the arborist report that identifies the trees by number, species, diameter, condition, canopy, and value. Mr. Burbank asked Mr. O'Connor if he thinks the values set in the report are realistic and how would the mitigation or replanting be handled. Mr. King asked if the value of the trees removed be $25,000 as indicated in the report and could trees be planted where they are needed in perpetuity. Mr. O'Connor suggested that maybe a larger caliper tree could be placed along the road into the subdivision. Mr. Burbank wondered if the trees could be stored at the Tree Farm for future use.

Mr. Haney went over his memo to the Board. The first comment in his memo regarding the fact that the dead tree had already been removed had been addressed. He suggested that the Board could condition the granting of the tree removal subject to Town approval of the subdivision and the Road Work Permit from the DPW. He also responded to the part of Ms. Cormay's letter in which she wrote that the principals of Route 130 Land Development LLC have chosen to pay taxes only on the parcels included in the application, but that taxes are owed on other parcels held in joint ownership. Mr. Robert Cleary, owner, said that all taxes have been paid for the entire commercial area. He had a printout from the Treasurer's office.

Ms. Regan opened the hearing for public comment. The following people spoke:

- Robert Sykes, 66 Route 130, said he was not against the project but was concerned over the unpaid taxes
- Lynn Cormay, 11 Old Snake Pond Road -
    a. Approving the removal of trees before approval of the subdivision is putting the cart before the horse
    b. She doesn't want to see the trees removed until the paved road is in place
    c. Outstanding taxes are still owed

Mr. King wants trees that will grow the best with a 6" caliper to mitigate the trees being taken down. There were several suggestions given for determining the mitigation amount for the trees:

- Have Tree Warden get three different evaluations fro arborists and take the middle one
- Have Tree Warden get three evaluations and make his choice
- Applicant provides the Planning Board with a specific valuation for the trees to be removed with a minimum value of $25,000

There were no further comments. Mr. King moved to close the public hearing for the Scenic Road Permit application for Cape Crossing, Route 130 Land Development LLC. Mr. Torrey seconded. The vote was unanimous.

After brief deliberation Mr. Burbank motioned to grant the Scenic Road Permit with the following conditions:

1. Planning Board approval of the Definitive Subdivision, Cape Crossing
2. Issuance of Road Work Permit from the DPW and tree removal to be done in conjunction with roadwork
3. The value of the removed trees is to be no less than $25,000 as determined by an arborist acceptable to the TOS Tree Warden

Mr. Torrey seconded. The vote was unanimous.

Definitive Subdivision
Cape Crossing
Rte 130 Land Development LLC

Ms. Regan read the following letter into the record:

- Lynn Cormay, letter dated March 1, 2016
- Prime Engineering, Inc., letter dated February 16, 2016

Ms. Regan deferred reading the Engineering memo until later in the public hearing.

Mr. Cleary addressed the Board and said there were three remaining issues: legal, which will be addressed by Atty. Recupero later in the meeting, engineering with the toad taper/traffic, which will be addressed by Mr. Jensen, and Scenic Road Permit. Mr. Rheaume then spoke to the Board. He agrees with 95% of Mr. Jensen's comments. The following points are covered in the Engineering memo:

- Traffic impact and access study provided
- Road Improvement Plan provided showing future southbound left turn auxiliary lane on Rte. 130 and other improvements
- Overall Grading Plan
- Erosion Control Plan and a Road & Drainage Maintenance Plan should be provided
- Comments on the waiver requests

Mr. Rheaume feels it would be best to do everything at once. The Board can condition permit or the changes can be submitted to the Board for approval. Mr. Jensen suggested that the improvement of Route 130 should be made through plan changes. A roadwork permit from the DPW will be required. More detailed comments could be incorporated into the conditions of the subdivision permit. The left turn lane will be needed. Several parts of his memo such as striping, reflectors, lane lines, paving markers, etc. have been addressed. He would like to see a trigger put in place to require the turning lane to be completed at the right time.

Ms. Regan expressed concern over shutting down Rte. 130 as it is a main corridor from Rte 6 into Mashpee. She would like to see any construction work done when the least amount of traffic would be using the road. Obviously summer construction would have a huge impact on the traffic flow.

Mr. Rheaume indicated that the applicant would post a bond for the roadwork during construction so lots can be released for building. Mr. Jensen suggested that the permit could be conditioned so that the work can be done in phases, beginning with shoulder work, and paving, then necessary markers, reflectors, etc. Mr. Rheaume also brought up the congestion at other intersections along Rte. 130. The timing of the lights doesn't work and adjustments will need to be made. A study should be done now not in July or August.

Atty. Thomas Recupero next addressed the Board. He told the Board he has had several discussions with the Town Planner since the last meeting and had sent him a four page memo the night before this meeting. There has been a legal issue regarding the 2010 Comprehensive Permit granted Forestdale Village LLC. In his opinion the Comprehensive Permit is no longer in force and once this is resolved, the legal issues become simple. He reviewed the three jurisdictional requirements for a valid comprehensive permit: Site control, limited dividend organization, and valid project eligibility letter. The zoning enforcement officer could also make a determination by confirming that any or all three of the fundamental criteria do not exist. This determination would also leave a seven lot subdivision under 30 acres and would, therefore, not trigger review by the Cape Cod Commission. He concluded his presentation by quoting from the letter from Town Counsel from December. He read a part of the sentence he refers to as critical because the premise is incorrect "...given the fact that the Comprehensive Permit is still in effect." He said that everything that flows from that sentence can be disregarded. He then read part of this sentence: "...once separated from the Comprehensive Permit Plan, the further division of the Commercial Properties into 7 separate lots would involve the division of land less than 30 acres."

Mr. Haney told the Board the memo from Atty. Recupero came in late at night and he was not ready to make a recommendation to the Board. He has forwarded the information to Paul Spiro, Building Inspector and Jonathan Silverstein, Town Counsel, for comment. Atty. Recupero suggested that if the public hearing were closed, the legal issue can be conditioned in the permit. Mr. Haney wanted to make sure that the legal opinion of Town Counsel could be accepted after the close of the Public Hearing.

Ms. Regan opened the meeting for public comment. The following people spoke:

- Robert Sykes, 66 Route 130, asked if all old lots are being vacated. – yes, for this plan
- Lynn Cormay, 11 Old Snake Pond Road
    a. Whole area is a big ball of trouble with many legal issues
    b. The Town can refer a project to the Cape Cod Commission for review if the impact on the neighbors will be great
    c. Very concerned about the financial issues of back taxes

Mr. King motioned to continue the Public Hearing for Cape Crossing to the meeting scheduled for April 15, 2016 at which time the Planning Board will have every intention of closing the public hearing at that time. Mr. Vaudo seconded. The vote was unanimous.

Board Discussion
Green Seal Environmental
Aubuchon Realty Group
311 Cotuit Road

Bob Bersin, PE and Jose Pichardo, Green Seal Environmental, and Chris Bailey were present for the Aubuchon. Mr. Bailey reviewed a bit of the history of the property for the Board. There are two narrow strips of land comprising almost 6 acres that the applicant would like to divide into three lots with frontage on Cotuit Road. Presently the Aubuchon Hardware Store is located at the rear of parcel #183 and uses a portion of lot #182 for parking. The front section of lot #13 is the site of the old Aubuchon Hardware store. Access to the three parcels is via a 40' wide easement shared with abutting properties to the north of the subject parcels. The applicant proposes to put a 50' wide road in on the southerly side of the property to obtain frontage for the rear parcel. Mr. Bersin said that the building envelope shown on the plan was only conceptual. The original proposal calls for creating a roadway layout along the northerly side of the vacant building extending from Cotuit Road to a cul-de-sac near the front of the Aubuchon Hardware store. Two separate parcels will remain in the front portion of the existing parcels and frontage for the vacant building parcel will be from the proposed layout. The undeveloped parcel has sufficient frontage along Cotuit Road. A more detailed explanation of the two plans can be obtained at the planning and development office.

Some concerns raised by Mr. Bersin are:

- Intensity of Use Schedule – Section 2600- Lot Shape Factor
- Landscaping – 30% of parcel is to be vegetated and requires a restoration plan – The Board discussed ways to meet the vegetation requirements of the Subdivision Rules and Regulations
- Parking Spaces
- Parking Lots for 6 or more cars
- B2 District parking requirements
- Driveways
- Drainage

The ultimate goal is to sell the two front lots.

Comment for ZBA
#16-012 Trautner Realty Trust
ADBI
The Board had no comment.

Mr. King moved to adjourn. Mr. Torrey seconded. The vote was unanimous. The meeting adjourned at 11:22pm.

Respectfully submitted,