

**PLANNING BOARD**  
**December 13, 2016**  
**Memorial Hall**

**Members Present:** William Ritter, Otto Lies, John Michalak, Scott Carlson, Tina Stratis

**Members Absent:** Rob Ricker, Jeff Head

**Staff Present:** Pam Harding, Director, Liz Fotos, Town Recorder

W. Ritter called the meeting to order at 7:02PM

**REQUEST FOR RELEASE OF COVENANT – Update on Detention Pond  
Amendment Lot 73 Stoney Brook Estates Definitive Subdivision**

C. Blair was present at the meeting. He stated they were asking for a release of covenant and that they had finally come to an agreement with the abutter. He stated the abutter will sign an easement. He stated that G. Kiritsy drew up the warrant they were going to start tomorrow cutting trees and finishing the work. He state it was not a bad time of year to do it and he anticipated that it would not take more than a month to complete.

C. Blair stated that they have a closing coming up on lot 73 which is the last lot in the subdivision and he was requesting a release of covenant.

P. Harding stated she was copied on the correspondence between C. Blair and the owners of the easement. She stated that the work was originally to be completed by November 30, 2016, it is fine that it is being done now however they do not want frozen fill to be placed over the drainage pipe and they will need a bond.

P. Harding stated that I. McCauley had calculated the bonds for all five phase so there is five separate bonds they want to consolidate into one for \$244,144.67.

S. Carlson asked if they wanted to add a date for the work to be completed.

P. Harding stated that due to the circumstances she is okay to give an extra 60 days.

Motion by O. Lies, seconded by S. Carlson, it was UNANIMOUSLY VOTED TO EXTEND THE TIME PERIOD FOR THE APPLICANT TO COMPLETE THE WORK FOR 60 DAYS.

Motion by O. Lies, seconded by J. Michalak, it was UNANIMOUSLY VOTED TO CONSOLIDATE THE BOND TO \$244,144.67 AND RELEASE LOT 73 PENDING THE CONDITION THAT THE TOWN RECEIVES THE SECURITY DOCUMENT.

**ZONING BOARD OF APPEALS RECOMMENDATION – Administrative Appeal-  
Summit Wynds**

W. Ritter stated there were a few guests at the meeting. Selectmen Ethier and Selectmen Scheinfeldt were present at the meeting. He asked them if they had any questions.

Sel. Scheinfeldt stated that Chairman Renzoni had asked him to act as a liaison to the Planning Board so he would be attending some meetings and reporting back to the Board of Selectmen.

Sel. Ethier stated that he saw the agenda and both the Marijuana and the Summit Wynd Agenda items were of interest to him.

P. Harding stated that the Planning Board receives all Zoning Board of Appeal recommendations. She stated that Summit Wynds was not a specific case or being treated unusually; all applications come before this Board.

W. Ritter stated that the applicant files with the ZBA and then when it gets circulated to the Planning Board, the Planning Board determines if there is planning significance. He stated the Board did make a recommendation on this matter as they were concerned with abutters.

Sel. Ethier stated that he imagined that the ZBA would take the Planning Boards recommendation

S. Carlson recused himself from the meeting.

P. Harding stated that as they know the applicant previously applied to the ZBA for a variance to allow an event venue be conducted at Summit Wynds. She stated that they then withdrew without prejudice their appeal which resulted in the Building Commissioner issuing a Cease and Desist order. She stated the applicant filed an Administrative Appeal claiming that the don't agree with the Building Commissioner on the allowed use.

W. Ritter asked if they are stating that it is an allowed use because of the agricultural exemption.

P. Harding stated that they were using various arguments stating that they had conducted events for quite some time and they have grandfathered rights as well as the fact that there are weddings on the property so they are sighting religious exemptions as well. She stated that along with the Agricultural Exemptions are the arguments that were presented.

W. Ritter asked P. Harding if she would keep the matter on the agenda as to keep the Board informed.

P. Harding stated that the Zoning Appeal would be held on January 5, 2017 at 7:00PM at the Holden Senior Center.

Sel. Ethier stated that he had not heard of the religious exemption before. He stated he had nothing against Summit Wynds personally but he does live near by and the noise is an issue. He stated he was in the wedding business for over 30 years and does not know of any venue that does totally outside functions in a residential area.

W. Ritter stated the Planning Board does not make a recommendation because it is an administrative appeal and is different than a variance. He stated they were reviewing the opinion of the building inspector. He stated if you don't like what the Building Inspector says you can appeal it to ZBA and if you don't agree with that it can be escalated to land court or Superior Court.

### **RECREATIONAL MARIJUANA- Discussion of Regulation and Bylaws**

P. Harding stated that Question 4 passed in the State of Massachusetts and as of this Thursday, December 15, 2016 it can be used recreationally in private and adults over the age of 21 can grow 6 plants / adult and 12/ household. She stated that recreational sale of marijuana is set to become legal on January 1, 2018 and Town Counsel states that they are of the opinion that you can not prohibit retail sales in town.

P. Harding stated that there will be one Town Meeting prior to the act being put into effect and it is her recommendation that the Town adopts a 1 year moratorium while a bylaw is drafted.

W. Ritter stated that the Attorney General has ruled that a one year moratorium is acceptable.

P. Harding stated that the retail space must not be within 500FT of an educational building k-12, the number of retail spaces is related to the amount of alcohol license in town (20% so 1.8 that she believes will be rounded up but there is not interpretation as of yet. She stated you must be 21 and older, you can hold up to 10 ounces and 6 plants per adult can be grown up to 12/ household. She stated that consumption in public is prohibited and that the town can petition to prohibit the consumption of marijuana where it is sold, so they can prevent smoke shops but not prohibit retail establishments.

S. Carlson stated it was not accepted by the Federal Government.

P. Harding that the Town can adopt a local tax law. She stated a land lord will not be able to prohibit it unless they receive federal funding.

S. Carlson asked if the town was allowed to receive revenue from this.

P. Harding stated that they were on the local level, they can tax the sale of it.

W. Ritter asked if the Town had reached out to the Police Department.

P. Harding stated that they and they were working on a Town Ordinance and a non criminal disposition for violation of the local bylaw.

Sel. Ethier stated that for medical marijuana, the Town passed a restriction that it can only operate in Industrial Park, he asked if the same thing could be done.

P. Harding replied it could be but they would have to draft the bylaw to allow it.

Sel. Ethier stated he liked the one year moratorium. He stated that they were looking at a piece of land in Industrial Park for the new DPW Facility. He stated that the property was sitting vacant and it hit him that the space may be something that interested someone for this purpose.

Sel. Ethier stated that the one year moratorium would be ideal because it would take that property out of the equation for someone to use it for marijuana purposes and it would allow the time needed for the Town to figure out the DPW building.

P. Harding stated that there is some interpretation of the law that would need to happen.

W. Ritter stated that legislation will try to fix some of that in the coming months.

Sel. Scheinfeldt stated that some interpretation could be that a town could vote to prohibit them completely.

P. Harding replied that was not Town Counsel's understanding but some other communities agree.

J. Michalak asked what happened if instead of having a moratorium, it was said that they were allowed to limit it to the Industrial Zone but because part of the Industrial Zone became a DPW Facility would the Town then have to allow it somewhere else.

P. Harding replied it was the full zoning district not just the one property that was being looked at for the DPW Building,

W. Ritter stated that by deferring for a year they were not doing anything.

J. Michalak stated he wondered if it was a large enough area to limit it.

W. Ritter stated that they were a little worried about that when the conversation came up with the medical marijuana because it was such a small area but it did pass the Attorney General's review.

W. Ritter asked for the matter to be kept on the Agenda so that the Board could prepare for Town Meeting.

## **SUBDIVISION CONTROL REGULATIONS**

P. Harding stated that her and I. McCauley, Engineer, DPW have been going through the Subdivision Control Regulations section by section. She stated that she has reviewed Sections 1-4 and did a red line version for the Board's review. She stated that Design standards was the next section and she would be getting into that next.

W. Ritter asked to add Subdivision Control Regulations to the first meeting in January (10<sup>th</sup>) in order to give the Town time to review the redline versions.

**Holden Hazard Mitigation Plan**  
*(Draft Las Revised – November 8, 2016)*

P. Harding stated that CMRPC did a Hazard Mitigation Plan and they asked for it to be forwarded to the Planning Board for review. She stated this was for information purposes only and the Board did not need to take any action as it was a state mandated plan.

O. Lies asked what the next step with the Plan would be.

P. Harding stated that they will solicit comments and then revise comments and once that is done, the Board of Selectmen will vote to accept the final version.

O. Lies asked what happened after the final version is accepted, he asked if they could distribute the plans to households and get the information out to the public. He stated that a lot of work went into it and that it would be good to let people know that it was available.

P. Harding stated that there was no plan to do so but they can look into it.

S. Carlson asked for the final number on the permits.

P. Harding replied that she would generate the report.

W. Ritter stated that he had recently walked the new trails from the subdivision off Salisbury Street. He stated while he was out, he saw S. Morrison, P. McManus, and A. Costello on the site putting up signs and working on the trail. He stated it was coming along and was about a five mile trail.

O. Lies stated that the land was deeded to White Oak and that they were who deserved the credit for the trail system.

S. Carlson asked about obtaining a town email to protect themselves from any potential litigation.

P. Harding replied that was something the town could do.

Motion by O. Lies, seconded by J. Michalak, it was UNANIMOUSLY VOTED TO  
AJOURN THE DECEMBER 13, 2016 PLANNING BOARD MEETING AT 7:40PM.

APPROVED: \_\_\_\_\_