

PLANNING BOARD
November 29, 2016
Memorial Hall

Members Present: William Ritter, Otto Lies, John Michalak, Robert Ricker, Jeff Head, Scott Carlson, Tina Stratis

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

W. Ritter called the meeting to order at 7:03PM

PUBLIC HEARING- Definitive Subdivision- Parson Rest- 6 lot cul de sac Salisbury Street- Oak Street Realty Trust

S. Carlson and T. Stratis both reviewed meeting minutes from the previous hearing and signed the Mullins affidavit in order to participate in the hearing.

J. Finlay, Finlay Engineering was present at the meeting. He told the Board that they were proposing a 6 lot residential subdivision on the westerly side of Salisbury Street, north of Cranbrook drive. He stated that both the sewer and water would be public and each lot would have an ejector pump.

J. Finlay stated that the public water drainage system was in accordance with stormwater management, about 210 FT from the stream there would be a discharge. He stated that there was no work in the primary protection zone and the other work in the 400FT zone was within DCR regulations.

J. Finlay stated that they had provide and met with both engineering and planning an alternative analysis to the gravity sewer. He stated that they found that they would need to be 19FT below grade and 265FT of Salisbury Street would need to be opened up and sewer dropped in order to do a gravity system. He stated that they had spoke with the Sewer Superintendent and the agreed that was more than what should be expected for a six lot subdivision.

J. Finlay stated that they also looked into the street location because the initial design has site distance being calculated centerline to centerline and DPW wanted it edge line to edge line. He stated that with the analysis that was given everyone agreed that where the intersection was proposed was the proper location.

J. Finlay asked if there were any questions.

P. Harding stated that most of the comments have been addressed. She stated that there was one concern with the site distance. There was a large pine and it is noted on the plans that they may need to take it down and it may trigger a public hearing. She stated additionally there is a HMLD pole and the town is recommending that the applicant work with HMLD to move the pole in order to increase site distance as well.

P. Harding stated that the movement of these will be at the applicants expense but that HMLD believes it will be feasible to do so. She stated that the town did ask them to evaluate the gravity sewer and they believe it is correct, she stated they generally do not encourage e'1's however they do think it is the best decision for this location.

W. Ritter asked if there was anyone present from the public, no members of the public stepped forward.

W. Ritter asked if the Board had any questions or comments.

O. Lies asked about the street lighting and how it would impact abutters.

J. Finlay replied that they will propose light in accordance with HMLD but that the road is downgrade to the abutters and he does not think that light pollution will be an issue.

W. Ritter suggested adding a condition that limits the lights shining on abutters properties and approval of HMLD.

S. Carlson asked about the E-1 pumps.

I McCauley stated that each house would have an E-1 pump. She stated it was a pressure system that goes to the main and then the proposed road and is then discharged to the manhole on Salisbury Street and continues by gravity to the line.

S. Carlson asked if the houses all have laterals.

I McCauley stated that did.

Motion by R. Ricker, seconded by J. Michalak, it was UNANIMOUSLY VOTED TO CLOSE THE PUBLIC HEARING FOR DEFINITIVE SUBDIVISION –PARSON REST 6 LOT CUL DE SAC SALISBURY STREET – OAK STREET REALTY TRUST.

Motion by R. Ricker, seconded by T. Stratis, it was UNANIMOUSLY VOTED TO APPROVE THE WAIVER REQUEST FOR PARSONS REST DEFINITIE SUBDIVISON

1. **REQUEST:** Waiver from Section V. A. g (4) Streets entering opposite sides of another street shall be laid out directly opposite one another or shall have a minimum offset of one hundred twenty-five (125) feet between their lines.
GRANTED: The applicant has designed the street to have 125' separation measured at the centerlines, this distance was found to provide adequate site and stopping distance in accordance with Massachusetts Highway Standards for the traveled speed. The site distance was evaluated for the proposed location and an alternative intersection location meeting the offset requirements. The resulting site distance were decreased and less desirable. The road may remain in its current proposed location providing the contractor coordinate with the Holden Municipal Light Department to relocate a utility pole. In addition, the tree called out on the plans to be removed shall

be evaluated by the Treed Warden to determine if it's a Public Shade Tree. If so, Shade Tree requirements shall be met before removal. The utility pole and tree must be removed/ related prior to the issuance of an occupancy permit.

Motion by J. Michalak, seconded by J. Head, it was UNANIMOUSLY VOTED TO APPROVE PARSONS REST DEFINITIVE SUBDIVISION SUBJECT TO THE FOLLOWING:

WAVIER VOTED ON ABOVE

GENERAL CONDITIONS

1. This subdivision approval is given based upon the following documents;
 - a) subdivision plans entitled *Definitive Plan Parsons Rest, Holden, Mass*, prepared for Striar Development Corporation, prepared by Finlay Engineering Services, dated August 2016 with the last revision conducted on November 15, 2016.
 - b) *Hydraulic/Hydrological Calculations* Prepared for Striar Development Corporation, Prepared by Finlay Engineering Services, with a date of August, 2016, revised, November 2016.
2. The Board will not consider any revisions or modifications to the approved plans not associated with the requirements of this decision. If the proponent wishes to modify or revise the plans the proponent must follow the provisions of the Holden Subdivision Control Regulations relating g to the submission of a Definitive Plan. A new public hearing shall be required.
3. The plan is approved subject to receipt of proper and acceptable security for the installation of all municipal services which shall be completed in accordance with the Holden Subdivision Control Regulations and M.G.L. Chapter 41, Section 81U.
4. The proponent is responsible for the subdivision roadway and infrastructure inspection fee of 2.5%. of the bond amount as outlined in the Holden Subdivision Control Regulations. The proponent will provide the 1.5% of the bond amount prior to endorsement of the Definitive Subdivision Plan by the Planning Board.
5. Failure to complete construction in accordance with the provisions of the Holden Subdivision Regulations within thirty-xix (36) months from the day of approval shall result in an automatic rescission of approval by the Planning Board.
6. During construction all local, state, and federal laws shall be followed regarding noise, vibrations, dust and blocking of town roads. The proponent shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Hours of operation for all construction activities are 7:00AM to 7:00PM, Monday to Friday and 7:00AM to 5:00PM on Saturday.
7. A minimum of 48 hours prior to the start of any work a preconstruction meeting must be conducted with the Town of Holden staff.

WATER/SEWER

8. The water and sewer main must be built in phases. No building permits shall be issued for a particular lot until there is a water and sewer main in front of said lot and it has been acceptably tested.
9. The developer must provide for the health, safety, and well being of future homeowners by connecting all buildable lots to the Town of Holden Sewer System.
10. Any private ejector pumps and forced mains must be deeded to the property owners of the lots they serve. The Town of Holden will, under no circumstances, accept this responsibility. **All deeds must contain a disclosure about the use of ejector pumps and clearly emphasize the owners responsibility form maintenance and repairs of the units. A draft of this disclosures must be presented for approval prior to the release of covenant. Ejector pumps are typically discouraged in new subdivision however, the applicant has provided a plan and profile of a proposed gravity sewer connection. Based on the location of the sewer main at Salisbury Street and the natural topography of the proposed development, a gravity sewer connection was not feasible. The gravity sewer option would either incurred rising the roadway approximately 15-20feet which would require retaining walls to support the road, or the installation of approximately 150 feet of parallel sewer to the existing sewer main on Salisbury Street. Therefore, it was determined that gravity sewer was not a feasible method.**

ROADS/SIDEWALKS

11. The developer is responsible for maintaining all roads (including sweeping, snow plowing, sanding, etc) in passable condition at their own expense until the roads are accepted by the Town of Holden.
12. Any and all testing of the soils and effectiveness of compaction methods related to roadway construction shall be at the sole expense of the Developer where and as required by the Holden DPW/ Engineering departments.
13. **If the applicant applies for a sewer connection permit into Salisbury Street prior to the expiration of the moratorium the applicant must pave the full width of Salisbury Street for approximately 90 feet. This would encompass all of the cuts made for utility connection in the roadway. This is an acceptable solution to allow a cut into Salisbury Street.**

LIGHTING

14. Street lighting shall be purchased by the developer and installed by a licensed electrician. Lighting fixtures shall be placed a maximum of two hundred (200) feet apart, less on curves and other areas where safety requires, as determined by the Holden Municipal Light Department. The lighting poles shall be 14 feet in height and consist of a minimum fiber glass Town and Country style lighting fixtures, a style upgrade is permissible with approval from the Light Department. The final lighting plan and fixtures shall be subject to the approval of the Holden

Municipal Light Department and the applicant is to work with HMLD to limit the light shinning on abutting properties.

FIRE PROTECTION

15. Fire Hydrants must be installed as shown on the plan with the required pressure. Final locations must receive approval from the Holden Fire Chief.

DRAINAGE

16. The Town of Holden will not accept easements, ownership nor responsibility for maintenance of the stormceptor or detention basin.
17. **The required maintenance of the stormceptor and detention pond must be outlined in the Homeownership Association documents. The developer must form an association to maintain ponds on a yearly basis in accordance with *The Stormwater Management Handbook* published by the Department of Environmental Protection, dated March 1997. The Homeownership Association documents must include the Operations and Maintenance plan. An estimated maintenance budget must be included. The document must be submitted to the Planning Department and approved by Town Counsel prior to the release of covenant.**
18. **The Applicant must establish and account for the homeowner association which contains the equivalent of maintenance costs for a two year period. Proof of this account must be provided to the Town prior to street acceptance.**
19. The Operations and Maintenance plan must require yearly inspection be conducted and a written report by submitted to the Department of Public Works Engineering Office and the Town Planning Office.
20. The stormwater system must function as designed prior to street acceptance by the Town of Holden.
21. The Developer must sweep the street and clean the catch basins twice per year until the streets are accepted as a public way. More frequent sweepings and cleanings may be required at the request of the DPW if conditions warrant
22. **If the detention pond holds significant water, the Planning Board may require the installation of fencing around the perimeter of the berm.**

EASEMENTS

23. All retaining walls must be constructed outside the right of way.
24. The developer shall keep all easements as shown on the definitive subdivision plan in a condition passable to Town of Holden Department of Public Works Vehicles. Section V. Subsection B. 1 requires that all easements shall be graded such that they ear passable to DPW vehicles. Grads must meet DPW guidelines not to exceed a maximum grade of 10%
25. Easements for all utilities shall be provided as required by Section V.B.1

CONSERVATION ISSUES

26. Any and all plans which may be approved by the Conservation Commission, then Department of Conservation and Recreation (DCR) or under the Massachusetts Environmental Protection Act (MEPA) relevant to this definitive plan shall be in agreement with this approved definitive plan. If there is any inconsistency between the submitted approved subdivision plan and the plans as may be approved by the Conservation Commission, DCR, or under MEPA, the applicant shall submit a revised plan and will be subject to the review process as outlined in condition number one of this decision.
27. Vegetation shall be preserved to the greatest extent possible as may be necessary or appropriate for the purposes of water conservation, decreasing erosion, preserving water quality, buffering and aesthetics.
28. The limit of work as outlined on the Buidout Plan shall be followed, all vegetation represented on the plans must remain unaltered. All limit of work must be marked with construction fencing and approved by the Town Planner prior to the site preparation for any lots.
29. A copy of any EPA NPDES, Construction General Permit Notice of Intent, and SWPPP, must be submitted to the Town prior to the start of construction.

EROSION CONTROLS

30. Erosion Controls must be installed around the perimeter of all building lots at the lowest grade while under construction and/or unstable. The erosion controls shall consist of double staked haybales and silt fencing trenched at six inches.
31. Additional erosion controls maybe required by Town staff and will depend on exposed areas and weather conditions and may entail, but not be limited to, temporary settling pond and the use of calcium chloride to prevent dust
32. Earth material stockpiles shall not be permitted within twenty feet around the project perimeter. If stockpiles exist over twenty days the stockpile shall be stabilized and enclosed by a siltation fence or haybales.
33. All catch basins within the subdivision must contain silt sacs, all sacs must be inspected and replaced on a regular basis.
34. Burial of any stumps or debris onsite is expressly prohibited
35. A copy of the NPDES and SWPPP must be submitted to the Town prior to the start of construction.

MISCELLANEOUS

36. **Due to the close proximity to established residential lots, property markers must be placed along the property lines and lot corners**
37. Lots will not be released from the covenant until a binder in installed for the entire length of the frontage.
38. An electronic PDF and two complete sets of plans 24" by 36" and two sets of 11" x 17" incorporating all revisions must be submitted to the Planning Office within 30 days of the recording date of this decision with the Town Clerk's Office

39. The Applicant must provided as-builts in a mylar and electronic format acceptable to the Department of Public Works, Engineering Division.

PUBLIC HEARING- Extension of Time- Special Permit- Continuing Care Retirement Community –Village at Westminster Place- Fafard Realty

T. Stratis recused herself from the public hearing. S. Carlson read the meeting notes from the previous meeting and signed a Mullins Affidavit in order to participate in the hearing.

Jeff Roelofs, Counsel to the Applicant was present at the meeting. He stated that they had a lengthy discussion at the last hearing and he wanted to present to the Board and the public. He stated that the information was with regards to real estate interests but they were in response to the discussion at the previous hearing so he thought they may have been pertinent to present.

W. Ritter stated the Board did not want it submitted at this time because they had not previously seen the lengthy information.

J. Roelofs replied that he would speak to the matter.

J. Roelofs stated that he also had a letter from Weston & Sampson with regards to the inspection frequency of the pump station. He stated that they felt that based on the size of the system and the design flow rate a quarterly inspection was appropriate. He stated that he understood that the Town does a weekly inspection but that they believe it is a different context and they are maintaining that the inspection plan they put forward is justified.

J. Roelofs stated that with regards to how the condo was established, it was the intention to build in this manner. He stated that the way the master deed was set forth was to construct 15 units in an initial area and indicate the maximum amount of land that the developer could add to the condo association for seven years. He stated that the master deed stated that the inner loop states the greatest units that the developer may add to the phase is 80 units and 23 acres but it also gave the developer the right to not do that. He stated that if the developer is not clear up front then there can be issues as to who owns the property, the developer or the association however it was clearly defined and they are not going to add new areas to the 15. He stated that instead a new condo association will be created for the next phase of the project. He stated that there may be up to five condo associations.

J. Roelofs stated that with respect to the condo infrastructure, all condos will contribute by a per unit basis. The first 15 units are contributing 12% of the cost of maintaining the common facilities. He stated that the developer currently pays 88% and that as the additional condos are established the 88% will start to be allocated out to the new associations.

J. Roelofs stated that this was a common phasing scheme used by developers and that he understands that the current association is frustrated by it but that it is common practice as his client articulates it to him. He stated that the developer will not build or add units until they are able to sell them. He stated that this information is not really pertinent to the special permit but it was pertinent to the previous conversation had at the public hearing so he wanted to present it to the Board and public. He stated this matter was not a zoning matter either, it was a legal issue controlled by state/ federal regulatory programs, FNMA, and has to do with seven year phasing. He asked if there were any questions he could answer for the Board.

P. Harding stated that the only outstanding item was from October 25, 2016, the use of the new entrance for construction vehicles. She stated that the applicant and agreed to do a top coat of pavement and the town is recommending security be provided. She stated that the town would also like to see an increase to the pump station, she stated that though it remains private, quarterly inspection could result in a failure of the pump station if it is let go for that long.

W. Ritter asked if the public had any comments or concerns.

Irene Fox, 4 Explorers Way was present at the meeting. She stated that when they bought the condo the whole area was going to be developed. She stated that was how it was presented to her, not as section by section. She stated she was very frustrated.

J. Robinson, 98 Newell Road stated that he wanted to review some of the items from last meeting. He stated that there were some concerns with blasting in the winter for existing homeowners and about which entrance should be used for construction vehicles. He stated that their concern is putting traffic in front of his home if everything has to go in one entrance. He also stated that the permits had expired several years ago and that the developer could have come before the Board and expedited the permits at the time of expiration rather than rushing forward now.

P. Harding stated that the winter digging foundation would not be blasting, it would be hammering which was very different.

W. Ritter stated that the Board is unable to dictate hours or timing for building outside of the standard hours the Town Bylaws set forth.

W. Ritter asked if the Board had any questions or concerns.

R. Ricker stated that one thing was that he felt that there should be another new public hearing. He stated that he disagrees with the ANR lots and when it was looked into originally in 2006 it was supposed to be a buffer. He stated there had been three lots cut up and land court said the applicant can do that but it then modifies the whole site plan that was approved.

P. Harding stated that the lots they created were interior and they sectioned off existing homes into segments. She stated that the Board originally denied it and the applicant appealed the denial. She stated it went to land court and was found that as long as the property stay with the same owners it is within compliance.

R. Ricker stated that they were creating separate condo associations.

P. Harding stated that was the purpose of the ANR that was originally denied.

W. Ritter stated that it did not give them the right to do the house on Newell Road

P. Harding stated that original conditions remain the same. As long as the parcels are retained in common ownership there is no violation of the special permit. She stated the courts ruled that the Board cannot deny it or say how they cut it off.

J. Roelofs stated that the ANR was no aimed to take the land out of the project area. He stated the purpose was to take the parcel and put the boundary line within it so there could be a delineated boundary of the build out. He stated it was done for the interior lines, not to create new lots. He stated there was a note on the ANR to make clear that the lots are part of the project and subject to the special permit.

R. Ricker asked if ANR A and ANR B were the same.

J. Roelofs stated that all facilities were common to all units. He stated that the roadway, stormwater, lighting etc, all were common expenses and were allocated out on a per unit basis. He stated that the first fifteen units were set up as one condo, they own their owns space to the interior walls and the condo maintains everything outside, landscaping, etc. He stated they were not responsible for the separate areas. He stated there were also different types of buildings and areas that would come into play, those will more yard area and it would be a different format.

R. Ricker stated that point was adding to his argument that this is changing from the 2006 modified site plan.

J. Roelofs stated that the project was the same.

R. Ricker asked if it was the same square footage. P. Harding replied it was.

R. Ricker asked with the ANR's cut off. P. Harding replied yes, because they were in common ownership.

R. Ricker stated that it sounded as though the common ownership was going to be divide up.

P. Harding replied that the responsibilities, not the ownership would change. She stated the project was not changing and the Town could not regulate what condo units were charging.

R. Ricker clarified that the ANR lots could not be built on and the buffer would be maintained. P. Harding agreed.

J. Roelofs stated he understood where the confusion came from. He stated that the master deed provided some flexibility to add more buildings or land or if that could not be accomplished within 7 years, to close the condo and then phase a new condo after. He stated that it was very common to phase condos in this manner but it is the same project.

J. Michalak stated he would like a little clarification about how to decide which entrance will be used. He stated that it sounded as though each one will inconvenience some people so he asked how the Board would determine one over the other. He asked if there was a better reason for ones use.

P. Harding stated that the southern entrance is the primary gate to Teaparty Circle and has the base coat on it. She stated they need to do a top coat pretty soon and once you do a top coat you don't want construction trucks over it because it will damage it.

J. Michalak asked about Newell Road. P. Harding replied that it would then impact the residents on Newell and impact the top coat as well.

J. Michalak asked which top coat was more important.

W. Ritter stated it was the Boards decision. He stated that Newell Road gets a lot of traffic and is designed to handle the trucks better. He stated that he would rather not mess the pavement and have the trucks go a little further up Newell.

P. Harding stated that they entered the site from Main Street from the original decision.

W. Ritter stated that with the original decision they were dealing with a lot of fill.

P. Harding replied at that time they needed to clean it and the developer also did improvements

W. Ritter stated that they raised the site and there was a lot of traffic, he stated it would not be the same this time.

J. Head asked what the point of the ANR lots was.

P. Harding stated it was to separate ownership and to create a clear line of responsibility for certain condo interiors.

J. Head asked if it created any additional buildable lots. P. Harding replied it did not, she stated they could not alter this layout without a modification.

J. Head asked if this was originally denied. P. Harding stated it was because the Board thought it altered the original approval. She stated that the courts did not agree with the Town.

W. Ritter stated that as part of the settlement, the Town insisted upon adding language to the plans that reference the special permit.

J. Head stated he was not clear as to the point in doing that, he stated that they used the lines to create different interior associations.

J. Roelofs stated that when you set up a new condo association you start with a master deed and you have to define an area of land that the association is going to get ownership of. He stated you define the boundary and then in the master deed you say for the area and for a certain time the developer may add to the area or they may not. He stated that they wanted to create boundaries for the outer loop and it defined the boundary with reference to the ANR. He stated if construction stalled because of the market they can draw the boundary, close it to a limited area and then create a new condo association when they are ready. He stated to do a condo you need a defined part of land and that is why they did the ANR lot. He stated the Board originally did not want to endorse the ANR because they thought the developer was taking the land out

O. Lies stated he wanted to continue about the road entrances. He stated that it is putting the burden on Newell Road and if construction vehicles damage the top coat it would need to be fixed. He stated that is not a town fee and it is not appropriate to move all construction vehicles to the northern entrance. He stated it should be left up to the construction vehicles where they come in and he opposed adding a condition to have use of only one entrance.

O. Lies asked what the phasing of construction that they had in mind would be. He stated that they were asking for a two year extension but he asked where they would be after two years.

J. Roelofs replied that they wanted to build the outer loop area and they will build the homes as quickly as they can sell them. He stated they don't want to build them and have them sit idle. He stated that the project was approved in 2006 and then they hit a rough spot and it was not supporting the sale of the units. He stated there was an added difficulty because of the age restriction on the development and the limitation confined the market. He stated the developer did not think they could sell them so they were not going to build them. He stated right now they think they can sell single family homes. He stated that he understands that is not the answer that they are looking for but the developer won't build what can't be sold.

O. Lies replied that he could not accept that. He stated there were people that had moved in over ten years ago that thought 125 units were going to be developed properly. He stated that the developer was fully aware of this expectation and he would like to see a completely plan. He stated that he would like to add a condition that at least 50% of the remaining units be built will be started in the first year and the rest in the second year. He stated they cannot continue the way it is going.

S. Carlson stated he wished to speak about the pump station and condition #60. He stated that they want to use the Town's sewer system and then tell us how they want to do it. He stated that unless condition #60 was accepted he would not pass the project.

P. Harding stated that she wanted to point out that this will remain private and only serves this development.

S. Carlson replied that he understood but that it was still tying into our system and they thing quarterly was acceptable. He stated that without looking you don't know what is going on and it ultimately goes to town sewer.

W. Ritter opened it up for public comment.

Patricia Conley, 17 Explorers Way was present. She stated that she disagrees with J. Roelofs; she stated that Faford never tried to push the project. She stated that he changed what he was doing and that she guesses she needed an attorney at this point. She stated the developer wanted to come in and build one house at a time and that was not what was presented. She stated to make them build something, if they can't sell it they are doing something wrong.

P. Conley asked why it was referred to as a Continuing Care Retirement Community?

W. Ritter stated that the approval can from the way the bylaw was written.

J. Roelofs stated that right now Weston and Sampson goes a quarterly site visit to the pump station, he stated they could add weekly visual inspection by the property manager so someone is obligated to look around. He stated it would not be a full inspection but they could make sure that nothing is obviously wrong or needing attention. He stated that Weston and Sampson would be a big expense to come out weekly.

P. Harding stated she would defer to DPW on that matter.

I McCauley replied that the person reviewing would need to be capable of doing maintenance inspections and weekly inspections. She stated it does not have to be Weston and Sampson and they do not do comprehensive testing daily, but weekly. She stated if the person was capable of doing that and understanding the mechanics of the system it would be okay.

S. Carlson asked if DPW wanted access to their work.

I McCauley replied they would need to provide a lot sheet.

S. Carlson asked if DPW had a checklist.

I McCauley replied that we did. She stated that the Town also has a SKATA system. She stated that she does not know the cost but that it is a remote system that reports weekly the hours the pumps are running. She stated they get daily reports through an email system so the developer could look into that as well. She stated that DPW would like to see the proposed log sheet and the person that was doing the inspections would need to be experienced.

I McCauley stated that when they looked at the reports, there was an alarm that was not functioning properly and if inspections were only done quarterly there could be a long time in between review and there is no way to know what could happen.

J. Roelofs stated he was assured that the problem was addressed and that they could do what I. McCauley was proposing. He asked if their engineers could sit with town engineering and come up with something. He stated that he was not going to be able to negotiate it tonight but deferring to DPW would provide some flexibility.

J. Woodsmall stated that the Town inspects pump stations daily, not weekly. He stated he would not be comfortable making recommendation based on the Weston and Sampson letter. He stated that he would like to also point out that they can choose their own vendors. He stated that they do inspections daily/ weekly for West Boylston, so quarterly is not going to fly with us. He stated that they are advocating weekly and anything that was going to happen would need to be with a qualified person/ mechanical engineer. He stated that a SKATA system is remotely operated cellular monitoring system and that he knows Weston and Sampson is comfortable with but alarms not being responded to is unacceptable. He stated if there was a failure at the pump station it would need to get reported to DEP and the concern is that the Town would need to be involved. He stated that it needs to be properly maintained and that would save them money in the long run.

R. Ricker asked if this project was under the permit extension act. P. Harding stated it was but that had expired.

W. Ritter asked the Board if they had anything additional, no member of the Board had anything to add. W. Ritter asked if the public had anything additional, no member of the public stepped forward.

W. Ritter stated that he understood the frustration that the Board and the residents had but he was more concerned with some of the practical issues. He stated that he does not know what purpose it would serve to come down hard on the developer and deny the extension as that would stop all construction, may land the town back in court. He stated

he does not know if denying the extension serves the goals of the Board, the Town or the residents.

He stated the special permit would require a vote of 5.

R. Ricker asked how typical it was to do a one year extension instead of two. He stated they can see what the developer does in a years time because actions speak louder than words. He stated he does not think that the original owners even knew there were multiple condos but he agrees that they do not want to further slow down construction.

P. Harding stated a year doesn't leave much construction time but that they could also do progress reports.

R. Ricker stated that a one year extension allows for building permits to be issued.

W. Ritter stated he liked a two year extension with written progress reports at the one year anniversary so the Board can discuss the matter and disseminate the information to the abutters.

J. Head asked what options they would have at that point if they were not happy with the progress.

W. Ritter replied nothing.

O. Lies state he would like a condition that something has to happen, that a number of units must be built.

P. Harding stated that you can't require that. She stated that in a conventional subdivision, 10 units a year is a lot and there is an age restriction on this so construction will proceed at a slower rate.

O. Lies stated denying it is another option.

W. Ritter stated that he was not sure who's interest that served.

R. Ricker stated that the people who live there are so frustrated. He stated it had been around since 2003 and something has to happen. He stated he would push for the year extension.

O. Lies agreed and asked about quarterly reports.

J. Head and S. Carlson agreed about a year extension.

W. Ritter asked about the entrances.

R. Ricker stated that Newell Road was a public road. He stated there was going to be damage to the road.

J. Michalak asked about the general conditions for truck traffic. P. Harding replied there was a condition for time of day.

J. Michalak stated he was leaning towards not specifying an entrance and maybe having them meet with DPW for some sort of traffic management plan.

W. Ritter stated he does not think it will be all that many trucks.

P. Harding stated it would be construction deliveries.

J. Michalak asked why they needed to specify.

W. Ritter stated it would be specified in order to get a top coat for the residents of the condo.

J. Michalak stated if it was not a lot of heavy trucks he would lean towards not specifying. The Board agreed.

W. Ritter stated that he thought the installation of the top coat should be kept.

W. Ritter stated that the pump station to be inspected as determined by Town Engineering with a reasonable inspection schedule to be determined in accordance by town engineering.

P. Harding asked to add a start date. W. Ritter suggested January 1, 2017.

Motion by S. Carlson, seconded by O. Lies, it was UNANIMOUSLY VOTED TO CLOSE THE PUBLIC HEARING FOR EXTENSION OF TIME –SPECIAL PERMIT-CONTINUING CARE RETIREMENT COMMUNITY-VILLAGE AT WESTMINSTER PLACE- FAFARD REALTY.

Motion by J. Head, seconded by J. Michalak, it was UNANIMOUSLY VOTED TO APPROVE THE SPECIAL PERMIT AND SITE PLAN FOR CONTINUING CARE RETIRMENT COMMUNITY-VILLAGE AT WESMINSTER PLACE-FAFARD REALTY INCORPRATING ALL FINDINGS AND CONDITIOSN FROM THE AUGUST 19, 2003, OCTOBER 10, 2006, JANUARY 8, 2008, AND APRIL 14, 2009 PLANNING BOARD APPROVAL WITH THE FOLLOWING AMENDMENTS AND ADDITIOAN CONDITIONS:

GENERAL CONDITION #6 IS AMENDED AS FOLLOWS: If construction is not completed by October 25, 2017 the applicant must apply for an extension of time or approval will be automatically revoked. Construction shall refer to the completion of all common areas, utilities, drainage, and off site improvements. Once construction is

complete the applicant must notify the Holden Planning Board, the Board must issue a Certification of Completion ensuring that all conditions have been satisfied.

CONDITION #57 SHALL BE ADDED: Prior to the installation of top coat the applicant must raise structures and remove concrete. The Applicant must utilize hot mix asphalt around the structures after they are raised. The applicant must address the driveways and sidewalks when applying the topcoat so there is no lip in the pavement.

CONDITION #58 SHALL BE ADDED: The applicant must install a topcoat from the site entrance of Tea Party Circle to the gate, in the vicinity of Unit#40 by April 15, 2017.

CONDITION #59 SHALL BE ADDED: Security must be provided for the remaining infrastructure items as requirement in the Subdivision Control Regulations

CONDITION #60 SHALL BE ADDED: The pump station must be inspected at a reasonable schedule by a qualified inspector, as determined by the Department of Public Works Engineering Department. The increased inspection schedule must commence by January 1, 2017, a copy of the maintenance contract and inspection reports may be required as determined by the Department of Public Works.

T. Stratis returned to the meeting.

PUBLIC HEARING DEFINITIVE SUBDIVISION- GREENWOOD ESTATES

Julian Votruba, New England Environmental Design, George Kiritsy, Greenwood Estates, and Cle Blair, Greenwood Estates were present at the meeting.

R. Ricker and S. Carlson read the meeting minutes from the previous public hearing and signed the Mullins Affidavit in order to participate in the hearing.

R. Ricker stated there were so many discrepancies with the plan the Engineering Department stated they could not deal with it. He stated with such a deficient plan, they should turn it over to a consultant for a third party review.

O. Lies agreed. He asked to read the letter from DPW into record.

G. Kiritsy asked if the Board was going to open the public hearing.

P. Harding stated that she wanted to point out that they had granted a continuance on September 27, 2016 without opening the public hearing. She stated that they discussed notifying abutters but she did not do that because of the outstanding issues. She stated they had received revised plans but due to the list of outstanding items they did not re-notice the abutters.

R. Ricker asked if the matter was ready to be moved.

P. Harding replied that in her opinion, the plans were not ready for decision.

W. Ritter opened the public hearing.

P. Harding stated there were still a few outstanding items. She stated that drainage was sent for peer review to Quinn Engineering and they did the bulk of that. She stated I. McCauley was working on that as well. She stated there are still zoning violations that exist that have been a concern from the submission.

P. Harding stated that the retaining wall issue was present and that DPW requested that the applicant investigate alternatives to the retaining wall. She stated that the walls were removed but the geofabric was still in the public way and they requested an alternative means to lower the height of the wall.

P. Harding stated that the sewer pump station design was received on November 7, 2016 and reviewed and they just revived comments issued by Water/Sewer Superintendent Ryan Meridian today (November 29, 2016). She stated that he had some questions about the source of the data.

P. Harding stated that during the original submission in 2008, the applicant submitted a traffic report and they wanted the report updated. She stated he did present that with the original improvements but DPW is requesting a traffic engineer do a report.

P. Harding stated those were the major issues. She stated there were some drainage issues with the soil at the test pits. She stated that Carl Hultgren, Quinn Engineering wanted the applicant to revise the soil and that may impact the proposed drainage as well.

J. Woodsmall issued a memo to P. Harding and the Planning Board dated November 7, 2016. (attached)

G. Kiritsy stated that the subdivision had a proposed roadway system of three roads, two means of egress. He stated the roads were 24ft wide consistent with a waiver request previously authorized by the Board. He stated the roads are designed with one sidewalk. He stated that with regards to comments from Con Com, they are in the area of one crossing and they are looking to move the sidewalk to allow for more convenient grading and they can avoid the construction of any retaining wall on the access.

G. Kiritsy stated that when the design was presented to the Planning Board and Con Com, it was designed with a drainage system compliant with Stormwater Management. He stated it provided infiltration and in a presentation to Con Com, they expressed the desire that all drainage was moved to the surface changing the design from a sub terrain to detention ponds basins and pond. He stated this change had been aired through Conservation and the new drainage system had been flushed with Quinn Engineering and Con Com. He stated all those issues had been resolved.

G. Kiritsy stated that they maintain that the plans as proposed conform with the rules and regulation. He broke down the issues into five categories.

Category 1: Roadway Condition and Layout.

G. Kiritsy stated they have all been designed to the regulations of the Planning Board. He stated grading requirements have all been met. All curves have been met, cross section have been met and street and sidewalks have been designed.

G. Kiritsy stated that the two retaining walls in one area were able to be eliminated at the lower crossing. He stated the remaining retaining walls have been located outside the limits of the right of way. He stated that based on further suggestions, the retaining walls have been revised and the heights have been reduced by almost half.

Category 2: Sewer

G. Kiritsy stated that connection to municipal flow system go with gravity to the lowest point and then force main to sewers. He stated the point of discharge was original and that was reviewed. He stated that the Town asked them to review an alternative design and they have provided that data and it is still their position that they have it located in the best place. He stated that they also suggest that the sewer system is compliant with TR 16.

G. Kiritsy stated there was a portion of the plans that the Town wished them to review further where there are two houses feeding into a sewer system at a high velocity. He stated that that they do not believe it violates TR 16 and that the sewer system conforms with town requirements.

G. Kiritsy stated that the pump station is going to be reviewed and they are confident that the system as designed will be acceptable.

Category 3: Zoning

G. Kiritsy stated that all lots conform to the rules and regulations of Holden Zoning. He stated that all lots have sufficient frontage. He stated the towns concerns were about driveways to certain lots and they maintain that all lots conform and that common driveways have less impervious area. He stated that while they originally proposed them they have reanalyzed the lots and every lot can be accessed from the way without a common driveway.

G. Kiritsy stated that he would say that the exact location of the driveway and houses is not a subdivision issue. He stated it was not part of the Boards regulations. He stated that the focus should be on the roads and if the roadways meet the town regulation and zoning.

Category 4: Drainage

G. Kiritsy stated that the drainage is currently under review by Con Com. He stated that drainage as currently designed to meet stormwater management but they wanted it move to the surface. He stated that they did that in order to satisfy Conservation. He stated that there were soil issues and that the applicant was in agreement with Con Com and they have developed a system with the Conservation requirements in line. He stated that the stormwater management conforms.

G. Kiritsy stated that there was a related issue relative to drainage stormceptors. He state it is an excellent vehicles for drainage and the town does not want it in the right of way. He stated that the Planning Board does not have it in their rules and regulations and the town only accepts easement. He stated there is no legal or logical reason that they can't be located there. He stated that they belong there. It is easier access for cleaning and maintaining them. He stated that they have removed them from the right of way even though they don't think it is the best way to do it.

Category 5: Offsite Improvements

G. Kiritsy stated that they updated the traffic study and it yielded identical results relative to the intersection. He stated when this was last approve they wanted significant changes to the Union Highland intersection. He stated they did a major revision and the developer went out and acquires property across the street so the change to the intersection could be made.

G. Kiritsy stated the changes that were suggested made a lot of sense then and still do now. He stated that the Town wants it re reviewed but it is an offsite improvements and not part of the subdivision.

G. Kiritsy stated that the Town Staff has prepared comments and they can go through them or they can send it to Quinn for a peer review but they believe it conforms. He stated that some of the comments that are remaining they know they still have to do but they can't move forward until the rest of the issues are addressed. He stated that it is a process and they will be dealt with at appropriate times.

P. Harding stated that the Zoning was a major issue and she has commented on it for four letters. She stated that the Subdivision Control Regulations and Holden Zoning Bylaw state that proof of access to lots is required. She stated that there are lots where the frontage is blocked by guardrails. She stated even by special permit, common driveways can only be accessed by more than two properties. She stated that it is a simple comment that had not been addressed over a year period of time and that was bothersome.

R. Ricker stated that if the plan does not change from how it is now the lots can't be accessed and they would be unable to get building permits.

P. Harding stated it is not a plan that illustrates it and it is still in violation of Holden Bylaw. She stated that she was happy that the retaining walls were worked out by she still does not have those plans.

G. Kiritsy stated that the revisions have been done and Conservation had reviewed.

C. Blair stated that they were not yet submitted.

G. Kiritsy stated that while the Town did not prefer the retaining walls that after meeting with the Conservation Commission they found that regulations trump preference. He stated that Conservation made some suggestions that they were able to incorporate and the walls are not high as they initially thought.

G. Kiritsy stated that with regards to the zoning, it is clear that the endorsement of the subdivision does not guarantee build ability. He stated that the Planning Boards endorsement of a plan did not render a plan buildable. He stated that they maintain that the lots are buildable and that the plan conforms with Planning Board rules.

P. Harding replied that she disagreed as did Town Counsel.

W. Ritter stated that he was not prepared to speak about this item by item and that he thinks that there are still major issues.

R. Ricker stated he also thinks that abutters should be present and were not re-notified.

P. Harding stated that they were doing that as a courtesy and it was not required.

W. Ritter stated that there were two options, to put it on for the next hearing and P. Harding could do a detailed letter or do a denial or continuance but he is afraid that there is some fundamental disagreements on some major issues. He stated that driveways that have no access to lots is one of the major disagreements.

G. Kiritsy stated that they believe that they can demonstrate that there are other options. They can send it out for independent peer review, they can deny with reasons specific and then they have to come up with the reasons for denial and they would have to rescind it

W. Ritter stated the preference was not to deny it. He stated that they have exhausted all their patience. He stated the Town had put comments and work time and effort together and the town believes they have outlined what is needed for the developer to fix the requirements of the roadway. He stated the developer can disagree, that is fine but it is a fundamental problem. He stated that this plan had been around for more than a year and there are no abutters here to hear from and the Town staff does not believe the plans are ready for endorsement.

C. Blair replied that he wrote a rebuttal letter to J. Woodsmall. He stated that the lots were best served by keeping the natural landscape and that was what this plan did. He

said that while they were a concern it didn't mean that they couldn't be accessed. He stated that the reason this took so long was because of the draining issues and that it took a long time to meet what Con Com wanted along with Stormwater Management. He stated he understood that Town Engineering did not want to review the plans any longer and he felt it would behoove everyone to have a third party review the plans. He stated P. Harding and the Town was okay with that as was he.

C. Blair stated that he had countered a lot of what was pointed out but he felt that 39 out of 60 of the points addressed did not have to do with Subdivision Control Regulations. He stated that he felt there was a fundamental disagreement and even though he has tried to move everything forward he has issues remaining. He stated that he felt the best thing to do was to move forward with a peer review from Quinn Engineering, Carl Hultgren and allow for the independent review in order to help the project push forward.

W. Ritter asked if they intended to conform with Zoning Requirements.

C. Blair replied that they were. He stated every lot will conform with zoning 100% He stated that DPW was upset and they have a preconceived notion that the project is lousy and that is in part how the plan was submitted and they were at fault for that.

P. Harding stated that the Subdivision Control Regulations allowed the Board to move forward with a peer review. She stated that DPW is frustrated with the project. She stated that she spoke with Carl Hultgren, Quinn Engineering and he had done work on behalf of the Conservation Commission so it seemed logical to move forward with him as he was familiar with the project. P. Harding stated that he (C. Hultgren) was not comfortable with the sewer system but that he would be interested in reviewing the rest of project. She stated that it was up to the Board, they could pick him or someone else.

W. Ritter asked the Town's opinion.

J. Woodsmall stated that they had reviewed lot of subdivisions for the Planning Board and this was nothing different then they had ever done. He stated that one of the problems is that there is lots of talking and not a lot of listening and the frustration the town has expressed in the letter receives no response back. He stated this is not a difficult process, they are trying to fit too much into the site and that is the developers prerogative but it is the DPW's job to project the town and people and they can't even get to that point because the submission was so bad. He stated this had been over a year and the town continues to devote town resources and that is why the peer review was recommended. He stated that as far at the traffic improvements go, it is meant to get a different view so that they can ensure that the improvements are up to modern standards.

W. Ritter asked the Boards opinion.

J. Michalak asked what the point of the peer review was without another set of plans.

P. Harding replied she believed they were working on them with revisions.

G. Kiritsy stated that the plans were being prepared.

T. Stratis asked when they were being submitted.

G. Kiritsy stated that they would all be submitted at once. He stated that to some degree they were running parallel tracks. He stated that the drainage caused delays as well.

C. Blair stated the time line was Monday or Tuesday of next week.

J. Votruba replied he needed one more full week.

J. Michalak asked who paid for the peer review.

P. Harding stated that the applicant is responsible for it. She stated they set up an initial fund and as they are billed they withdraw from the account. She stated it is an interest bearing account and when the funds get low, they request more money from the applicant.

J. Michalak stated that the survey information was not provided and they would need that for frontage so they would need to survey the lots.

J. Votruba stated that they were relying on a previous plan.

C. Blair stated that there was a plan on record that was stamped and they will be used.

J. Michalak stated that he wanted to make sure that they were working off the correct plan. He stated they were spending a lot of time on engineering and they hadn't worked out zoning yet.

C. Blair stated every lot will comply with zoning. He stated that it was a lot of cuts and fills and new drainage and it all had to work together.

J. Head stated that he understood that the peer review was up to the Board but he asked DPW if it would be helpful and wanted from their perspective.

J. Woodsmall stated that they had made the suggestion for peer review because they do not want to continue to look at the same thing with no results. He stated that they can't continue to put time and resources into plans and decipher things that are not clear. He stated that perhaps if it was on the developers dime it would give them to incentive to make the plans more clear.

J. Head asked if DPW was comfortable with the person that was being discussed (C. Hultgren, Quinn Engineering).

J. Woodsmall stated that it was probably the best way to go. He stated the eagerness that the developer is expressing for this particular engineer is giving him pause but that C.

Hultgren is competent as is Quinn Engineering and he does not question his ability to do the job.

G. Kiritsy stated they wanted to use him because he was familiar with the site from the Con Com review.

P. Harding stated he had reviewed the drainage already but he cannot do the traffic or the pump station flow so that would need to be reviewed elsewhere.

C. Blair stated they could send that portion out to West & Sampson.

O. Lies stated that the peer review sounded interesting. He asked if that eliminated the final review from DPW.

J. Woodsmall replied that they would still need to review it.

O. Lies stated that it was clear that DPW was at the end of their line as was the Planning Board. He stated they could deny it and let the applicant take all the work and notes and incorporate them into a new proposal.

W. Ritter stated that while practical, it was not how that worked. He stated with a denial, they would likely appeal and then they were permitted to resolve the non compliant matters.

O. Lies asked if the applicant could withdraw it.

W. Ritter replied he didn't think they would based on zoning issues.

S. Carlson stated that a peer review was fine as long as it was moving the project forward.

W. Ritter stated that the peer review had the benefit of the Town's work so they will get a jump on the project.

T. Stratis asked how the peer review worked.

W. Ritter stated that the peer review gives suggestions and the Board has the final say, the Board has the final say of if the plan complies with the bylaws.

T. Stratis asked who picked the peer reviewer.

W. Ritter replied the town did.

T. Stratis asked if the town was familiar with C. Hultgren and Quinn Engineering.

W. Ritter replied they had worked with him.

T. Stratis asked if they would wait for the corrected plans.

W. Ritter replied they would wait for the finalized plans and submit them to the Town and peer review. The peer review would then issue an itemized letter after they did their review. He stated he is also frustrated with the project as it has been open for over a year without any resolution. He stated he also feels as though there was a disservice done to the abutters on this matter.

P. Harding stated that the developer did submit a certified abutters list.

R. Ricker asked for a realistic time line, he asked how long it would take for a peer review.

P. Harding stated there would be more than one person reviewing the project. She stated that there would also need to be a review of the pump station, she stated there is a capacity issue to review.

J. Woodsmall stated that the main issues is to see if they are able to consolidate the pump station and determine the best path of the sewer. He stated they wanted the peer review by a company that is familiar with the system to evaluate the best route to follow. He stated that Weston and Sampson worked with the town and would be familiar with the system.

W. Ritter stated that the options were to decide for a peer review or not and if they did to see what a realistic time frame from the review would be and to mark the next meeting.

R. Ricker stated that hopefully the peer review could cut the comments down to a few pages and then they can address the issues at that point. He stated there was no downside to a peer review. He stated this was not going to be figured out in one day.

W. Ritter stated that typically the peer review will sit down with a list of comments and the engineers sit down and make sure the plans comply. He asked how long a peer review would take.

P. Harding stated C. Hultgren could turn over the review fairly quickly; typically within three weeks.

W. Ritter stated that the first meeting in March for the public hearing would work.

G. Kiritsy stated that was fine. He stated that perhaps a public hearing the first meeting in February so the Board could get the list of remaining items and then they could continue the hearing and notice the abutters.

W. Ritter replied that he liked that idea.

J. Woodsmall stated that from the time they received revised plans to go through the process they would need 60 days.

W. Ritter stated that it could be continued to March 14 and they could receive an update at the February meeting so they had an idea for the abutters. He asked if the applicant agreed to re notify the abutters at their expense.

C. Blair replied they had already done that.

P. Harding stated that the subdivision will be sent to C. Hultgren, Quinn Engineering and the sewer pump and traffic study will be sent to Weston & Sampson.

Motion by R. Ricker, seconded by S. Carlson, it was UNANIMOUSLY VOTED TO SET UP A 53G ACCOUNT FOR PEER REVIEW FOR DEFINITIVE SUBDIVISION-GREENWOOD ESTATES FOR THE SUBDIVISION, SEWER PUMPS, AND TRAFFIC STUDY FOR THE AMOUNT OF \$15,000 TO BE REPLISHED AS THE ENGINEERING DEPARTMENT REQUIRED WITH ALL REMAINING FUNDS TO BE SENT BACK TO THE DEVELOPER WHEN THE WORK IS COMPLETED.

Motion by R. Ricker, seconded by J. Head, it was UNANIMOUSLY VOTED TO CONTINUE THE PUBLIC HEARING FOR DEFINITIVE SUBDIVISION-GREENWOOD ESTATES TO MARCH 14, 2017 FOR THE PUBLIC HEARING AND THE DECISION TO FILE TO APRIL 14, 2017 AND A STATUS REPORT TO THE BOARD BY FEBRUARY 1, 2017.

APPROVAL NOT REQUIRED R-1 388 Salisbury Street- Nancy Oakes

P. Harding presented the plans to the Board. She stated that they were combining lots on Salisbury Street.

Motion by R. Ricker, seconded by J. Head, it was UNANIMOUSLY VOTED TO APPROVE THE ANR FOR R-1 388 SALISBURY STREET- NANCY OAKES.

RECREATIONAL MARIJUANA

W. Ritter asked P. Harding for a quick update on the recreational marijuana law.

P. Harding stated that the bylaw was approved and a town is not able to prohibit it. She stated you can petition to prevent it from being consumed in town but not sold. She stated that there was the option the bylaw or the town could vote for a one year moratorium.

O. Lies asked if a moratorium was legal.

P. Harding replied that a temporary one was allowed but they can't prohibit it completely.

W. Ritter stated that the Town had done the same thing for medical marijuana as well.

J. Michalak stated that was just for the retail stores. He asked if individuals were allowed to grow it.

P. Harding stated that an adult over 21 could grow up to 6 plants/ adult and up to 12/ household.

J. Michalak how it would be taxed.

P. Harding stated that it would be taxed and a site was set up to oversee the taxation.

W. Ritter stated it was interesting that the town of Holden voted against the ballot question.

J. Michalak asked the number of shops allowed per town.

P. Harding stated it went with the liquor licenses, so for Holden it would be 20% or 1.8 establishments. She stated that she thinks it will be rounded up but she is not was positive.

W. Ritter asked of the matter to be kept on the agenda so the Board was ready come Town Meeting.

APPROVAL OF MINUTES

Motion by R. Ricker, seconded by J. Michalak, it was VOTED TO APPROVE THE OCTOBER 25, 2016 MEETING MINUTES BY A VOTE OF 5-0-2 (S. Carlson: abstain; T. Stratis: abstain).

P. Harding handed out the build out analysis for Sept/ October.

O. Lies asked if P. Harding could add Jefferson Village to a future agenda item. P. Harding confirmed that they could.

Motion by S. Carlson, seconded by O. Lies, it was UNANIMOUSLY VOTED TO ADJOURN THE NOVEMBER 29, 2016 PLANNING BOARD MEETING AT 10:02PM.

APPROVED: _____