

TOWN OF WALLKILL PLANNING BOARD

MEETING

OCTOBER 25, 2006

MEMBERS PRESENT: G. Lake, W. Capozella, R. Carr, T. Hamilton, C. Najac, H. Ross

MEMBERS ABSENT: A. Dulgarian

OTHERS PRESENT: J. Bacon, D. McGoey

1. **MKA/WOODSIDE KNOLLS** - SITE PLAN/SPECIAL USE PERMIT & SUBDIVISION - FINAL CONDITIONAL APPROVAL - Cottage Street Extension (36-2-28.2) #90-05

G. Lake: We are here tonight for a Conditional Final on the old MKA project on Cottage Street Extension. I guess now it's going to be called Woodside Knolls?

M. Miller: That's correct.

G. Lake: Your name for the record, please.

M. Miller: My name is Martin Miller.

G. Lake: I don't know what you guys talked about earlier except . . .

M. Miller: I'm not sure there's much, Mr. Chairman. I think we've resolved the issue with respect to the bridge location. We have tonight two resolutions, one for Conditional Final Subdivision Approval and the second for Conditional Site Plan approval.

G. Lake: You just got this far. We did have that meeting with the recreation and if you note on the new map they do indicate the different sizes and between now and the time I sign the final map they will provide all details on the necessary recreational facilities. The only other issue I guess that we're going to talk about is it's always been the policy of this Board that we have the recreational facilities built by the time of the issuance of the first Certificate of Occupancy. I know you had already talked to Mr. Bacon a little bit on that issue. Let me ask the Board because I believe what you want to say is that you will have the recreation in after the one hundredth unit. Now, is that one hundred building permits or is that one hundred Certificate of Occupancies?

M. Miller: We talked to Mr. Bacon on this just before the meeting was the completion of the

recreational facilities by the one hundredth Certificate of Occupancy. We also discussed commencing construction of those facilities before the issuance of the first Certificate of Occupancy. Our observation has been that people want facilities before the first Certificate of Occupancy is issued. Obviously we need those facilities but candidly in the matter of time traditionally these improvements are tied to some Certificate of Occupancies, sometimes half way through the project.

G. Lake: Mr. Hamilton?

T. Hamilton: Now, is that on the one hundred units?

M. Miller: We have two hundred sixty one units and based on that we're saying before the issuance of the one hundredth Certificate of Occupancy.

T. Hamilton: There is no phasing then, like a Phase I and a Phase II?

G. Lake: I don't believe they're going to Phase the project.

M. Miller: No.

G. Lake: We had a project with a similar situation and they ended up selling off the second phase to someone else and we got stuck.

T. Hamilton: That's what I wanted to know.

M. Miller: No phasing.

T. Hamilton: So, no matter who buys the rest, it will be done?

G. Lake: What he's saying right now basically they can go twenty five and start building and then by the one hundredth Certificate of Occupancy they will be complete.

M. Miller: We can start building before the issuance of the first Certificate of Occupancy.

T. Hamilton: Okay. Is there a way of us getting a time table on that so it doesn't drag out? If, for some reason they say they get fifty (50) built and now all of a sudden the market isn't

strong enough to continue with the others, we don't want to be waiting another two years to get that built and you now have those residents without any recreation.

D. McGoey: One of the things we've done is it would be one hundred units or within six months whichever comes first.

T. Hamilton: Okay, as long as something is in there so that we don't get stuck and they build fifty and the market goes bad and they don't build the rest.

A. Pirro: My name is Al Pirro. One of the things that's going to happen is that with the expenditure on the project and the substantial road improvements and infrastructure improvements that have to be put in we're going to be out-of-pocket for a substantial amount of money. We are not going to be able to sell units without having facilities. Number two, we can't even get up there to start the recreational facilities until we have those in. It's all going to tie in together. We have to have the water in, the sewer in, the road in, etc. and it doesn't make any sense from our point not to have the recreational facilities on their way. What we thought might be reasonable, if we started right away before the first unit is built we can't keep telling people, oh, don't worry about it. Just common sense . . .

T. Hamilton: It's happened to us before. I don't want it to happen again.

A. Pirro: Everything is impacted and given the responsibility of the Board and upon us. It's supposed to be owned. We have to build five hundred thousand dollars or we have to put up money and do the road improvements. We have an objective. We need the Board's help on this one because why have all that money out there we're going to want to build those units as quickly as we can too. So, we thought that starting the driveway but finishing it before even half of the units are done in this particular situation and we're asking the Board to help us.

G. Lake: Just let me ask. Basically you have stated that you will do the whole project. Let me go through the rest of the Board to see if there's anything else they would like to ask and then we will have to act on this tonight so, you will be done with us one way or the other and get to the Town Board wrapping up the recreation end of it. If you have satisfied most of Mr. McGoey's comments or do so by the end by the time I sign the maps I assume. There's nothing major there, correct?

D. McGoey: No.

A. Pirro: I don't know if you got a chance to look at the plans but we added the basketball court.

G. Lake: Yes. I did see that.

H. Ross: That was my first question. I think the time frame can be shortened but maybe start after the twenty sixth Certificate of Occupancy and you will be finished by the seventy fifth Certificate of Occupancy. If you want to get done early or ahead of schedule, so be it. That's fine with me. I think with the one hundred units, you're over a third and you might have more than that. You might want to be done sooner.

R. Carr: Yes.

W. Capozella: Just a question. Now, we're saying we going to have them completed by the one hundred and twenty Certificate of Occupancy?

D. McGoey: The one hundredth Certificate of Occupancy.

W. Capozella: Do we have any idea when the one hundredth will be done?

A. Pirro: We don't know. We are going to be starting by the eleventh and all of those improvements we have to do at the intersection of Tower Drive so why wouldn't we be spending that money doing those improvements or off-site and not be doing anything that will help us on site. If you look at the whole picture, it would only make sense that we would be helping ourselves also.

W. Capozella: I agree with you to a certain extent. My concern is if you don't get the required units built. We don't want to get stuck.

C. Najac: As long as we don't have any issues with Mr. McGoey's comments and everything that we want is here then I'm fine with it.

T. Hamilton: I'm fine with it as long as . . .

D. McGoey: They don't have them. I think they're all doable. We have no issues.

T. Hamilton: Okay.

G. Lake: I will ask Marylynn to read the first Resolution for the Conditional Subdivision approval.

M. Hunt: Do I read the whole resolution?

G. Lake: No. Just read the last portion.

A. Pirro: Just have it as the party will have it completed before the one hundredth unit.

G. Lake: Mr. Bacon?

J. Bacon: There's a blank right there.

G. Lake: We left that blank and basically the Board is hoping that he does what he just said they would do.

A. Pirro: We will.

G. Lake: At this point, yes. I have some comfort in that. If it was a phased project . . .

A. Pirro: We won't let you down.

G. Lake: We've been burnt so bad on a phased project back in the early 1990's and Mr. Hamilton and I were here for that and we still fear about that. This is not a phased project.

M. Hunt: And Be It Further Resolved that within five (5) days of the adoption of the adoption of the Resolution the Chairman or other duly authorized member of the Planning Board shall cause a copy of this resolution to be filed with the Town Clerk and a copy sent to the applicant; And Be It Further Resolved that, upon satisfaction of the conditions enumerated above, the Chairman be, and hereby is, authorized to sign the final plat in accordance with the procedures and requirements specified in 209-12 of the Subdivision Regulations of the Town of Wallkill and 276(7) of the Town Law of the State of New York; And Be It Further Resolved that this conditional final approval shall expire one hundred eighty days (180) days after the date of this resolution, unless the final subdivision plat is signed by the Chairman, or an extension of the time period is requested and granted for no more than two additional time periods of ninety (90) days each. Once the requirements have been certified as completed by the endorsement of the plat by the Planning Board Chairman, the plat shall be

filed in the Office of the County Clerk within sixty (60) days of signing, or the approval shall expire.

MOTION for CONDITIONAL SUBDIVISION APPROVAL subject to all comments made by T. Hamilton and seconded by C. Najac.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: The next one is Conditional Final Site Plan approval for 216 fee simple town units and forty five (45) single family.

M. Hunt: Be It Further Resolved, that the Planning Board pursuant to 249-18A of the Zoning Regulations of the Town of Wallkill, hereby approve the temporary use of a construction trailer as shown on the plan, a real estate office facility, and model homes and Be It Further Resolved that this 249-41C of the Zoning Law of the Town of Wallkill, this Final Site Plan approval expires twelve (12) months from the date hereof unless construction has been initiated, provided that an extension of this time period may be requested by the applicant prior to the expiration of the approval.

T. Hamilton: Mr. Lake, may I ask a question?

G. Lake: Go ahead.

T. Hamilton: The construction trailer, doesn't that need approval by the Town Board?

A. Pirro: It's part of our thing.

G. Lake: I think normally it goes to the Town Board but that can be resolved in the Building Department.

E. Jaques: I have a question, you indicated models?

A. Pirro: Our application was for the construction trailer as well as the model units because it

was our understanding that we had to apply for that and submit all of that as part of our application.

G. Lake: We've done models in the Town before. I think the biggest question is the trailer. Normally I think the Town Board does okay construction trailers, in fact, I know they do so, that would be an issue that you would have to discuss with the Town Board as well.

T. Hamilton: Can we substitute the trailer with the Town Board's approval?

M. Miller: Under 249-18 it says upon the review and the approval of a Site Plan by the Town Planner in accordance with the provisions of this section, certain temporary uses as specified herein may be established within a subdivision for which a final map has been approved by the Planning Board, or in conjunction with a multiple-dwelling complex, solely for the marketing of dwellings and/or lots in the same development. (1) Construction trailers for the storage of equipment and materials used in connection with the construction of the subdivision in which they are located. There shall be no more than two such construction trailers allowed in any subdivision. Such construction trailers may only be approved if the builder applying for the trailers is the sole builder of the subdivision. If the subdivision has two more builders operating in it, the builders may jointly apply for and, if approved, utilize no more than two such construction trailers. Such uses may be kept for the construction life of the subdivision but in no event longer than two years. (2) Real estate sales office facilities for purposes of promoting the sale or rental of units and/or lots which are located within the same development. Such sales office shall be erected on an individual site which conforms to a lot shown on the approved subdivision, shall meet all setback requirements of the applicable zone and shall qualify in all respects for sale and occupancy upon termination of its uses as a sales office. (3) Model homes in a number not to exceed the necessary to provide one example of each unit type offered in the development. Reversed floor plans and exterior facade variations will not be considered as separate unit types. Each model shall be erected on an individual site which conforms to a lot shown on the approved subdivision, shall meet all setback requirements of the applicable zone and shall qualify in all respects for sale and occupancy upon termination of its use as a model home.

G. Lake: Did you hear that Mr. Bacon?

J. Bacon: Yes I did.

MOTION for Conditional Site Plan/Special Use Permit Resolution approved subject to all comments made by W. Capozella and seconded by H. Ross.

H. Ross: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

2. **KABRO** - SITE PLAN/SPECIAL USE PERMIT - MODIFICATION to SITE PLAN
Cottage Street Extension (40-1-50.1) #13-02

G. Lake: Let me bring you up to speed on what we have on the agenda. The only reason I put that on was that I wanted to talk to everybody at one time. What happened is for the members that don't know, Eugene and I got to talking as far back as two weeks ago and during that discussion on the project Wildflowers on Cottage Street Extension (not clear). To make a long story short, they have some buildings up ready for Certificate of Occupancies that are now showing three and four bedrooms instead of what was approved. A Stop Work Order was placed on the job. At no time was it ever represented to the Planning Board that it was going to be anything more than a fifty five and above community with two bedrooms and maybe a loft. The newer members also have to remember this is a project that was sold and started out on Long Island and then sold it again. We went through all the problems. Basically at this point it's still in the Building Department's hands. I want you to understand that. We want to make sure that when we brought up services, and is defined as water, traffic, sewer, etc. I don't think at anytime this was intentional on their part. There are things that were never brought up before. One thing is there are a lot of fifty five and older with aging parents that are living longer and want the extra unit. A lot of people can't go out on their own and they come home for a while. A couple of ideas have emerged. I think at this point they would have to re-do the SEQRA portion. Mr. Bacon, is there anything else you want to add?

J. Bacon: Their lawyer, Larry Wolinsky, wasn't there but there was no argument. As they said, they came in. They sold the whole sixty (60) units. The people had an option that they

could have a loft, one bedroom, two bedroom, etc. They asked the people what they wanted. I think they figured that about fifty percent have the extra bedroom. In reality it changes the project. Now, they have three and four bedrooms. That does change the project. Maybe everything is fine and maybe there are no further impacts.

T. Hamilton: Isn't there a time frame on how long children can stay?

E. Jaques: Under the age of nineteen (19). One other dilemma, they have about forty eight units right now roughly and I believe they said about eleven (11) are these odd ball units with three and four bedrooms. I understand that they actually have a couple of them sold.

G. Lake: I don't know if you want to say anything else.

E. Jaques: As I sat here tonight listening how it may not be an issue, it's a definite change from the plans. If you look at the final approval of the project it has nothing about two, three and four bedrooms on the plans.

T. Hamilton: What?

E. Jaques: Not in the final approval. The resolution says nothing about two or more bedrooms.

T. Hamilton: Because this Site Plan and everything else states two.

E. Jaques: On the Site Plan, in the bulk table . . .

T. Hamilton: Front page.

E. Jaques: Nobody's denying that. This site here and after twelve building permits. These restrictions do not get to my office all the time. On this project it is not like most projects. These are single family units and anytime you have single family units and you open the water district, sewer district, without bedroom counts. If they're in a septic area, they are counted. This is how the permits were done. They did come in and had plans showing the three and four bedroom options and permits were allowed out. Now, the problem is we have these permits issued. I called the State and I dare anybody on that Board to give me (not clear). If I take a door off and I call it a den, what is it? If I leave the door on, is it a den? If I have a wall, is it a bedroom? Nobody can tell me. As we go on, I don't know what you're going to do with it.

G. Lake: Again, I don't think we're here to beat them up. We're here to try and solve the problem. Again, it is the habitable space.

E. Jaques: That definition and some others have been used over the years and we have found recently that they've been misquoted. If you read the habitable space in your code, it refers to a single family home. I'm not a lawyer, but I don't know how you can use that definition of a multiple family and use that on a single family home. The living space that they're talking about can be a family room, it could be a den, it could be a study. It could be anything.

J. Bacon: At the meeting, if you have any space such as an area with a door it could be considered a bedroom. It's true about the definition but a habitable room is basically any living space with the exception of the kitchen and bathroom.

G. Lake: Basically, I don't know if the rest of you have any questions on it but I don't want to be here all night.

G. Jaques: Can I just clear up the one thing. I have approximately eleven of these units with some having three and some having four bedrooms. The overage on the bedrooms is approximately twenty bedrooms. They were willing to cut out twenty units throughout the whole project so that they can get the people in. In other words, they're not creating more bedrooms in the whole.

H. Ross: You're saying they won't exceed the number of bedrooms by reducing throughout the project, otherwise they may have to revise the SEQRA review.

G. Jaques: Until they come back here and go through the process. No more building permits are going out.

G. Lake: My only thing here is let them tell us what they're ideas are and if the approved Site Plan issued by the Board at the time and the extension of that Board, which all of you are, I'm just saying this is probably the reason Mr. Jaques placed a Stop Work Order on the job because the Site Plan did not match what's there and if it does not match what's there, the SEQRA. I talked to a couple other people down at the County without getting into too many details that the SEQRA is not representative of the project anymore. I think we have to wait to hear from them. I wanted to bring it up to everybody here tonight so you're aware of what's happening. They might very well decide to come back. Mr. Bacon will have to decide what to do and whether we can go an amendment under SEQRA.

J. Bacon: If they went with the same number of bedrooms, same number of units with some one bedroom instead of two bedroom, then I don't think it will be an issue.

G. Lake: I think you need time to look at this. I know Mr. Wolinsky called me today and he's anxious to hear from you and I told him I would speak to you tonight about it.

J. Bacon: I told him (not clear).

G. Lake: No. They weren't going to come up tonight. The whole Board didn't hear about this.

J. Bacon: Mr. Wolinsky said he's looking at it.

R. Carr: Mr. Jaques, right now is the Stop Work Order still in effect?

G. Jaques: For the three and four bedrooms. What I've allowed them to do is to finish up the exterior of the buildings putting the windows in so they're not stuck down the line due to the weather. They're going to seal up the buildings and that's as far as they're going to go.

R. Carr: As they continue to build it's not like the project has just stopped?

G. Jaques: No. They're building the one and two bedrooms but there will be no more permits for three and four bedrooms until an agreement is made whether they can or not.

R. Carr: Okay.

W. Capozella: I'm worried about this becoming an apartment complex.

E. Jaques: The only reason this was brought up (not clear) and these are all sold.

R. Carr: If they come back in to us with a proposal and will have to address the SEQRA issues which are the traffic and schools.

T. Hamilton: Water and sewer issues also.

G. Lake: Now, they may not come back to us. Don't get me wrong. They might go back and figure out a way to solve this problem and continue on. That, I don't know. I just wanted to bring you all up to speed on it so you know.

T. Hamilton: Right now, I believe there were five or six models and it was only one of those models that did not have the options. Five of the six models all had that option where it could become a three bedroom or a four bedroom. That's still a significant change but if they want to come back and re-figure and say, we will go with fifty three bedrooms and so many so we have figures that we can use. Right now we don't know. If everybody opted to have four bedrooms we would have a lot more people that what was originally planned for. At the moment they're marketing five of the six models as three or four bedrooms.

G. Lake: First off, anybody that has not taken the time and I know some of you can't but if you can take a look at it. Mr. Capozella, I think you fear will disappear if you ride up through it.

G. Jaques: If you take a ride up there and you see it, some of them have full basements. Maybe they can remove a couple of lots from the Site Plan to compensate for the additional bedroom counts, I don't know.

G. Lake: I don't know.

J. Bacon: It would be a modification on the Site Plan.

G. Jaques: What they're doing in the marketing and one of the conversations they had was they were marketing as playrooms, dens, lofts, using different words.

T. Hamilton: On the flipside there are no differences between a den and a bedroom.

C. Najac: When you get the plans you're saying that you don't get all the comments.

E. Jaques: This project is going way back.

C. Najac: I just want to make sure it's not a communication problem.

G. Lake: Okay.

Discussion on change from approved Site Plan. Applicant may have to appear to explain how the Site Plan will be corrected, also SEQRA may need to be corrected.

3. **MARTINELLI** - Extension to Water District

G. Lake: Listen, last week we talked about the applicant requesting an extension to the water district. We indicated we would give it a week to see how we wanted to extend it. The Town Board wanted to know what we thought about the matter. What do you want to do?

C. Najac: The Town Board more or less wanted a recommendation?

G. Lake: Yes, and again in the past they had not asked for it very often. As Mr. Carr stated since they approached us we should send them something. I talked to Mr. Najac the other day and I do remember (not clear).

C. Najac: The other thing is what about the next parcel that may come in and ask for the same request.

T. Hamilton: I think it will present a problem with the nearby lots also coming in.

G. Lake: Mr. Hamilton is one hundred percent right. There were a few exceptions in the past. There is no place in our zoning that would have made what they wanted to do there. The density was much greater than what our zoning allowed. It actually exceeded the old zone. What is giving water to somebody in the PID district does is because of the well restrictions is it gives them more building density. The water line is right there. The pressure is good. I can tell you that. The fire department uses it every now and then.

H. Ross: I would have a problem recommending an extension until we get a hard look and if we have questions.

G. Lake: Our biggest question was to Mr. Smith, the Water Superintendent. He did send us a response saying that he had an adequate supply.

T. Hamilton: The next lot would be one lot over from the new expanded district and that's the line we're crossing.

G. Lake: Let's get something straight. Two hundred ten acres that we're talking about already touches the water district. So, they could walk in tomorrow and ask for an extension. The twelve acre lot actually starts from Exit 119 probably about two hundred and fifty feet up. It's actually on the corner of Baker and Route 302. Where you see all those cars parked all the time, that's actually part of that two hundred acres and that's on the boundary also.

H. Ross: The only thing I can say is we've taken in too many plans requesting an extension to

the water district.

G. Lake: I think a letter could be sent that it looks like it could be done but only if the full build out allows it.

C. Najac: Yes. If we give somebody else's water away, they're going to be pretty upset when they want to build because of a lack of water.

H. Ross: I don't think we should tell them until we get a good idea until we get more information.

G. Lake: Unfortunately, I don't know if they're under a time frame or not. Maybe the Town Board doesn't have time frames because at their Public Hearings I have never heard them say at the end, do you waive your time frame like I do and maybe they don't have to.

T. Hamilton: It was referred from them.

G. Lake: I know but they started. They started the process and they sent it to us for our recommendation.

H. Ross: I would vote against it until I had more information.

G. Lake: That's okay. We can say to them that this is the feeling from the Board and that we would like to receive more information. I think we need to respond to them so, what do you want to do?

T. Hamilton: I would like to have more information from the Water and Sewer Department before we say yes and can the district handle the total build out if they extend it and how does that affect the area.

G. Lake: There's an application before the Town Board right now in the Schutt Road area. Obviously the Town Board is doing that first. What do you want to say to them, that you want to know more about the total build out of the present district before we extend?

T. Hamilton: We have plenty of water to accommodate the full build out of our existing district is what we want to know before we extend it further and how is that going to affect the other parcels in the district not tied in, what happens if they decide to build

H. Ross: I would be against it until we get more information.

R. Carr: I agree.

W. Capozella: I would say no at this time.

C. Najac: We need more information.

T. Hamilton: More information is needed before we act.

G. Lake: Okay.

The Planning Board is requesting specific information from Mr. Smith before a decision can be made for a referral to the Town Board on the water extension request.