



Town of Southwick

Planning Board

MINUTES



Tuesday, June 7, 2022
7:00 PM (recorded)
Town Hall Land Use Hearing Room

Written Minutes

(Not verbatim - comments can be heard on recordings available at www.southwickma.org)

MEMBERS IN ATTENDANCE: Michael Doherty, Chair
Marcus Phelps, Vice Chair
Richard Utzinger
David Sutton
David Spina
Jessica Thornton, Associate

ABSENT: None

TOWN STAFF: Jon Goddard, Town Planner
Meghan Lightcap, Secretary

Also attending the meeting were approximately 20 members of the public and several people via Zoom.

The “hybrid” meeting of the Planning Board was scheduled for participation in-person and via Zoom to take place at the Town Hall Land Use Hearing Room and was called to order at 7:00 p.m. by Mr. Doherty. He stated that the meeting was being recorded and asked if anyone else was recording the meeting.

PLANNER’S REPORT: 7:00 p.m.

1. Norm Storey has family property on Congamond Road. He would like to split off the agricultural land. That is normally not an option because its land locked.
2. On June 1st, I received a call from Crestview Construction and Foster Kerrison regarding the easement monumentation being installed at the Greens-West subdivision. I met with both parties on-site and shared the Planning Board decision; Mr. Kerrison, to put it mildly, was disappointed. We subsequently met to review his concerns and meeting minutes.

3. Mr. Sutton and I met with Jim Sullivan to listen to his thoughts regarding ongoing litigation for Sunnyside Ranch Estates.
4. Carol Smith of Hillside Road has concerns of property trending toward commercial and was looking for any open permits pulled.
5. Mr. Stinehart is requesting a joint meeting with the Planning and Select Boards on June 27, where Mrs. Thornton's appointment to the Associate Member of the Planning Board will be considered. Mr. Doherty and Mr. Spina can attend.

PUBLIC COMMENTS: 7:05p.m.

Cindy Lamoreaux of 102 Granville Road said she is a retired Accountant and moved here from West Springfield. She said there has been expanded development in Westfield and it has more industrial area. She wants the Planning Board to know that expanding development does not put money back into the Towns pocket because they will need to pay for bigger schools, roads, Town Hall and etc.

APPOINTMENTS:

Special Permit, Site Plan Approval & Stormwater Management Permit for a proposed office & warehouse building

7:10 p.m 18 Hudson Drive & 1 Whalley Way (Industrial Restricted Zone) *Public Hearing*

Mr. Doherty read the Notice of Public and Filipe Cravo of R. Levesque Associates, Inc. showed the plans on behalf of his client Whalley Properties Inc and he introduced Tom Hanson, the CEO. The plans showed a proposed 80,000 square foot warehouse building off of Hudson Drive, running east to west with a 4,000 square foot office building. They will construct a 76-car parking lot and a driveway leading to 6 loading docks and at the rear of the property they will connect to the adjacent 1 Whalley Way existing paved apron area for truck maneuvering. He said in regard to stormwater there is an infiltration basin proposed for roof water runoff and a subsurface area for the driveway and the truck area runoff. Water, gas and electric will be connected off of Hudson Drive and on-site septic will be needed. They have proposed a number of shade trees for landscaping and screening and a fence for the dumpster. The site will be illuminated with wall packs along the building and parking lot to provide lighting. Mr. Cravo said the building does meet setback requirements with the requested variance from the Board of Appeals and the site work will cut into the lower topography in order for them to get the elevation for truck docks. Mr. Phelps asked why there were so many parking spaces proposed and Mr. Cravo said 50 are required with 30 for employees but they are providing 76 for extra space in the future, although they can reduce it. Rob Levesque of R. Levesque Associates, Inc. added that there will be a maximum of 10 warehouse workers to start with but that may vary over the years and that the parking lot is large to match the building size. Mr. Spina asked if there were shifts for employees and they said it is one single shift currently.

Mr. Doherty read the comments for the DPW Director, Randy Brown, who has no objection to this project. Mr. Brown said they may have to relocate the water main on the plans as it's not shown accurately, remove the existing leaching basin, add a new water service and apply for a

driveway permit. Mr. Cravo said they estimate 60-120 trips/day for passenger cars with 6-12 tractor trailer trips. He said they will use 510 gallons of water per day and they will also submit an earth excavation permit. Mr. Doherty read Lieutenant Bannish, the Safety Officer's comments and he had no present concerns. He read the Fire Chiefs comments that said he did not see hydrant locations and Mr. Cravo pointed them out on the plans and said the building will have sprinklers. Mr. Cravo said he will provide the Fire Chief with a 360 degree exterior view of the roof access once it's finalized. Mr. Goddard asked Mr. Cravo if the architectural elevations were available and Mr. Levesque said no but if the Planning Board wanted them they could be provided but the building would be the same height as the steel exterior. Mr. Utzinger asked if the building would have solar panels and Mr. Levesque said it will have structural support in case they are installed in the future. Mr. Doherty read Mr. Goddard's report and Mr. Cravo said they would update the plans to reflect the changes needed. Mr. Goddard said that having over 60 parking spaces trips the vegetated island requirement and Mr. Cravo said they could make the islands vegetated.

Bill Vreedenburg of 23 Hudson Drive lives across the street and asked if the tractor trailers will have access to Hudson Drive because the catch basin on Hudson doesn't work and ices up in the winter. Mr. Cravo said we can work with DPW to address those concerns. Mr. Doherty asked for them to get the elevations before the next meeting in order to continue discussion.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to continue the public hearing for 18 Hudson Drive & 1 Whalley Way to June 28, 2022 at 7:10 p.m.

The motion passed unanimously.

Preliminary Subdivision Application

7:20 p.m 686 College Highway (Industrial Restricted Zone)

Public Hearing

Mr. Doherty read the Notice of Public Hearing and Mr. Levesque, representative to the applicant, INDUS, (formerly Griffin Land) showed the plans to the Board. Mr. Doherty reminded Mr. Levesque that waivers need to be requested during this process. Mr. Levesque said he had been working with the Tim Lescalleet for years on this property, known as the former Carvana site. He said this property is the single most wanted property in Western Massachusetts. This Preliminary Subdivision Plan application has tenants proposed for this lot. The company is continuing to market the property for sale and they have conceived an idea to break it into a few lots that could be re-combined. Mr. Levesque explained that there will be a short cul-de-sac road with a total of 5 lots along College Highway. Lot 3 is large; lots 4 and 5 are small. They are looking to reduce the overall size of any single development but it may not look like this when they come back within seven months. Mr. Doherty addressed why the Planning Board ran this as a public hearing given the sensitive nature of the property. Mr. Phelps asked if the cul-de-sac radius will need to be larger than a residential one and Mr. Levesque said it is made for industrial use but not for tractor trailers to turn around. He said they are breaking this into smaller lots to have less impact over a huge development. Mr. Utzinger asked if this was the whole prospective

Carvana property and Mr. Levesque said this doesn't include the Radwilowicz land, as Carvana had. Mr. Spina asked what the rough acreage of each lot was and Mr. Levesque said lot 1 is 5.7, lot 2 is 5.7, lot 3 is 48 and lot 4 is 6.6 acres, which includes a significant wetland, and lot 5 is 23 acres. Mr. Doherty asked if there would be access off Tannery Road and Mr. Levesque said yes, although there would be traffic light considerations. Mr. Doherty read the municipal comments that Mr. Levesque's office addressed and asked him to submit a revised sidewalk waiver that asks to omit sidewalks. He told him that waivers require plan content to scale 1 inch to 100 feet. Mr. Phelps said looking at Chapter 315, Item C tentative approval, the Planning Board may give a motion to close the hearing on the preliminary subdivision, with no decision just approval. Mr. Doherty said he saw no issue with having an office park there so his inclination is to tentatively approve it.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to close the public hearing for the 686 College Highway Preliminary plan.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to waive Chapter 315, Section 11(B)(1) and allow for a scale of one inch to 100 feet to be used.

The motion passed unanimously.

A second motion was made by Mr. Phelps and seconded by Mr. Utzinger to waive Chapter 315, Section 22(G) which requires sidewalks on both sides of the road and allow for no sidewalks but then a question came up. Mr. Moglin cautioned the Board that if you waive something now you may not be able to ask for it later but you can always waive it later, in reference to the waivers requested by the applicant. Mr. Levesque said if you don't grant the waivers to them now they can't request them later but the Board can choose to add them in later. Mr. Phelps said he would withdraw his motion in light of this information.

A **MOTION** was made by Mr. Spina and **SECONDED** by Mr. Utzinger to waive Chapter 315, Section 22(G) which would allow under the plan as submitted currently to not have sidewalks put into this particular plan with no specified use.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to grant tentative approval to the preliminary plan for 686 College Highway.

The motion passed unanimously.

7:40 p.m Executive Session

A **MOTION** to go into Executive Session with Town Counsel pursuant to M.G.L. Chapter 30A, Section 21(a)(1)(3) RE: Litigation and Threatened Litigation

Move to go into Executive Session to discuss strategy with respect to litigation, and that the Chair declare that an open meeting may have a detrimental effect on the litigating position of the body, and to: reconvene in Open Session (Chair Must Declare).

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Sutton to go into Executive Session to discuss strategy with respect to litigation and to declare that an open meeting may have a detrimental effect on the litigated position of body and to reconvene in open session.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to reconvene in open session.

The motion passed unanimously.

Stormwater Management Permit Application

7:45 p.m 159 Berkshire Ave. (Residential 20 Zone)

Cont. Public Hearing

Mr. Goddard told the Board he received a letter from Mr. Derrick Hale, P.E., the representative of the project, requesting a continuance.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger continue the public hearing for 159 Berkshire Ave. to June 28, 2022 at 7:30 p.m.

The motion passed unanimously.

Definitive Subdivision, Special Permit, Site Plan Approval & Stormwater Management Permit Application

8:00 p.m 138R Hillside Rd. (Residential 40 Zone)

Cont. Public Hearing

Mr. Doherty read the comments of the Fire Chief, Mr. Russ Anderson, into the record. Mr. Cravo is the representative for this project. He said he updated and resubmitted the plans, addressing the DPW comments from the previous meeting but had not heard a response back yet. Mr. Cravo updated the Board that they had created a larger stormwater basin and increased the projected rainfall, making the basin 3 feet wider and moving the outlet. They also added a cistern to the plan for the Fire Department as a water source. They added a sidewalk on one side only, that ends at Hillside Road, as Mr. Levesque said it seemed unnecessary to add it all the way around. He said it does a 90 degree turn back to Magnolia, 20 feet from the intersection with Hillside Road. Mr. Phelps asked them to add a double row of coniferous trees where there are current residence homes, rather than White Pines. Mr. Doherty said this hearing is still open in the Conservation Commission and he would like to continue it on to the next meeting to wait for their response and Randy Browns response. Mr. Moglin asked how the cistern will be maintained

and Mr. Levesque said it has a monitoring system, initially filled with pool water trucks. Mr. Doherty asked if the HOA would maintain it and they said yes. Mr. Cravo said the tanks are located on Lot 5 (on private land). Mr. Doherty asked them to check with the Fire Chief on the legality of this.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to continue the public hearing for Sunnyside Ranch Estates to June 28, 2022 at 7:35 p.m.

The motion passed unanimously.

Public Hearing regarding the potential imposition of new security under M.G.L. Chapter 81, Section 41U

8:15 p.m Sunnyside Ranch Estates (Residential 40 Zone) *Continued Public Hearing*

Mr. Doherty read a letter from Attorney Tim Ryan and said there has been discussion between Mr. Ryan and Town Attorney Mark Tanner since the last meeting. The letter from Attorney Ryan said that he represents 53 homeowners at the Ranch, including Overlook and Sugar Maple Lane. Mr. Doherty said there were older documents submitted but he did not read them into record. Jim Sullivan of 16 Gable View Lane is the President of the Homeowners Association at the Ranch and addressed the Board with clarification of the different developer names: Pinnacle Estates at the Ranch, LLC which is Peter Pappas; Sunnyside Ranch Estates, LLC which is Peter Clark, and the Sunnyside Ranch Estates Property Owners Association (POA). He said from 2001-2012, Peter Clark of Sunnyside Ranch, LLC, was the president and developer of the Sunnyside Ranch Estates, with David Hall as the treasurer and Peter Clark as the clerk until he sold his final four lots in 2017 and 2018. In September of 2012, Peter Clark issued a certificate of President and we had a meeting as homeowners and voted amongst ourselves to appoint officers and we were given the keys that day with no clue “how to drive” – we assumed everything was fine. Mr. Sullivan said he gave copies of four documents to the homeowners; the Certificate of President, the Westfield news article from 2011, the Westfield news article from 2013 and a Covenant in lieu of bond from November of 2001 which is the exact method that the Greens-West subdivision is using right now and “its worth about a dollar.” He said he’s been watching the Greens work very carefully. So, as of July 2013, the year after the POA took over, the Town of Southwick and Peter Pappas has presented the public with a premium place to live, securities are in place based on town officials Marcus Phelps, Doug Moglin, and Roz Terry. He said they have all stated we have a covenant in place and we are protected. Peter Pappas said he is committed to make sure it’s outstanding as he lives there and is the local developer. Mr. Sullivan then said we got the keys, we got everything, and we live in a premium place with a premium golf course. He said I hope you guys are inspecting my home when we have electrical work done or a foundation put in just because it’s a private community with gates. We hope to be treated like any other neighborhood; we are not any more special, the safety of people is important, inspections are important and we pay over half a million dollars in taxes. When our roads start to crumble we will fix them as a private community we won’t go to the Town. Mr. Doherty asked him what his position was on the Planning Board imposing a security in place on the developers

and Mr. Sullivan said he supports this. He said Peter Clark did not finish the roads and they are not happy.

Michael Martin of 22 Ranch Club Road said he is a taxpayer first and foremost. He said he represents himself and maybe 51 other taxpayers. Mr. Martin said let's remove the Sunnyside POA discussion and let's talk about what we are getting for our taxes. He said the DPW report provided by Mr. Brown is superb; it's a very detailed analysis of the current road situation at Overlook and Sugar Maple. He asked why that due diligence wasn't done before the covenant was released. Mr. Doherty told him he didn't want to sit there and have a lively conversation about something that happened back in 2013, neither he nor the other members were on the board at that time. He said all we are here to do is figure out whether we should impose security on the developers going forward for purposes of ongoing litigation. Mr. Martin said you're imposing a security on the homeowners too and Mr. Doherty said we are not, actually; we never proposed that and it is not part of the notice. The notice is to put security on the two developers; Sunnyside Ranch, LLC and Pinnacle Estates at the Ranch, LLC. Mr. Martin said so as a taxpayer and resident at the Ranch, they asked at the last hearing if they were indemnified and Mr. Doherty said no, they are not indemnified. He asked Mr. Doherty what the risk is for the taxpayers. Mr. Doherty said the residents do have an attorney and that person can certainly provide legal advice to the homeowners' association. He then explained that there is ongoing litigation with the Town of Southwick at the request of the Homeowners Association, they added everyone to the pool and said let's figure this out. One of the options is that we can impose new security on the developers of that particular section of the Ranch. Mr. Doherty said we have entertained that and put together a public hearing to determine whether or not to put new security on to those developers; such as a bond or cash in the amount of \$560,000 which is the DPW Director, Randy Brown's calculation, and they would be required to put up that bond or face consequences if they don't. Mr. Doherty again recommended that they speak with their attorney about this. He said the question of who is liable is a different issue; this is simply a very discrete issue about whether to impose a new security on those developers and anything else is being taken care of in the litigation. Mr. Martin said he had understood the notice sent by the town for this hearing as such that the taxpayers may be responsible for the security. Mr. Doherty said he wanted to clarify that he wanted to be careful because he didn't want to give any kind of legal opinion because he is an attorney and that's why he's careful about making sure that nothing is being interpreted; nothing is being interpreted as his legal opinion he is just sitting here as a member of the Planning Board. He said the issue of whether the homeowners would be on the hook for whatever it costs is an issue in the litigation and that's to be decided by the settlement of the litigation. All the Planning Board is doing here is choosing whether to impose new security on those developers which should be to the homeowners benefit.

Frank Campbell of 5 Overlook Lane said according to DPW where the sidewalk ends. He said we were the second buyers of the Ranch in 2012 and at the time we were negotiating buying the lots and he had become aware of the articles printed in the Westfield News and they summarized what we were told which is that this will be a first class development and the roads and sidewalks would be completed according to Town standard specifications but that has not happened. He said he understands that Pinnacle Estates, LLC and Peter Pappas were given release from the town that all was good and that the current DPW Director has indicated that it's

not. He urged the Board to impose security on the developers as you, the Planning Board, are here tonight.

Bruce Tomaso of 6 Pond View Lane said he applauds this initiative and this Planning Board for considering this and initiating Mr. Browns report, because now they have a benchmark to go work with. He said he thinks Jim's point earlier was would that same kind of inspection had been done throughout the process, every time lots were released for sale, under the terms of the covenant, would that inspection had been done we wouldn't be here now. He asked why the Town Counsel made this recommendation to the Planning Board and Mr. Doherty said this proposed action came out of the litigation that is being brought to us.

Dale Siswick of 19 Sunnyside Road asked if they would vote tonight and Mr. Doherty said yes.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to close the public hearing for Sunnyside Ranch Estates.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to impose a new security under Massachusetts General Law Chapter 41, Section 81U on Sunnyside Ranch Estates, LLC in the amount of \$560,000.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to impose a new security under Massachusetts General Law Chapter 41, Section 81U upon Pinnacle Estates at the Ranch, LLC in the amount of \$560,000.

The motion passed unanimously.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to cap the amount of security to be applied to this at \$560,000 whether it comes from one or both of those entities.

The motion passed unanimously.

Application for a Wellhead Protection District Special Permit in conjunction with a Request to Modify Site Plan Approval & Amend Special Permit Decision
8:30 p.m 141 Congamond Rd. (Residential 20 & Business Zone) *Public Hearing*

Mr. Doherty read the Lake Management Committee comments from their last email June 6, 2022 to the Planning Board. He also read a document from Mr. Grannells to the Town Clerk about boat ramp fees, staffing and fees collected in 2019, 2020 and 2021 (which included 466 foul weather days). Mr. Goddard received a letter from an abutter during the meeting, Edward Nitsch

of 3 Beach Road. Mr. Nitsch's letter focused on the newly changed exit plan and asked why this wasn't discussed with abutters. Mr. Levesque said that in regards to the Lake Management Committee letter there is a lot of information on it but based on what he knows some of the concerns are not in Planning Board jurisdiction. He said we are here for an amendment for 4 items and the marina was already approved. Mr. Doherty said a lot of the concerns in the letter were not in the scope of the Planning Board such as dock storage, right of way, Select Board matters, Chapter 91 licensing, and what the Conservation Commission does. Mr. Doherty noted that the Safety Officer had no issue with this modification and the primary issue was with the egress on Beach Road. Mr. Levesque said they had revised the navigation sketch to show 150 foot offsets of the enclosed marina. He said the southwesterly exit on to Beach Road, has been relocated so that it's not opposite homes and gives better access to the parking space in the most southwesterly corner, which as updated they lose one spot bringing total to 61. The fence has been extended. The applicant, Ken Eggleston, said the exit will come out to a one way sign on Beach Road. Mr. Phelps said he wanted to address Dr. Mueller's question at the previous meeting about marinas and how the Planning Board would decide on them. He said he looks at each project individually as they come and how it pertains to land use. He also said he looks at parking and traffic flows. If there is another marina project in the near future we will have to deal with it. Mr. Doherty said I did not respond to Dr. Mueller in the meeting but to Mr. Doherty's knowledge there is not a single property in the town of Southwick that can be developed as a marina along with a Chapter 91 license. Mr. Spina said he likes the exit relocation but is leery of one parking spot. Mr. Phelps said we discussed the fence and it will be substantial with a minimum of 4 feet high. Mr. Eggleston said the neighbor Donna asked him to put up a 3 foot fence because she doesn't want the view blocked to the water. Mr. Sutton said he wanted to include wheel stops and Mr. Levesque said they could move the fence over so they wouldn't have to add them. Mr. Goddard said they should also take Mr. Browns snow removal comment into consideration. Mrs. Thornton said the fence should be 4 feet high and well designed. Mr. Doherty said we need to draft a modification and consider it at the next meeting. Mr. Levesque said they would adjust the plans and make wellhead protection a part of it. Mr. Doherty said there is no concern with the wellhead.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to continue the public hearing for 141 Congamond Rd. to June 28, 2022 at 8:00 p.m.

The motion passed unanimously.

Informal Discussions

- Gregoire Property (Map 142, Parcel 16 – Off Lincoln Road) – Access Discussion. Mr. Sutton recused himself. Mr. Goddard said Mr. Gregoire had submitted a letter but he needs a more useful legal instrument to make this happen, as the Planning Board can't provide the frontage he requires. He said this is a survey matter, not Planning Board.
- 157 Feeding Hills Road (Crepes Tea House) – Discussion regarding parking & site plan changes. Mr. Goddard spoke with Mr. Ribinskas and told him they

would do a coarse analysis of available parking. Mr. Ribinskas would also like to put up a playscape.

Routine Business

- Noble Steed Crossing: Release of Lots from Covenant in lieu of Bond. Mr. Doherty finalized this item and sent it out.
- Greens West-Request to Release Covenant in lieu of Bond; Initiation of street acceptance process. Mr. Brown coordinated with Crestview Construction to establish a security and Mr. Doherty read a letter from Mr. Brown and advised Mr. Fiore to get the Homeowners Association punch list as there may be things discussed that go along with the road acceptance.

A **MOTION** was made by Mr. Phelps and **SECONDED** by Mr. Utzinger to release lots 15 & 18 from the covenant in lieu of bond for the Greens West and install a bond in the amount of \$30,000 to be put in place prior to the release of those lots.

The motion passed unanimously.

- Master Plan Advisory Committee update. Mr. Phelps said they met last week and had a quorum of the Planning Board. He said after 5 reviews of the community survey was adopted and will be out by late June.
- Short-Term Rental Subcommittee. Mr. Utzinger said they are meeting June 21, 2022 and expect responses to the questionnaire they put together.

Being no further business to be brought before the board, a **MOTION** was made by Mr. Sutton and **SECONDED** by Mr. Spina to close the meeting at 10:35 p.m.

The motion passed unanimously.

The Next Scheduled Meeting is June 28th, 2022.

Respectfully submitted,

Meghan Lightcap
Secretary Planning Board

Electronic signatures have been affixed in accordance with M.G.L. c.110G and pursuant to the Board's electronic signature authorization vote of January 4, 2022 as recorded at the Hampden County Registry of Deeds in Book 24401, Page 596.

Michael Doherty, Chair	<u>/s/ Michael Doherty</u>
Marcus Phelps, Vice Chair	<u>/s/ Marcus Phelps</u>
Richard Utzinger	<u>/s/ Richard Utzinger</u>
David Sutton	<u>/s/ David Sutton</u>
David Spina	<u>/s/ David Spina</u>
Jessica Thornton, Associate	<u>/s/ Jessica Thornton</u>