

W. T. PLANNING BOARD MEETING, JUNE 23, 2008, 7:30 P.M.

PRESENT: David Douglas, Ginny Jones, Susan Silva, Leah Smith

ALSO PRESENT FOR ALL OR PART OF THE MEETING: Philippe Jordi, John Abrams, Derrill Bazy, Prudence Burt, Bruce Keep, Paul Moreau, Jack Shea (Gazette), Ernest Mendenhall, Katharine Sterling, Benjamin Reeve, Bob Woodruff, Pat Lynch, Victoria Riger Phillips, Glenn Hearn, Dale Julier, Richard Leonard, John Powers, Tom Bassett, Polly Basett, Louisa Williams, Susan Feller, Greg Orcutt, Al DeVito, Pia Post, Dick Mezger, Molly Marx, John Early, Caroline Flanders, Simone DeSorcy

Public Hearing: 250 State Road: David read the public hearing notice and opened the public hearing. Philippe Jordi, Island Housing Trust (IHT), presented the proposal. He said there would be 8 single-family dwellings clustered on 8 acres. They would be perpetually affordable. IHT jointly purchased 22.5 acres with the Land Bank; 18 acres will be protected forever in conservation along State and Old Holmes Hole Roads. A 150-foot no cut is being offered along Old Holmes Hole Road, and a 300-foot no cut along State Road. Habitat for Humanity is building one of the houses. He said that important changes were made to the project to mitigate impacts after much input from the Town and abutters, including no-cut zones; energy efficiency; a homeowners association; and a preference for West Tisbury residents for 50% of the houses. He said 2 of the houses would be for people making 80% or less of Dukes County median income (the application states that the Habitat house will be at 60%; this has been changed to 80%). Two houses will be at 100% or less; two at 120% or less, and 2 at 140% or less. Island Housing Trust will grant 99 year ground leases. The maximum annual appreciation will be 4%.

Derrill Bazy from South Mountain Co., which will build the units, said the project is green, energy efficient, affordable, financially viable. There will be 350 feet between State Road and any buildings. He asked the Planning Board to place a no cut zone near Old Holmes Hole Road. He said they met with the Fire Chief who needs a turnaround at the end of the road. He said each house would have 2 parking spaces, with the possibility of adding a third. The houses are oriented toward solar south. They have received a grant from Cape Light Compact for solar panels. They are providing screening to meet abutters' future needs; the existing woods also do a lot to screen. The roadway will be 16 feet wide with a sand hardener, narrowing to 14 feet closer to the development. Tree removal will be kept to a minimum, but trees will be removed from the front of the houses for solar access. He showed a study map indicating the distance to each neighbor's house. Ginny said some Board members had toured the houses at Jenny Way; she liked that they are energy efficient and used some recycled materials.

Abutter Victoria Phillips asked if there would be living space in the basement; Derrill Bazy said no. Ginny asked how many units would be handicapped accessible; Derrill Bazy said they are all visitor accessible. He said the houses will not be expanded over time. There will be no street lights or public area lighting; all outdoor lighting will be low level.

Susan asked if any thought had been given to catching rain water for irrigation; Derrill Bazy said no. He summarized the septic and well systems, saying they were keeping it simple. He said the septic system will not affect the neighbors' or the project's wells. Susan asked whether it would require pumping every 3 years; Derrill Bazy said yes, maintenance would be required.

Correspondence from the following people was read: abutters Lynch, Bassett and Phillips; Kristine Scheffer; and James Paquette.

Prudy Burt, Conservation Commission chairman, said that the Con Com has not yet signed the Conservation Restriction on the property. They discussed it at a meeting in December and had some questions re. some of the language. Some of the prohibited uses include cutting, filling, excavation, etc., which is fine, but then on the next page (page 4, #4) conversion to grassland is allowed. She has not seen any changes made to the document. She is concerned with the lack of commitment to perpetual no-cut zones. There is usually some give and take in the Conservation Restriction process. Philippe Jordi said the no-cut zones could be conditioned by the Planning Board's Special Permit. Prudy Burt said this could be easily rescinded by a future Planning Board vote; she reiterated her concern about the project's lack of commitment to no cutting in perpetuity.

Bob Woodruff said he has dealt with the purchases of over \$20 million of farm land. He said it is standard practice to say "thou shalt not do A, B, and C" and also reserve the rights to do other things. He said the Con Com is the most appropriate entity to make a decision re. conversion to agriculture, but in any event the property should be protected in perpetuity via a Conservation Restriction. A Planning Board special permit condition is only good for 20 years. He noted that the property has a frost bottom. John Abrams said that the conservation can be achieved through the Planning Board special permit. David said the Town would be better off conserving it through a Conservation Restriction as special permits can be easily amended.

Tom Bassett asked whether the Housing Trust would always own the 8 acres. Derrill Bazy said it would; the Land Bank would just be purchasing the conservation restricted area. Ginny said it is common practice to have co-holders of conservation restrictions.

John Abrams said they have tried to get the Land Bank to do a Conservation Restriction, but they don't want to, so he is proposing that the Planning Board hold the restrictions as no-cut zones via the special permit; any changes need permission from the Planning Board and Conservation Commission. Philippe said that ground leases can also contain restrictions against cutting.

Caroline Flanders, Affordable Housing Committee member, Community Preservation Committee member, and Island Housing Trust member, spoke in favor of the project, saying it is not too dense at 1 house per acre.

John Powers, Board of Health agent, said the project developers had come to the Board of Health with a “vanilla” Title V septic plan with the exception of a shared leaching field. He said they discussed having the developers “think outside of the box”, as they are touting energy efficiency, and that the septic system could be looked at more closely. The system as proposed was approved with the stipulation of potable water on the lot. Bob Woodruff said that he has a new septic system in, a prototype for all failing systems in terms of nitrogen removal. John Abrams said he is not comfortable saddling 8 households with experimental, high-maintenance, high-energy-using systems. Bob Woodruff said there are some de-nitrifying systems that do work.

Abutter Pat Lynch presented a plan showing the development pattern of the neighborhood including parcel sizes and potentially subdivide-able lots. She said this open land is surrounded by intensely developed subdivisions. Affordable housing should be spread throughout Town instead of clustered in one area.

Victoria Phillips said there are many areas with small lots off Old County Road that have not yet been developed and should be used for affordable housing. Susan said that some of those lots are currently being researched. She said she sees a lot of preserved land around the proposed project. Pat Lynch agreed, but stating that the surrounding developed area is the most dense in Town, with many lots less than an acre.

Glenn Hearn, AHC, said his committee looked closely at the small undeveloped lots on Great Plans Road (75-100). The Town foreclosed on some. The best the committee could do was to make 3 buildable lots out of 9 very small parcels. He said he is also on the Land Bank, which has a practice of asking the seller whether he/she would allow affordable housing on the property; the Bennett family said they would. He said this is a wonderful project; the only issue is how to handle the conservation restriction. Pat Lynch said she still felt that affordable housing should be scattered throughout Town, not concentrated in one place.

Pat Lynch asked where the project’s electricity would come from; Derrill Bazy said from Stated Road. Pat Lynch pointed out that the last pole on State Road is very far away from the project. Derrill Bazy said it would be brought in underground.

Katherine Sterling said that the State criterion for affordable housing is for people making 80% of median income; only 2 of the 8 units are being proposed at 80%. Polly Bassett read from the State’s Chapter 44B, which states that affordable housing is for people making less than 80% of median income (only 2 of the 8 units are proposed at 80%); and moderate housing is for people making less than 100% of median income (only 2 units are proposed at 100%).

Polly Bassett said that she owns a mortgage company. Someone making 140% of Dukes County median income can afford a \$500,000 house and still meet underwriting regulations; someone making 120% can afford a \$450,000 house. In light of the fact that

there are so many house on the market at these price levels, and that our economy is the way it is, we are not going in the right direction. Funds should be used to purchase existing houses for affordable housing instead of developing open space. This plan has been hatched with outdated criteria. She said that at the Town meeting vote for \$400,000 of CPA funds, IHT said that 4 lots would be at less than 100%; this is disingenuous, as the Town is only getting 2, and those are at 80% which the State considers moderate. John Abrams said that all 8 units meet the Town's definition of affordable. Katherine Sterling said that Chapter 40B would only recognize 2 of these units as affordable toward the affordable inventory; this project is asking 4-fold over what could be counted to protect us from a 40B development. Susan said that this project could have been a 40B, but these developers chose to go through the Town's process. Ginny noted that these units would be affordable in perpetuity. Richard Leonard, IHT chairman discussed levels of affordability.

Victoria Phillips asked why IHT and the Planning Board aren't doing more to provide housing for people who need truly affordable housing, and also protecting open space. She asked why South Mountain Co. cannot make a commitment to build at more affordable levels. John Abrams said that maintenance figures into affordability.

Victoria Phillips noted that Town CPC funds will be used to build this project, and asked whether people from off-island can apply. Philippe Jordi said that they will be advertised on-Island, and there will be a preference for half of them to go to W.T. residents.

Victoria Phillips said that she would like Old Holmes Hole Road, a special way, protected in perpetuity with a 150-foot no-cut zone.

Bob Woodruff said that 2 aspects of this project are a mess. That James Lengyel (Land Bank director) has refused to discuss the Conservation Restriction with the Town is mysterious and disturbing, very weird. And, that the process whereby IHT was given the opportunity to purchase the property from the Land Bank was not done so openly. Years ago the Town's Open Space Committee targeted the entire Bennett piece as having value both because it abuts Old Holmes Hole Road and because of the habitat. There should have been an open discussion about where affordable housing is appropriate. In some locations takings might be appropriate. This process was opportunistic. Philippe Jordi defended the process as a model for the country.

Ginny said that the Board has tried to identify areas in Town where affordable housing should occur; unfortunately, no one wants to be on the receiving end. Victoria Phillips asked whether the Planning Board had a comment on restricting affordable housing to those who need really affordable units. Ginny said that as the cost of living here continues to escalate, it would be a disservice to scale back on what is considered affordable. Philippe Jordi said that no profit was involved here. Leah said that the AHC considers local conditions, cost of living, and special circumstances.

Victoria Phillips suggested that IHT should be more forthright with their agendas and proposals, and then the community might be more receptive. She read from a pamphlet describing the project printed in December, before the neighbors were ever notified.

Tom Bassett said that looking at the plans, it seems the houses are 30-35 feet apart. He asked whether the roof panels run the entire length of the house. He said in the winter with the low sun there might be a need to cut more trees than shown, including within the protected zone. John Abrams assured him this would not occur. Tom Bassett said that these panels do not last forever, and that the homeowners would probably have to replace them after 10 years.

Prudy Burt suggested that the Planning Board wait to see what happens at the Con Com, and then heavily condition this project if there is no Conservation Restriction. She noted that Conservation Restrictions do not go away. Planning Board conditions can be changed, a CR cannot. She urged IHT to get the CR in order. She said that IHT had presented one thing at Town Meeting to secure CPA funds, and then brought another project forward. John Abrams said they have no leverage with the Land Bank. Prudy Burt reminded that at Town Meeting there would be a CR; John Abrams said they were wrong. He said he would make a commitment to talk one more time with the Land Bank. There was a discussion that the CR allow for clearing only for the production of food. Ben Reeve suggested that the hearing be continued and that an attorney be consulted re. the CR. He said that the Planning Board wouldn't want to hold the restriction. Victoria Phillips said that if the Land Bank cannot be encouraged to cooperate in order to be consistent with statements made at Town Meeting, notice should be published in the newspaper correcting the information.

Tom Bassett said that Old Holmes Hole Rd. is now beautiful; if this project goes through we're going to see many more stockade fences going up to prevent strangers from accessing others' properties.

Pat Lynch said that some of the neighbors' concerns were addressed, but density has not been addressed by anyone. The abutters had no say in the density, whether it's 8 units or none – so it is incorrect to say that we have had input. There was absolute refusal on IHT's part to discuss it. The process has not been open from its inception. John Abrams said the number of bedrooms was reduced slightly. Pat Lynch said their concern was the number of dwellings. There has been no give and take. You need to consider smaller numbers, and an open process for future projects.

Paul Moreau, a Jenny Way affordable housing recipient in Edgartown, said he supports the developers.

Ginny made a motion to continue the public hearing; all in favor.

NEW BUSINESS

Richard Leonard, M.V. Savings Bank: Richard Leonard said that the bank had purchased the property adjacent to the former Co-Op branch in the MB district; the property currently has an antique store. The bank plans to build a new building on the property and relocate the existing building. Section 4.4-2 of the zoning bylaw allows a commercial square footage bonus if affordable apartments are provided on the second floor. Second story apartments don't work for financial institutions. He wondered whether the bank could provide 1 or 2 affordable rentals elsewhere on the same property but not on the second story and still receive the square footage increase. Ernie Mendenhall asked why the bylaw had been written to include "second story" apartments. David said the Town probably assumed that business district owners would want to maximize their first floor commercial space, and have housing above, like in other island downtowns. There was a general discussion that the bank's proposal seems to meet the intent of the bylaw to mix uses and to provide affordable housing. David noted that the housing would provide a good buffer between the commercial use and the adjacent residential district.

The meeting was adjourned at 11:15 p.m.

Respectfully submitted,
Simone DeSorcy, administrator

Approved 07/28/08