

**Holliston Planning Board  
Meeting Minutes of November 15, 2012**

**In Attendance:** Chairman Parashar Patel, Geoffrey Zeamer, Jonathan Loya, Jack Donovan and Warren Chamberlain. Also present were Atty. Mark Bobrowski and Richard Westcott, PE.

**Call to Order:** The Chairman called the regular meeting to order at 7:50 p.m. in Room 105 of the Town Hall, 703 Washington Street following the member training session with Atty. Bobrowski on Special Permits and Variances.

**General Business:**

**1. Approval of Minutes**

On a motion by Mr. Chamberlain, seconded by Mr. Loya, the Board voted unanimously to approve the minutes of October 25, 2012 as drafted.

**2. Balancing Rock Senior Residential Development – Surety Release**

The members considered a request from Jeff Clarke of Arcadia Design/Balancing Rock, LLC to release the remaining surety on Phases I and II of the Balancing Rock Project. It was confirmed that all punchlist items had been completed (including landscape revisions) and the as-builts were acceptable to Rich Westcott. Mr. Donovan made a motion to release the surety for the two project phases being held by Provider Insurance Group/Berkley Excess Underwriters (Bond #5011132 for \$13,317 and Bond #0102639 for \$142,276). Mr. Chamberlain seconded with all in favor.

**3. Highlands at Holliston – Surety and Lot Releases Request Update**

Don Seaberg, PE and Jim McLaughlin, PE were present from Benchmark Engineering to discuss progress made on the lot release request last discussed on October 25th. Ms. Sherman noted that the surety for Sta. 39+00 to 51+00 Mohawk Path of \$277,153 and the surety for Sta. 51+00 to 78+00 (end) of \$603,870 had been received as well as the cancellation of bond #6636 for Mohawk Path drainage as approved on October 25<sup>th</sup>. Additionally, Mr. Seaberg provided a plan prepared by Guerrierre and Halnon documenting installation of open space bounds on parcels J and K. Members asked if anyone had verified the installation in the field. Mr. Westcott was asked to perform an inspection. Draft conservation restriction(s) for phases I and II of the subdivision have been received and distributed to the Conservation Commission and counsel. Atty. Bobrowski noted that the form of the proposed restriction was acceptable but he understood that the Conservation Commission had considered the documents at its meeting of the 13<sup>th</sup> and had made no decision about whether they wanted to hold the restriction and under what circumstances. No action was taken on the lot release request.

**Continued Site Plan Review and Special Permit Public Hearing**

**Grasshopper Tree, 67 Jeffrey Ave.**

The Chairman re-opened the public hearing at 8:00 p.m. Mr. Zeamer identified a potential conflict of interest under the provisions of the Mass. General Law as he has an interest in an abutting property and he sat in the audience. Present were Jed Barclay from Grasshopper Tree and Claymore Enterprises, LLC (Applicant and Owner) as well as Joyce Hastings, PLS of GLM Engineering Consultants, Inc. and Atty. Peter Barbieri of Fletcher Tilton PC.

Ms. Sherman, Atty. Barbieri and Ms. Hastings provided an overview of the plan revisions and documents received since the last public hearing session, including plan revisions and

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correspondence from GLM Engineering dated October 12, 19, and 22 and November 13 as well as correspondence from Atty. Barbieri dated November 15. Additionally, the Chairman offered a document entitled "Analysis of the October 12<sup>th</sup> Grasshopper response" (dated October 21) and Atty. Fenton submitted a letter dated October 31, 2012 in response to revisions. Ms. Hastings noted that she had submitted a DEP "Notification Form: Wood Chipping/Shredding Operation" to the Board of Health Director as a result of consulting with DEP staff member Michelle Delemarre regarding their July assessment of the organic pile (see 310 CMR 16.05(4) conditionally Exempt Composting Operations). She clarified that a "permit" for composting is not being required because they don't meet the thresholds for greater than 25% volume of grass. The chipping use is identified as being ½ hour per day. Ms. Hastings also provided a document dated November 2012 entitled "On-Site Yard Management & Recycling Plan" that was provided to DEP and the Holliston Board of Health as well.

Atty. Barbieri reviewed his letter of 11/15, noting that it provides further clarification of the issues raised by the Inspector of Buildings in his correspondence dated September 20, especially with regard to pursuit of a new Special Permit to permit operational issues deemed to be beyond the scope of the Special Permit issued in 2005. The Chairman noted that the board members need to have a clear understanding of what aspects of the operation are currently violative as well as proposals for additional mitigation and uses. He took exception to the applicant's correspondence, specifically that the correspondence did not acknowledge that the existing situation violates the current Special Permit conditions. It was noted that both the Chairman and Mr. Donovan had visited the site since the initial hearing session.

Ms. Hastings noted that the plan revisions primarily show the proposed retaining wall (to be engineered) as well as screening, organization and tree removal for palletized storage in the upper portion of the site. Nineteen trees have been identified for removal (oaks and pines).

Mr. Donovan asked a series of questions regarding the site operations, including the portable screener location, pile labeling and need for resolution of the outstanding OSHA violation on the unprotected steep cut slope.

The Chairman opened the floor to the public. Raising concerns were Atty. Scott Fenton from Bowditch & Dewey, representing Cold Chain Technologies along with Larry Gordon, President of Cold Chain Technologies located on Everett Street and Geoffrey Zeamer of VAB Realty Trust with an interest in 194 Lowland Street. The following issues were discussed: 1. Atty. Fenton's correspondence of October 31<sup>st</sup> and new photos submitted 11/15, 2. continuing concerns about non-compliance with prior Special Permit and lack of zoning enforcement, 3. material storage killing the existing trees/vegetated screening along the Cold Chain parcel and no screening along the 194 Lowland Street parcel, 4. need for consideration of the Town's Special Permit criteria and the need to define the many uses occurring on the site, 5. semantics of the term "impervious" and the need for on-site stormwater management, 6. the need to determine if structures are within the side yard setback, and 7. the planned removal of mature trees and need for protection of the pond and surrounding properties. Atty. Fenton characterized the applicant's submittals as unresponsive to the Planning Board comments and concerns.

Inspector of Buildings Peter Tartakoff was present and stated that it was his position that separate enforcement action was stayed while the applicant was in front of the planning Board

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attempting to permit the same issues. If the Board chooses to “roll back” the site operations, he will pursue enforcement when the board acts. Atty. Barbieri echoed that there is case law to support Mr. Tartakoff’s position. Atty. Fenton stated that the Board has the authority to revoke the current Special Permit as well as deny the expansion.

Mr. Chamberlain made a motion to continue the public hearing until November 27<sup>th</sup> at 8 p.m. Mr. Loya seconded with all in favor. Mr. Chamberlain scheduled a site visit for 11/16.

**Adjournment** - The meeting was adjourned at 9:35 p.m. on a motion made and duly seconded. The next meeting is scheduled for Tuesday November 27 at 7:45 p.m.

Respectfully submitted,

Karen L. Sherman, Town Planner