DATE: April 12, 2023

LOCATION: Town Annex Bldg at 39 Central Street

TIME: 7:00pm

Status: Approved by PB Feb 7 2024

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**Members Present**

Chris Thornton (Chairman), John Urbaczewski (Member), Jena Haag (Member) and Kirk Baker (Town Planner) were present. David Jaquith (Vice Chairman) and Kevin Moriarty (Member) were absent. Meeting was called to order by Chris Thornton at 7:00 p.m.

**Continued Public Hearing**

Definitive Subdivision Plan for 4-Lot Conventional Subdivision/49 Emily Lane

Katie Enright of HSH in attendance to present on behalf of the Applicant, Rowley Farms Development. Enright presents a three-lot subdivision. This is a revision of the previous four-lot subdivision, shown removing a lot and pulling back the back cul-de-sac, per Jim Decoulos. Robert Buckley, present on GoToMeeting, stated the proposal pulls cul-de-sac back so the road doesn’t cross the stream. Decoulos reviewed the updated plan to integrate with the larger project. A wetland crossing will be required and Enright still needs wetlands crossing approval from the Conservation Commission. Thornton asked how crossing would differ from the roadway crossing. Decoulos stated it would reduce the impact for crossing. Buckley discussed the shared driveway, requiring a special permit. Enright is looking for Board feedback tonight before generating final conceptual plan. The remainder is to be developed later along with the 200+ acre abutting lot. Frontage for lot 3 will be off the new roadway. This hearing was to discuss alternatives for this property they are working on to work with the Board and Conservation Commission to come up with the right plan for this area, per Decoulos.

Thornton stated the plan calls for the intention to open access through Emily Lane but he questions if Emily Lane is the proper entrance to this project. He asked if the intent is future development of lot 4 and Enright stated yes but not to reach lot 4 through Emily Lane. Haag discussed the connection as to whether it would be Wethersfield Street. Per Decoulos, the Falcon Ridge project has proper access.

Resident Trojan, 52 Emily Lane, was present to discuss access of said lot 4 via Haverhill St. He would be interested in reviewing the covenant to prohibit access from Emily Lane. He is concerned this is the pretext for something more significant. Per Thornton the 3-lot proposal is within requirements and the Board is concerned with the next step of this project. The Board will have to wait for the updated proposal. The Board also discussed the restrictive covenants and that is worth pursuing to see what other options are available for major development.

Baker stated the change has to do with eliminating lot 2 and limiting the cul-de-sac to make the 3 lots, with the main purpose to reduce the roadway. Urbaczewski stated there is already a great deal of housing in that Wethersfield area as agreed by Haag. The Board is concerned about Wethersfield Street and the changes that may be needed in the future with all the development. The Board will wait for VHB’s review for comments. Concerns of the Board are the same as the concerns of the applicant per Buckley. They will move forward with an actual engineering design when the plan meets all standards required. Conservation Commission will be involved as well and applicant will file plans with them after through the Planning Board approval process.

Motion to continue hearing at next regular meeting May 10, 2023, by Haag and seconded by Urbaczewski. All voted in favor (3-0).

**Appointment for Discussion**

Andrew DeFranza and Kristin Carlson/Harborlight Partners, LLC, Windward Crossing/236-240 Newburyport Turnpike and Allocation of HOME Funds

Baker stated this was a formality update. DeFranza and Carlson were present via GoToMeeting to discuss the HOME Funds. Baker updated the Board on the status. BOS gave authorization for the town’s release of this year’s 2023 HOME Funds grant money, available under the North Shore Consortium, in the amount of $20,409, for the Windward Crossing project. Baker has a letter ready to send to the North Shore Consortium upon approval of the Board.

Motion by Haag to endorse said letter for approval and seconded by Urbaczewski. All voted in favor (3-0).

**Status Update**

Rowley Solar Facility/623 Wethersfield Street

Baker gave a reminder of the prior status – last fall he went on a site walk with Conservation Commission and Graham. Most of the balance of the work due has to do with landscaping and trees near the basin abutting Kassiotis property. Trees needed to be replaced in the spring and grass replanted in the front entry. Conditional approval of the site was made with a construction bond still in place until the as-built for the project can be submitted and approved. Michaels from Power Fund present as well as Atty. Beatrice via GoToMeeting.

Beatrice, representing the applicant and owner of the property, states he is compelled to make a couple items clear with respect to the owner. Beatrice Maintains as of this date permitting expired on 11/13/2022 and ConCom permits expired 2/7/23 and 12/26/22. Thornton stated this is not the venue to appeal the above dates and asked what the benefit was of attempting to put on record the validity of the Board’s jurisdiction. Beatrice stated the basis of objection was to make sure his client’s rights are observed. He stated that the permitting issues work was not complete and Powerfund has no right to go forward without his client’s permission. His client does not wish to continue with the special permit. He stated Powerfund is not the owner, applicant or representative; they are a tenant subject to eviction. A lawsuit could name the Board as part of the litigation.

Michaels disagreed. He stated the lawsuit is frivolous and a trial was supposed to commence in May of 2023. Michaels believes the owner does not want to have a trial but requesting continuance keeps the litigation in limbo. One argument the owners have is that Atty Beatrice has to withdraw from counsel, and they keep delaying stating they need to find a new attorney. He stated he believes the lawsuit will fail for Beatrice’s client. Powerfund has no reason for anyone to doubt that they have the right to operate the solar plant and the right to complete the permit. Work that needs to be done are minor items that normally can be done and will be done in 3-5 days once workers are on the premises. Baker was notified by the engineer of the 9 issues still needing completion, two of which have been completed. The remaining 7 items are under contract now and workers will get on the premises the of week 4/17/23. Trees are purchased and are waiting for pick up. The front will be done in midsummer to early fall.

Urbaczewski stated his frustration with the fact that this issue has been going on for five years and needs to end. Michaels will be in touch with Baker and will request be put on the agenda as progress happens.

Ashley Village NEVD/12 Main Street/As-Built Review/Cert of Compliance Request

Ed Sutherby, the applicant is present stating a partial as-built had been presented previously. Regarding VHB’s comments, the addition and rehab to the existing house and infiltrator are not yet complete, but all other issues have been addressed. Top coat done, plantings in, stop sign in, but the little area around the existing house is not yet complete. Reseeding and minor grading in the retention basin needs to be completed and they are 100% complete on the infrastructure. Applicant is asking for release of the two units for sale. VHB visited the site with Baker and all of the sight work around the multifamily units is complete. It is agreed by all a few other issues are needed for final compliance, with the main issue being the completion of the affordable unit. Discussed qualification of the affordable unit and what is needed to designate it. The existing house is going to be the designated affordable unit.

The approval they seek is for the release of the other two units completed last August. The Board discussed the town’s requirements and the density bonus approved as part of having an affordable unit. The Board does not need to hold four units until the affordable one unit is complete. When initially approved, the Board did have the expectation that the affordable would be further along. Thornton stated with the adequate panel to approve today, considering approval is not a sign-off, they will act on the resolution to permit the sale of two completed units as an update. Urbaczewski wants to be sure the affordable unit is completed and the applicant keeps moving forward. The applicant has strong ties to the town and stated he wants to get going on the front house as it is currently an eyesore and he has all intentions to continue once he receives funds from the sale of the two he is asking to be released. To close out the permit, the Board will need the release of the qualification for the affordable unit, which is in process.

Motion by Urbaczewski to release two units to allow the sale and seconded by Haag. All voted in favor of amending the permit to release two units (3-0).

Atty Richard Kallman/Status of Lot Located off Haverhill Street/Map Lot 4-35-A

Informative meeting with owner and previous owner of property. Builder wants to construct a single-family house on the lot. Notes on the original owner’s plan state this Lot F is to be combined with abutting Greenbelt land. This action never occurred and the current owners are not sure why. This stops the lot from being built on in any capacity. When owner sold the house in the front part of the property, an easement was created for access to the rear lot. Discussion continued on the history of the whole 13-acre property. The owner’s father gave the property to them as legacy to his children and now they want to move forward.

The current purchase and sale agreement is subject to discussion on the notation of Greenbelt. Prior to the purchase and sale, Baker discussed this situation with Kallman and he suggested obtaining a letter from Greenbelt stating they were not interested in the property. The buyer’s attorney would like a vote of the Board to release the notation and is inquiring as to what the Board would require. Discussion by the Board and the owners continued and Thornton suggested asking the title company what they would like of record, possibly a written document instead of generating new ANR. Also discussed the history of the buildable lots with frontage and the back piece given to the owner as gift and on which they have been paying taxes. Kallman will do additional research and Baker will review the archives.

Motion to continue discussion at next month’s meeting May 10, 2023.

Additional discussion continued among Board members regarding affordable housing and the MBTA communities housing update, affordable and senior housing. Discussed the possibility of changing two building parameters regarding building height, which is currently 35 ft. above grade or 2.5 stories. Discussed changing height to 37.5 ft. or 3 stories which could help density counts for these projects. Also talked about the parking parameter and other possible changes to the subdivision control laws.

**Adjournment**

Motion to adjourn meeting was made by Thornton and seconded by Urbaczewski. All voted in favor (3-0). Meeting adjourned at 8:44 p.m.