

PLANNING BOARD MINUTES

January 14th, 2019

CASCO COMMUNITY CENTER

7:00 P.M.

MEMBERS PRESENT: Stan Buchanan, Ray Grant & Lynne Potter

MEMBERS ABSENT: Ted Beckner, Jim Macklin & Edward Phipps

STAFF PRESENT: Alex Sirois, CEO; Jim Seymour, Town Planner & Sandy Fredricks, Planning Assistant

PUBLIC PRESENT: See attached

Lynne calls the meeting to order at 7:00 p.m.

Lynne states the first order of business is to elect a Chair. Stan elects Lynne Potter to be Chair. Ray seconds. No other nominations. All in favor? 3 yes – 0 no – 0 abstain.

Lynne informs everyone present that if they wish to speak, please come to the podium and state your name and the matter you wish to address for the record as the meeting is being audio recorded.

Lynne states the first item on the Agenda is approval of the November 5th, 2018 Minutes.

Lynne moves to approve the Minutes as written.

Stan seconds.

Any discussion? None.

All in favor? 3 yes (Ray, Stan & Lynne) – 0 no – 0 abstain

Lynne states the next item on the Agenda is Dean Bundy has submitted an Application for Removal of Property from the Aquifer Protection Overlay Zone for property known as Map 5, Lot 2E located on Roosevelt Trail. The property is commonly known as 893 Roosevelt Trail and is located in the Commercial, Wetland and Aquifer Overlay Zones.

Jocelyn O'Rourke-Shane introduces herself to the Board stating she is representing Dean in this matter. She further states this is the big building on 302. She met with Alex and he suggested a soils test and report. She continues that she received Jim Seymour's Memo suggesting a geologist review and report. She states they retained the services of Mark Cenci of Geologic, Inc. (See attached report).

Jocelyn explains that the property had always been a commercial use and its underlying zoning district is Commercial. She further states that it is the Town's Ordinance that restricts the uses in the Aquifer Overlay District. She continues that there had been a

restaurant on the property for 30+ years and then it burned down. Jocelyn explains that Dean wants to sell the property, however, the Aquifer Overlay is making it difficult due to the number of uses that are not permitted; they are asking the Board to consider removing the property from the Aquifer so normal commercial uses can be put there. She continues that the property cannot be used as a restaurant any longer, it cannot be boat sales, can't have a multi-unit dwelling yet there is one right next to it; can't have a junkyard although there is a salvage yard right across the street.

Jim Seymour states he spoke with Mark Cenci who pointed out this is a "contained" aquifer which means this aquifer is protected by a "cap", but we don't know how deep it is. He continues that other towns have allowed an aerated pre-treatment of any new wastewater incorporated into the septic system design. Jim states he and Mark spoke about what uses could be permitted. Jim further states that the Board is in a unique position as this is a zone change which has to go to Town Meeting. Additionally, if the Board does wish to permit the change, the property will only be allowed to have 10% impervious surface.

Jim continues that the Board may wish to get more information prior to sending this to the Board of Selectmen, such as, if you change that overlay zone line, should we change it for the entire area rather than just a single property; from Natalie's standpoint, can we change this just for one lot?

Stan asks if this is what was changed last year? Alex states the Aquifer lines were changed to reflect what the State had delineated, however, this parcel was not affected by the change. Stan asked if the junkyard is illegal. Jim states it was there prior to the Aquifer Overlay District. Jim states the test pit done was 4' deep. Stan states the aquifer is probably deeper than that. Jim states we would need additional data on it. He continues that we may have to ask Natalie if we can change just one lot. Stan states he is concerned because we just got it in line with the State geologic map and we don't want to change it already.

Alex states there are allowed uses and states as an example an office building is permitted such as the new Hancock Lumber office building on Route 11; that is also in an Aquifer Overlay although this lot is smaller.

Jim states that while engineered septic systems are allowed in other towns, our ordinance prohibits that. Alex states that a restaurant use is tough because of the septic issues. He goes on stating that you can have a Doggie Daycare because you don't need a lot of impervious or large septic for that. Jim states that it is interesting that the Commercial zone allows a nursing home but not a multi-family use. Jocelyn states one of the possible uses was apartments, but didn't sell when found out wasn't permitted. Alex states that if we look at removing multi-unit use from Prohibited, it may help them. Additionally the Board needs to look at that this is a 60,000 s.f. lot so the lot size also factors into any use. Jim states this is also, essentially, a non-

conforming lot; this either has to be a change to the permitted uses or the zoning. Jim further states that it doesn't pass the straight face test for one lot to be removed from the overlay; should we do this in its entirety in this area? Jim continues by asking the Board if they wish to present this to the Board of Selectmen to change this. Jim also asks if there is a possibility of a Consent Agreement with the Board of Selectmen. He further states he believes Natalie's input has been requested by Lynne. Alex explains how a Consent Agreement works stating he hasn't done one like this for a use. Stan asks about the possibility of a Town Petition. Jim explains that a zoning change can be done one of three ways: it can be initiated by the Planning Board; it can be initiated by the Board of Selectmen or it can be initiated by Petition.

Jim goes on to state that by not allowing dwelling units, i.e. multiplex or apartments which are less of an impact than a nursing home, we are very much restricting them.

Jim asks the Board, looking at the information submitted, what additional information do you need to be comfortable; and what do you want to pass to the Board of Selectmen. Ray states it is a slippery slope and feels it should go to the Board of Selectmen for the decision. Jim states the Planning Board could state some of the uses are too restrictive and can send that up to the Board of Selectmen. Ray states he feels the Board of Selectmen should decide on the overlay.

Jim states the Planning Board wants the applicant to go petition the Board of Selectmen. Alex asks the Board if they want the applicant to initiate the Zone change; he further states that he doesn't feel the Board of Selectmen will want to make a determination until there is a specific use or buyer who comes forward and says we would like to do whatever it is. Jim states that some of the uses and prohibited uses seem a little odd and perhaps if we were to handpick certain uses to move from prohibited, it may be helpful.

The Board further discusses the three options to obtain a zoning change and that if it is by Petition the Petitioner is required to obtain signatures of 10% of the number of voter turnout at the last gubernatorial election. Jim asks what that number would be. Sandy states it would be 175 as we had 1,747 voters in November.

Jim reads the Aquifer Overlay Intent from the Ordinance "Intent. To protect Casco's underground water supply by restricting uses and activities on land overlying aquifers and aquifer recharge areas. Toward the achievement of this purpose, the following minimum standards are established." Then it goes through them. (§215-4.10).

Stan states as he sees it there are two issues, one we don't know how big the aquifer is and two it's a small lot. Alex asks if we want to reach out to Natalie to see if a Contract Zone is appropriate. Jim states it should be passed up to the Board of Selectmen to decide if it can come out of the Aquifer Protection Overlay as well as have them look at whether they would like to do Aquifer Protection Overlay change or do a Contract Zone.

Stan states that as he understands we are sending this up to the Board of Selectmen without any recommendation. Jim confirms this. Jim further states that of course the applicant can always go to petition; it is unique circumstances, some of the prohibited uses are strange.

Lynne moves that the Planning Board pass this matter to the Board of Selectmen with the understanding that the Planning Board doesn't want to tackle this and needs input from them as well as the Town's attorney and get direction from the Selectboard that they deem necessary.

Stan seconds.

Any discussion? None.

All in favor? 3 yes (Stan, Ray & Lynne) – 0 no – 0 abstain

Ray states that he feels the applicant should try reaching out to abutters to see if they can get them on board with the change. He continues that it would be better to have a group present the change rather than just one party.

Jocelyn states they also tested the Dingley property, but it was so hard they couldn't even get down 4'.

Lynne states the next matter is a request for discussion of a zoning amendment made by P & K Sand and Gravel to add mineral processing as an allowed use in the Residential District.

Cory Mitchell introduces himself to the Board stating he is there on behalf of P & K. He continues that he read Jim's Memo and we were looking at material processing while Jim's Memo referenced material extraction which is already allowed in the Residential District. Alex states they are separate uses not accessory use. Cory reads the extraction definition from the Ordinance "Mineral Extraction – Excavation for the purpose of removal of earth products, including but not limited to sand, gravel, clay, topsoil/loam, common borrow, and rock minerals". Cory continues that Mineral Processing is defined as "Mineral Processing – An operation, or set of operations, that changes the characteristics, composition, state, shape or form of earth products, including sand, gravel, clay, topsoil, common borrow and rock minerals". Alex states that in the Commercial District they are two separate uses; in Residential only one is allowed.

Jim states that for all intents and purposes you are talking about sifting and crushing. Cory states it depends on your definition of sifting; technically, you are processing. He continues they are looking to open discussions to get mineral processing into the Residential District. Jim states that this processing use is usually an accessory use in most towns. He continues that we are seeing reclamation of asphalt more often as well. He further states the one thing we probably need to do is put Performance Standards in place for this use. He goes on stating that there will be more noise,

more back up alarms etc.; we may want to consider deeper buffers. Cory states it is their main goal to get it out of Contract Zoning and not have to stand here every 10 years. He continues they understand it is a process, but we know we have least another 50 years of processing at the current location. Jim states that perhaps we just suggest that we look at the interest in allowing the use as an accessory use to extraction; do we need to have some workshops with the Board of Selectmen to discuss the feasibility of what this would look like.

Stan states if we go ahead and initiate the change, does that open the use up to all Residential areas; that is a concern. Jim states yes, it opens the use up town-wide and we would need some Performance Standards for that in the Residential District. Alex states there are existing standards for Mineral exploration; excavation, removal and filling of lands in Article 5, Performance Standards, §215-5.18 (see attached).

Stan asks about setbacks. Alex states it could be changed just for processing; we would have to create standards for processing. Jim suggests they go the Board of Selectmen and the Planning Board recommends we should define processing and add some standards; it is allowed in Commercial District.

Stan asks if the reason this is a Contract Zone now because they didn't meet the original standards in Residential District. Cory states he is not sure. Jim states it may have been material being brought in and processed. Cory states they process materials from onsite and bring in materials for processing. Jim states they are much more restricted by DEP now than when this first started. He reiterates that you can do mineral extraction in any Residential District. Stan states he does feel we need performance standards for this use.

Jim states perhaps we should have workshops with other entities to get this figured out. He continues by asking the Board if they want to send this on to the Board of Selectmen suggesting workshops to have dialogues about this. Alex states we have a few extraction locations.

Jim states perhaps the processing area could be contained to a smaller are. He continues we need to at least define the term "processing" and set standards. Stan states he feels the Planning Board should have the workshops and ask the Board of Selectmen to attend. Lynne states the issue is how do we get the public involved. She continues that she feels the Board of Selectmen has a longer reach than the Planning Board.

Lynne moves the Planning Board kick this up to the Board of Selectmen and let them do any definitions or workshops they want and discussions on the Performance Standards. Stan seconds.

Any discussion? None

All in favor? 3 yes (Stan, Ray & Lynne) – 0 no – 0 abstain

Jim asks if he and Alex should provide them (Board of Selectmen) with a background of what we have. The Board states yes, that would be helpful.

Jim states we do have some ordinance changes coming up. Alex states yes, we have kennels, filling and shoreland, hopefully for next month.

Lynne moves to adjourn.

Stan seconds.

Any discussion? None.

All in favor? 3 yes (Stan, Ray & Lynne) – 0 no – 0 abstain