

WEYMOUTH PLANNING BOARD
McCulloch Building, Whipple Center Conference Room
January 10, 2006 Meeting – Public Hearing

PRESENT: Paul Hurley, Chairman, Walter Flynn, Sandra Williams, and Mary Akoury

ALSO PRESENT: James Clarke, Planning Director, and Rod Fuqua, Principal Planner

Mr. Hurley called the January 10, 2006 meeting of the Planning Board to order at 7:30 PM.

A MOTION was made to accept the minutes from the 11/22/05, 11/29/05, 12/6/05, and 12/13/05 Planning Board Meetings and was seconded and UNANIMOUSLY VOTED.

Form A

Mr. Hurley asked Mr. Clarke to explain the Form A on Forest Street to the Board.

Mr. Clarke said the Form A for Forest Street meets all the requirements of a Form A Plan. Said lot is subdivided to create this lot. One lot is 27,000 sq ft. and the other lot is 30,000 sq. ft. Said lot on the Form A has all the appropriate frontage. Mr. Clarke requests this Form A be approved.

Mr. Flynn motioned that the Form A be approved by the Board. UNANIMOUSLY VOTED.

Mr. Clarke passed out the Capital Budget Review that Tom Slattery and Jeff Richards will present on later in the meeting. These are the last set of presentations for Capital Budget.

Mr. Clarke gave an update on the community preservation act. The Mayor will comment on this act at the end of the month at his state of the town address on January 30, 2006 at 7:30 at the high school. We will put an ordinance together on this act and it is on the most recent tax bill and they are starting to collect the funds.

The air station has submitted a notice of project change. The notice will be reviewed this Thursday evening January 12, 2006 at the Rockland High School. The Comment Period for that document is until January 31, 2006.

Tonight the Redevelopment Authority is meeting and last month they opened bids on the Echo Avenue Project off of Washington Street. The plan is to install drainage and pave roads. They did get more competitive bids. Hopefully they will be awarding that project tonight. That is a big project; it is \$600,000+.

Mr. Hurley said the committee has a public hearing scheduled for 7:45 PM.

Public Hearing

Petr: East Bay Condominium and 300 River Street Condominium

Locus: Broad Reach and 300 River Street

Sheets 1 & 3, Block 1, Lots 1 & 26

Zoning: R4

Seeking consent of the Planning Board to reapply to the Board of Zoning Appeals within two years of a denial on July 21, 2004, of a variance application for a Floor Area Ratio, case # 2805.

Mr. Flynn made a MOTION to open the public hearing and it was seconded by Mrs. Akoury and UNANIMOUSLY VOTED..

The Public Hearing began at 7:45 PM.

The clerk, Mrs. Akoury, read the notice. Notice is hereby given of a public hearing of the Planning Board of the Town of Weymouth under MGL Ch. 40A, Sec. 16, as amended, and the Town of Weymouth Zoning Ordinance Section 120-121 to be held at:

7:45 PM
TUESDAY, JANUARY 10, 2006
MC CULLOCH BUILDING, WHIPPLE CENTER CONFERENCE ROOM
182 GREEN STREET
WEYMOUTH, MASSACHUSETTS

On the application of East Bay Condominium and 300 River Street Condominium for property at Broad Reach, also shown on the Weymouth Town Atlas Sheets 1 & 3, Block 1, Lots 1 & 26 seeking consent of the Planning Board to reapply to the Board of Zoning Appeals within two years of a denial on July 21, 2004, of a variance application for a Floor Area Ratio, case # 2805. Plan and application is on file at the Department of Planning and community Development, Town Hall, 75 Middle Street, Weymouth, MA, and may be inspected between 8:30 A.M. and 4:30 P.M., Monday through Friday.

WEYMOUTH PLANNING BOARD

Mr. Hurley asked for the applicant/or attorney representing. Mr. Joseph Harrington, III, of Giarrusso, Norton, Cooley and McGlone, Attorneys for the applicant. Mr. Harrington represents East Bay Condominium and 300 River Street. Mr. Harrington is here to discuss a variance that his clients are seeking. Both East Bay Condominium and 300 River Street have certain claims against East Bay at Weymouthport Corporation related to certain properties at Weymouth Neck. The request for a variance was denied by the Board of Appeals because they expected further legal action and negotiations were to take place between both parties. Since that time he is happy to report over the last year and a half that both parties have worked together and have negotiated a resolution. This new variance is substantially different in scope. Mr. Harrington is requesting that this board waive the 2 year wait period and allow East Bay Condominium to apply for this variance. East Bay Weymouth Corporation has agreed and will now convey

additional land on Weymouth Neck that will increase the East Bay Condominium's floor area ratio to .45 FAR. This .45 FAR is much closer to the required .30 FAR.

Mr. Clarke asked Mr. Harrington to display what he was suggesting to the board. Mr. Clarke asked Mr. Harrington to explain why it is difficult to convey additional land to his client.

Mr. Harrington produced a display and plan for Weymouth Neck. The amount of land that would be needed to place East Bay Condominium in total compliance is approximately 226,000 square feet. The amount of land that is being proposed for conveyance is approximately 116,000 square feet. Mr. Harrington said his clients have heard from the Planning Department that they cannot use the land at Broad Reach to create a continuous property, nor can they use it as part of the floor area ratio. Mr. Iantosca is to be limited as to how much land he can use for development. Mr. Iantosca will not use the variance as precedent for him to go out and get a variance and to develop further on the neck. Mr. Harrington says there is a claim between 300 River Street and East Bay Weymouth Corporation and that problem will be resolved by easement, therefore, clearing title to East Bay's property and also 300 River Street's property.

Mr. Clarke said he knows the people involved and how hard they have all been working on coming to the best resolution to this problem. What Mr. Harrington is saying is that at the end of the day when you go back to the original Iantosca property, Mr. Iantosca will not be able to build any more than is allowed by the current zoning of the floor area ratio of .3. As Mr. Harrington explained it, the stipulations and the land being conveyed will effectively bring East Bay Condominium into compliance.

Mr. Flynn mentioned, is it correct that Mr. Iantosca is obligated by the deed to provide sufficient land to get it to .3? Mr. Harrington said yes. Mr. Flynn said Mr. Iantosca is right now trying to make a deal that will limit what he has to transfer to East Bay Condominium and 300 River Street so that he doesn't have to transfer as much as he is legally obligated to transfer, and they hope that the sweet deal being offered will be approved by the Board of Appeals. Mr. Harrington said yes and no. Mr. Harrington said the reason he said yes and no is: Yes Mr. Iantosca is trying to otherwise resolve this issue by not having to convey 200,000 square feet to East Bay. What he is doing is effectively the same thing. Mr. Iantosca is now limiting himself if there is a potential for development and as Mr. Clarke has stated that that is not something for us to discuss here today, but if there is a potential for development his development is going to be limited to the same amount that it would be if he was required to convey the 230,000 square feet. Mr. Flynn asked does Mr. Iantosca own property behind this transferred property. Mr. Harrington said yes. Mr. Flynn asked what the purpose of the orange easement is. Mr. Harrington explained the orange easement is for 300 River Street who currently has a claim against Mr. Iantosca's property based on an adverse possession claim. The claim stated that they have used their property for the past 20 years and that they therefore own the property. This claim is ongoing. This would allow that lawsuit to be resolved and clear title to this property. Mr. Clarke said they can go north to the area in yellow. It is adjacent to Webb State Park. That road is actually a right of way, it is not a private way. It is essentially owned by Mr. Iantosca. He is deeding that so that the public will still be able to use it as a right of way. Mr. Harrington said the stipulations that we discussed will not only be in the agreement between the parties but also in the declaration of restricting covenant that will be recorded in the registry of deeds. It

will be on public record. Mrs. Williams asked will it be permanent. Mr. Harrington said yes. Mrs. Akoury asked if the stipulations are air tight? Mr. Harrington said that he has talked to George Lane the Solicitor and we presented him with the actual language of the stipulation. Mr. Lane has not had any issue with it as we know of. Obviously, before we finalize that language we will make sure it is in compliance with Mr. Lane. We as attorneys will also make sure it is what our clients want. We will see that it is not only beneficial to our clients but to the town as well. The stipulations will prevent Mr. Iantosca and/or anyone in the future from developing that property. Mr. Harrington stated that Mr. Iantosca has been very helpful in this whole process. Mr. Flynn asked who Drive-In Development Corporation is. Mr. Harrington said they have no part in what is going on today. Mr. Harrington represents them on other issues and they are not interested in this issue at all.

Mr. Hurley reminded everyone that this is a public hearing and if anyone has any questions please stand and state you name and address and please address any questions to the board.

Mr. Francis O'Keefe, East Bay resident since July. He has a corner unit that faces the proposed piece of land that will not be developed if this is approved. East Bay is a gorgeous place. He hopes this process allows the town options to have more open spaces.

Mrs. Joan Adams, 51 Broad Reach. Does Mr. Iantosca plan on developing the remaining blue space shown on the display? If he does she will lose her view. Mr. Harrington said "I don't know". Mrs. Adams asked, can I ask Mr. Clarke what is the town's feelings of development of this waterfront area. Mr. Clarke said our position would be that we would prefer not to see waterfront property developed. At the same time, private property owners do have certain rights. There is a potential that at a later date Mr. Iantosca may apply for developmental rights to this area. He will be able to develop following all the standards of the town.

Mrs. Leah Elms, lives at East Bay (past 8 years). Mrs. Elms' property overlooks lot 25. Her question is regarding the Essex building floor area ratio, are they under the same scrutiny as East Bay? Mr. Harrington said he can't answer and tell you what the town is going to do. But, you are correct in the fact that they will need to fix their floor area ratio. Mr. Clarke said we want to resolve this issue. We will rectify any further zoning issues on Weymouth Neck and square that away. Mr. Hurley took a moment to remind everyone that the job before this board right now is to decide if there has been a change to the application that was denied in July 2004.

Mr. Andy Batrucci, East Bay. Is there a time frame? Mr. Hurley said we will close the public hearing as soon as the discussion is finished. If the board feels comfortable making a decision tonight then you will know the decision tonight. Mr. Harrington said Mr. Batrucci is correct. There is an issue regarding the cleanup at Weymouth Neck. Mr. Iantosca had decided to re-landscape with a number of trees. He is aware that a number of people enjoy being able to view the river. Mr. Hurley said we will close the public meeting here with the board. Our next meeting regarding this issue is next Tuesday night.

Mr. Hurley moved for a motion to close the public hearing. Mr. Flynn made the motion to close the hearing. Mrs. Williams seconded. It was UNANIMOUSLY VOTED to close the public hearing.

Mr. Hurley asked if the board felt comfortable making a motion tonight regarding the variance. Mrs. Akoury asked for the feelings from the Planning Department and do you see a substantial difference. Mr. Clarke said yes. He has had numerous meetings with the people involved. The Mayor has been briefed. This is a positive step. It resolves an issue. It protects some open space land. It acts to prevent some further development that could occur on the remaining land owned by Mr. Iantosca. With that in mind he believes this is a substantial change on what was presented a year and a half ago.

Mr. Flynn asked who owns the Essex Building. Mr. Harrington answered that it is Mr. Iantosca. Mr. Flynn thinks Mr. Iantosca should be obligated to convey the total square footage that should be conveyed. I understand that it would not be contiguous. If he was to give a little piece of the blue area it would further limit his ability to develop. Mrs. Akoury asked can we make a recommendation of some kind. Mr. Clarke said even if he did what you say there would be no more development potential that what this agreement already conveys. As long as the stipulations are recorded and we are the beneficiaries. As Mr. Harrington said, we can step in at any time if we feel that the agreement has not been handled properly. Mrs. Akoury said now you feel that we have been adequately involved in this process so that our planning department from a legal perspective so that this will be locked tight. Mr. Clarke says yes.

Mr. Flynn made a motion to approve resubmittal of the application within two years of a previous denial. Mrs. Akoury seconded the motion. UNANIMOUSLY VOTED.

Capital Budget Review

Mr. Hurley introduced Mr. Jeff Richards, Building Inspector. Mr. Richards said his job is to look at the town buildings on an annual basis and determine what is necessary to maintain the integrity of the town buildings. The budget is designed by the board. We review the board's items and see how close they are with the staff's budget.

Mr. Rod Fuqua presented the spreadsheet saying he has sorted it all out by fiscal year '07 to '08.

Mr. Richards started with:

#1 Teen Center flooring. There is an asbestos issue in the flooring so that's why it has been put off to '08. We will deal with that at a later time.

#2 McCulloch – Evaluate and Replace A/C. There is no central air in this building. We don't see it as a necessity. But it is a request.

#3 improvements to the Tufts Main Library – roof project. There is asbestos in the roof – if we push this item off we may save money due to changes in abatement regulations.

#4 New roof and DPW Headquarters. The roof is in extremely bad shape – beyond repair. (2nd on Jeff's priority list). Mr. Hurley asked if the item will be going out to bid and perhaps

combine it with another project and get a better price. Mr. Richards replied that it is not similar to other roofs – it is tar and gravel.

#14 Chapman – Boilers, piping and control replacement. The bid has been out two times before. First time it was bid at \$650,000 range. Last year the bid was in the \$850,000 range. This year it is believed that it will come back in the \$1,000,000 range what with the price of steel. The plans and specs are complete and they await funding.

#23 Replace Apparatus Bay Doors at Station #2. The doors were recently damaged again. It is a historical building and the doors need to match what is existing.

#24 Repoint and seal granite and brick wall faces at Station #2.

#25 Improvements to Tufts Main Library elevator. Not size appropriate.

#27 Building repairs, Station #1 North Weymouth and Station #2 East Weymouth. Station #1 was just re-roofed. The building took a beating. Everything is beyond repair. Station #2 needs to have a handicap bathroom built on the first floor. These two buildings are a priority. Mr. Richards has spoken with the Mayor and he will come up with a municipal bond. Mr. Flynn asked what are the handicap issues at Station #1 and #2. Mr. Richards said the issue is that both stations are not handicap accessible. Mr. Flynn asked then what do they need. Mr. Richards said that if you renovate at all you are required by law to bring the buildings up to handicap code.

Mr. Flynn asked about item #5 New Gr. Pond Treatment Plant. There is currently no funding at all at this plant. Has CSC looked at that? Mr. Richards said yes. They are putting together a proposal for a project manager. The Project Manager has to put out to proposals. Mr. Fuqua mentioned if you look back at the schedule sheets it is noted to begin construction in fiscal year '08.

Mr. Clarke said this is in a power point presentation and can be sent out in an e-mail to the board members.

Next meeting will be January 18, 2006.

At 8:55 PM there being no further business, a MOTION was made by Mr. Flynn to adjourn and was seconded by Mrs. Akoury, and UNANIMOUSLY VOTED.

Respectfully submitted

Christine Callbeck
Recording Secretary

Approved by: Paul Hurly Date: 2/21/06