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TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
Minutes of Meeting
February 9, 2005

MEMBERS PRESENT: Peter Monte, Chair, David Markolf, Vice Chair, Eric Brattstrom, Chris Behn, Virginia Roth

OTHERS PRESENT: Miron Malboeuf, Zoning Administrator, Don Swain, LandPlan Inc., John Donaldson, Melna & Peter Hall, Clayton-Paul Cormier, Bill White, Belinda Norris, Michael Walsh, Cindy Carr, Lenore Budd, CTA, Phil Huffman, CTA, Zeke Church, Mgr South Village, Dottie Kyle, West Hill House B&B, Glenn Thomas, Conservation Cmt., Trafton Crandall, Conservation Cmt., Michael Pilarcik, Mgr. South Village, Patty Weston, Neil Johnson, Francis Moran.

AGENDA:

- 1) Call meeting to Order 7:00 pm
- 2) 2005-05-SD, continuation of an application submitted by LandPlan Inc. on behalf of Ward Properties, originally warned for September 29, 2004, at the Warren Municipal Building.
- 3) Other Business
Review Minutes from January 26, 2005

I. CALL TO ORDER

Chairman Peter Monte called the meeting to order at 7:06 p.m.

II. 2005-05-SD - 20-LOT SUBDIVISION OF 170+/- ACRES ON INFERNO ROAD AKA LINCOLN RIDGE

2005-05-SD submitted by Don Swain of LandPlan Inc. on behalf of Ward Properties seeking approval of a 20-Lot subdivision of 170+/- acres. The property, parcel # 048000-100, is located on Inferno Road in the Rural Residential and Forest Reserve Districts. This project requires review under Article 6, Subdivision Review, and Article 7, Subdivision Standards, of the Warren Land Use & Development Regulation.

Mr. Monte asked Mr. Swain to explain what they were up to. Mr. Swain started by saying since it had been several months since their first meeting, that he would summarize the project to refresh everyone's memory. He also stated that there were several items yet to be reviewed by the Agency of Natural Resources, primarily waste water systems, erosion control and storm water drainage, of which they would be relying on their approvals.

Mr. Swain summarized the project as follows: 20 single-family dwellings are proposed on individual lots ranging from 3.0 acres to 8.6 acres in size. All of the lots are in the Rural Residential (R2) District with the Forest Reserve District left untouched. They are all individual lots with covenants that will protect from any future subdivision. It is anticipated that the homes will be in the 2,000 to 4,000 sq. ft. range. All will have their own waste water and water supply systems. Fifteen of the lots will have their waste water systems located on their individual lot, where the remaining seven will be located on common land. All the systems have been designed for a five bedroom dwelling, and the covenants also restrict the homes to a max of five bedrooms.

Mr. Swain said they are proposing two points of access, one off of Inferno Road and the other off of West Hill Extension, however, the latter will be for emergency use only and the use of a gate at that location is possible. Last night they met with the Board of Selectmen and received approval for their primary roadcut off of Inferno Road opposite Coleman Road. The indicated building envelopes are all located on less than 15% slopes, with each envelope approximately 10-12,000 sq. ft. The map also identifies clearing lots, not to be confused with clear cutting limits. The covenants are very clear regarding the cutting or thinning of trees and a "Clearing" plan must be submitted as part of their Design review. The map shows the wetland areas in blue. Both the State and the Army Corp of Engineers along with their biologist have visited the site and given their blessing to the proposed crossings. The original proposed fire pond has been moved based on the State biologist's recommendation. An area by the proposed gate could be developed as a staging area for the fire department.

Chairman Monte then asked the board for any questions they may have. Mr. Brattstrom asked Mr. Swain to address what if anything had been worked out regarding trail systems through the property. Mr. Swain stated that there had been conversations with Catamount Trail Association (CTA) and that they had an agreement in principal with a couple of caveats: 1) the trail must be located in such a way that it does not disturb home owners and 2) until permits are actually issued, Ward Properties does not want to encumber the property with easements or right of ways. Mr. Swain also clarified that though Ward Properties is the current owner, that Lincoln Ridge LLC will become the developer. Chairman Monte asked if the CTA issue would be defined before this process was over. Mr. Swain felt it would.

Chairman Monte then asked Mr. Swain about the project's connection with Sugarbush Ski Area. Mr. Swain replied that one of the corner pins of the property was right at Snowball Trail and that they were proposing a ski off trail at that point. They have had discussions with Sugarbush and have agreed to develop a memorandum of understanding which has yet to be finalized. However in principal it looks good. Any cut trails may be only as wide as six to ten feet but would depend on terrain. Chairman Monte asked about some sort of proposed lift going up? Mr. Swain said any lift was out, and that they were looking at the potential for a dedicated snowmobile trail with a 6x20 shed. Mr. Donaldson said the thought was to possibly have a snowmobile available for weekends or vacations, peak times, and not as a regular service. Sugarbush has expressed a concern about who uses the snowmobile service and in turn has access to their property, and they are discussing what controls can be put in place.

Mr. Brattstrom asked if there had been any discussion regarding road access through adjacent property, specifically the Mirabel property. Mr. Swain stated that Mirabel had been in contact with Lincoln Ridge LLC and is entertaining the possibility of selling the parcel. Nothing beyond that.

Mr. Hall asked why there were seven wells existing on the property. Mr. Swain replied that it was his understanding that back in 1980, 1982, that South Village asked Ward if they could explore for wells in anticipation of possible future purchase and development of the property. Two of the wells are currently part of the South Village water supply. Mr. Hall spoke up and commented that when South Village drilled their wells, his and others went dry. Mr. Swain pointed out that South Village is currently not using any of the wells on the Ward property. Mr. Malboeuf asked for clarification as to whether South Village had the right to tap any of these wells should they need to. Mr. Church replied that there was no recorded, formal agreement and that they were in discussion with Lincoln Ridge LLC about what they could agree on going forward. Mr. Malboeuf also asked if the applicant's hydrologist had made any determination of the impact the developer's wells would have on the abutters. Mr. Swain said that he hadn't gotten that far yet. He did go on to say that the State will look at the impact under certain criteria. However, it does not appear that this particular situation will meet the criteria for State review.

TOWN OF WARREN, VT

Received for Record Feb. 24 20 05at 10:30 o'clock 4 M and Received inVol 172 Page 373-376Elaine E. Seville
assistant TOWN CLERK

Mr. Brattstrom asked Mr. Church to verify that one well was plumbed and usable. Mr. Church replied yes, but that it was not a good quality well and that they did not need it. Mr. Monte asked when the abutters wells experienced going dry, was it during the draw down? (

Mr. Hall commented that Mr. Hunkins lost his water too. Mr. Monte asked if it was a one time problem. The reply was that they all (Hall & Walsh/Norris) had to drill new wells. Ms. Weston commented that even over on the other side of West Hill Ext. that they had some serious well issues. Ms. Kyle commented that she had an easement on the Ward property where she had a shallow well (spring) and was concerned about run-off.

Chairman Monte then suggested that we go around the room so that the public could make comment. Mr. Pilarcik identified himself as being there as he worked for South Village Condos. Michael Walsh and his wife Belinda Norris of 61 Rumble Road were concerned about potential well problems and additional traffic with the new entrance. Mr. Hall stated that he's experienced one dry well and one wet well and does not want a third. Mr. Huffman was there as a member of CTA and wanted to thank the applicants for their conversations so far. He was optimistic that they would figure out a solution. Ms. Budd was also there representing the interests of CTA and stated they would continue to work with the applicant and the Conservation Commission. Ms. Weston stated her concerns were regarding her well and how much use the West Hill Road Ext was going to get. Currently visibility coming out of her driveway is limited and additional traffic could cause a problem. Ms. Kyle stated her question was regarding wildlife. She had both personally and also heard of many moose sightings. She felt the area was teeming with wildlife and wondered what kind of discussion(s) had taken place regarding preserving the habitat. She also inquired as to whether or not anyone had spoken with Susan Morse (Keeping Tracks). Mr. Swain answered that no, they had not spoken with Susan Morse. They were working with a Wildlife Biologist from UVM to evaluate the property and were also talking with the State Dept. of Fish and Wildlife. Though evidence of deer had been found, so far the determination was that the area was not "critical habitat", and that the State would not exert jurisdiction over this area.

Chairman Monte then asked for clarification regarding the number of wells that South Village was looking to have some sort of agreement on. Mr. Church answered that it was only two that were part of their water source, though not currently being used. Mrs. Hall inquired if all the lots had been successfully perked. Mr. Swain replied yes, and went on to explain that 13 of the lots would have their systems on their property, whereas the seven remaining systems would be located on common land, but still be an individual system. Chairman Monte asked if the covenants would preclude any accessory dwellings. Mr. Swain said no, and Mr. Donaldson added that State statute says they were lawful providing there was adequate wastewater capacity. Mr. Malboeuf added that the criteria was different for accessory dwellings used by a family member versus a non family member. The overriding criteria is the total number of bedrooms. Mrs. Roth asked if the covenants limited the maximum square footage of the homes. Mr. Swain said no. Mrs. Roth continued saying she felt it was important to have proper scale.

Mr. Markolf stated that it appeared as if the building envelopes were encompassing conservation areas, and would Mr. Swain please clarify. Mr. Swain replied that it was only secondary conservation areas, not primary. The overriding intent was to keep the envelopes off of 25% grade land. Mr. Markolf then asked about the proposed gate and access on the West Hill Extension road. He also mentioned that he thought the Warren Fire Dept had sent a letter with some of their thoughts/concerns. Mr. Donaldson stated that the road crew was not in favor of a gate due to maintenance issues.

Mr. Swain when on to say that it was an administrative concern for the fire department as to the kind of gate - would a key be required, who would have it. Mr. Swain said that there are several types of gates that could be employed, some without keys. As to maintenance, Mr. Swain said they were attempting to address that in their covenants with the association being responsible for that area. Mr. Markolf asked if on their site visit it wasn't determined that 13 lots would end up using the West Hill Ext. Mr. Donaldson stated that there was no actual determination, and that there are currently eight users, with two potential from this project having direct access. The applicants are not proposing any additional use by the other property owners, and want to make it a condition in their covenants that the access would be limited to emergency personnel only. Chairman Monte stated that a gate was a potential obstacle, and with Murphy's Law, could present a problem. Mr. Markolf stated that he saw the opportunity for the road to be improved, that would be beneficial to the community and create better traffic flow. Chairman Monte added that there were no safety reasons for the gate, only to limit traffic as a benefit to adjoining property owners and save the developers expense from improving the road. Mr. Donaldson stated that that was assuming improvements to the road could be made that would make a difference. Mr. Brattstrom stated that to take it one step further, that the problem was really at the end of West Hill Ext. where it intersects with West Hill Road, due to grade. Mr. Swain said it had been looked at and there was room to make changes to the grade, though wetlands have yet to be identified. Mr. Donaldson added that it was a matter of degrees - will a percent or two grade difference make enough difference for the eight or so additional cars in traffic. Ms. Weston stated that currently there exists some real safety concerns, as her driveway is at such a slope and that the sight lines are such that coming out onto West Hill Ext is even now a problem and with additional traffic would be worse. Ms. Kyle stated that it could impact her B&B business, as additional traffic would be going by the side of her inn where there is a bedroom and she would be "very unhappy" with additional traffic. Mr. Crandall noted that traveling south on West Hill going towards West Hill Ext had limited sites lines and that the Board may want to keep that in mind as well.

Chairman Monte asked about the continuation of the internal roadway - that the regulation required them to look at any potential for future road connections through the abutting properties. Mr. Swain replied that the Mirabel property was all in the Forest Reserve District, and that a drive would be too steep, and once into the property that the land was not buildable. Should the development purchase the parcel, it would be for added open space and protection.

Mr. Crandall from the Warren Conservation Committee stated that the Conservation Committee was interested in the project from the stand point of how it fits in with the conservation criteria outlined in the Town Plan. They have yet to review the application, but would be looking at items such as nature trails, wildlife, open space, and primary & secondary conservation land. Mr. Crandall also commented that from a first look, it did not appear as if any type of clustering had been employed that may provide for greater areas of open space and preservation of wildlife. He said that once they reviewed the application that they would put something in writing. Chairman Monte also urged them to have an open dialogue with the applicants outside of the meeting(s) with DRB.

Mr. Markolf make comment about the letter from the UVM biologist only referring to deer habitat and how he would like to see it expanded to make note of other wildlife such as moose. Mr. Swain reiterated that the State did not find any critical habitat. Mr. Brattstrom stated that there maybe corridors or avenues of wildlife traffic that should be considered. Mrs. Hall inquired about a report from a hydrologist. Mr. Swain yes, one had been hired, Hopper Consulting but their report was not done yet. Chairman Monte commented that he was looking forward to learning more about the science of their determinations.

Chairman Monte then proceeded to make a list of "hot spots":

1. Use of the West Hill Road Ext
2. Potential extension of interior road (Mirabel parcel)
3. Location of Inferno Road access
4. Verification that the proposed building envelopes do not encroach on primary conservation areas/address any Conservation Committee Concerns
5. Expansion of the wildlife study
6. Summit Ventures agreement - access to mountain/potential snowmobile traffic
7. Hydrologist's report on the effect the drilling of new wells will have on the existing wells of the abutters/neighbors
8. Catamount Trail Association agreement
9. Maximum square footage restriction on dwellings

Mr. Markolf asked for clarification and assurance that the proposed lot lines did not encroach on the Forest Reserve District as that would require individual site review. Mr. Swain said that if any of the lot lines crossed into the Forest Reserve, they would be moved. Ms. Kyle asked a question about a stream on Inferno Road that feeds a beaver pond on her property, and if any road work associated with the project would cause it to be filled in. In reply, Mr. Swain indicated that it might be considered wetlands and that they would want to stay away from any alteration to that area.

Chairman Monte then asked if the board should start reviewing the criteria or were there still too many open questions. Mr. Markolf said he saw no sense of urgency as he thought there were still some big issues out there. Mr. Swain stated that they would like to proceed as quickly as possible. Chairman Monte then suggested they at least take care of some housekeeping items.

MOTION by Chairman Monte to classify this application as a Major Subdivision. Seconded by Mr. Markolf. VOTE: unanimous, motion carried.

MOTION by Mr. Markolf to accept the application as complete. Seconded by Mr. Behn. After discussion and review of the items on Table 6.2 (D), Mr. Markolf amended his motion to deem the application complete but reserve the right to request submission of additional information. Motion as amended Seconded by Mr. Behn. VOTE: unanimous, motion carried.

Mr. Swain brought to the Board's attention the traffic study information he had brought to the meeting. The analysis showed the following as a result of this proposed development: one more vehicle coming from ski area onto Inferno Road; one more vehicle on Inferno Road to the ski area; three more vehicles going down the Access Road; Two more coming up the Access Road and turning onto Inferno Road; no change just coming up the Access Road; one more vehicle from the village to Inferno Road. Mr. Swain also stated that this was based on a peak time of New Year's weekend. Ms. Kyle commented that there was also some seasonal traffic impact during the summer when Lincoln Gap is open and that she has observed increased traffic on West Hill Road at that time.

Chairman Monte then stated that it appeared as if there was not much more they could accomplish at this point until they had answers/resolutions to the items on the laundry list. Chairman Monte stated that in order to resolve the West Hill Road, West Hill Road Extension issue, and Mirabel Parcel access, that a site visit would be necessary. A discussion with Mr. Malboeuf ensued as to the schedule for the next few weeks.

MOTION by Chairman Monte to recess this hearing until a site visit on Wednesday February 16, 2005 at 7:00 am and to reconvene the public hearing on Wednesday March 9, 2005 at 7:00 pm. Seconded by Mr. Markolf. VOTE: unanimous, motion carried.

III. Other Business

Discussion ensued regarding the disposition of the January 26, 2005 minutes. Some members received by email, others said the attachment was not there. It was agreed that the minutes would be re-emailed and as long as three members came in and signed we'd be done with it.

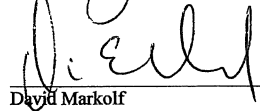
Chairman Monte then asked Mr. Brattstrom if his wife's involvement in the discussion about the application for the Ward Properties parcel had given him any second thoughts regarding his involvement. Mr. Monte continued by asking if Mr. Brattstrom felt he could vote contrary to his wife's financial interest. Mr. Behn stated that Ms. Kyle did express some pretty strong feelings regarding potential loss of business. Mr. Brattstrom commented that his wife's concern about additional headlights coming down West Hill Road (Ext?) was the same as the rest of the neighbors. Chairman Monte then stated that the real issue was the appearance of a conflict. Mr. Brattstrom stated that he had approached the applicants (Mr. Swain & Mr. Donaldson) and asked them if they wanted him to recuse himself and they had yet to indicate that they wanted him to do so. Mr. Monte stated that that puts them in a dilemma and that it was Mr. Brattstrom's responsibility to make that decision.

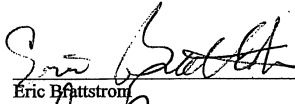
Chairman Monte then requested that an item be added to the next meetings agenda to propose that the DRB amend the rules of procedure to have any questions of conflict of interest be decided by the board instead of leaving it up to the individual. Mr. Brattstrom queried as to whether State Statutes would allow...Mr. Monte stated that State Statute allows the board to adopt their own Rules of Procedure. Mr. Brattstrom commented that he was surprised that this issue was being brought up again. Chairman Monte stated that when it was initially brought up it was in the abstract. In addition, Mr. Monte stated that he didn't doubt that Mr. Brattstrom, in his own mind, would be as impartial as he could be. However, there was an appearance of conflict that reflected on the entire board. To further clarify, Chairman Monte stated his proposal to amend the rules of procedure would first allow the individual to decide whether or not to recuse him/herself, then if there was discomfort amongst the board members or with the applicant then step two would be for the board to vote.

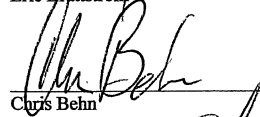
MOTION by Mrs. Roth to adjourn the meeting. Seconded by Mr. Behn VOTE: unanimous, motion carried at 9:12 pm.

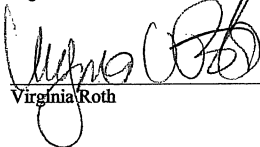
Respectfully submitted,
Ruth V. Robbins
DRB/PC Assistant

 2/23/05
Peter Monte, Chair date

 2/23/05
David Markolf date

 23 Feb'05
Eric Bhattstrom date

 02-23-05
Chris Behn date

 2/23/05
Virginia Roth date