

Call to Order:

The Planning Board Meeting was called to order at 7:35PM on June 22, 2021 via Cisco Webex online video conferencing platform. Present were Chair Zachary Bergeron, Vice Chair Rocky Leavitt; Members Ann Knowles, Vincent Chiozzi, Jr. (joined at 7:40PM via phone call), Neil Magenheim, and associate Morgan von Prella Pecelli. Also present were Jacki Byerley, Planner, Lisa Schwarz, Assistant Director of Planning, and Tom Urbelis, Town Counsel.

DISCUSSION ITEMS:**Minutes:**

On a motion by Mr. Magenheim, seconded by Ms. Knowles, the Planning Board voted to approve the minutes for the Planning Board meetings on April 13, 2021, May 11, 2021, and May 25, 2011. **Vote: (5-0)**

Summer Planning Board Meeting Schedule Review:

Ms. Byerley asked for Planning Board members to confirm availability for the following upcoming meetings: July 13, 2021, July 27, 2021, August 10, 2021, and August 24, 2021. Due to conflicting schedules, the Board decided to proceed with one meeting in August and moved the date tentatively to August 18, 2021 at 7:30PM. It was not determined at this time whether the meetings would take place virtually or in-person. Ms. Byerley informed the Board that four members would need to attend in-person and two members could participate remotely to comply with open meeting law. She added that the Chair would need to be present in-person.

CONTINUED PUBLIC HEARING:**60 Canterbury Street – Special Permit for a Multi-family Attached Cluster (SP20-03) and a Special Permit for Disturbance of Slopes in Excess of 35% (SP20-04):**

Mr. Bergeron opened the continued public hearing and requested an update on this project. Per Ms. Byerley, the applicant had previously requested to continue the Clubview Estates special permit public hearings to review the conservation restriction for the previously approved Frenchman's Reserve and the complete submission to the State in order to provide additional information to the Planning Board and the Conservation Commission. The applicant requested to come before the Board tonight to finalize the special permit, and prior to the meeting, submitted a draft conservation restriction along with revised plans that have been updated to address questions and concerns discussed at the previous hearing. Plan revisions included the addition of a sidewalk to the mailboxes and modifications to the Water Service Sketch Plan. Kathryn Morin, Attorney for the applicant, Doug Lees, Engineer, and Tom Urbelis, Town Counsel were present to answer questions.

At the request of Ms. Knowles, Mr. Lees provided clarification on revisions made to the walkway. Following this discussion, Mr. Urbelis requested to make a few comments. First, Mr. Urbelis shared that the applicant had submitted a prior proposal to the Conservation Commission that stated the Clubview Estates conservation restriction would be prepared and submitted separately from the comprehensive restriction; however, this is not the case. Second, Mr. Urbelis added that the draft restriction is incomplete and missing pertinent information, including the baseline report. Third, he shared that the Conservation Commission had unanimously voted to recommend to the Planning Board that, should a

special permit be approved, a condition should be added that stipulates that no building permit shall issue until a conservation restriction is approved by the Town and by the State.

In response, Ms. Morin, representing Yvon Cormier, Trustee of CA Investment Trust, explained that the initial proposal did state that the Clubview Estates conservation restriction would be prepared separately; however, the timing no longer supported moving in this direction. She added that the applicant is awaiting baseline documentation from environmental scientists to complete the application for submittal to the Executive Office of Energy and Environmental Affairs (EOEEA); therefore, it was more logical, from the applicant's perspective, to include Clubview Estates in the comprehensive conservation restriction. Ms. Morin suggested that this could potentially enhance the application due to the associated public benefit and increase the likelihood that the comprehensive conservation restriction is approved.

Mr. Leavitt commented that it is important to take a holistic approach with reviewing this project and requested an update on Frenchman's Reserve. Per Ms. Morin, the applicant and the Conservation Commission have not reached a formalized agreement. As a result, the units at Frenchman's Reserve continue to not be sold, although, some certificates of occupancy have been issued.

Ms. Byerley asked the Planning Board if they would like to see an overview of the plan with regards to the conservation restrictions. Mr. Lees displayed the plan and commented that there are over 25 parcels and 140+ acres of land that the environmental scientists are required to provide a baseline report on. Ms. Morin made a correction and informed the Board that there are 28 discrete parcels; however, some are adjacent to each another which eases the burden somewhat. The Planning Board proceeded to discuss the purpose of the baseline documentation and reviewed the plan in more detail with Ms. Morin and Mr. Lees, in which they addressed questions pertaining to the various properties, local restrictions and pathway easements.

Following a lengthy discussion regarding specific easements, Ms. Morin added that this plan was provided for context only and the issues being discussed are beyond the scope of Clubview Estates. Ms. Byerley asked if there were any paths being proposed for Clubview Estates specifically. According to Ms. Morin, Clubview Estates has no public access easement proposal because of the layout of the site. She added that there are no spaces open to the public around the perimeter of Clubview and the developer cannot add a path near the golf course or parking lot area due to safety and privacy concerns.

Mr. Urbelis shared that the Conservation Commission had suggested easements that not been accepted by the applicant, which Ms. Morin provided clarification on. Mr. Urbelis also requested information from Mr. Lees with regards to sewer-related issues. Per Mr. Lees, the Department of Public Works (DPW) requested some changes to the water service, which have since been completed.

Regarding the Conservation Commission's request to withhold building permits, Ms. von Prella Pecelli asked if there is a precedent for such action. In response, Ms. Byerley explained that each project has its own set of conditions and referred to a section in the bylaw that allows withholding the conveyance of units until the conservation restriction has been reviewed and approved by the Planning Board, but it does not specify the Conservation Commission or the State. Mr. Urbelis added that the bylaw states approved and recorded, therefore requiring a signature from the Conservation Commission and the

Select Board. Additionally, he commented that the Planning Board has significant discretion and leeway regarding conditions, and he believes that what the Conservation Commission has recommended is an appropriate and enforceable requirement. In response, Ms. Morin stated that they have been making a significant effort to work with the Town, the Planning Board, and the Conservation Commission; however, these efforts should not be interpreted as an agreement that the Board has a right to take such action or that it is enforceable under the section of the bylaw relative to this special permit.

The Planning Board proceeded to discuss Clubview Estates and the proposed condition relative to the Frenchman's Reserve project. They also reviewed the applicant's long-standing agreement to obtain EOEEA approval of the comprehensive restriction and his failure to do so. Aside from the bylaw, Mr. Leavitt asked if it was appropriate for the Board to also consider the other projects that have come before the Board and their status when reviewing the Clubview Estates application. According to Mr. Urbelis, it would be appropriate considering the applicant's history with the Town. He added that the bylaw contemplates referring projects to various Boards to make comments and reiterated the Conservation Commission's recommendation to the Planning Board.

Ms. Byerley recommended that the Planning Board continue the public hearing to the next meeting on July 13, 2021 in case new information becomes available. Mr. Chiozzi asked if Ms. Morin understands the requirements being requested by the Town. In response, she answered affirmatively and stated that all requirements of the bylaw have been met relative to Clubview Estates and there are no outstanding action items. Mr. Urbelis disagreed, referring to a proposal that the applicant made to the Conservation Commission on June 1, 2021 and subsequent questions he raised regarding the sequencing of the proposal that he is currently awaiting answers on from Ms. Morin. He added that it would be premature for the Planning Board to take a definitive action based upon what was submitted for this hearing. Ms. Byerley provided clarification that the Board's role with regards to this project is to vote on the special permit and not the conservation restriction. The Board proceeded to have a robust discussion on the requirements for the comprehensive restriction and local restrictions regarding Clubview Estates and other past projects, followed by a statement from Ms. Morin that requiring a greater formal agreement with the Town relative to another project is not a legal basis for the Board to not act or deny this special permit application.

Mr. Urbelis asked the Planning Board if they want to request a completed baseline report which was discussed earlier in the meeting. Per Mr. Lees, the baseline report covers 28 parcels and 146 acres of land and is needed as part of the comprehensive conservation restriction application to the State, but it does not necessarily pertain to Clubview Estates. The Board discussed continuing the public hearing to see if the applicant could provide additional information, though not likely from their perspective.

On a motion by Mr. Magenheim, seconded by Mr. Leavitt, the Planning Board voted to continue the public hearing on 60 Canterbury Street for a Special Permit for a Multi-family Attached Cluster and a Disturbance of Slopes in Excess of 35% to the July 13th Planning Board Meeting at 8:00PM. **Vote: (6-0)**

DISCUSSION ITEMS:**Master Plan Update:**

Ms. Schwarz provided an update on the Master Plan Steering Committee, which is comprised of 13 members, including Planning Board Members, Ms. Knowles, and Ms. von Prella Pecelli. The Committee will be conducting focus groups as a first step to developing the vision for the Master Plan, where participants will be asked why they live in Andover, what they like and dislike about the Town, and where they see themselves in 10 years. At the inaugural meeting on June 17, 2021, the Committee conducted mock focus groups with their own members, moderated by Ms. von Prella Pecelli. Ms. Byerley commented that the process was interesting, and she looks forward to hearing the perspectives of other residents and stakeholders. Ms. Schwarz shared her plans to create a survey to find volunteers for future focus groups, to be conducted over the Summer and Fall, with the hope of reaching residents from a wide range of backgrounds and demographics.

Other Business:

Ms. Byerley shared that reappointments for the positions of Chair, Vice Chair and Secretary will be placed on the next meeting agenda for discussion or to be voted on.

Ms. Byerley also informed the Planning Board that a virtual community forum on the Route 133 Corridor is scheduled for Thursday, June 24, 2021 and a meeting link would be forthcoming.

Adjournment:

On a motion by Mr. Leavitt, seconded by Ms. Knowles, the Planning Board voted to adjourn the meeting at 9:10PM. **Vote: (6-0)**

Documents:**60 Canterbury Street – Clubview Estates:**

- 15-639 Comprehensive Conservation Restriction Exhibit B – 6.22.21
- 0104F Water Sketch – 6.21.21
- Memorandum to Planning Board from Doug Lees re: 0104F Water Sketch – 6.11.21
- Letter to Jacki Byerley from Attorney Morin re: Conservation Restriction – 6.14.21
- Letter to Jacki Byerley from Attorney Morin re: Easements – 6.17.21
- Memorandum from CLEAResult to Doug Lees re: Energy Efficiency – 2.5.21
- Conservation Restriction Draft Plan – 6.14.21
- Conservation Restriction Overview Plan – 6.22.21
- Memorandum from Lynn Viselli to Planning Board re: Conservation Commission Condition – 6.2.21
- Clubview Estates Site Development Plan – 6.9.21
- Comprehensive Conservation Restriction EOEEA – 6.14.21
- Email from Tom Carbone to Jacki Byerley re: Health Comments – 6.14.21
- Memorandum from Jacki Byerley to Planning Board – 6.19.21
- 2.9.21 Planning Board Minutes
- Email from Jeffrey Crane to Doug Lees re: Water Service Sketch – 6.21.21

- Memorandum from Tom Urbelis to Conservation Commission re: Conservation Restriction – 5.17.21

Minutes:

- 4.13.21 Planning Board Minutes
- 5.11.21 Planning Board Minutes
- 5.25.21 Planning Board Minutes