

Approved 3/8/15

**Town of Rockport Planning Board
Wednesday, March 11, 2015 – 5:30 P.M.
Rockport Opera House Downstairs Meeting Room
Meeting Televised on Channel 22**

Board Present: Chair John Alexander, Tony Bates, Terrie MacKenzie, James Ostheimer, and Sarah Price

Board Absent: Thomas Murphy and John Viehman

Staff Present: Planning and Development Director James Francomano, Videographer Tom Goodwin, and Recording Secretary Deborah Sealey

Chair John Alexander called the meeting to order at 5:30 P.M.

I. Old Business

Application for an Amendment to the Final Plan for Brewster Point Subdivision off Warrenton Street, last approved by the Planning Board and recorded in 2008. No new lots or dwellings are proposed. Michael Sabatini of Landmark Corp., representing owner (since 2014) HFC-Glen Cove, LLC is requesting Planning Board action per Article 9 of the Town's Subdivision Ordinance to set aside 16 of the 45 existing lots as a future "Phase 2" for sales and construction purposes.

Engineer Michael Sabatini of Landmark Corp. and Attorney Chris McLean represented the applicant. Mr. Sabatini said the submittal by HFC-Glen Cove, LLC contemplated reversal of an approved plan by implementing phasing. The subdivision had all the necessary approvals, but the applicant was now returning to ask for a change. The 70% of the property in green space, which allowed for increased density, had not changed.

Chair Alexander said he understood that the owner wanted to cut the subdivision in half, leaving one-half undeveloped in order to lower the tax burden. Mr. Sabatini had said in his letter of 2/24/15 that 29 of the previously approved lots would be Phase 1 and 16 lots would be Phase 2. The applicant was asking that Phase 2 be "treated in the future as a modification without the addition of lots." He wanted all other aspects of the subdivision to remain the same and the previous approval to remain valid.

Chair Alexander asked Mr. Francomano for his thoughts on the request. The Planning and Development Director said he supported the approach of not worrying about all of the site's development and felt the only question about the proposed amendment was whether the previous approval would remain. He noted that the applicant was motivated to retain the 70/30 split between open space and developed land, but that some lots would be removed from the record. Tony Bates asked what "remove from the record" meant. Mr. Francomano said the easiest explanation was that those removed could not be taxed. A plan must be recorded that showed the new configuration approved by the PB.

Assessor Kerry Leichtman said it was important to understand how the town valued land. These were improved lots, but if removed, would be considered vacant land. The value of an average parcel was \$60,100, while back land was valued at \$5,000 on average. Chair Alexander asked if the proposed change would cause a tax problem and Mr. Leichtman replied that it would not.

Mr. Francomano mentioned the bullet items in Town Attorney William Plouffe's email of 3/5/15, which said that the approved plan would be superseded by the amended plan. Mr. Francomano said Mr. Sabatini had included similar notes on the plan to help a future PB dissect the language. Chair Alexander responded that he wanted to ask the board members whether they wanted to go ahead before discussing details.

Tony Bates asked if the applicant expected a certain number of lot sales in Phase 1 before moving to Phase 2. Mr. Sabatini answered in the affirmative. Mr. Ostheimer asked if no building had taken place due to the recession. Mr. Sabatini confirmed that the recession had left no market and the current management wanted to go forward but was daunted by the carrying costs: he said the vision remained, but getting there was the hard part. The Assessor mentioned that another subdivision had been built at the same time, no lots had been sold, and the buildings were now deteriorating.

Ms. MacKenzie said she had done some work for Mr. Sabatini unrelated to this project. As an appraiser, she had a lot of experience with high-value waterfront subdivisions. Some of those were created at the height of the market and people were left holding the bag in the recession. She said property taxes on these properties were huge and other municipal assessors had been proactive. She felt approving the amendment would preserve some value, as some lots might sell now rather than the whole thing folding and going into foreclosure. She said she supported this type of action because it preserved some value. Assessor Leichtman concurred.

When asked if they were in favor of this change, all PB members said they were.

Mr. Sabatini said the point was to give the developer some assurances that when he returned to Phase 2 all the previous work would not have to be redone. The engineer's Recording Plat Phase 1 contained the language Mr. Sabatini suggested. Mr. Francomano said this language did not meet all of Attorney Plouffe's suggestions, noting that there may be new zoning to interpret in the future. When asked by the Chair if there were phasing notes he wanted to remove, Mr. Francomano said the statement that a future PB "shall treat this as a modification under Article 9.1" would bind the hands of a future PB.

Tony Bates suggested stating that the applicant recognized that Phase 2 might be under new Shoreland Zoning that came into being. Mr. Francomano suggested it could be approved on the condition that sale of lots in Phase 2 would need PB approval. Ms. Price asked if this would still be printed on the plan. Mr. Francomano suggested recording the plan as it was, while putting the condition into the approval. Ms. Price said conditions of approval should always be on the plan and Mr. Leichtman agreed.

Mr. Francomano asked Mr. Sabatini to show the board the proposed changes to the plan. The engineer did so, saying the only change to the plat was that individual lots were not shown. He noted that, because they were trying to institute phasing on an approved plan, he had employed careful language. Mr. Sabatini said what had changed was the only thing that would be reviewed in the future. He objected to Mr. Plouffe's suggested language that "the developer is vacating the existing subdivision approval" for Phase 2 lots, noting that the definition of "developed lands" had already changed; at this point the developer would not get credit for enough of it to allow the approved density. Mr. Sabatini said he was following Article 9.

Ms. MacKenzie asked why a future PB could not be deemed to be in the position of the current PB, driven by Article 9, that it was an approved subdivision. Chair Alexander asked Mr. Francomano how to deal with this question. The Planning and Development Director replied that the PB could approve or disapprove a request. Any conditions placed upon an approval would be there for a future PB to see.

Suggestions concerning how to deal with the language and where it should be located were made and briefly discussed.

ACTION: Tony Bates made a motion, seconded by Sarah Price, to approve the revised plan with the condition that no lots within Phase 2 may be sold or offered for sale without Planning Board approval.
Carried 5-0-0

II. Approval of Minutes

ACTION: Sarah Price made a motion, seconded by James Ostheimer, to approve the minutes of the 11/12/14 meeting as corrected.
Carried 4-0-1 (Tony Bates abstained)

III. Adjournment

The meeting adjourned at approximately 6:35 P.M.

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Respectfully submitted,

Deborah Sealey
Recording Secretary