

Marblehead Planning Board  
Minutes of Meeting  
March 12, 2013

Members present: Phil Helmes, Ed Nilsson, Bob Schaeffner, Jim Bishop, Kurt James and Russell Beck. Others present: Becky Curran – Town Planner, Lisa Mead – Assistant Town Counsel.

A quorum being present the chairman called the meeting to order at 7:30 PM

**Cont. Public Hearing - Incentive Zoning Special Permit - 151 Green Street - Green Street Realty Trust**

The chairman ran through an overview of the project now that all information has been submitted and reviewed. An Incentive Zoning Special Permit application for the development of twenty (20) residential units housed in 10 buildings each containing two two bedroom units and associated site improvements and utilities necessary to provide access and services to building. Seven of the buildings will have a footprint of 1600 and three will have a footprint of 1512. Each building will have 2 floors of living space and a 1 or 2 car garages on the lower level the proposal included twenty eight garaged parking spaces located within the building's garages and nine additional surface parking spaces. The land is approximately 3.65 acres in size. The owner applied for an incentive zoning special permit and verifies that it meets the threshold to pursue that special permit.

The chairman had the planner go through the dates of public hearings. She explained the public hearing was opened on September 11, 2012. Testimony was taken during continued sessions of the Board hearing, as extended with the written approval of the Applicant, on October 9, January 8, February 12 and March 12.

The following members of the Planning Board were present at each session of the public hearing are eligible to participate in decision making: Philip Helmes, Kurt James, Russell Beck, Robert Schaeffner and Edward Nilsson

A motion was made and seconded to close the public hearing. All in favor

The board read through a document which was prepared after the last hearing for each of the Incentive Zoning Special Permit standards:

Preservation of Architectural and design features including harmony with the prevailing character and scale of buildings in the neighborhood and Town. The buildings, as revised, incorporate design details through a combination of architectural elements, materials, color variation and rooflines to ensure a building that is visually interesting and complements the immediate neighborhood.

The character of the site is preserved.

Much of the upland area on the site has been previously disturbed, with significant deposits of construction debris, trash, and other fill material. The property is currently occupied by a single family house, and is mostly wooded. The proposed plan calls for removal of the existing house, debris and trash, leveling and filling of the upland portion of the site within retaining walls, and construction of ten duplex units with associated driveways and utilities. This project provides an opportunity to clean up and enhance a currently degraded property.

Measures to ensure adequacy of convenience and safety of vehicular and pedestrian movement within the site are convenient and safe. The location of a driveway which will provide access and parking for all of the buildings and greatly minimizes the curb cuts required on Green Street. The project driveway is located at a point with excellent site distance.

External emissions of site are minimized The proposed project would entail wetland disturbance during construction. The plan calls for the creation of compensatory wetlands. Roof runoff from the proposed buildings would be collected and recharged through six subsurface "roof water leach fields". Runoff from the paved areas of the site would be collected in deep sump catch basins and undergo treatment through one of two Stormceptor hydrodynamic separators before being discharged via plunge pools toward the existing wetland. The result will be cleaner discharge than presently exists.

The adverse affects on abutting lots, the immediate neighborhood and the Town of Marblehead. The development has been sensitive to the surrounding uses including lowering the height of buildings to a two story building near the residential buildings on Green Street to fit in with the scale of that neighborhood. Also the location of the parking at the rear of the property creates a pleasant streetscape on Green Street.

After considering the required criteria set forth in the By-Laws and the, the Planning Board finds that the Special Permit may be granted because the application satisfies the required standards of the bylaw.

A motion was made to approve the Incentive Zoning Project and issue a special permit subject to the following conditions:

Work shall conform to the plans of record submitted by the Applicant, the usual Construction Practices, plus; rodent control, preconstruction meeting, homeowner's agreement for maintenance and operation, conditions on Buildings including:

- The proposed construction reflects use of building materials such as wood shingles, clapboard, smooth side out HardiePlank lap siding, window and door trim, overhang soffits, windows that are double hung simulated true divided light with permanent exterior muntins inset or projecting from the exterior wall surface.

No vinyl siding may be permitted.

- The color of the buildings shall be varied. The buildings shall not all be uniform in color.
- The building first floor/ garage level shall be a different color and material than the upper floors on the buildings where the garage is not underground.
- In the event that there are any changes to the building plans that are of a material or significant nature, the Applicants shall submit revised building plans to the Town Planner for review and, if determined necessary by the Town Planner, to the Planning Board for approval.
- No building may be expanded in the future by special permit from the Board of Appeals or any other method other than appearing before the planning board for an amendment to this incentive zoning special permit. Under no circumstance shall the footprint of any of the ten buildings be expanded. Affordable units

#### Affordable housing conditions

- There shall be two affordable housing units that shall be indistinguishable from, the market-rate units with regard to exterior appearance, interior size and design, and basic amenities.
- Affordable units shall be permanent in duration to the extent allowed by law.
- The affordable units will be located in building five and building six as shown on plan of record
- For every ten certificates of occupancy issued, one of those issued must be for at least one affordable unit.
- Units of Affordable Housing shall be dispersed throughout the development of which they are part and have exteriors that are equivalent in design and materials to the exteriors of other housing units in the development. The location of each of the Affordable Homeownership Units shall be indicated in the Final Construction Documents and shall be reviewed and approved by the Board prior to the issuance of a building permit.
- The Affordable Homeownership Units shall be reserved in perpetuity for sale to households earning no more than eighty percent (80%) of the median household income for the Boston PMSA, or applicable PMSA in the event of a change. The price for such Affordable Unit shall be set at the price affordable for a household earning not more than seventy percent (70%) of the median household income in the Boston PMSA, adjusted for household size, with a five percent (5%) down payment used to calculate such price. If the Project is funded by the New England Fund of the Federal Home Loan Bank of Boston, pricing shall be in accordance with the "Guidelines for Housing Programs in which Funding is Provided through a Nongovernmental Entity," as published by the Massachusetts Department of Housing and Community Development (DHCD).
- To the extent permitted by applicable law, preference for the sale of seventy percent (70%) of the Affordable Homeownership Units in the initial round of sales shall be given to persons or families who are first-time buyers and who are Marblehead residents. The local preference shall be implemented by a Lottery Agent approved by the Board. Prior to conducting the Lottery, the Lottery Agent

shall submit a final Lottery plan to the Board for its approval. All costs associated with the Lottery shall be exclusively borne by the Applicant.

- Prior to the sale of the 15<sup>th</sup> unit, the developer, his successors or assigns, shall offer to sell, a unit to the town and the town shall have a right, but not an obligation, to purchase, at fair market value, to be designated as an additional affordable unit
- Prior to the issuance of any building permit, the Applicant shall submit to the Board an Affordable Housing Restriction restricting each Affordable Homeownership Unit and which shall be recorded with the Essex County (South) Registry of Deeds or Registry District of the Land Court. Such Affordable Housing Restriction shall contain the following provisions and shall otherwise be in form acceptable to the Board:
  - The Board approved Monitoring Agent shall be the administering agency with the power to monitor and enforce the Affordable Housing Restriction;
  - One of the Affordable Housing unit shall be located in building 6 and one in building 7.;
  - The Affordable Housing Units shall be marketed in accordance with the Board approved Marketing Plan.
  - Prior to the issuance of any certificate of occupancy, the Applicant shall enter into a Monitoring Agent Agreement, approved as to form by the Board's legal counsel. The Board shall notify the Building Commissioner, in writing, of such approval and provide to him or her a copy of such Agreement. Such Agreement shall be consistent with the terms of this Decision and the By-Law and shall ensure the following:
    - Prices of Affordable Homeownership Units are properly computed and reflect that the common area charges will be set based upon the market value of the Affordable Homeownership Unit as affected by the Affordable Housing Restriction in place at the time of initial sale;
    - Income eligibility of households applying for Affordable Housing is properly and reliably determined;
    - The Marketing Plan conforms to all requirements and is properly administered;
    - Sales are made to Eligible Households chosen in accordance with the Marketing Plan with appropriate unit size for each household being properly determined and proper preference being given;
    - The Affordable Housing Restriction meeting the requirements of this section is recorded with the Essex (South) County Registry of Deeds.
    - The Marketing Plan shall make provision for payment by the Applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.
    - All costs associated with monitoring shall be borne by the Applicant, and, after the first round of sales, by the sellers of the Affordable Homeownership Units
  - Prior to issuance of the last occupancy permit or the last group of occupancy permits should they be issued by section or floor, the Applicant shall provide to

- the Town of Marblehead an “As-Built” Plan showing all site improvements including buildings, drives, walks, parking, elevations, water pipes, water gates, sewer pipes and structures with rim and invert elevations, stormwater management system details including pipes and structures with rim and invert elevations as well as volumes provided in settling tank and sand filter. The As-Built Plan shall be accompanied by a certification from a Massachusetts Registered Professional Engineer or Architect stating the Incentive zoning Project has been built in accordance with the approved Record Plans.
- The Applicant shall construct the buildings and units using water conservation construction standards in accordance with the state building code.
  - Conservation Commission reference
  - Landscaping:
    - All planting shall conform to the plan submitted to the board as part of the application as amended
    - The developer has offered and the planning board has that prior to the issuance of any certificate of occupancy for units fronting on Green Street, the planning board has the right to review and approve the landscaping as built and may either approve or require additional planting.
    - In the event that any changes or substitutes to the Landscape Plan are proposed, the Applicants shall submit a revised Landscape Plan to the Town Planner for review and approval and, if changes are substantial it may be determined necessary by the Town Planner, for the Planning Board to review.
    - There shall be no planting within driveway between buildings 4 and 5 set back from street 16 -20’.
    - After the vegetation has been planted, at the end of the second growing season, the applicant must submit a report to the board evidencing that the plantings have reached a minimum 75% survival rate. If the 75% rate has not been achieved, the applicant will re-plant/replace all non-surviving plants at the start of the third growing season and verify such replanting by appropriate evidence to the board. After the third growing season, the maintaining of a 75% survival rate, but not the reporting, is a surviving condition.
  - Trash Collection and disposal of trash and recycling shall be the responsibility of the developer, his successors or assigns and shall be included in the Homeowners agreement. Final methods of trash storage and removal from the site shall be developed and submitted to the Marblehead health department including means and methods and done in a manner consistent with the Board of Health Regulations.
  - Prior to any building permits being issued the proposed plan for re-grading of the site, excavation, stockpiling and reusing the soil excavated from the site in must be investigated by a Licensed Site Professional (LSP) to fully evaluate the site and determine the nature and extent of any contamination on the project site that would be potentially disturbed and/or mobilized by the proposed project.

- A Condominium Association (CA) along with a Declaration of Covenants and Easements shall be developed for the implementation of and the operation and maintenance of the drainage structures, infiltration units, and provision for access and to provide for the enforcement of the conditions which apply to this project. All documents shall be submitted to town counsel and approved by the Planning Board prior to commencement of any site work on the Property or prior to the issuance of any building permit. Additionally, these documents shall be recorded prior to the earlier to occur of, release of any lot or the sale of any lot hereunder. Proof of same must be provided to the Planning Board and Building Commissioner prior to the issuance of any occupancy permit for any structure approved hereunder.
- A Regulatory agreement shall be developed for the for the enforcement of the conditions
- All documents shall be submitted to town counsel and approved by the Planning Board prior to commencement of any site work on the Property or prior to the issuance of any building permit. Additionally, these documents shall be recorded prior to the earlier to occur of, release of any lot or the sale of any lot hereunder. Proof of same must be provided to the Planning Board and Building Commissioner prior to the issuance of any occupancy permit for any structure approved hereunder.
  - A monitoring agreement submitted to town counsel and approved by the Planning Board prior to commencement of any site work on the Property or prior to the issuance of any building permit. Also shall be recorded prior to the earlier to occur of, release of any lot or the sale of any lot
  - The condominium documents shall provide that this traffic flow shall not be changed by the Trustees without prior approval by the Board following a public hearing.
  - Standard permit applications shall be made to the Marblehead Water and Sewer Department for the connection of the water, sanitary sewer and storm drain piping to the appropriate municipal utilities.
  - The Applicant shall be responsible for all building permits, water and sewer connection permits and electric permits and any associated fees as required under the Town of Marblehead Rules, Regulations, By-Laws, and orders.
  - Prior to the issuance of any building or foundation permit and construction, the Applicant shall prepare a set of Final Construction Documents, said documents shall be provided to the Board, the Board's Engineer and the Town Planner -and approved by the Board to confirm that they include final working drawings and specifications prepared in accordance with standard engineering practices that fully incorporate all requirements of the conditions of approval as set forth herein.
  - Lighting Plan, which shall include non-glare, non-spill over lighting and shall be done in conformance with the approved plans.

All in favor Helmes, James, Beck, Schaeffner and Nilsson

Russell Beck left the meeting this being Russell last meeting members thanked him for his excellent service as planning board alternate member.

### **Cont Public Hearing – Site plan approval – 5 Woodfin Terrace – Board of Health**

This public hearing was continued from the February 12, 2013 meeting where no evidence was taken. The applicants presented the proposal which includes the construction of a new transfer station building and improvements to the site including landfill cap. The site is located at 5 Woodfin Terrace and consists of 17 acres in an unrestricted zoning district.

Andrew Petty the Board of Health Director explained that currently the town's transfer station, recycling, and yard waste operations are located on the site. He spoke briefly of the history of when the site was used as a landfill. He also explained that completion of this project is required in response to Massachusetts DEP regulatory requirements and will include the demolition of the existing transfer station building and construction of a new transfer station. He showed on the plan where the new transfer station would be located that will be further into the site than the existing building and introduced the engineer.

Steve Wright the project engineer from Kleinfelder went through the project in more detail and addressed the site plan approval criteria. The site is 17.24. He went on to explain the majority of the proposed project involves capping the 17-acre landfill. As part of the capping, approximately 3.5 acres of the landfill will be excavated from abutting conservation land and other areas to reclaim land and create additional buffer areas. The result of these excavation activities and the relocation of material to within the main body of the landfill will modifications the existing topography to do the capping.

The demolition of the building and its replacement with a new, metal clad structure will result in a significant improvement to site operations and aesthetics.

Phil Helmes asked about the other buildings that are shown on the plan. Mr. Wright explained that in addition to the transfer station there will be a scale house, swap shop, and an attendant's booth there will be a net open area of approximately 16.5 acres.

Mr. Bishop asked about landscaping plans.

Mr. Wright went through the landscaping plans submitted with the Site Plan Approval permit application. Mr. Wright explained that due to the capping requirements, trees located within the limit of the landfill are required to be removed. In accordance with DEP requirements, trees can not be planted on the landfill cap. The areas of the cap that will not be paved will be planted with native grasses that will include a wildflower mix. In various areas where waste will be removed, tree and shrub plantings are proposed to assist in screening areas that are near private properties. A total of approximately 135 trees, approximately 65% evergreen, 35% deciduous shall be planted at a height of 8 to 14 feet, depending on species. Approximately 400 shrubs with a height at planting: 2 to 4 feet, depending on species.

At the site visit it was pointed out that a fence on the northeast portion of the property at the entrance would be installed to provide a visual buffer from the immediate property. The fence is not shown on the plan so will be included in a condition that it shall be a minimum of four feet in height and constructed of a material determined by the Board of Health

He then talked about traffic. He explained that one of the objectives of the proposed design is the improvement of vehicular and pedestrian movement within the site. The proposed site modifications are aimed at improving access and egress to and from all drop-off areas, resulting in improved efficiency and safety for residents. Presently the pattern is haphazard with many overlaps between vehicles and pedestrians. The board asked about the Green Street entrance which is shown on the plan. It was explained that the way would be used during construction as needed and its use would not be as a main entrance but will have limited use after the project is complete as shown on the plans.

The board had concerns and questioned the way the scale traffic and non-scale traffic would work. Discussion ensued.

Kurt James asked if the improvements were generated by current use or the traffic study that was done in connection with the project.

Mr. Wright answered that the improvements to parking and traffic flow reflects current demands on the facility, as well as projected increased demands that may occur over the next 30 years. He stated it is designed to significantly improve vehicular and pedestrian movement at the new facility. The traffic will be in accordance with the patterns shown on the plans submitted with the application.

The project includes extensive storm water quality improvements, as well as improvements to wetlands, including wetland restoration, replication and enhancement. The project has been approved by the Conservation Commission and meet regulatory guidelines and standards established by the DEP. It will also go to the board of appeals since it is located more than twice the setback from the street.

New compaction and conveyance equipment will result in more efficient trash transfer operation that will reduce litter generation and allow the overhead doors of the transfer station to be closed at the end of the day and during operations as necessary, provides odor and dust controls not currently available with the existing transfer station and greater security in order to reduce any emissions and impacts from the site.

Mr. Helmes asked if there was any member of the public that wished to speak. There was no one in attendance who wished to speak. A motion as made and seconded to close the public hearing. All in favor.

After considering the required criteria set forth in the By-Laws, the Planning Board finds that special permit for Site Plan Approval may be granted.

A motion was made and seconded to approve the Project as shown on the Record Plans subject to the following conditions

All of the standard conditions including: adherence to record plans as amended, construction practices, violations, plus additional conditions:

- subject to order of conditions and board of appeal special permit,
- landscaping maintenance language
- Final site plans to include fence on the northeast portion of the property at the entrance to provide a visual buffer form the immediate property. The fence shall be a minimum of four feet in height and constructed of a material determined by the Board of Health.
- During construction the Board of Health may at their discretion use the Green Street access way for construction vehicles or general public facility access if deemed necessary.

All in favor (5-0)

**Cont. public hearing – Site Plan Approval – 8 Follett – Goodby**

A motion was made and seconded to continue to the board's next regularly scheduled meeting. All in favor

**Cont. public hearing – Site Plan Approval – 18 Barnard Street**

Paul lynch explained that the Application for a Site Plan Special Permit Approval requests permission to construct a second story addition to an existing nonresidential structure at 18 Barnard Street. The subject property is located on Barnard Street and consists of approximately 3048 square feet of land. The property is located within a General Residence & Business 1 zoning district. The property has a detached garage. The proposal is for the construction of a 837 s.f +/- second story addition. The plan calls for utilizing the existing driveway,

A motion was made and seconded to issue a Site Plan Approval Special Permit with the standard conditions and no special conditions. All in favor

**Cont. public hearing Site Plan Approval – 9 Corn Point Road – Rockett**

Scott Patrowicz engineer for the applicants explained that the Application for a Site Plan Special Permit Approval requests permission to construct a single-family dwelling on the property at 10 Corn Point Road. The property consists of just over an acre of land on Corn Point Road and is located within an Expanded Shoreline Single Residence District. Presently there is a single family structure on it which will be demolished. The board asked Mr. Patrowicz to go through the criteria and found the following:

The architectural and design features are in harmony with the prevailing character and scale of buildings in the neighborhood and Town. 10 Corn Point Road has been designed to take into consideration the predominant vernacular architecture found in the Marblehead

area. The overall architectural massing of the residence is much more characteristic than the existing house.

The extent to which the character of the site is preserved. The proposed house has been sited to minimize the amount of earth disturbance. A large ledge outcropping (along with wooded land) on the northern side of the property has been preserved in order to serve as a natural buffer with the abutting property.

The adverse effects on abutting lots, the immediate neighborhood and the Town of Marblehead are minimized. The proposed residence is designed to fit into its surrounding residential neighborhood. The orientation of the footprint and the elevation of the first floor level are chosen to capture views to the water while being respectful of the privacy of its closest neighbor to the north across Corn Point Road.

The extent to which external emissions from the site are minimized or eliminated. To control erosive storm water runoff a rain gardens is proposed. The rain gardens are designed to detain any storm water runoff from the lot, filtering it thru the special soil medium prior to discharge thru a level spreader into the buffer zone to the inland wetlands. Other external emissions are just those customarily associated with a single-family house.

Vehicular and pedestrian movement within the site are convenient and safe. The driveway access point to 10 Corn Point is in the same general location as the exiting driveway.

The Planning Board grants this Site Plan Approval Special Permit in accordance with the standard conditions plus the following special conditions;  
Construction vehicles will park on site as much as practical.

- Conservation Commission – this decision is subject to the order of conditions issued by the conservation commission

### **Public hearing – site plan approval – 5 Redstone Lane**

A motion was made and seconded to allow the petitioner to withdraw without prejudice.

All in favor

### **Old/New Business**

A sign package for the Warwick was submitted by architect Michael Sinesi. He will revise and come back at the board's next meeting.

Respectfully submitted

Rebecca Curran

