

COMMITTEE ON SPECIAL PERMITS
NOVEMBER 26, 2018 at 7:39 p.m.
WOBURN CITY HALL
COMMITTEE ROOM

Voting members present: Chairman Richard Gately, Alderman Joanne Campbell, Alderman Mark Gaffney, Alderman Darlene Mercer-Bruen, and Alderman Edward Tedesco

Non-voting members present: President Richard Haggerty, Alderman Michael Concannon, Alderman Michael Anderson, and Alderman Lindsay Higgins

Seaver Properties LLC for a special permit and site plan approval to allow 41 residential townhouse units and a waiver of the required buffer zone of seventy feet between the R-3 zoned property and O-P zoned property at Hinckley Street, Warren-Mishawum Avenue, Mishawum-Dexter Avenue, Dexter Avenue, North Maple/Monks, Monks Warren, Monks Street: Appearing for the petitioner was Attorney Joseph Tarby, Murtha Cullina, 600 Unicorn Park, Woburn, MA. Chairman Gately said the committee discussed a lot of things at its last meeting on November 13, and that Alderman Tedesco has come up with some conditions. Alderman Tedesco said he sent a draft list of conditions to Attorney Tarby to print. Mark Sleger, Alan Engineering, 110 Winn Street, Woburn, MA, said the main focus of the landscaping plan is to provide a buffer between Mr. Seaver's development and the surrounding properties. He said there will be white spruce trees planted to augment a 6-foot vinyl fence, a portion of which is on top of a 3-4-foot rock wall, meaning the height of the fence from the ground is between 9-10 feet. He said there will also be some ornamental trees in the western corner of the parcel. Attorney Tarby said he printed Alderman Tedesco's list of proposed conditions. He said he has to fill in the date on condition #1, and that any text in blue represents revisions made by the petitioner. Motion made by Alderman Mercer-Bruen and seconded by Alderman Campbell to accept and make part of the permanent record a list of draft conditions submitted by Alderman Tedesco and revised by the petitioner's attorney, dated November 26, 2018; approved, 5-0. Chairman Gately said the conditions were set forth by Alderman Tedesco with input from other members of the committee. Alderman Mercer-Bruen asked about condition #2b, which reads: "Improvement to the intersection of School Street and Merrimac Street." Alderman Tedesco replied there are plans to make the intersection into a "T," shape. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen to send a communication to City Engineer Jay Corey asking him to forward a copy of the plans for revisions to the intersection of Merrimac and School streets and write a summary of the proposed improvements; approved, 5-0. Alderman Tedesco said he will ask DPW Supt. Jay Duran to work with the developer on finalizing a plan for a water loop and fire flow testing. Chairman Gately said the petitioner might want to think about installing an additional fire hydrant. Alderman Mercer-Bruen suggested including a provision in condition #13 about construction hours that references both interior and exterior work. Alderman Higgins said she does not think there should be any activity on holidays or Sundays. She said when City Hall is closed, there should be no activity at the site. Alderman Mercer-Bruen asked when Alderman Tedesco intends to get the petition to the floor for a vote. Alderman Tedesco said he would like a vote to take place at the City Council's meeting on December 4. Alderman Mercer-Bruen said the prohibition on construction should be for both inside and outside activities. Alderman Higgins said there should be no work during any city of

Woburn holidays. Alderman Mercer-Bruen said she would like to see the petition get tightened up before there is a vote. She said Building Commissioner Thomas Quinn would also like to see the petition get tightened up. Motion made by Alderman Tedesco and seconded by Alderman Higgins to amend condition #13 to read "No work on site shall be permitted on Sunday or state and federal holidays recognized by the city of Woburn" approved, 5-0. ~~Scott Seaver, of Seaver Construction, 215 Lexington Street, Woburn, MA, said there has been some confusion about working on holidays. He said there would be no constricton on the seven holidays during which no one works but said there are other lesser holidays during which work is permitted. Chairman Gately said there is no one available in the city for enforcement or inspections on state and federal holidays. President Haggerty said the council isn't talking about a lot of days during which work will not be permitted. Alderman Tedesco said condition #17 should be removed because the landscaping plan has been submitted. Attorney Tarby said condition #24 was included to address concerns raised by two abutters, Mr. John Devine of North Suburban Transportation and Anthony Cierri of A Cierri & Sons Construction. Alderman Mercer-Bruen said that condition doesn't exclude anything in the city's zoning ordinance. She asked Attorney Tarby if he has talked to Mr. Devine since the last committee meeting. Attorney Tarby said the list of conditions was forwarded to Mr. Devine's attorney. Chairman Gately said the water main has to be looped and asked if Attorney Tarby has consulted with the Woburn Fire Dept. Alderman Tedesco said he has met with DPW Supt. Jay Duran and they would talk about any additional requirements. Attorney Peter C. Nechtem, MacLean Holloway Doherty & Sheehan, P.C., 8 Essex Center Drive, Peabody, MA, represents Mr. Devine and said condition #24 is not helpful to his client because it is not legally binding. He said a covenant that runs with the land to not sue Mr. Devine would be preferable. He said his client would be looking for a covenant to protect him from noise complaints. He said all of his client's other concerns remain. He said Mr. Devine also has a dispute over his rights to Hinckley and Warren streets. He said he read the memo from Attorney Miller that was introduced by Attorney Tarby at the previous committee meeting and the two sides would have to agree to disagree because there is case law on both sides. He said he has spoken with Mr. Brussard's attorney and Attorney Tarby. He said he has noted his client's concerns about the proposed buffer zone. He said one of the parcels that is being used as part of the Seaver project was not re-zoned. He said it is clear Mr. Seaver can't use that parcel. He said six parcels were re-zoned to R-3 and the applicant is using the Dexter Street parcel, which he said is not included on the order. He said this creates a problem for the applicant. He said if that parcel remains R-2, Mr. Seaver does not have enough land and the project will violate zoning requirements. Alderman Concannon asked if Attorney Nechtem can put his statement in writing and forward it to the City Solicitor. Attorney Nechtem said he can. Alderman Concannon said he would like the City Solicitor to render an opinion on Attorney Nechtem's assertions. Alderman Concannon asked Attorney Nechtem if he has seen proposed condition #25. Attorney Nechtem replied he has not. Alderman Concannon asked Attorney Nechtem if there is additional language that would protect his client's interests. He said the issue is not necessarily distance but it is also about the actual buffer, and said there are instances when someone may come up with a buffer that is better than distance. Attorney Nechtem said he would need a little bit of time to review the buffer zone issue. Alderman Concannon told Attorney Nechtem the council does not want the project to negatively impact his client. He said the burden should be on the applicant, not the neighbors. Attorney Tarby said the re-zoning plan includes 5.988 acres of land. He said there were nine parcels on the original petition. He said all the property was re-zoned. Alderman~~

Anderson asked if the parcel in question was on the original petition to re-zone and it didn't get listed on the order. Attorney Nechtem said the parcel was not re-zoned. He said it is not on the order with all the other parcels that were re-zoned. Alderman Mercer-Bruen said determining whether the parcel is rezoned should be easy. Motion made by Alderman Tedesco and seconded by Alderman Mercer-Bruen asking the City Solicitor to review the petition to determine if all the parcels the petitioner claims have been re-zoned have actually been re-zoned; approved, 5-0. Alderman Concannon said the council is concerned the buffer zone won't be protected. Mr. Seaver replied no buildings will be within 70 feet of Mr. Devine's property, and there will be a fence and plantings to enhance the buffer. Alderman Mercer-Bruen asked if different language will be drafted for condition #24, because she agrees with Attorney Nechtem. Attorney Tarby said he would have to talk to the title company. Alderman Campbell said this has to be done right. Anthony Cierri, of A Cierri & Sons, said he has concerns about the water main and that is should be revised to an 8-inch line. He said there is no sewer there. He said the water line is only 2 ½ feet deep. Chairman Gately said the council will leave it up to the DPW to look at that. He said the line was 5 ½ feet deep when it was installed. Alderman Tedesco said he would like to send the petition back for action with the 25 proposed conditions distributed by Attorney Tarby. Alderman Mercer-Bruen said she does not think the petition is ready for a vote. Chairman Gately said the public hearing resumes next week. Motion made by Alderman Tedesco and seconded by Alderman Gaffney to send the matter "back for action," with 25 conditions; approved, 3-2, with Alderman Campbell and Alderman Mercer-Bruen opposed. Alderman Concannon asked Attorney Nechtem whether favorable action by the council would create irreparable harm to his client's interests. Attorney Nechtem said if his client is aggrieved by the council's decision, his client could seek redress in superior court.

Presidential Ventures LLC for a special permit and site plan approval to allow construction of parking spaces, subsurface drainage structures, exterior lighting and waiver from tree requirement at 8 Presidential Way: Alderman Mercer-Bruen recused herself and left the Committee Room. Appearing for the petitioner was James Mawn, 275 Mishawum Road, Suite 400, Woburn, MA. Chairman Gately said the City Council has already had one meeting and the matter was tabled pending approval by the Conservation Commission. Attorney Mawn said the Conservation Commission held its public hearing and a peer review came back today. He said there are some issues to work out that will require at least one meeting. He said the building at 8 Presidential Way is currently 50 percent occupied by office use by Lahey Health, which is now seeking to occupy the entire building. He said his client is only seeking to improve the parking area, 75-80 percent of which is already used by Lahey Health. Attorney Mawn said the Planning Board suggested four conditions, of which his client approves. He said the City Council requested additional trees, though the site is already heavily-forested. He said his client didn't think the property needed more trees, but after listening to the concerns of the City Council, his client decided he will install trees. He said his client is still working with the Conservation Commission and he expects the plan will be modified after the commission's meeting on Thursday, November 29. He said the petitioner will likely meet against with the Conservation Commission on December 13. Chairman Gately asked if the petition will be ready for a vote from the City Council on December 18. Brian Jones, Allen & Major Associates, 100 Commerce Way, Woburn, MA, said he can't promise the issues with the peer review will be resolved by the ConCom meeting on December 13. Alderman Gaffney said the December 18 meeting is going to be a short one. Chairman Gately said the public hearing will resume on

December 4 and the council will take action on December 18. He said if there are any issues to resolve with the Conservation Commission, they will work on them. He said the council is not going to look for a big mitigation package. He said he has talked to City Engineer Jay Corey and any mitigation money will go toward traffic controls. Attorney Mawn said he will consult with Engineer Corey. Chairman Gately said he thinks the use is a good one for that area.

Motion made by Alderman Tedesco and seconded by Alderman Campbell to adjourn, all in favor, 4-0. Chairman Gately adjourned the meeting at 8:27 p.m.

Attest: _____

Gordon Vincent
Clerk of Committees