



Planning Board Minutes – July 12, 2016

A meeting of the Town of Freetown **Planning Board** was held on **July 12, 2016** at the Freetown Senior Center, 227 Chace Rd, Freetown, MA. **Present:** Nicolas Velozo, Keven Desmarais, Mark Rogers, Robert Jose; Debra Robbins

A. Continued Site Plan Review for Solar Array located at 30 Washburn Road (Map 227 Lot 20)

The Chairman called the public hearing to order at 6:02 PM and stated that since the last meeting, there has been correspondence between the applicant and the Town's peer review engineer. He also states that there was a meeting held on June 28, 2016 between the land owner, Borrego Solar, Historical Commission, Historical Society, Planning Technician, and tribe members to discuss the issues surrounding access to King Philip's cave. He states he was also in attendance.

David Albrecht of Borrego Solar approached the Board. He began by responding to the outstanding project comments raised by the peer reviewer relative to drainage in the second review letter issued by Ryan Trahan of Environmental Partners Group (EPG), dated July 11, 2016. Mr. Albrecht addressed the outstanding concerns as outlined on the EPG letter and explained how each would be satisfied and also stated that certain waivers would be requested:

Conformance with Bylaws

1. 11.28.E.2.a.i – requesting a waiver to show 1 ft topography contours rather than the required 2 ft
2. 11.28.E.2.a.ii – requesting a waiver to show a scale greater than the required 1' = 40' maximum
3. 11.28.H – The applicant will provide the Board with the final executed interconnection agreement with Eversource
4. 11.28K.1 – The applicant stated that they will provide the Fire Chief a project summary, electrical plans, and site plans upon submission of their building permit
5. 11.28.M.3 – The bylaws require a decommissioning estimate and surety. EPG recommends \$77,000; the applicant has revised the estimate and will provide the recommended surety

General Comments

1. EPG states the project should be submitted to Conservation Commission (CC) due to the alteration to some 100 ft buffezone wetland areas; the applicants have already met with CC
2. EPG states the NAVD 1988 datum should be referenced on the plan notes; the applicant states this will be added

Stormwater Calculations

1. EPG states that the recommended post-development analysis method was not incorporated into the revised HydroCAD calculations; the applicant states that this has been address. EPG shall confirm in a future review letter.
2. EPG states that there is incorrect terminology in the post-development analysis which should be corrected; the applicant states that this will take a couple of hours to modify.
3. EPG states that culverts 1 and 2 will have less than 2 ft of cover over the pipe to the finished ground surface of access road and that the applicant may want to confirm the use of HDPE with minimal cover; the applicant states they have added notes to the plan.

Mr. Albrecht explained that the review letter also called for an Operation & Maintenance Plan as well as submission of a Stormwater Pollution Prevention Plan, which will be provided prior to construction. Mr. Albrecht stated that there was a productive meeting held regarding King Philip's cave held with members of the Historical Commission and Society, Wampanoag tribe members, William Simeone, and Steve Christy, who is Mr. Simeone's solar partner. He states it is clear that Mr. Simeone's uncle had promised to donate an acre of land around the cave in 1976; the family will now follow through with the donation and with access to the cave. Mr. Albrecht presented the Board with a letter received from Recupero Law Office LLC, which he read aloud to the Board.

July 12, 2016

RE: King Philip Cave Preservation Area Located on O Washburn Road Parcel, Freetown, MA, Shown on Assessors Map 227, Lot 20

Dear Chairman Desmarais and Members of the Honorable Town of Freetown Planning Board:

Please be advised that I am counsel to Simeone Associates Limited Partnership ("Simeone"), owner of land located on Washburn Road in Freetown and referenced above (the "Parcel"). This Parcel, as you know, is currently the subject of consideration by your Board under an application for site plan review of a large scale solar photovoltaic facility located on approximately 13.9 acres of the Parcel. The purpose of this letter is to address the historically significant "King Philip's Cave," identified on the site plan.

Since initially purchasing this Parcel many years back, Simeone has expressed its intentions to preserve the King Philips Cave and the surrounding area, and to allow access to those interested in visiting the site. That remains unchanged. I am aware of recent discussions with the Historical Commission on this subject where this was again confirmed by William Simone. For my part, I had also reached out to your counsel, Jonathan Silverstein, whom I know and I have worked with in the past, with the same purpose of discussing preservation of, and access to, the site.

You may consider this letter as an expression by Simone that I have been authorized to work with the Town of Freetown and your counsel to identify the one-acre area surrounding the King Philips Cave, as well rights to an appropriate pedestrian access to the site that would allow Simone full use of its Parcel and at the same time respects that preserves this area for future generations to enjoy. This is no simple process, but at your direction, I will begin those efforts.

Very Truly Yours,
Thomas J. Recupero

Mr. Albrecht stated that it was been made clear to him that the preservation of the cave is important to the Board, but that questions of stewardship are not relevant to the conversation of site plan approval; there are 2 potential paths for pedestrian access to the cave, which has not yet been decided. The panels that were near the acre to be donated have been pushed to the west on the revised site plan. Mr. Albrecht states that he took into consideration the concerns about the view of the entrance from the country road; they propose taking a group of the utility pole north of the entrance and away from Washburn Road by an additional 200 ft and grouping them closer together. He presented a graphic depiction of the street view; the existing vacant house will remain, and the old paved driveway will be taken out and allowed to revegetate. The gravel access road will lay west of the house, and Mr. Albrecht states that after installation of the panels, Borrego can work with the Town to narrow this access road; relative to utility poles, a Hendrix connector will sit on top of one of the poles and this will allow wires to be kept closer together. He states that due to the topography and placement of the trees, the system cannot be seen from Washburn Rd. Steve Martin inquired as to whether the gravel access will follow the existing pathway on the parcel; Mr. Albrecht states that the intent is for it to join with the existing pathway.

Mr. Albrecht stated that at the last meeting, Mr. Martin expressed concerns with issues relative to site drainage; there is one outstanding comment relative to this with the peer reviewer. He states that the end result will be that the post development run off will be less and the pre development; the water will be directed to where it flows currently. The Chairman took the time to read letters from the following parties into the record: Freetown Historical Commission¹, Daryl Black Jamieson, Council of Chiefs for the Pocasset Wampanoag Tribe², and Faries Sagamore Gray of the the Ponkapoag Tribe of Massachusetts Indians³.

Mr. Martin asked the Chairman if he had looked at the approvals the Town had with Borrego for their 115 Braley Rd site. The Chairman stated that the documents received thus far and any approvals to be issued will be more fortified than that earlier Borrego site; should Borrego receive approvals, there will likely be conditions that the entrance be maintained to fit in aesthetically with the neighborhood, or tree plantings included to make the entrance more inviting. He further states that the mowing schedule used for the arrays will not work for the entrance; that should not become overgrown. Mr. Martin stated that at the last meeting they discussed the owner do something with the rundown historic house on 32 Washburn Rd. Land owner William Simone stated that they are discussing with the Historical Commission ways to bring it up to current standards with a

¹ Dated 7/7/16 submitted by Mary E.R. Brown, Chairman of Freetown Historical Commission

² Dated 6/13/16 submitted by Daryl Black Eagle Jamieson, Council of Chiefs, Pocasset Wampanoag Tribe

³ Dated 6/13/16 submitted by Faries Sagamore Gray, Ponkapoag Tribe of Massachusetts Indians

builder. Mr. Martin remarked that should this project go through, the developers should consider a traffic detail on Washburn Rd during peak Apponquet High School dismissal times as the road gets very congested. Mr. Albrecht responded that they provide that on many projects and are amenable to working with the Town. The Chairman adds that we can condition the applicants to work with police and fire.

Donna Silva inquired as to whether the applicants had insurance in place for any issues or damages incurred upon the neighboring properties as a result of this project; she specified well, drainage, and foundational issues as examples. Mr. Bill Silva added that his father's well draws water from the Simeone parcel, and inquired as to what would be the recourse if there was any affect to that well. Mr. Albrecht responded that the tributary areas and flow patterns will remain the same. He states he believes there may be a culvert in a low area on Washburn Rd that may be potentially clogged. The office will contact the Highway Surveyor to inspect the culvert in question. Jay Plissey added that there is a brook running west-east across the front of the parcel which may be overgrown, and not yet seen by the applicants. Ms. Silva again inquired as to the insurance coverage for any potentially affected properties; Mr. Albrecht states that Borrego does have insurance but is not aware of the extent of what it would cover. He states that on all projects, should a resident have any issues, there is a contact name and number posted at each site. This contact would be the first line of response for any issues.

Mark Rogers asked if the plan was missing a gate location; Mr. Albrecht responded that that was discussed at the June 28, 2016 meeting. They are not sure where exactly the Historical Commission would prefer the entrance gate, and they are amenable to a condition that the Commission give approval of the location. Robert Jose states that the entrance should be far enough from the street to accommodate a fire engine.

Jonathan Perry of the Aquinnah Wampanoag Tribe states he works for the tribal historical preservation office, and that this project was just coming to his attention. His concerns include preservation of King Philip's cave, however, he states that he doesn't believe that it is the only historically and archeologically significant site nearby. He states he is also concerned about impacts to other archeological assets. Donna Raindance Page of the Pocasset Wampanoag tribe states that she grew up in the area and has known that there is much sacred land around; many artifacts have been taken and the land has been taken away and streams poisoned. She states her tribe members are concerned about losing their history.

Mr. Martin asked the Chairman if he found out the status of any potential vernal pools; the Chairman stated there was a potential pool but it was not going to be touched by the project. Mr. Albrecht states that the closest disturbance would be 225 ft away. Mr. Albrecht addressed the comments of Ms. Page by stating that no herbicides, pesticides, or similar toxins are proposed for this project; the transformers run using 99.9% vegetable oil and the panels themselves do not contain toxic materials. He states the only concrete paving will total to 500 sf and the roads will remain gravel. Cora Peirce stated that she attended the June 28, 2016 meeting and has some remaining concerns regarding what is underground on this site and the disturbance of potential artifacts. She states she is appreciative of the acre being donated, but had questions about top soil being removed and overall wants this land protected. Mr. Albrecht responded that the trees outside the fenced area will be cleared, but no topsoil is proposed to be removed; grading is minimized at all costs. He stated the only portion that is excavated is a 1.5ft x 2.ft deep trench; everything can be revegetated where needed, and 2 large outcroppings will be left intact.

Donna Silva inquired as to the route of the proposed access path to the cave; Mr. Albrecht responded that the access path is open for discussion. The applicants wanted to balance providing interested parties a means to get to the site, without making it too easy for people to congregate such as at Profile Rock, which has had problems with vandalizing. He is willing to work with the tribe and Historical Commission on the best route. Mr. Jose reminded the audience that this is not a permitting process, but a by right use of the land subject to site plan approval. Motion to continue the public hearing to August 16th at 6PM at the Senior Center: Mark Rogers; Second: Nicolas Velozo; All in favor.

B. Lot release and acceptance of surety to Aduke Way

Mark Rogers and Debra Robbins left to recuse themselves from discussion. Deb Pettey approached the Board with her own estimate of the cost of work to be completed, based off of the punchlist received from Environmental Partners Group dated April 8, 2016. She is look to exchange a cash deposit of \$11,000 for the release of 2 covenant lots. She states that there is a big discrepancy between her estimate, and that of EPG outlined in a letter dated July 12, 2016 recommending a deposit of \$29,706; the discrepancy seems to stem from the gravel burrow, which she states is up to elevation and has a stock pile; 500 yards of material had been brought in. She states that she has not yet done the asphalt or granite curbing. She states grade stakes are out, street signs and concrete bounds have been ordered, hydroseeding mostly complete, and the paved piece of the swale is still not done. After some discussion, motion was made by Robert Jose and seconded by Nicolas Velozo to release the lots in exchange for \$17,000 surety deposit. Motion carried.

C. Misc

Debra Robbins and Mark Rogers returned; Nicolas Velozo left for the remainder of the meeting. Peter Hawes approached the Board regarding a letter the family submitted to various Town Boards seeking to take land located off of Bullock Road out of Chapter 61A. The land affected would be where a solar array was approved by the Board in May 2016. The Chairman explained that when taking land out of Chapter, the Town has right of first refusal to purchase the land. Motion to recommend not exercising right of first refusal: Mark Rogers; Second: Robert Jose; all in favor.

Scott Henderson, engineer with Henderson Consulting Services approached the Board regarding the expired Weetamoe Heights subdivision. He explained he is working with the property owners to ascertain which portions of the land are buildable and how this plan could be redrawn to conform to current zoning. He provided a sketch of the lots as they appear on the Assessors Map and overlaid onto that a new wetland delineation. As a result, most of the lots on Matawa Drive hat had been foreclosed on by the Town were shown to be wetlands anyhow. The existing option left would be to extend Jacob's Mountain Rd. Mr. Henderson states that the subdivision rules and regulations allow for a 1500' extension of a dead end street as long as the road is constructed to secondary road specifications. The Chairman stated it is difficult to give guidance without out seeing a proposed plan, but that the Board will entertain any and all requested waivers. Mr. Henderson stated that it may be unfeasible if all of Jacobs Mountain Road has to be brought up to secondary standards. He was advised by the Board to fill out a Form B preliminary plan.

Motion to pay the schedule of bills: Robert Jose; Second: Debra Robbins; all in favor

Motion to adjourn: Debra Robbins; Second: Robert Jose; all in favor

Meeting adjourned at 8:00 pm

Respectfully Submitted,
Lauren Moreau, Planning Technician

RECEIVED
FREETOWN TOWN CLERK
2016 AUG 17 PM 2: 14

JAB