

Minutes

Planning Matters Subcommittee

March 10, 2020 at 10:30 AM

School Committee Conference Room

180 Maple Street, East Longmeadow, Massachusetts 01028

Members Present: Chair Donald Anderson, Marilyn Richards, Sid Starks, Ralph Page, Connor O'Shea

Members Absent: N/A

Others Present: Constance Brawders, Planning and Community Development Director; John Taikina, East Longmeadow Redeveloper; Jane Mantolesky, Attorney; Kenneth Comia, Senior Planner at Pioneer Valley Planning Commission; Katharine Lacy, Senior Planner at Massachusetts Housing Partnership (via phone); Tyde Richards, Planning Board; Joe Conley, Developer (joined the meeting 22 minutes in progress)

The meeting was opened at 10:34 AM.

The minutes from the December 16, 2019 meeting were reviewed. Ms. Richards noted that John Torcia's name should be changed to either Jon or Jonathan to correct the spelling. Also, on page 2 where it speaks to "Atty. Mantolesky suggested that section 4.4" have "of the proposed bylaw" be added to clarify which document was being referenced. Lastly, there was discussion on how to clarify the motion that started with "Mr. Anderson moved that 3.10" to reference what the letters AA, A, B, etc. mean. It was decided to add "of the table of uses" after "Mr. Anderson moved that 3.10."

Motion: Mr. Page moved to approve the minutes of the December 16, 2019 meeting as corrected with the three amendments. Mr. O'Shea seconded the motion. All were in favor.

Ms. Brawders introduced Mr. Comia, who was present, and Ms. Lacy, who was teleconferenced in. Both were available to discuss the outstanding questions surrounding affordable housing.

Mr. Starks asked Ms. Lacy what her thoughts were on what we have so far and what we need to improve upon. Ms. Lacy asked what parcel was being referred to. Mr. Anderson clarified that what is before the subcommittee is a proposed bylaw for a mixed use village district, not a particular project or piece of land.

Mr. Page asked if the section labeled affordable housing covers the affordable housing aspect and ensures the town doesn't slip further behind in our affordable housing. Ms. Lacy stated that section 5.3-B-13 is clear and covers us. Since the subsidized housing inventory (SHI) guidelines are referenced, she believes the existing verbiage we have that incorporates the requirements by reference are sufficient.

Ms. Lacy felt that the 10% of affordable housing units number is a reasonable ask that isn't too much or too little. The units that get created out of this will go on the subsidized housing inventory through the local initiative program as local action units, all of which is under the umbrella of 40B even if it isn't a 40B project. She also mentioned that the phased development guidelines are baked into the eligibility of the SHI, but there is no harm in repeating them again.

Ms. Richards asked about facilitating preferences for senior citizens and veterans so long as it met the Fair Housing Act guidelines. Ms. Lacy said there are limits on which preferences are allowed under the Fair Housing Act and that any preferences must also be included on any permits that are issued for such a development. Mr. Anderson asked if first responders could be added as a preference. Ms. Lacy said no, but you can say town employees. She mentioned that she would forward along contact information for the Department of Housing and Community Development (DHCD) for us to ask if our preferences would be counted in the SHI.

Ms. Lacy listed the allowable preferences categories: (1) current residents, a household in which one or more members is living in the city or town at the time of application; (2) municipal employees, employees of the municipality such as teachers, firefighters, janitors; (3) employees of local businesses; and (4) households with children attending the locality's schools, such as METCO students.

Mr. Anderson asked if the town can commission an impact study and have the cost be borne by the developer and if we need language to state this. Ms. Brawders said that as part of the site plan checklist there is an item for an impact statement on submittals. The town has already adopted Mass General Laws Chapter 44 Section 53G and restating is not necessary. Ms. Lacy felt that this is standard operation procedure that anyone doing business in the state would know this exists.

Ms. Lacy pointed out that local preferences shouldn't be under a host community agreement; they should be addressed in the affordable housing section and controlled in the permit issued by the town.

Ms. Lacy suggested language to the effect of "To the extent permitted by law, local preferences will be used" under 5.3-B-13-C. Mr. Anderson suggested adding "for local residents and town employees." Mr. Conley asked if this would have to be a percentage since it could be challenged under the Fair Housing Act.

Ms. Lacy stated that the preference only applies to the first rent or sale. The local provisions are a one-time deal and don't exist in perpetuity. The units are preserved as affordable but the town cannot preserve the local preferences.

Mr. Page asked if the preservation of preferences can exist in a host community agreement. Ms. Lacy said that whether the preferences or requirements are listed in the bylaw, the special permit, or the host community agreement, the units will only count on the SHI if the DHCD says they count on the SHI. DHCD will only count the units on the SHI if they follow the specific requirements.

Mr. Starks suggested that we keep this as simple as possible. Mr. Page agreed.

Atty. Mantolesky asked for clarification if the town is looking for preferences to only be applicable to the affordable housing units or to the other units as well. Mr. Anderson said only the affordable housing units.

Mr. O'Shea commented that having the preference language under host community agreement isn't necessary if it's already under the affordable housing section and that specific categories shouldn't be listed. Ms. Richards and Mr. Anderson responded that East Longmeadow residents should always be given preference. Mr. Page noted that it doesn't hurt to include it as something for the town manager to consider in the host community agreement.

Mr. Starks asked if we get specific with including certain categories and excluding others if we are setting ourselves up for a lawsuit. Ms. Lacy said you can pick any or all of the four categories.

As a point of clarification, Ms. Brawders noted that the category for households with children attending our schools wouldn't increase our school enrollment since the students are already enrolled in East Longmeadow schools. The preference would provide a way for students to stay in our schools if, through no fault of their own, the household situation changes due to divorce or similar.

Mr. Anderson suggested removing the sentence "To the extent permitted by the Fair Housing Act, this agreement may address housing preference as it relates to senior citizens, East Longmeadow residents, and Veterans" from the host community agreement under 5.3-B-11-D. The paragraph should now read, "The proposed development shall be subject to the provisions of a Host Community Agreement (HCA) negotiated by the East Longmeadow Town Manager and approved by the East Longmeadow Town Council. This agreement shall address impact issues, such as but not limited to, traffic mitigation, affordable housing as outlined herein in section 5.3-B-13, school enrollment, public safety, peer review, as some examples."

Local preference language from Belmont and Melrose was read by Ms. Brawders as examples we could pull from.

Mr. Page suggested that 5.3-B-13-C state "To the extent possible, local preference will be used. To the extent permitted by the Fair Housing Act, this special permit may address housing preference as it relates to municipal employees, east longmeadow residents, and employees of east longmeadow businesses."

Motion: Mr. Starks moved that we accept 5.3-B-13-C as written and spoken by Ralph Page. Ms. Richards seconded the motion. All were in favor.

Mr. Page read the proposed change to 5.3-B-11-D, "The proposed development shall be subject to the provisions of a Host Community Agreement (HCA) negotiated by the East Longmeadow Town Manager and approved by the East Longmeadow Town Council. This agreement shall address impact issues, such as but not limited to, traffic mitigation, affordable housing as further outlined in section 5.3-B-13 herein, school enrollment, public safety, peer review, as some examples."

Motion: Mr. O’Shea moved that we accept the language for 5.3-B-11-D that Ralph read. Ms. Richards seconded the motion. All were in favor.

The teleconference with Ms. Lacy ended one hour and nineteen minutes into the meeting.

The process under the Town Charter for monitoring, enforcement, and sale of affordable units was briefly discussed.

The members went through the document page-by-page to address any final corrections that need to be made.

Mr. O’Shea asked if mixed-use should be hyphenated or have a space between the words, as both forms were present in the document. Members agreed to hyphenate all forms of mixed-use on all documents.

Mr. Anderson questioned whether 5.3-B makes it sound like there couldn’t be a design review committee. Mr. Page suggested removing the phrase “from the Planning Board.” All were in agreement.

Mr. Anderson noted that 5.3-B-2-C should be changed to reference 5.3-B-13 instead of Section 12. Mr. O’Shea noted that 5.3-B-2-C should end with a semicolon and 5.3-B-2-D should end with a period. Atty Mantolesky noted that 5.3-B-2-C should have the word *and* after the semicolon.

Atty Mantolesky said that there should be periods at the end of A, B, and C under 5.3-B-3.

Mr. Anderson suggested that 5.3-B-4-A start with “Allowed uses.” Mr. O’Shea suggested the comma after “two (2) uses” be removed. Mr. O’Shea asked if we should spell out square feet since other parts of the document spell out feet instead of abbreviating as *sf*. Members agreed to spell out square feet.

Mr. O’Shea suggested removing the prefix “Signage:” from 5.3-B-4-C. Members agreed to leave it in.

Mr. O’Shea said the word *be* should be added between *shall* and *twelve* under 5.3-B-5-B.

Mr. Anderson said “Section 12a)” should be changed to “Section 5.3-B-12” under 5.3-B-5-D.

Atty. Mantolesky suggested that 5.3-B-7-E (i) end with a semicolon instead of a period. Mr. Anderson wondered if the word *excessive* should be removed to avoid it sounding like any amount of congestion is acceptable. Members agreed to these changes.

Atty. Mantolesky suggested that the word committee be capitalized under 5.3-B-8.

Mr. Anderson skipped section 5.3-B-9, as it would be reviewed by the town attorney along with the committee’s outstanding questions on the impact of multiple associations.

Under 5.3-B-10, Mr. Anderson noted that Mixed-Use development should be Mixed-Use Village Development. Members agreed to ensure the word *village* is present with mixed-use for consistency throughout the document.

Ms. Brawders suggested that commas be added under 5.3-B-9-A to read “such common utilities, land, facilities, and assessing each unit...”

Ms. Richards suggested adding “of the East Longmeadow Zoning bylaw” to the end of 5.3-B-10-A to make the section references clear.

Mr. Anderson suggested removing the word *ratably* from 5.3-B-9-B. Mr. Conley agreed with removing the word.

Mr. Starks suggested changing the word *may* to *shall* under 5.3-B-11-C.

There was discussion regarding whether two separate impact studies would be conducted or whether the town would simply hire a consultant to review the study that is submitted by the applicant. Mr. Taikina commented that he didn't want the town conducting his study for him and would rather have the town hire someone at his expense to review the results of the study he submits.

Motion: Mr. O'Shea moved to add “A development impact study shall be provided by the developer and reviewed by the town at the developer's expense” as point C under 5.3-B-11 move what was C to point D and what was point D to a new point E. Mr. Page seconded the motion. All were in favor.

Ms. Richards suggested copying the definition of affordable housing that is in 5.3-B-13 to the definitions in section 8 so it's in both places.

Members then reviewed the table of uses document.

Motion: Mr. Page moved to change from no to special permit under 3.041 Mixed-Use Village. Ms. Richards seconded the motion. All were in favor.

Ms. Brawders suggested that 3.053 be reverted to have the word *reserved* instead of a blank space.

Mr. Anderson noted that the bylaw doesn't have any qualifications on the landscaped buffer but the table of uses did for abutting a residential zone. He suggested that the comments under dimensional and density regulations for Mixed-Use Village state, “A 25 foot landscaped buffer is required.”

Mr. Taikina raised a point about the 100 foot accessory setback being inconsistent with the primary use setbacks. For example, the rear setback is 25 feet for a primary use but is 100 feet for an accessory use. Ms. Brawders asked how you would define an accessory structure in a mixed-use development.

Mr. Page suggested replacing the 100 foot accessory setback with a footnote to denote that all buildings will meet primary setbacks.

Motion: Mr. Anderson made a motion that the minimum rear yard be moved from 25 feet to 50 feet in deference to the fact that we already have a 25 foot landscaped buffer and this would keep the landscaped buffer to potentially have area for maintenance and extra growth. Ms. Richards seconded the motion. Mr. O'Shea commented that we don't need to get any bigger since there will always be a buffer on the other side of the property. Mr. Page noted that a residential zone doesn't require a buffer. Mr. O'Shea said that it may not be a landscaped buffer, but you wouldn't have a house literally on the property line in the residential zone. Mr. Anderson stated that there could be houses grandfathered in that could be a few steps away from their neighbors. Mr. O'Shea argued that if those grandfathered homeowners are already okay with their neighbors being two feet away then there isn't a big deal being 25 feet away. Ms. Richards commented that there needs to be separation between the landscaped buffer and the structures as tree lines have encroached on buildings. Mr. Anderson called the vote. The motion passed with 4 aye and 1 nay.

Mr. Anderson thanked the members of the subcommittee for their hard work and dedication to getting something accomplished.

Mr. Conley asked what the next steps are. Mr. Anderson stated that he will update the Town Council at their meeting later in the evening and the documents will be sent to the town attorney for review. Mr. Anderson noted that we won't schedule another meeting until that review is completed. Ms. Richards hoped that there could be a combined public hearing between the Planning Board and the Town Council.

Motion: Mr. Page moved to adjourn. Mr. Starks seconded the motion. All were in favor.

Respectfully submitted,
Connor O'Shea