**Plan Commission**

**Meeting Minutes**

**January 15, 2019**

**Call to Order and Roll Call**

**MEMBERS PRESENT**: Devin Stettler, John Price, Steve Duhamell, Tom Strayer, Mike Cousins, Jon Horton and Barry Wood.

**OTHERS PRESENT**: Director of Planning Ryan Crum, Attorney Ariel Schoen, Town Engineer Mark Witsman, and Planning Administrative Assistant Michelle Strader.

**Agenda Consideration**

Mr. Crum stated I would like to move Daniel’s Vineyard Commitment Modification to the bottom after New Business. We also have appointments; Mr. Cousins is stepping down from the Plan Commission so we will have someone to reappoint there and a few people need recertification so we will do that all next month.

**Approval of Minutes**

**Motion made by Mr. Price to approve the minutes from the December 18, 2018 meeting as presented. Second by Mr. Duhamell. Motion passed 4/0/3 with Mr. Cousins, Mr. Horton and Mr. Wood abstaining.**

**Motion made by Mr. Price to approve the minutes from the October 16, 2018 meeting as presented. Second by Mr. Strayer. Motion passed 5/0/2 with Mr. Horton and Mr. Duhamell abstaining.**

**Motion made by Mr. Cousins to approve the minutes from the September 18, 2018 meeting as presented. Second by Mr. Strayer. Motion passed 4/0/3 with Mr. Stettler, Mr. Price and Mr. Horton abstaining.**

**Old Business**

**Wastewater Plant Rezone – this item will be continued**

Mr. Crum stated we will re-do the notice on this and have it ready for February; we put it on the agenda just for transparency purposes.

**New Business**

**Woodhaven, Section 7, Development Plan and Secondary Plat**

Rick Ellis, representative of Weihe Engineers, stated this is 54 lots on approximately 14 acres. This is the second and final Section for Woodhaven. We have read Ryan’s Staff Report and agree with everything that is on there.

Mr. Crum stated what you’re being asked tonight is to approve the Development Plan and Secondary Plat, call it 7A and 7B, because ultimately Fischer will record those plats at separate times and develop them at separate times. They divide it up so they are bringing less lots to the market at one point in time.

Mr. Stettler asked Mr. Crum if there is anything that you wanted to highlight in your Staff Report. Mr. Crum stated I don’t think so. This is a 100% internal Section in this subdivision so it’s pretty simple.

**Motion by Mr. Wood to approve the Development Plan and Secondary Plat for Woodhaven, Section 7 as presented. Second by Mr. Horton. Motion carried 7/0.**

**2019 Schedule of Meetings**

Mr. Crum stated all meetings remain on the third Tuesday of the month.

**Motion by Mr. Wood to approve the 2019 Meeting Schedule as presented. Second by Mr. Duhamell. Motion carried 7/0.**

**Announcements**

Mr. Crum stated the Director’s Report is posted and noted that 106 single-family building permits were issued in 2018 and is up about 20 permits from 2017. I suspect 2019 will be another increase because more subdivisions are coming to market so there will be more availability and more options for buyers. We will give you a full Annual Report next month after we give it to Town Council.

Also, you might have seen that Geist Montessori has broken ground and they are moving right along. Mr. Strayer asked if the size of it has changed very much. Mr. Crum stated it has decreased. They basically chopped off the west end of the building so the overall design of the building did not change. Mr. Strayer stated they won’t be able to expand it because they moved the site around, correct? Mr. Crum stated I don’t think they can get the original building put back, but they can add some classrooms back if they want to. Atty. Schoen asked when that is scheduled to be done. Mr. Crum stated I’m told next year.

**Daniel’s Vineyard Commitment Modification**

Mr. Crum stated they have requested a withdrawal. Dan sent me an email not too long after the Council vote on the Noise Ordinance commitment and they are requesting withdrawal citing that the Noise Ordinance restrictions restricted them to a point where he didn’t feel he wanted to invest any more money in the site. Mr. Horton asked if there was a recent amendment to the Noise Ordinance. Mr. Crum stated yes, this is the amendment that kind of drug out over the summer; it was finally adopted in December.

Mr. Strayer stated that’s why it kept being tabled because they were waiting for that decision. I had asked Ryan if we could have a discussion in this meeting about it because Barry and I had talked to them a while back just about where they were on things and everything. I believe they feel like they got railroaded in the meeting that they presented, and they didn’t feel like it made any sense to come back because they didn’t know if they could get a good hearing through the Plan Commission. I had asked Ryan if it was reasonable to consider tabling this withdrawal until we have a chance to talk to them and see what their plans are because on the Council the last thing we want to do is to have a business fail and them really look at the Town as a cause for it. I know there was an issue with the sound ordinance, and I think we made a very educated decision on that. I think they feel it is keeping them from doing what they were doing in the past as far as outdoor concerts, but I think it’s as strict as it was because we had to protect the neighboring communities. I feel this distillery discussion got tangled up in the whole sound ordinance discussion and that was one area I thought that they could potentially succeed and not really effect the neighboring communities. Before we just accepted a withdrawal and then talked to them and they would have to go back to the whole process again once we accepted that withdrawal. I want to make sure we are being reasonable with them on this, as well, before we just accept that withdrawal and add that much more potential animosity between the Town and a local business. I don’t know the best way to do this, I don’t know the possibility of doing it, but being the President of the Council I was thinking that maybe Ryan and I or Tonya or somebody could go over and have a discussion with them and see where they are. If all they want to do is withdraw then we accept it. I just want to make sure we aren’t adding fuel to the fire with this. That’s just what I wanted to bring up. I’m not sure where the rest of the board is on it; I’m not sure where the Council is on it, but I want to make sure that any business feels like they have a possibility of a reasonable hearing in front of the Town.

Mr. Duhamell stated I wouldn’t have any trouble with tabling it for 30 days. I feel that we just came up with the ordinance; we’ve had a lot of discussion about this. I’m sure some of us still feel they haven’t handled things correctly and they don’t think we’ve handled things correctly, but I think you, at least, extend an offer to be transparent and say before we do this, understand what’s involved and the additional fees that they can incur later. If their response is not interested then the response is not interested. Unfortunately, it got played out in the press and I think there’s been some things on both sides (inaudible).

Mr. Strayer stated I think that’s the important thing; I don’t want it to come back on the Town and them say we were pretty much forced out of business. This is kind of an olive branch totally separate from the sound ordinance. If it makes sense for both parties, it makes sense. If it doesn’t, it doesn’t and it can drop. I just want to make sure that we’re in the best place we can be allowing it to drop.

Mr. Horton stated I think that’s the right thing to do. I think doing that though doesn’t necessarily change their narrative. I don’t think their story changes at all the way they presented. Mr. Strayer stated but it might change our narrative. Mr. Horton stated exactly; I just think it’s the right thing to do. I would support it, but I don’t think it would change their narrative at all.

Mr. Price stated I would have concerns with it. I think the Town has bent over backwards and has been bending rules in order to keep Daniel’s Vineyard happy. I think at a certain point in time we have to stop necessarily doing that. They voluntarily are requesting withdrawing the application and I see no problems with terminating it. Mr. Strayer stated but if you remember in the meeting where they presented we were in the middle of a discussion and a motion was made to table it and we didn’t get through the rest of the discussion. That’s my concern is they didn’t get a full discussion in front of the Town. Mr. Price stated we’ve had eight months now to have a discussion. I don’t see where the distillery is tied to the Noise Ordinance. Mr. Strayer stated it was pulled together that night. It was connected that night at the meeting; that’s the problem. Mr. Crum stated we connected the distillery with noise, with trailers, with pads and that’s a concern for me. The unfortunate things are for the BZA to deal with, not the Plan Commission.

Mr. Wood stated I don’t see how it does us any harm at all to table it for another month. It may end up right where we’re at and that’s fine. They still have to go through all of the requirements that we have to do, but I don’t see where this hurts us. I just had a conversation with a bunch of residents that I give a spiel to every year; if you’re in a management position the one thing I have always committed to is giving everybody the benefit of the doubt on everything and let the chips fall where they may. That way I can go home at night and look at myself in the mirror and say I did everything I could and it’s up to them to fail at that point. This is the same type of thing. I just want to give them an opportunity to present what they need to present and we either accept or we don’t accept. Things got so comingled in there that from their standpoint I could see they came here to ask for one thing and we’re talking about 20 other things. Those, maybe, need to be talked about, but not in this forum. That’s where I’m at. I don’t see any harm in letting Tom or somebody go out and talk to them and say, listen, the sound thing is gone, it’s separate now. Yes or no on this; that kind of conversation and see where they are. We took a major hit publicly and if this comes back and they end up having to close their building down now we have another problem with a big building sitting out there and who knows what happens to it. I think it behooves us all to try and do what we can to keep the businesses we’ve got, promote new ones and this is the first step of it.

Mr. Price stated didn’t the Plan Commission approve their original request for the distillery. Mr. Crum stated it was a favorable recommendation that went to Council originally and there were some concerns at Council and Council, as it has a right to do, kicked it back for some further discussion and that’s where, I believe, it got tangled up. Mr. Price stated no, it got tangled up because they didn’t want to adhere to the initial terms that the Planning Commission approved. They wanted to have 100,000 gallons, the Planning Commission approved to do 50,000 at Tom’s suggestion and that was approved. It went on to the Town Council and it did get deferred back and when it got deferred back that’s when they wanted to change the terms. Mr. Crum stated they made that choice, sure. Mr. Strayer stated that might be part of that discussion is if you are still wanting to go beyond what the Plan Commission originally had voted on then it could still be a problem, but the second meeting really got twisted around and didn’t end up, I have to admit, at the end of that meeting I was kind of wondering what happened. Mr. Crum stated it was not a good meeting all around for anyone. Mr. Price stated we did approve it. Our attorney said all they have to do is say we agree the previous terms and it would have gone to the Town Council for approval. Mr. Crum stated well, there was something that the Council asked us to look at and I don’t know what that was now. There was something they asked us to look at. Mr. Strayer stated I can’t remember what it was at this point. Mr. Crum stated I want to say it was packaged liquor sales. I think Dr. Burney had a concern about that and that’s why it got kicked back. Of course, no one intended to have that. I think it was more of a clarification than anything else. Mr. Strayer stated I think the only thing it would do to table it is their signs for the hearing would have to stay up for another month. I think that’s the only thing it would do. Mr. Crum stated the signs stay up since it’s on the agenda and the notice letters that went out are still live. Mr. Strayer stated and if they have no interest in pursuing it then we haven’t lost anything at this point. If they do change their mind and decide they want to pursue it then we still hear it and see if it’s valid.

Mr. Horton asked if we are within our rights to not accept it. Atty. Schoen stated yes, you have that right. Greg saw no legal benefit or detriment to setting it out, but it would just need to be a motion that would be passed here tonight to table it. Mr. Horton stated the reason I asked that question, this is for John, I’m just trying to understand your concern about not extending it an additional 30 days if we’re within our rights and given the animosity that came with those things. I hear everything you’re saying, I agree with a lot of what you’re saying, but I also am not fully understanding the concern of giving them the 30 days. Mr. Price stated in February it will be 12 months that we’ve gone through this process to try get the approval. The reality is the Planning Commission has approved what the original recommendation was and all that would have to do is go back to the Town Council and the Town Council can vote on that and they would be able to put their distillery in. Mr. Strayer stated I don’t know if that’s true. Atty. Schoen stated that is not true. Mr. Strayer stated it got kicked back to the Plan Commission so we have to act on it for it to get back to the Council. Atty. Schoen stated correct. Thank you, Tom.

**Motion by Mr. Strayer to table the Daniel’s Vineyard Commitment Modification to the next Plan Commission meeting. Second by Mr. Wood. Motion passed 6/1 with Mr. Price denying.**

**Adjournment**

**There being no further business, meeting was adjourned.**