

TOWN OF GATES  
PLANNING BOARD MINUTES  
November 27, 2017

The regular meeting of the Gates Planning Board was called to order at 7:40 PM by Chairman Wall.

PRESENT MEMBERS: M. Wall, Chairman; T. May, D. Chamberlain, J. Argenta, Daniel Schum, Town Attorney; K. Rappazzo, Dir. Of Public Works; L. Sinsebox, Town Engineer; Lee Cordero, Councilman

ABSENT MEMBERS: G. Lillie, D. Cambisi

The first matter on the agenda was approval of the October 23, 2017 Planning Board Minutes.

Ms. May made a motion to approve the minutes as received. Mr. Argenta seconded the motion. All were in favor; the motion carried.

**VILLAS AT COLDWATER Section 5**

**OWNER: RM Equity Holdings**

**LOCATION: 351 Coldwater Road**

**ENGINEER: Schultz Associates P.C.**

**FINAL SUBDIVISION APPROVAL**

**R-1-11 (Residential Zone)**

Kris Schultz of Shultz Associates was representing this project. He stated that this is the last section of this development. There are proposed 36 units with two of them being singles. He stated that the sanitary sewer has been installed off of Mercury Drive. There has been a little bit of grading work done also. They are anxious to get this section approved since the owner has been doing a remarkable number of sales for these units. Pending approval from the board they are hoping to start construction in early spring. Plans have been sent to the Town Engineer and comments have been received and he has responded. Monroe County Water Authority, the Health Dept. and Pure Waters have received the plans. Pure Waters is just looking for an As Built on the sewer on the Section 5 improvements. He went on to say that they will be able to finally loop the road and Mercury Drive will have a second access to it. They will also be looping a water main through that will provide a second source of water.

Mr. Chamberlain asked about Flood Zone X and AE and wanted to know if they are going to obtain a LOMA.

Mr. Schultz said yes and will follow with a LOMA, similar to previous 4 Sections. Once the preliminary grading is complete, they will perform a topographic survey depicting the grades.

Mr. Chamberlain asked if the area has been final graded; Mr. Shultz answered no. Mr. Chamberlain stated that they have all rocks in that area. Mr. Schultz said that the rocks were interesting; the story behind those is they think they were mined from the original construction on Mercury Drive. They had quite a stockpile and thought it was a natural hill until the contractor started digging for the sewer and found out that they rocks were enormous. They were able to get rid of a few. Some other towns took the rocks.

Mr. Chamberlain would like to see added on the plans statement of proposed drainage and conservation easement to the Town of Gates drainage. Improvements within the town's easement shall be maintained by the HOA condominium. Mr. Chamberlain would like to see 'HOA E' added to identify which HOA has ownership.

Mr. Chamberlain went on to say that for town approvals / signature lines, they have three that they don't need – Building Inspector, Town Attorney and the Town Clerk. Mr. Schultz will remove those names from the plans.

Mr. Chamberlain asked about the gutter grading; it seems to create a drainage issue. Mr. Shultz will take a look at that.

Mr. Wall asked if they are going to have to import fill on the site. Mr. Shultz said that the materials on site will be sufficient. Mr. Wall then asked if they are depicting their stockpile locations. Mr. Shultz said they will be shown on the grading plan.

Mr. Wall stated that on the grading plan between Units #520 and 519, can the '560' contour be blended to promote positive drainage. Mr. Schultz answered yes.

Mr. Wall asked if there are any changes to the building elevations and materials. Mr. Schultz said they will be kept consistent as they are very popular.

Mr. Wall stated that to date there have been no Fire Marshal comments. Mr. Shultz stated that they have not seen anything yet.

Mr. Chamberlain stated that the hydrants on the C-2 map look like they are very close to the back of the gutter. They should be back on to the property a little bit farther. Mr. Schultz stated that where they are shown on the map are more for clarity. He stated that they would follow standard.

Mr. Schum brought up the concern about dedication of the roadways in all of the sections. He said to date the roads have not been dedicated and the concern brought up to him was that a condominium project typically these roads would not be public roadways and would be maintained by the HOA as private roads.

At this point there was discussion about the roads being dedicated. Section 2 thus far have been dedicated as per Mr. Marcello. Mr. Shultz stated that all the roads will be dedicated. Mr. Cordero will check with the Assessor's Office about this. Mr. Sinsebox stated that this project started out as a town house project and changed to a condominium project. Mr. Marcello stated that his attorney sent everything in to the Attorney General and had to be sent in to the association book. So they had to spell out in there that they had dedicated roads. He went on to say that Section 2 is dedicated. Discussion went back and forth about the dedication of the roads. Mr. Marcello went on to say that without the approval of dedicated roads, they would not have been able to send in to Attorney General. Mr. Marcello started out this project as townhomes and when Mr. Assini took office, Mr. Marcello spoke to him about changing to condominiums. The change from townhomes to condominiums is bringing the town approximately  $\frac{3}{4}$  million dollars in taxes a year.

Mr. Marcello spoke about Parkview Place and how the roads were not dedicated roads and the owners need to pay more for the HOA to get the roads plowed. They knew that when they started that project. This project is different.

Mr. Sinsebox stated that he submitted a letter with engineering comments for review.

At this point the meeting was opened to the public.

Mr. Larry Billings of 71 Golden Oaks Way wanted to make clear that he moved to Gates because of the low taxes. He would like to know if Section E has any plans to remove any more trees on the other side of the pond. He stated that especially from the back of his house he had specifically bought the lot because of the forestry behind it. He said he just had concerns.

Mr. Marcello answered that one section has been cleared by the pond. They will be taking out about 50 ft. Everything else will remain.

Joanne Marianetti of 53 Golden Oaks Way stated that she liked the work that Mr. Marcello was doing but there was also a little problem with the number of trees he took down behind her home for Section E. It was addressed back in January in a meeting with Dave Chamberlain, Highway Dept. and Mark Assini. At that time Mr. Marcello had taken down more trees than he should have. He made a remark to the supervisor that he was going to give them back the trees that they lost by planting and beautifying the area again. Right now all is seen is the boulders and tree limbs that are down that were taken down by the wind. She just want to reaffirm that he will be doing this. She does not want to see any more trees taken down. She stated she would be opposed to that.

Mr. Marcello stated to her that he did not take down any more trees than what were supposed to be taken down from the preliminary plan. A couple trees fell down from winds

Mr. Ann Race of 55 Golden Oaks Way stated that she has a letter of confirmation e-mailed because she wanted to make sure that she had it in writing that after the meeting with the Supervisor, she confirmed with him that that was indeed said and what would be done. She finds it very hard to believe that more research was done before doing digging that they did not know that there were natural boulders behind her and not landscape. Someone had to have done some research and knew what was back there. The pictures they had of the area were an artist rendition. She stated that the maps mean nothing to her. She cannot figure out where her house is in relation to this. She went on to state that Mr. Marcello stated that he would replant what was taken down because so much was taken down.

Mr. Marcello explained that he could not replant the trees because houses will be going where those trees were taken down.

Ms. Race went on to say that she is here at the meeting to support her neighbors. She went on to say that she has in writing that Mr. Marcello stated he would replant the trees after construction was finished.

Mr. Wall asked for a copy of the e-mail. Ms. Race stated she will send the e-mail to the town attorney.

Mr. Sinsebox has been to the site and stated that Mr. Marcello has not cleared any more trees that what was stated in the original plan. He had to take down a lot of trees to construct the lots and streets. Because of one phase at a time, the people will pick out a lot and a few years later, the trees are being cleared out to build the next phase. Some trees were lost in the wind.

Bill Marianetti of 53 Golden Oaks He stated that to the left is a watershed pond and to the right is another watershed pond. He states that behind his home was supposed to be a creek to join the two together. It has not happened. When it does rain it does come up with some water. This has developed a cesspool back there. He is talking about smell, mosquito infestation and bugs. He is not putting the blame on anyone. The town has told him nothing can be done because the property belongs to Mr. Marcello. He talks to Mr. Marcello and he cannot do anything because it is EPA and everything else that goes with the territory. It sits there every day and is not getting any better. There are trees that have fallen from the woods into the pond themselves. He would like to see somebody come and take a look, take pictures and come up with some kind of resolution because he does not like it. He does not want to sit in his living room and see this dried up area with trees fallen into it and the bees and bugs in there. He paid a premium for the lot for the view and the serenity he was supposed to get. He would like to see something be done.

Mr. Sinsebox answered by saying that a recommendation from the Planning Board would be that all the ponds be de-silted upon completion of the job. Take the ponds back down to where they are supposed to be. They have an agreement through EPA to maintain those ponds. Every 5 years the town is to receive a report saying that the pond is functioning the way it is supposed to.

Mr. Shultz stated that the area Mr. Sinsebox is talking about is on the west side of the cul de sac. There is a choke point between the main pond and the pond out front. It is choked between the grading of the yards and the wetland. The fortunate part for them is the front pond is saved from siltation.

Mr. Wall asked about the storm water report. He wanted to know if there is any calculations for infiltration of those ponds. That the siltation will prevent that infiltration. Mr. Schultz said that they did not account for any infiltration at all because of the type of material and did get into bedrock. He stated that after section 5 is completed Mr. Marcello will be able to go back and fix up.

Mr. Marianetti wants to see it all done.

Mr. Shultz said that Mr. Marcello will make it look like it did on the plans. He will do it when it is dry.

Mr. Sinsebox also stated that when all the units are built and all the lawns are final then it will be finalized.

Mr. Marcello said the pond was built with an aquatic bench. It has helped Mercury Drive from drying out the area. This was approved as what the plan was. Have to wait until the last section of the project is done.

Dan Gleason of 14 Harbor Oaks stated that he has lived in his home for 2 years and the pond is almost full. It is flowing. There is no depth to the middle of the pond. There is an island in the middle of the pond.

Mr. Marcello stated that each section owns that bond money and it is reserved to de-silt the pond.

Mr. Gleason stated that there is an island in the middle of the pond. Mr. Sinsebox will go look at it.

There was further discussion between Mr. Shultz, the residents and the Board regarding the pond. The residents were assured that the pond will be maintained by the HOA.

Mr. Larry Billings of 71 Golden Oaks way stated that it should be a practice to keep residents updated on what is going on with the project. He said that a once a year update would be nice. He also stated that he loves his house and he is in favor of Section E.

Dan Gleason of 14 Harbor Oaks told Mr. Marcello that he does build a good house.

At this point the Planning Board was declared in Executive Session. After discussion among the Board Members, there was further discussion.

Mr. Schum stated that the reason for the Executive Session is so that he can talk legal matters with the Board. From everything that was presented this evening, he stated that it seems clear to him that the plan, from day one, which was some years ago, was for dedicated roads and that the matter he raised at the request of the Board he does not dispute. The developer indicated that Section 2 is already dedicated. The intention of the Board is if they were to approve the Section 5, all of the roads would be dedicated to the Town upon completion of construction of the last home and the topping of the roads.

Mr. Marcello stated that Section 2 was dedicated because the road was topped. In talking with Mr. Joe Amico, Director of Public Works, he said that they are to top the roads in sections 1, 3 and 4 and the last section might go through Mercury Drive. He went on to say that the people in Section 1 are so mad that the road has not been topped that they have actually bought cold patch to fix the road. They packed the cold patch on an angle. Mr. Marcello stated that he cannot fix the road right now because the Town will not allow him to do so at this time.

Mr. Schum stated that the problem here is because of construction that the developer may have to go back and put base back in before he tops the road in the future. The question is if the developer would like to spend the

money now to keep it in good shape or spend the money later. The matter of the dedication is going to be up to the Highway Superintendent and the Town Engineer. The Board will act to dedicate the roads as such time as they are suitable for dedication. Mr. Marcello agreed.

Mr. Chamberlain added that if the HOA would like to supply a letter of credit, the roads could be topped. A separate letter of credit. Mr. Marcello stated that they will complete Section 5 and then top all roads at the completion of it.

Mr. Sinsebox stated that as soon as they have binder down out to Mercury Drive then they can start talking about topping Section 1, Section 3, Section 4 and Section 5. Mr. Marcello agreed. Mr. Marcello went on to say that by spring he could be paving the sections.

Mr. Wall stated that what this Board can do is have a condition that the Town will confirm the schedule of the dedication of all roadways. Mr. Schum agreed. Mr. Marcello also agreed.

Mr. Wall made a motion to grant Final Subdivision Approval for the Villas at Coldwater Section 5 based on the following conditions.

1. The Town confirms the schedule of dedication of all roadways to the satisfaction of the Town Engineer and the Highway Superintendent.
2. That the applicant provide a letter of credit sufficient to cover drainage and landscaping, including an amount sufficient to cover the removal of sediment of the ponds, bolder disposal to the satisfaction of the Town Engineer and Highway Superintendent.
3. The applicant is to check the scale of the plan sheets.
4. The applicant is to carry over a note from previous sections that all storm water features, including the ponds, to be privately owned.
5. That the applicant provide LOMA documentation for town records.
6. That the applicant revise notes to indicate the HOA condominium E ownership on C1.
7. That the stockpile location be located to the plan.
8. That the applicant revise the signature block to the town approvals.
9. That the applicant address any Fire Marshal comments and any Town Engineering comments and any Highway Superintendent comments.
10. That the buildings will be constructed per the approved material and elevations for Sections 1, 2, 3 &4.
11. That the applicant revise the hydrant locations per the town's standards.
12. That a note be added to the plans per the EPA, all ponds to be cleaned and inspected. Documentation provided by the HOA for town records.
13. That the applicant provide as built maps for the final constructed pond elevations.
14. And the standard approvals that we have that all conditions of the preliminary site plan approval are to be incorporated into the final plan.

15. All stamps of approval from all regulatory agencies, including the Fire Marshal are to be affixed to the plan prior to the signature of the Planning Board Chair.
16. That a note be added to the plans that the applicant is to pay particular attention to the maintenance and cleanliness of the bordering roads to the property including Mercury Drive during the construction phase to the satisfaction of the Town's Dept. of Public Works.

Mr. Chamberlain Seconded the motion. All were in favor. The motion carried.

There being no further business to come before the Planning Board, Chairman Wall adjourned the meeting at 9:00 PM.

Respectfully submitted,

Linda M. Saraceni  
Recording Secretary