

TOWN OF SOUTHWEST HARBOR

Southwest Harbor Planning Board

SWH Municipal Office

August 6, 2009

6:00 p.m. – 8:00 p.m.

AGENDA

- I. Call to Order/Roll Call: The meeting was called to order at 6:02 p.m.
Present: Lee Worcester, Michael Magnani, Eric Davis, Gordon Wissinger, Bob Bosserman; absent: Ryan Donahue (arrived at 6:10 p.m., Chris Rawls (arrived at 6:22 p.m.)

Visitors: Doug Diehl, James Patterson, Ruth Brunetti, Anita Chalfoun, Ken Collins, Mark Good, Jeff Crafts, Michael Mansolilly, Andy Hamilton, Gregory Johnston, John Chandonnet, Nancy Chandonnet, Darrell Storholtz, Murial Lindquist, Craig Patterson, Sandra Kryder

- II. Review Minutes of July 16, 2009 and July 30, 2009: It was Moved Magnani and Seconded Davis, to accept the minutes of July 16 and July 30th as presented. 5 – 0 (Donahue, Rawls not in attendance for this vote.)

- III. Visitors to be heard not on Agenda: none

- IV. Continuation: Village at Ocean's End, LLC: Subdivision Review for 470-474 Main Street, Map 16, Lot 1.

The Chairman re-convened the public hearing of VEO, LLC from the adjournment on July 30, 2009, at 6:05 p.m. on August 6, 2009.

Hamilton spoke: at the last meeting he said they provided a comprehensive overview of the application. He said the three issues most present in this hearing are storm water drainage, foundation with utility chase qualifying as a multi-unit, and driveway vs. road. Hamilton contends that the land under the WWC ROW be excluded from land calculation. He asked Greg Johnson to re-state into the record, the evidence. Johnston did so and a copy of the Statement is attached to the Minutes in the permanent record. Mr. Hamilton referred to Mr. Patterson's letter concerning the driveway/road. Mr.

Johnston confirmed that the access way was designed to road standards. Concerning multi-unit structures, Mr. Hamilton referred to the BOA hearing in January 2009, which determined that the dwelling units were multi-unit, and he circulated the sketch that was presented to the BOA, depicting the chase that connects the two structures. Mr. Johnston read the question posed to the MMA by the CEO/Planning Board concerning driveways and multi-unit dwellings, as well as the answer provided by the legal department of MMA which stated the access way may be considered a driveway and the units may be considered multi-unit, based on the sketch and information provided. Storm water management is being dealt with between Mr. Crafts and Mr. Doug Diehl of the Condominium Association. Mr. Wissinger asked if the storm water management system is being accelerated - Mr. Hamilton said the applicant is intending to advance the schedule based on the problems expressed by WWC. He also said there is investment in the project, and it is important to know the approved conceptual design which allows submission of storm water permit application and design to the state. It will be important for the applicant to receive a signal from the Planning Board on this issue. Ryan Donahue asked if, prior to cutting trees on the lot, there was less of a storm water management problem. Johnston said the major storm occurred in the midst of the cutting of vegetation. Donahue asked if minimizing the overall site work would have minimized the run off problem.

CEO said there are permits for three houses in place. VOE is not in violation of any existing permits.

The Chair opened the hearing to the Abutters. Mr. James Patterson, attorney for members of WWC and WWC Association asked if the abutters would be allowed to ask questions of the applicant. Chair indicated they would. Patterson said it is premature for this Planning Board to assume that there is an agreement on storm water management ready to be signed. The draft that has been presented does have issues. He reviewed highlights of the memorandum that was submitted Monday. He reviewed the issues experienced by WWC with storm water run off. Mr. Patterson said it is reasonable for the Board to receive some disinterested opinion of this storm water system. Other issues are: 40 single family houses, being presented as a condominium. He referred to sheet C 9, and the two parcels of land being called building envelopes (22 and 23 in the upper right-hand corner). Mr. Patterson said houses 22 and 23 near the north boundary have a raceway of about 75 feet, and it is a stretch to say that is a multi-unit dwelling. There is

a boundary line issue to the north which is relevant. The CES survey indicates that the north boundary is noted, and suggested the Planning Board should review the boundary line, and determine how that affects houses that may be placed along that section of the property. Additionally, Mr. Patterson said the BOA decision concerning multi-unit dwellings is not binding upon this Planning Board. The issue regarding Road and Driveway: Attorney Patterson asked: if the access way is being designed to road standards what is so critical about calling it a driveway? Ruth Brunetti, President of the Executive Board of the WWC, and a unit owner spoke. She, representing the Board of WWC, expressed serious concerns in terms of erosion control and storm water management as well as concern that the permanent storm water system may not be properly designed. Regarding density, Brunetti said these are single family homes requiring 40,000 s.f. per dwelling. This application runs counter to the Land Use Ordinance. The WWC Board has designated Doug Diehl to investigate how to express concerns and interpret the storm water plans. Mr. Patterson provided a copy of the names of those he represents. Mr. Patterson was asked to speak. He addressed the importance of financial backing being sturdy. His concern is that a letter from the bank allowing \$500,000 is not adequate, and questioned whether or not there are any conditions to the loan agreement. Mr. Doug Diehl spoke to the Board, as an owner of WWC. He is a civil engineer, board certified environmental engineer and has designed storm water systems. He explained methods used to calculate storm water management. Mr. Diehl said the two ponds on the Crafts VOE property now are not retention ponds, and do not function as such, but are architectural features. He strongly recommended the Town obtain a disinterested third party engineering review of the storm water management plan. The discussions with Mr. Crafts to date have not reached a consensus. Rawls asked if there were any temporary measures that could assist with storm water run off during construction. Mr. Diehl has spoken with Ken Libbey of DOT and is not sure from that conversation the level of review that DOT would give to the VOE. Dr. Kryder spoke to the Board and explained the results of the clear cutting and the drain problems that resulted, having resided at WWC since 1987. Attorney Patterson summarized by saying that the WWC asks the PB to assist them in protecting their property from damage due to storm water issues. Johnston said that the ponds on the plan are a combination of filtration and retention ponds. Johnston suggested that the PB allow the State to act as the third party opinion. Ken Collins expressed concern as a property owner in SWH to the density and lot

coverage, and warned it would set a precedent. The Public hearing was closed at 7:50 p.m.

The Board agreed to review the checklist until 8:00 p.m. Discussion was held on performance bonds and when they come into play in the application/approval process. Bosserman asked for the storm water management plan dollar estimate from Johnston for the next meeting. The meeting will continue on August 20, 2009 at 6:00 p.m.

VII. Adjournment: It was Moved Bosserman and Seconded Wissinger to adjourn the meeting at 8:10 p.m. Vote in favor: 7 – 0.