

**Regular Meeting Minutes**  
**JULY 18, 2023**

Members present: Robert J. Swartz/Vice Chairman, Robert J. Bettez, Sr., Paul A. Cormier, Stephen Cormier.--*Members*, and Trevor Beauregard/*Director-City Planner*.

**Present Electronically:** *Mark M. Schafron/Chairman*

Members absent: *None.*

Also present: Rob Oliva-City-Engineer, City Councillor Dana Heath, Christine Fucile-Administrative Assistant, Ronald Koivu-Harbor Classic Homes, Laural Adams-Harbor Classic Homes, Wes Flis-Haley & Ward, Peter Campobasso-Attorney for Harbor Classic Homes.

ANNOUNCEMENT - Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the Chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents referenced or used during the meeting must be submitted in duplicate to the Director of Community Development & Planning pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.

***Mr. Schafron, Chairman called the meeting to order at 6:40 p.m.(Some proponents arrived late)***

**1. APPROVAL OF MINUTES:**

✓ *June 13, 2023*

*Motion to approve minutes as presented.*

R. Bettez/R. Swartz.

Vote: 5 – 0

**2. NEW BUSINESS:**

**2.1 Open Space Recreation Plan**

T. Beauregard explained the Open Space Recreation Plan is a comprehensive planning document that guides future policies and actions for the City by examining the need for new or improved conservation areas and recreation facilities. T. Beauregard further explained over the past year went through the process of updating the 2015 plan. Typically plans are good for seven (7) years and the City’s plan expired in August of 2022. This plan is important to have in place because it allows the City to apply for certain grant funding to implement open space recreation projects. T. Beauregard noted they received two grants over the past few years for the Bailey Brook Park area to implement Phases I and II for that area. T. Beauregard highly recommended the Planning Board Members as well as Members of the Public go to the City’s website and check out the many trails up in that area. Also, there is an outlook of a vast wetland area on the trail system. Further, there is a nice play area for children, as well as pickleball and basketball courts including adequate parking at the site. The location is off Leo Drive in the rear and there is signage to help locate it. T. Beauregard noted Steve Cormier acted as a member of the Open Space Recreation Committee. T. Beauregard stated they are looking for endorsement from the Planning Board and asked for a motion. Also, will need a letter from the Planning Board Chairman, along with letters from the Mayor, the City Council, and the Conservation Commission to include in the Open Space Recreation Plan which has typically been done in the past.

S. Cormier added they have been working on this for the past year and a half between public meetings with the committee for advice, and have updated the plan with a lot of help from a lot of City departments, therefore would like to see this move at this point.

Mr. Schafron commented he read the plan and the OSRP Committee did a very comprehensive job and well done, and the Board thanks Mr. Steve Cormier for all his hard work on the Committee.

*Motion to accept and endorse the Open Space Recreation Plan as presented.*

S. Cormier/R. Swartz.

Vote: 5 - 0

### **3. OLD BUSINESS:**

#### **3.1 Concord Crossing Open Space Residential Development**

Mr. Flis went through the revisions made to the plan from the previous one through some requests at the last meeting. One of the requests was to see if they could make some lots with more frontage.

Mr. Flis commented he also had to keep in harmony with the Applicant's request for single-family dwellings on all the lots, therefore the plan he is presenting is meant to "meet in the middle" with the request for the 100 foot frontage as well as keeping the number of units at 76 single-family lots.

Mr. Flis stated to keep the roadway as before, they came up with 90 foot frontage for all the lots shown on the plan, however the curves may be a little bit different which is not a straight 90 feet. Also, the intent was to create more green space between each of the units, as well as to keep the 76 lots in order to keep the development economically feasible.

Mr. Flis noted the roadway has not changed from the last time since he was trying to keep the similar layout as before where the open space is behind the units on Century Way and Clark Street, and pointed out where the Open Space actually became larger and stated they are at 4.97 acres where it was 4.8 something acres before. Mr. Flis stated two open space parcels became larger, also by decreasing the number of lots from 79 lots to 76 lots. Some of the lots now are more consistent and more uniform with regard to the area because of the greater frontage and was able to create more uniform lots which are closer to the 8,000 square foot number, and because of that was also able to gain a little bit more open space to the rear of the parcel. Mr. Flis noted to meet the requirements of the open space, there is a 40-foot strip (*pointed out location*) to get into the open space as well as on the bottom locations consisting of what the landscape architect had shown originally as part of the open space for that area (*pointed out on plan*). In addition, the number of easements through the development that will also have trails running through those easements between some of the houses to tie into the existing trail system on the property and to create a more defined trail system. Mr. Flis commented this is a conceptual plan and tried to take some of the direction given at the last meeting as well as trying to meet the demands of both the Planning Board and the Developer to make the project economically viable. Further, if comparing the old plan to this one, the units are definitely more spread out than they were before and are now able to fit bigger units across the board on all these properties as well as increasing the City's tax revenue.

Mr. Schafron stated this is the fifth iteration and still seeing an incredibly dense development with relatively small lots and believes what the Planning Board was trying to get across is they wanted to see larger lots and fewer units. Further, he knows they have that "76 number" in mind, but looking at some of the other RR2 (*rural residential two*) developments in that neighborhood, for

instance, Brookside Drive north to Leo Drive, and north of the GR3 Zone (*general residential three*), there are parcel sizes of 15,000 to 21,000 feet, most closer to the 21,000 side, and when you get down toward Leo Drive loop, the Fernwood Drive parcel sizes to the west of Leo Drive run about 11,000 to 12,000 and a couple of 12,000+, with some even larger. Further, the characteristics of those previous developments are what the Planning Board was hoping to see in the proposed development as opposed to this incredibly dense development which again is what they are trying to get across.

Mr. Schafron asked the Board Members if he is way off base here. P. Cormier voiced in agreement as well as Mr. Bettez. Mr. Flis spoke and stated at the last meeting the frontage was talked about and he did ask the question if they went to larger frontage was it still okay to have 8,000 square foot lots and the response was the frontage was more of a concern, not necessarily the area of the lot, so that is why they kept the lot area the same as what they have been doing because the pushback they were getting was the greenspace between the units. Mr. Swartz remarked he recalls at every meeting the plans were presented, Mr. Paul Cormier was the biggest advocate pushing for larger lots and all the Board Members were in agreement. In addition, Mr. Paul Cormier did talk about the frontage as well. Mr. Flis replied he did increase the frontage from 80 feet to 90 feet. Mr. Schafron said he wants to see larger lots and fewer units, so they may have to compromise on the number of units they want to put in there, and remarked he does not know what else to say.

Attorney Campobasso believes the number of units has come more from the Applicant than it has from the Planning Board, and thinks the sentiment that has been expressed is hopefully the density aspect of it was addressed by the landscape architect which was one of the concerns a few meetings ago, but as far as the number of units, he said they have conveyed numbers to the Planning Board but does not believe they have ever heard a number, and obviously they are looking at the By-Law a little differently, so there has to be some sense depending on how this is laid out. In addition, clearly they are within the calculations and it is not as if they are at the maximum number or at the minimum number and are probably closer to the minimum number than the maximum numbers. Attorney Campobasso further stated they cannot really look at the project at this stage based on the number of units especially because they still have considerable engineering work to do to prove it. Attorney Campobasso said it seems as if the concept plan is what they have been focusing on and does not think they have heard a clear number from the Planning Board as to what the preference is. Attorney Campobasso said he thinks they have understood that having the initial number of lots that was proposed was not going to be something that was acceptable and moving off that number by a significant amount of units somewhere in the 22-24 range is a pretty significant amount of units so now that they have sort of presented a compromise, and believes what they have tried right from the get-go is say this is the maximum they can do and can we try to somehow agree to meet somewhere in the middle, so tonight we are hearing it is too many and does not believe they ever heard a certain number is too many or a certain number is too few. Also, he knows they have talked about lot size and frontage, but once the landscape architect got involved and got a flavor of the concern for siting and green space, this is what they have arrived at.

Mr. Schafron spoke and said he is not a civil engineer and none are on the Planning Board but assumes larger lots would mean fewer units which is his logic. Mr. Flis replied unless they are to use duplexes, yes. T. Beauregard added there are no duplexes in the current plan. Mr. Flis said correct, because it is not the preferred option, and believes it goes back to the economics of the development when you look at the difference between a single family unit and a duplex. A duplex is going to sell for less money and believes with the number they have been told is 25% less than

a single family, therefore, from an economic standpoint trusts the City would prefer single family units for tax revenue.

Attorney Campobasso commented he does not think it is appropriate to get hung up on a number because they are following the By-Law and when reading the By-Law, it gives you the minimum requirements and what it does say is the following requirements shall be observed and where appropriate the Planning Board may impose additional requirements upon the track of land. Attorney Campobasso stated they are well within the minimum and exceed all of the minimum requirements and it kind of defeats the purpose of them continually coming down when they are not sure where the floor is.

T. Beauregard asked Attorney Campobasso how they exceed the minimum requirements.

*Attorney Campobasso replied back the requirements as follows:*

Minimum lot area: Not less than 8,000 square feet

Minimum frontage: Not less than 50 feet.

Minimum lot width: not less than 50 feet.

Minimum front yard. *No buildings or structures shall be located within 45 feet of a pre-existing street or within 15 feet of a new street.*

Minimum side yard: Not less than 10 feet.

Attorney Campobasso stated they clearly meet those requirements and exceed all of the minimum requirements. T. Beauregard said they are talking 8,000 square foot lots and believes that is one of the points the Planning Board was getting at throughout this whole process that it is the minimum size. They would like to see something more consistent with the neighborhood around this development like the other Open Space Recreation Development that was approved down there which the Chairman read off regarding the size of those lots. Further, T. Beauregard stated they are minimizing the open space that is being provided within the subdivision itself but believes all along, one of the hang-ups from the Planning Board has been density, and giving ten feet more frontage along all the lots does not lessen the density of the project, it is still a very dense project which is the Planning Board's point. Attorney Campobasso noted it is a very large track of land of almost 90 acres and it is an open space proposal. In addition, they have been at this for a few years now and what has been expressed to him is the area behind the project because of the location of the trails and water resources, is not necessarily off limits but the preference was to stay as far away as you can, and have tried several iterations and trying to address the concerns the Planning Board has raised and feel they have done a pretty good job from where they have started and hopefully they can get a better sense from the Planning Board whether it happens tonight or if it happens with an application. T. Beauregard stated again he has not seen a change and it is great they came up with ten more feet for frontage which he did not necessarily see on the plan but looking at the plan and seeing all 8,000 square foot lots and the number of lots is still at 76 lots which is not consistent with what the Planning Board has been asking for all along.

Mr. Flis commented what they have talked about since day one is the maximum number of units allowed under this development which is 93 units. T. Beauregard stated they could not fit that amount of units on that lot and Mr. Flis said he actually showed a plan that could fit 93 units, and if they wanted to do duplexes they could easily put 93 units on that lot. T. Beauregard also stated they could never fit that on a lot and make the 50% open space required. T. Beauregard spoke of the plan presented back in February of 2021 showed 92 parcels and again said 92 parcels cannot fit on that parcel of land and meet the open space requirements. Mr. Flis commented the regulations do not say lots, it says units.

Attorney Campobasso stated they get it and they hear and believe it or not, they do understand and what they are arguing over is the number that is going to actually end up there and have tried to present numbers and have heard somewhere in the 70's seemed to be okay, however, they do not know how much larger and how much of a reduction the City would actually think is acceptable. Further, this is a concept plan, not the actual plan so they still have to come in with the actual plan and discuss that, so maybe those discussions will be a little more directed, but they have to start somewhere and it does not seem to make sense for the developer or a proponent to come in with something that does comply to keep going the other way and it seems to make sense they start the process so they can come to a better understanding as to what might be acceptable and not acceptable. Attorney Campobasso remarked they are trying to stay within the confines of the By-Law and feel they have done that. Further, they keep hearing density and obviously an argument can be made that this plan is clearly less dense than the initial 76 unit project that was brought in before with the adjustments that were made based on the frontage and with the landscape architect.

T. Beauregard questioned what the landscape architect did. Attorney Campobasso replied he changed the curvatures of the road and Mr. Flis noted the architect's plan was more compressed and similar to what the original plan was because he was trying to maximize the open space and not have open space in the middle. Attorney Campobasso added he thinks the architect's biggest contribution was the way the roads are going to sort of windy and have curvatures so it changes the eyesight every now and then after so many feet. Mr. Flis pointed out they are doing an open space residential development which is a cluster development and a cluster development is going to be denser within the area they develop, and if using the whole amount of area, yes the units would be spread out and he does not think the whole intent of the cluster is to minimize the road construction, so if they continue to make the road frontage up to 100 feet or 120 feet it goes away from the spirit of the cluster development. T. Beauregard remarked not necessarily and asked if they were to do a traditional subdivision on that lot you might get 46 parcels in there. Mr. Flis noted they had 66 units. T. Beauregard explained they had 46 single-family lots on the large parcel and then 10 per Mr. Flis, GR3. Further, T. Beauregard noted if you look at this one single lot, the larger lot, you get 46 parcels on that, so they are asking the Planning Board for 70 percent more parcels in an open space residential development where they are putting in less roadway, less water, less sewer. Mr. Flis noted on the last plan, they showed 79 lots and now show 76 lots, so they did lose three units from the last plan or three lots from the last plan, but making the frontage bigger. T. Beauregard replied they have not made the parcels bigger. Mr. Flis stated he asked the question at the end of the last meeting if they make the frontage bigger does it matter if they make the lot area bigger and the answer was no. T. Beauregard emphasized it was very clearly stated through all the meetings the Planning Board is looking for larger lots and whether the frontage is increased it is a great idea and is one way of doing it, or increasing the depth of the lot is another way of doing it. Further, T. Beauregard directed to Mr. Flis he can ask the questions he wants but it has been clear all along they are looking for larger lots and a less dense development consistent with the others in the area. Mr. Flis reiterated the answer he was given was the frontage and asked specifically for that reason and noted Mr. Cormier was the one asking for more frontage and more green space between the units. Mr. Flis noted this parcel has not been developed from way back in the 2000's so why is it still vacant and why is no other residential subdivision been constructed because the cost does not outweigh the construction cost in Gardner. Attorney Campobasso asked what the dimensional requirements are in RR2. T. Beauregard replied 60,000 square foot lots,

150 feet of frontage, front setback 30, side setback 20, rear setback 40, and 70% open space requirement.

Attorney Campobasso added obviously the objective of an open space development is different from a traditional development and if one of the main purposes is to protect open space and protect the municipal water supply that is kind of what Harbor Classic has tried to focus on and if the minimum number of lots that could be done is 46 if he is hearing this correctly. Attorney Campobasso further stated what they have been struggling with is the differences in the by-law and the requirements and what are they supposed to come in with, and believes there is a difference of opinion on what the interpretation of the by-law is. Attorney Campobasso added he believes in some of the presentations they have acknowledged is 46 lots the number because that is what they think it could be but do not really know because they have not really done hard engineering which is his point and are talking about numbers from a concept standpoint that could very well change once the actual engineering gets done. In addition, they are getting hung up on talking about number of units, number of houses and he believes they have to pay attention to that. Also, he thinks tonight they are getting a much stronger message that it is too dense because the lots are too small and it is not so much the number of units, they are hearing the lot size is too small. Mr. Schafron responded, correct. Attorney Campobasso noted the more specific feedback they get, the more specific the plan will be.

Mr. Schafron spoke and stated to please understand the Planning Board has no particular or any animus towards his client or any developer that goes before the Planning Board. There has been some communication glitches here and there in this process and again as far as lot size goes, he keeps going back to the other developments that are within the rural residential 2 zones and the lot sizes are much larger than what has been proposed, which is what he already cited with 15,000, 21,000, etc. which is what he is trying to get across, and still sees it as too dense. Mr. Schafron further stated they can iterate and iterate and iterate and keep fine-tuning it at the clients expense and the Planning Board's time or they can submit a Preliminary Subdivision Plan. T. Beauregard recommended the initial process be a Preliminary Subdivision Plan and if and when the Planning Board approves the plan, then submit Definitive Plan with the Special Permit application. T. Beauregard stated he does not think the Planning Board will have adequate information with the Preliminary Plan to approve a Special Permit and also believes the process for the definitive plan and a Special Permit application coincide as far as the timeline is concerned meaning a public hearing, time for the Planning Board to submit a response and so forth, so this is probably the best way to go about it.

Attorney Campobasso said the only thing that needs some clarification is the open space residential special permit that does not require a preliminary subdivision plan and he believes the preliminary subdivision plan would have to be a plan that shows a traditional subdivision so just wants to make sure he is clear on that. Attorney Campobasso also said he thinks what they have to try to understand is it is not that this is a difficult project to present, it is when you really dig into the regulations it is a difficult project for an Applicant to submit because there are so many stages where so many hurdles can come up and one process can prevent the other process from going forward, one process can stall or delay another process that may have been approved, so it becomes very difficult to navigate through all of those requirements and that is one of the things that he is trying to be cognizant of because they want to try and present as best a proposal as they can knowing there are several layers of this that has to happen, therefore, he just wants to make sure when they start to come in, they are coming in somewhere that the Planning Board is understanding

what is being presented and what they are presenting and might disagree on the final result but will at least be a good way to start.

Mr. Schafron strongly urged them to maintain liaison with Mr. Beauregard's office and he would be invaluable as a resource to navigate process.

Mr. Bettez asked how many lots would fit in this parcel of land if one would follow the general zoning regulations. Attorney Campobasso responded he believes the number of lots would be 56 when you incorporate GR3 (*General Residential 3*) and SFR1 (*Single Family Residential 1*). T. Beauregard added it would be 46 lots on the larger lot and 10 in the general residential 3 area and Attorney Campobasso also stated that if it is a very conceptual plan, there really is no engineering that has been done, so the number of lots could actually go down once you do all the engineering and layout with topography and wetlands. Attorney Campobasso added once the roadways are designed you have to have correctly sized detention basins and there is a lot to it depending on the open space that would be needed, etc. so it is hard to say but from a purely conceptual standpoint, yes that would be the number.

Mr. Schafron thanked them and Attorney Campobasso said he will follow up with T. Beauregard.

#### **4. ANNOUNCEMENTS~~NEWS~~ARTICLES~~EVENTS:**

*Next Meeting: Tuesday, August 08, 2023 at 6:30 p.m.*

*T. Beauregard noted he will be traveling at this time and will not be available for next two Tuesdays.*

The next meeting will tentatively be on Tuesday, August 22, 2023, at 6:30 p.m.

#### **Adjournment**

*Motion to adjourn.*

**R. Bettez/P. Cormier.**

**Vote: 5 – 0**

#### **The meeting adjourned at 7:25 p.m.**

All documents referenced or used during the meeting are part of the official record and are available in the Department of Community Development and Planning pursuant to the Open Meeting and Public Records Law.