

**MINUTES OF MEETING
COMMUNITY PRESERVATION COMMITTEE
March 8, 2021
Location: Online Meeting**

The Community Preservation Committee (the “CPC” or the “Committee”) convened a regular meeting, duly noticed, on Monday, March 8, 2021 at 7 p.m. via the videoconferencing platform Zoom. CPC members present were Stephen Ober, Chair; Barry Tubman; Ken Newberg; Nina Danforth; Nathalie Thompson; Marcy Dorna; and Sue Zacharias. CPC member Steve Wagner was absent. Weston Affordable Housing Foundation, Inc. (“WAHFI”) President Peter Endicott and board members Keith Gross, Tony Nolan, and Susan Haber were present. Weston Affordable Housing Trust Member Thalia Price was present. Residents Eileen Schaubert and Susan Scott were present. Town Manager Leon Gaumond was present. Weston Media Center Videographer Alanna Muldoon and CPC Administrator Tracey Lembo were also present.

Steve Ober read a statement explaining the need for a meeting conducted by remote participation in light of the emergency orders issued by Governor Baker in response to the COVID-19 global pandemic, noted that the meeting was being recorded, and invited public comment.

Public Comment

Ken Newberg reported that the Weston Affordable Housing Trust (the “Trust”) had met that morning and determined that the originally proposed budget for Regional Housing Services Office (“RHSO”) hours was insufficient because of expected initiatives emerging from the Town’s Housing Production Plan and the ongoing Emergency Rental Assistance Program. Mr. Newberg indicated that Sarah Rhatigan would provide details of the increased request at the CPC’s next meeting.

Applications for 2021 Annual Town Meeting:

- **8-10 Birch Lane**

Peter Endicott reminded the Committee that Nina Danforth had requested photos of the Birch Lane site. Mr. Ober asked Mr. Endicott to walk the CPC through his photos. Mr. Endicott displayed a series of recent pictures he had taken while walking up Birch Lane from Route 20. On the left-hand side of Birch Lane, Mr. Endicott highlighted a utility pole and 2 large trees which would have to be removed in order to widen the very narrow lane per Town requirements. Mr. Endicott also noted a paved section in the middle of the predominantly dirt lane, the proximity to the road of the existing homes on the left-hand side of the lane, and the proximity of abutter Andrew Rostami’s home on the right-hand side of the lane to the existing homes. Responding to Mr. Ober, Mr. Endicott explained that WAHFI would have to build a turnaround to satisfy Department of Public Works (“DPW”) and Fire Department requirements. Mr. Endicott highlighted the existence of a fire hydrant at the top of the lane.

Ms. Danforth thanked Mr. Endicott for the photos. Ms. Danforth then suggested that since neither house on the lane was occupied, it would not have been a high priority for plowing and that a turnaround could have been plowed. Responding to Ms. Danforth, Mr. Endicott indicated that Birch Lane was a private road but that he was unsure whether WAHFI or the Town (to ensure access to the fire hydrant) had plowed it. Ms. Danforth also indicated that the diseased sugar maple that Mr. Endicott had highlighted earlier had healed pretty well but acknowledged that without a view of the canopy, she was unsure whether it could be saved. Mr. Endicott suggested that the sugar maple would have to come down because of the need to

widen the road and site constraints. Noting that her driveway, which also serves 2 houses and was only 10 feet wide, was as long as Birch Lane, Ms. Danforth questioned the need for a 16-foot-wide road. Keith Gross reported that DPW was so unhappy with the condition of Birch Lane that it had threatened to stop plowing it and that the Fire Department was insisting on a 16-foot-wide lane.

Mr. Endicott reported that at a meeting earlier in the week, the Historical Commission had voted to allow demolition of the existing houses. Mr. Endicott also reported that WAHFI and the Birch Lane neighbors remained at an impasse regarding development rights on an adjacent lot owned by WAHFI. Mr. Endicott reminded the Committee that the neighbors had agreed to support the current project (8-10 Birch Lane) on the condition that WAHFI pledge not to develop the adjacent lot (16-18 Birch Lane). Mr. Endicott noted that the neighbors had suggested that a community garden be created at 16-18 Birch Lane to which they would offer financial support. Mr. Endicott reported that WAHFI had promised that development on 16-18 Birch Lane would not occur “any time soon” and had offered to define and agree to a timetable for future development. Mr. Endicott then reported that any possibility of future housing development which would increase neighborhood density, however far in the future (e.g., 5 years, 10 years, 20 years, etc.), was unacceptable to the neighbors. Mr. Endicott explained that the benefactress who had donated both lots to WAHFI, Polly Dickson, was insistent that affordable housing be developed on each lot.

Responding to Mr. Ober’s question of whether development of 2 affordable housing units on one lot satisfied the restrictions on both lots, Mr. Endicott explained that WAHFI was legally obligated to build rental affordable housing on each lot. Mr. Endicott noted that Ms. Dickson understood the political difficulties involved in obtaining funding to develop affordable housing and was, therefore, supportive of WAHFI’s plans to build a duplex on one lot now without immediate plans to develop affordable housing on the second lot. Mr. Endicott suggested that if WAHFI could not secure funding to develop any affordable housing on these lots, it would turn the properties back to Ms. Dickson.

Mr. Ober asked about the project’s timeline. Mr. Endicott indicated that both the Planning Board and the Select Board were aware of the project but did not want to consider it until after the Historical Commission and the CPC had voted on it. Mr. Endicott reported that WAHFI had made architectural changes in response to neighborhood input but reiterated that neighbors would not support the project because of WAHFI’s development rights on the second lot. In response to Mr. Ober’s question about costs outside of the budget presented to the CPC, Mr. Endicott reminded the Committee that WAHFI was committing its own funds to construct the road and to fund any landscaping required by the ZBA or to satisfy the neighbors beyond the existing \$15,000 landscape budget. Mr. Ober expressed his assumption that WAHFI had the financial resources to carry out its commitments. After expressing hope that the ZBA would not require landscaping at a \$10,000 per tree level, Mr. Endicott reported that WAHFI was prepared to commit sufficient resources to do a very nice job and to satisfy the neighbors. Responding to Barry Tubman’s question about funding for road improvements, Mr. Endicott reiterated that WAHFI was committing its own substantial resources to construct the road.

Responding to Marcy Dorna, Mr. Endicott reported that the stone wall on the right side of the lane sat on the property line and belonged to a neighbor and that the trees in front of that wall were on WAHFI’s property. Mr. Endicott explained that WAHFI had not yet evaluated the health of those trees but would try to disturb as few of them as possible. Noting the large

expense of replacement trees, Ms. Dorna expressed her belief that retaining as many trees as possible would help to mitigate impacts on the neighbors. Mr. Newberg thanked WAHFI for its hard work.

After acknowledging WAHFI's extensive work on the project, Sue Zacharias stated that it would be difficult for her to support the project because of many unanswered questions including: 1) road improvement costs, 2) the fate of the trees in front of the neighbor's stone wall, 3) the high cost of landscaping, and 4) uncertainty around the development of the second lot which could ultimately increase neighborhood density. In response to Ms. Zacharias' question about building and infrastructure costs, Mr. Endicott reported approximately \$865,000 in hard costs for the project and \$155,000 in soft costs including a \$50,000 contingency. After expressing confidence in the project's estimated construction costs, Mr. Endicott offered to move \$20,000 in contingency to the landscaping line item; Ms. Zacharias noted that landscaping was within the Planning Board's purview.

Mr. Endicott noted that WAHFI's planned 3,000 s.f. duplex was not large compared to existing neighborhood homes and that even if WAHFI were to build out the second lot, the result was likely to be less dense than the properties' as of right development potential (i.e., 2 large houses). Responding to Ms. Zacharias, Mr. Endicott reported that each 40,000 s.f. lot had perced for 6 bedrooms. Ms. Zacharias noted that any home with an area greater than 10% of its lot size (i.e., greater than 4,000 s.f. in this instance) would require Planning Board review. Mr. Endicott reported that WAHFI had a track record of building scattered site developments that blend into neighborhoods, not blocks of high-rise housing. Ms. Zacharias suggested, as an example, committing to building no more than a single, 1,500 s.f. house within a 10-15-year time frame as a way to provide a level of certainty to the neighbors to which Ms. Dickson might acquiesce. Mr. Endicott indicated that Ms. Dickson was not willing to change her goals but concurred with Ms. Zacharias that building a duplex on one lot and a smaller single-family home on the other would satisfy the restrictions encumbering the properties. Mr. Endicott reminded Committee members that WAHFI could not move ahead without Town support and reiterated that a contractual delay in building out the second lot was not acceptable to the neighbors. Mr. Endicott expressed concern about constraining a valuable asset for the Town and thought that protection for the neighbors was provided by the necessity of Town Meeting approval for its projects.

Mr. Ober invited any neighbors on the call to speak, but no one took the opportunity. Mr. Ober reminded Mr. Endicott that the CPC's Public Hearing was in 2 weeks and noted that the Committee viewed this meeting as a dry run for Town Meeting.

CPA Fund Financial Information:

- **CPA Fund Existing Project Status**

Mr. Ober highlighted balances in 2 historic resource project accounts, WAIC Design and 120 Summer St. Preservation Restriction, which would return to the CPA Fund but which had not yet been transferred. Mr. Ober noted that of the nearly \$8.5 million in appropriated but unspent CPA funds, approximately \$300,000 related to the transfers he had just noted and \$6.85 million related to the construction of the Josiah Smith Tavern ("JST") which was in progress.

Mr. Ober questioned account balances in the Case Estates and Ash St. Final Design/Case Estates Parcel 2 & 9 Construction Accounts. Tracey Lembo explained that these projects were

tied together and included construction of the Legacy Trail and Connector, construction of a pathway connecting the Legacy Trail and Connector to Ash St., and funds for final design of the Ash St. walkway. Ms. Lembo reported that these projects were largely complete and that she did not expect much money to be returned to the CPA Fund after all bills had been paid and reclassifications made. Responding to Mr. Tubman, Ms. Lembo reminded the Committee that the small amounts of money left in 2 historic preservation restriction accounts had been appropriated for the costs of enforcing these restrictions and would remain in these accounts indefinitely unless needed. Mr. Ober noted that the status of existing appropriations would be reviewed again in the fall.

- **CPA Administrative Expenses**

Mr. Ober reported that based on current estimates, approximately \$72,000 of the CPC's administrative budget would return to the CPA Fund at year end and recalled that in FY19, the CPC had spent almost all of its administrative budget, which was an unusual occurrence.

- **CPA Fund Projections**

Mr. Ober remarked that unless Committee members had particular issues they would like to discuss, he would review CPA Fund projections at a high level. Mr. Ober indicated that since the approval of the JST project, which had siphoned off a sizable portion of the CPA Fund balance, projections had shown a significant dip in CPA Fund balance to slightly over \$1 million at the end of FY22. Noting that this was no longer the case, Mr. Ober reviewed contributing factors including moving \$1 million for walkways from FY22 to FY23, removing \$750,000 for preservation restrictions for Case Estates' buildings from projections altogether, and pushing 2 smaller projects (Brook School Apartments expansion and 261 Merriam St. preservation restriction) from FY22 out to FY23. Mr. Ober encouraged CPC members to review the Word document summarizing changes in projections since the last time Committee members had reviewed them and reported that, as usual, he would focus on the near term in his presentation at the CPC's Public Hearing in 2 weeks.

Committee members discussed the large drop in projected State match for FY22. Ms. Lembo reported that the State had not yet issued guidance for the FY22 match and that its guidance for the FY21 match had not been very accurate. Ms. Lembo asked for direction on the level of State match to project. Mr. Ober favored keeping the current, conservatively projected match. Mr. Newberg remarked that the exercise was somewhat academic since the CPA Fund balance generally had a large cushion. After reminding the Committee that for a long time the CPC had expected to fully fund the JST project in cash, which had proved to be impossible because of increases in project costs, Mr. Ober concurred with Mr. Newberg's assessment.

Other

Mr. Ober reported that he had received an unusual request from Jim Polando, who was representing a group of neighbors which had purchased 261 Merriam St. Regretting that Steve Wagner was not at the meeting to help with the discussion, Mr. Ober recalled that the Committee had previously heard a request for a preservation restriction ("PR") for 261 Merriam St. in the amount of \$325,000 and reported that the proposed purchase price of the PR was now \$200,000 - \$225,000. Mr. Ober indicated that Mr. Polando's group would like the CPC to consider a request to fund a PR for the property before the summer, recognizing that Town Meeting would not act on any CPC recommendation until the fall. Responding to Nathalie Thompson, Mr. Ober reported that Mr. Polando's group hoped that the CPC would approve the project in the next couple of months but, at a minimum, was looking for a "sense of

the meeting.” Mr. Tubman noted that the CPC had an established practice of voting to recommend projects to Town Meeting at its Public Hearing; Mr. Ober agreed that this was the CPC’s established practice but indicated that it was not a requirement. Mr. Tubman remarked that he was struggling with the group’s objective. Mr. Ober reported that he thought the group was hoping to dovetail the expiration of a lease on the property in June or July with beginning to market the property. Ms. Danforth thought the group was trying to take advantage of the strong real estate market. Committee members stressed that funds could not be appropriated until Town Meeting. Mr. Ober also indicated that Mr. Polando had reported that despite having lingering questions in the past, the Historical Commission was now fully on board with moving this request forward.

Mr. Ober reminded the Committee that the appraisal for the 261 Merriam St. PR had been completed in the spring of 2019. Mr. Ober then recalled guidance the CPC had received in 2017 from Town Counsel which suggested that the passage of time alone would not necessitate a new appraisal but that significant changes in the Town, neighborhood, or property would. Mr. Ober reported that the original proposed PR had allowed no additions but that the current proposed PR would allow a 600 s.f. addition. The Committee determined that the best way to move the project forward was to ask the Historical Commission to submit an administrative fund request for an updated appraisal which the CPC could consider at a to-be-scheduled meeting in April. The Committee noted that work on the appraisal would have to begin in FY21. Ms. Lembo agreed to contact Mr. Wagner to make this request.

Mr. Ober listed projects to be considered for FY22 funding: 1) Memorial Pool Design Fees, 2) Case Estates Tree Preservation, 3) Regional Housing Services Office, 4) Ash St. Construction, 5) Burchard Park, and 6) Birch Lane. Mr. Ober thought that most of the projects were not controversial but asked Ms. Zacharias if there were issues with the Birch Lane Project that the Committee should discuss before its Public Hearing. Ms. Thompson thought it was difficult to gauge the strength of the neighbor’s opposition since the lawyer representing them typically spoke for them. Ms. Danforth noted the close proximity of the Rostami home to the proposed development but suggested that the other neighbors’ properties were well screened. Ms. Dorna thought WAHFI would benefit from putting parameters around potential development of the second lot. Ms. Zacharias thought the proposal was too open ended and not fully baked; Ms. Thompson disagreed. Mr. Ober thought the crux of the problem was that *any* development on the second lot was a non-starter for the neighbors and that not building affordable housing on the second lot was a non-starter for Ms. Dickson. Ms. Lembo read the following language contained in the deed restriction encumbering the second lot, “In conjunction with this Interim Restrictive Covenant, WAHFI agrees that the Property will be used for the creation of between one (1) and four (4) permanently protected affordable housing units constituting ‘community housing’...” and suggested that through this language, a ceiling on development was already in place. Ms. Lembo noted that the same language was contained in the deed restriction encumbering the subject property site and that WAHFI could have proposed 4 units on that lot but had chosen to propose 2.

The Committee discussed the evolution of the proposed project from 2 duplexes to 1, which Mr. Tubman thought had occurred in response to neighborhood opposition. Ms. Danforth and Ms. Zacharias lauded WAHFI’s track record. Responding to Mr. Ober, Mr. Newberg reported that the Housing Trust was impressed with WAHFI’s response to neighbors and other Town Committees and had voted to support the project. Mr. Newberg expressed his belief that, in keeping with Ms. Dickson’s wishes, the second lot would be developed as affordable housing and that the Town would be better off if WAHFI, a known entity comprised of Weston residents with a fondness for the Town, built that housing.

Approve Minutes of the CPC Meeting on February 1, 2021

Ms. Danforth reported that she had not attended the February 1st because of difficulties logging on, for which Ms. Lembo apologized. Ms. Danforth questioned aspects of the Ash St. Walkway request as follows: 1) an easement from the owner of 180 Ash St. had not yet been requested, 2) trees to be removed had not yet been marked, and 3) design had not yet been completed.

VOTE: Mr. Ober entertained a motion to approve the minutes of the CPC meeting on February 1, 2021. Ms. Thompson made the motion, which was seconded by Mr. Newberg. The motion passed unanimously by roll call vote with Ms. Danforth abstaining.

The meeting adjourned at 8:37 p.m.

Respectfully submitted,

Tracey A. Lembo
CPC Administrator

Appendix A

CPC Meeting March 8, 2021 Document List

- 1) CPA Applications for 2021 Annual Town Meeting:
 - a. 8-10 Birch Lane:
 - i. PowerPoint
 - ii. Affordable Housing Interim Restrictive Covenant for 218 Boston Post Rd.,
- 2) CPA Fund Financial Information:
 - a. February 22, 2021 – Existing CPA Fund Project Status
 - b. 2-22-21-FY21 CPC Administrative Expenses
 - c. 2-11-21 – Draft FY22 CPC Spreadsheet
 - d. 2-11-21 Draft FY22 CPC Spreadsheet – Compare to 10-12-20 Draft FY21 CPC Spreadsheet
- 3) Draft Minutes of the February 1, 2021 CPC Meeting