

**MINUTES OF MEETING
COMMUNITY PRESERVATION COMMITTEE
January 25, 2021
Location: Online Meeting**

The Community Preservation Committee (the “CPC” or the “Committee”) convened a regular meeting, duly noticed, on Monday, January 25, 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; Sue Zacharias; and Steve Wagner. Tree Advisory Committee (“TAG”) Chair Lori Hess was present. Weston Affordable Housing Foundation, Inc. (“WAHFI”) President Peter Endicott and board members Keith Gross, Tony Nolan, and Susan Haber were present. Attorney Eric Goldberg of Wilchins, Cosentino & Novins LLP and Birch Lane abutter Andrew Rostami were present. Residents Lisa Cukier, Balaji Krishnamoorthy, Eileen Schaubert, and John Lathrop were present. Regional Housing Services Office (“RHSO”) employee Liz Valenta was present. Weston Media Center Videographer Jim Tremble 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.

Mr. Ober reported that the CPC had received 5 applications for 2021 Annual Town Meeting (“ATM”), 3 of which would be discussed at the current meeting and 2 of which would be considered at a subsequent, not yet scheduled, meeting. Mr. Ober reminded the Committee that in the fall it had approved a request for design fees for Memorial Pool to be considered at the next Town Meeting, which now appeared likely to be 2021 ATM. Mr. Ober concluded that as many as 6 applications for CPA funding could be considered at 2021 ATM.

Public Comment

None

Applications for 2021 Annual Town Meeting:

- **Case Estates Historic Tree Preservation**

TAG Chair Lori Hess explained that promoting community tree health was at the core of TAG’s mission and that she was requesting funding to preserve 2 legacy trees located on Case Estates. Noting the adverse impacts on tree health of both storms and drought, Ms. Hess further explained that the work of actively supporting tree health was becoming more urgent because of climate change. Describing the Butternut Tree and the Persimmon Tree as living examples of Weston’s agricultural heritage, Ms. Hess displayed an aerial photo of their locations within the Hillcrest Corridor.

Ms. Hess explained that, like chestnut and elm trees, butternut trees were once common in New England but had been devastated by disease and had all but disappeared. Ms. Hess reported that the bulk of her request was for the Butternut Tree which, though healthy, needed invasive vine removal, cabling, structural pruning, and dead wood removal to promote its longevity. Ms. Hess then reported that while the Persimmon Tree still bore fruit, it suffered storm damage in 2020 and required structural and dead wood pruning to save it from further decline. Ms. Hess reported that work to the Butternut Tree represented the bulk of the funding request. Ms. Hess

stated that both trees had been called out in the Case Estates Ecological Management Plan as noteworthy and important to save. Ms. Hess referenced a letter of support from Conservation Administrator Michele Grzenda.

Ms. Hess reviewed details of a \$3,215 cost estimate provided by Tree Specialist, Inc. (“TS”), which she described as a highly reputable firm specializing in historic tree preservation. Ms. Hess noted that Tree Specialist, Inc. had 35 years of experience and many notable clients including Harvard University.

Responding to Steve Wagner, Ms. Hess stated that neither the Butternut Tree nor the Persimmon Tree was located on the part of Case Estates that the Town was considering selling. Mr. Wagner asked if there were markers identifying the trees. Ms. Hess reported that there were not but thought that identifying markers would be a great addition to this project or could constitute a worthy separate project.

Sue Zacharias commented that the price seemed reasonable, hoped that work would not disturb root systems, and wondered whether an herbicide was necessary or if annual clipping would suffice. Ms. Hess agreed to ask the arborist what types of invasives it was combatting, what the extent of the herbicide application would be, and what type of herbicide would be used. Ms. Hess noted that she had used the cut, clip, and brush method of combatting invasive species on her own property to good effect. Responding to Ms. Zacharias’ observation that there were many invasives along the stone wall, Ms. Hess suggested a future community eradication project. Ms. Zacharias suggested that the DPW could mow the larger area annually. Ms. Hess noted that mowing would be helpful but cautioned that mowing near the tree could cause damage.

Nina Danforth expressed support for the project and suggested that educational signage identifying each tree and the proximate 100+ year old incinerator be added to the proposal. Tracey Lembo thought that educational signage was not a permissible use of CPA funds and agreed to return to the Committee with additional information on the topic. Since CPC members appeared to have no further questions for Ms. Hess, Mr. Ober asked her to return for the CPC’s Public Hearing, which he thought was likely be held on March 22nd, to present her request as a “dry run” for Town Meeting.

Barry Tubman asked how many bids TAG had obtained for the work. Ms. Hess explained that she had solicited a single quote from TS because of their reputation and because there were not many arborists specializing in historic tree preservation work. Mr. Tubman thought there were a number of reputable area arborists doing the type of work proposed. Ms. Hess emphasized the historic nature of the trees.

- **8-10 Birch Lane**

Mr. Ober reminded the Committee that WAHFI had presented its Birch Lane Project to the CPC at the beginning of 2020 and noted that the project had since been reconfigured. Peter Endicott reported that Keith Gross would walk the CPC through the current iteration of the project and that Mr. Endicott would then present the current budget.

Mr. Gross referred to a project site plan to orient the Committee to the proposed location of the property on the site. Mr. Gross noted that though the property would be permitted as a 40B

project, WAHFI was respecting zoning setbacks and requesting a single waiver to build a duplex in a single-family zone. Mr. Gross explained that the site contained 2 parcels and that the proposed project was sited on the lower parcel which was characterized by significant grade. Mr. Gross reported that though the grade made the site challenging, it allowed for carports and garages to be built underneath the structure in deference to neighbors' concerns about sight lines. Mr. Gross referenced meetings with the Historical Commission ("HC") and reported that the current proposal for new construction drew heavily on the characteristics of the existing structures. Mr. Gross noted that an earlier proposal to renovate the existing, dilapidated structures would have cost \$200,000 more per unit.

Mr. Gross referred to current plans and elevations and highlighted the ways in which the current proposal mimicked characteristics of the existing structures including low eaves on the 2nd floor and sloping roof lines. Mr. Gross explained that WAHFI's mission was to build family housing and reviewed the layout of the proposed 3-bedroom units. Mr. Gross reported that unit sizes were larger than minimum standards in keeping with the characteristics of the larger community. Noting that landscaping would be different from what appeared on the rendering, Mr. Gross referred to a view of the property looking up Birch Lane from below. Mr. Gross noted that views had been shared with the neighbors and HC and that revisions had been made based on their feedback.

Mr. Endicott presented a summary of the project by the numbers noting that each 3-bedroom unit was slightly larger than 1,500 s.f. resulting in a total square footage for the duplex of just over 3,000 s.f. Mr. Endicott also noted that each unit had a garage and carport and that the property would have a new 6-bedroom septic. Mr. Endicott referred Committee members to a rendering of the front door side of the project which was included in their application packets but which he had inadvertently left out of the slide presentation.

Noting that project costs were higher than for WAHFI's earlier CPA funded projects, Mr. Endicott referred to a slide showing a total project cost of \$1,020,000 (\$510,000/unit). Mr. Endicott reminded the Committee that Polly Dickson had donated the land and tasked WAHFI with building affordable units. Mr. Endicott reiterated that the site's grade change presented challenges but allowed for garages under buildings. Mr. Endicott explained that total project costs included demolition; construction of the duplex, the septic, and a small amount of landscaping; and a tie into Birch Lane Rd. as if it were up to code.

Mr. Wagner reported that the HC had voted unanimously at a recent meeting that both existing houses were significant and that he was disappointed that plans to renovate the existing workman's cottages had not worked out. Mr. Wagner expressed appreciation for WAHFI's incorporation of the HC's feedback into the design but emphasized that the HC had deferred voting on the project until after the CPC had heard neighbors' concerns.

Ms. Danforth recalled walking the site in the fall, reported that the existing homes were in bad shape, and asked where the new duplex would be sited. Mr. Gross explained that the proposed duplex would be located 30 ft. to the east of the existing first house [from Boston Post Rd.]. Responding to Ms. Danforth, Mr. Gross noted that the area at the top of the hill would remain undeveloped at this time. Mr. Endicott reported that the neighbors' biggest concern was WAHFI's ability to construct a duplex on the second lot at some future date, thereby increasing the area's density. Mr. Endicott emphasized that the deed required affordable housing to be

built on the 2nd lot, that WAHFI was discussing its plans with the lot's donor, and that the lot would remain empty for now.

Describing Birch Lane, which is flanked by sugar maples, as beautiful, Ms. Danforth expressed her understanding that WAHFI's proposal did not include widening or changing the road. Mr. Endicott clarified that though the request to the CPC did not include changes to the road, WAHFI would have to bring Birch Lane up to Town standards, which would be accomplished in a separate project managed by WAHFI, in order for the proposal before the CPC to move forward.

Ken Newberg reported that the Housing Trust ("Trust") had voted unanimously to support the project with one abstention, WAHFI member Susan Haber. Mr. Newberg referred to characteristics of the project which had resulted in the Trust's support: 1) a design which respects the character of the neighborhood, 2) a density in keeping with the Town's Policies and Procedures for Affordable Housing (i.e., 4 units/acre), and 3) a footprint smaller than an as-of-right house. Mr. Newberg suggested that proposed project costs of \$500,000/unit were not far out of line with development costs at Brook School Apartments and Warren Ave. and expressed appreciation for WAHFI's hard work.

Responding to Mr. Newberg, Mr. Endicott reported that WAHFI had met with a group of most of the neighbors several times and that he had also met with smaller groups of neighbors in an attempt to address their concerns. Mr. Endicott reiterated that the fate of the empty lot remained a difficult problem to resolve given the neighbors' desire to keep it vacant, the property's deed restriction, and WAHFI's charge. Mr. Endicott mentioned the neighbors' concern with the small landscaping budget and WAHFI's commitment to developing a formal landscaping plan to be executed with WAHFI's own funds. Mr. Endicott described WAHFI's request as a good use of Town funds at a reasonable cost. Mr. Endicott also noted that WAHFI had had success in the past with bringing projects in under budget and returning surplus funds to the Town.

Mr. Newberg commended WAHFI's neighborhood outreach and willingness to revise plans based on neighbor feedback. Mr. Newberg noted that he had reviewed a deed restriction on another property donated by Polly Dickson to WAHFI which stipulated that the property would revert to Ms. Dickson if it were not developed as affordable housing. Mr. Newberg explained that if the Birch Lane property were to revert to Ms. Dickson and she subsequently sold it, a 6,000 s.f. house ignoring neighbors' wishes could be built. Mr. Newberg suggested that if WAHFI tried to deviate from the terms of the deed restriction, the result could be worse for all involved. Mr. Newberg expressed support for the plan and appreciation for the cost reduction and wished WAHFI luck.

Responding to Ms. Zacharias, Mr. Endicott stated that the proposed project would be a rental property in perpetuity. Ms. Zacharias posed the hypothetical situation whereby a family rented a Birch Lane unit with 3 teenagers who subsequently grew up and left home. Mr. Endicott explained that the Massachusetts Department of Housing and Community Development ("DHCD") promulgates occupancy regulations which allow tenants to be evicted if they cease to be income qualified (i.e., their incomes become too high or too low over time) but not if their family size changes.

Noting that the existing homes were built as workers' cottages, Ms. Zacharias questioned the wisdom of building such "high end" housing using public funds. Citing Weston's high tax bills, Ms. Zacharias suggested that existing Weston residents who could not afford to upgrade their own kitchens would be asked to pay a lot of money to fund upgrades for other people. Ms. Zacharias seemed troubled that the proposal for the units included central air conditioning and questioned the size of the demolition budget (i.e., \$45,500). Ms. Zacharias expressed concern over the cost of the project in the context of a large Town budget and a very large CPA fund request expected from the Recreation Commission. Ms. Zacharias then asked if the Town had reached safe harbor under the State's Chapter 40B regulations. Mr. Endicott was unsure but suggested that the number of affordable units in proposed 40B projects tended to be negotiated down as projects got closer to fruition. Mr. Endicott explained that WAHFI was trying to build a property that would last for 150 years in keeping with the donor's mandate to build affordable housing. Ms. Zacharias again emphasized the large cost of the project.

Ms. Zacharias expressed understanding with the neighbors' concern about the potential for future development of the second lot. Mr. Endicott noted that over time houses were built and the Town changed and that this situation was not unlike the situation in other neighborhoods (i.e., absent a conservation restriction on a given parcel, residents could not be assured of what would be built on abutting property in the future). Mr. Endicott noted that in light of neighborhood concerns, WAHFI had scaled back its original proposal to a single duplex. Ms. Zacharias emphasized that if the lot were developed as a single-family home, it would have to adhere to Town zoning regulations (e.g., setbacks). Mr. Endicott clarified that the property consisted of 2 buildable lots on which a total of 2 single family homes could be built as-of-right and that WAHFI's current proposal left a buildable lot empty which could be developed at some future, more appropriate, date. Stressing that each lot contained 40,000 s.f. which exceeded the size of many of the neighbors' lots, Mr. Gross maintained that a very small house was being built on a large parcel.

Marcy Dorna echoed Mr. Newberg's sentiments expressing appreciation for the architectural integrity of the design and commending WAHFI for presenting a reasonable, scaled back plan. Ms. Dorna thought the proposal was for a beautiful home which would contribute positively to Weston's housing stock but expressed concern over the requirement to bring the lane up to Town code. Specifically, Ms. Dorna expressed concern about disruption to the neighborhood and to existing vegetation, including sugar maples. Mr. Gross explained that Weston's Fire Department required a 16-foot lane, that the existing partially paved road varied in width from 10 to 12 ft., and that some trees would have to be removed.

After expressing appreciation for WAHFI's work on the property's design, Mr. Tubman suggested that the project contingency was lower than what the CPC typically saw for similar projects and asked how confident WAHFI was that its budget numbers would not change. Mr. Endicott referenced many conversations with contractors, pointed to some flexibility in hard cost line items and in allowances for interior finishes, and stated that WAHFI was very confident that it could meet its budget numbers.

Echoing Ms. Dorna's remarks, Nathalie Thompson praised the project's design and expressed appreciation for reduced costs. Ms. Thompson also expressed concern over the impact of widening the road on existing vegetation but understood that there was likely to be little flexibility in the fire code. Ms. Thompson noted that none of us have assurances about what

can be built on land we abut, whether it's owned by a private person or by a housing group, and, though she wished it were otherwise, Ms. Thompson maintained that there was no way to ensure that such future development would be attractive and small. Ms. Thompson expressed support for the project and applauded WAHFI for its great work.

Responding to Ms. Zacharias' earlier question, Ms. Haber explained that the Town had filed for safe harbor in 2 ways. Ms. Haber stated that the Town Planner had asserted that Weston met the criteria for the ratio of affordable housing land area to total land area but that this assertion was currently being appealed at the Housing Appeals Court ("HAC"). Ms. Haber also stated that the Town was asserting a 2-year safe harbor based on the comprehensive permit recently issued for the Boston Post Rd. 40B ("BPR") project. Ms. Haber reported that the BPR permit required construction to begin within a year, that the neighbors had appealed the project, and that she wondered whether a developer would start construction during the appeal period. Ms. Haber concluded that the Town might not have achieved safe harbor.

Attorney Eric Goldberg, representing 5 homeowners whose properties form a horseshoe around the subject property, expressed appreciation for WAHFI's engagement with the neighbors and for its willingness to incorporate neighborhood concerns into project design (e.g., into design, aesthetics, and scale). Mr. Goldberg then listed remaining neighborhood concerns including aesthetics, inadequate landscaping budget, and, most importantly, the potential development of the second lot. Mr. Goldberg thought the current proposal for 2 affordable units satisfied the existing deed restrictions. Mr. Goldberg suggested that the neighborhood was trying to look at all opportunities to contribute to the success of the project including: 1) supporting additional affordable housing in Town, 2) protecting the undeveloped lot with a conservation easement, and 3) potentially providing financial support to preserve the rear lot in its natural state for the benefit of WAHFI's tenants, the neighbors, and the Town.

Mr. Ober asked about the project timeline. Ms. Haber described next steps as meeting with the HC, meeting with the Planning Board, and obtaining the support of the Select Board ("SB") prior to Town Meeting and applying for a comprehensive permit from the Zoning Board of Appeals after Town Meeting. Responding to Mr. Ober, Ms. Haber confirmed that the Town timeline, with the exception of obtaining a comprehensive permit, could be completed prior to May Town Meeting. Mr. Ober asked if CPC members thought WAHFI should return to the Committee prior to its Public Hearing. Mr. Wagner thought there were many unanswered questions and wanted to hear back from WAHFI after meetings with the HC and Planning Board. Mr. Ober reiterated that the CPC had not yet set its future meeting dates but again noted that its Public Hearing was likely to be held on March 22nd. Mr. Ober suggested that Ms. Lembo coordinate with WAHFI after meeting dates were set. Ms. Danforth requested a picture of the existing roadway and houses so that the Committee could get oriented.

- **Regional Housing Services Office ("RHSO") & Community Housing Staff Support (\$30,000)**

Mr. Newberg reported that the Trust had used the expertise of the RHSO, in particular Liz Valenta, since 2016 and could not operate as efficiently without their support. Mr. Newberg noted that the RHSO, with the Trust's feedback, had designed and administered various programs including the CPA funded Emergency Rental Assistance Program, which was approved at Town Meeting in September, and the non-CPA funded Home Repair Assistance Grant Program, which provides health and welfare grants of up to \$5,000. Mr. Newberg

emphasized the RHSO's expertise and the economies of scale realized by working with a consortium. Mr. Newberg also noted the RHSO's and Ms. Valenta's involvement with the Trust's Habitat for Humanity/0 Wellesley St. Project. Mr. Newberg believed that a permanent Town employee providing the same level of service and expertise as the RHSO would cost over 3 times as much. Mr. Newberg referenced the relative benefit of using CPA dollars over General Fund dollars (no match) and the benefits/long-term obligations which would accrue to a Town employee.

Mr. Ober noted that the FY22 request was \$2,000 lower than the FY21 request. Mr. Newberg explained that the figure represented a 30-hour expected reduction in service reflecting the many projects Ms. Valenta had worked on during the current year. Ms. Valenta noted that she had also been working with the Housing Production Plan Steering Committee. Ms. Valenta reminded the Committee that the RHSO conducted monitoring and resale of affordable units for the Town as part of its core services. Mr. Newberg added that Ms. Valenta was helping the Elderly Housing Committee add the 24 units in Brook School Apartments Building D to the Subsidized Housing Inventory. After consulting with the Committee, Mr. Ober concluded that the CPC would next consider the RHSO/Staff Support request at its Public Hearing.

Approve Minutes of the CPC Public Hearing and Meeting on October 26, 2020

VOTE: *Mr. Ober entertained a motion to approve the minutes of the CPC public hearing and meeting on October 26, 2020. Ms. Dorna made the motion, which was seconded by Ms. Thompson. The motion passed unanimously by roll call vote.*

Next CPC Meetings

Mr. Ober reported that he had attended a recent SB meeting attended by Weston's State Senator and State Representative. Mr. Ober noted that Laurie Bent was now SB Chair and that she was in favor of holding Town Meeting by June at the latest. Mr. Ober reported that Ms. Lembo had contacted Leon Gaumond to get a sense of the most likely, or at least the earliest, Town Meeting date. Mr. Ober referred to a schedule of dates suggesting that May 3rd would typically be the date for 2021 ATM and that March 22nd would typically be the date for the CPC's Public Hearing. Mr. Ober quoted the following excerpt from an email from Mr. Gaumond: "It is my OPINION that we will not be having our ATM on May 3rd. Definitely not before. That being said, I see no reason why 3-22 couldn't work for your hearing." Mr. Ober concluded that May 3rd was an assumed, but most likely unrealistically early, ATM date.

The Committee decided to hold its next meeting on Monday, February 1st to hear Burchard Park and Ash St. Sidewalk requests; to hold a meeting on Monday, March 8th to hear from WAHFI again; and to hold its Public Hearing on Monday, March 22nd. Mr. Ober noted the possibility of adjusting the schedule as needed.

The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Tracey A. Lembo
CPC Administrator

Appendix A

CPC Meeting January 25, 2021 Document List

- 1) CPA Applications for 2021 Annual Town Meeting:
 - a. Case Estates Tree Preservation:
 - i. Application
 - ii. Estimate
 - iii. Memo from Michele Grzenda dated 1-12-21
 - iv. PowerPoint
 - b. 8-10 Birch Lane:
 - i. Application
 - ii. Data Points
 - iii. Site Development Plan (SP-1)
 - iv. Site Development Plan (SP-2)
 - v. Plans and Elevations (A1.0)
 - vi. Renderings (1-4)
 - c. RHSO/Community Housing Staff Support:
 - i. Application
 - ii. Letter of Support from Weston Affordable Housing Trust dated 1-25-21
- 2) Draft Minutes of the October 26, 2020 CPC Meeting
- 3) CPC Schedule:
 - a. Spreadsheet - CPC Schedule 2017-2020
 - b. Email from Leon Gaumond to Tracey Lembo dated January 21, 2021