

COVINGTON\_ESTATES\_SUBDIVISION\_(08-11)

---

MR. ARGENIO: Covington Estates subdivision represented by Ross Winglovitz. This application proposes a 2 lot subdivision of a parcel. Neil, do you remember this?

MR. SCHLESINGER: Yes, vaguely.

MR. ARGENIO: Just to refresh everybody's memory, this is the one where Mr. Schlesinger led the charge on the aesthetics of the buildings. Danny, do you remember this cleaned up the aesthetics?

MR. GALLAGHER: Yes.

MR. ARGENIO: Mr. Winglovitz, can you tell us what you're looking to do here? Mark, can you just share with the board where this application is at as far as the town is concerned please?

MR. EDSALL: It's a brand new application, the planning board since 2001 has had before it a site plan application for the multi-family project and Dominic can speak to the reason why they need to have certain percentage of sales I believe before they can form the condominium association but what they're looking to do is effectively split it into two phases on individual tax lots. So that would be a subdivision. What we have suggested is that any deeds that are created be, have a restrictive covenant which makes the lots subject to the site plan approval so it's clear that they're subject to common site plan approval and secondly that they're joined so that they must be under the same umbrella condo association.

MR. CORDISCO: Correct.

MR. EDSALL: I'll leave the explanation of the AG's percentage requirements to Dom.

MR. CORDISCO: Well, in regards to the specific percentages I'm unaware exactly what they are but my understanding is that as Mr. Edsall had said was that they're looking to phase the project so that they could start selling units now by creating essentially two condominium associations and that would enable them to do that and satisfy the AG's requirements, in order to do that, they're looking actually for subdivision approval and that's what this current application's for. The board has previously granted site plan approval so that has been done as far as what the prior site plan was and whether this matches up against it I'll let Mark speak to that.

MR. VAN LEEUWEN: I've never seen anything like this before, this is a first.

MR. EDSALL: Well, I think we'll deal, if you want to deal with subdivision first then you can, they also have as a discussion item a discussion of a tot lot, more or less an amendment, revision, whatever you want to call it to the site plan so if you want we can speak first on the subdivision.

MR. ARGENIO: So this project has site plan approval, we talked about this, we reviewed it, this was approved shortly after this current board came together a few years back, it was one of the first projects that was approved. Mr. Winglovitz, I'm going to get right to the point from where I'm sitting the other plans that we looked at the site plans were different than what I see here in front of me, as I remember, if my memory serves me correctly.

MR. WINGLOVITZ: The only difference should be is the footprints are a lot more detailed because we actually have a real footprint but they're all in the same location, what we're proposing is a privacy fence along the rear of these units here and along--

MR. ARGENIO: I don't have that here.

MR. WINGLOVITZ: That's, they talked about the subdivision plan, this is the site plan amendment, we can talk about that first and the privacy fence, 6 foot high privacy fence along the rear of these ones here and the addition this was basically there was a fence here, open grass area, what we're proposing is a tot lot within that open grass area, that wasn't part of the original but we want to add a tot lot to that so that's the only amendments that we're looking for as far as the site plan amendments go. Everything else is virtually the same.

MR. VAN LEEUWEN: Is that for children the tot lot?

MR. WINGLOVITZ: Yes, that's 300, this is basically part of the site plan, it's going to be a green area for open space recreation, the builder who's looking to build the project wanted to add a tot lot to the project so we thought that was a good thing.

MR. ARGENIO: What happened to the clubhouse and pool?

MR. WINGLOVITZ: There has not been a clubhouse or pool since the first year, that was removed from the plan a long time ago.

MR. ARGENIO: I have a drawing with a clubhouse and a pool.

MR. WINGLOVITZ: Have to be a long time ago.

MR. VAN LEEUWEN: I think what we should do is get out the approved plans.

MR. EDSALL: There are no stamped approved plans.

MR. VAN LEEUWEN: There are none?

MR. ARGENIO: But there's a site plan that has conditional approval.

MR. EDSALL: The question is what is that plan.

MR. ARGENIO: Do we have that?

MR. EDSALL: That's what we're attempting to find out what changes occurred.

MR. ARGENIO: What's the answer to that question, Myra?

MR. VAN LEEUWEN: What we should do before we get into this too deep before we do anything is let's get the maps to see what's conditionally approved, whatever it is find out if everything matches.

MR. ARGENIO: I think you're right.

MR. VAN LEEUWEN: I'm not saying the man is wrong or not telling the truth, I can't say that because I don't know but let's see what the original plan is now we're already questioning where is the clubhouse is, where did it go.

MR. WINGLOVITZ: Hasn't been on it since 2003, it was removed early on in the process, we talked about it with the board part of a long discussion.

MR. VAN LEEUWEN: I wasn't here when that was approved but if somebody says and all of a sudden it disappears I'm sure something like this is approved with a clubhouse and pool or clubhouse only.

MR. ARGENIO: Mr. Winglovitz, let me, I want to read from Mark's comment number 2, the bulk table is unusable and incomplete, please provide properly completed bulk table where actual provided values for each proposed lot, at minimum it is noted that proposed lot 2 has no road frontage, as such, this would appear

to be a noncompliance with the R-5 Use A-7 requirements. And in the current layout form this application would require a ZBA referral. Can you speak to that?

MR. WINGLOVITZ: Yes, I could, I just spoke to Dominic briefly about it, we looked at the code requirement, street frontage and unfortunately there's no definition of street frontage, there is a definition of street that indicates a lot must have frontage on a road that's substantially approved in accordance with the planning board's requirements, that's on a filed map which this would be so we believe that these two locations here would give us street frontage we need in accordance with the definition of your zone.

MR. ARGENIO: I'd like to comment but I don't want to insult you so I'm going to look over to Dominic and Mark.

MR. EDSALL: I will cut to the chase rather quickly, you read the law wrong, it says public road or private road, if you read a definition in the Town of New Windsor of a private road it is a lot or a road that serves single-family houses with a maximum of 6 which clearly is not this case, the law requires 15 foot of frontage since you don't have--

MR. WINGLOVITZ: Under subdivision regulations, I was looking under the zoning regulations.

MR. EDSALL: Unfortunately, you're asking for a subdivision I believe so obviously every law's a little different so it's difficult sometimes but the point being is that the exemption you're trying to apply with private road would only apply if you had 6 single-family houses and that would be frontage on the private road.

MR. ARGENIO: I cannot quote the law but I can tell you

that what you're saying to me doesn't make sense, that's why I looked to folks at the table next to me, it can be fixed, I'm okay with that.

MR. CORDISCO: I did review it after Mr. Winglovitz gave me a call and I reviewed the definitions in the subdivision law and it is as Mr. Edsall said referring to either public road or private road and a private road is defined as one that serves single family residences.

MR. EDSALL: My suggestion is that you take the main access road that has the boulevard approach, split it, create a 50 foot whatever you want to create, split it half way and have each of the condo associations own half the road and the only thing we have to be careful of is then becoming afoul of the lot width requirement so we have to next tackle that one.

MR. ARGENIO: Now understand something for the benefit of the members you're shaking your head, don't shake your head, for the benefit of the members preliminary approval the and Dominic correct me if I misspeak is to create two different lots, so the quantity of units on each lot is less because the Attorney General's office has a certain threshold of quantity of units that need to be sold before they can inform the association, is that correct?

MR. CORDISCO: That's correct, they want to split the condo in two.

MR. VAN LEEUWEN: What he's trying to do is avoid the law.

MR. ARGENIO: That's not what's going on here, we had the same thing at The Grove, I've seen this before, am I correct?

MR. CORDISCO: That's absolutely correct.

MR. ARGENIO: So here's the deal, Henry VanLeeuwen is 100 percent correct, what we don't want to back ourselves into is a situation where we quickly go scampering down the path and there's other things on this plan that are not correct. I want to make sure we do our due diligence, I don't see any major hurdles here but we need to do our due diligence. Henry's exactly correct about that issue, I want to read comment 2 to you, Mr. Winglovitz.

MR. VAN LEEUWEN: Not going to open the town for a lawsuit.

MR. ARGENIO: Correct. The temporary turnaround for lot number 1 is within lot number 2 as such a temporary easement should be created.

MR. WINGLOVITZ: No problem.

MR. EDSALL: Mr. Chairman, I will meet with Mr. Winglovitz and I'm sure we can come up with a way of having this meet the subdivision regulations and my level of comfort increases because their attorney has indicated to me they have no problem with the deed restrictions, restrictive covenants that would make each lot subject to whatever plan you ultimately stamp for the site plan and also make them subject to the restriction that even though they have two condo associations they have to be under the same umbrella condo association, same as Plum Point has multiple phases, condo associations, they have one overall so--

MR. WINGLOVITZ: Exactly what's proposed.

MR. EDSALL: It's a mechanism to work with the AG's office so they can sell units.

MR. ARGENIO: That's the deal, that's what's going on here and not them circumventing the law, certainly not,

so the one thing that I don't want to fall into is I just want to make sure Mark that somebody, Myra, Mark, somebody, Ross, I want to get my hands on that plan that was reviewed and been given preliminary approval, I want to make sure A matches B.

MR. EDSALL: Conditional site plan you mean?

MR. ARGENIO: Correct.

MR. EDSALL: Just an aside, no matter what plan we ultimately find out I will remind the board of your very long and detailed discussions that this is within the historic corridor and you were very concerned about the appearance, very concerned and the applicant agreed by a note on the final plan, I do recall this much to restrict the colors of the houses to be earth tone.

MR. ARGENIO: That was Mr. Schlesinger.

MR. WINGLOVITZ: We met with the building department and provided elevations a year ago.

MR. EDSALL: I'm somewhat concerned that they'd want to take in the triangular area to the west which was set up to my recollection on the plans as having an almost like a historical park with a monument and which would appear to be very consistent with the historic overlay zone and turn that into a tot lot with gymnastic equipment, just seems like probably one of the worst places you can propose it. Again, that's the board's decision but just reminding you of some of the old discussions.

MR. ARGENIO: What's the genesis of that, Mr. Winglovitz?

MR. WINGLOVITZ: The builder thought he needed some recreation here.

MR. ARGENIO: Why there?

MR. WINGLOVITZ: Probably the best location to do it, probably one of the few locations he'd be able to do it on this site.

MR. ARGENIO: What about this spot right here?

MR. WINGLOVITZ: That's a knob in the middle of the site, it's pretty high here.

MR. SCHLESINGER: I'm sorry?

MR. WINGLOVITZ: This was set up as an open recreation area, there was a basically a flag in the center with three benches around it. What we have done--

MR. ARGENIO: Here's a picture.

MR. EDSALL: More than a flag.

MR. ARGENIO: Lot more than a flag, it was a walkway, a decorative marker.

MR. WINGLOVITZ: What we talked about doing was putting a historical marker because we're keeping this right in the stone wall.

MR. ARGENIO: You must of washed it in cold water cause it shrunk.

MR. WINGLOVITZ: Basically, the roadway was right here so we wanted to put that historical marker in the stone wall, have the seating area so the parents could watch the kids in what we envisioned as an open space recreation area.

MR. SCHLESINGER: I'm still shaking my head, the picture I get here is that we have a conditional site plan approval and obviously won't be a, we agreed we

want to take a look at that to see that it is a copy of what we have here. But I'm also getting a picture that you guys don't agree with me and I'm off base that still proposing changes to a conditional site plan so where does that put us, number 1? Number 2, I'm far from a real estate attorney and I'm sure you guys are covering the bases but we want to have two condo associations on one project, that's confusing me also I understand the theory behind it but I am not sure I understand the legality behind it.

MR. VAN LEEUWEN: I think the first thing we have to do here we have to get the other map out and see what the conditional approval looks like and make sure everything is the same and then I suggest we go on from there.

MR. ARGENIO: I think that's a foregone conclusion.

MR. VAN LEEUWEN: The building disappeared, couple other things disappeared.

MR. WINGLOVITZ: No buildings have disappeared, Hank, I think you're characterizing things incorrectly here, no buildings disappeared, that clubhouse was gone many, many years ago.

MR. ARGENIO: My memory tells me at some point in time we looked at the project and it had a clubhouse, I don't specifically have the plans that received conditional approval committed to memory, I just happened to remember a clubhouse on this project at some point in time.

MR. SCHLESINGER: Talking about adding a fence that wasn't in the original site plan. I'd like to see what kind of fence you're going to put up and I think that it has to be reviewed.

MR. WINGLOVITZ: That's what we're proposing, that's

why we're here.

MR. SCHLESINGER: Eight foot stone fence that may work very nicely but this is opening up a whole new thing.

MR. WINGLOVITZ: This recreation area and that fence is really all we're talking about as far as changes to the plan.

MR. ARGENIO: Yeah, I think even--

MR. WINGLOVITZ: Absolutely, go back to the February plan, make yourself comfortable that there's no significant differences.

MR. ARGENIO: Here's what I don't want to do, what's going to open the town up for a problem and--

MR. WINGLOVITZ: We'd be glad to go back to the February plan if this is a problem, we thought this was an improvement over this.

MR. ARGENIO: Let me finish, what could be a potential problem is taking this project back to square one or square two, that's not what we're here to do. But having said that, I think you're right, I think and I think Henry's right too that we just we need to conduct a review on the changes you want to make, Mr. Winglovitz, and we need to effectively compare this plan to the one that's received preliminary approval. Howard or Danny, do you have any other thoughts on this?

MR. BROWN: No, I agree with Neil.

MR. ARGENIO: What else can we do for you?

MR. WINGLOVITZ: That's it. I would like to schedule a meeting with Mark to go through the subdivision just to see how we can comply. My whole intent was exactly as

you said so if we can make this comply, if we can that's what we want to do. I'll schedule a work session with Mark.

MR. VAN LEEUWEN: Mark has some good points, sit down with him and work it out because I'll tell you something the way you've got it planned now I'm not going to approve it cause if they sell it to two different people which they could do, okay, and all of sudden somebody walks in and says well, you didn't give me any site access then we're in trouble.

MR. EDSALL: Mr. Chairman, maybe I can put some light on the whole issue of multiple condo associations, very briefly it's not something new, Plum Point although Plum Point in many cases is not a good example of how you should do things has seven condo associations in one umbrella, Windsor Crest which has been around a long time I think has three or four with one umbrella. Years ago it was just done but now the AG's office and the county tax map department are requiring separate tax lots for the individual associations so it's been happening for years but they have created another hurdle for these poor folks that want to get something approved asking for a subdivision so it's nothing new. But the subdivision requirement's new and it's not by our making, it's by--

MR. ARGENIO: It's not a big deal and they're not attempting to circumvent the law.

MR. CORDISCO: By umbrella, umbrella means master so there will be a master association responsible for all the site amenities between the two condo associations.

MR. EDSALL: We'll work with him.

MR. ARGENIO: Thank you.

MR. WINGLOVITZ: Thank you.