



# Town of Duxbury Massachusetts

## Planning Board

TOWN CLERK  
2024 MAR 13 AM 8:38  
DUXBURY, MASS.

### Minutes 11/27/2023

The Planning Board met on November 27, 2023 at 6:00PM in the Large Classroom, second floor, Duxbury Senior Center; 10 Mayflower Street Duxbury, MA 02332.

Pursuant to Chapter 2 of the Acts of 2023, this meeting was conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law. Members of the public who wish to watch a replay of the meeting may do so by viewing the Duxbury Government Access Channels – Verizon 39 or Comcast 15. Viewers can visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) for information about Duxbury programming including streaming on Duxbury YouTube, to watch replays and Video on Demand.

Present: Scott Casagrande, Chair; Kristin Rappe, Vice Chair; Keith MacDonald, Clerk; Wayne Dennison (attending remotely); and Allison Shane.

Absent: Jennifer Turcotte and David Uitti.

As Mr. Dennison was participating remotely, all votes were taken via roll call,

Mr. Casagrande called the meeting to order at 6:00PM.

### Open Forum

Ms. Shane inquired if there are any updates on the Board's previous Open Forum discussion related to the salary range not being shown on the job posting for the Planning Director. Ms. Rappe confirmed that the salary range is listed on the job posting.

Mr. Casagrande informed the Board that at the Finance Committee meeting, a good discussion was held about potentially hiring another Planner in the future that is focused on Coastal Resiliency. Ms. Rappe stated that the Coastal Resiliency Task Force will be working on a job description with Human Resources for this position.

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The mission of the Town of Duxbury is to deliver excellent services to the community in the most fiscally responsible and innovative manner while endeavoring to broaden our sense of community and preserve the unique character of our town.

PLANNING BOARD MINUTES

Date: November 27, 2023

Page 2 of 6

**Administrative Items**

***Review of 2024 Meeting Schedule***

The Board did not have any issues with the presented draft meeting schedule. Staff will finalize the schedule and distribute the final version to the Board.

***Invoices***

For the Foth invoice dated November 10, 2023, Ms. Rappe inquired about the charge for attendance at the Coastal Resiliency Task Force (CRTF) meeting on October 17 for two hours. Ms. Rappe said the Task Force Chair was unaware there would be a charge for the consultant's attendance at the meeting. Mr. Casagrande asked staff to check in with Foth about the charge.

***Minutes***

Motion: Mr. MacDonald moved to approve the minutes of November 13, 2023 as written. Seconded by Ms. Rappe.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Aye.

**6:05PM Public Hearing: Parkside Inclusionary Housing Special Permit Modification**

***Open Public Hearing***

Motion: Ms. Rappe moved to open the public hearing at 6:08PM. Seconded by Mr. MacDonald.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Aye.

***Waive Reading of Public Hearing Notice***

Motion: Mr. MacDonald moved to waive the reading of the public hearing notice. Seconded by Ms. Shane.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Aye.

Paul Cusson, Delphic Associates LLC, was in attendance to discuss the filing. Mr. Cusson informed the Board that Delphic Associates LLC was hired by Perry Phillips Woods LLC to

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## PLANNING BOARD MINUTES

Date: November 27, 2023

Page 3 of 6

assist with the housing lottery for the Parkside Subdivision affordable units. He reminded the Board that two affordable units are to be built in the Parkside Subdivision.

For Local Initiative Program (LIP) affordable units, a deed rider is put in place in to keep units affordable in perpetuity. Mr. Cusson explained that when he was reviewing the Inclusionary Housing Special Permit for Parkside, he noticed that Condition #4 uses language from the old deed rider used for the Local Initiative Program, instead of the universal deed rider that came out after 2003 to be used for all LIP units. Delphic Associates is requesting that the language from the new deed rider be substituted in place of the old deed rider language that is currently referenced in the Special Permit decision.

Mr. Cusson informed the Board that in order for the affordable units to be added to the Subsidized Housing Inventory in the future, Delphic Associates will be submitting an application to the Selectboard.

Mr. Dennison asked if Town Counsel has been contacted regarding this case. Mr. Casagrande confirmed that emails from Town Counsel were included in their agenda materials. Mr. Casagrande read aloud a section of the email from Town Counsel dated October 25, 2023, which states "it is my opinion that the Planning Board can modify the Special Permit to meet the current DHCD/EOHLC LIP guidelines."

Mr. Cusson said the Special Permit decision states that the Town has to approve the lottery agents for the development. He said they are requesting that the Board approve Delphic Associates LLC as the lottery agent for the development, and stated that they been the lottery agents for several developments in Duxbury, including ch. 40B developments.

Mr. Cusson told the Board that local preference for the affordable units must be requested by the Town in a letter to EOHLC.

Mr. Dennison asked questions relative to the use of Delphic Associates LLC. He asked if there have been instances in their time as lottery agents where the lottery had to be redone, and Mr. Cusson replied that has not happened to his knowledge. Mr. Dennison asked whether Delphic Associates LLC has ever been deemed not to be eligible to be a lottery agent, and Mr. Cusson replied that this has never occurred.

### *Close Public Hearing*

Motion: Ms. Rappe moved to close the public hearing at 6:27PM. Mr. MacDonald provided a second.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Abstained.

PLANNING BOARD MINUTES

Date: November 27, 2023

Page 4 of 6

Mr. Casagrande said he has no problem changing the deed rider and updating the special permit to reflect this. He said he has no problem with approving Delphic Associates LLC as the lottery agent for the development or with having the Town Manager sending the local preference letter to the State.

Mr. Dennison expressed concerns with the Town asking for local preference without the Selectboard being the one to request it. Mr. Cusson explained that a previous Planning Director had submitted a local preference letter to the State for the Checkerberry Estates development, and Selectboard approval was not required. He said EOHLHC does not have a requirement that the letter must come from the chief elected official. He also explained that he will have to go before the Selectboard in the future in order to get the affordable units added to the Subsidized Housing Inventory.

Mr. Casagrande suggested they request the Town Manager send the letter, and also request he make sure that the Selectboard is okay with this procedure. Mr. Dennison said the ZBA requesting local preference for 40B developments is different because the ZBA is the special permit granting authority. Mr. Casagrande explained that in this case the Planning Board is the Special Permit Granting Authority and is the granting authority for the development itself. He said the Planning Director has signed local preference letters in the past but as the Town is without a full-time Planner, he suggests that the Town Manager sign and ask for the Selectboard's approval if needed. Mr. Dennison said he is unclear with the procedure, but will defer to the Chair if he is comfortable with this procedure.

*Special Permit Decision Modification*

Motion: Mr. MacDonald moved to amend the current special permit to include language from the current Local Initiative Program (LIP) deed rider. Seconded by Ms. Rappe.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Aye.

*Approval of Lottery Agent*

Motion: Mr. MacDonald moved to approve Delphic Associates LLC as the lottery agent for the development. Seconded by Ms. Shane.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Abstained.



PLANNING BOARD MINUTES

Date: November 27, 2023

Page 5 of 6

*Local Preference Letter*

Motion: Mr. MacDonald moved to request local preference in a formal letter to EOHLC, stating the need for affordable housing, forwarded to the State by a Town official to be designated, in this case the Town Manager. This relates to Condition #2 of the Inclusionary Housing Special Permit dated September 22, 2023 issued by the Planning Board, and is in accordance with EOHLC's policy that it is the responsibility of the Town to request local preference. Seconded by Ms. Rappe.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Aye.

**Parkside Subdivision: Vote to Endorse Subdivision Plans & Enter into Covenant**

Ms. Shane inquired why the Board is not asking for a performance bond. Staff explained that the standard procedure is to have the developers sign a covenant with the Board without a bond, and then the developers can come to the Board to ask to release lots from the covenant to sell them before the development is complete, and that is when the Board will require a performance bond.

Motion: Mr. MacDonald moved to enter into a covenant with the developers of the Parkside Subdivision, and to endorse the subdivision plans. Seconded by Ms. Rappe.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Abstained.

**Other Business**

Ms. Rappe told the Board that she has a friend at a recent development and on the site plan there are some basic plantings approved. She explained that the homeowners would like to upgrade the plantings at the development. The homeowners have not spoken to the homeowners about this yet, but they would be willing to pay for the upgraded plantings.

Ms. Shane asked if the plantings are on the individual house lots. Mr. Casagrande explained that the plantings are planned for the retention area and street trees, not on individual lots. He suggested that the homeowners go to the developer and ask them to provide the upgraded plantings. Mr. Casagrande said the approved plantings are the Board's minimum requirements, and they would only need to come before the Board for approval if they are trying to do less plantings than approved. Mr. MacDonald said he is okay with the upgraded plantings as long as it is not affecting abutters. Mr. Casagrande explained that they need to pay attention to site lines for the roadways. Ms. Rappe suggested that a written agreement between the homeowners and developers be submitted.

PLANNING BOARD MINUTES

Date: November 27, 2023

Page 6 of 6

**Adjournment**

Motion: Mr. MacDonald moved to adjourn at 6:57PM. Seconded by Ms. Shane.

Vote: Mr. MacDonald – Aye, Ms. Rappe – Aye, Mr. Casagrande – Aye, Ms. Shane – Aye, and Mr. Dennison – Aye.

Materials reviewed at the meeting:

- November 27, 2023 Agenda
- Draft Planning Board Schedule 2024
- Foth Invoice #86931 dated November 10, 2023
- Draft November 13, 2023 Minutes
- Public Hearing Notice: Parkside Inclusionary Housing Special Permit Modification
- Delphic Associates LLC Email RE: Planning Board Special Permit dated October 12, 2023
- Delphic Associates LLC Letter RE: Special Permit dated October 12, 2023
- Town Counsel Email RE: Planning Board Special Permit dated October 25, 2023
- Section 560: Inclusionary Housing of the Duxbury Zoning Bylaws – Amended Through ATM March 2023
- Local Initiative Program Affordable Housing Deed Rider
- Local Initiative Program Webpage
- Sp. Permit #2023-1: Parkside Inclusionary Housing Special Permit
- Draft Parkside Subdivision Planning Board Covenant
- Staff Memo RE: Current Project Statuses as of November 21, 2023