

A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE DEVELOPMENT REVIEW BOARD. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.

**TOWN OF SHELBURNE  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
January 17, 2018**

**MEMBERS PRESENT:** Mary Kehoe (Chair) [arrived 8:25 PM]; Mark Sammut, Jeff Pauza, Lisa LaMantia, Jeff Hodgson, Ian McCray, Joanna Watts.

**STAFF PRESENT:** Kaitlin Mitchell, DRB Administrator.

**OTHERS PRESENT:** Anne Powell, Laval Thidodew, Jody Crosby, David Stewart, Ives Bradley, Norm Stanislos, Ryan Hawke, Peter Raymond, Gail Albert, Ken Albert, Bob Clark, John McNeil, Al Nevins.

**AGENDA:**

1. Call to Order and Announcements
2. Public Comment
3. Approval of Minutes (1/3/18)
4. Applications
  - Conditional Use\Site Plan, Expand Nonconforming Use, 5288 Shelburne Road, 5288 Real Estate, LLC (CU04-15R1\SP04-05R1)
  - Conditional Use\Site Plan, Two Single Family Dwellings, 236 High Acres Farm Drive, Amanda Herzberger/Jonathan Harris (CU17-15\SP17-07)
  - Amend Commercial PUD, Combine Buildings & Extend Hours of Operation, 6221 Shelburne Road, J. Graham Goldsmith Architects (SUB13-02R3)
5. Other Business
6. Adjournment

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**1. CALL TO ORDER and ANNOUNCEMENTS**

Until the arrival of Mary Kehoe, Mark Sammut facilitated the meeting and called to order at 7 PM. There were no disclosures or announcements.

**2. PUBLIC COMMENT**

None.

**3. APPROVAL OF MINUTES**

*January 3, 2018*

**MOTION by Joanna Watts, SECOND by Lisa LaMantia, to approve the minutes of 1/3/18 as written. VOTING: unanimous (6-0)[Mary Kehoe not present for vote]; motion carried.**

**4. APPLICATIONS**

The function of the Development Review Board as a quasi-judicial board and the hearing procedure were explained. Individuals to give testimony before the DRB were sworn in.

**CU04-15R1\SP04-05R1: Conditional Use and Site Plan to expand Village Wine and Coffee at 5288 Shelburne Road in the Village Center District and Village Design Review and Village Core Overlay districts and to seek approval for parking area at 5332 Shelburne Road (Marcotte property) by 5288 Real Estate, LLC**

MOTION by Lisa LaMantia, SECOND by Jeff Pauza, to accept the request by the applicant to continue CU04-15R1\SP04-05R1, applications for 5288 Shelburne Road to February 7, 2018. VOTING: unanimous (6-0)[Mary Kehoe not present for vote]; motion carried.

**CU17-15\SP17-07: Conditional Use and Site Plan to build two single family dwellings for full time agricultural employees at 236 High Acres Farm Drive in the Rural District, Lakeshore Overlay, and Floodplain and Watercourse Overlay districts by Amanda Herzberger and Jonathan Harris**

MOTION by Ian McCray, SECOND by Joanna Watts, to accept the request by the applicant to continue CU17-15\SP17-07, applications for 236 High Acres Farm Drive to February 7, 2018. VOTING: unanimous (6-0)[Mary Kehoe not present for vote]; motion carried.

**SUB13-02R3: Amendment of Commercial PUD and written conditions of approval to combine Buildings 1, 5, 6 to allow for construction of a 30,000 s.f. building and to change the café hours of operation to 10 AM–10 PM at 6221 Shelburne Road by J. Graham Goldsmith Architects**

Ives Bradley, Ryan Hawk, Norm Stanislos, Al Nevins, Peter Raymond appeared on behalf of the application.

Submittals:

- Letter to DRB re: Stowe Highlands Club prepared by Sheehey, Furlong & Behm, dated and received 1/10/18
- Draft Gables Agreement, received 1/10/18
- Existing Gables Agreement, received 1/10/18
- Fiddlehead Tasting Room Noise Assessment prepared by RSG, dated 12/15/17 and received 1/8/18
- Shelburne Green South additional landscaping along east property line, dated 1/5/18 and received 1/10/18
- White Spruce photograph, received 1/10/18
- Letter of Transmittal, received 11/20/17
- General Information Application, received 11/20/17
- Sketch Plan Review Application, received 11/20/17
- Comprehensive Plan Compliance document, received 11/20/17
- Project Description document, received 11/20/17

- Site Improvement and Landscaping Plan, received 11/20/17
- Overall Site Plan, received 11/20/17
- Site Plan, received 11/20/17
- Phase I Water and Sewer As-Built Plan, received 11/20/17
- Gables Condominium Association letter, dated 12/11/17 and received 12/11/17
- Findings of Fact and Notice of Decision SUB13-02
- Findings of Fact and Notice of Decision SUB13-02R1
- Memorandum prepared by Director of Planning and Zoning, Dean Pierce
- Stowe Club Highlands
- Town of Shelburne Staff Report, dated 01/17/18

#### STAFF REPORT

The DRB received a written staff report on the application, dated 01/17/18.

#### APPLICANT COMMENTS

Ives Bradley reported on the positive meeting with residents of The Gables and the better understanding on both sides of how to best assuage issues. The concerns of the residents have been heard and changes made to the plan. The color scheme for the building and the screening have been revised. Another 27 white spruce trees seven foot in height will be added to the plantings. The trees will grow approximately two feet each year. The trees will provide better screening. A noise study was done and the noise level is well below what is allowed. The building has been oriented to absorb as much noise as possible and the noise will be projected to the north of the project. What is being proposed is not a speakeasy, but simply what Fiddlehead needs. The vision for Shelburne Green has been largely realized, but the vision has evolved over time.

Ian McCray asked if Fiddlehead is in Building 1 and Building 5. Ives Bradley said Fiddlehead is in Building 1. Building 5 does not exist. Building 4 is under construction. Ian McCray asked the plan for the east and north sides of the proposed building. Ives Bradley said the building will be green with a grey roof. There will be a couple of windows on the building.

Mark Sammut asked if the features of the buildings will be rearranged to focus activity away from the neighbors. Al Nevins said the café will be located in the northeast corner of the building. There are no doors on that side of the building. The southern portion of the building will house the processing and packaging area. Norm Stanislos added there are windows and an egress door to satisfy the Fire Marshall.

Jeff Pauza asked where the spruce trees will be planted. Ives Bradley said the trees will be off set on the side of The Gables. Jeff Pauza asked about the pile of dirt that was

mentioned previously. Ives Bradley said there was discussion of creating a berm, but according to Civil Engineering Associates the berm would be excessively large for a slope not to exceed 7%. The berm would destroy all the existing vegetation and would not meet the setback from the wetland buffer. There would also be permitting and prime ag soil mitigation.

Lisa LaMantia said the pine trees that are already in place are not providing a buffer. Ives Bradley said the trees are planted as they should be, but are not maturing quickly. The trees once mature will fill in the open space. The spruce trees that will be added will grow faster.

Jeff Pauza asked about outdoor seating. Ives Bradley said there will be a small patio in courtyard at the elbow of the building.

Jeff Hodgson asked if the building is higher than others. Al Nevins said the driveway slopes up to the building. The land slopes quite a bit.

Ryan Hawk, RSG, reviewed the results of the noise study that was done. The results showed that open windows and doors allow more noise to exit the structure. The sound levels are significantly lower than the town standards and lower than the 60 dB LEQ one hour standard. The lowest sound measured at the property line was from trucks on the road. The highest sound level with all windows and doors open and everything blasting was 52 dB which is the sound level of a field with insects.

Jeff Pauza asked about sound perceived by the neighbors versus sound already there from Route 7. Ryan Hawk confirmed there are existing sound sources (background noise). Ives Bradley said the buffer of buildings decreases the noise level from Route 7.

Jeff Hodgson asked if three buildings with openings in between versus one continuous building would have less noise. Ryan Hawk said there is likely a line of sight of the buildings from The Gables. The buildings will create a barrier at where the trucks would be the loudest for the residents.

Jeff Pauza asked about the town ordinance relative to bands ending music at 10 PM. Kate Mitchell said bands are not allowed as part of the approval for Shelburne Green. The allowed decibel level is lower during evening and night hours than during the day.

Mark Sammut asked about the impact of the atmosphere on sound. Ryan Hawk said the model calculated conditions where sound propagates well (inversion). Inversion typically occurs at night.

Norm Stanislos noted the sound study will be used by Act 250 and Environmental Court.

#### PUBLIC COMMENT

David Stewart, The Gables, confirmed the meeting with the developer was very productive. There was agreement to change the color of the building and plant fast growing trees. The results of the noise study were also presented and Matt Cohen explained the hours of operation, noting he expects Fiddlehead to be empty by 9 PM but closing is at 10 PM just in case. Only pints of beer can be consumed on the patio. Light fare will be served. Ives Bradley noted Fiddlehead is required by the state to serve food and will do the minimum that is required. David Stewart said the major issue for The Gables is noise, especially in the summer time when people are out on their decks. With more success by Fiddlehead there may be requests for more changes. The change in hours of operation to 10 AM – 10 PM changes the texture and context of the development.

Anne Powell, The Gables, stated the hours of operation are a big concern. People may not be gone by 9 PM or even 10 PM. A definitive answer was not given to the question about concerts. Concerts are different from what is happening at Shelburne Green.

Laval Thidodew, The Gables, said he can see light from the buildings now, and at 10 PM will hear cars and people talking. The trees that were planted are too small to be effective. Jeff Pauza pointed out the development has been approved. The amendment is to construct one continuous building which will help with sound transmission rather than three separate buildings. Norm Stanislos reiterated the intent is for Fiddlehead to close at 9 PM and have everyone gone by 10 PM. A special event permit would be needed from the town and state in order to have a band at the site. Kate Mitchell advised the town does not issue special event permits, and if an event will be held on a regular basis that should be incorporated into the approval.

Norm Stanislos stated the existing trees along with the white spruce will fill in the open area and create a sound buffer. The concerns of the residents at The Gables have been heard. The development is in the Commerce & Industry district which has been in place since 1966. The Gables was built in 1988. Two remaining buildings from the original site plan will not be built.

Dean Pierce, Director of Planning, spoke on behalf of the Administrative Officer, Joe Colangelo, and presented a list of questions pertaining to the café, number of seats, food service, use of the café by others in the building, hosting private events, café being subsidiary to the PUD, and advertisement of the café beyond the PUD (i.e. to the public).

Ives Bradley said some of the questions are inappropriate at this point in the process, but a response in writing will be provided.

Peter Raymond, attorney for Shelburne Green, echoed the comment that some of the questions are not necessary at this stage. Some questions will require a legal answer and some will require a factual answer. The questions will be answered.

Jeff Pauza asked for clarification of the need for the questions at this point since the applicant indicated food would be served. Kate Mitchell explained Fiddlehead is allowed 1500 s.f. for an accessory use. If the café is proposed to serve Fiddlehead then a determination is needed as to whether this is accessory to the accessory use of the tasting room and whether all businesses in the PUD will be served by the café. Ives Bradley said the need for the café has been made clear.

Lisa LaMantia asked if Matt Cohen has a more solid plan than what was discussed. Ives Bradley said Matt Cohen does not want to be in the restaurant business and is only serving food to satisfy state requirements for the brewery and tasting room.

Mark Sammut commented the applicant appears to have been “ambushed” by the questions. Dean Pierce objected to the term “ambushed”, stressing the issue of the project’s conformance to accessory use was raised to the applicant in conversation so the applicant is aware.

There were no further comments.

#### DELIBERATION/DECISION

Amend Commercial PUD, Combine Buildings & Extend Hours of Operation, 6221 Shelburne Road, J. Graham Goldsmith Architects (SUB13-02R3)

**MOTION by Jeff Pauza, SECOND by Joanna Watts, to continue SUB13-02R3, amendment to the Commercial PUD at 6221 Shelburne Road by J. Graham Goldsmith to February 7, 2018. VOTING: unanimous (6-0); motion carried.**

Mary Kehoe arrived at 8:25 PM and facilitated the meeting.

#### 5. OTHER BUSINESS/CORRESPONDENCE

*Request for Extension*

**MOTION by Mark Sammut, SECOND by Ian McCray, to grant a 90 day extension to Maple Leaf Carpet, Shelburne Road, for their application, FB17-01. VOTING: 6 ayes, one abstention (Lisa LaMantia); motion carried.**

*DRB Retreat*

Mary Kehoe suggested the DRB hold a retreat after the elections in March.

**6. ADJOURNMENT and/or DELIBERATIVE SESSION**

**MOTION by Mark Sammut, SECOND by Mary Kehoe, to adjourn the meeting.**

**VOTING: unanimous (7-0); motion carried.**

The meeting was adjourned at 8:35 PM.

*RScty: MERiordan*