

- Public Patrick Taaffe, 21 Okorwaw Drive
Bruce Perry, 14 South Shore Road
Shawn Cabral, 8 South Shore Road
Paul Derensis, attorney for Nantucket Tipping Point and 285 Island homeowners
Jill Vieth, 12 Okorwaw Avenue
Linda Derensis, Nantucket Tipping Point
Peter Fenn, attorney for Nantucket Land Council (NLC)
Maria Cardona, 27 Evergreen Way
Lucinda Garrison, 13 Atlantic Avenue
John Coon, Water Expert for Tipping Point
Ron Bamber, 28 Washing Pond Road
Jacques Zimicki, 3 Wherowhero Lane
- Discussion **Posner** – Today we will continue the discussion of the design and the housing program. At the December 18, 2018 hearing, we focused on the condos with some discussion about the single-family cottages. Today the discussion will focus on the site plan for 60 condos and 40 cottages; we did include an initial potential exploration that would reduce the number of condos and increase cottages. We heard back from Ed Marchant, who suggested a design workshop as soon as possible and recommended a consultant for the ZBA to assist in coming to a mutually beneficial conclusion. There is still a lot of concern with the condos; the design workshop would focus on that. We are interested in keeping progress and momentum going; we are trying to incorporate concerns as well as meet our initial objectives. We will walk through the assorted site plans submitted for this hearing. We would then like to spend time on the three condo building types and get feedback.
- Dallmus** – Reviewed conceptual site plans laid out in response to comments. We like the features of there being a Commons area so are holding onto it.
- Botticelli** – Asked if the parking in all site plans is roughly the same.
- Dallmus** – There is some variation in the number of parking spaces amongst the site plans.
- Taaffe** – Read a letter into the record of objections to the proposed site plans.
- Koseatac** – Thought SP-04 was a joke; he was shocked.
- Toole** – He thought that the applicant would have picked a direction and be further along than this. Asked them to speak to the plans showing houses on abutters properties, SP-08.
- McCarthy** – SP-08 looked like the houses on abutting properties cutouts left on the paper. She doesn't see how these proposed layouts improve the residential character of the neighborhood.
- Toole** – Asked how this process has gotten closer to a more residential character with any of these proposed site plans.
- Dallmus** – Segregating the condos allows for a more residential scale around the cottages. When condo buildings are mixed with cottages, it brings about 16 parking spaces: the project starts to lose its residential character.
- Toole** – Mr. Posner's Letter to the Editor was one-sided and all about the condos; you could read into it that the ZBA is against condos and affordable housing, which is not true. You've stated that condos are an important part of this plan; he understands that. The buildings have moved around a bit, but nothing has changed, and the subdivision still lacks residential character. If there were fewer condos, there'd be more green space, which you purport to want. He doesn't think we've moved forward.
- Posner** – Where we were in December was responding to criticism of condo buildings; we incorporated feedback by placing them in various configurations on the plan. The Letter to the Editor was read into the record at the December 18, 2018 hearing.
- Discussion about the pros and cons of the Letter to the Editor.
- Toole** – He would have liked to see some thought to condo buildings of a smaller scale like duplexes or quadrplexes. The designs remain, in his opinion, inappropriate to Nantucket.
- Posner** – We have made the condos smaller but didn't look at the possibility of duplexes. That is something we could consider in the design workshop. He thought they had good feed back in December.
- Toole** – We seem to have different ideas of positive feedback; the designs were better than the original but, in his opinion, it's still inappropriate. This is a regurgitation of two distinct portions of the project; he doesn't understand why they would want that. It seems to him the process is stuck.
- Botticelli** – Mr. Posner's Letter to the Editor states that removing the condos takes away the economic viability of the project. Also, she thought we were clear about getting apartments out of the basement.
- Toole** – Five-bedroom units on 5,000 square feet (SF) isn't appropriate. He's all for the design workshop idea.
- Mondani** – He concurs with Mr. Toole.
- Perry** – He submitted comments for the packet on Monday. The layout on SP-01 and their request for heights up to 35 feet for over half the buildings don't match our zoning. Asked why smaller buildings are considerably higher. SP-07 and SP-08 speak to a lack of quality control on the project.
- Posner** – SP-07 and SP-08 were quick studies to see what certain concepts might look like. Where cottages didn't fit, they were set aside; it was not a proposal to put houses on abutting properties.
- Toole** – He would be willing to queue up the condos to talk about cutting them up into smaller buildings.

Botticelli – Condo A 4 is tall and large; she would like a series of buildings that look to have been built organically.

Toole – Condo A 4 could be cut in half. It seems the use of modules is being forced into the site plan. He thinks there is a better design out there. You might lose some units in reducing the size of the condos but that might result in some unforeseen benefits. Smaller condos would feel more like a neighborhood and less like a housing development.

Posner – Expressed disappointment that we haven't seemed to advance as much as he hoped. He doesn't know if the workshop would result in something everyone finds acceptable.

Toole – You have to sell every fourth unit; if the condos were smaller, it might work better.

Posner – Our orientation has always been that all the condos would be pre-sold at once. At this point he wants to focus on a physical housing plan design everyone can live with.

Feeley – When the buildings get smaller and the number of units are reduced, the price goes up; the financial element is also part of the moving pieces. He's not optimistic about going down to duplex condos.

Discussion about the economics of reducing the sizes of the condos and thus the number of affordable units.

Cabral – He heard a firefighter state that they could not access an 8-unit condo as proposed so their plan would be to let it burn; that is something to consider.

P. Derensis – The exact word of the architect was to segregate the condos; that term is important and is a key behind the plan.

Feeley – That is clearly not the intent.

Vieth – The multiple proposed site plans are insulting to the public. Suggested more low-profile structures.

L. Derensis – Feels the clubhouse and pool could be eliminated to provide more greenspace and allow more, smaller condos. It is up to the proponent to come up with ideas.

Feeley – The pool and recreation building are the “heart and soul” of the project and increase the marketability and add value.

Cabral – He feels they are trying to make an Airbnb/Disney community that looks great in photos, but it doesn't fit with Nantucket. More open space is better for the Island and the community.

Fenn – This is a 13-acre site in a residential 2-acre neighborhood. There is no green space here. The site is clear cut, the buffers are minimal, there is no stormwater plan, and there is excessive parking. This needs to look like an organic neighborhood, not a bunch of apartment buildings stuck at the back of a neighborhood. If they want a development of this density, they need to show the financials and prove any less density would be uneconomical. We still don't know how the site is going to be sewerred.

Cardona – You move to Nantucket and fall in love with it because “that” doesn't exist here. We didn't move here to see this. Thinks they need to go back to why we moved here.

Garrison – at an early meeting, they took a lot of time to show exterior drawings of the unit; she felt that was inappropriate. The citizens have spoken that this whole concept is inappropriate. She would like there to be more talk about the bedrooms. We know in regards to vehicles and stormwater runoff this is detrimental to the Island.

Freeman – Suggested going into the mechanics of the project workshop and expedite moving forward.

Toole – Asked about retaining a peer reviewer and a workgroup.

Antonietti – If it's under a certain amount of money, we don't have to go through the procurement process. The last time the ZBA created a workshop, the board discussed it and then voted on it. The neighbors designated someone to attend the workshop. You can decide the scope of the workshop and whether or not the public can attend. She'd have to get a quote from the person previously used. The procurement cut off is under \$10,000.

Pucci – Focus first on the consultant; if you have someone you like, you decide on the peer reviewer. Retain the person under 53-G and do that first.

Toole – He'd prefer to get to the workgroup if it's a viable option. You get all the parties in one room and hear from the peer reviewer.

Pucci – It's a cumbersome process; that person should have time to review the plans and come up with an opinion. Recommended letting him come up with recommendations first.

Freeman – Let him review it and come up with a report and have him do all that and follow it up with the workshop to avoid delay.

Toole – Called Ed Marchant.

Marchant – (very difficult to hear over a cell phone and mic.)

Toole – Mr. Marchant said first to engage the person through the 53-G process; they would look at the plans ahead of time then comment to everyone at the same time. This creates a dialogue. He was concerned about the procurement process

Freeman – We are okay with Mr. Cliff Boehmer.

Toole – We will reach out to him tomorrow. We'll talk at the January 23 meeting about the workshop.

Pucci – The first step is to engage Mr. Boehmer. You don't have to discuss the parameters of the workshop at this time. The workshop would be a meeting that needs to be posted; it's subject to the Open Meeting Law. Think about what was done in the past and use that as a framework.

Freeman – Asked if they need to vote to proceed.

Pucci – They have to find out if the consultant is available.

Perry – He hopes Mr. Fenn and abutters and representatives of Tipping Point will be included in the workshop. However, the ZBA hasn't decided how many units there will be, 160 or 100 or 88 units so wonders what the workshop would be discussing.

Toole – The number of units and bedrooms would be part of the workshop discussion. Moved on the Tipping Point presentation.

Coon – Reviewed his credentials as an environmental expert. Addressed ecology as it refers to MGL 40B of Mass Comprehensive Permit Act G.L.c.40B §§20-23(act). The goal here is unclear; the mandate of the ZBA includes the public welfare of the Island residents. Management for Resilience means the ZBA should put the common good ahead of private interests. Explained the Science of Surprise about finding and exploiting a resource, such as land and water, to the point that it will collapse; there is no way to predict when that will happen. Threats to Nantucket's aquifer include: climate change, which will increase the rainfall and droughts and sea-level rise; development impacts on the carrying capacity, which is unknown; and pollution of a sole-source aquifer with no other water source for 30 miles. Reviewed the chemicals created when fluorine binds to H₂O. You need to test for fluorine, establish a baseline, and figure out how to keep it away from the water. There is a lot here the ZBA doesn't know about threats and irreversible damage. As water is drawn down, the contaminants will get stronger. The ZBA has to decide if there are too many local concerns and put this project to rest. This project has a lot of impervious surfaces; he sees no way to deal with the amount stormwater coming off these surfaces.

Toole – Asked how to do a carrying capacity study.

Coon – You pay a hydrologist and other experts to figure out how much of a demand is put on the system. A study might take 6 to 12 months or longer to establish a baseline.

Toole – Asked why he wasn't talking specifically about this project.

Coon – He doesn't know the burden of this project or what other Island projects are occurring.

Toole – Asked how fluorine is taken out of the water.

Coon – Reverse osmosis or force it through a very tight membrane but it still exists so you have to put them in a tank and bury them.

Fenn – NLC has been trying to protect Nantucket since 1972; most studies were funded by NLC. We're prepared to present comments and engineering reports in terms of sewer, water, and stormwater handling on this site when we see a complete plan. There is a lot going on and we're particularly concerned about what's happening in the Inner Harbor, Polpis, and Madaket from nitrate and phosphate in stormwater runoff. It is inevitable phosphate and nitrate will get into the water; this issue falls under the ZBA's purview of health and public safety. There is a balance between site specific and Island wide that has to be looked at. Argues that even an 88-unit project can't be made to work on this site in a rational way without all the data.

P. Derensis – Based on what Mr. Coon has seen of this case, asked if the uncertainty seen would lead him to say the project should be denied.

Coon – This entails a balancing act to do the right thing for this Island. The ZBA has to weigh the potential for serious harm against whatever good the project would provide. In this case, when the threat is to a sole-source aquifer, the chance of irreversible harm would be too heavy, in his opinion.

P. Derensis – Mr. Coon mentioned the Town does not presently have a Massachusetts Water Management Permit; asked the importance of the regulatory scheme with regards to public health and safety.

Coon – Pointed out he is not a licensed to practice law in Massachusetts so nothing he says should be taken as legal advice. He knows in other places that if there is no permit in place, you can't proceed. So, he doesn't see how they can proceed.

P. Derensis – In prior sessions, we heard the permit would be coming. Asked if this board can grant a comprehensive permit based on the possibility it will work out.

Coon – No, they need facts to grant the permit.

P. Derensis – Asked if this board or any board should decide to permit this project when you're not sure of the impact and should the Board look at a longer term rather than just whether one more project can be fit in.

Coon – You need to look overall at what's happening on the Island to get a better assessment. He thinks clean water to drink and clean air and soil to grow food would be a priority of the residents. He doesn't think the ZBA has enough information and are being made to speculate.

P. Derensis – Asked about the references to NBTE and the distance molecules travel.

Coon – NBTE was an additive to gas to make it burn cleaner; it went into groundwater and it causes forms of cancer. In terms of distance molecules travel, the molecules getting into the ground at the airport move very fast; they make NBTE look slow.

Toole – There hasn't been a lot of specifics about this project. Asked if a stormwater system can be designed to take care of a project of this size or should all development stop.

Coon – Stopping development is about balancing project by project. When you use stormceptors, they will take some pollutants out but still allow water and smaller elements to pass into the aquifer. Another issue is when we do these calculations, you have to follow guidelines using 1986 data; recent climate change reports address that normal precipitation stopped in the mid-1980s and has since gotten more intense. By 2050 rain fall will be one (1) inch per month

more than it is now. Explained he got his information for his review from the agendas and videos. He can't predict the overall impact; but stormwater will go into the groundwater. He doesn't have a solution; he just pointed out his concerns.

Bamber – You resolve the problem by stop building houses; the ground water is going to be totally contaminated. There won't be a tree or blade of grass on this site when they're done. A 40B shouldn't be allowed on this Island; it'll destroy this Island.

Cabral – His concern is his well, which is 90 feet deep and 60 feet away from the site; asked about the impact on his well.

Coon – He honestly doesn't know. He had a tough time figuring out the direction of groundwater flow.

P. Derensis – Mr. Coon said he reviewed the board agendas, asked if that included the packets and the Tipping Point's public records request.

Coon – He reviewed the packets and the records from the public records request.

Taaffe – He's talked with people about how many people the Island of Nantucket can support. In the face of health and safety, asked if this project could be held off until the Town does a feasibility study to determine the Island carrying capacity.

Pucci – This process is to seek and determine the necessary data. You can't deny the project based upon some pending study by the Town. The ZBA isn't here to take sides; it's here to exercise its jurisdiction. A denial based upon lack of information isn't the best idea; if the ZBA denies the project, the appeal authority is Housing Appeals Committee (HAC), which very likely would rule for the developer. Pointed out that this project is located within the Town sewer and water area. HAC and Superior Court will rule in favor of 40B.

Freeman – He needs to go. Confirmed the time and place for the January 23 meeting. Noted that silence on the applicant's part doesn't mean acquiescence on their part. They have a lot to consider.

Fenn – He also has to go. He finds himself in agreement with Mr. Pucci. He's not sure under the way 40B is written and enforced if the ZBA can look at the Island-wide carrying capacity in deciding whether or not to permit the project. They can look at the impact of the project on health and safety for the Island residents. Looking at carrying capacity, there are three aspects: what the Island can theoretically support in total buildout, impact of on-site septic on groundwater level, and carrying capacity of infrastructure. We still don't know how sewage will go from this site to the treatment plan. We think the project is much too large, that there is a solution that provides 40B housing and fits with the neighborhood and environment; but, the ZBA doesn't have the information to make the decision. It is incumbent upon the applicant to provide that information, including the financials.

Bamber – Mr. Pucci is talking about the main land; this is Nantucket with one aquifer. Asserts that 40Bs can be stopped. Said he talked to the "head water fella" in Massachusetts who said if they do more volume than they're supposed to, we will have to go to desalinization of salt water. Said we should not have 40Bs on the Island.

Vieth – Asked if the Water Company has a valid Massachusetts Water Management Permit or if they just can't find it.

Pucci – Suggested bringing Mark Willet back to talk about it. He will forward the email about the Massachusetts Water Management Permit to the ZBA. Mr. Willet was clear the Town is in compliance with their permit. He will be happy to follow up with Mr. Willet and provide the ZBA with the document Mr. Willet referred to. Mr. Willet has responded to public records requests.

P. Derensis – There is an outstanding order for the Superintendent of Public Records telling the Town of Nantucket to produce the Massachusetts Water Management Permit. He has looked at all the documents produced by the Town and there is no water permit. If Mr. Pucci has it, asked it be provided.

Pucci – The Supervisor of Public Records doesn't have a current order against the Town of Nantucket. The Town is in compliance with Meaghan Perry's public records request. The Town of Nantucket is a town in the Commonwealth of Massachusetts; there are laws that have to be applied. The ZBA can ask the applicant for specific information; the ZBA can't ask for the *pro forma* until the applicant argues the project is becoming uneconomical.

McCarthy – We are spending a lot of time on items that aren't going to make this project go away. If we deny it and it goes to HAC, it will end up something none of us like. This is an opportunity for all of us to come up with something we can all accept. Making an enemy of the Town is not a way to fight a 40B. She'd like to see an effort to change the 40B law at the State level.

Taaffe – At the first meeting, Mr. Willet said the state had not yet issued a Water Management Permit and that we had exceeded the capacity of the existing permit.

Pucci – His point is that Nantucket is not in non-compliance with the Massachusetts Department of Environmental Protection (Mass DEP).

Bamber – He is going to bring the phone number to the Town of the water expert he spoke to so the ZBA can call him themselves. There is no such thing that this Town has to accept a 40B if the aquifer and treatment plant can't handle it. Mr. Pucci is totally wrong.

Zimicki – This isn't going to be the tipping point to destroy the aquifer; that will be death by a million cuts. Stormwater is very important to recharging the aquifer. This project is degrading the aquifer because the proposed drainage program won't clean particles out of the stormwater that is recharging the aquifer.

Toole – Asked if there is a system that can take care of the problem Mr. Zimicki is referring to.

Zimicki – Explained how California is handling it, but it's not practical for Nantucket. There is current technology that will prevent a lot of particles from getting into the aquifer; it's more like an artificial marsh.

Perry – Asked if the board had questions on the comments he submitted. There is probably a stormwater system that could be designed to negate the problem; the question is its practicality.

Cabral – Objected to Mr. Pucci singling out Meaghan Perry. This is a public meeting, and everyone can speak but no one should be alienated.

Pucci – Meghan Perry filed a public records request which was complied with by the Town. That was appealed, and the Public Records Supervisor got involved. If there are questions, call him or the Town; the Town will provide the information.

P. Derensis – There is no water management permit produced by the Town of Nantucket despite repeated requests.

Pucci – The Town is not in violation with Mass DEP. He doesn't want issues represented on the public record that aren't true.

L. Derensis – As a private citizen, there's a lot to understand.

Toole – Called for a motion to adjourn.

Continued to January 23, 2019 at 4:30 p.m. at Nantucket High School by unanimous consent.

Motion

Vote

N/A

2. OTHER BUSINESS

1. None

3. ADJOURNMENT

Motion to Adjourn at 7:35 p.m. (made by: Botticelli) (seconded by: Koseatac) Carried unanimously

Submitted by:

Terry L. Norton