

TOWN CLERK: ROCKLAND  
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Rockland Open Space Committee Meeting 10/24/2023, 6:30 p.m., Lounge, Town Offices

Attending: Donald Cann, Chair; Mike Bromberg, Vice-Chair, George Anderson, Joanne Donnelly, Pam Titus, Kathy Kirby

Doug Lapp, Town Administrator

Attorney Dennis Murphy via telephone

Mr. Cann opened the meeting with a discussion of the Community Meeting of 10/23/2023. He and Mr. Bromberg met with Select Board Chair O'Loughlin earlier in the day today. He said that it was a good meeting and emphasized that getting answers to questions in writing is desirable. Ms. Titus noted that the maps shown at the 10/23/2023 meeting were different from those shown previously by the developer.

Mr. Cann asked the committee for its questions to Attorney Murphy. Ms. Kirby asked if he has a written description of the metes and bounds of the proposed MUDD district and he does not. He also does not have a survey map of the MUDD. Ms. Kirby asked if he thought it advisable that the voters have this information before being asked to vote on the MUDD proposal and he agreed it is. He did not know if the SRA, Weymouth or Abington had this information before voting to approve rezoning.

Mr. Bromberg asked whether what a developer says at a presentation is legally binding. Mr. Murphy said that, if what is said by the developer is a complete fabrication, that could be a problem. Mr. Bromberg asked how the developer can be held to its proposal in the "green" map. Mr. Murphy discussed the area in question and said that it looks like 82% of the base in Rockland will be protected and that he had done his own research of the 2009 Conservation Restriction and determined that the developer is looking to amend that mostly in Abington. Mr. Bromberg asked why the plan shows a 50-50 delineation when what is being proposed is an 82% plan. Mr. Murphy said he can assist the committee to assure that the 82% plan is what, in fact, is proposed. He noted that, in order to get an amendment from Natural Heritage, the developer has to give more than it's taking. Mr. Bromberg and Mr. Murphy discussed CMPs and Mr. Murphy said that one is appealable if the developer "pulled a fast one." Mr. Bromberg asked if the developer will commit in writing whether it is or is not seeking off-site mitigation. Mr. Murphy said that it's not up to the developer, it's up to Natural Heritage as to where mitigation will be. Mr. Bromberg noted that it takes only the SRA, Natural Heritage and the developer to sign off on a Grant of Restriction. Mr. Murphy said that Natural Heritage usually requires more and that he doesn't see any scenario where the developer would try for off-site mitigation. There already is a Conservation Restriction in place and it might be graft if the developer tries to take it out. Anytime a taking of more than two acres is proposed, a MEPA review is triggered. In this case, everything on the south end of the base is covered by a Grant of Restriction and he sees the only risk to it being that a request to de-list the box turtle habitat might occur. Mr. Bromberg indicated that he knew of no plan to de-list turtle habitat. He referred his public records request of 8/23/2023 and page two a letter that references off-site mitigation. He will provide that letter to Mr. Lapp who will relay it to Mr. Murphy. Mr. Bromberg questioned why the proposed MUDD labels all land as developable and why the developer won't state in writing that this involves 104 acres in Rockland. Mr. Murphy will ask the developer again for more

information regarding this matter. He noted that the developer must have known this would be an issue. Mr. Bromberg discussed Ch. 291 of the Acts of 2014 and the fact that there have been no negotiations regarding amenities and how the town can enforce this requirement of the legislation. The developer says it's premature to discuss such matters. Mr. Bromberg noted the amount of study the developer has done at the base but has not presented a plan to Natural Heritage although it has met with the agency a number of times. He acknowledged that the MEPA process must occur first, but a plan for Natural Heritage still can be proposed. Mr. Murphy said his goal is to find out what the developer is doing with Natural heritage, will send the 2009 plan and find out what they intend. There followed a discussion of permitted and prohibited uses, Mr. Bromberg referencing the 2017 by-laws and items put by the developer in the 2023 proposal that were not there in 2017. Mr. Murphy said he believes that Rockland is protected from above-ground structures as almost all the Rockland area is governed by a Conservation Restriction.

Ms. Titus asked, assuming the rezoning is approved, what the committee should do and where to do it to assure open space is protected. Mr. Murphy said that the committee should be advised when a PDP (Proposed Development Plan) is made and work out an internal protocol for notification as some proposals trigger a public meeting or hearing but some do not. The Town has the right to appeal per the by-law.

Mr. Anderson raised the issue of site contamination and Mr. Murphy said that the Navy is still on the hook as this is a strict liability situation. He said the developer did a very smart thing by paying the Navy a fund held in escrow for environmental remediation. He said that the land in Rockland will be more valuable after development.

Mr. Cann asked why the developer would put protected species areas in the MUDD and said that there are two camps, those wanting to preserve habitats and those who want to develop. Mr. Murphy said that the overall by-law requires site plan review and the committee has the ability to give its opinions regarding proposed development and the by-law does a good job of resource protection. He is pleased to see water and wetlands overlays and districts and considers this developer to have done its due diligence and to be thoughtful about where development can be done. Mr. Cann asked Mr. Murphy what can be done at Town Meeting to protect open space and Mr. Lapp said that Mr. Murphy is not present as counsel to the committee and the Town will not pay for such services to the committee. Mr. Murphy said the committee is not a statutory board that has to make recommendations. He will investigate the enforceability of the 2009 CMR and if the map in Article 10 is what the developer plans to develop. He also will check with Attorney Sullivan of Goulston and Storrs as to why there is no plan for Natural Heritage yet, what the legal description and site map with dimensions of the MUDD are and will advise. Mr. Bromberg noted differences in the central development area maps presented by the developer and MR. Murphy said he would investigate that as well.

Ms. Parsons discussed aquifer protection and a discussion of PFA's and swales ensued.

Ms. Titus emphasized that she wants the committee involved in all aspects of the process with notice to come from the Select Board of meetings scheduled so that the committee can give its input.

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