

## January 13, 2003

MEMBERS PRESENT: Mrs. Friedman, Mr. Martin, Mr. Owen, Ms. Page

MEMBER ABSENT: Mr. Fitzherbert

ALTERNATES PRESENT: Mr. Abella, Mr. Brinton, Mr. Shapiro

STAFF PRESENT: Mrs. Hill, Mrs. Luckey, Mr. Solley

ALSO PRESENT: Mr./Mrs. Shannon, Mr. Talbot, Mr. Cannavarro, Mr. Anderson, Mr./Mrs. Frenkel, Mr. O'Donnell, Mr. Sears, Mrs. Condon, Mr. Tagley, Mr./Mrs. Osborne, Atty. Fairbairn, Mr. Dutton, Mr. Boling, Ms. Pring, Mr. Woodruff, Mrs. Werner, Mr./Mrs. Boyer, Mrs. Chapin, Mrs. Tracy, Mr. Smith, Mr. Millington, Mr. Meyers, Press, Residents

### **Washington Montessori School-Washington Community Housing Trust/ 16 Church Street/Special Permit: Section 13.15/Town of Washington or Non Profit Sponsored Affordable Housing/ Continuation of Public Hearing**

Mr. Martin reconvened the public hearing at 7:30 p.m. and seated Members Friedman, Martin, Owen, and Page and Alternate Shapiro for Mr. Fitzherbert. He noted 35 documents had been added to the file since the 12/16/02 session of the public hearing and read the list for the record. (See attached list.) He noted the 5/16/02 report by R.J. Black and Son addressed the questions raised at the last meeting, the entire Plan of Development had already been entered for the record, and the 1/5/03 site inspection minutes should be added to the list. He read the 1/10/03 memo from Mrs. Johnson, Assessor, which stated there have been no reductions in the assessments of properties adjacent to or surrounding local affordable housing complexes.

Mr. Sears, WCHT President, said he had no statement to make at this time, but might make a summary statement later.

Mr. Boling read his 1/12/03 letter to the Commission regarding his recommendations for modifications to the application to minimize the adverse impact to the neighborhood. He submitted the following documents: 1) "The Social Benefits and Costs of Homeownership: A Critical Assessment of the Research," by Rohe, Van Zandt, and McCarthy, dated October 2001, and 2) "Mixed-Income Housing Developments: Promise and Reality," by A. Smith, dated October 2002,.

Mrs. Boyer read her 1/13/03 letter in support.

Mr. Martin read the 1/9/03 memo from Commissioner Fitzherbert who was not able to attend the meeting. In general he thought the proposed buildings would greatly improve the appearance of the property, the proposed use for the old school was a good one, and the complex would enhance the neighborhood. His recommendations included:

- The facility's contract should contain a provision it will utilize the lower entrance with the upper entrance reserved for service and emergency access only.
- The courtyard should be kept clear of structures.

- The sidewalks and handicapped accesses should not be asphalt.
- Playground equipment and barbeques should be owned by the WCHT, shared by tenants, and kept out of the courtyard.
- Traffic safety measures should be implemented including lower speed limit signs to be posted by the Town.

Mr. Shannon spoke on behalf of New Preston residents. He submitted: "New Preston, 16 Church Street Proposed Apartment Complex Development, Hearing Continuation 1/13/03, 8 pp. and "Recent Developments Under Connecticut's Affordable Housing Land Use Appeals Act," by J. Williams, dated April 2002. He informed the Commission official state records indicate the Town already has 10.26% affordable housing and that this was confirmed by Rep. O'Neill, the state library, and the Dept. of Economic and Community Development. He maintained, therefore, that the appeals procedure should not be available to the WCHT and that the proposal should be made to comply with the Town's density regulations. He questioned the economic viability of the project. He complained there was no septic reserve system so that if the septic system failed it would leach onto adjacent properties and into the East Aspetuck River. He also compared the existing traffic at the Montessori School to the anticipated traffic that twelve units would generate and found while the school is now congested for five to ten minutes in the morning and afternoon, he estimated the apartments would cause two hours of traffic problems each day. He again stated the area residents were not against affordable housing, but were against this proposal, which they felt was too dense for the neighborhood and would cause traffic, safety, and health hazards. He advised the Commission it had the authority to reduce the number of units when doing so would not impact the viability of the project and said traffic and public safety issues were grounds for denial, which had held up in court.

Mr. Millington spoke in support of the application and stressed the importance of providing housing opportunities for young people and commuters. He feared Washington was becoming a gated community.

Mrs. Rourke stated she was not against affordable housing, but thought the scale of this proposed development would negatively impact the neighborhood.

Mrs. Shannon said property values in her neighborhood would be more directly impacted than for those properties surrounding Dodge Farm because the houses near Dodge Farm are further away and have significant buffers.

Mr. Boling noted the WCHT's architectural design was good, but modifications were needed so the character of the existing neighborhood would not be spoiled.

Mr. Owen asked what the WCHT thought of Mr. Boling's ideas for making some of the units market rate rents or limited equity. Mr. Sears said condo units might be considered in the future.

Mr. Martin asked the Trust to address the issue of residential diversity and whether the complex would be a segregated community. Atty. Fairbairn compared the proposed complex to twelve existing apartments on The Green. He noted he lives next to The Green and said the residents in these apartments have no negative impact on the area. Mr. Boyer stated the WCHT's charter clearly states its purpose is to provide affordable housing, but noted the affordable housing definition allows for a great variety in rents.

Mrs. Rourke noted the apartments on The Green were not affordable housing and so were not comparable to the proposed units. She also noted the seven Woodruff House apartments were located in an existing house.

Mr. Jonathan Woodruff thought the WCHT should find a more appropriate larger parcel instead of crowding all the units on this smaller piece.

Mr. Martin asked Mr. Shapiro to address the issue of statistics as Mr. Dutton had submitted a letter and documents to the Commission stating that Washington already had 10.26% affordable housing. Mr. Shapiro read his 1/13/03 memo to the Commission, which stated a Department of Economic and Community Development employee informed him the Dept's website is incorrect because it attributes 176 governmentally assisted units to Washington, but these units properly belong to Waterbury. Making this adjustment, Washington has only 19 assisted units, not 181. His memo included a copy of the Dept's draft updated list. Mr. Shapiro informed the Commission 19 of the 1764 dwelling units in Washington, 1.08%, are affordable under the state statutes and so Washington is not exempt from the State Affordable Housing Land Use Appeals Act. Mr. Martin noted the Town must continually check the accuracy of state data, must make sure that affordable units in Town receive official credit from the State, and noted for the Town to be officially declared exempt, it must go through a certification process, which it had not done. He thanked Mr. Dutton for his research, which brought these issues to light.

Responding to Mr. Fitzherbert's recommendations, Mr. Sears said he would consider using only the lower driveway for access by apartment residents. It was believed most residents would use this entrance anyway, but it was questioned how this could be enforced without erecting a gate at the upper entrance. Mr. Sears and Mr. Talbot, architect, commented the courtyard would absolutely be kept open because that was a major design concept for the complex. They said it would be used as a play area and would be kept free of clutter. Mr. Sears said barbeques had not been considered, but private areas for them would be designed. He also thought a driveway speed bump was a reasonable request and agreed the walkways would not be asphalt. Mr. Martin asked whether the Town would be willing to install additional speed limit signs on Town roads in the area and Mrs. Luckey stated it would. Mr. Shannon thought there should be speed bumps on the town roads, too.

Mr. Tagley asked if the Commission could deny the application if it determined substantial public interest would be harmed by the proposal. Mr. Martin noted at the last meeting Town Counsel had reviewed the criteria for a denial and said the Commission would follow his advice. He read the relevant section of Atty. Byrne's 12/11/02 letter.

Mr. Anderson asked the Commission to consider decreasing the number of units to lessen traffic and safety concerns.

Mrs. Friedman referred to the 5/16/02 letter from Mr. Black, which noted there was a water pressure problem in this area, and she asked who would be responsible for the upgrade. Mrs. Rourke, President of the New Preston Water Company, said a \$100,000 upgrade of the New Preston Hill Road/Church Street/ Hinckley Road portion of the system would be required if the WCHT application is approved. Mr. Martin noted the groundwater supply and the drilled well were adequate, but the distribution and piping were not. He asked if STEAP funds could be used for the needed repairs. Mrs. Luckey said these public funds could not be used to make repairs for a private company. However, Mrs. Luckey and Mr. Solley both confirmed these funds could be used for filling in and fixing the roads once the repairs were made. Mr. Martin noted whatever upgrades are needed, the work will require State DPH approval. He noted the water supply is an important issue and if the affordable housing project were to be approved the Commission should make DPH approval of the water system, after taking into account the increased demand load of the affordable housing project, a condition of approval. Mr. Sears stated the WCHT could be a partner and help

finance the repairs with a low interest loan.

Mrs. Friedman asked if the NW sight line could be improved by cutting back the existing building. Mr. Talbot responded the shed addition would be removed, but there were no plans to take any more off as that part of the building contained two dwelling units. He thought traffic speed would increase in this area if sight lines were improved.

Mr. Martin asked if there would be an on site manager or whether a managerial service would be hired. Atty. Fairbairn said the complex would be better managed if the manager was on site to enforce the rules. Mr. Martin suggested the WCHT could save money by eliminating the office. Mr. Fairbairn noted Kent uses a managerial service, but has an on site office anyway.

Mrs. Friedman asked if lighting had been addressed. It was noted photos of low level lights had been submitted and their locations were indicated on the site plan.

There were no further questions or comments from the public or the Commissioners. Mr. Martin declared the public hearing closed at 8:55 p.m.

This public hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

#### Special Meeting

#### **Washington Montessori School-Washington Community Housing Trust/ 16 Church Street/Special Permit: Section 13.15/Town of Washington or Non Profit Sponsored Affordable Housing**

Mr. Martin called the Special Meeting to order at 8:56 p.m. and seated Members Friedman, Martin, Owen, and Page and Alternate Shapiro for Mr. Fitzherbert.

Mr. Martin noted the Commission could 1) deny the application, 2) approve the application, or 3) approve the application with a major modification such as decreasing the number of units. He said the Commission could require a modification to protect the public health, safety, and welfare. He asked the Commissioners for their thoughts.

- Mr. Brinton thought the application should be approved or denied without consideration of downsizing.
- Ms. Page and Mr Owen agreed, noting the Commission should not design for the applicant.
- Mrs. Friedman thought the number of units could be decreased without much impact and thought the apartment for the manager was a luxury.
- Mr. Shapiro thought the Commission was extremely constrained by and its discretion limited by the State Act. He said it could not require downsizing if other reasonable changes could be made to address the traffic problem. He said if the traffic situation could be improved without changing the scope of the project he would vote to approve it as is, but if it could not be improved he would vote to

downsize.

Mr. Martin summarized the Commissioners had indicated they would vote to approve or vote to approve with modifications, but no one had indicated the application should be denied. Mr. Owen briefly reviewed Mr. Boling's reasons for denial listed in his 1/13/03 letter, but found none of them provided adequate grounds for denial. He noted, too, that septic concerns were not a zoning issue. Mr. Martin agreed, saying the septic system had been approved by both the state and local health departments. Mr. Martin thought the two major issues to be considered were adequate water supply and traffic. Mr. Owen thought the area could absorb twelve units, noting Dodge Farm has more units and does not cause a hazard at the intersection with Rt. 109. He also did not think the apartments would worsen the safety of the neighborhood, and in fact, thought traffic and safety in the area would improve when the school moves. Mr. Martin thought water supply could have been a major problem if groundwater had been determined to be inadequate, but noted it was found to be adequate and the system would require approval by the DPH based on the increased demand load. Ms. Page agreed water supply was not an issue, but disagreed with Mr. Owen that traffic problems were not significant. She thought the traffic issues were so important they could be used as a basis for requiring downsizing. Mr. Shapiro questioned whether there were other more reasonable changes that could be made such as stricter enforcement of speed limits, more traffic signs, installation of speed bumps, etc. that would improve the problem without downsizing. Mr. Brinton disagreed with Mr. Owen on both issues, saying the Commission should not defer to the Department of Public Health and there would be a legitimate safety issue because the hours of traffic would change. Mr. Martin also noted the Conservation Commission had found no major environmental issues and the Inland Wetlands Commission found it unnecessary to require a permit.

There was a brief discussion regarding the water system. It was the consensus of the Commissioners that if the Commission voted to approve the application the approval motion would include the condition that prior to the commencement of construction the State Department of Public Health must approve the New Preston Water Company system after taking into account the increase in demand caused by the additional new WCHT units.

There was a lengthy discussion about traffic concerns. Ms. Page and Mr. Brinton thought traffic was a major issue because the pattern would change from the current school use pattern and would not be predictable as it is for the school. Mr. Owen and Mr. Abella thought the school already generates a lot of traffic and there would not be an increase with twelve apartments. Ms. Page thought even if there was already a lot of traffic in the area, it was the Commission's responsibility to improve it. Mr. Owen again stated he did not think traffic was a major problem. Mr. Martin noted the road widths and sight lines in this area were not much different than those on other roads in Town so to be concerned about traffic here would mean one should be concerned about traffic all over Town. Mr. Shapiro recommended a traffic safety plan, perhaps using Mr. Fitzherbert's recommendation re: the use of the lower driveway as the sole residential access, crosswalk requirements, etc., be made a condition of approval. Mr. Martin thought this was a good idea, but cautioned the public hearing had been closed and any plan or conditions would have to be crafted by the Zoning Commission without using outside input.

Mr. Martin asked the Commissioners to consider whether they thought the traffic was such a serious health and safety issue that the application should be denied, whether it was a problem that could be managed by traffic safety conditions, or whether it was not a serious problem and the application should be approved as is. It was the consensus that there should not be an outright approval without conditions.

Mr. Martin asked what the conditions should be, a decrease in the number of units or submission of traffic safety conditions. Ms. Page wanted to postpone the vote to the next meeting. Mr. Shapiro stated he had not heard any evidence that downsizing would not impair the

financial viability of the project and therefore, he thought the condition imposed should be a set of traffic safety conditions to ameliorate any potential traffic problems. Mr. Martin asked how many Commissioners would agree to an approval containing such a condition. All agreed except Mr. Brinton who said he had no faith in a traffic plan and thought a reduction in the number of units would not improve the traffic problems because the time of the traffic was a more serious issue than the volume of traffic. Mrs. Friedman agreed it was questionable whether reduction in the number of units would affect the traffic. Mr. Martin reviewed the state statutes and asked Mr. Brinton if he thought the public interest outweighed the Town's need for affordable housing. Mr. Brinton responded he did think public safety in this case outweighed the need for affordable housing. He also noted that a traffic comparison with Dodge Farm was not comparable because in New Preston an entire neighborhood would be affected. Ms. Page stated she would like both the condition of a traffic safety plan and a reduction in the number of units, but added she was not sure how to determine how many units should be deleted. Mr. Shapiro and Mr. Abella thought the Commission should focus on reasonable modifications to help control the traffic problem rather than on a reduction of the number of units. Mr. Owen agreed. He said he was not comfortable with downsizing, that if traffic was a substantial public interest it was the Commission's duty to deny the application rather than redesign it. Ms. Page stated she did not think the Commission was qualified to know what modifications would improve the traffic, nor did she think it qualified to determine how many units should be deleted and so suggested the Commission deny the application due to public safety concerns. Mrs. Friedman said she thought traffic safety was a compelling issue and so would vote for denial should the vote be taken tonight. Mr. Brinton thought the applicant should withdraw and resubmit with revisions rather than expecting the Commission to solve its problems. Mr. Owen noted Town Counsel had attended the first session of the hearing and had heard no issues sufficient to support a denial based on public safety concerns. Mr. Martin confirmed that had been his determination. Mr. Shapiro noted whatever decision was made by the Commission, it must be supported in the record. Mr. Martin again read the criteria listed in Atty. Byrne's 12/11/03 letter and stated he did not see anything in the record that supported the position that the traffic from the twelve proposed units would be so great that it outweighed the need for affordable housing. He said he favored a condition that would manage the traffic concerns.

Discussion continued about whether there was a compromise that could be reached, whether conditions could be written to address everyone's concerns. Ms. Page thought the number of units should be reduced by half. Mr. Shapiro cautioned against this as the Commission did not have information on record to show that cutting the project in half would not affect its viability. Mr. Abella recommended the Commission's consideration of safety measures to improve the traffic situation begin with Mr. Fitzherbert's idea that only the lower driveway should be used by residents. Mr. Brinton again stated the applicant should withdraw and resubmit a plan, which includes traffic safety measures. Mr. Martin said the Commission had the authority to require the applicant to make modifications to minimize the traffic safety issue as a condition of approval. Mrs. Friedman said such safety measures went beyond the scope of the Zoning Commission and any improvements on Town roads would have to be OK'd by the Selectmen and Road Foreman.

A lengthy discussion ensued about whether traffic concerns were significant enough upon which to base a denial. Based on the rationale of the state statutes, Mr. Martin said he did not think there was enough on the record for a denial. Mr. Shapiro and Mr. Owen agreed. Mr. Brinton and Ms. Page thought traffic safety concerns were enough upon which to base a denial.

Conditions of approval were discussed. Mr. Martin noted the following were reasonable and customary conditions:

- that all lighting be aimed downward, directed away from adjoining properties, and use the lowest wattage possible consistent with provisions for adequate safety and security

- any changes to the buffering/screening plan by Mr. Sabin be approved by the Conservation Commission
- no increase in the number of bedrooms would be permitted
- a density per bedroom would be specified to ensure there would not be too many residents per bedroom
- the lower driveway be used as the access for the residents and the upper driveway used for service and emergency access only
- speed bumps be installed in the driveway
- the courtyard is to remain clear of all structures
- handicapped accesses and other walkways are not to be constructed of asphalt
- barbeques and playground equipment shall not proliferate on site
- prior to commencement of construction the State Department of Public Health and local health department, after taking into account the increased demand of the project, must approve the system upgrade for the New Preston Water Company.

There were no objections to any of these conditions.

Mr. Martin asked the Commissioners if a consensus could be reached tonight. Ms. Page responded traffic concerns should be addressed by downsizing the number of units by half, which would in turn reduce the number of vehicles. Mr. Owen thought the Commission could vote to approve the application when a reasonable condition was written to address traffic concerns. Although not convinced traffic is a serious problem, he recognized the need for a traffic condition, but questioned whether Mr. Fitzherbert's recommendations were the best solution. Mrs. Friedman thought the WCHT could be more flexible in the number of units proposed; for example, it could reduce the number of proposed units if it increased rents. She thought 8 or 9 units was reasonable. Mr. Shapiro thought the Commission could draft a traffic condition similar to the water supply condition. There was a suggestion that the Commission obtain advice from a traffic consultant, but it was noted the public hearing had been closed.

Mr. Martin proposed three trial motions to determine whether a consensus could be reached tonight.

1. Approve with the condition the project be downsized to 6 units: Ms. Page for, all others seated against.
2. Approve with the condition the project be downsized to 9 units: Mrs. Friedman for, all others seated against.
3. Approve with with no downsizing but with a condition to address traffic concerns: Ms. Page and Mrs. Friedman against, the other three Members seated for.

Mr. Martin said he would like to try for more of a consensus not just for consensus sake, but also to see if a better solution could be

developed that would merit more support. The Commissioners agreed. He said he would contact Atty. Byrne for help in understanding the traffic problem and advice on the degree to which outside input may be used regarding the wording of an appropriate condition concerning traffic. Thus, he would adjourn the meeting without a vote tonight.

Mr. Martin thanked the Commissioners for their input and diligence in considering this application. It was decided to schedule a Special Meeting on Wednesday, January 29, 2003 at 7:30 p.m. in the Main Hall to continue consideration of the application.

Mr. Martin adjourned the meeting at 10:25 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill  
Zoning Enforcement Officer