

City of Woonsocket, RI

Planning Board Meeting Minutes

Date/Time: Tuesday, November 10, 2020 | 6:03 PM
Location: Teleconference via Zoom, Meeting ID: 819 0097 3102

I. Call to Order:

Chairman Finlay called the meeting to order at 6:05 PM.

II. Attendance Review:

Members in Attendance:

1. Ken Finlay, Chairman
2. Roji Eappen, Vice-Chairman
3. Ron Miller, Secretary
4. Jon Pratt
5. Wendall Gardner

Others in Attendance:

1. Kevin Proft, Administrative Officer
2. Theresa Dunigan, Recording Secretary
3. Peter Wasyluk, Attorney for the City of Woonsocket
4. Michael Kelly, KSR&P Law Firm

III. Remote Meeting Announcement:

The chairman read the following Remote Meeting Announcement aloud:

General Proceedings

1. Each agenda item will be read in-full to ensure it is clear what matter is before the board.
2. Members should request permission to speak from the Chair prior to speaking. The Chair should recognize the Member by name.
3. Members will identify themselves each time before they speak.
4. All votes should be conducted by roll call.

Public Comment

1. The public will be muted by the meeting administrator until the Chair opens the floor to public comment, at which point all members of the public will be unmuted.
2. Members of the public wishing to comment should use the “raise hand” tool on their zoom screen so they may be called on by the chair to speak. If this method proves to be too challenging, the meeting administrator will mute all members of the public and then unmute each member of the public one-by-one and ask if they have a comment.
3. Members of the public wishing to comment should state their first/last name and address for the record, then state their comment.

Documentation

1. Documents associated with the items being discussed at the meeting are available to the public on the Planning Board's webpage on the Woonsocket website. <https://www.woonsocketri.org/planning-board/pages/meeting-files>

Technical Difficulties

1. If remote access is interrupted for all participants and cannot be restored within 10 minutes, the remainder of the meeting items will be continued to the following meeting.
 - a. The board will preemptively vote to continue items not addressed due to potential technical difficulties to the next meeting to avoid the need to re-advertise said items. The date of said meeting must be included in the motion to continue.

Motion to CONTINUE AGENDA ITEMS UNTIL DECEMBER 1, 2020 IF NEEDED: Member Gardner

Second: Secretary Miller

Discussion: None

Vote:

Chairman Finlay	Yes
Vice-Chairman Eappen	Yes
Secretary Miller	Yes
Member Gardner	Yes
Member Pratt	Yes

Motion Passed 5-0-0

IV. Correction/Approval of Minutes:

Motion to APPROVE THE CORRECTED MINUTES for October 6, 2020 meeting: Secretary Miller

Second: Member Gardner

Discussion:

Member Pratt requested a word change on page six from "hardens" to "freezes". He requested a correction on the same page of "Blackwater River" to "Blackstone River".

Vote:

Chairman Finlay	Yes
Vice-Chairman Eappen	Yes
Secretary Miller	Yes
Member Gardner	Yes
Member Pratt	Yes

Motion Passed 5-0-0

V. Communications

- a. *Letters from the law firm KSR&P on behalf of Eric Yeghian of Vicon Properties (September 4, 2020; October 1, 2020; October 22, 2020; and November 4, 2020)*

The letters were provided to the Board Members prior to the meeting. The letters were regarding legal complaints pertaining to the Planning Board's handling of the approval of the bond amount for Phase IV of the Oak Grove Subdivision at the September and October Planning Board meeting. Mr. Michael Kelly of KSR&P introduced himself to the Board as representing Mr. Eric Yeghian. He waived any reading of the documents.

Mr. Proft noted that he discussed the complaint that the Planning Board should not discuss Phase II and Phase III at its Planning Board meetings with the City's Legal Department. The Legal Department concurred that such a discussion was allowed and was important because it would provide context to the Planning Board when it was setting conditions of approval associated with the Phase IV bond approval.

Previously voiced concerns regarding the unfinished phases for the Oak Grove subdivision – paving the topcoat, snow removal, installation of curbing, fixing sinkholes, etc. – were discussed. Mr. Kelly said most of the issues were already resolved between the City and developer by the time of the meeting. The developer is currently working with the City to resolve any outstanding issues.

Potential grading that was to be done on some of the lots that were developed and sold was discussed. Mr. Kelly said grading work on the private lots was not included in existing bonds. Mr. Proft agreed. Mr. Proft replied that the developer was initially responsible for completing the grading as shown on the subdivision plan approved by the planning board, but did not complete the grading prior to selling the lots. Mr. Kelly said the grading is now the concern of the lot owners. Mr. Proft asked again, why the developer was not responsible for finishing the grading as shown on the approved subdivision plan. Mr. Kelly said he felt he had already answered the question, but that “if the property owner wants the grading done, I’m sure that we will do it for them.”

VI. Meeting Business:

- a. **Discussion** – Oak Grove Phase II & Phase III. The Planning Board will discuss and take comment on Phase II & III of the Oak Grove subdivision. The purpose of the discussion is to provide context to the Planning Board for the approval of future improvement guarantees associated with the Oak Grove subdivision. This item was tabled at the October 6, 2020 Planning Board meeting.

Chairman Finlay noted that much of the discussion that happened under the previous agenda item pertained to this agenda item.

Vice-Chairman Eappen asked if the City can call back a bond if agreed stipulations/conditions are not met, specifically with the slope grading in mind. Mr. Proft said the slope was not included in Phase II or Phase III's bonding. A brief discussion between Mr. Kelly and Mr. Proft followed. Mr. Kelly stated large issues related to discrepancies in the approved plans and the as-built conditions should be caught and addressed by City Staff and the Developer before a Certificate of Occupancy is issued for each lot.

- b. **Bond Approval** – Per section 11 of the subdivision regulations, Eric Yegian of Vicon Properties has requested that the Planning Board approve a bond for Phase IV of the Oak Grove subdivision. Per Section 11.1.2 of the City's Subdivision Regulations, “The amount of the guarantee shall be determined by the Planning Board upon the advice of the Administrative Officer and Division Engineer and shall be in an amount and with all necessary conditions to secure for the City the actual construction and complete installation of all the required improvements within the period specified by the Planning Board.” The Planning Board may use context provided by the implementation of Phase II and Phase III of the Oak Grove project to inform potential conditions to attach to a motion to approve the bond. This item was tabled at the September 1, 2020 and October 6, 2020 Planning Board meetings. The Planning Board will review the matter and may vote on a motion to approve the bond.

The Board reviewed Mr. Proft's suggested six Conditions of Approval. Mr. Kelly requested that (#2) quarterly updates from the applicant be provided in writing rather than in-person. He did not have any concerns on the remaining suggested conditions.

Mr. Kelly's team recommended the following condition of approval, which the Planning Board agreed to add:

- The future release of bond IV be based on the work done that is guaranteed by the bond and not be based on previous phases' work.

Mr. Kelly did have requested the City consider the following request:

- The City and Developer agree to hire a third-party inspector to inspect the subdivision moving forward. Mr. Kelly has an inspector to recommend.

Chairman Finlay asked if either Mr. Wasylyk or Mr. Proft had received information for the potential inspector. Mr. Kelly said he would submit the inspector's resume and information after the meeting.

Motion to APPROVE A \$650,000 BOND WITH THE CONDITIONS AS DISCUSSED: Secretary Miller

Second: Member Gardner

Discussion: None

Vote:

Chairman Finlay	Yes
Vice-Chairman Eappen	Yes
Secretary Miller	Yes
Member Gardner	Yes
Member Pratt	Yes

Motion Passed 5-0-0

VII. Administrative Officer's Report:

Mr. Proft provided the following updates and information to the Planning Board.

Subdivisions:

- Final Plan approval was granted to 1099 and 1139 Social Street after meeting the conditions of approval from the Preliminary Plan decision.
- Final Plan approval was granted to 85 Fairmount Street after meeting the conditions of approval from the Preliminary Plan decision.
- Final Plan approval was granted to 0 Olo Street after meeting the conditions of approval from the Preliminary Plan decision.
- An Administrative Subdivision on Prince Street (Lots 38-561 and 562) was approved. The subdivision merged two non-conforming lots into one larger lot with the intention to construct a single-family home.
- The developer of the Minor Subdivision titled "Simonne Avenue Extension" (originally approved on March 9, 2010) requested that (1) the retaining walls associated with the project be allowed to be built on private property instead of in the City right-of-way and (2) that the walls be constructed of blocks instead of poured concrete. Mr. Proft said he considered it to be within his power to approve these change administratively under section 12.5.1-Minor Changes of the subdivision regulations, but since "minor change" is not defined in the regulations, he wanted to give the Planning Board the opportunity to object to the change being made administratively if they disagreed with his interpretation. The Board members concurred with Mr. Proft that the changes proposed should be

considered minor and could be approved administratively. There was a brief discussion as to what qualifies as a “minor change” and how the Board would like to handle minor changes in the future.

Ongoing Projects:

- Comprehensive Plan – The City selected Horsley Witten. The draft agreement between the City and firm is waiting for Legal Department review. Horsley Witten’s timeline for completion is 16 months.
- Brownfields Program – There has been no decision on the two grants from RIDEM that the City applied for in September. One was for Cleanup funds, which would go towards Seville Dye/First Avenue, and the other was for assessment funds, which would go towards 92 and 176 Sunnyside Avenue.
- Lead Hazard Reduction Program – Due to the ongoing epidemic, inspection of housing units has not begun. There has been no update since the previous meeting.
- RI Foundation Census Grant – The grant ended on October 15, 2020 on the Census deadline.
- Municipal Resiliency Program – many members of the community (and several Board members) participated in workshops to improve the City’s resilience to natural hazards. Food security for residents, improving access to and environmental conditions of the Blackstone River, and diversifying/improving transportation in Woonsocket. The facilitators will draft a report of the meetings to identify projects that will be eligible for RIIB funding.
- Local Foods Local Places – Neighborworks BRV was awarded a Technical Assistance grant to improve economic conditions in Downtown Woonsocket by building the local food economy. Workshops occurred between October 27 and October 29, 2020.

Vice-Chairman Eappen asked if any of the grants could be at risk due to COVID-19 concerns. Mr. Proft replied in the negative.

VIII. Next Meeting Dates:

Tuesday, December 1, 2020 | Online via Zoom

IX. Adjournment:

Motion to adjourn (7:20 PM): Secretary Miller

Second: Member Gardner

Discussion: None

Vote:

Chairman Finlay	Yes
Vice-Chairman Eappen	Yes
Secretary Miller	Yes
Member Gardner	Yes
Member Pratt	Yes

Motion Passed **5-0-0**

Addendum 1: KSR&P Communications



Joelle C. Rocha
jrocha@ksrplaw.com

September 4, 2020

Via Electronic Mail

Woonsocket Planning Board
c/o Town Planner
Woonsocket City Hall
169 Main Street
Woonsocket, RI 02895

Re: Oak Grove Subdivision – Bond Approval

Dear Members of the Woonsocket Planning Board:

Please be advised that the undersigned has been retained by Eric Yeghian of Vikon Properties relative to the handling of his request for bond approval for Phase IV of the Oak Grove subdivision. As you will recall, this matter was on the agenda for hearing on September 1, 2020. Mr. Yeghian had taken all appropriate steps to ensure that the bond amount being proposed was approved by Town staff, Mr. Debrousse in his capacity as the Town Engineer prior to the Planning Board hearing on September 1. Mr. Debrousse indicated that he recommended approval of the bond amount for Phase IV.

Based on this affirmative representation from Mr. Debrousse, Mr. Yeghian had a representative from his office sign in for the virtual hearing, expecting that the sole issue of bond approval was going to be discussed. This understanding is further supported by the fact that **only** item on the agenda with respect to Oak Grove and Mr. Yeghian was the **bond approval for Phase IV**. Despite being the only item on the agenda, with respect to Phase IV we subsequently learned that the Planning Board took it upon themselves to discuss items **not** on the agenda, specifically with respect to Phases II and III of the Oak Grove Subdivision. Putting aside the fact that this is violation of the Open Meetings Act, the Planning Board's inquiries into the status of Phases II and III is entirely inappropriate. The Planning Board's limited role on September 1, was to review, discuss and set the bond amount for Phase IV, which Mr. Debrousse had already recommended approval of.

As the Planning Board is well aware, there are already bonds in place for Phases II and III, so any issues regarding competition of those Phases are already covered by ample bond amounts. Additionally, final plan has already been approved for this subdivision, and there were

no conditions imposed with respect to timing of completion for Phases II and III. Yet surprisingly, this was the focus of the Planning Board meeting on September 1.

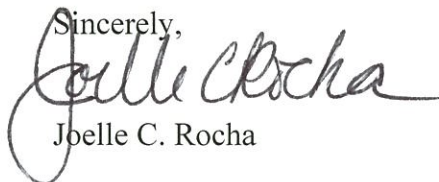
It should be noted that the inquiries with respect to Phase II and the completion of the top coat of asphalt is and was a non issue. Mr. Debrousse was fully aware of the fact that the developer already made arrangements and was in the process of proceeding with the top coat of asphalt at the time the bond request was presented.

As for the alleged grading issues with respect to Phase III, this Planning Board should be aware of the fact that Mr. Yeghian is twice removed from those privately owned lots that are the subject of grading issues, as addressed at the September 1 meeting. Those lots are privately owned and before that, were sold to a contractor who performed the construction and pulled the permits. Mr. Yeghian has absolutely no control over or obligation to address or correct any grading issues on those lots. The Town must take that issue up directly with the private homeowners. Moreover, the Town Engineer and other Town staff require inspections of items such as this before the issuance of a certificate of occupancy.

In reliance upon the Agenda item as identified, and the representations of Mr. Debrousse that the bond amount was recommended for approval, we are perplexed as to why this item was tabled to the October meeting. Pushing the bond approval to the October meeting causes significant delay in my client's development of Phase IV, specifically with respect to construction of the roadways and utilities, which needs to be done before the ground frost begins. Moreover, Mr. Yeghian has several sales pending with respect to Phase IV which will now have to be delayed. These delays were entirely avoidable, since the only item on Monday's agenda was the bond approval for Phase IV, the amount of which is not disputed.

The Town has absolutely no authority to demand completion of Phases II and III before proceeding with a bond approval for Phase IV, particularly since there were no such conditions in the approvals for the same. We fully expect that the bond will be approved as presented and as recommended by Mr. Debrousse at the October meeting, without any further delay. Nothing contained herein shall be construed as a waiver of any claims or damages that my client has occurred or will incur. We look forward to appearing at the October meeting to discuss setting the bond for Phase IV.

Thank you in advance for your attention to this matter.

Sincerely,

Joelle C. Rocha

Nicole J. Martucci
nmartucci@ksrplaw.com

October 1, 2020

Via Electronic Mail

Woonsocket Planning Board
c/o Town Planner
Woonsocket City Hall
169 Main Street
Woonsocket, RI 02895

Re: Oak Grove Subdivision

Dear Members of the Woonsocket Planning Board:

As you know, the undersigned represents Eric Yeghian of Vikon Properties with respect to the proposed bond for Phase IV of the Oak Grove Subdivision. We are in receipt of the Agenda relative to the Planning Board meeting of October 6, 2020 at 6:00 p.m.

We vehemently object to agenda item A relative to discussion of Oak Grove Phase II and III. We presume that this item agenda is posted in response to our most recent letter dated September 4, 2020, which clearly identified a violation of the Open Meetings Act when the Planning Board unilaterally discussed Phases II and III of the Oak Grove Subdivision at the last meeting when it was not on the Agenda. In order to try and circumvent the Open Meetings Act, the Planning Board has now placed a discussion of Oak Grove Phase II and III on the Agenda to "provide context" for the Bond approval that was tabled from the last meeting.

The Planning Board is wholly without jurisdiction to place Phases II and III of the Oak Grove Subdivision on the Agenda for October 6, 2020. Both of those Phases have already received Final Plan Approval. There is nothing in the Zoning Enabling Act or in the Land Development and Subdivision Regulations for the Town of Woonsocket that would allow for the Planning Board to rediscuss and review prior phases of a subdivision for which final plan approval has already been obtained. There are no conditions on final plan approval for which there could be any alleged enforcement action. As such, we hereby object to the agenda item A with respect to Phases II and III of the Oak Grove Subdivision. Tabled from the last hearing was a discussion with respect to the bond approval of Phase IV of the Oak Grove Subdivision. The Town engineer, Mr. Debrosse has already recommended approval of the bond amount for Phase IV. The Planning Board has absolutely no jurisdiction to discuss prior Phases.

Woonsocket Planning Board

October 1, 2020

P a g e | 2

Please confirm in writing by the end of the day today that the agenda will be amended and item agenda A will be removed from the agenda. Failure to remove said item from the agenda, for which you have no jurisdiction to review at this stage, will result in the initiation of court action being taken against the Town of Woonsocket and we will demand reimbursement of legal fees incurred as a result of this blatant violation of state law.

Sincerely,


Nicole J. Martucci

cc.: Michael A. Kelly
Client

Michael A. Kelly
mkelly@ksrplaw.com

October 22, 2020

Via RegularMail

Honorable Members of Woonsocket City Council
Woonsocket City Hall
169 Main Street
Woonsocket, RI 02895

**Re: Presentment of Claim and Demand Against Town Pursuant to R.I. Gen.
Laws § 45-15-5**

Dear Honorable Members of the Woonsocket City Council.

Please be advised that the undersigned has been retained by Eric Yeghian of Vikon Properties relative to the complete mishandling of his request for bond approval for Phase IV of the Oak Grove Subdivision by the Planning Board. This Presentment of Claim and Demand is submitted to you pursuant to R.I. Gen. Laws § 45-15-5.

The Oak Grove Subdivision appeared for hearing before the Planning Board on September 1, 2020 on my client's request for a bond approval associated with Phase IV thereof. Mr. Yeghian had taken all appropriate steps to ensure that the bond amount being proposed was approved by Town staff, Mr. Debrousse in his capacity as the Town Engineer prior to the Planning Board hearing on September 1. Mr. Debrousse indicated that he recommended approval of the bond amount for Phase IV.

Based on this affirmative representation from Mr. Debrousse, Mr. Yeghian had a representative from his office sign in for the virtual hearing, expecting that the sole issue of bond approval was going to be discussed. This understanding is further supported by the fact that **only** item on the agenda with respect to Oak Grove and Mr. Yeghian was the **bond approval for Phase IV**. Despite being the only item on the agenda, with respect to Phase IV we subsequently learned that the Planning Board took it upon themselves to discuss items **not** on the agenda, specifically with respect to Phases II and III of the Oak Grove Subdivision. Putting aside the fact that this was violation of the Open Meetings Act, the Planning Board's inquiries into the status of Phases II and III is entirely inappropriate. The Planning Board's limited role on September 1,

was to review, discuss and set the bond amount for Phase IV, which Mr. Debrousse had already recommended approval of.

As the Planning Board is well aware, there are already bonds in place for Phases II and III, so any issues regarding competition of those Phases are already covered by ample bond amounts. Additionally, the final plan has already been approved for this subdivision, and there were no conditions imposed with respect to timing of completion for Phases II and III. Yet surprisingly, this was the focus of the Planning Board meeting on September 1.

It should be noted that the inquiries with respect to Phase II and the completion of the top coat of asphalt is and was a non-issue. Mr. Debrousse was fully aware of the fact that the developer already made arrangements and was in the process of proceeding with the top coat of asphalt at the time the bond request was presented.

As for the alleged grading issues with respect to Phase III, this Planning Board should be aware of the fact that Mr. Yeghian is twice removed from those privately owned lots that are the subject of grading issues, as addressed at the September 1 meeting. Those lots are privately owned and before that, were sold to a contractor who performed the construction and pulled the permits. Mr. Yeghian has absolutely no control over or obligation to address or correct any grading issues on those lots. The Town must take that issue up directly with the private homeowners. Moreover, the Town Engineer and other Town staff require inspections of items such as this before the issuance of a certificate of occupancy.

In reliance upon the Agenda item as identified, and the representations of Mr. Debrousse that the bond amount was recommended for approval, my client was perplexed as to why this item was tabled to the October meeting. We made it abundantly clear to the City that pushing the bond approval to the October meeting would cause significant delay in my client's development of Phase IV, specifically with respect to construction of the roadways and utilities, which needs to be done before the ground frost begins. Moreover, Mr. Yeghian has several sales pending with respect to Phase IV which will now have to be delayed. Some way in fact be lost resulting in suitable damages to Vikon.

Yet, ignoring this warning of avoidable damages, the Planning Board was set to hear the bond approval on October 6, 2020. Much to our surprise, and presumably to circumvent the previous Open Meetings Act violation, the October 6, 2020 Planning Board agenda included a item of discussion of **Phases II and III** of the Oak Grove Subdivision.

The Planning Board was wholly without jurisdiction to place Phases II and III of the Oak Grove Subdivision on the Agenda for October 6, 2020. Both of those Phases have already received Final Plan Approval. There is nothing in the Zoning Enabling Act or in the Land Development and Subdivision Regulations for the Town of Woonsocket that would allow for the Planning Board to rediscuss and review prior phases of a subdivision for which final plan approval has already been obtained. There are no conditions on final plan approval for which there could be any alleged enforcement action.

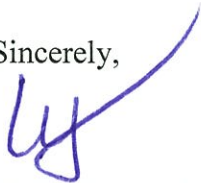
Notwithstanding the fact that the Planning Board was entirely without jurisdiction to revisit Phases II and III, for which Final Plan Approval was already obtained and for which there are currently no enforcement actions pending, the Planning Board again tabled the request for bond approval from October 1, 2020 – causing further delay damages to my client. Even more egregious, the City Council refused to let counsel to heard on the record prior to tabling the agenda item, despite repeated requests by council. This is a blatant violation of my client's rights to due process afforded to him under the Rhode Island and United States Constitution.

Moreover, the basis put on the record by the City Council for additional continuance at the October 6, 2020 was that there was, allegedly, a meeting scheduled at the site with the developer to discuss potential resolution to outstanding issues. Notably, no such meeting was scheduled, nor had anyone from the City even attempted to contact my client to set such a meeting up. This was a blatant falsehood intended to further delay this bond approval and my client's development. There is simply not basis or justification to table for almost 3 months a straight-forward bond approval request, particularly when the Town engineer has already recommended approval of the bond amount.

As we previously warned, my client fully intends to hold the City liable for the damages caused by this ongoing dilatory delay, including but not limited to lost profits. The City will also be held liable to the fullest extent of the law for their blatant violations of my client's due process rights at the October 6, 2020 Planning Board hearing. Vikon's damages will clearly exceed \$500,000. Please put your insurance carrier on notice immediately as we enter to file suit. You should be aware that this will not be the first time the City has been successfully sued in regard to this development, which shows a pattern of violation of property owner's and due process rights.

Nothing contained herein shall be construed as a waiver of any claims or damages that my client has occurred or will incur.

Sincerely,



Michael A. Kelly



Michael A. Kelly, Esq.
mkelly@ksplawpc.com

November 4, 2020

Via Electronic Mail

Woonsocket Planning Board
c/o Town Planner
Woonsocket City Hall
169 Main Street
Woonsocket, RI 02895

Re: Oak Grove Subdivision – November 10, 2020 Meeting

Dear Members of the Woonsocket Planning Board:

As you know, the undersigned represents Eric Yeghian of Vikon Properties with respect to the proposed bond for Phase IV of the Oak Grove Subdivision. We are in receipt of the Agenda relative to the Planning Board meeting of November 10, 2020 at 6:00 p.m.

As was the case prior to the Planning Board's October 6, 2020 meeting, we strongly object to agenda item VI. A. on the Planning Board's Agenda relative to discussion of Oak Grove Phase II and III. Again, it is clear the Planning Board has added these items to the Agenda to try and circumvent the Open Meetings Act under the guise of an attempt to "provide context" for the Bond approval for Phase IV, which was tabled again at the October meeting. The Planning Board is wholly without jurisdiction to place Phases II and III of the Oak Grove Subdivision on the Agenda for November 10, 2020, as both of those Phases have already received Final Plan Approval and are secured by approved bonds. Again, there is nothing in the Zoning Enabling Act or in the Land Development and Subdivision Regulations for the City of Woonsocket that would allow for the Planning Board to rediscuss and review prior phases of a subdivision where final plan approval has already been obtained. There are also no conditions on final plan approval which could be the subject of any alleged enforcement action.

It should be noted that counsel to Eric Yeghian and Vikon Properties was present via Zoom at the Planning Board's October 6, 2020 meeting and attempted to provide input. However, counsel was left on mute and given no opportunity to address the Planning Board, despite continued attempts to be heard through virtually "raising her hand." Meanwhile, the Planning Board tabled discussion and consideration of the bond for Phase IV under the false representation that a meeting and site visit was scheduled with Vikon at Oak Grove. This speaks

volumes with respect to the Planning Board's true intentions, and further evidences their efforts to baselessly delay approval of the Phase IV bond and cause harm to our client.

As such, we hereby object to the Agenda item VI. A. with respect to Phases II and III of the Oak Grove Subdivision and demand that the bond recommended approval be considered to avoid further delay of Phase IV construction. As explained above and in our prior communications, the Planning Board has absolutely no jurisdiction to discuss prior phases, and its failure to address the pending bond approval during two prior meetings can only be seen as an impermissible delay tactic designed to harm our client and place his pending sales within Phase IV in jeopardy.

Please confirm in writing by the end of the day today that the agenda will be amended to remove item VI. A. Failure to do the same, will result in additional legal action against the City of Woonsocket, where we will demand reimbursement of legal fees incurred as a result of these blatant violations of state law.

Sincerely,



Michael A. Kelly

cc: John D. Simone, City Solicitor

Addendum 2: Conditional Bond Approval



City of Woonsocket, RI

Planning Board

To: Eric Yeghian
Vikon Properties Corp.
678 Washington Highway
Lincoln, RI 02865

From: Kevin Proft, Administrative Officer
Woonsocket Planning Board
169 Main Street
Woonsocket, RI 02895

Date: November 12, 2020

Re: Conditional Approval of Oak Grove Phase IV Improvement Guarantee Amount

Dear Mr. Yeghian,

Per Section 11.1.2 of the Subdivision Regulations, the Planning Board is responsible for approving the amount of improvement guarantees. Said section also permits the Planning Board to “set conditions to secure for the City the actual construction and complete installation of all the required improvements.” Per Section 11.1.3 of the Subdivision Regulations, the Planning Board is also responsible for setting the period of time within which all improvements shall be completed.

At its November 10, 2020 meeting, the Woonsocket Planning Board unanimously approved the amount of the Oak Grove Phase IV improvement guarantee at \$650,000, with conditions. The amount was reviewed and endorsed by the City’s Engineering Division prior to the meeting. The conditions set by the Planning Board are as follows:

1. The applicant shall complete all proposed Phase IV improvements – including acceptance of the utilities and roadway as public by the City Council – within 24 months of acceptance of the bond by the City. Per section 11.1.3 of the Subdivision Regulations, if the improvements are not complete within said timeframe, the applicant may appear before the Planning Board to request up to one additional year to complete the project. Following the initial 24-month period of time and any extension of the period of time granted by the Planning Board, the City will begin the process of closing on the bond. Specifically, the following targets shall be met:
 - a. Utility, base course of asphalt, and curbing completed 18 months after acceptance of bond.
 - b. Top course of asphalt completed, and utilities and roadway accepted by the City Council 24 months after acceptance of bond.
2. The applicant shall provide quarterly, written reports to the Planning Board at its regularly scheduled meetings on the progress of Phase IV until the phase is completed. Reports shall be filed two weeks prior to Planning Board meetings to allow adequate time for review. Failure to file a report shall result in the applicant’s portion of the project being halted by the City until the applicant files the report at another regularly scheduled Planning Board meeting. At the discretion of the Planning Board Chairman, the applicant may be required to appear before the Planning

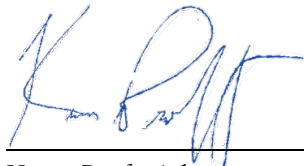
Board if a report is deemed inadequate. Reports shall be filed prior to the January, April, July, and October Planning Board meetings. Typically, Planning Board meetings occur on the first Tuesday of each month.

3. The applicant shall be responsible for snow removal in Phase IV of the project until the roadway and utilities have been accepted by the City Council; regardless of lot ownership. Should the City be required to plow Phase IV of the subdivision due to inaction by the applicant, the applicant shall be invoiced by the DPW for time, labor, and equipment that must be used for snow removal. If equipment is damaged due to the roadway's condition, the applicant shall be responsible for the cost of replacement/repairs. All invoices must be paid before the City Council accepts the roadway.
4. The applicant shall ensure proper dust and erosion control measures are implemented during the construction of Phase IV of the project. Should proper controls not be implemented or maintained, the City may stop work on the project until the issue is corrected.
5. The applicant shall remove stockpiles from the existing cul-de-sacs by November 30, 2020 to allow fire apparatus to maneuver on the dead-end streets as required by NFPA. Upon removal of the stockpiles, barriers shall be erected to limit the danger of steep grades at the end of the roadway at the direction of the Engineering Division and Fire Department. Should the stockpiles remain after November 30, 2020 the City may stop work on Phase IV of the project until the issue is corrected.
6. No future bonds for projects associated with the applicant shall be approved until adequate progress has been made towards the completion of all existing bonded projects associated with the applicant as determined by the City's Department of Public Works.
7. With respect to any request for a reduction or release of this bond, the same shall be considered and/or approved in the usual course. Any decision to reduce and/or release the bond shall consider only the progress, completion, and/or partial completion of work specifically secured by the bond.

While the Planning Board has set a period of time of 24 months within which improvements should be completed, per section 11.1.3 of the Subdivision Regulations the improvement guarantee itself shall not have an expiration date. Further, while the Planning Board may consider a reduction in the amount of the improvement guarantee based on progress made towards completion of improvements (section 11.1.4 of the Subdivision Regulations), per section 11.1.3 of the Subdivision Regulations the board is not obligated to release the guarantee until one year following the completion of the improvements in order to ascertain the durability or acceptability of the improvements.

Per section 11.1.1 of the Subdivision Regulations, the improvement guarantee should be delivered to the Administrative Officer of the Woonsocket Planning Board. Upon the City Solicitor's establishment of the bonding company's reliability, the Administrative Officer shall transfer the bond to the City Treasurer, who will file the bond in the Treasury safe for safekeeping.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Proft', is written over a horizontal line.

Kevin Proft, Administrative Officer
Woonsocket Planning Board

cc: Department of Public Works, Division of Engineering, Legal Department, Mayor's Office