

Date: October 18, 2023
To: Mashpee Planning Board
From: Karen Faulkner, Chair
Re: Report of August 22, 2023 Zoom Meeting

On July 21, 2023 Attorney for Southworth Mashpee Properties, LLC, Donald Pinto, Jr. wrote our Town Counsel a letter stating their legal position with respect to issues related to the Willowbend Special Permit Modification and challenges the Town could encounter. Essentially, the letter was threatening litigation against our Town. At the behest of our Town Counsel, Patrick Costello, I was asked to participate in a Zoom meeting with Town Planner, Evan Lehrer, attorney Donald Pinto, Jr., representing Southworth Mashpee Properties, LLC, attorney Jack McElhinney, local counsel for Southworth Mashpee Properties, LLC and Troy Miller, Chief Development Officer for Southworth Mashpee Properties, LLC. Town Counsel's purpose for calling this Zoom meeting was to make Town Planner and me aware of the legal issues Don Pinto was challenging. Further, Town Counsel wanted Town Planner to request an executive session of the Planning Board to discuss the strengths and weaknesses of various legal arguments, as well as legal strategies to protect the Town's interests.

To the best of my recollection, the following is a recitation of what was said during the Zoom meeting:

1. Attorney Pinto outlined his legal arguments as per his July 31, 2023 letter to Town Counsel, copy of letter attached.
2. Town Counsel then responded as to the legitimacy of the bedroom cap as a density limitation as a function of zoning, which was the purpose and intent of the original 1991 permit as issued by the Planning Board at that time.
3. Town Planner summarized the estimate of the existing number of bedrooms as well as the projections for new bedrooms based on open building permits and planned units.
4. Town Planner opined that he did not think the Planning Board would be comfortable modifying the bedroom count solely on the Wastewater Treatment Plant capacity.
5. I affirmed Town Counsel's interpretation of the 853 bedroom cap as a density limitation as a function of zoning.
6. Attorney Jack McElhinney and Troy Miller both spoke, but I do not recall them saying anything substantive.
7. No negotiations took place.
8. Nothing resulting from the August 22nd Zoom meeting has biased my understanding of Southworth's application and my duty to act impartially.

Enclosure: Donald Pinto, Jr. letter of July 31, 2023