

PUBLIC STATEMENT

Settlement of Stoneleigh Preserve Litigation

On December 26, the Town of Rye, Harbor Street, LLC and its four (4) co-plaintiffs filed a Settlement Stipulation in the Rockingham County Superior Court of the three (3) lawsuits brought against the town land use boards as a result of the planning board's August 2017 denial of Harbor Street, LLC's proposed subdivision. A copy of the Settlement Stipulation is on file with the town clerk as required by the Right-To-Know statutes.

The settlement was mediated on November 20 by the Honorable Robert Morrill, a retired NH Superior Court judge. Three members of the planning board, the chair of the Rye Conservation Commission, the planning and zoning administrator and town counsel participated in the mediation. The full planning board approved the settlement in principle in a duly called nonpublic meeting on November 27.

On January 9, 2018 the planning board will hear a revised proposal for 13 building lots to be located on two cul-de-sacs built off South Road. A fourteenth lot, Lot 2, will be donated to the Rye Conservation Commission. The zoning board of adjustment denied a driveway wetlands buffer crossing for Lot 2, which has a large vernal pool. The ZBA denial was the subject of one of the three lawsuits.

The revised proposal includes conveyance of an additional ± 18 acres of open space (± 58 acres total) to the Rye Conservation Commission. The additional acreage includes uplands which would have been building lots. The conservation commission will pay \$300,000 for the conveyance of the ± 58 acres of open space.

The town will also pay Harbor Street, LLC \$100,000 for a release by all plaintiffs of all of their damages claims. This amount will be paid from litigation reserves, not from property taxes.

The planning board, conservation commission and board of selectmen believe the settlement is reasonable and prudent. The reduction in the number of lots; the elimination of a substantial amount of street construction; narrower streets; and the additional preserved open space provide a greater protection of water resources, wetlands, vernal pools and the nearby

Atlantic White Cedar Forest than the 17 lot proposal. If the lawsuits had proceeded to trial and the town lost, the result would be a less environmentally sensitive 17 lot subdivision. While the planning board believes its denial was reasonable, the legal issues before the court were complex, and there was no guarantee of a positive outcome.

For similar reasons, the board of selectmen believes that the payment of \$100,000 for releases of the damages and attorney's fees claims, which were substantial, is reasonable. Betting on outcomes from litigation is never a sure thing. It is prudent for the town to end the litigation and for the land use boards and the developer to move on.

Date: _____

Craig Musselman, Chair
Rye Board of Selectmen