

***Town of Southborough***

**PLANNING BOARD**

SOUTHBOROUGH, MASSACHUSETTS 01772

17 COMMON STREET  
SOUTHBOROUGH, MASSACHUSETTS 01772-1662  
508-485-0710

Mr. Brain E. Shea, Chair  
Board of Selectmen,  
Town of Southborough  
17 Common Street  
Southborough, MA 01772

Oct 3 2016

Re: Request for Independent Counsel – matters pertaining to Park Central

Dear Mr. Shea and Members of the Board of Selectmen,

Since your most recent vote on Sep 9 2016, denying our request for independent Counsel, the Planning Board has performed several actions in regard to the projects at Park Central.

On June 20, 2016 the Planning Board opened the public hearing for the Chapter 40A site plan review of Park Central. This hearing was continued to July 11, August 15, September 19, 26, and 29, 2016. On September 29, 2016, despite the Planning Board's desire to continue the hearing, the proponent refused to further extend the review period, forcing the Planning Board to close the public hearing and vote. The Board voted unanimously to reject the site plan. While rejection of a site plan is not unprecedented, it is rare, and should be done with advice from counsel.

On September 13, 2016, after two Executive Sessions, the Planning Board filed in the Worcester County Superior Court, an Appeal of the Zoning Board's waivers pertaining to the Town House project as part of the August 24, 2016 Park Central comprehensive permit. On September 27, 2016, the Planning Board submitted four summons to the Worcester County Sheriff's Office as part of the appeal process. All of these actions were performed without legal counsel.

In both of the above matters, the Planning Board must issue additional documents in the very near future. The appeal process has several stages with Court specified deadlines, and in the site plan process, the Board must file a notice of decision.

The elected Planning Board has a responsibility to address areas of concern regarding jurisdiction and procedure, and to take appropriate action to assure compliance. To do nothing is unacceptable. To continue to execute our responsibilities without legal counsel is unwise and increasingly dangerous.

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The Planning Board respectfully requests that the Board of Selectmen reconsider their position, and in accordance with Chapter 27-7 of the Southborough Code, vote to authorize Independent Counsel to provide legal advice to the Planning Board in matters pertaining to the Park Central projects.

Sincerely,

A handwritten signature in blue ink, reading "Donald C. Morris". The signature is fluid and cursive, with the first name "Donald" being the most prominent part.

Donald C. Morris,

Chair: Southborough Planning Board

From: Brian Shea  
Date: Oct 5, 2016 3:44:17 PM  
Subject: Planning Board Request for Independent Counsel  
To: "dmorris" [REDACTED]  
Cc: Mark Purple <[mpurple@southboroughma.com](mailto:mpurple@southboroughma.com)>

Mr. Morris,

Our Board is in receipt of your letter dated October 3, 2016 relative to another request for authorization for the Planning Board to hire independent counsel to provide legal advice to the Planning Board in matters pertaining to the Park Central Project.

First please note that our Board voted unanimously last night to authorize Town Counsel to continue to provide legal advice to the Planning Board for all matters not related to Park Central.

With respect to your request for authorization for the Planning Board to hire independent counsel to provide legal advice to the Planning Board in matters pertaining to the Park Central Project, we note that the actions taken by the Planning Board against the ZBA have resulted in pending litigation against the Town, and on advice of counsel, our Board will not comment further on this matter.

Brian Shea, Selectman  
Town of Southborough

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