

Bellingham Planning Board
Town Hall Annex
Bellingham, Mass.

Regular Meeting - July 25, 1985

Members Present - John P. Murray, Chairman
Glenn E. Gerrior, Vice Chairman, Clerk
Emile W. Niedzwiadek
Matthew F. Pytko
Edward T. Moore

The meeting was called to order by Chairman Murray at 7:40 P.M.

Scott Rice of M.E. Rice & Sons, Inc., General Contractors, 60 Trenton St., Bellingham appeared before the board regarding release of five lots in a subdivision off Freeman Street. Previously, this subdivision was approved subject to conditions the streets are completed (1959). A letter had been received from Highway Supt. Gerard Daigle dated March 15, 1985 advising that Freeman Street has been accepted by the Town. As requested by Mr. Rice at a previous meeting, a letter was sent to him by former Vice Chairman Rotatori regarding the street acceptance, which their bank requested. In a further discussion it was noted that not all of the roadway is paved and they also do not have town water. Mr. Herr said there is no question about the first two lots, the only question is further down the street. When asked by Mr. Murray, Mr. Rice said he would have a problem with the bank if this does not get signed. Following further discussion, Mr. Herr suggested they could change the words on the release to read three lots. Mr. Rice and his attorney left the meeting and did return at 1:20 A.M. with the new waiver of conditions regarding lots 128A, 129A and 130. On a Niedzwiadek/Moore motion the Board voted 5-0 to sign the waiver for the three lots. They thanked the Board and left at 1:30 A.M.

At 8:00 P.M. the public hearing requested by Celtic Construction/Kenneth Racicot to amend their special permit for construction of units allowed, within a 24 month period to increase from 100 to 167. The special permit for their on-going construction of condominiums called "Maplebrook Townhouses" was granted September 13, 1984.

The total units of 250 is to remain the same; Celtic wishes to step up the building pace to complete the condos in three years instead of the original agreement of five years.

The secretary read the public hearing notice as advertised in the newspapers. Notices were sent to the abutting town Planning Boards and Government agencies, but not to the citizens abutting the project, as this was for an amendment to a special permit already granted September 13, 1984, and the secretary did not send notices to Maple Street abutters again. However, this raised some question concerning legality of this public hearing because the abutters were not sent notice.

Consultant Phil Herr suggested the Board proceed and said he thinks there are three possibilities; one, that the notice is adequate under the circumstances; two, that it is not; third, that the Board does not need a public hearing to do what it is going to do anyhow. And, since the Celtic people are present, Mr. Herr said he feels the Board should go ahead with the discussion, but he said any decision that the Board makes ought to be made conditional upon checking with Town Counsel as to the questions of adequacy of notice and the necessity. Mr. Herr noted that there are a number of interested people present. He said his understanding is that neighbors do need to be notified on any special permit, and said he suspects that if this action requires a public

hearing, there's some question about that, but if this action requires a public hearing, he suspects the Board will have to provide notice and have at least part of the discussion again. But he said he feels the Board should go ahead with this hearing since all the people came and the Celtic people are present, unless they or anyone feels to the contrary. There were no objections from the people present or the Celtic people. Mr. Murray proceeded with the hearing. He asked the secretary if the fee was collected. The fee as yet was not collected and said the advertising costs totalled \$76.93. Mr. Racicot said they would pay after the hearing. Mr. Murray suggested they proceed with their presentation. Ken Racicot introduced Robert Drake of Drake Associates, Edward Cormier, and Attorney Joe Antonellis.

Robert Drake spoke on behalf of Celtic Construction Co. He said that as stated in the advertising notice, the purpose of their being here is to request an amendment to one of the conditions of the special permit they received to build the Maplebrook condominium project. He pointed out that the project consists of 250 townhouse units in the area off Maple Street and Mechanic Street near the Franklin line. Drake pointed out that they had submitted a plan which was previously approved (he brought a copy with him) which showed a total of 250 units, and one of the conditions of the special permit, specifically condition No. 5, was that with a projected build out period of five years for the project, there was a restriction that no more than 100 units be authorized within any 24 month period.

Mr. Drake said they are here now because their construction has progressed very well and their marketing as well. He said what they would like to do is to increase the number from 100 in a 24 month period to 167 in a 24 month period. They would like to build 83 units a year.

Mr. Drake said in consideration of this progress that they have made at the project so far, they have 15 buildings framed which house a total of 64 units and they have sold and passed papers on 28 units, or will be completing passing papers on 28 units within a very short period of time, and he said they have foundations in for an additional 16 units, which he said gets them up to about 80 units total (64 plus 16).

Drake said part of the project was to construct a new water line down Maple Street connecting with the line at the intersection of Maple and Mechanic, down So. Maple Street running through the project on the proposed crossroad connecting onto Blackstone Street. He said that water line has been constructed, has been energized, and was completed prior to occupancy permits being issued for any of the units.

Drake said that part of the initial work along that line was to do the patch work on the road where the water lines were installed, which was completed to the satisfaction of the highway department. Drake said they further chose to resurface the road (4,000 feet running from the intersection of Rte 140 and Maple Street down to the point at which they stopped their water line). He said basically this is their front door, the entrance to the project is on Maple Street and they give consideration to the aesthetics. He said they did the paving of the road as a gesture or indication of their good faith.

Drake said that from the beginning of this project they have stressed that they would try to cooperate with all the various departments and try to deliver what they promised. Drake explained and discussed the plans he had presented concerning the site and said he has had good communications with the town departments.

Mr. Drake said the roadway that crosses through the property has been constructed to a sub-base grade at this point and the areas where the units are that are occupied have been paved. He said they anticipate they will complete the entire road and have it paved by next summer, a year from now.

Regarding the stream crossing, Drake said they have filed a notice of intent. The proposed stream crossing, construction of retention ponds have been issued an order of conditions for that work. He said they should be ready to apply for their certificate of compliance on that work. Drake said when they initially came to the Board to discuss this request for an increase in rate of development, the question of parking and the need to monitor a project of this size which is the first project of its size to come to Bellingham. He said regarding the parking, the Zoning Bylaw requires 2 parking spaces be provided per dwelling unit, and the concern of visitor parking was discussed and he said the number of 2.3 parking spaces was resolved, with monitoring through the development of the project for final resolution of that to see whether that 2.3 would be enough, or 2.5 would be required or whether in fact 2 was satisfactory. Plus, there was concern what the impact of a project of this size would be upon the general demographics.

At this point, Mr. Trudel addressed the Chairman stating that they could not hear what was being said by Mr. Drake. (The meeting room was filled to capacity and Mr. Trudel, Mr. Ambler and many others were standing near the doorway)

Drake said what they have prepared is a survey done of the 70 plus customers that are already committed to sales on units through the Phase I to get some basic fundamental information as far as what type of people appear to be obviously expressing interest and are purchasing units that they are proposing.

Drake said they have the results of that report which he will distribute to the Board for their later study. He said basically what it appears is the median group, 50 percentile group, of this project is in the 26 to 35 year age group. Half of the occupants are married, half unmarried. The average income was in the 30- 36,000.00 bracket and car ownership appears to be 1½ cars per unit. He said they got a 70% response. He said this is a limited sample but with the information on the project at this stage, he feels it gives them some indication of what's going on.

He said the parking issue is something that will continue to be monitored. They have the flexibility within the project to expand or decrease, whichever need arises.

He said the other question that was brought up at the initial hearing and became an item of discussion for monitoring is the question of fire access and the necessity of safety roads. He said they have been working very carefully and closely with the fire chief. He said they re-oriented some of the buildings and indeed there was a little exercise performed to assure access with the ladder trucks. He said the fire chief appeared satisfied.

Drake said they are here tonight requesting an increase in the rate of units built to be basically 80 odd units a year with a restriction of 167 units in 24 months. The original project was approved for 250 units with a projected build out in five years. Basically 50 units a year or 100 units in a 24 month period was a special condition of the project.

Mr. Drake then asked if there were any questions. Mr. Murray asked the secretary if any communication was received from any of the Boards. There was none. However, Mr. Trudel, Supt. of the Water Dept. was present and

was asked to address this request. Mr. Trudel said although he could not speak for the Water Board, he said they have requested the state for a mandatory water ban, and in the process of the request the state desires the full intent of that ban. They want specifics of it, but this cannot be done until the next meeting of the Water Commissioners. He said it appears that is one of the problems that they have to address. He pointed out that the Water Board directs what action is to be taken. No input was received from the other Boards.

Following the report given by Mr. Trudel of the water problem that exists, Mr. Moore brought up the question of how many units Celtic wants to build in light of the water shortage and supplying the 167 units. It is uncertain when the water ban will be lifted.

Mr. Murray asked Drake whether they still plan to eliminate the 3 bedroom units as previously stated in their proposal. Drake said, "yes, that is still the case in the proposal". He said initially as stated in the Bylaw and as part of their condition, they were going to have 10% of the units 3 bedroom and the remaining 90% would be 2 bedroom units. However there was some concern expressed about the rapid rate of development and the shock it could cause on the school population, and Drake said a possible measure of alleviating that is proposing to build only 2 bedroom units for the entire project.

Mr. Murray asked if there were any abutters present who would like to speak, for or against, or any residents who would like to speak in favor of their request.

One resident inquired about the ladder fire truck previously mentioned with regard to fire exercise, since Bellingham does not have a ladder truck. Ken Racicot said it was the Town of Franklin's ladder truck, which is the one Fire Dept. is proposing to buy. The truck came to the site and he said they used the ladder truck to go up on the roofs of the units. When asked by the resident if this worked, Ken Racicot said, "yes". Drake said when they placed the units initially they were perpendicular to the parking areas. They were stressing a southern exposure for the passive solar effects.

One of the concerns of the Fire Chief was the inability of the trucks to get around to the back of these buildings. Drake said they have turned the building parallel to the site which gives better access to the back for the hoses. He said they have put extensive hydrants throughout the site and have them at 500 ft. or less, and every one of the parking areas will have them. He said there is good access with the hydrants and the Fire Chief was satisfied.

Mr. Drake said the exercise they had with the ladder truck was to test if the truck could get around from the edge of the parking lot.

He also noted that the project is near the Franklin line and in the event of a fire, the Franklin ladder truck would come in, which is an alternative. Mr. Drake said that this was like a fire drill and he only brought it up as it was a concern expressed at a previous meeting.

Mr. Moore asked what phase they are discussing. Mr. Drake said they are completing Phase I at this point. Mr. Moore then asked if this is a site plan review and they would come back with Phase II. Drake said according to the original decision they generate definitive site plans which are reviewed by the building inspector for the purpose of issuing building permits. Mr. Moore asked if they had a site plan review prepared for Phase II. Drake said they do not have one now; phase I would carry them through the year with their construction activity. He said what they are addressing

is the question of the 24 month period. He said a project starts out slow but once you get into the construction, where the construction is at a point now we are enjoying a strong marketing response, and also finding that we can build the units more quickly than we anticipated. Drake said they are asking now to "continue to march".

Drake said they have all the drainage design for the entire project as part of their submission to the Conservation Commission. Question was raised if the drainage would take care of 167 units.

Drake said the tabulations that they did in the areas that have been constructed for retention areas takes care of it.

Mr. Moore pointed out that they are supposed to be in with a site plan review before going ahead with Phase II.

Mr. Herr said that was right; however, Celtic is not proposing to go ahead with Phase II until next year.

Mr. Moore asked Drake how many units are built now.

Mr. Drake said they have the 64 units which is at the end of the Phase I which is under construction.

Mr. Moore said then they are in Phase II. Drake said that is correct, they are getting into Phase II.

Mr. Racicot said there's 80 units in Phase I that they are going to construct this year.

Mr. Racicot said they are talking about next year, constructing another 80 units in Phase II.

Mr. Herr told Mr. Racicot that in order to finish what he is calling Phase I he is going to have to present site plans for the remaining approximately 18 units. Drake and Racicot agreed.

Mr. Moore questioned whether the Board should be looking at that now. He pointed out that the decision says 62 units Phase I. They have 64 and now we are talking about going further. He asked that a site plan should be before the Board.

Herr said before they go any further they will have a site plan. Moore felt that the Board was being asked to go further.

Mr. Herr said what the Board is being asked tonight, is to lift the limit on the number of units they can have.

One of the residents asked the Board if they lift the limits for Celtic aren't they going to have to do the same for everyone else too.

Mr. Herr replied to that by saying there is no legal necessity if you lift the limit on this one, that you have lifted the limit on another one.

Mr. Herr said there is a clear precedent. It was agreed that this would be an obvious precedent. Mr. Herr said that to his knowledge, it is not a binding legal precedent. Conditions on the next project may be different than this project, but it sure does send a signal which can't be denied.

Discussion continued concerning the time for bringing in a site plan for review of Phase II, which Drake and Racicot said would be done.

Mr. Moore expressed his concerns with regard to the rest of the plans for building the office building and old age center.

Mr. Racicot said they do have plans for this; however time does not allow them to show this tonight. Drake said those proposals will be forthcoming.

What they would like to decide now is the building limits.

In further discussing the old age center, Mr. Racicot said he talked with Selectman Arcand and a representative of the senior citizens and it is coming.

Mr. Moore stressed his concern with the Celtic plan that along with the 250 unit condominium project, the business and senior citizen center part of the plan also come to being.

Town Counsel Ambler was present and Mr. Murray asked him to address this.

Mr. Ambler said, as he understands it, there were municipal reasons and concerns and causes that generated a provision of a slow build out and he said he thinks everyone would like to know how those municipal reasons or causes, which originally caused a slow build out, have changed.

Mr. Ambler asked, "have all of the reasons why you had the slow build out built into it in the first instance, have any of those causes changed?"

Mr. Murray asked Consultant Herr to comment on that question.

Mr. Herr said he thinks one of the causes was uncertainty of what the nature of occupancy would be and said he thinks that has changed a little bit. There are, now, a certain number of sold units and there are a certain number of additional units that are under some kind of agreement, and they have surveyed those people. The evidence presented tonight corroborates the original expectations about that, which Mr. Herr said helps remove one of the uncertainties.

The other reasons had to do with the ability of the Town to provide services, ability of the Town to adapt to change in its population makeup. Mr. Herr said he does not think those have changed. Mr. Ambler said, "other than water!"

Mr. Ambler pointed out that when this plan was originally presented there was no concern for water, which is a great concern today.

There was some talk about it, but we did not have the factual circumstances then that we have today. Mr. Herr agreed.

Mr. Murray pointed out that at one of the hearings he brought up the veridox system, which he said he is glad it has been voted in. Mr. Herr said we do not own it, he said it is voted, but it is not physically present.

Mr. Murray said he feels one of the main reasons for setting a limit was because the Board wondered whether there was a market for these particular units at the time. Mr. Herr said that may have been, but it never crossed his mind.

Former Board member Sarge Rotatori was present and Mr. Murray asked if he would like to comment. Mr. Rotatori said that when he was on the Board Celtic Construction came in and there was an agreement of the five years with 50 units per year. He asked Drake if that was correct, that they had this agreement with the Town. Drake agreed.

Mr. Rotatori asked Drake what they are requesting now. Drake said 30 more a year, which will be 80 units per year as opposed to 50 per year.

Mr. Rotatori pointed out the year is not up yet. They are putting up 50 per year, or 100 every 24 months. We are now having water problems. He said we would like to see what was going to happen at the end of the two year period when the 100 condos were in. What would happen with the water problem and what would happen with the school situation.

Mr. Rotatori expressed his firm belief that 50 per year should not be changed to 80 per year as Celtic proposes.

Mr. Rotatori also pointed out that there are other condos going up in town and if the limit is lifted on Celtic, he believes the same would have to be done for the others, and he feels we would have problems.

Mr. Drake said, in responding to the water problems pointed out, that they have done the most that they can to alleviate any potential water problems in the site.

Mr. Drake pointed out that they completed the water mains all the way up to Rte. 140 as proposed before occupancy of any of the units.

Mr. Drake said there is really nothing more that they are going to be able to do in the next 24 months to help Bellingham's water problem.

So Drake said the question becomes, by letting them build 30 more units in a year, or 67 more units in a 2 year period, is that going to be the straw that's going to break the camel's back for Bellingham's water problem. He pointed out again the water mains they have installed; large mains down Maple Street, across through their project connected into the main at Maple Street. He said they've worked with the Water Dept. trying to meet all of their requirements, and what he is saying now is that there is nothing more they can do.

But, Drake said, what they are asking for, and once you start a project like this, and when you get a strong market response of the type they have had, it just makes them more anxious to increase the project. But, he said, they don't want to just blow in and blow out of here in a year with 250 units. He said they think they can build a realistic number of 83 units a year or 167 in a 24 month period and still have the ability to monitor through this construction period and provide the same quality construction.

Mr. Rotatori, addressing Drake, inquired if he realizes the Town is trying to control the growth and said this is one way of controlling it, by allowing so many units per year, regardless whether it is Celtic or any other construction coming in. He said we do have other condos coming into town.

At this point Mr. Murray requested the secretary to read the notice of public hearing scheduled at 8:45 P.M. to consider revising the Zoning Bylaw followed by a request for a motion to postpone the hearing until 9:20 P.M. Secretary read the notice of public hearing. On a Niedzwiadek/Moore motion the Board voted 5-0 to postpone the hearing until 9:20 P.M.

Mr. Drake continued his presentation. He said, partially in reply to Mr. Rotatori's statements on their build out, as far as the 3 year build out versus the 5 year build out and the additional 30-odd units per year, what they feel would be a plus in letting them do this is the Town would get a finished product; the landscaping done, roads build up to grade properly, as opposed to a construction project that goes out over a long period of time, plus they would be willing to do the impact study, and continue to monitor the project as far as with the backup demographic information and water consumption use information, and the parking information, and the question of the necessity of security, the lighting and etc. He feels this project could become a "model" for the Town to use to develop guidelines for its future condo developments.

Mr. Drake said that they would like to stay in Bellingham and continue to do work in Bellingham. He said the Celtic Companies are going to be based here.

Mr. Murray asked if any resident present had any comments.

One resident inquired as to whether no other condo developments is being proposed by Celtic, because as he understood it, Drake's comments led him to believe the Celtic condos were to serve as a model for future condo development in Bellingham. Drake assured him that he would not interfere with whatever any other developer wants to do in Bellingham. Drake argues that they want to complete the project in three years as they feel it would be a beneficial to both the town and Celtic.

Water Superintendent Trudel said he hasn't seen 100 water service applications since he has been superintendent, which is 10 years.

Mr. Trudel pointed out that we have over 100 water applications which means water service for individual units and he said he does not know how many more they will get this year.

He also pointed out that in 1967 Bellingham had 10 years of water ban. He said they are trying to resolve the water problems. He said engineers are working on it but it is not solved yet.

He pointed out again the agreement with Celtic regarding the 50 units per year for five years which would prolong the development.

Trudel said now there is a crisis and if he does not have the water to serve these people and do the things that are needed it would be a great disservice. He feels it would be a threat to the water in this town.

Trudel said the Planning Board should consider this very seriously.

In a discussion about the commercial aspect of the project, Niedzwiadek speculated on the possibility Celtic could begin work on that and not have the work stoppage within the project which Drake said they wanted to avoid, pending the start up date on Phase II of the condos.

Drake said to a certain extent as far as excavation there is a certain overlap, but he said when you're talking commercial and industrial construction and you're talking residential construction, we're talking about different labor crews, different materials, different stock items and he said right now they have a highly trained and rapidly developing experienced crew working on the condos and he would like to keep them on the job and keep them going, and to try to divert them now to other types of construction he is not certain about.

He said these type of proposals will be approached and other construction specialists in that area will be brought in to deal with it.

Discussion followed as to whether a large commercial area or a residential area would consume more water. Drake said he thinks a residential water consumption would be less than a commercial area consumption.

Water Supt. Trudel asked to comment on that. He said it appears to him that the biggest problem he is having right now is the new home construction and the new lawns. He said the lawns are unbelievable, and you don't need many lawns to use 2 or 3,000 gallons a night, and he said he has over 100 new water service applications and this is July... the water bans have been voluntary and he said it has worked fairly well but he sees quite a few people who don't honor it. He said they would have to put a specific type of ban that could be monitored. He said it is a real big problem. People who spend 1,000. to \$1,500. on a lawn just don't want to see it go.

Drake feels that is a plus for the condominium units; you can control what the water use is going to be with a one management group.

Trudel said the Planning Board has controls on condos but it does not have control on subdivisions, and the subdivisions that are coming in are also great. The building is expanding so greatly that with another 30 here and his handling all the rest, we have problems.

Mr. Murray reminded the Board there is another hearing at 9:00 P.M.

Mr. Moore said he thinks the road is one of the main issues because one of the criteria for special permit is traffic flow and safety. We are talking 167 units going out on Maple St.

Mr. Herr said he is not advocating their case but he does not understand the relevance of this because there is a condition that before they get occupancy permits the road must be in place satisfactory to the Board. He said tonight is not dealing with that question; it is going to be there.

Mr. Herr said Mr. Moore was absolutely right to bring it up. Mr. Moore expressed his concern that the road might not be in place when the units are. It was clarified that the Board and the Building Inspector must stay in touch regarding occupancy permits.

Mr. Herr said he does not feel this is a reason for deciding one way or another on why it is that this should proceed more rapidly.

He pointed out that the question of when the road would be in, in relation to the number of units, is fixed. The Board has fixed it, and Mr. Herr said he thinks the Board did the right thing, and the Board can enforce it, regardless of whether the Board decides Celtic should receive 83 units or 50 units.

Mr. Moore said, in other words he could build another 50 or 80 and not be able to sell them until the road is through. Mr. Herr said that is correct. Mr. Moore wanted to be sure Mr. Drake understood that he could not sell or use the units until the road is through. Mr. Drake agreed.

Mr. Ambler addressed the issue of precedent brought up earlier and the significance in the decision. He said he would be remiss if he didn't raise his opinion in regards to that, although it's not a flat precedent with ruling on other subdivisions or applications of a similar nature.

Mr. Ambler said the Board would be frivolous if they did not recognize that there would be some significance attached to their decision as it applies to other applications. He said the Board would have to draw rather strong distinctions between this one and other ones in order to be able to say no to other ones, and he feels the Board's standards would be diminished with regard to their ability to do that if the matter got to appeal to a court of law in order to gain a legal criteria. So you cannot ignore the precedent setting aspects of this decision.

Question was raised by party in attendance about the Building Inspector and if he would be able to handle the extra burden of this and the many other condos to assure ourselves that these buildings are going to be put up according to the regulations that the town has set up.

Mr. Murray said thus far he seems to be handling it and he does have an assistant. It would be up to him to go before the Selectmen if he felt need for further assistance.

With no further comments, Mr. Murray addressed the Board. Member Pytko said he sees no substantial reason why we should grant this and moves to reject the proposal.

Member Niedzwiadek said based on the information provided by the past chairman of the Board Rotatori, the Water Dept., Town Counsel, he seconds the motion. Mr. Murray said he would like to see it taken under advisement, but the motion has been made and seconded, to deny the request.

Mr. Herr said, since Town Counsel is here, could we go back to the original question, since this is evidently going to come to a decision, that maybe the applicant would like to withdraw the application at this point. There was a question with regard to the notice of hearing; the abutters were not notified that there was going to be a hearing on this amendment to the special permit, although it was advertised and the abutting towns were notified and the Government agencies. Herr said when this was clear at the beginning of the hearing, he suggested that the conversation go on anyhow since the people were all here, but that any decision that was made was conditional upon finding out from Town Counsel whether;

- A. An amendment to a special permit in fact requires a public hearing
- B. Whether that failure to notify abutters would invalidate any action, which could include invalidating rejection he supposed.

Mr. Herr said he would be concerned to see the Board take action either way, including rejection, if the applicant felt he had not enjoyed the benefit of full notice.

Mr. Ambler said, generally speaking, if the original requirements for the public hearing for the special permit included advertising and notice the modification would as well. Attorney Ambler said he wonders whether or not the Board would be somewhat unfair to all of the people, including the applicants, if when the tone of the meeting was of a negative nature what would be the benefit be in appealing it in any event.

If they appealed it and the people who are injured are not here, and if they are going to reject it, they would hardly be concerned with the rejection.

Mr. Herr said the vote has to be 4-1 in favor to grant. He said he thinks the outcome is abundantly clear, but if the applicant withdraws his application then he can come back. He feels it is a slightly complex situation.

Mr. Murray said we do have a motion made and seconded on the floor.

Mr. Pytko said he withdraws his previous motion and makes a motion to take this under advisement. Seconded by Mr. Niedzwiadek.

Mr. Murray said that at the same time, as suggested by Mr. Herr, that we hear from the applicant. Ken Racicot said, "we would like to withdraw our application and re-submit at some point".

Mr. Moore made a motion to allow the applicant to withdraw his application without prejudice.

Mr. Ambler asked, "are you entertaining a motion to withdraw after having had the hearing?" Mr. Herr said we are still in the hearing, technically.

Mr. Moore asked Mr. Ambler if his motion was all right. Mr. Ambler said he did not know. He said there is a legal significance attached to a hearing that has been held by the Board, different than having withdrawn the application prior to the conducting of hearing.

Mr. Ambler said he thinks that distinction should be explored just as the other distinction should be explored and the whole concept of the both the hearing and their application to withdraw should be explored.

Mr. Moore said he wishes to withdraw his motion because after having heard Town Counsel, if the applicant wanted to withdraw his application prior to the hearing and come back, fine. But now that we have had the hearing and he has the feeling of the Board, to allow him to withdraw and come back, "I don't know if that's right".

Following a brief discussion, Board members agreed this should be taken under advisement, allowing time to explore this.

On a Moore/Gerrior motion the Board voted 5-0 to take under advisement Celtic's request to withdraw without prejudice the application for the special permit amendment.

Mr. Ambler said to the Board, just for the record, to ask if the applicant will consent to that extension of time. Mr. Racicot said, "absolutely".

Mr. Murray asked Mr. Drake about the status of the golf course. Mr. Drake said the Board will be receiving a letter on that. They thanked the Board and left at 9:20 P.M.

Mr. Murray opened the public hearing on a petition to rezone 5 acres off Hartford Avenue scheduled for 9:00 P.M. Secretary read the notice. Mr. Murray entertained a motion to postpone this hearing and re-open the public hearing on Townhouse Revisions scheduled for 8:45 P.M.

On a Niedzwiadek/Moore motion the Board voted 5-0 to postpone the public hearing until 10:00 P.M. on the petition to rezone property off Hartford Avenue.

Mr. Murray re-opened the public hearing scheduled for 8:45 P.M. on townhouse revisions. The article was drafted by consultant Phil Herr who made the presentation.

The present density on townhouses is you have to have 7,000 sq. ft. of lot area for each bedroom, and that is true regardless of whether you are building in a residence district, or a suburban district or an agricultural district.

There are two questions that have been raised about that; one is whether that density may not be higher than is appropriate to the town, and second is whether it makes sense to have the same density for townhouse development in areas for which the single family residential lot area requirement varies by a factor of four between the residence and the agricultural. What this proposal would do is to change that.

What it would require is that for a townhouse dwelling that each dwelling unit would have to have lot area equal to $3/4$ of that required for a single family dwelling at that location.

What that would mean is that with two bedroom units in the residential districts the difference is marginal.

But, with two bedroom units in suburban and two bedroom units in agricultural it represents a very substantial reduction in the allowable density.

Herr said there are also a series of other revisions regarding footnote references, regarding definition of multi-family dwelling, of townhouse dwelling, of bedroom, and a revision to the section of the zoning which deals with multiple principal buildings on a lot.

What all of those are intended to do is to clarify the relationship between townhouses and other multi-family development, and to clarify that the lot area requirement is measured for the development as a whole and not recalculated separately for each building.

The same is true for the frontage requirement; that the frontage requirement would apply for the entire development and not have to be calculated separately for each building.

The major change is a change in the density rule. The others are technical but Herr said somebody may have questions about that.

Mr. Moore asked if instead of referring to footnotes for section 2400 would it be possible to have a section for just townhouse, instead of going from one page back to another. He said he would like everything about townhouses in one place. Mr. Herr said it is a complicated issue.

Chairman Murray suggested that this hearing be continued.

Mr. Ambler said the very least the Board must be aware of the fact that there is some confusion of regulation regarding townhouse development. He said he agrees with Mr. Moore about the bylaw because it takes a lot of looking to find all the things.

Mr. Ambler said the question to the Board is do you want an open door policy on condominiums or do you want restriction. He feels the townhouse concept came in somewhat subtly.

Mr. Ambler said the Board probably didn't intend that townhouses require rezoning and he feels that is self evident in the way most of the by-law reads. But it is at least confusing to everyone who looked at it and said 4400 requires rezoning.

Mr. Ambler also referred to the concerns of section 2600 and he feels these are not minimal concepts.

Mr. Ambler said it is now the time for the Board to decide whether or not they would like to see condominiums come into Bellingham by way of special permits or applications to the Board, which they are somewhat restricted in their ability to say yes or no to. He said if applicants come in with an application that conforms to the regulations, then they are entitled to it. The Board can't say no, even if the entire neighborhood is up in arms about it, as it is with subdivisions. There are certain standards that the Board has but it still basically has to say yes.

Mr. Ambler said he has always preferred the concept of having the requirement of town meeting action so that people who live in the environments of the application would have the opportunity to go to a town meeting, as the people can obviously come here, but where they have a specific speaking voice in the decision. If they don't want it they have an opportunity to vote it out.

Mr. Ambler said townhouses should be distinguishable from multiple houses.

Mr. Ambler said he dislikes the concept of not having any action at all or any authority in the town meeting with regard to such a significant aspect, and he said he thinks the best evidence of that is the ease by which people can apply for it, and that is compounded by the number of applications the Board has. He said Bellingham is much more generous in its ability to permit than most communities are, and he feels that is one of the reasons why so many applications for townhouses are coming into Bellingham. He suggested the Board take a hard look at this.

Mr. Ambler said he feels that the concept of the bylaw that was confusing has been clarified. He suggested the Board might think about whether they want to clarify it in the direction that it is going, or if they want to really take a look at it and address it with regard to whether or not they would like to associate some town meeting action to these kinds of applications.

Mr. Murray asked how the Board feels about that.

Mr. Pytko offered that he feels the same as Mr. Ambler does.

Mr. Murray said if it's the consensus of the Board to allow Mr. Ambler's feeling on it, we can direct the consultant to make this a part of the proposal.

Mr. Herr feels that it would be appropriate to reconsider this; however, he pointed out that this hearing does not provide the vehicle for doing that. That's a different article and it's not a minor change, it's a major change.

Following further discussion Mr. Herr said they could revise it but it can't be done at this hearing. He feels what is vital at this point is to get clarity about it and to get the density down.

Mr. Ambler said section 4400 needs clarification regarding its rezoning requirements because it is confusing, and he feels that plus the frontage requirements which is at least arguable as it now exists and feels that the Board has to spend some time on these issues, and it should be a very strong priority with the Board.

Question was raised as to whether the Board could accept applications for any condominiums in view of this. Mr. Ambler said the Board is obliged to accept whatever is submitted in conjunction with the existing statute. The existing statute says rezoning, and Mr. Ambler said that is what makes it somewhat difficult comply with because there are no mechanics for doing it. When you say you have to rezone it, what are you rezoning to because when you read the following section it says agricultural so you haven't rezoned.

Mr. Pytko raised a question about section 4400 in an effort to clarify the matter of accepting or not accepting applications for condominiums at this moment. He asked Mr. Ambler, "is your opinion that we should continue to accept applications for condominiums"?

Mr. Ambler said, "you don't have a choice." "Anyone can make an application to you or any other municipal board and they do it in conjunction with the law as it now stands, albeit confusing."

Mr. Pytko said, "the law says refer to section 4400; that requires rezoning. Now, if we follow that to the letter of the law, then we must ask these people to go to rezoning, is that true or not true?"

Mr. Ambler said, "I don't know that you must necessarily do that, you obviously did not do it that way with previous applications. To suddenly evoke something for the first time would be somewhat difficult, at best, and the direction that I see does not necessarily go there. It is very confusing the way it is."

Mr. Ambler said he is more concerned with the section 2600 problem that says that you need frontage and when we make these applications, it says that under an agricultural zone, for example, there must be a 200 ft. frontage. He said he always thought that to be per building, it can't mean, in his opinion, anything else. He said the question is, is it appropriate to the application of townhouses. The interpretation taken today is that it is not. He said there is very legitimate concern about it, so that what could happen because of that concern and the concern of section 4400 is that somebody in opposition to your decision of granting can raise these points in any action that he may wish to bring.

Mr. Ambler said he feels that the applicant (developer) has as much right to clarity there as does the Board and the townspeople of Bellingham.

Mr. Ambler said he thinks there is a need to address that as to whether or not you can do an about face and say that you can only do this after you go to a town meeting. He won't go that far, he said, but there is a very legitimate question. I don't know what a court would say if a person who is in opposition to an application granted by the Board, if they took exception to it and appealed the decision, I will not predict the results of that decision, Mr. Ambler concluded.

Mr. Pytko asked if the Board could declare a moratorium on condo construction.

Mr. Herr said the only place you can declare a moratorium is at town meeting. A temporary moratorium cannot be declared.

Water Supt. Trudel raised his concern about special permits and asked the Board if they have a person come in with 250 units, has the Board set a precedent that they could have 50 or do you have to even give them the special permit. The criteria for special permit was reviewed.

Mr. Ambler suggested that specific information with regards to the concerns which have been addressed be prepared for presentation at the meeting. Mr. Murray entertained a motion to continue this hearing to August 22, 1985.

On a Moore/Pytko motion the Board voted 5-0 to continue the Townhouse Revision article hearing on August 22, 1985 at 9:30 P.M.

Mr. Murray opened the public hearing on Edward Dill's "Chestnut Estates" scheduled for 9:30 P.M. Secretary read the notice of hearing.

Mr. Murray requested a motion to postpone this hearing until 10:30 P.M. On a Gerrior/Moore motion the Board voted 5-0 to postpone the hearing to 10:30 P.M.

Mr. Murray opened the Public Hearing for Gilbert Trudeau on his application for a back lot division creating two lots out of a 30 acre parcel. The secretary read the notice of public hearing. Mr. Murray requested a motion to postpone the 10:00 scheduled hearing until 10:45 P.M. On a Niedzwiadek/Pytko motion the Board voted 5-0 to postpone the hearing until 10:45 P.M.

Chairman Murray re-opened the Public Hearing at 10:00 P.M. on the petition proposing to re-zone a parcel of land off Hartford Avenue from Industrial to Residential. Petitioners Mary Ellen and Everett Roe of Deerfield Lane. Consultant Phil Herr made the presentation.

Using a large map he outlined to show the property involved, Mr. Herr pointed out the area that is residential and the area south of Hartford Avenue that is commercial, and the area that is industrial, and also the portion that is suburban.

The entire parcel is 22 acres of land; however it is the front five acres they want to change. It was pointed out that this was zoned Industrial for former owner, now deceased, Mr. Wong as his original intention was to put up a restaurant. Since that time the land has been sold and now the idea is that all houses on both sides around this are all single family ranches and they want to try to maintain this area as a residential area.

Mr. Moore pointed out if they go to Town Meeting and get re-zoned, there is no guarantee it's going to be single family afterwards. Mr. Roe acknowledged they know that, but if the concept of looking out and seeing a "Burger King" or whatever there is also a lot worse.

Mr. Herr said they should also understand that the article discussed previously, which is to consider revising the Zoning Bylaw by lowering the allowed density, if that were to be adopted, they would at least know that the density of what could happen in there would in fact be lower than the density of what's around them.

Mr. Murray pointed out that there could be condos there. Mr. Herr said the way the law stands right now, there could be condos if the Board finds that to be superior to single family development. Mr. Moore pointed out that Town Counsel raised the issue of frontage. Mr. Herr said that they can develop frontage. He pointed out that there was not the 200 feet and they would have to develop frontage somehow. Mr. Moore noted then they would have to buy, so in essence it is condo or subdivide. Mr. Herr didn't exactly agree but said they could subdivide.

Mr. Murray asked those present whether they would like to see houses go in there or condos. The answer was houses.

It was pointed out the meeting last summer when the people who intended to buy this property had intended to put in an industrial complex which was about 6 buildings. He said those buildings at that time would be overlooking all the single family ranches. He also pointed out that most of the people there are established and have been there many years and not desiring to move, and that was the idea behind changing this back to a residential area and try to maintain it as a residential area.

A discussion followed concerning residential growth. Mr. Murray pointed out the concern about this. Mr. Herr said a number of things could be done. The lot size in the residential district could be raised.

John Forger was present who said he was the new owner of the Wong property and that his former partner Shep is no longer involved. He pointed out that he has gone out and spent a lot of money on residential plans.

Mr. Forger said he paid \$500,000.00 for the property and expressed his desire to build condos on it. He said he is here to try to work out a plan that is feasible and said he is used to building in urban areas.

He said he planned to call it "Stoneybrook" and had talked with Mr. Herr about this. He said he also talked with the Selectmen at the time. He

Also present was Forger's attorney Joseph Antonellis of Milford. He pointed out that the most effective use of that property would be commercial or industrial. Mr. Forger said he understood that the area residents preferred Residential development, and he had planned a nice condominium development. His attorney Antonellis added they are considering affordable housing that will not severely impact the school system.

One of the abutters, Mr. Willett of Cedar Hill Rd. said he was glad to hear Forger wants to cooperate with the townspeople, but he emphasized that the people around the area only want single family homes.

Another abutter, Mr. Bass of Hartford Ave. stressed that the traffic situation now is very bad in that area.

Forger commented about how well a complex in Revere Beach is doing which he constructed. Resident Willett commented that they were not interested in Revere Beach and they do not want a big complex in that area.

Forger remarked that if the people really want to keep the land clear it should be divided up and they should buy it. He said it could be worth a lot of money.

Mr. Murray asked if it would behoove the Board and those present to hear Forger's plan to develop the area if it were residential.

Mr. Herr pointed out that we are here on the petition to re-zone the property.

On a Gerritor/Niedzwiadek motion the Board voted 5-0 to close the public hearing. Mr. Niedzwiadek made the motion that the Board vote to recommend re-zoning this five acre parcel from Industrial to Residential District. Motion seconded by Pytko. Board members voted 5-0 to recommend this article.

Chairman Murray reopened the hearing on Edward Dill's application for approval of a definitive plan on a proposed 5 lot subdivision called "Chestnut Estates". Mr. Bibault of Bibault & Florentz Engineering, Woonsocket, R.I. made the presentation. Members reviewed the plan and plan and profile. Mr. Bibault said the paved roadway would be 480 ft. and ending in a cul de sac. One lot fronts on Chestnut Street and the four remaining lots would front on the cul de sac. The name of the proposed road is Rockland Circle and would branch off Chestnut Street. He said the road is to come up the hill and stop on the flat on top. They plan single family homes on lot 4, 5, 6, 7, 8 as shown on the map. Mr. Herr asked if he would explain how the storm water is going to be handled and how the water supply is going to be handled.

Mr. Bibault said what is proposed due to Chestnut St. not having a drain system is to put in leaching catch basins; two on the upper portion of the proposed road to take care of the circular area and two on the lower area. The type of system is very similar to a septic system except what it will do is leach the storm water back into the ground. He said the majority of the site slopes down which limits the amount of storm water that would run off.

Mr. Herr asked how often did they expect that to not have enough capacity. Bibault said once every ten years. It is pretty much gravel and has a good perk rate.

Mr. Florentz said they plan to provide well water on each lot. A letter dated July 16, 1985 from Fire Chief Ranieri was read to the Board, in which he strongly urged that the present water main on Chestnut Street be extended through the development to afford a minimum amount of water for fire protection. Chief Ranieri also noted that Water Dept. approval would be required regarding any pipe installations, should it be decided to extend the line.

It was also pointed out that without town water the insurance rates could be very high. Ranieri said the developer should consider putting in piped water. He said that he would want a 6 inch water line up to the existing line.

Mr. Murray said he wants to be sure they abide by the subdivision regulations. He also pointed out that they began with 5 lots and now it is up to 8 lots as shown on the map. Lot 1 is in the name of Ronald & Leona Dill, Lot 2 is in the name of Rpbert & Deborah Kindl, and Lot 3 is in the name of Edward C. & Kathleen M. Dill.

Discussion continued on ways of getting water into the area. Mr. Dill said he was going to put wells on each lot.

Discussion followed regarding the cost of digging wells and the cost of putting in the water pipe. Mr. Dill said he feels he is being required to replace the whole town water pipe there. He said he does not feel he should be penalized.

Mr. Herr referred to the Subdivision Rules & Regulations, Section IV 45 Water Supply. 451 states that no definitive plan shall be approved by the Planning Board unless satisfactory evidence is presented that an adequate supply of water will be provided to each lot in the subdivision which is to be built upon. The subject of adequate water for fire fighting was emphasized.

Mr. Murray suggested to Mr. Dill that he talk to the water department regarding the pipe line. Mr. Dill said he already has and they want him to put in a water line.

Mr. Murray asked if there were any other issues.

Mr. Florentz said they would like to request certain waivers regarding the sidewalk, utilities, type of curbing, and width of pavement.

Mr. Florentz presented his letter to the Board dated July 25, 1985 which lists the requested waivers.

Mr. Florentz said the only issue is the problem of water supply.

Mr. Herr noted that the Board has 60 days from the date of application to act on the definitive plan. Following a short conference with Mr. Bibault, Mr. Dill said he would give a 30 day extension of time in order that the problems of water service and fire protection can be taken up with these departments and develop appropriate solutions. He gave the board a letter regarding this extending time to August 29, 1985.

Mr. Herr suggested that if he is not going to put in piped water, he should bring in evidence of how the water is going to be provided.

On a Gerrior/Niedzwiadek motion the Board voted 5-0 to continue this hearing to August 22, 1985 at 10:00 P.M.

Chairman Murray re-opened the public hearing on the application of Gilbert Trudeau for a special permit for a back lot division of his property off Elm St. and Arcand St. Mr. Trudeau presented the plan to the Board. The property involved consists of a 30 acre parcel off Elm and Arcand Sts. The area is zoned suburban.

Trudeau proposed to divide his 30 acre parcel creating two lots. One of the lots lacks the required frontage, and the remaining lot of 28 acres has frontage of 160 ft. on Elm St. Addressing Trudeau, Herr said the frontage on the piece of property on Arcand St. is not that which is required. Trudeau said the existing frontage is 105 ft. and the suburban zone requires 150 ft.

In reviewing the requirements of Section 2580 Back Lot Division Mr. Murray said Trudeau's lot with reduced frontage must have at least 50 ft. He asked Trudeau if he has that. Trudeau said 105 ft. Also the lot with reduced frontage must contain at least twice the lot area otherwise required, without counting any portion of the lot between the street and the point where lot width equals 100 ft. or more. Trudeau met this requirement. The lot must contain a square with sides equal to the normally required lot frontage. Trudeau met this requirement.

Following review of the map and of Section 2580, Mr. Murray asked if there were any abutters who have any questions or would like to speak in favor of this proposal.

There were no comments, but one party said he would like to hear more first. He wanted to know "what's going where". Trudeau explained it is going to be a building lot with a single family house going on there. The party asked, "one house on which area?" Trudeau said "on the 80,000 sq. ft. shape you see there". The two acre parcel will contain one single family dwelling. He said the house would be located towards the back with a driveway circling in from Arcand St. up to the house.

A discussion followed concerning the water problems raised by party at 51 Elm St. who said it was wetlands and people who live around there have water problems in their basement. He said there is a water vein going through there and there is a problem with water level. He said every winter the level goes up and runs on Main St. He said people who live around there have sump pumps going day and night.

Another party voiced complaint about water about 100 ft. in back of his land measuring about 5 or 6 inches.

Mr. Murray explained that this is getting into a Board of Health problem and the Planning Board does not handle this problem. Mr. Gerrior explained that the perk tests have been done, and the perk tests passed, and now that is a Board of Health problem. Murray further explained to the party that the function of the Planning Board which is to look at land on paper to see if it conforms square footage-wise, frontage-wise and we have other Boards in town that function for other reasons, such as the Board of Health which gets concerned with the perk tests.

Question was raised as to whether Arcand St. is an accepted street.

Mr. Herr said the street is not going to be extended. If it is used as a public street and maintained as a public street, he said it has nothing to do with this public hearing.

Trudeau said all he is interested in is the one house lot.

Another question was raised as to where he is going to get water. Trudeau said there is town water. There was concern expressed about a pipe installed previously that was not the right size, along Arcand St.

A brief discussion was held regarding this water line which was believed not large enough to provide for three houses. It was noted by one of the abutters that the pipe had been installed by a party named Padula some time ago.

Mr. Murray asked if there were any other parties wishing to comment on this. There were no comments.

Mr. Niedzwiadek made a motion to close the public hearing. Seconded by Mr. Gerrior. The board voted 5-0 to close the public hearing.

Mr. Murray asked if the board was ready to make a decision. Members agreed this plan as presented meets all the requirements under Section 2580 Back Lot Division.

On a Niedzwiadek/Gerrior motion the Board voted 5-0 to grant the special permit for back lot division for Gilbert Trudeau as it meets all the requirements under Section 2580 .

Mr. Trudeau left his check for \$625.00 along with application for approval of preliminary plan and a map plan showing 25 lots later on at this meeting.

Mr. Luntz of the Blakeley Co., Boston, presented plans for the Board's review and a discussion regarding the Schafer Farm property located off So. Main St. Mr. Loverude of Design Science, Boston made the presentation. They showed aerial photographs of the property involved which covers a total area of about 103 acres. The wetlands areas were clearly visible. It was noted that there is a well and enough ground water in one area, and the other would require town water. Each building contains 6 units and each unit has a covered parking space. The buildings are arranged in a cluster as shown on the plan. He said they have met with the Conservation Commission and are making a formal request to be on the August 22nd agenda. They would like the Boards responses to what they have done and its suitability.

Mr. Murray pointed out that they would need a second egress for the 264 units in the area.

Mr. Herr said the traffic is a matter of major concern. Mr. Luntz said they would have the necessary information ready for the next meeting. The Blakeley Company was placed on the agenda for August 22, 1985, at 10:30 P.M.

At 11:30 P.M. GLM Engineering appeared before the Board to discuss the High St. property, a proposed 11 lot subdivision. Owner and developer is Oakridge Construction Co., Dennis Marguerite.

Attorney Roche of Franklin, representing Mr. Marguerite presented his check for \$550.00, which represents the definitive plan fee for 11 lots of \$825.00 less \$275.00 previously paid on preliminary plans.

Mr. Roche said he is just presenting the definitive plans and application tonight. Hearing date to be set.

At 12:00 A.M. Ken Brown of Colonial Fence at Hartford Ave. and North Main St. presented plans showing revised parking plan, which had been a problem. The number of parking spaces is determined by the size of the building. They have 56 parking spaces shown which the Board feels is too many for this building. They are very concerned with the traffic and the parking in that area. The building inspector had already issued a permit. Following further discussion, Mr. Niedzwiadek suggested this be taken under advisement. Mr. Brown and Mr. Herr to discuss this and return with a revised map.

On a Niedzwiadek/Pytko motion the Board voted 5-0 to take this plan under advisement. Mr. Brown to return August 22, 1985 at 9:00 P.M.

Roland Lavalley presented presubmission plans on his property off Center St. on which he proposes to build single family homes. Plans are for a cluster development. Mr. Murray suggested he return to the next meeting with more detail. He will return on August 22nd.

Michael Iacovelli, represented by Attorney Alfred Cenedella, requests permission to submit petition for variance within two years from the frontage requirements of a lot he owns off High Street. The Zoning Board of Appeals had previously denied his request for frontage variance from 125 ft. to 80 ft. They would like to set a date for a public hearing. On a Niedzwiadek/Pytko motion the Board voted 5-0 to set the hearing on August 22, 1985 at 8:00 P.M.

On a Niedzwiadek/Pytko motion the Board voted 5-0 to adjourn.

Adjournment at 1:45 A.M.

Respectfully submitted,

Glenn E. Gerrior
Clerk