



BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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GLENN E. GERRIOR, VICE CHAIRMAN
EMILE W. NIEDZWIADK
ANNE M. MORSE
JOHN P. MURRAY

MINUTES OF REGULAR MEETING

10/26/89

Meeting was called to order at 7:55 p.m. EM, GG and EN were present.
JM came in at 8:20 p.m.
Board's consultant, Philip B. Herr was also present.

Submissions:

Brad Letourneau submits an 81-P.

EM explains a backlot was granted by the Planning Board for a special permit off Shirley Road. 5 lots became 3 and now 1. It is pretty straightforward.

B. Letourneau states there was an appeal from the special permit. He questions how to describe the location of the parcel containing 1.42 acres.

EM tells him to say it is at the end of Shirley Road.

EN questions if they both have frontage.

B. Letourneau responds they have frontage under the special permit.

P. Herr questions about the fence.

B. Letourneau explains that a neighbor put in a swimming pool and put a fence in. The fence is on the lot. He sent him a registered letter.

GG makes a motion to sign the 81-P. EN seconds the motion. Vote of 3.

Members sign plan.

William Halsing, Land Planning submits an 81-P for 5th Avenue.

EM questions which house the lot is on.

W. Halsing responds it is the last house on the street.



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W. Arcand states that 5th Avenue extension comes in from Middle Avenue. He questions how they will come in. The embankment is over 5' high.

W. Halsing responds that it will be brought down. Right now it is not possible to go in that way.

W. Arcand questions why it is not all one lot.

W. Halsing responds the owner wanted to set it up this way to sell one lot.

EM states he can do that because the other lot is marked not a buildable lot. They are creating an unbuildable lot.

GG states that Mrs. Carpenter owns it all and will retain it in a partnership.

P. Herr states it is all one lot. They are breaking it into 2 lots and a left over piece. They can do it. It is not a subdivision.

W. Arcand thinks they have to go to the Zoning Board of Appeals, not the Planning Board.

EM states that if the system works right, the Zoning Board of Appeals will ask when the lot was created. They will not grant a variance because it was clearly created as an unbuildable lot.

P. Herr states the only grounds on which the Board can turn down the B1-P is if it did not have enough frontage. The Board can not refuse to sign if there is not enough lot area. Each lot has the frontage required.

W. Halsing states that when it was built, 5th Avenue was cut down into a bank.

GG questions if it should be two lots.

P. Herr indicates the applicant is in the right in doing what she is doing. He does not think the Board can refuse to sign.

GG makes a motion to sign.

EN states it is not a buildable lot at this time.

EM indicates that is what the plan says.



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EM seconds the motion to sign the 81-P.

EN abstains from voting.

EM explains that the Board can not sign the plan at this time since it takes a vote of 3 members to sign. Mr. Halsing can wait to see if another member comes to the meeting.

W. Halsing will wait.

SHOPPES AT CITY LIGHTS - SPECIAL PERMIT
MAJOR COMMERCIAL COMPLEX
CONTINUED PUBLIC HEARING

EM requests the applicant allot the Board 15 minutes to take care of other business. He opens the public hearing and asks for a motion to continue to 8:20 p.m.

EN makes a motion to continue the public hearing to 8:20 p.m. GG seconds the motion. Vote of 3.

ALFRED SANTOSUOSSO - SITE PLAN

B. Lord representing Mr. Santosuosso.

EM explains that he can not vote on this site plan. The Board only makes a recommendation. The Building Inspector makes the decision.

P. Herr indicates that under the new bylaw, Development Plan Review, the Board now approves the site plan, rather than just making a recommendation.

EM states that the Board can not act now because they need 3 members and he can not vote. The applicant can wait for another member to come.

Mail/Correspondence.

Members sign pay voucher for Clerk and invoice for outstanding bills.

JM enters the meeting at 8:20 p.m.

SHOPPES AT CITY LIGHTS - SPECIAL PERMIT
MAJOR COMMERCIAL COMPLEX
CONTINUED PUBLIC HEARING



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EM reopens the public hearing at 8:21 p.m.

B. Lord and Jim McGlaughlin are here on behalf of applicant, Howard Fafard.

B. Lord states the proposed decision for the special permit was submitted to P. Herr for comments. NDAI changed their proposal, thereby causing a delay in the traffic study for the Town of Bellingham. They can not put forward the traffic study which they had worked out. It has to be re-evaluated. There are two areas of the proposed decision which there are questions. The first is the floating parcel. It will not be attached at the bottom. This proposal is included in the decision with safeguards regarding the building lot. The second area has to do with the subdivision proposal. It predated the special permit for major commercial complex.

EM does not think it would be appropriate to close the hearing at this time.

B. Lord indicates they have all the information except for the traffic concerns.

P. Herr states that the Board has not given him any indication nor directed him to draft a special permit decision.

EM questions the size of the buildings. The answer that this will be covered under site plan review is not enough.

P. Herr states there are 3 major issues. The first is the grandfathering issue. They did not rely on the present zoning when they came in. The question is would the grandfathering change if the zoning was changed within the next year. Town Counsel should look it over.

EM questions how far back they will go on the grandfathering.

P. Herr responds the applicant is saying he will comply with zoning today.

B. Lord indicates they are waiving the grandfathering.

EM states they will go with today's laws.

B. Lord states the only question involving the procedure for doing the subdivision first. They question access to the backlot of the property.



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They will resolve the issue at the same time.

P. Herr indicates the second issue has to do with Parcel C, the floating island. Under the subdivision plan, the Board objected strenuously to it. He believes the applicant really wants to reserve some authority. The building will have the same amount of square footage for the floor area. They should include the piece in the special permit which indicates they are prepared to uphold the traffic mitigation costs which come up because of the piece of land. The question is more complicated. It does not appear to open any doors or create problems. He will explore the issue to see if there is any technical reason why a land locked lot could not be included under the special permit. The applicant could not build on it.

EM states that if it is included now, they could include it under the mitigation process. That may not be the case if they wait until later on. They will freeze the zoning if they include it now.

P. Herr indicates that is correct. He will consult with L. Ambler, Town Counsel. The third point has to do with the issues which develop as a result of NDAI's decision to change their development. They changed the traffic character for that parcel. It also changes the best design for Rt. 126 and changes the share which each player will support. B. Campbell & Associates do not have the authority to examine the traffic issue further.

EM states they can not go further until they know what Stallbrook is doing.

P. Herr states they may be able to make a good enough approximation at this time.

EM questions if they will figure from the extreme.

P. Herr indicates they may be able to. Per discussion with D. Fraine, he will agree to work with B. Campbell. A lot will be clearer one month from now.

B. Lord states they will evaluate traffic from the same viewpoint. The applicant will put forward a proposal relative to traffic.

EM questions how many companies were involved in the traffic study before.

P. Herr responds there were three. NDAI is still part of the proposed 126 improvements. He does not know how much they will contribute.



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Retailing is a higher generator of traffic, but a larger share of an industrial proposal occurs during the peak hours. They have not looked at it yet.

EM states it may not be that different at peak hours. He questions if anything has happened with Nordblom's hotel.

P. Herr responds they still continue to be involved, but they are not ready to commit now. This may turn out to be a blessing in disguise. The Planning Board felt they had to move quickly in order to be fair to NDAI. Now they may be able to serve everybody better. Shoppes is not as anxious to break ground.

EN states the town will wind up paying more of a share than they initially thought.

P. Herr indicates that may be true. They never had to contribute to a development before.

B. Lord states that only part of the mitigation measures are there because of NDAI and Nordblom.

EN states that initially the 3 developers would pay all the costs. Now the town will pay more and people will get involved.

B. Lord points out that the Fafard company has not shied away from the project. In the long run, it will be beneficial to the town.

EN states it will cost the town money.

JM feels they should forget about the other two developments.

EN states the town will pay more than originally anticipated.

JM states the town will definitely need improvements if this project comes in. The applicant is the only player. They will have to be willing to pay more for traffic mitigation.

EN indicates that NDAI was the biggest proposal.

P. Herr states that is incorrect. Shoppes is number 1. NDAI is smaller.

JM does not see why the town should have to pay anything.

EM states the argument brought out at the meetings with B. Campbell



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indicated that the town already has a traffic problem. These developments are adding to it. They agree to pay for what they are adding to the problem. However, they will not pay the portion for what is already there.

EN questions if there will be any state grants.

B. Lord responds they are not at that point yet.

JM indicates the Board could turn down the development because of the traffic problem. That could be grounds for turning them down.

EM states they can not turn down the proposal. They have to give them a chance to improve the roads. The applicant is not saying he will not participate.

B. Lord states at this point, they have no disagreement on what is going on. The only problem has to do with the change in plans because of NDAI's change.

JM indicates that right now, Fafard has the total share for traffic costs.

B. Lord suggests the Board wait until they have a plan to show them. No matter what the developer pays, the town will get a better situation for better traffic. The Board is dealing with a discussion which has not been presented yet.

P. Herr questions what the hurry is. NDAI will have to go back to deal with MEPA. Fafard will also have to go back to deal with MEPA. John DeVillars turned down two more projects because of traffic problems which could not be mitigated. The developers can not build without mitigation in place. It could be that Fafard would have to pick up all the costs for a smaller improvement.

JM states that may be adequate.

EM reads letter from G. Daigle, Highway Dept., which indicated that he reviewed the plans and reserves the right to comments relative to drainage changes.

JM questions when they plan to build.

B. Lord responds they will build when they get all the permits in line. He suggests the Board carry forward 30 days, to the last meeting of November 1989.



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JM questions the tenants.

B. Lord responds that J. McGlaughlin is working on it.

EM states the Board can discuss this further at the meeting of December 29, 1989 at 8:00 p.m.

J. McGlaughlin questions if there are any issues other than traffic.

EM will review the proposal and look it over.

P. Herr states the basic issue has to do with the configuration of buildings and the parking. He has little faith in the parking situation. He does not believe it will get built that way.

EM indicates it will be built as it is shown on the plans which are approved or it will be invalid.

P. Herr points out they have no building elevations or floor plans. Nothing is in three dimension.

B. Lord states that will be covered in site plan review.

P. Herr indicates that NDAI locked in the building footprint under the special permit.

EM states it is essential they have a site plan during the special permit process.

B. Lord states the Board is dealing with the concept here. They will get into the internal traffic situation with the site plan. There may be small changes.

P. Herr has deep skepticism about the drawings. The Board could approve with conditions regarding the aggregate parking.

EN questions why the Board should approve with conditions when the applicant can show the Board what they are doing.

B. Lord indicates this is a large project. Final approval will be in the site plan process. The building footprints are close to what they will be. The site area has to be prepared. NDAI was nearly in a site usable stage. If the project is approved at the concept stage, they will spend more money on the plans.



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JM makes a motion to continue the public hearing to December 28, 1989 at 8:00 p.m. EN seconds the motion. Vote of 4.

EN questions the timeframe.

B. Lord does not know the timeframe, but will forward an extension to January 15, 1990.

RIVERVIEW PARK, PHASES 3 & 4 DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARINGS

B. Lord was going to bring in a plan showing the mitigation measures, but was recently made aware that meetings are to be held with the Core of Engineers in Washington. They are hoping for positive results there. They would like to wait an extra month to see what happens. This will clarify things later on.

JM makes a motion to continue the public hearing to November 30, 1989 at 9:00 p.m.

EM states they will have a better handle on things once the applicant hears from Washington.

B. Lord indicates they are working with the town on this.

GG seconds JM's motion to continue the public hearing. Vote of 4.

ALFRED SANTOSUOSSO SITE PLAN

EM abstains from vote.

B. Lord explains that Mr. Santosuosso came in at the last meeting regarding the site plan. He owns the Country Side Motel and the service station out front. He is attempting to take out the service station and replace it with a metal building. There is no parking. He questions if the site plan is necessary. In order to require approval, it must be a new principle building. This is not because the motel is already there.

P. Herr states the service station is an accessory to the motel.

B. Lord indicates they have separate uses.

P. Herr questions if it is principle use or accessory use.



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B. Lord responds that principle means singular.

P. Herr explains that the site has two uses, the motel and the garage which co-exist on the same lot. There is no doubt that the garage and the motel have 2 principle uses.

B. Lord states the bylaw does not go by the use, it goes by the buildings. The applicant originally submitted to the Building Inspector who told them it was o'kay to go ahead. Now he told the applicant that he had to come to the Planning Board.

MAPLEBROOK COMMON - DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARING

JM acting as Chairman in EM's absence. EM is an abutter to this project.

JM requests that applicant allow Board to continue the public hearing for one-half hour.

EN makes a motion to continue to 9:30 p.m. GG seconds motion. Vote of 3.

P. Herr believes the Planning Board has jurisdiction over the Santosuosso site plan.

EM indicates the Board is in agreement that a site plan is needed.

P. Herr explains this is the first site plan to come in under the new bylaw for Development Plan Review.

B. Lord states the problem is the applicant was led in the wrong direction by a town official. Now he is told something else.

P. Herr indicates that people do not get treated differently because they were given the wrong information. The plan is before the Planning Board. The question is does the law apply and it does. Now they should discuss whether or not it meets the law.

B. Lord states that P. Herr has a copy of the plan.

P. Herr explains that Mr. Santosuosso sent him a copy of the plan. Since then there has been a revision. The old drawing does not have all the things which the new drawing has. He found a lot of things were are not included. There is no indication of the use. There is no indication of the building 50' of the site. There is no indication of



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existing or proposed driveway. There is no indication of sidewalks, loading areas, parking spaces, fences and screening, utilities, waste disposal, drainage facility, existing topography, vegetation, erosion control, signs, floor plans or elevations of the building. He states that exterior lighting, if there is any, should be shown as well.

EM indicates that a fence is shown around the pool.

P. Herr feels that this is complicated because there are two uses for the same site. There may be 3 uses since the drawing shows a motel, house and garage.

B. Lord states the house is part of the motel.

Mr. Santosuosso wants to tear down the existing garage and replace the lighting, utilities, signs which are already there. He has the licenses for the same use. He will be taking down an eyesore and putting up a new building.

B. Lord explains the applicant is not changing the use, just the building. The size is 2300 - 3000 square feet. The new building will have 2 bays and will be neat. A town official gave him the wrong advice.

EM questions who it was.

B. Lord indicates the Building Inspector told the applicant there was no problem. The list of issues to deal with is long, but can be taken care of. He questions if the Board can discuss this site plan at the next meeting on November 9, 1989.

P. Herr suggest they add a notation on the plan that nothing changes relative to the lighting and drainage which is already there.

Mr. Santosuosso states the will have new drainage and lighting.

GG indicates that will have to be shown on the plan.

B. Lord states the septic is already shown on the plan.

JM questions why this comes under the law.

P. Herr responds it is because it is a new principle building.

EM tells the applicant to get the completed plan to P. Herr for comments prior to the next meeting. They can come back on November 9,



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1989 under general business at 7:30 p.m.

P. Herr states the new law says the plan has to go to the Town Engineer.

JM voted against Development Plan Review for this reason. The applicant wants to put in a nice new building. He will probably say to forget it.

B. Lord states that in each case where there has been a problem with site plan review, there is one common thread. The town is as much responsible for its officials and employees who get involved at all stages and give the wrong information. This applicant is suffering because of it. They will now have to go through the process for Development Plan Review. It requires advertising 7 days before the meeting. He will submit the plans to the Town Engineer on Monday. He is asking the Planning Board for permission to take care of the advertising for November 2, 1989. He will hand deliver to the newspaper to ensure it gets published on that date.

EM indicates it is o'kay with the Board.

EN makes a motion to schedule the public hearing to discuss the Santosuosso site plan for November 9, 1989 at 8:30 p.m. GG seconds the motion. Vote of 4.

William Halsing submits the 81-P which he submitted earlier.

EM explains to JM that there are 3 lots, one of which is unbuildable. It allows the applicant to sell the other two lots.

EM and W. Arcand are concerned at some point the applicant will go to the Zoning Board of Appeals to ask for a permit for the lot which they are labeling as unbuildable. If that happens, the ZBA should ask who created the lot. Once they find out it was created by the applicant, they should not grant the permit.

EN feels they are doing it in reverse. The applicant could take a piece of land and add it to another to make it buildable.

EM makes a motion to sign the 81-P. GG seconds the motion. JM votes for signing. Vote of 3.

EN abstains.

MAPLEBROOK COMMON - DEFINITIVE SUBDIVISION



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CONTINUED PUBLIC HEARING

JM reopens the public hearing at 9:30 p.m. He will act in EM's absence. EM can not sit because he is an abutter.

T. Riel, R. B. Walden Group, introduces the engineers representing Defeo, Wait & Associates. He had a meeting with P. Herr in his office. P. Herr recommended they obtain additional information. He pursued those avenues of information. P. Herr requested they perfect the list of variances which will be sought from the ZBA and the waivers sought from the Planning Board. They developed a list which Defeo, Wait & Associates will go through. They also perfected the waivers regarding the first 97 units. There is a question relative to the setback required for the property. The perimeter roads constitute the area they will measure the setback from. The road will be designed to subdivision standards even though it will remain private. The setbacks are measured off S. Maple and Blackstone.

JM suggests they go through the reasons for doing this since GG was not present at the first meeting.

T. Riel explains they purchased the project from Mutual Development Corp. The land covers 86 acres with the opportunity to develop 153 units. The original special permit was in 1984. They picked up the 5th and 6th lots since then. The 4 previous lots were set up as 4 distinct condo trusts. There was a flaw in recording the trust document. The deeds were recorded as if they were for individual homes. The Planning Board requested they identify the area problems. They include the turning radius, the road entering the public way, the lot density, lot setback and frontage. Their legal people recommended pursuing it this way. This is the only way to solve the problems. They will create frontage for the units. They do not own the units so they will work with the owners. They will go back to the ZBA and work closely with them. Waivers requested from the Planning Board include turning radius and special zoning violation in the plan.

JM states the Board would be approving an illegal subdivision if this is approved.

T. Riel states that what is there is an illegal subdivision, but they do not know how to continue on to correct the problems which they inherited.

JM questions how they got the maps recorded.

T. Riel explains that the 97 units were fully constructed by Celtic.



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They created a new site plan which triggered off the inclusion of the waste water plant. Celtic built at least 30 - 35 units in the wetlands.

EN indicates that P. Herr was here last time when they discussed the umbrella trust.

T. Riel explains that the umbrella trust was initiated by the state DEQE. There is a question as to ownership. They saw a barrier because of the ownership. There are 153 units now. There is a court order which is now released. DEQE released all workings on the umbrella trust to provide ownership for the unit owners. They worked with a consulting engineer from the town wastewater district to work with the town once the line is constructed. They escrowed the estimated operation costs for 2 years. The unit owners have no problem with this. They will get an umbrella trust signed within 2 months. The subdivision approval is necessary for them to do housekeeping.

EN questions where Blackstone Street is on the plan. He states there are houses going into the development.

T. Riel points out Blackstone Street and states the houses exist off old Blackstone Street.

EN drove in the development after a rain storm. Water was almost over the berms and there was water in the road. He questions if the drains are working.

T. Riel responds that all drains are in and are working. The final coat is not on the road. The curbs are in for only 30% of the road. There are two pocket areas with lower drains. The final grade is not on. They just have a binder coat now. They will lower the basin. The systems works fine. There are points where they have to do pitching. They hydroseeded the entire length the last 2 - 3 weeks. There is mild erosion which the Conservation Commission looked at and found no problem.

EN questions if the road is open now.

T. Riel responds the road has been entirely open for the last year.

EN points out that the Planning Board told them not to open the road all the way. They were told to put in a barrier.

P. Herr indicates they were told to do the opposite.



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T. Riel requests the Board vote to approve the subdivision.

JM states they would be creating something illegal with groups of condos on less than 20 acres.

P. Herr states there was a case in Franklin where the Planning Board approved a subdivision which violated zoning. On appeal, the court said that was correct, they could waive compliance with their own zoning. He thinks there is a parallel between that and this project. The Board can waive the zoning issue. It is not substantive. It is entirely procedural. The road is there.

JM would like to know how it got recorded in the first place.

P. Herr indicates there were mistakes by one or more people.

Bruce Wait states the first 4 lots were created as a condo document. They were not created on a definitive subdivision plan. There was never one approved. The lots were created on as-built plans on which the condo document was written around.

P. Herr questions if the plan had the Planning Board's endorsement.

EN states they did not.

P. Herr questions if the land surveyor attested to no new division of the plan.

Bill Wait indicates he did. He swore to no new ways.

P. Herr questions if they can read the name of the surveyor on the plan.

JM indicates it was Robert F. Drake.

P. Herr states he is a nice man. He must have felt the lots were created by the verbiage which Attorney Fernandez created.

B. Wait states the master deed has the same description. It is on record also.

JM questions where they go from here.

P. Herr states the applicant is offering a list to resolve the problems.



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L. Cibley, Chairman of the Board of Selectmen, states he is here for the Associate Member public hearing which was to begin at 10:00 p.m. He questions if the Board will open the hearing now.

JM asks for a motion to recess the discussion relative to Maplebrook Common, Definitive Subdivision for 5 minutes.

GG makes motion to recess. EN seconds the motion. Vote of 3.

T. Riel indicates a recess is o'kay with him.

ASSOCIATE MEMBER - ZONING BYLAW INSERTION PUBLIC HEARING

EM returns and opens the public hearing.

Clerk reads notice of public hearing.

EM questions if P. Herr has handouts relative to this.

P. Herr passes out the Associate Member bylaw change.

EM questions if there is a timeframe once someone is appointed an associate member.

P. Herr indicates the suggestion is for a 3 year term. There is nothing in the statute. The Planning Board can do anything they want.

L. Cibley indicates that all appointments in the town are for one year unless otherwise specified.

EM states a 3 year term is specified.

L. Cibley, is here to represent his Board. They are in favor of the Associate Member.

EM states the Planning Board and Board of Selectmen are co-representing this article.

L. Cibley states the purpose of the article is because certain situations require a vote of 4 out of 5 members of the Planning Board, the same as the ZBA. The opportunity to have an alternate member came to his attention. Sometimes there is a conflict for a member of the Board and the applicant can not have a fair hearing if only 4 members can sit. He asked Town Counsel if the Board could elect or appoint an alternate member. Per discussion with P. Herr, he found out the



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legislature recently enacted a law to allow an alternate member at the discretion of the Chairman when 4 out of 5 are needed to vote.

EM states the Planning Board is well aware why they need an Associate Member. If the Town Meeting approves the article, the Associate Member will be appointed the same as the ZBA. There will be no stipend or payment whatsoever. There will be an application and screening. It will be a joint appointment of the Board of Selectmen and the Planning Board.

JM objects to the 3 year term rather than a 1 year term. He questions what happens if the Associate Member is incompetent.

L. Cibley responds the individual will be removed if he is incompetent.

EM feels that one year is too short.

L. Cibley indicates the Planning Board will have 90% say on who is appointed. The Finance Committee is in favor of this article. They are awaiting a letter of recommendation from the Planning Board. He thanks P. Herr for his work on this article.

EN makes a motion to close the public hearing. JM seconds the motion. Vote of 4.

EN makes a motion to recommend the article for an Associate Member. JM seconds the motion. Vote of 4 to recommend.

EM signs letter of recommendation and gives it to L. Cibley. He will leave it for Jackie to get to the Finance Committee.

P. Herr states that some time ago the Board approved Stony Ridge provided the drainage calculations are o'kay. He finally received the information and referred it to the Town Engineer. He is awaiting his reply.

P. Herr refers to the site plan for Evergreen Construction. He received a copy of a letter which D. Fraine sent. There is a question if the category use is allowed by right or requires a special permit. The letter indicated that a special permit is required from the Board of Selectmen. It is a complicated question. The draft permit from DEQE is 30 pages long.

MAPLEBROOK COMMON DISCUSSION CONTINUED

EM removes himself from the discussion.



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JM takes over as Chairman.

P. Herr states the applicant was about to hand out a paper containing the list of waivers.

JM questions the ramifications of creating lots of less than 20 acres. They would be allowing 40 condos on a 6 acre lot.

P. Herr indicates the answer lies in the conditions. One condition could be that before the development which is relying on subdivision approval can proceed, the applicant would have to obtain the necessary variances from the ZBA. The umbrella trust reunifies the site. They can cover allowing 250 units on so many acres in the conditions.

T. Riel hands out the list of waivers. They created 2 lots, 5 and 6, which were created by the creation of the road. He does not feel they have a zoning violation on this area. They can call it one lot - 5 and 6 with frontage on Blackstone Street.

P. Herr questions if that have sufficient frontage.

T. Riel responds they do. There is some conflict on the deeds. There will be one trust for the interest in the road. For the remaining trusts in lots 3 and 4, ownership stops curbside.

P. Herr indicates that lot 4 needs frontage. The subdivider street needs to go the length of lot 4.

T. Riel would like to have it go all the way out but does not know if they have clear ownership in the deeds.

P. Herr states they do not have a lot which goes on both sides of the street. A driveway turns into a subdivision street to lot 4 which continues to lot 1. There is no clear ownership.

Bob Loverud, architect, feels that this proposal parallels Meadowood. The proposed road Rt. 126 to Center Street is like Maplebrook Road. They dealt with the special permit and never had to encounter frontage.

P. Herr questions how they would get from lots 3 and 4 to any street. He is not comfortable telling the Planning Board to approve a street which is not accepted.

B. Loverud states they could put 1, 2, 3, 5 and 6 under one trust.



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T. Riel states that would require 100% agreement by all unit owners and all lenders. He was told that a couple of people will not sign.

P. Herr states that is entirely predictable. He questions if lot 1 was deeded to the center line.

T. Riel indicates it was.

P. Herr states they could get the owners of lot 1 to accede to a street.

T. Riel states they could do that.

P. Herr indicates this is the reason why the new subdivision regulations requires an attorney certification.

EN states the umbrella trust would be by passing the guy who is not happy.

T. Riel indicates the umbrella trust is less complex and essentially correct.

Steven Kaye, attorney for R.B. Walden Group explains that the 5 condo associations will enter into an agreement under the umbrella trust. The 5 associations will still exist. 100% of signatures would dissolve all.

B. Wait states that approval would be a way to end the problems. Lot 4 would have no encumbrances.

P. Herr points out that a subdivision street has to connect to another street - Blackstone Street or S. Maple Street.

B. Wait states that Maplebrook Road would be a driveway as long as they do not go to the end of the way. One or more of the deeds for Lots 1 - 4 were not correctly written.

P. Herr says it is like Mr. Riel trying to subdivide a lot which P. Herr owns.

B. Wait states they are talking about 25'.

EN states they could buy the footage from the trust.

T. Riel states they are trying to maintain everything more consistently with the special permit. It is the intention of the Board to approve



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one special permit for one lot. He has not considered going to the owners and asking them if they could purchase the area.

P. Herr states the right of way would be sufficient.

T. Riel states they could have an easement.

Steve Kaye indicates that would be acceptable if there was no problem with lot 4 to S. Maple Street. There would be no road between there and Blackstone Street. It would be like a driveway.

P. Herr points out this is the same thing which the Board did on Northeast Energy Associates Co-generation Plant.

EN questions liability.

P. Herr indicates it is a separate issue. The owners of lot 1 may want to get rid of the right of way.

Steve Kaye believes the issue is between lot 4 and S. Maple Street. He thinks they have an easement between lot 4 and S. Maple Street.

P. Herr states there would be no problem as long as the Planning Board approves on the easement rather than in the right of way. This is similar to Bound Road. If the town were asked to accept the road, it raises another problem.

T. Riel indicates they can operate on that premise.

JM states the original plan called for 26' of pavement.

B. Wait states they will correct the road there. The pavement is not there in the right of way. Waivers include width of pavement, radii and sidewalks.

JM points out that sidewalks on both sides were not shown on the original plan.

T. Riel states they are requesting sidewalks on one side.

JM questions why they would not continue the sidewalks.

B. Wait indicates that is part of the review process. They want to provide walkways.

GG is totally against the sidewalk waiver. The kids need sidewalks to



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get to High School. Nature trails will not do it.

B. Loverud indicates they propose sidewalks for lots 5 and 6. They already have them in lots 1 - 4.

T. Riel states that it is incorrectly written. They are really requesting sidewalks on one side. This will be discussed further at site plan review. The modification of the sidewalks do not have to join at the top of the curve. They want to have a strip of grass between the road and the sidewalk.

P. Herr questions Section 421 (i) - is it feasible to make the sidewalk connection within the right of way to connect to Blackstone?

T. Riel thinks there is one on Blackstone Street.

P. Herr points out that the sidewalk works besides having no property line radius. The Planning Board should see a sketch which does not encroach on someone else's property. Lots 5 and 6 would become 1 lot with a driveway. The only question is with the S. Maple Street corner. The center line radius on Maplebrook Road does not meet the collector street standards. There is no zoning departures on this. It is a different issue. There is no violation.

B. Wait states they will deal with the different issues later.

P. Herr states the Board would want to know the nonconformities for the front yard issues for lots 6 and 1.

B. Wait points out there are variances outside of the waivers for the front yard setbacks for the existing units.

JM indicates that the Planning Board can not act on that.

P. Herr states the Planning Board knows about them and can deal with them in the decision.

JM feels it is contrary to what the Planning Board should do.

EN thinks they are doing things backwards. The applicant should get all of the trusts and variances first and then come back to the Planning Board. It is too iffy with a road turning into a driveway.

JM states what they are doing is contrary to what he believes in, but he will go along with it as long as the bottom line agrees with what is said in the special permit.



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EN thinks the applicant should get the other issues in place and then come back to the Planning Board.

JM does not want to make the applicant waste time.

GG asks P. Herr what he thinks they should do.

P. Herr is curious what the zoning variances are.

B. Wait explains there are two including the lot areas for each existing 4 lots and front yard setback for the existing units in particular locations. Lots 1 and 2 are particular units and 5 and 6 only if they are considered a way.

EN questions how it will work.

P. Herr explains the driveway does not require a front yard. It does not create frontage. They will not need frontage once they get past lot 4. It is a paper exercise.

EN states they should have set that up before coming to the Board.

P. Herr agrees. A way to get to closure is to review the easements and call the remaining area one lot.

B. Wait states that one lot will share the service with the people for the other 4 lots.

T. Riel indicates that service includes the roadway, waste water plant, community building and anything else which comes up.

P. Herr questions if the umbrella trust will take care of all that.

T. Riel indicates that is correct.

P. Herr states they can document they have the right to do the subdivision to create lots 1 - 5. Before the Board acts, they must have documentation that anyone who owns the units must agree to what the developer is doing. Sidewalk on one side is o'kay. 26' pavement is already there.

JM states the Board will continue to give the applicant an opportunity to go to the ZBA. The Planning Board will not act until they get the variances.



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B. Wait points out that some towns disapprove the subdivision plan until the applicant goes to the ZBA to get the variances. The developer then goes back to the Planning Board to get approval.

P. Herr indicates that they could do that but that is a weak position for the Planning Board to be in. The applicant could come in at any time if they solve the problems.

JM doubts they will get the variances.

B. Wait states they are asking for setbacks for the existing buildings.

P. Herr states the Board could turn it down for a violation of zoning. There is no evidence of continuity for the sidewalks between S. Maple St. and Maplebrook Road. The applicant wants to pull the drawings back to take out the line and make lots 5 and 6 one lot.

JM indicates it is clear that other members of the Board will not act until the applicant goes to the ZBA.

EN questions what P. Herr suggests.

P. Herr suggests the applicant come back with the subdivision plan which does not divide lots 5 and 6. The applicant must also document sidewalk continuity. They must carefully craft the language used for approval which deals with the zoning violation.

EN would like to continue the public hearing until that is done.

P. Herr questions if the abutter notices included all unit owners.

T. Riel responds that the notices were sent to the associations, not individual unit owners.

Steve Kaye questions if the Planning Board could write a letter to the ZBA stating that the plan was turned down because the applicant needs variances.

B. Loverud believes it would be simpler for the Planning Board to send a letter to the ZBA indicating that the plan has certain deficiencies and can not be approved until they are cured. This will establish the basis for the variance. The Planning Board could also support the variances. This would speed up the process.

JM states the Board must continue the public hearing, send the letter to the ZBA and get an extension.



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P. Herr seldomly advises a Planning Board to deny a plan because they would have to come up with a concrete list of problems. If the applicant cures the problems, the Board would have to approve. This is a weak position for the Board. He would continue the public hearing. They would not have to advertise again.

T. Riel requests the Board continue the public hearing for 45 days or more.

GG makes a motion to continue the public hearing to January 11, 1990 at 8:00 p.m. EN seconds motion. Vote of 3.

MAPLEBROOK COMMON - SITE PLAN DISCUSSION

R. Loverud states they would like to get to the position where they can start building units. They modified the old plan which was done in 1984 and made improvements. They will have a safer approach for ambulance and fire by creating a loop road. They will have the same number of units. Impacts on neighbors will be at a minimum. Impacts on the town will be the same as in 1984. The location of the proposed units will be a series of clusters on the loop road off Maplebrook Drive. There will be a series of trails and a system with sidewalks on one side. They will have a 4 - 5' green space added between the sidewalk and the street for snow removal. It is also more aesthetic. They will revegetate the wetlands. The 97 units on lots 1 - 4 are already constructed. They will add aesthetic ponds as well. They reviewed the Notice of Intent with the Conservation Commission. They will preserve the natural wetlands and ponds.

JM questions if this is from the original plan.

B. Loverud states the plan which was originally done has been changed. They originally had a series of long dead end streets with parking on either side. The initial wetland delineation was incorrect. They found substantially more. They also moved the parking. They have made great progress environmentally. They provided a series of stop signs along Maplebrook Road. They will have street signs to identify the roads. They will also have yellow signs with a numbering system to tell fire and ambulance where each unit is located. This will be set out in a series of phases. Because of the DPW complex they have a lot of salt which came over onto their property. This will be the last area to be developed. They will try to rectify the problem. They will provide common gardens which will be placed to get the sun. They have a rough grading for the plan. The orange shows the original and new contour requiring fill. Celtic Corp. bulldozed the area. They are trying to



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get better grading. The site landscape action plan will cure problems inherited by Walden and which was created by cuts and fills. They will specify the trees and landscaping which will be grown on the existing soil. The actual grading shows up on a 16 scale blow up. They will have a parking garage, one for each unit and parking for one car each unit outside. They will have townhouses and unit flats because of the market demand with 2 up and 2 down. 4 units flats will each have 2 beds, 2 baths, livingroom, dining room, eating area and stairs to the basement for storage.

JM questions if the units will be insulated for sound.

B. Loverud responds they will have double walls and sound board which will be packed. They will deal with the various Boards regarding handicapping. Downstairs will be wheelchair accessible. The kitchen will be at the proper heights and they will have a 5' circle so one could turn around in the rooms and the bathroom. In some cases, they will have walk out basements. Townhouses will have a foyer, laboratory, eating area, kitchen, dining room, living room and deck.

EN states they will have no windows in the 2nd bath.

B. Loverud responds they will not. The unit owner will have a slice of the basement also. Celtic had a series of 6 units buildings. They will only have 4 - 5 units in each building. The density will be less. The ration of buildings to land will be less. They will have the opportunity to have on site walkouts. The municipal costs and revenues will be no different. They will have a range of available house types. They will eliminate the sixplexes and will have 4 and 5 units. There are no changes to the housing impacts. There is no change to service to Bellingham residents. Environmental impacts will change for the better. Traffic safety and congestion will be the same. There is no change to water service or school needs. DeFeo, Wait & Associates show the 40' scale plans for the whole project. The project will be able to tie into the new sewer.

T. Riel had Vanesse Hagen study the parking issue. They would like to lower the parking from 2.5 to 2.0 per unit. Vanesse Hagen did the study during peak hours. There are currently 1.33 - 1.5 vehicles per unit.

JM had the occasion to visit up there. He does not think they have 2.5 spaces per unit. Every parking spot is filled and cars are parking on the street. He went up there on a few occasions.

T. Riel indicates that a number of unit owners feel there is ample or



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too much parking.

JM states that if unit basements are finished, it would allow for another tenant. He will take a ride up there after the meeting to see if the spaces are filled.

T. Riel has never been there when the spaces were all full. A reputable company conducted the survey. They had taken photographs Friday night and Saturday which showed there was ample parking. The units owners agree. They think there is too much asphalt.

EN believes this is a different departure from what was originally set forth.

P. Herr is not sure there is an inconsistency. There is not enough parking in one area but ample parking in another. He wonders if it will be different with the new units. The numbers which Vanesse Hagen came up with do not surprise him. He always thought that 2.5 was generous.

T. Riel states the study was done between 7 - 9 p.m. Friday night. He checked with the Police Dept. and the Trustees. There have been no complaints regarding overflow parking.

JM is not saying the street was lined with cars, but every spot was filled and there was an occasional car on the street. He questions if there really is 2.5 spaces per unit. Most families have two cars now. Where does a visitor park?

B. Loverud states they could put in 2.5 or 2.6.

GG believes that 2.0 would probably work if they did not have the garage. No one will park in an empty garage. He is in favor of the 2.5 because of the garage structure.

T. Riel states they will deed a parking space with each unit, especially if they do a shed type garage. They want to keep as much asphalt out as possible. They can locate the parking in a parallel fashion which would equal 2.5.

GG finds the 2.5 scheme more in order.

P. Herr indicates that some parking spaces will not often be used.

B. Loverud states that April and May is the mud season. They could put in blocks but they are very expensive and look terrible after a year.



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They will add courseness material for the road.

T. Riel indicates they are trying to go for the lower priced market.

EN states the price will go up with the garage.

GG indicates it is an open shed. There are no garage doors.

B. Loverud points out that the hand out responds to each of the bylaw issues.

JM questions if P. Herr has reviewed the list yet.

P. Herr has not.

B. Loverud will provide P. Herr with letters to address all issues and copies of the plan.

GG questions if M. Megalli, Town Engineer, should get the plans.

P. Herr responds that either or both of them should get the plans.

B. Loverud states they are initiating the plans with the Planning Board.

P. Herr questions how close they are to wanting a building permit. The Building Inspector needs one copy of the plan. There is some confusion over the drawings.

P. Herr indicates that EN wants to know if this is a whole new ball of wax.

EN believes it may need Town Meeting approval.

JM feels that the basic concept has not changed.

P. Herr states that Mr. Drake secured site plan approval for the site. They own the plan. If the Board forces the applicant to go back to the Town Meeting, they would see the old plan.

GG states it is better to see the upgrade. This was the first condo complex to come before the town in 1984.

JM states they are scheduled to return on November 30, 1989 at 9:15 p.m.



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B. Loverud questions what they will do next.


JM advises him to talk to P. Herr and the Town Engineer regarding revisions and comments.


Meeting adjourned at 12:15 a.m.


Edward T. Moore, Chairman


Glenn E. Gerrior, Vice-Chairman


Emile W. Niedzwiadek


Anne M. Morse


John P. Murray