

**BELLINGHAM PLANNING BOARD**

**P.O. BOX 43**

**BELLINGHAM, MASSACHUSETTS 02019**

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**WILLIAM M. WOZNAK, VICE CHAIRMAN**  
**ROLAND R. LAPRADE**  
**EDWARD T. MOORE**  
**PAUL CHUPA**

**MINUTES OF REGULAR MEETING**

**FEBRUARY 20, 1997**

Meeting commenced at 7:03 p.m. All members and Planning Board Consultant Philip B. Herr were present. Associate Member Richard Dill was not in attendance.

**CENTRE RUN ESTATES CONTINUED PRELIMINARY SUBDIVISION**

EM spoke with the Safety Officer who said that everything is fine from his point of view. Flipping the road resulted in plenty of site distance and there are no issues.

D. Nielson explains they eliminated the entrance and provided a 320' intersection on Center Street. There are still 8 lots in the subdivision but the Form A lots decreased by 1. The elevation is at 215' at the street, then there is a slight dip in the terrain between Pulaski and the gas easement. They have to fill 5' over the easement and will be discharging into the adjacent wetland. There is a 1% dip at the gas easement which is part of the natural terrain. It's at 215' at the center curve and 220' at the center of the cul de sac. It is a flat sloping road. The drainage from the cul de sac will go against grade. There will be a one location detention pond. They will discuss separating the detention from the wetlands with the Conservation Commission. They will loop the water main at the request of the DPW.

RL asks if they will have trouble going over the gas easement.

D. Nielson responds there will be no trouble as long as they construct the road properly. They will deal with the gas company. They didn't want to go over the easement but they will.

WW asks the location of the other lots.

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D. Nielson points out the little picture didn't get changed but it was reconfigured again. They have 5 lots. The cul de sac is from the other direction.

EM thinks this looks much better. If not for the Safety Officer's comments, he would still be pushing for two entrances. There are 2 81-P lots which will have driveways backing out there.

RL asks about putting the A and B driveways on the new road.

WW asks about lots D and E too.

EM thinks it would cost a fortune to run the road up for 2 driveways.

WW suggests they could have an easement for a driveway.

EM asks what would stop the homeowner from putting the driveway in.

P. Herr notes they could provide an access easement. Lots 1 and 8 for lots D and E which the buyers of D and E might prefer.

RL doesn't want to see the people backing out onto Pulaski Blvd.

P. Herr indicates the Board couldn't impose this restriction but it would be nicer.

EM suggests it might look nicer if the Definitive comes back and looks that way.

PC moves to approve the Centre Run Preliminary Subdivision. RL seconds. Unanimous vote of 5.

D. Nielson discusses the timing of building the 81-P lots first which would preclude having the driveways on the cul de sac.

EM points out the easement makes it possible even if the 81-P lots are built first.

P. Herr suggests they could do a cluster which would make D and E bigger. They would get the same number of lots but would angle the lot lines in front on the cul de sac but they can't do it without a variance even though it would make a better plan. He refers to the Master Plan effort which calls for greater flexibility in a case like this. There is no hardship for a variance.

EM believes it is a hardship if two driveways come off an unsafe road.

Neil Roche, Esquire, representing applicant, believes a common driveway is not allowed.

P. Herr disagrees. They are allowed for two lots.

**PINECREST AMENDED DEFINITIVE SUBDIVISION CONTINUED**  
**PUBLIC HEARING**

AM received a call from Town Counsel Lee Ambler late this afternoon indicating that he is not happy with the paperwork for the amended decision and is not giving approval.

Roger Gagnon, developer, understands they don't have the answers yet.

Albert Florentz, engineer, distributes drainage information. They inserted 4 x 8 flow diffuses for the roof drains. There is a 10' drainage area for lot 1. There is a buffer for lot 2 at the rear which will remain undisturbed. The buffer will be left natural.

AM explains they should have gone through the covenant process initially. The Board doesn't have a covenant because they went right to a bond. That is the biggest complication there is with the paperwork since there is no reference to a covenant on the plan.

R. Gagnon spoke with his Attorney Powers at 5 p.m. when he said that everything was all set. The agreement will be put on record after it is signed by the banks.

EM questions the drainage calculations which were sent to P. Herr. The question came up because the DPW letter referred to a dirt driveway when in fact it is paved.

P. Herr states their calculations assume a paved driveway. He found it makes a difference in the 100 year storm of 3/10 cubic foot per second difference.

EM asks if the DPW was asked for an opinion with a paved rather than gravel drive.

R. Gagnon brought information over to him today.

EM asks if the drainage should be sent back to Amory for review or is it not much of a difference?

P. Herr doesn't think it is much but they could have cooked the numbers. He reviewed the numbers but that is not really his business.

R. Gagnon built the stonewall which pitches to the front lawn. There is 8' of gravel which he didn't disturb.

AM questions how they can do this with the properties already deeded.

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R. Gagnon will go back to the bank. The new owners signed an agreement.

WW notes that he sold a house on a street which is no longer going to be on a street.

P. Herr disagrees, it is still a street.

RL still has a problem with this.

WW asks what will stop a homeowner from petitioning the town to accept the street.

R. Gagnon responds there is an agreement on record at the Registry.

A. Florentz points to the note on the plan which says the town assumes no liability for the road.

RL asks who owns the road.

AM and P. Herr both respond that R. Gagnon owns it. The neighbors may decide they want to own it jointly.

WW thinks that if the town ends up owning the road, the people can petition the town to fix the road.

RL agrees this is the better thing to do but he doesn't like setting a precedent. We are bypassing the ZBA by doing this. We would be taking a precedent against the town which he legally has a problem with. He hasn't seen anything which will say this won't set a precedent.

Bruce Lord, Esquire, from the audience notes the town doesn't tax roads. He suggests having Mr. Gagnon deed the fee of the road jointly to the two houses.

AM states that is the exact verbiage the attorneys are working on.

EM wants to see a letter from L. Ambler stating this is not precedence setting and it works. But it may never work.

P. Herr states there is evidence before the Board that the drainage works.

AM indicates the remaining question has to do with the legalities which verbiage is being worked out between the attorneys.

EM moves to continue to March 13, 1997 at 8:00 p.m. RL seconds. Unanimous vote of 5.

Clerk to send a letter to Lee Ambler indicating that the outcome of the drainage calculations

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showed minimal impact which is no problem.

EM moves to extend the time frame for action to March 27, 1997. RL seconds. Unanimous vote of 5.

WW wants the Board to send a letter to Donald DiMartino advising him that he had originally requested a gravel driveway which is now paved.

### **BELLINGHAM SHOPPING PLAZA DISCUSSION**

Bruce Lord, Esquire, is here representing Mr. Perry who was unable to attend tonight. He went through the records of the Board of Health, Building Inspector and Clerk researched Planning Board records. There is no plan of the plaza. The first problem is obtaining a plan of the whole development.

P. Herr thinks he has a plan.

B. Lord requests that Clerk check the files for the special permit decision. He has looked over the minutes of the Planning Board meetings. Clerk presents him with a copy of the special permit decision from the file. The lot the deli is on is a separate lot and is taxed separately. The car wash is also on a separate lot and is taxed separately. There are 17 spaces for the deli presently with 11 in the front, 6 toward the road and 5 toward the building. He has the ability to seat 32 people which is an excess since he intends to seat no more than 20 so there are more than enough spaces on the ground. They are working on getting a plan squared away and will be back. Mr. Perry is working on William Way. He took everything Mr. Clark owned in the Town of Bellingham. He is trying to put together the plans. They did find a site plan for William Way which is the As-Built which the Board had been asking for, obtained from a source. There is nothing they are doing at the deli which crosses the line to require a Development Plan Review.

AM advises it is over the statute of limitations anyway. The Board is not in a position to demand compliance.

EM states the Board is not holding them up on the deli. We want to be brought up to date on what they are doing with the whole thing.

B. Lord notes the deli will open March 8th. The owner is trying to lease the stores. He is making plans on how to change it and make it work. It may not require a DPR. He is discussing attaching the sewerage. He will put up another sign. He is trying to deal with the other properties at the same time and prepare plans. He has 3 new tenants and the deli is the 4th.

EM asks if there is any reason the guardrail is blocked so someone can't go out Mill Street.

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B. Lord believes it was blocked the time the last building was approved.

AM thinks it was blocked to keep the truck traffic out.

B. Lord notes there is no drainage there. The owner has to do the work. There are broken windows.

WW thinks it appears the owner is not doing major renovations.

EM notes that people would rather see something done with the plaza rather than William Way.

B. Lord points out there are questions about where the boundaries are. It is a matter of having the plans done.

RL believes the owner submitted ideas to Denis Fraine. They want to make a sign similar to the Common.

EM asks what happens if D. Fraine says it is a nice sign but it doesn't meet the Planning Board Rules and Regulations.

B. Lord had a discussion with Mr. Perry who is asking for something large.

Steve Kent, deli owner, states that Mr. Perry paid \$1.2 million to get the place and he is trying to get people in.

Bob Schaeffer runs the car wash at 15 N. Main Street. He is concerned because the car wash was taxed as a separate parcel from the Plaza without an access or egress. He has been paying the taxes for 15 years. He asks how people can get in and out of his business if he has no access or egress. He leased from Mr. Clark and now leases from Mr. Perry. He refers to the second curb cut. In 1985 there was a curb cut which was closed in and then opened up when Clark rented Maples.

EM asks why it was closed.

B. Schaeffer asks if he is entitled to access and to a curb cut as a separate parcel which is taxed separately.

WW disagrees. The curb cut was not there when he rented from 1980 - 1984. He asks what happened to the guardrail which used to be where the vacuums were.

B. Schaeffer had the vacuums in the back when he first leased and then moved them. If it is closed off and he is land locked, his property will have no value.

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EM doesn't think the fact that it is taxed separately means it is a separate parcel.

WW refers to McDonald's on Hartford Avenue where customers can't get in unless they use the main drive.

B. Schaeffer heard the owner wanted to separate the two properties.

AM states the violation is no longer contestable since it is over the 6 year statute of limitation as indicated by Town Counsel Lee Ambler.

B. Lord suggests that Mr. Perry come in and make a presentation when he has the plans completed. They will have a septic/sewerage decision soon.

### **SPRING MEADOW DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARING**

Clerk reads letter from developer Greg Rondeau requesting a continuance to March 13, 1997 and an extension to April 10, 1997. T. Sexton was sent engineering information today which he did not have time to review for this evening. He asked that his public hearing be placed at the end of the meeting in case they are not ready to proceed.

RL moves to continue to March 13, 1997 at 8:45 p.m. EM seconds. Unanimous vote of 5.

RL moves to accept the extension to April 10, 1997. WW seconds. Unanimous vote of 5.

P. Herr did get revised plans hand delivered.

Clerk to notify applicant to send information to P. Herr prior to the next meeting since he won't be in attendance and needs time to review and comment to the Board. There are little issues on the drawings.

### **81-P SUBMISSION**

Dick Pinocci, presents an 81-P for Archer Street. He bought the land from the town in 1987 but it was never signed or recorded. He was in here 3 times but the Board was very busy and it was never signed. He points out the location of the Richardson Ballfield and Mann Street.

Members discuss location and WW notes it is at Cartier's and take a left at the end.

P. Herr reviews the plan which has a note stating it is not a separate building lot. Verbiage that "Approval under the Subdivision Control Law is Not Required" is not on the plan but can be written in.

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RL moves to sign the 81-P for Archer Street. WW seconds. Unanimous vote of 5. \$10 fee presented. Mr. Pinocci to have copies made of the signed 81-P for the Board and other town officials who receive a distribution.

### **FARM STREET DISCUSSION RE: POSSIBLE SUBDIVISION**

Neil Roche, Esquire, is representing the developer. This is an informal discussion for a piece of land which they are proposing to be developed with a portion in Bellingham and the remainder in Medway. He introduces engineer Joyce Hastings and developer David Ledworth who is partners with Don Cohen in the Medway Land Development Corp. They prepared a conceptual plan for this pre-preliminary discussion. The location is closer to Hartford Avenue than Granite Street. He points out the existing conditions with two gas easements and two electric company easements. The property will access in Bellingham on Farm Street.

WW asks what frontage is on Farm Street.

N. Roche explains there are 13 lots in Bellingham with 42 lots in Medway which will access on West Street in Medway. The gas line goes through. There are 3 locations where the gas line is traversed. There is a gas pipeline through the back with a Boston Edison easement and another power line easement.

RL asks about wetlands.

N. Roche responds there are none in Bellingham but there is a brook and wetlands in Medway.

AM asks if they have gone to Medway yet.

N. Roche responds negatively, but they are going next week, Tuesday at 9:00 p.m.

Andy May, Farm Street resident, points out there is water and cattails there.

Wally Frank, abutter, asks about the Bellingham lots which are on the cul de sac. Is any of the property in Medway or is it all in Bellingham?

N. Roche responds it looks like it is all in Bellingham. It coincides with the town line. The Bellingham lots will be 80,000 square foot in agricultural. Medway lots will be 44, 000.

WW asks how much frontage there is on Farm Street.

P. Herr responds there are 100 some odd feet.

N. Roche explains the frontage for lot 1 is on the proposed road.

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EM asks about the lot shape factor.

P. Herr notes it is not an issue at this stage but he alerts them about the Regulations.

N. Roche refers to the intertown connection roadway policy relative to intertown subdivisions.

P. Herr explains the rule says that any street which crosses into another town must meet the more demanding of the Regulations.

W. Frank asks if the water line will loop or connect.

N. Roche responds it would loop but the property is too far for the sewer line.

RL states there will be on site septic.

P. Herr was sent the drawings and briefly looked at them. If it was not continued in Medway, he doubts Medway would have that many lots on a dead-end street. It depends upon the Medway lots continuing.

N. Roche identifies the existing conditions. The road is shifted and connected in a continuous flow. This is a 50 - 54 lot subdivision. One issue pinpointed is that Farm Street is a country road. This will have considerable traffic. They are discussing shifting traffic which is try to avoid Hartford Avenue. They understand they must come in with a traffic study of Farm Street and the impact of this development.

EM refers to the Hixon Street situation. They may have to improve the street.

RL notes the width of Farm Street is 20'.

AM advises Farm Street is a scenic road which involves major procedures to improve it.

EM explains it means they have to go to the Planning Board before they alter any trees or stonewalls on Farm Street. It doesn't prohibit growth or development. If Medway doesn't happen there are 13 lots with an alternative for a cluster with the same parcel.

P. Herr anticipates that 1 - 2 people will suggest that these two developments not connect because of traffic issues. He suggests that members of the two Planning Boards should be in the same room at the same time at some point. The issue regarding the connection is contentious and why the connection should be made. The Master Planning effort is working on the street policy. A reason to allow is that more connected streets make sense. A reason not to connect is for the people who live there who will have their peace and quiet disturbed. They don't want to hear about the road being widened and connected.

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EM asks how many lots can be dead-ended in Medway.

RL thinks that Medway will say no there are too many on a cul-de-sac.

EM believes it is a tough corner for the Safety Officer to look at.

WW asks why they wouldn't connect the other two cul de sacs.

N. Roche replies it will result in a loss of lots.

EM notes that if they connected it would save 4 dead ended water lines.

RL asks if the Town of Bellingham will run water to another town.

P. Herr replies negatively.

WW thinks they could put in a water line and connect with an easement.

W. Frank asks why they don't tie into Stone Street with the water line.

P. Herr suggests they call DPW Director DiMartino and visit with him to discuss this and obtain his reactions.

WW asks what the benefit of doing this would be to the Town of Bellingham.

N. Roche will ask if Medway is amenable to a joint meeting.

EM would want this if he was in Medway because 90% of the traffic will go to Bellingham to 495.

P. Herr notes that if they put aside the municipal self interest, the right way to do it is to connect.

EM asks if the property will be sewerred in Medway.

N. Roche replies it is too far away.

## **BAINBRIDGE WOODS PRELIMINARY SUBDIVISION**

Clerk reads letter from Edward Gately, developer, dated today, requesting a continuance to March 13 and an extension to April 10, 1997.

EM moves to continue to March 13, 1997 at 8:15 p.m. PC seconds. Unanimous vote of 5. EM

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moves to approve the request for an extension to April 10, 1997. PC seconds. Unanimous vote of 5.

### **MAPLEBROOK COMMON SUBMISSIONS**

Bruce Lord, Esquire, presents applications and plans for an amendment to the special permit, special permit cluster and a definitive plan. The alternate will be needed for this hearing since EM is an abutter. Clerk to calculate fees and contact B. Lord.

P. Herr refers to language in the procedural rules which says if a member is entitled to notice then he shouldn't act.

B. Lord to obtain abutter labels for Clerk to mail to certified notice to abutters. B. Lord to advise Clerk about the road centerline for definitive fee determination. Fees for both special permits to be determined also.

P. Herr suggests doing a single notice all at once.

Clerk to contact Planning Board Alternate Member Richard Dill to attend the Maplebrook public hearings on March 27, 1997 at 7:15 p.m.

### **FAFARD'S RESTAURANT SPECIAL PERMIT PUBLIC HEARING AND DEVELOPMENT PLAN REVIEW**

AM opens the public hearing.

Janice Hannert, Fafard representative, introduces Mike Dean, Guerriere & Halnon. They are proposing a 6,020 square foot restaurant located on the SE quadrant of 495 and 126 at the site presently occupied by the specialty ski and bike shop. They developed their plans closely with the Charles River plans. Many items are closely related. Detention will be off site on the overall Charles River site. They worked with the Charles River consultants. Both sites are in the Water Resource District.

Mike Dean explains the plan reflects the blown up 81-P plan with the pink line delineating the parcel. Parcel B is orange which was granted from the back to Mr. Fafard.

RL asks if it is designated unbuildable.

P. Herr replies negatively.

M. Dean further explains it was designed in conjunction with the overall parcel. Parcel F, D are granted to the Town of Bellingham for widening Hartford Avenue. Parcel A is granted to Mr.

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Fafard from the back. Parcel E is the sewer easement to the pump station.

WW asks about the percentage of impervious surface.

J. Hannert responds they will be within the 52%. The parcel will be taken in its entirety with the Charles River Center. They are applying for DPR because the building is more than 1,000 square feet and come under Sections 4932(a) and (b) for the Water Resource District. They will obtain a sewer permit from the DEP and an Order of Conditions from the Conservation Commission. The wetlands are off site on the Varney property. There is a small area in the 100' buffer zone. They are not proposing to disturb the wetland in the back. This improves the site because now there is septic in the Water Resource District and they propose to tie into the sewer. The existing runoff goes to the wetlands and they propose tying into the detention so it won't go to the wetland. They propose to develop at the same time as the Charles River Center. They revised their plans February 20th to incorporate as many comments as possible. Relative to P. Herr's comments: 1. They will provide additional right of way road widening and have revised the plans to show the 25'; 2. Setback for parking. The easement method will transfer to the Town of Bellingham rather than a fee so they propose a setback. They don't want to be penalized for granting the additional roadway for the widening. The direct alignment between the drives eliminated their property on that side so there is an easement on the side.

P. Herr asks if it is an easement or a conveyance.

Robert Frazier replies it is a conveyance.

P. Herr discusses setbacks which question is technical and is a matter of what is the law. The question is if it is okay to measure the setbacks when the part included is an easement the cars will drive over. The Planning Board question is if the green space amount is acceptable or should it be wider. He asks about the question of the parking separated by 20' street right of way.

J. Hannert is showing 30'. 20' is the widest area to the front of the building. Parking will be at 10' - 12'

P. Herr notes that if the Board feels that 10' is okay, it is up to him and the attorneys to find a mechanism to do it.

J. Hannert indicates the building complies with the 20' setback in the front. There are 6 parking spaces in the front at the 10'. She refers to Section 3322 Parking Bylaw relative to the definition of street line.

EM believes they will lose spaces if it doesn't work.

RL asks if they need the spaces.

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J. Hannert replies they feel they need all the spaces.

WW asks if there is an issue at the side with the same setback.

M. Dean responds negatively. The drive coming in is considered circulation.

R. Frazier discusses the easement with Stallbrook, Fafard, Varney and the town. The existing Fafard property egress is at the location of the signal.

P. Herr questions where the right of way is. Town Counsel needs to be formerly asked for an opinion. It has to do with aesthetics for Hartford Avenue.

EM asks about the number of required spaces.

J. Hannert doesn't have a signed lease. They feel they need at least 81 spaces and don't want the parking reduced.

P. Herr explains the criteria of one space for every two seats which comes out to 162 seats with 81 parking spaces. There are two measures of need. One is what the town requires and the other is what the lessee requires.

J. Hannert advises the existing sign will remain on the site since it is grandfathered in. They will have a sign on Hartford Avenue which has to comply with the Bylaw.

WW asks about the proposed use for the sign.

J. Hannert doesn't have an answer now. The sign is 150 square feet. She refers to comments from D. DiMartino's February 13, 1997 letter: 1. Easement to the sewer pump station has been drafted using D. DiMartino's easement as a model; 2. Sewer capacity - none was available at this location but they will transfer capacity from the Shores site to this. It all goes to the same sewer pump station. 3. Relative to the Concern about the second site access being used as a cut through to avoid the light, they will try to minimize but the islands make it difficult.

EM thought they were coming out with a right turn only.

J. Hannert: 4. Expanding the roadway right of way was done to 25' on the revised plans. They will go to the Conservation Commission for the part of the property which is in the buffer zone and will comply with overall impervious area to 52%. They will incorporate a catch basin on the Charles River site to comply with the runoff.

P. Herr notes Mr. Matthews is saying the ConCom will not endorse unless the percentage for this site separated from the whole meets the 52%. Their recommendation to the Planning Board is

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that this piece independently meet the same standard as the whole.

J. Hannert indicates the only portion in the buffer zone is the corner.

P. Herr suggests the Board find out the ConCom's rationale. They need a basis to say this site should be considered separately through the special permit process and why they should apply for each of the parts.

RL asks if the 52% incorporated Fafard's existing property.

R. Frazier responds when they first came in and had an information session with this Board, they also went to the ConCom for the restriction area. They considered all the area to be 100% impervious. Parcel B was considered in the calculation of 51% off site. They considered it totally impervious. As a result of this Board, the driveway moved 8' and then 16'. They didn't include the existing bike shop for the 51% but they did include it for drainage.

EM understands they looked at the total rather than by the property line. RL, EM and WW have no problem with it.

J. Hannert notes the Bellingham Fire Dept. requested a hydrant on the site which is shown on the plans as requested. She spoke with Sgt. Haughey who told her verbally he had no problem.

P. Herr refers to issues relative to transfers, conveyances and easements which are not easy but were resolved yesterday. The setback is critical. There is concern about the way the driveway works now with a squiggle and the Board can't act on this until it is resolved.

AM calls for questions from the audience.

Andy May, Farm Street, asks if there is a way the restaurant can be permitted so as not to allow take out service.

P. Herr replies affirmatively. The volume of traffic is substantially higher with a drive through. The traffic will add 10% to the turnover. It may make sense to have a trip generation. There is concern about people hanging a right turn. There will be a right in and right out off Hartford Avenue. No drive through can be made a condition of approval.

A. May was referring to pizza/Chinese restaurant take out.

WW responds that every restaurant has that. It would be impossible to restrict.

EM moves to continue Fafard Restaurant WRD special permit and DPR to March 27, 1997 at 8:15 p.m. PC seconds. Unanimous vote of 5.

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P. Herr refers to 2 rather than 3 freestanding signs.

J. Hannert presents extension for the Charles River Restaurant to April 24, 1997 which is approved by a WW motion and second by PC. Vote of 3 (AM, PC and WW).

### **CHARLES RIVER CENTER DECISIONS**

Andrew Zelmeyer, Esquire, Goulston & Storrs, explains that most of the points P. Herr raised have been incorporated into the decision. The alignment of the driveways design is now in sync. The right of way line was included for an additional 5' along the curbing. They have revised the Guerriere & Halnon plan.

P. Herr states the curb line as proposed on Hartford Avenue will coincide with the edge.

AM asks if the revised plan has been distributed.

A. Zelmeyer replies negatively. It is new today and is part of the exhibit with Fafard.

P. Herr believes they need an additional taking on the north side of Hartford Avenue.

A. Zelmeyer states that is incorporated into the decision. They are negotiating with the entities who own Stallbrook.

P. Herr doesn't think it is a problem. They listed all the pieces which need to get conveyed to make the road work. The conveyances need to take place before occupancy. The decision specifies the pieces so they don't get to use the facility until it is taken care of which they are aware of.

AM states that Town Counsel read the decision and went through the minor issues.

P. Herr identifies the 3 decisions - Water Resource District, Major Commercial Complex and Development Plan Review. WRD has no new substance. He has a clean decision on letterhead if the Board is ready to act. The MCC has been changed in a number of ways none of which are major issues. The organization and language make it clearer. He refers to Item C (2) regarding what substantially conforming means. They won't need to come back for a tiny increase. It is the Planning Board's determination if it is outside of the permissible building lines. The DP approval has almost the same language except for the restaurant. It is clear it may not be exact as the drawing when it is built so it is not necessary to go through the process unless they add. #3 of the MCC decision says they can't convey to someone else.

A. Zelmeyer asks about #2 which says "so long as buildings remain wholly within the Permissible Building Lines..."

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P. Herr explains that refers to changing the drainage in a significant way to alter the flow on someone else's land.

A. Zelmeyer is concerned the building will change within the permissible building lot. How will they know if the Planning Board determines it didn't significantly impact off site interests. The determination of off site improvements language doesn't permit them to make the determination because it is the Planning Board's decision.

P. Herr explains by example. If the movie theater becomes Foxwoods, the parking demands will be coincidental with the restaurant development which may impact off site improvements.

A. Zelmeyer read it as not applying to use but square footage. If the determination of permissible building line wouldn't significantly impact off site interests as determined by the Planning Board then it is okay.

RL and P. Herr both respond no.

P. Herr refers to #5 which is all implicit in the drawings. A- D are verbatim. E has new language from D and F which makes it clear the town is responsible for the regulatory and permit gathering procedures. D. Fraine thought it was the right thing to do and the DPW and P. Herr are okay with it.

EM asks if the off site improvements will be done before occupancy.

P. Herr replies affirmatively. It will be substantially completed.

WW asks who determines substantially.

P. Herr replies it is the Building Inspector. Section 5.4 was not in the earlier version of the decision but is a recommendation by Barry Pell, Rizzo Associates, town's traffic consultant. The rest is the same other than mechanics.

A. Zelmeyer refers to Item 5.1. They have a new Guerriere & Halnon plan which widens parcel D and creates parcel F. The plan presented tonight is not included in the reference list of documents. He is not in disagreement.

P. Herr can reference Parcel F and look at tomorrow.

EM thinks maybe everyone needs time to study this further.

P. Herr points out they can't bring drawings to a meeting and expect the decision to reflect those drawings.

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FEBRUARY 20, 1997

R. Frazier believes P. Herr did an incredible job putting together this decision in the time frame. There is a lot of confusion about tying the plan in. He doesn't think there is anything that is great significant to delay the decision.

P. Herr notes there are a lot of mechanical changes to the DP approval. Under decision #3, it deals with the sign on the Fafard property. They may use a common sign for the two premises. The question is the legality of the existing Fafard sign since it doesn't relate to the premises it is on. It is an existing nonconforming structure. He hopes they can work it out so it is aesthetically pleasing. Item C(5) deals with permissible building lines. Item (6) refers to complicated conveyances which arrangements are satisfactory to Town Counsel.

A. Zelmeyer refers to page 2 of 6 which refers to Section 3320 which should say 3312.

P. Herr states 3320 is the schedule of requirements and 3312 authorizes the Planning Board to make the reduction.

A. Zelmeyer refers 3312 which is the Board's finding that the reduction is adequate, but here it says "likely to be adequate." Is it the Board's determination that the smaller number is adequate instead of likely? He is worried about appeal.

P. Herr explains the Board is making the determination it is okay and likely to be adequate. The worse that can happen is it will be referred back to the Planning Board. The drawings were not circulated to other town officials and the draft decisions were only seen by the Planning Board and Town Counsel. He didn't send to anyone else but doesn't think it is anything substantial. The issues from Fafard's property have gotten good communication. Mass. Highway came up with a number imbedded in the drawing.

WW asks if the proposed cinema and other buildings change do they have to come back here?

P. Herr responds yes, the reason is the traffic and the way it is peaked.

WW asks the status of the Gibbs Gas Station at Home Depot.

R. Frazier is working with Gibbs on that. It was hung up in court with the existing owner. They are trying to work out the transfer of land so it can come forward.

EM moves to close the Charles River Center WRD special permit. RL seconds. Unanimous vote of 5.

EM moves to approve the WRD special permit. P. Herr has the final decision as reviewed by Town Counsel. RL seconds. Unanimous vote of 5.

## **MINUTES OF PLANNING BOARD MEETING**

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EM moves to close the Charles River Center MCC special permit. WW seconds. Unanimous vote of 5.

EM moves to grant the MCC special permit. PC seconds. Unanimous vote of 5.

EM moves to close the Charles River Center DPR approval. RL seconds. Unanimous vote of 5.

WW moves to approve the DP approval. EM seconds. Unanimous vote of 5.

### **GENERAL BUSINESS**

P. Herr reviewed the Annual Water Quality Report from Intercontinental Northeast Energy. At Page 11, 5.2 under conclusions and recommendations it states neither surface or groundwater impacted so they recommend the 1997 sampling be eliminated or reduced. He suggests Clerk find the special permit and look at the language regarding the monitoring and send him a copy. The Board will make a recommendation and send it to the Conservation Commission for their determination.

P. Herr received a phone call from Mr. Broidy (Old Colonial Place applicant) after the last meeting.

AM confirmed with L. Ambler, Building Inspector and P. Herr regarding the Section of the Mass. General Laws regarding the statute of limitations. The right to talk about the violations is over. Relative to the building, they only have to show the existing screening, existing building. It doesn't matter if it is right or wrong since the time has passed.

WW asks if that is the case, why did the town sue T. Clark over Mechanic Street.

AM believes it was within the 6 years.

P. Herr agrees it was timely.

EM explains there was an 81-P which changed the lot line to make it conform. The burden of screening should be on the business and not the resident. It was screened through agreement. Increasing a nonconformity is against the Bylaw.

RL asked if this should be treated as a new development and P. Herr responded yes.

P. Herr refers to Section 3500, 3540 additional screening of outdoor service area and reads 3510. The Board should seek an opinion from Town Counsel to see if they have the authority to require screening under Sections 3500 - 3510. Clerk to send a letter asking him if the Board has the authority to require the screening in light of the reorganization of the parking and adding a

## MINUTES OF PLANNING BOARD MEETING

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building - if it is permissible to require screening to the back side of the building. He should also be sent the plan for reference.

P. Herr explains the Master Plan has a number of zoning amendments for the Annual Town Meeting which will be referred to the Planning Board to hold hearings.

RL thought the Planning Board would be cosponsoring certain ones.

P. Herr identifies considerations before the Board: Changing fees doesn't need to go to the Town Meeting. Issues relative to street access, more frontage and bigger lots is not ready for Town Meeting consideration. The Rivers Act where all areas are subject to the Wetlands Protection Act including all land within the 200' of a river. All land must be included in the Rivers Act jurisdiction not just the lot area but stream and brook too.

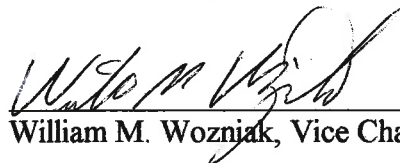
RL thinks that will leave a lot of area unbuildable.

Members sign Clerk's pay voucher and invoices for P.O. Box fee and P. Herr printing of Subdivision Rules and Regulations.

Meeting adjourned at 11:35 p.m.



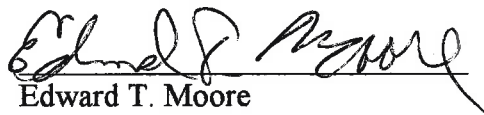
Anne M. Morse, Chairman



William M. Wozniak, Vice Chairman



Roland R. LaPrade



Edward T. Moore



Paul Chupa