

**BELLINGHAM PLANNING BOARD**

**P.O. BOX 43**

**BELLINGHAM, MASSACHUSETTS 02019**

**ANNE M. MORSE, CHAIRMAN  
WILLIAM M. WOZNIAK, VICE CHAIRMAN  
ROLAND R. LAPRADE  
EDWARD T. MOORE  
PAUL CHUPA**

**MINUTES OF REGULAR MEETING**

**APRIL 10, 1997**

Meeting commenced at 7:04 p.m. All members were present. Associate Member Richard Dill was also present.

**81-P SUBMISSION**

Albert Florentz, engineer, submits a Form A, 81-P for 10 80,000 square foot lots on North Street. In response to AM's question about the frontage, he replies it is over 200'.

EM moves to approve the 81-P for 10 lots on North Street. PC seconds. Vote of 4 (AM, WW, EM and PC). RL not present for vote.

Members sign plan and Mr. Florentz submits \$10.00 fee for each of the 10 lots. RL joins meeting at 7:06 p.m.

**RIVERVIEW PARK PHASE V DEFINITIVE SUBDIVISION  
CONTINUED PUBLIC HEARING**

Clerk received letter from Mr. Richard Hill requesting a continuance to September 11, 1997. PC moves to continue to September 11, 1997 with approval for an extension to September 25, 1997. EM seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

**DEER RUN DEFINITIVE SUBDIVISION PERFORMANCE BOND SUBMISSION**

Erik Anderberg, Esquire, attorney for applicant, Tim Jones, explains there are 4 methods of bonding. Per Section 81(u), they are submitting a tri party agreement with Ben Franklin. He

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explains the developer has a money loan for \$1,335,000 with the bank and there is money in the loan. When all the work is done, the money will be released. It is different than a letter of credit. The bank loan is in place and when the work is done it will get funded and will be covered by the mortgage. This method of bonding is authorized by the statute. This is not a letter of credit which is accepted by Planning Board discretion. The Board doesn't have discretion for this method which is #4.

AM spoke with Lee Ambler who said he didn't recommend it.

E. Anderberg spoke with L. Ambler also and agrees he said he didn't recommend it but it was up to the Board.

AM wants to send it back to Lee Ambler for his decision.

EM doesn't think it is fair since they are asking the Board to make a judgment over one bank or another.

T. Jones knows that if it goes back to Lee Ambler it will come back as a no. He was told he could do a tri party agreement at first. He will go with a passbook if he has to.

EM asks how much of the road he is bonding.

T. Jones replies it is 850' and he is bonding the whole road.

AM reads letter from DPW Director Donald DiMartino dated March 31, 1997 suggesting a bond of \$152,500 but the work does not include any work beyond Station 8+50. The estimated additional costs after this phase is \$45,000. He leaves it to the Board to determine whether this amount should be added to the guaranty.

T. Jones can't bond the turnaround until the traffic studies are done. He will bond the water main as he goes along. The \$45,000 is for phase 3. He did bond \$1,000 for the gate.

RL states that if the project ends at 850', it will cost \$197,500 to do the cul de sac and loop the water.

E. Anderberg explains the passbook has not been established and will be given to the Town Treasurer when it is done.

EM moves to sign the Deer Run lot release for lots 1, 2, 3, 4, 5, 6, 33, 34, 35, 36, and 37 and accept bond amount of \$152,500 but the lot release will not be given to the developer until the money comes forward and the passbook is established. RL seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC). Clerk to hold signed lot release until the passbook has been presented.

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Richard Dill joins the meeting at 7:30 p.m.

### **WESTON ESTATES PRELIMINARY SUBDIVISION**

AM abstains from the discussion and removes herself from the hearing room.

WW opens the preliminary subdivision.

Bruce Lord, Esquire, introduces Chuck Marno and Brad ?. They are proposing a road off S. Main St. and Indian Run Drive for a 20,000 square foot clustered lot. The largest lot is 81,000 square feet. All the green is open space except the one buildable lot.

EM asks who will own the open space. Why don't they connect the roads?

B. Lord replies it will either be deeded to the association or the town. They won't connect the roads since there will be less impact to the wetlands.

PC notes there are 16 lots with only one means of egress.

B. Lord realizes it requires a waiver. The Safety Officer said there is 400' in both directions.

RL asks why the 2 cul de sacs are better.

B. Lord responds it is for the preservation of the wetlands and open space.

EM asks why they don't connect to Pheasant Hill. Is the water loop shown?

B. Lord replies there is no way through there. They are looping to S. Main St. through the subdivision and out through Indian Run Road.

EM indicates there are benefits to the town to have a 3 way water loop.

WW reads memo from P. Herr, dated April 10, 1997 explaining the proposal is for a cluster development with 20,000 square foot lots which requires documentation that Title V can be met on those lots which raises a real concern. He questions if there is such documentation and if it limits the dwelling size. The noted calculations justify 24 lots but the drawings show 26 lots. Because of the number and size of the lots, an environmental analysis of this development might be justified. The submitted materials were hard to read because of their 1"=80" scale so the Board may not want to waive its requirement of 1"=40" scale.

B. Lord responds they don't need an answer relative to Title V at this stage. They expect to be able to deal with Title V when they get there. They can do a 40" scale but it would mean an

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expansion 2 ½ times the size and would go onto two sheets. The size of the dwellings will be provided at the definitive stage. They will make sure it fits until Title V. They will show 24 lots at the final. He questions their ability to cross the wetlands if the Board wants the two cul de sacs tied together.

WW asks about the environmental analysis being done.

EM refers to the choice the Board is being asked to make and would like to ask the ConCom's opinion since it involves wetlands. One is for a through street and the other two cul de sacs, one of which would require a waiver for houses.

B. Lord would be glad to go to the Conservation Commission and show them the plans. The most they can get is 14 instead of 16 on one cul de sac and the other cul de sac would have 10.

PC asks if they will have any retention or detention ponds.

B. Lord responds they haven't gotten to the drainage yet. They are looking at using underground drainage but there was a ruling by DEP relative to problems with underground drainage so they are rethinking their approvals. They have to find out what the new ruling is regarding the stormwater management policy.

RL suggests the cul de sac go to the property line since it may be possible to connect to Pheasant Run some day. It should be done originally.

WW questions the wetland crossing size.

Brad ? responds it is 2500 square feet. There are over 5,000 square feet of wetlands which would be impacted with connecting the roads and would involve 4 wetlands crossing. The other alternative would impact 1 - 2 crossings but they would be crossing at the narrowest point in the wetlands.

RL indicates that the road is required to go across the narrow part.

Brad states they are meeting the minimum radius requirement.

WW suggests they line the road up with the other cul de sac and talk to the neighbors about trading off land so they can connect.

PC notes that sometimes people don't want to have cars going through their neighborhood. There is a benefit to looping the water.

B. Lord states they are looking into using a town easement because of the detention.

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Brad has no doubt that the ConCom would rather have the other plan with 2 cul de sacs. There would be 9,000 square foot more disturbance.

EM realizes this is a difficult piece of land and that is why it was never developed.

RL thinks it would be better off as a through street. The Board should hear from the Fire Dept., DPW, ConCom and Safety Officer relative to the two proposals.

WW asks if the land has perced yet.

Brad responds that 2/3s of it has perked. They will complete the perc testing before they go to the ConCom.

Clerk to send letters to Fire Dept., DPW, ConCom and Safety Officer and B. Lord to provide plans for their review. Letter to explain two alternatives presented one of which requires waivers and ask what the benefit to the town would be to waive that.

Ed Claire, abutter, owns the large lot by the pipeline and introduces Mr. Reger who owns the lot in the middle and Mr. Shartran. He understands that the lots perced but it didn't perc in the mid 80's. He questions the proposed entranced by the front part of 126 by Charlie's which is a heavy deep swamp and is very mushy in the back. Mr. Reger has his pump going all the time because the land slopes down.

EM asks if it is flagged and RL asks when it was perced.

Brad responds yes to the first question and it perced in the fall of '96. They spent 7 days and dug more holes than in the 80's.

Richard Reger, 806 S. Main Street owns the middle lot at the boundary line from the first line and his lot. His pump is always running when it rains. When it rains the property is like a river. They can't get a 4 wheel drive to go in there. The day they were doing the perc test, he spoke to the guy who was doing them who said they were having a hard time getting it to perc. He is concerned he may be swimming in his living room.

B. Lord explains the drainage calculations will show the drainage area and he is sure the Board will send them along to a consultant to review.

E. Claire doesn't know where they will drain to.

EM asks about the number of drainage ponds.

Brad responds they will have about two and release back into the wetlands.

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Paul Saufin asks how the area will hold the road since the lower section of the land is all wet.

E. Claire urges the Board to go out and take a look at the property.

Mr. Reger notes that the drainage now goes into where the road will be.

BL states they will deal with the drainage problems. They can't increase the runoff to the abutting properties.

Brad will comply with the DEP stormwater management process.

EM explains this is a preliminary. The definitive is the real plan. He moves to continue to April 24, 1997 at 9:15 p.m. RL seconds. Vote of 4 (WW, RL, EM and PC). AM not present and abstains.

### **MASTER PLAN TOWN MEETING ARTICLES PUBLIC HEARING** **FAMILY APARTMENT AND CONGREGATE HOUSING/ASSISTED LIVING**

AM rejoins the public hearing. EM moves to waive the reading of the ad. PC seconds. Unanimous vote of 5.

Guy Fleurette, Chairman of the Master Plan Steering Committee, introduces members of the Committee including Tom Burkholder, Sara Pultz, Bruce Lord and RL. He explains the Steering Committee's background including a workshop held June 1996 calling for more variable types of housing for the elderly which they have tried to address in particular. People are moving out of the community because of the lack of alternative housing. Only 18% end up in nursing homes.

EM asks who is doing the assisting with assisted living.

G. Fleurette responds there would be in house staff or the VNA. The VNA provides it to private dwellings. Shrewsbury and Westboro have Assisted Living. He heard an ad on the radio about one being developed in Concord by Walden Pond. New England Deaconess Hospital give people the option of going to public housing. It is meant to fulfill certain gaps. They originally separated assisted living and congregate housing.

Bruce Lord, Esquire, explains the congregate housing concept is for private housing for the elderly which would provide care and assistance. It is not public housing but private developer housing for which community and state funding is not available to do.

EM refers to housing on Mechanic Street and AM states they have the same thing on Center Street.

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B. Lord further explains this is for 55 years or older.

G. Fleurette notes there are group homes which serve a fixed population for certain disabilities which bypass local zoning laws. These are state supported programs from one agency or another for people of all ages who are all disabled. The type of disability determines the type of group home. We need to differentiate the type of housing. These programs provide around the clock staffing and serve certain needs. They are called group homes or community residences. This serves a different niche.

B. Lord indicates this proposal comes under the local zoning and provides an age limitation for both congregate and assisted living. This would be a residence for elderly people and will not become a boarding house. 20% of the floor area over and above would have common facilities usable by all the people. Section 4400 of the Bylaws refers to multifamily housing and condos which are thrown together. 4400 would divide congregate/multifamily and townhouses and puts it in a form which is more readable.

EM thinks it sounds like a commune.

B. Lord responds it is not intended for single family dwellings.

WW believes there is an existing building in Holliston where they are doing this. Can they do this now without this Bylaw? Is there a need?

G. Fleurette responds they can't without going to the ZBA. This is a new market they are responding to. There is a need. A number of people wind up alone. This fits the age bracket for the people who are not comfortable living alone and want to live with other people around them. This is less expensive than full housing and could be less than apartment living. The people could have health problems and this would be the type of housing where there are people around them and they would share common space. A lot of people in this community would benefit from this type of housing. It can't be so expensive that it would out price the community because it wouldn't work.

EM believes he just described Hopedale Gardens.

G. Fleurette explains Hopedale Gardens has no private living quarters and there can't be. The clients are observed 24 hours a day.

PC understands this is a complex for elderly people to go to.

B. Lord notes they could also own a portion of it.

G. Fleurette states that it depends on how it is structured. There could be a fee arrangement with

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a bathroom attached, community room and common entertainment and library could be provided all managed by a developer.

EM still thinks it sounds like a boarding house.

G. Fleurette disagrees. The only area that it fits is the people are not related.

PC has a friend in Pascoag who lives in a place like this and has a little apartment.

B. Lord points out they would have a ½ parking space for every bedroom. The definition of assisted elderly living is put out by the state. For congregate, they would have 2 parking spaces for 4 bedrooms.

EM thinks they may need more parking. He asks about the difference between Depot Court and Wrentham Manor and this. That is public and the cost is controlled and this would be private.

AM believes the parking issue is very important.

B. Lord indicates the parking requirement is the same as what we have for single family housing per bedroom.

AM thinks they should have one space per bedroom. Depot Court and Wrentham Manor don't have enough parking. There is the potential for a major hassle down the line.

G. Fleurette is asking for guidance.

RL explains that part of the Master Plan is to service the needs for all kinds of living arrangements.

G. Fleurette refers to a couple in Blackstone who has a house for people who have certain needs and can no longer live on their own. There can be situations.

AM states that L. Ambler said the majority would be 55 years old but they could be less than 55.

G. Fleurette indicates it depends on whose definition they are following.

Sara Pultz, Master Plan Steering Committee Member, advises the definition of congregate housing is at 55.

AM refers to L. Ambler's comment that a 14 year old could live there. The housing could be placed in Wethersfield if someone buys up the houses.



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Gerry Finch, Farm Street, believes that by declaring it to be private, they would be exempting it from public laws. It would open Pandora's box for the developers.

EM is trying to figure out how it would help the town.

G. Fleurette notes that most nursing homes are private and for profit.

B. Lord indicates that the developer would have to come in and make a presentation just like everyone else. It would require a 25% increase in lot area for every bedroom added and an extra 10,000 square feet for every bedroom added.

AM could do this in her house. She could have 6 people with 12 cars since she has 2.5 acres.

G. Fleurette points out they would have 20% common space.

B. Lord indicates one would have to prove it is in the town's best interest. There are many things to consider.

AM calls for questions from the audience.

RL moves to approve and close the hearing but since Board members are not ready to act he withdraws his motion. He moves to continue to April 24, 1997 at 9:30 p.m.

B. Lord states that the Family Apartment article was written by him with L. Ambler's input. The town needs an in-law apartment/family apartment bylaw. There is a 5 year limitation which can be renewed and would require Planning Board approval. There are specific guidelines. It is a very limited Bylaw and only for an in-law relative. L. Ambler was concerned that the principle owner should occupy the main space instead of the apartment space. A lot of elderly people want older children to live with them and live in the main space.

AM asks who will police that.

B. Lord believes the key would be to limit it by special permit which would be renewed every 5 years. The special permit would be required to be recorded.

WW asks if he builds his father an apartment over his garage, is he supposed to leave it vacant after his father dies?

B. Lord responds that as soon as the person dies it can't be rented as a separate apartment. He can use it as part of his house.

EM moves to continue Family Apartment Article to April 24, 1997 at 9:30 p.m. RL seconds.

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Unanimous vote of 5.

### **HIXON FARM ESTATES LOT 10 RELEASE**

Bill Eagon is here for the release of lot 10. They connected the water.

AM reads DPW letter agreeing that the water connection has taken place.

EM moves to release lot 10 for Hixon Farm Estates. PC seconds. Unanimous vote of 5.

### **DISCUSSION WITH CHRIS DEMOGENES RE: 20 ACRES FARM STREET**

Chris Demogenes has seen nice congregate housing at Fox Hill and Summer Place. Michael Cronin and he bought a parcel of land off 495, one end of which abuts WalMart and the other end at Old Farm Road.

EM notes that Town Meeting gave the road to Jaco to use.

C. Demogenes states that according to the town's engineer office, it is a road. It might be premature to discuss the plans because of the rezoning. They are looking at the environmental and think that probably it would be better with a small residential community but they don't have the zoning to do that.

M. Cronin indicates it is a residential neighborhood. The property fronts Old Farm Street and Wal Mart which is heavy commercial. They have plans in progress to look at rezoning the area in September 1997. They are asking for a sense from the Board.

EM believes the quickest and fastest way to develop it would be residential but they could leave it industrial for future use. It was rezoned in the 80's.

M. Cronin believes the access there now is adequate. He talked with P. Herr who told them to take a look at Silver Heights which is still premature since they need residential zoning.

RL notes the Master Plan Committee wants to do away with residential zoning.

Tim Stanhope owns the property next door and wants to rezone from industrial to agricultural.

RL indicates that residential is out of the question but they may be able to do suburban.

AM points out the Planning Board only recommends rezoning to the Town Meeting. Only Town Meeting can rezone property.

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T. Stanhope notes that his neighbors want to rezone too.

AM reads memo from P. Herr which states that it would be spot zoning and we do not want to do spot zoning. The Board may want to consider rezoning more parcels at some time in the future.

M. Cronin agrees it should fit what is there.

RL would fight it and suggests leaving it industrial.

C. Demogenes was thinking about multifamily. He built the largest one in Chelmsford at 256 units.

PC points out that none have been finished here.

C. Demogenes believes that residential could be best served.

EM thinks it would be more consistent to make it agricultural.

Jerry Finch advises that Farm Street is a scenic road. Since Wal Mart and the traffic lights were put in traffic has gone up because people use it as a cut through. Agricultural is 80,000 square feet so no one would have a problem with it. Anything else will exacerbate the situation.

EM suggests they could leave it industrial. He suggests Mr. Stanhope regroup with his neighbors and get together to rezone to agricultural right across. They don't have to own the land to rezone it.

M. Cronin states it was his understanding the Master Plan was looking at rezoning.

RL was the Chairman of the Economic Development Task Force which recommended rezoning.

EM advises the problem for industrial is they can't get in there.

M. Cronin doesn't think agricultural makes sense in an area where they already have acre homes.

### **FARM STREET REZONING**

PC waives the reading of the legal ad. WW seconds. Unanimous vote of 5.

T. Stanhope wants to rezone his land to agricultural which is industrial now.

EM asks how long Mr. Stanhope's house was there.

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T. Stanhope responds since 1989. He is the second owner of the house. He can't remortgage or refinance and has to pay mortgage insurance which cost more. His neighbors want to rezone their lots and don't want industrial either.

EM suggests he could come in and rezone his neighbors land. Rezoning the lot Mr. Stanhope is on won't keep business out.

RL advises that since he won't have 2 acres, he still won't be conforming.

EM thinks it is probably a pre-existing nonconforming lot.

WW asks the size of the neighbors lots.

T. Stanhope responds they are about the same size.

EM believes it is a nonconforming use. It is zoned industrial but used residential. He believes that Mr. Stanhope has a variance.

RL points out that if they go through with the rezoning and lose, he can't resubmit for 2 years.

Mrs. Stanhope is concerned about commercial building.

T. Stanhope requests to withdraw without prejudice his rezoning petition for Farm Street. EM moves to accept the withdrawal without prejudice. RL seconds. Unanimous vote of 5. Clerk to notify Town Clerk about the withdrawal.

EM suggests that now may be the time to discuss this in the Master Plan. RL invites the Stanhopes to the Master Plan Meetings.

### **CHARLES RIVER CENTER**

Board received a memo from P. Herr stating that he did not receive the revised plan.

Lou Masiello, Sumner Schein, thought P. Herr received the Plan. They shifted the theater building and replaced the front walk which was a determination made by the Board at the last meeting. They are within the permissible building lines. This was handled without amending the special permit but the location of the parking spaces was not acceptable. They found other spaces and now there are more striped spaces which are highlighted in red. They did away with the green islands but gained green space overall since in the previous calculation they didn't know how much green they would have all around. Hoyts has designated green and planters so they gained 4,000 square feet of landscaping.

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Members agree to sign all plans except the revised parking plan which will be given to Clerk for the Board to review with P. Herr at the next meeting.

### **MAPLEBROOK COMMONS CONDOMINIUM MULTIFAMILY SPECIAL PERMIT, CLUSTER SPECIAL PERMIT AND DEFINITIVE SUBDIVISION PUBLIC HEARINGS**

EM abstains and removes himself from the public hearing.

PC reads letter from L. Ambler, Town Counsel, dated April 10, 1997 wherein he states that the issues presented are extremely complex and the file is incomplete with regard to the resolution of issues and as a result, more time would be needed to answer each and every question independently. It is with some assurance, however, that he can state that the Board should have no authority to eliminate a second means of egress by closing the same. There are certain rights of each property owner and mortgagee of each unit within the condominium project relative to the condominium common areas. The roadway would constitute a common area, and should not be altered without the unanimous consent of all parties in interest. All of this would be aside from the generalized wisdom of the town to closing the road in the first instance, if that is the intent of the Board or the intent of the application. The issues with regard to private roads, as far as the Board is concerned, can only constitute a recommendation in that there would still be the need for the Town of Bellingham to make determinations through its Board of Selectmen as to common necessity, and thereafter the Town Meeting vote to determine whether or not they wish to name the area as a public way. He regrets the inability to be totally responsive to the entire process which is the changing of names without evidence of the consent of the principals, the modification of special permits and its rights without notification to the condominium property owners, the reduction of the number of condominium units which alters the percentage of ownership of each and every other condominium owner, and the modification of the change of name without some evidence as to the acceptance of previously existing responsibilities.

Bruce Lord, Esquire, for the applicant, asks the Board to send a letter to Lee Ambler giving him permission to discuss this in detail so he can show L. Ambler to documents.

RL moves to send a letter to L. Ambler requesting he talk with Attorney Lord directly. PC seconds. Unanimous vote of 5.

WW reads P. Herr's memo dated April 10, 1997 wherein he states that at the March 27, 1997 meeting, he requested a clearer outline of the zoning compliance of the various elements of this proposal than those originally provided, which were and remain difficult to follow, at best. He has not received any further information since then. He notes the following: The (unnumbered) third page of the "History" subsection of the undated Birchwood Grove narrative submittal notes that the proposal is to "remove approximately 51.6 acres from the amended Townhouse development." He cannot corroborate that number from the Guerriere & Halnon drawings. Neither can he corroborate the 946,948 square feet allocated for this use per the first page under

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"Density", the G&H figure for any combination of parcels being different. On the second page of that Section, reference is made to "Proposed Briarwood Grove" and 948,948 square feet. He knows of no "Briarwood Grove". If the historical figures on that page are accurate, either error or chicanery has occurred, since the zoning in effect when this project was authorized required 7,000 square feet per bedroom, not as little as 3,687 square feet, as reported here. To avoid repetition of error, it seems reasonable to again ask for clearer and more consistent materials and time to review them before decisions are made. He passed along to G&H a list of mechanical concerns with the Definitive Plan.

B. Lord refers to 7,000 square feet density of dry land. The total area is 94 acres. The original proposal was for 250 townhouses with 10% 3 bedroom and 90% 2 bedroom for a total actual proposed bedrooms at 525. Total buildout density in 1984 was 8,166 for 98 acres. Today the actual is 94 acres at 7,800. Briarwood Grove has 86 bedrooms at 11,034 density. They want to bring the actual development in compliance with the current Bylaw which will equal 11,376. He will send this information to P. Herr for the next meeting.

WW asks where P. Herr got 3,687 density per bedroom.

Don Nielson, Guerriere & Halnon, used surveys for the phases.

B. Lord is not saying it is wrong, just under a different Bylaw. There are 3 phases here. Is the Board in favor of the amendment which is a reasonable proposal?

AM is not saying until she receives additional information from Town Counsel.

RL doesn't think there are many issues.

Ted Clorin, 2802 Maplebrook Trustee, refers to AM's demeanor of cutting off every proposal and referring to Town Counsel. Their association and the other association mutually agreed to eliminate the gate.

RL moves to continue to May 8, 1997 at 8:30 p.m. PC seconds. Unanimous vote of 5 (AM, WW, RL, PC and R. Dill).

B. Lord requests permission to go through the Lakewood Development files and make copies. Board members advise him to coordinate with Clerk.

### **OLD COLONIAL PLACE CONTINUED DEVELOPMENT PLAN REVIEW**

Per request of Mr. Broidy, applicant, RL moves to continue to April 24, 1997 at 7:00 p.m. PC seconds. Unanimous vote of 4 (AM, WW, RL, PC).

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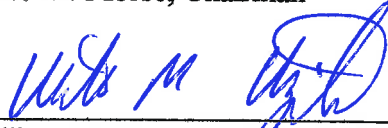
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RL moves to accept the March 13, 1997 minutes. WW seconds. Vote of 4.

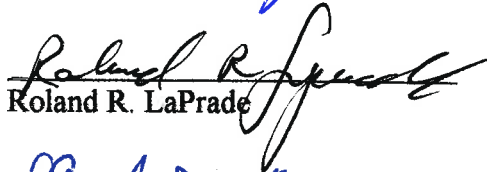
Meeting adjourned at 11:21 p.m.



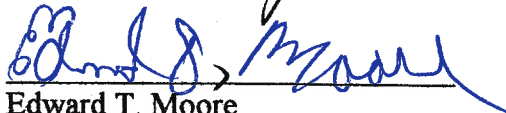
Anne M. Morse, Chairman



William M. Wozniak, Vice Chairman



Roland R. LaPrade



Edward T. Moore



Paul Chupa