

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 24, 1997

Meeting commenced at 7:12 p.m. All members except AM were present. Vice Chairman WW acted as Chairman in AM's absence. Planning Board Consultant Philip B. Herr was also present.

OLD COLONIAL PLACE CONTINUED DEVELOPMENT PLAN REVIEW

Edward Broidy, applicant, explains the last time they were here he agreed with Attorney Bruce Lord to provide insurance to protect his property. The Board also requested that he show where the fence is on the plan and that is done. He presents the plan and points out where they extended the fence existing to David Road. He also agreed to put all the fencing in and will provide the insurance. He spoke with Lee Ambler and provided him with a copy of the agreement.

EM believes it is a civil legal matter between Mr. Broidy and Mr. Lord. The fence is on Mr. Lord's land. There should be a note on the plan that the fence will be there. Is there any notation to the fence?

B. Lord explains that the agreement will be recorded so anyone can look it up when they look up the deed and find it. There is only a remaining discussion relative to the indemnity clause.

P. Herr asks if the revised plan reflects a fence on the property.

E. Broidy responds affirmatively.

EM refers to the notation revised April 17, 1997.

P. Herr doesn't believe there are any issues. He calls the Board's attention to the sheet numbers and the curbing.

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E. Broidy notes the state said what they wanted. His engineer spoke with the state who said it was their intention to go ahead and make improvements to the road.

EM moves to approve the Development Plan as shown with the fence subject to the legal agreement between Mr. Broidy and Mr. Lord which is to be recorded with the plan relative to the 2 abutting properties which Town Counsel must say is okay.

E. Broidy explains that Mr. Lord wants additional information put on the agreement. He did what the Board asked him to but today received a phone call from Mr. Lord who wanted more. The insurance company gave him everything he needs to protect Mr. Lord's property.

EM points out this is an enforceable agreement only when it is signed by both parties and when Lee Ambler reviews it and says it works. The agreement must be worked out between them or the fence must be changed.

PC seconds EM's motion of approval. Vote of 3 (WW, EM and PC). Clerk to note in letter of approval to the Building Inspector there are 5 pages on the plan and the date of plan should also be noted.

RL joins the meeting at 7:23 p.m.

NORTH STREET REZONING PETITION PUBLIC HEARING

Bruce Lord, Esquire, representing owners of the North Street parcel, explains this is a 17 acre property which is long, narrow and is mostly frontage and is about 250' in depth. It is zoned agricultural and was turned down last year to rezone to residential. The owners will gain 14 lots which will allow them to properly utilize their property because of the narrowness of it.

WW explains the hearing procedure and will call for questions from the audience after the Board's questions.

EM asks if the 14 suburban lots would be oversized.

B. Lord responds this is a 17 acre parcel. Some of the lots would be oversized and some would be close.

RL asks about the wetlands.

B. Lord responds that most of it is high and dry. It is low in the front and high in the back but they are reasonably good lots. All 14 lots front North Street. Last year they went to the Town Meeting to go residential. The Planning Board recommended it but felt that it was a reach. This parcel has been in the Thayer family for many years.

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EM believes there are wetlands in the front along the road. The houses would have to be built high up on North Street so it precludes putting a road in.

B. Lord agrees there may be ponding in the front.

WW refers to memo sent from DPW Director Donald DiMartino dated February 24, 1997 relative to drainage problems on this North Street parcel. The best solution would be to connect a catch basin system to the streams and brooks on this parcel. If the property is to be subdivided the town would like to obtain a 20' wide drainage easement to correct the drainage problems. Keep him informed of any actions submitted on this parcel.

B. Lord doesn't think that would be a problem.

Jay Fadden, 131 North Street, is not clear about where the parcel is and asks if it is where the for sale signs are.

P. Herr notes there should be a plan which shows where the parcel is relative to the existing zoning since we can't tell from the drawing. We don't have something which clearly shows the proposal. The Planning Board Regulations require the Board have drawings before the notice of public hearing is published. The Board should get tough on the issue. It would be helpful to have the drawings. He couldn't figure out if the zoning proposed extends an existing zone or is free flowing.

RL indicates there is no suburban anywhere around there but they could extend the residential.

B. Lord states the actual build out is really residential/suburban but there is agricultural all around there. Directly across the street are duplex lots.

P. Herr believes the Board is being asked to single out a piece of land based on property lines. We need good information as to why it is consistent with town policy to change it to spot zoning but it is unfair to ask people to wait around.

J. Fadden lives further up North Street near the beginning of spot zoning. North Street is very windy and cars fly through there. Can sidewalks be put on the street?

PC believes the town is in the process of widening to the Mendon line. The 20' easement may be for sidewalks too.

RL explains the Planning Board makes a recommendation but Town Meeting rezones.

B. Lord notes that the variation between what is proposed and what the rezoning would be is only 4 lots.

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RL moves to continue to May 8, 1997 at 7:30 p.m. PC seconds. Vote of 4 (WW, RL, EM and PC). AM absent.

DEPOT STREET REZONING PETITION

EM moves to waive the reading of the legal ad. RL seconds. Vote of 4.

Harry Martin introduces Peter DeFeo and Nate Hansen and provides aerial photos of the property which is 156 acres bounded by Depot Street and the river. They would like to drop their first request to rezone Depot Street which is Article 18. He requests withdrawal without prejudice of their petition to rezone property on Rose Ave., Judy Lane.

WW explains the proponent is here tonight to rezone their second article which is a 70 acre area west of Depot Street.

H. Martin explains they are buying 156 acres but would like to rezone 70.

EM notes they reduced the area to rezone which was their original proposal.

B. Lord who prepared the articles explains that in order to get the article on the warrant in time, he used the same information which was on a Town Meeting Article 2 years ago. The description indicates 70 acres.

P. Herr asks if the drawing shows what they own. It is the same issue here as the last one. The part they are seeking rezoning for should be on the map.

RL understands they bought all the property but only want to rezone 70 acres.

H. Martin states they are not doing anything across the road.

EM explains the requirements are that they show the surrounding zoning.

P. Herr suggest they make copies of the drawing. He crosses off part of the proposed rezoning on the drawing to show the property. The original request was for the west side, not the east side. He doesn't know what the reduction is.

H. Martin notes they may only use 70 acres and will give the 85 to the Conservation Commission.

WW reads the actual article which does state to rezone 70 acres west of Depot Street.

B. Lord notes the plan is on record as stated in the Town Clerk's Office.

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RL explains this was submitted to the Industrial Development Commission and the other land will be donated to the ConCom.

H. Martin states they are keeping away from the wetlands.

RL notes that is why they are rezoning to create a buffer to the wetlands.

EM suggests they have a plan for the Town Meeting which shows the lot line, zone line, colored in different colors to be very clear.

H. Martin states the property they keep may get smaller if they don't need it all.

WW explains they are changing the zoning to industrial.

P. Herr points out it leaves a 200' buffer to the back lots along Box Pond Road.

WW calls for questions from the audience.

P. Herr further explains that half of the rezoning was proposed 2 years ago by the Planning Board. It was speculative then because there was no interest to develop on the site. It didn't succeed at Town Meeting. Real development proposed for the property strengthens the case for it.

H. Martin probably won't use much over 30 - 35 acres and will turn the rest over to the town at some point but they need to rezone more to be sure.

RL asks why they are rezoning the whole parcel if that is all they'll need.

H. Martin responds they don't know how much they will need right now for parking, etc.

EM moves to close the Depot Street Rezoning public hearing. PC seconds. Vote of 4 to close. AM absent.

RL moves to recommend rezoning Depot Street 70 acres from agricultural to industrial. EM seconds. Unanimous vote of 4 (WW, RL, EM and PC). AM absent. Rose Ave., Judy Lane, Depot Street rezoning withdrawn without prejudice.

CHARLES RIVER RESTAURANT SPECIAL PERMIT AND DEVELOPMENT PLAN REVIEW CONTINUED PUBLIC HEARINGS

Janice Hannert, Fafard representative, notes there are several issues outstanding from the last meeting. They realigned the driveway going into the site. The goose neck was straightened out so a fire truck can get in and they relocated the fire hydrant. They brought the sidewalk out to

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work with the existing sidewalk. There is a sidewalk on the south side of Hartford Avenue from McDonald's to Staples. They looked at it and put in a sidewalk that will work. The crosswalk comes across and they will bring the sidewalk out and will work at getting pedestrian traffic from the site to the existing sidewalks. The Conservation Commission concluded their public hearing last night and unanimously voted to issue an Order of Conditions. The last plans had a particle separator. The ConCom asked them to look at a storm separator to be included on the plans. That was the only change from the other items previously submitted. Another issue was the parking adjacent relative to the setback issue. Per Lee Ambler's determination relative to the setback, they have to go to the ZBA for a variance which they are doing on June 5, 1997.

WW asks how they fixed the goose neck.

J. Hannert responds they slightly reconfigured the parking and were able to pick up additional parking spaces. It allows play for large trucks coming into the site.

WW asks about the minimum for parking.

P. Herr notes they are in compliance with zoning and okay with the parking spaces.

J. Hannert indicates they have 83 parking spaces and they need at least that number. They need the variance setback from the ZBA for the parking spaces.

RL asks the number of spaces they will lose if they don't get the variance.

J. Hannert responds it is 6.

P. Herr explains the restaurant might have to be constrained relative to occupancy. For a 6,000 square foot restaurant, the number of spaces is alright. There are two issues left relative to the left turn and how they deal with the variance.

EM doesn't believe the Board can act on the plan because it doesn't meet the requirements without the variance.

P. Herr believes they can act. There are two issues: One is the special permit for the Water Resource District which the parking configuration has nothing to do with. He drafted a decision if the Board decides to proceed. There is language in the decision which notes the zoning noncompliance. This special permit doesn't cure that. The second is the Development Plan Review. There is no reason why the Board can't approve it subject to a condition that no development take place until there is either compliance or the ZBA grants a variance. The conditional decision benefits the Charles River Center because they need a decision in order to proceed with the transfer of the land. It has to do with the complicated exchanges of land between Varney, Fafard and W/S Development. In order for the Charles River Center to meet the

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tenant stipulations, the Board needs to act.

EM agrees as long as the decisions protect the town. The Board can hold off on endorsing the plan. The problem is with signing the plan.

B. Frazier explains the basis for the Charles River Center to move the driveway over has to do with the agreement with Fafard. He doesn't see a problem with the Board holding off on signing the plan.

J. Hannert understands the approval is subject to the variance.

Clerk reads letter from Deputy Chief Thomas Guerin, dated April 18, 1997 wherein he states that the Fire Dept. has no objection to the plan as revised. The hydrant which was in the parking lot has been moved and is now at the entrance by the sign where they requested it. The traffic divider at the entrance to the Charles River Center and the proposed restaurant has been shortened by 15' and has been replaced by a slightly raised corrugated concrete section. The entrance itself has been changed by removing the area where the dumpster was to be located. Both changes will allow easy access to the restaurant parking lot for large emergency vehicles and still give direction to traffic into the Charles River Center.

Clerk reads letter from DPW Director Donald DiMartino, dated April 23, 1997 wherein he identifies a concern regarding Parcels D and F noted as easements on the plan. He had a discussion with Attorney Ambler and he expressed concern that a lane of a town road would be an easement owned by a private individual. The travel lane, curbing and sidewalk in these easements will be used solely for public vehicle and pedestrian traffic. It appears therefore that the easements should be granted to the town and become part of the road right of way. Parcel D should become town property. He requires that a 3" sewer force main be installed with a straight alignment between clean out manholes. This is instead of the long sweep now shown on the plan. This layout makes pipe location easier and will help to eliminate the risks of future damage to the pipe. The existing 10" and 16" water mains are not properly located on the plan. Records indicate that the two mains are close together in the south gutter of the roadway. The site developer should plan to dig test pits to determine the exact location, and the best way to tap the mains.

J. Hannert indicates the location of the pipes will be done by Dig Safe. Parcels F and D will be given as an easement to the town for road widening so they can't take advantage of the setback. They are willing to give the town the easement for nothing when the rest is in place. It is premature at this point and they would like to retain it until the end.

RL refers to the liability of keeping the easement if anything happens.

J. Hannert is aware of that but at this point they will remain with the easement until the conclusion

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of the variance. Parcel F is owned by Weiner, will be conveyed to them and back to the town. Parcel B is being conveyed.

Robert Frazier states that Parcels D and F are going to Fafard but will ultimately be accepted at Town Meeting by the town. The transfer and driveway will be turned over for signalization.

Steve Choinere asks about D. DiMartino's concern that the water line is in the wrong position.

J. Hannert states the existing 10" and 16" water lines need to be verified since the engineer showed the approximate positions. Dig Safe will do the water lines if they are in a public road and will mark them. There is a tie in. They will make sure they do the test pits and get the exact location.

P. Herr refers to the entrance which is complicated but works better than what they had before. The rumble strip solves the Fire Dept. problem since a fire truck can make the movement. If people go over the rumble they would make an S turn 270 degrees to turn past the right angle.

RL asks why they need the rumble strip.

P. Herr responds it keeps the cars from colliding and going head on.

WW asks why people wouldn't use the other entrance.

P. Herr explains they can't if they are coming from the other direction. Their traffic engineer said this would work and put his stamp on the plan. This is good and they can do it right now without a radical change. The Fafard people want a 6,000 square foot restaurant and the entrance was moved from the last area. They may end up with too much restaurant for that site but it is not unreasonable to approve it.

PC thinks it will be better than a fast food restaurant.

P. Herr agrees they talked about limiting that but that is not in the decision.

J. Hannert explains it is their intention to have a sit down family type restaurant.

P. Herr indicates they didn't provide themselves with flexibility with the design. He thinks it is reasonably secure. If they want to move the restaurant, they would need a new plan. He distributes the draft decision which he prepared and was not sent to Town Counsel. He suggests the Board act on the special permit first. The Water Resource District special permit decision was cloned from the Charles River Center and modified as appropriate for this. At the back he attached 3 pages of the EIR for the Charles River Center for the monitoring issue for which these people must do the same thing as the Charles River Center.

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EM moves to close the Charles River Restaurant WRD special permit public hearing. RL seconds. Vote of 4 (WW, RL, EM and PC). AM absent.

EM moves to grant the Fafard (Charles River) Restaurant special permit for the WRD decision. RL seconds. All conditions and determinations to be the same as with the Charles River Center. Vote of 4 (WW, RL, EM and PC). AM absent.

P. Herr distributes the Development Plan decision which was also cloned from the Charles River Center decision. He refers to page 2, #4, under determination which states they require a setback variance and no building permit issuance without it.

EM moves to close the Fafard Restaurant Development Plan hearing. RL seconds. Vote of 4.

EM moves to approve the Fafard Restaurant Development Plan but the plan will not be endorsed until after the applicant receives a variance from the ZBA. The Board will not stamp the plan and the Building Inspector will not issue a building permit without the stamped plan. RL seconds. Vote of 4.

HERITAGE PINES DEFINITIVE SUBDIVISION CONTINUED PUBLIC HEARING

EM abstains from the public hearing.

Bruce Lord, Esquire, on behalf of applicant, introduces Don Nielson, Guerriere & Halnon and explains that Mr. and Mrs. Wilson own this property and received an approved subdivision in 1968 for 14 lots. This plan changes that with a smaller number of lots on the plan (10 lots) on a cul de sac with suburban or commercial 20,000 square foot zoning. All lots are 40,000 square feet or greater. The sewer line will go to the back of the property and will attach the sewer to the property of the Archdiocese for which they obtained easements. The road which is 780 feet long exits S. Main St. and is a lane with 10 lots. The area in the front at the Bowden and Courtney property is limited by width. The road meets the area requirements but requires a waiver for the slope with concrete walls along the edge since they don't have the area to put slope easements in. Relative to the drainage easement, they will have a detention pond and sediment trap. The property drains from the top down. Detention will be captured and moved away from the front area. They have an easement for the sewerage. The road is crooked at the request of the Conservation Commission to avoid the wetlands. The lots all meet the shape factor. They are large lots which meet the requirements with tremendous open space.

PC suggests the entrance should be whatever the neighbors wanted. He thought they would agree on the slopes.

B. Lord has no input from them. He talked with one side but he didn't seem interested. It would be easier to slope it rather than put up a concrete wall. It doesn't make sense to slope one side

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and not the other.

D. Nielson states that relative to the slope the first 100' of road would have 4' of fill. At 150' there would be 4' to 0 so they could blend with the slope.

RL believes that Mr. Bowden wanted a wall.

PC suggests they talk with the neighbors to keep them happy. What about sewer capacity?

B. Lord responds it has been taken care of with a deposit. All lots will be sewerred.

WW calls for questions from the audience.

Steven Patrick, S. Main Street, states this would be at a 4 way intersection which will increase traffic. People have put in circular driveways so they can pull out. He is concerned about 20 more cars pulling out and the wall which will cause vision problems. The land is full of water. How can the Board allow them to build houses on the lake which is there? At one time it was a cranberry bog.

Clerk reads April 17, 1997 letter from Donald DiMartino, DPW Director with the following comments: RE: Water: 1. The water main should be looped through the proposed sewer easement to connect to the existing dead end at Potter Drive which will eliminate the dead end proposed for this project. 2. A notation referencing the distance to the nearest existing hydrant should appear on the plans. The proposed hydrant at station 4+00 could be relocated to approximately 3+00. This is if the nearest hydrant is within 200 feet of the proposed connection on S. Main St. RE Sewer: 1. The proposed location of sewer wyes and branches should appear on the plans. 2. The proposed 25' wide sewer easement seems extremely narrow where the depth of pipe is over 20' so he recommends a minimum easement width of 30' in the deep excavation areas. 3. The proposed sewer enters into the wet well at the pump station at the wet well's base. This will cause a backup of sewerage into the pipeline as the wet well operates in a holding tank type of mode. His suggestion is that the sewer pipe be raised as much as possible. If the 4' cover requirement cannot be maintained between station 2+30 and 3+40, the pipe could be installed at a shallower depth with special construction used which must include installation of a wide load bearing width of crushed stone bedding which extends to below the frost level and either a concrete cap over the SDR 35 pipe, or replace the SDR 35 pipe with ductile line class 50 between the manholes at station 1+40 and 4+00. RE Drainage: 1. He defers drainage calculation analysis to the Board's consultant. 2. Re: the sedimentation trap noted at the drain pipe discharge, he suggests the proponent submit a maintenance schedule and procedure for cleaning the sedimentation trap along with any detention pond maintenance items. RE Roadway Construction: 1. In the area of the proposed retaining wall, where the sidewalk is installed directly at the back of the proposed curbing, he suggests a cape cod type berm be replaced with a full 6 inch reveal bituminous curb which will act as more of a bumper and less as a ramp to help prevent vehicles

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from entering the sidewalk. RE: new procedure for inspection of subdivisions, once the subdivision is approved and before construction, the proponent and his site contractor must meet with the DPW at which meeting the construction schedule will be presented. An amount of inspection time will be determined from the schedule. The proponent will place money in an account set up at the Treasurer's office to pay for the inspection in accordance with Article V, Section 51, Town of Bellingham Rules and Regulations.

John Fowler asks about Harper which is not directly across the street. What does the law require?

B. Lord states there is a slight offset. This is a new subdivision with limited access.

Kenneth Briggs lives on one side of the development at 1128 S. Main Street states this is a long narrow property. He is concerned about the drainage since it is all wet back there. What is the guarantee it will not drain on his property?

PC states the applicant's engineer did the site work and the drainage calculations were brought in.

K. Briggs refers to 3 - 4" of water back there a few years ago during a dry spell. Everything flows downhill.

B. Lord states that lot 1 and 2 area goes downhill to S. Main St. If you look at the topo it crests at the lot line. The water drains away from the property line. There is wetland to protect during construction. The back part will not be disturbed in his location.

Mrs. Debonese (K. Briggs' mother-in-law), 1128 S. Main St. owns property from 126 to Potter Drive.

B. Lord states this property goes back to the houses to Potter Drive which they are not disturbing. It is mostly wetland. The topos will go down to the back. It will remain natural.

Mrs. D asks how they will hitch the sewer up. Does it go across her property.

B. Lord responds negatively. There is an easement through the Archdiocese property.

Jim Courtney, 1096 S. Main St., neighbor to Bowden and Briggs states that John Fowler was shut off when he asked a question about the width of the road.

WW asks how far Hopper Street lines up. They would need a waiver to do that and the Board has the right to give the waiver.

P. Herr further explains the Board has the authority to waive it but they don't have the obligation.

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The reason for the offset is the requirement for traffic safety but the Board hasn't heard from the Safety Officer, Sgt. Haughey. The issue is there is no way into the property.

J. Courtney asks the width of the road.

D. Nielson responds it will be 20' wide and is considered a lane. There is a 40' limit to the layout with pavement, sidewalks and grass.

J. Courtney refers to cars entering and exiting the lane. Coming in is not bad but coming out is because of the pitch of the land.

D. Nielson will build it up and that is why they are putting up the retaining wall since there is a 4' height in elevation change.

J. Courtney asks if they are sure about the sewerage and if the houses will have cellars.

D. Neilson responds affirmatively.

J. Courtney refers to the last storm when there was a CAT down there which went in a line behind the Bowden property and dug into the ground and then covered it up. All the holes and depressions from the vehicle are still puddled. He refers to PVC pipe which goes down. The water is 24" below the pipes. When he walks on the property with boots on, he sinks in the back. He is concerned about building a road in there because of the water which causes problems with their septic which is always on the brink in the area. Every other year he has water in his cellar. Across the street they have to pump. If they ruin the septic, who will stand accountable for it? In 1968 this was disallowed and wasn't to be started up again without approaching the abutters. Work should be done to protect the people before it is allowed to go further. He asks the Board to pull out the 1968 decision.

RL explains that the Board has the authority to have an independent engineer look at the drainage at the applicant's cost but the town picks the consultant.

B. Lord notes the Conservation Commission has a set of the drawings. The engineer has been to them with the preliminary drawings but they will have a full filing.

D. Nielson points out the ConCom walked the whole site.

J. Courtney asks if they were people with white shirts like office workers. He saw some people walking around.

D. Nielson walked it with the ConCom about 2 ½ months ago and they didn't have white shirts on.

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RL asks if there is enough capacity for sewerage to be available to these people if the parcel is sewerred.

B. Lord responds they could tie in if they wanted to but there would be a gravity fee. There is enough capacity for a couple more.

WW asks why this wasn't built if it was an approved subdivision.

B. Lord explains there were problems because of the wetlands and it was not buildable.

Julie Wheeler, 49 Potter Drive, house which abuts the pumping station, asks about the capacity and where the water will go.

PC responds the pump station is designed to take care of all that area.

J. Wheeler asks if this will take away from the water pressure.

PC explains this is as high as the water tank. The lines are full of water but they don't have the head pressure.

? Asks how 10 houses will get enough water pressure.

PC responds they will have the same water pressure.

S. Patrick, refers to safety which is the major issue because there are no sidewalks on 126. Are there provisions to put sidewalks in?

PC thinks that sidewalks will be put on 126. They are supposed to come all the way to the center.

S. Patrick asks how 20 children from 10 houses will walk safely.

PC suggests the Board hear from the Safety Officer.

J. Courtney asks the Board to look for the 1968 decision and plan. Clerk to locate for the next meeting.

Edward Broidy, from the audience, is an environmentalist and would like to see the environment protected. In order to build on wetlands, an impact statement must be provided and endangered species must be protected. Will the sewerage be pumped or dry sewerage? Maybe they should only have 1 or 2 houses instead of 10 because of the safety factor.

PC responds it will drain to the town sewers. They would never put one house in with sewers.

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WW would like to see the drainage calculations studied by an independent engineer.

PC asks if an impact study has been done yet.

D. Nielson has done one within the Regulations.

WW would like to refer this to the Safety Officer to evaluate the site distance and the drainage calculations to an independent engineer.

P. Herr presumes they have identified the wetlands. He questions if the land is wet soggy soil or if the land has wet plants which grow and thrive in. The wetlands is based on the plants. It must be professionally determined and reviewed by the ConCom.

D. Nielson states they have determined the limit of the wetlands and they do have an alteration to the wetlands. They chose the right of sewer to minimize the alteration which will be for dredging and filling. There are no endangered species within this project as determined by the state and the ConCom.

Bill Yasick, Pine Grove Avenue, fees bad for everyone here. There are wetlands on this property but the applicant is only building on the dry area of his property according to the plans. The Planning Board will hire professional people who may agree with their engineer and if the engineers agree there is nothing anyone can do.

RL would like P. Herr to look at the percentage of the lots which are wet. It looks like they are all wetlands.

B. Lord responds that they are oversized lots which are 18,000 square feet dry.

J. Courtney asks that the applicant come with a better set up so the audience can get a good look at the plan. They would like to know where the houses are.

P. Herr suggests it would be helpful to splice together the topo sheet and hang it on the wall and color in the wetlands.

RL moves to continue to May 22, 1997 at 7:15 p.m., send to independent engineer and letter to Sgt. Haughey re: site distance. PC seconds. Vote of 3 (WW, RL and PC). EM abstained and not present. AM absent.

D. Nielson would like an estimate for the cost of the review. He is instructed to contact Denis Fraine who arranges for the independent engineer.

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ELM ESTATES - BELLSTONE ST., DISCUSSION RE: DRAINAGE CONCERNS

EM rejoins meeting.

Steve Choinere, Arcand Street (Old Elm), explains that everyone here is still under water. 3 drainage systems were supposed to be installed but were not properly installed by the developer. The pipe which is supposed to be underground is actually above the water line. They contacted Roger Gagnon, the developer and he told them it was all set. The DPW said there is still a \$6,000 retainer being held.

Joe Kauker, 23 Bellstone Drive, states the drainage easement doesn't exist.

S. Choinere notes that last April 1996 all the water flowed into his cellar.

J. Kauker explains it overflows to the side of his property onto the street which creates a lake effect on the street. The water bubbles up year round and freezes in the winter time. The mailman won't deliver mail to him because of the ice.

EM suggests the Board send a letter to the Highway Dept. asking if the \$6,000 will correct the problem.

S. Choinere has been dealing with Emile at the DPW.

RL moves to continue the Master Plan public hearings to 9:45 p.m. tonight. PC seconds. Vote of 4.

WW wants to sent a letter to D. DiMartino identifying the monies there and asking what can be done about this.

S. Choinere wants to let the Planning Board know what kind work gets done after the Planning Board approves it. People can't sell their homes in this condition.

PC notes the developer could walk away and let the town do the work for the \$6,000.

J. Kauker states that Mr. Gagnon never corrected the problem.

Donald Driscoll, 9 Bellstone Drive, indicates that R. Gagnon did come back and put a swale in his backyard with stone on top of the swale so the swale runs. He did dig a trench but put the pipe inside the trench.

EM notes that R. Gagnon had nothing to do with this when it was approved. The plan which was approved works. The Planning Board deals with paper and is not the inspector. We have to

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make sure the money was not released.

WW believes there should be more money.

Lilian Couter, 22 Bellstone, spoke with D. DiMartino who suggested they come to the Planning Board. The town sands Bellstone because it becomes 2/3's ice. How can they get the road accepted?

Ralph Tomaso, 10 Bellstone, lives across the street from the 4" of water.

Cheryl Choinere, Arcand Street, wants the water out of her basement.

Joe Kauker, 23 Bellstone, asks if it is legal to leave an open trench in his backyard which is 3' deep filled with water.

PC suggests they talk with a lawyer.

EM states the swale for the retention area was approved.

J. Kauker states it should catch water to the existing trench but the drainage is nonexistent because there is no pipe and no stone.

P. Herr suggests the Planning Board arrange through someone with expertise to walk the development and find out what the problem is and produce a document. Mr. Gagnon is the wrong one to make the assessment.

Michael Connor, 13 Bellstone, states that Roger was supposed to do the work but the pipes were put in on top of the soil which affected the left side. Someone other than R. Gagnon should do the work.

Clerk reads June 1995 letter from Town Counsel Lee Ambler re: drainage problems on the lots and the roadways. The issues presented are of a civil nature and not municipal. The Planning Board has the right to insure that there is full compliance with the Rules and Regulations of the Board and the approval which was granted by the Town. This would appear to be outside the scope of that approval, and would not be a basis upon which were the developer to do all other things that he was required to do would result in the funds not being released to him. Clerk reads April 1995 letter from D. DiMartino when he stated that the concern of the residents is justified. The runoff from behind the homes on the east side of the street is not effectively reaching the catch basin design to collect this water. Instead the water is running from the rear of the houses out onto the street in an area north of the catch basin where the curbing has been removed. This run-off may be causing damage to the already poor roadway surface. He visited the site on April 21 during a rain storm at which time the run-off did not appear to be at a very high volume or

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rate. It seems the water flow itself would not cause erosion damage to the paved surface but the wet conditions causes the subgrade gravel to lose its strength allowing vehicle traffic to further crack the poor road surface. There is a catch basin located off the road on the east side of the street which is designed to received the run-off from the ditch located in the back of these houses. Mr. Gagnon should reopen the ditch as soon as possible to allow the water to once again reach the intended basin. Once the water reaches the basin it will run into the drainage system and allow the gravel to dry out. He discussed the situation with Mr. Gagnon at the site. He said that he had filled the ditch in one location at the behest of the buyer of that house. He also said he would reopen the ditch once the wet spring conditions abated. DiMartino leaves it to the Board's discretion as to when the repairs must be undertaken. Most of the existing roadway surface is in very poor condition and major repairs will be needed on the majority of binder course of pavement before this roadway can be completed. An August 1995 memo from D. DiMartino recommended a bond of \$6,100 be retained for this project - reduction from \$35,000.

WW would still like to send a letter to DiMartino and ask him to look at rear Elm too. Letter to identify contact people including Joe Kauker, 23 Bellstone, Tel home 883-2277, work 966-2803, Donald Driscoll, 9 Bellstone 883-3228 and Steve Choinere, 31 Rear Elm Street.

J. Kauker explains there is a drainage easement between his property and his mother's next door and asks why the easement doesn't travel further.

L. Couter spoke with the DPW two months ago and was told that since their street is not a town street, they can't do anything about it.

WW notes that the DPW will have to respond when the Board sends a letter.

RL believes that Attorney Ambler already told them what they have to do. Get a lawyer.

Clerk to send copies of the letter to DPW and responses to Driscoll, Choinere, and Kauker.

L. Couter asks how the town can keep letting Roger do this.

RL moves to continue Master Plan Articles to 10:15 p.m. tonight. PC seconds. Vote of 4.

WESTON ESTATES CONTINUED PRELIMINARY SUBDIVISION

Clerk reads letter from Deputy Chief Thomas Guerin, dated April 18, 1997 in which he offers comments relative to the two different preliminary plans submitted: 1. Of the two plans, the Fire Dept. would prefer the plan which has a single road running from S. Main St. to Indian Run Rd. because from an emergency viewpoints, it is always better to have two access points should one be blocked by DPW work, weather conditions or motor vehicle accidents. 2. Although both plans show connecting the water main from S. Main St. to Indian Run Rd., the cul de sac

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surrounded by lots 17, 18 and 19 is dead-end. It would in the town's best interest if this dead-end main could be connected to Pheasant Hill Rd., looping the entire project. Water pressure in this area of town is very poor, so to loop all water mains from a Fire Dept. viewpoint is important. Looping does not raise the pressure, but in the case of an emergency, does allow needed water to flow from other areas. Although this project is piped with and comes off an 8" main by way of S. Main St., Indian Run Rd. is only a 6" main. 3. The Fire Dept. would be looking for an additional hydrant at the corner of Indian Run Rd. and this project. 4. The Fire Dept. would also request that Road "a" and Road "B" be given names different from and unlike others in town since in an emergency similar names to those already in town only add confusion.

Clerk reads April 18, 1997 letter from DPW Director D. DiMartino relative to the preferred option for the roadway. He calls the 2 cul de sac plan Option 1 and the connection through to Indian Run Dr. with 1 cul de sac Option 2. Relative to Roadway: He prefer Option 2 due to the elimination of a cul de sac. Dead-end roads should be eliminated wherever possible. Cul de sacs are difficult to plow and maintain and add a very large area of pavement to service a relatively small number of homes. In an ideal situation, an easement would have been established at the end of Pheasant Hill Rd. and the 2nd cul de sac could be eliminated. Water: Option 2 is preferable as it eliminates the installation of the water main in an easement through a wetland area and makes any future repairs to the pipe easier. In either plan, he recommends that the water main be connected to Pheasant Hill Road and should include an easement along the proposed lot 18 & 19 property lines to eliminate all dead end water mains from this proposal. Drainage: There are some problems now on Indian Run Rod but this project should not amplify an already poor situation. It is impossible to determine if the project will have any impact on the existing problem without topographical plans not required in the preliminary review stage of submittal. In both Options an ex-filtration structure is shown under the roadway. There are no other such structures in place in Bellingham now so we will need detailed information on the maintenance, life span, repair options, etc. before this type of structure is approved. Sewer: There is no sewer available to this property at this time.

Clerk reads letter from Clifford Matthews, Chairman, Conservation Commission, dated April 18, 1997 wherein he points out that upon cursory review, the only legal avenue available to the applicant under Mass. General Law, Chapter 131, Section 40 is the double cul de sac configuration. The wetland delineation has not been verified by the Commission so that the preliminary layout as proposed may be subject to change based on review of site conditions.

Bruce Lord, Esquire on behalf of applicant, agrees they would like to tie into Pheasant Hill but they don't own the land. They will tie in if the neighbors give them an easement. This is a cluster which requires a special permit. They would like to go forward and have heard the comments. They will go forward and put together a definitive based on the input that has been provided.

RL asks if they will include the through street.

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B. Lord will do it if it is necessary and if they can do it but the ConCom has the final say. The most that will be built on the cul de sac is 12. The property is defined by the wetlands and the soil testing. He would be glad to contact the neighbors about a way to get an easement in. They believe they can put a road through but would prefer not to.

Brad ? Had a wetlands specialist last summer who did a wetland delineation but it has not been verified by the ConCom.

P. Herr states that if they buy that delineation, it wouldn't allow unnecessary filling of the wetlands. Why doesn't that decide it?

Brad agrees that it does since it is 5,000 square foot removal.

B. Lord hasn't gone to the ConCom and discussed this with them.

P. Herr asks why they are leaping to a definitive. Is the cluster the right thing to do? Have they looked at the benefits of clustering vs. not clustering.

B. Lord used the formula. There is no conventional plan.

P. Herr explains the Planning Board is required to make the determination that the cluster is better than the conventional plan and what the benefit is to the town. He isn't hearing that the Board likes the idea of the clustering rather than the conventional. The big question to determine is can they have a continuous street. It may be a good idea to have a smaller number of lots.

B. Lord believes the clustering has the clear advantage. It protects the town and preserves the land for the lot owners. Lots are 20,000 square feet with open space around them.

P. Herr would rather have ea 40,000 square foot lot with no open space than 20,000.

B. Lord used the formula.

P. Herr doesn't see the public benefits. Reducing the number of lots on the right side by 2/3s and dividing upland for the lots would be a better plan for everyone except the landowner.

B. Lord explains they are not at the drainage or ConCom stage.

EM thinks they need another way in.

Brad ? indicates they would be crossing 2,000 square feet which is under the 5,000 threshold. They filed a limited crossing for the right to access the upland portion of the property.

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P. Herr suggests the Planning Board disapprove this based on the ConCom's recommendation since it is not approvable at the present. He urges the applicant to settle the ConCom questions and apply for a special permit cluster before investing in the definitive plan.

EM states the preliminary doesn't meet the Planning Board's Rules and Regulations because they have more lots on a street than what is allowed.

B. Lord explains they were required to bring a preliminary but they are not absolutely certain they can do everything there.

EM & P. Herr suggests they show the 2 different schemes for a comparison.

RL would like to see the option for the calculation over presentation of another scheme changed in our Bylaw.

P. Herr notes the Master Plan has come to the same conclusion and is looking at revisions.

EM moves to disapprove Weston Estates Preliminary Subdivision because it doesn't meet the Planning Board Rules and Regulations since it has more than the allowable number of lots on a dead-end street. He also makes reference to the water connection requested by the DPW and Fire Dept. RL seconds. Vote of 4 (WW, RL, EM and PC). AM absent.

MASTER PLAN ARTICLES CONTINUED PUBLIC HEARINGS **CONGREGATE/ASSISTED HOUSING**

Guy Fleurette, Chairman, Master Plan Steering Committee, explains that Ray Boucet, Council on Aging, was here earlier to speak on behalf of this article but had to leave because of the lateness of the hour. He was going to speak relative to a facility which exists in Hopkinton called Golden Pond where people have moved in and are very happy.

EM explains that after the last meeting the attorney and developer who appeared after the Master Plan hearing explained the concept more to the Board relative to the high end and the low end.

G. Fleurette agrees there are different price ranges. The environment and the services are set accordingly.

EM realizes a private developer will expect to make money.

P. Herr notes that half of the facilities are nonprofit. Ted Tye developed an assisted living across from his office and made \$3 million in the development process and then cashed out. 20% of the units are subsidized. Some of them are private for profit and some are private for nonprofit. He presents a reprint from a Wall Street Journal article which says this is half way between living

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independently and institutionalized. He also presents a pink sheet which lists definitions. They already have flexibility with the definition of family but added language for the clarity in the law. The definition of dwelling unit clarifies 2 people as boarders. There is also a definition of Boarding as accommodation for 3 or more roomers. That description could include congregate housing, so congregate housing has specifically been excluded in the definition. The definition of Congregate dwelling could fit the definition of Boarding or rooming where the occupants are all over 55 and at least 20% of floor area is in shared, rather than private space and at least 6 persons are accommodated. Congregate dwelling is devoted exclusively to older people with 20% shared common floor space and at least 6 people. That is the distinction between boarding, rooming and congregate housing. Nearly all congregate housing is occupied by the elderly. This town has defined it to the elderly. All occupants being over 55 is a suggested change from the warrant which was written so the building will meet the standards of elderly housing. The definition of assisted elderly housing is one where the assisted living residences are all over 55 and the building meets the Mass. Statute design standards. They decided not to include the state definition which includes nonelderly handicapped because of the younger than 55 years old threshold. This would serve the market of the over 55 people who don't need the level of service of a nursing home and allow them to maintain their independence. He almost never sees anyone at the 115 unit facility across the street from his office. The old people are not moving about. There are vans that go to the facility to take the residents on trips. Ambulances are in and out with frequency. There are 25 parking spaces that are hardly used because the tenants aren't driving. He presents Congregate/Assisted Revisions to Article 34 to include 1. All residents be over 55 which would be a relatively simple motion and 2. To change the parking to one space per bedroom. The one page set of revisions could be made the motion. This should take care of the age limit for congregate/Assisted Living and the parking. The amendment will be done on the floor. If it is approved here there is time to get it into the Finance Committee's report.

WW asks if the zoning matters.

P. Herr responds it doesn't go into an industrial zone.

EM asks if it is clear it requires a special permit from the Planning Board. He understands that having the definition makes it clearer.

P. Herr believes it responds to the technical concerns raised by Lee Ambler. There can't be two boarders in a single family house with only two parking spaces. Roomers or boarders require 2.5 spaces plus 1 per bedroom.

RL suggests they request the moderator move the article up.

G. Fleurette agrees. Their goal is to look at flexible housing for the population of people who live here and want to stay as they get older. The need exists so they are able to maintain their independence and live alone.

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P. Herr notes that this article may or may not attract this form of housing to Bellingham.

RL moves to recommend the Congregate Housing/Assisted Living as revised and amended to the Annual Town Meeting. EM seconds. Vote of 4 (WW, RL, EM and PC). AM absent.

FAMILY APARTMENT

Bruce Lord, Esquire, explains this article arose from the ZBA being requested to grant variances for in-law apartments. This allows in-law apartments for up to 5 years which is renewable. It will be filed at the Registry of Deeds. If the in-law moves out, the special permit ceases.

EM realizes that right now people go to the ZBA who grants variances.

B. Lord explains with this proposal the special permit will be on record and will be converted back to a single family housing if it expires.

EM never saw anything torn down and thinks this is another way to create a duplex and allows people to build a duplex on an undersized lot. This is a way to get around building a real duplex. He is concerned about the sewer capacity.

B. Lord states this would be part of the special permit building process. There was debate over whether the owner should occupy the principle or the in-law apartment but the way it is written doesn't restrict it.

EM doesn't think they should restrict it.

B. Lord notes the Building Inspector will know when the special permit expires.

EM thinks that most people would rather be legal. It can be restricted to families.

P. Herr believes it has to be restricted in order to get it adopted.

WW asks how they could restrict it to the 5 year time limit in a court of law if he has spent \$20,000 for the in law apartment and claims hardship. The court will tell him to leave it.

B. Lord thinks the court will enforce the special permit since the people went in with their eyes open.

P. Herr states that the Master Plan Steering Committee would like to get this on the books. They could come back to change it later.

WW thinks the one presented at the last Town Meeting was much better.

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P. Herr agrees since this one is more narrow.

RL would like to see it get passed and then they can come back and change it later.

P. Herr asks about the floor area limitation which was left out.

B. Lord left it out intentionally.

P. Herr explains before it had to be smaller than the existing unit.

EM thinks this allows duplexes in any zone.

G. Fleurette asks if they should put on a limitation.

WW thinks so.

B. Lord notes that Lee Ambler had a hand in this.

Bill Yasick, from the audience discusses the limitation which would not make the in-law apartment big enough.

P. Herr notes that it does exclusively say they have to satisfy the Board of Health.

RL moves to close the Family Apartment Public Hearing. PC seconds. Vote of 4.

RL moves to recommend Family Apartment Article to the Annual Town Meeting. EM seconds. Vote 3 - 1 (RL, EM and PC for and WW against).

G. Fleurette presents an Interim Overview Master Plan Project Report.

CHARLES RIVER CENTER PARKING DISCUSSION

P. Herr explains this corrects the circulation concerns relative to parking against the building and the Fire Dept. concerns. In order to achieve that, they removed landscaping features but they planted grass along the outline of the building to meet the impervious surface. They may be better off if there were trees in some places rather than parking spaces. It is within the scope of the Board's authority to do that without a hearing.

Lou Masiello, engineer, W/S Development, states they are talking about 10 spaces. There is no problem with that so long as it is in the scope of the previous permit. Trees and shrubs will be planted along the permissible building line and may be planted in the sidewalk.

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RL asks if there is a problem with waiving the 10 spaces.

L. Masiello replies they have 1285 spaces total.

P. Herr notes this would be a less than 1% reduction. The landscaping plan has also changed so he suggests the landscaping architect bring it up to date.

PC moves to approve the reduction of 10 parking spaces to retain landscaping. RL seconds. Vote of 4 (WW, RL, EM and PC).

P. Herr explains that Stallbrook Center (which B. Frazier's company manages) is contemplating a change. Instead of expanding, they want to fill the space with parking and add 38 spaces. They are obliged to come back and get the parking design approved and will eliminate a building.

DISCUSSION WITH BILL YASICK RE: DEER RUN ESTATES

Bill Yasick advises the Board that Deer Run is not in compliance with the special permit decision. They are operating in noncompliance in one facet or another. He refers to the last page of the decision Section C where they are in violation since it says that the Pine Grove access will be closed off until the first house is conveyed.

RL was at the Board of Selectmen meeting which Mr. Yasick attended when was told that the Planing Board or the Selectmen are not the enforcing authority. The Building Inspector is the enforcing authority. The developer hasn't blocked off the Pine Grove access and it is supposed to be blocked off.

B. Yasick called D. Fraine who sent the Building Inspector down who said there was no problem.

P. Herr suggests a member of the Planning Board phone the developer and ask what is going on so we are better informed. All the gravel should be hauled off the site and coming off of Pine Grove is in noncompliance.

RL notes that Sara Pultz said that Tim Jones doesn't think he has to build the hammerhead.

P. Herr states that if there is a reason why they haven't closed off Pine Grove, then it should be given in writing in a letter.

EM & PC will take a ride up to look it over and talk with the developer.

Clerk to call Tim Jones to discuss the Pine Grove access issue of noncompliance with the special permit decision and hammerhead.

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B. Yasick further advises Board that the town should get an \$800 credit for the sewer tees to his property and make sure the developer doesn't get it because he was told that no sewer is going in to his property or his father-in-law's.

PC points out that the developer has to put it in to every house he goes by. He has to put a chimney up to Yasick's house. There has to be an As-Built presented and everything has to be put on the plan. Even if they don't want to tie into the sewer, it has to be there.

Clerk to also discuss sewer chimney connection with developer T. Jones.

CORRESPONDENCE

Board received copy of a letter from Building Inspector to Fafard for removal of his sign which is illegal and must come down.

Board also received response from the ConCom about the Cogeneration Plant Annual Water Quality Monitoring Report, dated April 18, 1997 which they suggested be reduced to a bi-annual report to include only the parameters indicative of petroleum and other industrial chemicals in use on the site. Clerk to forward letter to Northeast Energy Associates advising them of this change. Board also received letter from American National Power, dated April 23, 1997 indicating an informal question and answer session will be held on Monday, May 5 at the Senior Center's Community Room, Hartford Ave. And Maple Street from 4 - 8 p.m. (Board members were unable to attend tonight's information meeting at the library since it was scheduled at the same time as this meeting.) A tour of the ANP Milford plan has been tentatively scheduled for May 17.

RL moves to adjourn meeting at 12:11 a.m. PC seconds. Vote of 4.

Anne M. Morse, Chairman



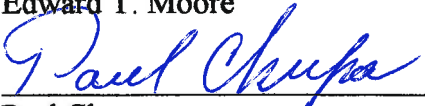
William M. Wozniak, Vice Chairman



Roland R. LaPrade



Edward T. Moore



Paul Chupa