

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

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MINUTES OF REGULAR MEETING

AUGUST 21, 1997

Meeting commenced at 7:07 p.m. All members were present. Associate Member Richard Dill and Planning Board consultant Philip B. Herr were also present.

DEER RUN LOT RELEASE REQUEST, TIM JONES DEVELOPER

Developer Tim Jones is here to bond the second phase of Deer Run Road. He would like to reduce the bond for Phase I and add the bond to Phase II keeping the same amount in the passbook to release lots in the second phase.

EM asks if he intends to transfer all the money to the second phase.

T. Jones responds negatively. The inspection checklist was done by Ted Bailey. They took the money from the first phase and applied it to the second phase.

EM reads from T. Bailey's August 18, 1997 letter referring to the completion of the culvert installation which includes installation of the 2 headwalls.

T. Jones states that has nothing to do with the bonding for Pine Grove. He is not asking for any money back.

WW refers to lots requested for release including 7 through 14, 19 through 25 and lots 26 and 32 on Taylor Drive.

T. Jones presents the bond estimates for both phases.

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WW has a letter from Donald DiMartino, DPW, dated August 19, 1997, stating that he has reviewed everything and the funds are in order. The town is sufficiently protected.

EM moves to release lots 7, 8, 9, 10, 11, 12, 14, 14, 19, 20, 21, 23, 24, 25, 26 and 32 based on documentation from the Bellingham DPW agreeing with the amount of bonding.

AM seconds motion. WW states the second phase bond amount is for \$109,016.76 with a balance of \$43,484 remaining for the first phase of work. Unanimous vote of 5 (WW, RL, AM, PC and EM).

Kevin Bradley, Pine Grove Ave. resident, states the culvert not being complete has no bearing on the completion of the road for Pine Grove. The street work has been on going for 6 months. Since Monday there has been one lane because of the culvert work. There are no sidewalks. He needs to know when the work will be done. He has talked with the Highway Dept. and the Board of Selectmen. People are moving into Deer Run. There was supposed to be zero impact to the neighbors. The pavement is not done from Deer Run to Pulaski. On Monday his wife came home from the hospital with a C-section. He had to drive her all the way through Deer Run over the ruts because he couldn't get through Pine Grove.

EM drove through there the other day with a car and it was passable. Construction is a problem but it is part of progress. They will not be working on the culvert forever. According to the DPW the base coat has to sit before they can put in the finish coat.

K. Bradley is concerned they will not have sidewalks until the spring.

WW asks when the sidewalks will be done.

T. Jones responds they would have been done this week. The problem is Nynex has to upgrade the services on Pine Grove but can't until Mass. Electric moves the poles. They can't do it with the existing poles in there. He will put the base coat only if he has time before the winter.

EM asks how the poles relate to the sidewalk.

T. Jones explains the DPW doesn't want a grass strip. The curb to the sidewalk is next to the new poles which are 40' high. They have to bring new lines to the neighborhood.

WW has a letter from Mr. Bailey which says they are waiting for a wintering before the final coat except for the completion of the culvert and the base paving above the headwalls.

T. Jones refers to the relocation of the utilities and fire hydrant. He can't do the sidewalks until that is done.

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K. Bradley has a 1 ½' ditch beside his house which has been excavated.

EM sees no reason why it can't be backfilled.

Roger Oakley, Selectman, asks if there were any amendments to the decision that says that all streets must be surfaced before applying for occupancy permits.

AM reviews the decision and explains it was intended to be done in phasing and reads from the decision that it applies to "any structures served by such streets or ways."

R. Oakley thinks the street should be completed to Pulaski Blvd.

WW understands the road is not paved all the way through because the development is being phased through the construction process.

T. Jones states that all structures served by the street or way have pavement.

AM explains it means someone can't occupy a house without pavement.

R. Oakley states that school starts and kids will be walking to the bus.

WW notes the Planning Board didn't state the poles had to be moved for aesthetic reasons.

R. Oakley describes the cold patch/hot top a disgrace. They should put in an asphalt binder. The town should take the bond. They should hire a reputable company like Roads Corp. or Middlesex to finish the road. It is a despicable, deplorable mess, the worst he's seen in 30 years in the business.

EM states the Planning Board is not the enforcing authority.

PC explains the Board makes the rules and the town is supposed to enforce them.

R. Oakley suggests the Board take time in the future when making these decisions.

EM indicates the road is passable with the cold patch.

R. Oakley believes it was a disaster until two weeks ago.

T. Jones notes that Pine Grove has not changed. He didn't use cold patch binder. It came out of the machine hot.

R. Oakley thinks the Board should go and check. The Board should have the responsibility to see

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the rules are being attended do.

EM explains the Board deals with paper.

Bill Yasick, Pine Grove Ave. resident, has 3 issues. 1. Why were the poles moved? According to the electric company, they were moved because service was needed to supply the Deer Run property. After the decision was made to move them, people wanted them in certain places because some were obstructing their driveways. They are not arguing about the poles being moved. 2. How can the Board sit and say the developer is in compliance with the permits when the entrance to Pine Grove Ave. to Deer Run was supposed to be blocked and it never was.

EM responds that the Police Chief overruled that condition of the decision. Lt. Haughey recommended that it be opened to allow traffic to pass through.

B. Yasick states the Police Chief said that was during construction. There have been weeks when there was no construction but it still wasn't blocked off. This development was supposed to have the least amount of impact to the residents but it has had the most. All construction vehicles were supposed to enter and exit through Pulaski Blvd. All contractors and workers use Pine Grove. There is a green Volkswagen and white pick up truck who drag race down Pine Grove.

WW suggests he call the police.

B. Yasick has called the police and they are taking care of it the best they can. The developer should tell his contractors not to use Pine Grove. They will take the developer's directions and enter and exit through Pulaski Blvd. He received a letter saying they are in full compliance and asks how could the Board say that.

WW explains that Lt. Haughey came here and presented facts as the Safety Officer. The Board had a letter from the Police Chief.

B. Yasick reiterates there were weeks when there was no construction and Pine Grove Ave. was still not blocked. Construction vehicles were illegally on Pine Grove Ave. Unregistered vehicles were told to keep off the street.

WW advises T. Jones that all heavy equipment should access through Pulaski Blvd. Pick up trucks can use Pine Grove Ave.

K. Bradley refers to Varney Brothers trucks which drive down Pine Grove. Precast stairs are delivered by truck through Pine Grove. A few weeks ago they off loaded a bulldozer. He will videotape it. The developer has the right to develop his land. The contractor has a responsibility to him and his family not to disrupt the neighborhood for 6 months. The conditions of the decision which were put in place to protect him and his family are gone. He went to the Board of

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Selectmen but can't get anywhere. Bailey filed an unsatisfactory work report with the state and that is why the road was paved. He wrecked the tires on his car getting into the driveway. He went to the Selectmen and will go to the state. He has a family and lives 2/3s of the way down Pine Grove Ave. Concrete trucks drive by all day. They can't get the low boy trailer in through Pulaski so it uses Pine Grove.

PC wants to believe the inspector who goes down there.

K. Bradley has been living in a construction zone for the past 6 months and is tired of it. They have lived in a dust bowl for 5 months. The developer left ruts where the sidewalk was supposed to go. He will go to the state.

EM notes that no one has released the bond.

B. Yasick refers to an extra house which is being built. There were supposed to be 37 but there are 38 and that one is not sewerred.

Thomas DeVitt, from the audience, suggests the DPW post a sign which says that no heavy equipment can pass through.

Sgt. Tim Buskirk, introduces himself as the recently appointed Safety Officer and asks about provisions for sidewalks on Pine Grove.

EM responds the sidewalks are on the plan.

Sgt. Buskirk received a request for signs including Children At Play and No Through Traffic to Pulaski Blvd. They will try to eliminate the through traffic. It can be addressed. They can post limitation signs. They intend to monitor the situation. He lived on Pine Grove and took a ride up there. There were problems there all summer. He has had words with the contractors but it has been rectified and taken care of. If anyone has any complaints of a safety nature, they should contact him at the Police Dept. He knows Mr. Jones who is a man of his word. He has dealt with him in the past and will address the problems with Mr. Jones. He asks if anyone has any questions for him.

B. Yasick will address questions to Sgt. Buskirk another time.

Sgt. Buskirk will post speed limit sign of 20 miles per hour for the Pulaski side and Pine Grove side for everybody.

EM asks about the sidewalks which were dug up.

Sgt. Buskirk states it is a construction thing. People have to be practical when it is under

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construction. There should be no open holes.

T. Jones notes he couldn't do calcium because it was too close to conservation land. They enter Pulaski Blvd. for all construction. They can drive all the way through. He didn't pour any foundations yesterday so they didn't have 6 concrete trucks.

Sgt. Buskirk will talk with Varney Bros. and will tell them if they are doing work on Pine Grove, they can come through. Otherwise, they have to use Pulaski Blvd.

Deputy Fire Chief Thomas Guerin, lives on Muron and sees vehicles going back and forth. He is not home during the day but hasn't seen any cement trucks going down Pine Grove. He has seen construction on the culvert and did see a bulldozer. The Fire Dept. requested that there be no gate at the end of Pine Grove for safety reasons because the houses have a right to fire protection. He drives through to Pulaski. He did it this morning and drove through the project.

B. Yasick asks about the permit for 37 houses. There are 38 houses being built and one is not sewerred.

T. Jones responds that none in his project are not sewerred. Alan Taylor's house was moved, is not sewerred but it is not part of this project. It has frontage on Pulaski and not part of this subdivision.

B. Yasick refers to lot 17A which has frontage on Deer Run.

T. Jones doesn't own lot 17. He never bought it from Alan Taylor.

81-P SUBMISSION

E. K. Khalsa, Land Planning, presents an 81-P for Lake Street for 3 lots for Norman and Muriel Decelles.

RL states it doesn't extend into the lake.

E. K. responds that is correct. Agricultural zoning with 200' frontage.

AM moves to sign the 81-P for Norman and Muriel Decelles, Lake Street. RL seconds. Unanimous vote of 5 (WW, RL, AM, PC and EM). \$30 fee paid.

T. DeVitt filed the application on behalf of Mr. Decelles.

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NORTHEAST ACRES BOND REDUCTION BY ROBERT BALLARINO

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

Robert Ballarino, developer, has a \$25,000 bond posted for Northeast Acres.

Clerk reads letter from Donald DiMartino, DPW director, dated August 21, 1997, wherein he encloses a memo from Mr. Bailey, the DPW inspection consultant referencing the marked up Form J submitted by Mr. Raymond Traverse. He agrees with Mr. Bailey's adjustments to the numbers submitted and has added \$2,000 as an item for deed preparation, town meeting acceptance and professional engineer certification. He suggests an overall security of at least \$7,800.00. If a project has less than \$5,000 of work remaining, he would prefer to see the project completed with professional engineer's certification per Section 468, deed delivered, and petition made for town meeting action to accept. As projects reach this level of completeness the security held seems to be acceptable to cover work items, yet is not enough to drive the developer to total completion and petition for acceptance. He hopes the \$2,000 sum which he feels is a reasonable cost estimate, will work towards street acceptance. He intends to add this amount to all near completion security reduction requests in the future. If this does not result in the acceptance of the 99% completed subdivision, he will increase the value or suggest a minimum security amount.

R. Ballarino indicates there are no Conservation Commission issues at Northeast Acres. There are no wetlands whatsoever. The sidewalks were finished yesterday. It will all be done before the winter.

WW understands the DPW recommends holding a \$7,800 bond total.

R. Ballarino has a \$25,000 bond in place now.

EM moves to reduce the bond amount for Northeast Acres to \$7,800. RL seconds. Vote of 4 (WW, RL, PC and EM). AM abstains and absent from room. Clerk to forward letter to Town Treasurer notifying her of the bond reduction.

BROOKSIDE ESTATES LOT RELEASE REQUEST, BOND POSTING

R. Ballarino requests a bond posting and lot release request for Brookside Estates.

Clerk reads letter from DPW Director DiMartino, dated August 21, 1997 enclosing two separate speed memos from Mr. Bailey, the DPW inspection consultant, one regarding Edgehill Lane and the other regarding Woodside Lane. Mr. Bailey references the Form I's he has completed and has marked up a Form J for each street. The Form Js were submitted to Mr. Bailey by Mr. Raymond Traverse of Stonegate Construction. He agrees with Mr. Bailey's adjustments to the values submitted in the Form J. Based on Mr. Bailey's recommendations, he suggests security of at least

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\$28,700 for Woodside Lane and at least \$32,100 for Edgehill Lane for a total of \$60,800. Mr. Bailey has informed him that the Conservation Commission is concerned about the changes made on the detention pond. It is his understanding the developer will be approaching the Commission regarding the changes. It is not clear whether the Commission will require additional construction on the pond. As additional construction efforts may be needed for this work, it appears wise to add some additional funds to the security. There is no way to estimate a cost of a change that has not been described, but he suggests a minimum of \$5,000 be added to the overall security for this contingency.

Clerk reads letter from Cliff Matthews, Conservation Commission Chairman, dated August 20, 1997, referencing Planning Board letter of July 1, 1997, advising that the Commission has serious questions which should be addressed by the applicant at a minimum, as a Request for an Amendment to their original Order of Conditions. The applicant has been advised of this and to date, has failed to comply with an Amendment filing. He asks the Board to note special Conditions #11 and #12 of the original Order of Conditions enclosed herewith must be met prior to any individual house lot development. #11 Prior to any activity taking place on the site, a cash bond in the amount of \$30,000 shall be established in a standard interest bearing joint account between the applicant and the Town of Bellingham with the Town Treasurer. The bond will be released upon completion of the detention basin and wetland utility crossing only after as built drawings indicating that Final Construction conforms with original approvals, upon the Commission's site inspection and issuance of a partial Certificate of Compliance covering this work. #12 Prior to development of any single house lot, the detention basin must be completed including all grading, loaming and seeding. The Conservation Commission in the strongest possible terms, requests that the Planning Board not issue any lot releases until such time that the Commission has had an opportunity to review the new structure in depth.

R. Ballarino already posted the \$30,000 bond with the Conservation Commission 3 months ago.

WW believes the letter says it is not posted.

R. Ballarino disagrees. It says those were the conditions but the bond was posted over 3 months ago. Nothing was done because of the blasting. Because the DPW didn't want blasting, the retention pond was elongated. He brought a plan to the Conservation Commission. Scott Robideau got in contact with C. Matthews and is on their agenda for August 27, 1997. They filed an amended form. He was instructed to send one to Amory before the Conservation Commission meeting. The retention pond will be hydroseeded.

RL reads note which was attached to the Conservation letter from Ann Matthews which states that Town Counsel recommended that they forward this letter to the Planning Board stating that the applicant has not complied with their Order of Conditions and they request that the Planning Board not issue any lot releases to the applicant until he has complied.

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EM is inclined to go along with the Conservation Commission's recommendation.

R. Ballarino knows he can't pull building permits until it is done. He has a real problem if these lots are not released. It has not been loamed and seeded yet. The Conservation Commission has the \$30,000 bond. Scott Robideau filed the remodification.

EM has never seen the Conservation Commission do anything like this before. For the Commission to go to Town Counsel, they must feel this is an issue. The Planning Board can't override the Conservation Commission.

R. Ballarino states that they may not know that the bond was posted.

RL believes the Commission wants to inspect the basin before the lots are released. If it doesn't meet with their approval, the developer doesn't get his \$30,000 bond back.

EM notes the retention pond is part of the drainage scheme of the road. The Commission could put a cease and desist order on.

P. Herr asks if a change in the configuration in the detention basin changes the drainage easement.

R. Ballarino responds that the easement didn't change.

P. Herr doesn't understand the issue with the lot releases. He understands the Commission said no lot releases because of leverage. He asks if some of the lots which Mr. Ballarino is seeking release are far from the basin.

R. Ballarino replies that Woodside Lane is another street and doesn't drain to there.

P. Herr believes it sounds like the town has a huge amount of leverage. Woodside Lane doesn't drain to the pond.

EM suggests that the Board could act now and Clerk could hold the lot release until the Conservation Commission meets. He is not comfortable with giving Mr. Ballarino the lot releases today but will sign it subject to approval at the Conservation Commission's meeting of August 27, 1997.

P. Herr suggests the Board could release the lots in two separate actions: one for Edgehill and one for Woodside.

WW states that since Mr. Ballarino does not have the Form G completed or other paperwork in order, the Board will have to pull the file and complete the form before acting. That will be done later on this evening because we have to move on now.

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81-P SUBMISSION

Mark Nyberg presents an 81-P for Blackstone Street for Summerlan, Inc.

EM notes this is the other side of North Street and is zoned R80, agricultural. He asks who will build the street.

M. Nyberg responds developer Summerlan will.

P. Herr asks about the number of feet of frontage for lot 1.

M. Nyberg responds it is 200' of frontage, 30' of which is at an angle. Agricultural zoned at 200', 80,000 square foot zoning. Parcel #19 has a 50' strip for future development. Parcel 18 has one 50' for potential development.

P. Herr asks how they know it is 50'. He doesn't see the dimension. He thinks it is a complicated plan and there is no indication of the 30'.

EM does not believe it is a complete plan.

P. Herr asks if it is a town accepted road.

M. Nyberg responds it was upgraded to standard but was not town accepted.

P. Herr states that if it was not town accepted it is not a street.

Bruce Lord, Esquire, from the audience, states that this has been a road since the 1700's. It is a town accepted road if you go back to the Book of Proprietors.

P. Herr asks if town meeting accepts it.

EM notes it is also showing 17 houses on a deadend street.

P. Herr advises that the status of the road needs to be sorted out. The dimensions need to be sorted out.

M. Nyberg will come back to the next meeting after he has researched the road.

PINECREST DEFINITIVE SUBDIVISION PLAN ENDORSEMENT, LOT RELEASE AND DISCUSSION RE: ELM ESTATES DRAINAGE ISSUES

AM rejoins the meeting.

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RL notes that D. DiMartino said that the work was not inspected.

Roger Gagnon, developer, didn't own the first part. He didn't know the second part had to be inspected. They never informed him they were going out to inspect it. He put the drain in.

Joe Kauker, Elm Estates resident, doesn't believe all the work was done. Was it done between the two houses?

R. Gagnon explains the two neighbors didn't want it. Cartier's and Haddad didn't want the swale in their yards.

J. Kauker notes that on the plan it has to be installed. The swale is not existing between the two houses. There is no water yet because it has been dry but there is no drain. He wants it done according to the plan.

Clerk reads letter from DPW Director Donald DiMartino, dated August 20, 1997 attaching a speed memo from Inspector Consultant Mr. Bailey. Mr. Gagnon did much of the work related to the swale construction without informing their office. Full and proper inspection of the work during the installation process was not accomplished. The swale (10' wide by 18" deep) has not been constructed in all areas shown on the plan. It appears that some type of underdrain system, consisting of pieces of perforated pipe in stone envelope and non-perforated pipes connected to drain inlets, was installed in the majority of the areas that the swale and underdrain was required to be constructed. It appears that the stone envelope a pipe installed will help to intercept some of the surface and subsurface run off crossing the back lot lines of lots 3, 5, 7, 9, 11, 17, 19 and 21. Directing the intercepted waters to the street drainage system. Due to their inability to verify the correct installation of all work related to these swales, this office cannot suggest that the work has been done in accordance with the plans. Neither can we be certain that the work done will serve the purpose for which the swales and underdrains were designed.

Clerk notes there is a \$6,000 bond remaining.

R. Gagnon completed all work done instead of Cartier's and Haddad's properties.

AM believes that Mr. Bailey is saying he is not sure it will work.

J. Kauker wants it constructed as per plan.

R. Gagnon notes that when he took over, the first developer had already done some.

RL thinks they inspected the old thing.

R. Gagnon brought a drain to the back of Mr. Kauker's mother's house.

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J. Kauker advises that he didn't go back to the edge of the property. He didn't go all the way. He wants it inspected to the plan. The new work was not inspected.

R. Gagnon put 5 - 10 reels of stone in the back. Since Choinere's work was done, all the rest was inspected.

Clerk to send a letter to the DPW to Bailey for clarification. The letter they sent does not reflect what Mr. Gagnon is saying about the inspection for lots 16, 18, 20. There is confusion about the lot numbers.

J. Kauker asks what Mr. Gagnon plans to do between the two houses since it is supposed to be piped to the street. What is on top of the pipe?

R. Gagnon states it will be graded.

WW advises that there will be no plan endorsement or lot releases for Pinecrest until the Elm Estates issues are resolved.

HERITAGE PINES DEFINITIVE SUBDIVISION DECISION

EM abstains and removes himself from the hearing room.

P. Herr changed the date of hearing closing. Town Counsel has reviewed and agreed. Bottom line on the first page is also on the second page and must be crossed out. This is an approval as indicated. The second paragraph on the first page lists one waiver for the offset of the center line. The basin for the offset is not unreasonable for 10 dwelling units. Condition of approval is for 10 single family used lots. Qualifications paragraphs 3 and 4, page 2 follow the pattern used since Deer Run. The applicant is responsible for the drainage facilities for two years. There will be an endowment to the town to perpetually maintain it. #5 has to do with issues for lots on either side of the entrance to the drive. There will be sewerage connections to the houses and there will be grading which will be satisfactory to the owners.

WW asks about the waiver for grading.

P. Herr responds it is an easement for grading which is shown on the plans.

Bruce Lord, Esquire, representing applicant Howard Wilson, advises there is no waiver required since they are going within the specifications.

P. Herr states the Board should see the grading before they agree to it. If the neighbors don't agree, there will be another arrangement made.

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Steve Patrick, abutter, has been going to all the meetings including the Conservation Commission where the applicant's attorney said they were thinking about duplexes. He wants to make sure it says they can't do that in here. He has a major concern about duplexes and people saying one thing at one meeting and then another elsewhere. Who does he contact if duplexes are going up?

P. Herr responds that a two family may be permissible to the Conservation Commission but this condition will be the end of it. He should contact the Building Inspector regarding enforcement. This is clear cut.

B. Lord is going back to the Conservation Commission on August 27, 1997. They asked for certain materials but there is nothing inconsistent. They have a right to do what is required by zoning and the decision. The decision is clear.

WW notes that Mr. Lord's client agreed at a meeting two months ago that there would be no duplexes.

John Fowler, abutter, asks about the clearing of the trees.

WW believes they are marked on the plan.

P. Herr agrees the tree locations are on the plan but there is no decision about trees.

J. Fowler asks if the E1 study was done.

P. Herr responds there was an E1 study done but it didn't speak to the individual trees. They did identify where the major trees were and they did go out and spot them.

S. Patrick asks Safety Officer T. Buskirk about his concern for children standing at the top of S. Main across from Harper Blvd. waiting for the school bus since there are no sidewalks for them.

Sgt. Buskirk thinks that every subdivision should have sidewalks. He hopes the town will finish the sidewalks on S. Main.

WW points out that there will be a sidewalk at the corner up to S. Main from this development. There will be a standing position for the kids.

Sgt. Buskirk did receive one phone call about the duplexes and the impact of safety but that was answered.

S. Patrick asks if this will release 10 lots for building.

P. Herr explains this is saying they can put in the road and utilities. They have to go to the

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Conservation Commission before they can put the road in. There are a lot of wetlands in there.

Clerk explains the decision will be filed followed by a 20 day appeal period. Afterwards the plan will be signed if there are no appeals. The applicant must come in with a covenant, bonding and lot release requests before he can apply for building permits.

S. Patrick has a problem with the retention pond on one lot. It is a small lot with a retention pond.

P. Herr agrees, Amory raised the same issue and so did he. They could take out that one lot but Massachusetts law is crazy. They could do 9 lots but come back later and show 10. The Board can't refuse them because the lot has frontage. Lot 5 is questionable but the Board has no authority. They can't oblige them to make it go away. It is bad law but it is Massachusetts law.

AM asks about Section 5 of the decision referring to the Bogan and Courtney lot. Is there a letter as part of this?

P. Herr explains that the drawing shows an easement but the easement doesn't exist yet. The Board will not endorse the plan until they see the easement agreement. A piece of paper is required from B. Lord, as the developer's attorney, certifying that all the owners agree to the subdivision. L. Ambler abuts the sewer easement. There are a lot of easements with this. Before the plan is endorsed, they should have all the easements. All the papers should be in place.

Clerk asks about P. Herr's memo which states that the condition of single family lots should be included on the plans.

B. Lord agrees to include that on the plans.

RL moves to approve the Heritage Pines Definitive Subdivision decision of approval. PC seconds. Vote of 4 (WW, RL, AM and PC). EM abstains and is absent.

P. Herr suggests the Board sign the approval and not the plan until all the agreements are in place.

MAPLEBROOK COMMONS AMENDED SPECIAL PERMIT, CLUSTER SPECIAL PERMIT AND DEFINITIVE SUBDIVISION CONTINUED

EM abstains and is absent from the hearing room.

Bruce Lord, Esquire, representing applicant Longview Realty Trust, Brad Cushing, met with Town Counsel and Chairman WW. There are a number of issues for which they disagree relative to legal interpretation. He requests on behalf of his client that the definitive plan and the request for a cluster special permit be withdrawn without prejudice. The amended special permit for the

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condo development to amend the name from R.B. Walden Group to Longview Realty Trust be allowed for the replacement of the name change. Longview intends to go ahead with the 130 condos for this development. It is not in the best interest of the town but they can't work with the interpretation given. They can complete under the license for the previous developer. They want to amend the special permit to change the name of the developer. There is a provision in the Bylaw for condo permits stating that they can't be transferred without the Board's permission. They can't go forward with the cluster under the conditions presented.

P. Herr refers to Section 4423 of the Zoning Bylaw which states that the special permit will lapse upon transfer of ownership. They are amending the special permit the same way they move a street. He can't tell what Town Counsel's view of that would be but he did raise it as an issue during their conversation. The Board has done it in the past. It was advertised as a hearing. The Board held a hearing and one of the possibilities was for a name change.

WW asks what the benefit of this is.

B. Lord responds they want the developer to be clearly defined. He discussed this with L. Ambler. There are many ways to deal with the section. They want to be up front. Longview Realty Trust will be the developer.

P. Herr realizes it is clearly understood this doesn't change the total amount of the development. All they are asking is what they were permitted to do with the original development.

B. Lord explains the special permit which was approved in 1984 and amended in 1989 is still in effect and they have to comply with it.

RL believes that when the Board approved the amendment of the special permit by Walden, they altered the original special permit which was illegal.

B. Lord disagrees it was done the same way with a public hearing and notice. There are density misunderstandings and obligations regarding the infrastructure. It was not handled clearly. Most important is the structure of the condo trustees.

Kathy Hegarty, Maplebrook Board of Trustees, states the original special permit had rights for the developer and obligations which go with the special permit which are still intact. She doesn't care what they call the company that will build but wants to make sure the promises made are kept. She asks if the special permit obligations, rights to develop are not null and void because of the name change request.

P. Herr indicates that the language of the decision will make that a clear understanding.

B. Lord agrees they are still under the permits for 1984, 1987 and 1989. There are a lot of things

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which are not in the permit. It is vague in a lot of areas. They will comply and agree to whatever they are.

K. Hegarty asks about sewerage.

WW responds they can't build anything else until it is sewerred. Attorney Ambler stated they can't build without the sewer. It is state mandated.

B. Lord will comply with whatever the state says but they can ask for a revision.

K. Hegarty notes that the sewerage treatment plant never functioned.

Brad Cushing, developer, had nothing to do with that.

PC knows that the second phase was supposed to connect to the sewers.

Dave Levine, Maplebrook resident, asks why they want the name change. He wonders about subterfuge. Is there any risk in the name change?

P. Herr suggests the Board close the hearing and the applicant's attorney prepare a decision and bring to Town Counsel for his agreement. This is pure lawyering. They will reach an agreement quickly. They are withdrawing all except the name change.

B. Lord explains the reason for the name change is the developer is now Longview Realty Trust and they want to be up front that they are the developer. Mr. Cushing cleared up the \$35,000 taxes which he is not sure he had to. There is no subterfuge here.

D. Levine was supposed to get notice but never did and is concerned.

P. Herr points out the Board is sending it to Town Counsel to scrutinize very carefully. He explains they are seeking an amendment for the special permit previously in a number of ways but now there is only one.

B. Lord indicates the Board held 3 public hearings at the same time. They should close all and then vote for the withdrawal separately.

RL moves to close all 3 public hearings. PC seconds. Vote of 5 (WW, RL, AM, PC, R. Dill). Associate Member Richard Dill acts in EM's place since he abstained from these proceedings.

RL moves to allow the withdrawal without prejudice for the cluster special permit and definitive subdivision. PC seconds. Vote of 5 (WW, RL, AM, PC, R. Dill). EM abstained.

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RL moves to approve the special permit name change with a request for the applicant to prepare a positive draft approval and refer to Town Counsel to work out a recommendation. PC seconds. Vote of 5 (WW, RL, AM, PC and R. Dill). EM abstains.

Clerk to send letter to Town Counsel advising him that a decision relative to the name change is coming to him for his review.

AM explains that Mr. Lord sent her a libelous letter. Per her attorney she is giving him the opportunity to retract those statements written. This did not come from Town Counsel but from her own personal attorney.

B. Lord responds that if AM is willing to retract the letter she sent to the Board of Overseers he will, but otherwise he can't. He thinks things got out of hand.

AM states that Mr. Lord misrepresented the truth in his letter.

B. Lord states that under the circumstances of the letter AM sent, he cannot.

CENTRE RUN ESTATES DEFINITIVE SUBDIVISION CONTINUED

EM rejoins the meeting.

P. Herr received revised drawings highlighted for additions and deletions.

Mike Simmons, Guerriere & Halnon, explains at the last meeting they raised the centerline of the road to eliminate the excessive cut. The new profile of the road they have now was raised 10 - 12' in most areas. The plans presented at the last meeting hasn't changed significantly. The Amory details will be done with notes. The roadway, grading, lot lines haven't changed. The interior of the roadway is intact. He distributes a letter received today from Mr. Amory that he is satisfied on all his comments. There were a couple of comments from P. Herr including wheel-chair ramps which are now shown and sewer which does not pertain to this project was removed. They are requesting a waiver for a cut in excess of 7' and it is the only waiver they are requesting. The average cut in 9'.

Thomas DiPlacido, developer, presents 4 signatures of landowners all assenting to this.

P. Herr advises that everything raised has been taken care of. Everything Mr. Amory raised has been taken care of. He is not sure what Mr. Amory meant when he said that he suggests the Planning Board approval be conditioned on acceptability of drainage system design based on review and approval of final plans.

M. Simmons notes that if there are any changes with the Conservation Commission, they will

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come back. The Commission closed their hearing and should be issuing an Order of Conditions. They have hired Amory for their review as well.

P. Herr refers to responsibility for the drainage maintenance which should be the same as the others.

EM states that with the only waiver of the cut this is much better.

WW asks about the gravel removal permit.

M. Simmons responds the ZBA is writing their decision

EM describes this as an 8 lot subdivision with 5 81-Ps for all single family with a water loop.

T. DiPlacido asks about underground utilities.

P. Herr believes the only issue is that they put in the fixtures.

EM asks if it needs to be incorporated on the decision.

P. Herr responds negatively, it has to be on the drawing.

EM moves to close the hearing. RL seconds. Unanimous vote of 5 (WW, RL, AM, PC and EM).

EM moves to ask P. Herr to draft a decision of approval which will be reviewed and signed at the next meeting. RL seconds. Vote of 5.

81-P SUBMISSION AMERICAN NATIONAL POWER

AM abstains and removes herself.

Alan Gottlieb, Esquire, works for ANP. The property is owned by Ballarino. They are creating a lot line in front of lot 7 and there is a note on the plan that this is not a buildable lot.

RL asks if the purpose of this is to move closer.

A. Gottlieb notes that lot 6 has sufficient frontage with a 231,150 square foot lot, 5.31 plus or minus acres. There is a lot of land behind it.

EM moves to sign the ANP 81-P plan. RL seconds. Vote of 4 (WW, RL, PC and EM). AM abstains.

P. Herr comments that the surveyor sent the plan to him in advance. It is very clear. Every

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question was answered on the drawing. It is not a subdivision.

IDEAL ENGINEERING DEVELOPMENT PLAN REVIEW

Bruce Wilson, Wilson Associates introduces Dale McElwee, co-owner of the building which houses manufacturing with 4 employees. This is for a 40' by 10' extension of 1,600 square feet. They are adding 6 parking spaces. There will be no changes to the septic. There is a light in the right hand corner and they will add a light to the left corner. The spot light meets the Bylaw. They will use the existing gas and water service. They will turn the parking spaces into the building with a travel lane and will extend the sidewalk. It meets the requirements.

P. Herr believes the parking more than meets it. 600 square feet of the building will be office space and the rest will be used for production.

WW asks what they manufacture.

Dale McElwee, responds it is a machine shop.

Clerk reads comments from DPW Director Donald DiMartino, dated August 14, 1997, wherein he states that he has no comment on the proposal since it does not change the water service, is not serviced by the public sewer system and no work proposed on the curbing or within the Town Right of way.

P. Herr thinks it probably complies in all respects but can't fully tell by that drawing. There are probably 10 things that are not on the drawing. They are doing what the town wants but he has no idea what kind of lights they will be using. The real issue is moving from reliance to documents. It doesn't show the zoning district, who owns the adjacent property, use of the adjacent property, wells within 300' leaching, wetlands on or within the site, handicapped access, fences or screening, location of dumpster or how they will deal with waste storage, proposed landscaping (none is required), trees of 8" or more or if removal is proposed, size and species of trees, erosion control, exterior lighting, any signs and if they comply, no information about lighting and if it complies.

EM agrees that information needs to be on the plan.

B. Wilson asks for a copy of P. Herr's changes and asks him to fax it.

P. Herr suggests the Board may want to approve contingent on revisions to the drawing.

EM moves to approve the plan subject to revisions being included, P. Herr's review and okay with verification to Clerk so Clerk can stamp plans and send letter of approval to the Building Inspector. Clerk to make sure dates of revised plan and stamped date match. B. Wilson agrees to

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use today's date for a revision date. AM seconds. Unanimous vote of 5 (WW, RL, AM, PC and EM).

CHARLES RIVER CENTER DISCUSSION RE: REVISIONS

P. Herr received a call from the Building Inspector's office yesterday asking if it was okay to issue permits for construction of the theater. They checked with D. Fraine who said there was no objection. The issue is a portion of the parking lot is located less than 20' from a street. Rather than changing the drawings, they are seeking a variance. The foundation of the theater is in which was done with a foundation permit. He can't say the condition of the Planning Board was satisfied. There is no mischief putting a building on a foundation which is already there. The parking issues have nothing to do with the building.

RL thought they weren't going to put in the foundation until it was done.

P. Herr notes the foundation was in before the July meeting. If the Board of Appeals denies the variance, the worst that can happen is they will have to twist the parking. If they don't get the variance or twist the parking, they will be in noncompliance. The parking will get resolved by the variance.

Sgt. Buskirk describes the Stallbrook/Charles River Center intersection as a poorly lit intersection which is more conducive to accidents with inadequate lighting. The intersection is poorly lit.

P. Herr thinks that part of the problem is that McDonald's lights glare so.

AM thinks it would help to get rid of the glare from McDonald's.

Sgt. Buskirk agrees it would help but they need more.

P. Herr was asked if he was going to raise a big issue if the building permit was issued but he is not raising an issue. It is the Planning Board's call if they want to raise an issue. Another issue is the Fafard sign which they are saying will be one sign for everything.

WW refers to the Charter Gas Station at Crossroads which the developer took some property for an extra lane, which property is up for auction foreclosure. They created an unsafe situation because the road is right next to the gas pumps. The gas station pumps are 20' off 126. They traded land with the gas station and were supposed to move the station back and have an access from inside the development.

P. Herr thinks that the new people who buy the station will need to get a license from the Board of Selectmen.

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Deputy Fire Chief Guerin advises that the license goes with the land not the property owner unless the licensing Board revokes it.

Clerk to send a letter to the Board of Selectmen regarding the licensing of the Charter Gas Station which created a hazardous situation with Crossroads. The developer was supposed to come back for the Board to review the plan. Suggests that the Selectmen explore all feasible means to protect public safety.

Sgt. Buskirk comments about Pine Grove Avenue. He had a discussion with Developer T. Jones who assured him he would put in a temporary sidewalk with bluestone before school starts. Mr. Jones showed a willingness to cooperate. He wanted the Board to know about that and will talk with the DPW.

P. Herr comments about Outback Steakhouse. Weiner sent him a site plan at 4:53 p.m. today which was a Guerriere & Halnon preliminary plan. They had some discussion regarding where the building will be within the lot. It looks like a reasonable plan. As now shown it is close to how it was shown on the overall development plan. One issue they have to be careful of is the authorized square footage of the retail shopping center which was 270,300 square feet in "no event to exceed 270,300 square feet". The restaurant shown is 600 square feet bigger than shown. He is sitting next to Cess Oliver who is helping out in his office and pointed out that there are two buildings which aren't built yet. Someone needs to add up all the numbers.

Someone needs to call R. Frazier, W/S Development about the \$1,000 fee for the July 2, 1997 revision, square footage at Crossroads, lighting at Stallbrook/Charles River Center and Charter Gas Station at Crossroads.

GENERAL BUSINESS

Street opening Bylaw Amendment is not going for the Fall Town Meeting. DPW Director DiMartino wants time to revise it more.

Bruce Lord, Esquire, presents Bald Hill Estates Definitive Subdivision Revision with application, fee and abutters list and Weston Estates Definitive Subdivision submittal. Clerk to verify fee amounts for both. Public hearings scheduled for Board's September 11, 1997 meeting at 8:00 p.m. and 8:30 p.m., respectively.

Board to return to two meetings monthly for September on.

PC moves to accept the minutes of May 22, 1997, June 12, 1997, June 26, 1997, July 2, 1997 and July 17, 1997. EM has a revision to include on last paragraph on July 2, 1997 minutes to state "including payment of \$1,000 fee to the Town of Bellingham." AM revision to July 17, 1997 minutes to correct misspelling on page 7, 5th paragraph, 2nd line from property to "properly".

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AM seconds PC motion. Unanimous vote of 5 to approve minutes.

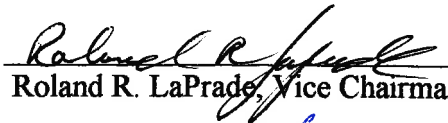
P. Herr will review revisions to Form I prepared by Mr. Bailey, DPW Inspector Consultant.

Members sign invoice for stamps and dues for Massachusetts Federation of Planning Boards and Appeals Boards.

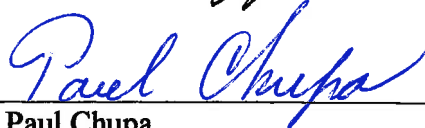
Meeting adjourned at 11:05 p.m.



William M. Wozniak, Chairman



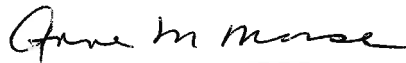
Roland R. LaPrade, Vice Chairman



Paul Chupa



Edward T. Moore



Anne M. Morse