

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

WILLIAM M. WOZNIAK, CHAIRMAN

RICHARD V. DILL

PAUL CHUPA

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ANNE M. MORSE

MINUTES OF REGULAR MEETING

AUGUST 27, 1998

Meeting commenced at 7:00 p.m. All members were present except PC was absent. Planning Board Consultant Philip B. Herr was also in attendance. Minutes recorded by Planning Coordinator Jill Karakeian.

81-P SUBMISSION – Mechanic Street

WW abstains.

Tony Miccini presented to the Board a plan on Mechanic Street with an existing 7.58 acres parcel and 5.5 acres is being split. It is industrial zoned.

P. Herr asked if the owner was Varney because he is an abutter?

T. Miccini said no, it was John Brown and his sister Virginia.

EM motions to approve the 81-P plan, AM seconds. Unanimous vote of 3 (RD, AM and EM) WW abstains and PC is absent.

81-P SUBMISSION – Susan Lane

EK Kalsa from Land Planning is in front of the Board with an 81-P for Susan Lane for two (2) lots with sufficient amount of land and frontage per the Zoning Bylaw. There has been some previous discussion and also my attorney has been in contact with Lee Ambler regarding this as well. Mr. Ambler has forwarded his comments to Board. Our understanding is that Susan Lane is an approved road in a 1965 Approved Subdivision which was filed at the Registry and modified in 1972. Since that time, land in back has been vacant but the road is completed partially to the end

of the cul-de-sac. It is our position that there is legal frontage for two lots and we request the Board to sign the plan. There was a road created by an approved Subdivision Plan. The road to my understanding has never been accepted by the Town. We have correspondence from the DPW Director that the Town has maintained as a matter of course.

EM reads the letter from Town Counsel dated August 25, 1998 addressed to Atty. Stephen J. Kenney. Dear Mr. Kenney: Am in receipt of your letter of August 24, 1998, and I agree that an Approval Not Required Plan is simply a Plan of Land which does not show a Subdivision by definition. However, to accept the premises that the Subdivision created in 1965 and an Approval Not Required Plan which was created in 1972 is not subject to the current Rules and Regulations is a position with which I am not in full accord. Obviously, there are zoning freezes which benefit Subdivisions so that they may be constructed within a statutory period of time, but none of those freezes exist for the time frame of the Plans referred to in your correspondence. You indicate that you do not believe that it is the intent of the law that a new Subdivision Rule has retroactive impact upon an existing Subdivision. However, the legitimate issue is whether the existing Subdivision is a currently conforming Subdivision. Clearly, your proposed lots are not part of the subdivision, and therefore would have no zoning freeze attributed to them. I do feel that the Planning Board is acting properly when it concerns itself with innocent people who purchase in reliance upon an Approval Non Required Plan. It is due to these concerns that I suggested some form of endorsement on the Plan relating to the Regulation of "no more than twelve (12) residence", and it would seem that a simple request for a Waiver should thereafter remedy the problems. My recommendations to the Board would thereby be to endorse the Plans as Planning Board Approval Not Required, but to add thereto the following: See Article IV, Section 4231 of the Rules and Regulations governing the Subdivision of Land, Town of Bellingham. Very truly yours, Lee G. Ambler, Town Counsel. EM states that he doesn't see the notation recommended by Town Counsel on the plans

EK says that they just received that letter recently and they are totally clear what the implication of the notation is.

Stephen Kenney says that he wasn't sure if Lee meant for the Board to add that notation to the plan or we should.

EM says that somebody has to add the notation.

S. Kenney says that, that is Town Counsel's suggestion. We are in the position that this is not a Subdivision, it is an Approval Not Required Plan. We feel that if we add that notation, or if the Board adds that notation to the plan then we are basically bringing the Approval Not Required plan within the realm of Subdivision Rules and Regulations. Which, kind of defeats the purpose of Approval Not Required. We are not in agreement with that notation.

EM asks if they are asking the Board to decide between two attorneys?

S. Kenney says that we are placing the plan before you. As the Planning Board, it is your decision.

EK asks if the Board has any clear understanding what Atty. Ambler meant when he said that a Waiver would be sufficient to resolve the issue. If there is some way that we can resolve the issue so that those lots are approved as buildable lots then we have no objection to any language on the plan.

WW in other words, if the language is put on the plan and the Board signs the plan with that language on there it is my understanding that if you come back at a later date and asked for a waiver of 12 residences. We can either grant or not grant that waiver. I feel that if you want it signed, we got a recommendation from Town Counsel with a notation and we are going to sign it with that notation on it. Then you come back later and ask for a waiver for over 12 residences.

EK asks just for the record if he could ask Phil whether he feels that this bylaw, which was established sometime long after this Subdivision was created, applies to this land? I'm just curious in what Mr. Herr has to say with the applicability of this 12 lot restriction. I haven't counted but I know that there are more than 12 lots when this Subdivision was signed. I believe there are more than 12 houses constructed on that cul-de-sac. I am not clear on how present rules and regulations apply to what was previously approved in 1965.

P. Herr says that he read the letter from Town Counsel. He went back and revisited the statutes and I don't think that it is a zoning question, it is a Subdivision question. If you were to access those two lots with a new road, still within the land, as a form of a subdivision, then there is not question in my mind that it's illegal. But, that new road would have to be current subdivision regulations. The statute says that Subdivision Regulations in effect governs that plan until it is finally approved. It doesn't say forever but it has been approved. Does the new division of land such that go with the current subdivision regulations, therefore we follow the current question. It is a very complicated point, but I have to agree with Town Counsel. If I sat on the Board, I would ask your permission to so annotate the plan.

EK says that he thinks the Board has the language of the annotation. If that is the way to endorse the plan then we can add that annotation to the plan.

WW asked if they wanted to add it.

EM makes a suggestion that they take the plans and add it then come back in and the Board will endorse the plan.

EK said okay.

ZONING AMENDMENT – Public Hearing **Presented by Conservation Commission**

EM makes a motion waiver the reading of the Public Hearing notice. AM seconds. Unanimous vote of 4 (WW, RD, EM and AM).

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Cliff Matthews is in front of the Board to present an amendment to the Zoning Bylaw to prevent future power plants be constructed in the Town of Bellingham. Our intent is not to in any way inhibit the two proposals that currently under review. It is our intention to stop future development of power plants.

WW asked if there is an article written.

C. Matthews says that it is pretty much what the advertisement said. I had spoke to Town Counsel.

P. Herr asked to here what the article said.

RD reads the advertisement. The Bellingham Planning Board will conduct a public hearing on August 27, 1998 at 7:15 p.m. in the Town Hall Complex to consider amending the Bellingham Zoning By Laws Article II – Use and Intensity Regulations, Section 2400 as sponsored by the Conservation Commission as follows:

<u>INDUSTRIAL USES</u>	A	S,R	M	B-1 B-2	I
Electrical generation Facility (Power Plant)	no	no	no	no	no

All interested parties are invited to attend the public hearing.

AM asks if it is safe to assume that the two plants that are in the process, I know one has got their sitting. Would it affect the other one, they haven't actually technically gotten started. Will it affect that other site?

C. Matthews says that the Conservation Commission didn't want to put the Town in a possible legal position. We wanted to note the two applications and that it apply to future applications.

P. Herr asked how this article does that? What is the language that says that it doesn't affect the present applications?

EM would be the fact that they have already submitted applications?

P. Herr says that is a very complicated question. What exactly are you asking for?

C. Matthews says that they are asking for no additional plants except those that have applied.

P. Herr says that if the intent is to infact affect only the plants in which applications made subsequent to a certain date.

AM I guess the question is if they have formally applied?

RD in what point in time in their process of applying would this become a barrier?

P. Herr when a zoning provision such as this becomes applicable to a particular project it depends on a lot of things. If they have submitted a subdivision plan and that plan gets approved. They submit the plan before the article gets adopted, then the land shown on that plan is governed by the zoning in effect when they submitted the plan and is protected for 8 years. If that plan was filed last month then they are okay. ANP has done no such thing. There is another form of protection which is the approval of an 81-P and does the same thing but for 3 years. The critical timing is the first notice of tonight's public hearing. As of that date, anyone taking out a permit after that first notice of that hearing is subject to that zoning if it gets adopted.

C. Matthews said that what Lee suggested was that we can amend the bylaw proposal as part of the motion. Our intent was to stop any future applications other than ANP and IDC.

AM I am totally against anymore power plants. I am just not clear that this is worded the right way. I don't know if I recommend it in this manner where it isn't clear that it doesn't affect the present applicants.

EM says that if it needs to be amended that it can be done on Town Meeting floor.

P. Herr I think we can take care of it tonight, but we need to hear from the public, this is a public hearing. There are some other technical issues with it. I don't know whether it is the intent of the sponsors to prohibit the use of water power in Bellingham generating electricity. Or the use of geothermal systems.

C. Matthews says that is correct. All of those prohibited.

RD asks about the other uses under Section 2400. Some of them are tagged with notations that are noted on the next page which explains each of those uses. Did these notations come along with the uses or did they come along after as amendments?

P. Herr says that they came along with the uses.

Ken Hamway, Weathersfield Road would like to say in support of Mr. Matthews, Conservation Commission I feel that this Town has lost sight of the way of life. This is a good article and enough is enough.

Jim McCandless, Box Pond Road it is not clear to me whether this article bans all types and all sizes of power plants. I want to make it clear that I think we have enough power plants in town with one, but there may be the case in the future where the high school or treatment plant would want a back-up generator would that effect that?

P. Herr says no. That is an accessory use. It is not the primary use. Only if it is the primary use will this be effected.

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Roland Laprade, Wrentham Road, says that he was reading the zoning bylaw and there is no place in there strictly prohibits a particular industry. Some zones need Special Permits and I think that is they way to go. If we get the three power plants I feel that is plenty.

P. Herr says that there are a few industries that have been prohibited in the town already.

John Vignon, representing Glockners on Maple Street. Just wanted to ask the draft for that article, how would that effect say the ANP Power Plant wanting to double in size? Would that prohibit it from say doubling it's size?

C. Matthews says that would be very difficult, because they would have to go through the process again with the state agencies and he very much doubts that would get approved.

J. McCandless says that he can't imagine the Town putting in a fourth power plant. Is there a site where another plant could be built?

C. Matthews says that ANP identified three additional sites in Bellingham. They identified a site North of Beaver Pond off Hixon Street, Industrial Zoned. They identified a site between North Street and Mendon Street and they identified a site around Maple Street and Box Pond.

P. Herr says that he is asking to give language to amend the Article. One of the footnotes can be applied and attached. Where it says Electrical generating facility (Power Plant) there should be an *except regulated as a "Public Utility without service area" if in existance or having filed for approval under the Zoning Bylaw prior to October 14, 1998. I think that accomplishes what we want to actually do with this amendment.

EM makes a motion to amend the article if it is okay with the applicant.

C. Matthews says yes.

EM makes a motion to amend the article to include the footnote 15 as noted by Phil Herr. AM seconds. Unanimous vote of 4 (WW, RD, EM and AM) PC was absent.

81-P Signing – Susan Lane

EK Kahlsa presents to the Board the plans with the notation recommended by Town Counsel.

EM motions to endorse the plan with the notation recommended by Town Counsel. AM seconds. Unanimous vote of 4 (WW, RD, EM and AM) PC was absent.

VICTORY HEATING & AIR CONDITIONING – Waiver Request

David Dalpe presents to the Board a Waiver for the landscaping at the location of Victory Heating and Air Conditioning on Mendon Street for 90 days and the waiver is accompanied with

a bond posted with the Town and Benjamin Franklin Savings in the amount of \$11,000.00. (The cost of the landscaping shown on quotation)

WW asked if Phil was aware of what is happening here?

P. Herr says that he is aware of it and he thinks that it is the right way to do it. It is rare that people do it, but it is a good idea.

RD makes motion to waive the landscaping for 90 days on Victory Heating and Air Conditioning. AM seconds. Unanimous vote of 4 (WW, RD, EM and AM) PC was absent.

EXCAPAVE – Direction for landscaping

Owner is in front of the Board asking for a similar situation as Victory Heating and A/C to waive the landscaping at Excapave on Depot Street until a later time in the fall for plantings to survive. We are asking what should be done.

WW says that you need to get a quote and post a bond with the Town. You should go over it with Phil to make sure that everything is adequate.

RD asked about the parking of equipment at this site and what was the deal with parking the equipment in the building?

EM says that they didn't ask for waiver on parking, just that the parking area had to be paved. We don't make the construction companies pave the whole area because of the dust. We make them pave the edge of the road so they don't take rocks and stuff out.

DEPOT STREET INDUSTRIAL PARK – Preliminary Subdivision

Joe Antanellis, Atty. For Varney Bros. Sand & Gravel and Mike Simmons, Guerrier & Halnon presenting to the Board the plans for Depot Street Industrial Park.

J. Antanellis says that this is a Preliminary Plan for a subdivision of an industrial parcel of property. Guerrier and Halnon has had ample opportunities to discuss this plan with Phil Herr and there has been changes made to the plan and revisions that took place as a result of dialog between Mr. Herr's office and the engineer. I have submitted a revised copy to the Town Clerk and just the other day and I have distributed around town and I have multiple copies should anyone else needs them. The purpose of this is that there is a large parcel of property that was acquired by Varney Bros. Sand & Gravel over the years in multiple parcels in multiple ways and it was recently rezoned Industrial by Town Meeting of over a year ago. The purpose of this Subdivision is to show a preliminary subdivision for two major lots. We have at the guestimate of placing some large structures upon these properties so that we can make some preliminary calculations about drainage and where it's going to go, how much, how it is going to be contained, etc. I think from a Preliminary standpoint close to getting a Definitive plan done. I believe that Mr. Herr had comments with Guerrier and Halnon relative to some missing pieces

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that I think have been put together. Obviously the purpose here is to begin the process of having a Definitive Subdivision of industrial land approved by the Board. But, the first step is to get a Preliminary Plan so we can bring out your comments regarding the use of this property and what you might be looking for relative to drainage control etc.

M. Simmons says what we are doing is subdividing this large parcel between Box Pond Road and Depot Street. Our proposal is a Preliminary Subdivision, we are proposing a 250 foot road to service the two large parcels. What we have shown is two buildings that are exactly the same size. There is no definitive plan as to what type of buildings or structures may go on the lots at this time. I'm showing a 100,000 square foot building on each lot, and 155 parking spaces with each building. How I came to the parking is I took 100,000 square foot building and made some assumptions that 15% would be office, 35% production and the rest warehouse. That is how I arrived at 150 parking spaces. As far as the drainage on the lot, it pretty much drains at a southerly direction on about 90% of the lot. There are four wetland areas located on the lot where the water tends to go now. As far as the 250 feet of roadway, we are showing some catch basins down at the intersection of the road. That will take the drainage from the roadway and charge it to a detention basin. Both buildings, we are going to take the roof drainage from each building and we are going to discharge that directly into the ground to leaching chambers. There are very good conditions as far as onsite septic systems go. The soils are pretty good. We don't anticipate any problems. Water main will loop around the building.

EM asked about the use.

M. Simmons says that they don't know what type of buildings will be going here. We put these buildings on the plans to come up with a way to calculate the drainage on the site.

Jim McCandless, Box Pond Road, says that he objects to the deception behind this proposal in the sense that it obvious that this is the site that IDC has proposed their Power Plant. The fact that you have not made that clear.

EM says that he thought he did that and that he doesn't think that there is anyone here that doesn't know that that is the proposed site for IDC.

J. McCandless says that they have not proposed that. I think it would be fair to state clearly the real reason for them coming forth at this time.

J. Antonellis says that the deception is very clear. We have delivered an 81-P plan at the last meeting, a Preliminary Subdivision Plan tonight for purpose of preserving for Varney Bros. Sand & Gravel in what it believes to be the highest and best use of it's property on Depot Street which is Industrial Use. Everyone knows that it is the IDC parcel. There has been some agreements between IDC and Varney Bros. The intention of this plan is to preserve the industrial zoning of this property.

AM basically, if the power plant doesn't happen on this property they would like to move forward with something else?

J. Antenellis says exactly.

Don Keller, Mendon resident and close abutter on Rte. 140. What my concerns are is that they have already got a three year protection from the 81-P. Now, they are obvious going for an 8 year protection. Don't they need a whole lot more in detail for the 8-year protection Definitive plan to get approved?

WW lets Mr. Keller now that this is just a Preliminary Plan.

D. Keller asked what the next step is after the Preliminary? Are you going to need more detail in regards to the site before it can be accepted as a Definitive?

AM says that we act on the Preliminary and then they move forward to the Definitive.

P. Herr says that when they came in a month ago, they brought a plan in and I spoke to the Board and looked at the plan and talked about whether they in fact had enough detail for it to constitute a Preliminary Plan. When we looked closely we found that they did not. In the case of a Preliminary Plan, the requirements are in the Subdivision Laws, the State Statute. That is what we use to determine the requirements. I'm confident that the set of drawings that are submitted for Preliminary is okay. When we move to the Definitive Plan, all of this becomes much more complicated. What they really need to detail is that 200' road. The buildings probably won't be shown and the parking won't be shown. But, in order for the Board to decide whether the 200' road is adequate or not, the Board needs to know something about how the rest of the land is going to be used. We are going to need to deal with some of the issues that gets raised by the illustrated drawing that they make.

M. Simmons says that the Subdivision is at least two lots. Lot 2 and Lot 3 shown on the plans are not part of the Subdivision. It is Lot 1A and 1B that are part of the Subdivision.

J. McCandless says that there is one conflict. Lot 1A, I believe is in direct conflict with IDC's proposal to leave a large buffer zone between the plant and Box Pond Road. Does this plan override any past IDC proposal for vegetated buffer zone?

P. Herr says that he thinks that the plans are to help us understand scale and the way the storm drainage work.

EM no matter what goes there, whether it be the IDC plant or something else. If you have Industrial land and it abuts Residential land you need screening.

Kathy Johnson, concerned citizen questioned the size of the road.

M. Simmons says that the pavement of the road will be 30'.

Paulene Hamway, concerned citizen. I find this to be very upsetting. This much development in a small area. I don't understand when the Town Boards take into consideration the quality of life of the residents. It just seems that the few people that have land and money are able to run the town and control the lives of the people there. I think with the power plant going there it is a tremendous impact on the people and the environment. When and where does this stop? I just find this all very upsetting.

AM says that basically, the law says that we can't stop it.

J. Antonellis says that he thinks it goes beyond that. It is a situation that, there is growth. Land is the supplier of growth. We all use land for something. My client has 100 and some odd acres of Industrial Land on a road within Industrial Uses and she believes that Industrial development is the best use of the property. She has a right to use her property as she wants.

P. Hamway says that to development the land to that one person's benefit that's one thing. But the impact of everyone around the area, it's not fair.

WW says that unless you bought all the land up, that is the only way you can stop it.

EM says that we have a public hearing that needs to be opened and continued.

COUNTRY CLUB ESTATES II – Definitive Subdivision – Public Hearing
Continued

Roger Gagnon is in front of the Board asking for a continuation due to he is waiting to go in front of Conservation Commission.

AM motions to continue the Public Hearing for Country Club Estates II Definitive Subdivision until September 24, 1998 @ 8:30 pm. EM seconds. Unanimous vote of 4 (WW, RD, EM and AM) PC is absent.

WW says that we need to continue and we need to decide on what's going to happen with this Depot Industrial Park Preliminary Subdivision.

P. Herr says that it isn't a Public Hearing it is just a discussion. I have at least one planning question.

J. Antonellis says that their intention is we filed what we consider to be a very comprehensive Preliminary Plan. We intend to follow it with a Definitive Plan that substantially conforms to the Preliminary within 8 months. If the Board would like a little more time relative to answering of some questions that would be fine.

P. Herr says that the Board has 90 days to act on the plan. I feel that this plan tonight is the submitted plan. The plan that was submitted at the last meeting went away.

J. Antonellis says that he feels that the Preliminary Plan that was submitted at the last meeting is in fact this plan with the exception that there has been a tremendous volume of annotation added to it for the purpose of having reviewing. The original plan had some items missing, but statutorily it did conform to the Statutes.

P. Herr says no sir, it did not. I wrote you a letter that was three (3) pages long that explained that it didn't show drainage in a general fashion, it didn't show storm drainage, it didn't show the boundaries of the subdivision (you couldn't read it), it wasn't even close. If I can't tell what the boundaries of the Subdivision are then I don't feel that they meet the statute. I don't think we are going to take 90 days. The plan submitted tonight is fine.

J. McCandless says that as most people know, there is an Article on the warrant for the October 14th Town Meeting to reverse the zoning of this land back to Agricultural. At what point does this proposal for subdivision gain it's eight (8) year protection?

P. Herr says right now. It just has to be filed as a Preliminary Subdivision. That is state law not Bellingham Law. The Definitive plan must be 7 months after the Preliminary Plan has been filed.

WW says that we have tentatively scheduled this discussion continued on the 8th of October at 7:30 for those interested parties. Everyone should check the schedule at the Town Clerk's office for any changes.

REMY ESTATES PRELIMINARY SUBDIVISION

Bruce Lord, Esq. represents the Owners of the property Lucielli and Ron Remy and Richard Dreason from Marc Nyberg & Assoc. Is also here regarding the engineering and surveying part of the property. They are presenting to the Board the Preliminary Subdivision plans for Remy Estates located on Blackstone Street.

B. Lord says that the property is located off of Blackstone Street. North Street runs South of the property. Blackstone Street is paved to the gas easement. There is a blocked barrier further down on the gravel road that continues. It has a total of 18 lots. There is one lot that is on Blackstone Street that will be divided as an 81-P. Essentially there will be two roads. One of which is the existing Blackstone Street as it know sits being paved part way and the rest packed gravel. The second road will be going through the subdivision going North ending in a cul-de-sac. The drainage on Blackstone Street will be essentially as it presently exists. Blackstone Street will be widened to the width required by the Subdivision Rules and Regulations for under 12 lots. Same as the road that is being put in. The drainage on the top proposed roadway, there will be four catch basins and draining into the detention area and run off into the wetland. There are several wet areas, however, putting a road through the property would not require filling more than 5,000 ft. Mr. Herr had questioned whether there was a stream on the property relative to drainage and it is not. I saw the comments from the DPW and they would like to see a Cluster Subdivision and I certainly think that is workable. The property itself has been in the same family for about 150 years.

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WW says that the last time this came before the Board as an 81-P it was question whether Blackstone Street was a road.

B. Lord says exactly.

WW now, the letter from the DPW states that from our records it appears Blackstone Street is a town accepted way, however, our records do not indicate this. In other words, you are going to put a road off of what?

B. Lord says we are going to put a road off of a road.

EM says that they are going to be continuing Blackstone Street. You are showing lots on Blackstone Street.

P. Herr asks that Blackstone Street continues does it not?

EM says yes, it becomes Bellingham Street in Blackstone.

P. Herr says that he thinks why that cul-de-sac is for public convenience but the street continues to go through. If it does not, I think it will be over 12 lots. I think you can't claim that Blackstone Street ends, although I wouldn't want to drive it. You are going to improve it to the cul-de-sac but not beyond the cul-de-sac. If you have a 4-wheel drive could you keep going?

B. Lord says that he believes at the end of Varney Bros. Land there is another barrier. If the rocks weren't there yes, you could.

WW is it a road just because it is a dirt road.

B. Lord says that when it becomes to Definitive, then whether Blackstone Street exists or not may come back. We are not concerned with Blackstone Street whether it is a road or not. With the Preliminary, we are saying that we will improve to the end of the property to the level of a town road.

WW asks how do you know that the existing Blackstone Street is a Town Road?

B. Lord says that the Planning Board and it's wisdom accepted it as a Town Road back in 1977 in an 81-P.

EM asks if the plan says that it is an accepted street?

B. Lord says that is one of the requirements of an 81-P.

EM says that it might have been just to approve adequate access.

WW says that you can put a new road off of adequate access?

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EM says that back in 1977 someone wanted to build one house and at that time that Planning Board said that road was adequate access for one lot. I think we determined that it was a road up to the last house. We told them that they couldn't go any further with additional houses without building the road.

B. Lord says that in order to approve the 81-P in 1977 they had to determine that this was either a road on a plan since 1956 (public way in which Town Clerk certifies as maintained a way.....). That was a requirement for an 81-P. They did the entire road from North Street right up to the last existing house under an 81-P and that was their determination.

EM says that both Conservation and DPW are recommending that maybe Cluster would be better suited. I don't know how many lots you are showing on Blackstone Street but can you then incorporate them into a Cluster?

B. Lord says sure. The owner of the land will not be presenting the Definitive. The purchaser will be. This is approximately 41 acres, 2 acre zoning and divided into 17 lots. It is a large amount of space and I think Cluster on this property wouldn't be a problem. Blackstone Street whether we can prove it's accepted or isn't accepted there is an advantage of using it.

P. Herr says that the letter that B. Lord got from Natural Resource seems to say the opposite from what you said earlier. It says it is important to note that a watercourse flows southward through the interior of the property. This is a perennial river is subject to the rivers protection act requiring a 200' buffer. Asked if you could tell where the river was by the drawings.

R. Dreason said that the edge of the river is approximately the center of the wetland area on the drawings. Right down the center. The design of each lot has that buffer incorporated in it.

EM says that there is a letter from Conservation Commission regarding the rivers protection act.

WW states that in the Conservation Commission's letter they feel a cluster would work better.

Jim Ferman, abutter asked about the 12 houses on a dead end. Asked if that includes the existing houses on the street?

P. Herr says this is a mind puzzle, because there are a bunch of existing homes on the street. I think the intent of it is not more than 12 dwelling units beyond the point where you've got two means of access. I think it is critical that Blackstone Street infact has an egress the other end. I don't think it would work unless. I think this is a real early drawing. I don't know about the rivers protection act and somebody has to go out to that property and stake out the river to determine the buffer.

WW says that the issue is to come back infront of the Board showing you can infact get 17 lots.

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B. Lord says that is what our belief is. If the Developer does come in with a Cluster at a later date, clearly it is up to him to prove that these are actually buildable lots. There is certainly more work that needs to be done in regards to the river. This is just a configuration and a Preliminary.

EM says that he doesn't think the Board can act on this because they would like to see the Cluster layout.

WW says that the Board needs to see more status of Blackstone Street.

B. Lord says that we are coming off of the Town Road. It is not a dead end town road.

P. Herr asked if Town Meeting accepted Blackstone Street?

B. Lord says that the Planning Board approved an 81-P.

EM says that the issue is whether Blackstone Street continues on into Blackstone. We all think it does, but you just need to come in with something saying it is Bellingham Street in Blackstone and in Bellingham it's Blackstone Street.

B. Lord says that he can show it does go through.

P. Herr says that B. Lord keeps saying two different things. You say it is private property beyond the pavement, it's not a road. Then you say that you are sure it goes through. What the Town Subdivision Regulations says is that dead end streets shall provide access to the more than 12 potential dwelling units. It defines dead end street as a street, a section on a street or system of streets connected to other streets only at a single point. That is the dilemma. There is a good answer to this. Does everyone's deed go to the center of the road? Does everyone's deed contain a provision that grants an easement to pass over?

B. Lord says that he believes that the way is a town road. Make a recommendation of this Preliminary Plan.

EM says that we don't have to make a recommendation. We have 90 days.

WW we want some feedback on the road.

B. Lord said that he needs some direction. Would you want to see a Subdivision or a Cluster?

EM says that apparently, neither one may work unless you determine that Blackstone Street goes through to Blackstone as Bellingham Street. Somebody needs to find this out.

P. Herr says that I think you have heard from the Board that they don't have objection to improving Blackstone Street only to the standards of a Lane. I think you heard that they don't object to the notion of a second street as a cul-de-sac off of it. I think you heard that they are supportive in principle of the idea of cluster development but they would like to see what it looks

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like. They would like to see in writing because of schematic difficulty we are having, an explanation of how it is that what you propose would be consistent with the Subdivision Regulations Limitation of the number of potential dwellings on a dead end street. I think that is a fair amount of guidance. I think we also need evidence, perhaps from the same firm that did the wetland identification, where that river is.

BAINBRIDGE WOODS – Definitive Subdivision – continued Public Hearing

Bill Halsing of Land Planning and Ed Gately, Owner is in front of the Board to present an updated drawing for Bainbridge Woods – Definitive Subdivision.

P. Herr says that this Definitive Plan that the Board has not yet closed the hearing on. The last that I remembered that I was involved in was that we had a letter from BDO Eng. Indicating that the concerns that they had raised with regards to the 2' wide separation between the bottom of the water quality swale and the ground water table had not been resolved. I volunteered to speak with Mr. BDO Eng. To see what he thought. BDO Engineering said that he felt it wasn't consistent with the regulation. He didn't think it was appropriate to waive. In order to meet it you need to raise the grade of the road as a bridge that goes over the wetland making that situation worse. He felt it was a very small issue.

EM says that was the only issue he remembers. Seeing that it does not meet the regulations, it needs a waiver.

B. Halsing says that they are requesting three waivers. Two of which we spoke about before: Width of the pavement and no shoulders over the wetland crossing areas. We have asked for a third waiver for the separation of ground water for the water quality swale. We have removed the work required from the plans.

EM motions to close the Public Hearing. RD seconds. Unanimous vote of 4 (WW, RD, EM and AM).

EM motions to approve the Definitive Subdivision for Bainbridge Woods and to approve the three (3) waivers as requested and also subject to the usual conditions that are attached to the Definitive Subdivisions. Also, the Developer maintains the various Storm Water Management facilities for a period of two (2) years. AM seconds. Unanimous vote of 4 (WW, RD, EM and AM) PC was absent.

81-P SUBMISSION – High Street – Tim Jones

Tim Jones of Gracewood Development presents to the Board an 81-P drawing of 10 residential lots on High Street and paid a fee of \$10.00.

P. Herr has seen the drawing and is okay with it as an 81-P.

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AM motions to sign the 81-P for 10 lots on High Street for Tim Jones. AM seconds. Unanimous vote of 4 (WW, RD, EM and AM). PC was absent.

HONEY DEW DONUTS – Discussion

Theofilos Gergos, owner of Honey Dew planning on opening at 15 North Main Street in the old Stevens Harvest Commons.

Sgt. Haughey, Sgt. Daigle and Tom Guerin here to discuss the opening of Honey Dew Donuts.

RD says that it was confusing as to who was going to open first, Honey Dew or Bellingham Grocery and how much parking they had.

WW says that it was brought to Phil's attention that a Donut Shop was opening in an old variety store's location and it was given a Building Permit without coming in front of the Planning Board for a Site Plan.

P. Herr says that the Board sent a letter to the Town Inspector expressing their concern that this seems to be going on without a Site Plan. It came up at the previous meeting. The question was why did it not come before the Board. It may be because nobody realized that it needed a Site Plan. Since then, the configuration that what it is they are proposing to do, I think has changed to the point may be okay. They are here tonight to try and resolve it.

AM asked what would trigger them to come in front of us?

P. Herr says that the issue is that there is more parking required than what was originally proposed with Stevens Harvest. The circulation has changed due to the drive thru for the Donut Shop.

RD says that his confusion was pertaining to the parking. The Donut Shop is going to have seating and parking will be based on seating, whereas the variety store Steven's was based on square footage. We approved Steven's on square footage of floor space, now they are putting in almost of what I consider a restaurant. My concern was I never saw anything showing my how many seats they are proposing to see if they have adequate parking for that.

P. Herr says, nor has he. But, what they are saying now is that they will put in as many seats as the parking will allow and no more.

AM says that Steven's had seating.

WW not on a site plan that was put in front of this Board.

P. Herr says that may be, but this has been like pulling teeth to try to find out things. I think that Honey Dew people are here because they want to open. The last drawing in which I saw showed

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parking spaces all of which currently exist. Two curb cuts, one of which I was told from Bill shouldn't be there because it was never permitted.

WW says that we haven't seen anything.

P. Herr says that you can right now. There is a plot plan here tonight that you can see.

AM I think that it is a simple this is what you have to do. If it requires a Site Plan.

P. Herr says that they provided a Site Plan. Does it have all the information that we request? No. It does not have all the items on the checklist.

EM says that if they have a plan let the Board see it. The Safety Officer is here so he can comment on it and see if it will or won't work. The store is a non issue, it was a store before.

AM asked about the parking spaces along the side of the store on Dairy Queen size. Were they there before?

P. Herr says that they were there. And there are parking along the other side of the building near the vacuums.

WW asked if the owner of the building is here?

T. Gergos said no. We are leasing the place and the owner is allowing us to do all the work. What ever is allowed we will alter our seating inside.

P. Herr says that the parking spaces on the plan are good.

Sgt. Haughey says that as far as he is concerned there shouldn't be any parking along side of the building where the drive thru is going whatsoever so you can have a flow of traffic.

WW says that right now, the building in front where the Donut Shop is going to go and Plaza down back is owned by the same person. If it parcels out and the building up front gets separated from the Plaza where does the parking get split in the back of the front building? It never came before this Board for a Site Plan, that is totally wrong.

EM does it need a Site Plan or not? It is not there fault, it is the Building Department's fault. They are supposed to send them.

P. Herr says that Site Plan Review is required if you alter parking for a non-residential use if it involves 10 or more parking spaces. I think that drive thru alters the parking. So, the answer is yes, they need a Site Plan. They didn't know that until the Planning Board sent a letter to Mr. LeClair.

WW says that this started a month ago after our last meeting.

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P. Herr says that there has been alot of conversations with Honey Dew Donuts. This is the second set of drawings that have been submitted but they don't meet all the requirements for submittal.

AM says that then the bottom line is, they need a Site Plan.

P. Herr says that he sent them a checklist and there are alot of items not on the plans tonight for submittal.

AM asked if they can open as long as they don't use the drive thru? Just open for walk in? I'm trying to work them.

WW says that out last meeting of July 23, 1998. On Thursday, August 6, 1998 Phil went there and spoke with Stuart LeClair. Don't you hire an engineer to do the items on the checklist? On June 15th was the date on the first set of plans. Doesn't the engineer know about site plans and what is required?

AM asked Mr. Gergos if he gave the checklist to his engineer?

T. Gergos said yes.

P. Herr asked for the Board to give some guidance. The main concern is the circulation through the parking lot. I think these people maybe didn't do everything perfect, but the basic screw up wasn't theirs. If you want them to take away the parking spaces along the building then they should be able to come up with the right amount using the spaces out in back of the building. We are told that everything is in the same ownership. As long as there is some legal documentation stating that the donut shop is able to utilize the parking out back of his building and your approval would be conditional upon that. They should plan to come to your next meeting with a drawing that does not show the parking spaces you want removed but do show parking in the back of the building with documentation. I count now, the small store needs eight (8) parking spaces. In addition to what the small store needs for parking spaces, there are undisputed 6 parking spaces times 2 is 12 seats. What if he has 12 seats? Would a 12 seating capacity and none of the parking on the side of the building be okay?

RD says that it will not work.

AM says that we know that but the law says that is what is required.

WW says that we want to see a Site Plan Review with all the requirements and the change in parking spaces. Safety is one of the big issue.

AM asked about a date for them to come back with a Site Plan. They decided on September 10th @ 7:15pm.

81-P SUBMISSION – ANP SITE ON MAPLE STREET

AM abstains and leaves the building.

Neal Roach, Atty. Presented to the Board an 81-P for ANP location on Maple Street.

WW asked Phil if he saw this plan yet?

P. Herr said no. He asked if it is critical if it is acted on tonight?

N. Roach said that he guesses they can wait.

P. Herr says that it is a fairly complicated plan. I haven't seen it, nor any of the Board members have seen it.

N. Roach says that basically the plan shows the land presently owned by ANP and land that is to be acquired.

S. Springer, engineer, says that we are not introducing any new division of land. It is basically showing the consolidating of ownership of the ANP land.

WW asked what the issue is to have this 81-P signed tonight?

P. Herr says that the Board can sign the plan tonight if they wish. But, there are a lot of notes and items that should be reviewed. I don't think that there is any hurry. My only concern is that the Board has 21 days to act on it. I would argue that tonight is the submittal date.

N. Roach said that tonight would be okay for the submittal date.

WW says that the Board will put the 81-P on the Agenda for the September 10, 1998 meeting.

ANP BELLINGHAM ENERGY CO. – Development Plan Review
Continued Public Hearing

Neal Roach, Atty. is presenting to the Board a booklet to outline all the issues that were raised at the last meeting. Lynn Gresack, Steve Sprinker and Robert Dokens are here as well to represent ANP.

R. Dokens says that there are a number of open issues, questions that the Board had on the meeting of July 23rd and the booklet and the drawings will respond to those questions. I would like to go briefly through the book. There was a question about vibration and the letter that we had. There was a question which revision of the code 1995 or 1997 was applicable. We have the 1997 version in this package and we refer back to it and tie the limits in this version with what our limits of the machines. Our machines are well under the limits. The next issue was electrical disturbance and we revised the letter to better explain that as the Board requested. Mr.

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DiMartino sent us his comments from his plan review and we have incorporated those comments in the plan and also there was some other changes that needed to be made with the design and those are also included in a memo in this package. Along with a letter from Mr. DiMartino to the Board. Sgt. Daigle also commented the plan and we are incorporating his comments. We also included Mr. Walter Amory's approval letter on the Storm Water Design. There was a big concern regarding the access road and what it would look like. We have an artists revision and we also have a drawing with what it would look like. This also shows the narrower 24' road that will match the revised road going in.

RD asked if you will be able to see the stacks from the road?

R. Dokens said no. Also, we have drawings and there were a number of questions that the Board had regarding the construction trailers and construction parking and that is on drawing number 7. The Deputy Fire Chief requested that we show our hazardous storage.

EM asked if this was all within the power line easement. I know that area, when it rains it can be a mess, are you going to pave the roadway?

R. Dokens said that is correct. The roadway is going to be gravel and we are going to have the equipment on site to maintain that road. The reason we do not pave it is because there was a concern about a 37' road and this one is going to be 37' during construction so that we can allow two lanes in and one lane out in the morning and two lanes out and one lane in in the afternoon. We will also have onsite during the entire construction process a street sweeper to clean up Maple Street on a 24 hour basis. There were some comments from Mr. DiMartino on the Waste Water and his largest comment was that we had clean outs and did not have a break on the sewer man hole and we have installed those.

EM asked Phil if that about covered what the Board had questions on?

P. Herr said that the only way to tell would be to go down the list of concerns that were presented at the July 23, 1998 meeting. I just got these updated plans tonight.

WW asked if the Safety Officer had any comments?

Sgt. Daigle said no, he was all set.

Caroline Duheim, concerned citizen asked if Maple Street was going to widen before construction is started?

EM says that this was a good question, but that is a different project so it is hard to say when the improvements of Maple Street will begin.

John Vignone (Atty. for Glockners) wanted to see the plans that would then bring up some questions.

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EM asked if the plans were sent to the Library?

N. Roach said that they were distributed to everyone on the Distribution List.

EM said that there have been information available at the Library all along and I feel that the plans should be there as well.

J. Vignone said that his concern was the lot line that was near the detention pond. He says that there is a stone wall on the actual property but it is not shown on the plans.

P. Herr asked what the question was.

J. Vignone asked were the detention pond was? Asked if the detention pond was going to be right on the lot line?

S. Springer says that it is going to stay off of the lot line. Distance off of the lot line is 11' and erosion control barrier is 5' off of the lot line.

EM asked about a buffer from a residential use. We send the drawings out to an engineering firm in behalf of the Town. Did the detention pond change?

P. Weicik says that no, the detention pond didn't change in any way except we removed the fence.

EM motions to continue the Public Hearing for ANP of Bellingham Development Plan Review to September 10, 1998 @ 7:45 pm. RD seconds. Unanimous vote of 3 (WW, RD and EM) AM abstains and PC was absent.

GENERAL BUSINESS

The Board signed invoices.

Form G was signed for Lot Releases at Spring Meadow Acres off of Locus Street. EM motions to sign, RD second. Unanimous vote of 3 (WW, EM and RD).

Certificate of Release was signed for two properties in Weathersfield.

Charles Johnson of Pine Grove Ave. is here concerned about the traffic flow being generated by Deer Run and using it as a cut through. Myself and other residents of Pine Grove Ave. and Deer Run are concerned about the stipulations that was put on construction of the development with regards to a gate that could be installed at the junction of Pine Grove and Deer Run. I think that there is a letter coming from Deer Run residents asking for the gate to be installed. I'm a resident of Pine Grove Ave. and we've experienced a tremendous increase in traffic and most of it is speeding traffic and is not complying to the speed limit. When the stipulation was written about two years ago they had come up with a tentative car count. I believe when you worded the

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stipulation it had to be 750 cars to close off the gate. That would be one car every 2 minutes 24 hours a day. I feel that is a very unreasonable amount of traffic on a small side street.

EM said that closing that off will make it hard for people on Pine Grove.

C. Johnson said that he has talked to some of the residents, they understand that this is a convenience factor. The main factor is that we would have a much more peaceful neighborhood if the gate was installed.

RD asked if anyone has spoke to the Safety Officer regarding this?

C. Johnson said that he believes that someone has been in contact with the Safety Officer.

P. Herr said that he spoke to Tim Jones on something else and Tim mentioned that he has not put the finish coat on Deer Run yet, but it should be happening soon.

C. Johnson said that he can see that the manholes have been raised.

P. Herr said that once the finish coat is put down, so the traffic will adjust, then after some reasonable period of time, which sounded like next spring, he would do the second traffic count. That sounded right to me. To make the decision to gate that without the second traffic count isn't going to fly. You have some public safety officers that are very much against that. You do need to give people time to readjust.

WW asked if the sidewalks have been on Pine Grove?

C. Johnson said no. He said that he has seen some street work in that past couple of weeks.

RD asked how much time is left on the bond money.

C. Johnson said that there was stipulations written into the Decision and I have to say that he didn't follow a good deal of them. You have no enforcement of your stipulations in the decisions. I spoke to everyone and

RD asked if anyone has spoke to Tim Jones directly about these concerns?

C. Johnson said that he has never personally spoke with him and he always seems to be on and off the site rather quickly. At all the Planning Board meetings he had an Attorney and the Engineer there. He never appeared. One of the stipulations that was set was that he wasn't supposed to use Pine Grove Ave. during construction except to put the sewer line in. When that project started, three hours after he arrived on the site a 10 wheeler went down Pine Grove Ave. full of sand. A resident stopped him on the second or third load and told him that he wasn't supposed to be using this road. The guy got on the Cell phone and his boss told him that until the police stop you then keep doing what your doing. There has been two accidents on Pine Grove Ave. As a resident of Bellingham since 1975. It is very disheartening to see what is happening to this Town.

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You give the rules and conditions to the Building Inspector and he won't enforce them. He gives them to the DPW and they won't enforce them. You call the Police and they won't enforce them.

WW asked if Mr. Johnson has expressed any of these concerns to the Board of Selectmen?

C. Johnson said no, he has not. I believe one of the residents have spoke to one of the Selectmen and he was told to bring it to the Board's attention.

RD says that everything that is of concern should be put in writing and copied to the Board of Selectmen, Building Inspector, DPW, Police. These are items that we can use when he is ready to come in for a release of his bond.

WW said that they should definitely bring the concerns up to the Board of Selectmen.

The Board signed Phil Herr's FY 1999 Agreement for services to the Town of Bellingham. RD motions to sign the agreement, EM seconds. Unanimous vote of 3 (RD, EM and WW).

Two more applicants have applied for the Alternates Position and the Board is reviewing.

There is a Public Hearing being requested by Stor/Guard for a Special Permit and Development Plan Review.

P. Herr says that they want you to schedule a Public Hearing and they have requested it in writing.

P. Herr says that the issue came up when last I was here about people bringing incomplete drawings to the Board. I looked up all the submittal requirements for Subdivision Plans, Site Plan, Special Permit and Development Plan. I put together a description of what I feel would be a good place to start to get submittals more complete.

P. Herr said that there needs to be some adjusting in the meetings in October, November and December. I think that we do need two meetings a month and maybe we can just move to a different night of the week.

The clerk tells the Board that a letter needs to be written to DPW regarding his request to up the Bond on Brookside Estates.

EM says that we do the bond based on his letter.

RD asks why you can't request more money. Just send him a letter and see if we can receive more letter.

EM we need to send a letter to Don DiMartino saying that we post the bond based upon what you tell us. You told us an amount and now you want more.

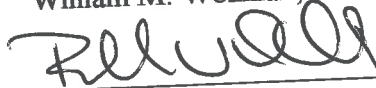
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RD wants to go on record with this Honey Dew Donuts. I wish Ann Odabashian was here. It is my understanding that, my feeling, that when an issue comes up like this where one of the Board members sees something. I thought Billy, as the chairperson, has the right to initiate concern and/or a letter to a Selectmen and Lee Ambler posting concerns about that. Not speaking as a Board, and saying I Bill, feel that this needs to be like this. Does he have the right to act on behalf of the Board. Ann does not think that. She says that the only reason he is the Chairman is to run the Planning Board meetings. Her views do not agree with his views. She wants that clarified. Does the Chairman have the right to give the Clerk direction to send a letter on concern? Anne thought it was wrong that the letter got sent from the Planning Board to Lee Ambler at someone's request. She went to Lee's office and felt that Billy was portraying on the Board's behalf. But, the Board had already brought it up at the last meeting. It is Ann's impression that the Chairperson doesn't have the right outside of a meeting to initiate concerns.

EM moves to adjourn at 12:30 am. PC seconds. Unanimous vote of 3 (WW, RD and EM) (PC was absent and AM left the building to obtain from ANP).

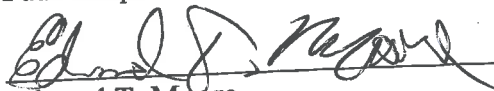
William M. Wozniak, Chairman



Richard V. Dill



Paul Chupa



Edward T. Moore



Anne M. Morse