



BELLINGHAM PLANNING BOARD

2 MECHANIC STREET
BELLINGHAM, MASSACHUSETTS 02019
(508) 657-2892; FAX (508) 966-2317
PlanningBoard@bellinghamma.org

December 9, 2010 Meeting Minutes

- **Present at the Meeting**

Patricia M. Buckley (PMB), Chairman
Glenn C. Wojcik (GCW), Vice Chairman
Dave Brown (DB)
Peter M. Morelli (PMM)
Peter Pappas (PP) (Secretary) (absent)
Roger Oakley (RO), Associate Member

Other Officials: Stacey J. Wetstein (SJW), Town Planner
Amy Sault (AS), Coordinator
Jay Talerman (JT), Town Council

PMB opened the meeting at 7:00pm.

Pine Hollows Estates, off of Countryside Road (between Bellwood and Brooks Estates) Special Permit for Multi Family Development and Development Plan Review, Continued Public Hearing; Special Permit; Development Plan Review

Robert Poxon from Guerriere & Halnon represented Corey Builders. Mr. Poxon advised that they are proposing a 36 unit town house development which will be located within 12 buildings. He advised that this project would include two roadway systems, the first one being a loop road from Countryside Rd. that will be @ 1,065 ft long and there will be a connecting road in between that 300 ft long. Mr. Poxon advised that the units are proposed to be serviced by municipal water; there are also gas and underground utilities that will be on the site. Mr. Poxon advised that each building will be serviced by individual sub service disposal systems.

Mr. Poxon advised that the property is a little over 25+ acres which does have a wildlife habitat area within the location of the site. He advised that they have submitted plans to Natural Heritage and LEC Environmental Consultants which have looked at this property and came up with an agreement and a solution that will limit the area of disturbance on the property to @ 6.5 acres. Natural Heritage also advised that there is at least a 50 ft wide corridor around the salamanders.

PMB asked if they filed with the Con Com yet. Mr. Poxon advised that they have submitted plans but have not submitted a notice of intent yet. Mr. Poxon advised that some of the comments from the DPW talking about different types of runoff and are

looking at low impact development and may adjust the detention basins. Mr. Poxon advised they have submitted an ARAD and have proof that it was approved last year. SJW advised not to hold off until the con com review, do it now as it will take them weeks to get notices out, she strongly advised to do both the PB review and the Con Com reviews together.

Mr. Poxon advised that there is very minimal amount of work being proposed around the buffer zone of the vegetated wetlands. He advised that most of the issue would be with Stormwater and Graves will review this. PMB advised that Graves has not started their review yet. Mr. Poxon advised that he spoke with Steve Sylvan of Graves yesterday; he needs to get Graves a revision on the Stormwater Management report, even though the impervious area did not change. Mr. Poxon advised that they will look at putting some individual dry wells at each building for recharge. He advised that the detention basin shown is an infiltration basin and it is sized adequately enough to recharge the entire site for one inch of runoff which is what the EPA is mandating. However, they will look at spreading it out more but he will make an adjustment to the Stormwater Management report basically because they are going to take more roof off.

Mr. Poxon advised that they came up with three different styles of fronts. The roof lines are different, and will look different on the ground due to the elevation of the road.

PMB advised that because they have not submitted to the Con Com and Graves it will be a limited discussion tonight. PMM advised that the Town has new Phosphorus regs, and asked if they would consider a low impact development. Mr. Poxon advised that they have been in discussions with Milford and Franklin but it is hard to mitigate discharge and to have country type drainage without curbing is hard to do; curbing controls the runoff a bit more and not have it spreading all over peoples yards. Mr. Poxon advised that porous pavement is very expensive including maintaining it. He is not sure where it is being used in an actual roadway in New England because we have frost heaves now without having to put this water underneath the pavement without having it freeze. Mr. Poxon advised that they will look at doing it for the driveways, but ultimately the roadway is a privately owned road and there will be better maintenance and cleaning of the catch basins.

PMM advised that the project has quite a bit of wetland and stated that the EPA and DEP and the Metropolitan Planning Commission are not worried about something is privately owned or publicly maintained, they are worried about the phosphorus discharging into the Charles River, which this project is not far from. PMM advised that this would help load up the Charles River which is the whole idea behind these regulations and what it is going to end up costing the people of the Town of Bellingham. PMM advised that the claim is that 20% of this problem is created by industrial and commercial enterprises and the other 60% is created by residential. PMM advised that they are talking about 2 acres of impervious area, if not done correctly will come back two acres of impervious area and if you have two acres of impervious area including roadways and roofs, you will fall under that purview. PMM advised that if this is not done correctly it will come back and bite the condo association and will not help the Town of Bellingham.

PMM would like to see some sort of an idea to prevent this from happening. PMM thinks it will be helpful to limit it with in the guidelines proposed. Mr. Poxon advised he

is working on a condo project in Milford and is dealing with these same issues and advised he will make it work.

PMM advised that the narrative states that when he used the traffic handbook, was anything taken into account from Bellwood and Mechanic St. Mr. Poxon advised that the entire site was taken into account. Mr. Poxon advised that the original development had a traffic study but will recheck the numbers again. SJW questioned the traffic study and if it included Mechanic Street, the Board would like a more updated, in depth analysis. PMM advised that he checked the Town's Bylaws and wanted to know if it would trip a significant addition of traffic and have it studied and addressed.

RO mentioned that while reading through his notes, it mentioned that a resident had a concern about a means of egress other than one into this project. RO asked if they have looked into this. Mr. Poxon advised that it would require the acquisition of a significant amount of property, it is not currently owned by them. RO clarified and asked if they were looking into it at all, Mr. Poxon advised that they are not.

Brian Bodiya, 26 Countryside Rd., asked if they can look into the second means of egress. Mr. Poxon advised that they cannot because they are only developing a small portion of the property so they do not have the means to do that, nor do they own it. Mr. Poxon advised that they don't have any means for providing a secondary access and that St. Blaise owns it and is an enormous amount of roadway to be constructed and nothing would be on it. Mr. Poxon advised that it is not feasible for this 36 unit property to acquire this land. RO asks if anything in the law prohibits them from making it wider, if a car is parked on the roadway, a fire truck can not get in or out. RO asked them to think about this, Mr. Poxon advised they do not have the means to do that.

Ethel Patricio, 36 Countryside Rd, there is only one entrance, (referred to a situation that occurred in the past when some residents were trapped by a person who had explosives) some of Brook Estates could not go home because the entrance was shut off, if something like that happens then there is no means to get in and out. Ms. Patricio advised that they plan to add 36 homes; the traffic is going to be heavier there. With more people being added to the street and something happens, fire trucks including school buses will not come in because they do not have the right entrance. Ms. Patricio advised it doesn't make sense to add more people without another entrance. She also advised that the population in that area is aging and it is difficult for only one entrance.

PMB advised that they need to take a look at this and this is only going to be a brief hearing because the Board does not have their review back from Graves', she does not think that it is unreasonable to ask Mr. Poxon to look into this.

Brian Sutherland, 57 Yvonne Rd, asked if the developer was aware that there is a way of contacting property owners directly because he knows that the land is available for purchase and it is not all wetlands. He advised that there is a full appraisal of that land, he does not have that info here but he advised Mr. Poxon to contact them directly to make a more informed decision.

GCW: Motion to continue Pine Hollows Estates, off of Countryside Road (between Bellwood and Brooks Estates) Special Permit for Multi Family Development Plan Review and Development Plan Review until January 13, 2011 at 7:15pm.

PMM: Second.

Vote: 4-0 Approved (GCW, DB, PMM, and RO).

**North Woods Definitive Subdivision and Major Residential Special Permit;
Definitive Subdivision Decision Deadline: 2/19/11; Major Residential Special
Permit Decision**

Mark Anderson of Heritage Design Group representing Marinella Development.

Mr. Anderson advised that Graves is satisfied, they have the two required detention basins so there would be no runoff onto the abutters properties, they did enlarge that basin.

Don DiMartino's criteria has been done, Mr. Anderson advised that they put an extra two ft of leveling grass and noted on the plan now that will maintain five feet of depth. Mr. Anderson has spoken with Mass Electric, they do not feel it requires a transformer, it would be better as hand held units.

Mr. Anderson advised that the grass seed on the swales there will be a jute mat to hold the seeding and after researching they have found salt resistant grass seed. URI determined that it will be 30% falking alkaline and 10% cover mixture would be good for this application. Mr. Anderson advised that the naturalization of culver will offer natural fertilization. He advised that they have added a section of sidewalk and believes they have answered and addresses all the Boards concerns. RO asked if the silt sack has been added, Mr. Anderson advised that it has.

PMM asked a question in regards to the November 20th Graves, referencing how much water will accumulate in ponds three and four around North Street. Mr. Anderson advised they have been analyzed through Graves 100 year storm criteria and it will not accumulate more than six-eight inches of water within a 24 hour period. PMM advised that he is concerned with little children; Mr. Anderson advised that those are just depressions to prevent water from going onto North St. Mr. Anderson advised it is a downhill grade and they are just trying to contain the water on their site.

PMM asked if there is a chance of the water becoming stagnant and attract mosquitoes and such. Mr. Anderson advised that they are infiltrations and it is just to keep the water from going out onto North St. PMM asked if the materials underneath will keep the water from remaining. Mr. Anderson advised that they have had 24 perk tests on that lot and the highest rate that they got was about six inches per minute. Mr. Anderson advised that the soils out there are very good.

PMM asked about the proposed greenery. Mr. Anderson advised that they are red Choate berry.

PMB opened the Cranberry Meadows Plaza 1st Public Hearing and apologized for the delay.

GCW: Motion to waive the reading of the public notice.

PMM: Second.

Vote: 4-0 Approved (GCW, DB, PMM, and RO).

North Woods Discussion Continued

Mr. Anderson advised that they are red Choate berry.

RO asked if this would be a good idea to add a rain garden in this area, Mr. Anderson advised that this is not the best area for this because they do not want too much overgrowth of greenery in this area.

PMB asked with regard to the open space, do they plan to gift that to the Town. Mr. Anderson advised they will do that. SJW advised that when this is drafted make sure that it has an easement for the water line access and asked if it follows the same line as the fire road. Mr. Anderson advised that it is a separate easement.

SJW asked about the Con Com review and if they closed with them at last night's meeting. Mr. Anderson advised that it was closed and approved. SJW asked if they are all set with the annuity for the maintenance. Mr. Anderson advised they are acceptable and they did sign a new agreement with the Board of Selectman for the water line.

PMM asked if on page two of the Graves report that the land will be gifted to the Town and could be made clearer. Mr. Anderson advised that it is and he will make it clearer.

PMB suggested the Board close the public hearing but had a question regarding if the Board needed an extension to the Special Permit. Mr. Talerman advised that it is 90 days from the close of the hearing for the Special Permit to issue a decision.

GCW: Motion to close the public hearing for North woods Definitive Subdivision and Major Residential Special Permit

PMM: Second.

Vote: 4-0 Approved (GCW, DB, PMM, and RO).

PMM feels that all Graves concerns have been addressed.

RO asked if we had proof that the Con Com approved this project. SJW advised that we will receive a copy of their decision and that will serve as proof.

GCW: Motion to draft a favorable decision for North Woods Definitive Subdivision and Major Residential Special Permit with conditions.

DB: Second.

Vote: 4-0 Approved (GCW, DB, PMM, and RO).

Mr. Talerman advised that the 90 days is only for the Special Permit. PMB advised that we can put them on for 7:00pm on January 13th for the decision signing.

**Cranberry Meadows Plaza, 829 South Main Street, Decision Modification, 1st
Public Hearing**

Attorney Lee Ambler representing JEG Land Trust land who is the proprietors for this project and Glen Gerrior with JEG trust.

Mr. Ambler advised that they are located on a 3,890 property which has three sections, they are before the Board in regard to Condition three of the decision, which is the subject of their request to eliminate this condition: Lee read allowed Condition three as they have a number of concerns with this condition. The Condition reads as follows:

Condition 3: The owner and/ or Applicant shall restrict the use to retail. No fast food, coffee shops, or other food service related uses are allowed;

Mr. Ambler claimed that this condition is illegal because they have a development plan bylaw to either grant or deny they cannot condition it. Mr. Ambler advised that when special permits are requested the bylaw says nothing about conditions and the Board said yes to this project. Mr. Ambler advised that the condition is beyond the power of the Board.

Mr. Ambler advised that this takes away certain rights to his client, the owner of the property; he believes it is a taking of his rights and is exclusionary. Mr. Ambler advised that his client is paying taxes on this property which is zoned commercially and he cannot get clients. Mr. Ambler advised that Mr. Gerrior has tried to rent it and a pizza place wants to come in and this use is restricted. In addition, it takes away the protection of the law to him.

Mr. Ambler advised that if a person has commercial property, he has to go to the Board's analysis; if a person has a commercial property and has a residence it can be converted. Mr. Ambler believes that commercial property should be treated equally. Mr. Ambler stated that permits can be given to by the building department and is exclusionary zoning.

Mr. Ambler advised that this condition came about because they decided not to do a traffic analysis. PMB advised the reason it was not necessary because his client advised that it was not going to be used for food service, just specialty stores. PMB advised that it was a simple request not to do the traffic study, however, by doing this they he knew that the Planning Board was going to put this condition in our decision and no appeals were made at the time.

PMB advised that the reason Mr. Gerrior did not want to do a traffic study was because there was not going to anything in there besides specialty stores. PMB advised that the question was directly posed to Mr. Gerrior, "do you plan on putting in any type of food services place because if you do, the Planning Board is going to require a traffic analysis." PMB further stated that this is a dangerous intersection and the yardage between the driveway and the entrance to it is not 150 feet and there is a reason for it. PMB stated that at the time his client was adamant about doing the traffic study and this condition was put in to reflect this.

GCW advised that the decision was based on type of business which was due to the amount of parking spaces. Mr. Gerrior was advised at the time he was being approached by beauty parlors, nail salons, dog groomers and nothing else was allowed because of the holding tanks. Mr. Gerrior advised that he has had a tattoo parlor approach him but he declined that due to the type of clientele he wanted for this plaza. Mr. Gerrior advised that he is a 4th generation of Bellingham and has only had one violation posted against him because the lights on the building were too bright, he has corrected this and is now a dimly lit parking lot. Everything he has on his property has been done correctly, he has enough spaces, has a convenient store.

Mr. Ambler advised that the Planning Board never went to the site. PMB advised that it is not required that the Board goes to the site. SJW advised that the Board gave a waiver for the 19 spaces but the applicant on his own decided to put the full 26 in when it came to the As-Built process. SJW advised that she told them that they could have done the reduced spaces. Mr. Gerrior advised that at the night of that meeting that he was subject to a yearly review by the Building Inspector and was told that they could put a cease and desist order on his occupancy if his parking requirements exceeded what he had, and from his point of view he wanted to have his parking spaces meet the requirements.

Mr. Ambler was having difficulty understanding why the Board had required a traffic report. Mr. Ambler advised that there was not need or requirement to have his client to a traffic analysis done in the first place. Mr. Ambler advised that his client had two reports submitted; one was submitted before the hearing which indicated that there was in the peak hours on the weekday 26 and 31 cars using two different methods as a maximum and on Saturday 27 and 16. Mr. Ambler advised that this was under the threshold which is why he believes they did not need the traffic study. Mr. Ambler stated he did not need another traffic study where it was indicated they do not exceed the volumes regardless directional distribution. Mr. Ambler advised that to assume that one out of 10 cars are going to turn into a store because of a 10% figure is ridiculous.

SJW advised that the current threshold (not the one that Phil Hare developed) is 25 trips in a single hour; the 10% is related to a scoping determination. SJW advised that our rules and regulations do allow for the Board to make traffic analysis requests at any point. SJW advised that the original study was done with regard to retail and specialty retail only as was the parking analysis. SJW advised that retail is one space per 150 sf where as if you were to add a food establishment, it has completely different parking requirements. SJW advised that the waiver was granted because it was determined that 19 was adequate for specialty, the 26 is what was required for retail, if they were going to do food service it would be more than 26 spaces that would be required.

GCW remembered Phil Hare, where issues like this specifically came up and there was an equation. GCW does not care what goes on this site as long as it works with what you have and the amount of traffic can be shown as to what will be there. GCW advised (to Mr. Gerrior) that instead of paying your lawyer, you could have paid someone to do the traffic study to see if it would work.

SJW asked what size pizza parlor Mr. Gerrior was looking to put in. Mr. Gerrior advised that it would be @ 1,400 sf area or 7x20 ft. SJW advised that an average 1,500 sf pizza parlor can support @ a 49 person capacity which is about 25 spaces alone just for the

pizza parlor. SJW advised that they would need additional parking for the convenience store. PMB asked if they room in the back to expand for parking. Mr. Ambler stated that they are receiving an inequality of treatment because the pizza parlor he is referring to in another part of Town has an apartment above it and office space, he claimed that some properties in Bellingham are being treated unequally. PMB advised that when someone needs to come before the Planning Board, they have every right to ask for what they are entitled to. PMB advised that they did not need to come before the Planning Board and that we have no right to tell them to do certain things, it is not the Board's position. The Planning Board's position is to take someone that is building a building and to make sure to do what is required of them through the Town of Bellingham.

PMB also stated that at the time this project was initially reviewed Steve Bartha was on the Board at the time of this project and as a traffic engineer he advised that this would not work the way it was proposed to hold a pizza shop.

Mr. Ambler thinks that you can find an expert to find anything you want them to say as long as you pay them the money. PMB advised that Mr. Bartha was not being paid any money; he was looking out for the best interest of the Town.

SJW offered a solution to this; the applicant just has to show that the site can support what he wants to, show how much parking it can support by having a parking analysis done. PMB advised that if Mr. Ambler's client wants a modification then to go through the process. SJW further explained that any changes to the decision would trigger his client to come back before the Board for a modification.

GCW asked what pizza place that Mr. Ambler was referring to on Pulaski Blvd. Mr. Gerrior advised that it is called Italian Pizza.

Mr. Ambler made reference to the pizza parlor across the street and that it did not need a traffic analysis. SJW advised that if it was a residence then turned into a pizza parlor, the Town does have a Bylaw for that, and it is called Site Plan Review and they should have come before the Board first. RO asked if the Building Dept should not have issued the permit, SJW is not sure what the situation was.

Mr. Gerrior cannot restrict who he rents to so he will rent it to whoever comes in. He has had a bakery who wanted to distribute but that use is not allowed. He has a ton of requests now. PMB advised that he tied his hands and the Board is trying to suggest what he has to do to get out of this mess.

Dawn Harlow, 836 South Main St., wondered why Domino's is there when the traffic is bad. He is not looking for eat in, just 2-3 tables. PMB advised that the Board is left in the dark as to what the use is.

PMM advised since he was not on the Board he would like to see a narrative as to what will be in, some idea of traffic, if they can make it work then fine. SJW thinks he should come back for the highest and best use for that site. Because three years it might change again. SJW commented why not do the analysis for this then get all the permits he needs right away.

Mr. Ambler does not think this is fair as it is not asked for everyone. GCW advised that it is fair and is asked of everybody. Mr. Gerrior advised that the property across the street has more business with less space. He advised that the Town is not development friendly. Mr. Gerrior advised that a dry cleaner is coming in, it is not fare, it can support the pizza parlor. Mr. Ambler referenced Pine Hill Plaza; GCW advised you cannot get a spot in the plaza because there is not enough parking.

Jay Talerman advised that the Board is within their right to make the point on the condition, this Town is not anti-business, this is a pro-business Town.

Mr. Talerman advised Mr. Ambler that his point does not hold water. Mr. Talerman advised that the Board did not have the effect of denying, what the Board did was appropriate. Mr. Talerman advised that the constitutional taking is not valid; the Board did not take all value away. Mr. Talerman advised that the Board is entitled to ask for a traffic review, what is the maximum I can do, which is what will prevent them coming back again. Section 3300 can demonstrate that the site can support it and have a reduction of that number.

Alford Desper, 832 South Main St., lives across from the mall, he would like to state that Mr. Gerrior has done a great job with the land, the only problem is when it is dusk they can count cars that come in and out. Mr. Gerrior advised that his broker should have warned him of that. Mr. Desmond advised that they knew something was going in there and he has looked our for his neighbors.

GCW advised that the Board wants to know what they plan to do with this site in writing. Mr. Talerman advised that having it get a modified permit it is a recorded decision and will have public notice and that if they are going to change something then it requires notice for the hearing, the decision so the public knows this. They should come back and have a quick hearing and the process needs to public. PMB advised that they can come back before the Board on January 13th at 7:30pm.

GCW: Motion to continue Cranberry Meadows Plaza, 829 South Main Street, Decision Modification on January 13th at 7:30pm.

PMM: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

General Business

PMM: Motion to sign the November 18, 2010 meeting minutes.

GCW: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

DB: Motion to sign the vouchers.

GCW: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

SJW would like to put together during the day a visioning session for Low Impact Development (LID) projects. PMM asked if doing LID would require any Bylaw changes. SJW advised that we would need something stated in the subdivision regs

that would allow for narrower roads. SJW advised that LID projects will never be totally waiver free. Mr. Talerman advised you can ask for certain things from the developer in turn to get what you want in terms of LID out of a project.

PMM talked about the meeting with the MAPC and the DEP regarding phosphorus discharge into the Charles. PMM advised that Bellingham along with Milford and Franklin are being singled out as far as being "forced" into cleaning up the Charles River. PMM advised that it is going to cost the Town a lot of money and no one knows how it is going to work. He thinks it is going to be a fiasco, DB commented that it is going to be an unfunded mandate. PMM does not know how the Town is expected to pay for it. SJW advised that the Board to revisit the maximum impervious surface Bylaw that the Town tried to pass about seven years ago but failed. PMM advised that if the Federal Regulation comes out it is going to be a very expensive proposition.

SJW reminded the Board of the holiday donations that her and AS are collecting for the Bellingham Elder Services Group (Friends Group).

DB: Motion to adjourn.

PMM: Second.

Vote: 4-0 Approved. (PMB, GCW, DB, and PMM)

Minutes Accepted on: _____
(Date)

(Prepared by: Amy Sault)

Patricia M. Buckley

Glenn C. Wojcik

Peter Pappas (absent)

Dave Brown

Peter M. Morelli