

PLANNING BOARD MEETING OF SEPTEMBER 26, 2006

PLACE: TOWN HALL MEETING ROOM

Meeting called to order at 6:30 p.m. by Chairman Fleurent

I. ADMINISTRATIVE BUSINESS

A. Quorum/Attendance

Members Present – all

Members Not Present - none

Planning Director William Roth was also in attendance.

B. Acceptance of Minutes

James Holmes motioned to accept the minutes to the September 12, 2006 meeting. Timothy Cox seconded. The vote was unanimous. The motion passed.

C. Planning Board Bills - None

D. Receipt of Plans -

1.) Special Permit - Mill Bridge Holdings, LLC - 200 Mill Road (Public Hearing - 10/24/06)

Gary Staffon motioned to set the Public Hearing on this matter for October 24, 2006. James Holmes seconded. The vote was unanimous. The motion passed.

William Roth – I'm recommending Saturday, October 14 at 9:00 a.m. for a site visit. I will post that as a meeting.

E. Approval of Plans - None.

F. Other

1.) Bufftree Condos - 67 Middle Street

William Roth - I reviewed the outstanding issues on the plans. I recommend approval subject to the 25 conditions that I have identified.

Wayne Hayward – I think the conditions should be on the plan to ensure that they are revised correctly.

William Roth – The applicants engineer will send me a check set that I will go through to ensure compliance. Then I will request final plan sets that I will then stamp approval on. This is how I ensure compliance with the conditions.

Wayne Hayward- The Town easement should actually be on the plan.

Gary Staffon – Is irrigations going on the site?

William Roth – It's a standard condition.

Marinus Vander Pol motioned to grant the Special Permit. James Holmes seconded. The vote was 7-0 (Mr. Cox abstained), The motion passed.

William Roth – Enclosed is your package is the appeal for Earl's Marina, which will be dismissed.

William Roth - There are some Planning workshops that have been scheduled. If you would like to attend, please let me know.

William Roth – NSTAR has raised an issue about only servicing overhead power with wooden poles. The issue is that with any street acceptances, the Town will not have these serviced. They will not service underground electrical service and metal poles. So, there will be an additional fee per light. This will come up with the Shannon Meadows street acceptance at the next Town Meeting. I feel the Board will need to address this issue.

James Holmes – Has there been any progress on subdivision regulations?

William Roth – The final version and drawings are in the computer and they need to be printed. I will do that tomorrow and get them to you.

Albert Borges - Is there anything new on the letter we got from the selectmen on the dump. Are all boards going to get together on this?

William Roth- I do not know.

Chairman Fleurent – I'm against developing the dump. The traffic will be horrendous.

Albert Borges – I'd like to hear more about it.

William Roth – Let them do a feasibility study and caution them on it. I don't see it as financially viable. There's not enough right of way width on Alden Road and Bridge Street. Developing the dump would be a long process.

Albert Borges – I don't think one board should be able to give the go ahead.

William Roth – I can respond to the letter highlighting the fundamental issues asking for a joint meeting.

Wayne Hayward – I don't want to incite the community. There's a lot of history there. There's a lot of liability there.

William Roth – I think a feasibility study would be very informative. The prior experiences with this site provide a sensitive issue with the community, including the potential expansion of retail area in Town.

Wayne Hayward – I always thought the Mattapoissett Industrial Park area would be more sensible.

William Roth – The Selectmen do want some initial input from the board.

II. PUBLIC HEARINGS

1.) Definitive Subdivision - Bouvier/Severence - 249/253 Main Street (continued from 8/22/06)

William Roth – We asked for a legal opinion on the easement and some other issues and town counsel has provided it. The board can approve this, but you are cautioned that you need to condition it that the applicant needs to get the approval of the parties of interest. I sent a memo that outlined some issues. Some dealt with stormwater. They're looking for some direction. They disagreed with one of the technical issue on the perk rates that the consultant engineer has brought up.

Michael Kehoe, Esq. (Attorney for the applicant) – I'm here to indicate that one of the components that took the applicant by surprise was access to this drainage easement. The housing authority gave us permission to tie in. There are two private landowners who have not given permission. So, we're not sure we can meet this condition.

Mr. John Keegan (Engineer for the applicant) – Right now there is runoff that will leave the site without any development at all. I recalculated and it showed that I could still meet the subdivision regulations. We are not going to increase the runoff from the site into the development. The flow will go where it goes right now. It all flows down into Hedge Street.

Chairman Fleurent – The real issue is the drainage on the site.

Wayne Hayward – Did you tell the BPW that you would raise the outfall pipe one foot?

John Keegan- I did not.

Wayne Hayward – I can show you the tape.

John Keegan – I did not tell them that. I am going to meet your regulations as far as drainage goes.

George Graves (an abutter) – The 12-inch drain between the 2 properties can't handle the water. It's like a waterfall. The catch basins also can't handle it.

Chairman Fleurent – Your issue is the water.

Albert Borges - The Housing Authority did away with landscaping and put more parking in there.

Chairman Fleurent – The hang up is whether or not you can tie into the easement.

Attorney Michael Kehoe – Legally we can't. We're trying to work with the neighbors but they could still tell us no. We may not be able to meet this condition, but we can meet all of your requirements for storm water drainage. I don't know what has caused this situation and I'm not sure we can solve the problem. But I know we're not going to make it worse.

Gary Staffon – Did we have a consultant engineer look at it?

William Roth – No. GAF looked at it as provided. The basic issue is if the proposed option of a tie in isn't feasible, they feel they have a right to a pond, which will go into a catch basin. Overland flow saturates the ground and could add to the basements of the two houses to leak even more. In addition, the catch basins on Hedge Street will at times back up because the pipe heading south appears to be undersized base on my conversations with the BPW.

Wayne Hayward – I'm not saying this can't be done. But they need to work with the Housing Authority and the neighbors.

Albert Borges - If water overflows into peoples' land now, the development should respect their neighbors so it doesn't happen any further. What are you going to do for these folks?

Attorney Michael Kehoe – Mr. Keegan is proposing to reduce the flow of water on Hedge Street. We can comply with subdivision regulations and reduce the flow of water.

Timothy Cox– Is this pond going to help the neighbors and slow down the flow?

John Keegan – It will reduce the flow.

Timothy Cox – Do the neighbors understand that?

Marinus Vander Pol- Given the nature of the pond, does it in fact reduce the volume or just the rate and extend the time.

John Keegan – the rate and the volume of a ten-year storm per your regulations.

Gary Staffon – The 12-inch pipe will be your biggest concern. Have you done calculations after the ten-year storm?

John Keegan – Yes.

James Holmes – Can you get approval to use this pipe?

Attorney Michael Kehoe – Some of the neighbors have not yet been approached. I don't know.

Wayne Hayward – I have some concerns about the drainage system. Some of it doesn't make any sense to me.

George Walmsley (abutter) – If you rely on this pond to slow your rate down and your figures are wrong, who will be responsible.

Chairman Fleurent – We have rules and regulations after the pond is built to dictate that.

George Walmsley – But how will you approach it?

William Roth – The applicant pays a fee based on the annual cost of street sweeping, maintenance of catch basin and maintenance of the pond. This goes into a dedicated account, which the BPW can access to help maintain this subdivision.

George Walmsley – I would think that you would have to go underground.

William Roth – That is not in the public interest. There's a high rate of failure in that and BPW would not be able to keep up financially with that.

Wayne Hayward – Our first objective is flood control. Then, our objective is water quality. The pond is not involved in the flood control, but it could be. Putting it underground is worse. So, I understand your concerns. I have a problem with the plans with regards to this issue. I think you should look into using that pipe.

John Keegan – There's a set of redundant filters starting from the bio-detention area. It's been proven to have a 77% solid removal rate by DEP. We don't want that pond to fail.

Mike Bouvier (co-applicant) – We went before the BPW and the superintendent recommended this.

William Roth – He wanted to create more storage, which would lessen the run off. If they can legally meet our regulations, letting it disperse the way it is now is bad for the neighbors. They need to review this with their attorney.

Wayne Hayward – They're not meeting the spirit of the regulations.

Michael Bouvier – The last thing we want is anything detrimental to the neighbors. We are not making it worse.

Herb Wood (abutter) – It might work technically, but nature doesn't work that way. I want to see facts as to whether or not it will work.

Ray Severence (co-applicant) – We have a responsibility to adhere to the rules and regulations. We have done that regardless of personal feelings. We prefer to connect with the existing pipe. But if we can't get permission to use the easement, our next plan meets the regulations.

William Roth – They need to address whether or not the current 12-inch pipe can handle the flow.

Michael Kehoe – BPW thought that it was. It was their idea.

Wayne Hayward – I haven't seen a second plan.

Michael Bouvier – The plan would have to go to GAF for review.

William Roth- This proposal would reduce the amount of water.

Wayne Hayward – I want to see his new plan.

William Roth – The consulting engineer said it would work.

Gary Staffon motioned to continue the public hearing to October 24. Timothy Cox seconded. The vote was 7-0 (Mr. Vander Pol abstained). The motion passed.

2.) Definitive Subdivision - Mariner Estates (2) - Welcome Street (continued from 9/12/06)

William Roth – There's an additional memo in your package. There are two remaining issues that need your attention. The first issue is storm water treatment and infiltration. Is the vortechincs unit acceptable? Is the filtration acceptable? The other issue regards safety of the Route 6 entrance. We recommended that a traffic study address that issue. All boards have commented.

Michael Kehoe, Esq. (Attorney for the applicant) – I'd like to address the access issue.

Bob Vanasse (Traffic Engineer for the applicant) – There are some critical and important safety issues. We had a site meeting with some town officials including Chief Souza. We have been working with the chief and I would like to thank him for taking the time and effort on this. He was concerned with speed. We looked at three years of accidents and there were none. There were six in eight years. There hasn't been a significant one since 1998. The high day was Saturday, not a workday. Most of the accidents involved property damage. The chief raised five points: personal injury, speed, enforcement of the speed limit, the difficulty in egress and the increase in traffic. Our study indicated that the project would not impact any one of those issues. There is no evidence to suggest there would be a danger. It's not even close. People need to be careful and patient and it appears that they are. Traffic before the construction of Route 195 was probably 50% higher in that area. We didn't find a serious problem. We have a ten-lot subdivision that will produce six or seven cars an hour. That's not an intense use.

Bob Forbes (Prime Engineering for the applicant) – We're improving the run-off situation with this plan as well as storm water quality. We are proposing the vortechincs unit to clean the water, which is approved by the state of Massachusetts. It removes over 80 % of the TSS. We like it better than the alternative. The rate of run off was described nicely by Mr. Roth. We are proposing to have all of the storm water flow into the pond on the site. Any flooding will occur in the pond and its outlets. We have designed for a one hundred year storm. The peak amount getting into the pond takes about an hour from our site. It's like a large wave moving to the pond. We'd like to move the peak amount into and out of the pond before the wave hits. We would be increasing the rate of flow at the outlets. That's why we proposed it without the detention pond. We've decreased the volume by installing an infiltration trench beyond the vortechincs unit. We've decreased the volume of the runoff beyond the 25-year storm. That's in excess of your regulations. I know there's apprehension about the vortechincs units. They've been approved for residential subdivisions throughout the area. The state is encouraging them.

Wayne Hayward – If there are only one or two homeowners living in the area where you did the traffic study, the drivers entering and exiting the site know exactly what they're doing; when and how to exit and enter. My problem is with buildout. At full buildout, you're looking at a 40-foot right of way extending to vacant property to the north. It certainly can be developed. They will be looking for an access. What can this site handle as far as volume?

Bob Vanasse – We only analyzed single detached homes, nothing else. Any thing else and we would have to revisit it. The maneuver from Welcome Street and Welcome Street south is the same. Drivers have to edge out and they do.

Wayne Hayward – Emergency vehicles, busses, commercial vehicles don't edge out. They drive according to specs. The Town's gut feeling is that we don't feel it's safe. There isn't much reaction time, which isn't all this developer's fault. The accidents that occur there have high casualty rates due to speed.

Bob Vanasse – The six we did find were on the south side of Route 6.

Wayne Hayward – This is the first time I've heard the Chief speak against a development for the traffic situation. It's a speed issue.

Bob Vanasse – People are cautious and it's not a high accident situation. This is not an uncommon situation. We can ask SRPEDD to get involved if there's an interest.

Chairman Fleurent – We all agree that there's a serious problem with entering Route 6.

Wayne Hayward – There using an off-site design point to deal with stormwater. We're not used to dealing with this in the context of 1400 acres. They don't want to detain any water on that property. That would be a first in Fairhaven if we allow it. It's not consistent with our codes. I believe that is what's causing the problems with this design. A vortech unit is not usually used on a residential application. All we have to go by is their study by some Connecticut students. I have a problem with that. I also agree with the Town Planner on underground infiltration. We've been more than flexible. This plan doesn't do it.

Bob Forbes – GAF asked us to evaluate the 1400-acre subcatchment area because they agreed with what we were doing with the offsite treatment. They agreed with the results as well. DEP has approved the vortech unit for any use, residential included.

William Roth – We're talking about the nutrients.

Bob Forbes – The state of Maine has approved it as removing 50% of phosphorus.

Wayne Hayward – This Nasketucket River is dying. This will make it worse. It's all over our code.

Bob Forbes – The only one that removes the appropriate amount is the web extended detention pond. We cannot do it. I had to explore other ways of getting what you guys want. I find no research that finds that a web extended detention pond can do it. Our site isn't that big. I did the best I could looking at all options. The state of Maine has approved this for removing 50% of phosphorus.

Wayne Hayward – He's saying that our regs don't work. He's asking us to prove that they do. He's saying that every developer that did it according to our regs should remove their units and put in vortech units.

Bob Forbes – I'm not saying that.

Chairman Fleurent - I've put three of those in and they work extremely well. I think they're better off than an open pond.

William Roth – This is in the Nasketucket River Basin. The board needs to decide on direction.

Albert Borges - How wide is that road going in there.

Bob Forbes – 24 feet.

Albert Borges – Is it wide enough to make a left hand turn without having a tight squeeze? The Chief doesn't think so.

Bob Vanasse – I don't think his beliefs have to do with the width of the road. This is fine for what we got.

Albert Borges – Can there be a second way out?

Bob Forbes – There's just a little path that can't be improved.

Joseph Borelli (abutter) – I lived within 60 feet of the Welcome Street entrance for 38 years. Our accident record in Town is not good. This proposed site is very dangerous, especially when the soccer fields are open. The police have monitored this stretch of road due to speed and there have been an increase in business since then. I have called 911 on many occasions to report accidents. This is a high-speed heavily traveled roadway not designed to handle the traffic that travels on it now. There are too many curb cuts as well as entrances and exits. There are many telephone poles and the sun is in your eyes traveling west in the afternoon. There are condos going in across the street as well. Cars have to nose out onto Route 6 and there will be no traffic lights. The Police Department and Board of Health have voted against this.

Meg Squire (abutter) – Thank you Mr. Hayward. I take my life into my hands every time I go into that intersection.

Dave Pierce (abutter) – It's a very dangerous street. It's getting tougher and the number of accidents is increasing. It shouldn't be a public right of way.

Pauline Roderiques (abutter) – Where will the vortechincs unit be located underground?

Mr. Forbes indicates.

Cora Pierce (abutter) – One of our neighbors can't be here tonight because he can't walk due to an accident that he was involved in there. So, take heed. At least ten of these houses are within the buffer of the Nasketucket River. This sets a bad precedent. Nobody should be able to build within 100 feet of the river. Allowing further development without sufficient knowledge of this area is asking for trouble. They need to work with what's there. Don't try to make money by developing wetlands.

Dana Pickup (developer) – People moving into the new houses know what they're getting into and will acclimate themselves to the traffic conditions. This is a clean subdivision. Nobody is trying to pull the wool over anybody's eyes.

Linda Gallant (abutter) – Wayne made some excellent points. The traffic and the accidents are huge. Also, Wayne spoke of the potential. Our water supply is there and that needs to be looked at carefully.

Lori Mattheson (abutter) – Has this gone through the Conservation Commission?

Bob Forbes - Yes, we've filed with them, in October of last year.

Fran Lopes (abutter) – I just want a little clarification. Was this purchased from the Mariner's?

Bob Forbes – Yes.

Fran Lopes – In 2004?

Bob Forbes – Yes.

Fran Lopes – Why does Mariner’s name appear on the development?

Bob Forbes – That’s what we named the subdivision.

Attorney Michael Kehoe – Some of it is still owned by the Mariners.

Fran Lopes – So, they’re paying some taxes on it.

Attorney Michael Kehoe – On a very small part.

Mr. Ketchum (Abutter) – I appreciate what they’re trying to do. I have issues. Route 6 is bad. I see everybody’s points. Mariner said this land will never be developed back in 1999. They need money. It’s a shame that things can’t work for all concerned. It’s my nightmare too. I appreciate what you guys are up against.

Chairman Fleurent – The audience made it quite clear how they feel.

Marinus Vander Pol – I’m a lifelong resident of Route 6. I won’t dare to take a left out of Welcome Street. I’m not that adventurous anymore.

Wayne Hayward - You’re asking for 5 waivers. I have to think about “what if”. If we don’t address it, it’s not good planning.

Mary Vander Pol – Are you working on the Knowles project and working with the traffic dealing with the two developments?

Chairman Fleurent – If he complies with all requirements, it’s pretty hard to deny the project.

Timothy Cox – Is the right of way going into the Soccer fields going to be blocked off.

Bob Forbes – They don’t own that land.

Chairman Fleurent- There’s going to be new calculations with respect to the detention pond.

Bob Forbes – Engineering wise it works. We’re looking for your direction.

Wayne Hayward – Conservation may have some serious conditions.

William Roth – The Town/BPW does not have a problem with maintaining the vortech unit because there are similar devices currently be maintains and we can maintain it with current equipment. It’s the underground infiltration pipe that I have a problem with. I wanted to clarify that. What is the direction of the board with regards to stormwater?

Gary Staffon – Let’s have Tibbetts look at it.

Chairman Fleurent – GAF already inspected it. I disagree with you.

Wayne Hayward – Why don’t we meet together with the Conservation Commission and have a vote with them?

Albert Borges- They still have to go to Conservation.

Chairman Fleurent – They're still looking for direction.

William Roth – They need to continue to address the outstanding issues.

James Holmes motioned to continue the public hearing to November 14, 2006. Timothy Cox seconded. The vote was unanimous. The motion passed.

3.) Definitive Subdivision - Gus Pinto - Washburn Avenue (continued from 7/18/06)

William Roth - They have requested that the application be withdrawn without prejudice.

Marinus Vander Pol motioned to allow the request. Timothy Cox seconded. The vote was unanimous. The motion passed.

Albert Borges motioned to adjourn. Marinus Vander Pol seconded. Meeting adjourned at 10:45 p.m.

Respectfully submitted by
James Pelland, Planning Board
Secretary