

Minutes
June 23, 2004
Planning Board

**MEETING
GEORGETOWN PLANNING BOARD
Memorial Town Hall
Third Floor Meeting Room
June 23, 2004
7:00PM**

Present: Jack Moultrie, Chairman; Tim Gerraughty, Vice Chairman;
Rob Hoover, Clerk; Tim Howard; Larry Graham, Technical Review Agent
& Inspector; Jacki Byerley, Town Planner; Kristen Eaton, Administrative
Assistant

Absent: Alex Evangelista

Meeting called to order 7:07PM.

Discussion

Shopping Center - Interim As-builts

George Zambouras from Atlantic Engineering submitted a plan to Mr. Graham and the board regarding the status of the Shopping Center. They were still installing curbs at the drafting of this plan, but the as-built drainage is about the same as what was initially proposed. The slight differences won't create any additional run off. A significant amount of curbing has been installed. Binder grade is off about 1-1.5 inches from what was proposed. There's a puddle in the binder in one spot that will be fixed. They plan to pave next week.

Mr. Moultrie asked about the apron being ripped out and people falling.

Mr. Zambouras thinks they're going to pave on Tuesday and the apron will be done right after that.

Mr. Moultrie said that where it's on town property he'd like that done soon because it seems like it's been a problem for a while.

Mr. Zambouras said that they'd prefer to do it after paving. Basically, they're done with any heavy equipment in the area.

Mr. Graham had a comment regarding the as-builts. He wants to check the integrity of the pipe from the manholes. He would like to know if they are planning to pave in the back where there is no binder down.

Mr. Zambouras said they will pave that area when they pave the remainder of the facility.

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Mr. Moultrie asked about the landscaping plan.

Ms. Byerley said the Board of Health has sent a letter saying that they will not approve the two trees and they're suggesting just shrubs.

Mr. Zambouras agrees with the Board of Health about the septic and the placement of trees. He feels that roots do affect a system. As the design engineer, he would not be able to certify it.

Mr. Moultrie said that he is reluctant to go against the board of health. They've made it clear that they won't budge.

Mr. Howard questions why the Board of Health is saying "no" now.

Mr. Moultrie clarifies that the Board of Health has always been against the trees being placed near the septic system.

Mr. Gerraughty said that he feels the applicant has done all that he can. They have been held up long enough. The board should approve it the landscape plan.

Mr. Graham said that the proposal was a reasonable alternative, but the Board of Health's response was emphatic. Perhaps they didn't understand the drawing he prepared.

Mr. Hoover passed out some information to the board. He stated that he "just wants the decision to be based on facts." He asked Mr. Graham if he was interpreting the plan correctly. He said these trees can be located outside the 10-foot zone and so there would not be a board of health issue. The developer could select a tree with a root system that won't come anywhere close to that septic system. Then if someone takes a shovel every five years and digs a hole and they can guarantee no roots. Mr. Hoover is tired of the miscommunications and lack of communication between the town boards, and he doesn't understand why he has to be the one to explain this.

Mr. Zambouras said that he could plant the trees ten feet from the system but they'd be on town property. He has used root barriers in the past. It's only a 50/50 shot that it will be effective.

Mr. Hoover asked if Mr. Zambouras had ever used a root barrier in relation to crab apple trees. He would like to see a crab apple tree over turning a sidewalk. He also asked why it would be such an inconvenience to dig a hole once every five years. They could root prune, and the system would be guaranteed to work. Mr. Hoover also suggested putting a small curve in the retaining wall. The original plans never had any mention of those two big trees coming out. This has been a very convoluted process.

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Mr. Gerraughty made a motion to accept the amendment to the landscape plan (revised date 4-8-04) to remove the two trees near the septic system and replacement them with the shrubs per the recommendation of Board of Health and on the basis that the designer would not certify the system otherwise.

Mr. Hoover seconded.

There was no discussion.

The board voted 3-1 in favor of the motion. Mr. Hoover voted against the motion.

North Street – Modification to plan/Mylars

Scott Cohen would like to present five pieces of information to the board.

- 1) The condominium documents have been approved and accepted by the town attorney. The Planning Board has to approve them.

Mr. Gerraughty made a motion to endorse town counsel's approval of the condominium documents.

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of endorsing the condominium documents.

- 2) The phasing and construction sequencing plans need to be reviewed and approved by the board. Mr. Cohen believes that Ms. Byerley was happy with these plans and Mr. Graham has made comments.

Mr. Graham asked if these were revised plans.

Mr. Cohen said yes. He has incorporated Mr. Graham's comments.

Mr. Graham said that there's drainage in Horseman's Circle that is west of phase one that needs to be constructed. There's drainage in the center turnaround that has to be part of phase one. If the board were to act subject to that, he'd be happy. This is item #10 in Mr. Graham's review dated June 4, 2004.

Mr. Gerraughty made a motion to accept the proposed construction sequencing of North Street ISH pending the addition of note 10 from Mr. Graham's June 4th review.

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

- 3) The affordable housing component must be presented for review and approval. Mr. Cohen thinks Kathy Sachs sent a letter saying they were set and town counsel approved it.

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Mr. Moultrie said that Kathy Sachs has approved that.

Mr. Gerraughty made a motion to accept the fulfillment of the affordable housing component covenant and deed rider.

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

4) They had sent over the bond estimate, which is supposed to be an amount “determined by the applicant and approved by Mr. Graham and the board.” Mr. Cohen said that Mr. Graham thought some of the estimates were low.

Mr. Moultrie said that he wouldn't mind a motion to approve the bond estimate pending a figure that Mr. Graham approves.

Mr. Graham said that he went through the items and picked a couple that I was familiar with and just found that a lot of them were low, for example piping catch basins. He estimates that the figures are between 25 and 50% lower than other projects in this area. He'd be happy to go through and check everything, but it'll take some time. It's not a town project so he doesn't know if the board will require a multiplier. It might not be worth going back through the numbers because the multiplier would cover it.

Mr. Moultrie said that even though it's not a town project the board is still responsible for it.

Mr. Graham said that he might suggest a contingency item rather than a multiplier.

Mr. Gerraughty said that he likes the multiplier because it's standard.

Mr. Howard and Mr. Hoover agreed.

Ms. Byerley said that with the size of the project it's a private site. The roads will never be town accepted roads. Therefore, the board can never go in and finish the project, even with a multiplier.

Mr. Gerraughty said that he thinks without the multiplier there is no incentive to finish the work.

Mr. Moultrie suggested that Mr. Graham could work with the numbers to come up with a “more realistic amount” that the board can discuss at another meeting.

5) The mylars need to be signed. All the architecture is now on this final plan. Mr. Cohen thinks it's an improved plan in terms of drainage and design.

Mr. Moultrie asked where the snow is going to go.

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Mr. Cohen pointed out a few locations on the plan where snow will go and also said that some will be removed offsite.

Mr. Graham said that on the plans the only questions he had was on the parking. He's concerned about the lack of overflow parking. He suggested some extra, but so long as the board is aware of his concern he is satisfied. The board could perhaps condition that if a lack of parking occurs then between phases one and two the board could require more parking be put in.

Mr. Cohen said that the plan currently has 4 spaces per unit so he doesn't think they'll see a problem.

Mr. Gerraughty made a motion to approve the first phase of North Street ISH with the review of the parking to take place at the end of phase one.

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

The board will sign the mylars at the end of the night.

Acorn Way - Affordable Housing.

Mr. Howard will abstain from this discussion because he is an abutter to the project.

Jim Sterio is here to discuss the possibility of using the property located at 14 Middle Street to satisfy the affordable housing component for Acorn Way. He said Kathy Sachs has had an opportunity to review the property and would be recommending it subject to a home inspection and lead paint inspection. The home inspection did not uncover anything alarming. There was a note about putting in a sprinkler system which Mr. Sterio did not understand. There was also a clearance issue with the crawl spaces. He would like to have an affirmative vote regarding this property as the affordable housing unit so they can enter into an actual contract with the seller.

Mr. Moultrie said that he thinks Ms. Sachs' letter is self-explanatory. He asked if there has been a survey.

Mr. Sterio said there will be, and that will be provided to the board.

Ms. Byerley said that a copy of the inspection report should be given to Ms. Sachs for review.

Mr. Gerraughty said that he read Ms. Sachs' email and thought the inspection was supposed to be for major defects.

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Mr. Gerraughty made a motion to accept the property at 14 Middle Street as the affordable housing component of Acorn Way pending the Affordable Housing Task Force's review of the home inspector's report.

Mr. Hoover seconded.

There was no discussion.

The board voted 3-0 in favor of the motion.

Mr. Howard abstained.

There is a condition in the decision that the board cannot release the sixth lot until offsite improvements are completed. However, Mr. Moultrie is quoted in the minutes as having said that the lot cannot be released until the improvements are started.

Mr. Sterio asked for a waiver of that condition. He was wondering if the board would be willing to compromise. Perhaps the board would be willing to continue to hold the 175 thousand dollars and retain one lot, but release the other four. Approximately \$68,000 of work needs to be completed onsite and \$30,000 offsite.

Mr. Moultrie asked if the board would be holding this lot for surety.

Ms. Byerley said that Mr. Sterio is suggesting that the board doesn't release that lot but not hold up the other lots.

Mr. Gerraughty made a motion to release lots 6, 8, 9, and 10 and to hold lot 1 until completion of offsite improvements. The board will be retaining the tripartite bond.

Mr. Hoover seconded.

There was no discussion.

The board voted 3-0 in favor of the motion.

Mr. Howard abstained.

Forest Street – Bond Establishment

Shawn Curry and Josh Latham have submitted a tripartite agreement which has been reviewed and accepted by the town engineer. The bond amount is \$620,028, with a 150% multiplier the amount will be \$1,088,098. They are requesting a waiver to the usual planning board requirement of a 2.5 multiplier.

Mr. Moultrie asked Mr. Latham if he is aware of the problems that have occurred on Forest Street.

Mr. Latham said that he was aware of what has been going on onsite.

Mr. Chareth of Millennium Engineering said that there have been grading and drainage issues. The work is progressing slowly. They have to wait until July 1 to cross the wetlands. The construction foreman has been good about it. He's trying to correct the issues from the beginning.

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Mr. Moultrie asked if the issue has been resolved with the person across the street from the project.

Mr. Chareth said that he has talked to the abutter and she seems okay.

Ms. Byreley asked when they are going to start the lots.

Mr. Curry said they will start when the binder is down.

Mr. Gerraughty said that the board does a 2.5 multiplier for everyone else and he thinks the board should stick with that.

Mr. Howard agreed with Mr. Gerraughty. He said, "What's fair for one should be fair for all." He questioned why the board would give this developer more leeway than anyone else. It's not as though they've shown super professional caution.

Mr. Hoover agreed.

Mr. Curry said that the amount of work remaining would have little relation to the funds held.

Mr. Latham said that they have spoken to other towns and the highest multiplier they have found was 125% of the work remaining.

Mr. Gerraughty said that he thinks the board has always been reasonable about reducing bond amounts as projects progress. He thinks that the board should start this project off where it starts everyone else.

Mr. Moultrie said that there has been a lot in the news about towns having to clean up the mess of contractors with other contractors. The board takes a lot into consideration. When the multiplier was at 1.5 times there was an issue in which the board couldn't get a contractor in to finish the project at that amount. This policy is based on past experience. Generally, the board releases the money in a timely manner.

Mr. Latham said that he understands that the town has concerns if the developer does not complete the work, but they feel that 50% of the cost to complete would be reasonable.

Mr. Moultrie asked if Mr. Chareth would be comfortable reducing the bond that much.

Mr. Chareth said that perhaps the board could meet the developer half way. Symes Associates is a reputable company. Pillbury Pond and Bernay Way have turned out "awesome." If this particular contractor went belly-up he's sure Symes would take over and finish up the project.

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Mr. Hoover made a motion to accept a bond establishment for Forest Street at 2 times the estimated amount to complete.

The motion fails for lack of a second.

Mr. Gerraughty made a motion to authorize Ms. Byerley to sign a tripartite agreement for \$1,088,099.00 (2.5 times to estimated cost of completion) for Forest Street.

Mr. Hoover seconded.

There was no discussion.

The board voted 3-1 in favor of the motion. Mr. Hoover voted against the motion.

Chaplin Hills – Release of Covenant

Mr. Moultrie asked what had happened with the septic and the subsurface grade.

Mr. Chareth said a septic system did fail and he called the police and the Board of Health. They had to seal the tank. It was a health issue. It was draining into a catch basin. He had them power wash everything. He thinks the issue was settled.

Mr. Moultrie asked if we have an estimate on what is left to finish.

Ms. Byerley said that the board has a letter credit already in place.

As there is no one here representing Chaplin Hills this release can be signed at the end of the night in order to move the meeting along.

Public Hearings

Baldpate Road - Withdraw without Prejudice

This hearing was opened at 7:55 pm. The applicant has requested to withdraw without prejudice.

Mr. Gerraughty made a motion to accept the request to withdraw without prejudice for Baldpate Road Common Drive and Access Special Permit.

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

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118 Jewett Street

This public hearing was opened at 8:00 pm.

Mr. Hoover read the legal notice that appeared in the Newburyport Daily News regarding this application.

Marty Halloran presented the plan to construct a two-story building with 4800 square feet of storage for construction material on the bottom floor and office space on the top floor. There are wetlands and a vernal pool on site, so the plan will probably change on this project but he'd like comments.

Mr. Moultrie asked if the board has a report from Mr. Graham.

Mr. Graham said that he doesn't have formal report yet.

Mr. Moultrie said that he went through the plan and there are some issues but he didn't see anything glaring.

Ms. Byerley said the bigger issues she had were 1) What business this would be used for? 2) What construct equipment would be stored there? 3) How many different office spaces would be on the second floor because that might change traffic flow and hours of operation? Also, she would feel more comfortable if the developer came to the planning board after going to ConCom because most of this is in the buffer zone.

Mr. Halloran said there is a superceding Order of Conditions in place.

Mr. Moultrie asked Mr. Halloran if he knew he was "proceeding at his own peril."

He said he was aware of that.

Ms. Byerley said that there may be confusion caused by having the entry be one way in and one way out. She would like to see the drive be larger than 12 feet to be sure there is sufficient area for the fire trucks to go in.

Mr. Halloran said the way it is now there is plenty of room for a fire truck with the radii.

Ms. Byerley said she'd also like the plan to show what is on either side and what is across the street.

Mr. Graham said that if it's going to remain one way he'd like to keep the width down so as not to confuse people. Maybe they could compromise and do 14 feet wide or just enlarge the radii. There is some disagreement on the plan regarding site distance. The scale is not labeled for parking spaces. Having the aisle width at 20 feet is fine if you angle the parking but with straight parking it's tight.

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Mr. Moultrie asked if anyone has an issue with letting the applicant and the tech review agent work on this and then come back to us.

No one expressed an issue with that.

Mr. Gerraughty made a motion to continue the hearing to July 14, 2004.

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of the continuance.

Rock Pond Estates – Preliminary Plan

Mr. Moultrie said that it looks as though nothing has changed much on this plan.

Ms. Byerley said not that she can see. Even the comments are still reading “Groveland.” She asked if they are still requesting the same waivers.

They are: the sidewalk and the curbing.

Jim Bussing said that basically his feeling is that he’s doing a lane and making it a private way, so it’s not really worth it for him to do those things.

Mr. Moultrie pointed out that Mr. Bussing had asked the board to look at this plan as if it would be a town accepted street.

Mr. Bussing said that he would still like for it to be a town accepted street.

Mr. Moultrie said that he wouldn’t get his vote on that unless the street met the town standards.

Mr. Bussing asked how the board would feel about making it a public road with the sidewalk but not the curbing.

Mr. Moultrie said that the waivers hinge a lot on whether Mr. Bussing wants this to be a town accepted road.

Ms. Byerley said that she wouldn’t suggest granting or not granting waivers here tonight with the preliminary plan.

Mr. Hoover said that he thinks adding the sidewalk but still waiving the curbing sounds nice for this type of development.

Mr. Graham would suggest perhaps maintaining granite curbing at entrance of the development with catch basins.

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Mr. Moultrie asked "where are we at on the environmental report."

Mr. Bussing said that everything seems to be okay. They're going to do a risk assessment, but no excavation has to be done. That will be provided to the board when available.

Mr. Hoover said that he applauds the applicant and developer for all the gestures they have made and that they have vastly improved the development that they're making.

Mr. Hoover made a motion to accept the applicant's request for an extension of time to September 30, 2004.

Mr. Gerraughty seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

Mr. Gerraughty made a motion to continue the hearing to July 14, 2004.

Mr. Hoover seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

The Meadows - ISH

Mr. Gerraughty made a motion to waive the reading of the legal notice for The Meadows.

Mr. Hoover seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

Mr. Moultrie explained to the applicant and audience that where this is a special permit a super majority vote is needed. Where Mr. Evangelista is absent this evening, the applicant would need the vote of every member present. Or the applicant can choose to wait to open the hearing until the next meeting when all five members will be present.

Mr. Longo said that he would prefer to open the hearing when all five members can be present.

Mr. Gerraughty made a motion to extend the public hearing for The Meadows to July 14th at 7:30 pm.

Mr. Hoover seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

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Chaplin Hills – Lot Release

Mr. Gerraughty made a motion to release lots 2, 4, 6, and 8 for Chaplin Hills based on the bond being held.

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

The board signed both the lot releases and the North Street mylars.

Pillsbury Pond – Request to Eliminate the Subdivision Sign

Symes Associates have asked to have no subdivision sign on Pillsbury Pond.

Ms. Byerley said that she doesn't think the sign is necessary.

Mr. Moultrie asked if the board would have to reopen the public hearing.

The hearing would not have to be reopened.

Mr. Moultrie would like to know how the residents feel on the matter.

Mr. Gerraughty suggested sending a letter to the homeowners and having a discussion on this at the next meeting.

Vouchers

Mr. Hoover made a motion to sign the vouchers presented.

Mr. Gerraughty seconded.

There was no discussion.

The board voted 4-0 in favor of signing the vouchers.

The board signed the vouchers.

Board Business

Master Plan Committee - Reappointments

Mr. Gerraughty made a motion to reappoint the five master plan committee members who regularly attend the meetings and have requested reappointment.

Mr. Hoover seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

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The board signed the reappointment letters.

The board also needs to appoint an alternate MVPC representative.

Mr. Gerraughty made a motion to name Ms. Byerley the alternate MVPC representative until June 30, 2005 (or to length of employment.)

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

Mr. Gerraughty made a motion to authorize Mr. Moultrie to sign the appointment letter.

Mr. Hoover seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

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Mr. Moultrie said that everywhere the minutes from May 26, 2004 say "Hochmoth" they should say "Hochmuth."

Mr. Gerraughty made a motion to accept the minutes of the May 26, 2004 planning board meeting as amended.

Mr. Hoover seconded

There was no discussion.

The board voted 4-0 in favor of the motion.

Public Hearing

Nelson Woods

The trees were posted last Wednesday. Mr. Moultrie waived the reading of the tree warden notice.

Howard Spicer, an attorney, said this is a combined hearing under MGL ch. 87 sec. 3 (public shade tree) and ch. 40 sec. 16c (scenic roads). Nelson Street is a scenic road. The subdivision proposal that is before the board has two entrances into the property. They agree and propose to use Kinson Court as access to lot one which would remove the need to alter the stone wall. There were no trees proposed to be cut in that area. With Dennison Lane there is no break in the wall at that location and there are trees that need to be removed for site distance. They need to remove 80 feet of the wall. But they want to replace most of it and have only a 27 foot opening. It would be rebuilt with the same materials there now to make as minimal alteration as possible.

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They have a significant grade issue in that area that they can't correct without removing the trees. There are only 5 live mature trees that will be removed (and one dead tree.) There are some pine trees further back that they won't be removing.

Mr. Gerraughty wanted to clarify that they would be using the same mossy stones that are removed from the wall to rebuild it..

Mr. Hoover asked if when they come back with the next round of plans if they could indicate the trees that they'll be keeping. He also requested a planting plan.

Mr. Moultrie said that as tree warden he'd hate to lose the big trees, but using the wall really keeps with the integrity of the area and this will really improve safety conditions there. He said that in relation to the scenic roads and public shade tree hearing he'll write and issue a decision by the next meeting.

Ms. Byerley suggested that for its decision related to the scenic roads and public shade tree hearing that the planning board continues this hearing until July 14, 2004 so that she will have time to write a decision with conditions.

There is a consensus for approval.

Mr. Gerraughty made a motion to continue the scenic roads hearing to the July 14th meeting.

Mr. Howard seconded.

There was no discussion.

The board voted 4-0 in favor of the motion.

Mr. Moultrie acting as Tree Warden closed the public hearing for Nelson Woods scenic roads and public shade tree. He will have his decision on July 14, 2004.

The board will now discuss the Nelson Woods definitive subdivision application.

Mr. Graham went over his report. He's not thrilled for the road plan particularly for Dennison lane. With the construction of that road 600 feet in length, there's a lot of clearing. There will be more for lot 5 and 4 and the road. He doesn't think this is going to fit with the existing neighborhood. Site distances on Dennison are not good. The grades are not great. They're going to have to do a lot of blasting or drilling. The linking of the rear parcels for lots 1, 2, & 3 gives each of those lots the requisite area that they need but it's a pretty convoluted lot lay out. What are they going to do with that space? It'll be privately owned land up against conservation land and there is the potential for at least minor construction like a gazebo. Dennison basically tears apart the land, whereas Kinson Court is pretty benign. He'd rather see four units on Kinson and just one driveway on Dennison.

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Mr. Gerraughty said that Mr. Graham is probably right about the choice of it, but the project fits the regulations. He'd like to see the Independent Senior Housing, but his big issue has always been whether a project fits with the regulations.

Mr. Graham said that the project will fit the regulations so the board wouldn't have much reason to deny it, but it'll be ugly.

Mr. Hoover said that he wasn't part of the previous history of this land, but he thinks he's catching up, and the areas he's most concerned with are those that affect abutters or the general public on Nelson Street. He thinks changing the driveway to one road thing is good. He thinks that previous proposals were more site sympathetic.

The developers agree.

The developer will look into whether it would be cost effective to change the plan so that there would be more units on Kinson Court and less on Dennison Lane per Mr. Graham's suggestion.

Mr. Gerraughty said that he would like to see the 22 inch oak saved, if they're thinking of changing the upper part.

Mr. Moultrie pointed out that there are decisions pending based on this plan.

Mr. Christiansen asked if the decision could be conditioned on pending approval of the subdivision plan.

Mr. Gerraughty made a motion to continue the Nelson Woods Subdivision hearing to the meeting on July 14th.

Mr. Howard seconded.

Either this plan or an alternate one will be presented at that meeting. The decision on the trees might be held off because there might be fewer trees to take down.

The board voted 4-0 in favor in favor of the motion.

Executive Session

Mr. Gerraughty made a motion to enter executive session to discuss current litigation and to adjourn directly from executive session.

Mr. Howard seconded.

There was no discussion.

Mr. Hoover voted yes.

Mr. Gerraughty voted yes.

Mr. Howard voted yes.

Mr. Moultrie voted yes.

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The board entered executive session.

Mr. Gerraughty made a motion to adjourn the meeting.

Mr. Hoover seconded.

There was no discussion.

Mr. Gerraughty voted yes.

Mr. Howard voted yes.

Mr. Hoover voted yes.

Mr. Moultrie voted yes.

The meeting adjourned at 11:15 pm.