

Minutes
October 28, 2008 Medway Planning Board Meeting

PRESENT: Andy Rodenhiser, Bob Tucker, Chan Rogers, Karyl Spiller-Walsh, Tom Gay, John Williams

ALSO PRESENT: Gino Carlucci, PGC Associates
Susy Affleck-Childs, Planning Board Assistant
Phil Giangarra, FINCOM member

The meeting was called to order at 7:05 pm

Welcome to PB meeting 10/28/08 here at Sanford Hall; 155 Village Street

CITIZEN COMMENTS - None

Minutes

October 14 & 21– motion to approve as presented – Bob Tucker, Karyl Spiller-Walsh – all yes

Invoices

VHB – Construction Observation for Birch Hill and Ishmael Coffee Estates for \$1,394.97 to be paid from revolving fund. Motion by Chan Rogers, seconded by Bob Tucker to approve payment. All YES.

Susy Affleck-Childs – I have the pricing (\$2,530) for the second server for the MUNIS system, to be used for the citizen access component. The funding is from the 43D Expedited Permitting Grant. I would like your authorization to order. This will come back to you to authorize the specific payment upon invoice. Motion by Bob Tucker, seconded by Chan Rogers to authorize ordering of the server. All YES.

Other Matters

Susy Affleck-Childs - ConCom is meeting on 11/6 to discuss Ishmael Coffee Estates. We need to hear from them before the PB votes it recommendation on street acceptance. I would prefer to not do this at 6 pm right before town meeting as we will need to draft motions, etc. Would you be receptive to a brief meeting on Saturday morning, 11/8?

Chan Rogers – I cannot do anything between 11/6 and 11/10. I am out of town.

Tom Gay – ok for 11/8

Bob Tucker – ok for 11/8

Andy - ok

Karyl Spiller-Walsh – not sure

Agreed – To have a special PB meeting at 8 am Saturday – November 8th to finalize any decisions for the 11/10 town meeting.

7:15 Public Hearing Continuation - Williamsburg Condominium OSRD Special Permit

Paul Yorkis, Patriot Real Estate
David Faist, Faist Engineering
Greg and Mary Lou Whelan

Paul Yorkis – at last meeting, there were several recommendations made by the PB and by the safety officer – we had quite a discussion – what I would like to do is to turn this over to David Faist to share with the board how the plan was changed and review the revisions – and then we could discuss the letter from Gino Carlucci with his comments on the revised plan we provided.

David Faist – project civil engineer, Paul Yorkis relayed to me the comments from the last meeting – the open space area and developed area stayed the same; one of the main things we did was to reverse the directional flow of traffic based on safety officer's input and the board's concerns – the entrance to the development will be down near where Medway Animal Hospital is location – we will use the existing driveway to the site and widen it once into the development - there will be some parking spaces as soon as you come in that would be good for open space visitors – the roadway widens to 16 feet for the remainder with the exit at the western end of the project – in the original proposal we had some triplexes and duplexes – we have changed to all duplex style – it will be – two single story duplex buildings (4 units) – then some with 2 car garages, and some with 1 car garage - Gino Carlucci's comments suggest reducing double width driveways a bit – we want to make sure everything would fit and have parking – we are also providing a sidewalk the entire length of the driveway from the animal hospital out to the end and for a community bus stop (on West Street) – we added in some street lights – community mailbox – there is no sidewalk on West Street currently – After talking to the landscape architect – one of the nice site amenities is some stone walls – we want to dress up the exit area with some stone walls – can't really do much at the entrance area – not enough room - we can get into more detailed landscaping at the definitive design stage . . .

John Williams – isn't the house set back area required to be 15 feet from the open space?
Concern about unit at westerly end of the site and how close one of the units is to the open space parcel

David Faist – that is something we can look at – we could adjust that to a one car garage

John Williams – just looking at the proposed area, we noticed that there is 7 acres in the front corner that is either a wetland or a protected resource area. The use of the open space development allows us to have 8.7 acres of open space – when we talk about trading a single family development here, there is 1.7 acres difference – it doesn't seem that the open space is contiguous - why would we consider condominiums here?

Gino Carlucci – it does meet the formula

Bob Tucker – have you checked the formula

Gino Carlucci – yes

Bob Tucker – what is the net open space area that is upland?

Gino Carlucci – I don't remember the exact acreage figures but remind you that the percentage of wetlands in the open space cannot exceed the % of wetlands on the whole parcel – they have met the standards

Tom Gay – 8.7 acres of wetlands; uplands area is 5.71 acres

Andy Rodenhiser – what are they required to provide for open space under the formula?

13.86 acres = site

3.19 acres – wetlands

Riverfront – 3.89 acres/upland

Total wetlands and riverfront is 7.08 acres

The required open space area is 50% of the site = 6.93 acres

Required uplands is 5.3 acres

We have 8.7 acres of open space – the upland area of that is 5.71 acres

John Williams – there is a wetlands area here that is clearly unbuildable and the buffer which is protected – the DEP and Medway CONCOM has restrictions over the 7 acres which can't be built on – the condo development is not in keeping with the general character of the neighborhood – the net gain is one acre of open space

Gino Carlucci – he is deducting area that he thinks is not developable anyway – but the total amount of open space is 8.7 acres of which 3.19 is wet

Tom Gay – what John Williams is saying, that based on buffer zones, much of it would not be buildable anyway

John Williams – I am not challenging is that it doesn't meet the formula – but what is the actual benefit? So that is my question – if you take a look at condos, they don't bring as much tax revenues as a single family home – I don't see a substantial benefit – I don't see it on this space

David Faist – I have been involved with this project for a number of years – it was originally a 40B project that was approved by the ZBA – it consisted of a much more invasive project – after working with the DRC over the years, we have come to this concept -

Andy Rodenhiser – what is the status of that permit?

David Faist – is still valid – 20 or 22 units

Karyl Spiller-Walsh – what is the build out number of it was (done as a conventional subdivision) with half acre zoning?

David Faist – I am not sure; there was probably one that was a conventional subdivision that maximized the use of the property – I can check that –

Andy Rodenhiser – under this process, we get more control over what it looks like and what gets approved with a unit count as compared to a 40B permit – I think Greg believes this is a better route for him – So why this vs. a 40B?

Paul Yorkis – I can't speak to that – but I would like to respond – I want to be a little bit philosophical as I am also a resident – I think the zoning in the town of Medway as it relates to dwellings is terrible and I have said this to you before and to the public – the only type of dwelling that can be built in Medway by right is a single family dwelling – I think that is wrong – I think we need a variety of housing types – this town has failed its citizens by not granting as a matter of right a mixture of types of housing – we have done a disservice to everyone in the community – this plan meets the criteria in this case and I think the planning board, some of the members, were instrumental in putting together the OSRD bylaw and that is a step forward to where we need to be – I think it is critical – I think that this applicant has made a decision to try and develop a plan that meets some other goals that have been talked about – low impact development; I think this might be a sort of model to look at the benefits and negatives if there are any – the location of this property is next to property owned by Boston Edison on one side and leaving as much of the property as natural is a benefit to the community – it may not be an active recreational area, but it could be passive – but I think as a community, we need to try and figure out how to plan for a variety of residential types and given the zoning bylaw that exists today – if the town with the PB's leadership were to change the bylaw to allow duplexes or apartments by right, that might be different – the poor diversity of our housing stock at this time is not good for our community in the long term

Chan Rogers – I don't think the board has the option to fiddle around with the formula – 65% of the open space is upland and available to the public – if you were to put enough street in there to put in 20-25 conventional lots, there would be no open space – I feel there are a lot of advantages in the plan presented – different kind of housing that would be available in Medway for families that don't want to live in a single family house and have the responsibility to maintain – what is presented is a good use of this site – I think the changes that were made between the last meeting and this one are interesting and desirable – I see this much differently than John Williams does

Phil Giangarra – would you define upland?

Chan Rogers – high and dry, not susceptible to flooding

Paul Yorkis – something that is NOT wetlands is considered to be uplands – wetlands are comprised of 51% or more of wetlands plants and the soils under the plants need to be hydric soils as defined in the wetlands act – it is possible to have one without the other – if you have both it is wetlands

John Williams – well, notwithstanding your argument about the necessity for duplexes, I was looking at OSRD as it was proposed heavily on design and aesthetics and public use and access, although this development may fit the letter of the law, I am not sure the uplands area really fits the intent – given that particular configuration of the uplands – let's talk about the gain – there is really only 1.7 acres that wouldn't be undisturbed – the gain for making this public is offset by

the vagaries of it – homeowners that live along West Street – this will be duplexes they won't be compatible - are the units of a duplex taxed at the same rate?

Yes – same rate

Andy Rodenhiser – 40B concept could come in with more units and less attractive and less value – and we would have no control

John Williams – I can only consider the proposal here as presented

Andy Rodenhiser – I understand you didn't have that knowledge – it took them 3 years to look at this option – look at an alternative – I understand it predates you . . . your thoughts are not anything we didn't think about back then.

John Williams – I can feel for the frustration of the applicant – not having the legacy with the board – I approach this as a single plan presented here

Chan Rogers – imagine that site with 22 separate house lots and a street to serve that – I think the alternative to split it up with single family lots is a much more difficult problem

Bob Tucker – getting away from this a little bit, what waivers will you be looking for on this project?

David Faist – we had a list of waivers that was submitted with the application form itself – very similar to the village at pine ridge –

Paul Yorkis – that was one of the requirements of the application

Bob Tucker – I am curious as to the number and what they are

Tom Gay – it is 2.5 pages –

Susy Affleck-Childs – those are from the traditional subdivision regulations

Andy Rodenhiser – and for streets that would be accepted by the town

Karyl Spiller-Walsh –I have some comments, starts with a philosophy – what are we gaining/what do we get – we have a couple of developments that we look at – is it worth doing – one of the difficulties with the bylaw is a conflict with the intent of open space subdivisions and the need to include affordable housing – there are 3 units of affordable – if you could envision Daniels Village and took out 3 affordable units, you would have a sense of more open space – I think we are in the middle of the Ore sandwich and one of the reasons is because of the affordable units – when we have our affordable units in place, these OSRDs will look different – this has come a long way – it is cleaner – the sense of the meandering sidewalk, the juxtaposition of the units on the street – spaces of land around the units – I think you have brought it to a much better level – there are still some questions we still need to talk about – road width is one – I don't know what you intend to do with the architecture – but that is the footprint only (you have

shown us) – we don't have a sense of that yet . . . I expect it will be like what you showed us (in the past) - I think with what you have had to work with you have brought it to a level that is respectable –

David Faist – we did want to preserve some space to have some views – with a 40B there would have been a big detention pond in the back in the buffer zone

Karyl Spiller-Walsh – this is all about bang for the buck – what does the town get out of these special permits – certainly this land/open space – breathing space – I think that there are some good ideas here - what existing elements are there – what can you do with the stone walls – one or two interesting things that occur within the landscape can be very positive and special - that is what I am looking for – goes a long way –

Chan Rogers – talk about bang for the buck – 14 acres site – you are getting 43% of the site as upland open space – you would lose that with a conventional subdivision plan

Tom Gay – one question about street width – what is the logic behind variable street width – it says you start at 14 feet and enlarge to 16 feet

David Faist – we have a 14 foot driveway at entrance with sidewalk – we are trying to minimize impact on the abutting neighbor at the entrance – once you get up to the area where the homes are the road is 16 feet – one way street – safety officer has looked at it – from a LID, we are minimizing pavement in the beginning of the driveway – reducing non pervious area – trying to preserve land

Bob Tucker – I see we have a letter from the safety officer – is there one from the fire department? – I want to make sure we can get a ladder truck down there – is 14 feet enough?

Paul Yorkis – the acting fire chief will put in writing that this is OK.

David Faist – we can make sure that in the definitive design phase, we will look at fire truck movements

Paul Yorkis – the longest truck does not have the longest wheelbase – and there is not a problem with this

Bob Tucker – I am looking toward the future as well in terms of future trucks

Karyl Spiller-Walsh – so do you think that is a problem getting in the corner with the 14 feet road?

David Faist – we have software we can model in the definitive phase

Andy Rodenhiser – most responses have 2 ambulances – concerned about those two as well as a fire truck and passing

David Faist – that is one of the nice aspects of LID – no curbs and sidewalk – we have 4-6 feet of swale area – plantings can be outside that – cars can go up onto it if needed

Karyl Spiller-Walsh – I think that was an excellent solution – 14 to 16 feet – I want to make sure that somebody can pass in the middle

Bob Tucker – how many of the units are going to be green or going after LEED certification

Paul Yorkis– don't know yet.

Bob Tucker – is it considered?

Paul Yorkis – I think whoever is building today is considering whether you want to call it GREEN or LEED or common sense

Paul Yorkis – I have read the OSRD bylaw several times and I would share with the board, the way it is written and the concept of affordable housing that my view, in representing my client, is to look at the project in its entirety – in terms of open space, town responsibilities for road maintenance and lights (which the town would not have any) as well as the housing types and – it is all of those things – whether it is this application or others, some applications may be strong in some aspects and not so strong in other aspects – the totality of the application is what is critical –I would also share with you – I live at ICE and it has become a little community – the Village at Pine Ridge which is an OSRD that you access it thru another subdivision has become a little community within a community – this becomes a neighborhood which I think it is good – it doesn't mean it is in conflict with other housing types – is the glass half full or empty? There is a variety of ways to look at things – the success of this in part depends on who moves there – are they comfortable with one another and work with one another?

Andy Rodenhiser - Any comments from the public?

Rhea Berry, 68 West Street – Where is the sidewalk?

David Faist – It was placed along the animal hospital side

Rhea Berry – OK

John Williams – I appear to be a man on an island here – I look at the open space that has been delineated here and I don't see it as useful and practical – perhaps it is a dangerous precedent to qualify some of these spots as open space – the unit calculation is a maximum – perhaps there is some jockeying around that could be achieved with a reduction – do we want to set this low of a bar for an OSRD?

Chan Rogers – I would like to answer that – we are responding to the audience at home as well – I think John Williams has expressed his opinion, we are all entitled to our opinions – I think this handsomely fits our open space requirements – 43% of the open space is upland area – you would not achieve that with conventional single family housing

Andy Rodenhiser – there has been many times on this board that people have been islands unto themselves, it is nothing to be ashamed of – I want to encourage every member of the board to allow for everybody to think differently – that is my own belief as chairman – with that being said, my own personal thought is that I think it shows thoughtful design and a diversity of housing, it also provides access to the open space - if it was a 40B it probably would not be accessed; the overall greater benefit is that the developer has reduced the unit count as compared to a 40B and to upscale the design from a 40B stark box –

John Williams – any comment on the contiguous nature of the open space

Andy Rodenhiser – you point out something – perhaps we can change the bylaw to establish a minimum width for contiguity – perhaps that is something we should look at in the OSRD bylaw – you do make a good point on the offset required – I am sure they can accomplish that by reducing size of garage, shifting, etc .

Karyl Spiller-Walsh – I completely agree with John Williams – I think it is a minimum and we are going to make it better – it is more consistent with what we want to see – it doesn't have to be minimal - it is always a compromise – this is a much better solution than the 40B solution – there was no lipstick on that pig – often times it is always a compromise – it is heading in a much better direction – with some architecture ideas it will be a lot better than it was –

Andy Rodenhiser – next steps

Susy Affleck-Childs – go to DRC soon –

Paul Yorkis – I think we are ready to meet with DRC go design the housing to approximate the footprint – Unless the board has some other substantial changes that they want to propose to this – I think we are OK

Karyl Spiller-Walsh – some thoughts . . . when you do come into design review – Gino Carlucci had made some suggestions on stone walls, relocate some – I saw some when I was out there- some concept – behind the vernal pool – what kinds of plantings – what is there that you might leave?

David Faist – one of the ideas . . . the dark green area - that is the calculated open space – there is more open space within the developed area (light green on the plan).

Karyl Spiller-Walsh – a grouping of trees?

Susy Affleck-Childs – question on open space that is not included in “official” open space area – how will that be used?

Paul Yorkis – we don't want to mess with stone walls near the vernal pool – we need to leave them – We want to leave other stone walls that don't have to be moved – There is no intention to do anything to that extra open space – it would be foolish for us to remove that – but it is not included in our calculations –

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David Faist – given that this is the conceptual phase, and I looking ahead to the storm water design – we want to keep that area for that – we made need that –

Susy Affleck-Childs – but it is not protected

Paul Yorkis – correct

Karyl Spiller-Walsh – I find that intriguing and interesting – I think it would be relevant to the whole – how is it going to look at the end?

Paul Yorkis – in discussion with Worcester office of DEP, she has a design standard for the swales for LID which she is forwarding to us – after our review, if that is it may be something that the board adopt as a design criteria –

DRC – Nov 17th – overall plan – but not buildings – meet at the senior center on Monday evenings -

Continue public hearing to Dec 9th at 7:15 pm

Broad Acres/Country View Estates

Marylou Whelan - We have a Ratcliffe easement

Andy – we have a memo from Town Counsel Barbara Saint Andre – Is it OK to release and read into the record/attach? She notes some outstanding issues – storm water easements on Streifer and Desimone – lots 35/36 – also the sewer easement issue on Streifer’s neighbor

Mary Lou Whelan - I have everybody on Stable Way except for Diane Borgatti; I have the Bullards – I have a verbal from the Buonorcosi (next to McKay); I have a verbal from McKay

We just want the road accepted by the town

The only one left is Ken McKay

Andy Rodenhiser – easement with Buonorcosi? –

Susy Affleck-Childs – they want a bond reduction - we need to claim some money for the construction account to make sure we have money to pay town counsel - I would like \$3,000

A motion was made by Bob Tucker, seconded by Chan Rogers to reduce the bond by \$3,000 to replenish CO account. All YES.

Chan Rogers - \$75,000 is excessive to keep at this point – the applicant has plenty of reason to get the thing done – I think the board should look at it very closely at the next step for the Streifers to give up the easement

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Andy Rodenhiser – if we need to buy or acquire easements to get this done, we don't know how much that will take – I am suspicious about that

Bob Tucker – I don't have an issue of going down to the minimum –

Marylou Whelan – What about taking the easement at the Streifers by eminent domain? We redid the whole thing for them.

Next meeting – November 11, 2008

Restaurant 45 Site Plan

Paul Yorkis – I delivered copies of plans of where it was supposed to be and what we are needing to do now – the elevation of the parking lot has changed substantially, it is lower as you are going from route 126 westerly on route 109 – the original intention was to remove the restaurant entrance (on the north façade) – the applicant now wants to retain the entrance but steps are needed – with the approved site plan, there were no steps from the parking lot – I am hear to keep the board informed – the number of parking spaces still complies – there is no negative changes other than the – new steps – we had to get it to match

Karyl Spiller-Walsh - how much lower than the original plan – 4 steps lower than the original approved plan -

Bob Tucker – Why isn't this is a minor site plan change?

Susy Affleck-Childs – This is my error, I should have advised Paul Yorkis to ask the building inspector what level of change this constitutes -

Paul Yorkis – I spoke with the building inspector. He said he didn't see any problem with this, but to please just inform the PB

Bob Tucker – I want to see some consistencies with the building inspector's interpretation – I want to get the process tuned up

Karyl Spiller-Walsh – I don't see it as a site change -

Just get a note from Bob saying that he doesn't see –

Paul Yorkis – I have stamped plans for you with the change –

It was agreed the PB was OK with the change. Please get confirmation from the Building Inspector.

Public Hearing Continuation – Proposed amendments to Medway Zoning Bylaw

Article 20 (for 11/10/08 special town meeting)

Karen Johnson, Charter Realty and Development – our interest is Medway commons, after the last hearing I just summarized our discussion from that evening and tried to highlight the points of why we are concerned about the change in the zoning designation from commercial VI to Commercial I – I emailed Susy a letter

From a process perspective – the zoning district was proposed to be changed from commercial VI to Commercial I after the fact - after Commercial I was drafted and approved (last spring) – our opportunity for comment is simply on the change of the name – we don't really have a chance to comment on the components of Commercial I

Several uses would now require a special permit and the process for a special permit would go to the ZBA - if there were to be any changes to those sites (CVS and McDonalds) – creating a dual process – at the last hearing, I said you were going backwards with this – we feel you have made tremendous strides toward a more streamlined process by taking out the BOS from the site plan process – going to the ZBA for special permit and then go to PB for site plan is cumbersome

I am troubled by non conforming status (of some of our uses – drive thru for CVS and McDonalds) if we go for refinancing, etc. –

So I tried to put it in a letter form – I thought that would be helpful to you . . .

Andy Rodenhiser – I guess as a board, do you want to make any considerations on changing the proposal or do you have any comments or do you want to put a hold on it?

Tom Gay – I read this as far as the nonconforming status is concerned, that doesn't faze me one bit – the current commercial I & II on the west side of Holliston street were combined - from the process side, I fully agree with you - we want to get away from an overburdened process – we want to make it a quicker process – so I still support the consistency that combining it into one overall district – same rules/level playing fields- but maybe we do need to consider process issues

Chan Rogers – and that reconsideration . . . couldn't that come after this was approved – there could be a hiatus between this (and not complicate town meeting now) and then later adopt a change

Tom Gay – the other question I would ask, how does the proposed overlay district fit in?

Gino Carlucci – in the draft form, it says CI and CII right now, - it doesn't have to be defined by the entire district - we can limit

Susy Affleck-Childs – the overlay doesn't have to be the entire district, it can just be part of it

Tom Gay – what do we want to do with the overlay?

Andy Rodenhiser – we don't want to do something that will make the overlay harder to do later.

Chan Rogers – I am advocating that we vote on this now and then clean it up later . . .

Bob Tucker – I think we have shown, that this board tends to be very dynamic and it isn't afraid to go in and make some changes . . . drive-thrus are not the only concern – there may need to be a number of improvements

Karyl Spiller-Walsh – I don't think there is one great answer – both have justifications – but I think I agree with going ahead with the bylaw

Andy Rodenhiser – what is the impact on you?

Karen Johnson– I understand from older (shopping center) prototypes, non conformities are inherent - my only counterpoint is that happens with older properties, no question about it – what is really the planning objective for the change? – you were able to achieve what you wanted with Medway Commons and Walgreen's – you were able to do it with the zoning requirements you had in place – zoning is a tool for implementing your planning objectives . . .

I understand your concern about going with the momentum – but take a step and decide what is your planning objective and where do you want to go – as a volunteer board with support, to the extent you can process all your administrative stuff and do your planning stuff – you may be taking on too much – one of the biggest problems with zoning bylaws, is that you chip away at things, and you don't achieve the overall consistency that is needed – that is what happens when you take a little step here and there

What do we lose if you were to do this now – I don't know what we may need to do in the next 6 months – but something may come up that changes your focus (away from doing the follow-up changes) – my only caution – I spent 7 years as a town planner –I understand that you want to complete a task – in this case, listening to your comments, it doesn't seem like you are really accomplishing what you really want - sometimes you have to take a step back and ask if we are changing what we want to do... that is my perspective on it – if you do or don't pass this, I am willing to look at things – workshop, review drafts – I may just need some more time to do so . . . that is where we are... hanging around here for 7 years – we are not going anywhere – we are holding onto this – it is one of our best properties in our portfolio

Chan Rogers – we already have an issue before us, with a special meeting on November 8th – we might want to provide more assurance to the property owner – I personally feel we are better off doing what we are doing and take the time between November 10 and the middle of May to study this problems – it may be more than drive-thrus that have to be considered

Andy Rodenhiser - Any other comments on zoning bylaw amendments?

None

Andy Rodenhiser - We will continue the public hearing at the end of this meeting and decide where to go from here

ANR Plan – Cheryl Rosenberg for property north of Kelley Street

Paul Yorkis, agent for applicant
Jim Roberti, attorney

Andy Rodenhiser – We received a letter from Town Counsel Barbara Saint Andre. It is noted as confidential but it is in our discretion whether to release it - any concerns about releasing it?

NOTE – All members were agreeable - No problem –

Andy Rodenhiser – this just arrived today – Here is a copy for you.

Jim Roberti – We are here regarding a property on Kelley Drive, Villa Drive cul-de-sac – Cheryl Rosenberg owns property shown as lots 1 and 2 on the plan – we were here in 2006 with a similar plan that had 3 lots – we withdrew that and have scaled it down to 2 lots – at the present time, there are 3 lots on the Camelot III subdivision plan that are accessed off the Villa Drive cul-de-sac and Kelley street cul-de-sac – we think this is similar - we did have a chance to look at Gino Carlucci’s review memo - He is correct, there is a public portion and a private portion to Kelley Street – our argument – if you look at the Camelot decision – what you would find out is that that PB wanted Kelley Street to only be done as a sidewalk and not as a road – Our argument is a fairness argument – if there is no real appreciable difference to what we want to do as compared to what has been allowed to be done with Camelot III

In no way, are we trying to capitalize on a mistake – this was an intentional decision by the planning board at that time to not require a through street – these lots have adequate access for police and fire – the prior planning board felt very comfortable with allowing the houses to be built with access from the cul-de-sacs

Andy Rodenhiser – there isn’t a street there

Jim Roberti – there is a sidewalk – that was the limit of construction that they wanted done

Paul Yorkis – I was a member of the planning board at that time – at that time, I had no relationship with the applicant. I had nothing to do with anything associated with what the applicant is now proposing – I want that noted for the record

Paul Yorkis – if I may give history – the developers of the Camelot III subdivision and the then planning board were involved in litigation – the PB denied the original Camelot 3 plan – as a result of an agreement between special town counsel and the applicant, a proposal was made to the PB that would allow specific lots to be constructed, that the private portion of Kelley Street and Vine Street would not be constructed, but the 3 lots could use that frontage

Camelot III dealt with property on the south side of Kelley Street and Vine Lane – there was substantial concern about not having all the traffic come out to Kelley Street – that is why it is only a sidewalk – the agreement was signed by members of the planning board – and then a modified subdivision plan was endorsed as settlement of the lawsuit – there is no error or chicanery here – this was a conscious decision, made by the PB, myself included – to make sure that the subdivision that was being approved was a compromise

Andy Rodenhiser – what Barbara (town counsel) is saying in general is that the decision of one planning board cannot hold another planning board

Jim Roberti – our argument, if there was a mistake made, the case Barbara Saint Andre mentioned was about a real mistake – we are arguing fairness – if you drive down there and take a look at it – you are going to look at a house that has its frontage – there is plenty of access – does this function well? If you drive down and take a look at it – the other 3 lots are not problematic that most ANR lawsuits are about – we are saying, if it was good for those two lots – why isn't it good for us now? What we have is the mirror image on the other side

Andy Rodenhiser –so where are you claiming the frontage for lot 2?

Jim Roberti – all along

Andy Rodenhiser - the portion of the unconstructed private way?

Jim Roberti – right, but it is no different than the other 3 lots from Camelot III – unless the planning objective has changed and you want to open it up

Andy Rodenhiser – wasn't it also part of that planning board's decision that it wanted to limit the number of houses in the subdivision

Jim Roberti – that is true but that applied to the land south of Kelley Street (Camelot III property)

Chan Rogers – who was the original applicant?

Paul Yorkis – Greg Coras was the applicant for the south side property – at no time was the ownership of the south side ever held by the owners to the north

Jim Roberti – there was no common ownership with that subdivision

Gino Carlucci – the practical aspects of the access – if somebody had 200 feet of practical access but didn't meet the frontage, it still wouldn't be OK – this simply doesn't have frontage on a way – it needs to be in the form of a subdivision application

Corey Finkelstein – Camelot 3's previous owner was Dr. Levy before it was sold to Greg Coras

Chan Rogers – what is considered to be the mistake?

Gino Carlucci – in my comments, I suggested that those 3 lots in Camelot 3 may have been a mistake –

Karyl Spiller-Walsh – so one question, who owns that private ROW?

Dan O'Driscoll – normally, the abutting owners would own to the center line – that right would have to be deeded along

Andy Rodenhiser – so how are you claiming frontage?

Jim Roberti – we don't claim it is on a public way, we claim it is a way shown on a previously approved plan –

Jim Roberti – what we wanted to try to explore – does the concept work? The idea – we have practical access that works – is there a way you would be comfortable – could we come back to you with a subdivision plan and then waive all construction if it is the idea that we are coming in with an ANR plan – do you have a problem with building here? We could come back in with a subdivision plan but then waive the construction – no change in cost or anything to us

Karyl Spiller-Walsh – my comment is this . . . I don't perceive this as being a way – it is not a way in existence – it is a piece of land that belongs to somebody – I think it is erroneous to call it a way

Jim Roberti – we own to the stone walls

Andy Rodenhiser – why doesn't your plan show the property line?

Jim Roberti - I have a copy of the Camelot 3 plan –

Bob Tucker - I want to see where Kelley Street is. .

Susy Affleck-Childs – Kelley Street was accepted by the town in 1941 before subdivision control was adopted – but we don't know how far on Kelley Street it was

Andy Rodenhiser – burden is on the applicant to prove

Jim Roberti – we can show you that we own to the stone wall – but how do you feel about the access issue?

Paul Yorkis – with respect to all this – a considerable amount of research has been done by the applicant relative to the distance of Kelley street accepted – the 1941 action and plans that we found indicate that the PB a long time ago, had not communicated to the town clerk various actions when it approved plans that extended Kelley Street – there was never an action taken by the planning board to fully extend

Andy Rodenhiser – so that means that those owners probably own to the center of line

Paul Yorkis – the DPS director would say to you that the Town maintains Kelley Street to the cul-de-sac in terms of all actions that would normally be done by the Town for an accepted way - so at some point in time, the PB may want to do some history and take some action on these

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Paul Yorkis – in 1941 Kelley Street extension was accepted - - there was no distance specified or station numbers –

Dan O’Driscoll – we believe that it was accepted to where Crestview is

Paul Yorkis – and then Kelley Street extends beyond Crestview . . . the terminus of Kelley Street is not clear

Andy Rodenhiser – the attorney has presented/proposed an idea – are we opposed to these houses being built?

Andy Rodenhiser – is that possible to build without a bond

Karyl Spiller-Walsh – I would like them to come in with an actual plan - what are they – are they able to build a road – then we could consider waiving that –

Chan Rogers - I don’t see any point to make people to jump thru a hoop – which way should we do this –

Andy Rodenhiser – are you in support of them coming back with a plan showing property lines?

Karyl Spiller-Walsh – we don’t know what that private parcel is – I am not convinced it is way

Andy Rodenhiser – our lawyer and consultant have not had the benefit of the additional info you have provided tonight

Andy Rodenhiser – another option is for you to withdraw rather than us just saying no tonight – let us continue to share the info with town counsel and give Gino Carlucci an opportunity to review it -

Paul Yorkis – couldn’t we do an extension instead of withdrawal?

Susy Affleck-Childs – yes they could do an extension

Chan Rogers – this is a unique situation unlikely to be found anyplace else – I feel it is better to give the applicant some encouragement or tell them it doesn’t work – it would not be replicated anywhere else in town – recognize the uniqueness of the layout – either reject the application or tell them what to do - because it is unique and not likely to be replicated anywhere else, we should be recognizing unique situations and not deny the applicant without good reason

Andy Rodenhiser – is it within our authority to waive frontage?

Jim Roberti – maybe the plan could be labeled better – it is a way – all the old research shows Vine Lane as a way – it is not just a piece of land that hasn’t been traveled - we own to that stone wall –

Tom Gay – I would challenge your statement that the old way is still there – taking the assumption that something did exist . . . is there an objection to these two lots with access off the cul-de-sac – I am OK with that – I am having pain over who owns it, and how do you get access across it – you would need it off of Villa Drive too – I am struggling with that until I am sure what that ownership is

Jim Roberti – we can do that

Karyl Spiller-Walsh – as a subdivision

Tom Gay – yes, playing by the rules with process

Paul Yorkis – just, if I may . . . before all of our times the area was known as Vine Lane and it really did go to Elm Street - if one looks at when route 109 drainage changed, water came in this direction – the Coakleys raised great concern during the Camelot 3 subdivision public hearing regarding drainage issues – this applicant had nothing to do with that – Vine Lane ceased to exist in a functional manner because of the wetland encroachment – it is there when you look at old maps – I understand the question about ownership – but Vine Lane did exist as a way –

Tom Gay – it doesn't explain the current condition on the ground –

Karyl Spiller-Walsh – whether Vine Lane was a walkway or a bridle path – it is not a parcel that is wide enough to be a layout as a road –

Andy Rodenhiser – it is my belief, it needs to be a constructed public way or a layout with a bond in place

Jim Roberti – I like what Chan Rogers says – we can argue about whether it is or isn't – if we can satisfy what Tom Gay is saying and show the proper ownership and layout and show we have the proper ability to cross it and then give you a subdivision plan and then request all the waivers of construction –

Rich Gallogly (attorney in audience) – the statute does not provide the allowance to extend an ANR plan

Jim Roberti – At every planning board we have ever been at, they have done extensions - our intention is not

Chan Rogers – what is the matter with withdrawing and coming back with another plan?

Bob Tucker – you don't have names and status of all the public and private streets on the plans - it doesn't show me any owner or width

Jim Roberti - I understand what you want –

Susy Affleck-Childs – does the deed for Rosenberg property call out the stone wall??

Jim Roberti – yes

Jim Roberti – I have a plan prepared by Paul DeSimone that may help us - - it is an unrecorded plan from 990 that shows Kelley Street extension – we took the Camelot III plan and the 1990 DeSimone plan to make this ANR plan

Bob Tucker – there has to be an owner for the land north of Camelot III

Paul Yorkis – we would like to continue this hearing and come back to you under this application – we want to keep this application open and comply with the requests that have been made this evening – and have the opportunity to interact with counsel to discuss their letter and also to prepare a plan that would reflect what a subdivision with all waivers would look like - - we will request an extension -

Susy Affleck-Childs – I cannot advise you to keep this open; you have 21 days to act – if you don't act, by default it is approved.

Paul Yorkis – I mean with an extension

Chan Rogers – Common law says that anything that has been used as a way, common law makes it a way and you don't have to prove ownership –

Susy Affleck-Childs – the only attorney that is our attorney is town counsel

Andy Rodenhiser – do you want to give an extension or deny the plan?

Chan Rogers – if we have done it before I would say let's give an extension

Susy Affleck-Childs – we have done so in the past without any problem

Karyl Spiller-Walsh – are we going ahead with it as a consideration as an ANR?

Paul Yorkis – we just received tonight the letter from town counsel - in all fairness to the board and to us and to the applicant and applicant's counsel, it is in everybody's best interest to take some time on this

Andy Rodenhiser – Jim, if your client directed you to act after 21 days, would you do so?

Jim Roberti – I am giving my word to the board that I would not proceed (to file for automatic endorsement if 21 days pass after submitting an application without PB action)

Paul Yorkis – I have given you my word as well

A motion was made by Chan Rogers, seconded by Tom Gay to extend the deadline for Planning Board action on the ANR plan to January 15, 2009. The board voted 2 in favor (Chan Rogers and Tom Gay) and 3 against (Andy Rodenhiser, Karyl Spiller-Walsh and Bob Tucker). The motion fails

Chan Rogers - what is the wish of the majority?

Karyl Spiller-Walsh – I move that they come in with an actual plan of the property lines to be evaluated as a subdivision

Andy Rodenhiser – and you want them to withdraw?

Karyl Spiller-Walsh - I would like to see a more revealing plan, and waive fees

Andy Rodenhiser – would applicant consider that?

Paul Yorkis – yes

Bob Tucker – I would also suggest that you look very careful at 3.1 and 3.2 of the rules and regs and make sure you have addressed every item clearly and succinctly -

Susy Affleck-Childs – this has to be the applicant’s action to withdraw

Andy Rodenhiser – could somebody on the board make a motion to waive the (ANR) application fees if the applicant withdraws and resubmits?

A motion was made by Bob Tucker, seconded by Chan Rogers to waive any future ANR application/filing fees for this site if a revised ANR application was filed by January 15th, 2009 and that any fees that are presently held in escrow would remain. All YES.

Paul Yorkis – The applicant would respectfully request opportunity to withdraw this ANR application

A motion was made by Chan Rogers, seconded by Bob Tucker to accept the applicant’s request to withdraw the present ANR application. All YES.

Rich Gallogly – I represented Greg Coras in the Camelot III - I will see if I have anything in my files about this . . .

NOTE – The board took a brief break 10:25 pm

4 Main Street

Bob Potheau, owner
Barry Cluff, TNRC Realty

Bob Potheau – at the last meeting we talked about coming in with a master signage program – I am here for your recommendation on a master signage plan – this is not an application re: tearing the building in the middle down – as Karyl Spiller-Walsh said there was plan A and B – what

happens if the building is torn down – but I would proceed with a sign plan based on your recommendation

Andy Rodenhiser – so you are looking for a recommendation on tearing down the building?

Bob Potheau – Susy Affleck-Childs suggested I give you a drawing of what would be left if the building was torn down – so I have another one for you - if we tore the building down, we would put auto display there in its place - we would use the same fencing – what you see in green is an 8’ high Morton Fence (metal panels) similar to between MetroWest and the house with brick wainscoting for the first 3 feet – exactly the same –

Karyl Spiller-Walsh – what is the Apollo building?

Bob Tucker – it is a barn

Bob Potheau – it is a 1980 vintage building – it is NOT non-conforming

Karyl Spiller-Walsh – is topography flat or slope??

Bob Potheau – it is relatively flat – if you look at the planting area, it is a concrete walkway and there is a retaining wall that holds it up

Andy Rodenhiser – I think it looks MINT without the building there –

Bob Potheau – it would be use for display for cars

Bob Potheau – the proposal we would make for the sign is to move it a little closer to the driveway – more visibility – safety issue – probably about 5 feet to the west – the curb cut – this sign would be for the businesses in the back

Bob Potheau – we started on this site plan about 3-4 years ago – when the road (route 109) was widened, they raised the road in front of my large building and then we had a large building that we could have a staircase or a ramp to that is probably as nearly unsightly as the one we want to tear down – I worked out something thru 19 months of permitting process (for the western building - the sidewalk level was about 5 feet up – we came up with a plan to be able to make the front appear and hide the back – we have made a building look like it fits there – in doing that – there are 3 driveways – the whole site has 320 feet frontage – one parcel – the minimum zoning is for 100 feet wide parcels – we have 3 driveways that are not connected (internally) – traffic routinely goes by there at 60 mph – dangerous intersection at Oakland Street - we are talking about a directory sign – nothing that is back lighted – keeping the sign to the 8 foot height level – the zoning at that time allowed us certain things similar to Medway Commons - if we don’t have a sign at the driveway specifying what the businesses are, people would go past the place, then they would pull into MetroWest Auto to see if they can go to the place they passed by and try to drive around back – they can’t

I propose one sign at each driveway, each individual business sign would be 4 sq. ft that would be allowed for the accessory signs but

Andy Rodenhiser – does it comply with the zoning bylaw?

Bob Potheau – no

Tom Gay – so instead of treating it as though it is one development, you are proposing to deal with it as 3 separate?

Bob Potheau – just signs so people know where they are pulling in

Bob Potheau – my property is legally 4 Main Street – the next number that is built (to the west) is 20 Main Street – the lot that is just to the west of me is Rosenfeld – I think they are # 6 – but they could be anything up to 18 – we would need to make a proposal to the assessors to adjust the addresses – it would be OK with Rosenfelds –

Andy Rodenhiser – if this is presently one parcel, how out of compliance would the signage be

Bob Potheau – for the zoning that was in effect at the time I applied for permits . . . for a question of uniformity, etc. – what I propose instead of having one large directory signs is to have a sign at each driveway – then we would have signs that would have different addresses – but I am proposing 3 signs – and I would be looking for the zoning board to look at this and see if it was safer – I would like you to get your recommendations as to what is best

Tom Gay – if you look at this and look at it as industrial district – he is talking about looking at 3 buildings as though they were individual free standing establishments – there is a logical argument that you are making that makes some good sense for the configuration of the property

NOTE – Bob Potheau showed actual flower size to decorate the top of each sign and showed actual size of individual slats

Andy Rodenhiser – any feedback?

Karyl Spiller-Walsh – we have been looking at this at DRC – informally we came up with the same observation – it makes more sense to do this . . . but I think the question is what he wants of us – I think what you need to do is to go to the ZBA -

Chan Rogers – observation, it is a preexisting condition to have 4 disparate uses on one property – it appears you could not have one sign what is contained in all four – it is better to have signs for each entrance- it would appear to me to it would be in your interest to have separate numbers – you should start the ball rolling to make a specified proposal

Tom Gay – assuming that we are in support of saying that it is freestanding and we would support you in doing it that way like what you are now proposing

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Susy Affleck-Childs – however, the new zoning district that was approved in June has much more stringent sign provisions

Bob Potheau – I believe the (sign permit applications) came in under the old zoning

Bob Potheau – if the ZBA feels this is good, I want to do it

Andy Rodenhiser – is there a freeze provisions for signage?

Gino Carlucci – no

Chan Rogers – because of the prior situation and the overlap of the signage requirement there is wiggle room

Bob Potheau – it is a ZBA issue – I think I can propose to them the idea of getting rid of the building that is too close to the street – plus the driveways not being

Andy Rodenhiser – Gino, what is your perception?

Gino Carlucci – he needs a variance (from the ZBA) either way whether it is under the old zoning or new zoning

Andy Rodenhiser – any other questions

Bob Tucker – I think this would be an improvement over a single sign

Karyl Spiller-Walsh – thinking how the zoning board thinks . . . they might say to you that the hardships you are going to present are your own device –

Bob Potheau – I understand that – and I have a rebuttal for them . . .

Andy Rodenhiser – I would like to have a motion that we craft a letter in support of this

Susy Affleck-Childs – he also wants to do internally illuminated channel letters which would not be allowed in the new (Business Industrial Zoning District)

Bob Potheau – the size of the letters does conform – more energy saving than externally illuminated

Bob Tucker – low level channel letter lighting would be better and less intrusive than fluorescents

A motion was made by Bob Tucker, seconded by Chan Rogers for the Planning Board to write a letter of recommendation to the ZBA in support of this sign plan. All YES.

Andy Rodenhiser – Tom, would you draft a letter for us and bring it back to us and then we can vote on it and sign it and send it to the ZBA

Tom Gay – I am the liaison to the ZBA. That makes sense. I can do it next week. .

The Meadows – Request for Bond Reduction

Rich Gallogly, attorney

Rich Gallogly – the general issue is that there is legal review of documents and some engineering review that needs to be paid for – to cut thru the chafe – I thought an easy way to do this is to request a reduction in the bond – the bill is for \$5,075 – the specifics of what those reviews turn up –

Rich Gallogly – this subdivision was originally applied in 1997 and the rules and regs from that time govern this

Andy Rodenhiser – what is going to take to fix the problem?

Rich Gallogly – a few plan issues to be put on the plan - how can I get a solution here to get this done – Ralph Costello (developer) doesn't want to spend any more money out of pocket - I thought we could look to the bond fund – I thought it was a solution -

We had documents done several years ago that were reviewed by then town counsel, now you have Barbara Saint Andre – she has to review them –

Bob Tucker – if you had more in your bond, I would feel better.

Rich Gallogly – I would suggest that the minimum you have is not a regulation – let's see if we can work something out –

Andy Rodenhiser – wouldn't you agree the bond money is there to complete the work – it is several years and it still isn't done -

Rich Gallogly – we are done with the work, nobody is going to disagree with that – Ralph will not spend any more – he spent a lot of money on his ADA compliance – you are applying new regs to an old subdivision – we don't have big construction work – VHB reviews –

Susy Affleck-Childs – there is the matter of 3-4 lots whose access is from driveways that go on abutting property without the benefit of easements – VHB's letters going back to 2002 note this as a problem in that the lots would not conform to zoning. They have done nothing about this and feel it is beyond the PB's purview

Rich Gallogly – I want to have town counsel discuss this matter of the easements –

Andy Rodenhiser – Mr. Costello is not willing to put up the money

Susy Affleck-Childs – Also, I am informed that the developer did not retain the fee in the roadway

Rich Gallogly – we would look to have the town take the road by eminent domain –

Andy Rodenhiser – what if we reduce the bond by \$2,500 and Ralph comes up with \$2500 – but I am concerned – if you have to start dealing with landscaping issue -

Rich Gallogly – we aren't going to do that

Chan Rogers – We need to get Barbara's position on it –

Rich Gallogly – I would advise him to agree with your proposal

A motion was made by Karyl Spiller-Walsh, seconded by Chan Rogers to reduce the Meadows bond by \$2,500 and direct the funds to the subdivision's construction account, with the condition that Mr. Costello will provide \$2,575, to do the bond reduction upon receipt of the money from Ralph Costello. All YES

Rich Gallogly - It is OK for the treasurer to give \$2500 from bond reduction to the PB

Public Hearing Continuation – Proposed amendments to Medway Zoning Bylaw

Chan Rogers – we should continue with recommendation on Commercial VI to town meeting

Tom Gay – I agree- I think it would be spot zoning otherwise

Bob Tucker – her concerns are not a show stopper

Karyl Spiller-Walsh – we will then resume in earnest to correct the problem – as we have talked about

Andy Rodenhiser – maybe we ask Tom Gay as the ZBA rep to take the letter we got or maybe have a joint meeting with the ZBA

Susy Affleck-Childs - I think that is very important – The ZBA feels very strongly about keeping site plan and special permit separate

A motion was made by Tom Gay, seconded by Chan Rogers to recommend approval of Article 20. All YES.

A motion was made by Tom Gay, seconded by Bob Tucker to recommend approval of Article 21. All YES.

Public hearing concluded . . .

Susy Affleck-Childs – At the suggestion of Town Counsel, I would ask that you go into executive session for purposes of discussing pending litigation

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A motion was made by Chan Rogers, seconded by Bob Tucker to go into executive session for the purpose of discussing litigation and to not return to the public meeting

Roll Call Vote

Bob Tucker – yes
Karyl Spiller-Walsh – yes
Chan Rogers – yes
Tom Gay – yes
Andy Rodenhiser – yes

The motion to go into executive session was APPROVED.

11:25 p.m. – Begin EXECUTIVE SESSION

11:28 p.m. – Conclude EXECUTIVE SESSION

The Planning Board returned to regular session at 11:29 p.m.

A motion was made by Chan Rogers, seconded by Tom Gay to adjourn the meeting. All YES.

The meeting was adjourned at 11:30 PM

Respectfully submitted,

Susan E. Affleck-Childs
Planning Board Assistant