



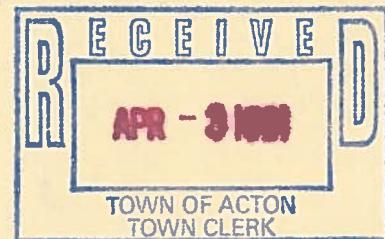
## PLANNING BOARD • Town of Acton

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### ACTON PLANNING BOARD

#### Minutes of Meeting

December 17, 1990



Planning Board members in attendance: Chairman Mary Giorgio, Greg Niemyski, David Hill, Quint Brathwaite, Jim Lee, Doug Carnahan, and Trey Shupert. Planning staff in attendance: Town Planner Roland Bartl.

Chairman Mary Giorgio called the meeting to order at 7:30 PM.

#### I. GENERAL BUSINESS

##### Acton Technology Park Bond Release

Roland Bartl reported that the As-Built Plan has not been received and suggested that the Board could vote as follows: vote to release the present Letter of Credit subject to receipt of As-Built; vote to draw funds under the Letter of Credit in case as-built is not received; and vote to authorize staff to receive a replacement Letter of Credit to cover the As-Built Plan costs.

Jim Lee reported on his site visit and expressed concern about the asphalt erosion that he observed around the joint invert and outfall rip rap at the flared end of the outfall. Jim recommends inclusion of an amount to cover re-installation of the flared end in the replacement Letter of Credit if that option is implemented. Roland advised that Liquid Metronics, Inc. (LMI) has applied for a special permit which necessitates alterations to this section of the subdivision's drainage system. Roy Smith, developer of Acton Tech. Park, reported that the detention area expansion for LMI has been completed and the flared end being discussed will be replaced by a large pipe as part of the alterations for LMI. Engineering Administrator David Abbt advised Roland Bartl that \$3000. would cover the amount of work remaining to be done. Roland Bartl recommended the Board vote to establish a \$3000. bond amount if the As-Built is received and a \$5500. bond amount if the As-Built plan is not received.

Quint Brathwaite moved that the Board vote as follows: vote to draw funds on the Letter of Credit if the As-Built Plan is not received by 12/21/90; vote to accept a new Letter of Credit for \$3000. if the As-Built Plan has been received by 12/21/90; and vote to accept a new Letter of Credit for \$5500. if the As-Built Plan has not been received by 12/21/90. The motion was seconded by Greg Niemyski and passed by unanimous vote.

##### Minutes

David Hill moved that the Board approve the minutes as drafted. Quint Brathwaite seconded the motion which was approved by unanimous vote.

## II. QUICK LUBE REPETITIVE PETITION

Mary Giorgio opened discussion to determine the Board's decision on Robert Moran's request for a repetitive petition on his Quick Lube project. Jim Lee stated that he believes the plan has been changed sufficiently to warrant a new hearing based on the fact that concerns numbered 4, 5, 6, & 7 of the original decision have been addressed in the revised site plan. Jim cautioned that the project may have serious difficulties with the Conservation Commission due to recent amendments to their regulations changing the setback from wetlands to 40'.

Doug Carnahan stated that he does not believe the plan represents a major change from what the Board saw in the past because the developer has not supplied sufficient information about the existing contamination on site and what effect, if any, the proposed construction would have on that contamination and the water supply. Doug also pointed out that the Board's previous decision required a 25' minimum setback from the wetlands and the new plan only provides a median setback of 25', and that site alterations for the retaining wall footings require work well within the 25' minimum setback required in the Board's decision.

Greg Niemyski stated that he agrees with Jim that there have been major changes to the site plan, but concurs with Doug about the volatile organics on site and lack of investigation of those contaminants. Greg also noted that the shortcomings of the Emergency Contingency Plan have not been addressed and therefore he would not support the Board's allowance of a repetitive petition.

Quint Brathwaite agreed in substance with Greg's concerns but stated that the primary concern of the Board is the application and not the merit of the plan. Quint believes that the Board should allow a repetitive petition based on the fact that there have been substantial changes in the plan. Quint cautioned the applicant that the concerns of the Board about site contamination and proximity to wetlands remain the same or have become more stringent since the last petition.

Mary Giorgio reminded the Board that this is a discretionary decision and the Board is not compelled by anything to find that this is a substantial change. Mary believes that, even though the applicant has made a solid effort to address the issues in the previous decision, what has been presented is not a material change in the application because the 25' setback hasn't been complied with, the Emergency Contingency Plan hasn't been addressed, and the impacts of construction on the contaminated site have not been addressed.

Trey Shupert stated that he focussed on the fact that the Board is addressing only the re-application issue rather than the merits of the plan in his review of the plans, the previous decision, and other relevant materials. Trey went on to state that he believes that there have been major changes to the plan, but that he does have concerns about the contamination and setback issues.

Mary Giorgio reminded the Board that six of the seven Board members have to find that there has been a "specific and material change" in the application in order to allow a repetitive petition.

Mary Giorgio then called for the question by asking if the Board would

consent to allow a repetitive petition. Doug Carnahan moved that the Board vote to deny the request for the repetitive petition. His motion was seconded by Greg Niemyski and carried with four in favor and three opposed.

### III. FARM HILL DEFINITIVE SUBDIVISION PUBLIC HEARING

Mary Giorgio opened the public hearing by reading the legal notice of public hearing as published in the Beacon. Mary informed the public that she would ask for comments from the Board first and would then open the hearing to comments from the public.

Doug Carnahan asked about the information that was missing from the application. Attorney Louis Levine asked to address the Board about this issue on behalf of the DiDuca Family Trust. Mary Giorgio agreed to allow Atty. Levine to address the Board. Atty. Levine referred to the memo from Engineering Administrator David Abbt and stated that the issues raised in David Abbt's memo were minor in nature. He informed the Board that Russ Wilson has met with David Abbt to discuss the memo and feels that the plan is an approvable plan except for some minor technical issues which need to be cleared up. Atty. Levine then referred to Assistant Planner Donna Jacobs' memo which identified shortcomings in the application and recommended closure of the public hearing and issuance of a decision based on the information provided in the application for definitive subdivision approval. Atty. Levine said that Russ Wilson met with David Abbt this morning to review the definitive plan and that Wilson has modified the plan as a result of the Engineering Administrator's memo and feels the modified plan is approvable.

Atty. Levine stated that the Definitive Plan as submitted is consistent with the Preliminary Plan approved by the Board and that the four issues identified in the Preliminary Plan approval have been addressed by the Definitive Plan.

David Hill stated that he respected David Abbt's opinion as well as the opinions of all of the staff who review plans for the board. But because staff has not been able to review the modified Definitive Plan presented this evening, David feels that the Board cannot make a decision until after staff has had time to review the revised plan. Atty. Levine stated that he has no problem continuing the hearing to allow time for review of the modified Definitive Plan and will allow an extension of the time for filing the decision.

Mary Giorgio asked that the applicant make a brief presentation this evening on the items that have been changed before continuing the hearing to another date.

Russ Wilson reviewed the proposed three lot subdivision plan for a parcel off of Esterbrook Road which contains R-8 and GB zoned land. Jim Lee asked if the plans being presented this evening reflect the changes that have been made as a result of the staff comments. Russ Wilson replied that he was using the revised plans, not those on file in the Planning Dept.

Atty. Levine stated that the plans are different only in very minor ways and identified those changed by reviewing the items listed in Donna Jacobs' memo as follows:

- Test pit locations have been added to the plan.
- Concord Water Dept. states that water is available. Roland Bartl questioned if water would be supplied to the residential lot in the rear of the parcel. Russ Wilson replied that, if the Board of Health would allow it, water for the residential lot will be supplied by private wells.
- Erosion and sedimentation detail plan has been added.
- Locations of existing and proposed utilities have been added.
- Groundwater Protection District issue still needs to be addressed. Atty. Levine said that the only issue regarding compliance with the Groundwater Protection District is that the plan needs to show schematically that the bottom of the detention basin is at least two feet above groundwater. Russ Wilson will modify the plan to show this detail.
- Section V.3.19 requirements have all been added to the plan with the exception of the sidewalk ramp detail.
- SU-30 design vehicle - turning radius has been modified to accommodate these vehicles.
- Sidewalks will be installed along 2A except where driveways will be located (if any) with approval of M.D.P.W. Sidewalk will be installed along the Esterbrook Road frontage.
- Taper lane recommended in preliminary plan approval was not shown because approval is needed from M.D.P.W. and the developer has no idea of traffic generation. Suggests that this issue would be addressed at site plan stage.

Mary Giorgio opened hearing to comments from the public. Mr. Graham Knowland of Esterbrook Road informed the Board that he did not receive notification of the previous hearing and that he is the only direct abutter to the propose subdivision. Mr. Knowland expressed concerns about the placement of commercial traffic on Esterbrook Road which now has only residential traffic. He also informed the Board that his house is the only house on Esterbrook Rd. that is supplied by Concord water because it is no longer allowed.

Quint Brathwaite inquired whether the discarded vehicles, empty drums and trash on the parcel had been removed and was informed that they have been removed.

Mr. Knowland inquired about the legal notification requirement. David Hill asked if Mr. Knowland was notified about tonight's public hearing and Mr. Knowland responded in the affirmative. David Hill informed the abutter that public notice is not required for preliminary plans.

Doug Carnahan moved that the Board close the public hearing. Discussion on the motion included a recommendation from Atty. Levine that the hearing be continued to allow the applicant to revise the plan in accordance with the Rules & Regulations. David Hill asked about the issues identified during the hearing that remain unresolved after the recent plan modifications. Atty. Levine suggested that the plan is approvable with modifications and the Board should continue the hearing to allow time for staff review of the modified plan and resolution of the remaining issues. There was no second of the motion.

Quint Brathwaite moved that the Board ask for a continuation of the hearing to allow the Board to receive staff comments on the revised plan and an

extension of time to file the decision until some date in February. Jim Lee seconded the motion.

David Hill asked to amend the motion by continuing the hearing to 8:00 PM on January 14th; extend the decision filing deadline by two weeks until February 7, 1991; and agree that grandfather protection will commence as of the original decision deadline of January 24, 1991. Atty. Levine agreed to the continuation; a two week extension of the filing deadline; and that the grandfather protection will not be extended by the two week extension. Both the amendment to the motion and the main motion were approved by unanimous vote.

#### IV. KENNEDY ESTATES DECISION

The Board discussed the draft decision and members expressed concerns about offering three choices to the developer. David Hill suggested that the Board require Option 3, unpaved, and donate the cost of paving the right-of-way to the Town for installation of sidewalks elsewhere. Jim Lee stated that he agrees with Dave's recommendation and suggested that the Board waive construction of a sidewalk along the frontage and ask to have those funds also donated to the Town for sidewalk construction elsewhere.

David Hill moved that the Board issue the decision with a modification to Plan Modification 2.2.a.4 that the developer give to the Town the monies that it would actually cost to pave a walkway for use on sidewalk construction elsewhere. Jim Lee seconded the motion. The motion carried with 5 in favor and one opposed.

Jim Lee recommended that the Board require Condition 2.3.a.2 as the only option. Mary Giorgio said that she also preferred the second option. Roland Bartl reminded the Board that the regulations allow the Board to require sidewalks along the frontage and suggested that they consider leaving it as drafted. Mary Giorgio moved that the Board issue the decision as drafted for Plan Modification 2.3. Quint Brathwaite seconded the motion which carried by unanimous vote.

Attorney Orcutt questioned page 4 of the drafted decision which contains a dollar amount. He asked the Board to issue the decision without the dollar amount to avoid the need to litigate the decision. Quint moved that the condition be amended to require the developer to remit prior to endorsement of the plan a sum of money, based on the median of three bids on the cost to construct a sidewalk along the frontage and the right of way. David Hill seconded the motion. Attorney Orcutt asked that monetary contribution be required when the applicant applies for building permits or ask for release from covenants. Quint Brathwaite amended his motion accordingly and David Hill agreed to the amendment. Motion carried by unanimous vote. Attorney Orcutt also asked that the Board build in some provision for abandonment of the right-of-way in the event that the abutting property is fully developed without ever coming before the Board.

Quint Brathwaite moved that the Board issue the Decision as modified by the Board this evening. The motion was seconded by Jim Lee and was approved by unanimous vote.

## V. STONEYMEADE WAY STREET ACCEPTANCE

The Cooperative Bank has paid the taxes on all of the lots under its ownership. Atty. Kadison stated that the taxes on the remaining lots will be paid prior to Town Meeting. Steve Calichman stated that he doesn't believe it's fair for the Board to base its recommendation on road acceptance upon payment of taxes on lots owned by another party. Steve Calichman stated that the bank is responsible for the completion of the road and subdivision improvements, and has no control of subdivision lots under another party's ownership.

Roland reminded the Board that another arrangement must be made in the event that there is work remaining to be done on the subdivision roadway after the road is accepted by Town Meeting.

Steve Calichman agreed to supply to the Board a letter stating that all of the work remaining to be done will be completed prior to Town Meeting.

Mary Giorgio moved that the Board vote to recommend acceptance of Stoneymeade Way with the caveat that: 1) a cash bond be posted to cover those items not completed at the point of acceptance, if any; 2) the Engineering Department advise the Board of Selectmen no later than 12/21/90 that the As Built Plan is adequate for acceptance purposes; and 3) the back taxes on the DiMare lot be paid prior to Town Meeting. Quint Brathwaite suggested the Board continue the present tripartite agreement rather than a new cash bond. Mr. Tony Bongiorno, speaking on behalf of the DiMare family, stated that plans are going forward for construction of a reproduction colonial house as a model home on Lot 30 so that it will be ready for the Spring market and that road acceptance makes the properties more saleable. The Board voted unanimously to approve the motion as stated.

Atty. Kadison addressed the Board regarding a change in the lot configuration involving "Common Land C" which was originally set aside for a sewage treatment plant that was subsequently not allowed by DEQE. The Conservation Commission now holds title to "Common Land C" and has indicated that it would prefer a land swap due to the potential liability involved in ownership of "Common Land C" because of the large stands of trees which may fall on abutting properties. Because the common land was included in the Special Permit, the developer has to come to the Board for permission to reconfigure these lots. The Board would have to determine that the change is not a "significant change" so the ANR plan can be endorsed. Quint Brathwaite moved that the Board vote to determine the proposed reconfiguration is not a "significant change" and the ANR plan can be endorsed with the caveat that back taxes be paid upon refinancing of the property. The motion was seconded and approved by unanimous vote.

## VI. WARRANT ARTICLES

Board members discussed the proposed Warrant Articles and had the following recommendations:

Board of Appeals - Planning Council proposing amendment to require ZBA to find that Variances and Special Permits are in keeping with the Master Plan's Goals and Objectives. Board agreed to bring to 1991 Annual Town Meeting.

Sign Bylaw - A rewrite of this section of the Zoning Bylaw has been drafted by Roland Bartl and the Planning Council would like to bring it forward at the Annual Town Meeting. The Board agreed to bring this rewrite to the Annual Town Meeting.

Handicap Access Amendment - The Handicap Commission would like to have amendments to certain zoning bylaw requirements which would allow "breaks" or "waivers" to commercial and industrial zoning restrictions that will allow implementation of handicap access requirements for existing properties. The Board agreed to bring these amendments to the Annual Town Meeting.

Conservation Area Parking Lots - Amend zoning bylaw to allow different construction standards for parking lots in permanent conservation use rather than require paving of these potential parking areas. Quint suggested that the Board might consider putting a limit on the number of parking spaces allowed in these special parking lots. The Board agreed to bring this to the Annual Town Meeting.

Zoning Map - The Board agreed to propose re-zoning of one parcel behind 66-74 Parker Street from R-4 to R-2 at the Annual Town Meeting.

Town Boundary Lots - David Hill suggested the Board amend the Town Boundary Lot amendment limiting the provision to those lots in existence as of the date of annual town meeting to avoid land being subdivided to take advantage of this provision. Board members had difficulty understanding the need for the amendment and David withdrew it from consideration.

Irregular Lot Shapes - Board agreed not to move forward with this amendment.

Hammerhead Lots - Board agreed to move forward with this amendment removing the special permit requirement for hammerhead lots.

Definition of Family - The Board agreed to ask staff to do further research on this issue and bring it back for consideration at a later Town Meeting.

Watershed Protection - The Board agreed to ask staff to research this issue in preparation for Fall '91 Town Meeting.

Prohibition of Office, Retail and Storage Trailers - Roland reminded the Board that this was brought up for the Fall '89 Town Meeting and not brought forward at that time due to objections by property owners currently using these trailers. Roland suggested that perhaps the Board would want to address the aesthetic problems in the Village Districts, Business Districts and Small Manufacturing Districts for the time being and address the industrial and commercial districts at a later time. The Board agreed to Roland's suggestion. Jim Lee asked if trailers are restricted in the residential districts and it was decided not to include residential districts at this time. The Board agreed to move forward with this amendment as discussed.

Outdoor Storage on Non-impervious Grounds - The Board discussed the proposed amendment and agreed to propose this amendment for Annual Town Meeting.

Nursing Homes in Industrial Districts - Roland advised the Board that Nursing Homes are presently allowed in all zoning districts except the LI and GI districts. Mary Giorgio asked why the amendment is proposed. Roland pointed out that there are several pockets of industrially zoned land that may be well suited to nursing homes such as the vacant lots on Post Office Square, part of the W.R. Grace land, some parcels in South Acton. David Hill pointed out that this would allow nursing homes to occur outside of the densely developed industrial and business zoned land. The Board agreed to bring this amendment to the Annual Town Meeting.

Home Occupations - The Board agreed not to bring this forward.

Municipal Exemption - The Board agreed to let the Board of Selectmen determine if they want this article brought forward.

Illumination - The Board agreed to ask staff to do additional research on this issue before proposing such an amendment.

## VII. AYER ROAD HAMMERHEAD LOT 5A

David Hill moved that the Board vote to issue the Hammerhead Lot Special Permit as drafted. Doug Carnahan seconded the motion which carried by unanimous vote.

The meeting adjourned at 11:00 PM.