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MINUTES PLANNING BOARD MEETING January 14, 2003

Those present: Helen Lemoine, Sue Bernstein, Tom Mahoney, Larry Marsh, Ann Welles
Also present: Jay Grande

I. Miscellaneous Administrative:

Jay stated that Mr. Depietri is seeking reduction in the bond to \$3600 so he can pay some of the consultants.

Motion by Larry Marsh and seconded by Tom Mahoney that the Framingham Planning Board reduce the amount of bond for Triangle Realty from \$10,000 to \$3,600. Vote: unanimous.

There was discussion on the Annual Report of the Planning Board. Jay said it was important to note that Phase II for Computer Associates and Boston Properties has not been built and there is substantial development that has not come on line. Boston Properties was valued more than all the projects in the calendar year 2001. Jay said he thought it was important for the Assessors to know that there is still some value to come on line that they have not realized. If those other projects do come forward, it will substantially boost the revenues of the town, he noted.

Jay said there has been a PWED transfer pending. It was submitted to EOTC at the direction of this Board, the Town Manager and DPW. Jay said Bernardi Toyota did the improvements for Country Club Lane and the Route 9 portion was held off because there was not sufficient funds. The value of that portion of Route 9 had escalated and he said those improvements relate to storm water drainage and signal improvements. The roadway is working and functioning well however. There is only \$245,000 remaining in the PWED and that is not enough to cover the improvement there. The Board and others felt that money would be better spent at Edgell/Main/High. He said there are funds available and the PWED money would help the project move forward expeditiously. It is now before the Board of Selectmen for administrative review. They initiated the PWED grant application for 9/90, he said. It is on the Agenda for the Selectmen's meeting on Thursday. Larry noted this was voted by the Board 3-4 months ago. Jay said it has been a laborious process. MA Highway is aware of the request and this is the last piece. If the Selectmen approve it, this should be a straight transfer of the funds to the project, he said.

II. Continued Public Hearing for Special Permit for Open Space Residential Development and Definitive Subdivision Review, Brimstone Subdivision 287-333

Peter Barbieri, attorney for the applicant addressed the Board. Jay stated the decision is Draft #11. Helen said 95% of the changes were grammar. Board members reviewed the document by page. There were no changes on page 1 or 2. Board members discussed the word "exclusive" in relation to development and will replace it with

1 “private”. Page 3, Bill Merriman corrected the spelling of Wittenborg Woods. Bill
2 suggested making the reference to SVT consistent with other references throughout the
3 document. Wittenborg Woods direction is noted as north and it should state west.
4 Peter said the way the conditions are written is there is a \$500 charge given to the
5 Conservation Trust Fund for each lot before a building permit comes into effect for the
6 care and maintenance by the ConCom of the trail system. There is a requirement for the
7 conservation restriction and leaves to the Planning Board, the determination of who that
8 goes to. Helen said that is addressed in the Conditions and not the narrative of the
9 process. Page 8, #10 Peggy referred to “town-owned streets”. Peter said that is dealt
10 with in the Condition. Jay said on page 9, #12 and #14 were changed. Peter said in #14,
11 the deed to the conservation restriction deals with the open space so the reference in #14
12 needs to be deleted. There was discussion on references “A”, “B” and “C”. There were
13 grammatical changes on Page 10.
14

15 Page 11 changes were made based on discussions with Town Counsel. Town
16 Counsel had questioned #21 and suggested not having it in the decision at all. Sue said
17 the way it is worded, it does not preclude the town from having to pay for the easement.
18 She thought the Board should have a consensus of whether the land should be paid for by
19 the town or the people in the betterment. Peter said he did not have objection to the
20 market value assessed by the Engineering Department of \$31,000 and that is why it is in
21 the document. He said \$31,000 spread among 67 lots was not a lot of money. The lot is
22 not a build-able lot. Larry asked how it was appraised. Peter said the town had an
23 appraiser review it. John Bertorelli said the town had Steve Elliot appraise the
24 easements. The original appraisal was \$10,000 but it was for a much smaller area. Peter
25 said there is a benefit of the actual land because of the water tank. Tom said the project
26 has been going on a long time, as has the water betterment. John Bertorelli acknowledged
27 that while the water tank could be placed almost anywhere, this location was the prime
28 location. Town Meeting authorized the taking by eminent domain and that easement is
29 worth a certain amount of money, John said. John would not like to see the property
30 taken by eminent domain. The bids for the betterment are expected mid-February. John
31 thought the betterment would begin by the first of April. Larry said it would be \$30,000
32 for the SVT to take over the open space and asked if Mr. Franchi would be willing to pay
33 that cost in place of the other. Peter did not think it was a wise use of money to pay that
34 amount to take care of open space. Peter said his client is willing to pay \$10,000 to the
35 town. Peter thought the intent of Town Counsel’s language was that the Board not deal
36 with this but to leave it for the town to deal with later. Jay said the credit in #20 was
37 deleted by Town Counsel. Peter said it was never the case that Mr. Franchi was going to
38 give the land to the town at no cost.
39

40 Peggy Groppo, Precinct 1, said she remembered Brimstone stating they would pay into
41 the betterment. Larry said the size of the land has changed since earlier discussions.
42 Peggy said the good faith offer is now being rescinded to the point where he is seeking
43 reimbursement. If the betterment goes in, the developer saves money on not digging
44 wells, Sue said. Peter said the betterment will cost \$23,000 per lot and that will be in
45 place before he sells any lots. Sue said betterments are often passed onto the buyer. Peter
46 said that would not be the case. Tom said he thought the developer has always said he is

1 not willing to give up whatever value the lot is but he wanted compensation of that
2 easement and the Board disagreed with that. Bill Merriman asked what the difference
3 was for market value between a high end home with a well or a home that is on town
4 water. John Bertorelli suggested the fair appraised value as a donation be given as a
5 credit towards the costs of the betterment to those lots. Peter thought that could be in
6 further negotiations that perhaps Town Counsel was suggesting by deleting language.
7 John against stated he did not want the town to go into an eminent domain procedure and
8 would rather negotiate fair market value. Larry did not have a problem with that. Helen
9 also thought that was fair. Peter said he would write a letter stating they were agreeable
10 to that process. Helen said the dollar amount of the appraisal could be noted in #21. Jay
11 said the appraisals are referenced in the narrative. That appraisal should be referenced
12 here as well, Helen noted. Jay will speak to Town Counsel about that language. Sue said
13 she wanted it noted that from the beginning she felt the land should be donated because
14 the land has no intrinsic value.

15
16 Jay distributed the exhibit that correlates to #23. Sue asked about the Town's
17 policy relative to issuance of building permits when there is a well. John Bertorelli said
18 the Board of Health follows the state law which requires the minimum amount of flow.
19 Before the building permit is issued they do have to show the plan for their well and pass
20 the Board of Health inspections. He thought the state requires 2-3 gallons per minute. In
21 some instances, that may not be enough, he said. Peggy asked about the consultants
22 hydrological study. Jay said the review deals with the well itself and not borings. His
23 recommendations were to do additional borings. Sue said the well issue may be moot
24 because of the betterment.

25
26 In item #33, there is a standard consistency change in addition to pedestrian
27 access. Item #34 changed. The deposit will go to the Conservation Trust Fund and Jay
28 added that the town will need to have the restriction recorded. The \$500 per lot deposit is
29 for the ConCom to use for management and maintenance of the trails. Bill Merriman did
30 not think it was enough and said at the last meeting, he thought the value was \$1.00 per
31 square foot. He said open space was typically valued at \$1.00 per square foot and the
32 additional tax burden per homeowner would be \$556.00 per year. Bill said he was under
33 the impression that Mr. Barbieri would prepare the restriction. Jay said at the last hearing,
34 the Board talked about dollar figures. Jay said the amount was \$10,000 and that was
35 amortized over the number of lots. The trail system can be completed prior to the
36 completion of the subdivision depending on ConCom approval, Peter said. Peter said
37 they would be responsible for the maintenance until at least half the lots are sold. The
38 approval of the trail system is to make sure it doesn't cut through a sensitive area, Bill
39 said. Peter said he would not have a problem drafting the restriction but he did not want
40 to deal with the State on getting the approval and recording. Helen agreed with Peter's
41 recollection. Bill said if it was per MGL there was no need to go to the state to have it
42 recorded. Peter was agreeable to adding language that he will draft the restriction. If the
43 town decides to have it recorded with the state, it will be responsibility of the town to
44 have it recorded. The restriction needs to be held by a third-party, Bill said and wanted to
45 see that language incorporated. Larry this is the same land that the Board had talked to
46 SVT about. Bill said the way it reads here, it goes to the Framingham Conservation

1 Commission. Whoever takes responsibility for the land, receives the \$10,000. The
2 \$10,000 will go the Conservation Trust Fund. SVT wants \$30,000 for the land. The
3 Board is suggesting \$500 per lot and asked Bill if ConCom would accept that. Bill said
4 he did not know. Bill suggested the scenario of the developer going bankrupt. Peter said
5 the protection will be added that the developer is responsible until half the lots are sold.
6 Bill suggested having it dealt with in the Homeowners Association documents. That was
7 the original plan, Helen said, but at the ConCom request, it was removed from discussion.
8 Helen asked for consensus that the amount for maintenance be \$500 per lot for a total of
9 \$10,000. Peter said they will maintain responsibility until they set up a fund of \$5,000 or
10 half the lots are sold. Sue suggested leaving it to the Homeowners Association because it
11 leaves the responsibility with the homeowners. The restriction will still need to be in a
12 third party name. Bill was not agreeable to leaving it to the Homeowner's Association.
13 Peter said there is a responsibility that the public access to the open space. There was
14 consensus among Board members regarding the \$10,000 and land given to ConCom and
15 the applicant is responsible for drafting the restriction in accordance with MGL 184.

16
17 There was discussion regarding item #37. Members concurred to delete "seeks
18 occupancy" in the first sentence. Peter said a concern was the ability of the Association
19 to change tree removal. The current document states it requires 75% of the lot owners to
20 allow you to make changes. No lots will be released until the Homeowner's documents
21 are approved, Jay said. Peter said the open space by-law requirements deal with building
22 setbacks. The only vegetation is around the perimeter which in this case, remains the
23 same, Peter said. Sue suggested adding a condition stating the declaration of restrictions
24 shall include a provision regarding tree modification. Peter will talk to his client. Jay
25 reiterated that the provision will be added that would prohibit modifying changes to the
26 document regarding tree removal. They could change other conditions by their own vote
27 but the tree removal condition could not be changed. Consensus was that Jay and Peter
28 will ensure that the language discussed tonight was appropriately included. There is 23.6
29 acres of open space area. There is 3.6 acres of wetland, Peter said. Total acreage is 48.
30 Larry asked if that language could be in the first or third page of the narrative. It is in the
31 plan but not delineated in the documents.

32
33 The Chairman stated the hearing would be continued to February 11, 2003 at 7:40
34 p.m.

35
36 III. Continued Public Hearing for Site Plan Review Approval 222 Cochituate Road

37
38 The Chairman read the public notice into the record. John McKeown addressed
39 the Board. John showed where the property was on plans. He stated the property is
40 located within the highway overlay district. There are a 24", 12", 20" maple and 20" oak
41 on the grounds which he intends to preserve. The property is located within the highway
42 overlay district. He said the required area is 6000 and 11,970 is being provided. The
43 frontage requirement is 30' and 33' is being provided. It is a corner lot and there are two
44 front setbacks. He said the landscape open space ratio requirement is 20%. They are
45 providing 29.7%. The floor area ratio is 32% maximum as the requirement and they are
46 providing 30%. The parking area setbacks are 10' required for the front and 5 for the

1 side. They are meeting those requirements. The parking requirements dictated through
2 the application are 1 space per 250 sq.ft. gross floor area. They are contemplating 3600
3 sq.ft. of office space and divided by 250 sq.ft., the yield is 14.4 spaces. He said the
4 requirement is 15 and they are proposing 15. They are providing one handicap parking
5 space. The access is currently under permit and was issued a few years ago. The plan is
6 dated June, 1999. He said this remained in the conceptual mode because of municipal
7 business and the Route 30 corridor. They are contemplating a masonry façade at the two
8 elevations. He said he thought it would fit into the character of the neighborhood. There
9 will be dormers on the building. John said he was going to do vertical granite around the
10 parking area rather than concrete. The stalls are varying but meet the required depth. He
11 said there are two spaces that are 9x19. They do meet the handicap requirements on the
12 one handicap stall. He said it was his understanding that he is outside the site plan in
13 terms of the landscape review but he intends to do quite a bit of landscape. Because of
14 the scope of the project (lot size 11000 and building 3600 sq.ft.) he did not think it fell
15 within the review of the Planning Board. Sue said it was in the highway corridor district
16 and it triggered landscaping review. She said the Board would need to see a landscaping
17 plan.

18
19 Jay said the application did not indicate the highway overlay and that needs to be
20 shown. He thought there needed to be a waiver on the Landscape ratio. It is supposed to
21 be 4.0 for office buildings but he did not think it was geared toward this project. He said
22 there has to be a basis for the waiver. Jay said if this is a town owned portion of Route
23 30, a public way access permit would be required and that would need to be advertised.
24 Further, Jay said the landscaping plan, because it is in the highway overlay, there are
25 some specific landscape requirements that need to be met. Sue said given the LSR is less
26 than is required, it would be a reason to pay attention to what is done in the landscaping.
27 John said commercial retail projects are 20% and all others are 40%. The Planning Board
28 can waive that if there is a benefit to architecture, etc. Larry asked about the two spaces
29 nearest the Walsh Parkway. John said there are 3 law firms and 1 bank interested in the
30 property and those spaces may be needed. Ann said she would prefer the spaces be
31 eliminated. John felt the parking was intrical to the success of the building. He said he
32 thought the Board had the authority to allow a building to come up in its frontage if it's
33 compatible with the area. He said if that was the case, the lost (2) spaces could be re-
34 couped by that leverage. John asked Jay to research dimensional exceptions for front set-
35 backs. Sue asked about the number of floors. John said there are 3 floors and a walk-up
36 area which is for utilities. The lower level will be at grade. Jay read the dimensional
37 exceptions and agreed with John. Language was read stating "If alignment of existing
38 principal buildings on adjacent lots on each side of a lot, fronting the same street in the
39 same district is nearer to the lot line than the required front setback, the average of the
40 existing alignments of all such buildings within 200' shall be the required front setback."
41 Sue asked about access. John said he did not think there would be any issues with cars
42 accessing or exiting the site.

43
44 There was discussion on the future rehabilitation of the Route 30 corridor in the
45 area and traffic flows. John Bertorelli was present and said the developer has agreed to
46 grant an easement which is critical to the Route 30 project. He would like to see the

1 approval for the project before the town takes the easements. Sue asked what would be
2 in the easement. John said when they re-do the road, the vertical elevations would
3 change and the town would need to do grading in order to do that. He needs to have the
4 legal instrument to do it, John said. John Bertorelli said they are taking a permanent
5 easement on the property. The previous owners had agreed to donate the land but the
6 wrong forms were signed. The properties have changed hands and Mr. McKeown has
7 agreed to the easement and the original appraisal amount. Sue was concerned with the
8 parking on site. Ann asked about moving the placement of the building. John was
9 amenable to that. Sue said the most important façade of the building was the one facing
10 Route 30. Ann said she would like to see a doorway at the front of the building. Bruce
11 Leish addressed the Board and asked about accessibility. John said they would meet
12 ADA requirements. Bruce said the elevation shows a 9' wall. If the building was turned
13 and the length of the spaces were shortened, it takes away the need from access to the lot
14 from the mid-level. He thought if the grade was raised there could be a nice walk to the
15 second level. John said the walk would not meet ADA. There was discussion about
16 moving the location of the building and the tree located on the site. Helen asked Jay
17 about the process. Jay said the architecture is in play because he is seeking a waiver.
18 Second, the parking spaces and layout, if it is a matter of safety, efficiency, there is merit
19 to exploring provision to allow for the reorientation for the spaces, Jay said. John said if
20 they allow the alignment and the building is turned, he will need a variance.

21
22 Jay thought the applicant should explore the possibility of realigning the building
23 and also the alternative of implementing the average setback of 20' and show sketch
24 plans that he has worked through to show if either is feasible. Mr. McKeown said it may
25 not be financially viable. Sue said there is concern that turning into the lot and there is no
26 parking, there is no alternative to the driver. John said the issues tonight are is it in
27 conformance, is it a site plan that could be approved by the Board. Jay said that not all
28 comments have been received from town departments. Larry asked then if he would go
29 back and look at alternatives before going forward with the plan shown tonight. John said
30 that was the case. The consensus of the Board was that he try alternatives. Jay said the
31 impact standards that this is measured by are environmental and parking standards.
32 There are no other standards that come into play, Jay said. Sue did not think it was an
33 issue of whether the project was approved or not but what was the best project the Board
34 could make and still have it work for the developer. John said he would do exploration.
35 Bruce stated concerns with the handicap ramp and the elevations. The lower level is at
36 203 and the upper is 214 and Bruce thought the Board should consider the aesthetic
37 issues. John said he would speak to Schofield Brothers about the alternative analysis.

38
39 This will require 3 votes, Jay said. Jay can not advertise the public way access
40 permit within 2 weeks but the site plan could be dealt with in that time frame. Tom was
41 uncomfortable with the wall and would like to see what it looks like. The fourth elevation
42 is critical, he said. John showed plans showing the elevations. Tom wanted to see what
43 the wall looked like in relation to the building. Jay said it could not be done this evening.

44
45 The Chairman said the hearing would be continued to January 28th at 8:30 p.m.
46

1 IV. Public Hearing for Special Permit for Exemption from Parking Requirement and
2 Site Plan Review Approval, 58 Park Street

3
4 Helen read the public hearing notice into the record. Laurie Davis and John
5 Hathy were present. John said they have been before the Board previously and they were
6 asked to bring in a sample of the block that was going to be used. The location is 58 Park
7 Street and was shown on plans. Sue asked how the building was used. The first floor and
8 second floor is office and the basement is storage. There is enough parking around the
9 site. A gentlemen spoke and said the neighbors are happy with the usage and stated
10 parking is adequate. He thought Mr. Hathy has been a good neighbor and thought what
11 was being planned was a good idea for the neighborhood. John said the property is flat
12 and then slopes considerably. John said they are taking care of the drainage as requested
13 by the DPW and that will allow more parking. There will be 32x28 office space on the
14 first floor. This is for 2 buildings that are connected by a stairwell. This is an empty lot
15 presently. It is zoned central business. John said for the office portion they intend to use
16 material to present a granite-type effect. It is a flat roof building. Their intent is to use
17 the rear portion of the building as a carpenter shop. John said there may be 1-2 trucks
18 parked there overnight. There is an existing curb cut on Park Street which is shared
19 between this lot and another. Laurie said the egress/access will not meet Fire Department
20 regulations and they will address that. The building is 6400 sq.ft. on all levels. Jay
21 said he still needed department letters and what the waivers may or may not be. If it is
22 within 200' of a residential district, some traffic impact statements need to be waived.
23 Laurie and Helen did not think it was within the 200' of a residential district.
24 Conservation and Building Department have submitted their letters but Laurie should
25 contact Fire, DPW, Board of Health, etc. for their submissions.
26 The Chairman stated the hearing would be continued to February 4, 2003 at 8:30 p.m.

27
28 V. Miscellaneous Administrative

29
30 Helen referred to correspondence from Nexum. Jay suggested names of
31 engineering firms for site lay-out, drainage, septic, well, environmental issues, etc. to
32 provide 593 Reviews. Sue suggested two bids considering the size of the project.

33
34 **Motion by Sue Bernstein and seconded by Ann Welles to adjourn the**
35 **Planning Board Meeting of January 14, 2003. Vote: unanimous.**

36
37 Respectfully submitted,

38
39 Nancy Starr-Ferguson
40 Recording Secretary

41
42 **These minutes were approved with changes and/or amendments, at the Framingham*
43 *Planning Board meeting of November 25, 2003.*

44
45 _____
46 *Helen Lemoine, Chairman*