

DRAFTMINUTES
FEBRUARY 26, 1996

CONT. PUBLIC HEARING: Pine Meadow Definitive Subdivision
DISCUSSION: Laurajon Drive Definitive Subdivision (Disapproved 2/12)
Baldwin Rd. Common Drive (Denied 2/12)
Carlisle 2000 recommendations

Chair Colman convened the meeting at 7:20 p.m. Colman, Epstein, Hengeveld, LaLiberte and Tice were present; Duscha and Yanofsky were absent. Also present was Planning Administrator Mansfield.

MINUTES: The minutes of the meeting of February 12, 1996, were approved as amended 5-0 on a motion by Hengeveld, seconded by Epstein. The only amendment, offered by Epstein, was to substitute "spent" for "wasted" in the next to last sentence in the first full paragraph on page 2.

REVIEW OF DRAFT DECISIONS:Fielding Common Driveway Special Permit (Cross St.)

Epstein asked that the Board review both the draft decision and the Maintenance Agreement together. He called the members attention to paragraph #7 of the Maintenance Agreement, the provisions for amendment to that covenant, and suggested that similar language should also appear in the decision, to which the Board concurred. He also noted that this language could allow amendments to the covenant without coming back to the Board, as long as those amendments did not conflict with any other provisions of the special permit. He said that this was not good practice and suggested that on the next such petition, any amendment to the covenant should require that the petitioner return to the Board. Epstein and LaLiberte also each went through the draft of the Maintenance Agreement and noted several grammatical errors and omissions, the only substantive one being the addition of the word "underground" to modify "utilities" in paragraph #1, on which agreement had been reached with the petitioner at the last meeting.

Mansfield said he would inform Fielding of these changes and ask him to sign the revised covenant and have it notarized. Colman then confirmed that, with the noted changes, both the decision and the Maintenance Agreement were complete.

Evans Common Driveway Special Permit (Baldwin Rd.) - denial

The Board members decided to lay this item on the table since the two members who had expressed the most reservations about this application were absent.

CONTINUED PUBLIC HEARING: Pine Meadow Definitive Subdivision

Colman reopened the hearing at 7:35 p.m. Present were William Costello, Joe March of Stanski and McNary, Attorney Richard Gallogly, Stuart Johnstone and Louise Hara of the Carlisle Trails Committee, Mary Storrs, Jean Morin, Vivian Chaput and Fiona and Richard Sibley. March described the revisions he had made to the plans as a result of the last meeting. He described how the southern entrance to Davis Road had been moved to the southwest about 30 ft. to improve sight distances, and added that this had required redesign of six of the lots and a realignment of the road. The new sight distances, he said, are 278 ft. to the north and 381 feet to the south, the lesser of which provides adequate vision of traffic travelling in the 40 mph. range.

The second revision, March said, is to provide a 20 ft. trail easement along an existing footpath on the southwestern edge of the parcel, the one walked by Board members on the site visit. Stuart Johnstone commented that the Trails Committee had asked that the trail intersect the property line at a point where it would have access to either of two adjoining lots, but that this design was also acceptable. However, he added, they are also seeking a connection to the right-of-way that runs from the property to Page Brook Rd. March replied that Page Brook itself, which such a trail would have to cross, is 20 feet wide. Johnstone responded that one day it might be feasible to construct a bridge. But Costello said he would be reluctant to provide a means to lead pedestrians to a brook area that is impassable because the wetlands may be 150 feet wide. Colman noted that an easement could be provided now, with a trail to come only at some future date when it was feasible. Costello responded that this would provide no benefit to the subdivision, and could be dangerous if incomplete. However, Tice noted that it would, for now, only appear on paper and children or others would have no way to know it existed. Colman agreed that, in fact, such an easement may never be used but, on the other hand, it may be something that future generations will really appreciate.

Richard Gallogly then introduced himself as Costello's representative, and stated that he saw no reason to grant such a trail easement at this time. Colman asked the other Board members for their thoughts. LaLiberte asked whether this second easement was discussed at the previous meeting when he was absent. Colman replied that it was, but without coming to any decision or receiving a response from the petitioner. March said he interpreted that discussion to request one easement location or the other, not both. Epstein pointed out that the applicant had made other concessions in the plan that were for the good of the town and not exclusively to benefit the subdivision, so that this request was not unique. He asked whether there were not alternatives, such as to reduce the width of the suggested easement or move it so that it was not as close to a potential house site, that would make the request palatable. Gallogly pointed out that the applicant was willing to grant the other easement, and asked whether this second one should be understood to be a requirement of approval. Colman answered no, but said it appears to be very desirable. He said he thought there would be many acceptable ways in which to design it.

There followed a recollection by Board members of various viewpoints of this area as seen on the site walk, with none having a clear vision of Page Brook. Johnstone reiterated his contention that the wetland problem could be overcome by building a boardwalk. Tice asked whether the Trails Committee had ever built such a structure. Johnstone responded that they had not, and none existed in Carlisle. However, he added, in other towns--such as Lincoln, trail boardwalks are extensive. He also observed that realtors say that trails add value to residential properties. Costello disagreed, contending that this has not been the case even in Tall Pines, where the trails lead somewhere. Johnstone, however, replied that the proposed trails here are part of a greater network that he illustrated on a large, overlay trails map. General discussion ensued about alignment of one or both of these trails, but no firm decisions were reached at this point.

March then reminded the Board that there was one more change proposed, the realignment of the roadway within the north intersection of Davis Rd. and Maple St. so as to direct headlights away from the Heard house across Maple St. Epstein asked whether this realignment affects the angle of intersection. March replied that the effect is minimal (at both entrances), guessing that the angles are each in the 80-85 degree range. He said he had provided a separate layout sketch of this alternative to be referred to in the decision. Although this moves the road out of the center of the ROW, he said, it would not require a waiver if it were made a condition of approval. Epstein asked March to incorporate this realignment on the revised definitive plan itself, but March replied that then a waiver would be needed. Gallogly suggested that the realignment be made a condition of approval, be sent to LandTech for review prior to endorsement, and then be shown on the plan at the time of endorsement. Board members agreed with this procedure.

Colman introduced a safety concern posed by a Board member currently absent: that if the school bus stops only on Bedford Rd., children will have to walk from this subdivision along a very narrow and winding section of Maple St. As a safety issue, he said, sidewalks should be considered there. Chaput agreed, noting that while walking there recently, she had to jump to avoid cars. Widening of the roadway, rather than a sidewalk per se, she said, would also be beneficial. She added that the Study Plan had suggested such an approach. Gallogly objected, however, asking that if the Town doesn't clear the sidewalks in the winter, then what is their usefulness? March suggested that he could provide a 6 foot graded shoulder off the pavement, but this might require the removal of three trees on a scenic way. Colman asked if a strip behind the trees could be graded instead. March said that was not possible, because of the wet pocket adjacent to the road. He noted that, in the past, the Planning Board has considered the removal of trees on a scenic way to be a part of the subdivision hearing. Mansfield pointed out that the statutory requirement for a tree hearing is the responsibility of the Town, not the applicant. Costello then proposed clearing and grading a four (4) foot shoulder along the property frontage on Maple St., which March identified to run from utility pole no. 15/17 southerly to Davis Rd. He said he will revise the plans to show this.

Louise Hara expressed concern that the shoulder can be blocked by plowed snow half the year and suggested that the footpath be located at least a snowbank's width in from the road for children's safety. She also pointed out that the removal of trees would take a buffer away from those new homes that are to be located adjacent to Maple St. Mary Storrs noted that if a road is widened, motorists tend to drive faster and the result may be more detrimental to safety than the current condition. But Board members replied that creating unpaved shoulders is not equivalent to widening the road. Jean Morin observed that the school bus presently stops at each house on Maple St., so this may not be needed. Epstein replied that the proposal will not address pedestrian traffic out to Bedford Rd. in any case, but this wider shoulder would be created along the most narrow and dangerous section of Maple St., adjacent to the subdivision. Colman added that school bus routes may change in the future.

Colman then asked the members for a straw vote on the 4 foot shoulder as proposed. Colman, Epstein, Hengeveld and LaLiberte expressed support. Tice said he was "on the fence."

Discussion then turned to the need for sidewalks on Davis Rd. Tice said he preferred no sidewalks for a more rural atmosphere. March explained that, in the past, Boards have required that a shoulder be kept available for a potential future sidewalk while waiving the requirement that they be constructed up front. With this, he said, the Board might consider that clearing be limited to only that area necessary to build the road, rather than the full clearing of the 50 ft. ROW as required in the regulations. For construction at grade, he said, this would reduce the cleared area to 33 ft. wide. Johnstone, speaking again for the Trails Committee, said that as long as an area is reserved for a future sidewalk, he would have no problem with waiving its construction now. All Board members indicated their support of March's above proposals.

March then raised the question of whether the Board wished to exercise its right to set aside one lot as open space for up to three years, and if so, which one? Colman asked which lot, if unbuilt, would best preserve the rural feel of the open meadow. Mansfield suggested the Board also consider the relationship of the open space to the proposed trail(s). Costello said it was his intention to transplant some pines into the meadow to enhance the houses built there. Hara added that the lot at the front of the meadow has greater visual impact than the one behind it, and so should be kept open, but not all Board members agreed.

After consultation with his client and attorney, March made the following proposal on behalf of the applicant: set aside Lot 10 and create a trail easement from Lot 10 across the back of Lot 9 connecting to the ROW to Page Brook Rd. Colman endorsed that idea, saying that if the Town or another nonprofit entity does not subsequently acquire Lot 10, the easement will have no purpose but nor will it be a loss to the developer. If Lot 10 is kept open perpetually, and even if a way isn't found to span Page Brook, then a trail with a purpose (access from the meadow to the brook) will still exist. Other Board members agreed.

Epstein next addressed the proposed trail easement document. He noted that the Trails Committee had asked in its memo of 2/26/96 that the easement be conveyed as a Conservation Restriction. He urged conveyance of these easements to the Carlisle Conservation Foundation, Gallogly offered to grant the easements to a non-profit entity, who will then seek approval from Joel Lerner's office relieving his client of that step. Costello proposed that the grantee be left blank on the document for now, but Gallogly suggested that the easement documents all be revised to provide for a grantee. He offered to draft these easements in a form acceptable to Town Counsel whose approval he would seek. Johnstone objected to the trails being restricted to foot and skis only, and suggested that all passive uses be allowed, including horseback and bicycle riding. Costello agreed to this proposal.

Mansfield noted that the issues raised before the Conservation Commission, as they pertain to the subdivision approval, had not been addressed by the Board. March replied that he had been working on a response to Tricia Smith's memo of 2/15/96, including some revisions to the plan, but this would not be available until tomorrow. He said that the Isolated Area Subject to Flooding has been redefined, and drainage calculations have been checked. He said that he did not think it necessary to resubmit these minor changes to LandTech, since they have reviewed the drainage design on two occasions. But Colman was not comfortable with this and, recognizing that the 135-day period for Board action would expire March 2, proposed approving the plans with amendments as they had been agreed to this evening, subject to LandTech's review and approval, but withholding one signature.

Gallogly responded that in the case of such a conditional approval, if the conditions are not satisfied, the action becomes a denial, a situation he wished to avoid. Consequently, he requested, in writing, an extension of time for the Board to act until March 15, 1996.

For his part, Colman suggested a straw poll on a draft decision incorporating all the conditions and revisions discussed, if the final plans and documents could be reviewed at the next meeting when a final vote on approval would be taken. The members concurred with this procedure. LaLiberte then moved to close the public hearing subject to incorporation of the following conditions into the most recently revised plans:

1. removal of the sidewalk
2. a trail easement across the back of Lot 9
3. realignment of the northerly entrance of Davis Rd.
4. a four-foot shoulder on Maple St. from pole #15/17 to the south entrance of Davis Rd.
5. a three year set-aside of Lot 10 for open space/recreation
6. a notation limiting the land alteration within the wetlands to 5,000 s.f.
7. preparation of easement documents satisfactory to Town Counsel
8. LandTech's review and approval of Stanski and McNary's response to the Smith memo.

Tice seconded the motion and it was approved unanimously, 5-0.

Tice moved that the request for the extension for final action to March 15, 1996, be granted. Hengeveld seconded this motion and it was also approved unanimously. Colman scheduled the final review of this application for the agenda of March 11, 1996, at 7:30 p.m.

REQUEST FOR LOT RELEASES: Tall Pines

William Costello appeared before the Board to request the release of two lots, #32A and #33A, in the Tall Pines subdivision. These are in addition to the six lots that the Board agreed to release on November 27, 1995. He asked the members to state their positions on the security they would require to bring the subdivision improvements to completion.

Epstein stated that the position he has taken in previous meetings has not changed; that he would seek no additional security to release up to a total of twelve lots. After that, he said, he would like to reconsider what security should be offered.

Costello replied that there are currently no performance bonds available for real estate security. He suggested, as an alternative, that no lot be released until the road in front of it is brought to a binder course pavement. He estimated that it will cost \$195,000 to finish the portions of the roads now at binder course, \$275,000 to bring the second section of the subdivision's roads to binder, and \$220,000 to finish that second section (a total of \$690,000). He asked how many lots the Board would have to hold to guarantee this level of performance.

Epstein reiterated that he and Yanofsky (not present) felt uncomfortable holding lots to guarantee this work. Colman asked whether the utilities had been completely installed. Costello replied that, although there is no written confirmation from Boston Edison, the utilities are installed and paid for, and are available to service all the lots previously released or requested to be released. He suggested that the last ten lots, with a market value of \$2,350,000, be set aside until the improvements are completed. Colman reminded him again that some members had a problem with that concept. But LaLiberte asked that LandTech review the costs that Costello has estimated. If they concur,

he suggested, and there is a fair estimate of the value of the lots retained, then the Board would have the security required.

Costello suggested that LandTech needed to perform a site visit to confirm this estimate, and since it had been some time since they have visited the site, that he would call them to schedule it. Colman agreed with this proposal, but asked that at least one Board member and the P.A. be present when such a site walk occurred.

Pending this visit and subsequent information, the Board, with Costello's concurrence, postponed a decision on the request for lot releases.

DISCUSSION: Proposed Repetitive Petition for Baldwin Rd. Common Drive

Present for this discussion were Jane and Kenneth Evans, owner of the property in question. The Planning Board had denied a request for a common driveway special permit to serve this property on January 22, 1996. Jane Evans asked whether the addition of a trail easement to the plan for the proposed common drive would be considered by the Board to be a sufficient material change so that they would consider the petition again without waiting the two years otherwise mandated by Chapter 40A, Sec. 9. Board members reviewed Ms. Evans' sketch in the context of the trails map that had been displayed earlier by the Trails Committee members.

Hengeveld expressed her concern that the location of the proposed easement leading to abutters' land might pull the Board into an existing easement dispute before Land Court, but Ken Evans assured her that this dispute had been dropped after a year. Epstein asked whether the proposed change addressed the concerns raised in the Board's denial. Hengeveld replied that it addressed at least one concern, and Tice agreed. But Hengeveld cautioned that the proposal may not meet the need of the member who was concerned about the lack of a trail easement.

Colman and Epstein explained that the petitioners would need a plan showing the easement and an easement document, with the easement granted to the Town or its nominee, when they formally present their request to the Board. Jane Evans asked if the Board would consider waiving the filing fee. Colman replied that was not a relevant question at this time, but only after the Board decided whether to accept the repetitive petition. Mansfield noted that there is no fee specified for filing for the acceptance of a repetitive petition, but that there is a requirement to give notice to abutters (but none to advertise) whose cost the Town should not bear. Jane Evans said that she would expect to have all materials ready to submit by the end of the week, and the Board scheduled the matter for 8:00 p.m., March 11, 1996.

DISCUSSION: Disapproval of Laurajon Drive Definitive Subdivision
(Requested by Jacob Diemert, Esq. for T. Triebick)

Mary Bassett-Stanford, an attorney with the firm of Wilson and Orcutt, represented Mr. Diemert. Also present were Ingeborg Hegemann of BSC Corp., Worcester, and Russell Wilson of R. Wilson & Associates.

Bassett-Stanford requested reconsideration of the disapproval of the definitive subdivision plan as outlined in the letter from Diemert, dated February 21, 1996. She stated that the Board has the authority to reconsider its previous decision and reinstate the Laurajon subdivision plan on its active agenda. She noted that her firm began representing the petitioner in early December, and has every intent to meet all the requirements of the law and the regulations. She suggested that reconsideration would be the more prudent course, since in one way or another, the plan will end up back before the Board at a future date. Colman replied that if all the deficiencies stated in the disapproval are corrected, the same result will be achieved. Epstein asked on what legal basis in the statute or in the Board's rules and regulations can reconsideration be justified. Bassett-Stanford said she would check Chapter 40A, but also contended that the rules and regulations, in their preamble, give the Board authority to waive anything at any time.

While she researched that question, Hegemann reviewed the engineering concerns. She said that with her firm's help, a lot of progress has been made but final revisions to the plans are held up by the need to redelineate the wetlands. Since wetland flagging relies on soils and herbaceous cover, the snow cover has prevented this work. Her best guess is that the wetlands boundary shown on the plans is incorrect and must be revised. This will lead to recalculation of drainage values. Moreover, she said, a 401 water quality certification is required by the State, and for this an alternatives analysis must be performed. The latter process will entail considerable interplay between the Planning Board and the Conservation Commission, as the solutions that satisfy one board may raise new concerns with the other. In summary, she said, while they can refile the plans within the 20-day appeal period with most of the deficiencies corrected, the wetland delineation and the need to negotiate the most acceptable plan will still require additional continuances. Hegemann also noted that with a change in staff at LandTech, the current engineers are not familiar with this project. She asked the Board's permission to have them perform a complete review once again.

Bassett-Stanford said she could not immediately cite the legal basis for the Board to act upon her request, although she was sure Diemert could if he were not hospitalized. She added that if it were not for his illness, compounded by the death of the firm's senior partner just before the last Board meeting, he would have been present then and could have convinced the Board of the merits of an extension.

Colman disagreed. He explained that when Wilson asked for the previous extension, he was given more time than he had asked for and was told clearly that there would be no more extensions. In the interim, however, no revisions or new information was submitted and much of the

plan before the Board was incomprehensible. Epstein stated that while the engineering problems have some merit and he understands the logistical difficulties, the alternative is to comply with the stated deficiencies. Mansfield added that although the appeal period is limited to 20 days, there is no limit on the time the applicant has to correct the deficiencies.

In conclusion, Epstein told the applicant's representatives that if they wished the Board to revoke its decision, they would have to come back and refile following normal procedures. He stressed that the Board had full discretion to refuse the request for extension, and subsequently no choice but to disapprove the plan. But Colman suggested that they refile at the point where they could comply with all the deficiencies except the wetlands marking and the drainage calculations. Epstein replied that while that may be a reasonable approach, it may not be a legal one. On this point, both members asked the P.A. to seek an informal opinion from Town Counsel about any options in the procedures for revoking a subdivision disapproval. The question posed will be under what circumstances can the Board revoke a disapproval other than the applicant's meeting all the deficiencies or refiling a new definitive plan. Colman asked Mansfield to call him with Town Counsel's answer. He then concluded that the answer to the request for reconsideration had to be negative. The schedule for any future discussion of this matter will depend upon the response of Counsel, including lead time required for notice to parties in interest.

At this point, Colman left the meeting and Hengeveld took the chair.

DISCUSSION: Carlisle 2000 recommendations

Vivian Chaput and Sarah Andreassen joined the Board for this discussion. Chaput explained that the Carlisle 2000 Committee is reviewing the provision of Town services and developing recommendations that they hope will improve the efficiency of Town government. Among the issues under discussion are whether various boards and committees should be elected or appointed, what size they should be, what management structure the Town should have, etc. For the Planning Board, she said, the questions are whether the number of members should be changed, whether associate members should be named to sit on special permit hearings, and whether members should be elected or appointed. She pointed out that the Committee is also considering how best to implement the Study Plan and to preserve open space in the town. She noted, however, that these objectives were directly related to the proposed revisions to the Conservation Cluster bylaw that would be the subject of a Study Plan Subcommittee meeting on March 4.

Hengeveld suggested that the latter questions be postponed until after the March 4 meeting, and asked for Board members' opinions on whether their positions should be elected or appointed. Epstein (who was appointed) asked who the appointing authority would be. Chaput replied that the Selectmen, by statute, would have that authority. She added that this would provide a more centralized government. LaLiberte asked

about options for the length of terms. Mansfield replied that the statute allows Planning Board members to serve for either 3 or 5 years, at the option of Town meeting. A member may then be re-elected, or in the case of appointment, reappointed, for any number of terms. Epstein noted that the longer term provides more protection for members who sometimes must take unpopular stands while adhering to the requirements of land use laws. Regarding associate membership, Chaput noted that Chap. 40A, Sec. 9-3, allows up to two associate members for a Board greater than five to act upon special permit requests only.

Chaput explained that there will be a public meeting on April 10 in which the Carlisle 2000 Committee will present its recommendations. She asked for any input from the Planning Board to be addressed to the Committee, in writing through the Town Clerk, by mid-March. She explained that, in addition to the specific issues listed on the agenda, general management and process issues, such as inter-board communication and suggestions for streamlining the permitting process could be addressed. Members agreed to consider these issues and resume this discussion on March 11.

ANR Plans

Board members reviewed and endorsed ANR plans for Fielding (Cross St.) and Lane (Russell St.) without further comment.

BUDGET

LaLiberte reported that the Finance Committee had reviewed and approved the Planning Board's budget on February 15. The only issue raised came from a misunderstanding that occurred when the FinCom met with Yanofsky last July and thought that she proposed that the separate Professional and Technical account would be eliminated in favor of a line item for Engineering in the primary account. However, the former account is used for legal services and must be maintained. LaLiberte said that, although the FinCom was still seeking an explanation from Yanofsky of her previous comments, they were satisfied with his explanation, particularly when they realized that this item had been budgeted for \$7,500 in FY1995, but had been reduced to \$4,000 for FY1996. For FY1997, \$4,120 is proposed, following a 3.0% guideline for increases. In addition, LaLiberte had made the FinCom aware of the significant income generated by Planning Board activities.

PLANNING ADMINISTRATOR EVALUATION

Hengeveld asked whether the Town had established criteria for personnel evaluation, and whether any members of the current Board had previous experience in evaluating the performance of the staff. No one could answer either question in the affirmative. Mansfield explained that Colman had requested this item be scheduled on the agenda to implement a provision of his job offer: that in February the Board would review his salary and, if the review was favorable, "an increase of 3% maximum shall be voted by the Board" [Colman's offer letter of 11/20/95].

LaLiberte said that he was aware of this provision and that he believed that the increase would take effect February 1, barring unsatisfactory performance. He added that he was very happy with the P.A.'s work, and that this agreement had been approved by the Personnel Board at the time of hiring.

Epstein said that he too was pleased with the work product, and that Mansfield had focussed in upon the "Carlisle issues." He said that he found the P.A.'s memos to be very helpful. Hengeveld observed, particularly from her recent experience as Acting Chair in working with Mansfield, that his issues are broad-based and he is willing to take recommendations, and so it has been a pleasure working with him. Tice agreed, saying that the notes to the Board are thorough and well-organized, making them easy to review. He also complemented Mansfield for joining the Board on a cold Sunday morning for the Pine Meadow site walk.

Hengeveld made a proposal to the members of the Board not present: that the four members in attendance are satisfied with the P.A.'s performance and recommend a salary increase retroactive to February 1, 1996. The others present concurred, and a vote of the full Board was scheduled for March 11.

BILLS

While signing the bills presented, Epstein questioned whether there might be a better process for approving Board expenses. He said he really does not have much knowledge about what he is signing when he approves the invoices, and he is uncomfortable with that. Mansfield explained that when he submits bills for Board signature, he has reviewed them for accuracy and is recommending their approval. Epstein replied, in that case, why is it necessary for four members to sign each bill. They do not have any independent knowledge of the validity of a bill, he said. Hengeveld suggested that the P.A. research with the Treasurer and/or the Accountant if and why the multiple signatures are necessary.

NOTE: The Town Accountant reports that multiple signatures are not necessary on each bill if the Board votes to authorize one of its members to sign all invoices. However, she stated, many Boards prefer multiple signatures for accountability, i.e., to avoid a situation where only one member has the knowledge that a certain pattern of expenditure is developing, and the others find out only after an account is depleted.

Hengeveld declared the meeting adjourned at 10:45 p.m.

Respectfully submitted,

George Mansfield
Planning Administrator