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Town of Carlisle

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Office of

PLANNING BOARD

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MINUTES April 13, 1998

- PUBLIC HEARING: Proposed amendments to the Rules and Regulations Governing the Subdivision of Land**
- Informal discussion of development alternatives for property of Paul C. Hart located off Curve St., Map 28, Lots 7A, 11 & 12 (Joint meeting with members of the Conservation Commission)**
- CONTINUED PUBLIC HEARING: Hutchins Road, Lot 2 - Special Permit for Common Driveway, Tall Pines Realty Trust, applicant**
- PUBLIC HEARING: Kimball Road, Lot 39 - Special Permit for Common Driveway (to serve Lots 28B, 39A, 40 and 41), Tall Pines Realty Trust, applicant**
- Discussion of "informal conceptual plan" for subdivision of land located off Nickles Road and Oak Knoll Road, Map 25, Lot 15 - Definitive Subdivision Plan for "Hunters Run" disapproved 7/15/97, appeal pending (Brian E. Hebb Builders, Inc.)**

Chair Yanofsky called the meeting to order at 7:30 p.m.. Duscha, Epstein, Hengeveld and LaLiberte were present. Also present were Planning Administrator George Mansfield and David Ives of *The Mosquito*. Abend and Tice were arrived later.

PUBLIC HEARING: Proposed amendments to the Rules and Regulations Governing the Subdivision of Land

The following members of the public were present for this public hearing: Dave Kelch of Oak Knoll Road, Rich Colman of Audubon Lane, Tom and Wendy O'Rourke of Maple

Street, Andy Ostrom of Ledgeways, Michael Benfield of Fiske Street, Ferris Taylor of Hemlock Hill Road, Selectman Vivian Chaput of Milne Cove Lane, George Senkler of Curve Street and Chris Fleming of West Street. Dale McKinnon of Earth Tech was also present as Board Consultant.

Epstein explained the Board's process in drafting the proposed amendments, noting that the Rules and Regs. Subcommittee met a total of six times following the Open Forum held on November 13, 1997, and considered comments from all interested parties. Epstein then explained some of the amendments as noted in the PB memo distributed at this public hearing. In particular, Epstein discussed the length of dead-end roads and retention of natural features.

(Tice arrived.)

Wendy O'Rourke asked for details of the amendments concerning dead-end roads. Epstein referred her to page 38 of the Draft Amendments dated 3/30/98. He explained that the idea of linking a buffer area to a dead-end road waiver was confusing. Instead, the buffer concept has been added to Design of Open Spaces found on page 34. Under the proposed amendments, by right, an applicant may build a dead-end road with a maximum of 1000 feet and 10 lots.

Rich Colman asked why the PB is returning to the 1000 ft. maximum length. He felt that the 500 ft. length was a guideline that hadn't been sufficiently tested and noted that the Board could grant waivers to this regulation if it felt those waivers were in the Town's best interest.

Duscha noted that while the 500 ft. length hasn't been "tested," the informal and concept plans presented have provided good discussion on this issue.

Epstein stated that several Board members argued the same position as Colman. He explained that the Board concluded that some land owners have larger parcels that would be inaccessible with a 500 ft. limit. The Selectmen asked the PB to extend the limit in order to maintain undeveloped frontage. Selectman Chaput explained that the Selectmen discussed this item and their main concern was maintaining the view from the road. They felt allowing longer cul-de-sacs would encourage this.

Ferris Taylor spoke on behalf of himself and David Kelch and presented a memo with documentation supporting cul-de-sacs in subdivision design. They stated that cul-de-sac developments enhance safety, especially for children, and would help cultivate a sense of community. He noted that allowing longer cul-de-sacs would encourage this type of development.

Michael Benfield asked what the logic was of limiting the number of lots to 10 as opposed to 15. Yanofsky replied that this was simply based on statistics; i.e. fewer homes mean

fewer incidents that could compromise safety. Epstein further explained that there is no formula for determining this number and the Board must ultimately decide on the policy. The lot limit is simply a means of minimizing the number of people affected by the standard.

Colman stated that a 500 ft. limit for cul-de-sacs would give the Board more control over development, which in turn would be beneficial to abutters, residents and the Town. He felt the Board should not give up something which would benefit the Town in the long run.

Kelch said that it would be better to encourage cul-de-sac development. With a 500 ft. limit, developers would be encouraged to create cut-throughs instead of cul-de-sacs. Yanofsky noted that since the 500 ft. limit went into effect, there has been no discussion of cul-de-sacs becoming through roads.

Chris Fleming stated that he owns 18 acres that he plans to develop. He prefers this proposed amendment which would give the Board and the applicant greater leeway and allow houses to be moved further back.

Epstein stated that the Board had received a memo from Steve Tobin of the Trails Committee, dated April 7, 1998, with comments on the Draft Amendments to the Rules and Regs. His first recommendation was to widen trail easements from 6 to 20 feet (p. 39). The Board felt this item needed further research before a decision could be made. Item 3 referred to page 32 and suggested that "existing trails" be added to the list of natural features to be preserved. Item 4 requested that the Trails Committee be added to the list of officials receiving reduced copies of submitted Definitive Plans. In item 5, Tobin suggested that notice of Definitive Subdivision public hearings be sent to "all Parties in Interest" (see p. 25). Finally, item 6 noted several typos. The Board recommended that items 3, 4, 5 and 6 (with exception of p. 35 typo) be included in the revised Rules and Regs.

Yanofsky proposed that voting on the amended Rules and Regs. be postponed until the 4/27 meeting.

Deb Belanger of the Bicycle/Pedestrian Safety Committee presented a memo from the committee requesting that easements be granted for footpaths and that footpaths be a part of development. Epstein referred her to pages 39 and 42 of the Draft Amendments, noting that some of these objectives are already met in the regulations.

Hengeveld moved to continue the public hearing to April 27, 1998 at 7:30 p.m. Tice seconded and the Board approved the motion 6-0.

Request from Selectmen for evaluation of Town Counsel Services

Yanofsky said that she had drafted a response to the Selectmen's request regarding review of Town Counsel. She offered to circulate it to Board members for review and comments before submitting the memo.

Bills were circulated along with a contract submitted by Judith Nitsch Engineering. LaLiberte noted several points in the standard contract terms that seemed inappropriate for Board signature. He recommended review by Town Counsel before the Board signs this document.

The **minutes** of March 30, 1998 were reviewed and minor revisions were made for clarification. Hengeveld **moved to accept the minutes as amended**. Duscha seconded and the minutes were approved 5-0-1 with Yanofsky abstaining.

(Abend arrived.)

Informal discussion of development alternatives for property of Paul C. Hart located off Curve St., Map 28, Lots 7A, 11 & 12 (Joint meeting with members of the Conservation Commission)

Paul C. Hart was present for this discussion along with his attorney Joseph B. Shanahan. The following members of Cons. Com. were also present, Chair Clair Wilcox, John Lee, Steve Hinton and JoRita Jordan.

Shanahan explained that Hart owns approximately 77 acres of land, comprised of a 69.3 acre parcel and a 7 acre wetland parcel. He has also entered into an agreement with the Ohs heirs to purchase an 8 acre parcel to provide access to his property from Curve St. Hart has the possibility to obtain secondary access to his property, but noted that this option is expensive. With this secondary access he could develop approximately 20 lots. Shanahan further explained that Hart is hoping to develop 15 lots of approximately 5 acres each. He would like to pursue either a waiver of the dead-end road length or a loop road with access over the Town bog property. Alternatively, a dead-end could be constructed with access over the bog property for emergency vehicles only. Potentially, Hart could create 16 lots and give one lot to the Town in exchange for waivers granted. He stated that approximately 40-45% of the property was uplands and could be developed.

Yanofsky reminded Shanahan that based on the ideas presented, the applicant is only able to develop ten lots by right. She then asked what the Town would receive as a benefit in exchange for a waiver. Shanahan said that the proceeds from the sale of the extra lot (approx. \$200,000) would go to the Town.

John Lee noted that Cons. Com. does not have the authority to grant access over the cranberry bog. It is owned by the Town. Steve Hinton explained that the area of the bog in question is currently under a 20 year agreement for exclusive use by the grower.

LaLiberte asked what the length of the cul-de-sac might be. Shanahan estimated it at 1200 feet.

Abend felt it was difficult to picture the lots on this property and wished to have a better idea of Hart's intentions in order to make comparisons.

Yanofsky encouraged Hart to proceed with a conceptual plan. Epstein agreed stating that the Board cannot guess what the benefit to the Town might be. The Board agreed that Hart should return with a conceptual plan with more details.

CONTINUED PUBLIC HEARING: Hutchins Road, Lot 2 - Special Permit for Common Driveway, Tall Pines Realty Trust, applicant

Jody Minkle of Stamski and McNary was present to present the Special Permit application. Tom Rice of Hutchins Road was also present. Hengeveld recused herself from this discussion.

Minkle presented the plans with changes made as requested at the previous meeting.

Rice wished to know the details of this plan and again stated his disappointment with conditions in the Tall Pines development. The Board asked Rice to bring up this issue after the public hearing.

Abend **moved to closed the hearing.** Tice seconded and the motion was approved 6-0.

Duscha **moved that the Planning Board approve the special permit for a common driveway located on Hutchins Road, Lot 2, dated 10/24/97.** Tice seconded. Epstein proposed to amend the motion stating "**provided that an acceptable maintenance agreement is signed and recorded as required by the Rules and Regulations.**" Duscha accepted the amendment to her motion and Tice seconded this as well. With Duscha's acceptance, Abend added "**The Board finds the application to be in accordance with Section 7.2.1 of the zoning bylaw.**" Tice seconded and the motion carried 5-0-1 with Yanofsky abstaining.

The Board then addressed Rice and asked if his concerns were related to safety or access issues. He stated that one area of concern is the number of holes in the pavement on Hutchins Road. The Board explained that they have a standard practice of monitoring subdivisions at various stages of development and noted that the Tall Pines subdivision is

not yet completed. Rice was asked to put specific complaints in writing so that they could be brought to the developer's attention.

PUBLIC HEARING: Kimball Road, Lot 39 - Special Permit for Common Driveway (to serve Lots 28B, 39A, 40 and 41), Tall Pines Realty Trust, applicant

Jody Minkle of Stamski and McNary was present to present the plans for the applicant. The following members of the public were also present, Tom Rice of Hutchins Road, Mike Guttadauro and Steve Spang of Fiske St., Stewart Roberts and Thomas McAndrew of Nickles Lane, Rich Colman of Aububon Lane, Vivian Chaput of Milne Cove Lane. Board member Hengeveld was recused from this public hearing.

Although the certified receipts of notices had been misplaced, Minkle opted to proceed with the public hearing since members of the public were present for this hearing. Minkle presented the plan for the common driveway along with a memo dated 4/13/98 which addressed comments made by the Board's engineer, Judith Nitsch Engineering. She also presented an alternative cul-de-sac subdivision plan.

The Board found the two different plans confusing and asked Minkle to prepare them with the same orientation for comparative purposes. She was also reminded that the applicant has the burden of showing the Board that the common driveway plan is beneficial to the Town.

Rich Colman expressed concern over the extension of the septic into the common driveway. Minkle said that this is the leaching area and the grading will not be a problem.

Epstein noted that a common driveway permit is given at the discretion of the Board and he wished to see how this plan would benefit the Town. As an abutter, Steve Spang said that a common driveway would have less impact on the neighborhood.

Colman asked if Cons. Comm. had already approved this plan to which Minkle replied no.

Spang noted that two of the houses on the common driveway are not lots from the original Tall Pines subdivision. Mike Guttadauro found the plans confusing and wished to see better comparisons.

Abend asked Minkle to confirm that lot 38A, which abuts the lots served by the common driveway, is a 4 acre porkchop lot that cannot be subdivided.

Duscha asked if any provisions were made to help endangered species cross the common drive. Minkle replied that she had not been asked to make such provisions.

Chaput noted that the applicant should solidify its intention of keeping the extra lot undeveloped. She also asked the PA to refer these plans to the BOH which the PB members agreed to.

Tice moved to continue the hearing to April 27, 1998 at 9:30 p.m. Duscha seconded the motion and it carried 6-0.

Discussion of "informal conceptual plan" for subdivision of land located off Nickles Road and Oak Knoll Road, Map 25, Lot 15-Definitive Subdivision Plan for "Hunters Run" disapproved 7/15/97, appeal pending (Brian E. Hebb Builders, Inc.)

The applicant's lawyer Paul Alphen was present as well as his engineer, John Boardman of David E. Ross Associates.

As discussed at the previous meeting, Alphen stated that his client wishes permission to present the 10% plan to the Board again. Boardman reviewed a fax sent to the Board earlier in the day which discussed the alternative 10% design and the impact that the Rules and Regulations, revised on September 29, 1997, have on this plan. He concluded that under the new regulations, more waivers would be required to implement this plan. He had been looking for greater flexibility, but found the new regulations more difficult to work with.

Yanofsky asked Boardman to identify regulations under which he would be seeking greater flexibility. Boardman replied that he would like to have more leeway with roadway grading.

Alphen requested permission to file the 10% Definitive Subdivision plan. If the plan is then approved, the suit will be dismissed. Yanofsky noted that at previous meetings, Alphen had requested that the Board allow a favorable plan to be submitted in order to dismiss the lawsuit. She did not think that the plan needed approval before the suit would be dismissed. Alphen explained that his client has changed his position in light of a recent ruling on a similar case, which he had sent to Town Counsel. He felt better about his chances of winning the litigation. He also realized that the plan would require more waivers under the new regulations. The applicant is seeking a stay of litigation while the plan is being resubmitted.

Epstein asked Boardman if the items listed in his memo include all possible waivers. Boardman said he had not carefully scrutinized the new regulations. Epstein asked Boardman to review Section III.2.A.10. He then asked Alphen to copy the PA when sending correspondence to Town Counsel.

LaLiberte moved to authorize counsel to file a motion requesting a stay of the litigation while the Board proceeds with settlement discussions with Mr. Hebb,

subject to the Board's review and approval of the stipulation. Tice seconded and the motion carried 7-0.

Alphen stated that the proposed stipulation would be submitted to Town Counsel by the end of April. No timetable was set to submit the revised 10% plan.

At 10:50 Tice **moved to adjourn.** Hengeveld seconded the motion and it was approved 7-0.

Respectfully submitted,

A handwritten signature in cursive script that reads "Anja M. Stam". The signature is written in black ink and is positioned above the printed name.

Anja M. Stam
Recording Secretary