

APPROVED

PLANNING BOARD MEETING

May 9, 2016

City Hall Auditorium

62 Friend Street, Amesbury, MA

Meeting called to order at 7:10 PM

Present: David Frick, Lorri Krebs, Karen Solstad, Scott Mandeville, Lars Johannessen, Ted Semesnyei, Robert Laplante.

Absent : None

Also present: Nipun Jain, Sue Yeames took notes. Paul Bibaud transcribed these minutes.

MINUTES: March 14, 2016 and April 11, 2016: Skip to the next meeting on May 23, 2016.

David Frick requested that 103-107 Macy Street be taken out of order so that Robert Laplante can sit in on it. Robert has been ill. Motion so moved by Lars Johannessen to take this agenda item out of order, seconded by Scott Mandeville. AIF.

103-107 Macy Street – Amesbury Chevrolet

Site Plan Review – Response to peer review.

Representative: W.C. Cammett Engineering, Mr. Woody C. Cammett.

Nipun Jain: At last continued public hearing, there were questions from the PLB re: traffic and some items that would be done in Phase 3. The applicant, subsequent to that meeting, submitted revised information relative to traffic from the traffic engineer, and it was reviewed by your peer review consultant, and based on the information provided, I think they are adequately satisfied until such time as Clarks Road entrances further improved, which requires other changes in due time. As it stands right now, they have recommended that the PLB make a condition of approval that the PLB get a copy of the MASSDOT approval, with the curb cut revisions, and that would satisfy them. The second item was stormwater. The applicant indicated they would be re-paving the full lot in Phase 3. Right now they are only going to do minor changes in and around where the building is. That's why they were not providing some of the exhaustive information that is required in the stormwater. The applicant did provide partial information beyond what their proposed work is. The recommendation is to make a condition in your approval that the remaining information be provided in the next 60 days, so that we can see that the overall site complies with the storm water design. The curve was the lighting, which is something that the applicant had indicated that they would be doing in Phase 3. So a similar condition would be recommended, which would be that they provide PLB with updated information in the next 60 days from the date of this decision. The last item was the landscaping buffers. There had been discussion at two points: once on the pre-application and the other was at a design meeting. There were two things that were stated: 1. given the existing condition and that the buffers along Route 110 belong to MASSDOT, they control what can and cannot be planted. With additional planting in other areas that are more within the control of the property owner. Based on discussions, we have recommendations that we think will satisfy some of the aspects that have been

raised. We recommend that the buffer along Burger King be strengthened to meet the requirements of the vegetation and additional landscaping.

This includes the in-perpetuity conditions. Also included and a key requirement that the two lots be merged in order to allow the site plan to move forward. The lighting and storm water will be coming next.

Woody Cammett, Cammett Engineering: All discussed conditions are fully acceptable. We have no issues.

Karen Solstad: Nipun, I'm still confused how this is a major project encompassing both lots, lots of building, even though Mr. Cammett stated at a previous meeting that the total impervious surface, where it is and located, and what is happening is changing. So I'm confused about how we can break this out into phases without an absolute guarantee that Phase 3 actually happens. Usually, the lighting and the stormwater would have to be part of the whole project. By breaking it out, do we have the power to say "you break it out," but what happens if he never comes before us? Is there a plan to use the Clarks Road property to make an entrance to the commercial property in Phase 3?

Nipun Jain: The lighting plan that was approved before still stands, meaning when the previous site plan was approved. The PLB approved that prior to this revision. What the applicant proposed in this iteration in this phase or change is that they are working on it and bring it back to the PLB as a subsequent element. Re: will they or won't they do it, that is why the condition that we proposed is that they have to come back in 60 days. That is the tie back. So this project should be ready to start operating out of the new facility in 6 months, so this would be within two months of this decision. So you will have ample time to see what information they provide to you and that it complies with the dark sky. On the stormwater, what has happened in talking to Stantec, my understanding is the overall volume has maybe not changed but the amount is still the same.

So the peaks are the same, so you're not going to have a flooding situation because of the modified plan. Because they will be re-paving, they are going to be adding additional structures to re-direct some of the water, which they don't have to do, because as it improved, the stormwater regulations and standards are met.

Karen Solstad: When did this meet stormwater regulations, thirty years ago?

Nipun Jain: The portion that they are adding, that addition is the currently paved portion of the site. That is why the overall impact on the stormwater is less because now a roof discharge, in terms of how calculations go, there is a net decrease. Stantec has been asking is are the changes that they intend to make to the stormwater structures, that should be included and the calculations should be updated showing those new structures.

Woody Cammett: That's a fair summary in that it summarizes all the other things. Under the storm water regulations in Massachusetts, the applicant doesn't have to do anything to the drainage system for an existing facility. From the stormwater standpoint, these are not major changes.

Karen Solstad: Is it just going to be dirt out to Clarks Road? You're not going to pave it?

Woody Cammett: That's an issue that we have to work under Phase 3. Right now, our traffic study shows we do not need that entrance on Clarks Road. That was imposed on Amesbury Chevrolet by MaDOT on the widening of the town improvements. They made it a right turn only exit, which is what we're complying with. We believe that we need to look for the future and maybe then look at Clarks Road. There are issues we have to resolve with Zoning and issue with building inspector and issues to be resolved with the MaDOT. But our traffic study shows that the impacts that we have with this addition, we do not have a negative impact on the current situation on Route 110. Therefore, in Phase 3, they were not going to be looking at re-paving the rest of the area until a subsequent number of years down the road. They have accelerated that with the GM program. So

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they'd like to get that done, but we'd like to get the building under construction. Without the building under construction, there is no need to do anything.

Nipun Jain: The other aspect that was taken into consideration by city staff was 1. because it is not warranted, the improvements along Clarks Road, based on the traffic analysis, if indeed that was required because that is preferred, then that goes against what has been one of the concerns of the abutters in the past, which is now what is typically a residential street has more of a commercial feel and look, because that becomes a formal in and out. 2. By keeping it as a dirt lot, which is not being used for customer parking but for over stock parking, it maintains the feel of an upper residential scale in that area, rather than with lights and more pavement. 3. Most importantly, in order for that access to be improved and for that area to be paved, and all the other improvements, currently it is zoned residential, which they would not be able to use or make improvements under zoning. So until such time as the city changes that zoning to commercial, that entrance and that of the property cannot be improved upon for commercial uses. So give there is no impact on traffic and all these factors, staff did not recommend that the preferred choice which eases circulation in one instance but then goes against what the abutters would like, is probably best, especially since there is no significant increase or impact on traffic.

Karen Solstad: I want to have teeth for the PLB's protection, so we have an avenue to get what we require. Too many times when pieces of a project are not completed, even when they are in the final decision, we don't have the teeth to bring the applicant back before us to finish little pieces here and there.

Nipun Jain: So I think that is why we put in a time frame rather than tying it to a particular phase. We are looking at it not as a phase but as an improvement that comes in at a later date from the current plan. As long as they provide what they say within 60 days of it being heard here, then they are in compliance, and it is approved by the PLB as in compliance with this decision. If you're not, then you are in non-compliance and you would not qualify for sign off from the PLB on the certificate of completion, making you ineligible to apply for an occupancy permit.

Karen Solstad: With what is happening at the back of the property with the wetlands? I see on the little Xerox copy of the plan we were handed that there is a little small area for snow storage. Is there anything in this or subsequent decisions where we can state that there will be no snow removal piled into the wetlands area behind the building?

Nipun Jain: That is already in the ConCom permit. They cannot direct any water, snow or anything not allowed into the wetlands, and it is referenced in this decision.

Robert Laplante: I make a motion that the PLB approve the proposed PLB decision with the requirements stipulated. Nipun Jain added that the motion add the amendment that we add a proposed amendment the other additional conditions that we discussed tonight, which are not in here. So the 60 days on lighting and stormwater and also the landscaping improvements. Motion was seconded by Lars Johannessen. AIF.

SIGN APPLICATION:

284 Elm Street - Hampton Inn

Representative: Mr. Joseph Bachholz Jr./ Kay Gee Sign and Graphics

Nipun Jain: The Hampton Inn is proposing two signs. One is building mounted, one is a free standing sign. The subcommittee recommends that the building mounted sign be revised so that it is no more than 15 feet in length, so that there is a clear relief around the sign from a visual

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interpretation and the second recommendation was that the free standing sign should not exceed more than 11 feet from finished grade, and that the sign be enclosed in a landscape planter made with stone and perennial shrubs that add additional landscaping into the landscape planter. The free standing sign face be opaque as indicated in the sign application.

Motion was made by Robert Laplante to approve the recommendation of the design committee pertaining to this sign application. Motion was seconded by Scott Mandeville. AIF.

PRE APPLICATION CONFERENCE:

Point Shore Drive Extension- Phase II, preliminary Plot Plan

Applicant and Representative: Mr. Rick Saba/Amanda Lane Realty Trust

David Frick: We got some information mailed to us on this and we also got feedback sent to us and to the applicant today.

Ben Osgood, Jr., engineer and working with Rick Saba, developer at Point Shore Meadows: We are here to discuss on a very preliminary basis the possibility of extending his roadway into an adjacent piece of property. I outlined the different parcels and roadways in the project. There is an adjacent piece of property owned by Mr. Leblanc who currently has a project there which is a 40B. The green area shown on this plan is the wetlands that needs to be crossed for that property to access this upland area that is adjacent to the Point Shore Meadows subdivision. We met with the technical review committee and got comments from them. One of the biggest issues that we have to deal with is that it is an extension of a roadway that is already 700 feet long and would end up being about 1,200 feet long, which would require a waiver from the subdivision regulations from PLB. We'd do it as a cluster again, and we'd combine it, and got different area calculations. Just very preliminary. The purpose for tonight is to see if this is something that PLB would be amenable to? If the development of this parcel depends upon a waiver of the subdivision regulations for a 1,200 foot long roadway, and the PLB says "no way", then it is probably something that we would abandon. So we'd like to find out how this board feels about this project.

David Frick: Is there any possibility of secondary access in there? You have just emergency cutting through any of that or no? From what I understand, that's what you'd have to do to get us to approve it and get approval from fire and police.

Ben Osgood: Right, and I guess there is an adjacent apt. complex there, and there could possibly be an entrance. Not sure exactly where it would be. It is at the end of a circuitous driveway.

Karen Solstad: So those apts. are on Birchwood Point. Are they private properties? I know there are 6 houses along Clarks Road.

So your property doesn't butt up against Clarks Road so you don't have any clear access to Clarks Road.

Ben Osgood: We don't have any clear access to Clarks Road, no. It would have to have some sort of agreement with the apt. complex, and it would just be through their parking lots. We couldn't connect to another roadway. It might be at the end of a parking lot, there could be a gate, accessible to the fire dept or police. Being honest, you could possibly get permission from them to do that, on an emergency basis, but it'd be on the end of their parking lot.

Nipun Jain: What Mr. Osgood is saying is that it would be going through a parking lot that is in a more dense development than compared to Bartletts Reach, which has almost a feel of a private way with units having their own dedicated parking. It is slightly different, but in principle, that is what

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the PLB has always asked is in order for the waiver to be granted, it is either the development itself be along a portion that is between 700 and 800 feet, and then there be an emergency access.

Lars Johannessen: Originally when this was a 40 B, the yellow arm that you see on the right is where they brought in a bridge into the property to make this happen.

Robert Laplante: This doesn't appear to me to meet any really basic criteria for good planning.

Ben Osgood: Frankly, it's an alternative.

Lars Johannessen: It was approved by the town and it is under appeal by the owners of the 40 B. It us an approved 40B.

Ted Semesnyei: If it was approved, why would the owners be appealing?

Nipun Jain: There were conditions that were not favorable.

Robert Laplante: We're not being asked at this particular time to give them our blessing that this is a feasible or possible alternative that we might like.

David Frick: The idea here, Robert, is that they are not doing anything with the 40B. The owner of the 40B is talking about lopping off the portion shown in red and would give them an option to build and add on to their development. One of the issues we have is that the subdivision laws that we deal with says it can't have a road longer than 750 feet if it is a cul de sac. If you had a second access out the other end, it would all change.

Scott Mandeville: Does this effectively negate the ability to put in the 40B as well, or would the 40B get squeezed into the yellow area?

David Frick: The 40B would go down to 16 or 18 units (down from 56 units) on the right hand side, if they went ahead and acquired this.

Karen Solstad: So Nipun, can you clarify...the 40B was going to be some of the yellow and some of the red? So the 40B was allowed to have a longer road than we allow under our subdivision rules and regulations?

Nipun Jain: It's a 40B so local regulations don't...it can have a longer road, but again, the fact that the exact local regulations don't apply doesn't mean that the permitting agency does not still look at it. If public safety officials look at it and are satisfied with the various alternative provisions that are provided, and there were several. So I think there were ways recommended by safety officials in order to meet their requirements and that is what was taken into consideration by the ZBA in approving the project with a road that was longer than what typically would be allowed.

David Frick: And just because this is 1,250 from Evans Place doesn't mean it is 1,250 feet from Clarks Road. That's not being talked about or the issue here.

Karen Solstad: No, but it seems to me if we have 56 units on a road that is 1,250 feet long, vs. a much smaller group of units on approx. the same length road.

Nipun Jain: That is what was taken into consideration by the ZBA . There were ways that were suggested as alternative provisions by the safety officials in order to meet their requirements and that is what was taken into consideration by the ZBA in approving a project with a road that was longer than what typically is approved. If you have to look at this proposal clearly there is a less impact on the portion of the proposed parcel vs. what has been approved on the red portion. So when Rick approached us with would this be preferred by the city, just looking at what was the bearing capacity of the land and what was being proposed, it made sense, but we did tell him from day one that the caveat would be "you should start working with your abutters to get permission for a secondary access, because that is the core of the permits that you will be filing with the PLB, and requesting if available. It is my understanding that Rick has been working on this front.

Rick Saba: I have had some informal talks with the trustee of Birchwood Point, but strictly informal. He'd like to see what the input is from this board, to sure if you are amenable to doing

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something like this. The surrounding neighbors would prefer to see less dense property project for housing as opposed to units. It's an alternative we're throwing out there.

Nipun Jain: Ben, just make it clear that the yellow portion is not what you would be ...

Ben Osgood: Right. (Ben was speaking away from the microphone and his words were not picked up by the recorder).

Scott Mandeville: This would require building bridges through the wetlands, and my preference would be to not build bridges in the wetland and figure out a better way to do it.

Robert Laplante: Come on, guys. You can't come in here with this little bit of information and expect a response. Understand what I'm saying?

Rick Saba: We understand what you're saying. The reason for us being here was to see if you'd be amenable to allowing us to extend the road for this.

Robert Laplante: Then give us some alternatives, we need more meat on the bone.

Scott Mandeville: The question is, is it worth investing our time to explore this?

David Frick: If this development goes in, the 40B would go through. If it does not go through, the 40B goes ahead, and there would have to go over the wetlands, yes.

Scott Mandeville: So are we telling them to get out of here with this idea, or can we...

David Frick: My opinion is, this is something worth talking about. There are issues we have to work with on it, but if you're willing to work with us, then we're willing to work with you. On the open space, you can't have more than 50% of open space be wetlands. So you have to do the calculation on that. Maybe it'd need changing lot sizes a little bit or something like that. Generally, I think it'd be preferable to what the wetlands bridge and potentially 40 other units up there, and I imagine neighbors up there would prefer to have that than the 40B up there.

Scott Mandeville: I think given the extended length of the road, I think a very important conversation is going to be the fire department as far as what kind of access are they going to be looking for. Public safety is going to be big concern with this. Really make sure to weigh in with them and hammer out all that is needed to be done, as well as the secondary access and showing that property on this plan, as well.

David Frick: Would you agree that if they could get fire and/or police to say they are okay with whatever plan they set up, then that is basically what we are concerned about?

Nipun Jain: I think they heard that from the tech people. We had a meeting with the fire dept. present, the police, all of the dept. heads, and discussed that. The question was presented "would you recommend waiving the length of road, and they all said yes, if you can show us how you would have access, the secondary access. Right now, this doesn't clearly show how it connects to Clarks Road. If you can see that and you have agreement from the Birchwood Point condos, then surely it would make sense. But until they see such a plan or how it would operate, then it is hard for them to say anything concrete.

Rick Saba: The police dept. was very favorable to this design, and so was the fire dept. who said a brand new truck could go right around the cul de sac perfect. But they'd like to see secondary access for emergency purposes, that it would be gated off and not be used ordinarily. Tracy at Birchwood Point told me she would have to talk to her complete board, but felt it might be favorable to doing something like this, depending on the outcome of the PLB.

Ted Semesnyei: I assume the same quality would be used as the original project?

Rick Saba: Yes, the same stuff throughout.

David Frick: It would create 8 new lots, 9 in a sense, but one is taken out.

Nipun Jain: To recap, the primary purpose of the applicant intent of discussing this plan tonight is to see if there are any legs to this proposal with the PLB. They understand they need to provide a lot

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more information and possibly a lot more feedback, with the primary aspect that you would like them to address first is the secondary means of access and how that would happen, and if that is acceptable to police and fire, also.

Ben Osgood: That is what I'm hearing and the next thing for us to do is to talk to the people in the condo complex next door. We'll get an agreement with them, and bring that back to PLB.

Robert Laplante: And you'll tell them that the PLB didn't recommend it.
(not audible – could not make out remaining sentence.)

David Frick: An FYI, we are taking some administrative stuff on for lots 6,11, and 12, if you're going to be here.

Ben Osgood: We were wondering if you'd take it out of order and do it now? It should be really quick. I wanted to ask, too, I think Lot 11, we wanted to get a waiver on the front setback, reposition the house a little bit, and that requires that we come to you. I think we're looking for 19 feet, pushing it a little closer to the road.

Ted Semesnyei: Well, this is a different topic. To be fair to others waiting to be heard in their agenda items, I say we wait.

Nipun Jain: In a quick nutshell, I don't have a problem what the applicant chooses to do with the house moving forward, modify the garage location, etc. for lot 11. On lot 6, I haven't seen the house plans, so I don't know how that is changing, and is it in compliance with the design standards of what was approved for the three house design, so we should see what that is so we can confirm that that is the case for lot 6. The PLB review consultant and inspectional person wanted to make sure that some of the things you're showing on the plan are adequately detailed, and that is what is listed in the memory, you'll find they need to look at the retaining walls, for drainage, there were some things on the original plan that are not on the sketch. But they wanted to make sure that that is not being removed. There are some details that for the retaining wall, which might have changed, because of the proposed grading. If that is the case, you have to provide additional details for that. On lot 11, the driveway now changes the roof runoff and how it is going to be directed to what was proposed, so I think this letter summarizes what needs to be either revised and shown on the plan, or engineering aspects as they relates to the proposed changes, and if you can do that, then that would be ok. If you agree to make and provide the information that is requested in this memo, for lots 11 and 12, I think that can work. On lot 6, we need confirmation that A. No grade changes are taking place because of the proposed change to the footprint, and B: We also need drawings and plans showing what that house will be to confirm what the change is.

Scott Mandeville made a motion to take the Amanda Lane Realty Trust proposed site plan revisions for Lot 6-11-12 out of order and address it now. Motion was seconded by Robert Laplante. AIF.

Robert Laplante made another motion that we approve the request subject to the conditions inumerated by Nipun. Motion was seconded by Lorri Krebs. AIF.

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NEW PUBLIC HEARING:

28 Lake Attitash Road - Special Permit Application - Wetlands and Flood Plains.

Applicant wishes to continued to 5-23-16 meeting.

Motion by Scott Mandeville to continue this hearing to the May 23 meeting. Motion was seconded by Robert Laplante. AIF.

CONTINUED PUBLIC HEARINGS:

28 Lake Attitash Road - Special Permit Application - Water Resources Protection District.

Applicant wishes to continue to May 23 meeting.

Motion was made by Scott Mandeville to continue this hearing to May 23. Motion was seconded by Robert Laplante. AIF.

77 Elm Street and 11 Fruit Place – Two (2) Special Permit Applications

Owner: Mr. David Marin

Representative: Mr. Nick Cracknell

Nipun Jain: Quickly summarizing, the PLB approved the site plan for this project, and the reason why the PLB did not take action on the special permit is that at the last meeting, there were not enough sitting members of the board present to act on the Special Permits. There are no other changes that were made or need to be made on the revised site plan. The applicant was provided a list of revisions that were to be made to the site plan based on a sketch that was prepared by staff. We have received a revised site plan which incorporates all of the changes except two, which was the retaining wall change that was proposed and some landscaping. The reason for that is the applicant needs to confirm with the abutting property owner as well as the retaining wall consultant to insure they can do what we have suggested. If you can recall, essentially there is a bend in one of the walls that creates an awkward situation, and we'd asked them to straighten that out, which would require some changes, and the second was to add a second tier of wall along the curb where Fruit Place turns and continues into Fruit Place extension and there were some engineering reasons. In that particular location, the applicant has agreed to provide 6-7 evergreen Norway spruce and other evergreen trees that will be 12 feet in height at the time of planting, which further addresses the height of the retaining wall issue in that location. Other than that, the applicant incorporated all of the changes that were suggested by staff. As far as approval of the special permit, there are going to be no other specific conditions other than the fact that it shall run concurrent with the site plan conditions and both permits will be dependent on one another and would follow the conditions. So I would recommend that the PLB approve both special permits subject to the site plan approval conditions. The site plan was approved at last week's meeting, subject to approval of special permits. This is to approve the special permits. We recommend you approve the special permits, but along with and concurrent with the conditions stated in the site plan approval.

Motion was made by Robert Laplante of “so moved.” Motion was seconded by Scott Mandeville.

Discussion: Nick Cracknell, representing applicant David Martin. The stipulations that Nipun put forward last Monday for the site plan review approval we're in full agreement with. I just wanted to make a couple clarifications, based on a meeting we had with Nipun to go over those stipulations with my client Dave Martin. Number one, this is really just to establish the retail use. That is the reason you have a different vote. It is to establish that we're asking for retail use on the ground floor, not a restaurant as was originally discussed. Just to acknowledge for the board and abutters, any potential restaurant use would require us to come back and amend this permit, and depending on what type of parking arrangement we'd present for restaurant use, you will determine along with Nipun whether it is a material change and requires notice, but we'll use best efforts to communicate with the Sandlers, as direct abutters, even if it is a minor amendment, because of the parking, to let them know. So it is to establish the retail use of the ground floor, that special permit. Embedded in that is acknowledgement that we are using the municipal lot and facility of the senior citizen center, and the lower milliard Water Street parking deck and lot as meeting our off street parking requirements beyond what we are providing Fruit Place extension passage way and behind the building #3, just clarification on additional pieces of the conversation from last Monday to this Monday. We received information from the Sandlers that they prefer not to have the stairs that were connecting the Fruit Place extension or passageway down to the courtyard within the 4 foot easement area abutting their building, which I wasn't even aware of until the last time we met here. So we agreed to move the stairs out of the 4 foot maintenance easement that they have on Mr. Martin's property. That will be reflected on the final site plan that we plan to submit this Friday. I'm hoping we can have a pre-construction conference to at least have everybody on notice as to what the next steps are. We've agreed to put in more mature landscaping in front of the taller wall that we're asking for through the waiver to support that parking deck. David is not here yet, but he will reach out to you, Nipun, he has gone back to Shea Concrete to talk about straightening the wall, and there are some serious concerns the contractor has in getting closer to Griff's building, which apparently doesn't necessarily have a footing. It is a slab on grade. We're 6 feet off the building now. What we had heard from Brian Couture from Horsley-Witten that we originally went to and discussed the idea of moving that wall away from the edge of the street, closer to Griff's property line, which would be a 3-4 foot realignment. I'm not sure Shea Concrete is comfortable with that because of the construction and grade for Griff's building. So that wall might not move much at all because of the conditions in Griff's building. As Nipun recommended, all the fencing we're going to put around the parking lot that is required will resemble the CVS fence on Main Street and Route 110. The dumpster is being relocated to the top. There is an agreement between the abutters and my client that it is agreed to re: the relocation of the dumpster and overhead electrical utilities. I think we're using the old dumpster pad next to his building to receive the transformer, but I'm not the expert on this. That is going to be all agreed to before we start any construction. Nipun asked us in going through the decision for Monday, prior to construction, to present the draft easement for public access and infrastructure maintenance and ownership in the passageway that my client owns at the time, maybe this Friday, and documents will go through city council for acceptance. We're to have final construction easements and any permanent easements that are required related to the retaining wall prior to construction, and a whole host of smaller items that we're working on, anticipating that we could have preconstruction moving as early as Friday.

Nipun Jain: The reason why I didn't specify some of the things that you clarified, thank you, is because I believe that was discussed extensively 4-5 weeks ago, with regards to the special permit and specific use. As you stated, this permit is only for retail use and not for restaurant use or for residential. Vote on the motion, seeing as there is no more discussion is apparent.

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Vote on the motion is 6 yes, with Lars Johannessen abstains.

Motion was made by Scott Mandeville to close this hearing. Motion was seconded by Robert Laplante. AIF. Hearing is closed.

**24 Pond View, 0 Summit Avenue – The Village at Bailey’s Pond
Site Plan Review (modified project)**

Applicant: Fafard Real Estate and Development Corporation

Representative: Attorney Jeffrey Roelofs.

Request from applicant to continue this hearing to June 13, 2016.

Motion by Lars Johannessen to continue this to the June 13 meeting. Motion was seconded by Lorri Krebs. AIF.

**47 ½-57 Kimball Road – Definitive Subdivision Plan approval with (3) Special Permits
(Cluster Residential, Common Access Driveway and Water Protection Resource District.**

Applicant: BC Realty Trust and Phil Parry, Esquire

David Frick: We don’t have anyone here for that. About a month ago, Nipun sent an e-mail to the applicant and heard nothing back. So on the 25th he wrote a letter with all the proper accoutrements to make sure the person got it and has heard nothing back from the applicant since.

Nipun Jain: So the letter was sent out April 25. We have official record that it was received by both the applicant and their representative on April 29. So they have had the letter since that time, which is about ten days, and we’ve not received any communication either written formally or otherwise from the applicant that they have any interest in responding to the **letter** from the PLB or prior documents. I sent in that letter an outlined what permits were applied for, dates from the date of filing through the last date of continuation, so it was a chronological description of events to date. It essentially outlined that you filed for these applications, the peer review consultant issued a review letter. It outlined that you requested continuation in Sept., Oct. Nov. and Jan. and Feb. After that we have not received any requests for continuation that indicates something is wrong at your end and that there is a reason why you cannot respond. So at this time, the board is requesting that you either respond to the peer review comments in writing or come to this meeting, at which time the PLB may close the public hearing and render a decision on this matter. That is the letter that was sent out but got no response.

David Frick: So we have two options: 1. to close the public hearing and have staff work on a denial or 2. ask staff to touch base with legal representatives to see what they think Of this course of action.

Nipun Jain: On the first matter, you can close the hearing, then you would debate as to what is the decision of the PLB, and if the decision of the board is to not approve, then you would write that. So the first option would be to close the hearing and discuss what would be the action of the board, and if it is a majority vote that it be denied, then I would write a draft decision.

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Robert Laplante: Would it not be more appropriate to make a decision on this application, then close the hearing like we usually do? That is the most safe approach. We've exhausted our opportunities to deal with them.

Nipun Jain: That would be true, too.

Ted Semesnyei: So are we giving a second option here because we are not sure if we should go to legal counsel first?

Karen Solstad: If we deny, because we haven't heard anything from the applicant, they can't re-submit, right? They have to wait?

Nipun Jain: Yes. If it is denied and upheld, then yes, the applicant would not be able to file a new plan for two years. However, remember they have an approved A and R Plan that still allows them to build 6 homes to be built on that property. So you can still possibly have a developer move ahead and build homes. Regardless of what the developer can do, we have a legal obligation to act on the application. What the developer chooses is not under our control. If you decide against approving the project, do you know what you will be basing your denial on? It cannot be that the applicant did not provide information. It needs to be very specifically stated as to what information did you not receive that then leads you to determine that the application does not comply with any specific provision of the subdivision control law, as well as any specific provision of the zoning bylaw. So unless you have that very clear, there are 5 special permits, so it is not just saying that you didn't have enough information to render an opinion on. You can't vote like that.

Scott Mandeville: I recuse myself on this matter anyway, as an abutter.

Karen Solstad: Would there be a reason to provide one more letter to the applicant to say "withdraw your application, or we'll have to make a decision."?

Nipun Jain: I think by default you are. If you are going to have to move this to the next meeting to get that list of reasons why this project should be denied, and keeping the hearing open, by default you are giving the applicant an opportunity to come speak before PLB closes the hearing. And they have had that.

David Frick: To short circuit this, I suggest that get a list of reasons why and have him list it out? Can we just ask him for a postponement to the next meeting?

Nipun Jain: I don't think I'll have it by the next meeting, given that this is the first circumstance that I would be putting together a decision that covers more legal ground than typical, that it be brought to the first June meeting...June 13th.

Motion to continue this to the June 13 meeting was made by Robert Laplante and seconded by Lars Johannessen. Six yes.

Mr. Mandeville recused himself and spoke only as an abutter.

60 Merrimack Street – Hatters Point Marina

Representative: Mr. Paul Gagliardi

Applicant has requested continuance to the May 23, 2016 meeting.

Motion made by Lars Johannessen to continue this to May 23 meeting. Motion was seconded by Ted Semesnyei. Six yes votes, with Robert Laplante recused.

A P P R O V E D

ADMINISTRATIVE:

**Amesbury Soccer Association - 219 Lions Mouth Road, Amesbury, MA
Representative: Margaret McCarthy.**

Requesting extension for Special Permit Application until Dec. 30, 2016 for earth removal and fill.

Motion to approve by Lars Johannessen. Motion was seconded by Lorri Krebs. AIF.

Status of Peer Review and Inspectional Services for all Stantec Accounts – Additional Funding:

Nipun Jain: We are trying to streamline the process of requiring applicants to provide funds. I'd like to streamline the process of getting funding, making sure there is adequate funding left on current projects where there are reviewer inspections. I'd also like Stantec to be here to give you an overview of what some of their frustrations are. Invariably, we are faced with the challenge of reviewing plan changes during construction. So this is just to open up the dialogue of inspectional funding.

60 Merrimack Street -Hat Factory - Phase II - Site Plan Review, Performance Bond, Readiness to Proceed and Building Permits:

Robert Laplante recuses himself.

Nipun Jain: The developer has requested sign off on the building permit. As part of our review, we asked Stantec to do two things: 1. make sure they provided all the documents and are ready to proceed. Our findings are two fold: we got a memo from DPW that recommends the developer address the comments as they relate to the as-builts for the work that is within the Merrimack Street. It's a memo addressed to DPW which DPW recommends the applicant provides that information, and they would only be willing to sign off on the building permit, if that information is provided within 30 days of this memo, which is today. The second part is, what Stantec found is that the developer needs to provide 3 things to PLB: 1. a performance bond or the remaining work which is improvements within the right of way/Merrimack Street and other improvements on site in order to proceed. 2. to provide the findings of the final report that they were required to produce during the tie back work to ensure that there was no damage to surrounding properties and foundations. 3. The as-builts. They already put in the foundations, and the special permit granted by PLB was for very specific setback distances. So in order to determine compliance with those special permits, Stantec recommends we get a certified foundation plan that shows that the minimum setback has been met. That includes certification from the architect that their construction plans comply with the height that was approved. Those are the 4 things that Stantec recommends the developer do before PLB or staff signs off on the building permit. So you basically require that the developer comply with the requirements stated in Stantec's memo to the PLB.

Motion by Scott Mandeville to request the developer to come into compliance with the recommendations from the Stantec letter received by staff. Motion was seconded by Lars Johannessen. AIF.

Nipun Jain: Also, the developer requests changing the window designs facing the river.

A P P R O V E D

Motion by Scott Mandeville to consider the request as soon as they supply the info requested by Stantec. Second by Lorri Krebs. AIF.

Scott Mandeville made a motion to close the hearing. Ted Semesnyei seconded the motion. AIF.

Meeting adjourned at 8:35 PM.