

MINUTES OF THE PUBLIC HEARING  
SUDBURY BOARD OF APPEALS  
SEPTEMBER 18, 2006

The Board consisted of:

Stephen M. Richmond, Chairman  
Jeffrey P. Klofft, Clerk  
Elizabeth A. Taylor  
Constantine Athanas  
Nancy G. Rubenstein, Associate  
Jonas D.L. McCray, Alternate

Also: Jody Kablack, Planning Director  
Edward Marchant, Consultant

For the Applicant:

Attorney David A. Wallace  
Russell Tanner, Applicant  
Holly Darzen, Linea 5, Inc., Architect  
Mark Beaudry, Meridian Associates, Civil Engineer  
Jeff Richards, Meridian Associates

Notice was published in the Sudbury Town Crier on August 31 & Sept. 7, 2006, posted, mailed and read at this hearing.

Mr. Richmond explained that this Board is governed by M.G.L., Chapter 40B, Section 20-23, the Sudbury Comprehensive Permit Rules, and State Regulations 760 CMR 31. The format will begin with a presentation by the applicant, followed by comments and questions from the Board, after which input will be taken from the public. Hearings will adjourn not later than 10:30PM and will be continued to a date certain as necessary.

If a hearing is continued and any party wishes to submit additional information to the Board, up to 20 copies of the submittal may be required at least 7 days prior to the continuance in order that they can be distributed to the appropriate Boards and members of this Board. Any information not received within that time frame may not be able to be considered at the continuance.

The Board was in receipt of the following:

- Letter dated June 29, 2006 from Russell Tanner with application package consisting of Sections 1 through 10
- Traffic Impact Assessment prepared by Abend Associates dated July 21, 2006
- Letter dated July 18, 2006 from Russell Tanner confirming commencement of the public hearing on September 18, 2006

- Notice of Disclosure dated July 27, 2006 from Planning Director, Jody Kablack (read into the record by Ms. Kablack)
- Letter dated July 27, 2006 from Town Engineer, I. William Place
- Letter dated August 24, 2006 from Frank Riepe, Chairman, Design Review Board
- Letter dated September 8, 2006 from Town Engineer, I. William Place
- Letter dated September 11, 2006 from Robert Leupold, Health Director
- Letter dated September 12, 2006 from Lt. Richard Glavin, Sudbury Police Dept.
- Memo dated September 14, 2006 from Planning Director, Jody Kablack (compilation of comments from several town officials attending Sept. 12<sup>th</sup> staff meeting)
- Notice of Disclosure dated September 18, 2006 from Stephen M. Richmond, ZBA Chair (read into the record by Mr. Richmond)

Mr. Wallace introduced the members of the team for this project. He said the project comprises approximately 10 ½ acres on the south side of Route 20 and borders on some wetlands and Hop Brook. It is proposed to construct 66 units of which 17 will be affordable. The affordable units will be interspersed throughout the development. There will be some 3-bedroom units, some 2-bedrooms in a variety of styles, but basically a colonial-type house which seems to work well in Sudbury.

An extensive amount of time has already been put in with the Conservation Commission defining wetlands going back to last fall. In addition there have been meetings with department heads, the most recent being September 12<sup>th</sup>.

Mr. Wallace said the 17 affordable units comes out to a little bit more than 25%. He said Mr. Tanner qualifies for this project through Mass. Housing and has a site approval letter. It will be a limited dividend organization requirement under 40B which allows 20% profit. Financing will be obtained either through Mass. Housing and their Housing Starts Program, or through a local bank that is monitored through Mass. Housing.

With regard to meeting the threshold criteria of 40B and 760 CMR, Mr. Wallace said Sudbury currently has approximately 4% of affordable housing stock, which is well below the 10% cutoff. The land area comprises 24.7 square miles which comes to 14,855 acres, excluding publicly-owned land and conservation land, leaving 11,130 acres of developable land. 40B says affordable housing stock cannot take up more than 1 ½% of that developable land which means that almost 167 acres could be developed for affordable housing. He said Sudbury is nowhere near that.

In addition, if 10 acres, or 3.3% of the total developable land, has been built upon within the last calendar year for affordable housing, then the town is not subject to 40B. Mr. Wallace said the last affordable units that were built in town were in the Carriage Lane development and the last unit was sold in 2004. There were no new structures built within the last year; therefore, this project meets the 40B criteria.

Russ Tanner introduced himself as the manager of TD Sudbury Village which is the applicant. He said he began looking at sites in Sudbury at least two years ago and eventually

was able to put one large parcel plus two smaller parcels under agreement, which is the site before the Board at this time.

Mr. Tanner said he has been involved in developing mixed income housing since the mid 1980s. His first comprehensive permit was in 1985 in Milton, MA. He has a project in Nantucket for which construction has recently begun, and there are projects in Lexington and Sherborn as well.

Jeff Richards, Meridian Associates, displayed the plan which he explained is also a preliminary plan in the sense that it was suggested by town personnel that they do a plan in a broad brush stroke format and talk about the issues before getting into expensive engineering. As a broad brush approach, the parts of the plans can be described first as the site and its relationship to its context. He said the traffic consultant suggested the entry point from Route 20 to be located roughly as shown on the plan which is far enough west of the crest of the hill with good lines of sight in both directions.

Second, is the site's relationship to its natural features. The site itself starts high on Route 20 and drops down. Along the back of the site is an extensive wetland system that eventually becomes Hop Brook. There is a bluff, a railroad track and a bridge in the back. Mr. Richards pointed out the low points of the site and the areas considered to be prime for housing. He said in discussions with the Conservation Commission, it has been made clear that the wild area behind the day care is something the Commission feels would be augmented in this plan and would combine open space under the applicant's control to the adjacent open space next door.

With regard to the housing concept and the internal relationship, Mr. Richards said the housing has been consciously arranged in groupings to form open space courtyards. The driveway ends in a cul de sac and they are working with the Fire Chief to be sure it's adequate. The emergency access and loop were also pointed out.

One of the groupings of six units is a renovation of an existing structure with four additional new ones connecting to the broader neighborhood with a proposed walking trail. There is also going to be a sidewalk along the site frontage. In terms of pedestrian circulation, the hope is that there is going to be a series of neighborhoods organized around the village greens.

Mr. Richmond asked Mr. Richards to elaborate on the idea that keeping the smaller section separate from the rest of the site is a good idea.

Mr. Richards said from the standpoint of the open space and activity, it was viewed by the Conservation Commission as a good idea. There is the desirability for people living in a neighborhood without through traffic and this group can still be connected with a sense of community through the walking path. It is felt that impervious surface doesn't need to be added to an area that better augments the wildlife resource area.

Mr. Richmond asked whether there were wildlife resources in that area.

Mr. Richards said there are wetlands that are delineated along the edge of the property, so it certainly has a habitat. However, a wildlife habitat study was done which found there to be no endangered species.

Mark Beaudry, Meridian Associates, said he has had experience with several 40B projects. With regard to the storm water elements, he has taken an approach which involves minimizing impervious areas to reduce runoff and to try to take some of that runoff, recharge it and hold it at the source to where the water is actually being generated as opposed to traditional method of collecting it in the gutters and putting it into catch basins which go to the pipes to a large detention basin down the end of the line. The objective is to recharge in various places – smaller areas that are more commonly known as retention areas. Instead of the familiar landscape mound, it's more of a landscape depression in the ground which is vegetated to be able to take runoff off of the roadways and buildings and hold it temporarily in those areas. It allows and to recharge to occur and ultimately feed the runoff down through the site so that that when the capacity of those systems are exceeded, it is ultimately brought down into an area where it can discharge. This approach still meets the requirements of storm water management policy of the DEP.

Mr. Beaudry said the status of the on-site wastewater disposal was discussed at the staff meeting. He said although this project will involve on-site disposal, because of the size of the project, the design flow would exceed 10K gallons/day, so it's put into the groundwater discharge permit approval from DEP as opposed to Title 5. He pointed out an area on the plan which was referred to as "the thumb" which initially was planned for waste water disposal. Test pits were dug, the soils were good; however, he said this may not be the best approach. As a result they are looking at other areas, which he pointed out, and are finding good soils in those areas which may be more appropriate for disposal. So, there may be some adjustments to the site that might be coming up shortly in response to those matters.

Mr. Richmond asked whether the package plant and leach field may have to be moved up into the areas that are now shown as houses.

Mr. Beaudry said the package plan will stay down in the same location. The leaching area may have to be adjusted.

Mr. Richmond felt this to be key to the project and questioned how there could be further substantive discussion if the location of the leach fields is unknown.

Mr. Klofft agreed, adding that there has already been discussion on the frontage of Route 20 and the desire for a village feel. It seemed to him that if the leach field is as presented, all the buildings will be pushed back resulting in a completely different look to the site that's pretty substantial.

Mr. Richmond asked for a time frame for resolving this issue.

Mr. Thomas said they finished an extensive amount of drilling in different areas of the site and just got that information back. He estimated that within the next week or two they should be able to digest that information. His hope was to get feedback this evening from the Board which could be incorporated for the next round.

Mr. Richmond said this is a key design issue and he didn't feel that the Board could provide meaningful feedback until the location is decided.

Mr. Beaudry said Board of Health Director Robert Leupold mentioned that the whole groundwater discharge permit process is really at the state level. There is really very little involvement in the local level in that process but the applicant is committed to providing documentation to the town and Board of Health throughout that process. He said typically they keep the local Boards of Health involved on a courtesy basis.

Mr. Beaudry said he spoke to Mr. Leupold about this at the meeting last week. Mr. Leupold does want to be copied on the testing information and will probably be notified when the testing is going to occur so he can stop by.

Holly Darzen, Linea 5, Inc., was present to describe the architecture. She noted that since this is still a preliminary plan, they are trying to make the architecture fit with the site. She displayed several boards depicting a variety of units indicating that partly the variety will react to the topography of the site – but they also want smaller units and larger units to accommodate more of a cross section of people rather than just have a single market project. From the boards she described the units in terms of square footage, floor plans including number of bedrooms, garage layouts, architecture, etc., which have been designed around the topography of the site.

Mr. Klofft questioned the rationale for a waiver on height given that Sudbury has a number of townhouse units and to his knowledge none have asked for waivers on height.

Ms. Darzen felt part of the height issue is because of the walkout basements and grade issues.

Mr. Klofft felt the 36-foot height of the Boston Post Road units seemed high.

Ms. Darzen said they are trying to have units that don't have flat roofs – it's for aesthetics. She also felt it beneficial to have usable space in the attic.

Mr. Tanner added that the waivers would only be required for the units on Boston Post Road and in back. All the other units will comply.

Mr. Klofft felt the attempt to design the units along Boston Post Road without seeing the garages is positive. He suggested more could be done with the Design Review Board to give those units a more historic character.

Mr. Klofft also expressed concern regarding the density and noted that there isn't much in the way of visitor parking. He felt there was less community space here than in some of the other more recent projects that were before the Board. He said the Board tried to create more of an open or semi-rural feel to some of those developments and this plan feels a bit dense.

At the staff meeting, Mr. Klofft noted that there was discussion of a left turn lane. He asked for comments.

Mr. Tanner said that issue was raised and he will look into it. He has spoken with Mike Abend, the traffic consultant. However, he felt there needs to be more discussion among Mr. Abend, Ms. Kablack and the Town Engineer to see what is doable there to the extent Mass. Highway will allow.

Ms. Taylor asked if there was any possibility that the entry road would have to move because of the wastewater treatment issues.

Mr. Tanner felt the entry road as shown seems to be the best spot, give or take 20 feet or so, from a sight line standpoint and functional standpoint.

Ms. Rubenstein said there is an existing guardrail that is presently near where the emergency access road is proposed. She asked whether the plan proposes to remove that rail.

Mr. Richards replied that it could be modified as needed to accommodate the emergency access. He said there was discussion at the staff meeting not to pave it but to have a surface stable enough to accommodate fire trucks and gate it.

Mr. Beaudry added that there is an existing driveway in that location. The intent is to leave the guardrail essentially intact.

Mr. McCray had a question regarding maintenance on the site.

Mr. Tanner said ultimately it will be the responsibility of the condominium association. There will be a professional management company in charge of property development and sales. There will be no maintenance building on the site. He said the treatment plant will have its own equipment building.

Mr. Richmond had comments regarding external traffic impact and internal traffic flow. He said he had concerns about the backup on Route 20, especially during peak hours, to this site. He would like the applicant to come up with some more definition of whether it's possible to get a turn lane in there, and if not, would there be a need for signalization to prevent a massive backup.

With regard to the internal traffic flow and the separation of the two parcels, Mr. Richmond said it appeared that Mr. Tanner was looking towards eventually obtaining the fourth parcel.

Mr. Tanner said that was not the motivation. He described an earlier version noting that the advantage to this plan is that it is creating a larger open space and allows for some of the storm water to happen, but connects visually and functionally with the conservation perspective to the larger wetland.

Further discussion followed on the internal flow. Mr. Richmond felt if the intent is to make more of a connection to the open space, he would like to see that space opened up a bit to allow for a visually pleasing area for people to enjoy.

Mr. Richmond would also like to see a clear commitment to connect this development to the rest of the downtown area. He did not see a connection with this plan.

In addition, there is the issue of the wastewater and how it's going to affect the site. Mr. Richmond stressed that before the Board can comment, it needs to see those leach fields on a map, after which it can look at individual units, streetscape, and how it will all work.

Comments were requested from the public.

Paula Grisafi – 22 King Philip Road, abutter, had concerns with regard to traffic. She said there is already a substantial problem with the Next Generation Day Care Center noting there have been several accidents in that area. In addition, she already has motorists from Next Generation who turn right out of the school, then turn left into her driveway and loop around because they can't make the left turn onto Boston Post Road. She said they are coming down their street and increasing the traffic in this area.

Another area of concern was the storm water which at some point would drain into the wetlands. Ms. Grisafi questioned how this could be mitigated in terms of preventing contamination of the wetland. In addition, with the number of cars that would be parked on the development, and the density of the development which will add a lot of people to a place that normally doesn't have that much density, she felt it will overwhelm all the systems.

Mylan Jaixen – 25 King Philip Road, abutter asked how a turn lane could fit into an already narrow road.

Mr. Klofft said that is one of the questions the Board asked the applicant and is one they will need to investigate.

Margaret Tristan – 12 King Philip Road, abutter, asked why a study wasn't done of this area. She felt that with the traffic already on Route 20, to put in 66 new homes could result in 120 cars, plus the children who will be in the school system will cause a dangerous situation in that area.

Ms. Kablack said there was a letter from the police department which is on point and specifically addressed the issues of increased traffic and King Philip as a commuter bypass. A

study was done last spring which indicated a significant spike in use during the rush hours. Ms. Kablack said the police department is very aware of the commuter bypass issue there and have done accident data which the applicant is being asked to summarize in his traffic study. Ms. Kablack said they are recommending that the Board consider requiring the closure of King Philip Road between the hours of 4-7PM which would not allow cars to bypass the backup traffic. However, one of the things that they do want to make sure of is that this would also apply to King Philip resident traffic. If it's closed to traffic – it's closed to all traffic.

Hans Helgeson – 4 King Philip Road, abutter, perceived the issue at this time to be that of people exiting Next Generation who cannot make a left onto Route 20 who then turn right, then left onto King Philip Road to go westbound. He felt this will be exacerbated by this development.

Mr. Richmond said the storm water impact is a concern. He asked Mr. Beaudry to speak to what that will require in terms of water control and pollution control.

Mr. Beaudry said the runoff must be pre-treated before it is discharged. He said this project still has to go through the Conservation Commission and they will going be looking at this project as far as storm water quality, etc.

Mr. Richmond said the Board will need detailed plans showing the controls which will be put in place to insure that there isn't contaminated storm water coming off the site - and those would be incorporated into the approval. He said Conservation Commission approval is critical to the design layout and would encourage the applicant to go before the Commission with their proceedings going on at the same time as this hearing.

Mr. Tanner said he has been before the Conservation Commission three times which was part of the evolution of the plan. He had discussions with the Commission three weeks ago and would hope that once the plan is resolved to submit a Notice of Intent to them so everything can be done in parallel.

Mr. Jaixen asked where the school children would congregate.

Mr. Richmond commented that it would be helpful for the developer to inquire about this with the school department. He said for the previous 40B, the Board asked the applicant to design an area where children could gather safely – which is the question that needs to be resolved with the school department.

Mr. Klofft asked whether Mr. Tanner had met with the Design Review Board to solicit architectural comments.

Mr. Tanner said he did not meet with the Board but spoke with DRB Chairman Frank Riepe at the staff meeting.



Mr. Richmond was looking towards a continuance date. For the discussion at the continuance, he said it would be helpful for the applicant to finish the testing and locate the leach fields on the plan. In addition, the Board would like to see where the units will be placed with that placement and design having first been reviewed by the Design Review Board.

Mr. Tanner would like to schedule another staff workshop to include a Board member. He would estimate 6 weeks to 2 months to be ready for the next continuance.

A site visit was scheduled for October 18, 2006, 7:30AM.

The public hearing was continued to November 28, 7:30PM.

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Stephen M. Richmond, Chairman

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Jeffrey P. Klofft, Clerk

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Elizabeth A. Taylor

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Constantine Athanas

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Nancy G. Rubenstein, Associate

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Jonas D.L. McCray, Alternate

