

IN BOARD OF SELECTMEN
TUESDAY, OCTOBER 14, 1997

Present: Chairman Lawrence L. Blacker and Selectmen Maryann K. Clark and John C. Drobinski.

The statutory requirements for notice having been met, the meeting was convened by Chairman Blacker at 7:35 p.m. at the Fairbank Senior Center.

Approval for Bonfire at Lincoln-Sudbury High School

Present: Francis Logan, 39 Harness Lane, and others.

The Board was in receipt of a communication, dated October 10, 1997, from Francis Logan, 39 Harness Lane, on behalf of a group of high school parents, seeking permission to have a bonfire at the Lincoln-Sudbury Regional High School on the evening of Wednesday, November 26, 1997. Mr. Logan reports that the event has been approved by both the high school and fire department.

It was on motion unanimously

VOTED: To grant permission to Francis Logan, 39 Harness Lane, to have a bonfire at the Lincoln-Sudbury Regional High School on the evening of November 26, 1997, subject to reasonable restrictions by the Fire and Police Departments.

Minutes

It was on motion unanimously

VOTED: To approve the regular, as amended, and executive session minutes of September 22, and the special sessions minutes of September 23, 24, and 30, 1997.

Donations - Council on Aging Vans

It was on motion unanimously

VOTED: To accept \$166.72 in miscellaneous donations for deposit into the Council on Aging Van Donation Account and to authorize the Council on Aging to expend the same for purposes of operating and maintaining the Council on Aging vans.

Board Meeting Schedule

The Board was in receipt of a proposed meeting schedule for 1998 and it was on motion unanimously

VOTED: To approve said meeting schedule for 1998.

Approval of Drainage Easement - Plantation Circle

It was on motion unanimously

VOTED: To accept a drainage easement, dated September 22, 1997, granted by Barberry Homes, Inc., as shown on "Definitive Subdivision Plan Green Hill Estates in Sudbury, Mass", dated July 11, 1986, revised February 14, 1991, additions and revisions by David Edward Ross, September 10, 1997, and located on Lots 1, 5, and 6 on Plantation Circle.

Board Policy and Procedures - Amendment to Section Re: Site Plan

It was on motion unanimously

VOTED: To continue the Board's consideration of amendments to its Policy and Procedures, Section I, regarding submission of site plans, until its next regularly scheduled meeting on October 27, 1997.

Meeting with JoAnne O'Leary, Boston Edison Community Relations Representative

Present: JoAnne O'Leary, Boston Edison Community Relations Representative; Michael C. Dunne, Fire Chief; and others.

The Board was in receipt of the following:

1. A communication, dated August 27, 1997, from JoAnne O'Leary, Boston Edison Community Relations Representative, including the company's Circuit Outage Report pertaining to the two circuits supplying the Town. Such report indicates recent outages have occurred due to damage caused by: (1) the last two major storm events; (2) vehicles hitting poles; (3) construction involving a cable being dug up; and (3) overhanging trees and branches. Regarding tree trimming, Ms. O'Leary states that currently trimming is permitted only allowing a 3' clearance to wires and equipment. Although Townspeople prefer the scenic look resulting from a dense canopy of trees, Ms. O'Leary states that such causes a lot of damage to wires and poles. Currently, the company is pursuing a pilot program allowing cutting for a 12' clearance to determine the effectiveness of such a more extensive trim.
2. A communication, dated October 8, 1997, from Town Manager Ledoux, outlining the subjects of interest to the Town to be discussed on October 14, 1997. Those included: power outages, tree trimming, removal of double poles and placing the transformers boxes at the Town Centre underground.

Chairman Blacker inquired of the status of the removal of double poles.

JoAnne O'Leary, Boston Edison Community Relations Representative, stated that Boston Edison crews had been out during the summer and some poles along Routes 20 and 27 had been removed. She explained that the order of the removal of wires was: Boston Edison, cable, Fire and then Bell Atlantic. She said that when the poles are completely clear, Boston Edison comes back out and actually removes the pole.

Chairman Blacker stated that he wanted a inventory list of (1) all the double poles within the Town; (2) those double poles that have had the various wires removed and were merely awaiting actual removal; and (3) those entities still on the poles so that the Board might separately address their concerns with those entities.

Ms. O'Leary said that she could provide such information and would do so before her next quarterly meeting with the Board.

Fire Chief Dunne stated that he was also monitoring the situation and had a list of all the double poles. He asked if Ms. O'Leary might send him a note when a particular pole was removed and she said that she would do so.

Regarding tree trimming, Ms. O'Leary stated that one area within the Town, along Maynard Farm Road, had been designated for an extensive tree trimming effort to provide a 12' clearance. She said that it involved the cooperation of the private landowner and the Tree Warden. She said that the company intended to monitor the program to determine if this extensive trim reduced outages to the extent that warranted the expenses involved.

As to the transformers in the Town Centre, Ms. O'Leary said that they had to be located above ground. She said that they could be disguised by landscaping with shrubs so long as maintenance and emergency crews have a 3-4' clearance around the boxes. She said that some transformers have doors on just one side and one can tell from the placement of the hinges where the access is made.

Fire Chief Dunne stated that he was going to be meeting with Boston Edison personnel to improve storm response.

Chairman Blacker stated that the Boston Edison person dispatched to the Fire Department in the event of severe storm was not familiar with Sudbury streets and therefore was hampered in his ability to identify the location of outages. Chairman Blacker requested that the company let the Town know if it is going to be without power for a substantial period.

JoAnne O'Leary said that it was difficult to predict how long an outage will exist because emergency needs rapidly change during major storm events. She said that customers complain if they are misinformed. She did say that main circuits are picked up first and, for example, if you are the only house in the neighborhood without power then you will probably be without power for some time. She also informed the Board that the company was replacing some fuses with an improved type in hopes of reducing outages. Finally, Ms. O'Leary noted that the company has the ability to call in additional crews to assist the ten trucks and crews allocated to this area. She said the company could call in foreign crews and, in some circumstances, dispatch crews from Boston proper, in severe situations.

Dog Complaint - Annett McCabe/Ilya Rutman

Present: Annett McCabe, 15 Easy Street; Jennifer McCabe, 15 Easy Street; Ilya Rutman, 693 Boston Post Road; Betsy M. DeWallace, Dog Officer; and others.

The Board was in receipt of the following:

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1. A complaint, dated September 4, 1997, from Annett P. McCabe, 15 Easy Street, alleging excessive barking by the dog owned by Ilya Rutman, 693 Boston Post Road. More specifically the complaint alleges barking on and off during the night and early morning hours.
2. A communication, dated October 10, 1997, from Betsy DeWallace, Dog Officer, reporting that Annett McCabe, 15 Easy Street, has repeatedly complained of nuisance barking by the German Shepherd puppy, named Masha, owned by Ilya Rutman, 693 Boston Post Road. More specifically, Ms. McCabe complains of barking in the early morning, the evening and whenever the family is outside with the dog. Dog Officer DeWallace reports that the puppy is licensed.

Complainant Anne McCabe, 15 Easy Street, stated that the dog, "Masha", owned by Mr. Rutman was creating a disturbance in the neighborhood. She said that she had always had dogs and that they can be trained not to bark. She claimed that Mr. Rutman was not being a good neighbor.

Her daughter, Jennifer McCabe, also of 15 Easy Street, stated that the dog barked early in the morning and late at night. She said that the problem had begun about a year ago, last February, and has continued all spring and summer. She said that she and her mother are dog lovers and do not want to take their dog away from them. She said that her mother, a dog trainer, had even offered her services, but they (the Rutmans) have never resolved the problem despite the complaints.

Betsy DeWallace, Dog Officer, stated that she had recently spent about an hour with the Rutman family and their dog "Masha". She said that the dog never barked when she was there. She said that it was obvious that they loved the dog and she was very impressed with their care. She said that the dog was still young, eight and one-half months old, and will undoubtedly bark less with maturity. She said that she had received a number of calls complaining about the dog and had left notes at the Rutman residence. Even on those occasions, she admitted she had not personally heard the dog barking, but pointed out that she was not present in the early morning/late evening when the complaints were generated.

Annett McCabe stated several months ago the dog would bark for a full five minutes at say 4:00 a.m. and then stop and start up barking again just as she was drifting back to sleep. She cited another example of the dog barking at 1:00 and 2:00 a.m. She said that she understood on some occasions the dog would bark at a cat. She agreed that the situation had gotten better recently. She said that the first couple of times she spoke with Mr. Rutman and offered to work with them. She said that Mr. Rutman responded asking that they be given more time with the dog. Ms. McCabe opined that the dog had gotten in the habit of barking when it was let into the yard. She said it had become a form of exercise.

Selectman Clark asked if the dog might be afraid of other animals, such as, coyotes? Anne McCabe responded that that would not reasonably happen every night. She opined that the dog was not defending its territory or in need of socialization. She said that it had simply gotten into a bad habit.

Ilya Rutman presented the Board with a communication, dated October 13, 1997, signed by nine neighbors indicating that they have no problem with Masha, the Rutman's dog and a plot map showing their location and Ms. McCabe's location to the Rutman property. He said Masha was born on January 31, 1997, and that they brought her into their home when she was eight weeks old on Easter weekend. The first time Annett McCabe called to complain was in July. She never identified herself and literally

screamed at Ms. Rutman who had answered the phone. Later, he asked around the neighborhood and determined that it was Annett McCabe who had called. He met with her about an hour and she had said that if they were unwilling to spend time with the dog they should return it. After that he did not let the dog out after 8:00 p.m. and before 7:00 a.m. He said that he did not understand how the dog could be barking at 4:00 a.m. since the dog sleeps in his bedroom. He said that Ms. McCabe had told him of a special collar that could be used to break the dog of barking; it emits an electric shock whenever the dog barks. He went to a pet store on Route 9 to purchase such a collar and was told by personnel there that it would change the dog's personality and they did not recommend the device. For this reason, he determined not to use or rent the collar and instead he and his family speak to or pet the dog if it barks. He said that there are many dogs in the neighborhood and questioned how Ms. McCabe is able to identify Masha as the dog barking. He has asked the police to have Ms. McCabe restrained from calling his home. He said that she just screams on the phone and it is very unpleasant. He said that the police have not received any other complaints from other neighbors, only from Ms. McCabe. Mr. Rutman explained that Ms. McCabe owns a big white cat that wanders the neighborhood and that his dog has barked at her cat. He contended that they have never left her outside in the dark. When he got the note from the police they began to pay close attention and bring her inside each evening from 8:00 p.m. until 7:00 a.m.

Richard Demers, 6 Uplook Drive, said that Masha does not bother him. He said that it did bark more as a puppy, but now it only barks if he (Mr. Demers) gets near the fence separating their property. He said that he does not see or hear the dog and it does not bother him night or day. He said there are eighteen dogs in the neighborhood. He also said that dogs congregate at the dumpster in the 99 Restaurant near them on the Boston Post Road. He opined that it would be impossible to distinguish Masha's barks from these other dogs.

Pricilla Linden Demers, 6 Uplook Drive, agreed with her husband. She said that their dog had also gotten a complaint from Ms. McCabe some time ago and Ms. McCabe offered to train the dog at the rate of \$50 per hour. She said that at the time of the complaint lodged by Ms. McCabe, their dog was in Maine. She said that dogs are often left outside the 99 Restaurant while their owners are eating. She said that sometimes they are chained to a truck and constantly bark.

Ms. Rutman said Masha has attended obedience school and is taken once a week to a dog daycare in Marlborough.

Selectman Clark commented that the dog is still a puppy and will outgrow the barking so long as the dog is socialized.

Chairman Blacker stated that the owners were being very responsible in bringing the dog inside between 8:00 p.m. and 7:00 a.m.

Chairman Blacker moved to dismiss the complaint suggesting if there are any future problems Ms. McCabe should contact the Dog Officer. He said that the Board would entertain issues in the future, but did not see any issues at present.

The Board concurred and the complaint was dismissed.

Dog Complaint - Michael Zeolla/Jon Delli Priscoli

Present: Michael Zeolla, 100 Prides Crossing; Betsy M. DeWallace, Dog Officer, and others.

Chairman Blacker noted that the prior hearing on this matter had been continued to make certain that Jon Delli Priscoli had received proper notice. He reported that Mr. Delli Priscoli had reconsidered his earlier position and now wished to be present, but was unable to attend this evening. Mr. Blacker said that Mr. Delli Priscoli had informed the Selectman's Office of his request for a continuance only this morning. Mr. Blacker inquired of Mr. Zeolla if he were willing to continue this matter until 7:45 p.m. on October 27, 1997, and Mr. Zeolla had no objection.

Chairman Blacker inquired of Betsy M. DeWallace, Dog Officer, if there were any additional problems and she said that last night the dog was seen out running.

Site Plan Application 97-337 of The Conant-Welch Group, 142 North Road

Present: Peter Conant and Richard Welch, The Conant-Welch Group; William Jeffery, Attorney for The Conant-Welch Group; Timothy Martin, Executive Director, Milton Residences for the Elderly; Sharon Buehrle, Executive Director, Cabot Park Village; William S. Cummings, Cummings Properties and New Horizons at Madonna Hall, Inc.; Jody Kablack, Town Planner; William J. Cossart and John O. Rhome, Planning Board; and others.

At 8:45 p.m., Chairman Blacker re-convened a public hearing on Site Plan Application No. SP97-337 of The Conant-Welch Group for approval of a site plan to construct a 66-unit residential care facility (Northwood at Sudbury), on property located in the Research District at 142 North Road, owned by Sudbury Research Center, Inc., Cummings Properties.

The Board was in receipt of the following:

1. A communication, dated October 3, 1997, from Peter M. Conant, The Conant-Welch Group, granting an extension until October 31, 1997, for the Board to consider the site plan, and suggesting that Town Counsel provide a definition for a "residential care facility". Mr. Conant reports that the Executive Office of Elder Affairs interprets the term more broadly than merely including "assisted living facilities". For the Board's edification on this issue, he included a copy of his letter confirming his understanding of that Office's definition of the term.
2. A communication, dated September 30, 1997, from Janet Silva, Administrative Assistant to the applicant, requesting on behalf Selectman Drobinski certain design and marketing information regarding the project.
3. A communication, dated October 9, 1997, from Peter M. Conant, The Conant-Welch Group, responding to questions posed by Selectman Drobinski, via Ms. Silva, and other concerns raised by the Board during at the public hearing conducted on September 22, 1997. It noted that ownership in Northwood entitles one to residential care services for health care services, initially via a contract with Parmenter Health Services on an as needed basis and such services cannot be removed from condominium documents without consent of the Town. The basic monthly fee includes a personal emergency response system, housekeeping services and transportation services. The activities building provides exercise

rooms, swimming pool, green house and gardening, kitchen and dining areas, library and lounge, convenience store, meeting and craft rooms, administrative offices and a nurses office and wellness clinic. Moreover, should residents need more intensive care, Northwood has a preferred provider arrangement with New Horizons at Madonna Hall in Marlborough for assisted living and Alzheimer's care and Wingate in Sudbury for skilled nursing care.

Regarding project design, the entrance would be via a new 16-foot wide one-way ingress and also via the existing 22-foot wide drive serving the former Unisys building. Egress would be available only via the existing drive since better sight distances are available there. The Zone II/Zone III delineation is derived from a study performed for the Sudbury Water District and accepted by the Department of Environmental Protection. The demarcation is coincident with a natural ridge. The proposed sewage disposal is located in Zone III where, although the soil type is of well drained gravel, ground and surface water drain to the south and southwest, not toward Well No. 5. This drainage pattern has been confirmed by separate studies performed for The Conant-Welch Group and Cummings Properties. Underground parking will be ventilated in conformance with the most recent edition of the Massachusetts State Building Code and protected by automatic sprinklers and heat detectors. Although the new code does not require floor drains, driveway drainage designed to contain the 100-year storm event is located downslope at garage entries. Pretreatment and separation of oil and gas is provided in accord with the Best Management Practices for any spills which may enter the drainage system via surface or parking level runoff. In order to locate the living units within the existing parking lot on the site, a four-story building is necessary. The steel-frame building will have automatic sprinklers and standpipes to provide increased safety for residents. Although the building heights will render the roofs difficult to reach from some points, fire proof stair towers on the outside walls will provide the primary access for fire fighters to enter the floors and roof. An existing swale will be re-located to maintain the westerly flow of surface drainage.

Regarding marketing, Mr. Conant notes that since no state funds are involved, he cannot legally restrict occupancy to Sudbury residents. However, he states that current marketing has been predominately local and a number of Sudbury residents have expressed an interest in occupying the community.

4. A communication, dated October 6, 1997, from John B. Hepting, Inspector of Buildings, concluding that Northwood's proposed services for the care of its residents fulfill the "residential care" requirement of the applicable Zoning Bylaw.

5. A communication, dated October 3, 1997, from Paul J. Lanzikos, President, Association of Massachusetts Homes and Services for the Aging, noting that the definition of service enhanced projects for the elderly can embrace a wide array of models and the state agencies responsible for licensing and monitoring of such programs do not become involved in local zoning interpretations.

6. A communication, dated October 9, 1997, from William S. Cummings, New Horizons at Madonna Hall, Inc., addressed to Peter W. Conant, The Conant -Welch Group, summarizing the preferred provider arrangement between New Horizons at Madonna Hall and Northwood.

7. A communication, dated September 22, 1997, from Cynthia Mayher, Executive Director, Parmenter Health Services, outlining the medical and health care services to be made available to Northwood residents.

8. Architectural Drawings for all unit types, underground parking layout and Activities Building, by CMA Architects, Inc., submitted by The Conant-Welch Group on October 9, 1997.
9. A communication, dated October 1, 1997, from Peter M. Conant, The Conant-Welch Group, addressed to Jody Kablack, Town Planner, and John B. Hepting, Inspector of Buildings, urging letters of support from their respective departments regarding Northwood's conformance with the "residential care" requirement in the Research District which allows for independent living.
10. A communication, dated, October 9, 1997, from John B. Hepting, Inspector of Buildings, addressed to Peter W. Conant, The Conant-Welch Group, explaining his interpretation of bedroom count, noting that for the 50 typical units, the *den*, due to location within the unit, the inclusion of a closet and direct proximity to a full bathroom, is considered to be a *bedroom*, thus resulting in 50 two-bedroom units and 16 one-bedroom units.
11. A communication, dated October 10, 1997, from John O. Rhome, Chairman, Planning Board, noting that the Planning Board enthusiastically supports this project. More specifically, he notes no adverse impact on the groundwater is anticipated and the Water Resource Special Permit is proceeding in a timely fashion. Mr. Rhome concludes that the services to be provided to the residents of Northwood and the agreement to mandate those provisions in the condominium master deed meet the intent of the applicable zoning bylaw. He notes further than Mr. Conant is willing to include many of the provisions pertaining to Senior Residential Communities in his proposal to ensure compliance with the intent of the bylaw. Mr. Rhome enclosed a copy of the Planning Board's draft rules and regulations pertaining to Senior Residential Communities for the Board's consideration. Finally, Mr. Rhome notes that Mr. Conant is willing to limit the number of occupants to two per unit. The Planning Board urged the Selectmen to support this project.

William Jeffery, Attorney for The Conant-Welch Group, stated that there was no formal definition of "residential care facility". He cited the communications with the Executive Office of Elder Affairs as well as the Town's Planning Board and Building Inspector, all of whom interpret the term more broadly than merely encompassing "assisted living facilities". He urged the Board to adopt such an interpretation. He said that Northwood is designed to provide residential care for its occupants who must be 55 years of age or older. He said that the activities building will have space dedicated for the delivery of health care services, including a nurses station and a wellness clinic. He said that *all* of the units will meet ADA requirements with grab bars and doorways of sufficient dimensions to accommodate wheel chairs. Furthermore, each unit will be equipped with an emergency response system. Additionally, housekeeping, linen services, and transportation services are to be provided. He noted that these services along with the age requirement will be incorporated into the master deed to ensure that the character of the facility remains unchanged. He also noted that the developers are willing to limit occupancy of the units to no more than two persons and that such restriction would be included in the master deed to ensure future compliance. He said that these restrictions could not be removed from the title without the Town's permission.

Chairman Blacker suggested that the Board first determine whether the project met the "residential care" requirement set out in the bylaw.

Selectman Clark questioned how the 30-year statute of limitations on deed restrictions affects the continuation of the proposed services and conditions.

Chairman Blacker responded that this could be accomplished by means of the condominium regime; he noted that the proposal at hand was not merely one of land conveyance as is the case with a Senior Residential Community.

Selectman Clark stated that in this case the "care" is not provided by the same owner and furthermore it is not provided entirely on site. She stated that the bylaw speaks in terms of nursing home, and assisted living or independent living. She stated that once "care" is provided then the provisions of chapter 19D come into play.

Selectman Drobinski questioned whether the restrictions on the master deed might expire or lapse with time. He noted that if the provision for supplemental care is eliminated the facility would become a "straight" condominium violative of the zoning bylaw.

Selectman Clark cautioned that it would be difficult to enforce the care component if it is left entirely up to the to association of owners.

Mr. Conant responded that the project is designed to allow the residents to tailor the services to their needs.

Selectman Clark stated that there was no one person, such as a manager or director, to look to for responsibility.

Mr. Conant agreed, saying that initially it is contemplated that there would be a management component, but that eventually the association would control the delivery of services.

Selectman Clark noted that the proposed services did not include a central dining room providing one meal a day.

Mr. Conant replied that the project has always had a kitchen and function room in the activities building. He said that the plan is to leave the matter of meal service to the discretion of the residents. He explained further that if residents requested meal service their request would be honored and such would be the case even if only *one* resident chose to have meal service, which would be on a catered basis.

Ralph Tyler, 1 Deacon Lane, stated that it was up to the Board, with the Zoning Enforcement Agent's input, to determine whether the proposal complied with the zoning bylaw. He said that he had reviewed the verbatim transcripts of the discussion on the 1994 warrant article regarding the particular bylaw at issue. He said that Planning Board Member Rhome had stated that the bylaw merely adds nursing homes and congregate living facilities. Mr. Tyler opined that this proposal goes way beyond the intent of the Townspeople when they enacted the controlling zoning bylaw. He said that he could contract for nursing care, housekeeping care and catered meals at his residence, suggesting that all residences in the Town could become "residential care facilities" under the Northwood scheme. He characterized the proposal at hand as merely an "...artful dodge around the zoning bylaws." He said that the other issue is that research and development requires 20 acres. He said that if you go up to the Cummings site now and look, there appears to be a prototype machine shop. Such suggests that there is research and development

going on at the site. Since 20 acres is needed for that, that only leaves five acres for this proposal and therefore this project is being brought too soon. It is not timely; it does not meet the zoning requirement. He went on to state that there are two other tenants at that site and that by their very names appear to be involved in research and development; those are Integral Engineering and Signal Processing Systems, Inc., There also appear to be other zoning violations that are not necessarily linked to this project.

Chairman Blacker interjected and asked Mr. Tyler to restrict his comments to the matter at hand.

Mr. Tyler responded that there is insufficient acreage at the existing site for the Northwood project due to this other ongoing usage.

Steve Verrill, Verrill Farm, stated that he had 100 acres directly across North Road from the proposed site. He said the site has a history of pollution problems and expressed concern that the proposed high density residential use would contribute additional pollutants affecting both his property and the Town well.

Chairman Blacker stated that he believed that the proposal constituted a "residential care" facility.

Selectman Clark disagreed, saying that the area is highly regulated and that she did not believe that the proposal could satisfy state law which requires that the services be provided on site. She said that she could not find the proposal complied with the meaning of a "residential care" facility.

Selectman Drobinski stated that he was concerned with the facility revoking its care provisions in the future and asked Mr. Conant to what extent those services could be required in perpetuity.

Mr. Conant said that the condominium association could vote to rescind the care provisions but such would violate the restrictions in the master deed and the Town's zoning bylaw and the Town could void occupancy of the facility.

Selectman Drobinski stated he needed to feel comfortable with the fact that the care services could be "locked-in"; he said he was disturbed by this response.

Susan Brand, General Counsel for Cummings Properties, responded that the mortgage holders, the banks, would not agree to continued financing under such a scenario and this would serve as a major impediment to the association taking such a position.

Mr. Tyler said that there should be some minimum level of services and not merely, for example, \$25 for a once-a-year housekeeping service.

William S. Cummings, Cummings Properties and New Horizons at Madonna Hall, Inc., stated that the proposal allows for the resident to select from a menu of options. He said that it allows them to contract with various providers. He said that it is envisioned that Northwood would be each resident's home for a long time and the need for services will increase, not decrease, with time.

Chairman Blacker commented that Mr. Tyler considers the project fine so long as people are paying \$1500 for services they may or may not need. Regarding Selectman Drobinski's concern, he said that he did not believe there was a reasonable likelihood that it would eliminate its "care" component. He

said that he could see the services evolving as the needs change, but that he could not envision all services being eliminated.

Selectman Clark said that if the lenders foreclosed they would end up with the building and could sell to a buyer who would own the entire facility who could contract for the services required. She noted that under the proposal there is no minimum level of service required, there is no common dining room and there is no supervision of the taking of medication.

Sharon Buehrle, Executive Director, Cabot Park Village, stated that the residents at Cabot Park in Newton are all independent. She said that residents enter into one-year leases for the units. She said she has found that the elderly population wants to be able to choose their services. She said that Cabot Park is not governed by 19D. She also was formerly the Marketing Director at Newbury Court in Concord, Massachusetts, which provides independent living by rentals and includes a meal a day in their common dining room.

Timothy Martin, Executive Director, Milton Residences for the Elderly, said that he had been involved in the legislation giving rise to 19D. He said that it arose from a consumer protection concern and requires provision for one-meal a day, some level of health care, and oversight of residents' rights. He said in order for 19D to be applicable to Northwood, Mr. Conant would have to hold out the facility as providing "assisted living" and he clearly is not doing so. Mr. Martin, agreeing with Ms. Buehrle, said the elderly desire as much "self-determination" as possible. He said Northwood constitutes an unique product and opined that there should be more such new models on the market.

Selectman Drobinski asked if the site plan review is recorded with the title and Chairman Blacker responded in the affirmative.

Selectman Clark noted that in a Research District, research and development is permitted on lots of 20 acres or more and she inquired how the Zoning Enforcement Agent overlooked that, if that is the case.

Town Planner Kablack stated that she was aware of Mr. Tyler's allegations and that such had been investigated earlier and no violations were found. She said that the Zoning Enforcement Agent has gone on the record to that effect, finding that the building is an office building. She said that there is a computer software company on site, but there is no large scale shipping of products. The two businesses Mr. Tyler mentions were not there when the investigation was made a few years ago.

Selectman Drobinski directed the Town Manager to request the Building Inspector to review the allegations, make appropriate findings, and report such to the Board.

Town Planner Kablack noted that Mr. Conant will be in control of the project for some time during the start-up and suggested that appropriate language ensuring the delivery of care services could be imposed in those initial documents.

Selectman Drobinski stated he wanted to see if appropriate language could be worked out.

William J. Cossart, Planning Board, said the Planning Board had seen a need for a variety of housing for seniors in the community, including independent living, assisted living, and nursing homes.

He said that in this instance there was no doubt as to the integrity of the developer and urged the Board to approve the project.

Selectman Clark stated that she was not convinced that the proposal complies with the bylaw. She said even with appropriate language delineating the services to be made available there is no guarantee that such can be "locked-in" 40-50 years hence.

Mr. Conant suggested that perhaps a manager could be required to bring together these various care components.

Selectman Drobinski stated that he was in favor of the concept of the project subject to appropriate language being developed to ensure the delivery of care services and the inclusion of such language in the various legal documents to ensure that such services would be delivered in the future.

Chairman Blacker suggested that such language could be included under GL183A, as part of the condominium regime, master deed and bylaws. Chairman Blacker also noted that the Board had until October 31 to agree on such language and that the site plan could be issued subject to the inclusion of such language in the other various documents.

Regarding Selectman Drobinski's technical questions, Mr. Conant explained that the facility could be accessed on a new one-way road off North Road with appropriate signage on North Road. However, he said that primary ingress and egress would be via the existing drive servicing the property. He also noted the availability of another drive accessing the Cummings property, thus indicating there would be a total of three ways to get to the facility for emergency purposes.

As to the groundwater flows, Mr. Conant noted the demarcation of both Zones II and III, and said at the location of the proposed septic system groundwater flows in a south to southwesterly direction, thereby resulting in negligible impact on Well No. 5 or Mr. Verrill's property.

Mr. Conant provided the following information regarding the underground parking: Such areas would be ventilated and have automatic sprinkler systems for fire protection. The requirement for floor drains had been removed from the state code and there was no provision for water service in the garage areas. Automotive maintenance or cleaning was not contemplated in the garage area. Trench drains are to be installed at the entrance to the underground parking for storm runoff. The completed project would not change existing drainage patterns or increase runoff.

Selectman Drobinski suggested that Mr. Conant review the plumbing code as he believed such might require floor drains and Mr. Conant agreed to do so.

Regarding a preference for Sudbury residents, Mr. Conant stated that he could not legally impose such a preference. However, he said his local marketing efforts revealed that approximately 1/3 of those indicating a serious interest in the project were residents of the Town.

Chairman Blacker directed Town Manager Ledoux to request Town Counsel Kenny to draft a tentative site plan decision incorporating the concerns of the Board and further suggested that Town Counsel listen to the electronic recordings of the hearings in addition to reviewing the notes. He further

directed that language crafted to meet the concerns of the Board should also be inserted in various specified condominium documents to ensure compliance in the future.

Selectman Drobinski inquired of Mr. Conant if he were willing to grant another extension if additional time was needed to accomplish this task and Mr. Conant said he would be willing to grant another extension if it were a matter of a couple of weeks, but he was not willing to grant an extension of several months.

With the agreement of the applicant, it was on motion unanimously

VOTED: To continue this hearing until October 27, 1997, at 9:15 p.m.

RCN/BETG - Open Video System

The Board was in receipt of a communication, dated September 18, 1997, from the Cable Television Committee, formally recommending that the Board commence negotiations with Residential Communications Network/Boston Edison Technology Group (RCN/BETG) to provide an Open Video System in the Town.

It was on motion unanimously

VOTED: To concur in the Cable Television Committee's recommendation to commence negotiations with RCN/BETG to provide an Open Video System in the Town and to direct staff to request RCN/BETG to submit a proposal for such service, including provision for fiber optic cable service to Town offices.

Extension of Hours - Jezebel's Restaurant, 29 Hudson Road

The Board was in receipt of an undated communication, from Bill Roche, Jezebel's Restaurant, requesting an extension of hours, more specifically, from 12:00 a.m. on October 30 until 1:00 a.m. on October 31, 1997. Mr. Roche requests this one-hour extension of service because the restaurant is hosting a Halloween costume party with band and he believes the additional time will be needed to break down the band and clear the premises.

The Board was also reminded by the Town Manager of a concern of overcrowding noted by Fire Chief Dunne at an event held at Jezebel's last fall.

It was on motion unanimously

VOTED: To approve the extension of hours for Jezebel's Restaurant, more specifically, from 12:00 a.m. on October 30 until 1:00 a.m. on October 31, 1997, subject to reasonable restrictions imposed by the Fire and Police Departments, and further subject to appropriate measures instituted by Jezebel's to preclude overcrowding problems.

Approval of Ballot Question for December 8, 1997, Special Town Election

It was on motion unanimously

VOTED: To place the following question on the December 8, 1997 Special Town Election ballot, subject to approval of Article 1 by the November 17, 1997 Special Town Meeting:

“Shall the Town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bonds issued in order to purchase or acquire by eminent domain, land known as the Meachen-Meggs property, located on the northerly side of Marlboro Road adjacent to Willis Road, shown on Town Property Map EO8, Parcel 600?”

Warrant Articles for Special Town Meeting on November 17, 1997

The Board acknowledged receipt of the a communication, dated October 7, 1997, from John O. Rhome, Chairman Planning Board, reporting that the Planning Board had voted to withdraw the Planning Board sponsored warrant article changing the minimum lot area to 80,000 for “A” and “C” Residential zoning districts which had been submitted to the Selectmen on September 26, 1997. He informed the Board that the Planning Board had elected to withdraw its article because a petition article on the same subject had been simultaneously submitted.

A proposed ordering of the warrants for the November 17, 1997, Special Town Meeting, prepared by staff was reviewed.

It was on motion unanimously

VOTED: To accept Petition Article: Amend Zoning Bylaw, Article IX, Section IV, B Intensity Regulations - Increase Residential A & C Lot Size, and further VOTED: To acknowledge receipt of October 7, 1997, request for and approve the withdrawal of the Article to Amend the Zoning Bylaw to change the minimum lot area to 80,000 sq. ft. for A and C Residential zoning districts, by the Planning Board, since this article would duplicate the above Petition article.

Regarding the proposed ordering, it was on motion unanimously

VOTED: To approve the ordering of warrants for the November 17, 1997, Special Town Meeting as proposed by Board staff and dated October 14, 1997.

Regarding the wording of the articles and reports, Town Manager Ledoux reported that some had been completed and others still needed more work. Selectman Drobinski stated that use of the term “Pothole Account” in the school budget article is confusing. Town Manager Ledoux explained that it was a term coined by the legislature. He agreed that it might be confusing and stated that he would re-word that report.

Selectman Drobinski commented that the Board needed to inform the Town about the upcoming Special Town Meeting and the issues to be presented at such. He suggested that Board members consider submitting letters to the editor of the *Town Crier*.

Flynn Building

Town Manager Ledoux reported that it appeared the Flynn Building might be renovated to house all Town administrative offices and made ADA compliant with an exterior elevator for approximately \$200,000-\$300,000. In conjunction with moving forward on this goal, he said that it will be necessary to relocate the Sudbury Foundation and the Employees Credit Union. Appropriate notice of the need to relocate has been forwarded to both of those entities.

Town Counsel

Town Manager Ledoux reported that all firms responding to the RFP had been interviewed except for Town Counsel Paul Kenny who was unable to meet with the Board previously due to his trial schedule.

Chairman Blacker suggested that the interview with Mr. Kenny be re-scheduled as soon as possible and the Board agreed.

Executive Session

It was on motion by Chairman Blacker, by roll call vote, unanimously

VOTED: To enter into Executive Session for the purpose of discussing coalition bargaining.

(Chairman Blacker, aye; Selectman Clark, aye; Selectman Drobinski, aye.)

Chairman Blacker stated that the Board would not return to open session.

There being no further business, the meeting adjourned at 11:07 p.m.

Attest: _____
Steven Ledoux
Town Manager-Clerk