

IN BOARD OF SELECTMEN
MONDAY, SEPTEMBER 11, 2000

Present: Chairman Kirsten D. Roopenian, Lawrence W. O'Brien and John C. Drobinski, Selectmen.

The statutory requirement for notice having been met, the meeting convened at 7:35 p.m. at the Town Hall, 322 Concord Road.

Chairman Roopenian reminded motorists to be watchful for schoolchildren now that school is again in session.

Chairman Roopenian announced that positions on various Town committees and boards are available. In particular, Town Moderator Tom Dignan is seeking an individual for the Minuteman Tech School Committee. Interested parties should contact Mr. Dignan or the Selectmen's Office.

Zoning Bylaw – Special Town Meeting

Present: Jody Kablack, Town Planner.

Chairman Roopenian briefly recapped the evolution of the recodification of the Zoning Bylaw, beginning in August 1998, with the assistance of consultant Mark Bobrowski. Copies of the most recent draft, as well as a listing outlining the changes (with comments), were available at the Selectmen's Office, on the web site, and at the Town Planner's office. Ms. Roopenian stated the Board of Selectmen and Planning Board would like to hear from the public on the content of the document and the process.

Ms. Roopenian stated that Mr. Bobrowski is a land use and zoning expert, having authored "Handbook of Massachusetts and Land Use in Planning Law", with a practice in Concord, Mass.

Ms. Roopenian praised all the people who worked on this project, noting their time and effort, as well as professional expertise.

Selectman O'Brien stated the Zoning Bylaw is a large document and expressed concern for both staff and residents having time to review it in its entirety. Chairman Roopenian stated time was lost at many Committee meetings discussing the issue of going forward with this project at this time. She expressed concern for whether the Board, Planning Board, and Zoning Board of Appeals all feel comfortable with the progress made thus far and whether to move forward. Mr. O'Brien reported several Board of Appeals members have expressed concern for moving forward at this time as they feel there is too much to accomplish in a very short period of time with little public involvement. Chairman Roopenian stated the Board of Appeals has provided many valuable comments over the course of this process.

Selectman Drobinski asked how soon the Warrant needs to go to press. Town Manager Valente stated the Warrant must go to print by September 15. She expressed concern for the resources used if the article is withdrawn after printing.

Mr. Drobinski stated he would like to see the revised bylaw passed at the Special Town Meeting, but expressed concern for the timing.

Chairman Roopenian stated the Moderator, Tom Dignan, has the ability to ask for the article to be either accepted or rejected in its entirety, with no amendments allowed. He is currently researching the issue with Town Counsel. Mr. Drobinski opined a “no amendments” policy might bring swift and certain defeat.

Mr. O’Brien opined 98% of the public will not be particularly interested in reading the bylaw through after it appears in the Warrant. Those people will vote according to how much faith they have in the proponents or opponents of the bylaw because they will not understand it. Allowing more time before a Town Meeting would provide opportunity for interested individuals to have time to look it over without rushing through it. He believed citizens are generally not interested in something unless it applies directly to them.

Town Manager Valente stated there are several options, including this or another Special Town Meeting, or waiting for April’s Annual Town Meeting.

Selectman O’Brien stated some Town boards are in favor of the revised bylaw, i.e., Historical Commission, Conservation Commission, Planning Board, to name a few. Other boards are in support but feel the timing is too short.

Chairman Roopenian stated many changes were made to conform to State Statute or the language left the Town vulnerable in that particular area. Mr. Bobrowski’s expertise was very beneficial in this regard. She opined that, no matter what happens, amendments to the Zoning Bylaw will invariably come up at future Town Meetings as the Town and State Law continue to change.

Selectman Drobinski noted Mr. Gil Wright, Zoning Board of Appeals, spent time at the public hearing commenting on the difference between “shall” and “may” with regard to Special Permits. Mr. Drobinski opined a language issue such as that to be almost irrelevant compared to larger sections.

Selectman Drobinski suggested continuing the Committee’s work, using a representative from each Town Board, to develop a final draft, with one complete reading before going to print.

Jody Kablack, Town Planner, stated the public hearing was continued to Wednesday, September 13, at 7:30 p.m. to allow for more discussion and public input. She stated Town Boards are reluctant to declare their support for the bylaw (in writing) if they have not had any opportunity to work on the Committee. Getting that kind of declaration before print date of September 15 simply will not happen. She stated a full complete reading of the document still needs to be done. She stated further that the Zoning Board of Appeals has indicated they will not support the bylaw if a complete reading is not done before printing. She opined an additional 60 – 90 days would be necessary to finish with appropriate public input and final reading.

Selectman Drobinski stated support from Town boards is vital to completion of this project, and having additional time will accomplish that to everyone’s satisfaction. He stated further the Board is not attempting to “push it through” but feels the bylaw needs to be recodified to protect the Town. Chairman Roopenian and Selectman Drobinski expressed disappointment the matter would not move forward as planned.

After much discussion, it was on motion unanimously

VOTED: (a) To withdraw the Zoning Bylaw Recodification Bylaw Article from the October 23, 2000 Special Town Meeting Warrant; (b) to complete the recodification revision and review by December 31, 2000; (c) to prepare the revised bylaw in Warrant format ready for submission; and (d) to develop a schedule of meetings with Town boards, committees, and the public to prepare for a future Town Meeting.

Lincoln-Sudbury Regional High School Committee

Present: Andrew Schwarz, Chairman, LSRHS Committee.

Mr. Andrew Schwarz briefly recounted the progress made toward securing a new school, based on rapidly increasing student population and deterioration of the present facility. He stated the original plan was to renovate and add on to the present facility, but that plan is no longer being considered. He stated further the construction and renovations numbers were only \$6 million apart, so it makes better sense to build a new up-to-code school facility instead of fixing up an old building just to save a few dollars. The disruption of a renovation process is also an important consideration, with renovation taking up to 42 months while a new building construction is estimated at 26 months. Mr. Schwarz stated final figures will be obtained in time to publicize for the Special Town Meeting.

The current rate of SBA reimbursement is 62% (of an estimated \$63 million), provided all requirements and conditions are met, dropping to 50% if the June 2001 application deadline is missed. The reimbursement calculation includes the student population, dollar per square foot, and square foot per pupil.

The Board thanked Mr. Schwarz and the Lincoln-Sudbury School Committee for their hard work.

ESS Sudbury Athletic Academy LLC

Present: Myron Fox, Attorney, Rollins, Rollins & Fox; D. J. Bosse, Chief Executive Officer, Stephen Gray, Dr. David Striegel, ESS Sudbury Athletic Academy LLC; Ted Pasquarello, T & E Realty; Steven Astrove, Bill Seuch, Goulston & Storrs; Bruce Ey, Schofield Brothers of New England; Jennifer Conley, Rizzo Associates; Matthew DiPilato, Sanborn, Head & Associates; David A. Wallace, Attorney, Whittemore and Wallace; Laury Hammel, The Longfellow Clubs; Jody Kablack, Town Planner; Bryan Koop, Economic Development Committee; Ray Clark, 7 Goodmans Hill Road; Hans Lopater, 43 Windsor Road; other residents.

At 8:37 p.m. Chairman Roopenian convened a Public Hearing for the purpose of consideration of Site Plan Application #00-356 of ESS Sudbury Athletic Academy LLC for a Site Plan Special Permit, in accordance with Town of Sudbury Bylaws Arts. IX.V.A, to construct a recreational and educational athletic facility consisting of a two-story building containing approximately 64,833 s.f. in floor space, three outdoor tennis courts and three seasonally enclosed tennis courts, with associated driveway, parking and drainage structures, on property located at 141 Boston Post Road, owned by T. & E. Realty LLC, zoned Industrial District #4.

Notice of the Public Hearing was duly posted and advertised in the *Sudbury Town Crier* on August 10 and 17, 2000. Abutters within 300 feet according to the Assessors were provided written notice by first class mail. The Planning Boards of Acton, Concord, Framingham, Hudson, Lincoln, Marlborough,

Maynard, Stow and Wayland were provided notice by first class mail. Additionally, the Sudbury Planning Board and other boards and officials were notified and requested to report to the Selectmen.

The Board was in receipt of the following:

- 1) Application for Site Plan Special Permit, dated July 18, 2000, received July 19, 2000, comprised of the following documents:
 - a. Site Plan, entitled "SITE PLAN FOR PROPOSED ATHLETIC ACADEMY, 141 BOSTON POST ROAD, SUDBURY, MASS., PREPARED FOR: ESS SUDBURY ATHLETIC ACADEMY LLC, 40 ORCHARD LANE, WESTON, MA 02493", dated July 13, 2000, drawn by Schofield Brothers of New England, Inc., Sheets 1-4; and including drawings by L. Robert Kimball & Associates as follows: A3.01 Elevations, dated July 12, 2000; A1.01 and A1.02 Floor Plans, dated July 5, 2000; L-1 and L-2 Landscape Plans, dated July 17, 2000; and A8.01 Signage Elevation and Section, dated July 14, 2000.
 - b. Consent of Record Owner, dated June 25, 2000, from Theodore Pasquarello, Manager, T & E Realty, LLC, 490-B Boston Post Road, Suite 201, Sudbury MA 01776, granting permission to ESS Sudbury Athletic Academy LLC to construct an athletic academy at 141 Boston Post Road as shown on the plans accompanying the Site Plan Special Permit Application.
 - c. Traffic Impact study, dated June 8, 2000, conducted by Rizzo Associates, Inc.
 - d. Parking space calculations, dated July 14, 2000.
 - e. Open space and building coverage calculations, dated June 12, 2000, by Schofield Brothers of New England, Inc.
 - f. Drainage and environmental reports.
- 2) From the Director of Public Works, dated August 17, 2000, supplemented August 25, 2000:
 - a) Proposed relocation of the drainage system easterly and southerly around the proposed building will require a drainage easement.
 - b) Based upon the applicant's traffic engineer's determination that existing conditions at Goodman's Hill Road and Boston Post Road for a.m. and p.m. peak traffic are operating at a level of service (F) and upon accident data and peak hour volume, the intersection warrants a traffic control signal as outlined in the manual of uniform traffic control services, and therefore he suggests the applicant contribute toward the design and/or construction of a traffic control signal and associated geometric changes.
 - c) Modification to the existing curb cut will require a permit from Mass. Highway Dept. District 3, and a driveway permit from the Town Engineer.
 - d) He suggests investigating combining the curb cut to Buddy Dog and the curb cut to ESS Athletic Academy, and placing it opposite Goodman's Hill Road. If this cannot be accomplished because of septic and parking, relocate the driveway more centrally on the property, to the east.
 - e) Landscape plans, elevation plan and floor plans must be stamped by registered landscape architect and registered architect.

- f) Off-street loading area for delivery vehicles and refuse disposal need to be located on the site plan.
- g) No landscaping should be installed over the proposed drain line from the Boston Post Road.
- 3) From the Town Planner to the Planning Board dated September 1, 2000:
 - a) In 1997 the Town approved a Planning Board sponsored zoning amendment which allows recreational facilities in Industrial Districts to encourage development of additional recreational facilities. In conclusion she supported the proposal as a good alternative under the uses allowed in an Industrial District, and as a revenue source.
 - b) She estimated a more realistic parking calculation for this use to be 162 spaces. (95 spaces are provided.)
 - c) She disagrees with the traffic impact report by Rizzo Associates and estimates trip generation to be 62 at the peak a.m. hour and 100 at the peak p.m. hour. Further information will be forthcoming from the applicant which may affect these figures.
 - d) Regarding the driveway entrance, she prefers the easterly location suggested as an alternative by the Town Engineer to that shown on the plan, but recommends verification of sight distance by the applicant's engineer and preserving as much of the existing mature vegetation along the frontage of the property as possible.
 - e) Sheet 1 of the site plan should show the areas designated for stormwater management.
 - f) Existing overhead utility lines should be removed.
 - g) A condition of approval should state that if vacant space labeled "shell space" becomes occupied, additional parking may be necessary. Floor plans submitted for obtaining Building Permit must be consistent with the site plan.
 - h) Landscaping: Pursuant to Bylaw section V.A.7.i.5, the proposed planting island must be at least 10' in diameter (the site plan indicates 8'). Tree sizes should be revised to increase the size to at least 2 1/2". Street trees planted every 40 feet are required where existing vegetation is not present, but only to the extent that sight distance is not impacted along Route 20. She recommended the Selectmen require a bond to ensure completion of landscaping as required.
 - i) The applicant should be requested to install a walkway along the frontage of the property to facilitate pedestrian access in the vicinity.
- 4) From the Planning Board dated September 8, 2000, recommending approval with modifications to be made based on the following comments:
 - a) Realignment of the proposed access drive to a location directly across from Best Friends Pet Resort complex.
 - b) Delineation of the stormwater management area on sheet 1 of 4 of the site plan.
 - c) Installation of a walkway along the entire frontage of the property.
 - d) Installation of a stairway at the southeastern corner of the parking lot for access to neighboring property.
 - e) Submittal of a bond to ensure the requirements of the site plan are completed in accordance with the approved plan, including landscaping, walkway, traffic mitigation, on and off-site drainage improvements.
 - f) Contribution for off-site traffic improvements in the vicinity.
- 1. Applicant should be required to attempt to receive Mass. Highway approval for a left turn lane on Route 20 (eastbound) in the vicinity of Goodman's Hill Road.

The Planning Board further commented on the possibility of using the outdoor tennis court area for further parking if required in the future; that traffic impacts will not have a major impact on

Route 20 traffic; that the Board would like to review any further plan changes made; and that the Board is very supportive of the proposal.

5) Report, dated August 16, 2000, from the Design Review Board, stating the following comments, although lacking a quorum: a) finish samples are required before recommendations can be made as to colors; b) assuming the driveway entrance is changed as recommended, the Board suggests trees be planted in front of the long, unbroken portion of the north elevation of the building; c) exterior lighting plans should be submitted for review; and d) The applicant has agreed to the suggestion to substitute Bearberry for Bogrosemary in the plantings.

6) Report, dated September 7, 2000, from the Health Director, stating the proposed septic system was approved by the Board of Health on August 10, based on sewage flow projections and a facility design for 2000 members and 500 persons per day average usage. The Board of Health will require water meter readings submitted quarterly.

7) Report, dated September 8, 2000, from the Building Inspector, with one comment: the parking figures satisfy calculations based upon comparisons with existing comparable facilities and three different methods using the Sudbury Zoning Bylaw criteria.

8) Report, dated September 8, 2000, from the Conservation Coordinator, commenting as follows: a) the plan reflects Commission comments provided in informal meetings, additional meetings to take place; b) the applicant has offered to permanently restrict the contiguous open space for conservation purposes, or gift some or all to the Town; c) the plan provides drainage upgrades; d) If the applicant is unsuccessful in obtaining a perpetuity conservation restriction on the southern portion of the adjacent Buddy Dog property for long-term habitat protection, the Commission must decide if more habitat must remain on the ESS property, possibly resulting in a reduction in footprint of the structures and/or relocation of structures and accessory areas.

9) Report, dated September 7, 2000, from the Fire Chief, reporting he has reviewed both driveway plans and prefers the one placing the driveway further east, approximately opposite the driveway to Best Friends Pet Care, and that the fire safety and medical response concerns of the fire department have been met by the applicant.

10) Memorandum, dated August 17, 2000, in Opposition to Application for Special Permit concerning Board of Appeals Case Nos. 00-25, 00-26, and 00-27, filed by Atty. David Wallace on behalf of Laury Hammel and The Longfellow Club. The report contained traffic incident reports provided by the Sudbury Police Department.

11) Memorandum in Opposition to Application for Site Plan Special Permit, dated Sept. 11, 2000, from Atty. David Wallace on behalf of Laury Hammel and the Longfellow Club, declaring SAA cannot meet criteria for the granting of a Site Plan Special Permit, and responding to reports from various Town Boards. (Hand delivered by Atty. Wallace at this meeting.)

12) Case for Rejecting the Application for Site Plan Special Permit of the Sudbury Athletic Academy, dated September 11, 2000, by Laury Hammel, 610 Peakham Road, Owner, The Longfellow Club. Hand delivered by Atty. Wallace at this meeting).

13) Letter, dated August 29, 2000, from Raymond T. and Jeanne E. Clark, 7 Goodman's Hill Road, expressing concern for increased traffic and potential for accidents at corner of Goodman's Hill Road and Route 20, opining those accidents pose a threat to the Town of Sudbury with regard to possible litigation and inevitable tax increase to property owners. Response from Town Counsel, dated September 11, 2000.

14) Letter, dated September 8, 2000, from Howard O. Stoner, Stoner & Company, and Carol Stoner, CMS Realty Corporation, 121 Boston Post Road, stating (as abutters) they met with ESS Sudbury Athletic Academy representatives to learn about the project and encourage the Town to act favorably on permit requests.

15) Letter, dated July 10, 2000, from Continental Health Care, Inc., stating that, based on a cursory review of the plans, they had no objection to the project at that time, with the expectation traffic issues will be adequately addressed. (Hand delivered by Atty. Fox at this meeting.)

Town Manager Valente briefly listed the reports received from Town boards and commissions. She stated the Tax Collector's office reports no outstanding overdue taxes relevant to 141 Boston Post Road.

Chairman Roopenian outlined the public hearing procedure for those present. She opined that, due to the volume of material received on this matter, the public hearing would be continued to a later date in order for everyone to be able to comment.

Mr. Myron Fox, Attorney for the applicant, introduced ESS Sudbury Athletic Academy staff and affiliates present at the hearing. He noted that Mr. Bosse is a world class tennis player, now a tennis instructor.

Mr. Fox described the proposed facility and other entities in the vicinity, by location and with regard to zoning. He stated this site is the last large (16 acres) commercial site on Route 20, formerly occupied by companies known as Union Carbide, Prazair, and Linde Gas. It has been vacant for 11 years. Mr. Fox stated the proposed building is approximately 65,000 sq. ft, with 56,000 sq. ft. on the first floor and 9,000 sq. ft. on the second floor. The variation is due to the very high ceilings required for tennis courts and swimming pool.

Mr. Fox outlined the difference between other area sports clubs and what Sudbury Athletic Academy (SAA) has to offer. SAA is more for serious athletes who want to train at a high level and is not intended to offer family programs. Due to its specialized nature, the site will not generate a high level of traffic. This facility will require an initiation fee of \$7,000, with average annual dues of \$6-7,000. A unique feature will be a human performance lab, where individuals can learn about their bone density, body fat count, etc.

Mr. Fox opined there to be only two or three other facilities of this type in the country. Other features include a fitness room, three agility rooms, the human performance lab, a small juice bar, a small child's playroom, male and female locker rooms, indoor pool, four indoor tennis courts, a sports psychology room, homework/tutoring area for students, golf instructional area, bathrooms, pro shop and offices. There will also be three tennis courts under a seasonal air "bubble" (29,000 sq. ft.) and a small golf instructional area and three outdoor tennis courts, plus a grassy agility area. Mr. Fox noted 95 parking spaces as indicated on the plans.

Mr. Fox briefly recounted the history of the site. The existing building on the site, superimposed on the plans, was razed in the last year. Four other proposals for this site over the years have not been successful due to wetlands, traffic, parking, and other concerns.

Mr. Fox stated upgrades to the site include improved Route 20 drainage, a detention basin to catch first inch of runoff, upgrade of three catch basins in Route 20, donation of approximately 8 acres to the Town for conservation purposes, upgrade of upland wildlife habitat, installation of a walkway across frontage of property, \$100,000 in revenues (taxes) to the Town, and a voluntary contribution of \$35,000 toward traffic mitigation. Traffic mitigation might include a traffic light at Goodman's Hill Road and Route 20, or a bypass lane for traffic to get around motorists turning left onto Goodman's Hill Road, at the Town's discretion.

With regard to Town board and official reports, Mr. Fox stated the applicant has agreed to grant a conservation restriction on land at the rear of the property due to blue spotted salamanders habitating there. The Building Inspector concurs with the parking spaces provided. The Town Engineer originally suggested an alternate driveway location, sharing with Buddy Dog, which is unacceptable as it eliminates parking for Buddy Dog, plus interferes with their septic system. There is also a Boston Edison high tension wire at that location. The driveway has now been suggested for 317 feet east of the Goodman's Hill Road/Route 20 intersection. Schofield Brothers of New England will determine if the slope, grade, etc. are acceptable for a driveway at that spot. The drainage easement is not from the Town, but the State, and appropriate applications have been made. A revised request for curb cut will be filed with the State.

Mr. Fox stated the 95 parking spaces are more than adequate, and parking cannot occur along Route 20. As SAA is a private club, typically with a waiting list for membership, it can limit the number of people using the facility. He noted that the Planning Board did not believe the traffic would impact the area, reading directly from their report.

Mr. Fox pointed out that this use is one that will generate revenue for the Town with little drain on Town services, will not impact traffic significantly, and does not pose environmental concerns. He encouraged the Board of Selectmen's swift review and approval of their request. He noted various revisions have been made to plans, as requested by various boards, and submitted revised building coverage calculations relative to inclusion of the 29,000 sq. ft. bubble.

Selectman Drobinski asked the Town Manager to have the new open space and building coverage calculations checked by the Town Engineer.

Mr. Bruce Ey, Engineer, Schofield Brothers of New England, Inc., stated the majority of open space on the site will be wetlands. He reiterated many of Mr. Fox's comments. He noted the sight distance at the suggested easterly driveway location will be checked but opined no reason why it should be a problem.

Mr. Ey stated the property drains into a Mass Highway easement, discharging into an open swail bordering vegetative wetland. That drain is being moved. He stated the septic system is being located in the northeast corner of the property and is designed for 5,700 gallons a day, permitted by the Board of Health. It consists of an 18,000 gallon septic tank, pump chamber, and leaching field. Selectman Drobinski asked the use of a vacant shell space and whether the septic design takes into account the usage of that space. Mr. Ey responded that area will be used for storage and is not included in septic usage. A change to office use would necessitate a small increase to the leaching field, though there is no intent to use that space for anything other than storage. Mr. Drobinski asked if the system was adequate should usage change in the

future. Mr. Ey stated the septic usage is based upon number of people using the facility, not the usage of the space.

Mr. Ey stated drainage is being treated according to stormwater management guidelines and practices. They are continuing to protect the vernal pool by not discharging drainage in that area. He briefly described the drainage/runoff route. They are building in some enhancements for wildlife habitat.

Selectman Drobinski asked about impervious surfaces (tennis courts) toward the rear of the property and drainage for that area. Mr. Ey stated there is a self-service drain with a filter, open to the surface, discharging through a manhole downstream from the vernal pool. He added it was also included in the stormwater calculations. He stated much of that area had previously been parking areas for former entities, sometimes concealed by vegetation growing on top of the old pavement.

Mr. Ey stated they will add a fire hydrant in the front of the property, as recommended by the Fire Chief. They also propose to bring new water mains into the building, and outfit the building with a fire prevention sprinkler system.

Mr. Ey stated trash disposal will be in a screened area between the tennis courts and parking lot. They do not anticipate a great deal of trash, but will use a commercial size dumpster.

Mr. Ey opined deliveries will most likely be by van or panel truck, and not necessitate having a loading dock area.

Jennifer Conley, Traffic Engineer, Rizzo Associates, stated her company performed the traffic study utilizing existing conditions and extrapolating future conditions based on the proposed project. She stated the peak times were determined to be 7 – 9 a.m. and 4 – 6 p.m. The study was conducted on June 1, 2000. Accident history was considered, with 45 accidents at this location (Goodman's Hill Road and Route 20), the majority being rear-end collisions. Half of the accidents involved personal injury. Ms. Conley declared the intersection to be "failing" as many accidents occur when motorists attempt a left turn from Goodman's Hill Road onto Route 20 to head east. Trip generation was conducted in accordance with Transportation Engineer's Trip Generation Manual, using the racquet club category. She stated the opponents to this project have declared the traffic study invalid, citing traffic to be more significant than reported, and the study will be reviewed again. Findings report 310 daily trips, 18 peak a.m. trips, 40 peak p.m. trips, and estimating critical peak p.m. trips to be closer to 80 trips. Time delays to enter the roadway are estimated around one minute.

Selectman Drobinski asked if the new analysis will consider the new driveway location, across from Old County Road, currently not included in the present study. Ms. Conley stated the Goodman's Hill Road and Route 20 intersection is considered an "isolated" intersection, not reflecting usage by nearby roads. She responded she was not familiar with the traffic coming out of Old County Road, and opined it to be similar to other roads coming onto Route 20. She stated they could consider this additional road, if the Town asked for it. Mr. Drobinski stated it would be worthwhile to see the analysis of how this road and the new driveway will go together with respect to traffic.

Mr. Matthew DiPilato, Environmental Engineer, Sanborn, Head & Associates, stated his company has been retained to review existing environmental studies on this property. Previous studies have been done by Dennison Environmental (1990s) and ENSR Consulting Engineers (1995-96), in addition to recent

water sampling and monitoring well sampling. There have been over 20 monitoring wells installed on the site and over 30 test borings. He stated all environmental issues have been assessed and remediated, if necessary. Two potential issues were identified, underground fuel storage tanks for trucks used in a previous business of distributing industrial gases, and oil tanks. The fuel storage tanks were removed, soil samples taken, and no problems revealed. The oil tanks were cleaned out, inspected, and filled with concrete before being closed in place. Those tanks will be removed during the construction of the proposed facility. Additional groundwater monitoring was done with respect to wetlands, revealing no sign of petroleum contamination.

Mr. DiPilato stated a historical release at the site caused flooding in drainage systems, causing some waste oil to be released out of the top of the tank into the east ditch. ENSR performed an intensive study of the area, determining there were levels of waste oils and PCBs that needed to be removed. He noted 2,400 tons of sediments were removed in 1995-96. Subsequent testing reveals safe levels of PCBs well below target cleanup standards. Sanborn, Head & Associates did recent testing of soil and groundwater samples, checking for PCBs, oils, and gasoline products, in order to provide their own data to verify previous work. He stated the site now meets all DEP guidelines for cleanup.

Selectman Drobinski inquired about child care services, noting a room has been designated on the plan as a child care room. The response was the child would be supervised while parents are using the facility; the proposed use is not for child care or day care.

Mr. David Wallace asked that the continued public hearing on September 25 be scheduled so that it does not conflict with the Conservation Commission meeting the same evening.

Hans Lopater, 43 Windsor Road, stated he was pleased to hear about some of the proposed changes, but expressed concern about traffic congestion. He stated he has submitted a petition signed by 216 Sudbury residents, asking the Board of Appeals to deny this permit application due to traffic congestion. He briefly reported that 20,000 cars go through Town, according to the Town Engineer, and opined a facility of this type will exacerbate the problem. He stated June 1 was during Memorial Day week, and declared the traffic study invalid as it did not reveal a typical day in the Town of Sudbury. He reported the squeal of brakes is a common occurrence in the Goodman's Hill Road/Route 20 area. He reported further that at a recent meeting of the Board of Appeals, it was stated that traffic congestion could be a reason for denying the special permit application. Mr. Lopater respectfully asked the Board of Selectmen to consider traffic congestion in their decision-making process.

Ms. Marjorie Wallace, 148 Nobscot Road, asked Mr. Lopater if those same people who signed his petition also signed the petition opposing Wingate and Best Friends with traffic concerns. Mr. Lopater responded he did not know if there were petitions for those facilities.

Mr. Raymond Clark, 7 Goodman's Hill Road, stated he is a registered professional engineer. He and his wife have lived in Sudbury for 32 years, 18 as abutters to the property for the proposed facility. He stated his concern due to his proximity to the intersection of Goodman's Hill Road and Route 20. He further expressed doubt that the traffic study considered Federal Express and UPS delivery trucks, other delivery trucks, fire and police vehicles, ambulances, landscaping equipment, tractor-trailer trucks, plus visitors, with regard to the Wingate facility. He related a recent incident involving a truck with hazardous materials ending up at the end of his drive, stopped by a rock garden. Mr. Clark recommended a moratorium on the whole of Route 20, including Sudbury and surrounding communities. He suggested the traffic lights be

installed first to see if they effectively control the present traffic problems, before allowing this facility to go in. He expressed concern for motorists suing the Town for accidents incurred on this roadway, causing taxes to rise. He stated he sent a letter, dated August 29, 2000, to the Town Manager on these issues.

Chairman Roopenian responded that the Board did receive his letter, and that Town Counsel has reviewed it. She clarified that Route 20 is a State road so the Town could not be involved in litigation. She noted that Route 20 is one of the busiest roads in the region.

Mr. Bryan Koop, Sudbury Economic Development Committee, briefly stated his group's purpose and stated further they have determined the proposed site has economic potential. It presents high aesthetic capabilities, as a "gateway" into the Town of Sudbury, as well as providing increased tax revenues to the Town. He noted the committee felt the parking figures to be lower than other potential uses such as shopping centers, office buildings, or restaurants, related low traffic usage, and leaving a fair amount of open space. He stated other uses such as a supermarket might generate more waste. He concluded by stating the Economic Development Committee heartily endorses the proposed use for this site and called attention to their letter, so stating this, dated June 27, 2000.

Selectman Drobinski asked if the Buddy Dog staff will be allowed to walk dogs along the frontage of the property. Mr. Fox stated the dogs may be walked on the rear of the property, as walking them along the road is actually a traffic hazard (motorists slow down to look).

Selectman O'Brien asked Ms. Conley about the turning movements listed in the traffic study. He wanted to know if that was an actual count during the peak periods, or a short period of time, later extrapolated to include the two hours. Ms. Conley responded the entire two-hour periods were used, as high traffic times were later determined to be 8-9 a.m. and 4:30 – 5:30 p.m., pulled from the original data.

Selectman O'Brien asked Ms. Conley about a recent application for a preschool facility to the west of the proposed athletic academy with an estimated 250 students. He stated that creates another 500 trips down the roadway each day. He requested that she look at this impact when Old County Road is analyzed.

Chairman Roopenian stated that, due to the volume of material to be considered and to provide the opportunity for the public to respond, the hearing would be continued until September 25. She apologized to the assembly for the time constraints and encouraged those wishing to speak to attend the next meeting.

It was on motion unanimously

VOTED: To continue this hearing until September 25, 2000, at 8 p.m.

Wong Mook Run, Inc. – Siam Garden

Present: Stephen Grande, Attorney, Law Offices of Stephen Grande, III; Jimmy Lee, Manager; Manope Mookhiruntara, Owner, Siam Garden.

At 10:15 p.m. Chairman Roopenian convened a Public Hearing for the purpose of considering the application of Wong Mook Run, Inc., d/b/a Siam Garden, Jimmy Lee, Manager, for a Restaurant License for the Sale of All Alcoholic Beverages in accordance with M.G. L. c 138, s. 12, a Common Victualer License and an Entertainment License for background music, to be exercised at 103 Boston Post Road.

Notice of the Public Hearing was duly posted and advertised in the *Sudbury Town Crier* on August 31, 2000. Abutters were notified by Certified Mail/Return Receipt. There is no church or school within 500 feet.

The Board was in receipt of the following:

1. Application for a Restaurant License for the Sale of All Alcoholic Beverages, dated August 22, 2000, accompanied by:
 - a. Form A, Licensee Personal Information Sheet, dated August 22, 2000.
 - b. Certificate of Naturalization, No. 10778932, Alien Registration No. 19-256-208, dated August 14, 1979, for Jimmy Lee.
 - c. Permanent Resident Cards, Alien Registration Nos. 090-227-011, for Panita Mookhiruntara, and 090-227-010, for Manope Mookhiruntara.
 - d. Articles of Organization, dated April 3, 1986, for Wong Mook Run, Inc., as amended.
 - e. Offer to Purchase Business, dated April 9, 2000, for the Sale of Siam Garden, 45 ½ Mount Auburn Street, Cambridge.
 - f. Tax Attestation, dated August 22, 2000, for Wong Mook Run, Inc., d/b/a Siam Garden, stating all state taxes have been paid.
 - g. Corporate Minutes, dated August 21, 2000, stating that the Board of Directors has voted Jimmy Lee as manager of the restaurant at 103 Boston Post Road, Sudbury, and authorizing signing and filing of applications for Alcoholic Beverages License and Common Victualler License.
 - h. Asset Purchase Agreement, dated July 27, 2000, between Wong Mook Run, Inc., 45 1/2 Mount Auburn Street, Cambridge, and Hoppy, Inc., Lawrence P. Hopkins, President.
 - i. Certificate of Good Standing, dated August 17, 2000, for Wong Mook Run, Inc., Siam Garden, 45 ½ Mt. Auburn Street, Cambridge, stating the corporation is in good standing with respect to taxes payable to the Commonwealth of Massachusetts.
 - j. Waiver of Corporate Excise Tax Lien, dated August 17, 2000, transferring lien on assets of Wong Mook Run, Inc., Siam Garden, 45 ½ Mt. Auburn Street, Cambridge, to Hoppy, Inc., Belmont, MA.
 - k. Floor plan, undated and untitled, showing proposed modifications to Siam Garden Restaurant.
2. Application for Common Victualler License, dated August 22, 2000, for Siam Garden at 103 Boston Post Road.

3. Application for Entertainment License, dated August 22, 2000, for Siam Garden at 103 Boston Post Road.
4. Report, dated September 7, 2000, from the Health Director, stating the Board of Health has witnessed soil testing and approved an upgraded septic system design for a 50 seat full service restaurant at 103 Boston Post Road.
5. Report, dated September 6, 2000, from Peter Lembo, Police Chief, stating he has no problems with the proposed licensing of Siam Garden at 103 Boston Post Road.
6. Report, dated September 6, 2000, from Michael Dunne, Fire Chief, stating he had no concerns with the application.
7. Report, dated September 6, 2000, from the Acting Town Treasurer, stating there are no outstanding taxes on the property at 103 Boston Post Road.
8. Report, dated September 8, 2000, from Jack Hepting, Building Inspector, stating no objections to the granting of Liquor and Common Victualler Licenses for this business. While a building permit has been issued for the interior and exterior cosmetic and floor plan modification, no site plan review or ZBA approvals are required at this time due to the continuation of the previous restaurant use.
9. Commonwealth of Massachusetts Criminal History Reports, dated August 28, 2000, stating no adult court appearances for either Jimmy Lee or Manope Mookhiruntara.

Mr. Stephen Grande, stated Manope Mookhiruntara and his wife moved here several years ago and recently purchased the property at 103 Boston Post Road. Mr. Grande introduced Mr. Jimmy Lee, who will serve as Manager for Siam Garden.

Mr. Grande reported that Manope Mookhiruntara is investing approximately \$35,000 into the property, largely for a septic system, which is ready to be installed, following the securing of all appropriate licenses and permits. He stated Mr. Lee would like to open the restaurant sometime toward the end of October, 2000, serving Thai food.

Mr. Grande stated an addition shown on the plan is actually planned for sometime in the future, and they will go through the Site Plan Special Permit process at that time. He stated when the septic installation is complete, the ground will be reworked and landscaping done. The other work being done will be to the inside of the building, including upgrades to the cooking area and utilities.

Mr. Grande stated a full liquor license is being sought. He stated Mr. Mookhiruntara and his wife own the property, but that the applicant for the license is Wong Mook Run, Inc., d/b/a Siam Garden. He stated Siam Garden is a restaurant that has been in business for approximately fifteen years on Mt. Auburn Street in Cambridge. Mr. Mookhiruntara and his wife live in Wayland and are planning to sell Siam Garden in Cambridge by the end of September, in order to live closer to work. Those funds will be used to complete work done on the restaurant in Sudbury.

Mr. Grande also stated that Manope Mookhiruntara and Jimmy Lee have both operated restaurants with liquor licenses in the past. None of those restaurants have had any infractions with the Alcohol Beverage Control Commission.

Chairman Roopenian asked about the music for the Entertainment License. Mr. Grande stated it is for background music, radio with speakers.

Selectman Drobinski advised the applicant to seriously consider appropriate landscaping to brighten up the property. He added that feature would most likely be required should the owner return for a Site Plan Special Permit if he decides to go ahead with the addition. Mr. Mookhiruntara responded that once the septic system is installed they intend to rework the soil and add some landscaping. Selectman O'Brien asked about a box planter currently on the site. Mr. Moonhiruntara replied it will likely be replaced with a new one.

Selectman O'Brien asked about seating capacity. Mr. Grande responded there are 40 seats, but estimated the Fire Department's limit on building capacity to be around 60, including employees, people getting take out food, etc.

Selectman O'Brien asked about the bar area and if there will be seating. Mr. Mookhiruntara responded in the negative; that the bar is only for preparation of drinks served at the tables.

Chairman Roopenian asked if the staff will be trained in the TIPS program. Manope stated they have done it for the restaurant in Cambridge and will do so here as well. Ms. Roopenian advised the applicant the local Police Department periodically runs "stings" to see if establishments are selling liquor to minors.

Mr. Mookhiruntara stated the hours of operation would be from lunch to 9:30 p.m. during the week, and until 10:30 p.m. on the weekends. He added they are considering possibly offering brunch on Sundays. Selectman Drobinski stated the hours of operation have to be stated for the Entertainment License. Town Manager Valente stated the hours have been listed as 11 a.m. to midnight which more than includes what the restaurant wishes to do.

It was on motion unanimously

VOTED: To grant a Restaurant License to sell All Kinds of Alcoholic Beverages under G.L.Ch. 138 s.12 to Wong Mook Run, Inc., d/b/a Siam Garden, Jimmy Lee, Manager, for premises located at 103 Boston Post Road.

It was further on motion unanimously

VOTED: To grant a Common Victualer License to Wong Mook Run, Inc., d/b/a Siam Garden, Jimmy Lee, Manager, for premises located at 103 Boston Post Road.

It was further on motion unanimously

VOTED: To grant an Entertainment License to Wong Mook Run, Inc., d/b/a Siam Garden, Jimmy Lee, Manager, for premises located at 103 Boston Post Road, background music only.

Minutes

It was on motion unanimously

VOTED: To approve the executive session minutes of August 14, 2000 and regular session minutes of August 28, 2000.

Council on Aging

It was on motion unanimously

VOTED: To accept \$200.21 in miscellaneous donations, to be deposited into the Van Donation Account, and to authorize the Council on Aging to expend said funds for the purpose of operating and maintaining the Council on Aging vans.

FY2000 Municipal Recycling Incentive Program

It was on motion unanimously

VOTED: To accept, on behalf of the Town, a grant of \$507.11 from the department of Environmental Protection as an additional, third-round payment under the FY2000 Municipal Recycling Incentive Program.

Fire Department Donations

Selectman O'Brien noted the Matching Funds Campaign by Gravestar has been extended to September 30, 2000.

It was on motion unanimously

VOTED: To accept, on behalf of the Town and the Fire Department, the following donations, to be placed in the Fire Department Gift Account and expended for purchase of a thermal imaging camera: \$50.00 from Elin W. and Larry J. Neiterman, \$500.00 from CID Associates, \$25.00 from Thomas F. O'Connor, MD, \$50.00 from Myrna J. Merowitz, \$25.00 from P. Joyce Douillette, \$100.00 from Stuart M. Leving, \$50.00 from Delia and Herbert Coleman for Michael Wright, \$100.00 from Deborah A. Ciolfi for Andrew and Grace Pilkington, and \$50.00 from Gregory and Marcy Wilkins.

Andrew Fay – Permission to Hunt

It was on motion unanimously

VOTED: To grant permission to Andrew J. Fay, 30 Philemon Whale Lane, to hunt waterfowl on property owned by the Town of Sudbury, "Tax Possession Parcel #172" (parcel 013 on Property Map G12) during waterfowl hunting season (October 14-November 27, 2000 and December 16, 2000-January 8, 2001) within 50 feet of the shore line of the Sudbury River, one-half hour after dawn to one-half hour before sunset.

Special Town Meeting Warrant – Articles Withdrawn

It was on motion unanimously

VOTED: To accept withdrawal of the following two articles from the October 23, 2000 Special Town Meeting Warrant: a) Haskell Field Improvements and b) Accept Cemetery Land, in accordance with communications, dated August 29, 2000 and September 1, 2000, from Patricia Savage, Director, Park and Recreation, and I. William Place, Director of Public Works, respectively.

Trust Fund Allocation --Discretionary Fund

It was on motion unanimously

VOTED: To authorize, as Co-Trustees of Town Donations, an allocation of \$7,500 from the Discretionary Fund Income Account to be used for FY2001 expenditures.

MBTA Advisory Board Designee

It was on motion unanimously

VOTED: To name Town Manager Maureen G. Valente as the voting designee from the Town of Sudbury to the MBTA Advisory Board, and to name Assistant Town Manager Wayne Walker as second designee in the event Ms. Valente cannot attend a meeting.

Proclamation on Racism

Chairman Roopenian expressed concern for declaring a day for something she did not believe exists in the Town of Sudbury. She stated “undoing” something seemed to draw more attention to it, and simply did not agree with the concept as presented in the accompanying letter.

It was on motion by Selectman O’Brien and subsequently

VOTED: To sign the Proclamation naming September 20th as National Undoing Racism Day in the Town of Sudbury. (Chairman Roopenian, abstain; Selectmen O’Brien and Drobinski, aye).

MacKinnon’s

Selectman Drobinski suggested sending a congratulatory letter or proclamation to MacKinnon’s Liquors recognizing their 50th anniversary of doing business in Sudbury.

It was on motion unanimously

VOTED: To declare Saturday, September 16, 2000, as MacKinnon’s Day in recognition of their fifty years of doing business in the Town of Sudbury.

No U-Turn Signs

Selectman Drobinski asked about the "No U-turn" signs on Edgell/Nobscot Road, just past Dudley Road. He asked if the Selectmen had authorized placement of those signs. Chairman Roopenian and Selectman O'Brien stated they had not done so. The signs are apparently connected with the Marone Meadows subdivision. Town Manager Valente stated she would check with the Director of Public Works.

Star Market Playground

Selectman O'Brien stated Star Market is installing a playground, similar to the Tot Lot at Haskell Field, including a rock garden area. Gravestar is the company doing this by selling bricks through the Matching Funds Campaign.

Chamber of Commerce

Selectman O'Brien stated the first meeting of the Sudbury Chamber of Commerce is scheduled for Wednesday, September 27, 2000, at the Wayside Inn, at which meeting a debate between candidates for State Senator and State Representative will be held.

MetroWest Growth Management Committee

Chairman Roopenian stated she will be testifying before the federal government on behalf of the MetroWest Growth Management Committee in response to a request regarding the Metropolitan Planning Office. Her comments will be primarily regarding communication with this organization. Other communities have been requested to comment as well.

Brimstone Lane Development

The Brimstone Lane hearing (Framingham) has been postponed until sometime in October.

New Finance Director

Town Manager Maureen Valente stated she has officially resigned as Finance Director, and the new Finance Director Kerry Bowse has started in that position as of September 11, 2000.

Willis Hill Cell Tower

Town Manager Valente stated there is only one carrier on the AT&T cell tower on the Water District property. She understands the Water District has declined offering the space to a second carrier as the Decision stated that a second carrier would have to go through all the permitting procedures.

Cablevision Contract

Town Manager Valente stated she and Chairman Roopenian met with Jeff Winston, Chairman, Cable Television Committee, to look over the proposed contract. She stated many of the concerns expressed by the Board are covered in standard contract language from legislation or other sources, and are not up to the local level to revise. Comments have been forwarded to special counsel for review.

Piper Land Purchase

The closing has been postponed. Town Manager Valente will advise when a new date is set.

Traffic Calming Meeting

Selectman Drobinski suggested inviting the residents of both Goodman's Hill Road and Dudley Road to the Traffic Calming meeting.

Verizon (Bell Atlantic Easement)

Town Manager Valente distributed copies of a memo, dated September 11, 2000, from Jan Silva including the plan and description for the relocated Bell Atlantic easement on the westerly side of Fairbank Road. As this matter is on the Warrant for the Special Town Meeting October 23, the Board's comments should be forwarded as soon as possible.

Anselm Way Subdivision

Selectman O'Brien briefly described a situation where Bell Atlantic (Verizon) installed a pad for telephone service in an area they believed they owned when the developer did not own the property he sold for the easement. The service pad is to be relocated as soon as possible.

Executive Session

At 11:03 p.m. it was on motion by roll call unanimously

VOTED: To go into Executive Session to discuss matters of collective bargaining, Discretionary Fund expenditures, and potential litigation. (Chairman Roopenian, aye, Selectman O'Brien, aye, Selectman Drobinski, aye).

Chairman Roopenian announced that public session would not reconvene following Executive Session.

There being no further business, the meeting was adjourned at 11:40 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk