

**Town of North Andover  
Planning Board  
Minutes of the Meeting  
April 21, 2009  
Town Hall, 7:00 PM**

Members present: Richard Rowen, acting Chair  
Timothy Seibert, regular member  
Michael Walsh, regular member  
Courtney LaVolpicelo, alternate

Member absent: John Simons, Chairman

Staff present: Judy Tymon, Town Planner  
Mary Ippolito, Recording Secretary

Richard Rowen, acting Chairman, called the meeting to order at approximately 7:10 pm. The CPC articles will be heard at the April 28, 2009 PB meeting.

**POSTPONEMENTS:**

None

**Chair called for Request for release of Lot #1: DISCUSSION:**

1  **Dean Chongris, Redgate Subdivision**, stabilization needs to be monitored weekly.

Judy: had several meetings w/Jennifer Hughes, Gene Willis, and Dean Chongris and made several site visits. A lot of work has been done on the site, presented photos before and after. Submitted Gene Willis memo regarding erosion control measures that have been put into place. Judy: did not see any erosion on site. Gene Willis recommended a punch list be done by Dean Chongris. Gene Willis recommended that lot #1 be released and give a building permit for the foundation, there will be lot stabilization measures to be done as additional measures as Phase 2.

Judy: requested weekly monitoring reports, and Dean to put together a contract w/Ben Osgood Jr. and himself. Ben Osgood Jr. to submit signed copy of contract tomorrow to the Planning Department.

RR: asked should bond amount be increased? Judy: surety bond amount is over \$100K is still in place. Planning Department still has a site-opening bond in place.

1 Mr. Chongris: the entire site is set up to divert water thru silt fences, stone checked dams, etc.  
2 All water is slowed down and today water collected where it was supposed to collect. Final  
3 grading on plan is subject to the foundation once it gets put in the lot it will be built per the  
4 approved plan. He will seed within the next few weeks.

5  
6 Chair: asked Judy if she feels Mr. Chongris has done everything to stabilize for the moment?  
7 Chair: wants Mr. Chongris to stay with a monitor and submit weekly reports. Mr. Chongris: Mr.  
8 Cyr's area is dry today, and it's been going smoothly with Mr. Cyr and himself. Mr. Chongris:  
9 Mr. Cyr is in agreement w/Mr. Willis' memo.

10  
11 MW: seems to think detention pond is too small and inadequate? Mr. Chongris: design of pond  
12 should have trenches and stone installed, he would rather use the pond as a trap for now and  
13 make small gravel access off side of road now.

14  
15 Chair: wants an update on this lot release at every PB meeting. TS: wants to make sure that Mr.  
16 Cyr is ok with this release once another foundation is dug.

17  
18 Motion by MW to release Lot # 1, 2<sup>nd</sup> by TS, vote was unanimous.

19  
20

21 **Chair called for DISCUSSION:**

22 2     ■     **David Steinberg, 21 High Street - phase development.** David Steinberg was  
23 present: gave an update on East Mill and discussion of Phase 11 B: He brought this to the PB in  
24 2007 went thru process to get PDD SP done. First he submitted a preliminary PDD SP  
25 application then came back in for definitive PDD SP approval. He's not requesting any formal  
26 approvals for Phase 11B at this point. He wants to work on the design of a building now. He's  
27 consulted w/Con/Com and Historic District, Dept. of Interior too. Wants PB comments on what  
28 he submitted as a handout tonight.

29

30 Mr. Steinberg: has decided not to pursue the larger building proposed on top of the existing  
31 garage building at this time, instead, he proposed that Phase 11B include the smaller building a  
32 40 two-bedroom unit in a four story brick building, large windows, tower feature worked into  
33 this building.

34

35 Chair: asked about condos that were permitted, have they all been built? Mr. Steinberg: no he's  
36 only built 19 out of 70 apartments. Chair: asked about height issues? Mr. Steinberg: neighbors  
37 who opposed the garage were not opposed to the building.

38

39 Chair: this design fits better into total complex it's fine. Design of windows in existing buildings  
40 seem to be different from what was presented tonight, white tick tack tow in the windows appear  
41 to be distracting. Chair: can you make the grade black instead of white in the windows?  
42 Architect said it could be done.

43

44 TS: it would be nice to keep Machine Shop Village in the loop on this project. Mr. Steinberg:  
45 has a relationship w/people in Machine Shop Village.

46

1 CL: how would it be for the resident if he/she doesn't have a small patio or deck? Mr. Steinberg:  
2 on the pond side he considered it but it would look inconsistent with the other buildings. There  
3 will be a shared area located outside with picnic tables etc.

4  
5 Chair: fruitful discussion sees no reason why Mr. Steinberg shouldn't continue with his plan.  
6  
7

8 Attorney Smolak requested that the following article be placed on the agenda right after Mr.  
9 Steinberg's discussion of tonight:

10 **#43 Article BBB. Amend North Andover Zoning Bylaw – Section 11.5 Planned**  
11 **Development District – Uses.**

12 To see if the Town will vote to amend the Town of North Andover Zoning Bylaw, Section 11.5  
13 in order to allow the Planning Board additional flexibility in determining the appropriate types,  
14 number, location and dimensions of signs to be permitted pursuant to PDD Special Permit.

15 **Petition of John T. Smolak and others**

16 **RECOMMENDATION:  Favorable  Unfavorable**  
17

18 Attorney Smolak presented. Proposed zoning change is geared for commercial to provide  
19 flexibility for type of signs on site. Allow integration of signage with Master Plan of this site.  
20 PB will control SP process to dictate type of signage. Mr. Steinberg gets retailers who want to  
21 know what they can do in terms of signage. Address whole site at once. Example of tonight's  
22 handout is type of sign he wants and guidelines he wants PB to approve for signs and then go to  
23 Building Inspector to pull building permit. Blade signs, awnings, site directory signs, etc.  
24

25 **Chair: is in support of this proposal. MW impressed by examples shown tonight. Motion**  
26 **by MW to recommend favorable action for Article #43, 2<sup>nd</sup> by TS, vote was unanimous.**  
27  
28

29 **2009 Annual Town Meeting Warrant Articles:**  
30

31 **#27 Article S. Report of the Community Preservation Committee and Appropriation**  
32 **From the Community Preservation Fund.** To receive the report of the Community  
33 Preservation Committee and to see if the Town will vote to raise, borrow and/or appropriate from  
34 the Community Preservation Fund, in accordance with the provisions of Massachusetts General  
35 Laws Chapter 44B, a sum of money to be spent under the direction of the Community  
36 Preservation Committee; Or to take any other action relative thereto.

37 **Community Preservation Committee**

38 **RECOMMENDATION:  Favorable  Unfavorable**

39 **PB will hold Article #27 over until the April 28<sup>th</sup> PB meeting.**  
40  
41  
42

43 **#32 Article CC. Amend Zoning Bylaw – Section 8.9 Wireless Service Facilities.** To see  
44 if the Town will vote to amend the Town of North Andover Zoning Bylaw, Section 8.9 Wireless  
45 Service Facilities in order to create a revised wireless service facility ordinance as shown below  
46 Or to take any other action relative thereto:

Planning Board

RECOMMENDATION:  Favorable

Unfavorable

PB will hold article #32 over until the April 28<sup>th</sup> BP meeting.

**#40** Article DD. Amend Zoning Bylaw – Add New Section-Section 18 – Downtown

Overlay District. To see if the Town will vote to amend the North Andover Zoning Bylaw by adding a new section, Section 18 Downtown Overlay District to read as follows: existing mixed uses of downtown North Andover.

Planning Board

Judy to present RECOMMENDATION:  Favorable

Unfavorable

PB will hold Article #40 over until the April 28 PB meeting.

**#41** Article FF. Amend Zoning Map –Downtown Overlay District. To see if the town will vote to amend the Zoning Map for the Town of North Andover to rezone the following:Or to take any other action relative thereto.

Planning Board

RECOMMENDATION:  Favorable

Unfavorable

PB will hold Article #41 over until the April 28 PB meeting.

**#44** Article GG Amend North Andover General Bylaw, New Chapter, Chapter 160, Stormwater Management & Erosion Control Bylaw. To see if the Town will vote to amend the Town of North Andover General Bylaws by adding a new Chapter, Chapter 160, Stormwater Management & Erosion Control Bylaw.

Planning Board

Judy to present RECOMMENDATION:  Favorable

Unfavorable

Judy: presented a draft that she worked on w/Jennifer Hughes, Atty. John Smolak and Ben Osgood. This chapter would catch what is not currently caught by the PB or Con/Com process. Chair: where is the reference to MS4? Judy; Definition it's on page 4.

**Motion by MW to recommend favorable action on Article #44, 2<sup>nd</sup> by TS, vote was unanimous.**

**#50** Article JJ Establishment of Conservation Restriction – Boston Hill. To authorize the Conservation Commission and the Board of Selectmen to amend a certain Conservation Restriction more particularly described in Paragraph 1 (a): To release that certain parcel of land subject to the Conservation Restriction granted to the Town by Boston Hill Development, LLC on June 13, 2006.

Conservation Commission

RECOMMENDATION:  Favorable

Unfavorable

Judy: full article describes the changes: **Motion by TS to recommend favorable action on Article #50, 2<sup>nd</sup> by MW, vote was unanimous.**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

**#49** Article KK Amend Vote Article 42-1997 Annual Town Meeting Removal of Development Restriction on Map 62, Parcels 18, 9, and 64. To see if the Town will vote to amend and or modify Article 42 Conservation Restriction, Town Farm, approved at the May 13, 1997 Annual Town Meeting to allow for active recreation including improvements by and for the use of athletic fields within the below referenced identified areas so long as said modification and or amendment applies only to specific identified areas of land hereafter identified on a plan of land.

**Board of Selectmen**

**RECOMMENDATION:**  Favorable  Unfavorable

Judy: See Warrant page 87, this is a housekeeping issue. **Motion by MW to recommend favorable action on Article #49, 2<sup>nd</sup> by TS, vote was unanimous.**

**#34** Article TT. Authorization for the Town Manager to Lease a portion of the Stevens Estate land in excess of three years for the purpose of allowing a wireless communications facility to be constructed at that location.

To see if the Town will vote to authorize the Town Manager to enter into an agreement in excess of three years for the purpose of allowing a wireless communications facility to be constructed and to operate at that location, Or take any other action relative thereto.

**Board of Selectmen**

**RECOMMENDATION:**  Favorable  Unfavorable

**Motion by TS to recommend favorable action on Article #34, 2<sup>nd</sup> by MW, vote was unanimous.**

**#28** Article WW Acquisition of Land using Community Preservation Funds

To see if the Town will vote to raise, borrow and/or appropriate a sum of money for the acquisition by purchase or eminent domain of a fee simple interest or lesser interest in a parcel of land of approximately 188 acres of land owned by any or all of the following: Marjorie V. Kittredge, the Kittredge Family Preservation Trust or the Trust for Public Land as described on Assessor’s Map 105A, Parcels 9,10, 12, 14 and 16 to be managed and controlled by the Conservation Commission of the Town of North Andover

**Community Preservation Committee**

**RECOMMENDATION:**  Favorable  Unfavorable

**PB will hold article #28 over until April 28<sup>th</sup> PB meeting.**

**#42** Article XX. Amend Zoning Bylaw-Section 16.2- Corridor Development District 1-Permitted Uses.

**Petition of Scott Hajjar, Oscar Pancorbo and others**

**RECOMMENDATION:**  Favorable  Unfavorable

Oscar Pancorbo, abutter: Dunkin Donuts, restaurant, and Getty Gas station, 6 stall car wash, the whole area is commercially developed around his area. A drive thru could spur commercial success. He is in favor of this article.

1 Judy: submitted a picture of zoning corridor CDD1.

2  
3 Scott Hajjar: requesting properties that don't abut commercial could have drive thru restaurants.

4  
5 Chair: when CDD's went in a couple of years ago the discussion of drive thru was discussed by  
6 the PB at that time. Chair: is somewhat closed minded on this because of previous discussions  
7 w/PB. If only drive thru not adjacent to commercial are allowed that is spot zoning.

8  
9 MW: a conscious decision was made based on not having a bunch of fast food restaurants over  
10 the years.

11  
12 Mr. Hajjar: Town needs this revenue in hard times we need to put in commercial properties such  
13 as what is already surrounding this area.

14  
15 Chair: message is we don't want to develop Rte. #114 so that it looks like Rte. #28 in Salem NH  
16 as it would not be the best and most effective use of the land.

17  
18 Mr. Hajjar: his property was zoned general business and now he feels his property is now down  
19 zoned. The majority of people want to spur commercial development; our Town can't afford this  
20 section of Rte. #114 to lay dormant. The landscape itself is not different from Jasmine Plaza it's  
21 located next door.

22  
23 Chair: example, the 4 lots closest to Merrimack College they are existing houses - they backup  
24 to Meadow Wood - if these could be converted to commercial in the house itself. For the rest of  
25 it - if it could be developed into one single entity such as Eaglewood Plaza was - that's what the  
26 Town had in mind then.

27  
28 Mr. Reppucci, 14 Buckland Rd., remembered when PB made site visit a few years ago, Fire  
29 Dept. requirements, Mass State Highway would have to take 15 feet, so office space or maybe a  
30 small store could be put there but not restaurants to be put there. He's against this article, if you  
31 spot zone how do you protect homes located next to this rezoning? He wants further information  
32 before going for a favorable vote.

33  
34 Bill Wellock, 164 Hillside, doesn't want drive thru it would decrease his property value.

35  
36 Marcy Wood, 27 Buckland Road, not in favor of this article, has two kids in school system and  
37 over course of time she's watched Rte. #114 become a highway of terror, her neighborhood was  
38 rezoned now her kids can't walk to school because they can't cross Rte. #114. The intersection  
39 Rte. #114 and Hillside has large number of traffic accident, no lights there.

40  
41 MW: is sympathetic to what residents have to deal with, concerned that more curb cuts in that  
42 area will exacerbate the situation enormously. Wishes he could find relief and help them market  
43 their property.

44  
45 **Motion by TS to recommend unfavorable action on Article #42, no second on this motion.**  
46 **PB agreed to postpone this Article until a 5-member board is available.**

1  
2 Courtney wanted to discuss this further. In a Planning world CDD1 and CDD2 is relatively  
3 recent rezoning, it's a long process to have a developer to come in and develop something like an  
4 Eaglewood Plaza.

5  
6 Chair: look at requirements for CDD1 and CDD2 what are allowed regarding setbacks etc. This  
7 was set up for a developer to come in and develop and avoid spot zoning.

8  
9 MW: is sympathetic with the situation for the 8 lots in this area. Why can't this whole district be  
10 reviewed again if nothing is being developed?

11  
12  
13 **#39** Article YY. Upholding of Duties in Bylaws.

14 To see if the town will vote in favor of reminding the Board of Selectmen, the Town Manager,  
15 the Planning Board, the Zoning Board of Appeals, the Zoning Enforcement Officer and Town  
16 Counsel of their sworn duty to consistently uphold and abide by the Zoning Bylaws of North  
17 Andover as dictated by town meeting AND to always act in defense of the public health, safety  
18 and welfare if all North Andover citizens as provided by such bylaws, to the fullest extent of the  
19 law, without personal or financial conflict of interest, or the appearance thereof.

20 **Petition of Steven Tryder and others**

21 **RECOMMENDATION:**  Favorable  Unfavorable

22  
23 **RR: takes issue with “the PB is doing less than they swore to do”. Motion by MW to**  
24 **recommend unfavorable action on Article #39, 2<sup>nd</sup> by TS, vote was unanimous.**

25  
26  
27  
28 **#33** Article FFF. Amend Zoning Bylaw –Section 8.9 (2) – Wireless Service Facilities.

29 To see if the Town will vote to amend the Zoning Bylaw, Section 8.9 Wireless Facilities,  
30 subsections (2)(u) through (2)(aa) to add a definition for Pre-existing Structures.  
31 *Subsection 8.9(2)(u) through 8.9(2)(aa) is to be amended by removing the text shown as*  
32 *stricken, and adding the text shown as underlined.* **Section 8.9 Wireless Services Facilities**

33  
34 **Petition of Salvatore A. Russo and others**

35 **RECOMMENDATION:**  Favorable  Unfavorable

36 **PB will hold Article #33 over until April 28th, PB meeting.**

37  
38  
39 Motion by TS to approve April 7, 2009 “Minutes”, 2<sup>nd</sup> by MW, vote was unanimous.

40  
41 Chair announced the next scheduled PB meetings would be held on April 28 and May 5, 2009.

42  
43 Motion by MW to adjourn, 2<sup>nd</sup> by TS, meeting adjourned at approximately 9:35 pm.

44  
45 By order of the Planning Board

46 \_\_\_\_\_

Draft

1

approved