

**Leicester Planning Board Meeting Minutes**  
**October 2, 2007**

MEMBERS PRESENT: Debra Friedman, Sharon Nist, Bill Wright, John McNaboe and Jason Grimshaw

ASSOCIATE MEMBERS: Scott Broskey

MEMBERS ABSENT:

IN ATTENDANCE: Michelle Buck, Town Planner and Barbara Knox, Board Secretary

MEETING DATE: October 2, 2007

MEETING TIME: 6:00 pm

**AGENDA:**

6:00 PM Master Plan

7:00 PM Old Business:  
Street Trees, Tracy Estates

7:15 PM Public Application:  
1. ANR Plan, Rawson Street  
2. ANR Plan, Woodland Road (corrected plan)

7:30PM Cont. Public Hearing:  
Definitive Subdivision, Hammond Street

8:00PM Public Application:  
Request for Release of Surety, Wal-Mart

8:15PM Approval of Minutes:  
• 9/4/07  
• 9/18/07

8:30PM Town Planner Report:  
A. Grandview Shoppes Application (Traffic Study)  
B. Stormwater Bylaw  
C. Route 9 Fitness  
D. Open Space Plan  
E. Route 9 Corridor Study

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Deb Friedman, Chairman opened the Master Plan Committee Meeting at 6:00 pm  
In Attendance: Darlene O'Connor, Board of Health; Thomas Wood, Highway and Fire Department; Rosemary Scrivens, CMRPC; Dave Connolly, Advisory Board; Sharon Nist, Planning Board; Debra Friedman, Planning Board

Absent: Scott Broskey, Planning Board; Dianna Provencher, Board of Selectmen; Jason Grimshaw, Historical Commission; Laurence Todd, Zoning Board of Appeals; Jim Gonyea, School Department

Ms. Buck gave an overview on the 9 required elements in preparing a Master Plan; Goals; Land Use; Housing; Economic Development; Natural & Cultural Resources; Open Space & Recreation; Public Facilities; Transportation and Implementation.

Ms. Buck said Implementation is the most important element, which talks about what action step and what items to complete to implement the plan after the plan is completed.

Why prepare a Master Plan?

Ms. Buck said some of the reasons are zoning, which should always be based on the Master Plan and not tied to a particular wish of a land owner. It also focuses the Town's planning efforts and because of the last Master Plan, the Town was able to undertake several things. Past accomplishments include: Updating the Commercial Zoning throughout Leicester; Senior Village Developments; Accessory Apartments; Better watershed protection; Larger residential lot sizes and the Adaptive Reuse Bylaw.

Why update the 2000 Master Plan?

Ms. Buck said it's to evaluate actions taken since the last Master Plan and to update goals and objectives that will reflect the new priorities and changing conditions.

Some future possibilities that could be considered in the new Master Plan process: Community Preservation Act; Open Space Residential Development ("Cluster Zoning"); adoption of a Local Historic District(s); and development of a more comprehensive policy for evaluating use, reuse & sale of municipally-owned & tax-title properties.

2000 Master Plan Process:

Ms. Buck said when the last plan was done; most of the work was done by local people. The citizens on the committee did most of the research for the plan. Outside consultants were only used for build-out analysis, mapping and traffic data. There was also a lot of public involvement in the plan, with a survey and public forums.

Ms. Buck then spoke about the 2007 update process. There are three studies in particular that are either completed or will be in the next couple of weeks: the Open Space Plan, the Route 9 Corridor Study, and the Heritage Landscapes Inventory (a grant-funded inventory of historic resources). Information from all of these studies will be incorporated into the updated Master Plan.

The Town also receiving a grant from the Central Mass Regional Planning Commission (CMRPC) for Technical Assistance started the official Master Plan update process and CMRPC will help prepare the Economic Development Element of the Master Plan. Ms. Rosemary Scrivens will be the CMRPC representative for the Economic Development Element.

Ms. Buck said current funding is very limited for this project and the only funds available are leftover from another project. Because of the funding restraints, the committee needs to focus on updating the plan, rather than a comprehensive overhaul. Additional funding at Spring Town Meeting may have to be considered.

Issues that will need to be reviewed first are to develop a more detailed work plan; i.e. starting a survey or another public input process and to review previous planning documents.

Ms. Buck said the first item to get started with is the appointment of the Master Plan Committee. She has not yet heard back from everyone that has been asked to participate. Ms. Buck submitted an updated Master Plan Committee Membership list with the names from the Boards/Committees that were asked to participate. The Boards/Committees not yet heard back from are the Conservation Commission and the Police Department. There

were no responses received regarding At-Large Residents and that notice was posted on line and was placed on LCAC.

Noted at the bottom of the list was that the Building Inspector would prefer not be officially appointed to the Committee, because he is unable to attend evening meetings, but he is willing to comment on any issues that come up.

Ms. Buck asked if the Members present are willing to appoint people now. Ms. Friedman suggested appointing the people who are here now and appoint the new members as they come.

Discussion regarding At-Large Residents. Ms. Nist suggested approaching Judy & Lenny Ivel. Mr. Wright suggested Audrey Wright.

Ms. Buck asked if someone from the Leicester Business Association be invited for the Economic Development portion of this plan. Ms. Friedman suggested contacting the Chairman of the LBA to see if there would be anyone interested in serving on the Committee.

Ms. Nist suggested inviting someone from the Moose Hill Water Commission, Elder Affairs and Parks and Recreation.

Ms. Friedman asked if there was any further discussion; hearing none, asked for a motion to appoint the committee members present.

MOTION: Ms. Nist moved to appoint the Master Plan Committee as presented on the Master Plan Committee Membership List.

SECONDED: Mr. Wright – Discussion: None

Vote: UNANIMOUS

Copies of a draft development outline on the Master Plan Economic Development Chapter and the proposed Task Timeline were distributed.

Ms. Friedman suggested going through the 2000 Master Plan and edit out what has already been accomplished and what needs to be accomplished. Ms. Buck agreed and will send the edited version to the members for their review. Ms. Friedman said that should give everyone a better idea of what has been accomplished and what still needs to be accomplished.

Ms. Buck asked for comment regarding the draft Task Timeline. Ms. Scrivens said the timeline will depend on what will be done with the public outreach. She suggested just doing an outreach on Economic Development with the At-Large Members and the Business Association. Many times there is a breakout with the elements in the Master Plan and this would be an early public outreach focus on the Economic Development.

Ms. Buck said regardless of how this moves forward, both with a survey or other public outreach and given the funding and timing issues; she would prefer to move ahead and hold a separate Economic Development Charrette (public forum) to get input from the public that would be specific to Economic Development. Based on where the Town is in this process that would be the best way to go forward.

Ms. Friedman said surveys will come from a different group of people than a Charrette would. Ms. Buck said there would also have to be more personnel invitations from committee members in order to get more information out to the public.

Discussed were some suggested ways on soliciting for participation at the Economic Development Charrette.

- New Leader Newspaper
- Mother's Club Festival
- Board of Selectmen
- Former Members of the Economic Development Committee
- LCAC
- Becker College
- Local Businesses

Ms. Friedman felt the Task Timeline is tight, but seems feasible.

Ms. Buck said in regards to the Master Plan Survey, the Committee has to think about a way to get input from the general public preferences for future land use and their future vision of the Town; she asked the Committee for suggestions. Some suggestions were:

- 1) Town Census
- 2) Flyers in the New Leader targeted for just Leicester households.
- 3) An on-line survey with questions easy to tabulate.
- 4) Article in the Telegram & Gazette "On the Common", which is free.

Regarding the Preliminary Work Plan; Ms. Buck asked what the Committee Members initial thoughts were on how to divvy up the work load. Ms. Buck asked about doing what the last Master Plan Committee did, assigning small groups to work on certain sections of Town. Ms. Friedman agreed and said that approach did work fine, but a commitment will be needed.

Ms. Scrivens suggested providing a list on the range to the number of people needed to make each group work; letting them know what the timeline is and what will be expected from each group. Ms. Buck said this project is anticipated to be an 18-month process, as long as, people don't lose interest, because then it could drag on and on.

Mr. Connelly suggested having the work defined and then determining how to design the course of action.

There was discussion on a meeting schedule and when the next meeting will be. It was discussed having meetings once a month and scheduling an hour before the first Planning Board Meeting of each month. The Board's next meeting is on November 6<sup>th</sup>.

Ms. Friedman said that would be good, as long as, a commitment can be received from everyone.

Ms. Friedman asked for any further comments, concerns or questions and suggested having copies of the existing Master Plan & what has been updated with Zoning Bylaws sent to the Committee Members.

Meeting adjourned at 6:50PM

Ms. Friedman called the Planning Board Meeting to order at 7:00PM

**Old Business:**

Street Trees, Tracy Estates

Ms. Buck asked if Board Members had to opportunity to do a site visit. Ms. Friedman and Mr. McNaboe said they did.

Ms. Buck said she has not heard anything further from Mr. LaFlash bur did get a complaint from an abutter that Mr. LaFlash was on their property planting trees. Ms. Buck said she contracted Mr. LaFlash and told him to stop until he hears from the Planning Board.

Ms. Friedman said she was surprised to see that there were more trees then she originally thought. Ms. Buck said Mr. LaFlash told her that he had placed trees on the ground, but hadn't planted them.

Ms. Friedman said it was not as bad as originally thought, but there were a couple of houses that had none in front of them. She said she was uncertain if that was because the people did not want them there or took them out. There are not as many existing trees as Mr. LaFlash seems to think. Where several trees are planted, are too close to the sidewalk and when it grows more than a quarter of an inch, it will disrupt the sidewalk and driveway.

Ms. Friedman suggested having Board Members do their own site visit.

Ms. Buck asked how important this issue is to the Board.

Mr. McNaboe said every time the Board recommends Mr. LaFlash complete the street tree planting, the abutters start complaining that he is on their property planting trees. The Board needs to make sure that the next time around, the Board is on top of this right from the beginning. Mr. Wright suggested asking Mr. LaFlash donate the remainder of trees to the Town to have placed in suggested areas; i.e. Lion's Park, Police Station, Russell Park, Senior Center. Ms. Buck said she will look into it.

**Public Applications:**

1. ANR Plan, Rawson Street Lot 1 & Lot 6

Ms. Buck said these are two separate plans and each will create one new building lot.

MOTION: Mr. McNaboe moved to approve the ANR Plans for Rawson Street, Lot 1 and Lot 6

SECONDED: Mr. Wright – Discussion: None

Vote: UNANIMOUS

Ms. Buck said there is another issues related to these plans, these lots are classified 61A. A letter was received from Attorney Phillip Stoddard informing the Board of the required Notice on the land being in 61A. This is a required letter, which gives the Town the right to purchase the property before the reclassification from 61A. This Notice is sent to the Planning Board, the Board of Health, Conservation Commission and the Board of Selectmen for comment. A memo will be sent to the Selectmen indicating that the Planning Board has no objection to removal from 61A classification.

2. ANR Plan, Woodland Road (corrected plan)

Ms. Buck said this is the same ANR Plan that was signed at the last Board Meeting, except that there is a correction in the Deed Reference. She informed the Board that after the last meeting, she spoke with the Building Inspector and this is not the same plan that was shown to him and this current plan may not accomplish what the property owner wants to do. The property owner wants to transfer a piece of land to the abutting lot and retain the rest on Woodland Road. The part he is transferring still won't give him the proper frontage. The Building Inspector was under the impression that the owner was providing frontage to each lot. Both the Building Inspector and owner have been made aware of this issue.

MOTION: Mr. McNaboe moved to approve the ANR Plan, Woodland Road with the corrected Deed Reference.

SECONDED: Mr. Wright – Discussion: None

Vote: UNANIMOUS

Ms. Buck submitted the Development Schedule for signature.

**Cont. Public Hearing:**

Definitive Subdivision, Hammond Street

Ms. Friedman called the hearing to order at 7:30PM.

Mr. Rob McNeil, McNeil Engineering made the presentation. Mr. McNeil said since the last meeting he has met with several of the interested parties to address the comments of the Board and Kevin Quinn, the Board's Engineer. Plans were submitted showing the revisions in response to those comments.

Mr. McNeil said he receive a fax late today from Kevin Quinn stating that all comments but two have been resolved. Mr. McNeil reviewed all comments and the responses received, also the subsequent responses from the most recent correspondence received from Quinn Engineering.

Mr. McNeil said the first comment was requiring the minimum radius of curvature of 200-feet to 158.39-feet and that has been resolved.

Second comment; a sub-drain should be installed to control water in the road basin and he has added a sub-drain detail to the plan to remove the potential sub-surface groundwater from the road basin.

Third comment; Quinn Engineering recommended a temporary easement be provided for cut/fill slopes and street trees outside of the right of way. Mr. McNeil's response to that was since his work is proposed within the Town's water grade over land of the advocates or abutters with existing access agreements believes temporary constructions easements for cut or fill slopes & street trees are not necessary. The proposed drainage that will take place will occur within the proposed roadway.

Quinn Engineering wanted a temporary easement be provided for cut/fill slopes and grading outside the right of way and McNeil Engineering will provide a temporary

easement. Ms. Buck said that is an important issue to address and does not want to run into problems later with not having easements for construction access.

Ms. Buck also asked Mr. McNeil if the access agreements for use of the discontinued Hammond Street have been finalized. Mr. McNeil said no they have not been finalized and are still working on it. Ms. Buck said she would like the Town to look at the nature of how those work and see if that is a suitable alternative.

Fourth comment; pertains to Stormwater Management and within Section VI, B, 1 requiring a concrete drain pipe be installed. The plan proposes to use HDPE plastic piping. Submittal of a waiver request addresses this comment.

Mr. McNeil said Section V, C, 1, states this project must comply with the Mass Stormwater Management Policy and a breakdown be submitted which outlines the specific criteria of how the system complies. McNeil Engineering has done that and Kevin Quinn responded as resolved.

Mr. McNeil said the prior bioremediation basin plan does not restrict access by unauthorized persons with the use of a fence or thorny vegetation. The basin has a depth of approximately 3.5-feet, it should retain little more than 2-feet of stormwater. Mr. McNeil said the basin doesn't retain water, it detains water. To retain water means it doesn't go away, it ponds and stays there; detention means, during a storm event, the water will disperse over a matter of time, it manages it. The standing water that occurs during a peak event is shallower than 2-feet, plus the whole entire area will be filled with dense vegetation and will not hold any standing water.

Ms. Buck asked Mr. McNeil to explain tree protection fencing and where it will be located. Mr. McNeil said when he spoke about street trees; he mentioned adding some trees and additional vegetation to the area. The hope was to try and maintain as much of the existing vegetation, along the edge of the existing right of way and the Farrington property. The revised plan provides tree protection fencing to remind the contractor not to disturb that area during construction.

Mr. McNeil said in Mr. Quinn's letter, he stated having no further comment and that McNeil Engineering had shown that the Bioremediation Basin has dense plantings, which will discourage access by unauthorized persons and requested to delete the use of a fence or thorny vegetation.

Mr. Quinn's next comment was that no record of required soils testing at the Bioremediation Basin was found. Mr. McNeil said they went out and conducted testing. They conducted two separate percolations tests, which measured the porosity of the soil; it allows them to refine their design, to ensure that the water percolates down through the soil and recharge the ground water. The second test is a deep hole perk test that was done in the general location of the prior Bioremediation Basin, to determine the estimated seasonal high ground water table. It is basically adjacent to the wetland system and anticipates that the water table will be consistent. It was found that the water table was down approximately 30-inches seasonal. Mr. McNeil said the soil test pit locations and log

information is now shown on the Grading & Utilities Plan (sheet 4 & 5 of 8) respectively. The two perk rates were 14-minutes and 8-minutes an inch.

The Stormwater guidelines recommend a 2-foot separation from the bottom of an infiltration basin to the seasonal high groundwater elevation; over 50% of the proposed bio-retention basin will comply with the 2-foot offset, while the other half will have an offset to groundwater of less than 6-inches. Raising the bottom elevation of the basin to the recommended 2-foot offset, would require raising the proposed roadway and regarding of the roadway embankment, possibly requiring wetland filling; which has been avoided by design. Perforated floor drains in the proposed bio-retention basin have been designed to remove additional water from the basin area.

Ms. Buck said she spoke with Mr. Quinn briefly on this and he felt this issue was important to address and felt there might be another way to address this besides raising the roadway. Ms. Buck suggested Mr. McNeil discuss this with Mr. Quinn.

Mr. McNeil said the reason the size of this basin is what it is, was to accommodate the recommended recharge requirements, through Stormwater Management. Some alternatives, where the ground water is high and unable to comply with the 2-foot offset, was to try and take advantage of the current recharge in the area with things like roof run, which would add to the recharge chambers.

Mr. Quinn's letter had an additional comment stating that, the record of soils testing indicates that the stormwater recharge will occur with less than 2-feet of separation to groundwater.

The Leicester Conservation Commission is the designated review authority for stormwater management and was unaware whether a means exists for waiving provisions of Stormwater Management. Mr. McNeil said in dealing with the Conservation Commission, they did not have an issue with this and felt this had a low impact design. The alternative for this sort of thing would be some roof recharge units for the proposed houses in this development and they did not have a problem with this being added as a condition to the decision.

Ms. Buck said she would like to discuss this with Mr. Quinn, because he is not inclined to vary from the Stormwater Management Policy. There are also local requirements under the Subdivision Regulations for the compliance to the Stormwater Policy. The Planning Board is part of the review authority, as well as, the Conservation Commission for the Stormwater Management Requirements.

Comment #5 stated that there were no provisions found calling out Street Trees.

Mr McNeil said they have designed the proposed roadway extension to preserve the maximum amount of existing vegetation, while also providing significant new plantings in the bio-retention area. A tree protection fencing detail has been added to the plans and a waiver from the requirement for additional street trees had been requested. The Planning Board had discussed adding a condition of approval to provide additional street trees, if existing vegetation within the protected areas, are destroyed during construction.

Mr. Quinn had no further comment.

Ms. Friedman said she did get a chance to view the area and the trees are not very large and with the description that was given at the last meeting, it was understood that there were significant trees. Mr. McNeil said significant is a subjective word, it is significant to Mr. Farrington who considered it to be a buffer from his neighbor.

Ms. Friedman said her concern was that one little truck backing up the wrong way, could take out all those trees. Mr. McNeil said he agreed in having some kind of provision to make sure that the trees would be replaced, if taken down by mistake.

Comment #6 stated plans did not indicate any Open Space being proposed. Mr. McNeil said this was previously discussed and the Planning Board did not require park or recreation land as part of this project and Mr. Quinn indicated no further comment.

Mr. McNeil said he would like to continue with some additional questions raised by the Board during the last meeting. One was the fire chief's review & comments specific to the proposed T-turnaround and the need for a fire cistern. After he discussed this issue with the fire chief, the chief indicated that the T-turnaround provided adequate access for their equipment and he did not require a fire cistern for any development less than 4-houses. Mr. McNeil said he received a review indicating approval of the project by the Fire Chief dated July 10, 2007. Mr. McNaboe said the Board needs to see those comments stated in writing from the Fire Chief regarding the T-turnaround and that he is not requiring a fire cistern.

Mr. McNeil said the second question raised was the minimum lot width. The Board asked that he verify that the proposed lot widths meet the minimum per the zoning table. McNeil Engineering verified with the Town Planner that the proposed lot widths exceed the minimum requirements per the zoning table (because lot width applies to the distance between *side* lot lines, not between front and rear lot lines).

Mr. McNeil said the third question raised was to provide additional information from the manufacturer of the Stormceptor unit regarding other nearby installations and maintainers. McNeil Engineering has attached a memorandum from John Czach of Rinker Materials that provides a listing of nearby facilities which are currently using Stormceptor units and a list of local service providers.

Mr. McNeil said he has talked with the Highway Department and Town Planner regarding long term maintenance. After speaking with Highway, if and when the Town acquires a maintenance truck, they will take over responsibility on maintenance, but until then, it will be the applicant's responsibility.

Mr. McNeil said there will be two catch basins that will be maintained by the Town, using a clam shell buckets that will precede the Stormceptor units. The fact that this is such a small stretch of roadway, with everything around it pretty established, he does not precede that there would be any significant amount of deposits in the Stormceptor unit that will require an annual pumping. He believes this annual maintenance will end up turning into 3-year maintenance, with inspections annually.

Mr. McNeil said the fourth question was Conservation Commission's review and comment. The Conservation Commission closed the public hearing on the Notice of Intent for this project on September 20<sup>th</sup> with approval.

Ms. Buck said she would like to note receipt of a letter received from Mr. Brian Angel Burke. The letter is indicating that Mr. Burke feels the Board should not act on this application because of the pending litigation with the Town. Mr. Burke included with his letter, copies of court documents. Ms. Buck said she has discussed this with Town Counsel today and he did not feel that this issue was relevant to the Board's consideration of the current application before them.

Mr. Buck said she requested assistance from Counsel regarding conditional approval on this project that might require a future developer to take action. Town Counsel advised that the Board can not condition a current project, in such a way that it puts conditions on a future land owner, because it's two different projects.

A more general issue of requiring, separately, a future owner to do offsite improvements, will not be easy. Town Counsel is not recommending the Board go down that road. The Board has an application before them now and if there are certain improvements that are felt necessary with the roadway, the time to ask for those improvements is now. It will not be that simple, as the applicant has presented, to try and get a future developer to make those improvements.

Mr. McNeil said in order for them to do this project, they submitted an extensive list of Waivers. They feel that each and every one of them is justified. The most important issue is that development is going to continue and there will be further housing developed down Hammond Street.

Right now, he is talking specifically to sidewalks. Any sidewalk improvement proposed, would have to be on the north side of the road, based on the configuration that exists today. Any extension of Hammond Street would be off of their proposed extension and would necessitate disruption & removal of whatever sidewalk might be installed. If they are going to save the existing vegetation as a buffer and talk about a potential expansion later on, putting in a sidewalk would serve no benefit. Access will not be provided any further than the Farrington's driveway.

Mr. McNaboe asked if it has been discussed where the children are currently pick up by the school bus from Hammond Street. Mr. McNeil said at the intersection of Parker Street. Like any modern bus stop, you have a line of cars waiting for the bus, so the kids can hop out of the car and go. Most children are not allowed to congregate and walk to a bus stop any more.

Mr. McNeil said they have significant constraints on what can be done within the Hammond Street right of way; the minimum width is 16-feet of travel way. If something sizable comes along and is deemed significant, would justify widening Hammond Street off of Parker Street. The best they can do is widening it out from 16-feet to 24-feet to provide the adequate turn around for emergency vehicles and DPW equipment.

If something comes in substantial larger, the restriction is 33-foot existing right of way and would looking at a land taking for access agreements, with easements all the way up.

Ms. Buck said the concern is that these items are not provided and because there isn't any room to provide them in the future; it was discussed at the last meeting about providing a right of way. Mr. McNeil said the Town would have to either take the land or enter into an agreement. Ms. Buck said on the other side where the abutting property is the same owner.

Mr. McNeil said it would be limited to the extension area. Ms. Buck said it would be in the part being extended. Mr. McNeil said they are providing a 40-foot right of way without taking any more area. Ms. Friedman said but you could provide more for the right of way. Mr. McNeil said it is possible to do that. Ms. Friedman said so potentially at some point, there is more right of way there for the next developer. Mr. McNeil said up to that point.

Ms. Friedman said that at least there would be room for sidewalks to be put in if a 40 foot right of way was provided. Mr. McNeil said yes, up to that point, they would not be able to carry it out to Parker Street.

Mr. McNaboe said according to the opinion from Town Counsel, the Board can not hold a future entity to put in sidewalks for that project.

Ms. Buck said it will not be automatic, the Board might be able to make it work, but it is not known what the nature is on the type of future developer that will come in. If it is a large development, anything that goes further, at minimum will need a waiver from the dead end length. The Board would have the ability to deny the waiver to extend the dead end any further.

Ms. Friedman said not necessarily, isn't there land that abuts back and can be pulled out onto Parker Street? Ms. Buck said that is unknown, will it be a long dead-end proposed or will it be improved to be pulled out onto Parker Street.

Ms. Dorothy Castell said she owns that land. Mr. McNeil said anything that goes beyond Mr. Burke's property, would come through Charlton, before entering back into Leicester.

Ms. Friedman said the Board has to look at the potential build out.

Mr. McNeil said each project has to be looked at individually.

Mr. McNaboe said yes and no.

Ms. Buck said it could be argued by the future developer that this Board should have foreseen the development and should have asked for what is already in the Regulations, instead of asking the next developer to provide this. The next person might also be a small land owner who would have difficulty affording a development, and then the next one and the next one.

Ms. Castell said she does not understand the big concern. Is the Board concerned with the property on Parker Street being developed? Ms. Friedman said she is asking what the potential is for further build out, not just from the Girl Scout property across the street, but the parcel that is off of that further down.

This property is in such a way that the parcel further down, has no frontage on Hammond Street and would be totally enclosed by your property.

Mr. Castell said yes, to the Charlton Town line.

Ms. Buck said it doesn't prevent future extension of Hammond Street. Mr. McNeil said no.

Mr. McNaboe said it makes it more likely, it gets it started.

Ms. Friedman asked how much further is there before getting into Charlton. Mr. Castell said almost 1,100-feet of property after them on Hammond Street.

Ms. Friedman asked if Mr. Burke owned that property. Mr. McNeil said Mr. Burke owns on the south side and the north side is owned by the girl scouts.

Mr. McNaboe asked how further this road would go to get into Charlton. Mr. Castell said if you go from the existing pavement to the Spencer Town line, would be 1,900-feet. Ms. Buck said currently the dead end is 975-feet and this would extend it to 1,356-feet.

An extension discussion was held regarding length of a dead end road, who owns the property beyond this proposal & the potential build out.

Ms. Castell said how anyone can predict the future; you don't know what will be proposed in the future. Ms. Friedman said that's the point.

Ms. Buck said what it comes down to is, can the Board live without having sidewalks?

Ms. Castell said if they are not allowed to build and someone comes and makes her an offer, she will sell. If they do build and someone comes along who wants access, they won't have access; she won't sell it to them. If she can't use her land to build, and there's the question from the beginning of why she was ever allowed to build on her property, her entire street should not have been allowed to build.

Mr. McNaboe said there are a lot of "what if" questions and here's another one: what if the current law suit has merit?

Ms. Castell said if the road is public, then it's public. Mr. McNaboe said that would keep you from improving it. Ms. Castell said we are taking that chance. Ms. Buck said it still needs to be improved, but the Town will not improve it for someone.

Ms. Castell said if her son is allowed to build, she will not be selling property, but if they have to wait it out and the road is public, she will sell the property.

Ms. Friedman said where this is going is the Board needs to decide how many waivers will be allowed. Will the Board waive sidewalks and grant all the waivers requested? These waivers are significant; it's road length, road width, sidewalks, right of way & HDPE piping.

This proposal is asking for an extension of dead end road length and the regulations state there is a 500-foot limit. Already Hammond Street is well beyond the 500-foot limit; Hammond Street existing is (roughly) 900-feet and this proposal is requesting the addition of another 381-feet to that.

There are 10 waiver requests and for a subdivision this size; this is extremely high. This Board has never seen 10 waivers for any subdivision before and has never granted 10 waivers.

Mr. McNeil reviewed the list of waivers requested.

**1) To waive the requirement of all elevations referred to Mean Sea Level and allow a local assumed benchmark elevation reference.**

Ms. Buck said she was not sure how significant that request was and asked about Quinn Engineering's comment.

Mr. McNaboe asked if the waiver request was because there isn't an elevation point that the surveyors can use. Mr. McNeil said yes, it would have to be carried in from the nearest Mass Highway, which would be Route 9. Mr. McNaboe asked if referring to Mean Sea Level was just an elevation point. Mr. McNeil said yes.

Ms. Nist asked if there are actual spike bench marks in the ground and if they were USGS bench marks. Mr. McNeil said yes, there are spikes set into the trees and they are not USGS bench marks.

Mr. McNaboe asked, as far as the elevations, it can be off with a little bit of tolerance. Mr. McNeil said no tolerance at all. For example, on the library's top step, at the entrance, there is a rivet on the left hand side and that is a controlled bench mark. When Mass Highway works on the road, they use that rivet as the reference point. It has been set and recognized as a specific elevation in reference to Mean Sea Level.

Ms. Buck asked if this is commonly done and something that has been overlooked, so people haven't requested the waiver. Mr. McNeil said yes.

**2) To waive the minimum center line radii of curved streets from 200-feet to 158.39-feet.**

Ms. Nist asked if this was the curve entering the Hammerhead turn around. Mr. McNeil said yes. The surveyor informed him that the center line of the right of way is 200-feet and the roadway, within that, is less than 200-feet. That is because they have a line coming in here and tangent coming into cul-de-sack from the dead angle.

Normally, when you come into the right of way, a curve is tangent to the tangent coming out, which is also the case here. Because there is a transition from a 33-foot right of way to a 40-foot right of way - that is where the disconnect occurs.

Mr. McNaboe said the only part he sees as being significant, if this was to be extended. If this dead end was to be extended in the future, that curve would be straightened out. Mr. McNeil said yes it would.

**3) To waive the minimum width of right of way from 40-feet to allow the existing 33-foot layout.**

Mr. McNeil said the existing 33-foot layout coming through; once they break from the wall that exists, they get into the 40-foot right of way.

Ms. Buck said there is a little concern about that, because the ability to have the right of way, gives the Town the broadest range of options.

Mr. Wright said which would be the fire and police departments; that would need to be increased to allow them safe access.

Mr. McNeil said it would have to be increased along an abutting property line and would not correct the radii.

Mr. Wright said if the road was pulled down closer to the wall, it would allow a safer access. Mr. McNeil said it would put the road right on the wall. The existing right of way is along the wall and pulling the edge of the pavement back, to allow more footage, would put the berm right up against the wall.

Mr. Wright asked how many feet generally. Mr. McNeil said 3 or 4 feet. Mr. Wright said if there was a right of way given; it would be the land along the wall Mr. McNeil said they would have to demo the wall.

Mr. McNaboe said if the right of way was to be increased; the Board might be more lenient on the sidewalks. Mr. Wright said it becomes a safety net. If you leave the potential for sidewalks later on, the Board will still have to fight the battle with a future developer to create those sidewalks. The sidewalks won't necessarily have to go in now, but if the right of way is there and the potential for sidewalks are there, the Town now can have the sidewalks put in.

Mr. Castell said that seemed acceptable.

**4) To waive the minimum width of travel way from 28-feet to 24-feet with a transition from the existing 16-foot width.**

Mr. McNaboe asked if Hammond Street is 16-foot width. Mr. McNeil said it is from 16-feet to 20-feet. They proposed to improve from the 16-feet, starting the transition within the first 100-feet out to 24-foot width and carry it out 24-foot width to the T turnaround. The 24-foot width is the maintenance width for plowing operations.

**5) To waive the maximum 500-foot dead end street from 975-feet (existing) to 1,356.76 (proposed). This proposal will extend Hammond Street 381.76-feet.**

Mr. McNeil said their proposal improves the existing pavement. Currently there is a ponding issue that exists at the end of pavement right before the last driveway, as well as, water coming off of the last lot, which washes down through the Farrington property. As part of the improvements, they have designed that the drainage will be redirected to the catch basins and a subsurface drainage system and keep the water off the Farrington property.

They are also widening the road wider than any portion of the existing street, down to a safe turn around, which is far in excess of what the emergency services and DPW vehicles need to work with.

Ms. Buck asked how many houses are on the existing part of Hammond Street. Mr. Castell said there are 9 houses, but are numbered to 10. Ms. Buck said with these proposed two, would make it 11.

- 6) **To waive the requirement of providing a turnaround with a roadway diameter of at least 100-feet and allow a proposed 24-foot width x 100-foot length hammerhead turnaround that meets the Leicester Fire Department's minimum equipment access requirements.**

Ms. Friedman asked if there has been anything received from the Fire Chief stating his approval in writing.

Mr. McNeil said the proposed turnaround is designed to keep out of the wetlands and avoid filling the wetlands, as well as, trying to minimize total amount of pavement. They tried to endorse some low impact design out of this and to have the entire cul-de-sac paved is excessive for just two lots. Their proposed turn around makes the situation with emergency vehicles much better than what exists there today.

Mr. McNaboe said the Town doesn't get the improvement of the hammerhead turn around, which right now there is nothing there, without lengthening the road. He doesn't like lengthening the road, but on the other hand, emergency vehicles can't turn around down there.

Ms. Friedman said as far as Waiver #5 & #6, they are the only waivers she sees as an improvement for the Town. This is what waivers are supposed to be, to benefit the Town, not the developer.

- 7) **To waive the Town of Leicester Typical Roadway Cross Section to the proposed roadway cross section shown on the detail sheets.**

Mr. McNeil said this had to be added because relative to where the cross section is and with 28-feet of roadway, plus sidewalks on both sides, a waiver from that, necessitates a waiver for this.

- 8) **To waive the requirement for additional street trees.**

Mr. Wright said if the trees do get knocked down by accident, the Board would want them replaced.

Mr. McNeil said they are going to try and protect what is there. What is already there is the same caliber or slightly larger than what would be installed as a street tree. If they were to adequately protect that and let that continue to grow, so be it, but if it were to be damaged or destroyed, then they would have that replaced.

Ms. Buck asked about the other side of the street. Mr. McNeil said currently there is no room on that side of the street and they will be running underground electric cables along that side.

Ms. Friedman asked how much frontage is along the south side. Mr. McNeil said 381-feet. Ms. Friedman said for a street tree to be placed at every 40-foot, there would be roughly 9-street trees on that side.

Mr. McNeil said he would like to remind the Board of what is being proposed at the bio-detention area, where they will be planting trees, as well as shrubs there. They are looking to take credit for street trees in that location.

Ms. Friedman asked how many will be planted there. Mr. McNeil said right now, two.

Ms. Buck said there may or may not be site constraint issues and did not feel that, as a general policy, thinking for other projects that trees in a rain garden detention facility would normally substitute for trees along the road; it serves two different purposes.

Mr. Wright asked if there would be the ability to put something in along the wall, beyond the radii. Mr. McNeil said right now that area is wooded beyond that wall and they do plan on putting in drainage there. They plan on coming up 2 to 3-feet with final grade, to route the water properly and normally those trees would die. This will be located outside of the right of way.

Ms. Friedman asked if he will be taking out all the existing vegetation there. Mr. McNeil said in that area, maybe, unless there is a significant amount of trees there. Mr. McNaboe said some trees could be planted there.

Mr. Wright asked if the grading is outside of the Town's right of way. Mr. McNeil said yes.

Ms. Buck said if there is a 40-foot right of way and there are 20-feet of pavement with curves and sidewalks on each side, it uses up the entire right of way and street trees do get put on private property. Most developers are wise enough to put in the trees early in the project so this isn't usually an issue.

**9) To waive the requirement for use of concrete pipe and allow HDPE plastic pipe.**

Mr. McNaboe said this piping is something new and is not in the Bylaws; this Board does not waive bylaws.

**10) To waive the requirement for sidewalks (Section VIG.1.)**

Ms. Friedman said she was not sure about waiving the requirement for sidewalks. Mr. McNaboe said this goes back to #3, being able to possibly have the 40-foot right of way and as suggested, if that can be done, the Board might be able to see their way through.

Mr. Friedman suggested that the Board members do a site visit and look at what there is for trees. Mr. McNaboe agreed and said that should be done before the Board decides one way or the other.

Mr. McNeil said he would like to have a better understanding what the Board expects and what final revisions will be required in order to get this approved.

Ms. Friedman said there are some outstanding Stormwater Management issues that need to be finalized. An access agreement is needed; a letter from the fire department approving the Hammerhead turnaround; the Board needs to decide on the waiver for sidewalks; the 40-foot right of way waiver and street trees.

Mr. McNeil said it was his understanding from the correspondence received from Attorney Cove that access agreements could be considered as a condition to be in place prior to construction. He asked if this is something the Board is now looking at is having in hand prior to making a decision. Ms. Buck said her understanding was that the agreement would be needed sooner rather than making it a condition.

Mr. McNeil said in the letter from Attorney Cove, he mentioned that access agreements seemed to be appropriate, but is a matter between the parties, rather than a Planning Board matter. Ms. Buck said in that letter it also states, "except to the extent that lawful access is limited or prohibited." When she spoke to Counsel, it was indicated that the applicant needed to demonstrate that they have lawful access. This will need to be clarified with Counsel, but it was her understanding this was something that should be resolved prior to approval, at least in some way. However, she will get clarification on what the Board should accept as evidence of lawful access.

Mr. McNeil said as for a letter from the fire department; he has multiple discussions with the Fire Chief. Ms. Friedman suggested that Mr. McNeil draft a letter and bring it to the Fire Chief to sign. Mr. McNeil agreed.

Mr. McNeil asked if the Board is asking for the 40-foot right of way. Ms. Friedman said yes, so that there will be room for sidewalks.

Mr. McNeil said they clearly can not put street trees in every 40-foot. Mr. Wright said maybe south of the radii there could be some trees clustered. Not that it could be 36 trees, but to show that there is a reasonable amount.

Ms. Friedman said the Board members need to go down and take a look before making a determination on waiver requests.

At this point, Ms. Friedman asked for any further comments, concerns or questions, hearing none, asked for a date to continue the public hearing. After a brief discussion, October 16<sup>th</sup> at 8:00PM was agreed upon.

MOTION: Mr. McNaboe moved to continue this public hearing to Tuesday, October 16, 2007 at 8:00PM.

SECONDED: Mr. Wright – Discussion: None

Vote: UNANIMOUS

**Public Application:**

Request for Release of Surety, Wal-Mart

Ms. Buck said she did a site inspection and was impressed with the progress of work on the stone wall out front. The wall was finished on Thursday and they had installed a sod lawn. The missing shrubs have been planted; the as built plans were submitted to Quinn Engineering and Kevin Quinn "okayed" the plans, noting some minor corrections that were done on site.

The only item still outstanding is the correction of the Opticom unit. Ms. Buck said she did talk with Tara Calabrese who indicated that all the outstanding work could possibly be

done by Tuesday. No one has gotten back confirming if the work has been completed, so this request for release of surety has to be put off until next meeting.

**Approval of Minutes**

9/4/07

MOTION: Ms. Nist moved to approve the minutes of September 4, 2007

SECONDED: Mr. McNaboe – Discussion: None

Vote: UNANIMOUS

9/18/07

MOTION: Ms. Nist moved to approve the minutes of September 18, 2007

SECONDED: Mr. McNaboe – Discussion: None

Vote: UNANIMOUS

**Town Planner Report:**

Grandview Shoppes Application (Traffic Study)

Mr. McNaboe asked if the applicant answered the concern regarding the elevation of the buildings. Ms. Buck said she has spoken with the applicant and was told that the building will comply with the height restriction. There was some miscommunication between the architect's office and the engineer's office & the applicant indicated that they will be submitting a list of errors along with a narrative description of the project indicating that the buildings will comply. To date, that information has not been received.

Mr. McNaboe asked if the plan should just be redrawn. Ms. Buck said the architect drawings should have been submitted with the original packet. As of right now, their project description is inaccurate, because it describes the buildings being 4-stories and their not. Someone called her from the engineering office asking to confirm the hearing date and she informed them that the legal ad had not yet been prepared, because a correct project description has not been received.

Ms. Buck said the reason this has been put on the agenda is that the Board has the authority to require a traffic study for large developments or for those that will have an impact on heavily traveled roads, or for any application the Board deems such information necessary to evaluate the impact of the proposal on adjoining neighborhood streets.

Ms. Friedman suggested requiring this project do a traffic study.

MOTION: Ms. Nist moved to have the applicant of the Grandview Shoppes of Leicester, Inc prepare a traffic study.

SECONDED: Mr. McNaboe – Discussion: Mr. McNaboe agreed that a traffic study is necessary.

Ms. Buck said this is 16,000-square feet of commercial and 42-housing units. Ms. Friedman asked what streets the Board would like require in the study. The study is to include: Route 56, Clark Street, King Street, Stafford Street and Pleasant Street intersections.

Vote: UNANIMOUS

### Stormwater Bylaw

Ms. Buck said the Stormwater Bylaw Meeting is scheduled for Thursday night at 7PM. Mr. McNaboe said his biggest concern with this bylaw, is enforcement. Ms. Buck agreed and said she has raised this question with the consultant, who felt it can be dealt with when the Regulations are finalized.

### Route 9 Fitness

Ms. Buck said this has been put on the agenda, because this business is closing and has asked for a refund of their review fee. She did not see a problem issuing a refund, but the applicant was requesting the money immediately and the business is not yet closed. She was informed that the fitness center has posted closing signs. Ms. Friedman suggested submitting the paperwork and that the check be held in Town Hall until confirmation is received that the business has closed down.

### Open Space Plan

Ms. Buck said the next meeting is scheduled for Tuesday, October 16, 2007 at 4:30PM

### Route 9 Corridor Study

Ms. Buck said she has met with Bill Scully, the traffic study consultant and discussed the changes the Board wanted with regards to access roads. Mr. Scully wasn't agreeing and did not want to make changes to the plan. Ms. Buck said she told him that the Board's concerns had been discussed at all single traffic study meetings, and he should address the Board's concerns (particularly if he wants additional work from the Board). Ms. Buck said Mr. Scully agreed to revise the study.

### Miscellaneous

Mr. Broskey brought to the Board's attention that he will be submitting an application regarding wind turbine towers. The application is for a review on the placement of temporary towers that will collect wind data and keep track of the wind speed for approximately one year. These temporary towers are about 160-feet tall and determine the size of the turbine that would be needed.

Mr. McNaboe asked where the temporary towers to be placed. Mr. Broskey said some places discussed were: the water shed property up by the high school; Hillcrest property and Memorial School property.

Ms. Nist asked if these towers will need a special permit to be put up. Mr. Broskey said he was not sure.

Ms. Buck said there would need to be a Zoning amendment to allow permanent windmills; the bylaw does not allow windmills and does not address them in anyway.

Mr. Broskey said it probably would be 15 months before one will be proposed. Ms. Buck said a Zoning Amendment is a long process and if this is the interest, then it would need to start moving. Town Meeting is only once a year and sometime twice, so if a zoning change is needed, it should be addressed at the spring Town Meeting.

Ms. Buck said as for a temporary tower, she was not sure what is required and recommended that a description of these temporary towers be put in writing and officially request a determination from the Building Inspector, regarding whether or not temporary towers can be constructed.

MOTION: Ms. Nist moved to Mo Sharon to adjourn the meeting.

SECONDED: Mr. McNaboe – Discussion: None

Vote: UNANIMOUS

Meeting adjourned at 9:45PM

Respectfully submitted;

Barbara Knox