

**PLANNING & ZONING COMMISSION**  
**November 9, 2009 Meeting**

Commission Members Present: Alan Gannuscio, Marshall Brown, and Janet Ramsay

Town Staff Present: Town Planning Coordinator and Assistant Zoning and Wetlands Officer Jennifer Rodriguez, Town Engineer Dana Steele, and Town Planning Consultant Michael O'Leary

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Chairman Gannuscio called the meeting to order at 7:14 pm.

Commission roll call was taken.

Chairman Gannuscio noted that Mr. Scarfo had indicated that he would be late to the meeting that evening; he had another meeting that he had to attend and would try to come after that meeting ended.

**MINUTES:**

**Chairman Gannuscio referred to the October 19, 2009 meeting minutes and noted that he, Mr. Zimnoch, Mr. Brown, Ms. Ramsay, and Mr. Scarfo were present at that meeting. He then asked the Commission members and staff for any comments or corrections. The Recording Secretary noted that Ms. Rodriguez had emailed the following corrections to her earlier in the week: on pages 2 and 5 Szypanski should be spelled Szepanski and on page 8 Lawn Acre should be one word, Lawnacre. Mr. Gannuscio moved to approve the October 19, 2009 meeting minutes, as corrected. Mr. Brown seconded the motion. All were in favor. The vote was 3 – 0, the motion was approved.**

**COMMUNICATIONS AND BILLS:**

**Chairman Gannuscio stated that he had received a bill from Mr. O'Leary for his September/October retainer in the amount of \$3,333.00. He then moved to approve Mr. O'Leary's bill in the amount of \$3,333.00. Ms. Ramsay seconded the motion. All were in favor. The vote was 3 – 0, the motion was approved.**

Chairman Gannuscio asked Ms. Rodriguez if she had received any correspondence that she needed to bring to the Commission's attention. Ms. Rodriguez stated that she had spoken with the Connecticut Department of Environmental Protection (DEP) regarding Babylon. She went on to say that she had been told that Babylon was up for renewal of their DEP permit and that one option would be for the Selectmen from Windsor Locks and Suffield to write a letter asking for clarification of the hours of operation for the entire grounds, not just the building. Mr. Gannuscio noted that Ms. Rordriguez' email had mentioned the hours as Monday through Friday from 6:00 am to 11:00 pm and

Saturday from 6:00 am to 4:00 pm. Ms. Rodriguez stated that she would update the Commission again once the Selectmen's letter had been drafted and signed. Mr. Gannuscio then asked the Recording Secretary to carry forward the discussion of Babylon to the December meeting agenda.

Ms. Rodriguez stated that at the previous meeting she had been asked how the fees in lieu of open space could be used. She went on to say that those funds could be used for acquiring land, but not improving it. Chairman Gannuscio clarified that the fees in lieu of open space that were collected could not be used to improve land; it was a dedicated fund solely for acquiring additional open space. Ms. Rodriguez stated that that was correct.

#### **PUBLIC HEARINGS:**

**a. Public hearing on the site plan review and special use permit application of M&L Development Corporation for the property located at Oak Ridge Drive, Assessor's Block 127.**

Chairman Gannuscio asked Mr. Brown to read the rules for conducting a public hearing. Mr. Brown then did so.

Chairman Gannuscio asked the Recording Secretary to read the legal notice. The Recording Secretary then read the legal notice that had been published in the Journal Inquirer on October 29 and November 5, 2009.

Chairman Gannuscio stated that Commission Member Scarfo might attend the meeting later in the evening. He went on to say that he had asked Mr. Scarfo to listen to the meeting tapes and read the meeting minutes if he was unable to attend the meeting and that Mr. Scarfo had said that he would do so. Mr. Gannuscio then asked the applicant if they had any objection to that. Attorney Thomas Fahey replied that they had no objection. Mr. Gannuscio stated that he would also have Commission Member Zimnoch do the same and asked the applicant if they had any objection. Attorney Fahey replied that they had no objection.

Attorney Thomas Fahey addressed the Commission on behalf of the applicant and stated that the following individuals were also present that evening:

- Kevin Johnson from Close, Jensen and Miller, the applicant's consultant;
- Gary Merrigan from M&L Development;
- Dan Merrigan from M&L Development; and
- Daryl Lefebre from M&L Development.

He explained that they were at the meeting that evening for a site plan review and special use permit for the property located on Oak Ridge Drive off of South Center Street. He then noted that it was on the west side of South Center Street.

Attorney Fahey stated that the property was composed of two lots, Lot 10 owned by David Chase and Lot 11 owned by Jane Malec Jutras. He went on to say that the property was zoned MFSD and that that zone designation was a result of a zone change that the Commission had granted about one year prior. Attorney Fahey noted that multi-family was a permitted use within the MFSD zone.

Attorney Fahey stated that a sign had been posted on the property. He then noted that the property owners, David Chase and Jane Malec Jutras, had both signed off on the application that was before the Commission. He went on to say that plans had been submitted to staff who had reviewed them and made comments. Attorney Fahey commented that he was not going to go through all of the staff comments that evening, because in most cases the applicant was going to do exactly what the Town staff had set forth. He then pointed out that Sheet 3 of 17 in the plan set contained the site data, both what was required and what had been proposed, and the density calculation.

Attorney Fahey stated that Police and Fire had been given copies of the plans and had both submitted their comments. He went on to say that the applicant had also been before the Wetlands Commission. He then explained that one of the Wetland Commission approval letters was on the cover sheet and that a second approval letter had also been submitted. Mr. Fahey explained that the first approval was related to the cul-de-sac and the second approval was given after the site plan had been designed.

Attorney Fahey referred to Town Engineer Steele's letter dated November 5, 2009 and stated that most of the items contained in that letter were very technical things that the applicant would be happy to clean up on the plan. He went on to say that the applicant agreed with all of the Mr. Steele's comments except for Items 1a, 2e, 5c, 6a and 8c.

1a. Attorney Fahey stated that there was an area map included with the previous zone change application which the Commission had approved. He then asked if the Commission wanted the applicant to include a copy of that same area map with the application in question. Chairman Gannuscio replied that they should include a copy of the area map in order to make the current application its own full application.

- 2e. "Other condominium developments with cul-de-sac entrances have installed landscaped islands to be maintained by the homeowners' association. Islands make snow removal more difficult and restrict access for large tractor trailers, but can enhance aesthetics and control traffic."

Attorney Fahey stated that the applicant agreed, but that they would do whatever the Commission wanted. He then pointed out that they had already received Fire approval of the plan as presented. He went on to say that the Commission should talk with Fire and then let the applicant know if the plan needed to be changed. Attorney Fahey commented that if they were going to require an island then the applicant would like to put the location sign in the island.

- 5c. "Section 409.C.7 requires at least 20' separation from building to street or driveway. The Commission should determine if the intent is to also restrict parking spaces within this setback. If so, all spaces in front of units 1-4, 11-14, and 29-32 should be relocated."

Attorney Fahey stated that the applicant did not think that they needed to be relocated. He went on to say that Town Planning Consultant O'Leary had also addressed the issue in his memorandum and that he had felt that the applicant complied. He then asked Kevin Johnson to point out on the plans the areas where Mr. Steele's comments applied. Mr. Johnson then pointed out the three large buildings and stated that the parking for those buildings was located 15 feet from the building and that it was in conformance with the MFSD requirements.

- 6a. "Section 409.G requires at least 50% of the building foundations to be completed within 1 year of approval unless an extension of time is granted by the Commission. Based on the phased approach of this development and the current housing market, it is unlikely the development will be 50% built within the first year. The Commission should determine if they want the applicant to return for annual extensions of time, or approve a longer time period. An alternative would be to agree to start the 1 year time limit at the beginning of each phase."

Attorney Fahey commented that it was a very troublesome requirement. He went on to say that for one building on one lot it was more understandable, but that when dealing with a 42 unit condominium development it was not. He stated that it would be impossible to build 26 units within six months and that it would be impossible to get a bank to finance it that way. Attorney Fahey stated that once they declared a unit then they would have to finish it. He then pointed out that they typically did not declare a unit until it was complete.

Attorney Fahey stated that the applicant would like to have the requirement clarified. He then suggested that the Commission also take a look at the language and possibly consider amending it. He concluded by noting that the site plan approval was good for five years.

- 8c. "Provide a performance bond for any remaining improvements within that phase such as pavement surface course and landscaping in accordance with Section 409.H."

Attorney Fahey stated that the applicant needed some clarification regarding the performance bond. He went on to say that the roads in question were private roads, not public roads, and that he did not know if the Commission had the authority to impose the performance bonds on private roads. Attorney Fahey commented that if the performance bonds were addressing public improvements then the applicant would have no problem with it, but if they were addressing private improvements then they would have a problem with it.

Attorney Fahey referred to Town Planning Consultant O'Leary's memorandum dated November 7, 2009 and noted that Items 1, 2 and 3 were instructive. Daryl Lefebre then distributed copies of the architectural. Gary Merrigan of 560 Halfway House Road stated that the architectural showed variations of four different units. He then summarized them as follows.

The design with the cupola.

- a center townhouse (semi-attached unit) with two outboard ranches on each side
- each unit would have a one car garage
- all were two bedroom units
- full basement
- the exterior consisted of a variety of different accents which may vary
- majority of the building would be vinyl

Mr. G. Merrigan noted that they were showing different facades so that they could change architecture without changing the basic footprint.

Ranch Units

- a variety of two ranch units which they took from the Glen Brook development
- two bedroom units
- 2 car garage
- 2 full baths
- full basement

Mr. O'Leary commented that the site plan had names on it. He then asked if the applicant could explain which unit was which. Daniel Merrigan of 96 Heather Lane replied that the Stratton was the ranch that had been taken from Glen Brook and that the Hampton was the townhouse. He went on to say that there was another design that had not yet been named. He then described it as follows:

- two attached townhouses
- two car garages
- two bedrooms

Mr. Steele asked if the different styles of the units were fixed or if they could switch them around based upon the markets. Mr. G. Merrigan replied that they would hopefully keep them as they were presented because of the setbacks. Attorney Fahey explained that they needed to be careful when switching them around because of the radius and wetland requirements. He then commented that, if they did not invade, then they might be able to do a switch. Mr. Steele then referred to the interior of the loop and asked if they should anticipate the units being switch there. Mr. G. Merrigan replied that they probably would not switch those either.

Mr. G. Merrigan noted that there had been a question about color. He went on to say that they had not decided on the color yet, but that it would be one of four colors and that they would keep them all in the same tone.

Attorney Fahey referred back to Mr. O'Leary's memorandum.

5. Addressed Mr. Steele's question regarding the distances of the buildings from the street. Attorney Fahey stated that the applicant felt that Item 5 answered Mr. Steele's question and that they also felt that it was in compliance.
6. Dealt with "main roads" and "secondary roads". Attorney Fahey explained that the existing Oak Ridge Drive from South Center Street to the proposed project location was 26 feet wide. He went on to say that it had always been the applicant's plan to have the road that serviced their project also be 26 feet wide. He then commented that it would not make sense to have it be wider than Oak Ridge. Attorney Fahey referred to Option 2 in Mr. O'Leary's memorandum "that the main road is the road segment from the proposed cul-de-sac to the internal loop, where the loop could be considered the secondary road and be reduced to 26 feet". He then asked if the road that they were referring to as the main road was Oak Ridge Drive; if so, then the applicant was in agreement. He went on to say that if it meant that the applicant's road needed to be 30 feet wide, then they would disagree.

Attorney Fahey noted that the next part of Item 6 dealt with performance bonds and that his comments in response to Mr. Steele's letter would be the same for Mr. O'Leary's comment.

7. "The Commission should consider what side of the street would be more appropriate, and provide for greater safety."

Attorney Fahey stated that the applicant had located the sidewalk on the side of the street where there were less units and that they had done so purposely to provide greater safety. He explained that pedestrians walking on the sidewalk would have to cross less driveways.

8. Dealt with street trees.

Attorney Fahey commented that he believed that the comment had emanated from the requirement of having two street trees per lot. He then posed the question of whether it would create too crowded a situation, because the units were attached.

Mr. Johnson stated that he had been pretty purposeful in not placing any major deciduous street trees in the front of the units. He went on to say that, if they were to double up on the street trees, then they would end up with a forest in front of some of the units. He then suggested perhaps a compromise where they could possibly add some trees between some of the units. Mr. Johnson noted that there were also a lot of underground utilities and, therefore, a lot of conflict points.

Mr. O'Leary stated that he had not made-up his comment; the requirement was in the Regulations. He went on to say that he appreciated the conflicts with the utilities. He then commented that he would address the issue by adding some trees between units and also maybe a mix of under storey trees. Mr. O'Leary suggested that they be creative with the placement and type of trees. He then stated that they could come up with a pretty good middle ground solution, if it were agreeable to the Commission.

9. Dealt with open space.

Mr. Lefebvre distributed a hand-out showing the 20% open space requirement.

Attorney Fahey explained that the applicant was proposing a private conservation easement, which was indicated in the shaded area on the hand-out. He went on to say that it would be a no build area; they would restrict the area to make it the equivalent of open space, except that the Town would not own it. Attorney Fahey

then pointed out that across the street was the former Connecticut Water Company land that the Town had acquired easement rights to giving people access to that land.

10. Dealt with the construction detail sheet.

Attorney Fahey stated that the applicant had no problem with that comment; they would make sure that the details indicated that the six light standards were full cut-off type fixtures and that the location of the light standards would be labeled on the landscape plan.

11. Dealt with Wetland Commission approval.

Attorney Fahey stated that the Wetlands Commission had granted their approval.

Chairman Gannuscio asked Mr. Steele to go through his comments. Mr. Steele referred to his letter dated November 5, 2009 and stated that it had included eight categories of comments. He noted that the applicant had already indicated their agreement with some of the comments and that they would address them.

1a. Mr. Steele noted that the Commission had responded to that comment earlier that evening and had said that they wanted the area map included in the application.

1b. Mr. Steele stated that the architectural information had been submitted. He went on to say that staff would have to take a look at that information, specifically looking at things like window placement and separating distances. He noted that the Regulations were fairly complex when it came to separating distances.

2. Cul-de-sac

Mr. Steele stated that he had asked the applicant to extend the sidewalk out around the cul-de-sac so that there could be a crosswalk to connect with the sidewalk on Oak Ridge Drive. He went on to say that the applicant was apparently agreeable to doing so. Mr. Steele noted that the landscape island had been discussed and that he had brought it up because a couple of other recent projects had had islands in them. He went on to say that the intention was for Oak Ridge Drive and the cul-de-sac to ultimately become Town roads. He then noted that, in general, Public Works preferred to have no islands for ease in plowing. Mr. Steele commented that it had sounded like the applicant was willing to go either way with regards to the island.

3. Sanitary Sewer Facilities

Mr. Steele stated that the applicant had had no issues with his comments regarding sanitary sewer facilities.

4. Site Grading/Drainage

Mr. Steele stated that the applicant had had no issues with his comments regarding site grading/drainage.

5. Site Layout

c. Dealt with the setback from the buildings to the parking areas.

Mr. Steele stated that he would agree with the applicant and Mr. O'Leary's comments that the layout appeared to meet the Regulations. He went on to say that he was not familiar with the 15 foot requirement in the MFSD Regulations that the applicant had referred to. He commented that if there was a 15 foot requirement, then it wasn't an issue.

Chairman Gannuscio asked if there was a specific reference. Attorney Fahey referred to page 24 of the January 28, 2004 printing of the Regulations and noted the footnote. Mr. O'Leary asked if it was Section 404. Attorney Fahey replied that it was. Mr. Steele then found the 15 foot requirement in the Regulations and stated that it had answered the question. He then apologized for missing it and stated that the plans appeared to be close; he was sure that they would be able to work it out.

6. Construction Phasing

Mr. Steele stated that he agreed with the applicant; it was a difficult requirement. He then commented that it might not be appropriate for the type of development being proposed. He explained that the requirement would force the applicant to return to the Commission every year for permission to extend that period for another year. He noted that the applicant's concern, aside from the expense and time to do so, would be what if the Commission did not approve the extension. Mr. Steele suggested that there be some discussion about the construction phasing before acting on the application.

Mr. Steele stated that Items 7 and 8 contained suggested conditions of approval. He explained that Item 7 dealt with items to be completed prior to the start of construction and Item 8 dealt with conditions prior to the issuance of Certificates of

Occupancy. Mr. Steele noted that the applicant had brought up the issue of performance bonds. He then referred to Section 404h and read the following:

“A Certificate of Occupancy of any building or part thereof for any use of the premises shall be issued only after completion of all public improvements and protective safeguards shown on the approved plan unless the uncomplete improvements and safeguards are covered by a performance bond assuring completion within six months.”

Mr. Steele noted that the question that had been raised was “is the performance bond applying only to public improvements or did it refer to any type of infrastructure development, private or public, that would be used by the residents of their development and their guests”. He went on to say that it was something that had come up before. He then referred to Section 417, Flexible Residential Development, and stated that the provision for bonding had been included in the same manner that he had discussed. Mr. Steele read the following from Section 417.F.4:

“The Commission or Building Official may require bonding for any remaining items in accordance with Section 2201G of the Regulations.”

He then pointed out that the language stated “may” and not “shall”, therefore he felt that it was appropriate on a case-by-case basis, because the Regulations were broad and dealt with many different types of developments. Mr. Steele went on to say that the application did not come under that particular section of the Regulations, but that it did suggest that there had been some thinking with regard to the issue of bonding in the past.

Mr. Steele stated that it had seemed that the Commission had softened the requirement of Section 409; instead of requiring bonding up front prior to any work being done, bonds were being required only prior to a Certificate of Occupancy. He then noted that the amount of those bonds were being significantly reduce.

Mr. Steele stated that what they were really talking about was the paving of the top course of pavement. He went on to say that the Building Department could police the issue. He then noted that the issue with the bonding was that they would have people moving in with the binder course down, but not the top course. He pointed out that it could become a long time before the top course was put down and at what point should it have to be put down. Mr. Steele commented that they would ultimately get complaints and that if the Town had bonding then they could ensure that things would be done in a timely manner. He concluded by suggesting that the Commission require bonds prior to a Certificate of Occupancy.

Chairman Gannuscio asked the Commission members for any questions. They had none.

Chairman Gannuscio asked Town Planning Consultant O'Leary to go through his comments. Mr. O'Leary referred to his memorandum dated November 7, 2009 and stated that there was quite a bit of overlap between his comments and Mr. Steele's comments. He went on to say that he would try not to be repetitive, but rather that he would point out some of the questions that the Commission needed to answer at some point in the process.

Mr. O'Leary stated that the first part of his memorandum called out to the Commission the following different sections of the Regulations.

- Section 404 – contained basic density and bulk type standards
- Section 409 – site development standards within the MFSD
- Section 1101, 1102 and 1103 – talked about the process, submittal requirements and some of the criteria for the Commission's deliberation for all special permit type applications

Mr. O'Leary summarized his comments as follows:

1. Density of the Project

Mr. O'Leary stated that Sheet 3 contained one of the density calculations that were required, but Section 404 contained two density requirements. He explained that the two density standards were: units per acre and maximum number of bedrooms per acre. Until the architectural elevations and floorplans had been submitted staff really could not look at or understand what the number of bedrooms per acre was. Mr. O'Leary stated that there was a maximum of ten bedrooms per acre and that it appeared as though both of the density standards had been adhered to.

4. Mr. O'Leary commented that the architectural plans had now been submitted and that the staff would need to go back and review them for the various separation requirements.

6. Dealt with the roadway width.

Mr. O'Leary stated that the roadway width was entirely in the purview of the Commission. He then referred to Section 409.D and read the following:

“The main roads within an MFSD development shall be 30 feet in width while secondary roads may be 26 feet in width. The Commission shall determine which roads are classified as main roads and secondary roads.”

Mr. O'Leary noted that the Commission could conclude that Oak Ridge was the main drive, but that it was clearly the Commission's decision. He then pointed out that Oak Ridge was currently 26 feet wide. He went on to say that both Police and Fire had reviewed the plans and that he had been told that they were both happy with the layout that they had seen.

7. Sidewalks

Mr. O'Leary stated that the issue of sidewalks was something that the Commission needed to take a look at and deliberate about. He went on to say that the Regulations required sidewalks on one side of the roads, but that the Commission could require sidewalks on both sides of the roads. Mr. O'Leary noted that sidewalks in those types of developments were important and that the Commission needed to decide where they wanted them installed.

8. Landscape Plan

Mr. O'Leary commented that they had discussed the landscape plan earlier in the evening and that it sounded as if they would receive a revised landscape plan to look at. He went on to say that he felt that there was some flexibility in the types of trees and locations that would make sense for the project.

9. Open Space

Mr. O'Leary stated that the Regulations required recreation space and open space; active recreation open space and also an area that would be more of a conservation/preservation area. He went on to say that he would have to assume that the active recreation area was the area around the gazebo. He then pointed out that both the active and passive areas should be specified on the plan. Mr. O'Leary noted that the Commission needed to deliberate and weigh in on it.

Mr. O'Leary referred to the 20% open space and stated that it was up to the Commission to make a determination as to whether or not it should be open space dedicated to the Town or simply as a preservation area under a conservation easement as had been proposed by the applicant. He went on to say that there was some value in a conservation easement since it would ensure buffering to some of the neighboring properties. Mr. O'Leary commented that it was a reasonable response to the Regulations and that it would actually be more than 20% when they figured in the wetlands areas.

Chairman Gannuscio asked the Commission members for any questions for Mr. O'Leary. They had none.

Attorney Fahey referred to the separation distance and stated that the applicant had a question regarding those distances. Mr. G. Merrigan then asked if the separating distance applied to windows in a nonliving area, i.e. garage. He explained that people typically liked to have a window in their garage for ventilation and that they hated to build with a blank wall facing a blank wall. He went on to say that the design would be garage to garage with a window in each garage, if permitted. Mr. Steele reviewed the Regulation and replied that the intent was that a garage could have a window and that the 10 foot separation would apply. Mr. O'Leary commented that that was a reasonable interpretation.

Chairman Gannuscio read the following memorandum dated November 14, 2009 from Michael Sinsigalli, Fire Marshal:

“Please be advised that review of the site plan(s) and specifications for the above noted project disclosed no issues affecting fire apparatus access or fire suppression. The fire hydrant placement as identified on Sheet 4 of 17 is adequate.”

Chairman Gannuscio read the following memorandum dated October 22, 2009 from Chief John Suchocki, Jr., Police Department:

“I have reviewed the above-identified site plan modification and have no concerns with the plans as submitted.”

Chairman Gannuscio asked Attorney Fahey if he had any further comments. Attorney Fahey had no further comments.

Chairman Gannuscio called a five minute break at 8:35 pm.

## **BREAK**

Chairman Gannuscio called the meeting back to order at 8:45 pm.

Chairman Gannuscio asked for any public comments in support of the application. There were none.

Chairman Gannuscio asked for any public comments in opposition to the application.

Glen Sokolowski of 81 Oak Ridge addressed the Commission and stated that he had lived at Oak Ridge Condominiums for 20 years. He went on to say that it had been his understanding 20 years earlier that Oak Ridge Drive was going to be handed over to the Town, but that it had never been done. He explained that Oak Ridge Condominiums had spent hundreds of thousands of dollars over the years plowing

and keeping up Oak Ridge Drive. Mr. Sokolowski asked who had given the applicant permission to tap off of the Condominium Association's private road. He went on to say that twenty years ago he had been told that nothing would go in on the site in question because it was all wetlands. He then noted that there was an access road farther up on South Center Street where they could access the property in question. He commented that the applicant probably did not want to go into the property that way because it would cost them more money. Mr. Sokolowski reiterated that Oak Ridge Condominiums still owned Oak Ridge Drive.

Another member of the public stated that the Condominium Association did not own Oak Ridge Drive. She explained that they had been granted an easement to use the road.

Mr. Sokolowski stated that there were a large amount of accidents that took place at the hairpin turn on Oak Ridge Drive. He went on to say that it would be a nightmare having people coming from both directions.

Chairman Gannuscio asked Mr. Steele if Oak Ridge Drive was a town road. Mr. Steele replied that Oak Ridge Drive was not a Town road. He then explained that the intent when the property had originally been subdivided had been for the portion of the road from South Center Street to where the proposed cul-de-sac was (it had always been the intent for a cul-de-sac to be located there) to become a Town road. He went on to say that it had not happened yet because there were two different owners of the property. Mr. Steele noted that the land had to be given to the Town for the Town to take ownership of it.

Mr. Steele stated that the applicant was proposing to put in stop signs, creating a three-way intersection at the bend in the road. He went on to say that that would slow traffic down. Mr. Sokolowski stated that people currently treated it like a stop sign and that installing the stop signs would not help; it would be a mess. He went on to say that the hairpin turn could not handle the added traffic.

Chairman Gannuscio noted that 42 new units were being proposed. He then asked if 100 additional cars per day was within reason. Attorney Fahey stated that 100 additional cars per day would assume more than two cars per proposed unit.

Chairman Gannuscio referred to the dirt road further up on South Center Street and asked if it was the road that went into the Connecticut Water Company land. Mr. Sokolowski replied that it was. Mr. Gannuscio pointed out that that was the new Town open space.

Mr. Sokolowski commented that he knew that he could not stop the proposed development and that that was not his intention. He then reiterated that the traffic would be a nightmare and that once the proposed development was in it would eventually expand and get even worse. Mr. Sokolowski concluded by saying that the biggest problem would be traffic and that the best solution would be to use the dirt road farther up on South Center Street.

Ms. Rodriguez pointed out the new Town open space on the map as well as the wetlands in the area and the preserved open space.

Donna Tully of 36 Oak Ridge Drive addressed the Commission and stated that she was the President of the Condominium Association. She went on to say that she agreed with Mr. Sokolowski; there would be a serious problem with traffic. She explained that the Condominium Association did not own the road. Ms. Tully noted that they did have a problem with people coming around the corner on Oak Ridge Drive.

Ms. Tully asked if, while the construction was happening, there would be some kind of agreement between the Association and the applicant stating that the applicant fix any damage that might occur to the road during construction. She then asked if, Oak Ridge Drive continued to be a private road, there would be an agreement to split the cost of the maintenance of the road. She commented that the Association was not going to foot the bill. Ms. Tully explained that Oak Ridge Condominiums had 144 units with 90% of them having at least two vehicles and a small percentage having permission for a third vehicle. She went on to say that the additional vehicles from the proposed development would create a considerable amount of traffic. Chairman Gannuscio stated that he would take Ms. Tully's comments as questions to the Commission.

Ms. Tully asked how much space would be between the end of the backyard and where Oak Ridge was. She then commented that they currently had a lot of woods. Mr. G. Merrigan replied that all of the green would stay the same. Ms. Tully asked how many feet there would be. Mr. Johnson replied that there would be about 95 feet between the building and the property line and about 105 feet from building to building. Ms. Tully concluded by saying that she did not think that the proposed development would affect anything other than traffic.

Mr. Sokolowski pointed out that there was one proposed building off of the grid on the map. He then asked how close that building was to the rest of the Oak Ridge development; how many feet was it. Mr. Johnson replied that it was 120 feet.

Daniel Fogler of 64 Oak Ridge addressed the Commission and asked what the hours of construction would be; would it include construction work on weekends. He then asked if the residents of Oak Ridge would see a drop in water pressure during construction. Mr. Fogler noted that the proposed development included floor plans for one floor units as well as two storey units. He went on to say that the population of the U.S. was aging and that he would think that more people would request the one floor units. He then asked if, more one floor units were requested, it would change the plan and spread it out. Mr. Fogler concurred with his fellow Oak Ridge residents that the proposed development would cause a problem with traffic.

Mr. Fogler referred to Ad's Pizza, the day care center and the gas station and suggested that the applicant buy the gas station and put the road through that property to access the proposed development.

Chairman Gannuscio noted that some questions had been raised and then asked Attorney Fahey for any response to those questions. Attorney Fahey referred to the question regarding future expansion of the proposed development and stated that there was no place to expand because of the wetlands and topography of the site. He explained that if they were to expand anywhere outside of the boundaries indicated they would be in violation. He went on to say that the fact that the Town had entered into an agreement for the Connecticut Water Company land should offer the residents of Oak Ridge some piece of mind.

Attorney Fahey stated that he had been the attorney that had done Oak Ridge and that the property which Oak Ridge Drive was located on had been owned by the Shome Family. He then explained that when the Shome Family had sold the front parcel (where the hotel was located) to Mr. Chase he had reserved an easement, which was Oak Ridge Drive. He went on to say that he had sold the land to Mr. Chase subject to the easement rights. Attorney Fahey stated that he did not know what happened at that point, but that apparently the Association had taken it upon itself to maintain the road without looking for compensation from the hotel.

Attorney Fahey explained that when the original subdivision had been created it had had to be created on a Town road. He noted that the subdivision that had been created consisted of the hotel lot, Ad's Pizza and the lot in question that evening. He went on to say that there was supposed to have been a bond on it, but that when he had started looking into it all he found out that no bond had ever been posted. Attorney Fahey then stated that when they had sold the property to the hotel they had inadvertently sold the deed to part of the road too.

Attorney Fahey stated that Mr. Chase had been in contact with the former owner of the hotel, who had been in bankruptcy, and that there was now a new owner of the property. He then commented that they had pledged to work with the new owner to get it to be a public road. He went on to say that M&L Development had agreed to pay for the improvement (the cul-de-sac) which should actually have already been built. Attorney Fahey commented that the incentive for everyone involved was for it to become a public road.

Attorney Fahey referred to the safety concerns that had been mentioned and stated that they had explained the proposed plan to the Chief of Police and that he had had no problem with it. He then noted that Mr. Steele had pointed out that they would be installing stop signs creating an intersection which should help alleviate the situation. Attorney Fahey commented that if people were not reporting the accidents, then they could not get the statistics on it.

Mr. Sokolowski asked how much of the road the applicant/new development would maintain. Attorney Fahey replied that it was a good question, but that they had not ironed out those details. He went on to say that it would be worth the Oak Ridge residents' while to join in to try to get the road accepted as a Town road. Attorney Fahey then explained that the biggest problem would be getting the actual title; the mechanics would only take a couple of hours. He noted that they had to explain the situation to the present owner of the property in order to try to obtain the title. He then reiterated that the whole thing had been done inadvertently when the attorney for Mr. Chase had sold the property; it never should have been sold when it was already part of an approved subdivision.

Ms. Tully explained that one winter day she could not get down the road to get to work because a tree had fallen across the road. She went on to say that the Association had called their tree company to have the tree removed and that the hotel had agreed to repay them the \$1,500 that it had cost. She then stated that the hotel had then reneged on the agreement and never repaid the money for the tree removal; therefore she was skeptical that things were going to get done as they should.

Attorney Fahey reminded everyone that when Oak Ridge had been developed Route 91 had a four-way ramp and that the traffic on South Center Street had been much higher because of that ramp. Mr. Sokolowski stated that no one else came down that road other than the people who lived there.

Ms. Tully pointed out that they had had stop signs and that they had not worked and that they had put warning signs up and that they had not worked; they still had to keep replacing the fence. She went on to say that the proposed stop signs would not

prevent the accidents. Attorney Fahey asked if the applicant should not build anything, because anything that they built would generate more traffic than was currently there.

Mr. G. Merrigan stated that they had put a lot of thought into the proposed plan. He then pointed out that at the start of the whole process they had had a lot of support from the Oak Ridge residents when they were changing the zoning from Business to Residential. He went on to say that now that they were at the final steps in getting everything approved the Oak Ridge residents were putting them through the wringer for 42 units. Mr. G. Merrigan then suggested that the residents of Oak Ridge think about it, because they did not have to continue with the proposed development they could go back to the original plan. Ms. Tully stated that she had attended every meeting and that she had never been in opposition. Mr. G. Merrigan then asked what that evening was if it was not opposition. Ms. Tully replied that it was simply asking questions. At that point the discussion between the developer and members of the public got heated and Chairman Gannuscio stated that he was adjourning the public hearing for the evening.

**Chairman Gannuscio moved to continue the public hearing at the December 14, 2009 meeting. Ms. Ramsay seconded the motion. All were in favor. The vote was 3 – 0, the motion was approved.**

#### **REVIEWS:**

**a. Review of the site plan modification application of Scott Eckhart for the property located at 590 Spring Street.**

No one was present for the review.

Chairman Gannuscio asked Ms. Rodriguez if she had heard from the applicant. Ms. Rodriguez replied that she had not heard from the applicant.

Chairman Gannuscio stated that he had been at the site the previous day and had noticed that the garage in the back of the property was being used for storage. He went on to say that the question was whether the tire sales use was compatible with or permitted as an accessory use to the car wash. Mr. O'Leary clarified that the question was really whether the tire sales use was permitted in the zoning district.

Chairman Gannuscio commented that they had an application with no one in support of it that evening.

**Chairman Gannuscio moved that the site plan modification application of Scott Eckhartt for the property located at 590 Spring Street be denied without prejudice. Ms. Ramsay seconded the motion. All were in favor. The vote was 3 – 0, the motion was approved.**

**ACTION ON CLOSED PUBIC HEARING ITEMS:**

There were none.

**OLD BUSINESS:**

Chairman Gannuscio asked if the Commission wanted to discussion the density, shared parking and possible village district at a joint meeting or workshop, since the Selectmen had their own ideas on those issues. Mr. O’Leary replied that they should deal with them at a workshop.

Chairman Gannuscio asked if the election had gone by with no sign issues. Ms. Rodriguez replied that she had received no sign complaints.

Chairman Gannuscio asked the Recording Secretary to carry all of the items listed in Item VII.a on the evening’s agenda to the December 14, 2009 meeting.

Ms. Rodriguez referred to the old cart track property and the possibility of a paintball facility going in there. She noted that the prospective applicant had told her that the owner of the property had said that they had had some sort of outdoor activity on the site in the past. She went on to say that she had no plans that indicated any outdoor activity and had asked them to bring her whatever information they could find. Ms. Rodriguez stated that she had not received anything new. The discussion continued briefly regarding the use history of the site and Chairman Gannuscio commented that he did not think that the Commission had approved any outside use.

Mr. Steele asked what the concern was with anything being outside. Chairman Gannuscio replied that they wanted some of their new proposed use outside. The discussion continued briefly and Mr. Steele commented that the question was how much information did they have to provide for the site plan. Mr. Gannuscio stated that they should provide the boundaries for the new use and the distance from the wetlands. He then noted that the property was located in a floodplain.

Ms. Ramsay left the meeting at 9:35 pm.

Ms. Rodriguez stated that she had received an email from MACCO; they were interested in moving into 466 Spring Street.

**NEW BUSINESS:**

**a. Public Input**

There was none.

**b. Receive New Applications**

There were none.

Chairman Gannuscio asked Mr. Steele if Concorde had an island as part of the entrance. Mr. Steele replied that it did have an island. Mr. Gannuscio then asked if that had been one of Scott Lappen's concerns. Mr. Steele replied that it had been one of his concerns; he had felt that it would be harder to plow. Mr. O'Leary commented that the Public Works director that he worked with actually preferred plowing around islands; there was less pavement to plow, maintain and replace. Mr. Gannuscio asked Mr. Steele to speak with Mr. Lappen about the island. Mr. O'Leary then pointed out that an island in the proposed development that had been discussed earlier that evening would actually control the traffic flow and be a better solution.

**c. Informal discussion regarding a vehicle salvage business.**

Ms. Rodriguez stated that she had tried to call the individual and that the telephone number was no longer assigned. Chairman Gannuscio stated that they would drop Item VIII.c from the agenda.

Chairman Gannuscio asked the Commission members and staff if they had anything further for discussion. Ms. Rodriguez stated that Jason D'Agostino had come in to her office on Friday asking for the Use Table because he was having trouble making it as just a hotel. She went on to say that he had been asking about having a bingo night each week. A brief discussion then followed.

**Chairman Gannuscio moved to adjourn the meeting. Mr. Brown seconded the motion. All were in favor. The vote was 2 – 0, the meeting was adjourned at 9:45 pm.**

Respectfully submitted,

Diane Ferrari  
Recording Secretary

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**THIS IS A DRAFT**

**Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.**