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**MORRISTOWN/MORRISVILLE
DEVELOPMENT REVIEW BOARD
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Minutes of April 26, 2007

Members Present: Gary Nolan, David Silverman, Karyn Allen, Theresa Breault, Carl Fortune, Paul Trudell, William Henchey (alternate)

Members Absent: Jean Wickart

Recorder: Mark Leonard, Zoning Administrator (ZA)

Guests: see attached list

Chairman Gary Nolan called the meeting to order at 7:35PM. On a motion by Theresa, seconded by Karyn, minutes of the April 12, 2007 meeting were approved.

RECESSED HEARING: ROBERT CLARK, PRELIMINARY PLAT APPROVAL, 3-LOT SUBDIVISION, WINTER STREET

Gary reviewed the application, to be considered under sections 249, 740, 770, 780, and 800-840 of the zoning and subdivision bylaws. He noted that all board members present and the ZA had conducted a site walk of the property this evening prior to the resumption of the hearing.

Theresa administered the sworn oath to Robert Clark and Carolyn Clark-Brown and adjacent property owners Matthew and Berta Pykosz, Nancy Pritchard, Stacy Starkweather, Linda North, and Adrian West.

The hearing was recessed on February 22, 2007 pending receipt of a revised site plan with additional information on site drainage, topography and parking areas. Robert Clark reviewed the changes, noting that storm water runoff flowing onto the property from adjacent streets as well as from the proposed construction of two residential structures would continue to drain into the so-called 'swamp' at the lower end of the property, as they do today. He did not feel the proposal would create any drainage problems or impair the swamp.

Gary asked about possible municipal drainage pipes under the area proposed for development. Robert said he would check whether there were any utility easements on the lot.

Gary read a letter from Adrian West into the record that opposed the application on the basis of concerns that fill material brought in that contained road salt might impair the swamp. The letter also speculated that the new houses might not resemble existing homes in the neighborhood and might devalue the surrounding properties.

Berta Pykosz asked where cars for the two proposed homes would park. Robert said each home would have a garage and space on the driveway adequate to park two vehicles.

Nancy Pritchard asked what was meant by 'clean' fill. Robert responded that clean fill did not contain stumps, asphalt, or other man-made materials. He added that fill that has been placed on the site to date had been put there by the village road crew, presumably from road sweeping and plowing. He could not state whether this fill contained any road salt.

Paul moved to approve the application with standard subdivision conditions and the additional conditions that the location of any existing drain pipes and/or utility easements be identified on the site plan; that a drainage swale be placed along the property line on South Street; and that any fill used on the site be free of stumps, asphalt, man-made materials, and road salt. Carl seconded the motion and it passed unanimously.

WARNED HEARING: SEAN FOLLEY, DRIVEWAY SETBACK WAIVER, ELMORE MOUNTAIN ROAD

Gary reviewed the application, to be considered under section 405.4 of the zoning and subdivision bylaws. Theresa administered the sworn oath to Sean Folley and Carole Vista-Folley and adjacent property owner Stella Martin.

Sean Folley explained that he had recently purchased a parcel that is currently accessed off Elmore Mountain Road by an existing driveway and wished to extend this driveway across this lot and two adjoining lots he owns to provide a new access to his existing home. The home is currently accessed by a driveway off Randolph Road. The new access from Elmore Mountain Road would allow him to close off the existing Randolph Road driveway, which he characterized as very long, steep, and hard to maintain. The new driveway would serve only this residence, although the initial portion of the existing driveway also serves the adjoining Martin property.

The proposed driveway requires a waiver of the fifteen (15) foot setback requirement for a single point on the boundary between two of Sean's adjoining parcels where the property is only thirty-five (35) feet wide. Placement of a 20'-wide driveway in the center of this segment would leave less than ten feet on either side of the driveway from the adjoining Schoff and Martin properties. He added that the driveway at this point would not be visible from homes on these properties.

Stella Martin voiced her opposition to the plan to put a driveway across the former Goddard (now Folley) property that lies in front of her property. She presented a letter from her attorney, Edward French, citing various deed restrictions and covenants on this parcel, which she felt prohibited the proposed driveway. Among these were a 50-foot 'no cut' buffer area along the property boundary. Sean replied that he did not need to cut any trees within this area.

Gary advised Stella that the DRB has no authority or jurisdiction over property deeds and covenants, noting that civil court is the appropriate venue for enforcement of such restrictions.

The ZA stated that the driveway did not require a zoning or access permit as it is an extension of an existing driveway with no new curb cut. The only issue for the DRB to consider is whether to grant the setback waiver for the very short segment of the planned driveway where there would be less than 15 feet from the driveway edge to an adjoining property line. He asked Sean if the property boundary in the area in question was clearly marked so as to avoid

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unintentionally crossing onto the adjoining properties; Sean said it was.

David asked Stella what, besides the deed restrictions, about the request she objected to; how would the driveway adversely impact her property? Stella reiterated her position that the proposal was in conflict with the deed restrictions and that she felt the DRB should take this into account in deciding whether to grant the waiver. She said she bought her property with the expectation that the deed restrictions would protect her privacy and enhance the value of the property and that allowing the waiver would diminish both.

Karyn asked if the driveway width could be reduced to 15' at the chokepoint between the two adjoining properties in order to minimize any potential impact on those landowners. Sean said that was possible.

David moved to waive the driveway setback requirement, with the condition that the traveled portion of the driveway be no wider than 15 feet at the point where it passes in between the Schoff and Martin properties and centered between those properties. Paul seconded the motion and it passed unanimously.

WARNED HEARING: BUTTERNUT MOUNTAIN FARM, CONDITIONAL USE APPROVAL AND MUNICIPAL IMPACTS REVIEW FOR ACT 250 PERMIT, EXPANSION OF EXISTING CONDITIONAL USE (MANUFACTURING), 37 INDUSTRIAL PARK DRIVE

Gary introduced the application, to be considered under sections 630-638 and 660 of the zoning and subdivision bylaws. David and Paul recused themselves from this application due to potential conflicts of interest. DRB alternate member Bill Henchey joined the board for this application. Theresa administered the sworn oath to David Marvin (representing the applicant).

David explained the proposal to construct a 92'x 120' (11,040 square foot) addition to the existing maple syrup processing facility. The addition would be of the same material and appearance as the existing production facility. There would be no change to the existing access from Industrial Park Drive and no additional parking spaces or exterior lighting are proposed.

The expanded production facility requires additional wastewater disposal capacity. The applicant has obtained an amended state water & wastewater permit for the expanded on-site wastewater disposal system, as well as a state storm water discharge permit.

Bill asked if any trees in the area of the planned addition would have to be removed. David replied that no trees would be cut down.

Carl asked David if he anticipated an increase in the number of employees at the site. David said he initially expects to add five more employees, with the potential to add another five.

Bill moved, and Theresa seconded, to approve the application as presented with standard conditions. The motion passed unanimously.

RECESSED HEARING: VIRTUAL REALTY INC, PRELIMINARY PLAT APPROVAL, 22-LOT 'POPE MEADOW' SUBDIVISION, ELMORE ST

Gary reviewed the application, first presented to the DRB on March 9, 2006, to be considered under sections 254, 740, 770, 780, and 800-870 of the zoning and subdivision bylaws.

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Paul Trudell recused himself from the hearing as he is participating in the design work for the project. Carl Fortune recused himself due to being a neighboring property owner. DRB alternate member Bill Henchey joined the board for this application. Theresa administered the sworn oath to applicant Scott Mansfield, project engineer Bernie Chenette, and others present.

The ZA reviewed the February 27, 2007 recess memo that requested additional site plan information, vicinity map, provisions for water and sewer services, and storm water discharge plans, and a traffic study.

Bernie Chenette presented the revised site plan, highlighting changes and updated information from the previous version. Regarding plans for road and infrastructure, he confirmed earlier statements that all such common facilities, to include a community water system, would be privately owned and maintained by a property owners' association.

Traffic Engineer Bob Alexander of Summit Engineering presented a report dated April 16, 2007 that addressed traffic impacts of the proposed subdivision. It also addressed the potential impact on traffic at the Elmore Street (VT Route 12) intersection with Park Street (VT Route 15A). The report concluded that the additional traffic generated by 44 new residential units could be accommodated within the existing traffic stream on Elmore Street without undue adverse impact.

Thurlow Greene asked how the number of 'peak trips' was computed and said the number in the report (23) struck him as low. Bob Alexander explained the methodology used in determining the number of trips at peak times and in reaching the report's conclusions.

Scott Mansfield addressed points raised in an April 25, 2007 Morristown Town Administrator (TA) memo to the DRB. He highlighted the TA's suggestion that the developer bear the full cost of extending the sidewalk on Elmore Street to reach the new subdivision, stating that he did not feel that he should pay the entire cost for a municipal amenity that would benefit others beyond his project. He offered to contribute \$10,000 toward the cost of the sidewalk extension.

Using a February 10, 2006 AOT report, Bob Alexander said the cost per foot for a five-foot wide concrete sidewalk with no curb is \$87. The approximate distance from the end of the existing sidewalk at Fairwood Parkway East and Elmore Street to the proposed subdivision is 700 feet. Using these figures, the sidewalk extension would cost approximately \$61,000.

Bill Henchey asked what percentage of the total of existing and proposed residential units in the area does the project represent. Bernie offered a rough guess of 40%.

David asked if the traffic report included data on pedestrians. Bob Alexander said they are figured in to calculations for intersections, but that there are no planning standards regarding the number of persons who may walk on a given portion of road or sidewalk at any time. David then asked about school children having to cross Elmore Street to get from the subdivision to wherever the existing sidewalk is extended. Bob said there would have to be an appropriately marked and signaled pedestrian crosswalk somewhere near the subdivision. He added that if the area is served by school buses, traffic in both directions is required to stop when the buses are loading or unloading passengers, regardless of whether there is a crosswalk.

Meredith Scott asked how do town funds come into play in this process; who bears the cost of improvements to public infrastructure or facilities stemming from development proposals? Gary said the process involves a municipal services impacts review to determine if

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town departments have the capacity to accommodate a given project, but does not directly address costs for any necessary improvements. He noted that the subdivision regulations require a developer to pay for the extension of public utilities to reach a new development and for certain on-site facilities (fire hydrants, for example) to meet public safety requirements. The issue of development costs for broader municipal needs, such as schools and roads, beyond the project site itself raises the question of assessing impact fees, something the Town has thus far chosen not to pursue.

Thurlow Greene asked about speed limits in the vicinity, noting that several people had mentioned that speeding is currently a problem. Bob said that the report recommended that the Town initiate discussion with the VT Agency of Transportation (AOT) regarding establishing a transitional speed limit for the state-maintained portion of Elmore Road (outside the village) from 50MPH to where it becomes 25 MPH once across the village line (at intersection with Demars Road).

Sharon Rowell asked why the applicant chose to pursue local zoning approval before applying for a state land use (Act 250) permit. Scott Mansfield said he wanted to get town approval first, before going to the state, in part to gauge local interest and concerns about the proposal that might lead to changes that would then be part of the Act 250 permit application.

Paul Trudell, working on behalf of the applicant, reviewed landscaping and screening plans. In response to concerns previously raised by the property owner directly across the road from the proposed subdivision entrance, he said the applicant was willing to provide screening or landscaping on that property that was acceptable to the owner.

Bill asked about the rate of growth and projected height of the trees shown on the plan after 3-5 years. He asked if the applicant would be willing to increase the caliper (size) of some trees in order to mitigate the visual impact of the development on surrounding properties and form the road. The applicant said he would be willing to do so.

Paul compared the number and size of lots in the adjoining Fairwood Parkway West subdivision with the proposed subdivision and said that the number of lots in Fairwood Parkway West (18) was not significantly different from the number proposed (22) in the new subdivision. Several Fairwood Parkway property owners took exception to this characterization, noting that the average lot size (0.56-acre) in Fairwood Parkway was about double the size of the proposed lots and that their larger lots were primarily developed for single-family homes, rather than the duplexes proposed in the new subdivision.

Gary read the Planning Commission's March 20, 2007 memo to the DRB regarding the application into the record.

Jane Greene noted that there was no dedicated open space, other than the yards around each structure, in the plan.

Brian Irwin asked if consideration had been given to eliminating the five duplexes planned in the middle of the internal roadway to create an open space for residents of this new neighborhood. Scott said he had looked at that option but that reducing the number of units by ten would make it financial impossible to keep the remaining units at the desired sale price.

Christine Haley asked how much of each lot would the building footprint take up. Bernie calculated the footprint at ~1700 square feet, approximately 15% of the average lot size.

Thurlow Greene asked what happens if the developer or eventual property owners are

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unable to adequately maintain and operate the privately-owned community infrastructure; does the town become liable for these functions?

In response to a question from Jane Greene, Bernie Chenette reviewed the storm water plan once more. He said that the project would have to meet state requirements for storm water runoff control and that the storm water plan would be reviewed for both land use (Act 250) and construction and operational storm water permit approvals.

Marci Young said that although she regrets seeing this property developed, as an environmentalist she understands that cluster housing and higher density development is desirable from the standpoint of preventing sprawl and conserving resources. She doesn't feel that she can stand in the way of others seeking a home to enjoy the same quality of life she does.

David moved to recess the hearing to a deliberative session, to be held following a site walk of the subject property on May 3, 2007. Karyn seconded the motion and it passed unanimously.

On a motion by Karyn, seconded by Theresa, the meeting adjourned at 11:00 PM.

Respectfully submitted,
Mark Leonard, Recorder

Minutes approved on: 5/24/07 PT/KA