

PZC Minutes JAN 14 2014

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The Planning and Zoning Commission of the Town of Avon held a meeting at the Avon Town Hall on Tuesday, January 14, 2014. Present were Linda Keith, Chair, Carol Griffin, Vice Chair, Christian Gackstatter, and Alternates Donald Bonner and Jenna Ryan. Mrs. Ryan and Mr. Bonner sat for the meeting. Absent were David Cappello, Marianne, Clark, Peter Mahoney and Alternate Elaine Primeau. Also present was Steven Kushner, Director of Planning and Community Development.

Ms. Keith called the meeting to order at 7:30 pm.

APPROVAL OF MINUTES

Mrs. Griffin motioned to approve the minutes of the December 10, 2013, meeting, as submitted. The motion, seconded by Mr. Bonner, received unanimous approval.

PUBLIC HEARING

App. #4688 - J. Timothy and Pamela Lefever, owners/applicants, request for Special Exception under Section IX.E. of Avon Zoning Regulations to permit filling and grading within 150-foot ridgeline setback, 595 Deercliff Road, Parcel 2090595, in an RU2A Zone

Application #4688 was withdrawn by the owners.

App. #4695 - Two Fifty Five West Main LLC, owner, PB2 Architecture + Engineering, applicant, request for Special Exception under Section VII.C.2.f.(3) of Avon Zoning Regulations to permit wall sign larger than 75 square feet, 255 West Main Street, Parcel 4540255, in a CR Zone

Present was Jim Gallagher, PB2 Architecture + Engineering, applicant.

Mr. Gallagher, architect, explained that the Walmart at 255 West Main Street is being remodeled in the spring; he added that the existing exterior wall sign is old (190 SF) and must be removed to repair the walls, as part of the remodel. A new trademark wall sign (298 SF) is proposed.

In response to Mrs. Griffin's question, Mr. Gallagher explained that the "spark" portion of the sign is the new Walmart logo.

Mr. Kushner explained that the sign calculation (298 SF) is larger than the sign may appear because of the way the Zoning Regulations require sign measurement, which is the smallest rectangular that can enclose all letters and logos. The sign itself is approximately 160 SF and the logo is approximately 60 SF.

In response to Ms. Keith's question, Mr. Kushner confirmed that because the Walmart building sits very far back from the road it is allowed more square footage per lineal foot of building frontage.

In response to Mr. Bonner's question, Mr. Gallagher explained that, visually, the new sign will appear very close in size to the existing sign. He further explained that the proposed sign is actually fewer square feet of actual sign surface area due to lighter weight characters and lower case lettering. Mr. Bonner commented that the new sign will feel very similar to what is currently there. Mr. Gallagher concurred and added that the new sign will fit in the same space as the existing sign.

In response to Mr. Gackstatter's question, Mr. Gallagher explained that the front of the store will be painted and repaired; he added that the same colors will be used rather than Walmart's corporate colors.

There being no further input, the public hearing for App. #4695 was closed.

App. #4700 - Silvio Brighenti Family LLC, owner, Town of Avon, applicant, request for Zone Change from ROS to R40, 2.15 acres, 16 Timothy Way, Parcel 4350016; and from ROS to R40, 3.57 acres, 225 Lovely Street, Parcel 3060225

Present to represent the Brighenti Family was Robert M. Meyers, Meyers, Piscitelli & Link LLP.

Mr. Kushner explained that the proposal is to correct the official zoning map. The Plan of Conservation and Development was updated in 2005 and at that time the Town had acquired numerous open space

parcels through subdivision approvals and gifts to the Town. He further explained that because these open space parcels still had a zoning designation of “residential”, because that was their origination, he recommended to the Commission that these parcels be rezoned to ROS (recreation open space). He added that most of the Town-owned open space assets are also in the ROS zone (i.e., Fisher Meadows, Sperry Park, etc). Mr. Kushner explained that when the 15-acre parcel of open space (known as 21 Bridgewater Drive – Parcel ID 4980021) was conveyed to the Town (April 2004) in connection with the Bridgewater Subdivision and the Town’s base map was updated to reflect this 15 acres as ROS, two adjacent parcels (16 Timothy Way Parcel ID 4350016 and 225 Lovely Street Parcel ID 3060225) were also rezoned to ROS but should have remained in the R40 (residential) zone. He noted that there is a single-family house at 225 Lovely Street (built in 1949), owned by the Brighenti family; the Brighenti Family also owns 16 Timothy Way. He offered background information noting that when the first phase of the Bridgewater Subdivision was reviewed and approved (1996 - PZC App. #3232) no approval for building lots was requested for either of the two aforementioned parcels (16 Timothy Way and 225 Lovely Street); these parcels were left as remnants, so to speak. Mr. Kushner explained that it was not the Commission’s intention to rezone 225 Lovely Street and 16 Timothy Way to ROS, as it would not make any sense; both parcels are privately owned and one lot contains a house. He added that he feels tonight’s public hearing procedure is the right way to correct the official zoning map. (Please see December 10, 2013, minutes for background information).

In response to Mr. Kushner’s question, Attorney Meyers stated that the owner is both aware of the proposed zone change and in agreement.

In response to Mrs. Griffin’s questions, Mr. Kushner explained that 225 Lovely Street is currently one lot with one house but noted there is potential for possibly 2 additional building lots but a subdivision application would be required. He added that because 16 Timothy Way (currently vacant and wooded) never actually received subdivision approval, a subdivision application and special permit application for rear lot approval is required.

Mr. Meyers confirmed that applications for subdivision and special exception for rear lot approval may be submitted soon for 16 Timothy Way.

There being no further input, the public hearing for App. #4700 was closed.

App. #4702 -Sunset of Avon, LLC, owner, Borghesi Building & Engineering, applicant, request for Special Exception under Section VII.C.4.a.of Avon Zoning Regulations to permit 2 wall signs, 260 West Main Street, Parcel 4540260, in a CR Zone

Also heard but not part of the public hearing:

App. #4701 -Sunset of Avon LLC, owner, Borghesi Building & Engineering, applicant, request for Site Plan Modification to add canopy to existing building, 260 West Main Street, Parcel 4540260, in a CR Zone

Ms. Keith announced that, at the applicant’s request, Apps. #4702 and #4701 will be continued to the next meeting, scheduled for January 28.

Mr. Bonner motioned to continue the public hearing for App. #4702 to the next meeting, scheduled for January 28. The motion, seconded by Mrs. Ryan, received unanimous approval.

Mr. Bonner motioned to table App. #4701 to the next meeting. The motion, seconded by Mrs. Ryan, received unanimous approval.

App. #4703 -DP3 LLC, owner, John Dillon, applicant, request for Special Exception under Section VI.C.3.b.of Avon Zoning Regulations to permit Class III restaurant, 300 West Main Street, Parcel 4540300, in a CR Zone

Present were Scott Morrison, owner of New England Pasta Company, and John Dillon, property owner of 300 West Main.

Mr. Morrison explained that the proposal is for a restaurant called the “Stonepost Bakery” to be located in the rear building at 300 West Main Street, directly behind New England Pasta Company, which is located in the front building. He noted that the rear building is currently but used to be a real estate

office. He explained that the hours of operation are proposed to be 7 days per week from 6:30am to 6:30pm with 75 to 80 seats. He noted that the busiest time is expected to be on Saturday and Sunday mornings for breakfast; weekday busy times are expected between 6:30am and 7:30am and between 11:30am and 2:00pm for lunch. He added that hopefully a slow steady flow of customers is realized throughout the day.

In response to Mrs. Ryan's question, Mr. Morrison explained that New England Pasta Company is open from 10am to 6pm and has 35 seats.

In response to questions from the Commission about available parking, Mr. Kushner explained that a consolidated parking agreement has existed for many years for the subject site and several of the surrounding properties, including 302 West Main (large office building located behind the subject site) which has the largest parking lot.

In response to Mr. Kushner's question, Mr. Dillon confirmed that he has spoken with the owner of 302 West Main who has confirmed that he supports the proposed restaurant. Mr. Dillon added that the owners of 290 West Main (The Perfect Toy) have also indicated their support.

Mr. Kushner noted that in order to show compliance with the Regulations with respect to parking for the subject proposal, all the properties subject to the consolidated parking agreement are taken into account and added that, in this scenario, there would be enough parking.

In response to Mr. Gackstatter's question about door locations and available parking for the rear building, Mr. Dillon explained that there is one door in the front and also one door in the back. Mr. Dillon noted that there are parking spaces on the side of the building and some to the rear.

In response to questions/concerns from Mr. Gackstatter, Mr. Morrison explained that the entrance driveway is one-way and further explained that there is a planting area that you drive around in order to exit. He noted that you can drive around the building, near Farmington Savings Bank, and exit at the traffic light. He added that he has instructed most of his customers to exit in this fashion.

Mr. Morrison indicated that there are approximately 24 parking spaces on the side of the building where the main entrance is located and another 20 spaces on the back side.

Mr. Kushner pointed out that he doesn't think this restaurant is not going to have the volume of traffic experienced at a Dunkin Donuts. He also pointed out that this location is on the wrong side of the road and not convenient during the morning commute. He added that the only property that is not part of the consolidated parking agreement is 304 West Main, as the owners were not interested in being included.

In response to Mrs. Ryan's concerns about customers having to park nearer to the rear building (302 West Main) and then having to make their way through the parking lot, Mr. Morrison explained that he typically doesn't fill up the parking spaces in front of his building, as it is.

In response to Mr. Gackstatter's questions, Mr. Morrison explained that grease gets stored in a container located on the outside corner the building and gets picked up by Flamig Farm; he added that this container would hold grease from both the pasta company and the proposed bakery.

In response to Ms. Keith's question, Mr. Morrison explained that the trash area is located behind the front building and can be fenced if necessary.

Mr. Kushner clarified that each restaurant is being treated independently (i.e., NE Pasta Company is a separate restaurant from the proposed Stonepost Bakery). He explained that normally a concrete pad with a fenced enclosure is required for dumpsters and further explained that that would likely be a condition if an approval is granted. Mr. Morrison indicated his understanding.

In response to Ms. Keith's questions, Mr. Kushner indicated that he would recommend against setting time restrictions for trash pickup as it is nearly impossible to enforce. He added that the dumpsters are usually located in parking spaces, such that a few spaces are lost. He also noted that the location has to be examined to ensure that the trucks picking up the trash can get in and out easily.

In response to Mrs. Ryan's question, Mr. Morrison explained that he has 6 full time employees and another 7 part time employees for holidays; he added that he will have the same number for the bakery.

In response to Ms. Keith's question, Mr. Morrison explained that the employees currently park in the

back parking area or along the drive through area that leads to the traffic light. He confirmed that employees don't park in the front.

In response to Mr. Gackstatter's question, Mr. Morrison explained that he is proposing an Ansel Hood System, which is a State requirement. He added that it must be cleaned every three months and would be exhausted through the side of the building extending up 10 feet, which is standard.

In response to Mr. Bonner's question, Mr. Morrison noted that he is in the process of getting quotes from sign companies and added that the sign that's up right now is only temporary.

Mr. Kushner asked that a more detailed plan for grease and trash be prepared for the next meeting and also asked for a map showing distance to the closest single-family houses.

Mrs. Griffin asked that some type of camouflage (visually pleasing) be considered for the exhaust pipe proposed to be vented to the side of the building.

In response to Mr. Gackstatter's question, Mr. Dillon noted that the second floor of the rear building has been empty for 6 years. Mr. Morrison noted that the second floor would most likely be used for office space.

There being no further comments, Ms. Keith indicated that in order to give the applicants time to gather additional information the public hearing for App. #4703 would be continued to the next meeting, scheduled for January 28.

Mrs. Griffin motioned to continue the public hearing for App. #4703 to the next meeting. The motion, seconded by Mr. Bonner, received unanimous approval.

App. #4704 -Ashish and Deepshikha Arora, owners, Creative Communities Builders, applicant, request for Special Exception under Section III.G. of Avon Zoning Regulations for new house construction in the floodplain, 87 Haynes Road, Parcel 2600087, in an R30 Zone

Mrs. Griffin stepped down, disqualifying from App. #4704.

Present to represent this application were Allen Cohn, Creative Communities Builders, and Jim Rotondo, PE, Hodge LLC, representing the applicant.

Mr. Rotondo explained that the proposal is to demolish the existing house, reconstruct the house and raise the garage above the flood elevation. The existing garage located along the east side of the existing house is below the flood elevation. The existing driveway would be relocated to the center of the house. A retaining wall would be constructed along the easterly side of the house to keep that grade above the flood elevation. He explained that some excavation is proposed along the rear of the house and along the easterly side to provide the required compensatory flood storage for the volume being filled. He noted that approval has been granted by the Inland Wetlands Commission and an erosion and sedimentation control plan has been prepared.

In response to Mr. Kushner's question, Mr. Rotondo explained that approximately 275 cubic yards of fill are proposed to be brought in while proposed excavation equals approximately 280 cubic yards; approximately a 1:1 ratio.

In response to Mr. Gackstatter's questions, Mr. Rotondo explained that the area excavated would be replanted with lawn and a wetland buffer planting plan would be installed along the wetland's edge. He noted that two small bump-out additions (totaling approximately 400 SF) are proposed for the new house; one to the front and one to the rear, both located outside the floodplain. The existing foundation would be used.

In response to Mr. Bonner's questions, Mr. Rotondo explained that, currently, the first floor elevation of the living area, which will be maintained, is outside and above the 500-year flood elevation. The existing garage elevation (currently below the 500-year flood elevation) will be raised above the 500-year elevation. The driveway, once relocated, would access the house from the front rather than the side.

In response to questions from the audience, Allen Cohn explained that the retaining wall will be constructed where the existing driveway is currently located, perpendicular to the street.

Mr. Rotondo explained that the proposed activities should not affect ground water for the surrounding areas.

Mr. Kushner explained that the purpose of the proposal is to rebuild the house such that the owner does not have to be burdened with paying flood insurance to FEMA. Mr. Cohn concurred. In response to Mr. Kushner's question, Mr. Cohn confirmed that some of the proposed improvements would not be proposed if it weren't for the flood insurance issue.

In response to Mr. Bonner's question, Mr. Cohn confirmed that Big Brook is nearby.

Mr. Kushner reported that the Town Engineer has reviewed this application and indicates that it complies with the Town's Regulations. A very modest amount of fill is being proposed to be placed in the floodplain and an equally modest amount is proposed to be removed, such that there would be no adverse impact to downstream properties.

There being no further input, the public hearing for App. #4704 was closed.

Mrs. Griffin returned to the public hearing.

App. #4683 -PDP Financial, LLC, and MOJO Enterprises, LLC, owners, Sunlight Construction, applicant, request for 39-lot Subdivision, "Stratfordshire", 45.5 acres, 44 Lenox Road, Parcel 3010044, in an R30 Zone

App. #4684 - PDP Financial, LLC, and MOJO Enterprises, LLC, owners, Sunlight Construction, applicant, request for Special Exception under Section IV.A.4.k. of Avon Zoning Regulations to permit single-family cluster development, 44 Lenox Road, Parcel 3010044, in an R30 Zone

The hearing was continued from December 10. (The hearing began October 8, 2013).

Present were William Ferrigno, President, Sunlight Construction; William Aston, PE, Buck and Buck LLC; Robert M. Meyers, Meyers, Piscitelli & Link LLP; and Bill Richter, LA/AIA, Richter & Cegan.

Mr. Ferrigno explained that revisions have been made to the plans in response to concerns/comments from the last meeting. He thanked the Town Staff and his project team for their assistance over the last several months. He noted that the name of the development is proposed to be changed to "Stratford Crossing" (from "Stratfordshire"). Additional plantings/landscaping has been added to the bufferyard, as there is a minimum 35-foot bufferyard required around the perimeter in connection with a cluster development. He indicated that the layout of the proposed lots on the western part of the site to increase the separation to Farmington Woods and allow more actual conservation area. A substantial roadway planting plan has been shown for the proposed private roads, as well as enhanced plantings for the houses in that area. He explained that ownership protocol for the buffer areas will be discussed tonight. He noted that methods/suggestions for marking property corners will also be discussed tonight.

Mr. Richter explained that the plans are substantially the same with some minor modifications but added that substantial changes have been made to open space and tree preservation programs. The lot numbers have not changed and there are 39 lots still proposed; 18 larger lots and 21 smaller lots. A public road system is proposed connecting Lenox Road to Haynes Road; two private road cul-de-sacs are also proposed. He explained that two cul-de-sacs with 10 units each with a simple but large turnaround area proposed with center plantings. The required 35-foot buffer has been significantly increased along Farmington Woods and along the southern boundary. He explained that 30% of the site will be Town-owned open space while 20% of the site is proposed as private open space. Mr. Richter noted that a conservation restriction for tree preservation for over 52% of the site is proposed, a significant change from the previous plan. Mr. Richter addressed entry areas and traffic calming noting that center medians are proposed for both Lenox Road and Haynes Road; he noted that Town Staff was involved in the design. Supplemental plantings are proposed to the perimeter buffer along the southerly edge of the site to maintain screening between existing and future homes as well as the replacement of some trees in that area.

Mr. Richter addressed drainage noting that LID techniques are proposed and added that while it is hoped that trees can be saved between the two proposed cul-de-sacs, additional plantings are proposed to separate the cul-de-sacs so the area doesn't end up as one big piece of open space.

A pathway (stone dust trail) connection between the two cul de sacs is also proposed. A public walkway (woodchip/mulch) is also proposed between the public open space and the homeowners' association private open space. A street tree planting program, maximum 50 feet on center all the way through, is proposed both on the public and private streets.

Mr. Richter addressed open space noting that the proposed Town of Avon open space connects to Knoll Lane; an access trail connects to the main body of the open space. He explained that there would be no tree clearing/removal in any areas of the site except for approved development areas.

Mr. Richter addressed entryway roads noting that 12-foot travel lanes are proposed and the medians vary from 12 feet to 7 feet, depending on existing conditions. Stone piers are proposed for the entry points and new street trees with adjacent median plantings. He explained that the intent is to perceptually narrow the streets to slow traffic down, creating a sense of private versus public on the other side.

Mr. Richter addressed a unit planting plan and displayed plans showing typical small and large lot plans. He noted that corner identification and perception are the goals; a double ornamental tree is proposed at one corner with a different flowering ornamental tree in the other corner. He explained that the corner pins are proposed as a green painted plastic knob, atop a large Rebar, that would stick up from the ground about 6 inches; the Rebar would be driven into the ground about 3 feet down. He added that foundation plantings of flowering ornamentals, evergreens, and ground covers are also proposed. He clarified that the developer would work with Town Staff, as the planting program would change depending on the owner and unit.

Mr. Richter concluded by noting that the big plan changes include the permanent open space guarantee and the increase in ownership of the open space and tree preservation. He added that these changes, along with some other minor changes, present a cluster subdivision that works in the spirit of what is trying to be achieved for a cluster subdivision in Town.

Mr. Ferrigno addressed the term "conservation restriction" explaining that this refers to lands that would be deeded to two different entities; the Town of Avon and a private, yet to be formed, homeowners' association. He explained that Attorney Meyers has drafted language after lengthy conversations on this topic with Mr. Kushner. He noted that the language/restrictions states that dead trees may be removed but no other activities are permitted; the intent is to permanently protect the areas. He explained that the LID/water quality ponds are located within the open space areas and must be exempted from the restrictions, as they have to be maintained.

In response to Ms. Keith's question, Mr. Ferrigno clarified that the water quality ponds would be maintained by the homeowners' association.

Mr. Meyers explained that the land area that encompasses the water quality ponds is not exempt from the restriction but rather is included in the restriction so that none of the prohibited activities can occur. He added that the language was revised several times to make clear/ensure that even though the land is restricted that the developer can still do all the things that the Town/Commission require/order to be done.

In response to Mrs. Griffin's questions, Mr. Aston explained that the purpose of the LID ponds is an attempt to direct some of the extra runoff from the roofs and pavement back into the ground. The ponds are small (approximately 40 feet in size and 18 inches deep) such that after a storm they will fill up, overflow and then go down to the main water quality ponds and leach out within a day or two; this water will end up back in the ground. Mr. Aston noted that required testing has been done to ensure that the ponds will percolate out and be dry a day or two after a storm. He noted that the large ponds would be about 2 ½ feet deep.

Mr. Ferrigno noted that the bottom of the proposed LID ponds would be vegetative ground cover.

Mr. Richter added that a wetland conservation mix would be on the bottom of the ponds.

Ms. Keith and Mr. Bonner noted their concerns for safety around the ponds, as no fences are proposed

and the trail comes close to the ponds.

Mr. Kushner explained that the applicant does not prefer and is not saving money by proposing the aforementioned LID ponds but rather is proposing them because the Inland Wetlands Commission prefers these ponds over traditional storm water systems. He noted that this is not the first project proposing these types of ponds and clarified that the applicant was asked to use these ponds by wetlands.

Mr. Richter explained that the only trail proposed is approximately 25 feet from the edge of the pond and the edge of the pond is heavily planted.

Mr. Ferrigno clarified that the two proposed cul de sac roads would be privately owned and all of the drainage structures would be privately owned and maintained. He added that someone would have to pay attention and maintain the water quality ponds as well. He noted, for the record, that while the proposed private roads would be built to Town standards they would be maintained privately by the homeowners' association, which is a load off of the Town Public Works Department. He clarified that although 52% of the property is slated for tree preservation he added that he will still be looking at each lot for nice trees to save. He added that there may well be significant mature trees along the highway line that would be better to be preserved than to plant a 2-inch caliper tree.

In response to Mr. Gackstatter's question about a trail/path connecting Knoll Lane and Haynes Road, Mr. Ferrigno explained that a 20-foot strip of Town-owned land was reserved when the Knoll Lane Subdivision was built but no trail exists. He noted that part of the strip is proposed to be Town-owned open space and could have a trail on it. Mr. Gackstatter asked if a trail/path should be constructed to give the current residents on Haynes Road access to the open space without causing people to park at the choke point.

Mr. Kushner noted his agreement with Mr. Gackstatter and added that the Commission is going to have to make a decision about a path in this area. He explained that when the Knoll Lane Subdivision was built a strip of land was reserved for an eventual connection into the subject site. He further explained that Mr. Ferrigno was not required to build a trail/path at that time and added.

Mr. Gackstatter noted that he feels there are two issues; 1) whether the developer can be asked to build a trail on the aforementioned existing Town-owned strip; and 2) whether a trail can/should be built from the current Town land to the proposed Town land.

In response to Mr. Gackstatter's questions, Mr. Kushner explained that there is no trail shown on the drawings but physically it could be built. He further explained that a trail could be built, perhaps, at the expense of being located fairly close to some existing homeowners; he added that it would not get a lot of use. In the alternative, people living on Knoll Lane who wanted to access the 13 acres of open space being proposed could walk down the road to reach the trail access. Mr. Gackstatter indicated that he feels the Commission should discuss this but noted he doesn't have an opinion either way.

Mr. Gackstatter asked about tree preservation and what happens if/when someone cuts down a tree in the preservation area; what actions take place.

Mr. Meyers explained that initially the proposal was to grant an easement to the homeowners' association but it was noted that there may not be enough of an incentive for the association to do anything. He noted that Mr. Kushner suggested that possibly the association could own the land, as an owner has more force. He indicated that the land owner is agreeable and proposes to deed the land to the association. He explained that if someone cuts down a tree on the association's land, the association has a broad array of legal remedies but further explained that there is no one that can make the association take action; the association can choose not to exercise their rights.

Mr. Gackstatter noted his understanding but asked if language could be written into the deeds that gives some "teeth" (i.e., set fines for cutting down trees and/or dumping) for enforcement of actions in the preservation areas.

Mr. Meyers explained that such language would be placed in the association's governing documents. He further explained that there must also be a reference to any such documents in all the deeds but

pointed out that there can never be any guarantees that enforcement actions would be carried out. In response to Mr. Gackstatter's suggestion that a fixed fine of \$10,000 per tree, if cut down, would give the document some "teeth", Mr. Meyers explained that this scenario would not hold up in court, as the dollar amount is arbitrary. He further explained that the judge would find in favor of the person who cut down the tree; he added that in a real world situation, no judge would enforce a \$10,000 fine for one tree.

Mr. Ferrigno confirmed that he has a desire to protect the land but noted that finding the right instrument is difficult.

Mr. Meyers explained that if the Commission wanted to approve the subject proposal with a condition that the applicant grant an easement to the Town the applicant is ok with that, as long as the Town (Council) would be willing to accept such an easement. He reiterated that there are no guarantees relative to enforcement.

Mr. Kushner explained that the majority of the existing lots in Town are conventional lots, including all the lots on Lenox, Lexington, and Haynes Road. He indicated that every one of those property owners can choose, as their right, to clear cut every tree on their property, if there are no wetland/ridgeline restrictions. He pointed out that in exchange for some additional density being proposed with the cluster subdivision, there is a significant amount of tree preservation being offered. Mr. Kushner noted his belief that if the land in the buffer areas is not owned privately by the individual homeowners who abut it that it is less likely, although not foolproof, that one of those homeowners would cut trees in an area that they do not own and on land owned by the association. He added that he has had this discussion with Mr. Ferrigno who now agrees. Mr. Kushner explained that in addition to the land being owned by the association he suggests that a conservation restriction be added, as extra protection. A conservation easement granted to the Town is another option, which gives the Town of Avon the ability, theoretically, to sue a private property owner for violation of an easement. He added that this approach has never been taken to date in Avon. He indicated that he feels the current program is quite solid.

Mr. Gackstatter reiterated his concerns with enforcement of the preserved areas (i.e., tree cutting, dumping, etc) and the need for the correct language and dollar amounts attached to fines. He added that he feels if the correct language exists it would allow the people within the entity to not get in conflict with each other.

In response to Mrs. Ryan's question, Mr. Meyers explained that any set fine amount would not be considered arbitrary if it bears some resemblance to the harm done.

Mrs. Griffin commented that a \$1,000 fine would be enough of a deterrent. She added that signs could be put up noting the fine amounts right on the sign.

Mr. Meyers reiterated that the association cannot be made to vindicate its rights.

Mr. Kushner pointed out that when people buy houses in a cluster type development (i.e., Farmington Woods) with smaller lots, as opposed to conventional single-family houses on larger lots, it comes with a large rule book that makes it less likely that the aforementioned problems will occur. In addition, it is also understood that you are part of a private homeowners' association that is legally binding. He added that there are similar type developments in Town (i.e., Hunter's Run, Rivermead, Forest Mews) where these types of issues do not exist.

Mr. Meyers clarified that the only administrative function the association would have is with their own members.

Mr. Ferrigno commented that he could put one sign behind every house that alerts people to the existence of the homeowners association. He noted he could submit language to the Staff for review. He noted that the subject proposal is most likely more than the Town has gotten in other places. Mr. Ferrigno conveyed his agreement with Mr. Kushner's earlier comments such that people tend to pay more attention when they own something.

In response to Mr. Bonner's question, Mr. Ferrigno explained that a qualified individual will write the homeowners' association document.



Mr. Meyers explained that the developer controls the homeowners' association until a percentage of houses are sold and then management of the association is turned over the homeowners.

In response to Mr. Bonner's question, Mr. Ferrigno confirmed that other "typical" type restrictions (i.e., the "rulebook") will also apply to the homeowners (i.e., when you can leave your trashcan out, don't leave garage doors open, etc.).

Ms. Keith conveyed her opinion that the subject homeowners' association comes close to being self regulating and more so than some of the other areas in Town. She acknowledged her understanding of Mr. Gackstatter's concerns but added her understanding that monetary fines are difficult to enforce. She indicated that she likes the idea of posting modest signs.

Mr. Ferrigno noted that he would have no problem with a condition of approval that mandates that caveats be implemented into the homeowners' association documents. He clarified that the documents are not yet prepared but the Staff and the Commission could review the documents.

Mr. Kushner pointed out that the chance of rampant violations involving large-scale tree cuttings on land not owned by the homeowners is very minimal.

Mr. Aston reviewed proposed drainage noting that all the public and private roads would have a piped drainage system. The private roads would discharge into the LID (low impact development) system, or some type of groundwater recharge, and then discharge into the Town maintained system. He explained that portions of the Town maintained system will discharge into an additional LID system that would be maintained by the homeowners' association and then go back into the Town's system. Two large manholes, part of the Town maintained system, would take out any floating solids in the storm water; discharge from these manholes would go into the water quality ponds, which are larger versions of the LID pools. These pools allow the water to leach back into the ground before it reaches Big Brook. Mr. Aston concluded by noting that the flow to Big Brook after development will not have an increased peak flow and will not affect downstream property owners.

Mr. Ferrigno explained and clarified that there will be extra water from the development but it will be contained on the site for a period of time to ensure that no peak flow from large storms is realized. He added that this type of system works and is very effective.

Mr. Ferrigno addressed comments from the Director of Public Works noting concerns with construction traffic on Haynes Road, as the road was just repaved recently after the sewer was installed. The Director of Public Works indicates that he would not like to see any construction traffic on Haynes Road accessing the subject site. Mr. Ferrigno indicated that he will do whatever the Town instructs with regard to construction trucks. He noted that the Director of Public Works recommends against the proposed stone pillars to be located inside the Town right-of-way due to the numerous vehicular accidents that have occurred in other areas of Town where pillars exist. Mr. Ferrigno indicated that he will follow the Town's/Commission's direction on this item.

Mr. Ferrigno addressed supplemental comments from Mr. Kushner, dated January 10, noting that progress is being made as a result of many meetings with the Town and the project team. He indicated that there are a couple of areas of existing natural vegetation on the site that do not meet the requirements of the "B" Bufferyard and therefore plantings have been added in those areas (one area is the northern boundary of 213 Haynes Road and the other is along the southern boundary of a different property). He noted that open space and tree preservation plans have been addressed. Streetscape plans as well as individual house plans have been submitted with a greater emphasis for the higher density part of the project. A defined trail system exists for both private and public lands. He noted that detail information for the proposed entrance islands has been submitted; these islands are primarily for traffic calming but do add aesthetic interest. He noted that some of the lot shapes have been modified to achieve a more "regular" shape. He noted that the "eyebrow" area has been removed.

Mr. Ferrigno noted suggestions/conditions made by Mr. Kushner should an approval be considered including truck routing and construction sequence. He noted that he has already talked with Town Engineering and other Town Staff about modifications to the sequencing shown on the plans. He stated,

for the record, that the sequencing plan in the submittal set will be edited.

Mr. Kushner addressed truck routing noting that there is no perfect solution and everyone will be impacted to some degree. He acknowledged the significant disruption to Haynes Road for a long period of time for the sewer installation and also noted the significant investment to repave the road. He explained that it is possible to start construction from the Hollister Drive end and work back towards Haynes Road. A temporary locked gate could be installed at the intersection of "Stratford Crossing" and Haynes Road, to allow emergency vehicles access even while the project is still under construction. He explained that the Staff has discussed this issue and feel that when the project is 50% complete, or when approximately 20 Certificates of Occupancy (of the 39 total proposed) have been issued, that possibly the gate could be removed. He explained that both the Town Engineer and the Director of Public Works recommend that all the heavy construction trucks continue to come in and exit to the north (Hollister Drive), even after those 20 C/Os are issued. However, Engineering and Public Works have indicated that all the other vehicles (i.e., plumbers, painters, electricians, etc) involved in construction could maybe use Haynes Road if they choose, to share in the burden.

In response to Mrs. Ryan's questions, Mr. Ferrigno explained that the sewer line has to be brought up from the south in order to service any of the new houses. He noted that the plan is to begin construction in the south (Haynes Road) and move north. He added that Town Staff has indicated that the first phase should go all the way up to Lenox Road to get a rated gravel road installed for emergency vehicles.

Mr. Gackstatter commented that if Lenox Road has not been resurfaced recently one benefit of construction traffic going that way is that the road may get refinished sooner.

Mr. Ferrigno explained that although Haynes Road was repaved recently the road base still does not meet current Town road standards, as Lenox Road does.

Mr. Ferrigno addressed stop signs noting that any input from the Traffic Authority would be welcomed.

Mr. Ferrigno noted that final details for landscaped islands have been submitted but added that he doesn't know if Staff has time to review.

Mr. Ferrigno indicated that detail for trail construction is shown on the plans and added that all the trails, except the trail connecting the two cul-de sacs, are proposed to be wood chips or bark mulch; a natural surface.

In response to Mr. Ferrigno's comments about the proposed landscape plans, Mr. Kushner explained that the plans before the Commission tonight have 2 examples of a landscape plan; one for the smaller cluster lots and one for the larger cluster lots. He noted that the plans contain a narrative that speaks to design principles such that Mr. Richter's office (Richter & Cegan, landscape architects) is most likely the best qualified to make judgments about plantings and certify compliance with the plans.

Mr. Ferrigno noted that a final street lighting plan has been submitted.

Mr. Ferrigno addressed conservation restrictions and noted that he could accept, as a condition if an approval is granted, that certain things be "called out" in the homeowners' documents to ensure that it gets done.

Mr. Ferrigno acknowledged that he received comments tonight from the Engineering Department but has not had a chance to review but added that he feels the general theme is such that the Engineering Department does not object to the project but have a number of housekeeping/technical items that need to be addressed. Mr. Ferrigno noted his goal would be to address everything before the next meeting and asked Mr. Kushner if that would be acceptable.

Mr. Kushner confirmed that that would be acceptable.

Mrs. Griffin commented that the Commission did not see the previous plan revisions until the night of the last meeting. She added that the Staff did not get a chance to review the previous revisions and therefore could not provide any guidance to the Commission. She indicated that tonight's plans also came in at the very last minute and there are no detailed reports. She suggested that there should be a change in the Town's submission regulations such that everything is submitted in time so it can be

included in the Commission's agenda packages.

Mr. Ferrigno acknowledged/noted his understanding of Mrs. Griffin's concerns. He added that the plans have been in the process of being revised since last September.

Mrs. Griffin clarified that her comments/concerns apply to every application and clarified that she is not referring only to Mr. Ferrigno's application.

Mrs. Griffin explained that originally she was in favor of a conventional subdivision; she added that she does not like private roads. She further explained that she liked the original proposed road that now connects two cul-de-sacs but noted that she wanted a better plan that contains more green space. She indicated that she now realizes the only way to achieve more green space is via a cluster subdivision which, in turn, requires the lots to be made a bit smaller and some of the roads private. She reiterated her dislike for private roads, as they restrict people from walking on them. She added that Haynes Road and Lenox Road are friendly neighborhoods with people that interact and spend time outdoors.

In response to Mrs. Griffin's comments, Mr. Ferrigno explained that, currently, no one can walk on the subject site, at all, as it is privately owned; he further explained that the owner has placed no trespassing signs because people have violated this in the past. He indicated that up to 30% of the developments currently in Town are private, noting that Farmington Woods is arguably one of the most successful condominiums in the country. He noted other private facilities in Town, namely Pond Place, Sconsett Point, and Hunter's Run. He explained that his hope is that the Lenox and Haynes Roads neighborhoods are friendly because there is going to be a connection between these two neighborhoods. The proposed development is going to produce over a half a mile of new public roads where the public can walk and approximately 13 acres of publicly accessible land with trails. Mr. Ferrigno conveyed his understanding of Mrs. Griffin's concerns but noted that private roads are not a new concept in Town.

Mrs. Griffin indicated that she was only in favor of a cluster development to get a better functioning developed area without the concern of all the trees being cut down. She acknowledged her understanding that there has to be some give and take but added that she feels the right to pass and repass along the two proposed private roads could be granted to the neighbors.

Mr. Gackstatter commented that his understanding is that public roads are required to be built to a different standard which pushes the houses back. He added that he doesn't feel exclusivity is the driving force behind the proposed private roads but rather saving trees is the goal.

In response to comments about noticing private roads, Mr. Ferrigno explained that normally private roads are posted as such and added that it seems that would be the recommendation. He noted that he doesn't know if anyone would call the police if someone was walking on a private road. He confirmed Mr. Gackstatter's comments about house positioning on private roads.

Mr. Ferrigno indicated that if the Commission wishes to create a pedestrian easement of some sort, a discussion can take place. He concluded by noting that the proposed plan provides a lot of extra road network and public trails that do not currently exist.

Ms. Keith commented that it appears that the public open space could be easily accessed from Haynes Road. Mr. Ferrigno concurred and added that the plan was designed to make the open space easily accessible from Haynes Road. Ms. Keith commented that public roads would result in more clearing; private roads are proposed to keep the footprints and houses smaller.

In response to the Commission's question as to whether a land owner has ever granted an easement for public access/pedestrian traffic, Mr. Kushner explained that he doesn't believe this scenario has even been done before on roads but added that the Buckingham Subdivision contains roughly 50% public roads and 50% private roads. He indicated that he doesn't believe the Town required pedestrian easements be granted over the roads but clarified that the Town did require that easements be granted over the trails that wind through the development. He explained that he believes the easements were required in connection with the ball fields that were built on this site.

In response to a general discussion/comments about costs and taxes, Mr. Kushner explained that taxes

are paid depending on the worth of a property and it doesn't matter whether you live on a private street or a public street; the tax amount relates to the value of the property. He further explained that there have been large homeowners' associations in the State (not in Avon) that have made arguments that they should get a preferential tax rate because they are not enjoying all the services that are being offered to the majority of residents living on public streets. He noted that to date, the courts have generally favored the Town government's side of the argument which is that you bought a house on a private street and you should accept the consequences (i.e., both the privileges and benefits), as you made an informed decision. Individuals living on a private street in Avon pay the same taxes as those living on public streets but may not enjoy all the services. Mr. Kushner noted that this scenario is similar to individuals enrolling their children in public schools vs. enrolling in private schools; it's a personal decision. He pointed out that proposing to extend rights for the general public to use private roads arguably puts the Town in an awkward position, given the tax policy. Mr. Kushner acknowledged that while there are always two sides to every argument he noted his agreement with many of Mr. Ferrigno's comments such that there is a substantial new public road proposed that every Town resident will have access to. The new public road will offer a connection to Hollister Drive and Lexington Drive; trail connections would also be available. He concluded by noting that he doesn't feel that anyone's quality of life would be significantly affected by not being able to access the two proposed short cul-de-sacs and asked that the Commission consider the bigger picture analysis.

Ms. Keith opened the hearing for public comment and politely requested that individuals wishing to speak focus their comments on the new information only, as significant testimony has already been heard on many previous hearings. She explained that all the comments already received are taken seriously by the Commission.

Heinz Rosskoth, 43 Byron Drive in Farmington Woods, commented that he likes trees and privacy but acknowledged that every land owner has rights to develop their land. He noted his support for the latest plan, as it seems like a fair compromise between the neighbors and the developer. He noted he would like to see the plan approved.

Janet Romanowicz, 94 Haynes Road, asked what fines/penalties would be imposed on construction trucks driving on Haynes Road.

In response Attorney Meyers explained that the proposal physically prevents the trucks from going into the area until the 20th C/O is issued. He further explained that trucks may drive up Haynes Road and they may see the gate and go back down Haynes Road, as Haynes Road is a public road, but they can't service the proposed development as they can't physically get in. He noted that the contracts that the developer would put in place with the trucking companies would advise them that they must use Hollister Drive and Lenox Road to access the site.

Mr. Kushner explained that the Town has no ability to impose fines but further explained that the Town has leverage to withhold permits from the developer should violations with truck routes or any other conditions of approval occur.

Mr. Ferrigno indicated that it is very possible that there could be large trucks servicing any one of the 80 homes on Haynes Road. He added that he would notice all of his contractors about the approved truck routes but noted that there would probably be a learning curve and some mistakes/violations. He stated that he would cooperate with the Town as best he can.

Beth McIntire, Lenox Road, asked what hours the trucks would be coming in. She noted that her neighborhood is very small and construction trucks would be very disruptive.

Mr. Ferrigno explained that the construction hours are limited by Town Ordinance.

Sara Harrigan, 21 Greenwich Lane, Farmington Woods, commented that she enjoys Byron Drive but added that she knew the adjacent area would be developed some day. She noted her support for the proposed development in its latest form.

Tom Horan, 166 Haynes Road, suggested that only one of the two proposed traffic controlling islands should be installed at Lenox Road, or nowhere at all, as most people feel most of the cut through traffic

would come that way.

In response to Mr. Horan's question, Mr. Ferrigno explained that the proposed property pins would be located in the small lot section in the rear property corners only.

In response to Mr. Horan's question, Mr. Meyers explained that in addition to the proposed open space being deeded to the homeowners' association there is also a conservation restriction proposed. He further explained that the proposal is to record the conservation restriction first and then state on the open space deed that it is subject to the conservation restriction. He noted that an easement is granted in favor of someone while a restriction just exists on land; he added that the prohibitions for both easements and restrictions are exactly the same.

Mr. Kushner explained that the homeowners' association will have a deed that makes reference to the conservation restriction document that states that no tree cutting can take place; no filling is allowed, and no structures are permitted. The area will have to be preserved in its natural state.

In response to Mr. Horan's questions, Mr. Kushner explained that the public hearing must be closed tonight, as State Statutes/State law do not permit any more time beyond the 4 months that the hearing has been extended. He added that this time limit is really without precedent. The Commission will now consider all the testimony and all the plans that have been reviewed over the last 4 months to reach a decision. Mr. Horan commented that a brand new plan was proposed to the community today.

Mr. Kushner noted his understanding but explained that State law must be abided by and the hearing closed tonight. He added that there is no State law that says that in order for the Commission to properly consider information that it has to be submitted a certain number of days in advance of the hearing; he added that the rules in a courtroom are the same. He acknowledged, however, that consideration could be given to the idea of adopting local rules with regard to the timing of information received.

Mr. Gackstatter indicated that he doesn't feel it's a fair characterization to say that tonight's plans are brand new and added that tonight's plan are a combination of 4 months worth of listening and compromising and finding the best solution.

Mr. Horan commented that the conversation began noting that significant changes were made.

Mr. Ferrigno explained, for the record, that the proposed roadway network has been the same for 4 months, with the exception of the proposed private road which was originally one road but for the last 2 meetings has been the same. He further explained that the "eyebrow" was removed and noted that the same number of units, 39, have been shown since the original plan. He noted there have been different iterations of the plan trying to describe open space and trails and enhancements but added that the current plans are an evolution of the same plan submitted originally.

Mr. Horan commented that there have been different plans presented; some with private roads and some with public roads and added that he doesn't feel it's fair from a public point of view. He added that he is not in favor of the cluster development. He noted that his recollection is that about 3 months ago the Commission requested a reduction in the number of lots for the cluster development and changes to the public road. He also noted that it was represented at one point that the Town was going to take on the conservatorship of the property and that information swayed the Commission and added that tonight we are hearing for the first time that this is not going to be the case. He commented that there is no time to think about the current plan or put anything forward. Mr. Horan asked that if the hearing is closed tonight that basically no more opinions can be taken.

Mr. Kushner explained that opinions have been received for 4 months but tonight the public hearing must be closed. The Commission has 65 days to deliberate and discuss all the evidence heard over the past 4 months. The public will no longer have an opportunity to testify any further once the hearing is closed. Mr. Kushner pointed out that the vast majority of public hearings are opened and closed the same night but added that because this is a large project with many issues the hearing was continued; he added that there is probably 8 to 10 hours of public testimony which is without precedent in Avon. Celeste Kohlhoff, 213 Haynes Road, noted that she doesn't see the need for the proposed islands to

slow traffic as stop signs are also proposed and added that islands and stone pillars would not be in character with the surrounding neighborhoods.

Ms. Keith explained that the Commission, after hearing testimony from 2 traffic engineers/experts, has been charged with ensuring that the new development does not become a cut through; the proposed islands are going to help in this regard. The Commission is trying to help the public by proposing these islands for traffic calming.

Mrs. Kohlhoff noted her concern that one of the islands would be located near her house. She added her agreement with the Director of Public Works that stone pillars are dangerous and conveyed her concerns that motorists could end up in her yard. She noted her opinion that the islands should not be put on Town property and should be pushed back onto the site.

Mr. Meyers explained that the islands and pillars are 2 separate issues and added that the pillars appear to be an issue from the comments received from the Director of Public Works. He noted that the islands are not so much to announce the presence of a new neighborhood but rather to address cut through traffic, which has generated great public concern. Both traffic engineers have indicated that the islands would deter some motorists from turning into the development. He added that the greatest deterrent effect, if it were possible, would be realized if the island could be located in an area such that motorists saw it before they turned in off of Haynes Road. He clarified that the proposed road has been offset within the right-of-way; it has been moved further from the closest house, not closer, such that the curb line is in the same location as a curb would be for a 26-foot wide road without boulevards (the proposed road is 12 feet wide with a 7-foot median).

Ms. Keith noted that the shrubbery proposed for the island would also provide additional buffering to the houses.

In response to Mrs. Kohlhoff's question, Ms. Keith explained that the homeowners' association would maintain the islands and a planting plan will have to be followed.

Mr. Kushner explained that the Commission could require as a condition of approval that the homeowners' association be responsible for maintaining all the plants shown on the approved planting plan. He further explained that other homeowners' associations exist in Town and no problems exist.

In response to Mrs. Kohlhoff's question, Mr. Richter explained that stone pillars have been established as an offset from the curb line and there is a curb on both sides. He further explained that the same DOT standards that have been used throughout the State are proposed here, which is a 2-foot setback from the curb edge. He noted that the pillars are no different than fire hydrants or any objects in the right-of-way. He acknowledged the opinion of the Director of Public Works relative to the pillars noting that the Commission can also have an opinion.

Mr. Gackstatter communicated that possibly the pillars are becoming more like a "gate" than a traffic calming measure and noted his understanding with neighbors' concerns.

Mr. Richter indicated that pillars, like a wall in a house, present an edge and as that perceptual space narrows and gets closer to the road vehicles slow down. He noted that a set of telephone poles or trees would create the same effect and that is to reinforce the closure of space.

Mrs. Kohlhoff reiterated that if pillars are used they should not be on Town property and should be pushed back and located at the actual entranceway to the new development.

Mr. Meyers pointed out that the purpose of the island and the pillars must be kept in mind. If the purpose is to slow traffic, that could be accomplished in any location but if the purpose is to deter cut through traffic then installation needs to be in an area where vehicles can see it.

Sally Dengenis, 20 Byron Drive, Farmington Woods, noted her support for the project and the developer, Mr. Ferrigno. She added that

Mr. Ferrigno built her a house in the 1970s.

John Jennings, 69 Haynes Road, commented that he supports cluster developments and likes the look

of the proposed development but asked if there is a way to “get over” the private road issue for future projects (i.e., just let the roads be smaller) so there could be more cluster developments in Town. He added that his biggest worry has always been traffic and noted his support for as many islands and signs to slow down traffic but also acknowledged his understanding of concerns raised by the Kohlhoffs.

Michael Kohlhoff, 213 Haynes Road, noted his agreement with his wife’s earlier comments that the islands should be pushed in. He noted that he doesn’t want to hear tires screeching trying to maneuver through the entrance. He noted his agreement to bring the construction traffic in from the north until a certain number of C/Os have been issued. He commented that Mr. Starr asked about moving the trail at one of the previous meetings and added that it doesn’t look like the trail has been moved further away from the easement area/north side of his property.

Ms. Keith indicated that the trail has been centered. She added that trees are also proposed to be planted on the Kohlhoff property. Mr. Kohlhoff noted that he can already see certain houses from his property. Ms. Keith commented that Mr. Kohlhoff has clear cut his lot. Mr. Kohlhoff indicated that he did not clear cut his property and noted that the septic field is in his rear yard.

Mr. Kohlhoff commented that there is a lot of open land near the entrance island areas in both the Weatherstone and Buckingham developments; there are no houses in the immediate area like there are in this situation.

Pam Giannini, 38 Lenox Road, noted for the record that she does not prefer construction trucks using Lenox Road and hopes the Town will monitor it closely. She noted her agreement that the process for the timing of plan receipt should be reviewed by the Commission; receiving plans the same night as a presentation does not allow the public time to review and it’s not fair.

In response to Mr. Bonner’s question, Mr. Ferrigno confirmed that the site is essentially balanced. Mr. Bonner pointed out that construction trucks traveling on Lenox Road but there would not be heavy trucks loaded with earth material. Mr. Ferrigno clarified that there will be some trucks with material going to the site

In response to Ms. Giannini’s question, Mr. Ferrigno explained that the construction equipment that is on tracks will be onsite (i.e., bulldozers, excavators) but there will be trucks coming and going.

Chris Wilde, 110 Haynes Road, asked if there are plans to make changes to the traffic around Hollister Drive to help the proposed connection to not become a cut through, especially in the early morning hours. She added that she realizes that this issue is not necessarily under the control of this Commission but added that she doesn’t want it to be overlooked.

In response to Ms. Wilde, Mr. Kushner explained that the legal traffic authority in Avon is the Police Chief who has direct connections with the State DOT relative to Town roads that intersect with State roads. He noted that he believes that someone from Haynes Road may have already spoken with the Police Chief about the possibility of a traffic signal at the intersection of Thompson Road and West Avon Road. He noted that scoring of pavement on Haynes Road was also discussed at a previous meeting as a possibility for traffic calming. He explained that he met with Mrs. Pugsley for 1½ hours discussing traffic and other things and added that he suggested to her that she contact all her neighbors on Haynes Road to get opinions from everyone and possibly gain a consensus that could then be used to approach the Town Staff. He explained that anything new is difficult to implement even if the cost is relatively modest.

Ms. Wilde noted her understanding and appreciation of Mr. Kushner’s comments and indicated that her main concern is the traffic light at Hollister Drive and West Avon Road and the traffic that backs up there. She noted her concerns with cut through traffic and added that Haynes Road cuts off 2 traffic lights.

Pete Pugsley, 4 Haynes Road, noted that he was not present at the last meeting and asked if the proposed calming measures include only the 2 proposed islands at Lenox and Haynes and several stop signs within the complex.

Ms. Keith confirmed to Mr. Pugsley that his information is correct. She clarified that the location/placement of stop signs is under the control of the Police Chief/Traffic Authority.

Mr. Gackstatter commented that the proposed curvature of the road pattern itself would also act as a calming measure.

Mr. Pugsley confirmed that he has submitted a letter to the Police Chief but no response has been received to date. He noted his concern that since Hayne

The road connection is going to occur in any event, whether conventional or cluster development.

The public open space proposed is about 3 times what would be required in a conventional development (4.5 acres vs. a little more than 13 acres).

Numerous trails in a cluster vs. limited trails if any in a conventional development

Privately-owned open space is a new concept but approximately 9 acres is proposed vs. none in an “as of right” development.

Traffic calming – he noted that he never believed that the proposed development would become a cut through but acknowledged that he could be wrong and therefore propose a curva-linear road with attractive islands, which would probably not be designed into a conventional subdivision. He noted that road standards in a conventional subdivision do not include traffic calming islands.

Landscaped entryways are also proposed.

He conveyed his understanding that although it is not the purview of this Commission, it should not be lost on anyone present that the proposed houses are fiscally net positive to the Town. He explained that while no one believes it, the types of houses proposed result in very few school children; it's a net positive fiscal impact to Avon.

Buffer plantings are proposed and would never be done in a conventional project.

Private roads do not require maintenance by the Town Public Works Department.

The types of houses proposed will produce less traffic. He noted that he was required to base his numbers as if the proposed houses were standard/conventional but noted that the proposed houses will create half the traffic of a conventional subdivision. Mr. Ferrigno explained that he feels this is a fact worth considering and added that even if he is wrong and the numbers are a little bit off, the proposed development would behave as if there were 30 units. He stressed that it is his opinion that the proposed development will produce less traffic based on actual development in Avon of similar type properties.

Mr. Ferrigno thanked the Commission for their time.

There being no further input, the public hearing for Apps. #4683 and #4684 was closed, as well as the entire public hearing.

Mr. Gackstatter motioned to table Apps. #4683 and #4684 to the next meeting, scheduled for January 28. The motion, seconded by

Mrs. Ryan, received unanimous approval.

#### PLANNING AND ZONING COMMISSION MEETING

##### OUTSTANDING APPLICATION

App. #4697 - Metro Realty Group LTD, owner, Exacta Box LLC, applicant, request for Site Plan approval to permit daycare center, 50 Darling Drive, Parcel 2030050 in an IP Zone

Present to represent these applications were David Whitney, PE, Consulting Engineers, LLC, and Robert M. Meyers, Meyers, Piscitelli, and Link, LLP.

Attorney Meyers asked that all the information that was presented at the last hearing, on December 10, 2013, in connection with the Special Exception for the use, be considered in connection with tonight's testimony.

Ms. Keith confirmed that all the information from December 10 will be considered and the Commission concurred.

Mr. Whitney displayed a site plan noting that the site is 1.8 acres and the proposed building is 8,642



square-foot, one-story building. Parking for 34 spaces with a playground on either side is proposed. Mr. Meyers clarified that the site plan proposal requests approval for both the main building and the annex; however, the annex would not be built until sometime in the future.

Mr. Whitney explained that the proposed annex building is 2,086 square feet with 7 additional parking spaces. The applicant has agreed to install the additional parking spaces now and therefore the plans have been revised to show the initial phase of construction with 41 parking spaces for the 8,642-square-foot building and the construction of the annex building sometime in the future. The main building would contain 10 classrooms and the annex would consist of 2 additional classrooms and a gym. The building will be served by public sewer and public water; utilities will be installed and the building will be fully sprinkled and an emergency generator installed. He noted that the storm drainage system has been designed to a 100-year storm and drainage calculations have been submitted to the Town Engineer; the site contains very well drained sand and gravel. The front portion of the site is lower than Darling Drive such that presently none of the storm water flows onto Darling Drive.

Mr. Kushner reported that Mr. Whitney is working on a lighting plan that is in progress noting that this item should be a condition of approval. He noted that Mr. Whitney has indicated that the building would be real colonial red brick on the outside with a black asphalt-shingled roof. The detail over the window is a pre-cast concrete product. A dumpster enclosure is also proposed. Mr. Kushner noted that because the annex would be constructed in the future, he explained that 2 record drawings would need to be prepared (for C/O issuance); one for the main building and one for the annex building. He noted that the proposed parking complies with the Goddard School manual and noted that the School is comfortable that the parking is adequate. He noted that a set of "rules" have been created by the applicant in connection with how the building would be used to give the Commission reassurance that no really large events would take place on site and that the events that would take place would be managed such that parking would be adequate. Mr. Kushner recommended that a condition of approval be considered such that the School is required to obtain rights for 20 additional spaces at an adjacent site. In response to comments about possible change of property ownership, Mr. Kushner clarified that the Commission granted a special exception permit based on testimony heard for the building use, which is now also part of this record, and added that although the special permit is transferrable to another owner the specific information that was entered into the record for the proposed daycare that led the Commission to decide that the special permit conditions have been satisfied still apply.

Mr. Meyers concurred noting that the special exception criteria apply to any new owner. He explained that Goddard Schools has 400+ locations nationwide and that they have informed him that 21 parking spaces are needed; the applicant has agreed to build additional spaces for a total of 41 spaces. He explained that graduations are limited to 2 classrooms per event with the maximum graduation being 20 children at one time. If there is more than one graduation in a day, the timing will be spread out such that the guests from the first event depart well in advance of the next round. All graduations, open houses, and similar events would be held only on days and/or times when the School is not in operation. He noted that families prefer events on weekends and carpools will be encouraged. Parallel open houses (i.e., some parents have both a 2-year-old and a 4-year old) will be scheduled, one for the morning and one for the afternoon, as open houses cannot be divided by age. He noted that employee participation and graduation and other events will be limited to essential personnel to limit the number of cars arriving. He explained that Goddard does not require any school-wide events but noted that if the daycare chooses to have any school-wide events, they would be held offsite. Mr. Meyers concluded by noting that the proposed annex, once constructed, would be used only by the School; it would not be rented out.

In response to Mr. Bonner's question, Mr. Meyers stated that it would be his vote that the emergency connection between Arch Road and Darling Drive be completed and opened.

Ms. Keith noted her agreement that it's time the connection was completed.

There was no further input for App. #4697.

Mr. Gackstatter motioned to waive Administrative Procedure #6 and consider the public hearing items. Mrs. Ryan seconded the motion that received unanimous approval.

App. #4695 - Two Fifty Five West Main LLC, owner, PB2 Architecture + Engineering, applicant, request for Special Exception under Section VII.C.2.f.(3) of Avon Zoning Regulations to permit wall sign larger than 75 square feet, 255 West Main Street, Parcel 4540255, in a CR Zone

Mrs. Griffin motioned to approve App. #4695. The motion, seconded by Mr. Bonner received unanimous approval.

App. #4700 - Silvio Brighenti Family LLC, owner, Town of Avon, applicant, request for Zone Change from ROS to R40, 2.15 acres, 16 Timothy Way, Parcel 4350016; and from ROS to R40, 3.57 acres, 225 Lovely Street, Parcel 3060225

Mrs. Ryan motioned to approve App. #4700. The motion, seconded by Mrs. Griffin, received unanimous approval.. The effective date of the zone change is January 22, 2014.

App. #4704 - Ashish and Deepshikha Arora, owners, Creative Communities Builders, applicant, request for Special Exception under Section III.G. of Avon Zoning Regulations for new house construction in the floodplain, 87 Haynes Road, Parcel 2600087, in an R30 Zone

Mr. Kushner commented that App. #4704 meets all the conditions of the Special Exception criteria as well as the floodplain regulations. The Commission concurred.

Mr. Gackstatter motioned to approve App. #4704. The motion, seconded by Mrs. Ryan, received approval from Messrs. Gackstatter and Bonner and Mesdames Keith and Ryan. Mrs. Griffin disqualified from App. #4704.

App. #4697 - Metro Realty Group LTD, owner, Exacta Box LLC, applicant, request for Site Plan approval to permit daycare center, 50 Darling Drive, Parcel 2030050 in an IP Zone

Mrs. Griffin motioned to approve App. #4697 subject to the following conditions:

1. Prior to the issuance of a Certificate of Occupancy, a licensed acoustical engineer shall certify, in writing to the Director of Planning/Town, that the generator complies with the noise standards contained in the Avon's Zoning Regulations.
2. One record drawing/mylar shall be prepared for the main building and one record drawing/mylar shall be prepared for the annex building, as the buildings will not be constructed at the same time and therefore issuance of Certificates of Occupancy will occur at different times.
3. A final lighting plan shall be submitted to the Director of Planning/Town for review and approval. The plan shall comply with the recommended standards published in the IES Manual.
4. Applicant shall comply with representations made to the Commission at the public hearing relative to parking needs in connection with special events such as open houses and graduations.
5. The Goddard School shall secure offsite parking from a nearby property owner for 20 vehicles for special events. A contract shall be entered into and submitted to the Director of Planning/Town prior to the issuance of a Certificate of Occupancy.

The motion, seconded by Mr. Gackstatter, received unanimous approval.

**OTHER BUSINESS**

Request for 1-year Extension of Site Plan Approval for 221 West Main Street – Fred Bauer

Mrs. Griffin motioned to approve a 1-year extension of the site plan approval for 221 West Main Street (PZC App. #4395). The motion, seconded by Mrs. Ryan, received unanimous approval.

There being no further business, the meeting adjourned at 11:30pm.

Respectfully submitted,

Linda Sadlon, Clerk

**LEGAL NOTICE**

**TOWN OF AVON**

At a meeting held on January 14, 2014, the Planning and Zoning Commission of the Town of Avon voted as follows:

App. #4695 -Two Fifty Five West Main LLC, owner, PB2 Architecture + Engineering, applicant, request for Special Exception under Section VII.C.2.f.(3) of Avon Zoning Regulations to permit wall sign larger than 75 square feet, 255 West Main Street, Parcel 4540255, in a CR Zone APPROVED

App. #4697 - Metro Realty Group LTD, owner, Exacta Box LLC, applicant, request for Site Plan approval to permit daycare center, 50 Darling Drive, Parcel 2030050 in an IP Zone APPROVED WITH CONDITIONS

App. #4700 - Silvio Brighenti Family LLC, owner, Town of Avon, applicant, request for Zone Change from ROS to R40, 2.15 acres, 16 Timothy Way, Parcel 4350016; and from ROS to R40, 3.57 acres, 225 Lovely Street, Parcel 3060225 APPROVED EFFECTIVE January 22, 2014

App. #4704 -Ashish and Deepshikha Arora, owners, Creative Communities Builders, applicant, request for Special Exception under Section III.G. of Avon Zoning Regulations for new house construction in the floodplain, 87 Haynes Road, Parcel 2600087, in an R30 Zone APPROVED

In addition, the following application was withdrawn:

App. #4688 - J. Timothy and Pamela Lefever, owners/applicants, request for Special Exception under Section IX.E. of Avon Zoning Regulations to permit filling and grading within 150-foot ridgeline setback, 595 Deercliff Road, Parcel 2090595, in an RU2A Zone WITHDRAWN

Dated at Avon this 15th day of January, 2014. Copy of this notice is on file in the Office of the Town Clerk, Avon Town Hall.

PLANNING AND ZONING COMMISSION

Linda Keith, Chair Carol Griffin, Vice Chair

LEGAL NOTICE

TOWN OF AVON

The Planning and Zoning Commission of the Town of Avon will hold a Public Hearing on Tuesday, January 28, 2014, at 7:30 pm at the Avon Town Hall on the following:

App. #4705- Martha Dean, owner/applicant, request for Special Exception under Section IV.A.4.s.of Avon Zoning Regulations to permit home occupation, 144 Reverknolls, Parcel 3690144 in an RU2A Zone

All interested persons may appear and be heard and written communications will be received.

Applications are available for inspection in Planning and Community Development at the Avon Town Hall. Dated at Avon this 14th day of January, 2014.

PLANNING AND ZONING COMMISSION

Linda Keith, Chair Carol Griffin, Vice Chair