

Call to Order:

The meeting was called to order at 7:31 p.m. Present were Chairman Zach Bergeron, members Vincent Chiozzi, Jay Doherty (arrived at 8:35 p.m.), Ann Knowles and Associate Member Steve Pouliot (arrived at 8:35 p.m.); also present were Paul Materazzo, Director of Planning and Jacki Byerley, Town Planner.

139-143 Elm Street and 26 Pine Street:

Mr. Bergeron opened the continued public hearing for 139-143 Elm Street and 26 Pine Street, a Special Permit for Elderly Housing and opened the public hearings for 139-143 Elm Street and 26 Pine Street, a Definitive Subdivision Plan and Special Permit for Earth Movement.

John Barrows, P.E. of Marchionda Associates, an engineer representing the applicant, reminded the Board that a Preliminary Subdivision Plan was previously submitted, and before them now is a Definitive Subdivision Plan to lock in the zoning for the property. The Definitive Plan is for a 2-lot subdivision with lot 1 being a 30,000 s.f. non-buildable lot and lot 2 being approximately 9 acres. Lot 2 is the site of the CSH facility. The subdivision will contain a 40 ft private right of way that meets the local street criteria for 3 lots or less. The driveway will have 24 ft of pavement. The applicant is requesting 5 waivers: 1. The requirement to submit mylars at the time of submission. 2. The requirement to place a street sign. 3. The requirement to use clay pipes for the sewer mains and service. 4. The requirement to have all the driveways accessed within 150 ft of the intersection. 5. The requirement for the road to be at a slope of 8%.

Mr. Barrows stated that the site is identical to the CSH site, the building will remain entirely on lot 2 and meet all of the dimensional requirements of the Zoning Bylaw. The open space will remain the same, as well as the access drive and parking areas. The site utilities will be municipal water and sewer and underground gas and electric service. The drainage system remains the same with three stormwater detention areas on the property. The stormwater flow from the site will be reduced from all of these areas. The drainage design also includes recharge areas and deep sump catch basins. The design meets MassDEP Stormwater Policy, the Town of Andover Subdivision Regulations and the Stormwater Management and Erosion Control Bylaw. He added that the peer reviewer is satisfied with the stormwater design.

Paul Marchionda, P.E. of Marchionda Associates, an engineer representing the applicant showed a plan of what is to be cut/excavated, filled and at grade at the site. The grade of the property rises quickly, so the requested waiver to keep a 10% grade on the driveway will minimize earth movement onsite with 43% of the site being impacted by earth movement. The design of the building is slab on grade with no foundation. It is calculated that 6,700 cubic yards of excess materials will come off site. In regards to blasting, the rock material onsite is weathered and should be able to be removed by an excavator. If blasting is required, all state and local fire department blasting standards will be followed. A NPDES permit is needed from the EPA, which is a comprehensive plan to control erosion onsite. Rock crushing may occur onsite to be used as a subbase layer, reducing the materials brought onsite. John Smolak, an attorney representing the applicant added that the subdivision control laws have strict standards including providing a construction schedule and sequencing plan. There are also restrictions placed on hours of construction and earth movement times.

Ms. Byerley reviewed the comments received at the Interdepartmental Review. The Fire Department requested adjustment of two hydrants on the property, and the applicant has moved the hydrants based on that request. The Conservation Commission is reviewing a Request for Determination for the drainage connection. Ms. Byerley asked Mr. Barrows to point out the area of the drainage connection which is within a buffer zone. Ms. Byerley asked Mr. Barrows if the drain lines had been reviewed by DPW and the peer reviewer and Mr. Barrows stated that they had. Ms. Byerley stated that the Board of Health was required to act within 45 days of the submission of the definitive subdivision plan and in a memo dated May 21st they have recommended approval of the plan with conditions. The DPW issued a memo on May 22nd with comments. The applicant's engineer responded to those comments and the DPW issued a new memo that the applicant has responded to. Ms. Knowles noted that the DPW asked for the berms of the SWMA to be increased to 6 ft to allow access for a mini backhoe. She asked if this would conflict with Mr. Huntress's revised landscaping. Mr. Barrows stated that the berms have been increased and accommodate an excavator.

Mr. Bergeron asked if the drainage design shows more water being reduced from the site. Mr. Marchionda stated that there is a 43% - 50% reduction of flow. Mr. Bergeron asked if in regards to earth movement the numbers for importing and exporting materials are assumed to be the maximum. Mr. Marchionda stated that they are the maximum and they will be less if stone is crushed onsite. Mr. Bergeron asked if they could reduce the numbers further and Mr. Marchionda stated that they could not reduce further without disturbing the site. Mr. Bergeron noted that the original design showed the building higher. Mr. Barrows stated that the building has been dropped about 1 foot and they are trying to stay out of the buffer zone and can't get any deeper. Mr. Bergeron asked if rotating the building from its original design created more earthwork. Mr. Barrows stated that it did not because the footprint got smaller and the southeast side is now less disturbed. Mr. Chiozzi asked for the deepest cuts to be pointed out on the cut plan, and asked if there would be retaining walls. Mr. Barrows pointed out the deepest cuts and stated that there were no retaining walls. Mr. Bergeron asked if ADA requirements are met down to Elm Street. Mr. Barrows stated that ADA requirements are not met on the sidewalk. Mr. Chiozzi asked if the Fire Department is comfortable all vehicles will be able to access the site and Mr. Barrows stated that they are satisfied.

Susan Donahue of 14 Shipman Road asked if Mr. Pouliot would be able to continue to review the project. Ms. Byerley stated that Mr. Pouliot will not be able to continue to review the Special Permit for Elderly Housing because he has missed two public hearings. He will be able to continue to review the Special Permit for Earth Movement if he doesn't miss another hearing.

Lance Fromme of 23 Burton Farm Drive stated that he is concerned about the 10% grade of the driveway with the snow situation. Mr. Barrows pointed out a level area at the bottom of the driveway near the intersection with Elm Street noting that it is not 10% grade all the way down to Elm Street. He added that the driveway meets the state fire protection code. Mr. Bergeron asked if the Fire Department looks at the driveway for access for their vehicles only. Mr. Barrows stated that he asked the Fire Department if they had any issue with the 10% grade which is allowed for fire trucks, and they do not. He noted that the plowing will be private and it is the responsibility of the facility to make the driveway safe.

Barbara Downs Morash stated that she was speaking on behalf of her parents who live at 147 Elm Street. She asked if the sidewalk to Elm Street will not be safe for someone in a wheelchair or walker. Mr. Marchionda stated that ADA compliance is a grade of 5% and there is no requirement to make a road ADA compliant. Mr. Bergeron noted that Elm Street is not ADA compliant. Ms. Knowles asked if the pathway to Pine Street will be ADA compliant. Mr. Barrows stated that it would be a flat surface, but not ADA compliant. Ms. Knowles stated that she was under the impression from Mr. Huntress that the paths will be ADA compliant. Mr. Barrows noted that it is hard to make wooded paths ADA compliant. Mr. Smolak stated that they would confirm with Mr. Huntress.

Kurt Thiede of 156 Elm Street stated residents of the facility will be relegated to the facility unless someone takes them somewhere. This speaks to the character of the neighborhood and if this facility fits in or if it would be isolated. Joe McElwee of Capital Seniors noted the average age of entry into this type of facility is 86, with residents needing help with bathing, dressing and normal daily functions. Transportation services will be provided for the residents. Mr. Bergeron asked if it is not their vision for the residents to be walking downtown. Mr. McElwee stated that it is not, as this facility is not independent living senior apartments. Lance Fromme of 23 Burton Farm Drive noted that at the first community meetings at Phillips Academy, the proximity to downtown was cited. Mr. McElwee stated that the close proximity to downtown was cited for day trips, and for family members and staff to use downtown.

Mark Bernardin of 140 Elm Street asked the Board how comfortable they are with this situation because you can't have both scenarios. He stated that a subdivision is two or more lots, but the special permit is for one lot. Ms. Byerley noted that it is something that the Board will take up under deliberations. Mr. Bernardin asked what the Board would be voting on and Ms. Byerley listed the three items before the Board. Mr. Bernardin stated that they cannot do all three things and nothing will stop them from selling off the other lot.

Bunny Downs of 147 Elm Street stated that she can't believe this is happening and the drainage will be right next to her. In regards to traffic, she watches it from her porch and sees emergency vehicles going to Merrimack.

Chuck Papalia of 64 Summer Street stated that in previous meetings there were narratives of justification. The applicant has implied a dire need for the project but the Eagle Tribune has advertisements for area assisted livings. He asked how many people are on waiting lists. Ms. Duff stated that a peer review on the needs was done and Mr. Papalia could pick up a copy of it in the office.

Ross Morgan of 15 Shipman Road stated that he has a rendering of the facility with the view from Elm Street but it has no scale. He would like a rendering showing a 6 ft tall person walking along Elm Street. Ms. Byerley asked the Board if they felt they needed such a rendering. Mr. Chiozzi let Mr. Morgan know that there are architectural drawings to scale available in the Planning Office.

Nan Conte of 134 Elm Street asked if there will be blasting. Mr. Bergeron explained that the expectation is that blasting will not be necessary, however, if that changes, the applicant will

apply for permits and homes within 250 ft will be monitored with an insurance policy of \$1 million per resident. Ms. Conte stated that she is concerned about her foundation cracking.

Lou Poulo of 23 Johnson Road stated that if the Board grants this special permit it is not reversible and businesses don't last forever. He asked if this would revert back to SRA and if this land is sold if the special permit would go with it. Ms. Byerley stated that if the land is sold the special permit would stay with the land. Mr. Poulo stated that the Board can grant a special permit but there have been no discussions on if it should. Ms. Byerley stated that there is certain criteria in the bylaw that the applicant has to meet for the Board to grant the special permit. At the time of deliberations the Board will review everything that has been received to date on this project to determine if the criteria have been met. Mr. Poulo asked if the opinion of the residents is part of the criteria. Ms. Byerley stated that all of the letters written by residents become part of the deliberations.

Ms. Byerley asked the Board if they required any more information. Mr. Bergeron asked Mr. Huntress if the trails will be ADA accessible. Mr. Huntress stated that the new walkways will be ADA accessible, but existing trails are not being reconstructed so they are not ADA accessible.

On a motion by Ms. Duff seconded by Mr. Chiozzi the Board continued the public hearings for CSH Andover LLC assisted living project located at 139-143 Elm Street and 26 Pine Street for review of the Special Permit for Elderly Housing, Definitive Subdivision Plan and Special Permit for Earth Movement to July 14, 2015 at 8:00 p.m. **Vote:** Unanimous (4-0).

It should be noted that after the discussion on 139-143 Elm Street and 26 Pine Street, Mr. Doherty and Mr. Pouliot joined the meeting.

Minutes:

Ms. Knowles requested that a change be made to the March 31, 2015 minutes. On page 1 under Town Meeting Warrant Articles, 3rd paragraph, the 3rd sentence she requested the sentence be changed to "She added that the language has been tightened up and the design guidelines will address everything that they wanted them to address." There was no objection to this change from other members of the Board.

On a motion by Ms. Knowles seconded by Mr. Chiozzi the Board moved to accept the minutes of March 10, 2015, April 9, 2015, April 14, 2015, April 28, 2015 as written and to accept the minutes of March 31, 2015 as amended. **Vote:** Unanimous (6-0).

459 River Road:

Mr. Bergeron opened the continued public hearings for 459 River Road, a Special Permit for Senior Residential Overlay District and a Special Permit for Earth Movement.

Mark Mastroianni of Pulte Homes New England, the applicant reminded the Board of the five topics to be discussed tonight. Those topics were the total square footage of living areas, ADA compliance, preservation of the Franciscan Center, parking and open space.

Mr. Mastroianni stated that the breakdown of the four garden style buildings is one building with 36 units and three buildings with 50 units each. The total square footage of living area of the garden style buildings and the 14 townhomes is 329,620 s.f.

Mr. Mastroianni reviewed the ADA compliance of the site. He showed the site plan and stated that each garden style building has two accessible parking spaces and accessible walkways. The recycling area in the back of the property has one accessible parking space. The clubhouse will have one accessible space and an accessible walkway. There will be an accessible pathway from River Road that traverses through the community to the back of the property. The garden style buildings follow the accessibility requirements of 521 CMR. The detached townhomes do not have any requirements that need to be followed however they are single floor living with open home plans design for aging in place with universal design concepts available. He noted that he had provided the Board a list of optional design features but added that a lot of buyers do not want an accessible home.

Mr. Mastroianni stated that in regards to preserving the Franciscan Center, they are proposing to remove the building and its utilities in order to develop the property. They are under a one year demolition delay placed on them by the Preservation Commission in September 2014. Reuse of the building was considered but would require remediation and cost prohibitive upgrades to all of the interior of the facility to meet the current building code. The building is filled with hazardous materials such as asbestos in the floor tiles and insulation of the pipes. Numerous leaks over the years caused mold throughout the building and there is lead paint present. The building does not meet current energy codes so all of the insulation would have to be ripped out and replaced as well as all of the windows. The building is not handicap accessible and the doorways and classroom are too narrow residential reuse. Mr. Bergeron asked what the materials are of the existing construction of the walls. Mr. Mastroianni stated that the walls are concrete blocks and the floors are tile. He added that the layout of the land makes it impractical to keep the building because all of the other structures would have to be pushed further back on the property where it slopes down to the river and the wetland resource area is located. Mr. Mastroianni added that Melmark has worked with many other developers to try to save the building and all have concluded that it is too cost prohibitive and not suitable for residential reuse.

Mr. Mastroianni addressed parking and if there is an opportunity to reduce the amount of parking spaces. He noted that they initially had 1.88 parking spaces per garden style unit. They engaged MDM Transportation to perform a parking analysis, and MDM concluded that an appropriate number of parking spaced would be 1.7 spaces per garden style unit. They will be providing 44 extra spaces in excess parking to allow for fluctuation.

Mr. Mastroianni noted that there are two requirements in regards to open space, common open space and protected open space. Common open space is the non-impervious areas adjacent to parking and structures. The bylaw requires 40% common open space which is being provided and will be owned by the condo association. The Bylaw requires 30% protected open space which is being provided in the back of the property. Ownership of the protected open space has not yet been determined. It will be deeded to either the Conservation Commission or a non-

profit organization. The remaining 46.6 acres of the parcel which abuts the river will be retained by Melmark.

Ms. Knowles asked if a reserve parking area could be created between the four buildings in the back to create more open space and a better sense of community. Mr. Materazzo stated that something like that could be examined in deliberations. Mr. Mastroianni stated that they have done reserve spaces in the past, but it is hard to call them excess spaces. You could green them out and see if more are needed in the future. He did note that the parking proposed is lower than they have ever built and they don't want to be wrong.

Ms. Duff asked who maintains the trail that starts at River Road. Mr. Mastroianni stated that the condo association would maintain the part of the trail that is on their property and the Town would maintain the trail on the Melmark property.

Tao Tu of 20 Keystone Way asked if the addition of the clubhouse will reduce the amount of common open space. Mr. Mastroianni stated that it would, however they are still in excess of the required common open space.

Susan Stott of 30 Pasho Street stated that in her experience, senior housing communities never have enough parking so you need to be cautious. In regards to open space, AVIS has a lease with the Franciscans for the land along the River and AVIS maintains the Bay Circuit Trail. She hopes that before anything is approved on this property a determination is made for the open space of the entire parcel, not just the Pulte section. Mr. Bergeron asked Ms. Stott if she is concerned about the area closest to the river. Ms. Stott stated that she is interested that the property from the river to 500 feet back be protected. AVIS has a lease 300 ft from the river. Peter Troy of Melmark stated that he has had many conversations with AVIS on this topic. The entire parcel is owned by the Franciscans who are under contract with Melmark to purchase the entire parcel. Melmark is under a subcontract with Pulte to buy a portion of the parcel and the contract with the Franciscans is contingent on this special permit. Melmark is desirous of having the area preserved.

Mr. Chiozzi asked for the property lines to be pointed out and Mr. Mastroianni showed the property lines. Mr. Chiozzi asked if this would require a subdivision. Mr. Materazzo stated that it would need an Approval Not Required Plan.

Karen Herman of 50 Sunset Rock Road, Chair of the Preservation Commission submitted a letter to the Board. She stated that the Commission took a site tour of the historically significant Franciscan Center building last fall and found it to be in fair to good condition. Pulte Homes at that time stated that they were not in the business of historic preservation and provided no documentation of the existence of hazardous materials, nor did the Commission observe it. Andover has several thousand historic buildings that did not meet current standards but a significant number have been upgraded for residential and office space. In those cases the developers determined that long term reuse made sense. She stated that preservation is environmentally significant and she urged the Board to encourage Pulte Homes to preserve the Franciscan Center or reject the application.

Mr. Materazzo asked the Board if they needed more information from the applicant as to why the building cannot be saved. Ms. Knowles stated that she wanted information on if the façade could be used as part of something different, and if not, why. Mr. Bergeron stated that he would like to schedule a site visit. Mr. Materazzo suggested that any site visit be longer than the usual half hour. The Board scheduled a site visit limited to Board members only for liability purposes for Tuesday, July 14th at 6:00 p.m. The Board decided that at the next hearing they would discuss earth movement, infrastructure process and next steps, the clubhouse and amenities.

On a motion by Ms. Duff seconded by Ms. Knowles the Board moved to continue the public hearings on 459 River Road to July 14, 2015 at 8:30 p.m. **Vote:** Unanimous (6-0).

It should be noted that after the discussion on 459 River Road, Ms. Duff left the meeting and did not return.

254 Lowell Street:

Mr. Bergeron opened the continued public hearing on 254 Lowell Street, a Special Permit for Elderly Housing. Mr. Materazzo reviewed the list of items allowed by the court's remand to be discussed.

Ted Tye of National Development, the applicant showed the original rendering of the Andover Senior Residences building and the updated rendering from two additional viewpoints. Mr. Tye showed an updated photometric plan where lighting had been scaled back in the rear of the property. He stated that the light poles have been scaled back to 12 ft from 15 ft. He added that the photometric plan does not show the landscaping, existing tree line or change in grade on the property. Mr. Tye showed views of five locations facing the abutting properties taken the previous Friday to show the existing tree line. Mr. Bergeron asked what the height of the existing trees are and Mr. Tye stated that he would guess that they averaged 20 ft. Mr. Tye showed a plan with elevations of the property.

Mr. Materazzo stated that in talking to the DRB they will informally review the project between now and July 14th and provide comments to the Board. He informed the Board that there was a memo in their packet from the Fire Department addressing the questions about emergency vehicle access on Lowell Street.

Andrea Lyons of 10 Wild Rose Drive submitted an e-petition to the Board.

Regina Kelly of 4 Bateson Drive stated that she is still confused as to why the Board has not asked the developer to reduce the size of the building, or if the Board is even in a position to reduce it. Mr. Bergeron stated that maximum height is set in the zoning bylaw with each district in mind, so that the Board doesn't have to ask for a reduction. Ms. Kelly stated that she is not talking about height, she is talking about density. Mr. Bergeron stated that density is also set with that in mind.

Al French of 17 Moreland Avenue submitted a letter to the Board. He stated that he lives two miles from the project and can't speak for the neighborhood. He is interested in the resource of Strawberry Hill Farm. The decision goes beyond this project or neighborhood and there needs to

be a balance between housing and service needs. Mr. Bergeron noted that the Board can only discuss the five items allowed in the remand. Mr. Bergeron added that the remand items allowed are traffic, roof lines, lighting plan, hours of operation and landscaping. Mr. French stated that he would stick to the five points even though he does not agree with the statement of Town Counsel. He asked when the Board would be taking a vote on this, and Mr. Bergeron stated that they would not be taking a vote tonight. The discussion will be continued to July 14th in order to take into consideration any comments from the Design Review Board.

Gerry Crowley of 2 Cricket Circle noted that the renderings only show one building. He asked why both buildings are not being shown. Mr. Materazzo stated that the remand limits the review to the renderings of the Andover Senior Residences building. Mr. Materazzo reviewed the court proceedings of the joint remand and how the Board cannot violate the court order.

Janice Sifferlen of 84 High Plain Road asked if the building will pay taxes or be tax exempt. Mr. Materazzo stated that they will be paying taxes.

Heather Lauten of 243 Lowell Street stated that she thought there would be a representative from public safety present tonight. She stated that she is concerned about people being able to cross the street at the driveways. Mr. Materazzo stated that the public safety officer and the peer reviewer have confirmed that there is no public safety issue. Mr. Pouliot asked at what point in the process did the Public Safety Officer make his assessment, and did he have all of the traffic counts and information when he made that assessment. Mr. Materazzo stated that Officer Edgerly had the application, traffic report and all other necessary information when he made his assessment. He added that Officer Edgerly would have identified any issues early on in the process. Attorney Johnson added that Officer Edgerly also reviewed the peer review and confirmed that he is satisfied again.

Mr. Pouliot asked when the corridor study will happen. He asked if it is 5-7 years out and if the Board is approving projects that saturate the corridor to get money for the corridor study. Mr. Materazzo stated that is not what is happening. The Town can allocate Chapter 90 funds or have money allocated at Town Meeting to advance the plans. The Board has the ability to acquire mitigation as part of additional projects to help offset the costs of the corridor plan. Mr. Pouliot stated that he would have had more questions for the medical facility if he had known that the study was not yet underway.

Chet Lyons of 10 Wild Rose Drive stated that people drive quickly and traffic is always heavy. The average age of the residents for this building will be the high 70s or 80s and people of that age have diminished driving capacity. He asked if the Safety Officer took the unique characteristics of this group of people into account. Mr. Materazzo stated that the Public Safety Officer would have taken that into account and the ITE manual would have taken that into account for the use. He added that the Safety Officer's job is to inform the Board about safety issues. Mr. Lyons stated that in his mind it is a deficiency and a determination has to be made if this particular group of people can safely turn on to 133. Mr. Bergeron asked Mr. Materazzo to follow up with Officer Edgerly again.

Barbara Pathak of 5 Windemere Drive stated that she had a personal experience being rear ended on Route 133 eastbound turning left onto Windemere. Lowell Street is one lane in each direction and someone tried to pass her on her left as she was turning left. She added that the traffic analysis is important.

Carina Schusterman of 2 Robinswood Way stated that the Council on Aging assessment stated that 95% of those responding who were age 60-79 were still driving and of those 80+ 74% are still driving.

Andrea Lyons of 10 Wild Rose Drive stated that the traffic study began at 8 a.m. and the traffic begins to back up starting at 5 a.m. Mr. Bergeron stated that the traffic study did not begin at 8 a.m., the traffic counters were put out for 48 hours which determined the peak times. Tina Conlon of 12 Dawn Circle asked what month of the year the traffic study took place and Mr. Bergeron stated April of 2014.

Chet Lyons of 10 Wild Rose Drive stated that he does not have confidence in the traffic study based on his personal experience, and every couple of weeks there is an event. He stated that he does not care about the rigor of the study and how it conforms to the requirements. The Town doesn't need a Planning Board if they are going to rubber stamp this stuff, you have to exercise judgement. Mr. Bergeron noted that the Board has exercised judgement and has consulted three experts including the Town's Safety Officer. He added that the Board does have concern about this road outside of this project. Mr. Lyons asked if their concern registers an alternate use for this property. Mr. Doherty noted that someone has to buy the land for there to be an alternate use.

Alan Sifferlen of 84 High Plain Road stated that he is an architect and he does not see how the footprint of the building has not changed. Whenever you put a sloped roof on something you lose about 1/3rd of the square footage. David Chilinski, the applicant's architect stated that the original footprint of the 3rd floor and the condition of the roof above it had a clear span of over 60 ft. They have taken the ends in numerous locations and created gabled ends all the way out to the end of the building so no square footage is lost in those locations. Mr. Sifferlen noted that you would lose the square footage in the valley. Mr. Chilinski stated in the locations between the dormer like elements the roof comes down to the head of the window at 8 ft and the ceilings inside the units are 8 ft. There is much less volume in this design than previously. Mr. Sifferlen noted that he does not see windows at certain gables and asked what happens to the bedrooms in those locations. Mr. Chilinski stated that there are dormers in all the gables.

On a motion by Mr. Chiozzi seconded by Mr. Doherty the Board moved to continue the public hearing on 254 Lowell Street to July 14, 2015 at 8:35 p.m. **Vote:** Unanimous (5-0).

Adjournment: The meeting was adjourned at 10:07 p.m.