

CITY OF LACONIA PLANNING BOARD  
6:30 PM City Hall - Conference Room 200A  
*Accepted August 7, 2018*

7/10/2018 - Minutes

1. CALL TO ORDER

Chair P. Brunette called the meeting to order at 6:30 pm.

2. ROLL CALL

Kalena Graham called the roll with the following members present: Charlie St. Clair, Gail Denio, David Bownes, Mike DellaVecchia, Edwin Bones, Claudia Marchesseault and Chair Peter Brunette

Alternate members present: Sarah Jenna, Jay Forester and Brett Beliveau

Absent: William Contardo, Dave Broughton

Chair P. Brunette stated there were eight members present and a quorum was established. Chair P. Brunette seated S. Jenna as voting member in W. Contardo's absence.

3. RECORDING SECRETARY

Kalena Graham

4. STAFF IN ATTENDANCE

Planning Director Dean Trefethen and Assistant Director Brandee Loughlin

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

5.I. Acceptance of June 5 minutes

The minutes were sent out June 8 and no revisions were received. With no objections, Chair P. Brunette stated the minutes were accepted as submitted.

6. PRESENTATIONS

7. EXTENSIONS

8. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The purpose of this agenda section is for the Board to continue the Public Hearing for the applicant and the public to provide input. The Board may also deliberate the application, decide and conduct a final vote at this time.

8.I. PL2015-0142SPamd; White Oaks Rd, Paugus Woods development; amend the original approval to remove lot 33 to allow for second access

Both applications were taken off the table and reopened at 6:35 pm.

Applicant: Jon Rokeh, Atty Mark Pinard and Atty Bill Philpot were present. Atty M. Pinard updated the board. He stated that the Langley Cove matter has been before the board for over 10 years now. The Paugus Woods piece has been planned as part of the secondary access to the Langley Cove development upon the advice of the Planning staff. The second access was originally proposed to go through wetlands and require conservation impact. So staff gave permission to tie both properties with one secondary access road. The road to be opened at the time a certain amount of Certificate of Occupancies (CO) issued for one project or the other. He is asking the application for Paugus Woods be approved. He has been speaking with Planning Director D. Trefethen on details over the last few months. He thanked staff for the work that has been done. He also thank Jon Rokeh and others for the plans and work put into them. The application has been vetted many times and every time a change has been requested, the applicant has done it. Their main concern with the Paugus Woods application is that improvements to Palmetto be made and the applicant is ok with that and understands the need to improve that section. It is important to note that there is now an agreement that there will be a gate that will be locked at all times, except during an emergency. The gate will be a simple 20 ft wide,

metal gate that will be locked with a daisy chain, as per Fire requirements. The agreement on the gate solves any problems regarding traffic through the development. He believes that how the engineering has been done, all that is needed to do is take out the current lot and make the access.

The applicant is ok with the repair of Palmetto Drive, but would like it done at a sufficient time and disagrees with staff on the date of Sept 2019. By the applicant's estimation, that is an arbitrary date. It doesn't appear to be set when needed just when it should occur. The applicant disagrees with that approach and believes it would only be fair and equitable for the cost of those improvements to be made at the time when the access is needed. When either development gets to a certain number of units. The applicant let the residents know that the pot holes on Palmetto that currently exist, will be taken care of in the near future. Atty M. Pinard suggested having a reasonable solution when the road improvements will occur and that should be a reasonable time, prior to the access being needed. The applicant disagrees with the staff review that the Langley Cove development be responsible for all the Paugus Woods access road and maintain it as well. He feels this is unreasonable and unnecessary. Paugus Woods already has maintenance and it doesn't make sense to have the Langley Cove developer maintain a part of the Paugus Woods development. Both projects stand on their own and should each take care of their own developments. Atty M. Pinard doesn't see a valid basis on having one development take care of another development's road. Once the final coat is put on, Paugus Woods should be taking care of their roads, and Langley Cove should take care of their roads. He asked that those conditions be removed. Chair P. Brunette asked if Langley Cove could be built without the access and Atty M. Pinard said no, but Paugus Woods wouldn't be built out to maximum capacity without the secondary access. Overall, Langley Cove will maintain greater units and more roadway vs Paugus Woods. Chair P. Brunette asked who is currently responsible for Paugus Woods's roads and was told it will turn over to the home owner association (HOA) after 10 yrs, but currently, the association that is in place is controlled by Brady Sullivan. He reiterated that once that gate is in place and locked, the Langley Cove traffic will have no use of Paugus Woods's roads and it makes no sense to have one project support another. Chair P. Brunette clarified that the applicant has objection to Langley Cove having any responsibility to maintain roads in Paugus Woods and Atty M. Pinard agreed and stated or vice versa. Chair P. Brunette clarified that Brady Sullivan is currently responsible for maintenance in Paugus Woods and that was agreed. Brady Sullivan inherited the unfinished roads in Paugus Woods, which was agreed and assumed all the initial responsibilities from the initial approval. Chair P. Brunette clarified that Brady Sullivan would be in control of the phasing in the timing of Paugus Woods and Atty M. Pinard stated that the applicant has made an effort to sell that final phase. When the buyer went to do due diligence to make that purchase, the buyer was told that the project possibly wasn't vested and it might have to go back to the Planning Board and the buyer did not want to do that. Another reason the applicant doesn't agree with the condition is that the developments might have different owners in the future. Chair P. Brunette noted the goal is that the access gate be maintained by Langley Cove per Staff recommendation. The applicant is ok with the condition to fix Palmetto but not maintain it. Atty M. Pinard went to Paugus Woods to meet with staff and was shocked that the roads weren't as bad as he heard at the meetings. Chair P. Brunette asked if there is insinuation that the board has no authority to make as a condition the developer improve all the roads in Paugus woods to bring up to finish grade and Atty M. Pinard agreed. It would not be fair or equitable and it wouldn't be treating the Langley Cove developer as other developers are treated. He stated they are doing offsite improvements with the water line, bridge, sidewalk and bike lanes. He reiterated that improving all of Paugus Woods' roads because an emergency vehicle might have to come through a locked gate at some point, that authority does not exist. He feels it an equitable matter and doesn't have a cite for that. The issue is about safe passage and the fact that there is a need to get an emergency vehicle from one development to another. The original access road for Paugus Woods was a gravel road and that was enough for safe passage.

Atty M. Pinard continued. It is important to note that the shared access came from staff and the applicant has done what was suggested. The suggestion that one developer maintain the road of another project defies logic and reasonableness and equity. C. St. Clair stated that the applicant mentioned the offsite improvements that have to be done for the development, and said it has to be done for the development. J. Rokeh stated the water line would be put in by the city regardless of the development going in. J. Rokeh said if the secondary access point isn't put in this spot, it takes the Paugus Woods requirement for secondary access from approximately 900 ft of a gravel road through a wetland area to a 100 ft access. So there is a benefit to the access. Atty M. Pinard stated that the Fire Dept had no issue with the shape of the road and the repaving is something staff is promoting because of the desire from Paugus Woods residents. The applicant understands that and is conceding it. Chair P. Brunette wanted clarification about the Planning Board not having the authority under the Planning and Zoning statute to require the developer to improve all the roads in Paugus Woods and Atty M. Pinard agreed. Atty B. Philpot wants this broken down before it goes on record. He continued to clarify that the board is asking that all the roads in Paugus Woods, as a condition approval for Langley Cove what is being asked? Chair P. Brunette explained that Atty M. Pinard stated the board cannot do that and if they did, he would seek injunctive relief and that it isn't a matter of law but equity. Atty B. Philpot responded that the standard review by Superior Court of the decision making at this board, is whether it's unreasonable and illegal. The applicant is asking the board to look at the problem from a practical perspective. The road will be gated and what will be the impact on the road should be looked at. The bases on the roads

are because of ongoing construction. Imposing a condition that all the roads be brought up to certain standard for Langley Cove, he feels, is unreasonable and illegal. The suggestion is to look at safe passage. The board imposed the condition on Paugus Woods and nothing is changing. When the time for the second paving coat comes that will be completed per the approvals. The rights are reserved in the Paugus Woods declaration.

There was discussion on the new buyer and staff response. C. St. Clair asked if the roads will ever be upgraded if the units never go in. Atty M. Pinard stated the key to finishing Paugus Woods is the second access. Chair P. Brunette think it be reasonable authority for the board to take in public input. There was discussion on the roads in Paugus Woods. C. St. Clair asked who is in charge of the roads and Atty M. Pinard noted the property is currently managed and maintained by Brady Sullivan who contracts it out. Planning Director D. Trefethen noted the situation in Paugus Woods is not unique. Atty M. Pinard said if paving of Paugus Woods is a condition of approval it will be settled in court. Alternate B. Beliveau stated if the board were looking at this with two different developers, it would be a different story and it seems they are getting caught into the whole thing because at the top is one entity. Atty B. Philpot stated that it doesn't make economic sense to not build the 50 units. Housing is needed in the area. Regards to damage of the road, under common-law, the party that breaks up the road are responsible for the fixing the breakage.

Atty M. Pinard continued with Langley Cove comments. The applicant has an issue with the date of the site security to be paid by 2019; this is unduly burdensome and unreasonable. The amount will be tremendous and noted that staff is willing to change that. The applicant can't be asked for millions with in the year of an approval. Atty M. Pinard requests that the staff review read "30 days prior to a start of the next phase the site security be posted". It is essential that the site security be posted by phase prior to commencement of work, based on City standard at the time. The Paugus Woods roads requirements are mirrored so the changes requested are mirrored in Langley Cove condition of approval. Atty M. Pinard spoke with Planning Director D. Trefethen to selectively open views rather than clear cut and would like written acknowledgment. He wants the application to be treated fairly and equitable and would like to avoid a committee situation and have it done in an orderly and reasonable fashion. G. Denio would like one other person to make the determination on what is cut. Atty M. Pinard agreed.

Public input opened at 7:46 pm

Denis Peterson of 6 Palmetto spoke. He suggested the board look at the past and see who is being strong armed. The road being proposed with a gate will benefit Langley Cove, not Paugus Woods. He would like to know what "in the near future" means to fix the pot holes. He has been told since last July that Brady Sullivan is getting estimates on fixing the one in front of his house. If they are going to be fixed, he would like a definitive date written in the conditions. He appreciates what the board has put in for conditions. He wishes he could trust and respect the developer, but can't. He feels most people are willing to accept the gate for emergency access only. He feels that if the developer walks away from this, nothing will happen. M. DellaVecchia asked if the people in Paugus Woods are happy with the development now, and if they care if more units going in and the audience said yes. D. Peterson was told originally that so many units need to be built or so many years before the hot top is finished.

Peter Spinney of 8 Siesta Lane spoke. He feels once the road is done then it should be the unit owners' responsibility, not just the binder. If there is no further development, then it sounds like there will be no final coating. He has never heard of that before and lived in other developments and never been a condition where the maintenance goes on the homeowner for a binder. C. St. Clair asked if there is anything in the paperwork about the unit owners being responsible for the base coat and P. Spinney stated that Atty M. Pinard is lumping that into maintenance and that is what P. Spinney questions. It sounds like the homeowners were under the assumption that they would take over the finished roads. Atty M. Pinard said that things are being mixed together. The developer is ok with the condition to fix to road, grind and repave the base. He sees fixing the potholes a maintenance issue but the subdivision documents will be looked at to determine if that is the case. The pot holes exist from every day wear. There was a somewhat heated discussion on the base coat vs the finished product. P. Spinney asked how long they have to wait until that base is finished and concerned that the developer doesn't want to build any more units. Atty M. Pinard noted, so there is no confusion, Brady Sullivan wants to develop all the lots. Chair P. Brunette explained that the public hearing is for people to voice their concerns and it seems that the concern is that Brady Sullivan will not keep their word. Atty M. Pinard noted that is why there are a bunch of conditions from staff. E. Bones finds it hard to believe that the developer doesn't want to finish, he believes they have been trying to finish both projects. Chair P. Brunette suggested the maintenance of the binder be asked of the developer.

Paul Wheaton of 537 Weirs Blvd mentioned a couple points: he didn't see any changes on the plans and wants to make sure the plan changes are indeed happening. The internal abutters will have no way to get to the homes during phase one and to make sure there is a condition of approval. Atty M. Pinard stated those internal abutters will not need to join the association. The drainage issue concerns P. Wheaton because the Paugus Woods drainage hasn't been done right and the Langley Cove is a much bigger development and a much bigger slope. He questioned condition (2:a:vii(6)) regarding the drainage swale and where this was.

Planning Director D. Trefethen stated it is located across from the entrance of the Tilton property on the lake side and it will be a rain garden. The property owner has been working with the City and will be taking over that project.

Rich Tilton owner of Resort on the Bay spoke. Regarding the storm water structure, he would like it to be designed and implemented by their own designer. Planning Director D. Trefethen will remove the condition from the staff review.

Arline Ouellette of 62 of Sarasota Lane spoke. She was confused on how the emergency vehicles will get through if one side isn't taken care of. She moved to Paugus Woods in March 2010 and was promised a club house then now told that will not happen. She asked where the money for the clubhouse has been going if they aren't going to be building one? With that in mind the road should be done permanently. She asked the board to consider all that has been said. Atty M. Pinard stated the clubhouse will be built. It will be at the time that more units go in.

Tom Miller of 27 Siesta Lane spoke. He told the board not to take into consideration that there are two different developers, when not. Paugus Woods's roads need repaired because they were built poorly. The quality of work sometimes is very bad and what is supposed to be done hasn't been. They have a bad track record.

Sandy Bedford of 14 Siesta Lane spoke. She had construction on her home for a sewer issue and she has a cut across the lawn and driveway due to that. In the beginning issues had been handled fine, until now. She was told to get quotes to fix the damage. The quotes showed that there was never drainage rock put under the driveway and no drainage put in. An assessment was done. Parts of the driveway have sunk and a complete redo of the driveway is needed. She sent the estimate to Brady Sullivan and they will only pay \$1500 and the rest is up to her. She fixed her own lawn and never asked for a penny. The issue was caused by bad sewer and for others to pay poor quality is not fair and equitable. She was never informed that the driveway would be dug up in the first place, and found out only by a neighbor. She suggested the board get in writing on what needs to be done. Hers was the last house built in 2011.

Carolyn Hodge of 561 Weirs Blvd spoke. There are serious slope around her property which is already eroded. She is still concerned about oil and sediment runoff and how it will affect her well and property. Currently they have a well and might consider switching to city water.

The public hearing closed at 8:31 pm.

Staff review: Planning Director D. Trefethen read Paugus Woods's staff review. The major change is the gate. The board has staff recommendations and counter recommendations from applicant. Staff has seen a picture of the gate and the gate will be located on the property line between the two developments. Staff concern is that the road be maintained. The reason for date for Palmetto was to give the applicant two paving seasons. If the board wants the date removed, that would be fine. He would like to add that the basecoat repaving would be at the developer's expense, not the HOA.

Staff review: Planning Director D. Trefethen read Langley Cove staff review. He suggested a few deletions and additions. Planning Director D. Trefethen concerned the water line, he doesn't want people to think that staff strong armed. Water Dept has a multipage document with the applicant regarding the conditions to the waterline. The options were to build a water tower or to replace the line. Atty M. Pinard stated this was prior to Paugus Woods belonging to Brady Sullivan.

M. DellaVecchia commended all the abutters for coming out month after month. He asked why the developer unwilling to build the already approved second access road; he can't understand it. Atty M. Pinard mentioned that the applicant has done everything that has been asked for. The former administrative staff suggested these changes. M. DellaVecchia doesn't believe that 300 units dumping onto Weirs Blvd is a good thing. Atty M. Pinard reminded that the traffic analysis has been done and showed it will work. He feels this should be an up or down vote. J. Rokeh stated that all the review fees could have paid for the roads in Paugus Woods a few times. Atty M. Pinard stated the project has been reviewed and vetted and engineered to death.

C. St. Clair noted that the Evergreens development seems to work with the 100 or so units up there. D. Bownes asked if the city feels the condition will not cause issues down the road and was told yes. Planning Director D. Trefethen noted that there are multiple places in the conditions where third party review and inspection will be required. He noted some changes to the staff review.

Chair P. Brunette went up to Paugus Woods after the last hearing and didn't see where any portions of the roads were impassable. He understands what it means for the homeowners in the development. He noted that he drafted a proposed amendment and sent to staff, but has since changed his mind after Atty B. Philpot's comment regarding the money. Chair P. Brunette feels that a decision needs to be made at this point.

C. St. Clair feels the project is big and would have gone further to satisfy the Paugus Woods folks instead of letting the issues go. He is skeptical about giving an ok.

D. Bownes went over the motions he would say for approving both applications.

Motion to approve the amendment application with the dates and conditions stated in the staff review made by D. Bownes, with the following amendments: project completion deadline: a-d amend b "one month before start of work"; plan revisions: a,b; 3 a-h; 4 a-c1-8, amend c2 to read "each party to be responsible for the maintenance of their own roadway"; 3-6 with caveat that "this will be done at the developers expense"; add to 7 and 8 "unless an extension request is submitted by August with the reason for the delay and expected date"; 5 a-f and 6. E. Bones seconded. M. DellaVecchia asked if this development is good for Laconia. He understands the developer has a right, but questions if it is best for the city to have 300 apartments. He doesn't believe it to be true. The motion passed 5-2 with C. St. Clair and M. DellaVecchia opposing. Chair didn't vote.

- 8.II. PL2011-0024SP, 0026CUP(Steep Slope), 0027CUP(Wetlands), 2015-0141SU(BLA), 2018-0023SU(BLA); 553 Weirs Blvd; Langley Cove Development, 291 unit cluster development and boundary line adjustments

Motion to approve the applications with the dates and conditions as stated in the staff review made by D. Bownes, with the following amendments: project completion dates: 1a-d, change b to "one month before start of work by phase"; Plan Revisions 2 a1-7 with the caveat that vii paragraph 6 deleted in its entirety; b ii 11 add "each development to maintain their portion of their property boundary", 15 add "cost and repair by developer", 16 to add "unless developer applies for an extension by August 1, 2019 with reason for delay.."; 2b iii-v, add ix "select tree cutting not related to removal of trees for site pads, may be done in cooperation with a member of the board/staff, ConCom or whomever the Planning Director designates"; 3 a-h, part v: leave the first sentence and strike the rest; 4 a,b; 5 a-g; 6; G. Denio seconded. C. St. Clair will vote for this because he has complete faith in staff and the engineering. However, he has little faith in the ownership from what he has seen and feels they didn't do enough for Paugus Woods residents. The motion passed 6-1, with M. DellaVecchia opposed. The chair didn't vote.

9. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The purpose of this agenda section is for the Board to have a presentation from the applicant and open a Public Hearing for the public to provide input. The Board may also deliberate the application, decide and conduct a final vote at this time.

The board took a 5 minute break at 9:36 pm and came back at 9:46 pm.

D. Bownes thanked the board and staff for all the work done and left.

- 9.I. PL2018-0057CUP(wetlands); 80 Davidson Drive; storage shed on blocks 20 ft in the 50 ft wetland buffer

Applicant: Charles Laros, property owner, explained the application request. He requested to be able to use 20 ft into the wetland buffer for a storage shed that would be on cinder blocks. The 50 ft for the buffer goes right to the driveway.

Staff review: Assistant Director B. Loughlin read the staff review. She noted a change for the completion to 2019.

No one from public spoke for or against the application.

The public hearing closed at 9:50 pm

Motion to approve the condition use permit with the dates and a conditions as stated in the staff review made by C. Marchesseault, C. St. Clair seconded. All voted in favor.

- 9.II. PL2018-0071SP, 0074CUP(wetland); 174 Province Street, Grace Presbyterian Church, proposal to construct a 3028sf addition and 32 parking spaces

Staff told the board the application was complete and ready for hearing.

Motion to accept the application as complete and open the public hearing made by G. Denio, C. St. Clair seconded. All voted in favor.

The public hearing opened at 9:53 pm

Applicant: Mike Beamis, representing the church, explained the proposal. Existing building is 36 x 60 with parking to the south east of the building. About 100 people and 42 parking spaces with 3 handicap. Northwest area is the steep slope with residential properties above. There are two small wetlands southwest of the parking lot and other north east of the parking lot. The neighborhood is residential and wooded all around. The neighbors are supportive. The area of addition is 1500 sq footprint with two story. The total will go to 150 for seating. The church received a Special Exception in 1987 to operate the church for up to 150 people from ZBA. They are adding parking for 32 to total 74 with 6 ADA. In June, the ZBA approved a variance for the size of the parking lot and not putting a landscape island. Catch basins currently empty into wetlands, which created the wetlands. The proposal will bring water into treatment swales from surface runoff and quality surface water will be better than it currently is. Parking will exceed city requirements.

No one spoke for against the application.

Staff review: Assistant Director B. Loughlin read the staff review.

The public hearing closed at 10:04 pm

Motion to approve the site plan and condition use permit with the dates and a conditions as stated in the staff review made by E. Bones, G. Denio seconded. All voted in favor.

10. APPLICATION ACCEPTANCE Note: The purpose of this agenda section is to publicize that a Planning Board application has been submitted AND for the Planning Board to determine if the application is complete enough to begin the review process. PUBLIC INPUT IS NOT TAKEN AT THIS TIME. If the application is accepted the Planning Board will schedule a Public Hearing at which time the application will be heard and public comments will be accepted. Information about applications can be obtained on the city's web site or by calling the Planning office.

- 10.I. PL2018-0075CUP(wetland); Woodvale Ave lot 4; Proposal to level the lot with fill within the 50 ft wetland buffer

Motion to accept the application as complete and schedule the public hearing for August 7, 2018 made by G. Denio, C. St. Clair seconded. All voted in favor.

## 11. NEW BUSINESS

Chair P. Brunette stated that the Master Plan Steering Committee should continue their duties. It make sense for those that were originally on the committee to serve and focus on next step and evaluate the proposal for the next Master Plan chapters. There was no opposition. Planning Director D. Trefethen noted that the only Planning Board member left is W. Contardo and is not sure of his status. Currently there is a need for two volunteers from the board. Anticipated of meeting a once a month. The Mayor is eager to do something with the old state school property zoning. Currently there are evening meetings but that is open to discussion. C. St. Clair and S. Jenna will volunteer. Chair P. Brunette will contact W. Contardo to see if he is still interested, if not Chair P. Brunette would like to volunteer.

## 12. OLD BUSINESS

- 12.I. Request For Impact Fee Waiver For 355 Weirs Blvd; Application PL2017-0110SP

Applicant: John Ganong was present. He apologized for the absence last month, as there was a family emergency. He recently changed the use of part of the building from a 48 seat restaurant to two, one bedroom units. He feels the impact will be less and therefore the fee should be less. He received a temporary CO until this decision. The current fee is \$3400 and asked to get it reduced. C. St. Clair asked if the board could nullify the fee and was told no. The new amount with the 80% would be \$696. Planning Director D. Trefethen stated that under state law, once the fee is established, it needs to uniformly be applied. Currently, the fee schedule is 25% of the actual fee. E. Bones was under the assumption that it couldn't be waived. Planning Director D. Trefethen said criteria is borderline as to whether this property qualified or not. C. St. Clair supported the reduction.

Motion to approve made by C. St. Clair, C. Marchesseault seconded. M. DellaVecchia abstained. The motion passed 6-1.

13. PLANNING DEPT REPORT

14. LIAISON REPORTS

15. OTHER BUSINESS

C. St. Clair reminded staff he will not be attending the August meeting. B. Beliveau will also be absent. Chair P. Brunette stated he would not be at the September meeting.

16. ADJOURNMENT

Motion to adjourn the meeting made by M. DellaVecchia, C. St. Clair seconded. All voted in favor.

The meeting adjourned at 10:27 pm.

Respectfully,  
K. Graham