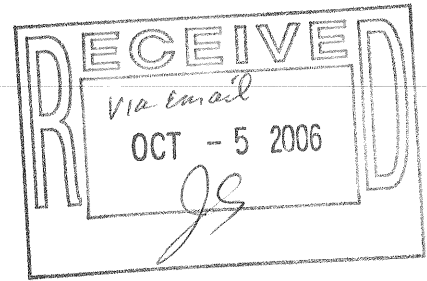


Uplands Advisory Committee

October 4, 2006



William Chin, Chair
Zoning Board of Appeal
C/o Jay Szklut, Planning and Economic
Development Manager
Homer Municipal Building
Belmont, MA 02478

Re: 40B Uplands – Three Additional Issues of Concern

Dear Chairman Chin:

The Uplands Advisory Committee recommends that the Zoning Board of Appeal address, among others, the following three issues regarding the proposed 40B development.

1. With regard to the Road, the Claim that a portion of Acorn Park Drive is owned by the Applicant. That claim and its implications for Belmont should be examined by the ZBA.

At the ZBA meeting on traffic issues, the applicant's attorney asserted that a major section of Acorn Park Drive, starting at Frontage Road and running by the proposed access/egress roads for the applicant's project down to an area near the Bulfinch site is owned by the applicant. This claim should be examined thoroughly by the ZBA. If valid, it has several implications for the Town. These follow.

a. Future Easements: The Applicant would be entitled to grant easements to other developers in the area, such as Bullfinch and Martignetti, to enable them to use AC Drive and run driveways from AC Drive to their properties. Such easements would generate traffic and safety issues on Acorn Park Drive which were not discussed by Vanasse and the Town's consultant. Thus, if the claim is valid, the Town needs to consider the likelihood of such easements and secure traffic and safety estimates from Vanasse and the Town consultant.

b. Future Upkeep: The Town plows and sands private roads in the winter to assure their use by fire trucks and other emergency vehicles. It also has responsibilities to clean up oil and chemical spills on all roads in the Town, both private and public. And the Town pays for liability insurance coverage which includes road-related liabilities. Therefore, if the claim is valid, the Town needs to estimate the costs involved in these activities and assure, where practicable, that the Applicant bears a fair share of the costs. (The Applicant might then pass some of his costs on to the adjoining property owners whom he has permitted to use his part of AC Drive, in order to reduce his cost burden).

Alternatively, the Town may want to prevent or restrict such easements or uses. If so, the Town attorney should be consulted on how to proceed.

2. How to address traffic safety and traffic congestion? The ZBA should determine whether federal or state standards apply, and, if desirable in terms of public safety, whether more stringent Town-developed standards or requisites can be applied.

Once there is agreement on the traffic data, the issue becomes "what to do about safety and congestion?" For example, should there be two or three access/egress roads and how far apart should they be to ensure safety during peak traffic times? This general area was discussed at the ZBA meeting on traffic issues and vague reference was made by the consultants to "standards", but further discussion was deferred. Similarly, reference was made to foreseeable congestion and several mitigation options were raised (e.g. reconfiguration of traffic signals, signs, and traffic patterns in the area) but further discussion was then deferred.

The ZBA should be fully informed about any federal, state and local standards regarding safety and congestion issues, and then determine if they are mandatory or allow the Town to impose other requisites. If the Town is not precluded from setting its own requisites, the most credible way for the ZBA to proceed would be to elicit public opinion on these issues, and then make reasonable determinations (as would be done by a Planning Board for a non-40B project). This will involve providing the public with notice and an opportunity to be heard so that the ZBA and Town Planner can be fully informed for their subsequent decision-making.

3. Uncertainty about stormwater management and flood mitigation plans. The ZBA needs to determine the efficacy of the Applicant's plans and the extent to which viable plans will require financial and other assistance from the Commonwealth of Massachusetts, Belmont, Arlington, Cambridge, and adjoining property owners.

According to the Environmental study done by the abutting property owner (Bullfinch) for its Discovery Park project, pursuant to the state's MEPA law, the entire area has experienced frequent flooding and has virtually no capacity to safely absorb or recharge additional or displaced floodwater, stormwater, and groundwater due to subsurface conditions. As a result, Bullfinch tentatively plans to use existing watersheds and wetlands for water storage, and anticipating their limitations and overflow, indicates that it may need to construct a new wetland or detention basin somewhere and ultimately channel excess water to the Little River. The study also indicates that solving these problems may involve the state, the three Towns, and neighboring owners.

The Applicant's project abuts Bullfinch, raises the same issues due to subsurface conditions, and faces even greater challenges because Bullfinch will have previously used up the storage capacity of existing wetlands. The ZBA therefore needs to evaluate the efficacy of the Applicant's plans for stormwater management and flood mitigation vis-à-vis the Bullfinch project's prior implementation of its own plans. In addition, the ZBA needs to discern whether the Applicant, like its neighbor Bullfinch, will eventually need problem-solving assistance from Belmont, the state, and other public and private parties, and the costs involved.

These three issues point to the complexity occasioned by the proposed development. To a significant degree, the answers developed in the hearings so far have been inadequate, requiring much more detailed consideration. We support the role of the ZBA in this process and suggest these three areas as examples for considering primary and secondary questions with regard to the development.

Sincerely yours,
UPLANDS ADVISORY COMMITTEE:

Martin Duffy, Chair
Carolyn Bishop
Roger Colton
Deborah Emello
Douglas Matson
Martha Moore
Roger Wrubel