



Planning Department

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
planning@acton-ma.gov

MEMORANDUM

To: Planning Board

Date: February 8, 2010

Update: May 18, 2010

From: Roland Bartl, AICP, Planning Director

Subject: Michele Circle –
Application for Definitive Subdivision Plan Approval

Location: 348-352 Main Street
Owner/Applicant: Walker Realty, LLC, 2 Lan Drive, Westford, MA
Engineer: Hancock Associates
Units: 2 (on 2 lots)
Proposed Streets: Michele Circle
Street length: +/-126 feet to throat of cul-de-sac circle (263' to end)
Land area: 2.43 acres
Common Land: none
Map/Parcel: F-3/54, 61, 61-1
Zoning: R-2
Hearing: February 16, 2010
Decision due: March 18, 2010

This updates the original memorandum of February 8, 2010. It was prepared for the February 16, 2010 hearing that was canceled due to wintery weather conditions. Today is the continuation and in effect the first occasion for the Board to hear the application.

Below, the original comments are shown in regular print; today's updates are in bold italics. The updates refer to the applicant's submission on April 14, 2010 of a revised plan (4-23-10 revisions) and Hancock Associates' point by point response letter to the original departmental comments, which also includes a revised list of requested waivers from the Subdivision Rules.

Attached for your review are the plan and application for the proposed "Michele Circle" definitive subdivision, and comments from other Town departments, committees, and agencies. Please review the other departmental comments. They are not necessarily repeated here.

This definitive plan application follows a definitive plan application, and approval on June 16, 2009 for Isaac Davis Circle. It appeared that the preliminary had been filed as a zoning freeze plan to lock in the zoning regulations for child care facilities as they existed prior to the June 23, 2009 Special Town Meeting. This definitive plan application now before the Board followed the preliminary within 7 months which preserves the statutory 8-year zoning freeze for the subdivision if/when it is approved.

I reviewed the plan and the application and can offer the following comments at this time.

Zoning Issue

- There is a shed on the abutting Post property about 12 feet from the lot line. The proposed subdivision street layout would convert the property line to the Posts from a side lot line to a frontage lot line and impose a 30-foot setback. The applicant does not have the right to cause through his actions a zoning violation on abutting property. This matter had been below the radar during the preliminary review.

The Posts would benefit from the proposed subdivision layout. It would change their lot from a pre-existing non-conforming lot (lot with building thereon but without frontage) into a lot that fully conforms to zoning (reduced frontage lot having at least 100 feet frontage and at least 40,000 square feet in area). Perhaps that is worth moving the shed.

In any case, the subdivision cannot be approved as presently shown. Either the shed or the subdivision street layout needs to move.

The applicant suggests that a subdivision approval could be conditioned on the relocation of the shed prior to issuance of a building permit. A condition is conceivable. However, the zoning setback violation would occur upon endorsement and recording of the approved subdivision plan, which will predate the issuance of building permits. Therefore, the shed's relocation will have to be conditioned to occur before the endorsement of the subdivision plan. At this time, letter from the abutter agreeing to the relocation would help.

Health Department Memo

- The Health Department reports that there are no tests in the areas of the proposed septic systems. The applicant's site engineer reports that the site in general (if not in the specific locations where the plan shows septic systems) was thoroughly tested for another development option and that she is confident that septic systems will work. The applicant has requested a waiver from SRR (Subdivision Rule and Regulations) 5.3.24. I recommend that this waiver not be granted. Presumably, there is no need to bringing this subdivision process to a swift conclusion. The applicant and the Board could agree to the necessary time extensions to allow percolation and deep hole testing in the coming spring.

The applicant has requested additional time. I note that things are drying up, and that the Board of Health has no present restrictions on tests.

Isaac Davis Way

- The proposed new street would overlay, and in part obstruct and reroute, the existing Isaac Davis Way, which is a private way. The applicant needs to identify the rights and limits of property owners along Isaac Davis Way, and document that he has indeed the right to relocate Isaac Davis Way near its end at Main Street.

The revised plan widens the street layout and pavement at the Main Street intersection. The resulting pavement width at the Main Street sideline is a somewhat excessive 56-57 feet. Has the applicant done the research with regards to the slight relocation of Isaac Davis Way as proposed in the original plan submission?

Other

1. On the record plan, the proposed street should be labeled with its proposed name.
2. The plan should clearly identify the demarcation line on Main Street between the MassDOT layout and the resulting access restriction to the property, and the County/Town layout.
3. The plan should show the existing sidewalk on Main St.
4. The proposed water line for lot 2 crosses over lot 1 with(out) an easement.

Items 1-4 done.

5. It appears that the plan legend lists items that the plan does not show, and that the plan shows items that are not clearly identified in the legend. It would be helpful to match the legend to the plan.

Still some things not matching up, but can let go.

6. The applicant has requested a waiver from SRR 5.3.9 to allow street/house numbers not be shown at this time. The street number determination can take place while waiting for percolation and deep hole test for the septic systems.

Done. Waiver no longer needed.

7. The proposed pavement width in the new street is 24 feet. Only 20 feet is required by the SRR. The width should be reduced to the minimum requirement.

Done.

8. The plan should show existing conditions as they are now, without the houses, trees, stone walls, etc.

Not done. The applicant states he could provide one if the Board requests. An existing conditions plan is a requirement of the Rules.

9. Stone walls and trees that still remain should be labeled for preservation whenever possible, without question the stone wall section and tree(s) within the Main Street layout.

Done.

10. There are no planting details shown and no Registered Landscape Architect stamp as required by the SRR sections 5.3.11, 9.8 and SRR planting details.

I had missed the RLA stamp on the original plan. The detail has been added.

11. The application does not contain a proposed restrictive covenant. This is fine. I then assume that applicant does not envision any variations from the standard restrictive covenant form of the SRR (SRR section 5.2.13).
12. I recommend that the Board invoke SRR section 8.1.8 to restrict direct driveway access from the proposed lots to Main Street (non-access reservation).

Items 11 and 12 did not request any plan changes.

13. The profile drawing for the proposed street should follow the street around the cul-de-sac circle instead across the island. The profile around the circle is necessary to verify minimum and maximum grades SRR 8.1.13, Table II.
14. The centerline diameter of the cul-de-sac loop should be labeled “100’ minimum”, not +/- 100’ (SRR 8.1.18.1.a).
15. The cul-de-sac center island landscaping is missing from the plan (SRR 8.1.18.1.d).

Items 13 – 15 done.

16. The applicant should consider a T-turnaround as per SRR 8.1.18.2 to reduce pavement surface.

The applicant declined.

Recommendation

The Board and the applicant should agree to a mutually acceptable hearing continuation and decision time extension that will allow resolution of the issues raised here and in the other departmental reviews.

I recommend one more hearing continuation to a date and time certain not more than one month into the future, primarily to get the percolation and deep hole tests done and the results submitted. The submission should also include:

- *The existing conditions plan that reflects current conditions.*
- *An evaluation or legal regarding the relocation of Isaac Davis Way to see if the excessive intersection pavement width could be avoided.*
- *A letter from the Posts agreeing in principle to the shed relocation.*
- *Responses/changes to address the other departmental comments received on the revised submission.*

Cc: Applicant
Manager Department