

BOARD OF ALDERMEN

ITEM NO. D(5)

AGENDA ITEM ABSTRACT

MEETING DATE: JUNE 17, 2003

**SUBJECT: REPORT: NEGOTIATIONS REGARDING THE CEDARS AT BOLIN FOREST
PATHWAY**

| DEPARTMENT: PLANNING DEPARTMENT | PUBLIC HEARING: YES No <u>X</u> |
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| ATTACHMENTS: A. LETTER FROM THE ZONING DIVISION GRANTING AN INSIGNIFICANT DEVIATION B. EXCERPT FROM CUP PLANS FOR THE CEDARS SHOWING THE LOCATION OF THE SUBJECT TRAIL C. LETTER FROM PUBLIC WORKS DIRECTOR CONCERNING AN AT-GRADE SIDEWALK NEXT TO A 3-FOOT GRASS STRIP D. SIDEWALK COST ESTIMATES FROM TOWN ENGINEER E. RESPONSE FROM HOMEOWNER'S ASSOCIATIONS REGARDING REQUEST FOR SHARED FUNDING OF SIDEWALK F. EMAIL FROM MR. DON ESTERLING OF THE CEDARS G. LETTER FROM KOVENS CONSTRUCTION COMPANY REGARDING THEIR WILLINGNESS TO CONTRIBUTE H. EMAIL FROM PUBLIC WORKS DIRECTOR CONCERNING INSTALLATION OF SIDEWALK AT THE EDGE OF PAVEMENT & PHOTO DEPICTION OF PROPOSED SIDEWALK (PAGE 2) I. COST ESTIMATE FOR SIDEWALK AT EDGE OF PAVEMENT J. RESOLUTION COMMITTING TOWN TO PAYMENT OF HALF OF THE COSTS OF EDGE OF PAVEMENT SIDEWALK K. RESOLUTION REQUESTING COOPERATION FROM RESIDENTS OF THE CEDARS L. RESOLUTION COMMITTING THE TOWN TO PAYMENT OF \$9,205.00 TOWARD EDGE OF PAVEMENT SIDEWALK M. RESOLUTION REQUESTING FUNDING ASSISTANCE FROM THE DURHAM-CHAPEL HILL-CARRBORO MPO | FOR INFORMATION CONTACT: MARTY ROUPE, 918-7333 JEFF KLEAVELAND, 918-7332 |

PURPOSE

Subsequent to the granting of an Insignificant Deviation by staff (in March 2002) related to recreational facilities for The Cedars subdivision, members of the neighboring Bolin Forest subdivision appeared before the Board of Aldermen to ask questions regarding the situation. The Board directed staff to negotiate with all involved parties to try to reach an acceptable resolution. Since that time, staff has met with all involved parties and attempted to reach such a resolution. This report serves to update the Board on the status of the situation and to seek guidance from the Board regarding a possible resolution.

INFORMATION

Background

In March 2002, staff granted an Insignificant Deviation (ID) to Conditional Use Permit #1583/528, issued 5/15/97 for The Cedars subdivision, as referenced in the attached letter (**Attachment A**). The ID involved the exchange of a number of recreational amenities in favor of a garden shed building to be erected in the vicinity of the community gardens on the property. After discussion of the matter, staff was willing to consider the exchange of amenities as an ID upon receipt of evidence of unanimous consent from the property owners within The Cedars subdivision. In part, the decision was made based on the recreational amenities being private facilities. To be clear, it was not the idea of the developer (Kovens Construction Company, herein referred to as Kovens) to exchange the amenities. Kovens only acted on behalf of and at the request of the homeowners themselves.

One specific item involved in the exchange drew comments and questions from some residents of the neighboring Bolin Forest subdivision. This item was a trail that was to be constructed in the woods along Bolin Forest Drive leading from North Greensboro Street to a point along Bolin Forest Drive near where The Cedars property ends (**Attachment B**). The residents of The Cedars cited maintenance and liability issues among other reasons in desiring to exchange for a garden shed what would be a private recreation facility on their property. Residents of Bolin Forest subdivision, on the other hand, stated that there was an implicit agreement in the granting of the CUP that residents from outside The Cedars would be allowed to make use of the trail. It was at this point that the Board directed staff to negotiate a resolution between all interested parties. After receiving direction from the Board, former Town Manager Bob Morgan arranged several meetings with the involved parties in an attempt to find a solution.

In October 2002 after several meetings, Kovens agreed to install the trail as originally shown on the CUP plans. Then, however, a resident of The Cedars appeared before the Board of Aldermen and said that he did not feel that the residents of The Cedars had been sufficiently consulted regarding the matter. He expressed displeasure with the idea that the trail would be installed after all. One member of the Bolin Forest community also objected to the installation of the trail as a satisfactory resolution to the matter in an email submitted to former Town Manager Bob Morgan. In reaction, the Board directed staff to continue negotiating with the involved parties to seek another satisfactory resolution.

After additional meetings, all involved parties agreed in principle to the construction of a five-foot sidewalk in the public right-of-way from North Greensboro Street to Stable Drive. Specifically discussed was a five-foot wide sidewalk constructed at grade three-feet away from the edge of pavement along Bolin Forest Drive. The sidewalk would allow for safe pedestrian movements near the intersection of North Greensboro Street and Bolin Forest Drive. Kovens agreed specifically to pay what in theory would amount to half the costs associated with the sidewalk. This verbal agreement was based on a cost of

\$12.00 per linear foot at a distance of 350 linear feet ($\$12.00 \times 350 = \$4,200.00 \times 0.5 = \$2,100.00$), which was an amount that Kovens considered to be a fair market cost for the construction of such a sidewalk. Bob Morgan tentatively stated that the Town may be able to cover the remaining half of the cost in accordance with the Town's sidewalk construction policy under which the Town typically pays half the costs of sidewalks.

Details Related to Proposed Sidewalks

With a tentative verbal agreement completed, Town staff began looking very closely at what would be involved. It was at this point that the Public Works Department identified concerns with the tentative agreement, as detailed in **Attachment C**. Town staff then asked the Town Engineer (Sungate Design Group) to begin looking at preferable alternatives for the construction of a sidewalk in this area. Several ideas were discussed and the Town Engineer provided cost estimates for various options (**Attachment D**). In part because of required stormwater facilities, all the options presented far exceeded the costs for the sidewalk that was initially discussed. Because of this, staff sent a letter to the residents of both The Cedars and Bolin Forest subdivisions to explore whether they might be willing to share in the costs of constructing a sidewalk. Attached please find a response from both Homeowner's Associations (**Attachment E**). In short, both of the Homeowner's Associations stated that they are not willing or able to provide funding at this time. Also attached please find a letter from a resident of The Cedars concerning the matter (**Attachment F**). Staff also approached Kovens to determine whether they might provide additional funding toward the construction of a sidewalk. Kovens has indicated that they are still willing to pay \$2,100.00 toward the construction, but that they are not interested in contributing additional funds, as detailed in **Attachment G**.

Recognizing the desirability of constructing a sidewalk, Town staff continued to explore viable options for the sidewalk. Most recently, staff agreed to a possible new configuration for a sidewalk, as described in the attached email from Public Works Director Chris Peterson (**Attachment H, Page 1**). Also included is a digital picture enhanced to approximately reflect what the proposed sidewalk would look like in this location (**Attachment H, Page 2**). The five-foot (5') sidewalk would begin at the edge of the pavement along Bolin Forest Drive and would allow stormwater to sheet flow off of its edge into the existing swale. The Town Engineer has provided a cost estimate for this sidewalk that is closer to what was originally discussed than any of the other options (**Attachment I**). The Administration feels that it is possible that the Town could pay half the costs of a sidewalk installed at the edge of the pavement in accordance with the Town's sidewalk policy.

Recommendation & Options

It should be noted that the cost estimates provided by the Town Engineer represent what should be an approximate maximum cost involved in any of the scenarios presented. Often, when a project is bid out to a private contractor, the actual contract to build the project will cost less than the Town Engineer originally estimated. With that in mind, the Administration is recommending that the Board of Aldermen direct staff to commit to paying half the costs associated with the most recent option of installing a sidewalk at the edge of pavement along Bolin Forest Drive. With a total estimated cost of \$11,305.00, this commitment is expected to cost the Town a maximum of \$5,652.50. For this recommendation to come to fruition, the remaining funds would need to be provided by the private sector. Since Kovens has committed to paying \$2,100.00, the remaining costs amount to an expected maximum of \$3,552.50, which presumably would need to be paid by the residents of Bolin Forest, residents of The Cedars, or some combination thereof. As noted above, both subdivisions initially said they would not be willing or

able to provide funding at this time. Staff wishes to point out that the costs now estimated are considerably lower than what was presented previously to the residents of both subdivisions. Staff does not yet know whether the residents will be willing and able to provide the funds necessary to cover the remaining costs, but adoption of this option by the Board of Aldermen would provide a viable option for the installation of a sidewalk along Bolin Forest Drive. A resolution is included for your consideration outlining this option (**Attachment J**).

As an alternative, the Board may wish to adopt a resolution requesting that the residents of The Cedars allow the trail to be constructed as shown on the CUP plans for the project. Such a resolution is attached for the Board's consideration (**Attachment K**). As a reminder, one or more residents of the subdivision would not necessarily see this as ideal; however, a resolution from the Board of Aldermen might aid staff in seeking this resolution with the residents of The Cedars subdivision.

If neither the sidewalk nor the trail is installed, then staff would recommend that the Board refer the matter to the *Sidewalk Task Force* (TAB) for consideration of placement on their priority list.

FISCAL IMPACT

Pursuant to the Board of Aldermen's direction at their June 10, 2003 meeting, the Administration has included \$9,205.00 in the fiscal year 2003-2004 final budget scheduled for adoption by the Board on June 24, 2003 specifically to cover the expected costs of the sidewalk (additional \$2,100.00 to be provided in the form of private funds offered by Kovens Construction Company).

RECOMMENDATION

The Administration recommends that the Board of Aldermen adopt the attached resolution (**Attachment J**), committing the Town to the payment of half of the costs associated with the installation of a sidewalk at the edge of pavement along Bolin Forest Drive between North Greensboro Street and Stable Drive.

Alternatively, the Board may wish to adopt the attached resolution (**Attachment K**) requesting that the residents of The Cedars allow the trail to be constructed as shown on the CUP plans for the project.

The Board may choose to adopt the attached resolution (**Attachment L**) committing the Town to the payment of a \$9,205.00 toward cost of construction associated with the installation of a sidewalk at the edge of pavement along Bolin Forest Drive between North Greensboro Street and Stable Drive.

Lastly, the Board may wish to also adopt the attached resolution (**Attachment M**) that requests funding assistance from the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (MPO) for the construction of a sidewalk in this area. Specifically, the resolution requests that the MPO consider allocating funds from the *Surface Transportation Program Direct Allocation* program.