

BOARD OF ALDERMEN

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 X
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 ($\$12.00 \times 350 = \$4,200.00 \times 0.5 = \$2,100.00$),

ATTACHMENT A, Page 3

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.

3. The Board authorizes and directs the Town Clerk, in consultation with the Finance Officer, to publish a notice of the Board's intent to apply to the North Carolina Local Government Commission for approval of Town bonds. The Board appoints the Finance Officer as the Town's authorized representative with respect to the LGC application process. The Board appoints The Sanford Holshouser Law Firm PLLC as the Town's bond counsel with respect to the proposed school bond referendum, and directs the Finance Officer to negotiate the terms of bond counsel's engagement.

4. All Town officers and employees are authorized and directed to take all such further action as they may consider necessary or desirable in furtherance of the purposes of this resolution. All such prior actions of Town officers and employees are ratified, approved and confirmed. All other Board proceedings (or parts thereof) in conflict with this resolution are repealed, to the extent of the conflict.

5. This resolution takes effect immediately.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 17th day of June, 2003:

Ayes: Joal Hall Broun, John Herrera, Michael Nelson, Alex Zaffron

Noes: Jacquelyn Gist

Absent or Excused: Diana McDuffee, Mark Dorosin

ADOPTION OF A REVISED WATER CONSERVATION ORDINANCE

At the May 6, 2003 Board meeting, Bernadette Pelissier, Chair of the OWASA Board of Directors, presented and discussed new water conservation standards. The Board of Aldermen received the report and adopted a resolution referring the new standards to the Town Attorney to draft the appropriate ordinance amendment to incorporate the standards into the town's water conservation ordinance. The purpose of this item was to request that the Board adopt the ordinance amendment.

Alderman Herrera asked that proclamations be issued in Spanish.

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY ALEX ZAFFRON TO ADOPT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING THE CARRBORO TOWN CODE PROVISIONS DEALING WITH WATER CONSERVATION RESTRICTIONS." VOTE: AFFIRMATIVE FIVE, ABSENT ONE (MCDUFFEE, DOROSIN)



REPORT: NEGOTIATIONS REGARDING THE CEDARS AT BOLIN FOREST PATHWAY



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 served to update the Board on the status of the situation and to seek guidance from the Board regarding a possible resolution.

Jeff Kleaveland, one of the town's Planning/Zoning Development Specialists, made the presentation.

Chris Peterson, the town's Public Works Director, stated that the proposed sidewalk would be five-feet in width.

Bob Ross stated the developer has planted cedar trees in the location where the sidewalk was to be constructed. He questioned why the developer would only pay \$2,100 toward the installation of the sidewalk.

Cliff Haac asked why the conditions of the permit were not followed through on, suggested that staff reports be made on development permits, and suggested that insignificant deviations be more defined. He suggested a separation between the roadway and sidewalk.

Linda Haac questioned how an insignificant deviation could have been granted by the town staff if Minutes of this public hearing had been reviewed. She suggested that the developer be required to install the sidewalk and requested that the letter from Capkov Ventures be withdrawn from the record because it is factually incorrect.

Bob Hornik, representing the Town Attorney, stated that once a document has been entered into the public record, it could not be removed.

A resident of the Cedars stated that the residents of The Cedars do not want the sidewalk.

Mark Botts, President of the Cedars at Bolin Forest Homeowner's Association, stated that the Homeowners Association had requested that this trail and other recreational amenities be revised and that is when the insignificant deviation was granted.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman John Herrera.

A RESOLUTION COMMITTING THE TOWN TO THE PAYMENT OF FUNDS ASSOCIATED
WITH THE COSTS OF INSTALLING A SIDEWALK AT THE EDGE OF PAVEMENT
ALONG BOLIN FOREST DRIVE BETWEEN NORTH GREENSBORO STREET AND STABLE DRIVE
Resolution No. 192/2002-03

WHEREAS, the Carrboro Board of Aldermen directed the Administration to negotiate with the applicable parties regarding the installation of a trail within The Cedars subdivision subsequent to the granting of an Insignificant Deviation for the project; and

WHEREAS, the Administration has negotiated with all applicable parties regarding the installation of a sidewalk along the western side of Bolin Forest Drive between North Greensboro Street and Stable Drive; and

WHEREAS, the Board of Aldermen has determined it is appropriate to fund a portion of the installation of such sidewalk (an amount not expected to exceed \$19,500.00).

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen approve the allocation of funds necessary (less a \$2,100.00 contribution offered by Kovens Construction Company) for the purpose of installing curb and gutter and associated storm drainage and a five-foot width sidewalk with a 3-foot wide planting strip at the western edge of pavement along Bolin Forest Drive between North Greensboro Street and Stable Drive.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 17th day of June, 2003:

Ayes: Joal Hall Broun, John Herrera, Michael Nelson, Alex Zaffron, Jacquelyn Gist

Noes: None

Absent or Excused: Diana McDuffee, Mark Dorosin

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman John Herrera.

A RESOLUTION REQUESTING SIDEWALK FUNDING FROM THE
DURHAM-CHAPEL HILL-CARRBORO METROPOLITAN PLANNING ORGANIZATION
Resolution No. 189/2002-03

WHEREAS, the Transportation Equity Act for the 21st Century (TEA-21) provides federal Surface Transportation Program-Direct Allocation (STP-DA) funds that are administered by the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization and are available on a matching basis (at 80 percent federal / 20 percent local government match); and

WHEREAS, the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization has set aside \$200,000 of STP-DA funds in 2003-2004 for bicycle and pedestrian projects that are requested by local governments in the region.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Aldermen that the Town of Carrboro request that the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization allocate \$17,400 in STP-DA funds for sidewalks along Bolin Forest Drive and, if approved, that these funds be matched by \$3,480 (20% of cost) from the Town of Carrboro.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 17th day of June, 2003:

Ayes: Joal Hall Broun, John Herrera, Michael Nelson, Alex Zaffron, Jacquelyn Gist

Noes: None

Absent or Excused: Diana McDuffee, Mark Dorosin

REQUEST TO UPDATE CONFLICT OF INTEREST POLICY

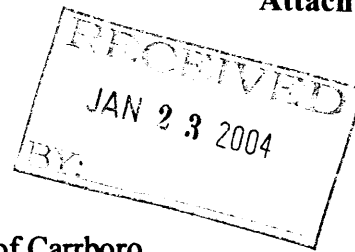
Alderman Broun and Herrera volunteered to work with the Town Attorney to update the town's conflict of interest policy to include advisory board members.

REQUEST TO ADD FUNDS TO THE 2003-04 BUDGET FOR BUFFER

Alderman Gist requested that funds be added to the 2003-04 budget to plant a buffer around the perimeter of the future public works site located off Highway Old 86.

REQUEST FOR REPORT ON LOITERING ON SUNSET DRIVE

TO THE BOARD OF ALDERMEN
TOWN OF CARRBORO, NC



C/O Marty Roupe and Chris Peterson , Staff with the Town of Carrboro

January 5, 2004

The officers of the homeowner's Association of Bolin Forest Phase I and II and the Cedars Subdivision wish to request an amendment amend the design of the sidewalk proposed to run from the entrance to the Cedars to North Greensboro St. along the East side of Bolin Forest Drive. We are not in disagreement for the need of a sidewalk in this area but offer the following observations and alternate proposal.

A. The following are the reasons we feel this design change is necessary:

1. The implementation of a curb and gutter along Bolin Forest Drive will be out of character and in sharp contrast with the **pastoral nature** of this entrance drive back to the Bolin Forest Communities. Bolin Forest Drive is a long, unadorned passageway; one of the really unique entrance drives in Carrboro. Indeed, the split rail fence and cedars implemented by the Cedars Development at the beginning of this drive's approach to our communities are additive to the entranceway's sense of quiet.
2. The present curb and gutter design is asymmetrical; to be implemented only on the East side of Bolin Forest . It will therefore leave one with the impression of this segment of the drive being unfinished.
3. The present design requires sawing a strip of existing asphalt paving and removing it in order to provide adequate area for new asphalt to bond to the existing roadway and to the new curb and gutter. Our understanding is that this will be a 1ft. to 1.5 ft. wide strip of new asphalt running parallel and contiguous to the new curb and gutter. This will leave this entrance portion looking like a patch job until the roadway is re-paved. Repaving will not likely occur until sometime in the distant future since this road just received new surfacing.
4. We do not feel a 6" curb and gutter will be any significant deterrent for vehicles pulling up on the side to await school children or vehicles wanting to make a U-turn.

B. Our Alternative Design Proposal is as follows:

1. Install a 4.5ft. to 5ft. wide sidewalk flush with the existing grade with a 3ft. to 5ft. grass strip separating it from the roadway. The wider this grass separation strip the easier it will be to maintain. The sidewalk does not have to be a uniform width throughout but should be adjusted as topography allows.

2. Reinforce a 6" thick section of concrete for the walk, normally 4", with reinforcing mesh to help prevent cracking from any vehicular action that is sure to occur. Bolin Forest Phase I H.O.A. presently expends its own funds to maintain the Town's grassed right-of-ways of this entrance drive. This is done in order to achieve a "kept" aesthetic during the growing season. A large riding mower vehicle is used for this purpose and will necessarily move back and forth across the proposed sidewalk and grassed areas.
3. Post a minimum number of NO PARKING signs on Bolin Forest Drive to remind those who might be unfamiliar with our desire for un-rutted sides to this entrance drive.
4. Add color to the sidewalk to enhance its blend with the grassed side slopes; not a total blend but enough to soften its contrast with its environs.

The above suggested alternative design has been arrived at with considerable debate and thoughtfulness. We feel the costs of this alternative design will be no more and probably will save money over the present design.

We appreciate your consideration of this proposal. Please respond to Cliff Haac, President- Phase II Bolin Forest Homeowner's Association, 102 Millrock Ct..

C. The future extension of sidewalks into the Bolin Creek Communities:

We know that the Sidewalk Bond Issue passed at election time this year and that Bolin Forest Drive and Bolin Creek Drive were included in the literature outlining the various roads that would be included for sidewalk construction. We would encourage the following master plan for our community in that regard:

1. That the sidewalk planned for the East side of Bolin Forest Drive from North Greensboro St. to the Cedars entrance be continued down to its intersection with Bolin Creek Drive in the manner described above in section B.
2. That any sidewalk design for Bolin Creek Drive and beyond be taken up with the affected Home Owner's Associations prior to any formal planning or design work being initiated.

END

SEE ATTACHED SIGNATURES OF H.O.A. OFFICERS

	Name	Title	Address
Bolin Forest Phase I	Golden L. Day	Treasurer	604 Bolin Creek Dr
	K. M. Weber	Co-Treasurer	606 Bolin Creek Dr
Bolin Forest Phase II	Clifford Hae	President	102 Millbrook Ct,
	Gary Giles	VICE PRES	106 MILLBROCK CT.
The Cedars	Mark Z. Both	President	108 Weatherwane Dr.

**A RESOLUTION DELAYING FURTHER ACTION ON THE BOLIN FOREST
DRIVE SIDEWALK UNTIL THE SECOND SIDEWALK BOND ISSUANCE**

Resolution No. 125/2003-04

WHEREAS, the Carrboro Board of Aldermen adopted a resolution on June 17, 2003 committing the town to the construction of a sidewalk along Bolin Forest Drive from North Greensboro Street to Stable Drive; and

WHEREAS, citizens from the surrounding area have expressed concerns with the adopted design for the sidewalk; and

WHEREAS, Bolin Forest Drive has been identified in the list of projects likely to be funded during the second issuance of sidewalk construction bonds.

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen delay any further action on the Bolin Forest Drive sidewalk until the second issuance of sidewalk construction bonds so that the appropriate design choice for the sidewalk can be considered with the entire length of the sidewalk in mind and so that a review by the 'sidewalk review committee' may take place.

BE IT FURTHER RESOLVED that the Board of Aldermen request the Metropolitan Planning Organization re-allocate the \$17,400 in STP-DA funds that had been set aside for sidewalks along Bolin Forest Drive to other sidewalk needs in Carrboro

This the 2nd day of March 2004.