

NEEDHAM PLANNING BOARD MINUTES

November 1, 2010

The regular meeting of the Planning Board held in the Public Services Administration Building, was called to order by Ronald Ruth, Chairman, on Monday, November 1, 2010 at 7:30 p.m. with Messrs. Warner, Eisenhut and Jacobs and Ms. McKnight as well as Planning Director, Ms. Newman.

Correspondence

Mr. Ruth noted the following correspondence for the record: a notice of appeal to the Town Clerk, dated 10/25/10, regarding Belle Lane from the Aswalds.

Minutes

Mr. Warner noted on the last page of the 7/20/10 minutes, 5th line down, it should say "tax abatement" not "tax assessment." Ms. McKnight noted on page 3, Nehoiden Street hearing, 2nd line, should say "since it is not filed with the Town Clerk's office" not "since it is not part of the Town Clerk's office."

Upon a motion made by Ms. McKnight, and seconded by Mr. Eisenhut, it was by the five members present unanimously:

VOTED: to accept the minutes of 7/20/10 with the changes discussed.

Mr. Warner noted on the minutes of 8/17/10, page 4, it should say "tercentennial" not "tertiary." Ms. McKnight noted on page 2, 2nd paragraph, halfway down, she commented the roads are a "certain width" not a "certain length."

Upon a motion made by Ms. McKnight, and seconded by Mr. Eisenhut, it was by the five members present unanimously:

VOTED: to accept the minutes of 8/17/10 as corrected.

7:30 p.m. – In-Lieu Parking Fee Schedule. Note: This hearing is continued from the October 19, 2010 meeting of the Planning Board.

Ms. Newman noted the calculations in Devra Bailin's memorandum seem to show that properties such as Walgreen's are being disadvantaged because they provide all their own parking on site so there are no parking waivers that are being credited and they have a large parking supply. When you apply the formula in that circumstance under Scenario 3 it was basically disadvantageous to people who had parking on their property that was conforming as they are not creating an incremental system as to how they applied the parking fee. The fee for Walgreen's would be one million dollars. She feels they need to look at incremental fees. Mr. Ruth noted one effect of the memo heightens the extent to which on site parking can be credited or at least not penalized to the extent we have a system where the cost per space jumps ever higher. They should have the numbers go up incrementally so the jump is not so severe. This is one way to mitigate. Ms. Newman noted the other issue is they collect less money by moving to an incremental system. She noted they may wish to consider establishing a lower credit base to compensate for the move toward an incremental system. Mr. Ruth stated that is a potential strategy. Ms. McKnight clarified what they are saying is that if you have an existing development that has been awarded a waiver that somehow that waiver should be a property right that should be continued. Ms. Newman noted in the first example (Scenario 1) it looks at the new parking demand and what the existing parking demand is and changes the credited number of spaces that exist on the site. She reviewed the examples under Scenario 1. Ms. McKnight stated she does not remember setting a maximum number of 15. Mr. Ruth clarified nothing has been decided but they had talked about what the threshold should be. Ms. Newman noted basically the existing parking minus the proposed parking minus the credit which is 15 leaves them

with 15 spaces they are required to pay a fee on. Mr. Jacobs commented the first 2 scenarios are the same. In Scenario 2, they have 5 spaces and he asked if they should be the same. He asked what the logic is behind the 15 number. Ms. Newman noted she felt more comfortable with a lower credit number but it did not work in the case pending before the Board. Mr. Ruth stated if people agree in the abstract that these are sharp jumps maybe a smoother approach that might make sense is to come back at the next meeting with something that lays it out in a little bit more cohesive presentation. Mr. Warner stated he likes the idea of laying it out and having a more informed manner and continued discussion. Ms. McKnight stated she wanted to discuss residential units that are the larger condominium size units. She noted people would want 2 parking spaces. She would want to treat the parking differently for a small unit that may end up being a rental unit. She noted they do not distinguish. She feels they should make a distinction in the waiver fees for residential, not to reduce the fee, but to make a distinction not to reduce the fee for parking requirements generated for larger units. She noted if parking is required it is required because of a unit that is 1,500 square feet or so and in that case the fee should not be reduced. If the parking required is generated by a residential unit that is 1,200 square feet or so, do reduce the fee. Mr. Eisenhut thinks there is a rational basis to make a distinction and he would be in favor of that. He would like to encourage that type of development. Mr. Ruth asked if they want to think about some sort of facility such as zip car facilities with the view that if the project developer provided zip car spaces that may be in lieu of waiver fees they are encouraging that same sort of use and less reliance on cars.

Ken Mackin asked would it be the first 20 spaces at \$5,000 and the other 15 at \$10,000 or do they have to count the existing 15 and you get a waiver. It is not clear where the waiver of spaces is in the calculations. Is it separate and apart from the 20 spaces. Mr. Ruth noted that is how they thought of it but they expect to have a draft next time to put all those together. A gentleman commented if they are going to draft a new parking policy they could generate the same amount of money by charging more for new construction and waiving pre-existing, non-conforming. They could just charge a higher fee for what they are building. It is getting complicated by bringing in pre-existing, non-conforming. They should just set a policy for the new part of the construction. They should not penalize for pre-existing, non-conforming. He noted if they are going to apply a maximum number for pre-existing then you are being penalized. Mr. Ruth stated the trade off is trying to capture the change of use also.

Fred Hartman noted he owns a business in Needham and employs about 35 senior citizens. They depend on parking by the church. It does not make sense the town would agree to a waiver for so many places around town. He feels there will be fall out and this will compromise his business. Mr. Ruth clarified Mr. Hartman was talking about the theater block proposal.

Kathy Lewis, Town Meeting member, stated she purchased a residential unit in downtown. People park on Maple Street, in the private way and on the right-of-way because of waivers that were granted to buildings being done on Great Plain Avenue. She added it has become a nightmare for her personally. She is disappointed the planning in the downtown area has gone the way of granting waivers. Agreements that were made to use the Needham heights lots and transport employees are not being followed. So many deals have been made that it is absurd. She is truly opposed to any more waivers of parking for anything. She commented at times she cannot get into her driveway due to people parking in the right-of-way.

Brian Levy, representative for Gilbert Cox, asked how they came to the \$10,000 evaluation. Mr. Ruth explained the thinking – it captured roughly 50% of the cost to the municipality of providing alternate parking arrangements.

Robert Smart noted Ms. Newman suggested applying a fee incrementally. The Board suggested 15 spaces and he would like to see that maintained. It makes sense to credit those spaces that are generated by re-use of existing spaces and pay a relatively nominal fee. Mr. Jacobs asked why he favored 15. Mr. Smart commented that it is better for his client. He does not think getting the credit should be dependent upon how long the space has been vacant. He added there should also be something for phasing.

Louise Condon states she feels this is nonsense. There is a drastic shortage of parking spaces in downtown and to do something like this and exchange spaces it is not going to happen. No one is going to give up their spaces. There are no spaces in downtown. She asked if they know where they think they are going to get extra spaces. She added they are not going to. She commented a lot of people do not want this. She feels it does not make sense to try and cause more difficulty in the downtown. Fred Hartman 2nd, representative for 919 Great Plain Avenue Realty Trust,

reiterated Ms. Condon's comments and concerns. There is a lack of parking in downtown. He noted \$100,000 gets nothing these days and would go into the slush fund. This would not solve the parking problem. Mr. Ruth stated this money is dedicated by Town Meeting vote and cannot go into the general fund. Mr. Hartman 2nd noted plans need to be in place before payment in lieu is an acceptable solution. He thinks the intentions are good but more consideration needs to go into this.

Upon a motion made by Mr. Warner, and seconded by Mr. Eisenhut, it was by the five members present unanimously:
VOTED: to continue the hearing to November 16, 2010 at 8:30 p.m.

8:30 p.m. – Major Project Site Plan Special Permit No. 2010-04: Mackin Group, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 916-932 Great Plain Avenue and 36-58 Dedham Avenue, Needham, MA). Note: This hearing is continued from the September 28, 2010 and October 19, 2010 Planning Board Meetings.

Mr. Ruth noted the following correspondence for the record: traffic and impact assessments for 916 Great Plain Avenue prepared for Mackin Group by Gillon Associates dated 10/2010; a memo from Assistant Town engineer Thomas Ryder, dated 11/1/10, regarding the traffic study; a message from Mr. Larsen with regard to the site and the cartoon and 2 pieces of correspondence by Michael Zafiropoulos, representative for Mr. Rothman. Ken Mackin stated they have done a traffic study and parking study as the Board requested. They went on a Tuesday within a 500 foot radius of 916 Great Plain Avenue and found 11:30 a.m. to 2:00 p.m. was the heaviest use. John P. Gillon, of Gillon Associates, noted he is a professional in Massachusetts. He did both the traffic and parking studies on Great Plain Avenue and Dedham Avenue. Great Plain Avenue carries 6,700 cars per day and Dedham Avenue carries 10,000 cars per day. They counted the traffic at the intersection from 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. The peak hours at the intersection were 8:00 a.m. to 9:00 a.m. and 4:30 p.m. to 5:30 p.m. He increased it by 1% over 5 years and added traffic associated with the project. He reviewed the figures. He noted 28 units would generate 17 trips in the morning peak and 33 in the afternoon during the peak hours. Thirteen retail would add 12 in the morning and 62 in the afternoon. He noted 20% of the traffic would go to Great Plain Avenue, 20% to Highland Avenue, 30% to Chestnut Street, 5% to Lincoln Street and 25% to Dedham Avenue. The highest speed they have seen is 33 miles per hour. He called attention to the parking study report and noted the whole area is roughly 500 feet. He discounted the permit parking in the Lincoln Street lot. Mr. Jacobs noted the first section of conclusions says construction of 28 units and retail space is not expected to increase congestion or the parking shortage. He asked if by that he means there is congestion now and a parking shortage but it will not get any worse. Mr. Gillon stated everyone knows there is congestion during peak hours. There will be no real noticeable change in parking. Mr. Mackin noted 85% of spaces surveyed are in use and you have roughly 12-15 spaces that are vacant at any given point. Mr. Jacobs reiterated he is trying to understand if it is not expected to create congestion or a parking shortage or it is not expected to increase congestion or a parking shortage that is agreed already exists. He asked which is was. Mr. Gillon stated it will not create a noticeable difference. Mr. Jacobs again asked if there is existing congestion and an existing parking issue. Mr. Gillon stated there is a difference but he does not think it will be noticeable. Mr. Jacobs asked if there is a parking shortage right now. Mr. Gillon noted in some lots there is and some lots there is not. Ms. McKnight stated during the peak hour, with the traffic and parking being measured, she could not identify an afternoon peak hour on figure 3. Mr. Gillon noted in the appendix it shows 8:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. with 15 minute increments. He added the parking does not coincide with the traffic.

Ms. McKnight stated one comment she has made with regards to how parking studies should be approached is they need to take into consideration developments that have been permitted with parking waivers but have not been occupied. What projects have been permitted but are not yet occupied that are under construction. She noted the big one is Town Hall. The people who were working in Town Hall when occupied will add to the parking demand and she does not see that reflected in the study. There are a lot of people working on the Town Hall and she asked if they are parking in the vicinity of Town Hall. Ms. Newman noted she believes they are using part of the Walgreen's lot where the Town Hall employees used to park. Ms. McKnight stated that is a factor to take into consideration. Robert Smart noted one thing they are doing is creating a 500 foot circle around their project. The Town Hall 500 foot circle is in a different location. There is only a small portion of those 2 circles that actually overlaps.

Mr. Ruth asked what the thoughts were on the Assistant Town Engineer's e-mail with regard to overnight parking. Mr. Mackin noted he had informed Town Engineer Tony DelGaizo they are still working on identifying commercial

property owners who they could lease parking spaces in the evening from. He has spoken with a number of owners who are interested and willing to lease spaces from 11:00 p.m. to 7:00 a.m. A little sticking point is the duration of the lease. The original discussion with Ms. Newman was 3 to 5 years. Some owners were a little reticent to lease for that length without knowing what their future rentals would be. He feels they could get 8 or 9 spaces with a one year lease. He noted there is a little problem if you cannot look at anything outside of the commercial area. He is looking for guidance from the Planning Board.

Mr. Smart commented on restrictions in the By-Law. Spaces in the residential districts are close to the commercial districts but it is prohibited to rent spaces in the residential districts. He noted the example that a church in a residential district cannot rent out spaces at night. He noted there could be a By-Law change that would make sense. Also in 5.1.2(m), off-street parking has to be located within 300 feet of the lot and under the same ownership. There is a waiver provision in the overlay district under 3.8.5(c). If approved, they would request they be allowed to go beyond the 300 feet. Mr. Eisenhut commented he feels 300 feet is discretionary and if you go to 310 feet it is not going to matter. Ms. McKnight agreed and noted the circle is using 500 feet. Mr. Ruth asked if they would be able to put in the contracts that certain units would only be allowed to have one car. Mr. Mackin confirmed it is going to be in the leases. All units will only have one parking space and the lease will list the specific parking space. Ms. McKnight summed up the comments. They are being told in this report that the applicant does not need to address parking demand from the residential units because the parking issue in downtown, the peak parking times and the entire study is only focusing on the parking that would be generated by the extra commercial space. She commented she can see the legitimacy of that point of view. The only other issue for her is that on this, and other parking studies, they make sure they look at projects that have already been permitted but not occupied yet. She asked what is the parking demand from Town Hall under the current By-Law, what is the parking supply through leases and what is the net of that for which they have already given a waiver.

Mr. Mackin stated the Board was concerned with massing last time. He showed designs of the old theater block buildings compared to the new project. He noted the difference is the property stops about half way on the lot rather than going all the way back as the cinema's 3-story building did. Their building is 48 feet tall for the first 25 feet then 36 feet tall for the remaining 100 feet. The cinema's widest part was 105 feet long. They are proposing a building less than half of that in terms of depth. The cornice line as seen from the street level is at a lower level. He stated as the building slopes back it will have a feeling of being a lower building than what is there. Mr. Eisenhut asked how tall the Unitarian Church is. Mike LeBlanc noted the best they could do was from photographs. The peak, best they could tell, is 32 to 35 feet; the steeple is an additional 25 feet on top of that. Ms. McKnight asked how that compares with the cornice line. Mr. LeBlanc noted it is 37 to 38 feet high then it slopes back. They took shadows of the existing buildings and the surrounding buildings for the 4 times of year at 9:00 a.m., 12:00 noon, 3:00 p.m. and 6:00 p.m. He noted the building casts very little shadow on any other buildings around. He clarified what the materials would be and showed samples of the bricks and colors. He stated on the Great Plain Avenue side they would have open cast stone to complement the brick, aluminum on the outside of windows and wood on the inside. They are looking at darker colors, either a bronze or a black color to sort of minimize the profile. The Dedham Avenue side is most of the same materials. There will be some slate and the only difference is hardy panels. They will have a clapboard finish then painted. They are thinking of a dark taupe color rather than a blue and are looking on the lighter side.

Michael Zafiropoulos, on behalf of Stuart Rothman, briefly summarized the letter he sent. He noted he has been asking for information that has been coming in a sporadic fashion and he assumes Mr. Mackin will provide him with all the information. He wants to address the issues. He hopes the Board does not the hearing conclude tonight. There is still information they need to be provided with. Mr. Jacobs commented about the building portion proposed to be built over the right-of-way he described. He asked if their concern was that it might be done at all or that it be done at a certain height. Mr. Zafiropoulos stated he needs to see what the elevations look like. He is seeing it now but would like their architect and engineer to see them. They need to make sure there is enough clearance for their tenants' trucks to get in and out underneath that building. He has not seen anything until now. He noted Mr. Mackin is planning on moving the right-of-way onto his property and has presented them with an easement. They need more discussion with Mr. Mackin to make sure the issues in his letter are not significant. Snow loads, elevations, etc. need to be addressed to their satisfaction. He wants the Board to recognize their concerns. In previous discussions, they discussed only a right turn from the property and he is not sure their tenants want to go right and go through town. They need to address this. They do not want restrictions imposed on them. He commented he is substantially in favor

of the project but wants to make sure his client is not harmed by it. It should be fine when he is confident all has been addressed. Mr. Warner asked how much time they need. Mr. Mackin stated they would probably need 2 weeks to clarify the legal language in the easement. He added he provided Stuart Rothman with a set of elevation plans by e-mail a week ago. He is confident all issues will be resolved in the next couple of weeks.

Kathy Lewis noted this sounds like a fait accompli to her. She asked what is the point of a public hearing to express concerns when it sounds like it is already a done deal? She stated she is totally flabbergasted. She noted her major concern is where are these 14 spaces going to go and where are the 28 unit people going to park. She is concerned they are going to hang themselves and she feels it is already done. Mr. Jacobs clarified her comments that there are 14 spaces then 28 unit spaces. He asked if she understood they are going to supply 28 spaces on site. Ms. Lewis stated this is above that 28. Louise Condon stated this is ridiculous. There is not enough parking in downtown as is. She has been a resident for over 40 years. Her phone rang off the hook when the cartoon appeared in the paper. People were asking her what this is and, when she explained, they thought it was ridiculous to put 28 one-bed apartments in Needham. People are appalled at the idea and most did not know about it. Landlords did not tell tenants what the proposal was. She added the merchants are unhappy with it and did not know there was a hearing tonight. She feels this is going to add to the issues. She thinks if the public knew about this they would be flooded with protests. Mr. Warner stated Town Meeting passed the zoning. Ms. Condon stated it must have been slipped past the members because they did not know about it. She noted the design looks beautiful but it does not fit in Needham.

Brian Levy, representative for Gil Cox, noted they have a number of concerns about the project including traffic, parking, lighting, and compliance with the criteria in the Zoning By-Laws. He has not read everything in the file but has looked at a small amount of materials. He has seen the traffic and parking study. They do not come close to addressing the Special Permit criteria to waive the number of parking spaces. He thinks this application needs time. Having heard the few comments they have heard tonight the Planning Board has the opportunity, at the applicants' expense, to engage in typical peer studies, traffic and parking to better understand the issues and apply them to this project. Mr. Eisenhut stated they do not have a By-Law that provides for this. He has been asking for 9 years. Mr. Levy noted they can still ask the applicant to do that. It is their prerogative. He feels it is a great opportunity to hear concerns from the people. He thinks the project needs more time. He is willing to reach out to the Mackin Group to discuss this with them. Mr. Ruth disclosed Mr. Levy and he have both been partners for a time in the same law firm and he has a Chapter in Mr. Levy's zoning book but he does see that causes him to recuse himself. Mr. Warner asked if their concern was that people from this project would park in their lot. Mr. Levy stated that was one of their concerns.

Ms. Lewis stated that was her concern also. People who own Great Plain Avenue businesses and condominiums are parking in her parking so much so that she cannot get in and out of her own driveway. Delivery trucks are parking in the right-of-way. There is a total disregard for private parking. She stated if we continue down the avenue of doing this waiver it is just destroying the downtown property rights of those that live there. Fred Hartman stated there were about a dozen parking spaces adjacent to the theater and people walked to it. He noted accidents and issues will happen with people trying to get out. He is concerned with his elderly employees who will be walking past that property 2 times per day. He also disagrees with the 300 foot radius. He feels anyone who has been around Town long enough knows the Town has to be considered as a whole. He stated in January and February shadows from a 4 story building will cross over onto their side. It is a concern for his elderly employees if someone slips and falls on a slippery sidewalk.

Bob Stern, owner of the Closet Exchange, noted he owns 4 businesses on Great Plain Avenue. He has 10 to 15 employees and over 200,000 customers on an annual basis. His largest concern is parking. They are allowing 28 spaces and believe people will only bring one car. The reality is how are they going to deal with tenants that bring 2 cars? He is concerned with people coming into their businesses. They are worried about parking every day. He does not know if the parking studies took into account weekends. You cannot park in downtown on Saturdays. As a retail merchant he is very concerned about it. He is pleased to see something happening in those buildings, and it will impact the entire street, but it needs to be measured and reasoned. He commented buying the cooperation of the Town for money in lieu of paying attention to the rules that are in place is not going to work.

Ms. McKnight asked why Tuesday was chosen for the parking study. Ms. Newman clarified that historically they felt issues are more during the week and around the 11:00 a.m. to 2:00 p.m. time slot. Ms. Condon stated at Green's Field

on Saturday you cannot park anywhere near there with all the events going on. Fred Hartman 2nd noted he wanted to address comments made at the previous hearing. Mr. Smart came up with some numbers of cars per unit. He looked into it and came up with numbers that are different. He feels the Board needs to make sure the numbers are accurate. He also does not feel Mr. Smart's comments about 30 year olds with no cars is accurate. He is 28 and he does not have any friends that do not have a car. He does object to that point. He stated people are going to do what they need to do to park. He does not see anyone having just one car. It is inaccurate.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously:
VOTED: to extend the hearing to 12/7/10 at 7:30 p.m. at the High School Media Center.

Mr. Ruth stated if anyone has any comments for the next meeting they should send their written submissions to Ms. Newman at the Planning Office. Mr. Smart clarified he wanted some guidance for the additional information. He believes he is to work with Ms. Newman on some calculations of the additional parking requirements of Town Hall as relating to this project and provide basically paper copies of materials they showed on the screen such as the massing and shadow information.

Discussion of Warrant Articles for Special Town Meeting

Mr. Warner expressed concern regarding the heights MBTA lot. He knows there are considerable development possibilities. He also knows there is a Senior Center location issue. Ms. Newman stated they held some community meetings and got quite a bit of push back. There was concern with the mixed income nature of the proposal. Mr. Warner stated it is an important parcel being traded. Ms. Newman stated they will be participating in Article 6. Mr. Ruth has agreed to present Article 6 to the meeting..

Request to continue the hearing and extend action deadline for reopened hearing: Amendment to Major Project Site Plan Special Permit No. 2009-06: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1471 Highland Avenue, Needham, MA).

Tiffany Shaw, representative of the Permanent Public Building Committee, stated that there are some final revisions required to the plans and they would like to have the hearing continued to the November 16 meeting. She also requested an extension of the action deadline for the hearing to December 31, 2010.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Warner, it was by the five members present unanimously:
VOTED: to continue the hearing to 11/16/10 at 8:00 p.m. Charles River Room, 500 Dedham Avenue and to extend the action deadline to December 31, 2010.

Discussion – parking study for Sweet Basil and proposed new restaurant.

Ms. Newman told the Board that the owner of Sweet Basil Restaurant expressed interest in coming before the Board with a new application to open the second half of his restaurant during the lunchtime hours. She asked the Board if the primary issue with the previously denied application for the same proposal was the lack of professional parking study. The Board said that this was the case. Ms. Newman will let the owner know that if he wishes to proceed, he should have a professional parking study done.

Ms. Newman also asked the Board whether a proposed new restaurant at 1025 Great Plain Avenue would need a parking study. Mr. Ruth asked what the hours would be and how many seats it is proposed to have. Ms. Newman said she didn't have the specifics and would look up the information and inform the Board at a subsequent meeting.

Review of Parking Studies for restaurant uses within Needham Center.

The Board reviewed the previous parking studies for the Needham Center area and decided to continue to require professional analysis for restaurant projects moving forward. They did however discuss carving out an exception for smaller projects but no agreement as to the threshold was reached.

Review of Trail Master Plan.

This has been put off until the next meeting.

Discussion – policy regarding type of mailing for abutter notification.

Ms. Newman asked the Board if they wish for the Planning staff to continue sending hearing abutter notifications via certified mail, or if they would be satisfied with regular mail. The Law does not require that abutter notifications be sent via certified mail. Board members expressed interest in saving the Planning staff time and money, but concern that we would no longer have proof of mailing. It was decided that the Planning staff will think about how to maintain proof that the mailing went out without using the certified mailing.

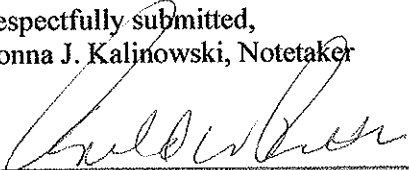
Confirm January and February dates.

It was decided that the meetings in January and February would be the Board's typical first and third Tuesday schedule and that they will therefore meet on January 4, 2011, January 18, 2011, February 1, 2011, and February 15, 2011.

Upon a motion made by Ms. McKnight and seconded by Mr. Eisenhut, it was by the five members present unanimously:

VOTED: to adjourn the meeting at 10:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Ronald W. Ruth, Chairman