

## HAMPTON PLANNING BOARD – MINUTES

January 8, 2003

PRESENT: Thomas Gillick, Chairman  
Sharleene Hurst, Vice Chair  
Jack Lessard, Clerk  
Keith Lessard  
Peter Olney  
Bob Viviano  
Skip Sullivan, Selectmen Member  
Jennifer Kimball, Town Planner

Mr. Gillick called the meeting to order at 7:00 p.m. and introduced the members in attendance.

Mr. Gillick read a letter from Pobama Trust indicating that they wished to postpone item #2 under New Public Hearings to the February 5, 2003 meeting of the Planning Board as the Conservation Commission had not met yet to give input.

Mr. K. Lessard **MOTIONED** to postpone the Pobama Trust matter to the February 5, 2003 meeting. Mr. Viviano **SECONDED**. Vote: All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

### I. ZONING AMENDMENTS – DETAILED TEXT ATTACHED

1. To amend Article II, Section 2.3.7: Wetlands Conservation District, Special Provisions, Subsection C.
2. To amend Article II, Section 2.3.7: Wetlands Conservation District, Special Provisions, Subsection C.
3. To amend Article I, Section 1.6, definition of Accessory Use.
4. To further amend Article II, Section 2.5, subsection 2.5.2, subsection Q, Aquifer Protection District Definitions; Section 2.5.3, subsection A, Aquifer Protection District Boundaries; Section 2.5.4, subsection E,4, Aquifer Protection District Use Regulations.
5. To further amend Article III, Section 3.25 Use Regulations by adding Pet Grooming.
6. To amend Article X-Building Permits and Inspection, Section 10.1.4.a by relocating the current text to Article XI, new subsection 11.5.a, which discusses construction provisions.
7. To amend Article X-Building Permits and Inspection, Section 10.1.4 by repealing the existing fee structure for building permits, inspections and certificates of occupancy and replacing it with a new fee schedule pursuant to RSA 674:51.
8. To amend Article X-Building Permits and Inspection, Section 10.1.4.a by adding a new section 10.1.4.1, authorizing the Board of Selectmen to adopt new or amend existing fees.
9. To amend Article XI-Construction Provisions, Section 11.2 by adding a new Section 11.2-b, which addresses the newly adopted State Building Code and repeals the outdated codes.
10. To amend Article V, Section 5.3.3.a, Article XI, Section 11.4.a, and Article XV, Section 15.5 to update outdated references in the Town Zoning Ordinance and Building Codes to the State Building Code standards.
11. To amend the Town of Hampton Impact Fee Ordinance, complete text attached. If approved this will supersede the existing ordinance.

12. By the petition of 25 or more voters of the Town of Hampton: to amend the Zoning Ordinance/Map (Article II, Section 2.1) for the Town of Hampton to rezone an area which is now zoned Business Seasonal (BS) to Residential B (RB) bounded as follows:

Beginning at the Southeasterly corner of Map 152, Lot 19 (the Seascape Inn at Plaice Cove), then North along the property lines on the westerly side of Route 1-A (Ocean Blvd.) to the Northeasterly corner of Map 134, Lot 51 (the Gables Condominiums), then Westerly along the property lines of Map 134, Lots 51, 50, 42, and Map 152, Lot 11 (the Greenlands) to the Northwesterly corner of Map 152, Lot 11 then south along the property line of Map 152, Lot 11 (the Greenlands), to the Southwesterly corner of Map 152, Lot 11, then Easterly along the property lines of Map 152, Lot 11 and 19 to the point of beginning.

Mrs. Kimball read and reviewed the proposed changes of all 12 items above for the benefit of the Board and the public. She explained that all of the proposals were reviewed by Peter Loughlin, the Board's attorney. In addition, Town Attorney, Mark Gearreald reviewed some of the items, and Bruce Mayberry, the Town's hired consultant for Impact Fees, reviewed item #11. The Board discussed each item and held a Public Hearing on each.

Mrs. Kimball indicated that item #1 was a carryover from the last public hearings, but that due to some unintended problems with it, it was rewritten as item #2. The Board should vote to move either item #1 or #2 to the ballot, but not both. Mrs. Kimball explained the difference between both, and that #2 allows for 30,000 sf lots within the RAA district, where it is already required.

OPEN PUBLIC HEARING #1 and #2.

Mr. Robert Nudd, Exeter Road. Mr. Nudd stated that he was opposed to item #1 as it might possibly create non-conforming uses. He approves of item #2.

No further comment. CLOSE PUBLIC HEARING.

The Board discussed if this would impact existing lots of record. Mrs. Kimball stated that it specifically excluded lots of record. Mr. K. Lessard asked if a zoning variance would be necessary to build on lots that do not meet the new requirements. Mrs. Kimball explained that a Special Permit would be required to work within the Wetland Conservation District, as it is now; however, if a developer wanted to create a new lot, and could not conform with the requirements, they would need a variance and possibly a special permit. Mr. Olney felt that we should have some regulations in place for existing lots.

Mr. Sullivan **MOTIONED** to not move item #1 to the 2003 ballot. Mrs. Hurst **SECONDED: VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Hurst **MOTIONED** to move item #2 to the 2003 ballot. Mr. **SECONDED: VOTE: 4-Yes. Opposed - 3 (Olney, J. Lessard, K. Lessard). MOTION PASSES IN THE AFFIRMATIVE.**

Mrs. Kimball read item #3 above and explained that the new definition is a better "plain English" version of what we have, and that there are no changes in what is an accessory use.

OPEN PUBLIC HEARING #3. No comment. CLOSE PUBLIC HEARING.

Mr. K. Lessard **MOTIONED** to move item #3 to the 2003 ballot. Mr. J. Lessard **SECONDED: VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #4 above and explained that the changes were from Aquarion Water Company and were strictly name changes and no change in requirements.

OPEN PUBLIC HEARING #4. No comment. CLOSE PUBLIC HEARING.

Mr. K. Lessard **MOTIONED** to move item #4 to the 2003 ballot. Mr. Viviano **SECONDED: VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #5 and explained that this adds the use of a pet grooming facility to the "Shop" category.

OPEN PUBLIC HEARING #5. No comment. CLOSE PUBLIC HEARING.

Mr. Sullivan **MOTIONED** to move item #5 to the 2003 ballot. Mrs. Hurst **SECONDED: VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #6 and explained that this represents a change in the location for the existing requirements, and there is no change to actual code requirements (housekeeping only).

OPEN PUBLIC HEARING #6. No comment. CLOSE PUBLIC HEARING.

Mr. K. Lessard **MOTIONED** to move item #6 to the 2003 ballot. Mr. Viviano **SECONDED: VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #7 and explained that these are proposed fee increases for the building department. Mrs. Kimball stated that the Building Inspector, Kevin Schultz could not be in attendance this evening, but was in favor of item #7. Mr. Gillick read a memorandum dated January 8 from Mr. Schultz.

OPEN PUBLIC HEARING. No comment. CLOSE PUBLIC HEARING.

Mr. J. Lessard **MOTIONED** to move item #7 to the 2003 ballot. Mrs. Hurst **SECONDED: VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #8 and explained that this will give the authority to the Board of Selectmen to make future changes to the fee schedule for the building department. Mr. Sullivan noted that Mr. Schultz discussed this with the Selectmen, and that they did not make a recommendation one way or the other. Mr. Olney felt that this was an appropriate move because the Selectmen and not the Planning Board are responsible for budget items.

OPEN PUBLIC HEARING. No comment. CLOSE PUBLIC HEARING.

Mr. J. Lessard **MOTIONED** to move item #8 to the 2003 ballot. Mrs. Hurst **SECONDED: VOTE:**

**All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #9 and explained that this will update the local building codes to those of the new State Building Code. Mr. Gillick read from the January 8 letter from Mr. Schultz who favors the Board forward this to the ballot. Mrs. Kimball explained that even if the Town does not approve this amendment, the Town will still be required to follow the State codes.

OPEN PUBLIC HEARING. No comment. CLOSE PUBLIC HEARING.

Mr. J. Lessard **MOTIONED** to move item #9 to the 2003 ballot. Mr. Sullivan **SECONDED:**  
**VOTE:** All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #10 and noted that this item is similar to item #9.

OPEN PUBLIC HEARING. No comment. CLOSE PUBLIC HEARING.

Mr. J. Lessard **MOTIONED** to move item #10 to the 2003 ballot. Mrs. Hurst **SECONDED:**  
**VOTE:** All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #11 and explained the changes to the Board. She noted that the biggest change is the addition of a section on waivers from impact fees. She also stated that consultant, Bruce Mayberry and Attorney Peter Loughlin had worked closely with the Mrs. Kimball on these revisions. Mr. Gillick also stated that the Capital Improvement Committee had met with Mrs. Kimball to discuss Impact Fees.

OPEN PUBLIC HEARING.

Mrs. Elizabeth Webb, 11 Windmill Lane. Mrs. Webb had concerns about several items. Mrs. Kimball explained that the Board and their consultants raised the same questions, but mutually agreed on the verbiage used in all these zoning changes. Mr. Gillick stated that he truly appreciated Mrs. Webb's input, and other concerned citizens like her.

CLOSE PUBLIC HEARING.

Mr. K. Lessard **MOTIONED** to move item #11 to the 2003 ballot. Mrs. Hurst **SECONDED:**  
**VOTE:** All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mrs. Kimball read item #12 and explained that this was a citizen's petition. The item must be forwarded to the ballot as is; however, the Board must vote to recommend or not recommend. Mr. Gillick asked if the supporter of the amendment was in attendance.

OPEN PUBLIC HEARING.

Mrs. Priscilla Fanning, 4 Smith Avenue. She indicated that she was the individual who submitted the proposal. She spoke at length about the reasons for the change, including concerns about setbacks, character of the neighborhood, and that it was suggested by the Zoning Board of Adjustment. She read a letter from Jim Davies, 971 Ocean Blvd. who could not be in attendance, but approves of item #12.

Mr. K. Lessard expressed concern that this change may not be supported in a court of law. Mr. Gillick asked the supporters how this change is good for Hampton.

Mrs. Laura Sousa, 968 Ocean Blvd. She stated that this is a very nice community and wished to see it protected from development that was inconsistent with the area. She explained that each neighborhood is unique and that is what makes Hampton special. She noted that this would be a good buffer between the BS and RA zones.

Lisa, 972 Ocean Blvd. She spoke in support of item #12.

Donald Fanning, 4 Smith Avenue. He spoke in support of item #12.

Stuart Fanning, 4 Smith Avenue. He spoke in support of item #12.

CLOSE PUBLIC HEARING.

Mr. Olney **MOTIONED** to move item #12 to the 2003 ballot. Mrs. Hurst **SECONDED: VOTE: All. MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mr. J. Lessard read the next 2 items on the agenda.

## II. CONTINUED PUBLIC HEARINGS

1. Golden Corridor, LLC  
6 Lot Subdivision Application at  
Map 295, Lot 59  
Harbor Road & Duston Avenue  
Owner of Record: Same as Above  
*Jurisdiction accepted November 6, 2002*

## III. NEW PUBLIC HEARINGS

1. Golden Corridor, LLC  
Waiver Request from Subdivision Regulations Section VII.C.9 (location of stormwater facility) to be heard in conjunction with pending 6 Lot Subdivision Application at  
Map 295, Lot 59  
Harbor Road & Duston Avenue  
Owner of Record: Same as Above

Attorney Peter Saari and Joseph Coronati, Jones & Beach, addressed the Board. Mrs. Kimball stated that the Board did not have all the departmental reviews back yet. Mr. Gillick asked Mr. Saari bring the Board up to date on the issues. Keith Lessard noted that this application would need an extension.

Mr. Coronati stated that the plans have been revised to connect Duston Avenue to Harbor Road. Mr. Gillick asked who would be responsible for the drainage upkeep, if not the condo association. Mr. Coronati stated that one of the lot owners would be responsible. Mr. Saari stated that currently all the property is owned by one person, the applicant, and will continue to own the parcels until lots are

sold, and a possible condo association is formed. An easement will be granted over the 5 lots. Mrs. Kimball asked Mr. Saari if the responsibility for the maintenance of drainage would belong to whoever owned Map 295 Lot 59 Mr. Saari stated it was, until this became a larger condo association, which would assume responsibility.

Mrs. Kimball stated that several legal documents would be needed prior to approval, a Maintenance Agreement, easements, and the Town of Hampton requires a storm water drainage easement to be filed giving the Town the right to enter the property in the event of a problem. Mr. Gillick stated that legal counsel should be able to craft all the necessary documents to protect the rights of all the abutters and the Town of Hampton. Mr. Saari stated that all the necessary legal documents would be prepared to protect everyone's interests.

OPEN PUBLIC HEARING.

Mr. Daniel Morgan, 28 Duston Avenue. Mr. Morgan was concerned about the collection of surface water.

Mr. Gillick read into the record 2 letters, from Mr. John Gebhart, Enfield Connecticut, and Mr. John Kavanagh, 14 Duston Avenue. Mr. Keith Lessard stated that he was not in favor of granting the Waiver Request until all the legal issues are resolved.

No further recommend. CONTINUE PUBLIC HEARING.

Mr. K. Lessard **MOTIONED** to deny the Waiver Request. Mrs. Hurst **SECONDED**. Discussion. Mr. Sullivan was in favor of postponing this matter. Mr. Lessard and Mrs. Hurst withdrew their motion and second.

Mr. Olney **MOTIONED** to continue the above hearings until February 5, 2003 if the applicant will extend the jurisdictional period. Mrs. Hurst **SECONDED**. Vote: All. **MOTION PASSED UNANIMOUSLY IN THE AFFIRMATIVE.**

Mr. Saari stated that the applicant is willing to extend the jurisdictional period.

#### IV. OLD BUSINESS

1. Jon & Judi Savage  
2-Lot Subdivision at  
3 Cessna Way  
Map 57, Lot 44  
Waiver Requested: Subdivision Regulations Section V.E.7 (Storm Drainage Plans)  
Owners of Record: Same as Above

Mr. Jon Savage addressed the Board. Mrs. Kimball stated that she has met with Ernie Cote, the applicant's surveyor. All of the requested information has been supplied. A berm will be installed so that the lot will drain properly and all the Board's concerns have been addressed. Also, additional mitigation steps will be applied so that drainage will not impact the neighbors.

Mr. Olney **MOTIONED** to approve the above Waiver Request. Mrs. Hurst **SECONDED**. Vote: All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Mr. K. Lessard **MOTIONED** to approve the 2-Lot Subdivision at 3 Cessna Way, Map 57, Lot 44, Plan #2-47-0212, dated 12/27/02, and Plan #3-47-0212 dated 1/6/03. Mrs. Hurst **SECONDED**, subject to the following conditions:

1. Installation of a berm as shown on Plan #2-47-0212 dated 12/27/02;
2. Certificate of Monumentation prior to final approval;
3. Mylar and recording fees for both sheets;
4. Final/as built plan of grading, berm indicating that the sealed surface is less than 25% prior to Certificate of Occupancy of house;
5. Proper sediment and erosion control in place prior to and during construction.

Vote: All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

#### V. CONSIDERATION OF MINUTES – DECEMBER 18, 2002

Mr. K. Lessard **MOTIONED** to approve the minutes of December 18, 2002. Mr. Viviano **SECONDED**. Vote: 5-Yes. 2-Abstain (Hurst, J. Lessard). **MOTION PASSES IN THE AFFIRMATIVE.**

#### VI. CORRESPONDENCE

Mrs. Kimball stated that the Board has received a letter from Mr. John Hangen, DPW Director regarding the Kevin O'Donnell, 373 Lafayette Road, Elderly housing project.

Mr. K. Lessard **MOTIONED** to reduce the surety in the above matter to \$51,486 per the recommendation of John Hangen, DPW Director. Mr. J. Lessard **SECONDED**: **VOTE**: All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

#### VII. OTHER BUSINESS

Mrs. Kimball and Keith Lessard briefly discussed the conditions involved with applications for a Use Change. Mr. K. Lessard felt that abutters should be notified prior to hearing before the Planning Board. They are not currently required. Mr. K. Lessard asked that each Board member give this some thought and discuss at a future meeting.

Mr. J. Lessard **MOTIONED** to adjourn. Mrs. Hurst **SECONDED**: **VOTE**: All. **MOTION PASSES UNANIMOUSLY IN THE AFFIRMATIVE.**

Meeting adjourned at 9:50 p.m.

Respectfully Submitted,  
Maryann Brickett,  
Planning Board Secretary