

HAMPTON PLANNING BOARD – MINUTES  
MAY 4, 2005 – 7:00 PM

**PRESENT:** Tracy Emerick, Chairman  
Keith Lessard  
Fran McMahon, Clerk  
Cliff Pratt, Selectman Member  
Tom Higgins  
Tom Gillick  
Mark Fougere, Interim Town Planner

**ABSENT:** John Harwood, Town Planner  
Robert Viviano

Chairman Emerick began the meeting at 7:00 PM by introducing the Board members. Mr. Higgins led the Pledge of Allegiance to the flag.

I. WITHDRAWALS AND RESCHEDULED CONDOMINIUM CONVERSIONS

Chairman Emerick announced that the condominium conversion applications on the agenda would need to be rescheduled because of certain outstanding legal issues. These involve the possible prohibition of subdivision because of deed restrictions and parking issues. He proposed a special meeting on May 25<sup>th</sup> to hear these condominium conversion applications. The applications are the following:

7. Patrick Mulcahy  
Condominium Conversion at  
16 Bragg Avenue  
Map 292, Lot 44-1  
Owner of Record: James M Watson  
Waivers Requested: Subdivision Regulation Section V.E. (Detailed Plan) and VII.C (Storm Drainage)
11. David Castricone  
Condominium Conversion at  
17A and 17B “O” Street  
Map 293, Lot 169  
Owner of Record: 17 “O” Street Realty Trust  
Waivers Requested: Subdivision Regulation Section V.E. (Detailed Plan) and VII.C (Storm Drainage)
12. Sweenette Realty, LLC  
Condominium Conversion at  
22 and 22 ½ “P” Street  
Map 290, Lot 76  
Owner of Record: Same as above
13. Richard Tessier

Condominium Conversion at  
1 Osborne Terrace  
Map 265, Lot 26

15. 6 Ashworth Avenue, LLC  
Condominium Conversion at  
6 Ashworth Avenue  
Map 282, Lots 27 and 40  
Waivers requested: Subdivision Regulation Section V.E. (Detailed Plan)

Mr. Higgins asked Mr. Fougere to clarify the issues involved. Most properties involved with the current applications for conversions may be nonconforming. If they need variances, these should be secured before the conversion is addressed. Parking is a specific issue. The Town Attorney wants to look at each of the deeds involved with these properties due to possible deed restrictions on subdividing. The applicant's attorneys may wish to submit an opinion on these issues.

The Board asked that if applicants are known to need variances, that the information be conveyed to them before the May 25<sup>th</sup> meeting.

Mr. Gillick suggested that if this issue points to a defect in the Zoning Ordinance, that the Board should also address that defect at the same time and draft corrective language.

**MOVED** by Mr. Gillick to postpone hearing of condominium conversion applications until a special meeting of the Board on May 25, 2005.

**SECOND** by Mr. McMahon

**VOTE:** 6-0-0

**MOTION PASSED**

Chairman Emerick then announced that the following applications have been withdrawn:

3. Fatima Realty Trust, Janet Reynolds, Trustee  
Condominium Conversion at  
377 Ocean Boulevard  
Map 26590, Lot 20  
Owner of record: Same as above  
Waiver Requested: Subdivision Regulation V.E. (Detailed Plan)
6. 89 Ashworth Avenue LLC  
Condominium Conversion at  
89 Ashworth Avenue  
Map 287, Lot 1-A  
Waivers Requested: Subdivision Regulation Section V.E. (Detailed Plan) and VII.C (Storm Drainage)  
Owner of Record: Joseph J and Denise P Mitza

## II. CONTINUED PUBLIC HEARINGS

1. Drakes Appleton Corporation  
 Site Plan Review to construct **36-unit Townhouse** condominiums at  
 180 Drakeside Road (rear)  
 Map 172, Lot 12-1  
 Owner of Record: Morgan Ryan Realty Trust  
 Waiver Requested: Site Plan Regulations Section VII.D.2 (increase in storm water runoff)  
**Jurisdiction accepted March 3, 2004, extended by applicant**
  
2. Drakes Appleton Corporation  
 Special Permit to work within the Wetlands District, associated with 36-unit  
 Townhouse at  
 180 Drakeside Road (rear)  
 Map 172, Lot 12-1  
 Owner of Record: Morgan Ryan Realty Trust

Mr. Lessard and Mr. Pratt recused themselves from this application.

Messrs. Mike Donahue, Attorney, and Tom Nigrelli, Principal, presented this application. Mr. Donahue announced that Mr. Mark Maynard was also present.

Mr. Donahue stated the applicant's goal was to end with an approved plan for this property. He indicated that a Traffic Study has been redone and has been provided to the Board's traffic consultant. Mr. Donahue would like the traffic issue resolved before going forward with the review process with the 36-unit plan. Mr. Donahue stated that, based on his interpretation, the conclusion of the Town's traffic consultant was that project-related traffic can be accommodated on the roadways.

Also, this current plan will not involve high buildings, possibly eliminating issues regarding ladder fire trucks.

### BOARD

Mr. Gillick stated that he believes his statement with respect to the 48- unit plan applies to this plan as well. He referenced the Master Plan statement that states the railroad overpass is not safe. His previously stated position applies to all multi-family development on the south side of Drakeside Road.

Mr. McMahon stated that the 36- unit plan needs to stand on its own and not be compared to the 48-unit plan. He also stated that there are environmental concerns with this project.

Mr. Higgins stated he feels the same for this proposal as he did for the previous one, and he voted in favor of the previous one.

Mr. Emerick stated that Drakeside Road needs attention before the Board can consider any further development on that road.

Mr. Donahue urged the Board to consult with counsel before going forward. He also asked for time to speak with his client.

**MOVED** by Mr. Gillick that Items 1 and 2 (the Drakes Appleton Corporation applications) be tabled until after hearing the next application on the agenda.

**SECOND** by Mr. Higgins

**VOTE: 6-0-0**

**MOTION PASSED**

When discussion resumed Mr. Donahue stated that his client was agreeable to tabling of the applications to a date certain to allow time for the Planning Board to get an opinion from its Counsel for the 48-unit application, Attorney Peter Loughlin. The reason for this is that it is Mr. Donahue's sense that the Board might use the same logic in deciding this plan as was used in denying the previous plan.

Mr. Higgins questioned the relevance of the previous decision to the current application.

Mr. Gillick stated it would be in everyone's best interest for the Board to have a discussion with counsel.

Mr. Fougere suggested that the application be placed on the May 18<sup>th</sup> agenda, on the condition that a meeting with Attorney Laughlin can be arranged by then.

**MOVED** by Mr. Gillick to table the applications to May 18, 2005.

**SECOND** by Mr. Higgins

**VOTE: 3-1-0**

**MOTION PASSED**

- 4. Rademo Realty Trust  
 Special Permit for temporary impact of approximately 3,562 sq. ft. within the 50-foot wetland buffer for construction of addition to existing building and permanent impact of 38 sq. ft., totaling 3,600 sq. ft. at  
 5 Merrill Drive  
 Map 142, Lot 2  
 Owner of Record: Same as above
  
- 5. Rademo Realty Trust  
 Thomas Moulton  
 Amended Site Plan Review for an industrial addition of two stories at  
 5 Merrill Industrial Drive  
 Map 142, Lot 2  
 Owner of Record: Same as above

Mr. Fougere stated that he had been asked to ensure that all Department Heads had signed off after their review of the applications. They had and there were no issues with the plan.

PUBLIC

No comments

## BOARD

**MOVED** by Mr. Pratt to grant a Special Permit for temporary and permanent impact within the 50-foot wetland buffer.

**SECOND** by Mr. Gillick

**VOTE: 6-0-0**

**MOTION PASSED**

**MOVED** by Mr. Gillick to grant the amended Site Plan Review for an industrial addition.

**SECOND** by Mr. Pratt

**VOTE: 6-0-0**

**MOTION PASSED**

8. Delvin Arnold  
12 Lot subdivision at  
111 Exeter Road  
Map 107, Lot 24  
Owner of Record: Same as above  
Waivers Requested: Subdivision Regulation V.E. 9 (Landscaping Plan) and Section VII.F.2 (Lot corners)

Peter Agrodnia, Project Manager of North Easterly Surveying, and Alex Ross, Ross Engineering, presented the application.

This is an 11½- acre property. The applicant is proposing to remove the breezeway connecting the existing barn and farmhouse and to attempt to preserve these structures as two separate properties.

A preliminary hearing of this application occurred on February 2, 2005. There have been no major layout changes. The proposed new street is in same location, but a deceleration lane has been added. The applicant took the abutters' comments into account and has tried to address the major concerns presented – drainage, traffic, buffering and environmental impacts.

Drainage – The applicant consulted with Ross Engineering, which looked at drainage problems on Bourn Avenue. Ross designed a closed drainage system that will go to a drainage manhole and drain pipe, which will drain to the wetland on the property. The current sewer easement will also become a drainage easement. He stated everyone they've met with looks positively at this solution and it will help the Bourn Ave residents with drainage.

Traffic – The applicant hired Roy Benjamin, Traffic Engineers in Portsmouth, to do a traffic study. The conclusion was that the project would not degrade the Exeter Road-Towle Farm Road intersection. The traffic engineers agreed that the proposed new road is in the best location, as proposed. They have also designed a deceleration lane to allow traffic to enter the subdivision more safely

Bourn Avenue impact – On Sheet 4, they have added 28' x 40' homes to the plan to give the public a better idea of what the subdivision will look like built out.

Environment – No improvements are proposed in the wetland area except those needed to solve the drainage problem for the neighbors. Soil Scientist Joe Noel went back to look to see if there

might be wetland that was missed previously. He determined that the area in question is not a wetland. Sheet S3 is a high-intensity soil study.

## BOARD

Mr. Higgins asked why Lot 11 has a driveway easement across Lot 6. The response was that they tried to keep lots square shaped as much as possible.

Mr. Higgins asked why Lots 3, 4 and 5 are so oddly shaped. The response was that this was to meet frontage requirements. Mr. Higgins expressed the opinion that there appeared to be one too many lots in the subdivision. With one less lot, they could straighten out the lot lines and get rid of the easements.

Mr. Pratt commented that from the Town's point of view, getting the Bourn Avenue drainage problem corrected is a big issue.

Mr. Gillick asked what would happen to the existing pumping station. Mr. Ross said that it would be removed. He indicated a 24" pipe will be used where the current pipe in use is a 2' pipe. Mr. Gillick echoed Mr. Pratt's sentiment that correcting the Bourn Ave drainage problem would be a big benefit for the Town.

Mr. Lessard stated it appeared that the new road will be very steep. He asked what the slope was. Mr. Ross said it was 8%. Mr. Lessard wanted to confirm what our regulations state with respect to grade. Chairman Emerick stated that the regulations say the grade can be no more than 5% for a major street and 8% for a minor street. Mr. Lessard feels the street is too steep for approaching a busy (major) road like Exeter Road.

Mr. Lessard asked how far Lot 12 was from Eastgate. It was determined that it is in excess of 500'.

## PUBLIC

Alan Cusano, 102 Exeter Road, stated his concern is with traffic. There are frequent accidents on that corner. He is also concerned about ice and snow on the road. The new road directly faces his house. He has replaced his mailbox 4 times because of automobile accidents. He has seen people hit the telephone pole there. People have driven over his property turning from Exeter Road onto Towle Farm Road.

Mr. Agrodnia said the applicant is willing to work with abutters in developing the buffering needed to alleviate any negative impact.

Paul Hyde, 114 Exeter Road, stated he has the same traffic concerns as the previous speaker. He also stated that water would be draining through his yard. He has been told it won't be much of an impact, but he is still concerned. Water drains from the project's wetland through his property.

Mr. Gillick asked if there was a formal drainage easement across Mr. Hyde's property and/or if it will be in the future. Mr. Fougere said there is no plan for an easement across his property.

Mr. McMahon said the problem is the condition of the culvert under Exeter Road that ends at Mr. Hyde's property. It has no riprap.

Nathan Page, 200 Towle Farm Road, stated there is a 24" pipe running under Exeter Road. The Town, he believes, already has an easement across Mr. Hyde's property. It is necessary for the Town to fix the existing culvert, since the Town has not maintained the culvert outflow.

Ellen Goethel, Conservation Commission, asked if the Special Permit was going to be addressed tonight. She said that the project is in the buffer and won't go into the wetland. The Conservation Commission is in favor of this drainage plan. The Conservation Commission opinion is that if the Town is being given an easement to run a closed drainage system from Bourn Avenue to the buffer area on this property; the Conservation Commission is in favor of the proposal. They have walked the property and believe that the wetland scientist did a good job and reported the wetland area accurately.

## BOARD

Mr. Gillick stated that over the years people have tried to fix drainage problems. He believes that now all parties should be aware of the needs and the responsibilities of the various parties with respect to maintaining the drainage system established.

Mr. Pratt said he would bring it up to Selectman to find out the status.

Chairman Emerick said the Board had received a petition of citizens, but it is unsigned. He also reported receipt of a letter on the project, but it is not pertinent to tonight's discussion.

**MOVED** by Mr. Gillick to accept jurisdiction of a revised Site Plan with a date certain of June 15, 2005. All issues and conditions noted during this hearing are to be addressed.

**SECOND** by Mr. McMahan

**VOTE: 6-0-0**

**MOTION PASSED**

Mr. Fougere recommended the application be sent to all of the usual parties.

Mr. Higgins asked that the plan be altered to include more detail depicting the driveways on the South side of Exeter Road.

It was clarified that no State permit is needed for Exeter Road.

Mr. Fougere made several observations with respect to the plan:

- Traffic study - There has been a traffic study submitted. Does the Board want it sent out? The Board does want it sent out, with specific attention to the grade of the new road.
- Sewer access for Lots 5 and 11. Mr. Agrodnia indicated that sewer lines are now shown on the site plan.
- Delineation of wetland and buffer -Mr. Fougere recommended a silt fence delineation of wetland and all lots, including lot 12, during construction. Mr. Agrodnia commented that a Conservation Commission condition was to mark wetland and buffer areas.
- Configuration of Lot 6 was discussed. The driveway easement area noted on Lot 6 should also be for utilities.

- Lots 1 & 12 – Mr. Fougere recommends turnarounds for the driveways so that vehicles don't have to back out onto Exeter Road. This detail should be noted on the plan.
- Mr. Fougere asked if there was a problem with special waivers. He said some minor landscaping/buffering might be appropriate around the detention pond on Lot 10 and also on Lot 6. Mr. Lessard asked for confirmation that Lot 10 would maintain the detention pond. This should be stated on the recorded plan. The Town should be given an easement so that it can back charge if it is not maintained and the Town needs to do it.
- Mr. Fougere stated that The Board will need easement documents for drainage, sewer, etc. The sewer easement should be amended to include drainage.
- He will make sure the grade of the road is looked at.
- Waivers should be raised so that issues can be identified. Specifically, the applicant should attempt to add landscaping/buffering to the area of Lot 6 and landscaping to the detention pond.

Mr. Lessard felt that buffer areas should be addressed.

Mr. Lessard also stated that the applicant may need to look at where cars stop, because it looks like cars will be stopped on the Exeter Road sidewalk.

Mr. Lessard asked about increased water through the culvert under Exeter Road.

Mr. Agrodnia said he will talk to the applicant about buffering in certain areas.

#### 9. Charles Tavano

Special Permit to construct a 32' by 58' single family home at 4 Janvrin Road

Map 179, Lot 60

Owner of Record: Heidi Schultz

Ms. Eileen Nevins, Attorney, and Charles Tavano presented this application. There is a drainage area that goes along the boundary line of this property. Drainage through the area has been interrupted by refuse placed on the lot.

#### BOARD

Mr. McMahon stated he was on the site walk for this property and attended the Conservation Commission meeting. He believes this is not a complete plan.

Mr. Gillick asked for clarification of the lot's status. It was recorded in 1963.

#### PUBLIC

Ellen Goethel, Conservation Commission, confirmed that this is a pre-existing lot, but the applicant does not currently own it. The lot requires a State Department of Environmental Services permit, as well as a Town Wetlands permit. She stated that this is a very wet lot. There is a stream on one side of the lot that drains under the street to another vacant lot. The Conservation Commission asked the applicant to move the building as far outside the wetland buffer as

possible. The State requires driveways to be at the point of least impact on wetlands, and the driveway planned for this property does not meet that requirement.

## BOARD

Mr. Higgins asked for clarification. The buildable upland spot appears to be a moat surrounded by wetland.

The Wetlands requirements in the Zoning Ordinance went into effect in the 1980's. The Board has applied wetland rules to lots of record in the past.

Mr. Fougere indicated that this application would require a State dredge & fill permit.

Mr. Sven Kaerner, 5 Jenness Road, stated there is significant drainage through his property.

Al Neller, 3 Jenness Road, said he has significant concerns about drainage. His lot is part of the stream system in the neighborhood. This stream runs all year.

Jim Duprey, 10 Randall Street, stated his house is a little above the wet area. He questions how anyone could put a house there. He has water in his basement and he is uphill from the property.

Mildred Neller, 3 Jenness Road, is concerned with the fill of the property and there is no plan to do anything with the water.

Mr. Lessard recommended that the house have no basement and that the structured be turned on the lot. He feels that the 50-foot buffer needs to be delineated. The driveway needs to go straight to the house. It also needs to be a permeable surface driveway. Granite markers are needed on the wetlands to know where they are.

Mr. Gillick stated he needs a detailed plan showing how the lot is going to be used, a drainage plan showing where the water is going to go, and that it will have no impact on the neighbors. He can't make an informed decision without this additional information. There needs to be some sort of mitigation of the drainage problem. In today's world, this lot will have to live in perpetuity with its neighbors.

Chairman Emerick asked if the applicant would be amenable to tabling the application to a future meeting.

Mr. Fougere recommended that the applicant pursue a Dredge & Fill Permit with the State at the same time.

Application tabled to a future meeting.

### 10. Golden Corridor and Hampton Harbor Condominiums, LLC

Site Plan Review to amend approved project to convert Yacht Club to a residential unit at Duston Avenue and Harbor Road

Map 295, Lot 64

Owner of Record: Same as above

Peter Saari, Attorney, Mark Maynard, Principal, and Joe Coronati, Engineer, presented this application. Mr. Maynard stated that the builders have concerns about the proposed yacht club. Mr. Maynard would like to use this structure as his personal residence. He will build a separate room for use of the condominium residents and for the Fire Department for twice monthly meetings. The “yacht club”, in this situation, would consist of a pool, a deck, bathrooms and the “community room” in Mr. Maynard’s residence.

Mr. Higgins stated that the original plan for the yacht club consisted of one story. The current elevations show a 2-story building.

Mr. Maynard stated that the existing building’s roofline is not changing. Changes to the plan of this structure were discussed extensively. Mr. Higgins stated that, in his opinion, there is a dormer added with 2 new bedrooms and 2 new bathrooms.

Mr. Fougere asked if the roofline is changing.

Mr. Lessard stated he agreed with Mr. Higgins that the current elevation is different from the original plan approved and filed. The footprint is not changing but the building is expanding.

Mr. Gillick asked what difference this made to the total project. How is the total scope of the project affected by these changes?

Mr. Lessard asked why Mr. Maynard needed an office originally and doesn’t need one now. Mr. Lessard commented that he believed a project of this size needs recreational space and common areas. There will be other occupants of the residence in the future and there will be commercial fishermen there on the property. He believes there should be a clubhouse.

There is a double door into the study. Mr. Maynard said that was a mistake on the plan.

## PUBLIC

John Gebhart, 4 Bailey Avenue, has problems with the plan. Nowhere does it show that the building is built on pilings. The building has been under water twice while it was being constructed. As it stands, it can’t be used as a residence. It was never a residence before. (tape 2 side 2)

Ellen Goethel, Conservation Commission, asked for clarification of the presence of commercial boats at the complex. She believes that mixed use of residential and commercial for this structure is a tenuous situation. If the club is going to be residential, the dock space needs to be decreased.

Jack Cavanaugh, 14 Duston Ave, stated he has questions about parking for the commercial boat and use of the Great Room. He has lived there 30 years and the building has never been a residence. The building has been underwater. His question is should this go to the Zoning Board of Adjustment. Is that piece of the property going to be deeded separately or is it going to be part of the condominium land?

Peter Saari, stated that this was the builder's idea and not Mr. Maynard's idea. The builder wants to have more control. Mr. Maynard will have to obey the condominium rules. There were 10 parking spaces allocated before. There is no change to the parking layout. Changes to parking needs were discussed.

Mr. Higgins asked where supplies would be kept to maintain the pool. Mr. Maynard responded that a pool service would be used.

Mr. Gillick stated that this is a site plan review to amend an already approved site plan. He feels some of the discussion does not involve what is before the Board tonight. There is an approved site plan and it is a legal document. We are talking about a possible amendment to an approved site plan. He is concerned that the discussion not goes to far afield

Chairman Emerick stated that we would need to see an amended site plan to approve an amendment to the site plan.

Linda Gebhart, 4 Bailey Avenue, state that there has to be an amendment because of businesses to be conducted in the "clubhouse", including vending machines.

She stated that during a previous flood this building lost 4 walk-in coolers. The walkway is higher than the proposed residence. Is there a statute of limitations? The original building burned 5 or 6 years ago.

Steve Joyce, 12 Dover Ave, questioned the plan around the dock space to be rented.

Chairman Emerick said that would expand the scope of the application. He is not in favor of the rented slips. If docks move any further south, he is not in favor of it.

David Goethel, 23 Ridgeview Terrace, offered a caution. When the wind blows in a certain direction under certain conditions, waves come in underneath the building and wave action is dissipated on the beach behind the building. What will happen now is bounce-back. This will create 10-12 foot waves. He has also observed flooding at that site.

## BOARD

Mr. Higgins wants to know where supplies are going to be kept. He asked if docks will be a privately held common area. Mr. Saari said the Condominium Association has no control over the docks. Mr. Saari said everything attached to the building will be part of the residence.

There was discussion of the limited common area with respect to the deck, the walkway, the bathrooms and the study.

Mr. Lessard commented that 2 of the original 10 parking spaces now would be allocated to the residence leaving insufficient spaces of the boat slips.

Mr. Higgins stated that it appears that 2 drop-off spots have been lost.

Mr. Gillick stated that the Board has labored over 2 years on Golden Corridor Phase I, Phase II and Phase III. The site plan was finally approved. Now tonight, we spent an hour and a half because Mr. Maynard has come with an amendment to the site plan. Now the whole project is being re-debated. It is too complicated a project to be able to do this.

**MOVED** by Mr. Gillick to deny the application because there is an approved site plan, which has had extensive review by various parties. The decisions made were arrived at after extensive study and not done lightly.

**SECOND** by Mr. Lessard, indicating that the clubhouse was a part of the whole project as previously approved.

**VOTE: 5-0-1**

**MOTION PASSED**

11. Ships Inn, LLC

Site Plan Review for proposed parking lot by combining 2 lots, installing uniform pervious surface for 40 parking spaces at 19 and 21 "B" Street

Map 282, Lots 208 and 209

Owner of Record: Ships Inn, LLC and Captain Morgan Inn, Inc.

Waivers requested: Subdivision Regulation Section V.E. (Detailed Plan) and VII.C (Storm Drainage)

This application was continued to the May 18<sup>th</sup> meeting.

12. Maplecroft Development LLC

Site Plan Review to remove existing house and construct 10 residential townhouse condominiums (2 buildings with 5 units each) at

180 Drakeside Road

Map 172, Lot 12

Owner of Record: Pamela Kopka

This application was continued to the May 18<sup>th</sup> meeting.

III. CONSIDERATION OF MINUTES – April 20, 2005

Page 3 – change "Mr. Higgins remembered an easement" to "Mr. Higgins submitted amended minutes that discussed the easement".

Page 8 - #6 – Add "and be reviewed with the abutter".

Page 9 – Mr. Higgins submitted wording for a requested change.

Page 11 – Mr. Higgins indicated the plan submitted showed a deck that was not on the plan submitted to the Conservation Commission.

**MOVED** by Mr. Lessard to approve the minutes as amended.

**SECOND** by Mr. McMahon

**VOTE: 5-0-1**

**MOTION PASSED**

**MOVED** by Mr. Lessard. to adjourn.

**SECOND** by Mr. McMahon

**VOTE: 6-0-0**

**MOTION PASSED**

Meeting adjourned at 10:17 PM.

Respectfully Submitted,  
Barbara Renaud  
Acting Planning Board Secretary