

HAMPTON PLANNING BOARD – MINUTES
AUGUST 17, 2005 – 7:00 PM

PRESENT: Tracy Emerick, Chairman
Tom Higgins, Vice Chairman
Fran McMahon, Clerk
Robert Viviano
Tom Gillick
Jim Workman, Selectman Alternate
Bill Bilodeau, Alternate
James Steffen, Town Planner

ABSENT: Keith Lessard

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

Chairman Emerick announced that, with respect to changes currently ongoing at Park Avenue and Winnacunnet Road, the Planning Board had no involvement with this process other than a courtesy review of the proposed plans. The Planning Board took no votes on these changes.

- 1) 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

Mr. Peter Saari, Attorney, Mr. Ernest Cote, Surveyor, and Mr. Jack Kopka, Applicant, presented this application. Mr. Saari asked the Board where the application stood.

BOARD

Mr. Steffen went over the current status of this application. He said he had spoken with Attorney Loughlin, and Counsel suggests that this application be continued until the application for the larger project at this address is resolved. Mr. Steffen indicated he had documented his recommendations, should the Board decide to act on this application at this time.

Chairman Emerick presented the results of a meeting held to discuss safety concerns with this project. The applicant has made an accommodation to install a sidewalk. He states that it is his opinion that the status of the other application at this property should not cloud the handling of the application before the Board at this time.

Mr. Viviano stated that his understanding was that the recommendation of Counsel was to not address this application until the legal situation, with respect to Drakeside Road development, is resolved

Mr. Saari stated his position on the legal status of this application.

Mr. Gillick summarized the recent history of this property before the Planning Board. He then stated that the Board appears to be hung up on a matter of consistency. His opinion is that until such time as a judge decides on the correctness of the decision on the larger application, the Board is not in a position to change its position on the development of the South side of Drakeside Road.

Chairman Emerick relayed that Attorney Loughlin said, during a meeting with the Board, that the Board would probably not be successful in denying the applications on the basis of traffic issues, because the traffic studies represent that Drakeside Road is adequate to handle the additional traffic of this application.

Mr. Viviano said his understanding is that Counsel advised the Board not to decide any Drakeside Road applications until the Board makes a decision on how it will proceed with respect to traffic issues on Drakeside Road.

PUBLIC

No Comments

BOARD

Mr. Saari stated that the applicant commissioned the traffic study at great expense. He felt that the Board should not reject that study out of hand.

Mr. Higgins asked for clarification of the accommodation made. Chairman Emerick said it was a sidewalk and crosswalks on the other project that would continue in front of this project.

Mr. Gillick asked if the Town Planner's memo of August 11th was his final recommendation on the application. Mr. Steffen said the memo was prepared before a meeting with the Board Attorney and the Town attorney. Since that memo, there was meeting and a subsequent memo was done, dated August 15th, based on Attorney Loughlin's recommendation.

Mr. Gillick asked for the Planner's recommendation to the Planning Board tonight. Mr. Steffen said that since his August 15th memo, the Planning Department received the applicant's traffic study, which states that this project will not negatively affect traffic flow on Drakeside Road. However, the Board's traffic engineer has not as yet reviewed the applicant's traffic study. Mr. Steffen said it is his recommendation that the Board continue the application.

MOVED by Mr. Viviano to continue this application, pending the Town engineer's analysis of the traffic study in context with the safety concerns that have been expressed about significant development on Drakeside Road and a subsequent meeting with Attorney Loughlin, until 9/21.

SECOND by Mr. Gillick

Mr. McMahon asked if drainage has been reviewed on this project, with respect to the sidewalk and curbing.

VOTE: 5-2-0

MOTION PASSED

- 2) Jean Boudreau, Trustee, Concord Realty Trust
Condominium Conversion at
18 Ocean Boulevard and 1 Dover Avenue
Map 296, Lots 108 and 131

Waivers from Subdivision Regulation Section V.E. (Detailed Plan) and
VII.D (Storm Drainage)
Owner of Record: Dominique Perreault Revocable Trust

Steve Ells, Attorney, and Jean Boudreau, Applicant, presented the application. Mr. Ells summarized the status of the application and what has transpired to date. He discussed the parking arrangement. He said the applicant plans to upgrade paving and the exterior of the building. He said each unit would get a new bathroom and a motel-style kitchen unit and new air conditioning. The units will be sold unfurnished. He says he understands all units will need to have Certificates of Occupancy. The existing office will remain as the rental office, and the site will be managed from that office. The apartment adjoining the office will be common area. The laundry area will remain as common area. Future management and operation will be that owners can put units in a rental pool to rent while they are not using it. The rental agent will also be the parking attendant. The condominium documents will state that if more parking attendants are needed, it will be the condominium's responsibility. He asked what the Board would like the final parking arrangement to look like. He said the floor plans have also been provided to the Board.

BOARD

Mr. Gillick asked if the applicant had seen the Town Planner's memo of August 16th. Mr. Steffen went through his memo on this project.

Mr. Gillick asked why the 4th lot is not part of the plan. Mr. Ells said that lot is not under agreement and not a part of this project. They agreed discussion of the 4th lot is not germane to tonight's discussion.

Mr. Steffen stated that he recommends approval of this application with the following conditions:

- 1) The existing motel use must continue to operate and function as a motel.
- 2) Floor plans shall be added to the plan set and recorded.
- 3) A note shall be added that states "This plan shows a number of legal, pre-existing nonconformities, including but not limited to parking, to the Town of Hampton Zoning Ordinance".
- 4) Each unit shall obtain a separate occupancy permit from the Building Inspector prior to any unit being sold.
- 5) A note shall be added to the plans that states that the parking for the hotel shall be valet parking as previously approved and show on a recorded site plan for the "Drift Motel".
- 6) Prior to final approval, the applicant shall submit final plans, recordable Mylar, and applicable recording fees.

Mr. Higgins suggested changes in Item #5. He asked if the existing Certificates of Occupancy were year-round. Yes they are. He said a note should be added to the plans

and condominium documents that all parking will be valet parking on-site. The fourth lot is currently used for parking and that will be going away.

PUBLIC

No comments

BOARD

MOVED by Mr. Gillick to approve the condominium conversion at Map 296, Lots 108 and 131 subject to the conditions in the Town Planner's memo of August 16th.

SECOND by Mr. Viviano subject to elimination of internal lot lines

MOVED by Mr. Higgins to amend the motion to include a requirement for a note on the plans and condominium documents that says all parking will be on-site.

SECOND by Mr. Gillick

Mr. McMahon asked for clarification of parking. Chairman Emerick stated they would be approving nonconforming parking spaces.

VOTE: 4-3-0

MOTION PASSED

- 3) 389 High Street Realty Trust
Site Plan Review for a 6-unit condominium building with parking underneath at
389 High Street Map 180, Lot 3A
Owner of Record: Four B Realty Trust, Denise M. Fournier, Trustee and 389 High Realty Trust, Jerome Sakurai, Trustee
Jurisdiction accepted April 6, 2005
- 3a) 389 High Street Realty Trust
Special Permit to Impact Wetlands Buffer in conjunction with Site Plan review at
389 High Street
Map 180, Lots 3A 6-7
- 3b) 389 High Street Realty Trust
Conditional Use Permit in conjunction with Special Permit and Site Plan Review at 389 High Street Map 180, Lots 3A 6-7
Owner of Record: Four B Realty Trust, Denise M. Fournier, Trustee and 389 High Realty Trust, Jerome Sakurai, Trustee

Mr. Higgins recused himself for this application.

Francis X Bruton, Attorney, Joe Coronati, Engineer, and Ken Sakurai, applicant, presented this application.

Mr. Bruton stated the Conservation Commission voted to not oppose granting a special permit for this project. He submitted a conservation easement to the Town Attorney on April 5th. He used the Hurd farm easement language as a basis and tailored it to this project. He said they also have agreement with abutters on the project. Mr. Bruton is waiting for final comments from the Town Attorney.

As to the Town Planner's August 16th memo, he said the only condition he takes exception to is that the project is not subject to impact fees (Condition 5). He states that this was negotiated previously.

BOARD

Chairman Emerick said that the only outstanding issues had to do with a wall and handicapped access. Mr. Bruton said that the Town Planner had met with the Building Inspector and that these two issues were resolved.

Mr. Viviano asked about the fence. This was a Conservation Commission issue and the Conservation Commission gave its okay.

Chairman Emerick indicated he was confused by special permit. It was clarified that there would be encroachment on the wetland buffer.

PUBLIC

No Comments

BOARD

MOVED by Mr. Gillick to grant special permit to impact the wetland buffer at 389 High Street, Map 180 Lot 3A 6-7.

SECOND by Mr. Viviano

VOTE: 5-1-1

MOTION PASSED

MOVED by Mr. Gillick to grant Conditional Use Permit in conjunction with Special Permit and Site Plan Review at 389 High Street Map 180, Lots 3A 6-7.

SECOND by Mr. Viviano

VOTE 5-1-1

MOTION PASSED

MOVED by Mr. Gillick to accept the Planner's recommendation to approve Site Plan Review for a 6-unit condominium building with parking underneath at 389 High Street Map 180, Lot 3A 6-7, subject to the Planners August 12th memo, including conditions 1 through 10, deleting condition number 5.

SECOND by Mr. Viviano

VOTE 3-2-1

MOTION PASSED

- 4) Seven-O-Nine Ocean Boulevard Realty Trust

Site Plan Review to construct an 11-unit condominium at 437 Winnacunnet Road
Map 221 Lot 11
Owner of Record: Seven-O-Nine Ocean Boulevard Realty Trust
Jurisdiction accepted June 1, 2005

Peter Saari, Attorney, and Joe Coronati, Engineer, presented this application.

BOARD

The Board clarified documentation.

Mr. Steffen said his August 17th memo spells out his recommendations. His recommendation is to approve the site plan, subject to 8 conditions.

Chairman Emerick stated that since 3 units are being taken down, the impact fee applies only to the net number of new units.

PUBLIC

No comments

BOARD

Mr. McMahon asked if the recreation area was going to be a grassed area. Mr. Coronati said that it is now partially grassed and partially wooded. There will be no active recreation facilities put in at this time.

Mr. Gillick asked for confirmation that there is currently a 3- unit structure on the property.

MOVED by Mr. Gillick to approve Site Plan Review to construct an 11-unit condominium at 437 Winnacunnet Road, Map 221 Lot 11, subject to the eight conditions stated in the Planner's August 17th memo, except for rewording of recommendation #5 to state "Payment of the School Impact Fee of \$1,898 per each unit over 3 units."

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

- 5) Delvin Arnold
Special Permit to impact Wetlands Conservation District in conjunction with 12-lot subdivision at
111 Exeter Road
Map 107 Lot 24
Owner of Record: Delvin Arnold

- 5a) Delvin Arnold
12 Lot subdivision at
111 Exeter Road
Map 107, Lot 24
Owner of Record: Delvin Arnold
Waivers Requested: Subdivision Regulation V.E. 9 (Landscaping Plan) and
Section VII.F.2 (Lot corners)

Mr. Peter Agrodnia, NorthEasterly Surveying, Inc, and Mr. Alex Ross, Ross Engineering, presented this application. Mr. Agrodnia reviewed the current status of application. He stated that he is asking for only one waiver (monumentation). The landscape plan has been provided.

Mr. Agrodnia indicated that the comments from Ambit Engineering need to be addressed; comments from Vanasse Engineering regarding the traffic study need to be addressed; and there are still some open issues regarding buffering. He indicated that the drainage study has been redone, based on Ambit's comments. He reviewed the Vanasse Engineering comments and indicated additional detail has been added to the plans to address those comments.

The final issue is buffering. He said they have addressed the concerns with the abutters. He stated the applicant and the abutter across the street have reached agreement on a fence. The other area of buffering is at the Lot 11 driveway. The applicant's landscaper went out to the land and determined that 13 upright yews along the driveway bend will complete the buffering of the driveway.

BOARD

Chairman Emerick asked if the special permit was still needed. Mr. Agrodnia said that it was because the Bourne Avenue drainage still goes into the wetland buffer.

Mr. Higgins asked if there were written agreements with the abutters for fence and tree buffering. There is no written agreement at this time.

Mr. Gillick referred to correspondence from the Antlitz family with respect to this project. He stated that because the August 17th letter from the Antlitz's is to the Board Members, it is public record. Mr. Gillick stated that he wanted to clarify that the Board was not endorsing item 5 in their letter, having to do with a fence. If they want a fence, they will have to get a permit from the Building Inspector.

Chairman Emerick noted that the item regarding a deed restriction is not a Planning Board issue either.

PUBLIC

Stephen Ells, representing Ruth Ells, 16 Bourne Avenue. He stated that Mrs. Ells was excluded from the meeting process regarding buffering. There has been no accommodation for screening at 16 Bourne Ave. That property will be within 10 feet of driveway. Mrs. Ells would like consideration of additional screening behind her property with the proposed yews. He asked the Board to consider an additional site visit to all neighbors.

Mr. Agrodnia said he would need to talk with his client about it. But he believes that his client would be agreeable to doing a reasonable amount of additional buffering.

Al Cusano, 102 Exeter Road, still has some concerns. He quoted from the Highway Safety Committee documentation. He is concerned about sight distances exiting his driveway with the buffering in place. He isn't sure if he has to have his property surveyed for the fence. He asked for direction from the Board. He said plowing is still a concern. He spoke with Doug Mellin at DPW and Doug suggested he mark his property where the fence will go. In response to a question from Chairman Emerick asking for clarification, Mr. Cusano indicated he wanted assurance from the Board that the buffering offered by the applicant will result in a safe situation for his family, in terms of entering and exiting his driveway. Chairman Emerick indicated that was beyond the scope of the Board's responsibility – that the Board was approving an agreeable buffering between Mr. Cusano and the applicant. The abutter would have to be an active participant with respect to ensuring that the agreement results in a safe situation.

Mr. Cusano then stated, regarding the traffic study, that some of the NH Department of Transportation data was attributed to previous vehicle counts. The traffic study was discussed at length. He also said there were no trucks observed in the traffic study. It is known that there are trucks on Exeter Road. Mr. Higgins commented that he does not believe trucks can go over the railroad bridge westbound on Exeter Road.

Mr. Steffen stated that the Town's traffic engineer addressed the matter of the absence of trucks in the study, yet they said that even with trucks, the development would not impact operations.

Wes Roberts, 106 Exeter Road, stated it appears a reason for approving development is to correct a long-standing problem for the Town with flooding on Bourne Avenue. He said his property would be at risk for more flooding from this project. He then said the counter for the traffic study was near the bridge. This is not an accurate representation, since one-third of traffic eastbound on Exeter Road turns onto Towle Farm Road. Also traffic comes from Towle Farm Road westbound on Exeter Road. This traffic is not included in the traffic study. Mr. Roberts objects to the use of riprap on the south side of Exeter Road.

BOARD

Chairman Emerick said the reason the Planning Board file is so thick is that the Town's engineers, representing citizens of the Town, are doing studies of the development and communicating back and forth with the developer's engineers.

Mr. Higgins commented that the traffic study documented three different locations for the counts. The traffic engineer's report indicates that its study confirms the States figures.

Mr. Agrodnia clarified the reason for riprap on the south side of Exeter was to correct a long-standing problem for the Town.

Mark Antlitz, 14 Bourne Avenue, said the applicant met with him regarding buffering. He wants to make certain other issues are included on the plans. One thing agreed to was that no lights would be installed on the long driveway to Lot 11.

Mr. Gillick stated that the Board vote goes with the land. The abutter's agreement with the developer is just that – an agreement between those two parties.

His next point is regarding a fence on the property line if the proposed buffer is not effective. Mr. Gillick said the specifics of a fence would be an issue between the owner and the Building Inspector.

Mr. Gillick asked if the driveways would be build as depicted. Mr. Agrodnia said the driveways were conceptual only and subject to change. Mr. Gillick said it is not this Board's function to dictate to a property owner what he can do with his lot.

Chairman Emerick and Mr. Viviano clarified that this application was for a subdivision. It is not a site plan.

Mr. Antlitz then asked what a pipe outlet on the plans was. Mr. Agrodnia responded to the question.

Patricia Antlitz, 14 Bourne Avenue, asked about drainage. Mr. Agrodnia responded to the question.

BOARD

Mr. Steffen recommended an additional condition regarding the fence for abutter Cusano, for a total of 10 conditions.

Mr. Workman asked if the Board had considered the Highway Safety Committee notes.

Mr. Gillick noted that Mr. Steffen's memo indicated that no waiver is needed for the landscaping plan.

MOVED by Mr. Gillick to grant the Special Permit to impact the Wetlands Conservation District in conjunction with the 12-lot subdivision at 111 Exeter Road, Map 107 Lot 24.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

A discussion of the type of monumentation (from pipe to iron rod with cap) took place.

MOVED by Mr. Gillick to grant the waiver to Subdivision Regulations, Section VII.F.2 (Lot corners/monumentation)

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

MOVED by Mr. Gillick to approve the 12-Lot subdivision at 111 Exeter Road, Map 107, Lot 24, subject to the 9 conditions as stated in Mr. Steffen's memo of August 11th plus the 10th condition recommended tonight.

SECOND by Mr. McMahon

VOTE: 6-1-0

MOTION PASSED

II. CONSIDERATION OF MINUTES of August 3, 2005

Page 8 – Clarify that Mr. Ells was referring to his own law office property when he spoke of a license given by the Town to use the Town Right of Way for parking.

Page 9 – Add “not on Town land” after “on the owner’s land” in paragraph 3.

Page 12 – Add wording regarding lot line adjustments after first waiver motion.

MOVED by Mr. Viviano to accept the minutes as amended.

SECOND by Mr. Bilodeau

VOTE: 6-0-1

MOTION PASSED

III. OTHER BUSINESS

- Request from Jones & Beach Engineers, regarding 18-22 K Street. Request to substitute an infiltrator pipe for the storm drainage system.

Request approved.

- Chairman Emerick recommended starting a log, numbering applications to have a consistent identifier when project's name changes.

Recommendation accepted.

- Great Bay Estuary tour. Mr. Gillick will coordinate the reservation for the September 21st tour from 9:00 a.m. – 12:00 p.m.

10/6/2005 4:21 AM

MOVED by Mr. Gillick to adjourn
SECOND by Mr. Viviano
VOTE: 7-0-0

MOTION PASSED

Meeting adjourned at 9:34 PM.

Respectfully Submitted,

Barbara Renaud
Planning Board Secretary