

HAMPTON PLANNING BOARD

MINUTES

November 19, 2014 – 7:00 p.m.

PRESENT: Mark Olson, Chair
Tracy Emerick
Brendan McNamara, Vice Chair
Fran McMahan, Clerk
Keith Lessard
Rick Griffin, Selectmen Member
Ann Carnaby
Jason Bachand, Town Planner
Laurie Olivier, Officer Manager/Planning

ABSENT:

I. CALL TO ORDER

II. ATTENDING TO BE HEARD

- **Peter Saari – 298 Exeter Road. Seeking feedback on appropriate use of the property, including possible rezoning.**

Attorney Peter Saari appeared with Joe Valle. There are over 200 acres at the site. He wanted to hear the Board's opinion on this land. It's zoned Industrial. Mr. Valle will discuss industrial uses. Mr. Valle showed the CR's restaurant and the different parcels of land being discussed. They can't get industrial use on the parcel. He is working with Brazonics to get them to come into the park. They are getting advised to do mixed uses, i.e. retail, residential, multi-family. He is interested into maybe rezoning it into the G Zone (General). The rest would stay Industrial. Sewer, gas and water are in the park. Some parcels being considered do not have sewer. They are looking for insight. Current owners have owned it for 35 years.

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Mr. Olson thinks the ideas are interesting. He is wondering if General is too general, but doesn't think handcuffing the land to Industrial seems right. It is a 20-year plan. Mr. Valle believes there are different needs and uses for Hampton. Mr. Olson said the Liberty Lane area is a very successful area.

Mr. Valle said Pease sucked out opportunities to this land many years back. They have marketed property with Pease people as well. Mr. McMahan asked about coming to the ZBA in the past to get help in re-zoning. General zone would open them up to multi-family. Can you put multi-family in an Industrial zone was asked.

The Brazonics company is looking to relocate. They used to be in Amesbury. They want to develop a 60,000-100,000 s.f. Building. They do high-end components for the airline industry. They are looking at the Liberty Lane West area. They are talking to Exeter, Dover, Newington and one other Town. They have to move.

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Mr. McMahon said that business would be welcome in that zone. Mr. Lessard said emergency exits onto Mary Batchelder may be an issue.

Mr. Emerick said a convenience gas station comes to mind. If it's converted to General it would need a variance. The same is with a hotel; not in the G Zone. Mr. Valle asked about an overlay district. Then there could be residential components welcome in that area. Mr. Lessard asked if this would be "spot zoning" where it's owned by two owners. Two parcels on Drakeside Road are in the General Zone.

A 100,000 square foot building was discussed – if it fits in that area. A 4-acre metal building out there may not be a good idea. Brazonics would not be visible. Mr. Lessard said a committee of some kind would maybe need to be created. Hotels are usually around exits. Mr. Lessard discussed modifying the Zone potentially. Mr. Lessard said there may need to be a committee formed to get this ball rolling. Mr. Emerick discussed a courthouse in that area as well. Money-wise, it did not work.

Mr. Emerick said on Liberty Lane West, that that maybe could be Residential.

Mr. Bachand said the idea of having a Committee is a good idea. It's an important gateway to the Town. It's an opportunity for good design. It may result in an overlay zone. He feels there is a lot of potential there. A 55+ community is an idea as well.

They tried to get a variance for 55 and older community, but they could not get that.

Mr. Olson asked about the DOT and what its concerns may be. He asked if they could come in as a cooperative body. He believes the DOT would be a positive influence. **Mr. Bachand will head up a Committee. Mr. Emerick volunteered Jason Bachand and Mr. Bachand accepted to get the Committee rolling.** Mr. McMahon said to look at the larger Town picture with this.

Mr. Bachand will talk about this in the near future and getting a committee going.

III. CONTINUED PUBLIC HEARINGS

14-046 86 Woodland Road (continued from 9/3/14 & 10/1/14 & 11/5/14)

Map: 148 Lot: 4

Applicant: RK DOLLA, LLC

Owner of Record: Same

Subdivision & Special Permit: Five residential home lots off 840' cul-de-sac. Special permit to impact wetlands: Road crossing the wetland is unavoidable.

(Note: Just voting on Subdivision)

Mr. Joe Coronati appeared with Bob Dockham, the Manager of RK DOLLA and Dockham Builders. The Special Permit was approved. Aquarion Water Company gave its report. Mr. Coronati read the conditions from Mr. Bachand. Mr. Coronati has a couple of questions on two items on the recommendations.

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Mr. Olson said this is Hampton's drinking water supply and we need to preserve the wells. They are 600' from the wells.

Mr. Lessard asked how the conditions would be regulated. The Town is passing it on to other people. Restrictions and safety on roadway was discussed. Restricted salt, etc., it was asked who would handle it. It was asked who would make sure HOA is being maintained.

Mr. Coronati asked about Condition #30 talking about insurance and bonding and Holding Harmless Agreements, etc. It is a five-lot subdivision. The applicant does not want to be liable for it. Other homes are closer; How would one know who the guilty party is. Radius observation wells can be put on each home. Mr. Emerick thinks we are making a bigger deal out of this than Aquarion.

Mr. McNamara spoke about the insurance policy condition. He mentioned if the policy is not paid, it's gone and there is no protection for the well.

Mr. McNamara said the project presents a very serious "could happen" with well contamination. He noted the large report provided by Aquarion with pros and cons. Aquarion says if the project is going to happen, it should be conditioned. Aquarion is not in a position to say no completely. Mr. McNamara added that unlikely does not mean impossible in terms of contamination to the well.

Mr. McMahan said if we want to establish a policy, we will establish a policy. We need to figure something rational out and be fair to all applicants.

Ms. Carnaby went back to the Ordinances. There are 34 recommended conditions in the planner's memo. She read subdivision regulations and the object of them. She read pertinent parts of those Regulations.

Mr. Olson said each Board member interprets the Regs individually.

PUBLIC

Ms. Mary Louise-Woolsey, Little River Road, appeared. She is not an abutter. It means a great deal to her personally. She does not want to see on a Planning Board agenda "road crossing the wetlands is unavoidable". She said protecting the community is our job. She was hoping to see an insurance policy (bond) if the proposal goes through. Ms. Woolsey discussed road salt and pesticides in this new development. People will do what they want with their lawns, etc., in this neighborhood. Risking the health of neighbors was discussed. This is dealing with our water supply. She thinks adjustments should be added to the Aquifer Protection District. It is critical to health, safety and well being to residents in the community. Rate payers will pay when something goes wrong with this project. She hopes there will be bonds, insurance policies, etc., if this does go through.

Mr. Doug Brown, Hunter Drive, appeared. He handed out Wetlands and Deepwater Habitats Classification paperwork. Seasonally flooded and saturated areas were discussed. They all end in an "E". He showed elevations in the area as well. If homes go in there, he does not know where water will go. If they start getting water in places they have not had before, they will come after the Town, engineering firm, etc.

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Ray Talkington, Aquarion, appeared. Mike Bernier from Aquarion was in the audience. Carl McMorran forwarded the cover letter. Water flows from west to east. Another well can go on that area. It would be a bedrock well. There could be two public water supply wells. Two monitoring wells are recommended by Aquarion. Getting to know background water conditions would be a good thing. Once the project is done, there is no policing of the project. Aquarion takes responsibility of making sure everything is complied with.

Ms. Carnaby asked what happens if some huge contaminant is found; say, in one or two years down the road there is fertilizer in the water. What does Aquarion do. Mr. Talkington stated Aquarion would have to take well #7 off line. Stop using it. If the rest of wells cannot supply there are other connections with other communities. Aquarion would make a couple of calls and bring in a package treatment plan. The water would have to be treated right there in order to keep things on line. Aquarion would absorb the costs. They could then focus in on who the culprit(s) are. They would have to work closely with the Town to remedy the situation.

Ms. Carnaby said she still sees implications. Mr. Talkington said something like this did happen in Massachusetts. A shopping center went in; a lot of blasting took place. Wells were then contaminated by blasting material. Package treatment plan came in to remove contamination. The developers of the shopping center then had an agreement made between them, along with lawyers. It is still being treated now. It will probably need to be treated for 10 years per Aquarion. It doesn't go away tomorrow. The source of contamination has to be found first. In the interim you can use the treatment system per Aquarion.

Mr. Lessard wants to know why 400' is the number and that it has not been increased. The 400' radius is the 10-State standard. Biodegrading was discussed. Before water hits the wells was discussed and the reason for the amount of radius. Monitory wells are not always at the 400'. Some are less than 400'. There are 15 contaminants. Iron, manganese, etc.

Donna Taylor Brown, 8 Hunter Drive appeared. She is representing Maureen Schulte, 82 Woodland Road, who could not attend. Her well is close to the property. She is concerned about her well being contaminated as well. She will also go after the developers, Town, etc. with a lawsuit if anything goes wrong.

Charlene Billings at 6 Hunter Drive appeared. She is concerned about the lack of oversight or control on the property. It will be difficult to be assured that pesticides, etc. will not run off into wetlands themselves. She is on the record that this is not a wise move.

Mr. John Walker, 90 Woodland Road, appeared. He was a party to Hunter Drive when it was built. He and Mr. Bartolini put 12 houses in a location. Their area is 5 acres and will have five houses. They won't have drainage or saturation for that property.

Donna Taylor-Brown appeared again. She and her husband granted the easement. They are on septic. The Town gave them a short line of pipe if they have septic failure.

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Mr. Bachand obtained Town Attorney comments along with Aquarion comments. All comments are worked into recommendations. He read condition #28 of Aquarion. **He believes we should always ask for as-builts.**

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Mr. Coronati asked about the final condition – certificate of monumentation, mylar, etc. When there is a road involved, they cannot put monuments in until road is built. It should state **“prior to the release of the bond”....then certificate of monumentation.**

Mr. Coronati stated the application meets the requirements and the Regulations.

Mr. Emerick discussed Stormwater Management Guidelines/regulations, the Association has to submit the maintenance performed. These homes should be monitored by the Planner and Public Works.

He said stormwater has to be managed on site. There are O&M Plans – it manages water run off to a degree. If people take legal action, people can appeal this for 30 days; they can do it now or do it later and he encouraged people to do what they have to do.

Mr. Lessard said the Planning Board is not an enforcement arm in the community. The Board of Selectmen enforces the rules. He encourages citizens to beef up enforcement.

Mr. Lessard is upset that Aquarion doesn't monitor the systems. Radon is probably coming from his shower from rock wells. He thinks Aquarion should take care of the welfare of the citizens. Mr. Lessard said it is an allowed use. Rapid melting compounds like sand still has iron and copper and other contaminants in it. He thinks the Water Company should work with Conservation.

Mr. Lessard asked about bonds and insurance. Mr. Emerick would delete 30 and 31.

Mr. Olson said it is a difficult situation. He thinks we've heard from someone who knows what they are talking about. It is a 10-State standard. The Conservation Commission kept it as tight as possible. Mark Olson discussed fertilizer. He said Hunter Drive people fertilize their lawns.

Mr. Olson discussed interpretation of wetlands. Wetlands get crossed to access land all the time. Mr. Talkington discussed the 10-State standard. Mr. Talkington said it is where there are wetlands or not. He said wells are intensely monitored.

Mr. Coronati asked about letters being sent to neighbors regarding wells. That is Best Management Practices. It goes mostly to businesses.

Ms. Carnaby asked about monitoring and a huge contaminant found or two years later – massive amounts of horrible fertilizer. What do we do/Aquarion do? Aquarion would take well #7 off line. Stop using it. There are then inter-connections with other communities. Water gets treated right away. They would then work closely with the Town.

MOTION by Mr. Emerick to grant the subdivision along with the conditions in the Planner's letter dated November 19, 2014 which references the Conservation Commission recommendations as well, and this Motion to exclude #30 and #31 of Planner's Memorandum.

SECOND by Mr. Lessard.

Indemnification Agreement is to indemnify Town and Aquarion. Mr. Emerick thinks this is a legal discussion rather than a Planning Board site plan agreement. Mr. Coronati is not familiar with this type of Agreement with this type of project. Private land owners own the radius. There is still legal remedy with or without this. The Town Attorney brought this condition on.

Mr. Lessard **WITHDREW** his **SECOND** on the motion.

Mr. McMahon said he wants to hear the Board's feeling on #30 and #31.

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Mr. McMahon wants to delete #30 and #31 from Planner's Memorandum.

MOTION by Mr. Emerick to approve the subdivision along with the Planner's Memorandum of November 19th, excluding Paragraphs 30 and 31. Certificate of Monumentation will be provided before the release of bond.

SECOND by Mr. McMahon.

Mr. Dockham said he will comply with everything, excluding 30 and 31.

VOTE: 5 - 2 (Carnaby and McNamara) – (0) MOTION PASSED.

IV. NEW PUBLIC HEARINGS

V. CONSIDERATION OF MINUTES OF November 5, 2014

MOTION by Mr. Emerick to approve the November 5th Minutes.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0 MOTION PASSED.

VI. CORRESPONDENCE

Mr. Bachand gave an update on some things he is attending to. He recently attended a RPC (Rockingham Planning Commission) meeting (last Wednesday). It was at Unitil. He has been attending the Hampton Beach Area Commission meetings. He is working on Zoning Amendments now. Mr. Bachand will be re-establishing committees that have been set aside these past 7 months due to the fact the Town did not have a Planner.

Mr. Griffin asked about action to extend the 400 foot zone around the wells. Is anyone looking to have this added at this time to Amendments was asked. He discussed the 10-State standard. Mr. Griffin heard about expanding it.

Mr. Emerick discussed the increase in electric bills and gas bills at Unitil which he attending with along with the Regional Planners for Northern New England. Things are going up because coal and oil are going off line, it's 10 percent of generation in the grid. It's being replaced with gas. Electric and gas is going up about 40 percent for at least the next three years.

VII. OTHER BUSINESS

Mr. Bachand said there are 7 amendments for this discussion. Including the flood amendments, we are in the neighborhood of 11 or 12 proposed amendments. First public hearing will be Wednesday, December 17th.

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- Proposed Warrant Article – Use Regulations; Article III and Article V, Table I and Table II. Add language indicating that the use regulations for the BS District also apply to the BS1 District

Last year's amendment established dimensional requirements. Use regulations and sign regulations were not addressed. It includes a statement that the use regulations for the BS zone also apply to the BS1 zone. It is addressed under Signs as well. All drafts of Amendments are available in the Planning Office. This is a housekeeping Amendment. Mr. Olson asked about brightness of electronic signs.

- Proposed Warrant Article – Dimensional Requirements; Article IV, Table II Footnotes. Delete footnote #32 regarding shadows.

Mr. Bachand stated that this was suggested by our Town Attorney regarding casting shadows. He advised its removal. Mr. Bachand's understanding was that it is not enforceable. Mr. Bachand said when the BS1 Zone was established, this was incorporated. He asked how one would know in advance if shadows will be cast on the beach. Mr. Lessard said high buildings being set right at sidewalk cause problems. They need to wedge the buildings back. Mr. Bachand said maybe something could be added like a study by a licensed architect could be added to make it be reinforced.

The Board decided to leave this article in the Zoning Ordinance as it currently reads – no change or deletion made.

- Proposed Warrant Article – Town Center District; Section 2.8G, Table 1. Add codification and improve consistency with table in Article IV - Dimensional Requirements.

Mr. Bachand discussed this began as a housekeeping change. A variance could be given for the entire table as it exists. The proposed amendment expanded to provide consistency with Dimensional Table to Article IV. Other items were added by the Town Attorney.

The Board is happy with that change. Ms. Olivier noted this change was requested by Bill O'Brien of the ZBA.

- Proposed Warrant Article – Town Center District; Section 2.8H. Delete Section H2 under Parking.

Mr. Bachand noted that it was suggested by the Town Attorney to delete Item #2. **The Board is not in favor of that change. The Scrivener's Error will be corrected, but the paragraph will stay the same.**

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- Proposed Warrant Article – Town Center District; Section 2.8C and 2.8F. Clarification of use requirements in the Town Center - Historic, Town Center-South and Town Center-North Districts.

Mr. Bachand discussed consistency with use changes. Notes have been changed and these changes are available in the Planning Office. The first note is the existing note that uses not enumerated above are prohibited in this district. The second note is a consistency reference back to the use regulations in Article III regarding approval requirements for permitted uses. The third note is a new item stating that all changes in building occupancy involving any use of a non-residential nature in this district requires use change approval.

The Planning Board agreed this can go to public hearing from here.

- Proposed Warrant Article – Use Regulations; Article III. Add new Sections 3.47 and 3.47.1 regarding firearms and ammunition sales or distribution.

Mr. Bachand discussed the Zones firearms and ammunition could be permitted under this proposal. Mr. Bachand limited the area to those B and G Zones with frontage along Route 1, and the I Zone. It is intended to not allow the use in the Town Center North, South and Historic Districts. Mr. Emerick thinks “distribution” needs to come out. There is a business owner who is a distributor in Hampton now. Take out “or distribution”.

Adding this new section 3.47, per Mr. Bachand, would no longer classify the use broadly under retail sales. Our Regs will call it a different animal - separate from retail sales. Mr. Bachand said under 3.47, the use will be permitted anywhere in Industrial Zone, but in the B Zone and G Zones it will be permitted where there is frontage along Lafayette Road. The 2,000 foot restriction was discussed. **Mr. Bachand will take a look at that.** People in violation will be grandfathered. Maybe we should get rid of 2,000 feet. Mr. Bachand will take a look at it before it comes back to the Board for public hearing.

- Proposed Warrant Article – Professional Office / Residential District; Section 2.7F. Clarify language and establish provisions for signs in the District.

This was suggested by the Building Inspector and the Town Attorney. Mr. Bachand needs to review additional changes he received from the Town Attorney at the end of the day. Table 1 was added. It notes signs allowed in the District. The maximum sizes were established. Notes were added at the bottom. Electronic signs would not be allowed in the POR per Mr. Bachand. Ms. Carnaby asked about an operable vehicle provision. Ms. Carnaby asked how to prove if a vehicle is being used for business. She noted some vehicles that permanently sit on the side of a road. It has to be registered and inspected. Mr. Bachand said there is no change to how it was previously written. Ms. Carnaby said it’s obvious in certain strip malls that people have vehicles that they drive and then promote their business. Mr. Lessard people may leave their vehicles there, but conduct business throughout the day and then go home. That should be okay. Mr.

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McNamara said it has to be registered. Mr. Bachand discussed operable vehicles. If it is not operable, it is prohibited. Mr. Bachand did not add anything new, just made two sentences out of one to make it read more clearly. Mr. Bachand said we can't regulate vehicles being driven on the road. We can if it's a stationary vehicle, intending to be a sign - that is not allowed in the POR Zone. Ms. Olivier said maybe it should say "operable". Mr. Bachand would not say that.

Mr. Bachand thinks this is a pretty solid amendment. Mr. Bachand discussed signs and Note 2 that the Planning Board can require signs to be less than noted in the table. He read it aloud. The Board could have discretion on the sign size. Mr. Olson hates to see signs that are obviously not fitting in to where they belong. Mr. Emerick hates to give the Board discretion.

Mr. Bachand said there is one more from the Town Attorney. It was just strike thru's. The Zoning Map makes reference to description (legal) in the Zoning Ordinance. Attorney Gearreald wants it to reference tax maps in Assessor's Office. Section 2.1.3 – Zoning Map and final determination. It's made on written description on said boundaries of Ordinance. Instead of referencing boundary description, they will reference tax maps. Mr. Lessard asked if that's in the RSA's. Mr. Olson doesn't understand it. Zoning maps will be based on tax assessor's maps. If they are used for zoning purposes, it includes a lot. It may not be the right dimensions for zoning purposes. Mr. Emerick thinks this is fine. Mr. Lessard wants this checked with RSA's.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. Lessard.

VOTE: 6 – 0 – 0 (Mr. Griffin left)

MOTION PASSED.

MEETING ADJOURNED: 10:27 p.m.

Respectfully submitted,

Laurie Olivier, Office Manager/Planning

****PLEASE NOTE****

ITEMS NOT CALLED OR IN PROGRESS BY 10:00 P.M.

MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING