

HAMPTON PLANNING BOARD

DRAFT MINUTES

January 2, 2014 – 10:00 a.m.

PRESENT: Mark Olson, Chairman
Brendan McNamara, Vice Chair
Tracy Emerick
Fran McMahan, Clerk
Dick Nichols, Alternate Selectman Member
Keith Lessard
Mark Loopley
Jamie Steffen, Town Planner

Mark Olson called the meeting for the work session to discuss ordinances for ballot this year.

Attorney Gearreald said posting for the public, etc. must be done by tomorrow, Friday, January 3rd.

IMPERVIOUS SURFACE

Jay Diener, Conservation Commission Chair, discussed the impervious surface warrant article. Mr. Diener stated that Mr. Emerick asked about substantial improvement, and will it be on assessed value of property or structures. Mr. Diener subsequently spoke with Mr. Nichols, Attorney Gearreald and Mr. Schultz and looked at the Ordinances. In the existing one, it refers to structures, not property. Mr. Diener was informed it is more applicable if the Conservation Commission applies this to structures rather than to properties. It includes a definition as to the improvement referring to structures on properties versus assessed value of properties. He gave everyone the new Article.

It is the same as it was before. The Planning Board is happy with that.

Mr. Nichols said if it's going by the Assessor's database for valuations, it's not as simple as land values and property values. There are other fields – outbuildings, swimming pools, etc. He said the value exclusive of the land may be clearer. Mr. Emerick said he does not think that is needed. If it's just the building - a property could have multiple buildings. If it's the intent that it's 50 percent of the building, he thinks we may want to make it clear.

Mr. Diener said they are looking for a benchmark to define what is a significant improvement to the property. Projects may not involve primary structures. It may not involve structure at all. They are looking at the value of the structure against value of the project to establish a threshold.

Mr. Nichols thought it would be a benefit to clarify it more.

Mr. McMahan asked about multiple structures at the beach which can be occupied. It was asked how that gets treated? Mr. Diener said that's why they are going with structures. Mr. Nichols said it should state “exclusive of the land”. The valuation of “stuff” other than the buildings is fairly small – this would just be for clarification.

Mr. Schultz said this is creating a triggering mechanism to get people more into conformity. He came up with substantial improvement—if someone is doing improvement to a

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building. If it had three cottages – he would look at that cottage. It works for the Building Dept. If he is an owner who exceeds 60 percent, a pool, pool house, etc. - what triggers the applicant to come into conformity was asked.

There are properties that have a high land value and low structure value and vice versa.

Mr. Lessard said in the RA zone they are pushing 60 percent. Some areas will be pushing 60 percent already in Town. Mr. Schultz said it's being defined what is a major re-development and what is a minor re-development.

Mr. Diener said people cannot increase the amount of impervious surface. If an owner is at 80 percent one is not required to come down to 60 percent, but he can't increase the impervious surface. They are grandfathered—existing, non-conforming, even if they are below 85 percent current requirement. Once this goes into effect anyone over 60 but under 85 will be existing, non-conforming. If you're at 80 percent you can stay at whatever percent you are at. Otherwise, the owner applies for a variance.

Mr. Olson said this is happening everywhere. We need to deal with flooding. It sounds restricting, but the reality is people are doing things and creating problems which are why the Conservation Commission is doing this. The Town needs to recognize significant flooding problems is a big problem.

We are adding a lot more to Zoning. In RA zones where people are tight, we are reducing by about 25 percent.

Mr. Schultz discussed finding a triggering point that defines a major redevelopment or minor re-development. Mr. Emerick said three buildings on one lot, working on one at a level at 80 percent, does it trigger the whole lot? He agrees it should be structures. Doing one building, then another building and then a third building---a point to think about.

Mr. Nichols used an example of \$300,000 improvements on three houses. Work on one building – build a new one. Is the trigger the 50 percent of that building or 50 percent of all of the improvements. Impervious surface of the whole property is more sound--the value of 50 percent of the improvements. The other is a total value of improvements less the land value. Mr. McMahon said you can do building up to \$150,000.

Mr. Lessard asked if we should take it as the address. Mr. McNamara said many people do things after the fact. People may do work in increments. Mr. Diener said it's not going to permit them to increase the impervious surface.

Mr. Schultz said you're never going to be able to cover every scenario. There will be some loopholes or flaws and maybe next year the Planning Board will need to tweak it. We're pressed for time now. Assessed value of the property exclusive of the land value was discussed again. Mr. Gearreald asked if those could be the words. Mr. Nichols asked what if it is a condominium—without clearly defined land value. There is still a land value to the condominium. The value of the land is rolled into the condominium. Mr. Nichols suggested that these thoughts should be discussed with Ed Tinker and he may be able to help with that. A condominium would most likely be a site plan adjustment.

Mr. Diener said you will see property and structures. A property that is two units, a common wall, etc. was discussed. Mr. Loopley said when you talk about a condo, where would there be a major reconstruction or expansion on the condo. Some properties have no land value.

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Mr. Schultz discussed reducing what is sealed and that the Town wants people to reduce their sealed area.

Mr. Ed Tinker, Town Assessor, appeared. Mr. Olson asked him about the language – putting a value on a structure or improvements on property less the land value. Where there are multiple units, on tax card, there's no land value associated with each unit. There is not a separate land value. It's based on its use per Mr. Tinker. Value is based on what exists on the property. A percentage of the common land is owned by each unit. It was asked if Mr. Tinker has the ability to look at data base to see what the land value is on each property. Mr. Tinker said each piece would be greater than if it were one lot combined. What is the value of the improvements versus value of the land was asked and Mr. Tinker can do that.

Mr. Lessard asked about resale values, but they use market value. Mr. Tinker said land purchase has no bearing whether it is two units or not. Mr. Tinker said a condo has a site location factor and amenity location factor based on location, number of units, etc.

Mr. Loopley said he thinks we are trying to micro-manage. He doesn't see people going in and remodeling.

Mr. Tinker can find out value of the unit itself.

Mr. Emerick asked about fire damage greater than 50 percent of the value. Would he have to conform to this? Mr. Diener said he'd have the option of conforming to the new standard or getting a variance. One has to meet dimensional requirements. If a property is originally non-conforming, they have to conform.

Mr. Olson said this may need re-visiting next year. They won't all be resolved today. Mr. Nichols does like the definition with the value of improvements exclusive of the value of the land. We could add “as determined by the assessor”. That could be added. Attorney Gearreald has language that he is happy with. Mr. Olson asked if this is a substantial change. It was asked if this needs a second public hearing. It was asked if this is considered an administrative or substantial change. To Mr. Diener it is administrative. It will be heard on the 15th.

Definition of improvement was a major change.

MOTION by Mr. Lessard to move the amendment to the public hearing on January 15th.

SECOND by Mark Loopley.

VOTE: 7 – 0 – 0

MOTION PASSED.

MULTI-FAMILY DWELLINGS

The Multi-Family Dwellings amendment was discussed by Mr. Schultz. His changes were in red. It's not going to reduce the amount of variances. If you maintain 8.2.6 about buffers, there's no way in any of the BS zone or multi-family zones that it can be met. People would consistently be going for variances for the buffer. The buffer has to be 20 feet. Eliminating 8.2.3, but keeping the requirement in the BS zone and beach zone was discussed. There would be no way to do this. You are back to the ZBA. Putting in a requirement for 400 square feet in recreation area per dwelling unit was discussed. They would be exempted for that per Mr. Steffen. Those have all been taken out per Mr. Emerick. Striking the Village District

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wording was discussed by Mr. Steffen. We were trying to allow at the main beach the exception of 100' per unit. That exception would not stay. We are exempting properties within the BS and BS1 zones which include the Village District area. It's a political boundary. Mr. Steffen thought the Board discussed this last year. In an RB Zone, one would have to provide 400 square feet. Or any other zone that allows for multi-family. Mr. Schultz said he doesn't want to strike it.

Mr. Loopeley asked when BS1 goes into effect, does that get applied. It does get applied per Mr. Steffen. Mr. Schultz suggested striking 8.2.6. 8.2.6 does not apply per Mr. Emerick. The Board wanted 8.2.5 and 8.2.6 because of driveways and parking areas. 8.2.6 should not be a problem to strike. Mr. Schultz said to take it out.

Mr. Schultz asked if added language "shall conform" - Dimensional Requirements Article. It should still apply. Mr. Schultz wants to know if it should be stated in there. It's a reminder that there are still some guidelines to apply. He wants people to know and think about Article 4 still being in effect. Mr. Schultz said this shall not apply within BS Zone or the Business District, but shall be required to conform to Article 4 – Dimensional Requirements and footnotes.

Mr. McNamara asked how this would be included to be easy for residents to understand. Article 4 covers the BS Zone.

MOTION by Mr. Lessard to move this amendment to the public hearing on January 15th.

SECOND by Mr. Emerick.

MOTION: 7 – 0 – 0

MOTION PASSED.

TOWN CENTER DISTRICT

Attorney Gearreald noted that Ms. Olivier and Mr. Steffen made an effort to incorporate changes. He sent Mr. Steffen's version with comments on top. They are highlighted in yellow. Red notations were what Atty. Gearreald sent the Board yesterday with his changes.

With all of the questions still reflected in comments, he asked if we are ready to go forward on this.

Mr. McNamara feels they are ready to go forward. He doesn't want to put this off for another year.

Mr. Jack Mettee said he scanned the changes and they are fine; they are cleaning up a few things, but the context is good. Tom McGuirk from the Zoning Board of Adjustment is on the advisory committee; Michael Pierce from the Board of Selectmen and a representative from Experience Hampton. Mr. Mettee thinks it's a good step forward on this project.

Mr. Olson thinks it's an excellent result of stakeholders, etc. He thinks it may need to be whittled down more. He echoes what Mr. Mettee and Mr. McNamara stated. If this may put Town in legal problem, he wants to know. Language needs adjusting, but he feels it's what people are looking for. He knows it's not perfect, but he thinks we should need to make a judgment on it.

Mr. Nichols asked about cleaning up issues – when does it have to be done by. Today it was stated.

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Mr. Olson discussed “Purpose”. Atty. Gearreald said he felt it was geared more toward the Historic area. Mr. Mettee said many business members want their businesses to look like as much as a village as possible. The intention is to make the area as uniform as possible given current conditions as they exist. They will look more uniform in the future. Mr. Mettee thinks it's sufficient articulation for all three districts. Mr. Olson discussed the historic-ness and extremes at both ends of the Town. Mr. Olson said the language lays the foundation down for some conformity with how we want the Town to look. Buildings were allowed to run amuck. This new idea is something the Town wants to see happen as projects occur. Mr. Olson believes people in Town do not want properties to be built out of control, etc.

Mr. Emerick asked about three different sets of revisions. He asked who is responsible for which. Yellow is what Jamie did based on comment at the last meeting and what Laurie had done. Red is what Mr. Gearreald added.

Based on Mr. Mettee's thoughts – it makes sense to Atty. Gearreald.

Mr. Nichols asked if this may be showing up on the ballot – will there be more general language for the ballot. It will be on line as well. Including “Options” back in was discussed. Amenities and multiple “options”....

Applicability was discussed. We are repealing what is current and it was agreed. It was asked if the area has to be three distinct (sub) districts. Mr. Mettee said he thinks the changes are fair enough.

We don't need the detailed description of the areas, but we need a specific map.

The zoning map will be revised per Mr. Steffen if this gets adopted. We don't need metes and bounds. 2.1 Zoning Map—Mr. Steffen asked if it has to be added to that area and it was stated “yes”.

Mr. Mettee discussed the zoning map showing the three separate areas and the separate zoning map. Mr. Welch said he wants it on the Master Zoning Map. He thinks the hand out could be a subset of the document. The Zoning Map will reflect the new districts. He wants it clear if there are two maps. One is for reference and one is added to the Zoning Map. The Zoning Map drives the bus, the smaller map would be for clarification.

Items 1 through 28 were discussed.

It should say “Theatres” under 15.

Mr. Olson asked about #8 and #1—he asked if that is the spirit of what is trying to be accomplished. They should be allowed in the North and the South, not in the historic.

It was asked if Historic District should go before, and it was stated “yes”. “C” is “D” and “D” is “C”.

Mr. Welch thinks #8 should be struck. It was agreed to strike #8.

Mr. Olson discussed the historic district. Mr. Olson asked if we should have a historic district commission. Mr. Olson wants to forget about Atty. Gearreald's comment with the RSA. Mr. Welch said it looks like we want a historic district. He thinks we'll get there, but if you want to keep it, you need a historic district commission. Maybe a commission should be created in perpetuity. Mr. Welch noted with a historic district, many rules can apply.

The Planning Board decided to postpone the Historic District issue.

We do not need “E”.

“E” becomes “D”.

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Mr. Mettee discussed ZBA attendance. He advised there are ways the Planning Board can deal with issues. Maybe we could bring Conditional Use purview issues to the Planning Board -- Conditional Use Permit process. Until we get there, he suggests we build that into the district. There is not a special section "Conditional Use"-- it would be a permit given at the same time as site plan permit, etc. The site plan permit would go through conditions -- then there would be a conditional use permit. Each would be voted on. It's a simpler process. The Planning Board is trying to mirror the Marelli property's use -- with units upstairs. The Town Center would not have residential on the first floor.

Atty. Gearreald discussed #5 of "D". Architecture. There is not much in there that talks about architecture -- not much for standards. He thinks it should be amended to include those and Mr. Steffen stated "yes". Mr. Olson asked if this is fair for voters to vote on something they do not know about. Mr. Mettee said embodying a set of standards should be in the subdivision and site plan review regulations. That could be on display "as proposed". We have not agreed on that as of now. Mr. Olson asked if having another tool to reference should be allowed. It was asked if, in "Subsection A" of "Purpose". Mr. Welch asked if we should have a historic commission. Mr. Olson said maybe it should be changed to "Design Standards". Mr. Welch said people will not understand what the Planning Board wants to do. Having certain standards was discussed. He asked if people will understand this. Mr. Steffen said it was based on the input the Town received through the planning process and at the charrette (downtown). This is based on input from the Town. Mr. Welch said there are 241 properties in these districts. There are a lot of owners/property owners, etc. and he asked if this is all understood. Mr. Welch stated he does not believe so.

Mr. Nichols said he knew nothing about this on Sunday. He got about 4 or 5 hours into this, but he was totally confused at the onset and he feels most people will be confused. Most people will not vote a particular way because he feels they won't understand it.

Atty. Gearreald said A and B will remain the same -- as A & B. C is Permitted Uses in Historic District. Conditional Use for "Historic" will be "E". Permitted Uses in North and South District will be "F".

Dimensional Standards is G. Regulations are available to someone who wants to further familiarize themselves with standards. They are created, not adopted. We can adopt them before the Town meeting. We have until March. We need to get this done by January 15th. February 1st is the deliberative session.

Mr. Olson said we can leave this loose. But it was noted we need some guidelines. Mr. Mettee said that is the idea. Mr. Olson said not to make this too restrictive. Mr. Mettee said to strike 5 or amend 5 to leave subsection A and be consistent with the historic quality of the Town Center. And, in the future, do a design manual or some sort of subdivision or site plan review regulations and then adopt those and change this next year to say "in compliance with the design manual". Mr. Olson said he doesn't see why we need to go through all this effort. We can add another layer to it if/when we get a blessing. Mr. Olson wrote 'to be consistent with the quality for the downtown district'. It's loose and it should be fine. Mr. Schultz said if it's not in there, you review every project individually until you have created a design standard and then amend the ordinance stating we want to incorporate design standards. Mr. Olson said there will be

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edits later. There is a purchaser coming in on 421 Lafayette Road. “Consistent with the 'area' was discussed.

Architect and landscape design . We will have them -design standards- in the future. We are leaving #5 as is.

Table 1 was discussed.

Mr. Schultz noted height limits (noted by Atty. Gearreald). Are there any 5 story buildings was asked. Atty. Gearreald created a chart of all properties and stories. Mr. Schultz brought this up since it's the business corridor. Mr. Schultz noted we are incorporating some industrial zones as well. Regressing in height restrictions, number of stories, he thinks it deters re-development because the value to the return isn't there. Green's big argument was being a certain height. We don't have a lot in the Industrial Zone. Can you have residential in Industrial? It's usually no, but now it will be yes. About a dozen properties become non-conforming. Mr. Schultz said the project that may start at the empty lot—several floors of residential--12 units above--may be proposed. This would restrict that. More variances would be needed again. Mr. Olson noted that that is the type of project we are trying to manage.

Mr. Schultz said there will not be a whole lot of property being sold downtown. We are trying to manage the scene. This makes it more restrictive and there will be a need for variances.

We will leave it at 35 feet– keep it as is.

Parking: “To the greatest extent possible”. Mr. Lessard doesn't think our Town parking lot should be for people to park there for 8 hours. We restrict parking during snowstorms. Maybe we need to create the need for a parking garage. Mr. Olson thinks parking down there is under-utilized. Mr. Mettee said in zoning not everything is legal. Strike “to the greatest extent possible”.

Under 2 – it should be 2.8.D now – not 2.8.G.

#3 is about spaces. We are not getting creative around parking right now. Mr. McNamara thinks we should strike #3 altogether. Mr. Schultz agrees with that. Take out #3.

Under Building Standards. - Add Subdivision to Site Plan Review Regulations also.

We could say Historic “Center” rather than Historic “District”. Tracy said we could get rid of “Building Standards”. Mr. Mettee said we knew as the committee we wouldn't get to more specific standards so this was broad. Standards can be added later on with site plan and subdivision regs. It was asked how it was different from “A Purposes”....It was decided to take it out.

Signs: Mr. Schultz said Article V has to be followed. The Business District will be added to that area. He suggested to add language that 'it should be in compliance with character of design standards’. They spirit of the Town of Design Standards. The Board agreed with that. He thinks we should look at that Article. He will call it “Building Design Standards” per Atty. Gearreald. Comply with the Building design standards in the Town of Hampton subdivision and site plan regulations. Strike the word “Building” in both places.

Mr. Welch discussed signs being re-done to conform with standards.

MOTION by Mr. Emerick to move this amendment to public hearing on January 15th.

SECOND by Mr. Lessard.

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Mr. Nichols wants to know the language that will be on the ballot. Mr. Steffen has to prepare that. Do you approve of Amendment X as proposed by the Planning Board relating to the Town Center district. This will be posted and it will be on-line.

This will be in the Hampton Union.

The Map will be added to this warrant as well. And, it will be on the website. Mr. Nichols said many people do not go before the ballot.

VOTE: 6 – 0 – 1 (Nichols)

MOTION PASSED.

MOTION to adjourn by Mr. Olson.

SECOND by Mr. Emerick.

12:30 p.m.

Respectfully submitted,

Laurie Olivier

****PLEASE NOTE****

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

MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING