

**HAMPTON PLANNING BOARD**

**MINUTES**

**January 5, 2022 – 7:00 p.m.**

**PRESENT:** Tracy Emerick, Chair  
Fran McMahon, Vice Chair  
Alex Loiseau, Clerk  
Brendan McNamara  
Ann Carnaby (Remote/Telephonically)  
Keith Lessard  
James Waddell, Selectman Member  
Jason Bachand, Town Planner (Remote/Telephonically)  
Laurie Olivier, Office Manager/Planning

**ABSENT:**

**I. CALL TO ORDER**

Mr. Emerick commenced the meeting by leading the Pledge of Allegiance and introducing the Planning Board members. Planning Board member, Ann Carnaby, was at home; no one was present with her. Town Planner, Jason Bachand, was also at home; no one was present with him. All other Board members were present in the Selectmen’s Meeting Room. It was noted that all votes must be taken by roll call.

Mr. Emerick noted the applicant for 61 High Street wishes to be continued to February 2, 2022.

**MOVED** by Mr. McMahon.

**SECOND** by Mr. Waddell.

**ROLL CALL VOTE: 7 – 0 – 0**

**MOTION PASSED.**

Mr. Emerick noted the applicants for 465, 467 & 469 Ocean Boulevard wish (both applications) to be continued to April 6, 2022.

**MOVED** by Mr. McMahon.

**SECOND** by Mr. Waddell.

**ROLL CALL VOTE: 7 – 0 – 0**

**MOTION PASSED. (for both applications)**

**II. ATTENDING TO BE HEARD**

**III. NEW PUBLIC HEARINGS**

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#### PUBLIC HEARING FOR ZONING ORDINANCE AMENDMENTS

1. Proposed Article XIX-A, Interstate Corridor Overlay District:

1A. *Town Planner Edited Version:*

Amend the Zoning Ordinance to add new Article XIX-A, the “Interstate Corridor Overlay District”, which includes the following sections: 19-A.1 stating the purpose of facilitating development of real property exclusively accessed from Interstate 95. 19-A.2 citing the boundary as having frontage upon Interstate 95 south of its intersection with Towle Farm Road, lying within 1,000 feet of the centerline of said portion of Interstate 95, and having State of New Hampshire-owned and exclusive points of entrance and egress (notwithstanding secondary emergency access) to and from Interstate 95. 19-A.3 stating that the dimensional requirements for the Interstate Corridor Overlay District shall be the same as those provided for the underlying General (G) Zoning District. 19-A.4 citing permitted uses to include retail sales, restaurants, emergency response roadside vehicle repair, passenger vehicle filling stations, electric vehicle charging stations, visitor/welcome centers with restroom facilities, and outdoor recreation areas for picnicking and pet exercise. 19-A.5 requiring Site Plan Review, taking into account the demands on local governmentally-owned infrastructure. 19-A.6 requiring a vegetative and/or sound mitigating buffer shall be maintained on site between any building/site improvement that is undertaken in this zone and the boundary line of any adjacent residentially used lot. 19-A.7 prohibiting the overnight parking and/or idling of large commercial vehicles. Also, amend Article III – Use Regulations to add Note (8) cross referencing Section 19-A.4 for the Permitted Uses and Facilities in the Interstate Corridor Overlay District.

1B. *New Hampshire Liquor Commission Version Referred by Selectboard for Consideration:*

Amend the Zoning Ordinance to add new Article XIX-A, the “Interstate Corridor Overlay District”, which includes the following sections: 19-A.1 stating the purpose of facilitating development of real property exclusively accessed from Interstate 95. 19-A.2 citing the boundary as having frontage upon Interstate 95 south of its intersection with Towle Farm Road, lying within 1,000 feet of the centerline of said portion of Interstate 95, and having State of New Hampshire-owned and exclusive points of entrance and egress (notwithstanding secondary emergency access) to and from Interstate 95. 19-A.3 stating that the dimensional requirements for the Interstate Corridor Overlay District shall be the same as those provided for the underlying General (G) Zoning District. 19-A.4 citing permitted uses to include retail sales, restaurants, motels and hotels, emergency response roadside vehicle repair, passenger vehicle filling stations, electric vehicle charging stations, establishments consistent with and provided for by NHRSA Chapter 287-D, higher education recruitment centers, visitor/welcome centers with restroom facilities, and outdoor recreation areas for picnicking and pet exercise. 19-A.5 requiring Site Plan Review. 19-A.6 requiring a 50-foot wide vegetative buffer to be maintained on site between any building or improvement that is undertaken in this zone and the property line of any abutting residentially improved lot. Also, amend Article III – Use Regulations to add Note (8) cross referencing Section 19-A.4 for the Permitted Uses and Facilities in the Interstate Corridor Overlay District.

Attorney Ari Pollack appeared, along with Andy Davis from the NH Liquor Commission. Mr. Pollack gave some background information. This is similar to the liquor store at the Hooksett location. RFPs are taking place for private development proposals for both sides of the Interstate.

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The Commission wants to sell land to a selected development partner. Volume and traffic allowed them to receive a lot of quality interest. This is Zoned General. Some proposals/uses are allowed uses in the General zone; some are not (uses)—motels and hotels, vehicle repair centers, charitable gaming. They want contemplated uses “allowed” under the Zoning Ordinance. They want an overlay district that recognizes a full universe of uses. This would go through the planning process after all of this, but as an allowed use.

This has frontage on the Interstate. It avoids the industrial district. It would have exclusive points of access off and on from the Interstate.

Attorney Pollack said if the proposal went forward in full form, the uses would still be subject to come before the Planning Board—dimensional issues; setbacks and height, impervious coverage issues, would need to be considered and complied with.

Two versions were discussed. Staff came up with an alternative version. The differences are (vs. Commission Proposal) – Three uses are included in the list of what is allowed that are not included in the list provided by staff. Those are motels/hotels; charitable gaming and university recruitment center. Another difference is overnight commercial vehicles are allowed in the Commission version. Staff version it is not allowed and in particular, the idling of commercial vehicles is not allowed as well.

Language regarding the demands on municipal infrastructure were discussed by Attorney Pollack. It is left to the discretion of the Planning Board; the State wants it to be part of the normal planning review. Development partners would not be able to understand the language. The width of a residential buffer – their proposal is a straight 50’ for residential buffer was discussed. Staff is in the discretion of the Board. Sellers hate uncertainty per Attorney Pollack.

### PUBLIC

Regina Barnes appeared. She lives at 95 Presidential Circle. She thinks the project is great. She thinks we should move forward with this. She is concerned that we have a history in Hampton of taking over maintenance for the State and its property. If the State keeps the property, then she believes DOT would be out there doing maintenance. If sold to private properties, it could be Hampton’s to handle. This would affect, Police, Fire and Public Works. We need to be aware of this. We don’t have enough manpower now (in Departments). Ms. Barnes brought up infrastructure now (sewer and water). Adding infrastructure was discussed. When businesses develop a part of the Town, they add some infrastructure. Maybe we could make that occur. It won’t be fair if this this all falls on taxpayers. There already is a big hotel on Exeter Road. Maybe it will bring more people here. Infrastructure and manpower are her concerns and the State walking away on some issues in Town is a concern.

Nancy Stiles, 1 Hayden Circle appeared. She asked about Barbara Kravitz comments. She wanted to make sure the Board had them. She noted the State has sovereign immunity. She

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thinks this is a great offer to negotiate what we need. If we work with them, it works out better than if we do not. They will work with us to make this happen. Someone else may buy back the property; more income will come into Town. The State will bring the site plans to us; we then can deal with issues at that time. There is a lot of interest in this project.

Mr. Charlie Preston appeared. He is interested in the Conservation Commission's opinion of this. Are there comparisons was asked (between Hampton and Hooksett). He read Hooksett and Hampton's statistics. Hooksett population 14,428; Hampton 15,564 (2018). Hooksett has a 3 person elected sewer commission. Hooksett sewer - \$60 quarter plus \$6.45 per thousand gallons. Hampton=0. Mr. Pollack said we have a sewer commission—nothing like Hooksett. Police and Fire. The Town Manager should check with Hooksett. Projected Tax revenue--\$100,000 to \$1 Million. How much does Hooksett get was asked. Sewer discharge was asked about. How much does Hooksett receive. Mr. Waddell noted problems at the last meeting; the overlay district amendment coming in late. We could be opening pandora's box. He thinks something in common with Hooksett could be reasonable. Hotels and gaming venues not noted, it should have to go to the voters in his opinion. We have Ocean Gaming in Hampton. Route 107 in Seabrook (neighbors), they have The Brook, gaming location. This should go through the process the Planning Board requires. Bottom line-what is the capacity of the wastewater treatment plant? The West side is without sewer service. We have new developments.

Mr. Preston said what if our treatment plant has a major failure by man, machine, or mother nature. Most businesses and residences will be uninhabitable and unusable. Get in touch with Hooksett to see what is happening there.

Gerald Znoj appeared, 16 Presidential Circle. He prefers the Town Planner's edited version of the amendment. We don't need hotels and games of chance and parking overnight. Heavy lifting will come in when people come in with their proposals. How much more sludge weight will we take in was asked; trash and recycling. We do a couple hundred tons a month now; summer is 300. What does this add to it? How about plowing? We need to get into this from a DPW standpoint. We need to talk to Hooksett. We need to talk to Fire—Ambulances, Police. Ambulance runs are being made in Hooksett. Access roads may be needed if we need to get in there quickly. He feels 95 gets more traffic than 93. How many police calls will there be. He likes the Town Planner's version. We need to know more about the impacts.

Amy Hansen, 98 Locke Road appeared. She agrees with the concerns about Fire and Police. We need to work with the State and come up with a compromise. She likes the Town Planner's version. A rest area is where you pause. This sounds more like a destination. Hampton is the destination; not the Hampton rest area.

Regina Barnes said the Liquor Commission has been professional; maybe they didn't know our procedures. They could just do what they want. She wants the Town to work with them so it works well with Hampton.

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Katherine Harake, 5 Nathaniel Court appeared. She asked for an explanation – having a wide variety for bids for zoning, making it as open as possible –how does this increase bids resulting in a better final bid was asked? Attorney Pollack said we've attracted interest, they fall into different use categories. Some are recognized by our Ordinance; some are not. They don't want the Ordinance to detract from receiving good bids. They want the package as attractive as possible. They don't want interested parties to turn away from proposals because a use is not possible.

Nancy Stiles said it's going to happen. She is asking the Board to work and negotiate with the State. If it does not have our support, we will still send police and fire out. Please negotiate where it works for the State, Town and traveling public.

Skip Webb, 28 Seabury appeared. He is the President of the James House Association. A project from the past was discussed. Current property has wetlands. He thinks there is a reason they did not go through the plan in Seabrook.

Mr. Webb said we could have more control over what goes there. Control can be better with negotiations with Highway Commission and Liquor Commission. Impact of utilities was discussed. Special water treatment for brewery on Towle Farm Road was needed. Similar things would have to be done here as well. Adjoining properties are on wells.

The 50-foot buffer was discussed. The State has removed a buffer. All trees on the highway side were cut down. Trees are cut down on the James House side. The James House is a historic place.

Mr. Webb discussed building a suitable buffer. Additional lighting coming into sites was discussed. Diminishing property values was discussed. The State does not provide proper care of the access road. A sound barrier should be as high as possible to block lights and sound.

Mr. Webb is concerned with expense on utilities; Aquarion and wastewater treatment plant and disposal and transfer of garbage. We should work closely with the State. Gas and fuel on the ground going into water supplies was discussed.

### BOARD

Mr. Emerick said the Town is going to vote on this. This is not the Planning Board making the decision. The Planning Board is negotiating on behalf of the Town. The citizens have the final say. Many comments tonight are for the developer. We are looking for a Zoning Ordinance Amendment. We are voting on a Zoning Article for an overlay district. Projects will come to us for site plan, with abutter notices, etc. If the State does this themselves, it goes out the window and we are not a player anymore. We should come to a conclusion reasonable for everybody.

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Mr. Waddell said he agrees with the residents. The main point is that we are negotiating. We have the State's proposal and the Planner's proposal. We zone by the best use of the land. We don't zone about how much revenue is going to be brought in. It is important to think about this. The State can do it by themselves, but that is a loss for themselves and a loss for the State. We would lose taxes. Let's make it a win-win. They get money when they sell it and we do zoning through a thoughtful process. Putting a zone in and then having to say 'we made a mistake' would not be good. Mr. Waddell stated that is why he is not happy it was brought in late. This is usually a well-thought-out process. A lot of time goes into this process. It is not "here's what we got and we want to go as far as possible". We don't want it as general as possible and fight it out later. That opens up problems. If we are going to pass zoning, it needs to be appropriate and well thought out.

Mr. McMahon said zoning is a restriction on the use of the land. He is hearing from the Liquor Commission that they want a wide-open opportunity to do anything and everything. Every zoning ordinance we pass we are restricting certain uses of the land. The Planner's proposal is giving a step forward for this March, and next March we can get a better feel from police, fire and public works. We put zoning articles forward every March. We can revise this later. We don't get a zoning proposal this late in the process and hear take it or leave it. We get a better sense of the impacts from the public and on the Town.

Mr. McNamara likes Mr. Bachand's version. It is a good faith effort to move forward saying let's do this; he mirrors Mr. McMahon's concerns—if not hotels and motels, we can amend it next year if that is what the Town wants. We should act on the side of caution out of the gate; let them do what they have to do, sell the land and then begin talking about everything we are bringing up. Start somewhere. Mr. McNamara would rather start with Mr. Bachand's Amendment. We came to a general idea that we want Mr. Bachand to move forward and print out his version. There is no animosity from the Board with the State. Of course we (the Board) will negotiate with them (State). We change them every year. He votes to put it forward to have the State continue, make plans, sell the land, but this goes with the Town Planner version.

Mr. Emerick said we can adopt a version tonight to go to ballot or we can amend, and/or shuffle the deck so to say. We can add or subtract from the version. Mr. Emerick wants to add the 50 feet—what are rules with the buffer. Beyond that, he is with the Town Planner. If it is not a successful RFP process, then they (State) can say they can't work with Hampton.

Mr. Lessard said Mr. Bachand has the buffer not defined because of the barrier for sound and vehicles. The RFPs have been submitted. It is an RFQ process per Attorney Pollack. Barriers interpretation was discussed. Mr. Emerick said we can edit the Planner's version and have another hearing on the 19<sup>th</sup> or vote on Planner's version.

**MOTION** by Mr. Lessard to move Mr. Bachand's version to ballot.

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Attorney Pollack said the Chair gave appropriate choices. You can select form “A” or B” and there is another meeting on January 19<sup>th</sup>. Ms. Carnaby asked about what the State thinks of the Planner’s thoughts on his version. Attorney Pollack said they want A.5 and A.6 to try to have a discernable planning standard that will apply to any applicant. They want all uses included to go forward. If there are uses they cannot tolerate, they will put it forward to development partners. They want to include as many uses as they see fit to include, they will be transparent with development partners.

Mr. Davis discussed Ms. Harake’s question. Why do they want so many uses? Simple answer, the State is not recommending or requiring or sponsoring any particular use. They are showing the Board what came to them. It came in by RFQ. Those are the developers who are speaking. The goal is to get a great project; the goal is to develop to the greatest extent possible so the taxable base can be as high as it can be. He wants all uses put to the voters. Then RFP’s can be put out a la carte. Then the State can put out the RFP for development.

Mr. McNamara said our ballot has about 40 ballot questions for voters to vote on. It would be too difficult for voters to decipher and decide on this and for machines to then count. It’s not a workable idea.

Mr. McMahan said we don’t ask developers to write our zoning ordinances. We went through a whole long discussion on food trucks in the BS Zone. It seemed simple, but it was controversial. Now, the State is just saying ‘throw it open’. That is not what zoning is about. Mr. Davis said the successful developer will have to obtain all permits. This is a once in a lifetime opportunity. The money is significant enough that it has to be worth the extra effort.

Mr. Waddell said we cannot do a warrant article where we cross things out. You present the warrant article that you hope/one hopes it is going to pass. If you think the Town won’t go for gambling and hotels, then that is a bad warrant article to present. We want to present the best warrant article we can per Mr. Waddell.

Mr. Emerick said this is what our Board is elected to do. Put together an article that is for the best interest of the Town.

Mr. Lessard discussed the 50-foot sound barrier/setback buffer zone. If we put 50’ and include any necessary sound or blinds needed; if trees, leaves fall down. Mr. McNamara said it is confusing to read. It leaves a broad opening for the Planner and Board to say ‘no’. We are referring to the Town Planner edited version. Attorney Pollack said Mr. Bachand did a nice job with the handout. It discusses the differences with the two proposals. He can come forward with a hybrid version for more discussion on the 19<sup>th</sup>. Proposed Section 19-A.6 needs to be re-worked. The buffer-they would rather it say 50’ wide vegetative and sound barrier. Let the State know the preferences. 19-A.6 needs to be reworked per Mr. McNamara. Mr. Bachand and the State could do that. It is confusing as written. Site plan review should stay (State’s proposal). Attorney Pollack discussed infrastructure. Off-site impacts and utility impacts and municipal

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impacts are part of any site review. The Planning Board does this all the time. Why does it need special language was asked.

Mr. Bachand said it is important to highlight the site plan review process. He does not think it is harmful to keep his language in. It is not counter to developers. Attorney Pollack asked why is that language necessary to achieve the same thing. You don't need language to achieve results was stated. Mr. Bachand said it is up to the Board if they feel it should be stricken. He thought it was important to note.

Attorney Pollack discussed three uses not part of the staff proposal and the overnight piece for parking. The recruitment center was asked about. Why is it not in the staff list was asked. Mr. Emerick does not see a problem with this. Mr. McNamara asked how big would this be. It's vague. Attorney Pollack and Mr. Bachand can continue to discuss this. Mr. Emerick said we don't want to be negotiated. Hotels are not in the cards. Games of chance are not in the cards. Games of chance can come back before the Board in a year.

Mr. Waddell discussed overnight parking -- trucks that might stop and stay overnight; they may stop with diesel running and generators running. Mr. McNamara read it aloud. Mr. Lessard said this was modeled after Hooksett.

Attorney Pollack said the same is with gaming. As for higher education – he thinks it is a kiosk. Mr. McMahon said no one had a problem with a kiosk. We like the kiosk better. A university conference center is a different animal.

Ms. Carnaby said the kiosk implies an unmanned location for literature and pictures and video or two, where the conference center is another animal. The conference center is no longer a part of this proposal.

Mr. Davis discussed the higher education recruitment presence. Colleges could be on site— maybe a different school -- different month.

Mr. Bachand and Attorney Pollack can work on this. Mr. Bachand is on board with that. He needs to know what is going to be proposed; it has to be noticed by this Friday for a hearing on the 19<sup>th</sup>.

Mr. McNamara said strike motels and hotels under permitted uses. This is using Mr. Bachand's version. Establishment – Higher education recruitment center- more defined and in line with the kiosk. They need to work on it. 19-A.5—Site plan review. Talk about the language between the two of you (Mr. Bachand and Attorney Pollack). 19-A.6-Buffering. Talk about it more specifically. Sound mitigation should be a part of it. Section 19.A.7. The Board said to leave that in because people park and rest there. That should be left alone.

Attorney Pollack said they are on track and they can work from there.



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Mr. Davis discussed uses. Why are they opposed to motels and hotels was asked. Mr. Bachand, said he feels these are not characteristic of an immediate off-highway type of use in that area. Hooksett is a good model here. We want people to come into our downtown. He said it is not fitting to him. Mr. Pollack asked what is offensive about it. Is there some particular part of operating a motel that would be a concern to the Town. Mr. McNamara said we do embrace hotels/motels. We need to look at infrastructure. We just want a pause for a bit. Attorney Pollack asked about the typical planning process. A use that doesn't fit, how does the Town deal with that was asked. How is Hampton harmed was asked. The fit and characteristics of an area were asked about.

Attorney Pollack asked how the Town would be harmed. Mr. McNamara said we can address it at a later time. We can then maybe expand upon it. A lot of projects are going to have potential issues because of where they are located.

Ms. Carnaby said hotels and motels within our Town boundaries – the thought of putting them at a rest stop is that we encourage people to come and stay at our hotels and enjoy our restaurants in town. A person stopping at a hotel in a rest stop – they have to pay to get into town and have a meal at a restaurant in town.

Mr. Davis said Mr. Bachand's reason is because he does not see one in Hooksett. There was not enough real estate in Hooksett. They were maxed out. Two or three now have been built (hotels). There is a need for lodging now/hotels/motels.

Mr. McNamara said maybe down the road. He wants to start with caution on behalf of the citizens for the Town.

Mr. Bachand discussed the potential strain it also places on emergency response/local emergency services. It may require more thought. It maybe could be amended in a year. Leave it out from this version.

Mr. Davis said the more uses that we pair off and disqualify, diminishes the opportunity. The sale is here and now. The more uses diminish the attractiveness of this opportunity. It may become not an opportunity for them.

Mr. Loiseau said that Hampton should be the best destination for people to want to visit; not the rest area—he liked what the woman in the audience stated earlier. Mr. Loiseau asked if uses being disallowed, would these uses being disallowed, what percentage would be out of the picture was asked. Mr. Davis does not have an answer to that. They issued RFQs; they heard from qualified respondents. They shared with us the proposed, possible uses. Once the Board weighs in and Town meeting is final, then they will issue RFPs to parties. An RFQ proposed a hotel.

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Mr. Emerick asked what is wrong with a hotel. Mr. Waddell said he thinks public safety is a reason to not have hotels; we want people to go to the beach and to go downtown--not stay on the highway. One has to do with zoning and one has to do with Site Plan review. Mr. Emerick said a developer would have to make the case. We are not against hotels; we are against it in this zone—overlay Zone.

Mr. McMahon said we want the State to negotiate with Mr. Bachand and come back to the 19<sup>th</sup> of January meeting, and that includes keeping the hotels out.

Another hearing will be on the 19<sup>th</sup> of January.

**MOVED** by Mr. Lessard.

**SECOND** by Mr. McMahon.

No need to vote. It is agreed to come back on the 19<sup>th</sup>. Hopefully not many more substantial changes will be noted. On the 19<sup>th</sup>, nothing can be amended.

**2.** Amend Article II – Districts, Section 2.3 - Wetlands Conservation District. Modify Section 2.3.4 to rename it “Restricted Uses, Prohibited Uses, and Other Standards”, and to reorganize the language so that it will be easier to follow while remaining substantively consistent with current practice. Modify Section 2.3.5 - Wetlands Permits to make the existing language easier to follow, and to clarify that when a variance is granted by the Zoning Board of Adjustment to allow a prohibited use, the approval of a Wetlands Permit by the Planning Board may also be required. Add Section 2.3.7.I to clarify that any variance requests must be submitted to the Zoning Board of Adjustment in accordance with Section 1.4 of the Hampton Zoning Ordinance.

Mr. Bachand discussed the proposed Amendment. The purpose is to adjust the language for uses in the Wetlands Conservation District. It is consistent with our current practice. Mr. Bachand received substantive comments from the Conservation Commission. The language has been re-written for clarity. Clarification was included on impervious surfaces. Mitigation regarding decks and sheds was included. Increasing impervious surface, mitigation is addressed. The permitting process is clarified. This is pretty much housekeeping. He believes we are in great shape now with this amendment and it is easier to follow.

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**MOTION** by Mr. Lessard to move this to ballot.

**SECOND** by Ms. Carnaby.

**ROLL CALL VOTE: 7 – 0 – 0**

**MOTION PASSED.**

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#### **21-052 82 Island Path**

Map: 281 Lot: 26

Applicant: 82 Island Path Rd LLC-Norman Carpentier

Owner of Record: 82 Island Path Rd LLC

Wetlands Permit: Raze the 2 existing structures and construct a new house. New building to be placed on new foundation set on helical piles. New first floor elevation of proposed house will be above flood elevation.

Mr. Kevin Schultz appeared, Carpentier Construction. Mr. Schultz discussed the project.

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Mr. Lessard was at the Conservation Commission meeting. Mr. Schultz did not see the Conservation letter.

#### **PUBLIC**

Ms. Maria Murry, 80 Island Path, appeared. She stated she received a letter from the lawyer that the project will be closer than the 10' barrier to their home. She does not want it any closer. If it goes higher, her views will be gone.

Mr. Emerick said it is a non-conforming, existing structure. It has all been leveled per Ms. Murry. Mr. Schultz said there are no structures on site. He said the structures have been removed. Mr. Lessard asked if they were told it was okay to remove the building. Mr. Schultz said the setbacks will meet the zoning requirements. It is in the RCS zone; 10 from the front; 7 feet from one side and 12 feet from the other and this house more than conforms. Mr. Schultz said it gets further from the wetlands. The structures are down. The plan says "to be razed" per Mr. McNamara. Mr. Schultz said they did permitting to remove the buildings. Where is the existing conditions plan was asked. There is an existing conditions plan that shows two buildings. It's 8.42 and 9 on the other side per Mr. McMahan. Mr. Schultz said the existing conditions plan and the proposed building plan, the lot is a vacant lot. They are moving the structure further away from the marsh, but also cleaning it up and improving the permeable area by over 15 percent. They eliminated a large chunk of sealed surface. What is the height was asked. It cannot exceed 35'; the only way it can is because of freeboarding. This will be the same as others that have been done at the beach. This will meet flood elevation. Water has to pass underneath it. It will meet FEMA; it's meeting 1' freeboard (exceeding) and it could push the home higher than 35', but cannot go more than 3 additional feet. Everything complies with building and the Zoning Ordinance.

Ms. Murray asked about the project going up and taking away views. Mr. Emerick said the Ordinance allows for 35' plus freeboard exceptions – it can go up 38'. Why did they get 10' from the Attorney was asked. Mr. Schultz said abutters get notified from the State's wetland

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permit if any activity within their buffers or the property line in their jurisdiction – abutter notified. She refused to sign it. It is for the DES wetland permit. She should have signed receiving abutters notice. 8.4 feet from property rather than 10'. Mr. Schultz said it is what the State requires to obtain state wetlands permit from DES.

Mr. Bachand said this was recommended by the Conservation Commission. He does not have anything to add. He does not have the plan to view at home. He does not know what is being discussed on it. There is a 7' setback; and the 10 foot setback was discussed. It is not from the street; it is from side to side. Mr. Schultz said 7' on one side. They are maintaining more than 7' on the right side and more than 12' on the left side.

**MOTION** by Mr. Loiseau to approve the Wetlands Permit with the conditions contained in the Conservation Commission letter dated December 22, 2021.

**SECOND** by Mr. Waddell.

**ROLL CALL VOTE: 7 – 0 – 0**

**MOTION PASSED.**

#### **22-001 81 Ocean Boulevard**

Map: 293 Lot: 23

Applicant: Oceanfront Gaming, Inc.

Owner of Record: T.R.D. Entertainment Co., LLC

Site Plan: Expansion of current use of the building. Dedicate a part of the first floor of existing building for games of chance with refreshments available for patrons.

Waiver Request: Section V.D (Review Standards) of Site Plan Regulations

Attorney Peter Saari appeared with the applicant. Right now it is not being productively used. The location is empty now. There are gaming devices in place. It went to the ZBA. A special exception was obtained. He wants to put up gaming machines. Charitable gaming. Money goes to local charities.

This was approved three years ago. They are bringing new charities with this. Ten percent goes to the State. He wants to expand into the candy store.

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Mr. Lessard asked about the hours of operation. They will stay the same. A certain portion goes to Gamblers Anonymous (money) through the State.

Mr. Loiseau asked about access to the first floor. They will come in and out through the front, Ocean Boulevard side. Mr. Bachand said there is a waiver to vote on along with the site plan application.

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**MOTION** by Mr. McNamara to approve the waiver.

**SECOND** by Mr. McMahon.

**ROLL CALL VOTE: 7 – 0 – 0**                      **MOTION PASSED.**

**MOTION** by Mr. McNamara to approve the site plan.

**SECOND** by Mr. McMahon.

**ROLL CALL VOTE: 7 – 0 – 0**                      **MOTION PASSED.**

**22-002 36 Cliff Avenue**

Map: 267 Lot: 46

Applicant: Joanne & Michael Sargent

Owner of Record: Same

Wetlands Permit: Build back the slope in a stable configuration with large stones in a step-like manner. Localized patching of existing concrete seawall w/no change in impervious area.

Mr. Duncan Mellor, CivilWorks, appeared. He has the Conservation Commission letter. He discussed the project. Hurricane Sandy happened and damage was done. Waves undercut the bottom of the slope. Topsoil slid down the embankment and landed on the beach. They want to repair the area that slid. This is an exposed site. Stones will build back slope. There will be no increase in impervious area to the lot.

**BOARD**

Mr. Lessard was on the walk. The Conservation Commission was satisfied.

**PUBLIC  
BOARD**

Mr. Bachand recommends approval along with the Conservation Commission letter dated December 22, 2021.

**MOVED** by Mr. Lessard.

**SECOND** by Mr. Waddell.

**ROLL CALL VOTE: 7 – 0 – 0**                      **MOTION PASSED.**

**22-003 Drakeside Road & I-95 North-Bound (369 Transmission Line ROW)**

Applicant: Eversource Energy

Owners of Record: Robert & Suzanne Walker (157-8); State of NH (172-9) & First Hampton Associates LLC (172-13)

Wetlands Permit: Replacement of Utility Pole (Structure 19--currently corroding) along the 369 Transmission line.

**HAMPTON PLANNING BOARD**

**MINUTES**

**January 5, 2022 – 7:00 p.m.**

Mr. Lessard said he is an abutter. He can step down if the applicant wishes, but they (applicants) are fine with him staying.

Lindsey White, GZA GeoEnvironmental and Ashley (with Eversource) appeared. They discussed the utility pole replacement for the project. It is Pole 19, located south of 170 Drakeside Road. One of the two pole bases is corroding. Temporary buffer impacts will occur. Timber matting is used. The work was described. They will start around March.

**BOARD**

Mr. Lessard went on the site walk. He noted the Conservation Commission was happy with the work.

**PUBLIC  
BOARD**

**MOTION** by Mr. Loiseau to approve the Wetlands Permit in accordance with the conditions contained in the Conservation Commission letter dated December 22, 2021.

**SECOND** by Mr. Waddell.

**ROLL CALL VOTE: 6 – 0 – 1 (Lessard)      MOTION PASSED.**

**IV.      CONTINUED PUBLIC HEARINGS**

**21-019    61 High Street** *(continued from April 7, 2021, May 5, 2021, June 2, 2021, July 7, 2021, September 1, 2021, & October 6, 2021 & November 3, 2021)*

Map: 161 Lot: 17

Applicant: Shane Pine

Owner of Record: GMC Group Limited Partnership

Site Plan (Amended): Propose to make outdoor patio space (previously approved for Covid-19) permanent.

Waiver Request: Section V.E. Detailed Plans.

**21-011    465, 467 & 469 Ocean Blvd** *(continued from July 7, 2021, August 4, 2021, September 1, 2021, September 15, 2021 & October 6, 2021 and November 3, 2021)*

Map: 266 Lots: 31, 32 & 33

Applicant: RJS Consulting, LLC (Attn: Rick Smith)

Owners of Record: Elaine & Frederick Ayotte (465); J. Hunter Properties (467) & The Stephen LaBranche Living Trust (469)

Site Plan: To construct residential condominiums with associated parking at 465 & 467 Ocean Boulevard (to be merged) and to re-build parking area on 469 Ocean Blvd.

Waiver Request: Section V.C. Application Fees & IV.D.vi Lighting. (See 21-031 Wetlands Permit)

**HAMPTON PLANNING BOARD**

**MINUTES**

**January 5, 2022 – 7:00 p.m.**

**21-031 465, 467 & 469 Ocean Blvd** (continued from July 7, 2021, August 4, 2021, September 1, 2021, September 15, 2021 & October 6, 2021 & November 3, 2021)

Map: 266 Lots: 31, 32 & 33

Applicant: RJS Consulting, LLC

Owner of Record: Elaine & Frederick Ayotte (465); J. Hunter Properties (467) & The Stephen LaBranche Living Trust (469).

Wetlands Permit: Replace existing asphalt behind 469 Ocean Blvd with porous pavement. Small portion of work is within the 50' Wetland Conservation District. (See 21-011 Site Plan)

**V. CONSIDERATION OF MINUTES**

**MOVED** by Mr. McMahon to accept and approve the December 15, 2021 Minutes.

**SECOND** by Mr. Loiseau.

**ROLL CALL VOTE 7 – 0 – 0**

**MOTION PASSED.**

**VI. CORRESPONDENCE**

**VII. OTHER BUSINESS**

- **Labrador Lane - Acceptance of the location of the utilities within the right-of-way as shown on the roadway as-built plan.**

Mr. Bachand said this is a standard step. This next goes to the Board of Selectmen for acceptance of the roadway. We've done this on Loy Drive and other subdivisions in the past. He recommends the Board accept the location of utilities in the right of way.

Mr. Emerick read the conditional language into the record, as follows:

*In accordance with the requirements of RSA 72:23, I(b), this license is granted to the licensee(s) subject to the condition that the licensee(s), its/their heirs, successors, agents or assigns, shall be responsible for the payment of all properly assessed current and potential real and personal property taxes by the licensee(s) using or occupying property owned by the Town of Hampton no later than the due date, and shall further be responsible for all real and personal property taxes on structures or improvements added by the licensee(s), its/their heirs, successors, agents or assigns to the property of the Town of Hampton. Additionally, failure of the licensee(s) to pay the duly assessed personal and real property taxes when due shall be cause to terminate said license by the Town of Hampton.*

**MOVED** by Mr. Waddell

**SECOND** by Mr. Loiseau.

**ROLL CALL VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**HAMPTON PLANNING BOARD**

**MINUTES**

**January 5, 2022 – 7:00 p.m.**

- **349 Lafayette Road - Bond for remaining on-site improvements.**

Mr. Bachand discussed the applicant would like a CO. This is for the Dana's Towing project. He noted one light pole will be delivered in February. There is also landscaping that cannot be done at this time. The DPW and CMA (Engineers) reviewed a cost estimate for this. He recommends an on-site bond in the amount of \$5,425 for the outstanding items. Work to be completed by no later than June 30, 2022.

**MOVED** by Mr. Lessard.

**SEOCND** by Mr. Waddell.

**ROLL CALL VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**VIII. ADJOURNMENT**

**MOTION** by Mr. Loiseau to adjourn.

**SECOND** by Mr. McMahon.

**ROLL CALL VOTE: 7 – 0 – 0**

**MOTION PASSED.**

**MEETING ADJOURNED: 9:04 p.m.**

Respectfully submitted,

Laurie Olivier, Office Manager/Administrative Assistant

**\*\*PLEASE NOTE\*\***

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

**MAY BE CONTINUED TO THE NEXT SCHEDULED MEETI**