

HAMPTON PLANNING BOARD – MINUTES
November 17, 2004

AMENDED

PRESENT: Robert Viviano, Chairman
Tracy Emerick, Vice-Chairman
Ken Sakurai, Clerk
Tom Gillick
Keith Lessard
Fran McMahon, Alternate
Jennifer Kimball, Town Planner
James Workman, Selectmen Member

ABSENT: Tom Higgins

The Chairman called the meeting to order at 7:00 p.m. at which time all rose and recited the Pledge of Allegiance.

I. 2005 CAPITAL IMPROVEMENT PROGRAM

Mr. Gillick, chairman of the 2005 CIP, formally presented this year's proposal to the Board. He read excerpts from RSA 674:5, announced those who contributed, and highlighted the major needs of the Town. Mr. Gillick informed the Board that the only major expenditure recommended this year is the \$6 million cost for the fire department space needs. Mr. Gillick said that the junior high school has a planned \$8 million major renovation project and that the CIP committee recommends a year-round community-use facility be included in their renovation. He also talked about the extensive use of the recreation fields necessitating major refurbishing and maintenance.

Mr. McMahon **MOTIONED** to approve the 2005 Capital Improvement Program for presentation to the Board of Selectmen. Mr. Emerick **SECONDED**. **VOTE: MOTION PASSES UNANIMOUSLY.**

II. CONTINUED PUBLIC HEARINGS

- 1-4. Drakes Appleton Corporation
Site Plan and Special Permit Applications for 48 Unit Condominiums
Site Plan and Special Permit Applications for 36 unit Townhouses

Mr. Gillick **MOTIONED**, pursuant to Attorney Donahue's request, to postpone the hearings this evening until December 15, 2004. Mr. Emerick **SECONDED**. **VOTE: MOTION PASSES UNANIMOUSLY.**

Mr. Viviano next read a November 6, 2004 letter from applicant Donald Bibeau, item 7 on the agenda, requesting that his application with withdrawn.

5. John Poissant
Site Plan Review to construct an additional duplex for a total of 4 dwelling units at
3A Purington Lane
Map 120, Lot 5
Owner of Record: Same as above
Jurisdiction accepted October 20, 2004

Mr. Poissant introduced himself for the hearing. Mrs. Kimball reported that the plan has been updated and now conforms to the regulations. She read the department reviews received.

Public Hearing Open: No Comments; public hearing closed.

Mrs. Kimball summarized possible approval conditions. Mr. Lessard **MOTIONED** to approve Plan Number PO3433, revision dated 10/14/04, to construct an additional duplex for a total of four dwelling units at 3A Purington Lane, Map 120, Lot 5, subject to the following: 1) Submittal of final sets of plans, a recordable mylar, and appropriate recording fees; 2) Impact fee of \$2,485 per unit payable upon application of building permit; and, 3) For the purposes of vesting under 674:39, "active and substantial" is defined for this application as: obtaining a building permit (within 12 months of final approval). Mr. Gillick **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

6. Forest Homes of Massachusetts
Site Plan Review to construct a 3-story multi-use building with retail and lodging and associated parking
428 Lafayette Road
Map 160, Lot 23
Owner of Record: D.L.R., Inc.

Applicant Paul McMann, Attorney Bob Casassa and Engineer Mike Malinowski were present for the application. Mrs. Kimball reviewed the comments received from the departments. She reported that the plan has been revised following recommendations from the initial department reviews. Other comments and/or recommendations included changing the on-street parking to parallel parking, changing the driveway entrance to accommodate fire apparatus, altering the traffic pattern on site and technical corrections to the drainage report. Mrs. Kimball said that Ambit Engineering and the Fire Department should conduct a second review of changes and updates.

Recommendations from the town attorney included obtaining easements for both the sidewalk and parking spaces on Route One and the off-site drainage. Mrs. Kimball told the Board the 1971 drainage easement for the adjacent property submitted by the applicant will be reviewed by the town attorney. Attorney Gearreald also addressed possible storm drainage easements from the neighboring properties.

Mrs. Kimball said that, except for some technical corrections to the plan, most of the items in her September 1, 2004 memorandum have been addressed. Outstanding items from the previous meeting include a snow storage plan, a turning movement sketch for large delivery vehicles, and a revised landscaping plan. Mrs. Kimball confirmed that the application requires a variance from the 100 feet minimum lot width inasmuch as the existing lot of record measures nine-five feet wide.

Mr. Malinowski of HTA-Kimball-Chase showed the changes on the plan of the departmental comments. He pointed out the reconfigured entranceway to accommodate rescue vehicles and ambulances; the addition of a French drain system; a reversal of the on-site traffic pattern to accommodate trash pickup at the dumpster; and the addition of two lighting poles in the landscaped islands. Mr. Malinowski said the drainage report was amended after Ambit's suggestion that the drainage will withstand a 100-year storm event.

Board comments followed with Mr. Lessard questioning whether the trees will eventually grow to the point of blocking the light from the two new proposed lighting poles. Mr. Malinowski responded that the landscaping plan could stipulate the mature size of plantings; he will review this plan further. Mr. Lessard requested a lighting plan so as to assure the safety of the residents. Members also discussed obtaining an easement, pursuant to Attorney Gearreald's recommendation, in front of the building on Route One for parking and pedestrian access. Mr. McMahon felt that the concrete island at the entranceway may hinder snow plowing.

Public hearing Open: No comments, public hearing suspended.

After discussion, consensus was reached that the concrete island will help pedestrian traffic. After reviewing the turning radius sheet, the Board requested a traffic plan for large delivery vehicles to see how they will get around the site (without extending beyond the property line). They summarized other outstanding issues as: a detailed lighting plan to insure safety of residents; a tree maintenance plan; a

snow storage plan; and items that needed to be added to plan (as outlined in Jennifer Kimball's September 1, 2004 memorandum).

Mr. Emerick **MOTIONED** to accept jurisdiction of Plan Number 546401 and continue the hearing to December 15, 2004 for the subject application and forward the updated plan to the Department of Public Works, Fire Department, and Ambit Engineering for another review. The Board also voted to consult with the town's attorney regarding the existing drainage easement. In addition, the Board outlined several outstanding items they discussed during the hearing, noting that these items should be resolved prior to the next meeting. Mr. Lessard **SECONDED. VOTE: 6 FOR, 1 ABSTAIN (Workman) MOTION PASSES.**

7. Marc and Elizabeth Keroack
Special Permit to construct a deck within the Wetlands Conservation District
477 Winnacunnet Road
Map 222, Lot 107
Owner of Record: William and Genevieve Badger

Marc Keroack was present for the hearing. He informed the Board that he reduced the size of the deck he wishes to build so as to avoid the need for a variance. Land Surveyor Ernest Cote's plot plan revealed that the new deck size conforms to the side setbacks. Mrs. Kimball indicated that the Building Inspector has also seen and approved the plot plan. The October 31, 2004 Conservation Commission memorandum was re-read into the record.

Public Hearing Open: No Comments; Public Hearing Closed.

Mr. Emerick **MOTIONED** to approve Plan Number 2-69-4144 revised November 12, 2004 for the subject application pursuant to the following Conservation Commission conditions: 1) The deck remains open above and below to allow grass to continue growing; 2) The deck is built off of the 2nd floor per the site plan dated October 23, 2004; 3) The State shore land Protection Act is followed along with the best management practices, which include no use of fertilizer or pesticide. Hay bales and silt fencing are utilized to protect the wetland; and 4) The Conservation Commission is notified in writing at the start and completion of the project. Mr. Lessard **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

III. ATTENDING TO BE HEARD

1. Chester H. Riley
Discussion of I (Industrial) Zoning District
Located North of Route 101, West of I-95

Mr. Riley indicated that his presence before the Board was to request their support in sponsoring a zoning amendment article for the 2005 Town Meeting. He outlined the area north of Route 101 to the North Hampton border and from I-95 west to the last three lots adjoining Route 111 and confirmed that it was rezoned in 2001 from RAA to Industrial. Mr. Riley provided copies of the zoning map, soils map, wetlands map, flood plains map and associated legends of each. He pointed out that the large swampy area is part of the Town's aquifer and according to the flood zone map a large portion is in the 100-year storm event zone.

Mr. Riley requested the Board's support for this rezoning in helping to protect the land. He indicated that he would ultimately like to place the town-owned land into a protective devise such as a conservation easement. He said that this is way of protecting open space and to protect it from indiscriminate development.

Mrs. Kimball outlined the zoning amendment process and deadlines for Planning Board sponsored and citizen's petitions. She said Mr. Riley is a valuable member of the Planning Board's Future Land Use sub-committee and supports this zoning change. Mrs. Kimball felt that RAA is the most appropriate zone for this area inasmuch as the area is landlocked, is neighbored by residential zoning in North Hampton. Mr. Gillick said the zoning designation does not matter if land is to be acquired by the Town for

conservation purposes. Mr. Gillick opined that this land defies development under today's environmental standards.

Mr. Riley clarified for the Board that his request is solely a zoning designation change. He said he has no intention of putting the Town in a position to purchase any of the other land in the area, and he mentioned placing the 16 acres already owned by the Town into a conservation devise as a possible future goal.

Members discussed the reasoning for the change in 2000, recalling that in addition to the three parcels which were changed (Article 8), the Board was uncomfortable with spot zoning and there was a potential industrial developer; therefore the Board sponsored Article 9. Discussion ensued about development potential and access to Hampton's Industrial zone through North Hampton's residential zone.

Mr. Emerick applauded Mr. Riley's presentation, said it was a good comprehensive proposal, but changing the zoning now would revert to spot zoning which the Board did not want in 2000. He felt the decision of the Board in 2000 should not be changed. Mr. Gillick agreed and suggested that the Conservation Commission be requested to purchase the land for conservation. While Mr. McMahon preferred the RAA zone, he said the change might encourage development more than the Industrial zone designation. Messrs. Workman and Sakurai agreed to leave the land zoned as is. Mr. Lessard also encouraged contacting the Conservation Commission about purchasing the town-owned portion of this area. He wished to save the open space and, ideally, only develop the front portion. Mr. Lessard told the Board that he would agree with Mr. Riley's request if it does not encourage spot zoning.

Mr. Riley told the Board that even if the zone is changed to RAA, at least the development might be only a few homes, not a trash incinerator which would be allowed under the Industrial designation. He also pointed out that it was a five-year process to purchase the Hurd Farm. He reiterated that his primary interest in this request was to save open space and protect one of the Town's aquifers. The Board extended their appreciation to Mr. Riley for his time, effort and thorough presentation.

IV. CONSIDERATION OF MINUTES

Mr. Emerick **MOTIONED** to approve the minutes as presented. Mr. Sakurai **SECONDED**. **VOTE: MOTION PASSES UNANIMOUSLY.**

V. CORRESPONDENCE

- 11/01/04 memorandum to Planning Board from DPW Director John Hangen re: Summerwood (Bley subdivision) bond reduction request. Mr. Workman **MOTIONED**, pursuant to Mr. Hangen's recommendation, to reduce the bond amount to \$57,257.00. Mr. Sakurai **SECONDED**. **VOTE: MOTION PASSES UNANIMOUSLY.**
- 11/12/04 memorandum to Planning Board from DPW Director John Hangen re: Saxonville Lumber bond release request. Mr. Emerick **MOTIONED**, pursuant to Mr. Hangen's recommendation, to release the bond. Mr. Lessard **SECONDED**. **VOTE: MOTION PASSES UNANIMOUSLY.**

VI. OTHER BUSINESS

1. Caddy Shack LLC (Dunkin Donuts)
369 Lafayette Road
sidewalk/crosswalk configuration

Several members felt that the blue "crosswalk" markings across the driveways are not satisfactory as it could be a safety hazard for pedestrians trying to walk across the driveways. Mrs. Kimball explained that an ADA compliance curbed sidewalk cannot be constructed as it would encroach onto the abutting property. Mr. Lessard suggested a curbing on the sides of the driveways as they would provide a safe space for pedestrians who would be visible to cars entering the site. He also suggested a bituminous or grade change of some type on top to alerts drivers to pedestrians. Members agreed that the whole area

from the Shell gas station to just beyond Dunkin Donuts needs a much better sidewalk. Mrs. Kimball will request that DPW look at the situation again, consider a "rough type" surface material for the painted sidewalks, and confirm with Attorney Gearreald that the public safety is being properly protected.

2. Shore Land Protection Act

Mrs. Kimball introduced Conservation Commission's Chairman Ellen Goethel's November 15, 2004 memorandum which outlined the State's enforcement of the Act. Mrs. Goethel requested that the Board look carefully at special permits and asked that they not be approved without the Shore Land Protection approval from the State. Mr. Gillick said the Board should advise the State that in order to comply, it needs appropriate information and maps in order to carry out the State's mandate.

3. Increase in Recording fees

Mrs. Kimball presented a revised fee schedule reflecting an increase in the amount charged for recording documents and mylars at the Registry. She explained that more documents are now being recorded and asked the Board to adopt the fees charged by the Registry plus a small handling fee to cover administrative costs. Mrs. Kimball also addressed the number of plans that are rejected by the Registry due to incorrect lines, shading, etc. The requested increase covers mileage for return trips. In response to Board questions, Mrs. Kimball said that the increases are minimal and does not cover employee wages for time spent traveling to and from Brentwood, or additional review time for corrected mylars and documents. Mr. Lessard **MOTIONED** to accept the drafted new recording fees with the amendment to increase a return trip for recording to Brentwood to \$65.00. Mr. Gillick confirmed that the statutes allow for reimbursement for reasonable administrative costs. Mr. Emerick said that additional time is spent reviewing the correct mylars, meeting with the applicants to review those changes, telephone calls, etc. and felt that \$65.00 is very reasonable. Mr. Emerick **SECONDED. VOTE: MOTION PASSES UNANIMOUSLY.**

4. DHB Home Builders (Hampton Harbor LLC Phase II)

Members addressed the November 17, 2004 letter from DHB Home Builders asking for clarification on the following issues:

1. Can the yacht club be used as a private "social club" with membership offered to the public;
2. Can the yacht club be renovated to include a two-story addition as shown on the Elevation Plan...?
3. Can the ownership of the yacht club be transferred to someone other than the "Hampton Harbor II" condominium association;
4. Can the yacht club be run as a "for profit" business charging fees for membership?

The Board also reviewed the condominium documents, the approval conditions, and minutes of applicable meetings. After discussion, the Board offered the following responses based on its conditional approval of the project on December 17, 2003:

- 1) No, the Yacht Club may not be used as a private "Social Club" with membership offered to the public. The Board approved the Yacht Club as part of the condominium project, for use by the condominium owners and the 10 boat slip owners that may be leased to non-condominium owners. It should be noted that the Town also has an agreement to use the clubhouse for training purposes.
- 2) The Yacht Club may be renovated as shown on the plans presented with the Site Plan. During the review process the Board questioned the 2nd Story office, when the plans stated a one-story building. It was determined that the building is in fact one-story, however due to the height of that one story, a mezzanine level could be inserted, specifically for the office. Therefore, the Yacht Club is just one-story.

- 3) The Board cannot address the ownership of the Yacht Club. The Board does not get involved with "who owns what," but did understand that the Yacht Club would have separate ownership than the condominium units. The Board suggests that you contact Attorney Peter Saari, who represented the applicant at the Board meetings, to discuss this matter. In addition, the Board suggests that you review the condominium documents for the project.
- 4) The issue of charging fees was not discussed during the original hearings for the project. The Board feels that the Yacht Club could potentially charge fees for membership; however, the only members could be the condominium owners and the 10 boat slip users as outlined in the original approval.

Mr. Emerick **MOTIONED** to adjourn. Mr. Gillick **SECONDED**. **VOTE: MOTION PASSES UNANIMOUSLY**. Meeting adjourned 9:30 p.m.

Respectfully submitted,
Janet Perkins
Secretary

Minutes as amended on December 1, 2004