

HAMPTON PLANNING BOARD

MINUTES

May 16, 2012 – 7:00 p.m.

6:30 p.m. - Non-meeting with Counsel under RSA 91-A:2, I.(b)

PRESENT: Fran McMahon, Chair
Mark Olson, Vice Chair
Tracy Emerick
Rick Griffin, Selectman Member
Keith Lessard
Mark Loopley
Brendan McNamara, Clerk
Jamie Steffen, Town Planner

ABSENT:

I. CALL TO ORDER

Chairman McMahon began the meeting at 7:00 p.m. by introducing the Board members and leading the Pledge of Allegiance to the flag.

II. ATTENDING TO BE HEARD

- **Change of Use** (83, 89 & 91 Ocean Boulevard)-Five parking spaces to now contain sales/construction trailer (to be placed over said parking spaces).

Attorney Peter Saari and Rick Green of Green & Co. appeared. They have a development sign for the property. They would like to place a construction/sales trailer on the property to market the development. A zoning variance is needed in addition to the change of use requirement. They would like to place a RV-type trailer that would take up five (5) parking spaces. Mr. McMahon stated it is scheduled for the June meeting of the ZBA. The Board's vote will need to be contingent on the ZBA action in June. Mr. McMahon stated that he does not like to act before the ZBA, but in this case it should not be a problem.

BOARD

Mr. Lessard stated he thinks they do not have the parking lot plan that depicts how it exists now. It was noted that the most recent temporary parking lot approval is for access off of J & K Streets. Mr. McNamara stated that the applicant will be leasing five spaces so to speak and that is what the Planning Board is approving with this application.

MOTION by Mr. Emerick to approve the change of use contingent upon receipt of the necessary variances from the Zoning Board of Adjustment.

SECOND by Mr. Lessard.

VOTE: 7 – 0 - 0.

MOTION PASSED.

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III. CONTINUED PUBLIC HEARINGS

12-026 231 Mill Road (continued from May 2, 2012)

Map: 91 Lot: 3A

Applicant: Donald & Roseanne Tuholski

Owner of Record: Same

IMPACT FEE WAIVER REQUEST

Mr. Tuholski appeared. He stated he is seeking a waiver of the impact fees for a single family residence. He stated residents 65 years of age or older can apply for it. Mr. Steffen explained that they came in for the waiver request at the last meeting and the Board tabled it to get an interpretation from the Town Attorney on the wording of the waiver criteria. Mr. Griffin asked about the age requirement. It was explained that it is relative to Housing for Older Persons. Mr. McMahon explained this request does not apply to that criterion – this is a case where a subdivision was done before the current Impact Fee Ordinance was adopted but no building had occurred yet.

BOARD

Mr. Loopley stated that since the construction was not begun in a timely manner the protection from the requirements of the Ordinance has lapsed. He explained that active and substantial development needed to occur within four or five years; it's been eight or nine years.

The Town Attorney has interpreted that the waiver criteria does not apply to this application because of the development time window.

MOTION by Mr. Emerick to deny the impact fee waiver request.

SECOND by Mr. Olson.

VOTE: 7 – 0 – 0

MOTION PASSED.

Juniper Lane & Huckleberry Lane (continued from January 18, 2012 & February 15, 2012 & March 21, 2012 & April 18, 2012)

Map: 96, Lots: 2E & 2F, Map: 97, Lot: 1-10

Applicant: JASAND, Inc.

Owners of Record: Huckleberry Woodlands, Inc., Great Meadow Realty Trust & Candia Rangeway Realty Trust

Subdivision: 8-Lot Single Family Residential Subdivision

Waiver Request: Subdivision Regulations, Section VII.C.12, “Any structural stormwater BMP located outside of the proposed ROW shall be contained on one lot”.

Attorney Peter Saari appeared with Joe Coronati of Jones and Beach Engineering. It was stated that they have been working out issues with the abutters. Attorney Saari stated that a strip of land (Parcel A) will be conveyed to an abutter. He further stated that they believe it's now ready for approval. Mr. Coronati discussed the waiver request. He stated that a homeowner's

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association document has drafted and been provided to the Town which outlines the maintenance responsibilities for the stormwater management system. The detention areas and easements were discussed. Mr. McMahon asked if a homeowner's association will be put in place. The applicants stated "yes". It was noted that everything outside the road right-of-way will be taken care of by the HOA. He further noted that the utilities, other than drainage, are situated in the roadway. He stated that the applicant was informed that the new sewer should be relocated in the roadway and that will occur. Mr. McMahon asked about the HOA changing the covenants at a later date. Attorney Saari stated it should worded in the document that any changes to the HOA would have to be approved by the Planning Board. Mr. Steffen indicated that he is asking for that as a condition of approval.

BOARD

Mr. Olson asked if the DPW was aware of the foundation drains. It was noted that this was a request from Chris Jacobs of the DPW. This was discussed further and Mr. Coronati noted that only half of the lots will need to worry about it.

Mr. Lessard asked about the area to the left of Lot 1 relative to landscape plantings or setbacks for her protection of the abutter. It was explained that she wanted something written into Lots 1 and 3 so those owners could not cut vegetation along the property line that would impact her property. Mr. Coronati stated there could possibly be something put in on the Lot 1 side. Further concerns expressed by abutters on Downer Drive were discussed. Mr. Coronati stated that they could buffer that area as well if the Planning Board would like it.

PUBLIC

Ms. Rhoda Dejesus, 17 Downer Drive, spoke. She stated that they have not cleared their lot in the rear. They are worried about headlights shining into their home. She is located at the end of the cul-de-sac. Mr. Coronati discussed the existing tree line. He stated that the lights should be blocked by the new house, but they can plant a row of trees for more buffers. Ms. Dejesus asked if they would consider spruce trees and Mr. Coronati stated that would not be a problem. It was noted that the size of the trees will be approximately six to eight feet high at time of planting. This will be added to the final plans. It was discussed that they would not get planted until the house is sold. Mr. Lessard stated that a time limit may have to be put on the building. Mr. Coronati stated that they will plant the trees 10' apart so there is a visual break in the section. It was discussed that there could be 10 trees; 10' apart. Ms. Dejesus and Mr. Coronati will get together to discuss the specifics.

Mr. Olson discussed fire truck access and the noted 25-foot turning radius.

Mr. Loopley asked about concerns with the utility easements. Mr. Steffen stated it should be reviewed by Legal and DPW before the final approval. The Board discussed needing the Town to see the location of the utility lines. It was noted that there are only easements for drainage.

Mr. Steffen stated the applicants took care of the Fire Department's issues. Mr. Lessard asked if they had seen the latest plans dated May 8, 2012. Mr. Steffen stated that the Fire Chief

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has acknowledged that it was seen and reviewed. Mr. Emerick asked what the trigger is to know that department heads are satisfied with the plans. It was discussed that the Board is still waiting for final sign offs on the revisions from DPW and the Fire Department. Mr. Emerick stated he does not want to tie up applicants because department heads are not responding in a timely manner.

MOTION by Mr. Emerick to grant the waiver request.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. Emerick to approve the subdivision with stipulations of the Town Planner's memorandum dated May 9, 2012, and with an agreement being reached with the abutters for tree plantings, including a visual tree break along Lot 1 – adjacent to the existing Juniper Lane lot. The approval is also contingent on the Town Planner receiving final sign offs by the DPW and Fire Department. The approval shall also contain the stipulations of the Conservation Commission letter dated December 28, 2011.

SECOND by Mr. Loopley.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. NEW PUBLIC HEARINGS

12-017 61 High Street (new public hearing continued from 4/18/12)

Map: 161, Lot: 17

Applicant: Flatbread, Inc.

Owner of Record: GMC Group Limited Partnership

Amended Site Plan Review: Pizza Restaurant – re-design & renovate existing bldg. with addition & seasonal outdoor seating.

Waiver Request: Section V.E. of the Site Plan Review Regulations - Detailed Plan.

Attorney Valhouli appeared along with the applicant, Joni Jackman. He stated that they are seeking additional space for the wood-fired flatbread pizza restaurant. He further stated that it was previously a restaurant/cafe. It will be open until 10:00 p.m. Attorney Valhouli discussed the 412 SF addition to the rear of the building for refrigeration. He stated that there will be 62 inside seats, and 25 to 30 outdoor seats proposed. Parking was discussed. A variance was approved in March for the parking requirement.

BOARD

Mr. Loopley asked about interior dimensions. He would like a more detailed floor plan showing more dimensions. Henry Boyd of Millenium Engineering discussed the building and site changes. The outdoor seating area will be eco-pavers. There will be an enclosed entryway. Removal of trees was discussed. Parking space delineation was discussed. Dumpster location and handicap parking was discussed. Mr. Emerick asked how

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construction trucks would access the building. It was responded that probably from the American Legion side or the other side of the building in the rear. Mr. McNamara asked about a barrier between where people sit and the parking lot. The applicant stated that there will be a granite wall of some sort to protect the diners. It was noted that the variance on parking will need to be added to the final site plan.

Mr. Lessard discussed snow storage. The Board discussed having the dumpster so close to the front. Mr. Lessard asked how deliveries will occur. They responded that they will be received along the back, but most will be taken in from the front of the building. It was noted that there is a sidewalk that goes to the back stairwell. It was further noted that they recycle a lot of their waste. Their compost will be refrigerated and disposed of or sent to local farms. Mr. Emerick asked if the applicant could utilize the Town recycling. The carts would have to be used.

Mr. Boyd stated that the applicant would probably need to remove the snow from the site. He is showing nine parking spaces including one handicap space.

Mr. Lessard asked about smoke from wood-burning ovens and any odor. Mr. Lessard asked where the wood was stored and the applicant noted that there is a wood shed/area and that area is noted on the plans.

PUBLIC

Mr. Ralph Fratello, Commander of American Legion, Post 35 appeared. He stated Flatbread Pizza is helpful business to the community. There will be three days that the restaurant will not be accessible to the public during the day, which are Memorial Day, September 11th and Veteran's Day. He noted that the officers and members are in full support of the restaurant coming to Hampton.

BOARD

Mr. Olson asked if a trash truck can access the site. It was responded that Waste Management has specialized trucks for sites like this one.

MOTION by Mr. McNamara to grant the waiver request.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. McNamara to approve the site plan with the Town Planner's stipulations contained in his May 9, 2012 memorandum and also upon receipt by the Town Planner floor plan with dimensions. The final plan shall also be revised to show the location of wood storage and the curbing detail for the edge of the outside seating where it meets parking lot.

SECOND by Mr. Griffin.

VOTE: 7 – 0 – 0

MOTION PASSED.

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V. CONSIDERATION OF MINUTES of May 2, 2012.

MOTION by Mr. Emerick to accept the May 2, 2012 Minutes.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

- Brian Kent, Sr. – Special Permit Extension – 35 Park Road
Mr. Kent did not appear.

MOTION by Mr. Emerick to continue this extension the June 6, 2012 Planning Board meeting.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

- Scope of Condominium Document Review and Charges – Mark Gearreald

Attorney Gearreald appeared. Mr. McMahon discussed condominium document reviews. Mr. McNamara asked about the fee structure. Attorney Gearreald responded that five hundred (\$500) is the initial deposit. It was asked what the scope of the review is. Mr. Emerick noted the original scope had the “whole kitchen sink” in it and he thinks that is now over-kill. He feels that the condominium documents should be looked at to only see that they match. He feels the legal review should be limited to only making sure the Planning Board decision is represented. Mr. Griffin agreed. Mr. Loopley stated that we want to make sure there is nothing contrary to the Town’s interest in the documents. Mr. Loopley also agreed with Mr. Emerick. Mr. Emerick stated he is concerned that we are being held liable for everything now.

Attorney Gearreald discussed certain problems that arise through his reviews. He explained that some issues the Board wishes to have happen don't always happen with final documents. Mr. Emerick stated that he feels that the Town Attorney shouldn't be the arbiter for all documents coming out of the Town of Hampton. Motions of approval motions were discussed. Mr. McMahon asked about timing. Mr. Gearreald explained that he requires the approved plans, minutes, and the approval letter. He further explained that the condominium documents get recorded with plans. He discussed issues with trash and snow removal and how they are addressed in the documents. Mr. Lessard asked what the risk would be to not do what we are doing now. There was discussion about RSA 356-B the condominium regulation statute. Mr. McNamara asked for a copy of the old scope of review. That was read.

There was then discussion about the need to review deeds prior to the Planning Board hearing. Mr. Emerick stated he thinks that the developer should note it. Mr. Emerick further stated we never have been involved in deed review. Mr. Emerick would like to limit the scope of reviewing the documents to be narrowed. He feels that the Planning Board should not be

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involved with full condominium document and by-laws review. He stated we should only be concerned with seeing that our conditions are incorporated into the documents. Town interests were further discussed.

Mr. Emerick asked Atty. Gearreald to come up with revised scope of review for the June 6th meeting. It was noted that the Drakeside Road and 83-91 Ocean Boulevard developments are being dealt with at that meeting. The charges for review were discussed. It was again noted that escrow is established for a deposit of \$500. The Board stated that if it's going to be more, then the applicant should be informed as soon as possible. Costs were discussed. Atty. Gearreald noted that the review for the Ross Colony Court cost about \$1,200.00 and that this development had about the same complexity as the one for the 434 High Street development. Atty. Gearreald asked the Board for their opinion about refunding the difference of \$565.50 for 434 High Street. He noted that he has talked to the Board of Selectmen and they still need to give an opinion on the refund. Mr. McNamara stated that he thinks a \$500 (\$565.50) refund would be fair. The rest of the Board had no problem with the refund. It was decided that Atty. Gearreald would let the applicant know in the future if cost of review is likely to run more than the \$500 escrow. It was also decided that Atty. Gearreald will come up with new language on the scope of review.

- 7 Ocean Boulevard

Mark Loopley recused himself. A letter from Town Manager Fred Welch dated May 15th was discussed. He feels that the application was not properly notice to abutters, as the Town, State and Federal Governments did not get notice. Mr. Steffen stated he does not think the State is an abutter as it is State highway only. Mr. Emerick indicated that he talked to Mr. Welch about this. He was informed that there is a right of way owned by the Department of Interior that crosses the property - the Federal Government has interest in property. He further stated that he was told that people who have a right of way on a property are now abutters. This is new to Mr. Emerick. He never noticed abutters who have rights of way or easements. He asked then with easements and rights of way, do we need to start reviewing deeds to notify people who have rights of way because that's what Mr. Welch's notice says. The Board discussed the need to "vacate the approval", and re-notice the application. Attorney Gearreald said the right of way owner is an abutter. He said we need to look at the deeds for the property and for the immediate adjacent lots.

MOTION by Mr. Emerick to vacate the approval and re-notice the application to include the Federal Government, State and Town. Attorney Gearreald noted that the Federal Government can take the property back. This will be re-noticed for the June 6, 2012 meeting.

SECOND by Mr. McNamara.

VOTE: 6 – 0 – 1 (Mr. Loopley abstained)

MOTION PASSED.

Mr. McMahan asked what then will transpire if the Board votes to approve it next month. Attorney Gearreald stated the developer wants to take care of it usually before proceeding with it and putting money into a project. Mr. McNamara asked if the applicant can state again that it will be done his own risk, not with any risk to the Town. It was asked what the risk is to the

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Planning Board in approving it – knowing there is a problem. Attorney Gearreald responded he cannot say for certain.

Mr. Steffen informed the Board about the status of the community planning grant. He attended a grant workshop on May 3rd and found out about the types of grants available. He discussed two types of grants; there is a one-year grant for up to \$30,000 and a two-year grant for \$50,000. He further informed the Board that he met recently with Jack Mettee, Planning Consultant to discuss what we would be applying for. He outlined the proposal to pursue the two-year funding to develop and implement a Downtown / Town Center plan that incorporates the existing transportation corridor, a mixed-use context, and a diversity of housing and businesses that will blend with the adjacent civic, residential and business area. Mr. Steffen stated that the first year would be for development of the plan and the second year would be implementation of it. He outlined the implementation phase as including possible regulatory and code changes such as form-based codes or an hybrid, mixed-use zoning, and design guidelines. construction projects will be discussed.

MOVED by Mr. Emerick to move forward with the two-year grant application.

It was noted that the deadline is June 15, 2012. Mr. Loopley asked about the one- year grant.

Mr. Steffen stated that \$30,000 is available but is a much tighter timeframe for development and implementation which wouldn't work for what we are proposing to do. Any regulation changes would have to happen in time for next year's Town Meeting vote. It was also stated that the Board is not locked in to utilizing Mr. Mettee as the consultant if selected, that it can shop around. The geographic limits of the plan area would be downtown area going north to Exeter Road / High Street or beyond the vacant property just north of The Old Salt, to the east as far as Mill Road, south to Drakeside Road or the Route 1 / 101 interchange, and west to the rail corridor. Mr. McMahon suggested including the whole rail corridor through Hampton.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

VIII. ADJOURNMENT

MOTION by Mr. Emerick to adjourn.

SECOND by Mr. McNamara.

VOTE: 7 – 0 - 0

MOTION PASSED.

MEETING ADJOURNED: 9:35 p.m.

Respectfully submitted,

Laurie Olivier, Administrative Assistant