

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

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: None

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.

Mr. McMahon noted that the 52 Nudd Avenue special permit wishes to be continued to the Board's July 18, 2012 meeting date.

MOTION by Mr. Lessard to continue the special permit request for 52 Nudd Avenue to the July 18, 2012 meeting.

SECOND from Mr. Olson.

VOTED: 7 – 0 – 0 MOTION PASSED.

II. ATTENDING TO BE HEARD

- Brian Kent, Sr. – Special Permit Extension – 35 Park Road

Mr. Kent appeared. He stated that he obtained a one-year extension last year but still needs more time to complete the project due to family matters. He is looking another year. Mr. McMahon stated he believes the Conservation Commission has no problem with the extension.

MOTION by Mr. Emerick to grant a one-year extension.

SECOND by Mr. Griffin.

VOTED: 7 – 0 – 0 MOTION PASSED.

III. NEW PUBLIC HEARINGS

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

12-026 190 Kings Highway

Map: 168 Lots: 2

Applicant: Cellco Partnership d/b/a Verizon Wireless

Owner of Record: Ocean Crest Condominium

Site Plan Review: Installation of 12 panel antennas on the roof of existing condo building; install equipment room on ground floor & install emergency generator adjacent to condo bldg.

Waiver Request: Section V.E.1, 8, 11, 12, 14 & 15 – Site Plan Regulations – Detailed Plans

Attorney Tom Hildreth of the McLane Law Firm, representing Verizon, appeared with Chip Fredette, real estate specialist. He noted that Todd White, construction manager was also present. This is for a rooftop project at the Ocean Crest condominium. He showed photo simulations to the Board. He explained how the towers work and how they are situated. There will be three external elements. There will be a back-up generator on the ground adjacent to High Street. There will be three sets of four antennas. Mr. Fredette showed how the antennas will look from all angles of the condominium complex. Attorney Hildreth discussed the location of the generator. This facility will be like others in Town. There will be a field technician coming to the property once or twice a month. Attorney Hildreth showed the gap in coverage in the northeastern part of Hampton. There are four wireless towers in Town. He showed the coverage maps. Mr. McMahan asked about the overlay of coverage. Coverage and capacity was discussed. It was noted that capacity is handling the volume of traffic. This location handles both.

BOARD

The 12 antennas will belong to Verizon only. The variance from the Zoning Board of Adjustment was discussed, which was the overlay. Mr. McMahan asked about the height of the antennas. The height of the building is about 40 feet and the antennas will not go above 50 feet. The antennas are between 6 and 8 feet in height. Poles add to the rest of the height. Mr. McMahan asked about the capacity. In the summer, there is virtually no service at the beach. He stated capacity is a key issue. Kevin Mosher engineer for Verizon Wireless appeared. Signal processing was discussed – it allows many users to use the same airways. If many devices are trying to access at the same time, the usability of the cell shrinks. When there are more users, the radius weakens. There were many blocks during a busy weekend. Better service on the beach was discussed. These installations will double the capacity. Mr. McMahan asked about more cell locations or other fixes using newer equipment than what is in the field now. Verizon added more frequencies to the beach to support traffic at the beach. There will be 4G service eventually. Mr. Lessard asked about roaming on the network. Mr. Mosher said it's a small percentage. Roaming partners were discussed. 911 calls are prioritized. Mr. McNamara asked about maintenance and it was stated there is no maintenance.

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

Mr. Lessard asked about noise due to downloading. He stated some Tide Mill Road residents have complained about noise about the tower there. Attorney Hildreth is not aware of a noise problem. The radios are indoors, in a shelter. There will be climate control in its portion of the room.

PUBLIC

Mr. Joe Pierzynski of 554 High Street appeared. He is not opposed to the cell tower. He asked about Hampton code, SI-30. He discussed the code sections that he felt Verizon did not address with this project. He asked about a listing of other towers within a two-mile radius. He stated that he hopes this isn't for just accommodating 14 weeks of busy beach service. He read the code sections. He indicated that other areas/towns show where the cell towers are when new structures are proposed. He stated that he doesn't want to look out his deck at cell towers. The SI-32 code was read, and he indicated that an inventory of existing towers should be shown, including location, height and other criteria. He discussed that there should be opportunity for co-location and written evidence needs to be submitted to show that it is not possible. There are five carriers that service Hampton. He believes this is grounds for denial. The condominium association should/must be willing to accommodate other carriers. He has seen buildings with up to 30 antennas. He feels that this should not be on the taxpayers of Hampton. He discussed if Verizon wants to put antennas on buildings, the Planning Board should have it reviewed by a consultant regarding technology limitations for alternative locations. The cost of review should be borne by applicant. An outside consultant can be hired pursuant to RSA 676. He wants to know where other towers are. Mr. Loopley stated the Zoning Board of Adjustment grants the variances and the Planning Board has no say regarding the use.

Lee Holton Davis of 22 Meadow Pond Road appeared. She is not in favor for the project. She stated that she works for a completing wireless company and knows about the benefits that the condominium owners and Verizon will get from this installation. The roaming revenues for instance. She is adjacent to the Ocean Crest condominiums and the service is pristine. She wants the Board to consider hiding the antennas. Other carriers will do the same thing. People in the condominium will not have to look at the antennas. She indicated that she doubts it will be limited to twelve antennas.

Mr. Charlie Ryan at 190 Kings Highway appeared. He has a handicapped son. There is no coverage for residents in that area. He stated it's an antenna, not a tower.

Mr. Michael Groves of 190 Kings Highway appeared. The local cable company coverage was discussed. Losing power and multiple service companies were discussed. He thinks cell service is a matter of safety.

Mr. Doug Reed of 546 High Street is not in favor of the project because of aesthetics and the possibility of more carriers coming in. He is right across the street. He wondered if it was a problem having a fire hook-up near where the generator is being located.

Mr. George Dovas of Ocean Crest condominiums appeared. He stated that for Verizon to be protected, a lease was signed and no other carriers can join in.

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

Mr. Steffen stated the information has been received regarding the regulations. He noted that they have submitted a listing of towers and facilities within two miles of the proposal. He also noted that they have submitted the required engineering report and the FCC compliance document. They have also furnished an environmental impact statement as required. There was discussion that the co-location requirement is only applicable to tower proposals.

Mr. McNamara discussed Section IX, A.III, the antenna and colors, etc. Mr. Lessard asked what color everything will be. It is beige, the color of the building and the wires will be spray painted beige to match as well as the 7/8" high black cable. Verizon will send a report to the Planning Board that everything has been painted annually to match the siding.

One of the Zoning Board of Adjustment's conditions was that other antennas that may come on board must be contained in a structure. This is for future cell phone carriers. Other carriers would have to go to the ZBA. Putting antennas in a cupola was discussed. There should be no diminution in value of the property.

Mr. Emerick asked if the towers can be set back from the building. It was responded that would affect coverage. Mr. Lessard would like a shop drawing of the antennas. Mr. Lessard asked why their towers don't need to be in a structure. Mr. McMahan asked again about beach coverage.

MOTION by Mr. Emerick to grant the waivers.

SECOND by Mr. Loopley.

VOTE: 6 – 1 – 0 (Mr. McNamara)

MOTION PASSED

Mr. Emerick stated this is a public need versus aesthetics issue and the public need in his opinion takes priority.

Mr. McMahan stated the Board needs to either approve the motion with conditions or it will be denied.

MOTION by Mr. Emerick to approve the site plan application, with the condition the antennas and associated cable and wires will be beige in color to match the building. Verizon will submit an annual report to the Planning Board that states that everything has been maintained to match the color of the building. This is also approved with the requirement that additional carriers are not permitted due to the current lease between Verizon and the Ocean Crest condominium association.

SECOND by Mr. Loopley.

VOTE: 7 – 0 – 0

MOTION PASSED.

12-030 52 Nudd Avenue (CONTINUED TO 7/18/12 PER ABOVE)

Map: 274 Lot: 137

Applicant: Richard Atwood

Owner of Record: Richlor Realty Trust

Special Permit: Installation of new drainage system into existing driveway to create effective stormwater management system & general site improvements

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

12-031 595 Lafayette Road

Map: 144, Lot: 3

Applicant: Sean Kelley, Monah Realty, LLC

Owner of Record: Same

Amended Site Plan Review: To construct a 17' x 16' addition to the existing building & relocation of parking spaces. Waiver Request: Section VII.D. of the Site Plan Review Regulations –Stormwater Management

Mr. Sean Kelley appeared with Joe Coronati of Jones & Beach. He wishes to enclose the conveyor belt. The addition is 16' x 17'. He has removed part of the existing building already. There will be a concrete pad added along with an island with a kiosk. A portion of the entry will be heated. The landscape island location was discussed along with parking spaces. Stacking vehicles was discussed. There will be an on-site employee.

BOARD

Mr. Lessard asked to see the previous plan and what is being changed. Mr. Coronati detailed the changes. Mr. Loopley asked about the new parking spaces next to the island - spaces #10 and #11. He asked how spaces would be utilized. Mr. Coronati stated they will probably be employee parking. Mr. Lessard asked if the spots would be labeled that way and it was stated “no”. Mr. Kelley stated he can manipulate the spots with cones.

MOTION by Mr. Emerick to grant the waiver.

SECOND by Mr. Griffin.

VOTE: 7 – 0 – 0

MOTION PASSED.

MOTION by Mr. Emerick to approve the amended site plan and to “cone off” or restrict spaces #10 and #11 to employee parking only.

SECOND by Mr. Griffin.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

12-018 83-91 Ocean Boulevard (continued from May 2, 2012)

Maps: 290 & 293 Lots: 144, 145-1, 146-1; 8-1

Applicant: Richard Green

Owner of Record: JM Sanderson

Site Plan Review: Construct 36 residential condominium units & 6 commercial condominium units.

Impact fees waiver request, Section 5.5 d. and e. of the Impact Fee Ordinance.

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

Attorney Peter Saari appeared along with Joe Coronati of Jones & Beach Engineers. Applicants Michael and Rick Green were in the audience along with Attorney Ells. It was noted that all reviews have come in. Attorney Saari stated that the applicants have no problem with the Town Planner's memorandum. Mr. Coronati set up a video production of the proposed development. He noted that the transformer location has been moved. The balconies and barriers were discussed. Mr. Coronati noted that Unitil has separation issues with balconies and parking lots. He explained that adding the barrier and keeping it in the current location was required. Mr. Loopley asked Mr. Steffen to get the requirements from Unitil that Mr. Coronati discussed. Mr. Coronati then discussed the approval from the Board of Selectmen on street parking space changes. He noted that those have been approved by the Board of Selectmen. He further noted that sign offs from Aquarion Water Company have been received as well as the Unitil sign-off. Additional plantings have been added. Outdoor seating and vendors will be on the ground floor.

Mr. McMahon asked about granite curbing along the front. There is about 60' of granite curbing, and between J Street and K Street there is some curbing but sections without it. He explained that this will help the handicapped to enter the site. Mr. Coronati stated the outdoor use will be seating for a restaurant or vending for a store, and will be all on their property. Mr. Steffen asked how many commercial units there are. Right now they are proposing eight units. Mr. Lessard asked about icing on the roof and roof run-off onto the sidewalk. Mike Whitcher, of Whitcher Builders, explained that there will be an insulation barrier. Mr. Lessard asked how water is gathered. It was responded that it will drip onto a crushed stone area and the eco-pavers. Mr. Lessard does not want water to fall on the sidewalk as he is worried about pedestrians getting soaked. When asked about setbacks Mr. Whitcher responded that he was not sure of the exact setback. Mr. Lessard thinks a lot of water will fall on the sidewalk. Mr. Green said these concerns were addressed previously but Mr. Lessard disagreed. Mr. Whitcher stated that installing gutters would not be useful as they would be hard to maintain. Mr. Green stated that the water will still drip onto their property. Mr. Lessard would like a gutter.

Mr. Loopley asked about snow storage. It will be fit in amongst the smaller landscape plantings.

MOTION by Mr. McNamara to approve the site plan as is.

SECOND by Mr. Emerick, but to include the conditions contained in Mr. Steffen's memorandum dated June 1, 2012 and revised June 6, 2012. Mr. Steffen asked about the scope of the condominium document review. Mr. McNamara asked about the applicant not holding the Town liable for any damage from falling ice. Mr. McMahon stated that the Board will make a determination on the new legal review process later in the meeting. It will be a separate part of the Minutes.

VOTE: 6 – 1 – 0 (Mr. Lessard)

MOTION PASSED.

Mr. Steffen stated he met with the Ed Tinker, the Town Assessor, and they looked at supporting documentation for the partial waiver request. He explained that there are three

HAMPTON PLANNING BOARD**MINUTES****June 6, 2012 – 7:00 p.m.**

options given for applying waivers. Option A is the standard multi family dwelling fee at 100% occupancy. Option B would be applying a per bedroom fee 61% occupancy and Option C would be a per bedroom fee at 37% occupancy. Mr. Steffen stated that he and Mr. Tinker agreed that the development probably won't be occupied year-round so they felt the 61% occupancy figure was more reasonable number. He explained that there are 36 units; 6 being the larger units of 1200 SF and other 30 units being one bedroom 600 SF in size. They came up with a different formula which would be based on square footage and 61% occupancy. Mr. Emerick also noted there is an offset based on what existed on the property before. Mr. Steffen responded that they did not consider a credit for what existed before. The larger units at 61 percent occupancy total an impact fee of \$6,947.00 (The standard amount of \$1,898 at 61 percent occupancy = $\$1157.78 \times 6 = \$6,947$). For the 30 one-bedroom units, they propose half of the \$1,898 fee, which is \$949, at 61 percent = $\$579 \times 30 = \$17,370$.

MOTION will contain approval of the impact fees as discussed above, along with the conditions contained in Mr. Steffen's memorandum dated June 1, 2012 and revised June 6, 2012. Condominium document review scope will be discussed later in the meeting. Mr. McMahan stated currently impact fees have been collected at building permit stage. Mr. Steffen memorandum suggests that the fees are not collected until the Certificate of Occupancy is issued. Attorney Ells appeared. He stated the practice has been with the Town that if someone were building a house and didn't need to come to the Planning Board the impact fee is paid at the building permit stage. He further stated that for projects that need approval by the Planning Board it says they are to be paid at the time of Certificate of Occupancy. Mr. Steffen asked what happens if the fees aren't paid at the time of the building permit and a developer goes bankrupt. Mr. Steffen stated the ordinance does allow for the Board to ask for some type of security, i.e. a bond or letter of credit to guarantee payment. Mr. Griffin asked if there are any units that have already been reserved. It was responded that there are some non-binding deposits. Mr. McNamara stated that he would like to add the impact fee partial waiver to the motion. It was decided by the Board that they will collect impact fees at the time they obtain the Certificate of Occupancy (CO) and no CO will be issued until the impact fee is paid.

SECOND by Mr. Emerick.**VOTE: 7 – 0 – 0****MOTION PASSED.**

Vote on the amendment to the main motion.

MOTION Mr. Emerick to incorporate the amendments to the main motion.**SECOND** by Mr. McNamara.**VOTE: 7 – 0 – 0****MOTION PASSED.****12-020 Drakeside Road (continued from May 2, 2012)**

Map: 172 Lot: 13

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

Applicant: First Hampton Associates, LLC

Owner of Record: Same

Amended Site Plan & Special Permit Applications: Construction of two 9,200 SF, 24-unit multi-family structures with 102 parking spaces

Mr. Joe Coronati appeared with Attorney Peter Saari. Atty. Saari noted one major change is relocating the brick patio area. He stated that the Town engineer has signed off on the project, as did Fire and DPW. The State wastewater bureau and the State wetlands bureau (He spoke with Frank Richardson) have no issues with it, but they will receive comments in a few weeks. The Conservation Commission has no concerns with the wetlands permit. The handicapped spaces have been moved. The parking area will be taken care of and it's part of the approval in the Town Planner's memorandum. They suggested that perhaps the Town and the applicant could be responsible for the parking area. How US mail was being handled was asked about and they responded it is going to be inside. Mr. Emerick stated he feels it is unnecessary for the handicap ramp to be as large as it is. Mr. Olson asked about the retaining wall. It is 2 ½ feet high. Will it hold back the corner of the lot? Mr. Steffen asked the Board to refer to the revised memorandum, dated June 6th as #3 is changed—it is now deleted. The impact fee is the other change – noting fees need to be paid prior to issuance of a Certificate of Occupancy. Delete security wording. And #10 will be changed. It is not proposed as condominiums at this time. The parking area (.13 acres) is discussed in the O&M document. Mr. Coronati said winter plowing may not be covered. It is listed as one of the items to be maintained. Mr. Lessard asked Mr. Steffen to doublecheck on that in the O&M Plan - he wants to know what is and is not covered.

MOTION by Mr. Mr. Emerick to approve the amended site plan and special permit applications with the conditions contained in the Town Planner's memorandum dated May 31, 2012, and revised June 6, 2012, as amended above-- excluding #8 regarding the bond requirement and with #3 being omitted. This is also approved with the stipulations contained in the Conservation Commission's letter dated May 3, 2012.

SECOND by Mr. Olson.

It was noted that #3 has already been completed and that Item 8 included a bond, which the Planning Board is not requiring. Also, the O&M Agreement will be reviewed by Mr. Steffen.

VOTE: 7 – 0 – 0

MOTION PASSED.

12-025 7 Ocean Blvd. (5/2/12 approval vacated)

Map: 295, Lot: 65 (corrected)

Applicant: Bryan Provencal

Owner of Record: Ann-Lung, LLC

Site Plan Review: Construction of 360 SF deck & exterior door.

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

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

Mr. Loopley recused himself from this application. Mr. Matthew Fan appeared with Attorney Peter Saari. Atty. Saari explained that this matter has been re-noticed twice. He has nothing to add from what he stated last time. They are of the opinion that no right-of-way goes through the property. The building has been there for 70 years. Atty. Saari asked the Board to make the same decision on this as before. Mr. Fan has operated his business for a long time at this location.

BOARD

It was asked by Mr. McNamara if the applicants would do the project at their own risk. It was stated “yes”.

PUBLIC

Mr. Fred Welch, Town Manager appeared. He stated that unfortunately the Planning Board in its approval of the Hampton Harbor Condominiums in 2004 insisted that the right-of-way deeded to the Town in 1973 be platted for approval and is recorded at the RCROD on plan 32262, Sheet 2 of 3. He further stated that if the right-of-way is located in the wrong location it should be reinvestigated. Mr. Welch stated he wants the business to continue and be successful, but the Federal government has notified the Town that no building should be put on this right-of-way. He stated that he received the letter today from the Federal government stating that the right-of-way violates use and they don't agree to any construction of any kind. Once the Federal government releases their rights to the Town, then the Town can discharge the right-of-way. Mr. Welch suggested that this get taken care of first. The Town does not want the right-of-way where it is. He is directed to not issue a building permit until this is taken care of.

Mr. McMahan asked about timing. Is this going to take years or days; he heard years. Mr. Welch responded that they are waiting for an assessment report, which should be done in a few days or a week, and once that assessment is done that information is released to the Federal Government, who is then handed this hot potato we don't want. It should be able to reach an agreement on aggregating the restrictions on the property. That is their responsibility, not the Town's because they have the only right to do that. The Town can then release it. Then the General Services Administration should be able to reach an agreement alleviating the restrictions. However long it takes the US Department to accomplish this is a question Mr. Welch can't answer. His understanding is when they approve it it's more or less a rubber stamp situation. We've asked them to expedite this. Mr. Lessard asked about other properties and condominiums down there. There are other properties affected by this issue, and it could cause a problem with Hampton Harbor Condominiums as well.

Mr. McNamara asked about the letter from the Federal government and its reference of the former Hampton Beach Boathouse Site. It does not mention the Map or Lot numbers, nor the Ocean Wok address. He thinks it does not have relevance to the lot. Mr. Welch said construction was done in 1940. Mr. Welch stated the Board could ignore this letter from the

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

US government. Mr. McNamara asked if the Board of Selectmen could overrule the Town Manager on not allowing a building permit to be issued.

PUBLIC

Mr. Charlie Preston appeared. He stated that this is absurd. There have never been any boundary issues with any neighbors. When the harbor condominium project was built there were no issues presented. The road hasn't changed in 50 years. The owners are hands-on, and are classy operators. The Town's Master Plan has been calling for more businesses like this at Hampton Beach. This is a just a 360 SF deck.

Mr. Tom Higgins of 31 Ocean Blvd appeared. He was on the Planning Board and has recollection of the Hampton Harbor project moving the right-of-way to where road is. It is a deeded right-of-way to the Town. He finds it hard to believe that the Town could okay the Duston Avenue project, and the Hampton Harbor condominium project, but that the Federal government would contact Mr. Welch regarding a deck. He understands Mr. Welch stopped issuance of the building permit weeks ago. He stated the Town could move the easement over with a memorandum of understanding and note that there is a Town right-of-way to the beach already.

Mr. Graham Bunce appeared. He is an admirer of the Ocean Wok. He stated this is a year-round business at Hampton Beach and the deck causing a stir in Town is ridiculous. It was on a proposed plat back in 1921 - whoever drew the right-of-way on the plat may not have been correct.

Mr. Fan stated he has rented this property for 17 years and gave the history. For 90 years, there has not been an issue with the right-of-way. He is spending a lot of time and money on this. He believes this is not just about the deck. He asked the Board to use its common sense. If the Federal government comes down, but he thinks it won't happen, he will let them take it. Attorney Saari stated when the Town got the right to use the property there was a plan recorded in 1960 that shows the right-of-way passing by the side of Mr. Fan's property. He feels that the Federal government is being asked to support the Town's position by Mr. Welch.

Mr. Lessard asked Mr. Welch when he started working on this problem. Mr. Welch stated six months ago. Mr. Welch explained that it was supposed to be a national park service. It makes no sense with the right of way, buildings, etc. We asked the Federal Government to discharge it. The Federal government asked the Town to assess it for monetary value. He met with them in April of this year and asked them to go through this process with the Town. The State agreed to do that. The Town is almost done; we need the assessment data on that. They have asked for an assessment on the property. The State asked the Town to assess it. It's being done upstairs and outside. Mr. Welch thinks the assessment could be done in the next week or so. Every two years the Town is required to write a report to the Department(s) as to the condition of the right of way. The Town did that when Mr. Welch first arrived. They sent the Town some discouraging letters that buildings were illegally erected. This has been going on for a while, so the Town filed the last report and they said okay – from now on you can file a report every five years. That was last

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

winter. In April they came out and they examined the property and they agreed. That's where we are.

MOTION by Mr. McNamara to grant the waiver.

SECOND by Mr. Lessard.

VOTE: 6 – 0 – 0

MOTION PASSED.

MOTION by Mr. McNamara to approve the site plan as presented.

SECOND by Mr. Emerick.

VOTE: 5 – 0 – 1 (Mr. Griffin).

MOTION PASSED.

V. CONSIDERATION OF MINUTES of May 16, 2012.

Mark Loopley rejoined the Board.

MOTION by Mr. Lessard to approve the May 16, 2012 Minutes.

SECOND by Mr. Olson.

VOTE: 6 – 0 – 1 (Rick Griffin was absent)

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

MOTION by Mr. Emerick to adopt the revised condominium review process as described in the Memorandum from Town Attorney Gearreald dated June 5, 2012, as follows:

Condominium documents are to be submitted in “ Microsoft Word” from the applicant’s counsel for review and approval by the Town Attorney and/or Assistant Town Attorney at the applicant’s expense prior to recording by the Town Planning Department of the final plan(s) and of said condominium documents, in order to:

- *Ensure that the provisions in the condominium documents and legal description and exhibits thereto 1) correspond with the details of the development as reflected on the plan(s) approved by the Planning Board and 2) include and reflect any conditions imposed by the Planning Board whether contained in a) notes on the plan(s), b) the Board’s minutes, or c) the terms of the Board’s approval motion and decision letter and any separate documents incorporated therein.*
- *Ensure that the interests of the Town are protected.*

Because the Legal Department does not receive the condominium documents for review until after the Board’s approval occurs, the amount of the expense for the review cannot be determined in advance. An escrow of \$500.00 needs to be

HAMPTON PLANNING BOARD

MINUTES

June 6, 2012 – 7:00 p.m.

established by the applicant with the Planning Office for the above review before the review is commenced; the review cost is to be charged to the declarant or developer at the then current hourly cost of the personnel of the Town's in house legal department (now \$66/hour for the Town Attorney and \$44/hour for the Assistant Town Attorney), provided that the difference between the review cost so calculated and the \$500 escrow will be refunded if such cost is less than \$500, and will be billed to the extent that such charge exceeds \$500. The Legal Department shall notify the developer/applicant's counsel as soon as practicable after the \$500 escrow amount is exceeded to request that an additional amount be placed in escrow to cover the final bill. A copy of the final invoice shall be provided to the Planning Office by the Legal or Finance Departments. Payment of such final bill must be received by the Town before the recording by the Planning Office can occur of the final plan(s) and of the condominium documents themselves. The Planning Office shall seek confirmation from the Legal Department that the final condominium documents and plan(s) are in fact in proper form.

The Planning Board will have the Legal Department focus on the substantive issues of the development and not on the procedures governing the Association in the By-Laws except to the extent the above criteria are implicated.

The Legal Department will gauge preliminarily at the point when documents are received for by the Legal Department for review whether the cost for the review is likely to exceed \$500, and if so to notify counsel for the applicant of that likelihood as a matter of courtesy.

It was stated that this new criteria will apply to the condominium document review scope for the above 83-91 Ocean Boulevard project, above.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

VIII. ADJOURNMENT

MOTION by Mr. McNamara to adjourn.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 10:10 p.m.

Respectfully submitted,
Laurie Olivier
Administrative Assistant