



# TOWN OF HUDSON

## Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

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**-- FILE COPY --**

### HUDSON PLANNING BOARD MEETING MINUTES June 26, 2013

#### I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:03 p.m. on Wednesday, June 26, 2013, in the Community Development's Paul Buxton meeting room in the Hudson Town Hall basement.

#### II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Atty. Westgate to lead the assembly in pledging allegiance to the Flag of the United States of America.

#### III. ROLL CALL

Chairman Russo asked Secretary van der Veen to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

**Members**

**Present:** James Barnes, Glenn Della-Monica, George Hall, Vincent Russo, Ed van der Veen, and Richard Maddox (Selectmen's Representative).

**Members**

**Absent:** Tim Malley (Excused).

**Alternates**

**Present:** Jordan Ulery, and Nancy Bruckerman (Selectmen's Representative Alternate).

**Alternates**

**Absent:** Irene Merrill (Excused) and Marilyn McGrath (Excused).

**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury.

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Russo seated Mr. Ulery in place of the absent Mr. Malley.

**V. MINUTES OF PREVIOUS MEETING(S)**

Chairman Russo said there were no minutes in the packet for review.

**VI. CASES REQUESTED FOR DEFERRAL**

No cases had requested deferral from this scheduled date.

**VII. CORRESPONDENCE**

Town Planner Cashell noted that there was a letter from Atty. Westgate requesting deferral of a case in which he was representing the applicant. Chairman Russo then proceeded to that case.

**XI. OLD BUSINESS**

**A. Unicorn Industrial Park  
SP# 09-12**

**Map 170/Lot 038  
25 Constitution Drive**

**Purpose of plan: To show a proposed 10,000 ft<sup>2</sup> industrial building on 4.4 acres +/- with the associated site and drainage improvements. Hearing. Deferred Date Specific from the 05-22-13 Planning Board Meeting.**

Chairman Russo asked if Atty. Westgate had anything to say about his request. Atty. Westgate said the reason was as stated in his letter, saying the abutter to his client had raised concerns and they had rekindled communications to discuss plan differences and wished to proceed with that and come back in four weeks.

Selectman Maddox moved to defer this item, date specific, to the July 24, 2013, Planning Board meeting, in accordance with the written request of applicant. Mr. Della-Monica seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

**B. Discussion on the Industrial (I) Zoning District. Deferred from the 05-22-13 Planning Board Meeting.**

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said there were no handouts but his staff report was extensive. He noted that the Board had asked him to contact property owners in Sagamore Industrial Park about the possible name change for that park, saying he had contacted several but there were questions remaining, and he was meeting with DRED

officials the following day to resolve those questions, having to do with whether the ERZ zone would be affected by the name change and whether any tax credits that applied in Sagamore Industrial Park now would be affected.

Mr. Cashell noted that the Board had requested him to look at the existing uses allowed for the Industrial zoning district, and he had suggested some changes. He referenced the last four pages of his staff report, saying he would add a new R&D zone, which pretty much duplicated the industrial zone. He noted that Line 33 provided for retail sales of agriculture, which were not allowed to be sold in the industrial zone but he did not see any problem with allowing them in the R&D zone. In line 10 of Industrial uses, *Contactors Yard*, he was suggesting that this not be allowed. In the accessory uses, he said, there was replication of the Industrial zone.

Mr. Della-Monica noted that Mr. Cashell had left Line 23 in, for consumer convenience. Mr. Hall said that line should be left in. Chairman Russo expressed agreement.

Mr. Hall said he did not see any reason to leave Heating & Fuel Storage in, saying it was not compatible with the desired upscale uses.

Mr. Barnes asked Town Planner Cashell who had named this park, asking if it had been the Town or the landowner. Town Planner Cashell said he thought it had acquired its name because of its zoning designation. Mr. Barnes clarified that he was talking about the name "Sagamore," questioning why the name would make any difference if the uses were essentially the same. Mr. Cashell said it wasn't something that the Town had to do but was more of a rezoning designation. Chairman Russo said what the Board was trying to do was develop a research-and-development designation so as to get more businesses to come just because of the title. Mr. Hall concurred, saying the Board was not doing anything to rename the park.

Mr. Ulery said it would be appropriate to suggest not including fuel storage, but Haffner's had fuel storage and sales and was in this zoning district. Mr. Cashell confirmed that Haffner's facility was located in the Business zoning district, just outside the industrial park. Mr. Ulery said part of research and development might require a variety of chemicals—suggesting pyrogenics, as an example, and noting that special chemicals that might be necessary for what was being researched and developed, and he suggested that the Board should not make things too restrictive. Chairman Russo asked if he were saying #9 should not be changed. Mr. Ulery said he just wanted to make sure the town would not be limiting the ability of any company that might wish to come here.

Mr. Della-Monica said commercial fuel & sales would be for someone in the business of delivering, not material that was incidental to running the business. He suggested one of the reasons for changing the name of the zoning district would be to attract people who might be looking up potential locations on the Internet.

Mr. Hall said he thought there was validity to some of the arguments, but what he was talking about was bulk storage of fuel or gasoline in the industrial park. He said he could not imagine anyone putting a gas fueling station down in the industrial park, as the Board would not want residents driving down there to get fuel. He said he could see any kind of bulk storage, but no sales or retail. He said he did not think that was

appropriate for a research and development park. He said the Planning Board had not named the park, and should not get hung up on the name.

Selectman Maddox said all the proposed change would be doing would be changing two items in the Industrial zoning district, and he could not see going to the voters for that, saying the two items were inconsequential in the big scheme.

Town Planner Cashell said his argument was that the Sagamore Industrial Park had an incredible location, but real estate people needed the right name and zoning designation in order to be attracted to the site, and he thought the proposed changes would go a long way toward attracting other businesses. He said it might look that not much was being done but it was actually doing a lot. He then concluded by saying that he agreed with Mr. Hall about gas stations in the park, saying fast fueling stations were best placed on busy roadways, and Lowell Road was the busiest in Hudson.

Selectman Maddox said the landowners could change the name tomorrow without the Board's say-so, reiterating that he was having a tough time seeing why the Board would go to the voters for this, and he questioned whether the other industrial parks would want to do something similar.

Mr. Barnes said a different approach might be to see what uses were in the park and add in a few uses that R&D might want.

Town Planner Cashell said all the uses were there, as they were written in general manner. He stated that there were many research and development businesses down there now, noting that a lot of them were satellite businesses for larger companies such as BAE. He alluded to the C&M Machinery business as an example.

Mr. Della-Monica said people doing Internet searches were not looking for the name of a park but were telling their real-estate people to find something in an R&D or commercial-business district, which meant that the search would filter out "Industrial." He said the people doing the search would exclude "Industrial," which meant they would not see Sagamore Industrial Park in the results. He said the reason for changing it would be to get to the people doing searches that did not include the word "Industrial."

Mr. Hall said the one use being suggested to take out was the cause of the grief in the first case hear tonight. He said he thought there was some validity to Mr. John Wolters' argument, noting that anyone driving down Constitution Drive would find one use that was not compatible to the rest of the uses in that park. He said this park had a great access, as Town Planner Cashell had said, and he did not think the Board wanted that sort of use to move in. He said taking out the two uses that had been discussed had some validity. He said that park had been there for a long time and already had some uses—adding that if he had his office in that park he would not be happy to have that sort of business move in next to him. He said he was in favor of the proposed changes.

Town Planner Cashell said he had spent quite a bit of time down there to get a feel, saying there were many beautiful buildings down there, with a lot of money being spent, but there were also still a lot of empty buildings. He said there was a lot of interest in expanding buildings, and he thought the future of the park could be incredibly enhanced, adding to increased taxes for the town, housing, employment etc.

Chairman Russo asked why the Town would want a public school in that district. Town Planner Cashell said a private school or a nursery would be desirable. Chairman Russo qualified that he had said "public." Mr. Hall pointed out that the Town could put a school wherever it wanted. Town Planner Cashell said a charter school might be good; Mr. Ulery pointed out that, in New Hampshire, a charter school was a specialty school.

Mr. Della-Monica said the grandson of an owner of the business he was at was a high school student taking some industrial courses, and companies where he lived took high school students and gave outside work experience at the company, and the school gave full credit for it.

Chairman Russo said another question he would have would be the agricultural uses.

Chairman Russo asked the Board's pleasure, asking how they wished to move forward.

Mr. Hall moved to schedule a public hearing to proposed changes to the Sagamore Industrial park. Mr. Della-Monica seconded the motion. Town Planner Cashell suggested the date of August 14<sup>th</sup>; Mr. Hall concurred, expressing a hope that Town Planner Cashell would invite some of the business owners from the park, with notice of the suggested changes.

**VOTE:** Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Selectman Maddox, who voted in opposition, and Chairman Russo declared the motion to have carried (6-1).

**VIII. PERFORMANCE SURETIES**

No **Performance Sureties** items were addressed this evening.

**VIX. ZBA INPUT ONLY**

No **ZBA Input Only** items were addressed this evening.

**X. DESIGN REVIEW PHASE**

No **Design Review Phase** items were addressed this evening.

**XII. DESIGN REVIEW PHASE**

No **Design Review Phase** items were addressed this evening.

**XIII. CONCEPTUAL REVIEW ONLY**

No **Old Business** items were addressed this evening.

**XIV. NEW BUSINESS/PUBLIC HEARINGS**

No **New Business** items were addressed this evening.

**XV. OTHER BUSINESS**

**A. Oak Ridge Condominiums  
SP# 10-10**

**Map 184/Lot 32  
109 Belknap Road**

***Purpose of plan:*** The proposed project is a 55 years and older person's residential community consisting of 100 detached condominium units. Project was approved on April 13, 2011.

***Purpose of this discussion:*** To amend conditions of approval, to eliminate school impact fee assessments, per Article XIV, Impact Fees Section 334-74.6. Hearing. (Reference letter dated May 7, 2013).

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said this was the only other 55-plus development under construction in the town, and they were asking postponement until the Board finished with the school-impact update action.

Mr. Hall moved to suspend further collection of School Impact Fees for the Oak Ridge Older Persons Housing Development until such time as Hudson's School Impact Fee Schedule has been updated. Mr. Barnes seconded the motion.

Mr. Barnes asked if the Oak Ridge development was current with the current CAP fee schedule. Mr. Cashell answered in the affirmative.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

**B. Review "Traffic Impact Fee System". Cost Estimate to complete CAP Fee Assessment Update for the three major corridors in Hudson (i.e. NH Routes 102 & 111, and Route 3A). Deferred Date Specific from the June 12, 2013 Planning Board Meeting.**

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said he had contacted Salem, Hooksett, and Concord, as previously requested by the Board, noting he had provided information and their responses in his staff report. He said each of those communities differed relative to collection of traffic and impact fees. He noted Hooksett had not had a previous capacity impact fee, noting that town had provided information about all the other fees they collected—which included police and fire service impact fees. He said that community's system was adopted in 2002 and amended in 2005. He noted that Hudson had been in the forefront in establishing impact fees in New Hampshire. He

said impact fees for police and fire services had been handed about. Mr. Hall said a CIP was needed first, so there was no way to talk about that now.

Mr. Hall moved for the Planning Board to support the Board of Selectmen to expend the sum of \$18,000.00 and for said sum to be expended on the "Traffic Impact Fee System," as cited in the AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN VANASSE HANGEN BRUSTLIN, INC. AND TOWN OF HUDSON, NEW HAMPSHIRE TRAFFIC IMPACT FEE SYSTEM, dated May 14, 2013, as prepared by VHB, Inc.

Mr. Della-Monica seconded the motion.

Speaking on his motion, Mr. Hall said he did not believe the Board had any choice, saying the alternative was to do nothing, and the process being used was very, very old and subject to questions, or to go back and redo the same methodology. He said he felt the cost of redoing the old one would-be huge, as it required analysis of the entire corridors, saying it had to be in the \$50,000 range. Town Planner Cashell said Mr. Kennedy had said it would be over \$100,000. Mr. Hall said he thought this was why the other communities had gone to this alternative method and he thought it made sense.

Selectman Maddox said because this was the end of the fiscal year, the Board of Selectmen last night had taken money from the Community Development Department, so he would amend the motion to expend \$18,000 from the Planning Board funds. Mr. Hall revised his motion in accordance with that suggestion; Mr. Della-Monica seconded Mr. Hall's change, making it a friendly amendment.

Mr. Della-Monica clarified for the benefit of the viewing audience that what the Board was doing was talking about a study so that people coming into town and wanting to develop something that would affect traffic, the cost would come not from the existing taxpayers but from the people doing the development, so the Town needed a study to determine how much each new development should be charged towards that goal.

Mr. Ulery pointed out that the money from the impact fees could only be used for the purposes for which they were collected.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

### **C. Review Cost Estimate to Complete an Update of the 2000 School Impact Fee Study.**

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell referenced a letter received from School Superintendent Bryan Lane, noting that he also had a handout that was an amendment to his staff report.

Selectman Maddox suggested that the Board needed to back up and see if it made sense to have a Fire Department Impact Fee Study; saying he agreed with Mr. Hall that a CIP was needed in order to produce a new impact fee study.

Mr. Barnes noted that the School Board members were saying they did not have a responsibility to fund the study; he pointed out that the proposed scope of services said the person preparing the study would have to work with the School Board, and he asked if the School Board would be willing to work with that person. Town Planner Cashell said they would, noting that Russ Teebow had been working with them already.

Mr. Hall recalled that the last time around the Planning Board had paid for this, and he had attempted at that time to get the School Board to reimburse the Planning Board, saying they had a legal opinion that the Town needed to pay for it. He said the School Board's response had been the same at that time, reiterating that the School Board had obtained a legal opinion, but he believed the School Board had fully cooperated in the required research.

Town Planner Cashell said another way to look at it was that the Town would save money, and the cost to the taxpayers would be lessened.

Mr. Hall moved for the Planning Board to request from the Board of Selectmen authorization to expend from the Planning Board Expense Fund the sum of \$9,000.00 and for these monies to be expended on the "School Impact Fee Update", as cited in the "Proposed Scope of Services" for said study, prepared by Bruce Mayberry, principal of BCM Planning, LLC, dated May 21, 2013.

Mr. Barnes seconded the motion.

Mr. Ulery said he understood that the School Board wanted the Town to pay for something that benefitted the School Board. Chairman Russo expressed agreement, stating that he had never seen anything so short-sighted, but they were educators.

Mr. Della-Monica suggested that, if the School Board said extra money was needed, and they were paying for the study, some voters might see it as a conflict of interest.

Mr. Barnes said he did not see it as any more of a conflict of interest than what the Planning Board had just done with traffic impact fees.

**VOTE:** Chairman Russo then called for a verbal vote on the motion. Chairman Russo reported that all members present had voted in favor except for Selectman Maddox and Mr. Russo, who both voted in opposition, and Chairman Russo declared the motion to have carried (5-2).

Mr. Barnes questioned the count and asked for a hand vote.

**VOTE:** Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Selectman Maddox, Mr. van der Veen, Mr. Ulery, and Mr. Russo in opposition, and Chairman Russo declared the motion to have failed (3-4).

Mr. Hall asked what the people who had voted in opposition would suggest.

Mr. Ulery said it seemed to him that unless the School Board actively participates, not only by providing manpower to do the work but also financially contributes to this



plan, the information from the School Board as to the number of students and also the ancillary costs of what it cost to educate a student in Hudson would not be fully exposed. He said the School Board needed to participate with a financial contribution, showing that they were a partner to the Town rather than an opposing force.

Mr. van der Veen said he thought the study would show what the money being collected was to be used for, which was a function of the School Board, and the study should be conducted by the group that was most knowledgeable and likely to benefit.

Selectman Maddox said \$9,000 was minor in a \$50 million budget, so it was tough in his mind to rationalize why they did not want to participate. Chairman Russo expressed agreement.

Mr. Hall said he had heard the opinions but had asked what the alternative was. He suggested someone should go talk with the School Board, noting he had done it last time.

Selectman Maddox expressed a desire to delay this to get the feelings from the Board of Selectmen about police and fire impact fees. Mr. Hall said it would take over a year to do that, noting actually that it would take two years because of the need for a CIP. He then pointed out that the Board of Selectmen had never allowed the Police Department and Fire Department to provide input to the CIP process. Selectman Maddox said that was why he wanted to discuss it with the Board of Selectmen.

Mr. Barnes said the reason he had voted in the affirmative on the motion was that he did think the School Board should be picking up more of the responsibility on this—but, on the other hand, from the taxpayers' perspective, it was coming out of one pocket or the other pocket.

Selectman Maddox said fees would continue to be collected under the old methodology.

Mr. Della-Monica provided a handout pertaining to Hudson's sign permit and electronic changing signs, saying there were a lot of misconceptions. including height of the sign and height of lettering, (saying 10 inches of text meant the lines, in order to be legible, which was another requirement, had to be 16 inches high, as there had to be white space between the lines of text. He said there was a difference in text height and line height, which was more than had been discussed, saying the 40-inch-high message center portion would be from 50-odd to 60-odd inches, depending on the ratio. With respect to graphics, he noted that the ordinance did not specify the color or the composition of the background behind the text, adding that the background could be multicolored or even a graphic—saying the ordinance did not specify how many lines of text must be displayed at a time, and it could be zero lines of text and just the graphics. He said the ordinance did not disallow pictures. He noted that brightness measurement standards were not based on the total area in the ordinance, so the brightness standard had no measurement specification. He postulated an extreme example of someone having a 1-cm<sup>2</sup> sign in the middle of a 64-inch-tall background, saying the brightness could be about 1% of the brightness of the sun and still be legal. What it should say, he contended, was that at the brightest area on the sign could be no more than 1500 nits. He said there were also a lot of things about the permitting

process, but what was intended was not what was actually written. He said the purpose of this was, when the Board came up with the changes, the rules had to be written so that people could not break the rules. Having been in the business of enforcing rules, he said, he knew how far people would go to get around them.

Selectman Maddox said the Board could spend years rewriting the ordinance and not get it right. Mr. Della-Monica said some of the simple ones could be fixed, adding that one fix would be to change it so that the *line* could be no more than 10 inches high, rather than the *lettering*.

Selectman Maddox said the Board had relied on the sign makers for the terminology. He then displayed his NO GOOD TURN GOES UNPUNISHED sign.

Chairman Russo asked if Mr. Della-Monica had any suggestions for the Board, so that the Board could propose some changes.

Mr. Della-Monica said one recommended change would be to change it so that text could be no more than ten inches high—saying there could be up to four lines of text, with each line, including text and interline space, could be no more than ten inches in height. If graphics were not wanted, he said, it should specify that any background needed to be off when no text was being displayed. He said the issue was that the rules in the ordinance were not what was being described at the Board meetings, adding that he saw no problem with a 64-inch sign if the Board wanted that.

Town Planner Cashell said a sign expert had come in, and the Board had been out-nitted. He said most people were taken back at how bright these signs were.

Mr. Della-Monica discussed nits versus candles, saying one candle in the middle of one meter was roughly equivalent to one nit. He said 1600 candles within a one-meter area was a lot of candles and a lot of light. He said measuring a sign would be very difficult, saying the ordinance should have said the brightest element, not the whole sign. He said in addition to hearing from experts who sell signs, the Board needed demonstrations, saying the Board should have had some signs brought in to the meetings so that the Board members could see the signs. Chairman Russo added that the Town then needed an expert to measure and enforce, which it was truly lacking.

Chairman Russo asked if in his travels Mr. Della-Monica found a lot of people unhappy. Mr. Della-Monica said the only comment he had heard was about an overly bright sign on Lowell Road, that he thought had subsequently been toned down a little bit.

Chairman Russo said he was not overly ecstatic about the results of the ordinance and how the regulations applied, but he would like to hear from other people than the Board members. Mr. Della-Monica said his recommendation was to not do anything with the existing ordinance, but it was not what people thought they were getting at the time. In the future, he added, the Board needed to analyze the possibilities for people to wheedle their way around the ordinances and regulations.

Chairman Russo noted that the Planning Board had worked on this ordinance for two years, trying to come up with the ifs and buts.

Recorder Seabury, a member of the Zoning Board of Adjustment, noted that Chairman Russo had asked if Mr. Della-Monica in his travels had heard complaints. He said members of the Zoning Board of Adjustment heard complaints, because citizens came to them and asked why they had allowed this.

Chairman Russo said he would like to hear from members of the public about the signs, noting that he did not see much in HLN's "*Thumbs Up/Thumbs Down*" section about the signs.

Mr. van der Veen said there was a new coffee-selling store behind the Auto-Zone store, asking if this were a change in use. Town Planner Cashell said within shopping centers it was allowed. Mr. van der Veen said it had been some kind of office, so he was asking if it had to come before the Planning Board. Town Planner Cashell responded in the negative.

#### **XVI. ADJOURNMENT**

All scheduled items having been addressed, Mr. Barnes moved to adjourn; Mr. Della-Monica seconded the motion.

**VOTE:** Chairman Russo called for a verbal vote on the motion. All members voted in favor.

Chairman Russo then declared the meeting to be adjourned at 8:21 p.m.

Date: October 13, 2013

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Vincent Russo, Chairman

J. Bradford Seabury, Recorder

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Edward van der Veen, Secretary

These minutes were accepted as amended following review at the 11-13-13 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes  
June 26, 2013**

**Page 12**

The following changes were made to the draft copy in accordance with review comments at the Planning Board meeting of 11-13-13:

Page 3, 5<sup>th</sup> paragraph, 1<sup>st</sup> line — removed extraneous parenthesis.

Page 7, 5<sup>th</sup> paragraph, 3<sup>rd</sup> line – placed comma in \$18,000 figure instead of space.

Page 11, 3<sup>rd</sup> paragraph, 1<sup>st</sup> line — changed “coffee shop” to “coffee-selling store.”