



# TOWN OF HUDSON

## Planning Board

Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison



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## HUDSON PLANNING BOARD MEETING MINUTES April 24, 2013

### I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:00 p.m. on Wednesday, April 24, 2013, in the Community Development's Paul Buxton meeting room in the Hudson Town Hall basement.

### II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Ms. McGrath 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, Richard Maddox (Selectmen's Representative), and Tim Malley (arrived at ~8:30 p.m.).

#### **Members**

**Absent:** None. (All present.)

#### **Alternates**

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

#### **Alternates**

**Absent:** None. (All present.)

#### **Staff**

**Present:** Town Planner John Cashell.

Recorder: J. Bradford Seabury.

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Russo seated Ms. McGrath in place of the tardy Mr. Malley.

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

Chairman Russo addressed the minutes for the meeting of February 13, 2013, asking if there were any changes or corrections.

Mr. Barnes requested the following changes:

- Page 6, 2<sup>nd</sup> paragraph, last sentence – He questioned the use of the verb “lumbered.” Recorder Seabury stated that that was a direct quote.
- Page 20 — the VOTE paragraph appeared to be repeated.

No further changes or corrections being brought forward, Ms. McGrath moved to accept the 02/13/13 minutes as amended; Mr. Barnes seconded the motion.

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

**VI. CASES REQUESTED FOR DEFERRAL**

No cases had requested deferral from this scheduled date.

**VII. CORRESPONDENCE**

Chairman Russo stated that items of correspondence received in tonight's handouts would be taken up in conjunction with the associated cases, with any remaining items being taken up under **Other Business** at the end of the meeting.

**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.

XI. OLD BUSINESS

A. Sparkling River, LLC  
SP# 07-12

Map 156/Lots 5 & 6

**Purpose of plan: To amend conditions of approval: River Ridge 10-13-04, and Riverwalk 03-10-04, to eliminate the school impact fee assessments, per Article XIV, Impact Fees Section 334-74.6. Hearing. Deferred Date Specific from the 03-27-13 Planning Board Meeting.**

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

Town Planner Cashell said he had nothing to add to his staff report.

Chairman Russo noted that there had been correspondence from the Town Attorney regarding this application.

Chairman Russo noted that the Planning Board had hired Mr. Russ Thibeault, President of Applied Economic Research, a consulting firm, to do a peer analysis of Mr. Fougere's study reports, noting that Mr. Thibeault was present.. He asked if any members of the Board had questions regarding Mr. Thibeault's report.

Mr. Barnes asked if the sample by Mr. Fougere was a good cross-reference for towns nearby Hudson. Mr. Thibeault answered in the affirmative, saying it was an adequate sample and that he had checked the Hudson enrollment figures, adding that it was consistent with his own observations, as well as enrollment figures from other communities.

Mr. Della-Monica asked if Mr. Thibeault had done any analysis of senior housing developments that had reverted to open housing within six years. Mr. Thibeault said he had not.

No further questions coming forward, Chairman Russo asked Mr. Thibeault to describe what he had done. Mr. Thibeault first described his background, noting he had done previous work for Hudson as well. He said the report laid out the scope of his investigation, saying he had examined Bruce Mayberry's original reports and then the two reports prepared by Mr. Fougere. He said his conclusions were that Mr. Fougere adequately supported the observation that most, if not all, school impact fee ordinances provided a procedure, if not a mandate, to waive all or part of the school impact fee for age-restricted housing, adding that this was a very common provision in school impact fee ordinances. He said there needed to be a rational nexus for impact fees and the development for which they were collected. He said the sample was adequate and consistent with his own investigations, saying Mr. Fougere's recalculation of the Mayberry figures were adequate, saying Mr. Fougere's recalculation of Mr. Mayberry's year-2000 figures indicated that the Sparkling River development should not be assessed a school impact fee accurately drew on Mr. Mayberry's year-2000 analysis, and he had done the math correctly, based on his sample of age-55-and-over developments and the kind of school generation they had—adding that those calculations provided a mathematical basis, if the Town should so desired, to completely waive the school impact fee for Sparkling River units. He noted that Mr.

Fougere's analysis did find some school-age children in the existing Sparkling River units, confirming that the restriction did not completely preclude school-age children.

Mr. Thibeault said there were two kinds of "safe harbors" to avoid age discrimination in housing -- first, that no one under 55 could be there, or second, that at least one person in the unit had to be over 55. He noted that Sparkling River had been found to have three school-age children living there. He noted that Mr. Mayberry did originally draw a distinction between conventional and age-restricted units and had specifically pointed to waivers for age-restricted housing. He then noted that some New Hampshire communities had allowed partial waivers of school impact fees for developments where at least one person had to be 55 or older but there was no prohibition of school age children—saying Bow and Bedford had both reduced school impact fees for age-restricted developments by 70% to 80%. He then concluded by stating that an update of the fee schedule in Hudson, which had been created in 2000, was overdue, as school enrollment, a kindergarten enrollment policy, school generation per unit, space requirements per student, State funding, and cost of new construction had all changed markedly since that date.

Ms. McGrath asked what Mr. Thibeault had done for the Hudson SAU. Mr. Thibeault said the SAU had been concerned about what impact the changes in the economy in this region would have on school enrollment. He said school enrollment was confusing in Hudson, partly because of the addition of kindergarten students, which offset the decline in other grades, but throughout the state decline in school enrollment was being seen. He said the SAU had been looking for options with respect to the existing infrastructure, noting that impact fees had not been a part of that study.

Chairman Russo noted that Mr. Thibeault had said Bedford and Bow had reduced their impact fee by 70% to 80%. Mr. Thibeault noted that this pertained to age-restricted developments, but he did not know what the reasoning for determining the amount of reduction had been.

Ms. McGrath asked if Mr. Thibeault knew of any age-restricted developments that prohibited inhabitants under the age of 21. Mr. Thibeault said he did not recall. Ms. McGrath referenced Page 6 of his report; Mr. Thibeault said that was the only one he knew of, saying it existed in the ordinance but he did not know if it existed on the ground.

Mr. Hall asked if a bulleted item on Page 6 of the report meant that there were no age-restricted impact fees in Londonderry. Mr. Thibeault said the ordinance did not mandate it but allowed for a waiver. Mr. Hall asked if it were a partial waiver or full. Mr. Thibeault said these were direct quotes from Mr. Fougere's report. Mr. Fougere said a lot of communities had different provisions—saying he had had to relook at some of his reviewed projects because some of them required both people to be 55 or over. Mr. Hall asked what elderly provision was repealed; Mr. Fougere said the whole provision for elderly housing had been removed from the Plaistow ordinance. Mr. Hall asked if that were true for Nashua; Mr. Fougere answered in the negative, saying developers could apply for a waiver. Mr. Hall asked if there had been a density bonus in both of those communities; Mr. Fougere responded in the affirmative.

Chairman Russo noted that the makeup of families had changed in the past 20 years, with more children now staying with their parents; he asked how that could be

taken into consideration for the calculations moving forward. Mr. Thibeault said the best way would be to do a periodic update or examination of the school generation in the community at large—adding that his work state-wide, consisting of three studies, showed that school enrollments for all types of housing units were dropping. He said it was a real problem in smaller communities, some of which were closing their elementary schools.

Based on that, Chairman Russo said, the only other factor he could see was that schools might work on State-recommended class sizes, and he asked if the studies indicated any forthcoming building changes. Mr. Thibeault said “Yes and No,” explaining that enrollment was dropping, meaning school systems did not need to be expanded, but educational standards came into play, with specialized studies creating a need for space. He noted that his own community was experiencing decreasing enrollment but had just funded a \$20,000,000 expansion of its high school just to provide better technical education facilities and support facilities. He said it was not based on classroom space, *per se*, but Hudson should be updating the 13-year old Mayberry analysis. He noted that the community paid for the school to accommodate growth, and it still had to pay its fair share as growth came in.

Town Planner Cashell asked if that would be collection beyond the debt-fee case. Mr. Thibeault said that was a good question, suggesting that Mr. Mayberry be asked about that.

Chairman Russo asked if Mr. Fougere wished to add any further input. Mr. Fougere said he had nothing further to add at this time.

Atty. Morgan Hollis, legal representative for the Sparkling River applicant, noted that the waiver was requested on November 12<sup>th</sup>, with further meetings, in December, leading to the hiring of Mr. Thibeault for a peer review. He noted that at the February 13<sup>th</sup> meeting some questions had been raised concerning the legal issues, noting that he had provided Town Planner Cashell with a letter addressing those questions. He said he thought it was pretty clear that what Hudson had was an ordinance that was more restrictive than the 80/20 rule provided by the State, as Hudson required that at least one occupant be 55 or older. He said there could not be any changes to the development unless it came back to the Planning Board, saying nothing could happen until after the Planning Board had reviewed and approved the proposed change(s)—adding that the Board would have the ability to impose new impact fee during that hearing. He said they were asking for a waiver, not for repeal of the ordinance, and they were not challenging the ordinance. He noted that \$101,000 had already been paid at \$656/unit, whereas at the 80/20% ruling it would only be \$612, so he felt they were justified in asking for a full waiver for the remaining units. He said he understood there was some sensitivity as to whether this would be setting a precedent, saying this was why they had asked for a waiver, and anyone else could do the same. He said he did not see a rational nexus between this capital improvement fee and the units as they were presented today.

Selectman Maddox noted Atty. Hollis had said these projects would have to come back to the Planning Board for any changes, but this was two separate projects that had never been combined by the Planning Board, so they had done what Atty. Hollis had said could not be done. Atty. Hollis said the documentation said they could not

change it without coming back before the Planning Board. Selectman Maddox suggested the Planning Board had made a mistake by coming up with a fee structure that encompassed the possibility of having school-age children; he suggested that the Board had to relook at the information, questioning how the Board could know if there were more children than had been anticipated. Atty. Hollis said the Town had to periodically update its capital improvement program and its assessment methodology, and then determine whether or not it was right. Selectman Maddox said he was talking about monitoring what children were there. Atty. Hollis said he could not answer that, saying the only sure way for any project was to do a monitoring, but that was not what impact fee assessments were about, as they were based on an average value. He said the Hudson ordinance was a bit out of line, but they were not challenging that, but instead were asking for a waiver based on the fact that they could show they had very few children.

Mr. Fougere said bedrooms drove school-age children, noting that these were all two-bedroom units. Mr. Thibeault concurred, saying his studies had shown that.

Ms. McGrath asked if any of the units could be altered by putting bedrooms in the basement or in attic space. Mr. Thibeault said that would be caught in the building permit process. Ms. McGrath pointed out that this was true only if the occupants went through the building permit process.

Mr. Della-Monica asked if a component of the nexus formula was based on the 6-year figure, asking if there would have to be some connection between the impact fee and the likelihood that there would be an increase in six years. Mr. Fougere said there had to be a per-unit number of school children in the system, saying his analysis was based on the number of school children in school at that time. Mr. Della-Monica asked if the applicability of an impact fee was based on what was probable within the first six years after a new property was sold; Mr. Thibeault said there would be a high correlation, noting that an impact fee could be imposed if the capital equipment program projected the need for a school. Atty. Hollis said the money must be spent within six years, so there had to be a program to spend it., Mr. Della-Monica said the Board should be looking at the probability of school kids in the development within six years. Mr. Thibeault noted that the updating process would track that, which was why the process should be updated periodically. He noted that the figures were based on an average.

Mr. Della-Monica said a waiver would be based on the likelihood of whether or not children would be there at a later time. Atty. Hollis said this was an argument he was trying to avoid, which was why they were asking for a waiver and not challenging the ordinance.

Mr. van der Veen asked Town Planner Cashell what impact fees had been spent on in the past six years, asking if it were for debt service. Mr. Cashell said a large amount of the school impact fees had gone for the debt. Mr. van der Veen asked how long that debt service would continue; Mr. Cashell said he did not have the exact date but it was starting to wind down.

Mr. Hall said that the impact fee ordinance was based on an actual amount of money for two specific schools, so they were real numbers. He agreed that at some point that debt would be paid off, noting that money was still owed today on those

schools, so he did not think there was anything wrong with the impact fees already collected. Mr. Fougere stated that the last bond would expire in 2020.

Chairman Russo noted that he had asked Town Planner Cashell how the two developments were combined, asking why they had not come in with two applications, to keep things clean. Mr. Fougere said he had listed both project names on one application. Chairman Russo said the two site plans were treated separately at this time; Mr. Fougere expressed agreement. Chairman Russo said he felt two separate applications were needed. Town Planner Cashell said both projects were referenced, but both were now recognized locally as one project. Atty. Hollis said there was one owner, but the documentation referenced the two developments, and they had requested to amend both separate site plans.

Mr. Della-Monica postulated a second driveway request example, saying he thought there was precedent for having one request incorporating two separate site plans.

Chairman Russo said the Board had to make a decision as to whether there would be one or two.

Chairman Russo at this time opened the discussion for public input. No one coming forward to speak for or against or with questions, he continued with the Board discussion.

Ms. McGrath asked if Atty. Hollis would agree to amending the plan to state that the units would be restricted to 55 and older, with no one under the age of 21 residing in the units. Atty. Hollis said he could not answer that, saying his client was on vacation and not available. Ms. McGrath said she and others would wait a couple weeks to make the decision.

Mr. Della-Monica said the process for doing that would involve the homeowners association, which would have to approve that, because it would be changing their deeds. He said the people already living there had already paid their fees and had no dog in this fight—adding that he seriously doubted the existing residents would consider a change that meant anyone buying a home next to them would not have to pay the fee that they had had to pay, and they would have to approve it as the homeowners association.

Ms. McGrath said he had said this pertained to the units currently not occupied, adding that the majority interest was still held by the developer, so she still thought it was a fair question.

Mr. Barnes said he was not comfortable with moving forward on the waiver, saying he would like to see the impact fees updated first, as had been recommended. Chairman Russo expressed agreement.

Selectman Maddox said he would like Ms. McGrath's plan but he did not think it was workable, as there would be no way to keep track. He then offered to make a motion to reduce the impact fees on all remaining units of the two developments by 70%, adding that he did not think they could make a change that would satisfy everybody.

Ms. McGrath said she agreed that an update should be done, saying that this was something the Board had control over.

Mr. Hall said he did not believe the Board should change the terms of approval for the plans as recommended by Ms. McGrath, adding that his opinion would be that the fees should be waived completely for the remaining units in the development. He said he had heard discussion about a rational nexus, saying the Board could consider the 70% reduction proposed by Selectman Maddox if Selectman Maddox could come up with a formula justifying it, but all the evidence he had heard said the amount should be \$59 or zero. Acknowledging the amount that had been paid already, he said he thought it was far in excess of what would have been collected if the Town had been collecting the appropriate amount, so he thought the number for the remaining units should be zero, saying updating of the impact figures would take another year.

Chairman Russo asked Town Planner Cashell if this Planning Board had authority to grant waivers for the impact fees. Town Planner Cashell said the Board had jurisdiction, because the Planning Board was the permit-granting authority. Chairman Russo said he thought it was part of the Zoning Ordinance, and he questioned how the Planning Board could change it. Mr. Hall said the Zoning Ordinance said the Planning Board was the appeal authority, adding that the Planning Board granted waivers all the time.

Mr. Della-Monica said that, if the Board did do another study, the component of that study would look very much like what the reports now in front of the Board said.

Mr. Barnes asked if it would be possible to suspend the collection of impact fees from this applicant until updating determined what the impact fees would be.

Chairman Russo asked Town Planner Cashell how long he felt the updating would take. Mr. Cashell asked Mr. Thibeault for an estimate. Mr. Thibeault said Mr. Mayberry had done the first study in 1996 and then updated it in 2000, adding that Mr. Mayberry was the go-to guy for this kind of work. He said he had recommended Mr. Mayberry to other communities, and it had been a matter of months, saying it would be no less than three months and probably no more than six. Chairman Russo commented that he did not know that he would suspend, but he would go along with Selectman Maddox's 70% figure. Mr. Barnes said that was why he suggested suspending rather than granting a waiver.

Mr. Della-Monica asked whether, if the Board suspended pending a study, would that mean the Board could go back to them afterward. Mr. Barnes said that would be so if there were something else.

Mr. van der Veen said two different things were being talked about. He said this was a period of decline, and single-family homes were never going to have as many children as had been the case before, saying that would drive different numbers. With respect to the issue of a waiver, he said, this applicant had gone to the trouble to research what the impact on schools was, and it seemed fairly limited. He concluded by saying the waiver should be treated as a waiver.

Town Planner Cashell said these projects were approved at a time when there was a tremendous density bonus, noting there were almost twice as many units per acre in these projects. Selectman Maddox said that was how he had gotten to the 30%.

Chairman Russo asked the pleasure of the Board.



Town Planner Cashell noted that the draft waiver motion he had drafted a couple meetings ago was not in the report; he then distributed copies, noting that it could be amended further.

Mr. Hall moved to amend the approved Site Plan for the Sparkling River LLC Older Persons Housing Development (aka River Ridge), approved on 10-13-04, and Riverwalk, approved on 03-10-04, by waiving the collection of the school impact fee assessments, citing the reason for granting this waiver as being because the Planning Board agreed with the findings included in both Russell Thibeault's peer review report on the Sparkling River 55+ Older Persons Housing Development and the "... independent fee calculation study..." produced by the applicant in accordance with HTC §334-74.6 of the Town's Zoning Ordinances, which, in effect, supported that the continued collection of said fee was contrary to the provisions set forth in RSA 674:21.V.

Mr. Della-Monica seconded the motion.

Chairman Russo noted that voting to approve would eliminate any further fees for this project.

Selectman Maddox said he would vote against this motion, saying he thought the Board was premature in just going to zero, and noting that the Board had granted a density bonus for this development—adding that the Board might as well put up a sign promoting a land rush for the rest of the developments and that he felt it was unfair to start that land rush, which would impact the rest of the citizens of Hudson, who would have to pick up the costs being waived. He said the he thought the Board was going too fast.

Mr. Hall said the Board had all the information, saying he only knew of one other project that could qualify for this, unless Selectman Maddox felt people would be looking to get back money that had already been paid. He pointed out that each project was unique and zero here did not mean zero for everybody, but he felt it was appropriate for this particular project.

Mr. van der Veen noted the project had already paid more than \$100,000.

Mr. Della-Monica said the \$59 was such a small percentage that it was approaching zero, saying it would cost that much to process the fee.

Chairman Russo said he was in agreement with Selectman Maddox that it was not appropriate to do this at this time. Chairman Russo noted again that the impact fee was in the Zoning Ordinance, and he questioned if the applicant had to go before the Zoning Board of Adjustment. Town Planner Cashell said that, based on Mr. Thibeault's conclusions, he had put that text in, but they did not have anything to do with it, saying the Board could proposed changes of the Zoning Ordinance if it desired—suggesting that should wait until after the impact fee calculations were updated.

Mr. Hall suggested another way to do away with both problems would be to do away with the density bonus for age-restricted housing developments.

Mr. van der Veen noted there was a note from Town Counsel addressing this. Chairman Russo said he felt Town Counsel was saying the Planning Board had the authority to make this amendment.

**VOTE:** Chairman Russo then called for a hand vote on the motion. Mr. Hall, Mr. Della-Monica, and Mr. van der Veen voted in favor; Selectman Maddox, Ms. McGrath, Mr. Russo, and Mr. Barnes voted in opposition. Chairman Russo then declared the motion to have failed (3–4).

Mr. Della-Monica asked if the members who had voted against the motion would be more amendable to a reduction. He then moved to amend the approved Site Plan for the Sparkling River LLC Older Persons Housing Development (aka River Ridge) approved on 10-13-04, and Riverwalk, approved on 03-10-04, by reducing the collection of the school impact fee assessments by 70%, citing the reason for granting this waiver as being that the Planning Board agreed with the findings included in both Russell Thibeault's peer review report on the Sparkling River 55+ Older Persons Housing Development and the "... independent fee calculation study ..." produced by the applicant in accordance with HTC §334-74.6 of the Town's Zoning Ordinances, which, in effect, supported that the continued collection of said fee was contrary to the provisions set forth in RSA 674.21.V.

Selectman Maddox seconded the motion.

Mr. Hall said he would have to vote NO, as the findings were zero, so he felt coming up with another number arbitrarily was wrong. Mr. Barnes said he would agree, saying he thought the 70% figure was arbitrary and the applicants had made a pretty strong case for zero or pretty close to it—adding that the reason he had not voted for the previous motion was that he felt the Board needed to do an update first and then consider waiving.

Mr. Della-Monica said an update to the school impact fees, whatever it showed for the rest of the town, would still show zero for this development. Chairman Russo noted that an update would show what future needs existed for the schools. Mr. Della-Monica said the component would still be zero, whatever the schools did or did not need. Chairman Russo questioned what would happen if the School District showed a need for more expense because of new State requirements. Mr. Della-Monica said the Board still could not show a nexus between this applicant and any significant portion of whatever that increase would be, saying the study for that particular circumstance had just been done.

Mr. van der Veen said the number would still have to be driven by the number of students—and zero was still zero. Chairman Russo said just because the number of students went down did not mean the impact would be reduced. He said the Board could not possibly know such issues unless the study was updated.

Mr. Della-Monica said the worst-case scenario, with regard to the 70%, was that it was inconceivable that the applicant's portion in the future would be more than that—saying it would be lower by law if the updated study showed that to be the case.

Selectman Maddox noted that the school was talking about a \$25,000,000 update to the existing facilities. He said this waiver would only be from today, noting that some people had already paid.

**VOTE:** Chairman Russo then called for a hand vote on the motion. Mr. Della-Monica, Selectman Maddox, and Mr. Russo voted in favor; Mr. Barnes, Mr. Hall, Ms. McGrath, and Mr. van der Veen voted in opposition. Chairman Russo then declared the motion to have failed (3–4).

Mr. Hall said the only addition to the impact fee ordinance would be based on the CIP—pointing out that there were no school projects in the CIP.

Mr. Barnes moved to suspend further collection of impact fees until such time as the Hudson impact fee schedule had been updated.

Ms. McGrath seconded the motion.

Mr. Barnes said he was proposing this because he thought the applicant had made a pretty strong case, but he felt it was too early to waive all school impact fees.

**VOTE:** Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Selectman Maddox and Mr. Russo, who voted in opposition, and Chairman Russo declared the motion to have carried (5–2).

Chairman Russo declared a 10-minute recess at 8:39 p.m., calling the meeting back to order at 8:55 p.m.

## **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**

- A. Verizon Wireless – Hudson West Side      Map 221/Lot 008**  
**Conditional Use Permit CU# 01-13      19 Sagamore Park Road**

**Purpose of plan: Verizon Wireless plans to collocate on the property by installing 12 panel antennas on the existing telecommunications tower. An equipment shelter will be installed on the ground to support Verizon Wireless's antennas. Application Acceptance & Hearing.**

Chairman Russo read aloud the published notice, as repeated above. He noted that Mr. Malley had arrived during the break, at about 8:30 p.m., and would be seated from

this point on, with Ms. McGrath returning to her nominal position as a nonvoting alternate. He then stated that both cases would be heard at the same time.

**B. Verizon Wireless – Hudson West Side           Map 221/Lot 008**  
**SP# 02-13   19 Sagamore Park Road**

**Purpose of plan: Verizon Wireless plans to collocate on the property by installing 12 panel antennas on the existing telecommunications tower. An equipment shelter will be installed on the ground to support Verizon Wireless’s antennas. Application Acceptance & Hearing.**

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

Atty. John Weaver, legal representative for Verizon Wireless, noted that Geore Esser (real estate consultant for Verizon Wireless) and John White (general contractor for Verizon) were also present. He discussed the proposal to co-locate on the monopole in Sagamore Industrial Park at the 70-foot level, noting that the submitted plans had a non-substantive error, and he distributed 11”x17” copies of the plans with the difference highlighted, saying the panel array would not change, but they had neglected to put on six remote radio heads and two remote junction boxes, saying the latter were really surge protectors.

Atty. Weaver noted that Sprint, ATT, and T-Mobile were already located on this pole, saying a fourth carrier would be essentially unnoticeable. He said Verizon technicians would make approximately two visits a month to make sure the equipment was working correctly. He noted that Verizon would have to build another tower someplace else if this were not allowed. He said the site would comply with all setback requirements, noting that there would be no increase in the height of the tower. He said the application complied with all requirements, saying there would be no negative impact.

Selectman Maddox called for a point of order, saying there were two sets of plans, and he asked for identification of the plans updated April 22, 2013, as opposed to the October 30, 2012, plans. Atty. Weaver noted another page had been added, showing the technical specifications for the remote radio head and the junction box. Selectman Maddox requested clarification that these were the only changes; Town Planner Cashell stated that to be the case.

Mr. Hall raised another point of order, making a motion to grant Application Acceptance. 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).

Chairman Russo opened the meeting for public input and comment, in favor of the application. No one coming forward, Chairman Russo asked if anyone wished to speak in opposition or to provide comments or questions concerning the application. No one coming forward, again, despite a repeated invitation, Chairman Russo asked if any members of the Board had any questions.

Mr. Della-Monica asked if there were an illustration showing the coverage area. Atty. Weaver said the submitted package contained an affidavit identifying the coverage. Comments were made about the difficulty of determining coverage limits on the black-and-white illustration.

Mr. Barnes noted that a section of fence would be removed to provide for expansion of the surface. He asked if that area were paved. Atty. Weaver said it was grassed. Town Planner Cashell said there would be no issue with respect to drainage.

Mr. Barnes questioned if there would be room for other carriers in the future. Atty. Weaver said the Town had the right to place emergency radio equipment up to a height of 60 feet, which would limit further carriers.

Town Planner Cashell said the waivers had already been voted on for the previous cell tower, so they really did not apply, and the only motion before the Board tonight for consideration was to approve the additional installation in accordance with the draft motion, noting that he had comingled the two requests.

Selectman Maddox asked if the Town had the 2006 originals. Town Planner Cashell said he did, confirming that the Town had the right to put up an emergency antenna, as Atty. Weaver had said.

Mr. Della-Monica moved to approve the Site Plan and the Conditional Use Permit for the Plan entitled **Verizon Wireless Hudson West – NH 19 Sagamore Park Road, Hudson, New Hampshire**, prepared by Hudson Design Group, 1600 Osgood St., Building 20 North, Suite 3090, North Andover, MA 01845, dated 10/09/2012, latest revision date 4/22/2013, consisting of Sheets T-1, C-1, A-1, A-2, and A-3, in accordance with the following terms and conditions:

1. All stipulations of approval shall be incorporated into the Development Agreement, which shall be recorded at the Hillsborough County Registry of Deeds, together with the Site Plan-of-Record (hereinafter referred to as the Plan).
2. All improvements shown on the Plan shall be completed in their entirety and at the expense of the Applicant or its assigns.
3. Prior to the issuance of a final certificate of occupancy, an LLS-certified "As-Built" site plan shall be provided to the Town of Hudson Community Development Department, confirming that the site conforms with the Plan.
4. Prior to Planning Board endorsement of the Plan, it shall be subject to final engineering review.
5. The applicant shall schedule a pre-construction meeting with the Town Engineer prior to applying for a building permit.
6. All terms and conditions of approval included in the 2006 Site Plan Approval for this site shall remain in effect with the approval of this plan.

Mr. Hall 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).

**XV. OTHER BUSINESS**

Town Planner Cashell distributed documentation pertaining to NRPC's forthcoming discussion meeting on regional planning.

Town Planner Cashell reported that he had been notified today that 25 Constitutional Drive would not be on the Board of Selectmen agenda until after the Planning Board's May 8<sup>th</sup> meeting. He noted that the only other thing for that evening were a couple workshop items.

Chairman Russo noted that abutters might be following this and it had been deferred date certain. Town Planner Cashell said he could send letters to the abutters. The consensus of the Board was to do that.

Selectman Maddox moved to defer 25 Constitutional Drive to the May 22 meeting at the applicant's request. Mr. Della-Monica seconded the motion.

Chairman Russo ruled that the May 8<sup>th</sup> meeting would be cancelled.

**XVI. ADJOURNMENT**

All scheduled items having been addressed, Selectman Maddox moved to adjourn; Mr. Malley 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 9:25 p.m.

Date: December 8, 2013

\_\_\_\_\_  
Vincent Russo, Chairman

J. Bradford Seabury, Recorder

\_\_\_\_\_  
Edward van der Veen, Secretary

These minutes were accepted as amended following review at the 02-26-14 Planning Board meeting.

**-- FILE COPY --**

**HUDSON PLANNING BOARD Meeting Minutes  
April 24, 2013**

**Page 15**

The following changes were made to the draft copy in accordance with review comments at the Planning Board meeting of 02-26-14:

Page 7, 2<sup>nd</sup> paragraph 3<sup>rd</sup> line — Removed extraneous semicolon from “to keep things clean” phrase.