



TOWN OF HUDSON

Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

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HUDSON PLANNING BOARD MEETING MINUTES November 9, 2011

I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:00 p.m. on Wednesday, November 9, 2011, in the Paul Buxton Meeting Room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

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

III. ROLL CALL

Chairman Russo asked Mr. Malley to serve as Acting Secretary in the absence of Secretary van der Veen and 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, Tim Malley, Vincent Russo, and Richard Maddox (Selectmen's Representative).

Members

Absent: Ed van der Veen (excused).

Alternates

Present: Irene Merrill, Jordan Ulery, and Stuart Schneiderman (arrived at 7:05 p.m.).

Alternates

Absent: Roger Coutu (Selectmen's Representative Alternate) (excused).

Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Russo seated Ms. Merrill in place of the absent Mr. van der Veen.

V. MINUTES OF PREVIOUS MEETING(S)

- A. 11-03-10 Minutes - 11-09-11 Packet
- B. 03-02-11 Minutes - 03-23-11 Packet
- C. 05-25-11 Minutes - 06-22-11 Packet
- D. 06-22-11 Minutes - 07-27-11 Packet
- E. 08-10-11 Minutes - 09-14-11 Packet

Chairman Russo addressed the minutes for the meeting of August 10, 2011, asking if there were any changes or corrections. None being brought forward, Mr. Barnes moved to accept the minutes as submitted, noting he had read through the minutes and found no errors; Mr. Della-Monica seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion to approve the 08-10-11 minutes. All members present voted in favor, and Chairman Russo declared the motion to have carried (7-0).

Chairman Russo addressed the minutes for the meeting of November 3, 2010, asking if there were any changes or corrections. Mr. Della-Monica noted that his name on the first page only had one "n" where two were required. No other changes being brought forward, Mr. Della-Monica moved to accept the minutes as submitted; Mr. Barnes seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion to approve the 11-03-10 minutes as amended. All members present voted in favor, and Chairman Russo declared the motion to have carried (7-0).

Chairman Russo requested that the Board be ready to review the 03-02-11 and 05-25-11 minutes at the next meeting.

Mr. Schneiderman arrived at 7:05 p.m. and took his seat at the table as a nonvoting alternate at that time.

Chairman Russo announced that he would go directly into public hearings and take up correspondence at the end of the meeting.

Selectman Maddox suggested moving the public hearings to the end of the meeting, in order to handle first the items for which people were present. Chairman Russo concurred and so ruled.

XI. OLD BUSINESS/PUBLIC HEARINGS

A. Jarry Subdivision (Re-submittal) SB# 09-11

Map 207/Lot 8 & 4
Bush Hill Road

Purpose of Plan: to consolidate existing Map 207/Lot 8 and Map 207/Lot 4, then resubdivide to create two conventional lots (proposed Map 207/Lot 4 and proposed Map 207/Lot 8-1) and seventeen residential open space lots (proposed Map 207; Lots 8-2 through 8-18) with two open space lots (proposed Map 207/Lots 8 & 8-19). The two proposed conventional residential lots (Map 207; Lots 4 & 8-1) are not part of the open space development/association and are not subject to the open space declaration of covenants and restrictions. Application Acceptance & Hearing.

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

Chairman Russo asked about Application Acceptance; Town Planner Cashell noted that this was a resubmittal.

Mr. Hall said he would step down from this matter, as he had missed the attorney/client session; he then left the table, moving to a seat in the audience. Chairman Russo seated Mr. Ulery in Mr. Hall's place.

Town Planner Cashell corrected his previous statement, saying that the application had been accepted at the August 10th meeting.

Mr. Jeff Merritt, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, said he wanted to go through the two remaining issues.

He noted, first, that the Board had been concerned that this application might set a precedent if Lot 4 on Map 207 was not included in the plan. He addressed details on the plans on the wall, identified as ***Master Consolidation and Subdivision Plan, Jarry Subdivision, Map 207/Lot 4 & Map 207 /Lot 8, Bush Hill Road, Hudson, New Hampshire***, dated May, 2011, last revised 10-07-11, noting the plan had been revised to include Lot 4, as well as Lot 8. He noted that Lot 8-1 and 4 would not be part of the association. He pointed out that notes had been added for the development phases, with these notes explicitly stating that the two other lots would not be part of the subdivision. He then reviewed the notes, identifying what would be done in each phase.

Mr. Merritt noted, second, that there had been a proposal to install sprinklers in four homes at the end of the cul-de-sac, with the Board having been concerned about not being able to enforce those systems, so the Board had requested that the notes pertaining to the sprinklers be removed, which had been done. He then noted that Sheet 17 , last revised 10-07-11, showed a note calling for a 10,000-gallon cistern, to be located at the end of the cul-de-sac, in addition to the 30,000-gallon cistern at the beginning. He said they had met with Deputy Chief Robert Buxton, who had agreed on the location for the new cistern.

Lastly, he noted that the Board had wanted to reconsider the length of the cul-de-sac, noting this had been discussed among the Board. He said they had prepared a supplemental waiver request for that cul-de-sac length waiver, commenting on the hardships on the applicant as being first that the property was 1201 linear feet in depth, so that an 1100-foot cul-de-sac was necessary in order to access the upland areas at the rear of the property. Second, conformance would result in the necessity to create a second means of access in order to access those uplands. He noted that this proposal did not propose the wetland impacts that the previously suggested loop road would have done. Third, since a part of Bush Hill Road would be reconstructed vertically and horizontally, this allowance would let the applicant recover part of the costs of that improvement, estimated at \$400,000, not including the value of the acre and a half of land being given up to get those improvements done, and he commented on the public benefit of those improvements. He then discussed other reasons for granting the waiver, including that the cisterns would be available for public use for other residences in the neighborhood.

Atty. J. Bradford Westgate, of the firm of Winer and Bennett, LLP, 111 Concord Street, Nashua NH, legal representative for the applicant, noted that the notes regarding the sprinkler systems for the last four homes had been removed from the plan, saying that was still their commitment, and the Jarrys were volunteering to install those as a private requirement of the deeds. He reviewed the standards for granting a waiver, noting there was a second standard for doing so, saying he felt they met that standard, as well.

Town Planner Cashell asked if Atty. Westgate felt the previously granted waivers were now null and void. Atty. Westgate said he assumed the fiscal-impact waiver was still in place; Chairman Russo said it had not been reconsidered. Atty. Westgate said the reason Mr. Merritt had supplemented the waiver request for the cul-de-sac length was that this was one of the points brought up by the Board during its previous discussion, as a consequence of the change in the sprinkler requirements. He said it would be fine with them if the Board decided it did not need to reconfirm the waiver.

Selectman Maddox said he was not ready to move to reconsider, noting that Atty. Westgate had just said they still intended to put the sprinklers in—noting that the cistern would cover that even if it were not done. He expressed a belief that it was a moot point.

Mr. Malley said he did not feel it had to be reconsidered, as the sprinklers were an unenforceable requirement.

Chairman Russo asked if the 10,000-gallon cistern would not be necessary if the sprinklers were put in. Atty. Westgate said they would still be obligated to install that cistern unless they came back before the Board with a modified plan showing the sprinklers had been installed.

Mr. Della-Monica said it had been suggested at the recent Law Lecture training that the Board get surety bonds for the cistern being installed in lieu of the sprinklers. Atty. Westgate said that was the approach he would have preferred, but he had been uncertain whether the Board would concur. He said that approach would be acceptable to them.

Selectman Maddox said they would be covered with what was there, with both cisterns, saying he would rather not have the 10,000 gallon cistern, which would have to be maintained by the Town.

Atty. Westgate noted that he had submitted various documents to Town Planner Cashell but had neglected to include the drainage easement, which he would do.

Mr. Della-Monica suggested putting in a surety bond for the second cistern, with the comment that it would not be required if the Fire Department subsequently said it was not required.

Chairman Russo said the Board would be discussing improved language in this regard at an upcoming workshop meeting.

Chairman Russo opened the meeting for public input and comment, in favor or opposition. No one coming forward to provide input, despite two requests by the chairman for comment for or against, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Selectman Maddox said he was looking for Atty. Westgate to show what was being done with a marker, saying the easement was a little convoluted. Atty. Westgate discussed the relationship of Lot 8 and Lot 4, which were being combined. Mr. Merritt said the existing Lot 4 and proposed Lot 4 were identical, but Lot 8 had been changed, to facilitate the subdivision, which he showed on the diagram affixed to the meeting room wall. He clarified that this had been done to eliminate the potential for setting a precedent for defining or proving the yield for the subdivision. Selectman Maddox questioned if anyone in the future would understand this. Mr. Ulery pointed out that this was stated right at the top of the plan and in the notes.

Mr. Della-Monica said the cul-de-sac was about 11% longer than what wouldn't require a waiver, with the reason being that there was no road connecting it out to Bush Hill road. He said this made sense.

.Mr. Barnes referenced Sheet 17, saying the maintenance road for the second cistern appeared to be on the top of the berm. Mr. Merritt said they had tried to be reasonable for the slope, discussing how people would maintain the cistern. Mr. Barnes asked who would be responsible for maintaining the maintenance road if it suffered erosion. Mr. Merritt said the Town would be responsible, but the road would be seeded and vegetated. He then noted other details, including water bars, pointing out that this maintenance road would not see much traffic. Mr. Barnes noted

this might be attractive for ATVs and cross-country bikes. He then noted some number errors in the references between the plan sheets.

Selectman Maddox asked what was below Lot 6 on Map 207. Mr. Merritt said there was another lot, which he believed also belonged to the Jarrys. He said it was an existing lot of reference. Selectman Maddox said it was not identified on the drawing; Mr. Merritt said it would be added.

Selectman Maddox asked about the proposed drain coming down to Lot 4; Mr. Merritt referenced Sheet 4, saying it was shown there.

Atty. Westgate referenced the proposed conditions of approval in the draft motion, saying he had not prepared a conservation easement deed because the situation for the previous plan no longer existed. He suggested that this term be replaced by "cistern easement" and "drainage easement." He said he had prepared "bare-bone" association documents.

Atty. Westgate then referenced Stipulation 8 of the draft motion, saying Friday should become Saturday and Saturday in the second sentence should be deleted.

Mr. Barnes referenced Stipulation 11, asking how completion of the improvement would be measured. Town Planner Cashell said he had not gone over this with the applicant. Mr. Barnes asked if it would be up to the Town Engineer or what. Town Planner Cashell said he felt "completed" was completed, up to the final course. Mr. Barnes said he did not want to get into a situation where there would be a dispute with the applicant as to what "completion" meant. Atty. Westgate said completion to binder course would be consistent with the phasing notes.

Mr. Ulery said the Town would want the binder course to be there for a period of time. Selectman Maddox noted that what the text said was that the binder course would be completed before the first CO. Atty. Westgate suggested being as precise as possible, saying there would be nine COs out of the 17, with the binder having to be done before the first CO.

Town Planner Cashell said he had amended language for Stipulation 11, and he then read that language aloud.

Recorder Seabury expressed his pleasure that the board was discussing changes to the stipulations before making the motion instead of afterward, expressing a hope that this approach would continue in the future.

Ms. Merrill referenced Stipulation 8, saying 7:00 p.m. seemed awfully late for work on a Saturday. She suggested 9:00 a.m. to 7:00 p.m. on Monday through Friday but 9:00 a.m. to 5:00 p.m. on Saturday. Selectman Maddox said he felt that note and the blasting note would remain Monday through Friday, with no work being done on Saturday or Sunday. Mr. Jarry said he would be fine with that. Atty. Westgate said he would hope to keep the construction to 5:00 p.m. on Saturday.

Mr. Della-Monica moved to approve the OSD subdivision plan entitled: **Amended Open Space Development Jarry Subdivision, Map 207; Lot 8, Bush Hill Road, Hudson, New Hampshire**, prepared by Keach-Nordstrom Associates, Inc. dated:

May 2011, revised through October 7, 2011, consisting of Sheets 1 through 44 and an Advance Warning Sign Plan, together with Notes 1 through 25, 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 above-cited Plan-of-Record.
2. Prior to Planning Board endorsement of the subdivision Plan-of-Record, Town Counsel shall favorably recommend on the Development Agreement, Declaration of Covenants and Restrictions and Drainage and Cistern Easement deeds.
3. A cost allocation procedure amount of \$800.60 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
4. A public school impact fee in the amount of \$3,578.00 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
5. A recreation contribution in the amount of \$400.00 per residential unit shall be paid prior to the issuance of a Certificate of Occupancy.
6. All monumentation shall be set or bonded prior to the Planning Board endorsing the Plan-of-Record.
7. If development involves blasting and/or ramming of bedrock materials, said activities shall be limited to the hours between 7:00 a.m. and 5:00 p.m. Monday through Friday only. Said blasting/ramming activities shall be prohibited on Saturday and Sunday.
8. Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Friday, and Saturday 8:00 a.m. to 5:00 p.m. Said activities shall be prohibited on Sunday.
9. This approval is subject to final engineering review.
10. The number of dwelling lots for this OSD shall be limited to 17 OSD lots and 2 conventional subdivision lots.
11. This approval shall be contingent upon the applicant, at his expense, and as already officially agreed to by the Town of Hudson, relocating and constructing the new layout of Bush Hill Road, as depicted on Sheets 8, 18, 19, & 20 of the Plan-of-Record. Note: this improvement shall be completed to binder course prior to the issuance of the Certificate of Occupancy for the first dwelling in this OSD subdivision, with the remaining improvements to Bush Hill Road provided in accordance with the Subdivision phasing notes cited on Sheet 1 of 44.

Mr. Ulery seconded the motion.

VOTE: No further comment being brought forward, 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).

Mr. Hall returned to his regular place at the table and resumed his regular status, with Mr. Ulery returning to his position as a non-voting alternate.

XII. DESIGN REVIEW PHASE

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

XIII. CONCEPTUAL REVIEW ONLY

No **Conceptual Review Only** items were addressed this evening.

XIV. NEW BUSINESS/PUBLIC HEARINGS

**A. Central Street Restaurant
SP# 09-11**

**Map 160/Lot 105
297 Central Street**

Purpose of Plan: The subject project proposes to construct a 2,400 ft² 100-seat restaurant (with bar) and associated parking, landscaping, storm water management provisions, and other site improvements. Application Acceptance & Hearing.

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

Town Planner Cashell said the plan was ready for Application Acceptance.

Mr. Barnes moved to grant Application Acceptance; Mr. Della-Monica seconded the motion.

VOTE: No further comment being brought forward, Chairman Russo called for a verbal vote on the motion to grant Application Acceptance. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

Mr. Patrick Colburn, of the firm of Keach-Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, noted that this plan had been before the Board twice for Wetlands Special Exception application. He described the property, saying that Mr. William Tate, the applicant, was proposing a small restaurant on this property. He reported that the Zoning Board of Adjustment had granted a variance, which had subsequently been appealed by an abutter, and the matter had been stalled in court until recently. He noted that a series of changes in the plan had been established during the court proceedings, so that it now was proposed as a 4400-ft² restaurant, with a 63-space parking lot, and with underground stormwater detention with a closed-pipe system to a drainage channel along Central Street. He said just over 10,000 ft² of buffer impact was being proposed. He said there would be an aggressive and appealing landscaping/lighting plan, noting that he had not yet received a second round of comments from CLD, but the first-round of comments

had been light. He said CLD had requested that the applicant consult with a traffic engineer, adding that the applicant currently was working with a traffic engineer.

Mr. Colburn noted that Town Planner Cashell had suggested improvements with respect to Hudson Park Drive, saying he did not know how the suggested amount compared with the actual cost of such an improvement; he suggested the board consider what impact a small restaurant or diner would have with respect to Central Street traffic, and he asked the Board to be considerate.

Chairman Russo opened the meeting for public input and comment, in favor or opposition. No one coming forward to provide input, despite two requests by the chairman for comment for or against, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Selectman Maddox said he had been told that this lot was not on municipal water and sewer. Mr. Colburn said the water was still being worked out, but the sewer went to a public drain. He said they had initially understood that the main under Hudson Park Drive was public, but they now were being told it was part of the private system serving Hudson Park. If so, he said, they would have to extend service out to Central Street.

Selectman Maddox asked Mr. Colburn to explain the proposed access easement. Mr. Colburn said the access had wound up out beyond the existing easement to Hudson Park Drive as a part of the settlement agreement, so they were proposing an extension of the easement.

Selectman Maddox addressed the traffic issue, noting that Mr. Colburn had said this might be a take-out clam shack, but it would have a bar; he then questioned how an accurate traffic study could be made without knowing what this was going to be. Mr. Colburn said traffic analysis would be based trip-generation figures from the ITE manual, saying the applicant at this point was not exactly sure what he was going to have there, noting that Mr. Tate did not have an end user for this facility, but he believed the inhouse engineer had used the figures for a sit-down restaurant, which had the highest values. Selectman Maddox suggested people would drive by Hudson Park drive on Route 111 before noting the turn-in to the facility from Hudson Park Drive, suggesting there might be a lot of accidents, and he suggested there was a need for a left-turn lane for people driving west on Route 111. Mr. Colburn said the need for a left-turn lane was there, but a project of this size did not accommodate a large off-site improvements contribution.

Town Planner Cashell said the Town needed to find out the actual status of Hudson Park Drive, questioning whether the Town had any right to modify it—and noting it was maintained by a private property owner, not the Town. Mr. Colburn said he understood it was a dedicated right-of-way but an unaccepted street.

Mr. Della-Monica said the problem of what sort of restaurant it would be was outside of the Planning Board's control, as all it took was a change of the menu. He said they would have the same problem as Mr. Steer on Route 102, with a large portion of the sign needing to give directions on how to get there. Mr. Della-Monica

then commented on the drainage, saying the water flowing from this property would be incidental. Mr. Colburn said the runoff would be treated.

Mr. Barnes suggested that the traffic engineer could take into account the range of possible types of restaurants, saying the Board should expect them to come up with a couple options or a worst-case approach.

Mr. Barnes noted that an offsite sign was being proposed. Mr. Colburn said that was required by the Fire Department.

Mr. Barnes asked what would happen if something spilled from the dumpster location. Mr. Colburn said the tree-box system would handle it.

Mr. Hall asked where the water came from, asking if it came from the Town of Hudson. Mr. Colburn answered in the affirmative saying there was a 10-inch main under Hudson Park Drive. Mr. Hall asked what the difference between public and private was; Mr. Colburn said the maintenance on the main was the issue. Mr. Hall asked where the meter would be; Mr. Colburn said the meter would be on the building. Mr. Colburn said he was researching the ownership issue, but had not yet gotten to the bottom of it. He said they would have to give the Fire Department some assurance that the main had been maintained if they connected to it—adding that their preference would be municipal water, but they also could look at the option of going under the wetlands to access water from the Central Street main, noting that this would involve going back through the wetland special process again. Mr. Hall said he would be interested in learning who maintained that main; Selectman Maddox said he would bring it up the following day.

Mr. Ulery asked how all this applied to the site plan. Mr. Hall said it was not germane but was an interesting discussion.

Mr. Ulery left the meeting at 8:36 p.m.

Chairman Russo said it appeared that some research had to be done and some answers would have to be provided before this Board would be ready to approve anything.

Town Planner Cashell said there must be a sense of whether the particular property owner had a controlling interest in the water line. Atty. J. Bradford Westgate, of the firm of Winer and Bennett, LLP, 111 Concord Street, Nashua NH, legal representative for the applicant, said the settlement agreement contemplated a reimbursement to Century Park LLC for hookup, to offset capital costs the LC had occurred in putting in the water line, adding that he felt it was private.

Chairman Russo asked if there were any engineering or design elements on this plan as part of the agreement; Atty. Westgate said they had things that had to be honored with Central Park, including hours of operation, etc. He noted that Town Counsel had a copy of the settlement agreement. Chairman Russo suggested the Board should get a copy of that agreement.

Mr. Hall said his thoughts on the CAP fee was that it was designed to increase traffic on the entire corridor. If there was something on this site that impacted local

traffic, he said, he did not feel that was covered by a CAP fee, and if it were determined that a signal light was needed because of this development, that would be beyond the CAP fee.

Mr. Barnes asked Town Planner Cashell if the CAP fee calculations include storage consideration because of the cellar. Town Planner Cashell answered in the affirmative, noting that a lot of restaurants had basements built as bars.

Mr. Barnes moved to defer further action on this matter to the meeting of January 11, 2012.

Selectman Maddox noted that the address was listed as 297 Central Street (Route 111), but they did not have access from Central Street. Mr. Colburn said it was an existing lot of record with that address, but the NH-DOT had canceled all accesses off Route 111; he said they would work that out with the Fire Department or others.

Selectman Maddox seconded the motion to defer.

VOTE: No further comment being brought forward, 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 said he would now go on to the Public Hearings.

Mr. Hall asked about the Christmas tree item. Chairman Russo said he had been informed that matter would be deferred until the applicant came back.

X. PUBLIC HEARINGS

The following proposed amendments pertain to the Zoning Ordinance

A. Amend § 334 16. Building permits. [Amended 3-10-2004] Sub-section A. of the Zoning Ordinance to read as follows (Note: for each of the following amendments added language is shown in bold-underlined print and deleted language is shown in bold-strikethrough print):

A. Exemptions. Building permits shall not be required for the following:

Accessory structures, such as mailboxes, doghouses, birdbaths, ornamental landscaping features, swing sets, children's playhouses, clotheslines, fences ~~six~~ **eight** feet or less in height and other similar types of structures which by custom and reason, in the opinion of the Building Inspector, do not require building permits. [Amended 3 14 1995 by Amendment No. 8]

Chairman Russo opened a public hearing at 8:49 p.m.; no one coming forward to speak in favor or opposition or to provide comment, he closed the public hearing at 8:50 p.m.

Mr. Barnes moved to approve for the 2012 Town Warrant the proposed amendment to the existing § 334-16, Building Permits, Subsection A, as follows:

A. Exemptions. Building permits shall not be required for the following:

Accessory structures, such as mailboxes, doghouses, birdbaths, ornamental landscaping features, swing sets, children's playhouses, clotheslines, fences eight feet or less in height and other similar types of structures which by custom and reason, in the opinion of the Building Inspector, do not require building permits. [Amended 3 14 1995 by Amendment No. 8]

Ms. Merrill seconded the motion.

Mr. Barnes said that the purpose of this change was to make the ordinance consistent with other changes voted in by Town ballot last year.

VOTE: No further comment being brought forward, 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. Amend § 334 16.C (2) (d) to read as follows:

(d) "Multifamily residential buildings shall have ~~an average~~ a minimum per-unit size of 750 square feet."

Chairman Russo opened the public hearing at 8:52 p.m. and read aloud the proposed change. No one coming forward, Chairman Russo closed the public hearing at 8:53 p.m.

Mr. Della-Monica moved to approve for the 2012 Town Warrant the proposed amendment to the existing § 334-16.C (2) (d) of the Zoning Ordinance, and for this section to read as follows:

(d) "Multifamily residential buildings shall have a minimum per-unit size of 750 square feet."

Mr. Barnes seconded the motion.

Chairman Russo explained that this was just to go back to the original intent to provide a minimum size.

VOTE: No further comment being brought forward, 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. Amend Table of Permitted Accessory Uses Footnote 1 to read as follows:

1= See § 334 12F I of this chapter for requirements.

Chairman Russo opened the public hearing at 8:54 p.m. and read the proposed change aloud, as repeated above. No one coming forward, he then closed the public hearing at 8:55 p.m.

Mr. Barnes explained that this footnote was supposed to reference fences, but the contained reference had not been changed when the fence item it referenced was moved elsewhere.

Selectman Maddox said this should be corrected by the publishing company, saying he did not want to put minutiae on the ballot. Mr. Barnes expressed agreement, if that could be done that way.

Chairman Russo ruled that the Board would skip the draft motion.

The following proposed amendments pertain to the Planning Board's Land Use Regulations.

A. Amend § 193-10 (I) – Driveways - to read as follows:

(I) Shared driveways are not allowed unless approved by the Planning Board.

Chairman Russo closed the public hearing at 8:59 pm. No one coming forward to speak in favor or opposition, or to give comments, he closed the public hearing at 9:00 p.m.

Mr. Barnes moved to amend §193-10 (I) of the Planning Board's Land Use Regulations to read as follows:

(I) Shared driveways are not allowed unless approved by the Planning Board.

Mr. Della-Monica seconded the motion.

Mr. Hall asked what the burning need for this change was, noting he had not been present for the preceding discussion on this matter.

Town Planner Cashell said everything technically could be waived, but there was a conflict between the site plan regulations and the subdivision regulations, and this

would clear it up. Mr. Barnes expressed agreement, noting that this did not go before the voters but was a Planning Board regulation.

Mr. Della-Monica said the Board would not have to vote on a separate motion for a waiver if this were approved and someone then put a second driveway on a plan. Chairman Russo expressed agreement. Town Planner Cashell said it also would be of assistance to the Engineering Department.

Ms. Merrill suggested leaving it as it was, as approving it would allow applicants to have shared driveways.

Mr. Hall said if the Board really meant it was not in favor of shared driveways, but was in favor of shared driveways for businesses, as he was, to cut down significant traffic at one point, this change might discourage some developer from proposing a shared driveway for a business.

Ms. Merrill said she read it as saying that the Board might approve shared driveways for residential uses. Mr. Malley said this would mean that it would be up to the Board's discretion and a waiver would not be required.

Chairman Russo said maybe it should be reworded to allow shared driveways for commercial applications, but he liked that someone had to justify it. Selectman Maddox said a developer of a commercial site plan would be meeting with Town Planner Cashell, who would explain.

VOTE: No further comment being brought forward, Chairman Russo called for a hand vote on the motion. All members present voted in favor except for Selectman Maddox and Mr. Russo and Ms. Merrill, who voted in opposition, and Chairman Russo declared the motion to have carried (4-3).

B. Amend § 275-6. K. General requirements. [Amended 4-9-1986 by Amendment No. 86-1] to read as follows (added language shown in bold-underlined print):

K. Require suitably located travelways of sufficient width to existing and prospective traffic and to afford adequate light, air and access for fire-fighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system. Unless otherwise permitted by the Planning Board, proposed cul-de-sac travelways shall comply with the design and construction criteria set forth in § 289-18.B., Cul-de-sac roads, of these regulations.

Chairman Russo opened a public hearing at 9:08 p.m. and read aloud the proposed change, as repeated above.

Atty. J. Bradford Westgate, of the firm of Winer and Bennett, LLP, 111 Concord Street, Nashua NH, speaking not in behalf of any client, suggested that the Board

not act on this tonight but give it a little more thought, as there was a bit of apples and oranges effect that would occur if it were adopted as presented. He said the new language would tie in the cul-de-sac criteria with the subdivision regulations, which had other subsections. He then reviewed those other subsections, explaining how they did not apply to site plan settings. If the Board wanted to incorporate some of the criteria from the subdivision regulations, he suggested, it should be done more specifically. He expressed a belief that more drafting should be done, with input from the engineering community.

No one else coming forwards, Chairman Russo closed the public hearing at 9:15 p.m.

Selectman Maddox expressed agreement with Atty. Westgate, saying what Atty. Westgate had said made sense, and he thought Town Planner Cashell should redraft it, based on the comments made by Atty. Westgate.

Town Planner Cashell said the site plan regulations and subdivision regulations interacted in many instances and all were under the control of the Planning Board, saying there were many cross-references. He noted that the text said "unless otherwise permitted by the Planning Board," saying he did not think the Planning Board would be overzealous in applying standards unless they applied to the site plan.

Mr. Hall said he liked it the way it was, saying he thought private roads should be constructed according to Town specification, and he cited Shepherd's Hill as a case in point, where no standards were applied. He said he thought Mr. Cashell's points were well taken. Mr. Cashell expressed agreement, noting that some of the Shepherd Hill roads already needed to be reconstructed.

Mr. Della-Monica suggested "right-of-way" should not be used in reference to private roads, saying an attorney should be consulted. Town Planner Cashell said he had done so, saying the Town Attorney had read through the text of the proposed change. Mr. Cashell said the development community might not want to live by these standards but the people living on these private roads would want to know the Planning Board was thinking along those terms—noting that in many parts of the country people who moved into developments and ultimately became owners found after five years had passed that they had to invest hundreds of thousands of dollars into rebuilding roadways.

Mr. Hall said he was prepared to read the draft motion, saying it could then be discussed further. He then moved to amend § 275-6.K, *General requirements* [Amended 4-9-1986 by Amendment No. 86-1], to read as follows:

K. Require suitably located travelways of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air and access for fire-fighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system. Unless otherwise permitted by the Planning Board, proposed cul-de-sac travelways shall comply

with the design and construction criteria set forth in § 289-18.B., *Cul-de-sac roads*, of these regulations.

Mr. Barnes seconded the motion.

Mr. Della-Monica said he understood that this would require developers to meet 289-18 (B) unless they had a reason for not wanting to do it, in which case they would have to justify not doing so.

Chairman Russo said he felt this fell short, as it only made reference specifically to cul-de-sacs. Mr. Hall said he was under no illusions that this did anything to cul-de-sacs, saying he was in favor of having this apply to all private roads. He said this was one step, and the others could be addressed later.

Selectman Maddox said this could be put off to a workshop in December, referencing the quote "Act in haste, repent at leisure."

Town Planner Cashell said there was no urgent need, saying the Board could go forward with all private roads later, if the Board wanted.

VOTE: No further comment being brought forward, Chairman Russo called for a verbal vote on the motion. Mr. Hall and Ms. Merrill present voted in favor; all others voted in opposition, and Chairman Russo declared the motion to have failed (2–5).

Chairman Russo expressed a desire to have the actual notice posted on the display screen during such discussions, so that it could be read by the viewing audience.

VI. CASES REQUESTED FOR DEFERRAL

No cases had been requested for deferral for this meeting.

VII. CORRESPONDENCE

A. Christmas Tree Sales at the Hudson Mall Map 165, Lot 155 77 Derry A. (Deferred date-specific from the November 2, 2011, Planning Board meeting.)

Chairman Russo had previously noted that this matter would be deferred until the applicant came back.

No other **Correspondence** items were discussed.

VIII. PERFORMANCE SURETIES

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

IX. ZBA INPUT ONLY

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

XV. OTHER BUSINESS

Town Planner Cashell said the December workshop would include a highway safety issue, adding that he anticipated one or two public petitions would be submitted by that point.

XVI. ADJOURNMENT

All scheduled items having been addressed, Selectman Maddox 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 9:32 p.m.

Date: December 1, 2011

Vincent Russo, Chairman

J. Bradford Seabury, Recorder

Edward van der Veen, Secretary

These minutes were accepted as amended following review at the 12-14-11 Planning Board meeting.

-- FILE COPY --

The following changes were made to the draft copy in accordance with review comments at the Planning Board meeting of 12-14-11:

Page 3, 1st paragraph, 2nd line — changed mistyped “meting” to “meeting” so that the phrase now reads “at the end of the meeting. ”

Page 4, 2nd paragraph from bottom, 2nd sentence — changed “mute” to “mute” so that the phrase now reads “it was a moot point.”

Page 6, 6th paragraph, 2nd line from bottom — removed extraneous semi-colon character between “what ‘completion’” and “meant.”

Page 10, 1st line — changed “Mr. Scire” to “Mr. Steer” in order to reference the Mr. Steer store on Route 102.

Page 13, 1st text paragraph under Item A — changed “heating” to “hearing,” so that the clause now reads “Chairman Russo closed the public hearing” ... and added “the public hearing” after “closed.”

Page 13, 1st text paragraph under Item A — changed mistyped “coning” so that the phrase now reads “No one coming forward.”