



# TOWN OF HUDSON

## Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

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### HUDSON PLANNING BOARD MEETING MINUTES October 5, 2011

#### I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:05 p.m. on Wednesday, October 5, 2011, in the Community Development meeting room in the Hudson Town Hall basement.

#### II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Mr. Della-Monica 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, Tim Malley, Vincent Russo, and Richard Maddox (Selectmen's Representative).

**Members**

**Absent:** George Hall (excused) and Ed van der Veen (excused).

**Alternates**

**Present:** Irene Merrill and Jordan Ulery.

**Alternates**

**Absent:** Stuart Schneiderman (excused) and Roger Coutu (Selectmen's Representative Alternate; excused, attending 9/11 meeting).

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**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. Hall and seated Ms. Merrill in place of the absent Mr. van der Veen.

He then noted that review of minutes of previous meetings had been left off the agenda but that he would take them up, anyway.

**MINUTES OF PREVIOUS MEETING(S)**

Mr. Della-Monica referenced the minutes for the meeting of August 24, 2011, requesting the following changes:

- Page 8, 2<sup>nd</sup> full paragraph, 3<sup>rd</sup> line from end; he said he believed what he had said was that it pertained to a residence where the owner of the residence had a financial interest.
- Page 10, last paragraph, 4<sup>th</sup> line from the bottom; he noted that this paragraph contained the statement saying that Mr. Maynard had said he would add a note saying there would be no auto repair open to the general public.
- Page 12, 3<sup>rd</sup> paragraph, 3<sup>rd</sup> line from bottom, the word "know" should be "knew" (past tense).
- Page 15, 2<sup>nd</sup> paragraph, 5<sup>th</sup> line from bottom; the sentences should be combined by changing the period after garage to a comma and starting the following word with a lower-case letter.
- Page 20, 4<sup>th</sup> paragraph, 2<sup>nd</sup> line; he noted that the October 12<sup>th</sup> date for the law lecture was incorrectly given as September 12<sup>th</sup>.

No other change requests being brought forward, Mr. Della-Monica moved to approve the 08-24-11 minutes as amended; Mr. Barnes 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).

V. OLD BUSINESS

C. Stellar Motors Site Plan  
SP# 05-11

Map 190/Lot 001  
57 Lowell Road

**Purpose of plan: Convert existing retail sales building into automotive sales office. Construct a 2,640-ft<sup>2</sup> automotive service/storage building and delineate vehicle display areas. Hearing. Deferred Date Specific from the 08-24-11 Planning Board Meeting.**

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

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appearing before the Board as the engineering representative of the applicant, distributed full-size copies of the plan, identifying the plan as Drawing 6 from the set, a new plan, entitled edit Parking Layout Plan, dated April 27, 2011, with no revisions.

Mr. Maynard focused on Drawing 6, saying he had taken some of the notes and lines required to be on Drawing 1 to show how the customer parking and display parking would work. He noted that the display areas were represented by blocks of spaces, with 20 parking slots identified on the plan and with another ten parking locations being within the building. He said there was a surplus of parking spaces, but he had reduced it to seven, marking the display in the front as some members had desired. He said the display area in the rear had been cut down to a little over 500 ft<sup>2</sup>, with the remaining area fully open for maneuvering. He then stated that he felt the concerns the Board had expressed had been addressed and he thought the plan was acceptable.

Mr. Michael Febonio, the applicant, said the goal had been to illuminate the crossover for customers, and there would be no need to have people turning in the rear. He noted that a double space had been eliminated in the passageway, adding that the display plan on the meeting-room wall was colored to show the green space. He said the site was not unattractive to begin with but would be much more attractive with the proposed landscaping.

Mr. Febonio said he had started the process after the Zoning Administrator had said this was a usable site. Noting that some people had questioned what the need was for another used-car lot, he said this sort of business brought in transient customers who spent money in local restaurants and perhaps became encouraged to rent or move to Hudson. He said he had driven down Lowell Road and taken pictures both before and after his site, saying most of them had parked cars against the street—adding that he was taking an already paved area and adding green space. He then concluded by stating that he, as an abutter, had an invested interest in maintaining the property.

Chairman Russo opened the meeting for public input and comment, in favor.

Mr. Gregory Mihailivis, 3 Shoreline Drive, said he was familiar with Mr. Febonio, noting that he had been following this discussion on television and he did not see how

this business could be bad, adding that he had talked to his friend Joe O'Reilly, who also had no objections. He said Mr. Febonio had given the Board everything they had asked for, and he could not see how the Board could turn this down, saying it could not hurt but could only add. He said there might only be one customer in eight hours, saying it was just a small used-car lot. Selectman Maddox asked if Mr. Mihailivis did repairs on his own site; Mr. Mihailivis replied in the negative.

Mr. Tom Hodge, 139 Musquash Road, said he had worked for Mr. Febonio for three years, previously, and he thought this would be a clean place, saying the drawings looked clean and orderly and he thought it would be a good business for Hudson. Selectman Maddox asked if that previous service had been at 85 River Road; Mr. Hodge answered in the affirmative.

Ms. Sandra Ziehm, 2 Winnhaven Drive (or 53 Lowell Road) said she was not opposed, saying she had been convinced that Mr. Febonio would put in some nice trees and she agreed that it would cost him a lot of money to put in a fence. She reiterated that she was not opposed, but added that she still felt two big buildings on that small a lot was not in the best interest of Hudson.

Mr. Ulery asked if the drawing were to scale. Mr. Febonio answered in the affirmative.

No one else coming forward to speak in favor or opposition, Chairman Russo declared the matter before the Board and asked if any members of the Board had any questions.

Mr. Della-Monica said he thought this plan, as presented tonight, assisted with snow removal, as they could move cars to the cleared space, just as he did in his own yard. He then expressed a belief that the building should be labeled as a showroom, so that the Fire Department would know there would be customers going into that area. Mr. Maynard said Note 4 identified it as a display room; he then agreed to add "Storage & Showroom" to the plan.

Selectman Maddox said this plan was much better, but he questioned which label would go where. He asked if Mr. Febonio would do inspections. Mr. Febonio said he did not, but he might have a third party come do that, if business picked up. Selectman Maddox asked where cars coming back for repair would be parked. Mr. Febonio said the service bays were two cars deep, which he expected would cover it, claiming that various used-car lots would be lucky to have three customers a day. Mr. Maynard said Mr. Febonio would not accept more cars for service than he could handle, saying they would have to come by appointment.

Selectman Maddox asked for confirmation that Mr. Febonio would not be taking in cars for repair. Mr. Febonio said that was not the case, saying the service was for cars bought for and sold by the dealership. Selectman Maddox said this revised plan was a lot better.

Ms. Merrill asked about the number of employees parking. Mr. Febonio said there should be two employees.

Mr. Barnes said there had been a motion not to require a CAP fee but it was still on the plan. Mr. Maynard said he would state it as not required but could not do that until the Board voted on the matter.

Mr. Ulery said the colored drawing tended to show that the rear building was set well back and that there would not be overflow in the rear.

Ms. Merrill asked for confirmation that there would be no work done outside the building, including oils, etc. Mr. Febonio answered in the affirmative, saying there would be no oils whatsoever.

Mr. Barnes noted that there had been a motion made to approve at the last meeting, which had failed, but what was before the Board now was a modified plan, so they could go ahead without having a motion for reconsideration.

Mr. Della-Monica moved to approve the Site Plan entitled ***Stellar Motors, 57 Lowell Road, Hudson, New Hampshire, Lot 1/Map 190***, prepared by Maynard & Paquette, Engineering Associates, LLC, dated April 27, 2011, latest revision date September 26, 2011, consisting of Sheets 1 through 6 and Notes 1 through 23, 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. Prior to the Planning Board endorsement of the Plan, the Development Agreement and sidewalk easement document concerning the future widening of Lowell Road, shall be favorably reviewed and recommended on by Town Counsel.
3. All improvements shown on the Plan, including Notes 1 through 23, shall be completed in their entirety and at the expense of the Applicant or his assigns.
4. After the issuance of the foundation permit for the structure and prior to the issuance of the framing permit, the applicant shall submit to the Hudson Community Development Department a foundation "As-Built" plan on a transparency and to the same scale as the approved Plan. The foundation "As-Built" plan shall include all structural dimensions and lot-line setback measurements to the foundation and be stamped by a licensed land surveyor. Any discrepancy between the approved site plan and foundation "As-Built" plan shall be documented by the applicant and be part of the foundation "As-Built" submission.
5. 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 Planning Board approved Plan.
6. Onsite landscaping shall be provided for in accordance with the plant and tree species specified on Sheet 5 of 6 of the Plan.

7. Construction activities involving the subject lot shall be limited to the hours between 7:00 a.m. and 7:00 p.m., Monday through Saturday. No construction activities shall occur on Sunday.
8. Hours of operation for the automotive service use shall be Monday through Friday 8:00 a.m. to 6:00 p.m. and Saturday 8:00 a.m. to 3:00 p.m. and for sales of vehicles Monday through Friday 8:00 a.m. to 5:00 p.m., Saturday 9:00 a.m. to 5:00 p.m., and Sunday 11:00 a.m. to 4:00 p.m.
9. Onsite automotive repairs shall be limited to those specified in Note 23 on Sheet 1 of the Site Plan of Record.
10. Refuse removal shall be limited to Monday through Friday, 8:00 a.m. to 6:00 p.m., and Saturday 8:00 a.m. to 3:00 p.m.
11. Prior to Planning Board endorsement of the Plan, it shall be subject to final engineering review.
12. Note 4 on the Plan shall be amended to stipulate that the rear building shall be used exclusively for showing vehicles for sale, storage, and vehicle services shall be limited to those specified in below Note 23.

Mr. Maynard stated that there was a typo on the sales hours, sales of vehicles Monday through Friday, which should be 8:00 a.m. to 8:00 p.m., which would match what was stated on the plan. Chairman Russo noted that these different hours were stated on the plan. Mr. Della-Monica concurred, making the stipulation read as follows:

8. Hours of operation for the automotive service use shall be Monday through Friday 8:00 a.m. to 6:00 p.m. and Saturday 8:00 a.m. to 3:00 p.m. and for sales of vehicles Monday through Friday 8:00 a.m. to 5:00 p.m., Saturday 9:00 a.m. to 5:00 p.m., and Sunday 11:00 a.m. to 4:00 p.m.

Mr. Barnes seconded the motion.

Selectman Maddox asked that the layout shown on Sheet 6 be transferred to Sheet 1, as that was the sheet that would be recorded. Mr. Maynard expressed agreement. Chairman Russo asked if Selectman Maddox wished to have this added as an amendment. Selectman Maddox answered in the affirmative, and Mr. Della-Monica and Mr. Barnes concurred, making it a friendly amendment.

13. Service of vehicles in the rear building shall be limited to such service required for New Hampshire State inspections (brakes, ball joints, exhaust, tie rod ends, lights, directionals, etc.). Collision repair, painting of vehicles and repair of vehicles not sold or for sale on the premises shall be prohibited.
14. The Plan-of-Record shall be amended to depict the display areas of cars for sale as shown on Sheet 6.

Selectman Maddox said it had been a long process, adding that Ms. Ziehm's testimony had pushed him over the edge. He said it was still a very busy site but he would agree, as Ms. Ziehm and the applicant had worked out something.

**VOTE:** No further comment being brought forward, Chairman Russo called for a verbal vote on the motion. All members present

voted in favor except for Ms. Merrill, who voted in opposition, and Chairman Russo declared the motion to have carried (6-1).

## VI. WORKSHOP

### A. Review Proposed Zoning and Land Use Regulation Amendments.

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

Town Planner Cashell asked if Mr. Barnes had read through the staff report and agreed with it. Mr. Barnes answered in the affirmative. Mr. Cashell said all of this stemmed from diligent work originally done by Mr. Barnes. He noted that the proposed public hearings were attached to the staff report. He noted that 193-10 (l), did not allow for shared driveways, and this would take away from some of the conflicts.

Mr. Barnes said he would be looking to see if there were any input from landlords as to what they would want for a minimum floor-space size.

Chairman Russo expressed a belief that the 750 ft<sup>2</sup> minimum size left a bit to be desired. Mr. Cashell said Item 3 gave the amendment language.

Selectman Maddox asked if the Board should put the no more than 1,000 feet length of a cul-de-sac in the Site Plan Regulations, to match the length in the Subdivision Regulations. Town Planner Cashell said the applicant could always bargain with the Planning Board to get a longer length, if applicable. Town Planner Cashell noted that there was a clause saying the Board had the authority to negotiate with applicants.

Chairman Russo said he had discussed concerns about potential loopholes in the regulations, asking if the loopholes could be closed. Mr. Ulery said the specific question had been asked, and the applicant had said the OSD plan did use all the land, with the difference being the road.

Mr. Della-Monica said there was a solution to correct the problem, which would be to say that, if access for the proposed conventional plan did not currently exist, that amount of land must be included or added in the OSD plan.

Selectman Maddox expressed a belief that this was making laws that the Board did not need to make, saying it was a matter of interpretation, as the applicant had agreed to the Board's interpretation. Mr. Della-Monica expressed concurrence, saying Selectman Maddox was right. Mr. Ulery concurred, saying it was up to the Board to accept or not to accept, but it was up to the developer to come up with new ideas, expressing the belief that between the developer and the Planning Board there would come up a great development, benefiting everyone. Chairman Russo suggested that Mr. Hall, when he came back, might have other ideas, adding that he had felt from talking with Mr. Hall that something had been done which had not been conventional as the Board had interpreted it in the past. He said the idea of the OSD plan, originally, was to use the land as a whole. Town Planner Cashell said no one had a right to

propose a conventional plan with a loop road going over land they did not own, which was not what was presented in this case, but they had seen a possibility, which the Board had caught, and they would now be coming in with a new plan having all of the OSD plus the two conventional lots on one plan, Mr. Della-Monica said this way there would be one plan that governed all of the property, which had not been the case previously.

Town Planner Cashell suggested that the Board move the four public hearings on zoning and land-use amendments stipulated in the staff report shall move forward to a public hearing on November 9th. Mr. Della-Monica so moved; Mr. Barnes 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).

#### **B. Review The New Hampshire Center on Public Policy Studies Website.**

Chairman Russo read aloud the published notice, as repeated above, saying Town Planner Cashell had decided not to go through a PowerPoint presentation.

Town Planner Cashell displayed the Website for the NH Center for Public Policies on the video screen, demonstrating how the vital statistics could be accessed through links on the screen. He noted that his staff report referenced a number of key pieces, adding that he had included in the Handouts package a copy of the New Hampshire Economic Outlook document, published on May 19, 2011. He noted that the 126-page *What Is New Hampshire?* document was updated on a yearly basis with many relative tables and discussion, and he displayed selected pages and illustrations from that document, commenting on the usefulness of the information available in that document.

Mr. Ulery noted there were also other sources of information, suggesting *Rich State, Poor State*, by Arthur Laffer and Stephen Moore (Published by ALEC).

Selectman Maddox noted that Town Planner Cashell had suggested putting a link to this document on the Town's Web site.

#### **VII. DESIGN REVIEW PHASE**

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

#### **VIII. OTHER BUSINESS.**

Chairman Russo reminded the members that the next three weeks would be given over to the Law Lecture Series, with the Board not meeting again until December.



**XVI. ADJOURNMENT**

All scheduled items having been addressed, Mr. Malley moved to adjourn; Mr. Barnes 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 8:15 p.m.

Date: December 1, 2011

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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 12-14-11 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes  
October 5, 2011**

**Page 10**

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

Page 7, 3<sup>rd</sup> paragraph under VI.A, 2<sup>nd</sup> line — changed “floorspace” to “floor-space” so that the phrase now reads “a minimum floor-space size.”

Page 8, 1<sup>st</sup> word — changed “proposed” (past tense) to “propose” (infinitive).

Page 8, text paragraph under VII — corrected misspelling of “Design.”

Page 8, 4<sup>th</sup> paragraph under B — provided correct title and author identification for cited reference: “Rich State, Poor State, by Arthur Laffer and Stephen Moore (Published by ALEC).”