



TOWN OF HUDSON

Planning Board



Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison

12 School Street • Hudson, New Hampshire 03051 • Tel: 603-886-6000 • Fax: 603-594-1142

-- FILE COPY --

HUDSON PLANNING BOARD MEETING MINUTES September 7, 2011

CLOSED ATTORNEY/CLIENT SESSION

Prior to the scheduled workshop meeting, the Planning Board held an attorney/client session with the Town Attorney, starting at 7:00 p.m., with that session not being open to the public.

I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:29 p.m. on Wednesday, September 7, 2011, in the Community Development meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Mr. Schneiderman 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 Mr. 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, George Hall, Tim Malley, Vincent Russo, and Richard Maddox (Selectmen's Representative).

Members

Absent: Glenn Della-Monica (excused) and Ed van der Veen (excused).

Alternates

Present: Irene Merrill, Stuart Schneiderman, and Jordan Ulery.

Alternates

Absent: Roger Coutu (Selectmen's Representative Alternate; excused for attendance at the 9/11 meeting).

Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Russo noted that all regular members were present and that no alternates needed to be seated at this time.

Chairman Russo seated Ms. Merrill in place of the absent Mr. van der Veen and seated Mr. Ulery in place of the absent Mr. Della-Monica.

He then announced that he would skip over the minutes to get right into the Workshop presentation from Atty. Stephen Buckley, the Town Attorney.

IX. WORKSHOP

C. Update on Recent Legislation Concerning Planning Issues

Atty. Buckley referenced his 09-07-11 memorandum on recent legislation, commenting that the most important to the Planning Board was SB 144, which changes the time periods afforded to subdivisions to be protected from subsequent changes in zoning ordinances and planning regulations, provided that substantial work has been completed within 24 months (instead of 12) after approval and gives a protection period of five years (instead of 4) following approval.

Atty. Buckley then discussed HB 409, noting that it modified the limitations with respect to Planning Board members serving on other boards.

Atty. Buckley noted that recently enacted HB 109 prohibited the Planning Board from requiring the installation of sprinklers in 1- or 2-family houses—noting, however, that another law, not yet passed, might reinstate the authority of towns to have sprinkler regulations if they had any such regulations in effect prior to July 28, 2010, but that this was not the case for Hudson.

He then discussed HBs 164 and 104, adding that HB 409, noting that these had only sidereal impact with respect to the Planning Board.

Atty. Buckley noted that Hudson had an involuntary merger ordinance (HTC 334-32) pertaining to adjoining nonconforming lots owned by the same owner, and he then referenced Atty. LeFevre's 07-12-11 memorandum pertaining to "NH RSA 674:39-aa,

which he characterized as the “unmerger statute,” commenting on details—including the fact that there would be a window of opportunity, covering the period from July 24, 2011 to December 31, 2016, for property owners to request the selectmen to unmerge their involuntarily merged properties.

Mr. Hall asked if this pertained to the cases of two lots that did not meet zoning requirements. Atty. Buckley said the setback requirements would still apply, saying there might be controversy about that and that there could be issues with respect to lots not having septic systems or water. Mr. Hall said the lots would still be substandard. Atty. Buckley said he thought it had been the objective of the State Legislature to recognize property rights that should not have been taken away administratively.

Mr. Barnes asked if part of HTC 334-32, were now null and void. Atty. Buckley said it was no longer operative, adding that Atty. LeFevere would say the law firm was not recommending removing the merging ordinance because of the sunset provision, and because there might be circumstances where merger still made sense. As long as the Town had the ordinance on the books he said, it would still be effective after December 31, 2016, because of the sunset provision. After that date, he said, people could come ask that it be unmerged. Mr. Barnes said the lots would be merged again after 2016. Atty. Buckley said his firm was recommending to leave it as it was, or not to repeal the ordinance, saying a statement could be attached to documentation pertaining to lots unmerged under the provisions of HB 316 to say that the lots would not be remerged once the statute became effective again. Right now, he continued, all the Town had to do was address requests to unmerge.

Mr. Ulery said this statute had come up because of other mergers enacted elsewhere in the state.

Selectman Maddox expressed a belief that it was still allowable to require sprinklers as a stipulation under FD-91 if developers offered to install them. Atty. Buckley said he was not comfortable with that. If someone offered something, he said, he was not sure it would be effective. If a developer was prepared to voluntarily waive the requirement, he said, he would advise it would be problematic to accept the offer, as the Board could not even make it a condition of approval, the way the statute was written.

Mr. Hall said the Planning Board never got involved in cisterns or sprinklers, saying that was up to the Fire Department. If the developer offered to put in sprinklers, he said, the Fire Department had accepted that in lieu of requiring a cistern, but he did not recall that the Planning Board ever got involved. Atty. Buckley said the Planning Board made it a condition of approval, which the State Legislature has now said the Town could not do. Mr. Hall said he did not recall saying in a motion to approve that sprinklers had to be provided. Selectman Maddox demurred, saying the Planning Board had just done this with respect to the last four units at Vista Knolls Estates.

Town Planner Cashell said the Planning Board did not hold a sword over the developers' heads, but the developers worked out agreements with the Fire Department. Atty. Buckley said he had seen it occur that the developer made a deal with the Town, but the developer then sold the lot, and the new property owner came in to get a Building Permit—and, if the Town said they had to put in a sprinkler, could say the Town could not require that. If the sprinklers were put in before the units were sold,

he said, he did not think it would be a problem, but the issue might come up if Zoning Administrator Oleksak were asked to issue a Building Permit and no sprinkler system had been installed. He agreed that this might mean that the Town would end up with cisterns, put in at the developer's expense, or fire ponds ("other creditable water sources"), etc. He said Senate Bill 91, if it were to be passed, might change that, to override the Governor's veto.

Mr. Ulery said the reason for the law was that several towns had been saying "this development shall have ...," when a cistern or other method could have been done just as easily.

Atty. Buckley said, even if the Planning Board made a deal with the developer, there might still be a problem with the future lot owner—saying it was the involvement of a third party that created an issue.

Selectman Maddox asked if the Planning Board could require a bond for the cisterns. Atty. Buckley said he thought it would be legitimate to do that, saying the Planning Board might be able to insist on a cistern if sprinklers were not installed.

Chairman Russo thanked Atty. Buckley for coming before the Board. He then asked if any members of the audience had any questions for Atty. Buckley. No questions were brought forward.

A. Presentation and Discussion on Roundabouts – The Alternative for Signalized Intersections.

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

Town Planner Cashell noted that Mr. Paul Konieczka was a principal of CLD and was here because he had missed out on the earlier iTRaC presentation at NRPC.

Mr. Cashell reviewed the use of roundabouts in Europe, noting that there were about 30,000 roundabouts in England, and describing them as an ingenious way of handling vehicular traffic more safely than signalized intersections could do. He then gave a visual presentation, showing PowerPoint slides on the viewing/display system, showing illustrations of different roundabout designs and commenting on details of how traffic was handled. He noted that the mayor of one community in another state had replaced about 50 signalized intersections with roundabouts, saying these offered higher capacity and saved lives, as well as significantly reducing fuel consumption.

Mr. Cashell referenced the history review in his staff report, saying hundreds of roundabouts were being built every year, with thousands to be expected over the next two decades. He commented on pedestrian safety features, comparison of crash rates for different kinds of intersection systems, safety statistics, and other aspects.

Mr. Cashell discussed traffic issues he witnessed each morning on Route 111, at the Greeley Street/Kimball Hill Road/ Central Street/ Windham Road intersection, suggesting that a roundabout could be considered for that intersection.

Selectman Maddox contended that the same throughput could not be obtained with roundabouts, saying traffic could be backed up for miles. He expressed a belief that a roundabout at the route 111 intersection would-be problematic at best.

Mr. Ulery said the roundabout in Keene had actually improved traffic, but the one in Peterborough was so bad that one could not get across the intersection.

Mr. Schneiderman asked if Mr. Cashell had estimates for the numbers of vehicles passing through the Route 111 intersection on a daily basis. Mr. Cashell said there were at least 15,000 to 20,000 vehicles per day at the Route 111 intersection, saying that was probably lowball. Mr. Konieczka expressed agreement. Mr. Cashell said roundabouts virtually eliminated stacking, acknowledging that they did slow traffic down.

Mr. Schneiderman asked if a two-lane roundabout would be suitable for the Route 111 intersection, saying he thought it could handle up to 40,000 vehicles a day. He then asked if signalization would be needed. Mr. Cashell said signalizing might not be needed but he had seen some done with signalization as well.

Mr. Konieczka said it really depended on what the distribution of traffic was, saying roundabouts worked best when the movements were balanced. He said his firm was designing a one-lane roundabout in Rochester, saying the intersection geometry was rather unique, with two streets coming in at strange angles, so the design was trying to bring them in as close to 90 degrees apart as possible. Mr. Schneiderman referenced the arterial nature of Route 111, saying a signalized approach might be better at that location. Mr. Konieczka expressed agreement, saying he was thinking more of such intersections as the Pelham Road/Bush Hill Road intersection. He noted that there were two roundabouts in Nashua. Chairman Russo asked what distinguished rotaries from roundabouts. Mr. Konieczka said the issue was speed, saying rotaries were bigger and handled faster speeds.

Mr. Ulery noted that roundabouts had been in the United States for no more than a decade, saying drivers approached new things cautiously. He noted that the roundabout in front of Rivier College came off a 40-mph road. One of the reasons that motor vehicle accidents were increasing, he said, as told at Transportation hearings, was that people tended to run the red lights.

Mr. Barnes said he tended to agree, but he noted that roundabouts worked well in Europe, where he had done a fair amount of driving. He said a substantial amount of study was required before putting such things in, saying he would expect only a few cars on the Windham Road, so they would sit there for a longer amount of time waiting for spaces.

Chairman Russo referenced the roundabout on Route 102 in Derry, saying drivers were looking for gaps, not cars. He said a main arterial road, such as Route 111, with bunched traffic, would have a swarm of cars trying to negotiate it all at once. He expressed a belief that roundabouts did not mix well with traffic that was metered by signal lights elsewhere.

Mr. Konieczka said several units of the Department of Transportation now required that roundabouts be looked at when new intersections were planned.

Chairman Russo expressed a belief that roundabouts were a maintenance nightmare for Public Works, as trucks and snowplows would damage them, noting that the new roundabout by the Nashua high school was beat hard, adding that it produced a big backlog of traffic on Broad Street when school was getting out in the afternoon. He then expressed a belief that the Route 111 intersection would require a massive roundabout in order to work effectively.

Mr. Ulery referenced the Portsmouth Circle rotary, commenting on problems negotiating that traffic. Mr. Konieczka noted that there were associated considerations of signals and signage packages, saying engineers were getting better at it.

Mr. J. Bradford Seabury referenced the concern about getting traffic through a roundabout at the Route 111 intersection, saying here was another issue, in that the traffic coming out of the roundabout would be spread more evenly. With the existing signalization approach, he pointed out, it was sometimes extremely difficult to get out onto Route 111 to make a left turn from Park Avenue or Clement Road.

Town Planner Cashell showed a slide illustrating resistance to roundabouts, showing how feelings changed between before a roundabout was installed and afterwards.

Chairman Russo said the implementations he had seen had not been the best. Mr. Cashell suggested that everyone should review the videos available on the Internet, saying there was lots of information available now. Mr. Ulery suggested instead that people should try driving down Maine Street in Keene, where high school students were walking across the street and no one yielded to anyone else.

Selectman Maddox expressed concern about the maintenance issues, saying one roundabout he knew of in Manchester was not wide enough, so trucks were destroying the curbs. He suggested the proposed parkway between Route 111 and Route 3-A might well consider such roundabouts. He then expressed a belief that too much land would be needed for the Route 111 intersection at Greeley street/Kimball Hill Road. Mr. Ulery said the land should be relatively flat, so that all drivers could see in all directions. He suggested the Derry road intersection with Route 102 might be a better location.

Mr. Cashell referenced his experiences as a pedestrian walking near a rotary in another community recently, saying the traffic was not slowing down enough.

Mr. Ulery noted that traffic signals might be needed to get people into the appropriate lanes.

Mr. Cashell said he had been very impressed at the presentation put on at the NRPC meeting, which was why had had added it to tonight's agenda. He noted the savings in fuel consumption could save a lot of money for the country.

Chairman Russo said it made sense to him to have the traffic going to the right, rather than crossing traffic.

Selectman Maddox said the rotaries on Route 1 to the Boston airport had been taken out, with signal lights being put in. Chairman Russo expressed a belief that the rotary had worked well at the Drumhill intersection before lights were installed.

Mr. Schneiderman referenced a 277-page Federal Highway Administration publication called Roundabouts and Intersection Guide, commenting on things covered. He offered to send a Web-link URL to the members.

B. Update on 2011 Zoning Ordinance Edits.

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

Town Planner Cashell referenced his staff report, saying most of the proposed changes should be taken care of by edits rather than warrant articles, noting that Mr. Seabury had notified him of another edit today, so he now had a library growing for changes next year.

Town Planner Cashell referenced the schedule for next year's warrants, noting that November 14th would be the first date to accept petitions on zoning amendments, December 14th would be the last date to post notices for the first hearing, December 23rd would be the earliest date for the first hearing, and January 3rd was the last date to hold a first public hearing. Chairman Russo suggested this document should be posted on the Town's Web site.

Selectman Maddox asked if Town Planner Cashell could create and maintain a Word document on the meeting-room computer that could be added to regularly to list things that the Board might want to discuss at a later meeting.

Mr. Ulery expressed appreciation of the way that the proposed warrant article on fences had been prepared by Mr. Barnes.

V. MINUTES OF PREVIOUS MEETING(S)

- A. 09/22/10 Min. - 12/08/10 & 03/09/11 Pkts.
- B. 03/02/11 Min. - 03/23/11 Pkt.
- C. 05/11/11 Min. - 05/25/11 Pkt.
- D. 05/25/11 Min. - 06/22/11 Pkt.
- E. 06/22/11 Min. - 07/27/11 Pkt.

Chairman Russo addressed the minutes for the meetings of 09-22-10

Mr. Barnes made the following change requests:

Page 5, last paragraph, 2nd line; last paragraph page 5, "master-panned" should be "master-planned."

On page 6, 2nd full paragraph, 5th line, two uses of "pan" should be "plan."

On Page 6, 3rd full paragraph, 1st line, "pan" should be "plan."

On Page 8, 2nd paragraph, end line, "pan" should be "plan."

No other changes being brought forward, Mr. Barnes moved to accept the 09-22-10 minutes as amended; Selectman Maddox 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).

No one being prepared to address the others sets of minutes waiting to be reviewed, Chairman Russo asked that members be prepared to address the 03-02-11 and 05-11-11 minutes at the next meeting.

VI. CASES REQUESTED FOR DEFERRAL

No cases had been requested for deferral for this meeting.

VII. CORRESPONDENCE

No items of correspondence received in tonight's handouts were addressed at this time, in accordance with the Board's practice of taking up such items in conjunction with the associated matters, 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.

X. ZBA INPUT ONLY

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

XI. PUBLIC HEARINGS

No **Public Hearings** items were scheduled for this evening.

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.

XIII. OTHER BUSINESS

**A. Hilltop Estates Subdivision
Letter of Credit #4999**

Map 178, Lot 7

Reference memo dated June 9, 2011 from Gary Webster, Town Engineer, to John Cashell, Town Planner.

Chairman Russo noted that this item had been discussed at the prior meeting, with no action having been taken at that time.

Town Planner Cashell noted there was a draft motion in the handout packet. Chairman Russo asked if it had to be handled this evening. Selectman Maddox noted that it would not get onto the Board of Selectmen agenda unless it was addressed by noontime tomorrow.

Chairman Russo noted that Town Engineer Webster would handle the project, with a couple estimates having been obtained.

Mr. Barnes moved, in accordance with the recommendation of the Town Engineer, Gary Webster, to request Sovereign Bank to release the sum of \$58,525.00, which represented the surety held by said bank in the form of IRREVOCABLE STANDBY LETTER OF CREDIT NO. 4999, and for said funds to be used exclusively by the Town of Hudson to complete the Hilltop Estates Subdivision in accordance with the terms and conditions of approval established by the Hudson Planning Board. Noting that said terms and conditions of approval are found within the Hilltop Estates Subdivision Plan-of-Record and associated Development Agreement, HCRD Plan No. 31565 and Bk. 6570 Pg. 2333 respectively.

Mr. Hall seconded the motion.

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).

Town Planner Cashell referenced a letter that had been sent to the Board of Selectmen by Howard Dilworth, Jr., noting that a copy was being provided to the Planning Board for informational purposes, as requested by the letter-writer, but the Planning Board had no involvement in the matter. No action was taken with respect to the letter.

-- FILE COPY --

XIV. ADJOURNMENT

All scheduled items having been addressed, Mr. Hall 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 9:00 p.m.

Date: May 9, 2011

Vincent Russo, Chairman

J. Bradford Seabury, Recorder

Edward van der Veen, Secretary

These minutes were accepted as submitted following review at the 09-28-11 Planning Board meeting.