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**HUDSON PLANNING BOARD  
MEETING MINUTES  
September 10, 2008**

**I. CALL TO ORDER**

Chairman Barnes called this Planning Board meeting to order at 7:01 p.m. on Wednesday, September 10, 2008, in the Community Development meeting room in the Hudson Town Hall basement.

**II. PLEDGE OF ALLEGIANCE**

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

**III. ROLL CALL**

Chairman Barnes asked Selectman Maddox to serve as Acting Secretary and to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

**Members**

**Present:** James Barnes, George Hall, and Richard Maddox (Selectmen's Representative), Vincent Russo (arrived at 7:06 p.m.), and Suellen Quinlan (arrived at 7:32 p.m.)

**Members**

**Absent:** Marilyn McGrath (excused) and Terry Stewart (excused).

**Alternates**

**Present:** Tierney Chadwick, and Ken Massey (Selectmen's Representative Alternate).

**Alternates**

**Absent:** Brion Carroll (excused).

**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury.

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Barnes seated Ms. Chadwick in place of the absent Ms. McGrath.

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

Chairman Barnes noted that the Board had not addressed any minutes at the previous week's meeting. He then addressed the minutes for the meeting of 05-28-08, asking if there were any changes or corrections.

Mr. Barnes referenced Page 2, requesting that the phrasing be changed to clarify that Mr. Russo was being seated as Acting Chairman, not being seated as an alternate.

No further changes or corrections being brought forward, Mr. Hall moved to accept the 05-28-08 minutes as amended; Ms. Chadwick seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members present voted in favor, and Chairman Barnes declared the motion to have carried (4-0).

Mr. Russo arrived at 7:06 p.m. and took his seat at the table, with Chairman Barnes recognizing him as being seated for the next item of business.

Chairman Barnes addressed the minutes for the meeting of 06-11-08, asking if there were any changes or corrections.

Mr. Barnes referenced Page 3, noting that the count of the vote for the motion to approve minutes was incorrect, as there had been 6 in favor and one abstention, so that the count should be 6-0-1 instead of 6-1-0.

No other changes being brought forward, Mr. Hall moved to approve the 06-11-08 minute as amended; Ms. Chadwick seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (5-0).

Chairman Barnes requested that the minutes for the May 14<sup>th</sup> & June 25<sup>th</sup> meetings be addressed at the next meeting.

**VI. CORRESPONDENCE**

Chairman Barnes 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.

**VII. PERFORMANCE SURETIES**

**A. Scenic Drive and Shoreline Drive – Street Acceptance  
Waterview Landing – Map; 147/Lot 6**

**Reference memo dated August 18, 2008, from Gary Webster, Acting Town Engineer to Town Planner John Cashell.**

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

Town Planner Cashell said he had nothing to add to the report.

No comments being brought forward, Ms. Chadwick moved to forward a favorable recommendation to the Board of Selectmen relative to accepting Scenic Lane and Shoreline Drive as public streets, noting that this action was taken in accordance with the favorable written recommendation of the Town's Civil Engineer, Gary Webster, together with the favorable recommendations of the Police, Fire and Highway Departments, with these recommendations being included in the permanent file for the Waterview Landing Subdivision, which includes both Scenic Lane and Shoreline Drive.

Mr. Hall seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (5 –0).

**VIII. ZBA INPUT ONLY**

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

**IX. CONCEPTUAL REVIEW ONLY.**

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

**X. OLD BUSINESS**

**A. Lindquist Subdivision  
SB# 06-08**

**Map 173/Lots 7 & 8  
Webster Street**

**Purpose of Plan: To relocate the lot line between Lots 6 & 7 on Map 173 to consolidate Lots 7 & 8 on Map 173, and to resubdivide the new lot into four building lots for residential use. Hearing. Deferred Date Specific from the 08-13-08 :Planning Board meeting.**

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

Town Planner Cashell noted that he had provided a fairly lengthy staff report, based on the previous discussion.

Mr. Tony Basso, of the firm of Keach -Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, said there had been one issue left over from the previous hearing, pertaining to the river because of the distance. He noted that the discussion had centered around the Heritage Trail. He noted concerns expressed by LMRLAC (the Lower Merrimack River Local Advisory Committee), with members of that group having contended that the Heritage Trail should be on the other side of the river, as well as expressing concerns about the steepness of the banking and crossing the brook. He noted that members of that group had also expressed concerns about infiltration of the river, despite the fact that the project was way outside the 250-foot river buffer. He said his client had been asked to provide a 20-foot easement, as others along the river bank had been, adding that without having a definite trail plan in mind he could not see how anything different could be done. He noted that there was a bench within that 20-foot distance on which a walking trail could be established. He suggested that the Town needed to know where these segments would be placed, in order to ensure that they could be linked up. He then concluded by saying that the latest report from CLD (Costello, Lomasney, and deNapoli, Inc.) had been received, and he noted that the phrase "subject to annual indexing" would be pulled from the text on the mylar.

Mr. Hall asked about the suggestion to put the trail at the top of the bank. Mr. Basso said that was probably feasible, but he questioned how linkage to the next parcel could be assured, contending that there would be future problems if the trail began to be moved around. Mr. Hall said the Planning Board would know where to put it in the future if the Board had the easement, and he expressed a belief that the most logical place for the trail would be at the top of the ridge, expressing a belief that it would be virtually impossible for anyone to walk along that steep slope without carving a bench into the slope, which would be impractical. Mr. Basso said his clients on Lot 6 were retaining the house, adding that that lot was only on the plan for the purpose of relocating the lot line, adding that his clients would not be willing to provide an easement, as they had concerns about the people who were already down on the property in that area. He said that there was an existing bench on the bank, adding that his clients would be willing to jog into the site when the bench petered out to the north, but did not want it at the top of the bank behind their home.

Selectman Maddox said there was an NRPC (Nashua Regional Planning Commission) plan, made some five years ago, which detailed many of the lots. He suggested that the clients probably would be retired and moved away by the time the trail actually came into existence. Mr. Basso said a detailed survey would have been needed on all of the properties for such a plan, and he was sure his clients had not allowed that. He contended that an aerial photograph would not have been sufficient, because of all the vegetation. Town Planner Cashell said the only way the Heritage Trail project could be handled was on a lot-by-lot basis, as the properties came before the Board, and this was a chance for the Town to deal with it a little bit at a time. Mr. Basso said he understood, but these particular clients were not willing to allow more

people to come onto their property, as they had been experiencing problems, and would not be willing to cooperate with respect to putting the trail on the top of the bank behind their home, but would be willing to follow the ledge and then go to the top of the bank.

Ms. Chadwick asked about the shed in the wetland buffer. Mr. Basso said the shed predated the wetland ordinance buffers, which he felt occurred in 1994. Ms. Chadwick asked if the client were willing to agree not to expand or build onto that shed. Mr. Basso answered in the affirmative, saying that could not be done anyway, without a wetland special exception —and adding that he would not mind putting in a note to that effect.

Mr. Hall said he was having a hard time understanding how Mr. Basso's client could feel that moving that easement would encourage additional use until after the trail was given access. Mr. Basso said people could use the easement if it were on record. Mr. Hall questioned how anyone would access the area. Mr. Basso said people were currently getting there from the water. Mr. Hall questioned how anyone could get there legally; he then noted that there had been a considerable amount of attorney-reviewed language in previous easements to provide liability protections to abutters, and he suggested that the Board might want to defer this in order to have time to review that language.

Chairman Barnes asked if the client were willing to put the easement at the top of the bank on the new Lot 8. Mr. Basso concurred, saying he would pull Lot 6 off the plan if the Board deferred it again, as his clients did not need to change the lot line, which followed the brook and changed when it changed. He said his clients wanted to put something permanent on the record, and were willing to have the easement where it was. He then displayed on the meeting room wall **Lot Line Consolidation Plan, Lindquist Subdivision, Map 173/Lots 6, 7, & 8, Webster Street, Hudson, New Hampshire, prepared for Susan Lindquist Revocable Trust**, showing the contours. He said there was a "platform" that could be used, but they were not willing to have the trail up in the area where they had a bench.

Chairman Barnes asked for comments or a motion from the Board members.

Nothing being brought forward, Chairman Barnes expressed a belief that the topography was much better at the top of the bank on Lot 8, than down by the river.

Selectman Maddox noted that there remained a lot of concern and would just as soon wait until the other members of the Board were present. He then moved to defer further action on this item to the meeting of September 24<sup>th</sup>; Ms. Chadwick seconded the motion.

Ms. Quinlan arrived at 7:32 p.m. and took her seat at the table, although not yet recognized for the case in process.

Mr. Hall said he believed what had been offered was in the best interest of the Town, saying he would prefer to accept what had been proposed rather than try Mr. Basso on his threat to submit a new plan —which he noted the Board would not accept as part of the same application. Mr. Basso said his clients had said they would pull that lot off the table if the application were not approved tonight; he then questioned why a revised

plan would not be accepted as an amendment. Mr. Hall said he would like to work something out that made sense to both sides, without costing the applicants a lot of money. Selectman Maddox said he had made the motion in hopes that more Board members would be present, and also so that the Town could do some research on the Heritage Trail corridor.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (5 -0).

Chairman Barnes asked Town Planner Cashell to look for the NRPC Corridor plans.

Chairman Barnes recognized Ms. Quinlan as having arrived, saying she would be seated from this time on. Selectman Maddox then passed the Secretarial documentation to Ms. Quinlan, who assumed the role of acting Secretary from that point on.

**B. Derry Street Professional Building  
SP# 19-06**

**Map 174/Lot 23  
26 Derry Street**

**Purpose of Plan: To show "As-Built" plans of the existing structure and completed onsite exterior improvements. Hearing.**

Chairman Barnes read aloud the published notice, as repeated above, and he then stepped down, noting that he had stepped down from hearings on this plan in the past, and turning the gavel over to Vice Chairman Russo.

Town Planner Cashell commented on the status of the plan, noting that a fence around the dumpster was yet to be installed.

Acting Chairman Russo noted that the applicant had submitted an as-built plan. Town Planner Cashell explained that the applicant had submitted an as-built plan rather than an amended plan because there had been a number of changes, so that the as-built plan did not depict what had been approved.

Selectman Maddox expressed a hope that this was not a delaying tactic, to stave off a code enforcement action with paperwork. He questioned the proposed October 26<sup>th</sup> date in the draft motion, asking why it would take so long.

Town Planner Cashell said it might not—but he then expressed a belief that the October 25<sup>th</sup> date would not work, as a public hearing would have to be set up.

Ms. Chadwick expressed concern about Item #4, recalling that numerous neighborhood residents had expressed specific complaints about the parking, claiming it made coming out of Leslie Street difficult. Town Planner Cashell said he had not seen parking along the south side of the garage, but employees were parking there in tandem parking style. Ms. Chadwick asked if she could assume that there was not enough parking on the site. Ms. Chadwick said this was probably a good assumption.

Ms. Chadwick recalled the discussion about the limited amount of parking when the application was discussed, saying she was having some issues with this.

Town Planner Cashell said the applicant noted that the applicant still had the opportunity to comply with the approved plan, adding that a majority of the Board would have to vote for these things shown on the amended site plan. He then suggested that the time be shortened to October 1<sup>st</sup>.

Ms. Quinlan moved to require the owner of 26 Derry Street, Hudson, New Hampshire, Map 174/Lot 023, to submit to the Planning Board, no later than October 26, 2008, an application to amend the previously approved Site Plan, with the provision that, if said application is not submitted to the Board by said date, the Board shall take the action necessary to revoke the previously approved Site Plan.

Mr. Hall seconded the motion.

**VOTE:** Chairman Barnes then called for a verbal vote on the motion. All members present voted in favor except for Selectman Maddox, who voted in opposition, and Chairman Barnes declared the motion to have carried (4 -1).

Chairman Barnes resumed his position as Chairman, with Mr. Russo returning to his nominal position as a regular voting member.

**C. Planning board review and vote on the Fiscal Year 2010 Capital Improvements Program (CIP). Deferred Date specific from the 08-27-08 Planning Board meeting.**

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

Town Planner Cashell said the end was getting closer, as Ms. Chadwick, the CIP chairperson, had submitted her report.

Mr. Hall moved to defer further action on this matter to the meeting of October 1<sup>st</sup>; Ms. Chadwick seconded the motion.

Selectman Maddox said this was making a document of little value worthless, as the Selectmen would not see it in time, so the elements would not get into the budget cycle.

Mr. Hall moved to amend the motion to change the date to September 24<sup>th</sup>. Ms. Chadwick seconded the motion, making it a friendly amendment.

Chairman Barnes asked if anyone else needed to see this before moving it forward to the Board of Selectmen and the Budget Committee. Ms. Chadwick said she felt it should go to the Board of Selectmen as it was.

Mr. Hall withdrew his motion.

Ms. Quinlan moved the Town Planner's draft motion, as follows: "We hereby the Town of Hudson Capital Improvements Committee (appointed and authorized by the Planning

Board) prepared the FY '2010 Capital Improvements Program in accordance with RSA 674:5 – 674:8, I hereby move to forward the FY '2010 Capital Improvements Program to the Board of Selectmen and Budget Committee for their consideration as part of the annual budget. ”

Mr. Hall seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 –0).

## XI. NEW BUSINESS/PUBLIC HEARINGS

### A. Reed's Ferry Small Buildings

Chairman Barnes read aloud the published notice, as repeated above. He then noted a difference between the address in the staff report and the posted address.

Town Planner Cashell said this was the same address used for the past three years, adding that the only inconsistency was in his staff report. He said the application was ready for acceptance.

Selectman Maddox made a motion to grant Application Acceptance. Ms. Chadwick seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion to grant Application Acceptance. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 –0).

Town Planner Cashell pointed out that the all the buildable portion of the lot was located within the Town of Londonderry, with only the driveway in Hudson.

Mr. George Chadwick, of the firm of Keach -Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, distributed some large-scale plans. He noted that the Planning Board had approved the project on 02-13-07 with things in approximately the same area. He said the new applicant, Reed's Ferry, had re-configured the building in Londonderry, on Map 2/Lot 34 and Map 101/Lot 15 in Hudson, at 3 Tracy Lane, with the plan dated July 2008, with no revisions. He discussed details on the wall-mounted plan, noting that the driveway location had not changed, nor had the drainage outlets. He described how the property would be used, noting where materials would be stored and where completed shed/gazebos would be placed. He noted that fencing would be provided for screening the outside storage allowed on the Londonderry portion of the property, noting that he would be going back to the Town of Londonderry on October 1<sup>st</sup> for approval. He then asked that the Board suspend its rules to have CLD review the



project, as Londonderry's consultant reviewer was performing a review of the building plans for the Londonderry Planning Board, with comments already having been received. He noted that five waivers were noted in 2007, with two having been previously approved in 2007 by the Hudson Planning Board. He said perhaps three or four of the others might not be needed.

HTC §193 (10) E– *Sight Distance*. He said there was only 187 feet to the left, but it was encroaching on abutting property, noting that this waiver had previously been granted on the preceding plan.

HTC §193 (10) H – *Driveway located in the side setback*. He said the portion of the driveway in Hudson was located in the front yard, and was allowed in Londonderry, but within the sideline area there, as well.

HTC §275 B (11) – *High Intensity Soil Survey*. He noted that this was a lot of record, and that he had State approval for the septic design, with adequate soils on site.

HTC §259 C – *Noise Study*. He expressed doubt that there would be noise in the Town of Hudson.

HTC §275 (9) D – *Fiscal*. He noted there would be no building in the Town of Hudson.

Referring to the staff report, he said he wanted to discuss the CAP fee, as there was no building construction in the Town of Hudson. Item 10, he noted, had to do with signage; he said the sign was located in Londonderry, with no sign proposed for the Town of Hudson. He said #11 and #12 referred to the old plan and did not pertain, as the outside storage would be in the Town of Londonderry.

Chairman Barnes 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 Barnes asked if members of the Board had any questions.

Selectman Maddox said the sideline requirement was 15 feet, so no waiver was needed.

Selectman Maddox said the impact fees were based on building size, but were for the benefit of traffic, and Hudson would be getting the traffic. He noted that a traffic light might be needed in the future, and this fund was for that purpose.

Ms. Quinlan said the original CAP fee, for \$10,000, had got knocked off—adding that she would be willing to do that for the building fee, for \$,7200 for the corridor, but the \$2,000 would be taken off. Town Planner Cashell said the \$7200 was a general industry fee, with the rest for the office space, saying the current total was \$10,020 for the proposed building. He referenced the minutes for 04-13-07, at that time \$7100.54, noting it had been a different size of building. He said the fees were left in, because the proposal was built on the previously approved project—adding that the Town of Hudson would be paying for the needed road improvements. Mr. George Chadwick said he was not taking exception to the CAP fees, but was just trying to figure out how it was generated.

Town Planner Cashell noted the notes did not work out entirely appropriately but could be adjusted if the Board moved to approve this plan tonight.

Selectman Maddox asked if the building would be sprinklered. Mr. George Chadwick answered in the affirmative, noting that three buried storage tanks would provide water.

Mr. Russo asked how the Board could be assured that the drainage had been calculated accurately. Town Planner Cashell said that had been done before, noting that the Town of Londonderry would be going through a full review. Mr. Russo noted that the drainage would all be coming down into Hudson, saying he was not 100% comfortable about not having CLD review the plan.

Chairman Barnes asked if the impervious surface were larger than before. Mr. Cashell expressed agreement but reiterated that the Town of Londonderry would be reviewing it with that town's own consultant.

Selectman Maddox said the previously proposed building had been 11,400 ft<sup>2</sup>. Mr. George Chadwick said this present plan was for a 10,000-ft<sup>2</sup> footprint with a 2000-ft<sup>2</sup> mezzanine above. He then stated that the Londonderry requirements for drainage were more stringent than Hudson's. Selectman Maddox again stated that Hudson would be getting all of the traffic and all of the drainage runoff. He suggested that Mr. George Chadwick pitch to Londonderry to allow CLD's review. Mr. George Chadwick asked if the Board would consider conditional approval, conditioned on Londonderry's approval. He explained that he was trying to get this done this year.

Selectman Maddox said he would accept it if there were a sizeable bond in place, as an incentive to get it done. Mr. George Chadwick said Londonderry ultimately would not sign the plans unless Hudson was satisfied.

Mr. Russo asked about the CLD turnaround time. Town Planner Cashell said the contract called for ten working days, following receipt of plan. Mr. Russo asked when the Board could address this again; Mr. Cashell said October 8<sup>th</sup> would be the only possible date. Mr. Russo said he would concur with Selectman Maddox on this issue.

Ms. Quinlan referenced items in the staff report, suggesting that the Board would simply get the same comments from CLD, and she questioned if this would be fair to this applicant. She then expressed herself as being okay with having the Londonderry engineering consultant to do the review.

Selectman Maddox said CLD had by default become Hudson's Town Engineer, saying he felt Hudson would be at fault by not having CLD review this.

Chairman Barnes asked if the Board were ready to approve the waivers.

Ms. Chadwick moved to approve four waiver requests, as follows:

1. HTC 193-10 E -- Driveway Sight Distance
2. HTC 275-8B (11) -- HISS Mapping
3. HTC 275-9 C -- Noise Study

4. HTC 275-9 D -- Fiscal/Environmental Study

Mr. Russo seconded the motion.

Ms. Quinlan noted that the Planning Board never approved waiving of the sight distance, but she would be in favor in this case, because this was on a cul-de-sac, with people not traveling at a high rate of speed.

Chairman Barnes noted that the Board had approved a sight-distance waiver for the previous plan, as well, for the same reason.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

Mr. Hall asked about the sign waiver. Mr. George Chadwick said Londonderry's sign requirements were more stringent than Hudson's, and the sign would be in Londonderry. Mr. Hall said he would want the street number to appear on the sign, as required for Hudson signs.

Mr. Hall moved to defer to the October 8<sup>th</sup>, 2008, Planning Board meeting, in order for CLD to review drainage issues.

Selectman Maddox seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

Mr. George Chadwick asked if that were the only outstanding issue, and he did not need to bring anything else back. Chairman Barnes expressed agreement.

Chairman Barnes declared a break at 8:28 p.m., calling the meeting back to order at 8:43 p.m.

**B. Allyson's Landing  
SB# 08-08**

**Map 217/Lots 37 & 33  
67 Burns Hill Road**

**Purpose of plan: To show one conventional residential lot and (11) eleven new OSD lots with accompanying road and site improvements. Application Acceptance & Hearing.**

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

Town Planner Cashell confirmed the application was ready for Application Acceptance.

Chairman Barnes noted that HTC 334-51 required lot sizes as per Article 7, which said that the minimum lot area in the R-2 district was 43,000 ft<sup>2</sup>, with Town water and

sewer and 60,000 ft<sup>2</sup>, if not having those things. He noted that Town Planner Cashell had found a zoning determination, dated 05-29-03, which said different figures, matching what was in the plan. He then stated that he had a question as to whether the lot size was appropriate.

Mr. Hall said this was one of the issues that the Board had asked for clarification, saying the old table of dimensional requirements had been consistent, but the table in the 2008 Zoning Ordinance stated something different. He expressed a belief that the chairman had a good point. Chairman Barnes said the bottom line was that the number of lots allowed on the property would be different if his interpretation were correct.

Atty. J. Bradford Westgate, of the firm of Winer and Bennett, LLP, 111 Concord Street, Nashua NH, legal representative for the applicant, requested permission to speak. Without objection, Chairman Barnes allowed him to do so. Atty. Westgate referenced the current Zoning Ordinance, saying that what had happened was that in the original text the dimensional requirements table had single-family/duplex as a heading, whereas the new text changed the heading to R-1 and R-2. He said he had noted this previously, saying the grid was now out of whack, with various other oddball results—noting that under the G district the same acreage was allowed, but a bigger lot size was required in the R zone. He noted that the frontage requirements were also skewed. He said any use in the G district could map into the one-acre minimum, with this new text. He argued that the intent had been to keep the same result, but the headings had been inadvertently changed, with illogical results. He then argued that the Planning Board was empowered to make zoning determinations, noting that Town Planner Cashell had deemed the application to be ready for Application Acceptance and that CLD had not raised an issue.

Town Planner Cashell said this had always been an issue of discussion, but Director Sullivan, right up to his departure, would always issue a Building Permit for a single-family for one acre, as a general practice, whereas a duplex had always required 60,000 ft<sup>2</sup>, if it did not have both sewer and water.

Mr. Russo questioned if this Planning Board had the latitude to waive this requirement. Ms. Quinlan said the Ordinance allowed the lot size to be reduced by 50%. Chairman Barnes said he did not think that was the issue, which was the table requirements.

Mr. Russo noted that this was an Open Space Development plan, and he again asked if the Board could waive this. Ms. Quinlan said that even then there were more lots being proposed than there should be.

Selectman Massey said he understood that the Planning Board could waive Site Plan and/or Subdivision Regulations, but not the Zoning Ordinance. Ms. Quinlan said that HTC 334-51 spoke specifically to lot sizes and referenced Article 7, which was what the Board was now discussing. She said that there were at least six lots in the proposed development that fell below the 50% allowance.

Atty. Westgate said he was not suggesting that the Board waive the requirement but instead render its own interpretation, recognizing that the change in labels of the columns was not intended to change the fundamental understandings that an acre

pertained to single -family and 60,000 ft<sup>2</sup> pertained to duplexes. He argued that the interpretation had to favor the original version, saying the new text was not logical.

Selectman Maddox said this should be a task for the Town Planner — to go back to the minutes of when the new Ordinance text was established, and to determine what had been intended. Town Planner Cashell said the only way to make it clear would be to have a double asterisk, with a note requiring single -family in the R-2 to have 43,560 ft<sup>2</sup>, or to put in parentheses that less than 60,000 ft<sup>2</sup> was required. Chairman Barnes said this was discussing how to change it, but this was not what was before the Board right now. Mr. Cashell said he had been appointed the interim zoning interpreter and it had been determined as a practice by predecessors that a single -family home could be built in an R-2 district with just one acre —adding, however, that that could be appealed.

Selectman Massey said someone had been saying this was a practice but the New Hampshire said an error could always be corrected; he contended that the Board was not bound to past practice if it were in error.

Mr. Hall said his understanding was that the previous version had to be straightened out, and the previous Zoning Administrator had felt the same way. He noted that there were now a lot of problems, as noted by Atty. Westgate, saying the Board would not consciously have made these changes. He expressed a belief that the Board had simply been going along with Director Sullivan's desire to clarify the table, but now it was worse, even though he would hope that Director Sullivan had thoroughly reviewed the table change before they were presented to the Board for approval.

Chairman Barnes said he felt an interpretation was needed, adding that he did not know who the Zoning Administrator was at this time. Town Planner Cashell said there was not one at this time. Selectman Maddox noted that the Board of Selectmen was reorganizing the structure —adding that he thought some research was needed to establish how this situation came about. Town Planner Cashell expressed a belief that it had not been the intent of the Board to take away the allowance that a single -family in an R-2 district would only require one acre.

Mr. Russo expressed agreement, but added that the Board was dealing with the existing text, which was what the Board was stuck with. He asked what would be the best way for the applicant to move forward. Chairman Barnes expressed a belief that the first step should be for the Town Planner to reconstruct what had happened. Mr. Hall expressed respectful disagreement, saying the only way to proceed would be to obtain a zoning determination from the Zoning Administrator.

Atty. Westgate said the zoning determination had already been made by Town Planner Cashell, in his staff report. Chairman Barnes stated that Mr. Cashell was not the Zoning Administrator.

Mr. Hall moved to defer to the October 8<sup>th</sup>, 2008, Planning Board meeting and to request a determination for the Zoning Administrator as to the issue of lot sizes in this district. Ms. Quinlan seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor except for Selectman Maddox who

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abstained, and Chairman Barnes declared the motion to have carried unanimously (5-0-1).

Ms. Quinlan noted that different members of the Board had been using differently dated versions of the Zoning Ordinance.

**XII. OTHER BUSINESS**

Town Planner Cashell noted that there were handouts to be reviewed.

**XIII. ADJOURNMENT**

All scheduled items having been addressed, Mr. Russo moved to adjourn; Ms. Chadwick seconded the motion.

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

Chairman Barnes then declared the meeting to be adjourned at 9:21 p.m.

Date: October 19, 2008

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James Barnes, Chairman

J. Bradford Seabury, Recorder

\_\_\_\_\_  
Suellen Quinlan, Acting Secretary

These minutes were accepted as amended following review at the 11-12-08 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes  
September 10, 2008**

**Page 15**

The following changes were made in accordance with the Board's review of these minutes at its November 12, 2008 meeting:

Pages 8 through 11 — References to "Mr. Chadwick" were changed (in eight instances) to "Mr. George Chadwick" in order to avoid confusion with member Ms. Tierney Chadwick.