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**HUDSON PLANNING BOARD  
MEETING MINUTES  
December 5, 2007**

**I. CALL TO ORDER**

Chairman Barnes called this Planning Board meeting to order at 7:03 p.m. on Wednesday, December 5, 2007, in the Community Development meeting room in the Hudson Town Hall basement.

**II. PLEDGE OF ALLEGIANCE**

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

**III. ROLL CALL**

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

**Members**

**Present:** James Barnes, George Hall, Marilyn McGrath, Vincent Russo, Terry Stewart, and Richard Maddox (Selectmen's Representative).

**Members**

**Absent:** Suellen Quinlan (excused).

**Alternates**

**Present:** William Cole

**Alternates**

**Absent:** Brion Carroll (excused) and Ken Massey (Selectmen's Representative Alternate; excused).

**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury.

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Barnes seated Mr. Cole in place of the absent Ms. Quinlan.

## V. MINUTES OF PREVIOUS MEETING(S)

Chairman Barnes addressed the minutes for the meeting of September 12, 2007 , asking if there were any changes or corrections

Mr. Hall referenced Page 1, last line, requesting that the word "in" be inserted ahead of "place," so that the phrase would read "in place of."

Mr. Hall referenced Page 10, 7<sup>th</sup> paragraph, 3<sup>rd</sup> line, requesting that the word "drive r" be replaced by the word "driveway."

Mr. Barnes referenced Page 2, 2<sup>nd</sup> paragraph under Correspondence, 2<sup>nd</sup> line, requesting that the word "exception" be replaced by the word "objection."

Mr. Barnes referenced Page 14, noting that the 4<sup>th</sup> and 5<sup>th</sup> paragraphs were duplicates, except that one word had been changed. He requested that the second redundant paragraph be removed .

No further changes or corrections being brought forward, Ms. Stewart moved to accept the minutes as amended ; Mr. Hall 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 (7-0).

Chairman Barnes addressed the minutes for the meeting of September 26, 2007 , asking if there were any changes or corrections. None being brought forward, Mr. Hall moved to accept the minutes as submitted; Ms. Stewart 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 (7-0).

## VI. CORRESPONDENCE

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

## VII. WORKSHOP

### A. Review Various Municipal Landscape and Buffer Requirements, relative to incorporating the landscape requirements put forth in RSA 210-A:140-160.

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

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**Page 3**

Chairman Barnes noted that comments regarding this item had been provided by Mr. Carroll, with copies of Mr. Carroll's E-mail provided in tonight's handout packets.

Chairman Barnes asked for comments or questions.

Town Planner Cashell said Mr. Carroll had done a good job of summarizing the information that had previously been given out, noting that some other communities had done a more comprehensive job of establishing requirements than Hudson, and adding that Hudson's landscaping requirements had not been changed since 2002.

Chairman Barnes asked Town Planner Cashell's recommendation. Mr. Cashell said the ideal would be to incorporate the new State statutes (NH RSA 310-A:140 through 160). He then reported, however, that he had discussed this with Ms. Cynthia May, who had stated that to her knowledge no other community had done this, and also that it would take a lot of work. He noted that the regulations of other communities he had provided were not that extensive, adding that he felt he should take a look at a wider variety.

Mr. Hall said he felt the referenced RSAs were pretty poorly worded, noting that RSA 310-A:146 and the following statutes appeared to deal with getting a license, and that it seemed as though someone had proposed these statutes in order to reduce competition. He questioned why the Town of Hudson needed to do anything with this, saying he did not think there were too many people who had this license. He suggested that Hudson did not have to do anything more than tweak its existing regulations, noting that the Nottingham Square development had been built without having to have a licensed landscaper involved.

Mr. Russo said he could not see how this affected Hudson, except that whoever was reviewing the plans for Hudson, such as CLD, would have to be licensed.

Town Planner Cashell said the author was the Director of the Joint Board of Licenses. He said that Ms. May had said this simply meant that the landscaping on a plan could not be represented as being professional unless a licensed landscaper signed the plan.

Ms. McGrath expressed doubt that the Planning Board had seen any such plans, saying she agreed with Mr. Hall. Selectman Maddox concurred, saying he felt the Planning Board would be better off to use common sense and look at each plan individually.

Town Planner Cashell said most developments took care, noting that the Town held their landscaping bonds for longer periods of a year and a half or more, and he could then go back and look at the site to request that anything that had not survived be replaced. He suggested that the existing requirements and process worked.

Chairman Barnes said he was hearing that the Planning Board did not want to do anything about this at this point. Mr. Hall said he would not be adverse to specific improvements, if Mr. Cashell had any to suggest.

Town Planner Cashell said he would like to work with CLD to make Hudson's landscaping requirements more viable. Mr. Hall said he would feel more comfortable

with having Ms. May do it on a contract basis. Selectman Maddox questioned where the funding would come from. Town Planner Cashell said he would work with Ms. May to get a quote.

No further discussion was brought forward.

**B. Review DRAFT COPY of amended SUBDIVISION/SITE PLAN WAIVER REQUEST FORM**

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

Town Planner Cashell said the form he had provided was what the Planning Board had wanted. Mr. Hall agreed that it seemed to be what the Planning Board had talked about.

Selectman Maddox questioned why the Planning Board chairman and the Planning Board secretary had to sign the form. Chairman Barnes stated that he could not remember ever having done so.

Chairman Barnes noted that there was a need for the applicant to state why it was a hardship not to be granted a given waiver. Town Planner Cashell replied that the last line covered this, saying the reasons given by the applicant would either fall within requirements or not do so.

Mr. Russo argued that there needed to be another sentence for the intent of the regulation, saying he felt both the hardship and the spirit of the regulation had to be addressed in order to get a waiver; he questioned if the three lines of space provided enough space to address both of these issues, suggesting there should be a separate space for each. Ms. McGrath noted that the Board had been told by the Town Attorney that the New Hampshire Supreme Court had ruled that financial hardship had to be considered, as well.

Selectman Maddox suggested that more space was needed for the tax map and lot number designations, to cover such cases as the Hawkview Estates plan. He suggested that the bottom of the form should bear a message stating that failure to address the hardship would be cause for not allowing the waiver.

Nothing else being brought forward, Chairman Barnes asked for a new version of the form to be provided at the next workshop.

**IX. NEW BUSINESS/PUBLIC HEARINGS**

**A. Public Hearing to amend the Planning Board Subdivision of Land Regulations, by adding two new sub-sections, F & G, to Article VIII C, §289-40, relative to requiring the establishment of winter maintenance bonds for unaccepted streets, as follows:**

**§289-40 F**

**Except upon such terms as the Planning Board authorizes as part of its decision to approve a subdivision, no dwelling within a subdivision shall be occupied prior to the completion of required streets and utilities.**

**§289-40 G**

**Upon the establishment of a surety bond for an unaccepted street, the developer/owner of such street shall be required to post a winter maintenance bond with the Town. The winter maintenance bond shall be separate from the subdivision performance bond and any escrow fees that the developer establishes with the Town. Instead, the winter maintenance bond shall be designed to reimburse the Town for the potential cost of maintaining an unaccepted street, should said party of responsibility fail to do so in a manner deemed acceptable for the Town Road Agent, resulting in the Town being forced to use the Emergency Lane Statute (i.e., RSA 231:59-a) to maintain the street.**

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

Chairman Barnes opened the Public Hearing at 7:32 p.m.

Town Planner Cashell clarified that there should be a space between VIII and C, explaining that these items were being added to sub-article C under Article VIII.

No one coming forward to comment for or against the proposed changes or to ask any questions, Chairman Barnes closed the Public Hearing at 7:34 p.m.

Ms. Stewart referenced §289-40 F, asking what was defined as a "completion of a required street." Town Planner Cashell said the roadway would have to be bonded and have a binder grade. Ms. Stewart said she was asking because of the "nightmare" the Town had experienced with respect to the James Way Subdivision, when people had moved in with no way to get to their homes. Chairman Barnes asked if this were a standard term, or if there were a definition available. Town Planner Cashell said this was language designed to make sure that the property could be accessed throughout the winter. Chairman Barnes again questioned what was meant by "completion." Town Planner Cashell reviewed the text and discussed the process by which plans were approved, with a surety being put in place. He said the applicant would be allowed to pull Building Permits, but the Town of Hudson would have enough money to complete the road if the developer failed to do so. He said the roadway would have to be complete in accordance with the Planning Board's approval before the Town would accept the road. He cited the Waterview Landing development as an example, saying the developer had tried to get the road put in but had run out of time.

Ms. Stewart objected that things could slip through upstairs; she asked what was provided for staff to follow up on, again citing the James Way development as an example. Town Planner Cashell said a road was only complete when it had gone through the whole acceptance process with a public hearing before the Board of Selectmen, which only happened after the Planning Board had signed off on the road.

He pointed out that the construction of a roadway could literally take years of effort, but there could be 10 or 12 houses built during those first few years, with people living in them if sufficient surety was provided to ensure that the road would be completed. He said the maintenance bond would cover the situation if the developer ran out of money and the winter maintenance bond would ensure it could be maintained. Ms. Stewart asked if the developer would be responsible for plowing; Town Planner Cashell answered in the affirmative, saying this winter maintenance bond would just be for emergencies—adding that this was what Town Counsel had advised.

Selectman Maddox said he thought Town Planner Cashell was mixing ideas, saying he thought Mr. Cashell was trying to accomplish too much with these two paragraphs. He suggested that Section §289 -40 F should include something about phasing, saying this text stated that the road had to be completed before any occupation. Town Planner Cashell said every word in the two proposed paragraphs had been reviewed and approved by Town Counsel, saying it was not his language. He again alluded to the phrase “Except upon such terms as the Planning Board authorizes,” saying this covered phasing, as the Planning Board would be granting waivers when appropriate. He said roadways that were not complete were those roadways that had not been accepted by the Town—referring again to Water view Landing, where there were some 20 dwellings occupied, even though the full roadway system was not yet accepted.

Selectman Maddox said he felt that needed to come out, saying Section §289 -40 G would get the winter bond in place, if that were what Mr. Cashell were trying to accomplish, but Section §289 -40 F muddied the waters. He hypothesized a 12-dwelling subdivision, in which not all the buildings could be built in one year, saying the Planning Board could not get involved in all the minutiae that would be involved with the building certificates and other such things, and could not guess ahead of time how far the developer could go. He expressed a belief that Section §289 -40 F should be struck. Town Planner Cashell contended that Section §289 -40 F allowed for Section §289-40 G to be included.

Mr. Hall said he understood the intent but that it was misleading, and he expressed a belief that the average person reading this would not understand the intent. He then stated that the Planning Board did not need to do this right away, since no winter maintenance bond would be coming in right now, and he suggested that Mr. Cashell talk with the Town Attorney and discuss the Board’s concerns about the need for more elaboration. Mr. Hall noted that the beginning of the article discussed unaccepted streets, saying more explanation was needed. Town Planner Cashell urged everyone to read the rest of Section §289 -40, saying they would then determine that Section §289-40 F and Section §289 -40 G flowed nicely in that overall discussion.

Ms. McGrath suggested some additional wording that could be added to Section §289-40 F, noting that the Board had had a discussion about this with Atty. Buckley at the last workshop. Mr. Hall said he had wanted to have the regulation state that the binder coat had to be in place before getting a Certificate of Occupancy; he noted that Atty. Buckley had said the Board could not do this—adding that he did not necessarily agree, as he knew of at least one community in New Hampshire that did have that requirement.

Selectman Maddox asked if Town Planner Cashell were saying that a developer could start building houses while at the same time that the utilities were being put in, if a bond had been established. Town Planner Cashell said this could be done, if the bond had been accepted by the Planning Board and then recorded. Mr. Hall said he felt that not allowing a Certificate of Occupancy until the road was at binder grade would be a lot more important, and he would prefer to see that stated in the regulations.

Mr. Russo questioned how the Town could stop people from moving in without a Certificate of Occupancy. He said he agreed that bonding should be included, as had been suggested by Ms. McGrath, so that the Town would not be liable. He suggested that Section §289 -40 F should come at the beginning of Section §289 -40, ahead of paragraphs A and B.

Selectman Maddox said these articles were not ready, noting that there were certain issues. He noted that there were cases of developments that had a binder course in front of the houses, but it did not go all the way to an accepted Town road, and he suggested the text should be tightened up to cover that. He then addressed signage, suggesting that the Planning Board should say developers needed to provide a sign with some language saying that the roadway was an unapproved road. Mr. Hall contended that this already was in the regulations. Selectman Maddox responded that no one was reading it, then, because developers were not doing that and no one was enforcing it. He suggested that the Road Agent and the Town Planner needed to come up with a suitable plan to cover the winter maintenance issue.

Ms. Stewart asked how the dollar amount for the winter maintenance bond would be determined and who would be responsible. Chairman Barnes suggested that it would depend on the length of the road, adding that the Town Engineer would have to provide an estimate.

Town Planner Cashell referenced Article IX in the Subdivision Regulations, concerning surfacing and costs, saying the developers were responsible for paving the roads, or else the Town would do it and bill the developer. Mr. Hall contended that the referenced paragraph did not deal with the situation that the Board had been talking about; he said he wanted to see a regulation that said the developer could not get a Certificate of Occupancy until the road was completed with its binder surface.

#### **Addendum #1**

### **V. OTHER BUSINESS**

#### **A. Central & Library Street Improvement Project — Request for Expenditure of Corridor Account Funds**

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

Chairman Barnes referenced a 12 -06-07 letter to the Town Administrator from Director Sullivan. Town Planner Cashell said this was a request to use Corridor funds for the Library and Central Street improvement projects, explaining that the actual construction costs had never been voted on by the Board, and that Board approval was needed before the Board of Selectmen could take action.

Mr. Hall said this issue had been discussed today at the Highway Safety Committee meeting, noting that a comment had been made that the engineering costs seemed high; he said that Director Sullivan had explained to him that these engineering costs included not only the engineering itself but also the inspection.

Mr. Hall moved to forward a favorable recommendation to the Board of Selectmen for the expenditure of \$518,698.70 from the Route 111 Corridor Account, and for these funds to be used exclusively for the Central Street & Library Street Improvement Project. Ms. Stewart 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 (7 -0).

#### **Addendum #2**

### **III. PERFORMANCE SURETIES**

#### **A. Waterview Landing Surety — Scenic Lane, Shoreline Drive, and Leclair Drive**

**Reference: memo dated 12-03-07 from Town Engineer Tom Sommers to  
Town Planner John Cashell**

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

Town Planner Cashell said the packet had been provided for informational purposes, only. He said Town Engineer Sommers still recognized several outstanding items and recommended that release of the bond be held off until those were resolved. He said it might come back for bond reduction at the next meeting, saying everything had been agreed upon.

Ms. Stewart asked if the roads were being plowed by the Town or by the developer. Mr. Cashell said the plowing was being done by the developer, adding that the developer had agreed to take the responsibility to plow the roadway. Ms. Stewart referenced Road Agent Burns's 12 -01-07 memorandum, in which Mr. Burns stated that he at no time would be able to recommend Leclair Drive. Town Planner Cashell explained how the Leclair Drive had been approved by the Planning Board as a driveway, with a cul -de-sac to be provided, but the cul -de-sac had not been put in and



the Road Agent was recommending that the road not be accepted until a turnaround was provided. He explained that the Leclair property used to have a driveway coming off Webster Street, stating that the change had been made in accordance with the Planning Board approval except that there was no cul-de-sac. He then confirmed that another driveway had been put in, connecting to Leclair Drive, for the house at the corner of Leclair Drive and Scenic Lane, where the developer had decided to place the garage facing Leclair Drive. He said the plans had stipulated that the proposed house and driveway locations were proposed, with the developer reserving the right to change things within the building envelope.

Ms. Stewart asked how the Town could get a truck down Leclair Drive in the event that the developer did not install a turnaround. Town Planner Cashell said the developer was going to take responsibility for plowing that roadway, so it was not a Town problem. Ms. Stewart pointed out that the Road Agent was saying that the Town did not have the equipment to do that, if the developer did not. Town Planner Cashell reiterated that it was not the Town's problem. Chairman Barnes said the Town would have to be careful not to accept the road until the turnaround was in place.

Mr. Hall asked if the Planning Board would be looking at approving the roads for street acceptance in the next few weeks. Town Planner Cashell answered in the negative, saying it was too late, because of the early onslaught of winter.

Selectman Maddox said the Board of Selectmen was going to look at changing the date, so that all applications would have to be in by September 15<sup>th</sup>, to be acted on no later than November 1<sup>st</sup>.

Town Planner Cashell said the way the developer had elected to construct the house actually helped to break up the monotony of the development.

Mr. Russo said the Planning Board had not expected Leclair Drive to be plowed, saying it was just supposed to be the Leclairs' driveway. Town Planner Cashell demurred, saying it had been approved in accordance with the Town's subdivision and road standards, for it to be extended; he said it was complete and was well constructed. Chairman Barnes said it was a driveway. Mr. Russo added that it was about 100 feet long. Town Planner Cashell demurred, saying it was perhaps 300 feet, adding that it might service two or as many as six lots. Mr. Russo said that, as he recalled it, maintenance was not supposed to be an issue on that street. Town Planner Cashell said the problem was that winter had come on so quickly, saying there was a possibility that the developer was going to put a hammerhead on the street; he predicted that the problem would go away next year, saying something would be worked out.

Chairman Barnes said no action would be taken on this item at this time.

## V. OTHER BUSINESS

Chairman Barnes referenced the November 2007 letter from PLAN NH that had been provided in the packets, noting that there had been a suggestion from Mr. Carroll via E-mail that the Planning Board try to put together a proposal to have the PLAN NH organization do a charrette project for the central area of the town, around Town Hall,

the Fire Station, Library Park, and Lowell Road. He noted that some work would be required. Town Planner Cashell said Mr. Carroll's idea was excellent, noting that there were other ideas, as well, such as the area of the new library. Noting that there was a cost involved, he described the charrette process.

Selectman Maddox spoke in opposition to the concept, contending that the Town already had enough studies going nowhere.

Mr. Hall said that, to be successful, there had to be a history and an agreement on the approach to be taken, and he expressed doubt that there would be a consensus on the library because of the controversy, adding that the same was true of the Town Hall/Fire Station area. He suggested a better way would be to have the Seniors do it with their proposal, but he doubted if they were ready. Town Planner Cashell said he agreed that it would take a year or so to develop the consensus needed to work with the charrette process.

Chairman Barnes referenced the staff report for the next meeting, with a VHB report attached. Town Planner Cashell briefed the Board, saying Atty. Leonard and his team had given a presentation to the Board of Selectmen the previous evening.

## X. ADJOURNMENT

All scheduled items having been addressed, Ms. McGrath moved to adjourn; Mr. Hall 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 8:30 p.m.

Date: February 26, 2008

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James Barnes, Chairman

J. Bradford Seabury, Recorder

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Marilyn McGrath, Secretary

These minutes were approved as amended following review at the 04-02-08 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes  
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The following changes were made in accordance with the Board's review of these minutes at its April 2, 2008 meeting:

Page 8, Heading for **Performance Sureties** Item **A** — A typographical error was corrected, changing "Scenic Laner" to "Scenic Lane."