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**HUDSON PLANNING BOARD  
MEETING MINUTES  
October 10, 2007**

**I. CALL TO ORDER**

Chairman Barnes called this Planning Board meeting to order at 7:00 p.m. on Wednesday, October 10, 2007, in the Community Development meeting room in the Hudson Town Hall basement.

**II. PLEDGE OF ALLEGIANCE**

Chairman Barnes asked Ms. McGrath 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, Suellen Quinlan, and Richard Maddox (Selectmen's Representative, arrived at 7:02 p.m.).

**Members**

**Absent:** None.

**Alternates**

**Present:** William Cole, Brion Carroll, and Ken Massey (Selectmen's Representative Alternate) .

**Alternates**

**Absent:** None.

**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** J. Bradford Seabury.

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Barnes seated Selectman Massey place of the tardy Selectman Maddox .

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

Chairman Barnes asked that the minutes of the August 22<sup>nd</sup> be reviewed at tonight's meeting.

**August 22, 2007 Minutes**

Chairman Barnes addressed the minutes for the meeting of August 22, 2007, asking the members of the Board for changes or corrections.

No changes being brought forward, Mr. Hall moved to approve the August 22, 2007, Planning Board minutes as amended. Mr. Russo 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 (7 -0).

Selectman Maddox having arrived at 7:02 p.m. Chairman Barnes seated Selectman Maddox in his regular position as a voting member of the Planning Board at this time and returned Selectman Massey to his normal position as a non-voting alternate.

**VI. CORRESPONDENCE**

Chairman Barnes noted that items of correspondence received in tonight's packet 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. Hudson Hills Bond Reduction, Map 144, Lot 24, Letter of Credit #1012541**

**Reference memo dated September 18, 2007, from Gary Webster to John Cashell.**

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

Mr. Russo moved to reduce the Hudson Hills Subdivision surety from \$102,600.00 to \$74,000.00, in accordance with the written recommendation from the Town Civil Engineer, Gary Webster, dated September 18, 2007. 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 (7 -0).

**VIII. OLD BUSINESS**

Chairman Barnes noted that there were no **Old Business** items to discuss at tonight's meeting.

**IX. ZBA INPUT ONLY**

Chairman Barnes noted that there were no **ZBA Input Only** items to discuss at tonight's meeting.

**X. CONCEPTUAL REVIEW ONLY**

Chairman Barnes noted that there were no **Conceptual Review Only** items to discuss at tonight's meeting.

**XI. NEW BUSINESS/PUBLIC HEARINGS**

**A. Specialty Kitchens (Amended)  
SP# 11-07**

**Map 169/Lot 20  
Hudson Park Drive**

**Purpose of Plan: To amend the existing site plan to show an accessory use. The hockey skate sharpening business is general retail sales (service, wholesale, and some cash and carry) and is an allowed use in an industrial zone. Application Acceptance & Hearing.**

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appearing before the Board as the engineering representative of the applicant, said an application had been submitted on September 5, 2007. Town Planner Cashell said it was initially submitted as a request. Mr. Maynard stated that Mr. Cashell was incorrect. Mr. Cashell said the site was currently in litigation, adding that the plan was not in compliance with Note 22 in the stipulations. He said the applicant was trying to work out a solution with the Town. Mr. Maynard said Mr. Cashell's record was very distorted.

Mr. Carroll asked if it were the intent of Specialty Kitchens to settle the matter or was it a preemptive activity. Mr. Cashell said he could only assume that it was the latter. Mr. Maynard expressed objection to Mr. Cashell's statement.

Mr. Maddox moved to defer. Mr. Hall seconded the motion.

Ms. Quinlan said it was not clear if Town Counsel would need to speak to the Planning Board. Mr. Cashell said Town Counsel was aware that the applicant was coming in tonight, adding that the matter was moving towards litigation.

Ms. McGrath said she would be uncomfortable *not* deferring until Town Counsel addressed the Board. Ms. Quinlan concurred.

Mr. Maynard said he wanted to be allowed to make a presentation.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor except for Chairman Barnes and Mr. Russo, who both voted in opposition. Chairman Barnes then declared the motion to have carried (5 -2).

Noting that no date had been specified, Ms. McGrath moved to defer this item date specific to the November 7, 2007, Planning Board Workshop. 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 and Mr. Russo, who both voted in opposition. Chairman Barnes then declared the motion to have carried (5 -2).

Mr. Maynard asked if he could now make a presentation. Mr. Russo expressed objection, saying the case had been deferred. Ms. McGrath said the reason for deferring the case was so that the Board could get advice from Town Counsel.

Mr. Carroll asked that Town Counsel be prepared to give a summary of the court's decision.

Ms. McGrath noted that this case might not be heard on November 7<sup>th</sup> if Town Counsel advised the Board not to hear the case.

## **XII. OTHER BUSINESS**

### **A. Thurston's Landing – Off Site Improvements.**

#### **Reference Letter dated September 10, 2007, from Town Counsel to J. Bradford Seabury, Chairman of the Zoning Board of Adjustment.**

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

Town Planner Cashell stated that the applicant's attorney was supposed to be present for this discussion but had not yet arrived. Mr. Maddox moved to defer this item to the end of **Other Business**. 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 (7 -0).

**B. Street Acceptance, Leor Circle, Map 193, Lot 12**

**Reference memo dated September 11, 2007, from Gary Webster to John Cashell**

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

Mr. Maddox moved to establish a 2 -year maintenance surety for Leor Circle in the amount of \$31,150.00, with an expiration date of June 19, 2009, in accordance with the recommendation of Town Civil Engineer , Gary Webster (see memo in file dated September 11, 2007). Ms. McGrath 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 (7 -0).

**C. Flagstone Plaza, 3 Flagstone Drive, Map 222, Lot 14**

**Reference letter dated September 19, 2007, from Richard A. Maynard to James Barnes.**

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appearing before the Board as the engineering representative of the applicant, said this was strictly for an amendment.

Mr. Carroll said the Board was dealing with parking spaces based on the number of seats, not square footage. He said the numbers had been reworked so that it should be 100 divided into the square footage of the restaurant (3,600 ft<sup>2</sup>,) and that the number of spaces should be 36, not 18, which were derived from the number of seats, not the square footage of the restaurant. He said this seemed to be different than what had been assessed a few weeks ago.

Mr. Russo asked if the parking space calculation had been done before the parking requirements had been changed. Mr. Maynard said the entire application had been submitted before the parking requirements had changed, contending that the plan was vested.

Mr. Maynard said the request was to rearrange the tenant space on the approved plan. He said a compromise had been reached with the Board to increase the parking space for the restaurant to one space per two seats. He stated that the plan had been approved with 2,000 ft<sup>2</sup>, with 24 seats, adding that the request was to increase the square footage to 3,600 ft<sup>2</sup>, with 36 seats. He said the regulations would require 36 parking spaces, but the plan provided 40 parking spaces, the number that would be required based on the compromise agreement with the Board.

Selectman Maddox said he had thought the restaurant was supposed to be a breakfast place, but it now was going to be a pizza place, and he expressed a belief that a pizza place would have a lot more employees. Mr. Maynard argued that the take-

out nature of the business would require less parking spaces. He said the pizza place at the White Hen mall had minimal parking but seemed to work okay. Selectman Maddox said the restaurant was creeping back up to the 4,000 ft<sup>2</sup> mark. Mr. Maynard said that was true, but that the use would generate less traffic.

Mr. Cashell said the application was submitted on September 19, 2007, before the Planning Board had changed the parking requirements.

Mr. Russo said the Board would be doing the Town an injustice to approve this plan, stating that parking was an issue. Mr. Maynard said the Board should not confuse parking and traffic demands. He said the site was ideal for traffic, noting that it was signalized, and he claimed that the parking demand would be minimal, contending that the proposed use was better than the approved use. Mr. Russo said he would not have a problem with the plan if the restaurant were delivery and take out only, or maybe just had one or two tables; he noted that the business would have 36 seats, however, saying the traffic associated with those seats was too many seats. Mr. Carroll expressed agreement with Mr. Russo.

Mr. Carroll asked if Mr. Russo would be amenable to reducing the number of seats. Mr. Russo said he definitely would be amenable to reducing the number of seats so that the focus would be on delivery and take out.

Selectman Maddox said the original office space was reduced to almost a third of the original space; he then expressed concern about patrons parking on the streets.

Mr. Hall asked about the dry cleaning use. Mr. Maynard said it probably was drop-off and pick-up, no washers and dryers. Mr. Hall said that eight spaces were probably too many spaces if that were the case. Mr. Maynard said he would be willing to stipulate that the dry cleaning operation would not have washers and dryers. Mr. Carroll concurred with Mr. Hall. Mr. Russo said he could not imagine a dry cleaner running with one person. He said he would be willing to go down to four parking spaces.

Selectman Maddox asked how patrons would get to the facility from the garage. Mr. Maynard said there was an interior stairway. Selectman Maddox said his concern was that he envisioned the employees for the office space using the parking garage and the restaurant patrons parking outside. He said the amendment to the plan would have restaurant patrons using the garage, something he felt might be problematic.

Mr. Maynard referenced Sheet 3 of the plan, and he described how he thought patrons would go from the garage into the building. He identified the plan that had been approved by the Board as being **Flagstone Plaza, 3 Flagstone Drive**, dated November 10, 2006, and revised through Revision 6, June 19, 2007.

Selectman Maddox said he wanted Mr. Maynard to specify that he would not lease out any space other than the restaurant space until it was determined that the parking was sufficient. Mr. Maynard said that was unrealistic. Selectman Maddox said he was trying to reach a compromise. Mr. Maynard referenced the Hudson House of Pizza as an example, saying it would take four or five months to determine if the parking were sufficient.

Mr. Carroll talked through the parking requirements for the original plan, stating that parking in the garage to go into the restaurant was not unusual.

Ms. Quinlan noted that this plan was the first parking garage in the town, adding that the Board was being asked to sanction the most intensive use for the site. She then stated that Professor Pizza, the White Hen area business that had been referenced by Mr. Maynard, was in an area where there was a lot of parking available, but that there was no guarantee that the parking would work on this site. She said she could not vote for the amended plan.

Mr. Russo moved to deny the applicant's request, dated September 19, 2007, to amend the approved site plan of Flagstone Drive. 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 voted in opposition, and Chairman Barnes, who abstained. Chairman Barnes then declared the motion to have carried (5-1-1).

**A. Thurston's Landing – Off Site Improvements (Continued)**

**Reference Letter dated September 10, 2007, from Town Counsel to J. Bradford Seabury, Chairman of the Zoning Board of Adjustment**

Mr. David Groff, the applicant's attorney, said his client was asking that the entire Bush Hill bond be returned. He said the bond had not been used in the 6-year period provided by statute.

Mr. Hall said it seemed as if the applicant had two claims. Atty. Groff said that was not the case. Mr. Hall said the letter of October 1<sup>st</sup> indicated that the Town did not perform proposed improvements at the Bush Hill Road/Flying Rock Road intersection, whereas the letter of August 6, 2007, indicated that none of the applicant's funds were used for the intended improvements. Mr. Hall asked if there were any substantiation for these letters. Mr. Groff asked if Mr. Hall were claiming that the Town had used the funds to make the intended improvements. Mr. Hall responded that he was not claiming anything. Mr. Hall then reiterated his question regarding substantiation of the letters. Atty. Groff said he had Town documentation that indicated that the work was supposed to be done, but he had nothing that indicated that the work actually had been done. Based on that information, he said, he had to assume the work had not been done. Mr. Hall asked again for substantiation. Atty. Groff referenced a memo from Road Agent Burns discussing paving in the area of the intersection in question, noting that the letter did not talk about improvements to the intersection. Mr. Groff said the Town took his client's bond money to pave the road, not to make improvements to the intersection. Mr. Hall reiterated his question. Atty. Groff responded that he had the same information as Mr. Hall.

Ms. McGrath moved to deny the appeal of Michael Clare, Trustee of Horizon Realty Trust (hereinafter referred to as the "Petitioner"), relative to the Petitioner seeking a

refund of an offsite exaction imposed on the approval of the Thurston's Landing Subdivision, this denial being based on the following findings of facts:

1. At the August 9, 2000, Planning Board Meeting, the Planning Board voted to "... accept in satisfaction of the Bush Hill Road improvements for Thurston's Landing **EAST, WEST, and SOUTH**, a check in the amount of \$81,705.00;" See copy of attached August 9, 2000, Planning Board Meeting Minutes – Exhibit A.
2. On September 8, 2000, the Town of Hudson (hereinafter referred to as the "Town") received from the Petitioner a check in the amount of \$81,705.00, which was submitted in accordance with the above -cited vote of the Board on August 9, 2000. See attached letter from the Petitioner's attorney, Andrew A. Prolman, dated September 8, 2000, acknowledging submission of said check to the Town – Exhibit B.
3. Town Engineer, Tom Sommers', attached memorandum to Steve Malizia, Hudson Town Administrator and the Board of Selectmen, dated March 4, 2005, clearly depicts the Bush Hill Road improvement project for which the subject \$81,705.00 was established in accordance with the above -cited August 9, 2000, Planning Board action – Exhibit C.
4. Mr. Sommers' aforementioned memorandum also describes the extent of improvements planned (and now completed) for Bush Hill Road, and the content of this memorandum is clearly and succinctly referenced in the attached March 22, 2005, Board of Selectmen Meeting Minutes. It was in this meeting of the Board of Selectmen that the subject \$81,705.00 was encumbered by the Town for the sole purpose of funding the said Bush Hill Road improvement project, and by this action the Town complied with the provisions of the Town's Zoning Ordinance, Sections 334 -74.8 and 334 -74.10, relative to the encumbrance and expenditure of funds established for additional assessments – Exhibit D.

Ms. Quinlan 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 (7 –0).

#### **D. Constitution Drive Recommendation**

Mr. Cashell referenced a handout from the Fire Department, dated October 5, 2007, recommending that the Board not accept Constitution Drive because of an issue with a fire hydrant.

Selectman Maddox said he hoped that the hydrant would be in place by the end of this week and that the Fire Department would then recommend that the street be accepted.



Mr. Cashell said he wished to commend Selectman Maddox for his work on this matter.

Mr. Hall moved that the Planning Board forward a favorable recommendation to the Board of Selectmen relative to the acceptance of Constitution Drive as a public street, with the following stipulation:

That final acceptance action by the Board of Selectmen shall occur only after Road Agent Kevin Burns confirms, in writing, that the one remaining fire hydrant, located at the intersection of Wall St. and Constitution Drive, is installed and operational.

Ms. McGrath seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor except for Selectman Maddox, who abstained. Chairman Barnes then declared the motion to have carried (6-0-1).

#### **E. Route 102 Improvements.**

Chairman Barnes referenced a letter, dated this date, from community Development Director Sullivan to Chairman Barnes, regarding the Route 102 improvements, with a request for the release of funds from several accounts.

Mr. Cashell said he was working on a draft motion, suggesting that it would be ready after the break, if the Board were to take a break at this time.

Chairman Barnes declared a break at 8:05 p.m., calling the meeting back to order at 8:24 p.m.

Mr. Cashell distributed copies of a draft motion. Ms. Quinlan then moved to authorize the expenditure of funds totaling \$125,630.12 from the following accounts relative to the Route 102 Roadway improvements associated with the Route 102/West Road/Robinson Road intersection:

1050-140 Route 102 & West Road Improvements	\$25,146.95
1050-147 N.E. Gymnastics Training Center	6,791.64
1050-149 Chase Welding	5,236.99
1050-175 Candy Lane Site	5,045.89
Route 102 Corridor Account	<u>83,408.65</u>
Total:	\$125,630.12

Ms. Stewart seconded the motion.

Mr. Hall noted that the listed funds had been contributed for improvements.

Selectman Maddox said the total cost for the improvements was \$536,630.00, of which \$411,000.00 was paid for by Mobil On -The-Run. He said the intersection was done and safe.

**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 (7 -0).

**B. Street Acceptance, Lea or Circle, Map 193, Lot 12 (Continued)**

Ms. McGrath moved to forward a favorable recommendation to the Board of Selectmen relative to accepting Lea or Circle as a public way, in accordance with the written recommendations of the Town Civil Engineer, Gary Webster, Road Agent Kevin Burns, Police Chief Richard Gendron, and Fire Inspector Joseph Triolo (memoranda from said parties in file). Mr. Hall seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor except for Ms. Quinlan, who abstained, as she was a resident of the neighborhood. Chairman Barnes then declared the motion to have carried (6-0-1).

**F. Expiring Terms**

Chairman Barnes referenced a letter from the Selectmen's Office, reporting that two regular Board position terms, currently occupied by Ms. Quinlan and Ms. Stewart, were expiring at the end of this year. He said two alternate Board positions, one occupied by Mr. Cole and the other open, would also expire at the end of this year.

**G. Law Lecture Series**

Chairman Barnes said that there would be no Planning Board meetings for the next three weeks, so that members could attend the Local government Center law lecture series in Manchester.

**H. Green Meadow Fund**

Selectman Maddox said the balance in the Green Meadow fund was \$20,318.42. He said the breakdown as to how the money had been spent had been sent to the IT department for placement on the Town Web Site. He also reported that the contract with VHB that was in place was the original one that had been signed by the Board of Selectmen. Chairman Barnes asked for a copy of that contract.

**I. High School Farmer's Market**

Ms. Stewart referenced a handout regarding having a farmer's market at the high school. She said she did not feel the School Department should be required to file a site plan for the market. Ms. McGrath said she felt a site plan might be in order, noting traffic and safety concerns, and adding that she thought the Board should take a look at it. Mr. Russo suggested that staff let Mr. Marcotte know that this was not a big deal but that something was needed. Ms. McGrath suggested that the School Department might have to go through the process. Mr. Russo concurred, adding that fees would not be collected. He said he thought the Board needed to work with the School Department. Selectman Maddox said he felt a conceptual should be presented to the Planning Board, adding the Board could decide what was needed after hearing the conceptual plan. Ms. Quinlan said the applicable RSA was 674:54. Mr. Hall said he felt the School Department should come in with a conceptual. Mr. Carroll concurred, noting it was unclear what the duration would be. Ms. McGrath asked if Mr. Russo were suggesting sending a letter to the School Department explaining what was expected; Mr. Carroll concurred. Mr. Cashell said he would communicate with the School Department. Mr. Hall suggested that the School Department come in to just talk with the Planning Board.

**J. Contract Relationship with VHB**

Mr. Cole asked if the Town's contract with VHB (Vanasse Hangen Brustlin, Inc.), signed on March 7<sup>th</sup> by Selectman Massey, was the contract that had been referenced by Selectman Maddox. Selectman Maddox answered in the affirmative. Mr. Cole said he was confused, saying that the April 24, 2007, Board of Selectmen minutes stated that Selectman Massey had said the Planning Board had contracted with VHB, not with the Board of Selectmen. He asked if the contract with the Selectmen had been vacated and if the Planning Board had voted to hire VHB, and if there were a document that pointed out terms and conditions. Selectman Maddox said the existing contract was with the Board of Selectmen. Mr. Cole said there should be something listing expectations if the Planning Board had hired VHB. Ms. McGrath asked if there had been contracts for other consultants. Mr. Cashell said there had been contracts. Selectman Maddox said the Town would be happy to get a contract. Mr. Carroll said the existing contract had no time limit, and he suggested that the Planning Board consider a new contract. Mr. Hall said the contract only spelled out hourly rates, adding that he felt the Planning Board was making a mountain out of a mole hill; he suggested that maybe the contract needed to be tweaked. Ms. Quinlan concurred, citing other cases of using consultants. Selectman Maddox reiterated that the contract was with the Town of Hudson. Mr. Carroll said the contract was with the Town of Hudson. Mr. Russo said he felt what the Town had gotten from VHB up to the present was questionable; he suggested that the Board might want to look for another consultant. Mr. Carroll said there had been a lot of discussion at the last meeting as to how to measure VHB's effectiveness. He said the next meeting would be the make-or-break meeting for VHB, noting that the Planning Board had asked VHB to provide specific information at that meeting. Mr. Hall concurred, adding that the Board had never had a list of deliverables and noting that would be impossible before the Board had an application. Mr. Carroll said the contract listed things the Board could ask the consultant to do. Selectman

Maddox said the Planning Board needed to provide clear direction to the consultants. Mr. Cashell said the missions of the applicant and VHB were now clear.

**K. Library Site Plan**

Selectman Maddox said the Planning Board might be looking at a library site plan ; he then reported that the Rogers brothers had put forth a plan where by they would fund four million dollars towards the construction of the library.

Town Planner Cashe II asked if a couple of actions regarding street acceptance could be included as part of the next workshop. He said he had drafted a Minor Site Plan draft that he wanted to give to the Minor Site Plan committee members . Ms. McGrath said a Building Permit and Certificate of Occupancy would still be required .

**XIII. ADJOURNMENT**

All scheduled items having been addressed, Ms. Stewart made a motion to adjourn . Ms. McGrath 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 9:03 p.m.

Date: November 15, 2007

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James Barnes, Chairman

J. Bradford Seabury, Recorder

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Marilyn McGrath, Secretary

Transcribed by:  
Joseph F. Hemingway and J. Bradford Seabury

These minutes were accepted as amended following review at the 03-05-08 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes  
October 10, 2007**

**Page 13**

The following change was made to the draft copy in accordance with review comments at the Planning Board meeting of 03-05-08:

Page 3, 3<sup>rd</sup> paragraph under section XII.C, 2<sup>nd</sup> line — the misspelling of the word “requirements” was corrected.