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

I. CALL TO ORDER

Chairman Barnes called this Planning Board meeting to order at 7:07 p.m. on Wednesday, January 10, 2007, in the Community Development meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

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

III. ROLL CALL

Chairman Barnes asked for a volunteer to serve as Acting Secretary until Ms. Quinlan arrived. Selectman Massey volunteered to fill that role, and he then called the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: James Barnes, George Hall, Vincent Russo, Richard Maddox (Selectmen's Representative), Richard Turcotte (arrived at 7:20 p.m.), and Suellen Quinlan (arrived at 8:03 p.m.).

Members

Absent: Marilyn McGrath (excused).

Alternates

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

Alternates

Absent: None. (All present.)

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. McGrath and seated Mr. Carroll in place of Mr. Turcotte, who had not yet arrived.

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Barnes addressed the minutes for the meeting of October 25, 2006, asking if there were any changes or corrections. He then identified the following change requests:

On Page 3, 4th paragraph, 3rd line, the location of the life center referenced by Mr. Kennedy should be changed from "Middlebury, Connecticut" to "Millbury, Massachusetts."

On Page 19, 5th line in the paragraph under Item C, the name of the person who asked if Jeff Rider would remain a member of the Water Committee should be changed from "Chairman Barnes" to "Selectman Maddox."

No further changes or corrections being brought forward, Mr. Hall moved to accept the October 25, 2006, minutes as amended. Mr. Russo seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor except for Mr. Carroll who abstained, as he had not yet been appointed to the Board at the time of that meeting, and Chairman Barnes declared the motion to have carried (5 -0-1).

Chairman Barnes addressed the minutes for the meeting of November 15, 2006, asking if there were any changes or corrections. None being brought forward, Mr. Hall moved to accept the minutes as submitted. Mr. Russo seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor except for Mr. Carroll who abstained, as he had not been a member at the time of that meeting, and Chairman Barnes declared the motion to have carried (5 -0-1).

VI. CORRESPONDENCE

Chairman Barnes stated that the item of correspondence received in tonight's handout package would be taken up in conjunction with the associated case.

VI. PERFORMANCE SURETIES

A. Thurston's Landing West – Surety Release Map 158, Lot 22

Reference memo dated November 27, 2006, from Tom Sommers to John Cashell.

Chairman Barnes asked Town Planner Cashell if there were any changes. Mr. Cashell answered in the negative.

Mr. Hall moved to release the maintenance surety, in the amount of \$78,831.58 (plus interest), for the Thurston's Landing West Subdivision, Map 158/Lot 022, in accordance with the written recommendation of Town Engineer Tom Sommers, as given in his memo dated November 27, 2006. 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 (6-0).

VII. OLD BUSINESS

A. Bradley Motors (Addition) SP# 16-06

Map 190/Lot 189
42 Lowell Road

Purpose of plan: To construct a 50-foot by 62-foot addition onto the rear of the existing building for internal vehicle display (vs. existing outside display) as well as a 5-foot by 8-foot covered entrance/storm enclosure. Hearing. Deferred Date Specific from the November 15, 2006, Planning Board Meeting.

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

Chairman Barnes asked Mr. Cashell if there were any updates to the plan. Mr. Cashell stated that technically, the plan was adding a service bay, and that this would reduce the CAP fee.

Mr. Richard Maynard, Professional Engineer, of Maynard & Paquette, Engineering Associates, LLC, appearing before the Board as the engineering representative of the applicant, posted **Site Plan, Map 190/ Lot 189, Bradley Motors**, dated August 28, 2006, with no revisions, on the meeting room wall. Mr. Maynard said he was pretty much in agreement with the staff report except for Item 3.

Selectman Maddox said the sidewalk easement was given to the Town in 1998. Mr. Maynard said it was never recorded. Mr. Cashell concurred.

Mr. Hall asked if Code Enforcement had reviewed the site. Mr. Cashell said he was not sure what the Code Enforcement Officer was doing at the site. Mr. Maynard said Director Sullivan had told him that there were no outstanding violations. Mr. Hall said he did not think the site was in compliance, adding that he would not vote to approve the plan until the site was in compliance—adding that a bond should be requested to make sure that the site was brought into compliance this time. He stated that he could not see how credit could be given for something the Town should have been given 10 years earlier. He then stated that he had calculated a CAP fee of \$4,085.00, noting that the office space was almost being tripled in size and that an additional service bay was being added.

Selectman Maddox said the site plan that the Planning Board had seen last time, the 1998 plan, was recorded and that since the landscaping shown on the plan was not done, he could not understand why that would not be considered a site plan violation. Mr. Maynard said his plan reflected what exists today. He expressed agreement with Mr. Cashell's stipulation (Item 4) regarding removing pavement and replacing the pavement with landscaping. Selectman Maddox asked what was approved in 1998. Mr. Maynard said the approval was for going from Agway to the brother-in-laws. Selectman Maddox referenced the landscaping that had not been done. Mr. Maynard said a \$5,000.00 landscape bond still existed, noting that the son was now the responsible person. He asked why the Town had not taken the bond. Selectman Maddox said that was a good question for the following morning.

Mr. Maynard said the CAP fee matrix was meant to be generalized. He said there would not be an increase of traffic to the site, which was what CAP fees were for.

Mr. Russo said the previously approved site plan showed 35 percent green space and that 28 percent actually existed. He said he was concerned that there was no plan to increase the green space to 35 percent. If the green space were not increased to 35 percent, he said, he would not vote to approve the plan. Mr. Maynard said the green space would be at 35 percent if the pavement next to Mr. Sousa's office were removed.

Mr. Hall said he could not believe that a business could be increased in size by 30 percent without some kind of increase in the CAP fee. He said the plan approved in 1997 specified parking, not display space, saying that had been a significant issue. He said he felt the Planning Board should be consistent with what was approved in 1997. Mr. Maynard said the addition would save money, not increase the amount of servicing. He referenced the Zoning Ordinance, 334-21A, saying that the plan exceeded the 15-foot setback requirement.

Mr. Cole made a motion to defer further review of the Bradley Motors Site Plan application date specific to the February 28, 2007, Planning Board meeting, contingent upon the Community Development Director bringing up to compliance any and all site plan code violations from the May 3, 1997, plan or reporting to the Planning Board that no such site plan violations existed. Mr. Hall seconded the motion.

Mr. Maynard objected, saying that Director Sullivan had not cited any violations.

Mr. Cashell said the landscaping was the item that had to be addressed. He said the applicant would need until June to do the work. Mr. Hall stated that was why he had suggested a bond. Selectman Maddox said the drawing should reflect what the site would look like. Mr. Hall said Mr. Maynard should either document the fact that the easement was turned down or just draft the easement and give it to the Town.

Selectman Massey asked Mr. Cole to repeat his motion. Mr. Cole repeated the motion as follows: "Further review of the Bradley Motors Site Plan application date specific to the February 28, 2007, Planning Board meeting contingent upon the Community Development Director bringing up to compliance any and all site plan code violations from the August 1, 1997, plan or reporting to the Planning Board that no such site plan violations exist." Mr. Maynard said he did not know where the August 1, 1997

date came from . Chairman Barnes said it was May 3, 1997 . Mr. Cole said that was fine.

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 (6 -0).

Mr. Maynard asked for an accounting for the landscape bond on the site . Chairman Barnes asked Mr. Cashell to do that . He said that there were no landscaping violations because the bond was in place and the Town had elected not to do anything with it . Mr. Russo said the plan did not meet the green space requirement.

Mr. Turcotte having arrived during this discussion, Chairman Barnes seated Mr. Turcotte in his regular position as a voting member of the Planning Board and seated Mr. Carroll in place of the tardy Ms. Quinlan.

VIII. NEW BUSINESS/PUBLIC HEARINGS

A. Flagstone Plaza SP# 18-06

Map 222/Lot 14
3 Flagstone Drive

Purpose of plan: To construct an 8,576 ft² multi-tenant commercial building with a parking garage under. Application Acceptance & Hearing.

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

Mr. Cashell said there were some outstanding issues which he had outlined in his staff report . but the application met the Planning Board requirements for review.

Selectman Maddox moved to approve application acceptance . Mr. Carroll seconded the motion.

Mr. Hall said he would vote against Application Acceptance based on the issues presented in the staff report —notably, the parking regulations . Mr. Turcotte expressed agreement with Mr. Hall.

Mr. Maynard asked to speak , but Chairman Barnes declined to recognize him at this time. Mr. Maynard said he objected and that the proceedings were not fair because the comments had come up during review, adding that he had not had the opportunity to ask for waivers.

Mr. Hall said he questioned that Mr. Maynard did not know what the parking requirements were . Mr. Maynard responded that he objected to Mr. Hall's statement.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in opposition except for Chairman Barnes ,

who abstained . Chairman Barnes then declared the motion to have failed (0–6–1).

Mr. Hall moved to defer further review of the Flagstone Plaza Site Plan date specific to the February 28, 2007, Planning Board meeting in order to make changes or withdraw . Mr. Turcotte seconded the motion.

Mr. Hall said the applicant needed to address the items in the staff report.

Mr. Cashell suggested that the applicant might want to come back to the Board with a conceptual plan.

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).

Mr. Maynard asked if anyone had read his December 20th letter to the Board , adding that Mr. Cashell's staff report seemed to ignore most of it . He declared that the Planning Board was playing games.

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

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

Purpose of plan: To show a proposed commercial site development consisting of a professional building for Tax Map 174/Lot 26, 26 Derry Street. Application Acceptance & Hearing.

Chairman Barnes read aloud the published notice, as repeated above . Mr. Barnes then recused himself, explaining that the applicant was his dentist.

Mr. Hall, serving as Acting Chairman, asked Mr. Cashell if the plan were ready for Application Acceptance. Mr. Cashell said that the property was in a TR (Town-Residential) zone and was before the Board as a result of a zoning determination that had been rendered by Director Sullivan, dated November 3, 2005 . He said the applicant was proposing to build a two-story professional office building , using the footprint of the existing building . He said it was his opinion that the plan was ready for Application Acceptance.

Mr. Carroll asked about the zoning . Mr. Cashell said it was TR and that the proposed plan was an alteration and expansion of a pre-existing use . Mr. Carroll said he questioned that explanation.

Acting Chairman Hall said the Board could vote not to vote for Application Acceptance and allow the applicant to explain the proposal . Selectman Maddox asked if the plan were being turned into a conceptual or if the Board were going to have a discussion as to whether the application met the requirements for acceptance . Acting Chairman Hall said it would be a discussion.

Mr. Cole moved to accept the site plan. Acting Chairman Hall asked for a second. Seeing none, he stated that the motion had failed.

Mr. Carroll moved to hold a Conceptual Review. Selectman Maddox seconded the motion.

Mr. Carroll said he was concerned about the zoning. Selectman Masey said that, unless something had changed, a plan could go *up* on a non-conforming use, just not *out*. Mr. Carroll asked if going up would create more traffic and thus disrupt the residential area. Mr. Cashell said the Planning Board had allowed non-conforming uses to go up but not out. He said what happened next would be up to the Board.

Mr. Russo asked how long the building been vacated. Mr. Cashell said he did not know. The applicant said the building was not vacant.

Ms. Quinlan arrived at 8:02 p.m. and took her seat at the table, although not yet recognized by the Acting Chairman.

Mr. Russo said he believed the building had been vacant for at least three years.

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

Acting Chairman Hall noted that Ms. Quinlan had arrived but had not been seated as a voting member.

Mr. Robert Ebeed, the owner of the property, said he had been a resident of Hudson for the past seven years, and that he was asking for a professional office building. He said the Hudson law stated that a dentist could be in a house. He said he had cleaned up the building as much as he could. He said he was proposing to add a second story, using the existing footprint. He said the first floor would be the dental office and the second floor would be for a second dentist or his assistant. He said he did not think the proposal would increase traffic.

Mr. Hall noted that the Board was concerned about the intensity of the use. He said the proposal added a lot of square footage. Mr. Ebeed said there would be room for two dentists and one dental hygienist. He said there would also be a staff room, a bathroom, and a reception area. He said the traffic would not be increased, because of the length of time each patient spends with the dentist.

Acting Chairman Hall asked about the building in the back. Mr. Ebeed said that would be used for storage. Acting Chairman Hall said that would be a problem, because that space would be needed for parking spaces. Mr. Ebeed said it was all pavement. Acting Chairman Hall expressed disagreement, referencing the (EOP) End of Pavement line on the plan and noting the vegetated areas.

Selectman Maddox said that not asking for a waiver to change from the standard parking spaces would be a problem. Selectman Maddox noted that the applicant was supposed to have full-size prints for the Board. Mr. Ebeed distributed larger prints, noting that not all the waivers were shown on the prints.

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Selectman Maddox stated that the plan sets distributed to the Board were different, adding that the reduced prints had waivers listed but that the full -size prints did not. Mr. Ebeed said the full -size prints were his own.

Acting Chairman Hall said that part of the problem was that Mr. Ebeed was not familiar with the terms and regulations, noting that Mr. Ebeed had not asked for the required waivers.

Mr. Carroll reiterated his concern about commercial use in a TR zone. Mr. Hall said that would be up to the Zoning Board of Adjustment and the Zoning Administrator.

Acting Chairman Hall clarified to the audience that the Board was reluctant to accept the application, as that would start the planning-review process. He said there was a technical issue with accepting this application, adding that there would not be a public hearing if the Board did not accept the application. He said there would be a public hearing once the application had been accepted.

Ms. Quinlan suggested that the Planning Board should send the plan back to the Zoning Board of Adjustment. She said what Mr. Ebeed was proposing to do might exceed the home occupation use. Acting Chairman Hall expressed disagreement, adding that the only thing the Planning Board should do was ask the Zoning Administrator if the plan were consistent with his determination.

Acting Chairman Hall asked if the Zoning Administrator's decision had addressed the issue of two floors. Mr. Cashell said it did not. Acting Chairman Hall said that was the question that needed to be addressed. Mr. Cashell referenced HTC 334-29 and 334-30. Mr. Hall said the issue was whether a second story would be allowed.

Mr. Ebeed said he was trying to make the building look good. He asked if it would be okay with the Planning Board if he did not add a second floor—adding that, if that were the case, he would renovate it as was. Acting Chairman Hall suggested that Mr. Ebeed ask the Zoning Administrator if what was being proposed was consistent with his decision. Mr. Ebeed said he was trying to do a good thing for the building and the area. Acting Chairman Hall asked if Mr. Ebeed had spoken with his abutters. Mr. Ebeed said he had sent letters to them. Several abutters sitting in the audience declared that they had not received a letter from Mr. Ebeed, only a notice from the Town regarding tonight's meeting. Acting Chairman Hall suggested that Mr. Ebeed talk with his abutters.

Mr. Cashell referenced HTC 334-31, saying alterations could go up. Acting Chairman Hall stated that Mr. Cashell had read previously other passages that were not consistent with that. If Mr. Ebeed wanted to build a building as proposed, he said, he should go to the Zoning Administrator for an opinion. He suggested that a Board member might want to make that a motion.

Ms. Quinlan said she would make that motion. Acting Chairman Hall noted that Ms. Quinlan could not make that motion, because she was not seated. Ms. Quinlan said the previous business on this site had caused a great deal of angst among the Leslie Street neighbors. She said she thought the proposed use was a better fit for the area. Mr. Cashell said several residents had come in expressing interest in having the

property upgraded and did not seem adverse to the plan. Mr. Ebeed said the plan would benefit the neighbors, saying he would like to move forward with the plan.

Selectman Maddox suggested that Mr. Ebeed bring in a professional. Mr. Ebeed said he was not a millionaire. Selectman Maddox said Mr. Ebeed was trying to leap over steps.

Acting Chairman Hall suggested that a ruling be made as to whether a two-story use would be permitted. He cautioned Mr. Ebeed that he might end up spending more money by not hiring a professional. He asked Mr. Ebeed if deferring the plan for a month would be acceptable; Mr. Ebeed said that would be acceptable. Selectman Maddox said he did not believe the plan needed to be deferred because it had been handled as a conceptual. Acting Chairman Hall said it needed to get on the agenda, saying the Planning Board needed to take some action.

Mr. Carroll moved to defer this conceptual review to the February 14, 2007, Planning Board Meeting for a zoning determination to determine if the proposed plan were a legal use of that site. Mr. Russo seconded the motion.

VOTE: Acting Chairman Hall called for a hand vote on the motion. All members voted in favor except for Selectman Maddox and Mr. Russo, who voted in opposition. Acting Chairman Hall then declared the motion to have carried (4 -2).

Acting Chairman Hall said he thought the proposal would be a good use for the building once all the regulations had been met.

Mr. Cashell said it had been a pleasure working with Mr. Ebeed.

Selectman Massey noted that Selectman Maddox had raised the issue of the non-conforming parking spaces, adding that those parking spaces would require a waiver. He suggested that the Board be polled regarding that waiver. Acting Chairman Hall said a two-story building would boost the parking requirements, adding it would be difficult to fit in the number of required spaces.

Chairman Barnes returned to his regular position as chairman of the Planning Board and Mr. Hall returned to his regular position as a voting member of the Planning Board.

Chairman Barnes then seated Ms. Quinlan in her regular position as a voting member of the Planning Board and returned Mr. Carroll to his regular position as a non-voting alternate member of the Planning Board.

IX. CONCEPTUAL REVIEW ONLY.

**A. James Bouley, Sr.
CSP# 05-06**

**Map 153/Lot 11
3 Lawrence Road**

Purpose of plan: To keep existing shed.

Mr. Cashell said a permit had been issued for a shed but that the Zoning Board of Adjustment had instructed the applicant to come before the Planning Board for a site plan review. He said the applicant wanted to find out if he would have to go through the entire review cycle.

Mr. Hall said a building permit was obtained for a shed but that the Planning Board had appealed that decision. He said the Zoning Board of Adjustment had upheld the Planning Board's appeal and had determined that the building permit should not have been issued without a site plan review.

Chairman Barnes asked if the intent were to try to resolve the issue of the building permit. Mr. Cashell said the applicant might take the shed down. Mr. Bouley, the owner, declared that he would absolutely not take the shed down. Selectman Massey said he had talked to Director Sullivan about this case, noting that Director Sullivan had suggested that the applicant come before the Planning Board as a conceptual review to find out if a site plan would be required.

If the shed were on the site, Ms. Quinlan said, a site plan should be required, because it was on a business property.

Mr. Russo said he could see where the plan had been approved with an existing garage, adding he could see the dilemma of the shed. He said he felt a two-bay garage had been approved, adding that it looked like the shed was a lot smaller than what had been approved.

Selectman Massey said the plan said no outside storage. Mr. Russo said he had a tough time deciphering the differences in the plans.

Mr. Hall said another alternative would be to accept the plan without making the applicant record it. He noted the plan was a lot less intensive than what had been approved in 1987. Selectman Maddox expressed agreement with Mr. Hall.

Mr. George Bouley, 3 Lawrence Road, said the 1987 plan was for a plaza. He said he was not looking to do that. He said he wanted the shed to store lawn mowers, etc. He said he had gotten a legal permit for the shed and now was jumping through hoops. He said the shed was just a metal frame kit, adding that he was cleaning up the site.

Selectman Maddox expressed agreement with Mr. Hall. He said there was a site plan and that what was built was less intrusive. He said the Planning Board needed to get a date on the plan and have it signed by the applicant.

Mr. Carroll also expressed agreement with Mr. Hall.

Mr. Turcotte asked about the size of the shed . Mr. Bouley said it was 18 feet by 20 feet. Mr. Turcotte asked about the cars on the property . Mr. Bouley said there was one car parked out back that had been impounded and was in litigation . He said the shed had been there for almost two years, adding there was a chain link fence behind it . He said everything in the back yard was registered , adding that he felt he should be allowed to use his property.

Mr. Hall asked if the area around the shed were paved . Mr. Bouley said it was dirt, but then changed his answer, saying it was reprocessed asphalt. Mr. Hall said Mr. Bouley needed to white out the engineers name on the plan , left over from the earlier version. Mr. Bouley said he thought that had been done . Mr. Hall said the Hillsborough County Registry of Deeds stamp also needed to be removed. He suggested that , once Mr. Bouley signed the plan, the Planning Board should sign it and then file it.

Selectman Maddox asked about vehicles that were being stored off to the right of the building . Mr. Bouley said he was not storing vehicles . Selectman Maddox asked what was being stored there , pointing to the GIS aerophoto being displayed on the screen to show the property under discussion . Mr. Bouley said that the picture Selectman Maddox was referencing was very old . Mr. Bouley said he had to park vehicles that had been impounded in that area from time to time . Mr. Hall said Mr. Bouley should show that on the drawing as outside storage.

Mr. Barnes noted that there was a neighbor that wished to speak and a letter from an abutter that the abutter wished to have read into the record . He said public input was not normally given during a conceptual review, but he then added that, since this plan might be approved as a minor plan at tonight's meeting, public input would be appropriate.

Selectman Maddox suggested taking a break and then hearing from the public.

Chairman Barnes declared a break at 8:58 p.m., calling the meeting back to order at 9:12 p.m.

Mr. Dennis Brown, 5 Lawrence Road, said there were campers on the property with people living in them , adding that Mr. Bouley's dog barked 24 -hours a day . He said he thought Mr. Bouley should have to go through the entire site plan process , saying that Mr. Bouley had built the shed before he got the permit.

Chairman Barnes then read into the record a letter from Kathleen Brown, 5 Lawrence Road , dated January 8, 2007 . The letter indicated that Ms. Brown had issues with code enforcement , noting that two trailers on the site were occupied, and suggesting that the applicant should have to go through the full Planning Board site plan review process.

Selectman Maddox said Ms. Brown had issues with code enforcement, but that was not a Planning Board issue.

Ms. Quinlan reiterated her opinion that the plan should go through the full process . She said she was concerned about a dual use on the property.

Mr. Bouley said he had pictures of oil drums sticking out , etc. He said they were not the same pictures, adding that those items were on the other side of the lot line . Mr. Barnes said the Planning Board was only looking at Mr. Bouley's property.

Mr. Bouley said his lot was in good shape . He acknowledged there was a trailer on the property, adding that there was an employee . He said there was no ill intention with the permit . He said Mr. Cashell would vouch for him. He said he put the shed up legally, adding that the shed was to keep things safe and out of sight.

Charlene Bouley, co-owner, said there were no ill intentions . She said they had gone through the proper channels . And she then asked how the photos had been obtained . Mr. Bouley said his neighbor had been arrested and charged with assaulting him (Mr. Bouley), adding that she was not supposed to have any contact with him or his property. He said his neighbor was seen videotaping the property the previous Friday. Chairman Barnes said the Planning Board could not determine how the photos had been obtained . Selectman Maddox said the Planning Board was not a civil court, noting that was where a dispute between neighbors should be handled , and adding that said the Planning Board was only concerned with the site plan . If the issue were the trailer and the camper, Mr. Bouley said, those things could be moved.

Mr. Russo said it appeared to him that there were some substantial changes on the plan, notably storage areas . Mr. Bouley said he had hired Mike Granger, but that Mr. Granger had said he would not work on the property because of the neighbor . Mr. Russo said he thought there might be a change of use . He said he agreed that the use was less but that he would like to see the plan done by a professional . He said the Planning Board wanted to see what Mr. Bouley had . Mr. Bouley objected, saying he had a permit from the Town to build the shed . Chairman Barnes said the Planning Board had not issued the permit. Mr. Russo said that by not having a professionally done site plan, Mr. Bouley was giving his abutter more fuel for the fire.

Ms. Quinlan moved that the Planning Board determine that the shed be taken down . Mr. Bouley said the Town had given him a legal permit to build the shed, asking if the Board wanted the Town to go through the legal expenses of that . Ms. Quinlan said the ongoing concern was the variety of vehicles being stored on the site . She said there was no demarcation on the site for vehicle storage. She said that to pile things up on a fence was not permissible, adding that it constituted storage. She contended that the Board had the right to look at all aspects of a plan.

Mr. Bouley asked if others had been issued permits.

Chairman Barnes asked what the situation was regarding the fact that the old site plan had been recorded and this one, if approved, would not be recorded . Ms. Quinlan said she thought it would be a legal nightmare . Mr. Hall said the Planning Board had done this many times before.

Chairman Barnes asked what the members of the Board wanted to do.

Selectman Maddox said the applicant needed to delineate where vehicles would be stored and put dimensions for the shed on the plans . He said the applicant also would have to remove the engineer information from the plan as had been suggested by Mr. Hall.

Mr. Hall asked if the plan were acceptable.

Selectman Maddox moved to defer further review of this item to February 28, 2007, Planning Board meeting for the applicant to provide an amendment to the existing site plan with dimensions of the shed and parking delineation; with no full site plan required. Mr. Hall seconded the motion.

Mr. Russo asked that the maker of the motion include the trees and buffering on the plan. Mr. Hall said the applicant needed to go back to Mr. Cashell to make sure the plan was okay before the applicant came back before the Board.

Mr. Cole asked if the Planning Board would require Mr. Bouley to file a full application. Selectman Maddox said that was not his intention. He said it was a modification to a site plan. Mr. Cole asked for a legal opinion regarding the case, saying he had the same concerns as Ms. Quinlan.

Mr. Cashell said there was a recorded site plan, adding that not much of it had been implemented. He said Mr. Bouley had gotten a permit for the shed. He said anything else would not be a concern of the Planning Board, adding that it would be up to the Town to follow up on complaints regarding code violations.

Ms. Quinlan said the Town's decision to give that permit had been revoked by the Zoning Board of Adjustment. She said the concerns by abutters could not be ignored, adding that it would be to everyone's benefit if there were an approved site plan. Mr. Brown said Ms. Quinlan was exactly right, adding that was why it had been going on for 13 years.

Ms. Bouley said the Zoning Board of Adjustment had revoked the permit, but that this had been because of a bickering match between the Zoning Board of Adjustment and the Planning Board. Mr. Bouley said one of the Planning Board members was good friends with his neighbor. He agreed that everyone should have to travel the same road. He said the Town had had 30 days to review the permit before issuing the permit, saying it had been reviewed and approved. He said he was told that the permit had been revoked two and one-half months after the permit had been issued.

Selectman Massey noted that several comments had been made about an expedited site plan review, adding that in order to do that, all conditions of the original site plan had to be in full force. He expressed agreement with Ms. Quinlan's concerns.

Chairman Barnes asked Ms. Quinlan to re-read the motion. She read the motion as follows: "Selectman Maddox moved to defer the Conceptual Review, 3 Lawrence Road, date specific to February 28, 2007, for the applicant to provide an amendment to the existing site plan providing dimensions of the shed, parking delineation, and with the understanding that there would be no stipulation that a full site plan be required for the site."

VOTE: Chairman Barnes called for a hand vote on the motion. All members voted in opposition except for Selectman Maddox and Mr. Hall, who voted in favor, and Chairman Barnes, who

abstained . Chairman Barnes then declared the motion to have failed (2 –4–1).

Mr. Cashell referenced the two draft motions in the staff report.

Mr. Russo moved to require the applicant to submit a site plan application by June 30, 2007 , and for this application to include a site plan that accurately depicted the location and dimensions of the existing shed, landscaping, parking areas, and proper reference of all buildings on the site, together with all other required site plan application requirements . Ms. Quinlan seconded the motion.

Mr. Cole noted that the motion did not include the storage area . Mr. Russo said a storage area would be included in a full application.

VOTE: Chairman Barnes called for a hand vote on the motion. All members voted in favor except for Selectman Maddox and Mr. Hall, who voted in opposition and Chairman Barnes, who abstained . Chairman Barnes then declared the motion to have carried (4–2–1).

Ms. Quinlan moved that , in the event the applicant fails to submit the required Site Plan application by June 30, 2007, the Planning Board shall submit to the Community Development Department a request for Zoning Enforcement, calling for the owner of the subject property to either remove or raze the existing shed for which the proper permit(s) was not issued . Mr. Turcotte seconded the motion.

Mr. Hall said that was a completely unusual motion to make , saying this was a code enforcement issue . Mr. Carroll expressed agreement with Mr. Hall . Ms. Quinlan said she believed that the reason the motion was included was because the permit was erroneously issued by the Town . She said the Zoning Board of Adjustment had directed the applicant to come back before the Board for a full site plan review , adding that she felt that a site plan would cure a lot of problems.

Mr. Cole expressed agreement with Mr. Hall, saying he felt it should be formalized by the code enforcement office on the 30th of June.

VOTE: Chairman Barnes called for a hand vote on the motion. All members voted in opposition except for Ms. Quinlan, Mr. Cole, and Mr. Turcotte, who voted in favor . Chairman Barnes then declared the motion to have failed (3 –4).

Chairman Barnes noted that the motion requiring a site plan was still in force.

Selectman Maddox said Mr. Cole had brought up a good point in that there should be a process in how expedited reviews would be done . Mr. Hall there could be a lot of discussion about that.

Mr. Russo said he did not believe this application would have been one of the ones that would have been selected for expedited review . He said there were conditions on

the plan that were questionable . Mr. Hall said those conditions had been there for years , noting that things had come to light in August of 2005 . Ms. Quinlan expressed a belief that code enforcement had been working with an ancient site plan . Mr. Hall said that plan had expired . Mr. Carroll suggested waiting until June 30th .

XI. ZBA INPUT ONLY

A. PSNH Hudson Substation ZI# 03-06

Map 122/Lot 2

Purpose of plan: Rebuild 115 KV electrical feed to Hudson substation. Two structures in the wetlands, one structure in the wetlands buffer.

Chairman Barnes asked Mr. Cashell for his comments. Mr. Cashell said this was before the Board with regard to the electrical feed in Londonderry .

Mr. Eric Fraiser, representing PSNH, said PSNH had gone to the Zoning Board of Adjustment and that the Zoning Board of Adjustment had requested that PSNH go before the Planning Board . He said PSNH was looking for a Special Exception to the wetlands from the Town of Hudson, noting that about 286 ft² would be impacted . He said the Conservation Commission had seen and recommended approval of the plan.

Selectman Maddox asked about getting in and out of the sites . Mr. Frazier said the work would be done around the wetlands , adding that timber mats would be used if necessary. Mr. Frazier said the applicant hoped to do the work during winter conditions.

Mr. Russo asked about the work . Mr. Frazier said the entire line was being replaced.

Mr. Hall said he only saw two poles within the wetlands . Mr. Frazier said there were two poles in the wetlands and one in the buffer. Mr. Hall asked how the impact calculation was done . Mr. Frazier said that was shown in the packet provided to the Board members . He said the actual impact was based on the size of the caissons . Mr. Hall said that most of the impact was getting to the poles . Mr. Frazier said if the work were done during frozen conditions, no impact would occur . If the work were done during non-winter conditions, he said, timber mats would be used to access the poles . He said the rest of the right-of-way was not in the wetlands or wetlands buffer . Mr. Hall asked how far it was from the edge of the wetlands to Route 116. Mr. Frazier said he did not know.

Mr. Hall asked about the width of the right-of-way. Mr. Frazier said he believed it was about 150 feet wide in that area . Mr. Hall said it was a little misleading to say that only 286 ft², was being impacted when in fact access to the poles would require impacting a lot more area than that . Mr. Frazier referenced the first page of Mr. Perron's report.

Mr. Carroll asked if there would be any leakage or corrosion into the wetlands area . Mr. Frazier said the Conservation Commission had recommended the plan.

Mr. Carroll said it looked like the second pole was in the water . Mr. Frazier said if frozen conditions were not available , the timber mats would be stacked in order to gain access to the pole . He said Mr. Perron's report addressed that situation.

Mr. Carroll asked about the voltage . Mr. Frazier said the voltage would be the same but that the current would increase . Mr. Carroll asked if that would impact the animals in the wetlands. Mr. Frazier responded in the negative . Mr. Carroll asked about removing the old poles . Mr. Frazier said it was just the reverse process of putting the new poles in.

Mr. J. Bradford Seabury , a member of the Zoning Board of Adjustment, said that members of the Zoning Board of Adjustment had had the same concerns about impact to the wetlands with respect to getting to the poles, adding that the Zoning Board of Adjustment would not look at wetlands cases without input from the Planning Board . He said the issue was what the Planning Board wanted to do about poles in the wetlands.

Mr. Russo said there would be poles and anchors . He said that Mr. Perron's report said the work had to be done during winter conditions . Mr. Frazier said it was preferable to do the work under frozen conditions but that , if frozen conditions were not available, the wetlands permit from DES would allow the use of timber mats. Chairman Barnes referenced the DES permit, noting that Item 2 said the work would be done under low-flow and frozen-ground conditions.

Selectman Maddox said the wetlands would be impacted to gain access to the site and to build the coffer dams around the caissons , adding that there would be some impact when the old poles were removed . He said the 286 ft² number was not a good representation the amount of wetlands that would be impacted by the project . Mr. Frazier said the calculations had been done by a licensed P.E., adding that he assumed the calculations were correct.

Mr. Hall asked when the old poles would be removed . Mr. Frazier said he did not have the schedule . Mr. Hall reiterated the DES requirement of low flow and frozen ground conditions, and he asked again when other operations would take place . Mr. Frazier repeated that he did not have the schedule . Mr. Frazier expressed agreement with Selectman Maddox regarding the impact area , saying that the construction would go on for months.

Selectman Massey asked when the case was brought before the Zoning Board of Adjustment. Mr. Seabury said it had been prior to December, probably the first meeting in November . Selectman Massey asked how PSNH would run the lines from pole 115 to pole 116 without going into the wetlands . Mr. Frazier said it could be done in several different ways , adding that one way would be to string small lines first . Selectman Massey said that would require intruding on property that was not PSNH's property, but it would not impact the wetlands.

Ms. Quinlan said she could not believe the Board was putting PSNH through this procedure. She said the Conservation Commission had approved the plan, stating that there was very little choice,

Ms. Quinlan moved to forward correspondence to the Zoning Board of Adjustment, citing that the Planning Board had no outstanding concerns regarding the placing of four new transmission poles and 23 new anchors, totaling 602 ft² of wetland impact, on land located south of Old Derry Road, Map 122/Lot 002, as depicted on the Plan of Record entitled: **Wetland Crossing X116 Line 115 KV, South of Old Derry Road, Hudson, NH**, prepared by Richard V. Perron, P.E. Transmission Line Dept. PSNH, dated: 6/7/05 (no revisions), consisting of Sheet 1 of 1, with no notes.

Mr. Russo seconded the motion.

Mr. Carroll asked how extraordinary damage to the wetlands would be handled. Selectman Massey said the Town had the power to make PSNH pay for repairs.

Selectman Maddox reminded Ms. Quinlan that she had said that all applicants had to be treated the same. Selectman Maddox said the impact stated was not an accurate estimate, adding that he had concerns even if he were in the dark.

Mr. Seabury said that, when PSNH had done work near his house for an earlier line, the firm had promised restoration of the area, as was also promised in this case, but all that was done was to have dirt thrown back in a pile, with one bush being planted.

Mr. Russo asked if the Conservation Commission went out to a site prior to and after the fact to make sure that what was promised was in fact done. Ms. Quinlan said it was private property, not owned by the Town or PSNH.

VOTE: Chairman Barnes called for a hand vote on the motion. All members voted in favor except for Mr. Russo, Selectman Maddox, and Mr. Hall, who voted in opposition. Chairman Barnes then declared the motion to have carried (4 -3).

X. OTHER BUSINESS.

Chairman Barnes noted the wetland mitigation workshop that would be held at the Merrimack Town Hall on Monday, February 12, 2007, suggesting that Ms. Quinlan might want to inform the Conservation Commission of the meeting.

Chairman Barnes asked for question from the Board regarding the fiscal statement that had been submitted for the RiverPlace project.

Mr. Carroll asked why the plan never addressed the impact RiverPlace would have on the Hudson's local roads. Selectman Massey said the Town's consultant would take the fiscal impact statement, together with the plan, and provide answers to the Town's requirements relative to traffic. Mr. Cole said this document was simply a marketing tool, adding that he wanted to know what the Planning Board would be asking VHB

(Vanasse Hangen Brustlin, Inc.) to do, and he then expressed a belief that this document was worthless . Mr. Turcotte said everything was worthless without a plan . Selectman Maddox expressed agreement with Mr. Cole and Mr. Turcotte.

Mr. Cole noted that the RiverPlace Web site said there would be a seven million dollar savings.

Mr. Cashell said the RiverPlace plans were scheduled for submission in the not-too-distant future . He said he would ask the Board for a decision regarding regional impact once the application had been submitted . He said that the NRPC (Nashua Regional Planning Commission) had to be notified with in 144 hours of the regional impact decision having been made . Mr. Cashell said it was the Board's responsibility to notify the impacted towns. Mr. Carroll suggested that the Planning Board contact NRPC to ask if they were the agent to do that , and he then asked who would decide what towns would be notified —and also what the process would be with respect to the impacted towns once the plan was submitted.

Chairman Barnes said he was not sure what the adjoining towns would do , saying that was up to them . Mr. Carroll asked if it would be Hudson's responsibility to drive for the perfect solution . Mr. Cashell said Hudson was responsible for notifying other towns in accordance with the RSA . He said it was NRPC's responsibility to notify other communities by c ontacting other RPCs in New Hampshire and Massachusetts . He said the other communities would also be invited to some of Hudson's RiverPlace public hearings .

Mr. Russo asked if this meant that the Planning Board had to send copies of the plan to adjoining towns. Mr. Cashell answered in the negative, saying the plan would be on the Internet. Mr. Russo asked if the Planning Board just had to notify the impacted communities by mail. Mr. Cashell answered in the affirmative. Mr. Russo asked what communities would be notified . Mr. Cashell said the list had been compiled.

Ms. Quinlan protested talking about the project before having a plan . Mr. Russo said the notification had to happen within six days.

Mr. Cashell noted that the Planning Board would notify all communities in the NRPC area.

Mr. Carroll asked if there were a compiled list of towns that would be notified . Mr. Cashell said all the communities abutting Hudson would be notified , as well as other regional planning commissions .

Selectman Maddox s uggested that the Planning Board find out what other communities had done in the past.

Chairman Barnes said he would submit the list of questions to VHB. Selectman Maddox said VHB had to understand that most of the Board members were waiting for a plan to be submitted before submitting questions.

Mr. Cole asked what the charge was to VHB regarding the fiscal impact statement . Selectman Massey said that, as soon as the plan was in hand, the consultant that VHB

had hired would take the fiscal impact statement along with the plan, and provide the Town with an economic impact analysis.

Mr. Cole asked when the chronology of RiverPlace would be up on the Town's web site. Mr. Massey said it was not there. Mr. Cole asked when it would be done. Selectman Maddox said Director Sullivan had said he had submitted it to the Web master.

Mr. Hall asked if any citizen zoning petitions had been submitted for the Town warrant. Mr. Cashell said he had not heard anything about any. Mr. Hall noted that the previous day (January 9th) had been the deadline.

Selectman Massey noted that, at the recent joint meeting, the Chairman of the Conservation Commission had indicated that he thought there were two zoning violations that nothing was happening with or that the Town had refused to get involved with. Selectman Massey said that 13 Williams Drive, one of the cited sites, was a violation where the individual had a permit to clear-cut, adding that the individual had cut too much and had cut on property that was not his, adding that the individual might also have disturbed the wetlands. He said the Town had looked at the site and determined that the Town did not have the resources to make a technical determination. He said the Conservation Commission had said it would fund a consultant to look at the problem, adding that the State had said it was a local problem. He said that the landowner was notified by the Zoning Enforcement Officer that a mitigation plan must be submitted by February 15th.

Selectman Massey then discussed 33 Bush Hill Road, the other site identified by the Conservation Commission chairman, noting there was a wetlands incursion on that site. In order to build a new structure on a site, he said, a new certified plot plan had to be submitted if the current plot plan were more than three years old. He said the Board of Selectmen had changed the rule so that sheds, above-ground pools, and decks would not require a certified plot plan. In this case, he said, a shed was constructed that encroached into the wetlands. He said the courts had ruled in favor of the property owner in a similar case, so the zoning enforcement officer had resolved this case by saying it was okay.

Selectman Massey reported that there had been 17 new zoning enforcement cases in October and 12 more in November. As of November 30th, he said, there were eight open cases, with 27 cases having been resolved. He said there were 14 new cases in December, eight of which had been resolved, and there were 14 open cases as of December 31st. He said he was working with the Code Enforcement Officer to make the report format more understandable.

Mr. Russo referenced the Bradley Motors case, saying he thought the green space issue was important, and he questioned how that issue would be resolved, asking how the green space requirement would be enforced. Mr. Carroll questioned if trees etc., had to be planted exactly where they were shown on the plan, asking how those things would be enforced.

XII. ADJOURNMENT

All scheduled items having been addressed, Selectman Maddox moved to adjourn; Ms. Quinlan 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 11:29 p.m.

Date: February 5, 2007

James Barnes, Chairman

J. Bradford Seabury, Recorder

Suellen Quinlan, Secretary

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

-- FILE COPY --

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

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These minutes for the Planning Board meeting of January 10, 2007, were approved as amended at the Planning Board meeting of March 7, 2007.

The amendments consisted of changing the VOTE paragraphs on Pages 7 and 9 to show that Acting Chairman George Hall was presiding in place of chairman James Barnes, who had stepped down from the hearing under discussion because the applicant was Chairman Barnes's dentist.