



Town of Hudson

Planning Board

78 Main Street, Hudson, MA 01749
Tel: (978)562-2989 Fax: (978)568-9641
Email: kjohnson@townofhudson.org

Minutes of Meeting – November 1, 2022

At 6:30 PM, Chairman D’Amelio called the meeting to order.

Chairman D’Amelio seconded by Andrew Massa moved to enter Executive Session with the intent to return to Open Session to discuss pending litigation in that an Open Meeting may have a detrimental effect on the litigation position of the Planning Board and read into the record the following citation: Linda Fossile, Trustee and Geraldine Fossile, Trustee, Ashbury Realty Trust v. The Town of Hudson Planning Board, and Robert D’Amelio, Rodney Frias, David Daigneault, Dirk Underwood and Darryl Filippi, as members of the Hudson Planning Board and not individually, Middlesex Superior Court, Docket No. 22-1337; and Linda Fossile, Trustee and Geraldine Fossile, Trustee, Ashbury Realty Trust v. The Town of Hudson Planning Board, and Robert D’Amelio, Rodney Frias, David Daigneault, Dirk Underwood and Darryl Filippi, as members of the Hudson Planning Board and not individually, Land Court Docket No. 22-MISC-000134.

By roll call vote: Chairman D’Amelio, yea; David Daigneault, yea; Darryl Filippi, yea; Andrew Massa, yea. 4-0-0. Unanimous

Chairman D’Amelio seconded by David Daigneault moved to adjourn Executive Session and reconvene in Open Session. By roll call vote: Chairman D’Amelio, yea; David Daigneault, yea; Darryl Filippi, yea; Andrew Massa, yea. 4-0-0. Unanimous

At 7:00 PM, Mr. D’Amelio, Chair, reconvened the public session.

Board Members Participating: Robert D’Amelio, Chair

David Daigneault
Darryl Filippi
Andrew Massa

Board Members Absent: Rodney Frias, Vice Chair

Staff Members Participating: Kristina Johnson, AICP, Director of Planning

ANR Endorsement- Chestnut Street

Steve Poole presented an overview of the Approval Not Required (ANR) plan for Chestnut Street. Chairman D’Amelio confirmed there was adequate frontage. Chairman D’Amelio seconded by Mr. Filippi moved to endorse the ANR plan for Chestnut Street. 4-0-0. Unanimous.



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ANR Endorsement- 191 Parmenter Road

Kevin O'Malley presented an overview of the ANR plan for 191 Parmenter Road. Chairman D'Amelio confirmed that this ANR plan entailed the conveyance of certain pieces of the overall parcel to new owners, and that there was adequate frontage.

Mr. Filippi seconded by Mr. Massa moved to endorse the ANR plan for 191 Parmenter Road dated October 17, 2022. 4-0-0. Unanimous.

ANR Endorsement- 540 Main Street

Tom DiPersio presented an overview of the ANR plan for 540 Main Street, which entails the division of land owned by Kane Perkins Company, specifically the E. Perkins Concrete Plant. Mr. DiPersio discussed how dividing off of these two lots doesn't affect the fact that the rest of the remaining land remains a buildable lot in that zoning district. And he further he noted that they are cutting out what is called Parcel C then we're also cutting out what we're calling parcel C, be combined with the land at five 540 Main Street, which is the lot just to the south of Parcel C.

Chairman D'Amelio seconded by Mr. Filippi moved to endorsed the ANR plan for 540 Main Street dated May 5, 2022. 4-0-0. Unanimous



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dividing off of these two lots doesn't affect the fact that the rest of the remaining land remains a buildable lot in that zoning district. And then we're also cutting out what we're calling parcel C, which it's noted on the plan not to be considered an independent building lot, which will be combined with the land at five 40 Main Street, located just to the south of Parcel Sea.

Indian Farms Subdivision- Discussion of Bond Adjustment and Lot Releases

Brian Jacobs presented the adjusted bond, which was requested by the Planning Department to include an additional contingency for the lot design. Chairman D'Amelio noted that Town Counsel had reviewed and approved the adjustment to the Bond in the amount of \$297,089,00

Mr. Daigneault seconded by Andrew Massa moved to accept the bond for Indian Farms subdivision in the amount of \$289,089 with the condition that prior to the issuance of the Occupancy Permits, as-builts for each lot shall be reviewed by the Planning Department and/or third-party review engineer in relation to the approved subdivision plans. 4-0-0. Unanimous.

Chairman D'Amelio seconded by Andrew Massa moved to release the remaining lots in the Indian Farms subdivision. 4-0-0. Unanimous

Chairman D'Amelio expressed his concern about the issuance of building permits prior to the release of the lots, and referenced a Section within the Subdivision Control Regulations about obtaining permission from the Planning Board prior to any building on the lot. Ms. Johnson read Section 6.3 of the Subdivision Control Regulations which states "no building shall be erected within a subdivision without written permission of the Planning Board." Ms. Johnson stated that she had spoken to the Building Commissioner, and he reaffirmed his procedure that building permits can be issued without the Planning Board releasing the lot (s) and that two processes are unrelated.

Discussion and Formulation of Recommendation on Town Meeting Articles

Article 30 – Amendment to Section 7.1.7 (Site Plan Review Regulations)

Attorney Mark Bobrowski (Special Counsel for the Intel project) provided an overview of the proposed amendment to the Site Plan Review regulations. Attorney Bobrowski explained that Site Plan Review, unlike Special Permits and Variances, is not codified in State Statute (MGL Chapter 40A-the State Zoning Act). Absent any statutory construction for Site Plan Review, the process/practice has been upheld/administered through Massachusetts case law. It is his recommendation that a direct appeal to a court of competent jurisdiction be allowed through a new provision in our site plan review regulations. to follow the provisions within Chapter 40A for the appeal of Special Permit or Variance. Currently without this provision, all local administrative processes would have to be exhausted FOR ANYONE (legal abutters, or property owners) to appeal a decision. An aggrieved party (again either a property owner or legal abutter) would have



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to wait for the Building Commissioner to issue or deny building a permit, and then the aggrieved party would appeal not to Court, but to the Zoning Board of Appeals. Essentially, the Zoning Board of Appeals would be acting a "judge" of another Board's decision. So if the Planning Board approved a Site Plan and the abutters wanted to appeal, they would have to wait until the Building Commissioner acted upon the Building Permit and then filed an appeal with the Zoning Board of Appeals. And the reverse. He described a scenario where the Planning Board denied the Site Plan and the property owner would have to go through the same process. Attorney Bobrowski underscored that this Article would create more judicial economy for all parties involved in this and all site plan review matters.

Mary Anne Walsh, 25 Otsego Drive questioned why the Town residents would want to approve this proposed amendment in light of the redevelopment of Intel. Ms. Walsh stated her belief that it was in the best interest of the residents to delay the process as much as possible to make it hard for the developer. Attorney Bobrowski stated that absent a direct appeal to Superior or Land Court, all of the delays in the process and the require exhaustion of all local administrative remedies will result in high legal costs for all parties involved.

Alan Goldsworthy, 9A Autumn Drive questioned whether certain restriction or conditions included in any approval would have to be fulfilled prior to the issuance of a building permit. Attorney Bobrowski stated that commenting on conditions of approvals relative to the public hearing for 75 Reed Road at this public hearing would be pre-judging the outcome of an adjudicatory process. Mr. Bobrowski stressed that the purpose of tonight's hearing to is discuss the merits of amending the Site Plan Review regulations not to discuss the matter of 75 Reed Road.

Planning Board members discussed the merits of the proposed amendment to the Site Plan Review regulations. Attorney Bobrowski reminded the Board that they are within the 21- day statutory period before Town Meeting, and need to make a recommendation in order for the Article to proceed at Town Meeting.

Mr. Massa seconded by Mr. Filippi to recommend the adoption of Article 30. 2-2-0. No recommendation.

Article 32- Amendment to the Medical Marijuana Overlay District

Planning Board members discussed Article 32, which entails an amendment to Section 5.11.5 Paragraph 10 of the Use Regulations of the Zoning By-laws for the Medical Marijuana Zoning Overlay District to allow medical marijuana establishments to open, operate, and receive deliveries between the hours of 8:00 AM and 10:00PM. Mr. Daigneault expressed his opposition to this article.



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After a presentation and discussion of the proposed amendment to the Zoning By-laws Chairman D'Amelio called for a motion. No motion was made.

Article 33- Amendment to the Retirement Community Overlay District

Planning Board members discussed Article 33, which entails an amendment to Section 5.8.1.2 (d) of the Allowed Uses of the Zoning By-laws for the Retirement Community Overlay District to Section 5.8.1.2 (d) if the Zoning Bylaws shall be amended by deleting said section in its entirety and replacing with the following new Section 5.8.1.2 (d): No dwelling shall contain less than 1,000 sq. ft. of living area or more than 2,400 sq. ft. of living area, excluding the floor area of any portion of a finished basement. At least 66% of the living area in each unit shall be located on the first floor, excluding the floor area of any portion of a finished basement, or take any action relative thereto.

After a presentation and discussion of the proposed amendment to the Zoning By-laws, Chairman D'Amelio called for a motion. No motion was made.

Article 29- Roadway Acceptance for Silver Oak Roadway-

Planning Board members discussed Article 29, which entails the acceptance of Silver Oak Roadway as a Town way and associated easements. Chairman D'Amelio questioned why Cedar Street Extension was shown on the acceptance plan, as the construction of that road was waived unless the construction of the adjacent lots moved forward. Tom DiPersio concurred and noted that Cedar Street Extension was shown on the Definitive Subdivision Plan in order to provide frontage for the future development of certain lots. Board members agreed that the Cedar Street Extension be removed from the Acceptance Plan, and that this could be done via an amendment on the floor at Town Meeting.

Chairman D'Amelio seconded by Mr. Massa moved to recommend the acceptance of Silver Oak Road and the easement and recommend amending Article 29 on the Town Meeting floor to remove "Cedar Street Extension" from the Article. 4-0-0. Unanimous.

Old County Road Subdivision- Discussion and Deliberation

Planning Board members discussed the draft order of conditions prepared by the Planning Director. Members offered revisions to several of the conditions for the final Definitive Subdivision decision. Chairman D'Amelio noted that the Planning Board will be holding the lots, and will release lots until 50% of the subdivision is developed and then will require a bond to complete the remaining infrastructure.

Chairman D'Amelio seconded by Mr. Massa moved approve the Definitive Plan application of Martin Reilly Real Estate for the layout of the roadways in the Old County Road Definitive



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Subdivision as shown on the plan entitled: *Definitive Subdivision Plan, Hudson, Massachusetts May 22, 2022*” prepared by Thomas DiPersio, Jr. and Associates dated May 22, 2022, as re revised on August 18, 2022 and September 28, 2022 with the following waivers and conditions: 3-1-0.

Waivers: There are no waivers requested.

Conditions:

1. Prior to the commencement of construction, a pre-construction conference must be held between the developer, the Director of Planning and Community Development, DPW Director, Fire Chief, Police Chief, Building Commissioner, Hudson Light and Power, and the 3rd party peer review engineer, and other interested parties. If construction begins without this conference, construction will cease immediately until the conference is held.
2. A list of 24-hour emergency contact information must be provided to the Director of Planning and Community Development and the DPW at the pre-construction conference.
3. Hours of construction will be Monday through Friday 8:30 a.m. to 5:00 p.m. and Saturday 8:30 a.m. to Noon. No work or operation of machinery may happen before 8:30 a.m. or after 5:00 p.m. Monday through Friday and before 8:30 a.m. or after 12 p.m. on Saturday. Per the Massachusetts General Laws, work on Sundays and holidays need to be permitted on a case by case basis by the Chief of Police.
4. Prior to the commencement of authorized site activity, the Director of Planning and Community Development must be given 48 hours written notice. If the activity at the Project Site ceases for longer than 30 days, 48 hour written notice must be given to the Planning and Community Development Department prior to restarting work.
5. A copy of this Decision and all final approved Plans must be kept at the Project Site.
6. Members or agents of the Planning Board and the Town Staff must have the right to enter the Project Site and to gather all information, measurements, photographs or other materials needed to ensure compliance with this approval. Members or agents of the Planning Board or Town Staff entering onto the Project Site for these purposes must



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comply with all safety rules, regulations and directives of the Applicant and the Applicant's contractors.

7. The installation of the landscaping must be reviewed and approved by the Conservation Agent, and the developer to the greatest extent feasible must plant native and drought resistant species. The developers must work with the Conservation Agent to stagger the planting of the trees and other landscaping to ensure a more natural look to the site.
8. In accordance with the Order of Conditions in the Notice of Intent issued by the Conservation Commission, all erosion control measures must be installed within the 100-foot buffer, and must reviewed and inspected by the Conservation Agent. Weekly erosion control reports must be submitted to the Department of Public Works and the Conservation Agent no later than noontime on Fridays.
9. Pursuant to Section 5.3.4.1 (b) (3), the 50-foot vegetated buffer must be established along all of the lakefront properties and maintained throughout the duration of the construction. The 50-foot vegetated must be staked out prior to construction of the roadway and inspected by the 3rd party engineer for the Planning Board and the Conservation Agent. All lakefront properties must be subject to individual deed restrictions in perpetuity to be recorded at the Registry of Deeds along with the Definitive Subdivision Plan whereby no structures, driveways, nor hardscapes are permitted within the 50-foot vegetated buffer zone, 30 feet of which must be a no-touch zone where no landscaping must be permitted with the exception of basic native planting and removal of plantings with the express written approval by the Conservation Commission.
10. The installation of all drainage infrastructure must be reviewed and approved by the 3rd party peer review engineer to ensure compliance with the Definitive Subdivision Plans and proper functionality.
11. If, during construction, a discrepancy is found between the approved plans and the existing regulations, the Department of Public Works, Building Commissioner and the Director of Planning and Community Development will be notified immediately. The Department of Public Works will make the final decision on how to proceed or if they are unable to make any decision, the matter will be referred back to the Planning Board for review.



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12. Inspections must be conducted in accordance with the Town of Hudson Rules and Regulations, which allows the Planning Board to use a full-time inspector to be paid by the developer. At this time the Department of Public Works will handle the inspections on their own schedule. The Board reserves the right to require full time inspections if, in the opinion of the Board they become necessary.
13. Once the first house is occupied, the roadway will be swept every Friday afternoon until the road is accepted by Town Meeting, unless waived in writing by the Department of Public Works with a copy to the Planning Board.
14. The subdivision will be completed within two years of approval. Prior to expiration, the developer may ask for a one-year extension of time to complete the subdivision. If the Board determines that a one-year extension is warranted, it will also review the bond amount and adjust for inflation. Extension requests after expiration will not be looked upon favorably. If no extension is granted and the two years expires, then the subdivision will be in default and automatic rescission will occur.
15. Prior to the of acceptance of the Roadway, all easements must be reviewed and approved by Town Counsel and the acceptance plan review and approved by the Department of Public Works.
16. This approval is subject to receipt of proper and acceptable security for the installation of all municipal services which must be completed in accordance with the applicable Rules and Regulations of the Hudson Planning Board and MGL c.41 s.81U.

Approval of Meeting Minutes

Chairman D'Amelio seconded by Mr. Daigneault moved to approve as written meeting minutes for the August 2, 2022, September 27, 2022, October 4, 2022, and October 18, 2022 meetings. 4-4-0-0. Unanimous



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Adjournment

Mr. D'Amelio seconded by Mr. Filippi moved to adjourn the meeting at 9:20 PM. 4-0-0. Unanimous.

Cc: Town Clerk