

HOPKINTON PLANNING BOARD

Monday, April 10, 2006 7:30 PM  
Hopkinton Town Hall

MINUTES

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PRESENT: Mark Abate, Chairman, Brian Herr, Vice Chairman, Sandy K. Altamura, Evan Ballantyne, John H. Coolidge, R.J. Dourney, Jaime Goncalves, Claire Wright

.....Elaine C. Lazarus, Planning Director

**1. Public Hearing – Zoning Map Amendments**

**A. 159, 161, 167 West Main St. and 22 South St. – Rural Business and Industrial to Business:**

Peter Markarian and Chuck Joseph, proponents, appeared before the Board. Mr. Joseph stated that he has been involved in a lot of the Town’s visioning exercises over the last few years, and there have been many ideas to develop the non-residential tax base. He stated they have been involved with business development before, so they looked at alternatives and ideas. He stated they looked at the downtown and talked to landowners, but it didn’t work out. He stated they then looked elsewhere in Town, focusing on the old Stickey Wicket/Gibson Grille location and adjacent parcels, trying to see if they could put some parcels together. He stated there are five properties there with three homes and two businesses, including the Puppy Patch. He stated that all of the West Main St. parcels in this area are zoned Rural Business (BR) and the Ryder Truck parcel on the corner of South St. is zoned Industrial (I). He stated they have put the Gibson Grille and the other properties under agreement and are still negotiating with the Puppy Patch owner. He stated they would like the parcels rezoned to Business (B). He stated this location at the Rt. 495 interchange is where businesses already are, so it makes sense to have commercial uses on the parcels.

Mr. Joseph noted that coincidentally, representatives of the Industrial Commission had approached the Gibson Grille owner to discuss the property just after they entered into an agreement with the owner, as it had identified this area as prime for redevelopment. He noted that the area was zoned BR and I several years ago, but if it was zoned and developed today, B would make more sense. He stated that if the Town is not going to have business development here in this prime location, then where?

Mr. Markarian stated that the petition they submitted is for 159, 161 and 167 West Main St. and 22 South St. He noted that the Board of Selectmen has submitted an article to rezone 157 West Main St. (Puppy Patch) to Business, and that hearing will be held by the Planning Board on April 24. He stated the owner is interested in seeing this change happen.

Ms. Altamura asked about the ownership of abutting property on South St., and it was noted that it is EMC Corp. Ms. Altamura asked if it is unlikely that adjacent parcels will also be rezoned to Business in the future. Mr. Markarian stated it is unlikely, and they are not trying to rezone anything other than what they have proposed. Ms. Altamura stated her concern is a big box store. She noted that at a previous meeting it was stated that there wouldn't be enough land to have a big box store with all of the parking that would be required. Mr. Markarian replied that is true, noting that a typical Home Depot is 140,000 sq. ft. and the parking requirement for retail in Hopkinton is 4 spaces per 1,000 sq. ft. He noted that a parking lot to serve that large a building would be 320,000 sq. ft. in size, and with setback requirements and wetlands, etc., there isn't enough room for that. He stated they could squeeze in 100,000 sq. ft. of office or shops provided the market is there for it. He stated they are investing a lot to get this land and either business or office use would generate more revenue.

Mr. Ballantyne noted the Town is facing a \$2,000,000 override and the Town needs more businesses to increase the tax base and not drain services. Ms. Altamura stated she is concerned about hop scotching from this location to downtown along West Main St. and Main St. She noted that retail and service businesses would be ok here, but she is concerned with the domino effect. She stated she doesn't want it to look like the strip development in other towns. Mr. Markarian stated it would be difficult to assemble parcels of any size on the part of West Main St. toward downtown. Ms. Altamura noted that at the Zoning Advisory Committee (ZAC) meeting, Mary Harrington gave a history of the BR district, and she is concerned about taking land out of that zone after people worked so hard to get it in that district.

Mr. Herr noted that the ZAC voted 6 in favor with one opposed and one abstention on this proposed zoning change. Mr. Ballantyne noted that the ZAC discussed traffic concerns. Mr. Markarian stated they would commit to being part of a traffic solution.

Ms. Wright asked if the land would be developed as one site or smaller lots. Mr. Markarian stated they have looked at the options, but plan to market it as one. He stated they think there will be one master plan for the land, which is what they want to do. He stated they will also look at mixed use options.

Mr. Coolidge asked what the biggest building is that could be located there. Mr. Markarian stated that a one level building would be limited to 100,000 sq. ft.

Mr. Goncalves asked about the timeframe for development. Mr. Markarian stated that they would be ready to go in one year if they are optimistic, two years if they are more realistic. He noted that Ryder Truck has a two year lease starting this year.

Joe Markey, 49 Ash St., asked what the tax impact of the development would be for the development and/or a 100,000 sq. ft. building. Mr. Joseph stated they didn't want to presume what could be located there, so they don't know what an assessed value would be. Dave Streeter, EMC Corp. stated that a 100,000 sq. ft. building at today's tax rate and estimated assessed value might yield \$144,000 in tax revenue. Mr. Goncalves asked what tax revenue the parcels generate now, and Mr. Markarian stated he didn't know.

Mary Pratt, 102 Fruit St., noted that the Town should use Rt. 109 as an example of what to avoid, and there should be as few curb cuts as possible for the parcel. She referred to DIF and TIF tax incentive programs which the owners should look into.

Ron Roux, Chamber of Commerce, stated the proponents came before the Board of Directors and the 15 present voted unanimously to support the proposal. He stated this is consistent with what the Town is trying to accomplish with the tax base.

Mr. Streeter asked about a statement made earlier indicating that businesses which contribute to the traffic problems would be asked to contribute to a solution. Mr. Markarian noted that any time there is development more traffic is generated, and there are a lot of businesses on South St. He stated if there is going to be mitigation, all sources should be looked at. Mr. Streeter asked if they expect South St. owners to contribute. Mr. Markarian replied no, that the Town could discuss the issue with all businesses in the area. It was noted that EMC Corp. has contributed extensively to the upgrade of the intersection and widening of South St. already.

Nancy Peters, 258 Wood St., asked if they will be looking for the types of tax incentives mentioned by Mrs. Pratt. Mr. Markarian stated they don't know.

Kevin Kohrt, 35 Winter St., asked if a summary of risks and benefits to the Town had been prepared. Mr. Abate noted he has heard plusses and minuses mentioned. Mr. Herr stated there is more risk for the developer than the town.

Mr. Ballantyne stated that if there are retail uses there, they would typically open after rush hour, so that wouldn't necessarily exacerbate the traffic problems. Mr. Markarian noted that 77 Main St. is 50,000 sq. ft. and he hasn't seen any traffic problems result.

Mr. Dourney stated that Town Meeting will make the decision. He suggested that the Board look at what will benefit the Town and how to make it happen. Mr. Coolidge noted that the property could be sold tomorrow, and the Town should be ok with the change irrespective of who the owner is. Mr. Markarian stated they don't intend to flip the property.

Joe Karner, 176 West Main St., stated he understands the uses permitted. He asked how the proposed change can be reconciled with the goals of the Master Plan. He asked how the Board can overlook that. Mr. Abate stated the Master Plan is a guiding document, not a law. He noted that it was prepared in 1999 and is about to be updated. He stated the Board will use its best judgment and consider lots of factors, including the Master Plan. He stated he views this as a benefit, but is concerned about traffic. Ms. Wright stated the Master Plan has goals, not edicts.

Jeffrey Doherty, 3 Angel's Way, stated he is a member of the Chamber of Commerce, Design Review Board and Open Space Preservation Commission. He stated he is not embracing this proposal. He stated it would be changing the zoning to fit a use to increase the tax base. He asked if the Board intends to change the zoning of South St.

from Industrial to Business. He stated it doesn't make sense, and one might as well rezone toward the downtown too, then West Main St. would need to be widened to 4 lanes.

It was moved and seconded to support the proposed rezoning request. The Board voted 6 in favor with two opposed (Altamura, Coolidge).

Mr. Markarian stated that the 22 South St. article submitted into the warrant separately by the property owner will be withdrawn.

**B. Interim Planning Overlay District and East Hopkinton Interim Planning Overlay District:**

Mavis O'Leary, 11 Curtis Rd., Liisa Jackson, 8 Cross St., and Bill McCarthy, 5 Linden St., appeared before the Board. Ms. O'Leary described the Weston Nurseries area, noting that residents have enjoyed having them as a neighbor and appreciates their permission to use their land as open space over the years. She asked that the Board take into consideration how their neighborhood would be protected during the time it takes the Town to prepare a Master Plan for the area.

Ms. Jackson explained the background of the articles. She stated that she and Ms. O'Leary are members of the Land Use Study Committee (LUSC), which as looked at the options for the land. She stated they discussed the impending Master Plan for the area, and realized that anything that happens here will change the Town. She stated it will take a few years to plan and attract a developer to do what the Town wants. She noted that the Interim Planning Overlay District (IPOD) concept grew out of that. She stated it is an attempt to control what happens during the planning process. She stated the tax impact on the Town of all single family homes on the property would be negative. She stated that Mr. McCarthy had an idea for the IPOD, which gives the Town time to zone and master plan the area. She stated that if the uses allowed by right on the parcel are built it would be a burden on the Town, and asked the Planning Board for support.

Mr. McCarthy stated the two articles should be looked at separately. He stated the first adds a new zoning bylaw that would be there if someone wants to propose to Town Meeting an IPOD anywhere in Town. He stated the Town should adopt it for future planning purposes, as it is a planning tool. He stated that some have mentioned that the special permits should be issued by the Planning Board instead of the ZBA, but an amendment to that affect could be outside the scope of the article. Ms. Lazarus agreed.

Brian Morrison, 22 Piazza Ln., stated that no uses would be prohibited within the IPOD. He noted that he has heard for a year that single family homes would be a deficit. He stated that although property values would go up if all the homes built are McMansions, the residents of the area are proposing this for consideration for the good of the Town. He stated if it would jeopardize the sale of Weston Nurseries, it is not the intent and the Town may not adopt the IPOD. He stated the property could be for uses to complement the downtown and become an income generator and not a drain.

Mr. Abate asked how the change would benefit the Town as a whole. Mr. Morrison stated that if residential uses are built on the site, there would be a net tax negative because of the service costs, schools, etc. He stated there are uses that are environmentally worse, but the Town is focusing on a revenue positive outcome. He stated if a project comes in, it would be reviewed by the Planning Board and the Bd. of Appeals. He stated it is a planning tool.

Ms. Wright stated that the 250 sq. ft. threshold for requiring a special permit is too small. Mr. Morrison asked if the number could be increased. Ms. Wright asked if exempt uses and comprehensive permits would supercede the bylaw requirements. Mr. Morrison replied yes, it wouldn't stop them. He stated that every part of town is vulnerable to those uses.

Mr. Ballantyne stated that Garden Apt. developments are good for the Town because it allows an outlet for alternatives to single family homes. He stated this change should be viewed from the viewpoint of a developer. He expressed concern with potential 40B developments on the property and that the IPOD may spur their application.

Mr. Abate asked if the LUSC has an opinion on the articles. Finley Perry, Chairman, LUSC, stated that they did not take a position on the articles. He stated that it was the sense of the committee that they couldn't support it because the drafting wasn't satisfactory, reviewed by the appropriate town boards, or reviewed by the property owners.

Lynn Branscomb, 8 Kerry Ln., stated that whether or not there is an IPOD, a 40B could happen. Mr. Ballantyne stated that developers often threaten to submit 40B applications.

Patricia Whalen, 57 Hillcrest Dr., stated that if the Town has 10% affordable housing, it doesn't have to worry about 40B's.

Mr. Coolidge stated that developers are responding to the market.

Mr. Kohrt stated that threats by developers wouldn't change in this situation. He noted the IPOD could allow the Town to produce a master plan of benefit to the owners, and could be profitable for all in the end. Mr. Dourney stated that developers are risk averse.

Ron Roux, 122 Pond St., stated that this is the biggest impact piece of zoning the Town has seen. He stated that usually there is a lot of work and time that goes into preparing zoning articles. He stated that no time was spent by the ZAC or Planning Bd. on the articles. He stated that people will have to go before the ZBA to determine whether they can build a house. He asked what basis would there be for them to act on?

Don Bartlett, 7 Lorigan Rd., stated he has read through the articles. He stated it is aimed at the Weston Nurseries land sale, and people are concerned about development there. He stated that these are not the way to go forward. He stated an RFP for planning services has been issued for the East Hopkinton Master Plan now, and the Town should let the process play out. He stated the Town has the right of first refusal on the property.

He asked why expand to a larger area, more than Weston Nurseries, about a third of the Town. He stated that if approved, there would be a chilling effect on all developable land and value would be reduced. He stated the Mezitts could sue the Town for reducing the value of their land. He asked why shouldn't the proponents have to go through the town board process? He stated the ZBA has said it couldn't handle the workload. He stated the special permit criteria are vague and subjective and could lead to litigation and appeals. He stated the Planning Board shouldn't support the articles and should present information at Town Meeting to defeat them.

Mr. Morrison noted the boundaries of the East Hopkinton IPOD are the same as the one chosen by the LUSC for the East Hopkinton Master Plan. Mr. Morrison stated the master plan could be preempted by development of the land, and the bylaw prohibits nothing. He stated one can't presume that the ZBA will deny everything.

Ms. Jackson stated that they met with Ms. Lazarus, Board of Appeals, ZAC, and LUSC, plus they reviewed the bylaw with the Attorney General's office, trying to go through the proper channels.

Ms. Wright stated she is not familiar with the IPOD concept. She stated she is in favor of neighborhood preservation. She stated the laws were enacted by town meeting and agreed to by the town. She stated if there is a proposal to rezone, it goes to town meeting and is voted there. She stated in this interim time period established by the bylaw, people are caught. She asked what would happen if the zoning change at the end doesn't pass, and the ZBA has denied a permit, then someone was held to nonexistent zoning regulations. She stated she isn't sure the Town can find common ground on a common vision, and she is concerned for people who will be caught in the middle.

Mr. Bartlett stated that if the concept is a good idea, it should go through the process.

Ms. Altamura noted that the ZAC gave the articles a positive vote so that it could go to the Planning Board for further discussion. She stated she thinks the article doesn't have enough in it and needs more work.

The Board voted unanimously to recommend that Town Meeting not adopt the articles.

## **2. Continued Public Hearing – Deerfield Estates – Modification of Senior Housing Development Site Plan – Lumber St.**

Chuck Scott, engineer, and Martin Loiselle, Capital Group Properties, appeared before the Board. Mr. Scott stated they have modified the plan to show a parcel for the house at 148 Lumber St. with 150 ft. of frontage as discussed at the previous hearing. Mr. Goncalves asked about the setback distance from structures to the new property line. Mr. Scott replied that building #2 will be about 16 ft. from the line, building #21 will be about 10 ft., and building #1 will be about 30 ft. away. He stated they can address all of the concerns raised by the Board's engineer regarding the stormwater runoff, and intend to place a catch basin at the development driveway and divert additional water to the detention basin. The Board discussed whether the catch basin should be put on the high side of the driveway or the low side, noting that there will

be icing in the winter if it is on the low side. The Board stated that it preferred to locate it on the high side to avoid the icing situation.

The Board voted unanimously to determine that the Site Plan Approval Criteria contained in the Senior Housing Development bylaw continued to be met, and to approve the modified Site Plan with the following conditions:

1. All outstanding issues stormwater management related issues contained in the letter from Fay, Spofford & Thorndike (FST) dated March 22, 2006 shall be resolved to the satisfaction of the Planning Board and shown on the Site Plan prior to construction of the units depicted on the plan of the modified area. The Applicant shall be responsible for the cost of FST review.
2. A parcel will be created so that the historic home can be conveyed to the Historical Commission. The previously approved and partially constructed Site Plan showed the historic home being converted to a dwelling unit within the development, and new units were sited close by. However, due to the location of the new property lines around this home and the proximity to the condominium units, a waiver of the setback requirement for the new units is required. The Board approves the waiver requests for building #1 (33 feet ±), building 2 (15 feet ±), and building #21 (10 feet ±), which are shown on the plan entitled "Concept Plan Alternative III" prepared by CFS Engineering and revised through April 10, 2006.
3. Condition #2 of the Site Plan Decision is modified to allow the construction of 47 dwelling units within the development.
4. The Planning Board expects that the Applicant will perform work to fix and restore the house to standards which are in accordance with an agreement to be developed by the Applicant and the Historical Commission.

**3. Continued Public Hearing – Sunshine Preschool – Amendment to Condition of Site Plan Review – 1 Briarcliff Dr.**

Christine Martin, Sunshine Preschool, stated she spoke to the neighbor at 3 Briarcliff Dr. after the last hearing regarding the issue of people turning around in their driveway, and watched traffic in the area. She stated she thinks it was people who were looking for the school because there is no sign. She stated she could put one up to alleviate that. She noted that the complaint about children playing in the neighbor's yard was apparently a child retrieving a ball. She stated that children play outside at the preschool for 20 minutes in the morning and 20 minutes in the afternoon.

Mr. Dourney asked if she had any thoughts on how to make this a win-win situation. Ms. Martin stated she asked for permission to operate year round. She stated she was only thinking of an extra 2 weeks, and has talked to neighbors about it. She stated she has already compromised. She stated she may be agreeable to less time. The Board discussed concerns with safety and traffic that were raised. Mr. Herr stated the Board needs to address the rights of both business owners and residents.

Ms. Wright stated she visited the site and watched the drop-off today, and saw people go through the stop sign at the intersection. She stated that none of those people came to the school. She stated the issue of people not stopping at the sign seems to be an enforcement issue for the Town.

Patrick Naughton, 13 Wild Rd., stated there have been a lot of near misses.

Brian Thomson, 4 Briarcliff Dr., stated they have 3 kids home in the summer, and bought the house knowing when the school would be open.

Mike Manning, 32 Briarcliff Dr., stated that Ms. Martin wouldn't have agreed to this condition originally if she didn't have to. He stated it is not a safe neighborhood and the sidewalk is not safe. He stated the residents spent \$50,000 on the Agreement and it was wasted.

Ms. Altamura questioned Ms. Martin about the Agreement with the residents. Ms. Martin stated she had no intention of opening in the summer at that time, and she wants to be able to have the flexibility to be open longer for a summer camp program. She stated in the summer camp program now which concludes when public school ends has 24 children and goes until 12:30 pm. She stated the school has to be closed in August for cleaning and teachers like time off in the summer.

Mr. Goncalves noted that it has been pointed out to the Board that the current condition which limits the times during the year the school may operate is not legal, and now that it has been raised the Board needs to eliminate it. He stated he doesn't like it, but it needs to be done.

A motion was made and seconded to remove condition #13 from the Board's Site Plan approval. The Board voted 5 in favor (Herr, Coolidge, Dourney, Goncalves, Wright) with Ms. Altamura opposed and Mr. Abate and Mr. Ballantyne abstaining.

#### **4. Administrative Business**

The Board voted unanimously to pay outstanding bills.

The Board discussed its presentation of articles at town meeting. The Board asked Ms. Lazarus to request that the Downtown Revitalization Committee make a presentation with respect to the Business District articles, and that Eric Sonnett make a presentation for the WRPOD map.

Mr. Dourney suggested that the Board invite EarthTech representatives to the next meeting to discuss the Water Resources Protection Overlay District map article again, as some members may benefit from further discussion of the science involved in creating the boundaries. The Board asked Ms. Lazarus to invite EarthTech to the next meeting.

Adjourned: 10:00 PM

Elaine C. Lazarus, Planning Director

Approved: May 8, 2006