

# HAMPSTEAD PLANNING BOARD

11 Main Street Hampstead New Hampshire 03841-2033

## Minutes for 17 September 2012

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Chairman Randy Clark opened the meeting at 7:00 P. M. Members present were Randy Clark, Proctor Wentworth, Paul Carideo, Neil Emerson, Dean Howard, Bill Weber and Priscilla Lindquist, Ex-officio voting member. Nick Cricenti, PE, SFC Engineering and Planning Board Secretary Susan Hastings attended. In attendance were: Stephen Pernaw, PE, Richard Towne, Bruce Worthen, Mark Gross, PE, Phil Towne, Art Kearley, Nick Todesca, Michael Todesca, Barbara Gallant, Shirley Paz, Janet Rabideau, Penny Williams, media correspondent, Richard Hartung, Karen Yasenka, Sharon Towne, Jameson Hill, Chad Bennett, Craig Bennett, Julia Forbes, Judy Weber. The correspondence is part of the record.

### PUBLIC HEARING

#### **01-018 Depot Crossing** *continued from 16 July 2012 meeting*

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Chairman Clark opened the continued first public hearing for Depot Crossing. This hearing was continued from 16 July 2012. Mark Gross said he would summarize the plan changes. R. Clark called for a motion to take jurisdiction of the plan.

#### MOTION

**Proctor Wentworth made a motion to take jurisdiction of the plan for Depot Crossing, Map 1 Parcel 18 as presented. Neil Emerson seconded the motion and the Chairman asked members to vote. VOTE YES Proctor Wentworth, Neil Emerson, Dean Howard, Paul Carideo, and Priscilla Lindquist; NO Bill Weber; ABSTAIN Randy Clark. Jurisdiction of 01-018 Depot Crossing approved.**

The Chairman announced he would take only new information from the audience. Mark Gross, MHF Design Consultants, presented revised plans dated 8/25/2012 to Board Members and Nick Cricenti, SFC Engineering. All reports are part of the record. Randy Clark requested Mark Gross summarize the plan changes. Mark Gross said # 1. The original 2001 plan represented 6,440 square feet of space or 66% and the current plan has 4,847 square feet of space or a reduction of 33%.

# 2. The traffic has decreased since 2008 according to the State of New Hampshire, Department of Transportation, and Traffic Bureau Statistics. The 2008 number for Main Street traffic was 8500 and the report for 2010 is 7800, **Attachment # 1**.

# 3. The "nature of the neighborhood" was reviewed. According to the History of Hampstead the Hampstead Depot, just south of the site under consideration, was destroyed by fire in 1913. There are three C-1 districts in this Main Street area. There was a store at 615 Main Street with a post office and

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### PUBLIC HEARING

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gasoline pumps. **Attachment # 2.** Mr. Gross listed many of the current businesses and home occupations of the area.

# 4. Items asked to be located on the plan include the driveway into Ordway Park and the Paz's from Route 121. The well for the Paz' is located in Ordway Park.

# 5. The number of vehicles in the queue line at Dunkin' Donuts is nine or 10. **Attachment # 3.**

# 6. One way traffic at the retail end of the building is not practical.

# 7. Snowmobile use from the railroad bed to the gasoline facilities is not encouraged. There will be no access provided. Should the recreational vehicles use Route 121, they will be subject to police enforcement.

# 8. The tree buffer for the area along Derry Road from 121 has been changed to white spruce.

# 9. The angle of the building is at 45 degrees to the corner of Route 121 and Derry Road. The zoning does not specifically define "back" when referring to a building design.

#10. A plan note details the trash site.

# 11. The "groove capacity" of the pad under the gasoline pumps meets the State of New Hampshire requirements. There are four pads in use on the site.

# 12. Mark Gross presented a set of photographs of structures in the path of vehicle lights exiting the site on 121. The Paz's home shows a tree buffer in Ordway Park and some large bushes on the Paz property. The Derry Road exit shows a six-foot bank on the north side with vegetation and a seven-foot tall row of trees on top of the banking shielding the house. **Attachment # 5.**

# 13. The stop sign on the Derry Road as you approach Route 121 is a distance of ninety feet from the intersection. **Attachment # 5.**

# 14. An oversized sign is proposed for the Depot Crossing. A detail plan was provided. Only one gasoline price is required to be posted on the sign. Referring to # 13, a second stop sign will be placed closer to the intersection of Route 121 and Derry Road. **Attachment # 6.**

# 15. State Approval for the well has not been issued. An off-site well will be put in and tested.

# 16. State Septic Approval will not be issued until the well is approved by the State.

# 17. Department of Transportation access permit has been approved but has not been issued yet. There are no off-site improvements required based on the traffic counts.

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# 18. The entrance/exit onto Derry Road has been reduced from 26 feet to twenty feet. The letter from MHF Design Consultants dated August 16, 2012 is **Attachment # 7**. The comment letter from SFC Engineering dated September 4, 2012 is **Attachment # 8**. The minutes of the Technical Plan Review are **Attachment # 9**.

Randy Clark asked Board members if they had any questions. There was none at this time. The Chairman invited Stephen Pernaw, PE to respond to questions introduced at the last hearing. Mr. Pernaw presented written comments to Board members and addressed the audience. Some wrong appendicies' used were corrected and given to the Traffic Analysis group. (Summary **Attachment # 1**.)

Comment 1. "What was the date of the traffic order recount?" The State Department of Transportation count ran from 6/16 to 6/20, 2010. This data was not used. The data used was collected on 27 March 2012.

Comment 2. "Level of Service (LOS) is a failing level of service." The level of service in the Highway Capacity Manual describes, "*LOS is a quantitative stratification of a performance measure or measures of service that represent a quality of service.*" These range from "A" best operating conditions to "F" for the worst operating conditions from the traveler's perspective. The LOS provided during the peak traffic hours typically represents some lower balance between individual travelers, society's desires, and fiscal resources. The LOS generally varies during low volume periods of travel. Mr. Pernaw pointed out the genesis for incorrectly referring to LOS F as "failing" most likely comes from the similarity of this ranking system to that of a report card.

Comment 3. "Traffic volumes can't be down." Traffic counts done by our (SGP) office on 10/4/2001 and 3/29/2012 were confirmed by the NHDOT that "annual average daily traffic volumes have been decreasing at many nearby count stations. Many believe these decreases are due to slowing of the national economy and the employment situation in our state.

Comment 4. "Pinkerton Academy students are picked up near this intersection, (Route 121 and Derry Road) at 6:30 AM. Would this affect the study?" Mr. Pernaw replied no. The analysis is based on the peak 15 minute interval occurring at 7:30 AM to 7:45 AM. NHDOT analysis is consistent with this finding.

Comment 5. "What was the basis for the drive-through queuing estimates on Page 18 of the report" The statistical computations, attachments 4 & 5 of this document.

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Comment 6. "Why is the impact at NH121/Derry Road /Depot Road intersection de minimis?" This is due primarily to the type of use, existing travel patterns, and driveway configuration. A Bureau of Traffic memorandum dated August 10, 2012 accepts the traffic volumes and analysis contained in the submitted study. Some minor discrepancies were found but they "*are not expected to significantly alter the bottom line conclusions and recommendations of the study*". See the diagram for appendix F. Randy Clark asked if this meant no traffic light and no turn down lanes. Mr. Pernaw said that was correct. Neil Emerson asked about the eastbound traffic from Derry. S. Pernaw said there was not enough traffic and given the speed going uphill, a decal lane was not needed. Bill Weber said the report was in conflict with traffic safety. The four-way intersection has a failed level of service. He quoted Joe Beaudoin as saying at the Technical Plan review; it was "a dangerous intersection". Bill Weber maintained as a Board, we need a statement from the State on the safety of the residents. He stated he could not accept a decrease in the level of traffic and asked for an independent study authorized by the Board. B. Weber said the Judge in the previous legal action felt safety was the primary issue. He added the public and abutter concerns are different from the applicants. R. Clark said the information for questions 1, 2, and 3 came from the State of New Hampshire. Bill Weber asked again, why the intersection was labeled "F". It was pointed out the State definition under traffic analysis uses "F" for poor. Nick Cricenti said he was not sure that traffic lights would make the situation any better. S. Pernaw added the level of service at "F" poor meant at the peak traffic time the average time to get through the intersection was 50 seconds. Mark Gross said at other times the intersection ratings would be at "B or C". The State is not requiring a permit. There is some additional work on the curbing and some striping to be done. Priscilla Lindquist asked about the State's 20-year plan saying the intersection has been listed for many years as needing improvement. Randy explained the State is looking ahead to plan where the money allocations will go. The 10 year and 20 year plans are revised on a regular basis. Mark Gross said the Salem Depot intersection traffic problems have been on the list since 1983, almost 30 years. Currently most of the road improvement monies are going into I-93. R. Clark pointed out the Towns may provide part of the money to the State and jump-start a local program. S. Pernaw said it is all part of the safety analysis of the State. The issues raised by the abutters were 1. Most of them were here for a long time, 2. They do not want to see more property devaluation. 3. They are concerned with gasoline spills. 4. The vehicle headlights are a problem. The Chairman reminded the audience the Board is looking for new information.

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### PUBLIC HEARING

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Judy Weber asked why there are eight gasoline pumps questioning the need for so many. The Center Market has two pumps as does Don's Market. Mark Gross said there are many businesses along Main Street and the demand may not be as great. He added that Don's Market is in the Residential Zone. The traffic count on Route 121 has gone from 6400 in 2007 to 6300 in 2011; Route 121A in 2007 had a traffic count of 9900 and in 2011, it had dropped to 8500. Carlos Paz questioned the study results and the source. Julia Forbes asked when the count was conducted and if it included Pinkerton Academy traffic. Mark Gross said they used a study done March 27, 2012. Barbara Gallant asked for verification this was not during Pinkerton Academy vacation. Carlos Paz asked if anyone had verified the numbers in Appendix B from DOT. He added he had trouble accepting the work done by the traffic engineer. Craig Bennett asked how they could say the project was smaller when the square footage of the building was increased. Mark Gross pointed out the square footage for the previous building was square feet and this building has 4837 square feet. Chairman Clark pointed out there may be a larger business area but there will be less businesses. Julia Forbes said they were told at the last meeting the upper floor area would be a utility area and not habitable. She asked how much usable space there would be. Nick Cricenti explained the upstairs is for the mechanicals and not square footage to rent and will result in no traffic generation. Mark Gross added the Dunkin' Donuts space is increased by 1000 square feet to meet the franchise operating requirements for the freezer and stove. There will be the same 10 seats in the eating area. The requirement for sprinklers is based on the gross square footage and not the net square footage. Julia Forbes asked if the applicant would have to come back to the Board when the last business is contracted. They would only need to go to the Building Department for the occupancy permit. Julia Forbes added use changes do not always go before the Board.

Richard Hartung addressed the Board saying the Town would increase its' commercial base and there would be no impact on the schools. The more good businesses there are in Town the lower the tax rate. The site is zoned for Commercial 1 and has been for many years enabling a business to be located there. R. Hartung added it is a reasonable use of the land. Traffic concerns need to be worked out. Karen Yasenka spoke in favor of the proposal as a citizen and a realtor. She said she understood the abutters concern and the Board is making a good effort to resolve them.

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### PUBLIC HEARING

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K. Yasenka said the value of the properties in the area will be the same whether the lot is vacant or has a business built there. The property valuations have already taken into consideration the impact of the commercial zone. The developer of the land is from the community. The businesses will service the local area, the people using Ordway Park, the people using the ball fields and joggers passing by. This development will create jobs, short term and long term. They will support the tax base. He is well known, as are his other businesses, particularly the Citgo Station and the Store 'n More in East Hampstead. He is not going to partially construct a building and leave town. He has good employees. K. Yasenka asked the Board to consider the best interests of Hampstead.

Craig Bennett asked what the hours of operation would be. The stores will be open from 5:00 AM to 11:00 PM according to the plan note. Mark Gross said they had deliberated between opening at seven or five in the morning before settling on the earlier time. There will be credit card use at the gasoline pumps 24 hours a day. Shirley Paz pointed out to Board members the tree cover by her house is deciduous. The intersection is still on the State's 10-year list for needing improvement. Randy Clark pointed out the five to eleven hours are the maximum hours and could be changed. Janet Rabideau said the location of her house should be on the drawing. Mark Gross said he had no permission to go on her land. After discussion, it was decided the dwelling could be located close enough using the Google Map Earth. Gary Cyr asked why the drive through was necessary. This is the same as the previous plan. Nick Cricenti said he had reviewed the Site Plan Regulations and 1,200 square feet could be added to an existing building without coming back to the Planning Board. He added this did not mean they could convert the upper area to office space. As an example, Freshwater Farms had added a glass entrance to their rear doorway. Shirley Paz asked again if the owners knew what business would go into the retail space. Mark Gross said the State requested the Derry Road access be reduced from 26 feet to 20 feet. Craig Bennett asked if this would accommodate large trucks. The Route 121 driveway will be reduced from 26 feet to 24 feet. Randy Clark said the hours are 5 AM to 11 PM. These are maximum allowed but they may be less. Mark Gross said the deliveries will be between the hours of 7 AM and 5 PM. There is a plan note. The owners will be enforcing the deliveries. It was asked if the credit card sales at the pumps will be 24 hours. Janet Rabideau said the building is angled toward her house and she objected to the drive through window that is also on her side. She said her house is not located on the plan and she thought it should be. M. Gross said he would have to go on her land to get an accurate location.

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Ms. Rabideau said he could use the Google maps and it would be good enough. Gary Cyr asked why there was a drive through and why it was on their side of the building. He maintained it is the same plan as before. Paul Carideo had questions about the detention pond. He asked why the plan had not come for a review by the Conservation Commission. At the Technical Review, it was stated there was no impact on the wetlands. P. Carideo added there is no detail on the berms or a filtration system for the detention pond. There are no test pits. Mark Gross pointed out that sheets 10A and 10 of the plan set provide the details. The slopes will be stabilized. The bottom of the detention pond is at the existing grade level. They are using the existing berm. There are no cross-sections and no test pits. Randy Clark suggested this discussion be continued by phone. Mark Gross said the driveway permit had conditional approval from the DOT assistant but the permit is contingent upon the well permit. The well will be in Derry. Once the well permit is issued, the septic permit and the drive permits will follow. R. Clark asked M. Gross if he expected this to happen by October 1. This condition is to be met before drilling a well. Mark Gross affirmed he expected to have the DOT permit by the first of October 1.

Chairman Clark announced the Public Hearing for Depot Crossing, map 1 parcel 18 is continued to October 1, 2012.

### PUBLIC MATTERS

#### **06-042 Use Change Magari LLC**

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The Chairman opened the public hearing for the Change of Use on property owned by Richard Towne. Nick Todesca and his brother Michael are proposing the business. Nick Todesca said Magari is a lemon flavored after dinner drink originating from southern Italy. Kris Emerson said they need a change of use because manufacture of liquor is not specifically mentioned as an allowable use according to the Zoning Regulations. They have applied to the Board of Adjustment for relief. Nick Cricenti said he and Kris Emerson had reviewed the uses allowed in the C-1 Zone and then read the used for the C-2 Zone for the Board. Chairman Clark said the issue is the applicants need to go before the ZBA for a clarification of the allowed uses. A copy of the minutes will be provided to the Board of Adjustment. Bill Weber asked who would regulate the manufacture of an alcoholic beverage. Nick Todesca said they need a federal and a state license. He said they have been making the after dinner drink and offering it to their customers at

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### PUBLIC MATTERS

#### **06-042 Use Change Magari LLC** Continued from page 7.

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their restaurant in Salem. A similar manufacturing company is set up in Salem making lemon cello. He added the liquors can only be sold to the State of New Hampshire liquor commission so there will be no sales at the store.

### MOTION

**Proctor Wentworth made a motion to send the applicants, Nick and Michael Todesca to the Board of Adjustment because the manufacture of liquor is not allowed in Hampstead's C-1 or C-2 Commercial Zones. Priscilla Lindquist seconded the motion. VOTE YES Proctor Wentworth, Priscilla Lindquist, Neil Emerson, Bill Weber, and Dean Howard; ABSTAIN Randy Clark. Neil Emerson said the next ZBA meeting was scheduled for October 4 2012. Randy Clark told Nick Todesca once they received the permit they could go to the Code Enforcement office for an occupancy permit. This vote by the Planning Board did not mean they could bypass the Code Enforcement or the Fire Department requirements.**

The letter sent to Richard Towne advising him of the Board's decision is part of the record.

### PUBLIC MATTER

#### **Master Plan Future Land Use**

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Randy Clark said the Master Plan document is too large to send as an e-mail. It is available as a CD. These are available in the office. The Chairman said the Secretary will post for a Public Hearing on October 1, 2012.

### BOARD BUSINESS

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- **Member Comments** Neil Emerson asked if non-residents were allowed to speak at public hearings. Chairman Clark said the Planning Board is not always as strict as the Board of Adjustment. In this case, "abutters and interested parties" are allowed to address their concerns. Craig Bennett has an interest. The Technical Review group met on September 4, 2012 and the minutes provided to Board Members for this meeting. Nick Cricenti said he wrote his review letter in August and it was available at the meeting. He had reviewed the new plans provided to the Board tonight.

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### BOARD BUSINESS

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- **Member Comments** Neil Emerson asked why "Vice Chairman" as added after Proctor's name. The Secretary said it is to remind her of his position at the meeting.
- **Member Comments** Neil Emerson asked why the Chairman does not vote. Randy Clark said he followed the procedure in place when he came on the Board.
- **Minutes 17 September 2012** The minutes were edited as follows: Page 1, Paragraph 1, line 2, Add "member" after "ex-officio; Paragraph 6, line 4 Delete "what". Page 3, Paragraph 1, line 3, Delete "and Proctor Wentworth".

### MOTION

**Chairman Clark called for a vote to approve the minutes of 17 September 2012 as edited. VOTE YES Proctor Wentworth, Paul Carideo, Dean Howard, Bill Weber, Neil Emerson, and Priscilla Lindquist; ABSTAIN Randy Clark. The 9/17/2012 minutes were approved.**

- **Adjourn** The Chairman declared the meeting adjourned without objection.

Respectfully submitted,

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Susan Hastings, Secretary