

HENNIKER PLANNING BOARD

November 10, 2010

Draft Minutes

Members Present: Kristin Claire, Chairwoman; Ed Miner; Rick Patenaude, Vice-Chairman; Jeff Roach; Leon Parker, Selectman, ex-officio; Kellie Dyjak

Members Absent: Terry Stamps; Dale Jennings, Alternate

Others Present: Peter Mellen; Kris Blomback; Dr. Roger Belson; Grace Cohen; Tracy True-Allen; Mark Fougere, Town Planner; Jennifer Astholz, Recording Secretary

Call to Order

Chairwoman Claire called the meeting to order at 7:00 pm.

Review of Meeting Minutes

Minutes of the 10/27/10 Planning Board meeting were reviewed. Leon Parker **MOVED** to approve the minutes as submitted. Jeff Roach **SECONDED** the motion. Motion **PASSED, 5-0.**

Public Hearings – Proposed Zoning Changes

1) **Amendment 1** – Are you in favor of amending chapter 133, Zoning Regulations, Article III Establishment of districts, Section 133-04 Zoning districts, by amending the Land Use Map/Zoning Map as follows: Rezone those properties noted as Tax Map 1 – Lots 655, 655A & 656 (these properties are just south of the Pat’s Peak Ski Area) from RR Rural Residential to CR Commercial Recreational?

Mr. Fougere read the description and showed the area on the enlarged map. The proposed amendment will change zoning from RR to CR. Chairwoman Claire opened the public hearing at 7:01 pm. Hearing no comments from the public, the public hearing was closed. There was no further Board discussion.

Leon Parker **MOVED** to place this amendment on the ballot for the 2011 Town Meeting. Ed Miner **SECONDED** the motion. Motion **PASSED, 4-0-1.** Rick Patenaude abstained.

(Kellie Dyjak arrived.)

2) **Amendment 2:** Are you in favor of amending Chapter 133, Zoning Regulations, Article II Definitions, as follows? Structure: Anything constructed or erected with a fixed location on the ground. Structures include, but are not limited to, buildings, swimming pools, manufactured housing, billboards and poster panels. It shall not include installations such as fences, mailboxes and flagpoles?

Mr. Fougere explained the change to the definition of “structure.” This change clarifies the intent. Chairwoman Claire opened the public hearing. Hear no comments, the public hearing was closed. There was no further discussion.

Leon Parker **MOVED** to place this amendment on the ballot for the 2011 Town Meeting. Jeff Roach **SECONDED** the motion. Motion **PASSED, 6-0.**

3) **Amendment 3:** Are you in favor of amending chapter 133, Zoning Regulations, Article IV, General Provisions, Section 133-17, One principal building allowed per lot, to read as follows? There shall be only one principal building on a lot, except for Multiunit dwelling(s) developments that are located in the RV Village Proper & CV Village Commerce Districts, Commercial Uses located in the CH, CM, CR and CV Districts and condominium developments.

Mr. Fougere read the proposed amendment change aloud. He stated that Town Counsel said that condominium developments have their own controlling State statutes, so the phrase “condominium developments” can be removed from the description. Mr. Fougere stated that this did not constitute a substantive change.

Chairwoman Claire opened the public hearing. Hearing no comments, the public hearing was closed. There was no further discussion by the Board.

Jeff Roach **MOVED** to accept Town Counsel’s advice of removing “condominium developments” from the amendment and forwarding it to the ballot for the 2011 Town Meeting. Ed Miner **SECONDED** the motion. Motion **PASSED, 6-0.**

4) **Amendment 4:** Are you in favor of amending Chapter 133, Zoning Regulations, by making the following amendments?

In order to increase the flexibility regarding parking requirements, remove parking requirements for multiunit dwellings, commercial uses and other like uses from the Zoning Ordinance and relocate such requirements to the Site Plan Review Regulations. In addition, make a number of other minor amendments relative to parking specified in the Zoning Ordinance.

Mr. Fougere stated that the intent is to move the parking requirements to the Subdivision Regulations thereby making them easier to address. The Planning Board can address parking issues during the planning process rather than involving the ZBA. All of these articles have sections that require parking for various uses.

Chairwoman Claire opened the public hearing. Dr. Belson asked if there had been any issues that the Board had needed to address that prompted this zoning amendment. Mr. Fougere stated that nothing has come before the Board recently, but he has found it awkward to have parking requirements in the zoning ordinance. He stated that it is generally better to have parking addressed in Site Plan Review and Subdivision Regulations. He explained that parking issues should be handled at the planning process rather than at zoning. He stated that if this amendment is approved at Town Meeting, then the requirements will be inserted into the Site Plan and Subdivision Regulations at

the next Planning Board meeting which follows the Town Meeting. That change can happen through the public hearing process.

Chairwoman Claire explained that moving the parking regulations from one place to another is a two-step process. Removing the section from the zoning ordinance has to occur at Town Meeting, but inserting them into the appropriate places can be handled by public hearing during a Planning Board meeting.

Dr. Belson expressed his concerns about removing parking requirements for apartments which would be problematic since apartments are allowed in many zoning districts. Mr. Fougere stated that the parking requirements for home business uses will be left in the zoning ordinance. Dr. Belson asked if the Board could increase parking requirements during the Site Plan review process. Chairwoman Claire stated that it could be a possibility, but there would have to be strong rationale to do so.

Chairwoman Claire stated that applications that come before the Planning Board sometimes have to go to the Zoning Board of Adjustment seeking a variance. It would be in the applicant's best interest for the Planning Board to have more flexibility than what is currently allowed since the ZBA has such a limited scope of what can be considered to grant a variance.

After further discussion, Mr. Parker suggested having a draft of the proposed changes that the Board would like to move into the Site Plan and Subdivision Regulations. This would help to alleviate the public's fears that this change could potentially lead to increased parking regulations which is not the intent. Mr. Fougere stated that he will write a draft of the intended parking section that the Planning Board plans to put into the Site Plan/Subdivision Regulations if the proposed amendment passes at Town Meeting.

Chairwoman Claire thanked Dr. Belson for sharing his perspective so that the proposed changes can be better understood. Chairwoman Claire closed the public hearing.

Kellie Dyjak **MOVED** to table this amendment to the December 8, 2010 meeting. Mr. Fougere will have a draft of additional information available at that time. Jeff Roach **SECONDED** the motion. Motion **PASSED, 6-0**.

5) **Amendment 5:** As a result of a positive zoning amendment vote relative to this issue last year, this Section is no longer necessary, therefore are you in favor of amending Chapter 133, Zoning Regulations, Article IV, General Provision, Section 133, Zoning Regulations, Article XXV Wireless Communication Towers, paragraph 133-127 Definitions, by deleting the definition of Average Tree Canopy?

Mr. Fougere stated that a change was made to the telecommunications section at last year's Town Meeting. The definition should have also deleted the phrase "average tree canopy" since it no longer applies. Chairwoman Claire opened the public hearing. Hearing no comments, the public hearing was closed.

Leon Parker **MOVED** to place this amendment on the ballot for the 2011 Town Meeting. Ed Miner **SECONDED** the motion. Motion **PASSED, 6-0.**

Case PB 2010-11: Proposed Major subdivision involving Lot 77X-57.2 acres, which will be subdivided into four lots. The property is located at the corner of Hemlock Corner Loop and Ray Road, Lot 77-X. The property is owned by Tracy True-Allen, 212 Hemlock Corner Loop and is located in the RR Rural Residential District.

Rick Patenaude recused himself from the Board during this case.

Mr. Fougere, Town Planner, stated that the application is for a four-lot subdivision and two waivers have been requested. The applicant had come before the Board for a conceptual consultation and the plan was amended somewhat from what was originally shown.

Peter Mellen, LLS, presented the application. He stated that the property is broken into two different types of land; the north end is field and the south end is pastureland. He showed where the land slopes into Long Pond. He stated that the soil type is generally Meadowsedge peat. He showed where the land is suitable for building development. Mr. Mellen stated that the application is to create three new lots. They are using the stone wall as a boundary. He described where one of the boundary lines was moved further north and another boundary line was straightened somewhat from what was originally shown at the conceptual consultation. He showed where wetlands were delineated. Mr. Mellen identified suitable places for septic systems and driveways. Test pits have been done and the results were included with the application. He stated that the boundaries for the three new lots meet the Town's frontage requirements and all lots are greater than three acres.

Mr. Mellen stated that the owner desires to keep proposed Lot 3 attached to the original lot. He stated that the lot was reconfigured somewhat in response to the Board's concerns about the dog-legged shaped lot. He showed where the lot was widened to 150' where it had previously been only 80' wide. Mr. Mellen stated that one of the boundary lines is perpendicular to the road, but given the topography of the land, right angles are not possible in all places. He stated that the Board has the right to be more lenient about the right angles in order to achieve good planning.

Mr. Mellen stated that he believes it would be helpful for the Board to do a site walk of the property. Leon Parker stated that he was hopeful that there would be more substantive changes to the plans after the discussion at the conceptual consultation. He stated that the small changes that were shown do not make the application any more acceptable, and zoning exists to keep this kind of atrocious planning from happening.

Chairwoman Claire stated that Lots 4 and 5 look better, but Lot 3, while somewhat improved, is still a concern.

Jeff Roach **MOVED** to accept the application as complete. Mr. Miner **SECONDED** the motion. Motion **PASSED, 5-0.**

Chairwoman Claire called for board discussion.

Mr. Parker stated that he doesn't feel the need to do a site walk as he's still unhappy with the lot configuration.

Mr. Miner asked if the main access to Lot 77-X3 will be a right-of-way from another property. He asked why they weren't proposing something else in another area. Mr. Mellen stated that another driveway would require a dredge and fill permit, and they are proposing to use the existing road with the right-of-way. There was discussion about the topography between Ray Road and the property. It was stated that an emergency vehicle may have trouble getting back there. Mr. Mellen stated that a site walk would be helpful in answering that. He stated that he could also provide topography details for that area as well. Mr. Miner stated that the soil types in some areas are questionable.

Chairwoman Claire stated that she understands that the owner would like the opportunity of creating a 5-acre lot for possible future use for her children. While Ms. Claire explained that the dog-legged lot configuration is still problematic, the connection to the original lot doesn't hold a lot of viability for access due to how wet it is. Ms. Claire stated that three lots are too much in the area past the stone wall; two lots would provide much better planning. She appreciates the applicant's respect for the property in following the existing natural boundaries where possible.

Mr. Mellen explained the difficulties with steep slopes and wetlands that could be addressed during a site walk.

Chairwoman Claire made a suggestion for future estate planning.

Mr. Miner clarified that there are two issues: 1) the angle off of Ray Road; 2) the dog-legged lot configuration. He stated that he doesn't have as much of an issue with the angle of the road as there is with the dog-legged lot.

Mr. Parker stated that he has a problem with the dog-legged lot configuration. He stated that there is a way to move the lines and create two nice lots in that area.

Further discussion ensued over the plans.

The Shoreline Protection Act and woodline buffer requirements were discussed. It was stated that waterfront subdivisions also have to be approved by DES.

Mr. Mellen stated that he has taken all of these points into consideration, and he believes that a site walk will answer many of the Board's questions and concerns. Ms. Claire stated that she does not believe that will change her mind about the poor lot configuration.

The public hearing was opened at 8:16 pm. As there were no comments, the public hearing was closed. A site walk was scheduled for Monday, November 15, 2010 at 3:15 pm.

Ms. Dyjak **MOVED** to table this application to the next meeting on December 8, 2010.

Mr. Roach **SECONDED** the motion. Motion **PASSED, 5-0.**

Mr. Patenaude rejoined the board at 8:19 pm.

Miscellaneous

Mr. Fougere stated that a board member is needed to serve on the CIP committee. Rick Patenaude volunteered to fill this position. Ms. Dyjak **MOVED** to appoint Mr. Patenaude as the representative to the CIP committee. Ms. Claire **SECONDED** the motion. Motion **PASSED, 5-0-1** (Mr. Patenaude abstained.)

Mr. Fougere stated that there are two alternate and two regular positions open on the Planning Board.

Mr. Fougere stated that he would like to see a proposed zoning change to allow projecting signs (such that are used over a sidewalk). He stated that he will write a draft to be presented at the next meeting.

Mr. Miner stated that he received an email from Scott Osgood asking to be put on an upcoming agenda to discuss the transportation committee. Mr. Fougere will add this to the 12/8/10 meeting agenda. Mr. Roach stated that he will not be at that meeting.

Adjournment

Mr. Roach **MOVED** to adjourn the meeting at 8:30 pm. Ms. Dyjak **SECONDED** the motion. Motion **PASSED, 6-0.**

Respectfully submitted,

Jennifer Astholz
Recording Secretary