

HENNIKER PLANNING BOARD

Draft Minutes
September 29, 2010

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

Members Absent: Ed Miner; Dale Jennings, Alternate; Thomas Howard, Alternate

Others Present: Mark Fougere, Town Planner; Kris Blomback; Jennifer Astholz, Recording Secretary

Review & Approve Meeting Minutes from 9/15/10: Leon Parker **MOVED** to approve the minutes from the 9/15/10 Planning Board meeting as corrected; Jeff Roach **SECONDED** the motion. Motion **PASSED, 5-0-1** (Ms. Stamps abstained as she was not present at that meeting.)

Board Discussion:

a) *Rezoning request by Pat's Peak, from RR to CR, Lots 655, 655A and 656.*

Rick Patenaude recused himself for this discussion.

Mark Fougere, Town Planner, explained that Kris Blomback, General Manager of Pat's Peak Ski Area, came in last month to discuss the issue of rezoning Lots 655, 655A and 656 from RR to CR. They talked about different avenues that they could take to achieve their goal, but ultimately decided that this was the best scenario for all parties.

Mr. Fougere showed the current Commercial Recreational (CR) zone and showed the lots affected by the proposed rezoning. He stated that he thinks it would be best to have the Planning Board sponsor the rezoning of this area and put it on the ballot for the vote at Town Meeting.

Kris Blomback explained that there are three zones (green/blue/black trails) for skiers at Pat's Peak. He stated that the ski resort's strength lies in teaching young kids how to ski. Once they are able, kids graduate to the zone 2 trails. He stated that there is a lot of skiing traffic in the valley area (zone 3), and the next available step is to zone 5 trails; zone 4 ski trails are essentially skipped due to the topography available. Mr. Blomback showed the three lots (655, 655A & 656) adjacent to the Breeze ski trail. He stated that in 1999, Pat's Peak approached the Planning Board to secure easements to transfer water; in 2003, the Planning Board granted permission for a snowmaking reservoir. There have been things to do in advance of building the reservoir, but they have been actively using the property for the last 10 years. Originally, the Commercial Recreational zone went through the main base area. In the late 1990's, most of the property was rezoned to Commercial Recreational. Mr. Blomback stated that in the fall of 2009, Pat's Peak was approached by the owner to buy these three parcels of land. They looked to see if the purchase and use of the land conflicted with any of the Town's plans. They reviewed the community profile plan of 2009 and the Town's Master Plan which encouraged the

growth of local businesses. He stated that he checked with the Conservation Commission to make sure that Pat's Peak would not be encroaching on any lands worthy of protection. They reviewed the slope gradients in that area and saw that it would make good zone 4 skiing trails, mainly heading in a southeasterly direction. Between looking at all applicable documents and evaluating the topography of the three lots, Pat's Peak made the decision to buy the land. Mr. Blomback stated that a series of letters were sent to all abutters and other neighbors that may be interested and/or affected by their plans. He stated that Pat's Peak wants to make sure that their plans are consistent with other Town plans and that they have a harmonious relationship with their neighbors.

Mr. Blomback stated that one man who owns a cabin adjacent to one of the lots came to one of the informational meetings hosted by Pat's Peak and stated that he was excited about the potential improvement of the ski trails. He stated that the Conservation Commission wants to know where the water withdrawals would come from and where water would go.

Terry Stamps commended Mr. Blomback on his foresight in reaching out to the Peak's abutters and neighbors. She asked how that was received. Mr. Blomback stated that only a handful of people came to the informational meetings that were scheduled. He stated that one of the people that was very concerned about the process 10 years ago was very supportive of this project.

Chairwoman Claire stated she has always been very careful about spot zoning. Mr. Fougere explained that "spot zoning" has more to do with placing an unrelated zone in the middle of other zones. He stated that this is simply expanding a zone that already exists.

Mr. Blomback stated that he only heard from a couple of abutters, none of whom were from the back side of the mountain where the rezoning would be taking place. He also stated that the second meeting was held after two newspapers ran extensive articles about the plans.

Ms. Stamps asked if there were any other procedural mandates that the Board should consider. Mr. Fougere stated that the proposed rezoning would be noticed and a public hearing would be held. He stated that an easy to read map will be made available for the public to review. He stated that the process is no different than when the Board proposes a change to the zoning ordinance.

Ms. Stamps asked what options would be available to Pat's Peak if the Planning Board chooses not to move forward with this. Mr. Fougere stated that the landowner would have to get a Use Variance from the ZBA since the proposed use is not allowed in the Rural Residential zone.

Leon Parker stated that it is always better for the land to be zoned for the use that is occurring. He also stated that the topography is very challenging in the area being discussed, so Commercial Recreational is a more suitable designation.

Chairwoman Claire stated that the Commercial Recreational zone can be used for other things whereas a zone like the ED district is strictly limited. She stated that it is crucial that voters understand that the Board is considering expanding an already established zone and not considering the end-use of the property. Pat's Peak will still have to submit a separate Site Plan application to expand their operation if the zoning change is granted.

Mr. Blomback stated that it was Pat's Peak's desire to talk to the neighbors before even considering this change; no complaints have been voiced yet.

Leon Parker **MOVED** to direct Mark Fougere to prepare a warrant article draft for the 2011 Town vote process. Terry Stamps **SECONDED** the motion.

Motion **PASSED, 5-0.**

Mr. Blomback asked how the upcoming process works. Mr. Fougere stated that he will create a warrant article draft for the Planning Board to support. The notice can be posted on 11/12/10 then the first public hearing can be held on 12/8/10. Mr. Blomback offered to be present at that Planning Board meeting to help answer any questions from the public.

Rick Patenaude rejoined the Board at 7:55 pm.

b) *Subdivision Regulation Amendments:* Mr. Fougere suggested going through the regulations to make sure they comply with State statutes. He stated that the waiver request requirements must be updated. Mr. Parker asked Mr. Fougere to update it and track changes in order to facilitate Board discussion. Ms. Stamps stated that the section on roads should be reevaluated.

Ms. Dyjak **MOVED** to have Mr. Fougere track changes on the document and present the revised Subdivision Regulations document to the Board at an upcoming meeting. Mr. Roach **SECONDED** the motion. Motion **PASSED, 6-0.**

2011 Zoning Changes Work List: The Board compiled a list of items to consider for the 2011 Town Meeting process.

➤ One principal building per lot for commercial uses; under State statute, if one can prove that 10 homes can fit on one lot then a 10-unit condo can be constructed (other density and zoning regulations apply)

Mr. Fougere suggested that parking requirements be removed from Subdivision Regulations and written into the Site Plan Regulations. He stated that parking issues should not have to go before the ZBA.

➤ Change about "average tree height" on towers should be made.

➤ Fences: Changing definition of a fence as a "structure" lost in the 2009 vote, but Mr. Parker believes it is worth trying to revise this again.

➤ Signs: Ms. Stamps suggested asking the newly formed Chamber of Commerce if there is anything they would like to see done about the sign requirements. Board members will contact residents Kate Bartlett and Ed Ulmer who are involved in the Chamber.

c) Sign Bennett subdivision plan: Mr. Fougere distributed the Bennett plans from August 1987 (the plans were approved and put on the tax maps back then). He stated that Mrs. Bennett is interested in having her son build a home on the vacant lot, and she has had the property re-surveyed. State subdivision approval has been obtained, and Town Counsel asked for the Planning Board to reaffirm the plans.

Mr. Parker **MOVED** for the Board to reaffirm the Bennett subdivision plans, have the Chairwoman sign the mylars and have the plans properly recorded at the registry. Mr. Patenaude **SECONDED** the motion. Motion **PASSED, 6-0**.

Miscellaneous:

Court case update: *Bowers vs. Town of Henniker:* Mr. Fougere stated that the Court upheld the Town's decision. The Court said that the road disappeared many years ago, and the gentleman has access to the back lot with an easement.

Mr. Fougere stated that Mr. Eisen lost the appeal in court. They requested a rehearing, which the Court denied. Mr. Fougere stated that he took a phone call from AT&T asking about the permitting process.

Mr. Fougere stated that he has a potential job to work for a landowner on a workforce housing project in Wyndham, NH. He stated that Carl Dubay, a civil engineer who came before the Board last month to present a conceptual consultation on a possible development in Henniker, will be the civil engineer on this project. While he is not being paid by Mr. Dubay, Mr. Fougere does not want there to be any appearance of having a conflict of interest. Board members stated that New Hampshire is a small state and they often find themselves working with many people in several industries throughout the State. All of the Board members expressed appreciation to Mr. Fougere for his sensitivity to the issue but do not feel that he has a conflict of interest with these projects.

2011 Budget: Ms. Stamps stated that she is responsible for submitting the draft of the 2011 Planning Board budget to the Budget Committee on 10/8/10. She stated that based on this year, the 2011 budget for the minute taker's line item may be reduced to \$1,000 - \$1,500; FICA will proportionately be reduced as a result. The Board consensually agreed to reduce the recording secretary budget to \$1,500. She stated that the Regional Planning Commission's fees went down last year. Chairwoman Claire asked how the line item labeled "office supplies" is used. Mr. Fougere stated that he puts charges for maps in this line item. The Board consensually agreed to reduce that line item from \$500 to \$300. Ms. Stamps stated that she will make the changes as discussed for presentation to the Budget Committee.

Adjournment: Ms. Stamps **MOVED** to adjourn at 8:37 pm. Mr. Patenaude **SECONDED** the motion; motion **PASSED, 6-0**.

Respectfully submitted,
Jennifer Astholz