

HOLLIS PLANNING BOARD MINUTES
NOVEMBER 17, 2020
Final

PLANNING BOARD MEMBERS PRESENT: Bill Moseley, Chairman; Doug Cleveland, Vice Chairman; Chet Rogers, Jeff Peters, Ben Ming, Matt Hartnett, David Petry, Ex-Officio from the Select Board; Alternate Members: Rick Hardy, Julie Mook

STAFF PRESENT: Mark Fougere - Town Planner, Evan Clements - Assistant Planner

THIS MEETING WAS CONDUCTED VIRTUALLY WITHOUT A PHYSICAL LOCATION IN COMPLIANCE WITH GOVERNOR SUNUNU'S EMERGENCY ORDERS #12, 16 & 17.

1. CALL TO ORDER: 7:02 PM. W. Moseley led the group in the Pledge of Allegiance.

2. APPROVAL OF PLANNING BOARD MINUTES:

a. Approval of October 6, 2020 Meeting Minutes – postponed until December 1, 2020 meeting.

3. DISCUSSION & STAFF BRIEFING:

- a. Agenda Additions and Deletions – M. Fougere noted the agenda stated a public hearing for Case PB2020-030 Howe Ln. was scheduled. However, this was in error as the public hearing was opened and closed by board vote during the November 5th meeting. This case was tabled at the October meeting for landscape review. A new plan has been submitted and is currently being reviewed by the town's landscape consultant and planning board member. The new plan will be discussed at the December 1st meeting.
- b. Committee Reports – none
- c. Staff Reports – none
- d. Regional Impact – none

4. SIGNATURE OF PLANS:

a. 11 Federal Hill Road; PB2020:029 – Site Plan Hollis Grove Redevelopment Project. Motioned by D. Cleveland; Seconded by J. Peters - Passed unanimously

5. HEARINGS

a. File PB2020:032 – Conceptual Consultation: Proposed major subdivision of a 55.49-acre property into 14 single family lots, conventional & HOSPD layout, Map 32 Lot 45-3, Howe Lane, Applicant/Owner Ducal Development, LLC, Zoned R&A.

The public hearing for this case was opened and closed by vote at the November 4th meeting. A site walk conducted last Saturday. B. Moseley noted that cleaning up dead vegetation and planting appropriate vegetation in the 100ft buffer was discussed. R. Haight, Meridian Land Services, explained that the proposed entrance onto Howe Lane was placed on a vertical break in the road. He explained that when coming from Ranger Road and proceeding towards Nashua the road is steep but breaks at the proposed street entrance which creates a clear line of sight towards Nashua. D. Petry noted that no matter

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where the road entrance was placed, it would impact the homes across the street. R. Haight stated that if the entrance was moved toward Nashua then the line of sight would not be adequate from Ranger Road. D. Cleveland noted that a question was raised at the site walk regarding relocating road 100ft further down on Howe Lane, as abutters and neighbors have significant issue with location of road as proposed. R. Haight explained that if the entrance to the proposed street was moved 100ft down then it would be placed at an elevation that is not suitable for looking towards Nashua. The new road must be placed in a vertically compatible place for a suitable site distance. Moving it 25ft towards Nashua could be a solution but moving it further would cause site distance issues. D. Cleveland offered that moving it the 25ft may lessen the impact on the homes on Howe Lane opposite the proposed road. R. Haight spoke to the fact that the development needs a point of access on Howe Lane. He understands the abutters concerns regarding nighttime headlights but he said that is the nature of a road.

M. Fougere noted studies for Meridian Land Services to consider including in their design review submissions.

1. Environmental Hazard Analysis which provides an assessment of possible impact on the natural environment.
2. Wildlife Habitat Inventory & Assessment – M. Fougere suggested involving the Conservation Commission when reviewing this report. D. Cleveland noted that hiking trails were present during site walk.
3. Visual Impact Study – M. Fougere explained that the board would have to decide if this subdivision would be better suited as a conventional or a HOSPD subdivision. He noted that the appropriate time to discuss this would be during the design review. M. Fougere believes that with a conventional subdivision plan the visual impact would be greater than having a HOSPD. J. Peters liked the HOSPD personally. D. Petry noted that with a HOSPD the building lots are more compacted and open space is a requirement. Locating the building box, septic system and well within the setbacks of HOSPD lots has proven to be complicated due to their compacted size. D. Petry stated that if the applicant wants to proceed with both plans, HOSPD and conventual, then he would like to see a conventional point system worksheet completed. J. Mook noted that in regards to visual impact, the property to the south is an open field. If owners clear cut to property line, preserving a buffer around the edge, it would open a sight view from Ranger Road. W. Moseley noted that the following information should be noted on the visual impact study:

- i. Landscape plan on Howe Lane
- ii. Preservation buffer on lots 1-6

R. Haight said that he and R. Hardy had discussed the cleanup of dead branches and addition of low height native foliage to mitigate the night time headlight issue.

4. Historic Significance Documentation – D. Petry suggested asking the heirs of the property as to the historic significance of the property as it may be easier than doing a full study.

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- 91 5. Traffic count and Speed Assessment – D. Petry noted that the Highway Safety
92 Committee and Hollis Police Department have completed these reports in the
93 past.
94 6. Stormwater Management
95 7. Fiscal Input Report which reviews estimated value, tax revenue, motor vehicle
96 revenue, etc. for a proposed subdivision.
97

98 It was noted that this would be a Town road and an easement for shared maintenance and
99 access, includes drainage structures, will need to be noted.
100

101 J. Mook noted that this development may require a significant bus stop where the
102 proposed entrance and Howe Lane meet. D. Cleveland contacted the school department
103 and they complete a yearly evaluation as to where the students are and where the stops
104 will be necessary. Putting it on the plan would be redundant.
105

106 E. Clements questioned the location of the fire cistern. R. Haight said they are waiting for
107 a decision on final design as well as input from the fire chief regarding placement of
108 cistern. R. Haight stated that the proposed length of the road in the HOSPD configuration
109 is 1,150ft. D. Petry stated that the fire chief looks for 1,500ft or less due to length of fire
110 hoses.
111

112 **Motion to move from conceptional to design review** with stipulations of noted design
113 review topics and noting that the board may ask for additional studies and evaluations
114 during the design review process. - Motioned by D. Cleveland; seconded by C. Rogers
115 - Passed unanimously
116

117 **6. OTHER BUSINESS:**

- 118 a. Potential Zoning Changes
119

120 **AMMENDMENT 1** - By amending, Section XI, Overlay Zoning Districts, C, Wetland
121 Conservation Overlay Zone (WCO) by deleting the following: Section 5. ~~Drainage: a. There~~
122 ~~shall be no net increase in peak flow or overall volume of stormwater runoff in the WCO~~
123 ~~Zone as a result of any development. b. Calculations shall be based on 2, 5 and 25 year storm~~
124 ~~events in accordance with NRCS Technical Release 55 or Technical Release 20, or other~~
125 ~~calculation methods as approved by the Planning Staff. and c. Drainage design shall be in~~
126 ~~accordance with the Town of Hollis Subdivision and Site Plan regulations.~~ In addition,
127 amend Section 7. Special Exception in the Wetlands Conservation Overlay Zone, b.
128 Application Procedure, (i) ~~hydrological calculations based on drainage requirements in~~
129 ~~accordance with Section XI.C.4.b. of this Ordinance.~~ In addition, amend Section XV, Hollis
130 Rural Character Preservation Ordinance, section F. Design Standards, 6. Erosion Control,
131 paragraph a. ~~Restrict the post development runoff rate and volume to match the pre-~~
132 ~~development rate or volume for each offsite flow area based upon a ten year rainfall event.~~
133 ~~The first 1/2 inch of runoff from all impervious areas is to be retained on site. Treated runoff~~
134 ~~should infiltrate into the ground in an amount approximately equaling pre development~~
135 ~~runoff conditions. Roof runoff is considered "treated" for the purposes of infiltration. If,~~
136 ~~after a recommendation by the Town Engineer, the Planning Board makes the determination~~

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~~that strict adherence to the above rate and volume regulations may cause more environmental harm than good, then offsite rates and/or volumes may be increased above pre-development conditions by as much as 25%. However, drainage in wetland conservation overlay (WCO) zones must adhere to the standards provided in Section XI.C.4 of the Hollis Zoning Ordinance, which requires that there be no net increase in peak flow or overall volume of stormwater runoff in the WCO zone as a result of any development. At no time shall offsite flow increases be allowed onto an abutting property.~~

M. Fougere noted the removed provisions would be incorporated into the subdivision regulations, applied to site plan, or as a standalone document that deals with drainage regulations town wide. If this goes to ballot, the Town Engineer would have to be contracted to develop standards. B. Ming asked if there were any changes to the wording being taken out of the ordinance and put into the subdivision regs. M. Fougere stated that the current regulations are extremely excessive and are needlessly impacting the rural character of the community. The current regulations would be brought up to date, be more innovative and less impactful to the natural environment. D. Petry requested that the changes be drafted and published prior to being put on the ballot. D. Petry requested the site plan regulations be marked up to show public. M. Fougere said that he will begin the conversation with Mike McNally. - *Tabled for review at December 1st meeting.*

2. AMMENDMENT 2 - Amend Section XI: General Provisions, by adding the following new Section S. Residential Uses: Side Yard Setback Encroachment: Residential uses may be allowed to encroach into Minimum Side Yard requirements as required in the Agriculture and Business Zone, Recreation Zone, Residential and Agriculture Zone, Rural Lands Zone and the Town Center Zone, provided a Special Exception is obtained as outlined in Section VI Board of Adjustment (BOA) , paragraph B, as well as adherence to the following criteria as determined by the Zoning Board of Adjustment:

- Written permission from the abutter who is being encroached upon.
- Proper screening, as determined by the BOA, is provided.
- Encroachment shall not exceed 20% of the Minimum Side Yard requirement.
- Any decisions (BOA approval letter) allowing encroachment shall be recorded for both the subject property and the affected abutter.
- Applicant must prove that the BOA approval letter has been property recorded prior to the issuance of any building permit.

D. Petry stated this amendment has been discussed deeply and it should be sent to public hearing. B. Ming feels that this scenario should be require a variance. The written permission piece is putting the burden on the neighbor. How many of these types of cases does the Zoning Board of Adjustment see per year. M. Fougere stated less than a handful. D. Petry removed his motion on this amendment going to public hearing. - *Tabled for review at December 1st meeting.*

3. AMMENDMENT 3- Amend Section XI: Overlay Zoning Districts, D. Multi-family Zone, Paragraph 1 Purpose, to read as follows: The intent of this Section is ~~to define the requirements related to the development of multi family housing and prevent overcrowding of land while~~

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provide for the opportunity to construct multi-family housing by the provision of a waiver from the otherwise applicable density requirements, while complying with all applicable state and federal laws with respect to such housing and at the same time, ensuring compliance with local planning standards, land use policies, good building design, and requirements for the health, safety, and general welfare of all the inhabitants of the Town. Amend 2. General Standards, paragraph a. Dwelling unit density shall be no greater than four (4) units per acre, based upon the Net Tract Area of the property ~~or the minimum number of units required to make the project economically viable whichever is less.~~, amend paragraph i. as follows: “Multi-family workforce housing developments submitted under this section shall be exempt from the requirement of Section IX, General Provisions, F, 1-4, Impermeable Surface and Building Coverage and Section XI, Aquifer Protection Overlay Zone (APO), A.3. Dimensional Standards in the APO provided that all development proposals shall,”. Amend paragraph k. as follows: “In order to minimize potential intrusion on neighboring land uses, the Planning Board may shall require the installation of a ~~100-foot~~ landscaped buffer strip along the perimeter of the site.”

Amend Section XVIII Workforce Housing, Section A, Purpose, as follows: The purpose of this section is as follows: 1. To encourage and provide for the development of affordable workforce housing; 2. To ensure the continued availability of a diverse supply of home ownership and rental opportunities for low to moderate income households; 3. To meet the goals related to affordable housing provisions set forth in the town’s Master Plan; and 4. To comply with the requirements of SB 342, an Act establishing a mechanism for expediting relief from municipal actions which deny, impede, or delay qualified proposals for workforce housing (RSA 674:58-61). ~~is to define the requirements related to the development of workforce housing in compliance with RSA 674:58-61 and to prevent the overcrowding of land while complying with all applicable state and federal laws with respect to such housing and at the same time, ensuring compliance with local planning standards, land use policies, good building design, and requirements for the health, safety, and general welfare of all the inhabitants of the Town.~~ Amend Section B. Authority as follows: This innovative land use control section is adopted under the authority of RSA 674:21, and is intended as an “Inclusionary Zoning” provision as defined in RSA 674:21(I) (k) and 674:21(IV)(a), as well as RSA 672:1, III-e, effective July 2009, which states: “All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the State of New Hampshire, and serves a vital public need. Opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers”. In addition, RSA 674:21 II provides the authority for Planning Boards to grant Conditional Use Permits. Amend Section D. Conditional Use Permit Criteria, paragraph b. If completed, the development in its proposed location will comply with all requirements of Section XVIII and other applicable workforce housing provisions contained in other sections of the zoning ordinance. ~~without the benefit of waivers.~~

Amend Section G. Workforce Housing General Requirements as follows: d. The Planning Board may request additional information if, in their judgment, it is necessary to make a meaningful determination of affordability. And 2. ~~Documentation to establish the economic viability of the proposal.~~ At the Planning Board’s discretion, the applicant may be required to submit project cost estimates including land, development and construction costs; financing, profit, and sales

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costs; and other cost factors. ~~shall be provided. The planning board shall request updates of these cost reports as the project progresses.~~ Amend Section I. Administration, Compliance and Monitoring, paragraph 2. As follows: Where workforce housing applicants propose a development of single-family homes or mixed single family and multi-family homes, all provisions of the subdivision and site plan regulations shall apply unless waived by the Planning Board. Where workforce housing applicants propose a development of multi-family units or mixed commercial and multi-family units, the site plan regulations shall apply unless waived by the Planning Board.

Amend Section XX: Hollis Open Space Planned Development, Section 3. Purpose, as follows: by adding c. Discourage the sprawling, land-consuming form of development usually resulting from conventional subdivision and h. Provide a variety of types of living spaces and environments.

Amend Section 4. Applicability and Procedures in a HOSPD as follows: A. Applicability: To facilitate achievement of the goals of the Hollis Master Plan, all major subdivisions shall be presented to the Planning Board in accordance with the Hollis Open Space Planned Development (HOSPD) standards as specified in this section and in the Land Subdivision Regulations. In all cases it shall be assumed that a HOSPD plan is necessary to meet the goals and objectives of this section and of the Master Plan, unless the contrary is demonstrated by the applicant. Amend

Section 6. Workforce Housing Units/Owner Occupied, paragraph 1. Density: The maximum number of allowable dwelling units that could be developed under the provisions outlined in Section 5.a shall be determined following the standard practice for a Market Rate Housing development. Once the number of HOSPD lots has been determined and agreed to by the Planning Board then that lot figure may be increased by up to ~~10~~ 25% ~~if it is shown that construction of workforce housing would otherwise not be economically viable.~~ These additional lots shall be designated as workforce housing units/owner occupied. Amend paragraph 2. Lot Size, by amending as follows: There is no minimum lot size for workforce housing units. The proposed site shall have adequate soils to accommodate on-site wastewater treatment and an adequate water supply adhering to both local and state requirements. A Building Area shall not be required; ~~and~~ however, at least 50% of the lot shall be Acceptable Land. In addition, wells serving both workforce housing and market rate housing lots may be located in designated Open Space areas. Amend paragraph 6 to read as follows: Workforce housing units shall contain no more than three ~~two~~ bedrooms.

M. Fougere refreshed everyone's memories that petitions were submitted last year for Public Hearing. The Planning Board did not support the changes by petition. However, these the petitions were passed by ballot. M. Fougere explained the Town is required to comply with RSA 674:58-61 which states "*All municipalities must provide reasonable and realistic opportunities for the development of workforce housing, including rental and multi-family housing.*" M. Fougere feels the petitions passed last year, makes it nearly impossible to comply with the state RSA.

A markup of the Bella Meadows project was shown as an example to the impact of the zoning change. The markup displayed the proposed Bella Meadows project with an overlay notating how the zoning changes would impact this particular project. The markup implemented a 15% maximum lot coverage and a 100ft perimeter buffer. M. Fougere noted the impact of the zoning change makes this lot economically unviable to construct a Workforce Housing project at this location. M. Fougere explained the

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Board originally decided that this was an appropriate location due to its excellent highway access & availability of public water, which is rare in Hollis. The impact of the zoning change is obvious and would not meet state standards if challenged in court.

M. Fougere outlined the problems that Windham, NH encountered. For two years the Windham Planning Department proposed a work force housing zoning ordinance but none were passed. An applicant proposed a work force housing project incorporated 5-6 duplexes on 2.5 acres. Windham's Zoning Board of Approval denied application. The applicant then went to court and the judge approved the applicant's plan. M. Fougere stated there are serious consequences to the community for not adhering to the statute. The Town is trying to avoid a ruling by a judge where the Town does not have final review of the project.

At this time, it is the Board and staff's belief that the Town is not compliant with the state statute. In order to become compliant, changes should be adopted. It was noted that the town is under no obligation to build anything but they must provide a realistic and reasonable option for building a work force housing community.

M. Fougere would like to see these zoning changes presented as a package on the ballot. D. Petry noted that the changes were pretty extensive. He explained to the public, that after the Public Hearing, the Board decides if these changes, or some form of these changes, will move forward and appear on the ballot. D. Petry recapped that when an RSA is on the books, the Town has to comply. If our Ordinances are so restrictive that they do not allow a statute to be fulfilled, the Town is not in compliance and it is illegal. D. Petry stated that it is in the Town's best interest to comply with the RSA. D. Petry strongly suggested taking time to review how these changes should be worded prior to public hearing on December 15th.

M. Fougere stated these changes would basically put the Ordinance back to where it was 18 months ago and how it was originally adopted by vote in 2010.

D. Petry inquired if alternate parcels, which would conform with the current regulations, have been considered. B. Moseley suggested a possible location between Overlook golf course, across Route 111 to Old Runnels Bridge Road. M. Fougere noted that there are few sites in Town that would be suitable for this type of development. Board agreed to re-review the proposed changes and regroup to rediscuss at a later time.

4. AMMENDMENT 4 – Amend Section XVII: Historic District Ordinance, (E) Activities requiring review by adding the following language: Removal of a Significant tree(s), except where removal of such tree(s) is necessary for safety reasons as determined by a professional arborist or other qualified professional or by authorization of the Board of Selectmen *and must be received in-writing including the justification of said removal 7 to 10 days after the removal and in accordance with RSA 213:145;*

Per Interoffice Memorandum from Tom Cook on November 5th, 2020, "*Reason: This change would only be used for emergency tree removal within the district, if a tree needed to be removed*

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the HDC would like to keep track of them. The property owner shall be required to submit after the fact paperwork of the removal with a justification letter from a professional arborist, BOS or other qualified professional.”

J. Mook asked what consequences may occur to someone violating the Ordinance. E. Clements stated that any penalty would be the up to Code Enforcement’s discretion. Replacement of tree, in like kind, was used as an example. D. Petry was not in favor of this amendment due to the requirement of “an after the fact approval”. B. Moseley concurred. E. Clements noted the trees in question are internal trees on private property. It is the Road Agent’s responsibility to deem the tree an imminent threat. However, the Road Agent doesn’t have the authority to enter private property. D. Petry said that he would not support this amendment as written. B. Moseley suggested having T. Cook, Chair of Hollis Historical District, and William Condra, Hollis Building & Code Enforcement Officer, appear at next meeting to provide more details to this proposal.

7. SCHEDULE:

- January 7 - Last day to post the first public hearing with any zoning changes.
- February 1 - Last day to hold public hearing.
- February 2 - All officials copies submitted to the town clerk.

It was decided to not post the zoning changes, spoken about tonight, as currently written because they include suggestions from the Board and staff and may not look like they are written now in their final state.

8. OTHER BUSINESS CONTINUED:

B. Moseley recommended Virginia Mills as a new alternate member to the board. V. Mills introduced herself and explained her extensive background with the Hollis Planning Department. The board unanimously agreed that V. Mills would be a welcome asset to the Planning Board.

Motion to move appointing V. Mills an alternate member to the Planning Board.

Motioned by C. Rogers; Seconded by D. Cleveland – passed unanimously

9. ADJOURNMENT:

Motion to adjourn – Motioned by J. Peters; Seconded by C. Rogers. - Passed unanimously.

Meeting adjourned 8:45