

NEEDHAM PLANNING BOARD MINUTES

November 5, 2014

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building was called to order by Martin Jacobs, Chairman, on Tuesday, November 5, 2014 at 7:00 p.m. with Mr. Eisenhut and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Correspondence

Mr. Jacobs noted a reprint of a Boston Globe article, dated 10/19/14, regarding teardowns.

Public Hearing:

7:00 p.m. – Amendment to Major Project Site Plan Special Permit No. 1993-2: General Dynamics C4 Systems, Inc., 8201 E. McDowell Road, Scottsdale, AZ 85251 and General Dynamics Information Technology, Inc., 3211 Jermantown Road, Fairfax, VA 22030, Petitioners (Property located at 77 A Street, 156 B Street, 189 B Street & 0 A Street, Needham, Massachusetts 02492).

Upon a motion made by Ms. Grimes, and seconded by Ms. McKnight, it was by the four members present unanimously:

VOTED: to waive the reading of the public hearing notice.

Robert Smart, representative for the applicant, stated the applicant is seeking site plan review and a Special Permit. No construction on site is being proposed. The applicant wants to resolve zoning issues left over from 1999 prior to the sale. Rick Peraina, Project Manager for General Dynamics, showed a 1960s map with 3 buildings on the site. Mr. Smart stated the owners of the site said the buildings were constructed in the 1960s. There are no towers in an earlier photo shown, and the first tower was built in 1960.

Mr. Smart noted the current site is a compilation of 4 lots owned by 2 owners. There is a narrow strip of land on the site that is 0 A Street. In 1981, at the May Town Meeting, the town adopted Section 5.1 (parking requirements and parking plans). He noted 156 B Street and 189 B Street footprints have not changed. 77 A Street has been reduced in size. The parking layout is the same as 1960 with one exception. When part of the A Street building was taken off it was replaced with additional parking.

Mr. Smart stated in 1993 General Dynamics came in for a Special Permit to reduce the 77 A Street building and authorize a change in the parking lot to increase the parking. In 1999, General Dynamic's predecessor requested a Special Permit to do drainage and relocate a loading dock. Phases 1 and 1A were drainage between 156 B Street and 189 B Street and some additional site work.

Mr. Peraina stated they had major flooding in that area. They put in a super structure drainage system to ease the problem and they raised the whole grade. Phases 2 and 3 were going to enhance landscaping, address drainage issues and address the new grade. Mr. Eisenhut noted Phases 2 and 3 were not done but were to improve drainage. Mr. Peraina stated it was mainly landscaping but they had to address the drainage.

Mr. Smart stated in 1999 no new square footage was proposed. The applicants only moved the loading dock and did some site work. The changes were not necessary for security, safety or movement on site. Mr. Jacobs asked if their opinion was Phases 2 and 3 were optional. Mr. Smart stated they believe there were optional. The applicants were given permission to do them but were not required to do them. They did not complete it. The applicant would like the Board to amend the decision to clearly eliminate the obligation to do the work. He reiterated he feels it was optional work.

Mr. Smart stated the work the applicant did was completed in 1999 and finalized in 2000. In 2002, the Industrial Park was renamed and rezoned, and the dimensional requirements changed. He stated in order to sell the property the applicant needs to clean up some zoning issues. He stated there is no deal if they cannot get this approval. There are quite a number of items that are not in compliance with parking design requirements. He noted these in his 10/31/14 letter. The applicant would like to amend the Special Permit Site Plan to clarify they are not required to complete Phases 1 and 2. He would like a determination the As-Built plan meets the requirements of Section 3.20 of the 1999 decision and amend the 1999 decision to eliminate the requirement that they complete the balance of the work contemplated in the approved plans. He stated the work was not done. There is no need for architects certificate or a landscape architects certification. He would like the Board to determine General Dynamics is not required to bring the site into compliance with the current New England Business Center requirements.

Mr. Smart stated the applicant would like an 82 space parking waiver under Section 5.1.2. There are 1,248 spaces on site and 1,330 are required. He stated there are a tremendous amount of unused spaces on site. A large number of spaces extending over the property line are used by the occupants of abutting property without permission. The applicant is not counting those spaces. There are also 24 spaces on B Street. They are asking for a waiver of many parking design requirements. This is a site that had a parking layout in place when the requirements were adopted in 1981. These are pre-existing, non-conforming spaces. The applicants are not proposing any new construction. He noted all the comments from town departments say they have no comments or concerns.

Mr. Jacobs noted the following correspondence for the record: a memo from Fire Chief Paul Buckley, dated 10/24/14, with no objections or concerns; a letter from Town Engineer Anthony DelGaizo, dated 10/31/14, with no objections or concerns; an email from Tara Gurge of the Health Department, dated 10/29/14, with no objections or concerns; 2 letters from General Dynamics, dated 10/8/14, authorizing Attorney Smart to act on their behalf and a memo from Police Lt. John Kraemer, dated 11/3/14, with no safety concerns.

Mr. Eisenhut stated he has concerns about Phases 2 and 3. He does not agree they are optional. The phases were part of the decision. He commented he is not going to stand in the way of any development proposal that he feels would be good for the town. He noted they could modify or amend but he does not feel it is optional. He stated he is not happy and will not vote unless there is some assurance that somehow there will be a major site plan presented to the Board within a reasonable time frame.

Roy Cramer, representative for Normandy Real Estate Partners, stated they will lease the property back to General Dynamics to give them opportunity to relocate. He stated they will do a renovation of 77 A Street and 189 B Street. They intend to remove 156 B Street and then construct retail on the first floor with office above that and a multi-level parking garage. The applicant will then divide the north east corner off and do a 40B project. He stated the Selectmen are aware of this plan and are in support.

Mr. Eisenhut asked about the timeline. Justin Krebs, of Normandy, stated they want to be before the Board within 12 months of the closing. They will be in front of the Board within 6 months to begin the process. Mr. Eisenhut commented he would be willing to waive Phases 1 and 2 if the applicant was before the Board with a Major Project Site Plan Review of these parcels within 2 years. He commented he is not happy the work was not done and the applicant did not come back.

Mr. Cramer stated they need to have a clear decision. Mr. Eisenhut noted that is a clear decision. The applicant would need to come back within a certain timeframe. Ms. Grimes stated she does not feel that is necessary. She feels a lot of things come into play. Mr. Krebs stated if they attempt to finance they would be in default if it is not done within 2 years. He stated he could tell the Board they have absolute intentions but it will be problematic on a practical basis from a financing point. Mr. Jacobs asked what happens if the deal does not go through after they have granted the relief the applicants are asking for. Mr. Eisenhut stated he would like the town engineer to go back and look at this project. He feels the town engineer must have thought drainage would be an issue.

Mr. Smart stated General Dynamics chose not to do the phases. There have been no problems or drainage issues on this site. Town Engineer DelGaizo has no problem with this application. There is no one from the Town that has told General Dynamics that not doing Phase 2 and 3 was a problem. Mr. Eisenhut commented he knows from history, just because plans are in place, it does not mean the project will go forward. Mr. Smart stated the buyer is not going to spend upwards of \$50 million to purchase the property and then to not do any new development work. The Board can safely assume future work will be done.

Ms. Grimes stated they should do something similar to what the Board had done a couple of weeks ago. She asked Mr. Cramer if he would be comfortable putting together a letter that the applicant intends to do the project within 2 years but keep it out of the decision. Mr. Cramer stated he has no problem with that as everyone knows the applicant intends to develop the property.

Mr. Eisenhut asked if there was a purchase and sale agreement. Mr. Cramer stated yes, they were under agreement. He stated if all goes smoothly the closing will go quickly. He stated this year is the goal. Mr. Eisenhut stated they could cite in the decision as a finding that the property is under agreement, the buyer is here and the buyer has stated his intent. He would like this in the decision as a recital. This was agreed.

Ms. McKnight stated she has not seen the 1999 Site Plan Special Permit decision. She assumed the 3 phases stood on their own. She is not sure the Board would have allowed the Phase 1 without Phase 2 and the Phase 3 work. Ms. Newman stated the phasing is shown on the plan but the decision is not like the ones the Planning Board writes now. Ms. McKnight stated even if she were satisfied to grant all waivers, what bothers her is the Board is also being asked to make a finding certain improvements are prior non-conforming structures and prior non-conforming parking lots. This is not the Planning Board's role. This is the buyer counsels role. She feels they could say it has been represented to the Board that this is the case. Mr. Eisenhut agreed the Board does not issue due diligence letters.

Mr. Smart stated, with regard to the waiver being sought under Section 5.1.1.5, the basis for granting the waiver is this is a pre-existing site and the parking here pre-existed the adoption of the requirements to begin with. This is the basis on which the permit should be granted. He stated it is quite clear this site pre dated the adoption of all those standards. Mr. Eisenhut stated they could grant the waivers based on the historical use of the property. Ms. McKnight noted the waiver in 1999 was for 75 spaces. She asked if the applicant wants to amend to 82 spaces or 75 plus 82 spaces. Mr. Jacobs stated there are always many spaces available. Mr. Peraina submitted a parking analysis and explained. Ms. McKnight asked how many spaces are compromised. Mr. Smart stated 88 on the west side and 24 on street.

Mr. Jacobs called a 15 minute recess for the Board members to review the decision from 1999.

Mr. Eisenhut stated in Section 3.1, if there were any modifications to the plans they were required to come back. He does not feel these phases were optional. He stated the applicant can resolve the issue by having specific recitals written in the decision setting forth what the testimony has been with respect to the future plans for this property. Mr. Smart stated, in response, if the applicant had come back in 2000 and said they did Phase 1, it solved the problem and they wanted to be relieved of the obligation to do Phases 2 and 3, the Board probably would have said that was fine. They are doing it 14 years later than they should have.

Mr. Eisenhut stated he thinks it is fair to put recitals in the decision. Ms. McKnight stated she does not see that a recital would be harmful to the sale. She does not feel all that concerned with the relief sought. Mr. Jacobs stated he has the same reasons. He does not feel the Board is setting a bad precedent. It is 14 years late but he would give the applicant the relief. Mr. Smart stated the problem with a recital is concerns on the part of the buyer and the buyer's lenders. He would prefer there were no recitals.

Ms. Grimes stated she has no problem granting the relief as written with no recitals. Ms. McKnight agreed but stated she is concerned with the way the decision was written with regard to the findings. The Board put in the finding a reference to representations by the applicant and, based on that representation, the Board granted the waiver. Mr. Smart stated the applicants are relying on those representations. Mr. Smart stated the Board could

make a specific determination that the finding requirements of the New England Business Center District do not apply. Mr. Jacobs commented the applicant wants to know the Board can write an opinion that is acceptable to the banks attorney. The Board can grant the relief without having to make any particular findings at all and leave the rest to Attorney Cramer and the banks attorney to be satisfied as to whatever their interpretations of what the zoning issues are.

Ms. Newman stated the Board is being asked to render a zoning opinion. Normally the Board is not asked to render zoning opinions. Mr. Cramer stated the work was not done and there are no close out documents. Ms. McKnight stated she will not vote for a decision that includes these findings as presently worded. Mr. Jacobs asked Ms. McKnight what findings in particular does she object to. Mr. Smart stated he would request the matter be kept open and put on the next agenda on November 18. The applicant would like to get this deal closed before the end of the year.

Mr. Eisenhut stated he would go along with the majority if Ms. McKnight's concern is incorporated. Ms. McKnight said Section 1.24 is a problematic finding for her. They should eliminate the wording of the decisions reference to Section 1.24 and Section 1.11 regarding the requests. Ms. Newman stated Section 1.9 also. Ms. McKnight stated they should strike Section 1.24 and the reference to Section 1.24 in the decision. Ms. Grimes suggested the Board strike the first 5 words rather than strike the entire section. She suggested "It has been presented that the following dimensional conditions" and leave the rest as is.

Mr. Cramer stated they need a finding by the Board. It is a major problem if the Section 1.24 finding is not in the decision. Mr. Jacobs stated, in Section 1.24, the buildings shown on the As-Built plan were existing in the current condition in 2002 when the New England Business Center District was created. Ms. McKnight asked if they could make reference to another plan showing them existing on that date. That would be the 1999 plan. Mr. Cramer stated it could say in Section 1.24 that "the buildings shown on the plan existed in the same form." Mr. Jacobs added "the form in 1999 prior to creation of the New England Business Center District as show on the 1999 plan." Mr. Cramer stated they would need to update a - h. Mr. Smart stated the reference should be to the buildings and to the parking lots.

Bob Field, of Field Engineering, stated the 1999 changes were made. Mr. Eisenhut noted they should ask Mr. Cramer, as the buyer's counsel, if the language is acceptable. Mr. Jacobs noted there were a limited number of things to do.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. Grimes, it was by the four members present unanimously:

VOTED: to continue the hearing to 11/18/14 at 7:00 p.m.

7:30 p.m. – Oak Street Definitive Subdivision: Oak Street LLC, 235 Billerica Road, Chelmsford, MA, 01824, Petitioner (Property located at 66 Oak Street, Needham, MA). Please note: This hearing has been continued from the September 16, 2014 meeting of the Planning Board and will be further continued to the December 2, 2014 meeting of the Planning Board.

Ms. Newman stated she received a request from Attorney George Giunta Jr. requesting the public hearing be continued to the 12/2/14 meeting and extend the action deadline until 1/16/15.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. Grimes, it was by the four members present unanimously:

VOTED: to extend the action deadline to 1/16/15 and continue the hearing to the 12/2/14 meeting.

Request to Release Performance Bond for the Definitive Subdivision Plan: Riverbend Lane (Property located at 708 South Street, Needham, MA).

Roy Cramer, representative for the applicant, stated the subdivision is finished and the applicant is requesting a release of the full amount of the bond. Mr. Jacobs noted a memo from the Planning Department to DPW Director

Rick Merson and Town Engineer Anthony DelGaizo, dated 10/20/14, requesting information and the response from Town Engineer Anthony DelGaizo, dated 11/3/14.

Upon a motion made by Ms. Grimes, and seconded by Mr. Eisenhut, it was by the four members present unanimously:

VOTED: to grant the requested release of \$67,000 for roadway improvements.

Report from Planning Director

Ms. Newman stated North Hill is interested in occupying the nursing facility and assisted living facility. She has received some As-Built drawings with an estimate of how much would be needed to complete some site work that has not been completed and engineering is reviewing it. She would like the authority to go forward and issue a temporary Certificate of Occupancy and accept a bond that is approved by the Engineering Department.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. Grimes, it was by the four members present unanimously:

VOTED: to issue a temporary Certificate of Occupancy and accept a bond that is approved by the Engineering Department.

8:00 p.m. – Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsiopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Petitioner (Property located at 36 Rockwood Lane and 5 adjacent parcels, Needham, MA, Assessors Plan No. 17 as Parcels 22, 23 and 24 and Plan No. 20 as Parcels 57, 60 and 61). Please note: This hearing has been continued from the June 10, 2014, August 6, 2014, September 2, 2014 and October 7, 2014 meetings of the Planning Board.

Mr. Jacobs noted the following correspondence for the record: a Storm Water Management Summary, dated 5/6/14, revised 7/7/14, 9/26/14 and 10/31/14; a one page infiltration system size listing by Lot number; a 5/6/14 Landscape Plan, revision date 10/31/14; a list of 6 noise conditions received 10/7/14; a letter from John Lee and Susan Liang received 10/6/14; an email from Town Engineer Anthony DelGaizo, dated 10/23/14, in response to the inquiry for comments; a proposed form of Exhibit A; a Quit Claim Deed; a proposed form of Grant of Access Easement; a proposed form of the Road Maintenance and Improvement Plan; a proposed form of the Declaration of Restrictions document; a proposed form of Declaration of Trust document; an 8/19/14 listing by Labadini Corporation for landscape maintenance; an updated revised subdivision plan revised 9/26/14; a letter dated 10/31/14, from Chris Kotsiopoulos, owner, with requested NPDES storm water requirements; and a packet of information from Attorney Robert Smart with comments and suggested changes of material and comments by one of the members of the Board with regard to some documents.

George Giunta Jr., co-representative for the applicant, stated, with respect to engineering and plans, there were some additional documents submitted, most notably a storm water management summary that Engineering had requested. There was also a revised landscape plan, and a revised sheet at the prior meeting that was submitted to Engineering. NPDES communication and outreach requirements were addressed in a letter, and the landscape plan was revised to add some additional screening and vegetation along the rear of certain upper lots. They feel this brings to a close the loose ends on the engineering issues.

Michael Radner, of Radner Design, stated, at the request of some of the abutters, they added screening along Lots 1 through 3 and Lot 5 between the top of the retaining wall and the fence. There are 40 trees that are in those locations to provide additional screening. Mr. Giunta Jr. stated that closes out the loose ends with regard to engineering and the planning side of things. With respect to administration and documents they have submitted a set of revisions of documents that address concerns raised. He believes they are getting there with respect to the documents as well.

Mr. Jacobs asked, with regard to Ms. Grimes' and Mr. Smart's comments regarding legal documents, are they prepared to look them over and work together? Mr. Giunta Jr. stated the applicant was prepared to do that. Ms. Grimes asked if the documents will be reviewed by Town Counsel and was informed they will be.

Peter Barbieri, co-representative for the applicant, stated he is willing to meet with Town Counsel to go over the documents. Ms. McKnight stated she did a quick review and will share her comments with the applicant. She noted in The Grant of Easement document it gives the role to the Selectmen as far as being the recipient of this easement. She asked if the Selectmen are aware they are being asked to accept this easement? Mr. Barbieri stated he has not talked to the Selectmen. Ms. Newman explained the process and stated the Selectmen have played this role in the past.

Mr. Jacobs stated the email from Town Engineer DelGaizo says he does not recommend speed bumps on the southwest portion of the private way. He understands the issue with public ways but this portion of the road is going to be private. Mr. DelGaizo did not mention private ways. He asked if the Board were to suggest a speed bump on the southwest portion of the private way would they have any objections to that. Mr. Barbieri stated there was quite a distance between the private and public ways. He feels a better option would be a stop sign.

Ms. McKnight asked if this would be plowed by the town. Ms. Newman stated it would not be. It will be the applicant's responsibility. Mr. Jacobs asked if the applicant would object to a speed bump as well. Ms. Grimes stated or as an alternate if the stop sign does not fly. It was noted it will be privately maintained but the usage is exactly the same. Ms. Newman stated engineering received the revised drawing on 10/31 and have not commented yet.

Mr. Jacobs asked if there was a blasting plan. Mr. Giunta Jr. stated the noise control plan is written in a way that anticipates blasting and pile driving. Mr. Barbieri stated they are proposing a construction mitigation measure program which will be incorporated into the noise condition document. Ms. Grimes stated she read Attorney Robert Smart's comments. He had good points. She stated she wants all to work together on this. Ms. McKnight noted the storm water management summary and asked what this got attached to. Mr. Barbieri stated that was requested by the Town Engineer. This was in response to his request. Ms. Newman stated it will be referenced as an exhibit.

Ms. Grimes noted the letter from Mr. Lee and asked if it had been discussed. Mr. Barbieri stated he looked at an extension of the public way. The trees are actually on private property. There will be no impact on construction. Ms. Grimes stated Mr. Lee requested additional screening and a sidewalk. Mr. Giunta Jr. stated the screening is already shown on the landscaping plan. With respect to the drainage, they think the drainage design addresses the issues.

Mr. Barbieri noted there is no reason for a drywell on Mr. Lee's property because there is no water there. Mr. Jacobs requested he go over the 7 points in Mr. Lee's letter so everyone knows where they stand. Mr. Barbieri reviewed Mr. Lee's letter point by point. He stated for #1 -- all the work is being done within the right of way and they do not feel there is a need for a stone wall. The applicants are trying to keep the existing vegetation. The added street trees will supplement the vegetation. #2 -- there is no water getting to Mr. Lee's property. The catch basin ties into the street at the end of the swale. #3 -- Mr. Barbieri stated, with the wall retaining the water back on site to the catch basin, there will be no water. For #4 -- he noted everything is within the right of way. #5 -- there are arborvitae in the back yard. Mr. Radner stated they can fill the gaps if there are any. Mr. Barbieri noted for #6 -- he is not sure screening from the streets is necessary. He does not want to screen Mr. Lee's property. #7 -- the road dead ends now. It will be repaved when it goes through.

Mr. Smart stated, with regard to additional landscaping, he would like a better description. Mr. Radner stated they have not provided a specific planting plan. There is no specific plan. There will be evergreens 5 to 6 feet in height and trees 10 to 12 feet in height. Arborvitae will get to 15 feet high and dogwoods 20 to 25 feet high. Mr. Smart asked about the spacing. Mr. Radner stated it varies from 5 to 10 feet.

Mr. Smart stated it would be helpful if the Board gave the applicant some guidance as to what kinds of requirements the Board wants to see addressed, such as an escrow account. He stated annual reporting will be an issue. He asked if the Board could demand maintenance records if the reporting is not done. He noted whether or not amendments to the trust, and the other documents that affect the drainage and other facilities, can be approved

by the Planning Board may be an issue. The initial trustee is not identified. There is also one provision that he did not feel worked well in the Declaration of Restrictions.

Mr. Jacobs asked if the applicant would be willing to sit with the Planning Director or Ms. Grimes and Mr. Smart to work out language for the documents. Ms. Grimes commented that she and Mr. Smart are both on the same page – a page where an escrow account is set up. She asked if the applicant had an issue with that. Mr. Giunta Jr. stated he is not keen on the idea. Homsy Lane is the only other project to do that. This is routing correctly and is not involved like the pumping station.

Stacy Blasberg, of 59 Richard Road, asked if anyone has contacted anyone at the Broadmeadow School to speak with them since this project is so close to the school. Mr. Jacobs stated the Board has not done that but it is open to her to do that. Ms. Blasberg stated she would like the Planning Board to be open to comments that are made. Melanie Vielhauer, of 57 Tudor Road, asked if the applicant would be willing to do some tailoring based on the condition of the different lots. She noted some lots are sunnier than others. Mr. Radner stated they would be willing to do that. It will be site specific.

Ms. McKnight stated usually plans show the type of trees. This is vague. She would like more detail. Ms. Newman stated it should be on the plan. Mr. Radner stated these are individual lots and the owners should be able to choose their own landscaping within the framework provided. Ms. Grimes noted the Board has not asked for that detail previously. Ms. Newman stated that was correct.

Alice Schwartz, of 123 Tudor Road, asked if the applicant had any idea how long construction would be. Mr. Giunta Jr. stated they had previously provided a schedule of construction activity. Mr. Garvin stated the road and foundations will be done in the first year and the project will be completed within 2 years. Ms. Schwartz commented she wants the Planning Board to take into consideration what the project will do to all living in the area. Mr. Eisenhut stated they should define the timeline. Ms. Newman noted it will be 2 years for infrastructure and roads.

Ted Harwood, of 133 Tudor Road, asked, if the members of the Board were subjected to noise from chipper machines, would they approve the project. Janet Carter Bernardo, of the Horsley Witten Group, stated she was trying to figure out the landscaping. When the properties are built out before the owners come in she wants to make sure there will be a buffer of vegetation rather than the proponent wanting for the owners to decide. Mr. Radner stated generally they like to start planting when the owner is there and utilities are in so they can water. Ms. Bernardo stated they are bringing in specific material then putting in plantings that are designed for the material. Mr. Jacobs stated he understands it is unusual the way the applicant wants to order things but he thinks it is appropriate.

Alicia Zukowski, of Samiotes Consultants, Inc., stated the applicant has provisions for temporary seeding. Mr. Jacobs stated the Board needs to get an opinion from Town Engineer DelGaizo if the sequence is ok. Don Boroson, of 139 Tudor Road, stated this is an industrial scale project. It is not a typical project. He would request no Saturday work and they not start work until after 7:30 a.m. Mr. Jacobs stated the Board usually allows 7:00 a.m. to 5:00 p.m. Monday through Saturday.

Omar Saldona, of 57 Tudor Road, asked who would be watching it all along and, if the abutters feel the noise is too loud, who do they go to. Ms. Newman noted the Planning Board will retain someone to supervise the site. Mr. Eisenhut noted the abutters can always contact the Planning Board with any concerns. Mr. Jacobs stated the permit will be in writing and a public record. He stated the Board relies on abutters to let them know if there are any problems.

Gary Potagal, of 74 Richard Road, stated this is not a typical project. This is already raising red flags for him. It does not seem to be a clear plan. He is worried it will affect their properties. Mr. Jacobs stated the Board members understand their concerns. This is a 9 lot subdivision. It is not huge but has some issues. The Board understands his concerns.

Mei Li, of 79 Richard Road, asked how the work hours are defined and if heavy trucks can go to the project site at 6:00 a.m. and make a lot of noise. Mr. Eisenhut stated the hours will be spelled out in the decision.

Ms. Newman stated the action deadline is 12/5/14. The Board will need a letter to take it through the end of January. Mr. Giunta Jr. will send a letter.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. Grimes, it was by the four members present unanimously:

VOTED: to extend the action deadline through 1/15/14.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. Grimes, it was by the four members present unanimously:

VOTED: to continue the hearing to 12/15/14 at 7:30 p.m.

Discussion of streamlining initiatives.

Ms. Grimes stated she is working with the Council of Economic Advisors (CEA). She had some comments and questions about the permit for Swizzles. She would like to go through the decision. She noted in Section 3.7 of the Decision, there is a requirement of Planning Board approval to transfer the permit. She wonder is this is really necessary. Mr. Eisenhut stated the new owner should be required to read the permit and attest in some way they will abide by the permit. That process could be done administratively through the Planning Director. Ms. Grimes stated she totally agrees. If a transfer is wanted, they should write a letter stating they will comply with all conditions of the permit. Ms. Newman stated she will prepare something and the Board can sign. Ms. McKnight noted this permit describes particular shops requested. She wants the manner of operation described carefully. Mr. Jacobs stated he thinks this is dangerous and slippery. He asked if the Board cares if the applicant changes waitress service to no waitress service. He commented he has no problem with that.

Ms. Grimes stated in Section 3.8, minor changes are not approved by the Board. Minor modifications do not need to come back to the Board. Mr. Eisenhut asked who makes a determination what is minor and what is not. Ms. Newman stated the Board needs to create some language about what constitutes minor. This needs to be clear. Mr. Jacobs stated if the Planning Director thinks it is minor, then the Board will also.

Ms. Newman stated Devra Bailin, Ms. Grimes and herself should work on this. Mr. Jacobs reiterated if Ms. Newman thinks it is minor it is fine. If she is not sure, she should ask the Chairman and if they are not sure, it goes to the Board. Ms. Grimes noted in Section 3.9, if someone is moving seats around and the number is not changing and the use is not changing. Ms. Newman stated that is already allowed as long as the use does not change. Ms. Grimes noted Section 3.16, if the building is done could it not just go through. Ms. Newman stated this was already done in a letter a while ago. Ms. Grimes stated in Section 4.2, they need to clarify what further development means.

Update on Zoning for Medical Marijuana.

Mr. Jacobs stated he had a meeting with Ms. Newman, Ms. McKnight, Selectman John Bulian, Selectman Moe Handel, Town Manager Kate Fitzpatrick and Chris Coleman, Assistant Town Manager. The Board of Selectmen maintain the position they would like to see nothing changed in the zoning. If the Board wants to do something it needs to be simple and short. They are not requiring an overlay. They should remove the application requirements and put them in regulations. Ms. Newman noted she feels the only way it will go is if the Boards are united in their decision.

Ms. Grimes stated she feels a good number of people did not understand what the Planning Board had proposed in the spring. The Planning Board should give a report to Town Meeting that they have decided not to do anything and this is how it will work. She feels the Board should supply information for the Town. Mr. Eisenhut has no objection to giving Town Meeting a report on what happens if they do nothing as long as it is objective.

Ms. McKnight stated they could let Town Meeting know that any lawful use is allowed by Special Permit in certain districts. However, without anything, they go to the state setbacks for certain uses and they do not completely preclude the application of any lawful use but it is quite limited. Mr. Jacobs stated the Board could say it is allowed by Special Permit in Highland Commercial 128 and Mixed Use 128. Ms. Newman stated they cannot go back to Town Meeting with the same proposal. Mr. Eisenhut stated they need to open it up a little. They should include the Industrial Districts, Mixed Use 128, part of Highland Commercial and Industrial 1.

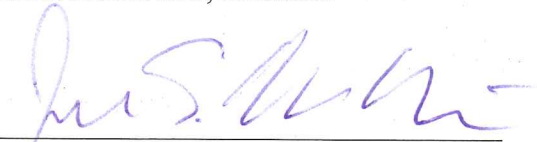
Minutes

Mr. Jacobs stated comments for the minutes should be given to Alex Clee.

Upon a motion made by Ms. Grimes, and seconded by Mr. Eisenhut, it was by the four members present unanimously:

VOTED: to adjourn the meeting at 11:07 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Jeanne S. McKnight, Vice-Chairman and Clerk