



BELLINGHAM PLANNING BOARD

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Meeting Minutes November 10, 2016

MEETING LOCATION: ARCAND MEETING ROOM – MUNICIPAL CENTER

Present at the Meeting

Brian T. Salisbury (BTS), Chairman
William F. O'Connell Jr. (WFO), Vice Chairman
Peter C. Pappas (PCP), Secretary
Dennis J. Trebino (DJT), Member
Bruce W. Lord (BWL), Member
Nikyda Resto (NR), Alternate

Other Officials:

James S. Kupfer (JSK), Town Planner and Zoning Compliance Officer
Jean Keyes (JK), Planning Board Coordinator

BTS opened the meeting at 7:00 p.m.

7:00 p.m.

Woodland Hills Definitive Subdivision – Bond Release Discussion

Present: Applicant and developer Kevin Lobisser. Mr. Lobisser requested a release of the full amount of the remaining bond. JSK explained that the DPW has completely signed off on the project, the road has been accepted by the town, and we have received the stormwater annuity and have deposited the funds.

WFO: Motion to release the remaining bond in the amount of \$148,000.00 for the Woodland Hills Definitive Subdivision.

PCP: Second.

Discussion: None.

Vote: 5-0 Carried. (BTS, WFO, PCP, DJT, BWL)

Hartford Village II, Hixon Street, Continued Public Hearing, Development Plan, Stormwater Management Permit, Special Permit for Special Residential Use – Multi-Family Dwellings. Decision Deadlines: 12/9/16, 12/9/16.

Present: Attorney Joe Antonellis for the Applicant who requested a continuance to December 8, 2016 at 7:00 pm.

BTS: Motion to continue the public hearing for Hartford Village II, Hixon Street, Continued Public Hearing, Development Plan, Stormwater Management Permit, Special Permit for Special Residential Use – Multi-Family Dwellings to December 8, 2016 at 7:00 pm.

WFO: Second.

Discussion: None.

Vote: 5-0 Carried. (BTS, WFO, PCP, DJT, BWL)

Premier Equipment, Inc. 47 South Maple Street, Development Plan Review and Stormwater Management Permit, Continued Public Hearing. Decision Deadline: 11/30/16

Present: Attorney Joe Antonellis for the Applicant who requested a continuance to December 8, 2016 at 7:00 pm.

WFO: Motion to continue the public hearing for the Premier Equipment, Inc. 47 South Maple Street, Development Plan Review and Stormwater Management Permit to December 8, 2016 at 7:00 p.m.

DJT: Second.

Discussion: None.

Vote: 5-0 Carried. (BTS, WFO, PCP, DJT, BWL)

160 High Street Lot 1 & Lot 2 Development Plan Review, Stormwater Management Permit, Major Business Complex Special Permit, Flexible Parking Special Permit, Scenic Road Special Permit, 160 High Street, Continued Public Hearing, Decision Deadline: 11/11/16

Present: David Kelly of Kelly Engineering Group Inc., Mark Pilotte of Campanelli, Mark Wallace of Tech Environmental, Inc. sound study engineer for the Applicant, Rob DeMarco of Campanelli, Molly Kelly of Campanelli, Attorney Rob Fitzpatrick of WilmerHale, Andy Carballeira of CavanaughTocci, sound peer reviewer for the Town.

JSK gave an overview of the present state of the review.

Mr. Kelly explained that the Applicant has completed the following items as requested by the Board at the last meeting:

1. Added 2nd sound receiver on west property line.
2. The site was analyzed for sound with no trees on the property. But actually there are a lot of trees that will remain.
3. The revised sound study was based upon the most recent plan and configuration of the buildings.
4. Impulsive Noise Analysis: Mr. Wallace stated that he analyzed sound in the industry about impulsive noise and it is defined as immediate loud bangs with a short duration. Mr. Wallace further stated that the activities proposed on this site would not create impulsive noise by definition in the industry.
5. Decrease the sound threshold on the side of the property that faces the conservation land across from the High Street buildings. The Applicant has proposed two possible mitigation steps that will allow them to be compliance: 1) Add an additional 14' high berm along High Street; 2) Change the orientation of the building on Lot 4 so that the loading docks will be on the opposite side of the building. Either option would keep the site in compliance even if the building is operated at nighttime. Mr. Kelly stated that the Applicant would like the flexibility to do either option based upon the needs of a future tenant. BTS stated his preference to change the orientation of the building on Lot 4 to mitigate the sound and not construct the berm. BTS would like the final plan to show this change.

Mr. Carballeira explained his analysis that was submitted in his memo dated November 10, 2015. He stated that he agreed with the comments made by Mr. Kelly and Mr. Wallace and the characterization of impulsive noise presented by the Applicant. Mr. Carballeira also stated that there is a difference between the bylaw definition and the industry standard definition. The text in the bylaw is not sufficient to categorize sound as impulsive or not impulsive as it is too vague.

BTS asked if truck connections would be considered impulsive noise. Mr. Carballeira stated that at its source, this sound is impulsive noise; however, the further one moves away from the sound the more it recedes into the background. The impulsive sound that would be created does not increase the sound level significantly and does not raise the sound quickly. The nature of the sound level at the property line would not be impulsive.

WFO stated that he believes the Applicant has met the bylaw requirements for sound based upon what has been presented by both the Applicant and Mr. Carballeira. BTS agreed.

Public Comments and Questions:

Jim Dunlea of 57 High Street stated that he was not happy with Applicant's interpretation of the definition of impulsive sound or the peer reviewer's analysis of this definition. The definition of impulsive noise is in the bylaw and this is about nighttime noise level activity not about daytime noise levels.

Mr. Carballeira responded that impulsive sound definition in the bylaw is too broad and needs measurement standards added to the definition. The text in the bylaw is not sufficient to categorize a sound as impulsive or not impulsive.

BWL responded that the definition in the bylaw is still subject to the definitions used in the industry. There is an industry definition and the Board has to deal with that as well. The industry definition is in place and that is the standard that we are using. The impulsive noise has to be carried out to the edges of the property and that is not the case. In this instance the Board will go with the industry standard.

WFO asked if the Applicant could change the truck backup alarms to whooshing instead of beeping. Mr. Kelly responded that because the Applicant will not be the owner of the businesses, they cannot control those vehicles. In addition, Campanelli cannot control the trucks coming and going from the site. The Applicant has created measures to protect against those sounds including the design of the project.

Don Martinis of 334 Maple St and on the Board of Selectmen (BOS) questioned how many loading docks are on the buildings. Mr. Kelly responded that the building on Lot 1 has ten docks and the buildings on the other Lots each have fifty-one docks. Mr. Martinis stated that he is very concerned about the unknown. One truck may not be a problem but several trucks in and out at one time could be an annoyance. Victory is a great neighbor and a good neighbor and he does not hear the backup alarms and there is no nighttime activity. The Applicant is asking the Board to believe them and what they say. Mr. Martinis is very nervous about not knowing who the tenant is and does not want nighttime activity.

PCP questioned Mr. Dunlea if the measurement is done at the receptor which is on the site how would this be a violation at Mr. Dunlea's residence. Mr. Dunlea stated that if measured at his house it would not be a violation. A violation of the bylaw has to be where someone hears it.

PCP asked Mike Soter, chairman of the BOS if the BOS has jurisdiction of the daytime or nighttime operation of the hours of operation for a business. Mr. Soter responded that this is not the BOS purview.

Mike Soter of the BOS stated that this has been under review for a year. The noise bylaw was created to control nighttime noise. This Board has to interpret the information before them. Mr. Soter understands the frustration being expressed by the public. The traffic on Maple Street has increased significantly without the proper improvements to the road done by the Town. The Applicant has proposed mitigation to fix the Maple Street/Route 140 intersection. There is a major problem with Maple Street right now with or without this project. The applicant has done a tremendous amount of work to control that situation as well as to provide mitigation. The Bylaws are meant to be interpreted and the Board has to make a decision based upon the sound peer review and the engineering peer review. Mr. Soter further stated that he is not advocating one way or another but that the Board has to interpret the bylaws, review all the information, and come to a decision.

Peter Gabrielle of 6 Stonehedge Road stated that the question is will we hear the sound in the neighborhood of Stonehedge Road. BTS responded that you will hear something but less than what is prohibited. PCP responded that the Board can only prepare for the possibility of a tenant with a nighttime operation.

Don Martinis of 334 Maple Street clarified that Mike Soter is not speaking for him as a BOS member. Mr. Martins further clarified that he does not distrust the Board, but what is concerning is the fear of the unknown. He suggested that the Board include in the decision, very strong conditions that any future

tenant has to come back before the Planning Board to be sure the sound do not exceed accepted limits or there will be fines levied.

BWL responded that the Board is preparing this parcel for whatever tenant comes in. The Board has standards that have to be met and whoever is going to be there. The Board has to look at the standards and not who is there as the standard does not change with a new tenant. The Building Inspector has to control compliance once the building is built.

BTS asked the Applicant if they are prepared disclose the name of the tenant. Mr. DeMarco responded that they have not been given permission to do so by the tenant. Mr. DeMarco further stated that have provided \$2 ½ million in mitigation and are proposing the construction of industrial buildings in an industrial zone. Mr. DeMarco assured the Board that Campanelli has a tenant that fits with the needs of the residents and they are not trying to rezone the property.

WFO and PCP agreed that the Applicant has addressed the noise standards and suggest that the Board close the discussion about the noise.

Doug Porter of 3 Stonehedge Road state that the Applicant is proposing an industrial piece of property in residential neighborhood. Victory agreed to not operate at night and can the the Board regulate the hours of operation.

Mr. Kelly responded that the tenant on Lot 1 will have hours of operation that are 8:00 am to 5:00 pm Monday through Friday with occasional Saturday and no other shifts. There will be 10-15 workers and four tractors and fifteen small vehicles for customer pickup. The noise mitigation measured are put in place for nighttime operation as well for all tenants. The tenant is buying the building on Lot 1.

Mr. Kelly then provided an update of the checklist of items for completion:

1. Light and Photometric Plan: The plan fully complies with the environmental bylaw and is substantially lower than the bylaw. There is no light spillage off the property. All lights whether on the building on the lot will not spillover. There will be some up lighting of the signage and some in the driveway and entrance but the light will not spillover to neighboring properties. JSK responded that this plan meets the bylaw and no peer review is needed and there are no impacts on abutters or roadway.
2. Signage: There will be monument type signs at both the north and south entrances that are about 12-14' high. The Applicant will have to develop a full signage package but since they don't know the tenants, they cannot provide a definitive signage package. There will be "No Left Turn" signs at each exit. BWL suggested that a change in signage will be conditioned in decision.
3. Auto-turn program: This program was run to show that emergency vehicles can enter and exit property. The program is illustrated on the Fire Access Exhibit Plan and the Fire Department will be commenting on the plan as well.
4. Auto-turn program: This program was run for all traffic turning left out of the driveway to head north on Maple Street. Each owner will direct each business to not go left and they will have "No Left Turn" signage at the exits. The Applicant will install raised islands with shrubbery at each of the driveways to prevent trucks from turning left out of the site. Islands are good impediments to deter trucks from going left. Box trucks and smaller can get around the islands and can head north from the site. WFO would like to see a policy from tenants that they are enforcing the no left turn.
5. Scenic Road: Very few trees are being removed in the Maple Street right of way. Six trees will be removed for the driveway and the Applicant is proposing substantial landscaping mitigation at the entrances. JSK reminded the Board that the Tree Warden will go out and review this plan with the Applicant and will report back.
6. Erosion control and stormwater pollution prevention plan will be provided: This plan will be prepared prior to any construction activity. The Applicant will provide a copy of the plan to the Board and the Con Com as well. JSK explained that the chairman of the Con Com and the peer reviewer for stormwater will be at the next meeting. Mr. Kelly explained that the Applicant agreed to modifications to the recharge system as requested by the Con Com.

7. Flexible Parking Special Permit: Explained that a memo that was submitted gives perspective to what they asking. JSK clarified that the Board does not have that memo yet as it will be discussed at the next meeting. Mr. Kelly further explained that the Applicant does not want to construct more parking and impervious surface than is necessary. The Applicant has gathered data from similar facilities and is providing at least as much parking but more than all of those. The Applicant feels that this is adequate to serve needs of the project without being too much. This has been thought through carefully.

BWL wanted to be sure that Lot 1 has the right to use the entrance road and this will be in the deed. Mr. Kelly agreed and it will be deeded to Lot 1 in a reciprocal use agreement.

Mike Soter questioned if the Board can legally stop the trucks from using the Route 126 Ave/ Maple Street intersection. JSK responded that the Board cannot legally prevent this and the Board is trying to disperse the traffic.

Doug Porter of 3 Stonehedge Road questioned if there is leaking of diesel fuel on the site, is there a plan to prevent the leaching into the Charles River. Mr. Kelly explained that there is an extensive stormwater management plan that is very restrictive regulation. Each system is equipped with oil separating devices that trap the oil. BTS explained that this will be discussed at the next meeting. JSK reiterated that the Con Com has extensively studied this situation, the stormwater system, the Charles River, and the abutting private wells.

Hours of Operation Discussion:

Mr. Kelly explained that they have designed this facility to handle all expected type of tenants. Lot 1 building will have daytime operations but all other lots will have full time operations including nighttime. All will comply with all bylaws and noise requirements. However, it depends upon what the tenants or owners of the other buildings want for the operation of their businesses.

BTS expressed his concern is not the impacts coming from the site but the impacts to the neighbors from trucks driving by residential homes at nighttime on Maple Street especially if they have nighttime operations. BTS is confident the Applicant can mitigate sound on the property but asked what mitigation could the Applicant provide to houses along Maple Street such as new sound insulation. Mr. Kelly responded that they provided a sound analysis that demonstrates adequate sound analysis for truck traffic. Mr. Kelly suggested that if the Town repaves Maple Street, it will have a smoother paved surface which will help reduce vibration from trucks. Additionally, the restriction of left turns by trucks out of the property will help the majority of the residents.

Deanne Martinis of 334 Maple Street stated that she has lived on Maple Street for 30 years. The town is making money on this project but wanted to know how she could get mitigation for the decrease in her property value. She has installed triple paned windows in her house and still hears the trucks. Ms. Martinis wanted to know how the Board can help her and stated that as property owners, they have rights. BTS responded that the Board understands her position and they are working to find the right balance; however, the Board cannot mitigate the difference in property values.

BWL responded that there are going to be a lot of employees on this site and employees are potential buyers of the houses in the area. The monies gained by the town can make the education of Bellingham's children better. The nature of the shape of the town is such that the industrial zones conflict with residential zones and commuter traffic is gaining on that street. BWL acknowledges that there is a problem but there is no solution that will be completely compatible with what the public wants it to be.

Doug Porter of 6 Stonehedge Road suggested that as mitigation, the Board can limit trucks to not after midnight even if you have a 24-hour operation. PCP explained that the Board has limited authority in these situations. The Applicant has rights and if they meet the zoning bylaws then the Board does not have the authority that the public assumes the Board has.

Jim Dulnea of 57 High Street stated that this type of industry attracts lowest possible wage earners and not those that would be buyers of houses on Stonehenge Road. Any proposal on that property will bring tax dollars to the town. The scale, magnitude, and negative impact on abutting real estate valuations will offset any development they can put on that site. Nighttime restrictions can be implemented by using the nighttime noise bylaw restrictions and the flexible parking permit. Since the footprint is maxed out on this property and they have no other room to put parking spaces. The Board can deny this permit and make the Applicant shrink the facility size by one third.

NR stated that the backing up of the trucks is an impulsive noise but as the distance from the trucks decreases and it no longer becomes an impulsive noise.

Peter Gabrielle 6 Stonehedge Road stated that the noise of the trucks on Maple Street during the day is horrendous. If a nighttime operation is allowed on the site, the nighttime noise will be horrendous too. Mr. Gabrielle stated that his quality of life should not have to suffer. In addition, Victory doubled the number of trucks that they said would be on their site. JSK responded that the traffic study for Victory was extremely conservative and the Applicant for this project has also provided fairly conservative traffic study as well.

Mike Soter, BOS stated that the town recognizes that Maple Street has to be done over. The town cannot stop trucks from going down the road at 1:00 am in the morning; however, the town can commit to repaving Maple Street when the intersection is done. Mr. Soter directed the Board to be cautious when talking about soundproofing for abutters. The Victory mitigation to neighbors resulted in a fence that was not installed by the neighbor. The Board does not want to appear as if it is paying off the neighbors. Maple Street can be repaved to help reduce the sound from the traffic and eventually fix the Maple Street/Hartford Ave intersection.

Attorney Fitzpatrick suggested that the Board handle the hours of operation like other topics and wait to make a final determination. Lot 1 restrictions on hours of operation may affect prospective purchasers as the deal is not finalized. The Applicant requests that the Board consider hours of operation information and reach a resolution in due course.

BTS stated that the Board will defer the hours of operation discussion to a later meeting. PCP added that the Board has collected information from residents and the Applicant and will take all of it into consideration when reaching a decision.

BTS explained that a Planning Board meeting will be held on November 17, 2016 as the November 24, 2016 meeting has been canceled due to Thanksgiving. JSK added that it is commonplace in many towns to add additional meetings to give time for the Board to review. The Board can schedule another meeting and it is not uncommon.

BWL: Motion to continue the public hearing for the 160 High Street Lot 1 & Lot 2 Development Plan Review, Stormwater Management Permit, Major Business Complex Special Permit, Flexible Parking Special Permit, and Scenic Road Special Permit, 160 High Street to November 17, 2016 at 7:00 p.m.

PCP: Second.

Discussion: None.

Vote: 5-0 Carried. (BTS, WFO, PCP, DJT, BWL)

General Business:

- ☐ **ANR's**
- ☐ **As-Built Certifications**
- ☐ **10/27/16 Minutes Signing**

PCP: Motion to sign the October 27, 2016 Meeting Minutes.

DJT: Second.

Discussion: None.

Vote: 5-0 Carried. (BTS, WFO, PCP, DJT, BWL)

- ☐ **Ann Marie's Meadows Definitive Subdivision – Plan signing**

The Board nominates BTS to be on the Livestock Committee.

BTS: Motion to adjourn.

WFO: Second.

Discussion: None.

Vote: 5-0 Carried. (BTS, WFO, PCP, DJT, BWL)

Meeting Adjourned at 10:10 p.m.

Meeting Documents & Exhibits:

Hartford Village II Development Plan, Stormwater Management Permit, and Special Permit for Special Residential Use – Multi-Family Dwellings Review

Premier Equipment, Inc. Development Plan & Stormwater Management Permit Review

1. Plan – 3rd Submission – 10.21.16

160 High Street Development Plan, Stormwater Management Permit, and Multiple Special Permits Review

1. Sound Study Updates with Addendum – 11.4.16
2. Kupfer Staff Memo Update – 11.9.16
3. Maple Street Park Entry View Rendering – 1.28.16
4. Plan – Fire Access Exhibit – 11.7.16
5. Plan – Scenic Road Tree Count – 10.21.16
6. Plan – No Left Turn Exhibit – 11.4.16
7. CavanaughTocci Comments – 11.10.16
8. Exterior Rendering of Lot 1 – 9.13.16
9. Exterior Rendering of Lot 2 – 10.31.16
10. Plan - Berm Exhibit – 11.10.16

Woodland Hills Definitive Subdivision – Bond Release Discussion

1. Bond Release Request from Lobisser 11.3.16

MINUTES OF THE PLANNING BOARD MEETING

November 10, 2016

Minutes Accepted on: 12/8/16
(Date)

Jean Keyes
(Prepared by: Jean Keyes)

Brian T. Salisbury
Brian T. Salisbury

William F. O'Connell Jr.
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Peter C. Pappas
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Dennis J. Trebino
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