



BELLINGHAM PLANNING BOARD

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Meeting Minutes December 8, 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.

Maple Street Drainage & Maintenance, Scenic Road Special Permit Modification, Maple Street, Town of Bellingham DPW, 1st Public Hearing.

JSK read the public hearing notice and gave an explanation of the reason for the modification.

Present: Don DiMartino, DPW Director

WFO: Motion to open the Public Hearing for Maple Street Drainage & Maintenance, Scenic Road Special Permit Modification.

BTS: Second.

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

Mr. DiMartino explained the proposed modification. The Department of Environmental Protection (DEP) wanted the DPW to modify the project to eliminate majority of the swales and put in area drains. To do this, the DPW must remove some of the stone walls and then relocate and rebuild them. Unfortunately, the DPW does not have sufficient land to rebuild the entire linear footage of stone wall that will be removed within the project scope. This is the reason for the modification. DiMartino clarified that 680 total linear feet will be removed and 380 linear feet cannot be relocated. 300 linear feet will be relocated while replanting trees are completed.

BTS: Motion to close the public hearing for Maple Street Drainage & Maintenance, Scenic Road Special Permit Modification.

WFO: Second.

Discussion: None.

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

WFO: Motion to draft an approval for the Maple Street Drainage & Maintenance, Scenic Road Special Permit Modification, Maple Street.

BTS: 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: Joseph Antonellis, attorney for Applicant, J.P. Connolly of Andrews Survey & Engineering, Tom Houston of PSC, peer reviewer for the Town of Bellingham.

Attorney Antonellis explained the progress to date. The Modification application that will be submitted in the near future for Hartford Village I will merge the parcels and remove the property line. Title counsel has reviewed this plan and is sure it can be done. The Applicant will move forward with the modification if the Board has a comfort level with the current revisions.

Mr. Connolly stated that he has reviewed the comments from PSC and there are a number of unresolved items that must be addressed. Mr. Connolly then explained the plan and stormwater basin revisions.

BTS asked about the emergency access to Hixon Street. Mr. Connolly responded that this has not been fully resolved. The primary contributor to the water problem on Hixon Street is not coming from this access or the project but coming from Hixon Street. The "speed bump" that will be installed on this access will direct the water from the site but will not fix all the water coming down High Street. BWL would like to have the emergency access improved so that it can be used for an emergency egress. In addition, BWL would like the Applicant to fix the drainage at the end of the access road where it meets Hixon Street. Mr. Connolly responded that fixing the drainage on Hixon Street should not be the Applicant's responsibility as it will be a burden. Mr. Connolly added that the Applicant can improve the drainage but cannot eliminate all the water that comes down Hixon Street. BWL does not believe it is a burden to the Applicant but they should be responsible for fixing it. Mr. Connolly does not believe that fixing the road and drainage in front of the access road will fix the water problem on Hixon Street.

JSK stated that the Deputy Fire Chief and the Police Safety Officer will be at the next meeting. Mr. Connolly also informed the Board that the Applicant will install a gate if requested. The emergency access road will be difficult for emergency apparatus to navigate from Hixon Street. PCP responded that the second egress is not just for emergency access. Mr. Connolly further explained that the hammerhead turnaround is dependent upon Fire Department approval but it provides better maneuverability for emergency apparatus than a cul-de-sac.

JSK asked Mr. Connolly if the Applicant could reduce the separation of the buildings to remove them from the leaching field and to remove the retaining wall. JSK also asked if the buildings will have sprinklers and Mr. Connolly responded that he did not know at this time. JSK would like a photometric plan to see that there is no spillover and Mr. Connolly agreed and stated that the lighting will be similar to the Hartford Village I.

WFO asked if Mr. Connolly has addressed sight lines to the abutter's property and Mr. Connolly explained that the grading was revised behind the building that abuts the resident to the north. In addition, the Applicant will plant a line of white pine trees for screening and that a fence may also be considered.

Mr. Houston gave an explanation of his comments letter dated December 2, 2016. Mr. Houston explained that upon further review PSC has changed their opinion regarding the 100' buffer zone. They now believe it is required. There are several issues that have not been resolved as stated in his comment letter. So while the Applicant has made progress, there are more tasks to be completed.

JSK explained that the Conservation Commission (Con Com) has accepted the wetlands delineation. However, the Applicant has not submitted a request for Board of Health review yet. Attorney Antonellis requested a continuance to January 12, 2017 at which time the Applicant would like to focus on safety and stormwater issues.

Public Questions and Comments:

Harry Hamjian of 35 Hixon Street indicated on the plan where his home is in relation to the proposed project and that his home is the most impacted by encroachment into the buffer zone. He was concerned about the 1/3 of an acre that has to be cleared for the hammerhead turnaround and believes that this is significant. Mr. Hamjian also questioned how tall the buildings would be and if the white pine trees would really screen the line of sight from his home. Mr. Hamjian asked the Board if the proposed buildings could be staked so he could see exactly where the buildings will be and if they are encroaching. Finally, Mr. Hamjian asked if the Board would like to have a site walk and see the stakes. The Board agreed and instructed the Applicant to stake the site. JSK will coordinate the site walk and post notice of it to the public.

The Board was concerned about the intrusion into the buffer zone by two of the buildings and asked Mr. Connolly to consider revising the plan to reduce the number of units. Also, the Board asked Mr. Connolly to consider combining and moving some of the buildings so as to eliminate two of the buildings. Mr. Connolly responded that a multi-family unit must be three or more units per building. JSK responded that the Applicant could construct a 4 or 5 unit structure and eliminate one or two of the buildings.

Attorney Antonellis responded that the Applicant would prefer to work on mitigation rather than reducing the number of units. Additionally, clearing for the turnaround would only affect Mr. Hamjian's line of site and that could be mitigated with screening.

Lynn Hamjian of 35 Hixon Street asked the Board if the hammerhead turnaround could also be staked so she can see where it would be. Ms. Hamjian asked that the Applicant keep lighting away from the hammerhead and close to the buildings. Additionally, she added that the egress road was gated because the Hixon Street neighbors did not want it open. Finally, Mr. Hamjian stated that she would like to see improved the turn at Hartford Ave and Hixon Street.

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 January 12, 2017 at 7:00 pm.

DJT: 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: 12/30/16

Present: Joseph Antonellis, Attorney for the Applicant, Kimberly Bielan of Marcus, Errico, Emmer & Brooks, Attorney for the abutters in the Maplebrook Condominiums

Attorney Antonellis explained that the Applicant is trying to come to a resolution with the Maplebrook Condo Association and so would like to continue to January 12, 2017.

BTS: Motion to continue the public hearing for Premier Equipment, Inc. Development Plan Review and Stormwater Management Permit to January 12, 2017 at 7:00 pm.

WFO: 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: 12/30/16

Present: Present: David Kelly of Kelly Engineering Group Inc., Mark Pilotte of Campanelli, Rob DeMarco of Campanelli, Molly Kelly of Campanelli, Attorney Rob Fitzpatrick of WilmerHale

JSK gave an overview and explanation of what will be covered tonight and that the documentation is online for the public. The document that the Board will be discussing is the Determinations and Conditions DRAFT dated December 6, 2016

JSK explained that the Determinations are keyed by the zoning bylaws that are applicable to the various permits that are applicable. The project is being considered under distribution and warehouse use. PCP questioned how much percentage of change of use would trigger a modification. JSK explained that there is no processing or manufacturing. If there is any, then it would trigger a modification. JSK will check with Town Counsel on this issue.

The Board discussed the items in the Determinations and Conditions Draft dated December 6, 2016:

- Detention basin fencing waiver request: The Board agreed to grant a waiver for fencing around the detention basins for Lots 2, 3, and 4 and denied the request for Lot 1.
- \$1,000,000.00 Mitigation for Maple Street and Route 140 intersection improvements: Attorney Fitzpatrick explained that the mitigation will be provided when buildings 2 and 3 are constructed and prior to issuance of the Certificate of Occupancy. If those buildings are not constructed, the mitigation will not be provided. However, Attorney Fitzpatrick reassured the Board that the Applicant wants to develop lots 2 and 3 and there is no intention to delay construction or the mitigation payment.

Don Martinis of the Board of Selectmen (BOS) and the Bellingham Roads Committee stated that the town is relying on this mitigation for this project. If buildings 2 and 3 are not built then there are other priorities in town. If the Applicant is only building one building now, then the town will not spend the money on this intersection. Timing is critical and it is a very complicated process for the Board. This is a state road and the town has to get approvals from the state to improve the intersection.

- Stormwater easement: Attorney Fitzpatrick stated that he and the Applicant would like to review the stormwater easement with Town Counsel. The Applicant is concerned that the easement could have a detrimental effect on the Applicant and an encumbrance on title. A prospective purchaser would not usually see this on title and this goes beyond what is typically provided for in these types of projects. BTS responded that the easement would allow the town to have access if the Applicant/owner does not comply with the stormwater inspection reporting. JSK added that the Con Com feels strongly about obtaining this easement as this is near the Charles River.
- Covenant for common ownership of driveways and detention basins: Attorney Fitzpatrick would like to discuss the language of this condition with Town Counsel.
- Exterior wall signage: Mr. Kelly explained that the Applicant will be submitting a full signage package in the near future. The building signs would be 10' x12' signs. On the building that abuts Route 495, the Applicant would like to place a sign on the rear of the building to take advantage of the visibility to the highway. Mr. DeMarco explained the signs would be lit when the businesses are active and the one facing Route 495 would be dimly lit so it can be seen. JSK suggests that the Board postpone this discussion until the Applicant submits a comprehensive signage plan.
- Hours of Construction: The Board agreed that the construction hours would be Monday through Friday 7:00 am to 6:00 pm, Saturday 7:00 am to 3:00 pm, and no work on Sunday or Holidays. If construction will be needed on a Sunday, then special notice must be given to the town. If work

extends beyond the hours set or occurs on prohibited days, the Board would like to have a mechanism for issuing warnings and fines. JSK will research this further.

- Limit of Work and Construction Phasing: BTS would like to see the elimination of the berm on Lot 4. BTS has requested that the building be turned around so that the berm is not needed for sound mitigation. Mr. DeMarco responded that this causes significant hardship as most users want offices in the front of the building and docks in the back. Mr. DeMarco further stated that they cannot handcuff themselves with this restriction so as to have flexibility to be more attractive to possible tenants. Mr. Kelly committed to not going beyond the limit of work shown on the Limits of Work Exhibit dated November 11, 2016, but the Applicant needs flexibility with the buildings within that area.

Mr. Kelly explained that the Applicant needs the flexibility to change some of the buildings to be responsive to business needs within the review parameters of the town. BTS responded that he is not against flexibility but is concerned with the complexity of how changing the buildings would impact the sound and drainage. JSK clarified that if changes to the buildings were proposed, the Applicant would have to come back before the Board and the Con Com and meet all of the town's bylaws and storm water regulations. Mr. Kelly agreed and stated that the Applicant would expect the town's peer reviewer to review each change associated with each building.

- Hours of Operation: The Board held lengthy discussion concerning the hours of operation and most were not in favor of allowing 24-hour operation because of the impacts of the trucking on Maple Street to the Maple Street residents abutting the site. Attorney Fitzpatrick informed the Board that the tenant who will be purchasing the building on Lot 1 has learned of the possible restriction to 24 hour operation for this building. That tenant has stated that this restriction will affect the value of the property and would like to preserve the expanded hours. Attorney Fitzpatrick stated that the tenant has no intention of expanding their hours of operation, but they are looking for permitted flexibility for the building.

The Board suggested that trucks could be restricted to deliveries until a certain hour of the evening. Mr. DeMarco read an email from the tenant that stated work hours as: "hours are 8:00 am to 5:00 pm Monday through Friday with an occasional Saturday, no 2nd or 3rd shifts, and no Sundays." JSK responded that Victory has a restriction over when trucks can enter and exit and when the business can be run. BWL stated that if the Board starts restricting hours of operation then the Applicant will lose a lot of money. These buildings are being built for 24 hour use. BTS responded that the Board needs to be fair to the Applicant and the neighbors. BTS reminded the Board that they have to be mindful of the hours the trucks can enter and exit the site.

BTS is in favor of universal hours of operation for the entire site and to not single out one building.

Mr. Kelly responded that this project has changed dramatically over time. The Applicant has reduced the project in size, turned buildings and added berms to mitigate the sound impacts, provided minimal lighting systems, and substantial traffic mitigation. Lot 1 is a unique building and the Applicant is pleased to have a potential buyer for this lot; however, the tenant/future owner is uncomfortable with the hours being so restrictive if they ever choose to sell and just want flexibility. The Applicant has done a great deal to the other buildings to mitigate the sound and traffic away from the neighbors. Mr. Kelly reminded the Board that the Applicant has always represented that they want 24-hour operation in the buildings on lots 2, 3, and 4.

BTS responded that the trucks traveling through the neighborhood in the middle of the night can only be addressed by limiting the hours of operation. Mr. Kelly responded that the Board's sound engineer was fully compliant with the federal requirements for noise on Maple Street and on the site and he believes that the perception is worse than the reality. The Applicant needs to have the ability to use these facilities.

Attorney Fitzpatrick stated that he would like to discuss with Town Counsel, the extent to which the Planning Board, exercising powers under zoning act, can condition the use of a site to regulate the use of public roads. BTS responded that he would not characterize the Board's

concern that way. BTS further stated that the Board is concerned with the impact to the neighborhood and the quality of life. The sound is the cause of the detriment and the increased truck traffic is the cause of it and it is detrimental to the enjoyment of life of the neighbors.

Public Comments and Questions:

Valerie Tobaio of 1 Middle Avenue stated that she purchased her home two weeks ago and is excited to be here. Ms. Tobaio is concerned that a lot of business parks stand empty. Her brother and father are developers and she is concerned about the impacts visually and from the traffic. Transient business does not bring anything to the town and she is concerned that this will not bring actual good development to Bellingham. Ms. Tobaio explained that she is a public health social worker and is concerned that the Board has heard about environmental impacts but not human impacts. Ms. Tobaio stated that research has shown that living closer to distribution centers and the highway increases heart disease, cancer, etc. This is a huge parcel of land and is glad that the town is committed to replacing trees, but the Applicant will not be replacing the same amount of trees that will be taken down to construct these building. Ms. Tobaio asked the Board what we want the town to be in 10 years.

Joe Roche of 100 Maple Street stated that there will be a 25% increase in traffic. The center of town is blocked and the traffic goes down Maple Street. Asked what does this do to emergency response time for police and fire in the town. Mr. Roche also questioned if \$50,000 enough to redo the section of Maple Street in front of the site.

Cynthia Prescott of 314 Maple Street thanked the Board for its due diligence. Ms. Prescott is concerned with the decrease in the already poor quality of life on Maple Street due the truck traffic that exists now and that will increase if this is approved. Ms. Prescott has additional concerns about: trucks on High Street, trucks turning around on High Street, 4-wheelers accessing the site, truck sight lines, noise increase from the truck traffic, trucks turning at Route 140 and Maple Street, standard delivery times for trucks, property values, response time for emergency vehicles, empty buildings on the site, and decreases in property values. Ms. Prescott stated that this is not a suitable spot for this project and urges the Board to look at the scenic bylaw.

Don Martinis of 334 Stonehedge Road and on the Board of Selectmen stated that he appreciates all the Board has done working with the Applicant. Construction at Victory was a mess as Campanelli did the construction for Victory and it was an unsafe working site. Mr. Martinis hopes the Board puts specific conditions in the decision to ensure safety during construction such as fencing. Mr. Martinis directed his comment to Board member Lord through the Chair and stated that the Board's obligation is to the residents of the town and their safety. There seems to be an element of concern for the Applicant and their ability to resell their property. This should not enter into their thinking. This is not your concern.

BWL responded that he ran for this job to represent the Town of Bellingham and he has to look at things from the point of view as what is good for the town.

Qin Li of 57 High Street stated that the warehouse suits the zoning. Ms. Li goes on to name the businesses on other sites on Maple Street and their uses. Ms. Li also added that there are houses built on industrial land and said that there is a difference between allowed versus appropriate uses of industrial land. Ms. Li stated that it seems like the project is on its way to be approved. If this is not approved, the Applicant will abandon the land and another developer will come with what may be a better use. The Applicant chose this land which does not have appropriate access to the highway and has a sensitive environmental area. If this project is approved, the noise will be bad. Ms. Li understands that this is industrial land but relies on the Board to make a better decision. It is not an ideal project.

Laly Viera of 60 High Street stated that her biggest concern is safety on High Street and Maple Street. Ms. Viera has spoken to police officers about violations and near-misses with trucks. The police said they didn't see it so couldn't do anything and don't have the manpower to monitor every day all day. Ms. Viera went to Victory to complain about their trucks but they didn't care. Ms. Viera believes that nobody cares. Additionally, Ms. Viera stated that taxes have gone up since Victory has been in and the tax revenue

doesn't come across to the town. The town taxes the properties and not the trucks as they are registered out of state.

Cecile Barrett of 58 High Street stated that this town voted the Board in and voted High Street and Maple Street as Scenic Roads. She does not want big business and believes the residents want Bellingham to be a small town.

Jim Dunlea of 57 High Street stated that the Board has the right and obligation to reject what comes before them. The Board has to balance the safety of the town with the rights of the developer. The standing of people in this town eclipses the Applicants standing. Mr. Dunlea stated that this project is the type of project that brings in jobs from transient labor forces from the lowest socio economic level of people. It does not bring economic value to the town. The employees will be more likely to break into their homes. If the Applicant tried to do this in another area, it would be more costly. The Applicant got a good deal on the land. Mr. Dunlea reminded the Board of his previous comments that he believes the Applicant is not complying with the noise bylaw for impulsive noise. Mr. Dunlea stated that he believes the Board has accepted an alternate definition of impulse noise and they cannot do that. There is a standing definition for impulse noise and it must be followed and mitigated to it. Concerning the hours of operation, Mr. Dunlea stated that the Applicant is changing their proposal. Mr. Dunlea is very concerned with the quality of life in the town and implores the Board to reject this project before something very bad happens on that road. Mr. Dunlea instructed the Board to tell the Applicant that you want buildings that bring value such as intellectual jobs. Finally, Mr. Dunlea asked the Board to keep the public hearing open so the public can comment and discuss the conditions of the decision. BTS explained that one of the purposes of this meeting was to go through what conceivably could be conditions in a decision.

Peter Gabrielle of 6 Stonehedge Road asked the Board to review Bylaw 240.120A. He is concerned that there has been no traffic study on the traffic coming from Hartford Ave to the site. Mr. Gabrielle also asked the Board to review Bylaw 240-115 concerning earth removal. Mr. Gabrielle would like to have Police Chief Daigle at the next meeting concerning safety.

Art Paturzo of 10 Stonehedge Road thanks everyone for their comments. Mr. Paturzo is concerned about hours of operation and truck traffic and believes that it should only be universal for all properties.

The Board decided to not close the public hearing as several tabled discussions will require the input of new information including from the police and fire department. JSK explained the closing of the public hearing process. When the Board does vote to close the public hearing, it means that all new information has been received and the Board will proceed from there with no input from the public.

BTS: 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 December 22, 2016 at 7:00 p.m.

WFO: Second.

Discussion: None.

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

General Business:

- ☐ **ANR's**
- ☐ **As-Built Certifications**
- ☐ **11/10/16 Minutes Signing**

BTS: Motion to sign the November 10, 2016 and November 17, 2016 Meeting Minutes.

PCP: Second.

Discussion: None.

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

☐ **Board Payroll**

WFO: Motion to sign the Board's payroll for October – December 2016.

BWL: Second.

Discussion: None.

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

☐ **Board discussed assigning the Town Planner, James Kupfer to execute all invoices for the Planning Board and office and the Planning Board payroll**

WFO: Motion to assign the Town Planner, James Kupfer, to execute all invoices for the Planning Board and Planning Department and the Planning Board payroll.

BWL: Second.

Discussion: None.

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

☐ **Bellingham Landfill Solar Development Plan – Decommissioning Agreement Discussion
JSK explained the agreement.**

WFO: Motion to accept the Bellingham Landfill Solar Development Plan Decommissioning Agreement.

PCP: Second.

Discussion: None.

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

BTS: Motion to adjourn.

WFO: Second.

Discussion: None.

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

Meeting Adjourned at 11:30 p.m.

Meeting Documents & Exhibits:

Maple Street Drainage & Maintenance, Scenic Road Special Permit Modification, Maple Street, Town of

1. Application 11.4.16
2. Abutter List – Certified 11.4.16
3. Plan for Wall Removal – 1st Submission – 6.23.16
4. Public Hearing Notice 12.8.16

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

1. Plans – 6th Submission 11.4.16
2. Stormwater Management Report 11.14.16
3. Andrews Survey & Engineering – Response to PSC Comments 11.14.16
4. DiMartino DPW – Comments - 12.1.16
5. PSC – 2nd Comments – 12.2.16

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

- Determinations and Conditions DRAFT – 12.6.16
- Limits of Work Exhibit – 11.16.16
- Plan – Buildings Signs – 11.16.16

Minutes Accepted on: 12/22/16
(Date)

Jean Keyes
(Prepared by: Jean Keyes)

Brian T. Salisbury
Brian T. Salisbury

William F. O'Connell Jr.
William F. O'Connell Jr.

Peter C. Pappas
Peter C. Pappas

Dennis J. Trebino
Dennis J. Trebino

Bruce W. Lord
Bruce W. Lord