

East Hampton Planning and Zoning Commission
Regular Meeting
June 2, 2010
Town Hall Meeting Room

Unapproved Minutes

1. **Call to Order and Seating of Alternates:** Chairman Zatorski called the meeting to order at 7:00 p.m.

Present: Chairman Ray Zatorski, Vice-Chairman Mark Philhower, Members Roy Gauthier, Richard Gosselin, Rowland Rux, James Sennett, Alternate Members Darin Hurne, Kevin Kuhr, Meg Wright, and Planning, Zoning & Building Administrator James Carey, were present.

Absent: Member Peter Aarrestad was absent due to a family obligation.

Alternate Member Darin Hurne was seated at this time.

2. **Approval of Minutes:**

A. **May 5, 2010:** *Mr. Philhower moved, and Mr. Rux seconded, to approve the Minutes of May 5, 2010 as written. The motion carried unanimously.*

3. **Communications, Liaison Reports, and Public Comments:**

Communications: Chairman Zatorski discussed a court case concerning the functions of alternates. Town staff will provide additional information on this issue.

Liaison Reports:

Mr. Gauthier reported that he was unable to attend the EDC meeting. The minutes of the meeting are on file in the Town Clerk's Office and may be viewed on line as well.

Mr. Sennett reported that the ZBA meeting was cancelled.

Mr. Zatorski reported that all information regarding IWWA will be discussed during the agenda item to which it relates.

Mr. Philhower reported that he was unable to attend the Midstate Regional Planning meeting.

Public Comments: The Chairman opened the meeting to the public for comments.

There were no comments.

4. **Read Legal Notice:** Mr. Carey read the legal notice into the record at this time.
5. **Set Public Hearing(s) for July 7, 2010: Application of Chatham Engineering Inc, Skyline Drive, Skyline Estates – Phase IV, for a 5-Lot Resubdivision in the Lake Pocotopaug Protection Area – Map 18/Block 44/Lots 78-13, 78-14 & 78-15.**

Mr. Gauthier moved, and Mr. Gosselin seconded, to set the Public Hearing for the Application of Chatham Engineering Inc, Skyline Drive, Skyline Estates – Phase IV, for a 5-Lot Resubdivision in the Lake Pocotopaug Protection Area, Map 18/Block 44/Lots 78-13, 78-14 & 78-15, for the regularly scheduled meeting of July 7, 2010. The motion carried 5-2-0 (Yes votes: Gauthier, Gosselin, Sennett, Zatorski, Hurne. No votes: None. Abstentions: Philhower and Rux).

6. Public Hearing for June 2, 2010:

A. Application of Peter Marlow Forest Products LLC, Hog Hill & Pine Brook Roads, Markham Timber Harvest, for a Special Permit per Section 24 of the Zoning Regulations for a Timber Harvest – Map 14/Block 31A/Lot 12, Map 14/Block 31/Lot 4B, Map 7/Block 23/Lot 1, and Map 13/Block 22/Lot 4:

Peter Lesmerises, Licensed Forester, was present to represent Peter Marlow Forest Products, LLC. He explained that they are proposing a timber harvest on 109 acres. They have marked a total of 1400 trees. The tops have been sold for firewood. After the harvest the firewood cutter will remove the tops. The skid trails will be existing trails from prior harvests.

They have proposed four different landing areas, one on Pine Brook Road and three on Hog Hill Road. One of the Hog Hill landings is existing and has been used before. The other two are off a private driveway with an easement at 140 Hog Hill Road. Buffer strips will be retained along Pine Brook and other flowing streams and brooks. There are a number of seasonal flows that will be dry by the time of the planned harvest during the summer. Corduroy will be used in these crossings to retain the integrity of the flows. Portable bridges will be used on those crossings that are continually flowing brooks.

Licensed harvesters will be used and Mr. Lesmerises will be the licensed forester overseeing this project. He will be present at least once a week and anytime there is a significant rainfall, both before and after the rainfall, to monitor. The harvest will commence as soon as permits are granted.

All species will be harvested. These include oak, hickory, birch, beech, maple, pine. Primarily hardwoods but all species present. It is estimated that 230,000 board feet will be harvested. The minimum size tree marked for harvest is 14". Only about half of the trees of this size will be harvested. Larger oaks have been left for seeding. The wetlands will be buffered from the harvest by a minimum of 50'.

Mr. Carey reported that the IWWA granted Permit No. IW2010-007 on 04/28/2010 with specific conditions.

The entrance on Hog Hill will have a tracking pad. Pine Brook is a gravel road so no tracking pad will be necessary. They will be using skidders.

The Chairman opened the public hearing at this time.

Ronald Flood, 150 Hog Hill Road, questioned the buffer zone for abutting property holders, need for an environmental impact study, silt fences along streams, and provision to keep road clean from trucks dropping debris.

The Chairman explained that road maintenance is the reason for the tracking pad. Corduroy near the crossings also helps to keep debris down.

Jeff Geary, 140 Hog Hill Road, owns the driveway on which the Markhams have an access easement. He is concerned about damage and repairs to his driveway and wonders if this will limit his access to his property.

Susan Geary, 140 Hog Hill, questioned whether the harvester has liability insurance.

Chairman Zatorski explained that the term “buffer zone” applies to wetlands, not abutting property holders. He also explained the difference between a “clear cut” and a “timber harvest.

Mr. Geary had questions relating to the firewood cutting phase of the project.

The Chairman explained that the tops of the trees that were harvested would be down and a firewood cutter would come in after the harvest and remove the tops for firewood. No permit is required for that function.

Carl Stykiewicz, 139 Chestnut Hill Road, is concerned about a property dispute he is involved in over a portion of this property with the Markhams.

Steven Hotchkiss, 148 Hog Hill Road, is concerned about the deteriorated condition of the road. He is also concerned about the area wells, wildlife, fisher cats, and other significant environmental impacts on the area.

Joan Brown, 184 Hog Hill Road, is concerned about a property dispute she is now involved in over a portion of this property. She explained that she did discuss it with Peter Lesmerises and he has agreed to stay out of the area in question.

Steve Zimmitti, 136 Hog Hill Road, is concerned that the harvest will take place too close to his property and will be detrimental both to the other property owners and area wildlife.

Vice Chairman Philhower explained that there is no buffer between properties for this type of harvest. He further explained that a well planned timber harvest actually improves the conditions for the forest and wildlife.

Chairman Zatorski explained that this is not a “clear cut” operation.

Steve Hotchkiss, 136 Hog Hill Road, reported that he spoke with the DEP regarding this harvest and they also explained to him that a well planned harvest was beneficial. They did indicate that a fully licensed forester should be on hand.

Mr. Carey indicated that there have been no issues or concerns regarding any previous work performed by Peter Marlowe Forest Products LLC in town. They have done several jobs in the past. He also reported that typical harvests have a supervisory presence but that the licensed forester is not usually present the entire time of the harvest. Peter Lesmerises is a fully licensed forester.

Boyd Height, 146 Hog Hill Road, questioned whether this was the beginning of plans for a development. He is also concerned that the logging trucks will endanger the school buses.

The Commission discussed the concerns of the public with the applicant and staff.

Joan Brown, 184 Hog Hill Road, questioned the time frame on the firewood portion of the harvest.

Mr. Philhower moved to close the public hearing. Mr. Rux seconded the motion. The motion carried unanimously.

Mr. Philhower moved to approve the Application of Peter Marlow Forest Products LLC, Hog Hill & Pine Brook Roads, Markham Timber Harvest, for a Special Permit per Section 24 of the Zoning Regulations for a Timber Harvest, Map 14/Block 31A/Lot 12, Map 14/Block 31/Lot 4B, Map 7/Block 23/Lot 1, and Map 13/Block 22/Lot 4, with the following conditions:

- *All IWWA conditions have been met;*
- *Town Staff to be notified prior to and upon completion of the harvest; and*
- *Driveway used for access to landing must be maintained and restored to the condition it was in prior to the harvest.*

The motion carried unanimously.

7. New Business:

A. 8-24 Review: Town of East Hampton, 103 Main Street, Senior Center Parking Lot – Map 06A/Block 57/Lot 2B: Mr. Carey explained that the property in question is directly across Pocotopaug Creek from the Senior Center on the lot that previously held an old sheet metal company. The Town took possession of the lot a number of years ago. The lot is contaminated with lead and is a Brownfield. This is an effort to remediate the contamination. The proposal is for a remediation cap involving a 2' layer of clean material including a waterproof membrane. This is not a site plan review. The details are not yet available. This is the site that the POCD has called for expansion of parking for the Senior Center. There will be no further improvement other than to cap and pave the site. At the present time there is no consideration of a foot bridge. People will exit the lot and walk across the existing bridge to get to the Senior Center. As this is an improvement to the site, an 8-24 Review is in order. It is Mr. Carey's recommendation that the PZC pass favorable commentary onto the Town Council so that they may proceed with the site plans for this site.

Mr. Zatorski moved that the Commission forward favorable commentary to Town Council for the 8-24 Review of 103 Main Street, Senior Center Parking Lot, Map 06A/Block 57/Lot 2B. Remediation of the lead contamination and creation of a parking lot for the Senior Center is an appropriate use of the property. Mr. Rux seconded the motion. The motion carried unanimously.

8. Old Business:

A. Applications of Hampton Woods Development LLC, 206 East High Street, Route 66, Hampton Woods, for a Zone Change from DD to HOD, an Amendment to the Zoning Regulations, and Residential Site Plan Review – Map 32/Block 86/Lot 4:

Mr. Carey reported that the Commissioners have received a Summary of Facts and Staff Review Findings dated 5/21/2010. He read the Fire Marshal's response to the phasing plan for the access road into the record. He referred the Commissioners to the applicant's response to the claim that they must meet the requirements of the Town Road Standards for the driveways within the development. Road width and cul-de-sac length are not applicable because those are taken from the Subdivision Standards. This is not a subdivision. It is a site plan for a condominium. The roadways in question are driveways not roads. He further explained that everything in the application must be weighed against the

spirit of the 8-30g statute. It is clear there is no compelling health or safety reason that outweighs the need for affordable housing. He recommended that the Commission find favorably on all three applications with the conditions that have been proposed.

The Commission discussed the application fees that the applicant has not paid. Mr. Carey explained the reasons why the application was heard without receipt of the fees. He also explained that a condition of the approval should be receipt of the fees within 30 days of the approval. If the approval is sold to another party they too will be responsible to pay the application within 30 days of the approval.

Mr. Zatorski moved to approve the application of Hampton Woods Development LLC, 206 East High Street, Route 66, Hamptonwoods, Map 32/Block 86/Lot 4, for a zone change from DD to HOD for the parcel with the following condition: In the event that the project is not built within the deadline imposed by State Statutes, as said deadline may be legally extended by the Commission, the parcel reverts back to the DD Zoning designation. The reasons for the approval are as follows: That compliance with the above text amendments provides sufficient evidence that the parcel can reasonably sustain the proposed use without significant, measurable compromise to the health and safety concerns of the Town; the change of one is consistent with the spirit and intent of CGS Section 8-30g to promote affordable housing while protecting substantial public interests in health and safety; that the testimony and evidence presented at the public hearing did not suggest that substantial public interests in health and safety outweighed the need for affordable housing. The one-time application fee for the site plan review in the amount of \$26,300 must be paid within 30 days of this approval. Mr. Gosselin seconded the motion. The motion carried (4-3-0). (Yes votes: Gosselin, Hurne, Rux, and Zatorski. No votes: Gauthier, Philhower, and Sennett. Abstentions: None.)

Mr. Zatorski moved to approve the Application of Hampton Woods Development LLC, 206 East High Street, Route 66, Hamptonwoods, Map 32/Block 86/Lot 4, amendment to the Zoning Regulations Section 7.11, Subsections 7.11.1.E, 7.11.1F, 7.11.3.B, 7.11.6D, 7.11.8.A 7.11.8.D, 7.11.9, 7.11.11, 7.11.15A&C, 7.11.20 with the following condition: That the text amendments approved by this motion are applicable to this application only, and that the existing regulations remain intact for HOD proposals in the future. The reason for this condition is that the proposed amendments are specific to the parcel subject of this application and the likelihood of similar site conditions elsewhere is not evident in the record. The reasons for approving the aforesaid amendments are as follows: The explanations and rationale for the proposed amendments are consistent with the spirit and intent of CGS Section 8-30g to promote affordable housing while protecting substantial public interests in health and safety; that the testimony and evidence presented at the public hearing did not suggest that substantial public interests in health and safety outweighed the need for affordable housing. The one-time application fee for the site plan review in the amount of \$26,300 must be paid within 30 days of this approval. Mr. Rux seconded the motion. The motion carried (4-3-0). (Yes votes: Gosselin, Hurne,

Rux, and Zatorski. No votes: Gauthier, Philhower, and Sennett. Abstentions: None.)

Mr. Zatorski moved to approve the Application of Hampton Woods Development LLC, 206 East High Street, Route 66, Hamptonwoods residential site plan, Map 32/Block 86/Lot 4, as presented and amended through April 7, 2010 with the following conditions: Application fees in the amount of \$26,300 be paid within 30 days of this approval of the site plan, bonds be secured for the project in three phases as approved by the town engineer (Phase 1: \$2,048,260.50) (Phase 2: \$864,651.70) (Phase 3: \$1,519,367.30), with erosion and sedimentation measures broken out and provided as a cash or LOC bond; the applicant is required to obtain and maintain all required permits in good order, i.e. DEP Stormwater permit, Water Diversion Permit, STC and DPUC certificates, etc. Approval of this application shall expire 5 years after date of approval with a possibility of a five year extension upon approval of the Planning and Zoning Commission. The reasons for this approval are as follows: The configuration of the units and other characteristics of the proposed site plans are consistent with the spirit and intent of CGS Section 8-30g to promote affordable housing while protecting substantial public interests in health and safety; that the testimony and evidence presented at the public hearing did not suggest that substantial public interests in health and safety outweighed the need for affordable housing. Mr. Rux seconded the motion. The motion carried (4-3-0). (Yes votes: Gosselin, Hurne, Rux, and Zatorski. No votes: Gauthier, Philhower, and Sennett. Abstentions: None.)

- B. Application of Town of East Hampton, 105 Main Street, Senior Center Expansion, for a Commercial Site Plan Modification – M 06A/B 57/L 3:** Mr. Carey reported that this application is being funded by a \$750,000 grant received by the Town to expand to the Senior Center. The proposal is for 2,000 sq ft addition to the rear of the Senior Center prepared by CLA. Mr. Carey explained that a firewall would be constructed to allow for the size of the building to be increased. The increase in size will require additional parking which is accommodated by the improvements to the 103 Main Street site discussed earlier in the meeting. Following the approval from this Commission the project is ready to go out to bid. There are people in attendance from the Senior Center if the Commission has any specific questions.

Mr. Philhower moved to approve the Application of Town of East Hampton, 105 Main Street, Senior Center Expansion, for a Commercial Site Plan Modification, M 06A/B 57/L 3. Mr. Rux seconded the motion. The motion carried unanimously.

- C. Discussion & Possibly Approve Task Priorities for 2010:** The Commission discussed the Task Priorities for 2010. Mr. Philhower discussed his concern that if the Sewer Density Bonus is rescinded the only development in Town will be for high density, high prophet, 8-30g driven development. He recommended utilizing a “sewer” zone. Mr. Carey pointed out that several large priorities taken on this year are not reflected in the Task Priorities list. These include revisions to the Town of East Hampton Road Standards and parking standards, IHZ, and Low Impact Development Standards. The Chairman requested staff re-organize the 2010 PZC Task Priorities to include the (1) Salmon River Watershed

Partnership's Low Impact Development Standards, (2) Continued Progress in the Development of the Regulation Establishing an Incentive Housing Zone, (3) Re-define the Sewer Density Bonus, (4) Review Design Development Zone, and (5) GIS.

D. O'Neill Lane Property Update: Mr. Carey reported that the property is still in negotiations at this time.

9. **Adjournment:** *Mr. Philhower moved to adjourn the meeting. Mr. Rux seconded the motion. The motion carried unanimously.*

The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Daphne C. Schaub
Recording Secretary