

**SOUTH HADLEY PLANNING BOARD REGULAR MEETING
MINUTES OF AUGUST 19, 2019
AS APPROVED**

Present: Mark Cavanaugh, Chair; Melissa O'Brien, Vice-Chair; Diane Mulvaney, Clerk; Brad Hutchison, Member; Joanna Brown, Member; Larry Butler, Associate Member; Richard Harris, Town Planner; and Colleen Canning, Recorder

Chair Cavanaugh called the meeting into order at 6:00 PM

Agenda Item #1 --- Minutes

The draft minutes had been previously transmitted for the Board to review.

Motion: Ms. Mulvaney moved to approve the draft Regular Planning Board Meeting minutes of July 22, 2019. Vice-Chair O'Brien seconded the motion. Five (5) out of five (5) members voted in favor of the motion.

Motion: Ms. Mulvaney moved to approve the draft Public Hearing Minutes from July 22, 2019 for the *Application for Special Permit and Stormwater Management Permit for proposed Skinner Woods Flexible Development*. Vice-Chair O'Brien seconded the motion. Five (5) out of five (5) members voted in favor of the motion.

Motion: Vice Chair O'Brien moved to approve the draft Public Hearing minutes from July 22, 2019 for the *Proposed Site Plan and Stormwater Management Permit for the South Hadley Dog Park*. Four (4) out of five (5) members voted in favor of the motion. Chair Cavanaugh abstained from the vote as he had not reviewed the draft.

Agenda Item #2 --- Correspondences

The correspondence folder was in front of Chair Cavanaugh's seat. A list detailing the correspondences was in front of each member's seat.

Agenda Item #3 --- Consider Decision: Set amount and form of Performance Guarantee for the Library Commons multifamily development. Property Location: 1 Canal Street (Assessor's Map #4D as Parcel #15)

Mr. Harris opened with background. He explained that the Board needed to set a performance guarantee to ensure that the stormwater management systems of the proposed development at 1 Canal Street would be functional. The stormwater management guarantee included the guarantee for survival and maintenance of the landscape. The town's consulting engineer, Fuss and O'Neil, reviewed the cost estimate submitted by the developer which totaled in the amount of \$89,200. In their review, Fuss and O'Neil concluded that the cost estimate was set at an appropriate amount. Mr. Harris explained that, for multifamily developments of this scale, credit is typically an adequate 'form' of guarantee as it could take anywhere from a few months to many years for the units within the development to be sold off. Therefore, to require the performance guarantee

to be set in the 'form' of cash would create a large and unpredictable burden on the developer. Additionally, Mr. Harris recommended to the Board to set the 'amount' of guarantee at an increase of roughly 50% over the cost estimate. Therefore, he recommended that the amount for the performance guarantee be rounded of at \$135,000 [\sim \$89,000 (cost estimate) + \sim \$46,000 (roughly half of the cost estimate in favor of the Town) = \$135,000].

Mr. Harris explained that, if the guarantee was set in the 'form' of credit, the credit would have a defined expiration date set by the lender. An active line of credit would be a requirement of the Special Permit. Therefore, in the event that the developer lost their line of credit, they would be in violation of the Special Permit and subject to a cease and desist order from the Building Commissioner.

Separate from the Performance Guarantee, Mr. Harris detailed the additional information regarding the development that would be received by the Planning Board prior to construction. They would receive a 'Form H Plan' which would offer easement and utility information. Additionally, plans for construction stamped by an engineer would need to be received.

Motion: Ms. Mulvanry moved to set the performance guarantee for the Library Commons multifamily development at **\$135,000** in the form of **cash or credit**. Mr. Hutchison seconded the motion. Five (5) out of five (5) members voted in favor of the motion.

Agenda Item #4 --- Consider Decision: Set amount and form of Performance Guarantee for fencing and landscaping for the ITW Wireless Communications Tower. Property Location: West side of Hadley Street (aka State Route 47) - (Assessor's Map #56 – Parcel #119)

Mike Umamo, President of Industrial Tower & Wireless LLC, and Kevin Delaney, Industrial Tower LLC, were present at the meeting.

Mr. Harris opened with background. He explained that at the previous Planning Board Meeting, the Board set a performance guarantee to ensure that fencing and landscaping at the ITW Wireless Communications Tower was installed to the specified conditions. The Board set the guarantee in the amount of \$42,000 in the form of cash. Since the meeting, the applicant expressed hardship in meeting the financial requirement.

Mike Umamo, President of Industrial Tower and Wireless LLC, was invited to address the Board. He requested the Board reconsider its previous decision which set the form and amount of the guarantee to a level that was not manageable. The requirement for cash created restrictions on his ability to maintain existing projects and pursue new ones. He explained that the fencing requirement would already be ensured as it was a requirement of the lease for the Tower. Additionally, he explained that fencing would be installed regardless as it offered the necessary security for the site.

Mr. Harris pointed out that the majority of the cost estimate that was used to generate the performance guarantee reflected the cost of fence installation; rather than the landscaping. As there would not be a concern for the survival of the fence after installed, it was recommended that the performance guarantee could be released after installation. Because the landscaping

would require ongoing maintenance to survive, there was greater concern for its survival over time.

Chair Cavanaugh proposed two separate lines of credit that would be released separately upon verification that the guarantee was met.

Motion: Ms. Mulvaney moved to set the performance guarantee for the ITW Wireless Communications Tower in the form of two separate lines of credit. The **fencing** performance guarantee would be set at **\$20,000** in the form of **cash or credit** to be released upon installation of the fence. The **landscaping** performance guarantee would be set at **\$5,000** in the form of **cash or credit** to be released no less than 24 months after planting. Mr. Hutchison seconded the motion. Five (5) out of five (5) members voted in favor of the motion.

Agenda Item #5 --- Consider Decision: Comments/recommendations regarding proposed Local Historic District

Frank DeToma, Historic District Study Committee Member, was present at the meeting and was invited to address the Board. He explained that, following ongoing discussions with the Board, terminology involving vinyl siding requirements within the proposed historic district was removed in the preliminary draft proposal. The draft had been sent to Mr. Harris for his consideration as the draft would soon be entering the Public Hearing process. Frank DeToma shared that his intention in addressing the Board was not get additional recommendations and insights.

Ms. Brown referenced a mailing that was sent to property owners within the proposed district lines. She observed that only ten responses were received from the forty-eight mailings. She expressed concern that property owners may not be aware of the restrictions that would be attached to the designation; which included design standards with penalties for noncompliance. Frank DeToma responded that the Historic District Commission, which would be instituted following the district's endorsement, had latitude in their procedures that would allow issuance of 'certificates of hardship' in the event that property owners were unable to comply. He added that the draft guidelines were still a 'fluid document' and open to edits.

Vice-Chair O'Brien reflected that the role of the Planning Board was to evaluate the proposed historic district's support of the Town's Master Plan.

Motion: Ms. Mulvaney moved to recommend that the proposed Local Historic District of South Hadley Falls enter the Public Hearing process. Additionally, it was recommended to send letters to all property owners within the proposed district to inform them of how enforcement mechanisms would function. Vice-Chair O'Brien seconded the motion. Five (5) out of Five (5) members voted in favor of the motion.

Agenda Item #11 --- Scheduled Public Hearing: Application for Special Permit and Stormwater Management Permit for proposed Skinner Woods Flexible Development. Property Location: north side of Amherst Road (Assessor's Map #58 – Parcel #21 and Assessor's Map #60 – Parcel #31).

Chair Cavanaugh called the Public Hearing back into order at 6:47 PM. (See Public Hearing Minutes)

The meeting reconvened at 7:08 PM.

Agenda Item #12 --- Consider Decisions: Application for Special Permit and Stormwater Management Permit for proposed Skinner Woods Flexible Development. Property Location: north side of Amherst Road (Assessor's Map #58 – Parcel #21 and Assessor's Map #60 – Parcel #31)

No decisions were considered at the meeting as the Public Hearing was continued to September 23, 2019 at 6:45 PM.

Agenda Item #6 --- Consider Decision: Consider Notice of Intent to Sale property under Chapter 61A by Mary Elizabeth O'Meara, et als. Property Location: Lithia Spring Road (Lot 3 on ANR Plan being a portion of Parcel #23 on Assessors Map #58)

Mr. Harris opened with background. He explained that, as the property for sale on Lithia Springs Road is agriculturally zoned and subject to reduced property taxes, the Town is entitled to exercise its right to purchase the land. This particular lot is one of four lots previously subdivided lots through an ANR (Approval Not Required) Plan. Mr. Harris explained that the sale lot is rather small for the town's purposes but could be considered for use as a building lot. The Board had voted against the acquisition of a previously sold lot generated from the same aforementioned ANR Plan.

Motion: Ms. Mulvaney moved to recommend to the Selectboard to decline the *First Right of Refusal* for the purchase of Lot 3 Lithia Springs Road (Map 58, Parcel 23). Vice-Chair O'Brien seconded the motion. Five (5) out of five (5) members voted in favor of the motion.

Agenda Item #7 --- Consider Decision: Set meeting schedule for September – December 2019

Mr. Harris explained that there were multiple scheduling conflicts within the Board's regular meeting schedule. The Planning Board's regular meeting schedule typically reflects the second and fourth Monday of each month. However, many of those upcoming regularly scheduled meetings were scheduled on, or in close proximity to, holidays.

Mr. Harris proposed that the Planning Board Meeting Schedule for the remainder of the 2019 calendar year reflect the following dates:

Monday September 9, 2019
Monday September 23, 2019
Monday October 7, 2019
Monday October 14, 2019
Monday October 28, 2019

Monday November 18, 2019
Monday December 2, 2019
Monday December 16, 2019

Motion: Vice Chair O'Brien moved to approve the aforementioned alternative Planning Board Meeting schedule for the remainder of 2019. Ms. Mulvaney seconded the motion. Five (5) out of five (5) members voted in favor of the motion.

Agenda Item #13 --- Scheduled Public Hearing: Proposed revisions to Planning Board General Rules and Regulations Concerning Application Requirements, Application Fees, Application Review Fees, and Fee Schedules.

Chair Cavanaugh called the Public Hearing into order at 7:16 PM (See Public Hearing Minutes)

The meeting reconvened at 7:23 PM.

Agenda Item #14 --- Consider Decision: Adoption of proposed revisions to Planning Board General Rules and Regulations Concerning Application Requirements, Application Fees, Application Review Fees, and Fee Schedules

As the Public Hearing was closed, Chair Cavanaugh inquired if there was a motion.

Motion: Ms. Brown moved to adopt the proposed revisions to the Planning Board's Rules and Regulations as discussed in the Public Hearing. Ms. Mulvaney seconded the motion. Five (5) out of five (5) member votes in favor of the motion.

Agenda Item #8 --- Consider Decision: Reaffirm October 10, 2017 Findings regarding the Draft South Hadley Falls Urban Redevelopment & Renewal Plan.

Frank DeToma, Chair of the Redevelopment Authority, was present at the meeting and was invited to address the Board. He explained that the Redevelopment Authority was working on configuring the *South Hadley Falls Urban Renewal and Redevelopment Plan* which currently was being reviewed by the state. He explained that state representatives were to perform a site visit to access the proposed area for redevelopment on August 22, 2019. The Redevelopment Authority would meet with their advisory board on September 5, 2019 followed by a public hearing at a Selectboard Meeting. The phasing of the redevelopment would take place over a number of decades and any money spent would first require town meeting approval. Frank DeToma explained that the Planning Board endorsed the South Hadley Falls Redevelopment Plan a few years ago. However, changes have been made in Planning Board membership and edits had been made to the redevelopment plan. Therefore, it was advised that the Board review the plan again. The Planning Board's purview over the plan required evaluation to confirm that: 1) The plan was relevant to the Town's Master Plan and 2) The plan was based upon a survey of conditions.

Ms. Brown inquired what type of survey was used to assess conditions. Frank DeToma explained that conditions were assessed based on their placement on a ‘blighted to decadent’ scale which was generated by the state.

Motion: Vice-Chair O’Brien moved to reaffirm the October 10, 2017 findings regarding the *Draft South Hadley Falls Urban Redevelopment & Renewal Plan*. Ms. Mulvaney seconded the motion. Five (5) out of (5) members voted in favor of the motion.

Agenda Item #9 --- Discussion of Proposal for a Hydrogeologic Study of the Dry Brook Hill Aquifer

Rudy Ternbach, Percent E, was present at the meeting. He had previously submitted a proposal for a hydrologic study of the Dry Brook Hill Aquifer. The proposed study was placed on the agenda to allow for consideration and discussion of the topic. Rudy Ternbach was invited to address the Board.

Rudy Ternbach opened by explaining the conditions within the Town that lead to the proposal for the study. In January 2019 there was an application for expansion of mining operations at Dry Brook Hill. The proposed expansion lead to concerns for the underground aquifer and calls for further information and study. In April 2019 a conference was held by members of the public and hydrogeologists to collect and gather insights regarding the aquifer. The current mapping that is used by the Town to evaluate the aquifer was generated in 2003 by Dr. Steve Garabedian through USGS studies. In recent years, technology has improved which could benefit the public’s understanding of the aquifer. Therefore, Rudy Ternbach corresponded with Dr. David Boutt, Department of Geosciences UMass-Amherst, who in turn developed a ‘follow up’ study to Dr. Garabedian’s 2003 study.

Mr. Harris asked for clarity within of the proposed study’s scope. He explained that an impact assessment and re-delineation were separate items. Impacts of proposed developments over the aquifer were separate from the possibility of re-delineations of zones within the Water Supply Protection District. He explained that, from a regulatory standpoint, alterations of zones could have impacts on how the Planning Board assess applications. Impacts of particular developments over the aquifer could be made a requirement of the applicant. Mr. Harris observed that the proposal did not reference mapping.

Mr. Harris remarked that, if the Town accepted performing a hydrological study, a procurement process would be entered to find an entity to perform the study which subsequently be peer-reviewed by a third party.

Frank DeToma, Fire District 2 Board of Water Commissioners Chair, addressed the Board. He reiterated that the impact assessments and re-delineations were spate issues. Theoretically, impact assessments should be the responsibility of a developer and re-delineations of zones should be the responsibility of the Town or regulatory agency.

Robert Salthouse, 20 the Knolls, addressed the Board. He recommended that the Board evaluate how other towns and communities have performed similar studies which could function as a guide for South Hadley.

Discussion regarding a proposed hydrological study would be continued at the next Planning Board meeting on September 9, 2019.

Agenda Item #10 --- Discussion of potential Zoning Bylaw amendment regarding outdoor sculpture display/retail businesses

Darrell Petit, sculptor, was present at the meeting and invited to address the Board. He explained his interest in developing an outdoor sculpture display. He envisioned an open air studio that could be viewed by appointment with opportunities for personal commission and public education. He explained the importance of interaction between his sculptures and the landscape. Therefore, the landscape used would dictate its own artistic use. He offered the possibility of creating a sculpture display on land that is actively farmed.

Mr. Harris remarked that, considering the size of the desired lot, the only property available to accommodate the project would be zoned Agricultural or Residence A-1. Within both zones, businesses were not allowed. Therefore, a zoning amendment would be required to allow such a use. The board could consider supporting the adoption of an “arts and culture zoning” use which would permit such a display. When considering such zoning, the opportunity for other artistic and cultural projects should be considered.

Rick Constant, real-estate agent and representative of Peter Gagne, addressed the Board. He explained that he represented the aforementioned farmed property that was being considered as potential land for the sculpture display. He explained that a portion of the land was business zoned.

Stephen Franz, 300 North Main Street, addressed the Board. He inquired if the discussed sculptures were moveable. Darrell Petit responded that the sculptors did not move and were in fixed positions unless the sculptures were being transported.

Mr. Harris will research examples of “arts and culture zoning” in outside communities for the Board’s consideration in adopting such zoning in South Hadley.

Agenda Item #15 --- Development Update and Planner’s Report

a. Development Report

- North Pole Estates Preliminary Subdivision Plan – No change was noted.
- Bridge Street Mixed Use Development – No change was noted.
- Newton Street Smart Growth Zoning District – Mr. Harris explained that no applications for development had been received by the Planning Board. However, Barbra Callan-Bogia, 148 Stony Brook Village, submitted comment to the Board with design recommendations for potential developments within the district. The letter was included in the correspondence folder.

b. Bylaw Amendments

- Bylaw Amendments for 2019 - Mr. Harris explained that the Massachusetts Attorney General's office approved most of the articles endorsed at the most recent Annual Town Meeting. He explained that Article 23, regarding prohibition of major earth removal within the Water Supply Protection District, was challenged by the representing attorney of a local excavation company, Chicopee Concrete Services.
- Water Supply Protection District Revisions – Mr. Harris explained that the Working Group had their third meeting. Based upon the discussion at the most recent meeting, Mr. Harris will be drafting proposed revisions to the WSPD provisions and to Section 255-84 for the Board to consider in September. The revisions to Section 255-84 will be to bring that portion of the Bylaw into conformity with the proposed revisions to Section 255-35. Based on the discussion, the amendments are not to entail a change in the boundaries of the WSPD nor the dimensional requirements for single-family development in the WSPD at this time.

c. Other Projects

- Urban Renewal Plan and Redevelopment Authority – Mr. Harris explained that this item was addressed under agenda item #8
- MassWorks Grant – Gaylord Street – Mr. Harris explained that the project was completed.
- Complete Streets Program Participation – Mr. Harris explained that the contractor had begun work.
- Open Space & Recreation Plan and Master Plan Updates – Mr. Harris explained that the consultants have provided staff a draft of the Open Space & Recreation Plan (OSRP). It is anticipated that a revised draft will shortly be forwarded to the OSRP Update Advisory Committee for review. There will be a meeting of the OSRP Update Advisory Committee scheduled as soon as reasonably possible. A meeting of the Master Plan Update Advisory Committee will be held August 21, 2019.

d. Workshops/Training Opportunities

- Mr. Harris explained that several people would be attending the MassDOT annual “Moving Together” conference in October as well as the Southern New England APA annual conference also in October.

Agenda Item #16 --- Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice)

Mr. Harris noted that the Selectboard would be hosting a legal seminar on September 18, 2019 and all Board members were encouraged to attend.

Agenda Item #17 --- Adjournment

Chair Cavanaugh inquired if there was a motion to adjourn.

Motion: Ms. Mulvaney moved to adjourn the meeting. Vice-Chair O'Brien seconded the motion. Five (5) out of five (5) members voted in favor of the motion.

The meeting adjourned at 8:54 PM.

Respectfully Submitted,
AS APPROVED
Colleen Canning, Recorder

Appendix

Document	Document Location
Town of South Hadley Zoning Map (Submitted by Rudy Ternbach)	Planning Files
Environmental Tracer Study of Dry brook Hill Aquifer Proposal (Submitted by Rudy Ternbach)	Planning Files
4/18/19 Letter from District 2 Board of Water Commissioners regarding proposed Dry Brook Hill Housing Development (Submitted by Rudy Ternbach)	Planning Files
South Hadley Zoning Bylaw 255-31: Flexible Development- J: Site Design Standards (Submitted by Rudy Ternbach)	Planning Files

SOUTH HADLEY PLANNING BOARD PUBLIC HEARING

Application for Special Permit and Stormwater Management Permit for proposed Skinner Woods Flexible Development.

MINUTES OF AUGUST 19, 2019 AS APPROVED

Present: Mark Cavanaugh, Chair; Melissa O'Brien, Vice-Chair; Diane Mulvaney, Clerk; Brad Hutchison, Member; Joanna Brown, Member; Larry Butler, Associate Member; Richard Harris, Town Planner; and Colleen Canning, Recorder; and Bucky Sparkle, project engineer.

Chair Cavanaugh called the Public Hearing continuance into order at 6:47 PM.

Mr. Harris offered an overview of items that were addressed in the previous meeting that required the Public Hearing to be continued to tonight's meeting. As requested, the project engineer re-submitted documents initially submitted on July 6, 2019 in a digital format so that the information could be posted to the Town's website. Additionally, the consultant responded in writing to both the peer-review performed by the Town's consulting engineer and the comment letter submitted by the Conservation Commission. Mr. Harris continued by explaining that the project engineer sent revised plans to the *Natural Heritage and Endangered Species Program* (NHESP) as the Conservation Commission would not be transferred stewardship of the open space as reiterated in the initial plan. Stewardship of the open space would be held by the development's condo association. At the time of the Public Hearing continuation, NHESP had not responded to the updated submittal therefore the Public Hearing couldn't be closed. However, the project engineer, Bucky Sparkle, was present at the Public Hearing to update the Board on the application's progress.

Bucky Sparkle addressed the Board. He explained that through conversations with the applicant, open space at the proposed development would not be open to the public. Liability was cited as a reason for this decision. Bucky Sparkle continued by presenting plans for the existing and proposed conditions of the development relative to significant tree removal. He explained that three trees proposed for removal had over 13 inch diameter at breast height (DBH). The health of the trees still needed to be evaluated by an arborist. Bucky Sparkle explained that, in addition to an arborist evaluation, the area proposed for development would need to be surveyed. The figures generated from the survey would allow him to accurately update relevant engineering figures which in turn would allow him to submit updated plans to the Board.

Ms. Brown observed that the proposed development had separate septic tanks per unit. However, the town bylaw required common septic for flexible development projects that were outside the Town sewer service area. Mr. Harris explained that he would review the bylaw and report back to the Board.

Rudy Ternbach, Precinct E, submitted copies of the Town's bylaw reflecting the septic requirements for Flexible Developments.

Walter Hamilton, 77 Hadley Street, inquired how steep the slope leading to the old quarry was. Bucky Sparkle responded that it was rather steep with a slope of 2:1. He described the walkability of the slope as “manageable but not leisurely.”

As there was no further discussion, Chair Cavanaugh inquired if there was a motion to continue the Public Hearing.

Motion: Ms. Mulvaney moved to continue the Public Hearing to September 23, 2019 at 6:45 PM. Vice-Chair O’Brien seconded the motion. Five (5) out of five (5) members voted in favor of the motion.

The regular meeting reconvened at 7:08 PM.

Respectfully Submitted,
AS APPROVED
Colleen Canning, recorder

Appendix

Document	Document Location
South Hadley Zoning Bylaw 255-31: Flexible Development- J: Site Design Standards (Submitted by Rudy Ternbach)	Planning Files
Existing Condition Plan relative to significant tree removal	Planning Files
Proposed Condition Plan relative to significant tree removal	Planning Files