

**Hamilton Planning Board Meeting  
Tuesday 7:00 PM - August 16, 2022  
Memorial Room-Town Hall- 577 Bay Road, Hamilton MA 01982**

A full recording of the Hamilton Planning Board Meeting is available on the HWCAM channel located on YouTube at [https://www.youtube.com/watch?v=\\_EVOKZIUfDk](https://www.youtube.com/watch?v=_EVOKZIUfDk)

**Members Present in person:** Marnie Crouch, Emil Dahlquist, Richard Boroff, Jonathan Poore, Pat Norton, Cory Beaulieu, Pat Reffett, Rick Mitchell, and Bill Wheaton

**Members Absent:** Elizabeth Herr

**1. ANR Request**

**List of Documents and Exhibits used at the meeting:**

1. 300 Bridge Street Form A dated 06/27/22
2. 300 Bridge Street Plan of Land by Hayes Engineering dated 07/10/22
3. 300 Bridge Street Right of Way Legal Opinion from Attorney Sean F Eagan dated 6/29/22

**ANR REQUEST** – 300 Bridge Street / Assessors Map 58 Lot 47A - In accordance with MGL Ch. 41, Sec.81 the owners/applicants( Bruce Kennedy ) are seeking a Form A / Approval Not Required (ANR) endorsement from the Board regarding said property to modify the existing lot at 300 Bridge St by severing off PARCEL B (54,071 sf +/- square feet) into another parcel which is to be purchased by an abutter at 340 Bridge Street (Sunshine Realty Trust). The owners / applicants seek to create a new lot line and create two new parcels. Both resulting parcels will still be in excess of the required 20,000 lot minimum as required by the R-1A zoning district with 125 foot of frontage.

A proposed Plan of Land prepared by Hayes Engineering dated June 20, 2022 was presented as a proposal to sell PARCEL B to an owner/abutter at the southeast corner of the parcel (Sunshine Realty Trust). Owners /applicants seek to create a new lot line and create two new parcels. Lot A will have access by an existing private way and frontage on the same private way.

Attorney Robin Stein of KP Law – read the Subdivision Control Law... it is not a subdivision meaning that it is eligible for ANR if the lot has frontage either on a public way or a way shown on a plan previously approved, or a way in existence when the subdivision control law became effective – with suitable grades and adequate construction to provide for the needs of vehicular traffic. Suitability is up to the board to determine.

Applicant’s real estate broker, Bruce Kennedy, assured the board the way had always been there. Applicant/Bruce Kennedy, via Zoom – clarified that access had always been through the way as an historical precedent dating back to 1925. He stated that the neighbors shared the maintenance of the road.

Bill Wheaton asked to go on record that future development and proposed creation of new lots on that way will not be approved based on the precedent of approving this ANR. Any such developments would be predicated on planning board approval, or a subdivision plan complete with road improvements as required by the subdivision control bylaws.

**MOTION:** William Wheaton made the motion to approve the plan under the form A provision and that it does not need subdivision approval. Rick Mitchell seconded.

**VOTE:** Rick Mitchell, Richard Boroff, William Wheaton, Jonathan Poore, Emil Dahlquist, and Marnie Crouch voted in favor

**2. SENIOR HOUSING SPECIAL PERMIT PUBLIC HEARINGS – CONTINUED;** The Hamilton Planning Board will hold a continued public hearing on the application of Chebacco Hill Capital Partners LLC in accordance with the following described applications for the development of the property located at 133 Essex Street, Hamilton, MA, and shown on the Town Assessor's Map as Parcel ID No. 65-000-0001: (1) Senior Housing Special Permit pursuant to §8.2 of the Town of Hamilton Zoning Bylaw, to develop the Property as a fifty (50) unit age-restricted condominium development; and (2) Stormwater Management Permit pursuant to Chapter XXIX of the Town of Hamilton Bylaws, dated April 2, 2016.

Marnie Crouch reviewed the Memorandum that she and Emil Dahlquist produced to assist Planning Board members in deliberating on the Special Permit Review Process. She explained that since it was a large complex project it would be a more organized process to review the project by theme while using the strict wording of the individual bylaws rather than reviewing the project in the numerical order that the bylaws appear in.

The three suggested discussion themes were the relationship of the project to the environment, the site, and the community, all in strict accordance to the applicable bylaws. She invited the board to suggest any other themes or topics that they felt were pertinent to the bylaws.

Attorney Stein referenced the comprehensive list of the relevant bylaws and means for approval and denial. She added that the board must find that the project complies with all applicable bylaws. She also explained that the board can use discretion in approving or denying the special permit however the board must in each case state the reasons for approval or denial and they must be based upon the specifics of the project, citing the facts in the record in relation to the specific criteria in the bylaws, not merely restating the statutory language of the bylaw itself.

Rick Mitchell asked if in Ms. Stein's opinion it was the Senior Housing Bylaw that is the governing bylaw for issuing the special permit.

Robin replied that it is in fact Chapter 40A section 9 of MGL that authorizes the board to issue the special permit and that the application must be in harmony with the general purposes of the bylaw and in harmony with all of the applicable bylaws that relate to this application. These include Section 10.5.2 General Special Permit Requirements, Section 8.2 Senior Housing Bylaw, which then includes 8.2.31.7 which references the Design Standards in 8.1, specifically 8.1.12. In summary the project needed to comply with all of the applicable bylaws in both the general and specific requirements, with all applicable bylaws in harmony with one another.

Mr. Mitchell asked if it was her recommendation that the board focus on objective criteria as opposed to subjective criteria.

Ms. Stein replied that the board should evaluate the project by considering and applying all of the standards that are stated in the bylaws.

Ms. Crouch created an overall general context and tone for the deliberations by referencing zoning bylaw section 1.1, MGL 40A section 9, the Master Plan, the Open Space Plan, the Housing Production Plan, the Hamilton Reconnaissance Report which references Chebacco Road as a scenic road, and the Massachusetts Conservation Subdivision Design Model Bylaw which is similar to the applicable Zoning Bylaw 8.1.12. She reiterated the requirement to consider the specifically applicable bylaws (that Ms. Crouch listed) such that they are in harmony with one another.

Ms. Crouch suggested that in order to organize the discussions and deliberations into a more orderly format that the all the specific applicable bylaws be considered in the broad themes of environment, site, and community as opposed to discussing the bylaws as they are sequenced numerically by section. She assured the board that we would get to the step of going through the bylaws in numerical sequence but for the purpose organizing initial discussion it would be helpful to follow the framework she created. She suggested starting with the topic of the relation of the project to the environment. She offered this as a suggested format but added that she would entertain any other format that the board preferred.

Mr. Wheaton suggested that the board be polled one by one to see what each board member felt about the project's likely approval or not.

Mr. Dahlquist replied that we still are in the process of fact finding and it would be better to hear opinions about the project at the end of deliberations.

Mr. Mitchell agreed with Emil on this point.

Ms. Crouch acknowledged that some sections of the bylaws had already been satisfied by existing information submitted or previous hearings, such as the inclusionary housing payment calculations, parking requirements, distance to another senior housing project, etc.

Mr. Mitchell questioned the process of organizing the initial discussions using Ms. Crouch's framework. He felt that the framework as presented by Ms. Crouch was subjective criteria. He asked if this suggests that the applicant has met all of the objective criteria and therefore those objective criteria do not need to be discussed.

Ms. Crouch reiterated that it was just a way to avoid the random sequence and repetitive topics that following the numerical order of the bylaws would create as a framework. She said that each of the topics within the framework would be put through the lens of the applicable bylaw within the discussion. She mentioned the Conservation Subdivision Model Bylaw and the applicable portions of the Open Space Bylaw offer some insight into the relationship between a proposed project and the environment.

Mr. Mitchell offered some town history on the creation of the open space bylaw and felt that the town at the time struggled to accept it. He urged the board not to read too much into what the intent of the open space bylaw was.

Ms. Crouch mentioned section 8.1.12 as a possible place to start deliberations as it bookends the bylaws in that it is the very first step in the design process of any project and it is also the last finding that is required under the Senior Housing Bylaw under 8.2.31.7

Mr. Poore agreed that this was a good place to start discussions and added that for additional context it is important to note that the same design process that is outlined in 8.1.12 and reiterated as a required finding in the Senior Housing Bylaw is also mirrored in the state stormwater management bylaws as well as Massachusetts DEP Sediment and Erosion Control Guidelines. He then pointed out that the very first section, 8.1.12.1 Identification of Conservation Areas, has four distinct sections which are identification of:

1. Regulated Conservation Areas – such as wetlands, etc.
2. Unprotected Natural Landscape Features – such as steep slopes, mature woodlands, etc.
3. Cultural Features – such as scenic views, etc.
4. Recreational Features – such as established trails, etc.

Mr. Dahlquist emphasized the importance of this first step in this project and added that it was mirrored in the Model Conservation Subdivision Regulations, Low Impact Development principles, and Smart Growth Principles.

Ms. Crouch added that the next part of 8.1.12 is to follow the design process specifically outlined in this part of the bylaw. This step is the Identification and Delineation of the Proposed Development Area... which to the maximum extent feasible, the proposed development area shall consist of land outside of the identified conservation areas. She asked that the board next consider whether the project complies with this required design process outlined in this bylaw. She also asked the board to consider whether the project is integrated into the landscape, and not imposed on it... per the town bylaw definition of Low Impact Development (which is required where applicable per SBL 8.2.13).

Mr. Mitchell stated he felt that section 8.1.12 was not particularly substantive. He felt that the discussion and deliberations should not be based upon subjective information or opinions but on objective measures. He noted that the applicant had complied with 8.1.12 by identifying resources.

Ms. Crouch stated that it is more than just a matter of identification of resource areas but also a design process. The compliance with this design process is a required finding under section 8.2.31.7 and therefore important.

Mr. Wheaton said that while the proposal is cluster housing the project destroys the development area and is not integrated into the site and does not follow the design process outlined in 8.1.12. He said that the board could acknowledge and approve that the resource areas were identified by the applicant and then they were proposed to be destroyed in the interest of maximizing the development, but it would not be reasonable to state that the applicant had complied with 8.1.12.

Mr. Norton said that the applicant maximized the fiscal benefit and uses engineering to reduce the impact but wondered if that was the right premise to start from. In other words can the site support the 50 units being proposed.

Mr. Dahlquist stated while the applicant provides for some open space and farmland, the majority of that acreage is already protected. He added that the remaining acreage in the development area is being destroyed. He emphasized that the bylaws do not say that this how to comply. In fact it says the opposite in 8.1.12 in that the unprotected natural features are intended to be preserved (by integrating the design into the landscape). The bylaws do not say the land cannot be developed but they do say that when you do it you have to follow the stated process in order to integrate the design into the landscape.

Ms. Crouch mentioned that these first design decisions made in relation to the requirements of 8.1.12 also have consequences regarding the effort and engineering required for the stormwater management system especially in regard to disruption and creation of steep slopes.

Mr. Poore said that while the peer reviewers all agreed that there was a robustly engineered stormwater management system proposed for the project that is only one portion of the state stormwater regulations. The other part of the stormwater management regulations are the qualitative components which are outlined in Volume Two of the state stormwater management requirements. This is the portion of the regulations which define Environmentally Sensitive Site Design which mirrors the requirements of 8.1.12.

Ms. Crouch asked the board to consider whether the stormwater management system accounts for all of the water moving through the site.

Mr. Mitchell asked if Mr. Poore was saying that the applicant and peer reviewers were relying on faulty engineering.

Mr. Poore responded that was not being suggested at all but that the State Stormwater Management standards specifically state that the first priority is to incorporate Environmentally Sensitive Site Design (mirroring requirements in 8.1.12). The second priority then was to design and engineer the Best Management Practice strategies (BMPs). The priority of Environmentally Sensitive Site Design is clearly ranked above the BMPs in the bylaws.

Mr. Mitchell stated that since the board members were not engineers the board was not qualified to comment on this part of the bylaw.

Mr. Poore stated that if you read Volume 2 of the State Stormwater Standards it is written in non-technical language and is easy to understand.

Ms. Crouch emphasized that the peer reviewers have looked at specific technical aspects of this project but have not looked at the proposal holistically so it is one thing to say the stormwater calculations are accurate (per Volume 1) but if the resulting stormwater management system is really complex because of the initial design choices that were made then that creates a high

maintenance, low resilience system. (Which may not comply with the standards outlined in Volume 2)

Mr. Dahlquist and Mr Poore said that it is not normally up to the peer reviewer to weigh in on Environmentally Sensitive Site Design (Volume 2) and that is really up to the board to review.

Mr. Wheaton said it is challenging to adhere to the principles in Volume 2 and fit 50 houses on 10 acres. The whole project is geared around engineering to make this site work.

Mr. Mitchell agreed that the applicant used maximum engineering effort to try to make this site work.

Mr. Poore said that the applicant compared their Magnolia Shores project to the 133 Essex project and said that 133 Essex would be integrated into the site in a similar way. He said the issue with this statement is that Magnolia Shores is 44 units on 50 acres of gently rolling site versus 50 units on 14 acres on steep slopes surrounded by potentially sensitive areas, such as vernal pools, wetlands, and a scenic road. He said that these two projects are completely different sites with different characteristics. So to take the same form of design, single family and pairs of single family houses and try to place them on this site is imposing something on the site that does not fit. He added that the 133 Essex site is developable but to take what worked on a completely different scale and type of site and impose it on this site creates significant concerns.

The concerns included lack of resiliency in the stormwater management system due to the excessive number of steep slopes as mentioned by the peer reviewer, approximately 1,650 linear feet of rip rap around the slopes that were abutting buffer zones, sidewalks that exceed handicap ramp slopes as reference by the peer reviewer, steeply sloped lawns that are difficult to walk on around houses etc.

Mr. Norton said the engineering is at the extreme edges of good practice which made him question whether the developer started at the right point in design intent.

Mr. Dahlquist said that the project started with some assumptions that included the number and type of houses on flat pieces of land. Then it was given to the engineers to design. This where the problems started.

Mr. Norton agreed.

Mr. Poore said that thrust of both Volume 2 of the Stormwater Management Standards and the Sediment and Erosion Control guidelines were to encourage high resiliency and low maintenance stormwater strategies. He gave some specific examples in other towns and organizations where ignoring these principles led to significant negative consequences. He added that it would be unfortunate for Hamilton to go in the direction of approving and then being responsible for managing / regulating high maintenance, low resiliency properties.

Ms. Crouch referenced all the detailed work by the peer reviewers on the blasting plan and stormwater management. She also mentioned that there were a few corrections and amendments to the blasting plan agreement that Jamie Emory would provide if the project were to be approved.

Mr. Poore pointed out the difference between the stormwater management analysis (hydrology) of the site and the hydrogeology of the site. He said that since there was no hydrogeology study of the site it was important to understand the difference between these two systems of water movement across the site. Hydrogeology focuses on what the subsurface water is doing. With the newly blasted hilltop (with a new underlying shape) and with the average of 4' depth of crushed stone being added to the site, it is difficult to predict the speed, concentration, and new locations of ground water running over the ledge, through the crushed stone, and most importantly under all of the stormwater management strategies. The question is what is the incremental effect of these new drainage patterns over time. This was why both Ransom engineering and Dave Thompson, Civil Engineer, were lobbying for a hydrogeology study.

Mr. Poore also added that the peer reviewers were concerned about the new armored steep slopes that abut buffer zones and / or the property line. If there was any erosion or breakout at these locations there was no way to access these areas for maintenance or remediation. He mentioned that the rip rap will be visible from Chebacco Road and the trail system.

Ms. Crouch mentioned some of the low impact techniques that will be used on the project and applauded these efforts.

Mr Dahlquist explained how the entire site will be covered with roughly an average of 4' of crushed stone. Regarding Low Impact Development, he mentioned that the site does not follow these principles in that it does not utilize natural hydrology but relies on curbs and basins. He added that as proposed the site does not retain natural soils. He felt that it is not technically cluster housing but is a dense assemblage of single family and pairs of single family homes. The project does not minimize grading but instead disturbs existing and creates new steep slopes. It also has a high percentage of impervious area as an overall proportion. He said that the pervious driveways did follow Low Impact Design guidelines which was commendable. In summary, he said that the project failed to take Low Impact Development into consideration when developing the original design but instead applied piecemeal solutions after the fact.

Mr. Norton agreed that there was a question of whether the Low Impact Development techniques were an afterthought.

Mr. Poore added some comments on landscape design. His concern was that given that the proposal assumed on average 4' of crushed stone over the site, with all native soils removed, even if trees were given a special pocket of soil beyond the proposed 6" of loam to be spread over the crushed stone, it would be extremely optimistic to expect a mature forest in 6 years as the applicant proposed.

Ms. Crouch suggested the topic to start the next meeting should be the potential impact on the community.

**MOTION:** Mr. Wheaton made a motion to continue the hearing to August 30<sup>th</sup>, 2022 at 7PM.

Mr. Dahlquist seconded the motion.

**VOTE:** Rick Mitchell, Richard Boroff, William Wheaton, Jonathan Poore, Emil Dahlquist, Pat Norton, and Marnie Crouch voted in favor

**MOTION:** Mr. Wheaton made a motion to adjourn.

Mr. Dahlquist seconded the motion.

**VOTE:** Rick Mitchell, Richard Boroff, William Wheaton, Jonathan Poore, Emil Dahlquist, Pat Norton, and Marnie Crouch voted in favor

Meeting adjourned at 10PM

Respectfully submitted,

Jonathan Poore

Approved on 2/23/23