

**Town of Hamilton
Hamilton Planning Board
October 11th 2022**

Date: October 11, 2022

Location: Memorial Room for Planning Board Members and the Planning Director; Zoom for all other participants

Members Present: Pat Norton (Associate), Jonathan Poore, Bill Wheaton, Emil Dahlquist (via Zoom), Beth Herr (via Zoom), Rick Mitchell, Richard Boroff, and Marnie Crouch

Meeting was called to order at 7:00 pm

Others present: Patrick Reffett

A full recording of the Hamilton Planning Board Meeting can be found at <https://www.youtube.com/watch?v=qtRYhD0Axz4>

The Planning Board Chair called the meeting to order at 7:00 pm.

1. Planning Board deliberations regarding its decision with respect to the Senior Housing Special Permit and Stormwater Management Permit Applications filed by Chebacco Hill Capital Partners LLC

Discussion:

The Chair announced that the Board would be reviewing draft decisions and making any appropriate revisions to those documents following which, the Chair would entertain a motion to approve the form of the decision incorporating the revisions of various members. Board members have a draft of the decision as well as edits from Board members.

It was determined following consultation with Town Counsel that if the majority of the Board was not opposed to making a proposed revision, the Board could take a vote at the end of the deliberations to approve the form of the decision with the revisions that were approved. It was suggested that proposed changes be read into the minutes.

Each member reviewed their proposed edits.

Ms. Crouch's edits:

Marnie Crouch proposed an edit on p. 17 of the draft by adding a footnote after the sentence beginning "The applicant estimated the number of truck trips for the Bentley Warren trucks hauling rock from the site . . ." The footnote provided: The applicant's attorney at the February 8, 2022 meeting stated that there would be 400 truckloads relating to the septic system and between 46 and 50 truckloads at the site itself. It is unclear whether the number of truckloads accounted for the 8,648 Bentley Warren round trips to the export ledge."

The addition of the proposed footnote was approved.

Emil Dahlquist's edits:

Mr. Dahlquist's first edit was on page 3 at the bottom: He wished to replace 40 feet of granite (which could mean a lot of things) with removal of approximately 800,000 cubic yards of granite ledge on the 16- acre development portion of the site. He stated it is a linear dimension and I think we wanted something more volumetric so I put in the actual number taken from Mr. Durkin's chart of material to be excavated and to leave the site.

On page 4, first paragraph, third line from the bottom of that paragraph, he again wished to use removal of 80,000 cubic yards of rock and other material from the site, an edit consistent with his first edit.

Those two edits were approved.

On page 15, fourth paragraph, Mr. Dahlquist referenced a change in the sentence beginning "Section 3.d.ii.2 of the Rules and Regulations." He recommended a reference "the use of 48-inches of crushed stone, on average, to serve as a substrate for construction of units."

There was no objection to adding this proposed change.

Mr. Dahlquist turned to page 16, noting that with respect to lighting pollution there are three points to address. He offered an extensive revision, stating;

With respect to lighting pollution, there are three types to address: trespass, glare, and intensity. The applicant submitted photometric data showing a 0-foot candle level on the ground surface at the property lines for the street lighting to address the trespass matter. However, the cumulative effect from all lighting sources including the 16-foot-high street fixtures with a 5% plus or minus cutoff shield, as well as other lighting sources not submitted for approval including entrance fixtures, yard flood lighting, sidewalk safety illumination, and housing interior lighting, were not been submitted for review. Because of the highly concentrated development area and the various numbers, locations, and intensity of all illumination sources two pollutants--glare and intensity -- will be unmitigated. This is not a problem that can be simply solved by applying project conditions for approval. Sharper cut off angles will not mitigate pollution exacerbated by steep slopes and clear cutting of mature forests. Sharper cut-oof angles or lower fixture heights will require more street luminaires for an equivalent lighting level, which means more, not less lighting. In addition, because of the development placement in the pre-existing dark neighborhood with little artificial lighting, the highly lit development on the hill will stand in contrast to the neighboring properties.

The addition of this paragraph was approved.

Mr. Dahlquist's next edit was on page 18, at the bottom of second paragraph. With respect to the sentence beginning "The ambient noise level at the property line unquestionably would increase dramatically. . . ." Mr. Dahlquist proposed adding "far in excess of the noise pollution standard of an additional 10 decibel level above the ambient level of 30 to 35 decibels for a country road."

This edit was approved.

On page 21, first paragraph, with respect to the sentence containing the phrase “vehicles of varying sizes associated with construction using Chebacco Road, Essex St. and other streets in Hamilton,” he proposed adding “immediately adjacent communities.” This acknowledges that these roads carry into adjacent Towns and communities and thus will be affected by the traffic increases associated with this construction effort.

This edit was approved.

Bill Wheaton’s edits:

Mr. Wheaton proposed adding on page 2 the following: [petitioner’s] appearance at such conferences neither constitutes approval of senior housing development **nor** a guarantee that the special permit will be granted. The original sentence had “not, which might have been simply a typo.

This edit was approved.

Mr. Poore’s edits:

On page 15 where it says “water would hit the ledge,” he proposed a changed to provide that “the water would hit the ledge and move in any direction the ledge is pitched toward and potentially into wetlands in unpredictable concentrations.”

This edit was approved

Mr. Poore had corrections on page 21, where it beginning “As designed,” he changed 730 linear feet to “approximately 710 linear feet of buffer is disturbed over and above what would be reasonably required for a curb cut.” He stated that was important because it is 760 linear feet if you ignore the curb cut but need to allow for some disturbance of the frontage to make for a curb cut. I gave a reference to drawings you would look at to find that information and this is going to repeat over and over again. Accordingly, he cited applicant’s drawings C13, C14, C15, and C16, all of C42 Erosion Control Plan.

This edit was approved.

Page 22, 3rd paragraph, Mr. Poore recommended inserting the word “adjacent” to the following sentence: “the only amenity for residents is the trail system and is not readily accessible to residents unless they access the trails at the entrance or traverse areas **adjacent** to rip rap” versus people walking *on* rip rap.

In the 3rd to last paragraph on page 22, where it states, “1650 linear feet of rip rap visible and sometimes abutting trails”, he added suggested “approximately 1650”. Again, there is the same reference the applicant’s drawings C13, C14, C15, C16, all of C42 Erosion Control Plan.

Mr. Poore turned to page 25, 4th paragraph down, and the sentence beginning “Moreover and more importantly, consideration of integration of the project into the site instead of its imposition upon it...” he added “is required as the first step in the design process”, rather than using the

term “ranked” because ranked is what the stormwater management standards say, they rank it as the first step, whereas the senior housing bylaw just requires it as a first step.

The changing ranked to required was approved.

On page 26, first paragraph, the sentence being “In the applicant’s proposed plans, steep slopes are disturbed as well as approximately 710 linear feet . . .” Mr. Poore added the word **required** before vegetated buffer zone, and changed the 760 to 710 because he allowed fifty feet for a reasonable curb cut so the total disturbance is 760 less 50 gives you 710. Then you again would reference to applicant’s drawings C13 to C16, all of C42 Erosion Control Plan.

Finally, Mr. Poore referenced the second paragraph, second sentence beginning “Open space in the development area itself is predominantly steeply sloped lawns . . .” by adding the words “steeply sloped.” I will read the whole sentence, “open space in the development area itself is predominantly steeply sloped lawns with adjacent steep slopes. . . .”

The revision was approved.

At this juncture the Chair requested a motion to approve the form of the decision regarding Chebacco Hill Capital Partners LLC's application for a special permit, subject to the inclusion of all the revisions that were discussed. In addition, the Chair asks for license to correct any typos or scrivener’s error that may be discovered in the final proofreading.

Motion was made and seconded.

Roll call of voting members:

Jonathan Poore.	Aye
Bill Wheaton.	Aye
Emil Dahlquist.	Aye
Rick Mitchell.	Aye
Richard Boroff	Aye
Pat Norton	Aye
Marnie Crouch	Aye

The Chair noted that Pat Norton, who was an associate member is entitled to vote on the special permit application owing to the election of the Board’s newest member, Elizabeth Herr, who was not on the Planning Board when the special permit hearings began, thus being ineligible to vote.

Robin Stein of KP law raise the process of signing the revised document. There was a short window to get this done as it needs to be done before the 24th. Marnie Crouch will make the revisions tomorrow, October 12th, 2022. Patrick Reffitt will then print out the revised document and have it available to be signed in the Memorial Room by Planning Board members. Then the document can be filed with the Town clerk and sent to the applicant.

Per Robin Stein, the revised document also must list the names of all who voted to approved with their vote and stated that it was unanimous.

Summary of approved revisions:

- Footnote 12 on page 17 regarding the number of truck trips to and from the site was approved.
- Edits to page 3 and page 4, replacing 40 feet of granite with 80,000 cubic yards of rock and other material was approved.
- Edit to page 15 to replace “48 inches” with “48-inch-thick layer on average across 14 acres of sight crushed stone to serve as a substrate for construction of units” was approved.
- Edit to page 16 regarding lighting pollution was approved.
- Edit on page 18 regarding noise pollution was approved.
- Edit to page 2, replace the word “not” with “nor” so the sentence would read “...neither constitutes approval of senior housing development **nor** a guarantee...”
- Edit to page 21, acknowledging the impact of construction traffic on Chebacco Road and Essex St. to the surrounding Towns and communities was approved.
- Edit to page 15 regarding water direction and concentrations was approved.
- Edit to page 21 regarding linear feet of buffer reasonably required for a curb cut was approved.
- Edit to page 22 adding the word “adjacent” and changing “about 1650 linear feet” to “approximately 1650 linear feet” was also approved.
- Edit to page 25, substituting “required as first step” for “ranked as the first step” was approved.
- Edits to page 26, adding the work “required and changing the number from 760 linear feet to 710 linear feet was approved, as was the addition of the word “steeply sloped” to the second paragraph, second sentence.
- Marnie Crouch will incorporate revisions the senior housing special permit by tomorrow, October 12, 2022. Patrick Reffitt will print out the revised copy and have it available for members to come in and sign the revised document. Robin Stein will confer with Marnie Crouch about how to include the names of all who voted with their vote.
- Marnie Crouch will incorporate all revisions to the stormwater permit from Chebacco Hill Capital Partners LLC and print the draft decision by tomorrow (Wednesday, October 12, 2022) and place in the Memorial Room on Thursday where members can come in and sign before our next meeting.

The Chair entertained a motion to approve the form of the decision regarding the application of Chebacco Hill Capital Partners LLC for a stormwater management permit.

The motion was moved and seconded and the roll call proceeded:

Jonathan Poore.	Aye
Bill Wheaton.	Aye
Emil Dahlquist.	Aye
Rick Mitchell.	Aye
Richard Boroff	Aye
Pat Norton	Aye
Marnie Crouch	Aye

The Board personally thanked Marnie Crouch for the extraordinary amount of work required on the petitions from Chebacco hill Capital Partners LLC. They thanked her for her work and acknowledged that the Board produced an extremely professional set of documents.

2. CH 61A Notice of Intent - 862 Bay Road / Assessors Map – 31 Parcel 45.

Discussion

The Town has been made aware of the owners’ intent to convert 5.69 acres of land subject to Mass. Gen. Laws Ch. 61A (agricultural) to residential use. The land is being marketed for future residential usage and is in the RA zoning district. Apparently, a portion of this 13.3-acre parcel namely 5.69 acres was so-called Chapter land and the owners no longer wish to have that part of the parcel included as Chapter land because it might interfere with their sale or potential sale of the property. Patrick Reffitt stated that there is no frontage on Bay Road and the property is not connected to other municipal operations or open space. He would recommend to the Board that it allow the owners to pursue the transition and that he would advise the Board of Selectmen that the Planning Board has no recommendation to pursue of the land.

Action:

The Chair indicated that she would entertain a motion regarding the lack of feasibility for the Town to exercise its right of first refusal and to allow the owner to convert 5.69 acres of a 13.3-acre parcel from Chapter land to residential use.

Motion was made and seconded. The roll call proceeded:

Jonathan Poore	Aye
Bill Wheaton.	Aye
Emil Dahlquist.	Aye
Rick Mitchell.	Aye
Richard Boroff	Aye
Beth Herr	Aye
Marnie Crouch	Aye

3. Board Business

Approval of the minutes from the September 13th Planning Board Meeting

Discussion: There was a decision to go through any corrections or additions or deletions to the minutes verbally and then people could forward their comments to Ms. Crouch and she would make the edits.

Comments by Jonathan Poore:

Page 2 - Mr. Poore asked that there be a correction to the spelling of his name. Mr. Poore noted that his was spelled incorrectly. Also, in the second to last paragraph Mr. Poore added environmental concern to neighborhood concern.

Page 7 - Mr. Poore stated that he added language to the sentence with the phrase “began by referencing,” by noting that section 8.1.12 “as identified and linked in the preparatory language

of 8.2.31. Then in the last sentence in that same 4th paragraph, he stated he only referenced 8.1.12, not 8.1.7.

A question was asked if that sentence should read: “he noted section 8.2.25 which also contains a finding and mandates section 8.1.12 apply”? Mr. Poore affirmed this change and reiterated that the reference to 8.1.7 should be deleted.

On page 9, first sentence, where the sentence says “it is not good practice,” he inserted “for senior housing or aging in place to permit this grade”.

In the middle of that page, Mr. Poore also discussed Section 8.2.20 which provides that soil erosion should be minimized by integrating the development into the existing terrain...” He proposed inserting “and by reasonably retaining natural grades and soil cover.”

in the next paragraph, “Mr. Poore also focused on the sentence about the 20-foot sheer ledge at the entry. He stated that the sentence reads unattractive, but should the word should be an attractive nuisance and should refer to a “fall hazard.”

Mr. Wheaton indicated that on page 11, it should indicate that he could **not** make the finding required by section 8.2.31.3. He also noted that page 11, there was a misspelling of my name.

On page 12, last paragraph, next to last sentence, Mr. Mitchell had a correction regarding the sentence “he noted the removal of the ledge and truck traffic would be an issue but the impact of the development that he could live” needs to say “that he could live with.”

There were no further comments or revisions to the minutes.

The Chair requested a motion to approve the minutes from the September 13th 2022 Planning Board meeting subject to the incorporation of the corrections and amendments.

Motion was made and seconded. Roll call proceeded:

Jonathan Poore.	Aye
Bill Wheaton.	Aye
Emil Dahlquist.	Aye
Rick Mitchell.	Aye
Richard Boroff	Aye
Pat Norton	Aye
Marnie Crouch	Aye

3. Other Business:

Gordon Conwell Theological Seminary and Town Meeting

Discussion:

At the Town Meeting, the proposal to allocate monies for a strategic plan for the Gordon Conwell Theological Seminary and elsewhere was tabled and apparently another funding source

was identified. Mr. Mitchell was asked to share any information that he is at liberty to share with the Board about the status of that process.

Mr. Mitchell indicated that it was his understanding that the Town Manager identified some of the Recovery Act funding that would and could be used for a strategic study of the highest and best uses for the 103 acres at the Seminary which was the reason the item was removed from the warrant, which was originally intended to obtain authorization to use funds from free cash. The Board of Selectman and representatives from the Seminary have agreed to jointly fund a strategic planning analysis of potential uses of the property.

The contract has not been signed, but the amount of the contract is approximately \$80,000 and the study will take three months. According to Mr. Mitchell the process will be fast tracked and will include two public meetings to engage the public with this whole process. About 61 abutters have already been identified.

Mr. Mitchell indicated that the abutters have done an admirable job of organizing and getting the information about what the Seminary was doing and what the Seminary was not doing. They are very much involved and, as the schedule now exists, the Seminary and the Town are proposing to kick off the contract next week with a walk through the buildings to assess their condition and how they are being used. There are questions around any opportunities to repurpose those buildings and, if so, there will be some “back of the envelope” economics on potential cost of reuse or potential changes to them.

As an aside to that, Mr. Mitchell reported that the Zoning Board of Appeals and the applicant for the 210 units of affordable housing, namely, the Harborlight Community Partners, withdrew its application because he thought it recognized that it was not going to pass muster from the ZBA. The ZBA said they would potentially approve the change of use but not the rezoning that was required to make that project viable. Harborlight was seeking two things: one was a change of use so that the dormitories could be repurposed for affordable housing, and the other was a variance because of the lot size and the ZBA showed no inclination to approve this. The ZBA was willing to approve the change of use but not the variance. Neither the neighbors nor the Town supported the application.

Mr. Mitchell discussed the lack of clarity on the Seminary’s part about whether they would retain buildings E&F for future housing. It was all very sketchy about what was going to be happening with the property, when it was going to be happening, and what the impact was going to be on the neighbors. It also was not clear whether the Seminary was going to stay or leave the campus. There were too many big questions and nobody was able to answer them.

According to Mr. Mitchell, one of the tasks of the consultant will be to consult with Harborlight. Mr. Mitchell also noted problems that could emerge from a piecemeal approach that could be prejudicial to the Town's interests and to the interests of the abutters. For example, if you proceeded down the path of having affordable housing, this would generate some level of traffic. And, if in a year, there was some commercial development, that could produce even more traffic and the abutters would always be playing catch up. The absence of comprehensive planning is what got us to the nine lots along Bridge Street. which is an example of a piecemeal approach.

So, a comprehensive and coordinated approach is what is needed. It is important for the abutters, Town Boards and Committees, including the Planning Board, to be involved in the process along with the Seminary. The hope is that by January the strategic study will be finished and presented to the public.

At the end of this process, they will present options. In the public session I would imagine the consultants will discuss what they have ruled out or ruled in, they will give an overview of some potential uses, they will ask for feedback from the Town and from the abutters, and then they may at the end say, well given what we have seen, heard, investigated studied, here are the potential uses we think would yield an economic benefit to the Seminary and be consistent with the best interests of the Town.

The Planning Board will be involved. At this point, according to Mr. Mitchell, we do not know what use the property would be put to, but, at some point, there must be new zoning, so that is where this Board is going to be involved. The hope is that the Board can begin deliberating what this potential bylaw is, what form it would take, and how it would be utilized with the goal of a thoughtful process leading to consideration at the annual Town Meeting.

The process is to bring the Seminary and the Town together with a third-party consultant to do this analysis so that everyone is apprised of the process and what potential uses could emerge from it as well as the cost benefits to the Town and the Seminary.

A question was posed about whether there was any agreement on what would happen in the future with this property between the Town and the Seminary. Scott Sunquist, President of Gordon Conwell Theological Seminary is part of this committee as well as Ken Barnes who, as the project manager, is managing the move and finding new quarters in Boston. Scott has said that the Seminary is operating in good faith. Gordon Conwell wants to maximize the revenues to the Seminary but it also wants to leave a legacy to the Town that they can be proud of and that the people in Town will feel like they received due consideration. The Seminary intends to be off that campus by 2024 so that really leaves next year and maybe some of the following year for it to vacate that property.

Mr. Mitchel further indicated that there was no contractual agreement but the feeling from the meeting was that we had better act now to see if we can come up with a plan to engage all parties that will meet the needs of the Seminary, the Town, and the abutters and do it in a very public transparent way so that the community, especially the abutters, know what is going on and are involved in all discussions.

There was a suggestion to connect with Jonathan Whitten of KP Law who is familiar with form-based codes and presumably familiar with drafting zoning bylaws. If he is not involved in this process, perhaps, he should be. It is crucial that he be involved from the beginning and his understanding and knowledge could help the Planning Board with its process.

There was a question about the Town having the right of first refusal but this had not come up because the Town really has no appetite for buying land and neither does it have the budget to do so. However, it is certainly worth bringing up whether the Town would have the right of first

refusal to whatever proposals are put forth. For example, the Town could decide to go with one development that is not as profitable as another and this might be one way for the Town to exercise right of first refusal. It is worth thinking about. It was noted that this is not something that the Seminary would give away. The Town would have to provide consideration of some sort. It was noted that generally one must buy the right first refusal so it could be a subject of negotiation because the Seminary is short of cash so their contribution could be a right of first refusal. The consensus on the Planning Board was that it would be very challenging for the Town to raise the kinds of funds necessary to purchase right of first refusal and then the second challenge would be to get the Town to vote on it.

There was a discussion about the role of the Planning Board in this process.

On the other hand, the Board cannot be ignorant of what is happening regarding the strategic plan. The process must be totally transparent and involve everybody that will have a decision-making role. The Planning Board, the public, and the abutters are really going to decide what happens with that property and if those voices are not heard, the project could be defeated before it is even begun. A suggestion was made for an all- Boards meeting. Not every Board needs to be involved but certainly the Conservation Commission, the Planning Board, and the parties with real interest in what might happen could come together and this might be a vehicle for keeping everybody abreast of the process as it moves along.

Mr. Dahlquist volunteered to put together some ideas and submit it to the Board. He said he did have some ideas on how to stay involved in this without getting too involved. This was welcomed by the Chair.

Stormwater Management Bylaw

Discussion:

The Chair began by saying that there was consensus that our next order of business is to look at the Town's Stormwater Management Bylaw at our next meeting on October 18th. The Chair has two ideas with respect to this.

1. It would be very helpful if the Board conducted a site visit to the Bridge Street properties to get a real sense of why stormwater management is so important.
2. The Board also needs to know who owns the lots and get information from Town Counsel as to how this Stormwater Management Bylaw has been applied in the past. The Chair focused on the following language:

A permit from the permit authority shall be required where any construction activity, including clearing gradient excavation that results in land disturbance that will disturb equal to or greater than one acre of land, [*and here is the important language*], or will disturb less than one acre of land but which is part of a larger common plan of development or sale which will ultimately disturb equal or greater than one acre of land.

A point was made that to determine who owns the lots all you need are the numbers of the lots and the address, and then you can look it up on the Assessors Database. The original 19 acres was purchased by a single entity and that entity then subdivided it into nine lots. The Planning Board approved that and so it was all done by one entity.

Ms. Crouch agreed that it would be worthwhile asking Jonathan Whitton but also suggested this was something the Planning Board could do as well. There was a discussion about getting language that was legally sound and connecting with KP law and getting their assistance in crafting the bylaw. Mr. Dahlquist discussed practices in other Towns vis a vis stormwater management and stated they do this by dealing with three variables: steep slopes and the percentage of that slope; the amount of clear cutting; and the total impervious surface of the project to be built.

There was a suggestion to take these three variables and attempt to craft some kind of language as a beginning in terms of the bylaw. Ms. Crouch asked Mr. Dahlquist if had any access to bylaws in other Towns that address these three variables. Mr. Poore said that he had seen bits and pieces but that there is really no one size fits all out there. It is going to take some homework and some review with attorneys to craft a strong bylaw.

The Chair suggested Board members review the Stormwater Management General Bylaw, Chapter XXIX, and identify areas that they feel should be changed for the next meeting of the Planning Board on October 18. Clearly, Section 4 is one that needs attention but there is no enforcement provision for that phrase “part of a larger common plan or development”. That is a big hole so if we put together our ideas as to the weaknesses in the bylaw and where we think it should be cleaned up at our October 18 meeting, then perhaps we could have Town Counsel let us know what their view of this bylaw is and how we can address any future Bridge Street issues.

It is important as we go through this process to stay familiar and aligned with the state stormwater regulations and standards. We must keep using that as a reference all the way through the process. This can be an opportunity to create stronger linkages between the bylaw and the state regulations.

There was a suggestion that the Board tour the New England Bio lab campus as it is doing an expansion of 100,000 square feet to its waste water treatment facility.

Action

- The Board will explore either individually or as a group the nine lots on Bridge Street.
- Patrick Reffitt will identify who owns the lots on Bridge Street.
- Marnie Crouch will contact KP law and find out if Jonathan Whitten is available to aid as the Stormwater Management Bylaw is revised
- Planning Board members will review the Town bylaw, chapter 29, stormwater management and identify areas they feel should be changed or strengthened or that need attention.
- Pat Norton will try to set up a meeting between the Planning Board and the engineer working on the New England Bio Lab campus expansion. if this is not possible, he will arrange for the Planning Board to tour the site

The Chair indicated that the agenda for the next meeting would be a review of Stormwater Management Bylaw.

Other Board Business

With respect to the Senior Housing Bylaw and the Flexible Development Bylaw, the chair suggested what improvements could be made to them. At some point we should also consider our Planning Board webpage with the goal of transparency and exploring any information that are on other Town web pages that should be on ours as well.

A move to adjourn the meeting was made and seconded. Roll call vote was made as follows,

Jonathan Poore.	Aye
Bill Wheaton.	Aye
Emil Dahlquist.	Aye
Rick Mitchell.	Aye
Richard Boroff	Aye
Elizabeth Herr	Aye
Marnie Crouch	Aye

Respectfully submitted as approved at the 09-07-2023 meeting.

Marnie Crouch