

PLANNING BOARD

AUGUST 20, 2020

MEMORIAL BUILDING

7:00 P.M.

The following are to be considered draft minutes until approved by the Board.

Members present in the meeting room: Bryan O'Day, Ken Jacques, Darrin Patten, and George McCusker.

Members present via ZOOM: Kevin Lee, Peter Keene, Mike Howard, Dan Saulnier, Tim Bray, and Alex Belenz from UVLSRPC.

Others present via ZOOM: B. Manning, Patrick Rodgers, Mike Hansen, Ken Laughlin, and Chris Stearns.

Kevin Lee called the meeting to order.

Minutes of July 16, 2020: Minor correction page 3 first sentence Tin Bray change to Tim Bray. Motion by George to accept the minutes with the correction, seconded by Bryan. Motion passed. Darrin and Peter Abstained as they were not at that meeting.

Continued Hearing – Hansen Bridge LLC – Amended Site Plan: Board members who were not able to attend the joint meeting with the Zoning Board have reviewed the minutes and the materials that were sent out. Peter Keene reported the session on August 4th was an information session with the experts Michael Hansen had present to review questions and answers. George McCusker reported Michael was requested to have a conversation with the Road Agent. To his knowledge, Mike has talked to Peter Abair about the road. The road was just upgraded again. Mike has fulfilled that obligation.

Board members reviewed questions with Mike. Mike reported he did speak to the road agent and he did not think there would be much of an issue on that portion of the road. Mike estimates maybe a tractor trailer a week. If business picked up and they started doing more, then that would change. The most he could handle would be a tractor trailer a day and Peter Abair did not see an issue with that. . Kevin asked how many residents on the road might this impact. He noted the traffic on I-89 is probably noisier and more continuous. Mike stated there are two residential structures on the road, that are rentals and owned by Drew Edmunds. Darrin asked how much lumber could go in the vessel at one time. Ken Laughlin stated 5 to 6 K Board Feet could go in the chamber. Dry wood is in the tube for maybe 3 to 4 hours, if it is green it is 10 to 12 hours. Peter asked how much truck traffic is generated currently with the business as it is. Mike stated they probably get a tractor trailer up there a week. His trucks are in and out every day, and the neighbor CCM has 7 trucks they run in and out every day. There will not be a significant change in the amount of truck traffic on that road. Ken Jacques asked what type of wood. Mike stated Douglas Fir and if they were to do anything in the residential market it would probably be southern yellow pine.

Application Acceptance: The Board reviewed the checklist for application acceptance. The request is for an amended site plan, so the application is specific to the treatment area and containment structure. A lot of the information on the checklist is covered on the original site plan. Mike stated he does not plan on any further exterior lighting. The building will have the same color roofing and siding as his existing buildings. The addition is 48' x 33' coming off the side of the fabrication shop that will be the containment and pressure vessel. There will be no signage. Peter Keene moved to accept the application as complete, seconded by Mike Howard, and unanimously approved.

Amended Site Plan Review: Ken noted a condition of the ZBA approval was for the applicant to submit a design for the containment area and the membrane that would go in it. Those plans have been submitted and reviewed by the Planning Board. George asked Mike what he would do for storage of finished products if he were to begin doing product for retail. Mike stated there are bunks at the fabrication shop where their finished product is stored, and they will do the same with other materials. Peter asked if the sealant inside the containment area is appropriate for the chemical? Mike stated it is a heavy-duty sealant they use all the time on commercial concrete jobs. It gets in all the cracks and is an added form of protection for that containment unit. Ken Laughlin stated the chemical would have no adverse effect on the sealant. There were no further questions. George moved to approve the amended site plan for Hansen Bridge, LLC, seconded by Mike Howard. Darrin abstained as he had missed most of the hearings for this. The rest of the Board voted in favor. Motion passed. The site plan was signed.

Survey Mailings: Alex reviewed an e-mail he shared with the Board with recommendations for circulating the community survey. Alex stated he spoke to others in the office and some consultants. There is no perfect method that will reach 100% of the people, so there needs to be a balance with the method and those who may volunteer their time in organizing this. One method would be to do the mailing using property owner addresses. The survey could provide an online option for completion. Public awareness can be provided by outreach and postings on the website, so people can be informed of the survey even if they did not receive a mailed copy. An advantage to an online option is the platform will run statistics which helps with data entry. The Board discussed the costs of using a survey platform, and costs for mailing the surveys out. Tim suggested it may be reasonable to outsource this. Alex stated the RPC can do this on a contract basis at their member community rate so it can be offered somewhat inexpensively compared to a consultant. Getting volunteers to do the mailing could free some money up for working on the master plan. Kevin stated his initial thoughts are to do a google form for online and get a printed copy of the form to hand out or even using the word version. The paper forms that come in would require someone to do data entry anyway so the other information could be exported and worked with. He sees that as something the Board can do without having to spend money on it. Kevin suggested mailing out the survey on the word document and put a "QR" code on the form that would link to a google form if people want to go that route and also to have that link on the town web page. Dan noted in terms of budget it sounds like there are two ways to do it. Mail it to everyone and encourage everyone to do an online response, or inform people about the online survey and then have hard copies available at the office or some other place for people to pick up if they rather complete the hard copy.

Dan reported for the internet survey they were able to use some of the pre-printed stamped envelopes. It was projected to cost \$500.00 to send it out to everyone, and that was one page. Alex stated it would be more of a challenge to get the survey out to the most people by using an internet blast versus a direct mailing for property owners. There is a little more control over the mailing, but it is expensive. With some towns using a printing service is cheaper because they can do things at a production scale rate. Ken noted there is money available in the planning budget. Kevin asked if the Board wanted to wait to look at the bids next month or say go with the low one and not wait for next month. Darrin suggested an informal work session Peter agreed. The Board discussed costs associated with mailing the three-page survey to all property owners, including a return envelope. The mailed copy would have something in the header with information about the online option. Ken asked for a time frame for return. Dan stated it took a good couple of weeks before all people received the internet survey. Dan suggested there be an end date for the form to be returned. October 30th was recommended as an end date. A motion was made by Peter for the Board to hold a work session on Thursday, September 3, 2020 at 6:30 p.m. Motion seconded by Bryan and unanimously approved. The Board will decide on a vendor and the cost then. Kevin will look into vendors and costs.

Draft Noise Ordinance – Tim Bray stated he spoke to Stephen Buckley, the Director of New Hampshire Municipal Services (NHMA). He gave him an overview of what the Board is doing. A lot of towns are looking at this now. Under RSA 31:39 specifically says the town can write a noise ordinance. It is not a planning board zoning ordinance it is a town bylaw. Tim asked for an opinion on the two definitions in question. Mr. Buckley stated it was not within their scope to do. Conceptually, he thinks it is fine, but ultimately should go through the town attorney. He did reinforce the fact that this would be a town bylaw and not a zoning ordinance. Tim stated this is the approach and is something that would be presented by the Selectmen to the town on a ballot. Mr. Buckley stated that would be the way to go. Janet stated at some point someone needs to have a conversation with Town Counsel because in previous conversation with him, he has mentioned if this is not part of the zoning ordinance then there are no RSA's to support enforcing fines or fees or like that. Tim noted Attorney Buckley stated the bylaw gave specific means for the police department to enforce the document. He has looked at the RSA and it is there. There appears to be difference of opinion between the two attorneys in authority. Mr. Buckley was clear about it. This would be a noise bylaw not a noise ordinance. Following discussion, the Selectmen and town attorney should review the document before going out to public information hearings. Kevin will attend the next Selectboard (August 24) meeting to speak to them about this and to review the community survey mailings.

The Board then reviewed sections 4, 5, and 6 of the proposed noise document. Section 4 deals with enforcement. Tim described the sections and reasoning of the sub-committee. Section 5 is measurements. There was discussion as to who the person in town may be that would take on this position. Perhaps it would be a position for the Health Officer or some other person. The Committee was trying to keep in mind personnel of the town without creating a need for another employee. A sound level meter would be provided that would require training and calibration consistent with ANSI standards. Sound levels would be measured at the property line to facilitate the enforcement officer with objective information when there has been

complaint(s), giving noise level data from the property line to establish whether the level is within the guidelines. Dan stated they were trying to put this framework together to see that everything was covered and then when it gets to Planning or the Selectboard they can change out who would have the responsibility of taking the measurements. The paragraph identifies there is someone to do it, but the final decision is not up to the Planning Board to determine. Tim stated this could be a volunteer position. It is not a complex thing to do so maybe someone would step up and they would be named the agent of the bylaw. This is a placeholder.

Section 6 are the noise levels. The ordinance recognizes the difference between intermittent noise and continuous, prolonged, and essentially unremitting. This matches the definition of those two types of noises and has the potential to negatively affect the peaceful enjoyment and financial value of neighboring residences. This section includes a table for the residential and forest conservation district. The levels are the same, but the two districts are recognized since there are two districts in the Zoning Ordinance, and that the standards are the same in each. In the future if there becomes another type of zoning district it would be easy to plug into the table. Ken questioned the levels in the tables. In putting together his site plan, they do a couple of weddings a year and after 10:00 pm the decibels are lower. All their weddings end at 11:00 p.m. That time frame was taken from the Foxstand Site Plan, which was 11:00 and with no further guidance that is what was used. Moving forward what would they envision. Tim stated there could be several exceptions to this. Section 8 speaks to special permitting that would be granted by the Board of Selectmen. Ken stated the Selectmen is a fluid board and there may not be the same consensus among boards. These events get booked out two years in advance. The contract needs to be done well ahead of time. Kevin recalled that the Foxstand Site Plan approval limited to so many events per year and what time of day it had to end. Kevin suggested that could be written into the site plan as an existing process. Ken will look into this. Ken stated based on what he has been hearing over the past month or two, he is not sure if he will be having an actual site plan review or is it a site plan presentation for the town's files as a business that predates zoning so there won't be any opportunity to present new information and have anyone vote on it. Tim stated they recognized there are probably going to be situations like this and it does not mean that someone should have the right to call and say that there is noise being made on this one day so the thought was when writing this was rather than allow noise all the way up to 11 pm year round, it would be more prudent to allow for exceptions like weddings and things that are reasonable to go to later into the night once or twice a year so that is what is covered in Section 8. That is the approach but open for suggestions on the document. Tim stated that Brooks Weathers was part of the sub-committee as well. He has experience with noise from Kennebec, so he was instrumental with the decibel readings and making it in real terms from his measurements from his year and a reasonable amount of noise to emanate from a business near a residence. The committee thought these were reasonable numbers that people would want to live next to in most of the town. Dan stated the committee went all around with the numbers and times, weekends versus weekdays, and all kinds of things and in the end they felt like if there was going to be some kind of ordinance it had to have numbers and real definitions that could be measured against and enforced. They spent a good amount of time on the exemptions and special permits. Dan stated to Ken's point it might make sense to add another kind of exemption. They were thinking of the kinds of exemptions that would be from

the Board of Selectmen, such as a graduation celebration or something of that nature and they go and get a permit. But maybe another kind of permit is one that is longer lasting to do with a business, such as with Twin Lake Villa. This all comes down to what is obnoxious and that is different to an individual person, but the Selectboard would be figuring out what a reasonable person would think. Patrick Rodgers asked what about if you are not dealing with a reasonable person. Someone new moves to town and does not think that what has been taking place for years is reasonable. Dan stated the Selectboard would deal with that. There are people that do not want to hear noise or want an exception for anything. That could be considered an unreasonable person and the Selectboard would look at that. A discussion followed regarding reasonable and unreasonable claims. Tim stated it is not possible to make a document that covers every eventuality so the Board does the best it can in writing a guideline to deal with reasonable people. There must be someone to make a judgement call on this at the end of the day. This is the tool for them to start with and use as guidance. Not everything can be legislated in a document like this, unfortunately. Kevin stated in dealing with Foxstand the Board was careful with to allow them to do the be able to do the wedding and stuff in such a way not to hamper their ability to do their business but also was understanding it was in a rural residential neighborhood. In crafting the condition for the Site Plan, the Board tried to balance those things. Kevin stated he feels bad he does not know all the details of what the Selectboard said about Kennebec, but the idea of accepting current site plan or having something in there that says this how the business has been running for however long, and now it is in a document that says what is being done and how it is done. If someone wants to come in and question it, that is more of an issue that there is not something that says what the business owner has said this what we have and how we have been running it and it was accepted as the way it has always been done. Having something on file as to what and when things are taking place, such as weddings, there is real value in the knowledge to protect the business and owner. Getting a baseline in for these businesses is to protect them from someone coming in and saying they cannot do the business this way. A noise ordinance would be there, but a business would not be breaking the ordinance because they have been approved to operate their business in a different manner. Moving forward, if the ordinance is in town, and someone comes for approval for their business this would become part of their special exception request because this is an exception from the regulations. The Boards would figure out how to do that and allow for what is in the noise ordinance.

Tim stated the next sections talk about what is exempted from this, what happens when there is a special event, and how to approach it with enough flexibility where reasonable things like weddings, and parties that are "one-offs" can be allowed. Dan stated getting things written into site plans is a way to protect people in perpetuity. The other would be under special permits to allow a business to ask for an extended permit i.e. ten years. The document needs to be clear which method the Board wants and to write it into the document to allow that. Dan stated he believes reasonable person has an actual legal definition and potentially put a definition in the regulations. He will look at that.

A motion was made by Ken to move forward with sections 4,5,and 6 of the draft noise ordinances seconded by Bryan, and unanimously approved. Darrin had left by the time this vote was taken.

Board members will review sections 7 and 8 for review on the September 17th meeting. Kevin will attend the Selectmen's meeting to discuss the survey, the draft of the noise ordinance, and clarification regarding existing business site plans.

Kevin stated the Board will have a conversation with the town attorney at some point before this moves forward.

The meeting adjourned at 8:50 p.m.

Minutes transcribed aided by a ZOOM recording.

Submitted by,

Janet Roberts,
Administrative Assistant.