

## **Holliston Planning Board Meeting Minutes of February 2, 2017**

**In Attendance:** Chairman David Thorn, Geoffrey Zeamer, Karen Apuzzo-Langton, Warren Chamberlain, Josh Santoro and Associate Member Nikki Borman.

**Call to Order:** The Chairman called the regular meeting to order at 7:00 p.m. in the Selectmen's Meeting Room #105 of the Town Hall, 703 Washington Street.

### **General Business:**

#### **1. Approval of Minutes of January 26, 2017**

On a motion by Mr. Chamberlain, seconded by Mrs. Langton, the minutes of January 26, 2017 were approved as drafted.

#### **2. Deliberations of 194 Lowland Street, Michael Brumber**

Atty. Mark Bobrowski was present to discuss a draft Certificate of Action dated February 2<sup>nd</sup>. Mr. Chamberlain made a motion to deny the petition based on the draft as modified through discussion (See below for text). Mr. Santoro seconded with the vote as follows: 5 (Thorn, Zeamer, Chamberlain, Santoro and Borman) of aye, 0 of nay, 0 of abstain. Mrs. Langton did not participate in this discussion as she had previously recused herself from the petition as having a conflict of interest.

### **FINDINGS**

1. On July 26, 2016, the Applicant filed with the Planning Board an Application and narrative for Site Plan Review and Special Permit (together, the "Applications"). The Applications were filed with the Town Clerk on July 29, 2016. The Applications were signed by the Applicant and Owner's Representative.

2. The application for special permit from the Planning Board was made pursuant to three (3) items in Section III-A, Table of Use Regulations (the By-Law of 2015 was the effective By-Law), as follows:

27c. Outdoor retail sales.

42a. General Industrial uses including manufacturing, storage, processing, fabrication, packaging, and assembly that occupy more than 15,000 square feet of floor area, or those that have no more than 15,000 square feet of floor area and which involve the manufacture, storage, transportation, discharge or disposal of hazardous, toxic, or radioactive materials.

49. Outdoor storage of building or other materials or equipment not covered elsewhere in this by-law.

The application for site plan approval was made pursuant to Section VII of the 2015 By-Law.

3. In order to grant a special permit, the Planning Board shall consider the following as set forth in Section VI-E.4:

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Before granting a Special Permit, the SPGA shall consider the proposed use in relation to the site as well as the adjacent uses and structures and shall find that there will be no significant adverse effects to the neighborhood or the town, considering the following criteria:

- a. The degree to which the proposed use complies with the dimensional requirements of the by-law, is in an appropriate location and does not significantly alter the character of the neighborhood; the project is compatible with existing uses and other uses allowed by-right in the district and is designed to be compatible with the character and the scale of neighboring properties.
- b. To the extent feasible, the proposal has been integrated into the existing terrain and surrounding landscape, minimizing the impacts to the aquifer and/or recharge area, wetlands, steep slopes, and floodplains.
- c. Adequate and appropriate facilities shall be provided for the proper operation of the proposed use, including screening and provisions for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets and properties.
- d. The proposed project shall not create any significant emission of noise, dust, fumes, noxious gases or any other adverse environmental impact including stormwater, erosion and sedimentation.
- e. There shall be no unreasonable glare from lighting, whether direct or reflected, onto ways, the night sky or onto adjacent properties.

4. Section VII. 5 under Site Plan Approval sets forth the following criteria for decision making by the Planning Board:

General Conditions for Approval. In considering a site plan application under this Section, the Planning Board shall ensure, to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which located, that there is:

- a. protection of adjoining premises against seriously detrimental or offensive uses on the site;
- b. convenience and safety of vehicular and pedestrian movement within and without the site, and in relation to adjacent streets, property or improvements;
- c. adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses on the site, and the methods of drainage for surface water from its parking spaces and driveways;
- d. adequacy and safety of storage facilities/methods for fuel, refuse, vehicles and other material and equipment incidental to the use of the site;

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- e. provision for emergency access and operations within the site;
  - f. provision for off-street loading, unloading and parking of vehicles incidental to the normal operation of the establishment;
  - g. development that to the extent reasonably possible harmonizes with neighboring land uses and structures; and
  - h. compliance with the Board's adopted design guidelines.
5. At the public hearing, the following evidence was introduced into the record:
- A. The Applicant proposed to co-mingle, process and remove approximately 5,000 cubic yards of compost and 30,000 cubic yards of mixed fill as shown on the plan of record.
  - B. Some or all of these materials were illegally placed on the Subject Property by the Applicant with the Owners knowledge and/or at the direction of the owners.
  - C. On June 2, 2015, the Middlesex Superior Court, Trochka, J., issued a preliminary injunction barring the Applicant from processing compost on the Subject Property or removing materials therefrom. The matter was captioned Town of Holliston v. Brumber, C.A. No.: 1501CV03525 (the "2015 Enforcement Action").
  - D. Attached to the Verified Complaint in the 2015 Enforcement Action were violation notices from the Conservation Commission (11/25/14), Inspector of Buildings (12/22/14), Mass. Division of Fisheries & Wildlife (12/23/14), and Board of Health (5/15/15).
  - E. The Applicant has proposed to process the materials on the Subject Property prior to removal in order to maximize the value of the materials.
  - F. The Applicant has proposed to use the following equipment on the Subject Property to perform the processing and removal:
    - \* Loader to mix the materials and load into trucks;
    - \* Backhoe to handle material and feed the screener;
    - \* Portable screener to process mixed fill;
    - \* Water suppression connection for dust control;
    - \* Trucks from private contract haulers, including 10 wheelers, 18 wheelers, and trailer dumps;
    - \* Support vehicles including fuelers, sweepers, water truck, and repair/lubrication truck visits.

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- G. The Applicant has proposed to remove the materials from the Subject Property over the course of 150 days (or five months). In order to remove said materials in that timeframe, the Applicant has testified that it will require about 500 cubic yards to be moved in a single day, or 10,000 cubic yards per month with an allowance for bad weather.
- H. Daily truck trips would total approximately 70 per day (35 in, 35 out), with 20 to 40 of the truck trips being made by tractor trailers.
- I. Although the Applicant has proposed truck routes for the removal of materials, none of the trucks will be owned or operated by an entity under the control of the Applicant. The Board fears that any decision limiting removal to certain truck routes would be ineffective, particularly given the track record of the Applicant.
- J. Noise levels within the Lowland Industrial Park, the Subject Property and the nearby operations at 157 Lowland Street (also under the control of the Applicant) have routinely violated state and local noise limits. A report prepared for the Applicant for his operations at 157 Lowland Street by Cavanaugh Tocci, a reputable acoustical consulting firm, found exceedances of the Mass. DEP limits. The report (õCavanaugh Tocci Reportö), submitted as an attachment to the Board of Health and Building Inspector memorandum of October 12, 2016), is entitled õAmerican Recycled Materials ó Preliminary Environmental Sound Evaluationö and is dated July 28, 2016.
- K. The Applicant did not propose any specific method to monitor or limit noise on the Subject Property. Given the exceedances at 157 Lowland Street for similar operations, the Board has no reasonable expectation that exceedances will not occur from removal operations on the Subject Property.
- L. The Applicant did not propose any plan to track and monitor the removal of any potential contaminated materials illegally deposited on the Subject Property.

**DECISION – SPECIAL PERMIT**

After considering the proposed use in relation to the site as well as the adjacent uses and structures and potential significant adverse effects to the neighborhood or the town, the Planning Board voted to **DENY** the application for a special permit for the following reasons:

- a. The degree to which the proposed use complies with the dimensional requirements of the by-law, is in an appropriate location and does not significantly alter the character of the neighborhood; the project is compatible with existing uses and other uses allowed by-right in the district and is designed to be compatible with the character and the scale of neighboring properties.

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*The proposed processing and removal of approximately 35,000 cubic yards of materials at this location is not appropriate given the residential character of the surrounding neighborhoods. The application, if approved, would significantly alter the character of the neighborhoods due to the immense amount of truck traffic, noise, and dust. The proposal is not compatible with existing uses and other uses allowed by-right in the district and is not designed to be compatible with the character and the scale of neighboring properties. The removal and processing of materials is not in preparation for development of the site.*

*The site is located at the southerly edge of Lowland Industrial Park and directly abuts the Agricultural-Residential B zoning district to the south. There are approximately 6 homes within 500’.*

b. To the extent feasible, the proposal has been integrated into the existing terrain and surrounding landscape, minimizing the impacts to the aquifer and/or recharge area, wetlands, steep slopes, and floodplains.

*There are wetlands and flood prone areas on the Subject Property under the jurisdiction of the Conservation Commission. The Subject Property is also located entirely within a MA DEP Zone II Wellhead Protection Area and Town of Holliston Zone II – Major aquifers and primary area of recharge. The Applicant did not provide information as to the composition of the “Mixed Fill” on the Subject Property, some of which may be contaminated. The Applicant did not propose any protocol for avoiding contamination of these resource areas from processing or removing the Mixed Fill.*

c. Adequate and appropriate facilities shall be provided for the proper operation of the proposed use, including screening and provisions for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets and properties.

*The proposed truck traffic – up to 80 heavy trucks per day for five months - would result in significant threats to pedestrians (including children), bicyclists, and other motor vehicle operators on the adjacent streets and the regional Upper Charles Multi-Use Trail which is located approximately 1300’ northwest of the site.*

d. The proposed project shall not create any significant emission of noise, dust, fumes, noxious gases or any other adverse environmental impact including stormwater, erosion and sedimentation.

*The Cavanaugh Tocci report indicates that noise levels from processing and removal will exacerbate existing conditions in the Lowland Industrial Park which routinely exceed Mass. DEP standards with near-continuous noise levels. The Applicant did not propose an adequate noise mitigation plan or address Holliston Zoning By-Laws Section V-N Performance Standards with regard to noise or other nuisance factors.*

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- e. There shall be no unreasonable glare from lighting, whether direct or reflected, onto ways, the night sky or onto adjacent properties.

*Not applicable.*

**DECISION – SITE PLAN APPROVAL**

After consideration, the Planning Board voted to **DENY** site plan approval because it determined that it could not ensure, to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which located, that there is:

- a. protection of adjoining premises against seriously detrimental or offensive uses on the site;

*The Cavanaugh Tocci report indicates that noise levels from processing and removal will exacerbate existing conditions in the Lowland Industrial Park which routinely exceed Mass. DEP standards with near-continuous noise levels. The Applicant did not propose an adequate noise mitigation plan or address Holliston Zoning By-Laws Section V-N Performance Standards with regard to noise or other nuisance factors.*

*The proposed truck traffic – up to 80 heavy trucks per day for five months - would result in significant threats to pedestrians (including children), bicyclists, and other motor vehicle operators on the adjacent streets and the regional Upper Charles Multi-Use Trail which is located approximately 1300' northwest of the site.*

*The proposed processing and removal of approximately 35,000 cubic yards of materials at this location is not appropriate given the residential character of the surrounding neighborhoods. The application, if approved, would significantly alter the character of the neighborhood due to the immense amount of truck traffic, noise, and dust. The proposal is not compatible with existing uses and other uses allowed by-right in the district and is not designed to be compatible with the character and the scale of neighboring properties.*

- b. convenience and safety of vehicular and pedestrian movement within and without the site, and in relation to adjacent streets, property or improvements;

*See a., above.*

- c. adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses on the site, and the methods of drainage for surface water from its parking spaces and driveways;

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d. adequacy and safety of storage facilities/methods for fuel, refuse, vehicles and other material and equipment incidental to the use of the site;

*Support vehicles including fuelers, sweepers, water truck, and repair/lubrication truck will visit the Subject Property during the term of any work. This truck traffic will exacerbate problems associated with the truck traffic for removal by adding more trips to the process.*

e. provision for emergency access and operations within the site;

*Not applicable.*

f. provision for off-street loading, unloading and parking of vehicles incidental to the normal operation of the establishment;

*Not applicable*

g. development that to the extent reasonably possible harmonizes with neighboring land uses and structures; and

*See a., above.*

h. compliance with the Board's adopted design guidelines.

*See a., above.*

**3. Hopping Brook Park's Field Changes and Definitive Plan Amendment**

Peter Bemis was present to discuss an ongoing series of plan revisions (i.e. relocated right of way and stormwater system). The roadway is under construction and fill from an on-site borrow pit is being utilized. Engineering inspections have been completed for clearing and grubbing. AP Associates is the peer review engineer as well as project inspector for the board. A modification plan will be prepared for endorsement. It was also noted that the location of water line is in flux but will most likely connect to Washington Street via the Washington Hills Senior Residential Development (aka Holliston Woods) via an easement being granted to the Town of Holliston by Pulte Homes.

**4. Anthony Graceffa's Site Plan Review, 1490 Washington Street**

Paul DeSimone, PE of Colonial Engineering was present with the applicant who is planning a second story addition to the existing former garden supply store. Members reviewed plans entitled "Site Plan, Proposed Addition of 2<sup>nd</sup> Floor, General Service Provider, 1490 Washington Street, Holliston,

**Approved: March 2, 2017**

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Massachusettsö dated January 13, 2017, prepared by Colonial Engineering, Inc. and discussed the proposed building elevation and use as office and storage for the applicantö plumbing and mechanical system business.

Mr. Santoro made a motion to approve the Site Plan Review application with conditions as drafted (See below). Mr. Chamberlain seconded with all in favor.

### **CONDITIONS OF APPROVAL**

The Boardö decision to grant the Application for Site Plan Review is subject to the following conditions:

1. **The revised plan set shall be endorsed by the Planning Board and presented to the Inspector of Buildings with the application for building permit.** Unless amended with the approval of the Planning Board, the endorsed plan set shall be the plan of record and construction shall proceed in accordance with the improvements shown on said plan and this Certificate of Action.
2. No corrections, additions, substitutions, alterations or any changes shall be made in any plans, proposals, and supporting documents approved and endorsed by the Planning Board without the written approval of the Planning Board. Any requests for modifications shall be made in writing to the Planning Board for review and approval and shall include a description of the proposed modification, reasons the modification is necessary, and any supporting documentation.
3. A copy of this decision shall be kept on site and shall be made available to all site contractors.
4. Prior to commencement of authorized site activity, the Applicant shall provide to the Planning Board Office the name, address and business phone number of the individual(s) who shall be responsible for all activities on the site. Additionally, the Police and Fire Departments should be provided with an emergency notification sheet.
5. Prior to issuance of a Certificate of Occupancy, any accessory structure should be removed or relocated to comply with provisions of Section V-A of the Zoning By-Laws.
6. The Applicant shall take care to comply with provisions of Section V-B Exterior Signs, especially with regard to maintaining adequate sight distances from the site drives.
7. Any structural or natural buffer to adjacent residences within the area noted as öExisting No Disturb Easementö or within the öedge of woodsö shall be maintained. The drainage discharge within that area should be retrofit to prevent scouring and flooding to adjacent properties.
8. Prior to issuance of any Certificate of Occupancy, the design and contents of the ölandscape islandö shall be subject to approval by the Planning Board or its designated agent.
9. Prior to any Certificate of Occupancy, new areas of pavement shall be inspected by the Planning Board or its designated agent.
10. Prior to the issuance of a Certificate of Occupancy, the Applicant shall submit an as-built plan stamped by a professional engineer certifying that all site improvements are completed in accordance with the approved plan. The Applicant shall submit a statement certifying that all conditions of approval of this decision have been met.



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5. Highland at Holliston ó Request for Waiver

Mr. Zeamer made a motion to deny the requested street light waiver for Mayflower Landing as requested by Guerriere & Halnon on behalf of Holliston Residential Realty based on the recommendation of the Police, Fire and DPW Departments. Mr. Chamberlain seconded with all in favor.

**Adjournment** - The meeting was adjourned at 8:40 p.m. on a motion made and duly seconded. The next Downtown Corridor Plan workshop was scheduled for February 9, 2017 at 7:00 p.m.

Respectfully submitted,

Karen L. Sherman, Town Planner