

TOWN OF HAMPDEN
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Mark Casey
M. Paige Gore
Associate Member: Richard R. Green

**HAMPDEN PLANNING BOARD
PUBLIC HEARING MINUTES/128 WILBRAHAM ROAD – HAMPDEN COUNTRY CLUB
Wednesday, October 22, 2014
Town House**

Approved 1/14/15

Mr. Matthews opened the Public Hearing at 7 PM and alerted the applicant and audience the Hearing is being recorded by the HCC Berm Committee Representative and the Town of Hampden Planning Board.

The Public Hearing was scheduled on the application of Hampden Country Club, LLC of 128 Wilbraham Road, Hampden, MA, for a Special Permit with Site Plan Approval for the operation of a commercial golf course within the Golf Recreational District with normal and usual accessory uses.

Members Present: John Matthews, Chair; Judge Robert Howarth, M. Paige Gore, and Richard Green, Associate Member.

Others Present: Atty. Dave Martel, Counsel for Town of Hampden, Planning Board
Atty. Thomas Miranda, Counsel for HCC Berm Committee
Atty. Frank Fitzgerald, Counsel for Hampden Country Club
Guy Antonacci, Hampden Country Club
Members of the Hampden Country Club Berm Committee
Lance Trevallion, Zoning Enforcement Officer
Ted Zebert, Conservation Commission

Introduction of Board Members: Mr. Matthews introduced the Planning Board members and Atty. Dave Martel, Legal Counsel for the Town of Hampden, Planning Board. Atty. Martel discussed two procedural items. The first being the make-up of the Planning Board that will hear this case. The elected members of the Planning Board are five in number. Two members have recused themselves of these proceedings, leaving three members. In order to approve any application, a five person Planning Board requires the votes of four people. In order to give a necessary quorum the right to act on this case, Mr. Rick Green, who is the Associate Member, will sit on this matter. Under Bylaw, Section 8.4.2, of the Zoning Bylaw, the Alternate Member, is allowed to vote on Special Permit Applications. This is a Special Permit Application with Site Plan Approval. Atty. Martel has advised the Chairman, that in his view, the bylaw should be read so that even though there will be separate votes on the Site Plan piece and separate votes on the Special Permit Application itself, that Mr. Green ought to be allowed to sit and vote on both of those items. Otherwise, the Planning Board simply couldn't act because it would only have three members if Mr. Green is not allowed to take part in both the Site Plan and the Special Permit piece.

The second issue deals with comments received from other town boards. Mr. Martel is referring to Section 10.72 of the Bylaw which says that within 10 days of receiving an Application for Special Permit Site Plan Approval notice is to be given to various town officials such as the Building Inspector, Board of Health and other Town Boards to allow them 30 days to comment and respond to the project. Section 10.72 4b says the hearing shouldn't be held until the responses have been received, and Atty. Martel has concluded the hearing shouldn't be concluded until a response has been received from those various entities or the required comment period has elapsed. The Chairman, with the consent of the other members of the board, proposes to open the hearing tonight to receive evidence and public comment, and continue the hearing to a

date after the expiration of that 30 day period. The 30 day period began on October 2 when the notices were sent to the various town officials and boards. Thirty (30) days from that would be November 2nd. The hearing would continue at a date after November 2nd. No further evidence would be taken. The Board would, at that time, deliberate and vote on the Special Permit and Site Plan Approval that it received and consider any comments from the Town Boards or Officials that were received up to November 2nd. John Matthews confirmed what Atty. Martel stated.

John Matthews asked Atty. Miranda if he agreed with the procedure Atty. Martel discussed. Atty. Miranda accepted the procedure, but if he and his clients feel there is not a reasonable result of the decision or it is not adequately protecting the neighbors and there is an appealable issue, then they will revisit their position. Atty. Miranda emphasized they want to see the project move forward, but want to see it move forward as efficiently as possible taking into consideration the neighbors.

John Matthews asked Atty. Fitzgerald if he agreed with Atty. Martel's comments. Atty. Fitzgerald agreed with the procedure.

Statement of Authority: Mr. Mathews read the Statement of Authority.

Legal Notice: The Legal Notice was read by Mr. Matthews.

Reports from Other Agencies:

The Building Inspector indicated in his November 3, 2013 letter to John Matthews the following: The Country Club of Hampden has proposed as part of their application to construct Guest Cottages at their facility. Presently provisions in the Zoning Bylaws in the Golf Recreational District allow one residential structure for the groundskeeper only, additional residential structures would either need to be approved thru the Site Plan Approval as normal and usual accessory uses or a Zone Change at Town Meeting would have to be approved for this proposed use (Letter in file).

The Board of Health Inspector amended her original response in a letter dated November 3, 2014 stating in response to the Hampden Country Club request regarding the building of 5-10 Clubhouse cottages on the property located at 128 Wilbraham Road, she spoke with the Massachusetts Department of Environmental Protection. They informed her that the Hampden Country Club does not have a means of expansion for any additional sewage disposal on the property. Therefore the Board of Health is informing the Planning Board that building cottages cannot be allowed to go forward at this time (Letter in file).

The Conservation Commission stated in their response that the Conservation Commission is currently not managing any activities at the Hampden Country Club. All the monitoring of the Country Club is being managed at the regional and state levels thru DEP and the Army Corps of Engineers. When the state deems it appropriate, they will hand management back to the commission. They do not get a weekly monitoring report on the water in the ponds and brook. (Letter dated October 28, 2014 from Conservation Commission).

The Historical Commission reported the application did not fall within the purview of their Commission and, therefore, has no comment.

The Fire Department reported they do not oppose the Special Permit Application for the Hampden Country Club and further commends the club owners on the progress to date. However, the Hampden Fire Department points out the construction of a new club house, Pro shop and maintenance shed, despite the fact they are fire sprinkler protected along with plans to build some number of cottages increases the demand for a nearby fire water supply. With the nearest dry hydrant connection more than a mile away; it is unlikely that a tanker shuttle could provide adequate fire flow to suppress an established structure fire at one or more structures on club grounds, especially at the top of the hill. HFD suggests a permit condition that would provide for year-round fire department access to an on-site dry hydrant connection to allow drafting from an adequate on-site water source (such as an on-site pond) to allow pumping through HFD deployed supply hose and/or tanker filling. The permit condition should allow that the water supply/fill site to be utilized by the HFD for any on-site or community fire and training drills (Letter in file).

The Police Department reported no comments.

The Highway Department has no comments or objections to this permit.

The Tax Collector reported the account is current.

The Zoning Board of Appeals declined the invitation to comment, but were grateful for the opportunity.

Applicant's Presentation/Board Questions: Atty. Frank Fitzgerald addressed the board on behalf of Hampden Country Club. His office is located at 46 Center Square in East Longmeadow. Atty. Fitzgerald explained they are here to give their presentation of why they feel it is appropriate for the Planning Board to give them the Special Permit and approve the Site Plan. Hampden Country Club has been there for 40 years, and is going through major positive renovations and presents issues for everyone to understand and get their arms around what the proper permitting process should be. They feel pursuant to Section 6.7 and the Table of Uses, Section 6.0, they should be issued a Special Permit and obtain Site Plan Approval of the use of a Commercial Golf facility with all accessory uses including incidental, thereto, club house, banquet facility, pool, equipment storage building, caretaker residence, and clubhouse cottages for temporary stays by members and invited guests. Section 6.7 of the Bylaws provides that the Golf Recreational District is intended for a Commercial Golf Course and normal and accessory uses as permitted according to the Table of Uses, Section 6.0. The Table of Use Regulations, Section 6.0, provides in Section 2.18 that Commercial Recreation Uses, including but not limited to golf facilities, are allowed by Special Permit with Site Plan Approval from the Planning Board. Atty. Fitzgerald indicated over the past several months, there has been significant activity, with town oversight, conducted to refurbish the existing golf course. His clients have planned not only to restore the course to its past glory but to create a world class experience unparalleled in Western Massachusetts. In addition to the course layout, they have submitted plans indicating the location of the club house, banquet room, pool, tennis courts and the location of several club house cottages near the proposed tennis courts.

Atty. Fitzgerald explained the cottages are a type of amenity which has been emerging in many premier golf courses throughout the United States as an amenity for golf club members and their guests. It provides the golf club members and their guests the ability to have temporary accommodations when they are enjoying the club facilities. This is an accessory use to provide an added amenity to the club's members. For this Accessory Use, a Special Permit is required. The Table of Use Regulations in 6.0 provides in Section 6.14 that Accessory Buildings or other structures are allowed by a Special Permit from the Planning Board; and in Section 6.19 that buildings for storage and maintenance of equipment are permitted by Special Permit from the Planning Board. Section 2.1 defines "Accessory Building" as a detached building, which is subordinate to the main building, the use of which is customarily incidental to that of the main building. Section 2.2, defines "Accessory Use" as the subordinate use of a building or premises for purpose customarily incidental to the main or permitted use. Therefore, they are looking for approval of the Special Permit for the club as part of the Special Permit for the club house cottages and the outside maintenance buildings.

Atty. Fitzgerald stated they were heartened at the ZBA hearing early this year that some residents were favorable to this development with the only issues being the placement of an earthen berm and the removal of some trees along the seventh and eight holes. Although they firmly believe that such a berm is allowed by the bylaw, the club has listened to these concerns and has, as a good neighbor, agreed to remove the berm and address the trees. Atty. Fitzgerald said that Section 6.7 and 7.10 of the Bylaws only require that there be a densely treed buffer wherever necessary to reduce the hazards of errant golf balls; and that there is no limitation on golf activity contained in the bylaw.

Atty. Fitzgerald said that this proposed plan complies with the bylaw. His client's goal is not only to develop a world class golf course, but also a course that is safe for playing and for the neighbor's who abut the course. With the berm no longer in place, the club will take the following measures to reduce the hazard of misdirected golf balls: Plant trees and evergreens as set forth in the Site Plan and densely treed buffer strip wherever to sufficiently reduce the hazard of misdirected golf balls to the abutting landowners.

Atty. Fitzgerald introduced Guy Antonacci, Owner and General Manager of the Club and Billy Downes, Head Golf Pro.

Mr. Antonacci discussed his family's vision of the project. He stated he will be working on the job site every day; and is responsible for making this vision a reality. Over the past two years, he and his team have put their heart, soul, and resources into bringing this world class facility to the Town of Hampden. He indicated every design decision, course feature, tee and green has been meticulously planned to ensure the best possible golf and recreational experience for their members and families. They have also been designed with the safety and privacy of their neighbors at the forefront of their minds. Mr. Antonacci stated it is their vision to bring a world class golf course to Western Massachusetts, but it's also about creating a family focus and comfortable environment that their members will want to use even when they are not on the course. He stated it's about creating something that the entire Town of Hampden can be proud of. Their number one goal is to be a good neighbor and good citizen in the community—and that starts with him. He stated he will be on the job site every morning at 6 AM overseeing construction, and that will not change once the Country Club is open. He will make sure things run smoothly, and stated his door is always open. It is important for him to set a tone of cooperation and collaboration with this community that lasts beyond the construction period and continues for as long as they are operational. He believes the plan that is before the Board reflects that spirit by taking into account input from people throughout this community. He asked the Board to give it due consideration.

Mr. Downes, PGA Head Golf Professional at Hampden Country Club, spoke about the progress being made turning this into a world class golf facility. He has been the head pro for six years in Hampden dating back to the previous ownership. He was there three years under the previous owners. He indicated HCC was one of the social centers of the town. He provided history of the Country Club. Mr. Downes presented pictures reflecting the progress of the Country Club. He indicated Brian Silva is the architect. They plan to employ approximately 100 people and partner with the local community by starting a caddy program, golf clinics, and special events. This is all part of their commitment to being a good corporate neighbor and citizen of Hampden. Mr. Downes stated their main goal is to improve the course and its layout, but also to maintain HCC's character and integration into the surrounding residential community. He stated by respecting their neighbors, enhancing their privacy and safety has been the forefront of every decision they made in the golf course design. The plans reflect these considerations in the placement of trees, the removal of the berm and other design features throughout the golf course.

John Matthews asked the Planning Board for their questions or comments.

Richard Green asked if the cottages plan to be year-around, short term use, long-term use or available for purchase. Atty. Fitzgerald stated they are temporary accommodations for members and guests; and they are not for rent. He provided examples of other courses with cottages—Old Sandwich Golf Club, Plymouth, MA ((Exhibit A – Cottages as Accessory Uses dated 10/22/14).

Mr. Green stated his question centered around 1987 when there was a plan about whether or not they would put condos there. He wants to clear up any concerns. Atty. Fitzgerald indicated the cottages are not residences. These are temporary accommodations.

Mr. Matthews asked if they are requesting the Board to approve the plans reflecting the area for planning and construction purposes at this stage of the project. Atty. Fitzgerald stated they are requesting the Board to approve the plan that shows the area for planning and construction purposes at this time, and they will submit a condition to the permit that states before anything can be built there, they have to come back to this Board with detailed plans and specs making sure they are in full compliance with what the Board requires and any sanitary septic proposals that are necessary.

Mr. Matthews asked about the existing house to be removed on the Club property. Mr. Green stated it is the house next to the maintenance building. Atty. Fitzgerald confirmed Mr. Green's statement. Mr. Matthews asked whether they still plan to have a caretaker's residence. Atty. Fitzgerald confirmed they do have plans for a caretaker's residence.

Mr. Matthews asked if the cart path that crosses Wilbraham Road onto the Bechard's property will be abandoned. Atty. Fitzgerald confirmed it will be abandoned. Looking at Page 3 of the Site Plans, Mr. Matthews asked if they plan to use the two tunnels and whether maintenance vehicles will still cross the road. To clarify, Mr. Matthews asked whether the original underground cart paths will be used. Mr. Antonacci stated they will be restored and used, and the maintenance vehicles will still cross Wilbraham Road.

Mr. Matthews noted their proposal to expand the maintenance building. Both Mr. Matthews and Mr. Trevallion indicated they are required to come before the Planning Board when the plans are finalized.

Mr. Matthews asked whether the driveway to the clubhouse will remain in the same area. Mr. Antonacci confirmed this.

Judge Howarth asked when the work will begin on the removal of the berm. Atty. Fitzgerald indicated as soon as they receive approval. Judge Howarth asked when they plan to do it before the winter, during the winter, after the winter? Atty. Fitzgerald indicated it depends on how long it takes.

Judge Howarth asked what plantings they plan to put in the berm. Atty. Fitzgerald stated a variety of trees will be planted that are reflective in compliance with the bylaw. Wherever there is errant golf ball danger, it will be densely treed.

Mr. Matthews stated the plans show two staggered rows of evergreen trees, 217 total, basically 5-6 ball and burlap. He asked at what height they will be maintained. Mr. Antonacci indicated they will be maintained at 10-12 feet.

To clarify, Mr. Green stated the berm goes away, and the plans reflect to the left of your plan shows the two rows of trees and that will be the densely treed buffer strip? HCC confirmed Mr. Green's statement.

Mr. Green asked if they are looking at any new plantings south to the border with the school. They stated no new plantings there. Mr. Green stated the buffer looks fairly deep there. Mr. Antonacci stated there really hasn't been any work to that side. Mr. Matthews asked if that was the bordered vegetated wetland. Mr. Antonacci said there are no wetlands there. Mr. Green stated there is a drainage ditch on the side that borders the school which runs from Wilbraham Road down past the school and empties out below closer to Pinewood. Mr. Green stated it is an existing drainage ditch

Audience Questions/Comments: Mr. Matthews opened the discussion to the audience. He stated each person will have five minutes to speak. Judge Howarth stated they are aware of the matter before the Superior Court Case, but it does not pertain to what is before the Board for this hearing. Mr. Matthews stated they cannot discuss the Superior Court case.

Atty. Miranda stated Mr. Fuller and Mr. Leclerc's presentation will take 20 minutes. He asked if they can go over their allotted 10 minutes. Mr. Matthews stated in his letter to Mr. Fuller to limit the presentation to 10 minutes, and present 5-6 slides. Mr. Matthews stated he has the authority to set time limits. Mr. Mathews also stated that he asked the slides be presented to the attorneys for the Country Club for their rebuttal, and that wasn't done either. Instead, they sent the entire presentation. Mr. Mathews stated if audience members give up their five minutes, he will let it go. Mr. Matthews asked counsel if that was acceptable. Atty. Martel agreed.

Atty. Miranda provided the presentation as part of the record. Atty. Martel asked if what is on the CD is everything and nothing more that will be presented. Attorney Miranda confirmed this.

Mr. Stu Fuller of 103 Tall Pines Road and Mr. Chip Leclerc of 156 Raymond Drive began their presentation to the Board.

Mr. Green interrupted the presentation and stated the Applicant has addressed the removal of the berm and the plantings of trees in the buffer zone. This issue has already been addressed.

Judge Howarth stated that an arborvitae is classified as a tree and/or bush. Judge Howarth asked if the Country Club takes down the berm and plants arborvitaes and other trees are they alright with that. Atty. Miranda said based on the plan, the number of trees appears to be inadequate. They would like something more specific like the 1973 plan which indicated the location and type of trees proposed. Atty. Miranda stated trees that are 10-12 ft. are inadequate.

Atty. Miranda requested the presentation materials and CD be entered into the record (Exhibits B and C).

Mr. Green asked about the tee boxes that lengthen Hole #8 and whether there are plans to plant additional trees there. Atty. Fitzgerald stated they don't want to disrespect the property owners and want to solve the problem. He stated they feel they are fully compliant with the Zoning Bylaw but are willing to work with the Planning Board and work with the neighbors. They will propose a condition to the Special Permit which is enforceable by the Building Inspector, by the Planning Board and the Board of Selectmen. They propose the following condition to read as follows (Exhibit D):

The club will take the following measure to reduce the hazard of misdirected golf Balls:

- 1) Remove the earthen berm and establish a level of topography consistent with the natural state of the remainder of the Club's property.
- 2) Plant trees (evergreens) as set forth on the Site Plan.
- 3) Any other measures required by the Planning Board to densely tree the buffer strip to reduce the hazard to the abutting landowners.

Atty. Fitzgerald indicated although they have trees on the Plans, they are willing to work with the Planning Board or do what is necessary to accommodate safety for the neighbors. This would be a condition of the Special Permit

Judge Howarth indicated the Board will not wait for the Superior Court Decision and has no concerns with the status of that case. Both Judge Howarth and Rick Green indicated that it would be inappropriate to wait for the courts to tell the Town how to operate.

Mr. Matthews discussed the slides about the flight of the golf balls and the safety issue. He asked Mr. Antonacci and Mr. Downes to address those concerns. Mr. Downes spoke about the 8th tee. He stated they are closer to the property line. In the golf world, they direct your play more towards the center of the golf course and away from the property line. These tees will only be used by zero handicap golfers (5% of the people using that tee box). Mr. Matthews asked what could be proposed to alleviate that concern. Instead of the two rows of staggered evergreen trees, could 8-12 foot trees be planted? Mr. Antonacci stated where the berm is not connected, there is a right-of-way; 50 feet to the east of that, there are full grown maples that are still there, and another 100 feet east of that, there are full blown grove of evergreens. He believes this would protect misdirected golf balls. Mr. Antonacci stated additional trees would be added if they find it is not sufficient.

Rick Green discussed Professional Tournaments and the privacy of the professionals. What plans do they have to prevent spectators from coming in behind the tee box for better observation? Mr. Downes explained you can rope off the area, non-access areas, and also place personnel there to prevent access. Atty. Miranda requested the Board to limit the distance from the property line where the roped areas would be and have this be a condition to the Special Permit.

Atty. Fitzgerald stated they are not designing a situation that creates liability for the Country Club. They have to protect their investment. They will abide by the bylaws. They will densely tree areas where there is danger from errant golf balls. This will be a condition of the Special Permit. They are mindful and trying to provide them with the opportunity to live up the condition of the bylaws. Atty. Fitzgerald stated there is no provision in the Zoning Bylaws of golf activity within the buffer strip. He stated there is a provision that appears to be related to landscaping, that says that any area where there is danger of errant golf balls, it will be densely treed; and they will live up to that. Mr. Green stated that now and in the future, if golf balls

appear on abutter's property, the necessary steps will have to be taken to mitigate the problem. This condition will apply to all areas.

Mr. Austin McKeon provided a booklet (Exhibit E) to the Planning Board members which summarize his points that he researched. Included in this booklet were copies of town documents that have not been authored by him. He requests the Board review these documents. Mr. McKeon discussed a few items included concerning the cottages, buffer zones and landscaping, compliance of the Bylaws, etc.

Many abutters and residents of Raymond Drive addressed their concerns about the trees abutting their property and within the buffer strip. Melinda McQuade of 72 Wilbraham Road asked the Board how the conditions will be enforced. Judge Howarth stated the Planning Board will deal with specific problems as they arise.

Atty. Miranda discussed the Bechard property at 125 Wilbraham Road. He indicated there are golf paths right against the property line; there are tees within 15-20 feet of the property line; and there were trees that shielded the Bechard's property from the golf course that have been cut down. He stated that family has been significantly impacted by the cutting of the trees.

Atty. Miranda discussed various items to be conditions of the Special Permit. He listed the field of play within 60 feet of the property line; the transmission of the golf carts is significantly closer to the property lines. Atty. Miranda stated their submission indicates electric golf carts will be used to avoid diesel fumes and noise and requests this be a condition of the Special Permit. He feels the width of those golf cart paths should be narrowed from 9 feet to 5-6 feet. He feels there is a privacy and safety issue with regards to activity within the 100 ft. buffer. He also discussed the well water issue and the concern or effect on the infrastructure of the wells--how much water, how it will be replenished, what chemicals will be used---which will all effect the residents. Atty. Miranda suggested setting a yearly review date to avoid petitions to the Planning Board.

Mr. Matthews asked Mr. Zebert of the Conservation Committee to address the water issue. Mr. Zebert stated there was discussion of the width of the pathways with the DEP. He stated the Conservation Commission cannot review the plans as the DEP is handling it.

A resident asked what the closed point the heavy equipment will be from the back of the property on Raymond Drive. Mr. Matthews stated about 75 feet.

A resident asked a question about activity within the buffer strip. Mr. Matthews read the Bylaw to clarify. He indicated the original plan had an access road, tunnels, cart paths, and an accessory building within the buffer strip.

Mr. James Smith asked how complaints will be handled and what the trigger mechanism is. Mr. Matthews stated there is a Zoning Enforcement Officer to handle complaints and take the appropriate action.

Mr. Mark Casey discussed the 100 foot buffer strip and the language of the Bylaw and other items within the Bylaws (Exhibit F).

Another issue discussed was the vernal pool near Pinewood Road.

Mrs. Theresa Bechard of 125 Wilbraham Road asked questions concerning the Site Plan. She did not see maintenance or employee parking addressed on the plans. Mr. Matthews stated this will be addressed as part of the proposed maintenance building expansion. They will have to come back to the Planning Board for approval which includes the parking. Mrs. Bechard also discussed the fuel pumps near the maintenance building for the equipment. She noted the tanks are just sitting in the driveway and would like this to be addressed. Mr. Green stated those tanks are subject to annual inspection by State Fire Marshall so that problem should be resolved. Mr. Trevallion stated the local fire department inspects the tanks.

Mr. Phillip Schneider of Raymond Drive discussed the issue of taxes paid by the residents over the last 30 years. Mr. Matthews stated the Planning Board makes decisions based on the Bylaws not taxes paid or property value.

Mr. Bechard of 125 Wilbraham Road discussed the 100 ft. buffer strip being enforced with the previous plan. Mr. Green stated we have heard four different interpretations of the buffer strip and is a subject that must be addressed.

Further discussion on the definition of buffer strip and the interpretation of this bylaw took place between the audience and the Board. Mr. Matthews stated there is a general definition of buffer strip and a specific definition of buffer strip within the Golf Recreational District. Mr. Green stated the community at Town Meeting accepted the definition of buffer strip.

Judge Howarth asked Atty. Miranda to provide a list of items they request to be reviewed.

Atty. Fitzgerald stated the owners of the Country Club came to this Town with the expectations of living up to and abiding by the Bylaws and having them enforced. They made an offer to have a Special Permit condition that would comply with the Hampden Zoning Bylaws.

Mr. Matthews asked the hearing be continued. Atty. Martel stated the Public Hearing be closed for the taking of testimony and evidence, but continue at a specific date for deliberation on the conditions and voting. Mr. Matthews asked Atty. Miranda to provide the list of items to be reviewed by the Board.

Atty. Fitzgerald asked the Hearing remain open for their rebuttal.

Atty. Miranda suggested Atty. Fitzgerald submits their rebuttal in writing. Atty. Martel clarifies by stating both sides submit their comments prior to the time the Board reconvenes.

Mr. Matthews stated the Public Hearing will reconvene on Monday, November 3, 2014, at 8 PM at the Town House in the Melville Room.

Mr. Matthews made a motion to adjourn at 9:30 PM. Judge Howarth seconded the motion. All in favor so adjourned.

Continuance – Monday, November 3, 2014

Members Present: John Matthews, Chair
Judge Robert Howarth

Mr. Matthews opened the meeting at 8 PM and stated the Public Hearing will not be held due to not having a quorum. It will be continued to Wednesday, November 12, 2014 at 7 PM. Mr. Matthews closed the meeting at 8:04 PM.

Continuance – Wednesday, November 12, 2014

John Matthews called the meeting to order at 7:15 PM. This is a continuation of the Public Hearing for the Hampden Country Club that we had on October 22, 2014. There have been negotiations between the two counsels. We last requested a list of items be presented from Attorney Thomas Miranda representing the Buffer Committee. Attorney Miranda provided the list to Hampden Country Club Counsel. There has been a settlement or a list of conditions that were agreed to by the Country Club and the Buffer Committee. Atty. Miranda stated the Buffer Committee has agreed that if certain conditions are imposed that they will not appeal granting of the Special Permit. The Country Club has agreed to implement certain conditions that hopefully will address those concerns. The Board was given the Special Permit Conditions acceptable by Hampden Country Club LLC. Attorney David Martel stated it is still for the Planning Board to decide whether to accept those conditions since they have been presented but still not agreed to by the Planning Board. Attorney Miranda said that Mr. and Mrs. Bechard's issues have not been addressed to their satisfaction and they are not in agreement with the Special Permit Conditions as it affects their property.

John Matthews asked if the Counsel for the Country Club is in agreement with these conditions and the answer from the Counsel was yes. Attorney Martel stated that at this time Mr. Matthews should entertain a motion that the Board find that the requirements for a Special Permit as contained in Sections 10.81; Subsections 1 through 12 of the Zoning Bylaw shall be accepted. Robert Howarth made the motion. M. Paige Gore seconded the motion and the following findings under 10.81 shall be read.

1. The use requested is designated in these Zoning Bylaws as a Special Permit in the district for which application is made. The District is the Golf Recreation District.
2. The use is in harmony with the purpose of this Bylaw.
3. The requested use is not detrimental to the public convenience or welfare.
4. The requested use will not create traffic congestion or impair pedestrian safety.
5. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards effecting health, safety or general welfare.
6. Any provisions for the use set forth in the Zoning By-Laws are fulfilled.
7. The requested use will not impair the integrity or character of the district or adjacent zones, not be detrimental to the health, safety or welfare.
8. If Site Plan approval is required, it must be approved prior to the issuance of a Special Permit.
9. The use will not constitute a nuisance by reason of unacceptable level of air, or water pollution or excessive noise.
10. The proposed project shall not create a significant adverse impact to the quality of surface water or groundwater during and after construction and provisions shall be made for ensuring ground water recharge.
11. The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potential detrimental offensive uses of screening or vegetative buffer zones.

Vote on the motion: Those voting in favor: Richard Green, M. Paige Gore, Robert Howarth, and John Matthews.

Robert Howarth made the motion that the Planning Board waives the following provisions of the Zoning Bylaw, specifically Section 10.61, Subsections 1, 2, 3 and 5. M. Paige Gore seconded the motion. Those voting in favor: Richard Green, M. Paige Gore, Robert Howarth, and John Matthews.

John Matthews and Robert Howarth read the following conditions as agreed to by Hampden Country Club and which were made part of the record in a document captioned "Special Permit Conditions Acceptable to Hampden Country Club, LLC and to the Members of the Hampden Buffer Committee except Theresa and Paul Bechard who do not agree to these conditions:"

1. Hampden Country Club will remove the earthen berm as shown on the Site Plan by re-grading the soil to match and blend with the present landscaping and topography of the remainder of the Golf Course.
2. Hampden Country Club will plant trees (of varied species and heights) in the areas set forth on the Site Plan in compliance with the Zoning Bylaws and will densely tree the areas within one hundred feet of residential properties as necessary to reduce the hazard of misdirected golf balls to the abutting landowners. Adjacent to the residential properties along Raymond Drive, Hampden Country Club will plant the following species of trees in the number and of a full growth height set forth below:
 - a. No less than 50 Arborvitae (5-8 feet planted /over 20 feet full growth):
 - b. No less than 50 Spruce (5-8 feet planted /over 20 feet full growth):
 - c. No less than 50 Hemlock (5-8 feet planted /over 20 feet full growth): and
 - d. Varied flowering trees in quantity, species and size to be determined in the discretion of Hampden Country Club.

3. The golf cart path reflected on the Site Plan east of the right of way to Raymond Drive and west of the property now or formerly owned by Vincent Villamaino, shall be at least 75 feet from residential property lines. Use of the Golf Cart Paths throughout the course will be limited to the normal and customary use associated with the operation of a golf course facility and shall not be used for the circulation of traffic.
4. Hampden Country Club will provide buffer screen plantings around the perimeter of the property located at 125 Wilbraham Road as set forth on the Site Plan at a distance from the property line that reasonably allows for maintenance from Hampden Country Club's property.
5. Hampden Country Club shall comply with any water usage and/or water supply regulations promulgated by the Massachusetts Department of Environmental Protection.
6. The Clubhouse Cottages, as an accessory use to the Club facilities, shall be used solely by members and their guests as temporary accommodations.
7. Construction of the Clubhouse Cottages shall not commence until Hampden Country Club has submitted and the Planning Board, with assistance of the Building Inspector for the Town of Hampden, has reviewed and approved all building plans and specifications for the Cottages.
8. The Clubhouse Cottages shall be compliant with all state and local septic waste water regulations.
9. The Planning Board shall hold meetings, for informational purposes, in May and November 2015 to receive comments on (i) compliance by the Hampden Country Club with conditions set forth in this special permit and (ii) the effectiveness of the conditions in this Special Permit in protecting against any danger from misdirected golf balls and in meeting the requirements of the Zoning Bylaws and this Special Permit regarding landscaped buffer strips. In addition, after November 2015 any neighbor within 300 feet of the golf course property may request a determination by the Planning Board as to whether there is a hazard from misdirected golf balls to an abutting landowner's property, or to the property of the neighbor making the request. To the extent that the Planning Board determines that misdirected golf balls are creating a danger to abutting property owners, then the Planning Board shall schedule a Public Hearing, with statutory notice, to determine whether additional conditions or amendment of existing conditions is appropriate. To the extent that the Planning Board finds non-compliance with conditions imposed by the Special Permit then the Planning Board shall refer such matters to the Building Inspector for investigation and enforcement.

John Matthews clarified the process for enforcement: the request would initially come to the Planning Board and the Zoning Enforcement Officer would be bypassed. When the Planning Board is notified, then they would then investigate and ask the Zoning Enforcement Officer to make sure there is a problem. In turn, the Planning Board would then have a Public Hearing to determine whether additional conditions or amending existing conditions are appropriate. Mr. Matthews stated that the Planning Board is essentially retaining continuing jurisdiction over this case.

Robert Howarth made the motion that the Conditions that were just read and as agreed to by the Hampden Country Club LLC, were consistent with the Zoning Bylaw as it relates to a Golf Course Special Permit with Site Plan Approval under Section 2.18 of the Table of Uses and Section 6.7 and 10.61 of the Zoning Bylaws. M. Paige Gore seconded the motion. All in favor were Richard Green, M. Paige Gore, Robert Howarth and John Matthews.

Decision:

Robert Howarth made the motion that the Board specifically find that the amenities and improvements shown on the Site Plan submitted in connection with the Special Permit Application within 100 feet of residential areas are consistent with the requirements of the Zoning Bylaw. M. Paige Gore seconded the motion. All in favor were Richard Green, M. Paige Gore, Robert Howarth and John Matthews.

Robert Howarth made the motion that that the Planning Board approve the Special Permit with Site Plan Approval described in the application which included the request that the permit run with the land, submitted by the Hampden Country Club, LLC and received by the Planning Board on 9/29/14. M. Paige Gore seconded the motion. All in favor were Richard Green, M. Paige Gore, Robert Howarth and John Matthews.

Robert Howarth made the motion that the Special Permit with Site Plan Approval which was just approved by the Planning Board supersedes the Site Plan Approval for the Hampden Country Club made by the Planning Board on October 23, 2013. M. Paige Gore seconded the motion. All in favor were Richard Green, M. Paige Gore, Robert Howarth and John Matthews.

The Public Hearing was concluded, and Mr. Matthews thanked everyone that contributed all their efforts to bring this resolution. He thanked Austin McKeon and Stu Fuller for their help. He also thanked both Legal Counsel and Town Counsel.

Meeting Adjourned: 7:35 pm

A TRUE COPY.

ATTEST: _____
Joanne Fiore, Adm. Assistant
Planning Board

Date

cc: Assessor's Office
Building Dept.
Conservation Commission
Highway Dept.
Moderator
Selectmen
Zoning Board of Appeals
Office Files