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**CAMDEN PLANNING BOARD
MINUTES OF MEETING
January 2, 2014**

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PRESENT: Acting Chair Lowrie Sargent; Members Richard Householder, Jan MacKinnon, and John Scholz; Alternate Member Kim Tuttle; Town Attorney Bill Kelly and CEO Steve Wilson
PRESENT but not PARTICIPATING: Alternate Member Richard Bernhard
RECUSED: Chair Chris MacLean

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The meeting of the Planning Board was convened at 5:00 pm in the Camden Opera House.

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1. Public Input on Non-agenda Items:

No one came forward.

2. Minutes of December 12, 2013:

The Minutes will be fully reviewed at a later date, but these substantive changes were made this evening:

Page 11 Line 1: “The language of the introductory statement is noble, but it is also ~~objective~~ subjective.”

Page 16 Line 28: “*Closing Comments by ~~Opponents~~’ Applicants’ Attorney...*”

**3. Continuation of Public Hearing from December 12, 2013:
FHRE Proposed Amendment to the Zoning Ordinance**

PLANNING BOARD DELIBERATIONS AND RECOMMENDATION

Selection of the Voting Alternate Member

Because she has been present at all three Public Hearings, Ms. Tuttle was selected to participate in this evening’s vote. Mr. Bernhard either attended the meetings or reviewed the minutes or videos, and he would be eligible to vote if needed. Under the Maine Municipal Association rules for Planning Boards, as the non-voting Alternate Member, Mr. Bernhard is not permitted to participate in the deliberative phase of the review, and he must step down from the Board for the duration.

The Amendment Process

Mr. Sargent explained that this was the final stage of the Board’s review of the amendment request. He reminded those attending that the Public Input Portion of the review has been closed and will remain closed. Members of the Board will have the opportunity this evening to ask clarifying questions of the attorneys or their clients, the CEO, or Town Attorney Bill Kelly; no one else will be permitted to speak.

1 On behalf of the Board, Mr. Sargent stated that they appreciate all of the continuing
2 citizen involvement in this process; they thank the Attorneys for the Opponents and the
3 Proponents for helping them understand some very complicated issues; and they thank the press
4 for frequent and accurate coverage.

5
6 Mr. Kelly also thanked all the attorneys who presented very thorough arguments during
7 the first part of what could possibly be a three-part process.

8
9 1st: The Planning Board's Role:

10 This Board is not meant to address all the concerns that have been expressed. They must
11 divorce the business model -- the source of many of these concerns -- from the issues they will
12 consider during their decision-making process. They are:

- 13
14 1) Is this language appropriate to amend the Zoning Ordinance to allow this use on two
15 properties in the Coastal Residential District? This decision will be driven by the impacts
16 to neighbors, to the District and to the Town; and
17 2) Is this amendment consistent with the Comprehensive Plan?

18
19 2nd: The Select Board's Role:

20 Should the Planning Board vote to send the amendment forward, the Select Board is
21 another opportunity for a public forum, and the appropriate place to discuss many of the political
22 issues that the Planning Board cannot decide. FHRE's business plan and FHRE's investment
23 partners are only serving as context to help the Planning Board understand what a model *may*
24 look like at Fox Hill. The Select Board, however, is able to consider these concerns, as well as
25 consider the reasons behind the proposal, as they decide whether or not it is appropriate to send
26 the amendment on to the voters -- the third step in the process.

27
28 *Legal Issues*

29
30 During the Planning Board's review the Opponents have continued to raise two legal issues:

- 31
32 ♦ Standing: The Opponents argue that the Proponents did not have standing to make this
33 request for an amendment. Mr. Kelly did not find, at any point, that this question legally
34 limited the Board's ability to continue consideration of the request
35
36 ♦ Spot Zoning: The Opponent's contention that the amendment request is not legal
37 because it constitutes Spot Zoning -- or Conditional or Contract Zoning -- does not, in
38 Mr. Kelly's opinion, legally stop the Board's ability to continue the process:
39 ✓ Differences in the appropriateness of Spot Zoning come from a philosophical
40 planning perspective. Spot Zoning *is illegal* if it meets a two-part test: 1) The
41 proposed use applies to a single property, and 2) That use is not consistent with the
42 Comprehensive Plan -- the Board will make this determination this evening
43 ✓ Just because the question has been raised at this point whether or not the proposal is
44 actually Contract or Conditional Zoning is no reason to stop the process. This claim
45 could, perhaps, win an argument in court, but that does not legally stop the Board
46 from continuing

1 *Note from the Recording Secretary*

2
3 During the opening comments that follow, Richard Householder, Lowrie Sargent, and
4 John Scholz read from prepared statements which are attached to these Minutes. These
5 statements may not have been read into the record in full, and the summary in the Minutes is not
6 comprehensive. Any person interested should review the audio or video for complete accuracy.

7 *Opening Comments from Board Members*

8
9 *Richard Householder:* Mr. Household read verbatim from prepared comments.¹ In summary:

10
11 Mr. Householder presented the following six questions, along with the detailed answers
12 that are found in his statement:

13
14 “Having analyzed all that has been said to date vs. what I feel are some of the real issues,
15 it comes down to the following basic questions:

16
17 Question (1): Does the property already have a commercial appearance?

18 Answer: No

19
20 Question (2): Has there in the past, been a commercial-style use of the property?

21 Answer: No

22
23 Question (3): Would the proposed rehabilitation facility impact the neighbors’ peace and
24 quiet enjoyment or the character of the neighborhood?

25 Answer: Yes

26
27 Question (4): Does the proposed use on Bayview Street fit in relationship with the
28 surrounding residential properties?

29 Answer: No

30
31 Question (5): Does the proposed rehab facility match the description of a hospital?

32 Answer: Yes

33
34 Question (6): Does the comprehensive plan specifically prohibit the proposed use?”

35 Answer: Not specifically”- see Attachment 1

36
37 *John Scholz:* Mr. Scholz read from prepared comments.² He made nine points and then
38 elaborated on his position: In summary:

- 39
40 1) This proposal provides the community an opportunity to review the Zoning Ordinance
41 and the Comprehensive Plan against how the Town is evolving

42

¹ Mr. Householder’s comments can be found at Attachment 1.

² Mr. Scholz’s opening comments can be found starting at Page 3 of Attachment 2.

- 1 2) The Comprehensive Plan and zoning ordinance are complimentary, “fluid” documents --
2 the Comp. Plan is the policy document which guides the specificity of the zoning
3 ordinance
4
- 5 3) Spot zoning or conditional contract zoning are available planning tools which should be
6 used with great care; only in rare and compelling circumstances; and considered within
7 the full context of both the Comprehensive Plan and the Zoning Ordinance.
8
- 9 4) Economic stimulus opportunities must be evaluated in terms of good overall planning
10 policy and maintaining the quality of life in a sustainable, diverse community
11
- 12 5) All residents deserve the assurance that the planning board will protect their investments
13 and quality of life in their respective neighborhoods.
14
- 15 6) There is no guaranty that this business will succeed; and McLean Hospital cannot be
16 bound to the proposed amendment language.
17
- 18 7) Other businesses that came with the promise of good paying jobs didn’t stay; but, they did
19 not require a zoning change or necessitate impacting a residential neighborhood.
20
- 21 8) Approval of this proposal may set a precedent for introducing stand-alone commercial
22 activities into the CR and other residential districts. Any significant zoning district
23 change should be initiated by the planning board and not tied to a specific applicant’s
24 proposal.
25
- 26 9) “Destination Wellness – Midcoast Maine,” is currently working on making connections
27 between various practitioners to connect residents and visitors to wellness services and
28 products and the proposal before us may fit into this group’s vision. But, is this CR
29 district the proper location for this facility?
30

31 *Jan MacKinnon:* Her focus has been to look at the entire CR District to see what the impact of
32 this change would be, and not just the neighborhood around Fox Hill. A constant argument has
33 been that allowing a commercial use in this district would ruin the character of the neighborhood,
34 but commercial uses are already allowed here. That opens the door, as far as she is concerned, to
35 the consideration of allowing other low-impact uses like nursery schools and day care centers,
36 and that is supported by the Comprehensive Plan.
37

38 Is this proposal consistent with the Comprehensive Plan – she thinks so: This proposed use fits
39 into the category of uses recommended by the Plan, and would actually not have as much of an
40 impact as nursery schools or day care centers. Opponents claim that more development will
41 change the character of the neighborhood; that doesn’t cause her concern. When she considers
42 what has happened at Fox Hill in recent years, and the kind of development that has already
43 taken place on this property, she finds the character of the neighborhood has already been
44 changed – “that ship has already sailed.”
45

1 *Kim Tuttle:* In looking at compliance with the Comprehensive Plan, she believes that it can be
2 read either way; this use in this District can both be supported and argued against. She is most
3 interested in the jobs this new facility could bring to the area, and the resulting economic
4 benefits. She believes that all the benefits outweigh any impacts. She does not believe the
5 impacts from this facility will be bad -- certainly not as bad as has been the case with previous
6 owners.

7
8 She is not excited about the language, but that probably isn't enough to push her against
9 the proposal because she believes there is much potential here for benefits to the Town. She also
10 believes that the people should have a say and be able to vote on this amendment.

11
12 *Lowrie Sargent:* Mr. Sargent read from his prepared comments.³ In summary:

13
14 If there is not absolute clarity as to whether these proposed changes are supported or not
15 by the Town's Comprehensive Plan and Zoning Ordinance, then is there a preponderance of
16 support on one side or the other?

17 Mr. Sargent listed issues *not* under consideration: The practicality of using this particular
18 property for the proposed facility; the business model and profit motives of the applicant; traffic
19 counts and the availability of water and septic; the greater good provided by helping people with
20 alcoholism regain control of their lives -- consideration of these issues is not germane at this
21 time.

22 Instead, the Board must determine:

- 23 ♦ If these proposed changes to the Zoning Ordinance are supported or not supported by the
- 24 Comprehensive Plan and the Zoning Ordinance of the Town of Camden
- 25 ♦ What will be the impact on the neighbors, on the neighborhood and on the Town if this
- 26 proposal is implemented?

27
28 Instead of giving weight to public comments or relying on a member's own opinion of
29 what is good or bad for the community, the Maine Municipal Association directs Planning
30 Boards to base their decision solely on whether the applicant has met his or her burden of proof.

31 32 *Questions from the Board*

33 34 *Enforceability*

35
36 *Jan MacKinnon:* She shares the concerns regarding the enforceability of the language raised by
37 Deb Dodge and others, and asked the CEO how enforcement is initiated now --does he wait for a
38 complaint to be lodged?

39
40 Mr. Wilson replied that information about possible violations come to him in a mixture of
41 ways:

- 42 ♦ Personal observation in driving by or visiting the property for another reason

³ Mr. Sargent's written comments can be found at Attachment 5.

- 1 ♦ Town employees keep him informed of “suspicious” activities they see in their work
- 2 ♦ Citizens make phone calls to alert him to situations
- 3 ♦ Police, fire, and/or emergency personnel may see things that raise questions

4
5 Mr. Wilson must check that all approval criteria have been satisfied before issuing a
6 certificate of occupancy -- including any conditions of approval added by the ZBA or the
7 Planning Board during review. MUBEC allows him to revoke this permission if he finds a
8 violation in the future. Ms. MacKinnon asked if the conditions imposed by the ZBA are
9 enforceable; Mr. Wilson replied they are.

10
11 Mr. Sargent also asked about enforceability: Does Mr. Wilson think he can enforce the
12 specific criteria in the proposed language; Mr. Wilson replied that he could. He added that during
13 actual review of an application, if he sees something that is weak, he will suggest a condition of
14 approval that makes enforcement easier. In addition, with all of the Town’s resources, issues can
15 be identified and monitored for enforcement.

16
17 *Replacement Operators - Process and Criteria - and Unintended Consequences*

18
19 *Lowrie Sargent:* He initially understood that any operator coming in to replace McLean would
20 have to through ZBA approval -- he asked if that is still the case. Mr. Wilson replied that the way
21 the proposal is written, if McLean leaves and the facility is vacant, a new tenant would have to
22 come back to the ZBA to seek approval. McLean might find someone to take over with the
23 condition that the facility is run using exactly the same business model. In that case, no ZBA
24 approval would be needed. Any other variation in use would require approval as a Special
25 Exception.

26
27 Mr. Wilson suggested that the ZBA could require reporting requirements intended to help
28 in enforcement; and an approval could also add a condition that any new owner had to return to
29 the ZBA. Enforcement can be shored up with a comprehensive order from the ZBA.

30
31 Mr. Sargent asked Mr. Kelly if he understands that any new applicant would be required
32 to go to the ZBA and verify that they can satisfy all of the Special Exception language. Mr.
33 Kelly replied that this proposal is written with the intention that permission for the Special
34 Exception runs with the applicant. A new operator would have to go before the ZBA, and if a
35 Special Exception creates a set of standards they must all be followed.

36
37 He added that it is important to remember that a new operator, one who doesn’t exactly
38 meet some of these criteria, could argue that these criteria are not germane because they don’t
39 affect impacts. If they can show this, and if they aren’t given the flexibility within the standards
40 they need, they can charge that the Town is discriminating against them. It is possible that this
41 could happen here; but is it probable? Courts consider whether the standards in question are core
42 issues that protect the neighborhood from impacts. By looking at this record, they will determine
43 if the findings the Board made during this approval process regarding the standards are rationally
44 related to the protections offered. If they find a particular standard isn’t important to the desired
45 result, Courts may offer some flexibility. Because there is a great deal of uncertainty as to what
46 the next applicant might possibly look like, he suggests the Board should focus on what the

1 probable impacts might be that result from this proposal, and explain specifically why these
2 standard are important as controls.

3 *Kim Tuttle:* Using the example of the criterion that allows only patients who are there at will as
4 opposed to those who would be court mandated, Ms. Tuttle asked if this is an example of
5 something that could be modified by the court even if the Board had a good reason for including
6 it. Mr. Kelly replied that it was, and that is why the Board should reference the record and the
7 facts that swayed them when they reach consensus on any of the criteria. Ms. Tuttle asked if they
8 think a criterion is important, and state why for the record this evening, would that give the
9 standard more of a chance of standing and not being modified as easily by the Court. Mr. Kelly
10 replied that it is important to build the record as they discuss the criteria, and to specify exactly
11 what was important in the decision-making process.

12
13 *Jan MacKinnon:* Mr. Wilson clarified the question Ms. MacKinnon had asked regarding when
14 Site Plan Approval would be required: The first change from residential to commercial will
15 trigger Site Plan Review (SPR). But, unless the use changes such that there will be an impact
16 from that use on the property, or unless there is an expansion of a size that triggers review, a new
17 operator will not have to go through SPR, and the Planning Board would not be involved in the
18 approval process.

19
20 *Compliance with the Comprehensive Plan and the Zoning Ordinance*

21
22 *John Scholz:* Mr. Scholz read from his prepared remarks⁴. In summary:

23
24 “1) He believes there is adequate wording in both the Comprehensive Plan and the ZO to deny
25 this application to move forward should the Board decide to do so...”

26
27 2) He believes that any resident who has invested in purchasing or building a home in one of
28 Camden’s residential districts or neighborhoods should be able to rely upon the Comprehensive
29 Plan, the zoning ordinance, and the planning/zoning boards to assure that their lifestyle and
30 investment will remain protected to the extent possible.

31
32 Mr. Scholz read 22 separate citations from the Comprehensive Plan to illustrate what he
33 considers to be sufficient evidence to deny this request. (See Attachment #4) He ended by
34 saying: “By recommending the application moves forward we will not know the results of
35 unintended consequences for changes to this CR District or potentially other residential
36 neighborhoods until they unfold. This prospect concerns me with respect to maintaining a
37 healthy balance between clearly business oriented districts, transitional business districts such as
38 the B-3, and residential districts. Again this returns me to the principles for good planning in
39 which I was trained, to foster enhancement of existing neighborhoods in order to assure
40 continued quality of life and assure diversity through economic stability through the use of good
41 planning policy.”
42

⁴ Mr. Scholz’s comments regarding the Comprehensive Plan and Zoning Ordinance can be found at Attachments #2 - #4.

1 *Kim Tuttle:* Ms. Tuttle believes that many of the Comprehensive Plan sections cited by Mr.
2 Scholz can be looked at both ways – in support, or not in support, of this proposal. But, she
3 believes that some of those sections he cited only serve to support the proposal, and can't be read
4 as showing non-compliance. She agrees with Ms. MacKinnon that the Residential Treatment
5 Facility can be considered a low-impact use similar to a day care or nursery school; and, that
6 having a facility like this at Fox Hill is supported by the Plan.

7
8 *Richard Householder:* Throughout the Comp Plan, whenever they discuss residential areas, they
9 talk about preserving the character of the neighborhood. A facility in the Coastal Residential
10 area that totally meets the definition of a hospital is totally out of character for that particular
11 district. There are two districts in Town where you can put a hospital - or anything that smacks
12 of a hospital - without disrupting a residential district, and that is where they should be looking.

13
14 *Lowrie Sargent:* He cited the Zoning Ordinance (Article VIII: CR District): "The purpose of the
15 district is to allow for a moderate level of residential and other development while assuring ...
16 that development be designed to fit into the existing character that includes rolling terrain and
17 interspersed woods, fields, structures, and views of the water."

- 18
19 ♦ Bayview Street is not a typical Camden neighborhood with houses visible from the streets
20 and streets visible from the houses: Houses are set well back from the road; they aren't
21 visible; and they are isolated from neighbors. Any changes made at Fox Hill would not be
22 visible from the street and would not be disruptive of the character of the neighborhood.

23
24 Is it appropriate to have a commercial use in a largely residential neighborhood? Consider this
25 definition from the Ordinance: "Nursing or Convalescent Home: A facility in which nursing care
26 and medical services are performed under the general direction of persons licensed to practice
27 medicine in the State of Maine for the accommodation of convalescent or other persons who
28 are not in need of hospital care, but who do require, on a 24-hour basis, nursing care and related
29 medical services." It is true that these facilities are not permitted in the CR District, but they are
30 *very similar* to the use proposed and they *are* classified as residential. Fox Hill is the same as a
31 nursing or convalescent home; it just happens to treat alcoholism rather than Alzheimer's.

- 32 ♦ How uses are defined by the Ordinance should carry more weight than applying general
33 definitions: The facility should not be classified as commercial just because a fee would be
34 charged for services even though that is what dictionaries might say. The Board should
35 pay attention to what the Ordinance says is a commercial use and what is a residential use.
36 Mr. Sargent disagrees with Mr. Householder's claim that this facility meets the definition
37 of a Hospital for several reasons: Referring to the Ordinance definition, he noted that
38 there will be no labs at Fox Hill; they will not be performing surgery at Fox Hill; and there
39 will be no out-patient services.
- 40
41 ♦ The facility will not create sprawl: Many places in the Comp Plan call for concentrating
42 commercial uses in the downtown and business districts and along Route 1, but there
43 will be no further development at this property; use of this property as the proposed use
44 doesn't create sprawl - sprawl results when development strains services, and that will
45 not happen here

- 1 ♦ Per the Comp Plan (Chapter VI-24), a facility at Fox Hill facility would be an adaptive
2 re-use of an old building: It would be rare if a very large family came along that would
3 find this useful as a residence because of the size and the expense of upkeep
4
- 5 ♦ Opponents say that when the Zoning Ordinance was developed in 1982 that rehab
6 facilities were purposefully excluded: The Betty Ford Clinic, the first residential rehab
7 facility in the country and the model for those to come, opened in 1982. He does not
8 think that drafters could foresee that these clinics should be excluded on purpose. There
9 are many uses that weren't even thought of in 1982 that are perfectly acceptable today,
10 and the Comp Plan didn't foresee all of them, or even list all of them that did exist.
11
- 12 ♦ Quality of Life: Adopting this as a guiding principal in developing Land Use policies
13 does not automatically mean that things should be maintained just as they are: Creating a
14 year-round use may well add to the quality of life in Camden
15
- 16 ♦ Quiet Enjoyment of Life: Camden already has famous people here - some live here and
17 many more visit on a regular basis; no one fusses over them, and they come because they
18 are allowed to enjoy their privacy. There have been no problems with paparazzi in the
19 past to give him concern that this will be a problem in the future
20
- 21 ♦ Commercial Use: This facility is not like a store where you drive up, pay for something
22 and leave; it is not where people go to have dinner, eat and pay and go; it is not a B&B
23 where people spend the night and then leave. It is residential in use because it is where
24 people come to stay for a long period of time in a place that does not have a commercial
25 appearance on the outside.
26

27 *Language of the Amendment*

28
29 *John Scholz:* As a matter of good planning policy, the Planning Board should be re-crafting this
30 language and sending it forward in a generic way and not on behalf of one applicant. It is the
31 longest list of performance criteria in the Ordinance. He understands that the Applicant did this
32 purposefully to assure neighbors that their concerns had been addressed, but he believes there is
33 a lot of language that need not be there. Simpler standards would make it easier for the ZBA to
34 review and for the CEO to enforce. He also isn't sure, as Mr. Wilson suggests that they can
35 realistically rely on the ZBA to tweak the standards.
36

37 *Kim Tuttle:* She agrees that the language is excessive, but it won't deter her from the benefits
38 that can happen. She understands why it is like it is, and would liked to have had the chance to
39 work on the language earlier in the process.
40

41 *Jan MacKinnon:* Fifty percent of the time requests for zoning amendments that come to the
42 Planning Board are initiated by an applicant who needs to tweak the Ordinance language, and
43 make changes to suit their purpose. Whether the change is to the district or to the use, she
44 understands, and supports, this need to make changes. She believes in this case, the Board will
45 be OK in going forward because the language can be tweaked later on.
46

1 *Richard Householder:* The character of a neighborhood doesn't depend on how nice a house
2 looks or if you can see it or not. The character of a neighborhood covers a broad spectrum --
3 from what is being done in the neighborhood, how the traffic flows and so on. Will what is
4 happening at Fox Hill affect those things is only part of question; these are only a small part of
5 what makes up the character of a neighborhood.

6
7 *Lowrie Sargent:* He looks to Fernside for the preponderance of evidence that shows what the
8 impacts will be if this facility is run in the same manner, by the same operator. Fernside is a
9 good clue that nothing untoward is likely to occur at Fox Hill. This language guarantees that Fox
10 Hill will be run just like Fernside, and because of that he is comfortable that the results will be
11 the same.

12
13 *CEO:* As he has recommended in the past, he believes the Board's policy should be that they
14 create the language of amendments so they don't continue to run into problems with the
15 language that applicants propose. They are the experts, and they are the ones who should write
16 the amendment; the Applicant can either accept the language or not.

17
18 *Bill Kelly:* Sometimes there is a reason to have more language that may seem necessary. If the
19 language here is stripped down to the level where it will be less clear what the impacts will be by
20 a user, that creates more ambiguity and a greater chance that there will be a challenge by a future
21 user the Board never imagined; the "unintended consequences meter" goes higher. This
22 language is a way for the Planning Board to ensure that anyone who qualifies to apply, and meets
23 the criteria, will have only the level of impact that the Board has found acceptable. The more the
24 language describes exactly what is acceptable and the clearer the record is in showing why this
25 language was important, the more it shows why this particular proposal was OK'd by the Board.

26
27 *Lowrie Sargent:* He asked the Applicant's Attorneys if the reason the language is so long and
28 specific is because they wanted the kind of specificity that would guarantee that it would be
29 McLean that ran the facility, and to allay concerns about traffic, etc.

30
31 *Attorney Paul Gibbons:* Yes. They wanted to ensure that what they intended to do was without
32 any impact and this language guarantees that. (Mr. Gibbons did not have a microphone and his
33 response was not audible.)

34
35 Mr. Sargent thinks of the language as creating a series of screens to qualify an applicant,
36 and after hearing Mr. Wilson address this concern, he believes that it can be enforced. He noted
37 that when the Board did attempt to work with the Applicant's Attorneys on creating language
38 that could be easily understood and was enforceable, they were roundly criticized as being too
39 supportive of the Applicant. Ms. MacKinnon agrees: The language is necessary because this
40 facility is what it is -- it is the "nature of the beast" that requires such detail.

41 42 *Impacts*

43 *On the Neighborhood:*

44
45 *John Scholz:* He is not concerned with the traffic issue. It is hard to see when an impact on the
46 social fabric reaches a level of concern: This will be a low-impact use without question, but the

1 interactive quality of the neighborhood will change as access to the property changes.
2 Construction can happen in any neighborhood, and it can be very disruptive; but 4 – 5 more
3 houses on this property would be more disruptive in the end than any renovating work McLean
4 might do. Any impact from paparazzi is speculative; and, he is not worried about staffing
5 impacts.

6
7 The important issue to him is whether this will open the door to more commercial activity
8 in the CR District – or in other residential districts.

9
10 *Richard Householder:* He stands by his initial analysis and comments, but stressed that you
11 can't take a facility like this, whether or not you call it a hospital, and put it in a pristine
12 residential neighborhood and not have it be disruptive to the character that has been established
13 in this Town many years ago. If it is already allowed elsewhere, then why should a rehab facility
14 be allowed here.

15
16 *Jan MacKinnon:* Fox Hill is so far removed from its neighbors that anything that goes on up
17 there, short of activities with loud music that will not happen here, will not have any impact on
18 Bayview Street. The building is set apart from neighbors to a greater extent than elsewhere in
19 the District; and while people may have a perceptual problem that is playing into concerns --
20 there is a rehab facility "up there" -- she does not think they will even know it is there.

21
22 Her original thought that this Special Exception is not opening the door to commercial
23 uses, still sways her the most: Two commercial Special Exceptions are already allowed --
24 nursery schools and day care centers, and she equates this residential facility to them as a low-
25 impact use.

26
27 *Kim Tuttle:* She agrees with Ms. MacKinnon that this the type of low-impact use that is already
28 allowed here; traffic is not an issue, especially when compared to some of the other uses allowed
29 in the area; she walks the area, and she doesn't think that, walking by, she would even notice if a
30 treatment facility went in up there. Her view of the character of the neighborhood would not
31 change if something residential in nature goes into that space.

32
33 *Lowrie Sargent:* He sees only positive impacts – no negatives.

34
35 There would be an impact on the neighborhood:

36 The immediate impact to the neighbors would be incidental: There will be no signs;
37 deliveries like FEDEX and UPS will be no more frequent here than to other residences in the
38 area; traffic will be the same as a large family would generate; there will be less noise generated
39 than there has been with former residents; there won't be tour buses coming and going for
40 special events and parties at the property as in the past; and, he agrees that it would be hard to
41 tell if anything was going on up that driveway as you walked or drove by.

42
43 The facility will blend in to the area:

44 The greater neighborhood would not be impacted because the properties are very large
45 and set far apart; according to the Princeton Emergency Services Manager, an ambulance made

1 one trip a month – that is insignificant; there won't be any late night activities; there won't be a
2 lot of lights; and there won't be a lot of noise.

3
4 There will positive impacts on the Town:

5 McLean has an avowed willingness to bring people to Town to help deal with the drug
6 problems young people here face, and to provide other forms of community outreach - perhaps
7 this could evolve into another speaker series that would be a good thing for the Town; there will
8 be a positive economic impact, how much is unknown, but the jobs they will create are above
9 average wages with benefits – something not seen here for a long time; and, it would be
10 wonderful to have good jobs that would attract vital young people to Town who would
11 contribute to society and energize the Town.

12
13 He is not concerned with any immediate or long-term impacts because he believes any
14 problems can be fixed. He relies on the testimony from the folks from Princeton who served on
15 the committees that dealt with Fernside's original approval: Citizens in that Town went from
16 expressing the same concerns expressed here, to the point where there are people in Town who
17 don't even know the facility exists. That track record is a good one, and a good clue as to what
18 will happen here.

19
20 *John Scholz:* He does not believe the economic impact would be that much different than from
21 other uses of that property; the jobs may be higher end, but that is not a significant consideration.
22 The benefits of McLean's presence could be helpful to the effort in developing Camden's
23 "Wellness" identity healthcare groups have underway. There have already been big changes in
24 this regard here, and increasing people's awareness of these efforts through McLean's presence
25 could be good for the area.

26
27 *Kim Tuttle:* She supports what Mr. Sargent says about the economic benefits, and is excited
28 about the possibilities. Being a young professional here is hard – many of her friends have left
29 because they can't find good jobs. Even if she can't afford to buy a home, she still contributes to
30 the local economy: She shops locally, rents locally; and volunteers locally. The more people that
31 come to Town, the more business can thrive in Town. Perhaps places won't have to continue to
32 close for lack of business, and the three restaurants that closed this past week could have stayed
33 open.

34
35 *Closing Remarks*

36
37 *Lowrie Sargent:* Any use allowed by the ZBA as a Special Exception is a conditional use and
38 they have wide latitude to add conditions. The Town has a history of approving conditional uses
39 -- like the Tannery property -- and has lived through it. That is one of the reasons a Town vote
40 that would show wide-spread support for the proposal is so important. People are clearly
41 passionate about this proposal, and it is not in the Planning Board's purview to deal with political
42 issues like this one. He believes they owe it to the Town to allow a vote and gain consensus.

43
44 *John Scholz:* He agrees that the Town should vote. He has made his points, and the members of
45 the Select Board, who have attended every meeting, have heard what individual members of the

1 Board had to say, and they have heard the Planning Board's perspective. He believes the Board
2 should move forward to put this in the public venue so people can weigh in at large.

3
4 Mr. Sargent added that some have said the Planning Board is abrogating their
5 responsibility if they send this forward - he disagrees. The Planning Board's role is to create the
6 opportunity for a public forum and to get people's thought out in the open; he thinks the Board
7 has been very successful in this regard. They are not abrogating their responsibilities if they pass
8 this on to the Townspeople to decide. Together as a whole, they are much wiser than just five
9 Board members.

10
11 **MOTION by Mr. Sargent seconded by Ms. MacKinnon that after considering the following**
12 **proposed additions to the Camden Zoning Ordinance:**

- 13 **1. New definitions of Operator of a Private Residential Treatment Facility and**
- 14 **Outpatient Care;**
- 15 **2. The Additional Standards for a Private Residential Treatment Facility; and**
- 16 **3. Addition of a Private Residential Treatment Facility as a use allowed by Special**
- 17 **Exception in the Coastal Residential Zone;**

18
19 **I Move that the Planning Board finds that they support these additions and recommend**
20 **that the additions be considered by the Select Board for inclusion on the next Town ballot.**

21
22 Discussion: Mr. Scholz still has many reservations about the proposed amendment but believes
23 it should be passed to the voters. He asked that the word "support" be removed from the Motion.
24 Mr. Sargent agreed to revise his Motion, and with Ms. MacKinnon's consent, amended the last
25 sentence to read:

26
27 **"I Move that the Planning Board finds that they have reviewed these additions and**
28 **recommend that the additions be considered by the Select Board for inclusion on the next**
29 **Town ballot."**

30
31 **VOTE: 4-1-0 with Mr. Householder voting against the Motion**

32
33 There being no further business before the Board adjourned at 7:15pm

34
35 Respectfully submitted,

36
37 Jeanne Hollingsworth, Recording Secretary
38

1 **ATTACHMENT 1: HOUSEHOLDER COMMENTS**

2
3 **FOX HILL QUESTIONS THAT NEED TO BE ADDRESSED**

4
5 Over the course of the past 25 weeks, there have been numerous comments about the Fox Hill
6 property, a proposed alcohol and drug rehabilitation facility, the language of the town's Coastal
7 Residential district ordinance and the comprehensive plan.

8
9 I'm of the opinion that some of these comments have been factual, some were based on
10 assumptions, some have been speculative and some have been what I would call as a real stretch
11 of the truth.

12
13 Having analyzed all that has been said to date vs. what I feel are some of the real issues, it comes
14 down to the following basic questions including my answers.

15
16 Question (1): Does the property already have a commercial appearance?

17 Answer: No, it is strictly residential.

18
19 Question (2): Has there in the past, been a commercial-style use of the property?

20 Answer: (a) No, having a bowling alley, hair salon equipment and movie theater that was
21 not offered for sale to outside interests, does not categorize the facility as being
22 commercial.

23
24 (b) Also, at the time when the Cawley's owned the property, occasionally there
25 were buses bringing MBNA employees to the grounds for meetings or social
26 events.

27 This kind of activity was no different than the sporadic traffic created by the
28 Camden Garden Club's Home & Garden event and the Merryspring Kitchen Tour
29 that are held at people's private homes in the community.

30
31 QUESTION (3): Would the proposed rehabilitation facility impact the neighbors' peace & quiet
32 enjoyment or the character of the neighborhood?

33 Answer: Yes, Camden has a unique character in that it is a small coastal community with
34 a wonderful harbor and beautiful adjoining mountains; the proposal highlights
35 that character by stating that the "facility would be a world-class serene retreat".

36
37 Having stated that, there is nothing that prohibits the rich & famous that are
38 looking for pristine rehabilitation retreats on secluded grounds, to come to
39 Camden which in turn, opens the door to the possibility of having the paparazzi
40 show up on Bayview Street to get a picture of whoever was walking the grounds
41 of the facility which would be very disruptive to the neighborhood. Having the
42 rich & famous come to Camden for vacation does not have the same notoriety as
43 coming for treatment of alcoholism or drug addiction.

1 Now, the comment that the Princeton, Mass. rehab facility did not have any
2 disruptive activities from outsiders has no bearing on the one proposed in Camden
3 because Princeton is not like Camden.
4

5
6 Question (4): Does the proposed use on Bayview St. fit in relationship with the surrounding
7 residential properties?
8

9 Answer: No, the proposed facilities 48 trips per a 24 hour day in & out of deliveries of
10 commodities, meals and services and employees would be in excess of the normal
11 travel activities of neighbors in the area.
12

13
14 Question (5): Does the proposed rehab facility match the description of a hospital?

15 Answer: Yes, the facility proposes to give medical care by trained & licensed
16 professionals to in-patient individuals who have a disease known as alcoholism and or
17 drug addictions.
18

19 This medical care as advertised would include medical evaluations to determine
20 whether a person could benefit from a trial of medications such as the
21 administering of various drugs such as buprenorphine (byoo-proh-nor-feen) which
22 is used as a long term treatment for people addicted to opioids.
23

24 The facility proposes to provide offices for the staff as well as allocated areas for
25 education of patients' family members.
26

27 Also, the facility proposes to be in operation 24 hours a day, seven days a week.
28

29 And finally, question number (6): Does the Comprehensive Plan specifically prohibit the
30 proposed use?

31 Answer: Not by the title of a Residential Alcohol & Drug Rehabilitation Facility or a
32 Residential Treatment Facility but, the Comprehensive Plan Chapter (18) which is
33 the Future Land Use Plan, does clearly state that The Coastal Scenic District
34 which includes Bayview Street & Chestnut Street are only moderately developed.
35 Additional development may be at densities & design that will (and here's the key
36 part of the sentence) preserve the existing character.
37

38 Hospitals **are not** like the allowed light commercial nursery schools and day care
39 centers.
40

41 Hospitals are totally out of character of the Coastal Scenic Districts intended use.
42

43 Hospitals are allowed in two other districts in Camden.
44

45 (This document was reformatted and edited to fit into the Minutes. The original is on file.)

ATTACHMENT 2: SCHOLZ COMMENT #1:

Fox Hill App. Notes: General 11/26/13 Draft Doc. revised 1/02/14

Economic Impact Review:

1. The “FHRC” Economic Impact model can in major part apply to any owner of the property. For example:

a. Property taxes to Town regardless of perspective owner will be equal to or potentially higher if residential than that of applicant depending on how the property is developed.

b. Jobs and income resulting from capital/structural improvements or retrofits will most likely be equal to or potentially greater than that of the present applicant depending on how the property is developed by another owner.

c. Income to the Town in terms of retail sales and service/maintenance contracts will most likely be very similar to that of the applicant regardless of who owns the property and how it is used or developed.

Urban Design/Planning Principles:

1. The Comprehensive Plan states that the “character” of residential zones and neighborhoods should be respected, maintained:

a. There is of course “visual” structural character of each residential zone” ... i.e. views, woods, open space, type/size/styles of homes/buildings, lots, etc. In addition there is the “social character” or “fabric” of a neighborhood meaning how individuals live and interact within a neighborhood.

b. There is consideration of the “historic” structures to take into account should there be merit in saving them. In any town that becomes an important factor in why people visit and ultimately may decide to move here.

c. There is the “perceived” overall character of a residential zone or neighborhood as looked at by an outsider or newcomer looking to move to and live in Camden.

d. The original “Borden cottage” which is “historic” in terms of Camden’s history has been severely compromised by the significant additions made to it. The several other structures built on the property over the past several decades are not of historical significance. This certainly can be rectified given an interested owner to create a development plan for the property consistent with our Ordinance.

Impact of Potential Zoning Changes:

1. The suggestion that our Ordinance is in “non-compliance” and therefore open to a court challenge because it does not list a “Rehabilitation Treatment Facility” is inaccurate at best. The Ordinance provides for both hospitals and Nursing or Convalescent Homes in appropriate zones.

2. Article II Purpose, Paragraph 1 of our Ordinance states: ...”to foster a pattern of development that respects both villages and the rural landscape while discouraging “sprawl”; to protect existing neighborhoods and encourage formation of new neighborhoods; to provide for vital business areas;... to promote a wholesome home environment.”

3. The specificity of the proposed zoning amendment as to performance requirements or conditions essentially limits the amendment to this one applicant, or possibly to one additional site within the CR Districts. Therefore, I do believe the question can be raised as whether this amendment can be considered “spot zoning”

4. While it may be true that the Planning Board can take any applicant’s proposal for an amendment on a case by case basis, changes of use for allowing additional commercial entities through permitted or special exception uses in the residential districts becomes a significant decision and raises the potential for altering the character of these neighborhoods over time, in fact weakening their residential integrity which the residents count on as their desired “way of life”.

5. If existing residents cannot rely on our Ordinance and the Planning Board to protect their residential neighborhoods, the character of those neighborhoods, they have selected to live in or potential newcomers considering to move to and live here after doing their research and selecting a neighborhood in which they would like to live cannot rely our Ordinance and Planning Board to protect the investments they are about to make, are we the planning board acting in our citizens best interests?

6. I believe recommending this amendment to introduce a stand-alone commercial enterprise of this scale into the CR zones, particularly this one, has the potential to erode the residential character and social fabric of the zone over time. It will leave open the possibility that other similar or related commercial ventures could apply and be approved. In my opinion the Planning Board has the obligation to protect the character of residential districts as stated in the Comprehensive Plan & Zoning Ordinance as presently drafted.

7. Presently Permitted Commercial Uses:

- a. Outdoor & Indoor storage of boats with conditions.
- b. Barn storage existing at time of Ordinance adoption.

Summary Notes: These activities existed at the time the Ordinance and CR districts were drafted.

8. Permitted Special Exception Municipal & Institutional Uses:

- a. Cemeteries (Open Space use.)
- b. Nursery Schools/Day Care (See definitions. Refers to “Home” as in “Home Occupation”.)
- c. Golf Courses (Open Space Use. Not enough open space in the Bayview St. CR zone)

Summary Notes: Golf Courses acts as “open Space” and are unlikely in this CR Zone given the lack of acreage available. A cemetery is a non-intrusive use with proper restrictions acting as open space. Nursery Schools are often found in residential neighborhoods, are consistent with residential/family living and home occupation, can and have been restricted as to student capacity through the special exception criteria. Definition refers to “Home”.

Initial Talking Points

1) Any applicant coming before the Planning Board with a proposal of significant importance such as the one before us is welcome as it provides the planning board and community the opportunity to take a detailed look at our comprehensive plan, zoning ordinance, and the direction in which our Town is evolving. It is a conversation worth having. The Comprehensive plan is being updated at present.

2) Comprehensive Plan and zoning ordinance are complimentary one to the other. I consider them “fluid” documents meaning that their mutual conclusions are not fixed for all time but must be reviewed and updated from time to time to stay current. The Comp. Plan being a guiding, policy document based on the Town’s history, where the Town had evolved to at the point the most current plan was drafted, and to attempt to project into the future as to the next stages of evolution. This last item is like looking into a crystal ball with no factual answers in hand. The ordinance derives its specificity in creating regulations from an understanding of the intent of Comprehensive Plan.

3) While the use of spot zoning or conditional contract zoning are available tools for planning boards to consider, I believe they should be used with great care and only in rare and compelling circumstances. Camden has three separate CR Districts to consider with the proposal before us. Therefore it is important to consider these zones individually and collectively and within the full context of both the Comprehensive Plan, the Zoning Ordinance, and the overall character, quality of life, and town planning when making our determination on this or any other significant zoning change.

4) I consider the economic stability and enhancement of same to include potential job growth vital to our community if we are to maintain a diversified, sustainable community and demographic balance. However, I believe the economic stimulus opportunities which may come

along from time to time must be evaluated in terms of good overall planning policy and maintaining the quality of life of our community which brought many of us here to reside and work, have kept many who have grown up here, and seen many return. I have been privileged to live and work in the Camden/Rockport area for 44 years and have seen many positive changes to the region and Camden over the years. This town is not getting quieter or less vibrant as some have suggested, quite the contrary when measured in terms of decades.

5) I believe in the premise that all residents, permanent and seasonal, who have chosen to live in Camden, select a neighborhood in which to live, and invest in the purchase of an existing property or build a new residence deserve the assurance that the planning and zoning boards through application of the comprehensive plan and zoning ordinance in effect will protect their investments and quality of life in their respective neighborhoods. In my opinion this view is consistent with stated language in both the Comp. Plan and the Ordinance.

6) Approving the proposal before us for introducing this stand-alone commercial enterprise into the the CR Districts is of concern to me because there is no guaranty that it will succeed and remain operational even with the best of intentions. FHRE, the property owner, and McClean Hospital, the tenant, cannot together or individually be bound to the proposed amendment language to continue operating a facility in perpetuity.

7) We have experienced the arrival of other businesses, Kodak to the Knox Mill with the promise of good paying jobs only to see them leave within a very short window. MBNA lasted a decade providing many jobs and much economic stimulus to our community and region. We were left with empty buildings which took a long time to retrofit and fill with viable businesses. Tibbets industries after many decades of providing good jobs is closed. The difference between these enterprises and the proposal before us is that they did not require a zoning change to set up and do business, or necessitate impacting a residential neighborhood.

8) I have concern that approval of this proposal may set a precedent for introducing further stand-alone commercial activities into the CR districts or other residential districts and thereby potentially over time eroding the quality of life in these neighborhoods, their character and unique social fabric. I believe any significant zoning district change should be initiated by the planning board and passed on to the select board as a stand-alone recommendation not tied to a specific applicant's proposal. This is simply good planning policy.

9) One last comment... During the past decade or more as several of you have mentioned, there has been a significant growth in the alternative healthcare/wellness professions established here. Just in the past several months and with the aid of the Penobscot Bay Chamber of Commerce, a group of community healthcare practitioners and related businesses and non-profits was formed to advance and promote the midcoast region as a healthy and healing place to live, work and visit. Called "Destination Wellness – Midcoast Maine," the group is currently working on

creating connections between practitioners in various fields and building a multi-discipline website to connect residents and visitors to practitioners, services, and products. One might say that the proposal before us may fit into this group's vision. That said is this particular CR district the proper location for this or any other stand-alone commercial facility? I believe that is the core question to ask.

Talking Points addressing the Comp. Plan & Zoning Ordinance

1) I believe there is adequate wording in both the Comprehensive Plan and the ZO to deny this application to move forward should we decide to do so. I shall return to the specifics in both the plan and the ordinance when in our discussion.

2) I believe that any resident who has invested in purchasing or building a home in one of our residential districts or neighborhoods based on the location, character, and fabric of the neighborhood they selected should be able to rely upon the Comprehensive Plan, our zoning ordinance, and the planning/zoning boards to assure that their the lifestyle and investment they have chosen will remain protected to the extent possible. In my view there is adequate language in both the Comp. Plan and the ZO to support my premise stated earlier.

3) I believe this application as proposed rises to the level of spot zoning, if not conditional/contract zoning based on introducing a stand-alone commercial entity into the CR District and the specificity of the proposed amendment language. While spot zoning may be allowed, it should be used sparingly and carefully. The commercial application before us may not be the best use of spot zoning in this particular Coastal Residential Zone.

4) There are several specific zoning items related to this application for which I wish to present my perspective:

First, the allowed special exception for a nursery school or daycare center in the CR district has been mentioned a number of times in terms of potentially 20 students in a stand-alone facility which therefore would be more disruptive than the proposed facility. This represents a misreading of the ordinance in my opinion. Under the definition of Day Care Center (or Nursery School) Article III-p.4 Definitions it states: "A facility licensed by the State of Maine for the care or instruction of more than three (3) preschool aged children, exclusive of children who may be living in the home which is serving as the day care or nursery school facility." Home occupations, Article III—p.10 are an allowed "Accessory Activity": "An occupation or profession which is accessory to a residential use is customarily carried on in a dwelling unit or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes, and conforms with the standards of Article X, Part II, Section 7..." This article states:

1) The occupation or profession shall be carried on wholly within the principal building(s) and/or

within building(s) or other structures accessory thereto. 2) There shall be not more than one full-time or two part-time employees not resident in the place of business. This limitation on the number of employees shall extend to all nonfamily employees working on the premises, but shall not extend to employees who do not work on the premises, but shall not extend to employees who do not work on the premises. Any employee working 30 hours or more in a week shall be considered full-time. 5) A home occupation located in a Rural-1, Rural-2, Coastal Residential, Village Extension or Traditional Village district shall not be permitted if it would generate more than a daily average of ten (10) vehicular trip ends on week days, or if in fact generates more than an average of ten trip ends per pay in any seven day period. Nor shall the home occupation make or receive shipments in trucks more than 3 times in a seven day period. The proposal before us states there will be a minimum of 4 trip ends/day per occupant. Based upon a minimum of 8 single occupancy bedrooms to a maximum of 14 bedrooms as stated. The trip end range would be 32min. – 56max.

Second, it has been cited that the CR zone encourages professionals with small practices or businesses in the CR zone. Again this is consistent with the concept of allowing home occupations but not stand-alone commercial facilities.

(7) The home occupation shall not utilize more than 50% of the total floor area of the dwelling unit plus accessory structure(s). The intent of these referenced articles are to complement the guidance set forth in the Comp. Plan for protecting residential neighborhoods by controlling the scale of the allowed low impact professional occupations. The proposed stand-alone commercial facility does not meet the standards for a home occupation.

There are 9 items in this section. They are all pertinent to this application in my opinion. That all said, I believe this application provides a potentially significant impact for Camden as a whole whether we deny moving it forward or whether we recommend it to proceed to the next step. Should we deny moving it forward we will essentially be maintaining this CR district in its present residential form and sending a message that the other residential districts will be assured the same protections. Should we recommend the proposal to move to the next step we may be assuring that at some point it will be implemented. By denying the application, we will not know what might have been in the evolution of Camden.

(This document was reformatted and edited to fit into the Minutes. The original is on file.)

ATTACHMENT 3: SCHOLZ COMMENTS #2

Fox Hill App. Notes: Zoning Ordinance “Pros & “Cons”. Draft revised 1/02/14

Pros:

1. McLean is an excellent treatment facility with an excellent track record for rehab. work.
2. Addiction treatment is needed and recognized as a societal problem.
3. Articles I & II-1: Purpose. Encourage the most appropriate use of the land... to protect existing neighborhoods and encourage formation of new neighborhoods...
4. Note: The suggested positive economic impact through the provided study is potentially revenue neutral to any applicant including residential. If expanded residential use occurs property tax revenue to the Town will most likely be higher, construction jobs will be more numerous over a longer period of time, and the numbers of ongoing service jobs needed to maintain any residential development will be at least similar.

Cons: Is this proposed facility compatible with the Comp. Plan & ZO in the CR District?

1. This CR-Coastal Residential District is on the outer edge of Town adjacent to a V-Traditional Village District. The CR District in overview states in part...”The intention is that **development be designed to fit into the existing** character that includes rolling terrain and interspersed woods, fields, structures, and views of the water.” The V District, closer to Town, in overview states...”The purpose of this district is to **maintain these highly livable neighborhoods**, which include single family homes large and small, small-scale multifamily structures...etc.”

I wish to focus on two phrases... “fits into the existing character...” & “maintain these highly livable neighborhoods...” Character and livability not only speak to the visual qualities but equally to the social fabric, the interactions and activities of families living in these districts. Locating this treatment facility or any stand-alone commercial entity via “Special Exception” in this CR district amidst a long standing residential neighborhood will alter the fabric of the neighborhood. This will not be a residential family oriented entity. It will be a commercial enterprise potentially resulting in further requests for “light commercial” entities in this zone which will be hard to justify denying leading to the slow erosion of the present residential scale and quality of life.

2. Uses Permitted by Special Exception:

- a. Cemeteries
- b. Nursery Schools & Day Care Centers
- c. Golf Courses

Cemeteries are non-obtrusive and essentially “inactive” and function as “open space” and therefore would not change the character of the neighborhood. Nursery Schools & Day Care Centers are often associated with residential neighborhoods. Their size or or student capacity can and has been easily restricted through the Zoning Board of Appeals process. Introducing golf

courses in this particular CR district at this point is highly unlikely as the necessary open space to create one is no longer available.

3. Article III-4-Day Care center or (Nursery School) “A facility licensed by the State of Maine for the care or instruction of more than three (3) preschool age children, exclusive of children who may be living in the home which is serving as the day care or nursery school facility.” Day Care Centers & Nursery Schools as defined fit the definition of “Home Occupation”.

Note: Revised separate definitions for daycare and nursery school facility may be needed.

4 Article VIII-B. Commercial Uses p.16-Item15: Under permitted uses... “Home Occupations”. ie. Day Care/Nursery etc.

5. Article VIII-17.D: Prohibited Uses: Uses not allowed as permitted uses or special exceptions are prohibited within this district.

In my view, individuals who have chosen Camden for their permanent or seasonal living and have purchased or built a home in a residential neighborhood of their choice and character should be able to rely on our Comp. Plan, Ordinance, and the planning board to reasonably protect their interests unless there is a compelling reason to do otherwise.

6 Art. VIII-25: Traditional Village District (V) Purpose: The Traditional Village District encompasses the older residential neighborhoods near the center of the community...The purpose of this district is to maintain these highly livable neighborhoods... etc.

7 Article VIII-39: Transitional Business District (B-3) Purpose: The TBD is meant to accommodate limited business uses in areas that are located along main traffic arteries but are residential in character. The explicit purpose of this district includes the prevention of strip highway development and **the preservation of the character and appearance of established residential neighborhoods.** **Note:** “Character & Appearance”.

8 Article VIII-47: Neighborhood Service District (B-4) Purpose: **The NSD is meant to accommodate limited business uses in areas that are residential in character. The explicit purpose of this district is to preserve the character and appearance of established residential neighborhoods...** **Note:** “Character and Appearance”. This goes beyond simply the visual character and addresses the social fabric of established residential neighborhoods.

9 **The terms:** “preserve, protect, maintain, respect...” residential neighborhoods are used throughout both the Comp. Plan and zoning ordinance.

(This document was reformatted and edited to fit into the Minutes. The original is on file.)

ATTACHMENT 4: SCHOLZ COMMENTS #3

Fox Hill App. Notes: Comprehensive Plan “Pros & “Cons” Revised 1/02/14

Chapter 4

p.4-2: Referring to the importance of a strong commercial core... “A healthy downtown core protects property values in surrounding residential neighborhoods.”

Chapter 5

p.5-16: Land Use: Refers to the Chestnut & Bayview Streets historic districts.

Chapter 10

P.10-1: “The settlement pattern of the land – how the land has been used – has shaped the character of the Town. How it may be used in the future is central to the entire Comprehensive Plan process.

P.10-3: “Transitional areas which includes the Coastal Residential Districts had 32 units of residential growth, most of which was single family homes with some seasonal cottages.

“Transitional” in this case means from village to rural in character, not commercial.

Specifically, “transitional means a transition between two different land use patterns. In the case of Coastal residential, this is between Traditional Village and Rural land uses with lot size in CR at 30,000s.f. w/sewer or 40,000s.f. wo/sewer being larger than the traditional village @ 10,000s.f. but smaller than Rural @ 60,000s.f. This can clearly be seen on the zoning map of Cr to the north of Town where it abuts the TV and at the south end of its range w/RU-1 & the State Park. The southern CR district abuts the Traditional Village and the south end abuts Rockport’s Rural Zone which includes Aldemere Farm.

P.10-5: “The provisions of the existing zoning ordinance affirm the need for home occupations in a community with limited commercial space, while at the same time limiting the home occupations to activities of a type and scale that does not disrupt residential neighborhoods. The balance between these two objectives can be tenuous, but the current provisions appear to be working well.

P.10-5: The 1992 zoning ordinance added a “low impact use” which allows for commercial use in a residential district if within 500 ft. of certain commercial districts. The standards for “low impact use” are similar to those for home occupation but less restrictive.”

Chapter 17

P.17-1: “The policies and implementation of this Comprehensive Plan as follows:”

1. Neither to promote nor to limit population or household growth but to manage it.

P.17-2: “It is recognized that the experiences and attitudes of citizens who have recently arrived are not always the same as long-time residents. The town must continue to promote an open dialogue on land use and regulatory issues to reach consensus on how we want to grow.”
Note: This speaks to why we are having this extensive applicant review process.”

P.17-3: “To encourage traditional forms of livelihood including the full range of economic opportunity: from manufacturing and resources production to professional occupations, from self-employment in the home to corporate offices.”

“To maintain a quality of environment that is the keystone of an economy dependent on visitors and on persons who choose to move to Camden for their retirement.”

P.17-4: Item 2 – “Commercial districts should generally hold to present zoning boundaries, however the Town should consider opportunities for new commercial areas where appropriate. Performance standards would be an effective tool to integrate these uses within the community while buffering the impact. Adaptive reuse of existing buildings could provide additional commercial space. Note: The B-3 District is a good example and why it was introduced.

P.17-6: Item 8 – “Those who choose to live in Camden during their retirement are vital to the local economy. To continue to attract retirees, it is essential that Camden remain a community with a recognized high quality of life: a healthy scenic environment, a rich array of cultural and recreational activities, established neighborhoods, a complement of goods and services within its boundaries needed for daily living, a village scale with integrated land use. Land use regulations and growth management policy should be directed at maintaining the elements that comprise this quality of life.”

P.17-17: “Prevent urban sprawl”... The Fox Hill area remains a highly desirable residential neighborhood within walking distance or short car ride to center of Town. Available space or lots in our residential neighborhoods close to center of town are limited and I believe should be protected specifically for residential use.

P.17-18: Item 4 – “The Town should examine its land use ordinances to determine whether its space and bulk, road construction, performance, and other standards are conducive to or harmful to village design. To the extent necessary, they should be amended to promote the desired village character and the favored pattern of development.”

Chapter 18

P.18-1: “The Future Land Use Map graphically depicts how the Town should grow. It is not a zoning map, and the boundaries of identified areas on the map are general. But the map will help to guide future zoning, other land use measures, and capital investment programs.”

“The map embodies the concept that the Town should include distinct rural areas and distinct growth areas. Designation of these areas has evolved directly from:

A desire to preserve a traditional village-to-countryside pattern of living, and to keep the character of each intact;

P.18-1/2: “growth areas include lands that:”

Promote a compact, rather than a sprawling, pattern of development.

p.18-3: Coastal Scenic – “Neighborhoods and other areas along the coast north and south of the harbor that have retained their natural beauty, offer important views of the bay, and serve as gateways to Camden. These areas are especially important in their contrast to the strip development that so often marks Rt.1. These transitional areas are only moderately developed at present. Additional development may be possible in these areas, but should be at densities, and of such a design, that will preserve the existing character of rolling terrain; interspersed woods, fields, and structures, and views of the water. Suburban style subdivisions generally would violate this character.”

P.18-3: Extended Village: “areas that will accommodate the preponderance of growth over the next decade. These areas have, or can feasibly receive, public sewer and water, so that the issue of soils being able to accept waste water will not pose a severe constraint to development... Uses in the extended village areas would be similar to those in the present Village Extension District, including a mix of types of residential structures (single family, multi-family, manufactured housing) and compatible, small-scale commercial and institutional uses upon which residents of these areas depend and such as might be found in a Neighborhood Service zoning district. The commercial uses should be limited to those that meet the day-to-day needs of the residents of the neighborhood, should serve primarily the residents of the neighborhood, and should be easily reached by residents wishing to walk to the commercial establishment.

P.18-4: Commercial: “there are several types of commercial areas to be accommodated, not all of them are distinct or completely separate from the residential or village area in which they are located. Commercial areas include the central business district (part of the traditional village); the harbor area (also part of the traditional village); areas appropriate for suburban-style shopping centers; transitional business areas in which small scale commercial activity is located along arterials in converted residential structures or buildings of residential scale and in which the residential scale is intended to be preserved; and neighborhood service areas in established neighborhoods.”

P.18-8: Bayview/Chestnut: “ This is a moderately developed, waterfront area that runs from Penobscot Street to the Rockport town line....”

These areas should allow for a moderate level of residential development while assuring that these corridors retain their scenic landscapes and vistas and continue to serve as attractive gateways to Camden. Permitted uses should include single family and two family dwellings, some light commercial activity such as nursery schools and daycare centers and some recreational activities such as golf courses, plus agriculture and timber harvesting. Minimum lot size should be no less than 40,000 sq.ft. 30,000 sq.ft. if on public sewer. Subdivisions within this area should be required to preserve at least 30% of the parcel as open space with a minimum lot size of 1 to 2 acres.

Notes: In overview this chapter provides descriptive guidelines with some specifics for present and future growth and development of the town through referring to the physical, visual, & social “character” or fabric of neighborhoods and districts.

Chapter 19

p.19-2: “Home occupations, allowed as a matter of right, should be continued, provided that standards to protect residential character are retained and enforced.”

p.19-4: Home Occupations: “enforcement of zoning standards is crucial if the balance between the right to conduct home occupations and the need to protect residential neighborhoods is to be preserved.

Notes: When the Comp. Plan & ordinance refer to providing appropriate opportunities for low impact commercial activities in residential neighborhoods or districts, in my opinion the documents are referring to either small neighborhood support businesses or home occupations such as professional occupations, not stand-alone large commercial enterprises which I believe would change the residential character and social fabric of the CR district under consideration.

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ATTACHMENT 5: SARGENT COMMENTS

Opening Remarks 12-12-13

This has been quite a journey. We started this review six months ago and may finish this evening.

I do not recall any action brought before the Planning Board in my past twelve years that has been this involved, has had this many legal considerations and generated this much passionate discourse on both sides of the issue. These many meetings have stretched us as a community and as a board to evaluate possible uses of properties that had not previously been considered.

At this point after listening to all the presentations, reading the letters and emails and doing my own research in the Comprehensive Plan and Zoning Ordinance, I understand the reasons why some want to support these proposals and why others oppose them. There are sound arguments on both sides.

None of the interpretation or evaluation of the reasons for or against the proposal are completely clear. Most can be challenged. It would be so easy if we could just turn to a page in the ordinance or the Comprehensive Plan and have specific direction on this issue but that is not the case.

As I reread the letters and reviewed the minutes, then searched through the Comp Plan and Zoning Ordinance, I found that some of the reasons or arguments made on behalf of or in objection to the requested changes were supported by the Town documents and some not. There were even some views of the proposed changes that were both supported and opposed by the Comp Plan.

The Comprehensive Plan is intended to be a document that explains the Town's current condition, and tries to forecast how the Town should or may look in 10 to 15 years and attempts to identify what changes in the world, in the region and local area may impact Camden's development. Methods of protecting the 'good' parts of the Town are identified and ways of changing the parts of town that need improvement are suggested. The 2005 Plan attempted to do all those tasks, but it was unable to forecast how much older Camden had become, it was unable to forecast Camden losing 9% of its population between 2000 and 2010 and it was unable to forecast the financial crises of 2008 that had an adverse impact on Camden's ability to attract wealthy retirees from away.

The concept of the Comprehensive Plan acknowledges that it will not always be able to accurately forecast the future. That is one of the reasons why the Plan tends to be non-specific in its description of appropriate land uses. Specificity is added in the Zoning Ordinance.

So how do we consider the various viewpoints and come to understand whether or not these proposed changes are supported or not by our existing town documents and our own common

sense? How do we begin to make the decision about moving this request on to the Select Board or rejecting it? I was drawn back to a suggestion made by a letter writer that “when evaluating the concerns expressed, each should be looked at in light of the best available” information. This opinion was also offered by an attorney in his closing remarks that the Planning Board members 'must determine which, of all the issues and statements they have heard, are of the most value in reaching their conclusions.'

This line of thought suggests to me that if there is not absolute clarity as to whether these proposed changes are supported or not by the Town's documents, then is there a preponderance of support on one side or the other?

The issues we should consider include the following:

Are these proposed changes similar to other uses in the town?

Is there any way we can see into the future to learn about potential unintended consequences if ordinances are changed?

Should we, as citizens of this Town, make the preservation of the Town's character and preservation of the quality of life we hold so dear a guiding principle in land planning and zoning issues?

How often can we push back against an employer interested in expanding or establishing a new business in town before no other employers show an interest in being here. The town pushed back against MBNA, Wayfarer Marine, Dunkin Donuts and Reny's. Will these anti-business attitudes allow Camden to prosper or will they accelerate the economic end to our town?

Is it possible to maintain our quality of life and still be an attractive town for businesses?

Should we resist change just because we are afraid of the consequences or should we resist change because we can definitely show that the change is inappropriate or harmful for us?

Is it reasonable to allow these proposals to go to Town ballot to achieve the greatest possible measurement of the support or lack thereof for the proposals rather than having the decision made by a few people on the Planning Board or the Select Board?

There have been many observations made by participants that question the practicality of using this particular property for the proposed facility. Many of those considerations do not apply at this time. They may be relevant later, should the project get to the Site Plan Review stage but for now they are not relevant to our decision.

Participants have questioned the business model and profit motives of the applicant. Others have raised questions about traffic counts and the availability of water and septic. Those issues are not relevant at this time.

Other participants have pointed out the greater good provided by helping people with alcoholism regain control of their lives. I doubt that anyone can argue with helping people improve their lives and learn to deal with their personal health issues but those considerations are also not germane at this time.

At times it seems as if all the non-relevant information that has been discussed about this proposal has made the decision making very complicated, but I think it is really a fairly simple decision.

What we need to do is determine if these proposed changes to the Zoning Ordinance are supported or not supported by the Comprehensive Plan and the Zoning Ordinance of the Town of Camden. What will be the impact on the neighbors, on the neighborhood and on the Town if this proposal is implemented? The Maine Municipal Association Manual for Local Planning Boards directs that “the Board should not base its decision on the amount of public opposition or support displayed for the project. Nor should its decision be based on the members' general opinion that the project would be 'good' or 'bad' for the community. Its decision must be based solely on whether the applicant has met his or her burden of proof.

So let us begin that discussion.

Lowrie Sargent

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