

**Brentwood Planning Board
Minutes
December 16, 2021**

Members Present:	Bruce Stevens, Chairman Jon Morgan, BOS rep Kevin Johnston, Vice Chair Kristin Aldred Cheek	Mark Kennedy Doug Finan Paul Kleinman Town Planner, Glenn Greenwood
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7:00 pm: Open Public Hearing: Chairman Stevens opened the public hearing at 7:00 pm

7:00 pm: Continued Site Plan Review Application: Applicant: Skaff Cryogenics, a division of Chart D&S; Owner: Prefontaine Properties, Inc. Property is located at 48 Industrial Drive, Brentwood, NH 03833 in the commercial/industrial zone, referenced by tax map 205.002.000. Intent is to construct an approximately 60' x 65' sq. ft., 75' in height, high bay building and a 20' x 60' sq. ft. low bay connector building expansion on the northern side of the existing Skaff Cryogenics building. The 75' high building will be utilized for the handling, erection and rehabilitation of up to 45' in height, tall cryogenic tanks. A concrete storage pad and new crane rail system is proposed to be constructed external to the high bay. *Jurisdiction invoked 9-16-2021.*

The applicant had requested a "continuation of the public hearing to the January 20, 2022, Planning Board meeting to allow time for completion of plan revisions in response to comments received from the Town Planner, TEC, and SFC Engineering. The soils surveys are still on-going, and this information is needed for the development of the Stormwater Maintenance Plan."

Motion made by Johnston, 2nd by Kleinman, to continue the hearing for Skaff Cryogenics, a division of Chart D&S, to **January 20th, 2022, at 7:00 pm** at the Town Office. All were in favor. Motion carried.

7:00 pm: Continued Site Plan Application: Applicant/Owner: Brentwood Park LLC. Property is located at 335 Route 125, Brentwood, NH 03833 in the commercial/industrial zone, referenced by tax map 209.014.000. Intent is to review site plan changes of use on the site. *Jurisdiction was invoked on May 6, 2021.*

Present: Dave Roberts of Brentwood Park, LLC. No abutters were present.

Roberts handed out a few copies of his document highlighting what he is addressing, has addressed or is planning to do along with his proposed timelines (on file).

Stevens commented that SFC has supplied a draft report and they were going to come back for a 2nd site inspection on a building they didn't have access to. Roberts agreed. They did come back to inspect building #4 but didn't alter their assessment from the original report; he received a printed final version tonight. Stevens continued that the SFC and electrical reports were quite inclusive (on file). Kaiser sent a memo for tonight and as the code enforcement agent, he can inspect the site and do what he can under the purview of the law and the Planning Board has the ability through site plan to ask for other documentation or other work on the site that they feel is supported by the reports and inspections from SFC and the electrical inspector.

Stevens said so it looks like from your document that you have removed all the non-inspected motorized vehicles, there are only two on site. Roberts agreed, well only 2 are outside, everything else is under roofs. Roberts said Kip can verify that I've performed a lot of the immediate action plan from December 2nd. This is stating what I've done. Page 1 refers to the outside. The deeper Kip digs into the junkyard ordinance, I have to call it clutter. This is valuable material that looks like junk. Kip said you are allowed 500 sq. ft. of uncovered clutter in a yard. Stevens said is that an RSA as the Board didn't see that. Roberts continued in working with Kip, unregistered cars can't be visible, so he was getting them into

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the lean-to's and has added tarps in front of the lean-tos, so they aren't visible. He's tried to take up the issues. Every few weeks there is a new hoop or bar raised and he's trying to get through it.

Stevens said at some point the Select Board, the enforcement agency in Town, will have to determine how long some of these deficiencies can go on. Roberts said he's addressed that. Stevens continued you have the final SFC report and electrical report, so you know everything that needs to be done. Now there should be a process to see those improvements made. Roberts said on page 3 (of his document), building #2, Matt Glines is the only full-time car repair person is leaving at the end of December. One less car repair tenant. But he's already located someone who wants to store building materials in that unit and wants to secure it with a deposit, but can I do this? Stevens said any new changes would have to be part of an approved plan and we aren't there yet.

Greenwood asked what the building materials are. Roberts said decking, lumber. Greenwood said if it's storage of lumber, he has a hard time saying it's not an allowed use there; it's the original use of the property but building materials could also mean quarry stone etc. but if it's decking, that has always been an approved use on the site. Stevens added unless the space being rented has electrical issues. Roberts said in that unit, they are minor. Major ones have been fixed already. Kip's aware of public safety issues and is satisfied that it's safe for immediate purposes. SFC's concerns are technical housekeeping and there are some violations but he's working on it. The Town's electrical inspector Tom Sotirakopoulos was on site Wednesday (Dec. 15th) with Kip. Stevens said it would be nice to have a note to that effect.

Roberts asked if he was free to change tenants. Greenwood said with almost any other tenant/use, no. Although we are in the site plan process, this Board can't approve a use that isn't approved out there, but the lumber/building material storage is an approved use on site. Stevens suggested the guy who's leaving clears out the building first, then get a note from the electrical inspector that that unit is up to par in light of the use. Maybe Roberts can define what the decking and storage of materials, lumber storage entails, so it's more detailed. Roberts agreed to do that. Greenwood added when there is a change in tenancy, the Board likes to know about it but that the use is an approved use. Stevens said so give us a list of the items stored and approximate volumes and run that by SFC and get the electrical inspector to sign off and say to SFC based on the fire load presented by this volume and type of material. Kennedy said any and all infractions should be completed before any new tenant is in there.

Roberts said he will need to get rid of the riskier uses. Greenwood said the statements from SFC's comment letter are that the basic structures here were not constructed for this type of use. Anything going in there that isn't that first approved use (*lumber storage*) is a retrofit that hasn't been properly retrofitted. The future use of all of those units need to see a step-by-step approach; get them cleaned out, determine what needs to be done to make the units leasable and then have an appropriate tenant that could fill the spaces. Stevens added the elephant in the room is the cost of providing sanitary provisions. Roberts asked if it would be possible to have a community bath house. Greenwood clarified communal bathrooms. Stevens said that may be allowed and part of SFC's recommendations addressed that so talk to SFC and have a septic design done. This can't go for 2 plus years waiting to decide how this is all going to come together. Roberts said it's not going to and continued that on page 5 of his document, building #5 is in progress, it's one building occupied by one tenant. The tenant said he didn't need electricity there and said he could use a generator; it's welding, self-contained off the back of his truck. Stevens replied but with a generator, that's an energy source so maybe then the electrical wouldn't apply there. Roberts said he could gut it and take out all the spaghetti that's offensive. Stevens said write something up, put it in writing what you want to do and have him review it. You come up with a proposal and the electrical inspector would say yay or nay. Kennedy thought there would need to be some sort of basic lighting there and is that acceptable to the electrical inspector to have a building with

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occupants having no electrical or lighting in it. Roberts said it could have emergency battery powered egress lighting.

Stevens reiterated that Roberts come up with a proposal for the lumber storage tenant, for this guy, and for the electrical inspector to review but was also concerned about the photo of the mezzanine on the 2nd floor with a music studio in it which would require an independent outside staircase for egress. All these professionals can come back and render opinions as you move forward but what is the overall time frame to get the site into compliance. Roberts said page 6, the time frames are proposed (on file). Stevens said 60-days...but strike Kip and put in the electrical inspector's name and number. Kip is an independent officer of the Town, and he can apply the standards he feels he can speak to according to the ordinances and regulations of the Town of Brentwood, but the electrical inspector has more expertise for what the various uses would require. Robert's is addressing Kip's letter and his priorities. Stevens said but the priorities of the Town is the safety of the site so electrical ought to reflect what the electrical inspector is saying is appropriate and Kip's jurisdiction is above and beyond that. Address the electrical issues from the 3rd party inspector that reviewed it, Dean Sotirakopoulos. In February, do these things but these items wouldn't include the sanitary provisions. Is that in the scope.

Roberts said he needs to get a better handle on how many will be occupying the buildings first because sanitary is a function of the number of people and square footage, there's 35,000 sq. ft. but much is not occupied, it's equipment. Kennedy said but it's a correlation to use.

Roberts can't have a septic system designed immediately because he is planning to change tenancy, because he has too. The April 15th deadline on page 7, the overview is clean house. Stevens added on the whole property. Roberts read reconfigure tenancies to eliminate the sprinkler mandate. There's no way that any building can be sprinklered. That building (*welding building*) could be split down the middle with drywall. 7,200 sq. ft. and if less than 5k sq. ft. it wouldn't have to be sprinklered, fire separation which depends on square footage and occupancy. Stevens said there's a lot to figure out, come up with a master plan soon. Roberts said he needs to evict the uses that can't bypass sprinklers, car repair there is no forgiveness. The tenants are month to month, tenants at will. No one is more than 6-months out. Clean house and return to only his preapproved or grandfathered uses, historic uses that have been there (on file) but include: *Woodworking shops, home construction and design and equipment, retail sales offices, lumber and building materials storage and handling, associated trucks forklifts equipment, RV sales and service, Roadside display sales, Drive through coffee kiosk, brewhouse pub*. It's hard to see who's in violation from what's he been there forever but maybe should go back to what was historically there. Kennedy said just because some of these uses were approved doesn't mean the buildings weren't up to code to begin with. Just because the Board approved a business, doesn't mean the Board approved of the way the business is being conducted. This is just going around in a circle. Your businesses are not in compliance and it's up to Roberts to figure out how to bring it into compliance. Roberts agreed but has to do it within the auspices of how the Board views his past history and for new tenants; to be in safe surroundings and proper buildings. Kennedy said Roberts needs to figure out how to bring the buildings into compliance. Roberts replied but that's based on the use too.

Stevens reiterated having Roberts do a master plan to figure out which commercial space is rented on the site, decide as you move forward, these are the uses that I'm going to allow, put those on paper, have it inspected, is it up to code, does this work. But have a plan so that building #1 will be RV sales, building #2 will be welding etc., building #3 vehicle repair, and then we could approve them. We can never get ahold of what's happening because it keeps changing. Offer for rent, these particular structures, for these purposes, the Board signs off on it, and then Roberts finds tenants that fall into those categories because there has to be some closure to if's, and's, and possibilities. And your master plan will help guide you regarding the sanitary component.

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Aldred-Cheek asked about the 60-days to resolve public safety concerns. Roberts responded that the Town electrical inspector feels they have been addressed and Kip wrote a letter yesterday and they've been reasonably addressed in the ones that were open to the public, the school and the home brew supplies, Kip can prioritize the SFC report of what to accomplish immediately. Bickum added that Kip can only go so far until the Board approves what the uses are. Stevens said so in 60-days, can you supply a hard and fast plan, with uses denoted, then the Board can apply codes and give you an approval and sign off on a new site plan. Morgan said didn't I ask for that 2 months ago? Stevens said this has been going on for years and there has been visual improvement but whenever we see a site plan come in, it shows the buildings, the uses but with Roberts you can't get your arms around what's out there or what you want to do out there. Figure out what you want to do in the next 60-days for example, get rid of the businesses there that aren't in your vision. Roberts said that's what he wants to do and is asking to have until April 15th to do that, it takes 2 months to get someone out, give them notice.

Stevens said the BOS can come in and see if there is enough concern from a public safety standpoint to issue a cease and desist and may want to close it down. The Planning Board is trying to have you come up with say a 10-year plan of what you want but you need to tell us what you want. Roberts said he'd like to go back to what he had at the core. Stevens said so that was construction in the building closest to the road, the school, if those requirements are met, you can ask for that. Roberts said that in 1975 he got a permit to build a wood shop with no site plan review. Stevens said it wasn't part of the ordinance at that time but if you make changes and use changes, then you need to come in and get approval. Above and beyond approvals are also basic health and safety concerns, sanitary, and structural concerns. Roberts suggested he could schedule an appointment with the Selectmen. Stevens reiterated that the Planning Board needs the plan but there isn't enough information for them to be able to accept the site plan tonight. Regulations say the plan has to have substantial detail. Roberts said the uses need to change from what was originally proposed so he can alleviate the sprinkler requirement.

Greenwood said it could be continued again. Aldred-Cheek said it seems like it's been discussed and now it's out another 4-5 months. Stevens asked if it would be reasonable to continue to the first meeting in February. Kleinman asked if Robert's has done anything to send out notices to vacate or start the process to get the tenants out? Roberts said originally, he was hoping to be able to fix the issues, electrical is a long list but the sprinklers and sanitary is costly. There is probably a solution if a communal bathroom would be allowed vs. 20 heated independent bathrooms, which couldn't happen. Stevens asked if the Board would like to continue the hearing to the 2nd meeting in February? Greenwood said if the Board is going to continue the hearing, there needs to be an understanding of what needs to be accomplished.

Morgan said he's a no. We've been clear, if Roberts was serious about this, he would have gone to the tenants and said they need to find someplace else, and this would have been done 6 months ago. Beyond that, Morgan had asked for a list with the reports, a clear outline of when this would be taken care of, how much it would cost, and when it would be done and that was supposed to be at the last meeting, 2 weeks ago. He feels for Roberts but doesn't want to keep kicking the can down the road.

Stevens said even if this Board denies it, the BOS still have their powers, as does the building inspector. Bickum confirmed that jurisdiction had been invoked on May 6th, 2021. Morgan suggested that the BOS, if the Planning Board denies this, send a certified letter with 90-days for example, to correct the outstanding issues, and if not, then the action starts. It can be a hard and fast number, but it doesn't have to be 90-days. Stevens said so if this Board denies it tonight, Roberts would re-apply again within the BOS timeline, knowing that the Planning Board doesn't agree with the uses currently on the site.

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Greenwood confirmed that the application submitted was to bring the site plan into compliance because a lot of activity on the site that was not compliant with what the site had been approved for. Kennedy agreed with Morgan that the discussion needs to end, it's been discussed ad nauseam. Roberts needs a clear plan of where he needs to go, and we need to set a deadline and a hard number and see what happens when that day comes. Stevens confirmed that the Planning Board would make a motion to deny the application and that would be it. The process could start again when Roberts elects to do it. Kennedy added and the BOS can send a letter with their deadline, based on the recommendation from the Planning Board. Stevens said there are so many outstanding items that the Planning Board doesn't feel it could accept the plan. Aldred-Cheek said she doesn't feel like there is a plan.

Summary of the discussion: a lack of forward progress with the application over the last 6-7 months and failure to provide the Board with an overall master plan with a list of proposed uses, associated costs and a timeline for completion to bring the site into compliance; continued compliance issues with uses above and beyond the previously approved site plan of lumber storage creating health, safety, sanitary and structural concerns.

Motion made by Kennedy, 2nd by Finan, to deny the application for site plan review for Brentwood Park, LLC based on the discussion. All were in favor. Motion carried.

Stevens suggested Roberts can come back with something more detailed but by denying the application, the Planning Board doesn't have any time-line jurisdiction. Greenwood said the Planning Board can only provide the BOS with the reason's the plan was denied; summarize the reasons why this application was denied. Roberts apologized for wasting the Board's time and will work to correct it.

Kristen Aldred-Cheek had to leave early at approximately 7:50 pm and was not in attendance for the remainder of the meeting.

7:00 pm: Continued Subdivision Application: Applicant S & H Walker Woods Holdings, LLC; Owner: Debra Sanborn. Intent is to subdivide lot 206.090.002, a 24.48-acre lot, into two buildable lots. Property is located on Deer Hill Road, Brentwood, NH 03833, in the residential/agricultural zone, referenced by tax map 206.090.002.

Present: Tim Lavallo of James Lavallo Associates for the applicant. No abutters were present.

Lavallo said they are still working on negotiations with PSNH for a joint use agreement in order to have the larger lot's driveway access be within the PSNH right-of-way and would like to request a continuation of this hearing to January 20th, 2022.

Motion made by Kennedy, 2nd by Finan, to continue the hearing for S&H Walker Woods Holdings, LLC regarding the subdivision to **January 20th, 2022, at 7:00 pm** here at the Town Office. All were in favor. Motion carried. *Aldred Cheek was not present.*

7:00 pm: Continued Site Plan Review Application: Applicant/Owner: The Mastriano Group, LLC. Intent: A proposed parking lot for auto sales. Property is located at 180 Route 125, Brentwood, NH 03833, referenced by tax map 216.028.000 in the commercial/industrial zone.

Present: Tim Lavallo of James Lavallo Associates; Chris Mastriano. No abutters were present.

Lavallo handed out revised plans 11 x 17 (on file) and gave an update. The proposal is to add parking to the property for car sales and car storage for the sales. After the site walk, they received direction on plantings and sheet 4 of 5 shows Gingko Bilboa trees, 2-1/2-inch caliper similar to what Al Baily has, branches are up so not blocking but not supposed to get that tall. They sit right at the boundary line, on

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the edge of the state's 50' ROW with the intent of leaving the state's ROW alone (sheet 3). Stevens said so if that is the state's ROW, then there is no storage allowed. They moved the parking area to meet the 25' buffer/setback. The easement is now shown on sheet 2 that is for the adjacent parcel (lot 27), what used to be the ice cream shop. They've addressed all reviewer's letters except for getting the test pit, for permeability for the infiltration trenches. Stevens asked that the test pits can be added to the final plan. Greenwood confirmed that he hasn't looked at this plan yet. Kennedy wanted to go through Greenwood's comments, #20 regarding the hours of operation. Lavalle said the hours would be 9 am to 7 pm, not what is on the plan 10 am to 11 pm, that will change. After the test pits, they will go through Greenwood's comments make sure they've been addressed, go through the regulations. Signage is on sheet 2 (not submitted) and there will be one sign, there is already a sign existing for Everything Pets, but they are proposing one within the property for the car sales on the North side. Lighting, the intent is a light on the front of the building and a couple of motion sensor security lights, a note on the plan. Steven's added show on the plan and shielded so not spotlighting Rte. 125, down cast, dark sky compliant. Sheet 2 shows two septic systems, one for each building house and Everything Pets. Lavalle will address Greenwood and TEC's comments and would like to be able to submit an updated plan to Greenwood and TEC before the next meeting.

Motion made by Stevens, 2nd by Kennedy, to continue the hearing for The Mastriano Group, LLC, site plan review hearing to **January 20th, 2022, at 7:00 pm** at the Town Office. All were in favor. Motion carried.

7:00 pm: Continued hearing for Master Plan Chapter adoption: Consideration of adopting the Community Profile chapter of the Master Plan. Greenwood would like more time to incorporate as much census data as possible as it's being released in 6-week increments. He can update 90% of his tables with the 2020 releases and 8 tables he can finish with 2018 data, if there aren't any additional 2020 updates. He reminded the Board that there is no charge for this Master Plan chapter.

Motion made by Stevens, 2nd by Morgan, to continue the hearing for the consideration of adopting the Community Profile chapter of the Master Plan to **February 17th, 2022, at 7:00 pm** at the Town Office. All were in favor. Motion carried.

Board Business:

1. The Board signed the manifest.
2. Bickum will remove Nick Mancini proposed pickup sales at 335 Rte. 125 from the agenda in conjunction with the Brentwood Park, LLC denial.
3. The Board signed the Affidavit of Amendment for Carl Rullo to be recorded. An amendment to a previously recorded site plan where an area of vegetation was removed to allow grading and leveling for storage containers in an area not called out in previous site plan; D-35181; 414 Rte. 125, tax map 208.030.000. Monumentation was received, the revised plan is on file for reference only.
4. The Chairman signed TEC's multi-year contract that was reviewed and approved by Primex. Fee structure is the same as 2021. A 60-day notice is required for any fee increases and for the termination of contract by either party.
5. The updated CIP plan is due in by the end of year and has been noticed for adoption at the Jan. 6th hearing (funds cannot be re-encumbered). Noticed with the revocation of site plan for Mr. Carl Rullo, 324 Rte. 125, tax map 209.010 wetlands violation and the proposed Zoning Amendments.
6. Glenn will email the Board regarding his conversation with legal counsel on a proposed Flag Lot zoning amendment, but it was determined that it would be spot zoning.
7. Three PB terms expiring: two 3-year terms (Stevens and Johnston) and one 1-year term (Kennedy). See Town Clerk for deadlines.

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Approval of Minutes: December 2nd, 2021, and December 6th, 2021, work session.

Motion made by Morgan, 2nd by Kennedy, to approve the minutes from December 2nd, 2021, as presented. All were in favor. Motion carried.

Motion made by Morgan, 2nd by Finan, to approve the work session minutes from Dec. 6th, 2021. All were in favor. Motion carried.

Motion made by Morgan, 2nd by Kennedy, to adjourn at approximately 8:25 p.m. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum,
Administrative Assistant,
Brentwood Planning Board