

1 **LONDONDERRY, NH PLANNING BOARD**
2 **MINUTES OF THE MEETING OF May 2, 2012 AT THE MOOSE HILL COUNCIL**
3 **CHAMBERS**
4

5 Members Present: Art Rugg; Mary Soares; Lynn Wiles; Laura El-Azem; Chris
6 Davies; Tom Freda, Ex-Officio; John Laferriere, Ex-Officio; and Maria Newman,
7 alternate member
8

9 Also Present: André Garron, AICP; Cynthia May, ASLA; John Trottier, P.E.; Jaye
10 Trottier, Community Development Secretary
11

12 A. Rugg called the meeting to order at 7 PM. He appointed M. Newman to vote for
13 Dana Coons.
14

15 **Administrative Board Work**
16

17 A. Extension Request – T-Mobile/Beal Raw Land Site Plan, Map 12 Lot 34
18 J. Trottier read into the record a letter from Attorney Steve Grille of Devine
19 Millimet, representative for T-Mobile, requesting a one year extension of this
20 site plan to May 2, 2013. When the Board granted conditional approval of the
21 plan in April of 2011, that approval was appealed by an abutter. Although the
22 appeal was denied by Superior Court, a stay was in effect until either the
23 abutter appealed to the Supreme Court (which he did not) or the appeal period
24 expired (which it did in October of 2011). Because of the delay, the applicant
25 is requesting the extension so that all of the conditions of approval can be met.
26 J. Trottier said staff is supportive of the request.
27

28 **M. Soares made a motion to grant a one year extension to May 2, 2013**
29 **at 7pm. L. Wiles seconded the motion.** No discussion. **Vote on the**
30 **motion: 8-0-0.** The extension for one year was granted.
31

32 B. Extension Request – Kitty Hawk Landing Site Plan, Map 17 Lot 5-3
33 J. Trottier read into the record a letter from William Davidson of Hoyle, Tanner
34 & Associates, Inc, representative of Water Wonders, LLC, requesting a one
35 year extension of the site plan to May 2, 2013. The applicant is attempting to
36 secure a tenant, after which time the two remaining conditions of approval can
37 be met. J. Trottier said staff is supportive of the request.
38

39 **M. Soares made a motion to grant a one year extension to May 2, 2013**
40 **at 7pm. L. Wiles seconded the motion.** No discussion. **Vote on the**
41 **motion: 8-0-0.** The extension for one year was granted.
42

43 C. Extension Request – Albird Estates Subdivision, Map 16 Lot 58
44 J. Trottier read into the record a letter from owner Virginia St. Cyr requesting a
45 one year extension of the subdivision plan to May 2, 2013. The applicant is
46 requesting the extension in order to continue working with engineer Eric
47 Mitchell on obtaining the necessary site distance. J. Trottier said staff is
48 supportive of the request.
49

1
2 **M. Soares made a motion to grant a one year extension to May 2, 2013**
3 **at 7pm. L. Wiles seconded the motion.** No discussion. **Vote on the**
4 **motion: 8-0-0.** The extension for one year was granted.

5
6 [M. Soares left the room at 7:08]

7
8 D. Approval of Minutes – April 4, 2012; April 17, 2012

9
10 **L. Wiles made a motion to approve and sign the minutes from the April**
11 **4, 2012 meeting. J. Laferriere seconded the motion.** No discussion.
12 **Vote on the motion: 5-0-2** (L. Wiles and A. Rugg abstained as they were
13 absent from the April 4, 2012 meeting).

14
15 **L. Wiles made a motion to approve and sign the minutes from the April**
16 **17, 2012 meeting. J. Laferriere seconded the motion.** No discussion.
17 **Vote on the motion: 6-0-1** (L. El-Azem abstained as she was absent from
18 the April 17, 2012 meeting).

19
20 Minutes for April 4, 2012 and April 17, 2012 were approved and will be signed
21 at the conclusion of the meeting.

22
23 E. Planning Board Liaison Appointments

24
25 C. May conveyed that Rick Brideau volunteered to be reappointed as a liaison
26 to the Capital Improvements Plan (CIP) Committee.

27
28 [M. Soares returned at 7:10]

29
30 M. Soares volunteered to be reappointed as a liaison to the CIP Committee. A.
31 Rugg volunteered to be reappointed as a liaison to the Heritage Commission.

32
33 **L. Wiles made a motion to reappoint R. Brideau and M. Soares as**
34 **liaisons to the CIP Committee and A. Rugg as a liaison to the Heritage**
35 **Commission. M. Soares seconded the motion.** No discussion. **Vote on**
36 **the motion: 8-0-0.**

37
38 F. Discussions with Town Staff

- 39
40 • Route 102 Impact Fee Corridor Plan

41
42 In March of this year, A. Garron provided a presentation on an update to
43 the impact fee methodology for the Route 102 Corridor. At the time, he
44 explained that the necessary updated traffic study is not available and that
45 a consultant would need to be hired to prepare one. He offered at that time
46 to contact the Southern New Hampshire Planning Commission (SNHPC)
47 about developing one. While the quote received from SNHPC was
48 somewhat high, he will meet with them again and investigate whether the
49 study can be performed in smaller increments. He will return with an
50 update at a future meeting.

1
2 A. Garron has also contacted consultant Bruce Mayberry about updating the
3 School Impact Fee Program. The last update was done in 2006/2007 and
4 school enrollment has declined since then. He hopes to have an agreement
5 in place by next month.

6
7 • Partnership Agreement; A Granite State Future

8
9 A. Garron provided Board members with a partnership agreement from
10 SNHPC, explaining that it involves the collaboration of all nine Regional
11 Planning Commissions in New Hampshire to work with the State and create
12 a coordinated development strategy. With the Board's approval, A. Garron
13 will invite David Preece of SNHPC to the June 6 meeting to explain the
14 program and Londonderry's obligations. He asked Board members to
15 review the document and contact him if any additional information is
16 needed. The consensus was to invite D. Preece to the June 6 meeting. A.
17 Rugg asked T. Freda to invite the Town Council as well.

18
19 • Update on the Master Plan

20
21 While the Kickoff Meeting of the Master Plan Update on April 12 was not as
22 highly attended as had been hoped for, A. Garron said it was still a diverse
23 group that asked worthwhile questions and made useful comments.

24
25 The week-long Planapalooza event beginning on May 31 is the next step in
26 the process. Staff and the Town's consultant Town Planning and Urban
27 Design Collaborative (TPUDC) will be focusing all month long on advertising
28 the event and providing as much information to the public as possible.
29 Staff has been invited to make presentations at various High School civics
30 classes. C. May added that the TPUDC will be meeting with High School and
31 Middle School students after the Opening Presentation to generate interest,
32 as well as with Londonderry's senior population. A poster project has been
33 arranged where elementary school students will design posters showing
34 what their favorite place in town will look like in the future. The images will
35 be posted on the Master Plan Facebook page as well as in Town Hall. Civics
36 class students will be asked to assist staff and TPUDC during Planapalooza.
37 Weekend events such as those at LAFA fields and a hike sponsored by
38 Londonderry Trailways at Adams Pond on May 6 will be attended by Master
39 Plan Steering Committee members to further educate the community.

40
41 A. Garron said that ideally, residents should attend the Opening
42 Presentation at Lions Hall on May 31, then at least one of the eight
43 meetings during the week that are of interest to them, and finally the
44 closing ceremony on June 5 at Lions Hall to ensure that the consultant's
45 interpretations are accurate. Input from the community, A. Garron
46 explained, is vital to developing a useful Master Plan. M. Soares questioned
47 whether the lack of response is due to comments made that people move
48 into town so their children can make use of the School system, then leave
49 once they have graduated and are therefore not invested in the future of
50 Londonderry. Those people can still benefit from being involved in the

1 Master Plan process, she continued, because they can express what
2 changes or additions to the community would cause them to stay (e.g.
3 more varied housing opportunities). A. Rugg noted that the population in
4 town is actually aging, while the school population has declined, suggesting
5 that residents are staying. Their input, however, is no less important in
6 ensuring a viable future for themselves in Londonderry.

- 7
- 8 • Chinburg Builders Inc., Map 16, Lot 38 Conservation Subdivision, (Phase I)
- 9

10 J. Trottier explained that Phase I of this project, which was conditionally
11 approved in May of last year, entails construction of fifty single family
12 residences. In working with staff, the applicant has proposed splitting
13 Phase I into two smaller groups (1a and 1b) of 25 units each. The overall
14 buildout of 130 units will remain the same. Staff does not believe the public
15 hearing would need to be reopened since the proposal is less of an impact
16 than the original. The consensus of the Board was to allow staff to handle
17 Phase I being divided into two sub-phases with 25 units in each.

- 18
- 19 • Continental Paving
- 20

21 J. Trottier stated that staff met with Continental Paving on May 1 regarding
22 the removal of an underground storage tank on their West Road site and
23 the replacement of it with a pump island consisting of multiple dispensaries.
24 Not only is the tank in need of replacement, but the new configuration and
25 location would provide better circulation for Continental's trucks. The
26 proposal falls under the criteria for a minor site plan with the exception that
27 the amount of pavement to be used (nearly an acre) far exceeds the limit if
28 6,500 square feet. Staff is asking for the Board's preference as to whether
29 a public hearing should take place at a Planning Board meeting or through
30 the Administrative Review Committee where it would take place during the
31 day. Given the relative size of the project and the amount of pavement
32 involved, the consensus was to hold the public hearing at a Planning Board
33 meeting to give abutters a better opportunity to attend and express any
34 concerns they may have.

- 35
- 36 • Clark Farm Industrial Center two-lot subdivision – BC Construction
37 (Applicant), Evans Family LTD Partnership (Owner), Map 17 Lot 45-3.
- 38

39 C. May explained that the Registry of Deeds rejected the recording of this
40 plan that was signed at the April 17 meeting, stating that the owner's
41 signatures were not the originals. The engineer has created new recordable
42 mylars and obtained all original signatures. A motion to resign the plans
43 would not be necessary, since final approval was given at the April 17
44 meeting. The plans will be signed again at the conclusion of the meeting.

45

46 **Continued Plans**

47

- 48 A. Pillsbury Realty Development, LLC, Map 10, Lots 15, 23, 29C-2A, 29C-2B, 41,
49 41-1, 41-2, 42, 45, 46, 47, 48, 50, 52, 54-1, 58, 59, and 62 – Application
50 Acceptance and Public Hearing for formal review of the Woodmont Commons

1 Planned Unit Development (PUD) Master Plan [**Continued from the March**
2 **29, 2012 Planning Board Meeting for Application Acceptance**]

3
4 A. Rugg read the request for a continuance to the June 6 Planning Board
5 meeting into the record [see Attachment #1]. This request was received on
6 May 1.

7
8 M. Soares asked staff if the applicant felt they would be able to present for
9 application acceptance at the June 6 meeting or whether they would be
10 requesting another continuance. Having a more definitive goal, she said,
11 would be helpful to those residents who regularly attend scheduled hearings.
12 A. Garron said he did not have an answer to that, but added that advice from
13 Town legal counsel can be sought if another continuance request is received
14 prior to the June 6 meeting. L. Wiles asked what would happen if the Board
15 denied this request. A. Rugg explained that the Town attorney has
16 recommended granting this continuance.

17
18 **M. Soares made a motion to continue the public hearing for Pillsbury**
19 **Realty Development, LLC, Map 10, Lots 15, 23, 29C-2A, 29C-2B, 41, 41-**
20 **1, 41-2, 42, 45, 46, 47, 48, 50, 52, 54-1, 58, 59, and 62 – Application**
21 **Acceptance and Public Hearing for formal review of the Woodmont**
22 **Commons Planned Unit Development (PUD) Master Plan to the June 6,**
23 **2012 meeting at 7 PM. T. Freda seconded the motion. No discussion.**
24 **Vote on the motion: 8-0-0.**

25
26 A. Rugg said this would be the only notice of the continuance to June 6.

27
28 **New Plans**

29
30 No new plans were submitted.

31
32 **Other Business**

33
34 A. Discussion about a potential amendment to the Zoning Ordinance regarding
35 Commercial Kennels.

36
37 Board members recently received a proposal from Building Inspector/Zoning
38 Officer Richard Canuel suggesting an amendment to the zoning ordinance that
39 would address commercial "Kennels" (see Attachment #2). R. Canuel
40 explained that under the current ordinance, the only reference to kennels is
41 that related to the keeping of livestock in the agricultural/residential (AR-I)
42 zone, along with a broad supporting definition. A kennel use as a commercial
43 business is not addressed in the ordinance at all and is therefore deemed to be
44 a non-permitted use. Because of the number of animals involved in a
45 commercial operation and the resulting effects of noise and odor on
46 surrounding properties, a commercial kennel would not fit in the AR-I zone.
47 Being a service oriented establishment, the Commercial-II (C-II) zone would
48 make more sense, except for the fact that again, the intensity of the use would
49 not match other permitted service establishments such as restaurants, assisted
50 living facilities, etc. The Industrial-I (I-I) zone, however, already allows

1 service establishments and is more appropriate for the impacts of a commercial
2 kennel use. R. Canuel then suggested three amendments to the ordinance: 1)
3 to allow commercial kennels in the C-II /POD-102/POD-128 zones, but only
4 with the approval of a Conditional Use Permit (giving the Board some degree of
5 control over the specifics of the given proposal); 2) to allow the use in the I-I
6 zone; and 3) add the definition of a commercial kennel as outlined in his
7 proposal. Following some discussion about commercial kennels/ animal day
8 care facilities in other towns, A. Garron summarized that staff and the Board
9 will need to examine first what benefits they would expect from these facilities,
10 then find the most appropriate areas in which to place them. A. Rugg
11 suggested staff investigate what other towns have done regarding the zoning
12 of commercial kennels and with along with other research, return to the Board
13 with a presentation for a workshop discussion.

14
15 B. Discussion about amending the Planning Board Rules of Procedure regarding
16 staff presentation of comments and recommendations.

17
18 Board member T. Freda recently asked if the Rules of Procedure could be
19 amended to allow an applicant the chance to waive the verbatim reading of any
20 or all staff comments/recommendations to the Board regarding their project.
21 The actual documents would still be made part of the public record, but
22 forgoing the reading of the sometimes very technical and relatively minor
23 comments/recommendations would help avoid needlessly lengthy
24 presentations. Regarding the conduct of public hearings, Section 6.4 now
25 reads:

26
27 ***"6.4. The Town staff will present any comments or***
28 ***recommendations to the Board."***

29
30 T. Freda proposed to change Section 6.4 to read:

31
32 ***"6.4 The Town Staff will present any comments or***
33 ***recommendations to the Board and may do so orally or in writing.***
34 ***With the consent of the applicant(s), the applicant(s) may waive***
35 ***any or all of the public reading by Staff of its comments.***
36 ***Notwithstanding any waiver of public reading, Staff's written***
37 ***recommendations shall be entered into the record of the hearing***
38 ***and the minutes of the meeting. Copies of any such***
39 ***recommendations shall be furnished to any member of the public so***
40 ***requesting."***

41
42 Staff is supportive of the language, with the exception that the words
43 "comments" and "recommendations" found individually in the section be
44 replaced with "comments or recommendations." A. Garron, however, advised
45 that checklist items and associated waivers should still be read into the record
46 to keep the Board informed of exactly what exceptions applicants are seeking
47 from site plan and subdivision regulations. When summaries are given in place
48 of a verbatim reading, the Board and/or the public can always request that
49 more details be provided by staff on any particular item. The Board will still
50 have the entire document available to them during the meeting and hard

1 copies will be available to the public prior to the start of the meeting.
2 Comments and recommendations are also made part of subsequent meeting
3 minutes.

4
5 [M. Soares left the meeting at 8:03 PM].
6

7 Two readings of the proposed language are required at successive meetings
8 before a vote can be taken at a third meeting. With this being the first
9 reading, the second reading will take place at the May 9 meeting and a vote
10 can take place on June 6.

11
12 **Adjournment:**

13
14 **L. Wiles made a motion to adjourn the meeting. J. Laferriere seconded**
15 **the motion. Vote on the motion: 7-0-0.** The meeting adjourned at 8:05 PM.

16
17 These minutes prepared by Jaye Trottier, Community Development Department
18 Secretary.

19
20
21
22 Respectfully Submitted,

23
24
25
26 Lynn Wiles, Secretary

MICHELS & MICHELS
ATTORNEYS AT LAW
25 NASHUA ROAD
P. O. BOX 980
LONDONDERRY, NH 03053-0980

JOHN R. MICHELS
NANCY H. MICHELS
CAROLE A. MANSUR

TELEPHONE
(603) 434-1717
FAX
(603) 434-6114

May 1, 2012

Arthur Rugg
Chairman
Londonderry Planning Board
268 Mammoth Road
Londonderry, NH 03053

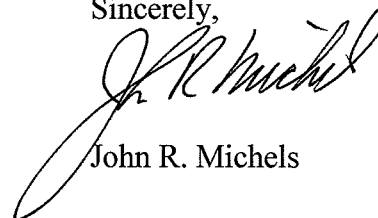
Re: Woodmont Commons Planning Board Meeting of May 2, 2012

Dear Mr. Chairman:

On behalf of Applicants, Pillsbury Realty Development, LLC and the Woodmont PUD (collectively, "Pillsbury"), I am hereby requesting a continuance of the Woodmont Commons Application Acceptance and Public Hearing (Item I.A.) until the Planning Board's next regular meeting on June 6, 2012.

Thank you for your consideration.

Sincerely,



John R. Michels

JRM/s



TOWN OF LONDONDERRY

Building, Health & Zoning Enforcement

268 Mammoth Road
Londonderry, New Hampshire 03053
432-1100 ext. 115 Fax: 432-1128

To: Art Rugg, Planning Board Chairman
Cynthia May, Town Planner

From: Richard G. Canuel, Zoning Administrator

Date: April 19, 2012

Subject: Zoning Ordinance Amendment regarding commercial "Kennels"

There are presently no provisions in our Zoning Ordinance addressing commercial kennels as a permitted use in any of the established zoning districts. The only reference to "kennels" is contained in Section 2.3.1.4 pertaining to the lot size and setback provisions for the keeping of livestock. Also, the existing supporting definition of a kennel is very broad.

Based on the broad definition and limited reference to kennels in the ordinance, it has been interpreted that the intent of the ordinance is to limit this use to the Residential (AR-1) Zone. However, as our ordinance is written, and customarily applied; if a particular use is not listed or does not fit within any of the categories among those uses in the Table of Uses, that use is considered Not Permitted.

Therefore, any commercial kennel use would require a property owner to apply to the ZBA in request for a Variance. Considering the variance criteria, the ZBA would be hard pressed to grant such waiver to the ordinance without having specific provisions in which to reference.

On the other hand, it does not seem appropriate to limit a kennel use to the residential zone where a considerable number of dogs on a property could create a nuisance by the increase in noise and odor, etc. Likewise, it seems unreasonable to restrict kennels from the commercial district as a permissible business use. Not allowing kennels as a commercial business use anywhere in Londonderry is overly restrictive.

Under the current provisions of our ordinance, if I were to classify a "commercial kennel" as a use, it would more closely fit the definition of a Service Establishment. By comparison, the intensity of a kennel use is somewhat out of place with those uses commonly identified as service establishments.

I propose that the Planning Board consider an amendment to the ordinance, which may help to clarify a distinction between kennels and other commercial uses that may be considered Service Establishments. Presently, Service Establishments are permitted in the following zones; **C-I, C-II, MUC, IND-I, IND-II, PUD, AD, POD-102, POD-28**. A kennel as a service establishment may not be compatible with those other uses permitted in these zones. For example, next door to a Restaurant or Assisted Living Facilities.

Understanding that it is preferable to locate those service oriented businesses along well traveled corridors. However, the very nature of a kennel operation may require a more controlling mechanism in the form of a Conditional Use Permit.

I recommend the following zoning ordinance amendments for the Board's consideration:

Amend Section 2.2 Table of Uses in the BUSINESS USES category.

Insert "***Kennel***" (*commercial*) as a use allowed by Conditional Use Permit in **C-II / POD-102 / POD-28**

Amend Section 2.6 Overlay Districts, Sub-Section 2.6.1.6.3 Uses permitted by conditional use permit.

Insert new section: **2.6.1.6.3.4 Commercial Kennels**

Furthermore, considering the likelihood of a large kennel facility, it may not be unreasonable to allow such a use in the Industrial-I zone where the generation of noise and odors may not be objectionable.

Amend Section 2.2 Table of Uses in the BUSINESS USES category.

Insert "***Kennel***" (*commercial*) as a use allowed in IND-I

Amend Section 4.7 DEFINITIONS

Insert new definition:

KENNEL(*commercial*): *An establishment licensed to operate a facility housing dogs, cats or other household pets and or where grooming, breeding, boarding, or training of animals is conducted as a business.*

I thank the board for their time and consideration