

1 **LONDONDERRY, NH PLANNING BOARD**
2 **MINUTES OF THE MEETING OF October 10, 2012 AT THE MOOSE HILL**
3 **COUNCIL CHAMBERS**

4
5 Members Present: Art Rugg; Mary Soares; Lynn Wiles; Laura El-Azem; Chris Davies;
6 Jim Butler, Alternate Ex-Officio; Rick Brideau, CNHA, Ex-Officio; John Laferriere, Ex-
7 Officio; Leitha Reilly, alternate member; Maria Newman, alternate member

8
9 Also Present: André Garron, AICP; Cynthia May, ASLA; John Trottier, P.E.; Libby
10 Canuel, Building Division Secretary

11
12 A. Rugg called the meeting to order at 7 PM. He appointed L. Reilly to vote for Dana
13 Coons.

14
15 A. Rugg thanked Director of Planning and Economic Development A. Garron, who has
16 accepted a position at the University of New Hampshire, for his 13 years of dedicated
17 and professional service to the Town.

18
19 [J. Butler arrived 7:02 PM]

20
21 **Administrative Board Work**

22
23 A. Extension Request – Nicom Commercial Development (15-67)

24
25 C. May stated that Nicom Coatings Corporation is requesting a one year extension
26 of their conditionally approved site plan that will expire on October 21, 2012. The
27 project originally received conditional approval in 2009 and has received two
28 extensions since then. She said staff is supportive of the request, as there have
29 been no changes to ordinances or regulations impacting the project.

30
31 **M. Soares made a motion to grant a one year extension to October 21,**
32 **2013. L. Wiles seconded the motion.** No discussion. **Vote on the motion:**
33 **9-0-0.** The extension for one year was granted.

34
35
36 B. Discussions with Town Staff

- 37
38 • 7 Summer Drive subdivision

39
40 J. Trottier updated the Board on the 7 Summer Drive two lot subdivision that was
41 conditionally approved at the October 3, 2012 meeting. At that time, the applicant
42 had asked if the Board would be amenable to signing the plans at this meeting,
43 assuming all conditions were fulfilled by then. J. Trottier reported that not all
44 conditions have been met to date but asked on the applicant's behalf whether the
45 Board would be willing to hold a special meeting later in the month to sign the
46 plans once all conditions are met (see next item as well).

- 47
48 • Orchard Christian Fellowship

49
50 J. Trottier stated that the Orchard Christian Fellowship has requested a special

1 meeting of the Planning Board later in October to sign their site plan, assuming
2 they are able to meet the conditions of their approval. If the Board is agreeable,
3 staff will attempt to coordinate a meeting where both this project and the
4 aforementioned 7 Summer Drive subdivision can be signed at the same time.
5

6 The consensus of the Board was to have staff coordinate a special meeting in
7 October to sign the plans for 7 Summer Drive and Orchard Christian Fellowship
8 once all conditions of their individual approvals have been met.
9

- 10 • Comprehensive Master Plan Update

11
12 A. Rugg confirmed that the final public workshop for the Comprehensive Master
13 Plan update will take place on October 24. Food will be served at 5:30 PM and the
14 workshop will commence at 6:00 PM. He encouraged the public to attend since
15 this would be the last opportunity to provide input before the public hearing is held
16 on November 7.
17

- 18 • Perkins Road inclusionary housing project

19
20 L. Wiles noted that the Zoning Board of Adjustment will be hearing several
21 variances at their October 17 meeting related to tax map 16, lot 3. A conceptual
22 presentation was made to the Planning Board earlier in the year regarding an
23 inclusionary housing project on that lot (see June 13 2012 minutes). A. Rugg
24 noted that the Board's minutes of that conceptual discussion will be available for
25 the ZBA to review. C. May explained that the request, however, has changed since
26 the conceptual discussion, not only pertaining to the number of units being
27 requested but in the fact that the project now also involves lot 16-1. A. Garron
28 added that while the Planning Board can grant a Conditional Use Permit to allow 20
29 units per building under certain circumstances, it would require a variance from the
30 zoning ordinance to permit the 24 units being requested. A. Rugg said that
31 Planning Board members are welcome to attend the ZBA meeting.
32

- 33 • "Fundamentals for Planning Boards and ZBAs"

34
35 A. Rugg reminded Board members that this event will take place October 27 from
36 9 AM to 12:15 PM at the Local Government Center in Concord. Board members
37 can register online at the LGC website and will be reimbursed the \$45 attendance
38 from the Planning and Economic Development Department training budget.
39

40 **Continued Plans**

41
42 A. Pillsbury Realty Development, LLC, Map 10, Lots 15, 23, 29C-2A, 29C-2B, 41,
43 41-1, 41-2, 42, 45, 46, 47, 48, 50, 52, 54-1, 58, 59, and 62 – Application
44 Acceptance and Public Hearing for formal review of the Woodmont Commons
45 Planned Unit Development (PUD) Master Plan [Continued from the September 5,
46 2012 Planning Board Meeting for Application Acceptance.]
47

48 A. Rugg specified that the discussion this evening, including public input, would
49 pertain to application acceptance only. Plan specifics will be discussed at a later
50 date. He stated that an updated submission was received from applicant Pillsbury

1 Realty Development on October 3 and was made available to the public through
2 the Town website on October 4. Copies are also available for review at the Leach
3 Library and the Town Offices. The public may purchase their own copies from the
4 Planning and Economic Development Department.
5

6 A. Rugg identified Town Attorney Mike Ramsdell who directed the Board to
7 entertain the recommendations from Town staff and the Town's third party
8 consultant Howard/Stein-Hudson (HSH) regarding application completeness.
9 Ted Brovitz of HSH explained that in partnership with RKG Associates and Icon
10 Architecture, both the original PUD application as well as the revision and its
11 supplemental material have been reviewed. He reported the team's conclusion
12 that the application is complete because "it has addressed all the specific
13 informational criteria." Attorney Ramsdell added that HSH is preparing a memo
14 that will begin to address more technical aspects of the plan, including critical
15 issues such as traffic impact details and a fiscal impact study. The memo should
16 be submitted by the end of the week, after which it will be made available on the
17 Town website. T. Brovitz said a full analysis based on the individual criteria for the
18 PUD, including what additional information and clarifications are needed from the
19 applicant, will be forthcoming. To begin that examination of the plan, A. Garron
20 suggested first addressing the application's numerous requests for waivers and
21 exemptions from Town regulations. The Board would need to approve or deny
22 those first, just as they would with any site or subdivision plan. Following that, he
23 said, land use and major components such as infrastructure would logically be the
24 next topics to examine. T. Brovitz agreed, adding that the initial determination will
25 need to be about the appropriateness of the waivers. Whatever waivers are
26 granted by the Board, consensus will need to be reached about what standards will
27 be used as alternatives to direct the project over the long course of its
28 development. The major land use issue, he continued, relates to the entire 625
29 acres and the degree of flexibility regarding its proposed 2+/- million square feet
30 of uses. Key discussions will take place concerning what is considered reasonable,
31 and what is acceptable in the long term. Other critical consideration will involve
32 what is included in the proposed sub-districts and what potential impacts that will
33 have on traffic, public facilities, utilities, and services. Attorney Ari Pollack,
34 representing the applicant, stated his client's willingness to engage in all
35 discussions and entertain all input from Town staff and HSH.
36

37 A. Rugg asked for staff input. A. Garron concurred with T. Brovitz's assessment
38 that the application is complete. C. May and J. Trottier had nothing to add.
39

40 A. Rugg asked first for Board input and subsequently for public input. C. Davies
41 and M. Newman complimented the applicant on the improved readability and
42 thoroughness of the submission. T. Brovitz said that was a result of the applicant's
43 development team working with HSH and Town staff. He remarked that the
44 applicant's development team has been very cooperative and has addressed all
45 changes in the submission that HSH felt were needed. M. Soares complimented
46 HSH on their detailed analysis of the latest application and expressed her
47 appreciation for their contribution to the Town. L. Reilly asked T. Brovitz if he felt
48 confident the application meets all the requirements of the PUD ordinance. He
49 responded that it met all the requisite criteria. She then asked if he believed
50 subsequent information would be delivered in a timely manner and he replied that

1 he expected the more in-depth issues would be broached in the next round of
2 meetings between the development team, staff, and HSH. Ideally, he said, all
3 issues will be resolved before returning to the Planning Board. To answer
4 questions posed by J. Butler and resident Ann Chiampa, 28 Wedgewood Drive,
5 about these review meetings, A. Rugg explained that since none of the parties
6 involved are publically constituted bodies, the Right to Know Law (RSA 91-A) does
7 not apply. The meetings are therefore not open to the public. Those who would
8 like to comment or ask questions can do so at those Planning Board meetings
9 when the item is on the agenda, just as they would with any other development
10 project.

11
12 The 65 day time frame under RSA 676:4, i.e. the period within which the Board
13 must either approve, conditionally approve, or deny approval of the project, was
14 discussed at length. Concerns were expressed that 65 days would not be sufficient
15 to address a project of this magnitude. T. Brovitz said he could not supply a
16 definitive response as to whether the deadline can be met, but added he may have
17 a better idea after the upcoming review meetings, depending on what is
18 accomplished. It was noted that under the RSA, the Board can request an
19 extension of the deadline from the applicant. John Farrell, resident at 4 Hancock
20 Drive and Town Council member, asked A. Rugg whether past extensions provided
21 to the Board were open ended. While A. Rugg did not recall specifically, he
22 believed past extensions were for an additional 65 days. He did not think the RSA
23 specifically addressed restrictions on extensions, however in this case, he advised
24 against anything indefinite. J. Farrell asked A. Rugg to consider requesting the
25 Town Attorney work with the applicant's attorney to address and possibly resolve
26 the extension issue before one is needed. Attorney Ramsdell and Attorney Pollack
27 both recognized that 65 days would be a difficult goal to meet, but each expressed
28 their confidence that the parties involved could come to some kind of agreement.

29
30 J. Laferriere cited the preliminary findings submitted by HSH in March where the
31 suggestion was made to break down the project into more "consumable
32 components , (i.e.) multiple PUDs." Based on that and considering the 65 day time
33 restriction, he asked whether the project should be broken out into sections or
34 phases. T. Brovitz instructed that since the project has been presented as one
35 PUD, it should be treated as such, although the Board can choose to do otherwise.
36 If they would prefer there be more than one PUD, they would first have to
37 determine whether it is actually warranted based on the criteria in the application.
38 The applicant would then have to decide whether to proceed in that fashion. If
39 they opted to do so, they would first need to identify the initial phase. However,
40 splitting the project into phases, he added, will not have any influence on the 65
41 day clock. A. Rugg pointed out that the intent of the PUD ordinance is to create a
42 master plan for one contiguous integrated land area. A Master Plan, he explained,
43 acts as an overall vision for a given area and guides the relationships between the
44 various sub-areas. While those connections have not yet been made apparent in
45 his estimation, the unity of the relationships within the entire project must be
46 mapped out in order for the project to function properly. A. Pollack offered that
47 while there is a minimum acreage requirement in the PUD ordinance, there is no
48 maximum. T. Brovitz conveyed that a phasing plan is included in the applicant's
49 submittal, although it is somewhat general and should be enhanced. Mike Speltz,
50 18 Sugarplum Lane, remarked that under the PUD ordinance, the Planning Board

1 has the authority to determine if a tract of land is not contiguous when it is
2 separated by such characteristics as a road. In this case, he said, I-93 splits the
3 overall acreage. He suggested that the Board address the project in two separate
4 PUDs, one east of I-93 and one west, since the proposed uses on each side are
5 very different. This would also serve to simplify the overall project, he said. If the
6 Board chooses to regard the idea of multiple PUDs, he indicated that the issue of
7 completeness would need to be revisited.
8

9 L. Wiles inquired about the ability to alter the application after it is accepted as
10 complete, considering that changes will inevitably occur. A. Garron explained that
11 there is a provision in the PUD ordinance that allows amendments to the Master
12 Plan and provides guidance for that process. Although amendments were not
13 specifically addressed in the submission because they were not required to be, A.
14 Pollack said he intends to discuss with staff and HSH how that process will work. It
15 was noted that minor amendments may not be included in the aforementioned
16 PUD provision, therefore the discussion will need to include that issue.
17

18 A. Chiampa asked if the latest submission was to be incorporated into original
19 submittal of last October. A. Rugg explained that it supersedes the first
20 submission. She also asked for clarification regarding phasing labels and borders
21 between certain maximas. T. Brovitz commented that HSH has already included
22 the request for clarification of those items as part of their technical analysis of the
23 plan.
24

25 Steven Salvage, 15B Trolley Car Lane, pointed out that some existing homes are
26 not identified on any of the applicant's diagrams. He is aware of at least one
27 abutter who was not notified of the public hearing and suggested there could be
28 others. A. Rugg said the issue would have to be looked at more closely.
29

30 M. Speltz questioned the fact that HSH's report on the original submission included
31 the finding of insufficiency regarding specifics for proposed areas of open space as
32 well as others involving natural and cultural resources. He pointed out that the
33 latest submission reflects no change in that conclusion, but he confirmed with T.
34 Brovitz that the information is adequate for purposes of application acceptance.
35 Those issues will be addressed during the technical review and the applicant, he
36 added, has already submitted relevant supplemental material. M. Speltz also
37 expressed concern over the fact that according to the zoning ordinance, in cases
38 where the PUD Master Plan does not specify any land use regulations, underlying
39 Town regulations remain in effect. The applicant's submission, however, contends
40 that underlying zoning does not apply to the PUD Master Plan. He advised that this
41 issue should be resolved before accepting the application as complete, since
42 acceptance will include that specific assertion.
43

44 Resident Jack Falvey said he concurred with the public comments made by M.
45 Speltz.
46

47 There was no further public input.
48

1 **L. El- Azem made a motion to accept the application as complete. R.**
2 **Brideau seconded the motion.** No discussion. **Vote on the motion: 8-1-0**
3 **with J. Laferriere in opposition.** The application was accepted as complete.
4

5 C. May recommended continuing the public hearing to the November 14, 2012
6 Planning Board meeting.
7

8 **M. Soares made a motion to continue the public hearing of the Woodmont**
9 **Commons Planned Unit Development (PUD) Master Plan to November 14,**
10 **2012. L. El-Azem seconded the motion.**
11

12 Concern was again expressed over the 65 day clock, however L. El-Azem reiterated
13 that the two consultant teams and staff will be meeting numerous times within that
14 window, during which technical aspects will be addressed. C. May added that by
15 the next Planning Board meeting on November 7, staff can provide a progress
16 report and should be better able to speak to a general schedule. A. Garron cited J.
17 Farrell's earlier request for the attorneys to confer over the 65 day clock. Attorney
18 Ramsdell said he would be unable to attend the November 7 meeting to revisit the
19 issue, so it was agreed their conclusions would be presented on November 14.
20

21 **A. Rugg called for a vote on the motion.** No further discussion. **Vote on the**
22 **motion: 8-1-0 with L. Wiles in opposition.**
23

24 C. Davies asked to whom comments and questions can be directed from both the
25 Board and the public during the review process. A. Rugg replied that C. May will
26 act as the point person between the Board and the public and HSH and the
27 applicant. M. Soares asked if staff could also provide updates to the Board via
28 email to the Chair. As long as no back and forth communication takes place, A.
29 Rugg said information can be disseminated to the Board by staff and any replies
30 can be sent to C. May.
31

32 Public Hearings

33

34 A. Public Hearing – 2012 (FY 2014 – 2019) Capital Improvement Plan (CIP).
35

36 C. May stated that the document presented tonight is the same as that presented
37 at the September 12 workshop, with the exception of a change in the funding
38 mechanism for roadway improvements requested by Public Works and Engineering.
39 That project would be subsidized through the General Fund and/or grants instead
40 of through a bond measure.
41

42 A. Garron then presented an additional request from the Planning and Economic
43 Development Department regarding a comprehensive rewrite of the Town zoning
44 ordinance. Through the process of updating the Town's Master Plan, it has been
45 noted that the current zoning ordinance lacks vision and direction. A. Garron
46 explained that the Town's ordinance is a compilation of amendments made to the
47 original 1960 document. Since the Master Plan will provide a clear vision for the
48 town, an ordinance capable of reflecting that vision should be in place. The Town's
49 Master Plan consultant only recently provided the estimate of \$200,000 to
50 \$250,000, which A. Garron said is the only reason the request is coming late in the

1 process. It was thought that the scale of the project was significant enough that it
2 should be funded through the CIP instead of the operating budget. Additionally, it
3 was decided that the request should not wait another year since the Master Plan is
4 scheduled for adoption by the end of 2012 and the zoning ordinance will be a key
5 factor in the plan's implementation. Only \$170,000 of the \$200,000 request would
6 be funded through the CIP. The remaining \$30,000 could be supplied through a
7 NH Housing Finance grant (for which applications will be available in January and
8 June of 2013).

9
10 J. Laferriere asked for input from School District Business Administrator Peter
11 Curro and Town Finance Director Susan Hickey. P. Curro described the request as
12 inappropriate for the CIP because a study is not tangible the way software,
13 equipment, vehicles, buildings and infrastructure are. The only time studies are
14 included, he continued, is when they are associated such tangible items. A. Garron
15 asked how the zoning overhaul would be any different than the Master Plan itself
16 which was funded through the CIP. S. Hickey pointed out that the issue of the GIS
17 maintenance program being included in the CIP was an indication that the use of
18 the CIP is already going beyond its original intent of providing for large capital
19 assets. P. Curro suggested establishing a capital reserve fund or a maintenance
20 trust fund. Otherwise, the two agreed the item should be presented as a budget
21 item or through a special warrant article at Town Meeting. A. Rugg stated that the
22 Planning Board could choose to express support for such a warrant article. L.
23 Reilly quoted from page eight of the CIP draft which states that items eligible for
24 the CIP "include new buildings or additions, land purchases, studies, substantial
25 road improvements and purchases of major vehicles and equipment" (emphasis
26 added). She noted that it does not specify that the study must be associated with
27 a capital item.

28 A. Rugg asked for public input.

29 M. Speltz agreed with L. Reilly, saying that the use of the commas in the sentence
30 indicates that the term is not associated with any other item in the list but is
31 instead independent of the others. He said capital reserve funds are for
32 predictable expenses, whether they are constant or periodic, like a piece of
33 equipment that is expected to last only a certain number of years. Updating an
34 ordinance that was established in 1960 fits the criteria for inclusion in the CIP in
35 his opinion because the cost exceeds \$100,000 and it is non-recurring. Although it
36 was brought before the Board after the workshop meeting, he urged the Planning
37 Board to include the request in the CIP.

38 M. Soares agreed with P. Curro and S. Hickey's assessments. She added that she
39 is also not in favor of items being presented so late in the process and that
40 accepting it would set a negative precedent.

41
42 There was no further public comment.

43
44 A. Rugg stated that assuming the Board adopts the CIP plan as presented, it will
45 go next to the School Board and ultimately to the Town Council for their own use.

46
47 **M. Soares made a motion to accept the FY 2014-2019 Capital**
48 **Improvements Plan as written and to forward it to the School Board and**
49 **Town Council. L. Wiles seconded the motion. No discussion. Vote on the**

1 **motion, 8-1-0 with L. Reilly in opposition.**

2
3 **Other Business**

- 4
5 • School Impact Fee Methodology

6
7 A. Garron reported that the Town has contracted with consultant Bruce Mayberry
8 as part of the process of updating the school impact fee methodology. Staff is
9 reviewing his draft now and will coordinate with the School District to ensure the
10 date is specifically relevant to Londonderry. The Board may have it before them
11 for consideration in November. The last comprehensive update was done in 2002.

- 12
13 • Precision Letter site plan

14
15 The Planning Board conditionally approved this site plan in August. A. Garron
16 explained that because it is located within the Town's eco-industrial park, an
17 ecological review is required. He identified Mark Kelly as the consultant the Town
18 has used for the last decade. From 2000- 2005, an eco-advisory committee
19 existed, but no additional projects have been approved in the park since that time.
20 If the Board so chooses, staff can email them the report once it is submitted by M.
21 Kelly and the Board members can in turn email comments back to staff. A. Garron
22 noted that most applicants follow the recommendations of the consultant if they
23 are expected to be economical, even if only in the long run. They are not required,
24 however, to adopt all recommendations in the report.

25 **Adjournment:**

26
27 **M. Soares made a motion to adjourn the meeting. L. Wiles seconded the**
28 **motion. Vote on the motion: 9-0-0.**

29
30 The meeting adjourned at 8:40 PM.

31
32 These minutes prepared by Planning & Economic Development Secretary Jaye Trottier,
33 and Building Division Secretary Libby Canuel.

34
35
36
37 Respectfully Submitted,

38
39
40
41 Lynn Wiles, Secretary