

LONDONDERRY, NH PLANNING BOARD

MINUTES OF THE MEETING OF NOVEMBER 8, 2017 AT THE MOOSE HILL COUNCIL CHAMBERS

I. Call to Order

Members Present: Art Rugg, Chair; Mary Wing Soares, Vice Chair; Leitha Reilly, member; Al Sypek, member Chris Davies, Secretary; Jim Butler, Town Council Ex-Officio; Ann Chiampa (alternate member); Peter Commerford (alternate member) and Roger Fillio (alternate member)

Also Present: Colleen Mailloux, Town Planner; John R. Trottier, P.E., Assistant Director of Public Works and Engineering; Laura Gandia, Associate Planner; and Beth Morrison, Recording Secretary

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance. Chairman Rugg appointed A. Chiampa to vote for S. Benson.

II. ADMINISTRATIVE BOARD WORK

- A. APPROVAL OF MINUTES: N/A
- B. REGIONAL IMPACT DETERMINATIONS: N/A
- C. DISCUSSIONS WITH TOWN STAFF:

Town Planner Mailloux informed the Board that Staff is looking for a Planning Board member to serve as a representative on the Master Plan Implementation Committee. She pointed out that the current agenda for this committee would be looking at pedestrian and bicycle activity. She noted that if any Board members would like more information on this committee, they should let her know as well. L. Reilly pointed out that there would be a breakfast for veterans on Saturday morning in the Matthew Thornton gym.

III. Old Business

- A. Application for formal review of a Site Plan for the construction of a 26,608 SF office/manufacturing facility and associated site improvements, 44 Wentworth Avenue, Map 014 Lot 44-34, Zoned IND-II, Lyimo Construction Co., Inc. (Owner & Applicant) – continued from the October 4, 2017 meeting

Chairman Rugg read the case into record noting the application was continued from the October 4, 2017, meeting. Town Planner Mailloux went over the background timeline for the application. She noted that on October 4, 2017, the Board accepted the application as complete, two waivers were requested and approved, and a

conditional use permit was also approved by the Board. She stated that the Board continued the application in order to resolve some outstanding questions.

Kevin Anderson, Chief of Engineering with Meridian Land Services, Inc., 31 Old Nashua Road, Amherst, NH addressed the Board. He explained that after last month's meeting they have obtained the outstanding Manchester Water Works (MWW) letter of clearance, their New Hampshire Department of Environmental Services (NHDES) alteration of terrain permit and the wetlands dredge and fill permit. He stated that he feels he has addressed staff's comments as well as Stantec's comments and feels the application is complete.

Chairman Rugg opened it up to questions from the Board. J. Trottier reviewed some design review comments for the Board. P. Commerford voiced his concern about the detention pond, given the large amount of impervious area in this plan that is funneled to the two smaller ponds at both ends of the large detention basin. He stated that everything that comes off the parking lot ends up in the pond and could roll into the water table contaminating the water. K. Anderson explained that this is the design method for a wet pond, as the intention is to have a permanent pool of water, and noted that the two depressions on either end are sediment forebays to collect as much run-off as possible. He stated that this is called an extended detention pond, which provides the longest amount of time for water to travel from the inlet to the outlet, to let all the sediment settle down and the plants in the detention pond will eat the pollutants. He also noted there is an inspection and maintenance manual, which requires this system be inspected, maintained and that sediment be removed annually, and submitted to the state. J. Trottier noted that this type of system is state of the art now. M. Soares asked if the state is asking for this inspection to be done. K. Anderson stated that the state is sending letters requesting the inspection be done and documents submitted within thirty days.

Chairman Rugg asked for public input and there was none.

M. Soares made a motion to grant conditional approval of the site plan for an office/manufacturing facility and associated site improvements, 44 Wentworth Road, Map 14, Lot 44-34, Lymo Construction Co. Inc. (Owner & Applicant) in accordance with plans prepared by Meridian Land Services, dated June 30, 2017, last revised October 5, 2017 with the following precedent conditions to be fulfilled within 120 days and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated November 8, 2017

C. Davies seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board.

Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated November 8, 2017.
2. All required permits and approvals shall be obtained and noted on the plan, including NHDES Alteration of Terrain, NHDES Wetlands Permit, Federal Aviation Administration approval, and Londonderry Sewer Discharge permit. The Applicant shall indicate the permit approval numbers on the cover sheet and provide copies of all permits for the Planning Division files.
3. The Applicant shall note all waivers granted on the plan.
4. The Applicant shall note the approved Conditional Use Permit on the plan.
5. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
6. Third-party review fees shall be paid within 30 days of site plan approval.
7. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
8. Final engineering review.

PLEASE NOTE – If these conditions are not met within 120 days of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.

2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
4. Fire department access roads shall be provided at the start of the project and maintained throughout construction. Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.
5. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.
6. Site improvements must be completed in accordance with the approved plan prior to the issuance of a certificate of occupancy. In accordance with Section 6.01.d of the Site Plan Regulations, in circumstances that prevent landscaping to be completed (due to weather conditions or other unique circumstance), the Building Division may issue a certificate of occupancy prior to the completion of landscaping improvements, if agreed upon by the Planning Division & Public Works Department, when a financial guaranty (see forms available from the Public Works Department) and agreement to complete improvements are placed with the Town. The landscaping shall be completed within 6 months from the issuance of the certificate of occupancy, or the Town shall utilize the financial guaranty to contract out the work to complete the improvements as stipulated in the agreement to complete landscaping improvements. ***No other improvements shall be permitted to use a financial guaranty for their completion for purposes of receiving a certificate of occupancy.***
7. As built site plans must to be submitted to the Public Works Department prior to the release of the applicant's financial guaranty.

IV. New Plans/Conceptual/Non-binding Discussions -

A. Review of a waiver request to allow the opening of Michel's Way for public use without completion of all conditions as stated on the approved site plan, specifically without a 1.5" wearing course of pavement and the approved landscaping, for the Woodmont Commons Phase 1 Planned Unit Development (PUD) , Subarea WC-1, WC-1-GL, and WC-2, 34 Nashua Road (Map 010 Lot 52), 5 Garden Lane (Map 010 Lot 54-1) and 15 Pillsbury Road (Map 010 Lot 41) , Pillsbury Realty Development (Applicant) and Demoulas Supermarkets,

Inc. (Owner), Robert D. & Stephen R. Lievens (Owner), and Pillsbury Realty Development, LLC (Owner)

Chairman Rugg read the case into record. Town Planner Mailloux went over the background timeline regarding this application. J. Trottier explained that the applicant has requested a waiver from Section 6.01c of the Site Plan Regulations to allow Michels Way be opened for public use prior to placement of the pavement wearing course on the site. This project was approved by the Planning Board in 2016. The northern segment of Michels Way is nearing completion and the applicant is requesting authorization to open the northern segment of Michels Way prior to completion of the wearing course of pavement. Because the regulations require that **all** site improvements be completed (with the exception of landscaping which may be bonded for), this waiver is being requested. As a condition of the waiver, the applicant will establish an escrow account for the installation of the pavement wearing course and permanent pavement markings. Approval of this waiver will allow for vehicular traffic to continue to access the existing Market Basket plaza while construction continues along the segment of Michels Way along the plaza's frontage. When the through connection from Pillsbury to Route 102 is open, it will also enable the applicant to begin to monitor traffic flow in the area as required in the 2016 conditions of approval. He noted that Staff supports the granting of this waiver with the following conditions:

1. Appropriate financial guarantee is provided to the satisfaction of the Department of Public Works to ensure installation of the wearing course of pavement and final pavement markings.
2. Wearing course and final pavement markings will be completed during the 2018 construction season.

Jeffrey Kevan, TF Moran, 48 Constitution Drive, Bedford, NH addressed the Board. He stated that their goal is to get the road open to help alleviate some traffic during the Thanksgiving holiday period and felt that J. Trottier summarized everything very clearly.

Chairman Rugg opened it up to the Board for questions. L. Reilly asked if there were any safety concerns. J. Trottier stated that there would be appropriate signage and markings. M. Soares asked if the sidewalk would be going in on the other end of Michels Way as well. J. Kevan stated that it would. C. Davies asked how long this would take. J. Kevan stated that they would work until the weather is bad and anticipates finishing in the spring. P. Commerford asked if this section would be closed completely during the winter. J. Kevan stated that it would not. A. Chiampa voiced her concern about people not being familiar with roundabouts in combination with bike lanes. M. Soares asked if there would be a stop sign at the roundabouts. J. Kevan stated there would not.

Chairman Rugg opened it up to the public.

Ray Breslin, 3 Gary Drive, addressed the Board and asked several questions

regarding traffic flow. J. Kevan answered the questions stating that the road will remain open. R. Breslin asked if there will be lighting at night. J. Trottier stated there would be street lighting. R. Breslin asked when it would be open. J. Kevan stated the week before Thanksgiving. R. Breslin expressed his opinion that he thought people would use this as a cut through and increase traffic that is already high in volume. R. Breslin asked if there was restriction on what type of vehicle could use this. J. Kevan stated there is no restriction on the use of the road. R. Breslin asked if this road was going to become a public way and a responsibility for the Town. Town Planner Mailloux explained that under the site plan approval all the roads are private roads. R. Breslin pointed out that if one were to read the agreement, it states that it can become a public road, which would be the Town's responsibility to plow and maintain, and needs to be clarified. A. Rugg stated that it would be checked out. J. Kevan commented that it has always been their stance that it is a private road to be maintained by the development, as well as all the roads inside the development.

Chairman Rugg brought the discussion back to the Board. A. Chiampa asked if in the future a possible right hand turn from Gilcreast going west onto Michels Way would be possible. J. Kevan stated that would be looked at when they start monitoring traffic to determine if that is necessary. L. Reilly stated that she wanted to point out that there are roundabouts within this road and she thought that would deter people from trying to cut through. J. Butler added that these roundabouts are smaller than the ones at Otterson and they slow traffic down.

M. Soares made a motion to grant the waiver from Section 6.01c with the following conditions:

1. Appropriate financial guarantee is provided to the satisfaction of the Department of Public Works to ensure installation of the wearing course of pavement and final pavement markings.

2. Wearing course and final pavement markings will be completed during the 2018 construction season.

J. Butler seconded the motion.

The motion was granted, 7-0-0. The Chair voted in the affirmative.

J. Trottier left the building.

V. Other Business

A. GMO Discussion

Town Planner Mailloux informed the Board about the results of the two growth management information sessions that were done at the request of the Town Council. She stated that the information covered in these sessions were what the Town and Board can and cannot do to manage growth. She noted that the Growth

Management Ordinance (GMO) had sunset in 2015 and ironically coincided with a number of development projects that had been previously approved and had started to build out. She stated that the public was informed that the Town would first need to conduct a capacity analysis to determine if another GMO was warranted, to see if the Town met the statutory criteria. She stated that trying to find out what the underlying problem is related to growth might be more beneficial to the Town than performing a capacity analysis. She went over examples of looking at zoning ordinances and the Town's policies of acquisition of open space as tools to manage growth, rather than the GMO. She stated that the public wanted to make sure that the Town was being transparent in what is going, had a lot of concerns about traffic, concerns about incentivizing elderly housing and lastly a concern about rental of work force housing or multifamily housing versus home ownership of housing. She also stated that there was also concern about water resources. She asked for any input from the Board.

A. Rugg stated he would like to look at the map for workforce housing again. C. Davies stated that right now Stonehenge is permitted because it is abutted by 8 lanes of highway. Town Planner Mailloux stated that the map could be looked at again by the zoning administrator to make sure it is correct. C. Davies stated there was discussion at the meeting regarding the calculations that are used for high density housing and the impact on schools. Town Planner Mailloux noted that this will be ongoing for review of those numbers. L. Reilly stated that with the schools they are seeing growth due to turn over in housing stock, not by developments, and it is cyclical in nature. R. Fillio expressed his opinion that there are no two bedroom houses for sale in Londonderry with a small yard due to the minimum lot size in town for houses. Town Planner Mailloux stated that she had watched a conference put on by New Hampshire Finance Authority about housing and the economy that pointed out that small homes are not being developed anymore. C. Davies asked what the next step was. Town Planner Mailloux stated that a write up would be sent to the Town Council regarding the issues that were brought forward and the recommendations. She explained that in her opinion, she does not think going forward with a GMO is the way to go. A. Chiampa asked what the downside would be to perform the capacity analysis. Town Planner Mailloux stated that there really is nothing to lose, but spending the tax payer money to hire a consultant to do the analysis.

B. 55+ Housing Density Discussion

Town Planner Mailloux informed the Board that the Town is allowing the developer an incentive for this type of housing. She stated that the Town feels strongly on having affordable senior housing, but to provide density bonuses and incentives for senior housing just because it is 55+ is being questioned. She noted that the trend from AARP is for the towns to let the market drive what type of developments are built. She asked if the Board would like to look at the elderly housing ordinance and look at the densities that the Town is allowing and encouraging.

A. Rugg stated that he hears from people all the time that the town has too much of this type of housing. A. Sypek stated that the Town should look at assistive living facilities in town as they are far exceeding the number of calls they thought they would have and are putting a drain on the emergency personnel in town. M. Soares asked when the last census was in town. Town Planner Mailloux stated that with the new office of strategic initiatives there are population numbers, not as detailed as a census, but she does know that the Town is nowhere near the threshold for elderly housing. P. Commerford stated that at some point, there is going to be empty houses because the population will not support it if these type of developments keep being built. Town Planner Mailloux summarized that Staff will look at the limitation on the number of units and at the density and number of units allowed per acre. M. Soares asked how much buildable land is left in the AR-1 and C-II districts in the Town. Town Planner Mailloux stated that would be a job for Amy Kizak, the new GIS manager, and she would ask her for this and get back to the Board.

C. Zoning Ordinance

Town Planner Mailloux informed the Board that she was last in front of the Board in August and September to talk about this. She explained that she is going through the definition sections, organizing and focusing on the formatting of the document with the goal to send the fully revised document to the Board in first week in December. She went on to say that in the work session on December 13, 2017 the Board can review this document and answer any questions or concerns, and ultimately schedule a public hearing for January 2018. She informed them that site plan regulations changes will be coming in December as well for review with the goal for a public hearing in January.

D. Review of Planning Board Rules of Procedure/Public Comment Inclusion discussion

L. Gandia introduced the topic of public comment (outside of the public hearings). She reminded the Board that members of the public requested the ability to come in and speak to the Planning Board on a variety of topics. She pointed out that the Town's attorney advised against having open-ended public comment discussion. She noted that she did take an informal poll of the Board and the results were overwhelmingly opposed to having a public comment session, 9 opposed and 3 in favor. She stated that the 3 in favor still wanted some type of restrictions placed on an open-ended public comment discussion. She stated that if a member of the public wants to come and speak to the Planning Board, he/she can provided that they contact the Planning Staff to be placed on the agenda. She went on to inform the Board that when researching this she contacted surrounding Planning Board communities (Derry, Windham, Litchfield, Manchester and Salem) about this, and none allow open-ended public comment discussion. She stated based on her interactions with some of these communities that these communities held the opinion that any public comments to the Planning Board from the public, that was not part of a public hearing, should be submitted to the Planning Board in writing.

She pointed out that this opinion was substantiated by concerns of prejudicing the Board on applications or pending applications. She concluded by asking the Board if they want to have open-ended public comment discussion and do they want to continue to have the public have the ability to contact Planning Staff to be placed on the agenda, which is not in the bylaws currently.

A. Chiampa stated that she was for this with restrictions, as she feels people should have the right to speak. A. Rugg explained that the Planning Board is more judicial in nature and each member of the Board acts as a juror. P. Commerford stated he was against the open-ended public discussion. R. Fillio stated that he felt the public could contact Staff and be placed on the agenda to voice their opinion. M. Soares stated she would like it put in the bylaws and have it restricted to 3 minutes. L. Reilly asked if people could send an email to the Planning Board as a group if they have a question. Town Planner Mailloux stated that she would not encourage that because with RSA 91:A it could be considered a meeting. She recommended the public contact Staff first and get filtered through the appropriate channels. A. Sypek stated he agreed with the attorney and feels public comment should be limited to the content of the public hearing. J. Butler stated he agreed as well. Further discussion continued. L. Gandia stated that she felt the consensus was for no open-ended public comment, except for what is available during a public hearing and the Board agreed. L. Gandia explained some other housekeeping items regarding language in the secretary role, adding in Regional Impact Determinations as administrative board work and removing language regarding the signing of plans. M. Soares stated that she did not want to take out the language regarding the signing of plans because she felt it was important for the Chair to designate members. L. Gandia stated it would be kept in, but would be limited to regular Planning Board members and not alternate members.

VI. Adjournment

Member M. Soares made a motion to adjourn the meeting at approximately 09:20 p.m. Seconded by A. Sypek.

The motion was granted, 7-0-0.

The meeting adjourned at approximately 09:20 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,



Chris Davies, Secretary

These minutes were accepted and approved on December 6, 2017 by a motion made by M. Soares and seconded by R. Bideau.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: November 8, 2017

Application: Public Hearing for formal review of a site plan for a 26,000 square foot office/manufacturing facility and associated site improvements, 44 Wentworth Avenue; Map 14, Lot 44-34, Zoned IND-II, Lymo Construction Co. Inc. (Owner and Applicant).

- Completeness: The Board accepted this application as complete on October 4, 2017.
- Waivers: On October 4, 2017, the Board approved two waivers to the site plan regulations regarding driveway separation and identification of trees in excess of 15" on the existing conditions plan. The Board denied a waiver request to not provide a utility clearance letter for water.

The Applicant has since obtained a utility clearance letter from Manchester Water Works.

- Conditional Use Permit: On October 4, 2017, the Board approved a Conditional Use Permit to allow a permitted use within the Conservation Overlay District.
- Recommendation: Based on the information available to date, Staff recommends that the Planning Board **CONDITIONALLY APPROVE** this application with the Notice of Decision to read substantially as follows:

Board Action Required: **Motion to grant conditional approval of the site plan for an office/manufacturing facility and associated site improvements, 44 Wentworth Road, Map 14, Lot 44-34, Lymo Construction Co. Inc. (Owner & Applicant) in accordance with plans prepared by Meridian Land Services, dated June 30, 2017, last revised October 5, 2017 with the following precedent conditions to be fulfilled within 120 days and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated November 8, 2017:**

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated November 8, 2017.
2. All required permits and approvals shall be obtained and noted on the plan, including NHDES Alteration of Terrain, NHDES Wetlands Permit, Federal Aviation Administration approval, and Londonderry Sewer Discharge permit. The Applicant shall indicate the permit approval numbers on the cover sheet and provide copies of all permits for the Planning Division files.
3. The Applicant shall note all waivers granted on the plan.
4. The Applicant shall note the approved Conditional Use Permit on the plan.
5. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
6. Third-party review fees shall be paid within 30 days of site plan approval.
7. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
8. Final engineering review.

PLEASE NOTE – If these conditions are not met within 120 days of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case

of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

4. Fire department access roads shall be provided at the start of the project and maintained throughout construction. Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.
5. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.
6. Site improvements must be completed in accordance with the approved plan prior to the issuance of a certificate of occupancy. In accordance with Section 6.01.d of the Site Plan Regulations, in circumstances that prevent landscaping to be completed (due to weather conditions or other unique circumstance), the Building Division may issue a certificate of occupancy prior to the completion of landscaping improvements, if agreed upon by the Planning Division & Public Works Department, when a financial guaranty (see forms available from the Public Works Department) and agreement to complete improvements are placed with the Town. The landscaping shall be completed within 6 months from the issuance of the certificate of occupancy, or the Town shall utilize the financial guaranty to contract out the work to complete the improvements as stipulated in the agreement to complete landscaping improvements. **No other improvements shall be permitted to use a financial guaranty for their completion for purposes of receiving a certificate of occupancy.**
7. As built site plans must to be submitted to the Public Works Department prior to the release of the applicant's financial guaranty.