

**Moultonborough Planning Board
P.O. Box 139
Moultonborough, NH 03254**

Regular Meeting

November 24, 2009

Minutes

Present: Members: Natt King, Eric Taussig, Joanne Coppinger
Alternates: Peter Jensen; Town Planner: Dan Merhalski
Excused: Members: Judy Ryerson, Jim Bakas, Jane Fairchild, Ed Charest (Selectmen's Representative)
Alternates: Keith Nelson

I. Pledge of Allegiance

Mr. King appointed Peter Jensen to sit on the board with full voting privileges in place of Jane Fairchild.

II. Approval of Minutes

Motion: Mrs. Coppinger moved to approve the Planning Board Minutes of November 10, 2009, seconded by Mr. Jensen, carried unanimously with Mr. Taussig abstaining.

Motion: Mrs. Coppinger moved to approve the Planning Board Work Session Minutes of November 18, 2009, seconded by Mr. Jensen, carried unanimously with Mr. Taussig abstaining.

III. New Submissions

1. Lakes Region Conservation Trust (408-2)(455 Old Mountain Road) Subdivision

This is a request for a subdivision creating two new parcels totaling approximately 130 acres within the LRTC's 5,381 acre Castle in the Clouds property.

Motion: Mr. Taussig moved to accept the application of **Lakes Region Conservation Trust (408-2)** and to schedule a hearing this evening to be Hearing #2, seconded by Mrs. Coppinger, carried unanimously.

IV. Boundary Line Adjustments

V. Hearings

1. Nica-Lee Realty Trust – Michael Morgan, Trustee (44-33) (1070 Whittier Highway) Continued Site Plan Review

Dave Dolan, agent for the applicant noted that this was a continued hearing for site plan review for Nica-Lee Realty Trust. The Board had requested revised plans addressing the drainage issues on-site, parking and the depiction of the dumpster location on the site. Mr. Dolan provided the Land Use Office with revised plans and a letter dated November 17, 2009 from Mark R. Moser, P.E. Other revisions to the plan included

the delineation of parking spaces and the depiction of the dumpster location. Mr. Dolan referred to the Planners memo of November 20, 2009 and addressed each of the items.

There was a discussion regarding the number of parking spaces shown as 20. Mr. Merhalski stated he had received an e-mail from the Fire Chief noting his concerns with the two parallel parking spaces located near the hammer-head. Mr. Morgan agreed to eliminate these two spaces.

Mr. Taussig questioned the lot coverage, noting the legend on the plan refers to gravel and pavement coverage. Mr. Dolan will revise the plan to correctly reflect pavement as there is no gravel on-site.

Mr. Dolan stated they have requested a Conditional Use Permit to allow the fence to be constructed within the required setback.

Mrs. Coppinger questioned a few items on the plan, and asked if and when the wetlands were re-delineated. Mr. Dolan stated the wetlands were re-delineated by Peter Shauer on October 26, 2009.

Mr. King questioned the location of the dumpster, noting it was close to the wetlands. Mr. King noted the depiction of a 12" drain pipe and questioned where it went. Mr. Dolan stated he was not aware where it went and that it did not appear to provide any drainage. Mr. King requested the drain be capped.

Mr. King stated that there were a lot of changes made to the site and would be more comfortable if the Board did a site walk of the property. Board members were in agreement with Mr. King.

Motion: Mrs. Coppinger moved to continue the hearing for **Nica-Lee Realty Trust (44-33)** to December 9, 2009, hearing #3, and to schedule an on-site visit for Wednesday, December 2, 2009 at 9 AM, seconded by Mr. Jensen, carried unanimously.

**2. Lakes Region Conservation Trust (408-2)(455 Old Mountain Road)
Subdivision**

Mr. King noted this was a request for a subdivision creating two new parcels totaling approximately 130 acres within the LRCT's 5,381 acre Castle in the Clouds property.

Don Berry, President of the Lakes Region Conservation Trust (LRCT) presented the application for subdivision. Mr. Berry gave a brief history of the property, noting the LRCT had created the Castle Preservation Society (CPS) about five years ago. The proposal is to create two lots totaling approximately 130 acres within the LRCT property to be transferred to the CPS. The CPS maintains the Castle, associated buildings and surrounding grounds and the LRCT will maintain the majority of the land. The proposal is to subdivide two lots, a 127 +/- acre lot surrounding the Castle in the Clouds, Carriage House, Field, Pasture and Shannon Pond and a second 7 +/- acre lot on Route 171 that will include the Front Gate, Ticket Booth and a storage/maintenance building. The remaining 5,250 acres will still be owned by the LRCT and they will maintain an easement on the CPS property. Mr. Berry answered any questions from the public.

Mr. King read into the record the request for waivers dated October 14, 2009 from Associated Surveyors.

Mr. Berry noted the Town Planners memo of November 5, 2009, and reviewed each of the items in the memo. The Board and Mr. Berry addressed each of the issues, noting they would like the plan revised to increase the frontage on Ossipee Park Road to 150 feet, not including the cemetery. Mr. Berry stated there will need to be an easement between LRCT and the CPS to allow public to park in the existing trailhead parking lot located on property of LRCT. Other revisions to the plan needed are the ROW or easement for the CPS for the roadway up to the Castle from the main gate, depiction of the gate location near the cemetery on Ossipee Park

Road, the addition of the wellhead radii to the plan, Offsite geographic facts (location of CGR's) driveway off Ossipee Park Road as well as a note on the plan for all easements including the existing utility and access easement for the waterline to CGR's bottling plant.

Cristina Ashjian questioned the location of the parking for the Falls of Song. Mr. Berry stated that it was not shown on the plan, as it is on the residual parcel of the LRCT.

Linda Nolin stated the LRCT had come before the Board last year for selective cutting of trees to maintain the view from the castle, noting they were only allowed to cut the trees in a certain area and not remove the stumps. She questioned who would maintain the trees, noting her concern of the water shed into the valley below, which is the source of water for abutter's downhill. Mr. Berry stated the trees will be maintained by the CPS.

Mr. Merhalski had prepared a draft Notice of Decision for the subdivision. Mr. Merhalski reviewed the Notice with the applicant and Board. It was the decision of the Board to grant the waivers as requested due to the nature, size and scope of the project would constitute an undue hardship on the applicant.

Motion: Mr. Jensen moved to approve the subdivision for **Lakes Region Conservation Trust (408-2)** subject to compliance with the Draft Notice of Decision as amended this evening. seconded by Mrs. Coppinger, carried unanimously.

VI. Informal Discussions

VII. Unfinished Business

VIII. Other Business/Correspondence

1. Jonathan Conforti, representative for the **Center Harbor Christian Church** requested to speak to the board on an informal basis regarding **TM 140-12**, 80 Bean Road. Mr. Conforti stated they were in the process of erecting a temporary shed on the property and were told by the Code Enforcement Office they needed board approval prior to making any changes to the site. Mr. Conforti stated that this was a temporary winter storage shed for their plow truck and boat, and that it would be removed in the spring. Mr. Merhalski noted that he is in the process of doing research on work involving church properties and has contacted Town Counsel regarding statutes for churches. He is waiting for a reply from counsel. Mr. Merhalski noted he had received an e-mail from today from the CEO and would like to speak with regarding this issue. It was the decision of the Board that they may not proceed forward until the Planner has had an opportunity to speak with the CEO and receive a reply from counsel.

2. Mr. King noted a letter dated November 18, 2009 from Cristina Ashjian, Chair of the Moultonborough Heritage Commission. In an effort to help identify and communicate matters of interest to the Heritage Commission they have asked that the Planning Board submit a comment sheet for applications to the Heritage Commission similar to the comment sheet sent to the Conservation Commission. It was noted that comment sheets are also sent to the CEO, Fire Department, Police Department and Road Agent. It was the decision of the Board to include the Heritage Commission in this process.

3. Mr. King noted the Town Planners Memorandum of November 16, 2009 regarding 2009 Legislative Changes.

4. Mr. King noted Mrs. Fairchild's e-mail of November 23, 2009 requesting the Board delay the sign ordinance discussion until the next work session due to a conflict with her schedule, she was not able to attend this evening. The Board will discuss the proposed draft sign ordinance on December 2, 2009.

5. Mr. King noted the Code Enforcement Officers letter of November 12, 2009 relating to sign issues. As this is related to the draft sign ordinance, it was the decision of the Board to take this up on December 2, 2009 when they discuss the proposed draft sign ordinance.

6. Mr. King noted the Code Enforcement Officers letter dated August 27, 2008, and resubmitted again in September and November 18, 2009 relating to compliance issues. The Board agreed that this is very important but due to the time restraints for completing the draft ordinances for Town Meeting, decided to place this item on hold until after they are finished with work sessions and public hearings for the upcoming Town Meeting.

7. Board of Selectmen Draft Minutes of November 19, 2009 were noted.

8. Mr. King polled Board members present regarding attendance for the meeting of December 21st and 23rd.
12/21/09: Mrs. Coppinger, Mr. Taussig and Mr. King will be attending, and Mr. Jensen will not be attending.
12/23/09: Mr. Jensen, Mr. Taussig and Mr. King will be attending, and Mrs. Coppinger will not be attending as she will be stepping down for the only scheduled hearing.

Discussion of Revised Draft Ordinances

Mr. Merhalski reviewed the proposed Special Exception Amendment, noting the Board had requested tightening up the requirements for obtaining a Special Exception. Mr. Taussig noted his concerns with this, as a Special Exception runs with the land. He suggested a Special Use Permit that would not run with the land. The Board discussed this issue, with Mr. Taussig stating he had previously proposed the repeal of Special Exceptions, noting applicants could apply for a variance.

Motion: Mr. Taussig made the motion to repeal Special Exceptions for commercial uses in Residential/Agricultural Zones, Article VI(A)(3), VI D, E and sections of Article VII of the Zoning Ordinance, seconded by Mr. Jensen

After discussion on the motion, it was the decision of the Board to table this discussion until the next work session when more members are able to be present as this is a big change. It was noted the four members present this evening were in favor of the elimination of special exceptions.

Motion: Mr. Taussig amended his motion to table the discussion until the work session on December 2, 2009, seconded by Mr. Jensen, carried unanimously.

The next item for discussion was the discussion of Draft Revisions to Route 25 Commercial Zones Ordinances. Mr. Merhalski stated he had made changes based on comments he had received from Board Members. There were changes to the dimensional requirements and the buffers on the A, B and C zones. It was noted Mr. Nelson had concerns regarding the beam from headlights and it was the agreement of the Board that headlights should be screened to the greatest extent possible. It was the decision of the Board to continue the discussion relating to Route 25 to the work session on December 2, 2009.

The board discussed items to be included on the agenda for the upcoming work session on December 2nd. It included the discussions relating to special exceptions, a discussion relating to dimensional requirements, a discussion of the sign ordinance, and any other possible amendments for Town Meeting.

IX. Committee Reports

X. Adjournment: Mr. Jensen made the motion to adjourn at 10:36 PM, seconded by Mr. Taussig, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant