

**Planning Board
December 4, 2007**

Members Present: Barbara Freeman, Chair; Bill Weiler, Vice-Chair; Jim Powell, Ex-Officio; Tom Vannatta; Ron Williams; Ken McWilliams, Advisor

Mrs. Freeman called the meeting to order at 7:05 p.m. The Board reviewed the minutes of November 6, 2007 and made corrections.

Mr. Weiler made a motion to accept the minutes of November 6, 2007 as corrected. Mr. Vannatta seconded the motion. All in favor.

CASE: 1985-013: North Peak Village – Condominium Development – Route 103

Mrs. Freeman informed the Board that Paul LaCasse, Building Inspector/Code Enforcement Officer has asked the Board's input on a building permit application for a deck to be constructed on one of the condominium units at North Peak Village. The deck would not be within the approved building footprint and will encroach into the common area.

The Board reviewed the recorded plan #10694 from the Merrimack County Registry of Deeds dated November 2, 1988. The sense of the Board was that since this condominium development was approved under different regulations, the addition of a deck does not automatically trigger a revised site plan review hearing. The applicant should research the declarations of the Home Owner's Association to determine if this proposal is allowed within the covenants and restrictions. If the North Peak Home Owner's Association provides for additions and/or alterations, then the building permit may be issued without Planning Board approval of a revised site plan review. If there are no provisions within the Association documents, then the applicant will need to apply to the Planning Board for a revised site plan review and permission for encroachment into the common area.

CASE: 2007-013: Minor Subdivision – Final Hearing – John Hay Wildlife Refuge/Land of the United States of America – 456 route 103A – Map 18 Lot 232-347

Notice is hereby given that the Planning Board will receive submission of an application from the Land of the United States of America (John Hay Wildlife Refuge) for a final hearing for a Minor Subdivision at 456 Route 103A, Tax Map 18 Lot 232-347, on Tuesday December 4, 2007 at 7:15 pm in the Town Office Building at 937 Route 103 in Newbury, NH. If the application is accepted as complete, a public hearing on the accepted application will commence at the same meeting.

The Board reviewed the application for completeness. Mrs. Freeman recognized that the Board has reviewed most of the information submitted at the preliminary hearing in October 2007.

Mr. Weiler made a motion to accept the application as complete. Mr. Williams seconded the motion. All in favor.

Michael Peverett, PLS from Civil Consultants presented the subdivision plan. He explained that there were a couple of minor revisions to the plan from what the Board saw in October. There was a typographical error in one of the notes that has been fixed and Note #19 was added *THE LOCUS PROPERTY MAY BE SUBJECT TO AN INDENTURE DATED MARCH, 1904, RECORDED IN THE MERRIMACK COUNTY REGISTRY OF DEEDS IN VOLUME 358 PAGE 248. THE INDENTURE CONTAINS AN AGREEMENT BETWEEN THE SUNAPEE DAM CORPORATION AND VARIOUS PARTIES (INCLUDING JOHN HAY) TO ESTABLISH THE WATER LEVEL OF SUNAPEE LAKE. FOR A COMPLETE DESCRIPTION, REFER TO SAID INDENTURE.* Also 'PARCEL A' has been added to identify the piece that is going to be sold out.

The Board reviewed the plan and had no questions. Mrs. Freeman opened the hearing to the public. There were no questions from the public.

Mr. Williams made a motion that the proposed subdivision of the Fells property be approved as presented. Mr. Weiler seconded the motion. All in favor. The Board signed the mylar for recording.

CASE: Code – 041: Building Code Amendments for Town Meeting 2008

The Board reviewed the 2008 Amendments to the Newbury Building Regulations draft dated November 29, 2007.

Mr. Weiler asked why Article III B.1. is proposed to be deleted.

Mr. McWilliams explained that the State has addressed the International Residential Building Code in its requirements; therefore the Town does not need it in their regulations any more.

Mr. Weiler commented that then the question becomes a matter of enforcement. If the Town does not have the International Residential Building Code in its own regulations, then we cannot enforce it because the State has no intention or resources to enforce the code. He also commented that it would be helpful to add some direction in the regulations to point people to the right RSA regarding what is required to meet the building code.

Mr. McWilliams commented that the place to add that language is within the pages of the guidelines.

Mr. Weiler asked who is in charge of updating the guideline.

Mr. McWilliams advised that he could work with the Building Inspector/Code Enforcement Officer. Since the guidelines are not regulations, they do not require a public hearing.

The Board discussed enforcement criteria of the International Residential Building Code between the State and Town and the importance of the Building Inspector to ensure that safe homes are being built.

Mr. Powell agreed that the Board of Selectmen has an interest in safety. If there is clearly a safety issue, then the Board of Selectmen wants to get involved. Otherwise, the Town should back off. The Board of Selectmen feels that it should only enforce the things that put someone in an unsafe position.

Mr. Weiler commented that the State has a different approach with the International Residential Building Code. They will only enforce the Commercial Code.

Mrs. Freeman commented that this issue should be discussed with Bart Mayer, Town Counsel, before a decision is made to delete the International Residential Building Code from Town regulations.

CASE: Code – 040: Zoning Amendments for Town Meeting 2008

Amendment No. 1

Mr. McWilliams explained that the first of the zoning amendments deals with the Storm Water Management Ordinance. He advised the Board that Article 21.8.7 was written by Bart Mayer and should not be changed.

Mr. Powell asked if anyone has an idea of what it would cost a property owner to conform to this ordinance.

Mr. McWilliams explained that he asked Mr. Hirshberg, Engineer and co-author of the ordinance, that same question. Mr. Hirshberg indicated that it may cost \$500 - \$1000 depending upon the size of the project.

Mr. Weiler suggested that a waiver should be allowed for smaller projects.

Mr. Powell stated that he is an advocate for the rights of property owners to be able to have some relative freedom to do what they want on their own property.

Mr. Weiler explained that the Storm Water Management Ordinance is being proposed because some of those activities cross the property line and have negative effects on neighbors.

Mr. Williams suggested that 21.0.6 be reworded to begin with the word 'Support' instead of Ensure. Also, he suggested that the word 'other' be deleted from 21.4.2.6 to read *The location, shape, and size of all existing structures, utilities, roads and paved areas*. Additionally, Article 21.7.1 should specify the property at the end of the second sentence to read ...'sheet flow into naturally wooded or vegetated areas within the property. Article D. 6.16.2 should include the option of a Land Surveyor to stamp the plans indicating drainage easements as follows: ...'Drainage easements must be indicated on the site plan and stamped by a licensed civil engineer or a land surveyor as part of the building permit application.'

Amendment No. 2

Mr. McWilliams explained that the second of the zoning amendments is to the floodplain overlay district and comes from the Office of Energy and Planning. This amendment updates the existing regulation to be consistent with the models that FEMA follows and is necessary in order to be compliant with federal guidelines. FEMA is in the process of creating new flood plain maps, and there is a workshop in Andover on Thursday, November 13 from 7pm – 8:30 pm to see the proposed maps.

Mr. Williams suggested that Article 10.3 be reworded to be more specific regarding the intent and degree of restoration.

The articles in part A of Amendment No. 2 are the definition changes that need to be made in order to maintain consistency throughout the regulations.

There was no further discussion on the proposed building code and zoning amendments.

CASE: Adm1-061: Masterplan – Land Use Issues, Goals & Recommendations

The Board reviewed the November 6, 2007 draft of Suggested Revisions to Land Use Issues, Goals & Recommendations based on input from the November 3, 2007 Public Forum on Land Use.

Mr. Williams commented that #11 should also address affordable housing. The Board suggested additional revisions that did not change the content of the text.

Mrs. Freeman asked Mr. Powell if he thought it would be helpful to have an Implementation Chapter in the Masterplan.

Mr. Powell commented that in his opinion, the Masterplan is more of an overview and visionary document for the next 10 years and should not be driven by date and duties.

Circumstances can and do change in a matter of a couple of years and sometimes even a couple of months. There needs to be a level of flexibility to be able to change direction and priorities with time if necessary.

Mr. Williams commented that he agrees with Mr. Powell and that implementation should be a process performed jointly by the Town's Boards and Commissions. He suggested that each department should be asked to read through the Master Plan and review the section relevant to their operations and make comment regarding their own schedule of implementation.

Mr. Vannatta commented that he agrees with Mr. Powell and Mr. Williams and suggested that the process be taken one step further by having an annual reporting session among the Board and Commission members to discuss the status of their implementation schedule.

Mr. McWilliams stated that he will draft a paragraph to be added to the Masterplan that is more process oriented for the implementation chapter.

CASE: 2007-020: Conditional Use Permit – Peter Helprin – Mountain Road

Mrs. Freeman asked the Board members to each try to make a site review of the Helprin property on Mountain Road. Mr. Helprin will be coming to the Planning Board in December for a conditional use permit for a driveway at 611 Mountain Road.

Mr. Williams made a motion to adjourn. Mr. Vannatta seconded the motion. All in favor. Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary