

**PLANNING BOARD MEETING
FEBRUARY 27, 2013
AMENDED AND ACCEPTED MARCH 27, 2013**

Meeting Location: Nottingham Municipal Building
Members Present: Troy Osgood, Vice Chair; Susan Mooney, Secretary; Eduard Viel; John Morin; Robert Davies, Alt
Members Absent: Arthur Stockus, Chair; Dirk Grotenhuis; Hal Rafter, BOS Rep; Cheryl Smith, Alt.; Traci Chauvey, Alt
Others Present: Paul Colby, Building Inspector/Code Administrator; Jo-Ann MacInnis, Land Use Clerk; Robert Berner, PSNH; Joseph Falzone, Applicant; Christian Smith, Beals Assoc., PLLC; Gary Anderson, Resident; Mark West, Resident

Vice Chair Troy Osgood called the meeting to order at 7:00 pm. All present introduced themselves. Mr. Davies was seated and voting for Dirk Grotenhuis.

Scenic Road Public Hearing – Ledge Farm Road and Poor Farm Road

Vice Chairman Troy Osgood called the first case:

Scenic Road Public Hearing – Ledge Farm Road and Poor Farm Road – to discuss and/or deny a request from Public Service Company of NH regarding tree trimming and tree removal on the following scenic roads: Ledge Farm Road and Poor Farm Road.

Robert J. Berner, Eastern Region Arborist, Public Service Company of NH, met with the Board requesting permission to trim and remove trees and brush adjacent to and beneath some of its power lines on Ledge Farm Road and Poor Farm Road. Both roads mentioned have been designated scenic roads by the Town.

Susan Mooney questioned if the abutters had been notified. Mr. Berner replied they had not as yet, but will be. PSNH requires their clearing contractor contact each landowner where trees are to be trimmed prior to commencement of work and individual concerns will be addressed at that time. The proposed work will be at the following sites:

- Ledge Farm Road - pole 1/34-33 2 oak trees with defects 6" from phase
- Ledge Farm Road – pole 1/33-32 dead oak stalk by phase
- Ledge Farm Road – pole 1/18-17 2 dead ash/woodpecker holes; 2 declining ash
- Ledge Farm Road – pole 1/15-14 leaning oak leader, 1" from phase

Motion was made by Susan Mooney to grant permission to trim and remove trees and brush adjacent to and beneath power lines as requested by Public Service Company of New Hampshire.

Second: Eduard Viel

Vote: 5 – 0 **Motion Passes**

Page two
February 27, 2013 Meeting – Amended and Accepted March 27, 2013

Case #P10-02-SUB DR Oakridge Road – Harbor St. Limited Partnership

Vice Chair Troy Osgood called the following case:

Case #P10-02-SUB DR – Harbor Street Limited Partnership – 154 acre parcel which fronts both Friar Tuck Lane and Oakridge Road – Map 10 Lots 9 & 10, Map 8 Lots 8-21 and 9. Application for a design review of a proposed 42 lot subdivision. Property is owned by Harbor Street Limited Partnership, Brian and Jennifer Spagna, Seth F. and Pearl I. Peters.

Christian Smith, Beals Associates; and Joseph Falzone, Harbor Street Limited Partnership; met with the Board to discuss this design review.

Mr. Smith stated it has become evident the federal conservation agencies would not be able to fund this project in its entirety, therefore, he and Mr. Falzone met with the Nottingham Conservation Commission seeking the best alternative with regards to the property. He presented an alternative plan showing two (2) cul de sacs, one extending off Friar Tuck Lane and one extending off Oakridge Road. This new alternative plan has a total of twenty-six (26) lots with a large portion of open space between the ends of the cul de sacs. (It should be noted a copy of said “alternative plan” was not left with the Planning Board.)

Mr. Falzone reminded the Board the last time this plan was reviewed he left the hearing with the understanding he would be submitting a conservation subdivision. He went to the government and this parcel has too much upland to fit into the program. He explained his understanding of the NRCS (National Resource Conservation Service) application process, stating that when a new subdivision is accepted to the program the developer sells the development rights of the parcel to be put into conservation to the Federal Government. At this time, by Mr. Falzone’s calculations, the Federal Government pays 74% of the value of a lot in the Town of Nottingham. He advised the Board the alternative plan eliminates fifteen (15) lots in the center of the property and of the 154 acres on this parcel; 107 acres will go into conservation.

Mr. Falzone continued to explain that this evening he has to establish what the Planning Board would like him to do. If the Planning Board wants conservation he will have to submit three (3) sets of plans for this parcel and the Board will need to approve all three (3). He would like the Board to approve (1.) the initial plan submitted for design review showing forty- three (43) lots utilizing all of the land; (2.) the first alternative/open space plan showing forty-two (42) lots; and, (3.) the new “alternative” plan showing twenty-six (26) lots which places 107 acres in conservation.

Mr. Falzone stated he will need approval for all three (3) sets of plans in order to submit an application for the “alternative” plan to the federal government and wait a year or two before receiving acceptance. He believes he has a good chance as this parcel has twenty-two (22) vernal pools. He was hoping Mark West would be here to explain this. He stated the only

93
94 Page Three

95 Planning Board February 27, 2013 Meeting – Amended and Accepted March 27, 2013

96
97 **Oakridge Road – Harbor Street Limited Partnership Continued**
98

99 way he will receive funding is if the forty-three (43) lots are approved. He will submit his
100 application to NRCS (National Resource Conservation Service) and go through their process.
101 He advised the Board he has done this before and has never been denied.
102

103 John Morin questioned if there is guaranteed funding for the middle fifteen (15) lots, and should
104 the Planning Board approve all Mr. Falzone's plans and funding isn't available would Mr.
105 Falzone be able to build all forty-three (43) lots.
106

107 Mr. Falzone answered yes. He also stated that the Planning Board's agreement/condition of
108 approval would state that he has to submit the plans to NRCS and go through their whole
109 process. He said he will get there but doesn't know if it will be in a year or two.
110

111 At this time Mark West, the applicant's wet land scientist, arrived. Mr. West advised the Board
112 he did a wildlife study for the property. Mr. West feels this parcel will receive funding due to
113 the fact it has twenty-two (22) vernal pools. It is his intention to send two (2) letters in favor of
114 funding. One letter will be sent to the NH Fish and Game and the second letter will be sent to
115 the Army Corp. of Engineers. Both letters will state this land should be protected and thus will
116 constitute a higher ranking.
117

118 Mr. Morin advised that although he could not speak for the entire Board, it was his opinion the
119 "alternative" plan would be the most viable and the plan he would like to see built.
120

121 Robert "Buzz" Davies questioned if the applicant had submitted a copy of the "alternative" plan
122 to the Planning Board office.
123

124 Christian Smith replied the "alternative" plan was only for discussion and the Board did not have
125 a copy.
126

127 Vice Chairman Osgood questioned the need for three (3) sets of plans.
128

129 Mr. Smith advised that at this point the project has become separate projects; one (1) over all
130 with two (2) applications.
131

132 Eduard Viel asked if there has been any previous discussion regarding the length of the two (2)
133 cul de sacs shown on the plans that are coming in off two (2) existing cul de sacs.
134

135 Mr. Colby advised the length of the cul de sacs will be something the Board will need to
136 consider when the plans are submitted for approval.
137
138

Page Four

Planning Board February 27, 2013 Meeting – Amended and Accepted March 27, 2013

Oak Ridge Road – Harbor Street Limited Partnership Continued

Gary Anderson, 46 Gile Road, asked if the plans were considered open space plans. Mr. Falzone answered yes, both scenarios were. Mr. Anderson advised that he thought the Town of Nottingham's ordinance required the land around the approved lots would not be part of the deal.

Mr. Falzone replied he is giving more than what the ordinance requires. He repeated that the government would be buying out the right not to build the middle fifteen (15) lots plus the road and then the 107 acres would be without interference. It would be one large connection. It has nothing to do with the calculations needed to meet the open space requirements.

Mark West, Army Corps of Engineers, stated he was asked to attend this evening's meeting as he did the wildlife habitat study and he is involved with Bear-Paw Regional Greenways. He advised those present that often conservation projects need time, creativity, and cooperation. This property not only has twenty-two (22) vernal pools but also connects to the Terninko property, and, combined, this would be a unique complex with a significant difference from a wildlife habitat protection standpoint. It would have a huge impact should the "alternative" plan be built.

Susan Mooney questioned how much roadway would be eliminated should the "alternative" plan be built.

Christian Smith estimated approximately 1500 linear feet.

Ms. Mooney asked if there would be cul de sacs impacting the area and Mr. Smith stated there would not be; what over hangs would be two (2) lots, not roadway.

Vice Chair Osgood asked if there were any additional comments.

Mr. Falzone stated just so he was clear; if the Planning Board wants him to go this route he will submit three (3) plans and if the Board does not he will submit the forty-two (42) lot subdivision plan. The three (3) sets of plans would be: A.) a traditional forty-three (43) lot subdivision plan; B.) an open space forty-two (42) lot subdivision; and C.) a subdivision plan showing twenty-six (26) lots with two (2) cul de sacs and the middle section of the property open. Mr. Falzone stated he did check this morning and can file for funding after he receives approval.

Vice Chair Osgood closed the Public Hearing at this time.

Mr. Colby advised the Board that what Mr. Falzone is asking is for the Board's guidance. Would the Planning Board entertain the "alternative" plan, considering a two (2) cul de sac plan?

Page Five

Planning Board February 27, 2013 Meeting – Amended and Accepted March 27, 2013

Oak Ridge Road – Harbor Street Limited Partnership – Continued

Mr. Davies stated that as of right now none of these plans have been accepted and should the Board do so would a precedent be set by approving different plans for the same property.

Mr. Falzone's response was that this is no different from coming into a community and submitting a three (3) phase subdivision plan. He wouldn't have to build every phase as long as he met the requirements of what the Planning Board approved. The only way he would not build the "alternative" plan is if he were denied funding and he repeated he has never been denied. However, he continued to state that he needs the approval of all three (3) sets of plans and that the only way he could receive funding is to show an approved forty-two (42) lot subdivision plan. The Planning Board could make said approval contingent upon his filing with NRCS and completing said agency's process.

At this time the Planning Board took an informal vote and it was decided they would entertain reviewing submittal of three (3) separate subdivision plans. The Planning Board members agreed they would all prefer to see the twenty-six (26) lot subdivision built as it would leave a vast amount of land in open space.

Motion was made by Susan Mooney to close the design review process for **Case #P10-02-SUB DR-** Harbor Street Limited Partnership – 154 acre parcel which fronts both Friar Tuck Lane and Oakridge Road – Map 10 Lots 9 & 10, Map 8 Lots 8-21 and 9 – Application for a design review of a proposed 42 lot subdivision. Property is owned by Harbor Street Limited Partnership, Brian M. and Jennifer Spagna, Seth F. and Pearl I. Peters.

Second: John Morin

Vote: 5 – 0 **Motion Passes**

Merry Hill/Route 4 Continuance

Vice Chairman Osgood called the following case:

Case #P12-03-SUB Merry Hill/Route 4 Continuance – Continuance of an application from Beals Associates, PLLC, for acceptance, compliance review, and final approval of a subdivision. The property in question is located on Merry Hill and Route 4 and identified as Tax Map 4, Lot 5, 4-3. Owner of Record: Pogo Realty Trust and Merry Merry Hill, LLC.

Mr. Colby advised the Board regarding all of the documents they have in front of them this evening, which includes: revised subdivision plans for review received from the applicant yesterday; a memo dated February 27, 2013 from Mr. Colby regarding said revised subdivision plans; a copy of said report prepared by Gerald Lang, PE, RCCD; dated January 30, 2013; and the response to the RCCD report submitted by Christian Smith, PE, Beals Associates, PLLC, dated February 26, 2013.

Page Six

Planning Board February 27, 2013 Meeting – Amended and Accepted March 27, 2013

Merry Hill/Route 4 Continuance

Christian Smith, Beals Associates; reviewed his report dated February 26, 2013. He advised the Board although there were changes needed on the revised subdivision plans, nothing appeared to him to be “earth shattering” right now. The applicant, Joseph Falzone, has not filed for State of NH DOT approval as yet. Mr. Smith stated the applicant will be “leaning toward a cistern” with regards to fire safety.

Mr. Smith went on to say that Mr. Falzone would welcome a conditional approval as the remaining outstanding items are largely administrative. He suggested the Planning Board could approve the plans before them this evening with the condition all state permits are received, and “sign off” letters are received from 1) RCCD; 2) Paul Colby, Code Enforcement; and Fire Chief Jay Vilchok.

Vice Chair Osgood asked for questions from the Planning Board.

Susan Mooney stated that Map #6 shows two different size pipes; 24 inches and 15 inches. Ms Mooney questioned why the pipes are different sizes.

Mr. Smith advised these pipes are actually connected and drain down to the pond and that down stream the pipe gets larger.

Mr. Davies asked where the building envelope is shown for Lots 14 and 2. Both are smaller lots with wetland interference. Mr. Davies questioned how the Planning Board would know that there is a building envelope inside the lots.

Mr. Smith stated that the building envelopes will be added to the plan.

Mr. Viel questioned what the size of the pond is and Mr. Smith replied the largest contour is approximately 6,000 square feet but he will have to double check this.

Mr. Viel asked if this area is being viewed as open space why it is not contiguous.

Mr. Colby explained this is a hybrid subdivision and Lots A and B are not part of the fifteen (15) lot open space plan. Lots A and B have frontage on Route 4.

Mr. Davies asked why the lot envelopes are not shown for all lots on the plans.

Mr. Colby replied page four shows the setback lines, however, page one does not and page one is the plan that is recorded at the Rockingham County Registry of Deeds when approved.

Mr. Smith stated the setbacks will have to be added.

Page Seven

Planning Board February 27, 2013 Meeting –Amended and Accepted March 27, 2013

Merry Hill/Route 4 Continuance

Vice Chair Osgood opened the hearing to the public for questions. Seeing none this portion of the hearing was closed.

Vice Chair Osgood asked Mr. Colby what his general feelings are regarding his memo dated February 27, 2013.

Mr. Colby reviewed his memo advising the Board that, in general, he felt all items could be easily completed and/or rectified. He stated he would like to see the design of the cistern, however, he feels confident the RCCD report will show it is fine.

Ms Mooney questioned who will be monitoring the open space.

Mr. Falzone replied it would be RCCD and Ms Mooney advised the Conservation Commission is very comfortable with RCCD reviewing his projects.

Vice Chair Osgood asked if there were further comments or discussion and if not a notion for conditional approval or a continuance was in order. The applicant will need to meet all items/conditions mentioned in Mr. Colby's memo dated February 27, 2013, RCCD's acceptance letter, and State subdivision approval which the applicant has not applied for as yet.

Mr. Davies questioned if all items could be cleaned up in thirty (30) days. He advised the Board a conditional approval is too complicated and the smartest action the Board could take would be to continue. This would allow the applicant time to complete all conditions.

Motion was made by Eduard Viel to continue **Case #P12-02-SUB Merry Hill/Route 4** an application from Beals Associates, PLLC, for acceptance, compliance review, and final approval to March 27, 2013. The property in question is located on Merry Hill Road and Route 4 and identified as Tax Map 4 and Lot 5. Owners of Record: Pogo Realty Trust and Merry Merry Hill, LLC.

Mr. Viel withdrew his motion as Mr. Smith interrupted and asked that the Board approve/grant his waiver request submitted this evening to allow a 0.60 cfs increase in storm water flow toward the existing culvert under Trembly Drive (two (2) year storm event only). All other (larger) storm events analyzed show reduced flow rates and the very minor increase will not result in any adverse effect offsite and does not compromise the culvert capacity. In addition, to mitigate this condition, more clearing and soil disturbance would be required. The waiver will not, in any manner, be contrary to any of the Town of Nottingham Regulations because storm water from the culvert currently flows non-erosively all the way to Mendums Pond which has a massive capacity in comparison to the minor flow increase. All larger storm events analyzed show a reduction in flow and reduced tree clearing and soil disturbance and is in keeping with the objectives set forth in Nottingham's open-space development ordinance. (Article IV.S.3.)

Page Eight

Planning Board February 27, 2013 Meeting –Amended and Accepted March 27, 2013

Merry Hill/Route 4 Continuance

Mr. Smith explained if this waiver is not granted the developer will have to build a collection mechanism behind some of the lots.

Mr. Colby advised the Board this is a reasonable request, and, if they do not grant the waiver, the developer will need to increase the down stream flow of drainage by clearing more land and cutting more trees.

Motion was made by Susan Mooney to grant the waiver request submitted this evening to allow a 0.60 cfs increase in storm water flow toward the existing culvert under Trembly Drive, a two (2) year storm event only.

Second: Eduard Viel

Vote: 4 – 0 - 1 **Motion Passes** John Morin abstained.

Motion was made by Eduard Viel to continue **Case #P12-02-SUB Merry Hill/Route 4** an application from Beals Associates, PLLC, for acceptance, compliance review, and final approval to March 27, 2013. The property in question is located on Merry Hill Road and Route 4 and identified as Tax Map 4 and Lot 5. Owners of Record: Pogo Realty Trust and Merry Merry Hill, LLC.

Second: Susan Mooney

Vote: 5 – 0

Minutes – January 23, 2013

Motion was made by Eduard Viel to accept the February 27, 2013 Planning Board meeting minutes as submitted.

Second: Susan Mooney

Vote: 5 – 0

Adjournment

Motion was made by John Morin to adjourn the meeting at 8:32 pm.

Second: Eduard Viel

Vote: 5 – 0

Respectfully submitted,
Jo-Ann MacInnis, Land Use Clerk