

## PLANNING BOARD MINUTES

November 5, 2008

### ROLL CALL:

Phil LoChiatto, Chairman – Arrived late	Nancy Prendergast, Vice Chairman – Present
Rick Okerman, Secretary – Present	Walter Kolodziej, Regular Member – Present
Ruth-Ellen Post, Regular Member – Present	Pam Skinner, Regular Member – Present
Louis Hersch, Alternate Member – Excused	Kristi St. Laurent, Alt Member – Present
Sy Wrenn, Alternate Member – Present	Bruce Breton, Selectmen Member – Present
Galen Stearns, Selectmen Alternate – Excused	

### STAFF:

Al Turner, Director of Planning and Development – Present

Ms. Prendergast opened the meeting at 7:00 pm. The Board stood and recited the Pledge of Allegiance.

*Ms. St. Laurent replaced Mr. LoChiatto.*

### MINUTES:

- Mr. Okerman motioned to approve the October 15 minutes. Mr. Breton seconded. Passed 7-0;
- Mr. Okerman motioned to approve the October 22 minutes. Mr. Breton seconded. Passed 7-0;
- Mr. Kolodziej motioned to approve the October 29 minutes. Mr. Breton seconded. Passed 5-0-2. Ms. St. Laurent and Mr. Okerman abstained.

### SIGN PERMIT:

- Li's Asian Gourmet, 4 Cobbetts Pond Road. Board discussion that the sign meets the requirements, and want the plaza to have sign consistency. Mr. Breton motioned to approve the sign design for Li's Asian Gourmet. Mr. Kolodziej seconded. Passed 7-0.

### ROAD BOND:

- Fletcher and Corliss Road bond. Board discussion that this was previously approved for release, the stations numbers needed to be clarified, and Ms. Prendergast read the station numbers. Ms. Post motioned to amend the bond release of October 27 correcting the station numbers as read into the record. Mr. Breton seconded. Passed 7-0.

### CORRESPONDENCE:

- Letter from the Board of Selectmen regarding rezoning properties on Range Road;
- Notice of a public hearing from the Town of Pelham regarding a wireless facility tower;
- RPC legislative forum;
- Letter from Whispering Winds Adult Association regarding their community van. Mr. Turner will inform the Association that a public hearing is required;
- Letter from the RPC regarding CTAP funds;
- Government Matters magazine;
- Letter from the Board of Selectmen regarding auxiliary parking for Griffin Park. Board discussion regarding sending comments to the Selectmen or having a public hearing, have a public hearing December 10. Ms. Post motioned to have a public hearing for 17-L-15, 112 Range Road for a Town parking lot for Griffin Park. Ms. Skinner seconded. Passed 7-0.

### OLD/NEW BUSINESS:

- Board discussion to have outside review of plans discussion at next week's meeting;

- Congratulations to Mr. Kolodziej as he was elected to the House of Representatives.

The Board reviewed the evening's agenda. Mr. Kolodziej motioned to move the CVS Pharmacy Site Plan to the next meeting on November 19. Mr. Breton Seconded. Passed 7-0.

**PUBLIC MATTERS:**

**Ledge Road Business Park Amended Site Plan – Public Discussion Continued**

**Ledge Road, lot 11-A-50**

Mr. Turner reviewed the potential changes to the previously approved plan including road grades, shortening the road, less road width, previous reviews include technical drainage review, density and soil calculations, staff review, and traffic study. Mr. Turner reviewed the report from StoneHill Environmental regarding the potential impacts of blasting on water supply wells, the document addresses mitigation of the impacts to the abutters and further testing should be done, and the mitigation recommendations should be included in any approval for this site, NH DES should report on Stone Hill's report also. New reviews besides the Stone Hill report is the previous blasting impact, NH DES construction permit comments, and CLD Engineering report on road and drainage design. Department comments include maintaining erosion control measures and traffic management. He further discussed the waivers, the traffic report, the wildlife impact assessment was done before the blasting, and potential issues. He stated the Nobis Engineering should give a detailed presentation regarding the mitigation plan to the Board, Stone Hill Environmental should attend also, compliance to the mitigation plan is key, and there is another nitrate problem.

Board discussion regarding there was a three year condition of approval which has passed, they have asked for an extension of the approval, there is a second application to amend the plan with a shorter and steeper road, there is no bond because the plan has not been recorded, a new construction permit should have a restoration bond attached to it, road bonds do not cover liability, should ask the applicant about fixing the abutters problems, does the extension have to be granted before the amended plan is heard, the request for the extension was in before the plan expired, tonight's meeting is non-binding, and the applicant is looking for input from the Board and neighbors.

Tom True, True Engineering, stated that their attorney is not present tonight, and a letter was sent to the Board from their attorney. Board discussion with Mr. True regarding the abutters issues and expenses need to be resolved, Mr. True has had experience in working with getting money from an insurance company, the abutters need to prove through the insurance process, and the applicant should help out the neighbors.

Mr. True stated tonight's meeting is pertinent to what is happening on the site, the extension will be discussed at a separate meeting, and tonight's meeting is regarding amending the site plan. Further Board discussion regarding is the original site plan null and void, can hear this tonight, the Board asked the applicant was asked to come back at the September 24 meeting, and can discuss the mitigation plan.

Mr. True showed and explained where the Board went on their site walk of October 18, he explained how the road design came about, the shorter road would not have worked with the fitness center on site as it was designed, he explained the elevations and finished grades, less excavation is needed as you go farther up the road, he discussed the volume of materials leaving the site, with the shortened road it would reduce the remaining road work volume in half, and the final lot configuration will be based on the market.

Board discussion with Mr. True regarding additional blasting for the driveways and material removed

for the driveways, Mr. True showed the conceptual driveways on the plan, the volume represented on the plan is for all the material being removed for everything on site including the driveways, discussion continued regarding the difference in the volume of materials being removed between the two plans, an additional 1,000,000 cubic yards will be coming off the site, and this is going to compound the problem for the abutters.

Tom Lablouski, Nobis Engineering, stated he was a partial author of the site investigation report, wanted to clarify the process, DES has authority over groundwater, there's a long list of people's homes that have problems, the plans for this development were approved by DES, DES also will comment on the work plan, there were no wells on this site, there are many people reviewing the report, and waiting to hear back from the assistant attorney general and DES so they can move forward on the pilot test.

Mr. Turner stated that the Planning Board has jurisdiction of the subdivision plan, doesn't think the test well is in the correct place, the Selectmen will have a meeting with DES, a DES approved mitigation plan will be needed, and the applicant is looking for direction from the Board. Board discussion with Mr. True regarding can the site be used as it is, and the new plan works with the contours. Mr. Turner listed some of the potential issues including the intersection, temporary sound buffers, monitored blasting, and monitored rock crushing activities.

Board discussion with Mr. True regarding how long will this take to get completed, have been blasting less than a year, approximately 200,000 yards per year would be taken off site and that would take five years, a blasting outline was distributed to the Board at the original meetings, the pads should be developed now, and the Town could be left with a cliff with a cut through it.

Public comment from Richard Wissell, 55 Haverhill Road; Jack Hamburger, 57 Haverhill Road; Julia Wissell, 55 Haverhill Road; and Greg Kindrat, 61 Haverhill Road: Comment include only 12% of this project has been completed and there are many problems, to approve anything would make it worse, is trapped because he can't sell his house, the site should be filled in and reseeded, there are nitrates and arsenic in the water, fisher cat took his dog, only make it worse if it continues, health problems have arisen, have been blasting for more than 1 year, was supposed to be 2 blasts per week, did 2 blasts a day, not even close to completing the work, DES stopped the blasting because of the contamination which is the applicant's fault, crushers were used without permits, contaminated the water and air, Poland Spring didn't deliver water several times because of non-payment, the company is a company that ignores permits, water still contaminated though better since the blasting has stopped, blasting has been done incorrectly, the project should be closed down, no matter what the Board does the site does not have a permit to alter the terrain, blasting was done 2-3 times a day, no consistency with the water testing, there are other problems beside nitrates, trucks came off the site without tops or license plates, they break all the rules, problems with dust, there's been damage to homes, the problems needs to be solved collectively with the Planning Board, Selectmen, DES, and the applicant, there are real human costs to the development which don't show in the engineering calculations, this could happen for years, residents tortured in their own homes and has ruined the quality of life, and have to say no to this project.

Board discussion regarding the next steps for this project, there is no grandfathering from health and safety regulations, not going to vote to amend a plan if the other plan is still valid, and the Board needs to determine whether the conceptual review is ended. Mr. Wissell asked whether the project falls under the new regulations for blasting. The answer is yes they do.

Board discussion sending the plan out for department comment, outside reviews and reports to be paid by the applicant, and the traffic study should be amended to include the traffic light.

Ms. Post motioned that conceptual review for a new application as described is finished. Any decision on whether the applicant is entitled to an extension of prior approval or not would be addressed at a separate hearing if the applicant requests. Mr. Kolodziej seconded. Passed 7-0. *Ms. St. Laurent stepped down and Mr. LoChiatto joined the meeting and took over as Chairman. Ms. Post stepped down and Mr. Wrenn replaced her.*

### **Dunkin Donuts Site Plan – Public Hearing**

#### **30 Indian Rock Road, lot 16-L-1**

Mr. Turner stated the application is for a site plan approval for a Dunkin Donuts on Rt 111, the application is complete and ready for public hearing. Mr. Kolodziej motioned to accept for public hearing. Mr. Breton seconded. Passed 7-0.

Mr. Turner further described the plan including location and there is a Wetland and Watershed Protection District and Flood Plain District, not proposing any impacts to the Flood Plain District, will impact the WWPD, a variance has been received to allow a drive up window, car stacking is designed around the whole site, variances have been received, no new roadway is proposed just driveways and parking lots. Reports in the file include: staff report, Conservation Commission report, zoning administrator permit denial, variances granted, wetlands scientists report on the WWPD impacts, stormwater pollution prevention plan, police department report, fire department has three emergency management issues relating to water and fire alarms, and traffic assessment.

Site Plan issues include traffic on Route 111, Church Road and exit drive, DOT's review wanted the entrance widened for delivery trucks, can trucks make their way around the site, deliveries should be at off-hours, there are letters from two abutters, Board should look at the impacts to the neighbors, there are three development standards/regulations that need to be met, it is a Village Center concept plan which requires civic open space and how it is tied into pedestrian traffic, most of the drainage is sheet drainage, and he showed where the catch basins are on the plan.

Mr. Turner reviewed staff recommendations including a driveway easement to the four-way intersection which eventually may have a traffic light, erosion controls shall be installed and maintained to avoid pollution to the brook on the property, proposed lighted box signs should be revised with darker back grounds and lighter letters, delivery trucks template should be superimposed over site to make sure site can accommodate the large delivery trucks, and truck deliveries should be coordinated for off peak hours to avoid back ups on Rt 111. Mr. Turner showed the master plan map for the Village Center District, read the concepts of the Village Center District, and the entire district is to have mixed uses.

Jim Gove, Gove Environmental Services, discussed the wetlands area, there was a former home on the site, the former driveway and septic were in the WWPD, he explained the drainage from Rt 111 across the site to the wetlands and storm separator, State alteration of terrain permits requirements are changing and getting away from treatment swales, and the ZBA approved the WWPD impact because existing pavement in the WWPD is being taken out. Peter Zohdi, Herbert Associates, stated the impacts to the WWPD are about the same for what is being taken out and what is being put in the WWPD.

Stephen Pernaw, traffic engineer, reviewed his traffic impact assessment, he had several recommendations including to restripe the center turn line on Rt111, Rt 111 to be widened for an exclusive right turn lane, two exit lanes from the site, and regrade the side slopes of Rt 111. He stated the State issues the driveway permit.

Board discussion with Mr. Pernaw regarding allowing left turns onto the site, does not expect peak hour left turns out of the site, an island would not work because of delivery trucks, impact to the North Lowell Road intersection, needs to be enough room in the center lane for entrance into Dunkin Donuts and into the Commons, there will be a dedicated right turn lane onto Church Road, stop bars need to be placed for sight distance, use a concrete rumble instead of an island, and would need to evaluate a driveway easement for the abutting properties.

Chris Nickerson, Herbert Associates, further described the drainage for the site, there will be an evergreen screen along the rear of the property and a stockade fence also, he showed where the trees would be on the site which would look like a tree lined street, and he showed the open space on the site with picnic tables and the open space along the wetland area.

Board discussion with Mr. Nickerson regarding the existing residence location, the dumpster will have a fence around it, and the residence next door is at the same elevation. Mr. Nickerson explained the lighting on the site, building signs are down lit with gooseneck style fixture and the freestanding sign is up lit, and directional signs are not illuminated. Discussion continued regarding the sign height and location, landscaped area around the sign, tree placement and sign location should be looked at, the location of the drive thru and the menu board, further discussion of the landscaping took place, and Mr. Nickerson explained the architecture including colors and shingles.

Mr. Nickerson discussed the WWPD Special Permit, the use is permitted by variance, the criteria demonstrating to conform to the WWPD as shown as item #15 in the application book, and Mr. Nickerson read a portion of the document. Mr. Gove showed a map and explained the vegetated community around the site.

Board discussion regarding the fire department's emergency issues, Mr. LoChiatto reviewed the department comments; fire department is requiring a knox box, fire detection system approved by the fire department, and the required emergency water supply. Mr. Nickerson responded regarding there is a knox box and a cistern, a note should be put on the plan regarding the fire detection system; he showed the location of the drive-up speaker, sound emission levels from the speaker are 46 decibels and a normal conversation is 60 decibels, the levels change when a vehicle is in front of the speaker, did not work with the abutter but came up the screen and fence on their own, Canadian hemlock is being used, fence will be a couple of feet off the property line, and the abutters site is vegetated. Mr. LoChiatto read letters from: 1) Linda Brown; and 2) George Rogers. No public comment. Mr. Turner read the requirements for the civic open space for the Village Center District. Board discussion regarding hours of operation for Village Center District, right-of-way on the plan for future development, and this is an opportunity for a shared driveway like at Fences Unlimited.

Mr. Breton motioned to grant the Special Permit for Section 601.1, 601.1.1, 601.1.2, 601.1.3, and 601.1.4 as referenced Gove/Herbert letter in file. Mr. Kolodziej seconded. Passed 7-0.

Mr. Breton motioned to approve the Dunkin Donuts for lot 16-L-1 as per section 1200 and 1210 the applicant has met design review guidelines in elevation as submitted, and Section 1210.2.5 Village Center guidelines with 2 picnic tables and the village common is across the street. It is approved with the following conditions: 1) All required local, state and federal permits are issued prior to the signing of the plan; 2) Erosion controls shall be installed and maintained to avoid pollution to brook on property; 3) Signage should be similar to Hollis, NH Dunkin Donuts; 4) Truck deliveries should be coordinated for of peak hours to avoid back ups on route 111. Mr. Kolodziej seconded. Passed 7-0.

Mr. Breton motioned to waive the by-laws to hear the Willows Site Plan after 11:00 pm. Mr. Kolodziej seconded. Passed 7-0.

**Willows Site Plan – Public Hearing**  
**28 Mammoth Road, lots 14-A-925 & 930**

Mr. Turner stated that the site plan approval has lapsed for this development. Windham's Site Plan Regulations Section 904.1 requires that active an substantial construction begin within 120 days. The applicant is applying to the Board to extend the time as allowed by RSA 674:30 I a, since the approval has lapsed the Board may want to reaffirm the original approval. Mr. Kolodziej motioned to open for public hearing. Mr. Breton seconded. Passed 7-0.

Peter Zohdi, Herbert Associates, made a brief presentation concerning the reasons for the delay which include state permitting. Board discussion regarding the reasons for the delays.

Mr. Breton motioned to waive Section 905.6 of the site plan regulations. The applicant has demonstrated that they have been actively pursuing state permits as required by the original site plan approval. Mr. Kolodziej seconded. Passed 7-0.

Mr. Kolodziej motioned to grant a 180-day extension start of construction on the Willow Site Plan, 28 Mammoth Road, lot 14-A-925 & 930.

Mr. Kolodziej motioned to adjourn. Mr. Breton seconded. Passed 7-0. Meeting adjourned at 11:40 pm.

These minutes are in draft form and have not yet been reviewed and approved.  
Respectfully submitted, Nancy Charland