

**NEW LONDON PLANNING BOARD
REGULAR MEETING
FEBRUARY 24, 2009**

MEMBERS PRESENT: Karen Ebel (Chairman), Tom Cottrill (Vice-Chairman), Dale Conly, Celeste Cook, Michael Doheny, Jeff Hollinger (arrived at 7:10), Kenneth McWilliams (Town Planner), Alternate Deirdre Sheerr-Gross, and Alternate Michele Holton. Larry Ballin (Selectmen's Representative) arrived at 7:28pm.

Chair Karen Ebel called the MEETING TO ORDER at 7:00pm. Chair Ebel asked Alternate Michele Holton to sit in for Jeff Hollinger.

I. PUBLIC SERVICE OF NEW HAMPSHIRE - Final Site Plan Review of Electrical Substation (Tax Map 84, lot 37)

Thomas Henaghen of SGC Engineering, LLC returned to the PB from the previous month's meeting with three changes that had been suggested at that time. He explained that the new plans include: 1. Shifting equipment away from the existing force main to allow 10' of space between that pipe and the foundation. 2. Changing the fence line to an irregular shape to keep things away from the sewer and to avoid impacting the wetlands. 1-2' high retaining walls that were in the original design that were there to transition the grade between the substation and the wetlands have been removed. Due to chamfering the corners of the fence line, and the addition of natural vegetation, the retaining walls are no longer necessary. 3. Moving the control tower away from the property line approximately 25' of the setbacks.

Town Planner Ken McWilliams questioned the access point to the property, as per request from the highway department. He noted that the site access of this substation is actually on town property. Mr. Henaghen showed that the access to the PSNH property is shared by the town's salt/sand shed and wetlands. He explained that PSNH and the town has had a verbal agreement in place for a number of years and permission was granted by PSNH for the town to put their salt shed on the property and, as a trade-off, the town would plow the access. The consensus of the PB is that both parties need to get a legal agreement in place formalizing the verbal agreement.

Mr. Henaghen said that PSNH wants to move the starting point of the project construction from September 2009 to May 2010. Mr. Henaghen asked what the deadline is for them to start work once they have approval from the PB. Mr. McWilliams noted that demolition could begin without the permit, but not any new construction. Chair Ebel informed Mr. Henaghen that the PB approval has no expiration date.

Chair Ebel asked if there were any further comments and there being none, asked for a motion.

It was **MOVED** (Conly) and **SECONDED** (Cottrill) **that the Final Site Plan for a electrical substation (Tax Map 84, lot 37) be approved as presented by PSNH, contingent upon the execution of a legal agreement confirming the relationship between the Town of New London and PSNH as to Town use and plowing of PSNH property and PSNH access to Town property, and receipt of the agreement by the Town of New London prior to issuance of a building permit by the Town.**

The MOTION was APPROVED UNANIMOUSLY.

Jeff Hollinger arrived to the PB meeting at approximately 7:10pm
Michelle Holton was relieved at this point.

II. 125 Newport Road, LLC – Revised Preliminary Site Plan Review – Phase II (Tax Map 59, Lot 1)

Jim Bruss of Bruss Construction Inc. returned to the PB to present a revision of Phase II of the 125 Newport Road project which was originally approved in July 2008... He presented a plan for the addition of two tenant units in the lower level of the space. Mr. Bruss shared with the PB that the project was costing more than anticipated and to offset costs, the owners wanted to add two more units into the project, adding about 2800 square feet. He noted that parking is an issue and that he had presented his plan showing about 413' of space that was unusable. He explained that the new design uses this space to create a total of 52 parking spaces. This is an addition of one space from the previous site plan. Another design request that Mr. Bruss brought to the PB was the removal of a parking island that currently sits in the lot. He noted that the island was included in the plans to aesthetically break up the parking lot as required by the New London's site plan regulations. He said that this winter has shown it impeding the removal of snow, and the vegetation that had been planted has died. He said that new plan involved the request for a waiver of the island requirement, so that it can be removed. Mr. Bruss said they plan to use the same space for a handicap parking space with a set-aside on one side. He noted that his understanding of the island requirement was that the island broke up the view of a large parking lot. He explained that he did not believe it was necessary in this case because the curved access to the lot prevents it from being seen from the road. He advised the PB that these units will be considered "condominiums" And was concerned that this was not made clear in earlier meetings.

Ken McWilliams added that he had had a discussion with Mr. Bruss about the basement area and how it would be used. Mr. McWilliams believed that these comments had been taken to heart and that there is now usable space out of previously unusable space. Mr. Bruss remarked that all the units but one are spoken for and will be used by professional organizations in nature. Chair Ebel asked where the entrance would be. Mr. Bruss said that the regular entrance would be used with the addition of elevators. PB Member Celeste Cook commented about the parking island, as she has seen similar ones that work fine. She wondered how it could be kept and not changed. Mr. Bruss agreed to come up with a few different ideas about how to fix the island for the next meeting. Mr. McWilliams suggested that the PB look at the landscaping proposal the applicants have in place, which includes rain gardens, added trees and shrubs, and suggested that these should provide a nice visual in the front and around the rear of the parking lot, especially from Newport Road as the site is entered.

Chair Ebel asked when occupancy would occur. Mr. Bruss said they hoped to start construction immediately upon PB approval and that the new condominium owners would be in business by the end of August. Mr. Bruss said he would like to come in for the final site plan review at next month's business meeting on March 24th.

PB Member Michael Doheny recused himself for the next agenda item and Chair Ebel asked Alternate Michelle Holton to sit in for him.

III. NANCY SMITH – FINAL SITE PLAN REVIEW – HOME BUSINESS: To Expand Home Business of Boarding and Grooming Cats to Include Grooming of Small Dogs (Tax Map 70, Lot 35)

Nancy Smith explained to the PB that 2008 was a bad year for her financially. She said that she believes that if she were able to take in small dogs to groom, that it would help her business. PB Member Cook asked if there was a weight limit with regards to the term "small dog." Nancy

responded that she feels 15 lbs would qualify as a “small dog” and noted that each dog’s stay at her business would be no more than two hours. She also explained that no boarding plans or expansion are anticipated.

Chair Ebel suggested that perhaps the size of the dog allowed should be limited by the size of her sink. PB Member Larry Ballin noted that he doesn’t think the PB should limit the size of the dog that Nancy takes in and suggested that there should only be a restriction of the number of dogs present at any particular time. Mrs. Smith noted that a maximum of two dogs would be on the premises at any given time. After some discussion, the PB agreed to permit a maximum of three dogs at a time at Mrs. Smith’s business, solely for grooming. Michael Doheny, an abutter, stated that he supported the project.

Chair Ebel asked if there were any further comments and there being none, asked for a motion.

It was MOVED (Hollinger) and SECONDED (Conly) that the Final Site Plan for Nancy Smith’s home business (Tax Map 70, Lot 35) to include the grooming of small dogs be approved as presented, provided that no more than three dogs will be permitted on-site at a time. The MOTION was APPROVED UNANIMOUSLY.

IV. KEARSARGE COMMUNITY CENTER – CONTINUED CONCEPT SITE PLAN REVIEW

PB Member Ballin recused himself from this discussion because he represented the New London Board of Selectmen on the KCC Board of Directors. Chair Ebel asked Alternate Deirdre Sheerr-Gross to sit in for Mr. Ballin. Mrs. Sheerr-Gross told the PB that she wanted it to know that SMP Architecture used to be her company, but that she sold the firm in 1998 and had no current affiliation with it. She felt that she was able to sit in for Larry Ballin and had no conflict.

Chris Lizotte from SMP Architecture presented his findings regarding sufficient parking at the KCC site. He noted that the matter had been referred to the Zoning Board of Adjustment for a use variance and that the ZBA hearing was on March 2nd. Chair Ebel stated that after his presentation she would explain to the PB how she had decided the referral was necessary following the last hearing. Mr. Lizotte noted that the KCC subcommittee had met. He noted that as a municipal entity, KRSD did not have to comply with New London’s requirements. He said that he had researched the original KRSD parking requirements per the subcommittee’s request and found that parking was adequate for the school’s use before KRMS moved. He stated that if the parking spaces had been “striped” (many were not) KRSD would have met the Town’s requirement for parking. Mr. Lizotte then reviewed his extensive calculations per his memo to the PB of the current parking requirements for the entire site. He said the parking needs were based on input from The Outing Club and KRSD. He calculated the total number of parking spaces on the site was 288, but the maximum need would be 262 spaces during the day through 3PM and 197 spaces in the evening. He said this would be when The Outing Club and the KCC had big evening events. He said that the KCC only planned to have large events in the evening. He also noted that The Outing Club could not use the site until 3PM because the school used it until that time. Mr. Lizotte also stated that he included the SAU requirements in his calculations even though the SAU building had not yet been sold. He said the SAU did hope to move into school building and showed where it hoped to have its offices.

Chair Ebel asked if any of the PB subcommittee members had any comments. PB Member Tom Cotrill, a member of the subcommittee, mentioned that he has talked about traffic patterns and safety issues with Dan Noyes, the point person from the school board. His main concern was

issues mainly having to do with getting emergency vehicles in and out of the area. Mr. Cottrill said that busses block main entrance at various times during the day, but there is a plan in place for emergency vehicles to go around the busses if they need to. Mr. McWilliams emphasized the need to keep each entity (Elementary School/Outing Club/KCC) aware of each other's activities so that not all are having large events at the same time. Chair Ebel asked about matinee shows by the KCC and how that would impact the parking/driving patterns during the day. Mr. Lizotte said that he had been advised by the KCC that they only planned to have evening shows, but maintained that parking would still be sufficient. PB Member Doheny asked about feedback regarding a question which appeared in the subcommittee minutes relative to deed restrictions on KRSD land permitting the land to be used for educational use only. Mr. Lizotte explained that the restriction had to do with one parcel of land that is not directly involved in this project.

Mr. Cottrill added that he understood there would be some eventual demolition of the "pit," a portion to the rear of the building, which had been the 8th grade wing of building. He felt that it would be beneficial to help add circulation around the property.

Mr. Cottrill spoke of a possible subdivision of the SAU property if it moves onto the school site and stated that he wants to amend that info in the previous subcommittee minutes. He also noted that any subdivision would need to be adjusted to provide appropriate frontage.

Chair Ebel reminded the PB that the last meeting a question had arisen as to whether the KCC project needed to be referred to the ZBA for a use variance or if would qualify for a special exception. She stated that Zoning Administrator Peter Stanley was to consult with Town Counsel and that the PB had delegated the referral decision to her. She explained that Town Counsel felt that New London's definition of Recreational Facilities was very poorly drafted. He said he did not feel the project clearly fell into New London's definition of "recreational facilities" as defined in definition #110 Recreation Facilities in ARTICLE III DEFINITIONS and suggested that the decision as whether a variance was required was more of a judgment call. Chair Ebel said that after discussing the issue with Mr. Stanley and Mr. McWilliams and reviewing the definition of "recreational facilities", other uses of the term "recreation" in the ordinance, including definition #97. Outdoor, Active Recreation Uses and definition #98 Outdoor, Passive Recreation Uses in ARTICLE III DEFINITIONS and common parlance, she could not conclude that KCC was a "recreational facility" which qualified for a special exception. Mr. Stanley agreed with this analysis, especially because KCC was not using the gymnasium or classrooms for physical activities on-site.

Chair Ebel informed the PB that she contacted Chris Lizotte and advised him of her decision and told him that KCC could pursue an administrative appeal with the ZBA as provided in ARTICLE XXI BOARD OF ADJUSTMENT, Paragraph F. Administrative Appeal or just request a use variance directly from ARTICLE V RESIDENTIAL DISTRICT, Paragraph A. Uses Permitted and from ARTICLE XXI BOARD OF ADJUSTMENT, Paragraph G. Special Exceptions, Sub-paragraph 4. Special Exception Uses. Mr. Lizotte stated that the KCC Board of Directors had discussed the approach several times and decided to apply directly for a use variance, rather than appeal the PB decision. Chair Ebel invited more discussion of the issue and told the PB members that her decision could certainly be overruled. The PB members indicated that they agreed with her decision. She then recommended that the PB pass a motion recommending to the ZBA that it grant the use variance.

Chair Ebel asked if there were any further comments and there being none, asked for a motion.

It was MOVED (Conly) and SECONDED (Hollinger) that the Planning Board recommends to the ZBA that the Kearsarge Community Center be granted a use variance. The MOTION was APPROVED UNANIMOUSLY.

Chair Ebel asked Mr. Stanley to let the ZBA know of this decision, which he agreed to do. Mr. Lizotte stated that he would return to the PB following the next ZBA meeting.

Mr. Ballin returned to the PB and relieved Ms. Sheerr-Gross for the next matter.

V. WALLULA SUBDIVISION – CONTINUED CONCEPT SUBDIVISION

Nate Fogg, an engineer from Jesseman Associates came to the PB to continue the discussion of the Wallula subdivision. He advised the PB that the Wallula subcommittee had met twice (Conly, Cotrill, McWilliams & Stanley) to review and adjust the location and shape of the building sites and subdivision access... Mr. Fogg noted that there was previous concern about the buffer around the perimeter of the property, and stated that there is no problem pulling the sites back to allow for the original buffer. He said that the majority of the sites in the proposed subdivision have been amended to comply with the subcommittee's recommendations. Mr. Fogg then discussed the location and parameter of each of the sites in detail, as well as the access road, all of which was shown on the map presented to the PB.

All sites except for #12 and #16 & 17 were moved away from the outer boundary lines as far as possible without creating any building setback encroachments. The greatest change was site #9, which was relocated behind Site #10 and will share an access drive with Site #2. Chair Ebel expressed her appreciation of the work done by the subcommittee. Ken added that he did not feel that any of the recommended changes were significant enough to warrant additional subdivision approval. PB Member Dale Conly, a subcommittee member, noted that the changes made protected the perimeters. He said that the major change was the relocation of lot #9 that had originally been in a congested area close to another property. His only concern was the septic systems, many of which are antiquated and would not meet current criteria. He is concerned about the lots closest to the lake (#12 & #14), which are seasonal. He opined that if converted to year-round residencies, the septic systems would be inadequate. It was agreed that new septic designs would be appropriate if they were converted to year-round residency and that the state would require upgrading in that instance.

Peter Stanley pointed out that lots 16 & 17 are actually a 2-unit house, and that no other detached dwelling could be built on that site. He also stated that there are at least six lots that are largely within 250' shore land protection area. Mr. Stanley noted that any modifications to those sites must meet the requirements of the state and Town comprehensive shore land protection laws. He mentioned that attention needs to be paid to the undisturbed buffer requirements adjoining units 14, 12, 16 & 17. Mr. Fogg interjected that one of the goals they will have will be to identify build-able areas. He said that the intent is not to enlarge the buildable area, but to maintain what was originally allowed in the subdivision that did not fall within the shore lane protection area.

Steve Jesseman (Jesseman & Assoc.) commented to Mr. Conly that he recently attended a meeting with DES for an update of current regulations. He said that according to DES, in 3-6 months, septic systems will have to be re-designed and that is why they are addressing this issue now. Attorney Brad Cook, representing the applicant, noted that Wallula will have a full disclosure of these issues in property documentation and that any buyer will be notified of the condition of the building/septic before a sale is made. He also called attention to his letter to the

PB reviewing Wallula shore land property ownership. Chair Ebel acknowledged receipt of the letter.

Nate Fogg stated that he plans to return next month to review with further concept changes with the PB. He said he did not think the subcommittee would have to meet again.

VI. OTHER BUSINESS

A. CATE FAMILY TRUST SUBDIVISION (Tax Map #103-002 Lots 100 &200) MYLAR Correction

Erin Darrow from Darrow Civil Engineering came before the PB with an amended map for the Cate Family Trust Subdivision. She stated that the Registry of Deeds had rejected the previous map because there were some lines through some words making them illegible. Ms. Darrow stated that the map was modified (setback lines around the wetlands around lot 102-3 moved, and one of the bearings and distances were changed), and that the offending lines had been removed. She indicated the changes on the map. She said the MYLAR had been reprinted and now needed to be approved.

Chair Ebel asked if there were any further comments and there being none, asked for a motion.

**It was MOVED (Cook) and SECONDED (Conly) that corrected MYLAR for the Cate Family Trust Subdivision be approved.
The MOTION was APPROVED UNANIMOUSLY.**

B. FOREST ACRES ROAD TREE CUTTING REQUEST (Tax Map #118/Lot 22)

Dale Conly had been in contact with Derek Hunt of 395 Forest Acres Road. Mr. Conly said that on his property there is a large white pine growing on a rock whose root system was damaged by the last ice storm. He explained that the tree is currently leaning approximately 15 yards from the house and is very large. Mr. Hunt is requesting that he be allowed to cut the tree down to prevent damage to his home. Photographs of said tree were provided. Mr. Conly recommended that the PB approve the tree-cutting request.

Chair Ebel asked if there were any further comments and there being none, asked for a motion.

**It was MOVED (Ballin) and SECONDED (Cotrill) that the tree-cutting request of Derek Hunt of 395 Forest Acres Road be approved as presented.
The MOTION was APPROVED UNANIMOUSLY.**

C. ADVERTISING PLANS FOR MASTER PLAN

Chair Ebel asked the PB members for their input on advertising for the Master Plan meetings in the coming months. She explained that \$600 had been budgeted for advertising and that there had been a great deal of concern expressed by various individuals that the PB had not done enough community outreach. She noted that a lot of advertising was done for the Town Survey presentation and not many people attended. After much discussion, it was decided that for the next month, the PB place one small ad in the Kearsarge Shopper and one ad in the Intertown Record, depending on the price. PB Member Cook recommended that a notice be placed in the Intertown's Community Calendar, which is free. Ken will research the prices. Chair Ebel will decide how to go

forward. PB believed it was important to advertise and at least try to alert the public to its activities, which they may be interested in.

VI. DISCUSSION OF RECOMMENDED AMENDMENTS TO THE SUBDIVISION REGULATIONS

The recording of deeds with annexations and lot mergers when different property owners are involved was brought up. Several amendments were proposed to Section IV of the regulations, including Application Procedures, Annexations, Minor Lot Line Adjustments, or Boundary Agreements, the Signing and Recording of the Annexation Plat, and the Distribution of Recorded Copies.

Mr. McWilliams also proposed an amendment to the Subdivision Conditional Approval, with regards to SECTION IV. A. 3 re: Approval of the Plat. This amendment states that conditional approval is not the same as the actual signing of the plat. All conditions and security requirements accepted by the PB must be signed and recorded and must be met by the applicant within 12 months of the date of conditional approval of the subdivision, or the approval from the PB will become null and void.

Mr. McWilliams will set up a public hearing for both of these amendments to be heard and discussed.

VII. DISCUSSION OF RECOMMENDED AMENDMENTS TO THE SITE PLAN REVIEW REGULATIONS

Currently, Peter Stanley has been available to property owners to advise them in matters of Change of Occupancy and other matters that could be decided at a quicker timeframe than is available on a bi-weekly basis for regular PB meetings. He is requesting permission to grant official approval in these sorts of cases when he decides no further PB action is necessary. Peter remarked that his goal is to provide a service and to take care of matters that have little or no increase in intensity of use in an efficient manner. Chair Ebel commented that it would be helpful to set up some sort of criteria for Mr. Stanley to follow when making such decisions. Mr. Doheny expresses similar concerns regarding such a delegation of authority. Mr. McWilliams clarified that changes of use and exterior and interior site alterations should still be brought to the PB. In the next month, Mr. Stanley will develop a suggested process, which may include conferring with the Town Planner and the Chair prior the issuance of certificates of occupancy without PB review. He suggested that one approach would be to summarize each case that he has dealt with on a monthly or biweekly basis and to bring a memo with the summaries to the PB for review so that it is aware of the cases he is dealing with and how he has handled them. Mr. Stanley stated adamantly that if any case comes before him that he is unsure of or thinks the use may intensify, he will bring it to the PB for review.

OTHER ISSUES

PARKING SPACE MANAGEMENT

Mr. McWilliams stated that Town Administrator Jessie Levine had brought up a question regarding property owners assigning a specific number of parking spaces to tenants in the building. She wondered whether the PB should get involved in regulating parking spaces between owners and tenants. The consensus was in the negative. However, if owners want to rent out to tenants and there are not enough parking spaces remaining due to how they are managing the spaces, the PB will not allow any new tenants to move in. If there is a problem property, the PB could invite the owner to a meeting to discuss it.

PARKING SPACES vs. BUILDING SIZE

Mr. McWilliams said that Ms. Levine was also concerned about situations in which building size does not correlate with the numbers of businesses in a particular building... She wondered if parking should be calculated on the basis of the number of businesses, not the total square feet of building when determining the appropriate number of parking spaces. Mr. McWilliams said, for example, that five small businesses might need more parking than one large business. After some discussion, the PB decided to leave this issue alone until it becomes a problem.

The MINUTES of the FEBRUARY 10, 2009 MEETING of the PLANNING BOARD were APPROVED, as circulated.

The MINUTES of the FEBRUARY 5, 2009 PB SUBCOMMITTEE MEETING for the KEARSARGE COMMUNITY CENTER were APPROVED, as AMENDED by TOM COTRILL.

The MINUTES of the FEBRUARY 10, 2009 PB SUBCOMMITTEE MEETING for the WALLULA SUBDIVISION were APPROVED, as amended by TOM COTRILL

The **MEETING** was **ADJOURNED** at 9:30pm.

The next meeting is planned for March 8, 2009 at 7pm.

Respectfully submitted by:

Kristy M. Heath, Recording Secretary
New London Planning Board

Date approved: _____, 2009

Chairman: _____