

TOWN OF GOSHEN
PLANNING BOARD
APPROVED MINUTES
PUBLIC HEARING-MTN. REACH & GUILDHALL
MAY 27, 2008

MEMBERS PRESENT: Chairman Allen Howe, John Wirkkala, Jonathan Purick, Rich Moen, Jack Scranton, Selectboard Representative Jim Carrick, Selectman's Representative Melanie Bell, and Sue Peacock, Secretary.

OTHERS PRESENT: Town Attorney Bernie Waugh, Attorney Richard Uchida, Mark Loehr - Mtn. Reach Dev., Doug Windsor- Chairman- The Lodges, David Eckman-Eckman Engineering, Bea Jillette, Tom Elliot - Friends of Mt. Sunapee, Shaun Carroll, Jr., Kathy Carroll, Dan Peterson - Goshen Fire Dept., Lars Nelson - abutter of Mtn. Reach, and Michelle Chadwick- abutter of Mtn. Reach.

AGENDA ITEM # 1: MTN REACH PROPOSED REVISION PUBLIC HEARING

Mr. Carrick was the Selectboard Representative for this Hearing.

Mr. Howe stated the reason for this Public Hearing is to consider a modification of the approved development plan for Mountain Reach. There are 4 legal criteria to consider in deciding whether there is a purpose to review a request to modify the approved development plan.

STATUS

The developers are still within the "grandfathering" protections of RSA 676:12 and 674:39 with respect to the original application.

This means that the Goshen zoning ordinances that have changed since the original application was submitted would *not* apply to this requested modification. UNLESS, of course, the modification was so substantial as to effectively be requesting a completely different development.

A modification should be allowed if the modified proposal would not violate any conditions already imposed by the Board (if it did the applicant can appeal those conditions) and if the following four tests can be met:

1. Is the nature and purpose of the new proposal the same as the existing proposal?
2. Is the new proposal simply a different manner of implementing the same use, rather than constituting a use which is different in character, nature and kind?
3. Will the new proposal (as compared with the existing one) render the premises proportionally less adequate for the use, in terms of compliance with current zoning requirements?
4. Will the change result in any substantially different impact on abutting property or the neighborhood?

If the modification is approved, any “vested right” aspect of the original approval is lost. Thus, any new approval entirely replaces the prior one to the extent of any and all inconsistencies.

If the above tests can’t be met, then the application would have to comply with the existing zoning ordinances.

FEES

The fee for a Public Hearing and each continuation session is \$80. Mr. Howe thinks the amount for each continuation session had been inadvertently overlooked for the previous hearings on Mt. Reach. I expect the Board will want these fees paid in advance of a decision. Rich Moen is the Board’s Administrator of Fees and Special Accounts and the applicant should be kept advised of fee payments.

Mr. Loehr distributed an updated set of plans, dated 5-21-08. He told the Board he was approached by different buyers regarding the modification of Mountain Reach. Mr. Doug Windsor of “The Lodges” in Killington, VT presented a plan to Mr. Loehr. Mr. Loehr believes that this modified plan has a lot of common sense. Mr. Loehr has the modified plan set up so that the conceptual plan is overlaid onto the original approved plan. The conceptual plan has a lot of KEY comparisons, dated 5-08, which Mr. Loehr has distributed. The Key Comparisons are as follows:

	Approved	Concept
New Buildings	7	4
Units/Building	2 to 4	6* 1
House remains	Yes	Yes
Total Units incl House	24	25
Total Bedrooms incl House	82	76
Building Sites >25% slope	0	0
Size of Units (sq ft)	4265	1783
Parking	Inside	Outside
Parking Spaces	78	52
Total New Building Footprint (sq ft)	72000	18000* 2
Footprint of Driveways and Parking (sq ft)	7000	4000* 3
Length of interior road (ft)	2950	1150* 4
Old Province Road upgraded	Yes	Yes
Open Space	65%	69.44%
Ridgeline requirements met	Yes	Yes* 5
Height under 35 feet from avg grade	Yes	Yes
Direction Building A	East	West *6
Phasing	3 Phases	3 Phases

* See next page for notes

- *1 Requires Planning Board Exception
- *2 32% per building; 65% fewer buildings = 75% less
- *3 Less but more obvious
- *4 20% of 1150 feet moved to West
- *5 And three less buildings
- *6 Bldg A - 35 ft farther from boundary trees added

Mr. Loehr stated that the newer plans also show parking with or without a garage, and also an open space concept. The concept is to have the garage size to be 36 X 24, which is a possibility of a 3 bay garage. Mr. Loehr stated also there are better landscape plans included in the modifications, which were done by Mr. Roger Wells. There are more trees added, with a typical planting plan. Mr. Loehr then referred to the Open Space Plan on pages CE 1 to CE 2, as the open space is not as tight, and there is a softer indentation. This plan allows the area trees to be saved. The open space could be reduced if the septic is moved. The limbing and trimming was unchanged, instead of 40,000 sq feet it would be reduced to 32,000 sq ft, as there would be fewer buildings.

Mr. Loehr also referred to the set of plans; Page C3 of the plan, stating that Building D was moved a little to the south, so that the stone wall could be kept intact. On Page C4 there were no changes. On Page C9 there were changes to the interior road, and the steepest slope is 3 1/2%. Page SL3 - SL4 the concept of garages and slopes in the East elevation. The concept of the garages and slopes are similar to "The Lodges" in Killington, VT. Mr. Loehr introduced the Chairman of "The Lodges" Mr. Doug Windsor.

Mr. Howe asked Mr. Loehr about the issues with the fire dept. Mr. Loehr stated that Mr. Eckman is working on the concept of the propane gas/fire issues. Mr. Eckman stated that the subdivision approval would be a straight amendment. Mr. Eckman stated that the pond would be piped up to the cistern. The Wetland approval would also need an amendment. The footprints are smaller; 3 buildings less.

Mr. Wirkkala asked what the new selling prices would be, Mr. Loehr stated they would be a high &\$500,00 to 600,000. Mr. Wirkkala asked if there would be a problem with owners wanting to invest in a time share type of condo. Attorney Uchida stated that this would not be a time share type condo, there is a clause in the buyer's/seller's agreement to prevent that from happening.

Mr. Carrick asked about snow storage areas that are on Page C9, that were not in the original set of plans, Mr. Eckman stated that this was on the conceptual plans. Mr. Carrick also asked about the trails interconnecting and would this change? Mr. Loehr stated that this would depend on the parking concept. There is one single access point for the trails to the ski slopes. Mr. Carrick asked about the access to wells, cistern and pumps in the pond, and if this is a corridor. Mr. Eckman stated that there is more room now, and that there is small fragment areas, a small piping area, and the same hydrant system. The garages would be about 10 feet away from the building. The same fire hydrant system will be proposed. Mr. Loehr said that he still has more work to do, and that he will come back with more detailed plans the next time he meets

with the Planning Board.

The idea of the garages is liked by Mr. Howe and also Mr. Loehr. Mr. Howe asked Mr. Eckman what the time frame for a DES amendment would be? Mr. Eckman replied that the turnaround time for the amendment would be 35 days or less, as the wetland amendment would be about a month.

Mr. Carrick stated that he was interested in hearing about the fiscal impact on the school system. Mr. Howe stated that we had previously decided a fiscal impact study was not a requirement. Mr. Howe stated the Planning Board would not have to go down that road again. There are simple statistics that relate number of bedrooms to expected number of school age children

Mr. Wirkkala asked where the loop road location is in regards to where the fire trucks would turn around? Mr. Loehr referred to the Plan, on Page C9, and the language of all the notes has not changed.

Mr. Elliot questioned the plan and it seemed to him that the well was far away, and also is that where the water is found? He also questioned if the view would substantially change?

Mr. Loehr replied by stating the views will change, and will be more directed to the west and southwest, the facial square footage is less.

Attorney Waugh then stated that there should be some kind of preliminary vote, which would or would not allow an amendment of the prior approval.

Mr. Howe then stepped through each of the four tests listed above and provided his conclusion that the proposed modification met the standards for grandfathering from updated zoning ordinances.

In regard to # 4 of the nature and purpose- "Will the change result in any substantially different impact on abutting property or the neighborhood"? Mr. Wirkkala asked if this could lead to more intensive use to the condos? Mr. Howe replied that this would essentially be the same, because the condo documents would contain the same provisions.

Mr. Elliot asked about future conservation use and if there is no precedent use? Mr. Howe stated that they are grandfathered should the concept pass the tests, then new applications would have to be prepared, according to the new zoning ordinance.

Mr. Peterson stated that in regard to the loop road he was concerned with ice conditions with that design. He thinks that newly proposed hammerhead would benefit the Fire Department.

Mr. Howe stated that aggregating the buildings disrupts less. There would be less alteration of terrain and, a lot less road. Mr. Howe believes that there are benefits to

these modifications made in the conceptual plan.

Mr. Howe stated that all of these conditions seem to be met, but that the modified development must still meet all previous conditions imposed by the Board. Mr. Howe made a motion to move on to the next step, Mr. Purick seconded, all were in favor.

Mr. Howe stated that this Public Hearing has provided some guidance as to what modifications the Board prefers. Mr. Howe prefers the set with garages, as did Mr. Moen, which is the newest set of plans (dated 5-21-08). Mr. Wirkkala said that if this is what the applicant wants to do, then if all of the criteria is are met, the Planning Board should respond positively. Mr. Howe made a motion stating he prefers the newest set of plans with garages, Mr. Moen seconded, all in favor of the plans with garages. Mr. Howe stated that the next Public Hearing should be to discuss the set of plans with garages, phasing, fire, and that Mr. Dzewaltowski of UVLSRPC should be included in this Hearing as well. Mr. Loehr stated that there are some trade offs, as there is 66 or 67 percent of open space, the meadow would open up, the road has been shrunk. Mr. Loehr asked for guidance on whether the Board wanted the maximum open space or would prefer slightly less open space that was "smoothed"

Mr. Howe stated that this conceptual modification first has to continue to meet the minimum open space percentage requirements, but that minor reductions in the amount of open space to create something more enforceable and uniformed would be beneficial. Mr. Purick stated that this will impact the town, but does not think it will impact the school system.

Mr. Howe made a motion to continue this Public Hearing on Tues., July 1st, 2008 at 7:00 P.M., Mr. Moen seconded. All were in favor for a continued Public Hearing on that date and time.

AGENDA ITEM # 2: Guildhall Sand & Gravel excavation permit application

PUBLIC HEARING

The Selectboard's Representative for this Hearing was Melanie Bell.

Mr. Carroll distributed an attachment regarding the Davis excavation site. The letter is dated 5-27-08. The letter basically states that "after talking with Ted Kelsey, his recommendation is that we leave the field the way it is, un-mowed, and let natural reclamation take place. Also, "Once sand is depleted from polygon A and B, we will commence reclamation bringing these to final grade and starting the seeding process. (See attached letter)

Mr. Howe stated that there still seems to be a piece missing, he envisions a process that is incremental, and would like the company to convene a meeting to include the company, the Board, and the NRCS. Mr. Howe also stated that on the March 4th Public Hearing, he stated that he wanted the application process to include NRCS when it is

time to do reclamation. Mr. Carroll stated that he could write something to the fact the way that Mr. Howe would like it. Mr. Carroll will write up something about when it is ready for reclamation, and go over what is going to be done at that time, in simple language, with the technical expertise, and just to state what is going to happen and what makes sense at the time it is being done.

Mr. Moen asked Mr. Carroll regarding Ted Kelsey, should there be something on record regarding hydro seeding. Mr. Carroll replied that he is planning to use Nate Bacon's company to do that task.

Mr. Howe discussed the supplement to the March 4th Public Hearing minutes, and also the April 1st Public Hearing minutes. The new maps were presented April 1st, along with narrative, . This material will be taken into consideration, and will be worked into the conditions of the permit itself.

Mr. Howe stated that all the necessary items have been submitted, Mr. Howe then made a motion to accept the application as complete, Mr. Moen seconded, all were in favor.

Mr. Howe then wanted to discuss the substance issues. Mr. Howe then referenced the May 6th meeting regarding the \$84,000 reclamation bond, and how that amount came to be. Mr. Carroll stated he talked to Mr. Fraser, and he stated that the Board had referenced that amount. Mr. Wirkkala stated that he did not recall discussing that subject how the bonding figure had been derived. Mr. Fraser had also told Mr. Carroll that it was something to do with the acreage, and a certain amount of money per acre, but he had no recollection of how this amount was derived.

Mr. Howe stated that the amount of open space was 22.1 acres. Thus the current bond amount would equate to \$3,823 per acre. Mr. Howe did contact NRCS-Deb Weymouth regarding this issue of the bond amount, and she stated that NRCS has nothing to do with reclamation. Mr. Howe posted a question about gravel pit restoration bonds on the Office of Energy and Planning list server. He received three responses. One response suggested using information in the NH DOT Bid Tabulations. Another response from the Woodstock Planning Board stated they used a bond amount of \$10,000 per acre, A third response from the Belmont Planner used a figure of about \$6,900 per acre. This response included a breakdown of cost prepared by an engineering company. About half that cost was for the purchase and application of loam.

Mr. Carroll stated that he is not doing the loam now, there is just seeding going on now. Based on information obtained about gravel pit restoration bonds, and the fact that restoration of the Davis pit will not involve topsoil. Mr. Howe felt that the current bond amount was adequate.

Mr. Wirkkala then asked if a reporting requirement (sugar sand) that was discussed on May 6th is acceptable to Mr. Carroll. Mr. Carroll stated that this report can be done at the end of the year, and will be put into the permit. There will be a breakdown in terms

of reporting, and a follow-up with a graph.

Mr. Wirkkala also stated that he wanted to re-iterate the importance of copying (cc) to the Planning Board, letters from other agencies or the select board, and a carbon copy to the Planning Board in the report to the selectboard end of the season what has been excavated. The Planning Board should be kept abreast of all situations involving the excavation. Mr. Carroll stated that this could be done and will be done when any formal letter is received, or sent to any governmental agency. He also stated that there were some instances last year, such as something from the MSHA that might have been skipped, or a written report might not be sent.

Mr. Wirkkala stated that the request to try to schedule the site visit for September cannot be locked into as to the date. This date can be put in as "October" for the site visit. Mr. Howe suggested putting in a window such as mid September to mid October.

Mr. Howe will draft the excavation permit for the next meeting (6-3), and at that time vote on the approval. When this draft is done, Mr. Howe will then send it to Town Attorney Waugh, and get feedback from him. At the next meeting there will be a vote whether or not to approve, and to agree on what needs to be changed.

Mr. Howe wanted to discuss the movement of gravel through the Unity Pit through the Davis pit. He wants to make sure that the interests of Goshen residents are satisfied. Attorney Waugh gave a legal opinion and stated that if the Davis pit does have its own excavation permit, then Goshen could regulate use of the Davis pit as a gravel haul road for the Unity pit.

Mr. Carroll stated that he did not agree with the number of loads.

Mr. Carroll stated regarding the 77 truckloads a day, what dictates a round trip? Mr. Wirkkala asked what is the conversion of the truckloads. Mr. Carroll stated it is by the ton, the trucks all are tri-axle trucks, with one tractor trailer hauling 80,000 tons, and the tri-axle could haul 77,000 tons. Mr. Carroll stated that if there are any complaints about these trucks, he would like to know about it.

Mr. Purick stated that the Board will have to take all this into consideration about the number of trucks, 77 trucks, Mr. Carroll stated that this is not excavation trucks. Mr. Purick also stated that what needs to be discussed is the traffic.

Mr. Howe stated that the reason to change the number of trucks should be provided to demonstrate a material change of circumstances.

Mr. Howe told Mr. Carroll that he and other Board members should read Attorney Waugh's legal opinion and we can discuss this further at the next meeting.

Mr. Carroll questioned how it would be presented to the town, and properly, if he has to prove this then all the same people will complain, and then Mr. Carroll could be shut down. Mr. Howe stated that Mr. Carroll has to provide to the Board a material change

for the number of trucks that is logical to the Board, and give the Board the basis for this change. Mr. Wirkkala said that there are citizens in this town, who are retired for example, and limiting the number of trucks is important to them. Mr. Wirkkala stated the limitation to 77 trucks was because this excavation was close to the center of town. Mr. Moen stated that there is a burden of proof, sell us the product, and what we need for a judgment, and then it is up to the Board.

Mr. Howe wanted to remind Mr. Carroll that there is a fee for each Public Hearing and continued hearing at \$80 each time. Mr. Moen is our Special Account and Fee Administrator and will be able to advise Mr. Carroll of payments due.

Mr. Moen made a motion to continue the Public Hearing until June 3, at 8:00 P.M., Mr. Purick seconded, all were in favor.

AGENDA ITEM # 3: MASTER PLAN & HCPP GRANT APPLICATION UPDATE

Mr. Howe stated that OEP still has not made an announcement regarding the HCPP grant. Mr. Howe suggested the Board start with our first task, a community forum and public survey, which was to be fully funded by the town under the HCPP proposal anyway. Then, if we get the grant, we can continue the tasks that as outlined.

Mr. Howe stated that maybe Mr. Dzewaltowski could come to our next meeting on June 3rd to discuss what he would need and what he expects with the first task. Mr. Howe will contact Mr. Dzewaltowski. Mr. Wirkkala stated that if we had to choose any aspect of the process to hire an outsider, this would be the right time to help the Board.

AGENDA ITEM # 4: CLASS VI HIGHWAY BUILDING POLICY, WAIVER FORM

There are drafted forms which were distributed to the Board members. These could be discussed at the end of June, these forms were also passed onto Town Attorney Bernie Waugh for legal review.

AGENDA ITEM # 5: GARY CARON RESTORATION BOND

Received a fax from McCrillis and Eldridge, verifying Mr. Caron's bond is issued.

AGENDA ITEM # 6: CORRECT MINUTES 4/29/08, DISTRIBUTE 4/1/08, & 5/6/08 DRAFT MINUTES.

Mr. Wirkkala submitted corrections to the Board. Mr. Moen made a motion to accept the minutes with the corrections, Mr. Purick seconded. All were in favor.

AGENDA ITEM #7: OTHER BUSINESS

Mr. Howe emailed Mr. Peter Eckholm citing several deeds and sales, will send a follow up email. Mr. Howe has not heard back from Mr. Eckholm as of yet, regarding the deed

on which there is 94 acres or LESS owned.

Mr. Purick made a motion to adjourn, Mr. Wirkkala seconded, all were in favor to adjourn at approximately 10:30 P.M.

Sincerely submitted,

Sue Peacock
Planning Board Secretary