

**TOWN OF SUTTON**  
**Planning Board**  
Pillsbury Memorial  
Hall Meeting Minutes  
January 14, 2014

**Present: Planning Board Members: Carrie Thomas, Co-Chairperson; Peter Blakeman, member; Carole O'Connell, Alternate and Dan Sundquist, Ex-Officio; (David Burnham, Co-Chairperson, Bob DeFelice, Roger Wells, and Julie McCarthy, members were absent); and Laurie Hayward, Land Use Coordinator (LUC) and representing Industrial Tower and Wireless, LLC(ITW) were Kevin Fadden, ITW Site Acquisition Specialist; Kevin Delaney, ITW Engineering & Regulatory Compliance Manager; also in attendance during the public hearings was Thomas Schaumberg.**

**The meeting was called to order** at 7:08 PM, by Carrie Thomas, Co-Chairman.

The Chair appointed Carole O'Connell to sit in for Bob DeFelice.

**Public Hearing: Thomas, the Chair, opened the Public Hearing, explaining that this hearing is a Continuance of the Public Hearing on the application of Industrial Tower and Wireless, LLC, 40 Lone Street, Marshfield, MA 02050, Tax Maps Lots # 01-406,086 and 01-408,090 for Site Plan Review of the proposed plan for the construction of a 135 foot monopole wireless antenna tower in a rural-agricultural district.**

The Board took up where they had left off on December 10<sup>th</sup>, with the conditions that they had outlined for approval of the Site Plan Review. The LUC had provided a list of the conditions of the related open questions which the Board agreed to use as the basis of a discussion regarding what conditions have been met and what open issues may still exist. The Chair read each condition and after a condition was read, in each case the Board took up whether it was satisfied and/or adequate and/or needed further work. The conditions discussed are:

**1. That the Planning Board receives copies of any existing DES approval for all existing applicable culverts so that it can be determined whether the approval is still active and if approval is not still active then a new approval will be required.** Blakeman spoke up stating that he had no concerns whether the permit is now expired. He did note that for the most part, there will be no change to culverts. There is one where ITW will add 12 inches of material on top of the culvert; however, there will be no change to the intake and outlet for that culvert. He stated that on this point, he does not see an issue. The LUC explained that she had spoken with Mark Moser, the consultant, and he was comfortable with this language as well, indicating that the language was simply customary for the DES and that, in this case, there is no work within the wetlands expected. Moser had provided a letter to that effect to the Board and copies were handed out just prior to the meeting.

**2. That the Planning Board receives calculations and documentation showing that the existing culverts all meet the 10- year storm design requirement of the Ordinance. And that that report be submitted to the Board's engineer for his review and recommendations.** The LUC provided Board Members with a letter from Mark Moser that described how the most recent documents provided by ITW had resolved his concerns regarding the culverts and the ability of the storm water mitigation efforts planned to handle a 10-year storm. The LUC asked Kevin Delaney whether they brought the final plats and report from their engineering firm, Fieldstone. Delaney gave the documents to the Board. Board members checked the plans for specific items and indicated that they were satisfied with the completion of this Condition.

**3. That ITW be responsible for all maintenance of all of its improvements.** The LUC explained that Kevin Fadden had asked whether the Addendum to the Lease, would be adequate to cover this item and it did not seem so. Kevin Delaney spoke up indicating that he had the impression that adding a statement to the plats would be adequate and that was done. It was pointed out that the statement on Sheet 2 of the Overall Site Plan. Note 11 states: "The Applicant shall be responsible for the Maintenance of the proposed improvements". The Board indicated that they

were OK with that as long as the Town's attorney is satisfied with it.

**4. That ITW submit documentation satisfactory to the town's attorney that ITW has the right to perform the maintenance.** Delaney explained that he had provided a copy of the Addendum to the Lease which clearly states that ITW has the right to perform Maintenance. He hoped that would be adequate to cover this item. Blakeman asked if anything is/will be registered to tell a future buyer that ITW has the responsibility to maintain the site. Delaney answered that is what the Addendum does. Blakeman explained that he feels that this sort of language typically would be found in a deed or a separate document registered at the county registry. The LUC explained that she thought that town counsel indicated that document should be registered with the Merrimack County Registry of Deeds as a separate item. That would provide a possible future buyer of the Blaney property the best opportunity of discovering the relationship in doing their due diligence. The Board agreed that the Addendum to the Lease does need to be registered. The Board indicated that they were OK with the language as long as the Town's attorney is satisfied.

**5. That any grading that exceeds 20 vertical feet shall have a 5 foot wide bench and a note is to be added to the site plan document so stating;** Delaney pointed out that the statement on Sheet 2 of the Overall Site Plan, Note 12 states: "Any grading that exceeds twenty (20) vertical feet shall have a five (5) foot bench". The Board checked the plan and agreed that satisfied the Condition.

**6. That it is a requirement that the construction of the approved site plan shall be inspected by our consulting engineer and that ITW existing escrow account be increased to meet the estimate of this work.** The Chair asked if this requirement was satisfied. The LUC explained that she had discussed this with Fadden and he indicated that ITW has no problem with site inspections. She told him that the original funds provided to pay Moser Engineering had been used to pay work to date and that based on Mark Moser's estimate, ITW needs to pay an additional \$1,500 into the escrow account. She sent an invoice and that amount was paid just prior to the meeting.

**7. That because the access road and site itself are not observable from Route 103, the town shall have the right to periodically inspect the condition of the improvements providing reasonable notification has been provided to ITW.** Fadden indicated that this condition is acceptable to ITW.

The Chair asked if ITW had any statements that it would like to make at this point. Fadden spoke up stating that he hoped that that plan to have town counsel review language would not slow down the approval. The Board stated that they would make every effort to get the language reviewed in the next few days. Sundquist stated that he doesn't expect big changes.

The LUC spoke to Fadden and Delaney, stating that she wanted to confirm that the language is fine with town counsel and then she can have the plans signed by the Board Members and have the Notice of Decision written. There was a question whether mylars need to be signed. Blakeman pointed out that this is not necessary when there are no changes in lots.

The LUC asked the ITW representatives to confirm that the applicant has agreed to register with the Merrimack County Registry of Deeds, not only the Lease document, but also the Addendum to the Lease. It was confirmed that they would have both documents registered.

**Sundquist moved that they close the Public Hearing on the ITW cell tower Site Plan Review, Thomas seconded the motion and it was voted unanimously.**

It was agreed that once the final language has been approved by town counsel, the applicant could stop by the Land Use Office with the plats or mylars to be signed and that the LUC would give them a copy of the Notice of Decision that the Planning Board would then file.

**Administrative:**

**Minutes of previous meetings:** O'Connell moved to approve the minutes of December 10, 2013. Sundquist seconded and it was unanimously voted to approve the minutes of December 10, 2013 as written.

**Correspondence:**

**The Kuhlman Sign** -The LUC explained that Dr. Kuhlman had emailed that she had the new sign; but, when they attempted to install it the ground was frozen and there was no way they could do the work. Sundquist spoke in support confirming that he was aware that they did try – perhaps even employing a jack-hammer. The Board agreed that Kuhlman had acted in good faith and there was nothing to do at this point except wait for spring. The LUC stated that she would relay this to Dr. Kuhlman. The Chair also noted that, as she has already removed the shingles, she really is in compliance. The LUC noted that Dr. Kuhlman was very concerned and very much wanted to get the new sign out to show the neighbors that she was making an effort to address concerns. Sundquist agreed that the LUC should contact Dr. Kuhlman and thank her for her efforts as well as let her know that she is welcome to wait until the ground thaws.

**Other Business:**

**The Sign Ordinance Revision** - There was a brief discussion about the Sign Ordinance Revision and the Public Hearing and the process and timeline. O'Connell, who was at the joint meeting of the Planning and Zoning Boards, spoke about some of the issues discussed at the meeting. The major questions that she had were about sign size. She explained that the group saw signs like "tree farm" signs as falling under the exemption for federal and state government signs. Blakeman pointed out that tree farm signs are not those of a public agency; but, rather are from a private group. Thomas said she was concerned about the 120 day limit on Real Estate signs. She further stated that in recent years houses tend to stay on the market many more than 120 days. O'Connell explained that she had asked the same question and Hallahan, who is also a realtor was sitting next to her and did not seem to find that an issue. Blakeman said that he really didn't feel that temporary "FOR SALE" signs should be regulated at all.

There was also some discussion about the size limitation of 3 square feet and that may be too small for sign size. The LUC explained that was actually a compromise as Wells had been in favor of an even smaller number. Sundquist noted that with this much discussion amongst Board Members, it would be good to look at what the process is if there are revisions to the suggested wording. The LUC explained that the Notices are out for the Public Hearing on the next Tuesday, January 21<sup>st</sup> at 7:30 PM, and the language has been made public. So, at this point, changes cannot be made. After the Public Hearing, there is an opportunity for a deliberative session and to make any revisions at that point. The problem comes in with the calendar and the requirement that a second session is held if there are any changes. That second Public Hearing must, by statute, be held not sooner than 14 days and no later than February 5<sup>th</sup> --- in other words MUST be held on February 5<sup>th</sup> and must approve the language revision from January 21<sup>st</sup>. If the language is not approved in that way and on that schedule, then the revision of the Sign Ordinance must wait until the next year. Sundquist asked who is officiating. The LUC responded that the Public Hearing is officiated by the Planning Board, so Thomas should expect to officiate. There was a discussion about who should present the revision and it was agreed that Lick, who was instrumental in developing the exact language, be asked to present. Sundquist pointed out that when the Ballot Article is written it must be very precise. The LUC explained that she is already working with town counsel on wording.

The question came up about who can speak at a Public Hearing. There was a brief discussion and the Board requested that the LUC ask town counsel whether there are limitations to non-residents speaking at a Public Hearing for a Zoning Revision. The LUC was asked to check this with town counsel.

**Other Business:** Sundquist stated that he had two items to discuss. The first was the Harborview Subdivision. He explained that he had asked the LUC to do some research on the date of approval and conditions for approval on that subdivision. The LUC replied that she found documents that indicated that the original approval was given May 31, 2007; however, she had done a quick bit of research on the Registry of Deeds website and had not found that Notice.

She did find that there were subsequent amendments to the original approval. Sundquist explained that there is statutory basis for rescinding a subdivision if conditions are not met and/or there is no significant development after a

*Approved January 28, 2014*

certain number of years. Blakeman asked if the Condition for that approval were met. Blakeman's question was, if the Conditions were never met, is there even an approved subdivision at this point- so must it actually be rescinded? Sundquist replied that he does not believe that any of the Conditions were met.

Sundquist further explained that he believes that this subdivision is past the 6 years requirement. The LUC explained that she does want to do some more research on the approvals and the statutes and then will check with town counsel for recommendations. Sundquist agreed that she should do that.

Sundquist's second point is that the Board of Selectmen discussed the need to complete a revised Master Plan during 2014, likely planning for a mostly summertime project with a committee of maybe 18 interested residents. He asked the LUC if there were any dollars for professional support on the Master Plan in the Budget. The LUC said that there was no specific provision made. Discussion turned to working with the old plan as template and completing the Revised Master Plan in much the same way that the HazMit Plan was completed this past summer although, perhaps, with less assistance from Central NH Regional Planning Commission (CNHRCP). The LUC noted that both she and O'Connell had been involved with that process and watched how Stephanie Alexander of CNHRCP had kept that process flowing efficiently. Sundquist stated that he thought that the Planning board could get the template from CNHRCP if it is not readily available here.

Sundquist told Board Members that there is a new section "h" to RSA 674:2 which is the statute which specifically addresses Master Plans. He also noted that he had spoken to Mike Tardiff at CNHRCP and may be able to get some support there. He explained that it is good to keep it in mind that this project should be completed this year. Sundquist explained that he wrote the Natural Resources portion of the 2005 Master Plan and could contribute to the revision in a similar way. There was further discussion about things to consider when putting together a Committee. Sundquist indicated that he would continue to work with Tardiff and keep the Board apprised.

There was a brief discussion regarding the Land Use Budget and that most of the line items have been cut down and that the largest line item for Salaries includes time for the work on the Master Plan.

**The next meeting is the Public Hearing on the Revision to the Sign Ordinance on January 21, 2014 at 7:30 PM.**

**Next regular meeting is will be on January 28, 2014 at 7:00 PM.**

**There being no further business, the meeting was adjourned at 8: 41 PM.**

Respectfully submitted,

Laurie Hayward  
Land Use Coordinator