

Planning Board Minutes
11/10/10

CONTINUED SITE PLAN: MAXTON TECHNOLOGY INC.

Ms. Seeler recused herself as she is on the Board for Slim Baker Lodge. Mr. Favorite sat in for her. Mr. Paradis explained the procedure in which the Board shall go over the checklists to be certain that everything that is needed to conduct the hearing has been presented. After that, he will take testimony from any of the public who wish to speak.

Mr. Demarco, Maxton representative, then explained that the proposal is for a 190' monopole on a 2.4 acre lot. They will lease a 100' x 100' section with a fenced 50' x 50' section.

Wireless Checklist:

Mr. Paradis explained that the Planning Board cannot bend anything that is in the Zoning Ordinance unless the Ordinance gives permission to do so.

The following items of concern on this checklist:

- #1. Map showing service area and explanation of need = to look at with Site Plan.
- #4 A site plan that meets the requirements of Site Plan regulations = with Site Plan.
- #5. Landscaping = with Site Plan.
- #6. Inventory of existing facilities within the jurisdiction of the town: location, height, design, economic and technical feasibility for co-locations = Information on Bristol Peak is needed. Steve Kelleher, Maxton Tech., will provide.
- #9. Engineering information detailing: size & coverage for the PWSF location and structural plans bearing the seal of a qualified professional engineer licensed in the State of NH = This may be a condition of approval. Found in affidavit – No structural as type of items is not known.
- #10. Applicant to submit to the Planning Board: list of all contacts made with owners of potential sites regarding availability of potential space for a PWSF. Copies of all letters of inquiry made to owners of existing structures. Letters of rejection or unanswered “Return Receipt Requested” forms from the US Post Office for each owner of existing structure that was contacted.= Need this in writing. Mr. Kelleher stated that they only identified one location which was by the water tank on North Main St. However, it had significant blockage by Sugar Hill. He only dealt with the town.
- #12. A PWSF requires a building permit = Permit waits for Site Plan approval.
- #14 & 15. A PWSF involving construction of a ground mount requires: compliance with the Town Zoning Ordinance, Site Plan Review, and is subject to the provisions of this Amendment = Variances have been approved and Site Plan is in process.
- #16. Visual impacts measured on the basis of change in community scale as exhibited in relative height, mass or proportion, new visible elements proposed on a contrasting background, different colors and textures proposed against a contrasting background, use of materials that are foreign to the existing built environment = Bd. to hold back on this for now.
- #17. Enhancement measured on the basis of conservation (buffering, for example), amount & type of landscaping and/or natural vegetation, preservation of view/vistas/and view-sheds, and continuation of existing colors, textures, and materials = Bd. to hold back on for now.

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- #18. Visibility focusing on eliminating or mitigating visual impact, and protecting, continuing, and enhancing the existing environment = Hold for now.
- #25. Any PWSF extending above the height of the vegetation immediately surrounding it, shall be of a color which blends with the background or surroundings – Hold for now.
- #27. PWSF shall not be lighted. = This will be up to the FAA.
- #32. Ground-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, or abutting properties = Deal with in Site Plan.
- #33. All ground-mounted PWSF shall be surrounded by a buffer of dense tree growth = Variance was approved and Maxton plans to leave the existing trees. Mr. Demarco added that they wish to leave the natural vegetation and will have a fence.
- #34. Existing entrances and driveways utilized = Maxton must do a 30' across access road. It was stated on the checklist that this is on a Class VI road. To correct this statement, it is a private road. Mr. Kelleher added that the road was for a subdivision that never developed.
- #35. New driveways to serve a PWSF shall include a curve or turn so that the service facility is not visible from the entrance to the driveway = with Site Plan. Mr. Kelleher mentioned that the driveway is only a short distance but he will try to accommodate.
- #36. Any antenna array shall have a diameter of no more than four (4) feet, including the diameter of the mount = Hold for now. Mr. Demarco stated that the standard is 5' max.
- #39. PWSF shall not generate noise that may be heard from the boundaries of the site = Mr. Demarco explained that there is no noise. This is regulated by the FCC.

The regular checklist was then addressed:

- #13. Planning Board approval block = need Chair person signature line and 6 Board member lines for a total of seven. Also need the expiration date.
- #25. Soil type & boundaries = To be added.
- #28. Wetlands delineation = Need the licenses professional LLC # and name.
- #30. A detailed landscaping plan including buffer area = Mr. Paradis read the requirement in the Site plan regulations. It was noted that they intend to keep the natural vegetation and will have a 50' x 50' fence surrounding the cell tower.
- #34. Impervious areas as % of total lot area = To be added.
- #38. Walks, fences, screening = Hold for the Site Plan. Mr. Paradis asked what type of fencing is to be used and was told stockade. Mr. Demarco added whatever is the pleasure of the Board.
- #41. Statement as to completion date = Mr. Kelleher stated that they have to get Federal approval. It was determined that they could ask to waive this as they do not know when they will be able to do this.
- #48. Waivers requested listed on the plan = The waiver request must be on the plan along with the reason to waive.
- #50. Permits and Approvals = Will need and can be a condition of approval (Federal).

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Mr. Paradis stated that a couple of Zoning Ordinance items are missing from the checklist:
Section 10.9, Monitoring & Maintenance = Mr. Milbrand stated that this was taken care of in the lease.
Section 10.10, Abandonment or Discontinuation of Use = Also in the lease.
Section 10.11, Insurance = Mr. Kelleher explained that the lease requires that they carry insurance.

Mr. Paradis asked the Board if there is enough information to continue the hearing. Ms. DeStefano stated that she would be uncomfortable to continue with so much not completed. The other Board members concurred.

Mr. Paradis explained that it is rare to deny a case at this point but it is the Planning Board's responsibility to fine tune the project. He then asked for public comments in favor and there were none. Next, he asked for public comments against.

David Gallagher, Chestnut St., questioned how the town will ever sell the other lot of land with a cell tower behind it. He asked the Board to answer if they would buy there. Mr. Paradis explained that it is improper to question the Board about this. The Selectmen have determined that this is a trade-off. Mr. Gallagher continued by saying that the \$55,000.00 deal is just buying the town. Mr. Milbrand stated that, without Maxton, we would have to either build our own tower or do major repair to the Hemphill facility and then buy the new equipment. Mr. Gallagher asked about the deal again and Mr. Paradis stated that this has nothing to do with the Site Plan.

Mr. Gallagher then asked who will plow the road, stating that it is unfair that one person should have to pay for Maxton to use. Mr. Kelleher answered that they will plow as needed for their vehicles to get to the tower.

Kent Gustasson, abutter, stated that he has maintained the road up to this point.

Victor Labonte, Chestnut St., questioned if they looked at any other locations. Mr. Milbrand stated that the first location was by the water tower but the coverage was not good. Mr. Labonte then requested a variance if the driveway is straight.

Mr. Gallagher then showed the Chairman a photo taken from his front yard showing the balloon test. He was not happy with the result.

Roger Prive, Chestnut St., stated that no photos were taken from his house. The leaves are now gone and he is certain that he will see it. He would also have liked to see a photo taken from Inspiration Point. Mr. Prive then spoke of how that area is a refuge for birds as well as for migratory purposes. He asked if an environmental survey had been done. He would also have liked to have seen a bigger balloon or a brighter color, as well as photos of more scenic views. He is not sure that a taller tower by the water tank had been considered. As to deeding back to the town, Mr. Prive felt that it would be

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because this type of communication would be outdated and then it would become the responsibility of the town to get rid of the tower. He asked if the town had considered hiring a consultant. He does not feel that we need coverage all over town. Mr. Paradis explained that we cannot, by law, block cell towers. Mr. Prive said that a court upheld a Franklin denial due to a view issue. He feels that it will cause more and more companies to apply. Mr. Paradis felt that this is something that the Board will have to consider. He added that they will probably not make a decision tonight as they will want to read all of the material given them this evening.

Mr. Gustasson was uncertain about the photos and said that the view from his front yard looks right at this spot. The Board addressed this by looking at view #5.

Joe Bedia, Virginia Lane, stated that they purchased their home with the intention of getting a good return on it in the future. He does not feel that this will be so if the cell tower goes in. He added that, when the cell tower is voted in, it will show that the people don't matter as much as money. Mr. Paradis felt that this is a difficult balance to maintain. The Board must look at the overall picture. We try to be impartial as much as possible. At this point, the tower is not a done deal and is the reason that we are asking for a written history of other locations.

Jim Nyberg, Lake St. and Chairman of the Slim Baker Lodge Board, stated that he is against this project. The Spirit of the Ordinance would not be upheld. He then asked if we know who would be on as carriers. Mr. Paradis answered that Maine DCS is listed. Mr. Nyberg said that he has called Verizon and asked if his phone will jump to the roaming capability of the tower and was told that it would not.

Dick _____, Chairman of the Slim Baker Lodge Board, read Zoning Ordinance Section 10.8.6 and asked what criteria was used to take the photos. Mr. Paradis stated that there is coverage for the north end of town but not for the south end and added that any location would be in view. Mr. _____, added that there is a 270 degree view from Inspiration Point and the tower will be in this view. This is not just a dollars and cents proposition.

Mr. _____, stated that Slim Baker was established in 1953 and Inspiration Point was dedicated in memory of a native son. He feels that the tower will compromise this view.

Mr. Labonte asked about T-Mobile. Mr. Kelleher answered that it is out of Ma. They will probably have Sprint, T-Mobile, and some small carriers. Verizon is more limited. Mr. Labonte asked if a study was done as to how many users of these there are.

Mr. Nyberg stated that it is a requirement of the company to look at all areas of location. He mentioned such areas as the top of Slim Baker, the top of Round Top, or in the TTCC (Tapply Thompson Community Center). Mr. Paradis stated that another way is to have small towers in various buildings.

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Mr. Nyberg asked for a simulation from Downtown and/or Lake St. Mr. Kelleher stated that they are limited and there is still the tower on Hemphill. Photos are done by requirement (4 different areas) plus the 2 abutters who had asked for this. They have never implied that the tower will not be seen. Mr. Kelleher added that they looked at a Slim Baker location but that is restricted by Conservation. If the Slim Baker Board would like, he will do another balloon test.

Mason Westfall, Slim Baker Board, stated that the intent of Slim Baker is for recreation and enjoyment. The visual impact will be significant. People have been married and also buried there. He would like to preserve the view. We have very few places of interest in Bristol and need to conserve what we have.

Mr. Nyberg addressed Zoning Ordinance Section 10.8.6 and stated that no Variance was granted from that. Mr. Paradis said that the Board will discuss this when they deliberate.

Sally Putnam, Putnam Drive, asked about the North Main St. area and a 50' tower. Mr. Kelleher stated that they started with 190' and bumped this to 250' and still could not provide this amount of coverage. With that height, they would also need a light on top. Ms. Putnam explained that she is only 500' from the proposed tower as the crow flies and said that she never heard of the proposal until the second public hearing was held. Each meeting the public is limited to what can be said. Her concern is one that she found on the internet:

Quote "Due to the enormity of the size of this project (190-200') and multiple carriers—(Town emergency services, the possibility of Team Mobile, Team Media, ATT, Verizon, US Cellular, Sprint) being added in the future and due to the placement of it in a highly residential area, I have been voicing this concern to each board, through all the processes, for the assurance that there will be no health hazards or biological system changes from cell tower frequencies (Radio Frequency Radiations) from long duration and continuous exposure and requesting for the answer to be placed on the record."

Unquote.

Elizabeth Seeler, Slim Baker Board, stated that she agrees with the other Board members. Maxton is proposing a 190' tower plus 10' but there is nothing to show that they have looked at other locations. As to the deed to the town, when Maxton leaves, we won't need the tower either. They should have to post a bond. Mr. Milbrand explained that the town has the option to retain the tower if Maxton were to leave. This is in case we still need it for our emergency equipment.

Mr. Nyberg asked why the town requires 190' instead of a tower of 40' or 50'. Mr. Paradis stated that we would need to be on a ridgeline or have several towers if at the lower height. Mr. Kelleher said that they could drop the height done if the town is okay with that.

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MAXTON SITE PLAN continued:

With no other comments, Mr. Paradis stated that he feels that we should continue this hearing so that the Board can absorb the materials presented this evening. Mr. Nyberg asked if the Board would poll the number of folks in attendance who are in favor of this proposal.

Mr. Dingman thought that it might be best to hold another balloon test where so many said that they did not see the notice for the previous one. Mr. Kelleher stated that he could not get it done this weekend as it wouldn't get into the paper in time. Also, they have to hire a company to do the test. He explained that four hours is the standard time for holding the test. It was previously in the paper, on the web site, on TV, and on the bulletin boards in the town office. Mr. Kelleher added that other locations would cause the tower to be more visible. A discussion was held as to what notification should be done for the 2nd balloon test and it was thought that Mr. Kelleher would talk to Ms. Bonsteel, Land Use Officer, about what would be needed.

C. Dingman made a MOTION, second by D. DeStefano, to CONTINUE THE MAXTON SITE PLAN TO DEC. 12, 2010 AT 7:00 P.M. HERE IN THE OLD TOWN HALL. The motion CARRIED.

At this time, Mr. Favorite stepped down and Ms. Seeler came back to the table.

CONTINUED SUBDIVISION/MERGER: HABITAT FOR HUMANITY

Mr. Barnard has sent in a letter asking for a continuation to Dec. 8th. They have dug the test pits and found soil conditions conducive for the placement of sewage disposal systems and the next step is to meet with the Fire Dept. in regards to access.

D. DeStefano made a MOTION, second by J. DellaCroce, to CONTINUE THE SUBDIVISION/MERGER FOR HABITAT FOR HUMANITY TO DEC. 12TH. The motion CARRIED.

PCC: FRED SNEIDER

No-one was present.

PCC: ALAN BARNARD

Mr. Barnard has withdrawn his participation in this matter.

PROPOSED ZONING CHANGES:

The Board went over the proposed Zoning changes that Mr. Paradis had drawn up as well as suggestions that came from Ms. Bonsteel. As to the height of accessory structures, the Board is happy with Mr. Paradis' change. Ms. Bonsteel's suggestion of limiting bedrooms was discussed and felt that this would cause the same problems that we have now. It would be unfair to limit expanding bedrooms on larger lots that are away from the Lake. Mr. Milbrand felt that we need to stay away from use issues. Mr. Campbell asked if everyone is aware of how bad the sewer issue is at the Lake. Ms. DellaCroce

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PROPOSED ZONING continued:

felt that the problem is the large Lake District. Mr. Paradis suggested the possibility of an Overlay district. He added that the Shoreland Protection Act covers some of the issues and maybe if we just adopt that, we could then enforce it. We are getting pressure from those folks who cannot go up, or out, etc. We are trying to relax the Ordinance without overcrowding. Mr. Campbell stated that there are serious septic problems if we increase the size. Mr. Paradis explained that the State law won't allow additional increase if it is not feasible. Ms. DellaCroce stated that they could add a room that is not a bedroom and Ms. DeStefano added the example of adding 5' to a kitchen. It was explained that Ms. Bonsteel was trying to restrict bedrooms even if the sewer line came through. This was felt to not be fair.

Ms. DellaCroce brought up the subject of accessory buildings in the definitions. Mr. Paradis said that the town attorney has advised us not to have these types of things in the definitions and it should be removed.

The Board continued to look at Ms. Bonsteel's suggestions. The Board continues to be fine with 25% coverage of the lot. As to tree removal within 50' of the shore front, the Board felt that they should not double up on laws and that Shoreland Protection already covers this.

It was determined that Ms. DellaCroce will write up something about accessory buildings as she felt that they are taken out of the percentage of the lot. Mr. Paradis thought that she might try to clarify this better.

Mr. Favorite asked the secretary if she remembers any case where a resident bought an adjoining second lot, merged it, and then built an accessory building on it. She answered that there has been one where a garage was added that way. It was generally felt that this is a good thing as it makes the lot more non-conforming.

As to signs, it was discussed as to allowing LED and Neon lights as acceptable or to have the Planning Board approve on a case to case basis. Ms. DeStefano felt it should be subject to all others. As for "Open" signs, it was determined to change these to two square feet.

Ms. DellaCroce will e-mail her change for Accessory Buildings. The Board was cautioned not to answer with any opinions but to wait for our next meeting.

MINUTES OF OCTOBER 27, 2010:

The following amendments and clarifications were made:

Page 4, 2nd paragraph, 4th line, place quotation marks on "open".

Page 5, 1st paragraph, add the following sentence: "If they exceed the definition they are a business and need to be addressed as such. Under UNFINISHED BUSINESS, 1st line, replace "Marion" with "Marian".

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MINUTES continued:

C. Dingman made a motion, second by D. DeStefano, to approve the minutes as amended. The motion carried with one abstention.

CORRESPONDENCE:

A Wetlands permit for Vincent Vaccarello was looked at and the Nov.-Dec. Town & City was taken by C. Dingman.

UNFINISHED BUSINESS:

Reports:

Historic District Commission – Their meeting was canceled as they had no hearings slated.

Selectmen: Mr. Milbrand stated that they are working on the budget for 2011 and are trying to cut \$277,000 out of it. He cautioned that we should expect some Capital Improvement cuts. Mr. Paradis asked if both the Budget Committee and the Selectmen will be proposing budgets. Mr. Milbrand answered that they are on two parallel paths. They should be a little more together than they were last year.

CIP: Mr. Campbell stated that we were given insufficient information on Fire ambulance #1. The van-type ambulance is not typically used for other than transport to appointments, etc. due to lack of moveable working room. Our van ambulance has room to move about. Once we get a cell tower, the ambulance crew would be able to contact the hospital early on. A change of the box on ambulance #1 can be done. We would have to pull the box off. The best way is at a cost of \$150.00. Chief Yannuzzi has found that the replacement can be done for less.

NEW BUSINESS:

Crail Holdings' Merger: A merger for Crail Holdings has been signed and is to be recorded. This was noted for the Board's information. A Site Plan shall be following.

NEXT MEETING:

The next meeting of the Planning Board will be held on Monday, November 22nd due to Thanksgiving. It will also be held in the Welfare office as the Budget Committee will be meeting downstairs. Work is to be done on Zoning Changes. We may have the advice of Steve Whitman from Newfound Lake Region Association that evening.

OTHER:

Mr. Favorite stated that a thrift shop has gone in to the old NAPA location (Corbeil building).

With no other business, C. Dingman made a motion, second by E. Seeler, to adjourn at 10:10 p.m.

Respectfully submitted,
Jan Laferriere, secretary