

**Kingston Planning Board
Public Hearing
October 15, 2013**

The Chairman called the meeting to order at 6:45 PM. There were no challenges to the legality of the hearing.

Members in attendance:

Richard Wilson, Chairman	Ernie Landry
Stanley Shalett	Adam Pope
Mark Heitz, BOS rep.	Peter Coffin
Glenn Coppelman, V. Chair (arrived with meeting in progress)	

Also in Attendance: Glenn Greenwood, Circuit Rider Planner; Dennis Quintal, Town Engineer, Larry Middlemiss, Asst. Health Officer.

Absent: Rich St. Hilaire, alternate, Ellen Faulconer, alternate

**PSNH Project Review
Kingston Portion**

PSNH's representative, Sherri, reviewed an upcoming project that would take place in Kingston; this particular portion did not require site plan but it ties in with other upcoming projects specific to a substation project that were requiring site plan review. She explained the new transmission line "R193 Extension" project including the overall project with Unitil and PSNH which would include substation and distribution upgrades. This project is part of PSNH's plans to meet the needs of the project demands for at least the next 10 years.

**Fitzgerald-Boyd Law, PLLC
Montana Realty Trust
17 Jericho Road
Tax Map R5-8-30**

Jackie Fitzgerald-Boyd and Tim Lavalley addressed the Board. Mr. Wilson noted that the plans and other information did not get to RCCD until last week; the report has not been received yet. Mr. Greenwood noted that this was not due to the applicant but rather was internal to the office due to illness. Mr. Lavalley asked to be notified when Mr. Cuomo will be doing his review so their soil scientist can join them. He added that he had new plans that hopefully addressed Mr. Greenwood's concerns noted at the last meeting; a copy was given to abutters for their review during the hearing. Mr. Lavalley stated that he spoke with the Fire Chief about any requirement for a cistern; Chief Seaman said that since it was a two-lot subdivision, it was exempt. Mr. Greenwood confirmed receipt of an email from Chief Seaman verifying this. Mr. Wilson re-read Department comments; Mr. Greenwood made copies and also copies of the letters from DES and Conservation dated from 1991 regarding the original denials, fill on the property, etc. Previous minutes regarding this site were reviewed. Mr. Lavalley stated that he does not believe that any

fill ever occurred on the site and he believes that RCCD will confirm this. Mr. Wilson suggested that this was a bold statement based on the information in the file. Mr. Lavalley suggested a site walk; he said that he agrees with the Board to have RCCD review the application and the property; he believes that RCCD will confirm that they meet the Town's zoning; he stated that he looks forward to getting RCCD's review. The possibility of a site walk was discussed; the Board determined that if doing a site walk they would like to do it with Mike Cuomo present. Mr. Greenwood suggested that Mr. Cuomo would probably do his review and then meet a second time with the Board; he is expecting a call from Mr. Cuomo and will ask about this possibility. Mr. Wilson told the abutters if the Board was doing a site walk, it would be posted in two locations and on the Town's web site.

Abutter, Theresa Rusnick asked why the Board was considering this since it had been originally denied; she referred to the filled wetlands. Mr. Wilson stated that anyone has the right to re-apply at their own risk. She asked whether the review would be occurring from the original setbacks. Mr. Pope answered that the Board has asked RCCD to look at the proposed plans using the original conditions and the current regulations. Mr. Coffin clarified that the review would use 2013 regulations pertinent to the 1993 conditions of the site. Possible acceptance of jurisdiction was reviewed.

MM&S to accept jurisdiction of the plan. (Motion by Mr. Pope, second by Mr. Coffin)
PUNA

Mr. Wilson suggested the Board discuss the site walk and its schedule after hearing back from Mr. Greenwood regarding Mr. Cuomo's schedule.

Ms. Rusnick asked about the new laws regarding wetlands; Mr. Wilson confirmed that the Town's had changed since 1989. Mr. Pope asked that the Town Engineer review the application.

MM&S to continue to November 19 at 7:00 PM. (Motion by Mr. Pope, second by Mr. Heitz)
PUNA

Jim Duval
4 Hunt Road
Site Plan: Welding Shop

Mr. Wilson explained that this application had gone to the ZBA. Mr. Greenwood noted that the approval was in the file. Mr. Tim Lavalley, the applicant's representative, explained that he brought in new plans this evening with the ZBA variance noted on them and provided them to the Board. Mr. Wilson read a memo from the ZBA chair that simply said that the variance had been granted. Mr. Lavalley reviewed the variance and the proposed site plan which he stated was an existing conditions plan. He noted that the large gravel area was for a school bus his wife drove and not pertinent to the welding business; nothing takes place outside, all activity takes place within the barn building; there are no chemicals used on site. There is no sign proposed and none is shown on the plan; he doesn't feel the need for a sign as most of his business is contract-type. There was still a question of septic permits and permits for the entire building use. Mr. Lavalley explained there was just a tank and a line added to the septic so the actual septic

would not have needed a new permit, this type of thing is done through plumbing; he believes that the plumbing permit was taken out but there seems to be some confusions in the files as the permits are not in the files; plumbers were hired; there is no DES permit required for adding, essentially, an ancillary bathroom as there is no additional flow and not breaking into the leach field; adding a line does not require a state permit. Mr. Wilson asked the assistant Health Officer if he was in agreement with Mr. Lavalley's comments. Mr. Middlemiss said that the comments were okay provided this is not a business; if this is an auxiliary bathroom being added to a residential use then there is not a problem, but if this is for commercial use, then he does need DES approvals for it. Mr. Quintal asked about the original leach field design; review showed it was designed for a three bedroom home so it wasn't designed for employees. Mr. Lavalley said that since they were kind of doing it for an in-home business; Mr. Quintal interrupted noting the plan had employee parking shown and therefore the system should be designed to handle the extra flow. Mr. Lavalley said there was one part-time employee, the other two are the residents of the home; they got a variance to run a welding shop with a total of three employees with two of the employees being the homeowners. He continued that if a septic design to show that one can fit is necessary, they can do that as a condition of approval; a test pit was done next to the leach field just in case. Mr. Heitz asked when the current septic was installed, if a current design was on file. Mr. Lavalley answered a very long time ago; he said he reviewed the files and could not find a design on file. He said he did a test pit, Mr. Broderick reviewed it with them; they could agree to come up with a septic system design and get it approved by the Town and State. Mr. Heitz asked Mr. Middlemiss if he would be comfortable with an updated design. Mr. Wilson asked Mr. Heitz the Town's feelings on additions being done without permits. Mr. Heitz said that we are here to get the owner into compliance; requiring the septic design is not unreasonable considering there is no plan on file. The Building Inspector has been on the site; Mr. Heitz said he is okay with the site. Mr. Coffin asked if the owner knows why the driveway is on the property line without the appropriate setbacks. The owner said it was there when they bought it in 1979; both properties were owned by the builder at the time. Mr. Coffin said there was no boundary or abutters shown on the south side; there should be a solid line closing the property bounds; Mr. Lavalley said it in on the other side of the "title block"; the entire lot could not be shown with the scale used. Mr. Coffin said this is a problem as it doesn't show what lots would abut that side of the property. Mr. Lavalley said those abutters are on the list; it is the commercial condos. on Route 125; he said the plan could have an inset added with a match-line showing this. Mr. Quintal said that could be done. Mr. Wilson said it would be good to add something showing this; other ideas were discussed to allow this to be shown. There were no abutters speaking on this proposal.

MM&S to accept jurisdiction of the plan. (Motion by Mr. Pope, second by Mr. Coffin)
PUNA

Mr. Quintal commented that the overhead power goes across the abutters' property and they may want to get an easement sometime in the future for that. Mr. Duval said that was not shown properly; Mr. Quintal said that could be corrected on the final plan then. Mr. Lavalley agreed that it was a mistake on the plan and would be corrected. Mr. Quintal also noted that for recording purposes, there is line over text on a number of the items which needed to be corrected prior to recording. Mr. Lavalley agreed. Mr. Wilson said the plan would need to be recorded. Mr. Quintal noted that a signing block was missing on the plan. Mr. Coffin noted that the septic

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setback line showed two on the legend where one was actually the overhead power line; it should say OHP instead of septic setback line. Mr. Wilson reminded him to correct the errors in the scale as shown on the plan; Mr. Lavalley said that was corrected on the newly submitted plan.

MM&S to conditionally approve with the conditions being the septic design added, all lot boundary lines shown, and the administrative changes discussed above including the pole location, lines over text, signature block, septic setback lines fixed. (Motion by Mr. Pope, second by Mr. Heitz) **PUNA**

Trendezza
22 Marshall Road
Elderly Housing Proposal

Mr. Wilson noted that there was a TRC Meeting held recently; the notes from that meeting had been sent to the Board members for their review.

Christian Smith from Beals Associates, John LaRiviere from Trendezza and Jim Gove, their soils and wetlands scientist were present to discuss the plan with the Board. He reviewed that they had gone to a TRC meeting and there had been a site walk. He said based on those meetings and the need for amendments, Mr. Greenwood suggested that they simply bring the amended plans to the meeting tonight; these were distributed. He also had a set of waiver requests largely germane to road geometry and the typical Town cross-section. He explained the changes to the plan: proposing 20 feet of pavement instead of 22 and there is a waiver request for this; requesting sloped bituminous curbing stating that upon discussion with the road agent, Mr. St. Hilaire stated that if he doesn't have to maintain it, he doesn't have a problem with it. Mr. Smith continued with the other two waiver requests regarding the entrance from Marshall Road and the area of the proposed cisterns and mailboxes where they requested the horizontal curves be 125 ft. in radius instead of the required 150 feet and the final waiver is for the cul-de-sac to allow for an outside paved radius of 98 feet where 150 feet is required. His written arguments are included with the requests. They have added street lights at both of the entrances, at the two curves just discussed in the waiver requests, at the intersection of the cul-de-sac and the loop road and the intersection of the cul-de-sac to itself down at the bulb. They have cited five units (15, 27, 32, 35, and 39) which will all be proposed to have unit number signs, 8 to 10 feet off the edge of pavement at a three or four foot height due to those having the longer driveways so emergency vehicles can recognize those numbers more easily. The privacy question was reviewed with Glenn, they have added a note that adjacent units shall have a wall that abuts one another; one will have windows, one will not have windows and there is a schematic description of that on sheet 4; the sidewalk proposal has been eliminated and they have worked through some five foot wide walking trail to be finished with either stone dust or bark mulch. He said they were the major features that changed until the cistern detail: the location has not changed but the material is now fiberglass per the Fire Chief's requirement. They did address a number of Mr. Quintal's issues. Mr. Smith said there are now a total of 13 sheets; he only supplied the ones that were revised; after seeing how the waivers go, they can provide a new complete plan set in its entirety. Mr. Smith added that some guest parking was added at station 440 on the cul-de-sac and the area near the mail

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kiosk at 750 could be used at night and the final pair of spaces for guest spaces was shown at 7 plus 25 toward the cul-de-sac; in addition to that, all would have two car garages and there is room for two cars in each of the driveways.

Mr. Wilson confirmed that since these plans were just received, none of the Department Heads had a chance to review them for comments; he explained that the Board needs to provide time for the Department Heads to review any new/amended plans.

The waivers were addressed individually. Mr. Smith said the first waiver request was to allow a modified typical roadway cross-section; they are proposing a 24 foot-wide paved road with bituminous curbing with two foot shoulders where five foot shoulders and roadside swales are depicted as typical; he explained their justification due to being a privately owned and maintained road; they feel it is more desirable and aesthetically appropriate for the proposed development. Mr. LaRiviere added to the justification of the request clarifying that it was not to save costs but to be more aesthetically pleasing; he wanted the Board to understand that the Town standards were a minimum set of standards, but not the only set of standards.

Mr. Quintal said that he had no comments at this time but would be looking at the drainage a little bit as he had not had a chance to look at the drainage, swales and manholes prior to just receiving the plan. Mr. Pope asked about snow placement in the winter; he had concerns about how close the driveways were together noting that due to past winters, he sees the snow banks as being very high. Mr. Smith told the Board that during the TRC meeting, the Road Agent had no problem with the proposal noting that the more waivers given, the less likely it would become a public road in the future as it would not be built to Town specs. Mr. Coffin said that this disagreed with the notes taken at the TRC, Mr. Coffin read that Mr. "St. Hilaire wanted the road to remain private and was not in favor of granting waivers to the existing road standards. Chief Briggs spoke adamantly about not wanting to see waivers granted to the existing road standards." Mr. Smith agreed that the Police Chief wanted the Town Road to be exactly as written in the book; he added that speaking with Mr. St. Hilaire, directly, face-to-face, that the waivers would lend themselves to not being a petition-able public road in the future and he felt that was the case. Mr. Coffin explained that the Board has had this discussion before and the Board has basically agreed that it would not approve anything that could not be built to Town standards because of future issues; problems with issues such as insufficient snow storage and other insufficiencies; these are causing issues to the Town; he sees that it could be petitioned to be a Town road at some point and we are stuck with the waivers that were granted. Mr. Smith said they are asking for three minor waivers. Mr. LaRiviere discussed building a road above the minimum standards. Mr. Coffin asked Mr. Greenwood's opinion of whether Mr. St. Hilaire would view the proposal as beyond Town standards. Mr. Greenwood said he didn't know; he stated that he did not view it as beyond Town standards, he viewed it as different. Mr. Quintal said that the only thing different he saw about it was maintaining the catch basins as it is taking surface water run-off instead of being in swales through culverts, it is being underground in catch basins and manholes, as is shown on the current plan; there would be some maintenance involved in cleaning catch basins and the manholes and the outlets to them; this can work very well; Massachusetts uses this successfully in this type of development. Mr. Heitz said that having curbing all along the roadway causes a considerable burden when you are plowing; as soon as you touch asphalt curbing with a plow, they are gone. The applicant said that

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experienced “plow-guys” do not tear up the curbing; it is not like the old Cape Cod berm. Mr. Heitz said that once a development is done, people eventually see their condo. maintenance fees go up and ask for the Town to maintain the roads and culverts, provide trash pick-up, etc.; when the Board allows for things that we typically don’t allow, it incurs additional maintenance for the Town of those roads do get accepted and the argument that it doesn’t meet Town standards so it doesn’t have to be accepted is inaccurate as all it takes is a majority vote of the people and the Town has to live with it; that is a real problem for the Town. Mr. LaRiviere is happy to add the private road issue in the condo. documents; he believes they do meet Town standards but their proposal is better than the Town standards in this instance.

Mr. Wilson said there needs to be a motion for this request. Mr. Coffin said that the Board solicited comments from the TRC and those comments were not to grant any waivers so he has confidence that they have legitimate reasons for that so he will not be putting forward a motion to grant that waiver.

MM&S to deny the request for the waiver. (Motion by Mr. Pope, second by Mr. Coffin)
PUNA

Mr. Smith reviewed the second waiver request; for the two horizontal curves to be allowed to be at 125 feet instead of the 150 foot requirement per section 905.9.g of the Kingston’s subdivision regulations, the curve at station 3+80 to station 5+70 and the curve at 6+47 through 8+40; they explained their justification, also provided in their written waiver request. A previous approval, Solar Hills, was discussed; Mr. Wilson reminded the Board the difference was that decision was based on the road continuing on through the cul-de-sac. Requirements for site line, speed, and safety for the radius were reviewed by the Board. Mr. Greenwood said that requirement has been there prior to his working in Town. Mr. Coffin said that the speed limits on this road would be less; it is noted at 25 mph on the plan. Mr. Heitz asked about the waivers being discussed at the TRC; Mr. Smith answered that the Police Chief wanted the roads built to Town Standards, period. Mr. Greenwood added that Chief Briggs adamantly wanted all Town Standards to be upheld and went out of his way to say that he felt there potential traffic issues and I have go to expect that it is not the drainage/waiver discussed previously that he would have been concerned about as the potential that this could cause a detrimental impact on traffic safety; that was his call, Mr. Greenwood did not recall Mr. St. Hilaire coming down one way or the other in arguing the point with Chief Briggs. Mr. Pope stated that they did not have enough information to grant the waiver; we have the main reason being driving safety and the Police Chief saying he wants it built to the standard. Mr. Coffin said our regulations allow for on-street parking which would be another reason not to waive the radius and width standards; safety standards are an additional issue, not just speed. The impact to having a 150 ft. radius was questioned; Mr. Smith said that hadn’t been reviewed. Possibilities were discussed. Mr. Wilson asked if they would like to delay the vote on this waiver pending further information from the Police Chief and Road Agent. Mr. LaRiviere answered that they would like to continue moving forward with the design in whatever configuration it was going to be; he wanted a vote tonight adding that it was not that they couldn’t build the community without the waivers, it can be built but they were trying to build a superior product.

MM&S that the waiver request be denied. (Motion by Mr. Coffin, second by Mr. Pope) Mr. Heitz noted that the Board depends on the Police Chief to advise on traffic safety and if he is opposed, he would have reasons and without any changes to his opinion with further discussion, we need to go with his recommendations. Mr. Wilson noted that he offered that to the applicant, but they wanted the vote based on this information. Mr. LaRiviere said that he was steadfast in his opinion so there was no point in waiting. **Motion passed 5-0-1** (One abstention, not noted in the recording)

Mr. Smith reviewed the third request for the cul-de-sac radius to be reduced from 150 ft. outside radius requirement of the pavement of the cul-de-sac and they are requesting to allow it to be 98 feet; he read the justification as provided in the written request. Mr. Pope said that a similar request has been granted but it was due to a future connecting road as part of the proposal; there is no easement or access for an additional road on the property. Mr. LaRiviere said that there is not land to connect to; it is all wetlands and there is no need to connect to a future access; he said it is a short cul-de-sac, limited length, limited traffic. Mr. Pope said there are eleven (11) units on it. Mr. Wilson said that typically a cul-de-sac would have three or four units on it. Mr. Pope said that the one that the Board granted had three with a future of four, once the cul-de-sac was gone and the road extended.

MM&S to deny the waiver request for the same reasons for the other two and keeping with Town standards for roads; a cul-de-sac of less than 100 feet seems pretty small for 11 units and is not up to Town Standards. (Motion by Mr. Coffin, second by Mr. Heitz) **Motion carries 5-0-1.**

Mr. LaRiviere said he understood the issues completely and the Board was just doing its job; they can still build with the decisions made this evening. Mr. Pope commented that with the first waiver, his main issue with it is the curbing, not the close system. Mr. LaRiviere said he understood and the Board has the right to make those decisions and he understands and they will design forward based on the comments this evening.

Mr. Wilson asked if the abutters wanted to make comments this evening based on what has already occurred.

Andrea Kenter, 23 Marshall Road, stated that she fully supported the Board's decision of the waivers.

Martine Staublin, 18 Marshall Road, asked a question about snow storage after driveways are plowed, the banking gets higher and it was suggested that the snow would be shipped off site; if it becomes a Town road does the Town have to ship the snow off-site and how this would be handled. Mr. Wilson stated that, in dangerous situations, the Town will move snow but would not do anything for private driveways; the owners or condo. association would need to take care of that. Mr. Heitz would simply push the snow back onto properties for visibility; the Town would not incur that cost.

Mr. Quintal said that for design purposes, one issue the Planning Board should look at is the buffer between the development and the existing residential lots and discuss whether it is

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adequate enough as normally buffers are things that we talk about and between residential and commercial/non-residential uses, they say a 50 foot buffer is required and this needs to be discussed because this is non-residential or can be considered both commercial and non-residential, or a different type of residential that we see; the Board should take a look at that to make sure whether it is adequate or not for the applicant. Mr. Wilson asked if this was residential to residential. Mr. Greenwood said it was, the buffer would be required per the requirements of the Ordinance; the applicant said it was 25 feet and they met that requirement; it is their intention to mark all of the Open space with placards and work with this Board and the Conservation Commission on what is appropriate for the placards. Mr. Greenwood says the Zoning Ordinance is very clear that it has a twenty-five foot no disturb area.

Mr. Landry was curious as to what they were having remain for vegetation at this point; the plan shows trees interspersed throughout the development but is minimal, in his view. Mr. LaRiviere stated that the vegetation shown on the plan is new vegetation; the existing trees will be removed with landscape varietal trees replacing the existing trees. His intention is not to clear cut the entire property, it would be a phasing plan with a limited area at a time being developed and stabilized prior to moving on to next section. He will cut in phases. Mr. Landry stated that eventually it would be clear cut, even with phasing, with a few trees planted. Mr. LaRiviere agreed that within the buffer lines, it would be clear cut with new landscaped trees planted back in as they do the development; due to the substantial regarding, etc. there is no way to save any trees. Mr. Smith said that 60% of phase two has already been cut due to the previous activity on the site. Mr. Landry stated that the Ordinance talks about the fact that the development will maximize the privacy of dwelling units and preserve the rural character of the land so he is feeling uncomfortable thinking that certain trees planted every 100 or 200 feet really meets that idea of maximizing the privacy of the dwellings and preserving the rural character of the land. He asked the applicant to describe how that kind of planting meets that requirement. Mr. Smith referred Mr. Landry to sheet #4 with schematics showing different plantings; they will be dealing with some screening from Marshall Road; the privacy will be the consort of the proposed plantings and the alternating of the windowed and non-windowed walls.

Mr. Pope spoke about the site walk. Mr. Pope had a similar question as Mr. Landry regarding the existing vegetation when on the site walk; the grading they need to do is substantial so the back of this (referencing sheet 2) was reviewed so a lot of the fill is being moved to level it out; several of the units will be walk-out in the back due to the grading required; conservation placards around the vernal pools were discussed. Mr. Coffin said there was an issue about fencing around the whole project. Mr. Smith said they were working with the SE Land Trust on this issue and pointed out the specific area; to keep the domestic animals out and the wildlife where it is; they have been working with Fish and Game, they were fairly adamant that nothing goes between the vernal pool and the wetland as the critters need to access that. Mr. Coffin added that the attending public questioned what the overall density was. Mr. Smith explained that the overall density based on six units per acre is 210; Mr. Greenwood said that this shows on Sheet 2 of 13. Mr. Coffin asked what their proposed density is; Mr. Smith said 45. Mr. Coffin said abutters asked if there was a density requirement in the Aquifer Protection zone as State law requires that we go with the more stringent of the two ordinances. Mr. Smith said that the Aquifer Protection zone simply drives the elevation between seasonal high water table and wastewater issues. Mr. Greenwood said that in the instance of this ordinance, it says that the

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requirement of this ordinance takes precedence over other ordinances in this Town for age restricted use in this district; the only conflict would be if the two zones appeared to have a conflict and it did not specify which took precedence. Mr. Pope said that foot traffic on Rte. 107 was discussed on the site walk with a question being raised if anything was going to be done on Rte. 107; he didn't see any comments from the TRC addressing that issue. Mr. Smith said that NHDOT is requiring two decel lanes at each of the entrances but no other requirements. Mr. Pope said the last thing talked about was Mr. Quintal had requested finished grade topographs for the next set of plans. Mr. Smith said they are shown on sheets 3 and 4 and on the profile sheets 5, 6, and 7; unit finished floors have not been set yet. They will get these to Mr. Quintal now that they have the information from the Board this evening. Mr. Coffin said another comment that came up was about the enforceability of 55+ covenants in the association; the abutters discussed specific locations where these covenants had been broken; is there any way of incorporating something reverting to the existing standards if this was broken; for example, if the homeowner's association allowed people under the age of 55 to move in and what repercussions would there be from the Town; what were the protections. Mr. LaRiviere said there was the ordinance itself and enforcement by the Town; a certificate of proof of age can be required and filed by the association/management company and the condominium documents will have the requirements. Examples were cited and discussed.

Mr. Wilson noted that the review of the NH Historic Resources has been accepted for review; no decision received yet. Mr. Smith re-iterated the lots having additional signage; noted on sheet 2 but they may change based on the votes from this evening.

Mr. Greenwood stated that he liked the placement of the walking paths that are now laid out on the plan. Mr. Greenwood noted that the Board has sent the wetlands information along to RCCD for verification; he expects that Mike Cuomo will ask to go on site.

A question of abutting well locations was discussed; the applicant will work with the abutter to locate the well, but that will be up to the property owner.

Lynn Merrill spoke to "over 55" assurance and those details.

MM&S to continue to November 19, 2013 at 7:15 PM. (Motion by Mr. Pope, second by Mr. Landry) **PUNA**

(Board Note: Mr. Coppelman arrived at this time)

<Board note per Mr. Wilson: Mr. Coffin asking Ms. Faulconer to check if the Board received an "official" letter from Andrea Kenter dated September 27th to the Kingston Planning Board; some of the Board members had received an unsigned copy at the site walk. If not received, Ms. Faulconer should contact Ms. Kenter for an official copy. >

UNITIL
12 Mill Road
Tax Map R11 Lot 10

Nick Golan, licensed engineer and senior project engineer for TF Moran, spoke on behalf of Unitil Energy Systems and introduced Jacob Dustling, project mgr. for Unitil. Mr. Golan described the site and its location; Mr. Wilson noted the paperwork showed two different addresses; Mr. Golan went with #12 instead of #14. He apologized for not having an updated graphic for the Board. It is RR and the acreage is just under 4.7 acres; he continued describing the location of the lot. Mr. Dustling described the project; they have exceeded the capacity of the supply and are proposing an expansion of the substation on the lot and then PSNH will have some work to accommodate the expansion on their utility on the adjacent lot; it will provide more backup and feed load growth for decades into the future. Mr. Dustling explained the process of achieving their services. The applicant explained the uses on the current site, a distribution yard of Unitil's of approximately 20,000 square feet; a graveled area surrounded by a seven foot tall chain link fence with a one foot barbed wire arm. They are proposing to expand that substation to apply two additional transformers; that expansion is approximately 42,000 square feet which is just under an acre which would net them 62,000 square feet total. He referred to an aerial photo of the site to show the area being affected and the expansion. Mr. Golan explained that it did bring them closer to an existing wetland and part of their application is a request for a conditional use permit for a wetland buffer impact; the type of wetland at the location requires a 55-foot setback; there is no formal wetland impact but there is a buffer impact. In order to limit the impact, they have trimmed the corner of the yard to the extent practical to maintain the required clear distances for travel which is 35 feet. He discussed and explained the stormwater for the site. They are utilizing bioretention areas where pollutants can be destroyed and treat the stormwater and recharge it. An NOI will be required. Mr. Golan reviewed some of the issues being shared with PSNH on this project. He re-iterated that there is a Conditional Use Permit before the Board; he brought photos of what a transformer looks like; there are general photos of the site and the access into the site; what a cleared right-of-way would look like and what the existing substation looks like now.

Mr. Coffin confirmed that there was an access that goes across the stream that runs through the area; he asked what kind of bridging was being used; Mr. Golan pointed out the information for the Board; he explained the current access and the existing crossing and culvert. He explained the photos that were handed out and the wetland community around the buffer that would be impacted.

Abutter comments – an abutter spoke that he just wanted to be here to get familiar to the project.

Mr. Greenwood asked about any external lighting; the applicant said there would be a couple of low wattage flood lights; the applicant said they were permanent lights not emergency lights and were on the building. Mr. Greenwood asked that they be added to the plan; he asked if there were any yard lights; the applicant said there were adding that they could be added as well. Mr. Greenwood added that this does require a CUP and his fifth comment is that this is an atypical site plan for the Board as most of the items that would be required, do not apply here as this is not a habitable enterprise; no septic associated with it; no daily use by humans; this is a really low impact site review from his perspective. Mr. Coppelman advised the applicant that there is a fairly extensive lighting ordinance which requires full shielding; the applicant said that any new lights would be in compliance. The applicant confirmed that the Board wanted to see on the plan that there were light fixtures for the building.

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Kevin Connors, 20 Mill Road, an abutter to the project asked what the overall power output would increase to; the applicant answered that right now the existing is approximately 50 megawatts when complete it will be on the order of 140 to 150 megawatts.

Another abutter asked for clarification of the development; it will be a phased project to keep a portion electrified while the remainder of the yard is built. Mr. Shalett asked if this expansion would help to prevent power outages that the Town has been having. Mr. Dustling said that it would, depending on the outages; indirectly it will help to switch some things around. Mr. Golan said that they did meet with Conservation in early October, they did not hear any objections and would write a letter if they chose to; they did not have a formal answer that night. Mr. Greenwood said there was no letter that he has come across; he explained that for the Board's CUP, they are supposed to allow the Conservation Commissions input; Mr. Greenwood would like the Board, if willing to grant the CUP, grant it conditionally upon Mr. Greenwood contacting the Conservation Commission and having no negative comments for the Board. He explained that the CUP requirements are in the Wetlands Ordinance, 202.8 on page 202-5. The applicant suggested reading the submitted CUP request and their responses, which they did.

Mr. Pope asked the applicant to talk about the power coming into the yard as he did not see much on the plan that shows how that changes. The applicant said there is no change to the access drive; the next project will address this more; PSNH is proposing upgrades to that road. Mr. Pope said he was referring to the transmission lines. Mr. Dustling said that PSNH is on next and they have some upgrades; right now there is a single transmission line feeding into the station, they will be constructing a second one to feed a transmission switchyard which is needed because of the two lines and there will be lines built between the switchyard and the distribution yard; the need for the two lines is redundancy. Mr. Pope asked about the output lines which look like additional lines going out of the station. The applicant said there are currently five lines and one line is being added allowing them to split the Mill Road line, one for Kingston, one for Danville hoping to make any outage impacts smaller.

MM&S to invoke jurisdiction with the understanding that it is missing the lighting detail on the plan but we have enough information to invoke jurisdiction. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

Mr. Coppelman asked to confirm that there is no additional encroachment on neighboring parcels, it is all within the area being worked now; the applicant said that is essentially correct. Mr. Coffin confirmed that the total impervious coverage being added was less than a tenth of an acre; the parcel size is 4.72 acres which does not include any areas of PSNH. Mr. Pope notices that the buffers between types of uses; the buffer on the southeast side is gone. Mr. Coppelman asked if that meant it wasn't there to begin with or it has been removed. The applicant said that there is an area that is cleared to the property line and had held a 15 foot line from the property line; a logging road to an undefined use is next to this area. Mr. Coppelman asked what the zone was for that property. The applicant said it is consistent with the zoning on this property which is Rural Residential. Mr. Coppelman said the use of the land is basically nothing. Mr. Heitz asked about the tree line; the applicant said it exists now but is being removed, stumps remaining. Mr. Heitz confirmed that the tree line disappears; he asked why it is being removed.

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The applicant explained that as part of the phasing, the new poles get put in first then the others are removed. Mr. Heitz re-iterated it was a zero buffer. Mr. Coppelman said that even though there might not be anything on the center parcel now, it could very well end up being residential and in all likelihood, would be. Mr. Heitz agreed saying that was the initial proposal for that lot. Mr. Coppelman said we are faced with eliminating a buffer when we require a buffer between dissimilar uses. The applicant asked the status of the application. Mr. Wilson said that due to the economy that plan had been delayed. Discussions of the buffer continued. Mr. Coppelman understood not being able to visually buffer the lines but buffering the yard itself visually and otherwise was the issue. Mr. Golan referenced the northeast corner and a row of Eastern Red Cedars and an existing screen, not in the best of shape, along the northern side of the yard; so where there was a buffer where there was a potential site line that is where it was replaced; in areas where we could replace screening we did. Mr. Coppelman asked why the tree buffer had to be removed; the applicant said the expansion of the yard required they move closer to the property line and there are required clear distances from the poles to the yard and the overhead lines from adjacent overhead lines; the utility requirements are to maintain 15 feet of clear distance; we can ask the engineers to try to go back to see if there is an opportunity to shrink that distance. Mr. Dustling added that one of the reasons for those distances is that they need the ability to take a line out of service to do maintenance on it so they have to maintain enough clearances to the lines remaining in service so the workers can work that line safely.

Mr. Heitz asked Mr. Greenwood if the utility companies were exempt from Town ordinances or had to comply. Mr. Greenwood answered that they do not get a blanket exemption although State RSA does say don't hinder them from the performance of their activity. Mr. Heitz asked if the poles are considered a structure; Mr. Greenwood said that they are as the Town gets to tax them so they are deemed to be a structure of some sort; they are not habitable structures so are looked on more as a fence than a building. Mr. Heitz said they do need to have a permit to set the poles. The applicant said these look just like the ones you see on the street, 40 – 45 feet, just like you would see outside of the building; they are not superstructures of 70 to 100 feet tall.

Mr. Coppelman appreciates the thoroughness of the presentation and the need for the upgrade but he said that if they did have an opportunity to relook at the buffer, even if it can't be maintained at the fully required amount, he would encourage that. Mr. Quintal, in reviewing the security fence that goes around the structures, outside of that is the bioretention and planting area; he said the poles aren't the issue it is seeing through the clearing and seeing the structures so if something could be done near the fence as some sort of visual barrier instead of just a security chain link fence, maybe that would help as far as being able to buffer some of the unsightliness of the utilities that are within that. The applicant said they have to worry about vandalism and safety; trees provide vandals an opportunity to break into the yards. They prefer to have local law enforcement to see inside the yard; they haven't spoken to the Chief of Police. Mr. Quintal said it would only be one side, not on the area where the police would drive in to look and police it. The applicant said that they could look at it if there is concern of a potential visual issue with the abutter and could revisit the opportunity for plantings; they can have the engineers go back and see if it can be tightened up but they can review it. Mr. Golan asked for the Board's expectation: taller plantings, six feet or shorter? Mr. Coppelman said that the expectation, from his perspective, would be lower to medium height to provide screening; often times, tall trees with no understory serve no purpose for screening. Mr. Coppelman said that if

mostly deciduous it does not serve the purpose; he suggested looking at possibilities while reviewing the Town's requirements. Mr. Heitz asked if the Board would have to ask for a waiver for the buffer area; he explained that the buffer is based on the zone it is in; Mr. Coppelman said that unless already developed as a similar use they needed to assume a residential use and expect a buffer. Mr. Heitz suggested that they might need a waiver; Mr. Greenwood asked to review the statutes concerning utilities before he answered.

The applicant stated that after this was built, approximately once a month someone in a pickup truck would check the site; there would be very limited traffic.

Mr. Greenwood will review statutes regarding public utilities. Mr. Wilson asked if the Board was continuing. Mr. Greenwood asked if the Board was waiting on granting the CUP at this time. Mr. Coppelman said that the presentation addressed all three points on the CUP.

MM&S to approve the Conditional Use Permit with the condition of receiving input (as discussed) from the Conservation Commission. (Motion by Mr. Coppelman, second by Mr. Pope) **Motion carried, 6-0-1 with Mr. Heitz abstaining.**

Mr. Golan asked about the Board's position on the waiver. Mr. Wilson stated that he thought that Mr. Greenwood was checking statutes. Mr. Heitz asked if the applicant had spoken with Mr. Senter, the direct abutter. The applicant spoke with Rachel Senter. Mr. Heitz said if the abutter didn't mind, he wouldn't mind as it diminished his future plan and would be in favor of granting the waiver. Mr. Golan said if the Board wasn't interested in granting a waiver it would prevent them from moving forward; they would ask for the waiver this evening. Mr. Coppelman said that they are working on keeping the buffer on the abutter's property; Mr. Quintal suggested that they get an easement from the abutter. The applicant suggested the Board grant a waiver and they will work out the issues outside of the meeting and then provide that to the Board. Mr. Pope said that if there is really nothing to be done to be safe, he would probably grant the approval. Mr. Wilson suggested continuing for a week for the applicant to see if there is any ability to change or talk with the abutter and for Mr. Greenwood to check the RSA's. Mr. Pope said that he would rather see an easement than a waiver; Mr. Wilson would rather not grant a waiver if possible. Mr. Greenwood said that continuing to next month would be fine; it wouldn't need to be just a week. Mr. Heitz clarified that it is not the poles that are the issue, it is the clear visual line to the yard and the additional transformers; if it was just the poles being seen it wouldn't be an issue. The applicant re-iterated that the concern was seeing the yard through the understory remaining within the right-of-way so the Board was looking for something taller than the understory that can compromise the safety of the utility service. Mr. Wilson suggested that they contact the property owners for an amicable agreement. Mr. Quintal suggested a stockade fence at the property line might be a consideration as a visual barrier which wouldn't impede anything the utility needed. Mr. Coppelman suggested they review the regulations regarding buffering; as a regulation, the Board does have the ability to accept alternatives and modifications and fencing is an option that the Board can consider; he requested that they review it and come back with the best proposal that they can. The applicant said they could get this done in a week but if not, could they postpone to a month.

MM&S to continue to October 22, 2013 at 7:15. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

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PSNH

Mill Road

Nick Golan was here also representing PSNH for their proposed switching station on the parcel adjacent to Unitil; this is solely for the purpose of providing transmission service to the distribution substation owned by Unitil. The lot itself is behind the Unitil parcel with access through an existing easement that runs along the existing driveway. The lot was reviewed and described by Mr. Golan. The order of magnitude of impacts for this site are larger; it is nearly a 17 acre lot; they are proposing building just over a 110,000 square foot switching station which provides for the lines they need now and future expansion lines. This represents the second iteration of the project. The Board had the original plan, not the updated plan. The wetlands impact has been narrowed. Mr. Golan reviewed the wetland; they are proposing to fill the wetlands "finger" shown on the plan; there is a required 55 foot buffer, there is approximately 5600 square feet that would be filled; the road is being improved upon to a standard of a 20 foot wide access road to provide better accessibility; the culvert would be replaced in kind; in this area, there would be just over twelve hundred square feet of wetland impact; there is a 12 to 15 woods road now that is being expanded to 20 feet. He continued that there are wetland buffer impacts as they are impacting the wetlands themselves; there is just over 10,500 square feet associated with one area and 24,400 and change in another area shown on the plan. Mr. Golan says the buffer impact from the previous plan has been dramatically reduced. The existing trees will be cleared but they will leave the stumps and the lower story of vegetation remains. He added that there are limited temporary impacts to clear the area; determined in working with the DES. Mr. Golan noted that there is a Conditional Use Permit associated with the project; they are proposing to work on an abutting parcel; whether there is a conveyance of an easement or other proposal has yet to be determined; it is his understanding that there is a verbal agreement between the properties. He showed areas where a waiver would be requested around power lines on this site; there would be a buffer along the right of way as possible; the structures would be the taller structures based on requirements. He stated that PSNH is working with the abutters to mitigate impacts of the wetlands; they met with the Conservation Commission, their biggest concern was the orientation, they saw the original plan which did not have enough information for them. He stated that they have done everything they can to maintain buffers and minimize wetland impacts and the minimum clear distances which on this plan are larger as it is a higher voltage. Mr. Golan noted that it is a gravel road and a gravel yard. Stormwater management and permeability are included in their stormwater management report and they have elected to use open infiltration basins. The area of impact is just under 7.3 acres so an Alteration of Terrain permit is required which has been filed along with a Wetlands Dredge and Fill permit; they have requested a CUP from this Board along with site plan approval. Mr. Golan continued that there is a control house proposed on the site, about twice the size of the building Unitil is proposing, about 1500 sq. feet and that is based off the need of the type of equipment in the yard. He stated that he would like to think that they are moving in the right direction for lessening impacts and coordinating with the abutters. Mr. Coffin asked the height of the existing power lines coming into the site from the North; Mr. Golan said he would confirm with PSNH but he thinks they are similar to the height of the structures that are being proposed coming out of the substation, about 70 feet tall; these are the transmission lines that are taller than distribution services poles. Mr. Coffin confirmed that they are similar to the existing lines. Mr. Pope asked what the plan for the existing line was; Mr. Golan said that the existing line is actually a distribution line which will

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remain; the ROW does not include any additional clearing nor encroaching upon other abutting parcels; there would be a new distribution line coming out of the switchyard and run into the distribution substation of PSNH but follow along the same path. Mr. Coffin clarified that the existing and the equipment will stay, this is not replacing it. Mr. Coffin asked where the power was coming from; Mr. Golan did not know but could find out. Power generation was discussed. Mr. Greenwood explained that from a procedural standpoint, the Board had an original plan that Department Heads received but the new plan was submitted this evening, that hasn't quite been finalized yet by PSNH; Mr. Golan said it was sort of final while they determined easements or lot line adjustments and there is a meeting tomorrow morning to go over that. Mr. Greenwood said that the "cloudiness" issue just described by Mr. Golan is the reason that he did not recommend the Board invoke jurisdiction on the plan; this submittal has not been reviewed by any of the Department Heads. Mr. Golan explained the differences in the plan. Mr. Greenwood advised that the Board continue the hearing without invoking jurisdiction and that the proper set of plans get distributed to all of the Department Heads; he expects that by the next meeting, Mr. Golan will have finalized with PSNH how they are moving forward. Mr. Golan would like to know if there are concerns with what is before the Board even though the full grading and drainage design was not presented; if there are specific concerns such as the buffer question and the gravel road width or use of gravel, etc., he would like feedback now. Mr. Coppelman said a lighting plan would be good to submit; Mr. Golan said they use emergency lighting only so it is on when the power is off; it is noted on the site plan; there is no permanent lighting that is not emergency lighting. Mr. Golan will confirm with PSNH about lighting around the building. Mr. Pope said the buffer issue is valid on this site as well if anything can be done. Mr. Heitz asked if the area was already clear cut anyway; Mr. Golan showed an area already cleared but showed another area that is a mature forest that would be removed; there is no grading change. Mr. Greenwood confirmed that they were not cutting right up to any of the property lines. Mr. Golan said as far as buffer areas, there is a point that they need to clarify (a pinch point); Mr. Greenwood said it looks like they meet 50 feet everywhere else. Mr. Heitz asked if the treeline shown is existing; Mr. Golan pointed to one area with no tree line; he needed to clarify another area showing treeline as it is not exhibited on the plan as to whether or not the area is cleared or partially cleared already; there is an area of about 125 feet that where there may be an elimination of buffer where there previously was one. Mr. Heitz confirmed that was due to transmission lines. There was continuing discussion about cutting for transmission lines.

MM&S to continue to October 22 at 7:30. (Motion by Mr. Coffin, second by Mr. Pope) **PUNA**

Public Hearing

- **Residential Home Occupation;** adding in state standards for defining number of children for day care facilities.

MM&S to move forward to Town meeting. (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**

- **Shoreland Protection Ordinance** – update of list of ponds to coincide with the State's list. Mr. Greenwood said that they had originally been voted on but didn't make it into the ordinance for some reason.

MM&S to move this forward to Town meeting. (Motion by Mr. Coffin, second by Mr. Coppelman) **PUNA**

This concludes the televised portion of the meeting.

Board Business

- Contract for RPC/Mr. Greenwood – signed
- Two bills from CCM – Marshall Road, attending meetings; approved and signed.
- Marshall Road application to NH Historical Resources
- Note from 47 Route 125, variance to park vehicles on Commercial III zone; Patterson paving/Mastroianni lot
- 53 Church Street – Easy Lab moved in; information received from Town Clerk; Mr. Heitz was unaware of this proposal as it appeared to be property he owned.
- Mr. Greenwood started talking about a request for plates; he suggested they come in to speak with the Board; Mr. Wilson agreed.

MM&S to adjourn at 11:07. (Motion by Mr. Pope, second by Mr. Coffin) **PUNA**