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Town Planner Recommendations
Great Bay Kennel – Dog Day Care Facility
Wednesday, March 27, 2013

- **I recommend that the Planning Board go through the prospective approval below in careful detail line by line**, as well as the letter from Chris Wyskiel to me of March 22 (enclosed) in anticipation of taking final action at the following meeting on April 10. I understand that the neighbors will have one or two experts present testimony during the public hearing.

Please note the following:

- My prospective approval below is in very rough form but you can glean the substance. I will organize it very clearly for the April 10 meeting.
- See the two enclosed documents from Chris Wyskiel
- I generally concur with his comments of the March 22 letter to me. The proposed Operation Procedures should be very helpful. I will incorporate these into the document for April 10, as appropriate (likely just a reference to them).
- I think the Planning Board's review over the past number of months plus the mediation sessions have been useful, and have served to improve the project in some ways
- I think the design of the project – including the physical design and the proposed operations – is quite good. Part of the reason that discussions over the prior months have not yielded more beneficial changes in the design is that the design approved by the Planning Board under site plan review over a year ago was quite good.
- The combination of placing the building closer to Newmarket Road with the dogs being located behind the building, having higher and denser fencing, having a series of interior and exterior spaces that function as a hierarchy for handling of dogs, visually screening dogs in various spaces, and proposed operational standards should improve the existing situation significantly.
- In my opinion the proposal is quite reasonable and appropriate.
- **Most importantly**, the choice for the Planning Board and the community is not between having this proposed facility and the site reverting back to undeveloped land. The choice is between having this proposed facility or continuing the existing situation. The Town has received a legal opinion that certain rights have been established for the applicant in this regard. Clearly, the proposed facility is enormously superior to the existing situation.
- Rick Renner, an abutter, asked the applicant to make some repairs to his driveway/mailbox likely caused by vehicles driving past queueing cars on Rout 108. This is a question for the Planning Board as NHDOT will review whether a slip lane should be installed but they will not require the applicant to make these types of repairs. Mr. Renner mentioned, “personal issues with torn up driveway/rutted front of mailbox/banged mailbox for impatient people going around onto our property – to avoid the parked cars waiting ot turn into the Sawyers.”

- Robin Wunderlich is providing me with a cross section of the walls of the barn which I will pass on.

DRAFT

Notice of Decision

Approval of Conditional Use for Dog Day Care Facility

Project: **Dog Day Care Facility – Great Bay Kennel**
 Address: 27 and 35 Newmarket Road
 Applicant: Great Bay Kennel
 Property Owner: Great Bay Kennel
 Engineer: Mike Sievert, MJS Engineering
 Building Designer: Robin Wunderlich
 Map and Lot: 6, 11-7
 Zoning: Residence C
 Date of approval: **April 10, 2013** [**prospective**]

"Applicant", herein, refers to the property owner, business owner, individual(s), or organization submitting this application and to his/her/its agents, successors, and assigns.

Precedent Conditions

[Office use only. Date certified: _____; CO signed off _____;
 As-built's received? _____; All surety returned: _____]

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to the plans being certified. Certification of the plans is required prior to issuance of a building permit or recording of any plans. Once these precedent conditions are met and the plans are certified the approval is considered final.

***Please note.** If all of the precedent conditions are not met within 6 calendar months to the day of the board's approval - by October 10, 2013 - the board's approval will be considered to have lapsed and resubmission of the application will be required (unless an after-the-fact extension is granted by the Planning Board). It is the sole responsibility of the applicant (or his/her agent) to ensure that these conditions are met by this deadline. We urge the applicant to carefully track his/her progress in meeting the individual conditions. See RSA 674:39 on vesting.

- Plan modification. Make the following modifications to the plan drawings:

- + show final detail of ship lap fence
- + The bottom of the ship lap fence is raised a little from the ground to prevent moisture from rising.
- + Add 6 foot shiplap fence on northerly side [as discussed by Lorne]
- + The top of the ship lap fence will have a horizontal cap to prevent precipitation from entering

- + the fence does not go to the bottom., they will add pressure treated to seal the bottom.
- + dark gray fence color (HDC) for ship lap fence (as exhibited on site) in December 2012
- + The ship lap fence will be buffered with vegetation as required by the HDC. This requirement applies to the ship lap fence located southerly of the proposed large barn type building. You will relocate at least 15 spruce trees from elsewhere on your property. The trees will be located along the easterly side/edge of the existing vegetated buffer. The trees will be planted 7 feet on center, starting at the southerly corner of the fence. They will be staggered diagonally as space allows and the smaller and larger trees interspersed. You will clear some branches, as needed, to get a vehicle into the area and allow for some increased light. There are likely enough trees to extend beyond the fence and provide additional buffering in front of the barn type building as well.
- + incorporate HDC conditions, including landscaping, 8 foot high fence along front
- + show info about the hose outside to spray dogs, where/when/how?
- + Add approval block on each page of drawings for signature of Planning Department. It should read: "Final Approval by Durham Planning Board. Certified by _____ Date _____"

- Plan notes. Add the following notes:

Fire access. "Access into the site for fire apparatus must be maintained at all times during the construction process. This is the sole responsibility of the applicant/developer to maintain this access. Please contact the Fire Department at 868-5531 with any questions about access requirements".

Off-site improvements. "Any off-site improvements included in this approval shall be completed prior to issuance of a certificate of occupancy unless an appropriate surety is placed."

Improvements. "All improvements shown on the approved site plan must be properly completed prior to issuance of a certificate of occupancy, unless appropriate surety (sufficient to cover the cost of outstanding items, in accordance with surety standards for the Town of Durham) is placed with the Planning Department."

Building Code. "Note that this approval is for the site plan only. Life safety code and building code review will be required as part of the building permit process when the construction plans are submitted. Various requirements regarding the building design may be specified at that time."

Stormwater infrastructure. "All stormwater management infrastructure shall be designed and installed in accordance with Design Standards of the Durham Site Plan Review and Subdivision Regulations, and shall be owned, operated and maintained accordingly by the property owner to protect the quality of existing onsite and offsite water resources and wetland habitat.

Buffer. “The existing vegetative buffer along Route 108 shall be preserved, for as long as the dog daycare operations continue, and no cutting or removal shall occur with the exception of dead, diseased, or invasive vegetation or thinning to best preserve vegetation and/or prevent bodily injury and/or property damage.”

“For more information about this site plan, or to see the complete plan set, contact the Town of Durham Planning Department, 15 Newmarket Road, Durham, NH 03824. (603) 868-6698.”

“All outside construction activity related to the development of this site is restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. Saturday”.

[I don't know if the Town has a policy on this.]

“This development must be in compliance with all applicable law – including all pertinent provisions of the Town of Durham Site Plan Regulations – unless otherwise waived”.

"This project proposes to disturb over one acre of existing ground cover and meets other specific requirements related to permit criteria for EPA NPDES compliance. The Contractor is responsible for development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), submission of a Notice of Intent (NOI) to EPA, inspection and maintenance of sediment control measures, documentation of maintenance activities, and submission a Notice of Termination (NOT) to EPA. The Contractor is also responsible to comply with any or all other aspects of current Federal, State and Local storm water or NPDES regulations or requirements."

“Any off site improvements included in this approval shall be completed prior to issuance of a certificate of occupancy unless an appropriate surety is placed.”

“All elements shown on the approved site plan must be properly completed prior to issuance of a certificate of occupancy, unless appropriate surety is placed with the Planning Department.”

“Note that this approval is for the site plan only. Life safety code and building code review will be required as part of the building permit process when the construction plans are submitted. Various requirements regarding the building design may be specified at that time.”

“Vegetation and turf shall be maintained and well managed to aid in storm water management and run off on the site.”

“The Bioretention basin shall be maintained in accordance with the Regular Inspection and Maintenance Guidance for Bioretention Systems (last revised January, 2013, or as further revised, attached).”

- Reimburse \$2,000 to the Town for payment to Dr. Tom Ballestero, consultant on dog waste. Will adjust timing based on Chris Wyskiel's letter

- Place surety to cover testing of outlet in form and amount to be approved by Town Engineer
- NHDES approval of both septic systems/leach fields
- NHDOT Driveway permit. Obtain driveway permit from NHDOT. Any significant changes to the plans as approved by the Planning Board shall be submitted to the Planning Board for review. No notices or public hearing shall be required.
- Landscaping guarantee. A guarantee must be posted in a form and amount satisfactory to the Director of Public Works, anticipating repair or replacement planting to assure compliance with the intent of the vegetative buffer requirements.
- Easement language for the driveway shall be submitted to, and approved by, the Planning Department, with an easement recorded at the Registry and proof of recording submitted to the Planning Department.
- Physically remove the existing piles of manure from the site
- Other permits. All required state and federal permits must be obtained – including alteration of terrain, dredge and fill, subsurface/septic, as appropriate - with copies of permits or confirmation of approvals delivered to the Planning Department.
- Drainage maintenance. A drainage maintenance agreement approved by Public Works must be executed.
- Architecturals. The applicant must submit two 11" x 17" paper sets of full architectural elevations in color as approved by the board (one for Planning and one for Code Enforcement). These must include a scale and show building height.

Final drawings. The following complete sets of final approved drawings shall be submitted for signature (except the electronic version) by the Town: (a) one large set of mylars; (b) one large set of black line drawings; (c) one set of 11"x17" drawings; plus (d) one electronic version by pdf or CD. Each individual sheet in every set of drawings must be stamped and signed by the engineer or designer responsible for the plans. *Please note*. If there are significant changes to be made to the plans, as specified above, one full size paper check print must be sent to the Planning Department for review prior to producing these final drawings. (The primary set of plans was last received) [fill in date above]

Signature. Signature by the applicant at the bottom acknowledging all terms and conditions of this approval herein.

General and Subsequent Terms and Conditions

All of the conditions below are attached to this approval.

- This notice of decision and the certified plans shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within ten (10) days of the Planning Board Chair's signature on the Site Plan.

- Clarifying notes:

- + All of the chain link fencing and all of the stockade fencing will be six feet in height

+A plan showing the fencing is enclosed. There are four types of fencing shown: 8 foot shiplap (with chain link), 6 foot shiplap (proposed by Lorne), 6 foot stockade (with chain link), and 6 foot chain link.

- The applicant shall apply for all necessary permits for construction of the new facility. The permit applications must be approved and permits issued before any construction begins.
- As part of the permitting process, the applicant shall work with the Fire Department to ensure that fire and life safety codes are being met.
- Add reference to operations plan
- Hours of operation for the dog day care facility are restricted to 7:00 a.m. to 6:00 p.m., Monday through Friday (This is based on a condition of the 2002 court order).
- No dogs shall be allowed in the outdoor fenced-in play areas associated with the dog day care facility (such as from the kennel) outside of these hours of operation, above (This is based on a condition of the 2002 court order).
- The rain garden and stormwater treatment facilities shall be inspected twice each year with preventive maintenance provided, as appropriate.
- There shall be no more than 30 dogs outside at any time (This applies to the full open air areas, not to the partially enclosed barn; This is based on a condition of the 2002 court order).
- [will refine this] The Engineering Division has reviewed the proposed Civil Plans for the Great Bay Kennel's Dog Daycare Facility prepared by MJS Engineering, PC and dated September 19, 2012 (Plans), and has determined that the project elements sufficiently satisfy the Town of Durham's Site Plan Review Regulations relative to stormwater management. Because of the complexities of the stormwater management system components, the applicant will need to provide engineering supervision during construction and provide proper documentation to the Department of Public Works that the construction is/was performed in accordance with the Plans, including As-Built drawings in electronic and hard copy form. The applicant shall notify Engineering Division at least 24 hours in advance of back-filling of any subsurface stormwater infrastructure to allow time to schedule compliance inspections.
- Energy Code. Building construction shall be in compliance with the energy efficient standards of Chapter 38 of the Town of Durham Code of Ordinances.
- no outdoor speakers, no sound amplification outside, whistles, shouting, gunshot, hunt training
- All dog manure must be hauled away (It is understood that the applicant has already stopped doing this). This applies to both the kennel and dog day care facility.
- This approval herein supersedes the site plan approved earlier. Pertinent conditions of that plan have been incorporated into this approval. However, the Findings of Fact and list of documents that were submitted for that approval are incorporated herein by reference, and supplement the Findings of Fact and list of documents included herein.
- Site work. No site work may be undertaken until: a) all of the precedent conditions are met; b) the preconstruction meeting with Town staff has taken place; c) the prominent orange fence

along the edge of the wetland buffer, if any are present (referred to in precedent condition, above) is installed; and d) all appropriate erosion and sedimentation control structures are in place. These erosion and sedimentation control measures and the orange fence must be in place prior to the pre-construction meeting in order that they may be inspected at the meeting. Contact the Planning Department to arrange for the preconstruction meeting.

Erosion control. All erosion and sedimentation control structures must remain in place and be maintained until vegetation is established or ground surface is suitably stabilized.

As built. Two sets of full size (measuring at least 22" x 34") black line paper plus one full size mylar plus 1 set of 11" x 17" plus one digital pdf copy of the as-built site plans (or "record drawings") stamped and signed by the Engineer or Surveyor are to be submitted to the Planning Department prior to issuance of the Certificate of Occupancy (or use/occupancy of the site where no CO is required). The as-built drawings must include the following language or equivalent: "This as-built drawing substantially conforms with the final plans approved by the Town of Durham Planning Board and certified by the Planning and Development Department except for the following significant modifications:". If no significant modifications were made simply state "none". Otherwise, itemize the modifications on the as-built or on an accompanying letter. The Planning Department relies on the good judgment and good faith of the engineer/surveyor in determining which modifications should be considered significant (for example, minor adjustments in locations of plant materials would not be significant whereas relocation of a catch basin would be).

Execution. The project must be built and executed exactly as specified in the approved application package unless changes are approved by the Town.

- The approved Boundary Line Adjustment is still in effect.

Approval. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

Other permits. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project. Contact the Town of Durham Building Department at 868-8064 regarding building permits.

- Pertinent documents include, but are not limited to, the following: plans, fencing plan, [will add to list]

- See the January 4, 2013 letter from Mike Sievert, MJS Engineering, about operations (except regarding stockpiling of manure, which is no longer done).

- The Planning Board has determined that this is not a Development of Regional Interest.

- Tom Ballestero's recommendations, as stated in final report of February 15, 2013, shall be incorporated, as appropriate:

1. Collect pet waste daily, place in closed container (dumpster) and dispose of at a landfill.

2. Wash down waters from inside buildings plumbed to the septic system or bioretention system.
3. An interceptor trench should be included to prevent uphill runoff from running through fenced in dog areas.
4. The bioretention system should be modified to include an internal water storage volume, or be replaced with a subsurface gravel wetland. This modification is for nitrogen removal.
5. The stormwater runoff from the site should be monitored biannually for 3 years for: fecal streptococcus, fecal coliform, total coliform, nitrogen (dissolved inorganic forms), pH, total dissolved solids, and chloride.

- Testing. Note that standards are not given for some tests. If test results exceed the above standards, applicant shall inform the Planning Director of steps to be taken (consistent with Dr. Ballesteros's February 27, 2013 Planning Board meeting testimony recommending next steps if outlet water testing exceeds limits (noted below), including, but not limited to, enhanced maintenance procedures, use of disinfecting additives to system, or installation of UV light. Applicant shall consult with Dr. Ballesteros, or an equally qualified consultant if Dr. Ballesteros is unavailable, for advice for system enhancement as necessary.

Nitrate <2 mg/l
 Nitrite <1 mg/l
 Ammonia <1.5 mg/l
 Fecal coliforms < 200 CFU/100 ml
 total coliforms
 e. coli <200 CFU/100 ml
 fecal streptococcus

Findings of fact. a) The applicant submitted an application, supporting documents, and plans for the project; b) The Planning Board held at least one public hearing on the application; c) The Planning Board reviewed the application in accordance with state law, the Durham Zoning Ordinance, the Durham Site Plan Regulations, and other applicable law and found that the application meets all requirements (including any waivers, conditional uses, special exceptions, and/or variances that might have been granted); and e) The Planning Board duly approved the application as stated herein. [*Will add to substantially*]

+ The baseline for consideration of the Conditional Use is the current on-the-ground situation

+ The responses to the conditional use criteria, as discussed in the September 19, 2012 letter from Christopher Wyskiel are deemed to satisfactorily address the criteria (except as might be clarified/superseded by specific comments by the Planning Board at the March 27 and April 10, 2013 meetings).

Applicant

Date

Planning Board chair

Date