



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Approved Minutes Planning Board

Wednesday, September 9, 2015

7:00pm @ Town Hall

Alan Carpenter	Chairman	Present	Joel Desilets	Selectman	Present
Paul Gosselin	Vice Chair	Present	Ross McLeod	Alternate/Selectman	Present
Kristi St. Laurent	Member	Present	Matt Rounds	Alternate	Present
Ruth-Ellen Post	Member	Present	Gabriel Toubia	Alternate	Present
Margaret Crisler	Member	Present	David Oliver	Alternate	Arrived 7:07pm
Dan Guttman	Member	Present	Kathleen Difruscia	Alternate	Present

Staff:

Laura Scott, Director, Community Development

Suzanne Whiteford, Minute Taker

Chairman Carpenter Called the meeting to Order, followed by Board and staff attendance and The Pledge of Allegiance.

Administrative Review

Medicus II Lighting

A memo from Laura Scott dated September 4, 2015 outlines what was found during her inspection and how it is different from the plans submitted and approved by the PB.

Mr. Jason Muise, Safari construction explained the lighting for building 2 was done to mimic the lighting on building 1.

Motion by Ms. Crisler to approve the modified site plan as presented tonight

Second Ms. Post

Vote 7-0-0

Motion passes

2015 Master Plan – Public Hearing

By authority granted under NH RSA 674:1, the Windham Planning Board is Board is proposing to adopt the Energy Chapter to be included in the 2015 Master Plan Document in accordance with the procedure outlined in RSA 674:4.

Chairman of the Energy Committee drafted the energy chapter of the master plan and welcomed any questions.

Ms. Difruscia extended a thank you to the energy committee for submitting a well-researched and well written chapter. Mr. Guttman also expressed his thanks for the work done writing the chapter and spoke to the benefit of solar energy.

Opened to the public for comment

Mr. Case also expressed gratitude for the work done on the energy chapter for the master plan.

**Motion by Ms. Crisler to adopt the energy chapter as presented by the Energy Committee
Second by Mr. Guttman**

Ms. Scott asked the PB to approve the typed errors within the energy chapter as presented be corrected by staff. Ms. Scott assured the PB none of the corrections will have any effect on content of the chapter.

Vote 7-0-0

Motion carries

2016 Town Meeting Public Hearings

Market Square Overlay District Zoning Ordinance and Map (Section 620, 301, 701, and 710.3)

To adopt a new Overlay Zoning District (Section 620) and Map for the Market Square District. This new District lists the purpose and location, uses permitted, and design criteria for a walkable, mixed-use center that has retail, office, restaurants, commercial, limited residential and public space components. Amendments are also proposed to Sections 301, 701, and 710.3 to add “Market Square Overlay District”.

Ms. Scott informed everyone present the property owners and abutters were notified of the hearing in accordance with state law requirement.

Al Letizio jr., BOS Chairman, WEDC Vice Chairman, and Market Square Subcommittee Chairman and Ed Gallagher, WEDC Chairman presented the plan. Mr. Gallagher pointed out the plan is not driven by a developer. Mr. Letizio presented the WEDC vision plan as a proactive plan for a “future to become a model small town others look to emulate.” Mr. Letizio described the plan as a proactive new zoning ordinance that does not exist, as a method to generate revenue. It is the goal of the WEDC to persuade the PB to vote in favor of the plan tonight so that it can be brought to the residents for a vote. Section 620.1 Purpose and Location (slide) presentation of The Market Square Overlay District was given by Mr. Letizio and Mr. Gallagher.

Mr. Guttman asked if Mr. Letizio has a map that shows what land is contiguous useable land. Mr. Guttman believes it is important for people to understand the wetlands and elevations that exist and how it impacts the available useable land.

Mr. Letizio does not have a map showing the wetlands and elevations with him tonight. Mr. Letizio has a map showing the above and will have the map on-line tomorrow.

Mr. Gallagher wanted to point out the zoning change from PB&T to an overlay district doesn't change the options that are there; it expands the options and the boundaries.

Chairman Carpenter explained the process and options for tonight's hearing to the public

Ms. Crisler reviewed that she heard (from the presentation) that the underlying zoning will remain in place. Ms. Crisler referenced a memo from attorney Campbell that states the zoning will be changed.

Ms. Crisler requested more clarification regarding the conflicting information concerning zoning changes. Ms. Crisler has concerns with access to the site. If the state won't agree to provide any additional traffic lights on route 111 a mall this size problematic with traffic from the west. Anyone coming down 111 going East will need to make a U-turn to gain entry into the mall; unless the state will allow a traffic light with a left turn into the mall.

Mr. Letizio commented that the state designed a significant access that can accommodate traffic right in and right out. There are additional access opportunities from Wall Street. The pieces are available to make it work.

Ms. St. Laurent commented that as an overlay district it can still be developed as a PB&T use. The overlay zone can be used as presented if a plan was put forward with 50 contiguous acres and it would have to have an access point to be approved. The plan up zones the parcels and increases potential use for the current owners because it could be used as a PB&T or market square.

Mr. Desilets highlight a team effort over the past year working on this plan. Strive as a PB to put the best product before the voters in March. What is brought here tonight is a good plan.

Mr. Guttman pointed out that the state has moved the park and ride to a more viable location. Mr. Guttman asked why the WEDC makes reference to Lynnfield instead of the loop in Methuen for the proposed Market Square. Mr. Guttman believes the loop in Methuen would be a better comparison. Mr. Letizio does not believe Methuen would be a good comparison. Methuen has a different form of government, a different population, different demographics, and different median income. Mr. Letizio explained that Lynnfield is a better comparison to Windham rather than Methuen; the Lynnfield lifestyle center is closer to what is being proposed in Windham. Mr. Gallaher commented that Methuen is a linear line of stores and is not anything like what is being proposed for Windham. Guttman believes there are a lack of studies that show who is supporting the proposed plan.

Ms. Post commented that the current zone is PB&T which is a commercial zone and already zoned for economic development. The potential assessed value developed as a market square district was quoted in the millions. What is the potential assessed value if the plan would be developed as PB&T.

Mr. Letizio replied that the area is zoned as PB&T. If the proposed plan should be passed and go forward it will remain PB&T. Rex Norman assessed the potential value of the proposed plan if developed as PB&T and zoned as a market square. Mr. Norman assessed that it would quadruple in value if zoned as an overlay district.

Ms. Post asked about the implications of the economic revitalization zone (ERZ).

Ms. Scott clarified the ERZ is a state tax credit program. \$875k is available per year for the entire state, Businesses apply to for new job and business creation. The ERZ will benefit businesses looking to come to Windham.

Ms. Difruscia pointed out that the assessment by Mr. Norman was for high intensity and quality desirable commercial development. There is nothing in the ordinance that mandates the mixed used type of development, no written guarantees in the ordinance that you're going to get what is in your vision.

Mr. Oliver asked if the current land owners made their opinion known to the WEDC.

Mr. Letizio has heard from the land owners and many are here tonight.

Mr. Desilets thanked town staff for bringing forward the ERZ and making it available to the town; and encouraged staff to look at areas eligible for the funds. Mr. Desilets believes the PB should make the market square available to the public for a vote.

Chairman Carpenter addressed the public regarding a realistic expectation of the plan lowering taxes for residents. Chairman Carpenter advised the public to consider the plan for the purpose of do they want it or not in town rather than believe it will financially benefit the individual residents.

Chairman Carpenter read a memo from Mr. Tom Case into the record.

Mr. Gosselin clarified the land falls under watershed district and cannot exceed a 30% impervious surface area.

Chairman Carpenter read a memo from Jerome Rickart into the record.

Chairman Carpenter read a memo from Diana Fallon into the record.

Judge Lynch is present and commented he has nothing to say, he is just here to listen.

Peter Ohanian, 25 North Shore Road

- Welcome to the next outlet mall is what the presentation looks like
- Quality of life as it relates to traffic is a concern. General traffic in Windham on 111
- 6000 additional parking spaces in Windham
- Attract people driving up and down 93
- Is this really what we want
- Strongly encourage the PB NOT to approve the overlay district

Richard Florino, 139 Castle Hill Road

- Fits Windham like a glove
- Nothing in Windham that brings people in town together
- Envision it as a beautify place to gather in the winter and during the holidays
- Need tax revenue plan
- Windham has changed for the better and can't stay static. Needs to progress.
- In favor of the plan and give the people the opportunity to vote on it.
- Effective way to plan and in favor of changing the zoning
- A proactive opportunity for the town and it should be on the ballot for the people

Bob Higgins 26 Nottingham Rd

- Read from the Windham Town Master Plan page 19.
- Presented information about Lynnfield Market Square
- Schools are overcrowded

- Need to increase tax revenue from commercial sources, which is what Market Square will do
- Support the Market Square Overlay District.

Kathy Pappalardo, 15 Settlers Ridge

- Difficulty funding the schools
- Programs have been cut due to lack of funding
- Supportive of commercial development to help increase the revenue
- Have an overcrowding issue in the school system

Kathryn Davis, 16 Coventry road

- Opportunity to have a sense of community
- Opportunity to spend money in town and have people come to town and spend money
- The size of the plan may limit some high end retail and hotels
- Big box VS national chains with boutique type stores. How to limit the big box stores that have a higher end stores owned by the big box stores.
- Support the plan

Bruce Richardson, 105 Rockingham Rd.

- WEDC member
- The numbers make sense
- Supportive of the plan
- Well thought out proposal

Louise Broom-Peltz, 70 Blossom Rd.

- Support the proposal
- It is a strong idea
- Referred to a book titled 'The Rural Oasis' and compared it to Windham
- Anticipate it will bring back some charm and a place to congregate
- Restrict the wording of the ordinance to keep the vision the way it is proposed
- The land has been there for a long time and believes if it is zoned the developer will come
- Worthy of serious consideration for the town

Bob Winmill, 3 Int RD.

- Owner of a parcel of land on route 111
- Supportive of the plan

Pat Nysten, Windham

- The issue is how will the land be developed, not if it will be developed
- Agree with the presentation
- Concern of how it is going to be developed
- Disagree government will dictate what comes to the market
- The ordinance will dictate what goes there
- Concerned with the size of 25,000 square feet
- Presented to put store size in perspective (one copy retained by Ms. Scott for the record)

- The store size is what determines the success of maintaining the vision of what is in the market
- Would support the ordinance if the store size was amended with a conditional use permit
- What does the word 'commercial' intend to mean that exists in the ordinance. Concerned it may allow something like a gas station.

Carol Pynn, Cobbetts Pond Road

- The ordinance doesn't address fire and police, will need to increase both departments
- Anything at all can go into the market
- The water and sewerage are not included in the plan
- architectural design concepts are not addressed in the plan
- Very poorly written ordinance

Gary Garfield, 8 Grandview RD.

- Was on the Litchfield PB
- Urge the PB to support the project and allow the town to vote on it

Vanessa Nysten, Edgewood Rd

- Suggest the following changes to the ordinance:
- List the lots/parcels on the map and the map be dated
- 620.2.9 What does development application mean?
- 620.3 There are no design regulations. Regulations should be included in the ordinance
- 620.3.2 Change the word insure to ensure
- 620.3.5 Correct the spelling of complimentary
- 620.3.6 Give examples
- 620.3.7 Nothing is written that requires mixed use, it is only encouraged. Suggest offering an incentive for a mixed use within the same building or mandate mixed use.
- 620.3.10 Define the word property, no maximum square footage is included, does not specify it has to be a building that is useful to the town
- 6203.11 Ask the PB to review the signage ordinance, some of the sections are not included in this section
- The ordinance as written is too flexible, going to get big box stores, change the word or to and, all sections should be included not just one thing, write the ordinance so it requires the type of lifestyle center we want. Consider allowing an increase in the height of the buildings as an incentive for mixed use within the same building

Tom Garden, 6 Wynnde Rd.

- Concern the town of Windham is going to change and what do we want the gateway to Windham to look like
- Wants the perception to be a reality
- Doesn't want a mall
- Don't need to rezone the land
- Technicalities in the plan don't matter
- It is market driven
- It is not a reality that the plan will be worth 100 million dollars
- No comparison to Lynnfield market place

- Asking the WEDC to be realistic and propose a realistic perception

Chairman Carpenter asked if the plan is not taking any zoning away from the existing properties what is the harm.

Mr. Garden replied there is no harm, it's a problem with the created vision; the pitch. Mr. Garden suggest to ask developers what they see can be realistically be done in the area.

George Will, 3 Stillwater Rd.

- Trust the PB will put the ordinance in place to prevent the undesirable effect of the ordinance.
- We cannot prevent change, just hope the ordinances put in place will support what we want to be in the area

Johnathon Sycamore, 15 cobbetts pond road

- Referred to the presentation as an infomercial
- 10% of Windham is zoned commercial
- Suggest charging commercial tenants more money
- Insignificant drop in property taxes as a result of the project
- Against retail
- 25,000 square feet is too much space without an upper limit use
- Where is the limit on retail
- Which way is Windham going to go
- PB&T provides for the area to be defensively zoned and it develop slowly
- Would prefer to go to the town as a citizens petition
- Going to change what the town is going to look like
- Don't want to be in traffic in my home town

Michelle Farrell, 27 Hawthorne Rd.

- The schools are overcrowded and the issue continues to worsen
- Continue to build home which continues to overcrowd the schools
- Supportive of the plan
- The town is against big box companies
- Rely on the PB to write an ordinance that retains the New England Charm the town desires

Charlie McMann, 11 Floral St.

- Support the ordinance to be as specific as possible
- Supports the proactive plan and vision
- Windham changed forever in 1959 when the 93 moved to the middle of Windham
- The crossroads of southern NH
- We need a sustainable revenue base
- Families need relief to stay in Windham
- Need revenue generated without added to the operating cost
- Will be a benefit to the town

Kenna McLeod, 4 Nottingham Road

- Do we have the sustainability for restaurants
- The idea and vision is great, but concerned if we can sustain a lifestyle center here
- Has a market sustainability study been done

Chairman Carpenter replied a developer that comes in would do a market sustainability study

Betty Dunn

- The vision sounds great, and if the ordinance will guarantee the vision it would be supported
- Look at where the potential 50 acre parcels are, are they under one ownership or more than one ownership
- If you don't have 50 acres owned by one person with a common vision it won't work
- Have other market squares been developed with parcel pieced together or one large existing parcel
- How are we guaranteeing a flow between the parcels
- It would be great to have additional income, but be realistic about when and how much would come
- Mr. Winmill has been one of the top tax payers in this town and his business will go away so that loss of income needs to be considered
- Concerns about how the ordinance is written
- Has anyone looked at the ordinance for the existing market places that have been referred to and are successful
- How does the ordinance, as it is written, guarantee of the vision
- Land ordinance lawyer will push through whatever they want
- Can't responsibly vote on the ordinance as it was written
- 620.2.1 is a broad category, does it include used cars, gas stations, opens the door to any type of retail
- 620.2.9 Bad grammar
- 620.3.8 What is a central development area and what if there isn't one.

Public portion of the meeting closed

Chairman Carpenter referred to the memo dated September 3, 2015 from Attorney Campbell and asked the PB if they want to review the suggestions tonight or at a later date.

Mr. Desilets wants to review the suggestions tonight.

Ms. St. Laurent has some suggestions if reviewed tonight to move it along for next time

Ms. Post would like the opportunity to review the suggestions at a later date. Ms. Post believes there are a great number of ambiguities that need to be addressed. She would like a much more cleaned up and articulated version. Ms. Post believes it needs serious workshop. If it is presented as written it won't pass a vote.

Mr. Guttman believes a workshop is necessary.

Ms. Post asked staff for the definition of retail sales. Ms. Scott read the definition of retail sales.

Chairman Carpenter reviewed the sections of the ordinance with the PB based on the public input this evening and Attorney Campbell's memo dated September, 3 2015 with suggested language changes.

- 620.1 Chairman asked for suggestions as an alternate word for 'intended'. No decision was made, will discuss at workshop.
- Strike the word commercial. PB agreed to strike the word commercial
- Attorney Campbell re wrote the second paragraph as per memo dated September 3, 2015. Ms. Scott will be adding language including reference to the overlay map. The PB would like further clarification on the language from Attorney Campbell before adopting the language proposed by him.
- 620.2.9: PB reviewed Attorney Campbell's suggestion for this section. Board discussion resulted in adding the word 'occupiable' between the words 'total' and 'square' for Attorney Campbell's review. Ms. Scott will take suggestions to Attorney Campbell for review for next workshop.
- 620.3.10: Board discussion regarding Attorney Campbell's resulted in a **motion by Mr. Desilets for section 620.3.10 No single individual permitted use, or facility exercising a permitted use, shall exceed 25,000 sq. feet. Second by Mr. Gosselin. Vote 3-4-0, motion fails.**
- 620.3 Laura will add language that design criteria have to follow site plan and design regulations
- Section 620.3.10 and 620.3.10.1 were discussed
- Continued Board discussion resulted in a further workshop scheduled for a later date on this draft ordinance

Motion to take up new business after 10pm by Ms. Post
Second by Mr. Gosselin
Vote 7-0-0
Motion carries

Pine Hill Estates Extension Request

Motion by Mr. Gosselin to pass extension as requested
Second by Ms. Post
Vote 7-0-0
Motion carries

Professional Business and Technology District (Section 614.2.10)

To amend the Section to allow the retail sales of merchandise, to reduce the retail sales area no more than 15% of the projects total square footage, and to limit a single retail tenant space to more than 15,000sqft.

There is an error in the posting with regards to the word 'no'. Ms. Scott will make correction when reposted.

Chairman Carpenter reviewed a memo from Laura Scott to the PB dated August 13, 2015. Chairman Carpenter suggested the following language for Section 614.2.10: Retail sales of merchandise provided that the retail sales area is limited to no more than 15% of the projects total occupiable square footage. No single retail tenant space can be larger than 15,000sqft.

Ms. Scott will have Attorney Campbell review the language (as above) and repost for public hearing.

Hearing open to the public

Pat Nysten

- Discussed with the PB the intended meaning of 15% and 15,000sqft.

Betty Dunn

- Informed the PB the town has PB&T because people in town don't want strip malls and retail.
- If the 15% is allowed the actual result is going to look like strip malls across the front.

Vanessa Nysten

- Asked for clarification of the word 'projects'
- Specifically would it include residential area.
- What defines the project. Would it include anything part of the project.

Attorney Cronin

- Downsizing the percentage of retail from the existing ordinance
- project VS building definition is an issue, and the PB is addressing the issue
- Based on what was heard tonight a problem has been identified and will be addressed on September 30, 2016

PB Discussion during resulted in the language for section 614.2.10 for review by Attorney Campbell to be as follows: Retail sales of merchandise provided that the retail sales area is limited to no more than 15% of the projects total occupiable square footage. No single retail tenant space can be larger than 15,000sqft.

Motion by Mr. Desilets to post for hearing as amended

Second by Mr. Gosselin

Vote 3-4-0

Motion fails, will bring back as a workshop after Attorney Campbell's review.

Ms. Scott will have Attorney Campbell review the language and edits which will be available for workshop on September 30, 2015. After the workshop, it will repost for public hearing.

Motion by to adjourn by Mr. Gosselin

Second by Mr. Desilets

Vote 7-0-0

Meeting adjourned at 11pm

Minutes submitted by Suzanne Whiteford, Minute Taker