



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

3 North Lowell Road Windham, New Hampshire 03087

(603) 432-3806 / Fax (603) 432-7362

www.WindhamNH.gov

Planning Board Approved Meeting Minutes October 14, 2015

Alan Carpenter, Chairman - Present
Kristi St. Laurent, Member - Present
Margaret Crisler, member - Present
Joel Desilets, Selectman - Present
Kathleen DiFruscia, Alternate - Present
Ross McLeod, Alt. Selectmen - Present

Paul Gosselin, Vice-Chair - Present
Dan Guttman, Member - Present
Ruth Ellen Post, member - Excused
Dave Oliver, alternate - Excused
Matt Rounds, alternate - Excused
Gabe Toubia, Alternate - Present

Staff:

Elizabeth Wood, Community Planner
Suzanne Whiteford, Minute Taker

Call to Order/Attendance/Pledge of Allegiance

2016 Town Meeting Public Hearings

Professional Business and Technology District (Section 614.2.10)

To amend Section 614.2.10 to allow the retail sales of merchandise, to restrict the retail sales area to no more than 15% of the Professional, Business and Technology projects total occupiable square footage, and to limit a single retail tenant space to no more than 15,000sqft.

Motion by Mr. Desilets to open Professional Business and Technology District (Section 614.2.10)

For public hearing.

Second by Mr. Gosselin

Vote 7-0-0

Mr. Tom Case commented that the word '*projects*' should be '*project's*'.

Ms. Difruscia believes businesses most complimentary to a PB&T district would be places to go to lunch, get a cup of coffee, etc. Ms. Difruscia is concerned about other types of merchandise and retail that would go in that space and not necessarily be a good fit; (like a dress shop) they would water down the purpose of the PB&T. Ms. Difruscia explained that supportive and complimentary services (to the businesses) should carefully be considered and what is allowed should be limited. Ms. Difruscia believes the 15,000 square foot is too large.

Ms. Crisler believes the 15,000 square feet is a very large footprint for retail and would essentially lend itself to a strip mall.

Chairman Carpenter verbalized if you have a 15,000 square foot tenant that means there is a 100 square foot project.

Ms. St. Laurent commented that offices located in neighboring parks may be looking for services. Market forces will determine what goods and services go in the PB&T. Ms. St. Laurent believes if the Planning Board tries to regulate exactly what they want it will create trouble

Mr. Guttman commented it is very common in office parks throughout the country to have a fairly large size restaurant. Mr. Guttman questions if the Planning Board should make an amendment that limits all 15% (retail) from being road frontage.

Mr. Desilets agrees with Chairman Carpenter and Ms. St. Laurent. Mr. Desilets does not support the frontage issue suggested by Mr. Guttman. As to size, a 15,000 square foot CVS can be walked from one end to the other in 15 seconds and does not think 15,000 square feet will prevent walk ability.

Mr. Gosselin agrees with Chairman Carpenter and Ms. St. Laurent. If the 15% allows development in PB&T to become more attractive and more successful then he supports what is proposed as presented.

Ms. Crisler does not agree that the proposal as written is in accordance with restaurants and ancillary services allowed in PB&T according to the ordinance. The proposal will be allow unrelated retail to go into an office park and we could end up with all retail lined up on the street and office park in the back.

Ms. Scott pointed out the PB&T district is already subject to the design regulations in place which regulate how the district will look.

Chairman Carpenter explained that if an applicant came with a 200 x 200 footprint, he could build a 3 story building, 15% of the building would be 18,000 square feet which would be allowed to be retail.

Chairman opened the hearing to the public

Mr. Karl Dubay commented there is a concern from the PB that 15% is a lot (excess), but it is totally to scale. A pharmacy is 13 to 14,000 square feet and is very important to PB&T development; it provides a great service to the employees and people coming in from the street. Trader Joe's is beneficial and is 15 to 17,000 square feet. Even the boutique markets, a nice sporting good shop not as large as Dicks are around 10 to 15,000 square feet. There was a lot of thought into the suggestion for 15,000 square feet. The vision of the PB&T district is to preserve what is left and 15% does feel good, it is a good balance, and will add value for the people working there.

Betty Dunn requested that everyone reflect why they came to live in this Town. The reason is it is a little different from other towns. It used to be a rural oasis. No one came here because they

saw the strip malls and little mini malls. Residents pay more for their houses because we are a little bit different. Adding what will end up being commercial frontage (unless it is prevented to be commercial frontage along the major streets in town) the town will lose home values, that which attracted residents to Windham. Ms. Dunn is concerned about the total retail visual would be across the front of the PB&T. Ms. Dunn is concerned we are losing the purpose of the ordinance of having a PB&T. We wanted to attract high end PB&T that don't want to be next to retail and if they know they will be next to retail that will drive them away. 111 and 111A are our main streets that everyone sees. If the Planning Board approves this we will lose what makes us different and we will lose the value of our homes.

Chairman Carpenter commented chances are, we won't have projects in size large enough to sustain retail. Retail will draw from the community. Chairman Carpenter asked Ms. Dunn about adding language that integrates retail into the PB&T. Ms. Dunn thinks the suggested language has potential.

Jonathon Sycamore, 15 Cobbetts pond road is thrilled about Medicus and the jobs it will create. Mr. Sycamore believes the 15% will water down what can be there and will impact the Market Square project.

He would like to see more sidewalks in town to show and encourage connectivity to allow walking from store to store. The proposed ordinance will not support the town. There was a sporting goods store in town that didn't make it. Mr. Sycamore believes the proposal is dangerous. PB&T is developing and bringing good change to town; changing zoning to bring retail to town is not a good idea.

Mr. Ralph Valentine commented that 15% that is being asked for and it will be supporting 85% of the development. Mr. Dubay is bringing a message from the owner. To induce a tenant to develop the park a drug store is an important component. If this is not allowed it will discourage tenants. Think of the ordinance as 15% to bring in 85%.

Mr. Karl Dubay commented that someone suggested mixing it up a little bit that specifies the frontage buildings facing the street would be required to have a mixture. Mr. Dubay moved to town for the school system and reputation of the town. Mr. Dubay will support language that prevents the entire frontage from appearing like a strip mall. Mr. Dubay emphasized he is here to do the right thing. We are blessed to get a large company Medicus which brings 200 jobs. Mr. Dubay will support language that specifies retail is up to 15% and there has to be mixed uses along the front.

Ms. Difruscia asked Mr. Dubay about ancillary uses and is concerned if the ancillary uses are compatible with what the PB&T. Ms. Difruscia believes it is necessary to specify in the proposal that what is going into the PB&T, truly provides an ancillary service. Ms. Difruscia believes adding language for to specify integrated use is a good suggestion.

Mr. Desilets disagrees with a need to do what Ms. Difruscia suggested. The ancillary services will not be fully supported by the office park and could be turning away good opportunities for the community.

Mr. Gosselin commented we are already governed by design regulations for PB&T, and they prevent a strip mall taking over a PB&T district. Retail would have some benefit and attractive to bringing in the office space. Mr. Gosselin is comfortable with the language the way it is written.

Mr. Guttman is concerned about the law of unintended consequences. Mr. Guttman asked why the 15% would only be retail; why wouldn't it be all inclusive of all areas authorized in the PB&T. If the goal is 85% PB&T what will you end up with?

Ms. Scott explained an entire project can be a bank, or a fitness center, or a restaurant. The Planning Board wants to look at the limitation on retail as it is currently stated in the ordinance.

Ms. Crisler reviewed what is allowed in the PB&T and pointed out that 15% of what is allowable can be quite large. The way the ordinance is written we could end up with no office space and all retail in the PB&T. Ms. Crisler reviewed the purpose of the PB&T ordinance and thinks the Planning Board should look at the type of businesses allowed. Businesses within the PB&T that only take care of the people that work there will not be sustained.

Chairman closed the hearing to the public.

Mr. Guttman believes it would make sense to amend the language to allow pharmacy and medical devices to make it more viable and in line with the intent.

Mr. Desilets commented that the Board is focused on offices and we could end up with one large fitness center. We also seemed focused on the pharmacy. We're not just currently blocking a pharmacy we are blocking a bodega that wants to sell sandwiches and wine. Mr. Desilets does not think this is the time and place to look at the overall definition. Right now we have some finite developments with finite services that are ready to move into town.

Motion by Mr. Desilets to move it to warrant

Second Mr. Gosselin

Ms. Crisler believes the Planning Board should look at the entire ordinance and it is premature and irresponsible to move it forward to warrant.

Ms. Difruscia agrees with Ms. Crisler but thinks the Planning Board should move forward tonight and come back to visit this issue again.

Mr. Gosselin pointed out that the proposed change is only designed and planned to adjust the retail aspect of 15%.

Ms. St. Laurent is comfortable with Mr. Desilets motion.

Chairman Carpenter believes there is significant opportunity to improve what is written and will not vote in favor of what is presented. The way it is written runs the risk of becoming retail strip mall space. Chairman Carpenter asked Mr. Desilets and Mr. Gosselin to withdraw the motion to allow public comment. Mr. Desilets and Mr. Gosselin withdrew the motion.

Ed Gallagher, 4 Turtle Rock Road commented that he respects the Board trying to preserve the beauty and esthetics of the town. The whole idea of mixed use, when done correctly, is a helpful

element and adds vitality to the town and community. To have the convenience of services and facilities is very beneficial. Suggest to the board, as a resident, give this due consideration.

Betty Dunn commented when it is done well, mixed use could be a real asset to the community. Ms. Dunn does not think the ordinance assures control about where the retail will go. The discussion tonight has changes that potentially will impact the development of every PB&T development in town.

Jonathon Sycamore asked how many acres will be rezoned. Ms. Scott replied to Mr. Sycamore.

Mr. Ralph Valentine commented that an employment center is supported by many uses. Retail will round out the uses. The area being transitional zone 15% retail is not very much. The change will allow people traveling through the zone to their homes a benefit.

Ms. Crisler not opposed to adding retail as an approved use; she just wants to control it.

Mr. Desilets commented the Board seems to be talking about esthetics, but want it to be an office park. We are blessed to have Medicus come to Windham. Mr. Desilets would not choose an office building to face on the road, having retail in our view may not be bad.

Motion by Mr. Desilets move proposed amendment: Professional Business and Technology District (Section 614.2.10) to allow the retail sales of merchandise, to restrict the retail sales area to no more than 15% of the Professional, Business and Technology projects total occupiable square footage, and to limit a single retail tenant space to no more than 15,000sqft., to town warrant as presented and changing the word ‘project’ to ‘project’s’.
Second by Mr. Gosselin

Mr. Toubia believes the Market Place will determine what will succeed and what will not. CVS will never move into PB&T; little pharmaceuticals will move in. Mr. Toubia believes if the frontage is restricted it will kill retail all together. The frontage will get maximum rental. Mr. Toubia will support that the Planning Board needs to relook at the entire PB&T ordinance and not just the one component of retail.

Vote 3-4-0, Mr. Guttman, Ms. Defruscia, and Ms. Crisler opposed.

Motion carries

All three opponents want to relook at the ordinance in its entirety. Ms. Defruscia is opposed to amending the PB&T to include retail for reasons previously discussed. Ms. Crisler would like another workshop to look at the entire ordinance. Ms. Crisler is concerned the 15% is not limited to just office buildings and would like to eliminate from the ordinance the requirement of goods being made on site can be sold on site.

Mr. Desilets Ok with integration of retail into the plan, concerned about the 10,000 square feet. Mr. Gosselin understands the suggestion of adding language about integration. Concerned about dropping from 15,000 to 10,000 square feet. Proportionally it is always a small part of the bigger picture. Understands 15%.

Chairman Carpenter requested to move this to workshop. Ms. Scott will draft some language for the next workshop.

Signs (Section 706.3.1.1)

To amend Section 706.3.1.1 to allow “the changing or modification of sign copy” without requiring the resulting sign to meet the regulations.

Ms. Scott pointed out that Attorney Campbell reviewed the proposed language, and the ZBA case, and came up with alternate language and two alternatives.

Ms. Crisler asked how many nonconforming signs do we have and is this a good chance to bring nonconforming signs into compliance.

Ms. Scott does not have an exact number. New tenants that move into a vacant space will not pay money to bring the sign into compliance; it is cost prohibitive.

Chairman Carpenter asked the Planning Board if they wanted to take Attorney Campbell’s suggestion or table the issue for next year.

Mr. Gosselin suggest that the Planning Board review Attorney Campbell’s suggestions.

Mr. Guttman read Attorney Campbell’s language and is comfortable moving it to public hearing.

Chairman Carpenter opened hearing to public comment.

Motion by Mr. Gosselin to open to public hearing

Second by Ms. Difrusica

Vote 7-0-0

Mr. Ralph Valentine commented that changing the copy on the sign is the same as not changing an existing nonconforming building. Should not have to bring a sign into compliance for a change in the copy of the sign. Change the language based on what Ms. Scott suggested.

Motion by Ms. Crisler Section 706.3.1.1 move to public hearing as amended per Attorney Campbell’s.

Second by Mr. Guttman

Ms. Difruscia commented that it seems like Attorney Campbell is saying what Ms. Scott intended.

Mr. Desilets doesn’t understand how The Planning board scare what something looks on a highly traveled road but does not care about what a sign looks like.

Vote 6-1-0 Mr. Desilets opposed for reasons stated.

Motion carries

2016 Town Meeting Workshops

Market Square Overlay District Zoning Ordinance and Map (Section 620, 301, 302, 701, and 710.3)

- Chairman Carpenter reviewed the changes sent to Attorney Campbell for review.
- 620.3.3.2. Planning Board decided to leave it as written.

- 620.3.10 and 620.3.10.1. Chairman Carpenter believes signage is the holy grail to retail. Mr. Gosselin agrees with Chairman Carpenter what we have to today is sufficient. The Planning Board needs to review and approve signs as part of the design regulations. Mr. Desilets had an understanding that the Planning Board would handle signs under design review regulations.
- 620.3.11.1. Mr. Gosselin believes the language enhances what the Planning Board wants to see for mixed use. The second story of any building will not be retail. Mr. Desiltes agrees with Mr. Gosselin.
- 620.3.11.2 and 620.3.11.3. Mr. Guttman commented that the concept of the anchor tenant is something the Planning Board put forward. Mr. Guttman proposes to change the language to eliminate the 25%. Mr. Desilets Concurs with it exactly as it is written and does not agree with Mr. Guttman's proposal.
- Ms. St. Laurent has no comment
- Mr. Guttman has no further comment
- Mr. Gosselin supports reducing office space from 10 to 5%
- Ms. Crisler is not in favor of the ordinance, agrees with reducing office space from 10 to 5%.
- Ms. Difruscia is not in favor of the ordinance, agrees with reducing office space from 10 to 5%.
- Mr. Desilets supports 5% as the minimum
- Chairman Carpenter supports to keep office space at 10%.

Chairman Carpenter opened the hearing for public comment

Ed Gallagher, WEDC Vice Chairman

- The WEDC provides input and would like to give input and comments. Mr. Gallagher passed out a summary of the WEDC comments and input which is placed in the file.
- WEDC supports the ordinance as written with the exception of requesting a decrease in office space from 10 to 5%.
- Ms. Crisler asked what low impact development is.
- Ms. Scott commented that low impact development is defined in the watershed ordinance, section 616.4.
- Ms. Crisler does not think low impact and Market Square match; you can't have both. It will either be low impact or a 100 million dollar project. There are limited resources available to build this type of development.
- Ms. St. Laurent asked are we talking low impact development as defined in the ordinance in terms of the environment or low impact development compared to the scope of what we see in town today.
- Mr. Gallagher is only referring to the existing ordinance.
- Mr. Gosselin commented that low impact was brought up because the WEDC recognizes there is potential for significant impact in the watershed district. WEDC wanted to stress the fact that whoever would look at this overlay would have it written in the ordinance the watershed protection district zoning will have to be followed. WEDC wanted it to be upfront for any potential developer to be aware of the Cobbetts pond watershed ordinance.

Ms. Difruscia reiterates she sent in comments for the meeting she could not attend. Ms. Difruscia wants to incorporate in this ordinance the low impact development ordinance.

Mr. Guttman commented that the only area of the ordinance that references (and defines) the open space concept is Section 620.3.7. Mr. Guttman questions conditional use permits. Mr. Guttman asked why emphasizing green incentives aren't being emphasized. We need to differentiate somehow and bring forward something environmentally encouraging. Mr. Guttman suggested to add a section for low impact and encouraging green incentives.

Ms. St. Laurent suggested for Section 620.3.7 to take out the very last sentence.

Motion by Mr. Desilets to change office space minimum to 7.5%.

Second by Mr. Gosselin

Vote 4-3-0 Mr. Guttman, Ms. Difruscia, and Ms. Crisler opposed.

Motion carries

Pat Nysten

- Building size of 75,000 square feet is too large for a downtown like environment.
- To put it into perspective, Shaw's is 65,000 square feet.
- It is important to keep the character in accordance

Derick Moncton

- Thanked the Board for their work including low impact and Cobbett's Pond watershed protection.

Ralph Valentine

- Believes 75,000 is too big.
- The market will do what it needs to do to get a return on investment.

Mr. Desilets recalled the Planning Board conversation at last meeting: The anchor tenants with 40,000 max and try to prevent a tenant from having to go to the ZBA for a variance. Keep in mind the 75,000 is the maximum, but will support 65,000.

Ed Gallagher

- WEDC has put in a tremendous amount of time with good collaboration.
- At this point we have arrived at the right language.
- Given the warrant time line, it is time to act.

Motion Ms. Difruscia to change maximum building size to 60,000 square feet

Second by Mr. Guttman

Mr. Gosselin not opposed but will vote no to give flexibility to someone that might come in

Vote 6-1-0, Mr. Gosselin opposed for reasons previously stated.

Motion Carries

Ms. Difruscia objects because we have multiple projects including the 275,000 square feet retail proposal in the gateway. We need to take all these into consideration and slow down; a market overlay district is rushing things and is too much. Ms. Difruscia is concerned about the Major traffic impacts with very large construction. There has not been a market analysis. Ms. Difruscia asked how it can be sustained. Ms. Difruscia commented that it seems like we are taking a place like Lynnfield and plopping it down in Windham. Ms. Difruscia believes we have traffic, sustainability, and environment issues. We need to look at the town as a whole and look at what is coming

Mr. Toubia asked if we are going back to look at the calculation proposed by Mr. Guttman. Mr. Toubia believes there are too many big anchors and we risk losing it with the voters. The voters have a fear of big box stores. Mr. Toubia believes the calculation methodology is flawed; it should not be deducted from the 25%.

Ms. Difruscia and Ms. Crisler agree with Mr. Guttman.

Mr. Desilets supports this as written. Members of the WEDC are members of the community and business people and support their opinion and the public's opinion.

Ralph Valentine

- Will be a challenge to add up to 100.
- Forcing to make the tenant mix to be a certain size.

Motion by Mr. Gosselin to move Market Square Overlay District Zoning Ordinance and Map (Section 620, 301, 302, 701, and 710.3) as amended to public hearing.

Second Mr. Guttman

Vote 5-2-0, Ms. Crisler and Ms. Difruscia opposed for reasons previously stated.

Motion carries

Mr. Desilets excused himself at 10:09pm

Historic Building/Structure Demolition/Substantial Modification Delay Ordinance (Section 719)

- Ms. Scott gave an overview of the ordinance.
- Will check with legal counsel on the language.
- With regards to Section 719.4.3 Mr. Gosselin asked why not stay consistent with 10 business days.
- Chairman Carpenter wants to stay consistent with 30 days for sections of 719.4.1, 719.4.2, and 719.4.3.
- Ms. Scott gave an explanation for the time frames in each section.
- Mr. Gosselin asked why 719.6; what is being developed if an historic property already exists. Members of the Planning Board explained that it is added for potential additions, renovations, and/or subdivisions.
- Ms. Crisler asked if this addresses things that are not structures.
- Ms. Difruscia concurred that there is a list of things that have to go through the process.

Motion by Ms. Difruscia to move Historic Building/Structure Demolition/Substantial Modification Delay Ordinance (Section 719) to public hearing with amendment to change ‘one’ to ‘on’ page two first sentence.

Second by Ms. Crisler

Mr. Gosselin has an issue with section 719.4.3 with regards to the timing.

Ms. Difruscia explained the reason for the time frames in each section and why the additions were expanded and why necessary.

Vote 5-1-0, Mr. Gosselin opposed for reasons previously stated.

Motion carries

Temporary Sign Ordinance – Size and Date

- **Motion by Ms. Difruscia to adopt Attorney Campbell’s changes to the temporary sign ordinance.**
- **Second by Mr. Gosselin**
- **Vote 6-0-0**
- **Motion carries**

Betty Dunn commented that temporary sign frames tend to stay up and are bigger than the actual commercial sign. Chairman Carpenter believes this is a code enforcement issue.

2015 Master Plan Phase I Workshop –Vision and Goals Chapter

Chairman Carpenter asked the Planning Board to think about should we take the document update it and not recreate it.

Motion by Mr. Gosselin to adjourn

Second by Mr. Guttman

Vote 6-0-0

Meeting adjourned at 10:32pm

Meeting minutes submitted by Suzanne Whiteford

