



*OLD VALUES - NEW HORIZONS*  
**COMMUNITY DEVELOPMENT**

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**Planning Board Meeting Minutes**  
**September 26, 2012**

**Board Members:**

Margaret Crisler, Chairman – Excused  
Ruth-Ellen Post, Vice Chairman– Present  
Pam Skinner, Member – Present  
Kristi St. Laurent, Member – Present  
Jonathan Sycamore, Member – Excused  
Lee Maloney, Alternate Member – Arrived 6:40pm

Carolyn Webber, Member – Excused  
Ross McLeod, Selectman Alternate – Excused  
Kathleen DiFruscia, Selectman, Member – Excused  
Sy Wrenn, Alternate Member – Present  
Vanessa Nysten, Alternate Member – Present

**Staff:**

Laura Scott, Community Development Director  
Mimi Kolodziej, Planning Assistant

**Call to Order/Attendance/Pledge of Allegiance**

Acting Chairwoman, Vice Chair Post, called the meeting to order at 6:05 pm, followed by the Pledge of Allegiance and attendance.

Mr. Wrenn was seated for Chairwoman Crisler and Ms. Nysten was seated for Mr. Sycamore.

**Site Plan Workshop**

Ms. Scott reminded the Board that per their June 20<sup>th</sup> meeting, they had asked her and Kristi St. Laurent to begin the lengthy process of revising and clarifying the Site Plan Regulations. Tonight's meeting will review a small percentage of the Sections of the Draft Site Plan Regulations. Steve Keach is also working on revisions for presentation at the October 17 meeting.

Ms. Scott said that half of the language is statutory and that she looked at Regulations from other Towns. She and Ms. St. Laurent have added terms to the definitions section without adding their definitions, as yet. An invitation to the Windham Economic Development Committee had been extended and several of their members were present.

Vice Chair Post read the names of the various sections to be addressed tonight.

Ms. St. Laurent noted that there is no language in the current Site Plan Regulations to capture the re-development of a site and so inconsistencies have arisen. Section 100-Purpose Section was edited to include the term "redevelopment," and Ms Scott explained her addition of the ending paragraph.

Vice Chair Post opened discussion to the Board; there were no comments.

## **SECTION 100 – PURPOSE**

- Mr. Bob Young, President of the WEDC, speaking as a Town resident, noted that the final suggested paragraph duplicates a list in Section 501 and asked Ms. Scott if the last phrase in the original paragraph is in RSA language.
- Ms. Scott explained that language in later sections can be clarified by being additionally stated in the Purpose section. She will check the RSA language of the phrase: "...to provide for and protect the public health, safety, and general well being."
- The Vice Chair noted that the Purpose Statement is a touchstone for later ambiguities and likes the clarity the new paragraph in Section 100 adds.

## **SECTION 200 – AUTHORITY**

- Vice Chair Post and Ms. St. Laurent said that this is a newly added Section which essentially states the RSA; there were no questions or comments from the Board or Public.

## **SECTION 300 – APPLICABILITY**

- Ms. Scott walked through the changes she and Ms. St. Laurent were suggesting.
- After discussion about the language of 301, it was decided to have it read: "Site plan approval by the Planning Board shall be required for:" This would involve deleting "In all zoning districts," and the word "development."
- Ms. St. Laurent said there are 2 new words that await definition in 301.1 – "construction" and "redevelopment."
- After discussion, changes were made to 301.4: "the new use changes the basic nature of the use such that..." is to be deleted. Add "it increases the intensity of on or off site impacts"
- Vice Chair Post suggested and the Board confirmed deleting the word "all" from 301.1.
- Paul Gosselin, WEDC member, Town resident, and developer, questioning 301.4. thinks that all "changes of use" produce some change of the intensity of on- or offsite impact and thinks it should be an administrative concern, not a Planning Board one. He thinks there needs to be a defining way for assessing "change," "changes of use," and "increase in intensity." He thinks that this requirement would prevent development; developers may not want to come before the Planning Board, where they may not mind presenting a Zoning Board application.
- Ms. St Laurent stated the purpose in this language change is twofold: one is to make easy, simple changes with little or no impact have an easier process, and the other is to produce less paving in Windham by providing credits for complementary usage of parking spots, for example.
- The Board and Public continued to discuss the criteria for what an impact is; and if a site is already approved for a higher impact, should there be need for Planning Board approval.
- There was lengthy Board discussion about the inspection processes performed by and the jurisdiction of the Fire Department, Building Department, TRC, and the issuance of CO's.
- Ms. Maloney arrived at 6:40pm.
- The Vice Chair redirected the Board's attention to Section 301.4. Mr. Paul Gosselin said that there is so much vagueness in the definition of change of use; it is very difficult to determine where it applies. Any effort to tie it into new/existing standards would be helpful to developers/landlords.

- Mr. Al Letizio, Jr., 5 Woodvue Rd. and WEDC member, inquired about the meaning of the word “redevelopment” in Section 301. He would like to see clarification between “redevelopment” and “remodeling.” Ms. St. Laurent responded by saying if the “remodeling” actually reconfigured the original space and the use of the space was changed – yes- the applicant would need to come before the Planning Board. She agreed that definitions of “remodeling” and “redevelopment” need to be tied down. Ms. Scott noted that the new “terms” were intentionally left undefined in order to hear the responses from the workshop.
- Vice Chair Post confirmed there were 2 important items to be considered:
  1. The need to clarify the definition of “increased impact,” and
  2. The need to create a definition of the term “redevelopment.”
- Mr. Valentine, WEDC member, said that the Town of Derry offers every tenant going into an already existing space an application which the Planning Department determines if they need to go to TRC. He said any change that does not increase the septic or parking load may simply attach a sketch to which the Planning Board may respond by sending it to TRC. This process is separate from Life Safety inspection. Mr. Valentine continued to share examples of this process.
- Ms. Scott believes that the Town of Derry is set up through statute whereby the Planning Board gives up its authority over minor site plan and minor changes of use. She will research it.
- Vice Chair Post restated Mr. Valentine’s request stating: He would like to see an exemption for changes of use where the use is already approved by the previous site plan; and if there is no net change. Ms. Scott asked Mr. Valentine to check on Derry’s authority in this situation.
- Vice Chair. Post questioned the opening line of Section 301. The Board decided to delete the opening phrase, “In all zoning districts,” and the word, “development.”

- **SECTION 302 - EXEMPTED USES:**

- Ms. Laurent explained that this is a new section and addresses very minor changes that have little or no impact. She walked through the Section. She hopes the Board will be able to help define the word, “temporary” and its criteria.
- Timber harvesting and Forest management was discussed. Ms. Nysten asked if this was referring to the Basal Area Law. Ms. Scott said no. Ms. Scott said this is referring to having a business for timber harvesting such as a tree farm. She will list the RSA. Clearing land in preparation for development needs Planning Board approval.
- Mr. Valentine said that there are some businesses that do not need to come before the Planning Board. Ms. Scott agreed and explained that there are some businesses that are not deemed to be a change of use and staff determines that it does not rise to the level of a change of use. This is another definition that will be created.
- The Board continued discussing the Planning Board application process and asked Mr. Valentine to provide a copy of Derry’s 11 page application document. Vice Chair Post thinks this is a beneficial idea and deserves being pursued. She would like following point noted for the record:
  - It has been suggested that there be a clear application process to provide information in a uniform manner for the Code Enforcement administrator to make preliminary decisions about whether a change of use is subject to PB review or not.

Ms. Nysten would like to see room for comments from Highway, Fire, and the Building Inspector.

- Ms. Scott noted it should be up to the Code Enforcement officer to create the process for that department to assess an application. Her determinations must be based on zoning, not Fire or Building code. Ms. Nysten wondered why we would not want to get input from Fire, DPW, Building, and maybe Police for the Code Enforcement Officer to make a better decision and make it easier for the applicant so that they would know if it does not meet codes up front. Ms. Scott underscored that the Code Enforcement Officer's authority must be and is only based on zoning. Fire and Building regulations have no jurisdiction in her decisions. They are to be made by the Town professionals in those areas; the Building Inspector and the Fire Chief. Mr. Valentine said that it is collaborative with no denying or approving the application. There was Board interest in possibly streamlining the process for the public
- Mr. Gosselin speaking about Exempted Uses said that once a maximum use has been determined and approved by Fire and Building, and the new change of use business coming in does not exceed the maximum use, then the change of use is just a change of the name on the door only. He would like to see codified Section 303.2 to help the applicant eliminate expensive soft cost.
- Mr. Karl Dubay suggested looking at Salem's Development Handbook which on-line, has a list of departments, names, and phone numbers and the complete application process. It is a great help to new business owners.
- Ms. St. Laurent offered some suggestions that the Board might consider before the next meeting with respect to Sections 303.3.4, 303.1, and 303.2. Ms. Scott asked that the Board consider the numbers and percentages in the Sections. Are they reasonable? Vice Chair Post noted that the subsections of 303 have added as a de-facto check list to date. Ms. St. Laurent asked for input about Section 303.4. This section may also be considered a preliminary site plan.
- Ms. Nysten addressed the e-mail that she sent to the Board and staff earlier in the day. Chief McPherson said that he would like for the building inspector to be part of the TRC process. He feels this is important. He also wants to make sure that the missing fire safety section of the site plan regulations will be put back in the site plans regulations There was discussion about including Chief McPherson on the agenda for the next Site Plan Review workshop. Vice Chair Post deferred the decision to Chairwoman Crisler and Ms. Nysten. .

**Ms. St. Laurent motioned and Ms. Skinner seconded to adjourn the meeting at 7:30pm.**

**Motion passed: 6-0.**

These minutes are respectfully submitted by Mimi Kolodziej