

PLANNING BOARD MINUTES

December 20, 2006

ROLL CALL:

Phil LoChiatto, Chairman – Excused	Ruth-Ellen Post, Vice Chairman – Present
Nancy Prendergast, Secretary – Present	Walter Kolodziej, Regular Member – Present
Ross McLeod, Regular Member – Excused	Pam Skinner, Regular Member – Present
Neelima Gogumalla, Alternate – Excused	Rick Okerman, Alternate – Present
Margaret Crisler, Selectmen Member – Present	Alan Carpenter, Selectmen Alternate – Excused

STAFF:

Al Turner, Director of Planning and Development – Present
Shaun Logue, Town Planner – Present

Ms. Post opened the meeting at 7:35 pm. Mr. Okerman replaced Mr. McLeod.

MINUTES:

- Mrs. Crisler motioned to approve the December 13 minutes as amended. Mr. Okerman seconded. Passed 4-1-1. Ms. Prendergast opposed. Mr. Kolodziej abstained;
- Mr. Kolodziej motioned to approve the December 9 site walk minutes. Ms. Skinner seconded. Passed 5-0-1. Mrs. Crisler abstained.

CORRESPONDENCE:

- Letter from Herbert Associates requesting to continue the Dunkin Donuts discussion to January 17;
- Letter from NH DES regarding a request for a Site Specific Permit to disturb approximately 320,000 sq ft for Mr. Ryan's development;
- Greater Nashua Habitat for Humanity newsletter;
- Copy of a letter from David Sullivan to NH DOT regarding Rt 111 by-pass and Rt 93 projects;
- A response letter to Sam Nassar from Mr. Turner. The letter is to be placed in his subdivision file.

SIGN APPLICATION:

- 18 Mammoth Road landscaping business sign permit. The property currently has a violation.

LIAISON REPORTS:

- Mrs. Crisler, Selectmen: The Selectmen held a public hearing for the land transfer to authorize the transfer of 9.7 acres with conditions to the School Board.

NEW/OLD BUSINESS:

- Ms. Post: Attended a workshop regarding Village Center Districts. Distributed materials. A successful VCD has Town input and involvement, would like to initiate a process for an advisory committee, the Salem chamber of Commerce is having a Windham group, and this should be a workshop topic.

Ms. Prendergast motioned to continue the Dunkin Donuts discussion to January 17, 2007. Mr. Kolodziej seconded. Passed 6-0.

PUBLIC HEARINGS:

Zoning Amendments – 1st Public Hearing

Mr. Turner: We have received three citizen petitions, they will be advertised for the January 10 meeting, and we usually allow the citizens to speak first regarding the petitions.

Peter Zohdi, Herbert Associates: Asked about the order of the evening's agenda. Discussion: Citizen's petitions will go first, and it is not a public hearing for the citizen petitions.

Petition #1 by Mary E. Griffin and others, to rezone approximately 29 acres of vacant land at intersection of Route 111 (aka Indian Rock Road) and Wall Street. Herein referenced 29 acres is listed on the Town of Windham assessor's map as, Tax Map Lot 11-C-800. The petition is to rezone the existing property from "Professional/Business/Technology" to "Business Commercial A District." The subject land is at the northeast quadrant of Wall Street and Route 111. The proposed entrance to the property is across from the Shaw's Supermarket entrance road and the NH DOT Park-n-Ride" lot. The proposed development on the subject property would be a retail development with access to Route 111 via the new traffic signal installed at Wall Street.

Mr. David Baker, RK Associates: He is representing the land owners, he was part of the Shaws team, showed the location of the land on a map, wants to return the zoning to business commercial zoning, he distributed handouts to the Board, a 29 acre parcel of the land is under agreement and with the successful change in zoning, it will be a multi-tenant site, this site is not a major regional draw, feels they did a good job with Shaws, he understands the issues, Shaws did well with the Mother's Day 100 year storm, this lot is an ideal location for business for Windham, the improved site will increase the tax revenue and will not put a burden on the school system, it will continue the rural character of the town, the driveway will be aligned with current Shaws driveway, the Wall Street signal was over designed and can be used in the future, they will cooperate with the potential connection to North Lowell road, they have no tenant in mind, and it will probably be about 150,000 sq ft of retail.

Discussion: Ms. Post read the citizen petition #1.

Mr. Baker: Discussed the traffic numbers, it is an ideal location for retail for Windham, there have been no changes to the property since the rezoning to business technology district seven years ago, it makes sense to return it to a business commercial district, and he is looking to do a development in the right way.

Public comment from Susan Hoey, 4 Eastwood Road: The rezoning on this property was shot down before. Mr. Baker: The previous application was for all 90 acres, this is only for 29 acres, it is a different applicant and a new developer who thinks they can do a better job. Discussion: This will be heard at January 10 meeting.

Petition #2 by Carol Pynn and others to see if the Town of Windham will amend the zoning ordinance to adopt a Demolition Delay Ordinance that would delay demolition for thirty (30) days of any building or structure built prior to 1940. This will allow time to survey the property for historic significance.

Mr. Turner read the Citizen Petition #2, the Historic District has been working on the ordinance, Attorney Campbell has reviewed, he asks is this a zoning ordinance? Ms. Post read Attorney Campbell's comments into the record.

Carol Pynn, 19 Cobbetts Pond Rd: This is a simple request that turned into something major, it is not a land use thing, staff has made changes, would like to be able to document and possibly take pictures if a historic house is going to be demolished, this is not to stop taking down houses but to document and to

encourage salvaging historic architectural features, Ms. Pynn read the potential ordinance, it has been reviewed by the Mike McGuire the building inspector, and should this go forward?

Discussion: Should it be a town ordinance? should it be rescinded? the Board may declare it as a general Town ordinance, work with Attorney Campbell, this should be forwarded to the Selectmen, the Selectmen year end meeting is December 28, the Historic District Commission should send the proposed ordinance to the Selectmen with Attorney Campbell's comments, and Mrs. Crisler stated that she's a member of the Historic District Commission. Ms Pynn: Asked if it can be an innovative land use control, and Attorney Campbell has a number of questions. Discussion: The Historic District Commission can answer Attorney Campbell's questions and get the ordinance to the Selectmen.

Public comment from Carolyn Webber, Heritage Commission member: The Commission has the right to make the historic lists, and it is a simple ordinance.

Petition #3 by Jim Finn and others to request that the Zoning Ordinance for the Town of Windham be amended under 702.7 to read: Any nonconforming lot legally established by recorded deed or plan may be built upon and occupied for any permitted use if it complies with the minimum dimensional requirements of the zoning ordinance in effect, if any, at the time of the recording of the deed or plan and if the lot was in separate ownership from all contiguous lot or lots at the time of the original passage of this section on March 13, 2007. Where any nonconforming contiguous lot or lots were held in common ownership on or after March 13, 2007, they shall not be sold, consolidated or transferred to eliminate the common ownership unless they are sold, consolidated or transferred so as to create a conforming lot or lots where possible, or if not possible, another nonconforming lot but to a lesser extent than the first lot.

Ms. Post read citizen petitions #3 for non-conforming lots into the record: Mr. Turner: The assessor has been trying to do something like this, there are many small lots in town, the ordinance would consolidate the lots, the wording should be changed, and Ms. Post read Attorney Campbell's comments into the record.

Jim Finn, 18 Wilson Road: This was a suggestion by the town assessor, it was taken from the Nashua zoning ordinance, no issues with Attorney Campbell's suggestions, it is a needed ordinance, correct the wording and go to Town meeting for a vote. Discussion: The Board cannot change a single word, zoning amendments cannot be changed at Town meeting, the petition cannot be withdrawn, there is no Section 702.7, Mrs. Crisler stated that she signed the petition, and the petitioner can work on the ordinance and bring it back for next year. No public comment.

Proposed Map Amendments

Amendment # 1: Amend Zoning District Map by rezoning lots 11-A-450, 11-A-451, 11-A-452 located on Hardwood Road from Rural to Village Center District.

Mr. Turner: Located the parcels on a map, it brings the Village Center all the way to Hardwood Road, and it does not effect the road.

Public comment from Svalla Palli, her father owns 9 North Lowell Road: How is the whole project connected? and looking for the big picture. Mr. Turner explained that the owner of 1 Lowell Road and the Presbyterian Church have asked that their properties be Village Center District, the other Hardwood Road lots are Board proposed changes. Board: We are only adding additional parcels and not changes to the interior lots.

Public comment from Paulina Kemper, 9 North Lowell: Why would the owners request the rezoning?

Mr. Zohdi: In favor of the change, it will give another way out of the Village Center District.

Susan Hoey, 4 Eastwood Road: Mr. Turner says there is no plan for roads and Mr. Zohdi says there will be and that is a contradiction, and takes offense of citizens sitting at the table with the staff.

Mr. Zohdi, 37 Jackman Ridge Road: Have to comply with the regulations, and need a left hand turn from the Village Center District.

Mr. Turner: Explained the Village Center District map including the black lines show a possible road network. Ms. Kemper: The additional roads will make it noisier. Ms. Palli: Was here a year ago regarding the Village Center, the vision is changing by the contractors and not by the Town, it is not clear, feels that something is not being told, more information is needed, does not trust the contractors, and wants to understand.

Public comment from Mary Behl, 5 Eastwood Road: Very concerned that changes are being made and the public is not aware of the changes, and doesn't know what is going to happen to the land beside her property. Ms. Post will be suggesting in January to propose an advisory committee for additional public input.

Discussion: The historical building can be preserved, the neighboring lots will help with access, this was generated by the Board not the contractors, and the Village Center District has three sets of design guidelines.

Mrs. Crisler motioned to move Proposed Map Amendment #1 to the second public hearing on January 10. Mr. Kolodziej seconded. Discussion: Send to warrant or second public hearing? Passed 5-1. Ms. Prendergast opposed.

Amendment # 2: Amend Zoning District Map by rezoning lot 11-A-600 located on North Lowell Road which is split zoning – part Village Center District, Rural, and Residential B to entirely Village Center District.

Mr. Turner: Read Amendment #2, the Board received a letter from the Windham Presbyterian Church requesting to be entirely Village Center District.

Public comment from Ms. Palli, representing her father: Described her father's home and the neighborhood, purchased their home when it was residential, the change will devalue their lot, the land can be used as residential, even though the church owns the land it has a home with a garage on it, purchased the home in 1998 as residential, and it's going to change the way the area looks. Discussion: That area is planned as residential. Ms. Palli: The Board's vision has changed and it is not fine, thought the church was interested in selling part of their land, let it all be zoned residential, steep terrain and not walkable, doesn't understand the vision, this change will not make it look like a community, the Village Center District will have little houses, and let the zoning be residential.

Ms. Kemper: Thinks that the church will sell the property, and it will become noisier.

Mr. Turner: At one time it was two separate lots, but the church merged the lots, and showed the surrounding zoning on the map. Ms. Post read Attorney Campbell's comments. Discussion: There is steep terrain, and the back land is zoned multi-family.

Mrs. Crisler motioned to move Proposed Map Amendment #2 to the second public hearing on January 10. Mr. Kolodziej seconded. Passed 6-0.

Amendment #3: Amend Definitions:

Amend Section 200: Structure by deleting all the words after structure and replacing them with the following: "As defined by the Town of Windham adopted building code."

Amend Section 200 Definitions: Accessory Building or Use by adding the words "or structures" after the word "building" wherever it appears.

Amend Section 200: Definitions: Yard by deleting the word "building" wherever it appears and inserting the word "structure."

Amend Section 200: Definitions: Yard Front by deleting the word "building" wherever it appears and inserting the word "structure."

Amend Section 200: Definitions: Yard Rear by deleting the word "building" wherever it appears and inserting the word "structure."

Amend Section 200: Definitions: Yard Side by deleting the word "building" wherever it appears and inserting the word "structure."

Amend Accessory Building and Swimming Pools. Amend Section 700 by deleting the word "building" and inserting the word "structure."

Amend Area Frontage Area and Floor Area Requirements. Amend Section 702 and 702.3 by inserting the words "or structures" after the word building in two places.

Amend the Wetland and Watershed Protection District. Amend Section 601.4.9 by inserting the words "and structures" after the word "buildings."

Amend Section 702.1 by adding the following words after the word walls: "signs, light poles, flag pole, mail boxes, driveways, stonewalls, retaining walls, walkways, essential utilities, waste disposal facilities and cisterns for emergency water supply ..."

Mr. Turner: Attorney Campbell has comments, current definition of building is from BOCA code which we don't use anymore, International Code Council definition of building and structure, would like it to say "As defined by the Town of Windham adopted building code", he read where the changes need to occur in the ordinance, 701.1 and 703 should be added, and changes to Section 702.1. Ms. Post read Attorney Campbell's comments.

Mrs. Crisler motioned to move Amendment #3 Definition Changes to public hearing on January 10 with the changes suggested by Attorney Campbell. Ms. Skinner seconded. Passed 6-0.

Amendment #4: Amend Elderly Housing Ordinance Section 610 by the following:

Amend the name of the Ordinance to “Age Restricted Housing” and all internal references.

Amend Section 610.3.1 add Village Center District to Districts where Age Restricted Housing is allowed.

Amend Section 610.6.1.2 by deleting the words “single Family detached.”

Amend Section 610.6.1.10 by deleting the words “adaptable for” and replacing them with the words “barrier free.”

Amend Section 610.6.2.3 by deleting this section. (*Note: Barrier free design features are required by Section 610.6.1.10*)

Amend Section 610.6.4 by addition the following words after the word “Density ...” “for a traditional single family housing lot ...”

Mr. Turner: Read Amendment #4. Ms. Post read Attorney Campbell’s comments. Discussion: The building inspector attended a barrier free guidelines workshop today, delete Section 610.6.4, delete 610.3.1 because there is no need, delete 610.6.1.2 single family detached, it could meet the elderly housing requirements, can still control the guidelines, Age-Restricted Housing as a title, change the words elderly to age-restricted, should the spouse age exception be removed? Mr. Turner will draft the barrier-free design language, and two story garden style would require an elevator.

Mrs. Crisler motioned to move Elderly Housing Amendment #4 to public hearing on January 10 with the following changes: 1) Delete proposed amended sections 610.3.1, 610.6.1.2, 610.6.4; and 2) Request staff to provide a draft with specific language for barrier-free design. Mr. Kolodziej seconded. Passed 6-0.

Amendment #5: Amend Section 606.1 Uses Allowed in the Limited Industrial District by adding a new Section 606.1.13 Health, Fitness, and Recreational Facilities.

Discussion: The word indoor needs to be included, outdoor facilities would include basketball and tennis courts, soccer fields get less tax revenue that a building, fine tune the language for next year, and add indoor now and can take it out on January 10.

Mr. Kolodziej motioned to move Section 606.1 Amendment #5 to public hearing on January 10 with the following change: Health, Fitness, and Recreational Establishments with primarily indoor facilities. Mrs. Crisler seconded. Passed 6-0.

Discussion: Well and waste systems are allowed in the open space, and size of building limitations in the industrial zone.

Mr. Kolodziej motioned to adjourn. Mr. Okerman seconded. Passed 6-0. Meeting adjourned at 11:05 pm.

These minutes are in draft form and have not yet been reviewed and approved.
Respectfully submitted, Nancy Charland