

**PLANNING BOARD MINUTES**  
**Tuesday, December 9, 2008**

**ROLL CALL:**

Phil LoChiatto, Chairman – Present	Nancy Prendergast, Vice Chairman – Present
Rick Okerman, Secretary – Present	Walter Kolodziej, Regular Member – Present
Ruth-Ellen Post, Regular Member – Present	Pam Skinner, Regular Member – Present
Louis Hersch, Alternate Member – Present	Kristi St. Laurent, Alt Member – Not Seated
Sy Wrenn, Alternate Member – Seated 11:20 pm	Bruce Breton, Selectmen Member – Present
Galen Stearns, Selectmen Alternate – Excused	

**STAFF:**

Al Turner, Director of Planning and Development – Present

Mr. LoChiatto opened the meeting at 7:00 pm. The Board stood and recited the Pledge of Allegiance.

**PUBLIC MATTERS:**

Karl Dubay, Co-chair of the Economic Development Committee, discussed who makes up the Committee, they meet once a month, want to nurture quality development, they are a tool for the Planning Board and Selectmen, they do not have a “yes” or “no” vote for the amendments, and developments need to be evaluated if they are good for the Town. The Committee has looked at assessments of current commercial developments, commercial developments generally generate about \$14,000 per acre, Shaw’s has not impacted safety services or traffic, elderly housing generates \$9000 per acre, standard housing generates \$1000 per acre which is 93% of our tax base, the high school will bring more kids to Town, would be nice to have some mitigation for homeowners, the potential zoning changes will be tax positive, could possibly bring 2 million influx, and he has the numbers for each potential zoning change.

Board discussion with Mr. Dubay regarding amendments 3 and 9 are already commercial zoned, should not compare those parcels to residential, comparisons were made based on current zoning vs. the potential change for taxes, and an example would be the Park and Ride, and they do not pay taxes but the property will once it is developed.

Carol Murray, former DOT Commissioner, discussed what the DOT has done to some towns, need to connect land use planning and transportation planning when developing a community, need to look at the entire town, Windham redesigned exit 3 for the good of Windham, planning is critical, need citizen involvement, and discussions will be difficult but need to be respectful. She then discussed how Littleton, NH has economic development but has maintained their Main Street.

Board discussion regarding looking at the amendments in terms of the Town as a whole, there will be a lot of public input, and will vote on each amendment as they are discussed. *Mr. LoChiatto recused himself, Ms. Prendergast sat as Chairman, and Mr. Hersch joined the Board.*

**Proposed Zoning Map Amendments**

**Amendment #1: Amend Zoning District Map:** by rezoning a portion of property at 150 Haverhill Road, lot 9-A-150 (known as Clark Farm North) from Rural (residential) District to Neighborhood Business District from the center line of Haverhill Road, back 700 feet into the lot.

Ms. Prendergast read the amendment. Mr. Turner explained the change and showed the area on a map, and he discussed the abutting neighborhoods. Board discussion regarding how close the neighborhood

homes are, and a potential design shows a 100' buffer to the homes. Chris Nickerson, Herbert Associates, stated that the development is 200' to the nearest property, and he showed a sketch of an idea for the site.

Public comment from Mark Sneider, 5 Galway Road, distributed and read from a letter in opposition to this change for many reasons, the landowner has been uncooperative with the neighbors requests, the taxes do not outweigh any benefit of the development, should be developed as condos, there is plenty of land already zoned for business in Town, discussed studies regarding taxes in relationship to development, and discussed how properties are taxed.

Tom Case, 50 Mt Village Road, spoke in favor of the development, though was interested in Mr. Sneider's presentation, he asked how did the Board came up with their decision to rezone this parcel, when an article is put forth it must've been agreed by the Board, and is business good for the Town or not. Board discussion that the land is open for development, the Board responded to owners wanting to rezone their land, a decision will be made later in the evening when they vote, and this was brought forward from last year's zoning discussions.

Kevin Waterhouse, 175 Haverhill Road, stated he is in favor of business, the developers want what is best for development, the developer does not need to make deals with the Neighbors Group, there are not 5 Wal-Mart's planned for this Town, we need balance, 93% is not a balance, not all these zoning amendments are bad for the Town, some commercial development is needed, and businesses support the community.

Betty Dunn, Woodvue Road, asked if it were passed would it be the largest neighborhood business zoned? Mr. Turner showed the other Neighborhood Business zoned areas on the map. Ms Dunn stated that Neighborhood Business districts are designed for serving the neighborhood, the concept plan has 15 buildings planned, there is already a Neighborhood Business area nearby, how can we say the change would be neighborhood business, this is strip mall or mini-mall not a neighborhood district plan, not in favor of the change, it has been rural for a very long time, it was purchased as rural, nothing is being taken away from the owner, in favor of businesses, we have a lower tax rate than neighboring towns with a lot of businesses, we haven't had new businesses because of the unknown of Rt 93 and Rt 111 unknowns, we're at the worst peak for the school bonds, and do not think the plan is not for neighborhood business, and it is not the best use for the land.

Justin Belair, 13 Galway Road, stated we have an oversupply of neighborhood business in this area which have single family homes on them, the Clarke Farm South property has a wooded buffer, the plan looks too large for the area, there are other properties better suited for development, should not rezone the property, if rezoned and no tenants come then the developer will want to be rezoned to Commercial A.

Greg Kindrat, 61 Haverhill Road, stated he opposes the development along Rt 111, it doesn't benefit him or the Town, and a development can ruin a neighbor as the Ledge Road development has ruined their neighborhood.

George Davidavich, 7 Galway Road, stated the plan does not match the Master Plan, he previously presented an in depth analysis to the Board, this plan is against the Master Plan, we are doing reactive development, we should have been prepared for the tax increase, and he is completely against the plan.

Lew Zachas, 22 Faith Road, the business of the Town should be the development of great

neighborhoods, it's why people come to Windham, don't want to be surrounded by strip malls and street lights, is the Economic Development Committee in favor of businesses? numbers can be made to say what you want, there are parcels zoned for business that are not developed, and asked the Board to oppose the amendment. Board response that the Economic Development Committee is a mix of Town citizens with varied interests.

Jack Gatinella, Golden Brook Road, stated that the statutory requirements need to be followed, should be looking at the zoning ordinance, he read the Neighborhood Business District definition from the zoning ordinance, the voters will make the decision, this has been turned down twice before, and the Master Plan is a guide.

Karen McCarthy, 32 Morrison Road, stated the Planning Board has failed to see what it really going on in our community, the Board needs to think of the future of the Town with all the new homes being built, families will live in these home and will require services, scare tactics are being used regarding commercial developments, nervous about keeping her home, and the Board should consider the rezoning of the areas.

Richard Teixeira, 18 Galway, stated he hopes the Board keeps the property rural as it was when he bought his property.

Heath Partington, 17 Galway, stated that the Neighborhood Group are not extortionist, they met at the direction of the Board, worried about the development of the parcel, nothing has changed since the vote of last year, the tax rate has gone up but we knew that was coming, this has been referred to as a gateway to Windham, there are no studies that support that more commercial will bring taxes down, if the development is built we'll get the traffic and the higher taxes, we should wait to make sure the development will bring taxes, and that we are developing with controlled growth.

Karl Dubay, Economic Development Committee, stated that the Committee takes their job seriously, all members live in Town, has worked with companies doing some of the studies mentioned, not here to redevelop the Town, went through the numbers with a fine-tooth comb, condos bring school children also, quality development can be done in the right manner, the soils are good at this site and little ledge, soils would support workforce housing which is allowed by state law, the lot would not support a Wal-Mart, the parcel currently pays \$3500 in taxes, if it were developed similar to Clarke Farm South would be about 20 lots, and would be \$60,000 tax benefit, and Neighborhood Business tax benefit would be 1/2 million dollars.

Jay Yenacco, 37 Beacon Hill Road, owner of Delahunty Nursery, has watched this Town progress, Kiddie Academy is not a neighborhood business, would love to move his building to this property being discussed, young people can't afford to move to this Town, we'll never be Rt 28 or Rt 102, he has problems with his current property, his business is low-impact and it would work on this property, and need to move forward with these amendments.

Alan Carpenter, 8 Glenwood Road, stated that an Economic Development Committee is to promote commercial businesses and properties, the landowner does have a right to development his land, fifteen buildings in a Neighborhood Business seems rather large, 700' is deep, did the Planning Board ask to reduce the scope, the Windham Commons is 300' deep, other neighborhood business have been tax positive in Windham, the Board has more control over what is built with Neighborhood Business Districts than with any other district.

Les Scott, 4 Shamrock Road, stated that we need to understand the whole plan, Ledge Road development is a nightmare, do not want a nightmare in this neighborhood, there is a lot of wetlands on the property, the exit 3 area will have more commercial opportunity, and would like to wait at least a year before this area is developed.

Dennis Senibaldi, Selectmen, stated that the Board should reach out to a other Town and find out why there taxes are higher or lower, talk to the professionals and find out what would happen to our taxes, Shaw's has not been a burden on our Town services, he discussed accidents at the Faith Road intersection, a smaller development could work, something that would not affect the neighbors property values, the Board has a tough decision to make for the whole Town, and taxes will get worse because of the high school.

Joe Collins, 9 Galway Road, asked for clarification as to what happens next, if the Board votes no it will not be on the warrant, Neighbors of West Windham has been formed because they lost faith in the Zoning Board, the Town didn't do anything about the illegal towing and service business at 120 Haverhill Road, they actually utilized the services, now are concerned with the development of the property, once approved for Neighborhood Business, the owner will then want Commercial A, and have asked for concessions not extortion. Board discussion that we don't want planning though Zoning Board of Adjustment.

Rebecca Zachas, 22 Faith Road, read a letter asking the Board to oppose this change, she and her family lived through the changes to Rt 102 in Londonderry and does not want to do that again, Londonderry has commercial development and high taxes.

Rex Norman, Town Assessor, stated he has not been involved with the amendments, would like to read the appraisal that says a homes value decreases when next to commercial development, a gas station or a wrecking yard would affect the neighboring property, the property proposed would not diminish the neighboring values, values have gone down due to the economy, has read studies regarding commercial development impacts to taxes, commercial property is less of a burden, 75% of the rate of taxes is forschools, there is less than 700 commercial acres available, and he is not advocating one way or the other.

Board discussion regarding should it be 700' from the centerline, the original depth was 1000', with 300' a strip mall would be built, don't put more restrictions on the developer, take away 1/2 of the proposed buildings and put them to the west, this looks like a Commercial A development, 15 2-story buildings is not neighborhood business, this was proposed to the developer and he rejected it, and the Board asked the applicant for the concept design.

Mr. Hersch motioned to move Map Amendment #1 to warrant without any changes. Mr. Breton seconded. Passed 4-3. Mr. Kolodziej, Ms. Post, and Ms. Skinner opposed. Mr. Kolodziej stated he voted no as it was defeated last year. *Mr. Hersch stepped down, and Mr. LoChiatto returned to the Board as Chairman.*

Mr. Kolodziej motioned to move map amendments 5, 6, 7, 8, & 9 and the zoning ordinance amendments to December 10 at 7:00 pm. Mr. Breton seconded. Passed 7-0.

**Amendment #2: Amend Zoning District Map:** by rezoning property on Haverhill Road, lots 14-B-2000, 14-B-2002, 14-B-2003, 14-B-2004, 14-B-2100, 14-B-2001, at 55 through 39 Haverhill Road from Rural (residential) District to Neighborhood Business District.

Mr. Turner explained the potential changes, looking at this area as there is industrial properties across the street, the rear of the properties is the new high school, he showed the area on a map, some of the properties have back door access to the traffic light and would be good for neighborhood business, the properties without the access could become multi-family homes or apartments. Mr. Turner showed the area on an ariel map and explained the steep typography and wetlands area.

Board discussion regarding all properties could not get access to Londonbridge Road, could some of the lots be consolidated, a few properties were dropped from the original discussions, and they could be added back in.

Public comment from Tom Case, 70 Mt Village Road, stated he is opposed to this zoning, not appropriate for that area, no such thing as rural residential district, it is rural district, the homes will become non-conforming with this change, and why does the Board think this is a good change. Board response is that the residents asked it to be rezoned so they could sell their properties, and it would be a good place for businesses that would serve the high school neighborhood. Mr. Case said it should be for the good of the Town not so people can sell their homes, it is a bad idea, and if it were open land instead of developed with homes he would be in favor of it.

Alan Carpenter, 8 Glenwood Road, asked if the owners of the properties were in favor of this, these homes have had some serious water issues which may be okay for a business but not for condos, the properties without access to Londonbridge Road will have problems getting out of their driveways once the set of lights goes in, and the potential of multi-family needs more discussion. Board response that some of the homeowners that have spoke to the Board are in favor of this change.

Ken Philips, 47 Haverhill Road, owner of one of the properties, stated his property has a 20' elevation difference between Rt 111 and Londonbridge Road, the front of the property does have a berm, some of the other properties don't make sense, the first three properties make sense, 42 people have looked at his home but they don't like the road behind it, a change in zoning would help sell his property, and controlled development is good.

Karl Dubay, Economic Development Committee, stated this is a major intersection in Town, this change could be a good fit, and there are positive uses that would benefit the Town.

Mr. Turner explained the use of the word "residential" in the amendments, and the multi-family came about as a suggestion of the homeowners.

Kristi St. Laurent, Planning Board Alternate, asked if there will be an increased tax burden if the change is made and people stay living in their homes. Mr. Norman responded that the people would have to ask annually for special relief.

Board discussion regarding sympathy for people who are trying to sell their properties, changing the zoning for this purpose is not appropriate, must be careful regarding spot zoning, good spot for businesses that the high school would use, the site walk was valuable, residents are for the change, industrial and neighborhood business is across the street, not in favor of the lots that don't have access to Londonbridge Road, adding another point of conflict to the high school traffic, and traffic would be twice a day.

Mr. Kolodziej motioned to move Map Amendment #2 to warrant as written. Mr. Breton seconded.

Passed 5-2. Board discussion regarding not including lots 2001 and 2002, and the owners would like to be included. Ms. Prendergast and Ms Post opposed.

**Amendment #3: Amend Zoning District Map:** by rezoning property on Wall Street, lot 11-C-701, 1 Wall Street; lot 11-C-702, 3 Wall Street; and lot 11-C-704, 7 Wall Street zoned Professional, Business and Technology District to Business Commercial District "A".

Mr. LoChiatto read the amendment. Mr. Turner described the potential change, 1 Wall Street has variances for retail, would need to go back to the ZBA if they were to have any other changes with the current zoning, (3 Wall Street) the bank is allowed in both zones, (7 Wall Street) the office building is allowed in both zonings, and the Shaw's site is Commercial A also.

Public comment from Kathleen DeFruscia, 38 Horseshoe Road, this is within the watershed of Cobbett's Pond and Amendment 9 is also in the watershed, there's a citizen petition to rezone the east of Wall Street, that land is also in the pond's watershed, concerned with amendment #9 also, she showed a tributary that flows to Cobbetts Pond, the pond is in peril right now and there is a study trying to find the causes of the rapid aging of the pond, asking to hold the rezoning until the study is done, want to make sure the pond is protected, she is a member of the NH Lakes Association, she is the legal advisor to the Cobbetts Pond Improvement Association and also a member of the Economic Development Committee, is for economic growth but has a lot of concerns, and asked the Board to wait until the evaluation is complete until rezoning.

Chris McCarthy, Nottingham Road, stated he is concerned with the overall development of the Town, Stiles Road in Salem is a good development and would be well suited for us, and office parks would not drain our Town services. Board discussion that CVS has already been granted a variance and can be built without the zoning change, this is to clean up the zoning, and citizen petitions won't be heard until January.

Alan Carpenter, 8 Glenwood Road, stated that this is an unusual amendment, and where did it come from? doubts the CVS will be built without the change, companies don't want to be on non-conforming land, why change the zoning to successful business parcels? Board discussion that this is to clean up the zoning line, and make the area have the same zoning.

Karl Dubay, Economic Development Committee, stated the Committee is neutral on the zoning changes, the Park and Ride does not pay taxes, a pharmacy will go there with a variance, rather have a CVS than a Park and Ride, the pond is a healthy tax base for the Town, the Park and Ride does drain towards the pond, CVS would probably have drainage treatment, retail is in the front of the bank and office space is good for the market, and makes sense to have the whole side of Wall Street be Commercial A.

Charles McMahon, Floral Road, Economic Development Committee, stated we need the change to help with the tax base, 669 acres are zoned commercial out of 15,500 acres, attitudes of the past will fail, the zoning makes sense in this area, no residences are affected by this zoning change, water that leaves the site will be treated, water currently leaving the site is not treated, and hopes that the Board supports the change.

Mr. Norman responded to the Boards question regarding taxes, he discussed that Commercial District A is more valuable, but he would not change the assessment on just the zoning change as nothing else has changed. Attorney DeFruscia responded to the Board questions regarding which parcels she was concerned with.

Mr. Breton motioned to move Map Amendment #3 to warrant as proposed. Mr. Kolodziej seconded. Passed 7-0.

**Amendment #4: Amend Zoning District Map:** by rezoning property on Industrial Drive and Lamson Road, portions of lot 13-A-198, 1 Industrial Drive; lot 13-A-197, 3 Industrial Drive; and lot 13-A-196A, 5 Industrial Drive from Residential District "A" to Limited Industrial District and rezoning lot 13-A-161, 2 Lamson Road; lot 13-A-160, 4 Lamson Road; lot 13-A-155, 8 Lamson Road; and lot 13-A-120, 12 Lamson Road from Residential District "A" to Limited Industrial District and rezoning lot 13-A-150, 7 old Lamson Road from Rural (residential) District to Limited Industrial District.

Mr. LoChiatto read the amendment. *Ms. Post stepped down at 11:20 pm and Mr. Wrenn replaced her.* Mr. Turner discussed the potential changes and showed the location on the map, he also showed which parcels are owned by the State, the road has a traffic light, there is room for small office buildings on the parcels, maps will be updated in January to reflect the Rt 111 changes, and the properties are the north of the new Rt 111.

Public comment from Robert St. Laurent, 32 Range Road, stated he is not opposed to the plan, but it is premature as the map is not correct, it is irresponsible to rezone in a configuration that does not exist, and he pointed out some things that are not depicted correctly on the map being shown. Board discussion regarding Rt 111 is the border, and it's difficult to see without Rt 111 on the map. Mr. Norman explained the map changes he has requested. Discussion with Mr. St. Laurent continued that the lot numbers are correct, language should be changed to say northeast of the Rt 111, and do the old roads go back to the Town. Board discussion that it was the intent only to change the land northeast of Rt 111.

Mr. Kolodziej motioned to move Map Amendment #4 to warrant as it applies to all the lots on the northern side of Rt 111. Mr. Breton seconded. Passed 7-0.

Mr. Kolodziej motioned to adjourn. Mr. Breton seconded. Passed 7-0. Meeting adjourned at 11:40 pm.

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