



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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Planning Board Minutes
2/3/09

Roll Call:

Phil LoChiatto, Chairman – Present Rick Okerman, Vice Chairman – Excused
Nancy Prendergast– Excused Walter Kolodziej, Member – Arrived at 7:08 pm
Ruth-Ellen Post, Member – Present Pam Skinner, Member – Present
Kristi St. Laurent, Alternate – Present Sy Wrenn, Alternate – Present

Bruce Breton, Selectman Member – Present Louis Hersch, Alternate – Excused
Ross McLeod, Selectmen Alternate Member - Excused

Staff:

Laura Scott, Community Development Director – Present
Elizabeth Wood, Town Planner – Present

Call to Order/Attendance/Pledge of Allegiance

The meeting was called to order by Phil LoChiatto at 7:05 pm, followed by the Pledge of Allegiance. Kristi St Laurent is seated for Mr. Kolodziej. Sy Wrenn is seated for Ms. Prendergast.

Presentation-CTAP Buildout Analysis

Robert Pruyne, GIS Specialist of the Rockingham Regional Planning Commission, gave an overview of CTAP Buildout Map Scenarios. This is the final presentation of a series of 6 presentations on this topic. After tonight's presentation, the maps will be finalized and put into a standardized report format.

Mr. Pruyne said that he has incorporated all previous requests into this final presentation. He presented an overview of each of the (8) eight maps that were presented to the Planning Board.

Map 1. Constraints

This map displays the constraints of a conventional buildout. It takes into account natural constraints. The only difference in the version of the map at this final presentation is that it adds in the factor of 15-30% grade steep slopes.

Map 2. Existing Conditions

This map shows a Smart Growth Effort. The Planning Board made no requests for changes to this from last meeting. The Planning Board is comfortable with this map.

Map 3. Zoning Map 2009

The map was corrected from last meetings version. The Cobbetts Pond Zone, which was in the GIS data but not a real zoning district, was eliminated.

Map 4. Buildable by Zone

This map displays buildable areas by Zone. The legend has been changed. The color representing the buildable areas of property zoned Rural Residential was changed from white to grey.

Map 5. New Units at Buildout

This map displays new units that could potentially be added if the town were to reach buildout, under current zoning conditions. Each potential new residential unit is represented by a dot on the map. Exact placement of dots is random. This gives us an idea of what density would be at Buildout and may be helpful in the process of Rezoning.

Mr. Kolodziej pointed out that potential residential units have been placed on areas of wetlands. Mr. Pruyne said that the wetlands data is a pretty coarse data set at the town level. Map 5 is approximate. When the time comes for development review, the application process will require a high intensity survey before development may proceed. Some wet areas are not displayed on the map, but this is the best we can do with data that is available.

Mr. Kolodziej said that he disagrees. He said that he thinks that there are many areas of wetlands that are not shown on the presented map. Mr. Pruyne said that he respectfully disagrees with Kolodziej. Mr. Pruyne said that although there are places with wetlands, he does not believe that there will be a ton of them.

Ms. Post said that the end part of the map did not print and wanted to know what the missing words are. Mr. Pruyne said that the word "Model" did not print at the end of the last sentence.

Mr. Wrenn had a question about the number of types of different units displayed. Mr. Prune answered that the designation between residential and non-residential are based off of projections of what percentages are today.

Mr. Pruyne said that the buildout map scenarios are created off of available data. He said that although you can not build models to match human behavior, this is a "good effort" approach. He does not recommend that anyone stake anything important on these projections, because they are simply meant to be used as a planning tool.

Ms. St. Laurent had a question about number of units in the Residential C District. Mr. Pruyne thinks the grand total is valid, but is unsure about allocation of that total. He will check into that and revise the legend if necessary.

Map 6. All Units at Buildout

This map shows what the Town might look like at buildout if no changes are made to the current zoning regulations. Mr. LoChiatto asked if approved but not yet built developments were taken into consideration, for example Spruce Pond II. He said he sees a big white area where an approved development is to be located. Laura Scott said that tax maps have not been updated yet to reflect Spruce Pond II because it is a phased plan and only phase 1 has been signed and recorded. Mr. Pruyne is using data that the Town gave him. He said that he can add in the development if he gets the data. There is a margin of error in this. Phil asked Ms. Scott if we could get an overview to plop into this map.

Map 7. Standard Alternative All Units at Buildout

This approach takes same number of units as Map 6, but with a Smart Growth Approach. Mr. Pruyne said this approach seems to do better in more rural towns. This takes into account wetlands, game areas, etc. Mr. Pruyne said that because Windham has many of these areas, development is dense in areas not deemed wetlands, etc. The Planning Board does not feel that this scenario is a logical approach for Windham but it should be included in the final plan with a note.

Map 8A. Scenario 3A Water Line Added, Density Increased 25%

This map was created based on a suggestion made by the Board at a previous meeting. This scenario adds in a water line along Route 28, down Route 111 and back down Range Road. Mr. Pruyne said that this enables the Town to increase density in areas served by water, by 25%. Mr. Pruyne buffered the proposed waterline on either side by 500 ft to determine what area would be served by

water. He said that he can adjust the buffer distance if he is requested to do so. The projection of new units to be created, within the 500 ft buffer, is (16) sixteen. It would take a (7) seven mile water line just to create 16 new units and this does not make economic sense.

Map 8 B. Scenario 3 B. Water Line Added Density Increased to 2 Units/Acre.

Thinks this is a better approximation of how many new units could be generated. Mr. Pruyne asked board if they would like to adjust buffer difference.

Mr. LoChiatto discussed number of units gained by each scenario. Map 8A, Scenario 3A, generates 1,740 units. Map 8B, Scenario 8B generates 2,200 units. This is total of both residential and commercial units.

Mr. Lochiatto opened the discussion to the public at 7:41 pm.

Mr. Peter Zhodi does not want residents to think that by bringing water, you add 25% to capacity, because zoning controls lot sizing. Ms. Scott said we made the assumption that if we added a water line, zoning may change. Mr. Zhodi said that residents are worried about density. Water and sewer will bring some commercial, and some office buildings to town. Some companies do not want to come to the town without this infrastructure. Mr. Zhodi is currently working on a 100,000 sq ft commercial building in Windham, but is having trouble marketing it because if the septic system fails, the businesses can not run.

Mr. Pruyne reminded the board that this is simply a planning exercise. Board needs to decide whether or not they want to see scenario 3 changed. Mr. LoChiatto and Ms. Scott made some suggestions on possible changes.

Mr. Pruyne said that he did not have HISS data, and that our zoning is based on HISS mapping. Ms. Scott wants to know if we could keep Scenario 3 and have it be two pieces: 1) Create a 25% density within the buffer of the water line or 2) Make map 8B, within 500 ft of the water line, with one unit per every half acre.

Mr. Pruyne said that he does not mind running other scenarios if the Board so desires.

Phil asked the board if they had any suggestions for other scenarios.

Ms. Post has a suggestion for another scenario: She asked if there were a possibility of a scenario showing what we could do if we had sewer service. Ms. Scott said that we know where the lines could potentially go based on a study that was recently completed.

Mr. Breton said that, he does not think we have a placeholder with a number for a certain amount of gallons that would be available for new development. Said that sewer would be taken up by existing units.

Ms. St. Laurent said that we looked at putting sewer around Canobie Lake and Cobbetts Pond. We talked about not increasing density around ponds, and opening possibilities for commercial developments

Ms. Scott said you have to give parameters to Mr. Pruyne—such as, how many units/acre could be built. She said that Planning Board would need to come up with parameters for him to be able to create the model.

Ms. Post said that it is a possible direction that we may be taking and would like to see this visually displayed.

Mr. LoChiatto said that parameters for sewer are too wide and unknown. While it seems like a good opportunity to try it now, capacity is 200,000 gallons/day and it must be decided which area gets service. It would affect the density picture.

Ms. Post said that half would go to alleviate problem on Cobbetts Pond, and other half would go to Commercial Development.

Mr. Pruyne said that he has no problem with doing this scenario. He warned that it could not be done without using engineering. To create the scenario he would need to be given the buffer data and the density data. Mr. Pruyne said that maybe it would be better to do this in a year when we have more data, and more planning has gone into it.

Mr. LoChiatto said that if this were ever come to pass, that the zoning regulations would need to be looked at extensively to adjust to the changes.

Ms. Post sees value in Map 8A, Scenario 3A. We may not particularly like it but it shows how we got to Map 8B, Scenario 3B.

Mr. Pruyne said that he thinks that is true to an extent. Mr. LoChiatto said he agrees with Ms. Post on its face value, but said that Map 8A, Scenario 3A is more in line with what existing zoning is, where Map 8B, Scenario 3B would require extensive zoning changes. Map 8A, Scenario 3A shows you that without an extensive zoning change, it does not matter whether or not you bring water in.

Mr. Pruyne said a narrative can be included with maps explaining reasoning behind maps creations.

Mr. LoChiatto said he is concerned that someone may grab maps and look at them without reading the report.

Mr. Pruyne said that explanation will be built into the maps so that that can't happen.

At 8:07 pm, a decision was made as to which maps to keep/remove. Mr. Prune will respond to this and produce a final report to the Town.

Laura will review report before it is released.

Release of Financial Guarantees:

1. Partial Bond Release-Castle Reach Pump House (Lots 7-A-675, 676, 677, 678)

Ms. for requesting a bond release. Ms. Scott said that no procedure exists although usually people will request a release when the work has been completed. Mr. Zhodi disagrees with Ms. Scott. Mr. Zhodi said he asked for money 3 years ago. Said he was given excuse after excuse of why bond was not to be released in the past. They did not walk away Scott said that it has been 10 years since this bond has been put into place. Ms. Post wants to make sure that the town is fulfilling its responsibility. Ms. Scott said that pump house is there and that the Certificate of Occupancy for the residential homes that it serves have been issued. Mr. Wrenn asked if person who paid bond had requested it. Ms. Scott said no. The Department is cleaning up old financial files and found this one. Mr. Zhodi said that Pennichuck owns the Pump House and is responsible for maintaining the facility. Said Attorney Mason has all of the documentation. Ms. Post said that this answers all of her questions. Mr. Wrenn asked if there is a procedure from \$216,660.

Mr. Breton made a motion to recommend to the Board of Selectmen the release the full amount of the bond. Ms. Post seconded. Vote 6-0- 1 with Mr. LoChiatto abstaining.

2. Bond Release-Fritschy Site Plan (Lot 11-C-180)

Ms. Scott said that this financial guarantee is from 1999. Town held \$20,000 bond for a site plan that expired and was never built. Mr. Fritschy never requested a release.

Ms. Post made a motion to recommend to the Board of Selectmen to release the \$20,000 bond . Seconded by Mr. Kolodziej. Motion passed 7-0.

3. Release of Financial Guarantee-Golden Brook Crossing

This is a cash financial guarantee for some remaining requirements imposed by the Planning Board during Site Plan Review. Ms. Scott said that all items that were required to be completed were taken care of. There were no questions from the Planning Board.

Mr. Breton made a motion to request that the Board of Selectmen release the total amount of the cash financial guarantee with interest . Seconded by Mr. Walter Kolodziej , The Motion was approved 6-0-1 with Mr. LoChiatto Abstaining

4. Pawtucket Estates (20-E-200)

The property owner/developer requested a reduction of \$42,487.95 from the \$47,650.44 Letter of Credit that the Town has for infrastructure improvements associated with the approved subdivision. The Highway Dept and the Town Consulting Engineer (CLD) do not support the release of the requested amount, but supports an amount of \$34,756.64 to be released.

Ms. Post sees a lot of justification for retaining certain items. She said that she does not see a rationale for releasing \$35,000.

Ms. Scott said that there is some work that has been completed and went over the items that had been completed. She said that the Town will be holding a letter of credit for \$13,000 for the outstanding items that need to be completed. These items include the construction and infrastructure, which the developer is currently working on.

Ms. Post said that we need information about what has been done and what has not for future projects.

Ms. Scott said that there are multiple development projects that were done in the past that were granted Certificates of Occupancy despite the fact that not all required conditions were met. We are in a dilemma. The Community Development Department is keeping track of projects more closely now.

Mr. Kolodziej made a motion to recommend to the Board of Selectmen that a partial release of the letter of credit in the amount of \$24,756.64, and a cash refund of \$300. The motion was seconded by Mr. Breton. The motion Passed 7-0.

PB Meeting Minutes Review and Approve for 1/6/10,

1/13/10, 1/19/10

1/6/10 Minutes:

Ms. Post pointed out that on the 1/6/10 meeting there is a space in the minutes. Perhaps it is a computer glitch.

Ms. St. Laurent said that she thinks there are errors in the 1/6/10 minutes. Ms. Wood will check the tape and review and edit the Page 3, Paragraph 4. Ms. Post said she thinks there may be some inaccuracies also. Mr. LoChiatto said that he would like all board members to review these minutes. He asked that Planning Board members revise Page 11 under the heading, "Adjournment", and to check for spelling and grammar errors. These minutes will be reviewed again at the 2/17/10 Planning Board Meeting.

Ms. Skinner pointed out some spelling and grammar errors to be corrected.

1/13/10 Minutes:

Ms. St. Laurent suggested a correction regarding the striping in parking lot, on page 2. Mr. Breton clarified the issue.

Ms. St. Laurent mentioned a correction regarding the correct name of the Board member who made a comment about roof color. She said that she (Ms. Laurent) made the comment, not Ms. Prendergast.

Mr. Ockerman made a motion for the Planning Board to approve the 1/13/10 minutes as modified. Seconded by Ms. Skinner. Approved 4-0-3. Mr. LoChiatto, Mr. Kolodziej, and Mr. Wrenn abstained.

1/19/10 PB Minutes:

Mr. LoChiatto said that he has not had a chance to read these and would like a chance to read them before the board approves them. These minutes will be moved to the 2/17/10 PB meeting.

2010 Proactive Work Discussion

Ms. Scott has kept a list of things she has heard PB members say they were interested in working on in when there was time. Items are not in any particular order. Wants to know how Chair would like to proceed with this Agenda Item. Laura went through list and gave brief overview.

Ms. Post and Mr. LoChiatto noted that this is a very comprehensive document.

Impact Fees

Mr. LoChiatto said that we have talked a lot about how you track impact fees and would like to see this added to the work list for the Board to have a better understanding.

In terms of the recreation piece, Ms. Scott said that she has followed up with the Recreation Coordinator in terms of where she is in terms of a Recreation Master Plan and possible recreation impact fees. The recreation master plan was not usable and is being revisited. Ms. Scott contacted the Coordinator about a month ago and asked about what the status was with the Master Plan. She said that nothing has happened. The assumption is that if the Town is going to have recreation impact fees, the Recreation Master Plan would be proposed to the Planning Board for adoption. There may be no justification for recreation impact fees base on the master plan that gets done but that will have to be looked at.

Mr. Dennis Senibaldi, Chair of the Recreation Committee, said that the issues for the master plan have come out. There is a definite need funds for recreational opportunities with Spruce Pond II. He thinks that now is the time to have impact fees. It's been 2 years since the Master Plan has been and agrees with the Recreation Coordinator that the plan presented by RPC is not what they were looking for. Mr. LoChiatto thinks we should take it off of the Planning Board list

until the Recreation committee comes back to us. Mr. Senibaldi said that it will take 6 months to a year for the Master Plan to be completed by the Committee.

Cobbetts Pond Watershed Protection Ordinance

Ms. Scott said that once a warrant article is posted for planning board public hearing Town Meeting, it is considered in effect. During which you have to meet both sets of regulations. Usually the applicant is required to meet the stricter regulation. Ms. Post said that she has never heard of a proposed law going into affect before it is voted on at Town Meeting. Laura clarified that this is State Law and we have to follow this.

Ms. Scott has a memo that she will hand out with questions she has about the proposed Cobbetts Pond Watershed Ordinance. This ordinance is in effect right now. Ms. Scott does not know how to advise applicants or staff on the administration of this ordinance because it is lacking in clarity. If this ordinance passes, the PB will see an unbelievable increase in applications in front of them. Ms. Scott said that she has had building permit applications that she has had to stop because they are under jurisdiction of this ordinance.

A question was raised as to whether some of the provisions of the Ordinance can be delegated to staff. Under Sec. 1.3a, only the Planning Board can administer provisions of ordinance. All development proposals and potential contaminating activities occurring wholly or partly in an area within the District shall be subject to ordinance requirements, including review and approval by the Planning Board. This is in addition to other state and municipal requirements.

Ms. Scott asked the Planning Board how they want her to handle applications that are now under review. She asked if Keach Nordstrom would be reviewing all of these hydrologic studies. All applications with a subdivision and site plan review (not a building permit) require a hydrologic study.

Ms. Scott needs to know what is required of applicants under this Ordinance, because it adds costs to applications.

Mr. Lochiatto asked if a farmer wants to plow his field, does he need to come forward? Ms. Scott said "Yes."

Mr. Breton said that it was noted in the 1/6/10 Planning Board Minutes that this would be handled by the Planning Board.

Mr. LoChiatto asked if anyone knows what a hydrologic study is. Mr. Breton said it is a water test. Mr. Breton said that he voted in affirmative of the ordinance.

Ms. Post said she is sensing a little panic on how to administer this Ordinance.

Ms. Post said that she is not a hydrologist and that she would suggest that we get Bernie Campbell's quick opinion as to whether we should be following this if it isn't law. Mr. LoChiatto said that the Planning Board has Bernie Campbell's opinion that we are required to follow the requirements

Ms. Post said that most of this has been adopted by ordinances that have been enacted in other towns, and we were told that it is pretty manageable in towns where this exists. Ms. Post said we should determine exactly which towns these are and attempt to get the benefit of experience that has been handled elsewhere.

Mr. LoChiatto said that the problem is that people are applying for permits now. By the time we research other towns, the vote may have occurred and it may have been enacted or may not have been enacted. Justly or unjustly applications are being held up. This does not seem right to the person who has already completed appropriate paperwork.

Ms. Post does not think that the folks that submitted the ordinance intended it to have this result on current applicants. Said she has never encountered this in her 5 years on the Planning Board.

Ms. Scott said that there was also discussion by Mr. Campbell, about the Citizen's Petition and how it is supposed to go forward. She apologized that she assumed that every board member knew this.

She said that according to State Law, the Town is required to abide by the strictest law requirements when an application comes forward under the jurisdiction of a proposed law. Usually Town Staff advises people to wait until after the March vote before proceeding with their applications.

Ms. Post reiterated her suggestion to get in touch with other towns that have ordinances. She said that she can look into this right away.

Mr. Breton, said that according to the 1/6/10 minutes, towns that have a similar ordinance are being implemented.

Mr. LoChiatto said that he thinks the ordinance may be drawn from parts of each one.

Ms. Scott said that she and Ms. Wood can easily take the ordinance and create an application. However, she needs to know from the Planning Board how they want her to administer it.

Mr. LoChiatto said that it will be different for every application. A person who wants to till their farm will have different requirements than someone who wants to create a subdivision. His suggestion is that we wait until after the March vote before we process applications.

Ms. Scott said that she has an application from a person who wants to build a house and does not want to wait. Ms. Scott needs to know if the Planning Board wants to handle these applications in a hearing or administratively, like with a bond release. She asked the Planning Board at what level is a plan required. Is it required for a patio? The proposed ordinance leaves the guidance for this up to the Planning Board and this is not usually what PB does.

Ms. Post asked if it would be more productive to make a list of specific questions and go through them one by one. If there is enough to suggest authorization, then maybe we can put together some guidelines. She said that if the ordinance gives the Planning Board discretion to decide, then is it possible for the Planning Board to give discretion to staff? Can we have a list of items?

Ms. Scott said that she can provide a list of items that she needs answered for the next Planning Board meeting.

Ms. Scott will urge the applicant to wait for to apply for the building permit for her house until after Town Meeting.

Ms. Scott said that there are clearer maps available then the ones that were shown on the petition which include the tax parcels. It is a concern of property owners as to how big this proposed Cobbetts Pond Watershed Protection District

is. If any portion of a lot is in a district, the whole lot is considered to be in the district, which was not visible with the petition map.

Mr. LoChiatto said that the Police, Fire, Library are in this district, this is particularly egregious.

Ms. Scott said that State properties are exempt if the state operates business there, unless the State building is leased by a non-State affiliate. Municipal properties are also exempt.

Ms. St. Laurent asked if there was a way to assist the applicant who would like to proceed with her application.

Ms. Scott said that the Community Development Department is not set up to process these types of applications. This would require a whole new permitting process. Application fees have not yet been approved nor the format for Planning Board submission. There are applicants already in the review process that did not realize that they would be affected by this proposed ordinance.

Ms. Post thinks we should answer these questions as quickly as we can.

Mr. Breton said that this affects homeowners. A homeowner, who would typically get a variance, has a 30 day waiting period before construction may begin.

Ms. Scott said that most zoning changes affect developers. This is why there is a lull in Planning Board subdivision and site plan applications right now.

Mr. Senibaldi said that he is concerned for the resident that she went through all the hoops except for the building permits and now is stuck because of this ordinance. When his building permit application for his house was delayed for one and a half months it cost him a bit of money. He wants to know if there is a way for the Planning Board to address this application sooner rather than later. He said that the one applicant started her process a long time ago and it is not as if she just decided to do this now.

Ms. Scott said that the only way to try to get out of the requirements of this ordinance it is to request a variance from the process.

Mr. Kolodziej said that no matter what we try to do, the election will be here. It's beyond her control, why do we not recommend for the lady to wait.

Ms. Scott said that the election is March 9 and asked what will happen on March 10 if this passes.

Mr. LoChiatto said that the Planning Board and Town Staff need to start the process of figuring out how we would administer this ordinance.

Ms. Scott asked Ms. Post if she could start this research on how the other town administer the regulations. Ms. Post said that she can do this.

Ms. Scott asked if there are any items that she should add to the proactive list. She said that as staff works on these items, more will be coming before the PB.

Member Updates:

1) Board of Selectman

Update was given by Mr. Breton. He said that Saturday, 1/6/10 is the Town's deliberative session. This is the first time that school board and Town are on the same day. Mr. Breton was pleased to announce that the town has a zero increase in the budget. It includes building of a salt shed. Last year was the first time in town history that we had a zero increase in budget. This year is the first year that we had a zero increase and added a warrant item to budget.

2) NH Legislative

Mr. Kolodziej reported on some legislative activity he is involved with.

3) Conservation Commission

There will be a public hearing Thursday, 2/11/10 for the purchase of a piece of Conservation Land. Ms. Scott read the notice regarding this.

4) Windham Economic Development Committee

Ms. Post said that Ms. Scott brought us up to date for a proposal for a Phase II CTAP. Money will be used to create a community development website, develop marketing material, and to do a more extensive community survey to see what residents and business people alike would like to do. There will be a Career Day, Chamber business After Hours, and business Expo on March 18th at the High School This will provide more exposure for local businesses.

5) Wall Street Committee

Mr. Wrenn reported. He said that 1/19/10 was the most recent meeting. At that meeting, the Committee worked on drafting a

problem statement and a vision statement. The Committee hopes to have it ready to approve at the next meeting on 2/18/10. Initial traffic modeling studies were done.

6) Rockingham Planning Commission

Ms. Scott said that there was a written document included in the packet.

Member Binder Updates:

- **Impact Fees for Windham School District (Tab 10)**
- **Ordinance: Conflicts of Interest Defined & Regulated (Tab 13)**

Planner's Report

Ms. Wood went over the main points of her report.

Community Development Director's Report

Ms. Scott asked if anyone had any questions about her report. She said that she had not done one in almost 2 months so she tried to backtrack on what she was working on. If anyone has any questions about these other items, they should feel free to approach her.

Mr. Breton asked Ms. Scott to talk about the Extended Learning Opportunities Committee that they were both appointed to... This committee works to find alternative learning opportunities outside of the classroom for students with local businesses. It will do a pilot program right now for students, and have a full pledge program in the near future. The program is student specific and will make sure that the student is matched with work that is a good fit.

Ms. Skinner asked if it was for students who don't survive in the traditional classroom setting.

Ms Scott said yes.

Mr. Kolodziej made motion to adjourn the meeting Mr. Breton seconded. Motion Passed 7-0. Meeting adjourned at 9:49pm.