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COMMUNITY DEVELOPMENT

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Planning Board Minutes 10/13/10

Roll Call Planning Board:

Phil LoChiatto, Chairman - Excused	Rick Okerman, Member - Present
Nancy Prendergast - Vice Chair- Excused	Ruth-Ellen Post, Member - Present
Kristi St. Laurent, Member -Present	Sy Wrenn, Alternate - Excused
Pam Skinner, Member - Present	Bruce Breton, Selectman Member - Present
Louis Hersch, Alternate - Excused	Lee Maloney - Alternate - Excused
Bruce Richardson - Alternate -Present	Ross McLeod, Selectmen Alternate Member - Excused

Staff:

Laura Scott, Community Development Director - Present
Elizabeth Wood, Community Planner - Present
Tracey Mulder, Planning Assistant - Present

Rick Okerman is seated for Chair LoChiatto; Pam Skinner is seated for Vice Chair Nancy Prendergast.

Rick Okerman opened the meeting at 7:00PM followed by the Pledge of Allegiance.

Mr. Okerman noted that Case#2010-32 Minor Site Plan Application Lot 13-A-31 has been postponed.

Public Hearings:

Case #2010-34 Minor Site Plan Application/1 Country Club Road (5-A-1)

Ms. Skinner read the hearing into the record.

A Minor Site Plan Application has been submitted for 1 Country Club Road (Lot 5-A-1), zoned Rural. The applicant, Joanne Flynn, owner of the Windham Country Club, is proposing to construct a 64'x40' building to be used for indoor golf instruction/lessons for her business at the Windham Country Club, an 18-hole golfing facility. A 24" X 60" wall sign is also being proposed to be attached to the building.

In addition, Ms. Wood noted there are no other outstanding comments from Town Departments or committees that need to be addressed at this time other than the following items:

- Detail on the plan, the exact location where the wall sign will be attached to the building.
- If approved, all NFPA Standards are to be met as required by the Community Development Department.

She also noted that due to the large acreage, staff believed it was unnecessary to require the applicant to hire an engineer to do the Site Plan. Ms. Wood said there are 154 acres on the existing site and the proposal tonight is minor.

Joanne Flynn addressed the Board and provided a rendering of what the proposed building would look like and explained that the building will be used for indoor instruction at the driving range during inclement weather. There will be no additional signage other than a small sign on the proposed building for identification purposes.

Mr. Breton noted that the applicant has addressed and met all criteria for a Minor Site Plan under Sections 306.1 through 306.12 of the Zoning Ordinance.

Motion by Mr. Breton to accept Case#2010-34, Lot 5-A-1 as a Minor Site Plan. Second by Ms. Skinner.

Discussion: Ms. Post said this not what she is used to seeing for a Minor Site Plan and wants to ensure that Section 306.6 which states "Floor area does not exceed 25% of existing gross floor area" and Ms. Flynn responded she does not believe that even with the club house, maintenance barn, pump house, she is not exceeding the limit. The Board determined that the applicant was within the Ordinance regulations by not exceeding the 25% of existing gross floor area.

Motion passed 5-0.

Mr. Breton said that this plan seems self explanatory and will enable the business to be open during inclement weather.

Mr. Okerman opened the hearing to the public and receiving no comments closed the hearing.

Mr. Breton motioned to approve the Minor Site Plan for the Windham Country Club, Case# 2010-34, Lot 5-A-1 as submitted. Second by Mr. Richardson. Motion passed 5-0.

Case#2010-36 Minor Site Plan/Change of Use/4 Ledge Road (11-A-165)

A Minor Site Plan/Change of Use application has been submitted for 4 Ledge Road (11-A-165), zoned Limited Industrial. The applicant, Joe Maynard of Benchmark Engineering Inc., on behalf of the owner, Pugliese Contracting, is proposing to renovate a portion of the existing building and add a small addition where the existing farmer's porch is located. The proposal is also to change the use from a hardware store/general office space to a warehouse/office space for a construction business. The applicant is also proposing to install a 6.15' X 3.25', 20 sq. ft. free standing sign on the property and a 4' X 18.75', 75 sq. ft. wall sign to be attached to the building advertising the business.

Ms. Wood addressed the Board noting she has the following comments, questions, and concerns with the submitted material that need to be addressed by the applicant:

- Correct the notes on Sheet 1 to adequately reflect the number of parking spaces provided. Sixteen (16) parking spaces are displayed on the site plan; however, the notes state that thirteen (13) spaces are provided.

- Include the parking requirements for small manufacturing use in the required parking calculations, per Section 704.1.9 of the Town Zoning Ordinance.
- Detail the side setbacks for the proposed freestanding sign.
- Indicate where the wall sign will be placed on the building.
- Detail setbacks of proposed directional sign from the road and paved driveway. The plans must indicate that this sign is not located in the clear site triangle, per Section 706.5.10 of the Zoning Ordinance.

In addition, the following comment was mentioned at the 9/28/10 TRC meeting and has not yet been addressed:

- The Code Enforcement Officer recommended that adding a note to the plan indicating the square footage that will be used for small manufacturing.

Motion by Mr. Breton to open Case#2010-36, Lot 11-A-165 as a Minor Site Plan/Change of Use for public hearing. Second by Ms. Post. Motion passed 5-0.

Joe Maynard, Benchmark Engineering, addressed the Board presenting the application from Pugliese Contracting to the Board and providing a history of the businesses that have previously been at this location. The current building will primarily be used as a warehouse for their equipment and a small portion of the building will remain as office space. The only change to this application is Change of Use from the previously approved use and the addition of a front portion to the existing building. In addition two signs are proposed 1) a building sign above the front door 2) a sign off the right of way.

Fire Department had six (6) comments noted on the plans:

1. Brush from around the cistern area is to be removed to allow the fire department proper access to other cistern.
2. Property owner is to coordinate with the fire department to adjust the lock to the cover of the cistern.
3. A new lock mechanism is to be installed with a knox box.
4. The screen on the vent pipe is to be repaired.
5. The cistern is to be tested by the fire department. If necessary, the cistern is to be re-filled.
6. A sign is to be placed on the driveway to indicate that trucks should approach and exit the building from the north side entrance of ledge road only.

Ms. Post asked if the traffic would change and if there would be large trucks entering the site and Mr. Maynard said it would be less traffic flow than the previous tenant and that large trucks would not be coming in and out of the site. Ms. Post said her concern is large construction equipment and Mr. Maynard said that occasionally a bobcat or a mini excavator on a trailer may enter the site but typically, this would not be an issue as Pugliese does not have large equipment. In addition, there will be no changes in the number of parking spaces.

Motion to accept Case # 2010-36, Lot 11-A-165 as a Minor Site Plan/Change of Use plan by Mr. Breton. Second by Ms. Skinner. Motion passed 5-0.

Ms. Wood said that the signs may seem like a deviation from the sign ordinance due to their size but since it is in the Limited Industrial District it is in compliance with the Town's Sign Ordinance. Mr.

Maynard said two signs are submitted on the plans, which are allowed, however; they may decide to only install one sign.

Mr. Okerman opened the hearing to the public and receiving no comments closed the hearing.

Motion by Mr. Richardson to approve Minor Site Plan/ Change of Use for 4 Ledge Road, Lot 11-A-165 as presented.

Discussion: Mr. Breton asked Ms. Wood if there was a reason why parking spaces # 12, 13 & 14 need to be numbered on the plans and Ms. Wood said at the TRC meeting Mr. Maynard indicated in addition to the warehouse, a small manufacturing use would be held there and the Code Enforcement Officer requested the applicant base the parking calculation from the use occurring in the building. Because of this, she asked the applicant to redo the parking calculations based on the square footage and have dedicated parking for the small manufacturing use, which increases the parking requirements.

Mr. Richardson withdrew his motion.

Mr. Maynard said the business is a construction company and a majority of the space is utilized for the warehouse and occasionally there may be some assembly required for equipment; therefore, the Zoning Officer constituted this as a light manufacturing use which changed the parking calculations to one space for every 300 sq ft.

Mr. Breton thought it would be best if the parking spaces were unmarked to deter cars from parking there in case the fire department needed access to the cistern.

Mr. Richardson withdrew his motion because the way he interprets the plan is that 13 spaces are provided and 13 spaces are required and does not see the need for language in the motion for 16 spaces.

Ms. Wood said the Fire Department was aware of parking in front of the cistern and did not have a problem.

Mr. Richardson motioned to approve Minor Site Plan for 4 Ledge Road, Lot 11-A-165 Minor Site Plan/Change of Use noting to work with the Code Enforcement Officer to ensure that the directional signs are not located in the clear site triangle to remove the numbering for parking spaces #12, 13, & 14. Second by Ms. Skinner. Motion passed 5-0.

2011 Town Meeting Workshop

Wetland and Watershed Protection District (WWPD), Section 601

Mr. Breton recommended to moved to the WWPD Section 601 to the October 20, 2010 Planning Board meeting.

Workforce Housing Overlay District

Ms. Scott noted for the Board that she reviewed the Ordinance and made the following three changes:

1. Amended Section 616.3 Applicability and added 616.3.4.
2. Delete provision that impact fees could be waived because the Board already has this ability in the Ordinance. So this will not be automatic in WFH.
3. Increased in the density from minimum.

Mr. Richardson asked if has been any thought to removing Residential A as an allowed district. Ms. Scott said no because of the limited availability of land and the concern of excluding one district as there would have to be solid justification.

Mr. Richardson said many of the lots are small in Residential A, especially around Cobbett's Pond and there are plenty of available lots in other zones. Ms. Scott said if the septic loading can handle the density, then there isn't a good reason to eliminate Residential A from WFH. Ms. Scott went on to say she and Ms. Prendergast did not consider eliminating Residential A and kept it in all the residential zoning districts. Mr. Richardson thought that if Residential A was eliminated from WFH it may make the ordinance more palatable and pass at the next Town vote.

Ms. Post agreed with Mr. Richardson's logic, but said there are already measures in place to protect the development around Cobbetts Pond with the Cobbetts Pond Watershed Protection Ordinance. Ms. Post has a concern that by removing one district, the Board could be accused of spot zoning and she thinks the Board should be cautious.

Ms. Scott noted to the Board that Residential A is single family detached and the pond ordinance is still in place.

Mr. Breton said that he does not think it should be in Residential A and having it in other zones is still providing realistic opportunities and keeping in the spirit with the intent of the RSA's and that removing this would be more acceptable to voters.

Motion by Mr. Breton to remove Residential A to from RSA 616 of our Workforce Housing Ordinance. Second by Mr. Skinner. Motion passed 4-0-1, Ms. Post opposing.

Mr. Breton asked why there was no multifamily in the Rural District and Ms. Scott said that was the contention last year with the Ordinance as the Board objected to apartment complexes because the believed it would not be good for the rural character of the Town. Mr. Breton said that most of the rural properties are off the highway and that might be a good place for multifamily. Ms. Post said this would guarantee defeat at Town vote. Ms. Scott said it would be difficult to measure.

Ms. Scott reiterated that what is being proposed is that the Rural District would allow single-family detached and duplexes.

Mr. Okerman opened the Workforce Housing Overlay District for public comment.

Mr. Chris Nickerson, 5 Cops Hill Road, addressed the Board and said he thinks Mr. Breton has a valid point in bringing up for discussion the possibility of doing multifamily on properties that front state roads. Mr. Nickerson provided examples of areas in MA that had affordable housing/mixed use developments off state roads. He thinks this type of development works well when there is a situation

where on a state road and there are 18K to 20K cars travelling per day, this type of development can ease the transition between the commercial zones we already have and rural zones i.e. single family housing. He thinks this opens up a lot of opportunity for quality development.

Mr. Richardson commented on Mr. Nickerson's statement saying the issue is that there are a lot of state roads in Town that are not highways, such as Range Road, and it is a rural area and he would have a problem with the blanket idea of WFH on any state roads, and he is against it as an idea in general terms.

Ms. Post recommended moving Section 616 Workforce Housing Overlay District to public hearing. The Board agreed.

Ms. St. Laurent arrived 8:10pm.

Duration of Approvals, Section 906

Ms. Scott addressed the Board and based on the discussion from the last meeting came up with the following proposed changes:

- Lengthen the time for a variance granted by the ZBA from one year to two years.
- Deleted requirement to have approval recorded with Town Clerk.
- Provide in writing the need for an extensions, if the applicant can show why an extension is necessary (i.e. if provided an extension this would become a 3 year variance if approved by the ZBA at a public meeting).

Ms. Scott received an email submission for Section 906 from Mr. Jim Tierney proposing to clarify in the Ordinance when a variance or other approvals have expired and to include conditional use permits in the language. Ms. Scott said she is not sure if there is a need to put additional use permits in the Ordinance and there are only a few occasions where this would be applicable. In addition, Mr. Tierney is proposing that any related state or local permit or approval that has not been secured and a building permit obtained within two years will expire one year after the date of issuance. Ms. Scott said that this language would put the burden on the Town to follow up not the applicant and does not believe this language should be in the Ordinance because it would be not be cost effective for the Town and an administrative hardship to try and track applicants down to let them know their variances was expiring.

Mr. Maynard addressed the Board with his alternate suggestions to changing the ordinance. He wants to come up with a time line to tie the approval to because many of them are tied to a state permit and a majority of the state permits are valid for five years and if they are exercised in five years they expire. Mr. Maynard would like a three year timeline with a two year extension but is open to any suggestions to lengthen the variance before it expires as one year is to short a window. He likes Ms. Scott's proposal for a two-year Variance with a one year extension but would like to see it longer even longer keeping it in line with the permits received from the state.

Mr. Richardson asked Mr. Maynard his thoughts about defining exercise by the recipient. Mr. Maynard said he is fine with this because if exercise means receiving permits; however; it has been his experience that the term exercise can be determined first if you know what the variance request is for in the first place. Ms. Scott said there are too many variables in trying to define 'exercise' and what an

applicant needs submit to the Planning Board and it is too difficult to come up with definition and staff takes these requests on a case-by-case basis.

Ms. Scott noted that she emailed the proposed changes to the ZBA and received comments from Mr. Tierney and Mr. Samsel said he did not have a problem with the changes.

Mr. Richardson questioned the burden of proof to show why and extension is necessary and how the ZBA can be factual in order to grant an extension. Ms. Scott agreed said that she will review and clarify the language as to why granting an extension will not be contrary to the original intent and give the ZBA some criteria.

Mr. Maynard thought that a blanket three-year variance with no extension would be a good idea because it is uncomplicated.

Ms. Post it would be interesting to know what the other communities did with their variance approvals and Ms. Scott said for many communities the variances ran with the land and was good forever. Ms. Post suggested a three-year limit for simplicity and clarity with no extension. The Board agreed.

Motion by Ms. Post to change Section 906 Duration of Approvals to a three year limit with no extension. Second by Ms. Skinner. Motion passed 5-0.

New Construction and New Uses, Section 500

Ms. Scott said that in the 2009 International Residential and Building Codes that exempts certain activities from needing building permits such as sheds, fences and accessory structure. The only way these can be required to have a permit is to add a new section that outlines what permits the Community Development Department will require.

The Department is concerned that if this proposed language is not added in to the Zoning Ordinance that certain types of construction will be allowed to occur without ensuring compliance with Zoning. The new language does not state that a building permit would be required but a work specific permit from the Community Development Department.

Ms. Scott said she differentiated between “permits” and “building permits” and she emphasized this has nothing to do with requiring a building permit.

Mr. Richardson would like to see the applications/permits to be applicable to a specific type of permit. Ms. Scott replied that the concern about making it so specific is if the state zoning changes again it could be administratively problematic and the Town has no control over the state building code.

Ms. Post said she has a problem with the new language that Ms. Scott is proposing as it seems too broad. Ms. Scott said that fence and accessory structures are covered in another part of the ordinance.

It was the consensus of the Board that this Ordinance was too broad and they did not believe it was in the best interest of the Town to move to public hearing.

Mr. Richardson made a motion to not include Section 504 in the New Construction and New Uses Ordinance. Second by Ms. Post. Motion passed 6-0.

Meeting Minutes Review and Approve

Motion by Mr. Breton to approve the September 29, 2010 minutes as amended. Second by Ms. Skinner. Motion passed 5-0-1, Ms. Post abstained.

Miscellaneous

Ms. Scott noted events this Saturday is Harvestfest and from 3:15 to 4PM the WEDC is hosing trick or treating with approx. 40 local businesses.
Fringe Boutique will have a grand opening/open house on October 21, 2010
Breath of sun will have their grand opening on October 23, 2010.

Adjournment

Motion by Mr. Richardson to adjourn at 9:00PM. Second by Ms. Post. Motion passed 6-0.

Tracey Mulder respectfully submits these minutes in draft.