



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

PO Box 120, Windham, New Hampshire 03087  
(603) 432-3806 / Fax (603) 432-7362  
[www.WindhamNewHampshire.com](http://www.WindhamNewHampshire.com)

**Planning Board Minutes 8/18/10**

**Roll Call Planning Board:**

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

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

Chair LoChiatto opened the meeting at 7:00pm, followed by the Pledge of Allegiance.

Seated for Pam Skinner is Lee Maloney.

**Public Hearings**

Ms. Prendergast read the hearing into the record.

Case 2010-22 Minor Site Plan/Change of Use Application. A Minor Site Plan/Change of Use Application has been submitted by Peter Zohdi, of Edward N. Herbert Assoc, on behalf of Kevin Cyr, Manager of Monomonoy Development LLC. The application is for a Change of Use to permit a Yoga Studio to be located in Building 1, Unit #3 at Golden Brook Crossing, located at 46 Lowell Road (Lot 20-E-260), in the Neighborhood Business Zoning District.

Ms. Post recused herself from the hearing and Mr. Richardson was seated in her place.

Ms. Scott noted the packet contained a memo noting that the Business Introduction submitted by the business owner lists an inconsistency with the hours of operation to begin at 5am weekdays, while the site plan lists the hours of operation to begin at 6am weekdays. In addition, the application has been submitted to the TRC on 8/10/10 and the Fire Department requires that the applicant must contact the Fire Department and schedule for a fire alarm test. The test must be conducted and passed prior to the business opening. The reason this is considered a Change of Use is because of the parking situation and the fluctuation with the number of cars during certain times of day while classes are held and to

ensure this business does not impact parking for the other tenants in the complex. Ms. Scott went on to say that she has provided the Board with the following:

- A letter from the applicant detailing how the proposal meets the Minor Site Plan criteria
- Breath of Sun, Business Introduction
- Change of Use Site Plan

Motion by Mr. Breton to hear the application as a Minor Site Plan based on the letter submitted by the applicant outlining the Minor Site Plan classification criteria 306.1 through 306.12. Second by Mr. Richardson. Motion passed 7-0.

Mr. Peter Zohdi, of Edward Herbert and Associates, addressed the Board and explained the change of use request is that unit 3 in the complex at 46 Lowell Road would like to become a yoga studio. Mr. Zohdi went on to say that they did a parking calculation for the entire site and had meetings with Ms. Scott and it has been determined they are in compliance with the parking calculations.

Ms. Maloney asked if the hours of operation would be 5AM or 6AM and Mr. Zohdi said that he is requesting that the Board approve the opening at 5AM on weekdays.

Chair LoChiatto asked if the septic design calculations could accommodate the yoga studio and Mr. Zohdi responded that yes the septic design calculations were based on a variety of office types for the complex and the capacity is fine.

Ms. Scott said she had a discussion with the Town Building Inspector and he agreed there was not a problem with the proposed use of the unit and the current septic system.

Mr. Richardson asked if there were any other high intensity parking uses at this complex. Mr. Zohdi said no and because of the time of day the yoga classes being offered, parking will not be an issue.

Chair LoChiatto opened the hearing to the public and hearing no public comment closed the hearing to the public.

Ms. Maloney said she like the summary Mr. Zohdi put together for the change of use and she appreciates that this yoga business is using other businesses in town.

Ms. Maloney made a motion to approve to the Minor Site Plan Application for lot 20-E-260 with noting the change of 5AM start time on the plan submitted. Second by Mr. Breton. Motion passed 7-0.

Mr. Zohdi asked the Board if he could be moved on the agenda.

Mr. Breton made a motion to move the sign discussion for Lot 16-D-450 to the second agenda item. Second by Ms. St. Laurent. Motion passed 7-0.

Ms. Post was seated.

### **16-D-450 (32 Indian Rock Road) – Free Standing Sign Review**

Ms. Scott addressed the Board noting that in May the Board approved the Site Plan Application for construction of a gas station, convenience store, and multi-tenant retail building, as well as associated

parking, landscaping, and signage. One of the conditions of approval was that “The Planning Board is to review and approve the Freestanding sign (design, colors, and lighting), the gas canopy sign (design, size, placement, and colors) and the overall color scheme for the plaza signs prior to a Sign Permit being issued by the Community Development Department.”

The Board was provided the design of the proposed free standing sign that was depicted in the Site Plan and also another picture of the actual sign being proposed. Ms. Scott went on to say that the sign meets the height and size the criteria for the sign ordinance.

Mr. Peter Zohdi, of Edward Herbert and Associates, addressed the Board indicating the sign design complies with the Towns zoning requirements. The sign will have a white background with blue lettering for B & H, dark lettering for the other tenant signs, red lettering for the gas, and green lettering for the price of deisel and uplit lighting.

Mr. Richardson inquired as to when the canopy sign was going to be installed and Mr. Zohdi responded they are not ready for the canopy sign yet, but he will come before the Board when the time comes per the plan.

Ms. Scott noted that per the approved Site Plan, the free standing sign is supposed to be a dark background with white lettering and the proposal is indicating the opposite. Mr. Zohdi responded that his client prefers white background with dark lettering. Ms. Scott said this is contrary to the plan and the Board needs to decide if they are will to allow this change in order for the sign permit to be issued by the Department.

Mr. Zohdi said it is his c lient’s desire to have all the signs in the complex with white background and dark lettering.

Chair LoChiatto explained that the reason the Board asked the for the freestanding sign to be dark background with white lettering is because it would be more aestheically appealing. He went on to say that he thinks the overall sign design, especially with regard to how the tenants will be advertised, needs to be reevaluated. He said he would prefer to see the dark background with the light lettering and have the crown molding on the top of the sign extent to the end posts to make the sign more consistent with the Village Center District.

Mr. Howie Glynn indicated he would be willing to work with the Board and change the look of the sign as requested.

Ms. Scott read to the sign ordinance calculations and stated that the embellishments to the sign are not counted towards the calculation of the sign and noted that the reason the Board decided to on the dark background, white lettering is because it is incouraged in the Village Center District. In addition, this color combination makes the sign appear larger and easier to read.

Ms. Post supports the Chair’s comments with keeping with the dark background with light lettering in keeping in line with the Village Center District. However, she thinks the pediment and individual tenant panels are fine.

Mr. Glynn said that he does not think it is fair to ask a tenant to rent space but not allow them a designated area on the sign for their business name. He thinks this will be an issue in renting the retail space he will have available when the construction is complete.

Ms. Prendergast said she is a person who encourages the dark background even in areas where it is not encouraged in our zoning. However, she thinks that the sign needs to compliment the building and because the building will be a light colored building she thinks that the sign as presented compliments the building more appropriately than a sign with dark background and light lettering.

The Board and applicant agreed that the crown molding on the top of the sign will be extended the full length of the sign, that the entire sign will have a white background with black lettering for tenant signs and the gas prices and blue lettering for B& H, and the sign will be uplighted.

Case #2010-20: Open Space Subdivision Design Review Conceptual Phase/Pre-Submission Application.

Ms. Prendergast read the application into the record.

An Open Space Subdivision Design Review Conceptual Phase/Pre-Submission Application has been submitted for Lots 6-C-1, 6-C-100, 6-C-2000A, & 6-C-2000B, located in the Rural, Floodplain, and WWPD Zoning Districts. The applicant, Peter Zohdi, of Edward N. Herbert Associates, on behalf of Butterfield 2001 Revocable Trust, is proposing to merge Lots 6-C- 100 and 6-C-2000A and then subdivide the land into 17 residential lots and 2 open space lots. Lots 6-C-2000B & 6-C-1 will remain as open space and Sheffield Road will be extended.

Ruth-Ellen Post made a motion to accept the Open Space Subdivision Design Review Conceptual Phase/Pre-Submission Application and Rick Okerman seconded. 7-0 in favor

Chair LoChiatto inquired about the overlap of Sheffield and Pine Hill Road. Mr. Zohdi confirmed that part of Sheffield Road would overlap with Pine Hill Road.

Chair LoChiatto asked if a cistern would be needed and Mr. Zohdi said that tests would have to be done to see whether a hydrant or a cistern would be required by the fire department.

Ms. Post brought up her concern about the noise being generated by I-93 and asked if there would be any noise barriers. Mr. Zohdi said that yes, the property will be buffered from noises over 60 decibels.

Ms. Maloney asked what the road width would be on Sheffield Road and Mr. Zohdi said there would be a 50' right-of-way and 28' of pavement.

The connection will be going through Sheffield Road and not Jackman Ridge because of the large wetlands complex there and the heron rookery. Wetlands is the same reason why the development is not connecting through Pine Hill to North Lowell Road.

Ms. Maloney asked where the proposed septic systems would be on the lots and Mr. Zohdi indicated all of this information was on page 8 of the plans provided. In addition, all test pits are shown on the plan as well.

Cindy Jutrus, 6 Jackman Ridge, an abutter to the proposed Open Space Subdivision asked about the impact of the proposed development on the wells of the abutting lots. Mr. Zohdi said that the State requires testing to determine if the development would lower the water levels. Mr. Zohdi indicated when the final plans are presented to the Planning Board, there will be more information available at that time.

The Board requested that for the Open Space lot 6-C-118 that there were clear markers placed there indicating that it was open space to avoid abutting residential lots using it as their backyards.

Chair LoChiatto asked about road grades and Mr. Zohdi said the maximum requirement is a 3 to 1 slope.

Chair LoChiatto had a question about the wording of the hearing notice that some of the lots be merged and not others. Mr. Zohdi said that the lots across the road (County Road) were being calculated into the total size for subdivision purposes but could not be merged because of the location of the road.

Mr. Zohdi asked the Board opinion as to whether or not the Sheffield Road temporary cul-de-sac should remain when the road was extended. The Board felt that the "ears" should be removed, the easement lifted, and the land given back to the abutting property owners. This is in alignment with what Ms. Scott and Mr. McCartney had requested.

The Board had a discussion as regarding the definition of a cul-de-sac. Ms. Scott read the definition of cul-de-sac from the Subdivision Regulations. The Board debated as to whether or not this proposal would require a waiver from the length of the road, as the proposed extension of Sheffield Street creates a turnaround that exceeds 2400 ft.

The Board felt that the road as proposed did not meet the Towns definition of a cul-de-sac and therefore would not require a waiver of road length.

Mr. Breton motioned to close the conceptual discussion on this item. Ms. Maloney seconded. Motion passed 7-0.

### **Windham Rail Trail - Letter of Support Request**

Mr. Wayne Morris, representing the Conservation Commission Trails Committee, informed the Planning Board that it has been the Committee's desire to create a trail connection between the Town owned rail bed west of Route 93 to N. Lowell Road. The Committee recently received notice from the NH Department of Transportation that as part of the I-93 widening project, the DOT has design plans to make crude gravel access way to make this desired connection. Mr. Morris asked the Board if they would write a letter to the DOT endorsing this connection. He said that he will also be seeking the endorsement of the Board of Selectman.

Chair LoChiatto polled the Board to see if they would endorse this request and the Board agreed that Chair LoChiatto will write a letter, on behalf of the Planning Board, to the NH DOT endorsing the connection.

## **Financial Guarantees**

### Granite Hill (90 Indian Rock Road)

Granite Hill Development is a 5-lot detached condominium development on a private road. The Subdivision was approved in 2005 and modified in 2006. A cash financial guarantee of \$38,677 was put in place in August 2006 for the required improvements for Granite Hills Estates by DVMD Holdings, Inc. A partial release of \$16,900 was made in February 2010 and another partial release of \$17,627 in June 2010.

A total of \$4,150 is being held by the Town for erosion control and signage (street sign & stop sign). KNA conducted an inspection of the site on 7/8/10 and has no outstanding issues. The stop sign was installed and the street sign has been ordered by the Homeowners Association.

**Ms. Post made a motion to recommend to the Board of Selectmen to release the remaining funds, plus any interest, less the two KNA invoice amounts (\$417.00). This would amount to release of \$3,733 plus any accrued interest. Seconded by Mr. Breton. 7-0 in favor**

### Johnson Street Extension

The Johnson Street Subdivision received conditional Planning Board approval on October 5, 2005 and final Planning Board approval on September 15, 2006. The Subdivision was for 4 residential and 1 open space lots, as well as the extension of Johnson Street.

At the June 16<sup>th</sup> Planning Board meeting, the Board informally agreed that when the outstanding items completed and Jack McCartney, Steve Chabot, and Attorney Campbell all signed off, that the Board would support recommending to the Board of Selectmen that the financial guarantee be released without waiting the usual 1 year.

Ms. Scott informed the Board that all items outstanding have been resolved and KNA, Jack McCartney, and Attorney Campbell have all signed off. As well, as-built plans were submitted to the Department for our records, as requested.

**Ms. Maloney made a motion to recommend that the Board of Selectmen to accept the road and release the financial guarantee amount without waiting the 1 year after the final coat is down. The financial guarantee is \$12,733.96 plus any accrued interest less August attorney fees. Ms. Post seconded. Motion passed 7-0.**

## **Municipal Road Maintenance on Non-Accepted Roads**

Ms. Scott provided an overview of her memo and explained the concern she had about the Town providing maintenance on roads that have been laid out through the Planning Board but not yet accepted by the Town. The information was presented to the Highway Safety Committee earlier in the month and is on the August 23<sup>rd</sup> Board of Selectmen agenda for their review.

The Planning Board thanked Ms. Scott for her work, felt this was a Board of Selectmen decision, and asked to be kept informed of their actions on this item.

## **2005 Master Plan Benchmarking**

1. Goals Accomplished

## 2. Goals Not Accomplished and not a PB Priority for 2015

There was a discussion as to the background why the Benchmark Review of the 2005 Master Plan was being broken up into sections. Ms. Scott explained that since the scope of the project was so large, each workshop was breaking the tasks into smaller, more manageable sections. Ms. Wood gave a brief summary as to what occurred at the first workshop on July 7<sup>th</sup> as several Board members were unable to attend that workshop.

Ms. Wood explained that August 18<sup>th</sup> workshop is a continuation of the July 7<sup>th</sup> meeting and based off feedback forms that were received after the July 7<sup>th</sup> meeting was held.

The Board reviewed the list of Goals Accomplished agreed the following goals were to be on the Goals Accomplished list:

*NROS-1.6 Include vehicular storage areas that are not currently included as a prohibited use in the Aquifer Protection District section of the Zoning Ordinance.*

*NROS-2.3 Prepare an acquisition plan that defines the qualities and general areas for open space acquisition on a town wide basis.*

The Board agreed the following Goal was to be on the Goals Not accomplished but not a Priority to accomplish by 2015 List:

*NROS-1.10 Monitor future I-93 and Route 111 construction for rescue of unique flora and fauna (e.g. orchids along I-93).*

### **Meeting Minutes**

- **July 28, 2010**

Mr. Richardson suggested that the first sentence of the 4<sup>th</sup> paragraph be reworded to say "Mr. Richardson questioned the idea of calling the CIP a slush fund."

Ms. Prendergast said that on Page 6, she should be listed as "opposed" to the motion made by Mr. Breton to appoint Ms. Maloney.

Ms. Prendergast also said that PB discussion that Ms. Maloney was appointed to the CIP and "conditional upon her acceptance" was not part of the motion and should be stricken.

Ms. Prendergast said that Mr. Sinner was a typo. Ms. Wood agreed and said that it should read "Ms. Skinner."

**Ms. Post made a motion to approve the July 28<sup>th</sup> minutes as amended. Ms. St. Laurent seconded. Motion passed 5-0-2 with Mr. Okerman and Ms. Maloney abstaining.**

- **August 4, 2010**

Ms. St. Laurent said that on Page 1, her first name should be spelled with a “K” and not a “C”.

**Mr. Okerman made a motion to approve the August 4<sup>th</sup> minutes as amended. Ms. Posted seconded. Motion passed 6-0-1 with Ms. Maloney abstaining.**

#### **2011-2018 CIP Submission Request**

The Planning Board discussed the CIP submission request and decided that they did not have any upcoming capital items exceeding \$50,000 to submit. Ms. Scott will send a letter to the CIP Committee.

#### **Highway Safety Committee**

1. July 27, 2010 Meeting Minutes
2. July 29<sup>th</sup> Response to July 10<sup>th</sup> Planning Board Concerns

Ms. Wood presented these items to the Board.

#### **Member Binder Updates**

Ms. Scott went over the 3 new items for the member binders.

**Mr. Breton made a motion to adjourn the meeting. Seconded by Mr. Okerman. Motion passed 7-0. The meeting was adjourned at 10:20pm.**

These minutes are respectfully submitted in draft by Tracey Mulder and Elizabeth Wood.