



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

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### Approved Planning Board Minutes Wednesday, November 12, 2014 Community Development Department

#### Board Members:

Kristi St. Laurent, Chairman - Present

Alan Carpenter, Vice Chair - Excused

Paul Gosselin, Member - Present

Pam Skinner, Member - Present

Margaret Crisler, Member – Present

Vanessa Nysten, Member – Present – excused at 10:04 pm

Bruce Breton, Selectman – Present

Joel Desilets, Selectman Alternate – Present – excused at 9:09 pm

Steve Bookless, Alternate – Present – excused at 10:05 pm

Jim Fricchione, Alternate – Excused

David Oliver, Alternate – Excused

Kathleen DiFruscia, Alternate – Present

#### Staff:

Elizabeth Wood, Community Planner

Laura Scott, Community Development Director

Kerry Lee Noel, Planning Board Minute Taker

Chair St. Laurent called the meeting to order at 7:09 pm, followed by the Pledge of Allegiance, member attendance and a brief synopsis of the agenda.

The Chair sat Mr. Steve Bookless for Mr. Alan Carpenter.

#### 2015 Town Meeting Workshop

##### WEDC – Land Use Subcommittee, Parcel Rezoning Recommendations

Mr. Letizio introduces himself and states he is present as the Chairman of the Windham Economic Development Committee. At the last meeting on October 15<sup>th</sup> a discussion occurred regarding the proposal the Land Use Sub Committee had brought before you proposing to create a new zone. Following a lengthy discussion a revised zoning amendment is being put forward. He states he is present to discuss the 8 questions that were submitted were not previously answered by the Land Use Committee with some additional questions.

Ms. St. Laurent states that she will read the memo from Alan Carpenter, who was unable to be present this evening. He thanks the WEDC for producing the document.

1. I would remove 620.2.11. I do not believe assisted living facilities would be the highest and best use of this district.
2. The district lacks a maximum and minimum building size. This is imperative, without it, we may as well simply rezone it to Commercial A.
3. The planning board will need to spend an evening talking about access to the site. Clearly we cannot propose such a development with the light at Wall Street as the only access point. It would not be safe, nor would it represent good planning.
  - Should we approach the state and request written confirmation that we can have a right-in/right-out access point along Route 111.
  - Should we consider laying out the road that extends Wall Street out to North Lowell Road as we discussed years ago.
    - This would require us to reverse the warrant article from last March – which is not difficult.
    - This would also open up more land to possibly expand the district.

4. We should consider a “minimum” lot size for development. I would suggest 25 acres.
  - Without this, we will not get the “planned” community we are anticipating. We will be subject to one land owner building one retail location with parking, etc., taking advantage of the new District without delivering on its promise. Again, this is not the intention of the effort. Without a large minimum lot size, we may as well rezone it commercial A.
5. Some of the land suggested for the District is Town Owned.
  - Do we need to go in front of the Town with a separate Warrant Article to see if the residents want to rezone it.
    - Should we ask the Board of Selectmen to formally weigh in on it.
6. 620.3.3 and 620.3.4 seem to be in conflict. Is the set-back 50’ or 20’.
7. I do not see the comparison between the VCD and the proposed Market District.
  - This request was made a month ago. Is there a challenge preparing it.
  - We may find we are recreating the wheel, should we simply attempt to rezone the area VCD.
    - When we formed the original VCD, the Planning Board talked about the possibility of having multiple zones.
8. The sign requirements, setback tables, development standards, etc., will all need to be studied at length. It is imperative that we get this right, but I have not had time to fully analyze them.
  - I am sure we will be able to tackle these at future workshops, along with other proposed changes, modifications and edits.

Mr. Letizio responds states that he has a list of additional questions that he will review.

1. Rather than creating the Market Square District, why not just modify the current PBT District?
 

There are restrictions of current zoning we changed to provide a singular focus for the new Market Square zone only. We did not want to make global changes and only to include specific zoning for the Market Square area. Making changes to PBT to fit this may have effects on other areas.
2. No new district, just modify the VCD and rezone 5 lots to VCD?
 

We targeted a broader approach than PBT with specific zoning without disrupting current VCD zoning.
3. Mr. Dubay asked that the proposed new district be not specific to our lots, but be a new zone which might also be applied to other areas including the former Golf Driving Range area on Range Road/Rte. 111.
 

We do not want to expand this new zone to other areas at this time. The new Market Square zone could be considered elsewhere in the future once approved.
4. Remove provision #5 from allowed uses.
 

This is currently allowed in PBT and we did not want to restrict cell coverage in Windham. We wanted to be able to enhance communications and implement supportive beautification objectives.  
Example of the Mount Washington Hotels utilization of flag poles as cell towers.
5. Redo our comparison chart adding VCD to the chart.
 

Property that is currently PBT and like question #2 we have identified specific changes for the Market Square zoning.

Ms. Nysten states that it is listed that medical clinics and offices are not allowed in PBT but would be allowed in Market Square. I believe that they are allowed in the PBT.

Ms. Scott discusses the usage and the exact language from the current Zoning Ordinances as a side by side comparison. The language is from the Zoning Ordinances, I did not interpret the language.

Discussion occurs regarding the language of the Zoning Ordinance.

Ms. Crisler requests a comparison chart that compares the differences of the Market Square and the VCD.

Mr. Gosselin states that the driving factor with regard to a property that is zoned PBT, and to add other categories to the zoning would have no benefit. We are proposing a change to Market Square zoning. We are not comparing the PBT to every other type of zoning.

Mr. Letizio states we can look at that and have the information provided to you.

6. Add new district requirements to List Sign Regulations.  
We support current PBT signage requirements.
7. Add new district to any other areas that are applicable in the Zoning Ordinance.  
Ms. Scott has updated the Zoning Ordinance to reflect the new district.
8. #4 under allowed uses.  
Ms. Scott has provided changes in allowed uses to reflect the new district.

Mr. Letizio continues reviewing the questions that Mr. Carpenter had provided.

1. I would remove 620.2.11. I do not believe assisted living facilities would be the highest and best use of this district.  
That refers to one of the uses regarding assisted living facilities. These facilities have been shown to having a positive effect on the community. Housing for older persons and seniors is a tax positive for the community, a customer base for the retail businesses with in a walkable location. This would be a great opportunity for people who live in Windham. I have received hundreds of inquiries from residents of various ages regarding the attributes looked for in this development.

Ms. St. Laurent inquires how this information is being communicated to the public.

Mr. Letizio responds that the media has been following the developments, the Selectmen's website, phone calls and the election polls.

2. The district lacks a maximum and minimum building size. This is imperative, without it, we may as well simply rezone it to Commercial A.  
Mr. Letizio states that we are not in favor of zoning this to Commercial A. The Maximum/Minimum building size question is imperative. Commercial A; PBT has no building size restrictions. There is a development in Mashpee which is very similar. If we took that example and start putting limitations on building size we would not end up with the type of project they were able to develop.

Mr. Disilets states that he has gone to the Mashpee Commons. It is a beautiful mixed use development and some of the similarities are a bowling alley that is 11,650 square feet that is part of a 21,641 square foot building with other mixed uses; a Salon, Panera Bread and a Bistro. There is also a 13,250 square foot cinema that is part of a 29,668 square foot building with other mixed uses including a gentlemen's clothing shops, Talbots and over 7,000 square feet of class A office space.

Discussion occurs regarding building size.

K. St. Laurent states that this vision of usage and a developer came in and purchased the parcels what restrictions would be imposed so that the vision has no unintended consequences.

V. Nysten states that various businesses can be grouped together. A conditional use permit, can be implemented

M. Crisler suggests obtaining copies of the zoning for Mashpee Commons and how they zoned the district.

J. Desilets states they had to change the zoning for Mashpee Commons, they are utilizing 36 acres, we are looking at utilizing 40. Town size is similar. Another similarity is that Mashpee doesn't have a walk able downtown.

Ms. St. Laurent reviews the history of the development of Mashpee vs. Windham in planning and discussed the then proposed projects development and zoning changes timeline.

Mr. Letizio continues stating that property taxes are high, school facilities need to be update. The budgets have been managed in accordance with the tax rate and the burden of property taxes. Discouraging a large retailer may not be what the town is seeking.

Mr. Gosselin states that the developments have worked in Mashpee and in Lynnfield, we want to take what has worked in other communities and harvest the best and incorporate that into this district. We don't want to take 25 years to have it go from concept to reality. We can put limitations on the building size, building faces, and on a retail basis and entertainment venues. There are entities that have been responsible for the planning and development of the other communities.

Discussion occurs.

Mr. Letizio states that this project is in response to feedback received by residence. Aesthetics are important to the public, not necessary the scale.

Mr. Gosselin states that what is working in other communities assists in the planning of our project, limitations can be put into place for the types of business being considered. There are entities that have been responsible for the planning and development of the other communities.

Ms. Scott states that if this were to move to the Warrant the Planning Board and the WEDC the board can provide a language for the Warrant so that it is not a cumbersome article and extremely lengthy.

Mr. Letizio states that 92% of our taxes are being paid for by residents of our community; I would like to see that down to 90% or more. I am for a Public Hearing on Dec. 3<sup>rd</sup>.

Ms. DiFrusia states that infrastructure improvements that may be needed to support this kind of development will also need to be looked at.

Discussion occurs regarding residential benefits, taxes, open space and design, zoning and article language and the need for additional studies.

Mr. Letizio continues regarding the question submitted.

3. Access Points.

The access to the site would be through the intersection of Wall Street. We do have authorization from NH DOT for another access point. The location has not been determined yet.

Should we consider laying out the road that extends Wall Street out to North Lowell Road.

That was considered not to be feasible due to environmental constraints. We do not advocate that.

4. Should we consider a minimum lot size for development.

We are suggesting the integration of all of the lots.

5. Some of the land suggested for the District is Town Owned.

Per RSA we are not required to go to Town Meeting with a warrant article.

6. 620.3.3 and 620.3.4 seem to be in conflict. Is the setback 50' or 20'.  
One is a setback one is frontage. They are separate no conflict.
7. I do not see the comparison between the VCD and the proposed Market District.  
We already addressed that.
8. Sign requirements.  
We already addressed that.

Mr. Letizio states that we are not looking for further workshops; we are looking to put this on the warrant in March and move the Town forward. I am for a Public Hearing on Dec. 3<sup>rd</sup>.

Mr. Gosselin states that the subcommittee going forward would want to look at the Mashpee and Lynnfield did for zoning, building size and tenant size, design review concept, what do we have now for design review, DOT access and entry points, maintaining level of open space / commons. I agree with Mr. Letizio and am looking for a Public Hearing.

Further discussion occurs.

Mr. Desilets states a curb study was recently done and one relevant point was that advertising plays a big part in attracting a high caliber developer with the intent that the town is looking for ensuring success of the development.

Ms. St. Laurent opens the discussion to the public at 8:31.

Mr. Case states that the windmill's current use? There is active truck activity. Having a big industrial building in the middle of the proposal is a problem. With the separate pieces of land there has to be some kind of regulation ensuring the mix use. Inquires of Mr. Letizio stating there are things in the Village Center that don't work well now.

Ms. Scott states that the area he is questioning is grandfathered for this usage.

Ms. St. Laurent states that proposed zoning would be in place to provide a way to obtain the desired result. The presentation of the plan needs to move forward to the voters.

Mr. Letizio states that this is an evolving project, what is driving this? We asked Rex Norman who spoke with people in Lynnfield asking what they thought of the project there. The projects zoning changes raised the property values which increased dramatically. The value of the properties that would be involved in the project would have a higher value due to the location.

Mr. McCarthy states that he would like to salute the WEDC for bringing this forward. The concerns I have are Warrant Article 2015, this March. Tenant size and Building size are the differences I see. Infrastructure is an item that prohibits growth. Are the landowners on board, are taxes based on increased value to the properties. A corporate campus not retail was once the interest of the town. I do support the development but this process should not be rushed for the time allowed for this Warrant Article.

Mr. McCloud thanks the WEDC for the opportunity for Windham. I support this initiative creating a zone for a specific purpose rather than to force an existing zoning onto this. I am in favor of the Market Square District work. 620.2.4 Should be kept that in there. Cell towers are more creatively disguised. 620.2.8, 11, Assisted living facilities should be integrated in to the community. Architecture is important. The big picture for a Market Square District is fully supported.

Mr. Roberts: Member of WEDC. Citizen, this is the reason I joined the WEDC, new to this process and I stand in strong support of this and the potential for employment opportunities is strong. I would like to move forward.

Ms. Dunn, I attended the original presentation and am here tonight. I hope we can have a successful Market Square District. The need for a good developer and an agreement with the land owners is essential, as I see the ordinance presented; I see no requirement for coordination. What if one of the land owners refuses to sell and then you won't have the whole picture and the strip mall and big box without the coordination of the plan. My understanding [KLN1] is that any parcel of land owned by the town would require a town meeting vote.

Ms. Scott states that the rezoning would not require a town vote, but usage of Town land would.

Mr. Nysten states that this is a project of immense magnitude, a tremendous opportunity is available, it is the details that need to be planned carefully.

Mr. Dubai states that he supports the project and it could be put forth with effort. Your experience creates the ability to get this done. It will create a vibrant community, the WEDC did a great job with this and the Town has been discussing this for many years and we are now educated and have studied this for a long time.

Further discussion occurs.

Ms. Scott states that the next meeting for this topic will be Dec 3<sup>rd</sup> and this workshop can continue.

### **Open Space & Landscaping**

Ms. St. Laurent states the next item is Open Space & Landscaping, Section 705.

Ms. Scott states that Atty. Campbell has reviewed the previous changes has taken the draft and wrote it into warrant language dealing with the open space, impervious issues and no conflict with the design review regulations.

The Board reviews the new language.

Discussion occurs regarding the document its definitions and the question of protection of the town.

Open to the public 9:34 pm

Mr. Case states that he doesn't believe it is needed since open space is not defined. Green space and Open space are describing the same thing it should be called the same thing.

Discussion occurs regarding the descriptions.

Mr. Dubai states that the wording by the attorney should be reviewed. I believe the Town has interpreted it correctly but it can be difficult to develop anything in the gateway district. Open space requirements are defined differently than being depicted. ZBA interpretations are difficult.

Discussion occurs regarding open space restrictions. The lake protection ordinance is at 30 % coverage. Gateway ordinance trumps the existing ordinance. Conflicting ordinance being president.

Ms. St. Laurent inquires if there is a landscape plan.

Mr. Dubai states the best alternative would be to have a landscape designer stamp the plan.

Ms. Crisler states that clarification can be verified with the attorney.

Ms. St. Laurent reviews the gateway, landscape, lake protection, commercial ordinances, trump, and PBT.

Ms. Scott states that the ordinances have been applied to the specific plan; the gateway was created to provide flexibility. Attorney can provide information regarding impervious, watershed and gateway zones WWPD too.

Ms. St. Laurent state the term is defining what it is not rather what it is. Should be end the 705.1.1.1 at gravel surfaces and adding either landscaped, natural and undisturbed land.

### **Religious Uses**

Ms. Scott reviews Attorney Campbell's draft language.

Public Hearing opens at 10:06 pm.

Mr. McCloud refers to a suit by a church in town 704.? This is an opportunity to bolster the ordinance. Based on the 1<sup>st</sup> amendment states that opportunities must be equal for religious organizations. The addition of 2 new definitions to Section: 200. Review of RSA and Federal Law, the single definition rather than the broad definitions Attorney. Campbell wrote. Reviews and recites his submission.

Discussion occurs regarding the word institutions being used.

Ms. Scott relates the information from Attorney. Campbell as to why there are two definitions for the flexibility of usage and zoning. This was the advice of 2 councils.

Further discussion occurs with regard to limitations of height and religious housing.

Ms. St. Laurent reviews the points of the proposed changes to the ordinance.

Mr. Brenton requests that the LGC look as the proposal of Mr. McLeod.

Ms. Dunn states that she is concerned with preventing religious organizations in the rural district. By making it difficult for the organizations by restricting them to commercial districts could you be prohibiting their propagation.

Mr. Foster of Cross and Life Church states that the litigation was regarding becoming tax exempt. Churches are not profit centers and having an opportunity to found a church is difficult at best. The information of Attorney Campbell is preferable but they get very complicated and are not open to interpretation. It would be taking everything out of rural and only leaving room for houses. The more broad the definition the more opportunity for interpretation.

Mr. McLeod continues discussing the remaining information on the information provided by Attorney Campbell. Under Membership Club the line; *normally by payment of a fee* should be removed as well as; *who have elected to join or become members.*

Discussion continues.

### **Cellular towers**

Motion by Ms. Skinner to move to a Public hearing.

2<sup>nd</sup> Ms. Crisler

Vote: 6-0-0.

Motion carries

## **Development of Regional Impact**

Ms. Scott states that following the site walk of an existing industrial park that is zoned industrial. The North Realty Trust would like to utilize an existing sand / gravel area to a tactical training facility. The facility would be shooting towards Pelham. She displays the location on a map of the area involved and the abutting industrial uses. She also shows photos taken on the site walk. Applicant is Mr. Maynard. The only proposed improvement is the safety table which is used to load weapons.

Discussion occurs regarding the proximity of a 55 plus community and Beaver Brook.

Ms. Scott states that she is looking for comments and concerns.

Ms. Crisler states that environmental concerns regarding Beaver Brook and the additional danger of discharge adjacent to residential property. Noise and the gas facility located nearby are also factors.

Discussion occurs regarding the more information is requested.

Ms. Scott has requested to be properly notified as well as the appropriate municipalities and agencies.

Mr. Brenton requests that the Chief of Police offer his opinion.

## **Old/New Business**

None

Adjournment 11:25 pm.

Draft minutes respectively submitted by,  
Kerry Lee Noel  
Planning Board Minute Taker