



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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www.WindhamNewHampshire.com
Approved Planning Board Minutes
Wednesday, July 15, 2015

7:00pm @ Community Development Department

Board Members:

Alan Carpenter	Chairman Excused	Joel Desilets	Selectman Excused
Paul Gosselin	Vice Chair Present	Ross McLeod	Selectman/Alternate Excused
Kristi St. Laurent	Member Present	Matthew Rounds	Alternate Excused
Ruth Ellen Post	Member Excused	Kathleen Difruscia	Alternate Excused
Margaret Crisler	Member	Gabe Toubia	Alternate Present
Dan Guttman	Member	David Oliver	Alternate Arrived 7:20pm

Staff:

Elizabeth Wood, AICP, Community Planner
Suzanne Whiteford, Minute Taker

Call to Order/Attendance/Pledge of Allegiance

Continued Public Hearings – July 1, 2015

Case#2015-7/Woodside South II Subdivision

A Final Application for a Major Subdivision and a Wetland and Watershed Protection District (WWPD) Special Permit Application, have been submitted for Lot 20-D-2300 (London Bridge Rd), located in the Rural District Zone, Flood Plain District, and Wetland and Watershed Overlay Protection District (WWPD). The Applicant, Peter Zohdi, on behalf of the property owner, Kerry McKenna Revocable Trust, is proposing to subdivide the existing parcel, sized 27.38 acres (1,192,672.8 sq. ft.) into 12 lots ranging in size from 1.4 acres (60,984 sq. ft.) to 3.67 acres (159,865.2 sq. ft.). The new Burnham Road is to be extended, thus connecting the existing dead end cul-de-sac with London Bridge Road. A WWPD Special Permit is requested for road crossings, drainage, and slope easements for a permanent disturbance of 98,801 sq. ft. Written waiver requests have been submitted from the following Sections of the Subdivision Regulations: 605.5, 601.3.5, 601.3.9.

Chairman Gosselin asked applicant if there are any changes to the document presented this evening to the planning board. Mr. Zohdi responded there are no changes to the newly submitted document.

Applicant reviewed the subdivision plan for Case #2015-7. The structural design plans for the structural wall and bottomless culvert will be submitted after the plan is approved.

Mr.Guttman clarified the design plan for the culvert was bottomless and asked if there is any concern with erosion.

Applicant confirmed the culvert design is intended to be bottomless. He has no concern for erosion; the flow and the volume will be the same pre and post development.

Mr. Guttman reminded the applicant, as discussed during the site walk that no clear cutting of trees would occur without discussion. The removal of any overgrowth of trees would occur only if absolutely necessary. Applicant explained the road is being cut 50 feet wide and there is a 3:1 slope easement; otherwise the owner does not have any interest in clear cutting any trees. Mr. Guttman believes certain curb appeal in that area will benefit from the older trees remaining.

Ms. St. Laurent inquired about the stone wall she saw while on the site walk. The applicant pointed out the existing stone wall on the plan, and there is a note on the plan that the stone wall has to be used on the site.

Discussion was opened to the public. There was no public commentary.

Ms. St. Laurent asked staff about outstanding items/general comments from Mr. Keach. Ms. Woods reviewed Mr. Keach's memo dated 6/19/2015 outlining the outstanding items/general comments which will need to be considered as conditions of approval. Ms. St. Laurent asked staff to review comments Highway safety. Ms. Woods reviewed comments/concerns made by TRC members who reviewed the 6/12/15 plans set.

Applicant addressed Mr. Keach's items listed in his memo dated 6/19/15:

- Site distance: After meeting with Mr. Keach the applicant widened the road as suggested, at the intersection from London Bridge Rd. to Burnham Rd. The applicant gave Mr. Keach all site distance profiles.
- Traffic calming: The applicant met with Chief Lewis and Mr. McCarthy and looked at the traffic calming that exists near the rail trail and Mr. Zohdi's house. Traffic calming will go in at the end of construction.
- WWPD approval: The applicant is on the agenda for a hearing to obtain WWPD approval.
- Posting stop signs: Everything with regards to posting stop signs is on the plan.

Ms. St. Laurent asked about the road width. Applicant replied the road width is 28 feet. Ms. St. Laurent asked if the design is closed drainage. Applicant confirmed everything is closed drainage.

Motion by Ms. St Laurent to approve Case#2015-7/Woodside South II Subdivision as submitted with conditions of approval being that the PB gets the final notation of the subdivision approval number and alteration of terrain approval number and establishment of a financial guarantee for the completion of the road to the town's specifications, the site line easements to be so noted on the plan when submitted as a final plan , that there is a condition for traffic calming to the satisfaction of the police and highway department, the temporary cul de sac is converted to a standard roadway with the extra land to be turned over to the abutters, and a posted speed limit sign for 30 miles per hour.

Second Mr. Guttman

Chairman Gosselin brought up that there were waiver requests submitted for section 605.5, 601.3.5, and 601.3.9 and asked if Ms. St. Laurent wanted to consider amending he motion to include those waivers were granted.

Ms. St. Laurent amended her motion to include waivers granted for sections 605.5, 601.3.5, and 601.3.9 as a condition of approval. Acceptance by the PB for a scale different than stipulated in 601.1.2 and that the PB asks the applicant to work with the assessing and police department for the numbering of the lots. The waiver for relief from section 605.5 to match the existing road and because it met no suggestion for change from the highway safety committee.

Ms. Woods instructed the PB the applicant's subdivision plan requires consideration of the WWPDP special permit.

Motion amended to include WWPDP special permit application for road crossings, drainage, and slope easements as submitted to support the construction of the subdivision that otherwise meets the rest of our zoning and that it has demonstrated that it would not have an undue increase of flow on and off the site pre and post construction. Marking and notation of the WWPDP as noted on the plans and to satisfy the requirements and acceptance of the PB.

Second by Mr. Guttman

Vote 5-0-0

Motion passes

Ms. Scott replaced Ms. Wood

Case #2015-12 Minor Site Plan Application Lot 11-A-860

A Minor Site Plan Application has been submitted for Pine Hill Assisted Living at 35 North Lowell Road (11-A860) located in the Residential B and WWPDP Districts. The applicant, 21st Century Development Corporation, on behalf of James and Patricia Flynn, are proposing a 4,436 +/- sq. ft. (2 story) addition to the existing Assisted Living Facility to bring the facility into compliance with ADA, Building and Life Safe Codes. There is no increase in the number of assisted living units is proposed. Per Section 303.5 of the Site Plan Regulations, if the application does not qualify as a Minor Site Plan then it will be deemed a Major Site Plan and the application will be heard as a Preliminary Major Site Plan Application.

Ms. Scott reviewed memos included in the application packet, there are no outstanding items of concerns. The plan was reviewed by the Conservation Committee last week. The PB needs to decide if the plan meets the minor site plan criteria

Ms. St. Laurent, would like to hear from the applicant with regards to the requested waivers for a major and/or minor site plan.

Applicant gave history of the project and described why he is proposing the plan.

Applicant is reviewing Solar and geo thermal with a goal to make it a net zero project.

Ms. Scott explained if the PB decides the plan is not considered a minor site plan the applicant would return with the same application for a major site plan with essentially the same plan unless the PB instructs the applicant.

Motion by Mr. Guttman to accept Case #2015-12 as a minor site plan.

Second by Mr. Toubia

Vote 4-1-0 Ms. St. Laurent opposes due to the number of criteria missing to meet the requirements of a minor site application. Ms. St. Laurent has nothing against the project, she thinks it is great.

Motion passes

Ms. St. Laurent asked applicant if there is going to be any changes to existing parking and driveway.

Applicant confirmed there will not be any temporary or permanent changes to the existing driveway and parking.

Ms. St Laurent asked if the deck and the ramps on the plan are new.

Applicant replied there are no existing ramps and/or decks on the property.

Ms. St. Laurent requested to have an as built plan afterwards, in consideration of life safety issues of the residents, to provide good documentation to the fire department with marked fire exits and stairs.

Applicant agrees to provide an as built plan.

Mr. Guttman is happy about the net zero energy, and asked the applicant if he is considering a roof or field solar panels?

Applicant is considering field solar panels. The applicant wants to use closed loop system because it is easier on the environment.

Mr. Guttman asked if an additional WWPD waiver would be needed to place solar panels on the ground.

Ms. Scott clarified there is a possibility a WWPD waiver may be needed depending where the solar panels are placed.

Mr. Guttman asked if the applicant will consider restoring the grade after construction.

Applicant clarified there are not any grade changes with construction.

Mr. Guttman asked with regards to 303.7, if he considered the addition of potential rain gardens to offset the runoff to the impervious surface

Applicant confirmed the addition of rain gardens it is being considered

Chairman Gosselin asked about the intended sprinkler system.

Applicant replied all storage will be indoors rather than in ground and it will be at least a 1000 gallon system.

Mr. Oliver was complimentary of the plan.

Open to the Public

Lois Bates, Range Road commented she is thrilled the facility will be brought up to date and will be beneficial to the residents

No further public commentary

Ms. Scott asked if the PB will require applicant to put up WWPD markers, and if so, where they will be placed.

Chairman Gosselin asked about the WWPD impact.

Applicant pointed out the potential WWPD impact on the plan.

Chairman Gosselin polled the PB to see if WWPD markers are needed.

Ms. St. Laurent does not think WWPD markers are necessary, it is an expansion of current use, and no threat to the WWPD.

Mr. Toubia, Mr. Oliver, and Chairman Gosselin do not think WWPD markers are needed.

Mr. Guttman did not weigh in on placement of WWPD markers.

Motion by Mr. Guttman to accept Case #2015-12 as presented as a minor site plan with a waiver from section 303 as requested provided an ‘as is’ built plan is provided prior to C.O. and should free standing solar arrays be implemented communication with staff occur prior however if it is deemed that roof based solar panels work communication with staff prior to implementation is not necessary.

Second Mr. Toubia

Waiver for WWPD markers granted

Second Mr. Toubia

Vote 5-0-0

Motion passed

Case #2015-13 Preliminary/Final Major Site Plan Application Lot 13-A-33

A Preliminary & Final Major Site Plan Application has been submitted for Cyr Lumber at 39 Rockingham Road (13-A-33) located in the Commercial A, Aquifer Protection, and WWPB Districts. The applicant, Edward Herbert Associates, on behalf of RWRL, LLC, is proposing a new 7,088sqft 2-story building and parking for retail, medical and/or restaurant uses. There will be associated lighting, landscaping, and signage proposed. Waivers have been requested to skip the Preliminary site plan process (Section 603), not have a licensed landscape architect prepare the plans (Section 603.2.4.22), and to not do a traffic study (Section 702.1.1). If the Waiver from Section 603 is not granted, this application will be heard as the Preliminary Major Site Plan.

Ms. Scott pointed out the applicant's waivers, and which waiver needs to be addressed by the PB during this meeting.

Applicant handed out a colored plan of what has been presented without any changes to the plan itself.

No comments or thoughts from the PB regarding waiver to skip the preliminary site plan process.

Chairman Gosselin polled the PB with regards to the requested waiver to skip the preliminary site plan process. Mr. Oliver asked staff if it is unusual to merge. Ms. Scott and Chairman Gosselin addressed Mr. Oliver's question and explained the applicant submitted, at the preliminary level, items required for final approval.

Ms. St. Laurent asked the applicant if the plan has been seen by the PB prior to this evening.

Applicant confirms the exact same project had been submitted, and approved, in 2009. There are not any changes to the plan submitted at this current hearing.

Ms. Scott explained the applicant lost the approval due to inactivity.

Applicant explained the site was never started and the approvals lapsed. The application has been updated to the new drainage standards and has been through an engineering review. The plan is exactly the same with updates to meet new regulations since 2009.

Motion by Mr. Guttman to grant a waiver from section 603 and accept as a major final site plan application.

Second by Ms. St. Laurent

Vote 5-0-0

Motion carries

Applicant reviewed the site plan as a major final site plan:

- Proposal is for a two story multitenant multipurpose building.
- No users are signed up to use the building
- Septic design has been accepted by the state
- Uses specked on the septic design include a 20 seat paper restaurant, a hair dresser with one chair, and a dental office with 5 chairs and approximately 8 employees
- Want building to be plumbed with a grease trap in anticipation of potential food service
- Proposing a new entrance for the sight with an entrance and exit off of Jones Road
- There will be an entrance off the existing driveway to the rear of Cyr lumber with one way in traffic only, an update to the DOT driveway permit has been submitted and is pending approval
- Drainage design was updated, as requested by Mr. McCartney, to prevent water going into roadside ditches along Jones Road
- A portion of the plan is in the aquifer protection zone. Referred to page 5 to see calculation about how much impervious area is being proposed; 24.36% of the allowable 30% is proposed.
- 1035 square feet of Green spaces (A and B on the plan) in the parking area.
- 36 parking spaces with 3 handicapped spaces
- Proposing 10 pole mounted lights
- Hours of operation are between 6 and 10

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Chairman Gosselin asked if the lights are dark sky friendly
Applicant referred to lighting landscaping detail on the plan, and they are dark sky friendly.

Mr. Guttman asked what the impact on the abutter is.
Ms. Scott confirmed abutters were notified

Mr. Guttman asked if solar power has been considered. Applicant does not know if solar power has been considered.

Ms. St. Laurent asked why the site needs a chain link fence around it, per proposal on page 17/20, and a gate at the entrance to the property.

Ms. Scott relayed the chain linked fence around the property is needed to prevent accessing Cyr lumbar. The need for a fence and gate was reviewed by TRC

Mr. Guttman asked where a free standing sign will be placed.

Applicant and Ms. Scott confirmed no free standing signs are proposed. Only one free standing sign per site is permitted and there is an existing free standing Cyr lumber sign in place. There is a display area which can be used for products by Cyr lumbar or any other tenant wishing to use the display area.

Ms. Scott reviewed the following items for the PB's consideration:

- Two waivers were requested, one to not have a landscape architect prepare the plans and one not to have a traffic study
- The application was reviewed by conservation committee last week and they did not have any questions or concerns about the plan as proposed.
- If the PB decided to do a conditional approval, outstanding items #1 through #6 listed in Ms. Scott's memo dated 7/7/15 require PB consideration.
- Mr. Keach's outstanding items that require PB consideration if there is a conditional approval are #1, 2, 4, 5, 6, 7, and #9 listed under planning and design.

Chairman Gosselin, referred to Mr. Keach's number 5 which refers to a waiver request from section 705.2.3 which was not requested.

Applicant submitted a request for two new waivers from the Site Plan Regulations from Section 704.2.1 and Section 705.2.3. Rational for requested waivers explained by applicant.

Ms. Scott clarified there are now 4 waiver requests for consideration.

The applicant provided an explanation for the waiver request (as submitted in the application) from sections 702.1.1 and 603.3.4.22.

Hearing opened for public commentary. No public commentary.

Ms. St. Laurent asked if there is lighting in the back of the building, and if there is access to the upper level of the building from the back. Applicant confirmed there is lighting to the back of the building and the sidewalk is at grade. The sidewalk is for emergency and employee access only, no public use.

Mr. Guttman asked where the dumpsters will be located.
Applicant highlighted on the map where the dumpsters will be located.

Chairman Gosselin asked the applicant where he anticipates snow dumps to address the additional parking
Applicant highlighted planned Snow storage on the map.

Motion by Ms. St. Laurent to grant waivers with regards to waivers for case # 2015-13 with justification as submitted by the applicant in consideration of 603.2.4.22 to have a licensed landscape architect to stamp the plans, motion to waive the requirement given that the landscaping is specified to match the existing site. For sections 702.1.1 motion to wave a traffic study given that there was not concern raised by the highway safety department as well as the fact that they will have to get consideration and approval by the DOT for the driveway permit and they will be considering that. Waiver granted from section 704.2.1 for a street tree strip along the front of the site due to the location of the drainage structures and the associated plantings. Waiver granted from section 705.2.3 for three feet of pipe cover as the applicant has specified a higher grade pipe to withstand the additional load of the more shallow covering on the pipe

Second by Mr. Toubia

Vote 5-0-0

Motion carries

Motion by Mr. Guttman to approve Case #2015-13 for Final Major Site Plan Application Lot 13-A-33 provided that the memo from Laura Scott dated July 7, 2015 conditions are met for items 1 through 6; and the memo from Mr. Keach date July 6, 2015 conditions are met for items 1, 2, 4, 6, 7, & 9 and presented back to staff for validation.

Second by Mr. Toubia

Vote 5-0-0

Motion carries

8:58pm 5 minute recess

Meeting resumed at 9:03pm

Case #2015-14 Preliminary/Final Major Site Plan Application & Major Cobbetts Pond and Canobie Lake Watershed Application

A Preliminary & Final Major Site Plan Application and Major Cobbetts Pond and Canobie Lake Watershed Application has been submitted for 55 Range Road (18-L-300) in the Professional, Business and Technology District, Cobbetts Pond and Canobie Lake Watershed Protection District. The applicant, Karl Dubay of The Dubay Group, on behalf of Duck Pond Realty Trust, is proposing to use the site for the stockpiling and processing of earthen material brought onto the site. No structures, paving, excavation, blasting, or WWPD/wetlands impacts are proposed. A waiver has been requested to skip the Preliminary Site Plan Application process. If the Waiver from Section 603 is not granted, this application will be heard as the Preliminary Major Site Plan.

Ms. Scott referred to her memo dated July 4, 2015. The code enforcement officer (Mr. Gregory) and Ms. Scott reviewed the application and deemed the application not to meet zoning therefore the recommendation is that the PB does not take jurisdiction of it as it does not meet zoning.

Chairman Gosselin asked for clarification of the recommendation for the PB not to take jurisdiction and wanted to know if it literally meant the PB should take no action.

Ms. Scott explained to not take jurisdiction meant that the PB should not accept the application as it does not meet zoning.

Ms. Scott emphasized the applicant was notified of the application not meeting zoning and aware of his options to appeal Ms. Scott's decision to the ZBA, apply for a variance, or change the application. The PB cannot override Ms. Scott and Mr. Gregory's determination that the application does not meet zoning. If the PB accepts the application they are accepting an application that has been deemed to not meet zoning.

Mr. Guttman recognized this is not the first time the plan has come before the PB and asked Ms. Scott why is the zoning assessment only occurring now.

Ms. Scott replied the first application was for a conceptual discussion this application is for site work. The prior conceptual discussion did not include abutter notification was a concept of a mixed use multitenant site. This application is for site work.

The PB discussed entertaining discussion from the applicant. Ms. Scott reiterated that two staff have made a zoning determination. Only the ZBA can overturn the decision. Ms. Scott clarified her role is to protect the PB and the town from procedural issues.

Mr. Oliver asked why the application was on the agenda for a hearing

Ms. Scott explained the applicant submitted an application. Ms. Scott informed the applicant the application does not meet zoning and his options to appeal the decision, apply for a variance, or change his application. The applicant chose to move forward with the hearing. Ms. Scott has to honor the submission and post it for a hearing.

Motion by Ms. St. Laurent to not accept the application submitted for 55 Range Road Lot 18-L-300 due to the fact that it does not meet zoning as submitted.

Ms. St. Laurent's commented on her motion that she understands the applicant's concept behind submitting the application to get a jump start however; Ms. St. Laurent can't see a way for the PB to hear something that doesn't meet zoning because the use as proposed does not meet zoning and as much as she would like to encourage economic development in town she is also reluctant to even somehow consider a jump because what if it stays processing of site materials for 10 years.

Second by Mr. Oliver

Applicant requested to ask two questions of the PB.

Chairman Gosselin acknowledged there is a motion and a second but he will entertain the applicant's question if it is brief and procedural; beyond that cannot be permitted as the PB is in the middle of deliberation.

The applicant wants to make sure the PB and the public know why the determination has been made that it doesn't meet zoning and wants to make sure 'it' is defined. The applicant expressed that he has no problem with the decision, it is his desire to work with the town.

Chairman Gosselin reviewed Mr. Gregory's memo addressing that stockpiling and processing earth and materials is not a permitted use in the Professional Business Technology district per section 614.2 of the Windham zoning and land use regulations.

The applicant requested that if the motion is to not accept the application, it is just the same as denying the application and he would prefer the PB denies the application. The applicant sees this as just a logistical issue and it will hang out forever. The applicant is requesting to deny the application without prejudice.

Ms. St. Laurent wants to add the wording to her motion to "not accept" because in order to deny, the PB would have to hear the case. If there was an appeal of staffs' decision and the PB was advised to hear the case without prejudice then the PB will hear the case. Ms. St. Laurent can't change her motion 'to deny' because to deny the PB would have to have heard the case.

Applicant would like the opportunity to have a conceptual discussion with the PB after there is a vote on the motion.

Motion restated by Ms. St. Laurent to not accept jurisdiction for application submitted for 55 Range Road Lot 18-L-300 Case # 2015-14 because it does not meet zoning as submitted.

Second Mr. Oliver

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Mr. Guttman asked if there will be any loss of existing fees based on this action to the applicant
Ms. Scott explained the fees will be held until the appeal period runs out. If applicant does not appeal fees will stand.

Vote 5-0-0

Motion carries

Chairman Gosselin polled the PB regarding the applicant's request for a dialogue/discussion with the PB.
Ms. St. Laurent is not confident about having a discussion due to the fact that the applicant is within the appeal period and the applicant can be viewed as a pending. Additionally, the case is not posted for the public as a conceptual discussion. Ms. St. Laurent encouraged the applicant to work with staff to get on the agenda for a conceptual discussion.

Mr. Guttman, agrees with Ms. St. Laurent.

Mr. Toubia, would like to listen to the applicant without providing feedback or asking questions of the applicant.

Mr. Oliver, would like to hear the applicant's update and take staff's advice not to provide feedback.

Chairman Gosselin will entertain 5 minutes of discussion from the applicant and advise the PB to refrain from commentary.

The applicant addressed the PB explaining to them they heard a discussion for Gateway Park which is a vibrant mixed used PBT at the 29 acres. The applicant is implementing design and the PB will see a design review package very quickly. The applicant intends to continue working with the lake associations. The applicant intends to including high tech treatment facilities, high tech septic systems, recharge systems; all the good things the PB talks about is being implemented on this project. The applicant was trying to have some material brought on site but won't talk about that; he will move forward with the design in a very positive fashion. The applicant and all involved in the project want to work positively with the town to deliver what we said we will deliver. The applicant will not comment on the decision made this evening because it will be taken up properly in a separate venue. The applicant wanted to say he found what happened this evening distressing and disturbing. The applicant intends to deliver a vibrant mixed use facility in the PBT masterplan fashion and he looks forward to working with the PB.

Administrative Review-Community Garden Freestanding Sign

Ms. Scott explained the PB is being asked for an administrative change for the approval to place a sign on the fence to allow the sign to remain free standing. The sign was designed and installed by a volunteer working with Ms. Scott. The sign was approved to be placed on the fence but it was put up as a free standing sign. The sign does meet zoning.

Motion by Mr. Guttman to approve the minor site change.

Second Mr. Toubia

Vote 5-0-0

Motion carries

Financial release for The Villages of Windham

Motion by Mr. Toubia to recommend to the Board of Selectman to release the \$22, 447.50 cash financial guarantee plus any accrued interest to Maurice Caruso of MJC development.

Second by Mr. Guttman

Vote 5-0-0

Motion carries

Motion to adjourn by Ms. St. Laurent

Second Mr. Oliver

Vote 5-0-0

Motion carries

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Adjournment 9:37pm

Minutes submitted by Suzanne Whiteford

Administrative Review – Community Garden Freestanding Sign

Financial Guarantee Release – The Villages of Windham

Motion to adjourn by

Second

Vote

Adjournment