



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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Planning Board Minutes

January 19, 2022

7:00 pm at Community Development Meeting Room
3 North Lowell Road

Attendance:

- Chair, Derek Monson, Excused
- Vice Chair Joe Bradley, Excused
- Jennean Mason, Present
- Jacob Cross, Present, via Zoom
- Matt Rounds, Present
- Alan Carpenter, Present
- Tom Earley (alternate), Seated for Chair Monson
- Dave Curto, (alternate), Excused
- Heath Partington, Board of Selectmen ex officio, Present
- Alexander Mello- Planner, Director, Community Development
- Christopher Sullivan- Assistant Community Development Director
- Renee Mallett- Minute Taker

The meeting opened at 7:00pm with the pledge of allegiance and the introduction of members.

Mr. Rounds motioned to have Mr. Cross join the meeting remotely. Mr. Partington seconded the motion. 6-0, the motion passed with the following roll-call vote:

- Ms. Mason, aye**
- Mr. Cross, aye**
- Mr. Rounds, aye**
- Mr. Carpenter, aye**
- Mr. Earley, aye**
- Mr. Partington, aye**

Ms. Mason motioned to continue Case 2021-49 (154 Rockingham Road) to February 16, 2022. Mr. Partington seconded for discussion, asking how many times this case would be continued. Mr. Mello said the letter asking for the continuance came from the applicant and specified that the delay was caused by Covid. Mr. Rounds suggested the applicant should resubmit the application when they were ready. At Mr. Carpenters suggestion Ms. Mason agreed to amend her motion to include communication to the applicant that if they could not make the Feb 19 meeting they would need to reapply at a later date. The motion passed, 6-0, with the following roll call vote:

- Ms. Mason, aye**

44 Mr. Cross, aye
45 Mr. Rounds, aye
46 Mr. Carpenter, aye
47 Mr. Earley, aye
48 Mr. Partington, aye
49

50 **Case 2021-61 – 1 Sharma Way (Parcel 18-L-300); Major Final Site Plan, Major**
51 **WPOD, and Design Review Regulations Application; Zone – Professional, Business,**
52 **and Technology District (PBT) and Watershed Protection Overlay District (WPOD)**
53

54 Mr. Mello reviewed the history of this application, which included TRC review and multiple
55 meetings with the Design Review Committee. Nineteen items are listed on the Keach-Nordstrom memo
56 attached to this project.

57 Karl Dubay, representing the applicant, shared his response to the nineteen outstanding items for
58 board review. A variance has been received for signage. Mr. Carpenter confirmed that the entire parking lot
59 was porous pavement. Mr. Earley said he supported the application but cautioned that did not mean that
60 he would support a similar expansion of the square footage of other buildings in the Gateway development.

61 Mr. Carpenter asked how the landscaping would differ from that seen at the other buildings in the
62 development. He was told that native mature trees and plantings will be used at the Rt. 111 side of the
63 building. Mr. Dubay reviewed the wetlands swale that has already been permitted and how it ties into the
64 larger drainage system in the Gateway development.

65 Mr. Partington asked about traffic issues on the site. Mr. Dubay showed the traffic flow and said
66 this use was more advantageous traffic wise than the originally proposed restaurant. Mr. Mello suggested
67 site signage to direct visitors to 93.
68

69 **Mr. Rounds made a motion to approve Case 2021-61 contingent on all items of the 1-15-22**
70 **Keach-Nordstrom memo being met to staff's satisfaction, that water be utilized from onsite, that the**
71 **loop road be completed, and that signage include directional signage directing traffic towards Building K**
72 **for Route 93 access, and that the landscaping be completed as per the presentation given on the 1-19-22**
73 **Planning Board meeting and noted on the landscape plan. Mr. Earley seconded the motion. Mr. Cross**
74 **raised concerns about the other Gateway projects coming back with major deviations from the original**
75 **concept. 6-0 the motion passed with the following roll-call vote:**

76 Ms. Mason, aye
77 Mr. Cross, aye
78 Mr. Rounds, aye
79 Mr. Carpenter, aye
80 Mr. Earley, aye
81 Mr. Partington, aye
82

83
84 **Mr. Rounds made a motion to approve the WPOD land development permit for Case 2021-61**
85 **contingent on the approval of the overall site plan. Mr. Earley seconded the motion. The motion passed**
86 **6-0, with the following roll-call vote:**

87 Ms. Mason, aye
88 Mr. Cross, aye
89 Mr. Rounds, aye
90 Mr. Carpenter, aye

91 Mr. Earley, aye
92 Mr. Partington, aye
93
94

95 **Case 2021-38 – 1 & 3 Sharma Way (Parcel 18-L-300); Conceptual Site Plan;**
96 **Zone – Professional Business and Technology District, Residence A District, and**
97 **Watershed Protection Overlay District (WPOD)**
98

99 Mr. Dubai representing the applicant in the conceptual site plan for an alternative concept for the
100 Master Plan for the Gateway Park development. Mr. Rounds said this case had been previously continued
101 as the board wanted to see the results of the parcel’s meeting with the ZBA before the Planning Board
102 offered feedback. Mr. Dubai confirmed that the applicant had not yet met with the ZBA but a meeting was
103 scheduled for the next month. Mr. Partington said conceptual plans were normally held before questions of
104 zoning were resolved. Mr. Rounds questioned the board spending time reviewing a plan that might be
105 immediately pulled once the applicant met with the ZBA. Mr. Earley said this parcel’s zoning had been
106 decided by the residents and he felt it usurped the will of the voters to try and change the zoning without it
107 returning to the ballot. Mr. Rounds agreed. Mr. Carpenter said Covid had changed the landscape of
108 commercial real estate and he thought there was always value in having a conversation. Mr. Earley said he
109 had no faith in his ability to give feedback on a very specific change in the plan when there was uncertainty
110 about use and the larger Master Plan. Mr. Carpenter said the application met the guidelines for a
111 conceptual application so the board would discuss the case. Mr. Rounds said he had no faith in the state
112 not to use comments made during the conceptual against the board or the town in the future.

113 Mr. Mello validated the points made, saying it did meet the guidelines for a conceptual discussion
114 and that it was also in pursuit in a change of zoning, of which the ZBA would be the ultimate authority.

115 Mr. Dubai shared further information about the conceptual plan. He said that the board was
116 focused on protecting existing neighborhoods and had proposed a series of warrant articles to that end.
117 Mr. Dubai said his team was being responsive to the feelings of the board with this conceptual plan. Mr.
118 Dubai described the concept as a transitional neighborhood that would increase buffers and protect the
119 lake while reducing traffic, pavement, and noise.

120 Mr. Dubai said it was very hard to get FDA approval for research and development based
121 commercial buildings without sewer hookup. He said the difficulties in leasing office space pre-dated Covid.
122 Mr. Dubai reviewed the statistics his company had compiled regarding student impact on the school
123 district related to two-bedroom condominiums. Mr. Earley said he had done similar research on 2600
124 square foot, two bedroom with a bonus-room condominiums and that at those sizes there was more
125 impact to the schools than was being reflected by Mr. Dubai’s calculations. He said the numbers shared by
126 Mr. Dubai better reflected the impact of units at half the square footage of these conceptual units. Mr.
127 Cross was also skeptical about Mr. Dubai’s contention that there would be minimal school district impact.
128 Mr. Cross restated his previously voiced opinion that this use was not allowed in the zone and that it would
129 not be allowed without an act of the voters. Mr. Dubai was concerned about the comments made by Mr.
130 Cross, as both a representative of the applicant and as a resident of the town. He said the town attorney
131 should meet with the board and review their legal obligations.

132 Ms. Mason said as one of the few board members without children it was exactly the type of
133 development that she would like to live in. She said she could imagine that it would not create a major
134 impact to the schools. She said she liked the plan. Mr. Rounds said his comments would be made under the
135 hypothetical situation that voters approved the change in zoning. He said residents had commented to him
136 that they would like more housing options for when they aged out of large single family homes and wanted
137 to stay in town. But he questioned if those residents would want to live in such large condos that Mr. Dubai

138 estimated would cost \$700k. Mr. Rounds thought the board would be more amicable to the plan if it
139 included some more modestly priced units that would count towards the town's need and obligation for
140 more workforce housing. Mr. Carpenter said his opinion leaned towards that of Ms. Mason but he agreed
141 that he thought the zoning needed to be decided by the voters.

142
143 **Mr. Rounds made a motion to close the conceptual discussion. Ms. Mason seconded the motion.**

144 **The motion passed, 6-0, with the following roll-call vote:**

145 **Ms. Mason, aye**

146 **Mr. Cross, aye**

147 **Mr. Rounds, aye**

148 **Mr. Carpenter, aye**

149 **Mr. Earley, aye**

150 **Mr. Partington, aye**

151

152

153 **Case 2021-55 – 155 Range Road (Parcel 22-R-1); Minor Final Subdivision and**
154 **WWPD Special Permit; Zone – Rural and WWPD**

155

156 Mr. Mello updated the board as to the current state of this parcel. Three professionals, including
157 the applicant's experts and town employees, have all agreed that the drainage issues have been caused by
158 beaver activity at a nearby culvert. Mr. Maynard representing this application, said that Nancy Rendell, a
159 wetlands scientist, had reviewed the parcel at the request of the Conservation Commission and identified
160 another instance of wetlands on the property.

161 Mr. Maynard addressed the items in the Keach-Nordstrom memo. Ms. Rendell has reviewed the
162 history of the Porcupine Brook wetlands system. Her research shows drastic changes to the wetlands over
163 the thirty-year period when several abutting developments were built.

164 Mr. Cross confirmed that the applicant was no longer asking for a waiver regarding the marking of
165 trees twelve inches or greater. Mr. Cross asked about a letter previously received from an abutter that
166 maintained that trees had been clear cut up to the lot line and which requested trees be planted. Mr.
167 Maynard the cutting did not go to the lot line and showed how the vegetated buffer to that abutter had
168 been increased and would be marked not to be cut.

169 Mr. Carpenter confirmed that Mr. Maynard was confident that development of this property would
170 not increase drainage to the undersized culvert on an abutter's property. Mr. Maynard said there would be
171 a reduction in drainage and that the research of Ms. Rendell shows this property contributed only 1% of the
172 drainage to the wetlands system.

173 Trail access was an item of concern for Mr. Carpenter. He would like to see the applicant approach
174 DoT and ask for a small curb cut in order to create a two car pull off area so residents could access the
175 trails. Mr. Cross reviewed the GIS map to look for trail heads in the area. He said Mr. Curto should be
176 consulted. Mr. Carpenter said that comments from Mr. Curto regarding the trail access was included in the
177 TRC comments.

178

179 **Mr. Partington made a motion to approve the WWPD special permit contingent on the approval**
180 **of the overall subdivision and site plan. Mr. Rounds seconded the motion. The motion passed, 6-0, with**
181 **the following roll-call vote:**

182 **Ms. Mason, aye**

183 **Mr. Cross, aye**

184 **Mr. Rounds, aye**

185 Mr. Carpenter, aye
186 Mr. Earley, aye
187 Mr. Partington, aye

188
189

190 Mr. Partington made a motion to approve Case 2021-55 minor final subdivision with the
191 condition that all items of the 1-14-22 Keach-Nordstrom memo be met to staff's satisfaction. Mr. Rounds
192 seconded the motion. Mr. Earley said TRC comments from Conservation asked for a small parking lot for
193 trail access and also that native plantings be used to supplement buffers to abutters. Mr. Sullivan said the
194 plants listed by the Conservation Commission were wetlands buffering plants. Mr. Carpenter suggested a
195 landscape plan be submitted for review by the CDD. Mr. Partington thought it was too open ended for
196 him to agree to amend his motion. Mr. Partington did agree to amend his motion to reflect that the
197 applicant would approach DoT to create the two-car pull off as previously suggested by Mr. Carpenter.
198 The motion passed, 6-0, with the following roll-call vote:

199 Ms. Mason, aye
200 Mr. Cross, aye
201 Mr. Rounds, aye
202 Mr. Carpenter, aye
203 Mr. Earley, aye
204 Mr. Partington, aye

205
206

207 **Case 2021-46 – 86 Rockingham Road (Parcel 8-B-500); Major Final Site Plan**
208 **and WWPD Special Permit; Zone – Residence District B, WWPD, and Rt. 28 Access**
209 **Management Overlay District**

210

211 Mr. Dubay representing this application to develop a sixty-eight-unit duplex style development. Mr.
212 Keach has reviewed the application and Mr. Dubay supplied the board with a response the items raised in
213 that memo. Since last seen by the board the road has been widened to 24 feet and parking for the
214 clubhouse has been removed from the street. The platform grade waiver previously requested is no longer
215 needed.

216 The applicant, Mr. Vitale, showed renderings of the buildings. No new comments have been
217 received from TRC. Mr. Rounds said he would like to see less encroachment into the WWPD other than that
218 needed for access. Mr. Rounds had concerns about the length of the road and the single point of egress. He
219 would like to hear confirmation from fire and safety regarding the changes that have been made. Mr. Mello
220 said Mr. Dubays changes to the plan were responding directly to Deputy Chief Saulnier's concerns but that
221 the recent changes had not been reviewed or commented on directly.

222 Mr. Earley confirmed that outside of road length that the plan met zoning. Trail access was
223 discussed. The applicant is agreeable to easements allowing access to the trails and promoting
224 interconnectivity. Mr. Earley asked about a similar parking area or pull off for trail access as had been
225 required for the previous case. Mr. Dubay said this was a high-end development and his client was not
226 interested in adding a gravel pull off that would encourage non-neighborhood use of the development. Mr.
227 Carpenter agreed that this development did not have the same kind of easily placed space for that kind of
228 parking lot.

229 Mr. Cross asked if the road was 3400 feet. Mr. Dubay said it could depending on how it was
230 measured but that number was around right. Mr. Cross asked for more information about an easement to

231 an adjacent parcel. Mr. Dubay said the easement was made to give more options for possible future
232 development of abutting town owned properties.

233 Mr. Cross said the subdivision regulations allowed only up to a 2400 length road if it met a series of
234 conditions. Mr. Cross said the plan did not meet the conditions and that the regulations specifically kept the
235 Planning Board from being able to approve the plan. Mr. Carpenter said the subdivision regulations were
236 not an ordinance and that the Planning Board had the authority to waive them.

237 Mr. Carpenter said road length would normally be measured from Rt. 28 to the intersection where
238 the plan showed a looped road. He said it was not the entire length of the road but that it was the single
239 point of access. Mr. Dubay said that length was 2000 feet. Mr. Cross disputed this and said the regulation
240 was written very clearly. Mr. Carpenter agreed it was written very clearly but that Mr. Cross's interpretation
241 of what was written was what was confused. Mr. Dubay said the road was configured this way in order to
242 preserve the open space woodland behind the development.

243 Mr. Cross did not accept the possibility that fire and safety were agreeable to the road. He said he
244 would not vote in favor of the plan. Mr. Carpenter said he would like the applicant to work with
245 Conservation to ease access to the open space land.

246 Mr. Dubay indicated on page 32 where the wetlands buffer would be signed. Board members
247 reviewed the items they would like to see the applicant come back with at the next meeting, which
248 included definitive comments from the fire department regarding length and width of the road, and
249 updated comments from the Conservation Committee. Mr. Carpenter said any approval would be
250 conditioned on an agreement with Salem regarding tying into the waterline. Mr. Rounds said he would like
251 confirmation that the road distance from the intersection with 28 to the intersection of the loop road was
252 around 2000 feet.

253 Mr. Cross said he thought Chair Monson should be consulted about meeting with the fire
254 department to clear up the fundamental confusion some board members seemed to have about their
255 feelings about public safety. Mr. Cross said he would vote against the case if it was one foot beyond 1200
256 feet unless connectivity was added.

257
258 **Mr. Carpenter opened and closed the session to public comment**

259
260 **Mr. Rounds made a motion to continue Case 2021-46 to Feb 2 at 7:00pm. Ms. Mason seconded**
261 **the motion. The motion passed, 6-0, with the following roll-call vote:**

262 **Ms. Mason, aye**
263 **Mr. Cross, aye**
264 **Mr. Rounds, aye**
265 **Mr. Carpenter, aye**
266 **Mr. Earley, aye**
267 **Mr. Partington, aye**

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272 **New/Old Business**

273
274 Mr. Partington said 5 Bissel Camp Road was on the agenda at the ZBA for an appeal of the Planning
275 Board decision. Mr. Mello did not think the ZBA had jurisdiction.
276

277 Mr. Mello said the fire department was concerned with intermediate turn arounds more than road
278 lengths. He confirmed the department would reach out to the fire department to get their comments but
279 that the changes that were made had been made in direct response to fire feedback.
280

281 Mr. Mello said Attorney Campbell had ruled that some of the changes made to the warrant articles
282 were significant enough that they needed to go back to public hearing.
283

284 **Mr. Rounds made a motion to adjourn the meeting 10:33pm. Ms. Mason seconded the motion.**

285 **The motion passed, 6-0, with the following roll-call vote:**

286 **Ms. Mason, aye**

287 **Mr. Cross, aye**

288 **Mr. Rounds, aye**

289 **Mr. Carpenter, aye**

290 **Mr. Earley, aye**

291 **Mr. Partington, aye**

292

293