

Planning Board Meeting
April 23, 2009 - 7:00 PM
Land Use Office, Town Administration Building
Joint meeting with Conservation Commission
Draft Copy

Members present: Chairman John Huckins
Selectwoman Jackie Kessler
Edward Lemos
David Mott
Michael Clark
David Vincent
Alan Kelley (Alt)
Dawn Hatch (Alt)

Conservation Commission members present:
Chairman Douglas Hatch Jr.
John Wallace
Michael Hastings

Multi-Density Zoning

Huckins said the Commission had expressed an interest in exploring the possibility of transfer of development rights a year or so ago. He said last year we had so many things going that the Board did not have sufficient time to put something together. Huckins said that was why we thought that getting together early in the year would be a good idea to swap ideas.

Huckins explained how transfer of development rights work. He said that development rights could be transferred from one site to another selling them from one property to be added to another. Huckins said this allows a community to direct where and at what density development could be done.

Huckins said there were sending and receiving zones. He said real estate sales affect the sale and transfer credits of sites. He said some people would say we were trying to push development in one area. He said we would need to educate people so they would know how it works. Huckins said there were many issues that would need to be studied and addressed.

Wallace said that he thought that the idea had been a disaster in Dover. Hatch Jr. said the information stated that the poorly designed rate was 70%. Huckins said that we would need to make people aware of what we were trying to preserve. Mott said that the Town Center had been designed as a use to preserve areas. Huckins said there would be no incentive in the Town Center for this type of development as the lots could not be made smaller.

Wallace said the Dover development had been industrial – commercial. Mott said he thought that it would be a good idea to explore the concept. He said it could be a

challenge for Barrington's infrastructure. Vincent said we could explore industrial / commercial and use this for banking. Huckins said that we needed to give added density.

Mott said that these were new ideas and the concept should be supported by the Master Plan to encourage saving land in some locations and in other areas commercial development. Huckins said the Commission would work with the rights of development. Wallace said that we would need to distinguish what should be prioritizing and what should be saved, water, wildlife habitat, or farm land.

Huckins said this was a great time to discuss this concept as there was time available. He said we had met with the Commission and Cynthia Copeland, Strafford Regional Planning Commission 2 years ago. He said we could start now to consider the change for 2010. Huckins said the Master Plan supported this concept. He read from Chapter 4 of the Plan and RSA 674.41. Huckins said the Master Plan was done in 2004 with the technical update completed in 2002.

Wallace asked if we would identify receivers, would this be in the Town Center. Hatch Jr. said the document stated that any district that had the right could do the concept.

Huckins said that in fill developments were areas that had established supportive infrastructure already in place. The plan would support density in some areas and open space in others. Wallace said the Commission could work on selecting and get back to the Board. Mott said land with open space could be purchased and small lots created. Huckins said that no additional density could be given in the Town Center. Mott said something would need to be received if the developer was giving something.

Hastings said 70% of all agricultural land would be gone in the near future we might need to protect what was left. He said there was a need for ground water protection also. He said any list for areas to be protected created by the Commission should be flexible.

Mott said that the Natural Resources Inventory could be used as a tool. Wallace said the Selectmen should be involved to get their ideas on what to protect. He said the document should be kept general. Lemos said farm land was important to save as once it was gone it could never be replaced. Wallace said there would be no way to make the preserved land used for farming.

Huckins gave an example of an area farm. He said Scruton's Dairy kept the fields mowed to preserve the prime soils. Wallace said this type of soil should be kept from development. Huckins said he served on the Cooperative Extension Board and farmers could not afford to buy so they lease easements for farming. Hatch Jr. said this use could be written in to easement language.

Hatch Jr. said that the surrounding communities were looking for water supplies. He said both Rochester and Dover were working hard looking for new water sources so it was important that the Town protect our water resources for the future as potential areas to use for community water.

Hastings said that as human conditions change so do needs. He said 5 years ago land protection was a top priority, now with the economy what it was we are using funds intended for easement and land purchases to pay down the bonds. Huckins said there would need to be a separate fund for the purchase of easement lands in this program. Wallace said there was a separate account for easement monitoring in the Conservation Fund now and probably a new one would need to be added if this program was adopted.

Wallace said it would be part of the Fund. Hatch Jr. said it should have a separate line item to keep the fund separately. Vincent said if the money was not used for this purpose the developer could demand his money back. He asked if there were any time limits. Huckins said no.

Huckins said there were several ways to develop the properties. He said a lot of people wanted to be compensated for their land. Mott said we should investigate commercial and industrial development in Dover. Hatch Jr. said Dover had an infrastructure. Mott said there should be leverage so that the infrastructure would be paid by the developer. Huckins said that the Town had no responsibility to build the infrastructure.

Lemos said the Town Center would be developed if the economy was better. Vincent said we had already done the density allowances in the Town Center. Vincent said he did not see banking as an incentive if there was a need to do the infrastructure. Wallace said only residential development would involve the Commission.

Huckins said that there would need to be a formula for how much to charge. He said the philosophy of thinking would change. Vincent asked about including work force housing. Huckins said that the work force housing could not be used as the density was maxed out.

Vincent said we needed to think about what we were considering so we could educate people on what we might do. Wallace said we could try to get grants to send out informational flyers. Mott said we needed to educate the voters.

Huckins asked if we all wanted to explore this further or drop it now. Mott said we might want to look at something that was more important at this time. Vincent asked what happen if the Commission had no funds. Both Hatch Jr. and Wallace said that the purchase and sales agreement could be set up to pay down the road. Huckins said the raw cost of lots would have value. He said that the survey would create lots.

Wallace said we should identify the sensitive areas and keep this on state roads. Hatch Jr. said people could think that their land was not valuable. Huckins said that the lots along the state roads were more valuable. Vincent said that in some cases density with an addition of 5 lots, for example would not make or break the Town.

Wallace said we could channel areas for receiver lots. Mott said that this could add value to the entire town. Huckins said smaller lots meant smaller houses. Wallace said that the Commission would not care if a development was concentrated. He said it was the Planning Board that would have to give this thought. Huckins said this type of development would create open space without costing the Town money.

Mott said this could be a double edged sword. Huckins said if there was a need for 40 houses or 10 they would be built. He said we would get development one way or another. Mott said we should look at water ways to preserve. Wallace said the Isinglass River was the most desirable stream to preserve.

Vincent asked about conservation subdivisions and multi-density. Huckins said one might be able to put in extra lots. Mott said conservation subdivisions only allow a 10% additional density. Vincent said it could become 20% if you were buying density.

Huckins said that if a conventional lot required 3 acres because of lot conditions it would be worth putting houses on 1 acre to protect 3. He said the incentive would be increased by buying land. All agreed that conservation subdivisions should not be included.

Hastings spoke on development in Europe. He said it had turned a diverse curve. He said land was used that was not owned by the individual. It was leased from the government. Hastings said that density came naturally, it was the natural progression. He said that Europe had centralized development which could be seen from the sky. Hatch Jr. said this was the same in the Western part of this country. Hastings said 100 years from now things would change drastically. He said 80% of the land was deforested.

Hatch Jr. said he thought that the entire town should be included in multi-density development. Vincent said it could be lot for lot with the whole town open as receiver lots and senders. Wallace said the Natural Resources Inventory could be used to locate sending areas. Huckins said that the Natural Resources Inventory should not be the only document used to designate these areas. Huckins said we should check with Attorney Whitelaw on this item.

Lemos said that it worked in Florida and was used as mitigation. Huckins said items could be addressed through conditional permits. Mott said that we could schedule a second joint meeting. Huckins said this could be after we had met with Copeland. A second meeting could be scheduled in 2 months.

Kelley said we should not buy all the valuable property to eliminate development. He said this concept would be nice to offer but we needed more details. Kessler said it was very confusing and we needed to look deeper into it. Mott said it would be worthwhile to pursue. Lemos said it needed more work, Huckins agreed. Vincent also said more work was needed before it was presented to anyone. He said that we needed to understand the document ourselves before we tried to educate others.

Hastings said we needed more information so we could learn from others mistakes. Hatch Jr. said he could support it if it could be used for high valued land. Wallace said we needed to know the areas to protect and what the actual density would be. The members would get back together to further discuss this item after we had met with Cynthia Copeland.

Clark said it needed more study. Kessler said it would be a huge amount on our plates. Hatch Jr. said there was less on our plates at this time. Lemos said we should look at the success rate of other communities. Huckins said we were meeting with Cynthia Copeland on May 14 and could discuss this with her. Huckins thanked the Conservation Commission members for coming.

Wallace – Planning Board work on possible changes in the conservation subdivision

Huckins said that the Town has the right to enforce the conditions on an easement even if they did not own it. He said if the Town does not support taking an easement then they should not support creating one. Wallace said the Town had the right to require open space. He said easements were monitored each year but open space was not.

Mott said we required one half of the land in a cluster to be open space and what we were saying was that the applicant must find a holder. Wallace said that he would like to require that all open space in a cluster become an easement. The Commission would review the parcel.

Hatch Jr. said if the Town pushed for an easement then it should accept it. Wallace said he thought that the primary purpose of a conservation subdivision should be

the protection of valuable lands. He said this should be written in to preamble of the Zoning Ordinance.

Landry conservation easement – home owner’s agreement

Mott said Landry was trying to find a monitor for their open space. He said unless we move we could lose the Landry possible easement. He said it was a large piece of open space. Hatch Jr. said even though Strafford Rivers Conservancy was not interested in accepting the easement it had value to the Town. He said Strafford Rivers might not have an interest in Barrington but we do as the open space would protect land abutting Nippo Lake, Hale Bog, and upland soils. Wallace said that it was not mandatory to accept an easement. Mott said we must step up to the plate and let the applicant know that the Town would take the easement. Hatch Jr. said if it met the regulations we needed to accept it.

Wallace said the open space should be reconfigured so it was not fragmented. Hatch Jr. said we could take the outlying surrounding land and let the land around the houses go to a deed restriction. He said the Town should not be the first option a third party should be the first consideration but if one was not found then the applicant should come back before the Commission. Huckins said that RSA 674-21A said a conservation easement was mandatory. Wallace said that he would want the Town’s Attorney to look at this before he would be convinced.

Wallace said an easement was very specific and protected in perpetuity. Deed restriction could be changed. Mott said the restriction would state what was allowed and what was not. Hatch Jr. said the easement offered the greatest protection and was preferable over a restriction. Wallace said in an easement a site was reviewed through monitoring it each year. He said if violations occurred on the easement there were types of enforcement that could be done.

Camp Fireside – Water Resources

Wallace said that the Camp Fireside land had received approval from the Water Resources for purchase of the land. He said this did not include the land used for the Camp. Wallace said all prices were based on appraisals. Mott said that a poor economy drove land protection. Wallace said the Stonehouse Pond issue needed to be resolved.

Wallace said that easements cost less than the full value of the land. Hatch Jr. said the Multi-Density Zoning could be another way to raise funds from the sending lands. Huckins said if this proposed we would need to hold extra meeting to educate voters town-wide. Mott said the sending areas would protect the receiver lots developed. Hatch Jr. said we would need to identify the sensitive areas to preserve.

Membership

Hatch Jr. said the Commission had written a memo of support for the renewing the alternate membership of Glenn Gould, Ron Allard, Peter Sandin, and David Mott. He said these men have served and made contributions to the work of the Commission.

Hatch Jr. said Mott served as an alternate on the Commission and a full member on the Planning Board which let both know what the other was doing. Huckins said the

Planning Board also supported Mott remaining a member of the Commission as he reports back to the Board about issues that affect it.

Kessler said her concern was that there could be a conflict of interest to serve on both Boards. Hatch Jr. said he serves on both the Commission and the Zoning Board and found no conflict. Hatch said that Kessler serves on the Selectmen's and Planning Board without a conflict. Lemos made a motion to support Mott serving as a member for the Planning Board and the Commission, seconded by Clark, all in favor. A memo will be sent to the Selectmen.

Steve & Ellen Conklin – Gerrior Subdivision

Chairman Huckins said that Sheryl brought home a copy of the email from Attorney Jae Whitelaw sent December 6, 2008 which addressed in writing what had been discussed in October. Copies of the email were given to the members on December 18, 2008 as we had had an ice storm on December 11 so no meeting was held.

Huckins said we had discussed Conklin's letter and packet of information on October 16 and October 23. Hatch had been asked to contact David Price, Department of Environmental Services concerning wetland violations. Huckins said we should also contact Attorney Jae Whitelaw for her legal opinion of this matter. A copy of all the material and letter were sent to Whitelaw.

Huckins said that Whitelaw said that the Planning Board could revoke the subdivision if it did not comply with the conditions of approval. He said that she said that the Planning Board could use its own discretion whether it wanted to revoke the development or not. Whitelaw said if we wanted to pursue revocation she would put the letter together.

Hatch said that she had called David Price who said that an Administration Order was in progress that would be served on the applicants. She said Price said it had to go through several procedures before it would be activated. The Administrative was dated April 17, 2009.

Huckins and the members decided with the cease and desist and an Administrative Order the subdivider would no be able to sell lots or receive building permits until all violations were corrected and inspected. The Board thought that we could try to work with the applicant and get the issues corrected without costing the Town a great deal of money. The Board asked Whitelaw to send us an email stating what she had talked with them about concerning Conklin and the Gerrior subdivision.

When we met with Steve and Ellen Conklin on April 16, 2009 we all agreed that we should try to correct the situation. We are requesting that Peter Daigle meet with the Board first to see if we can work toward getting the violations corrected and putting a bond in place for the work that needed to be done in the Barrington section and a maintenance bond held by Barrington.

Huckins asked Hatch to contact Attorney Whitelaw to refresh our memory of the advise she have us and if anything might have changed in regards to this procedure. Huckins said to revoke without trying to get the issues addressed first would serve no purpose. He said we should try to get the applicant to come before the Board first and if this was not successful we could start the hearing process. Huckins said both Board and the Conklin's wanted to see the subdivision problems fixed without a large expense to the Town.

The Board voted to send Peter Daigle a letter asking him to come in for a conference with regards to the status of the subdivision and what was being done to correct the problems. If this does not work the Board could consider holding a hearing as discussed with the Conklin's on April 16.

John Wallace, Conservation Commission said he wondered how this would affect the conservation easement on the site. This question will be asked of the Town's Attorney. Lemos made a motion to send a letter to Peter Daigle asking him to come before the Board for a discussion the status of the subdivision. Hatch will write a letter to Daigle for the Board.

Hatch said that she gives each member emails, faxes, minutes, or letters come in the office at their meeting after they are received. She has always made a point to make sure the members of each Board or Commission she works with is informed of what was going or received. Minutes are available for review but everyone did not receive a copy of them individually to save paper. They can be read and passed on to another member. Copies of the discussions held last October on the Gerrior subdivision are attached to these minutes.

Capital Improvement Program

Clark said that he was working on the CIP. He said he would be contacting the department heads for their input. The impact fees for roads would need information from Peter Cook. Clark said that the high school building plan was set for 2014. Huckins said that would give impact fees 6 years in and 6 years out.

The Board voted to not meet on April 30 as it was the 5th Thursday in the month. The next meeting will be held on May 7 with subdividers and site review applicants.

Dawn Hatch, Clerk