

LONDONDERRY, NH PLANNING BOARD
MINUTES OF THE MEETING OF MARCH 13, 2019 AT THE MOOSE HILL
COUNCIL CHAMBERS

I. CALL TO ORDER

Members Present: Art Rugg, Chair; Mary Wing Soares, Vice Chair; Rick Brideau, Ex-Officio – Town Employee; Al Sypek, member; Ted Combes, Town Council Ex-Officio; Jake Butler, member; Ann Chiampa (alternate member); Roger Fillio (alternate member) and Peter Commerford (alternate member)

Also Present: Colleen Mailloux, Town Planner; Laura Gandia, Associate Planner and Beth Morrison, Recording Secretary

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance. He appointed A. Chiampa to vote for C. Davies and P. Commerford to vote for S. Benson.

II. ADMINISTRATIVE BOARD WORK

- A. APPROVAL OF MINUTES: N/A
- B. REGIONAL IMPACT DETERMINATIONS: N/A
- C. DISCUSSIONS WITH TOWN STAFF:

Member A. Sypek informed the Board that the Pool Committee had its final meeting last night and they are recommending a recreational complex with a public and private partnership, as well as for the Town Council to gauge the public's interest in this kind of a project.

III. Old Business/Continued Plans- N/A

IV. Continued Plans:

- A. Application for formal review of a site plan to redevelop the existing automotive use, removal of the existing building and construction of a 20,950 SF two-story automotive service building and associated site improvements including site access and parking, 33 Nashua Road, Map 7, Lot 073 3, Map 7 Lot 073 6, Map 7 Lot 073 9, Map 7 Lot 073 10, Zoned C-I & C-II, Five M's Real Estate Holdings, LLC, Five M's Office Properties Holdings, LLC And Five M's Autobody Holdings, LLC (Owners) and Ford of Londonderry (Applicant) – continued from the February 6, 2019 meeting

Chairman Rugg read the case into record noting that this was continued from February 6, 2019 and the applicant has requested to be continued until April 10, 2019.

M. Soares made a motion to continue the application for formal review of a site plan to redevelop the existing automotive use, removal of the existing building and construction of a 20,950 SF two-story automotive service building and associated site improvements including site access and parking, 33 Nashua Road, Map 7, Lot 073 3, Map 7 Lot 073 6, Map 7 Lot 073 9, Map 7 Lot 073 10, Zoned C-I & C-II, Five M's Real Estate Holdings, LLC, Five M's Office Properties Holdings, LLC And Five M's Autobody Holdings, LLC (Owners) and Ford of Londonderry (Applicant) until April 10, 2019.

T. Combes seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.

Chairman Rugg informed the public that this will be the only notice given for the continuation of the case.

V. Other

A. Information session on the proposed Commercial Performance Zoning amendments

Town Planner Mailloux informed the public that the Board has been discussing for the better part of a year now. She said that tonight's meeting is to get ideas from the public and land owners that are affected by this. She thanked the public for coming out and said that she expects many questions tonight, some of which she may be able to answer and some that she may have to do more research and get back to them. She started by reviewing the existing zoning in town noting that there are different levels of commercial zoning. She said that the most intense form of commercial zoning currently is allowed in the C-II zone along the Route 28 corridor and along Route 102. She said the next level of commercial zoning is currently in the C-1 zone noting this zone has more restrictions than C-II now. She pointed out that in addition to the C-I and C-II zones, there are the Route 28 and Route 102 Performance Overlay District (POD), with another layer of standards that are in addition to the commercial zoning. She noted that the POD zoning was adopted by the Town in the early 2000's. Chairman Rugg commented that the POD zone was meant to be temporary. Town Planner Mailloux stated that she thinks the administration and the effect of the POD zones have been unduly complicated for property owners. She said the intent of the POD zones was to have performance standards, such as with architecting and landscaping, to meet a high standard of the town of Londonderry. She informed the public that the current draft plan is to eliminate the POD's and to merge the C-I and C-II zones into a new Commercial Performance Zone (CP). She explained that there is a draft of this language for the changes in zoning that is on the town's website. She said she has received phone calls from residential property owners that are located in within a commercial district, citing the Hickory Woods development, Bachman Park and Wyndemere Condominiums. She said most importantly if you have an existing residential property and happen to be in a commercial zone, there will be no change to your

property. She noted that any new development to such a site would be held to the new standards. She said that the authority of the new CP zone will rest with the Planning Board, not the Zoning Board of Adjustment (ZBA). She said that she felt this new change allowed the town to have a centralized location for site plan review and site design. She said that she felt the change in zoning was creating more stringent guidelines for developers to develop property in town. She stated that commercial development is important for a town for the tax base, as it off-sets residential taxes, but has to be done right to respect the character of a community. She concluded by encouraging residents to email or call her regarding their specific properties after the meeting.

Chairman Rugg opened it to the public.

William Tate, 100 Island Pond Road, Manchester, - owns property at 267 and 271 Nashua Road, addressed the Board. W. Tate said that he has worked on the Hudson Planning Board and has concerns regarding the language regarding 200 feet away from a residential zone. Town Planner Mailloux stated that if there is any building, pavement or parking lot, etc., within 200 feet of a residential zone, there needs to be a 50 foot buffer. She said in the current POD zone the buffer needs to be 75 feet buffer and stated the draft language for the new zoning has a 75 foot buffer. W. Tate said that his concern is that sometimes there is nothing but wetlands, which is unusable land, and referenced the Avery Estates land. He said that he felt if the property was surrounded by 200 feet of wetlands, why do you need another 75 feet of buffer. He said that most of the frontage on Route 102 is wetlands or mostly forested land and wanted the Board to be aware of this.

Robert Medeiros, 37 Quarry Road, addressed the Board. R. Medeiros said that there is sizable land along the Route 102 corridor and would encourage the Board to extend the buffer between residential and commercial from 50 feet to 100 feet, as he feels 100 feet is not that long of a distance.

Joseph Troisi, 32 Wyndemere Drive, addressed the Board. J. Troisi said that he felt there was already a lot of commercial development in town already and there has been no decrease in the taxes. He reviewed current property, such as Home Depot, La Carretta, etc., with Town Planner Mailloux.

Stephen Trefethen, 516 Mammoth Road, addressed the Board. S. Trefethen said that he recently purchased this property and did so because it was C-II property and not C-I property. He said that he was not sure if some uses should be taken away from the ZBA, as they are a quasi-judicial and can say no. He said that the Planning Board will be approving uses by conditional use only and the Planning Board is not a judicial board.

Nancy Shearer, 12 Tavern Hill Road, addressed the Board. N. Shearer said that she is concerned about Route 102 and what could be developed there, as she feels it will impact her property value.

Barbara Finamore, Four Young Road, addressed the Board. B. Finamore asked Town Planner Mailloux for more clarification on why the rezoning process started. She said that she feels the rezoning goes far beyond the issue that Town Planner Mailloux stated in the beginning. Town Planner Mailloux said the town wants to eliminate the POD's, but keep the performance standards that are there now. She

said that if the town was just to eliminate the POD's then there would still be unintended consequences from removing the standards, specifically noting the Hickory Woods development. B. Finamore said in her opinion, she thought the proposal goes far beyond just landscaping standards. She said the letter from the Planning Department states they will allow more flexibility in uses, which would allow C-II uses to be developed anywhere in town instead of being restricted in the current zoning. Town Planner Mailloux said that C-II uses would be permitted by a Conditional Use Permit (CUP) where the applicant can demonstrate to the Planning Board that it meets the criteria of the CUP. She gave an example of a property on Route 28 where it is currently zoned, C-I, C-II, with the POD and residential, noting that it seems like little reason as to why one parcel is C-I and the property next to it is C-II. B. Finamore said that she felt this new language allows for too much flexibility without any restrictions.

Steve Young, Four Young Road, addressed the Board. S. Young said that he talked to Town Planner Mailloux on the phone already about his land, as his family has been in Londonderry since the 1750's on Young Road. He said his grandfather bought the property back in the 60's, when the highway was put in, and it was specifically to buffer his house from development. He said his concern was not to be pressured into developing this land, as it is C-I, and keep it as a buffer from his property.

John Carroll, 10 Mercury Drive, addressed the Board. J. Carroll said that in other states if a piece of property is zoned commercial and the property owner chooses to leave it undeveloped, the property is then taxed differently because it is undeveloped. Chairman Rugg noted that the town allows the property owner to put the land into Current Use and this reduces the tax burden. R. Brideau mentioned that S. Young's property is in Current Use right now and it will not come out of Current Use with this new zoning change.

Barbara Finamore, Four Young Road, addressed the Board again. B. Finamore commented that she thought C-I and C-II should remain separate and incorporating the performance overlays into those designations rather than combining C-I and C-II. She asked what performance overlay criteria would be moved over to the new zoning changes. Town Planner Mailloux noted that language is still a preliminary draft that is being worked on and she would need to research it and get back to her. B. Finamore suggested a table perhaps that would compare the old versus the new. Town Planner Mailloux agreed.

Laurie Blanchette, General Manager Reeds Ferry, Three Tracy Lane, addressed the Board. L. Blanchette asked if there was a time frame for the implementation of the new zoning changes. Chairman Rugg said there is no time frame, the Board just wants to get it right. L. Blanchette said that from a business standpoint being able to combine the zoning and planning into one meeting is a plus. She asked if the projects they currently have would be grandfathered in. Town Planner Mailloux said they would. L. Blanchette asked if they made changes to their property in the future would only the portion of the site they are changing apply to the new standards. Town Planner Mailloux said that is correct.

William Tate, 100 Island Road, addressed the Board again. W. Tate said that he thought the current regulations on landscaping were more than adequate. He

commented that a town needs development to keep up with growth and the cost to send a child to school. He said he thinks the town is doing a great job at this.

Brian Wells, Eight Quarry Road, addressed the Board. B. Wells said his concern is what kind of development could move in next to him, as combining C-I and C-II allows more options. He thought there would be things that people would find objectionable to move next door to their residential property. He asked if the Board would have control over what would get approved with the new CP zone. Chairman Rugg said that if it will be zoned CP, but it is a C-II use, then the developer would need a CUP for a waiver. He said that the Board is not particularly comfortable with this idea and wanted to hear how the residents felt on this topic. Town Planner Mailloux reviewed the CUP protocol with the public. B. Wells said that he thought this was a good idea.

Doug Tisdell, 35 Shasta Drive, addressed the Board. D. Tisdell said that he feels that one size never fits all, especially with zoning. He asked why not rezone the POD specific properties rather than the one size zoning. He asked if the new landscaping criteria would apply if a current property owner wanted to add on to the backside of their property. Town Planner Mailloux said that it would. D. Tisdell said this would drastically increase expenditures and he thought that was not appropriate. Town Planner Mailloux noted that this is where the developer would be coming before the Planning Board and possibly asking for a waiver to those standards.

Stephen Trefethen, 516 Mammoth Road, addressed the Board again. S. Trefethen said he felt that he thought the new zoning was too broad. He commented that he thought the zones should be left alone and eliminate the POD. He said that he did not think the Planning Board could say no to a waiver request if a developer met all the criteria for a CUP and this could lead to court.

Ken Goduti, 30 Rockingham Road, addressed the Board. K. Goduti said that the town rarely does things arbitrarily and asked how the zoning was originally designed. Chairman Rugg said that the zoning was adopted by Londonderry in 1963, and has been like that ever since. He said that most zoning is split into residential, commercial and industrial zones. K. Goduti said that the 33% for green space would greatly affect his property and he thought the Board should be careful on picking a number for this.

Christopher Mason, Five Ash Street, addressed the Board. C. Mason commented that his property is a C-II property, which would be changed to the CP zone where he would now need to come before the Planning Board for a CUP, and did not think his property should be changed. He said that he bought the property specifically because it was C-II and now he feels as if some rights are being taken away. Town Planner Mailloux said that she heard his concerns and asked for him to call or email her to speak directly about this.

Patrick Correia, Shasta Realty, LLC, 72 Shasta Drive, addressed the Board. P. Correia said that he felt this new zoning was actually going to make it more convoluted than it is already. He said he thought there needs to be an adjustment to the zoning and thought addressing the POD was a good idea. He said that anything that makes his life as a business owner is a great idea.

Ralph Valentine, 10 Charles Street, addressed the Board. R. Valentine said that most parcels east of I-93 on Route 102 are already non-conforming and thought these new changes would drive things into more non-conforming parcels, which would make it more challenging to develop those parcels. He said he likes the performance standards and C-I and C-II separate, so thinks addressing the POD makes the most sense. He asked if these changes are posted. Town Planner Mailloux said they are not as this was just an informational session. She explained that if the Planning Board were to post the zoning amendment for a public hearing, it would lock in the language that a new applicant would have to comply with. R. Valentine asked if he heard Town Planner Mailloux correctly that there was a directive to remove the POD's. Town Planner Mailloux said that it was not a directive, but rather recommendations of the 2012 Master Plan to address commercial zoning and the POD's.

Scott Mitchell, owner of 120 Rockingham Road, addressed the Board. S. Mitchell said about 10 years ago he bought the property on the corner of Liberty Lane and Londonderry Road, which abuts the Irving Station. He noted that the property is zoned C-II and he objects to now having to get a CUP for uses that were permitted when he bought the property. He said he felt that his rights were being taken away and he is very concerned. He said that he felt there are better avenues to change the problems with the current zoning rather than combining C-I and C-II.

Karen Hutchinson, 11 Buttrick Road, addressed the Board. K. Hutchinson said that she thought it was easier to grant a special exception rather than to keep an acceptable unit out. She said that combining C-I and C-II would make it hard for the Planning Board and could even lead to court cases for the town.

Randall Chase, Seven Londonderry Road, addressed the Board. R. Chase said that from listening tonight it seems like someone back in the day did not understand spot zoning. He commented that the Board should clean up the spot zoning and fix those parcels, which would make it easier to regulate zoning. He noted that if the Board does go with the CP zone, it would make it extremely difficult for small existing lots to do any kind of improvements or additions on their property, and meet the landscaping standards. He pointed out that CUP's are extremely tenuous, as they can be politically motivated.

Roy Bouchard, Buttrick Road, addressed the Board. R. Bouchard said that he agrees with most of the public comments tonight that one size does not fit all with zoning. He noted that he would like the Board to take the problem areas, siting Mammoth Road and Route 28, and fix that first and see how that works rather than doing the whole town.

Chairman Rugg closed public input and brought it back to the Board. He thanked the public for coming out tonight and for all the feedback. M. Soares said in her opinion, she is convinced that C-I and C-II should be kept separate at this point. Town Planner Mailloux encouraged residents to call or email her with their concerns.

B. Election of Officers

A. Sypek made a motion for the Secretary to cast one ballot in favor of the current slate of officers.

R. Brideau seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.

VI. Adjournment

Member A. Sypek made a motion to adjourn the meeting at approximately 8:55 p.m. Seconded by M. Soares.

The motion was granted, 8-0-0.

The meeting adjourned at approximately 8:55 PM.

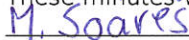

These minutes were prepared by Beth Morrison.

Respectfully Submitted,



Chris Davies, Secretary


Marywing Soares, Chair

These minutes were accepted and approved on April 3, 2019, by a motion made by
 and seconded by .