

# MINUTES

## NEW DURHAM PLANNING BOARD

### JULY 1, 2008

Chairperson Bob Craycraft called the meeting to order at 7:05 PM.

**Roll Call:** Bob Craycraft (Chair), Paddy McHale (Vice-Chair), Cathy Orlowicz (Town Clerk), Tom Bickford (Selectman's Representative), Paul Raslavicus

**Others Present:** Malcolm McNeill, Joshua Gruss, David Foust, Tom, Eric I. O'Neil, Mike Tinnis, Mike Spelz, Ron Gehl, and many citizens of New Durham.

**Public Input:** Chair Bob Craycraft asked if there was any public input. There was none.

Red Oak Chair Craycraft summarized the status of the Red Oak application and the issues that were addressed. He stated that there are many unanswered questions about the project including the question of legal access to the parcel and what the real value of the preapplication is. He also said that for this meeting these questions will be put aside so that we can listen to the presentation of the owner's representatives. He invited the Red Oak team to present their information. Malcolm McNeill spoke for Red Oak. He introduced other members of the team, including Mr. Gruss, son of the owner.

Mr. McNeill summarized his views of the status of the pre-application. He stated that following the second meeting on Red Oak at which he posed a number of conceptual questions for the Board to consider, the applicant has had a preliminary interim engineering review that indicated that the soft costs for further development of the presented plan would be in the range of \$ 500,000. Red Oak had also been listening to the residents of the town and he wished at this time to present an alternative and a dramatically different and responsive proposal. He said they would like to see the entire 2000+ acres be placed in a conservation trust with no houses built on it. They had begun working to generate conservation funds to do that and have engaged SED Innovative Solutions to do the conservation research. They would like to sell the land to a conservation entity at a cost that would recoup their investment.

They are concerned that it could take as long as 18 months to reach such a "conservation result." They would like to suspend planning and engineering work on the original proposal, both as demonstration to the town of their good faith and because continuing that work increases their investment and therefore increases the sale price they would need in order to recoup their investment.

Even though they prefer this conservation alternative, they need to keep their original proposal alive because the conservation option could fail and they would still need to recoup their investment. In that respect he stated that the applicant could not risk his ability to proceed under the regulations existing at the time that he filed for initial review.

They are looking to the Planning Board and the town to be partners in the conservation effort by:

1. Continuing to collaborate on plans for the property
2. Enlisting the help of the community as advocates for funding alternatives
3. Getting an assurance from the Planning Board that if funding does not come back to the original proposal as a condition they could proceed with formal development while confirming their current rights.

In addition to the original 220-unit proposal and the full conservation option just described, Mr. McNeill said the developers would consider a "hybrid" option that would create 10-15 acre high-end "estate lots." In order to do this, he said they would need permission to upgrade the end of Birch Hill Road from Class 6 to Class 5 status. He also stated that the development of the hybrid plan would be supplemented by whatever conservation funds are obtained.

Mr. McNeill said it would be to the advantage of the Town to support one or both of these alternative options. He said even if the Town levied impact fees and collected taxes from these properties at some time in the future the development would cost the town more than it receives.

Mr. McNeill concluded by saying the town has a good Planning Board that has gotten quite good at protecting the town. He said Red Oak's first choice would be the conservation option, or secondly the hybrid. Without the conservation alternatives, the applicant would need to go back to the originally proposed plan which, he stated, would drain the resources of the community and be more costly than a bond issue. They do have to get a return on their investment, so if neither of these works they would need to go back to their original 220-unit proposal. Mr. McNeill said he was very confident that with the expertise, patience, and the capital resources available to Red Oak that they would ultimately get permission to build that plan if they needed to.

Mr. McNeill introduced David Houghton who is working with Red Oak to generate conservation funds. Mr. Houghton described federal and state grant programs that Red Oak plans to approach for funds. He said private contributions and town funds would be needed to supplement public funds.

Mr. McNeill asked Mike Spelz to confirm what Mr. Houghton had said. Mr. Spelz is a staff member of the Society for the Protection of New Hampshire Forests and has

been working with residents of New Durham to generate conservation funds. He reported that the Society had submitted a grant application to the federal COELP (pronounced "KELP") fund. Only one or two others were submitted from New Hampshire, but the application would have to compete with others from across the country. He said he felt chances were very good of receiving some funding but the results would not be known until early 2009.

Mr. McNeill said Red Oak hoped to continue dialogue with the Planning Board and John Teague, Town Counsel to come up with an agreement that would not compromise the rights of the Town or the applicant while the parties work both toward the Conservation outcome.

Chair Bob Craycraft opened the meeting for members of the Planning Board to ask questions of the applicants. David Birk asked what distance on Birch Hill Road the applicants would need to upgrade from Class 6 to Class 5. Mr. McNeill said it would be a 200 foot or so. Cathy Orlowicz asked if the "hybrid" plan would allow for further subdivision. McNeill said they would be.

Chair Craycraft asked questions in respect to the protection of viewsheds. Mr. McNeill responded that the matter of viewsheds is a balancing act, since the price that the owner can demand for the lots is determined by the view. Nevertheless, he stated that the developer needs to look at the topography and that "porthole" views of the buildings should be considered. He indicated that sensitivity to the appropriate landscaping would be paramount.

John Teague asked if Red Oak could be any more specific about how long it would take to know if the conservation fundraising is successful. Mr. Houghton responded, saying decisions on the biggest sources of public funds would be made by Spring 2009. Mr. Teague warned applicants and townspeople that it would be very difficult for the Town to get permission to hold a special town meeting in order to vote on a bond. Most likely, it will have to be done at the regular 2009 Town Meeting in March.

Chair Craycraft opened the issue for public comment. Rick Goodrich asked if property owners who did not live in town would be able to vote. Mr. Teague said no.

The audience applauded Russ Weldon when he said Red Oak was serious about the conservation alternative, and residents of Merrymeeting Lake had already raised several hundred thousand dollars. He asked the Town to pass a bond issue to support the project as soon as possible.

Victor Pikarsky asked for more information about the third party appraisal being done and who would own the land at the end of such a process. Mike Spelz said he thought the partners should structure ownership to fit funding source guidelines. Federal law limits COELP funding to use in the Cocheco watershed that covers half

the land. Since that money can only go to a public entity it should be owned by the town. The SPNHF could own the land in the Merrymeeting watershed.

Chair Craycraft closed the discussion. He said the Red Oak proposal seems promising. The Board will need time to discuss it further amongst themselves and with Town Counsel. He suggested that it would be helpful for the attorneys for the Town and applicant to identify key points of an agreement and then the board could meet with town counsel.

Mr. McNeill and Mr. Teague made a second go around. Mr. McNeill addressed further actions including re-scheduling the meeting. He reiterated that he saw a direction to an ultimate preservation solution. At the same time, Red Oak would like to be in a position to work with the Planning Board under conditions that Mr. Teague all understands, and which would enable Red Oak to proceed without further financial ask. He stated that the applicant had filed a plan under the 2007 subdivision regulations and he needs to proceed on the basis of these regulations.

Mr. Teague commented that this evening's session presented a different approach and that tonight's discussion was very much a pre-application. He understands that the applicant wishes to preserve the 2007 ordinance rights; and hopes an arrangement can be crafted where the rights of the applicant and the rights of the Town are both preserved.

**Cathy Orlowicz moved to schedule additional conversation with Red Oak at the August 5, 2008 Planning Board business meeting, with the understanding that the Board and Town Counsel will meet between now and then to discuss the proposal. Paddy McHale seconded. Unanimous with no abstentions.**

Chair Craycraft recessed the meeting at 8:56 PM. He called the meeting back to order at 9:09 PM.

SRPC Contract: David Allen said the contract with the Strafford Regional Planning Commission needed to be extended because the work on the Business/Commercial Zone was not completed. There is no additional cost needed. **Paul Raslavicus moved to approve the contract extension with Strafford Regional Planning Commission until December 31, 2008. Paddy McHale seconded. Unanimous with no abstentions.**

**Paddy McHale moved to authorize Chair Bob Craycraft to sign the contract. Paul Raslavicus seconded. Bob Craycraft abstained. Unanimous.**

**Boundary Retracement:** Chair Bob Craycraft acknowledged receipt of a Boundary Retracement Survey submitted by Don Voltz of Lindon Design on behalf of Daniel J Beveridge for 384 South Shore Road (Map 33, Lots 331 & 527A).

**Class 6 Road Guidelines: Cathy Orlowicz moved to table the remaining business until the July 15 Planning Board Workshop. Paddy McHale seconded. Unanimous with no abstentions.**

**Cathy Orlowicz moved to adjourn at 9:19 PM. Paddy McHale seconded. Unanimous with no abstentions.**

Respectfully submitted,

David Allen  
Land Use Administrative Assistant

*Town of New Durham*