

Sandown Planning Board
Minutes
September 21, 2010

Date: September 21, 2010

Place: Sandown Town Hall

Members Present: Donna Green, Chairman, Mark Traeger, Vice Chairman, Matt Russell, Ed Mencis, Alternate Fred Daley and Alternate Ernie Brown.

Also present: Bette Patterson, Administrative Assistant and Town Engineer Steve Keach

Absent: Tom Tombarello, Ex- Officio, Steven Meisner and Marilyn Cormier.

Opening: Chairman Green opened the meeting at 7:04 p.m. Chairman Green announced that Alternate Ernie Brown would be serving on the board in Mr. Meisner's absence and Alternate Fred Daley would be serving on the board in Mrs. Cormier's absence.

Robert Pruyne from Rockingham Planning Commission - Review of Build-out plan for the Town of Sandown.

Mr. Pruyne presented the board with three maps for the CTAP buildout study. This study is part of the I93 widening project. Approved subdivisions have been added to the plan, however due to time constraints, buildings have not been added to those depicted lots.

Mr. Traeger pointed out that additional protected acres have been added since July. Those lots will be sent to Mr. Pruyne so that they can be added to the buildout.

The maps are based on scenario one which is the base buildout map (based on 1.5 acres per house) and scenario two which is the standard alternative for smart growth buildout with town center/business district. The number of new units at buildout total 1,888 which is an increase from the last time this was presented to the board. In response to Mr. Traeger's question about showing additional schools or community buildings on the buildout, Mr. Pruyne indicated that it would have little value in that it would be more of a guess as to how many and where they would be located. Mr. Pruyne stated that in the end report there will be indicators that will assist the board in determining those types of issues. The real practical use of this is that the board can look at the map and determine what the town wants in terms of density and then adjust the zoning appropriately. One of the goals of the buildout is to show what smart growth is.

The board discussed protecting land along the Exeter River corridor and how the wild life study would give the town data to base zoning on.

Mr. Pruyne stated that the board had directed him to eliminate the third scenario which is community guidance. He offered to do this later if the board agreed. Following a brief discussion, board members agreed to use scenarios one and two only. Mr. Pruyne stated that the report would be finalized the beginning of December.

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Daniel Jendrick – Janco Conceptual Plan

Daniel Jendrick, representing Gary and Rebecca Janco, presented a conceptual plan to the board. The Janco’s received a variance (07/29/10) from Article II, Section D-3 of the Sandown Zoning Ordinance to permit an Open space Development on the property. Minimum tract requirements are 200 feet of frontage and 15 acres of contiguous area. This property has zero frontage and consists of 14.84 acres. The property is shown on Map 20, Lot 3 on the Sandown Tax Map and is located at 218 Fremont Road. The property is owned by Gary and Rebecca Janco.

- Right of Way easement will remain as shown. (50 feet)
- One single family dwelling unit with a barn and garage is located on lot #3. When this lot was created in 1976, it was allowed without frontage.
- Plan proposes an Open Space Development using four acres of the total 15 acres.

Steve Keach recommended that Mr. Jendrick review RSA 674:41 III which stipulates the direction of homes on a street. He also suggested that Mr. Jendrick review the requirements for a town road versus a private road.

The board advised Mr. Jendrick to bring a plan to the Fire Chief and Police Chief to get their input before coming back to the Planning Board.

The board members took a break at 8:17 p.m. and returned to the meeting at 8:30 p.m.

Robert Vilella Request for Bond Releases for Riverbend Estates

Chairman Green read the following letter:

September 9, 2010

*Town of Sandown
Planning Board
Main Street
Sandown, NH 03873*

*RE: Irrevocable Letter of Credit #83012982 – January 7, 2003
Irrevocable Letter of Credit #83012983 – January 7, 2003*

Please accept this as a request for a letter for the release of the above mention Irrevocable Letter of Credits.

I realize these letters have expired and the Planning Board has voted to release the bonds as the roads have been completed and accepted by the Board of Selectmen.

The reason for needing this letter is TD Bank requires one for their files.

94 *Copies of the letter are attached for your convenience.*

95

96 *MONTANA REALTY TRUST*

97

98 *Robert P. Villella*

99 *Trustee*

100

101 Steve Keach stated that the board of selectmen have released the surety on Irrevocable Letter of Credit
102 #83012982 because this was the surety held for the recreation center. TD Bank needs a letter from the
103 planning board for a formal release. The second letter of credit #8312983 was the original phase I bond
104 for Riverbend Estates.

105

106 Chairman Green stated that it should have been rolled to Phase II and Phase III. Because of this she is not
107 comfortable releasing that Letter of Credit .

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109 Steve Keach stated that before any work is done on the next phase, there will have to be surety posted.

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111 Chairman Green stated if the board releases this, the bank wouldn't know that the developer has an
112 obligation to the town for Phase IV. If the board doesn't release it there is a little bit of leverage.

113

114 Steve Keach stated the Phase I road has been accepted by the board of selectmen. The LOC was given to
115 the Town at the time Riverbend Estates was recorded to secure completion of the improvements. One
116 hundred percent of that surety was not releasable under the terms of the surety until the recreation center
117 was accepted by the board of selectmen.

118

119 Fred Daley stated the board needs to separate the two letters of credit. The 2982 has to do with the
120 recreation building and is not part of Riverbend Estates. The second letter of credit has expired and he
121 commented that he wondered how this played to the concept of a rolling bond. The planning board had a
122 meeting in July and there was a motion that we needed to have a rolling bond in place for the next phase
123 of this project. The board would allow this to occur so long as the rolling bond was put back into place.

124

125 Mark Traeger stated it would be better to have a letter directly from TD Bank requesting this
126 from the planning board.

127

128 Fred Daley asked what assurance does the board have that the developer will move forward if the board
129 authorizes the release?

130

131 Steve Keach replied the development agreement requires a surety for Phase IV. A surety has to be posted
132 before a shovel is put in the ground for Phase IV.

133

134 Chairman Green agreed with Mark Traeger regarding the need for a letter from TD Bank . She stated this
135 is the first time the board has ever been asked to do something like this. If the bank is demanding this
136 information then the board should have a letter from the bank and it should include a reason for their
137 request.

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139 Ed Mencis stated that if he were a developer he would want a release letter for his files just for a record.

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MOTION: Matt Russell made a motion to write a letter to Robert Villella, Montana Realty Trust, requesting he get a letter from TD Bank North requesting release from Irrevocable Letter of Credit #83012982 and Irrevocable Letter of Credit #83012983 with an explanation as to why the bank requires this. Mark Traeger seconded. DISCUSSION: Ed Mencis stated that we are playing paper shuffle on the recreation center. He stated that the board should simply release that LOC because it's just a formality. Matt Russell stated that the reason for asking for a letter from the bank is for clarification. VOTE ON THE MOTION: Donna Green, Mark Traeger and Matt Russell voted in favor of the motion. Ernie Brown, Ed Mencis and Fred Daley voted against the motion. MOTION FAILED

Fred Daley stated that he voted against the motion because the issues have to be separated. He stated he is working on Mr. Keach's assurances that Phase IV cannot be worked on until there is a surety in place. He asked if the board then would be doing away with the whole concept of a rolling bond.

Steve Keach replied no because that is documented through the recorded development agreement. The concept of a rolling bond is in the form of a development agreement according to the plan.

MOTION: Ed Mencis made a motion to send a letter to confirm the final release of surety for the recreation building covered under Irrevocable Letter of Credit #83012982- January 7, 2003 as requested. Fred Daley seconded. DISCUSSION ON THE MOTION: Ernie Brown agreed that this was a good way to handle this surety. Donna Green stated that her opinion is that the board should not do anything that does not understand the reason for doing it. Fred Daley stated the stipulations have been put forth and have been met. The applicant has requested a release which is a normal course of action. He stated Mrs. Green's concern is about something not being complied with. There are two separate issues. Matt Russell stated this request that Mr. Villella received from the bank would not have been verbal. The bank would have requested this in writing and that should have been included in Mr. Villella's correspondence to the board. Steve Keach disagreed, stating that he often does verbal business with his own bank. Mr. Russell stated that going back to 2003 it would seem that Mr. Villella should have received some sort of document saying this is what the bank needs. Mark Traeger stated that based on what happened with the sureties to begin with it would be more comfortable for the board to have a letter from the bank. Steve Keach stated the reason it expired in the first place was a lack of action on the part of the Town of Sandown not Montana Realty Trust. Donna Green stated it's the developer's responsibility to make sure the surety is in place. Steve Keach replied yes, however, it would be better to get this off the table. VOTE ON THE MOTION: Ernie Brown, Fred Daley and Ed Mencis voted in the affirmative. Donna Green and Mark Traeger voted against the motion. Matt Russell abstained. MOTION PASSED.

The board discussed how to address the request for the release of LOC #8301289 for Riverbend Estates.

Steve Keach stated that the board could not release this LOC until such time as an appropriate surety is submitted to cover Phase IV.

MOTION: Fred Daley made a motion to send a letter to Robert Villella, Montana Realty Trust, stating the Sandown planning board will not act on Mr. Villella's request for release of Irrevocable Letter of Credit #83012983- January 7, 2003 until such time as Montana Realty Trust presents a surety in a form and amount acceptable to the Sandown Planning Board to continue and complete Phase IV of Riverbend Estates as shown on Plan D-30464 recorded at the Rockingham County Registry of Deeds. Matt Russell

188 seconded. DISCUSSION: Donna Green stated the motion has merit, however, the board is losing the
 189 opportunity to understand why TD Bank is even asking for this. Fred Daley stated this is actually a
 190 change in policy because we have never requested anyone to produce a surety to replace an instrument
 191 that is already in place although it is expired. Steve Keach stated he has had conversations with Mr.
 192 Vilella about getting the surety in place for the completion of Phase IV and he is working on that. It will
 193 not be with TD Bank because he is changing banks. VOTE ON THE MOTION: Mark Traeger, Matt
 194 Russell, Ed Mencis, Ernie Brown and Fred Daley voted in favor of the motion. Donna Green voted
 195 against the motion. MOTION PASSED.

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197 **Planning Board Budget 2011**

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199 Chairman Green informed the board that the selectmen denied the planning board's request for Master
 200 Plan Update and Consultant. RPC has increased their fees to \$5,581.00 per year, an increase of \$800.00.
 201 The board agreed on the following adjustment to the proposed 2011 budget to be submitted to the budget
 202 committee on 9/22/10.

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YTD (09/09/10)	Dept Planning Board Account: 4191.1				
		FY 2010	FY 2011	FY 2011	FY 2011
	Sub line Item	Approved	Requested	Bud. Com	Selectmen
\$697.50	Ads	1,000.00	1,000.00		
\$4,783.00	Consulting	7,000.00	8,000.00		
\$580.00	Copies	450.00	600.00		
\$996.00	Legal	2,000.00	2,000.00		
\$45.00	Mileage	300.00	150.00		
\$12,545.85	Payroll	22,429.68	22,875.84		
\$96.41	Supplies	400.00	400.00		
\$206.42	Education	1,430.00	519.00		
	Master Plan Update		1,000.00		
	Grant Applications		1,000.00		
	Gross Expenses	35,009.68	37,554.84		
	Revenue	12,000.00	12,000.00		
	Net Expenses	23,009.68	25,554.84		
	Payroll Detail	FY 2010	FY 2011	Est	Total
	Positions	Rate	Rate	Hours	Pay
	Planning Board Aide 13	18.06	18.06	312	5,634.72

	weeks				
	39 weeks +2%	18.42	18.42	936	17,241.12

- 208
- 209 Copies: Copies are charged to us by the Selectmen’s Office once a year. Our
- 210 costs for copying in 2010 was \$580.00
- 211
- 212 Consulting: RPC dues \$5,581.00 This is an increased amount for 2011.
- 213 General Planning Board Consulting – KNA - \$2,000.00 (surety research)
- 214 The amount requested is to cover the time that Mr. Keach spends
- 215 consulting on a daily basis and his attendance at planning board
- 216 meetings.
- 217
- 218 Education NH RSA Regulations- 5 Books @ 6.50 \$39.00
- 219 Spring & Fall Zoning Conference- 2 Members @ \$100.00 \$200.00
- 220 Spring & Fall Law Lectures –2 Members \$280.00
- 221 Fall Lectures Series has not started. New Zoning Books will be ordered
- 222 in December.
- 223
- 224 Payroll: Hours are based on an average of 24 hours per week
- 225
- 226 Supplies: The planning board has authorized the purchase of a scanner for 2010.
- 227 Toner cartridges are on order.
- 228
- 229 Master Plan Update: The State of New Hampshire mandates that each municipality have an
- 230 updated Master Plan every ten years. *(Note: It was later learned the*
- 231 *State only recommends updating the Master Plan every ten years.)*
- 232
- 233 Grant Applications: Often times when grants become available there is a requirement to have
- 234 matching funds.
- 235
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- 237 **Correspondence**
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- 239 • Outgoing -
- 240 ■ Notification Request to financial Institutions requesting all notifications be sent
- 241 to the Planning Board and Selectmen’s Office under separate cover.
- 242 ■ Vesting Letters sent to developers with a November 30th deadline for voluntary
- 243 response.
- 244 ■ Robert Villella/Lifting of building permit embargo for Riverbed Estates Phases I,
- 245 ii, and III
- 246 ■ BOS – Stating argument for requiring a CUP for Sarkozy property
- 247
- 248 • Incoming –
- 249 ■ RPC – Notification of fee increase to \$5,581.00 for 2011
- 250 ■ Agenda for Master Plan Committee Meeting on 9/22/10
- 251 ■ Invoice from DTC – Attorney Ratigan fee for replying to Chairman Green that he

252 could not assist her. It was agreed that Chairman Green contact Attorney
253 Ratigan and ask him to adjust the invoice in some manner.
254 ■ NH Department of Environmental Services Wetlands Program An Overview of
255 the DES Stream Crossing Rules – October 25th, 2010
256
257

258 **Other Business:**
259

260 **Sarkozy Map 14 Lot 19-70**

261 Matt Russell read the following e-mail sent from Steve Chabot (of Keach-Nordstrom Associates) on
262 March 7th, 2008:

263 *I went to the above-referenced lot this morning as requested and found the following (see attached*
264 *photos). As you can see work has started on correcting this violation but falls short of meeting the time*
265 *frame to complete corrective action. I have several concerns regarding the corrective work that has taken*
266 *place at this time.*

- 267 1. *There has been no attempt to install erosion control or prevent siltation downstream.*
- 268 2. *There is no layout for the concrete footings and walls that are in place. The bottom of footings are*
269 *sitting at approx. the same elevation as the flow of water. The width between the concrete walls is*
270 *12' to 14' inside dimensions.(Has this bridge been designed and does it need approval from the*
271 *Town?)*
- 272 3. *Looking at the November 2005 subdivision plan for this lot, the delineated wetlands at the bridge*
273 *area at its narrowest point scales to 22 feet wide and the proposed bridge scales to 35 feet wide*
274 *leaving plenty of room to construct the bridge supports outside of the wetlands. It appears that the*
275 *bridge supports have been constructed with in the wetlands. The area would need layout from a*
276 *surveyor or additional wetland flagging to be sure.*

277 Matt Russell stated we have DES, Steve Keach's Office and the town's wetland engineer all saying that
278 these footings were put inside the wetlands constituting a need for a conditional use permit.
279

280 Matt Russell suggested that the board send a letter to Mr. Villella or Mr. Sarkozy telling him will not get
281 a building permit on this lot until he files a CUP and does what he is supposed to do.
282

283 Steve Keach stated he did not think the board has the authority to do that, however, the board does have
284 the authority to send a letter that says it would be in the property owner's best interest to review some
285 information that is in the planning office relative to the bridge supports being located in the wetlands.
286

287 Matt Russell stated that he just wants it to be done the way it's supposed to be done.
288

289 Mark Traeger stated there is a cease and desist on the property.
290

291 Matt Russell stated that Attorney Ratigan has suggested that the cease and desist does not include the
292 CUP.
293

294 Steve Keach stated the property owner could still remove the piers and place them out of the wetlands.
295

296 Matt Russell stated that would not be environmentally right and Mr. Keach agreed with him.

297

298 Matt Russell stated for the record “ if Attorney Ratigan had done his homework and looked at the
299 deficiency report from DES and read the information that KNA has on file, I do not think that letter would
300 have been the same letter that we got from Attorney Ratigan. Attorney Ratigan was not looking after the
301 best interest of the town.”

302

303 Steve Keach stated that a lot of things have revealed themselves to this point. He added that he had
304 actually forgot about the e-mail from Steve Chabot until it was read tonight.

305

306 Matt Russell stated his name has be dragged through the mud when, frankly all he was trying to do was
307 enforce the ordinance that every board member is sworn to do.

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309 The board agreed to request that Administrative Assistant Patterson contact Mr. Villella and invite him to
310 view the information on file.

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313 **Adjournment**

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315 MOTION: Ed Mencis made a motion to adjourn. Matt Russell seconded. Voted unanimously in the
316 affirmative. MEETING ADJOURNED AT 10:23 p.m.

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318

319 Respectfully submitted,

320

321

322 Bette Patterson, Administrative Assistant