

**SOMERSWORTH PLANNING BOARD  
MINUTES OF MEETING  
JUNE 15, 2011**

**MEMBERS PRESENT:** William Sweeney, Chairman, Dave Witham, City Council Representative, Bob Belmore, City Manager, Ron LeHoullier, Matthew Durkee, Dan Proulx, Paul Robidas, Erwin Grant and Paul Maskwa, Alternate.

**MEMBERS ABSENT:** Anthony Delyani, Vice Chairman.

**STAFF PRESENT:** Dave Sharples, City Planner and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:30 p.m.

**1) APPROVAL OF MINUTES.**

**Motion:** Robidas moved to accept the minutes of the site walk of May 18, 2011.

Seconded by Proulx. Motion carried with a 6-0-3 vote with Witham, LeHoullier and Durkee abstained.

**Motion:** Belmore moved to accept the minutes of the meeting of May 18, 2011.

Seconded by Maskwa. Motion carried with a 6-0-3 vote with Witham, LeHoullier and Durkee abstained.

**2) COMMITTEE REPORTS**

**A) ZBA Report**

See attached.

**B) City Council Report**

Witham stated that the Council may discuss the budget at its next meeting but that they are waiting for the State budget to be adopted. Stated that the Willand Drive road construction has been completed and is in great condition now. Stated that some initial work for road reconstruction on High Street is underway. Stated that the section of Stackpole Road by the new Idlehurst School has been re-graded and a base coat has been put down.

Belmore stated that the Vision 2020 Committee met and students from the Marketing class at the Vocational School designed a logo for the Committee. Thanked the students for their hard work. Stated that he attended the grand opening of the new Contitech expansion. Stated that they have a long-term contract with Ford and that it was really exciting and positive for the City.

**C) Site Review Technical Committee Report**

Sharples referred to the attached report and stated that an applicant came before the Committee to subdivide one large lot creating two new lots for a total of three lots. Stated that there were several items missing from the application so the Committee couldn't review any technical aspects of the proposal. Stated that a letter has been sent but that he hasn't gotten a response.

D) Minor Field Modification Report

Sharples stated that there was one request from the Avis Goodwin Community Health Center. Stated that he and the City Engineer approved the request to replace a granite bench with a COAST Bus approved shelter.

E) Strafford Regional Planning Commission Update

None.

F) Vision 2020 Report

See above.

**3) OLD BUSINESS**

- A) LDL Enterprises, Inc. is seeking site plan approval to renovate the existing structure and build a new structure for commercial and residential units on property located at 67 Elm Street, in the Business Historic (BH) District, Assessor's Map 10, Lot 174, SITE #05-2010.

**Motion:** Robidas moved that the site plan application of LDL Enterprises, Inc. be removed from the table.

Seconded by Witham. Motion carried with a 9-0 vote.

Sharples reviewed his memo (see attached) and stated that the application was tabled at the last meeting and that since then the applicant has supplied a traffic analysis, written waiver requests and a construction estimate. Stated that the applicant has sent a package to CLD Engineers for their second review but that CLD hasn't responded yet. Stated that they are requesting a waiver from landscaping in parking areas and that they are not proposing any interior landscaping. Stated that they are proposing a small parking lot and that he isn't sure that there are opportunities to provide landscaping. Stated that the regulations require parking areas to be screened but that it is a small lot without a lot of depth. Stated that the second waiver request is from the requirement of providing recreational opportunities for multi-family projects. Stated that because of the size, only a small area would be required for recreational opportunities. Stated that it may not have been the intent for this requirement for such a small development. Stated that he reviewed both waiver requests and that he finds them to be consistent with the Zoning Ordinance and the Master Plan. Stated that if the Board decides to table the application they can still act on the waiver requests. Referred to the suggest conditions of approval. Stated that the last suggested condition of approval was brought about from the site walk and that the sidewalk doesn't abut the road but that it would be tough to move the sidewalk to abut the road because of grading. Stated that he suggests that either an agreement be made that the applicant is responsible for maintaining the landscaping or that landscape pavers be installed there. Stated that there would need to be a letter of credit because it would become part of the City's infrastructure. Stated that at the last meeting the Board mentioned re-opening the public hearing tonight.

**Chris Berry**, president of Berry Surveying & Engineering represented the applicant and addressed the Board. Stated that he doesn't have anything new to present and that he has been working with Sharples to finalize some issues. Stated that plans have been forwarded to CLD Engineers and that he is still waiting for their response.

**Public hearing opened 6:45 pm.**

**Giang Vu**, abutting property owner addressed the Board. Stated that he has had a conversion with a neighbor and that he objects to five commercial units. Stated that they are using a public area to private parking that that it is wrong. Stated that they can park in a private area and only park in a public area for short time frames and not all day and night. Stated that the plan is wrong from the beginning. Stated that he has been in the City for almost 30 years. Stated that there is only room for 22 parking spaces. Stated that commercial spaces take more space for parking and that there is not enough here. Stated that they need to follow the law which says there needs to be two parking spaces per unit. Stated that a three-level building was built a long time ago at the intersection of Green and Franklin Streets and that people now wonder why the City allowed that to be built. Stated that he doesn't want people in the future to wonder why this project was built. Stated that the existing building is enough for the small piece of land. Stated that Bob Belmore knows how to run a business and that we better do the right thing now and forever. Stated that letting them fix the inside of the existing building is enough for the available parking. Stated that City water and sewer is already there and that there are enough projects to work on the City. Stated that fixing the existing building is enough because they need more room for people with children to play in the summertime. Stated that there will be no room to play outside with more units and that it will be more dangerous. Stated that they better follow the law and that the City of Dover requires three parking spots per unit. Stated that his opinion is that they follow the rules and no one can complain. Stated that the units in the existing building are good enough for the small land. Stated that there would be more room for landscaping.

**Public hearing closed 6:55 pm.**

LeHoullier asked if there was an answer to how it would change the scope of the project is it went from market-based apartments to government housing.

Sharples stated that he talked to an attorney with the Local Government Center (LGC) who didn't give a definitive answer. Stated that he spoke with a Housing Authority attorney and asked if market-rate can be enforced but that the attorney couldn't give an answer. Stated that the City's regulations don't speak to it.

LeHoullier stated that there was another property that was approved as elderly housing and then it was flipped and now it is government housing with children and no yard. Stated that it is the same with Foundry Place. Stated that these properties were not developed as proposed and are not part of government housing. Stated that the projects are presented as one thing and as time goes on the scope changes. Asked how they can enforce it. Stated that it happened at Crockets Crossing and that is why there are more children then the plan says.

Sharples stated that he can't answer how the City can enforce it.

LeHoullier stated that it may change and then a recreational area would be needed. Stated that the City has been burned by this before.

Belmore stated that he wants to clarify some things that were said earlier. Stated that whether this project goes through or not isn't his decision. Stated that he is one vote from the entire Planning Board. Stated that he doesn't know if there can be a condition of approval for how to charge for a rental unit. Stated that it is not the responsibility of the Board to tell the owner how much for change per rental unit. Stated that the Board can give a good faith effort and work with the property owner to have the property kept up.

LeHoullier stated that the applicant is saying they will be market-rate. Asked if they should come back before the Planning Board is they start accepting government assistance. Stated that he is not suggesting the Board dictate how much they charge for rent but just if they accept government help. Stated that the information is based on market-rate apartments.

Sweeney stated that they don't have a legal opinion.

Belmore stated that the applicant is offering market-rate apartments and that the City's regulations don't speak to it. Stated that his review is based on the regulations. Stated that there will be a new building and better site work. Stated that he hopes this creates synergy with other properties.

Witham passed out an email from Police Captain Russ Timmons and a hand out with three charts on it (see attached). Stated that he and all the Board members took an oath to uphold the standards of the City and to follow the regulations. Stated that he is concerned with what a property looks like in the future. Stated that the Board's decision is important at the local level. Stated that the Site Plan Regulations aren't perfect but the Board has to follow them and has worked hard on them. Stated that he is not sure if this is ideal for this area of Somersworth and that some projects may be better or worse but given the economy, he sees this as an opportunity. Stated that the Board has to determine if this project meets Site Plan Regulations and it does. Read from page 22.A.9 of the Site Plan Regulations regarding parking and stated that according to the regulations they don't need parking. Stated that he has gone to the site several times and that there is never a parked car on Elm Street. Stated that there seems to be adequate on-street parking. Stated that the applicant could provide required landscaping if they didn't propose parking, which would be allowed. Mentioned cars parked on the street being an issue when it snows and referred to his handouts, which provides data for snow parking bans. Stated that if you do the math, on average, two cars per storm were towed so it doesn't appear that this is an issue. Stated that many urbanized settings have this issue but worse. Stated that his data is for the entire City-not just the downtown. Stated that regarding the service impact of the project, any project has a service demand. Stated that he thinks the applicant has met the requirements of the Site Plan Regulations. Stated that he sees this as an opportunity to clean up urban blight.

Durkee stated that he was not at the last meeting and asked where the two parking spots per unit requirement comes from.

Sharples stated that it is in Section 21 of the Zoning Ordinance and that the regulation is Citywide. Stated that the applicant went to the ZBA and received a variance. Stated that they came for Site Plan approval and the Site Plan Regulations take over. Stated that the Site Plan Regulations require two spots per unit except in the downtown.

Durkee asked if that means the problem is solved.

Sharples stated that the Planning Board has no authority over the Zoning Ordinance and cannot make a different decision from the ZBA.

LeHoullier stated that Witham made good points but that the application was presented as market-rate and asked if the Board can put a condition for a compliance hearing if they don't do it.

Sharples stated that he would have to wordsmith a condition of approval. Stated that he was researching if the Board could do that and that he doesn't know.

Robidas stated that if there is difficulty getting an answer from an attorney then that might be the answer. Stated that he sees LeHoullier's concern but what can they do later on if they change. Stated that properties are sold and flipped all the time. Stated that looking at the regulations, this project meets them and doesn't know how the Board couldn't approve it. Stated that if we don't like the regulations then they have to change them.

Belmore stated that he is not an attorney but that he doesn't see how the Board could legally do that because there are fair housing laws and rules. Stated that he doesn't see how the Board can place an unfair burden on the property and how they could enforce it. Stated that Section 8 vouchers are confidential. Stated that he does have a concern with what the property looks like but that anyone can allow a property to be dilapidated.

Witham stated that when the City updated the Master Plan there were many people that attended a design charette and they talked about the downtown. Stated that design charette promoted infill development. Stated that regarding site lighting he doesn't see any proposed poles.

Berry stated that there are four proposed pole lights that face into the parking lot.

Witham stated that they have to be architecturally in check with the property.

Berry stated that the lighting was approved by the HDC.

Witham asked the applicant to explain the proposed improvements to the sidewalk.

Berry stated that the sidewalk along Elm Street will be torn up and rebuilt and the one along Washington Street will get an overlay.

Witham stated that he may want to have a condition of approval that the engineer look at the curb reveal to see if it should be reset. Stated that regarding pedestrian bump-outs, it was said that they may be a policy decision and asked if there will be bump-outs as part of the TE grant in the downtown.

Sharples stated that currently there is only half of one at the cross walk in front of Dumont's but that there has been talk of having them in the City. Stated that they can cause problems with plowing.

Witham stated that he supports the idea of pedestrian bump-outs on Washington Street because there tends to be more pedestrian accidents on that street. Stated that a lot of the factors of bump-outs make sense. Mentioned the grading at the corner of Elm and Washington Street. Stated that tactile plates at crosswalks have to be heavy duty.

Berry stated that he will add a note that they will be cast iron or concrete.

Sharples stated that the City should decide on one type and that cast iron stains.

Durkee stated that he takes the comments from the abutter who spoke at the public hearing into strong consideration. Stated that he finds it ironic that a waiver is needed for the landscaping but not for parking. Stated that parking spaces in the downtown are more valuable. Stated that the impact of a parking ban can be minimized but that it is still a big deal.

Maskwa stated that at the last meeting there was discussion on the grading, curbing and landscaped area in front of the existing structure. Stated that there is going to be a Laundromat and that it will be difficult to have to walk up the driveway to get to the sidewalk. Stated that having a step or steps to get to the sidewalk level was mentioned.

Berry stated that there is certainly an opportunity to put in a step.

Maskwa stated that the site walk showed that the grade is considerable.

Sweeney stated that it is against regulations for a vehicle to back out onto the street and asked if there is enough room in the parking area so that vehicles don't have to do that.

Sharples stated that parking aisle width is regulated at 24 feet but that they are proposing 28 feet so that there is room to turn around.

Sweeney stated that he is concerned that when the retail stores are open on Saturday morning and everyone is home at the apartments that they will say they didn't plan better. Stated that he would like to see extra parking.

Durkee agreed and stated that this proposal is for something better than what is there but that there is nothing to say that this project couldn't have one less unit.

Belmore stated that they can't change the rules mid-stream and that he has never seen a parking problem in the downtown. Stated that he would like to see parking be a problem in the downtown because that would mean a more robust and busy downtown.

**Motion:** Belmore moved that the waiver request for LDL Enterprises, Inc. from Section 11.4.b.viii of the Site Plan Regulations regarding mitigation for the impact of parking lots be **APPROVED**.

Seconded by Witham.

Sweeney read the four waiver criteria from the Site Plan Regulations and asked the Board to keep them in mind when voting.

Witham stated that he thinks the waiver request does meet the four criteria. Stated that it is unique because it is a dense area and that it doesn't vary from the Zoning Ordinance or Master Plan.

Motion carried with an 8-1 vote with Proulx opposed.

**Motion:** Belmore moved that the waiver request of LDL Enterprises, Inc. from Section 11.10 of the Site Plan Regulations regarding a park and recreation area be **APPROVED**.

Seconded by Witham.

Witham stated that he is inclined to support this waiver request but asked the applicant if they would be willing to contribute to the upgrade of Noble Pines Park.

Berry stated that he thinks his client would be willing to do that but he would have to discuss that first. Asked what is being proposed for the park.

Witham stated that the wading pool has been filled in and that the City is moving forward with water misting stations, installation of a skateboard park and the construction of a pavilion. Stated that others have already donated funds to the City and asked if the applicant could contribute about \$2000.00 to \$3000.00. Stated that the total cost is about \$50,000.00.

Berry asked for a recess to discuss this with his client.

**The Board took a recess 7:45 pm.**

**The Board returned from recess 7:48 pm.**

Berry stated that his client is willing to contribute \$2550.00.

Witham asked Belmore to amend the waiver motion to include a condition for \$2550.00 to be contributed to improvements for Noble Pines Park.

Belmore agreed to the amendment.

Motion carried with a 7-2 vote with Proulx and Durkee opposed.

Witham stated that he would like a condition of approval for a stairway and for the curb reveal. Suggested amending condition of approval #10 for the curb reveal.

Sharples suggested a separate condition of approval and read what he came up with. Stated that the stairs would be in front of the existing building. Asked if there is a preference for detail of the stairs.

Maskwa asked if the City would maintain them.

Sharples stated that they would be located in the City's right of way.

Witham stated that he would like granite steps.

Belmore suggested an off-site improvement for purchasing cross walk signs to be installed on Washington Street.

Berry stated that he doesn't see a problem with that.

Witham stated that it seems reasonable in lieu of bump-outs.

Belmore stated that he would like to discuss suggested condition of approval #17 regarding the landscaping block pavers. Stated that he likes that idea.

Sharples stated that a weed fabric gets put down first and the pavers get installed over that. Stated that it may depend on the angle of the slope.

Belmore suggested adding that it has to be reviewed by the City Planner.

Sharples stated that it may have to go back to loam and seed.

Witham stated that there are some examples around the City where there is grass between the sidewalk and the road but the grass dies because of plowing. Stated that he would be in favor of the pavers.

Belmore agreed.

Sweeney asked if the City would have to maintain that.

Sharples replied yes.

Berry stated that he thinks the pavers would work and that the maintenance is almost zero.

Sharples agreed that there is minimal maintenance.

Witham asked about the COAST Bus shelter.

Sharples stated that they submitted to install a shelter but that the location is a drop off, not pick up location so a shelter would not be appropriate. Stated that there is a bench at the other location but there is nice landscaping there. Stated that a shelter would take the landscaping away.

Witham stated that he is indifferent on that.

Sharples stated that COAST Bus supplies the shelter at no charge.

Sweeney mentioned that there has been no second response from CLD Engineers.

Sharples stated that there has been no response from the second review and read a suggested condition of approval regarding that.

LeHoullier asked Sharples if he is still looking into if there can be a condition of approval for market-rate apartments.

Sharples stated that he will still pursue it because he would like to know an answer.

Belmore stated that maybe part of the question should be how to get it into the regulations and not just a condition of approval.

**Motion:** Witham moved that the site plan application of LDL Enterprises, Inc. to renovate the existing structure and build a new structure for commercial and residential units be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. An escrow account, in an amount agreeable to the City, will be established for site and construction inspections prior to any site work;
2. A pre-construction meeting with the City is initiated and scheduled by the applicant and held prior to any site work;
3. The applicant shall work with the City to submit a Stormwater Management System Inspection & Maintenance Plan to the satisfaction of the City Engineer that shall include an annual reporting requirement to the City by January 1<sup>st</sup> and this report shall be an ongoing condition of approval. The plan shall be submitted when submitting final plans for signature;
4. The following language shall be added to Note #37 on page 2 of the plans: "All exterior lighting shall be downlit and shielded so no direct light is visible from adjacent properties. This shall include security lights";
5. An electronic As-Built Plan, in a dxf or dwg format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates, shall be submitted to the satisfaction of the City prior to the issuance of a Certificate of Occupancy (C/O);
6. The applicant shall pay all necessary sewer permit fees prior to the issuance of a building permit;
7. An irrevocable letter of credit (LOC) (see Exhibit D of the Site Plan Regulations) with an automatic call in favor of the City, in amount agreeable to the City but not less than 110 percent of the total cost, will be established for all improvements within the public right-of-way for a period of one year and established prior to any site work;
8. An irrevocable LOC to cover maintenance of the ROW improvements shall be established for a period of two (2) years from the date of completion of said improvements. The amount of the LOC shall be twenty-five (25) percent of the cost of said improvements;
9. The final plans shall show that all detectable warning panels shall be iron or another similar durable material approved by the City;
10. 1" overlay shall be provided for the sidewalk in front of subject property on Washington Street from the PSNH pole 15/3 as shown on plans then easterly to Elm Street. Call out on plans and Note #35 on page 2 shall be revised as it currently states an overlay will only occur if damaged during construction;

11. Utility wires shall be relocated to avoid conflict with new building as necessary;
12. A C/O shall not be issued for any portion of the property until all improvements shown on the site plan are completed to the satisfaction of the City with the exception of landscaping only in accordance with Section 12.1.e of the Site Plan Regulations;
13. All concrete retaining walls shall be repaired and graffiti removed to the satisfaction of the City prior to the issuance of a C/O;
14. Irrigation shall be installed and working properly prior to the issuance of a C/O;
15. Note #19 on Landscape Plan, Page 6, shall be removed;
16. The applicant addresses all past and future comments from CLD Engineers to the satisfaction of the City and agrees that any unresolved items shall be brought back to the Planning Board in a timely manner;
17. Landscaping blocks/pavers shall be used on the slope between the sidewalk and Elm Street. The landscaping blocks/pavers and the details of their installation shall be reviewed and approved by the City Planner;
18. The City shall examine the curb reveal in front of the property along Washington Street. The applicant shall reset any curbing as required by the City;
19. A granite staircase shall be installed with the approval of the City for pedestrian access to the existing building from Elm Street; and,
20. Pedestrian crossing signs shall be provided by the applicant for the crosswalk on Washington Street.

Seconded by Robidas. Motion carried with a 5-4 vote with Sweeney, Proulx, Durkee and LeHoullier opposed.

B) Any other old business that may come before the Board.

None.

**4) NEW BUSINESS**

A) Any new business that may come before the Board.

None.

**5) WORKSHOP BUSINESS**

A) Any workshop business that may come before the Board.

None.

**6) COMMUNICATION AND MISCELLANEOUS**

Sharples stated that he sent a letter to the owner of Monkey Dogs regarding a condition of their site plan amendment to paint the fence. Stated that he will follow up on it.

Sweeney stated that he recently noticed that it has been painted yellow.

Sharples stated that a letter has been sent to the Rollinsford Planning Board with a copy sent to the Strafford Regional Planning Commission to designate a proposed development as regional impact.

LeHoullier asked for an update on the pedestrian footbridge at the Mill.

Sharples stated that there is no update since the last meeting. Stated that the owner, Chinburg, agreed to close the bridge for a few weeks for an agreement to be made but there is a debate on that.

LeHoullier asked if the fence can be removed.

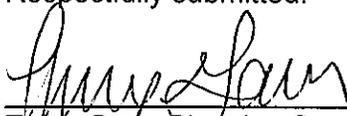
Sharples stated that the City cannot remove it because it is private property. Stated that the owner is working on it and is committed to opening it because it is valuable to have.

**Motion:** Witham moved to adjourn the meeting.

Seconded by Durkee. Motion carried with a 9-0 vote.

Meeting adjourned at 8:07 pm.

Respectfully submitted:



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Tracy Gora, Planning Secretary  
Somersworth Planning Board