

**SOMERSWORTH PLANNING BOARD  
MINUTES OF MEETING  
MAY 16, 2018**

**MEMBERS PRESENT:** Ron LeHoullier, Chair, Harold Guptill, Vice Chair, Kenneth Vincent, Alternate City Council Representative, Bob Belmore, City Manager, Jeremy Rhodes, Paul Robidas, Chris Horton, Jameson Small, Mark Fearis, Alternate and Jason Barry, Alternate.

**MEMBERS ABSENT:** Aaron Fournier.

**STAFF PRESENT:** Shanna B. Saunders, Director of Planning and Community Development and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:35 pm.

LeHoullier appointed Fearis as a voting member for tonight's meeting.

Belmore stated that there are some technical difficulties so they are starting the meeting without being televised but will be on air within a half hour.

**1) APPROVAL OF MINUTES**

**Motion:** Robidas moved to accept the minutes of the meeting of April 18, 2018.

Seconded by Rhodes. Motion carried with an 8-0-1 vote with Vincent abstained.

**2) COMMITTEE REPORTS**

Land Use Board Reports (ZBA, HDC, Conservation Commission, SRTC)

See attached report.

Minor Field Modification Report

See attached report.

City Council Report

None.

Strafford Regional Planning Commission Update

Belmore stated that the City can have one more commissioner and that if anyone is interested in joining to contact City Hall.

Vision 2020 Committee Report

Saunders stated that they have not met recently.

**3) OLD BUSINESS**

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

None.

#### 4) **NEW BUSINESS**

- A) John J. Flatley is requesting a 12-month extension of the approved site plan to construct three apartment buildings with associated site improvements for property located on Tri City Road, in the Business (B) District, Assessor's Map 39, Lot 03, SITE #12-2015.

Saunders referred to her memo (see attached) and stated that this project was originally approved in 2015. Stated that they have gotten two extensions in the past: the first one for six months and the second one for one year. Stated that the second request they asked for was for two years but the Board only approved one year. Stated that conditions in this area of the City have been changing and that if they Board grants this extension they may want to consider this being the last

**Kevin Walker** with the John Flatley Company represented the applicant and addressed the Board. Stated that last year they requested a two year extension but only received one year. Stated that they are in the middle of a large project in Massachusetts and anticipate being done in the fall so they can begin this project within a year. Stated that the other project is on schedule. Stated that they understand that they may need to update the project in the future.

Fearis asked what happens if the extension isn't granted.

Saunders stated that they would move forward to revoke the approval then if they still wanted to develop they would have to start over again.

Belmore stated that things are changing in the City and asked if six months would be enough time.

Walker stated that six months would bring them to the winter and the other project is going to finish up in September or October. Stated that the winter is not a good time to start a project.

Belmore stated that they don't have the authority to apply new regulations to the project now.

Robidas asked if nine months would help.

Walker stated that it would bring them to the springtime.

**Motion:** Robidas moved that the request of John J. Flatley for an extension of the approved site plan to construct three apartment buildings with associated site improvements be **APPROVED**. Stated that this approval is for nine months, is until March 2019 and is the final extension.

Seconded by Fearis.

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

- B) Upland, LLC and Brian & Dawn Croteau are seeking a boundary line adjustment between properties located at 138 and 136 Rocky Hill Road, in the Residential Single Family (R1) District, Assessor's Map 54, Lots 01 and 08, SUB #02-2018.

Saunders referred to her memo (see attached) and stated that this was part of the original subdivision plan set but we didn't have the proper paperwork at the time.

**Bob Stowell** of Trittech Engineering Corporation represented the applicant and addressed the Board. Stated that this was discussed when the original subdivision was approved. Stated that the land is going to be deeded to the abutter.

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

**Motion:** Horton moved that the request of Upland, LLC and Brian & Dawn Croteau for a lot line adjustment be **APPROVED**.

Seconded by Robidas. Motion carried unanimously.

- C) Upland, LLC and Steve & Lori McHugh are seeking a boundary line adjustment between properties located at 138 Rocky Hill Road and 6 Shawn's Way, in the Residential Single Family (R1) District, Assessor's Map 54, Lot 01 and 1A, SUB #03-2018.

Saunders referred to her memo (see attached).

**Bob Stowell** with Tritech Engineering Corporation represented the applicant and addressed the Board. Stated that this area has frontage on Rocky Hill Road but was not used for the conservation subdivision. Stated that the land will be conveyed to the McHughes.

**Public hearing closed 6:47 pm.**

Guptill stated that he recalls that there were some conditions of approval having to do with closing off the "woods roads" and asked if that will carry over here.

Stowell stated that there will still be a natural barrier put up.

Rhodes asked if this change will decommission the road and if the Board needs to do anything about that.

Saunders replied no and stated that Shawn's Way was never a public street.

**Motion:** Robidas moved that the request of Upland, LLC and Steve & Lori McHugh for a lot line adjustment be **APPROVED**.

Seconded by Rhodes. Motion carried unanimously.

**Motion:** Belmore moved that the Board take a recess.

Seconded by Guptill. Motion carried unanimously.

- D) River Valley Development Corporation is seeking site plan approval, subdivision approval with waivers and a conditional use permit for 28 townhouses with associated site improvements on property located at 206 Green Street, in the Residential Single Family (R1) District, Assessor's Map 08, Lot 78, SITE #01-2018.

Saunders referred to her memo (see attached) and stated that the proposal is for 28 townhouse-style condominiums and two single family detached dwellings. Stated that they have secured variance for multifamily dwellings in this zoning district. Stated that they are requesting four waivers and have been to two SRTC meetings. Stated that the City is still waiting for third party review and that she recommends that no action is taken on the application tonight and that they just have a discussion. Stated that she does have suggested conditions of approval though.

Barry recused himself from discussion on this application.

Vincent stated that he wants to disclose that his wife owns abutting property at 18 Turgeon Lane. Stated that her owning this property won't affect his review of the application and will remain on the Board tonight.

**FX Bruton** with Bruton & Berube, PLLC represented the applicant and addressed the Board. Stated that this is just the introduction of the project to the Board to listen to comments. Stated that they are not looking for approval tonight. Stated that they have worked with Director Saunders and that they appreciate her time on this. Stated that they have had two good SRTC meetings and that when they come back to the next Planning Board meeting they will have taken care of a lot of the issues mentioned in the memo. Stated that they plan to come back with a full package. Stated that they are just looking for a discussion and input from the Board tonight. Stated that they received a variance from the ZBA for the use and have met with the neighbors. Stated that some of the neighbors spoke in support of the project at the ZBA meeting. Stated that they were originally asking for a variance to allow a higher density but have decided not to pursue that. Stated that this density is appropriate for this area and they want to work for homeowners at a reasonable price. Stated that they went before the Conservation Commission and got good comments from them. Stated that they went before the SRTC and made changes based on that process. Stated that in Somersworth subdivision approval is also needed along with site plan approval for the condos. Stated that this project is in a position to be accepted as complete and continue with review. Stated that the third party firm will review stormwater and traffic. Stated that the engineer will discuss the waivers more but that they are seeking one for granite curbing. Stated that it is a partial request because there will be some granite curbing installed. Stated that they have NHDOT and NHDES approvals already. Stated that they will require an Alteration of Terrain (AoT) permit from the State. Stated that they are looking for one point of access on Green Street. Stated that there was some concern about access to this site from Turgeon Lane but they are not looking for access there. Stated that they are running the gas line from there but that is it. Stated that this project sits in the back and is well-buffered from Green Street. Stated that there is natural vegetation there and they want to maintain that. Stated that working with the abutters has helped them with design. Stated that lighting was a concern but they will be dark sky compliant and the detail of it will be revised on the plans. Stated that they are also seeking a waiver from the length of the cul-de-sacs and road grading at the intersection. Stated that they are complying with NHDOT standards with that. Stated that they have some things to work on but they are in good shape and want to listen to the Board's and abutter's input. Stated that they meet the regulations and that this is a nice project for Somersworth.

**Christopher Berry** with Berry Surveying & Engineering represented the applicant and addressed the Board. Stated that they designed the project around the central wetlands system that is there. Stated that the project is set back and around the ridgeline so you will see the front door from Green Street. Stated that they are creating connectivity with the surrounding single family homes by building two new single family homes, that will be part of the association, between Green Street and the condos. Stated that they are not proposing cul-de-sacs but the Subdivision Regulations require them. Stated that this is privately held and will have no services, like plowing, from Somersworth. Stated that they will have room for emergency vehicle turnaround and that they are expanding the walkway around the wetland so that emergency vehicles can make the loop if needed. Stated that they are requesting a waiver from curbing. Stated that the entrance to the site is from Green Street, which is a State road and they do not allow private owners to put curbing onto their road. Stated that the NHDOT also requires certain sloping. Stated that they are proposing an open drainage system and having curbing along the entrance road would change the stormwater design. Stated that they want to have sheet flow of runoff but if they installed curbing they would need to install catch basins and channelize flow. Stated that there are wetlands at the front of the property, which they are trying to protect and the NH Fish and Game doesn't want curbing in sensitive areas. Stated that the rest of the project slopes to the center wetland system. Stated that if there was curbing it would change drainage and wouldn't be low impact. Stated that in some areas where there is a raised

walkway they do have granite curbing and some around the landscape islands, so they did accommodate for granite curbing where they could. Stated that they are requesting a waiver for the slope of the roadway. Stated that the City requires a 2% grade but the NHDOT, which controls this road, requires a 4% grade. Stated that they have gotten the NHDOT driveway permit and it meets their regulations. Stated that they exceed AoT regulations for runoff flow and volume. Stated that third party will review the traffic report. Stated that they went out in the field and got updated traffic data. Stated that they are looking to market this to younger professionals and retirees.

**Brian Grant** an abutter at 200 Green Street addressed the Board and stated that when this was being discussed with the ZBA there was discussion of a sidewalk but that he doesn't want one. Stated that it would take over his property and be eminent domain of his land. Stated that his only privacy from Green Street is a bush and that he doesn't want the sidewalk there. Stated that the development is going to happen and that he feels that condos are better than having individual single family homes. Stated that he feels that curbing is expensive and hard to plow so they shouldn't have to put it here. Stated that he would like to see a wooded fence installed. Stated that he doesn't see why they can't have what they are proposing.

**Erika Auclair** an abutter at 212 Green Street addressed the Board and stated that this development will be right behind her house and it doesn't bother her. Stated that she likes the idea and stated that would be a great place to live for a lot of people she knows. Stated that she appreciates that they are taking wildlife into consideration with the curbing. Stated that she agrees with the development.

**Public hearing closed 7:25 pm.**

Robidas asked if the Board should wait on review until the plans are complete since they are still waiting on third party review.

Saunders stated that the plans are complete enough for review. Stated that it was the City that requested third party review. Stated that this tells the applicant that the Board is ready to start the clock. Stated that the Board can vote to extend the clock also.

Bruton stated that the Board usually votes on completeness so that the third party can start its review. Stated that they don't want votes on the application tonight.

**Motion:** Belmore moved that the plans for River Valley Development Corp. are complete for review.

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

LeHoullier asked the applicant to address the abutter's concern about sidewalks.

Berry stated that they are not proposing sidewalks. Stated that at ZBA there was discussion about an easement for another lot but that there is already enough room. Stated that there are no plans for a sidewalk here.

Bruton stated that sidewalks were not a condition of the ZBA approval and are not part of this proposal.

Fearis stated that it looks like this will be managed by a condo owners association (COA) so the City is not responsible for plowing or garbage. Stated that it looks like there is parking in front of the units but that there is no room for sheds, fences or additional boats or trailers.

Bruton stated that it will be covered by a COA and there will be restrictions in there. Stated with condos there is the area for the unit, common areas and limited common areas. Stated that COA documents will be submitted to the Board.

Fearis asked if the single family dwelling units in the front will be subject to the same rules

Bruton stated that they will be subject to the COA.

Vincent stated that he reviewed the application and that it is well put together. Stated that the development doesn't stand out because of the natural buffer and that he wants that natural buffer to stay in place. Suggested having a note in the plans that there be no thruway on Turgeons Lane and that he doesn't want a road there. Stated that he has seen projects in the past where extra living units are snuck in and that he is concerned with excess rental units.

Bruton stated that the units are going to be turned into condos and that the developer isn't going to own each one. Stated that taxes would be too high. Stated that they wouldn't ask for a subdivision to turn these into condos if the same owner was going to own all of them. Stated that he feels that the units being condos will protect his concerns.

Vincent stated that he is worried about absentee landlords.

Bruton stated that the best thing to do for that is to approve the condos.

Horton stated that he has no issues with the waivers. Stated that the gravel road seems better as a narrow walking path and that he doesn't want it to be used as a road.

Bruton stated that it will just be stabilized for use by the Fire Department in emergencies.

Horton asked if there will be anything to prevent other vehicles from driving out there.

Berry stated that they will consider that as gates can be complex.

Horton stated that he would hate to see it be used as a road.

Bruton stated that the condo documents will say what it is used for.

Rhodes stated that the limited use of curbing will help with amphibian migration. Stated that he likes the use of rain gardens. Stated that having no cul-de-sacs makes sense here. Encouraged signage for the walking trail.

LeHoullier echoed Vincent's concerns and stated that there was a situation in Rochester where condos were built and then just got rented out. Asked if there is any way to prevent that and if they will be owner-occupied.

Bruton stated that they are not intending to restrict an owner from renting out their units and the Planning Board cannot restrict that. Stated that most of the units will be owner-occupied. Stated that they are not going to market for renting out. Stated that a few units may be rented out but they expect high owner-occupancy. Stated that the density across the street would allow for up to 70 units. Stated that they wanted to keep density down.

Guptill stated that this is a good design and that he appreciates that they reached out to abutters. Asked if they can vote on waivers tonight.

Saunders stated that she recommends that.

Bruton stated that it would be good to finalize the design.

Fearis asked why the hydrants are high-gloss yellow.

Saunders stated that she will clarify for the next meeting.

Belmore stated that City hydrants are red but that this is a private hydrant. Asked if they can require LED lights.

Berry stated that they will be LED lights.

Belmore asked where the mail boxes will be.

Berry stated that he will put the central mailbox location on the plans.

Belmore asked about school busses.

Berry stated that they have found with developments like these there are very few school-age children. Stated that they haven't reached out to the school system yet but that he doesn't think they will go on private property.

Belmore stated that regarding the suggested conditions of approval he doesn't see one for a legal escrow account to review the condo documents. Stated that he would like to see the Conservation Commission suggested conditions of approval incorporated into the conditional use permit motion. Stated that he was contacted by a City Councilor who is interested in learning more about having a sidewalk from Indigo Hill Road to the development. Stated that the applicant should look into that for a discussion.

Small stated that he likes the good plans and asked about the density being denied back in June.

Bruton stated that they originally asked for more density but was denied and now they just want what is allowed by regulations. Stated that they addressed all the ZBA concerns.

Small asked the applicant to point out where they are proposing to have curbing.

Berry showed on the plans and stated that the internal landscape islands will have sloped granite curbing.

Saunders stated that she did request curb stops for at-grade sidewalks.

Small asked about having more color or plantings by the landscape islands.

Berry stated that he can work with the landscape people on that. Stated that perennials are easier to maintain.

Small stated that he thinks that the estimate for nine children is low and asked if they can work more of a recreation element into the project.

Berry stated that they have had mixed reviews on active recreation space. Stated that there is a lot of open space here. Stated that they are not planning to market this to people with children and that they want to keep more open active space.

Small suggested having a big garden area. Stated that this is a working family community and that there will be children here.

**Mike Patenaude** with River Valley Development Corp. addressed the Board and stated that these will be two and three bedroom units. Stated that there will be a lot of open space and that the condo association can vote to put in swing sets or recreation items if needed. Stated that there are eight acres of open space here. Stated regarding the earlier concerns of absentee landlords, this will be high quality and investors won't want to rent out. Stated that they plan to market these units in the mid to upper two hundred thousand dollar range. Stated that Somersworth doesn't have a development like this yet. Stated that they are connected homes, will be energy star rated and affordable.

Small stated that if he was to buy here would feel there should be something for the kids. Stated that he has a strong feeling that this will be a community of families.

Patenaude stated that they can leave it up to the people who will be living here.

Small asked about the condo documents and asked about having a swing set.

Patenaude stated that the two single family homes will be allowed to have them.

Small asked if the dumpster will be fenced.

Berry replied yes.

Small stated that they should consider having sidewalks to tie into the existing ones on Indigo Hill Road.

Fearis mentioned the waiver request for the grading and stated that this roadway will be steeper and allow for water to shed and have no icing.

Berry agreed and stated that it is the NHDOT requirement.

**Roadway Grading Waiver Request Motion:** Horton moved that the request of River Valley Development Corporation for a waiver from Section 7.C.4 of the Subdivision Regulations regarding the grading at roadway intersections be **APPROVED**.

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

**Granite Curbing Waiver Request Motion:** Rhodes moved that the request of River Valley Development Corporation for a waiver from Section 7.L.1 of the Subdivision Regulations regarding the use of granite curbing be **APPROVED**.

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

**Cul-de-sac Waiver Request Motion:** Guptill moved that the request of River Valley Development Corporation for a waiver from Section 7.C.3 of the Subdivision Regulations regarding the length and design of the cul-de-sacs be **APPROVED**.

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

Guptill asked for clarification on the street design waiver request.

Berry stated that the cross-section depth requirements for Somersworth are a little hefty and they want to reduce it to a standard cross-section. Stated that often the City will take over a road in a subdivision but not here.



Saunders stated that the DPW does support the waiver request.

Robidas asked if the third party firm will review that.

Saunders stated that they may.

Robidas stated that he doesn't want to vote on that yet as the third party firm may review it.

Horton stated that he has a lot of experience with road construction and that what the applicant is proposing is more than adequate here. Stated that he doesn't feel that it needs further review.

Berry stated that the third party firm is reviewing stormwater and traffic and that he doesn't think they would comment on roadway cross sections.

Saunders stated that they can add it to the review.

**Appendix on Street Design Standards Waiver Request Motion:** Guptill moved that the request of River Valley Development Corporation for a waiver from #6, #15 and #16 of the Street Design Standards in the Appendix of the Subdivision Regulations be **TABLED**.

Seconded by Robidas. Motion carried with an 8-1 vote with Horton opposed.

**Conditional Use Permit Motion:** Belmore moved that the request of River Valley Development Corporation for a conditional use permit for work within the wetland buffer for a residential development be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. Add plantings in front of the rain gardens;
2. Install signs to prevent subsequent disturbance in the buffer; and,
3. Filtrexx Soxx, or equivalent, shall be used.

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

**Subdivision and Site Plan Motion:** Belmore moved that the subdivision request for the creation of 28 condominiums and the site plan for 28 townhouses with associated site improvements be **TABLED** until the June 20, 2018 Planning Board meeting.

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

Barry rejoined the Board.

E) Any other new business that may come before the Board.

None.

## **5) WORKSHOP BUSINESS**

A) Election of Officers.

**Motion:** Belmore moved that Ron LeHoullier remain Chair of the Planning Board.

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

**Motion:** Belmore moved that Harold Guptill remain Vice Chair of the Planning Board.

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

B) Review of the Planning Board's Rules of Procedure.

Saunders stated that the Board talked about reviewing a different section of an ordinance or policy at each Planning Board meeting and tonight the Board is going to review the Rules of Procedure (RoP). Stated that the current RoP were last updated in 2011. Reviewed Section B Powers and Duties and stated that the Board is charged with the Master Plan and that the next update to that is due in 2020. Read from the RoP.

Belmore stated that review of the CIP should be added to this section.

Saunders stated that she will draft language for that and continued reading from this section. Stated that a listed duty should be added that indicates their review of site plans and subdivisions. Moved on to Section C Membership and stated that this is dictated by State statute and is based on the form of government the municipality has.

Belmore stated that the City Charter puts the City Manager on the Board.

Horton stated that he watches the City Council meetings and likes how they have closing comments. Suggested having the Planning Board do that.

LeHoullier stated that they have Miscellaneous and Communications where members usually ending comments.

Belmore stated that it can be added there.

Saunders stated that alternate board members may participate as non-voting members but can't take part in deliberations. Reviewed the terms of membership for members.

Robidas asked if it would make sense to move the start time of meetings earlier and suggested 6:00 pm.

Horton stated that he likes 5:30 pm.

LeHoullier stated that an earlier time would be tight.

Vincent asked about his role as a Council Alternate.

Saunders stated that he is an Alternate Planning Board member from the City Council and that he has full voting authority when he is sitting in. Reviewed Section E Meetings and stated that Planning Board meetings are open to the public, a record must be kept and that five members makes a quorum. Stated that whether a member should be recused from something is only up to the Board member in question. Stated that a non-binding vote can be asked for.

Belmore stated that one Board member can challenge another Board member on if they should recuse themselves.

Saunders stated that the Board can challenge a member but it is still up to that member.

Saunders stated that if a member has three unexcused absences a recommendation can be made for the member to be removed from the Board.

Robidas confirmed that a member would just inform the secretary if they are unable to attend a meeting.

Saunders reviewed the order of business and stated that every application needs to be on forms that are supplied by the City and the applicant must be present at the meeting. Stated that the public notice requirements are set by State statute. Stated that State statute requires that direct abutters be notified but that the RoP goes further and requires all abutters within a 200 foot radius be notified.

Small stated that they just got their packets two days before the meeting and asked about having a specific timeframe for when they get their packets for review.

Fearis stated that tonight's application was very detailed with a lot of notes and would have liked more time to review.

Saunders stated that the packets usually go out on Fridays but this month was busy and the packets were uncommonly late.

Small stated that he just wants to give applicant his due diligence.

Horton stated that he doesn't want to delay a project because the Board didn't have their packets.

Saunders reviewed Section F Application/Decision and reviewed public notice requirements. Reviewed motions and decisions. Stated that any member may ask for a roll call vote.

Belmore stated that sometimes a Planning Board members may ask a question that is not pertinent to how the project meets the City regulations so it is key to know what your role as a Planning Board member is. For example, stated that whether a property is paying taxes should not weigh in on if they meet regulations.

Saunders stated that there are a wide range of questions that can be asked but be careful not to be viewed as biased.

Robidas stated that he has had people call him and ask why the Board approved something but that if it meets the regulations they have to approve it.

Saunders reviewed timeframes for when certain public documents need to be available like decision letters and minutes. Stated that for things that are not addressed in these RoP then it falls under Roberts Rules of Order. Stated that she would like to review the Conservation Subdivision Regulations at the next Planning Board meeting.

Horton stated that this is helpful.

C) Any other workshop business that may come before the Board.

None.

## **6) COMMUNICATION AND MISCELLANEOUS**

Fearis stated that the tax maps are out of date and asked when they will be updated.

Saunders stated that they are in process and will be done by the end of the calendar year.

Fearis stated that at Tri City Plaza there is a book and shoe drop off that looks like an open dump.

Saunders stated that it is a property maintenance issue and she will inform staff.

Guptill stated that the City should maybe review the street design standards as the last applicant suggested that it is too hefty.

Belmore stated that he doesn't think the City "over designs" roads but they just wanted relief.


Robidas stated that it is better to have it over-built especially if it will eventually be a City street and the City will be responsible for maintenance.

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

Seconded by Guptill. Motion carried unanimously.

Meeting adjourned at 8:48 pm.

Respectfully submitted:



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Tracy Gora, Planning Secretary  
Somersworth Planning Board