

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

Public Hearing Meeting
Tuesday, January 4, 2005

Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman; Michael Fletcher
Alternates: Ted Stewart; Donna Sullivan; John Miller

Ms. Killam called the meeting to order at 7:40 p.m.

PUBLIC HEARING
Continued from December 22, 2004

Proposed Amendments to Zoning Ordinance, Section 620, Golf and Sports Complex/Residential Sub-District ("SCR Subdistrict"), related sections and charts which would allow buildings within the SCR subdistrict to have more than four (4) units, but not more than forty (40) units in a building, so long as those buildings did not exceed fifty five (55) feet in height per the International Building Code and were set back four hundred (400) feet from the property line and/or town roads. These amendments to the zoning would not increase the allowable density and would correct omissions, typographical errors and recodification of the sections if necessary.

This amendment is the version the Planning Board has been working on. There will be another meeting tomorrow night (January 5, 2005) to discuss the version that came in as a citizen petition.

The minutes of December 22, 2005 were discussed and the question was raised if the draft of the minutes was sufficient or if the tapes needed to be listened to and the minutes expanded upon. Several questions were raised and it was suggested that the recording secretary review the tape before the minutes are approved. Mr. DiMaggio transcribed the minutes from memory and he asked that this statement be added to the draft.

The Board reviewed the 'cleaned up' version of the Zoning Amendment on Section 620 dated December 23, 2004 after it was discussed at the December 22nd Public Hearing. The other sections were reviewed briefly.

The Board has received a letter from Frank Polito, Chairman of the Zoning Board and this was read by Mr. Polito.

The letter expands on Mr. Polito's concerns that were discussed at the December 15th meeting. He expressed concern that there may not have been a thorough enough investigation by the Planning Board to ascertain whether this zoning is

"good" for the Town of Atkinson. Mr. Polito stated that he reviewed the minutes from June 16, 2004 when Peter Lewis first approached the Board with this proposed zoning amendment and has watched several of the meetings on television. Mr. Polito felt that it was premature for the Planning Board to vote to move this to the ballot because there is not sufficient evidence that the Planning Board has met its obligations under RSA 674:18. (The RSA was read.) He noted that the Planning Board is under the impression that if the Board does not submit its version of the amendment, Mr. Lewis' petition will pass. It was Mr. Polito's opinion that the voters approved the golf course and clubhouse because they provided an amenity that the vast majority of the residents found desirable and would use. He saw no basis to support the conclusion that the voters will support a petition article for the SCRS, especially if the Planning Board does not recommend it. For the Planning Board to be operating out of fear that Peter Lewis' petition will pass is not a sound basis for zoning nor in keeping with RSA 674:18.

Mr. Polito's main concern was that the current version of the Master Plan does not support the proposed SCRS and noted that the Board was 'surprised' at the July 21st meeting when a proposed 32 unit building was presented. He reminded the Board that Ms. Killam, on several occasions, has stated her opposition to this zoning without updating the Master Plan and CIP first. Mr. Polito did not feel the proposed 55' high 40 unit building proposal is supported in the master plan and cluster zoning. He felt that a serious review of how this housing option impacts the Town of Atkinson must be undertaken to be in compliance with RSA 674:18. Statements by some Board members seeks to downplay the magnitude of the difference between the housing options presently supported by the Master Plan and zoning, versus those being proposed, and seeks to dismiss the possibility that there may be any adverse impacts on the town or that the town needs to or has time to prepare to update or improve its infrastructure or services to support this housing option. He questioned the statement by members of the Board that the Fire Department and Police Department were not concerned with fire and rescue impact and felt that professional advice should be sought by Town Counsel and/or the Rockingham Planning Commission. Mr. Polito stated that he met with the fire chief and was told that his department is not prepared to effectively protect this housing option from a fire and rescue perspective at the present time. The fire chief was under the impression that the timeline for this development would be two to three years before there would be a need to provide his department's services.

Mr. Polito expressed concern that there is no provision or tool that authorizes the town to limit the rate of construction and occupancy by the developer to match the ability of the town to provide services. Construction of 40 unit buildings can be undertaken much more rapidly than the 4 unit per building housing allowed under existing zoning. Mr. Polito noted that the Planning Board is going on record that it has fully endorsed this housing option, has considered all impact and believes that the existing Master Plan and CIP support this zoning.

He asked why there is such a rush to push this zoning change through now as opposed to taking the time to thoroughly evaluate it.

Ms. Killam agreed with Mr. Polito's concerns but noted that the Board as a whole has taken a different direction. Ms. Killam received a call from the Fire Chief who was not able to attend this meeting and Mr. Murphy did say that it was his understanding that it would be two or three years before he saw one of these buildings. The Fire Chief was told this at the sub-committee meeting with Mr. Lewis. If four or five of these buildings are built all at once the fire department is not prepared to keep up with that. The Fire Chief has concerns with the timing of the development not so much what it is.

Mr. Miller stated that he was at the sub-committee meeting and agreed with many of Mr. Polito's concerns. His biggest concern is that this zoning is written well and we don't have a situation where, if we go back later, something is grandfathered in that shouldn't be. Mr. Miller did not remember discussing the timing issue at the sub-committee meeting. Mr. Polito referred to previous minutes where statements were made that the Board had ten years to update the master plan. This is indicative of being in violation of the RSA's. Mr. Polito noted that there is no written record of any professional consulting.

Peter Lewis responded to the timing issue. At the sub-committee meeting he was asked several times when this project would start. He told those present that, if the article passes in the spring, he would have to go back to the Planning Board which at best could take 4 months. The project would get started after that. He added that Mr. Murphy and Mr. Consentino was present at this time. Mr. Lewis did not understand how Mr. Murphy got the impression that it would be two to three years before one building would go up. Mr. Lewis stated that, even if one or two buildings go up the first year it would not make that much of a difference. Ms. Killam stated that there would not be more buildings going up in a time frame that the fire department is not supported to fight fires in.

Mr. Stewart stated that the Board is not voting to approve any number of buildings tonight we are voting to approve the height and the number of units within the buildings. The Board still has control over the 4 months of planning. He agreed that everyone has a concern with the build out of the project but this is not before the Board this evening. Ms. Killam noted that the town does not have the specific ordinance that allows us to phase the development. Mr. Stewart felt that the Board could work this out with Mr. Lewis. Ms. Killam noted that it might not be Mr. Lewis that completes this project. Ms. Killam stated that the number of units that can be built expands exponentially when compared with the new ordinance vs. what could be built as it is today. Mr. DiMaggio disagreed with this statement. Mr. Polito noted that the Fire Department is able to rescue someone out of a 4-unit town house but what about elevators, corridors, garages under, etc. Mr. DiMaggio stated that if zoning is in place the fire department or police department would have concern that this could happen and would prepare for it.

Mr. DiMaggio stated that if we get a subdivision as a result of this zoning that will be a burden on the town and it can be seen in the first year the Board has a right to enact growth management. Mr. DiMaggio stated that there are five or six sections in the Master Plan that this could be considered under. Mr. Polito disagreed with this statement and asked for a show of hands from the Board as to how many members had actually read the Master Plan. Mr. Morse, Mr. Miller, Mr. DiMaggio, and Ms. Killam raised their hands. Mr. Polito then asked if the Board voted that the RSA did not have to be updated per RSA 674:18. Ms. Killam quoted the RSA that reads, in order to enact zoning, the Master Plan must support the zoning. He again stated that town counsel should be contacted. Mr. Polito asked that the record indicate that the Board has not met with town counsel to discuss this.

Mr. DiMaggio stated that, at the last meeting, Mr. Fletcher made a motion that this zoning not be voted on until the Board meets with town counsel. Due to the holidays this has not happened. The Board will not act on this until that time. A meeting with Attorney Kalman should be scheduled before January 18th.

Mr. Stewart thought that the CIP and the Master Plan was updated prior to the zoning being passed for the sports complex. Mr. Morse stated for the record that this zoning would not increase the density over what would be allowed right now, just different sized structures. There is actually less density. Mr. Polito felt the impact on the police and fire departments could be reduced by requiring in zoning that there be a covenant that says 'there will be 24 x 7 on site security'. Mr. Polito stated that he is not against this zoning, he is against it going on the ballot at this time. Mr. DiMaggio stated that under subdivision regulations we, without having to go the voters, could enact things with this new idea in mind under Site Plan and Subdivision Regulations. If this goes forward it makes sense to put together some regulations to protect against some of these issues. Mr. DiMaggio invited Mr. Polito to participate in this effort. Mr. DiMaggio stated that we have had many meetings on this issue. The Fire Chief and Police Chief have not expressed any concerns to the Board either in person or in a memo and Mr. DiMaggio felt that the Board has done its job.

Attorney Kalman will be contacted before any voting will be done on this proposal. The Board reviewed the document and the changes and corrections that were made.

Mr. DiMaggio made a motion to continue this hearing to January 18, 2005 to allow time to obtain input from the Police and Fire Departments and comments from Town Counsel. Mr. Fletcher seconded the motion.

Discussion: Mr. Stewart stated that he would like some action taken so that the time spent on this document would not be wasted. The document could still be sent to Attorney Kalman for his legal comments. Mr. DiMaggio did not think this could happen because if the Fire and Police Departments have reversed their

position the Board cannot put this to the voters. Mr. Stewart asked if the Board is comfortable with the text of this document that will be presented to Attorney Kalman after tonight's corrections. Ms. Killam stated that, what is here tonight, cannot be further amended because there is only one more meeting to approve it or not. It was the consensus of the Board that they accepted this latest version and were comfortable moving it to the next Public Hearing. **Vote of the Motion: Motion approved unanimously.**

A motion was made to adjourn.

Next scheduled Planning Board Public Hearing meeting is Wednesday, January 5, 2005 at 7:30 PM.

APPROVED _____ Respectfully submitted,

Carol Kater

Minutes transcribed from tape.