

DRAFT

These minutes have not been reviewed
or approved by the convening board or commission.

PLANNING COMMISSION

March 17, 2009

MEMBERS PRESENT:

Fred Glover
Terry Carter

Phil Dunwoody
Christine Fuller

Steve Stengel
Norman Vanasse

OTHERS PRESENT:

Scott Baitz
Alan Couch
Kevin Davis
Dawna Degnan
Anne Foreman
Jim Fuller
Virginia Gurdak
Richard Harrison
Rita Higgins

Robert Higgins
Dave Knight
Mary Knight
Maureen Korzun
Irene Maston
Michael Maston
Michael McDermott
Julie Nicoll

Anne Nowak
Richard Nye
Linda Petty
Larry Slason
George Timko
Robin Timko
Duncan Love, LPC-TV
Lisha Klaiber, Recorder

1. Call to Order

- A. Fred Glover called the meeting to order at 6:01 p.m.
- B. Roll call by Recording Secretary – all members present.

2. Open Public Hearing Date: Champlain Oil Petition

- A. Fred Glover opened the public hearing at 6:02 p.m. He explained that this hearing is for a change to the zoning regulations.
- B. Christine Fuller recused herself from the board.
- C. Larry Slason advised that he is representing Champlain Oil. He explained that the reason for the change to the Zoning Regulations is to add a Conditional Use to the Residential-Commercial District as described in Section 460 of the zoning regulations. There are currently 30 conditional uses in that district, none of which include a restaurant with a drive-up window. Champlain Oil is requesting that be added as a conditional use. The request includes adding the standard that the drive-up window be part of a multi-use building to be located on Route 103, south of the Village line. There has historically been a sentiment to disallow freestanding, fast food restaurants in the Village. This proposal will preserve the Village. Answering the question, is there appropriate space for such a building, Mr. Slason said the building would be located south of the village on Route 103. He showed pictures of a McDonalds building that the company has built in Freeport, Maine. The building proposed for

- Ludlow would be a multi-use building with 2 or more uses and will be architecturally consistent with the character of the area.
- D. Fred Glover noted that Larry Slason referred to the proposed location as a standard. He suggested that specifying one area within a district for a conditional use might be considered creating another zoning district entirely, if not, the use would be for the entire zoning district.
 - E. Larry Slason said that it would not be a separate zoning district. He felt that you could specify conditional uses for a specific area within a district. Retail, Restaurants and gas stations are already accepted conditional uses. His judgment is that it would not be a new zoning district. The project will be a mixed-use commercial building with multiple uses. There will be a Jiffi Mart, fast food restaurant with internal seating and a drive-up window and a gas station with 3 pumps. In the Town and Village zoning regulations, the definition of retail use excludes freestanding restaurants with drive-up windows. He thinks that is ambiguous. Responding to the question, is there interest in the project, he would like to take it to the town. The Planning Commission must decide if it can endorse the changes to the zoning regulations. The applicant did distribute a petition and did get the required 5% of the registered voters. The Planning Commission must pass this along to the Select Board and give the Select Board its recommendations. The Select Board must also hold a public hearing on the issue.
 - F. Michael McDermott displayed a copy of the proposed site plan, indicating the location between Panarello's and Cota & Cota.
 - G. Alan Couch asked if they were putting the cart before the horse, as the amendment has not been approved, yet.
 - H. Fred Glover said that the Planning Commission needs to know as much information as possible in order to make its recommendations.
 - I. Michael McDermott said there would be 3 gas pumps, the building would be about 3,500 square feet and showed where there would be pavement for parking and the drive-up window. The business would employ about 15 to 18 full and part-time people. The building would increase the town's tax base, there has been no definite decision regarding what fast food company would be there, the building will not be free standing with "golden arches," and the company will work with the town on architectural and signage issues. He said they would also work with the town on uses for the other property.
 - J. Terry Carter asked if the company currently owns the land.
 - K. Michael McDermott said no.
 - L. Richard Nye said that he lives in the Brookhaven Condominiums. He said defining the location as south of the village is unclear. He did not feel that proper notice was given for this hearing. It was only listed in one very small ad in THE VERMONT JOURNAL and that did not give the opposition time to organize. He felt that once the town is open to fast food restaurants, how will they be able to prevent future ones from opening. He does not want to see strip development in Ludlow. He noted that the Proctorsville Gulf is very scenic, Fletcher Farm is also very nice and he would not like to have people drive up to town and hit a fast food restaurant. The view would be ruined. He is concerned about traffic and trying to get out of Brookhaven. Okemo provides traffic control at peak periods. He feels that this location would require either a traffic light or full time traffic officer. He is adamantly opposed to the project.
 - M. Bob Higgins said that there are already 4 gas stations in town and that is enough. We would be known as "gasoline alley." He also did not see the need for a McDonalds type restaurant. The town gets along without it now. He is concerned about additional debris. He is against the project.
 - N. Richard Harrison said that he remembers the damage caused by the 1973 flood. He said that any building done in the floodway and flood plain would have to be consistent with Army Corps of Engineers standards. He feels that the proposed location is the worst place for this

- type of building. He is concerned about the gas tanks. He recalled that in 1980, the Planning Commission was against fast food establishments and were concerned about the effect they might have on local businesses.
- O. Alan Couch said they are getting ahead of themselves. This proposal must be considered on its merits. He feels that it is an attempt at spot zoning. He cautioned the applicants not to misconstrue people signing the petition as a show of support. Some people may have felt that people have the right to be able to develop their property. He continued, in Section 460, the RC district is limited commercial with residential. The commercial should enhance the character of the area. This would not.
- P. Jim Fuller asked if the proposed site is in the town and village or just the town,
- Q. Fred Glover said just the town.
- R. Robert Higgins asked if the town wouldn't be opening itself up for more of these projects.
- S. Fred Glover said that this proposal specifies only one area, but would establish a precedent. He asked if this is a standard or another zoning district.
- T. Steve Stengel noted that this would be a change in the zoning regulations to allow drive-up windows in restaurants.
- U. Linda Petty said that she is opposed to the project. Once you let the kitty out of the house, it comes back with a litter.
- V. Dave Knight said that he is against the project. Fast Food restaurants are not needed and it would be a dangerous location.
- W. Richard Nye said that once someone else meets the conditions, you would not be able to stop them from going to other areas of the RC district. Is the applicant trying to limit competition by limiting the location to one place?
- X. Julie Nicoll asked the applicant if they get denied, will they still work with the town on the other location.
- Y. Michael McDermott said that would be a question for the owner of the property. They have tried to sell and or lease the property with no success. They would negotiate with the town if this goes through.
- Z. Kevin Davis said that in 1995, there was an organization called Ludlow Concerned Citizens and over 200 people defeated the McDonalds project. Since he was part of the group, he feels that he is representing them and is against the project.
- AA. Terry Carter advised that in the recent town survey, although the question was not asked, there was an overwhelming response against fast food restaurants.
- BB. Phil Dunwoody said that he has concerns. He considers it spot zoning to specify a parcel with its own unique zoning. The town plan calls for the town to look to the health of existing local businesses. What impact with a fast food place have on the Mom and Pop restaurants. This would be the 5th gas station in town and is not needed.
- CC. Anne Foreman said that she has lived here since 1990. People who come here are tourists and want the ambience. They do not come here for Jiffi Marts and gas stations. She does not want to see the town lose that ambience. The town needs to be careful about what it chooses and where they put it.
- DD. Richard Nye is concerned about where the employees would come from.
- EE. Larry Slason said that he appreciates the views of the opposition and is not here to argue. The Planning Commission has to decide what is appropriate for this community. He addressed Fred Glover and said that the RC District has several areas throughout the town; this proposal is just identifying one as an area capable of this development. You can already open another gas station there. The question is the drive-up window. They will thoughtfully design a multi-use building. In spot zoning, one parcel is singled out. This is not limited to one parcel. It's legal if the Planning Commission wants to allow it.

- FF. Michael McDermott said that the previous site employed 5 full time people and was not competitive. It did build a loyal customer base and people are looking for us to re-open a business in town. The people we hired were locals. We had loyal customers.
- GG. Richard Harrison said that the pavement would cause lots of run-off.
- HH. Larry Slason said that is preferred in the floodway or floodplain. Condominiums are not recommended there now. We have already looked into it.
- II. Fred Glover said if passed by this board and the town, all issues would be addressed by the state.
- JJ. Richard Harrison said that gasoline would be a big problem.
- KK. Steve Stengel said that he has concerns about the way the petition was presented. He was not told that it would be a fast food restaurant with drive-up window.
- LL. Michael McDermott said that people knew.
- MM. Steve Stengel said that this proposal was dated September 11,2008 and this board recommended that changes to the zoning regulations not be made. We want to preserve the nature of the town. We have to submit a report to the Select Board and they will also hold a hearing. People should come to that meeting. People who signed that petition did not understand that there would be a drive-up window. He asked if the applicants had done a traffic study, yet.
- NN. Michael McDermott said no.
- OO. Norman Vanasse said the building could be on stilts, but what about the gas tanks.
- PP. Larry Slason said that there are already many similar projects and that tanks are very secure. There are state regulations.
- QQ. Phil Dunwoody said that he is happy to see so many people here tonight. He asked them to write to the Select Board with their concerns or attend their hearing on this. Let the town officials know what you want or don't want.
- RR. Anne Nowak said that she has lived there since 1960 and there was a gas station at the location where Sam's is now. She is the only home in the area and has no objections to the project. She sees all of the changes that are aimed at tourists. McDonalds would help the locals who are going out to lunch in Rutland or Springfield now. She does not want an elitist only community. The town lost its mills and the jobs and people who worked there. She has seen Village Pizza, Northern Ski Work and the Chef Mei in the area. There are people who would like to see a McDonalds.
- SS. Richard Harrison advised that the Select Board received an opposing petition last night.
- TT. Fred Glover thanked all of the people who came to this hearing.
- UU. **MOTION by Norman Vanasse and seconded by Terry Carter to close this public hearing. Motion passed unanimously.**
- VV. Fred Glover said that this board needs to prepare a report for the Select Board.

3. **Deliberative Session**

- A. **Motion by Phil Dunwoody and seconded by Terry Carter to enter into Deliberative Session. Motion passed unanimously.**
- B. Board entered into Deliberative session at 7:03 p.m.
- C. Board exited deliberative session at 7:55 p.m.

4. **Regular Meeting**

- A. Fred Glover reopened the regular meeting at 7:56 p.m.

- B. During the Deliberative Session, the board worked on completing the report on the public hearing for the Champlain Oil Petition to rezone the area between Subway and Panarellos on Route 103 to allow a restaurant with drive-through service.
 - C. **MOTION by Terry Carter and seconded by Steve Stengel to finalize the drafted Planning Commission report from the Municipal by Law Amendments for submission to the Select Board. Motion passed unanimously.**
5. **Continue Work on Town Plan**
- A. **MOTION by Christine Fuller and seconded by Terry Carter to table work on the town plan until special meeting on March 23, 2009. Motion passed unanimously.**
6. **Adjourn**
- A. **MOTION by Christine Fuller and seconded by Norman Vanasse to adjourn the meeting. Motion passed unanimously.**
 - B. Meeting adjourned at 8:00 p.m.
 - C. Next meeting will be a special meeting on March 23, 2009 at 6:00 p.m.

Respectfully submitted,

Lisha Klaiber

Fred Glover, Chairman

Christine Fuller

Terry Carter

Steve Stengel

Phil Dunwoody

Norman Vanasse