

**CANDIA PLANNING BOARD
MEETING MINUTES OF January 4, 2023
APPROVED MINUTES**

PB Members Present: Rudy Cartier, Chair; Brien Brock, BOS Rep; Mark Chalbeck, V-Chair; Josh Pouliot; Judi Lindsey; Scott Komisarek; Joyce Bedard; Linda Carroll, Alt

Kevin Coughlin, Alt; Mike Guay, Alt.; Tim D'Arcy, Alt.; Mike Santa, Alt.;
PB Members Absent:

*Rudy Cartier, Chair called the PB meeting to order at approximately 7:00PM, followed immediately by the Pledge of Allegiance

R. Cartier: Requested permission to switch the order of the items on the agenda. All were in agreement.

S. Komisarek recused himself and Linda Carroll, Alt. sat in as the alternate.

Old Business:

- **Case #22-004** (Major Site Plan) (**Public Hearing**): Applicant: 23 Main Street, LLC, 14 Main Street, Candia, NH 03034; Owner(s): 23 Main Street Candia, LLC, 14 Main Street, Candia, NH 03034; Property Location: 23 Main Street, Candia, NH 03034; Map 409 Lot 91. Intent: MAJOR Site Plan for a 29-unit Elderly Housing Development.

7:10PM Open Public Hearing was opened by Rudy Cartier:

J. Noonan, Fieldstone Land Consultants, Applicant's Engineer:

Gave a brief overview of the project. 29 units. 28 for elderly housing. 29th for manager's apartment. Pending permits: Septic Permit, Shared Well, AOT, DOT, and Driveway Permit.

R. Cartier: Reviewing the information submitted over the last few months and summarized the following items as needing to be addressed:

On page 5 of the plans, a note for/referring to the alarm system, stating: Sprinkler system shall be designed and installed per the NH State Fire Code and NFPA 13R.

Please provide copies of those plans to the building inspector and fire chief.

Requested that a note be added to comply with ADA. Per Zoning Ordinance Article 5 Section 5.06 (25): At least 10% of the residential units shall be compliant with the current edition of International Building Code Type B dwelling.

Homeowners' Association Documentation, the process was started but we are awaiting the finalized documentation. Per Zoning Ordinance Article 5, Section 5.06 (27) A Homeowners Association shall be established consistent with a condominium ownership, and all Articles and By-Laws shall be submitted in advance to the Planning Board and Town Counsel for review and approval.

John Ratigan – Attorney for the Applicant: They will not be Homeowners' Association Documents; they will be Condominium Documents – they will have everything that you are expecting.

R. Cartier: Construction timetable? The note was added. Work shall commence within one year and be completed within 2 years of Planning Board final approval. (Major Site Plan Article 5.02 (2))

Construction and Inspection fees escrow, and a Project Completion Surety Bond as determined by Town Engineer shall be provided (Major Site Plan Article 5.00 (B) 2, 3 and 4, and Article 5.05).

B. Brock: Implementation Bond

S. Komisarek: Continuous monitoring won't be necessary.

B. Ruoff: I recommend that at least a small amount be put aside for surety. \$2,000, for as needed inspection.

J. Noonan: The subservice drainage, once installed, has to be inspected and signed off by the state.

R. Cartier: A Surety Bond will need to be provided to ensure everything is completed as per the plans. This will be a reclamation bond with the amount estimated by Stantec.

Lighting Plan on page 6 of the plan set needs to be sealed by a Professional Engineer (Major Site Plan Article 8.03 (D))

A question was posed about Well Yield Study

J. Noonan: Community well permitted with DES. The permit is still not completed yet but is underway.

J. Lindsey: Do you ever test for toxic chemicals? Because of the proximity of the cemetery. Embalming fluid, etc.

J. Noonan: Yes

R. Cartier: Well radius protection area, DES is saying that you cannot have a garden in that area.

S. Komisarek: They are in favor of the idea. Especially if you agree to grow it organically.

R. Cartier: Reads email from DES. I would suggest you take it off the plan at this time. The solar panels are also something that needs to be addressed. If you could remove garden and solar panels from the plans.

Question on traffic study. For documentation purposes, can you please get us something from DOT that states that they are not going to require a traffic study for the project.

Knox boxes?

D. Young: It depends on how they are keyed. If we have a master key, it should not be a problem. We don't want to open it and have 28 keys.

Open up for public comments at 7:34PM. Chairmen Cartier reminds everyone that they need to stick to issues involving the site plan. We did have a letter submitted for reconsideration of the waivers that were granted. We have been advised by town counsel that we do not have the authorization to do that. When you do give public comments, if it has been said before, please keep it brief. Public comments have to do

with objections on the site plan. There have been court cases. The NH Supreme Court had a court case related to this and I'll read a portion of it. "The Superior Court concluded that the ZBA erroneously relied upon public comments opposing the project improperly basing its decision on aesthetics, and by judging the application solely on its popularity". To make it so that we don't overstep our legal bounds, our decision has to be based on factual information and not on whether it is or is not a popular thing to do. Bear in mind that our decision as a board cannot be based on popularity. It must be based on facts.

T. DiMaggio – 42 North Road: DOT said they would look at that when everything is approved but they are not doing it now. They have to approve it.

P. Davis – Critchett Road: I spoke to DES, "You are correct that they 150'-175' sanitary protective radius around a community water supply is required to remain in a natural state and there cannot be application of fertilizer and pesticides. I am familiar with the project you are referencing and their site plan showing a community garden in that location due to our rules related to the sanitary protective area. We have not approved this project at this point, and it is still in the early stages of the community well siting process." Drew, Andrew Koff, P.G., Hydrogeologist, NHDES Drinking Water & Groundwater Bureau

K. Lemay – 16 Adams Road – I asked this question before. We have a large parcel here that is going to be paved. My question involves the runoff. I know that you have done something for the water.

J. Noonan: Runoff was addressed with Stantec's comments. Mitigate storm water. A raingarden. Two storm water chamber systems. We are taking some of the water that is running down 43.

J. Szot – Libbee Road: The pipes go out back. The logical conclusion is that the water would be going into Moore Park.

J. Noonan: Downhill, this way past the well. This system would drain along the property line here.

J. Szot: Is there a stormwater retention pond? What about those chambers? The retention pond appears to have a spillway. There is water in that at all times, prime breeding ground for mosquitos.

Is the snow storage against the sides of the buildings?

J. Noonan: Landscaped areas.

J. Szot: Chemicals, antifreeze, in the snow up against the buildings. That water is going to go towards the front then.

J. Noonan: Oils that leach out of asphalt. The state wants to make sure that all of that water is treated. There is a treatment swale. Microbes end up breaking that material down. That maintenance is outlined in the Alteration of Terrain Permit.

S. Komisarek: If you walk to that wall, where the trees are on the town land. We are not taking down any of those big trees.

J. Szot: Did I understand when you were talking about the road? Will it be built to town specs or not?

J. Noonan: It is a driveway.

M. Santa: I am surprised we have not seen any renderings of these buildings thus far.

R. Cartier: We do have those. We do have elevations for everything.

J. Noonan: We added all four sides, materials, colors. The larger buildings, we also submitted those as well.

M. Guay: How does someone let DES know that they would like their well checked?

J. Noonan: It is based on how much draw. They will put a large radius. DES will manage that. Determining if you are within the area of impact.

R. Cartier: Has the report been submitted to the town?

J. Noonan: It has not yet been done.

J. Szot: - 15 Libbee Road – When we did the Master Plan in 2003-2004, we did a study of the natural infrastructure of the town of Candia. The potential for groundwater contamination. 58 people living there. Drawing a lot more water. Significantly increased by the high population concentration. DES is looking at it now, but they will not be looking at it in five years.

R. Cartier: I think the question is, have you done an evaluation of how much water will be drawn by this project?

J. Ratigan: Properties that have a community well are required to have an outside entity monitor the well.

R. Cartier: They would have to hire a qualified company.

Darrel Nafranowicz - 206 Brown Road – Is the school part of this water study? How is the radius determined? When Winslow Lane went in, I had significant water pressure loss. What recourse do people have, after the fact? What recourse would they have for loss of water?

R. Cartier: I think that is where the confusion is coming in. There are not specific items in there. The way it has to work is, it is a best guess as to where the water is. In this particular study, what DES is requiring is the site-specific studies. 35,000-foot view, we have places that are terrible for water; we have places that are great.

T. DiMaggio: Do we know how big the aquifer is? Will we ever find out?

R. Cartier: We are relying on the best information we can get. Studies done by DES. They are the ones with the most reliable information.

K. Lemay – 16 Adams Rd: Obviously there is a concern about how much water the project will draw. Can you put a contingency on the project that would require a bigger study be done? Can you put it into your acceptance of this project, that a bigger radius be required?

R. Cartier: Personally, I would feel very uncomfortable because I cannot back that up with any logic or reason. We have to look at the regulations. We can “request” that the applicant check the school as well.

D. Young – Deerfield Rd. – I think it is important that people remember that DES has experience on their side. I think we would have heard about failures outside of that radius.

J. Ratigan: Regarding a project in another town. DES did the testing as the well was going in. No one had any damage. One of the wells was not in good shape. If there is a problem that occurs to someone, DES will take care of them and protect them.

M. Guay: The school is within the radius.

R. Cartier: We will not sign off on the plans until all of this information is submitted to the board.

J. Pouliot: I am wondering if our town engineer knows what the radius is?

L. Carroll: If we were talking about the community garden and solar panels. If this is approved today, would they have to come back before the board?

R. Cartier: Yes. That is correct.

J. Szot: Asked a question about the definition of elderly housing occupancy limits and R. Cartier stated that it will not be discussed now. We are only going to discuss this particular site plan.

B. Gurney – 436 New Boston Road – Are there going to be propane tanks on the property? One tank? Multiple tanks? 4500 total gallons?

J. Noonan: 1000-gallon underground tanks.

P. Davis: I would like to submit a packet of letters.

R. Cartier: I would like to summarize. They will all become part of the record. Rudy proceeded to read parts of letters both in support and in opposition of the project. They will all be available for anyone who would like to review them in more detail.

C. Penfield: Are the buffers 25 Foot? Has there been any discussion about planting more vegetation? Is there information about what the price of these units would be?

R. Cartier: Yes. The buffers in the back are 25 Feet. The others, front and side are between 75 and 100 Feet. We do not have any information regarding unit prices at this time.

Closed Public Hearing @ 8:47PM

R. Cartier: Is there any discussion? I would just like to reiterate; the decision of this board has to be based on the information that is provided. We cannot make this decision pro, con, or otherwise, based on popularity. We have to look at the mechanics of this plan.

Do we want to have them ensure that the school is included in the well study. Making sure that the conditions are reasonable and based on factual information.

J. Lindsey: **Motion** to deny. L. Carroll: **Second** – R. Cartier: No: It does meet the technical requirements. M. Chalbeck: No, with the approval of the conditional use permit, the project meets all specifications for our innovative land use ordinance. No. B. Brock: No, it has met every requirement that we have. J. Lindsey, Yes. I do not want it and in good conscience could not support it. It doesn't reflect the ordinances. J. Pouliot: No. Because it does meet all of the regulations that we have gone over. J. Bedard: No. I believe it to be in the spirit of the master plan and a good use of that space. L. Carroll: Yes. I don't think it is the right place. I do believe the 55+ is needed but there are still some unknowns, and I cannot be fully behind it. 5 no. 2 yes. **Motion failed.**

Motion: J. Bedard: Approve the project with conditions stated. 1-12 M. Chalbeck: **Second** R. Cartier: Yes, for the same reasons. It does meet the technical requirements. M. Chalbeck: Yes, same reasons. with the approval of the conditional use permit, the project meets all specifications for our innovative land use ordinance. B. Brock: Yes, same reasons, it has met every requirement that we have. J. Lindsey: No. Same reasons, I do not want it and in good conscience could not support it. It doesn't reflect the ordinances. and water issues long term. J. Pouliot: Yes, same reasons. It does meet all of the regulations that we have gone over. And we have already granted the other waivers. J. Bedard: Yes, in line with master plan and the location is good. L. Carroll: No. Same reasons. 5 yes. 2 no. **Motion Passed.** Site Plan for Case #22-004 approved with conditions 1-12 as stated:

Conditions of Approval

1. On Plan Set Page 5, Add the following to Note 4:
 - a. Provide copies of the plan to the Building Inspector and Fire Chief for approval.
2. On Plan Set Page 5, Add the following to Note 5:

- a. Sprinkler system shall be designed and installed per the NH State Fire Code and NFPA 13R. Provide copies of the plans to the Building Inspector and Fire Chief for approval.
3. Per Zoning Ordinance Article 5 Section 5.06 (25): At least 10% of the residential units shall be compliant with the current edition of International Building Code Type B dwelling.
4. Per Zoning Ordinance Article 5, Section 5.06 (27) A Homeowners Association shall be established consistent with a condominium ownership, and all Articles and By-Laws shall be submitted in advance to the Planning Board and Town Counsel for review and approval.
5. State Permits. The following state permits shall be submitted to the Planning Board (Major Site Plan Article 4.05 A):
 - a. NHDES Alteration of Terrain
 - b. NHDES Community Well and Public Water Supply Permits
 - c. NHDES Subsurface Disposal System Permit
 - d. NHDOT Driveway Access Permit
6. Construction and Inspection fees escrow and a Project Completion Surety Bond as determined by Town Engineer shall be provided (Major Site Plan Article 5.00 (B) 2, 3 and 4, and Article 5.05).
7. Lighting Plan on page 6 of the plan set sealed by a Professional Engineer (Major Site Plan Article 8.03 (D))
8. No work shall be initiated until the final plan of the proposed site plan has been approved by the Board. (Major Site Plan Article 1.05 and Article 5.02 (1))
9. Work shall commence within one year and be completed within 2 years of Planning Board final approval. (Major Site Plan Article 5.02 (2))
10. Remove the community garden and ground mount photovoltaic solar system from the Plan Set.
11. Provide one Knox Box at a location determined by the Fire Chief and provided a master key for all buildings access.
12. Provide written documentation from NHDOT concerning the need for a traffic impact study.

New Business:

R: Cartier: Opened the Public Hearing on Zoning Ordinances: 9:07PM

S. Komisarek reclaimed his seat on the board. L. Carroll stepped down.

Are you in favor of the adoption of Amendment No #1 as proposed by the planning board for the town zoning ordinance as follows: Article II: Impact Fee Ordinance. Amend Section 2.10 by correcting the reference from ~~See Section 145.03C: C~~ to *See Section 15:03C*.

J. Szot: I believe the correct reference is 16.03. Error on an error: 16.03: C How is that consistent with keeping the rural character of Candia?

R. Cartier: We are not changing the definition. We are just changing the term. We are using the RSA definition.

Are you in favor of the adoption of Amendment No #2 as proposed by the planning board for the town zoning ordinance as follows: Article II Definitions: **Elderly Housing** by changing “apartments” to “multi-family dwelling units” to read: Housing intended for, and 100 percent of the dwelling units are occupied solely by, persons 55 years of age or older, featuring small single-family detached or attached dwelling units and ~~apartments~~ *multi-family dwelling units*. In no event shall more than four (4) occupants live in any dwelling unit of an elderly housing development.

Are you in favor of the adoption of Amendment No #3 as proposed by the planning board for the town zoning ordinance as follows: Article II Definitions. Add a definition for Unnecessary Hardship to read: **Unnecessary Hardship**: Owing to special conditions of the property that distinguish it from other properties in the area:

- (A) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (B) The proposed use is a reasonable one.

Are you in favor of the adoption of Amendment No #4 as proposed by the planning board for the town zoning ordinance as follows: Article V Section 5.06:7a **Maximum Density for Multi-Family** to amend by adding the word “radius” to read: The maximum number of dwelling units within an elderly housing development containing 3 or more dwelling units per building shall be based on the *radius* distance the further extent of the property is from the commonly known “Four Corners” intersection of NH 27 and NH 43 as follows:

Are you in favor of the adoption of Amendment No #5 as proposed by the planning board for the town zoning ordinance as follows: Article V Section 5.06:7b **Maximum Density for Detached Single-Family and Attached Duplex Single-Family Dwellings** to amend by adding the word “radius” to read: The maximum number of detached single-family dwellings or attached duplex single-family dwellings containing 1 or 2 dwelling units per building shall be based on the *radius* distance the further extent of the property is from the commonly known “Four Corners” intersection of NH 27 and NH 43 as follows:

J. Szot: You are adding a significant amount of land to that radius, and it will negatively impact emergency service response time.

R. Cartier: Reiterated that, the arterial road requirement remains intact.

Are you in favor of the adoption of Amendment No #6 as proposed by the planning board for the town zoning ordinance as follows: Article XV Section 15.04 B: **Specific Special Exemption** to amend by replacing ~~Section 5.03: A.32~~ with *Section 5.02 A:.3* to read: In order to achieve this goal, two family and multi-family dwelling uses identified in *Section 5.02: A.3* of this Ordinance and specifically referring to this section may be permitted as Special Exceptions in the R District subject to the following safeguards:

Are you in favor of the adoption of Amendment No #7 as proposed by the planning board for the town zoning ordinance as follows: Article XVI Section 16.03: **Assessment Methodology** to amend by replacing “entitles impact Fee: Town of Candia” with entitled “Impact Fees: Town of Candia” to read: The amount of the impact fee shall be determined by an Impact Fee Schedule prepared in accordance with the methodology established in a report by the Planning Board entitled “Impact Fees: Town of Candia” and adopted by the Planning Board.

M. Chalbeck: Private burial now requires coordinates be provided to the planning board and it will be added to the deed and recorded.

Are you in favor of the adoption of Amendment No #8 as proposed by the planning board for the town zoning ordinance as follows: Article XV Section 15.04: Special Exemption Uses. Add a new Section 15.04. G Private Burial Grounds: Private Burial Grounds (as defined by RSA 289) shall be allowed in the residential district providing the following criteria are met:

1. The requirements of **NH RSA RSA 289:3 Location** are met, and
2. A site plan shall be presented to the Planning Board with the following items addressed in addition to the current Site Plan Regulations:
 - a. The GIS coordinates of the plot corners
 - b. Corner markers to be installed and listed as a condition of approval.
 - c. An easement to the plot for future access on a maintained access drive.
 - d. Upon approval by the Planning Board, the Site Plan shall be recorded on the Deed with the Registry of Deeds within 90 days of approval.

Are you in favor of the adoption of Amendment No #9 as proposed by the planning board for the town zoning ordinance as follows: Article V Section 5.02 A. Residential. Add a new Section 5.02.A.16 Private Burial Grounds and add “P” under the R heading in the Zoning District Table of Uses.

Are you in favor of the adoption of Amendment No #10 as proposed by the planning board for the town zoning ordinance as follows: Article V Section 5.05 Conditional Use Permit Review Criteria to amend the first paragraph to eliminate Elderly Housing in two places to read: ~~Elderly Housing~~ A Conditional Use Permit for Elderly Housing may be issued by the Planning Board provided all of the following review criteria are met:”

Are you in favor of the adoption of Amendment No #11 as proposed by the planning board for the town zoning ordinance as follows: Article V Section 5.05.3: Conditional Use Permit Review Criteria to amend the section to read “*For an Elderly Housing Conditional Use Permit, the development shall be designed...*”.

Are you in favor of the adoption of Amendment No #12 as proposed by the planning board for the town zoning ordinance as follows: Article V Section 5.05.4: Conditional Use Permit Review Criteria, Amend Section 5.05.4 to replace “~~maximize~~” with “maintain” to read: The design and site layout of the proposed development shall complement and harmonize with the rural character of the Town of Candia and shall *maintain* the privacy of dwelling units and preserve the natural character of the land.

Are you in favor of the adoption of Amendment No #13 as proposed by the planning board for the town zoning ordinance as follows: Article III: Definitions, Article 5.02; Table of use Regulations and Article V Section 5.07 Conditional Use Permit Standards. **Purpose: To ensure compliance with the requirements of RSA 674:58.** To establish a new definition of workforce housing and a conditional use permit process for the review and approval of workforce housing developments within the Town’s Residential and Mixed-Use Districts. Also includes new standards and provisions for the review and approval for such developments. Workforce housing is based on the median income. 100% of area income. Purchasing: \$126,400 for Western Rockingham County. Rental: \$75,840 for a family of 4 for Western Rockingham County.

Workforce Housing: Housing which is intended for sale, and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. "Workforce housing " also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision

P. Davis – Critchett Road – Inquired about the logistics of modular homes and the requirement of sprinkler systems.

R. Cartier: Modular home regulations are federally regulated, and federal regulation supersede state regulations.

Citizens Petition Article:

See attached

We can’t change the basic wording or intent of the regulation. I put it into the standard format.

B. Brock: Suggested that it is the job of the BOS to put it into the proper format.

C. Penfield: This is my petition. I believe this has to go in, exactly the way that I wrote it.

Some discussion ensued about the format and protocol regarding citizen petition.

R. Cartier: Closed the public hearing at 10:07PM.

Amendment 1: J.Bedard: **Motion** to recommend with the change in section noted in our discussion. S. Komisarek: **Second**

All were in favor. **Motion passed.**

Amendment 2: J. Bedard: **Motion** to recommend. J. Pouliot: **Second**

All were in favor. **Motion passed.**

Amendment 3. J. Lindsey: **Motion** to recommend. S. Komisarek **Second**

All were in favor. **Motion passed.**

Amendment 4. J. Lindsey: **Motion** to recommend. J. Bedard: **Second**

All were in favor. **Motion passed.**

Amendment 5. J. Pouliot: **Motion** to recommend. B. Brock **Second**

All were in favor. **Motion passed.**

Amendment 6. B. Brock: **Motion** to recommend with correction that was made. S. Komisarek: **Second**

All were in favor. **Motion passed.**

Amendment 7. J. Lindsey: **Motion** to recommend. J. Bedard: **Second**

All were in favor. **Motion passed.**

Amendment 8. J. Pouliot: Motion to recommend with the correction of the second RSA being eliminated.
M. Chalbeck: **Second**

All were in favor. **Motion passed.**

Amendment 9. J. Lindsey: **Motion** to recommend. S. Komisarek: **Second**

All were in favor. **Motion passed.**

Amendment 10. S. Komisarek: **Motion** to recommend. J. Pouliot: **Second**

All were in favor. **Motion passed.**

Amendment 11. J. Bedard: **Motion** to recommend. J. Lindsey: **Second**

All were in favor. **Motion passed.**

Amendment 12. J. Lindsey: **Motion** to recommend. S. Komisarek: **Second**

All were in favor. **Motion passed.**

Amendment 13. B. Brock: **Motion** to recommend with confirmation of the RSA number. S. Komisarek:
Second

All were in favor. **Motion passed.**

Amendment 14. J. Pouliot: **Motion** to not recommend. S. Komisarek: **Second**

All were in favor. **Motion passed.**

Some discussion about adding verbiage to the ballot. Showing results of the voting for recommendation be added to the ballot for each of the proposed amendments. 1-14

Recommended by the planning board 7-0

Citizens Petition:

Not recommended by the planning board 7-0

- Approval of Minutes, 12.21.22

B. Brock: Motion to approve the minutes of 12.21.22 as amended. S. Komisarek: **Second**

All were in favor. **Motion passed.**

Appeal Updates:

Foster Farms, New Boston Road

January 12th preliminary hearing February 9th actual hearing date.

Other Business:

- Any other matter to come before the Board

Public Comments:

Motion to adjourn: J. Pouliot. S. Komisarek: Second. All were in favor. **Motion passed.**

Adjourn: 10:27PM

Respectfully submitted,

Amy M. Spencer

Land Use Coordinator

cc: file