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**LITCHFIELD PLANNING BOARD**  
**December 2, 2008**  
**Minutes accepted as amended 1/6/09**

**Members present:**

- Steve Perry, Chairman
- Leon Barry
- Frank Byron, Selectmen’s Representative
- Edward Almeida, Alternate

**Members not present:**

- Jayson Brennen, Vice Chairman
- Alison Douglas, Clerk
- Carlos Fuertes, Alternate
- Mary Anne Geist
- Marc Ducharme

**Also present:**

- Joan McKibben, Administrative Assistant
- Steve Wagner, Nashua Regional Planning Commission, Circuit Rider

**AGENDA**

- 1. Zoning Changes - Workforce Housing  
Older Persons Housing**
- 2. Theroux Escrow**
- 3. Canberra Bond**
- 4. Any Other Business  
- Minutes**

Chairman Perry called the meeting to order at 7:15 p.m. Chairman Perry appointed Alternate Edward Almeida as a voting member.

**1. Canberra Bond**

This will be discussed at the next meeting since Mr. Almeida would have to step down and there would be no quorum.

**2. Zoning Change - Workforce Housing**

The Board discussed a proposed workforce housing ordinance. Mr. Wagner provided a

1  
2 handout showing options for a district designated as workforce housing. He also has the  
3 language change for the discontinuance of the Older Persons ordinance.  
4

5 Alternative Housing Arrangements and Opportunities: Mr. Wagner said he took text from  
6 the inclusionary ordinance and called it affordable housing overlay district, and used  
7 some of the text that makes no commitments as far as incentives, not giving any  
8 incentives at this point. If the Board agrees to go with this ordinance, it will have to be  
9 reviewed by Town Counsel.  
10

11 Section 450.03 - It follows the model ordinance but leaves out specifics and categories.  
12 Mr. Wagner did include transitional zone as part of affordable districts and got rid of the  
13 industrial service district. This is just a thought.  
14

15 Mr. Barry asked about Section 450.03 Alternative Housing if they consider accessory  
16 housing to be part of affordable housing. Mr. Wagner: Accessory dwelling units? They  
17 do not specifically call it out. Accessory dwelling units is innovative zoning under  
18 674:21. We could add accessory dwelling units if the Board wanted to do that. I would  
19 say at some point when we decide what type of housing, what type of incentives you  
20 want to provide, it could be back lots, reducing the frontage, and accessory dwelling  
21 units.  
22

23 The handout indicates manufacture housing being permitted. This led to talk regarding  
24 the definition of manufactured housing, which are actually modular homes, not mobile  
25 homes. The State ordinance refers to modular as manufactured homes, and the Statute  
26 states manufactured housing as pre-site built housing. RSA674:31 as mobile homes and  
27 RSA674:31a as modular. It was suggested changing the wording to pre-site construction  
28 (modular housing) as defined in RSA674:31a. Mr. Byron suggested not putting in the  
29 RSA number therefore if the RSA number changes, you won't have to worry about it.  
30

31 Conditional use permit - This would be done at a later date and not ready for this year's  
32 ballot. If the conditional use permit is not in place, then there would be no conditions just  
33 designated areas allowing workforce housing.  
34

35 Back to the RSA number: Mr. Barry questioned if there is no RSA referenced in the  
36 ordinance, is it up to the people to find out what it is; it would be easier to reference it in  
37 the text. Mr. Wagner said okay with referencing the RSA number but he does not  
38 recommend putting the entire text because if it changes, that is how you get in trouble.  
39 Mr. Lynch agreed you have to reference something and if it has been appealed, it has  
40 been appealed and that is life.  
41

42 Mr. Lynch talked about workforce housing and wonders why the Board feels it is  
43 important to do it so soon. Mr. Lynch: There are 216 towns involved and they are not  
44 going to sue us. Mrs. McKibben reminded him of "Builders Remedy".  
45

46 Mr. Lynch: I read about it. I am not worried about it. I do not think it is an issue. There is

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2 nothing out there and the land cost will affect everything. We are a bedroom community  
3 supporting a workforce that does not exist here, a work place that does not exist here. We  
4 support Boston, Woburn, everybody heading south, we get nothing for it; yet, they are  
5 telling us we have to use 50% of our town to house workforce housing. Our legislators  
6 said that to us. We have 504 units that work for affordability, rentals... we have 2,000  
7 single family dwellings, 504 that hit 20%, we have 403 known units. My question is how  
8 many homes do we have that are valued less than \$262,000 out there? There are many.  
9 We may already supply 50% of the workforce housing... I am not ready to jump on this.

10

11 Mr. Lynch said he is trying to get values of some of the homes, the smaller homes,  
12 because some may be less many less than \$250,000. He is trying to get a list of the  
13 assessments \$262,000 and less from Avitar's system. Mr. Byron said he should be  
14 looking at equalized value, not assessed values of the homes. This was discussed.

15

16 Mr. Perry: First thing we need to do as this ordinance states is to make available 50% of  
17 residential land in Town to build affordable housing, it is not just to have affordable  
18 housing. We can be over the 50% threshold now but we still need to allow it to be built.  
19 The other thing that sticks with me is when Mr. Slattery was in here, he said the biggest  
20 difference between now and 1990 is back then there was more stock available to be built  
21 once the housing market turned around; right now there is not as much. If somebody is  
22 going to come in and propose something, the longer the economy stays the way it is, the  
23 more likely this is the way they will go because it is a lower cost to put one of these in.

24

25 Mr. Lynch: What the law is saying is that they are trying to tell us what available land we  
26 have now that is not built on, has to be 50%.

27

28 Mr. Perry: That is the catch. It does not have to not be built on.

29

30 Mr. Wagner: It just has to be available for residential development and allow workforce  
31 housing.

32

33 Mr. Perry: We can take the whole Sawmill development and that whole district and say  
34 we allow affordable housing.

35

36 Mr. Barry: But it is not mandatory. If I have thirty acres and I want to put houses on, the  
37 State cannot tell me I have to put workforce housing on it.

38

39 Talk ensued. Mr. Lynch: Why do we have to make it available?

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41 Mr. Perry: Everybody does.

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43 Mr. Barry: It is not mandatory.

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45 Mr. Lynch: I think we are rushing.

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Mr. Wagner: What we provided here is just using a shell base of the inclusionary ordinance. We have not conceded anything; we have not made any reduction of frontage, no density increase, just providing an opportunity at this point.

Mr. Perry: If we started doing this process on land that we will allow it to happen on, if something were to come forward, we have at least restricted to where we would like to see it. Whereas if we do not do anything and someone tries to come in and do it we have no control at all. I am not saying we have to do 50%...but make it available.

On commercial land, Mr. Lynch: I do not like seeing commercial land go...we get nothing in return as a Town from this law. We do not get a commercial base, tax, because we are a bedroom community; so, it is an unfunded mandate to us. What do we get in return: higher density, more people, more fire protection, more services, and the whole nine yards.

Mr. Wagner: It is typically higher density in the affordable housing but there is nothing in the law that says you cannot increase your zoning (minimum lot size) in other portions of the Town basically to balance your build out to maintain...

Mr. Lynch: But you have to do that by plan. That is the balance approach, allow a higher density which is better use of land. I am a firm believer in that. I am not into saving the world when you have urban compact area to a degree even though we are rural but I believe doing the right thing environmentally by allowing the density work into it as well.

Talk continued. Mr. Lynch: There are things in our zoning regulations that could be done to allow other things but to overlay 50% to that available land factor, I think is too much. What do we provide now in existing housing stock. Do we need to provide something more to keep kids in town condos whatever? Do we need to provide higher density so the kids can stay and are the jobs here for the kids?

Mr. Wagner said that some towns are waiting and doing nothing and some are doing an inclusionary ordinance.

Mr. Perry asked if the Board wants to go forward with an ordinance. Mr. Byron believes the law will be revamped somehow and if something is put in now that could run counter to what they do. The other thing is if this is rushed through, first off the Board will have to defend it at town meeting and so make sure we have well thought out reasons for why the Board is putting this through. It is a start and good faith effort to show the Board has made a good faith effort. But I am not sure once people realize it is going to create a density in town, density may double, it will go through the roof and anybody with one acre lot may be able to subdivide and put another house on their lot. Mr. Barry agreed and if it goes before the Town and it is voted down, it will be difficult to bring it before the Town again the following year.

Mr. Lynch: The Master Plan says to provide alternative housing, look at the opportunities

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and if you look at the regulations, the opportunities have not been written. You are referring to in-law apartments; they are a coming fashion...assistant living facility is expensive and you are not going to see too many of those. Multi family - they are lacking in this Town.

Mr. Lynch also agrees that once the Legislators realize what they have written, the ramifications, that it is going to be back before them.

Mrs. McKibben: So, I have a house, it has frontage on Pinecrest, so if I could prove I could split my lot...and make two affordable lots.

Mr. Perry: We do not have any regulations on how to do it.

Mr. Lynch: You have not gotten into density or frontage.

Mrs. McKibben: Then you are not allowing it; you are just saying where it can go but what are you saying?

Mr. Perry: That is a good point...I am looking at it more like a development and Joan is looking at it more like a single lot.

Mr. Wagner: We can define it as to how we want it.

Mrs. McKibben: But you are not defining it at all. What are you really doing by this, if you are not defining it at all?

Mr. Wagner: We are just providing an area where it says there is an opportunity to put in affordable housing...

Mr. Byron: Basically, put something that says the Planning Board can work with the developer to allow affordable housing. Instead of trying to zone the whole thing and get into all types of questions about here, there, density, etc. for the time being some type of motherhood apple pie statement that the Planning Board will work with the developer to allow for the construction in their development of affordable housing.

Mr. Perry: Either that or we abandon it and say it is a work in process. Joan's point is actually what is making me think more so along the lines of holding off because if we say we only did the north end of town.

Mr. Lynch: You have not allowed density, you have not allowed frontage.

Mr. Barry is concerned because it has not been thought through and suggested putting it off but make a note that we are working on it and continue working on it. Mr. Barry suggested getting questions together and sending them to the State and say here are the things we are working on and even through NRPC and say we want the answers to the

1  
2 questions. Some good points that Kevin makes what are the advantages of having this in  
3 Litchfield.

4  
5 Mr. Perry **MOTIONED** to continue working on workforce housing at our next work  
6 session. Mr. Byron seconded. Mr. Barry: I think we should be a little more in-depth why  
7 we are tabling this. I think we should bring up that, it is because of time frame. There are  
8 a lot of questions that are unanswered; more than just making a general statement. Mr.  
9 Perry: Basically, we are just tabling it because that is what tabling means - we do not  
10 have what we need to finish it: we ran out of time, we ran out of resource. Mr. Barry  
11 **Amended Motion** that the motion states that the reason we are tabling this at this time is  
12 because of time frame and there are a lot of questions that are unanswered in order for us  
13 to move forward. Mr. Perry seconded the amendment. Vote on amendment: Motion  
14 carried 4-0-0. Main motion carried 4-0-0.

15  
16 **Pinecreek Village** - Mr. Lynch told the Board that he did speak with Ashwood Homes  
17 and the problem has been solved. "They were experiencing dust from the ground but they  
18 are going to take care of the situation by spraying straw. They are planning to start a unit  
19 and take that fill material and use it; so, that is what the material is there for. I just can't  
20 go out there every day. It is well within reason; we just had that one gusted weekend  
21 where the ground was frozen and it took the top off".

22  
23 **Older Persons Ordinance** - Mr. Wagner handed out the language to go before the voters  
24 to rescind the ordinance. At the moment, there are at least 100 units that have not been  
25 completed in the already approved subdivisions; so, the Board feels the ordinance should  
26 be rescinded.

27  
28 The wording in the proposed ordinance is: No new developments or additional units shall  
29 be approved. It was asked what is meant by "additional units". This means that no new  
30 additional units within the already vested developments can be built. The already  
31 approved older persons development are all vested.

32  
33 Mr. Byron reminded the Board about the discussion the Board had early on regarding  
34 putting in a change granting the Planning Board permission to institute, or to take off the  
35 table, the growth management ordinance. That could be as simple add in to the growth  
36 management ordinance so the Planning Board could, if it were to pass, sunset it and say  
37 we are going to take it off the table. The Board could also put it back in if it needs to.

38  
39 Also, the other item for the ballot will be the Building Code, which is the State Building  
40 Code. Mr. Lynch will meet with Mr. Wagner to review the Code for the ballot.

41  
42 Mr. Perry **MOTIONED** to put the discontinuance of Housing for Older Persons  
43 ordinance, Section 1025.00 to public hearing on January 6, 2008, at 7:00 p.m. Mr. Barry  
44 seconded. Mr. Byron: Are we going to take Section 1025.00 right off the books?

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46 Mr. Perry: Yes.

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Mr. Byron: I am trying to think - Is there a better way to do it?

Mr. Perry: My theory is do not throw it away.

Mr. Byron: That is effectively what you are doing.

Mr. Perry: We are throwing away, out of allowable uses, at this point in time but if we ever wanted to bring it back, all you have to do is re-implement it.

Mr. Barry suggested putting it in the front on the book that Section 1025.00 Housing for Older Persons is discontinued but still keep the ordinance in the book. Mr. Byron: You would keep it anyways; it will just say Section 1025 repealed. The developers will still have to comply with the ordinance for the already approved subdivisions. Mr. Byron questioned what happens when they are not vested any more. Mrs. McKibben said they have all done substantial so they are vested forever.

Mr. Byron: I thought there was a sunset if they stopped today with whatever point they are at in the process and five, six years goes by, do they still have to build it according to that?

Mr. Wagner: Unless something dealing with health and safety has changed.

Mr. Lynch: The only time if for health reasons.

Mrs. McKibben: If four years goes by, can they change it to something else? If they do substantial improvements, are they vested forever or four years?

Mr. Byron: I thought it was four years under State law unless you create substantial investment in the property then you continue being vested. My question is a little different - what happens if you have done some of the stuff and then you stop doing it? Basically now there is no individual lot there, you need to keep that in mind. What ends up happening is you have a condominium owning a parcel of property and people have put houses on the property according to a plan that you have approved now what happens? Can a condo association decide they do not like the layout and put it where they want? I do not know the answer.

Mrs. McKibben: They couldn't change the layout.

Mr. Wagner: They have to stick to the approved plan or come to the Planning Board.

Mrs. McKibben said that Annandale is a good example - could they sell the rest of it off? Mr. Barry thinks they can. He mentioned a development in Nashua with town houses and, "the association said they did not want the rest built, they were not built and they covered them over".

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2 Talk continued. Mr. Lynch read RSA674:39 to those present. He further stated that once  
3 a plan is approved and recorded, it is vested. Annandale may take four years to get started  
4 again. Mr. Perry mentioned the clubhouse is supposed to be built by next year July 2009.  
5 Mr. Lynch said the Planning Board can amend a plan any time. Mr. Wagner pointed out  
6 that the zoning regulations requires a clubhouse but the ordinance does not specify when  
7 it has to be built; it was a case by case as noted on the plans.  
8

9 Back to the Motion. Mr. Wagner: I guess to clarify the language maybe add something to  
10 say why we are discontinuing it and whether it was clear no new developments or units.  
11 The reason we are discontinuing it is we have sufficient amount of older persons housing.  
12

13 Mr. Perry: If you are going to put in a statement, you say with 330 total units approved  
14 approximately 100 units remain un-built and the Planning Board deems it unnecessary to  
15 approve any new developments until more of these units are built. Discontinue housing  
16 for older persons is the topic: No new developments or additional units shall be approved  
17 to me is explanation enough  
18

19 Mr. Byron: Keep in mind, what you are voting on is only this Section 1025.00 and  
20 anything below that is basically a description that the Planning Board can write. You do  
21 not need to approve that as part of the ordinance; it is just your description why you are  
22 doing it. What you are voting on is the discontinuance. This is only information. This is  
23 not a new ordinance.  
24

25 Mr. Perry: We do not need to know the definition now; all we are doing is deciding if we  
26 are going to vote on it.  
27

28 Vote on motion. Motion carried 4-0-0.  
29

### 30 **Member Resignation**

31  
32 Chairman Perry read a letter from Mary Anne Geist resigning from the Litchfield  
33 Planning Board effective immediately. Letter to be turned over to the Town Clerk. Talk  
34 went on as to appointing a new full member.  
35

36 At this time, Mr. Perry asked Mr. Almeida if he is willing to accept a step up to full  
37 member on the Board. Mr. Almeida: I would accept.  
38

39 Mr. Perry **MOTIONED** that the Board write a letter to the Selectmen to appoint Ed as a  
40 full member instead of an alternate. Mr. Byron seconded. Motion carried 3-0-1. Mr.  
41 Perry to write letter to the Selectmen to be given to Mr. Byron.  
42

### 43 **Theroux Subdivision**

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45 Mr. McKibben said that all the money has been moved out and everything is paid and  
46 recorded. Mr. Theroux paid the \$11.75 by check. Mrs. McKibben is looking to close the

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Theroux escrow account. Mr. Byron thought there was more money to be transferred over. Mrs. McKibben said there was the \$11.75 check and the Treasurer put that in. Mr. Byron did not have the full numbers. Mrs. McKibben: But then we had to move the \$11.75 back into the escrow and move it back out. Mr. Byron: There has to be one more movement of money out. Mrs. McKibben: The \$5,000 was to be moved over. I will check.

Mr. Perry **MOTIONED** to continue the close of the escrow account for Theroux Subdivision to December 16, 2008. Mr. Barry seconded. Motion carried 4-0-0.

**Impact Fee Assessment**

The Board was supposed to get an updated budget run for this evening. Mr. Byron will tell Mr. Dilworth to get the budgets out.

Mr. Perry said he spoke with Bruce Mayberry about the impact fee assessment and he will draw up a contract for \$7,400 with the same guidelines as before. Mr. Mayberry expressed that if there is extra money, it may be needed, because most towns cost \$8,000-\$8,500 range. The Selectmen voted \$7,400 for the impact fee assessment.

**Minutes**

Mr. Barry **MOTIONED** to accept October 7, 2008, minutes as amended. Mr. Byron seconded. Motion carried 2-0-2.

Mr. Barry **MOTIONED** to accept October 21, 2008, minutes as corrected. Mr. Almeida seconded. Motion carried 3-0-1.

**Canberra Village**

Mr. Perry **MOTIONED** to continue the Canberra road bond issues to December 16, 2008. Mr. Byron seconded. Motion carried 4-0-0.

There being no further business, Mr. Perry **MOTIONED** to adjourn the meeting. Mr. Byron seconded. Motion carried 4-0-0. The meeting adjourned at 9:47 p.m.

Lorraine Dogopoulos  
Recording Secretary