

Future Land Use

Town of Newmarket Master Plan

Adopted 07.12.2016



Photo 1: Lamprey River Newmarket, Source: Michael Daugherty (Sea Kayak Stonington)



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Acknowledgements

The Town of Newmarket is greatly indebted to all who participated either directly or indirectly in the process of developing the 2016 Future Land Use chapter. From service on municipal boards, to professional technical assistance, and participation in public visioning sessions, the input and guidance from so many individuals helped to shape the recommendations and vision presented herein. The town extends a thank you in advance to all who will work to implement this plan and its recommendations in the future.

A special acknowledgement should be offered to chapter's primary funder, the New Hampshire Coastal Program (NHCP). The NHCP's work has catalyzed a conversation in Newmarket related to protecting clean water and coastal habitats that will continue for many years to come.

The contributions of those identified below are particularly noteworthy.

Town of Newmarket Planning Board

Eric Botterman, Chair
Valerie Shelton, Vice Chair
Janice Rosa, Member
Jane Ford, Member
Ezra Temko, Member
Rose-Anne Kwaks, Member
Peter Nelson, Alternate
Glen Wilkenson, Alternate
Amy Burns, Town Council ex officio
Dale Pike, Town Council Alternate ex officio

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Valerie Shelton, Planning Board Representative
Leo Filion, NCDC Rep
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Background

The 2016 Future Land Use Chapter is intended to build upon the efforts of the 2013 Existing Land Use Chapter, 2015 Vision Chapter, 2015 Housing and Demographics Chapter, and the 2011 Economic Development Chapter. The Town of Newmarket recognizes the interdependent relationship between the future use of land and continued community growth and prosperity. The Town also recognizes that these land use patterns are the product of public decisions through zoning and land use regulation as well as complex market forces and political will. The 2013 Existing Land Use Chapter noted that: "How we use land represents a physical expression of our community's values, goals, and vision. Our homes, businesses, and recreational opportunities are all dependent upon the use of the land, making land use decisions one of the most important aspects of Newmarket's future."

Under RSA 674:2, the Master Plan Land Use Chapter is intended to serve as a road map for the community as it explores methods by which the Town can modify its zoning ordinance and regulations in a way that will protect the quality of life and culture of Newmarket and its citizens through sensible and proactive planning decisions while recognizing the rights of private property owners. Furthermore, the land use component is intended to take the findings of the 2015 Vision Chapter and translate those statements into physical terms through an illustration of the proposed location, extent, and intensity of future land use.

Process

The 2016 Future Land Use chapter represents the work of three distinct efforts: a robust visioning process led by the Planning Board and Planning Department, with assistance from Strafford Regional Planning Commission, as part of its Master Plan Vision statement chapter development, research and reporting by the Town's Economic Development Committee (EDC), and extensive refinement by the Planning Board's Future Land Use Subcommittee.

Economic Development Committee

The Economic Development Committee, in cooperation with consultants Peter Kwass and John Connery, developed a set of recommendations to be considered by the Planning Board in the context of expanding and strengthening economic development in Newmarket in the coming years. The recommendations were specifically intended to guide the development of the future land use chapter and future modifications to the zoning ordinance, site plan regulations, and subdivision regulations.

Visioning Exercise

In 2015 the Town of Newmarket, with support from the Strafford Regional Planning Commission (SRPC) and the Planning Board, developed and implemented a process to engage residents in envisioning Newmarket's future. This process convened Newmarket residents in the interest of understanding short and long term perspectives of the community vision. It also provided the Town with ideas for addressing current and future challenges and taking advantage of the community's strengths, resources, and assets. A detailed description of that process and summary of results is available within the 2015 Vision chapter. This chapter outlines ideas regarding land use and future planning activities through the year 2025.

Future Land Use Subcommittee

In late 2015 the Planning Board established the Future Land Use Subcommittee, intended to synthesize the results of the EDC and visioning processes, and provide technical guidance and expertise to SRPC in this chapter's development.



Zoning Recommendations

The following section outlines recommendations for modifications and/or adjustments to the existing land use regulations and zoning ordinance of the Town of Newmarket.

Continuing Care Retirement Community (CCRC) Overlay District

The Newmarket Planning Board, in 2015, completed the Housing and Demographics chapter of the Town of Newmarket Master Plan. Findings of that study indicate that Newmarket, like many communities in New Hampshire and across the United States, should proactively plan for an increase in older age cohort individuals. Continuing Care Retirement Communities (CCRC) are one solution to the anticipated increase in senior population and a viable economic use of underutilized land. A CCRC is defined as a senior housing development whose purpose is to provide housing that permits aging in place for persons age 55 and over.

Purpose

A Continuing Care Retirement Community (CCRC) Overlay District would provide a transitional senior housing solution for an aging population in Newmarket that is compatible with surrounding residential uses and also provide a positive impact on the Town's tax base. After considerable research and analysis, the Economic Development Committee (EDC) has concluded that a CCRC Overlay District would be best utilized within the existing B-3 Zone on Route 152. Once the area was sufficiently developed under the CCRC zoning, the district should be re-zoned to match the surrounding low density, rural residential character.

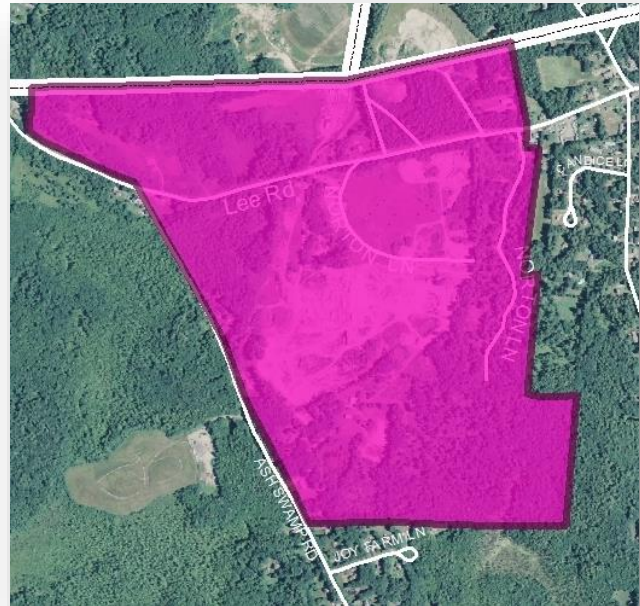


Figure 3: Continuing Care Retirement Community Overlay District, Source: SRPC

Special Use Permitting

Within this district CCRC development could be permitted by Special Use Permit, consistent with the local regulations for granting such permits, and as may be developed by the Planning Board.

Master Development Plan and Requirements

All CCRC development should be based on a Master Development Plan as part of the Special Use Permit application. The Master Development Plan could include all phases of development and the entirety of the property. In developing standards for a CCRC Overlay District, the Planning Board should consider minimum requirements of the Master Development Plan to include the adequacy of utilities for the proposed use and the details of development phasing, a development cap for age-restricted units in the CCRC Overlay District, and minimum requirements for project phasing. General requirements that regulate minimum lot size, road frontage, building, and setbacks, which are designed to make such development compatible with the character of the area should also be considered.

Protection of the aquifer located within the B-3 District must be greatly considered in the development of any proposed regulations. For instance, due to the high density associated with a CCRC, all units within any CCRC development should be required to be serviced by municipal sewer and water.



Assisted Living Overlay (ALO) District

In an additional effort to accommodate the housing needs of an aging population requiring skilled medical services, the EDC research has shown that creation of a second senior/age-restricted overlay district should be considered in a portion of the current B-2 district, and for the entire B-1 District east of the railroad tracks, including the Town-owned Wilson and Ham properties located off New Road. Creation of an Assisted Living Overlay District (ALO) should be placed over these properties to provide a low impact use to address the traffic limitations and environmental sensitivity of this area.

An ALO district would focus on providing multi-family housing units intended for persons in need of assistance with at least one daily personal life activity such as walking, bathing, eating, dressing and other activities as may be determined by a recognized medical source and/or memory care units.

The ALO District should be limited in scope and size due to general capacity issues on New Road and restricted access due the railroad bridge connecting New Road to Route 108 close to Newmarket's southern border. The development intensity of the ALO would be limited as a means of reducing environmental impacts. Therefore, ALO development would be limited to memory care units and assisted living units only, with smaller unit sizes than would be permitted in the CCRC Overlay District.

In developing zoning for the district, consideration should be given to a development cap on units in the ALO Overlay District and dimensional criteria should be established that regulate minimum lot size, road setbacks and buffers to abutting lands outside of the ALO District.

Special Use Permitting

It is recommended that all ALO development be permitted by Special Use Permit, consistent with the local regulations for granting such permits, and as may be developed by the Planning Board.



Figure 4: Assisted Living Overlay District, Source: SRPC



Route 108 Corridor Overlay District

In an effort to ensure continuity of character and aesthetics along the Route 108 Corridor and protection of the significant public and private investments within the downtown, implementation of architectural design standards for all parcels directly adjacent to the corridor should be initiated.

Background and Purpose

Much of Newmarket's architectural character in the downtown and areas adjacent to its waterways and historic transportation corridor is reflective of 18th, 19th, and 20th century design that evolved within many traditionally settled New England villages. The town continues to be defined by its attractive, vibrant, and vital downtown core that embodies a rich architectural tradition and colorful industrial history.

In an effort to preserve and enhance these areas, while encouraging the continued growth and prosperity of the community, the Town of Newmarket recently invested several million dollars in public funds to upgrade infrastructure in the downtown area including streetscape improvements, new sidewalks, benches, and in-ground lighting infrastructure. Significant private investment has occurred through the redevelopment of the historic downtown mills, which has stimulated further development in the form of new in-fill development projects. The Town seeks to protect this investment through strategies that encourage continued investment in and preservation of the Route 108 corridor.

Architectural standards and access management standards that are both thoughtful and proactive can promote site and building design that is functional, economical, attractive, while protecting existing built infrastructure by encouraging harmonious development. Although subjectivity and judgment invariably play a part in the review of projects, generally accepted principles of good design can provide guidance for future development and redevelopment. The Town believes that quality design and sustainable economic development are not mutually exclusive; rather, they are interdependent.

Architectural designs that are indifferent to the defining features of the Town and to surrounding context; that do not consider the quality of the pedestrian environment; that introduce design elements which are incompatible with the Town's traditional character; or that aggressively seek the attention of passing motorists are often erected at very low cost without due concern for aesthetics, harm our community, depress property values, and degrade the quality of life contrary to the goals of the Master Plan.

Purpose

The proposed access management and architectural standards would require design review of building and site design for all non-residential or multi-family uses. Under the Town's established authority for site plan review regulations, all activities significantly impacting the exterior architectural appearance (additions, alterations, demolitions, relocation, new construction, signage, and site improvements) would be subject to review.



Figure 5: Design Standards Overlay, Source: SRPC



Other Recommendations

Climate Change

Background

The NH Coastal Risks and Hazards Commission (CRHC) Science and Technical Advisory Panel (STAP) suggest that sea level is expected to rise between 0.6 feet and 6.6 feet by the year 2050 and be accompanied by an increase in extreme heat and decrease in extreme cold weather events (based on National Climate Assessment, 2012). Sea level rise, and other climate change related impacts are expected to have a significant impact on municipal and private infrastructure, as well as valuable natural, cultural, and historic resources in New Hampshire's coastal area.

Newmarket, like other coastal communities, should begin to plan for future infrastructure projects in a way that gives consideration for future flood risks by adding potential sea-level rise heights to traditional 100-year and 500-year storm surge estimates.

Specific recommended actions for communities from the CRHC include:

1. Determine the time period over which the system is designed to serve (either in the range 2014 to 2050, or 2051 to 2100).
2. If the design time period is 2014-2050, commit to manage to 1.3 feet of sea-level rise, but be prepared to manage and adapt to 2 feet if necessary.
3. If the design time period is 2050-2100, commit to manage to 3.9 feet of sea-level rise, but be prepared to manage and adapt to 6.6 feet if necessary.
4. Be aware that the projected sea-level rise ranges may change and prepare to adjust design considerations if necessary. The choice of management strategies can include strategies to protect, accommodate or retreat from the flood risk.

Communities should also consider infrastructure and site design standards that reflect current extreme precipitation levels as well as designs capable of managing a 15% increase in extreme precipitation event frequency after the year 2050.

Source: [STAP Report Summary](#). Coastal Risks and Hazards Commission, 2014.

The Piscataqua Region Estuaries Partnership (PREP) recommends that communities prepare for climate change impacts by conducting a Climate Vulnerability Assessment. In spring of 2017, Newmarket will receive the results of a joint NOAA-funded effort of the New Hampshire Department of Environmental Services (NHDES) Coastal Program, in partnership with the University of New Hampshire, the Strafford Regional Planning Commission, and the Rockingham Planning Commission, focused on preparing coastal communities for climate change. The project, called "Climate Risk in the Seacoast: Assessing Vulnerability of Municipal Resources to Climate Change" (or C-RiSe for short), focuses on the municipalities surrounding the Great Bay estuary, including Dover, Durham, Exeter, Greenland, Madbury, Newfields, Newington, Newmarket, Stratham and Rollinsford. The project will produce municipal-specific vulnerability assessments for those 10 coastal communities, which summarize key municipal assets that are at risk from floods and sea-level rise. As part of the vulnerability assessment, UNH researchers will conduct a detailed analysis of culvert flow capacity, function, and fish passage based on current and projected increases in precipitation. The modeling results can be used to prioritize culvert improvements. Additionally, where appropriate, the project team and municipal officials will use the assessment results to draft a report that can be included in local Hazard Mitigation Plans. Assessment results will be made available on the New Hampshire Coastal Viewer, an online mapping tool that brings coastal resources spatial data, hazards-related spatial data, and other spatial data sets within the state's 42 coastal watershed communities. Newmarket should explore the results of the C-RiSe project and make measured regulatory actions where and when appropriate.

Source: [PREPA](#). Piscataqua Region Estuaries Partnership, 2015.



Shoreland and Water Quality Protection Measures

In 2015, the Piscataqua Region Estuaries Partnership conducted a comprehensive review of municipal regulations in 52 communities in the Piscataqua Region watershed. The assessment concluded that for all communities in the watershed increased priority should be placed on increasing buffers for all waterbodies with additional steps to be taken to increase setbacks for septic systems and structures to insure water quality and shoreland protection.

The Newmarket Planning Board, as part of its Vision, Housing and Demographics, Natural Resources, and Water Resources master plan chapter work has prioritized the protection of water quality in the Great Bay and other water resources. Additionally, risks of coastal flooding as a result of sea level rise necessitate actions that ensure the resiliency of structures that are adjacent to vulnerable areas. The coastal areas of Newmarket are particularly vital to community and economic health as they offer a multitude of scenic and recreational areas that are attractive to residents and visitors.

Currently, Newmarket has several shoreland protection measures in place, including a primary structure setback of 125 feet along the coastal waters, the Great Bay Estuary, tidal rivers, lakes, artificial impoundments and ponds listed on the New Hampshire Department of Environmental Services (NHDES) Official List of Public Waters, and designated fourth order or higher streams under RSA 483:15, including the Lamprey River, the Piscassic River and Follett's Brook. In addition, there is a 50 foot waterfront buffer requirement within which there shall be no vegetation disturbance or fertilizer applications and a 75 foot setback requirement for septic systems. Currently, all 1st, 2nd, and 3rd order portions of the Lamprey River and its tributary rivers are exempt from these shoreland protection requirements, as well as a portion of the downtown mill district, which has an "urban exemption" pursuant to RSA 483-B:12.

The Piscataqua Regional Environmental Planning Assessment (PREPA), recommended that shoreland buffers and setback protections be extended to all 1st, 2nd and 3rd order streams in Newmarket. In addition, it recommended that the no vegetation disturbance and fertilizer application setbacks be extended to 75 feet or greater; the septic system setbacks be extended to 100 feet or greater for all 1st through 4th order streams, lakes and ponds in Newmarket; and building setbacks of 100 feet or greater be imposed for the 1st, 2nd, and 3rd order portions of the Lamprey River.

Regulations should permit land uses which ensure the protection of the environmentally sensitive Great Bay and other critical resources including drinking water aquifers subject to potential salt water intrusion or other negative impacts from large groundwater withdrawals, wetlands, steep slopes, and surface waters. This could be accomplished by limiting commercial/industrial and high-density residential development in certain key areas of the town, adopting/updating ordinances and regulations for protection of groundwater resources and minimizing erosion and other contributors of nutrients to non-point source pollution. Zoning changes would be intended to limit vulnerability of private and municipal infrastructure from both tidal flooding due to increased frequency of major storm events and potential sea level rise scenarios and over development or uses which could negatively impact ground water resources. Additionally, due to increased environmental vulnerabilities, Low Impact Development (LID) and other innovative land use and planning techniques should be strongly encouraged and further explored. Zoning changes for increased road frontage, lot size, and setback standards, together with lower density and height restrictions, would help address protection of the important environmental resources and cultural aspects within high value areas of the Town.

Source: PREPA. Piscataqua Region Estuaries Partnership, 2015.

Stormwater Management Standards

Newmarket should work to continue its protection of undeveloped land as a means of reducing stormwater pollution through modifications to its stormwater management standards. Recommendations:

- Evaluate the minimum area of soil disturbance requirement that "triggers" the application of the Town's stormwater regulations.
- Modify the regulations to encourage the use of "Low Impact Development" (LID) techniques to the maximum extent possible.
- Consider a maximum effective impervious cover requirement for new development and redevelopment.
- Ensure the regulations reflect the minimum design criteria for water quality volume/flow (WQV/WQF), groundwater recharge volume (GRV), and peak flow control defined as defined in the NH DES Stormwater Manual Volume 2.

Source: PREPA. Piscataqua Region Estuaries Partnership, 2015.



Open Space Design and Other Flexible Subdivision Methods

The Planning Board should consider updating the Residential Open Space Design Development provision in Section 6.00 of the Zoning Ordinance. In the past, these developments have offered a flexible method of residential development consistent with the principles of smart growth that is not possible through traditional zoning. These subdivisions have been highly successful in Newmarket in encouraging connected corridors of open land throughout the town for the preservation of wildlife habitat, environmental resources, and public enjoyment. Such developments are permitted as an option to conventional development. The Planning Board may consider making Residential Open Space Design Developments mandatory in some areas within the community, where there are considerable threats to natural, cultural, and historical resources due to environmental constraints. Low-impact uses which are characteristic of high-quality neighborhoods with lower overall densities should be encouraged within these areas of the town. Such uses include, but are not limited to: single-family housing, bed & breakfasts, and family daycare. Increased road frontage, minimum lot size, reduced density, height, and setback standards would also help address protection of the important environmental aspects within these areas.

Property Maintenance Code

Background

Nearly all New Hampshire communities, including Newmarket, administer the Statewide Building Code, which adopts by reference the 2009 International Building Code (IBC) with NH Amendments, the International Residential Code, the International Plumbing Code, the International Mechanical Code, the International Existing Building Code, the International Energy Conservation Code, and a list of model codes adopted under the State Fire Code. Few communities in New Hampshire have adopted the Property Maintenance Code, yet it is another tool to promote quality development in furtherance of the goals of the Master Plan.

Purposes and Benefits

The International Property Maintenance Code strives to ensure community vitality through the regulation of property attributes including exterior building appearance, waste disposal, and general conditions and site appearance. The Code provides standards and minimum requirements for the safeguarding of persons and buildings in order to protect the health and safety of citizens against the hazards of inadequate, defective, or unsafe structures and neighboring property values. While a building code deals primarily with new construction, a property maintenance code deals with the condition of existing housing and non-residential property, including commercial and industrial land uses. The Code addresses subjects such as abandoned factories, vacant buildings and obsolete offices. It addresses property upkeep issues, commonly referred to as "nuisances", by prohibiting the accumulation of trash and debris. The property maintenance code moves the maintenance of existing structures from being an option to a legal requirement for responsible property owners.

Authority

Currently, the International Property Maintenance Code is not part of the statewide adoption, however, RSA 674:51 A states "a municipality may adopt by reference any of the codes promulgated by the International Code Conference which are not included in the state building code." Under New Hampshire RSA 31:39 D, the Town of Newmarket would be authorized to issue citations for non-compliance with the International Maintenance Code. Under this statute, citations and fee disputes are heard at the Circuit Court, rather than Superior Court level.

Recommendations

It is recommended that a committee of the Planning Board be established to consider whether it would be appropriate for the Town to adopt a separate property maintenance code or portions of the International Property Maintenance Code. Provisions of the code need to be reviewed carefully for appropriateness for the community, then tailored and revised, as needed, prior to it being recommended for adoption by the Town Council. It should be noted that the Code would be applicable to all properties including single family homes. The model code contains certain provisions, such as requiring deadbolts on doors and window screens on operable windows, and restrictions on yard maintenance. These requirements may be viewed, by some, as being too stringent and onerous for the Town to enforce. The Town should also

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be cognizant that enforcement of the International Property Maintenance Code will require additional staff time, which would have staffing and operating cost implications for the Town's Code Enforcement Office.

Adoption

If it is recommended that the Town adopt the International Maintenance Code by reference it would be adopted as an amendment to the Zoning Ordinance which follows the adoption procedures of RSA 675:2. The ordinance would reference the International Property Maintenance Code, the version, and then cite any exceptions and amendments. At the state level, committees of State Building Code Review Board are currently reviewing the International Building Codes, with an eye to amending the State Building Code to reference the 2015 International Building code, which would be the appropriate version of International Maintenance Code to adopt in the future.

'Junkyards'

Background

While the term "junk" is colloquial in nature, "junkyards" are defined quite clearly as establishments or places of business which are maintained, operated, or used for storing, keeping, buying, or selling junk (for example: scrap metal and used appliances), or for the maintenance or operation of an automotive recycling yard, and machinery junk yards. The word does not include any motor vehicle dealers registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126. Non-commercial antique motor vehicles more than 25 years old, if owned by the property owner and solid waste facilities, under RSA 149-M, such as landfills, incinerators, and other treatment facilities, and transfer stations, are not considered to be junkyards.

Junkyard Licensing

Under RSA 236: 111-129, municipalities are granted regulatory authority for junkyards. Every person who wishes to operate a junkyard must first obtain a license to operate a junkyard business. Under the same RSA, a junkyard that is unlicensed by the governing body municipality is, therefore, declared to be a nuisance, subject to appropriate code enforcement action. Any accumulation of vehicles or automotive parts equivalent in bulk to two or more vehicles is subject regulation as a junkyard, regardless of registration status (special restrictions are in place for restoration shops and motor vehicle dealers). Furthermore, any accumulation of machinery that is greater than 500 square feet and is within public view is subject to municipal licensing.

All licensing would be subject to a public hearing by the Town Council in Newmarket. All licensed junkyards must be adequately fenced pursuant to RSA 236: 121. As part of the licensing process, the Town Council may impose conditions such as compliance with best management practices, limiting size and capacity of the operation, the hours of operation, the number of employees, and monitoring and reporting requirements.

Local Regulation and Administration

The Town of Newmarket regulates junkyards under Chapter 18, Article III of the Municipal Code, modeled after RSA 236, which is enforced at the local level. The administration of the junk yard ordinance falls under the jurisdiction of the Town's code enforcement officer. Licensing of junkyards requires coordination with several Town Departments. In some instances, the Police Department should be involved in determining whether a potential junkyard licensee has a criminal record that could prevent issuance of a license. The Fire Department personnel should review junkyard licenses to ensure fire risks are mitigated. The Code Enforcement Officer, in his capacity as health officer, ensures that junkyard facilities do not increase risks to public health, safety, and welfare through spread of disease.

Recommendations

- Conduct an inventory of potential locations to determine whether the accumulation of junk qualifies under the statute and document conditions.
- Alert the landowner of the findings and request that the owner voluntarily remove the accumulation. In some instances, the landowner or operator may be unaware of a regulation, or may not realize that a neighbor has been offended, and may be willing to correct the issue within a reasonable timeframe.
- If voluntary compliance is not forthcoming, or is not possible, further enforcement action may be needed. There are a number of enforcement tools in the law. RSA 236:119 provides that any junkyard located or maintained in violation

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of RSA 236 is a nuisance. The RSA provides a number of enforcement tools including civil penalties, violations, injunctions and enforcement through citizen complaints.

Source: [How to regulate Junk and Junkyards, A Guide for Local Officials](#). New Hampshire Local Government Center, 2007.

Developer's Guide

In the interest of improving Newmarket's zoning ordinance, regulations, and regulatory process, the Planning Board and Planning Department should pursue the development of a Developer's 'Guide'. The Guide would aid project developers in navigating the Town's regulations by clearly defining and laying out the process for and expectations for application submittal, processing, and approval.

Zoning Ordinance Modifications for Economic Development

The Economic Development Committee recommended that the following uses be modified in the B-3, M-2, and M-3 Zoning Districts in order to expand and promote their compatibility, consistent with the purposes of the Zoning Districts and recommendations for changes in those Zoning Districts. The Planning Board should consider the following Zoning Ordinance modifications:

B-3 Zoning District

It is has been recommended that the following uses be removed as permitted:

- Hotel
- Wholesale
- Indoor/Outdoor Recreation
- Warehouse
- Light manufacturing
- Manufacturing
- Flexible Development
- Research and Development

It is recommended that following uses be permitted within the B-3 District:

- Educational Facility
- Office Complex
- Retail
- Health club
- Fraternal organization

M-2 and M-3 Zoning Districts

Modifications to the uses within the M-2 and M-3 zoning district would add the following as permitted:

- Research and Development

B-2 East of Railroad Tracks (Prior Black Bear TIF District)

Revert the existing B-2 zoning to the east of the railroad right-of-way and west of New Road back to residential use. Areas zoned B-2 to the west of the right-of-way could be maintained as industrial/commercial as they match the character of the existing Industrial Park on Forbes Road and have access via Route 108. This change in zoning would also respect the limited capacity of New Road and the limited access railroad bridge connecting it to Route 108 in southern Newmarket.

